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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

SENATE—*Tuesday, July 15, 1986*

Legislative day of Monday, July 14, 1986

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, I want to thank You for the success of David Joy's surgery, even though he was 18 hours in surgery, and we just remember him now and his loved ones in a very special way.

God of our Fathers, sovereign ruler of history, we thank You for the Independence Day recess—for opportunities to be with families and constituents—accomplish home office business and work on campaigns. Thank You for safe travel and return. Now Lord, the Senate faces the pressures of a heavy agenda dominated by the tax bill, with 5 weeks to August recess after which there are only 4 weeks to adjournment sine die and 1 month to election.

Mighty God, it seems humanly impossible, but with God all things are possible. Demonstrate your availability and relevance—make leadership and Members wise in acknowledging their dependence on You and seeking Your enablement. Grant them special wisdom and guidance daily. In His name who never hurried, yet finished His monumental task for time and eternity. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader, Senator SIMPSON, is recognized.

Mr. SIMPSON. Mr. President pro tempore of the Senate, I thank you.

THE SENATE'S HEAVY LOAD

Mr. SIMPSON. Again, it is always important for us to hear the words of our Chaplain, who somehow always reaches a very extraordinary pungent awareness of what we try to do here. Certainly, as I have been in my role here in the last year-and-a-half, I have noted a fine degree of cooperation and coordination with the Democratic leader and the Democratic Whip, for whom I have great admiration personally.

We have a lot to do and the people of America really do not keep score about who is winning all the credits about what we have to do. They just say, "Why don't you do it? Why don't you get the work done—and they don't go home at night and mark on the refrigerator whether the Democrats did this amendment or the Republicans did this amendment." That is the way it really is "out there."

So we have a heavy load, a heavy agenda, but the Chaplain will agree the Lord does not give us much more than we can handle. That is the way that is in life and it is going to be—can be—a spirited occasion as we try to produce some good results for the people of the United States and do it through a body we all have a deep love, respect, and admiration for. That is our job. Not fun and games. So we will get to that. I believe the phrase of the Chaplain was that it is almost "humanly" impossible to do that, but since that is the only alternative vessel we are given, we will do it with the humans and try to do it in a not inhumane way! So we now go forward with this heavy activity. Our fine leader, Senator DOLE, carefully reviewed that yesterday.

SCHEDULE

Mr. SIMPSON. Mr. President, we are at the convening hour. We have the two leaders with time under the standing order of 10 minutes each, special orders in favor of the following Senators for not to exceed 5 minutes each, Senator PROXMIRE and Senator MELCHER.

VITIATION OF HAWKINS SPECIAL ORDER

I ask unanimous consent that the special order in favor of the Senator from Florida [Mrs. HAWKINS] for today be vitiated.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. SIMPSON. There will be routine morning business not to extend beyond 12 noon with Senators permitted to speak therein for not more than 5 minutes each. At 12 noon the Senate will stand in recess until 2 p.m. in order for the weekly party caucuses to meet. At 2 o'clock, by unanimous consent, the Senate will go into executive session in order to consider the nomination of Terrence M. Scanlon under a 2-hour time agreement and a rollcall vote will occur. The Senate may then turn to any other legislative or executive items for action. Votes can be expected throughout the day. Our leader is present in the Chamber and I will yield to him the remainder of the leadership time.

The PRESIDING OFFICER. The majority leader is recognized.

DANIEL MANION—THE REAL STORY

Mr. DOLE. Mr. President, ever since we returned from the Fourth of July recess, I have been beseiged by questions from the media, and from my colleagues on the other side of the aisle as to when the majority leader was planning to revisit the Daniel Manion nomination.

There has been plenty of speculation: Is it coming up this week? Will I hold the nomination until the end of the session? Do I have the votes? Will I agree to yet another vote on his confirmation?

But in my view, these questions miss the mark. The real question—and the fundamental issue—is whether Mr. Manion is qualified to serve on the Federal appeals court in Chicago. Unfortunately, many of Mr. Manion's opponents have skipped over that basic

question to engage in character assassination and partisan attacks.

We have heard from all the instant experts on Daniel Manion: Senate staff members, the media and liberal Senators, none of whom, I would dare say, have ever been to Indiana to find out the facts. But at least one newspaper—the Los Angeles Times—did its homework.

In an indepth article that appeared on the front page of the Times' July 13 Sunday edition, reporter Paul Houston, after traveling to Indiana, unearthed the real story: Daniel Manion is qualified to take his place on the bench. And who is making that claim? Almost everyone who has ever worked with or against him in the legal arena; and that list of supporters includes an impressive number of top-level Democrats and liberal Democrats.

We had a debate here for a couple hours about this letter signed by all the law school deans who probably never met Manion either. But when two law school deans who signed a letter condemning the nomination were told of the solid support he enjoys in Indiana, they reportedly expressed some regret over their decision to sign the letter. Of course, they are not really to blame. They had been misled by Dan's opponents, who conveniently skipped over the facts on the way to smearing Mr. Manion on the Senate floor.

I ask unanimous consent that the Los Angeles Times article entitled "Political Foes Also Support Manion Court Nomination" be made a part of the official RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, July 13, 1986]

POLITICAL FOES ALSO SUPPORT MANION COURT NOMINATION

(By Paul Houston)

SOUTH BEND, IN—Daniel A. Manion, whose nomination to the federal appeals court in Chicago has touched off a savage partisan battle and split the Senate down the middle, receives surprisingly high marks from political foes and friends alike here in his home state for both his integrity and his legal talents.

Back in Washington, Manion is portrayed by Democrats and a handful of liberal Republicans as a mediocre lawyer unfit to join the federal judiciary at the level just below the Supreme Court.

Senate opponents, who hope to sink his nomination this week after having narrowly lost a preliminary vote July 2, are backed by a raft of law school deans and reform-minded Chicago lawyers who challenge Manion's limited experience in federal court, criticize his writing ability and question his willingness to adhere to Supreme Court rulings.

Yet to many who have dealt personally with the 44-year-old Manion, all this is a bum rap.

Manion, his supporters contend, is actually a competent lawyer who has become a pawn in a larger Democratic campaign to keep President Reagan from placing qualified conservatives on the federal bench.

While acknowledging a touch of local bias, Manion's defenders here—notably Democratic lawyers, judges and former state Senate colleagues—insist that the amiable, soft-spoken South Bend attorney would be a credit to the federal appeals court.

David T. Ready, a former U.S. attorney and self-described liberal Democrat, said Republican Manion possesses the required "temperament, legal intellect, experience, fair-mindedness, judicial integrity and plain, old-fashioned willingness to work long and hard."

In fact, the real Manion may be less than coruscating, but his nomination also appears to be less than the travesty his critics suggest.

Interviews here and in Chicago and Washington, coupled with an examination of Manion's professional record, suggest an able though scarcely brilliant attorney who has become caught up in the partisan brawl.

The struggle over Manion derives extra intensity from the fact that the larger battle over judicial nominations will shape the federal courts for years to come. With 2½ years still to go in his second term, Reagan has already named 267 of the 752 judges on the federal bench—the district courts, circuit courts of appeals and the Supreme Court.

Thus, while Democrats insist that their challenge to Manion rests strictly on questions about his personal qualifications, he also appears to symbolize what many liberals see as an extreme effort by the Reagan Administration to make sure that all judicial appointees meet strict standards of ideological conformity.

"In nobody's memory has an administration tried to put in sitting judges who have prejudged all the issues," complained television producer Norman Lear, head of People for the American Way, which has opposed Manion and many other Reagan court appointments.

Here in Indiana, Manion's list of supporters includes Father Theodore M. Hesburgh, president of the University of Notre Dame and former chairman of the U.S. Civil Rights Commission; former Democratic Sen. Vance Hartke; present and former state senators; a respected Democratic judge; the chairman of the county Democratic committee here, and Democratic attorneys who have worked with and against Manion in lawsuits.

John W. Montgomery, a longtime state judge and Democratic leader here, asserts that Manion is being unjustly portrayed as an "incompetent small-town lawyer" and an ideological copy of his late father, Clarence Manion, a prominent official of the John Birch Society.

"Dan Manion is qualified. If he were not, I have enough principle about me not to say that he is," the crusty Montgomery wrote to Sen. Joseph R. Biden Jr. (D-Del.), who is managing the opposition to Manion on the Senate floor.

Attorney Douglas McFadden, a Democrat with offices in Indianapolis and Washington, said he developed "high regard" for Manion while competing with him in a complex securities fraud suit that was settled out of court—"very favorably" for Manion's client, according to another admiring attorney in the case.

"Not everybody appointed to the federal appeals court is going to be a Justice (Oliver Wendell) Holmes, "McFadden said, "but I think Dan will bring to the bench a very practical, level-headed, fair approach."

Doug Hunt, a liberal Democrat who served a four-year term with Manion in the state Senate, called him "a hell of a good guy who has all of the qualities of intellect and character for the position he has been nominated to." Hunt discounted Manion's much-criticized support of a "flaky bill" that would have allowed the 10 Commandments to be posted in public schools despite a Supreme Court decision barring the required posting of such a document.

"I don't think it represents his overall record," said Hunt, who cited other successful Manion bills to improve the juvenile justice system and provide alternative sources of energy. "He should be scored like a diver: You throw out the high and the low scores."

Sen. Paul Simon (D-Ill.), a leading opponent of Manion's nomination, dismisses such endorsements.

"Obviously, you bend over backwards to help someone in your home town or state," said Simon, a reform-minded member of the Senate Judiciary Committee who is politically allied with one of the groups leading the charge against Manion—the predominantly liberal Chicago Council of Lawyers. "You'll rarely find a lawyer there publicly critical of the nominee. In the back of their minds, they figure they may come up before this guy" if the Senate agrees to make him a judge.

"All I can say is, this kind of guy shouldn't be a judge in a rural county, much less on the second highest court in the land," he said.

As Simon suggested would happen, several Indiana lawyers, legislators and former officials who are critical of Manion spoke only off the record when interviewed by The Times, or asked not to be identified.

Some, such as South Bend Assistant City Atty. Carolyn V. Pfotenhauer, commented only guardedly. Referring to one legal encounter with Manion, she said: "He handled the case differently than I would have, and I won."

REALLY IRRITATED

In an interview, Manion said he felt special weight ought to be given to the support of those who know him best, particularly Democrats who are "really irritated at their own party for attempting to make a fool of me."

Manion said the backing of Hesburgh, who praised Manion's "commitment to justice," stemmed not so much from firsthand knowledge of his legal skills as from a long-time relationship with his family.

"But who can better testify about one's temperament, personal philosophy, the kind of person you are?" Manion asked.

A key element in the dispute over Manion is the fact that the combatants are appraising Manion's fitness against different standards.

Manion's supporters argue that a federal judge does not have to be a dazzling litigator or legal scholar so long as he is reasonably bright and exceptionally fair. Critics seek to discredit Manion by applying a more demanding standard, suggesting in effect that federal judges—like the children of Lake Wobegon—should all be above average.

For his part, Manion said he disagrees with the notion that an appeals court judge "has to be some kind of an elite person. I don't think a person has to be above everyone else. I think it can be a person who is competent, has integrity, will work hard and can master the legal issues."

Using such criteria as intellect, writing ability, legal experience and temperament,

the American Bar Assn. rated Manion "qualified," the lowest of three passing grades. The same rating has been given to 43% of Reagan's appeals court choices, including Supreme Court nominee Antonin Scalia when he was tapped for the appeals bench. Scalia is now widely praised as a scholarly judge with a powerful legal mind.

The ABA said that between one and four members of its 14-person screening panel considered Manion "not qualified" but as a matter of policy would not name them.

Much of the ammunition used against Manion has come from the reform-minded Chicago Council of Lawyers, which has 1,400 members.

Charging that Manion "would not be able to deal adequately with the difficult legal issues that are routinely presented" to the appeals court based in Chicago, the council declared that he was unqualified for the lifetime job.

The council complained that Manion had argued few cases in federal court and that his state court experience was limited primarily to small personal and commercial claims, particularly land condemnation cases. When asked on a Senate Judiciary Committee questionnaire to list the 10 "most significant" cases of his 13-year legal career, Manion included one involving a car dealer accused of misrepairing a Volkswagen Rabbit.

The Chicago group reviewed five of Manion's legal briefs and said they were dotted with spelling and punctuation errors, bad grammar, poor organization and less than forceful arguments.

COURT OF LAST RESORT

"He is not an incompetent lawyer. He is just not up to the standard for what is really the court of last resort for most of the cases that get there," council President Robert Perkins said.

Simon, Biden and three other Democrats on the Senate Judiciary Committee also accused Manion of having taken extreme positions in the past supporting the Birch Society and defying Supreme Court decisions. They said his efforts to explain them away at hearings on his nomination lacked credibility.

In a report, the Democrats contended that Manion's sponsorship in 1981 of the 10 Commandments bill—what Manion termed a "legislative protest" of the Supreme Court—demonstrates a clear refusal to support the Constitution. As further evidence, they cited his ringing endorsement in 1977 of a book by the late archconservative Rep. Larry P. McDonald (D-Ga.) that said "a Supreme Court decision is not the law of the land" and called both the 1964 Civil Rights Act and the Supreme Court's 1954 school desegregation decision unconstitutional.

Moreover, the Democrats said, Manion once repudiated the long-established doctrine that Bill of Rights protections are binding on the states. They said his newly articulated position is confusing.

The Democrats also noted a 1979 letter from Manion to a Birch Society office, stating: "Your membes are certainly the people who are on the front line of the fight for constitutional freedom. . . ." At a hearing, Manion said the letter was merely a thank-you note for condolences offered on the death of his father and did not indicate that he agreed with positions of the society, to which he has never belonged.

Arrayed against a President who has lobbied fiercely to win Manion's confirmation, the opposition has been bolstered from the outside by 50 law school deans and groups such as Common Cause and People for the American Way.

However, two deans contacted by The Times—Paul D. Carrington of Duke and Arthur N. Frakt of Loyola in Los Angeles—expressed surprise at the Indiana support for Manion.

"I'm feeling a little sheepish," said Frakt, who signed a group letter based on materials sent by a law professor and a liberal activist in Washington. "If it turns out he is someone of substantial ability, I would feel it was unfortunate he got caught up in this."

Carrington, after hearing of the praise Manion received from associates in Indiana, said he was reminded of the "false views" that developed on appellate Judge Clement F. Haynsworth, Jr. when his nomination to the Supreme Court was rejected in 1969. Today, the conservative Haynsworth wins wide praise even from liberal law professors.

Manion's bulging list of assailants has incensed his backers, who believe they are fighting an elitist, big-city bias.

"I would think the Chicago Council of Lawyers would welcome a person of Dan's integrity to the bench," Ready said, "considering the fact you can't pick up a newspaper without reading about the indictment or conviction of some Chicago judge. The only convicted judge from the 7th Circuit (Court of Appeals) was not a small-town lawyer from Indiana, but a big hitter from Chicago, Otto Kerner."

WON THREE

And lawyers who have rallied around Manion scoff at the attacks on his briefs and limited experience.

"The proof is in the pudding," said attorney Robert M. Parker, who noted that Manion had won three of the five cases submitted for Senate scrutiny, with one still pending.

Both Parker, a Republican, and attorney Kenneth P. Fedder, chairman of the local Democratic committee, contend that Manion is a victim of guilt by association: People figure he is the strident ideologue his father was. Actually, said Frank L. O'Bannon, Democratic leader of the state Senate, Manion pleasantly surprised him as "not radical or strident, but very kind and quiet and almost gentle . . . a good listener, though very firm in his conservative convictions."

If confirmed, Manion would be the first Vietnam veteran to go on a federal appeals court. As an Army lieutenant, he was in charge of a supply depot.

INTRAMURAL BOXER

An intramural boxing champion at Notre Dame, Manion recently won a canoeing and running biathlon. He was felled by a bout of multiple sclerosis seven years ago, but said he is now in excellent health.

Sen. Dan Quayle (R-Ind.), who attended night law school with Manion at Indiana University while both held state jobs, recalled that Manion went to the library after class while others went home.

"He is what you'd call a straight arrow in the nice sense," said Quayle, a friend and leading Senate supporter.

Manion, told he had been described as "very serious, almost to a fault," laughed and said: "Well, I don't drink or smoke, but I've had a lot of fun at parties I give, and I'm a real good rock 'n' roller."

Mr. DOLE. Anyone who is really interested in the facts, and I hope that would be my colleagues on both sides of the aisle, would be doing themselves and, more importantly, Mr. Manion a favor by reading that article. I just want to quote a couple of areas here that I think might be of interest to those who have not yet had time to study the nomination, other than the politics of it.

Back in Washington, Manion is portrayed by Democrats and a handful of liberal Republicans as a mediocre lawyer unfit to join the federal judiciary at the level just below the Supreme Court.

Senate opponents, who hope to sink his nomination this week after having narrowly lost a preliminary vote July 2, are backed by a raft of law school deans and reform-minded Chicago lawyers who challenge Manion's limited experience in federal court, criticize his writing ability and question his willingness to adhere to Supreme Court rulings.

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Then it goes into a lot of interviews, a lot of background, quotes Father Hesburgh, former Senator Vance Hartke, a respected Democratic judge, the chairman of the county Democratic committee in Indiana and Democratic attorneys who worked with and against Manion in lawsuits.

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This is a very lengthy article. I am not going to read it all. But it says that political foes also support the Manion court nomination.

Mr. President, none of us likes criticism and we do not like personal attacks. We do not like people criticizing us, whether Republicans or Democrats, particularly when we do not belive it is justified. I do not know the writer of this column well, but it is a respected paper. The Los Angeles Times is one of the Nation's outstanding newspapers. The paper sent a person to Indiana, because it wanted to find out if this man were half as bad as his critics indicate, and this is the story. I hope others who are out to defeat Mr. Manion would at least read it, including some in the media.

TELEVISION IN THE SENATE

Mr. DOLE. Mr. President, I hope that today, we can resolve the so-called TV in the Senate matter. I understand we may be making some progress on that. I hope that if we cannot get an agreement, unanimous consent, at least we might be able to bring up the resolution that I have introduced with Senator BYRD so we can continue this and still have the vote on it.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. DOLE. Yes, I yield to the Democratic leader.

Mr. BYRD. Mr. President, I am in a position to say to the majority leader that this has been cleared on the Democratic side. We can move immediately. We have unanimous consent as far as this side is concerned to waive the off-camera period, and I hope we can do so.

The PRESIDING OFFICER. Has the majority leader made such a request?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DOLE. Let me yield to the distinguished chairman of the Judiciary Committee.

THE NOMINATION OF DANIEL MANION

Mr. THURMOND. Mr. President, I shall take just a couple of minutes. I just want to mention the fact the lawyers who know Mr. Manion best, his county bar association, strongly recommend him for the judgeship to which he has been appointed. Also, the chief justice of the Supreme Court of Indiana, who knows him well, recommends him in addition to those who have been mentioned by the able majority leader. I understand that contact was made with a former U.S. district attorney out there, appointed by President Carter, a Democrat. They asked questions about Mr. Manion; because they were favorable, they immediately quit the interview.

Mr. President, this is very unfair. If this man is not qualified that is another thing. But how can his local bar, his chief justice of the supreme court, President Hesburg and all these Democrats say he is qualified?

I hope the Senate will act upon this nomination and wind it up promptly if it comes up again. He has already been confirmed, but if another vote does come, it seems to me the Democrats ought to think very carefully before they turn him down.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

THE NOMINATION OF DANIEL MANION

Mr. BYRD. Mr. President, in the past several weeks, there have been numerous articles in the press quoting those who have attempted to minimize the importance of a single judgeship on the Federal circuit courts of appeals. This issue has been focused in the Senate during the recent debate on the nomination of Daniel A. Manion to be a judge on the seventh U.S. Circuit Court of Appeals.

We have seen quotes similar to these: "If Indiana wants him, it's okay with me . . . ." or "the press is really treating this as a much more important issue than a midwestern judgeship should be . . . ."

Mr. President, every good lawyer knows and every citizen should know the extremely crucial role that the Federal appellate courts play in the judicial system of our Government. The courts of appeals are the end of the judicial road for most of the litigants in our Federal courts. A few simple numbers make this point most vividly.

In the 1984 term of the Supreme Court, which lasted from October 1984, to July 1985, the Court heard oral argument for and issued written rulings in only 139 cases. During the same time period, there were 33,360 appeals filed in the circuit courts of appeals; 31,387 were terminated that year, and at the end of the year 24,758 cases were pending from previous years' caseloads.

So here we have a total of 139 cases in connection with which the Supreme Court of the United States heard oral arguments and issued written rulings, while, in the U.S. district courts, there were 33,000 appeals filed.

□ 1130

What of the seventh circuit? Is it really a parochial, insulated, inconsequential bench of importance only to the citizens of the State of Indiana? The seventh circuit is composed of 11 judgeship positions, of which nine are currently filled. These judges must handle all cases that are appealed from the Federal district courts in the States of Illinois, Wisconsin, and Indiana. The court is considered to be one of the most important in the land.

During the 1984 term, there were 2,265 cases filed, 2,259 cases terminated, and 1,751 cases pending at the end of that term. As I have already indicated, most of these cases will never reach the Supreme Court for further review.

Let us just compare the U.S. Supreme Court load and the Seventh Circuit Court of Appeals load for 1984: 139 cases which the Supreme Court heard oral arguments for and issued written rulings on; whereas, in the seventh circuit alone, there were 2,200—in order words, roughly 15 times as many. There were 2,265 cases filed, 2,259 cases terminated, and 1,751 cases pending at the end of that term.

Most of these cases will never reach the Supreme Court for further review. Other judges, sitting on other circuit courts, will look to the opinions handed down by the judges of the seventh circuit in deciding cases on similar issues before their courts.

So the influence of the Seventh Circuit Court of Appeals reaches outside the States of Illinois, Indiana, and Wisconsin—outside the seventh circuit. But, as a matter of fact, the decisions of the judges in the seventh circuit can have an impact, upon decisions in all the other circuits throughout the United States.

In finally resolving the question of whether Mr. Manion should serve at this time as a judge on the Seventh Circuit Court of Appeals, all citizens need to keep a few thoughts in the forefront.

This is not a time for "pork barrel" politics. This is not a simple exercise in "log-rolling." The sanctity of the Federal judiciary should not depend on deals being cut in back rooms.

Smearing Mr. Manion—the distinguished majority leader, I think, has made reference to smearing—smearing Mr. Manion is not the issue. The issue is the people over whom he will hold awesome power as a member of that bench. He will have awesome power over the lives, over the property, over the rights of every man, woman, and child within that seventh circuit; over governmental institutions, over agricultural issues, over energy issues—all kinds of issues that come before that court. This man will be appointed for life. It is a lifetime tenure that we are talking about.

Anyone who reads the Manion briefs that were studied by the Judiciary Committee will conclude that this man does not have the "right stuff" to be given that power. We are talking about 22 million citizens within that circuit court of appeals' dominion, the seventh circuit—22 million citizens.

This appointment to a court that will be the court of last resort for thousands of vital cases every year is too important, too significant to be decided in ways being attempted to enable Mr. Manion to squeak by the Senate.

We must not allow an appointment to a circuit court of appeals to be won like chips at a gambling table. We must not allow an appointment to a circuit court of appeals to be won here in the Chamber—where we must attach important and profund responsibility to our advice and consent role dictated by the U.S. Constitution—in a manner where fewer than half of the Senators have been willing thus far to vote for this nominee. The Senate has a higher responsibility than that.

We must not let rule 31, paragraph 5, be the sole determinant now as to whether or not Daniel Manion will sit on the Seventh Circuit Court of Appeals, which has jurisdiction over 22 million people. Let us have a vote. We must not cheapen either the judicial system of this Nation, or the U.S. Senate and its constitutional role in these actions. When it comes to something of this magnitude, "log-rolling" politics, "rolling the dice," should be left outside the Chamber.

I hope that very soon the Senate will be given an opportunity to vote, straight and clean, up or down, on this nomination, and I hope that all Senators will be present. I hope that a date can be set when all Senators will be on notice that the vote will occur at a particular time, so that the Senate may express its will, either to place Mr. Manion on the seventh circuit's bench or to state unequivocably that he does not belong there. It is too important to the Nation, too important to the nearly 22 million citizens of the Seventh Circuit Court of Appeals, to the Senate, and to the protection of our Constitution—and, indeed, to Mr. Manion—for him to be slipped into a judgeship through the back door, which resort to rule 31 would be.

□ 1130

This is not to say that it would not be within the distinguished majority leader's right to utilize that rule. It is one of the standing rules of the Senate. But if Mr. Manion assumes the wearing of the robe in the seventh circuit through that back-door procedure then a cloud will hang over his head and over the head of the Senate, if that is to become a route to a circuit judgeship.

Mr. President, I yield the floor.

REINSTATEMENT OF SPECIAL ORDER

Mr. DOLE. Mr. President, I think erroneously the special order in favor of Senator HAWKINS was vitiated. I ask unanimous consent that it be reinstated.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

DRUG EDUCATION: EVERYBODY'S BUSINESS

Mrs. HAWKINS. Mr. President, there is a familiar saying that goes like this: "There's good news and there's bad news. Which do you want first?" The good news is that the use of marijuana and several other drugs dropped markedly in American colleges over the last 5 years. The bad news is that cocaine use is sharply on the rise. In fact, nearly one-third of college students sample cocaine by the time they graduate.

These findings come from a new survey of young Americans conducted for the National Institute on Drug Abuse by the University of Michigan. The core of the survey consisted of interviews with 1,100 students, 19 to 22 years old, enrolled in 2- and 4-year colleges across the country.

Dr. Lloyd Johnston, one of the directors of the survey, reports that marijuana use has declined significantly since 1980. In contrast, cocaine use has gained what Dr. Johnston and his colleagues describe as a "surprising and unsettling foothold" among college students and young people in general past high school age. Among students, 30 percent conceded that they had tried cocaine by the time they finished their senior year of college. Unlike other drug use, cocaine experimentation continued to grow each year after high school. Marijuana is still the most widely used drug among our Nation's youth. But the use rate has dropped from 51.2 percent in 1980 to 41.7 percent in 1985. The use of barbiturates, amphetamines, and LSD declined substantially in the past 5 years. The use of methaqualone, best known by its brand name quaaludes, dropped from 7.2 to 1.4 percent last year.

Dr. Johnston explained that "for many drugs, the fad has run its course among young people who grew up in a world filled with drugs." Regrettably, cocaine is the latest fad. Researcher Johnston said that regular use of marijuana began to decline when young people came to realize it is dangerous. Now this is a very important point and to underscore its significance I would like to repeat it—regular use of marijuana began to decline when young people came to realize it is dangerous. The fact is that most young people do not take cocaine seriously enough. The majority of young people—the survey observes—acknowledge that heavy cocaine use is dangerous. But only a third of the survey group thinks that there is danger from occasional or experimental use. That is a frightening discovery. If the deaths of Len Bias and Don Rogers have any meaning it is that you do not have to be a heavy user of cocaine to be killed by it. Both of these young athletes, in prime physical condition, died without an extensive history of cocaine use.

The message has to be carried to every nook and cranny of this Nation: Cocaine can and does kill. And while there is great danger to a heavy user, the casual experimenter can just as easily fall victim because he has built up no tolerance to this deadly drug. Our drug treatment centers should carry the message, our school counselors, and guidance teachers should do likewise. Our newspapers, magazines, radio, and television stations should follow suit. And special messages from athletes, whom young people tend to emulate, should carry the theme. Creating an awareness that drugs are dangerous is everybody's job.

I think our First Lady, a gallant fighter in the war against drugs, hit the nail right on the head in an op-ed piece published in the Washington Post on July 7. Mrs. Reagan wrote:

> The problem is this—most people don't feel that combating drugs has anything to do with them. It's for others to do—those who work in treatment centers or who have children on drugs or who live where drugs are openly traded on the street. I believe it's time to let people know that they have a personal, moral responsibility to fight drug abuse. Each of us has an obligation to take an individual stand against drugs. Each of us has a responsibility to be intolerant of drug use anywhere, anytime, by anybody.

To Mrs. Reagan's remarks, I know I join other parents in saying "Amen."

WALLY JOYNER—ALL STAR

Mrs. HAWKINS. Mr. President, I wish to take a moment of everybody's time to wish well my own nephew, Wally Joyner, who is playing first base tonight, the first rookie ever chosen in the history of professional baseball to serve on the all-star team.

We are proud of our young nephew, Wally Joyner, and wish him well this evening.

I thank the Chair.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

ARMS CONTROL IS VIRTUALLY DEAD

Mr. PROXMIRE. Mr. President, why—oh why do the two most powerful men in the world—the President of the United States and the Secretary General of the Communist Party of the Soviet Union—fail to make any progress on arms control? Both leaders have announced to the world proposals designed to eliminate nuclear weapons from the face of the Earth. Both say they favor massive reduction of weapons on both sides through mutual, enforceable arms control agreements. So what progress have these two armed-to-the-teeth superpowers made toward their goal of arms reduction? Answer: Arms control is a total, unmitigated disaster. First, there has been absolutely no progress toward arms control—at all—none. All the words of progress toward reducing nuclear arms on both sides have been utterly empty.

It has been worse—much worse. Every bit of the fragile, tentative arms control machinery so painstakingly put in place over the past 25 years has now vanished. I challenge any Senator to name one single arms control agreement between the two great nuclear superpowers that continues to restrain nuclear weapons of any kind. Oh, sure, the Limited Test Ban Treaty still prevents superpower nuclear weapons test explosions, except underground. That helps keep radioactive pollution out of the Earth's atmosphere. But it does nothing to achieve its prime purpose: Stopping the development of even more deadly and threatening nuclear weaons. Here was a treaty that pledged both powers to negotiate the end of all nuclear weapons tests—including underground tests. The administration has expressed its firm intentions to disregard that promise. In 1972, this body, the U.S. Senate, ratified by a smashing 89-to-2 vote the Antiballistic Missile Treaty [ABM]. What was the one and only purpose of that ABM Treaty? The purpose was simple. It was to stop either superpower from building a system of antiballistic missile defenses that would destroy the credibility of the adversary's nuclear deterrent and set off an all-out offensive and defensive nuclear arms race. So what is the administration's No. 1 military priority? It is the development, production, and deployment of precisely the SDI, star wars antimissile project that the antiballistic missile, ABM Treaty, was expressly designed to prevent.

So what is left? Not the Strategic Arms Limitation Treaty [SALT II]. That treaty was all that remained of superpower arms control agreements. SALT II was hanging by a thread. But not now. No longer. The SALT II was signed in 1979 by President Carter. It was never ratified. But it was kept in effect by an Executive order of President Reagan. It expired on December 31, 1985. It was kept in effect by Executive order until May of this year. And then pronounced dead by the administration. With the death of SALT II, what superpower arms control agreements are left? Answer: None, nothing.

The nuclear arms race zooms ahead without the slightest restraint from superpower arms control agreements. Fortunately, there are two powerful forces restraining the dangerous nuclear weapons competition. First, there is the grim, blunt fact that the destructive capacity of both superpowers is so enormous that a nuclear war would bring swift and sure destruction—total, absolute destruction—to both sides. That common knowledge of the utter insanity of either superpower ever using its massive nuclear strength as an act of war has kept the nuclear peace ever since the United States and the Soviet Union both achieved their astonishing capacity for destruction.

The second restraining force on both sides is the mammoth cost—the colossal economic burden—of even trying to achieve sufficient nuclear superiority so that a nuclear war could actually be won. A fully deployed and absolutely efficient star wars could conceivably make it possible for the United States to win a nuclear showdown with the Soviet Union. But the cost would be astronomic—like $1 or $2 trillion for starters. The prospect of U.S. success with star wars would be so small, it would be infinitesimal. It would be 1,000 to 1, 10,000 to 1 against, hardly a gamble that would justify $1 trillion plus burden.

So here we are, Mr. President, relying on mutual assured destruction and the discipline of the budget to keep the peace. Sure, these forces may work. They may work for years to come. But the on rushing technology of the nuclear arms race is unpredictable, unstable, and probably uncontrollable. This complex and constantly more dangerous weaponry will increasingly threaten human survival. By virtually abolishing arms control, the superpowers are taking an irresponsible chance with the future of civilization and the very existence of mankind as a species.

□ 1140

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 12 o'clock noon with statements therein limited to 5 minutes each.

THE MANION NOMINATION

Mr. KENNEDY. Mr. President, I hope the majority leader will proceed promptly to final Senate action on the Manion nomination. The preliminary Senate vote last month was marred by questionable horsetrading and misrepresentations that prevented an honest vote.

Many of us, probably a majority of the Senate, feel that Manion is not qualified to be a Federal judge, and it would bring dishonor to the Senate to stall a final vote and confirm him by a questionable parliamentary tactic.

Frankly, it is in the interest of all sides to move to a final vote as soon as possible. The longer we delay, the worse the Senate looks.

MEDICAID TO ILLEGAL ALIENS

Mr. MOYNIHAN. Mr. President, yesterday, the U.S. district court for the eastern district of New York, in a ruling by Judge Charles Sifton, a distinguished member of the bench, held that illegal aliens are eligible for Medicaid payments and Medicaid care in the hospitals of that district and, by extension, the Nation.

Judge Sifton, who is a distinguished jurist, made a very simple point that there is nothing in the 1965 statute that says otherwise. In a class action suit, brought by seven illegal aliens saying they needed medical care, he held that they were entitled to it.

Might I say, Mr. President, that in the absence of Medicaid payments, we should not assume the absence of medical care. It is the tradition of New York City and most jurisdictions of our country to provide care to the ill and indigent regardless of their legal status as citizens. It goes back a long time in the history of New York City, long before we had immigration laws—a time when as many as half of the population of the city were technically aliens although not illegal.

However, Mr. President, I think we must accept the ruling of Judge Sifton, and I cannot doubt that if it is appealed it will be upheld in the courts of appeal and certainly in our second circuit and eventually become the law of the land. In that case, Mr. President, it is required of those of us in the Congress to ask: What provision will we make for the expenses that will be incurred locally, large expenses, in the aftermath of this ruling?

I have made some rough calculations. I cannot speak to it with the authority of the Human Resources Administration of New York City, for example, but the numbers are roughly that in 1980, there were 234,000 illegal aliens in New York State; just over one-quarter of 1 million. At that same time, in 1980, of the 17.5 million residents of our State, 1.3 million, or 7 percent received Medicaid payments of $1,486 per month.

Mr. President, it is altogether unfair that local and State governments should have to assume a large share of the cost of dealing with illegal aliens, whose presence is a manifest evidence of a failure by the Federal Government to enforce its laws. Were the Immigration and Naturalization Service able to police our borders and regulate their movement, as they are required to do under law, if the Federal Government did what it says it must do, there would be no illegal aliens or, if there were, there would be an insignificant number. They would not be the massive numbers that we all are aware of in the State of New York of 234,000.

In any event, Mr. President, it is characteristic of our social legislation and it has been since the Social Security Act of 1935 that we provide care for the elderly, care for persons who are in the normal stream of the economy as a matter fully insured by and assumed by the Federal Government through Medicare and Social Security payments. These programs are part of the insurance fund in which the Federal Government takes full responsibility—100-percent payment by the Federal Government. The only programs where we do not have such provisions is where indigent persons are involved, primarily children and their parents, the aid to families with dependent children. Here local governments set the standards and the Federal Government shares the cost.

A family receiving AFDC payments automatically receives Medicaid payments but, again, the Federal Government pays only a portion. The State must pay the rest. And, in some States, until recently in New York, the local governments paid their share.

Mr. President, this is not a decent social policy. A child in Mississippi is just as valuable as a child in New Hampshire or Oregon and, with very small and inconsequential differences, costs just as much to feed and raise and educate and nurture.

For years, those of us in Congress have asked for a national standard for children because they are all our children. And, on the same basis, I would say, from a different perspective, that the Federal Government, being responsible for the presence of illegal aliens, ought to be responsible for their medical care.

I hope this legislation will be received favorably. I can imagine that today in this Senate there are not that many persons aware of the matter. I am sure my colleague, Senator D'AMATO, my distinguished friend, is concerned, since it is a New York ruling. But this will become a national issue in no short order and require a response by the Congress. I hope that this will be done. As I say, Mr. President, I will file the legislation, now being drafted, later today.

Mr. President, to speak to this subject generally, the necessity we will face of dealing with the cost of payments to illegal aliens, the division of those payments under Medicaid, should be seen as an opportunity as well as a responsibility to particularly ask ourselves just what is to be the nature of national programs such as Medicaid that require shared costs where young persons are involved. Adults do not find themselves treated differently by national programs depending on what part of the country they happen to reside in. Adults, one might say, who have the option to move in a general sense if they desire are nonetheless given uniform treatment nationwide. Children who do not have that option at all, are treated differently, as if they mattered differently, as if the child in Alabama, the child in Arizona, or the child in New Jersey had somehow different intrinsic value, worth, and therefore different levels of support.

This is strange and at some points almost cruel behavior in the Nation because there are jurisdictions that have not gotten the resources they would wish, but care for the children they have. It was never intended by the authors of the Social Security Act to make such a difference. They did not anticipate that benefits made to a child would vary by as much as a factor of 2 and 3 to 1 between one State and another. They are not always the States you might think of. They are States which have very considerable resources which even so have very low and even punitive levels of support for the most helpless and dependent of all our citizens, to wit: Our children, our very young children living under the AFDC Program. We should not fail to remind ourselves from time to time about the intent of the Social Security Act of 1935.

The provision of Medicaid services varies from State to State for persons who are equally ill no matter what hospital bed they happen to be in. And one would suppose that they would have an equal provision. If this means reducing some of the levels of the very high States, so be it. But it does assert a uniform nationality. We are the only industrial democracy in the world that defines different levels of medical care, different levels of child assistance depending on the jurisdiction in which the sick person or the dependent child lives.

This is an anachronism in our legislation, 51 years from the enactment of Social Security, whose time has changed. Mr. President, I hope this new event will give us an opportunity to consider this.

Mr. President, I ask in that regard unanimous consent that a report of Judge Sifton's judgment which appeared in the New York Daily News be printed in the RECORD at this point so that there be a full account of the event.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Daily News, July 15, 1986]

COURT: MEDICAID FOR ALIENS

Up to 234,000 illegal aliens in New York State should receive Medicaid assistance, a Brooklyn federal judge ruled yesterday.

The ruling by James Charles Sifton came in a class-action suit that, although restricted to New York, could have national significance if adopted by federal courts elsewhere.

"An examination of the language of the Medicaid statute reveals that it includes neither an express alienage restriction . . . nor does the act set forth anywhere a single statement of criteria establishing eligibility for Medicaid," Sifton ruled.

The plaintiffs in the case were drawn from those who live in New York State but have no "green cards" for legal permanent resident status. The 1980 census estimated the number of nonlegal permanent residents in the state at 234,000.

The action was begun in 1981 by nine New York illegal aliens who said they needed medical care and Medicaid assistance.

Medicaid was enacted in 1965 and incorporated into the Social Security Act. It is a federal-state cost-sharing program designed to enable participating states to furnish medical assistance to people who can't afford it.

The U.S. Department of Health and Human Services argued that illegal aliens were ineligible for Medicaid. In addition to the federal government, the state and the city were defendants in the case.

Lawyers for the illegal aliens argued that barring them from Medicaid "violates the Medicaid statutes and the federal Constitution." They also maintained immigration status was irrelevant.

According to the 1979-80 report of the state Department of Social Services, 1,322,352 persons, or 7 percent of the 17,558,072 residents of New York State, already receive Medicaid at an estimated annual cost of $7 billion.

More than 77 percent of the illegal aliens counted in 1980 had been in the country more than five years and more than 44 percent had been here more than 10 years.

The illegal alien population generally comprises young adults under 35, officials said.

Mr. MOYNIHAN. Mr. President, on another matter, if I may ask, if my 5 minutes have not expired, and if it has, I would ask unanimous consent to continue.

The PRESIDING OFFICER. The Senator may certainly ask unanimous consent for the time he desires.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I may speak for an additional 5 minutes with respect to our former colleague Jonathan Bruce Bingham, who died on the 3d of July.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF THE HONORABLE JONATHAN B. BINGHAM

Mr. MOYNIHAN. Mr. President, the Senate will by now have learned of the death July 3 of our friend and colleague Jonathan B. Bingham, who represented the Riverdale and adjoining areas of Bronx County in New York City for nine terms.

Jack and I were friends for more than three decades. We met in the winter of 1953–54 when he was a principal in the campaign of Franklin D. Roosevelt, Jr., then also a Member of the House, who hoped to win the Democratic nomination for the Governorship of New York. When Averell Harriman was nominated instead, Frank Roosevelt cheerfully agreed to run for attorney general, pitted against our late and beloved Jack Javits.

In the same spirit Jack Bingham agreed to become research director of the Harriman campaign, which in the manner of many organization efforts of that time was long on votes but somewhat short on policy details. Jack asked me to join him, and after Harriman was successful in the fall election, asked me to come to Albany as his aide. I was joined there by Elizabeth B. Brennan who became his personal assistant. Neither of us will forget the moment not 3 months later when we walked into Jack's office late one afternoon to announce our engagement. Jack, who usually worked 14 hours a day every day, stopped everything, took us in to see the Governor, then out to his great rambling home on the Loudonville Road for champagne with June and the children.

His career is too well recorded in the annals of the Nation, not least its legislation, to bear repeating. There are few Senators present who did not know him, and none who did not respect him. For those who were closer to him the relationship went beyond respect. On the occasion of his death, I remarked: "Jack must have known how much we admired him; I only hope he knew how much we loved him. No finer person ever graced our politics or touched our lives."

On the occasion of a beautiful service of thanksgiving for the life of Jonathan Brewster Bingham at the Riverside Church in New York, his dear friend, August Heckscher, spoke so well of this extraordinary man that I ask unanimous consent that his remarks be reprinted in the RECORD, along with an obituary and an editorial which appeared in the New York Times. I ask unanimous consent too that a beautiful prayer which was read at the service by Jack's son-in-law, the Reverend Richard H. Downes, and remembrances by Mrs. Harriman and M.J. Rosenberg be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RIVERSIDE CHURCH

I am August Heckscher, an old friend of Jonathan's, and June has asked me to say a few words in remembrance.

We each have our particular recollections, even our special names for this good man—not only Jonathan, but Bing, and Jack, and even plain Bingham. I think that when I first knew him—I had gone down from my school, St. Paul's, to debate against him at Groton—it was as "Bing" he was known by his schoolmates; and it was as Bing, when I visited him at Riverdale one recent day of spring, that I last said goodbye to him.

A year after our first encounter we both arrived as freshman at Yale. He was a marked man from the start. His family name had long been connected with the university. His fame as a scholar, as a debater, as a natural leader had preceded him; and we looked to him to put his mark upon the next four years. Soon, indeed, he was the outstanding member of our class. As chairman of the Yale News, he converted that formerly rather stodgy Republican paper to a supporter of the Democratic party and ardent advocate of Franklin Roosevelt and the New Deal. He led us on many intellectual escapades. He delighted us as comrade and friend.

I had the good fortune in these years to be his lieutenant and supporter, and sometimes to be his rival. As a matter of fact, I won out over him in Yale's oratorical contest! But I never knew Bing to show the slightest touch of jealousy or resentment—as never in later life did I ever hear him express toward any man a shadow of such emotions. His loyalty and help were never-failing, not only at Yale but through all the ups and downs of life. He was to me, and to many, such a friend as one does not find twice.

I like to think of the day, many years later, when I as Park Commissioner and he as Congressman toured the green places of the Bronx. Perhaps some of you who met with us are in this audience today. I saw then the gentle concern he had for every one of you; and I can tell you that if ever I extended a favor on a man's behalf—maybe only a few trash cans supplied, or a bench repaired or a flower-bed renewed—I did it that day from the fulness of my heart.

Jonathan's career as a servant of New York state, of the United Nations, and above all as a Congressman, is well known. He was always the liberal, always the man of peace, always the compassionate man who cared for the oppressed minority, the threatened nation, the disadvantaged individual. His manner was quiet, his rhetoric cool and rational, but he did not hestitate to take on the most powerful of local bosses or the most fiercely entrenched lobby.

He was, indeed, the examplar of what a public servant in a democracy should be. If our country is to preserve in the future its sanity, its tradition of humane freedom, it will be because there continues to be among its leaders a few men of the intellectual calibre, the innate civility, the simple, inexhaustible decency of Jonathan Bingham.

In his private life he was blessed. Growing up as the youngest of seven brothers he learned the rugged give-and-take of family existence. A large and constantly extending progeny of his own—glowingly reported upon in holiday photographs dispatched to constituents and friends—filled the big house in Riverdale. I dare not breach the intimacy of those walls to speak today of Jonathan as father, as grandfather, as husband; but dear June, we do especially think of you; we all know what you have given of love and devotion, of humor and brightness and inspiration.

And so the moment comes when we must say farewell. It is not easy to do so. Together we say it affectionately, admiringly. We say it with thankfulness, Jonathan, for the gift of your life.

[From the New York Times, July 4, 1986]

EX-REPRESENTATIVE JONATHAN BINGHAM, 72, DIES

[By Eric Pace)

Former Representative Jonathan B. Bingham, the veteran liberal Democrat from the Bronx, died yesterday at Presbyterian Hospital. He was 72 years old and lived in the Riverdale section of the Bronx.

A hospital spokesman said Mr. Bingham had died of pneumonia and related complications.

Mr. Bingham, a lanky, 6-foot 2-inch lawyer who was a former diplomat at the United Nations, first entered Congress in January 1965 after defeating Charles A. Buckley, the Bronx Democratic leader. He maintained a reputation as a staunch liberal on Capitol Hill for nearly two decades, retiring late in 1982 at the end of his ninth term.

He had withdrawn from the Democratic primary in 1982 after his district, which covered the heart of the Bronx—from the Grand Concourse to Co-op City—was redrawn. The new 19th District took in much of Representative Mario Biaggi's district in the east Bronx, spread across the northern Bronx and into parts of Yonkers.

A member of the Foreign Affairs Committee, Mr. Bingham was an outspoken supporter of Israel. He also wrote the Soviet Jewish Refugee Assistance Act of 1972 and was the chief House author of the Nuclear Nonproliferation Act of 1978, banning the export of nuclear fuel and reactors to nations that refuse to open their facilities to international inspection.

SOUGHT TO CONTROL HANDGUNS

In addition, he was one of the main forces behind congressional rule changes in 1974 that provided for more democracy in the choice of committee chairmen and apportioned more power to subcommittee chairmen.

Over the years, Mr. Bingham tried but failed to bring about legislation controlling the sale of handguns. He was also a fervent critic of what he said was the insidious influence of campaign contributions on the political process.

Mr. Bingham, who was widely known as Jack, could be blunt-spoken. "Congress has put a lot of stupid restrictions on foreign aid," he said shortly before he retired. He added, "It's not entirely the fault of Congress, but our relations with Cuba are stupid."

In February 1977, he conferred for more than eight hours in Havana with Fidel Castro, the Cuban leader, who insisted that a major precondition for normalizing relations with the United States was the lifting of the United States embargo on trade with Cuba.

Yesterday, Senator Daniel Patrick Moynihan, Democrat of New York and a former aide to Mr. Bingham, said Mr. Bingham "must have known how much we admired him; I only hope he knew how much we

loved him. No finer person ever graced our politics or touched our lives."

SON OF A GOVERNOR

Jonathan Brewster Bingham was born April 24, 1914, New Haven, the youngest of the seven sons of Hiram Bingham—who went on to become a Republican Governor of, and Senator from, Connecticut—and Alfreda Mitchell Bingham.

Mr. Bingham graduated from the Groton School and, in 1936, from Yale College, where he was elected to Phi Beta Kappa and headed the undergraduate newspaper.

After graduating three years later from Yale Law School, where he was an editor of the Yale Law Journal, he practiced law with the Manhattan-based firm of Cravath, de Gersdorff, Swaine & Wood until 1941. He then joined the staff of the Office of Price Administration, and went into the Army from 1942 to 1945, serving in military intelligence and rising in the State Department in 1945 and 1946 in Washington. He then resumed the practice of law in New York until 1951, when he was briefly assistant director of the State Department's Office of International Security Affairs and then, for three years, was deputy administrator of the Technical Cooperation Administration, the formal name of the Point Four foreign aid program.

LOST STATE SENATE RACE

After more legal work in New York, he became secretary to the Governor of New York, W. Averell Harriman, for four years, beginning in 1955. In 1958, Mr. Bingham was defeated in a bid for the State Senate.

From 1959 to 1961, he was a member of the New York law firm of Goldwater & Flynn, and from 1961 to 1964 he was a member of the United States delegation to the United Nations.

He served in 1961 and 1962 as United States representative, with the rank of minister, in the United Nations Trusteeship Council, where he was elected president for 1962.

In 1962 and 1963, Mr. Bingham was United States representative, with the rank of ambassador, at the United Nations Economic and Social Council.

He was the author of "Shirt Sleeve Diplomacy: Point 4 in Action," which came out in 1954, and a co-author—with his brother Alfred—of "Violence and Democracy," which appeared in 1970.

A spokesman for the Bingham family said yesterday that Mr. Bingham had been admitted to the hospital six weeks ago and had been treated with drugs used for Legionnaire's disease, a kind of pneumonia. But the spokesman said that Mr. Bingham had more than one other type of pneumonia, and that they were the cause of death. The spokesman said it was his understanding that Mr. Bingham had not been diagnosed as having Legionnaire's disease.

His survivors include his wife, the former June Rossbach, whom he married in 1939; five brothers, Alfred and Hiram, both of Salem, Conn.; Mitchell, of Pacific Palisades, Calif.; Brewster, of New Haven, and Charles, of Farmington, Conn.; three daughters, Sherrell Bingham Downes of Washington; Micki B. Esselstyn of New Haven; and Guru Nam Kaur Khalsa of Great Falls, Va.; a son, Timothy W., of New Haven, and 10 grandchildren.

A memorial service is to be held at 4 P.M. Tuesday at the Riverside Church, Riverside Drive at 122d Street. The family requests that no flowers be sent and that contributions be made instead to Yale University or the Population Crisis Committee, 435 East 52d Street.

[From the New York Times, July 6, 1986]

LIBERAL CHAMPION

Jonathan Bingham, patrician lawyer and public servant who died last week at the age of 72, won his first election when he was 50. He toppled the Bronx Democratic Party boss, Charles Buckley, from the Congressional seat that he had held for three decades. In the next 18 years, Mr. Bingham won his true niche, as a committee combatant for intelligent, liberal values.

Born to politics as the son of Connecticut's Governor, and later Senator, Hiram Bingham, Jonathan Bingham served city, state and country. He was American Ambassador to the United Nations Economic and Social Council just prior to his election in 1965 and he was elected to Congress nine times. In Washington, he made his strongest legislative contributions in foreign affairs.

Mr. Bingham was also a vigorous champion of many domestic causes, including sensible handgun controls. He was, at the age of 60, one of the "young Turks" who broke the Democratic" leadership's tight seniority control over the House. Of bombast Jack Bingham had none, nor did he need it. He had conviction.

A PRAYER OF THANKSGIVING FOR THE LIFE OF JONATHAN B. BINGHAM

(By Rev. Richard H. Downes)

Father of all, below, above, Whose Name is Light, Whose Name is Love: * we give thee humble and hearty thanks for thy servant Jonathan, who left this life as he lived it—with courage, in peace, and in confidence.

We thank thee, O Lord, for the quality of his life, for the marvelous mixture of virtue and fun and wonder that marked his days, for the life of a gentleman; For his belief in the capacity of men and women and nations to dwell together in peace, for his tireless vision of a world free of war and nuclear terror;

For his recurring impatience with oppression, injustice, bigotry and blindness of heart in all segments of society; For that steadfastness we all knew and felt, a loyalty not only to people but to institutions that enrich human life. Dear Lord, we bless thee as thou hast blessed him—with the music of the violin and voices, with words of poetry and prose, with art's full loveliness.

We praise thee for his delight in nature, in her simplicity and her glory—and for his mirth when his little ship was at the mercy of the tides;

For the kind and generous spirit which so many knew, as he gave of his time and treasure that others might live more freely and abundantly;

For his soft humor, his sometimes uncontrollable laughter—and his happy ability to laugh most heartily at himself; Lord God, Whose Name is Love, we thank thee for the love that stirred the heart of Jonathan Bingham day by day, that steady, quiet, wondrous love which touched us all in countless ways, most notably in his inspired marriage.

Help us, O Gracious God, as we reflect on the rich humanity of our dear friend, to be thankful not only in our prayers but in our lives. Let this man be a sign from thee to each of us, that we may live more fully and generously and lovingly this day and evermore. Amen.

* Phillips Brooks, the Groton School Hymn.

TRIBUTE TO JACK BINGHAM

(By Pamela C. Harriman)

There was a special relationship between Averell Harriman and Jack Bingham. It flowed from years of common association, especially those years in Albany when Jack was one of Governor Harriman's closest aides and advisors. Averell prized his wisdom, his brilliance, and most of all his commitment to principle.

Their friendship was rooted not only in that shared experience, but in shared ideals. At the heart of Jack Bingham's public life, as it has been at the heart of Averell Harriman's, was a profound, abiding dedication, in good days and dark passages, to the moral imperative of peace and international cooperation. Jack Bingham was in the forefront of the continuing effort to control nuclear weapons before their uncontrollable destructiveness consumes the human race.

He was so effective because his mind was matched by his decency, his strength tempered by a personal gentleness. In Averell's view, Jonathan Bingham proved the truth of John Buchan's belief that politics can be "a noble profession."

We mourn Jonathan Bingham as a superb public servant; we miss Jack Bingham as an irreplaceable friend—and we celebrate the contribution he made during his own life to the life of our times—and to the possibility that human life will endure in times to come.

[From the Near East Report, July 14, 1986]

JACK BINGHAM REMEMBERED

(By M.J. Rosenberg)

I recall thinking that I would never get the job. Johathan Bingham was one of the most respected and influential members of the House of Representatives. I was in my mid-twenties, with no Capitol Hill experience, and—worst of all—I was neither a Yale graduate nor a lawyer. I had to screw up all my courage for my interview with the Connecticut-raised Bronx representative who was looking for someone to fill the position of chief legislative assistant (L.A.).

Bingham's top aide, Gordon Kerr, ushered me into the Congressman's presence. I was well-prepared for any legislative query he might throw at me. He looked intimidating. Almost six-and-a-half feet tall, slim, with snow white hair. He could have been elected on his looks alone! He told me about his political views. He was a liberal Democrat, a battler for equal opportunity for blacks and women. He was an outspoken opponent of the Vietnam war.

But his real love was foreign policy and his special passion was Israel.

Part of the reason for that was political. He had many Jewish constituents. But he and his wife, June, had been ardent Zionists in the pre-state era. They had first visited the country in 1950.

Bingham recognized that as a Mayflower-descended Protestant he could be especially helpful to the Jewish state on the Foreign Affairs Committee. He had unique credibility when he worked to put the foreign aid bill over. His Jewish colleagues—and especially his friend Rep. Ben Rosenthal—recognized that and wisely let the Connecticut Yankee take the lead. In his time, Bingham helped enact aid bills worth billions of dollars in assistance to Israel.

He asked me about my Jewish and Zionist background and said that the letter of recommendation he had received from AIPAC's founder, I.L. Kenen, carried a

great deal of weight with him. After ensuring that I was knowledgeable about—and shared his views of—the environment, affirmative action, and government programs to help the poor, he offered me a job. He said that I, like his previous L.S.s, would serve for just one year. "In a year's time you can learn a great deal up here. You may even have an impact, in a small way."

After six months, Bingham asked me to stay another year. I stayed another seven and, if he hadn't been unfairly gerrymandered out of his seat, I would never have left.

Bingham, himself, was a civics textbook image of a Congressman. He worked long hours. He studied committee reports. He regularly disregarded the advice of staff members who urged a vote for an ill-conceived bill because it would score a few points back home. Personally, he was wonderful to work for—even-tempered, fair, generous. His staff was loyal to him and to each other. He was thoughtful. On a half-dozen occasions, he took this awe-struck aide to the White House. I'll never forget how he introduced me to President Ford. "Mr. President, you know my L.A. Mike Rosenberg?" Later he used the same approach with President Carter—and with Menachem Begin and Anwar Sadat. On the way back to the Hill, he would tease me about my "uncharacteristic shyness today."

But my favorite memory of Jonathan Bingham, who died last week, concerns my older son Nicky. Bingham adored him—and one night he insisted on taking the five-year-old onto the House floor. Aides were not routinely permitted there—although the children and grandchildren of Representatives were. My wife, Mindy, and I ran up to the tourist gallery in time to see Bingham introducing Nicky to Mo Udall, Liz Holtzman, and Speaker Tip O'Neill.

Then Bingham left Nicky sitting in one of those hallowed seats (with Silvio Conte, I believe) while he successfully urged his colleagues to support his amendment to cut off aid to Syria. The amendment passed and Bingham led Nicky back to us. Now 11, Nick still proudly recalls the day he "helped Bingham pass a bill." So do we.

Today, as I leave Near East Report for my new position as Washington representative of the American Jewish Committee, I think of the man who won't be there to share in my excitement. But, in a very real sense, he will be. I'll certainly never forget the Congressman who took a chance on an inexperienced kid and changed his life. The statesman who walked out of high-level meetings to call a landlord and tell him that he had better not raise rents again. The Soviet Jews in Israel—absorbed under the "Bingham resettlement program"—won't forget their benefactor, and especially not the old Jews living in the Jonathan Bingham Home in Ashkelon. He'll be remembered, quite, simply, because, for many of us, he is irreplaceable.

Boss, I miss you already.

Mr. MOYNIHAN. So, Mr. President, we say farewell to a man we will not forget and offer the deep sympathies of the Senate to his widow and his family.

Mr. President, I thank the Chair.

I yield the floor.

JONATHAN B. BINGHAM

Mr. CRANSTON. Mr. President, the Congress and the Nation lost a good and decent man last week with the death of Jack Bingham.

Today, I wish to join with many of Jack Bingham's friends in Congress in paying tribute to him for his life's work and in expressing our sorrow to his wife, June, and to his family for their loss.

My friend and colleague, PAT MOYNIHAN, has already noted many of the important accomplishments of Jack Bingham. It is true that each time this body proceeds to address such issues as nuclear export policy, war powers authority, and arms exports, we are operating under a legislative framework which is just part of Jack Bingham's substantial legacy.

Jack was a pathfinder on many of these issues. Together with Gaylord Nelson, he led the way in establishing the rules which today govern all U.S. arms exports. The historic debates Congress has had over such proposals as the 1978 arms package to the Middle East, the 1981 AWAC's sale to Saudi Arabia, or the more recent debates over arms sales to Jordan and Saudi Arabia, were made possible only because of the Bingham-Nelson measure which ensured that Congress could exercise this constitutional perogative.

Starting with this improbable, come-from-way-behind victory over Representative Charles Buckley in 1964, Jack Bingham was never afraid to take on a tough fight. When he was thwarted in his efforts to reform U.S. nuclear power and nuclear export policies, he confronted industry boosters head-on. He was convinced that our national interests would better be secured by more prudent use of nuclear exports and higher safety standards for nuclear powerplants in the United States. He lost a few battles in this struggle, such as the fights he led in the mid-1970's over renewal of the Price-Anderson Act and funding of the Clinch River breeder reactor. But with guts and perseverance, he prevailed in the end. He singlehandedly abolished the Joint Committee on Atomic Energy, thereby ensuring more effective congressional oversight on crucial nuclear issues. He authored and sped through the House, with an overwhelming 411-0 vote, the landmark Nuclear Nonproliferation Act which sets the standards for crucial U.S. efforts to curb the spread of nuclear weapons. He succeeded in blocking the Nuclear Fuel Assurance Act in 1976 and thereby saved the American taxpayers the $8 billion in loan guarantees this imprudent measure would have offered; with the advantage of hindsight we know Jack Bingham was right—the uranium enrichment capacity this bill would have provided would have been totally superfluous, not to mention the proliferation danger of providing such capacity to nations like Iran. And of course in the end, the Clinch River breeder reactor was never built—Jack Bingham was right on that one from the beginning.

There is another type of contribution that Jack Bingham made as a Congressman and a leader that will not show up in any history book or any copy of the CONGRESSIONAL RECORD. But it is a contribution which has ensured Jack Bingham a special and enduring legacy.

Jack loved young people. Whether they were young Congressmen who came to him fresh from the hustings in search of committee assignments for their freshman year or young interns looking for a chance at a job on the staff of Congress, Jack always showed extraordinary patience and faith. When Jack had accumulated seniority he used his authority not to monopolize power, but to open the process to involve younger Members more deeply. He led the way for the House reforms of the "Class of the 94th Congress," and today in this body we have many of the Congressmen who benefited from Jack's wisdom and have now joined us in this body—PAUL SARBANES, CHRIS DODD, TOM HARKIN, LARRY PRESSLER, PAUL SIMON, just to name a few, and one Senator who worked on Jack Bingham's staff—PAT MOYNIHAN.

And Jack's legacy is with us on our staffs as well. Jack had a unique patience to take the time with kids fresh out of college or the military service and show them the ropes. He led by his example, by his exquisite manners and dignity. But he also brought great enthusiasm to his work; he took the time to critique with his sharp pencil the writing efforts of even his most junior staff interns. Today on the Hill, we are assisted by many of the minds that Jack helped train—Gordon Kerr, who serves so ably as Senator LEVIN's administrative assistant; Marty Gruenberg, who is Senator SARBANES' key adviser on Banking Committee matters; Diane Stamm, who plays a crucial role aiding Representative MEL LEVINE in his position of leadership on important foreign policy matters before the House; Gerry Warburg, who I am pleased to have on my own staff; and Roger Majak, who has served as a key assistant on the House Foreign Affairs Committee.

These young people remember Jack Bingham with deep affection as they seek to uphold his standards and to carry on in his tradition. And we in the Senate and the House remain indebted to Jack Bingham for his leadership, for his unflagging commitment to such causes as arms control, the security of Israel, and the best interests of the United States.

We shall remember Jack Bingham with affection and admiration; his was a life well lived.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent to delay the recess for a few moments. We are trying to reach the distinguished minority leader on scheduling matters. I ask unanimous consent that the recess be delayed until 12:10 p.m. It may not take that long.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1200

POSTPONEMENT OF VOTE UNTIL 3 P.M.

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the consent agreement entered into on June 27 with respect to the Scanlon nomination be postponed, to begin at 3 p.m. today rather than 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The reason for that is that at 2 o'clock, we hope to take up the TV in the Senate resolution. I am advised the distinguished Senator from Alaska [Mr. STEVENS] would like to speak for 20 or 30 minutes. Then we hope to take action on that.

Also, it is my hope that between 2 and 3 p.m., we can appoint conferees on the tax reform bill. So this will accommodate those two urgent matters.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I move that we now stand in recess until 2 p.m.

The motion was agreed to and, at 12:04 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reconvened when called to order by the Presiding Officer [Mr. COCHRAN].

□ 1400

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. FORD. Mr. President, before we do that, may I make a unanimous-consent request?

Mr. DOLE. I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

THE NEED FOR A BETTER BUDGET PROCESS

Mr. FORD. Mr. President, during the recent recess of the Senate, there appeared in the Brookings Review summer issue a timely and interesting article by Alice M. Rivlin, director of the economic studies program at Brookings, and former Director of the Congressional Budget Office.

The article addresses those reforms in our present budget process which Mrs. Rivlin believes are needed. In particular, she urges Congress to adopt the 2-year budget process which I have proposed since 1981. Like those of us in Congress who have supported this reform, Mrs. Rivlin acknowledges that a change to 2-year budgeting will not solve all budget problems—especially will it not make easier the difficult choice decisions we must make to achieve balance in our revenues and spending—but it will provide several significant improvements over our present procedures.

Mr. President, biennial budgeting already has begun to make its way into the Federal budget process. As required by the fiscal year 1986 defense authorization bill, the Defense Department will submit to Congress next year a budget request covering fiscal years 1988 and 1989; 2-year budgeting for the Pentagon was a key recommendation of the President's blue ribbon commission on defense management—the Packard Commission.

A 2-year budget for the Pentagon was touted by the Commission as a means of stabilizing the Nation's military funding. As the Congress normally does not complete work on annual defense budgets until shortly before the next year's budget request is submitted, the Pentagon must scramble to incorporate congressional changes into the new budget.

This problem is not unique to the Defense Department. Every department of the Federal Government, and State and local government agencies rarely know what to expect from us until the last moment. They cannot plan effectively under those circumstances to use scarce resources efficiently. We could do the country a great service by moving to a biennial budget.

Mr. President, the Rivlin article from the Brookings Review also discusses Gramm-Rudman-Hollings and the Federal deficit issue. I believe it should be read by every Member of Congress. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEED FOR A BETTER BUDGET PROCESS

(By Alice M. Rivlin)

(Alice M. Rivlin is the director of the Economic Studies program at Brookings. From 1975 to 1983, she served as the first director of the Congressional Budget Office. Together with five Brookings colleagues—Henry J. Aaron, Harvey Galper, Joseph A. Pechman, George L. Perry, and Charles L. Schultze—she is co-author of Economic Choices 1987. This article is adapted from a chapter of that book.)

The time has come to simplify the federal budget process. Hardly anyone likes the complicated and arcane procedure the U.S. government uses to arrive at a budget. The process consumes enormous amounts of executive branch and congressional time and even then is rarely completed. Deadlines are missed, and government agencies frequently run on "continuing resolutions" rather than regular appropriations. Occasionally a president makes a show of closing down the government for a few hours because agreement has not been reached on further funding.

Frustrated with continuing budget deficits and their inability to reduce them, Congress and the president agreed in the fall of 1985 on the Balanced Budget and Emergency Deficit Control Act, better known as the Gramm-Rudman-Hollings law. The law, which set up a mechanism to balance the budget in five years, was enacted in desperation to break the deadlock between Congress and the president and reduce the deficit, but not even its staunchest defenders regard it as a desirable process for making a budget. Whether or not this desperate gamble will work to cut the deficit, the question remains; what can be done to improve the budget process?

A drastic simplification is in order. Most spending decisions should be made for two or more years at a time, and possibly the whole budget should be shifted to a biennial basis. Congressional committees should be restructured to combine the authorization and appropriation functions. The budget itself should be simplified and the number of line items greatly reduced, actions that would help shift congressional attention toward major policy issues and away from detailed micro-management. As for the Gramm-Rudman-Hollings law, I share the hope that it will hasten agreement on deficit reduction but regard it as a bad budget process. Constraining the budget deficit to a particular number—whether by law or constitutional amendment—risks destabilizing the economy.

WHY MAKING A FEDERAL BUDGET IS SO HARD

Making the budget process simpler and more comprehensible, however, would not make the decision easier. Budget-making is inherently difficult for any organization, whether it be a family, a business, a university, or a government. There are never enough resources to carry out all desired activities. Choices have to be made, and those choices often bring to the surface deeply divergent views about the organization's purpose, how that purpose should be carried out, and who should bear the burdens or reap the benefits. Nevertheless, most organizations do manage to make budgets and live with them. Why is the U.S. government experiencing such agonizing difficulty?

Four conditions can make it especially difficult for an organization to agree on a budget. First, it is harder to make a budget when there are lots of choices regarding both income and spending. Poor families have to eat and pay the rent; poor governments have to defend the borders and deliver the mail. Neither has many choices. Life is easier for families and governments with more earnings and sources of revenue, but budget choices get more complicated.

Second, budget-making is more complex when the organization has access to credit. Without credit families would be far less adequately housed and equipped, businesses would find it hard to function, states and localities would forgo building needed facilities. If it were unable to borrow, the federal government would be forced to raise taxes or cut spending during recessions, making swings in the economy much wider. But governments, like families and businesses, can

over-borrow, and the question of how much to borrow or pay back makes budgeting more complicated and contentious.

Third, variations in prices, employment, incomes, and responsibilities make it difficult for any organization to estimate future costs and revenues and reach decisions about them. Finally, and most important, budget-making is hard when the organization has multiple decision-makers with different convictions about what the organization ought to do and how it ought to do it. The situation requires a budget process—a procedure for arraying choices, debating what should be done, and making decisions.

The U.S. government is subject to all of these budget-complicating conditions in extreme form. It has the taxing capacity of a wealthy country and faces a high level of world and domestic responsibilities. It has apparently unlimited access to credit and has experienced the uncertainties about costs and revenues associated with wide swings in prices and economic activity and with unexpected world events. But most important is the decision-making complexity inherent in the constitutional separation of powers between Congress and the president. The president can propose changes in budgetary priorities, but the ultimate power to levy taxes and authorize spending of public funds is lodged in Congress, subject only to presidential veto. This divided rule works well when the president and Congress are in broad agreement or are willing to compromise their differences. It leads to deadlock and frustration when congressional and presidential views differ and one or both are unwilling to strike a bargain. Recent deficits have reflected the collision between the president's unwillingness to increase taxes or reduce defense growth and Congress's refusal to cut domestic spending by the amounts or in the ways proposed by the president.

One can imagine a contentious family with differing views on how to reduce its budget deficit arriving at a procedure like Gramm-Rudman-Hollings. First, some members might argue that the deficit is temporary and the family will "grow out of it"; others that the deficit does not matter. Gradually all realize that they are facing a permanent and potentially damaging gap between expected spending and expected revenues and that debt and interest payments are rising rapidly. Members of the family propose different plans for adjusting spending and revenues and are unwilling to compromise. Finally, someone suggests that all spending be cut by a fixed percentage until balance is restored. But some expenditures—the mortgage, car payments—cannot feasibly be reduced, so these are exempted. The percentage by which the remaining items must be cut to meet the target then rises. Everyone recognizes that this is an undesirable way to make budget decisions, but they are so desperate to reduce the deficit that they agree that the formula cuts will automatically come into effect on a specific date if they cannot settle on a more satisfactory way of reducing the deficit in the iterim. This is how the U.S. "family" adopted Gramm-Rudman-Hollings.

EVOLUTION OF THE PROCESS

Surprisingly, despite all the talk about the budget and the budget process, no budget for the U.S. government is ever actually enacted as such. Government spending and revenue in any one year result from the application of a large number of separate laws enacted at different times that specify how the government can raise and spend money. The elaborate set of documents labeled "The Budget of the United States Government," which the president issues with such fanfare each year, is really a set of proposals, detailed estimates of what will be spent and collected in the next year if the president's recommendations for spending and taxing laws are accepted by Congress and the economy behaves as the administration assumes (or hopes) it will.

Because of the separation of powers, the history of budget-making in the U.S. government is two separate histories: that of executive branch efforts to evolve a procedure for crafting the president's budget proposals and that of congressional efforts to make spending and taxing decisions in a more orderly way. Gramm-Rudman-Hollings is unique because it tries for the first time to deal with the efforts simultaneously and create a procedure for forcing the president and Congress to attain an agreed budget deficit target together. It is not yet clear whether this objective can be achieved in a way that does not violate the constitutional separation of powers.

THE PRESIDENT'S BUDGET

The U.S. government had no budget decision process at all until after World War I. Throughout the nineteenth and early twentieth centuries, the central government had few budget responsibilities, and government agencies took their requests for funds directly to Congress.

The Budget and Accounting Act of 1921 represented a major departure from these practices: it was the first in a series of institutional changes designed to make sure the president controlled requests for funds and proposed a budget that reflected the views and priorities of his administration. The act created a new staff, now called the Office of Management and Budget, charged with examining the requests of agencies and providing the president with the information on which to base budget proposals.

Subsequently, the Employment Act of 1946 charged the newly created Council of Economic Advisers with responsibility for forecasting economic developments, assisting the president in formulating fiscal policy, and making an annual economic report to Congress. In the 1960s and 1970s the executive branch attempted to improve the systematic evaluation of government programs, to look further into the future at needs for government action, to estimate the costs, benefits, and distributional effects of alternative spending or taxing programs, and to put the budget decision-making process on a firm schedule.

Thus by the early 1970s the executive branch of the government had institutionalized budget-making. The president was well equipped to translate his political predilections into budget proposals. But the results of all this executive activity was just a set of proposals. Congress was responsible for making the ultimate budget decisions.

THE CONGRESSIONAL PROCESS

Unlike the executive branch, by the 1970s Congress had evolved no comparably centralized institutions. Before 1974 no committee had legislative responsibility for budget policy as a whole. Many spending decisions were made in two stages. First, legislative committees worked on bills authorizing spending for particular programs. Even after such bills were passed by both houses and signed by the president, no money could be spent until separate appropriations bills made their way through another set of committees in both houses and were approved and signed into law. More than a dozen major appropriations bills were voted on at different times of the year. Relative priorities, such as defense as opposed to education or health, were never explicitly considered.

Spending for social insurance and other entitlement programs, which was growing rapidly in the 1960s and 1970s, remained outside the normal appropriations process. Amounts spent on these programs were determined automatically once the characteristics of beneficiaries and the level of their benefits were defined by legislation.

Revenue bills came out of different committees and were voted on separately from spending measures. Because the spending and taxing sides were never brought together, Congress never voted on the question whether revenues and expenditures were in appropriate relationship to each other. Congressional budget policy was the accidental result of spending and revenue decisions influenced by different committees and made at different times.

Spurred by feelings of frustration and impotence in confronting President Nixon, whose priorities differed from their own, members of Congress finally took a long overdue step and passed the Congressional Budget Act of 1974. The act created budget committees in each house charged with formulating an overall budget policy that, when passed by Congress in the form of a budget resolution, would serve as a controlling framework within which individual taxing and spending measures could be fitted. It also created the Congressional Budget Office to give Congress an objective, nonpartisan source of budget analysis and information.

The budget act provided for an elaborate three-stage process spread over a nine-month period between January, when the president's budget proposal is made, and October 1, when the new fiscal year begins. In the first stage the budget committees would produce a first concurrent resolution on the budget that would specify the aggregate level of federal spending for the next year, break down that spending by major categories (but not by detailed line items), and indicate revenues to be available and the resulting deficit or surplus.

After this resolution was agreed upon, specific appropriations and tax bills would be passed in line with the aggregate numbers specified in the resolution. The figures in the first resolution, however, were regarded as targets and were not absolutely binding. In the final stage Congress would reconsider whether the targets were still appropriate and, if necessary, reconcile specific bills with the desired aggregates. A second concurrent resolution on the budget—this time a binding one—would then be passed.

The 1974 law gave Congress a much needed mechanism for making overall budget decisions. Unfortunately, it also made an already complex and lengthy decision process still more complicated and time-consuming. The new procedure retained all the existing authorizing, appropriating, and tax writing committees and added yet another layer: the budget committees. The resulting schedule of detailed and difficult decisions to be made in sequence each year was impossibly demanding, even if reasonable agreement existed on overall budget policy.

For example, it soon became apparent that two budget resolutions were too many. The compromises on budget priorities needed to pass a first budget resolution

were difficult to achieve and often occurred later than the May 15 deadline. Once an agreement was reached, no one wanted to reopen the arguments. Hence the second resolution quickly became a formality, then was officially folded into the first.

The new decision process established by the Congressional Budget Act of 1974 accomplished its major purpose. It gave Congress a forum for deciding fiscal policy. The new procedures were expected to stengthen congressional power at the expense of the president's. However, in 1981 President Reagan, aided by his aggressive budget director David A. Stockman, used the centralized features of the congresssional budget process effectively to obtain congressional approval of drastic changes in the federal budget. The major elements of the Reagan program—tax cuts, increases in defense spending, and reductions in domestic spending—were embodied in a three-year budget resolution and passed by Congress as a package.

Reconciliation, the process originally associated with the second budget resolution, was used to bring entitlement programs and other ongoing spending legislation into conformity with the reduced domestic spending totals in the first (and only) budget resolution. These numerous, complex, and sometimes far-reaching changes in existing laws were also voted as a single package.

The events of 1981 showed that a president with strong views on budget priorities and a recent election mandate could use the congressional budget process to obtain rapid ratification of dramatic changes in the budget as a whole. The fragmented decision process that existed before the 1974 reforms would have made these instant, simultaneous changes in many parts of the budget much less feasible. President Reagan's use of the reconciliation process for wholesale alteration of detailed spending legislation, however, left many congressional committees, especially in the Democratic House of Representatives, bruised and determined to reassert their traditional powers.

The budget decisions made in 1981 resulted in enormous deficits in subsequent years. The tax cuts reduced federal revenues as a percent of gross national product while spending continued to increase. The future deficits were not anticipated in 1981, in part because the budget resolution assumed unspecified future cuts in domestic spending that never materialized. More important, however, the budget resolution was based on optimistic economic assumptions that soon proved totally unrealistic. The recession precipitated by high interest rates in 1981 caused a rapid surge in deficits. Financing an escalating debt at high interest rates led to unprecedented increases in federal spending for interest payments. As a result, increases in spending for defense and interest substantially exceeded cuts in domestic spending, leaving a growing deficit even as the economy recovered.

Beginning in 1982, rapidly escalating deficits subjected the entire federal budget process to extreme stress. Under this stress two weaknesses of the decision process stood out clearly: the basic problem, built into the Constitution, of resolving any difficult problem when the president and Congress disagree, and the layering of the process that made it unwieldy and time-consuming in normal times and close to nonfunctional under stress.

DIFFICULTIES OF DIVIDED POWER

The debate over each successive budget since 1981 has been dominated by clashes of views over the deficit. Between 1982 and 1984 President Reagan vacillated on the seriousness of the deficit, sometimes alleging that it would disappear as the economy grew and sometimes deploring it and calling for reduced domestic spending. Presidential budget proposals reflected a consistent budget strategy that continued the defense buildup, rejected both tax increases and cuts in social security, and proposed substantial reductions in many domestic activities. Congressional leaders generally made stronger statements about the necessity of getting the annual deficits down, but differed with the president and with each other on how to do it. Actual budget actions reflected painfully engineered compromises that generally pared back the president's defense increases, accepted some but by no means all of the proposed domestic cuts, and raised revenues somewhat, most notably in 1982 when aspects of the generous tax cuts of the previous year were rescinded. The result was to reduce anticipated further increases in the deficits but to leave them still at unprecedented levels even though the economy began recovering rapidly in 1983.

By 1985 both the administration and Congress had come to realize that the deficits would not disappear with economic growth and were a threat to the long-run health of the economy. But views on what to do about them had not converged. The battle over the fiscal 1986 budget was long and bitter. It resulted in congressional rejection of further defense increases in that year and of most of the deep domestic spending cuts proposed by the president. The president first accepted and then pulled away from a Senate-passed proposal to suspend the social security cost-of-living adjustment and similarly rejected all efforts to reduce the deficit by increasing revenues. Although final budget actions made inroads on future deficits, the conflicts left all parties feeling frustrated, discouraged, and helpless.

In this atmosphere the Gramm-Rudman-Hollings proposal was offered in the fall of 1985 as an amendment to a necessary increase in the debt ceiling. Unexpectedly, it gained wide support. Although members of his administration expressed reservations about the approach, especially about the possible impact on defense spending, the president endorsed the proposal and it passed quickly.

The law sets annual targets that reduce the budget deficit to zero in fiscal 1991. If in any year agreement cannot be reached on the specific measures needed to achieve those targets, the law provides a mechanical formula that cuts defense and civilian spending in approximately equal amounts sufficient to meet the goal.

The impact of the new law was felt immediately. Application of the law's mechanical formula on a limited basis in fiscal 1986 cut $11.7 billion from spending in that year and reduced the spending base by substantially more than that for future years. Reaching the targets by applying the formula in 1987 and beyond, however, would seriously impair the effectiveness of both civilian and defense programs. It is hard to believe Congress and the president will allow this to occur. The hope is that the desire to avoid this outcome will bring about agreement on a more sensible way of reaching the targets.

The current situation is complicated, however, by the possibility that the Supreme Court may uphold a circuit court ruling that the automatic formula is unconstitutional because it involves having an officer of Congress (the comptroller general) certify what cuts are to be made by the president. The lower court held this to be a violation of the constitutional separation of powers. If the Supreme Court upholds the lower court, Congress can still use a procedure in the law that involves voting to withhold the funds specified by the formula. It might be reluctant to do this, however, and if it did, the president could veto.

Even if Gramm-Rudman-Hollings forces agreement on a deficit reduction plan, it is an undesirable budget process. First, the procedure, which requires cutting every unexempted line item in the budget by a fixed percentage, allows no reconsideration of priorities and could lead to absurd and unintended results. Second, the adoption of a fixed dollar target for the deficit can destabilize fiscal policy.

Finally, Gramm-Rudman-Hollings does nothing to reduce the layering and complexity of the current budget process. The law does strengthen enforcement of the budget resolution, which should improve congressional self-discipline, but it also adds to congressional workloads and accelerates deadlines that were already proving impossible to meet. For example, the law requires Congress to pass the budget resolution by April 15, although the current deadline of May 15 has not been met in some years. Deadlines are missing in large part because the process itself is overly complicated. Congress will not solve this problem merely by exhorting itself to try harder to finish on time.

WAYS TO SIMPLIFY THE PROCESS

Even before it was subjected to the stress of dealing with large deficits and divergent views among House, Senate, and president, the budget process was showing signs of breaking down of its own weight. Participants complained about the length of time spent on each budget—at least six months for preparation of the president's proposal and at least nine months for congressional decisions. Deadlines were missed regularly and continuing resolutions became more and more frequent because agreement often could not be reached on regular appropriations. Participants also complained about the multiplicity of congressional committees with overlapping jurisdictions. Testifying on the same issues before several committees on both sides of the Hill consumed the time of executive branch officials and members of Congress alike.

Moreover, the frequency with which the same issues came up for consideration meant that many decisions were never final. Crucial votes on major weapons systems, such as the MX missile, were occurring in each house three or more times in a single year in the context of authorization, appropriation, and budget action. Congress seemed more and more immersed in the details of federal programs and less and less concerned with the overall directions of federal policy. A growing number of members and observers of Congress have come to believe that drastic change is needed to improve the effectiveness of the congressional budget process. But the deficit crisis itself has delayed serious consideration of procedural change.

Three types of reform would make effective decisionmaking more feasible: making decisions less often by moving to a multiyear budget, reducing the number of committees by consolidating the authorizing and appropriating processes, and simplifying the budget itself by reducing the number of accounts and line items.

MULTIYEAR BUDGETING

An obvious way to reduce the time spent on the budget process would be to go through the process less often, perhaps every other year. Less frequent budgeting has many clear benefits. The managers of federal programs and the recipients of federal grants could plan programs more effectively if they could assume funding for a longer period. They could spend more time managing and less time preparing and defending budgets and adjusting to funding changes. And Congress, relieved of annual budget battles, could devote more attention to long-run issues and more careful oversight of federal programs.

Spending levels for some programs are, of course, affected by unpredictable cataclysmic events, such as the outbreak of war. But such events have to be dealt with on an emergency basis even with an annual budget process. It is hard to imagine that most federal programs benefit more from hasty annual review than from more thorough, better prepared evaluation at longer intervals.

It is true that budgeting depends on economic assumptions about the future and that longer-run forecasts are more uncertain. But only a few programs are greatly affected by the state of the economy, and many of these are entitlement programs that adjust automatically. If the economy suffered an unexpected recession in the middle of the multiyear budget period, Congress might well want to consider changing tax rates or accelerating some spending programs. But this could be done—as it is now—without reconsidering the whole budget.

Numerous bills proposing multiyear budgets have been introduced—most calling for biennial budgeting, which is used by many state governments—and some hearings have been held. Some biennial budget bills envision Congress spending the first year of each session on program oversight and other matters and handling the two-year budget in the second year of the session. Under this arrangement a newly elected president who wanted to alter his predecessor's budget either could use the first year of his term to build support and understanding for the changes or could move ahead more rapidly to amend the existing budget. Other bills would have each Congress make a two-year budget in its first session and use the second to consider other legislation.

Even if the whole budget were not moved to a multiyear basis, Congress could get many of the same advantages by shifting to multiyear authorization or appropriation or both in major areas of the budget. Defense seems an especially good area for such a change. Indeed, recently enacted legislation requires the Department of Defense to submit a two-year budget beginning with fiscal 1988 and 1989.

While legislators sometimes argue that they would have less control over federal activities if budgeting were done less often, they actually would be better able to make significant changes. Major shifts in direction, such as bringing down the deficit or modernizing the armed forces, cannot be accomplished in a single year. A longer budgeting period would give greater scope for such major shifts to be designed and carried out. Indeed, in the last several years Congress has of necessity moved to a multiyear budget resolution with accomplishing reconciliation measures. The dramatic changes of 1981 involved a three-year budget resolution as well as a three-year tax bill. Subsequent efforts to bring down the deficit necessarily involved more than one year, so three-year budget resolutions have become standard. Nevertheless, appropriations and many authorizations are still done one year at a time. It is time to move the whole process to a two-year cycle.

CONSOLIDATING THE AUTHORIZING AND APPROPRIATING FUNCTIONS

In principle the legislative or authorizing committees write the basic legislation that governs how federal programs function, and the appropriations committees budget specific sums to carry them out. In practice the distinction between the two has often blurred in recent years, perhaps because of the intensity of interest in the budget and the small number of new programs being considered. In working out the defense budget, for example, the authorizing committees and appropriations subcommittees often appear to be doing exactly the same thing—subjecting the budget to line-by-line scrutiny with special attention to procuring weapons systems. Such duplication wastes the time and energy of Congress and executive branch alike.

On the other hand, spending for entitlements, now two-fifths of the budget, is outside the appropriations process. The bulk of entitlement spending is handled by the tax committees, sometimes creating logjams for these overworked committees.

Restructuring the committees would improve the budget process. Ideally each major area of federal activity—defense, income security, national resources, and so forth—should have a program committee responsible both for drafting basic legislation and for reviewing budgets in its area. Each would handle both entitlement programs and discretionary appropriations. Revenue committees would handle only revenue, not spending, programs. The budget committees would be charged with putting together an overall budget strategy that would include both revenue and spending. They would also consider relative priorities among programs and recommend appropriate fiscal policy.

A further step, one with considerable appeal, would be to hold all spending and tax bills for final vote at the same time. Indeed, they could be put into a single bill. Congress would then be voting on a budget for the whole government and sending it to the president in one package. This type of budget action is standing in many governments, but the U.S. government has never had a budget voted this way.

REDUCING MICROMANAGEMENT

Under present procedures a single omnibus appropriations bill would be an apallingly long document. This length is symptomatic of a basic problem of the budget process: the tendency of Congress to budget in too much detail. The current budget is divided into thousands of budget accounts and subaccounts. The executive branch is given very detailed line item budgets with little authority to shift money from one item to another as conditions change. This detail makes the budget process an arcane business and focuses congressional time and energy on minutiae rather than on overriding issues of policy.

Drastically cutting the number of line items in the budget would be desirable but would make a real difference only if accompanied by a genuine change in the way Congress perceives its own role. Congress would have to begin functioning more like a board of directors making major policy decisions for the country and less like a group of 535 managers specifying detailed operations for the executive branch.

None of the changes suggested here would require amending the Constitution. Each could be accomplished by legislation or changes in House and Senate rules and customary practice. All the recommendations, however, would meet with strong opposition in Congress (and to some extent in the executive branch) because each threatens the existing power structure. Multiyear budgeting would deprive Congress of the annual chance to impose its will in appropriations and other budget legislation. Consolidating the authorizing and appropriating processes would reduce the number of committee and subcommittee chairmanships.

Budgeting in less detail is perhaps the most threatening of all, because Congress has a long tradition of making itself felt and protecting constituent interests through tinkering with line items. Nevertheless, Congress is highly frustrated with the current system, which imposes an exhausting workload but yields little satisfaction of accomplishment. Once the deficit crisis is at least partially resolved, but before memories of this stressful period recede, the chance for substantial reform of the budget process seems high.

OTHER POSSIBLE REFORMS

President Reagan favors two major changes in budget procedures that he believes would work to hold down federal spending and deficits: a constitutional amendment to require a balanced budget and a line item presidential veto. Both proposals are troublesome.

Requiring balance in the budget regardless of the state of the economy could force the federal government to adopt an inappropriate fiscal policy. Drafts of constitutional amendments usually have escape clauses, but it is difficult to foresee the variety of special circumstances that could affect future fiscal policy. Such amendments usually empower a super majority (two-thirds or three-fifths of Congress) to override a requirement to balance the budget. Such a clause, however, might create an incentive for legislators with favorite spending projects to trade the inclusion of these projects for their agreement to join the super majority. Spending and deficits might actually end up larger than without the amendment. To the extent that an amendment to balance the budget holds down federal spending, however, it may lead the government to substitute additional regulation for spending and to achieve goals by requiring businesses or state and local governments to make certain kinds of expenditures. Such amendments also provide a strong incentive to create off-budget agencies or engage in "creative" accounting. All in all, the risk of trying to handle a complex issue like fiscal policy by amendment to the Constitution, whose greatest virtue is its brevity and flexibility, seems far greater than the benefits.

The proposed line item veto also presents problems. While the president may use his veto power only to reject a whole bill, many state governors have the power to veto individual line items without rejecting the whole bill. Numerous presidents have asked for a line item veto, a power that they hoped would forestall the congressional tendency to insert spending items with which the president disagrees into bills he needs and does not want to veto.

The line item veto would enhance the power of the president and diminish that of

Congress, but it is easy to exaggerate its impact. The president needs congressional support for his programs and is unlikely to risk antagonizing many members, especially chairmen of important committees and subcommittees. Moreover, the latter could doubtless find ingenious alternative ways of protecting favorite line items, such as military bases or other federal installations, from presidential veto. A committee could hide a threatened line item in a larger total, for example, but add language stating that none of the funds are to be used to close the specified installation. Moreover, while a conservative president might use a line item veto to cut pork barrel spending projects, a big-spending president might use the threat of a line item veto to garner votes for spending he favored.

In any case it is not realistic to think that the line item veto would reduce the current deficits appreciably. President Reagan is unlikely to use a line item veto to reduce defense spending. Interest payments cannot be vetoed, and entitlement programs generally do not come to the president in a form in which such a veto would be possible. The president might use the line item veto to kill a few domestic spending items of largely local interest, but the spending impact of such actions would be small.

CONCLUSION

Simplifying the budget process along the lines discussed would make the process more understandable and less exhausting and would probably lead to more thoughtful decisions. It is important, however, not to claim too much for procedural change. A well-designed budget process can, at best, do three things. It can reduce but not eliminate uncertainty by making sure that participants have the best available projections and analyses of budget options in intelligible form. It can also put the sequence of decisions in a logical order so that participants have a chance to make the most important decisions, not just the subsidiary ones. This lack of order was the weakness in the congressional budget process corrected by the reforms of 1974. Finally, a well designed budget process can save time for decisionmakers so that budget affairs do not overwhelm other activities of government. The current process fails miserably on this last criterion.

No set of procedures, however, can force participants to make choices that they do not want to make or do not regard as necessary. Reforms to the process cannot substitute for political will or for the exercise of leadership in working out compromises among warring parties. As long as the government sticks with a system under which power is divided between the president and Congress—and separation of powers should be maintained—the priorities of the president and Congress will occasionally conflict. Changes in the budget process are unlikely to cure this situation. Resolution of the conflict will still require statesmanship and the willingness of both sides to compromise.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objections, it is so ordered.

TAX REFORM CONFEREES

Mr. PACKWOOD. Mr. President, with respect to H.R. 3838, the tax reform bill, I move that the Senate insist on its amendment and request a conference with the House to the disagreeing votes thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. CHAFEE, Mr. LONG, Mr. BENTSEN, Mr. MATSUNAGA, and Mr. BRADLEY conferees on the part of the Senate.

Mr. PACKWOOD. I move to reconsider the vote.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the chairman of the Finance Committee, in consulation with the ranking minority member, may, as they in their discretion deem necessary to facilitate the work of the conference for reasons of workload or expertise, appoint one additional conferee from the majority and one additional conferee from the minority, at any time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest that the majority would designate as our one further member of the conference Senator WALLOP.

Mr. LONG. I suggest that the minority designate Senator MOYNIHAN.

The PRESIDING OFFICER. The Senators have that right.

Mr. LONG. And we have done it.

□ 1410

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUED TELEVISION COVERAGE OF SENATE PROCEEDINGS

Mr. DOLE. Mr. President, it had been my intent at this time to ask unanimous consent to consider a resolution which would permit the continuation of TV coverage until we had the final vote on July 29. I am advised that there will be an objection to the immediate consideration of that resolution. I am going to withhold asking unanimous consent but I will at a later time. I think there are a number of Members who would like to discuss the resolution. I would just indicate that all the resolution says is that "notwithstanding any other provision of Senate Resolution 28, agreed to February 27, 1986, television coverage of the Senate shall continue under the same bases provided during the live test in section 5 of Senate Resolution 28 unless the Senate votes pursuant to section 15 of Senate Resolution 28 to end coverage."

That resolution would continue live coverage this week, continue live coverage next week, have the vote on Tuesday, July 29. In the interim, as early as tomorrow afternoon, the Rules Committee will be meeting to discuss a number of changes which have been recommended by the distinguished minority leader and his ad hoc committee, a number of Senators on that side, and by the majority leader and a number of Members who formed an ad hoc group on this side as to what changes should be made if we are to continue live coverage after July 29. Should we be permitted to bring products on the Senate floor, for example? How large should the graphs and the charts be? Should there be special orders and, if so, should they come at the end, or should it be a matter of agreement between the leadership on a daily basis, or should we continue as we are doing now? A number of good suggestions have been made.

It is the view of the majority leader and I believe the minority leader that television is here to stay, no boubt about it. The American people I believe for the most part have been helped to some extent by TV in the Senate. It is not perfect, probably not very exciting, not many people jumping up and down, at least in the viewing audience—maybe on the Senate floor—but it has been instructive and there have been a number of positive comments about live coverage.

There is some concern about what happens during extensive quorum calls. We need to address that. Sometimes a quorum call will go on for 20, 25 minutes. We could recess or we could hopefully encourage Members to come to the floor with their amendments or with other business to avoid the quorum calls. I would hope maybe after discussion of 45 minutes the distinguished Senator from Wisconsin, who has serious reservations—and I do not quarrel with his reservations—about TV generally and about extending it during this next 7 or 8 days, might permit us to do that, knowing that there are a number of areas we need to address. And so I will withhold asking unanimous consent, but I think we do have at least 45 minutes before taking up the Scanlon nomination, and I am certain we could extend that if necessary.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I will be happy to yield to my good friend from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska, my good friend. I will be brief. I join with the distinguished majority leader in expressing not just the belief, but what I think is a certitude, that is bound to happen, and will happen; that is, that the Senate will go forward with permanent television and radio coverage of the Senate debates and deliberations. The televised debates I think have been better, speeches have been more substantive and more to the point. I think that it has been informative to the viewing public.

I have had very good comments from outside the Senate, very good comments from people from all over the country who have written to me, and who have talked with me from time to time. I have no doubt but that this step, which has been carried on as a trial step up to this point and will be for a few days longer, will prove to have been a major step forward in strengthening our form of representative government.

As I said earlier on, the galleries, which were first opened to the public in 1794 briefly during the Senate deliberations on the qualifications of Albert Gallatin, and were opened permanently the next year—in that day the Senate was meeting in Philadelphia—accommodated only about 50 persons but now the galleries have been extended "from sea to shining sea," in the words of the song "America, the Beautiful."

Eight million households now receive C-SPAN II, the cable channel added by C-SPAN to carry the proceedings of the U.S. Senate. If the Senate proceeds with a 2-week dark period as allowed in Senate Resolution 28, it will create confusion and inconvenience for the very people who have supported our efforts to televise our proceedings—the people of C-SPAN who have made it available and the viewers who have become regular fans, as well as the various cable systems that have become part of the media carrying this coverage.

We have a chance to avoid the confusion by waiving the dark period. Some of the problems that may ensue if the Senate should not waive this provision are these:

First, C-SPAN itself is unsure of its plans if the cameras are turned off for 2 weeks. They do not want to repeat the confusion of the first day of our proceedings which were broadcast on C-SPAN I so that more people could share in that historic day. They were deluged with calls from viewers who had been told that their local cable system did not plan to carry C-SPAN II. Through the diligent marketing of C-SPAN, many cable operators changed their minds and now offer C-SPAN II.

I regret to say that this has not yet happened in West Virginia. I hope that cable operators in West Virginia will take steps promptly to offer C-SPAN II.

I suppose we can imagine the calls from irate viewers and cable operators beginning tomorrow morning when they see a billboard on their TV screen instead of Senate proceedings. I wonder how many of our viewers will think we have gone off the air or wonder when the Senate will go back on the air.

In a television society, we know the problems that the networks have when, for example, they start moving entertainment shows from night to night. There are important debates that will occur during this 2-week period. Senate debates and the coverage of deliberations in the Senate, of course, are not like the entertainment shows, and probably the viewers are not as loyal to viewing this coverage as they might be to "Magnum, P.I." or "Moonlighting." There are important debates, however. I cannot make the case that these debates should not be seen by the American people. I can make the case that they should be seen. I believe it is vital that we televise the debates on such issues as South Africa, the nomination of Daniel Manion, SALT II, SDI, and defense spending priorities. We do not serve our constituents well if we decide to debate these issues off camera. While I know that such mischief is the last thing on the minds of any of our colleagues, the atmosphere for mischief is certainly enhanced with the cameras off.

Anyone who has watched the national and local television news for the past 6 weeks knows that televising the Senate has added a new strong voice to the national debate as it is portrayed on the evening news. I also see a good many more print media stories about the actions of the Senate, now that there is television and radio coverage. I would hate to see us silence that voice—even for 2 weeks—particularly when such important national issues are before us.

Most of the Senators who originally wanted this dark period have indicated that they are willing to waive it. I certainly understand that a Senator may wish, for the moment, to perhaps decline to consent to waive the dark period. It is within any Senator's right to decline at this moment to give consent to the waiver of that period.

I have a feeling that there may be a temporary problem today. I do believe, however, that the matter will resolve itself shortly, long before the 2-week period elapses.

I thank the distinguished Senator from Alaska [Mr. STEVENS] for his courtesy in allowing me to go forward.

Mr. STEVENS. Mr. President, I am delighted to have the opportunity to allow the distinguished minority leader to make his comments, as he should, at this time.

I want to remind the Senate that at the time we took up this resolution on February 27, the Senator from Oklahoma suggested a couple of amendments. He had a series of amendments, but it turned out there were two he wanted to have taken up.

At that point, I pointed out to the Senate that this provision for turning off the television after an experimental period was in some of the original drafts and we had deleted it because we felt a hiatus would develop, just as it was now, and there were a number of us who made firm commitments to other Senators that if we were able to bring this resolution to a vote, to allow this trial period, we would in fact maintain the concept of having a period during which television coverage was turned off, in order that the whole conduct of the experiment could be explored by the Rules Committee.

The Rules Committee will meet tomorrow and start to review all comments that have been made to it, and made by both the majority and minority ad hoc committees.

It is my feeling that there are a great many things that have to be resolved before this becomes permanent, and they will be resolved faster if we do what we said we would do and turn off television and really review the experiment and review it not just in committee, but have every Senator with his staff review what has gone on.

For example, I do not believe it is proper, on the floor of the Senate, to have show and tell going on here every day. People expect that with children in their schools; but to have it on the floor of the Senate, I think, will soon get out of hand.

As the distinguished majority leader said, if you can bring in a bottle of milk, pretty soon you can bring in a cow. The question is, What are the reasonable limits of the use of supporting material such as charts? Some people say it should be limited, that you should not be able to bring commercial material on the floor. When we get to the issue of abortion, I hate to think of what might happen in terms of bringing fetuses to the floor, or something like that, for that discussion.

I remember once, in days gone by, when I was of the impression that it was proper to bring to the floor a piece of netting we had seized on the North Pacific which was being used by Japanese to ensnare our salmon. It was killing a great deal of salmon, and I thought it should be brought out. In those days, it was just by the power of suggestion of the majority leader and

the minority leader that that was not proper, that a young Senator listened and did not do it.

□ 1430

Now the problem is, How can you possibly have that type of suggestion once the television coverage is on and someone walks out here on the floor with an object that other people would take offense to?

I think we need to have consideration in the committee as we intended to do it in the beginning at least for this week and probably in the next week, if necessary, but at least for this week we should have that.

Beyond that, I also have the feeling that television has brought a compulsion for completion of the work of the Senate that is artificial. Although I have been one who supported television from the beginning in terms of having television coverage here, I have seen now in the period that it has been on occasions when Members would say, "Let's get this over with; we can start something else tomorrow and you know the people out there looking at this proceeding ought to know what our final decision is."

I think the Senate has a peculiar role and a particular role in the American system. We are the continuum of Government. We have 6-year terms. At any time there are at least two-thirds of the Senate that have the right to continue to serve beyond the next election for a period of time. The President has 4 years. The House has 2 years. But we are the continuum and we ought not to be in a pressure cooker because of the heat of the television lights.

We ought to have a chance to do our work and do it as the Constitution intended for us to do it in as a calm, deliberative body. Sometimes it is not so calm and I add to that problem. But I do believe that we ought to turn these cameras off as we said we would do on February 27.

We should encourage every Member of the Senate and the public to give us their ideas as we go into the Rules Committee hearings that start tomorrow and set down some parameters for the use of televison in the Senate. It may not even take changes in the rules.

In my judgment, the understanding of the Senate as to the proper conduct of the Senate while television is on ought to be sufficient and there ought to be a return here to the concept of the mutual understanding of each Senator of the necessity for some kind of procedural changes that do not require total rules changes, but understandings as to what is proper while we are conducting our business with Senate coverage.

Again, one of the things that bothers me mostly is this concept of show and tell. I really believe we ought to find some way to have an understanding when the television goes back on of what a Senator may bring to this floor, what he may show to the public as a Senator here on the floor, and not have the impression that we are conducting a classroom, that we somehow or other have to bring back items from our last trip, whether it be home or abroad, but that we do our business and we legitimately use the support mechanisms of charts or graphs to emphasize points, but not get into this extraneous material, no matter what it may be, being brought to the floor for the purpose of illustrating a point not to other Senators but to the public out in the television audience.

So, Mr. President, I hope that we will turn off the television now and contemplate this project as we intended on February 27.

Mr. PROXMIRE. Mr. President, I agree with my good friend from Alaska. We were not promised. Of course, you cannot put it that way. But we were told in the publication that was issued on March 7. This is a Democratic Policy Committee publication and has the integrity of our Democratic Party. It says on July 15 television coverage will end. It does not say may end. It does not say maybe we will extend it. It told us and the people who were broadcasting the television proceedings in the Senate that television proceedings will end on July 15. That was a commitment.

Now, all of a sudden they are saying we are not going to end it at all. We are going to go through with the 2-week period that was supposed to be a period in which we could discuss this without having the cameras on.

Mr. President, I think we can make a strong case against television in the Senate. I am not going to do that today because I understand it may be possible for us to agree to a compromise on this, and I am very hopeful that is possible.

At any rate, I would hope that we can have, and I understand it is possible we may have, a period of some days, at least maybe most of this week or all of this week, when we would not be on camera and that would at least be some concession.

It is hard for us really to recognize what has happened to this body in the few weeks we have been on television but things have happened to it.

The most conspicuous, of course, are those who speak in the routine morning business period, or get special orders, and had the order chopped down from 15 minutes to 5 minutes. It used to be that a Senator could come to the floor, simply request to the Policy Committee that he would like to speak, and he would be allowed to speak for 15 minutes, which is a pretty good length. Now the only people who can speak more than 5 minutes are the two leaders. No one else in the Senate can. That is a disadvantage for some of us.

I think most Senators would feel there are occasions when they would like to get up on the floor of the Senate and speak more than 5 minutes.

On the other hand, we also have the situation where television in the Senate has already changed this body considerably.

It is hard for us to evaluate it now, but the House of Representatives has had an opportunity to do that. The Congressional Research Service has reported to us what has happened to the House because of television in the House of Representatives. We know they have had it for several years now.

In the House the survey conducted by the House Administration Committee to which 297 Members responded, so this is a majority of the respondents, showed a majority believe that television coverage slowed the proceedings in the House. It slowed the proceedings by causing Members to offer more amendments on the floor, by having more votes demanded due to the presence of cameras, less compromise on amendments, and a big percentage felt the presence of a more partisan tone in debate.

We have had a short experiment of a few weeks with television in the Senate. I am convinced, Mr. President, and I think many others are, if we had not had the television cameras on many speeches would not have been given. They would have been much shorter. There would have been a period in which Senators might have spoken for 5 minutes and put the remainder of their speech in the RECORD.

We were kept here late at night. We did not transact business as we might otherwise have transacted it, and I think the Senate was slowed down.

This Senator is convinced, and I am sure virtually every other Senator is, we are going to have television in the Senate. There is no question about that. It is coming after July 29. From there on we will have television in the Senate forever. So we are not trying to stop it.

But I do think that the Senator from Alaska is right in saying that we should have an opportunity to discuss this in a deliberate way without the feeling that we are being watched by people who might feel that they were being shut out by the changes that we might want to make. I would like to see us really give serious consideration to the possibility of limiting coverage of television in the Senate to the major debates and not cover gavel-to-gavel at all times.

It has been said it is inconvenient, or difficult, onerous for the cable people to handle this if we go off the air. Mr. President, we have just been off the air from June 26 to July 14. There was

no television in the Senate then. Just the last 2½ weeks there was no television. We were not here. We are going to go off the air again in the next recess.

The Senate is only in session about half the year. We are not in session on weekends. We are not in session with our recesses.

The viewing audience is going to have to get used to that whether we like it or not.

So, Mr. President, I earnestly hope that we do have a willingness to keep the commitment that was made to this body. I am not saying if we do not keep that commitment that anybody is breaking their word. Of course, they are not. I am saying we expected we would have an opportunity to debate this and discuss it without having our discussion televised or broadcast by radio during at least a brief period before we solidify this permanently.

Mr. STEVENS. Mr. President, there is one further item that I would like to raise and particularly while the Senator from Wisconsin is here. Section 6 of the resolution which was adopted on February 27 stated:

> The use of taped duplication of radio coverage of the proceedings of the Senate for political purposes is strictly prohibited and any such tape duplication furnished to any person shall be made on the condition that it not be used for political purposes. The use of tape duplications of television coverage for any purpose outside the Senate is strictly prohibited until the Senate provides otherwise.

Mr. President, that is absolutely being ignored. There has been no restriction at all on the use of these tapes, and as an ex-chairman of the Ethics Committee I am worried about the impact of what is going on in terms of people using these tapes contrary to the rules when they are involved in campaigns on both sides of the aisle.

I also know other people are making duplications of these tapes. This rule ought to be changed.

One of the reasons for this breathing period was to look not only at what has gone on since television went on but to look at the provisions of the rule under which we turn on television to determine what changes ought to be made.

□ 1440

I urge the Senate, every Member of the Senate, to let the Rules Committee and the leadership know what they believe is proper concerning the political use of the television tapes and the radio tapes that can be made from the proceedings here in the Senate.

I assume that if commercial television is carrying this coverage and someone uses a dub from that commercial station or from the public stations, one of any of the media that carry the television coverage of the Senate, that that rule probably does not have any impact. But for a Senator who is an incumbent, who takes it from this system and then uses it, he is violating the Rules of the Senate.

Now I think that dichotomy must be examined and it must be eliminated because it is unfair currently to those people who are living by the rules that others are not and it is going to lead to some charges against candidates, in my opinion, again, as ex-chairman of the Ethics Committee, by those running against them saying they are violating the Rules of the Senate.

Now it is time for us to look at this rule. Many of us spent a long time on the resolution, but the rules that apply to the use of television coverage ought to be clear and precise and fair. And I think that can only happen if we take time now to review what has happened in this period.

Mr. MELCHER. Mr. President, I have absolutely no quarrel with the thrust of the statements that have been made by the Senator from Alaska or the Senator from Wisconsin insisting that we should have a 2-week delay in further televising the Senate procedure since that was what was in the original resolution.

But I do want to point out, as I believe many have pointed out, that the overriding reason for televising the Senate is that the public has the right to know and a right to understand what we are saying and doing here on the Senate floor. And television provides the best mechanism to give the public that right to review what we are doing.

Since the resolution said we are supposed to be off the air for 2 weeks, I cannot argue with the Senator from Alaska and the Senator from Wisconsin, but I do have to point out that the public, once having accepted the fact that the Senate proceedings were going to be televised, is not aware of our resolution that we would be televised for a period of time, then we would have the recess, then we would come back into session and be televised for a couple of days then we would not be televised for 2 weeks. The on-again-off-again scenario that we created ourselves is one that will be confusing to the public that wants to watch the Senate in action on C-SPAN.

Now, in my State of Montana, I think there are probably more households, percentagewise, that have cable television than perhaps any other State in the Union. But in our State, cable television people have not made the deal with C-SPAN to pick up the Senate cable. So it has not been televised out there and I am not saying that I want it televised so the people in Montana could watch it. That is not the case as of now, since cable television has not picked up the C-SPAN, the C-SPAN channel that covers the Senate. They just simply have not done it. They have been advised by C-SPAN that it is not permanent yet, the Senate has not made a firm commitment or finalized its action to make it permanent.

But I am making this short statement simply on behalf of those of the public of the United States who have come to expect to be able to pick up the Senate in action while it is in session on one of the channels that C-SPAN provides and their cable stations provide for their viewing pleasure.

Now, having said all that, I just want to conclude by stating that if there is going to be any arrangement now to say that we are not going to adopt the 2-week pickup as has been proposed and we generally thought would be acceptable by all of the Senate, I hope, whatever we do, we minimize the time that the Senate is actually off.

Let me repeat that. The public has come to expect to see the Senate in action on television. I think that places on us an obligation to maximize every opportunity to view the Senate while we are in session.

Now I admit that there are flaws. I admit the criticism that has been mentioned by the Senator from Wisconsin and by the Senator from Alaska and many others are very valid criticisms. But it does not outweigh that right of the public to view our action here on the Senate floor. Television provides the best opportunity for them to do that. So I believe they have a right and we have an obligation to meet that opportunity for them.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I wish to thank all of my colleagues. I think particularly the Senator from Alaska put his finger on one point that we need to resolve, and that is the use of tapes. I think that is something the Rules Committee will address tomorrow. I think there could be some unintentional misunderstanding about what we can do. If it is on, let us say, a cable news network, a statement somebody makes on the Senate floor, and somebody dubs that off and uses it, as the Senator from Alaska said, or whether they use the original tape, it does present a problem. And there probably are some other things that should be addressed. I am advised the Rules Committee will meet tomorrow. They are prepared to discuss many of these things.

I also believe, in brief discussion with the distinguished minority leader, that it would not be in the best interest of the Senate to have a whole laundry list of things that were excluded or included in any resolution.

But, in any event, we have had a brief discussion with the distinguished Senator from Wisconsin. I wonder if it might be agreeable just to, say, pull

the plug until next Monday, the close of business today until July 21? Would that be reasonable?

Mr. PROXMIRE. I would certainly be happy to agree with the majority leader on that. I think it is fair. I think there should be a time we can make some of the decisions dealing with what we ought to do. I would agree with the majority leader.

Mr. DOLE. Does the minority leader have any objection to that?

Mr. BYRD. Not at all.

I congratulate and thank the distinguished Senator from Wisconsin for his consideration of this request. And it is not to be gainsaid that consideration will probably be more focused and it will occur more surely if the Senate does proceed as it is going to, with the committee meeting which will occur on tomorrow which, to some extent, has been scheduled because of the fact that in the resolution itself, not just in the Democratic Policy Committee memo to which the distinguished Senator from Wisconsin referred, it provided that television coverage shall cease at the close of business on July 15, 1986, today.

□ 1450

I commend the Senator from Wisconsin. I also commend the Senator from Alaska [Mr. STEVENS] who has been in the forefront with respect to advancing proposed rules changes and procedural changes to improve the effectiveness of the Senate.

Mr. President, I thank all Senators, and also Senator MELCHER for his support. I guess we will go ahead with the provisions of the resolution until the beginning of next week. I suppose we had better get action now, so that everyone can depend on a renewal of the coverage as of Monday of next week.

Mr. DOLE. Mr. President, I thank the distinguished minority leader. I again have no quarrel with the Senator from Wisconsin. In fact, I think he has provided a service. We already have staff working on some of the things proposed by the Senator from Wisconsin, the Senator from Alaska, the minority leader, the majority leader, and a number of others. We have written letters to the distinguished chairman of the Rules Committee, Senator MATHIAS, with a number of suggestions.

I therefore ask unanimous consent that the Senate proceed to the consideration of the resolution which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. RES. 444

Resolved, That, notwithstanding any other provision of S. Res. 28, agreed to February 27, 1986, television coverage of the Senate shall resume July 21, 1986 under the same basis as provided during the live test period under section 5 of S. Res. 28 unless the Senate votes pursuant to section 15 of S. Res. 28 to end coverage.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there further debate?

Mr. PROXMIRE. Mr. President, as I understand it, that means we will simply not be broadcasting on Wednesday, Thursday, and Friday of this week, and resume on Monday of next week.

Mr. DOLE. That is correct.

Mr. PROXMIRE. That is 3 days after.

I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 444) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 444

A resolution (S. Res. 444) to modify the provisions of S. Res. 28, relating to television in the Senate, to continue television coverage of the Senate until such time as the Senate votes on the question of continuing such coverage.

Resolved, That, notwithstanding any other provision of S. Res. 28, agreed to February 27, 1986, television coverage of the Senate shall resume July 21, 1986 under the same basis as provided during the live test period under section 5 of S. Res. 28 unless the Senate votes pursuant to section 15 of S. Res. 28 to end coverage.

Mr. BYRD. Mr. President, for further clarification for those who may be viewing and listening, even though there will not be television coverage of Senate proceedings after this day, prior to Monday of next week, the radio coverage will continue during the interim. Am I correct in so stating?

Mr. DOLE. That is correct. My understanding is that is correct under the initial resolution we passed. I ask the Chair.

The PRESIDING OFFICER. Radio coverage will remain in effect during this period. The Senator is correct.

Mr. BYRD. I thank the majority leader. I thank the Chair.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. PROXMIRE. Would it be possible during the period of Wednesday, Thursday, and Friday to have 15-minute special orders? Think about it.

Mr. DOLE. I certainly will think about it, and try to accommodate the Senator from Wisconsin. I know on Thursday morning I believe we have 2 hours set aside for tribute to the late Senator East.

We will try to accommodate the Senator from Wisconsin.

Mr. BYRD. Mr. President, if we are going to have longer speeches during that period, I might have a 1-hour speech on the history of the U.S. Senate tomorrow or the next day.

INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 441

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Resolution 441 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, at 3 o'clock, we will move to the Scanlon nomination.

We have notified the managers on each side. They should be here momentarily.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1500

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Terrence M. Scanlon to be Chairman of the Consumer Products Safety Commission.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nomination.

NOMINATION OF TERRENCE M. SCANLON TO BE CHAIRMAN OF THE CONSUMER PRODUCTS SAFETY COMMISSION

The legislative clerk read the nomination of Terrence M. Scanlon, of the District of Columbia, to be Chairman of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Under the previous agreement of the Senate, debate on this nomination will be limited to 2 hours, to be equally divided and controlled by the chairman of the Committee on Commerce and the ranking minority member or their designees.

Mr. DANFORTH. Mr. President, this nomination does come to the floor from the conference committee, where the nomination of Terrence Scanlon to be Chairman of the Consumer Products Safety Commission, was referred. I support the nomination.

Terry Scanlon is currently serving as a Commissioner of the Consumer Product Safety Commission, a position he assumed in March 1983. His term as Commissioner expires on October 26, 1989. Commissioner Scanlon has also served in the Minority Business Development Agency, the Small Business Administration, and in the White House during the administrations of President Kennedy and President Johnson. He is a graduate of Villanova University and is the author of a number of articles concerning the regulation and safety of consumer products.

Commissioner Scanlon was nominated to be the Chairman of the CPSC in December 1984. He held that position by recess appointment from December 31, 1984, until December 20, 1985.

During his tenure as Chairman of the CPSC, Commissioner Scanlon sought to fulfill Congress' 1981 directive that the CPSC should emphasize voluntary industry action over mandatory rulemaking. He encouraged promulgation of voluntary product standards and he appointed the Commission's first voluntary standards coordinator. But where voluntary action was ineffective, the Commission, under Chairman Scanlon, demonstrated its willingness to initiate mandatory action to protect consumers. Under Chairman Scanlon, for instance, the Commission initiated its first product safety rulemaking in several years and it recovered the largest civil penalty in its history. Also, under his chairmanship, the Commission saw a substantial increase both in the number of product hazard reports submitted to the Commission by industry and in the number of product recalls instigated by the Commission.

Terrance Scanlon's nomination to be Chairman of the CPSC was reported favorably by the Commerce Committee on December 12, 1985. The committee's action followed an investigation by the General Accounting Office (GAO), initiated at the request of myself and Senator HOLLINGS. The investigation was requested in response to the allegations regarding Commissioner Scanlon made at his confirmation hearing. The allegations related to misuse of Government property, improper dealings with companies subject to CPSC regulations, misleading and deceptive statements or activities, and inappropriate personnel actions. During its investigation, the GAO interviewed 41 people, most of whom were CPSC employees. The evidence and documentation provided to the GAO failed to substantiate 12 of the 16 allegations against Commissioner Scanlon. Two of the remaining allegations could not be substantiated because they depended on the intent of Commissioner Scanlon. With respect to the remaining two allegations, a CPSC employee's refusal to testify precluded the GAO from making a determination.

Because of the need to resolve the final two allegations, Senator HOLLINGS and I subsequently met with the CPSC employee privately. Evidence concerning the private use of Government resources was provided. The evidence consisted of 9 incidents of photocopying, 11 incidents of typed letters relating to church matters, 15 typed letters relating to personal or private matters, 3 typed letters to other Government officials, 1 letter on D.C. Right to Life Committee stationery, and documents relating to a pay dispute between the employee and Mr. Scanlon which was resolved in the employee's favor. All the evidence related to incidents which occurred during the 27-month period between May 1983 and July 1985.

Commissioner Scanlon had previously denied the private use of Government resources. Senator HOLLINGS and I therefore felt it necessary to ask for his explanation of the statements and documentary evidence provided by the employee. Based on the evidence provided and Commissioner Scanlon's response, I do not believe there exists a systematic or abusive pattern of inappropriate use of staff or facilities. Nor do I believe there was any intent to mislead the Commerce Committee or the GAO.

On December 19, 1985, the Senate considered briefly the nomination of Commissioner Scanlon to be Chairman of the CPSC. It was suggested then that consideration of the nomination should be postponed, pending completion of an investigation by the Department of Justice into allegations that Commissioner Scanlon had misused Government personnel and facilities for personal business while serving at the CPSC. Justice was also investigating whether Commissioner Scanlon may have committed perjury or made false statements to the GAO's investigators. The investigation has now been concluded and the Department of Justice has determined that criminal prosecution is not warranted.

It has been over a year and a half since the President nominated Terrence Scanlon to be the Chairman of the Consumer Product Safety Commission. During that period, Commissioner Scanlon has undergone two Government investigations which have now been completed. I believe there is no reason, based on the results of these investigations, to delay further consideration of Commissioner Scanlon's nomination. During his year of service as Chairman, he demonstrated a commitment to both safe consumer products and responsible regulations of consumer product manufacturers. Accordingly, I urge my colleagues to join me today in supporting Terrence Scanlon's nomination to be Chairman of the Consumer Product Safety Commission.

□ 1510

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Illinois yield me time?

Mr. SIMON. Mr. President, I think temporarily I am designated for handing out time. I am pleased to yeild as much time as he wishes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator is recognized.

Mr. PROXMIRE. I thank my good friend from Illinois. I will be brief.

I rise to oppose the confirmation of Terrence M. Scanlon as Chairman of the Consumer Product Safety Commission. While serious questions regarding the integrity of Terrence Scanlon remain, I base my opposition to him on his long-standing record of opposing critical enforcement activities of the Consumer Product Safety Commission.

At the time of Mr. Scanlon's confirmation hearings, a number of disturbing reports surfaced concerning his use, or should I say abuse of commission employees for his own personal business. In a General Accounting Office study, Mr. Scanlon maintained that he had never, and I repeat the word never, used any Federal employee for his own personal business. Later, when confronted by contradicting statements, Mr. Scanlon admitted that some employees under his control had in fact performed duties which were clearly of a personal nature.

A subsequent investigation by the Department of Justice's Public Integrity Section, concluded that "* * * criminal prosecution is not warranted." This is somewhat reassuring but is certainly not a ringing endorsement of Mr. Scanlon's behavior. However, since the grand jury testimony must remain secret, we must turn to Mr. Scanlon's professional behavior to evaluate his fitness to serve as Chairman of the Consumer Produce Safety Commission.

Mr. President, the most devastating analysis of Mr. Scanlon's record as a Commissioner of the Consumer Product Safety Commission was presented by Esther Petersen in a letter she sent to the ranking minority member of the Senate Commerce Committee. For my money, there is nobody in this country who is a stronger, more thoughtful, more responsible advocate of consumer interests than Esther Petersen. Esther Petersen has served our Nation with great distinction. Twice she was a Special Assistant to the

President on Consumer Affairs. She received the Presidential Medal of Freedom in 1981.

Mrs. Petersen points out that Mr. Scanlon, time after time, opposed the taking of strong action against unsafe products.

For example, Mr. Scanlon opposed the initial actions to recall hazardous wooden-slated, V-shaped corrals.

Mr. Scanlon opposed action to speed up the recall of hazardous infant squeeze toys.

Mr. Scanlon opposed prompt corrective action regarding mesh-sided cribs and playpens.

In each of these cases, infants and young children had horribly and tragically died before corrective action was taken.

That was not all, Mr. President. Also in the area of risk to infants, Mr. Scanlon was the only member of the Commission to oppose CPSC's enforcement policy to drastically cut back on the presence of cancer-causing nitrosamines in latex infant pacifiers. Following issuance of the policy, in conjunction with the FDA, affected companies moved swiftly to reduce high levels of these dangerous nitrosamines which could be readily ingested by a child sucking on a pacifier.

Now, Mr. President, as Esther Petersen points out, as a general matter, this body gives the Presidential nominations a "deference," and we should. But "the amount of deference he is due is lower with respect to nominations for positions in independent regulatory agencies than nominations to posts in the executive branch. The former, as you know, are arms of Congress and the Senate should evaluate not only the competence and integrity of nominees to these agencies, but their philosophical orientations as well."

I feel that in this particular case the record I have cited, brief as it is, should give real basis for Members of the Senate to oppose this nomination.

Now, Mr. President, as Mrs. Petersen points out, at every opportunity Mr. Scanlon favors voluntary standards over mandatory standards. Certainly, voluntary standards play an important role, but Congress empowered the Consumer Product Safety Commission to require rather than cajole manufacturers to take action when appropriate.

Mr. President, I ask unanimous consent that the entire letter from Esther Petersen be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
December 3, 1985.

Hon. ERNEST HOLLINGS,
Ranking Minority Member, Committee on Commerce, Science and Transportation, Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to urge the Committee to withhold confirmation of Commissioner Terrence Scanlon to serve as Chairman of the Consumer Product Safety Commission. During Mr. Scanlon's term as Commissioner and Acting Chairman, he has demonstrated a lack of both commitment and enthusiasm in providing consumers of this country with the protection that Congress envisioned when it enacted the Consumer Product Safety Act (the Act).

As a general matter, I believe that the President is entitled to a measure of deference in nominations that he submits to the Senate for confirmation. However, I believe that the amount of deference he is due is lower with respect to nominations for positions in independent regulatory agencies than nominations to posts in the executive branch. The former, as you know, are arms of Congress and the Senate should evaluate not only the competence and integrity of nominees to these agencies, but their philosophical orientations as well. The Chairman sets both the direction and tone for the agency's activities. The individual confirmed to that post, therefore, should be one who will implement the Act without reservation. Mr. Scanlon is not such an individual.

Congress has a history of reserving for itself a very active role in overseeing the activities of the Commission. The mere fact that the statute explicitly provides for confirmation of the individual designated to be Chairman, as well as of those nominated to be Commissioners, is one indication of this. When the Act was originally passed, Congress also insisted that CPSC budget requests to OMB be submitted simultaneously to Congress, and your Committee has been extremely conscientious in holding regular oversight hearings of the agency's activities. Therefore, insistance on philosophical support by the Chairman of the CPSC's basic mission is appropriate and entirely consistent with previous Congressional involvement in the activities of the agency.

We are fortunate to have a track record in assessing Mr. Scanlon's commitment to the implementation of Congress's directives. That record, I believe, can be summed up in one sentence: Mr. Scanlon has been soft on safety. Frankly, I question whether he philosophically believes in the statute to which he has taken an oath to administer. The record speaks for itself. He voted—not just once, but time after time—against critical enforcement activities vital to product safety involving dangerous children's products. Specifically, he opposed using the stronger authority provided by the Consumer Product Safety Act—

To speed along the recall of hazardous infant squeeze toys. Despite Mr. Scanlon's opposition, eight companies (responsible for producing some 700,000 units) were involved in halting future sales as well as recalling and redesigning the product. These actions were taken to redress the strangulation hazard posed by the possibility of the toy's narrow handle getting stuck in an infant's throat. Four children died in incidents involving these toys.

To promote corrective action concerning mesh-sided cribs and playpens. At least 14 infants tragically suffocated when they rolled into a loose pocket of mesh formed when a side of the mesh crib or playpen was left in a lowered position.

To initiate actions to recall hazardous wooden-slated, V-shaped infant corrals. These enclosures were associated with at least 3 infant deaths and one instance of permanent brain damage during 1980–1982. CPSC convinced manufacturers to halt further production of these enclosures, but they have not yet recalled the corrals.

To correct crib hardware failures associated with faulty parts such as loose mattress supports, machine screws and guide rods or missing crib hardware parts. Since 1980, faulty hardware in cribs has been involved in the death of 27 infants.

Also in the area of risk to infants, Mr. Scanlon was the only member of the Commission to oppose CPSC's enforcement policy to drastically cut back on the presence of cancer-causing nitrosamines in latex infant pacifiers. Following issuance of the policy, in conjunction with the FDA, affected companies moved swiftly to reduce high levels of these dangerous nitrosamines which could be readily ingested by a child sucking on a pacifier.

Mr. Scanlon was the proponent and sole vote in favor of revamping the Commission's export policy under the federal Hazardous Substances Act and the Consumer Product Safety Act to allow manufacturers to "dump" on citizens of other countries products which violate U.S. codes and regulations. If Mr. Scanlon had his way, companies now would be able to ship at will noncomplying goods overseas, merely giving advance notice of their imminent arrival to the country where the goods are headed. Writing in dissent, Mr. Scanlon decried the continuing role of the Commissioners as "international nannies." He pooh-poohed the double-edged danger when companies can willy-nilly export violative products if and when they are caught selling such goods within the U.S. Mr. Scanlon's proposal would have threatened consumers at home because, inevitably, exported defective items make their way back to the U.S. And, his revisions would have made "Made in America" a warning rather than a sign of quality.

Mr. Scanlon is on record as opposing what he chooses to call "back-door rulemaking." He uses this term to describe what he sees as a "worrisome trend" of issuing complaints under Section 15 of the Consumer Product Safety Act against all manufacturers in a given industry because of a generic safety problem. Speaking at the Consumer Federation of America 18th Annual Consumer Assembly in January 1985, Mr. Scanlon compared "back-door rulemaking" to taxation without representation and cited the practice as an "industry-wide fix without consumer input."

These attacks demonstrate Mr. Scanlon's failure to understand the Congressionally-mandated rationale for the highly important recall provisions of Section 15. Section 15 authorizes CPSC to remove unsafe products from the marketplace and to recall them from the possession of consumers and retail shelves. This ability to eliminate risks from products already on the market would be eviscerated if cumbersome rulemaking procedures were required whenever a substantial product hazard affects products manufactured by more than one company. If Section 15 relief is deemed necessary, then dangerous products should be recalled from consumers. Following corrective action, it may also prevent the same or similar danger from appearing in future produc-

tion runs. Such prospective relief is the function of safety rules. Rulemaking reduces risks in products not yet manufactured.

Consumers benefit from CPSC having available both options—retrospective and prospective—as the Commission fulfills its mandate to protect Americans from unreasonable risks of injury and death from consumer products.

At every opportunity, Mr. Scanlon lauds voluntary standards as cheaper, faster and more technologically flexible than mandatory standards. While voluntary standards can play a role in assuring public safety, they have their limits and Mr. Scanlon does not recognize these limits. Some voluntary standards efforts drag on endlessly or just plan fail when an identified risk of injury or death is complex, or when the affected industry is either not organized or not cooperative. For instance, work on a voluntary standard effort to address chain saw rotational kickback has taken some seven years and—finally—is approaching a conclusion. Commission staff worked closely with the industry over this period, devoting approximately $5 million in staff time and contract dollars to significantly reduce the risk of injury or death from the uncontrolled, upward and rearward movement of a buzzing chain saw hitting its operator. While Commission staff estimate that the new standard should reduce kickback injuries by 80 percent, seven years of dedicated effort is hardly an efficient track record about which to brag.

The role of the Chairman is to enforce the law as Congress has enacted it, not to employ one's creativity to find ways around the law. Mr. Scanlon should not be the Chairman of this agency and I urge the Senate Committee on Commerce, Science and Transportation to deny his confirmation.

Sincerely,

ESTHER PETERSEN.

Mr. PROXMIRE. I ask my colleagues, Do we really want a Chairman of the Consumer Product Safety Commission who has consistently opposed safety measures and who at best believes in reacting to, rather than preventing tragic accidents? I know we do not, and I therefore urge my colleagues to join with me in rejecting this nominee.

Mr. President, I thank my good friend from Illinois for yielding me time and I yield the floor.

Mr. SIMON. Mr. President, I yield myself such time as I may consume. I want to thank my colleague from Wisconsin for his leadership, not on this issue but in so many things. He has been a steller Member of this body and I am proud to be associated with him.

I would ask for the yeas and nays on the Scanlon nomination.

The PRESIDING OFFICER. Under the previous order, the Senate has already established the yeas and nays.

Mr. SIMON. Mr. President, there are two questions that have been addressed by my distinguished colleague from Missouri and my colleague from Wisconsin. One is the personal integrity and reputation of the gentleman, and the second is whether he is the right person to head the Consumer Product Safety Commission.

On the first, frankly, the Justice Department has made an investigation. They referred the matter to the grand jury. The grand jury found no indictable offense. I accept that. That is not the basis of my opposition to this nomination. My basis for opposition is whether or not he is qualified by attitude, not ability, to be the Chairman of the Consumer Product Safety Commission. I think the record is crystal clear on that.

We call it the Consumer Product Safety Commission, and if we want to continue calling it that, we ought to get someone who is interested in protecting consumers. If we are going to come up with a Scanlon-type nomination, then let us change the name and call it The Industry Protection Commission.

It reminds me of the time I was in the State legislature in Illinois back a couple of decades ago, I guess three decades ago now when we had, unfortunately, more than our share of ties to organized crime in the legislature. Some of us had proposed that we create a crime commission in Illinois. It was going nowhere. And then one day an alderman in the city of Chicago by the name of Ben Lewis was slain gangland style, it so happened just before the day the vote was to come out.

The bill passed, and it was signed by the Governor. Then the Governor made the appointments, and we were chagrined by the appointments. One of my colleagues said, "We should have made it a little clearer and called it 'the anticrime commission.' "

Well, what we need is either a change in name or a rejection of this nominee.

Now, my colleague from Missouri has said he was approved by the committee. It is true he was approved by the committee but on a 9-to-7 vote. And those who voted against him were Senators HOLLINGS, FORD, EXON, GORE, ROCKEFELLER, PACKWOOD, and KASSEBAUM. That is a pretty powerful list of people, and I would suggest that my colleagues look carefully at what we are doing.

Now, how did I get interested in this? I became interested on an issue that my friend from Missouri is familiar with, too—amusement parks. We had an accident in the State of Illinois and all of a sudden I discovered that there was no one inspecting permanent amusement parks in Illinois, nor in a majority of States in this Nation. In the 1981 tax bill there was something buried, just as I am sure there is a lot buried in this tax bill that we do not know about right now, there were a couple of lines buried in there that took away from the Consumer Product Safety Commission the authority to inspect permanent amusement parks in this Nation. And what happened after we took away that authority? Deaths and accidents in amusement parks in this Nation have roughly doubled.

My colleague pointed out that Mr. Scanlon has led the way on voluntary compliance, and that is what he has favored on inspection for amusement parks. He wants only to do things voluntarily.

□ 1520

I like voluntary things. I think it is great that we voluntarily stop at a red light. But I want a policeman who can give someone a ticket if you do not stop at a red light. If you do not have that, you are not going to have very much done voluntarily.

My colleague from Wisconsin has already put in the RECORD the letter of Esther Petersen, and it is a superb letter. Let me read three sentences from that letter:

At every opportunity, Mr. Scanlon lauds voluntary standards as cheaper, faster, and more technologically flexible than mandatory standards. While voluntary standards can play a role in assuring public safety, they have their limits and Mr. Scanlon does not recognize these limits.

Finally, she says:

The role of the Chairman is to enforce the law as Congress has enacted it, not to employ one's creativity to find ways around the law. Mr. Scanlon should not be the Chairman of this agency.

Esther Petersen is the saint of the consumer movement in this country, so far as I am concerned, and when she says something like this, we should listen carefully.

There is a second letter which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

July 10, 1986.

DEAR SENATOR: On July 15, the Senate will determine the future course of consumer product safety when it considers the nomination of Terrence Scanlon as Consumer Product Safety Commission (CPSC) Chairman. We believe that a strong and independent agency is needed to protect consumers from product hazards and that such an agency needs an equally effective and forceful leader. It is for these reasons that we urge you to oppose Mr. Scanlon's nomination.

After over three years as a CPSC member, including nearly a year as acting Chairman, Mr. Scanlon's record on product safety policy is quite clear. That record leads us to conclude that he will not direct the agency in such a manner as to carry out the Commission's statutory mandate.

Mr. Scanlon has consistently opposed CPSC initiatives to remove clearly dangerous products from the market. He has opposed efforts to recall poorly designed products such as expandable child enclosures and mesh-sided cribs, arguing that the Commission "sidestepped rulemaking altogether," and stating that recalls constitute "back-door rulemaking." Yet in these and

similar cases, no alternative proposals for rulemaking have ever been forthcoming from his office.

Instead, Mr. Scanlon has emphasized "voluntary efforts." Amazingly, over one-half of the CPSC budget is now spent on voluntary efforts, a proportion which would hardly be necessary if these efforts truly produced industry cooperation. While some of these attempts may be productive at times, this approach has frequently allowed manufacturers to engage in delaying tactics which keep unsafe products on the market for far too long.

Mr. Scanlon has also participated in a significant shift of agency budget resources away from programs utilizing scientists and engineers working on product investigations and technical solutions. While the CPSC's increasingly lean budget requires belt tightening, disproportionate reductions in scientific and technical research rob the CPSC of the independent research it needs to resolve the many technical problems with which it is faced.

The CPSC has an important job to do with extremely limited resources. Over 20,000 people are killed every year, and 3,000,000 suffer disabling injuries, in accidents involving consumer products. American consumers cannot afford to have the CPSC's scarce resources wasted on drawn-out efforts to "persuade" uncooperative manufacturers to remove dangerous products from the market. The Chairman of the CPSC must know how to balance all of the agency's Congressionally-provided powers. Mr. Scanlon's record shows that he is not inclined to provide that balance. We must urge you to vote against his nomination.

Mr. SIMON. Mr. President, this letter is signed by Alan Fox, legislative representative, Consumer Federation of America; Linda Golodner, executive director, National Consumers League; Joan B. Claybrook, president, Public Citizen; and Pamela Gilbert, staff attorney, United States Public Interest Research Group.

I should like to read four paragraphs from the letter:

After over three years as a CPSC member, including nearly a year as acting Chairman, Mr. Scanlon's record on product safety policy is quite clear. That record leads us to conclude that he will not direct the agency in such a manner as to carry out the Commission's statutory mandate.

Mr. Scanlon has consistently opposed CPSC initiatives to remove clearly dangerous products from the market. He has opposed efforts to recall poorly designed products such as expandable child enclosures and mesh-sided cribs, arguing that the Commission "sidestepped rulemaking altogether," and stating that recalls constitute "back-door rulemaking." Yet in these and similar cases, no alternative proposals for rulemaking have ever been forthcoming from his office.

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Mr. Scanlon has also participated in a significant shift of agency budget resources away from programs utilizing scientists and engineers working on product investigations and technical solutions. While the CPSC's increasingly lean budget requires belt tightening, disproportionate reductions in scientific and techical research rob the CPSC of the independent research it needs to resolve the many technical problems with which it is faced.

Again, I think it is clear that he should not be a nominee.

I have a series of decisions made by Mr. Scanlon, and I shall not cite all of them.

The "Today" show on NBC did a piece on bunk beds a year ago. Scanlon wrote to the reporter, a person named Horowitz, saying that he agreed the standards were not strong enough and that the Commission was going to do something. But when called, an engineer said they were just meeting over and over again with the industry, trying to get them to adopt voluntary standards.

In 1985, he officially announced that there were no more problems with safety in toys. Shortly afterward, a group of consumer and safety organizations announced a list of dangerous toys that were on store shelves.

During his chairmanship, so far as I have been able to understand—unless there is something later, beyond the date I have here—no consumer warnings have been published.

He was the only member of the Commission who voted in favor of discontinuing the ban on the dumping of products abroad. There was a resolution to ban the shipment abroad of any products that are ruled not safe in the United States. Why is the person who is to become Chairman of the Commission protecting the American public? The one person who said it is OK to ship these things abroad. In his dissent, he said the United States should not be "international nannies"—this was his phrase—for the rest of the world.

He was the only member of the Commission—and this was one that was cited by my colleague from Wisconsin—to oppose pulling back the cancer-causing infant pacifiers.

He voted against the proposed child safety project which would include child drownings, poison prevention package, and bicycles.

Once again, he went on record opposing the Commission's becoming involved in amusement rides. With respect to altering vehicles, he has been on the wrong side of four-wheeled vehicles that clearly can cause serious damage.

He opposed filing a friend of the court brief in support of a decision that a private product liability suit can be based on grounds that a company failed to report a potential, substantial product hazard.

I could go on. I have about six more of these examples, but I think the record is fairly clear, and there are a lot more examples than I wrote down in my notes.

Let me add a couple of other points.

My colleague from Missouri is involved in reporting a risk retention bill in the area of liability insurance. There is not one of us in this body who is not faced with the problem of liability insurance. My guess is that the Presiding Officer, the Senator from Colorado [Mr. ARMSTRONG], when he was back in Colorado heard about the problems of liability insurance. I did, in Illinois, and I am sure the Senator from Missouri did, in Missouri.

One of the ways we can reduce liability in some of these things is to not have dangerous things out there. If you want to cast a vote to reduce liability insurance, vote against having Terrence Scanlon as chairman of this Commission. That is a fairly clear-cut thing we can do.

I would add one other final point, and this is the point that was made by the Senator from Wisconsin. We are not talking about the Assistant Secretary of Transportation or the Secretary of Transportation. We are not talking about the Secretary of Commerce or the Assistant Secretary of Commerce. We are not talking about an arm of the executive branch. We are talking about an independent agency that we should be monitoring a little more closely than we do monitor executive appointments.

□ 1530

The role of the Senate is to advise and consent. It is not to rubber stamp.

If we believe the Consumer Product Safety Commission ought to protect the consumer, then we ought to have someone in charge of that Commission who is interested in protecting the consumer, fairly simple, fairly straightforward.

There was a bipartisan vote. Seven distinguished members of the Commerce Committee voted against his nomination: Senator HOLLINGS, Senator FORD, Senator EXON, Senator GORE, Senator ROCKEFELLER, Senator PACKWOOD, and Senator KASSEBAUM.

I hope there will be a majority of this body who will join them and say to the President, "We want you to nominate someone, but we want someone who really believes in protecting the consumer."

Mr. Scanlon has a lot of abilities but he is flawed as an appointment because he clearly has demonstrated he is not interested in protecting the consumer.

Mr. HOLLINGS. Mr. President, I rise in opposition to the confirmation of Terrence Scanlon as Chairman of the Consumer Product Safety Commission [CPSC].

I believe President Reagan is entitled to a measure of deference in

nominations he submits to the Senate. However, this position we are discussing today is Chairman of an independent agency with a vital mandate—to protect the public from unreasonably dangerous products. This important position must be filled by a person with the utmost integrity, and I believe that the President could have nominated a person better suited for this leadership position than Mr. Scanlon.

Mr. President, a brief review of the controversy surrounding this nominee is in order.

Mr. Scanlon was nominated by the President on July 3, 1985. The Commerce Committee scheduled a hearing on his nomination for September 10, 1985. At that hearing, certain charges were made against Mr. Scanlon, one of which was that he used Federal employees to do personal work for him. After the hearing, Senator DANFORTH and I wrote Mr. Scanlon for his response. He denied the charges. After further investigation, and further correspondence with Mr. Scanlon, Senator DANFORTH and I asked the General Accounting Office [GAO] to do an investigation. The GAO reported back to the committee on November 20, 1985. Twelve of the 16 allegations made against Mr. Scanlon could not be substantiated by GAO. In two of the four remaining allegations, an employee's refusal to be interviewed precluded GAO from making a determination. Senator DANFORTH and I interviewed that employee on November 22. Senator DANFORTH and I discussed in detail the allegation made about Mr. Scanlon's use of Commission staff and facilities for non-Commission activities, specifically tasks of a personal or private nature this employee had performed for Mr. Scanlon. This employee later shared with committee staff documentary evidence of 52 tasks performed from May 1983 to July 1985. Because of Mr. Scanlon's earlier denial to the committee and to the GAO of use of Government resources for personal matters, we wrote to Mr. Scanlon on December 4 asking for his response. Mr. Scanlon responded on December 5 saying:

> My best recollection is that, over the 3-year period I have served at the Commission, this employee did type or copy a personal letter or document for me on occasion.

This was Mr. Scanlon's first admission on this charge and was in contradition of his statement made to GAO under oath. Congressmen DINGELL and WAXMAN then asked the Justice Department to conduct an investigation to assess whether any laws of the United States had been violated.

On June 17, 1986, the Justice Department reported back that, "we have determined that criminal prosecution is not warranted." Despite the fact that the Department of Justice decided not to prosecute, I believe the evidence on the record points to a lack of judgment on Mr. Scanlon's part. I would urge my colleagues to examine the record, specifically, Mr. Scanlon's statements. I have done so and I will vote against confirmation. I continue to believe the President could have found a better individual to nominate for this post.

Mr. DOLE. Mr. President, judicial nominees are not the only ones the Senate has problems clearing.

The nomination of Terrence M. Scanlon, as Chairman of the Consumer Product Safety Commission, was forwarded to the Senate more than 1 year ago, on July 1, 1985. And the nomination has been on the Executive Calendar since December 1985. There is no justification for this kind of delay.

At the end of the last session, the leadership on both sides agreed to hold Mr. Scanlon's nomination until an inquiry initiated by Congressmen JOHN DINGELL and HENRY WAXMAN had been completed by the Justice Department. The General Accounting Office [GAO] had already conducted its own investigation, and reported its findings to the Senate Commerce Committee, which voted to approve Commissioner Scanlon's nomination in early December.

The Justice Department, after more than 6 months work, has finished that investigation. I ask unanimous consent to insert into the RECORD a letter from Assistant Attorney General John R. Bolton informing Senator DANFORTH, chairman of the Senate Committee on Commerce, Science, and Transportation, that as a result of that investigation it was determined criminal prosecution against Mr. Scanlon was not warranted.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE ASSISTANT
ATTORNEY GENERAL,
Washington, DC, June 17, 1986.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in reference to Terrence M. Scanlon, whose nomination for Chairman of the Consumer Product Safety Commission ("CPSC") is pending before the United Sates Senate.

As you are aware, during consideration of Mr. Scanlon's nomination by the Senate Commerce Committee, the Department of Justice was requested by The Honorable John D. Dingell, Chairman of the House Committee on Energy and Commerce, and The Honorable Henry A. Waxman, Chairman of the House Subcommittee on Health and the Environment, to conduct a criminal investigation into allegations that Mr. Scanlon had misused government personnel and facilities for personal business while serving as a Commissioner at the CPSC. The Members also requested that the Department investigate whether Mr. Scanlon may have committed perjury or made false statements to General Accounting Office investigators during an interview about the misuse issue conducted at the request of the Senate Commerce Committee while Mr. Scanlon's nomination was still pending before the Committee.

We wish to advise you that the Department's Public Integrity Section has conducted a thorough investigation of the allegations against Mr. Scanlon and as a result of this investigation, we have determined that criminal prosecution is not warranted. Accordingly, the Department's investigation has been closed.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. DOLE. Mr. President, the findings of the Justice Department also answer any questions that might have been left unanswered by the General Accounting Office.

The allegations against Mr. Scanlon of misuse of staff and facilities have been investigated and reinvestigated for 9 months now, and there has been no substantiation of any wrongdoing.

Mr. President, enough is enough. This nomination has languished for far too long, far longer than is merited by any of the facts. We should approve the nomination of Terrence Scanlon to the CPSC without further delay.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I see no other Senator who wishes to speak at this time, but I believe that there may be other Senators who wish to speak.

I suggest the absence of a quorum and ask unanimous consent that it be charged equally to each side.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1550

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, much time and many hours have been spent on this nomination. And we have investigated Mr. Scanlon exhaustively. In fact, we have spent 18 months investigating Mr. Scanlon—the Senate Commerce Committee, GAO, the Justice Department, and the grand jury. Mr. President, we have spent more time investigating Terrence Scanlon than the Director of the CIA. And I believe the Director of the CIA is a bit more important than the Chairman of this Product Saftey Commission.

I do not believe that the cause of consumer safety is served by further delay on this nomination. I think we

have put this Commission on notice as to how this Senate feels about its importance, and I think it is time that the Commission get its permanent Chairman.

I further believe, Mr. President, that rejection of Mr. Scanlon, after all of these investigation none of which have demonstrated any grounds for rejection, would discourage well-qualified people from serving in other Government positions. I think many are now coming to the conclusion that Government service is not worth the trouble.

Mr. President, it should be noted that I have not agreed with Mr. Scanlon on everything. Ideologically we are on the opposite ends of the spectrum. Many of his personal views are not my views. But I think these studies and investigations have clearly shown that his integrity is still untarnished. He is basically a very honest person.

I hope the Senate will vote as soon as we can up or down. I know we should be voting in about an hour. I gather no one else is wanting to speak. Would it be possible to have a vote taken?

Mr. DANFORTH. I think there is one other Senator who may or may not wish to speak on the Scanlon nomination. We are trying to make contact with him right now. But as far as I am concerned, the sooner the better.

Mr. INOUYE. Mr. President, after 18 months I think I have said enough.

Mr. DANFORTH. Mr. President, I would like to thank the Senator from Hawaii for his comments. I think he has hit the nail on the head. I am sure that there are a lot of people in the Senate who for one reason or another would disagree with Mr. Scanlon on one issue or another. He has, for example, been deeply involved in his church, and he has been deeply involved in the prolife, antiabortion movement. His philosophy of regulation, I am sure, is different from those of many Senators.

Normally when we vote on a confirmation issue, we do not vote on matters of personal belief, and normally when we vote on a confirmation we do not vote on a person's philosophy of government. If the President wants to nominate an individual usually we go along with him. But the problem with this particular nomination is that in the Senate Commerce Committee very serious charges were made against Mr. Scanlon. They were made against his integrity, his reputation, and these charges were very carefully evaluated by the committee, by the committee staff, by the General Accounting Office, and ultimately by the Justice Department.

The upshot of this elaborate inquiry was my belief, the belief of the Justice Department, and the belief of the majority of the members of the Commerce Committee that Mr. Scanlon had operated throughout his career in accordance with the basic standards that we expect of Government officials. Charges were made that he abused his office. It may be a technical abuse to ask your secretary to Xerox a piece of paper every now and then. But I think all of us who operate in the normal course of affairs realize that it is a rule of reason that we require. For that reason, I was particularly impressed by the comments of the Senator from Illinois who has strongly opposed the Scanlon nomination but not opposed it on the basis of personal intergity, and has not sought to attack the reputation of this individual.

So I believe that the time has come to get on with this. This man has been put through the wringer for about 1½ years now. He has been put through the wringer, and I agree with the Senator from Hawaii: We want good people to serve in public office. We cannot put them in positions where for extended periods of time their reputations are put to question.

Mr. SIMON. Will my colleague yield? I thank him for his comments, and again it is not the integrity of the gentleman that is at question. The question is whether the person who is in charge of this office ought to be interested in protecting consumers, and the reality is that he has not been as careful as he should be. I have just been handed an illustration of that. Both Senator INOUYE and Senator DANFORTH will be interested in this, and my colleagues in the Senate will be interested in this. For the last 30 minutes this news release has been up in the Senate gallery. It is from the U.S. Consumer Product Safety Commission.

Terrence M. Scanlon, 47, who received a recess appointment December 1984 from President Reagan as Chairman of the Consumer Product Safety Commission, was today formally confirmed as head of the five-member agency by the U.S. Senate.

That is a slightly premature press release. It refers to the sensational and baseless charges which previously have been thoroughly investigated by the General Accounting Office, and so forth. It sounds as though the debate was on his personal integrity. The reality is that is not the issue, as all three of us have just acknowledged.

The question is, Should we have somebody in charge of the Consumer Product Safety Commission who really wants to protect the consumer? My strong conclusion is that we should.

I thank my colleague from Missouri for yielding.

Mr. DANFORTH. Mr. President, I yield such time as the Senator from Wisconsin requires.

Mr. KASTEN. Mr. President, I thank the Senator.

Mr. President, I wish to join with the Senator from Missouri, Senator DANFORTH, in urging my colleagues to support the nomination of Terrence M. Scanlon to be Chairman of the Consumer Product Safety Commission.

With his confirmation as a Commissioner of the Consumer Product Safety Commission in 1983, Terry Scanlon brought a unique and much needed viewpoint to the CPSC. Because of his experience with the Small Business Administration, and the Minority Business Development Agency, he has a special appreciation for the problems encountered by small businesses. First, as a Commissioner, and later as the Chairman of the CPSC, Terry Scanlon has taken steps to ensure that small businesses and consumers, many of whom cannot come to Washington, DC, to meet with Government officials, have an effective voice in consumer product regulation. For example, he has worked to ensure that the CPSC's many field offices which he has called the eyes and the ears of the agency continue to receive the resources necessary to address and then to respond to concerns expressed by consumers and small businessmen. During his tenure, in fact, four new CPSC field offices were opened. Also during 1985, the CPSC, under Chairman Scanlon, adopted measures to ensure that its rulemaking proceeding regarding all-terrain vehicles would have the benefit of input from ATV sellers and users around the country. The Commission held five public hearings regarding ATV's outside of Washington, DC, at which testimony was received from many individuals who would not otherwise have had an opportunity to express their views. Under Terry Scanlon, the CPSC also appointed its first full-time coordinator of State and local programs. The coordinator is responsible for increasing cooperation between the CPSC and State and local consumer protection agencies and consumer activists. Such coordination, I believe, can and will reduce the regulatory burden that might otherwise crush many small businesses.

□ 1600

As chairman of the Senate subcommittee with oversight jurisdiction over the Consumer Product Safety Commission and as a primary sponsor of the 1981 Amendments to the Consumer Product Safety Act, I have followed with great interest, the CPSC's implementation of these 1981 amendments. In part, these amendments called for the CPSC to place greater emphasis on voluntary industry action. In order to carry out Congress' intent, Commissioner Scanlon, as Chairman, appointed the Commission's first voluntary standards coordinator. In addition, he supported voluntary standards in place of mandatory

Government action wherever appropriate. During 1985, the CPSC was involved in 56 voluntary standards projects. As a result of his effort, Commissioner Scanlon has demonstrated that the regulation of consumer products need not be adversarial or punitive. He has shown that, by working cooperatively with manufacturers and retailers, it is possible to keep dangerous products out of the marketplace without incurring the kinds of expenses and delays that may result form formal regulatory proceedings.

The CPSC under Chairman Scanlon did not hesitate, however, to take mandatory action where appropriate. For example, under his leadership, the CPSC collected the largest civil penalty against a manufacturer in the agency's history. And, the number of product recalls reached its highest level since 1981.

Under Chairman Scanlon's leadership the CPSC also continued its effort to reduce the number of product-related injuries suffered by children. During 1985, the CPSC initiated 49 recalls involving toys and another 29 recalls involving other children's products. The CPSC also undertook an information and education campaign involving nursery products and it sponsored press conferences concerning toy safety and fireworks.

In conclusion, Mr. President, Terry Scanlon brings a rational and balanced approach to the regulation of consumer products and I urge my colleagues to join me in supporting his nomination to be the Chairman of the Consumer Product Safety Commission.

Mr. SIMON. Mr. President, will my friend and colleague from Wisconsin yield for a moment?

Mr. KASTEN. I am pleased to yield.

Mr. SIMON. The Senator mentioned a fine that was collected. Can he tell me whether the action to get that going was initiated under Mr. Scanlon's Chairmanship or did it just happen?

Mr. KASTEN. My understanding is that this was an ongoing investigation. In fact, it was under his Chairmanship that the fine was finally assessed.

Mr. SIMON. I think that is correct, that it was initiated before he became Chairman.

Mr. KASTEN. But let us give him partial credit.

Mr. SIMON. I shall do that.

Mr. President, I have here a news release from the CPSC Office of Media Relation with the time of 3:58 on it, which has been up in the press gallery for 30 minutes. This is the announcement about what we are going to be doing here. This is the announcement that has been confirmed. I hope it can go down in history along with "Dewey Is Elected President" in the Chicago Tribune as one of those historic errors. But we will find out shortly whether it is the Senate that makes the error or whether it was Mr. Scanlon who made the error.

TO DISCHARGE COMMITTEE FROM CONSIDERATION OF EXECUTIVE Y, 96-1

Mr. DANFORTH. Mr. President, I yield such time as he requires to the Senator from Indiana.

The PRESIDING OFFICER (Mr. EVANS). The Senator from Indiana is recognized.

Mr. QUAYLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

Resolved, That the Senate Committee on Foreign Relations is discharged of further consideration of Executive Y-96 of 1982, referred to as the SALT II treaty.

The PRESIDING OFFICER. Is there objection to its immediate consideration?

Mr. SIMON. I object.

Mr. DANFORTH. I object.

The PRESIDING OFFICER. The objection is heard. The resolution will go over a day pursuant to rule XVII, paragraph 4(a).

● Mr. QUAYLE. Mr. President, the resolution I am filing today simply asks that the Senate Committee on Foreign Relations be dicharged of any further consideration of the SALT II Treaty. This would allow the majority leader to call up the treaty for Senate consideration whenever he thinks it is appropriate.

I had hoped that I would not have to file this resolution. I still hope that it will not have to be voted upon. I think it will be, however, if the President's critics persist in their attempts to tie Defense Department spending to continued adherence to certain parts of SALT II.

The issue here is not one's opinion concerning SALT but our constitutional responsibilities. One's view can differ on SALT, but not on our responsibility to approve ratification of treaties. In fact, this has always been a jealously guarded prerogative and for a very good reason. Treaties are law, the supreme law of this country, and we as legislators must assure that whatever formal treaties we enter into are consonant with the laws already in existence.

For minor housekeeping arrangements, such as those covered by Executive agreements, informal consultation with the Senate may be sufficient. But for major commitments, ones that require a formal treaty, such as arms control agreements, the framers of our Constitution were clear—only a two-thirds Senate vote approving ratification would do.

This should not be seen as some sort of anachronism. Certainly, it was not seen as one back in 1979 when the Senate first considered SALT II. At that time, approval of the treaty was so doubtful President Carter considered making the treaty into an Executive agreement.

This tactic, however, was strongly opposed by the Senate leadership as inappropriate and rightly so. The authority and constitutional duty of the Senate were at stake. In deference to the Senate and in recognition that he did not have the votes necessary for ratification, President Carter finally decided to withdraw SALT II from consideration and the treaty was sent back to the Foreign Relations Committee where it sits today.

What the Senate insisted upon in 1979, we dare not forget in 1986. Certainly, back in 1979, many Senators opposed the SALT II Treaty and were anxious that President Carter not try to exclude the Senate by turning SALT II into an Executive agreement. Some of these same Senators today, however, would try to require the Executive to adhere to certain sections of the treaty by merely passing a law.

They cannot have it both ways. What made sense in 1979 still makes sense today. SALT II is a treaty and the Executive should only be required to adhere to it if it is approved by the Senate and is ratified. Just as making it into an Executive agreement may be a way to circumvent this rule, so is trying to legislate adherence to an expired unratified treaty. In fact, it is a triple circumvention. It not only ignores the need for the Executive to take the lead in such matters, but involves the House in treaty matters that it is not constitutionally designated to engage in and vitiates the two-thirds vote requirement.

Mr. President, this is not what the framers of our Constitution had in mind when they made special provisions to protect against quick and easy legislative efforts to get our country enmeshed in international affairs. It is not what the Senate itself understood to be proper when this particular treaty was first considered. It is not what we should allow to occur today.

This resolution, I believe, is the best way to make all this clear. Let us hope that the necessity of actually having to act on it does not arise.●

"WHY MR. REAGAN IS RIGHT ABOUT SALT"

● Mr. WILSON. Mr. President, I call attention to the New York Times of the Sunday, June 15, 1986, article by Kenneth Adelman, Director of the U.S. Arms Control and Disarmament Agency on "Why Mr. Reagan Is Right About SALT." Mr. Adelman clearly and accurately points out the signifi-

cance of the President's decision concerning the unratified SALT II Treaty.

Mr. President, I submit the article for the RECORD and hope that my colleagues will take a moment to read this very important statement.

The article follows:

WHY MR. REAGAN IS RIGHT ABOUT SALT

(By Kenneth L. Adelman)

WASHINGTON.—Bertrand Russell once remarked that we often defend most passionately those opinions for which we have the least factual basis. It is difficult to find any other way to explain the torrent of emotion that has greeted the President's decision that we are no longer bound by the second strategic arms limitation accord.

Even on its face, the case against the President's decision looks dubious at best. After all, the Senate Armed Services Committee agreed unanimously in 1979 that SALT II was not in the country's "national security interests." The treaty was never ratified. It never had the force of law. It never subsequently gained the support needed for ratification. The chief prediction of its critics—that it would permit a vast modernization and expansion of Soviet strategic forces—has come true, in spades. On top of all this, the Soviet Union is violating the central provisions of the agreement.

What could be more clear-cut? Why do critics say that the United States should continue to abide unilaterally by SALT II?

First, Soviet violations are alleged to be "peripheral." The President's critics would like to have it both ways. When SALT II was up for ratification in 1979, its supporters commonly cited three provisions as the main advantages: the numerical limits (on warheads-per-launcher and overall launchers); the prohibition on a second new type of land-based intercontinental missile; and the restraints on encoding test data. The Soviets are completely contravening the provisions on new missiles and encoding, and they have exceeded the limit on missile launchers. Provisions hailed as central when SALT II was being sold cannot be considered "peripheral" now that the Soviets are violating them.

Second, the Soviet violations are sometimes said to be "ambiguous" or unimportant. The new, SALT-violating SS-25 missile is not in any sense marginal. It is one of two powerful new land-based strategic missiles that the Soviets are now adding to their arsenal. In short, a major portion of the current Soviet buildup of land-based missiles is occurring in clear contravention of SALT II. The violation is clear since the throwweight,or payload, of the SS-25 missile is not, as some critics continue to claim, just "slightly" greater than its alleged predecessor, the SS-13, but roughtly twice that—clearly beyond the 5 percent increase permitted by the treaty. In addition, the Soviets' scrambling of their test signals is seriously impeding verification.

Third, it is sometimes claimed that the Soviets have dismantled 1,000 or more systems to comply with SALT. This is contradicted by the fact that the Soviets themselves claim to have dismantled only 540 weapons under SALT. More important, what the critics' figures really demonstrate are not the quantitative limits on the Soviet arsenal but the vast qualitative growth of the Soviet arsenal under the treaty. The Soviets dismantled more during SALT than the United States did because they built faster and modernized much more than we did. The majority of silos said by the critics to be dismantled became the homes of new, vastly more powerful missiles. The figures are less a testimony to SALT's effectiveness than a measure of what it failed to control.

Nor should we attribute the dismantling of any Soviet systems solely or even mainly to SALT. When new Soviet systems come on, old, obsolescent systems generally go. For example, 650 SS-4 and SS-5 medium-range missiles—unconstrained by any arms accord—were dismantled by the Soviets after the SS-20, a far more potent threat, came on stream. The claim that the Soviets' decisions to dismantle weapons during the period of SALT were necessarily due to SALT is a case of misplaced causality.

Fourth, critics claim that without SALT II the Soviets will vastly increase their warheads and accelerate the arms buildup. Projections of large increases in Soviet warheads—beyond the considerable increases already anticipated under SALT—are easily made on paper. In reality, such changes are neither quick nor cheap—nor necessarily even militarily useful. For example, some critics claim that the Soviets would put 20 or 30 warheads on the SS-18 missile, instead of 10. But this is likely to undermine, if not preclude, the SS-18's main mission—that is, to destroy our missiles in their silos.

The basic notion that SALT is significantly constraining the Soviet buildup now, or would do so in the future, is an illusion. It presumes future compliance with critical provisions, when we already have seen clear and major violations of key parts of the treaty. Even while adhering to terms of SALT II, the Soviets have nearly doubled their strategic warheads, from 5,000 to 9,200. Under SALT II, the number could rise further to 12,000 by 1990. With or without SALT II, we envision a 5 to 7 percent growth in Soviet strategic investment every year as far ahead as we can see. With or without SALT II, we envision an all-new Soviet land-based missile force in the next decade.

If this is constraint, it is hard to envision a lack of constraint. With their defense spending running at 15 to 17 percent of their gross national product, the Soviets already have their accelerator near or on the floor.

Ironically, many of the critics who now base so much of their argument on predicting increases in Soviet warheads beyond those envisioned by SALT II (which did not explicitly limit warheads) used to tell us that warheads don't count. Back in the 1970's, when the United States enjoyed a 3-to-1 advantage in warheads, many of these same critics were arguing that "strategic superiority" and numbers of warheads were "meaningless" and could be bargained away without risk to United States security.

Fifth, it is argued that the President's decision is bad for our alliances. Despite extensive Administration consultations with the allies, there have been some allied disagreement and some adverse effects on allied public opinion. We naturally regret this. As the reasoning for the President's decision and the facts become better known, we hope this will change. We hope our allies' concerns will be alleviated.

But short-term popularity cannot be the criterion by which we judge the wisdom of policy. Our overriding concern must remain long-term strategic safety and genuine arms control. Continued adherence to an ineffective and unratified treaty that our adversary is seriously violating is not cost-or risk-free either. As the President has said, what is needed are real reductions. Only this will ultimately provide a solid basis for mutual restraint.

Sixth, it is alleged that what the Administration wants is an "all-out arms race." This is simply false. Anyone who reads the President's decision and listens to what he is saying will see that he has provided a clear new formula for restraint that will be more effective than SALT. The President pledged, for example, that we will not increase launchers or ballistic missile warheads above Soviet levels. This is a serious pledge, one that creates real costs for a Soviet buildup and provides real rewards for Soviet reductions and restraint—just as genuine arms control should do. It is verifiable and do-able. In contrast, continued unilateral observance of SALT II in the absence of Soviet compliance would merely reinforce the dangerous idea that Soviet violations can easily be tolerated. It would also likely encourage even further violations and convince the Soviets to continue their drive for military superiority.

As the President has repeatedly made clear, what we want above all are serious negotiations in Geneva leading to agreements with which the Soviets will comply—to equitable and verifiable reductions in American and Soviet nuclear arsenals.●

NOMINATION OF TERRENCE M. SCANLON

The Senate continued with consideration of the nomination.

Mr. DANFORTH. Mr. President, I know of no other speakers who want to be heard on the Scanlon nomination.

Mr. President, I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1610

Mr. DANFORTH. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I know of no other Members who want to speak on either side and, as far as I am concerned, I yield back the remainder of my time.

Mr. SIMON. I will yield in just 1 minute. I simply want to again say I have nothing against Mr. Scanlon personally, but just as I would not like to see my colleague from Missouri as chairman of the Democratic National Committee, because I think he philosophically does not belong there, Mr. Scanlon does not belong as Chairman of the Consumer Product Safety Commission.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the

yeas and nays having been ordered, the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. HECHT], the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—63

Abdnor	Garn	McConnell
Andrews	Goldwater	Melcher
Armstrong	Gorton	Nickles
Baucus	Gramm	Nunn
Boren	Grassley	Pell
Boschwitz	Hatch	Pressler
Broyhill	Hatfield	Quayle
Bumpers	Hawkins	Roth
Chafee	Heflin	Rudman
Cochran	Heinz	Simpson
Cohen	Helms	Specter
D'Amato	Humphrey	Stafford
Danforth	Inouye	Stennis
DeConcini	Kassebaum	Stevens
Denton	Kasten	Thurmond
Dixon	Laxalt	Trible
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Weicker
Eagleton	Mattingly	Wilson
Evans	McClure	Zorinsky

NAYS—33

Bentsen	Glenn	Metzenbaum
Biden	Gore	Mitchell
Bingaman	Harkin	Moynihan
Bradley	Hart	Packwood
Burdick	Hollings	Proxmire
Byrd	Johnston	Pryor
Chiles	Kennedy	Riegle
Cranston	Kerry	Rockefeller
Dodd	Lautenberg	Sarbanes
Exon	Leahy	Sasser
Ford	Levin	Simon

NOT VOTING—4

Hecht	Murkowski
Long	Symms

So the nomination was confirmed.

□ 1640

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DANFORTH. Mr. President, I ask unanimous consent that there not be a period for the transaction of routine morning business not to extend beyond 5:30 p.m. and that Senators be permitted to speak therein for 5 minutes each.

THE HUGH O'BRIAN YOUTH FOUNDATION: 28 SUCCESSFUL YEARS

Mr. DOLE. Mr. President, it is my pleasure to take a moment to recognize a very special organization that has, for the last 28 years, worked with tremendous success to motivate youth in America—the Hugh O'Brian Youth Foundation [HOBY]

AN AMERICAN SUCCESS STORY

Hugh O'Brian, in 1958, was one of America's most popular television stars. We all remember his "Wyatt Earp" days and we probably also remember wondering what it must be like to live that Hollywood lifestyle. But, we were not likely to know at the time that Hugh O'Brian had a few other things on his mind than his next film.

No one knew better than Hugh that he had a good thing going, and he was thinking about how—and why—he was there. America had been good to him. A free enterprise system under a democratic form of government had allowed a boy from Pennsylvania to achieve fame and fortune under his own steam. He could reach out to whatever heights his ambition dared. "Having it all," he wanted to give something back. He wanted to show young people that they could do it too, with the recognition that such aspirations are only possible within a system of government that not only allows, but encourages, high ambitions.

OPPORTUNITY—MADE IN AMERICA

We are all told, at one time or another in our lives, to "make something of ourselves." Hopefully, we are not being told that past a certain age. But, when we are young, we are supposed to "make something of ourselves." It is such an everyday phrase in America, that, sometimes, Mr. President, I think we forget just how astounding a concept that is—that we Americans can truly "make ourselves" what we choose to be and serve as a positive force in society. Hugh had done it along with many others in this country. It is a freedom we are all blessed with and, for Hugh, it has been a message to carry to young people across the country and around the world for many years.

ESTABLISHING "HOBY"

The Hugh O'Brian Youth Foundation was founded upon Hugh's return from an inspiring visit with Albert Schweitzer in Africa in 1958. He was determined to "give back" a bit of his own success and motivate aspiring future leaders to do the same. What was originally a few promising young men participating in an informal exchange of ideas with Hugh's business acquaintances is now an annual weeklong international seminar focusing on "America's incentive system." Every State and several foreign countries send one boy and one girl to the seminar to represent their many outstanding high school sophomores. More than 10,000 high schools participated this year at the State level, in 3-day State leadership seminars. In my own State of Kansas, the numbers have grown so large that they will be holding two seminars next year, rather than one.

The Nation's leading professionals in business, industry, government, education, and the arts contribute their time and expertise as they meet with these young "ambassadors" to share their ideas and concerns. The alumni network is some 40,000 strong with leadership seminars held annually at the State level, guided by thousands of volunteers and supporters across the United States.

MOTIVATING TOMORROW'S LEADERS

Dr. Schweitzer, during that memorable visit in Africa, had told Hugh that, "the most important thing in education is to teach young people to think for themselves." HOBY operates on that theory, along with the idea that, if given the opportunity, every person can work toward their highest goals with a good chance of succeeding. Sophomore students are selected to attend the annual State seminars based on top academic performance and leadership potential. With the HOBY theme of "Motivating Tomorrow's Leaders Today," they are encouraged to further develop their natural gifts, explore the world around them and the future that awaits, and reach out to contemporaries to share their insights and enthusiasm.

HOBY opens doors for young people at an age when they are making fundamental decisions about their lifestyles, interests, and goals. Those doors open onto a world they have not, perhaps, had an opportunity to see or recognize as their own forum for future achievement. As they see today's leaders taking an interest in their development, listening to their ideas, sharing with them a wealth of experience and wisdom, they come to recognize the responsibilities that go hand in hand with positions of leadership.

THE BUSINESS COMMUNITY LENDS A HAND

The Senator from Kansas would like to point out that all of this is accomplished without government funding, a point not lost on this body. Private sector contributors have enthusiastically embraced HOBY's goals and achievements and they have "made it

happen" with their generous support. Corporate America, the Main Street business community, service organizations, and individual supporters have made it all possible, year after year and, for that, they certainly deserve our respect and praise.

MANY TOMORROW'S TO COME

Mr. President, the success and vitality of this foundation is evidenced by the fact that, while more than 100 youth organizations in this country have come and gone since HOBY was established, HOBY is in its 28th year and growing ever stronger. Its continuing relevance in our society and its enduring legacy for the youth of tomorrow should convince us that we will not have heard the last of the Hugh O'Brian Youth Foundation—or the leaders it has inspired—for many years to come.

SOUTH AFRICAN DETAINEES' WHEREABOUTS UNCERTAIN

Mr. LEVIN. Mr. President, on June 26 I placed on record the names of some of the detainees picked up by the South African Government, whose welfare and whereabouts are now uncertain. I would like to take this opportunity to add to that list and once again draw the Senate's attention to the continuing injustices and rising tensions within South Africa.

The Government's Bureau of Information has reported 120 deaths since the state of emergency was imposed, yet unofficial sources claim at least another 16 people were killed in a police massacre in Kwandebele on June 12, and there have been recent unconfirmed reports from Soweto that between 9 to 12 blacks died during fighting at a nearby hotel. In addition, human rights advocates estimate that between 3,800 and 8,000 people have been detained, without charge or access to their lawyers, and in the vast majority of cases without informing family members of their detention. Despite the web of silence surrounding those under detention, civil rights lawyers report allegations of torture and assault in a number of police stations, while detainees at Modderbee prison, east of Johannesburg have succeeded in passing a letter on to journalists describing conditions within the prison as "appalling."

Botha's empty gestures at reform have failed to touch upon the fundamental grievances of the black populace. The Population Registration Act, structuring the distribution of privileges throughout the entire society, remains intact. So do the Land Acts of 1913 and 1936, by which approximately 13 percent of the land is available for legal occupation to 73 percent of the population. So does the Group Areas Act, allocating 83 percent of land in residential areas to the whites.

We are asked to believe that the Government is reforming, that the forced removal of people from their land has ceased, that controls over the influx of blacks into urban areas, implemented through the much despised pass laws, have been lifted. Yet, how can we accept these assurances when they fly so blatantly in the face of the truth?

Since January of this year, people have been moved, against their will, from the Moutse area into the Kwandebele region. Although the pass laws were abolished this summer, people are still unable to move into urban areas without Government-approved housing. Considering that 500,000 requests for housing are on record at present, and that this backlog is rising at approximately 200,000 every year, this means a critical shortage in housing has provided an effective indirect method of control over people's movement into urban areas.

Mr. President, a growing section of the South African business community involving such businessmen as Gavin Reilly, chairman of the Anglo-American Corporation, the most powerful corporation in South Africa are pressing the Government to open talks with black leaders and to speed reform. The country's two main white employer groups and a major black union federation have issued an unprecedented joint demand for an end to the emergency and for the release of jailed labor leaders.

Yesterday, widespread student protests, strikes and slowdowns were organized in protest at the emergency rule.

Mr. President, for how long will this administration continue to ignore its own public opinion and that of the Western World, in opposing sanctions? We must heed these people, heed our own consciences and take a step toward halting the inexorable rise in unrest and death.

I ask unanimous consent that the list of detainees be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

Valerie Metler, Timothy Meyer, Bram Mhlom, Leroy Moses, Tshidi Moshlali, Sue Myrdal (Legal Resources Centre), Neville Naidoo, Lucy Ninzi, Agnes Nokhatywa, Brenda Petersen, Lilian Petersen, William Petersen, Alicia Pieterse, Mr. Ontong and Wilfred Rhodes.

Patricia Rorich, Leonora Rossouw, Mr. Samuels, Carel Sass, Cedric Sass, Daniel Sass, Elizabeth Sass, Ernest Sass, Joseph Sass, Peter Sass, Brian September, Johanna Simons, Felicity Snell, Abraham Petrus Steenkamp and Victor Steyn.

Alfred Stuurman, Sacks Stuurman, Valda Thomson, Helene Thornton (End Conscription Campaign), Fezile Tino, Denise Weeder, Athol Williams, Noel Williams (Congress of SA Trade Unions; Atlantis Residents' Assn.), Grace Zieglaar, Peter Ziegler, 189 people arrested at a church service in Elsie's River, including Dr. Richard Stevens (150 may have been released).

CARNARVON

Nicholas Andreas, Filie Appies, Hendrick Appies, Samual Bass, Benjamin Horing, Ismael Horing, Graham Jansen, Aubrey Klaste, Gerald Klaste, Reuben Klaste, Mr. Lalloo, Rev. Arnay Levenink, John Lukas, Dirk Lyon, Petrus H. Martin, Solomon Neewatt and Leon Van Wyk.

GEORGE

Mr. Asyn, Kenneth Siboto and Mzukisi Vincent Skosana.

GRAABOUW

Priscilla Mac.

MOSSELBAY

S. Adams, E. Andrews, Potlesi August, L. Baker, M. Carelse, N. Damons, Ntsuntayi Dyabaza, Ndumiso Jan, R. Kiewietz, Lesley Krotz, Benny Lecheba and M. Lecheba.

Peter Lecheba, Lilian Malobola, Majeke Mangolwana, Selele Mbangi, M. Mpumela, E. Pokpas, J. Saadon, G. Sparks, Walase Sukula, D. Syfers, Israel Syfers and G. Williams.

OUDTSHOORN

Paul Barnard, Sheila Barnard, Rev. Britz, Rev. Buys, Rev. de Klerk, Jonathan Everts, David Grootboom, Hester Ingo and Derrick Jackson.

Hilton James, Barnard Koelman, Carol Moses, Mzukisi Mooi, Beverly Prins, Wendy Prins, Clive Stuurman and Johnny Stuurman.

SOMERSET WEST

Themba Lemyeni and Anne Mentor.

SWELLENDAM

Michael Adolph.

VICTORIA WEST

George Baza, Justice Fass, Mzamo Fass, Nomsa Hadebe and Ntsokolo Swartbooi.

WORCHESTER

Dennis Byandi, Amos Dyanti, Neil February, Irvin Kolo, Ray Lazarus (Trade Union Official (GWA)), Shepherd Matshoba, Miriam Moleleki, Leroy Moses, Nellie Mroxisa and Lulubooi Peter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1700

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, let me remind my colleagues that under the earlier unanimous-consent agreement to pass the resolution, we shall be on live radio on Wednesday, Thursday, and Friday of this week, but not on live television on Wednesday, Thursday, and Friday of this week. We shall resume live television on C-SPAN on Monday, July 21.

I am also prepared to announce that there will be no more record votes today. We had hoped to have a couple of other matters to bring before the Senate, but they are not quite ready.

We had hoped to bring up S. 2572, Ireland-United Kingdom, authorization and the Ireland-United Kingdom extradition treaty; also S. 2610, Philippines supplemental; and S. 2129, risk retention. It is our hope that we can dispose of those on tomorrow, plus some other matters that we are working on—Panama Canal authorization, CFTC authorization. That is one that, as I understand, is time-sensitive.

Plus, in a meeting today with the Secretary of State, there are at least four nominations that have been held for some time—I guess three on the calendar. One is in committee and may be reported out later this week. He would like very much for us to move those nominations: Mr. Corr, who has been on the calendar for a long time, being denied a promotion; Mr. Abramowitz to be Assistant Secretary for Intelligence; and Mr. Malone, to be Ambassador to Belize. Those have been pending for some time and one may be reported out of committee.

That is about all we are going to be able to accomplish today.

THE CALENDAR

Mr. DOLE. Mr. President, I understand that there are a number of minor matters that we can dispose of. I ask the distinguished minority leader if he is in a position to pass the following calendar items: No. 704, No. 706, No. 707, No. 710, No. 711, and No. 712.

Mr. BYRD. Mr. President, all items identified by the distinguished majority leader have been cleared by all Members on this side of the aisle and we are ready to proceed with consideration thereof.

Mr. DOLE. I thank the distinguished minority leader.

EXPRESSION OF SUPPORT FOR THE NATIONAL STORM PROGRAM

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 137) expressing the sense of the Congress that the Federal Government take immediate steps to support a National STORM Program, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments.

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, is as follows:

S. CON. RES. 137

Whereas on May 3, 1986, a Delta rocket carrying the GOES-7 weather satellite failed seventy-one seconds into its flight causing both the rocket and the weather satellite to be destroyed;

Whereas the loss of the weather satellite leaves the United States with only one weather satellite, GOES-6, in geostationary orbit to cover the entire continental United States as well as the Pacific and Atlantic oceans;

Whereas hurricanes have ravaged the eastern United States with regularity every summer and fall, causing great economic loss and human suffering;

Whereas the unanticipated, destructive, and hazardous occurrence of small-scale weather disturbances disrupt the economy through serious impacts on transportation, agriculture, and industry, and result in a staggering average annual economic loss of $20,000,000,000 and an average annual loss of life approaching one thousand;

Whereas the Congress finds that recent advances in atmospheric science and related technology make it possible to improve the protection of the public and increase the productivity of the Nation's economy through modernization of the Nation's weather services over the next decade by improving observation and prediction of storm-scale weather phenomena such as squall lines, thunderstorms, tornadoes, flash floods, freezing rain, and dense fog;

Whereas an increased capability in storm-scale weather prediction and services for the people of the United States will require implementation of observation, data collection, processing, and dissemination technology and an associated research effort aimed at the development of improved forecasting procedures and field programs to acquire the necessary data to test procedures and technology;

Whereas there is a widespread consensus in the scientific community that recent developments in technology and scientific understanding of storm-scale weather phenomena make it timely to undertake a National Storm-Scale Operational and Research Meteorology Program (STORM) which can yield the desired improvements over the next decade in the Nation's weather services;

Whereas the Federal Government is currently pursuing plans to modernize the Nation's operational weather capability by implementing new technology such as next generation radar (NEXRAD), the next generation of geostationary operational environment satellite (GOES) and continuing the two polar satellite system;

Whereas significant improvements in storm-scale weather prediction can be achieved by a modest but sustained annual increase over the next decade in the Nation's present investment in weather services and research; and

Whereas a National STORM Program should be implemented by the Federal agencies involved, including the Department of Commerce, Defense, Interior, and Transportation; the Environmental Protection Agency; the National Aeronautics and Space Administration; and the National Science Foundation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of the Congress that the Federal Government should take immediate steps to support funding for such a program under the leadership of the National Oceanic and Atmospheric Administration of the Department of Commerce, with the cooperation of other interested and appropriate departments and agencies;

(2) on or before August 1, 1986, and each fifth year thereafter the President shall transmit to the Congress a plan setting forth the proposed activities of the National STORM Program and the budgetary requirements needed to meet the program's goals and objectives;

(3) such plan should contain a statement of the activities to be conducted and specify the department or agency of the Government which will conduct the activities; and

(4) on or about January 1, 1987, the President shall transmit to the Congress a report on progress made in implementing the National STORM Program: And be it further

Resolved, That the administration shall place a high priority upon reinstating the two GOES satellite system at the earliest opportunity; shall compensate for the absence of a second GOES satellite and the present diminished satellite capability to forecast hurricanes, by taking such actions as increasing hurricane reconnaissance flights; and shall undertake an immediate analysis of the steps necessary to enhance the prospects of maintaining a two GOES system.

Mr. DOLE. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. HOLLINGS. Mr. President, Senate Concurrent Resolution 137—the STORM resolution—aims at helping Americans safeguard their lives and property from the effects of violent weather. The resolution calls for a comprehensive program of operations and research to bring about major improvements in the forecasting and warning of tornadoes, flash floods, hail storms, and other severe storms that occur in a localized area. The resolution also calls for prompt administration response to compensate for its diminished capability to forecast hurricanes and other large-scale disturbances as a result of the May 3 loss of NOAA's GOES-7 weather satellite.

Few of us would disagree about the importance of weather services when it comes to storms like these. As you may recall, when I introduced a similar resolution in 1984, my State of South Carolina was still in the aftermath of destruction brought by a series of tornadoes that rampaged from northern Georgia to the North Carolina-Virginia border. These storms left 63 people dead and hundreds of millions of dollars in property damage. There is an average of 800 tornadoes a year.

Even in the last few months we have seen numerous outbreaks of severe weather events around the Nation. Here are a few examples:

A tornado struck Sweetwater, TX, on April 19 and caused death and injuries, destroyed numerous homes, and

generated $20 million in property damage;

On May 15 a tornado wiped out an entire small town in the State of Missouri;

On May 25 a hailstorm with 95-mile-per-hour winds and heavy rain moved through Fort Worth, killing six people, flooding streets and houses, knocking out power, and collapsing the roof of a crowded bowling alley;

And on May 30, fierce thunderstorms hit the Pittsburgh area, killing eight people and causing over $20 million in damage.

The National STORM Program supported in Senate Concurrent Resolution 137 will promote cooperation among Federal agencies in taking advantage of new technology for forecasting and understanding such localized storms. First, the agencies must continue to pursue their commitments to buy next generation weather radars [Nexrad] and advanced systems for data processing and communication. Then, they must work together in making effective use of this new technology in their forecasting and research activities. Senate Concurrent Resolution 137 does not contemplate additional authorizations to carry out this program.

In light of current economic loss estimates of $20 billion a year because of severe storms, the STORM Program can achieve $1 billion of annual savings if it is able to reduce economic damage by a mere 5 percent.

The second half of the resolution focuses on the importance of a system of two geostationary environmental satellites. The loss of the GOES-7 satellite when the Delta rocket malfunctioned 2 months ago left the Nation with only one GOES satellite, where two are required for adequate coverage of the United States, the Pacific Ocean, Atlantic Ocean, and Gulf of Mexico. The GOES system plays a very significant role in forecasting hurricanes, and the resolution therefore calls for interim measures like extra hurricane reconnaissance flights by weather aircraft until the two-satellite system is reinstated. In addition, the resolution urges that the administration place a high priority on seeking means for achieving and maintaining a two-GOES system.

We cannot afford to operate with insufficient coverage of hurricanes. Last year South Carolina had $1 million in damage in Spartanburg from tornadoes spawned by Hurricane Danny, but we were lucky not to have been hurt worse. Six hurricanes and two tropical storms came ashore along the Atlantic and gulf coasts last season, causing $3.5 billion in damage and numerous deaths.

I urge my colleagues to join with me in support of this measure.●

NATIONAL DRUG ABUSE EDUCATION AND PREVENTION WEEK

The joint resolution (S.J. Res. 354) to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 354

Whereas the illegal drug trade consists of approximately $100 billion in retail business per year;

Whereas removing the demand for drugs would reduce the illegal drug trade;

Whereas drug abuse destroys the future of many of the young people and adults in the Nation;

Whereas the eradication of drug abuse requires a united mobilization of national resources, including law enforcement and educational efforts; and

Whereas the most effective deterrent to drug abuse is education of parents and children in the home, classroom, and community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 5, 1986, through October 11, 1986, is designated as "National Drug Abuse Education and Prevention Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to participate in drug abuse education and prevention programs in their communities and encourage parents and children to investigate and discuss drug abuse problems and possible solutions.

Mr. DOLE. I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPACE EXPLORATION DAY

The joint resolution (S.J. Res. 360) to designate July 20, 1986, as "Space Exploration Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 360

Whereas on July 20, 1969 people of the world were brought closer together by the first manned exploration of the moon;

Whereas a purpose of the United States space program is the peaceful exploration of space for the benefit of all mankind;

Whereas the United States space program has provided scientific and technological benefits affecting many areas of concern to mankind;

Whereas the United States space program, through Project Apollo, Viking and Voyager missions to the planets, the space shuttle, and other space efforts, has provided the Nation with scientific and technological leadership in space;

Whereas the National Aeronautics and Space Administration, the United States aerospace industry, and educational institutions throughout the Nation contribute research and development to the United States space program, and to the strength of the economy of the Nation;

Whereas the space program reflects technological skill of the highest order and the best in the American character—sacrifice, ingenuity and the unrelenting spirit of adventure;

Whereas the spirit that put man on the moon may be applied to all noble pursuits involving peace, brotherhood, courage, unity of the human spirit, and the exploration of new frontiers; and

Whereas the human race will continue to explore space for the benefit of future generations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 20, 1986, is designated as "Space Exploration Day." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. DOLE. I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENSE OF THE CONGRESS ON RESUMPTION OF U.N. HIGH COMMISSIONER FOR REFUGEES ORDERLY DEPARTURE PROGRAM FOR VIETNAM

The concurrent resolution (S. Con. Res. 143) expressing the sense of the Congress on the resumption of the U.N. High Commissioner for Refugees Orderly Departure Program for Vietnam, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 143

Whereas the United Nations Orderly Departure Program for Vietnam has enabled more than 100,000 persons to leave Vietnam without facing the hazards of departure by sea, which has exposed thousands of Vietnamese to the risks of weather, unseaworthy vessels, and the depredations of pirates;

Whereas the international community, the United States Government, and the American people have expressed their support for the agreement reached between the United Nations High Commissioner for Refugees and the Vietnamese authorities in 1979 to establish the Orderly Departure Program for Vietnam (hereafter in this preamble referred to as the "Departure Program");

Whereas that agreement provides for both "family reunion and humanitarian cases" to depart Vietnam through the Departure Program and for the Government of Vietnam to provide the United Nations High Commissioner for Refugees and the receiving countries with every facility to implement the Departure Program;

Whereas the President, in consultation with the Congress, proposed in September 1984, and reaffirmed in September 1985,

that the United States was prepared to receive (1) persons of special humanitarian concern from Vietnam, in particular the "re-education camp" prisoners, thousands of whom remain imprisoned because of their past associations with United States programs and policies in the region or with the former Government of the Republic of Vietnam; and (2) the Amerasian children and their mothers and other close relatives remaining in Vietnam;

Whereas the United States and other concerned governments have earnestly sought improvements in the operation of the Departure Program at meetings organized by the United Nations High Commissioner for Refugees with representatives of the Socialist Republic of Vietnam; and

Whereas the authorities of the Socialist Republic of Vietnam on January 1, 1986, suspended the interviewing and processing of all applicants in Vietnam for resettlement in the United States, thus threatening to interrupt the flow of departures from Vietnam by those found eligible for admission to the United States as refugees or immigrants: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby calls upon the Government of the Socialist Republic of Vietnam—

(1) to permit the immediate resumption of interviewing and processing of applicants in Vietnam who have received preliminary approval from the United States Government for resettlement in the United States under the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam; and

(2) to permit the orderly departure of "re-education camp" prisoners, Amerasian children, and other persons of special humanitarian concern to the United States.

Mr. DOLE. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDING THE PEOPLE OF BERLIN FOR THEIR COMMEMORATION OF THE 1936 OLYMPIC VICTORIES OF JESSE OWENS

The concurrent resolution (H. Con. Res. 325) to commend the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the 50th anniversary of Jesse Owens' victories at the 1936 Berlin Olympic games, was considered, and agreed to.

The preamble was agreed to.

Mr. DOLE. I move to reconsider the vote by which the House concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENSE OF THE CONGRESS REGARDING THE CONTINUED EXISTENCE OF THE BERLIN WALL

The concurrent resolution (H. Con. Res. 326) expressing the sense of the Congress that the existence of the Berlin Wall after 25 years is a visible indictment of the Communist system and that the continued vitality of the Western sectors of the city is a testament to the Berliners' courage and devotion to freedom, was considered, and agreed to.

The preamble was agreed to.

Mr. DOLE. I move to reconsider the vote by which the House concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 99-29

Mr. DOLE. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from a Convention Providing a Uniform Law on the Form of an International Will (Treaty Document No. 99-29) transmitted to the Senate July 2, 1986, by the President of the United States.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention Providing a Uniform Law on the Form of an International Will. I also transmit for the information of the Senate the report of the Department of State with respect to this Convention.

The purpose of the Convention is to enable testators to make wills in a form that will be self-providing in all countries where the Convention is in force. The Convention does not abolish or modify existing laws on testamentary succession, nor does it attempt to unify the formal requirements for executing a will that already exist in the various systems of national law. Rather, it provides, alongside and in addition to the traditional forms, another new form that testators may use—the "international will."

With the increased mobility of persons and goods, there has been a growing awareness of the need for a form of will that will be widely accepted, regardless of where the testator may be domiciled or residing or where his property may be located at the time of his death. American probate law experts participated actively in the preparatory studies for the Convention, which was adopted at a diplomatic conference hosted by the United States at Washington in 1973. Ratification of the Convention by the United States has been recommended by the American College of Probate Counsel and the American Bar Association, as well as by the Secretary of State's Advisory Committee on Private International Law, on which leading legal organizations are represented.

Countries ratifying or acceding to the Convention are required to introduce into their domestic law the rules regarding an international will that are set forth in an annex to the Convention. To give full effect to the Convention in the United States, implementing legislation will be required at the Federal level. Legislation will also be required in those States of the United States that wish to make it possible for testators to execute international wills in their jurisdiction. The distinctions between the two types of legislation are described in the accompanying report from the Department of State. As noted in the report, four States have already adopted the Uniform International Wills Act, in anticipation of United States ratification of the Convention, and it is expected that many more States will do so once ratification is assured. The United States instrument of ratification of the Convention will be deposited only after the necessary Federal legislation is enacted.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *July 2, 1986.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had

approved and signed the following bills and joint resolutions:

On June 30, 1986:

S. 1106. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the U.S. Claims Court, and for other purposes.

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day."

On July 2, 1986:

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day."

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

On July 3, 1986:

S.J. Res. 188. Joint resolution to designate July 6, 1986, "National Air Traffic Control Day."

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americans."

On July 8, 1986:

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada.

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

S. 2414. An act to amend title 18, United States Code.

MESSAGES FROM THE HOUSE

At 2:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4650. An act to make grants available for youth suicide prevention programs.

The message also announced that the House has agreed to the following resolution:

H.R. 491. A resolution relative to the death of the Honorable John P. East, late a Senator from the State of North Carolina.

The message further announced that pursuant to the provisions of section 4(a) of Public Law 98-399, as amended by Public Law 99-284, the Speaker appoints Mr. KEMP as a member of the Martin Luther King, Jr., Federal Holiday Commission, vice Mr. COURTER, resigned.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4650. An act to make grants available for youth suicide prevention programs; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 2641. An original bill to authorize certain construction at military installations for fiscal year 1987, and for other purposes.

By Mr. WARNER, from the Committee on Armed Services, without amendments.

S. 2642. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1987, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 2640. A bill to establish an Office for the Investigation and Prosecution of Terrorist Offenses Against United States Citizens within the Department of Justice; to the Committee on the Judiciary.

By Mr. THURMOND, from the Committee on Armed Services:

S. 2641. An original bill to authorize certain construction at military installations for fiscal year 1987, and for other purposes; placed on the calendar.

By Mr. WARNER, from the Committee on Armed Services:

S. 2642. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1987, and for other purposes; placed on the calendar.

By Mr. HEINZ (for himself, Mr. SPECTER, and Mr. SIMON):

S. 2643. A bill to amend title 23, United States Code, to improve the program for resurfacing, restoring, rehabilitating, and reconstructing Interstate highways; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2644. A bill to amend title XIX of the Social Security Act to provide that the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for illegal aliens; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 444. Resolution to modify the provisions of Senate Resolution 28, relating to television in the Senate, to continue television coverage of the Senate until such time as the Senate votes on the question of continuing such coverage; considered and agreed to.

By Mr. QUAYLE (for himself and Mr. WILSON):

S. Res. 445. An executive resolution to discharge the Committee on Foreign Relations of further consideration of the SALT II Treaty; submitted and ordered to be over under the rule.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 2640. A bill to establish an Office for the Investigation and Prosecution of Terrorist Offenses Against United States Citizens within the Department of Justice; to the Committee on the Judiciary.

OFFICE FOR THE INVESTIGATION AND PROSECUTION OF TERRORIST OFFENSES AGAINST UNITED STATES CITIZENS

● Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to create a special office within the Justice Department for the investigation and prosecution of terrorist crimes committed against American citizens or American-owned entities in violation of American law.

Terrorism is emerging as the scourge of the 1980's. With Americans increasingly victimized by terror, the search for an adequate response intensifies. No single strategy can wipe terrorism from the face of this Earth. However, vigorous legal pursuit of terrorists must be part of our strategy to combat terrorism.

There are many laws now on the books that can be used to prosecute terrorists. But they are useless if we lack the will and the resources to use them. One way to demonstrate our continuing, serious committment to arrest, indict and apprehend terrorists is to create a new office within the Criminal Division of the Justice Department for the investigation and prosecution of terrorist crimes against Americans.

Why is such an office necessary? A centralized office would consolidate the expertise and energy now dispersed among various law agencies, such as U.S. attorneys' offices. For those agencies now handling these matters, this type of prosecution is neither their primary responsibility, nor one in which they necessarily have expertise. Creating a specialized office charged solely with this responsibility would end that situation.

This office could do for the investigation and prosecution of terrorists what the Justice Department's Office of Special Investigations did for the prosecution of Nazi war criminals: Provide a professionally specialized solution and a full-time commitment to an unconventional but critical law enforcement problem.

This new office would be more amenable to executive and legislative oversight than the current dispersed state of antiterrorist law enforcement activity. And it would elevate and give institutional priority to efforts to bring terrorists to trial. It would imbue those efforts with the expertise and commitment of those charged with the responsibility for investigation and prosecution of such terrorists on a full-time basis.

If we are able to prosecute a Yasser Arafat or Abu Abbas for one of their many terrorist crimes, then our work will be worthwhile. A small group of people mastermind many of the terrorist crimes that make the front

pages. If you put even one of these kingpins in jail, you can put a stop to a lot of terrorism.

When the Justice Department recently declined to seek a criminal indictment for PLO leader Yasser Arafat for his role in the 1973 kidnaping and brutal murders of two American diplomats, it used lack of resources as one excuse for not making a full search for evidence of his complicity. It explained that the Justice Department needed to use its precious resources to pursue investigations of other terrorist attacks. Surely a special office devoted to nothing but investigations of terrorist incidents would improve this situation.

The office would work in the following way. It would be composed of prosecuting attorneys, paralegals, criminal investigators, social scientists such as experts on the Middle East, and a support staff. The director of the office would be a lawyer, in accordance with the standard Justice Department policy that prosecuting agencies should be led by prosecuting attorneys.

It would be responsible for all current antiterrorist law enforcement activities undertaken by the Federal Government. It would investigate and prosecute terrorist crimes committed against American citizens or American-owned entities in violation of American law, whether committed domestically or extraterritorially, to the extent permitted by Federal law. And it would assume responsibility for existing investigations of past terrorist crimes.

The new office would have the authority to apply Federal laws which, in its judgment, might improve and expand the reach of the U.S. Government over terrorist crimes, including the Racketeering Influenced and Corrupt Organizations Act and new legislation which provides for the jurisdiction to prosecute in the United States those who commit acts of terrorism against Americans abroad.

The new office would also have the authority to recommend and draft for the Attorney General and Congress proposed legislation which might improve and expand the jurisdiction of the United States over terrorist activity directed against Americans and their property. And the office would share intelligence and otherwise cooperate with foreign law enforcement agencies engaged in the investigation and prosecution of terrorists. Also, the new office would handle the requests of foreign governments for the extradition of alleged terrorist offenders who allegedly reside in the United States. It would, in turn, initiate requests to foreign governments for the extradition of alleged terrorist offenders hiding abroad, who are accused of crimes against Americans.

But the physical prevention of terrorist activity would still be done by the FBI, the Secret Service, the Armed Forces, State and local police, and other appropriate intelligence and security agencies. However, when appropriate, the new Justice Department office would share information in the possession of these other agencies, since those accused of committing terrorist crimes are often suspected of planning future ones.

It is time to put money where our mouth is and invest in a long-term legal strategy against terror. We should use the law to prosecute those who operate outside its bounds. And we should make certain that for terrorists, crime doesn't pay. Establishing this special office inside the Justice Department would be a significant first step toward those goals.

Mr. President, I ask unanimous consent that a copy of the bill appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office for the Investigation and Prosecution of Terrorist Offenses Against United States Citizens Act".

SEC. 2. FINDINGS.

The Congress finds that a special office within the Department of Justice for the investigation and prosecution of terrorist offenses committed agaisnt United States citizens would—

(1) consolidate the expertise and energy now dispersed among various law enforcement agencies (such as United States attorneys' offices), whose concern with and treatment of such crimes are neither their primary nor their most familiar activity;

(2) do for the investigation and prosecution of terrorists what the Justice Department's Office of Special Investigations did for the investigation and prosecution of Nazi war criminals by providing a professionally specialized solution and full-time commitment to an unconventional law enforcement problem; create a new Justice Department office that would have it in their interest and expertise to engage in such legal action); and

(3) be more amenable to executive and legislative oversight than the current dispersed state of anti-terrorist law enforcement activity.

SEC. 3. ESTABLISHMENT OF THE OFFICE.

There is hereby established an Office for the Investigation and Prosecution of Terrorist Offenses Against United States Citizens (in this Act referred to as the "Office") within the Criminal Division of the Department of Justice. The Office shall be headed by a Director (in this Act referred to as the "Director") to be appointed by the Attorney General. The Director shall report to the Attorney General through the Assistant Attorney General for the Criminal Division.

SEC. 4. RESPONSIBILITIES AND AUTHORITY OF THE OFFICE.

(a) RESPONSIBILITIES.—The Office shall be responsible for the investigation and prosecution of Federal terrorist offenses committed against United States citizens.

(b) AUTHORITY.—In carrying out its responsibilities, the Office shall have the authority to—

(1) investigate and prosecute Federal terrorist offenses committed against United States citizens or American-owned entities;

(2) apply Federal laws which in its judgment might improve and expand the reach of the United States Government over terrorist crimes, including—

(A) the Racketeer Influenced and Corrupt Organizations Act; and

(B) any other provision of law which provides jurisdiction to prosecute in the United States those persons who commit acts of terrorism against United States citizens abroad;

(3) recommend and draft for the Attorney General and Congress proposed legislation which might improve and expand the jurisdiction of the United States over terrorist activity directed against United States citizens and their property;

(4) share intelligence and otherwise cooperate with foreign law enforcement agencies which are engaged in the investigation and prosecution of terrorists (including those accused of committing crimes against United States citizens); and

(5) process the requests of foreign governments for the extradition of alleged terrorist offenders who allegedly reside in the United States and initiate requests to foreign governments for the extradition of alleged terrorist offenders in hiding abroad who are accused of crimes against United States citizens.

SEC. 5. COOPERATION BETWEEN OFFICE AND OTHER AGENCIES.

Each agency and department of the Federal Government responsible for the prevention of terrorism shall cooperate with the Office in the investigation and prosecution of terrorist offenses committed against United States citizens. Such cooperation shall include the sharing of information.

SEC. 6. DEFINITION.

For purposes of this Act, the term "terrorist offense committed against a United States citizen" means [to be supplied—see eg 50 U.S.C. 1801 (c)].

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.●

By Mr. HEINZ (for himself, Mr. SPECTER, and Mr. SIMON):

S. 2643. A bill to amend title 23, United States Code, to improve the program for resurfacing, restoring, rehabilitating, and reconstructing interstate highways; to the Committee on Environment and Public Works.

INTERSTATE HIGHWAY RESURFACING, RESTORATION, REHABILITATION, AND RECONSTRUCTION ACT

● Mr. HEINZ. Mr. President, today, with my colleagues, Senators SPECTER and SIMON, I am introducing legislation to improve the Federal program to restore and reconstruct our Nation's interstate highways. The bill would provide funds for the discretionary Interstate 4R Program, created by the Surface Transportation Assistance Act of 1982, to defray the cost of our Na-

tion's most pressing and expensive highway reconstruction projects.

With the Nation's interstate highway network nearly complete, Congress has quite appropriately turned its attention to the increasing maintenance needs of these highways. In the Surface Transportation Assistance Act of 1982, we provided for a discretionary program for interstate restoration to supplement the existing restoration program in which moneys are distributed to States according to a formula based on each State's interstate mileage and usage.

The purpose of this program was to provide a source of funds that could be awarded on a competitive basis to pay for projects States could not afford to undertake with their formula allotments, such as high-cost restoration projects whose needs the formula did not anticipate. The discretionary program was to be funded by using those formula moneys that States did not spend within 4 years of their disbursement. However, since no State has allowed formula funds to go unused, or lapse, for 4 years, the discretionary program has not received any funds.

This bill would activate the discretionary program by setting aside $300 million from each year's Interstate 4R formula authorization to be placed into the 4R discretionary fund. Additional funds would be provided by reducing the availability period before lapse for regular Interstate 4R apportionments from the present 4 years to 3 years.

Mr. President, I would emphasize that providing funds for the 4R Discretionary Program would require no additional Federal spending. Rather, it would redistribute approximately 10 percent of the 4R moneys that are currently distributed by formula for priority projects across the Nation. Therefore, it would provide the means by which we can target our scarce Federal highway money more efficiently and effectively, eliminating any possibility of waste.

In my State of Pennsylvania, interstate restoration requirements are currently $800 million. In addition, the Interstate System in Pennsylvania is wearing out at a rate of 80 miles per day, which means that restoration requirements are accruing at a rate of $120 million per year. By 1990, total interstate restoration requirements will be in excess of $1.4 billion. Federal and State funds that will be available through 1990 for Pennsylvania's interstate restoration are expected to be, at most, $600 million, leaving a gap of $800 million.

The main reason for this gap is that Pennsylvania has several highways which have major reconstruction needs that cannot be met solely with its share of funds in the formula 4R program. For example, Interstate 80 alone requires an annual investment of $50 million to maintain an adequate riding service. This investment would comprise nearly two-thirds of Pennsylvania's annual $79 million apportionment under the formula program. A viable discretionary program would give Pennsylvania the opportunity to compete for funds it would use to undertake such projects as the restoration of Interstate 80 in Clearfield and Centre Counties, which together would cost a total of nearly $100 million, the reconstruction of Interstate 81 in Schuylkill County, and of Interstate 95 in the Philadelphia metropolitan area. An active discretionary program would also enable a more efficient and equitable use of the 4R formula moneys throughout the State, funds which would likely be used for such projects as Interstate 70 in the southwest portion of Pennsylvania.

Moreover, Pennsylvania is not the only State which has mounting reconstruction needs on its interstate highways. According to the Secretary of Transportation, between 1983 and the year 2000, virtually all of the Nation's Interstate System will require substantial capital investment in order to maintain serviceability. The total dollar amount needed to eliminate all 4R deficiencies through 2000 is approximately $300 billion. According to the Federal Highway Administration's report, "The Status of the Nation's Highways: Condition and Performance," as of December 31, 1983, almost 30 percent of the Interstate System was "barely tolerable for high-speed traffic." Clearly, States need alternative methods to fund 4R needs. By providing a steady and predictable source of funds for the 4R discretionary program, this legislation provides just such an alternative method.

The groundwork for this discretionary program was laid in 1982 when the Congress established a similar mechanism for the redistribution of unspent interstate construction funds. The Interstate Construction Discretionary Program now receives an annual appropriation of $300 million.

For the purpose of redistributing funds under the 4R Discretionary Program, this bill would provide criteria similar to those used in the Interstate Construction Discretionary Program. First, the State applying for discretionary funds must certify that it can exhaust those funds within 1 year from the date they are made available. Second, the State must apply the funds to a project upon which construction work may begin within 90 days of obligation. Finally, in making awards under the program, the Secretary must give priority to those projects which will cost more than $10 million and which would involve work on highways in large urban areas with a high volume of traffic or on highways in rural areas with a high volume of truck traffic. I would add that these criteria for distributing funds based on traffic volume are consistent with the policy of the American Association of State and Highway Transportation Officials.

It is my hope that this legislation may be an important focus of the Committee on Environment and Public Works as they work in the coming months to produce a reauthorization of our Federal-aid highway programs. I urge my colleagues to support this legislation, and I ask unanimous consent that a copy of the bill be placed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Interstate Highway Resurfacing, Restoration, Rehabilitation, and Reconstruction Act of 1986".

SEC. 2. (a) Paragraph (3) of section 118(b) of title 23, United States Code, is amended to read as follows:

"(3)(A) Any funds apportioned to the States for the Interstate System under section 104(b)(5)(B) shall continue to be available for expenditure in that State during the fiscal year succeeding the fiscal year for which such funds are authorized to be appropriated.

"(B) Funds apportioned under section 104(b)(5)(B) which are not obligated before the close of the fiscal year succeeding the fiscal year for which such funds are authorized to be appropriated, and funds set aside under subsection (c)(2), shall be made available by the Secretary to States which submit an application to the Secretary for projects which resurface, restore, rehabilitate, or reconstruct the Interstate System. Any funds made available by the Secretary to a State under this subparagraph shall remain available until expended.

"(C) The Secretary may make funds available to a State under subparagraph (B) only if the Secretary determines that the State is willing and able to—

"(i) obligate the funds within the 1-year period beginning on the date on which the funds are to be made available to the State under subparagraph (B),

"(ii) apply the funds to a ready-to-commence project, and

"(iii) in the case of construction work, begin work within the 90-day period beginning on the date on which the funds are obligated.

"(D) In determining the projects for which funds will be made available under subparagraph (B), the Secretary shall give priority consideration to projects—

"(i) which cost more than $10,000,000 each, and

"(ii) which involve—

"(I) highways in large urban areas with a high volume of traffic, or

"(II) highways in rural areas with a high volume of truck traffic.".

(b)(1) Subparagraph (B) of section 104(b)(5) of title 23, United States Code, is amended by inserting "(after deducting the set-aside required under section 118(c)(2))" after "reconstructing the Interstate System".

(2) Subsection (c) of section 118 of title 23, United States Code, is amended—

(A) by striking out "Before" and inserting in lieu thereof "(1) Before", and

(B) by adding at the end thereof the following new paragraph:

"(2) Before any apportionment is made under section 104(b)(5)(B) for a fiscal year beginning after September 30, 1986, the Secretary shall set aside $300,000,000. Such amount shall be available for obligation by the Secretary under subsection (b)(3)(B).".

(c)(1) Subsection (a) of section 119 of title 23, United States Code, is amended—

(A) by striking out "designated before the date of enactment of this sentence under section 139 (a) and (b) of this title" and inserting in lieu thereof "designated under subsection (a) and (b) of section 139 before the date of enactment of the Interstate Highway Resurfacing, Restoration, Rehabilitation, and Reconstruction Act of 1986", and

(B) by inserting "or shall be made available under section 118(b)(3)(B)" after "section 104(b)(5)(B) of this title".

(2) Section 139 of title 23, United States Code, is amended—

(A) by striking out "funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title" in the last sentence of subsection (a) and in the fourth sentence of subsection (b) and inserting in lieu thereof "funds apportioned to the State under paragraphs (1) and (5)(B) of section 104(b), and funds made available to the State under section 118(b)(3)(B)",

(B) by striking out "the date of enactment of this sentence" in the last sentence of subsection (a) and in the fourth sentence of subsection (b) and inserting in lieu thereof "the date of enactment of the Interstate Highway Resurfacing, Restoration, Rehabilitation, and Reconstruction Act of 1986", and

(C) by striking out "funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title" in the fourth sentence of subsection (c) and inserting in lieu thereof "funds apportioned to the State under paragraphs (1) and (5)(B) of section 104(b)".●

● Mr. SPECTER. Mr. President, today I am pleased to join with my colleague from Pennsylvania, Senator HEINZ, in introducing legislation that would give life to a discretionary program for interstate highway rehabilitation projects.

As you know, because the Interstate 4R Program financed through the highway trust fund is the heart of my State's effort to preserve its roads and bridges, I have made it my business during my first term here in the Senate to become very well-acquainted with its intricacies. There is no question in my mind that the I-4R Program, in its present form, does not direct its resources in the best interests of the Interstate Highway System. In fact, the Federal Highway Administration's own study, conducted at Congress' request, found that the current apportionment of funds does not respond to the system's true needs. After long and careful study, however, I have come to the unfortunate conclusion that a modification in the formula for apportioning funds would complicate States' planning and, ultimately, pit one State against the other in raw competition for dollars, regardless of need.

Instead of insisting on a formula change, we propose here today a painstakenly crafted alternative which makes important strides toward achieving objectives every State shares. First, any proposal must increase the efficiency of I-4R expenditures. The money distributed to each State should be spent on the most deserving projects as quickly as possible. Second, any proposal must be within our means—that is, the trust fund must be cushioned to withstand any additional demand on its coffers. The Interstate Highway Resurfacing, Restoration, Rehabilitation, and Reconstruction Act of 1986 satisfies these objectives.

The act would give the Secretary of Transportation discretion to channel those I-4R funds which States cannot spend within 2 years after they are allocated. The idea of reprogramming I-4R funds which are not spent during the statutory period is not new; Congress authorized such a reallocation mechanism with passage of the Surface Transportation Assistance Act of 1982. Although the 1982 act allowed 4 years to elapse before unobligated apportionments would revert to the highway trust fund, it incorporated the same concept of affording the Secretary of Transportation the discretion to dole out these funds to projects she deemed most fit. The 1982 discretionary framework, however, has never materialized because no State has failed to use its funds during the 4 years that they have remained available.

This bill recognizes that shortening the availability period will force State transportation departments to plan more efficiently; moreover, it acknowledges the inadequacy of the formula approach—it cannot predict where requirements will be greatest—and gives the Secretary the flexibility she needs to rectify the problem. The bill guides her in these determinations, offering several criteria for allocation. A State, for example, must apply the funds to a project which it is ready to commence and, in the case of construction, begin work within 90 days. In addition, priority should be given to restoration projects that cost more than $10 million and which involve either highways in urban areas with high traffic volume, or roads in rural areas having heavy truck traffic.

In order to initiate the discretionary concept without delay, the bill sets aside $300 million out of the I-4R account before making any apportionment under the program. Because the proposal calls for no additional funding beyond the current I-4R authorization level, any concern with respect to its potential impact on the Trust Fund's solvency is eliminated. There is precedent for such a discretionary program in the interstate construction area; this legislation is modeled after that program.

My State of Pennsylvania will require nearly $1 billion worth of repair work on its 1,500 miles of Interstate Highway over the next 3 to 4 years, perhaps the life of the reauthorization bill now pending before the Senate Committee on Environment and Public Works. But the current funding formula, at best, would provide my State with approximately one-third the amount required. The necessary restoration of I-80 added to the reconstruction of the Schuylkill Expressway, I-76, in Philadelphia would exhaust the available funding. It therefore is crucial that those Federal funds that lay dormant be put to constructive use immediately.

Mr. President, I am confident that this bill represents a thoughtful and fair solution to the problems inherent in the Nation's approach to preserving our investment in the Interstate Highway System. Granted, this discretionary program does not pretend to place the entire Interstate System in good repair; only a massive increase in authorizations would accomplish that goal. It does promise, however, to enhance the efficient use of those resources we have committed for this purpose.

I urge my colleagues to join as cosponsors of the Interstate Highway Resurfacing, Restoration, Rehabilitation, and Reconstruction Act of 1986, and commend that this body move rapidly toward enactment of an Interstate 4R Discretionary Program.●

By Mr. MOYNIHAN:

S. 2644. A bill to amend title XIX of the Social Security Act to provide that the Federal medical assistance percentage shall be 100 percent with respect to amounts expended as medical assistance for illegal aliens; to the Committee on Finance.

MEDICAID COVERAGE OF ILLEGAL ALIENS

● Mr. MOYNIHAN. Mr. President, yesterday, the U.S. District Court for the Eastern District of New York, in a ruling by Judge Charles Sifton, a distinguished member of the bench, held that illegal aliens are eligible for Medicaid payments and Medicaid care in the hospitals of that district and, by extension, the Nation.

Judge Sifton, who is a distinguished jurist, made a very simple point that there is nothing in the 1965 statute that says otherwise. In a class action suit, brought by seven illegal aliens saying they needed medical care, he held that they were entitled to it.

Might I say, Mr. President, that in the absence of Medicaid payments, we should not assume the absence of medical care. It is the tradition of New York City and most jurisdictions of our country to provide care to the ill

and indigent regardless of their legal status as citizens. It goes back a long time in the history of New York City, long before we had immigration laws—a time when as many as half of the population of the city were technically aliens although not illegal.

However, Mr. President, I think we must accept the ruling of Judge Sifton, and I cannot doubt that if it is appealed, it will be upheld in the courts of appeal—certainly in our second circuit—and eventually will become the law of the land.

In that case, Mr. President, it is required of those of us in the Congress to ask: What provision will we make for the expenses, large expenses, that will have to be incurred by New York State and its localities—and other States and localities in some of them—in the aftermath of this ruling? These expenses will be incurred, of course, because Federal Medicaid payments are matched by States—and localities in 12 States.

I have made some rough calculations. I cannot speak to it with the authority of the Human Resources Administration of New York City, for example, but the numbers are roughly that in 1980, there were 234,000 illegal aliens in New York State; just under a quarter of a million. At the same time, in 1980, of the 17.5 million residents of our State, 1.3 million, or 7 percent, received Medicaid payments at an annual costs of $1,486 per adult. If we assume that the percentage of illegal aliens who would qualify for Medicaid that is, the sick and indigent—is the same 7 percent as for the population as a whole—and the percentage is probably a good deal higher—then 16,380 illegal aliens in New York State would qualify for Medicaid. And if they received the same average payment, then total Medicaid payments would increase $24.3 million, half of which would have to be paid by the State and its localities.

Mr. President, it is altogether unfair that State governments and local governments should have to assume a large share of the cost of dealing with illegal aliens, whose presence is a manifest evidence of a failure by the Federal Government to enforce its laws. Were the Immigration and Naturalization Service able to police our borders and regulate their movement, as they are required to do under law, if the Federal Government did what it says it must do, there would be no illegal aliens or, if there were, there would be an insignificant number.

Clearly stated, the Federal Government being responsible for the presence of illegal aliens, it ought to be responsible for their medical care. My amendment will provide that the Federal Government will pay for all of these Medicaid costs; that is, the Federal medical assistance percentage under the Medicaid program will be 100 percent of the medical care costs for illegal aliens.

I hope this legislation will be received favorably. I can imagine that today in this Senate there are not that many persons aware of this matter. But this will become a national issue in no short order and require a response by the Congress. I hope that this will be done and ask unanimous consent that the text of the bill appear in the CONGRESSIONAL RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) IN GENERAL.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by striking "Act)." and inserting in lieu thereof "Act) and with respect to amounts expended as medical assistance for any individual who is eligible for medical assistance under the State plan, is not a citizen of the United States, and has not been lawfully admitted to the United States for permanent residence or under other authority of law permitting the individual to engage in employment in the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished in calender quarters beginning on or after October 1, 1986.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 89, a bill to recognize the organization known as the National Academies of Practice.

S. 1259

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1259, a bill to correct certain inequities by providing Federal civil service credit for retirement purposes and for the purpose of computing length of service to determine entitlement to leave, compensation, life insurance, health benefits, severance pay, tenure, and status in the case of certain individuals who performed service as National Guard technicians before January 1, 1969.

S. 1446

At the request of Mr. ANDREWS, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1446, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of wars.

S. 1747

At the request of Mr. ROTH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1747, a bill to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries.

S. 1748

At the request of Mr. ROTH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1748, a bill to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries.

S. 1761

At the request of Mr. STAFFORD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1761, a bill to amend the Atomic Energy Act of 1954, as amended, to establish a comprehensive, equitable reliable, and efficient mechanism for full compensation of the public in the event of an accident arising out of activities of Nuclear Regulatory Commission licenses or undertaken pursuant to the Nuclear Waste Policy Act of 1982 involving nuclear materials.

S. 1822

At the request of Mr. THURMOND, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1822, a bill to amend the Copyright Act in section 601 of title 17, United States Code, to provide for the manufacturing and public distribution of certain copyrighted material.

S. 1900

At the request of Mr. ROTH, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1900, a bill to amend the Foreign Agents Registration Act of 1938 by providing for the 5-year suspension of exemptions provided to an agent of a foreign principal convicted of espionage offenses.

S. 1901

At the request of Mr. ROTH, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1901, a bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes.

S. 2073

At the request of Mr. MCCLURE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2073, a bill to encourage the standardization of nuclear powerplants, to improve the nuclear licensing and regulatory process, to amend the Atomic Energy Act of 1954, and for other purposes.

S. 2129

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2129, a bill to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

S. 2270

At the request of Mr. SIMON, the names of the Senator from Tennessee [Mr. GORE], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2270, a bill to amend the Immigration and Nationality Act to deter immigration-related marriage fraud and other immigration fraud.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and post-hospital services furnished under the Medicare Program, and for other purposes.

S. 2408

At the request of Mr. BAUCUS, the names of the Senator from Maine [Mr. MITCHELL], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2408, a bill entitled the "Antidumping Act of 1986."

S. 2447

At the request of Mrs. KASSEBAUM, the names of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2447, a bill to provide for improved disclosure of certain rail transportation contracts.

S. 2479

At the request of Mr. TRIBLE, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2496

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2496, a bill to authorize the President to award congressional gold medals to D. Andrei Sakharov and Dr. Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace.

At the request of Mr. WALLOP, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. MATTINGLY], the Senator from Virginia [Mr. TRIBLE], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 2496, supra.

S. 2508

At the request of Mr. GRASSLEY, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 2508, a bill to amend section 112 of title 18, United States Code, relating to protection of foreign officials, official guests, and internationally protected persons, to remove the exemption for the District of Columbia.

S. 2515

At the request of Mr. WEICKER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2515, a bill to reauthorize the rehabilitation Act of 1973, and for other purposes.

S. 2531

At the request of Mr. GRASSLEY, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2531, a bill to amend title 11 of the United States Code to make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of a violation of State law.

S. 2541

At the request of Mr. FORD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2541, a bill to require the issuance by the Department of Energy of a solicitation for coal utilization demonstration projects incorporating clean coal retrofit technologies.

S. 2573

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. LEVIN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the names of the Senator from Michigan [Mr. LEVIN], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2590

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2590, a bill to amend the appendix to the Tariff Schedules of the United States to extend the suspension of duty on bicycle parts.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the name of the Senator from Kansas [Mr. DOLE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Dakota [Mr. ABDNOR], the Senator from Michigan [Mr. LEVIN], and the Senator from Wisconsin [Mr. KASTEN] were added as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 196

At the request of Mrs. HAWKINS, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 196, a joint resolution designating September 22, 1986, as "American Business Women's Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. COCHRAN], the Seantor from Alabama [Mr. DENTON], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. DODD], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. DENTON], the Senator from New Jersey [Mr. BRADLEY], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 345, a joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 355

At the request of Mr. LONG, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Alabama [Mr. DENTON], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 355, a joint resolution to designate August 1986 as "Cajun Music Month."

SENATE JOINT RESOLUTION 356

At the request of Mr. MATHIAS, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Mississippi [Mr. COCHRAN], the Senator from Delaware [Mr. ROTH], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 356, a joint resolution to recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the battle of Normandy.

SENATE JOINT RESOLUTION 371

At the request of Mr. DECONCINI, the name of the Senator from New Hampshire [Mr. HUMPHREY] was

added as a cosponsor of Senate Joint Resolution 371, a joint resolution to designate August 1, 1986 as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. LEVIN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Massachusetts [Mr. KERRY], the Senator from Iowa [Mr. HARKIN], the Senator from Tennessee [Mr. GORE], the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution expressing the sense of the Congress regarding East Timor.

SENATE CONCURRENT RESOLUTION 136

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Concurrent Resolution 136, a concurrent resolution entitled "Volunteers are the Importance of Volunteerism."

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Ohio [Mr. GLENN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Concurrent Resolution 147, a concurrent resolution to express the sense of the Congress that the monkeys known as the "Silver Spring Monkeys" should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., animal sanctuary in San Antonio, TX.

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. LEAHY], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki monitoring groups.

SENATE RESOLUTION 368

At the request of Mr. GORE, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. GLENN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Resolution 368, a resolution to express the sense of the Senate that Federal funding to States for Cooperative Extension Service programs for fiscal year 1987 be restored to at least the level approved in the 1986 budget resolution, except for reductions required in such programs by the Balanced Budget and Emergency Deficit Control Act of 1985.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

RESOLUTION RELATIVE TO CONTINUED TELEVISION COVERAGE OF SENATE PROCEEDINGS

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 444

Resolved, That, notwithstanding any other provision of S. Res. 28, agreed to February 27, 1986, television coverage of the Senate shall resume July 21, 1986 under the same basis as provided during the live test period under section 5 of S. Res. 28 unless the Senate votes pursuant to section 15 of S. Res. 28 to end coverage.

SENATE EXECUTIVE RESOLUTION 445—DISCHARGING THE COMMITTEE ON FOREIGN RELATIONS FROM THE FURTHER CONSIDERATION OF THE SALT II TREATY

Mr. QUAYLE (for himself and Mr. WILSON) submitted the following resolution; which was ordered to lie over under the rule:

S. EXEC. RES. 445

Resolved, that the Senate Committee on Foreign Relations is discharged of further consideration of EX. Y, 96-1, referred to as the SALT II Treaty.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, that testimony will be received on an additional measure at the hearing previously scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Tuesday, July 22, beginning at 10 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

The additional measure is H.R. 5028, the Lower Colorado Water Supply Act. As previously announced, testimony will be received on S. 230, for relief of the city of Dickinson, ND; S. 252, to authorize the Secretary of the Interior to construct, operate and maintain the Lake Andes-Wagner, unit, South Dakota pumping division, Pick-Sloan Missouri Basin Program, South Dakota; and S. 1704, to authorize an increase in the appropriation ceiling for the North Loup division, Pick-Sloan Missouri Basin Program, Nebraska.

Those wishing to testify should contact the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, room SH-212, Hart Senate Office Building, Washington, DC 20510. For further information, please contact Mr. Russell Brown at (202) 224-2366.

ADDITIONAL STATEMENTS

ALAN BLOUNT—A COLORADO SUCCESS STORY

● Mr. ARMSTRONG. Mr. President, a resident of Colorado recently became the national winner of the National Aviation Awareness Contest sponsored by the Federal Aviation Administration. FAA Administrator Donald Engen presented Alan Blount, of Grand Junction, CO, with a well-deserved scholarship and trophy for his efforts in reminding his classmates and others of the importance of aviation to every community.

The contest, entitled "Aviation in my Community," prompted thousands of students from across the country, in three different age groups, to write essays on the importance of aviation in their own hometowns. I am convinced that this contest is a vital link between the important work of the FAA and the next generation of aviation experts. I am also convinced that Alan Blount will be among these.

Alan is a bright student whose deep and abiding interest in aviation is a good example to all his classmates at Grand Junction Central High School. His accomplishment in winning this contest singles him out as one of Colorado's best and brightest.

I commend the FAA for sponsoring this important contest, and I am particularly proud of Alan Blount. His essay is well written and insightful. It is about the important role Walker Field plays in the economy of Mesa County, and the entire Western Slope. But in reality, it is about the role of every airport in its community. I en-

courage all my colleagues in the Senate to read it.

The essay follows:

AVIATION IN MY COMMUNITY

(By Alan Blount)

Grand Junction is a beautiful city located on the Western Slope of Colorado. Much of the wealth of the community has come, directly or indirectly, from Walker Field, the center of aircraft activity in Mesa County. Walker Field has been serving the area for over 50 years and has had a great effect on the welfare of the Grand Junction area.

Before 1935, all air access to the Grand Valley was accomplished via a short dirt strip on what is now the corner of Walker Field, which was constructed in 1935. It was named after Walter Walker, the second publisher of a local newspaper, The Daily Sentinel, who was probably the man most responsible for the airport's establishment. Walker Field has been improved several times in the years since, with the latest improvement being the new terminal building that was completed in 1982, and a recently improved runway.

Of all the effects aviation has in the Valley, the economic aspects are most widespread. Without easy air access, Grand Junction would be isolated from the rest of the nation. The geography in this area is very unique. The Grand Valley is surrounded by mountains on three sides and a desert on the fourth. The closest major cities, Denver and Salt Lake City, are each at least four hours away by land, and the ferocious winter storms common to the area can make the roads dangerous and travel times even longer. Air travel makes safe, easy, and fast commuting possible; a businessman can get up at 6:00 and be in Denver in time for an 8:30 board meeting. Walker Field is one of the Valley's greatest assets. Bob Kays, president of the Grand Junction Chamber of Commerce, said "The strongest indications that we have of the airport's importance (to industrial developers) are the companies we talk to. One of the first criteria for us to even make the cut is that we have an airport with commercial flights. If we didn't have that, they wouldn't even take a look at us." Sunstrand Inc., a large aerospace company, recently picked Grand Junction as the site of a new manufacturing plant that will employ a great number of local workers. The airport itself employs over 200 workers that otherwise would have to find work elsewhere or move out of the valley.

St. Mary's, the communities largest hospital, has made good use of air transportation in it's Flight For Life program. The hospital maintains two large helicopters that are equipped as ambulances. Without this program it would be difficult or impossible to get help to people injured in remote locations in time to safe their lives. Helicopters are also used in the oil shale industry, for sightseeing tours, and as shuttles for important visitors.

Much of the Valley's potential wealth lies in it's orchards. Crop dusting is often used in keeping the level of weeds and insects down. Most of the crop dusting is done by small biplanes and other maneuverable craft, flown by pilots who have become very adept at near misses, vertical climbs, and other maneuvers reminiscent of the Barnstormers of the 1920's. To adequately spray a field, a pilot must fly within a few feet of the ground or the pesticide will be lost to the wind. The maneuvers are complicated by the fact that area farms are almost always surrounded by powerlines, trees, fences, and other obstacles that could quickly end the career of a low-flying pilot who wasn't careful enough. The old saying, "There are old pilots and bold pilots, but there no old, bold pilots" is very true here.

Private planes are used for much more than crop dusting, however, the amount of commercial flights in and out of the valley each year is dwarfed by the number of private flights. Attorneys, doctors, business executives, and houswives have learned to fly, and many own their own planes. Walker Field rents parking spaces for private airplanes, and Monarch Aviation services them. Monarch got its start in 1946 and has done much business ever since. Without good aircraft service and repair, planes would have to be flown to Denver or some other large city for maintenance, and owning a private plane in Grand Junction would be much more expensive than it is now.

Many businesses are indirectly supported or aided by Walker Field. The Grand Valley has several travel agencies that make much of their income by reserving flights for travelers. Nearly all businesses, at one time or another, use air freight to ship goods in or out of town. Overnight mail services depend on air freight for fast delivery that the Valley would not otherwise have.

Recreation is another aspect of life that is enhanced by aircraft. Skiers benefit greatly by having easy and cheap air access to the western slope. Much of the business at Powderhorn, the area's closest ski resort, comes from out of town. The skiing industry in the valley is so big that nearly twice as many flights go through Walker Field during the winter as in the summer. The surrounding mountains protect the valley from the harsh snowstorms common to the state; winters here are usually mild and there is rarely enough snow to necessitate closing the runways for long periods of time. This makes air travel an excellent way to get to the great skiing of the western slope without having to drive hundreds of miles in poor weather.

Flying ultralight aircraft has recently become a popular pastime, and the sport has several devoted followers in the valley. Ultralights allow those without enough money for a private plane to enjoy the thrills of flying their own aircraft. On a warm summer day it is impossible not to hear the buzz of an ultralight engine overhead at least once. Supermarket magazine racks are loaded with magazines devoted to the flying of these tiny planes. Hot air balloons are another popular aerial hobby in the valley. Nothing matches the thrill of floating silently hundreds of feet in the air with nothing keeping you aloft but a bag of hot air, and the view is fantastic. Many balloon pilots offer inexpensive rental rides to anyone who wants to experience this unique sensation.

The Grand Valley of the western slope would be a far different place without the benefits of aviation. Walker Field, Monarch Aviation, the three airlines serving the valley, and the people of Grand Junction are all working together to make sure that we will always have the advantages of air travel.●

ADVANCE NOTIFICATION

● Mr. LUGAR. Mr. President, by agreement, section 36(b) of the Arms Export Control Act provides that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 20 calendar days to review and consult with the administration on the proposed sale. Section 36(b) requires that Congress then receive a statutory notification of the proposed arms sales and upon such notification, has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 3, 1986.

In reply refer to I-03512/86ct.

Dr. M. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country tentatively estimated to cost $50 million or more.

Sincerely,

PHILIP C. GAST,
Director.●

AMERICAN PSYCHOLOGIST INTERVIEW WITH JAKE JAVITS

● Mr. D'AMATO. Mr. President, I submit for the RECORD the following interview with former U.S. Senator Jacob Javits. The interview published in the American Psychological, was conducted by Dr. Frederick King, director of the Yerkes Regional Primate Research Center at Emory University in Atlanta, in July 1985. Entitled "Reflections of an Advocate for Research and Health Promotion," the interview has a profound message for the future direction of health research expenditures in this country and important advice for the health research community.

REFLECTIONS OF AN ADVOCATE FOR RESEARCH AND HEALTH PROMOTION—AN INTERVIEW WITH JACOB K. JAVITS

(By Frederick A. King)

Jacob K. Javits served as U.S. Senator (R-NY) from 1957 to 1981 and was a major architect of health research and health service legislation. Prior to serving in the Senate, he served as Attorney General for

the state of New York, 1955–1957, and represented New York's 21st District in the 80th to 83rd sessions of Congress. He was a member of the National Commission on Marijuana and Drug Abuse, 1971–1973, served as chair of the North Atlantic Assembly's Political Committee, Committee of Nine, Parliamentarian's Committee for Less Developed Nations, and was a delegate to the 25th anniversary of the United Nations General Assembly in 1970.

Javits was born in New York City on May 18, 1904. He received his LLB from New York University in 1926 and has since received 40 honorary degrees. He was admitted to the New York State Bar in 1927 and practiced law in New York City.

Senator Javits was interviewed by Frederick A. King, member of the APA Board of Scientific Affairs, in July 1985.

KING. Senator Javits, you have been a major architect of health planning in our nation for many years. You were a founder of the National Institutes of Health in 1947, and you have been the leader of literally dozens of congressional initiatives in health and related areas since then. I am here today representing the American Psychological Association, which has within it many scientists that carry out research of a behavioral, biological, and biomedical nature. Our membership is interested in your thoughts on what the role of scientists and scientific organizations should be in working with Congress. What approach should we be taking to be most effective in furthering our science?

JAVITS. I think the approach is twofold: One, the expertise of scientists is critical. In the years since World War II, there's been a growing respect for the facts and legislating in the light of those facts. There has been a lot less emphasis on rhetoric, not that the press and the media don't pick up rhetoric, but interestingly enough, Congress is much better informed. We have bigger staffs. We even have staffs that can understand science. We have committees that specialize in technology, and this is no new world in that respect. The other aspect of the involvement of scientists is to awaken us to their ethical and moral concerns. They have very considerable problems on these levels. One of the great struggles when I was in Congress, which was not very long ago, revolved around DNA research and how that could be handled with sensationalism rampant, letting the genie out of the bottle and the scientists' insistence that their research was critical in finding the essence of life, how to preserve it, and how to enable it to be used to the greatest advantage. Also, I have great respect for scientific thinking in the field of atomic weaponry which has been a very major aspect of their lobbying (using that word in its best sense). So I think we're in a new era of a better informed national legislature and that goes for states as well. There is also a greater interest in and greater confidence of the scientific community in shaping public policy.

KING. You mentioned an increasing awareness of scientific developments among legislators, which is partly the consequence of their increasingly sophisticated staff who help keep legislators informed of scientific trends and needs. I have noticed a considerable change in this direction, too, over the past 15 years. Looking at it from the other side, do you believe that the scientists themselves have become more knowledgeable about how to get their needs and their ideas across to Congress? Have they been as expressive as they should be in informing Congress of what is happening in new scientific developments, and what they see as national needs, or do scientists need to speak more strongly and frequently and organize themselves better?

JAVITS. I learned a good deal about those techniques. It's not an accident that the President has a science advisor, that both houses have committees on science and technology, and that there is an interest in both the U.S. House of Representatives and the U.S. Senate to obtain the scientists' expertise as well as the scientists' point of view, particularly on the ethical questions which are raised. I, for example, have been recently involved with the issue of living wills and the right to die peacefully. Thirty-five states recognize and permit the patient to express a will which is tantamount to a will leaving property or providing for guardianship of children. Other accepted norms or wills now extend to medical decisions and whether the individual wishes to be propped and kept alive by scientific means when the prospects for effective life could be very dim. Many are now opting to terminate life in the absence of any real reason, except a humane one, and question sustaining life, which is devoid of meaning or content. I think these are all evidences that we live in a world of the scientist who is no longer recognized only as a specialist in his or her discipline, but recognized as a valuable addition to thinking and to control.

KING. One of the major issues for the nation, for Congress, and for those scientists who do research with animals on behavioral and biomedical problems is that we are confronted today with a movement of increasing opposition to animal research. People and organizations who oppose research with animals accuse scientists of cruelty toward animals and of conducting unnecessary research. In fact, many opponents of animal research deny that any benefit to human health or welfare has come from animal research. I would like to hear your reflections on what you see as the social, political, and philosophical factors that have contributed to this activist, antiscience, and antiresearch movement that has increased so greatly over the past five years or so.

JAVITS. When we live in an age when people commit arson on abortion clinics, these activities are not surprising. It is far from unique to this time and there have been far darker ages than these. Animal or human experimentation is a necessary criterion for human application. That is the general rule, and a very sound one. For animals, I believe experimentation is by the overwhelming mass considered vital. There are people who are very zealous about what they consider to be cruelty to animals. We have made in the Congress great efforts to assuage those fears and those concerns by requiring rules and regulations and by enforcing procedures according to the best scientific advice. Animals, if they can contribute to scientific knowledge and can be dealt with humanely within that context, are the source for such experimentation. The case histories show extraordinary efforts by scientific laboratories and investigators to show an enlightened and humane attitude to the animal's welfare and show us that violations and excesses are minimal. It is the proper functioning of government to repress these excesses just as we turn our conscience against the right of an owner to beat his animal, the same ethics apply to experimentation. But to quit animal experimentation is to adopt a "know nothing" attitude, and is very antithetic to the interests of the human society and must be resisted.

KING. I believe that if scientists had spoken out more clearly 10 or 20 years ago and explained to the public what they do in their research, and why they do it, and the precautions they take to insure humane treatment of their animal subjects rather than holding themselves aloof from the public (as scientists tended to do a few decades ago), we might not be having some of these problems now. In the final analysis, most behavioral and biomedical research is funded by the federal government, and I believe that scientists have an obligation to the taxpayers to let them know scientists' own concerns for animals and the necessity and desirability of animal research in the interest of human physical, mental, and social health. Can you help us understand why scientists were reluctant to be more forthcoming in the past, and do you agree that they should make every effort to communicate directly with the public?

JAVITS. Well, I agree with that feeling. There is really nothing that unexplainable if you have the will to explain it, the patience, and sufficient knowledge of the subject to make it understandable to the layman. One of the things which is most abhorred by legislators and the public is: "Since you won't understand this, just leave it to me. I'm trained and knowledgeable, a decent and honorable human being. Trust me." That's gone out of fashion. People want to know, and they can comprehend if you are knowledgeable to explain it in terms which are comprehensible. Certainly this is a necessary condition preceding any willingness of the public to accommodate research on animals. Even today, I think that the generalizations are necessary. You get quite specific in order to make the case, and if people want to take the trouble, try to understand it, they will at least know that a bona fide effort has been made and that the explanation is available. I think that the scientific community has everything to gain by adopting that attitude.

KING. If you were in the Senate again today—and there is no reason to think that if you had elected to run again you wouldn't be there right now—are there special priorities that you would have? Are there things that you think we ought to be doing with regard to health research that we are not doing enough of now?

JAVITS. Well, I think that the support of research and the art of giving is, as they say in the philanthropic field, now a science itself. What do you give to and how much and when? Take my own case. I was in the Congress when we started the research on the diseases of the heart. That came in the late '40s and '50s. As a matter of fact, I was myself the author of the National Institute of Heart Disease in 1948. That was succeeded by a major effort in cancer, and since I have been out of this in '81, now I'm mounting a major effort in neurological and neuromuscular diseases and the appropriation and the techniques for pursuing it have been massively increased. Looking down the road, it's now becoming very fashionable, the means for keeping well, as well as curing illness are getting very heavy support in terms of antismoking and antidrug campaigns, antigluttony and intelligent nutrition, sleep, exercise, and preoccupation to the arts and more enlightened views of what makes for the health of the public. And I believe that in my own preoccupation with national health strategy, and I persisted in that for almost forty years, has been motivated by the consideration of the Greek ideal of the healthy mind and the healthy

body, with the emphasis on periodic care and prevention. The integration of health and behavior has been the radical change that has occurred in the latter part of this century.

KING. You have been, of course, highly active in supporting legislation that has benefited those who lacked educational opportunities, had mental health problems, or required special instruction because they were retarded or handicapped. Do you have any special thoughts on where we should be going in the future in terms of these particular problems or others in the realm of mental health?

JAVITS. Well, I think there are two aspects: one is the employment of the arts and sciences to ease physical disabilities. This is far from the best wheelchair that I sit in and the physical difficulty of transferring me from the chair to bed and from bed to chair is enormous. To achieve a greater improvement . . .

KING. Through human engineering?

JAVITS. Yes. I think giving a person the maximum capability for self-help is very critical. We should also require people who are disabled or handicapped to measure up to the same standards of self-reliance, as far as possible, as people who have normal ability to function. That's psychological so they are not throwing themselves on other human beings expecting to be forgiven for being less than normal. The correlative effect is to be recognized as fully equal and able to be responsive to the same standards as the community at large. These are the essentials. We're often enmeshed in therapy which is inadequate and not extensive enough. Enabling the individual who is handicapped to pursue his or her chosen path, in whatever function in life, represents the lifeforce. In my case, the ability to speak, the means through which to speak, to think, to write, to participate in whatever other calling an individual is involved in, to adapt the means to the capabilities of that individual or to find a new calling where the means can be dveloped, should be made more available.

KING. I gather that you feel that scientists with psychological and biobehavioral training and experience can contribute significantly to the improvement of conditions for the physically ill and handicapped.

JAVITS. Enormously!

KING. The breadth of contributions psychologists can make to the welfare of the handicapped is certainly great. It ranges from counseling and therapy to efficient design of devices based on our knowledge of physiology.

JAVITS. It's a substitute in the modern context. I would say substitute, but it's really the implementation in the modern context of the preaching of the prophets both in the Old and New Testaments. And we now have so much greater ability to realize those prayers.

KING. Over the past several years, Congress has had increasingly direct involvement in determining what our national health priorities will be and where the funds will go to support resources for health advancement. What do you see as the respective roles of Congress, the scientific community, and the federal agencies, that belong to the executive branch, such as the public health service, in the determination of the nation's health priorities and the allocation of funds? What should the balance be among the several forces that contribute to the nation's health?

JAVITS. Well, I can't tell you what it should be because I'm no seer, but how it should come about is by an interplay of these forces and by mutual respect of the weight of each other—to give them equal weight without regard to the distribution of power because that's what they're entitled to and that's what they should have. I believe that in this regard, the system has worked quite well. There is immense respect in the Congress for scientific opinion. There is a greater knowledge in the scientific community for the accommodation which must be made both to fiscal policy and to public opinion. Thus, great progress has been made.

KING. Do you have any thoughts how our nation can most effectively cope with rising health costs? To what extend should the federal government accept responsibility? What portion of costs should be left up to the individual for support?

JAVITS. I believe that the insurance principle is the best way in which to deal with rising health costs. This involves a basic principle that economics should not determine who lives and who dies. That does not mean that if I can afford it, I can't have a private room. But it means that the care in a two-bed or a four-bed or a ward ought to be, in reality, equal.

KING. With regard to health insurance, do you have some thoughts as to whether fee-for-servive plans or prepaid plans are preferable in terms of benefits to the consumer, the practioner, and the nation's health economy?

JAVITS. With Senator Ted Kennedy I am the author of HMOs, but I believe that prepayment is the best insurance principle in support of preventive care. Periodic examinations should be available universally and it should be a governmental obligation to pay for the unemployed and the indigent. Of course, we have Medicaid and as yet do not have health insurance for the unemployed as we should. But I am very strong for stipulated fee to keep you well, which is the essential HMO principle. With me that goes back to at least twenty-five years with what we have achieved from the Kaiser-Permanente system and comparable plans.

KING. Are there any other comments you'd like to make or particular topics you'd like to address?

JAVITS. No, thank you. I am a lawyer and since I was a trial lawyer. . .

KING. Yes.

JAVITS. . . . I always told witnesses: "When you get into real trouble, is if you volunteer and keep talking."

KING. Well, we want to thank you very much. You were very kind to take your time out to see us. We certainly wish you the very best. And I'm a great admirer of yours.

JAVITS. Thank you. You're very kind.

KING. Thank you.●

ACTION ON BEHALF OF SOVIET ARMENIAN POLITICAL PRISONERS

● Mr. D'AMATO. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, the agency mandated by Congress to monitor and encourage compliance with the Helsinki accords, I wish to call the attention of my colleagues to an important human rights event. I am referring to the establishment in Los Angeles, CA, of the Committee for the Defense of Soviet Armenian Political Prisoners. This group, founded by former citizens of Soviet Armenia and members of the Armenian-American community the United States, seeks to bring to the public's attention the plight of Armenians imprisoned in the U.S.S.R.

Armenia's past is long and rich with achievement. Today 1 of the 15 republics which make up the Soviet Union, Armenia's history dates back nearly 3,000 years to a time when its empire ranked in importance with that of Byzantium and Persia. Christianity was established in Armenia as early as the 4th century A.D. The National Geographic Society notes that "Armenians are respected as artisans, scientists, and energetic merchants * * * the character of Armenians is both strengthened and saddened by a dark and bloody history of wars, occupations, massacres, and deportations." Despite repeated, violent attempts to extinguish them both physically and culturally, the Armenian people have clung to their national traditions and historic identity. I might add here that our own Nation has profited greatly from the influx of industrious and talented Armenians who emigrated to the United States during particularly repressive times. The world-famous writer William Saroyan, Coach Ara Parseghian, and the present Governor of California, George Dukmejian, are but a few of the many Americans of Armenian heritage who have so richly contributed to the American experience.

For Moscow, however, Armenian nationalism within Soviet borders is a dangerous thing. Those who have sought to preserve Armenian culture against the Kremlin's relentless Russification efforts or to monitor Soviet compliance in Armenia with the provisions of the Helsinki Final Act have been ruthlessly persecuted. Indeed, the Armenian Helsinki Monitoring Group, founded in April 1977 following the signing of the Helsinki accords by the Soviet Union, has been broken up by the authorities. Eduard Arutyunyan, its founder, died in 1984 while serving a prison term for human and national rights activism. Since 1963, over 200 Armenian political prisoners have been behind bars at one time or another. As many as 30 Armenian political prisoners are in Soviet labor camps or prisons today. The Soviet Government also restricts contacts with Armenians abroad and denies permission for many to emigrate.

Mr. President, at this time, I would like to enter into the RECORD a list of Armenian Prisoners of Conscience who, according to the Committee for the Defense of Soviet Armenian Political Prisoners, have not only been unjustly incarcerated, but are also suffering from poor health.

"OUR APPEAL TO MEMBERS OF THE U.S. CONGRESS"

1. Ashod Navasartian—sentenced to eight years in jail and three years exile.
2. Marzbed Arutyunyan—sentenced in 1980 to seven years in jail and five years exile.
3. Paruyr Hairikian—sentenced to ten years in jail and three years exile.
4. Georgy Khomizouri—sentenced to six years in jail and three years exile.
5. Azad Arshakian—sentenced to eight years in jail and three years exile.

These victims of Soviet human rights abuses and their colleagues in similar confinement deserve our attention and whatever appropriate measures we can take to ease their plight.

For many of the approximately 2,000,000 people of the Armenian diaspora, among which are 600,000 Armenian-Americans, violations of human rights in their homeland by Moscow are an injustice which cannot go unanswered. The Commission on Security and Cooperation in Europe shares their concerns and their goals and will continue to work, as it has in the past, for Soviet implementation of the human rights provisions they agreed to in 1975 when they signed the Helsinki Final Act.●

NATIONAL ACADEMIES OF PRACTICE

● Mr. D'AMATO. Mr. President, I wish to cosponsor important legislation affecting the American health care industry. I commend my colleague from Hawaii, Mr. INOUYE, for bringing this legislation to the attention of the Congress.

S. 89 would establish a Federal charter for the National Academies of Practice. This organization represents health care practitioners who have contributed significantly to the practice of applied medicine, dentistry, osteopathy, podiatry, optometry, psychology, nursing, social work, and veterinary medicine.

This organization is the first to bring together different representatives from the health care industry. At a time when health care is rapidly changing and growing, a coordinated network of health care practitioners is invaluable.

The National Academies of Practice will prove to be a vital resource to Congress and the executive branch. The organization's network of practitioners for all sectors of the health care industry will be a unique source of practical information for health care public policy, Given the numerous decisions that are being made on a Federal level about health care services, decisionmakers in Washington must have access to qualified and exemplary practitioners.

Again, I commend Mr. INOUYE for supporting interdisciplinary activity in the health care industry.●

ON THE WELL-BEING OF RESEARCH MONKEYS HELD BY THE NATIONAL INSTITUTES OF HEALTH

● Mr. D'AMATO. Mr. President, I support legislation protecting the welfare of monkeys that have served the research activities of this Nation. My colleague from California, Mr. CRANSTON, again has brought the well-being of these animals to the attention of the Congress. I commend his dedication and perseverance in this matter.

In the past few months, a great deal of attention has been brought to certain primates being held at the National Institutes of Health. These primates were used as part of a research project at the Institute of Behavioral Research. Initially, the NIH promised animal welfare groups that the primates would be allowed to reside in a humane animal environment after research at the IBR was completed. However, the NIH had a change of heart. Recently, the NIH shipped the 15 primates to the Delta Regional Primate Research Center in Louisiana for additional involvement in research activities.

The movement of these animals to another research center reflects poorly on the NIH. On May 5, 1986, over half of the Senate contacted the NIH to protest the withholding of these primates. The Senate recognized the ability of the NIH to legally intervene to release the primates to an independent sanctuary. However, the NIH, clearly overlooking congressional intent, chose to send the primates to another research center.

I have not been impressed by the NIH's conspicuous and manipulative handling of this situation. The NIH clearly understood the importance of these animals to Congress. A quick, overnight shipment to Louisiana was deceptive and mischeivous.

Although I am a strong supporter of biomedical research activities, I do not believe that animals involved in research should be unnecessarily abused or mistreated. Clearly, these primates have valiently served and sacrificed for biomedical research. Now is the time to reward them for their sacrifice.

I am hopeful that the NIH will reconsider its decision to locate the primates in Louisiana. It is time that these animals reside in the human environment that they deserve.●

ADVANCE NOTIFICATION

● Mr. LUGAR. Mr. President, by agreement, section 36(b) of the Arms Export Control Act provides that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 20 calendar days to review and consult with the administration on the proposed sale. Section 36(b) requires that Congress then receive a statutory notification of the proposed arms sales and upon such notification, has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 2, 1986.

Dr. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to Southeast Asian country tentatively estimated to cost $14 million or more.

Sincerely,

PHILIP C. GAST, *Director.*●

THE STATUE OF LIBERTY

● Mr. GORTON. Mr. President, today I would like to share with my colleagues a well-written poem by an eighth-grader from Stanwood, WA. Miss Sonja C. Hanson, in keeping with the festivities for the Statue of Liberty, wished to express her feelings.

The rededication of this grand statue as an international symbol of liberty has caused a large number of Americans to try to express their feelings for this country. Sonja's poem was entered in a contest in Washington State and turned out to be a winning composition. I know her thoughts on the Statue of Liberty express the feelings of many other Americans.

The Statue of Liberty has been more than just a statue ever since its installation. She has represented hope, freedom, and liberty to the many immigrants who have caught sight of her and not forgotten their first glimpse of America. I hope you enjoy the thoughtful, creative work of Miss Hanson as much as I did.

Mr. President, I ask that the poem be printed in the RECORD.

The poem follows:

OUR STATUE: TEACHER OF LIBERTY

(By Sonja C. Hanson)

Your large, lucid eyes have seen many a weary sojourner
Your all encompassing hands firmly grip two emblems of freedom
Your torch is ever burning with light for everyone
Your tablet always held for all the world to see
On it a date of liberty
Your proud head bears a crown of hope
Seven rays bring that hope to the seven seas and seven continents of our earth
At your feet a broken shackle lies signifying the freedom our nation gives
Your lips always seem to whisper "In God we trust" . . . and we do
Oh, majestic lady, Liberty Enlightening the World,
To you we DO bring our tired, our poor, our huddled masses . . .●

PROJECT 70001

● Mr. QUAYLE. Mr. President, I should like to insert in the RECORD a recent newspaper article on Project 70001, a successful program to reduce youth unemployment in Indianapolis, IN. With youth unemployment at such an unacceptably high level, it is all the more important to publicly recognize programs that are doing something about it.

Project 70001 is administered by the Near Eastside Multi-Services Center in affiliation with the Indianapolis Alliance for Jobs which is the private industry council for Indianapolis that is required by the Job Training Partnership Act [JTPA]. I commend these organizations for their work in combatting youth unemployment.

I ask that the article, which appeared in the Indianapolis Star, be printed in the RECORD.

The article follows:

SCHOOL DROPOUTS GET 2ND CHANCE AT 70001 TO SUCCEED

(By Jo Ellen Myers Sharp)

David B. Buckhalter says he doesn't know where he'd be without 70001.

"But I know I wouldn't be as well off as I am now," says the 18-year old high school dropout from Indianapolis. He found 70001 tailored just for him.

Project 70001 is part of the Near Eastside Multi-Services Center programs. It also is affiliated with the Private Industry Council.

High school dropouts between 16 and 21 years old can sign up as an "associate" in the program, which requires a minimum of 60 hours of training Funding comes from public and private grants.

The program finds jobs for associates and prepares them to take the high school equivalency examination. They receive no stipened while in training, but bus fare and child care are provided sometimes.

"We try to teach young people about themselves," explained 70001 director J.P. Smith.

At 7:30 p.m. Tuesday, Buckhalter will be among 60 associates to receive their high school diplomas in the State House Rotunda.

The training that Buckhalter received at 70001 has landed him two jobs—one full time at L.S. Ayres & Co., where he works in housekeeping: and a second at the Fall Creek YMCA, where he is a desk clerk part time. He's taking computer programming classes part time and hopes to get more training.

Buckhalter dropped out of Arlington High School "because I didn't want to be there" when he was 16. After spending some time with the federal Job Corps program, he found his way to the offices of 70001 in the old Merchants Bank Building at Meridian and Washington streets.

"They weren't just a lot of mumbo-jumbo there. They really help the disadvantaged unemployed youth," he said.

Since 1978, 70001 has helped about 1,200 high school dropouts through four weeks of pre-employment training. In training they learn how to fill out job applications, dress for interviews and present themselves in the best way possible.

Along with job skills development, 70001 offers classes to help associates make better lives for themselves, teaching them a variety of skills, including how to be better parents. Many of the associates are single parents with little or no means of support.

Once the students complete this program, they are sent out on interviews. After they are hired, one of the 13 staff members continues contact with the former associates for several months to ensure their success.

Smith says about 80 percent of the associates do well. "About 20 percent we cannot help," he said.

Once the associates get a taste of work, their ambitions grow, Smith said. "That's where they learn having an education can make a difference."

Volunteer and paid tutors help students prepare for the five-part high school equivalency examination. The program is performance-based and the tutors "contract" with 70001, promising that a certain number will graduate.

"Our kids just need some-one to show how to focus on what they need to do to succeed," Smith said.

In the future, the project hopes to receive federal grants to enhance its computer learning programs and remedial work.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. James P. Lucier, a member of the staff of Senator JESSE HELMS, to participate in a program in Munich, West Germany, sponsored by the Hans Seidel Foundation, from July 3 to July 6, 1986.

The committee has determined that participation by Mr. Lucier in the program in Munich, at the expense of the Hans Seidel Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David S. Sullivan, a member of the staff of Senator JAMES MCCLURE, to participate in a program in Munich, West Germany, sponsored by the Hans Seidel Foundation, from July 3 to July 7, 1986.

The committee has determined that participation by Mr. Sullivan in the program in Munich, at the expense of the Hans Seidel Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Elizabeth Arens, of the staff of Senator ORRIN G. HATCH, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from June 21 to June 28, 1986.

The committee has determined that participation by Ms. Arens in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Donald F. Terry, a member of the staff of the Joint Economic Committee, to participate in a program in Ottawa and Montreal, Canada, sponsored by the Centre for Legislative Exchange, from July 7 to July 10, 1986.

The committee has determined that participation by Mr. Terry in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Messrs. Kenneth Brown and Joe Cobb, of the staff of the Joint Economic Committee, to participate in a program in Ottawa and Montreal, Canada, sponsored by the Centre for Legislative Exchange, from July 7 to July 10, 1986.

The committee has determined that participation by Messrs. Brown and Cobb in the program in Canada, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. H. James Towey, a member of the staff of Senator MARK O. HATFIELD, to participate in a program in Taipei, Taiwan, sponsored by the Sino-American Cultural and Economic Association, from July 2 to July 11, 1986.

The committee has determined that participation by Mr. Towey in the program in Taiwan, at the expense of the Sino-American Cultural and Economic Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Greg Van Tatenhove, of the staff of Senator MITCH MCCONNELL, to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from June 27 to July 6, 1986.

The committee has determined that participation by Mr. Tatenhove in the program in Taipei, Taiwan is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. John Starrels, of the staff of the Joint Economic Committee, to participate in a program in Brussels, sponsored by the Konrad Adenauer Stiftung and the Europaische Volkspartei [EVP], from June 30 to July 2, 1986.

The committee has determined that participation by Mr. Starrels in the program in Brussels, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. James Jatras, of the staff of the Republican Policy Committee, to participate in a program in Taipei, Taiwan, sponsored by the Sino-American Cultural and Economic Association, from July 2 to July 11, 1986.

The committee has determined that participation by Mr. Jatras in the program in Taiwan, is in the interest of the Senate and the United States.●

REMARKS OF FRANCIS C. TURNER COMMEMORATING THE 30th ANNIVERSARY OF THE INTERSTATE HIGHWAY SYSTEM

● Mr. SYMMS. Mr. President, just a few weeks ago, on June 26, we celebrated National Interstate Day, commemorating the 30th anniversary of the Interstate Highway System. I made some remarks on the floor that day to call this important occasion to the attention of my colleagues.

In addition, The Road Information Program [TRIP] organized a press conference, including a birthday cake celebration, to mark this anniversary and honor the "father" of the Interstate System, President Dwight D. Eisenhower. Several Members and former Members of Congress and administration officials (including Senators STAFFORD, BURDICK, and myself; former Senators Randolph and Scott; Representative GLENN ANDERSON; Federal Highway Administrator Ray Barnhart and former Federal Highway Administrator Francis C. Turner) were present. The President's granddaughter, Susan Eisenhower, also attended the press conference on behalf of her family.

During the ceremony, Francis Turner made a brief speech outlining the history of the Interstate System as it was conceived in the mind of President Eisenhower during his tenure in the U.S. Army. I was impressed with Mr. Turner's thoughtful remarks and asked for a copy of his handwritten speech so that I could have it reprinted in the CONGRESSIONAL RECORD for the benefit of my colleagues. Mr. Turner has kindly sent a copy of his speech to my office, and I now ask that it be printed in the RECORD following my remarks.

I would note, Mr. President, that Mr. Turner refers to the unveiling of a commemorative sign to be placed at rest stops and welcome centers along the coast-to-coast Dwight D. Eisenhower Highway: Those signs will be manufactured by private sign manufacturing companies which are members of the American Traffic Safety Services Association. I want to take this opportunity to thank them for their valuable contribution to this worthy project.

The remarks follow:

REMARKS BY FRANCIS C. TURNER

(Following is a transcript of remarks made by Francis C. Turner, former Federal Highway Administrator, at the press conference commemorating the 30th Anniversary of the Interstate Highway System June 26, 1986.)

Following the close of WWI in 1918, the War Department (then a predecessor of our present Department of Defense) and the then Bureau of Public Roads (a predecessor of the present Federal Highway Administration) joined together in a study to lay out a national network of highways to provide defense mobility within our country. The result was depicted on a 1921 map as a connected network or roads bearing some resemblance to our current Interstate system maps. It was referred to as the Pershing Map.

In order to check out the tactical capability of this network, a field test was organized in which a military convoy of trucks, troops and necessary supplies would be moved from Washington, D.C. to San Francisco. The field commander of the Task Force was an Army Lt. Colonel named Dwight D. Eisenhower. After much difficulty and considerable local fanfare, the convoy finally arrived somewhat worn and depleted in San Francisco about 2½ months after departing from Washington, D.C.

Three decades later, Lt. Colonel Eisenhower had become the supreme commander of all U.S. military forces—with the rank of President of the United States. Colonel Eisenhower of the 1920's and his long transcontinental trek had laid the groundwork in his mind for the legislation he signed as President 30 years ago and which we are celebrating here this morning.

But, the 1956 legislative act was not just another authorization bill for a highway building program. It actually was two bills in one, joined together in the Congress by amending the highway Title I authorization bill to contain as title II its own financing bill. No other major public works program has ever been similarly legislated. It is a landmark bill in its fiscal provisions even more than as a highway authorization act and for this it doubly honors President Ike as its sponsor and originator. The current hassles about budget deficits and their effects cannot be related in any way to the Interstate system program which contains its own built-in financing and which by law cannot be used to create spending obligations in excess of its income—all derived from those who use the highways—and only from those users. Non-users do not pay any of the Federal dollar costs expended for the Federal-aid highway program.

We pay honor and respect this morning to our late President as "father"—perhaps more correctly—as "grandfather"—of the Interstate system, not only for the physical building of our Interstate system but for the integral fiscal structure which is its inseparable foundation.

To memorialize these actions, former Senator Hugh Scott of Pennsylvania, sponsored legislation in 1973 which designated Interstate 70 from Washington, D.C., to Denver, Interstate 25 from Denver to Cheyenne and Interstate 80 from Cheyenne to San Francisco—as the Dwight D. Eisenhower Highway.

Although the highway as so-designated by Congress, up until now, no official signage of the highway ever has been put in place.

To remedy this oversight and to properly recognize President Ike's role, TRIP (The Road Information Program) has developed a commemorative sign to be placed at rest stops and welcome centers along the coast-to-coast Dwight D. Eisenhower Highway. All expenses associated with development, installation and maintenance of the signs will be borne by the private sector. I join with Senator Scott in unveiling a replica of one of these commemorative signs.●

HAROLD K. "BUD" BURNS

● Mr. LEVIN. Mr. President, here in the Senate we spend most of our time debating grand designs or deciding basic strategy. That is, perhaps, how things have to be—but, in the process, we dare not forget that strategy is only made real through the tangible sacrifice of human beings and grand designs are only implemented through the guts and determination of individuals.

I was reminded of that a few weeks ago when I had the privilege of presenting a Bronze Star, earned over 40 years ago, to a man I am pround to call a constituent: Harold K. "Bud" Burns of Lansing, MI.

While the delay in making that award was unjustified, I am almost glad that Bud's award got lost somewhere in the haze of time and the maze of the military bureaucracy. Perhaps if that Bronze Star had been presented at the right time, its meaning might have been lost—it might have been just another award among many. But since 40 years past between his action and our official recognition, there was a curiosity factor operating. As a result, people may take the time to pay a little more attention to what Bud did and what it means. And we can adopt a unique perspective: We can look at both the heroic act of a young man in a war and the way that act helped create an older man at peace with his life and his times.

The outline of Bud's heroism is clear. He was one of those who were serving on the Bataan Peninsula and were ordered to surrender to the Japanese in April of 1942. After the surrender, Bud was forced to join what we now call the Bataan Death March. He managed to live through what killed so many of his comrades. And he lived through 2 years in a prison camp at Cabanatuan and another year at hard labor in a prison camp in Japan itself.

Liberated after the war ended, Bud returned home. He tried to become a horticulturist. He went to Michigan State University for a few years and opened a greenhouse in Missouri. But even while he was working with life—with growing and nurturing—the years he had spent in prison camps were taking their toll. Residual damage cost him the use of several fingers on each hand, and ultimately VA doctors had to conduct a series of partial amputations. Unable to tend to his plants, he sought a new job.

That search brought him back to Michigan where he found work—ironically enough—as an employee in the department of corrections. For 19 years, Bud Burns repeated his wartime experiences not as a prisoner this time, but as a guard and a counselor. Unlike the captors who beat him, unlike the system which starved him, Bud Burns used his position to do more than brutalize—he used it to try to humanize. As he has said,

"I'd been on the other side of the fence and I had a deeper realization of what they were facing.

Bud used his experiences to make a contribution to people. And I believe that we can use his experiences as well to come to some realizations about what it means to be a human being and an American citizen.

When I was presenting the Bronze Star to Bud, I read from a portion of a letter he wrote to his family. He wrote the letter during the fighting, before the surrender. He said:

There is no defeatism in camp. Everyone has adjusted himself to the situation and no matter the action taking place, everyone has a job to do and does it, calmy, ignoring that which does not concern him.

All of us have dug foxholes that offer some protection against enemy bombing and strafing. At night, the roar of our artillery sings us to sleep. It is a good sound. We know that Old Glory is still waving there.

Sometimes we have to dodge shrapnel. It sings through the air like a saw that is held taut and struck by a small hammer. But the foxholes are the thing and we find protection. Don't worry. There is no place I would rather be than right here.

When you read words like that, when you sense the suffering that Bud Burns went through, when you see the contributions that he has made—then you think about this country and I know that "there is no place I would rather be than right here."

Mr. President, I was proud to present Bud Burns with his Bronze Star and I proud to salute him—for what he is and what he stands for—here on the Senate floor.●

LONG QUAN'S ACHIEVEMENTS

● Mr. QUAYLE. Mr. President, I am pleased to bring to the attention of my colleagues a story of determination, hardwork, and achievement. Too often success stories are overshadowed by news about what's wrong with our country. This story highlights principles that make our Nation strong and our people proud.

I extend my warmest congratulations to Long Quan, a young man who recently graduated as valedictorian of his senior class and to Long's family, who in their adjustments to a new country, exemplify what's right about life in America.

I ask that the following correspondence be inserted in the RECORD.

The correspondence follows:

KRIEG DEVAULT
ALEXANDER & CAPEHART ATTORNEYS,
2800 INDIANA NATIONAL BANK TOWER,
ONE INDIANA SQUARE
Indianapolis, IN, June 2, 1986.

President RONALD REAGAN,
The White House
Washington, DC.

DEAR PRESIDENT REAGAN: With our nation's birthday just 4 weeks away, I thought you might be interested in a truly American success story. In July, 1975, shortly after the fall of South Vietnam, my wife and I sponsored a Vietnamese couple and their two children here in Indianapolis. When Mr. and Mrs. Quan and their 9 and 5 year old sons arrived, they spoke no English, and had only the shirts on their backs. We helped the Quans get settled, Mr. Quan found a job as a clerk, and the two boys enrolled in our public school system.

Last Wednesday night, we attended the graduation of the Quan's oldest son, Long, from North Central High School here in Indianapolis. He graduated as the valedictorian in his class of 800 students. Needless to say, we were as proud of Long as were his parents.

While Long's accomplishments in high school are extraordinary, his entire family has demonstrated that here in the United States hard work and perseverance can prevail over any adversity. Since 1975, Mr. Quan has maintained a full-time job with ever-increasing responsibility. At the same time, he has attended college at night, and recently earned his degree in accounting and passed the CPA exam.

Several years ago, Mr. Quan was able to purchase his own home. Mrs. Quan has operated a successful seamstress business from their home. Long's younger brother, Hai, is maintaining a straight A average in the 8th grade. In 1981, the Quans all became naturalized American citizens.

Too often here in America we highlight our problems and overlook our successes. The Quans are living proof that America is the land of opportunity. We should all be proud that we live in a country which nurtures the spirit of people like the Quans.

Very sincerely,

RANDOLPH P. WILSON.

DOREL CATARAMA

● Mr. SIMON. Mr. President, for some time now my good friend and colleague Senator DIXON and I have been working with Romanian officials to secure the release of Dorel Catarama from prison. We have brought the plight of this man and his family to the attention of our colleagues in the past.

On June 2, as part of President Ceaucescu's general amnesty, Dorel Catarama was released from prison. He is now living with his wife in their home in Bacau. They are seeking emigration to the United States to be rejoined with their family in Chicago.

I appreciate the efforts of the Romanian Government, our State Department, and Milton Rosenthal, a prominent businessman long involved in United States-Romanian trade. The release of Dorel Catarama is one indication that we can achieve greater understanding and success through cooperation in these matters.

It is my strong hope that we will continue in this direction and that Dorel Catarama and his wife will soon be granted the passports and emigration visas they so desperately desire. I have been assured by officials of the Romanian Government that Dorel and his wife will be granted emigration. Under these conditions, and as long as emigration restrictions continue to ease, I would be inclined to support the extension of most-favored-nation trading status for Romania.●

NAUM AND INNA MEIMAN: UNFORGOTTEN

● Mr. SIMON. Mr. President, since March 6, 1986 I have been making daily statements in the CONGRESSIONAL RECORD on behalf of my friends Naum and Inna Meiman. The Meimans are Soviet Jews who have repeatedly been denied permission to emigrate to Israel.

Soviet officials claim that because Naum was privy to state secrets they cannot let him leave. Naum finished his "classified" work 30 years ago. His calculations are now outdated and he has been isolated from the scientific community for years. Inna is seriously ill with cancer and desperately needs treatment only available in the West.

Many people have asked why I continue using such an unorthodox method of publicity. The answer is simple. When refuseniks are asked what we as Americans can do for them, they commonly answer, "Shout!" Silence was the fuel of the holocaust. We cannot repeat the mistake of silence. We must continue to make statements and write letters and make pleas. We cannot forget those who live behind the Iron Curtain.

I strongly encourage Soviet officials to allow the Meimans to emigrate.●

ORDERS FOR WEDNESDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Wednesday, July 16, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1710

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Following the recognition of the two leaders under the standing order, I ask unanimous consent the following Senators be recognized for not to exceed 5 minutes each for special orders: Senators THURMOND, HAWKINS, HEINZ, CHAFEE—let me rearrange the order—Senators THURMOND, PROXMIRE, HAWKINS, DIXON, HEINZ, and CHAFEE.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Would the distinguished majority leader mind including in the lineup of special orders a 15-minute order for Mr. PROXMIRE on tomorrow?

Mr. DOLE. There is no objection to that. In fact, he did discuss that earlier on the floor.

Mr. BYRD. I thank the majority leader.

Mr. DOLE. So all others will be 5; 15 for PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent there be a period for the transaction of routine morning business not to extend beyond 12 noon with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At the conclusion of routine morning business, it will be the majority leader's intention to turn to H.R. 3113, Central Valley projects bill, under a possible time agreement. It is my understanding that one will be near some time agreement so we can dispose of that. And we will hopefully tomorrow turn to other legislative or executive items cleared for action. I have mentioned three: the Ireland/United Kingdom authorization, S. 2572; Ireland-United Kingdom extradition treaty as part of that—that is sort of part of a package—S. 2610, Philippine supplemental, and S. 2149, risk retention.

I would hope to be able to advise Members by noon tomorrow about how late we may be in on Friday. We are having difficulty, I must say, in getting anything generated at this point, but I would just say to my colleagues if we could dispose of a number of these minor matters by Thursday evening or maybe by noon on Friday, I certainly have no disposition to stay on Friday just to stay on Friday. So I would encourage my colleagues if they can help us reach time agreements or work out any problems they have and let us bring up these measures, then we can advise our colleagues who may have other plans for late Friday, Friday afternoon, Saturday and Sunday.

Mr. CRANSTON. Could I ask how late tomorrow is likely to be?

Mr. DOLE. I would not think too late. I am just looking at what we have, and if it were late, we might be able to work out some little opening there, a little window.

Mr. CRANSTON. I thank the leader.

REVISION OF ORDER OF RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, earlier I had indicated the rotation plan because I wanted Republican, Democratic, Republican, Democrat, but I understand Senators THURMOND, HAWKINS, HEINZ, and CHAFEE will all be speaking on the same issue, so if there is no objection, maybe they can follow one another.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have one other change. I ask unanimous consent that following the recognition of Senator THURMOND for 5 minutes, that there then be recognized for 15 minutes Senator PROXMIRE, to be followed by Senators HAWKINS, HEINZ, CHAFEE, and DIXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for revising the order.

□ 1715

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 11 a.m. tomorrow, Wednesday, July 16.

The motion was agreed to, and at 5:15 p.m. the Senate recessed until tomorrow, Wednesday, July 16, 1986, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1986:

DEPARTMENT OF LABOR

Shirley Dennis, of Pennsylvania, to be Director of the Women's Bureau, Department of Labor, vice Lenora Cole-Alexander, resigned.

EXECUTIVE OFFICE OF THE PRESIDENT

Michael Mussa, of Illinois, to be a member of the Council of Economic Advisers, vice William Poole VII, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

E. Christian Kopff, of Colorado, to be a member of the National Council on the Humanities for a term expiring January 26, 1992, vice George Alexander Kennedy, term expired.

NATIONAL TRANSPORTATION SAFETY BOARD

James Eugene Burnett, Jr., of Arkansas, to be Chairman of the National Transportation Safety Board for a term of 2 years. (Reappointment.)

IN THE NAVY

The following-named lieutenants in the Staff Corps of the Navy for promotion to the permanent grade of lieutenant commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS (210X)

Abenstein, John P.
Ackermann, Richard J.
Agles, Deborah Ann
Allshouse, Michael Jame
Alt, Michael Gerard
Anderson, Clark A.
Anderson, Gary B.
Anderson, Russell Scott
Anderson, Sanders Woffo
Andrews, Kevin Paul
Apple, Bryan Stanley
Arcario, Thomas John
Ashburn, Richard Wayne
Assan, Patricia Agnes
Bailey, Dean Alan
Bailey, Wendy Ann
Bakalar, Nancy Lee
Bakalar, Richard Sheldo
Baker, David G.
Balsara, Zubin Nari
Barnes, Douglas Eugene
Barnes, Richard Lee
Barnette, David John
Baron, Audrey Hazel
Barr, Richard S.
Baxter, Donald Leslie J.
Behr, Christopher
Beliveau, Margaret
Bender, Jennifer Ann
Bermudez, Joseph Anthon
Beshany, Philip Bliss
Bigos, David
Bishop, Robert Joseph
Blackburn, Warren A.
Blackhart, Bruce Alan
Bock, Gerald
Bolton, Vincent Edward
Boswell, Bill Nelson
Brady, Charles E., Jr.
Bresaw, Lois June
Brown, David McDowell
Brown, John Francis
Bryan, Joe Paul
Buccambuso, Terry John
Buchman, Mark T.
Buckley, Steven Lance
Buker, John Landon
Burke, James Benjamin
Burks, Deland D.
Burns, John Kevin
Butler, Clinton J.
Buzhardt, Johnny Richar
Calleja, Gustavo Armand
Cambareri, Joseph
Campbell, Marc W.
Candler, Eric M.
Carlton, Steven McGuire
Carpenter, Bruce W.
Cave, Rodney K.
Chan, Simon Keeyip
Chaudhuri, Udit
Chester, William Lamar

Chinnock, Richard Edwin
Cicora, Ralph Allen
Clark, Bliss Watson
Clark, William B.
Cohen, Margaret Lynn
Collette, Cora Jane
Collins, Jeremiah John
Cone, Nancy Elizabeth
Conley, Laurence David
Connito, David J.
Connolly, John Patrick
Corse, William R.
Cottrell, Alfred Charle
Courtney, Michael Doyle
Crouse, Kevin Michel
Crowley, John W.
Cullom, Susan C.
Cunningham, Christopher
Cunningham, Dean Scott
Cupo, Leonard N.
Curtin, Timothy Joseph
Curtis, Michael Elliot
Danaher, Patrick Robert
Daniels, Deborah A.
Darcy, Teresa Ann
Davies, David E.
Davis, Charles B.
Davis, Cynthia Gail
Delacey, William A.
Delisi, Michael D.
Deloachbanta, Linda Jan
Demarco, James Kevin
Depner, Mary Anne
Dickson, David Perry
Dohm, John
Dubik, Michael Carlyle
Dubinsky, Diane Eve
Duckett, John Gerard
Dunham, Rodney
Dunseath, Rodney Alan
Durante, Laurence Josep
Easter, Wayne La Marne
Ebersole, Russell Edgar
Edelman, Martin Joseph
Edwards, Ernest L., Jr.
Edwards, Mark
Emerson, Maura Ann
Enright, Michael J.
Ertl, Janika Paul
Everett, John E.
Fawcett, Brian P.
Fazio, Gregory Paul
Feinberg, Gary M.
Findley, Michael Stan
Flax, Bruce Laurence
Ford, Michael Patrick
Ford, Michael Ray
Forte, William Jarvis
Fox, Stephen Douglas
Fuller, Nancy Sue
Gambon, Thomas Francis
Ganey, John Timothy
Gangloff, Janette
Gasser, Charles
Gerardi, Joseph Anthony
Gerardi, Sharon Nemeche
Gern, James Elliot
Gettys, Richard Henry J.
Gill, Christine Bozek
Givens, Jerry Samuel
Gloria, Stephen Brian
Gold, Steven R.
Grabowy, Marion Sophia
Graves, Robert Leland
Grier, Douglas Howard
Griffen, Daniel Leonard
Griffies, William Scott
Grubb, Larry K.
Guiffre, Debra Yvonne
Gunselman, Joseph Gerar
Haluszka, Mary M.
Haluszka, Oleh
Hansen, Dale E., Jr.
Hanson, Robert Kevin
Harlan, David M.
Harper, Donald Allen
Hartman, Mary E.
Hatcher, Charles Page
Havener, Allen Vere
Heil, John Randall
Higgins, Stanley Michael
Hiland, Dave
Himmelreich, Lester Leo
Hobson, Joseph
Hollander, William T.
Horry, Malcolm Holmes
Hudak, Gary Russell
Hudler, John G.
Hughes, John Thomas
Immerman, Katherine
Ingram, Laverne C.
Jagoda, Andy Sam
Jany, Richard Stephen
Jepsen, Stephen J.
Johnson, Leonard Alan
Jones, Clement K.
Juliano, Paul Joseph
Kaime, Elaine Melissa
Kallman, David Alan
Katan, Brian Schott
Kauffman, William M.
Kaweski, Susan
Kearns, Larien Douglas
Kelly, Brian John
Kerrigan, Frank Theodore
Kerrigan, Janet Marie
Kimelheim, Robert A.
Kistler, Aaron M.
Klemm, Michael Steven
Knight, James F.
Koeller, Kelly Karl
Kohm, Maryjane Thorpe
Kore, Michael A.
Kragel, Peter Jude
Kramer, Hal P.
Krouner, Andrew D.
Larkin, Timothy J.
Larocco, Anthony, Jr.
Lebar, Randi D.
Lee, Robert Hammill
Leicht, Craig Howard
Leitheiser, Gregory Jos
Lemons, Freddye M.
Leoni, Patrick A.
Leib, Thomas Francis
Lieberman, Joshua Mitch
Lineberry, Paul J.
Lockhart, Ricky
Lopez, Joseph I.
Love, Ralph Wayne
Lucey, Paul Daniel
Mackey, Kenneth Wayne
MacMahon, Francis R.
Macris, George Patrick
Maher, Daniel Patrick
Mancini, Pamela M.
Manus, Stephen Michael
Markey, Brian James
Marrocco, William Alexa
Martin, Franklin McLain
Martin, Fredrick Allan
Martin, Peter J.
Martin, Robert C.
Marty, Aileen M.
McClellan, David Scott
McGee, John Joseph
McGuyer, Curtis Austin
McKenna, Patrick Hayes
McMillan, David Lee
McNeely, Kevin W.
McQuillan, Patrick Mich
Meadows, Lora Kim
Mehl, John Kurt
Meisenberg, Barry Ross
Menard, Ralph G.
Meth, Bruce Michael
Milian, Nester Edwardo
Miller, David Owen
Miller, Gregory L.
Mitchell, Dale Robert
Mitchell, John Brewster
Mittauer, Mark William
Mole, Dale Michael
Mondschein, Joseph Fran
Monson, Steven Robert
Monson, Thurston, Olaf I.
Moore, Gregory Robert
Moore, Joseph Lee
Moreci, James Anthony
Morford, Michael C.
Morgan, Fredric Charles
Morin, Lee Miller Emile
Morissette, Jeffery Cle
Morra, Marcus Napoleone
Mosborg, David Alan
Mozzetti, Michael D.
Mullen, John Reagan
Munter, David William
Nakashima, James L.
Nemec, Richard Louis
Nepp, Mark Edward
Neuhauser, Andrew Phill
Newell, Donald Edward
Norvell, Jennifer Lynn
Nozicka, Charles Anthon
Olshaker, Robert Andrew
Olson, John Leroy
Oneill, John Francis
Orr, Brian Gerrard
Ove, Peter N.
Parfitt, Richard C.
Pecsok, James Louis
Pennington, Cathryn Rub
Perciballi, John Angelo
Perkins, Terry R.
Petty, Robert H.
Pindiak, Steven James
Pingrey, Gary Richard
Porter, Henry Olin, III.
Potts, James Michael
Pray, Clyde William, Jr.
Prior, Charles Anthony
Pyeatt, John Dudley, III
Raspa, Robert Franklin
Reed, William Homer
Reilly, Thomas Joseph
Renken, Ralph William
Ricciardi, Michael Thom
Richardson, George Fred
Ringler, Robert Lloyd J.
Robben, Christopher P.
Roberts, Lawrence Henry
Rodelsperger, George Ed
Ross, Marla
Roure, Angel Rafael
Rucker, Elleston Craig
Rupert, Angus Harrison
Rushing, Elisabeth Jane
Russel, Timothy Joseph
Salmon, Richard Francis
Sanborn, Richard Collin
Sansing, Mary Tinsely
Sayers, Michael Eugene
Schor, Kenneth Wilson
Schraml, Frank Vernon
Schwartz, Paul Eric
Seago, Randall E.
Seibert, Louis E.
Sentell, John William
Seymore, Russell Jeffre
Shadle, Eric Wayne
Sheridan, Mark Vincent
Shingler, John Monroe
Siebenaler, Jean Anne
Skeen, Mark Brian
Small, William Curtis
Smith, Bradley Paul
Soika, Christopher W.
Southerland, David Grah
Sovich, Steven Michael
Spaulding, Richard P.
Staehr, Patricia Ann

Steele, Carl Edward
Sugihare, Corine S.
Summa, Richard Alan
Sundermann, John Morgan
Swajkoski, Alan Robert
Ternes, John Phillip
Thomas, Hugh Wesley
Tidwell, James Llewelly
Tobin, Michael Lawrence
Torkildson, Joseph Char
Torp, Vera Anne
Travers, John D.
Tudor, Gene G.
Turton, David Bryan
Vazquez, Emilio de Jesu
Vespe, John Robert
Vincent, Robert D., Jr.
Walker, Erik Charles
Wall, John D.
Walsh, Daniel Patrick
Watkins, Walter Frederi
Watson, Murrah Lenton J.
Weimer, Carl E.
Weimerskirch, Peter John
Weiner, Richard A.
Weiss, Walter Ralph
Welch, Michael Dee
Wentzel, David Christie
Westbrook, Thomas G.
Wetmore, Karen Elaine
Wheeler, William Walter
Wilcox David William
Williams, Ronald James
Wilson Clay S.
Wilson, Gary J.
Wilson Joseph Frederic
Winder, Mark Stephen
Wortham, Roger Lee
Youngblood, Patricia D.
Zebooker, Patricia Gerh

SUPPLY CORPS (310X)

Adams, Keith Thomas
Allen, Douglas J.
Anderson, Chesta Taylor
Anderson, Michael Jay
Annunziata, Kimberly Joy
Baker, James M.
Belcher, Bruce Robert
Bennett, George E.
Benton, Steven D.
Bernhardt, Karl Heinz
Boozer, George David
Boyd, Barry Blane
Brown, Larry Randolph
Brown, Martin J.
Burchill, Gary W.
Burleigh, Gerald Arthur
Butler, Richard Darrow
Calloway, Donald Roy
Cartwright, Howard, Jr.
Chapman, Gary Jon
Clements, Joe Donald, Jr.
Clift, Michael Steven
Cook, James Marcus
Cook, Raymond H.
Corderman, Gary W.
Cowart, James Steven
Culbertson, Matthew D.
Culbreath, Adrian Joseph
Dahl, Edward Arthur
David, Richard M., Jr.
Davison, Dexter Oneal
Deamer, Harry A.
Deets, Douglas Michael
Deschauer, Richard Michael
Devries, Henry John
Dittmeier, John S.
Donaldson, Morgan Leslie
Douglas, David S.
Downey, Daniel L.
Duffy, James Francis
Duncan, Charles Ray
Durso, James Dougherty
Endres, Joseph Robert
Feay, William F.
Fink, William M.
Fisher, Scott Ward
Franklin, Donald Eugene
Fuzy, Michael, III
Gauspohl, Robert William
Geis, Everett Lee
George, James R.
Glassman, Howard E.
Goeks, Greg J.
Grady, Thomas Michael
Grasso, Frank Rosario
Haima, John Oscar
Hale, Sharon Renee
Halloran, Michael David
Hammer, Roger Elliott, Jr.
Harnitchek, Mark David
Hart, Monte Risher
Hassler, Patrick W.
Hendrix, Kurt Thomas
Herning, George F.
Hester, David Lee
Heyen, Larry Ray
Hickinbotham, Michael W.
Hicky, John S.
Higgins, John Lawrence
Hoffman, Dennis Joseph
Hoffmann, Donald Bernard
Howard, Robert L.
Huff, Andrew Duane
Jackson, Michael Allen
Japalucci, Donald Jeffrey
Jensen, Ward Douglas
Kapsch, Michael Robert
Karnas, Henry Peter, Jr.
Kaso, John Joseph
Katz, Rebecca Adams
Kelly, Diane Christine
Klose, Keith Darwin
Knight, Robert L.
Kobi, James Stephen
Koenig, Stephen Lee
Konetski, Mark Leonard
Lake, Robert Hess, Jr.
Lambard, David Chrysogonus
Lamont, Chris Andrew
Levalley, James Michael
Lingo, Robert Scott
Lockwood, Linnae Molett
Lodge, Terry Craig
Luster, Harry Clarence
Lyden, Michael J.
Mackel, Andrew Goodwin
Maibaum, David W.
Mason, Robert NMN
Matens, Jeffrey Browning
Mathews, Dave Franklin
Maus, James Albert
McDonald, Charles David
McGaughey, Christina Beardsl
McGinnis, Richard Scott
McGowan, Allen William
McIlravy, Thomas Paul
McKenna, Richard Bruce
Messman, John Robert
Metts, Michael Joseph
Mikac, Joseph Stephen
Mitchell, George Kertz, Jr.
Mooney, John Edward
Moses, Robert L.
Newman, Marvin Dickson
Nielsen, Christ Robert, IV
Ober, Stephen Courtney
O'Brien, Thomas Frederick
Odom, Hart Salbide
Olson, Stephen Jeffry
Otto, Cindra Ella
Palenshus, David L.
Parsons, Robert Douglas
Pearson, James Andrew
Petty, Roger Ellsworth
Pine, Glenn Raymond
Potter, William Arthur
Powden, Michael Dennis
Presto, Anthony F.
Priest, Kevin Michael
Prince, Stephen Anthony
Pulver, Craig A.
Query, Michael F.
Quinn, William C.
Ratliff, William G.
Rauch, Douglas Louis
Recla, Kenneth John
Rhea, Russell H.
Richey, Paul Richard
Roark, Douglas S.
Rourke, Edward J.
Roy, Peggy Jo
Ryan, Daniel F.
Sanders, John Arley
Sanders, John Philip, Jr.
Sawyer, Timothy Gary
Schafer, Gerald Robert
Scheffs, Dale K.
Schill, William D.
Schonenberg, Todd Richard
Sherwood, Nicholas Lynn
Shockley, Danny Andrew
Short, William B.
Sillman, James Henry
Slough, Mary Lynn
Smith, Jane Reno
Speights, Richard Lenarrell
Spicer, William Harold
Stanovich, John Michael
Steffen, Thomas E.
Sterrett, Steven Craig
Stoshak, Ronald Leo
Stryker, Bruce William, Jr.
Sutter, Robert
Switzer, Charles Tobias
Tanks, Wendell Daniel
Taylor, Shaun K.
Thompson, Rodney M.
Thornton, Connie Lou
Toperoff, Lawrence Barry
Trowbridge, Jay R.
Tryon, Michael Patrick
Tucker, Curtis Heigh
Twigg, Jerrold Leon
Vause, Steven Michael
Warchal, Michael Anthony
Warmington, Jeffery Allen
Wenberg, Marvin Carl, II
Westfall, Gary Wayne
White, Kevin Lawrence
Wilkerson, Peter Francis
Williams, Robert Leon
Williams, Thomas Brooks
Woodcock, Charles John

CHAPLAIN CORPS (410X)

Allen, Allen Cagle
Bird, Stephen Alan
Botton, Kenneth Vance
Branscum, Dan Cecil
Brown, Michael O.
Brown, Norman Franklin
Brown, Robert Andrew
Burns, Robert James, Jr.
Burt, Robert Francis
Byrum, George Philip
Cadenhead, Julia Thamel
Danner, James Lasley
Diaz, John Louis
Elkin, Frederic Francis
Falkenthal, Thomas William
Feagle, Robert H.
Fosback, Chris Elmer
Griffin, Kenneth Lamar
Griffith, James Albert
Gubbins, John Manion
Gwudz, John Stanley
Hale, Robert Miles
Haynes, Michael Wayne
Hermann, Rory Michael
Holland, Earnest Warren, Jr.
Iasiello, Louis Vito

Jones, Alphonso
Kaul, John Leslie
Kirk, John E.
Knopp, Alfred Leo
Kreiensieck, Ronald Arthur
Leslie, Red Napoleon, Jr.
Liguori, Henry August
Lippincott, Marvin Harold
Lodge, Richard Andrew
Michener, Raymond William
Milewski, Robert Francis
Moore, Richard Kenneth
Murphy, Pleasant Lawrence, Jr.
Nixon Henry, Jr.
Nordhaus, Jeffrey John
Panitz, Jonathan A.
Powers, Richard M.
Prescott, William Clarke Edw
Quinn, John Thomas
Ramsey, Ira Eugene
Reed, David Dewayne
Ritter, Steven Carl
Rodriguez, Robert Joseph
Simons, Gary Galen
Sims, Timothy Calhoun
Stahl, Martin Russell
Starkey, David Alan
Swafford, Ronald Leonard, Sr.
Valko, Robert A.
Vanderbilt, David Stanley
Verner, Thomas Robert
Vukovich, Alex

CIVIL ENGINEER CORPS (510X)

Amarantides, John
Ball, John Lamson
Barker, Stephen Eugene
Brandt, John C., III
Buchanan, Gregory James
Claussen, Mark D.
Conaway, Michael Harold
Curnutt, Donald Duane
Davis, Robert Emmett
Desaulniers, Eugene Wilfred
Desilva, Kumar Gerard
Draper, John Daniel, Jr.
Eckert, Andrew Norman
Elvey, William M.
Eng, Edward
George, Roscoe D., III
Griffith, Andrew S.
Gunther, Gary W.
Hertwig, Ronald W.
Hill, Michael L.
Hinchman, Steven Brandt
Hoppe, William James
Hyde, Robert William
Kelm, Brian Robert
Laws, Larry A.
Lynn, Diann Karin
McClure, Robert Daniel
McMahon, Paul G.
McNutt, Thomas D.
Mengel, William M.
Merton, Robert Edwin
Migliore, Mark Peter
Mikula, Kevin E.
Mustain, Jennifer Lynn
Mustain, Roger S.
Obetts, Charles Joseph, Jr.
Pfannenstiel, Gary A.
Pfarrer, Mark Daniel
Phalon, Steven J.
Plockmeyer, Dennis Roger
Reddish, Harold J.
Samuels, Mark B.
Scanlan, Philip R.
Serafini, Lawrence George
Smith, Eric C.
Smith, Frederick Russel
Stirling, James S.
Strickland, Stanley R.
Syversen, Carl Eric
Verhofstadt, Albert Pol
Wall, Richard A.

JUDGE ADVOCATE GENERAL'S CORPS (250X)

Bengtson, Dennis Gordon
Clemmons, Byard Quigg
Cook, Loeva Jane
Crisalli, Donna Marie
Davenport, Teresa Joann
Devins, Thomas Albert J.
Edwards, Jonathan Phili
Evans, Richard Thomas
Hohenstein, James Howar
McCarthy, Julian D.
McPherson, James Edwin
Meade, Charles Allen
Newman, Melvin Douglas
Overby, Earl Franklin
Rouse, Harry V.
Russell, Jeffrey Richar
Sanders, Clayton R.
Stallings, Stephen Anth
Storz, William Thomas
Suszan, Michael Joel
Swartz, Marc Leonard
Talson, Steven M.
Wasilenko, Ronald Steph

DENTAL CORPS (220X)

Bailey, Stephen W.
Baker, Sharon Kay
Bald, Francis A.
Barnes, David George
Bigelow, Gilbert Ulysse
Black, Jay Allan
Black, Sherrie L.
Brown, Lyndon Bruce
Cade, Thomas Alan
Campbell, Jack Parker
Carroll, William Brent
Casiliobixler, Lanetta
Cherry, Carlton Dale
Denunzio, Mark Steven
DePaul, John Michael, Jr.
Dobyns, Michael L.
Erbland, Christopher Ro
Fox, Steven Charles
Garrett, Wanda Faye
Glynn, David William
Golden, William Glen
Haas, Stephen Beckley
Heffernan, James Gregor
Hetzer, Mark Thomas
Holt, James Gilbert
Huber, Michaell Andrew
Hudson, Thomas Clay
Imray, Scott William
Ingalls, Donald Lee
Jerome, Charles Edward
Keating, Gregory Vail
Keenan, James V.
Labberton, Wells Kurt
Leasure, Sara Lois Edwa
Lindauer, Paul Anthony
Ludwig, Leah Marie
McKeever, Bradley George
McMaster, Dana Robert
Melvin, Walter L.,
Mertz, Kenneth Alexander
Millarbrunhofer, Lorna
Mollenhour, William F.
Nelson, Elaine
Neupert Edward Anthony
Regan, Daniel Albert
Rhodenbaugh, Jeffrey D.
Robertson, Charles Leon
Rolf, Kurt Conrad
Royer, Marian Ann
Schwartz, Joel Lawrence
Smith, Thomas B.
Southard, Thomas Edward
Spencer, Craig Winsor
St Raymond, Albert H., II
Sturtz, Barbara Ann
Sturtz, David Hael
Thaler, John Joseph
Toomey, Kevin Francis
Turner, Blake Hobart
Vandercreek, John Arthur
Webb, Paul Elwood
Webb, Randall Edwin
Welbourn, Barton Reid
Wiemann, Alfred Hanniba
Wiggin, Thomas Hollis
Winegard, Elaine Ruth
Wray, Roger Dale
Yardumian, Robert Perry
Young, Samuel

MEDICAL SERVICE CORPS (230X)

Acklin, Robert Allen, Jr.
Astrachan, Stephen Mitc
Benjamin, Justus, Jr.
Boenecke, Clayton A.
Brammer, Gregory
Brooks, Marcel William
Brophy, Michael Andrew
Burden, Thomas William
Burdess, Richard L.
Butner, Glen Arthur
Crisman, Ronald Paul
Croxton, Joel David
Curley, Ronald Douglas
Deaton, John Earl
Deliz, Donald Edward, Sr.
Denzer, Patricia Marie
Dilorenzomcgarr, Cynthi
Edwards, Roger Dean
Farrand, David Everett
Feith, Steven Joseph
Fletcher, Richard James
Glennie, David Lee
Godwin, Rufus Eugene
Goff, Billie Gayle
Guido, Anthony Robert
Hannah, Ken Even
Hassan, Lynn Carol
Heller, Randal George
Hilton, Thomas Frederic
Kelleher, Dennis Lucas
Kennedy, David Lawrence
Kersbergen, John Judson
Lacy, Nathan
Little, Thomas C., J.
McDonough, James Connol
McGinnis, James A.
McLester, Robert Gibson
Monroy, Rodney Lynn
Murphy, Barry Arthur
Music, Christian Gerhar
Newacheck, James Scott
Nolen, Leslie C., Jr.
Paoloni, Claude Barry
Pattison, Michael Duane
Pettebone, Stephen Char
Pickerel, Carol Ann
Puksta, Charles Peter J.
Quillen, William Sanfor
Reibling, John Shinners
Robertson, Daniel Leroy
Roth, Faye Ann
Salmond, Lynda Ann
Sandoval, Paul Ralph
Scarborough, Danny Roy
Schuyler, Christopher L.
Sebbio, Anthony August
Siegel, Brian S.
Snyder, Daniel James
Souza, Joseph Ernest
Stevenson, Hugh Robert
Sullivan, Robert Walter
Tedeschi, Robert J.
Titi, Richard J.
Vesper, Bruce Eugene
Wax, James Paul
Welter, Patrick John
Wilkens, Robert Charles
Williams, Richard Waldo
Williamson, Donald Jame
Younger, Larry Leroy

NURSE CORPS (290X)

Allushuski, Patricia M.

Baker, Susan Catherine
Banks, James William, Jr.
Barnes, Wendy Lea
Bashford, Jeffrey Arthu
Brennan, Rama Francine
Burnett, Bruce Lee
Butler, Regina Claire
Camosy, Dennis Dominic
Campbell, Vernon George
Carley, Jerry Ray
Conte, Mary Margaret
Coulapides, Debora Ann
Coyle, Cynthia Ann Silv
Denny, Michael Patrick
Donaldson, Wayne Morris
Doyle, Karen Anne
Dresher, Joyce Earlene
Dube, Joan Faye
Elliott, Karen Gulledge
Flippo, Michael Kent
Foeste, Shari Ann
Foster, Raymond John
Gardner, Steven Douglas
Guthridgelind, Debra Da
Hearin, Linda Gwen
Hill, Nancy Lea
Horn, Peter Thomas
Hulet, Ken Francis
Janikowski, Debra Lee
Jones, Hilda R.
Jordan, Kathy Ann
Killman, Judith Ann
Lake, Nancy Gwendolyn
Lawson, Wallace Edgar
Littrell, Susan Mae
MacMurray, Joanne Marie
Mahsman, Susan Diana
McCleary, Myron Lynn
McCosh, Carolyn Bishop
McGrath, Mary Cecilia
Meredith, Juanita V. C.
Meyer, Kort Joseph
Moos, Magdalene Ann
Mulligan, Anne Marie
Nowicki, Mark Richard
Nunns, William Thomas
Piwowarczyk, Susan Anne
Reinke, Jolee Mary
Robinson, Martin Mikell
Romine, Carol Anne
Rossa, Peter Paul, IV
Rowett, Stephen Leonard
Savage, Shelley Ann
Skupski, Francis Ruth
Slagle, Lowell Elwood J.
Smith, Janet Ann
Spaid, Cynthia Louise
States, Marilin Barbara
Storms, John Munson, Jr.
Stringer, Thomas Jeffer
Sutton, Donald Lamar
Tanner, Pamela Kay
Terrell, Isaac
Thurber, Jean Ann
Tierney, Raymond Franci
Tillman, Harry John
Trowbridge, Marvin Dale
Twomey, John Gerard, Jr.
Ulaszek, Deborah Lynn
Vansickle, Bruce Howard
Vega, Eli Samuel
Weader, Steven Harry
Wilson, Blane Morgan

LIMITED DUTY OFFICER (SUPPLY) (651X)

Alligood, Clifford James
Bates, John William
Cannon, Hammond G., Jr.
Christopher, John Jeff, Jr.
Frontiero, Anthony Peter
Giusti, Richard Francis
Gozum, Rogelio Torres
Hollis, Roy Allen, Jr.
Holstein, Augustine Charles
Klump, Paul Lucas
Lane, Aubrey Eugene
Moreno, Mariano O., Jr.
Pigeon, Roger Emile
Sulzer, Thomas Gene
Travis, Glen Alvin

LIMITED DUTY OFFICER (CIVIL ENGINEER CORPS) (653X)

Haefner, Wayne David
Jones, Hubert S.
Salling, Elmer Chriss
Zoeli, Nicholas Francis, Jr.

CONFIRMATION

Executive nomination confirmed by the Senate July 15, 1986:

CONSUMER PRODUCT SAFETY COMMISSION

Terrence M. Scanlon, of the District of Columbia, to be Chairman of the Consumer Product Safety Commission.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, July 15, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for the wonders of Your creation and the bountiful gifts which are our heritage. Our land has been blest with great resources which have been given to us for our use. Cause us, O gracious God, to be thankful for all Your gifts, and to use our resources in ways that benefit our generation and those to follow. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 442

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John P. East, a Senator from the State of North Carolina.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1965) "An act to reauthorize and revise the Higher Education Act of 1965, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. WEICKER, Mr. WALLOP, Mr. THURMOND, Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. MATSUNAGA, and Mr. SIMON, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3358. An act to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the bill on the Private Calendar.

STEVEN McKENNA

The Clerk called the bill (H.R. 1598) for the relief of Steven McKenna.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

REPORT ON H.R. 5161, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1987

Mr. SMITH of Iowa, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-669) on the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. REGULA reserved all points of order on the bill.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. JOHN P. EAST, SENATOR FROM THE STATE OF NORTH CAROLINA

Mr. HEFNER. Mr. Speaker, I offer a privileged resolution (H. Res. 491) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 491

Resolved, That the House has heard with profound sorrow of the death of the Honorable John P. East, a Senator from the State of North Carolina.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON H.R. 5162, ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1987

Mr. BEVILL, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-670) on the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. MYERS of Indiana reserved all points of order on the bill.

PERMISSION FOR SUBCOMMITTEE ON ELECTIONS OF COMMITTEE ON HOUSE ADMINISTRATION TO SIT ON TOMORROW, JULY 16, 1986, DURING 5-MINUTE RULE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elections be permitted to meet to consider markup of H.R. 4393, (the Uniformed and Overseas Citizens Absentee Voting Act) during proceedings under the 5-minute rule tomorrow, July 16, 1986.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. MONSON. Mr. Speaker, reserving the right to object, I would like to inquire as to whether or not this has been cleared with the minority.

Mr. SWIFT. Mr. Speaker, if the gentleman would yield, this has been cleared with the ranking minority member of the subcommittee.

Mr. MONSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

JONATHAN BINGHAM

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I regret to inform the Members of the House that on July 3, our distinguished former colleague and friend, Jonathan Bingham, died of pneumonia and its complications at Columbia Presbyterian Hospital in New York City. He was 71 years old at the time of his death.

I know that his loss is felt deeply by all of us in Congress, for what Jack

brought to this House during his 18 years of service are qualities which we all seek to attain: Ability, integrity, and wisdom. As a member of the Foreign Affairs and Interior Committees, he was respected for all of those qualities. His was a voice of reason and rationality during an uncertain and tumultuous period in this House and this Nation.

Jack is survived by one who also is a friend to many of us, his wife, the former June Rossbach, three daughters, Sherrell B. Downes, Micki B. Esselstyn, and Gurunam Kaur Khalsa; 1 son, Timothy W. Bingham; 5 brothers and 10 grandchildren.

Jack was instrumental in the passage of the War Powers Act of 1973, which placed limits on a President's power to commit U.S. forces overseas in situations where they might become involved in hostilities. He was an original sponsor in support of an immediate bilateral nuclear freeze and he wrote and sponsored comprehensive legislation, the Nuclear Non-Proliferation Act of 1978, which placed strict control on nuclear exports.

He was one of the main forces behind congressional rule changes in 1974 which reformed the congressional seniority system, providing for more democracy in the choice of committee chairmen and apportioning more power to subcommittee chairmen. And, in 1980, he opposed restoration of military aid to what he considered a rightwing dictatorship under Ferdinand Marcos in the Philippines.

It was a special honor, Mr. Speaker, to be a friend of Jack Bingham, and it was a privilege serving with him in the House of Representatives.

His concern for humanity and his commitment to America's ideals were not retired when he left Congress. Many of us in the House looked to him for leadership on a broad range of issues, but most importantly on matters relating to nuclear proliferation and arms control. He served his district and his Nation magnificently. We will truly miss him.

I would like to invite my colleagues to join Congressman SAM STRATTON and me in participating in a special order memorializing Jack Bingham at the close of business tomorrow, Wednesday, July 16.

□ 1210

THE DEFICIT: LET'S BE REALISTIC

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, we are engaged in a war against the budget deficit, and right now the deficit is winning. Our biggest weapons, Gramm-Rudman, has been disarmed by the Supreme Court, and every day it appears more likely that the 1987 deficit will exceed our budget target. This is bad news for all people concerned about America's future.

If there were a plan to balance our budget fairly, equitably, and effectively, would you be interested? The reason I ask that question is because there is such a plan.

Last year, I introduced legislation establishing a 15-member Bipartisan Commission on Deficit Reduction. I urge my colleagues to consider this option. It is time to throw partisan politics out the window and seek a true consensus on long-term deficit reduction.

The bipartisan commission approach has worked before. It provided the consensus that was needed to provide a long-term solution to the Social Security funding crisis, and the crisis we face today is just as serious.

Let's give bipartisanship a chance. Support my legislation to establish a deficit reduction commission. It may be the only game here on Capitol Hill that can work.

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY REPORTING REQUIREMENTS

(Mr. MARTINEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Speaker, today with my colleague from California [Mr. HAWKINS] and my colleague from Illinois [Mrs. COLLINS] and 34 others, I am introducing legislation giving the EEOC enforcement power to collect Federal agency affirmative action plans.

Basically, this legislation corrects a congressional omission in the 1972 reorganization. First it codifies the existing management directive 707, issued by this administration in 1981, which outlines equal employment opportunity requirements for Federal agencies. Second, it gives the EEOC the previously omitted enforcement power to collect these reports. The bill does not require Federal agencies to do anything that they are not already doing. However, this legislation is in response to the fact that several agencies have refused to comply.

These noncomplying agencies based their argument on the question of legality of affirmative action. However, just this month, the Supreme Court in two decisions, approved the legality of these plans to offset previous discrimination.

This legislation is simple, direct, and has bipartisan support. I hope to see it move through Congress quickly so that another year does not go by in which Federal agencies continue to thumb their noses at equal employment opportunity. We require Federal contractors to submit similar plans and we should not exempt the Federal Government from the same equal employment requirements.

THE J-CURVE REFUSES TO TURN UPWARD

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, our trade deficit dipped deeper in the red, reaching $14.2 billion, during the month of May. To add insult to injury, the world's greatest exporter of agricultural products was forced to chalk up the first deficit in farm trade in 20 years. The architects of the weak dollar, who believe in the surplus-creating magic of currency debasement, are baffled.

The policy of deliberately debasing the dollar is not only immoral, but also counterproductive as it crosses the wires at the traffic lights. During a period of prolonged debasement, exporters slow down the repatriation of their foreign earnings and importers rush out to import all they can, because they aren't foolish enough to hold the depreciating dollar if they can hold something more stable in value. So much for the short-term effects of debasement. As for the long-term effects, the country has to give up more exports to pay for the same amount of imports than before devaluation. The terms of trade deteriorates. The country becomes less efficient as a trading nation, not more efficient.

The alleged benefits of a weak dollar exist only in the imagination of economic illiterates. There is no substitute for a stable currency.

REMOVAL OF NAME OF MEMBER A COSPONSOR OF H.R. 5140

Mr. FRANK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 5140.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL AVIATION TORT REFORM ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, we have got to do something about the liability insurance crisis. The small aircraft industry is the latest casualty. Insurance costs now contribute an average of $70,000 to the cost of manufacturing a private airplane in America, which exceeds the selling price of some basic models. As a consequence, domestic production plummeted from over 17,000 aircraft in 1979 to 2,000 last

year, resulting in the export of American jobs.

A membership survey by the Oshkosh-based Experimental Aircraft Association, the leading consumers' group of airplane owners, found serious concern that the liability crisis is driving up the cost and reducing the availability of aircraft products. Improvements, including those enhancing safety, are being held back.

Even the EAA's annual fly-in, America's premiere airshow, is jeopardized by its skyrocketing insurance costs, which rose 300 percent last year. To help alleviate this situation, I am cosponsoring the General Aviation Tort Reform Act. I urge the Judiciary Committee to move promptly on this measure.

GONE WITH SMOKE AND MIRRORS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, one of the lessons in the budget process that seems to have to be learned over and over again is that you cannot reduce deficits by smoke and mirrors. Administration after administration continues to engage in the oldest smoke screen of all—which is that if your projections are optimistic enough, that somehow deficits can disappear.

Yesterday, the smoke again cleared as it must, and the games again stopped as they must. OMB Director Miller indicated that the budget deficit that we are facing is the largest in the history of the Nation: $220 billion for 1986 and the likelihood of excessive deficit in 1987.

The administration and to some extent the Congress as well as the American people were living under the false hope that a combination of Gramm-Rudman and optimistic forecasts would do away with deficits.

The reality is that they will not, and that deficits are out of control. The question is whether the President is willing to face those facts and make the tough decisions, or whether the Nation is in for more games and inevitably higher deficits.

RECOGNIZING NAVY CAPTAINS SEAQUIST AND MORIARTY FOR THEIR PART IN THE SUCCESS OF THE STATUE OF LIBERTY CELEBRATION

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, I would like to take this opportunity to recognize two previously unsung heroes of the Statue of Liberty Centennial Celebration and Operation Sail. They are U.S. Navy Capt. Larry Seaquist, commander of the battleship *Iowa*, and Navy Capt. J.A. Moriarty, commander of the aircraft carrier *John F. Kennedy*.

These fine officers had the awesome responsibility of overseeing the operations of their two enormous observation vessels during the July 4 ceremonies in New York Harbor. In addition to the thousands of crew members normally manning these vessels, Captains Seaquist and Moriarty were also responsible for the safety and comfort of thousands of visiting land-lubbers, including the President and Mrs. Reagan. They carried out their duties with military precision and unflagging courtesy, under the watchful eyes of television cameras and amidst thousands of smaller vessels. They deserve a healthy share of the credit for the triumphant success of the Statue of Liberty celebration. I hope that these sentiments will accompany the captains and their crews as they return to their vital duties in defense of democracy.

RETAIN CURRENT LAW FOR IRA'S

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, the most successful social policy initiatives undertaken by the Federal Government are those that help people help themselves. This is the concept behind individual retirement accounts [IRA's], and I urge my colleagues to not abandon IRA's under tax reform legislation.

With the recent passage of the Senate tax bill and its provisions restricting IRA's, now is the time for House Members to voice strong support for the full IRA deduction for all taxpayers. Mr. Speaker, the IRA deduction requires no new bureaucracy or complicated recordkeeping, yet it is an extremely popular and cost-effective way to encourage people to provide savings for later in life. In addition, IRA's create a sizable pool of money that can be tapped for loans or investments by consumers and businesses alike.

I am aware that under the lower tax rates of the Senate bill, taxpayers will not need as many deductions to offset taxes. But the IRA is a special tax deduction that has been utilized by people at many different income levels. Personal savings—which have been historically low in this country—should be encouraged, particularly savings that will be used to cover the expenses of growing old. The IRA deduction is an important incentive for people to plan for their long-term needs and it should be preserved for all taxpayers, even those who are covered by a private pension plan. It is important to realize that pension plans vary from business to business, and even the most generous plans need to be supplemented with additional income. And I believe IRA's will help ease the financial burden that our Government faces because of the increasing elderly population.

But perhaps the most convincing argument I can offer my colleagues is that the American people want IRA's left unchanged. My constituents have responded decisively and overwhelmingly, as I am sure many of yours have also. We should listen and act accordingly.

□ 1220

AMENDING THE HIGHWAY BEAUTIFICATION ACT

(Mrs. SCHNEIDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHNEIDER. Mr. Speaker, recently a number of colleagues and I introduced H.R. 5043, which would amend the Highway Beautification Act of 1965. Unfortunately, the Highway Beautification Act has become more loophole than law over the years. We have reached a situation where under the law it has become far easier to put up billboards than it is to have them taken down. The 1965 act was intended to preserve the beauty of our scenic landscapes by forcing the removal of nonconforming billboards along our Federal highways. Instead, the last 20 years have seen an explosion in the number and size of highway signs.

It is time to close these loopholes. I ask my colleagues to join with us, and an increasing number of States and communities across the Nation, in banning new billboards along Federal highways. This move makes good business sense. Not surprisingly, industry, new residents, and tourists are attracted or repelled by a community's appearance.

Equally important, this legislation will end the present practice of requiring an appropriation of Congress to pay for the removal of nonconforming billboards. This requirement has put us in the position of forcing the American taxpayers to pay the highway polluters to stop polluting. This is hardly fair. We could save the taxpayers upward of a billion dollars if this bill is passed, and billboard owners are once more allowed to amortize the cost of removal rather than receive a cash payment from the Federal Government. I think my colleagues will agree that in these times of fiscal austerity this money could be put to better use. I urge my colleagues to take a careful look at H.R. 5043, and I welcome your cosponsorship.

PRESIDENT ASSAD'S PROMISE TO THE AMERICAN PEOPLE: GOOD NEWS, VERY SOON

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, on June 30, I had the opportunity to meet with the President of Syria, President Assad. I carried a letter to him signed by 250 of us here in the House of Representatives asking that he use his good offices in the humanitarian gesture to accomplish two things: one, to seek the freedom of our five Americans still held hostage somewhere in the area of Beirut, Lebanon, and also to relieve the psychological torture on the sons, the daughters, the wives, the husbands, the brothers, sisters and all family members and loved ones of these American citizens, to plead with their kidnapers that the hostages be allowed to communicate with those on the outside.

There has been no word from their cellars or dungeons where they are held since December 8, when they wrote to Congressman GEORGE O'BRIEN and myself, wrote to their loved ones and the President of the United States.

I think President Assad's graciousness in seeing me without any prior appointment, his expressions of concern about the humanitarian aspects were sincere. I hope they were sincere. I truly believe they were. He said that he would be only too happy to receive some of the relatives and any Congressmen if the months pass and there has been no further breakthrough in this tragic hostage crisis.

I look forward myself personally to the fulfillment of what he promised the American people, and that was good news very soon.

NO MORE GAMESMANSHIP

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, a few moments ago the gentleman from California raised the concerns about the deficit that we all share, and he raised concerns about the fact that the smoke and mirrors have covered up the deficit problems and in fact we have played too many games with the budget process. And he then aimed most of his fire at the administration.

I would hope that we will get serious about the deficit problem in this body as well. We are about to embark upon the appropriations process. One of the problems has been over the years that the appropriations bills have not followed the budget process. We are seeing instances, for instance, with agriculture appropriations where the Food Stamp Program is only funded for a 9-month period.

It is my concern that when we go through the appropriations process this year that we assure ourselves that we are not engaging in smoke and mirrors and we are not doing the game playing.

I would hope that, as we proceed with the appropriations over the next couple of weeks, that we, too, will look at the deficit and get concerned and do something about lowering it.

AUTHORIZING DISTRIBUTION OF THE USIA FILM ENTITLED "THE MARCH"

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4985) to authorize the distribution within the United States of the USIA film entitled "The March."

The Clerk read as follows:

H.R. 4985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "THE MARCH".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "The March"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing in the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentlewoman from Maine [Ms. SNOWE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in favor of H.R. 4985, a bill to provide for the release of a U.S. Information Agency film entitled "The March."

Under current law, the USIA is prohibited from releasing certain of its program materials to the American public. However, such films may be released with congressional approval if the films are determined to be of historical or cultural value. The Congress has provided for the domestic release of a number of these materials in the past.

This film is a documentary of the historic march on Washington in August 1963. It has been viewed by the committee staff, and has been approved by the Committee on Foreign Affairs. The film resembles a newsreel showing the chronology of events surrounding the march. I hope the House will move to make this film available to the American public.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the dispatch with which the committee has acted.

There is some urgency here because this request came to me from a filmmaking group, people who were doing a documentary for the Public Broadcasting System. They have a production deadline. So I am particularly appreciative.

The other body has already adopted a version of this bill. I think we can work it out.

I should say for those who are concerned about precedential effect, the intention of the film makers in this case is simply to use some of the footage without the narration from the film in question. That is, this is not going to be a case where the intention is to make a general showing. These particular people, and they will have the copyright problems to deal with themselves, this does not give them any other license that they would not otherwise have under the copyright provisions. But it would allow them to use apparently some very sensitive footage of the civil rights movement.

People anticipate that this is going to be a particularly interesting documentary. There is an interesting article about it in the New York Times in which the film makers mention that they think previous films have not done justice to the attitudes of white southerners or to black southerners in terms of the human effort that was made.

So I am very appreciative of the subcommittee doing this.

Again, as I say, the people who are worried about the precedential effect about films being used domestically, this is a case where there is very limited use being contemplated. None of the narration but apparently some of the unreproducible footage.

I am particularly grateful to the subcommittee for its expedition here.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICA. I would be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman has just made an explanation here, and I think it is very useful for the House. But my reading of the bill is that the limitation would not be on usage just for the film that is being produced by this Massachusetts film-making company but, rather, it would permit this film to be shown in total by, for instance, the networks if they wanted to pick up on it or would allow the USIA to use it around the country so that it does represent a general usage of the film. Is that correct?

Mr. MICA. Yes, that is correct. Under the procedures established by the Congress, each time we release a film like this, it is turned over essentially to the Library of Congress, and any copying costs or any copyright charges assessed thereafter would go to whoever uses the film. This will be turned over, as I indicated, a 20-minute film, to PBS service that has requested it, via the Library of Congress. Once they have used it, anybody can use it. But each user would have to pay any copyright or any cost to the Government.

Mr. FRANK. Will the gentleman yield further to me?

Mr. MICA. I would be happy to yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

I appreciate the gentleman from Pennsylvania's position. That is what I meant to allude to when I said that the use contemplated under this permission is a more limited one. I am not aware of anyone planning to use it in general. The contemplated use that we know of and the request that was generated was for that limited purpose. But the gentleman is correct as to the intent of the bill, and I appreciate it.

Ms. SNOWE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to passage of this bill. The film "The March" that would be released under this legislation is a fine example of the high quality films produced by USIA. The film does not editorialize, and it has very little narration. What the film does so well is let the reality of American popular democracy speak with its own voice.

This bill is necessary to release the flim "The March" for domestic viewing, due to the restrictions in law on the distribution of USIA materials within the United States. I understand that the PBS station in Boston has expressed an interest in using footage from the film in a documentary it is putting together. For this reason, I urge that we approve this bill so that the other body may also move expeditiously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the bill, H.R. 4985.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENEAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CELEBRATION OF THE 100TH ANNIVERSARY OF THE STATUE OF LIBERTY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I had the privilege, with your help, to go to the Statue of Liberty celebration, the Fourth of July celebration, in—with eight other Members of the House, to represent the House of Representatives at that great day—in the New York Harbor.

As mentioned earlier by my colleague from New Jersey, I had the privilege of being on the U.S.S. *Kennedy,* the aircraft carrier, and I believe the captain of that ship, Mr. Speaker, is a constituent of yours from the Commonwealth of Massachusetts.

Mr. Speaker, that was a great event, to see the tall ships come by from the different countries, also the President of the United States passed in review on a ship as well as the President of France.

Later on that afternoon, we had to get off the U.S.S. *Kennedy* and go to the U.S.S. *Iowa* late that afternoon. That is one of our battleships that we have brought back into service, a total success, with the big 16-inch guns. We were on there, and there was a Marine retreat that night when the sun went down about 8:30. About 10 o'clock in the evening they had the fireworks display.

I really see more patriotism in our country than I have seen in a long time, I guess you would say World War II or after World War II. The people are very proud of our country.

However, Mr. Speaker, going with that patriotism there will have to be sacrifices made by our people in the future, small sacrifices, to continue having this great country that we live in.

I thank the Speaker for giving me the opportunity to be at the Statue of Liberty celebration on the Fourth of July.

Mr. Speaker, before relinquishing my time I would like to thank the adjutant general of New York, Major General Flynn and others New York guardsmen for helping myself and others to move from one area to another area during this great occasion.

LET'S SEND A MESSAGE HOME ABOUT THOSE DEADLY DRUGS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, for just a moment, as we return here today, when we left, Len Bias died of cocaine; while we were away, several other sports heroes were arrested; one died. It is an epidemic sweeping our Nation. I think that as we wrap up this session of Congress, we are each going to have to pay a special effort in each committee and every committee of jurisdiction to do all we can to send the messages home that we are going to do whatever it takes with regard to legislation to address this problem.

□ 1235

Finally, let me say that I understand one of the NFL football coaches made the statement 2 weeks ago saying that we need an education program, a real education program, from kindergarten to 12th grade, to really get the message across. I think that is an excellent idea. We may have to look at some ways to encourage true education—not just tokenism—true education, as to what cocaine, heroin, and narcotics are doing to this Nation.

PROVIDING FOR CONSIDERATION OF H.R. 4510, EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 472

Resolved, That any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4510) to amend the Export-Import Bank Act of 1945, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking

minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment under the five-minute rule, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 472 is an open rule providing for the consideration of H.R. 4510, the Export-Import Bank Act Amendments of 1986. The rule provides for 1 hour of general debate to be divided equally between the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs and makes in order an amendment in the nature of a substitute which is recommended by the Banking Committee and is now printed in the bill. The substitute shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read.

All points of order against the committee substitute for failure to comply with clause 5(a) of rule XXI, that is the rule which prohibits appropriations in an authorization bill, are waived. This waiver is necessary because section 3 of the committee substitute gives the Export-Import Bank the authority to establish and collect fees for goods and services it provides in connection with furthering its goals and purposes. Section 3 further provides that the Bank may use the money that it collects to offset expenses. This use of proceeds constitutes an appropriation and a waiver of clause 5(a) of rule XXI is necessary.

Finally, Mr. Speaker, the rule provides for one motion to recommit, with or without instructions.

H.R. 4510 reauthorizes the Export-Import Bank for 2 years, through the end of fiscal year 1988. The bill also grants conditional authority to the Export-Import Bank to establish a new program entitled I-Match. If enacted, the I-Match Program would finance U.S. exports through a combination of loan guarantees and interest subsidy payments.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained. When the members of the Committee on Banking, Finance and Urban Affairs were before the Committee on Rules, both Democrats and Republicans requested an open rule and, for that reason, it is a good rule and we should adopt it.

I do not want to leave the impression with Members of the House that the measure is not controversial. It is. There will be some amendments offered which need to be debated thoroughly, and we should get down to the business of considering the measure on the House floor.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I take this time to ask the gentleman who has brought this rule to the floor a question on this waiver of clause 5(a) of rule XXI. As I understand it, that is, as the gentleman has ably explained, appropriations in an authorization bill.

Mr. WHEAT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. WHEAT. Mr. Speaker, the gentleman is correct.

Mr. WALKER. If I understand what we have waived here, the bank would be able to collect fees but they would not have to pass through the Treasury and, therefore, be subjected to our appropriations process if this rule is adopted and the bill were adopted with the language in it; is that correct?

Mr. WHEAT. I believe what the bill refers to is the fact that the bank could collect those fees the gentleman refers to and may then apply those fees for the direct expenses that are involved.

Mr. WALKER. If I understand the situation, if that waiver had not been granted and the bill were to have to excise that particular amount of money, those fees then would have to come to the Treasury and be subjected to our appropriations process; is that correct?

Mr. WHEAT. That is my understanding; yes.

Mr. WALKER. So we are in fact denying the Treasury the ability to collect the fees that are being generated from the Eximbank with the adoption of that language and the waiver in this rule; is that correct?

Mr. WHEAT. My understanding is that the adoption of this language will give the Export-Import Bank the opportunity to collect those fees and then expend them directly without having to have those fees be collected by the Treasury and then reappropriated for those expenses.

Mr. WALKER. My concern is what we are doing then is, we are taking away one of the control mechanisms from the Congress for activities of the Eximbank. It is a fairly minor point, but I just did want to clarify that in fact with this waiver, we are denying ourselves a chance at certain amounts of income for the Federal Government.

Mr. WHEAT. I would agree with the gentleman that we are giving the Export-Import Bank the opportunity to utilize a more expeditious precedure than the normal appropriations procedure. I would also agree with the gentleman that it is a relatively minor point.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we all know that this helps American industry export products, but we also must keep in mind that it helps other countries to import into this country. It is kind of a two-bladed sword; however, this resolution is an open rule and we should pass it. I urge the adoption of the rule.

Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 365, nays 9, not voting 57, as follows:

[Roll No. 212]

YEAS—365

Akaka	Bartlett	Boehlert
Alexander	Barton	Boggs
Anderson	Bateman	Boland
Andrews	Bates	Bonker
Annunzio	Bedell	Bosco
Anthony	Beilenson	Boucher
Applegate	Bennett	Boulter
Archer	Bereuter	Boxer
Armey	Berman	Brooks
Atkins	Bevill	Broomfield
Badham	Bliley	Brown (CA)

Bruce	Hawkins	Morrison (WA)
Bryant	Hayes	Mrazek
Burton (CA)	Hefner	Murphy
Burton (IN)	Hendon	Murtha
Bustamante	Henry	Myers
Byron	Hertel	Natcher
Callahan	Hiler	Neal
Carper	Holt	Nelson
Carr	Hopkins	Nichols
Chandler	Horton	Nielson
Chapman	Howard	Nowak
Cheney	Hoyer	Oakar
Clay	Hubbard	Oberstar
Clinger	Huckaby	Obey
Coats	Hughes	Olin
Coble	Hunter	Ortiz
Coelho	Hutto	Owens
Coleman (MO)	Hyde	Oxley
Coleman (TX)	Ireland	Packard
Combest	Jacobs	Panetta
Conte	Jeffords	Parris
Cooper	Jenkins	Pashayan
Coughlin	Johnson	Pease
Courter	Jones (TN)	Penny
Coyne	Kanjorski	Pepper
Craig	Kaptur	Perkins
Crockett	Kasich	Petri
Daniel	Kastenmeier	Pickle
Dannemeyer	Kemp	Porter
Darden	Kennelly	Price
Daschle	Kildee	Pursell
DeLay	Kindness	Quillen
Dellums	Kleczka	Rahall
Derrick	Kolbe	Rangel
DeWine	Kolter	Regula
Dickinson	Kostmayer	Reid
Dicks	Kramer	Richardson
DioGuardi	LaFalce	Ridge
Dixon	Lagomarsino	Rinaldo
Donnelly	Lantos	Ritter
Dorgan (ND)	Latta	Roberts
Dornan (CA)	Leach (IA)	Robinson
Dowdy	Leath (TX)	Rodino
Dreier	Lehman (CA)	Roe
Duncan	Lehman (FL)	Roemer
Durbin	Lent	Rogers
Dwyer	Levin (MI)	Rose
Dyson	Levine (CA)	Rostenkowski
Early	Lewis (CA)	Roth
Eckart (OH)	Lewis (FL)	Roukema
Eckert (NY)	Lightfoot	Rowland (CT)
Edgar	Lipinski	Rowland (GA)
Edwards (CA)	Livingston	Roybal
Emerson	Lloyd	Rudd
English	Loeffler	Russo
Erdreich	Long	Sabo
Evans (IA)	Lott	Saxton
Evans (IL)	Lowery (CA)	Schaefer
Fascell	Lowry (WA)	Scheuer
Fawell	Lujan	Schneider
Fazio	Luken	Schroeder
Feighan	Lundine	Schuette
Fish	Lungren	Schulze
Flippo	MacKay	Schumer
Foglietta	Madigan	Seiberling
Foley	Manton	Sensenbrenner
Ford (MI)	Markey	Sharp
Ford (TN)	Martin (IL)	Shaw
Frank	Martin (NY)	Shelby
Frenzel	Mavroules	Shumway
Frost	Mazzoli	Shuster
Fuqua	McCain	Sikorski
Gallo	McCloskey	Siljander
Garcia	McCollum	Sisisky
Gaydos	McCurdy	Skeen
Gejdenson	McDade	Slattery
Gephardt	McGrath	Slaughter
Gibbons	McHugh	Smith (FL)
Gilman	McKernan	Smith (IA)
Gingrich	McKinney	Smith (NE)
Glickman	McMillan	Smith, Denny (OR)
Gonzalez	Meyers	Smith, Robert (OR)
Goodling	Mica	Snowe
Gordon	Michel	Snyder
Gradison	Mikulski	Solarz
Gray (IL)	Miller (OH)	Solomon
Green	Miller (WA)	Spence
Gregg	Mineta	Spratt
Guarini	Mitchell	St Germain
Gunderson	Moakley	Staggers
Hall (OH)	Molinari	Stallings
Hall, Ralph	Monson	Stangeland
Hamilton	Montgomery	Stark
Hammerschmidt	Moody	Stenholm
Hansen	Moorhead	Stokes
Hartnett	Morrison (CT)	Strang
Stratton	Traxler	Wilson
Studds	Udall	Wirth
Stump	Valentine	Wise
Sundquist	Vander Jagt	Wolf
Swift	Vento	Wolpe
Swindall	Visclosky	Wortley
Synar	Vucanovich	Wright
Tallon	Walgren	Wyden
Tauzin	Watkins	Wylie
Taylor	Waxman	Yates
Thomas (CA)	Weber	Yatron
Thomas (GA)	Weiss	Young (AK)
Torres	Wheat	Young (MO)
Towns	Whitley	Zschau
	Whitten	
	Williams	

NAYS—9

Bentley	Gekas	Walker
Brown (CO)	Mack	
Cobey	McEwen	
Crane	Smith, Robert (NH)	

NOT VOTING—57

Ackerman	de la Garza	Matsui
Aspin	Dingell	McCandless
AuCoin	Downey	Miller (CA)
Barnard	Dymally	Mollohan
Barnes	Edwards (OK)	Moore
Biaggi	Fiedler	O'Brien
Bilirakis	Fields	Ray
Boner (TN)	Florio	Savage
Bonior (MI)	Fowler	Skelton
Borski	Franklin	Smith (NJ)
Breaux	Gray (PA)	Sweeney
Campbell	Grotberg	Tauke
Carney	Hatcher	Torricelli
Chappell	Hillis	Traficant
Chappie	Jones (NC)	Volkmer
Collins	Jones (OK)	Weaver
Conyers	Leland	Whitehurst
Daub	Marlenee	Whittaker
Davis	Martinez	Young (FL)

□ 1255

Mr. BROWN of Colorado and Mr. McEWEN changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 585.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 472 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 4510.

IN THE COMMITTEE OF THE WHOLE

□ 1304

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4510) to amend the Export-Import Bank Act of 1945, and for other purposes, with Mr. BERMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina [Mr. NEAL] will be recognized for 30 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

□ 1305

Mr. NEAL. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of our Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island [Mr. ST GERMAIN], for an opening statement.

Mr. ST GERMAIN. Mr. Chairman, I rise in strong support of H.R. 4510, a bill to extend the life of the Export-Import Bank of the United States.

The Eximbank plays an important role in helping American exporters compete against foreign suppliers who are receiving subsidized financing from their governments. Its insurance and guarantee programs enable smaller firms to sell overseas without having to risk the loss of the entire sale if the foreign buyer defaults—which is an ever-present danger in today's continuing international debt crisis.

In its 52-year history, the Export-Import Bank has supported more than $180 billion in U.S. exports. Last year, the Bank's insurance, guarantee, and lending programs backed nearly $10 billion in U.S. exports. That represents work over the year for a quarter of a million Americans. That in itself is reason enough for us to make sure that we give our full support to keeping the Eximbank and in business.

But having a strong, flexible Eximbank has never been more vital than now, with our Nation running up a balance of trade deficits in the magnitude of $150 billion a year.

Obviously, the Export-Import Bank isn't singlehandedly going to turn that deficit around for us. But the Bank does play a key role at the margin, helping American exporters maintain markets in sectors that have been targeted by our international competitors. Japan, France, Great Britain, and Canada and many other nations are subsidizing their exporters in critical markets such as power, telecommunications, and transportation.

This subsidization has recently taken on a new dimension in the form of mixed credits—the blending of traditional export credits with grants or low interest rate loans that have been earmarked for humanitarian and developmental purposes. The Eximbank

is playing a key role in U.S. efforts to tighten the rules on use of mixed credits for trade purposes by mounting a counterattack of its own. The Bank has made nearly $400 million in mixed credit offers targeted against those countries that are impeding negotiations. It has done this with the expectation that the grant element in those offers could ultimately be funded from a proposed $300 million war chest which the Banking Committee has approved in related legislation.

Another area in which Eximbank is providing an important support to America's export effort is in its programs to help small- and medium-sized businesses sell their goods and services overseas. Many of these are very high technology companies where America still holds a lead over our competitors. For example, Eximbank's Working Capital Guarantee Program enabled one United States company to win a $3.3 million contract in Egypt to supply the world's most advanced hydrological data collection system to improve irrigation along the Nile River. Data on water levels is transmitted to two computer-equipped master control stations by bouncing signals off ionized trails left by meteors entering the Earth's upper atmosphere.

Exim's programs designed to assist the smaller and medium-sized sales are particularly important to New England companies. The Bank has over $3 billion in authorizations outstanding to support New England exporters, and they're working with various State agencies to improve the information flow and cooperative efforts to stimulate more of this business not only from New England but all areas of the country.

Mr. Chairman, I urge enactment of H.R. 4510 so that Eximbank can get on with doing the critical job we have given it in supporting U.S. exports.

I would be remiss, Mr. Chairman, if I did not pay tribute to the chairman of the subcommittee, the gentleman from North Carolina [Mr. NEAL] for his efforts in this area. Although the gentleman and I on occasion have our differences, I must say that he has taken on this task and he has accomplished it with unusual skill and I feel with a good result; so I am hopeful that we will have the cooperation of the subcommittee chairman as we go through the amendatory process. Certainly I am hopeful that we can continue to rely upon the indomitable, the very effective, the very dedicated ranking minority member, the gentleman from Iowa [Mr. LEACH], for his continued cooperation here and I am hopeful that he will agree that we should support the bill as reported by the subcommittee, as well as the full Banking Commitee.

Mr. Chairman, again I urge support for H.R. 4510.

Mr. NEAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is an extension of the life of the Export-Import Bank Act. As currently written, the Bank's authority to make export loans, contained in that act, expires on September 30 of this year. H.R. 4510 extends that authority for 2 years, until September 30, 1988.

The administration requested a 5-year extension, but the Banking Committee prefers a shorter period. Our oversight of Bank policy, and our ability to legislate policy changes, are considerably enhanced by shorter reauthorizations.

This bill is not an authorization for a specific level of funding. Under the Export-Import Bank Act, the Bank can make loans and issue guarantees in any fiscal year up to whatever ceilings are provided in appropriations acts. The authority to make loans is conveyed by the Eximbank Act, while the specific annual limitation is set each year in an appropriations bill.

H.R. 4510 does, however, contain a potentially important innovation in Eximbank financing. Last year the administration proposed a new program—called I-Match, or interest rate matching. Instead of making direct loans to finance exports, the Bank would, under I-Match, guarantee and subsidized loans made by private financial institutions. The subsidy payments would permit private lenders to finance exports on terms competitive with foreign official export credit, which generally carries below-market interest rates. The financing offered the foreign purchaser of American exports would be the same, under I-Match, as under the Bank's Direct Loan Program. I-Match would change only the method of financing, not the amount or competitiveness of the financial package being offered in support of American exports.

The driving force behind I-Match proposal has always been budgetary. The administration claimed that I-Match would reduce the budget deficit, since an Eximbank direct loan is on-budget, while the same loan made by a private institution is off-budget, even though guaranteed by the Bank. The subsidy payment to the private lending institution would, of course, be fully on-budget, but that payment is a small fraction of the principal amount of the loan. If the Bank makes the loan, the full amount is carried on-budget as an outlay. if it guarantees and subsidizes a private loan, of the same amount and for the same purpose, only the subsidy is an on-budget outlay. The Bank estimates that a switch from direct credits to I-Match would reduce the outlays of the Federal Government by $145 million in fiscal 1987.

Despite the budgetary attraction of I-Match, the Banking Committee refused, last year, to provide Eximbank with the authority to make interest subsidy payments. The Bank does not have such authority under the Export-Import Bank Act, as now written.

We rejected the administration's request for several reasons. I have long argued that the claimed budgetary savings are spurious, that they are only paper savings that would have no real impact on the economy. Nonetheless, I recognize that even paper savings can be quite attractive when the pressure for budgetary contraction is severe. I-Match was rejected last year primarily because it had been hastily constructed, was technically flawed, and many exporters feared it could not, in fact, offer financing as competitive as Eximbank direct loans.

This year the administration returned with a new I-Match request, a technically and operationally much improved program which, the exporting and financial communities generally agreed, would be sound, workable, and competitive. This year, however, a totally unexpected impediment arose. The Congressional Budget Office, in its estimates of the President's budget, refused to allow any budgetary savings to flow from I-Match. CBO ruled, in effect, that Eximbank guarantees of private loans under I-Match should be scored, in terms of budget authority and outlays, as though the Bank were making the loan itself. An Eximbank guarantee under I-Match, just like an Eximbank direct loan, would be wholly on-budget.

This ruling, if sustained, would undercut the main purpose of I-Match, which is to generate budgetary savings without in any way altering the amount or competitiveness of Eximbank financing. The ultimate decision on how to score I-Match would be made by the Budget Committee, if and when the Appropriations Committee reports a bill with funding for I-Match. At the time the Banking Committee reported this reauthorization bill, we had no definitive ruling on how this scoring controversy might eventually be resolved. Thus, we gave the Bank the authority it wants to make interest subsidy payments, but we made that authority conditional upon a final ruling that I-Match be scored off-budget, as recommended by OMB, rather than on-budget, as recommended by CBO. As I interpret the language of H.R. 4510, in order for the Bank to be authorized to implement I-Match, the Appropriations Committees must report bills—or submit conference reports—providing for commitments by the Bank involving interest subsidy payments, and those bills—or reports—must be scored against any budget resolution so that I-Match guarantees give rise to no budget authority and no outlays. If those guarantees are scored in that manner, as

they are in the President's budget proposal, then the Bank can implement I-Match. But, if they are scored on-budget, giving rise to budget authority and outlays, as they are in CBO's estimates of the President's budget, then the Bank may not implement I-Match.

Fortunately, I-Match is not the only major initiative we take in H.R. 4510. This bill also requires to Bank to enhance its guarantee program to ensure the broadest possible participation by financial institutions. To that end, the Bank is required to make its guarantees fully transferable, thereby making Eximbank-guaranteed loans highly liquid assets. At present, those guaranteed loans are transferable to third parties only under special circumstances. A bank making an export loan with an Exim guarantee must, in general, regard that loan as an asset it will hold to maturity. The interest rate it will charge on that loan must then be set high enough to compensate the lender for holding a very illiquid asset. By making the asset fully transferable, thus highly liquid, a secondary market will likely develop in Eximbank guaranteed loans. Since liquid assets are more attractive than illiquid ones, the interest rate on those loans will fall. At lower rates, they will be more attractive to foreign borrowers, and thus more competitive with the guaranteed loans offered by other countries.

A similar requirement in the bill directs the Bank to improve the competitiveness of its Medium-Term Financing Program. Though the bill does not spell out precise steps the Bank must take, it makes clear our intent that the Medium-Term Program be simplified and made more efficient in its administration, and be rendered as supportive of U.S. exporters as is the Bank's Direct Loan Program. The Bank is required to report to the Congress the steps it has taken to achieve that goal.

Mr. Chairman, H.R. 4510, as reported by the subcommittee, contained a provision requiring an appropriation to cover any subsidies granted by the Bank. It was deleted in full committee markup, in part because several members argued that appropriating funds to the Bank—which does not now operate with appropriated funds—would somehow impose a new budgetary burden on the Bank, or on the authorizing committee, or on the Federal budget. I argued that appropriations would have no such impact: They would not increase the deficit of the Federal Government, they would not increase the outlays of the Eximbank, and they would not impinge in any way on budgetary funds allocated to the Banking Committee. Such appropriations would pose no budgetary problem, real or imaginary, for the Bank, or for the Bank's supporters in the Congress. They should, in fact, relieve the Bank's budgetary problem, since they would focus attention on the rather small real cost of Banks loans, instead of the rather large gross amount of those loans.

Though the requirement for appropriations was deleted from H.R. 4510, I suspect the issue is not dead, since Senate legislation contains a similar provision. To clarify various technical questions concerning the budgetary impact of appropriating funds to the Bank, I have asked the Congressional Budget Office to answer four questions:

First. Would the appropriation of these funds alter the deficit of the Federal Government?

Second. Would the appropriation of these funds alter the budget authority or outlays scored against the Eximbank?

Third. Would the appropriation of these funds alter the budget authority or outlays charged against the authorizing committees—the Banking Committees?

Fourth. Would the failure to appropriate these funds—that is, a decision to continue the current budgetary practices—allow the Bank to record lower budget authority or outlays by financing the subsidies it conveys out of its reserves?

I would like to append to this statement my letter to CBO and CBO's response. I understand that CBO consulted with OMB in preparing this response. The answers, in short, are: First, appropriations for the Bank will have no impact on the Federal deficit; second, appropriations will actually lower outlays and budget authority for the Bank except, for budget authority, in the extreme case where Bank lending is so reduced that its budget authority is already at zero; third, appropriations would have no impact on funds under the control of the authorizing committees; fourth, Eximbank reserves are not a source of a funding for Exim loans, the Bank cannot draw on those reserves to reduce its outlays or budget authority.

Attached are the letters which spell out these answers in greater detail:

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON INTERNATIONAL FINANCE, TRADE AND MONETARY POLICY OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,

Washington, DC, May 15, 1986.

Hon. RUDOLPH G. PENNER,
Director,
Congressional Budget Office.

DEAR MR. PENNER: On April 22 the Banking Committee marked up H.R. 4510, a bill to reauthorize the Export-Import Bank. The Committee deleted a section of H.R. 4510 which would have authorized appropriations to cover the subsidy component of Eximbank loans. The establishment of a subsidy budget for the Bank and the appropriation of funds to cover subsidies were included in H.R. 4510, as introduced, in order to focus the budget process on the real cost of Exim programs—the subsidy embodied in Exim loans—and not on the gross amount of Exim lending. In testimony before the Subcommittee on International Finance Mr. James Blum, Assistant Director for Budget Analysis of the Congressional Budget Office, recommended shifting the budgetary process from the amount of the loan to the amount of the subsidy.

Opponents of subsidy appropriations argued that appropriating funds to Exim would increase the amount of Budget Authority and Outlays attributed to the Bank. To quote portions of the Committee debate on this issue:

"Mr. LEVIN. Let me ask Mr. Neal. If it is required to be considered an appropriation, against what account would it be appropriated?

"Mr. NEAL. I guess it would stay in the 150 category. It's just that you are talking about a much lower amount of money.

"Mr. LEVIN. I know, but right now nothing is subtracted from any account * * *. I would like to go back and ask—against whatever account there is a subtraction or an allocation, what would be subtracted from that account—if I might ask our distinguished staff director——

"Dr. NELSON. To the best of our ability, we do believe it would affect BA and outlays.

"Mr. LEVIN. So there would have to be an allocation against one or another account.

"Dr. NELSON. Correct.

"Mr. LEVIN. And do you have any idea what might be the appropriate account used by the Budget Committee?

"Dr. NELSON. 150, I'm told.

"Mr. LEVIN. 150. And so I assume one ramification would be a subtraction against that account credited against other allocations to this committee.

"The CHAIRMAN. Well, the point is—will that be charged against the outlays of this committee? Yes or no.

"Dr. NELSON. To the extent that currently there is no charge against BA or outlay, and—you keep the provision that is now in the bill, to that extent, there would be a charge subsequently against BA and outlay.

"The CHAIRMAN. In other words—it would affect—overall BA and outlays of this committee.

"Dr. NELSON. In my opinion, yes, sir.

"Mr. MITCHELL. As I understand it, for the first time you are coming up with this appropriation, right?

"Mr. NEAL. Yes.

"Mr. MITCHELL. And that is money, and money is going to affect budget authority and outlays. I don't know how you can avoid it.

"Mr. CHANDLER. For the first time, you would be appropriating for funds, just as you do for the salary of a soldier or for any other payment from the Treasury. It is not necessary. You don't have to take away from housing or any of the other programs that this committee funds. * * * All you have to do is * * * let the Bank use its reserves, which the current language in the bill would deny."

During this debate I argued that appropriating funds to the Bank would have no effect on the federal deficit, and would not increase the Bank's BA or Outlays. A majority of the Committee, fearing otherwise, voted to delete the requirement for appropriations to cover Eximbank subsidies.

The Senate Banking Committee has reported and Eximbank reauthorization bill which authorizes appropriations to cover Exim subsidies. Thus, it is possible that an eventual House-Senate conference on Exim-

bank reauthorization will have to address this issue. It is also likely that subsidy appropriations for the Bank will arise again in the future. I would, therefore, like to resolve the questions and concerns raised by Committee members in the debate quoted above.

In particular, I would like to request the Congressional Budget Office to answer the following questions. To make the answers concrete, assume the Appropriations Committees provide, in an appropriation Act, for a limitation of $1.8 billion on Eximbank loans in the next fiscal year. Assume it is also proposed that $145 million be appropriated to the Bank to cover subsidies embodied in that lending. The issue is what budgetary differences, if any, this appropriation would make, compared to a $1.8 billion loan program with no appropriation.

(1) Would the appropriation of these funds alter the deficit of the federal government? If so, why and how?

(2) Would the appropriation of these funds alter the budget authority or outlays scored against the Eximbank, in function 150, for current or future fiscal years? If so, why and how?

(3) Would the appropriation of these funds alter the budget authority or outlays charged against the authorizing committees (the Banking Committees)? If so, why and how?

(4) Would the failure to appropriate these funds—that is, a decision to continue the current budgetary practice—allow the Bank to record lower budget authority or outlays by financing the subsidies it conveys out of its reserves?

Though I appreciate that the answers to these questions may involve some technical complexities, I hope you can provide them in as simple and straightforward a format as possible, without being misleading. While I have no particular deadline in mind, it would be useful to have your answers as soon as is convenient.

Sincerely,

STEPHEN L. NEAL,
Chairman.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 13, 1986.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Finance, Trade, and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of May 15, 1986 concerning the budget impact of appropriating the subsidy conveyed by Eximbank loans. I have attached tables showing the marginal impact on the federal budget assuming a $1.8 billion loan level and a $145 million subsidy appropriation suggested in your letter. The following are answers to the questions you raised.

Question 1. Would the appropriation of these funds alter the deficit of the federal government? If so, why and how?

Response: Appropriating the subsidy conveyed by Eximbank's loans will have no effect on the deficit because total outlays and total revenues would be unchanged from current budgetary treatment. Federal outlays from Eximbank loans are a function of the volume and terms of the loans extended, and not a function of whether the loans are financed by the Bank's borrowing from the Treasury or by direct appropriation. Eximbank loan disbursements, repayments, interest income and fees are unaffected by the appropriation. Since current accounting would not require the Eximbank to pay interest on the appropriated funds, interest expense for the Bank will be lower; lowering net outlays for the Bank. The interest cost of the appropriation would be borne in budget function 900, net interest, and not by the Eximbank in budget function 150, international affairs. The only effect of appropriating the subsidy would be a difference in the allocation between functions as shown in the table below.

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Outlays from New Eximbank Loans:					
Eximbank outlays (150)	249	555	684	695	654
Net interest (900)	—0	—0	—0	—0	—0
Total outlays	249	555	684	695	654
Outlays from New Eximbank Loans with an appropriated subsidy for Eximbank:					
Eximbank outlays (150)	243	536	652	650	597
Appropriated subsidy (150)	(145)	(145)	(145)	(145)	(145)
Net interest (900)	6	19	32	45	56
Total outlays	249	555	684	695	654
Difference	0	0	0	0	0

Question 2. Would the appropriation of these funds alter the budget authority or outlays scored against the Eximbank, in function 150, for current or future years? If so, why and how?

Response: Appropriating the subsidy would lower the Bank's outlays as shown above. Budget authority also would be altered, but not the underlying level of loan activity, government costs, or the deficit. Budget authority for the Bank is an estimate of current, indefinite borrowing authority and is a measure of future borrowing requirements. The estimate is based on loan obligations, less principal repayments, less cancellations of prior year loan obligations, plus redemptions of the Eximbank's past borrowings, less net income. Appropriating the subsidy would create budget authority equal to the appropriation. Initially, the Bank's borrowing requirement would be lowered by the amount of the subsidy appropriation. Future borrowing recorded against the Bank would be lower because the Bank would not pay interest or principal on the appropriated funds, thereby lowering redemption of debt and raising net income.

Since the current, indefinite borrowing authority of the Eximbank is an estimate of pluses and minuses to budget authority which by definition never falls below zero, at low levels of Eximbank activity appropriating the subsidy could raise budget authority. At higher levels of loan obligations, the appropriation could lower budget authority. The change in budget authority is not a significant measure of loan activity, government costs, or the potential impact on the deficit. Congress controls Eximbank activity through limitations on loan commitments, not budget authority. Your subcommittee's proposal would provide an additional appropriation control on the amount of subsidy the Eximbank could convey. This has the advantage of not only focusing attention on the real cost of Eximbank programs, but also making credit costs directly comparable with other forms of spending.

Question 3. Would the appropriation of these funds alter the budget authority or outlays charged against the authorizing committees (the Banking Commitees)? If so, why and how?

Response: Budgetary scoring measures spending legislation relative to allocations contained in Congressional budget resolutions. The Appropriations Committees, not the Banking Committees, are the spending committees for the Eximbank. Budget authority and outlays are scored with appropriation bills providing authority to enter into new loan and guarantee commitments and charged to the Appropriation Committees. Appropriating the subsidy for the Eximbank would not affect budget authority and outlay scoring for the Banking Committees.

Question 4. Would the failure to appropriate these funds—that is, a decision to continue the current budgetary practices—allow the Bank to record lower budget authority or outlays by financing the subsidies it conveys out of its reserves?

Response: The Eximbank's reserves, or government equity, is a measure of the Bank's financial condition and not a source of financing. The Bank must borrow the funds it lends and the subsidy it conveys. The Eximbank would record higher outlays and higher or lower budget authority under its current practice than if it received an appropriation of the subsidy conveyed by its loans. However, total loan activity, government costs, and the deficit would be unaffected.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

Attachment.

OUTLAYS FROM NEW EXIMBANK LOANS UNDER CURRENT ACCOUNTING

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
BUDGET FUNCTION 150: INTERNATIONAL AFFAIRS					
Eximbank:					
Loan disbursements	274.0	679.2	942.7	1,093.2	1,179.0
Interest expense-FFB	7.8	38.1	84.9	133.1	174.8
Interest expense-Net Treasury	2.0	4.1	4.6	4.1	3.3
Loan repayments	—19.0	—86.9	—191.4	—306.8	—415.9
Interest income	—9.2	—60.2	—126.8	—193.0	—250.8
Commitment and application fees	—6.8	—19.3	—30.2	—35.8	—36.7
Eximbank outlays	248.8	555.0	683.8	694.8	653.7
Outlays, International affairs	248.8	555.0	683.8	694.8	653.7
Budget Function 800: General Government: FFB Surplus	0.0	0.0	—0.1	—0.2	—0.2
Budget Function 900: Net interest:					
Interest Paid on Borrowing	9.8	42.2	89.4	137.0	177.9
Interest on Government Accounts	—2.0	—4.1	—4.6	—4.1	—3.3
FFB Interest Payments to Treasury	—7.8	—38.1	—84.8	—132.9	—174.6
Outlays, net interest	0.0	0.0	0.0	0.0	0.0
Total outlays	248.8	555.0	683.7	694.6	653.5

BUDGET AUTHORITY FOR NEW EXIMBANK LOANS UNDER CURRENT ACCOUNTING

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
BUDGET FUNCTION 150: INTERNATIONAL AFFAIRS					
Eximbank:					
Loan obligations	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0
Interest expense-FFB	7.8	38.1	84.9	133.1	174.8
Interest expense-Net Treasury	2.0	4.1	4.6	4.1	3.3
Loan repayments	—19.0	—86.9	—191.4	—306.8	—415.9
Interest income	—9.2	—60.2	—126.8	—193.0	—250.8

BUDGET AUTHORITY FOR NEW EXIMBANK LOANS UNDER CURRENT ACCOUNTING—Continued

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Commitment and application fees	−6.8	−19.3	−30.2	−35.8	−36.7
Cancellations	0.0	−268.3	−384.6	−451.1	−492.6
Redemption of debt	8.0	41.2	97.4	162.4	227.3
Eximbank borrowing authority	1,782.8	1,448.7	1,253.9	1,112.9	1,009.4
Budget authority, International Affairs	1,782.8	1,448.7	1,253.9	1,112.9	1,009.4
Budget Function 800: General Government: FFB Surplus	0.0	0.0	−0.1	−0.2	−0.2
Budget Function 900: Net interest:					
Interest paid on borrowing	9.8	42.2	89.4	137.0	177.9
Interest on Government accounts	−2.0	−4.1	−4.6	−4.1	−3.3
FFB Interest payments to Treasury	−7.8	−38.1	−84.8	−132.9	−174.6
Budget authority, net interest	0.0	0.0	0.0	0.0	0.0
Total budget authority	1,782.8	1,448.7	1,253.8	1,112.7	1,009.2

OUTLAYS FROM NEW EXIMBANK LOANS WITH AN APPROPRIATED SUBSIDY FOR EXIMBANK

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
BUDGET FUNCTION 150: INTERNATIONAL AFFAIRS					
Eximbank:					
Loan disbursements	274.0	679.2	942.7	1093.2	1179.0
Interest expense-FFB	3.1	20.2	53.9	89.6	119.6
Interest expense-Net Treasury	0.8	2.9	3.5	3.0	2.2
Loan repayments	−19.0	−86.9	−191.4	−306.8	−415.9
Interest income	−9.2	−60.2	−126.8	−193.0	−250.8
Commitment and application fees	−6.8	−19.3	−30.2	−35.8	−36.7
Eximbank outlays	242.9	535.9	651.7	650.2	597.4
Outlays, International Affairs*	242.9	535.9	651.7	650.2	597.4
Budget Function 800: General Government: FFB Surplus	0.0	0.0	−0.1	−0.1	−0.1
Budget Function 900: Net interest:					
Interest paid on borrowing	9.8	42.2	89.4	137.0	177.9
Interest on Government accounts	−0.8	−2.9	−3.5	−3.0	−2.2
FFB interest payments to Treasury	−3.1	−20.2	−53.8	−89.5	−119.5
Outlays, net interest	5.9	19.1	32.1	44.5	56.2
Total outlays	248.8	555.0	683.7	694.6	653.5
Difference	0.0	0.0	0.0	0.0	0.0
*Includes outlays from appropriations of	(145.0)	(145.0)	(145.0)	(145.0)	(145.0)

BUDGET AUTHORITY FROM NEW EXIMBANK LOANS WITH AN APPROPRIATED SUBSIDY FOR EXIMBANK

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
BUDGET FUNCTION 150: INTERNATIONAL AFFAIRS					
Eximbank (150):					
Loan obligations	1,800.0	1,800.0	1,800.0	1,800.0	1,800.0
Interest expense-FFB	3.1	20.2	53.9	89.6	119.6
Interest expense-Net Treasury	0.8	2.9	3.5	3.0	2.2
Loan repayments	−19.0	−86.9	−191.4	−306.8	−415.9
Interest income	−9.2	−60.2	−126.8	−193.0	−250.8
Commitment and application fees	−6.8	−19.3	−30.2	−35.8	−36.7
Cancellations	0.0	−268.3	−384.6	−451.1	−492.6
Redemption of debt	3.2	21.5	61.8	109.7	156.4

BUDGET AUTHORITY FROM NEW EXIMBANK LOANS WITH AN APPROPRIATED SUBSIDY FOR EXIMBANK—Continued

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Eximbank subsidy appropriation	145.0	145.0	145.0	145.0	145.0
Eximbank borrowing authority	1,627.1	1,264.9	1,041.2	870.6	737.2
Budget authority, international affairs	1,772.1	1,409.9	1,186.2	1,015.6	882.2
Budget function 800: General Government FFB surplus	0.0	0.0	−0.1	−0.1	−0.1
Budget function 900: Net Interest:					
Interest paid on borrowing	9.8	42.2	89.4	137.0	177.9
Interest on Government accounts	−0.8	−2.9	−3.5	−3.0	−2.2
FFB interest payments to Treasury	−3.1	−20.2	−53.8	−89.5	−119.5
Budget authority, net interest	5.9	19.1	32.1	44.5	56.2
Total budget authority	1,778.0	1,429.0	1,218.2	1,060.0	938.3
Difference	−4.8	−19.7	−35.6	−52.7	−70.9

Mr. LEACH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this bill, the Export-Import Bank Act Amendments of 1986, H.R. 4510. It was adopted by the Banking Committee on a voice vote and has the support of the administration as well as most sectors of the export community.

In this regard, I would particularly like to express my appreciation for the leadership of the gentleman from Rhode Island [Mr. ST GERMAIN] and the gentleman from North Carolina [Mr. NEAL].

As the ranking member of the International Finance and Trade Subcommittee, I can assure my colleagues that the Banking Committee thoroughly examined the administration's request for extending the charter of the Export-Import Bank. On the basis of lengthy hearings involving a substantial number of witnesses from trade, industry, and banking groups, as well as the administration, the Banking Committee was able to craft a bipartisan compromise which protects the interests of our exporters at the same time that it reduces the Federal budget deficit.

This bill will expand and enhance those Eximbank programs which benefit small- and medium-sized businesses while reducing direct subsidies to larger users of Eximbank resources.

Since its inception in 1934, the Export-Import Bank has been instrumental in supporting more than $167 billion of U.S. exports to more than 150 countries around the world. It pays approximately $19 million in administrative expenses out of loan interest and fees, with no cost to the taxpayer. In its operations the Bank has returned to the U.S. Treasury more than $1 billion in dividends and has built up a $1.5 billion reserve against loan losses. While a dispute currently exists as to whether adequate reserves have been taken for potential loan losses, the Bank is currently benefiting from the lower interest rate environment.

Current authority for the Bank's direct credit program is $1.06 billion when the Gramm-Rudman cut is taken into account. Yet, it is expected that the Bank will need a full $1.8 billion in loan authority for the coming fiscal year. In fiscal year 1987, lower oil prices and interest rates are expected to result in increased economic growth rates around the world and U.S. exporters, in particular, are expected to be more price competitive because of increased efficiency, cost reductions and the weakening of the U.S. dollar. Exports, for instance, are now rising about 4 percent per month while imports are dropping about 9 percent.

This circumstance contrasts sharply with the early 1980's when U.S. exporters faced an increasingly competitive environment. Newly industrialized countries such as Taiwan, Mexico, and Brazil captured a growing share of world trade and our industrialized trading competitors increased their use of officially supported export credits. In addition, U.S. exporters had to contend with a debilitating combination of inflation, a strong dollar and record high real interest rates at home.

In 1982, as recession spread around the world, foreign demand for U.S. goods and services fell as did Eximbank authorizations. Many countries took a cautious attitude toward large purchases from abroad and deferred many projects.

Even as the U.S. economy began to improve 3 years ago, continued recession in many countries of the world depressed the demand for U.S. exports. Risk protection assumed increasing importance at the Eximbank as the debt crisis worsened. By fiscal year 1983 some 90 percent of the Bank's authorizations were in the form of insurance and guarantees, and only 10 percent in the form of direct loans. As a result of several successful negotiations with other OECD countries governing the terms of official export credits, export credit subsidies for many of our trading competitors have been pared back, enabling our exporters to compete more exclusively on the basis of market factors.

As economic and budget circumstances have changed, so has the need for new policy directives for the Bank. This legislation reflects the need for change. The most important departure from current law is the conditional authority it gives the Bank to launch the so-called I-Match Program.

I-Match would replace direct loans with guarantees of repayment for loans made by commercial lenders. The commercial lender would receive an interest subsidy payment equal to the difference between the OECD consensus rate and the prevailing market rate—the spread is expected to average 200 to 250 basis points for most transactions. Thus, the interest subsidy payment permits the commercial lender to make the loan at the same interest rate that would have been charged an Eximbank direct loan. The program is intended to provide the foreign borrower with exactly the same credit terms and conditions he would receive under current Eximbank programs.

In my view, the administration's revised I-Match Program more clearly identifies the subsidy now being provided to our exporting community through the Eximbank and, by increasing the involvement of commercial banks and other financial institutions, begins to privatize the operations of the Bank. In sum, I-Match is a very responsible program and represents a real plus for the export community, particularly if export demand continues to increase.

While it represents a marginally more costly approach, the I-Match Program will increase the participation of many regional and smaller banks in export finance and, most importantly, will under present Government accounting practices provide substantial savings in budgetary outlays.

Nothing in this legislation would preclude the Bank from providing some level of direct credits in combination with I-Match if the House Budget and Appropriation decide this is the best course of action. Assuming the I-Match Program is to be implemented in conjunction with the Direct Credit Program at its current operating levels, budgetary savings would still amount to some $1.5 billion by fiscal year 1990. Meanwhile, the Eximbank is expected to support at least $14 billion of U.S. exports in fiscal year 1986.

Recent progress in export credit restraint agreements have considerably narrowed the spread between the market rate and the OECD "consensus" rate for official export subsidy financing. If and when the administration attains its goal of reaching an international agreement ending all officially subsidized export financing, I-Match subsidy payments can be phased out as well.

The bill also contains several provisions which should increase the attractiveness of medium-term programs of the Eximbank. It clarifies the authority of the Secretary of the Treasury to offer credit to finance a domestic sale by an American seller to an American buyer; it provides for the assignability and the transferability of the guarantees offered by the Eximbank; and under certain circumstances provides the Bank with the authority to charge fees for its services.

In summary, this bill will help to level the playing field for our exporters at the same time that it will help to free up additional resources for our foreign aid programs. Both development aid and security aid supporters should support this bill. By taking Exim off-budget, additional resources will be made available in the international affairs account of the budget resolution. That is why the State Department as well as the Treasury so strongly support this approach. In short, there is something in this bill for liberals and conservatives, for cold-warriors and development advocates, and for supporters of aid to such key countries as Israel, Egypt, Pakistan, and the Philippines.

While helping to narrow the trade deficit, this bill should put the Eximbank back on the path to a position of leadership in promoting the export of U.S. goods and services.

□ 1320

Mr. NEAL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I simply want to add my expression of support for this bill. It is very, very important that we have this extension.

We are in a situation where we have an enormous trade deficit. One of the reasons for this is that at times we do not always have the proper tools to give our business community to be truly competitive in the world market.

I think that this bill goes a step in the right direction. I personally think that it is a modest proposal, but a well-thought-out proposal, that the chairman and the distinguished minority leader have worked out. I hope the Members will support it and help us add to the things that our business community needs to be truly competitive in the international markets.

Mr. NEAL. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I thank the gentleman for yielding time to me.

Mr. Chairman, I think that all of us who are part of the agriculture community were shocked the other day to learn that for the first time since records began to be kept, agriculture imports into the United States exceeded our exports. This also comes in light of the fact that it has been this administration's policy for the past 4 to 5 years to reduce or lower market prices in the hopes that our exports would increase. But as those prices have been reduced, instead we have seen agriculture exports from this Nation decline along with them.

Of course that is much of the balance-of-trade problem that this Nation faces. This all comes in light of the fact that a few weeks ago the Secretary of the Treasury, Mr. Baker, got his way with the World Bank in providing a $350 million loan to Argentina. According to the news accounts, Argentina then would use this to enable them to reduce the price of their agriculture products that they are selling into the world market. So in effect the administration got its way in providing a $350-million loan that by 1989 will result in added agriculture exports from Argentina of over $1 billion.

Also I think we have to take into consideration the Joint Economic Committee's recent report which said that the policy of this Government is to assist particularly Latin and South American countries in agriculture exports even at the expense of their own people. They have people in their own countries that are going hungry, and the U.S. Government is helping those countries to export agricultural products for money.

The reason for those exports is to enable those countries to be able to pay back loans to some large banks in this country.

Mr. Chairman, that has an impact upon the farmers in my district and the farmers throughout this Nation as well as on our balance of trade. It indicates to me that we have a foreign policy that is more concerned about large banks on the east coast than small farmers in Oklahoma. For that reason it is my intention to offer in the future an amendment that would prohibit such loans and assistance to countries that are exporting agriculture products that would directly be in competition with crops that are in surplus in this country. Those would be loans and assistance to assist those countries in expanding that agriculture production or expanding those agriculture products.

From my discussion with the Export-Import people, it is my understanding that few loans—in fact no loans—have been made that would fit into that category. It is also my understanding from talking to the committee chairman himself that the committee will watch very closely the actions of the Export-Import Bank as far as agriculture products, and that the committee would be opposed to seeing loans being made to countries that would enlarge their agriculture production of crops that would be in surplus in this country, enabling those countries to move those products into world trade and therefore undercutting the American family farmer.

Mr. Chairman, I would like to hear from the chairman of the committee as to his thoughts with regard to this situation.

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Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I would be delighted to respond to my friend. The fact is that the Eximbank has not supported very much agricultural production abroad in any case. I understand the gentleman's concern, and I share it, but the real concern is with some other agencies of the U.S. Government, and the gentleman has told me that he understands that and will be working on them.

Almost all the demand for Eximbank financing—the direct lending program—is for large capital goods involved in transportation, communications, energy, high-technology goods, and so on, and very, very little in agriculture. But I will say that the Eximbank—I am just looking at the annual report for this year—during this last year authorized support for $172 million in exports of agricultural commodities and foodstuffs, and $328 million in exports of agricultural equipment and supplies. So the Bank really is doing much more to help our balance of trade and to help the farmer export than it is to hurt, and the Eximbank already operates under several restrictions that require it to study very carefully any negative impact that any of its loans or guarantee programs would make on commodities and other products that are in world surplus.

□ 1330

I assure the gentleman that we will consider and continue to monitor the situation. Like the gentleman from Oklahoma, I come from an agricultural part of the country and I have the same concern that he does.

We will continue to monitor this situation.

I thank the gentleman for his concern on behalf of all of us.

Mr. ENGLISH. Mr. Chairman, I certainly thank the chairman for his assurance and I, too, support this important piece of legislation because of the potential benefits that it can provide to American agriculture.

But I would also urge my colleagues to look carefully at U.S. assistance to foreign countries which, in fact, makes it possible for those countries to undercut our American agriculture producers in this Nation.

With that fact, I hope that in the future when this legislation comes up, legislation that benefits these countries, that they will join me in supporting my amendment which will limit or restrict or prohibit any U.S. assistance for products that are going to be produced and exported in competition with American agriculture.

Mr. NEAL. Mr. Chairman, I thank the gentleman for his comments.

Mr. ALEXANDER. Mr. Chairman, once again Congress finds itself addressing important questions concerning international trade. While discussing this issue, we should remember the importance of U.S. agriculture and concentrate on ways in which we can reclaim U.S. farmers rightful share of world agricultural markets.

During the past 5 years, the country has witnessed a tragic deterioration in the U.S. position in world agricultural markets. In 1981, the U.S. exported $43.8 billion in agricultural goods. For 1986, the Department of Agriculture forecasts that exports will only reach $27.5 billion—a drastic 37 percent drop.

Last month, for the first time since 1959, the United States registered an agricultural trade deficit. For years, agriculture has contributed greatly to the U.S. positive trade balance. But now, U.S Government policy has crippled our farmers' ability to trade overseas.

The Federal Government has been running an enormous deficit which has led to an overpriced dollar. This extreme dollar value has priced U.S. agriculture goods out of foreign buyers reach.

Now, some of our farmer customers have developed their own agriculture industry with U.S. aid and have become major competitors. Those countries who have not developed their own agriculture turn to these new suppliers for their agriculture needs. For example, Brazil used to import soybean and soybean byproducts from the United States. With United States financial and technical assistance, Brazil is now a major competitor to United States soybean producers.

I agree with the need to assist other countries; however, we should not forsake our own people to do so. While considering trade issues, we should ask ourselves how we can help farmers regain their strength in the world market.

Mr. LEACH of Iowa. Mr. Chairman, I yield 5 minutes to the distinguished ranking member of the full committee, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Iowa [Mr. LEACH] for yielding this time.

I rise in support of H.R. 4510, the Export-Import Act of 1986.

I pay tribute to the gentleman from North Carolina [Mr. NEAL] and the gentleman from Iowa [Mr. LEACH] for working so diligently with the administration. This is a complicated subject and these gentlemen have demonstrated a knowledge and expertise which deserves recognition and compliment.

H.R. 4510 reauthorizes the Export-Import Bank for 2 years (through fiscal year 1988), conditionally authorizes an interest-rate matching (I-Match) program, requires Eximbank to enhance its guarantee and medium-term financing programs, restricts the use of credit application fees, and requires the Bank to provide a list of rejections of financing applications in its annual competitiveness report.

A carefully crafted bipartisan bill, it authorizes programs needed by our exporters so they can reduce our large trade deficit.

H.R. 4510 directs Eximbank to finance U.S. exports at terms fully competitive with financing offered by other countries. The Bank provides credit assistance through direct loans to foreign purchasers of U.S. goods and services, loan guarantees to private U.S. banks, and credit insurance for American exporters to protect against nonpayment by foreign buyers. By financing U.S. exports and imports at terms more favorable than private lenders (that is, with lower interest rates, smaller fees, and longer repayment schedules, Eximbank effectively subsidizes foreign buyers of American products and services, thereby expanding U.S. export markets.

Congress has set a $40 billion ceiling on the total amount of loans, guarantees, and insurance Eximbank may have outstanding at any one time. The Bank may exercise its authority to enter into direct-loan, guarantee, or insurance commitments in any fiscal year only after a limit on such commitments is set in an appropriation act.

The legislation contains a number of important new policy directives for the Bank. The most important of these is the conditional authority it gives the Bank to launch the so-called I-Match program. This is the administration's proposal to finance exports with a combination of guarantees and interest subsidy payments. The I-Match provisions in this legislation were worked out in close cooperation with representatives of the export community, officials of the Eximbank, as well as a bipartisan coalition of members of the Banking Committee. Since the demand for export credit is likely to exceed substantially what the Appropriations Committee will be able to authorize in the current budget environment, it is important in my view that the Appropriations Committee authorize an I-Match Program as structured by the House Banking Committee.

Mr. Chairman, while supporting the bill as a whole, I have reservations about the inflexibility of three provisions.

First, section 6 entitled "enhancement of guarantees" would require the "unrestricted transferability and assignability" of Eximbank guarantees. What that means is that a bank can make a loan and then wash its hands of the matter by selling off the loan, all the time protecting itself with the full faith and credit guarantee of the U.S. Government. This provision is supposed to benefit exporters, but almost all the profits would actually end up with the banks. Commercial banks would be relieved of all responsibility for the quality of the loan, leaving the full burden on the Govern-

ment. Treasury has a question about creating yet another riskless financial instrument to compete with regular Treasury debt.

The inflexible language of section 6 raises more questions than it answers. Does the bill have the effect of requiring transferability of a loan guarantee regardless of the risk of the loan or the amount of "due diligence" done by the Bank? Does it mean that already existing guarantees of the Eximbank must be made transferable? These questions should be answered before this bill becomes law.

The second reservation I have with this bill relates to section 2 on interest subsidy payments. At present, the Eximbank has some flexibility in its choice of financing techniques for a given export transaction. This section, however, would remove that flexibility by mandating direct loans for "financing any export transaction." The Bank is left with no say in the matter. When this bill becomes law, I hope that the Eximbank will end up with authority to use the most appropriate means of financing a given transaction.

Third, in my view a 5-year extension of the charter of the U.S. Export-Import Bank, is preferable in the bill to the 2-year extension for a variety of reasons I will probably look for another forum to press this issue.

The bill merits the support of all my colleagues on both sides of the aisle. Enactment of this legislation is vitally needed by the American exporting community which faces unprecedented challenge for our trading competition in Europe and Asia. With this authorized action in place, our exporters can once again compete on a level playing field.

Mr. NEAL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. LUNDINE].

Mr. LUNDINE. Mr. Chairman, I urge my colleagues to support H.R. 4510 to reauthorize the Export-Import Bank for 2 years. The disastrous $150 billion U.S. trade deficit be substantially reduced in the next few years. To achieve this essential objective, we must export more. To export more, adequate financing must be available to U.S. exporters at competitive terms. The Export-Import Bank is the critical financing link in this exporting chain.

A large reason for the quadrupling of our trade deficit since 1980 has been declining U.S. exports. The Commerce Department recently reported that 1.8 million export-related U.S. jobs have been lost during this time. While the uncompetitive U.S. dollar cost us valuable export markets over the past 6 years, we have also lost many sales abroad due to a lack of aggressive and competitive export finance. Now, with the recent fall in value of the dollar back to a more reasonable level, in the upcoming months we will need more than ever a strong and competitive Export-Import Bank if we are to regain our former position in world export markets.

In New York State, we understand that exports mean jobs. We know that our businesses must have the capacity to finance their exports when they are competing internationally. Trade and finance have become two necessary elements of a successful equation in this increasingly interdependent global economy we live in today. I know through firsthand experience that many jobs would have been lost in places like Olean, Elmira, Jamestown, and Buffalo, NY, without the services of the Export-Import Bank.

The bill before us is a carefully constructed effort to provide the critical financing our exporters will need over the next 2 years without adding further to our budgetary dilemma. It preserves the authorization of a strong direct lending program for the Bank subject to the limits set in annual appropriations acts. It also makes possible implementation of the so-called I-Match Program by the Export-Import Bank if certain budgetary conditions are met.

I am particularly pleased that this legislation contains language I sponsored to preserve and strengthen existing Export-Import Bank authority to provide financing to U.S. producers competing in the U.S. market against unfair foreign financing inconsistent with export credit agreements. The bill makes absolutely clear that foreign governments violating export credit agreements do not have to be a party to an export credit agreement for the Secretary of the Treasury to authorize the Export-Import Bank to provide competitive financing. In the past, the Treasury Department has been reluctant to consider authorizing Export-Import Bank financing in these instances where offending countries were not signators to export credit agreements.

In conclusion, the bill before us will help ensure that the Export-Import Bank stays competitive so that U.S. firms do not lose export markets on the basis of inadequate financing terms. A strong Export-Import Bank is needed to reduce our trade deficit and to keep the U.S. competitive in the future. It deserves your support.

□ 1340

Mr. LEACH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I take pride in the Banking Committee's work on this authorization, and am especially appreciative of the leadership demonstrated by the gentleman from North Carolina [Mr. NEAL], the chairman of the International Finance, Trade and Monetary Policy Subcommittee, as well as the gentleman from Iowa [Mr. LEACH], the ranking minority member.

This bill reauthorizes one of the most important tools we have to promote, U.S. exports.

It is important to remember what this bill is, and it is equally important to remember what it is not. The bill represents an effort to put U.S. exports at the starting gate, so they can compete with other manufacturers.

It is not a foreign policy bill. A number of issues which have been mentioned in connection with this bill are important foreign policy issues. But the Eximbank authorization is not the vehicle for making foreign policy. We do give the White House the discretion to make sure that the bank is not used in a way that is contrary to our national interests, but this bill is no place to fine tune foreign policy.

It is not a comprehensive trade bill. We need to make sure this bill provides us with the best export financing mechanism we can develop. But we cannot address every trade question in this bill. That's not the scope of this effort.

The committee is to be commended for its innovative approach to the challenges of export financing. The authorization will make the Loan Guarantee Program more attractive by removing restrictions on the transferability and assignability of loan guarantees.

When you consider the amendments which will be offered to this authorization, and I understand there are several, don't simply look at whether they articulate attractive policy objectives: ask yourself just what it is that we're trying to accomplish with this particular measure. Let's not complicate matters for our exporters by trying to make ourselves feel good.

Mr. NEAL. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I am pleased to rise in this bipartisan setting, where we have almost a state of euphoria regarding the Eximbank bill, and about the only debate that is going to take place I suspect is going to be on a few amendments; I think most of the amendments I am aware of probably should be defeated.

In any event, I could not pass up this opportunity to try to get us to stand back a second to see what it is that we are doing and what it is we are doing in comparison to other things that we refused to do. What we are doing today is reaffirming the fact that the Government of the United States ought to have a role in helping to make U.S. industry internationally competitive. This is something we have been doing for 50 years, as far as the Eximbank is concerned.

What we are doing today is reaffirming the fact that the United States

should have a development bank, a development bank to enhance our industries' abilities to export products, goods, services. Yet, at the same time we are doing this, at the same time that the U.S. Chamber of Commerce says "This bill must pass," that the National Association of Manufacturers says, "This bill must pass," that the Reagan administration says, "This bill must pass," we see these same entities, institutions, and individuals opposing the concept of an industrial competitiveness strategy, of which an Eximbank is but one small, albeit important, part.

We need this component part, which would authorize $1.8 billion for fiscal year 1987; we need it desperately. We need many, many more component parts of an overall industrial competitive strategy.

Some of those other components are contained within the trade bill. Whether it is the Council on Industrial Competitiveness; whether it is the Competitiveness Exchange Rate Act, et cetera, I urge all my colleagues who see the wisdom of having a bank, a component of an industrial competitiveness strategy, the Eximbank, to open their eyes and also see the need for an overall industrial competitiveness strategy.

Mr. LEACH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I rise at this point to support this bill, H.R. 4510. I think the Export-Import Bank is an extremely important organization in our business of government and in the economy of the United States and the world.

I have long time been a supporter of the Eximbank, and I think it is exceedingly important for us to get on today with the business of reauthorizing it. I am a little disappointed the reauthorization is only for 2 years, because we debate so many things each time this comes up.

The fact is that our major businesses could not compete on the world market today if we did not have a way to make their products competitive in terms of pricing, and this is the only vehicle that we have to do that. That is a sad fact, because the reality is that many countries, even our friends and allies in Europe, subsidize their companies and their products when they go out to sell on the world market, particularly the larger items such as airplanes and the like; and we have to have a way to fight that. We have tried for years to get them to agree to stop that kind of subsidy.

It is a distortion of the marketplace; it is not the kind of free enterprise way to do business that I would like to see; it is not free trade that so many talk about, but it is unfortunately the reality of the world we live in.

If we are going to be competitive and allow American citizens to have jobs in industries that do sell abroad these larger ticket items, we have to be able to have this kind of a program.

Now that does not mean that I do not see some flaws in this legislation. I certainly do. I think the I-Match Program that is in here on a tentative basis would have been much better if it had been put into the bill as the administration requested initially, as a new alternative method to the Direct Loan Program; and that we proceed to do that, but I was not able to prevail in the committee on this, and I am not going to come back and argue it again on the floor today.

The fact is we do have an I-Match Program in the bill; at least an opportunity for it to be used under certain circumstances, and I think that is positive.

I am a little disappointed with the occasions where the Eximbank has made what I consider to be egregious mistakes in making loans or credit commitments to foreign countries that are Communist dictatorships. I have one particular amendment that I am going to offer today that I hope my colleagues will join with me on that will prohibit the Eximbank from making any further credit extensions to the country of Angola until the President of the United States certifies that all of the nearly 40,000 Cuban troops in that country have left Angola.

I think it is incredible that two Presidents of the United States, over nearly a 10-year period, allowed the Eximbank to give loans and credits to finance an oil industry in Angola that gives the profits to the MPLA Communist regime that pays the bounty, pays the way to feed and house and clothe the nearly 40,000 Cuban troops that are there from Castro's Cuba.

□ 1350

And those troops, of course, are fighting in a civil war against an element of the people of Angola who were initially a part of the freedom movement in the 1970's, who were excluded from a political process by the MPLA Communists who came to power shortly after 1975. These Cuban troops simply should not be there. We tried to negotiate this away, we tried every way we can. But how can we expect them to leave when we ourselves are indirectly through the Eximbank and the resulting oil profits to the MPLA government, financing their presence, their feeding, their clothing, their equipment bought from the Soviet Union, and so on? We cannot. So I ask my colleagues when the time comes to support the McCollum amendment which does nothing but exclude the opportunity to finance any of the Export-Import Bank deals with respect to Angola except, and there is an exception, food and agricultural commodities, until the President certifies that the Cuban troops have left Angola.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I would be glad to yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

(Mr. PARRIS asked and was given permission to revise and extend his remarks.)

Mr. PARRIS. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Florida and congratulate him on his leadership in this regard.

Mr. MCCOLLUM. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. NEAL. Mr. Chairman, how much time remains on this side?

The CHAIRMAN. The gentleman from North Carolina [Mr. NEAL] has 6 minutes remaining.

Mr. NEAL. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support of H.R. 4510, the Export-Import Amendments of 1986.

Mr. Chairman and Members, our American economy is very much a part of a world economy.

What we manufacture here we must be ready to sell abroad. Indeed, we export 20 percent of our industrial output.

Yet times are changing. Our market share as a percentage of the world economy dropped from 18 percent in 1960 to about 15 percent in 1970 to 11 percent in 1984.

We have seen the results. Last year our merchandise trade deficit rose to a recordbreaking $148.5 billion.

One reason is the nature of our international competition. Japan provides official financing for 35 to 40 percent of its manufactured exports. France provides such financing for 20 to 25 percent of its exports.

We provide support for roughly 10 percent of our exports.

The Export-Import Bank is the key Federal agency in supplying this very modest level of support.

This legislation renews the charter of the Eximbank, which is due to expire September 30 of this year, for an additional 2 years.

The bill also allows the administration to undertake an innovative interest rate matching program to finance American exports. In the current scheme of things, Exim borrows from the Treasury and lends money to purchasers of U.S. products at competitive interest rates. Under the I-Match Program, the loan would come from a commercial bank, with Exim providing a subsidy to make the interest rate

competitive. The purpose of this new financing method is to reduce direct Federal outlays. However;

Originally, Mr. Chairman, the administration requested that the entire program be shifted to I-Match. I personally did not agree with this approach, and in fact the exporting community approved this shift. However, I thought it was an innovative idea, one which we should at least try. I am happy to say through discussions with Chairman NEAL that this bill calls for a pilot program, and at the end of that pilot period a study would be prepared to ascertain whether or not the I-Match Program is more cost effective than a direct loan program.

However, as I indicated, Mr. Chairman, this new program would not be implemented unless the House and Senate Budget Committees accept the OMB assessment that I-Match loan guarantees and subsidies do not require budget authority or outlays, except in the case of default. In addition Exim could only make I-Match loans if direct loan is not possible.

This method of financing is not without controversy, which is why the legislation requires the General Accounting Office to submit to the Congress, by January 1, 1988, a report on Exim's use of its authority to make interest payments. The report will compare the interest subsidy and the direct loan programs in terms of competitiveness, efficiency, cost and budget impact.

To make the program more attractive to a diversity of private lenders, including insurance companies, pension funds and savings and loan institutions, the bill makes several changes in Exim's loan guarantees, including the removal of bank restrictions on the transferability and assignability of guarantees between lenders.

The legislation also makes clear that the Treasury can, under certain conditions, make a subsidized loan to an American firm if it is determined necessary for competition with a foreign firm financed by export credits. Using authority provided under section 1912 of the Export-Import Act, Eximbank recently made financing offers to an American company, Allis-Chalmers. Allis-Chalmers requested the assistance to help it compete against the Brazilian firm, Voith Brasil, in the sale of turbine generators and related equipment to western Pennsylvania hydroelectric projects. The Exim offer of a $4.2 million loan at 6.5 percent interest is directly competitive with a financing offer from CACEX, the Brazilian export credit agency. Without Exim assistance, these western Pennsylvania projects could easily end up purchasing Brazilian-made equipment, with a subsequent loss of American jobs.

Finally, I want to make known my strong opposition to the Rahall amendment, which, if approved by the House would make it very difficult to finance any overseas project which benefits American exporters. The overly broad language of the amendment fails to reflect an important fact: In most cases in which the Eximbank finds itself involved, the project will go ahead whether or not the Eximbank provides financing. Other nations are more than willing to sell the necessary equipment to the project in question, often with very favorable financing terms. The only certain result if American financing is withdrawn is that jobs dependent on the export of American goods involved would be lost

I urge my colleagues to support this substitute and to support passage of the Export-Import Bank Amendments of 1986.

Mr. BOULTER. Mr. Chairman, I would like to take this opportunity during consideration of the Rahall amendment to the Export-Import Bank authorization bill to speak to the issue of subsidization of foreign industries that are in direct competition with their crippled counterparts here in the United States. I would like to state emphatically that I have no qualms with a competitive world market. In the past, even, I could support aiding other nations to become competitive. However, at a time when our domestic agriculture, copper, and other vital industries are struggling to stay afloat, it not only doesn't make sense to aid our competition, it is downright unfair.

Mr. Chairman, my district is fortunate enough to be the home to the world's largest copper refinery. It has provided hundreds of my constituents with employment. Today, however, the copper industry and this refinery are in dire economic straits, jeopardizing the livelihoods of hundreds of my constituents. In Chile and Peru, however, thanks to hundreds of millions of dollars in loans from the United States taxpayer, copper production and exports have increased, and their industries have taken on a larger role in the world market, at the American worker's expense.

In my district, Mr. Chairman, farmers are being denied credit, and local banks are closing due to regulations being handed down from Washington which monitor lending practices. However, Mr. Chairman, countries which have credit records that are atrocious are given easy credit terms and further loans. Where is the fairness in this?

Some of my colleagues here on this floor will complain that the Rahall amendment is protectionist in nature. That by prohibiting the Eximbank from extending any direct credit or financial guarantee in support of an export to any foreign entity if that foreign entity intends to use the export to produce or manufacture a commodity, mineral, material, or product which is also produced or manufactured in substantial quantities in the United States, we will be violating the ideal of a free world market. This notion is as absurd as it is ill founded. I am not proposing today that we close our borders to our foreign competition, only that we don't subsidize it.

Mr. Chairman, I have introduced legislation which is similar to this amendment in that it targets the taxpayer's money away from our foreign competition. I'm sorry that we can't discuss that bill, for it goes this amendment a great deal better. Today, however, I would like to urge my colleagues to support the Rahall amendment. It doesn't complete the work we have to do in this area, but I believe it is an intelligent first step toward reinvigorating our most suffering domestic industries.

Mr. IRELAND. Mr. Chairman, it is a pleasure for me to speak briefly today on H.R. 4510, the reauthorization of the Export-Import Bank. Although I would have liked to have seen a longer reauthorization period, I am very much in support of the major parts of this legislation.

The last time we authorized the bank several colleagues and myself had placed several provisions in the law to compel the Bank to reach out and include small business in their programs, both those small businesses who have exported and those who are new to the field. Since then I have followed the Bank's progress which has been slow but in some cases most admirable. My subcommittee of the Small Business Committee plans an oversight hearing in the fall. Although we are not now addressing those concerns to which I refer, I do want the members to know they are still in the law and that I intend to hold the directors of the Bank accountable.

There are several noteworthy provisions in this bill that I will briefly comment upon. In particular I am pleased to see that we call for more of an outreach by the Bank to insure that we have the widest possible participation of commercial banks, insurance companies, pension funds, and other private capital sources. I also applaud the provisions covering user fees and medium-term financing.

Finally, I would like to commend recent moves to match the mixed-credit deals that several of our foreign competitors have been clobbering us with for years. Our Government has a definite role in this area. It is one thing to ask business to compete with foreign business interests, but it is another to expect successful competition when American business is confronted with foreign companies who are dramatically subsidized by their own governments. If we do not step in in such situations we will face economic defeat time and time again, for that is not competition in the true sense. We must face up to it and combat it. The rules should be the same and fair for everyone.

The Eximbank can play a great role in addressing the serious trade deficit crisis we now confront. I commend the diligent members of the House Banking Committee for the great amount of energy they expended to produce this reauthorization. I would hope all Members appreciate this and recognize the importance of this legislation now before us.

Mr. LEACH of Iowa. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. NEAL. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I just want to say again, as other Members have said in speeches in support of this Eximbank, that this is an important program for our country. It is a major facility for helping our exporters and thus reduc-

ing this horrendous balance of trade that will cripple our country if we do not deal effectively with it. While I am going to support the McCollum amendment, it does no harm to the Eximbank; the Eximbank is not going to make any loans to Angola anyway.

I would urge Members to please follow the debate carefully on these other amendments. These other amendments, the Crane amendment, the Rahall amendment, though not intentional, they would cripple the Bank, they would cripple our efforts to make this country competitive in international trade, and we must defeat them. I thank the chairman, and I thank all of the Members who worked so hard on this bill, especially my friend, Mr. LEACH, and our fine staffs. We have a good bill, and I urge support of the bill without amendment.

The CHAIRMAN pro tempore (Mr. ANTHONY). All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. NEAL. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export-Import Bank Act Amendments of 1986".

SEC. 2. INTEREST SUBSIDY PAYMENTS.

(a) IN GENERAL.—Section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) is amended by inserting after "to guarantee, insure, coinsure, and reinsure against political and credit risks of loss;" the following: "to provide a sufficient return to commercial lending institutions or other lenders making loans in support of exports of goods and services when financing at other than market rates is necessary to respond to subsidized financing offered by foreign export credit agencies, except that—

"(A) the sum of the aggregate amount of loans supported by interest subsidy payments and the aggregate amount of direct loan obligations may not exceed $1,800,000,000 for fiscal year 1987 and such amounts as may be provided in appropriation Acts in subsequent fiscal years;

"(B) no amount is authorized to be provided in an appropriation Act for commitments by the Bank involving interest subsidy payments, unless, in determining the amount of budget authority and an estimate of outlays with respect to such commitments for purposes of the Congressional Budget and Impoundment Control Act of 1974, such commitments are treated in the manner recommended in the budget submitted by the President for fiscal year 1987;

"(C) the Bank's authority to enter into commitments to make interest subsidy payments shall lapse on October 1, 1988; and

"(D) the Bank shall—

"(i) in making a determination with respect to financing any export transaction, give priority to financing such transaction through the use of a direct loan; and

"(ii) make maximum use of its authority to make direct loans in each fiscal year;".

(b) GAO REPORT ON INTEREST SUBSIDY PAYMENTS.—

(1) IN GENERAL.—Section 9 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end thereof the following new subsection:

"(e) GAO REPORT ON INTEREST SUBSIDY PAYMENTS.—

"(1) REPORT REQUIRED.—Not later than January 1, 1988, the Comptroller General of the United States shall transmit to both Houses of the Congress a report on the manner in which and the extent to which the Bank is exercising its authority to make interest subsidy payments under section 2(a).

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) with respect to interest subsidy payments shall—

"(A) compare the efficiency and competitiveness of interest subsidy payments with the efficiency and competitiveness of direct Bank financing of an equivalent value of exports;

"(B) compare the cost, to the United States Government, of making interest subsidy payments and the impact of such payments on the financial condition of the Bank with the cost and impact of direct Bank financing of an equivalent value of exports;

"(C) compare the impact of interest subsidy payments on the Federal budget with the impact on such budget of direct Bank financing of an equivalent value of exports; and

"(D) include all views and recommendations of the Advisory Committee of the Bank which are submitted to the Comptroller General of the United States before December 1, 1987.".

(2) SUNSET PROVISION.—Effective January 2, 1988, the amendment made by subsection (a) is repealed.

SEC. 3. FEES.

Section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) is amended by inserting after the fifth sentence thereof the following new sentences: "The Bank may impose a fee (at such time and in such amount as the Bank may determine to be reasonable) to cover any expense (including overhead expense) incurred by the Bank in providing any good (including any document, report, or other publication of the Bank) or performing any service (including any conference or seminar conducted by the Bank) in connection with and in furtherance of the objects and purposes of the Bank. Amounts received by the Bank pursuant to the imposition of any fee under the preceding sentence shall be available until expended and may be used to pay any expense referred to in such sentence directly or be credited to any account or fund of the Bank which has been or will be debited for such expense.".

SEC. 4. COMPETITIVENESS REPORT.

Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended by adding at the end thereof the following new sentence: "The Bank shall also include in the annual report a list of the applications for loans, guarantees, or insurance which the Board of Directors rejected during the period covered by the report. This list shall indicate which countries which are members of the Organization for Economic Cooperation and Development were offering official export credit in competition with any loan application rejected by the Board, to the extent such information is available to the Bank.".

SEC. 5. CREDIT APPLICATION FEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting after the third sentence the following: "The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount.".

SEC. 6. ENHANCEMENT OF GUARANTEES.

Section 2(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The Bank shall act to enhance its guarantee program to provide the broadest possible participation by commercial banks, insurance companies, pension funds, and other private capital sources. The Bank shall—

"(A) consider all feasible measures to enhance guarantees;

"(B) provide, at a minimum, for the unrestricted transferability and assignability of its guarantees; and

"(C) report to the Congress on its actions under this paragraph within 1 year of its enactment.".

SEC. 7. DIRECTOR'S TERM.

Section 3(c)(8) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(8)) is amended by adding at the end thereof the following new subparagraph:

"(E) Any director whose term has expired may serve until such director's successor has been qualified.".

SEC. 8. EXTENSION OF CHARTER.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988".

SEC. 9. MATCHING FOREIGN OFFICIAL EXPORT CREDITS IN THE UNITED STATES

Section 1912(a)(1) of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635a-3(a)(1)) is amended by inserting "irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices," after "major exporting countries have agreed,".

SEC. 10. ENHANCEMENT OF MEDIUM-TERM PROGRAM.

Section 2(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)) is amended by adding at the end thereof the following new paragraph:

"(3) ENHANCEMENT OF MEDIUM-TERM PROGRAM.—

"(A) IN GENERAL.—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall enact measures to—

"(i) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

"(ii) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

"(iii) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

"(iv) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

"(B) REPORT REQUIRED.—Not later than April 15, 1987, the Bank shall transmit a report to the Congress analyzing the measures adopted to enhance medium-term financing.".

SEC. 11. NEW CREDIT AUTHORITY.

The second sentence of section 7(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(1)) is amended by striking out "spending authority" and inserting in lieu thereof "spending and credit authority".

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered by Mr. McCOLLUM: Page 9, insert after line 2 the following new section (and redesignate subsequent sections accordingly):

SEC. 12. PROHIBITION OF AID TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12) U.S.C. 635(b) is amended by adding at the end thereof the following new paragraph:

"(11) The Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services except food or Agricultural commodities to the Peoples Republic of Angola until the President of the United States certifies to the Congress that no Cuban combatant forces remain in Angola."

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. (Mr. PENNY). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, there are nearly 40,000 troops from Cuba in Angola at the present time. There have been thousands of Cuban troops in Angola since 1975.

My amendment prohibits any new credit activity by the Eximbank with Angola except for food and agricultural commodities until the President certifies that all Cuban troops have left Angola. It is as simple as that.

Ten years ago, roughly, the departing Portuguese colonial government signed the Avlor Agreement with three Angolan independent movements. This agreement called for a shared transition government and scheduled free elections.

One faction, the MPLA, imported 13,000 Cuban troops and with the aid of Soviet advisors physically took control of the vast majority of the country and has held power ever since then. No elections have ever been held. Most would agree that the MPLA is a Communist dictatorship. Over the last decade the Soviets have provided many, many aircraft, tanks, and other military equipment to the MPLA and presently have about 1,500 advisers in Angola.

One of the original three independence movements have disbanded, but the third movement, Joseph Savimbi's UNITA still fights on against the MPLA and holds the southeast corner of Angola.

The bulk of the support for the MPLA in holding off UNITA is the presence of Cuban troops, now nearly 40,000 in number. These Cuban troops are fed, housed and clothed by profits the MPLA makes on its oil production. If it were not for the oil income the MPLA could not support Cuban troops or buy military equipment from the Soviets. If it were not for the Cuban troops and the military equipment provided by the Soviets, the MPLA dictators would have to change their ways or face a much more serious threat from UNITA. Through the Eximbank the United States has poured millions and millions of dollars into Angola to finance the development of the oil industry that is the sole source of the MPLA treasury. As of November 1985—last year—more than $245 million in loans to the MPLA government had been authorized by the Eximbank. This represents the Bank's largest exposure in sub-Saharan Africa.

I do not think the United States should be supporting a Communist dictatorship which has clearly seized power illegally especially not when there is an ongoing civil war with forces that appear to be pro-Western and democratic in their leanings. It is incredible that both President Carter and President Reagan allowed United States dollars to flow through the Eximbank in support of the development of an oil industry in Angola that has propped up the MPLA for more than a decade. It is even more Incredible that this was done with the full knowledge that these moneys were going directly to support a huge contingent of Castro's Cuban troops fighting for the MPLA in Angola. Incredible as this may seem, it was only last year that the President, through the State Department, intervened amid much congressional protest to stop the Eximbank credit flow to Angola.

Some will argue that present law gives flexibility to the President to stop Eximbank loans any time he wants and that he has done so now in the case of Angola and that we should not tie his hands by my amendment. This does not make sense to me. Congress is a coequal branch of this Government. The Eximbank and its credit authority is a creation of Congress. When the potential for abuse of this credit authority has been so clearly demonstrated as in the case of Angola where we have been supporting thousands and thousands of Cuban troops propping up a Communist regime, it is not only our right, but our duty, to act to make sure it does not happen again. There is no reason any President should ever OK Eximbank loans for projects that would finance the presence of Cuban troops in Angola.

Now I want to make it perfectly clear that my amendment exempts Eximbank credits to Angola for food and agricultural commodities. No one will starve in Angola for the want of Eximbank financing and we will not be using food and agriculture commodities as a weapon of foreign policy.

The amendment I am proposing simply stops all other credit activity of the Eximbank with respect to Angola until the President certifies that all Cuban troops have left Angola.

I urge your support for my amendment to get Cuban troops out of Angola and stop United States financing of these Cubans.

It is about time we did it, and a good vote by my colleagues today can stop or at least certainly slow that progress.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I would be glad to yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think the amendment of the gentleman from Florida makes a great deal of merit. I want to ask the gentleman a couple of questions.

First, how many Cuban troops are in Angola today?

Mr. McCOLLUM. There are nearly 40,000 there today, just shy of 40,000.

Mr. HUNTER. How many Soviet advisers?

Mr. McCOLLUM. Roughly 1,500 Soviet advisers.

Mr. HUNTER. Now, are these Cuban troops presently engaged in combat operations, specifically are they engaged in the process of killing black Africans?

Mr. McCOLLUM. There are some of them who are. They are in various outposts throughout the country. They are actively involved in the military operation of the MPLA Government of Angola, which has better than two-thirds of the country under its control.

□ 1405

Mr. HUNTER. Let me ask the gentleman one particular question with regard to gulf.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(At the request of Mr. HUNTER, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I understand that the President has restricted the Eximbank with respect to Angola at this point. I understand further that obviously the Cuban troops are still operating and Gulf Oil is still operating. How is it operating at this time?

Mr. McCOLLUM. Obviously, Gulf Oil and the interests that are over there with Chevron, which is now a subsidiary, have an investment and they are an ongoing operation. My amendment is not going to stop their operation. It is not going to shut them down. Unfortunately, in my view, the profits are still going to flow, whatever they are, to the Government of Angola.

But what my amendment would do would be to prohibit the Eximbank from giving any more loans to potentially expand that operation or to add to it or to develop some other industry inside the country of Angola that could enhance the treasury of this Communist regime.

Mr. HUNTER. But Gulf is obviously still operating in partnership with the Government of Angola.

Mr. McCOLLUM. They are still very much in partnership with the Government of Angola. In fact, I think the Government of Angola requires that 50-plus percent of the profits go to their Government in order for them to be there operating.

Mr. HUNTER. How many millions of Eximbank dollars have already flowed into the Gulf-Angola Government partnership?

Mr. McCOLLUM. About $153 million has actually already gone into the Government of Angola projects over there. Another $100 million or so is authorized. Again, those are in the pipeline and my amendment cannot stop that from happening. But we can stop more from being authorized and more from flowing.

All of this props up about $1 billion a year in an oil industry in that country, $1 billion a year into Angola's coffers. I do not know how much into Gulf Oil or somebody else's.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, on that last point the gentleman made about the $100 million that remains in the pipeline, the gentleman just said, it is my understanding, that that money cannot be stopped?

Mr. McCOLLUM. Not at this juncture. My understanding is that that money is committed contractually. It has already been authorized and the commitments are out there. And the way it works is the Eximbank pays out this money on periodic payments over a period of time, like buying an airplane or financing a car.

Mr. BURTON of Indiana. If the State Department were to declare Angola a known Communist country, would that not prohibit Federal U.S. taxpayers' dollars from going to the Government of Angola and would that not stop the money that is in the pipeline?

Mr. McCOLLUM. It might very well. Technically, I do not frankly know whether it would stop it because I have not researched the point to know if we would indeed stop it. It may already be enough money going there through the financing system that is independent of taxpayer credit or taxpayer moneys. But I do not know that for a fact. I cannot say for sure.

Mr. BURTON of Indiana. I will make a further statement on the gentleman's amendment in just a moment. I want to congratulate the gentleman on it. I think it is a very good amendment. I think everyone in this body ought to vote for it.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I might say that I am inclined to support the gentleman's amendment. The Eximbank is not going to make any more loans to Angola anyway.

But I cannot resist pointing out the irony of the situation. Almost all of these loans have been made over the last 4, 5, or 6 years under the administration of President Reagan, almost all of them, tens of millions of dollars going to the government, as the gentleman from Florida [Mr. McCOLLUM] described it.

The President has the authority to stop those loans whenever he wants to. He could have stopped them 5 or 6 years ago. He could have stopped them 3 years ago or 2 years ago. He could have stopped them this year. He has chosen not to.

In fact, a further irony is that what the Washington Post described as a group of conservative Republican Congressmen tried to stop these loans and, of course, the Reagan administration was in the court arguing against it and trying to continue the loans.

As I say, my inclination is to support the amendment. I will be supporting the amendment. But I do think that it is ironic that, under the leadrship of President Reagan, we have made most of the loans and when Congressmen tried to stop him, he fought it.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yeild?

Mr. NEAL. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would just like to concur that there is irony in this. I am thankful that the gentleman is going to support this amendment because of the very reason the gentleman set forth here, a conservative President Reagan, and a fairly conservative Democratic President Carter allowed this to happen. I think this is why Congress needs to put it in law. A lot of people have thought that we did not need to do it. But if the most conservative we have are going to let it go on this long, that is every good reason why we need to take some steps to make sure it does not happen in the future.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I find it difficult to concur in the gentleman's line of discussion, but I do agree. I think there is fuzzy-headed thinking on this particular issue.

I think the State Department, in particular the gentleman in charge of the African affairs for the State Department, Mr. Crocker, has led us down the primrose path in a number of areas, not the least of which is Angola.

Mozambique, you will recall in the foreign aid bill last year, they were asking not only for economic aid to support the Communist government of Mr. Machel over there, but they were also asking for military assistance.

So I agree with the gentleman. Although I love this President dearly and I think he is doing a great job, I think in this particular area the State Department has led him down the primrose path.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I am going to support the amendment of the gentleman from Florida [Mr. McCOLLUM], although it is usually my disposition to oppose such amendments. The reason is to try to bring about clarification of the Reagan administration policy.

It seems ironic anomalous to me for the Reagan administration to be seeking support, either overtly or covertly, for forces under Savimbi opposed to the present Angolan Government and,

at the same time, to be giving financial assistance through the Eximbank that has the direct effect of buttressing the existing government.

Primarily to crystalize the issues involved, I am going to be supporting the amendment of the gentleman from Florida.

Mr. NEAL. Mr. Chairman, before closing, let me say that it will be interesting to see how much support we get in the future when we try to get this body involved in some foreign policy consideration. The reason I mention that is because I have heard so often, especially from the other side of the aisle, that oh, no, foreign policy is the exclusive right of the administration and we should never become involved in it. Of course, I disagree with that comment and I think this will be a good precedent for some further involvement in the future.

Mr. CRANE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Bible warns that a house divided against itself cannot stand for long. If there is even a grain of truth in this maxim, then our policy toward Angola must surely fall, for it could not be more divided. Recent reports indicate that the Reagan administration is currently providing some $10 to $15 million in military assistance to Jonas Savimbi and his rebel group UNITA battling the Marxist government of Angola. This much is perfectly understandable and in line with the administration's policy of assisting freedom fighters who struggle against Communist oppressors throughout the world. UNITA is classic example of a rebel group deserving of our assistance and support, since they are in direct conflict with over 35,000 Cuban troops in Angola. These Cuban troops, along with Soviet and Soviet-bloc advisors, allowed the Marxist government of the Popular Movement for the Liberation of Angola [MPLA] to seize and maintain power since 1975 in spite of the widespread popular opposition.

At the same time the President is discussing the possibility of funding this group of anti-Communists dedicated to overthrowing the Marxist regime in Angola, our very own Export-Import Bank, an official United States Government agency, is in the process of disbursing better than $100 million in loan guarantees and credits to the Government of Angola to finance an offshore oil development project being jointly undertaken by Gulf Oil and Sonangol, the State owned company of Angola. In fact, this latest portion of loans is only a fraction of the total of United States taxpayers dollars at risk in Angola. The National Security Council, in a report published last year outlining the U.S. role and options in Angola, estimates that the Eximbank has guaranteed some $250 million in loans to the Government of Angola. In other words, the U.S. taxpayers are at risk of losing up to $250 million if Angola defaults on its loan obligations. And President Reagan is in the process of providing funds to a rebel group that, if successful, will cause just that: A complete default on all loans at a cost of over $250 million to the U.S. taxpayers.

Angolan oil revenues, according to most estimates, were approximately $2.5 billion last year, and represented nearly 90 percent of total exports. Approximately 75 percent of the oil was pumped by Gulf-Chevron and Sonangol from a joint venture in Cabinda, a joint venture financed in large part by Eximbank backed loans. And more loans from the Eximbank will assist in the expansion of the Cabinda oilfield to increase capacity from the current 220,000 barrels per day to 500,000 per day by 1990.

What is the significance of the revenue that Angola earns from its U.S. financed oil developments? Simply this: Approximately 60 percent of the hard cash derived from this oil goes to pay to keep the Cuban expeditionary forces in Angola and buy Soviet arms for them and their MPLA collaborators. Thus, United States assistance is being used to prop up the Marxist government of Angola, at the very same time that we are providing United States assistance to topple that government. As Dr. Savimbi said during his recent visit to Washington, "Without Gulf, I don't think MPLA could have money to carry on the war. Gulf is hurting us. It's helping the Russians and the Cubans to entrench themselves in our country."

The question that we must ask is how could this perplexing state of affairs have evolved? Eximbank officials don't deny that the loans have been made, nor that more are soon to be disbursed. Rather, they claim that there is nothing wrong with this under current U.S. law. But the law, chapter 12, United States Code Supplement, section 365, seems very straightforward. It says: "The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit in connection with the purchase or lease of any product by a Communist country." While the list of Communist countries under chapter 22, United States Code Supplement, section 237, doesn't include Angola, it specifically states that the term "Communist country" is not limited to those listed. It is true that the President may waive the provision prohibiting the extension of credit, but only in three narrow circumstances: First, if "such assistance is vital to the security of the United States," second, if the "recipient country is not controlled by the international Communist conspiracy," or third, if "such assistance will further promote the independence of the recipient country from international communism." One could argue about the merits of these exceptions, but the fact remains that neither the President nor the Secretary of State has ever invoked any of these exceptions. And Angola, as even its most loving supporters and apologists admit, is a Communist country run by a Marxist-Leninist dictatorship slavishly loyal to Moscow. Our own State Department, in a rare moment of anti-Communist candor, has even recognized this fact, calling Angola a Marxist people's republic.

But the Eximbank reasons that Angola can't be Communist since "foreign commercial enterprises can freely operate there." That bit of logic is mindboggling, given the fact that the very mother of all communism, the Soviet Union, allows foreign commercial enterprises to operate there freely. I suppose that as far as the Eximbank is concerned the Russians aren't Communists either.

What this means, then, is that in spite of U.S. law and in direct contravention of the will of Congress, the Eximbank is guaranteeing millions of dollars of loans to a Communist country that the United States does not even officially recognize and, in fact, is actively seeking to overthrow. Therein lies my confusion. But rather than merely sit back and ponder the vagaries of this whole situation, several of us here in Congress decided to take action—we sued the Eximbank to enjoin the disbursement of this latest $100 million loan package to Angola. Since Congress had clearly spoken on this issue, and the Bank has chosen to ignore a straightforward congressional directive, we believed it was essential to take this step.

And now, to our considerable amazement, yet another perplexing action has been taken by this administration: The Department of Justice successfully filed a motion with the U.S. district court that dismissed our suit. Obviously, their motives were to protect the administration from the embarrassment which a full-fledged trial would bring. In support of the dismissal motion, the State Department claimed that Angola is not a Communist country, and that labeling it a Communist country "could have a substantial impact on the United States-led negotiations with Angola and South Africa over the issues of Cuban troop withdrawal and the implementation of United Nations Security Council Resolution 435 for the independence of Namibia."

In other words, to avoid angering Angola and embarrassing the administration by pointing up the folly of its policy toward Angola, the administration preferred that our suit not reach

the merits. They seem to be saying that the Eximbank should be allowed to disburse its loans to Communist Angola as discreetly and quietly as it has done in the past. As I stated earlier, a house divided must surely fall, and when this "divided house" finally falls, the embarrassment for someone is this administration is going to be acute, and the cost to U.S. taxpayers will be great—in the neighborhood of $250 million. For this reason, I would urge my colleagues to support the McCollum amendment that would prohibit Eximbank loans to Angola until such time that the illegal Cuban presence is withdrawn.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment, not because I am sympathetic to the MPLA or to the Government of Angola, but because of a broader concern I have with the use of foreign policy controls that place restrictions on U.S. businesses attempting to compete in the world economy.

We now have economic sanctions or export controls on a variety of countries including the Soviet Union and the Eastern bloc countries, North Korea, Cambodia, Vietnam, Nicaragua, and Libya.

□ 1415

When the House was in session before the break, we passed upon a disinvestment measure involving South Africa. There are others who want to see economic controls placed on the Government of Chile. Mr. Chairman, we are in a political environment now where we want to promote U.S. values to other countries. If these nations do not subscribe to those values or deny human rights to their people, we resort to economic sanctions or trade embargoes.

The problem is that the United States is the only one to engage in these policies. We are going it alone. Because they are unilateral economic restrictions, in most cases they do not work effectively. They do not work because other countries, for whatever reason, fail to join us in these economic sanctions. The result is that the French and the Japanese and the others are only too happy to step in and pick up where the United States is denied a market.

Mr. Chairman, I would like to leave for the RECORD two statements that were made before the Subcommittee on International Economic Policy and Trade concerning the overall economic costs of the use of economic sanctions.

The first comes from the President's Commission on Industrial Competitiveness. That Commission found that—

Foreign policy controls have an estimated cost to the U.S. economy of $4 billion in lost sales per year. Such losses substantially erode competitiveness. In addition, the unilateral imposition of controls erodes the reputation for reliability of U.S. industry around the world, not just in the target nation. Reliability and "contract sanctity" are fundamental to long-term business relationships.

This comes from the President's Commission on Industrial Competitiveness.

The other statement comes from a witness before the committee representing the Heritage Foundation, that, "In the area of export controls for countries with human rights violations, for example, the report," and he is referring to the Secretary of Commerce' report to the Committee on Foreign Policy Controls, "the report notes that no other countries have imposed such controls, that products comparable to those from the United States are available in countries without export controls, and that such controls are largely of symbolic value."

He goes on to say that,

Although the report cities only $7.5 million of lost exports due to such controls, this amount includes only the value of export licenses denied in 1985, and cannot, therefore, estimate the total loss of exports.

Mr. Chairman, the concern I have is with the exclusive use of economic controls to carry out this country's foreign policy objectives. We have to ask ourselves whether those controls are effective and why other countries do not join in a more multilateral approach if we want to see human rights restored to many of these countries.

I would seriously question the effectiveness. I think there is another approach if we want to rely on economic sanctions. If we really want to hurt a recalcitrant country, what we ought to do is place import restrictions on that country's ability to bring products into this country and thus bring about higher foreign earnings.

To continually use what is the most expedient and the most convenient policy, that is, economic controls on exports, we are not bringing that country to its political knees; we are not being effective in carrying out the policy. The only ones we are punishing are U.S. businesses.

Even though the amendment on Angola is largely symbolic, because there are no Exim loans pending, we know the President can deny those loans at any time, so we have to look at the overall effect of the use for foreign policy controls and what they are doing to our competitive position.

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be terribly brief about this because I see other Members who are impatient to speak. I think that we are faced with the fact that there is an up-side and a down-side to everything.

I, myself, would like to use the Eximbank for many reasons, and I greatly respect the gentleman from Florida for putting in this amendment because I happen to hate the government which he hates. But the fact of the matter is, we either have an Eximbank or we make it a diplomatic tool of the State Department and of the whim of Congress. That is the down-side of the issue.

This bank must, despite the goodness of the cause, be kept free. The President of the United States, be he Ronald Reagan, a Republican now, or anyone else that comes along, has the right to turn down any loan; has the right to refuse process of an Eximbank loan.

We cannot take this bill for the future our United Technologies, our farmers, our General Electrics, our everyone else, and play politics with it. We have to hope that there will be the consensus of fact that the Angolan Government does not deserve a dime. We have to hope that there will be the fact recognized by those in charge that in fact Communist countries do not need any help.

We have to hope that the Eximbank will not make loans to businesses that will compete back with the United States. Why do I say hope? It is because if, in fact, we turn around and make this bank a political tool, an expression of the whim of this Congress which makes us feel good for the day, we have in fact destroyed the issue of what we are doing.

Do you know that the British Government financed entire L-1011's, entire aircraft for 4.5 percent because in fact it is British social policy that x number of people will make jet engines at Rolls-Royce, which the plane was equipped with and for every two planes there are seven engines.

I could go on and on. I could talk about the A-300's and the two free ones that Frank Borman got and they did not help him much; he still had to sell the airlines. The fact of the matter is, that is unfair credit competition, and that is what this country faces.

This bill should not be littered with the political flotsam and jetsam of what goes on in this House at the moment. We all should remember that what the Eximbank is here to do is to supply American industry with the credit that is necessary to compete in a world where everybody, Japanese, French, German, English, Taiwanese, cheats. Only the United States is "Uncle Sucker." I would suggest to you that by putting this bill under the condition of the political mood of the moment, it is the real down-side of what we are doing.

I admire the gentleman from Florida, and I hope the Angolan Government goes bankrupt and I hope the damn Cubans leave, but I do not want to clutter up the Eximbank.

There is an amendment coming forth from a good friend of mine which is a prounion amendment; there is a union alert out on it. I think he is right, but we do not clutter up the Exim legislation with that amendment.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I have a mutual respect for the gentleman from Connecticut; he has indeed a lot of wisdom in this House. I also support his belief that we need to have integrity in the Eximbank system. The gentleman and I share that.

There is one area where the gentleman and I differ on, I think, in the reasoning on this, if I might pursue it just to make the point. That is that there are already some dozen countries or so that are listed on the list as Communist countries that Eximbank loans cannot be made to.

By a fortuitous circumstance, MPLA came into being after that list was composed. It has a lot more down-sides to it than some of the countries on the list.

□ 1425

We have waived that. We have waived the provisions with regard to some of those countries that are Communist. If they should ever come back in good graces, we can waive it for them, too.

Mr. McKINNEY. Mr. Chairman, if the gentleman will allow me to continue for one second, since I have yielded to him, I would simply say that I have opposed every single possible move in the diplomacy on the Export-Import Bank, and I will continue to do so.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. McKINNEY] has expired.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is clear that this amendment is about to be agreed to, but I think that as we move toward its passage there are a couple of points that should be noted by the membership.

The effect of this amendment is pretty nominal since it really does nothing more than reiterate the current policy of restricting Export-Import Bank loans to Angola. The fact is that there have been no new loans to Angola for the past 2 years. The amendment grants no needed authority to the executive branch since the administration already has that authority, under the Chafee amendment to the Export-Import Bank Act, to disapprove any Export-Import activity which runs counter to our foreign policy. That is the authority the administration has been using for the past 2 years to restrict Export-Import Bank loans to Angola.

The administration has stated very clearly in a letter to the chairman of the Committee on Banking, Finance and Urban Affairs what the current policy is, and I would like to quote the administration's observations in that regard:

> We will not approve U.S. exports to Angola with a military end use, and we will not support loans which would increase Angola's ability to earn foreign currency and thus fund its war against UNITA until the Angolan Government demonstrates a clear intent to reach a negotiated settlement.

Therefore, an amendment which mandates already existing policy and provides already existing authority has little apparent effect.

There is, however, one consequence that we ought to note, and that is that this amendment may well represent a potential windfall for Angola of some $211 million. It is notworthy, I think, that Angola has been very careful in meeting its payment schedule to the Eximbank. The current exposure of the Export-Import Bank in Angola is $211 million. Therefore, the potential risk to us and the potential windfall to Angola is also $211 million. I am not sure that makes a lot of sense from a taxpayer's standpoint.

Finally, the last observation I would like to make is to those who see this amendment as a major contribution toward achieving the goal we all share, which is the removal of Cuban troops from Angola. I would only note that the key to getting the Cuban troops out of Angola is getting South Africa out of not only Angola but also the neighboring country of Namibia, which it continues to illegally occupy. One of the diplomatic effects of this kind of amendment is to reinforce the anti-Angolan military alliance that we have in effect entered into with South Africa, a relationship which I submit is compromising American interests profoundly. We are now being perceived, throughout southern Africa, as aiding and abetting apartheid in a very active way.

Mr. Chairman, I do not think that makes a lot of sense from the standpoint of American national interests. Yet this amendment will only reinforce that preception—and thereby play directly into the hands of the Soviets and the Cubans within the region. I repeat: that makes no sense, not if our goal is the protecting of American interest within southern Africa.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, one of the previous speakers on this side of the aisle said that he hopes the "damned Cubans leave Angola." Well, the truth of the matter is that the "damned Cubans" are not going to leave Angola as long as we continue to support them.

One of the previous speakers on that side of the aisle was critical of President Reagan in saying that this program is going on in support of the Angolan Government and has been going on for the past 5 or 6 years during his administration. Let me just remind everyone in this House that under this administration and under this great President he has probably formed fewer bureaus, agencies, and bureaucracies than any other President we have had, because sometimes these monster bureaucracies run away and get out of control, and maybe that is what has happened with this kind of aid going to the Angolans.

Mr. Chairman, as the ranking member of the Subcommittee on Human Rights of the Committee on Foreign Affairs, I rise in very strong support of the amendment offered by the gentleman from Florida [Mr. McCOLLUM], following a process that we started last year when we finally repealed the so-called Clark amendment.

Mr. Chairman, at a time when the Federal budget is under assault—when every possible means of reducing the size of the budget and its deficit must be considered—it makes absolutely no sense to ask the American taxpayers to prop up a Communist regime n Africa. And make no mistake: The MPLA regime in Angola is a Communist regime that denies every basic standard of human rights, a regime that has never followed through on its promise to hold elections, and, not surprisingly, a regime that must rely totally on foreign troops—in this case, 35,000 Cuban Communists—in order to stay in power.

The United States does not even maintain diplomatic relations with Angola. And yet the American taxpayers have thus far shelled out more than $150 million to enable the MPLA regime to remain in power. These funds go to support the activities as was mentioned here before of Chevron/Gulf, which pumps the oil that provides Angola with nearly 90 percent of the country's export earnings—money which then goes to Cuba in order to pay for the troops in Angola that protect the MPLA regime from the Angolan people. It's a shell game unlike any other.

Mr. Chairman, the time has come to end this outrageous abuse of taxpayer money. If Chevron/Gulf has no moral reservations about doing business in a Communist police state—the legitimacy of whose regime the U.S. Government does not recognize—they can at least carry on without the support of the American taxpayers.

I urge support of the amendment.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I would like to make just two or three quick comments, and then the gentleman may ask for additional time if he needs it.

First of all, it has been said by others that this really is an inappropriate place to deal with foreign policy, that the Export-Import Bank should not be tainted with foreign policy problems and we should not be using it for sanctions. But we are really not talking about sanctions. Sanctions imply taking away a right. As far as I am concerned, if a company manages to get an Export-Import Bank loan, it is not getting it as a matter of right; it is a special privilege given by the U.S. Government and the taxpayers who support the U.S. Government.

Second, I would make the point that this amendment, it seems to me, should not be necessary in the first instance.

The charter of the Export-Import Bank specifically forbids expenditures of aid to Communist countries, and it is the State Department, through its tortuous definition of "a Communist country," which provides the reason why this amendment is necessary. The charter clearly speaks out and says that no loan should be given to Communist countries. So really we are debating an amendment which unfortunately is made necessary by an interpretation of the word "Communist," by our own State Department.

Finally, I would just grab this quick opportunity to say that I would hope the defense authorization bill would receive the bipartisan support that this amendment is getting here. In that particular bill I would make sure that no DOD money is given to any U.S. corporation doing business in Angola. That is sanctions, I realize, but that is important.

Mr. Chairman, I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Chairman, let me say that the gentleman certainly has my support when that DOD bill reaches the floor of this House.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the distinguished member of the Foreign Affairs Committee.

Mr. BONKER. Mr. Chairman, the gentleman made reference to Angola's future earnings and the fact that 90 percent of their earnings comes from the Gulf Oil Corp.'s operation in Upper Angola.

Mr. SOLOMON. That is export earnings.

Mr. BONKER. Export earnings. But would the amendment in question have any effect on Gulf's operation there? I do not believe it does.

Mr. SOLOMON. I think it would. Let me just say this in support of that.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 1 additional minute.)

Mr. SOLOMON. Mr. Chairman, if I may continue, as the gentelman from New Jersey mentioned before, we are not talking about economic sanctions; we are merely talking about American taxpayer dollars. We are not talking about preventing trade. As a matter of fact, the gentleman who brought this up said himself that this may not even affect Chevron/Gulf. They may continue to do business, but they will do it without American taxpayer dollars. That is the point I was trying to make here today.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not think there is any dispute about the fact that the Government of Angola is a Marxist government put in power and sustained in authority by the Soviet Union, which, within the last year, according to my information, has afforded something like $1 billion or $2 billion in funds to the Government of Angola, with an undefined amount of weapons and number of military personnel.

In addition to the Soviet Union's sustaining the Government of Angola, we also know that there are some 25,000 to 30,000 troops, regular army Cuban troops, which are there to support and sustain the government, and that the Government of Angola has paid Castro for the support of those troops, and he is using that money to foster the Communist aggression in Central America and the Western Hemisphere.

□ 1435

In addition to that, it is also well known that North Korea, one of the staunchest Communist regimes in the world, is also definitely in Angola with personnel and other assistance; so it is quite natural that my distinguished friend and colleague, the gentleman from Florida, should offer this amendment that we should not give American taxpayers money to sustain that kind of government and to support Cuban troops in there to maintain Communist principles in that part of the world.

They, too, are entitled to the right to liberty. When Franklin Roosevelt enunciated the Four Freedoms, he said that there should be freedom from fear—everywhere in the world, and the people of Angola are entitled to the right to live free lives and enjoy the protections of free institutions, as well as people in other parts of the world.

So I commend my colleague and friend for offering this amendment. I support it and until the President certifies that all foreign troops are out of there sustaining this Communist regime in Angola, we should certainly not give them any American assistance.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in support of the amendment.

Mr. Chairman, I just want to say a couple things. The first thing is that I think we need to keep our eye on the ball and the activity we are attempting to stop is the activity that is promulgated by the 40,000 some odd Cuban troops who are in Africa. Make no mistake about it, according to the information we have and as was stated by the gentleman from Florida [Mr. MCCOLLUM], these Cuban troops have traveled halfway around the world at the behest of the Soviet Union to kill black Africans and that is the enterprise they are engaged in.

They are being paid for by an American company, an American oil company.

I would just like to remind my colleagues that if the Soviet Union sends Cuban troops to Asia, they have to pay for it. If they send them to Central America, to Nicaragua, they ultimately have to pay for them.

Ironically, if they send them to Angola, to Africa to kill black Africans, the United States helps to subsidize that particular activity and an American enterprise, assuming that Chevron is an American enterprise, pays for that activity.

I think we have to keep our eye on the ball and I think it is absolutely appropriate that we undertake this measure by the gentleman from Florida [Mr. MCCOLLUM] to try to set this situation straight, or at least to send a meassage, and this Congress is in the business of message sending, to the effect that we will no longer have this schizophrenic foreign policy.

I do have one question for the gentleman from Florida [Mr. MCCOLLUM]. I think it is an important question here, because I understand that the Government of Angola is contemplating doing something with immigration, naturalizing, for example, these Cuban troops and calling them citizens in an attempt to get around this.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, my understanding is that they have already granted the opportunity for citizenship to these Cuban troops in Angola. Now, I do not know that many of the Cubans have taken them up on that, but that is my understanding of it.

Mr. HUNTER. Well, my question is, though, to the gentleman that promulgates the amendment, will they be able to get around this amendment by going through some sort of a phony naturalization process with the Cuban troops? In other words, to say we no longer have Cuban troops in our country, we do have find Angolan citizens who just happen to be recently of the Cuban military.

Mr. McCOLLUM. Well, I certainly hope that they are not. It is the intent of this Member writing this that maybe we can establish some CONGRESSIONAL RECORD here right now that any sham transaction of that nature to get Cuban troops to become citizens of Angola, to stay there and to buttress their situation and to be joint citizens with Cuba is not in the interests of this amendment and was not the intent of this amendment.

I would think from my interpretation and meaning in writing this amendment that the Cuban would have to renounce and give up his Cuban citizenship and become a true Angolan alone and not for these phony dual citizenship deals to get around this process.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my friend, the gentleman from Michigan.

Mr. SILJANDER. Mr. Chairman, I thank the gentleman for yielding.

As the ranking Republican on the African Subcommittee of the House Foreign Affairs Committee, our information is that between 8,000 and 10,000 Cubans are now so-called naturalized citizens of Angola. Therefore, the number of Cubans officially is still around 35,000, but the real number is closer to 43,000, 44,000, or 45,000.

The real issue is should the taxpayers of America subsidize a loan to foreign countries at under 10 percent interest when the farmers of this country cannot get a loan for 12½, and the country we are subsidizing is a Communist country that has a residency of 35,000 Cuban troops who are loaned to the government and the very corporation essentially paying $1,000 per Cuban mercenary per month to Castro to keep them there.

I do not think the American taxpayers if they really knew the details of this issue would even remotely in a stretch of distorted argument of imagination agree with this type of amendment.

I thank the gentleman for yielding, because that is the crux of the issue. Should we as Americans or should we not subsidize 35,000 Cuban troops and another 8,000 so-called naturalized Cuban citizens to persecute the people of Angola. That really is the issue.

Mr. HUNTER. Mr. Chairman, I thank the gentleman and urge support for the amendment.

Mr. MACK. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I want to commend my colleague, the gentleman from Florida, for offering this amendment.

I guess that there are probably a number of folks who are participating today who we will recognize from the State of Florida. One could conclude that this is merely a political statement that is being made by those of us from Florida.

What it really represents is a true very strong feeling on the part of us who represent Florida, who have a very, very small constituency, in my case for example, who are American Cubans. What they are saying to us is that this country through no mechanism, whether it is a question of taxpayers or whether it is an agency of the Federal Government, no mechanism of this Government should be used for the purpose of supporting Castro indirectly, because that is exactly what we are doing. We are allowing 35,000 to 40,000 Cuban troops to exist in Angola fighting those people who are trying to return freedom to their friends and neighbors. That is what it is all about, not the question of what the taxpayers' dollars do. That is second.

The primary issue is are we going to do something to stand up for freedom? For that reason, I support the amendment.

It is interesting why we are even having the debate. I came on the floor and was surprised, frankly, to find that we were getting so much support from the other side. As I understand it, the amendment offered by the gentleman from Florida [Mr. McCOLLUM] was supported in the subcommittee and then was rejected by the full committee, which set up the necessity to have this discussion on the floor.

I am glad we have this opportunity, because those of us who are concerned about this issue want to have an opportunity to raise it throughout the country so that the American people have a better understanding of what is going on.

In addition to that, there is a second reason for discussing it here and that is because the State Department, or even for that matter the President, could change his mind and allow those funds to flow again.

What we are saying today is that this is not a political whim of the moment. What we are asking for is a recognition of the political reality of the day and that reality is that the President, the State Department and the American people, no longer want to see any kind of support for the Angolan Government.

For the reason I support the amendment and again commend my colleague, the gentleman from Florida.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, my remarks will be brief. I have been very concerned for some time about the entire southern tier of Africa. I serve on the African Subcommittee. It has been a real concern to me that the State Department for some time has not chosen to declare Angola, Mozambique, and other countries, known Communist countries so that Eximbank loans and other moneys can get through to those governments. It mystifies me, especially when the President is so strongly for freedom and against the Communist movement in this world. It bothers me a great deal that these Eximbank loans, as has been stated previously, are subsidizing Mr. Castro's efforts in Central America, because they are paying approximately $1,000 a month for each trooper that is over there in Angola. That money then goes back to Castro so that he can use his troops in other parts of the world to expand the cause of Communism.

The gentleman from Florida [Mr. PEPPER] made some very salient points. It is nice to know that a man of his caliber rises in support of this amendment. He has been an anti-Communist for a long time. He represents people in Florida who have fled Cuba because of the Communist terrorism that takes place in that country.

I think it is wrong for our Government to give taxpayers' dollars to any Communist government in the world, but in particular one that we have chosen to oppose. Our President has chosen with the help of Congress to give support to Mr. Savimbi who is fighting for freedom in Angola, and because of that commitment it makes no sense to me whatsoever to see Eximbank loans going to the very government we are trying to change. It makes no sense to me to see a government like Mozambique in the last foreign aid bill to get a recommendation from the State Department that they get not only economic aid, but military aid as well, when they have killed 70,000 of their countrymen through Communist tyranny and gulags and other terrorist camps.

So I support this amendment. I wish it went ever further, but it goes about as far as we can go at this particular moment.

I want to congratulate the gentleman from Florida for taking the initiative to get this amendment on the floor.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Yes, I yield.

Mr. McCOLLUM. Mr. Chairman, I want to thank the gentleman for getting up twice now to support this

amendment. I think in speaking both during the time I had the debate and now the gentleman has emphasized some clear points from the perspective the gentleman has on the Foreign Affairs Committee, as have a number of my colleagues from that committee who have spoken today.

It is ironic, as the gentleman from New Jersey said a few minutes ago, that the State Department interpretation of what a Communist country is has not allowed the placing of Angola and the MPLA government on this list a long time ago. It is even worse, as the gentleman has pointed out, that we have this civil war going on down there and are supporting Mr. Savimbi yet with the potential for giving Eximbank loans to his Communist government opponent.

When we add that into the fact that these are Cuban troops we are talking about and our money through this whole chain is going back to support Castro in Cuba, 90 miles off our coast, it is even worse. It is a ridiculous state of affairs.

I really do appreciate the gentleman getting up and I urge my colleagues to support this amendment.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman.

Mr. LAFALCE. Mr. Chairman, the gentleman from Florida has pointed out how the gentleman in the well has risen in an unusual manner on the amendment twice. The gentleman also spoke against communism.

I am just wondering, does this mean the gentleman is 200 percent opposed to communism, as opposed to 100 percent opposed to communism?

Mr. BURTON of Indiana. More like 1,000 percent.

Mr. LAFALCE. All right, I just wanted to clarify it. I thank the gentleman.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for his 1,000-percent support for this amendment.

Mr. BURTON OF Indiana. Mr. Chairman, I just would like to close by saying if the gentleman chooses to introduce another amendment which will cut off moneys in the pipeline going to the Angolan Government through the Eximbank, I will be glad to support that as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAHALL: Page 9, after line 2, add the following new section:

SEC. 12. LIMITATION ON ASSISTANCE WHICH WILL ADVERSELY AFFECT THE UNITED STATES ECONOMY.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end thereof the following new paragraph:

"(11) LIMITATION ON ASSISTANCE WHICH WOULD ADVERSELY AFFECT THE DOMESTIC ECONOMY.—

"(A) IN GENERAL.—The Bank may extend no direct credit or financial guarantee in support of any export to any foreign entity if—

"(i) the export will be used or is intended for use in the production or manufacture of any commodity, mineral, material, or product which is produced or manufactured in substantial quantities in the United States; and

"(ii) the production or manufacture of such commodity, mineral, material, or product by such foreign entity will result in—

"(I) the importation of more than an inconsequential quantity of such commodity, mineral, material, or product into the United States; and

"(II) a net domestic increase in unemployment in the United States over the period during which any portion of the amount of such credit or guarantee is outstanding.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any extension of credit or a financial guarantee which the Bank determines is—

"(i) in the strategic interest of the United States; or

"(ii) necessary to counter any unfair trade practice or unfair and predacious export financing practice of a foreign country.".

Mr. RAHALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. ANTHONY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Chairman, while the majority of the Export-Import Bank's credit, loan and loan guarantee activities may very well benefit this Nation's effort to revitalize its industrial and manufacturing sectors by promoting the export of U.S. goods, the Bank has been involved in certain transactions which have the effect of fostering the development of foreign projects which manufacture or produce commodities that are subsequently exported to the United States in direct, and often unfair, competition with our own domestic industries.

With unemployment levels still at an all-time high in many of our basic industries that comprise the heartland of America, does it make sense for the Eximbank to be providing assistance for the development of the largest surface coal mine project in the world located in Colombia, with production solely for the export market, including the United States which has its own vast reserves of coal?

Does it make sense for the Eximbank to promote the expansion of copper mining and smeltering operations in Mexico at a time when these copper imports into the United States have contributed to the loss of over half of the domestic copper jobs?

And, does it make sense for the Eximbank to support the construction of steel mills in Brazil which, in turn, promotes steel imports into the United States in direct and often unfair competition with our own already depressed steel industry?

I do not believe workers in the United States want their governmental entities supporting foreign projects that are contributing to the loss of jobs and employment opportunities in this country.

The amendment I am offering, along with SANDY LEVIN of Michigan, would prohibit the Eximbank from providing direct credits or financial guarantees to foreign entities in situations where the project in question would produce or manufacture any commodity, mineral, material, or product that is also produced or manufactured in substantial quantities in the United States, would be exported into this country, and would result in a net domestic employment loss calculated over the time during which the Eximbank assistance would be outstanding.

There would be two exemptions to this prohibition, making it inapplicable if the proposed transaction was in the strategic interest of the United States or necessary to counter any unfair and predatory foreign trade practices.

Mr. Chairman, it is time we cease the shortsighted policy of the Export-Import Bank in certain of its transactions. For example, when the Bank approved a support package of up to $850 million to the Colombian Government for the construction of the El Cerrejon coal mine, certain domestic equipment manufacturers did benefit by exporting machinery to Colombia. But this was a short-term gain, economically and employment wise, compared to the long-term damage done to our balance of trade, domestic coal industry and coalfield employment caused by coal imports from Colombia.

Specifically, when the Eximbank examined the Colombian proposal for assistance, it found that its approval would facilitate the export of $500 million of United States goods to that country with a possible, and I emphasize, possible, additional $350 million.

Yet, already in its first fully operational year, El Cerrejon has entered into two contracts with U.S. electric utilities that amount to over $514 million worth of imported coal. I repeat, this was accomplished in the project's first year and El Cerrejon has a 23-year operational life.

As Colombian coal imports continue to escalate, there can be no doubt that this Eximbank transaction will extract a cruel toll in United States coalfield

employment far exceeding the amount of employment gained through equipment sales to El Cerrejon.

This is the type of foreign project my amendment would address. Projects such as this shows that Eximbank's current so-called adverse impact procedure contains some very glaring loopholes.

Do not let anyone tell you my amendment would close down the Eximbank. The amendment is narrow in scope and only addresses those proposed transactions which lead to the export of commodities and other items into the United States that cause a net long-term increase in domestic unemployment.

I would also advise my colleagues that this amendment has been modified somewhat from my original proposal and as such, incorporates several of the concerns that have been raised. I am pleased that the gentleman from Michigan, a member of the subcommittee with jurisdiction over the Eximbank, is joining me in offering the amendment and I urge its adoption.

□ 1450

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the distinguished chairman of the subcommittee.

Mr. NEAL. Mr. Chairman, let me say first of all that I am an admirer of the gentleman.

The CHAIRMAN pro tempore (Mr. DURBIN). The time of the gentleman from West Virginia [Mr. RAHALL] has expired.

(On request of Mr. NEAL, and by unanimous consent, Mr. RAHALL was allowed to proceed for 3 additional minutes.)

Mr. RAHALL. I yield to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL. Mr. Chairman, the gentleman from West Virginia [Mr. RAHALL] is a great Congressman. He is looking out for his people. I understand that and I sympathize with him.

Mr. Chairman, I want to ask him if we could not maybe modify his amendment a little bit. I think that in its present form it would do great damage to Eximbank, and I have a suggestion: A possible amendment to his amendment that I believe would allow him to accomplish essentially what he is trying to accomplish, and yet would not do great damage to the Eximbank.

The amendment would add at the end of his amendment a third exception. He has listed two already. This third exception would read as follows:

For the financing of American exports to any foreign entity which would in the absence of such financing nevertheless produce or manufacture such commodity, mineral, material, or product.

In other words, what this would say is, if the proposed project would go ahead anyway, whether or not we finance it, and the product of that project, whatever it might be, would come into our country anyway, then the gentleman's amendment would not apply.

Mr. RAHALL. Mr. Chairman, I appreciate the effort of the subcommittee chairman to modify my amendment with his, adding a third exception. I must say, though, that that is a loophole through which there would be many financing projects that would be allowed to proceed which I am trying to stop which would have a net adverse impact upon employment in the United States.

The gentleman is making an exception, as I understand the amendment, for those projects that could go elsewhere and obtain the money and would proceed anyway, whether they had Eximbank financing or not.

Mr. NEAL. Exactly.

Mr. RAHALL. Now I say to the gentleman that that is going to happen. There are plenty of other countries that would be willing to finance that project, so it does not make any sense in my opinion to still allow that to happen. If Japan or some other country wants to finance unemployment within their boundaries, then I say let them do it, but let us not have the American Government, the U.S. Government, continue to use American taxpayer dollars to finance foreign projects that then put our workers out of jobs. Let them go elsewhere.

Mr. Chairman, I would therefore respectfully have to oppose the gentleman's amendment to my amendment, if I understand that that is the way that he is offering it.

Mr. NEAL. I thought that the gentleman might accept it. I am going to offer it, and then we can have a little further discussion concerning it if the gentleman does not mind.

Mr. Chairman, I have an amendment at the desk. It is an amendment to the Rahall amendment.

The CHAIRMAN pro tempore. The Chair would advise the gentleman from North Carolina that the gentleman from West Virginia is still speaking under his own time constraints, and after he is finished, the gentleman will be recognized in the regular order.

The gentleman from West Virginia may continue.

Mr. RAHALL. Mr. Chairman, let me say in further response to the gentleman from North Carolina, the subcommittee chairman, that I have narrowed this amendment down from its original introduction, as we have discussed on a number of occasions.

This amendment is very specific in its intent, and that is to prevent the American taxpayer dollars from financing foreign projects that manufacture commodities or materials that then are imported into the United States when the United States is producing or is capable of producing those products in substantial quantities to be able to rely upon our own resources. That is the intent of the amendment, and I would say that any other modification of it any further than what I have already done would really be a killer amendment, and I do not feel that it would carry out the intent of the sponsors of the amendment.

It should be noted that the meaning of the term "foreign entity" in the amendment is to be construed in its broadest sense and includes all direct and indirect foreign entities proposing the Eximbank assistance such as foreign governmental entity as well as any subsequent foreign entity such as a company on whose behalf the assistance is being proposed. The phrase "commodity, mineral, material or product" should also be broadly construed and covers all produced or manufactured items with the exception of services. The use of the term "substantial quantities" is meant to allow assistance to foreign projects which would lead to exports to the United States of items not domestically produced or manufactured, such as certain strategic and critical minerals, or are produced domestically but in quantities not adequate to fully meet the defense, industrial and commercial needs of the Nation.

In addition, the import sensitivity of a domestic industry would not be a consideration. The key criteria is that imports of more than an inconsequential quantity would be fostered by the development of the foreign project and these imports calculated over the time during which the Eximbank assistance would be outstanding would lead to a net domestic employment loss.

By the term "inconsequential quantity" I am seeking to allay concerns that, say 1 ton of steel which may be exported to the United States would cause the Eximbank to make a determination under this amendment. However, it is intended for this term to represent a very strictly construed minimum. For example, the El Cerrejon project, if considered under this standard, would have been disqualified from receiving Eximbank support. The use of the term "inconsequential quantity" shall not in circumvention of the intent behind the general thrust of the amendment.

Mr. CRAIG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Rahall amendment.

The opponents of the Rahall amendment will argue, the amendment smacks of protectionism. The amendment will hurt U.S. producers and manufacturers.

Our domestic producers are already being hurt. Foreign imports have derailed and curtailed a major portion of

our mineral domestic production industry already. The copper industry has suffered through one of its worst downturns in years. One of the reasons for this downturn can be attributed to the Export-Import Bank—Eximbank—lending practices.

Since 1980, the Bank has granted $279.9 million in assistance for copper-related projects. The draglines and smelters are running night and day in countries like Peru, Chile, and Mexico. While, the U.S. copper mines and smelters are being closed and people remain unemployed.

I realize the primary objective of the Eximbank is to assist in the financing of exports and imports of the United States. But one thing the bank is required to do, is to take into consideration any potential serious adverse effects of a loan or guarantee on U.S. employment as well as on the competitive position of the affected U.S. industry. In my opinion, the Bank has failed to do so.

Copper isn't the only example of where Eximbank loans have hurt a U.S. industry. The phosphate industry has been significantly impacted from loans that have been made to Morocco and Tunisia. The Eximbank lent Morocco and Tunisia moneys exceeding $200 million, during the 1979 through 1985 period. The phosphate industry has resultingly lost a share of the foreign export market that almost equals the amount of loan guarantees given to Morocco and Tunisia. In 1984, the phosphate industry lost $200 million and consequently, $450 million was lost in wages paid because of the loss of jobs in the phosphate industry.

Not all of the losses of the phosphate industry can be attributed to the Eximbank loans to Morocco and Tunisia, but the figures are suspiciously very close to the injury that has occurred within the phosphate industry.

While this amendment is being offered to apply to the Eximbank, I would like to see it applied to other international lending institutions.

The silver industry in Idaho and across the country has undergone a major restructuring and loss of markets. Again, this hasn't occurred solely because of foreign loans but the facts say, foreign loans have had a major impact on our domestic producers.

Take for example the World Bank group, they have been involved in financing 27 metal projects. The metals/minerals involved included copper—eight projects, iron ore—five projects, nickel—five projects, bauxite-aluminum—four projects, lead/zinc—three projects, cobalt—one project, and lithium—one project. The total financing for these projects was just under $11 billion.

The financing for these projects were at far better rates than our domestic industries could secure from commercial lenders. Since 1980, we have seen new loans being granted to foreign countries either to start new mineral projects or expand existing mineral programs. For example, the International Finance Corporation made a loan to Buenaventura for a silver mine expansion, in 1983.

The World Bank made a loan to Cerro Matoso—Columbia—for nickel extraction, in 1979. The World Bank made a loan to Centromin—Peru—for Cobriza copper expansion, in 1976. The Inter-American Development Bank made a loan to Centromin—Peru—for Andaychagua zinc/silver/lead expansion, in 1982. These loans represent $223 million in lending and the minerals that have been produced from these countries have ultimately made their way into the U.S. marketplace.

This is why the Rahall amendment is needed. The Eximbank is only one part of the international lending community, but nevertheless, it plays an important role. We canot simply sit back while we lose our domestic production capacity and do nothing. The amendment is a first step. As I alluded to earlier, the amendment needs to be applied to other international financing communities. At a time when our domestic industry is suffering from unfair trade practices, the international financial community fails to recognize the detrimental economic impact of their actions on our country.

The amendment is very straighforward. It is saying, the Eximbank will not make loans or loan guarantees to countries that produce or manufacture a product or a commodity that is readily available in the United States. The United States should not be advocating the lending of money to foreign countries that will develop projects and cause the loss of jobs and domestic production. We cannot support lending practices that penalize our domestic producers and reward our foreign competitors.

I do urge my colleagues to stand in strong support of the Rahall amendment today. It is a small step in the right direction, but in my opinion, Mr. Chairman, it is a necessary step.

□ 1500

AMENDMENT OFFERED BY MR. NEAL TO THE AMENDMENT OFFERED BY MR. RAHALL

Mr. NEAL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL to the amendment offered by Mr. RAHALL: At the end of the text replace the period with "; or" and add: "(iii) for the financing of American exports to any foreign entity which would, in the absence of such financing, nonetheless produce or manufacture such commodity, mineral, material or product.".

Mr. NEAL. Mr. Chairman, I understand the purpose of the amendment of the gentleman from West Virginia. He wants to protect his coal producers from foreign competition. That would be find and good—but only if American producers are actually protected. In most cases however the gentleman's amendment would backfire. In practice it would destroy American jobs, not protect them.

American exporters are almost never the only ones competing to help build or develop a foreign project. International competition to win export contracts for these projects is intense. If American exporters don't win the contracts, I can assure you that our main competitors will. The Japanese, the French, the Germans—they will all be in there bidding for the sale, and will have generous support from their own export financing agencies. The minerals, commodities, or products will still be produced, but with the aid of exports from other countries, not with American exports.

What will we have gained? Not a single American job will be protected. But countless American jobs will be lost, since American exporters will be abandoned, the exports they might have won with proper financing will be forfeited.

I understand the gentleman has been very concerned about a large coal project developed in Colombia, in part with Eximbank financing. The Colombian entity developing this project, Carbocol, was not dependent on American goods or services. It received financial commitments from the export credit agencies of Canada, Japan, Britain, France, Germany, Holland, Belgium, Brazil, and Sweden. In fact, three of these countries—Canada, Japan, and Britain—all won a share of the project, and financed their sales at rates lower than Exim financing for the American share. It should be perfectly obvious that, if the amendment by the gentleman from West Virginia had cut off any U.S. sales to Carbocol, the project would have nonetheless gone ahead full steam, producing the same amount of coal. Not a single coal miner's job would be protected. But countless American export jobs would have been lost.

I have a list of the U.S. export sales, State by State, that have gone to this Carbocol project, through the end of 1985. It is too long to read in full, but I will give some examples: California, $61 million; Florida, $45 million; Illinois, $29 million; Louisiana, $19 million; Massachusetts, $19 million; Michigan, $6 million; New Jersey, $11 million; New York, $38 million; Ohio, $26 million; Pennsylvania, $21 million; Texas, $43 million; Wisconsin, $25 million. In all there are 48 States on this list, with total export sales of about $378 million. The amendment of the gentleman from West Virginia is designed to block all these exports. And for what purpose? Not a single coal mining job—I repeat, not a single coal

mining job—would have been protected.

This coal project is only one of many cases in which the gentleman's amendment would effectively block American exports, and thereby destroy American jobs. It is true that his amendment is cast in terms of the net impact of the foreign project on American jobs. It does, therefore, take into account the jobs created by American exports, and compare them with the jobs supposedly threatened by imports. This is certainly an improvement over an earlier version of the amendment, which ignored entirely the positive impact of exports on employment. The amendment is still fatally flawed, however, since it ignores those cases in which the imports will occur anyway, with or without Eximbank financing. If the imports will occur anyway, because the foreign project is going to be developed with or without Eximbank financing, then the only impact of Eximbank financing will be to create jobs, through exports. Some jobs might be lost through imports, but, since they would be lost anyway, with or without Eximbank financing, it makes no sense to include them in any calculation of the net impact of that financing on employment.

My amendment to the amendment of the gentleman from West Virginia simply stipulates that his prohibition on Eximbank financing not apply if the foreign project would be developed anyway, with or without Eximbank financing. It would prevent us from shooting ourselves in the foot by sacrificing exports in cases where that sacrifice will do nothing to protect American workers threatened by imports. Otherwise, we might as well close down the Export-Import Bank, and abandon the field to our competitors.

I urge the adoption of my amendment to the amendment of the gentleman from West Virginia.

□ 1510

(By unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. NEAL. We can make it workable so it accomplishes, I believe, the ultimate goal that the gentleman wants. It is the best that we can do.

If the gentleman wants to stop the imports of coal into this country, this is the wrong place to attempt it. He ought to attempt it through other provisions of law. This provision of law, this Eximbank, will not save one coal miner's job and will cost us millions, probably, of jobs in this country.

I urge acceptance of my amendment to the amendment.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman.

Mr. LEACH of Iowa. Mr. Chairman, I rise to support the gentleman from North Carolina [Mr. NEAL] and I would only stress that I think the concerns that Mr. RAHALL and Mr. CRAIG have indicated are very real, very valid, very heart-wrenching; but the consequences of this amendment are devastating.

They represent a head-in-the-sand approach to international trade, and what they say is, because some American industry is hurt, let us hurt other parts of American society. We are going to devastate labor-intensive America by adoption of this amendment. Major losers, just by way of industry in this country, will be workers in industries producing goods or services that are produced in other countries that want to compete with the United States.

(On request of Mr. LEACH of Iowa and by unanimous consent, Mr. NEAL was allowed to proceed for 3 additional minutes.)

Mr. NEAL. Mr. Chairman, I yield to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, these industries include those that make trucks, earthmoving equipment, tractors, diggers, machine tools, computers, robotics, control instruments, construction bulk equipment; valves, cable, pipe, wire production, welding machines, cranes, drag lines, design and engineering services, turbines, generators, canning and bottling equipment.

Anyone who makes any of that will be devastated by this particular amendment; and as competition in world trade grows, we are going to see even more negative effects as the years go by. I represent, in my district, a company called Caterpillar, a company that used to be America's largest exporting company.

Caterpillar estimates that in the last 15 months alone, if this amendment has been on the books, they would have lost $125 million in sales. Thousands of jobs would be lost.

What this amendment does; it is what might be considered the "Japanese bonanza amendment of 1986." This supports Japanese industry, it supports German industry, it supports Belgian industry—and the intent of this bill is to support American industry and American jobs.

So I certainly hope that the refinement of the Rahall amendment offered by the gentleman from North Carolina [Mr. NEAL] is adopted, and with that, let me also express my own concern that the views that Mr. RAHALL has expressed are views that must be borne in mind by this body as we develop legislation of this nature; but let us not be so concerned that we do something that ends up being counterproductive and irrational; let us get about the business of dealing with Mr. RAHALL's concerns in the proper format, not in this particular legislation where I think his own industries will be negatively, not positively impacted.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Rahall amendment.

Mr. Chairman, first of all I would like to associate myself with the remarks of the distinguished subcommittee chairman, the gentleman from North Carolina [Mr. NEAL] and the distinguished gentleman from Iowa [Mr. LEACH], who have just finished discussing this amendment.

After their thoughtful comments, it is perhaps presumptuous for me to speak to try to reemphasize them, but I feel the need to do so. I think the committee has given us a very thoughtful bill. I believe that it has been worked out well; it has tried to recognize some of the needs of the administration and yet recognized even stronger needs that the Congress felt it had to put together in this bill, and the net result, I think, is a splended bill.

However, there is only one thing standing between this splendid bill and House passage, and that is the Rahall amendment, which in effect tries to prohibit any adverse impact and in fact, in my judgment, gums up all Exim decisionmaking for the future.

The Neal amendment would, I think, rescue us from the worst effects of the Rahall amendment but in my judgment, the law should remain as it is.

The situation is that as of now, we have three statutory provisions that require Exim to take into account serious effects of the U.S. economy. As has been pointed out more than once here today, in most cases the project is going to go forward anyway. The Neal amendment at least takes that basic fact into account. The Rahall amendment does not.

I believe because it does not, the Rahall amendment would wreak greater havoc on Exim's programs and greater havoc on American exports than any of the budget cuts that have yet been suggested for Exim.

The Rahall amendment says in effect, "Never mind if the project goes through; never mind if the effect on us is exactly the same: As long as we're going to suffer, let's make some other U.S. industries suffer with us."

It says that, "As long as my favorite industry, in this case coal, is going to be hurt, let's hurt somebody else as well." It is a sort of a pull-up-the-gangplank-I'm-on-board sort of amendment, which then finds out "never mind if it isn't even on board, let's all drown together."

That does not make any sense, Mr. Chairman. The Neal amendment at least says, if we are going to have some kind of an impact in any case, let us make sure we get some American jobs

involved. I think the committee has been very careful to try to defend these American export jobs.

What I think is at the heart of the whole problem is that many of us still look on Exim as some form of foreign aid, and that we can express our displeasure about foreign actions or projects or even politics by voting against Exim or voting to condition Exim operations.

Actually, Exim is American aid. It is designed to sell American products made by American labor and sold by American people abroad. For us to try to limit Exim by the adoption of the Rahall amendment, in my judgment would be one of the most serious mistakes we could make.

□ 1520

To do it at a time we are suffering a $150 billion trade deficit would be, I think, compounding a folly.

So I would urge the Members of this body, if they believe that American jobs are worthwhile, to support the Neal amendment to the Rahall amendment and at least preserve some sense in our export program.

I urge support of the Neal amendment, and I yield back the balance of my time.

Mr. LEVIN of Michigan Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Rahall amendment.

Mr. Chairman, there has been a lot of emotion expressed here, and I think there should be. I think it is somewhat misplaced. Let me, if I might, put it in a context that I think is relevant. Our main emotion should be about what is happening to industrial America. A lot is happening throughout this country. It is not only coal. There is very little coal in Michigan. It is not only steel, it is not only automobiles, it is not only textiles; it is across America.

I looked again at the figures for the last few months, and I think there is a kind of, if not euphoria, a complacency that is spreading through parts of America because the stock market, at least until a few days ago, was up.

Industrial jobs are down. In March, the number of industrial jobs lost 39,000. Then in April, down to 10,000. I think many people felt we were turning that corner.

But in May, 45,000, and in June, 56,000 jobs lost, manufacturing jobs lost. That is where the emotion should be placed.

What is a problem is that we have no policy. America has no policy, no industrial policy. America's industry is being nibbled to death and we are nibbling each other to death.

One area has a temporary opportunity to gain some more jobs, so they take it even though it is going to do in other areas. Suppliers from other countries are now coming in here and they are gaining bonanzas to come here even though they are going to eliminate jobs of American producers. That is the crux of the problem here. It is not just a blind gesture to get at coal. I do not think that is Mr. RAHALL's purpose, at least alone, to get at coal. We ought to take it much more seriously than that.

Now here is the nub of the problem: A proposal comes before Eximbank, I am a supporter of Eximbank, and I am worried about Third World countries, as the gentlemen know, as former Assistant Administrator of AID; but here is the problem: When an applicant comes before Eximbank, and Eximbank is supposed to make an impact study, and let us say that Eximbank makes that impact study and determines that if that job proceeds, if that project overseas proceeds, there is going to be a net loss of American jobs. That is what this amendment, as it has been redrafted—far different than its original language—that is what it suggests, what it is based on, a net loss of American jobs.

Are we going to use American taxpayer dollars to support an application for participation in a project after Eximbank determines that there is going to be a net loss of American jobs? Now that is not an easy decision to make because there are some jobs involved, there are some jobs involved in the applicant.

Now, it may be trucks for steel plants overseas, or it may be railroad equipment for a copper project overseas, or I suppose it could be some bearings or whatever it is for a large autoplant overseas. But this amendment talks about a net loss.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Chairman, here is the difficulty I see in the gentleman's view of this: If a project is going to be built, whether it is coal, copper, steel, cars, you name it, and the import is coming into this country anyway, how can you factor in those jobs that import into any kind of equation? It is happening anyway, whether Eximbank is involved or not. There is no way to make that kind of assessment that the gentleman is talking about, net job loss.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(On request of Mr. NEAL and by unanimous consent, Mr. LEVIN of Michigan was allowed to proceed for 3 additional minutes.)

Mr. NEAL. Mr. Chairman, will the gentleman continue to yield?

Mr. LEVIN of Michigan. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Does the gentleman see the point? There is no reason in the world for factoring those jobs into any kind of equation. That is happening anyway. If you want to stop that, you have got to stop it some other way. You have got to stop it by some protectionist legislation somewhere that will simply keep those products out of our country.

The Eximbank does not do that. My point is that every single job that Eximbank finances is a net plus. There is nothing on the other side of the equation. There is no net loss because of Exim financing. These 21,000 man-years of employment that went into building this coal project in Colombia, those are the net gains, every single job is a net gain for this country.

If some of that coal comes back in here, whether Eximbank had anything to do with it or not, it comes in. That is the point.

Mr. LEVIN of Michigan. The gentleman has made the point well, and I believe it needs a response. And I think the response is twofold or threefold.

First of all, we have provisions in the law today requiring Eximbank to make an impact study. Those provisions do not have the condition that you want to attach to this bill or this amendment.

What this amendment tries to tell Eximbank, and it is not in the most artful way, it is hard to get at larger industrial policy issues in a specific piece of legislation, but it is an honest attempt. What it says to Eximbank is, "Look at the impact on net employment in this country. And if net employment is going to be negative, then do not provide the loan."

Now, there are three other provisions in the law. It has been referred to here.

The gentleman used it as an argument against the Rahall amendment. But then I have to point out that the condition that the gentleman from North Carolina would provide does not apply to these other three provisions, and they should not. And I will tell you why: Because we need in this country to begin to look at the overall impact of our policies. We need in this country not to be piecemealing ourselves to industrial death. That is the long and short of it, it seems to me. The same argument can be used, for example, in arms sales. We hear it: "Well, somebody else is going to provide those arms, so vote for it anyway because the only impact if you vote against American arms sales is the loss of American jobs." And most of us do not buy that argument. Why do we not buy it? We do not buy that because we think there is a need for an overall American policy regarding that arms sale.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. LEVIN] has again expired.

(By unanimous consent, Mr. LEVIN of Michigan was allowed to proceed for 3 additional minutes.)

Mr. LEVIN of Michigan. We also do not buy it when it comes to issues of economic sanctions. Somebody else may supply the goods, but we do not want American tax dollars participating in that particular project if there is a question of economic sanctions.

The same thing is true here, it seems to me. We need to ask ourselves: What are we going to do about the loss of American industrial jobs? Are we going to ask the Eximbank more effectively to take into account employment, net employment factors? I think they should. It is interesting, the chamber of commerce indicates that using the three provisions already in the law, since 1981 the Bank has used this authority to deny support on proposed exports valued at $385 million. That is using the three provisions already in law.

If Mr. Neal's amendment were adopted and applied as to those three other provisions, those $385 million would have proceeded.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Not necessarily. There are situations where only Eximbank financing is available. In those cases then if a project would not go forward anyway, then the Eximbank financing can be withheld. And I can understand that.

Mr. LEVIN of Michigan. Let me reclaim my time. But Eximbank documents indicate that virtually all of their loans are in situations where there is competition. So, look, you have to face the basic issue, whether without an industrial policy you want Eximbank to proceed taking into less account than they should the issues of net employment impact in America. I think the time has come to say clearly, "We need to look at net employment in industrial and in the rest of America." This is an effort to do that. It is not a perfect way. It is much more perfect than it was as originally introduced, but it clearly is one way. Eximbank has indicated to us they could carry it out, they do not want to but it is a practical factor to look at net employment.

If you want to go back into your districts, in the absence of a steel policy in this country and say that you support loans in situations where there is going to be a net employment loss in America, go ahead and do it. But what I want to do is go back to my district and to the rest of the country and say that we in this Congress are trying at long last to force the adoption in this country of some kind of overall industrial policy, not central planning by any means but some overall industrial policy so we make sense of everything including Eximbank.

Mr. CHANDLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Neal amendment.

Mr. Chairman, I support the Neal amendment and oppose the Rahall amendment. Mr. Chairman, the gentleman from Michigan, a good friend of mine, serving on the committee who does an outstanding job, said a moment ago something I very much agree with even though I disagree with his fundamental stand. He said we should not piecemeal ourselves into industrial bankruptcy. If we need an industrial policy for the United States, and I am not sure that we do, you certainly do not find it in this amendment. If ever I saw piecemealing, this is it, piecemealing at its worst.

He said this is not the most artful way of getting at what he wants. If that is not an understatement, I do not know what is.

We are going to cause the Bank to determine whether to grant a loan based on two of the broadest directions I can imagine. They are going to have to determine whether the loan will result in the importation of more than an inconsequential quantity, stating it in the negative, and also a net domestic increase in unemployment in the United States. I just have to ask you: How on Earth are you ever going to determine that? And that is going to be determined over the life of the loan.

Then he asked what is happening in America? Well, I think we are finding ourselves faced with some pretty fierce competition in the rest of the world, that is what is happening in America. And to quote one of today's great orators, "Dandy Don" Meredith, he says: "If 'ifs' and 'buts' were candy and nuts, what a wonderful world it would be." I think we ought to entitle this the "Candy and Nuts" amendment because what you are suggesting is: Let us ignore the fact that labor costs in the rest of the world are less than here; let us ignore the fact that many countries around the rest of the world are manufacturing products in competition with us in plants that are new and modern while many of ours are dilapidated. They are doing that because they have savings rates of 20 percent-plus while ours is down around 5, and they have the money to recapitalize and we do not.

□ 1535

Out home right now our workers in the timber products industry are on strike against the Weyerhaeuser Co. I suspect that this is one isolated example of a great overall realignment of what is going on in industrial America.

I do not like it any better than you. I represent many of those people whose homes are being lost and who are facing real tragedy in their lives. But, darn it, let us not kid them by coming in here and saying we have an answer in something like this, when all this is going to do is turn around and put their brethren at Pac Car over in the gentleman from Washington's Seventh District out of work. That is all this is going to accomplish.

Even if we amend this amendment with the Neal amendment, which is a good one, the amendment is still fatally flawed. Yes, I think it is far better with the Neal amendment, and I want to encourage your support for it. But as I point out, if you want to construct, artfully or unartfully, a straitjacket for the Eximbank, I suggest this is about as good a wording as you could come up with.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I want to say that I would rather not have any of this amendment also. I mean the only reason I offer the amendment is to try to clean this thing up. It would certainly suit me if that is adopted that we defeat the whole thing.

Let me just say the gentleman from Michigan [Mr. LEVIN] raised the question as to how the Eximbank can administer this, and they can. Do you know how they administer it? They shut their doors. They would just be out of business.

Mr. CHANDLER. Mr. Chairman, I agree. That is what I would do if I were them. I think that is where it is fatally flawed.

Mr. LEVIN of Michigan. Mr. Chairman will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Chairman, I thank the gentleman for yielding to me.

I just want to respond briefly to that, because I do not think it is true for a moment. We now have three provisions in the law.

What has happened is the overall employment impact has not been taken into account as fully as it might be. Right now in the law it is required to be looked at.

It seems to me, especially when so many of us are on the same side of the issue of the role of Exim, we should not characterize the Rahall amendment as requiring Exim to close down its doors. What it would require is that Exim look at the long term, in terms of the term of the loan, employment impact in the United States and, if there were a net loss, not to grant that loan.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(By unanimous consent, Mr. CHANDLER was allowed to proceed for 2 additional minutes.)

Mr. CHANDLER. Mr. Chairman, let me simply say that perhaps the gentleman is right about closing the door, but I can just about assure the gentleman they will close the door to make the decision.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to my colleague, the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Chairman, I thank the gentleman for yielding to me. Since the gentleman has an additional minute and a half, I want to compliment the gentleman on his statement and associate myself with it, and rise in support of the Neal amendment and in opposition to my good friend, the gentleman from West Virginia's amendment.

When the gentleman quoted Dandy Don Meredith, I thought the gentleman was going to say, "The party's over," because in essence that is what the gentleman from West Virginia is trying to say, not only are we losing the jobs because of foreign competition, we want to make sure our manufacturers can compete to get at least part of the jobs. So in addition to losing those jobs coming in, we want to have a net loss of both the manufacturing at Pac Car, at Caterpillar, and others on top of it.

That is not the positive way by which to go into the trade problems we have today. I compliment the gentleman for his statement.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me respond, the party is not over, I say to my good friend, the gentleman from Washington, but the policy should be over, the policy of the American taxpayers financing foreign projects that then produce a net unemployment in the United States. That is the bottom line. Other people are going to finance the project, yes. But it does not matter to anything else in this whole debate. The bottom line is the net increase in unemployment in the United States, jobs that are created by Export-Import Bank financing that may produce exports, that may produce American jobs, but then, in the long term, create even more, even if it is one more American unemployed worker.

To those who say this is going to create further unemployment in America, I ask why the AFL-CIO, the United Mineworkers of America, and many other labor groups in strong support of my amendment as it has been offered today without the Neal amendment attached to it?

The CHAIRMAN. The time of the gentleman from Washington [Mr. CHANDLER] has again expired.

(By unanimous consent, Mr. CHANDLER was allowed to proceed for 2 additional minutes.)

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Chairman, I would answer the first part in the place of labor, which I value my relationship to, labor is far too protectionist now in this economy. That is why. I find labor all the time supporting positions that are protectionist positions.

What the Neal amendment does is say, "Look, let us not create additional loss of jobs." Let us not say that now that the American manufacturer loses the jobs when the Japanese manufacturer or the French manufacturer will get it for the same projects. So at least it cuts down the net total loss of jobs, the Neal amendment. That is why I support the Neal amendment.

Mr. CHANDLER. Mr. Chairman, reclaiming my time, I would just close by saying what we have here is a situation where there are going to be five, six or seven countries competing for the same projects. All we are doing when there is a case of our being able to compete with financing, is we are saying we are either going to be a part of that competition or not.

I wish that we could wish it all away. I wish that somehow we could protect every single one of those jobs in your districts and mine, but that is not the state of the world today.

The CHAIRMAN. The time of the gentleman from Washington [Mr. CHANDLER] has again expired.

(At the request of Mr. NEAL, and by unanimous consent, Mr. CHANDLER was allowed to proceed for 1 additional minute.)

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I just want to pick on the last point made by the gentleman from West Virginia, because I think this is right at the heart of it, this point about a net decrease in jobs.

The point I want to make is that there is never a net decrease. We are supporting exports and we are supporting jobs for our people. If a project in a foreign country is going to go ahead anyway and those exports are going to come into our country anyway, that is beyond the scope of the Eximbank. The Eximbank has nothing to do with that.

If you stop Eximbank from financing any project, you cost our folks jobs. There is no question about that. But you do not stop one piece of coal, one piece of copper from coming into this country.

Remember the Eximbank is not a gift to foreign countries. Eximbank is our facility to help our people.

Right now, by the way, most of the loans from Eximbank are above our Treasury rates of interest.

The CHAIRMAN. The time of the gentleman from Washington [Mr. CHANDLER] has again expired.

(At the request of Mr. RAHALL, and by unanimous consent, Mr. CHANDLER was allowed to proceed for 1 additional minute.)

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me say in response to my good friend from North Carolina, the gentleman has presented the classic catch-22 situation here. The gentleman is saying if the Export-Import Bank does not do the financing, then some other countries are going to step in. The gentleman gave examples where they have and did the financing. And then the project is going to go ahead anyway. I do not dispute that.

The bottom line is, what is the public policy, and what is the overall trade policy of the United States of America? We do not dictate our policy on what other countries do in this area or any other area. We make our own policy. We do what is in America's best interest, and that is what dictates our public policy and where our taxpayer dollars should go, and not worry about what other countries are going to do.

The gentleman from Michigan addressed that point very well. It is a piecemeal approach to trade policy, and that is what has typified this administration. I say it is time we end that piecemeal approach, look at it in its overall long-term repercussions to the American economy and defeat the Neal amendment and support the Rahall amendment.

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Rahall amendment and in support of the Neal amendment.

Mr. Chairman, it is said that the path to hell is paved with good intentions. I know that the gentleman from West Virginia was educated at the finest university in America. I know that very well. I think the gentleman's intentions are the purest possible intentions. The gentleman sincerely believes that this amendment is going to

protect or help to protect American jobs.

But I think this is a very destructive amendment which, if adopted, would increase the U.S. trade deficit, not decrease it; cost American jobs, not save American jobs.

The reason we have an Eximbank is to promote exports. Exports mean jobs, usually very high-quality jobs because if we can compete on an international basis, that usually means that there is a very high value-added component in this project and that the United States at our relatively high wage levels can accurately and productively compete for these projects.

This amendment, it seems to me, repeats the mistakes that we have made many times in the past.

□ 1545

We should have learned our lesson with the gas pipeline, for example. The United States is always shooting ourselves in the foot. The Soviet gas pipeline we succeeded in doing American companies out of work. Did we succeed in stopping the pipeline? No. We just gave our competitors work that we, some of our companies could have had in the event that we had pursued it on a competitive basis.

Here, what we are talking about are projects that are going to be built and the question is are they going to be built with American labor, by American enterprise or are they going to be built by foreign labor with foreign enterprises reaping the profits from those projects?

It is true that the Eximbank ought to take a balanced view when it comes to evaluating projects. It is true that we should not be enhancing worldwide oversupply in these kinds of things. But as has already been pointed out in this debate, we already have three criteria written into the statute requiring the Exim to take into account any serious effects on the U.S. economy from projects making use of U.S. exports financed by the Eximbank.

What the Rahall amendment would do is to put Exim into an absolute straitjacket so that they would not be able to effectively function at all. My friend from Michigan, and I do respect his views and his judgment just about as much as anybody in this Chamber, if not more so, has talked about industrial policy. I do not think that there is any person who believes more strongly that the United States needs an industrial strategy; some kind of an approach to foster high-value-added industry in this country any more than this gentleman in the well. I just do not view the Rahall amendment as getting to an industrial policy in a constructive way at all.

What the Rahall amendment will do is cut back on U.S. exports. What we ought to be doing in any industrial policy that business, labor and the public interests could agree on is to give more emphasis to those areas where we can export products around the world and create high-quality jobs in the process.

Even the project to which Mr. RAHALL takes exception, the Colombian coal project, I think is very, very debatable on the point of the value to the United States. That project resulted in 21,000 man-years of employment across 47 States. My home State of New York has already sold $38 million in equipment to Colombia associated with this project. Is there evidence that the importation of clean, low-sulfur coal to the Florida Power & Light Co. are worth 21,000 man-years?

The CHAIRMAN. The time of the gentleman from New York [Mr. LUNDINE] has expired.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

Mr. LUNDINE. Is there any evidence that we would have been better off without these kinds of jobs in America that resulted from these exports? I think that is a standard that the existing Export-Import Bank simply could not meet. I think that we ought to use our common senses, legislators, and say if we are competitive in a very intensely, internationally competitive world, that it ought to be the industrial strategy of the United States to have financing that at least puts our companies, our enterprises on an equal footing with those in other countries.

I ask you in this committee to take very seriously the Rahall amendment and the Neal substitute. Like the author of that substitute, I would prefer having none of this, but his suggestion is infinitely more workable than the amendment itself.

I ask the Members to vote against the Rahall amendment. If necessary, by support of the Neal substitute. If not, I would ask the Members to reject the whole concept. When we get exports, that means American jobs, we need American jobs particularly in industries that are internationally competitive, they would not get the order in the first place.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman.

Mr. RAHALL. I thank the gentleman for yielding to me.

Mr. Chairman, if I might ask, perhaps maybe the gentleman and I can reminisce about our logic classes at Duke University for just a moment.

To use the parallel of the gentleman's arguments and those other arguments that are being made in favor of the Neal amendment and in opposition to my amendment, you are basically saying the project is going to go ahead anyway; that it is going to receive financing from elsewhere.

Let me make this parallel.

The CHAIRMAN. The time of the gentleman from New York [Mr. LUNDINE] has expired.

(On the request of Mr. RAHALL and by unanimous consent Mr. LUNDINE was allowed to proceed for 30 seconds.)

Mr. LUNDINE. I continue to yield to the gentleman.

Mr. RAHALL. I thank the gentleman.

Mr. Chairman, let me make this parallel. Since Cuba has a Communist government and that government will remain Communist with or without United States support, then should we support Cuban communism?

Mr. LUNDINE. I do not see the relevance. I must not have taken advanced logic at Duke University. I do not see the relevance to the gentleman's question.

Mr. RAHALL. It is a parallel in the matter of policy.

The CHAIRMAN. The time of the gentleman from New York [Mr. LUNDINE] has again expired.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 1 additional minute.)

Mr. LUNDINE. The point I am trying to make is that if Cuba is going to buy something, and there are competitors around the world, and the Export-Import Bank decides to sell them something, unless under existing criteria the Eximbank finds that it is detrimental to the basic economic interest of the United States, that, per se, is going to create jobs in America, and it seems to me that, per se, is worthy of our support and that the Congress should not set up additional criteria which will be cumbersome for them to try to administer.

Mr. RAHALL. If it produces a net increase in jobs in the United States.

Mr. LUNDINE. I think, I cannot think of an example where it would not produce an increase. The gentleman's amendment——

Mr. RAHALL. Over the long term of our guaranteeing that loan or providing that financial assistance.

Mr. LUNDINE. The gentleman's amendment is dangerous because people will argue we should not do the gas pipeline because it might not net more jobs in the future. The point is that Exim creates jobs by guaranteeing that our exporters will be fully competitive.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while I understand what motivates the sponsors of the Rahall amendment, I cannot support it for a number of reasons, many of which have been expressed this afternoon.

There has been reference to the less-than-artful language that has gone into drafting the Rahall amendment.

The fact is that in the operative terms there are no definitional standards, so we do not know what constitutes "produced in substantial quantities in the United States," or "imports of more than an inconsequential quantity."

These are terms which become highly relevant in making determinations. We also do not know who is going to define these terms or who will be involved in the implementation of the Rahall amendment. Is it going to be the Exim alone or the USTR or the Department of Commerce?

One provision of the Rahall amendment that I find disturbing is the section that deals with a net increase in the overall domestic unemployment rate. Does this mean a net increase in domestic unemployment can trigger the prohibition contained in the Rahall amendment? I find it dangerously open ended. We have in the Exim contracts various terminations. Some may go as long as 10, 12, or 20 years. But if any of these projects result in a net import of products, and there is a drastic loss of jobs, then does the Rahall amendment trigger a cutoff and does the Eximbank then nullify the contract or the agreement that is in place?

□ 1555

No. 2, in weighing the relative factors on exports versus imports, we need to know the potential cost of the amendment, not only in terms of lost U.S. export opportunities and lost American jobs but in terms of the potential benefits from reduced imports and American jobs saved. It seems to me that this is a question the committee needs to look at far more closely before the issue is brought here to the House floor.

Then, finally, what is the practical effect of the amendment if the country will proceed with the project anyway? This argument has been advanced several times this afternoon. We need to know what the United States must absorb in terms of foreign imports and potential lost jobs if that Exim financing goes through.

I think that the Eximbank in its statement on the Rahall amendment really puts this issue squarely into perspective, and I quote:

Projects overseas will be built with or without Eximbank support. Eximbank only supports U.S. exports to projects on which suppliers from other countries are bidding with support from their official export credit agencies. Thus our financing only determines whether or not the foreign purchaser buys from suppliers in the United States or other countries.

If this amendment had been in effect in fiscal year 1985, Eximbank would not have been able to provide support for about $350 million worth of U.S. exports. That represents over 9,000 man-years of employment that would otherwise have been lost had the Rahall amendment been in effect.

The question which has been stated several times today is that we know what the potential loss in U.S. exports and U.S. jobs would be if the Rahall amendment were in effect, but on the other side we do not know what the potential benefit would be, if the Rahall amendment had been in effect, what job benefits or economic benefits would have occurred as a result of less imports.

Mr. Chairman, I think the amendment would make it extremely difficult for the Eximbank to provide financing for U.S. exports to practically any project overseas. It is another form of protectionism which this body has attempted to resist in the last few years. In fact, the House voted in favor of a House trade bill just recently, a bill which is comprehensive and which attempts to address a number of the related problems associated with our skyrocketing trade deficit. This legislation is now pending before the Senate. I think we ought to allow the Senate time to take action on that bill, and hopefully we can have a conference report that is acceptable to both bodies and a bill sent to the President for his signature. I think this is the way we ought to deal with our trade deficit and with our opportunities abroad.

But this is a piecemeal approach. It is not, as the gentleman from Michigan indicated, an industrial policy that is in the making. It is protectionist, it is piecemeal, and it seems to me it will not work to the benefit of the U.S. exporter. A vote for the Rahall amendment is a vote against U.S. exports and for higher trade deficits.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Neal amendment.

Mr. Chairman, I shall not use all my time, but I just want to conclude the debate on the Neal amendment by stating basically what we should look at in deciding how we are going to vote on this amendment, followed by our vote on the Rahall amendment.

The basic question is, What should U.S. policy be? There comes a time, in my opinion, when the U.S. Government and the U.S. taxpayer says enough is enough, that enough of our tax dollars, through U.S entities, are going to finance foreign products that come into the borders of the United States, there by putting out of work our domestic workers.

That is what has happened through the financing mechanisms of the Export-Import Bank in the past.

This amendment, narrow enough in scope, gives the feeling of the American people that enough is enough of American taxpayer dollars going to finance jobs outside this country and causing unemployment in this country.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I have stood already in support of my colleague's amendment, but there is another aspect of this.

I appreciate the arguments of those Members who have large companies in their districts and those who use the Eximbank for the purpose of financing, and I can understand very clearly the jobs arguments that have been put forward. A colleague of ours, the gentleman from Texas, and I have sponsored legislation which is now before a committee of this body called the FAIR bill which says that our representatives on international lending institutions will not participate in or support loans by those institutions that go to foreign nations for the purposes of developing agricultural interests that ultimately can be proven to end up in trade, agricultural trade that competes directly with our farmers.

Now, one could argue that that is not a good idea because those countries are going to buy tractors and they are going to buy equipment, agricultural equipment and farming equipment, from the manufacturers of this country. Yet today that bill happens to have a lot of popularity, simply because almost all of our farmers are out of work.

In the sixties and the seventies we poured billions of dollars into Third World nations, and we sent representatives from all of our land grant colleagues abroad to teach the rest of the world how to farm. It was called humanitarianism, and I supported it. It was the right thing to do. But we went a step further. They became such good farmers that they are now our major competitors in world markets, and it is our farmers who are now out of work.

Although this amendment offered by my colleague, the gentleman from West Virginia, is a small but single step, I would ask, when do we learn that our steel industry does not exist anymore, that our copper industry does not exist? Our mining industry is on its back, and our coal industry is merely in trouble. But we are willing to trade off by saying that we will become a service-oriented nation and we will manufacture a few things and ship them abroad.

Now, I have a company in Idaho that was a major participant in the coal project in Colombia. They happened to be the engineering company, they happened to be the development company, and they sold services. I appreciate that. My State is on the list as a major recipient. But while they were a contributor, I have 8,000 people out of work in my State today because of prolonged activities like this, with

American taxpayers being led down the road to believe by their Representatives in this House that it was in the best interests of this country long term to do some of the things we did.

Now, let us look backward and see where our agricultural people are. Was it in their best interests? I think we can collectively say that it was amazing that India became an exporting nation in agricultural projects, along with China and a lot of other countries.

Is that now in our best interests? Not that they export. Yes, that they feed themselves, of course it is.

That is really the essence of what we are talking about here today. We ought not play games with reality, because that is what we are dealing with. We will now subsidize our unemployed people, we will now subsidize through tax dollars the Eximbank and all those kinds of things, and in the end we will do a circular motion and have to come in through the back door and bail out the people who can no longer find jobs in this country.

Mr. Chairman, that is all called "good," and I question the reality of it.

Mr. RAHALL. Mr. Chairman, I urge the rejection of the Neal amendment and the rejection of the continued export of certain sensitive items that export American jobs.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding, and I support the gentleman's amendment.

As I understand the amendment, it says to the country as a whole that the Eximbank will not finance the loss of American jobs. Now, as I understand the gentleman from West Virginia [Mr. RAHALL], with his amendment he rises in opposition to the amendment offered by our colleague, the gentleman from North Carolina [Mr. NEAL].

For those who do not serve on the Banking Committee or do not have firsthand information, let me ask the gentleman, what is the difference? Does not the Neal amendment do the same thing?

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. RAHALL] has expired.

(By unanimous consent, Mr. RAHALL was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. Mr. Chairman, would the gentleman answer my question?

Mr. RAHALL. Mr. Chairman, I will be glad to respond. The Neal amendment adds a third exception to the Rahall amendment. The Rahall amendment provides that such loans shall be allowed to go ahead when the strategic interests of the United States are involved, that is, materials that we need for our strategic interests that we do not produce here in this country in substantial quantities.

The Neal amendment adds a third exception which says that loans shall be allowed to go ahead if the project is going to be developed or financed by other countries anyway. That is the third exception that the Neal amendment adds to my amendment. What he is basically saying is that other countries are going to step in and provide this financing. My position is that if other countries want to provide the financing for their own increases in unemployment, then let them do that. Let us not let other countries' policies dictate what the U.S. policy should be. That is my position on the Neal amendment.

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. RAHALL. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, if we read the charter of the Eximbank, it says that the board of directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of U.S. industry and employment in the United States. As I understand the Rahall amendment, what the gentleman is trying to do in this amendment is to make sure that in the rechartering there be a requirement that if we use the taxpayers' money to extend credit, we do it in such a way that we not lose on a net basis American jobs. Am I right in my understanding?

□ 1605

Mr. RAHALL. The gentleman is correct, but that study is not being implemented today. It is not being done. What is on the books is not being done by the Export-Import Bank when they make these loans, such as the case in Colombia, there was no examination of what the long-term adverse impact on United States jobs would be over the life of that loan that was granted by the Export-Import Bank.

My amendment says if there is a net loss during the life of that loan——

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(At the request of Mr. ROEMER, and by unanimous consent, Mr. RAHALL was allowed to proceed for 1 additional minute.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I want to thank the gentleman for offering this amendment and say to my colleagues in the House that it is going to be awfully hard to look at the Eximbank, which is in many economists' view a questionable activity at best, but say that we are going to keep it and not require that the net effect on American jobs be considered in the law.

Mr. Chairman, I thank the gentleman for his amendment.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman's response.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in opposition to the Rahall amendment and in support of the Neal amendment.

Mr. Chairman, a lot has been said this afternoon relative to the Rahall amendment. Coming from the Midwest where we are producers of machines and machine tools, I see this amendment as totally devastating.

The gentleman from Wyoming indicated that copper and coal are in trouble. Well, I say that if we look at other areas of our economy, they are in trouble also.

The problem with Rahall is that we are going to make it much worse for those other industries. If I can give an example, and a very crude one at best of Rahall in operation, let us say that Bucyrus Erie in South Milwaukee, WI, was selling a dragline, a large shovel, to a country, Colombia or Jordan, and let us say that after Eximbank looked at it, they indicated that the Bekor-Western Corp., which owns Bucyrus Erie, will gain 50 jobs over the life of the contract; however, and I do not know how they are going to ascertain this, but however Eximbank looks at Rahall and indicates that this sell will result in the importation of more than an inconsequential quantity of commodities, which possibly could be true, but let us say that answer is in the affirmative and it will result in a net domestic increase in unemployment.

Well, the Bank would indicate that because of the sale, it is expected that we will lose 100 mining jobs; so the net decrease in employment is 50 at that point.

At that point, we do not provide any direct loan or any I-Match to the corporation involved. They lose the order.

The United Kingdom and a host of other countries are just waiting, chomping at the bit to sell that dragline; so in essence, instead of losing a net of 50 jobs in this country, we will lose 150. That is the effect of Rahall. That is the net effect of Rahall.

Mr. Chairman, I tried to work with the gentleman from West Virginia in what is really a serious problem for the coal-mining States, for the copper States. It is a serious problem.

We looked at the Rahall I. It was ill advised.

We looked at Rahall II, which the gentleman from West Virginia indicated he went a whole mile, and I found that it really did not cross the street; but nevertheless; we are faced here with Rahall III, which will provide the

same problems as the first two products.

I do have a substitute amendment prepared, which hopefully will alleviate some of the ill-advised aspects to the amendment; however, I do not think even that will get the job done.

So our best bet at this point is to support Neal, which makes a terrible amendment somewhat better. It does not have the effect of closing the Eximbank.

My friends, just read the amendment. With such wording like the importation of more than an inconsequential quantity of a commodity, my God, that covers everything.

We also indicate that no guarantee shall be offered if the export will be used or is intended for use in the production or manufacture of any commodity, mineral or material or product, which is produced or manufactured in substantial quantities in the United States.

As we all know, that includes almost everything.

So first of all, I say for the Eximbank to try to ascertain whether the ill effects of the loan would come under Rahall, I think is impossible at the front end.

Second, for those in the coal States and the copper States, if this amendment would stop the production of one piece of coal or 1 ounce of copper, if it would stop the production or importation of 1 ounce—not a pound, not a ton—I might look favorably on the amendment, but it will not. Those commodities will be ending up at our door and I say the answer is the Bonker bill, which would address the trade practices of this country.

It is an issue to be taken up by the trade representative, not the Eximbank; but the net effect is to do disaster to areas that I happen to represent that make machines and machine tools or the litany of the other products that the gentleman from Iowa [Mr. LEACH] has enumerated so eloquently before.

So I ask the Members to support Neal, and if in fact that is adopted, I think Rahall at that point is palatable. It is not good, and in fact if Neal is not adopted, I think instead of closing the Eximbank, that should just close down the amendment.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes. I know this issue has been discussed to death.

I would just like to say that the last thing I think we want to do is pit region against region, industry against industry. I think we have a situation where the gentleman from Wisconsin has been very eloquent in some of the concerns he has voiced; but as a Representative of a coal State and a coal area and a copper area and a uranium area and a strategic minerals area where we have been devastated, literally devasted, where towns have died, where men and women have lost their jobs, where industries have collapsed, where State economies are on the brink of ruin, I think all we are asking is for a little gasp of support.

We are not saying close down the Eximbank. I think it has had some substantial positive effects on the world economy and our foreign policy and international commercial policy. All we are saying simply is, for God's sakes, do not give an unfair competitive advantage that is going to bring domestic unemployment to some of our industries.

Let me be specific. Copper, since 1980 the Bank has granted $279.9 million in assistance for copper-related projects. We have got copper plants in Arizona, in New Mexico, in the Southwest closing down, not simply gasping. They are literally closing down. It is not a question of a revival for them.

Mexico in seven instances has received a total of $162.7 million from 1980 to 1984, including $9.2 million in 1981 for construction of a copper smelter and $75.7 million in 1982 for expansion of a copper mine.

In May 1986 the copper caucus in this House wrote to the bank questioning an additional line of credit of $23.5 million to Compania Mineria de Cananea in Sonora State for equipment to expand their copper operations. Also, Peru received a $45 million loan in 1982, a country that is refusing to pay their debts.

Let me just explain the irony of the situation. The copper operation in Mexico in Cananea is polluting the Southwest of this country. Do you know how we are going to get out of polluting the Southwest of this country? We are considering loans from our multilateral institutions to these mining projects that have been financed by the American taxpayer and now we are going to bail them out again by giving them loans so that they can clean up their pollution which they refuse to do internally.

I mean, how much are we going to put up with? This is why I think a clear signal in support of the amendment of my colleague, the gentleman from West Virginia, is important.

Mr. KLECZKA. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to my colleague from Wisconsin.

Mr. KLECZKA. Mr. Chairman, I thank the gentleman for yielding.

Is the gentleman saying that if in fact Rahall was part of the law during the time of those transactions that additional copper ore would not have been mined or those countries involved would not have been able to get the equipment to mine that product on the international markets?

Mr. RICHARDSON. I would say so. I do not know of cases where Mexico or some of the copper-producing countries, the Perus of the world with their debt records, whether anybody else is lending them money at this time.

I mean, here we have a case where if we can send a signal, and we know that this is going to be diluted, I do not see why the gentleman is so negative toward it when I think it could have a positive effect.

Mr. KLECZKA. Well, if the gentleman from New Mexico will yield further, if in fact that is the case and these other countries were not vying for the sale of that equipment, then the Neal amendment which is before us next would apply and if there is no competition, then the other criteria; so basically what the gentleman is doing with that example anyway is arguing for Neal; but to say that the additional copper would not have been mined, that the equipment would not have been purchased from the United Kingdom or any other country, is sheer hogwash.

The only thing we are doing with the Rahall amendment is denying our manufacturers and our U.S. employees from making that equipment, because it is going to be made and sold anyway.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(At the request of Mr. CRAIG, and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. CRAIG. Mr. Chairman, will my colleague yield?

Mr. RICHARDSON. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I think the point that my colleague, the gentleman from New Mexico makes about the Mexican copper smelter is a good one. It is a good one for a variety of reasons. It is not just the Exim Bank, but it is a variety of other international lending institutions that create the kind of dynamics that exist out there.

Then what happens once the industry is in place, it no longer is sensitive to market pricing because it must be driven by cash-flow to service its loans, to keep itself out of trouble and the sponsoring government, or in this case the Mexican Government, out of trouble.

We know in instance after instance, whether it is Brazil or Colombia or Peru or Mexico, where we have seen a catch-22. Yes, it may have been our companies that use the tools of Exim to provide them with the materials or the equipment, but that country also found additional financing through the World Bank.

The combination of the two things as commodity markets slump across the world, and we are using world prices and we are dealing with miner-

als markets, is that they cannot slow their production down to limit the availability, to cause the market to rise; they simply must increase their production and continue to increase their production to service their cash-flow because these international lending institutions are demanding it.

What happens when you do that? You continually depress the market. Last year there were 35,000 copper workers out of work in this country because of Mexico and Peru and because in part of our liberal financing policies.

Now, it was not in Idaho, but it was in New Mexico and it was in Arizona and it was in Utah.

What are we doing for those copper people? Oh, we are providing them with unemployment, food stamps, and all those good things, and it is costing us billions of dollars to do so and now we are going to refinance that smelter in Mexico because the prevailing winds dump it in the State of my colleague from New Mexico and in Arizona.

If that is not a catch-22, please wake up to the reality of what you are doing.

Mr NEAL. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I have been heard too much on this. I just must, though, say one more thing.

The gentleman from Minnesota [Mr. FRENZEL] said earlier that he thought part of this problem had to do with a misunderstanding of what Exim does. Exim is not an aid agency. I believe that is the perception of some of the speakers in this House.

The Exim exists to finance our exporters, creating jobs in this country in a very competitive world.

The Rahall amendment would not save one, not one, job in this country in copper or coal or anything else. It simply will cost us jobs in other industries that face serious competition in world trade. That is the key in all this.

I urge adoption of our amendment and rejection of the Rahall amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. NEAL] to the amendment offered by the gentleman from West Virginia [Mr. RAHALL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 307, noes 87, not voting 37, as follows:

[Roll No. 213]

AYES—307

Akaka	Franklin	Mica
Alexander	Frenzel	Michel
Andrews	Fuqua	Miller (CA)
Annunzio	Gallo	Miller (WA)
Anthony	Gejdenson	Mitchell
Archer	Gephardt	Moakley
Armey	Gibbons	Montgomery
Atkins	Gilman	Moody
Badham	Gingrich	Moorhead
Barnes	Glickman	Morrison (CT)
Bartlett	Goodling	Morrison (WA)
Barton	Gordon	Mrazek
Bateman	Gradison	Myers
Bates	Green	Natcher
Bedell	Gregg	Neal
Beilenson	Guarini	Nelson
Bennett	Gunderson	Nichols
Bereuter	Hall (OH)	Nielson
Berman	Hamilton	Nowak
Bliley	Hammerschmidt	Obey
Boehlert	Hansen	Olin
Boggs	Hartnett	Ortiz
Boland	Hefner	Oxley
Bonior (MI)	Hendon	Packard
Bonker	Henry	Panetta
Bosco	Hiler	Parris
Boucher	Hopkins	Pease
Boxer	Horton	Penny
Brooks	Hoyer	Pepper
Broomfield	Huckaby	Petri
Brown (CA)	Hughes	Pickle
Bruce	Hunter	Porter
Burton (CA)	Hutto	Price
Burton (IN)	Hyde	Pursell
Bustamante	Ireland	Rangel
Byron	Jacobs	Ray
Callahan	Jeffords	Reid
Carper	Johnson	Ridge
Carr	Kasich	Rinaldo
Chandler	Kastenmeier	Ritter
Chapman	Kemp	Roberts
Chappell	Kennelly	Rodino
Cheney	Kindness	Rose
Clay	Kleczka	Rostenkowski
Coats	Kolbe	Roth
Cobey	Kostmayer	Roukema
Coble	Kramer	Rowland (CT)
Coelho	LaFalce	Rowland (GA)
Coleman (MO)	Lagomarsino	Rudd
Coleman (TX)	Lantos	Sabo
Combest	Latta	Saxton
Conte	Leach (IA)	Schaefer
Cooper	Leath (TX)	Scheuer
Coughlin	Lehman (CA)	Schneider
Courter	Lehman (FL)	Schroeder
Coyne	Lent	Schuette
Crane	Levine (CA)	Schumer
Crockett	Lewis (CA)	Sensenbrenner
Daniel	Lewis (FL)	Sharp
Dannemeyer	Lightfoot	Shaw
Darden	Lipinski	Shuster
Daschle	Livingston	Siljander
Daub	Lloyd	Sisisky
Davis	Loeffler	Skeen
DeLay	Long	Skelton
Derrick	Lott	Slattery
DeWine	Lowery (CA)	Slaughter
Dickinson	Lowry (WA)	Smith (FL)
Dicks	Lujan	Smith (IA)
DioGuardi	Luken	Smith (NE)
Dixon	Lundine	Smith (NJ)
Donnelly	Lungren	Smith, Denny (OR)
Dorgan (ND)	MacKay	Smith, Robert (NH)
Dornan (CA)	Madigan	Smith, Robert (OR)
Dreier	Manton	Snowe
Duncan	Markey	Snyder
Durbin	Martin (IL)	Solarz
Dyson	Martin (NY)	Spence
Early	Martinez	St Germain
Eckert (NY)	Matsui	Stallings
Edgar	Mavroules	Stangeland
Edwards (CA)	Mazzoli	Stokes
English	McCain	Strang
Evans (IA)	McCandless	Stratton
Evans (IL)	McCollum	Studds
Fascell	McCurdy	Stump
Fawell	McDade	Sundquist
Fazio	McGrath	Sweeney
Fish	McHugh	Swift
Flippo	McKernan	Swindall
Foley	McKinney	Synar
Ford (TN)	McMillan	Tauke
Frank	Meyers	Taylor
		Thomas (CA)
		Thomas (GA)
		Torricelli
		Traxler
		Valentine
		Vander Jagt
		Vento
		Volkmer
		Walgren
		Watkins
		Waxman
		Weber
		Weiss
		Wheat
		Whitley
		Whitten
		Wilson
		Wirth
		Wolf
		Wolpe
		Wortley
		Wright
		Wyden
		Wylie
		Yates
		Young (AK)
		Young (MO)
		Zschau

NOES—87

Anderson	Hatcher	Rahall
Applegate	Hawkins	Regula
Bentley	Hayes	Richardson
Bevill	Hertel	Robinson
Biaggi	Howard	Roe
Borski	Hubbard	Roemer
Boulter	Jenkins	Rogers
Brown (CO)	Jones (TN)	Roybal
Bryant	Kanjorski	Russo
Clinger	Kaptur	Savage
Craig	Kildee	Schulze
Dellums	Kolter	Seiberling
Dingell	Levin (MI)	Shelby
Dowdy	Mack	Shumway
Dwyer	McCloskey	Sikorski
Eckart (OH)	McEwen	Solomon
Emerson	Mikulski	Staggers
Erdreich	Miller (OH)	Stenholm
Feighan	Molinari	Tallon
Foglietta	Mollohan	Tauzin
Ford (MI)	Monson	Torres
Frost	Murphy	Towns
Garcia	Murtha	Udall
Gaydos	Oakar	Visclosky
Gekas	Oberstar	Vucanovich
Gonzalez	Owens	Walker
Gray (IL)	Pashayan	Williams
Gray (PA)	Perkins	Wise
Hall, Ralph	Quillen	Yatron

NOT VOTING—37

Ackerman	Downey	Marlenee
Aspin	Dymally	Mineta
AuCoin	Edwards (OK)	Moore
Barnard	Fiedler	O'Brien
Bilirakis	Fields	Spratt
Boner (TN)	Florio	Stark
Breaux	Fowler	Traficant
Campbell	Grotberg	Weaver
Carney	Hillis	Whitehurst
Chappie	Holt	Whittaker
Collins	Jones (NC)	Young (FL)
Conyers	Jones (OK)	
de la Garza	Leland	

□ 1630

Messrs. GEKAS, RUSSO, BRYANT, FOGLIETTA, BROWN of Colorado, WALKER, and GRAY of Illinois, Ms. OAKAR, and Messrs. GRAY of Pennsylvania, RALPH M. HALL, SEIBERLING, HAYES, OWENS, TOWNS, SHELBY, and EMERSON changed their votes from "aye" to "no."

Messrs. COUGHLIN, HEFNER, and VOLKMER changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1640

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. RAHALL], as amended.

The amendment, as amended, was agreed to.

PARLIAMENTARY INQUIRY

Mr. CHANDLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CHANDLER. Mr. Chairman, I would like to inquire, what is the status of the Rahall amendment as amended?

The CHAIRMAN. The Rahall amendment, as amended, has been agreed to.

Mr. CHANDLER. I thank the Chair.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 9, after line 2, add the following new section:

SEC. 12. PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.

Section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2) is amended—

(1) in subparagraph (A), by striking out "Communist country (as defined in section 620(f) of the Foreign Assistance Act of 1961," and inserting in lieu thereof "Marxist-Leninist country";

(2) in subparagraph (B), by striking out "Communist country (as defined)" and inserting in lieu thereof "Marxist-Leninist country";

(3) by striking out "such Communist" each place such term appears and inserting in lieu thereof "such Marxist-Leninist"; and

(4) by adding at the end thereof the following: "For the purposes of this paragraph, the term 'Marxist-Leninist country' means a country which—

"(i) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(ii) is politically, economically, or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country,

and includes specifically (but is not limited to) the following countries:

"Cambodian People's Republic.
"Cooperative Republic of Guyana.
"Czechoslovak Socialist Republic.
"Democratic People's Republic of Korea.
"Democratic Republic of Afghanistan.
"Estonia.
"German Democratic Republic.
"Hungarian People's Republic.
"Lao People's Democratic Republic.
"Latvia.
"Lithuania.
"Mongolian People's Republic.
"People's Democratic Republic of Yemen.
"People's Republic of Albania.
"People's Republic of Angola.
"People's Republic of Benin.
"People's Republic of Bulgaria.
"People's Republic of China.
"People's Republic of the Congo.
"People's Republic of Mozambique.
"Polish People's Republic.
"Republic of Cuba.
"Republic of Nicaragua.
"Socialist Ethiopia.
"Socialist Federal Republic of Yugoslavia.
"Socialist Republic of Romania.
"Socialist Republic of Vietnam.
"Surinam.
"Tibet.
"Union of Soviet Socialist Republics (including its captive constituent republics).".

Mr. CRANE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Mr. Chairman, we have heard extended debate on several amendments, and I do not think my amendments are going to stir up any extended controversy, except perhaps to register objections from some who may disagree with what I am attempting to do.

Let me explain very briefly. The first amendment that I have before the body this afternoon deals with the prohibition on aid to Marxist-Leninist countries. Now, when the Foreign Assistance Act originally passed in 1961, 25 years ago, there was a list of approximately 18 countries.

□ 1650

I can expedite this process, Mr. Chairman. We can get through it in short order, I think, because the gentleman from North Carolina has been provided with copies of the amendment as well as the gentleman on the minority side here.

The first amendment simply expands the definition of countries that can potentially be put on a list that would not be beneficiaries of Eximbank loans or guarantees or insurance. The rationale behind it is that in the last 25 years, Mr. Chairman, there have been changes in the world that expand at least those countries that, by their own definition, are Marxist-Leninist countries, have collectivist centralized economies and, under the definition of my amendment, are politically, economically, or militarily dependent on the Union of Soviet Socialist Republics or on other Communist countries.

These countries, if I may briefly enumerate them include: Afghanistan, Angola, Benin, Congo, Ethiopia, Guyana, Kampuchea, Laos, Mozambique, Nicaragua, South Yemen, and Surinam.

Originally in the Foreign Assistance Act of 1961 there were 18 countries listed in this category, and my amendment would add an additional 12 countries, as I have enumerated.

All of these countries, Mr. Chairman, are self-defined Marxist-Leninist states, and they are countries that can potentially, by being added to this list, be put into the category of noneligibility, as the original 18 were, for receipt of Eximbank loans. This does not mean that they will be. In fact, of the 12, currently 8 are receiving Eximbank loans. My amendment in no way alters that. That is a separate decision that has to be made by the responsible authorities. At the present time, of the original 18, Mr. Chairman, 5 are currently beneficiaries of Eximbank loans. My amendment does not in any way alter their potential continued eligibility. It says, though, that they could, by being added to this list as Marxist-Leninist states, lose their eligibility if the responsible parties would so determine.

Mr. Chairman, I think this amendment is in order based upon obvious alterations in terms of the forms of government of the countries in question in the last 25-year timeframe. All I am doing is bringing up to date the countries that have defined themselves as Marxist-Leninist and meet the criteria that were originally set forth for the original 18.

So, Mr. Chairman, it seems to me that this is a relatively noncontroversial amendment. As I say, it does not affect the eligibility of any of the countries currently receiving Eximbank loans, and 8 of those 12 that I just mentioned are. It does not touch that issue. That is another issue, separate and detached from this. This simply says they could come under that qualification whereby invoking that original sanction provision of the Foreign Assistance Act these countries would be included, but it does not stipulate that waivers could not be invoked just as they have for 5 of the original 18.

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I would be happy to yield to the distinguished chairman of the subcommittee, the gentleman from North Carolina [Mr. NEAL].

The CHAIRMAN. The time of the gentleman from Illinois [Mr. CRANE] has expired.

(On request of Mr. NEAL and by unanimous consent, Mr. CRANE was allowed to proceed for 3 additional minutes.)

Mr. NEAL. I thank the gentleman for yielding.

My question, Mr. Chairman, is, what is the administration's position on this? Does the gentleman know?

Mr. CRANE. The administration, I do not believe, could have a contradictory position except for one thing. That is the State Department, as the distinguished subcommittee chairman knows. The State Department said that Angola was not a Communist country. Their rationale to defend the non-Communist definition was that it permits United States businesses to operate within Angola. Well, by that same definition you could say the Union of Soviet Socialist Republics are not a Communist nation because Chase Manhattan has been in there for years along with other American businesses.

Mr. NEAL. Would the gentleman yield for a question?

Mr. CRANE. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding. As I understand the impact of the amendment of the gentleman would add to the list that

would require specific Presidential permission if we were going to do with any—and I am not stating this very clearly—but I believe what the gentleman is trying to do is say that for any of these countries the President would have to say it is in the national interest for us to be able to support exports to any of these countries.

Mr. CRANE. Exactly; the chairman is absolutely correct; just as he did in the case of Romania most recently. My point is that I was one of those plaintiffs in that case against Eximbank loans to Angola, and we got that bizarre definition of the Angolan Government from our State Department. I say clarify it. Then let State come back and give us the argumentation in behalf of a waiver, as the President obviously did in the case of Romania.

As I say, this does not affect Angola's eligibility except to the extent that it does force the administration to say, "yes indeed, they do not meet the traditional criteria for Eximbank loans, but here are the reasons why we are going to extend a waiver notwithstanding that point."

The CHAIRMAN. The time of the gentleman from Illinois [Mr. CRANE] has again expired.

(On request of Mr. NEAL and by unanimous consent, Mr. CRANE was allowed to proceed for 3 additional minutes.)

Mr. NEAL. Mr. Chairman, will the gentleman continue to yield?

Mr. CRANE. I yield to the distinguished chairman.

Mr. NEAL. I thank the gentleman for yielding further.

As I understand it, the gentleman has another amendment that he will be offering that would then say that the President cannot waiver any of these countries, is that correct?

Mr. CRANE. The chairman is absolutely correct. My second amendment would bring that waiver authority back to this body where it should have resided in the first place. Policy questions of this nature should be determined by the Congress of the United States inasmuch as we are talking about taxpayer's moneys being expended this way or that. That is indeed my second amendment. As I said, again, it does not mandate a waiver or a nonwaiver, that is the second amendment; it just says that authority should be vested in the Congress of the United States and specifically it should originate in the House.

Mr. NEAL. But then, for instance, I notice China is on the list; could the gentleman explain the procedure that would be necessary for there to be the opportunity for us to continue to try to export to China?

Mr. CRANE. The procedure in terms of criteria would not be different from the existing criteria that applied to a Presidential waiver, but Congress would make that determination. The ultimate decision on whether the waiver is granted would be a congressional decision; subject, to be sure, to a Presidential veto which the Congress could override if the body were so inclined.

Mr. NEAL. What I am really trying to understand is specifically how the procedure would work. Let us take and say that we pass this amendment, China is now on the list of those countries prohibited to support exports to, and now the President may think it is in the national interest for us to trade with China, to try to get them to open their markets, to get them to open their system and so on. But he would not be able to do anything about it. What could be done for us to be in a situation where we could then trade with China?

Mr. CRANE. Let me address this amendment first because this amendment does not apply to that waiver authority. The waiver authority in my first amendment would still reside in the White House under the existing criteria, and my amendment in no way touches the People's Republic of China, Hungary, Poland, Romania, Yugoslavia, the current countries on the original Foreign Assistance Act list. These countries are currently countries on the banned list where the President has invoked his waiver authority. On this additional list of mine, currently 8 of the 12 countries in question are countries where Eximbank authority has been invoked but the waiver has not been required. All that would be required under my amendment is that the President submit the same argumentation for Angola, Benin, Congo, Ethiopia, Guyana, Mozambique, South Yemen, and Surinam for this waiver to be continued in practice under this legislation.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think we all understand this is a trade reduction amendment. It misunderstands the usefulness of trade and also misunderstands the nature of the Export-Import Bank. We do not have precisely a taxpayer-funded institution. The Export-Import Bank is a federally chartered but self-financing institution. Since its inception in 1934, the Bank has returned $1 billion to the Treasury and built up $1.5 billion in reserves. The Export-Import Bank only gives where there are contracts that other countries would otherwise have gotten. What the Crane amendment does, it denies the United States the capacity to make money off Communist states. It also denies the United States the capacity to influence particular Communist states away, for example, from the Soviet orbit, as to some degree we are seeing in China today.

I would urge defeat of this amendment. As attractive as it might appear in the first instance, I think in the second instance it would be dramatically against the best interests of this country and our manufacturers and our economy.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have several concerns about the Crane amendment, the first being the overall consistency of the U.S. foreign policy. We have identified in section 620(f) of the Foreign Assistance Act what constitutes a Communist country. Indeed we have gone on to enumerate those 18 countries involved.

The Eximbank authorization makes cross-reference to those countries.

Mr. CRANE, by way of his amendment, now proposes to list all of the countries in section 620(f) as well as 12 additional countries, coming up to 30 nations, which would no longer qualify for the Eximbank loans unless, of course, waivered by the President of the United States for national security reasons.

I think if we are going to deal with this problem of identifying Communist countries, we ought to do so in the Foreign Assistance Act so we have a basic consistency as to how we apply that act in the many manifestations of U.S. law. But if we have the Foreign Assistance Act identifying 18 countries as Communist to which we will not provide any form of economic or security assistance, and then we turn around and identify a list of 30 countries that are so characterized as Communist for cutoff of U.S. Ex-imbank trade benefits, then we have a basic inconsistency. Indeed I think we are placing a much greater burden on the trade community by expanding the list than we are on countries that otherwise might be available for U.S. assistance subject to 620(f) of the Foreign Assistance Act. The second concern I have with respect to the Crane amendment is the overall loss of export opportunities by way of now disallowing trade, at least that kind of trade that is financed by Export-Import Bank over 30 countries of the world. There is no question that other countries would not apply a similar policy. And we are getting into areas of credit financing that really give countries an edge in this fiercely competitive world economy. And we ask why we have this staggering trade deficit when we continue to apply economic sanctions in various forms on the countries on the left as well as countries on the right. And there is no reason why we cannot add Chile and South Korea to this list as long as we are looking at countries with whom we disagree.

□ 1705

I think that if we are going to identify and punish recalcitrant countries, we ought to look at alternatives other than using trade sanctions, or, in this case, denying the Exim an opportunity to match credit practices in other countries. Otherwise, we are going to end up with a policy that does not punish these countries, but only punishes U.S. suppliers, U.S. exporters, and it can only add up to an even greater trade deficit.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. BONKER. I yield to the sponsor of the amendment.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, my amendment does not address the concerns that the gentleman from Washington is focusing on. My amendment simply is consistent with the original Foreign Assistance Act in defining those countries that, if we are going to make waivers for them, should have some pressing rationale behind that action. Presumably since 8 of the 12 countries I have added to the list are already beneficiaries of Eximbank loans and inasmuch as this administration most recently insisted that Angola, notwithstanding my objections, should be eligible, I do not think the gentleman has anything to fear from this amendment on that score. The administration, if it believes Eximbank funding is right now, will surely embrace the concept of extending Eximbank lending authority in the future to the 8 out of the 12 countries that are already Eximbank beneficiaries. So my amendment does not make that value judgment.

I think the gentleman's concern may be a valid one in terms of total trade, but if that is valid, then we may as well go back and repeal the original sanctions against the original 18 countries that were put on the list. Only five of them have had the waiver authority invoked to guarantee the Eximbank loans for them.

So, as I say, I am not making a value judgment on that issue in my amendment.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have very mixed feelings about this amendment. Taking the argument made by the gentleman from Illinois that all this does is expand the list and bring it up to date, I have a certain affinity for that. But what I am worried about is the gentleman's second amendment, when the other shoe drops, and the gentleman says that the President cannot say that it is in the national interest for us to export to China, for example, or some of these other countries.

Now there are times when it is in our national interest to try to trade with a country to bring it our way. Yugoslavia might be a good example. Czechoslovakia might be an example. I cannot say right now what all those countries might be. But under our Constitution there is a very primary responsibility for foreign affairs vested with the President. I noticed over and over again the Republican side makes that argument when they are trying to get support for one foreign policy initiative or another.

As I say, the second amendment would, I believe, cripple this President or any other in the conduct of important foreign policy.

I am just wondering if there might be some possibility of compromise here whereby maybe we accepted this and dropped the second one. If we could do something like that, I believe that the country could sort of live with it.

Mr. CRANE. Mr. Chairman, will the distinguished chairman yield?

Mr. NEAL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, that sounds like a pretty good tradeoff to me and, in the interest of expediting our activities this afternoon, I will happily trade off the elimination of Presidential waiver authority. Frankly, as I mentioned before, I would like to see that ultimately resident in the Congress rather than the White House, regardless of who is down at the other end of Pennsylvania Avenue. But if the gentleman will accept the extension of the 12 countries, I will happily withdraw my second amendment from consideration.

Mr. NEAL. Mr. Chairman, of course, I can only speak for myself, but I would certainly be willing myself to do that. As I say, I cannot speak for anyone else.

I do not see the damage myself in this one. It just expands a list that is already on the books. The other one, I believe, could be a crippling amendment.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I am happy to yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, does the chairman have knowledge of any existing Eximbank loans or loan guarantees or insurance involving the 12 countries that are being offered in this amendment?

In other words, are we just talking about an issue that is relatively mute, that Exim is not indeed involved in transactions concerning the countries named in the amendment?

Mr. NEAL. Mr. Chairman, I am sorry, but I am not quite sure. I just saw this the first time a few minutes ago and I really do not know. Maybe the gentleman from Illinois [Mr. CRANE] knows.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I think I can help the gentleman on that.

Eight of the twelve countries on this list are current recipients of Eximbank loans.

Mr. BONKER. Mr. Chairman, if the gentleman will yield, could the gentleman from Illinois name those eight?

Mr. CRANE. Mr. Chairman, the countries that are currently recipients are Angola, Benin, Congo, Ethiopia, Guyana, Mozambique, South Yemen, and Suriname.

I can only suppose that because of the rationalization already proffered by the State Department on the Angola question, it is a simple invocation of a waiver authority and that minor inconvenience would fall on the shoulder of the President rather than bringing it here for us to make by withdrawing my second amendment at the request of the distinguished chairman.

Mr. BONKER. Mr. Chairman, if the gentleman will yield further, the gentleman from Illinois would presume that the President would use the waiver authority that he has and, I suspect, would continue if the gentleman drops his second amendment pursuant to this agreement, to waive those existing transactions, but possibly in the future he could still exercise that authority to either endorse or oppose future Eximbank loans to the countries involved.

Mr. CRANE. If the chairman will yield to a response to that, that is true, and that is why in the best of all worlds, as I said, we would take that waiver authority power here and this body would be making that determination. I think that is more appropriate. On the other hand, in the interest of trying to expedite matters, I will withdraw that and wait for another year and then come back and suggest that we might reconsider that amendment.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. NEAL] has expired.

(By unanimous consent, Mr. NEAL was allowed to proceed for 5 additional minutes.)

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, the gentleman from Illinois [Mr. CRANE] has made a very graceful offer of trading off. The second amendment, frankly, is much more serious than the first, although the second amendment is, quite frankly, a more serious slap in the face of the administration, because the second amendment, in effect, curtails administration policy in a bill that is only 2 years in jurisdiction. So it is a vote of no confidence in Ronald Reagan.

But the administration opposes both amendments, and they oppose them very forcefully, because what we are doing in Congress is putting them increasingly on the spot.

Frankly, I have some doubts about the gentleman's approach. I do not think it is truly devastating to the country. It is not that grave an issue.

But I do feel obligated as the ranking minority member of the committee of jurisdiction to reflect the administration's strong concerns on all three of these amendments and strong wish that they all be defeated.

I personally view the first of the amendments as not being overly troublesome, but the next two as being exceedingly troublesome. But I do want to reflect the administration's disapproval of all three amendments.

Mr. CRANE. Mr. Chairman, will the chairman yield?

Mr. NEAL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, my third amendment is one that, very frankly, as you know, deals with the lack of support on the part of Exim beneficiaries for our positions at the United Nations. I must confess it had a political motivation behind it, and it was to send a message to some of these countries that have been beneficiaries of American assistance in the past and who have a woeful lack of support for U.S. positions at the United Nations.

As yet a further concession, I would be willing to withdraw that one so that we can speed up the process and get to final passage.

I agree with my distinguished colleague, the gentleman from Iowa, that admittedly No. 2 and No. 3 have political overtones, but are not necessarily directed at this administration because we could be at variance with another administration at the White House in the future.

But I will withdraw No. 2 and No. 3 amendments.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I think the gentleman from Illinois has made a very graceful offer to the House and it ought to be seriously considered. I certainly would follow the lead of the gentleman from Illinois.

Mr. NEAL. I agree with the distinguished gentleman, and for my part would be willing to accept this amendment if the gentleman will drop the other two.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the distinguished chairman, and I thank the distinguished minority leader here. If we could put it to a vote with that support, I am deeply in the gentleman's debt.

Mr. ROTH. Mr. Chairman, I rise in strong support of the Crane amendment and commend the gentleman from Illinois for this effort to make Eximbank lending programs more reflective of our national interest.

This is not an argument between liberals and conservatives, but rather a dispute between Congress and the executive branch.

In the past, Congress has clearly stated in Eximbank's charter that it does not believe programs administered by the U.S. Government ought to be spent to finance exports to Communist countries. This was set forth in the 1962 Foreign Assistance Act—the so-called 620(f) list. Earlier today, this body voted to accept an amendment banning Exim loans to Angola, a nation with obvious Cuban and Soviet ties.

I have no quarrel with any United States company that wants to sell United States products to the Soviet bloc, as long as those products don't jeopardize national security. But I do not feel we should be subsidizing those sales. That has been the position of Congress time and time again.

Yet, we find that again and again Eximbank is indeed financing sales to Communist countries. Exim has financed Gulf Oil facilities in Angola. Exim credits and guarantees, subsidized at a rate of 9 percent, helped finance improvements to a Hilton hotel and commercial aircraft for Ethiopia.

In a letter to me on April 7, from the White House, National Security Adviser Poindexter acknowledged that:

Neither the Act, its legislative history, nor the State Department itself have articulated specific criteria for determining whether a country should be added to the Communist country list * * * the Department [of State's] decision not to consider Angola and Mozambique Communist countries is based on [State Department guidelines] as well as the fact that Congress has never recommended adding either country to the list.

Congress has an obligation to make it very clear on behalf of our constituents that we believe that the Communist country list of 1962 is outdated. Such a list that does not include the names of Ethiopia, Nicaragua, Angola, and Mozambique is obviously out of date.

Turning to one other specific example, Ethiopia is a self-proclaimed Marxist-Leninist state. I think we can take Colonel Mengistu's word for it, but even the Subcommittee on Africa unanimously agreed 3 months ago to add Ethiopia to the Communist country list. In Ethiopia, Colonel Mengistu and his Communist party cadre have wholly embraced the Soviet model. The entire countryside is being collectivized and thousands of children are dying in the process.

Yet we continue to treat Ethiopia like a free world country, opening up our coffers in a way that only serves to perpetuate one of the world's most brutal regimes and allows Communist leaders to wade in American-subsidized swimming pools and fly first class on American-built airplanes.

Whether our failure to deny Exim loans to Ethiopia is the result of bureaucratic rigidity or some other reason, there is no earthly national interest which is served by failing to recognize the obvious and to take corrective action.

I urge my colleagues to support this amendment. It sends the appropriate message to the administration, to the taxpayer, and to foreign governments that there are limits to our willingness to subsidize exports to Soviet client states.

□ 1715

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. BERMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4510) to amend the Export-Import Bank Act of 1945, and for other purposes, pursuant to House Resolution 472, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2902

Mr. KLECZKA. Mr. Speaker, I ask unanimous consent that my name be removed from the list of consponsors of H.R. 2902.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4003

Mr. MOLINARI. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. LOWERY] have his named removed as a cosponsor of H.R. 4003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *July 9, 1986.*

Hon. THOMAS P. O'NEILL, Jr.,

The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena *duces tecum* issued by the Superior Court of the District of Columbia.

After consultation with my General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and immunities of the House of Representatives.

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1987

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September, 30, 1987, and for other purposes.

Mr. MYERS of Indiana reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPEAL OF THE PRIVATE EXPRESS STATUTE: AN IDEOLOGICAL INVITATION TO CHAOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH of Iowa. Mr. Speaker, just before the Fourth of July congressional recess, Director of the Office of Management and Budget James Miller announced that the Reagan administration could be expected to submit formal proposals for weakening and potentially dismantling the Private Express Statute.

If such a proposal is brought to Congress, the administration should be put on notice that there will be Republicans in this House who will refuse to toe the "party" line.

Dating back to 1789, the Private Express Statute has been the bedrock of America's mail delivery system. Its repeal would be an invitation to chaos. In rural areas particularly, tampering with custom and precedent would almost certainly destroy the infrastructure for affordable first-class mail delivery.

The breakup of AT&T caused many Americans to recall the phrase: "if it ain't broke, don't fix it." For rural citizens, deregulating the Postal Service would be far more traumatic and expensive.

There may be some potential for private companies to rake off the cream of easily deliverable mail in urban areas, but rural areas would be left high and dry as the rate base for decentralized mail delivery is undercut.

The U.S. Postal Service is one of the oldest and most venerated Federal responsibilities, dating back to the founding of the Republic. The history of mail delivery is a microcosm of the history of our country. From the pouched messages of the War of 1812, to the Pony Express, to rail car sorting, to air transport and computerized distribution centers today, the U.S. Postal Service has never let the country down. In good times and bad, in hail, sleet, and snow, the mail has always come through.

During most of the 200-year history of the Postal Service the Federal Government has underwritten approximately 20 percent of the cost of delivering the mail. Impressively, in recent years, this subsidy has dropped to one-fifth of that historical average.

In fact, the U.S. Postal Service provides the best mail service in the world at a cost only tiny Belgium can beat.

Despite the cheap criticism it sometimes receives, the Postal Service is doing a remarkably good job. In my 10 years in office, for instance, I have not received a single complaint against a postal worker for failing to meet his or her responsibilities on the job.

Now and then a horror story surfaces about a letter that takes 2 weeks to get from Strawberry Point to Burlington, but 99.9 percent of the mail is delivered in a timely and courteous fashion. I stress "courteous" because the postal worker is one of the strongest and most respected links between Government in Washington and the average citizen, whether at home, on the farm, in a nursing home, or big city apartment.

As symbolized in new initiatives of the Postal Service to encourage postal workers to spot unusual circumstances where deliveries are made, particularly in geographically isolated situations where the handicapped and elderly live, the postal worker is a bulwark of community safety and values.

Dismantling the Private Express Statute is ideologically toying with the livelihoods of thousands of America's most solid citizens.

Hints of efforts to revamp the Private Express Statute can only strike the vast majority of Americans living away from the urban centers on the east and west coasts of how out of touch with reality Washington bureaucrats can get.

If talk of such a plan is a "trial balloon," my hope is it will go over in Congress like a lead one. This is one idea that should be put to rest—quickly, firmly, and finally.

□ 1725

ADM. HYMAN RICKOVER, USN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, Adm. H.G. Rickover, one of our greatest patriots, died on July 8, 1986. Based on my many years of first-hand association with Admiral Rickover, I am familiar with his outstanding contributions to the defense and security for our Nation. The courage, determination, and dedication this great patriot devoted to his efforts are unequaled, as were his accomplishments. All of the citizens of this great Nation owe him a great debt.

The unprecedented accomplishments of Admiral Rickover in the technical field cannot be overemphasized. He had the vision and fortitude to see the limitless potential of nuclear energy in submarine propulsion and then carrying out the enormously difficult mission of making it a reality. This was done in the face of many detractors and outright opponents that would easily have discouraged most men. Thank God we had a person such as Rickover who had the perseverance to bring into being our first line of defense and security. To contemplate a world without Admiral Rickover's contributions to our security would be incomprehensible.

In addition to his direct contribution to our security Admiral Rickover in his work has also contributed vitally to our general welfare. Who has contributed more to the development of a safe, reliable, and environmentally benign new energy source? It is ironic to consider the arguments of detractors to the use of nuclear energy in the light of Admiral Rickover's achievement in the use of nuclear energy for the propulsion of submarines. We hear the argument that nuclear energy is not safe. But consider in a submarine the energy source—the nuclear reactor—is hermetically sealed in the same envelope as are the operators with no detrimental effect on them. Likewise the argument of the detractors that nuclear power is not reliable. In what application is the reliability of the energy source more critical than in the energy supply of a submarine? And consider, too, that this nuclear energy source

is so reliable that only one unit is provided in a submarine. Still another argument used by the detractors of nuclear energy is that the environmental effects are unacceptable. But in what application would an adverse environmental effect be more unacceptable than in a submarine? Yet Admiral Rickover's work has proven that these submarines are completely acceptable on the surface and beneath the sea.

Admiral Rickover's legacy lies in the more than 100 nuclear submarines and over a dozen first line surface warships now on station. We honor the memory of Admiral Rickover for bringing it about. In memory of his vast contributions I would urge that the next class of nuclear submarines, the SSN21 class, be designated the Rickover class—the new submarines for the 21st century. This would be a most significant and appropriate move to commemorate the father of the nuclear navy, as well as the landmark achievement in the shipping port nuclear land-based reactor. Had Admiral Rickover been permitted to oversee our civilian nuclear industry the progress of nuclear energy would have been vastly different: no Three Mile Island and no Shoreham controversy, possibly even no Ed Markey.●

TENNESSEE WILDERNESS ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. QUILLEN] is recognized for 5 minutes.

Mr. QUILLEN. Mr. Speaker, I am, along with my colleague, Mr. DUNCAN, today introducing the Tennessee Wilderness Act of 1986.

The bill carries out the wilderness recommendations of the United States Forest Service in regard to the Cherokee National Forest in Tennessee. All of the forest land affected by this bill lies within the First and Second Congressional Districts of Tennessee represented by myself and Mr. DUNCAN.

The bill designates six areas of the Cherokee National Forest as wilderness by declaring them components of the National Wilderness Preservation System. These six areas and the approximate acreage of each are:

First, Pond Mountain Wilderness, 6,665 acres;

Second, Big Laurel Branch Wilderness, 6,251 acres;

Third, Unaka Mountain Wilderness, 4,700 acres;

Fourth, Sampson Mountain Wilderness, 8,319 acres;

Fifth, Little Frog Mountain Wilderness, 4,800 acres; and

Sixth, Big Frog Wilderness, 3,000 acres.

The bill designates approximately 33,735 acres as wilderness and when added to the present wilderness acreage of the Cherokee National Forest, will result in approximately 66,000 acres of wilderness, amounting to about 11 percent of the forest's total area.

Because the Appalachian National Scenic Trail runs through parts of the Cherokee National Forest Affected by this bill, special protections have been included for those who use the trail. The bill authorizes within the wilderness areas the use of trail signs and markings, the maintenance and reconstruction of shelters and other trail-related structures, and the construction, reconstruction, an maintenance of rustic footbridges, waterbars, and other structures necessary or desirable for protection of the land and for the safety of the public.

Finally the bill releases lands for nonwilderness management within the Cherokee National Forest in line with recent wilderness bills enacted by the Congress.

Mr. DUNCAN and I have worked with many Tennesseans interested in the management of the Cherokee National Forest in drawing up this bill. We believe it enjoys broad support among the people of our districts and we hope to move the bill expeditiously through the legislative process to enactment in this session of Congress.

ENSHRINEMENT OF IGNACY JAN PADEREWSKI'S HEART

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues in the House of Representatives that on June 29, the heart of the late Ignacy Jan Paderewski, the great statesman, composer, patriot, and pianist of Polish descent, was enshrined in the name of Polonia, in a solemn ceremony at the National Shrine of Our Lady of Czestochowa at Doylestown, PA.

Ignacy Jan Paderewski, not only had a brilliant career in music, but also was an outstanding statesman and patriot, who at every opportunity and in every available forum until his death in 1941, delivered his inspiring message of his vision for a strong and independent Poland. The enshrinement of Paderewski's immortal heart was a historic occasion in the history of Polonia, and this enshrinement will continue to be a source of inspiration and encouragement for all freedom-loving people and Poles throughout the world.

I would like to take this opportunity to congratulate the members of the Paderewski Heart Enshrinement Committee, who worked so diligently in their efforts, including Henry Archacki, chairman of the committee, who originally located the heart, and Dr. Edward C. Rozanski, cochairman of the committee, and Aloysius A. Mazewski, president of the Polish American Congress, who selflessly worked to make the transfer of the heart possible from the Cypress Hills Cemetery and Abbey in Brooklyn, NY.

A listing of the members of the Paderewski Heart Enshrinement Executive Committee and the Polish American Congress Executive Committee, the program for the enshrinement ceremonies, and an article written by Henry Archacki on the actions taken which enabled the enshrinement of the heart follow:

PADEREWSKI HEART ENSHRINEMENT EXECUTIVE COMMITTEE

Aloysius A. Mazewski, President.
Henry Archacki, Chairman.
Dr. Edward C. Rozanski, Co-Chairman.
Maria Krakowska, Secretary.
Edward Dykla, Treasurer.
Nina Busse, Chairman, Fund Drive.
Helen Trzcinska-Wajda, Chairman, Program Book.

POLISH AMERICAN CONGRESS EXECUTIVE COMMITTEE

Aloysius A. Mazewski, President.
Helen Zielinski, Vice President.
Kazimierz Lukomski, Vice President.
Dr. Edward C. Rozanski, Secretary General.
Francis A. Rutkowski, Treasurer.

PROGRAM

11:30 A.M.—Procession into the Church: Clergy, Flags and Banners, P.A.C. Delegation and Guests, Veterans, Organizations.

12:00 Noon—Solemn Mass and Paderewski Heart Ceremony; Rt. Rev. Bishop Czeslaw Domin from Poland, Principal Celebrant and Homily; Fr. Lucius Tyrasinski, O.S.P., and Clergy in attendance, Co-Celebrants; Edward C. Rozanski, C.L.J., Deacon of the Mass; and Edward Dykla and Maria Krakowska, Readers.

AFTER THE MASS

1. Opening Remarks, Henry Archacki, Chairman, P.H.E.C.
2. Remarks for all the Veterans, Boleslaw Laszewski, National Commander, S.W.A.P.
3. Message from P.A.C., Aloysius A. Mazewski, President P.A.C. and P.N.A.
4. Unveiling, A.A. Mazewski and Clarence J. Paderewski.
5. Blessing, Rt. Rev. Czeslaw Domin, assisted by Fr. Lucius Tyrasinski and Clergy.
6. Wreath Placing, P.A.C. Enshrinement Committee Members..
7. Boze Cos Polske, Assembly and Choir.

IN QUEST OF THE HEART

(By Henry Archacki)

July 1, 1941, we viewed Paderewski lying in state in Hotel Buckingham. The Maestro reposed full length under a glass cover. It was then that we learned how Paderewski's Heart had been removed by Jan Smolenski . . . Two years later, while in Smolenski's chapel, we were to learn that Paderewski's Heart was still there with no clear cut instructions as to its disposition. Mr. Smolenski said he was becoming restive about the Heart and that "He would have to place it somewhere." That somewhere was not to be revealed until after John Smolenski's death in 1953. And then only through a chance visit to the Cypress Hills Abbey on Memorial Day, 1959. While inspecting the classic architecture of the Abbey, our brother-in-law, Conrad J. Wycka, had disappeared into the furthest wing. He came back shortly with the news that Paderewski was buried there! . . . It was then clear to us just where John Smolenski had placed Paderewski's Heart when we stood before a marble name-plate reading Ignacy Jan Paderewski 1860-1941. The Polish spelling of Ignacy convinced us that this was indeed the place to which John Smolenski had brought the Heart . . . From 1959 to 1966 we endeavored to spread the news of Paderewski's Heart placement. First, to the Paderewski Foundation then to the Kosciuszko Foundation, Polish Army Veterans Association and the Polish American Congress. There was little interest . . .

The warmest reception came from Fr. Michael Zembruski, founder of the National Shrine of Our Lady of Czestochowa which now stood in imposing awe upon Beacon Hill in Doylestown. At last a Shrine . . . But Polonia was not ready.

The year was now 1966, August 7th to be exact. That Sunday we visited the Abbey and paid a personal tribute to the memory of Paderewski by placing a wreath. Then in

conversation with Louis Worthington, the custodian, we learned that three persons from Poland visited the Abbey and sat in front of the Paderewski Heart niche for six hours before leaving. It was then that we realized that the marble name plate was actually loose.

When we queried Worthington as to the possibility of its removal he asked whether we wanted to remove it and see what was inside. We certainly did! Shortly, we were peering at a rectangular urn which looked pallid and dusty. It has been knotted with a cord, inside of which was a card noting that this was the Heart of Ignacy Jan Paderewski, placed there Dec. 28, 1945.

Noting the ease with which the marble plate was removed, we became apprehensive as to future visitors from Poland. We then asked the Cypress Hills Abbey to seal the niche permanently. This was done with dispatch.

Again the years intervened. It was now 1983. The Polish American Congress was meeting in Washington. An historic resolution was introduced by Secretary, Dr. Edward C. Rozanski, asking that the national body undertake the enshrinement of Paderewski's heart in the name of Polonia as had been so long ago requested by Mme. Wilkonska.

Unfortunately, the PAC as an entity moved slowly. Another three years passed until PAC president Aloysius Mazewski named Henry Archacki the Chairman of the Paderewski Heart Enshrinement Committee; Dr. Edward C. Rozanski was named Co-Chairman. We were in business but with no money in the till.

July 5, 1985, we visited Cypress Hills Cemetery to learn if Paderewski's Heart was still there. Superintendent Gerald B. Egan, greeted us with interest. In fact, Mr. Egan offered us copies of all the information on file as to the Heart. Most voluminous was that of Congressman Clement Zablocki in 1962.

Mr. Gerald B. Egan informed us that Paderewski's Heart could be released at the request of the next-of-kin. That next-of-kin was an eminent architect living in San Diego, Clarence Joseph Paderewski. We had met in 1973 when Mr. Paderewski chaired the Copernican Quincentennial Observance there.

C. J. Paderewski responded with an affidavit of acquiescence. Now the Paderewski Heart Enshrinement Committee had a purpose to at last enact Mme. Wilkonska's testament on the night Paderewski died—that of giving His Heart for enshrinement in the name of Polonia.

On November 16, 1985, a pilgrimage was made to the National Shrine of Our Lady of Czestochowa in Doylestown, PA. The visit was to confer with Director Rev. Lucjusz Tyrasinski to confirm his voiced willingness to accept the Heart in the same noble tradition as Holy Cross Church in Warsaw did when Chopin's and Reymont's Hearts were enshrined. The purpose of our visit in the company of Col. Anthony K. Podbielski was also to select a likely area where the Paderewski Heart Bronze Memorial could be placed for Polonia to venerate.

Fr. Tyrasinski was most helpful. The Inner west wall of the main entrance was selected and we then advised Andrzej Pitynski, sculptor, of the choice. Pitynski's concept was on a broader scale so he urged Fr. Tyrasinski to offer the last remaining wall space in the Shrine's Memorial Hall for that greatest of all tributes—the Paderewski Heart Memorial Bronze.

On April 5, 1986, the official transfer of Paderewski's Heart was witnessed by a devoted group. Chairman Henry Archacki was accompanied by Col. Anthony Podbielski, Bayonne, NJ, historian; and Jerzy Koss, artist/historiographer of New York. From Long Island came Chester Wrobel, President of the Polish American Museum in Port Washington, in the company of Dr. Raymond R. Adamczyk, Curator;

Andrzej Pitynski, sculptor, arrived from Brooklyn, NY; Capt. Kenneth R. Force, U.S. Merchant Marine Academy of Kings Point, NY, accompanied Gerald B. Egan, Superintendent of Cypress Hills Cemetery. All gathered in front of the Paderewski Heart Niche where Gerald Egan lifted the Heart urn and handed it over to Chairman Archacki. It was a moment of extreme solemnity.

Once in our hands the marble urn felt cool, but quickly warmed within our grasp. We all posed documenting this historic transfer of Paderewski's Heart into the legal possession of the Polish American Congress.

The physical transfer of Paderewski's Heart had been made. The legal transfer took place in Gerald Egan's office. Here Henry Archacki, as Chairman, signed the documents that allowed Paderewski's Heart to leave the sanctity of Cypress Hills Abbey and proceed on is final journey to be soon venerated by thousands of Polonians who faithfully visit the National Shrine of Our Lady of Czestochowa in Doylestown, PA. Here Paderewski's Heart will no longer be alone. Here it will listen to Polish prayers, hymns and voices. The Memorial Hall of the Shrine will be graced with its finest tribute—Paderewski's Noble Heart. Paderewski's Heart had one more stop before enshrinement—that of the J. Seward Johnson Atelier in Mercerville, New Jersey . . .

Here, in this unique creative facility, J. Seward Johnson, a sculptor of national scope, had built a school for advanced sculptors learning the most noble of arts—bronze casting. Here, Andrzej Pitynski, as supervisor of the modeling, enlarging and molding department, found the means to fashion his gallery of notable bronzes ranging from his 30 foot "Partisans" displayed on the Boston Commons to the Paderewski Heart Bronze. Here, Paderewski's Heart was enshrined ending a quest of forty-five years. Witnesses were Henry Archacki, Fr. Lucjusz Tyrasinski, Col. Anthony Podbielski, Jerzy Koss, Tadeusz W. Dziekanowski, Andrzej Pitynski and J. Seward Johnson. The historic date was June 21st, 1986.

Sunday, June 29th, 1986, after High Mass in the National Shrine of Our Lady of Czestochowa, the Paderewski Heart Memorial Bronze was unveiled by President Aloysius A. Mazewski and Clarence Joseph Paderewski and blessed by Bishop Domin of Poland.

ADMINISTRATION'S NEGLECT OF OSHA LEADS TO MORE SUFFERING BY WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania, Mr. GAYDOS, is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, the Bureau of National Affairs is about to publish a book by Sar Levitan, Peter E. Carlson, and Isaac Shapiro that will assail this administration's attitude and approach toward the American worker.

A recent analysis of the book, "Protecting American Workers: An Assessment of Government Programs," will show that since 1981, there has been a significant deterioration in the Federal Government's efforts on behalf of America's working men and women. The analysis was submitted to the Joint Economic Committee last month.

While I am concerned about this administration's failure in the total area of assistance to workers, as chairman of the Subcommittee on Health and Safety, I am especially grieved by the lack of compassion for the health and safety of workers.

The subcommittee, through its oversight activities, has chided both the present and former Secretaries of Labor as well as several former Assistant Secretaries of Labor for Occupational Safety and Health about the dereliction to duty by OSHA leadership.

We have consistently asked administration leaders in the Labor Department, at OSHA, at MSHA, and at NIOSH whether the budgets being submitted for their Departments and Agencies are sufficient to do the job. Each has always answered that the budgets are adequate.

Well, the budgets are adequate—especially when you reduce the work.

The Levitan and Shapiro analysis focuses on that same point—that OSHA's enforcement activities have shrunken at the same time its budgets have been pared and its staff reduced.

In fact, Mr. Speaker, if you look at the patterns of budgeting for five Federal agencies in the arena of occupational safety and health—the Occupational Safety and Health Administration, the Mine Safety and Health Administration, the Occupational Safety and Health Review Commission, the Mine Safety and Health Review Commission and the National Institute for Occupational Safety and Health—you will notice significant changes after the 1981 budgets.

OSHA, for example, was created in the Occupational Safety and Health Act of 1970 and actually came into being in 1972 with a budget request of nearly $31 million. From then until 1981, OSHA received increasingly larger budget amounts, ranging from 6 percent in some years to almost 20 percent in others.

In 1982, however, the OSHA budget was reduced by some $5 million from the 1981 level and, even though the budgets were increased since then, it took two more budgets before the cuts made in 1982 were recovered.

MSHA, too, had its budget reduced, but not until 1983. This administration included a very modest increase in MSHA's 1982 budget, but then trimmed the MSHA budgets for both

1983 and 1984, before again providing additional dollars in 1985.

The same general pattern occurs for the Occupational Safety and Health Review Commission, the Mine Safety and Health Review Commission, and the National Institute for Occupational Safety and Health.

I have included at the end of my statement a listing of budget requests for the five agencies.

But there is more to occupational safety and health than budgets. Insofar as OSHA is concerned, inspections, citations and fines coupled with the promulgation of meaningful health and safety standards are good means of judging how active and concerned the agency—or the administration—is about the American workers.

The answer with regard to this administration is clear: it does as little as it has to.

The analysis notes that while nine new health standards that strengthened worker protection were promulgated during the 4-year Carter administration, the first 5 years of the present administration have not been as productive.

In those 5 years, six health standards were promulgated. Of those six, however, only two actually strengthened workplace safety and health standards.

The respiratory protection and hearing conservation standards revised earlier rules and allow employers more flexibility in compliance. The coal tar pitch volatiles standard modified an earlier rule by excluding petroleum asphalt from coverage and the cotton dust standard also revised an earlier one.

Of the two meaningful standards, the ethylene oxide standard was issued only after the courts ordered OSHA to speed up its rulemaking process and the hazard communication standard was substantially watered down from the previously proposed version. Further, even though the courts have ordered certain revisions and expansions of the standard, OSHA has not yet complied.

We can now add to the list a revised asbestos standard, but it is clear that the internal struggle to bring this one forth is only now beginning to be understood.

When Secretary of Labor Bill Brock appeared before the subcommittee in early May, he promised that the asbestos standard would be ready by the end of that month. Well, he missed his prediction by some 2 weeks, but, at long last, a meaningful standard is now in place. I seriously doubt that the other standards pending action by OSHA—benzene and formaldehyde among them—will see the light of day in this year. We can only hope they will be in place next year.

Even if Secretary Brock can get more action out of OSHA, I don't believe even he will be able to overcome the expected objections and continued interference of the Office of Management and Budget. But, even beyond the promulgation of standards, OSHA under this administration has led to a drop in contested citations and a serious decline in real, meaningful inspections.

I know that OSHA officials will point with pride to the recent citation against the Union Carbide facility at Institute, WV. I am sure everyone remembers that Union Carbide was cited for 221 violations of health and safety rules and regulations and that a fine of $1.37 million was proposed.

Well, it may be a little too early for anyone to start crowing over that. We have yet to see if OSHA will cave in under the pressure that will be exerted to reduce that proposed fine amount.

The record speaks for itself. In the past, OSHA has reduced fines, levied smaller fines, or just ignored serious conditions.

Let me just cite one recent example of a case at least as serious as the Union Carbide one in that the citation alleged 137 instances where the company failed to record injuries and illnesses that resulted in lost workdays or reduced work status.

If you remember, Union Carbide was cited for 128 such violations.

The earlier case was at least as bad as the Union Carbide one, but it drew a lot less attention because of the way OSHA handled it.

Before I get into the specifics of the Allied Chemical/North American Refractories case, let me go over some general information about this administration's policies for OSHA.

The focus was, and is, voluntary compliance. Under this program, any company that maintained its injury and illness rate below the rate for all industry, would not be inspected beyond a records check.

For budget purposes, this was deemed a full inspection, or, at any rate, was not singled out as strictly a records check.

Although we on the Subcommittee on Health and Safety questioned this direction for OSHA, we were assured by administration officials that this program approach would allow OSHA to direct its modest resources toward those industries and activities where more OSHA observation and intervention was needed.

It is only now coming to light that the entire voluntary compliance program was a sham, a fraud, and the case involving Allied Chemical/North American Refractories is just one shining example.

On February 6, 1985, OSHA's area office in Harrisburg, PA, initiated an inspection in response to an employee complaint at the North American Refractories Co., a subsidiary of Allied Chemical.

The complaint alleged safety and health violations at the plant, so a safety inspector and an industrial hygienist were sent to investigate. During the OSHA inspection, the union's safety and health committee chairman noted that there appeared to be numerous recordkeeping discrepancies on the OSHA 200 logs kept by the company.

A thorough review of injury/illness records from 1980 through April 1985 revealed the following: No irregularities for 1980, but 137 instances between 1981 and April 1985 where the company had failed to record a lost workday or restricted duty by an employee on the required OSHA logs.

On September 27, 1985, OSHA issued a citation to North American Refractories, specifying 137 willful instances of incorrect recordkeeping. The violation was classified as willful because OSHA believes the company deliberately failed to record the instances in order to lower its lost workday injury rate, and, thereby, become exempt from comprehensive safety inspections.

Unlike the Union Carbide citation where each of the instances was cited as a separate violation, the North American Refractory instances were grouped as a single violation and a penalty of $5,000 was proposed.

In January 1986, a new company was formed to buy North American Refractories from Allied Chemical and the new entity accepted responsibility for OSHA's citation, entered into a formal settlement agreement reducing the proposed $5,000 penalty to $3,500.

It truly bothers me, Mr. Speaker, that OSHA has been so derelict in its duties, not because of its permanent staff, but because this administration is less than concerned about an agency or operation that might provide a service to some workers.

In 1983, OSHA initiated a safety inspection of the North American Refractories plant, but no inspection was actually conducted since the lost workday injury rate of 3.5 was below the average for manufacturing.

Again, in 1984, in response to an employee complaint, OSHA inspected the company's injury and illness records and calculated the lost workday rate at 1.6, well below the national average, so the OSHA inspection was limited only to the items listed in the complaint.

In reconstructing the real injury and illness numbers, OSHA has now calculated that the company's lost workday injury rates would have been well above the national rate for both 1983 and 1984 and that the comprehensive inspections should have occurred.

Clearly, Mr. Speaker, the recent action against Union Carbide is unique

in the light of OSHA's policies and patterns during the past 5 years of this administration.

Must we continue to kill between 5,000 and 10,000 American workers a year on the job? Must another 3 or 4 million workers a year face serious injury and, possibly, permanent disability?

And what about the 100,000 workers who, even Dr. J. Donald Millar of NIOSH says, die each year of occupationally related diseases?

Surely we can take some significant action to reduce or eliminate those deaths and disabling injuries and illnesses.

I and the almost 140 colleagues who are cosponsors of my bill, H.R. 1309, the High Risk Occupational Disease Notification and Prevention Act, believe that we can do something that, at the very least, will reduce the number of American workers who will die or be disabled because of diseases directly related to exposures to a variety of highly toxic and hazardous substances and processes in the workplace.

□ 1820

At this point I want to reminisce a bit. When we brought the black lung legislation before this House, in those States of Pennsylvania, Ohio, Kentucky, Illinois, West Virginia, and others where black lung, which is pneumoconiosis, and which almost inevitably affects most miners, developed over a period of years. That disease closes off the air sacs of the lung and causes a consequential death, which further results in widowhood and numerous children who then were not educated and who then worked in the area, and they, again, died from black lung.

I remember on the floor of the House here when people said, "You are going to break the company, you are going to break the country and you are going to do something so terrible that there will be no business." Well, it turned out to be the most humane piece of legislation we passed in the last 15 years. I remember all those who participated in that legislation.

At that time they indicated and prognosticated and said that this would be the shining hour, that this would hopefully be the example that we would follow in future years as far as other types of diseases are concerned.

You know, you would have no concern unless you have witnessed somebody die from black lung. They are gasping for breath, cannot breathe, it is a horrible death, I repeat, it is a horrible death which I would not wish on my most vehement enemy. It is just a bad death.

Well, we have the same thing occurring in industry today. We have asbestos, another disease, a bad death also, where the fibers work their way into the lung and respiratory system, and you cannot correct it, it is impossible to correct once you have got it. And you die in the same manner.

Now we have all of the toxic chemicals. We have in the neighborhood of 25,000 admitted by our scientists that are toxic. We have employees who are supporting families or working with them, absorbing them through their skin. We have numerous evidentiary records that they sometimes bring the poisonous material home with them such as the Kepone issue down in Maryland, they bring it home and the children become infected.

Now, people die, and I guess maybe there are a lot of people who when they die do not have much note taken of the fact, but the fact is that many of them were started in the factories.

The least that we as a government can do for the American people and for the citizens of this country is to at least discharge our obligation, which is to provide a decent, healthy, safe workplace for them. To date we have not done it.

This bill was recently ordered reported favorably by the Committee on Education and Labor and, as of this moment, Mr. Speaker, we are awaiting word on when time can be scheduled for debate on the House floor.

H.R. 1309, a most significant piece of legislation, simply provides for identifying worker categories that are at particularly high risk of diseases resulting from exposures to a wide range of toxic and hazardous substances in the workplace.

H.R. 1309 provides for notifying those workers individually of their risks and encourages them to enter into a program of medical monitoring and counseling. I might add at this point that it is up to the workers themselves to decide if they want to enter the medical surveillance program.

Finally, it is the goal of H.R. 1309, through this process of identification, notification, and medical monitoring to prevent those deaths and disabilities from arising.

By medically observing workers, we will learn more about what safe exposures are and should be. This will lead to more adequate health standards for substances, assuming OSHA can ever get the process moving at some reasonable pace. It will lead to new engineering systems that will prevent the exposures in the first place. And it may lead to the development and use of alternative substances that are far less toxic.

All of those elements will lead to the prevention of exposures that cause diseases that result in death and disability.

In the interim, however, medical monitoring will help us watch the health conditions of workers who have been exposed and are at risk of getting the various diseases.

And, given the long period of latency associated with many of the work-related diseases, monitoring and surveillance will allow doctors to discover the onset of those diseases at the earliest possible states—the time when medical intervention and treatment is likely to be most successful.

We should be aware that many involved in the treatment of cancer, including occupationally related cancer, believe that prevention is the only successful way to deal with cancer.

These cancer scientists say that treatment of cancer is not as likely to work and, in fact, by focusing on treatment instead of prevention, we may be losing the war. H.R. 1309 addresses that issue.

Dr. H. Arnold Muller, Pennsylvania's Secretary of Health, says the prevention of cancer is the first goal and early detection of cancer is the second goal.

Early detection saves dollars in treatments, Dr. Muller says, and increases the chances of success. He notes that the cost of treating an advanced stage case of cervical cancer is about $35,000. Detecting cervical cancer in its earliest stages can result in an average treatment cost of $500, a cost differential of 70 times. H.R. 1309 addresses that issue as well.

All of the witnesses who testified at the five intensive hearings on H.R. 1309 conducted jointly by the subcommittees on Health and Safety and on Labor Standards said they supported the concept of notifying workers as to their risks of disease from workplace exposures to hazardous and toxic substances and processes.

I have no reason not to believe them. What I cannot understand is how they can actually believe OSHA's hazard communication standard serves as an alternative. The two approaches are not the same.

OSHA's hazard communication standards is designed to inform workers that they are handling a hazardous material. Through the material safety data sheet sent with substances, it may tell them what the acute and chronic health hazards of exposure to the substance are, but it does not tell them that because of the specific job they do they are at greater risk than others of getting a disease associated with that substance.

Further, we don't know how accurate the material safety data sheets are. California OSHA reviewed some 20,000 of them and found that about 80 percent suffered from errors generally related to data on the acute and chronic health hazards.

And, despite what OSHA says about its own capabilities, it does not have the staff to determine if the material

safety data sheets are accurate or have omitted information unless that error is very glaring.

H.R. 1309 is aimed at improving the health conditions of American workers and at reducing costs to American businessmen. Certainly, if we prevent these diseases from occurring, there will be fewer workers' compensation claims, fewer medical claims for illnesses, fewer days lost from work because of illnesses, and more productivity.

H.R. 1309 creates a program that will prove very beneficial to this country's economy in addition to its people.

Budget requests for health and safety agencies since 1972

Occupational Safety and Health Administration:	
1972	$30,884,000
1973	69,373,000
1974	69,836,000
1975	102,821,000
1976	117,585,000
1977	130,820,000
1978	139,070,000
1979	164,540,000
1980	179,520,000
1981	209,580,000
1982	203,487,000
1983	207,649,000
1984	210,860,000
1985	217,234,000
Mine Safety and Health Administration:	
1972	33,042,500
1973	31,352,000
1974	31,069,000
1975	69,046,000
1976	83,646,000
1977	95,481,000
1978	115,199,000
1979	131,113,000
1980	138,511,000
1981	156,720,000
1982	157,534,000
1983	152,435,000
1984	148,032,000
1985	150,209,000
Occupational Safety and Health Review Commission:	
1972	400,000
1973	5,979,000
1974	4,890,000
1975	5,720,000
1976	5,806,000
1977	6,280,000
1978	7,150,000
1979	7,658,000
1980	7,550,000
1981	7,860,000
1982	7,787,000
1983	6,316,000
1984	6,331,000
1985	6,143,000
Mine Safety and Health Review Commission:[1]	
1979	4,776,000
1980	4,770,000
1981	4,680,000
1982	3,992,000
1983	3,686,000
1984	3,858,000
1985	3,837,000
National Institute for Occupational Safety and Health:	
1972	16,465,000
1973	28,317,000
1974	25,600,000
1975	25,848,000
1976	32,181,000
1977	37,107,000
1978	49,177,000
1979	57,094,000
1980	76,552,000
1981	82,705,000
1982	81,500,000
1983	50,521,000
1984	54,620,000
1985	56,445,000

[1] Did not come into existence until 1979.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ADM. H.G. RICKOVER

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, yesterday a most appropriate memorial service was held at the National Cathedral in our Nation's Capital for an outstanding patriot and an outstanding and humanistic person, Adm. H.G. Rickover. Admiral Rickover died on July 8, 1986. I have had the great honor and pleasure of four decades of close association with Admiral Rickover. I have firsthand knowledge of his great devotion to the interests of our Nation, his tireless efforts to contribute to the freedom, well-being, and security of our Nation and his great success in all of these endeavors. I do not know another person in my long career in government who has accomplished so much to protect our freedom and security. Every citizen owes a great deal to Admiral Rickover for what he has done over the 64 years he served in the Navy, and since he retired.

Reflecting on the life and accomplishments of this great patriot, I cannot help but recall what adversity he had to face in carrying out his work. He had to contend with the problems of being an immigrant, with the resentment by some because of his Jewish ancestry, and even the adversity he encountered in the professional engineering community. Still with his drive and dedication he brought into practical existence, in docile and productive form, a new energy source which is now our prime deterrent to attack by any potential enemy.

I recall vividly his vision and foresight in proposing the use of nuclear energy for submarine propulsion. I also recall the arguments of the adversaries that nuclear energy could not be developed to the degree that its control would be so complete and precise that it would be safe, and practical in all of the varied and extreme conditions imposed on a nuclear warship. That he did it is an accomplished and proven fact. We now have as our first line of defense 135 nuclear submarines operating safely and reliably all over the world. We also have over a dozen surface warships operating without restrictions to protect our interests.

The know-how and high confidence which flowed from the remarkable accomplishments of the Rickover programs, along with the engineering and management skills of the thousands of professionals and skilled workers who served under the Admiral, underpinned the outstanding successes of our Nation's civilian Nuclear Power Program. Our future energy security and well-being has been provided for by the resulting Nuclear Power Program. The fact that other nations have adopted our civilian power technology as well as the Rickover methodologies in their civilian power programs stands as a living tribute to the unique contributions of Rickover to humanitarian benefits from nuclear power.

Those of us who were blessed in knowing Rickover and working closely with him for decades know that no man could have loved his country more, albeit in an old-fashioned way.

I want to convey my deepest sympathy to the members of Admiral Rickover's family on their great personal loss. I would like to specially convey my sympathy to admiral Rickover's wife, Eleonore, who was so devoted to the care and support of her husband.

At the close of my remarks, I am including a brief biography of Admiral Rickover from yesterday's memorial service.

IN MEMORIAM—ADM. HYMAN G. RICKOVER, USN, RETIRED

Admiral Rickover, the Father of the Nuclear Navy, was born in Makow, Russia on January 27, 1900. At the age of six, he emigrated with his parents to the United States, settling in Chicago, Illinois. Admiral Rickover entered the U.S. Naval Academy in 1918 and was commissioned an ensign in June 1922.

Following sea duty aboard USS *La Vallette* (DD-315) and USS *Nevada* (BB-36), Admiral Rickover attended Columbia University where he earned the degree of Master of Science in Electrical Engineering. From 1929 to 1933, Admiral Rickover served in the submarines S-9 and S-48 and became qualified in submarines and for submarine command. In June 1937, Admiral Rickover assumed command of USS *Finch*. Later that year, he was selected as an Engineering Duty Officer and spent the remainder of his career serving in that specialty.

During World War II, Admiral Rickover served as Head of the Electrical Section of the Bureau of Ships and later as Commanding Officer of the Naval Repair Base, Okinawa. After the war, Admiral Rickover was assigned to the Manhattan Project at Oak Ridge, Tennessee and, in early 1949, was assigned to the Division of Reactor Development, U.S. Atomic Energy Commission.

As Director of the Naval Reactors Branch, Admiral Rickover developed the world's first nuclear powered submarine, USS *Nautilus* (SSN-571), which first went to sea in January 1955. In the years that followed, Admiral Rickover directed all aspects of building and manning the fleet of more than 150 nuclear powered surface ships and submarines which has compiled an unequaled record of safety and reliability.

Admiral Rickover's numerous medals and decorations include the Distinguished Service Medal, Legion of Merit, Navy Commen-

dation Medal, World War I Victory Medal. In recognition of his wartime service, he was made Honorary Commander of the Military Division of the Most Excellent Order of the British Empire.

Admiral Rickover was twice awarded the Congressional Gold Medal for exceptional public service. In 1980, President Jimmy Carter presented Admiral Rickover with the Presidential Medal of Freedom, the nation's highest civilian honor, for his contributions to world peace.

Admiral Rickover retired from the United States Navy on January 19, 1982 after 64 years of service to his country and to 13 Presidents. His name is memorialized in the attack submarine USS *Hyman G. Rickover* (SSN-709) and Rickover Hall at the U.S. Naval Academy.

Admiral Rickover is survived by his wife, Eleonore B. Rickover of Arlington, Virginia, his son, Robert M. Rickover of Toronto, Canada, and his sister, Augusta Berman of Chicago, Illinois.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILIRAKIS (at the request of Mr. MICHEL) for today on account of official business.

Mrs. COLLINS (at the request of Mr. WRIGHT) from July 15 to July 17 on account of medical reasons.

Mr. JONES of North Carolina (at the request of Mr. WRIGHT) for this week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous material:)

Mr. LEACH of Iowa, for 5 minutes, today.

Mr. QUILLEN, for 5 minutes, today.

(The following Members (at the request of Mr. KLECZKA) to revise and extend their remarks and include extraneous material:)

Mr. STRATTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. FRANK, for 60 minutes, on July 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. NEAL, and to include extraneous matter, during general debate on H.R. 4510, in the Committee of the Whole, today.

Mr. ALEXANDER, on H.R. 4510, following the remarks of Mr. ENGLISH, in the Committee of the Whole, today.

(The following Members (at the request of Mr. LUNGREN) and to include extraneous matter:)

Mr. CONTE.
Mr. CLINGER.
Mr. GILMAN in three instances.
Mr. DENNY SMITH.
Mr. COURTER in three instances.
Mr. MOORHEAD in two instances.
Mr. LIGHTFOOT.
Mr. VANDER JAGT.
Mr. JEFFORDS.
Mr. STANGELAND.
Mr. RITTER.
Mr. LAGOMARSINO.
Mr. KINDNESS.
Mr. DORNAN of California.
Mr. GEKAS.

(The following Members (at the request of Mr. KLECZKA) and to include extraneous matter:)

Mr. UDALL.
Mr. EDWARDS of California.
Mr. LEHMAN of Florida.
Mr. HAMILTON.
Mr. DINGELL.
Mr. COELHO.
Mr. KOSTMAYER.
Mr. ATKINS.
Mr. RANGEL.
Mr. ST GERMAIN.
Mr. MURTHA.
Mr. ACKERMAN.
Mr. MATSUI.
Mr. FRANK.
Mr. ROE.
Mr. LIPINSKI.
Mr. RODINO.
Mr. KILDEE in two instances.
Mr. LELAND.
Mr. BROOKS.
Mr. LOWRY of Washington.
Mr. GARCIA.
Mrs. BURTON of California.
Mr. STARK.
Mr. MRAZEK.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), pursuant to House Resolution 491, the House adjourned until tomorrow, Wednesday, July 16, 1986, at 10 o'clock a.m. in memory of the late Honorable John P. East.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3868. A letter from the Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, transmitting a final rule which reorganizes and redesignates regulations for child-resistant packaging of pesticides, under the Federal Insecticide, Fungicide, and Rodenticide Act, pursuant to 7 U.S.C. 136w(a)(4); to the Committee on Agriculture.

3869. Communication from the President of the United States, transmitting a request for supplemental appropriations by the District of Columbia for the fiscal year 1986, pursuant to 31 U.S.C. 1107 (H. Doc. No. 99-246); to the Committee on Appropriations and ordered to be printed.

3870. A letter from the Deputy Secretary of Defense, transmitting a report of a violation by the Department of the Air Force of the obligation or expenditure of funds in excess of amounts available in an appropriation or fund in advance of an appropriation or exceeding the limitation on voluntary services (violation of 31 U.S.C. 1341(a) or 1342), pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

3871. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-184, "D.C. Compensatory Time Off Amendment Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3872. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-185, "Volunteer Service Credit Program Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3873. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-186, "Employee Debt Set-Off Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3874. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-187, "Metropolitan Police Department Pay and Benefit Conformance Act of 1986", and report, pursuant to D.C. Code section 1-233(C)(1); to the Committee on the District of Columbia.

3875. A letter from the Secretary of Education, transmitting a copy of final amendments for the State Vocational Education Program and Secretary's Discretionary Programs of Vocational Education, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3876. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting the texts of ILO convention No. 161 and recommendation No. 171 concerning occupational health services, adopted by the International Labor Conference at its 71st session, at Geneva, June 26, 1985, pursuant to article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

3877. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by Reginald Bartholomew of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to Spain, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3878. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3879. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting a report concerning aircraft of U.S. origin in Ethiopia, pursuant to section 3, AECA; to the Committee on Foreign Affairs.

3880. A letter from the Administrator of Veterans Affairs, transmitting notification of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Governmental Operations.

3881. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of funds awarded the Aleut Tribe in docket No. 369 before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

3882. A letter from the Secretary of Health and Human Services, transmitting a report on the fiscal year 1984 Low Income Home Energy Assistance Program, pursuant to 42 U.S.C. 8629(b); jointly, to the Committee on Education and Labor and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 5161. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agancies for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-669). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. H.R. 5162. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-670). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. Supplemental report on H.R. 5162 (Rept. 99-670, Pt. 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2826. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System; with an amendment (Rept. 99-671). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4878. A bill to require the Secretary of the Interior to submit to the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee certain information regarding Micronesian governments. (Rept. 99-672). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report on subdivision of budget totals for fiscal year 1987 (Rept. 99-673). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee on Appropriations. H.R. 5175. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-675). Referred to the Committee of the Whole House on the State of the Union.

ADVERSE REPORTS

Under clause 3 of rule XIII,

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1140. A bill to amend the Sherman Act to prohibit a rail carrier from denying to shippers of certain commodities, with intent to monopolize, use of its track which affords the sole access by rail to such shippers to reach the track of a competing railroad or the destination of shipment and to apply Clayton Act penalties to monopolizing by rail carriers (Rept. 99-559, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4685. A bill to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas, with an amendment. Referred to the Committee on Agriculture for a period ending not later than July 17, 1986, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rept. 99-674, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of Iowa:

H.R. 5161. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. BEVILL:

H.R. 5162. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. BREAUX:

H.R. 5163. A bill to conserve the coastal wetlands of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. JEFFORDS:

H.R. 5164. A bill to amend title 23 of the United States Code to permit States to monitor certain Federal-aid primary roads with speed limits less than 55 miles per hour for purposes of determining compliance with the national maximum speed limit; to the Committee on Public Works and Transportation.

By Mr. MARTINEZ (for himself, Mr. HAWKINS, Mrs. COLLINS, Mr. BARNES, Mr. BONKER, Mr. COYNE, Mr. DELLUMS, Mr. DIXON, Mr. DOWNEY of New York, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FRANK, Mr. FUSTER, Mr. GEJDENSON, Mr. HAYES, Mr. HORTON, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LOWRY of Washington, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MARKEY, Mr. MATSUI, Mr. MRAZEK, Mr. OBERSTAR, Mr. OWENS, Mr. PEPPER, Mr. SEIBERLING, Mr. STOKES, Mr. SUNIA, Mr. SYNAR, Mr. TRAFICANT, Mr. UDALL, Mr. WHEAT, Mr. WILLIAMS, Mr. BUSTAMANTE, Mr. CONYERS, Mr. EVANS of Illinois, and Mr. KASTENMEIER):

H.R. 5165. A bill to require Federal entities that are subject to laws prohibiting employment discrimination to file with the Equal Employment Opportunity Commission reports regarding their compliance with such laws; and to compel such entities to file such reports; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. QUILLEN (for himself and Mr. DUNCAN):

H.R. 5166. A bill to designate certain lands in the Cherokee National Forest in the State of Tennessee as wilderness areas, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. RICHARDSON (for himself, Mr. LUJAN, and Mr. SKEEN):

H.R. 5167. A bill to declare that the United States holds certain public domain lands in trust for the pueblo of Zia; to the Committee on Interior and Insular Affairs.

By Mr. VANDER JAGT (for himself, Mr. DUNCAN, and Mr. JENKINS):

H.R. 5168. A bill to amend section 132 of the Internal Revenue Code of 1954 to provide that de minimis fringe benefits furnished by an employer to an employee may include a share in the cost of meals furnished off the business premises of the employer; to the Committee on Ways and Means.

By Mr. WILSON:

H.R. 5169. A bill to provide that the assignment of the senior military attache to the U.S. mission of a foreign country is subject to the approval of the Ambassador to that foreign country; to the Committee on Foreign Affairs.

H.R. 5170. A bill to designate the post office building to be constructed in West Liberty, TX, as the "M.P. Daniel and Thomas F. Calhoon, Sr., Post Office Building"; to the Committee on Post Office and Civil Service.

H.R. 5171. A bill to designate the building which will house the Federal court for the Eastern District of Texas in Lufkin, TX, as the "Ward R. Burke Federal Court Building"; to the Committee on Public Works and Transportation.

By Mr. ZSCHAU:

H.R. 5172. A bill to prohibit the expenditure of Federal funding for congressional newsletters; to the Committee on House Administration.

By Mr. DIXON:

H.R. 5175. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987; and for other purposes; to the Committee on Appropriations.

By Mr. DORNAN of California (for himself and Ms. OAKAR):

H.J. Res. 669. Joint resolution expressing the sense of the Congress with respect to the freedom and independence of the people of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

By Mr. HERTEL of Michigan:

H.J. Res. 670. Joint resolution to designate the week beginning August 31, 1986, as "National Pedestrian Safety Week"; to the Committee on Post Office and Civil Service.

By Mr. HEFNER:

H. Res. 491. Resolution expressing the condolences of the House on the death of the Honorable John P. East, a Senator from the State of North Carolina; considered and agreed to.

By Mr. FUSTER (for himself, Mr. PEASE, Mr. MARTINEZ, Mr. GONZALEZ, Mr. RICHARDSON, Mr. ROYBAL, Mr. ORTIZ, Mr. TORRES, Mr. DE LA GARZA, Mr. LUJAN, Mr. COELHO, Mr. BUSTA-

MANTE, Mr. GARCIA, Mr. BLAZ, Mr. DE LUGO, Mr. BATEMAN, Mrs. BENTLEY, Mr. BLILEY, Mr. BOEHLERT, Mrs. BURTON of California, Mr. FAZIO, Mr. FASCELL, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FRANKLIN, Mr. GALLO, Mr. GRAY of Pennsylvania, Mr. RALPH M. HALL, Mr. HORTON, Mr. HOWARD, Mr. KASICH, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LIPINSKI, Mr. LEVIN of Michigan, Mr. MANTON, Mr. MRAZEK, Mr. NIELSON of Utah, Ms. OAKER, Mr. REGULA, Mr. REID, Mr. ROE, Mr. SMITH of Florida, Mr. STRANG, Mr. SUNIA, Mr. TOWNS, Mr. SKELTON, and Mr. FISH):

H. Res. 492. A resolution to join the community of Lorain, OH, in commemorating the death of Capt. Fernando Ribas-Dominicci and Capt. Paul F. Lorence during the aid raid on Libya; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

423. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to food stamps; to the Committee on Agriculture.

424. Also, memorial of the senate of the State of Illinois, relative to South Africa; to the Committee on Foreign Affairs.

425. Also, memorial of the senate of the Commonwealth of Pennsylvania, relative to Americans missing and unaccounted for in Indochina; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN:

H.R. 5173. A bill for the relief of John H. Teele; to the Committee on the Judiciary.

By Mr. LANTOS:

H.R. 5174. A bill for the relief of Genero Mory Domine, Jr.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 585: Mr. BARTON of Texas, Mr. BRUCE, Mr. TRAFICANT, and Mr. SPENCE.

H.R. 704: Mr. HYDE.

H.R. 864: Mr. GILMAN and Mr. BORSKI.

H.R. 1031: Mr. FAUNTROY.

H.R. 1032: Mr. FAUNTROY.

H.R. 1197: Mr. WEISS.

H.R. 1213: Mr. BUSTAMANTE, Mr. BOEHLERT, Mr. HYDE, Mr. MRAZEK, Mr. GALLO, Mr. CHAPMAN, Mr. HAYES, Mr. FLORIO, Mr. WYDEN, and Mr. MARKEY.

H.R. 1309: Mr. ATKINS, Mr. LAFALCE, and Mr. STOKES.

H.R. 1625: Mr. OWENS, Mr. STENHOLM, and Mr. MIKULSKI.

H.R. 1626: Ms. OAKAR.

H.R. 1875: Mr. HALL of Ohio, Mr. VENTO, Mr. CRAIG, and Mr. LUNDINE.

H.R. 1946: Mr. SMITH of New Hampshire.

H.R. 2504: Mr. CROCKETT, Mr. HORTON, Ms. OAKAR, Mr. GARCIA, Mr. TALLON, Mr. RICHARDSON, and Mr. CLAY.

H.R. 2663: Mr. PETRI, Ms. SNOWE, Mr. JACOBS, Mr. JEFFORDS, and Mr. MCDADE.

H.R. 2768: Ms. MIKULSKI.

H.R. 2984: Mr. HILER: Mr. LIGHTFOOT: Mr. MCCAIN, and Mr. DIOGUARDI.

H.R. 3024: Mr. HORTON, Mr. MCHUGH, Mr. KOSTMAYER, and Mr. DOWNEY of New York.

H.R. 3099: Mrs. KENNELLY, Mr. FORD of Michigan, Mr. FUSTER, Mr. LEVINE of California, Mr. WISE, Mr. STOKES, and Mr. BEDELL.

H.R. 3429: Mr. GEJDENSON, Mr. JEFFORDS, and Mr. COLEMAN of Texas.

H.R. 3431: Mr. OBERSTAR.

H.R. 3465: Mr. ATKINS, Mrs. MARTIN of Illinois, Mrs. ROUKEMA, Mr. LEACH of Iowa, Mr. DWYER of New Jersey, and Mr. MATSUI.

H.R. 3505: Mr. DYSON.

H.R. 3508: Mr. HORTON.

H.R. 4029: Mr. COURTER and Mr. EDWARDS of California.

H.R. 4033: Mr. SCHEUER.

H.R. 4075: Mr. FLIPPO, Mr. CAMPBELL, and Mr. HANSEN.

H.R. 4077: Mr. GILMAN and Mr. HANSEN.

H.R. 4140: Mr. BLILEY.

H.R. 4301: Mr. STARK, Mr. MCCLOSKEY, and Mrs. SCHROEDER.

H.R. 4333: Mr. GILMAN and Mr. DAVIS.

H.R. 4344: Mr. COATS, Mr. JACOBS, Mr. DAUB, Mr. BROOMFIELD, and Mr. ROWLAND of Connecticut.

H.R. 4391: Mr. BOULTER and Mr. FISH.

H.R. 4393: Mr. BADHAM, Mr. BLILEY, Mr. BOUCHER, Mr. MARTINEZ, Mr. MURPHY, Mr. OBERSTAR, Mr. STOKES, Mr. STRATTON, Mr. SUNIA, and Mr. SWINDALL.

H.R. 4565: Mr. TRAFICANT and Mr. KOSTMAYER.

H.R. 4655: Mr. WISE.

H.R. 4682: Mr. MCKINNEY.

H.R. 4696: Mrs. MARTIN of Illinois.

H.R. 4731: Mr. WEBER, Mr. ROSE, and Mr. HERTEL of Michigan.

H.R. 4763: Mr. MACK, Ms. SNOWE, Mr. ECKERT of New York, and Mr. DORNAN of California.

H.R. 4766: Mr. SWINDALL, Mr. SCHUETTE, and Mrs. VUCANOVICH.

H.R. 4783: Mr. LEVIN of Michigan, Mr. FROST, and Mr. LUKEN.

H.R. 4812: Mr. GUNDERSON and Mr. RICHARDSON.

H.R. 4866: Mr. MYERS of Indiana and Mr. GILMAN.

H.R. 4876: Ms. SNOWE, Mr. TRAFICANT, Ms. OAKAR, Mr. ST GERMAIN, Mr. MACKAY, Mr. OBERSTAR, and Mr. APPLEGATE.

H.R. 4877: Mr. LEVIN of Michigan, Mr. WISE, and Mr. MARTINEZ.

H.R. 4908: Mr. DELLUMS, Mr. MICA, Mr. PORTER, Mr. SILJANDER, Mr. FISH, Mr. EVANS of Illinois, Mr. STOKES, Mr. DASCHLE, Mr. MATSUI, and Mr. HAYES.

H.R. 4999: Mr. MORRISON of Washington and Mr. SEIBERLING.

H.R. 5000: Mr. SHUMWAY, Mr. MOLLOHAN, Mr. WHITTAKER, Mr. NEAL, and Mr. BEDELL.

H.R. 5035: Mr. BARNES, Mr. OWENS, Mr. DYSON, Mr. BRYANT, Mr. NIELSON of Utah, Mr. MRAZEK, Mr. LEVIN of Michigan, Mr. FISH, and Mr. CROCKETT.

H.R. 5050: Mr. ALEXANDER, Mr. MILLER of Washington, Mr. MOLLOHAN, Mr. TORRICELLI, Mr. LEVIN of Michigan, Mr. MCDADE, Mr. FASCELL, Mr. SCHUETTE, and Mr. MINETA.

H.R. 5064: Mr. SILJANDER.

H.R. 5065: Mr. SILJANDER.

H.R. 5066: Mr. FORD of Michigan and Mr. HENDON.

H.R. 5080: Mr. TOWNS, Mr. MORRISON of Connecticut, Mr. GRAY of Illinois, Mr. MRAZEK, Ms. KAPTUR, Mr. OWENS, Mr. MITCHELL, and Mr. LUNDINE.

H.R. 5097: Mr. LEVIN of Michigan.

H.R. 5103: Mr. MICA, Mr. DANIEL, Mr. HAYES, Mr. MOAKLEY, Mr. OXLEY, Mr. LENT, Mr. WORTLEY, Mr. DWYER of New Jersey, Mr. ROE, Mr. STARK, Mr. GRAY of Illinois, Mr. YOUNG of Alaska, Mr. GARCIA, Mr. LAGOMARSINO, Mr. LUNDINE, Mr. LELAND, and Mr. BEDELL.

H.R. 5140: Mr. COYNE, Mr. DIXON, Mr. EDWARDS of California, Mr. HOWARD, Mr. LUKEN, Mr. OWENS, Mr. TRAFICANT, and Mr. TRAXLER.

H.R. 5144: Mr. HANSEN.

H.R. 5154: Mr. COELHO, Mr. MARKEY, and Mr. FRANK.

H.J. Res. 49: Mr. HENDON, Mr. DANIEL, Mr. PETRI, Mr. BURTON of Indiana, Mr. LIGHTFOOT, Mr. STRANG, Mr. CHANDLER, Mr. SKEEN, Mr. BARTLETT, Mr. MACK, Mr. CHAPPIE, Mr. DUNCAN, Mr. BARTON of Texas, Mr. BLAZ, Mr. GREGG, Mr. HYDE, Mr. DEWINE, Mr. FISH, Mr. LUJAN, and Mr. WYLIE.

H.J. Res. 133: Mrs. BOXER and Mr. TORRES.

H.J. Res. 231: Mr. HOWARD.

H.J. Res. 410: Mr. BROWN of California, Mr. ROSE, Mr. OLIN, Mr. ARCHER, Mr. CARR, Mr. HENRY, Mr. KOSTMAYER, Mr. KANJORSKI, Mr. MONTGOMERY, Mr. FORD of Michigan, Mrs. LLOYD, Mr. SUNDQUIST, Mr. GRAY of Illinois, Mr. WISE, Mr. DONNELLY, Mr. FAUNTROY, Mr. PURSELL, Mr. LIPINSKI, Mr. LELAND, Mr. CONTE, Mr. ROWLAND of Connecticut, Mr. MORRISON of Connecticut, Mr. RICHARDSON, Mr. DORGAN of North Dakota, Mr. FOWLER, Mr. MILLER of Washington, Mr. OWENS, Mr. FASCELL, Mr. GARCIA, Mr. LOWRY of Washington, Mr. MRAZEK, Mr. CHANDLER, Mr. NATCHER, Mr. WORTLEY, Mr. STRATTON, Mr. SILJANDER, Mr. CONYERS, Ms. OAKAR, and Mr. RALPH M. HALL.

H.J. Res. 417: Mr. SWIFT.

H.J. Res. 512: Mr. HUTTO, Mr. ROE, Mr. BORSKI, Mr. OWENS, Mr. TRAFICANT, Mr. ORTIZ, Mr. CARNEY, Mr. APPLEGATE, Mrs. BENTLEY, Mr. VALENTINE, Mrs. BURTON of California, Mr. MURTHA, Mr. COURTER, Mr. DAUB, Mr. GALLO, Mrs. VUCANOVICH, Mr. HUNTER, Mr. DIOGUARDI, Mr. LOWERY of California, Mr. MOAKLEY, Mr. HAYES, Mr. DYMALLY, Mr. COELHO, Mr. DIXON, Mr. KANJORSKI, and Mr. PARRIS.

H.J. Res. 529: Mr. FIELDS, Mr. DASCHLE, and Mr. BEVILL.

H.J. Res. 531: Mr. MCKINNEY, Mr. PASHAYAN, Mr. ROWLAND of Connecticut, Mr. BOUCHER, Mrs. BURTON of California, Mr. CARR, Mr. CLINGER, Mr. DASCHLE, Mr. CARNEY, Mr. ERDREICH, Mr. FOLEY, Mr. FUSTER, Mr. GALLO, Mr. GRAY of Illinois, Mr. HANSEN, Mr. HEFNER, Mr. HENRY, Mr. HUNTER, Mr. HUTTO, Mr. JACOBS, Mr. JONES of North Carolina, Mr. KEMP, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. LENT, Mr. LOWRY of Washington, Mr. MCCLOSKEY, Mr. MACKAY, Mr. GEJDENSON, Mr. MATSUI, Mr. MOORHEAD, Mr. ORTIZ, Mr. PRICE, Mr. MINETA, Mr. PERKINS, Mr. MCCAIN, Mr. MORRISON of Washington, Mr. ST GERMAIN, Mr. GREEN, Mr. FROST, and Mr. FISH.

H.J. Res. 547: Mr. BARNES, Mr. PEPPER, Mr. BROOMFIELD, Mr. HAMMERSCHMIDT, Mr. CRANE, Mr. ANDERSON, Mr. DYSON, Mr. FRENZEL, Mr. GEPHARDT, Mr. MCCAIN, Mr. SMITH of New Jersey, Mr. TORRICELLI, Mr. WYLIE, Mr. PACKARD, Mr. BUSTAMANTE, Mr. COOPER, Mr. DICKINSON, Mr. HYDE, Mr. MADIGAN, Mr. PANETTA, Mr. PRICE, Mr. RANGEL, Mr. RITTER, Mr. LEHMAN of California, Mr. MCGRATH, Mr. SYNAR, Mr. OLIN, Mr. GREGG, Mr. COATS, and Mr. SOLARZ.

H.J. Res. 552: Mr. UDALL, Mr. MCGRATH, Mr. FAUNTROY, Mr. KOSTMAYER, Mr. CONTE, Mr. DASCHLE, Mr. LUKEN, Mr. OBEY, Mr. RODINO, Mr. SCHUMER, Mr. MOODY, Mr.

LEHMAN of Florida, Mr. MINETA, Mr. TALLON, Mr. ORTIZ, Mrs. BENTLEY, Mr. WISE, and Mr. FISH.

H.J. Res. 583: Mr. RANGEL, Mr. HOYER, Mr. GRAY of Illinois, Mr. NATCHER, Mr. LOWRY of Washington, Mr. COOPER, Mr. STANGELAND, Mr. HORTON, Mr. DE LA GARZA, Mr. COLEMAN of Texas, Mr. BIAGGI, Mr. DAUB, Ms. OAKAR, Mr. DORNAN of California, Mr. FLIPPO, Mr. MRAZEK, Mr. WEAVER, Mr. DASCHLE, Mr. TRAFICANT, Mr. ROBERTS, Mr. DARDEN, Mr. BUSTAMANTE, Mr. BEVILL, Mr. MACKAY, Mr. COURTER, Mr. SHELBY, and Mr. CHANDLER.

H.J. Res. 591: Mr. CHAPPIE, Mr. LIVINGSTON, and Mr. ROTH.

H.J. Res. 619: Mr. BLILEY, Mr. BARTON of Texas, Mr. SAXTON, Ms. MIKULSKI, Mr. MCCLOSKEY, Mr. ORTIZ, Mrs. BENTLEY, Mr. HALL of Ohio, Mr. LEVIN of Michigan, Mr. JONES of Tennessee, Mr. MARTINEZ, Mr. FEIGHAN, and Mr. WATKINS.

H.J. Res. 623: Mr. CARR, Mr. LUKEN, Mr. WEAVER, and Mr. KOSTMAYER.

H.J. Res. 630: Mr. DORNAN of California.

H.J. Res. 638: Mr. LATTA, Mr. FAUNTROY, Mr. CALLAHAN, Mr. DEWINE, Mr. KASTENMEIER, Mr. GONZALEZ, Mr. YOUNG of Alaska, Mr. BATES, Mr. TOWNS, Mr. WOLF, Mr. EDGAR, Mr. ERDREICH, Mr. COELHO, Mr. DORNAN of California, and Mr. HUTTO.

H.J. Res. 642: Mr. WEBER, Mr. MRAZEK, and Mr. KRAMER.

H.J. Res. 646: Mr. LEVINE of California, Mr. NICHOLS, Mr. RINALDO, Mr. SWINDALL, Mr. SCHUMER, Mr. FEIGHAN, Mr. HOYER, Mr. MCDADE, Mr. CARPER, Mr. ROE, Mr. HEFNER, Mr. BLILEY, Mr. GRAY of Illinois, Mr. MORRISON of Connecticut, Mr. MACKAY, Mr. BOUCHER, Mr. PERKINS, Mr. MOODY, Mrs. BURTON of California, Mr. SISISKY, Mr. DYMALLY, Mr. RICHARDSON, Mr. LUJAN, Mr. BARNES, Mr. EMERSON, Mr. CHAPPIE, Mr. MCGRATH, Mr. DANIEL, Mr. GREEN, Mr. CAMPBELL, Mr. MURPHY, Mr. MARTIN of New York, Mr. BUSTAMANTE, Mr. CONTE, Mr. HENRY, Mr. TORRICELLI, Mr. FAUNTROY, Mr. DAUB, Mr. SKELTON, Mr. YOUNG of Missouri, Mr. HORTON, Mr. HAWKINS, Mr. HUTTO, Mr. MONSON, Mr. BROWN of California, Mr. ANNUNZIO, Mr. VALENTINE, Mr. REID, Mrs. BYRON, Mr. LAGOMARSINO, Mr. WISE, Mr. FAZIO, Ms. OAKAR, Mrs. BENTLEY, Mr. FLIPPO, Mr. BROOKS, Ms. MIKULSKI, Mr. SMITH of Florida, and Mr. WORTLEY.

H.J. Res. 656: Mr. SHELBY, Mr. NELSON of Florida, Mr. BRYANT, Mr. DYSON, and Mr. DANIEL.

H.J. Res. 657: Mr. SAVAGE, Mr. KASICH, Mrs. BOXER, Mr. REID, Mr. FAZIO, Mr. LIPINSKI, Mr. MANTON, Mr. ANNUNZIO, Mr. GRAY of Pennsylvania, Mr. MRAZEK, Mr. SMITH of Florida, Mr. FRANK, Mr. DWYER of New Jersey, Mr. ECKERT of New York, Mr. LEVIN of Michigan, Mr. LANTOS, Ms. OAKAR, Mr. COELHO, Mr. ACKERMAN, and Mr. SUNDQUIST.

H. Con. Res. 15: Mr. RINALDO.

H. Con. Res. 244: Mr. FISH.

H. Con. Res. 330: Ms. MIKULSKI.

H. Con. Res. 332: Mr. MARKEY, Mr. GALLO, Mr. SILJANDER, Mr. DEWINE, Mr. BATEMAN, Mr. FAUNTROY, Mr. DASCHLE, Mr. HALL of Ohio, Mr. KEMP, Mr. TOWNS, Mr. BURTON of Indiana, Mr. STRATTON, Mr. MILLER of Washington, Mr. MYERS of Indiana, Mr. MINETA, Mr. DYMALLY, Ms. KAPTUR, Mr. EDWARDS of California, Mr. GILMAN, and Mr. LEACH of Iowa.

H. Con. Res. 338: Mr. PORTER, Mr. FISH, Mr. FAUNTROY, Mr. MACKAY, and Mr. WAXMAN.

H. Con. Res. 344: Mr. BEDELL, Mr. REGULA, Mr. DE LUGO, Mr. BARNES, Mr. MARTINEZ, Mr. TRAFICANT, Mr. RICHARDSON, Mr. RAHALL, and Mr. FISH.

H. Res. 116: Mr. SMITH of Florida, Mr. GILMAN, Mr. DELLUMS, Mr. CONYERS, Mr. HOPKINS, Mrs. HOLT, Mr. BOUCHER, Mr. YATRON, Mr. EDWARDS of California, Mr. SPRATT, Mr. GRAY of Illinois, Mr. DURBIN, Mr. FISH, and Mr. COLEMAN of Texas.

H. Res. 373: Mr. DINGELL, Mr. MILLER of California, Mr. SUNIA, Mr. WILLIAMS, and Mr. FASCELL.

H. Res. 393: Mr. DORNAN of California, Mr. DANIEL, Mr. STRATTON, Mr. LAGOMARSINO, Mr. HYDE, Mr. CHAPPELL, Mr. KEMP, Mr. BURTON of Indiana, Mr. MONSON, Mr. SWINDALL, Mr. BOULTER, Mr. RITTER, Mr. CRANE, Mr. HUNTER, Mr. SOLOMON, Mr. PORTER, Mr. ROTH, Mr. BLAZ, Mr. DELAY, Mr. SKEEN, Mr. FIELDS, Mr. CRAIG, Mr. O'BRIEN, Mr. SNYDER, Mr. HARTNETT, Mr. CALLAHAN, Mr. COURTER, Mr. ARMEY, Mr. RUDD, Mr. KASICH, Mr. CARNEY, Mr. LIVINGSTON, Mr. BLILEY, Mr. MCCOLLUM, Mr. KINDNESS, Mrs. HOLT, Mr. DREIER of California, Mr. DICKINSON, Mr. DANNEMEYER, Mr. SMITH of New Hampshire, Mr. WORTLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. STANGELAND, Mr. BARTLETT, Mr. BATEMAN, and Mr. MOORHEAD.

H. Res. 412: Mr. CHENEY.

H. Res. 430: Mr. DE LUGO, Mr. BEDELL, Mr. DELLUMS, Mr. STARK, Mr. BEILENSON, Mr. HORTON, Mr. BEVILL, Mr. MILLER of Washington, Mr. GARCIA, Mr. MORRISON of Connecticut, Mr. FROST, Mr. BEREUTER, Mr. PENNY, Mr. EDWARDS of California, Mr. LAGOMARSINO, Mr. HEFTEL of Hawaii, Mr. REID, Mr. MAVROULES, Mrs. SCHNEIDER, Mr. MRAZEK, Mr. COELHO, Mr. EVANS of Illinois, Mr. LANTOS, Mr. OWENS, Mr. ACKERMAN, Mr. MITCHELL, Mr. VALENTINE, Mr. TORRICELLI, Mr. FAUNTROY, Mr. HOWARD, Mr. CONTE, Mr. FISH, Mr. CROCKETT, and Mr. LEHMAN of Florida.

H. Res. 451: Mr. BARNARD, Mr. MCDADE, Mr. RAHALL, and Mr. WILLIAMS.

H. Res. 469: Mr. MATSUI, Mrs. SCHNEIDER, Mr. ST GERMAIN, Mr. STUDDS, Mr. MOAKLEY, Mr. PASHAYAN, and Mr. LEVINE of California.

H. Res. 476: Mrs. COLLINS, Mr. LIGHTFOOT, Mr. CAMPBELL, Mr. THOMAS of Georgia, Mr. ARMEY, Mr. BRYANT, Mr. COLEMAN of Texas, Mr. SHAW, and Mr. FROST.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 585: Mr. SAXTON.
H.R. 2902: Mr. KLECZKA.
H.R. 4003: Mr. LOWERY of California.
H.R. 5140: Mr. FRANK.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

424. By the SPEAKER: Petition of the board of supervisors of the county of Shasta, CA, relative to disaster declaration policy; to the Committee on Public Works and Transportation.

425. Also, petition of the tribal chairperson, Susanville Indian Rancheria, Susanville, CA, relative to Federal income tax on tribal fishermen; to the Committee on Ways and Means.

426. Also, petition of the Boston City Council, Boston, MA, relative to tax reform; to the Committee on Ways and Means.

427. Also, petition of the Conference of Western Attorneys General, San Francisco, CA, relative to nuclear waste siting policy; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5162

By Mr. WEAVER:

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for resuming or maintaining core criticality at the N-Reactor at the Hanford Reservation until 120 days after (1) the Secretary of Energy has received the final studies on N-Reactor safety he requested in May 1986 from the National Academy of Sciences and the National Academy of Engineering and (2) Congress has received the final report on N-Reactor safety requested in April 1986 from the General Accounting Office.

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for resuming or maintaining core criticality at the N-Reactor at the Hanford Reservation until 120 days after the Secretary of Energy has received the final studies on N-Reactor safety he requested in May 1986 from the National Academy of Sciences and the National Academy of Engineering.

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for resuming or maintaining core criticality at the N-Reactor at the Hanford Reservation until 120 days after Congress has has received the final report on N-Reactor safety requested in April 1986 from the General Accounting Office.

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for resuming or maintaining core criticality at the N-Reactor at the Hanford Reservation prior to March 1, 1987.

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for resuming or maintaining core criticality at the N-Reactor at the Hanford Reservation.

—For Atomic Energy Defense Activities, strike the appropriation of $7,693,900,000 and replace it with $7,643,900,000.

—For Atomic Energy Defense Activities, strike the appropriation of $7,693,900,000 and replace it with $7,673,900,000.

—Insert where appropriate in the bill:

No funds appropriated by this act shall be used for site characterization of the three sites recommended under section 113 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425; 42 U.S.C. 10133) as candidates for the first repository for commercial high-level radioactive waste, until the Secretary of Energy pursuant to section 112(b)(1)(C) of the Act (42 U.S.C. 10132(b)(1)(C)) has nominated five candidate sites for the second repository.

—Insert where appropriate in the bill:

Of the funds made available for nuclear waste disposal activities pursuant to Public Law 97-425, $45,700,000 shall be available for second repository siting activities.

EXTENSIONS OF REMARKS

CONRAIL: SUPPORT FOR A PUBLIC OFFERING

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. DINGELL. Mr. Speaker, the return of Conrail to the private sector, the aim of Congress in enacting the Northeast Rail Service Act of 1981, was adopted early in the Reagan administration as one of its major policy goals. After considerable study and several false starts, it is now the clear consensus of those most intimately involved that the best and most efficient way to "privatize" Conrail is through a public offering.

Not only will such an offering utilize the genius of the American free market to assure maximum return to the American taxpayer, it will also assure strong and healthy competition between the rail facilities so vital to the Nation's shippers.

The investment banking community is now united in the belief that Conrail is a viable railroad with healthy long-term prospects, and that a genuine public stock offering can raise between $1.8 and $2.2 billion if we act quickly. The concept of a public offering has already won broad bipartisan support and I remain hopeful that the administration will join with us in working for the enactment of public offering legislation before the 99th Congress adjourns.

Recently, several Midwestern state departments of transportation have written to me to express their support for the sale of Conrail through a public offering. I ask unanimous consent to include in the RECORD the text of these letters, which come from Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin. Thank you, Mr. Speaker.

IOWA DEPARTMENT OF TRANSPORTATION,
Ames, IA., June 20, 1986.

Hon. JOHN D. DINGELL,
U.S. Representative, Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: I am joining with many of my fellow state transportation officials who firmly believe that the ownership of Conrail should be returned to the private sector. We share your concerns that the proposal to sell Conrail to Norfolk Southern fails to meet several important criteria that include preserving competition and securing a fair price for the government-owned stock. A sale of Conrail to Norfolk Southern would create a mega railroad that would dominate the competitive environment not only in the east but throughout the midwest. The damage resulting from this mega merger to the midwest railroads and economy of our states is unacceptable.

The Iowa DOT position is to sell Conrail to the private sector as an independent, viable railroad, and oppose the sale of Conrail to Norfolk Southern. We believe that a public offering is consistent with our criteria for the sale of Conrail. A public offering would afford all interested parties an opportunity to invest in Conrail and allow the free market to determine the stock's true value.

We hope Congress is able to complete all actions needed to permit the sale of Conrail this year, and we pledge our support and cooperation to meet this goal.

This issue is extremely important to Iowa and we are sending similar letters to every member of the Committee on Energy and Commerce and to our entire congressional delegation.

Sincerely,

WARREN B. DUNHAM,
Director.

MINNESOTA DEPARTMENT
OF TRANSPORTATION,
St. Paul, MN, June 18, 1986.

JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DINGELL: I am joining with many of my fellow state transportation officials who firmly believe that the ownership of Conrail should be returned to the private sector. We share your concerns that the proposal to sell Conrail to Norfolk Southern fails to meet several important criteria that include preserving competition and securing a fair price for the government-owned stock. A sale of Conrail to Norfolk Southern would create a mega railroad that would dominate the competitive environment not only in the east but throughout the midwest. The damage resulting from this mega merger to the midwest railroads and economy of our states is unacceptable.

We believe that best way to return Conrail to the private sector is for Congress to require the U.S. Department of Transportation, through an independent finanicial advisor, to offer its stock to the public. A public offering would afford all interested parties an opportunity to invest in Conrail and allow the free market to determine the stock's true value.

We hope Congress is able to complete all actions needed to permit the public offering process to begin this year, and we pledge our support and cooperation to meet this goal.

For your information a similar letter is being sent to each member on the House Energy and Commerce Committee.

Sincerely,

RICHARD P. BRAUN,
Commissioner.

STATE OF NEBRASKA,
July 2, 1986.

JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DINGELL: I am joining with many of my fellow state transportation officials who firmly believe that the ownership of Conrail should be returned to the private sector. We share your concerns that the proposal to sell Conrail to Norfolk Southern fails to meet several important criteria that include: preserving competition and securing a fair price for the government-owned stock. A sale of Conrail to Norfolk Southern would create a mega railroad that would dominate the competitive environment not only in the East but throughout the Midwest. The damage resulting from this merger to the midwest railroads and the economy of our states is unacceptable.

We believe the best way to return Conrail to the private sector is for Congress to require the U.S. Department of Transportation, through an independent financial advisor, to offer its Conrail stock to the public. A public offering would afford all interested parties an opportunity to invest in Conrail and allow the free market to determine the stock's true value.

We hope Congress is able to complete all actions needed to permit the public offering process to begin this year, and we pledge our support and cooperation to meet this goal.

For your information a similar letter is being sent to each member on the House Energy and Commerce Committee.

Sincerely,

R.H. HOGREFE,
Director-State Engineer.

NORTH DAKOTA STATE
HIGHWAY DEPARTMENT,
Bismarck, ND, June 30, 1986.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. DINGELL: I am joining with transportation officials in many other Midwestern states in the belief that ownership of Conrail should be returned to the private sector in a manner which best preserves the competitive position of our Midwestern rail carriers and at the same time insures a fair price for government owned stock.

We believe the best way to accomplish these goals is for congress to require a public offering of Conrail stock. We are concerned that a sale to Norfolk Southern would have a severe negative impact on the competitive position of our rail carriers.

We are opposed to continued subsidies to Conrail and encourage a fair, reasonable, and expeditious resolution to this matter.

Sincerely,

WALTER R. HJELLE,
Highway Commissioner.

STATE OF SOUTH DAKOTA,
June 20, 1986.

JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC

DEAR REPRESENTATIVE DINGELL: The State of South Dakota joins with other midwestern states in the firm belief that the owner-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ship of Conrail should be returned to the private sector and that Conrail should operate without any future financial support from the federal government. However, we share your concern that the proposal to sell Conrail to Norfolk Southern fails to meet several important criteria that include preserving competition and securing a fair price for the government-owned stock.

We believe the best way to return Conrail to the private sector is for Congress to require the U.S. Department of Transportation, through an independent financial advisor, to offer its stock to the public. A public offering would afford all interested parties an opportunity to invest in Conrail and allow the free market to determine the stock's true value.

We hope Congress is able to complete all actions needed to permit the public offering process to begin this year, and we pledge our support and cooperation to meet this goal.

Sincerely,

JAMES R. MYERS,
Chief of Operations.

WISCONSIN DEPARTMENT
OF TRANSPORTATION,
Madison, WI, June 25, 1986.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Room 2125 Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DINGELL: The Wisconsin Department of Transportation suports your opposition to the U.S. Department of Transportation's plan to sell Conrail to the Norfolk Southern Corporation. In past written testimony before Rep. Florio's subcommittee (dated September 10, 1985) I have presented Wisconsin's view that sale of Conrail to Norfolk Southern would do harm to the railroads that serve the Midwest. We share your concerns that the proposal to sell Conrail to Norfolk Southern overlooks the strong evidence of Conrail's financial viability and fails to meet several important criteria, including the preservation of competition and obtaining a fair price for the government owned share of Conrail. A merger between Conrail and Norfolk Southern would create a dominant railroad in the East which would damage Midwest railroads and, as a consequence, do harm to the economies of the Midwest states.

We totally support returning Conrail to the private sector. However, we believe the best way to do that is for Congress to require the U.S. Department of Transportation, through an independent financial advisor, to offer Conrail stock to the public. A public offering would afford all interested parties an opportunity to invest in Conrail and allow the market to determine the stock's true value.

We hope Congress is able to complete all actions needed to permit the public offering process to begin this year, and we pledge our support and cooperation to help you meet this goal.

Sincerely,

LOWELL B. JACKSON, P.E.,
Secretary.

LET US NOT FORGET THE POW-MIA'S

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ST GERMAIN. Mr. Speaker, with the unveiling of the rejuvenated Statue of Liberty this Fourth of July, we saw a special tribute to the American spirit of freedom. However, in remembering Lady Liberty's 100th birthday, we also must not forget the POW-MIA's that were not here to celebrate with us. These brave men served in the Vietnam war to uphold our Nation's cherished ideals the statue so proudly represents: democracy and liberty.

I am pleased that we have made progress in our negotiations with Vietnam to recover or account for these POW-MIA's. We need to continue our efforts to reach the fullest possible accounting for these individuals. The POW-MIA's from Rhode Island alone are as follows:

Lt. Col. Charles Edward Cappelli (Providence), USAF, was the pilot of a F-105-D jet shot down over North Vietnam on November 17, 1967. His exact location of loss is not know. Other pilots in the flight saw him eject and reported that he had "a good chute" after bailing out. He was alone in the aircraft. He was born on March 14, 1930, and was married.

Comdr. Laurent Norbert Dion (Providence), USN, was the pilot of a RA-5-C reconnaissance jet shot down off the coast of North Vietnam over water on August 17, 1967. The exact location of his loss is not know. He was listed as killed in action—body not recovered. He was born January 25, 1929, and was married. Lt. (jg.) Charles David Hom was the "backseater" in the aircraft.

Col. Curtis Abbott Eaton (Wakefield), USAF, was the pilot of a F-105 jet shot down over North Vietnam on August 14, 1966. His exact loss coordinates are not known. On "September 6, 1976, Vietnam reported he had been killed with no further information." Eaton was alone in the aircraft. He was born July 21, 1924, and was married.

Maj. Kenneth B. Goff, Jr. (Warwick), USA, was a passenger on board a HU-1-H (Huey) helicopter which went down in South Vietnam from "nonhostile" causes on August 24, 1967. The exact location of the downed chopper is known. He was born March 9, 1943, and was single. The other men who are unaccounted for from this incident are Maj. Richard J. Schell, Sgt. Ronald Lee Holzman, and SFC Richard M. Allard.

Maj. George Henry Jourdenais (Central Falls), USAF, was the pilot of a F-4-C jet shot down in South Vietnam on April 1, 1967. His exact loss location is known. He was born April 13, 1943, and was married. The "backseater" was Capt. Robert W. Stanley.

Lt. Col. Fredric Moore Mellor (Cranston), USAF, was the pilot of a RF-101-C reconnaissance jet which was shot down over North Vietnam on August 13, 1965. His exact loss location is known. Other pilots in the flight were able to establish voice contact with him after he bailed out. He was "on the ground and uninjured." He was alone in the aircraft. He was born April 5, 1935, and was married.

Lt. Orland James Pender, Jr. (Warwick), USN, was the "backseater" in a F-4-J jet shot down over North Vietnam on August 17, 1972. The exact location of the loss is not known. He was born August 23, 1944, and was married. The aircraft pilot was Comdr. John Russell Pitzen.

S. Sgt. James Michael Ray (Woonsocket), USA, was captured during a ground battle on March 18, 1968, in South Vietnam. He was later moved to a prison camp in Cambodia. He is reported to have died in captivity, even though our Government has no proof of it. The exact location of capture is known. He was born November 10, 1949, and was single. He was captured with Capt. John Galbreath Dunn who was released February 12, 1973, by the People's Revolutionary Government [PRG].

Lt. (j.g.) Edward Brendan Shaw (Cranston), USN, was shot down off the coast of North Vietnam over water while flying an A-1-H jet on September 5, 1965. Other aircraft marked his exact location of loss and reported that his plane "exploded, crashed into the sea, and no parabeeper was heard." He was alone in the aircraft. He was born April 4, 1939, and was single.

Sfc. Lewis Clark Walton (Cranston), USA, was in a ground battle on May 10, 1971, in South Vietnam. His exact loss location is known. He was born May 13, 1934, and was married. The other men who are unaccounted for from the same incident are Sfc. Klaus Bingham and Sfc. James M. Luttrell.

LOWER INTEREST RATES NOW

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. COURTER. Mr. Speaker, Hobart Rowen in the Washington Post has explained the need for the Federal Reserve's Open Market Committee to lower interest rates immediately.

Last week the FOMC did drop the discount rate 0.5 percent. Nevertheless, there is room for further reduction—and this will be the case as long as the agricultural economy continues to deteriorate and commodity price indexes point to a deflationary environment.

I am gratified that the FOMC did not insist on "coordinating" its modest rate reduction with the central banks of West Germany, Japan, or anyone else. U.S. economic prosperity should not be held hostage to the decisions of other economies, particularly those which are exhibiting weaknesses that could simply be overcome by more rational, incentive oriented tax and monetary policies.

The article follows:

LOWER INTEREST RATES NOW

(By Hobart Rowen)

If there had been any doubt that the economy is on the edge of a slump, it has been resolved by a batch of new statistics: Industrial output and retail sales have plunged, while manufacturers have an-

nounced that they are cutting back their plans for expanding factory capacity.

Commodity prices have been sinking, accelerating the disinflation trend that has been under way for some time. Economic growth around the globe is below par. In the United States, where the Reagan administration has been touting the expectation of a real growth rate of 4 percent in 1986, the first-quarter result turns out to be 2.9 percent instead of an earlier announced 3.7 percent. Clearly, despite the fall in the foreign exchange value of the dollar, American companies still feel strong competition from abroad. Economists inside and outside the government see little in view to alter the lackluster outlook.

A senior Reagan administration official, speaking on background to avoid charges of "Fed-bashing," says, "The global economy now looks sick." He called for a new round of coordinated interest rate reductions, led by West Germany and Japan.

At the Federal Reserve, officials are less inclined to be swayed by the ups and downs of growth estimates for the gross national product, and more inclined to look at long-term price trends. A continuation of the decline in commodities would spell serious trouble for Third World nations, many of which are already deeply in debt. It is easy to see the emergence of a new global recession, and that's why Federal Reserve Board member Wayne Angell says "at some point in time" global interest rates will have to fall further.

But as is so often the case, the emerging debate will be over timing. If a reduction in interest rates is needed, why not now? The Reagan administration is out front (although not officially) in demanding action by the Fed to help global growth, joining forces with the New York financial markets, which would like to see interest rates drop, thus extending the long boom in stock prices.

The Reagan administration is applying pressure on the Fed with more subtlety than in the past. The unidentified official's call for a "coordinated" move is carefully linked with an acknowledgement that the successful fight against inflation engineered along with the Fed over the past four years cannot be endangered. The administration is interested in preserving a detente with Chairman Paul A. Volcker, not in fighting him.

That shifts the burden from the Fed itself to the Bank of Japan and to the West German Bundesbank. For the past six months, there has been an increasing drumfire of demand from American officials led by President Reagan, for new expansionary moves by the Japanese and West German governments. The heaviest barrage has been laid down against the Germans, who ducked out of the second of two recent coordinated rounds of interest-rate cuts despite zero inflation, high unemployment and growing trade and current-account surpluses. The Germans worry that inflation, rather than growth, may be unleashed in their country.

For some weeks now, Treasury Secretary James A. Baker III has been warning Japan and Germany that unless they join in a move to stimulate economic growth, he will renew his "jawboning" effort to depress the dollar—a step that not only would make German and Japanese exporters unhappy as the yen and mark rise in value, but also could topple the government of Helmut Kohl and apply the crusher to Yasuhiro Nakasone, who already is skating on thin ice.

So far, there is little indication that the Germans will change their minds. But central bankers look for stability in exchange rates, and they have been relatively happy in the last few weeks with signs that the American administration had backed off its public campaign to push the dollar still lower. Perhaps significantly, German central bank President Karl Otto Pöhl, in a Boston press conference earlier this month, called for a "pause" allowing for some stabilization and consolidation of exchange rates.

Pöhl may be seeing the handwriting on the wall: If American efforts for coordination of policy—so long demanded by Europeans—are rejected by the most powerful of the European governments, the United States, in its own self-interest, could take unilateral action to cut rates.

SEVENTY-FIFTH BIRTHDAY FOR CITY OF BURBANK, CA

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MOORHEAD. Mr. Speaker, it gives me a great deal of pleasure to bring to the attention of my colleagues in the U.S. House of Representatives, the imminent 75th birthday celebration of the city of Burbank, CA.

In the beginning, of course, there was no "Beautiful Downtown Burbank." There was no national notoriety stemming from Johnny Carson and the "Tonight Show." There was no Warner Bros. No Disney Studios. No Lockheed. There was just a near-perfect climate, a beautiful valley—empty and inviting—anchored between the Verdugo and Santa Monica Mountains.

Burbank traces its roots to the southern California land boom of the late 1800's when thousands of Americans went west seeking adventure and opportunity. In 1871, Dr. David Burbank, a dentist, settled in the eastern end of the San Fernando Valley, buying the land that would become the city of Burbank.

The land became more and more valuable as more and more people moved west, aided to a great degree by the fare wars between competing railroads. In 1887, it was reported that fares between Kansas City and Los Angeles dropped to $1.

Taking advantage of Burbank's accessibility to rail lines, Dr. Burbank sold most of his property to the Providencia Land, Water & Development Co. for $25,000, realizing a profit of $16,000. The development group laid out a business district surrounded by small farms and large residential lots and called it Burbank.

By 1911, the community, which had grown to 500 persons, voted 81 to 51 for incorporation. In 1916, bonds were approved for building a city hall. In 1926, a 15-member board of freeholders drafted a city charter, which became effective on January 13. 1927.

Since incorporation, success has followed success for Burbank. It became an entertainment and movie center with the founding of Disney and Warner Bros. Studios. It made a major contribution to the Nation's victory during World War II as the 94,000 Lockheed employees produced more than 19,000 aircraft. Land values increased. Development continued until most of the city's land mass was in use.

Mr. Speaker, I am proud to represent the city of Burbank. It is a fine community full of productive, creative, and vigorous people. I am delighted to wish it and all its residents the very best on the special occasion of its 75th birthday.

THE IMPORTANCE OF THE AZORES TO UNITED STATES-PORTUGUESE RELATIONS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. COELHO. Mr. Speaker, Azorean President Joao Bosco Mota Amaral's recent visit to our country, along with Susan Garment's fine article in the Wall Street Journal, has presented us with a timely opportunity to examine and reassess our relationship with the Azores, a small group of islands which are a part of Portugal.

Being of Portuguese-Azorean descent, I feel especially close ties to these islands. Their importance to our Nation as a whole, however, cannot and should not be overlooked. United States-Azorean trade has existed since colonial times, and the strategic location of the Azores provides our military with a key refueling point on the way to Europe and the Middle East. The presence of a U.S. military base there since 1944 is evidence of this fact.

Furthermore, the hundreds of thousands of Azorean immigrants to this country have always displayed a passion for hard work and family values. There is no doubt in my mind that our Nation has benefited tremendously from the Azorean people.

Yet, it now appears that this Congress may cut United States aid to Portugal and, in the process, damage a friendly relationship which has existed for over 250 years.

I appeal to the Members of this Congress to maintain the current level of United States aid to Portugal. The past record of United States-Portuguese relations fully proves that we not only owe it to the Portuguese people, we owe it to ourselves.

U.S.-AZORES RELATIONSHIP SHOULD BE SPECIAL

(By Suzanne Garment)

Rep. Tony Coelho runs the House Democratic Congressional Campaign Committee with cheerful, thoroughgoing, liberal partisanship. Ambassador Frank Shakespeare, the present U.S. envoy to Portugal, is a longtime leader of the American conservative movement. The two men do not have much common policy ground. But not long ago they could be observed in shirt sleeves parading arm in arm through the streets of Ponta Delgada in the Azores islands. Each thinks the islands are more important to the U.S. than our policies have recognized, and each is right.

The nine small islands of the Azores, a part of Portugal, sit in the Atlantic 800 miles west of Lisbon. Because of their position they are militarily vital to us, linking the U.S. with Europe and the Mideast. The U.S. has had a base there since 1944, under a series of treaties with Portugal. Many

people remember the Azores chiefly from the days of the Yom Kippur War, when they were the only place that allowed our C-5As to stop and refuel during their life-and-death delivery of military supplies.

Even people who know these things about the Azores tend to think of them as a bunch of landing strips and fuel pumps surrounded by water. Joao Bosco Mota Amaral, a thin and fine-spoken Lisbon-trained lawyer, is regional president of the islands and a nationally known Portuguese politician. He is in Washington this week and says the Azores deserve a better image than that.

Americans have done business in the Azores since Colonial times. New England whalers called there often. In the early 19th century, Azoreans started migrating to the U.S. and forming ethnic communities. They went to New England to work in the maritime and textile industries, to California during the gold rush and to Hawaii to work on the sugar plantations.

The migration still goes on. The islands have a population of 250,000. Between 1950 and 1975, 150,000 Azoreans left the islands for America. "There is hardly an Azorean," Mr. Mota Amaral said in a conversation at the Portuguese Embassy, "who does not have a relative in the United States."

So, he explained, he comes to U.S. periodically, and not just for official business. On this swing, he said, he was calling on his New England congressional friends with Azorean constituents—Sens. Claiborne Pell, Edward Kennedy, John Kerry and John Chafee, and Rep. Barney Frank—and of course California Rep. Coelho, who is of Azorean descent. "I was welcomed in Somerville last Monday," he said, speaking of the blue-collar Massachusetts town.

He had a couple of ordinary-type Azorean complaints against the U.S. to talk about: The U.S. will not let the Azores export native cheese to this country to meet the demand of Azoreans here. U.S. immigration and visa procedures are inadequate to the high volume of U.S.-Azorean traffic, so that Azoreans may wait four or five years to join families in the U.S. or have trouble getting a visa to attend a grandson's christening.

But Mr. Mota Amaral had something bigger on his mind this time: trouble with the U.S. air base.

Along with our base agreement with Portugal, next renewable in 1990, we give Portugal military and economic aid. The share earmarked for the Azores is a tidy $40 million. The islands are poor and the money is important.

At the moment, there is every indication that the U.S. military wants to expand refueling facilities at the base and start using it more extensively for the pre-positioning of U.S. naval vessels. At the same moment, the Azoreans hear that because of U.S. budgetary constraints their aid may be cut. Mr. Mota Amaral thought this was serious stuff. "Once a U.S.-Portugal agreement has been signed," he said affably, "if the aid balance is jeopardized, the entire treaty is jeopardized."

If aid were cut, would Mr. Mota Amaral consider refusing the U.S. request to expand facilities? "If it were left to me to decide," he said, "I would say yes, we should consider it."

He tried to temper his words. "The U.S. is a second homeland for us," he said. "Portugal doesn't understand this. People in the Azores feel very close to the U.S. The Azores are the place in the world where the American military feels most welcome.

"But," he ended, "we think we deserve a more sympathetic approach."

Mr. Mota Amaral is not exactly a militant. When the Communists were in power in Portugal, he helped found the Social Democratic Party. The SDP's differences with Portugal's Socialist Party, he said, are "a question of ideology. The Socialists have had a very Marxist-oriented ideology. We are more pragmatic."

There are a lot of answers you can think of to a complaint like Mr. Mota Amaral's. If we gave in to every case of special pleading, we would end up broke. We are tired of being shaken down by Europeans for bases that protect them as well as us. The Azoreans in the U.S. will become one of those pernicious ethnic foreign-policy lobbies that try to pressure the U.S. into acting against its own best interests.

These answers all sound correct and all miss the main point. A lot of countries try to claim a special relationship with the U.S. But, though the Azores are small, what they give us really is irreplaceable. The spirit in which they give it is irreplaceable as well. There is a big temptation to let other claims and arguments eat away at this central fact. If U.S. policy makers give in to the temptation, they stand a good chance of loosening a true defense linchpin. This would be a failure of vast proportions.

DUMPING ON SOMEWHERE ELSE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. FRANK. Mr. Speaker, sometimes newspapers are better reading than other times. When a first-rate reporter turns a high intelligence, a very well developed social conscience, and a great sense of irony on a very important subject, the result is one of those better times.

Alan Lupo last week wrote an article in the Boston Globe about a very serious problem that affects government at all levels: the excessive deference which many elected officials give to objections by particular communities to the placement of facilities which are considered undesirable. Of course there are sometimes good reasons for particular neighborhoods or communities to object to the placement of particular facilities. Government has not always planned well or executed competently in the placement of various publicly necessary installations, and we have a history of imposing such facilities very often on communities of the poor and disorganized without adequate safeguard. On the other hand, there are also many instances of communities reacting excessively to facilities which are not in themselves damaging, or to communities abetted by politicians exaggerating the inconvenience or danger that may result from the siting of a particularly necessary facility. And the undeniable fact is that unless we are able to place energy-generating facilities, waste treatment plants, prisons, facilites for the treatment of people with various illnesses, and other entities which some people find objectionable, we will be unable to carry out rational public policy.

It is important that we elected officials as a class show a good deal more responsibility that we have in the past when the question of the placement of these sorts of facilities arises. It is our responsibility to prevent particular communities from being unfairly burdened, and to see that facilities which are placed in a community are done so in the most responsible fashion. And it may also be appropriate to see that a particular community is compensated for receiving a facility which may cause some problems. But the automatic vocal beligerence with which too many elected officials respond to any community complaint about any facility disserves us all.

Alan Lupo's article on "The Town of Somewhere Else" underlines the problem in a delightful way and I include it at this point in the RECORD:

INVENTING A PERFECT DUMPING GROUND, THE TOWN OF "SOMEWHERE ELSE"

(By Alan Lupo)

In Cohasset, a young man, convicted of breaking and entering and larceny, is banished from the town. He will live somewhere else—in prison.

In Jamaica Plain, two fraternities are denied boarding house licenses. They will relocate somewhere else.

In New Braintree, the citizens don't want a nice prison Governor Dukakis wishes to give them. They'd rather it go somewhere else.

I'm sure glad I do not live in "somewhere else," because just about every community has volunteered "somewhere else" for just about everything they do not want.

Of course, some communities get impacted—I cannot use in a family paper a stronger, more accurate verb—than do others. The Chelseas, Everetts, Southies, Winthrops, Allstons, Roxburys and Easties of the Commonwealth certainly carry more than their share of environmental and social burdens.

In fact, we in those communities are so burdened, that we too have been suggesting that sewage treatment plants, airports, prisons, halfway houses, junkyards, dumps, gas works and such be sent somewhere else.

This is, of course, the American way. We in the older neighborhoods are simply taking the lead from our wealthier brethren who live in two-acre heaven. It is a lesson steeped in American history and rooted in a slight rewrite of the Declaration of Independence.

"When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to put as much distance as possible between them and anybody else, and in so doing, to avoid any communal responsibility as is their selfish wont granted to them by their perceived status in life, then they should declare that all persons are created equal, except for those who, being less equal, must live somewhere else."

For a long time, the "somewhere else" theory worked for those with money and the ability to make choices, because the older communities were either too powerless or too apathetic to resist six-lane highways, toxic waste and other forms of society's refuse.

Today, the older communities still do not enjoy the clout of the tonier suburbs, but we are no longer apathetic. So, the state is running out of somewhere elses. The same highways that smashed up some older neighborhoods ironically enable the residents of surviving older neighborhoods to travel easily to the homes of those who would, er, uh, impact us, and picket their homes.

Given that the citizens in the older communities will lie down in front of trucks, and given that the citizens of weathier communities still have enough money and power to avoid flophouses and oil farms, where can we turn?

The answer, again, is in history. Great Britain and, to a much lesser degree, the United States have experimented with "new towns." The theory is that you build a whole new community from the ground up, meticulously planned to integrate races, classes, residential areas, business districts, open space and so on.

Massachusetts could create a whole new community, reserved for liquid natural gas tanks, sanitary landfills, toxic waste dumps, auto junkyards, prisons, halfway houses, shelters, fraternity houses, saloons, airports, sewage treatment plants, truck routes, whatever.

Call it Somewhere Else, MA. Give it a zip code. What a relief for all of us. No longer will the 351 cities and towns agonize over their social and regional responsibilities. Now, we could truly send what we don't want somewhere else.

Of course, we'd have to build Somewhere Else somewhere else. Maybe in the open spaces in and around Cohasset or New Braintree. Or, I understand, there's some property being freed up in Jamaica Plain.

MARKING JUDGE WOODLOCK'S CONFIRMATION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. CONTE. Mr. Speaker, I'm delighted to report that Douglas P. Woodlock was confirmed June 13 as U.S. district judge for the district of Massachusetts. I had the distinct privilege of testifying before the Senate Judiciary Committee on May 14 in support of Mr. Woodlock's nomination. To mark his confirmation, I am having my remarks in support of Mr. Woodlock's nomination printed in the CONGRESSIONAL RECORD. Those of us who know Judge Woodlock know that he will be an outstanding Federal judge, and wish him the best as he begins this career of public service. Congratulations, Doug.

REMARKS OF THE HONORABLE SILVIO O. CONTE BEFORE THE SENATE JUDICIARY COMMITTEE: PRESENTING DOUGLAS P. WOODLOCK, NOMINEE FOR U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

Mr. Chairman, it is a privilege and honor, and for me a true pleasure, to present before this Committee the nominee for the federal bench for the District of Massachusetts—my good friend Douglas P. Woodlock.

Mr. Woodlock received his undergraduate degree from Yale University. He then moved on to Georgetown to begin his pursuit of legal studies, working his way through school as a reporter for the Chicago Sun Times and later as a legal clerk for the SEC. He received his J.D. in 1975, graduating in the top ten percent of his class and serving as Articles Editor on the Executive Board of the Georgetown Law Journal.

Following that impressive beginning, Mr. Woodlock embarked on his professional career with a three-year stint in the firm of Goodwin, Procter, and Hoar in Boston, where he specialized in trade and corporate practice and also represented the Boston School Committee in connection with desegregation matters. Mr. Woodlock's true mark in the legal field was made the next four years in his service as Assistant and Special Assistant U.S. Attorney in the office of my good friend, the widely respected U.S. Attorney for Boston, Bill Weld. As a member of the Special Investigations Unit, Mr. Woodlock prosecuted political corruption, white collar fraud, and large-scale narcotics distribution. As a testament to his achievements in that post, he received the 1982 "Director's Award" from the Director of the Executive Office of U.S. Attorneys in recognition of his fine work. He completed his outstanding service with the U.S. Attorney in April of 1983, serving as prosecutor of a major drug-smuggling case that was then the longest criminal trial before the U.S. District Court of Massachusetts.

For the past three years, Mr. Woodlock has returned to private practice with Goodwin, Procter, and Hoar. He is a member of the Massachusetts Bar, and is also qualified to practice before the U.S. District Court for Massachusetts, the First Circuit Court of Appeals, and the U.S. Supreme Court.

I think it's self-evident from this outstanding record that Mr. Woodlock possesses the qualifications necessary to serve the country capably on the federal bench, and I can vouch that his character is beyond reproach. Confirmation of his nomination would be a high compliment to the federal judiciary, and a privilege for those of us within the jurisdiction of the U.S. District Court for Massachusetts. His appointment would also be something of a "coming home," for Mr. Woodlock received his start in the profession as a Law Clerk to U.S. District Judge Frank Murray of Massachusetts in 1975. It is a coming home eleven years later that those of us who know this fine American welcome and endorse wholeheartedly. I urge the Committee to give the nomination of Douglas P. Woodlock your most favorable consideration. Thank you.

THE UNITED STATES AND THE WORLD COURT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a recent editional on the decision of the International Court of Justice in favor of the Nicaraguan Government in its case against the United States. The op-ed piece appeared in the New York Times, July 2, 1986, and was written by Dr. Richard N. Gardner of Columbia University, formerly United States Ambassador to Italy.

Dr. Gardner suggests that the United States could have blocked the Sandinistas' lawsuit long before it came before the World Court by refusing to accept the Court's jurisdiction in the case because of important national security interests involved. But having failed to do so, Dr. Gardner contends, we now stand condemned before the world of breaking international law and violating Nicaraguan sovereignty. He suggests that the Court's judgment "will influence public opinion and policy in other countries, undermining confidence in our foreign policy and tarnishing our reputation as a law-abiding nation."

I commend Dr. Gardner's remarks to the attention of my colleagues:

[From the New York Times, July 2, 1986]

A REAGAN FIASCO IN THE WORLD COURT

(By Richard N. Gardner)

Suppose you had a lawyer who failed to shield you from an impending lawsuit by neglecting to exercise in a timely manner your right to refuse the court's jurisdiction? And, having missed that opportunity, suppose your lawyer then failed to present the merits of your case to the court, thus helping to assure a judgment against you? That is essentially what our Government has done in the case we lost last week to Nicaragua in the International Court of Justice.

Nicaragua brought its case to the court in April 1984, nearly three years after we started organizing, training and financing a 10,000-man Contra army for operations inside Nicaragua. We could easily have blocked the Sandinistas' suit well before it came to the court by refusing to accept the court's jurisdiction in cases involving armed conflict—on the reasonable grounds that the security interests involved are too great, the factual issues too hard to resolve and the law on the subject insufficiently developed. But we failed to do so, and now we stand condemned before the world of breaking international law and violating Nicaraguan sovereignty.

To be sure, the International Court of Justice is not the same as a domestic court. Its decision that we should stop aiding the Contras and pay damages to Nicaragua cannot be enforced. Nevertheless, the court's judgment will influence public opinions and policy in other countries, undermining confidence in our foreign policy and tarnishing our reputation as a law-abiding nation.

Significantly, no member of the court was prepared to accept President Reagan's argument that we have a right to aid "freedom fighters" seeking to overthrow or force the liberalization of Communist regimes. But even the judges who voted against us acknowledged that our aid to the Contras might be justified if it were shown to be part of a "collective self-defense"—if it were proved that Nicaragua was aiding leftist guerrillas in El Salvador and if our response was necessary and proportional.

The United States' refusal to come to court to make that case meant that the court heard only the self-serving arguments of the Sandinista witnesses, many of whom, to put it bluntly, lied through their teeth in denying Nicaragua's substantial involvement in the Salvadoran insurgency.

With such self-destructive behavior on our part, it is not surprising that we obtained scant support from the court, since it is difficult for judges to resolve factual issues in favor of a litigant who does not appear to present his case. In the larger court of international opinion, many will conclude that we have no case at all.

There is a new "realism" in vogue in our country today that considers international law a utopian dream and international institutions irrelevant or worse to the advancement of our national interests. That view, which is not shared by most other democratic countries, is itself unrealistic.

International law is a system of mutual restraints and concessions that nations accept because it serves their interests. The fact that the Soviet Union and its allies repeat-

edly violate international law does not mean that it does not exist; nor does it justify our doing the same. Democratic governments, unlike totalitarian ones, hold themselves accountable for their actions under a rule of law. When we exercise our lawful right to use armed force in individual or collective self-defense, as we must in some cases, we should be willing to justify our actions in legal as well as political terms.

To say that we cannot do so in the Nicaraguan case because we would compromise vital intelligence sources is simply not credible. We were willing to show statellite photographs of Soviet missile sites during the Cuban missile crisis, and we revealed intercepts of Libyan messages to help justify our recent air strike against that country. If our case against Nicaragua is a good one, we must also have nonsensitive evidence from Salvadoran sources.

The Administration could still salvage something from its errors by publishing a full statement of the international law basis for aiding the Contras. Other nations have the right to expect this from the world's greatest democracy. The American people, who correctly like to think of themselves as a law-abiding nation, have the right to demand no less.

LE FOYER CELEBRATES 50TH ANNIVERSARY

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ST GERMAIN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the 50th anniversary of a very special organization in Rhode Island. It is called Le Foyer. Let me tell you a little bit about it.

Le Foyer is a Catholic fraternal organization of Americans of French descent. Established in 1936, its membership has grown to almost, 1,000 strong. Its worthwhile purpose is to promote and develop the intellectual, social, religious, economic, civic and national activities of Americans of French descent as well as promote French culture.

Mr. Speaker, there are thousands and thousands of groups, clubs and organizations across this great Nation. And it would be quite easy for me to stand here and tout the virtues of any one of them. Le Foyer, however, is different.

Le Foyer stands out in the organization crowd. I know this because I speak from firsthand experience. I have been a long-time member of this fine group and have seen for myself its outstanding dedication and accomplishments.

I am honored to bring Le Foyer's 50th anniversary to the attention of my colleagues. I am sure its merits will serve as an inspiration to all who come in contact with it.

CHARLIE BENNETT MAKES THE CASE FOR AIRCRAFT CARRIERS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. COURTER. Mr. Speaker, few among us are as singularly qualified to write on naval matters as CHARLIE BENNETT of Florida. As the distinguished chairman of the Seapower Subcommittee of the House Armed Services Committee, Representative BENNETT has seen the value of large-deck aircraft carriers demonstrated again and again. In the following essay from Insight magazine, Mr. BENNETT surveys the recent history of U.S. aircraft carrier employment and expresses their great utility succinctly: "The aircraft carrier plays a vital role in the U.S. Navy because our capacity to protect our interests so often depends on our ability to project power."

If that was not reason enough to press forward with our aircraft carrier program, Mr. BENNETT notes that the Soviet Union has embarked upon a fixed-wing aircraft carrier program of its own. This is a most ominous development, for as the Soviets collect "allies" in our hemisphere and in the South Pacific, the carriers could be used to "advance the cause of socialism" and provide support for "national liberation movements."

We could never hope to keep our good idea a secret, but we must see our own carrier program through to fruition. CHARLIE BENNETT's essay is must reading for those Members who seek a true understanding of the Navy's nuclear-powered carrier program. I commend it to your attention.

[From Insight Magazine, July 11, 1986]

THE CARRIERS OF U.S. MILITARY POWER

(By Charles E. Bennett)

A torrent of analysis follows any use of American military power. Our recent action against Libya proved no exception to this rule. The press inundated us with a stream of opinion and fact regarding the attack, the decision to make it and the likely consequences of our actions.

At the risk of getting lost in the flood, I would like to point out something others seem to have missed: Once again the value of aircraft carriers has been borne out in the real world.

The U.S. Navy's emphasis on the aircraft carrier has been the subject of intense debate for years. Critics of carriers claim these large vessels are excessively vulnerable to attack and that their contributions to U.S. security are not commensurate with their cost.

These critics all have one thing in common: They base their assessment almost exclusively on how the aircraft carrier might fare in a U.S.-Soviet conflict.

Our aircraft carrier battle groups would perform a number of essential functions in a war against the Soviets. They would provide air cover for amphibious landings on NATO's flanks and help us maintain control over the sea-lanes that are vital to the reinforcement of our forces in Europe. Thus, they contribute significantly to deterring the outbreak of such a conflict in the first place.

Yes, our carriers and their escorts would be vulnerable to some kinds of Soviet attack, and yes, some of our carriers might sustain serious damage or even be sunk in such a war. But what U.S. asset is not vulnerable to Soviet attack under all possible contingencies? Carriers would not be magically immune in a conventional conflict with the Soviets. Neither would the targets of the carriers be immune.

While a war with the Soviet Union is definitely the single most important contingency for which to plan, it is perhaps the least likely situation we will face. In just the past four years, the world has watched aircraft carriers play a vital role in British operations in the Falkland islands, provide air cover and ground support for the invasion of Grenada and our Marines in Lebanon, intercept the hijackers of the Achille Lauro, conduct freedom-of-navigation exercises in the Gulf of Sidra and strike back at state-sponsored terrorism at its source. In fact, since 1946 naval forces have been used in more than 75 percent of U.S. military efforts to influence international events, with aircraft carriers involved in more than half of those operations.

The aircraft carrier plays a vital role in the U.S. Navy because our capacity to protect our interests so often depends on our ability to project power. The aircraft carrier battle group is ideal for projecting and sustaining American military power in distant areas devoid of powerful, reliable allies.

Our carriers are mobile air bases, armed with numerous sophisticated aircraft and surrounded by some of the most effective defenses on Earth. These attributes make them extremely flexible instruments of U.S. policy.

Their mobility allows them to be employed when, where and how we choose, whether our purpose is to bolster an ally or intimidate an adversary. The carriers' mobility also enables us to cover many contingencies with relatively limited forward deployed forces. In the event carrier air power must actually be used, mobility enhances the carrier's offensive power by facilitating surprise and complicating the opponent's military planning.

Given a sufficient number of carriers in our fleet, we can vary considerably the forces involved in a given operation. A wide range of power can be applied, and our effort can be readily reinforced if need be. The variety of aircraft aboard a large strike carrier and the ability to change the mix of those aircraft permit great flexibility in mission planning. Perhaps most important, carriers allow us to employ American power globally, without the political restraints often imposed by using bases on foreign soil.

Our attack on Libya demonstrated many of those characteristics that make the carrier a uniquely valuable asset. We operated multicarrier task forces off Libya at the times and places of our choosing. The carriers' mobility allowed us to avoid early warning of our strike. The variety of aircraft available made a complex operation not only possible, but successful. Our strike included airborne early warning, aerial refueling, air defense suppression, electronic warfare, air superiority fighter patrols and heavy bombing. These missions were conducted simultaneously and at night.

Air Force aircraft based in Britain also participated in the Libya operation. They were forced to fly an extremely demanding mission because France and Spain denied the United States overflight rights. Had Prime Minister Margaret Thatcher refused us permission to use our bases on British

territory, carrier air power could have been called on to do the entire job.

A third aircraft carrier could have been brought in to take the Air Force's place, or additional Navy bombers could have been transferred to the two carriers on the scene.

It is important to remember that American aircraft carriers need only the decision of our commander in chief to launch their strike aircraft, where and when he chooses. The Soviet leadership seems to understand this, even if the Navy's critics do not. They are building large deck carriers of their own, not because they believe their carriers would last long in a war with the United States, but because they understand the value of such vessels for projecting power where other forces cannot readily go.

For an uncomfortably vivid illustration of the value of large carrier forces, imagine that it was the Soviets who would soon deploy their 15th carrier battle group and that the United States was just launching its first. Does anyone believe our interests would not suffer in such a world?

While its critics strive to invent scenarios that make it seem worthless, the aircraft carrier proves its value almost daily. Despite their protestations, the large strike carrier is not a dinosaur on its way to extinction.

Rather, it is the beast of burden of a superpower with global interests and limited means with which to protect them. When used in concert with the other elements of a balanced Navy, aircraft carriers provide the United States with a unique capability to project and maintain military power around the globe. I believe it is a capability we cannot safely do without.

LARRY MARGOLIS AND MARY SPRING, 1986 MAN AND WOMAN OF THE YEAR OF SANTA CLARITA VALLEY CHAMBER OF COMMERCE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MOORHEAD. Mr. Speaker, on July 17, the Santa Clarita Valley Chamber of Commerce will honor Larry Margolis and Mary Spring as its Man and Woman of the Year for 1986.

For more than 20 years, Larry Margolis has given his time and energy to the people of the community who were most in need. In 1966, he opened and supervised the Foster Care Program for the valley communities of Saugus, Newhall, Valencia, and Canyon Country. He founded the Santa Clarita Valley Boys and Girls Clubs and brought into the community mental health, drug and alcohol abuse, and Head Start programs.

In 1981, he opened the Santa Clarita Valley Service Center, which deals with community development and assists residents in their contacts with public and private organizations.

A long-time employee of the county of Los Angeles, Larry Margolis was instrumental in saving the child welfare office from closure. He has served as a willing and effective liaison with the Hispanic community.

Mary Spring has a long record of selfless community involvement. She has been a volunteer with the Girl Scouts for more than 30 years. She has held positions at the local, State and national levels of Girl Scouts. She has been a chairman and board member and always a leader.

This community benefactress is also involved in other activities. She is president of the Castaic Lalee Water Agency. Mary Spring is a charter member of the Santa Clarita Valley Historical Society and a board member of the Nature Center Associates of Los Angeles County.

Mr. Speaker, on behalf of the residents of the 22d Congressional District, I would like to congratulate Larry Margolis and Mary Spring on the clearly warranted receipt of this fine honor and to express my gratitude for their inestimable and recurring gifts to the people of the Santa Clarita Valley.

HARLEM: STILL A FANTASTIC PLACE TO VISIT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. RANGEL. Mr. Speaker, I rise to invite my colleagues to visit uptown Manhattan the next time they are in New York. It was once a great place to visit, and everyone would agree that it is still a wonderful community.

Harlem is in the middle of a rebirth that promises to rekindle its strong cultural heritage. With history and tradition as a guide, the new Harlem Renaissance promises to be an economic and cultural peak.

When Europeans think of New York City's rich heritage, Harlem naturally comes to mind. This is because of the great writers, musicians, actors, and leaders who made their fortunes in Harlem. These renowned individuals are an example of how far one can go if opportunity is used to one's benefit. Despite seemingly insurmountable odds, many Harlemites have prospered.

The Harlem Visitors and Convention Association is actively promoting the best that Harlem has to offer. They would be pleased to welcome anyone who visits New York with an interest to travel uptown. I would like to submit the following article for inclusion in the CONGRESSIONAL RECORD.

[From Vogue, April 1986]

THE UNKNOWN HARLEM—ELEGANT ARCHITECTURE, GLORIOUS CUISINE . . . THE MANY SURPRISES OF UPTOWN MANHATTAN.

(By Ann Banks)

It has more beautiful brownstones than any other New York City neighborhood; its avenues are broader, its side streets more tranquil. Nowhere else in Manhattan are there as many museums or churches. But while knowledgeable European visitors wouldn't dream of missing it, many Americans fear to venture there. It is, of course, Harlem.

There is much to do and see in Harlem for those with an interest in any thing from black music to turn-of-the-century urban architecture to Revolutionary-era history. Southern expatriate that I am, I was drawn uptown by twin childhood passions: gospel singing and sweet-potato pie. To my delight, I was able to fulfill both yearnings though a tour company called Harlem Spirituals operated by a seventy-year-old Frenchman named Lucien Corcos. Corcos fell in love with Harlem when he first visited fifteen years ago. He has been taking tourists there ever since, the majority of them foreign vistors. Without ignoring the sad devastation, Corcos prefers to emphasize what he calls the "unknown Harlem" of window boxes and church hats, of lovingly tended rose bushes framing elegant Victorian row houses.

Harlem has always had international cachet, but lately more Americans have been drawn there, and a new group, the Harlem Visitors and Convention Association, has been formed to put Harlem back on the map. Like a lot of white Americans, I was hesitant to venture above 110th Street on my own. Where should I go? What should I see? Would I be safe? Would I be welcome? The solution to my initial timidity, I realized, was one I would consider in a foreign country: climb on a tour bus. Let someone who really knows the place show you around the first time.. Then you'll feel more confident about wandering around on your own. (Lucien Corcos says the main avenues of Harlem are safe in the daytime, but cautions tourists to avoid side streets because of the notorious drug traffic.)

I took both the tours Harlem Spirituals offers—the Sunday-morning sightseeing/church-service tour, and the evening tour of Harlem restaurants and nightclubs. The Sunday-morning tour was guided by Peggy Taylor, a personable black woman who came to New York from Alabama by way of Oberlin College and Paris. As we started out, Taylor told us in English and German that we could expect to see the best and the worst of Harlem. Since they exist side by side—blocks of beautifully kept brownstones give way without warning to burned-out, boarded-up shells—it would be hard to see one and miss the other.

If real estate is history written in bricks and mortar, the ensemble of buildings in Harlem forms an eloquent narrative. First settled in 1658 by the Dutch, the area had been transformed by the late 1800s into a posh white suburb. The finest architects of the day were proud to leave their mark. Compared with the chaste Federal styling that characterizes my Greenwich Village neighborhood, the architecture of Harlem is, in the apt phrase of one critic, "unscrupulously picturesque." Ornament abounds. Minarets and Moorish arches nestle in with gothic fretwok and terra-cotta friezes of sunflowers and garlands of fruit.

After a late nineteenth-century boom left Harlem overbuilt, developers opened up the area to blacks, who were being squeezed out of other parts of the city. By the 1920s, Harlem had become the capital of black America, mecca for a generation of black musicians, writers, artists, and intellectuals. The Great Depression put an end to Harlem's golden age. It marked the beginning of a long slow decline into crime, arson, drugs, and depopulation from which Harlem is only now beginning to recover, with the return of educated, middle-class blacks.

The tour passes through Harlem's two most coveted addresses, nicknamed Strivers' Row and Sugar Hill. Strivers' Row, the two blocks of row houses built in 1891 and designed by Stanford White's firm, among others, is where, according to local jest, all of Harlem's Republicans reside. The equally genteel Sugar Hill commands the highest ground in Harlem, and its lovely old ivy-covered buildings once housed such notable Harlemites as Count Basie and Sugar Ray Robinson.

At the summit of Sugar Hill, the tour stops at the oldest private residence in Manhattan. Built around 1765, the Morris-Jumel Mansion especially interests Revolutionary history buffs. Because of its commanding views of both the East and Hudson Rivers, George Washington chose it as his New York headquarters while he planned the Battle of Harlem Heights. The mansion was later redecorated in the Empire style by Eliza Jumel, an American adventuress who wormed her way into French imperial circles and acquired for herself one of Napoleon's actual beds.

Leaving Sugar Hill, the tour bus passes several sites that are significant in Harlem's more recent history: the Abyssinian Baptist Church, at Lenox Avenue and 138th Street, where Adam Clayton Powell, Jr., presided; and the old Theresa Hotel on 125th Street, where Fidel Castro and Nikita Khrushchev once embraced on the balcony. Further west on 125th Street is the fabled Apollo Theatre, early showplace for black entertainers from Bessie Smith and Ella Fitzgerald to Michael Jackson. Dark for many years, the Apollo recently has reopened, for the first time under black management.

Harlem's main shopping drag, 125th Street, is the only New York street that transforms itself into a permanent art installation on nights and weekends. The paintings are all by Franklin Gaskin, a fifty-nine-year-old artist with no formal training who signs his work "Franco." His canvases are the so-called "riot gates," those ribbed steel curtains that protect store windows at night. he paints exotic shimmery pagodas or lush jungles.

At eleven o'clock, the Harlem Spirituals tour group joins the congregation of the Mt. Nebo Baptist Church for a part of its Sunday service. Mt. Nebo is known for its five gospel choirs, Every Sunday, two or three perform, sometimes accompanied by tambourines, sometimes by a magnificent saxophonist. The service begins sedately, but as the singing builds to an ecstatic pitch, the congregation and visitors alike clap and stomp their feet.

I felt nourished by my visit to Mt. Nebo. My feast at Sylvia's restaurant at Lenox Avenue and 126th Street nourished me in a different, but not entirely unrelated way. They don't call it soul food for nothing. I think of it as church-supper food, only better. Church-supper food taken to, pardon the expression, a higher power. Simply put, Sylvia's is fabulous. This is not your underdone nouvelle cuisine. As one devoted customer admiringly observed, "they cook this stuff all day." It's a place for people who believe the most important thing about food is how it tastes and smells. All for how it looks, there are those who think that a plate heaped with cornbread, collard greens, smothered pork chops, blackeyed peas, and candied yams is a sight more pleasing to the eye than, say, three steamed pea pods artfully arranged around a silver-dollar-sized slice of duck.

Sylvia's no secret anymore, and a third of her customers are from outside Harlem. Although it wasn't the only way to do it, I'm glad I went to Sylvia's on the Harlem Spirituals nightlife tour because you get to have some of everything. Lucien Corcos himself leads the nighttime tour (usually for one or two couples in a private car) and orders the food.

On the night I went, Corcos conducted the evening as a gracious host might take out-of-town friends, around to some of his best-loved spots. Before dinner, there was a forty-five-minute tour of Harlem by car, which he narrated with a passion and vividness of detail that made his stories come alive, whether they were about Alexander Hamilton's orphaned childhood on St. Croix, or Jackie Robinson's breaking of the color bar in professional sports. Leaving Sylvia's, we headed for the Baby Grand on 125th Street. An elegant Art Deco style place with a piano-shaped front window, the Baby Grand is presided over by hostess Vivian Brown, a fiftyish beauty who once danced in the famous Cotton Club chorus line with her twin sister.

As for the night's music, we never got to hear more than the backup band. Before the featured singers, two sisters named De Cocoa & Hot Chocolate, took the stage, a German woman who was along on the tour developed a crashing headache and we had to leave.

The sisters are supposed to be a hot act, and I was sorry to miss them, but all in all I was well satisfied with both Harlem tours. There were places I wanted to visit where the tour bus didn't stop—Aunt Len's Doll and Toy Museum, with one of the largest doll collections in the world, and the Schomburg Center for Research in Black Culture, where Alex Haley did research for Roots—but now I know where they are and I'll go back on my own. This time I'll take the A train.

EMPLOYEE MEAL SYSTEM

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. VANDER JAGT. Mr. Speaker, today I have introduced revised legislation to amend our tax laws and promote equity for employees of small businesses.

Until 1984, an employer was able to provide tax-exempt meals for his employees on the business premises provided that there was some business purpose for doing so. In 1984, Congress enacted code S132 which both broadened the scope and limited the level of subsidy which is available to every employee whose employer operates an eating facility. Under code S132, a subsidy of up to one-third of the fair market value of an employer-provided meal—deemed to equal 150 percent of the direct cost of providing the meal—is considered a de minimis fringe benefit which is not taxable to the employee even in the absence of any business purpose.

Code S132 creates a clear inequity for employees of small businesses which cannot operate employee eating facilities, whether for lack of adequate space or for other economic reasons. The one-third subsidy which is available to each and every employee at an employer-operated cafeteria is not now available to the small business worker.

The legislation which I am introducing today partially reverses this discrimination against employees of small businesses by providing that 50 percent of an employer's contribution of up to one-third of the cost of an off-premises meal is not treated as wages to the employee if certain conditions are met. First, the benefit must be provided to employees on a nondiscriminatory basis. Second, the meal must be provided inkind so that no cash is transferred to the employee. Third, the meal must be consumed during normal working hours at regularly scheduled meal periods, Finally, the benefit may not be transferable or redeemable. This legislation will ensure that employees of small businesses are entitled under our tax laws to at least one-half of the benefit available to employees of larger enterprises.

An employee meal system is simple to administer. Where a company cafeteria exists, all employee meals must be provided there. Where there is no employer eating facility, meals may be made available in a nearby eating establishment through direct accounts between the employer and the establishment or by means of a voucher system. This system has been proven in 17 countries of Western Europe and Latin America which have enacted similar legislation—beginning as early as 1948, in the United Kingdom.

In addition to the compelling equity justification, the Western European experience also indicates that there will be significant revenue and productivity gains from enactment of this legislation both at the Federal and the State and local levels. First, there will be additional sales tax and income and employment tax revenues at both Federal and local levels due to the increase in business at food service establishments and the additional income and employment taxes from new employees needed to serve this business. Moreover, new jobs in the food service industry will create new employment for minorities, teenagers and women, a major portion of the industry workforce.

In closing, I am delighted to introduce legislation which promotes tax equity, fairness to small business and the health and productivity of the American worker.

OREGON AERONAUTICS DIVISION CELEBRATES 65TH YEAR

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. DENNY SMITH. Mr. Speaker, I would like to take this opportunity to mark a significant event in aviation and Oregon history. This month the first public aviation agency created in the United States, the Oregon Aeronautics Division, turns 65.

Just 18 years after the Wright brothers made history at Kitty Hawk, the Oregon Legislature created the State board of aeronautics. It would be another 5 years before the U.S. Congress picked up on the idea and passed the Air Commerce Act which allowed the Federal Government to regulate aviation.

The new Oregon law made pilot registration and licensing mandatory. The newly created aeronautics board also tested pilots from competency with both written and flight examinations, a task now handled by the Federal Aviation Administration.

The forward thinking Oregon law contained provisions which still exist today—some even in their original wording. For example, no person could operate an aircraft so as to endanger the lives or safety of the public. Ob-

jects could not be thrown or dropped from aircraft. No person could land an aircraft on highways or public parks or other public grounds without permission from the proper authorities, except in an emergency.

Today's Oregon Aeronautics Division is proud heir to a tradition that stresses creativity and flexibility in seeking to meet the needs of a growing aviation community. In addition to educating the public, developing airports, implementing new safety programs, and providing a voice for Oregon aviation, the division also coordinates all air search and rescue activities for lost aircraft and persons within the State.

As aviation heads into the 21st century, its role in the lives of all Americans continues to increase. Plans are now being made which ensure that aviation will continue to grow with this country, providing safe, effective service as and where it is needed. As we sample the fruits of new technology, balancing cost against benefit, it is comforting to know that Oregonians will continue to benefit from the experience and activities of the Oregon Aeronautics Division.

HANDGUN CRIME

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LEHMAN of Florida. Mr. Speaker, a few weeks ago one of my constituents, Mrs. Shirley Brant, was cruelly and senselessly murdered by a robber wielding a handgun. Mrs. Brant, a wife and mother who had raised a fine family and begun her own real estate business, was talking on the telephone to a client when she was shot in the face. Her last words were, "Don't shoot."

To her family and friends, Mrs. Brant's death is a loss so great that it is beyond understanding. But this tragedy is played out, over and over again, at least 10,000 times each year in this country.

Shirley Brant's husband, Dr. Lawrence Brant, has established the Shirley Brant Memorial Fund Against Handgun Crime in her memory to spare others the grief caused by handgun crime. Dr. Brant recently wrote me a letter which expresses his feelings about this matter, and I would like to share it with my colleagues.

LAWRENCE I. BRANT, D.D.S.
North Miami Beach, FL, June 27, 1986.

DEAR CONGRESSMAN LEHMAN: I want to thank you for your letter and check for the Shirley Brant Memorial Fund Against Handgun Crime.

It has been two weeks since my wife, Shirley, was murdered. It is so very hard to understand why this tragedy has happened.

I am so terribly angry at the young man, possibly on drugs, who took Shirley's life in an instant with a small handgun. This heinous crime was done only to steal her handbag for a few dollars.

As bad as this criminal is, I am angrier at our own society for allowing this man to take a very special life only because handguns are so readily available to commit easy crime and murder. "Guns don't kill people, people with handguns kill people."

You stated in your letter, "If handgun deaths were a disease, we'd be spending millions to combat this plague." There is no if in this case.

Handgun deaths is a disease. Last year alone, our nation's handgun toll was 22,000 dead and hundreds of thousands wounded. That is more deaths than from many afflictions. Yet we spend untold millions to rid ourselves of these plagues. In black males between the ages of 15 and 25 handgun wounds are the leading cause of death.

My family and I and several hundred friends are aghast at what has happened to Shirley. We are part of the silent majority of American citzens who have built our community and pay our share of taxes to support our Government and protect our lives. We love south Florida. We love America. Yet we are afraid to walk from our cars to our front doors. We fear to work in our own offices. We are the victims of handgun crimes. We are the victims who have lost our civil rights. Where are our constitutional rights to "life, liberty, and the pursuit of happiness?"

We cannot understand why our legislative bodies cannot make the logical connection between availability of handguns and handgun involved deaths. Other Western Democracies without handgun availability have less than 1 percent of the handgun deaths compared to Americans killed by handguns.

The FBI Uniform Crime Report of 1982 states that "For every criminal killed by a handgun-wielding citizen, 41 innocent lives were terminated in handgun homicides." Average citizens are not protecting themselves by having a handgun, but are endangering the lives of those around them.

My friends and I are tired of being second class citizens compared to criminals. I have always been a Liberal and respected the rights of others. The pendulum has swung too far in one direction. It is time that the courts and legislatures make America safe again for the victims of crime. I believe the victims of crime encompass over 90 percent of our population.

We are tired of paying the high cost of handgun crime for those who put extreme pressure on our elected officials. I for one am willing to pay higher taxes and become more involved in our community to make Dade County safer for me and my children. I have already paid the ultimate price.

Please, as our elected representative and fellow human being, put in your best efforts to rid us of this dreaded handgun death disease. We, the silent majority, are incensed at Shirley's senseless death. We are behind you.

Sincerely,

DR. LAWRENCE I. BRANT.

RECOGNIZING THE DAUNTLESS FIRE CO.'S 150TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MURTHA. Mr. Speaker, it is a distinct pleasure for me to recognize the 150th anniversary of the Dauntless Fire Co. of Ebensburg, PA.

The formal organization and title of the fire company took place in 1836, and was incorporated in 1872. Actually, Ebensburg has had firemen since 1825. As part of their anniversary, the company is hosting the 94th annual convention of the Central District Volunteer Fireman's Association on August 14, 15, and 16.

It is difficult, yet instructive, to try and remember back to the very different kind of life the men who started this fire company had. It was a time when news was delivered in terms of weeks rather than minutes, when one relied on a fireplace in the winter and a hand-held fan in the summer, and when most families were self-sufficient in their needs.

But it is important to remember that one of the key elements which organized the communities of this time was the fire departments. It served as an organizer, a social meeting place, a community hub. And it is also instructive in thinking of the qualities enhanced in the fire department, because I know from my work with the citizens and community of Ebensburg that those same qualities of independence, self-reliance, and dedication remain today.

The history of the fire department is an important one to America and its communities. And it is in that spirit of our great Nation that I am pleased to join in recognizing Ebensburg and its citizens on the occasion of the Dauntless Fire Co.'s 150th anniversary.

SUPREME COURT'S NEW OUTLOOK

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. COURTER. Mr. Speaker, the Boston Herald recently published an editorial on President Reagan's two nominations to the Supreme Court, which I encourage Members to read.

The editorial mentions an important point, especially now as we are about to begin a period of long celebration of our Constitution's bicentennial. The Constitution's greatest achievement is contained not in its amendments—which were actually opposed by the constitutional authors—but in its original text. The Constitution's unparalleled achievement was to create a democratic Federal Government for a self-governing people spread out over 13 democratic States, a number soon to be greatly expanded.

The old Articles of Confederation had failed, and unless the Founding Fathers had discovered some newer, untried model of democracy, the whole American experiment would have fallen into the dust heap of history. Monarchy or aristocracy would probably still be the form under which we would be living even now. Madison saw in the Constitutional Convention at Philadelphia the "finger of that Almighty hand" which had guided the American Revolution to success the decade before.

The Bill of Rights is important but it derives its meaning and significance from two greater documents: the Constitution, which articulates the world's first truly Federal and democratic form of government, and the Declaration of Independence, which spells out the "self evident truths" controlling the Constitution's whole purpose. If President Reagan's new Justices consistently govern their reading of

the Constitution's original intention by those universal truths, they can add a splendor to the Supreme Court we have not seen, perhaps, since John Marshall and Joseph Story graced the Federal bench.

The article follows:

[From the Boston Herald, June 19, 1986]

SUPREME COURT'S NEW OUTLOOK

The retirement of Chief Justice Warren Burger and his replacement by Associate Judge William Rehnquist and Judge Antonin Scalia will not bring about any huge political realignment on the nation's highest court.

All of them can be classified as "conservative." But the change will bring new intellectual energy and vitality to a tribunal grown stale and perhaps a new respect for the Constitution as a whole.

If confirmed by the Senate, Justice Rehnquist will bring fresh talent to administering the court, perhaps cutting down on the number of cases it hears. His opinions are refreshingly brief and to the point, unlike those of so many of his colleagues, which seem to ramble on forever and sometimes even leave the state of the law less clear than it already is.

He belongs to that school of law that had become remarkably small by the early 1970s (but is growing again) that held it was the duty of judges to interpret the laws passed by Congress, not make new ones of its own.

Judge Scalia too is an excellent choice. Prior to being appointed to the District of Columbia Court Appeals by Reagan in 1982, he was editor of Regulation magazine and is probably the nation's leading expert in administrative and regulatory law. While constitutional issues rarely arise in these types of cases, this area of the law has made Scalia exceptionally sensitive to the balance of power between the branches of government. This was reflected in his decision last February to strike down the Gramm-Rudman balanced budget act as an unconstitutional delegation of authority from the executive to the legislature.

What these two judges have in common is a reverence for the Constitution—the *whole* Constitution. The liberal Warren Court tended to concentrate on the Bill of Rights almost to the exclusion of the main document. Justice Rehnquist and Judge Scalia will be able to remind their colleagues, both on the court and in the legal profession, generally, that many difficult cases can be resolved by a careful reading of the document itself.

The nominations now go to the Senate for consideration. Even liberals admit they would have difficulty stopping two such eminently qualified individuals. Nevertheless, some fireworks can be expected, especially over such issues as abortion. While Scalia has taken no public position on how he would rule, he is a Catholic and the father of nine children, which ought to hint broadly at where he is coming from. Confirmation is a serious responsibility, and we hope that it won't fall into the highly-charged partisan atmosphere we have seen on recent appointments to other federal judgeships.

CONGRESSIONAL SALUTE TO THE FAA ON ITS 50TH ANNIVERSARY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to honor the Federal Aviation Administration [FAA] as it prepares to celebrate its golden anniversary of air traffic control.

Prior to the FAA's acquisition of air traffic control stations in 1936, air transportation was extremely hazardous. Dangerous and sometimes fatal flight experiments were often conducted in an attempt to utilize the speed of air flight. For example, in 1918, the Post Office Department and the U.S. Army teamed up to fly mail, but the pilot, a young lieutenant just out of flight school, crashed quickly after takeoff due to his inexperience and the absence of airborne or ground-based navigation aids. In another dangerous attempt to improve mail delivery, the Post Office Department dispatched the first experimental flight involving night flying in 1921. On these daring deliveries, pilots were guided by bonfires lit by citizens along the dark flight paths.

By July 1924, regular night flying between Chicago and Cheyenne using beacons was begun and in that same year, the U.S. Air Mail Service was said to be the most efficiently organized and managed civil aviation undertaking anywhere in the world. While the use of airplanes for mail delivery was becoming widespread, the use of commercial airlines also gained popularity. In the 1930's, despite the Great Depression, the number of passengers in airports like Chicago and Newark exceeded 500,000. By 1935, severe congestion in busier airports had developed and military pilots and some airlines would not utilize the airways without Federal intervention. In an effort to lessen the danger posed by this traffic, the Government soon began to monitor the airways and airway traffic control. While the Bureau of Air Commerce did not have sufficient funds to take over the entire system, it did take possession of airway traffic control systems whenever possible.

The Bureau took control of the airway traffic control stations and 15 controllers on July 6, 1936, turning a once dangerous air transportation system into the safe, efficient system we know today. This year, I join the FAA in celebrating its 50th anniversary of Federal airway traffic control.

Mr. Speaker, I would like to personally congratulate the FAA for its 50 years of outstanding service, and to extend my encouragement and best wishes for the years to come.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. CLINGER. Mr. Speaker, on June 26, 1986, I was absent from the floor of the House of Representatives for part of the legislative business as I had returned to the 23d Congressional District to address the Pennsylvania Disabled Veterans State-Wide Convention at the Penn State Sheraton in State College, PA. Had I been present, I would have voted in the following fashion:

Rollcall No. 204: House Concurrent Resolution 364, District work period: The House agreed to the concurrent resolution providing for a conditional adjournment of the two Houses from June 26 or 27 until July 14, 1986, "no"; and

Rollcall No. 205: H.R. 2436, Nutrition monitoring and research: The House agreed to the rule (H. Res. 484) under which the bill was considered, "yea."

BALTIC FREEDOM DAY

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. KINDNESS. Mr. Speaker, last month I had the honor of joining with the Baltic American Committee of Greater Cleveland in observing Baltic Freedom Day and the 46th anniversary of the forcible occupation of the Baltic Republics by the Soviet Union.

We also commemorated on that occasion the 45th anniversary of the mass deportations of the Baltic people from their homelands.

As we continue efforts to focus attention on the plight of the Latvian, Lithuanian, Estonian, and Ukrainian people in the struggle for freedom, I commend to my colleagues the following resolution recently adopted by the Baltic American Committee of Greater Cleveland:

BALTIC AMERICAN COMMITTEE OF GREATER CLEVELAND

(Affiliated with Joint Baltic American National Committee)

We, Baltic Americans of Greater Cleveland, assembled this Sunday, the 15th day of June, 1986, in Edgewater State Park, in Cleveland, Ohio, to commemorate the forty-fifth anniversary of the beginning of mass deportations of Baltic citizens from their homelands by the Soviet Union and also to observe the centennial of the Statue of Liberty, have adopted the following:

RESOLUTION

Whereas, in 1918, the Baltic States of Estonia, Latvia and Lithuania, after long and bitter struggle to shake the foreign rule, proclaimed themselves independent republics, regained their freedoms, grew, prospered, became recognized by other countries and became members of the League of Nations; and

Whereas, on June 15-17, 1940, the Soviet Union, acting in conspiracy with the Hitler regime, broke all existing treaties with the Baltic Republics, militarily occupied their territories and illegally annexed them, which fact had been confirmed by the Select Committee on Communist Aggression of the U.S. House of Representatives of the 83rd Congress and condemned by all U.S. Administrations; and

Whereas, the Soviet Union, the last remaining colonial empire, after committing mass genocide in the Baltic States, continues to subjugate, exploit and to deny all human rights to their people, and through a

program of colonialization, russification and severe persecution seeks to change the ethnic character of the Baltic States, all of which is contrary to the principles of civilized mankind.

Now, therefore, be it resolved, that we express our sincere gratitude to the President and Congress of the United States for the firm position of non-recognition of Soviet annexation of the Baltic States, the declaration of the Baltic Freedom Day and raising the Baltic issue at various international forums; and be it further

Resolved, that we urge the U.S. Administration to use diplomatic and other possible pressures on the Soviet Union to withdraw its military forces, and all other apparatus from the Baltic States, to release those imprisoned for struggling for human rights and to restore self-government to the Baltic States; and be it further

Resolved, that we thank all those who worked for, financially supported, and in any other way contributed towards the restoration of the Statue of Liberty, the great symbol of freedom; and be it finally

Resolved, that this resolution be forwarded to the President of the United States, and copies thereof to the Secretary of State, both U.S. Senators and Representatives from Ohio and to the news media.

Resolution submitted by the Baltic American Committee of Greater Cleveland, and adopted by this assembly.

K.A. PAUTIENIS,
President.

Mr. Speaker, we must all appreciate the freedom and independence we enjoy together with other free peoples, or we shall eventually lose such precious freedom.

NATIONAL AIR AND SPACE MUSEUM DULLES WING

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. WOLF. Mr. Speaker, preliminary planning and design is continuing on a proposed new wing of the Smithsonian's National Air and Space Museum at Washington Dulles International Airport, and I am pleased by the level of support for this project among our colleagues, the aviation community, and the American public.

Planned to house the space shuttle *Enterprise* and the IMAX movie theater, the initial facility now being designed will be part of a proposed $90 million Dulles wing, which will ultimately accommodate the restoration and display of aircraft too large to be located within the museum's facility on the Mall in Washington, DC.

I am pleased by the support for this important project from the Virginia Road Builders Association [VRBA] and the American Road and Transportation Builders Association [ARTBA]. This week, ARTBA members are having their national convention in San Francisco. Under consideration by ARTBA members is the contribution of funds or in-kind services necessary to build the road and initial parking areas for the Dulles project. The members of ARTBA and VRBA are to be commended, and I wish them much success during their convention.

Many of our colleagues are aware of activities related to the proposed Dulles wing, and legislation has been introduced in the House and Senate to make this proposal a reality with financial support from both the private and public sectors. Important support for this effort comes from the Air & Space Heritage Council, a nonprofit corporation using donated professional assistance and formed by the Aero Club of Washington, the National Aviation Club and the Washington Dulles Task Force to focus support and coordinate the activities of the many people and organizations willing to help develop the Dulles wing. Mr. Speaker, I ask that a short summary of the activities and mission of the Air & Space Heritage Council be included in the RECORD at this point.

The Smithsonian's National Air & Space Museum (NASM) on the Mall has educated, excited and inspired over 75 million people since its opening on July 4, 1976. The existing collection chronicles the history of flight and lets us literally touch the moon, or imagine we are soaring with the Wright Brothers at Kitty Hawk. As impressive as the current NASM exhibits are, however, they represent only 25 percent of the national aerospace collection. The remaining aerospace artifacts are stored due to lack of space at the existing museum in Washington, D.C.

The Air & Space Heritage Council is working with the Smithsonian to change that by supporting the construction of an expanded National Air & Space Museum at Washington Dulles International Airport. Distinguished members of the U.S. Senate and House of Representatives, as well as top industry and community leaders, have joined the effort.

With land to be provided by the Federal Aviation Administration at Washington's Dulles International Airport, Phase One of the Dulles Wing will provide a national home for the Space Shuttle Enterprise and a record of man's expansion into space. The new museum will also include buildings capable of housing airplanes the size of a B-707 and the Enola Gay, as well as the latest spacecraft. Certainly one of the most exciting exhibits will be the Space Shuttle Enterprise. This remarkable vehicle, representing man's first reusable space transportation system, will be displayed in Challenger Hall—to be named to capture the spirit of the Challenger 51-L crew and inspire visitors to keep that dream alive.

The expanded facility will offer more than static displays. Interactive exhibits, an IMAX theater, and an astronautical observatory are just some of the items being planned to let visitors really experience the role air and space plays in all of our daily lives.

There is now an urgent need to develop the initial phase of the NASM Dulles Wing and provide a national home for the Enterprise. This first stage includes construction of Challenger Hall, a $9-million project. Construction funds must come from the public. Public interest in the Smithsonian Institution, coupled with the reality of U.S. budget constraints, has caused the private sector to join with the Federal Government to fund this project. Challenger Hall will be built without Federal money, but operated by the NASM with financial assistance provided by the Air & Space Heritage Council. Construction of the Dulles Wing, comprising five buildings, should be completed by the end of this century.

The NASM Dulles Wing will further understanding of the impact aerospace has on the nation, its history, and its future. For inspiration to continue the task, the public needs a place where they can see the aircraft and spacecraft that they now only read about, and explore with mind and eye the new and exciting frontiers of space.

HO SUNG KIM COMPLETES CONGRESSIONAL FELLOWSHIP

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. DYMALLY. Mr. Speaker, as many of our colleagues are aware, I have hosted a Fellowship Program for the past 5 years for staff members of the National Assembly of the Republic of Korea. It is with sadness that we have reached the day when we must say goodbye to our current fellow, Mr. Ho Sung Kim. My staff and I have come to know Ho Sung as a friend. And while we know that he is returning to a career that will be enhanced by his experiences in our Congress, still, we must acknowledge the loss we feel at his departure.

Ho Sung is a young man of much brilliance. His need to know seems to drive him to dig deep beneath the surface of issues. Ho Sung is an economist by training and is a member of the Assembly's Finance Committee staff. He has been fascinated by the issue of tax reform and came to understand the nuances of tax reform and the potential impact of individual reforms on the various sectors of our economy. I would venture to say that he has a grasp of this matter that most congressional staffers assigned to the tax issue would dearly like to possess.

My staff and I have greatly enjoyed our spirited discussions with Ho Sung on both domestic and international politics. His insight regarding the underlying motivations of political movements is truly astounding. It is something one finds in a seasoned politician but is rare in one who is relatively new to the political sphere.

Beyond what Ho Sung has given us by his presence, he has also contributed greatly to the Korean Assembly Fellowship Program itself. Thanks to Ho Sung's pioneering work, the Fellowship Program will this year for the first time be extended to the Senate side. In my occasional visits to Korea, I have looked forward to meeting with the past fellows and hearing how they compare experiences with one another. Having fellows on the Senate side will add a whole new dimension to our discussions. And I look forward to the day I will be able to sit down with Ho Sung in Seoul and reflect on the fruit of his labors.

To Ho Sung we say not goodbye, but rather, take care until we meet again.

PLUGGING FARM SUBSIDIES INTO PERSPECTIVE

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. STANGELAND. Mr. Speaker, in view of the current criticism of agricultural programs and the difficulties many American farmers are experiencing today I would like to bring to the attention of my colleagues a recent article printed in the Wall Street Journal. This article outlines a concern that should be considered by all of us, rural and urban representatives alike, because we all greatly benefit from the commitments and contributions of the American farmer.

The article follows:

PLUGGING FARM SUBSIDIES INTO PERSPECTIVE

(By Tom Barlow)

Cropland agriculture has become a special form of enterprise in our nation, a utility. Private, to be sure, but still a utility like electric power.

Grains and beans are the foundation crops for much what we eat—red meat, poultry, eggs, milk, bread—and as with electric power, if cut off or even with sharp reductions imminent there is an outcry from consumers that registers at peak volumes. Thus the government works hard to make sure agriculture and electricity shortages do not happen. Quite simply, surpluses are preferred.

So government programs—from loans at harvest, to target prices for crops, to technical services in the field, to plant research—have been very successfully devoted in recent years to making certain that stocks of commodities are plentiful.

So, too, we have excess supply capacity in our electric network, and it is quite substantial. Nationwide our generating capacity is over 25% more than is needed.

The North American Electric Reliability Council, a consortium of utilities, expected peak nationwide demand for this past summer of 465 million kilowatts. But the national system had in place 684 million kilowatts of power-generating capacity.

There is complaint in some quarters that this is too much plant capacity, but the issue is somewhat academic, since the plant capacity is already there—in the 1970s everyone overestimated the need for electricity. The utilities would have been irresponsible not to press for more capacity, and consumers are paying almost all the cost of this plant surplus in their electric utility bills. Many are comfortable knowing that a buffer is there.

What is the cost of this excess capacity? Some rough calculations can help here. Estimates put the value of the nation's electric plant at about $400 billion.

A conservative estimate of the value of idle plant capacity is $75 billion. But this capacity must be paid for; construction and maintenance fees must be recovered. For simplicity's sake, assume a 20% annual carrying charge per year to consumers across the nation to cover amortization of investment principal, interest, maintenance costs and management fees for this $75 billion plant inventory. With this calculation, consumers are paying $15 billion a year in their utility bills for surplus capacity.

Now contrast the respectful manner in which this bill for surplus electricity is being paid today with the humiliating way farmers are treated when they come before Congress every few years to secure some guarantee that they will recover the costs of producing a food surplus.

Electric-power companies enjoy a consensus that their monthly electric bills to consumers should return their costs of production, which include: cost recovery of plant and equipment and reserves for replacement; adequate salaries for all utility employees, and an appropriate rate of return to bondholders and stockholders on their investment.

To be sure, there is a little griping when the utility bill is paid each month, but generally the utility is not blackguarded and vilified. Most of us are grateful that when we flick the switches in our homes and places of work, the power comes on. We are grateful for the security that surpluses provide.

But when the farmers go before Congress for income guarantees that do not even begin to approach those that electric-power companies are accorded, there is no mild griping. No indeed. Farmers are often cast in the role of chiselers, and the price guarantees that they seek are made to seem virtual handouts. Gratitude for their hard work through the seasons is a hard commodity to come by.

Now consider this. In the 1985 Farm Bill, what will be the cost of commodity programs for our surplus crop production? The best government estimates are that the cost will be $10 billion per year for each of the next five years. Hmmm. That just about matches the bill that electric utilities can be calculated to the levying on consumers for surplus generating capacity each year.

To escape the grueling gauntlet that they are made to run in securing passage of a Farm Bill every few years and to make sure that their costs of production are properly tallied and recovered, our nation's farmers have a lot to learn from America's electric-utility companies.

A POLISH MUJAHIDEEN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today in an expression of support for a truly courageous freedom fighter, Mr. Lech Zondek. This great Pole reminds Americans that the cost of freedom is indeed very high. It is ironic that Lech Zondek died on July 4, while fighting the tyranny of communism—in the hottest battleground today—in Afghanistan. Lech's actions embodied that tenacious Polish spirit which is reflected in a famous Polish saying "For your freedom and ours".

Mr. Speaker, it was not a spur-of-the-moment decision for Lech to join the Mujahideen freedom fighters. Since the Soviet invasion of Afghanistan in December 1978, Lech spoke of the need to resist the temptation to ignore the sorry plight of millions of Afghans. In January 1981, Lech left Poland determined to fight Soviet tyranny. His circuitous route to the freedom fighters took him through Austria, Australia, and Pakistan.

After becoming an Australian citizen in 1984, Lech joined the Afghan resistance. He wrote many letters to his friends in Poland and Australia, maintaining strong ties to the Support for Solidarnosc Committee. Mr. Speaker, I would like to take this opportunity to submit for the RECORD a telling excerpt from one of these letters because I think it is important that Americans reflect on the realities of life in Afghanistan today. The letter also serves as a stark reminder to Americans that in remote regions of the world, patriots are dying daily in the fight for freedom and liberty.

A POLISH MUJAHIDEEN

(20 February 1985) Yesterday I heard a roar of many tank engines. I was even quite alarmed because with no arms at all I was helping with pruning at a vineyard. Luckily nothing happend. Today I learned from the commander that the Ruskies are stationed at a nearby, densly populated village. There is noting we can do because when attacked, they do not fire at us from machine guns, but at the village with tank artillery. Since nothing much is happening, I might try to go to the village dressed in Afghan get-up with a Kalashnikov under my coat (with collapsible stock) and take some photos or tape something.

I am so accustomed to mortar fire that without it I would probably find it difficult to fall asleep. The Russians are shadow-fighting and from dusk they fire in every direction. Just in case. After this here war, one could make a fortune in scrap metal. Wherever one looks, there are lots of bits of mortars, bombs, rockets, guns. A much greater problem will be with mine disposal because around each Russian base they have planted minefields and modern mines are plastic—metal detectors won't be much use.

On my part, I use the time to get back to peak physical form: food is served to me, I have no duties except dressing wounds and medicine distribution. I now have a separate room with a padlock and a bath in a mosque where I take a shower every day (in the afternoon, because it gets hot and the water is cold). I dismantle and re-assemble various murderous machinery and exercise (still paralitic-style a bit but getting better). I still cannot clench my fist. I don't know when this letter will reach you, but it won't be soon so I shall look for a reply from you in Peshawar."

CRUELTY TO ANIMALS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to share with my colleagues a letter to the editor of the New York Times, which eloquently describes the cruelty inflicted upon animals during the trapping process and which raises questions about the use of tax dollars for habitat manipulation to build game populations.

[From the New York Times, Dec. 21, 1985]

DISPATCHING ANIMALS AND PROTECTING PELTS

To the Editor: I am a licensed trapper in Connecticut. I successfully completed the state-mandated trapper-training course that Joseph E. Poser of the American Fur Industry praises (letter, Dec. 5), claiming it teaches us how to "minimize the stress" experienced by the trapped animals. Mr. Poser is

either describing his hallucinations, or he is, forgive me, pulling the wool over the reader's eyes.

The "dispatching" of trapped animals, for example, is taught with the single goal of protecting the value of the pelt. Thus, a fox is killed by the trapper's standing on the animal's chest right at the armpit and then grabbing the hind legs and yanking like hell. This eventually crushes the animal's heart. It doesn't work so well, however, if the trapper is a 95-pound boy, and there are indeed 95-pound boys who trap in our state.

The course also teaches us how to manipulate habitats in order to boost population levels of target species. For example, we are encouraged to plant cattails, a food source for muskrats (more food translates into a higher reproduction rate).

And yet Mr. Poser insists that trapping is essential to "protect property from animal depredations." I suggest that with trappers for friends, farmers don't need high interest rates to do them in.

WILLIAM MANNETTI.

NEW HAVEN, *December 8, 1985.*

LET'S KEEP THE EXPORT-IMPORT BANK OUT OF THE BUSINESS OF SUBSIDIZING FOREIGN AGRICULTURE

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LIGHTFOOT. Mr. Speaker, I appreciated the clarification during debate earlier today regarding the role of the Export-Import Bank in the subsidization of foreign agriculture. I, too, considered offering an amendment similar to that of the gentleman from Oklahoma [Mr. ENGLISH] to help clarify the fact that promotion of foreign agriculture is beyond the scope and purpose of the Export-Import Bank.

Too often our well-intentioned foreign policy goals in this area conflict with our efforts to help the American farmer compete on a level playing field for a fair price for his products. While the Department of Agriculture spends billions on the homefront trying to keep our own farmers in business, we have other programs supporting their foreign competitors. We need to keep the Export-Import Bank from becoming another agency that contributes to this self-defeating policy.

The purpose of the Export-Import Bank, according to the act by which it is created, is as follows:

To aid in financing and to facilitate exports and imports and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country of the agencies or nationals thereof.

In other words, the Export-Import Bank is supposed to help facilitate mutual trade between the United States and foreign countries. However, our promotion of foreign agriculture does nothing to further this end. In fact, our promotion of foreign agriculture is detrimental to mutual trade efforts in that it helps sustain our current record foreign trade deficit. This is particularly harmful at this point in time, when the United States is an agricultural debtor nation for the first time in decades. It therefore is very important that we maintain restrictions on the Export-Import Bank in this area.

Again, I appreciated the earlier clarification on this matter. As debate on the Export-Import Bank continues, I ask my colleagues to bear in mind that the Export-Import Bank has no proper role in promoting foreign agriculture and contributing to the problems we face with trade in this area.

SALUTE TO THE INTERNATIONAL TYPOGRAPHICAL UNION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. GEKAS. Mr. Speaker, I will have the great pleasure of attending the opening ceremony of the 127th Convention of the International Typographical Union on Saturday, August 9, 1986, at the Hershey Convention Center. The convention, which draws typographical union members from all across the United States and Canada, is being hosted this year by Harrisburg Typographical Union No. 14 on the occasion of their 150th anniversary.

The typographer has always displayed a long and firm dedication to his or her craft. While the technology has noticeably changed over the years, the workers have remained steadfast in their commitment to excellence in the printing trade.

I am pleased to extend warm greetings and congratulations from the U.S. House of Representatives to the membership of the typographical union. I ask my colleagues to join me in saluting the International Typographical Union, which has shared in our history since its founding in 1852. The Harrisburg Typographical Union No. 14 also shares an impressive place in our history dating back to 1836. I would like the CONGRESSIONAL RECORD to reflect my personal congratulations to the union membership for achieving these milestones.

MR. SAN FRANCISCO

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mrs. BURTON of California. Mr. Speaker, today I would like to salute the man who richly deserves the title "Mr. San Francisco."

For the past 50 years the city of San Francisco has contained a journalistic treasure—Herb Caen. Through his daily column he has enriched the lives of San Franciscans by his abundant wit, historical perspective, and his unquenchable love for San Francisco.

It may be that 50 years of Herb Caen and his column is a milestone but it can also be a harbinger for another 50 years of being able to enjoy his unique blend of talents.

Our best wishes to Herb Caen on this happy anniversary.

VLADIMIR POSNER EXPLOITING TELEVISION NETWORKS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today to bring to the attention of the American public, Vladimir Posner, a paid propagandist for the Soviet Union. I find Mr. Posner's use of the American television medium particularly distressing because the lies he spews forth can make a powerful and lasting mistaken impression about the Soviet Union. I also fail to understand why major television networks continue to provide Mr. Posner a forum to criticize the United States and particularly President Reagan.

Posner is being given direct access to the American public by television networks who are not appropriately challenging him during his appearances. In fact, during Mr. Posner's recent visit to the United States, the networks were falling all over themselves to allow Posner to communicate Soviet propaganda and lies about arms control and the Chernobyl disaster.

During Posner's appearance at the American Enterprise Institute here in Washington, he denied the existence of the extensive Gulag prison system and the discrimination of the Soviet's Jewish community. In another event Posner was emphatic that the Soviets had shot down Korean Air flight 007 because it was on a spy mission. This is absolutely ludicrous! But this garbage is being presented to the American spectator via a well packaged and respected medium of communication.

Mr. Speaker, I would like to submit for the RECORD some further comments about this situation by a respected journalist, Mr. Reed Irvine. His article will hopefully alert the American public about the folly of allowing Soviet propaganda on U.S. television. Mr. Irvine's article appeared in the May 30 issue of the Washington Inquirer and is titled "Vladimir Posner: TV's Favorite Russian."

VLADIMIR POSNER: TV'S FAVORITE RUSSIAN

(By Reed Irvine)

Vladimir Posner, who is usually identified as a Soviet journalist or commentator, has become almost a household name in the United States, thanks to American television. He frequently appears on programs such as ABC's "Nightline," to comment on such hot topics as the shoot-down of KAL 007. In February, ABC gave him over 7 minutes of prime time to comment on President Reagan's just concluded televised address on national defense. Posner took advantage of this opportunity to label the president's speech "dishonest."

That didn't sit well with either the White House or the American people, and ABC ended up acknowledging that it had made a mistake in giving Posner so much time and in not having someone on with him that might have challenged some of his statements. While this suggested that higher-ups at ABC were prepared to concede that he might just be using their facilities to spread disinformation, it didn't mean that they were in the future going to deny him that opportunity. He was invited to appear on ABC's "Viewpoint" program on May 29,

along with Roone Arledge, president of ABC News, Tom Brokaw, anchor of NBC's "Nightly News," and Senator Jeremiah Denton.

Whether these Americans will succeed in exposing Posner's lies, expressed in the flawless, unaccented English he learned while growing up in New York City, remains to be seen. To succeed, they will have to do more homework than the TV personalities that have interviewed him in the past.

The most recent of these was Phil Donahue, who had Posner on his show for a full hour on two successive days. Donahue, who can be rough on guests he disagrees with, made some effort to confront Posner with hard questions, mainly on the question of Jewish emigration from the Soviet Union. But Donahue let his guest get away with defending murder.

He pressed Posner about the Soviet delay in revealing the Chernobyl nuclear accident that spewed dangerous radiation over a wide area. Posner insisted that the delay was all very sensible. They just wanted to make sure they had all the facts before going public. Didn't that endanger lives of people in the area? Not at all, Posner, assured us. He said 90,000 people were evacuated "in a matter of days." He said, "I call that being very, very considerate. "Donahue must have agreed. He changed the subject.

Perhaps he didn't know that it took the Soviets 36 hours before they evacuated 49,000 people from the immediate vicinity of the burning reactor. Twelve days after the accident the world was informed that an additional 35,000 had been evacuated from the Chernobyl area, which is 12 miles away from the site of accident. Just when that evacuation took place, the Soviets did not say, but it is believed the evacuees had been exposed to heavy radiation for at least a week. Many of these people will die before their time because of the delay in getting them away from the radiation. But Posner tells us the Soviet regime was "very, very considerate" of them.

Donahue was equally unprepared to deal with Posner's lies about the massacre by the Soviets of 269 people on KAL flight 007 in 1983. Posner insisted that it was a spy plane and that they had no way of knowing there were passengers aboard the huge 747. Donahue had no answer to that, even though any sensible American knows, if nothing else, that there is no way the CIA is going to send such a plane, with a U.S. Congressman aboard, on such a dangerous and unnecessary mission. Donahue granted, "for the sake of argument" that it was on a spy mission, saying, "You still don't shoot it down."

But after Posner claimed that the Soviets had tried for "four and a half hours" to get the plane to identify itself before finally shooting it down, Donahue changed the subject. The truth is that KAL 007 was over Kamchatka for 48 minutes, and Soviet fighter planes didn't even locate it. It was shot down 10 minutes after it reentered Soviet airspace over Sakhalin. Tapes of the Soviet pilot's conversation show that he did not follow the prescribed procedures to get the plane to land. He simply shot it down.

SCIENCE AND TECHNOLOGY EDUCATION FOR THE FUTURE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. WALGREN. Mr. Speaker, much has been said in recent years about the weaknesses of our public education system in teaching basics—reading, writing, and arthmetic. But there is now another basic: Science. Our elementary and secondary students do not seem to be acquiring the skills, interests, and motivation that are needed to pursue college programs leading to careers in science and engineering. And this is significant, because if students aren't adequately prepared in these academic areas by the time they finish high school, it's often too late to catch up.

In the Subcommittee on Science, Research, and Technology, we are very much concerned about this issue. It is, of course, closely related to our interest in the health of the U.S. academic research community and our oversight of the National Science Foundation. I would like to commend to my colleagues the following editorial, taken from the June 1986, Spectrum magazine, published by the Institute of Electrical and Electronics Engineers. It presents an interesting proposal for partnerships between our research universities and the precollege education system.

It is important that we encourage all efforts to enhance precollege education nationally, with the purpose of increasing the number of students entering science and engineering programs upon graduation from high school, as well as improving the general level of understanding of these topics in the public at large. This is another good reason for strengthening the National Science Foundation science and engineering education program, which supports projects along the lines proposed.

A HELPING HAND

(By Donald Christiansen)

Wouldn't it be appropriate if the major U.S. research universities would get together in a cooperative effort to influence the curriculum and the quality of instruction in public schools at the precollege level? It is widely known through the many reports published in recent years that the teaching of science, mathematics, and even English in elementary and secondary schools has deteriorated.

But when such a proposal is made to leading university educators, they generally express interest, but little inclination to act. A great deal of the engineering colleges' efforts are spent in competing for the best of the high school graduates. Most universities argue that they have no trouble filling their quota of top-grade engineering freshmen. They say the quality of engineering students is better than ever. They conclude they have little incentive to reach back into secondary schools to influence curricula or teaching quality. Furthermore, they say, they have neither the money nor the manpower to do so.

Whose responsibility is it to exert pressures for change at the precollege level? Educators acknowledge that the principal pressure point remains the local school board, but they hesitate to "interfere."

We are told that one of every six college freshmen in the United States is enrolled in a remedial reading course, one of five in a remedial writing course, and one of four in a remedial math course.

At the University of South Carolina in recent years, 50 students who fell significantly short of the standard admission requirements but who were commended by their high school counselors as having high potential were put into a special program to bring them up to speed. The percentage of those from this group who attained graduation exceeded the graduating rate of the other students, but at double the first-year cost. The implication is twofold: first, many bright students whose precollege education is inferior are lost to the fields of science and engineering and, second, investments by universities in remedial programs might better be spent to influence and upgrade precollege programs.

Of course, there are some practicing engineers who would veto such efforts on the grounds that we don't need more engineers. They miss the point.

It would be in the longer-term interests of not just the engineering schools but of the universities themselves to become a force for the improvement of public education at the precollege level.

Seizing such a banner could provide these benefits:

A more technically literate citizenry.

Higher productivity for the nation.

A larger pool of secondary school graduates qualified for engineering school. Those not accepted should not despair—other professions need them badly.

Could not the major research universities form a leadership consortium that would guide the administrators of secondary schools toward curricula and instructional techniques more attuned to our high-tech society?

TRIBUTE TO CHRISTINE E. TRIGG

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. RODINO. Mr. Speaker, I rise to pay tribute to a fine woman, Mrs. Christine Trigg, and to her lifetime devotion to spreading the word of God throughout our community.

Mrs. Trigg, the daughter and grandaughter of ministers, is the first black woman to become president of the New Jersey Council of Churches.

Mr. Speaker, I commend to you, for publication in the CONGRESSIONAL RECORD, an article about Mrs. Trigg and her work which was published in the Newark Star Ledger, May 4, 1986.

COUNCIL OF CHURCHES PRESIDENT HAD ROLE MODELS IN FOREBEARS

(By Charles Q. Finley)

Christine E. Trigg of Newark believes a vital role is assured for the church in a rapidly changing society.

"High technology can go just so far," asserted Trigg, the first black woman to be elected president of the New Jersey Council of Churches. "The uniqueness of human

beings, and the importance of the humanities in life, are becoming more apparent."

"The role of the church is much the same today as it was in years past, and it will remain so. It reaches out to help mankind, whether it be providing faith, or giving food to the hungry or shelter to the homeless.

"As long as those needs remain, the church will be there to help. No machine will ever replace the services of the church."

"We know no computer is any smarter than the human being operating it. We can depend on high technology for a limited number of things, albeit many of them are pleasant, but the human race and the church never will lose their intrinsic values."

Trigg is a lay member of the Clinton Memorial African-Methodist-Episcopal (AME) Church in Newark, where she chairs the board of trustees.

She was installed as council president yesterday at the 42d annual session of the council held in the church.

She is the daughter and the grand-daughter of ministers. Her mother, Julia A. Baum of Cleveland, Ohio, now a retired teacher, was a general officer in the Zion Church Mission.

"Being deeply involved in religious activities became second-nature to me," Trigg recalled.

She was raised in Columbia, S.C., and her early education was in church-affiliated schools, including Allen University in Columbia, where she earned a B.S. degree in business administration. She also holds a business management certificate from the American Management Association of New York.

She is a member of the National Council of Negro Women, the National Association of University Women, Zonta International, and the Pan Hellenic Council, where she serves as first vice president. She also is immediate past director of the Northeast Region of Sigma Gamma Rho sorority.

Trigg is listed in numerous books of outstanding Americans, including Who's Who of American Women, Distinguished Personalities of America and Who's Who of Women of the World.

She has received the Distinguished Corporate Alumni Citation from the National Association for Equal Opportunity in Higher Education and the Northeast Region Hall of Fame Award from Sigma Gamma Rho, to name but a few honors bestowed upon her over the years.

She retired in 1982 after serving 25 years with the J.B. Williams Co. in Cranford, where she held various administrative posts.

Her husband, Raleigh, is foreman for repair and maintenence for the Newark Board of Education. The Triggs have three children—Iris and Ida of Newark, and Shearon, of who lives in South Carolina.

Trigg is so busy no time is left for hobbies.

"When would I have time for a hobby? I read romantic novels and mysteries for a change of pace, but actually I find all-too-little time even for them."

The New Jersey Council of Churches represents 17 major denominations and is holding an open dialogue with the Roman Catholic Church. Its concerns include civil and human rights, justice, hunger in foreign countries, nuclear weapons and migrant workers, as well as church development and community problems.

Trigg blames a breakdown in family ties for young people taking less interest in the church today.

"Youth took the church much more seriously in my generation. A loosening of family ties is the basic cause, as it is for the increase in juvenile delinquency.

"Especially in these troubled times, the church has a responsibility to help strengthen family ties and give people faith because without faith, some firm belief, there is little hope for the future.

"It's difficult to find the strength to survive today, when with so many things going wrong. I depend upon my religious training to support me, and believe everything happens for good reason."

Trigg said as council president she will reach the grass roots level to spread the New Jersey Council of Churches story and will continue to foster dialogue with the Roman Catholic Church.

ELWOOD KIRKPATRICK NAMED 1986 DAIRYMAN OF THE YEAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. SCHUETTE. Mr. Speaker, Michigan State University's Animal Science Department has named Mr. Elwood Kirkpatrick of Kinde, MI, its 1986 Dairyman of the Year.

There are few so deserving of this honor as Mr. Kirkpatrick. Elwood and his family operate a 1,000-acre, 175-cow farm which for many would be a full time task. But Elwood also devotes much of his time representing other dairy farmers as president of the Michigan Milk Producers Association. The MMPA is Michigan's largest milk marketing cooperative, with about 4,000 member farms. All can attest to Elwood's tireless work on their behalf. Elwood, who with his wife was named the MMPA's Outstanding Young Dairy Couple for 1971, also serves as president of the Michigan Agricultural Conference, chairman of Michigan Dairymen's Market Program Committee, sits on the Board of Directors for the American Dairy Association and Dairy Council of Michigan, and is a member of the Michigan Commission on Agriculture.

Mr. Speaker, it is my honor to rise before my colleagues in the House to congratulate Mr. Elwood Kirkpatrick—farmer, public servant, and family man—as the 1986 Dairyman of the Year.

RECOGNIZING WALLACE ACKLEY FOR SAVING THE LIFE OF DONALD KOEBKE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. KILDEE. Mr. Speaker, I would like to call to the attention of the Congress of the United States the heroic act of Mr. Wallace Ackley of Durand, MI, who will be presented with the Red Cross Certificate of Merit on July 18, 1986. This certificate is the highest award the Red Cross gives to individuals who use their first aid training to save a life.

On August 8, 1985, Mr. Donald Koebke, also of Durand, was working in his field when he fell from his tractor and was run over. His son saw the tractor running wild in the field and informed his mother, Diane. When Diane investigated and found her husband seriously injured, she sent her son to Wallace Ackley for help and asked him to bring his first aid kit. When Mr. Ackley arrived, he tied a nylon and velcro strap to each leg above the wounds and applied arterial pressure to each femoral artery in the groin area. About 5 minutes later, Mike Cole arrived and offered to help. Mr. Ackley instructed him to apply pressure on the right femoral artery while he held pressure on the left. In this way, they controlled the hemorrhage until the ambulance arrived approximately 20 minutes after the accident occurred. According to the doctor who later treated Mr. Koebke in the emergency room at Flint Osteopathic Hospital, Mr. Koebke's life was saved by the first-aid treatment he received from Mr. Ackley at the scene of the accident.

Mr. Speaker, the Red Cross Certificate of Merit which Mr. Ackley is to receive cites his action to save the life of a victim of severe bleeding and is signed by President Reagan. Mr. Wallace Ackley's quick, proper, and selfless lifesaving action is worthy of this country's recognition and honor.

INTRODUCTION OF PUEBLO LAND TRANSFER LEGISLATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. RICHARDSON. Mr. Speaker, on behalf of the New Mexico congressional delegation, I am pleased to be able to introduce today a piece of legislation to convey a small parcel of land to the pueblo of Zia. The New Mexico delegation, in conjunction with the involved parties, worked cooperatively to develop this bill. Similar legislation is being introduced in the other body by New Mexico's Senators.

This bill conveys 1,840 acres of land, which presently forms an "island" within the current pueblo of Zia boundaries, from the jurisdiction of the Bureau of Land Management [BLM] to the Bureau of Indian Affairs [BIA]. The land is to be held in trust by the BIA for the use and benefit of the Zia people. This tract of 1,840 acres has existed as virtually a "no man's land" for too long. The BLM has implemented no range management plan for it, because it has not had legal access to the land. The BIA has also taken no responsibility for the land because jurisdiction for it falls under the BLM. The Federal Government has therefore not adequately supervised or managed this acreage. Our bill resolves this problem by vesting the responsibility for the land to the pueblo of Zia—the people who stand most to benefit from its use.

Historical documentation indicates that the area has been occupied by the Pueblo of Zia since the 1300's. Current information proves that the Pueblo continues to actually, exclusively, and continuously use the land. There are eight known religious sites on the 1,840 acres, which Zia religious leaders regularly visit. Zia potters also continue to collect white, black, and red paints from a site on this land. I am convinced of the Zia's longstanding historic and religious attachment to the land. In

addition, the pueblo's plan to use the land for additional grazing demonstrates their intentions to use the land for future generations.

The pueblo of Zia already owns the surface rights to this "island" of land. There are preexisting rights to the land in the form of two oil and gas leases owned by Yates Petroleum and a Mr. Merle Chambers. Plains Electric Generation and Transmission Cooperative also has a right-of-way for a transmission line. All of these legal rights are carefully protected in this legislation, and the pueblo and the affected groups have reached a compromise which is reflected in the language in this bill. The bill also states specifically that water rights appurtenant to the land shall be those rights existing under State law at the date of enactment of the bill and no new water rights are created or conveyed. Sandoval County, where the land is located, is in support of the proposed transfer. The State director of the BLM has also stated in a letter to the congressional delegation that "We are unaware of any negative consequences that would result to the United States or third parties as the result of such transfers."

Mr. Speaker, I am proud to be able to introduce this bill which I believe will be of great benefit to the pueblo of Zia. This piece of legislation, the result of a joint effort by the New Mexico congressional delegation, will assist this tribe in attaining their full cultural heritage, and in developing their full economic potential. I urge careful and prompt consideration of this bill, and the support of my colleagues for it. Thank you.

NATIONAL MAXIMUM SPEED LIMIT AMENDMENTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. JEFFORDS. Mr. Speaker, today I am introducing legislation to correct a flaw in the formula for determining compliance with the national 55-mile-per-hour speed limit which, contrary to the intent of the law, penalizes States which have general speed limits below the national maximum of 55 miles per hour.

Back in 1974, Congress reduced the national speed limit to 55 miles per hour in an effort to conserve fuel and reduce highway fatalities. In order to insure that States comply with the Federal mandate, the apportionment of Federal aid highway funds is contingent upon State enforcement of the 55-mile-per-hour speed limit.

A 1978 amendment to the law and subsequent Department of Transportation rulemaking established specific criteria for determining State compliance with enforcement provisions of the law. The Secretary of Transportation has discretionary authority to withhold up to 10 percent of certain noninterstate Federal aid highway funds if data submitted by the States shows that more than 50 percent of the vehicles sampled are exceeding the 55-mile-per-hour speed limit.

The problem lies in the selection of highways used to monitor for compliance with the law. Only State, Federal, and interstate highways which are posted at the 55-mile-per-hour speed limit may be included in the samples of highways monitored for compliance.

The 1978 amendments require State transportation officials to monitor a representative sample of 55-mile-per-hour State, Federal aid, and Federal highways for compliance with the law. States are given maximum flexibility in choosing where to monitor. Thus, States may monitor two-lane undivided highways as long as they are posted at 55 miles per hour. The average speeds on these highways are much lower than on divided highways built to Federal specification. By weighing the sample with data from undivided State highways, many States have been able to bring their overall compliance rate down below 50 percent.

My home State of Vermont has a general speed limit of 50 miles per hour. Only 371 miles of Vermont's 12,000-mile network are posted at 55 miles per hour. All monitoring for compliance with the national speed limit is conducted on four highways in Vermont. All segments of highway posted at 55 miles per hour in Vermont meet Federal interstate specifications, and are the best maintained and safest in the State. States with general speed limits below the national maximum must do all monitoring on highways built for high-speed travel.

Anyone who has driven in the Northeast knows that the speeds on Vermont's interstates are the same or less than others in the region. Vermonters are frustrated that we are being singled out for punishment, not because we are lax in enforcing the 55-mile-per-hour law, but because of a quirk in the compliance formula.

States with general speed limits below the national maximum are placed in a ridiculous catch-22 situation. They can increase the general speed limit in order to include undivided highways in the compliance sample. However, this would come at the expense of fuel consumption and safety and be contrary to the intent of the maximum speed limit law. Or they can keep the general speed limit below 55-mile-per-hour, conserve fuel and improve safety, but risk losing Federal highway aid. Either way, safety conscious States are the losers.

My legislation would remedy this situation without hampering Federal efforts to ensure compliance with the maximum speed limit. It would allow States which have a general speed limit less than the national maximum to monitor, for purposes of compliance with the national 55-mile-per-hour speed limit, Federal-aid primary highways posted at less than 55-mile-per-hour. This legislation would reward, rather than penalize, States like Vermont which go further than the Federal Government in promoting conservation and highway safety.

I urge all Members to support this perfecting legislation which will reinforce the goals of the national minimum speed limit.

CAPTIVE NATIONS WEEK OBSERVED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LIPINSKI. Mr. Speaker, July 21 marks the beginning of Captive Nations Week, the acknowledgment that tyranny and injustice still pose a pernicious obstacle to democracy. As we were reminded by the very special Fourth of July celebration just past, America is fortunate to enjoy the fruits of liberty, freedom, and justice. But Captive Nations Week is not a celebration of freedom already attained. Rather, it is a time to remember the injustice that continues behind the Iron Curtain each and every day.

My colleagues, one must not be deceived by the passage of time. We must remember that captive nations—such as Armenia, the Ukraine, Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, and Hungary—possessed vibrant, rich, and unique national cultures for hundreds of years before their sovereignty was terminated by the brute force of the Soviet Union. We particularly remember the tiny, but proud Baltic States of Estonia, Latvia, and Lithuania, that were invaded and occupied by Stalin's oppressive regime. Their forced incorporation into the Soviet empire stands as a grim reminder that democracy and freedom must always be zealously guarded.

These and other captive nations did not freely choose to be Soviet-dominated. They did not freely choose to alter their chosen paths of social, political, and economic development. They did not freely choose to imprison their own citizens or to act as a buffer for the Soviet Union. No, their incorporation occurred at the point of the bayonet. Yet, even after 40 years of control by Moscow, we note examples of independence and rebellion that still occur against overwhelming odds.

We remember the blood that was shed, and the many lives that were lost, in the battle to free a nation held captive by tryanny's iron grip. We pay homage to the courage that the Ukrainian Insurgent Army demonstrated when they battled the twin scourges of democracy—Nazi Germany and the Red Army. Though the Ukraine is still held captive, we acknowledge the spirit of freedom that resides in the bosom of the Ukrainian people, and give whole-hearted support for an independent Ukrainian nation.

We remember the poignant stand against Soviet tyranny that the people of Hungary made in 1956. We recall with outrage the sight of Soviet tanks ravaging Budapest solely because the Hungarian people, and their martyred leader, Imre Nagy, sought a democratic order. The valiant struggle waged against the Red Army was just one example of a long tradition of defiance against tyranny that harks back to the great Hungarian partriot, Lajos Kossuth. Despite brutal suppression, the Hungarian people still maintain a fierce independence that will someday carry them to greater glory, and to a free country.

We remember the ill-fated reforms attempted by the Dubcek government in Czechoslovakia in 1968, and the ensuing invasion of that country by the Red Army. Despite being outgunned by the Red Army, the Czechoslovakian people attempted to throw off the shackles of Soviet imperialism, attesting to the longing for freedom that still exists in Czechoslovakia.

We remember the latest manifestation of discontent expressed against Soviet dominance by the brave peoples of Poland in 1980. The Solidarity Union, and their valiant leader, Lech Walesa, could no longer stomach a government dominated by foreign influence. The price of freedom is always high, and that the Poles were willing to pay it attests to their longing for independence. Their continuing struggle inspires all those who seek freedom.

All people of good will mourn the loss of freedom of action, of independence of spirit, and of hope for a brighter future, that persists by the Soviet yoke that enslaves the countries of Eastern Europe. The Communist grip behind the Iron Curtain is daunting, to be sure. But no amount of force, no amount of repression, no amount of coercion, can keep buried forever the stirrings of patriotism and nationalism that exist behind it. The brutal Soviet suppression of free will acts to feed the hunger for sovereignty that exists in the heart of every patriot, whether Latvian, Lithuanian, or Ukrainian.

We resolve never to rest our condemnation of human rights violations anywhere on the globe. At stake in this century, and in years beyond, is the moral leadership of this planet. Our freedom, and our credibility, as a nation, must not be diminished by any unwillingness to support the freedom of others.

Mr. Speaker, the list of Captive Nations has reached 31 formerly sovereign and independent States. Mr. Speaker, that is 31 too many. We will not allow others to be added to that list of infamy and will work to see the rollback of tyranny from lands that will always remain free in spirit.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. UDALL. Mr. Speaker, this is the second in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the South.

Sol W. Sanders, a freelance journalist and author of "Mexico: Chaos on Our Doorstep," has written about the problems Mexican President Miguel de la Madrid, and the ruling Institutional Revolutionary Party [PRI] faced in the recently held elections in Mexico. Mr. Sanders' analysis of the election is that the ruling party was faced with a no-win situation.

Although the counting of ballots is not complete, PRI has claimed victory. The opposition party, the National Action Party [PAN], has charged corruption and vote fraud. Last Sunday, approximately 10,000 supporters of the opposition party, PAN, blocked two bridges connecting Ciudad Juarez, Mexico, and El Paso, TX, to protest the elections won by the ruling party. These actions demonstrate the growing frustration and concern felt on the part of many Mexican citizens.

The article follows:

[From the Wall Street Journal, June 13, 1986]

MEXICAN PRESIDENT FACES NO-WIN SITUATION

(By Sol W. Sanders)

Mexican President Miguel de la Madrid Hurtado, head of the ruling Institutional Revolutionary Party (PRI), has got himself into a damned if he does, damned if he doesn't situation.

The primary source of his problem is next month's elections, particularly the gubernatorial race in Chihuahua, a northern state on the U.S. border with a long tradition of violence.

President de la Madrid swept into office four years ago on the heels of the discredited Jose Lopez Portillo by promising "moral rejuvenation." But after some of the first honest elections in the long history of post-revolutionary Mexico, he backed away when municipalities went to the conservative National Action Party (PAN) and a coalition of left-wing parties led by the Communists.

This year some 13 state governorships are up for grabs. Officially, the PRI has never lost a governorship, by hook or by crook, since it took power in the 1920s. To lose one now, according to the political consensus, would be to invite disaster. Political analysts inside and outside the government warn that the peculiar combination of seduction and intimidation that has permitted the party to govern for half a century is at stake. To allow opposition victories, this reasoning goes, would cause a scramble as even leaders inside the PRI made for the exits.

That, of course, would make for just the kind of new, pluralistic society that many Mexicans now believe the country wants and desperately needs to solve its growing political, social and economic problems. And certainly old-style Mexican politics—some of the regime's philosophers have rationalized rigged elections as simply a "fiesta" to celebrate the 1910-23 revolution—is limping badly.

The combination of ineptitude, corruption, repression and falling oil prices has driven capital from the country. Not only can Mexico not continue to maintain its international credit by paying interest on its $100 billion debt, but new savings are continuing to leave, mostly for the U.S.

New York econometricians continue to calculate what it would take in "new money" to stem the tide, to get Mexico back on a growth track. But the reality is that every dollar lent the present Mexican regime has a rubber band on it—it never leaves New York. No economic fix-its will work until confidence is restored in the future of the country.

And that restoration of confidence requires a political solution, not just some new agreement with the International Monetary Fund, the World Bank, and the New York creditors. With 80 million people, one of the largest industrial plants in Latin America, an elaborate national transportation and communications network, and the "contamination" of the largest free society and market in the world just next door in the U.S., Mexico can no longer effectively operate with its old-style authoritarianism.

All this is going to play a part next month in the state elections in Chihuahua, the home region of Pancho Villa and a bloody battleground of the revolution. A remarkably attractive candidate of the conservatives, Francisco Barrio Terrazas, is the odds-on favorite to win the governorship.

Mr. Barrio was formerly the Kennedyesque mayor of Juarez, the fourth-largest city in Mexico, just across the Rio Grande from El Paso, Texas. He has made a speciality of cultivating the poor and the business community, and he boasts of his Roman Catholicism in a state where much of the population is still loyal to the church despite the anticlerical traditions of the ruling party. (The Mexican bishops have been beating the drums for a fair vote count, and several are openly siding with Mr. Barrio.)

If Mr. Barrio wins and the PRI denies him the statehouse, there could be violence. It would in any case not contribute toward that new political consensus that Mr. de la Madrid needs to get on with resolving the crisis. If Mr. Barrio loses, fair and square, almost no one will believe it. And if he wins and President de la Madrid lets him take office, it will go a long way to dynamite the PRI nationally, perhaps encouraging the swelling opposition. (President de la Madrid got a taste of the popular mood when he was jeered at the opening of the World Cup soccer games earlier this month.)

With the Mexican crisis now getting attention in the U.S. and world media, the Chihuahua election isn't going to be a minor event in a backwater. It could decide the next phase in what is now being seen as Washington's Mexico crisis.

PROBLEMS REMAIN IN EL SALVADOR

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. GARCIA. Mr. Speaker, while our attention has been focused elsewhere in Central America for the past few months, the situation in El Salvador remains murky. I say this with all due respect and support for the government of President Duarte, whom I believe still deserves our support.

This does not mean that we can turn a blind eye toward abuses in El Salvador, whether or not those abuses are the result of actions taken by the present Salvadoran Government. We must remain firm in our commitment to the protection of human rights in El Salvador and elsewhere.

I am submitting for the RECORD a letter which details some of the problems that still exist in El Salvador. It was written by Jim McGovern, a legislative assistant for Representative JOE MOAKLEY. JOE and his capable staff have been hard at work making certain that El Salvador is not forgotten, and that despite the fact that there has been progress regarding the democratic process in El Salvador, there are still human rights abuses. We do a disservice to President Duarte and our friends in El Salvador if we don't help them fight these abuses.

I encourage my colleagues to take a moment to read Jim McGovern's excellent letter:

[From the Washington Post, July 12, 1986]

IN EL SALVADOR, THE ATROCITIES GO ON

David Passage, the deputy chief of mission at the U.S. Embassy in San Salvador, would have us believe that El Salvador's disappearance from the front pages of our nation's newspapers "is testament * * * to the changed situation in El Salvador" ["El Salvador: Why Distort the Reality?" Free for All, July 5]. Having recently returned from an 11-day visit to El Salvador, I cannot account for the lack of press coverage on that war-torn country. Perhaps events in Nicaragua, Libya and the Philippines have temporarily taken priority. But one thing is certain: it is not because the situation in El Salvador has calmed.

Despite what Passage implies, many thousands of Salvadorans continue to be plagued by the effects of the war—including death-squad killings, disappearances, forced government relocation of the population and bombing by government forces. Though, as the U.S. Embassy quickly points out, the number of political killings by the government has decreased, it is still at an unacceptably high rate. In 1985 alone, according to the human rights office of the Roman Catholic Archdiocese of San Salvador, there were some 1,913 civilian victims of killings and disappearances: 1,740 at the hands of armed forces and death squads and 173 at the hands of guerrillas. This level of political violence, in a country the size of Massachusetts, can hardly be characterized as an improvement in human rights.

During my brief stay in El Salvador, at least 10 human rights workers were abducted by security forces—including a woman who was picked up less than one hour after I met her. She, along with many of her colleagues, was detained for several days incommunicado (in accordance with Salvadoran law) and was tortured. Remember, too, that these human rights workers cannot turn to the protection of due process; a judicial system does not currently exist in El Salvador.

I am puzzled by Passage's efforts to excuse and condone the ongoing atrocities of the Salvadoran government. As the recent Americas Watch report on El Salvador states, "There are few places elsewhere in the world where some 1,900 political killings and disappearances in a year * * * would be considered routine." Violence should never be deemed routine—a lesson yet to be learned by certain embassy personnel in San Salvador.

People who visit El Salvador and criticize the Salvadoran government and U.S. tolerance of the current situation are not trying to advance some sort of leftist "political agenda," as Passage would have readers believe. It is not leftist or somehow anti-United States to express outrage over denials of human rights.

To suggest, as does Passage, that conditions in El Salvador have reached an acceptable level is, in my opinion, a distortion of the truth.

WESTPHALIA CELEBRATES SESQUICENTENNIAL

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. SCHUETTE. Mr. Speaker, this year marks the sesquicentennial of the town of Westphalia. Westphalia is not large in size, having just 900 residents. But it is large in spirit. The history of Westphalia in many ways reflect the history of America; it is only fitting that it will be celebrating its sesquicentennial year on July 4.

Westphalia was settled in 1836 by six pioneers who had come to America from Germany. These brave pioneers left their homeland in Europe for this new world of hope and promise. The spirit shown by the founders of Westphalia is the same spirit which carved from the wilderness our great Nation, a land of peace and prosperity. One of these six pioneers was a Catholic priest, and the church he founded, St. Mary's Parish, will also be celebrating its sesquicentennial. In this, again, the story of Westphalia reflects the story of all America—both were founded on a brave pioneer spirit coupled with a humble trust in God.

Mr. Speaker, my fellow colleagues, I am happy to recognize the town of Westphalia on its sesquicentennial year, and I commend its citizens for their proud heritage and spirit—it is the same spirit which made our Nation great.

KILDEE PAYS TRIBUTE TO SGT. CHARLIE WESTON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. KILDEE. Mr. Speaker, today I rise to bring to the attention of my colleagues and the Nation the selection of Sgt. Charlie Weston of Flint, MI, as the city of Flint Police Department's "Officer of the Year." He is one of many local heroes of this Nation that epitomize the characteristics of true heroism.

Sergeant Weston has demonstrated his unwavering dedication to duty time and time again. His many noteworthy accomplishments arise from an unshaken commitment to service and a deep concern for his community. Sergeant Weston's willingness to give of himself has earned him the respect of his superiors, fellow officers, and members of his community. The citizens of Flint are extremely proud to have a law enforcement officer of Sergeant Weston's caliber serving in the ranks of their police department.

An example of Sergeant Weston's service to his community is cited in the following police report:

On October 29, 1985, at 12:30 p.m., Special Operations Sergeant Jerome Koger and Officer Charlie Weston conducted a surveillance of four suspects involved in an armed robbery. The suspects fled in a vehicle with Sgt. Koger and Officer Weston pursuing separately. One suspect fired through the passenger window at Sgt. Koger, striking his vehicle and forcing him to take evasive action while the suspect vehicle slowed to allow one suspect to jump out and and flee on foot. At this point, Officer Weston fired the last shot in his revolver while the vehicle took off again. With Officer Weston in pursuit, one suspect began firing at him with a handgun while another came up through the sunroof and fired at him with a sawed-off shotgun. The pursuit ended when the suspects' vehicle lost control rounding a corner and jumped a curb. Officer Weston slid to a stop and covered the vehicle as the suspects began existing. One suspect appeared to be surrendering while a second suspect fled the scene. A third suspect took cover behind the car and began firing at Officer Weston, striking him in the shoulder. That suspect also fled, while Officer Weston, although wounded, apprehended one suspect at the car. After pursuing the fleeing supsects unsuccessfully, Sgt. Koger returned to assist his partner and call for additional help. Numerous other units and officers responded to the call and, upon arrival, found Officer Charlie Weston sitting on the suspect he arrested, calmly reloading his revolver. An intense air and ground search by officers from several Michigan police departments resulted in the arrest of all suspects, who are now awaiting trial.

Mr. Speaker, Sgt. Charlie Weston has continually served above and beyond the call of duty. His herioc actions certainly warrant his selection as Officer of the Year and is one of the many deeds that have led him to a promotion to his current rank of sergeant. His willingness to lay down his own life in the line of duty is in keeping with the highest standards and traditions of law enforcement, and reflects great credit upon himself and the city of Flint Police Department. It is truly a great honor for me to pay tribute to such a courageous public servant.

WHAT TO DO ABOUT MEXICO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. RICHARDSON. Mr. Speaker, I include this outstanding piece on United States-Mexico relations by Susan Kaufman Purcell at this point in RECORD:

[From the New York Times, July 1, 1986]

WHAT TO DO ABOUT MEXICO—SUPPORT FAIR ELECTIONS

(By Susan Kaufman Purcell)

Now that things are going well for Mexico, economically and otherwise, many Americans who worry about the repercussions for the United States have begun to complain about the way Mexicans run their own affairs. Among other things, such Americans are upset by electoral fraud and corruption and would like to weaken the governing Institutionalized Revolutionary Party, or PRI. This would be a mistake. We should support democratic principles and fair elections in Mexico but should steer clear of efforts to influence the outcome.

As long as the Mexican system could deliver economic growth and political stability, Americans were willing to overlook its shortcomings. Since the onset of the debt crisis in August 1982, however, sustained economic growth has proved elusive—and its

absence threatens Mexico's political stability. Without resources to paper over the vast inequities that exist in Mexico, political leaders will find it increasingly difficult to handle rising social tensions.

The obvious solution is to revive the economy, and the sooner the better. United States cooperation in reducing Mexico's debt burden would undoubtedly help: currently, half of Mexico's export earnings are being used to service its nearly $100 billion debt.

Yet, Mexico's debt crisis was a result, not a cause, of the country's difficulties. This is now recognized in Mexico, where there is a growing consensus on the need to make important structural changes in the economy. These include reducing the state's involvement through privatization and making both the public and private sectors more efficient and competitive by phasing out excessive protectionism and subsidies. Mexicans are also reconsidering their ambivalence about direct foreign investment.

Many Mexicans believe that this economic liberalization can be implemented under the political status quo. Others assert that Government control over the economy cannot be loosened without political reform—specifically, the democratization of the essentially one-party system under which the PRI has ruled Mexico for more than five decades. Their argument is lending new force and urgency to longstanding Mexican demands for democratization, at a time when the governing party is losing support among urban middle-class voters.

Mexico's main opposition party, the PAN, or National Action Party, is benefiting. Its platform—it calls for a stronger private sector, an end to corruption and electoral fraud as well as closer ties with America—has traditionally appealed to a minority of urban voters in northern Mexico who resented Mexico City's control and admired their northern neighbor.

PAN won a number of important mayoralty elections in 1983 and would probably have won the governorship of the state of Sonora last July had the PRI not resorted to blatant vote fraud. Many observers believe that the PAN candidate for governor of the state of Chihuahua could win the election scheduled for July 6 if the Government allowed an honest vote count.

The Government may not do so. It seems to fear that an opposition victory in Chihuahua would be the beginning of the end of PRI's dominance and, by extension, of the political stability that has been associated with its rule. Rather than risk the unknown, the Government seems to prefer maintaining the status quo, even if this involves resorting to electoral fraud.

But fraud might ultimately damage the PRI more than a PAN victory would. It would further weaken the PRI's legitimacy within Mexico and undermine international confidence precisely when it is most needed. Paradoxically, a PAN victory might just strenghten the PRI, increasing its legitimacy and attracting alienated Mexicans into the political process.

This is not an argument for United States intervention in Mexican politics. American efforts to favor one party over another would only reinforce anti-Americanism and lead Mexico down a path that would be bad for both the United States and Mexico. In contrast, American support for honest elections, irrespective of who won, would help Mexicans insure that their interests were better reflected by their leaders.

COASTAL WETLANDS RECOVERY ACT

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. BREAUX. Mr. Speaker, as my fellow Members know, I have come before this body often with legislation designed to conserve and protect our Nation's wetlands. These areas—marshes, bogs, bottomland, hardwood swamps, and similar areas—areas that we once viewed as wastelands, are some of our most valuable lands. They are valuable for more than their aesthetic qualities—although there is perhaps nothing more beautiful than a Louisiana marsh at dawn with a couple of mallards coming in to the decoys. They are valuable because they provide our Nation with incalculable economic benefits. The litany of benefits is not new to many Members, but it bears repeating. Almost all of the species important for commercial fishing spend some portion of their life cycles in wetlands or in estuaries.

Our recreational fisheries, in which more than 50 million Americans participate and which generate billions of dollars for our economy, are dependent on wetlands as well. Wetlands play an important role in flood control, by absorbing floodpeaks and releasing water slowly. Along our coasts, they absorb the storm surges of hurricanes and tropical storms, protecting inhabited areas. They also provide for recharge of ground water aquifers, and act as natural filters to protect water quality. Finally, wetlands are habitat for many species of wildlife, including economically important furbearers and many species of waterfowl important to hunters and naturalists. Scientists estimate that the value of the many environmental and commercial features of wetlands could exceed $40,000 per acre.

Our efforts to protect wetlands have been significant. Through the Duck Stamp Program, established in 1935, hunters have paid more than $200 million for the purchase of more than 3 million acres of wetlands. In the water resources legislation now being considered by Congress, I sponsored a provision to protect the Atchafalaya Basin, a river swamp that is one of this Nation's greatest natural areas. In the same legislation, I have sponsored an amendment authorizing the Corps of Engineers to create, protect, and enhance wetlands in conjunction with flood control projects in the lower Mississippi River Valley.

In the 98th Congress, I introduced legislation to provide tax incentives for wetland conservation, a concept I believe deserves further consideration. Along with a number of other Members of Congress, I have introduced legislation to expand the wetland acquisition program. Congress has also enacted a reglatory program under section 404 of the Clean Water Act to restrict dredging and filling in wetlands. Finally, in last year's farm bill, we attacked the problem of the loss of wetlands by restricting agricultural programs on wetland areas cleared for agricultural purposes.

While programs to protect wetlands have had results, they have not done enough to protect coastal wetlands. These wetlands, among the most biologically productive ecosystems on Earth, not only suffer all of the damages inflicted on inland wetlands, they are also subject to erosion, saltwater intrusion and the gradual rise of the sea level.

The situation in my home State of Louisiana is particularly dramatic. We are losing approximately 55 square miles of coastal wetlands each year. Scientists have estimated that, if the situation is not addressed, Plaquemines Parish, an area with a population of more than 26,000, will disappear in the next 50 years. In fact, a report issued by a group of Louisiana's coastal scientists predicts: "If current trends continue, the ecosystem, that supports the Nation's oldest bilingual culture, as well as 25 percent of the Nation's fishing industry, will be destroyed in the next century."

Although the worst problem occurs in Louisiana, other areas are being hit hard as well. By the year 2000, Connecticut is expected to lose 86 percent of its wetlands. San Francisco Bay has lost 75 percent of its marshes and Tampa Bay has lost 88 percent of its seagrasses and 46 percent of its mangroves.

It would be easy to say that these are local problems, but addressed by the States. But the fact is that federal actions have often been a major cause of the problems and the resources lost are national if not international in scope. In Louisiana's case, scientists tell us that the channelization of the Mississippi River is one of the major causes of the erosion of our coastal wetlands. Coastal marshes are dynamic ecosystems, continually being replenished by sediment brought by spring floods and eroded by the waters of the sea. By taming the river, we have deprived the coastal marshes of the sediment needed to keep the system in balance. The channelization of the river not only provided benefits to New Orleans and Baton Rouge, but also to Cairo, IL, St. Louis, MO; and all of the millions of people who live in the 41 percent of the country that is drained by the Mississippi River.

The erosion problem has been exacerbated by the energy exploration and development which is so vital to our national security. Canals dug through the marshes for oil wells, pipelines, and support services have not only destroyed coastal wetlands, they have allowed saltwater into marsh areas, killing the vegetation that literally holds the land together. The result has been an acceleration of the natural erosion processes.

The scope of the problem demands that we muster all of our resources to develop solutions. There are some, I am sure, who will say that we need to further study the problem before we act. They will say we need a blue-ribbon panel of experts to make new pronouncements on the problem. But this ignores the facts—studies have been ongoing for at least a decade and we have already learned much about coastal wetland loss. While much remains to be learned, I say that we don't have the time to simply continue to study but not act on the basis of our current knowledge. Wetland studies continue within EPA, the Departments of Commerce, Agriculture, and the Interior, and in major universities around the Nation. The normal planning period for a Corps of Engineers project is 17 years; 17 years. At the current rate of loss, Louisiana

will lose 935 square miles of wetlands in 17 years, an area almost the size of the entire State of Rhode Island.

In most cases, and particularly in Louisiana, we know what the problems are. The Subcommittee on Fisheries and Wildlife Conservation and the Environment, which I chair, has held hearings on wetlands loss, and we know some of the things we can do to address the problems. We can divert more freshwater and sediment into the marshes to build wetlands. We can provide sand to nourish barrier beaches and plant vegetation to help hold the land together. We can plug canals, put in water control structures and undertake other activities to restore these important areas. We just have to start.

That is why I am today introducing legislation to conserve the coastal wetlands of the United States. My legislation would put the Corps of Engineers into the business of restoring our Nation's wetlands. Under the legislation, the Secretary of the Army, working with the States, would identify coastal wetland systems which have particular value as fish and wildlife habitat or for purposes of flood or pollution control and which are threatened with erosion or other degradation. Within 2½ years of the passage of the legislation, the Secretary of the Army would develop action plans for the Nation's 10 most threatened wetland systems. Plans for all threatened coastal wetlands would be required in 5½ years.

In developing these plans, the Secretary would work with other Federal agencies that have expertise in wetlands, such as the Fish and Wildlife Service, the Environmental Protection Agency, the National Marine Fisheries Service, and with State coastal agencies. The plans would be required to include projects recommended by the State unless the Secretary determined that the projects were not technically feasible. Once the plans were completed, projects included in the plan would be funded on a cost-sharing basis, with the Federal Government paying 75 percent of the costs and non-Federal interests paying 25 percent. During the period when the plans are being developed, the legislation authorizes emergency actions to protect coastal wetlands.

The price for protection of our wetlands will not be cheap. My legislation authorizes up to $30 million each year to carry out any completed plan. This is not an unreasonable figure when you consider what is at stake. Besides the economic loss of fisheries, fur bearing animals and waterfowl, we are in danger of losing much more. In Louisiana, and in other areas as well, wetlands serve as protection against hurricanes. The storm surges that hit the coastal areas lose their strength over the miles of marsh before reaching heavily populated areas. Without wetlands, the city of New Orleans, with more than 600,000 people, faces a very real peril. Other populated areas would be similarly threatened with loss of life and devastating economic impacts.

Mr. Speaker, we have learned, at a very late hour, that coastal wetlands serve us in many ways. We need action to protect them as soon as possible. I hope other Members will join me in sponsoring this legislation and gaining its quick approval by Congress.

THE BEST LITTLE WAR MONEY CAN BUY

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. BROOKS. Mr. Speaker, Art Buchwald's article in today's Washington Post is, I believe, one which deserves the attention of my fellow Members. Although Mr. Buchwald may have meant it to be humorous, I believe it's deadly serious and points out tremendous dangers for the American people.

The text of the article follows:

THE BEST LITTLE WAR MONEY CAN BUY

(By Art Buchwald)

Now that it looks as if the contras are going to get their U.S. military aid, the question is what kind of war can you buy for $100 million? No matter what the White House says, you don't get much of a bang for that.

"It used to be," said Desmond, a broker who underwrites small wars, "that you could keep a police action going for 12 months on $100 million. Now, if there is any shooting at all you can use it up in two."

"Where does it go?"

"If you're sending the money to any place in Central America, you have to pay 'transit' fees. Some money goes to the commanding officer of an adjoining country, some to customs officials for their children's education, and it is only fair that we donate funds to leaders of the freedom fighters for their relatives in Miami. Once that money has been dispensed, we can then deal with supplies for the troops."

"How much for the officials and how much for the troops?"

"If we can keep 50 percent of it for the fighters, we're very happy. But it is not for us to say to those below the border how much it takes to fight communists. The United States is willing to supply the people in the field with antiaircraft weapons, guns, rockets and other military equipment so they can go into Nicaragua and give the Marxists a thrashing they will never foret."

"Can we expect the contras to take over the Sandinista government?"

"Not on a lousy $100 million. That is what we in the war business call ante money. It makes Congress stay in the game to see the first card that is dealt out. The importance of the $100 million is not the size as much as the commitment that the U.S. has made. Let's say it's Ronald Reagan's Gulf of Tonkin resolution."

"So what happens after the first $100 million is turned over to the contras?"

"We wait and see. If they're winning big, the president will go back to Congress and ask for the money to finish the job. If the contra are doing badly, the president will ask Congress to vote additional money so they won't lose the war."

"Then in both cases Congress will be asked to vote money for the contra war."

"Is Castro Cuban?"

"Who came up with the $100 million figure?"

"A think tank at Georgetown. The president didn't want to buy a big war, and at the same time he was afraid he would be accused of not wanting any war at all. So the Georgetown people arrived at the $100 million figure on the assumption that the president could always get more later on. When you're buying a war the first $100 million is the toughest, because you really don't know how it is going to cost out. That's why anyone who thinks the $100 million is the bottom line should get a job baking fruitcakes."

"Will Congress have to give more money to the freedom fighters?"

"I'm afraid so. It may be a dirty little war from where we sit in Washington, but, at the same time, it is the only dirty little war we've got."

KAISA RANDPERE'S THIRD BIRTHDAY

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LOWRY of Washington. Mr. Speaker, the Fourth of July holiday gave us an opportunity to reflect on our national heritage of liberty. The rededication of the Statue of Liberty offered a reminder that the ideal of freedom inspires people in every nation.

Another anniversary took place just 3 days earlier. July 1 was Kaisa Randpere's third birthday. Kaisa is a little Estonian girl whose parents left the Soviet Union in 1984. At that time, they were forced to leave her behind in her grandmother's care.

Since that time, the Soviet authorities have repeatedly refused to give Kaisa an exit visa. Their refusal clearly violates the commitment undertaken by signatories of the Helsinki Final Act, to "deal in a positive and humanitarian spirit" with family reunification cases and to give special attention to requests of an urgent nature.

The Committee to Free Kaisa Randpere has done an outstanding job of drawing attention to Kaisa's plight. Many Members of Congress have also helped out. For example, Senator BILL ARMSTRONG and I asked Ambassador Michael Novak to bring up this case at the recent human rights meeting in Berne, Switzerland—one of the ongoing series of meetings that are part of the process initiated at Helsinki. Some 90 of our colleagues joined in this effort. It was very gratifying to learn that Ambassador Novak did make special mention of Kaisa at that meeting.

As part of its ongoing activities, the Committee to Free Kaisa Randpere held a vigil near the Soviet Embassy on July 9. Participants and passersby signed a large birthday card, and humanitarian appeals on her behalf were presented to Embassy officials. Our colleagues LAWRENCE COUGHLIN, DON RITTER, and WILLIAM CARNEY sent greetings to the participants in this vigil. Here is my own message of greetings to the July 9 gathering:

To The Friends of Kaisa Randpere: Thank you for coming here to support freedom for Kaisa Randpere, who is kept apart from her parents because Soviet officials refuse to grant her an exist visa.

We have just celebrated the Fourth of July holiday, the day when our nation rededicates itself to the cause of liberty. Your presence here today is wholly in keeping with the spirit of that day. After all, what does liberty mean if it does not mean that families can be together? And what cause is

more important than trying to reunite a child with her parents?

I met with Mr. and Mrs. Randpere when they visited Washington, DC a few months ago. It was heartbreaking to see these fine people and to know that they cannot be with their daughter as she grows up. We must keep up the pressure to right this wrong.

Kaisa is now three years old. I pledge that I will do everything in my power to see that she is reunited with her parents before another year passes.

DECLARATION OF INDEPENDENCE FROM NUCLEAR TYRANNY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ATKINS. Mr. Speaker, I rise today in full support of the simultaneous reading of the "Declaration of Independence from Nuclear Tyranny" that took place on July 3, 1986, on the steps of the 50 State capitol buildings.

The battle against tyranny in Government received strong support from Massachusetts in the 1700's and I am proud to see that the battle against the ultimate tyranny, that of nuclear weapons, is receiving similar support today. Therefore, on behalf of my constituents Kathy Brough and Ann Eno I insert into the RECORD the text of the "Declaration of Independence from Nuclear Tyranny".

DECLARATION OF INDEPENDENCE FROM NUCLEAR TYRANNY

When in the Course of human events, it becomes necessary for our people to resist the forces that imperil ourselves and the Life of Earth itself, it is imperative for us to declare the causes that threaten us.

We hold these truths to be self-evident that whenever a Government pursues a path toward destruction, it is the unalienable Right of the People to institute new policies in order to ensure Life, Liberty and the pursuit of Happiness.

When a succession of abuses manifests a design to hold humanity Hostage to the menace of nuclear death and desolation, it is the Duty of the People to cast off such Tyranny . . . this is the need which confronts us now.

We have suffered too long the dissipation of our resources through the production of nuclear armaments in the name of defense when their use could only destroy us.

We have been ignored too long in our pleas—that this civilized nation employ its full talents to foster not war but peace among all Peoples of the World.

We have submitted too long in our pleas—that this civilized nation employ its full talents to foster not war but Peace among all Peoples of the World.

We have submitted too long to the perfidy of Heads of Government who, in defiance of the Will of the Majority of the People, have scorned and rejected all efforts to Halt the Nuclear Arms Race.

We, therefore, the People of the United States of America, do solemnly publish and declare that we must be Free and Independent of the Terror imposed upon us by the threat of nuclear Holocaust.

We affirm that we shall never cease in our Commitment to rid the Earth of the Tyranny of nuclear weapons.

And for the support of this Declaration, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

WILLIAM A. WHEELER, OUTSTANDING INDIVIDUAL

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. MRAZEK. Mr. Speaker, I rise to pay tribute to an outstanding individual, William A. Wheeler, who is retiring as the director of the Suffolk County Veterans' Service Agency on July 25, 1986. For over 40 years, Bill has been actively involved in veterans' issues on Long Island. It is my pleasure to call his many fine accomplishments to the attention of my colleagues in the U.S. House of Representatives.

After serving our country honorably in the European theater in World War II, Bill returned home in early 1946 and immediately joined the Southold American Legion Post 803. A few years later, Bill transferred to the Babylon American Legion Post 94, where he has served with distinction for the last 35 years.

Bill served as post commander in 1956 and a Suffolk County commander in 1963. In July 1969, Bill became 10th district commander and in July 1976, was elected New York department vice chairman. Bill intends to remain active in the American Legion after his retirement.

On August 4, 1966, Bill became a counselor for the New York State Division of Veterans' Affairs. From there he moved on to become veterans' service officer with the Suffolk County Veterans' Service Agency. On August 25, 1975, then Suffolk County Executive John V.N. Klein appointed Bill director of the Suffolk County Veterans' Service Agency.

Mr. Speaker, I ask my colleagues to join with me, the people of the Third Congressional District and the people of Suffolk County in congratulating and thanking William Wheeler for his years of service to the veterans of Suffolk County and New York State. His service is an example of the wonderful contributions made to our society by many of our veterans.

MONROE COUNTY'S 150TH BIRTHDAY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. RITTER. Mr. Speaker, I would like to call your attention to a very special celebration now being held in my district. The people of Monroe County, PA, are at this moment engaged in their sesquicentennial celebration. Monroe County was chartered on April 1, 1836, by an act of the Commonwealth of Pennsylvania's Congress "Erecting part of Northampton and Pike Counties into a separate county to be called Monroe."

Since that time, the people of Monroe County have experienced growth and improvement centering around industries such as metal products, electrical machinery, furniture, textiles and, of course, tourism. In recent years, despite a disastrous flood in 1955, service industries have expanded and contributed to the improvement of the economy.

This week will be celebrated by a wide variety of events emphasizing county togetherness and fun. Some of these include historic church tours, concerts, open houses, block parties, a grand ball, and a gala parade.

As the congressional representative of the West End, a group of six townships, including Chestnut Hill, Eldred, Hamilton, Polk, Ross, and Tunkhannock, I am proud to bring their distincitive achievement to your attention, Mr. Speaker, and I hope that all Members of this body will join me in saluting the people of Monroe County, PA, on this, their sesquicentennial birthday.

RONALD REAGAN IS BRINGING AMERICA BACK—BUT HOW FAR?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. FORTNEY. Mr. Speaker, last week the Reagan administration notified State governments that they no longer can receive civil defense funds for natural disaster planning unless they also prepare for nuclear war. Echoing from that announcement was a Reagan campaign theme: "Bringing America Back." Ronald Reagan is indeed bringing America back. The questions are, "How far back," and "to what?"

The civil defense announcement is bringing us back to the hysterical days of the 1950's. You remember them. We built bomb shelters in our back yards, stored meager provisions in our basements and instructed our schoolchildren to hide under their desks in the event of a thermonuclear war.

The President's words remind us of Elvis and sock hops and family togetherness. Good times. His actions recall John Foster Dulles and the hard and bitter peace of the cold war. Not such good times.

President Reagan's version of defense policy also brings us back to the past. He would have us expend great effort and money on a fantasy called star wars that he believes would protect us from a Russian attack. Remember the debate in the 1960's over a similar ABM system? We argued about it for years, spent a lot of money and eventually deployed a limited system that we closed right after we opened it.

The legacy from the Sentinel and Safeguard systems was MIRV'd missiles that have vastly multiplied the threat of nuclear annihilation. The legacy from star wars could be the abandonment of every arms control treaty with the Russians and the most dangerous, costly round in the arms race yet.

Mr. Speaker, nostalgia is not a bad thing. It is fun and comforting to recall the happy times in the past. But we must remember our mistakes, too, and learn from them. As the old saying goes, "those who cannot remember the past are condemned to repeat it." Mr. Reagan has a very selective memory. But if

he refuses to learn the lessons of history, we will all be worse off for it.

PERSONAL EXPLANATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LELAND. Mr. Speaker, I was unavoidably detained in my congressional district on July 15, 1986, Tuesday. I requested that I be paired with my colleague HOWARD WOLPE on the amendments and final passage of H.R. 4510, Export-Import Bank amendments.

H.R. 5154—FEDERAL AVIATION ACT OF 1958

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ACKERMAN. Mr. Speaker, yesterday I introduced H.R. 5154, legislation to amend the Federal Aviation Act of 1958, to ensure that airlines do not discriminate against handicapped persons in providing air transportation. This bill is made necessary by the recent Supreme Court ruling that major airlines cannot be forced to comply with a civil rights law that prohibits discrimination against the handicapped, because they do not receive direct Federal assistance.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against handicapped persons, solely on the basis of their handicap, in any program or activity receiving Federal financial assistance. Handicapped rights groups brought suit against the Federal Government for failing to enforce the statute in connection with the operation of commercial airlines. The plaintiffs contend that the 1973 antidiscrimination law applies to airlines because they benefit from the nationwide air traffic control system the Government operates, and because the Government provides financial assistance to airport operators through grants from a trust fund created by the Airport and Airway Development Act of 1970.

In 1985, a U.S. Circuit Court of Appeals agreed with the plaintiffs, and ruled that the law applies to airlines because they benefit from the air traffic control system. Sadly, the Supreme Court has now overturned that decision, reaffirming the higher Court's controversial 1984 ruling in Grove College versus Bell, which limited the scope of four major civil rights laws to those programs or activities that receive Federal assistance. This is a shameful retreat in our national effort to combat discrimination in this country and cannot be tolerated.

The legislation which I introduced will amend the Federal Aviation Act to provide reasonable protection against discrimination for handicapped individuals. The measure requires that in providing service, equipment, and facilities in connection with interstate and overseas air transportation, an air carrier:

First, may not unjustly discriminate against a handicapped person because of that person's handicap;

Second, shall provide services to handicapped persons that are the same as services provided to persons who are not handicapped;

Third, shall provide equipment to handicapped persons adequate to enable such persons to use the sevices, equipment and facilities of the air carrier; and

Fourth, may not impose unreasonable restrictions on the use, or storage on board an aircraft, of any equipment needed by a handicapped person to use the services, equipment, and facilities of the air carrier.

In addition, the bill provides an important recourse feature, previously unavailable, that allows any person who suffers as a result of a violation of these provisions to bring a civil action in the district court of the United States for legal or equitable relief.

Supreme Court Justice Marshall, in a dissenting opinion joined by Justices Brennan and Blackmun, said, "Commercial airlines * * * act as gatekeepers controlling who shall enjoy, and under what conditions, important benefits under federally funded and conducted programs." I urge my colleagues to join me in prohibiting airlines from discriminating against handicapped persons by cosponsoring this important legislation.

CONGRESSIONAL SALUTE TO HON. ALEXIS DOLINOFF OF NEW JERSEY, ESTEEMED CHIEF OF THE ERSKINE LAKES FIRE CO.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ROE. Mr. Speaker, on Saturday, July 19, the residents of the Borough of Ringwood, County of Passaic, and State of New Jersey will join together in testimony to the outstanding public service rendered to our community, State, and Nation by one of our most distinguished public safety officers and good friend—the Honorable Alexis Dolinoff, esteemed chief of the Erskine Lakes Fire Co. of Ringwood, NJ.

Chief Dolinoff has indeed earned the highest respect and esteem of all of us for the quality of his leadership and highest standards of excellence in seeking to achieve optimum public safety for all of our people. He has served the Borough of Ringwood in many capacities, as special policeman, crossing guard, and as a founding member of the Erskine Lake Volunteer Fire Department.

Mr. Speaker, the Erskine Lakes Volunteer Fire Department was incorporated in the State of New Jersey in 1946. It was started by a few men who researched the requirements of a fire department. Their first piece of equipment was purchased secondhand and stored in someone's garage. In 1949 the original building was dedicated and a 500-gallon tanker was purchased to bring a much-needed water supply to the firemen. In the ensuing years both the building and equipment have been updated and improved to meet the needs of a rapidly growing community and through all these changes Alexis Dolinoff has remained a constant presence. He has been an active fireman for all of Erskine Lakes 40-year history. He has served as lieutenant, captain, assistant chief, and on August 18, 1965, was sworn in as chief. It is especially significant to note that the Erskine Lakes Fire Co. has chosen as the highlight of its four-decade history celebration to honor Alexis Dolinoff.

Alexis Dolinoff was born in 1900 near St. Petersburg in Russia. A descendant of a Knight of the Crusades, his full name is actually Alekseivitch Dolinoff de Wells, the English suffix having been added by Richard the Lion-Hearted in recognition of the services of his distinguished ancestor. His family escaped Russia after the revolution and settled in London. A friend's advice to take ballet lessons to strengthen an injured knee led to perhaps the most notable of Alex's 36 money-earning skills from barber to racecar driver.

In 1924 Alexis auditioned for Anna Pavlova, the highly prestigious Russian classical ballerina (1885–1931), and traveled around the world with her company through 1926. His ability to speak seven languages stood him in good stead on these trips. Before these tours were over Alexis was dancing as premier solosist. Alexis immigrated to the United States in 1935 and helped to found the Philadelphia Ballet Co. and was premier danseur for 5 years with the Metropolitan Opera Association. Alexis Dolinoff has given command performances in front of three kings, one queen, and four presidents and received an honorary doctorate from the Sorbonne.

A search for solitude brought Dolinoff to Ringwood, NJ in 1940. He purchased a log home which he used as a weekend retreat. Six years later he sold the home and purchased a piece of property on Cupsaw Lake in Ringwood where he himself built the house where he currently resides.

Mr. Speaker, throughout his lifetime, Chief Dolinoff has forged ahead with dedication, devotion, and sincerity of purpose in his career pursuits. We applaud his knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community.

Alexis Dolinoff has been a staunch supporter and active participant in many civic and community improvement programs and we are especially appreciative of his leadership endeavors for four decades in the vanguard of our public safety officers.

Mr. Speaker, we are all proud of the dedicated men and women of the public safety corps throughout our country. As we gather together on July 19 in commemoration of the 40th anniversary of the Erskine Lakes Fire Co. in recognition of the vast contribution the firefighting volunteers of our community have made to the quality of life in placing others above self in safeguarding our people and property against the perils of fire, we do indeed salute their esteemed fire chief—with deepest appreciation for his 40 years of outstanding public service to mankind—the Honorable Alexis Dolinoff of New Jersey.

MEMORIAL TRIBUTE TO MILTON McKEVETT TEAGUE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the death of Milton McKevett Teague, a Ventura County leading citizen, a long-time friend, and the brother of the late Congressman Charles Teague.

Milton Teague was the son of Ventura County agricultural pioneer Charles Collins Teague and was born in Santa Paula, CA, where he spent his entire life.

He will long be remembered for his long-time agricultural, business, and civic leadership as well as for being a generous and gentle man who devoted his life to raising citrus fruit on what is considered to be the world's largest citrus ranch. Mr. Teague joined Limoneira Associate after graduation from Stanford University in 1925 with a degree in entomology. He worked first in the company laboratory and later took on the administration of the huge ranch. He served as chairman of the board and was general manager from 1947 until 1967.

During his last year at Stanford University, Milton married the former Alfrida Poco and after graduation brought her to the city of his birth where they established a permanent home and where Alfrida still resides.

Mr. Teague was recognized in Ventura County for more than his agricultural activities. He was well known as well for his work in business, politics, and the community.

Besides chairing the Limoneira board, McKevett Corp. and the Teague-McKevett Co., he was also the president and director of Farmers Irrigation Co., Thermal Belt Mutual Water Co., Middle Road Mutual Water Co., Tapo Oil Co., Insect Control Cooperative, and the Ventura County Fruit Exchange.

He served 25 years on the board of the Security Pacific National Bank. He also served on the Agricultural Council of California and with Sunkist Growers where he was president for 7 years. He was chairman emeritus of the California Orchard Co. in King City, CA.

Although a lifelong Republican, Democratic Governor Edmund G. "Pat" Brown appointed Milton to a 4-year term on the California Constitutional Revision Commission.

Like his father, Milton Teague served as president of the State chamber of commerce, his father being the first from Ventura County to hold this position and Milton being the second. He served three consecutive terms ending in 1966.

The long list of Milton's civic memberships include the United Way, the California Club, Santa Paula Rotary Club, and Saticoy Country Club. He was founding president of the Ventura County Chest which later became the Ventura County United Way.

Milton received many honors during his lifetime and each one was well deserved. He had given his time, talents, and fortune to many worthy causes.

Please join me in expressing sympathy to Alfrida and her family in this loss of a loving husband and father.

A LEAVE FOR PARENTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. EDWARDS of California. Mr. Speaker, increasing public support for some form of parental leave has compelled the Congress to formally, and seriously, address this important family issue. Attention to a sick or newborn child should not put parents at risk of losing a job. Fortunately, the House will soon debate and vote upon H.R. 4300, the Family and Medical Leave Act. I wish to commend my good friend, Congresswoman SCHROEDER, who authored this fine bill, and Chairman CLAY, who has so expertly guided this bill to the floor for consideration.

I am pleased to share with my colleagues an editorial on this subject of national concern which appeared recently in the Sacramento Bee. I am confident that upon weighing the merits of this worthy effort, made compelling by this editorial column, my colleagues will give their overwhelming support to the enactment of H.R. 4300. Anyone truly concerned about the health of American families should support this long overdue legislation.

[From the Sacramento Bee, June 26, 1986]

A LEAVE FOR PARENTS

Neither government nor private business has been quick to react to the flood of women and mothers into the workplace, but this year there is finally a chance of action on at least one issue of concern to young families: job leaves for new parents.

The United States, unlike every other developed nation, makes no provision to protect the jobs and incomes of workers, newly faced with the challenge of parenthood. Although some companies offer paid parental leave, a larger number provide only disability leaves for childbirth or short periods of unpaid maternity leave, and many provide no job-protected leave, and many provide no job-protected leave at all. The result is that too many parents—usually mothers—are forced to make an agonizing choice: either leave their infants at an early age or give up jobs vital to the family's standard of living.

To ease that dilemma, Reps. William L. Clay and Patricia Schroeder are sponsoring legislation to create the first national policy on parental and medical leaves. Their bill, HR 4300, would require all employers with more than 15 employees to offer 18 weeks of unpaid, job-protected leave to new parents. It would also require firms to provide 26 weeks of unpaid medical leave to employees who are the victims of serious illnesses or injuries.

CITY OF DOWNEY ANNOUNCES FUNDRAISING EFFORTS FOR SPACE SHUTTLE MEMORIAL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. ANDERSON. Mr. Speaker, back in the 1960's, Rockwell International Corp. put the city of Downey, CA, on the map with its space station systems and space transportation systems divisions headquartered there. Downey became affectionately known as the Home of Apollo and the great success of this mission over the years gave Downey residents a truly special kinship with the space program.

This is why the city of Downey has announced fundraising efforts to build a memorial in memory of the Space Shuttle *Challenger* crew who perished on January 28.

This memorial is designed by Rockwell and will be located on the grounds of the Downey Civic Center. Plans call for a granite base with a bronze plaque depicting an airborne shuttle, with the names of the astronauts, their mission responsibilities, and the legend: "We will never forget you."

To help make this memorial a truly community project, contributions from individuals are encouraged. Donors will be acknowledged with a speical certificate of remembrance.

Mr. Speaker, I take this opportunity to commend those in the city of Downey and at Rockwell who have undertaken this special endeavor. This memorial will be a fitting tribute to the *Challenger* crew and the city of Downey, its residents and local businesses can take great pride in it.

THE PROBLEM OF VIOLENCE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1986

Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the 114-member Ad Hoc Congressional Committee for Irish Affairs I have a deep and abiding interest in the issue of peace and justice for these six counties.

The previous 9 months have been rather significant with respect to the Irish issue. We witnessed the Governments of Great Britain and the Republic of Ireland sign the so-called Anglo-Irish Agreement which provides the Republic of Ireland with a consultative role in the affairs of Northern Ireland. I labeled the agreement as a fragile first step. I contended then and continue to today that much more must be done before we can genuinely move forward in terms of achieving a solution in Northern Ireland.

One of the most pervasive of all problems which stands in the way of progress is the evil of violence. It has been fashionable in recent years to limit "concern" about violence to the celebrated acts of civilian violence and even within that narrow view, a specific focus on civilian violence on the nationalist side. How-

ever since the signing of the Anglo-Irish Agreement there has been a tremendous upsurge in violence both on the civilian and official side. The unionists in northern Ireland have waged an almost constant battle over the accord including some severe violence during various marches last week. Such violence is repugnant as are all incidents of violence.

However and perhaps even more significant to our discussion of violence in Northern Ireland is the problem of official violence. Last week it was announced that two senior officers of the Royal Ulster constabulary, were suspended as part of an investigation that the RUC might have victimized unarmed and innocent catholics as part of their so called "shoot to kill" policies of several years ago aimed at suspected terrorists from the Irish Republican Army.

This investigation has finally focused world attention on the other side of the evil coin of violence in Northern Ireland. The investigation headed until recently by detective John Stalker had uncovered evidence of excesses by the RUC in the implementation of this policy. However in what the New York Times referred to as a "thus far vague disciplinary inquiry" Stalker was removed from his duties.

Concerns about the RUC and their conduct prompted the U.S. State Department to impose a suspension on future shipments of arms and ammunition to the RUC in 1979. This policy remains in effect as of this date and should be continued until such time as the RUC can demonstrate a higher standard of conduct and respect for human rights.

Yet the larger issue involved here relates to the future role of security forces in any political solution which may exist for Northern Ireland. It is vital that equal justice for both communities is practiced by all security forces in Northern Ireland, most especially the one which may be the largest in the province.

Both the House and Senate have passed legislation providing $50 million in economic aid for Northern Ireland. I voted for an earlier authorization bill which passed the House which attached some important conditions governing this aid. Included in these conditions were assurances that it would be used only for economic aid and not security oriented assistance. However equally as important is the requirement that the President must certify each year to Congress that the aid has "increased respect for human rights for all the people of Northern Ireland." The bill adopted by the House and Senate does not include these conditions but once Senate action is completed on the authorization, the conditions would be applicable and they must be in my judgement.

I wish to call to the attention of my colleagues several articles which appeared in the past several days regarding the controversies surrounding the RUC in Northern Ireland. The first comes from the Irish Echo, its July 5 edition, then the New York Times and Washington Post.

[From the Irish Echo, July 5, 1986]

STALKER REPORT: DID BRITS LIE TO DUBLIN?

DUBLIN.—The Irish Government is considering the implications of Britian's about-face on the status of the Stalker report amid claims that it was lied to when told that the report concerning allegations against the RUC (Northern Ireland Police) was a final one.

The government was told that the report submitted by the Deputy Chief Constable of the Greater Manchester area, John Stalker, regarding claims that the RUC was operating a "shoot to kill" policy at the time of the shooting of six unarmed IRA suspects in the North in 1982 was final.

But on June 19, Britian's Northern Ireland Secretary Tom King contacted Irish Foreign Minister Peter Barry to tell him that the earlier information had been incorrect and that Stalker's report was an interim one.

Irish Prime Minister Garret FitzGerald said on July 20 he believed that King and Nicholas Scott, Minister of State at the Northern Ireland Office, had been under a misapprehension about the status of the report.

A government spokesman said they were trying to assess the implications of what they had now been told.

Other sources close to the government said bluntly that the British had told lies about the report.

Stalker has gone on enforced leave while another English police officer has taken charge of the inquiry amid claims that a smear campaign has been launched in order to discredit the Manchester officer's work in Northern Ireland.

Stalker's report, which is said to point a finger at senior RUC officers has been submitted to the Director of Public Prosecution (District Attorney).

Meanwhile the RUC Chief Constable, Sir John Hermon, denied on British television last week that his force had anything to do with the suspension of Stalker.

Hermon said that what he called "media speculation" linking his force to the Stalker suspension was "intolerable and unfair."

On the RTE radio program This Week last Sunday FitzGerald said the important thing now was that the queries of the Director of Public Prosecutions be dealt with and that the DPP should be free to take whatever action was necessary to clear up the matter once and for all.

If these steps were not taken, FitzGerald said it would be very difficult for the minority in Northern Ireland to have confidence in the policing system there. "It is vital that this issue be cleared up," he said.

FitzGerald will meet British Prime Minister Margaret Thatcher on Friday during the EEC summit in The Hague. This will be their first opportunity to assess the workings of the Anglo-Irish agreement since meeting in February at Downing Street.

STALKER SAYS HE IS TOTALLY INNOCENT OF ANY WRONGDOING

MANCHESTER, ENGLAND.—John Stalker, the Deputy Chief Constable of Greater Manchester, who is now on enforced leave of absence and has been replaced as head of the inquiry into allegations of a police "shoot to kill" policy in Northern Ireland, insisted last week that he was totally innocent of any wrongdoing.

At a press conference, he called for a swift conclusion of the examination of the evidence against him—although he has yet to be told of any specific alleged disciplinary offense—and the Greater Manchester Police Authority was asked to let him return to duty immmediately. Stalker also made it clear that he would have liked to carry on his investigation in Northern Ireland.

He said that some items of evidence gathered about him, after four weeks of detailed investigation, were "totally innocuous."

Labor Party members of the Police Authority plan to meet with Colin Sampson, chief constable of West Yorkshire, who is investigating allegations of a disciplinary offense by Stalker. They will ask him whether there are sufficient grounds to keep Stalker from returning to his post.

There have also been moves in the Labor group, meeting in private to seek support for a move at this week's annual meeting of the Police Authority to propose his immediate resumption of duty.

At the same time there will be an attempt to replace Norman Briggs, the Labor chairman of the authority.

There is a strong feeling within the Labor group that Stalker—described by one member as "this reputable officer"—should not have been sent on enforced leave before members of the authority had satisfied themselves that there were strong grounds for action.

After Stalker had spoken in public at the June 25 press conference. His case was also raised by Cecil Franks, Conservative MP for Barrow.

Franks said: "Two sinister aspects seem to be appearing in this matter. The first is the novel concept of guilt by association, which may apply behind the Iron Curtain and in totalitarian states, but certainly has no place in a democracy and in the British legal system.

"The second is the suggestion, which his gaining increasing currency, that Mr. Stalker in his inquiries in Northern Ireland was getting far too close to the truth and had to be stopped. The longer this matter is allowed to continue without conclusion, the great credence will be given to these suggestions.

"At the end of this week, one of two things must happen, if there is prima facia evidence against Mr. Stalker, he must be formally charged and suspended pending an inquiry. Otherwise, he should resume his job as Deputy Chief Constable and also resume his inquiry into Northern Ireland allegations."

Stalker and his lawyers Rodger Pannone and Peter Lakin, made it clear last week that the evidence presented was in their view flimsy.

At a meeting on June 23 Stalker was given a written report and was shown five photographs believed to be taken four years ago at the 50th birthday party of Kevin Taylor, a Manchester businessman who has been a friend of Stalker for many years. Stalker appeared in only one of the photographs.

Taylor disclosed several weeks ago that he has been under police investigation since last August but did not know why. He has also said that he has never been accused of any wrongdoing.

In a statement which he read, Pannone said that Stalker did not understand what the alleged disciplinary offense was, and that the report he was given did not enlighten him. In the heading to the report, the words "allegation" and "complaint" had been deleted, he said.

The report said that Stalker had been on holiday with Taylor and the holiday or holidays might have been at Taylor's expense; that between 1982 and 1985 Stalker attended four functions with Taylor at which convicted persons were present; and that Taylor was an associate of named criminals and Stalker should therefore have ceased his association with him.

Stalker agreed that he had attended the four functions referred to in Sampson's report—a 50th birthday celebration, a fund-raising occasion for Swinton Rugby League Club, a Conservative ball, and 20th wedding anniversary.

Stalker said he did not think it unwise to have attended functions at which criminals were present. "One of the risks that senior policemen, judges, solicitors, journalists, take is that when attending well-attended functions, there is more than likely to be someone there you wouldn't necessarily want to bring home."

He said he was totally innocent of any wrongdoing. The association with criminals hurts me greatly after 30 years of police work. I have never associated with criminals wrongfully." Most of those 30 years had been as a detective.

Stalker said that his relationship with Taylor had not been as close as people had perhaps been led to believe. "Over the last three or four years, I have seen him perhaps five or six times a year, because I'm busy and he's busy. When we do see each other we enjoy each other's company very much, and I don't regret having pursued that."

A number of British newspapers have editorially questioned Stalker's suspension. Several have alleged that the suspension came about because his report on the RUC (Northern Ireland police) called for the charging of senior RUC officers with operating a "shoot to kill" policy in Northern Ireland.

POLITICS IN ULSTER TURN A SPOTLIGHT ON THE POLICE

(By Francis X. Clines)

BELFAST, NORTHERN IRELAND, July 13—In the heat of still another night of sporadic confrontation and violence, the police force of Northern Ireland quietly indicated Saturday at midnight just how beleaguered it has become in the treacherous politics of a divided Ireland.

Leaders of the force announced the suspension of two senior officers in the investigation into charges that the police might have victimized unarmed Roman Catholics in "shoot to kill" excesses directed at Irish Republican Army terrorists four years ago.

The action was the first to be announced against ranking policemen in the long simmering controversy about the force, which is formally known as the Royal Ulster Constabulary.

It was an instant flag to both sides in the sectarian struggle. In the absence of a full-fledged political life because of the province's dependence on England, the behavior of the local police in life-and-death confrontation is often the main stuff of debate.

WIDESPREAD SCRUTING

The Ulster police are being scrutinized as well by the Governments in London and Dublin. For the fairness and ability to function by the 8,000-member constabulary could be is a measure of the chances of the new British-Irish agreement to take root in the stony ground of Northern Ireland's sectarian enmity.

The agreement allows the Dublin Government a consultative voice in Northern Irish affairs, particularly in matters of justice. This is a token step that has nonetheless enraged Protestant loyalists devoted to British allegiance.

In terms of police sensitivity, the timing and wording of the suspension announcement was revealing, for it was issued late Saturday night, too late for the Protestant majority to discover in Sunday editions to the Belfast newspapers.

The announcement came at the end of a day in which Catholics accused the police of yielding their neighborhood to parading Protestant "bully boys;" a day in which Protestants denounced the police as pro-Catholic while loyalist toughs battled officers in the streets of Portadown, and a day in which the police themselves clearly chafed at the necessity of investigating their own past behavior.

REPUTATION IS "MALIGNED"

"The reputation of the R.U.C. has been unjustly maligned," said its commander, Sir John Hermon, in denouncing the months of speculation surrounding the force's much criticized effort to investigate the 1982 killing of six unarmed Catholics.

Equal treatment by the police is at the heart of many rights complaints from Catholics, and now Protestant militants have begun beating and burning policemen, contending they have been favoring Catholics in response to pressure from London and Dublin.

The cliche about a policeman's unhappy lot seemed never truer than in Portadown this weekend. As they arrived at one point to protect a Catholic nationalist ghetto from Protestant loyalists fire-bombs, the police vans were stoned and kicked by Catholic youths apparently settling old scores and angry that the community was so vulnerable.

LINE-OF-DUTY DEFENSE

In the 1982 incidents, critics charged that the police set up retaliatory ambushes against unarmed Catholic suspects. But the policemen involved pleaded line-of-duty defense against suspected terrorists in a province in which the police, on the job and in their homes, have been principal targets of I.R.A. assassins.

Only last week, two gunmen approached an off-duty officer working in a field and shot him dead as his 12-year-old son watched. Loyalist terrorists in turn killed a Catholic civilian a few days later.

Action against the senior officers was recommended over a year ago by John Stalker, a constable detective from England who was put in charge of the inquiry but was later removed after an unrelated and thus far vague disciplinary inquiry.

Critics have said that Mr. Stalker was close to embarrassing findings and was removed in an attempt at whitewash by British officials sensitive to roiling Ulster loyalists. Downing Street, which reimposed direct rule in Ulster 14 years ago when law and order problems reached critical proportions, disowned any such intrusion.

Here, amid the hard streets and picturesque dales where northern politics is acted out, the suspension announcement seems likely to prompt fresh denunciations of the British-Irish pact from Protestant activists. They worked hard against the pact this weekend to get the police to ease their ban on Protestant marches through Catholic neighborhoods.

They succeeded to the extent that Catholics accused the police of yielding unjustly to majority pressure and undermining the pact's chances. In having to defend their actions in the mean streets of Irish politics, the constabulary police are left with whatever comfort lies in being denounced with equal vehemence by both parts of their community.

[From the Washington Post, July 13, 1986]

MARCHES PEACEFUL IN ULSTER—FACTIONAL STREET CLASHES RENEWED AS NIGHT FALLS

(By Karen DeYoung)

BELFAST, July 12.—After a night of violence throughout Northern Ireland that left at least 100 persons injured, half of them police officers, the most important day in the Protestant "marching" calendar passed in relative peace today.

As darkness fell tonight, however, new street clashes began between Protestant and Catholic youths, and between police and Protestants in a number of areas.

In a separate development, the Royal Ulster Constabulary, the province's police force, announced tonight the suspension from duty of two men, believed to be senior officers. The suspensions, according to a terse constabulary announcement, were based on recommendations of an independent British police inquiry into an alleged RUC "shoot-to-kill" policy against suspected Catholic terrorists that left six unarmed men dead in 1982.

Tens of thousands of Protestants took to the streets in 19 towns and cities in the province this morning to commemorate their forefathers' victory over the Catholics in the 1690 Battle of the Boyne. Organized by the Orange Order, the Protestant civic and social lodges that blanket the province, the marches are lengthy processions of fife and drum bands and lodge members wearing traditional bowler hats and carrying furled umbrellas.

Painted banners carried at the head of each lodge group commemorated battles won by William of Orange against the Catholic James II nearly 300 years ago. Many had slogans such as "Defense Against Popery;" most included a depiction of William himself, dressed in a red coat and plumed hat, astride a prancing white charger with his sword held aloft.

March routes were fortified with a strong police presence, backed by British Army troops. But the atmosphere in most places was festive, more akin to American Independence Day parades than the battlegrounds British authorities had feared.

Catholic political leaders, however, sharply protested a police decision late last night to allow Protestants to march today through Catholic neighborhoods in Portadown, a partial reversal of a police ban announced last week.

The decision seemed likely to set back government efforts to convince minority Catholics that the predominantly Protestant constabulary is a nonsectarian force willing to defend their interests.

"Depoliticizing" the constabulary, and overcoming widespread Catholic suspicion based on incidents like those under the alleged "shoot-to-kill" policy in 1982, are among the principal goals of the Anglo-Irish agreement signed last November by the governments of Britain and Ireland. The agreement, which gives Dublin a consultative voice in running the province on behalf of the Catholics, is despised by the Protestant majority, which has vowed to destroy it.

The rerouting of last year's Portadown march led to the first of what have now become regular clashes between Protestants and police that have increased in ferocity and frequency—as have killings of police and soldiers by the Irish Republican Army since the agreement was signed.

John Hume, leader of the predominantly Catholic Social Democratic and Labor Party, called the police reversal on this

year's Portadown parade a "victory for the bullyboys and cudgel carriers."

Brian Lennon, a Catholic priest in Portadown, said that "people are furious" over the decision. "There is no respect being shown for the Catholic or nationalist identity in this province."

Catholics living along the Garvachy Road in Portadown stayed indoors, their sidewalk lined shoulder to shoulder with police, as about 400 Orange Order marchers walked by this morning.

Although the parade passed without incident, surrounding streets still were littered with the debris of a night of rioting.

After the Portadown march local Orangemen and their bands headed for another parade in nearby Armagh, the county seat. There, the atmosphere was noticeably cheerful, with thousands of families turned out in their best clothes to cheer.

Even at the most festive parades, however, there was little willingness by many Protestants to forget what they see as the threat posed by the Anglo-Irish agreement.

Most seemed to share the views of Jack Hobson, a retired milkman, and his wife Doris who positioned their lawn chairs on a traffic island in the middle of Armagh's main street today for a good view of the march.

"There is no use in beating around the bush," Doris Hobson said. The purpose of the agreement—although heatedly denied in both Dublin and London—"is to get a united Ireland" under Catholic rule from Rome. The British government, she said, "is trying to sell us out."

Jack Hobson agreed. The Protestants, he said would stand up for their rights, even if it took violence: "We've done it before."

71-059 O-87-5 (Pt. 12)

SENATE—*Wednesday, July 16, 1986*

Legislative day of Monday, July 14, 1986

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of life and light and truth, we celebrate with gratitude the beautiful new facility now enjoyed by the Senate radio and TV gallery and for those who made it possible. We thank You for the men and women who work in the gallery—for their partnership with the Senate. We thank You for their dedication to serve the people by keeping them informed. Help them to be faithful eschewing disinformation and misinformation. We thank You for their courage to be critical as well as friendly and for the seriousness with which the Senate evaluates their criticism. We thank You for the freedom of the press and media and pray that the Senate will guard that freedom and the press and media will not abuse it. Grant that both, media and Senate, within integrity, will be committed to truth and to accuracy, never forgetting their responsibility to serve the people. In His name, Who is truth incarnate, Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND.

TELEVISION IN THE SENATE

Mr. DOLE. Mr. President, it is obvious that without TV in the Senate, which we will be without today, tomorrow, and Friday, that it is a little dark in here. Whether that will make it easier to accomplish our agenda or not, I am not certain. But those who wanted it dark will have it dark for 2 or 3 days. I was sort of getting used to the light. But I cannot believe that we really worked in this place all those years in the dark. But we will be back on television. We are live on radio, but not live on television until next Monday.

SCHEDULE

Mr. DOLE. Mr. President, there are a number of special orders, and I will yield 3 minutes of my leader time to the distinguished Presiding Officer, Senator THURMOND, who also has a 5-minute special order.

At the conclusion of morning business we hope to take up H.R. 3113, the Central Valley projects bill, followed by the risk retention bill, with possibly a time agreement on the risk retention bill, and then Executive Calendar No. 13, the extradition treaty with the United Kingdom, to which there are a number of amendments. Also Calendar No. 708, S. 2610, to authorize supplemental economic and military assistance for the Philippines may come up.

I indicate to my colleagues that if we can get action on some of these bills, I will be in a position to judge our schedule, hopefully, by noon or perhaps a little later in the afternoon. I have already had inquiries about how long we would be here on Friday and I would like to make that announcement. I hope those who have an interest in these bills will cooperate with the leadership on both sides and come to the floor, so we do not have 20- or 30-minute quorum calls. If we could start, for example, H.R. 3113, Central Valley projects bill, immediately after we conclude morning business, that will be very helpful. In the meantime staff on both sides are working to see if we can be prepared, as soon as that bill is finished, to have another one ready so we do not have this long lag of 30 or 45 minutes between each bill waiting for the managers to show up.

RELEASE OF SOVIET REFUSENIK ALEXANDER YAKIR

Mr. DOLE. Mr. President, yesterday I met with Secretary of State George Shultz. We discussed many issues, from aid to the Contras and the foreign aid budget to human rights issues. While recent news about human rights—whether from South Africa or Chile—has been dismal, today I have some good news to announce.

A young Soviet Jew, Alexander Yakir, who has been in a labor camp on trumped-up charges of draft evasion was released from prison several weeks ago and has returned to his home in Moscow.

Yakir was another so-called refusenik, whose only real offense was to want to emigrate from the Soviet Union.

I was only one of many from the United States who pressed the Soviet Government for his release. Now that he is out of prison, the next step is for the granting of emigration visas for Mr. Yakir and his mother and father.

In a note, I told Mr. Yakir that he had good friends in America, and many friends in the U.S. Senate on both sides of the aisle, friends who will not forget his dream.

But Mr. Yakir is not alone. There are more than 400,000 Jews, who if given the chance would leave the Soviet Union. We will not forget their dream either. We, who hold human rights supreme, will seize every opportunity to beseech the Soviet Government for a fundamental change in policy, for the granting of the most basic of human rights, the right to choose where you want to live.

Mr. President, in my letter, which I would like to appear in the RECORD at the end of my remarks, I urged Mr. Yakir to remain strong. We too must remain strong, strong and determined to carry on the fight for the thousands of Soviet people, Jews and Christians alike, who want to resettle in the West.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to which I have made reference.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is as ordered.

The letter ordered to be printed in the RECORD, follows:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, July 15, 1986.

Mr. ALEXANDER YAKIR,
96 Profsoyusnaya, Korpus 5, Apartment 35, Moscow, Union of Soviet Socialist Republics 117485.

DEAR MR. YAKIR: I just heard the wonderful news of your release from prison and your return to Moscow.

Let us hope that gaining your freedom is only the first step toward emigration to the West for you and your family. You have good friends here, friends who will not forget your dream.

You have shown great determination and courage over the years. I hope that you will remain strong.

Sincerely,

BOB DOLE, *U.S. Senate.*

SUMMIT MEETING SUGGESTIONS

Mr. DOLE. Mr. President, it also appears there now seems to be more and more optimism about a meeting after the fall elections between Mr. Gorba-

chev and the President of the United States.

We are always giving advice to the President on what he ought to do to help our relationship with the Soviet Union. I might, in the appropriate spirit, indicate to Mr. Gorbachev that one way, I think, to make a lasting impression on the American people, particularly on those families of those who now would like to leave the Soviet Union, Jews or Christians alike, is perhaps to loosen up on their emigration policies. It would be a step in the right direction as we all prepare for a meeting, hopefully, some time in November or December, between our two leaders, President Reagan and Mr. Gorbachev.

I would also indicate that as far as our Government is concerned, it would be very helpful in my view if we take a hard look at some of our agricultural export policies as they relate to the Soviet Union.

The farm bill that was passed last December, included an export enhancement program. But because of some resistance by the administration, the benefits of this program are not being made available to the Soviet Union and, therefore, they are not buying from us. Why pay $14 more a ton if you can buy it from some other source.

It would seem to me that with the depressed state of agriculture, which is probably going to continue for some time, we need to make every reasonable effort to increase our exports. We cannot expect to sell grain to the Soviet Union, for example, if we are going to demand a price higher than any of our competitors.

So, it would be my hope that the administration in the very near future would change that policy. It would be a step in the right direction that we might take. Again, it would be a gesture of good will that would enhance the possibilities of reaching real results when Mr. Gorbachev and the President of the United States sit down together later this year.

□ 1110

Mr. President, I reserve the balance of my time, except for 3 minutes which I yield to the distinguished President pro tempore, Senator THURMOND.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

AFGHANISTAN

Mr. BYRD. Mr. President, anent those actions which the new General Secretary of the Soviet Union might take to stimulate interest in the President's meeting with the new General Secretary at a hoped-for summit, and more importantly what might help to pave the way for a building of confidence and faith on the part of the American people in what the Soviet leaders may say and what they may agree to, would be that the Soviets get their military forces out of Afghanistan. The world seems to have its eyes closed and its ears plugged as to what is going on in Afghanistan.

The Soviets have been in Afghanistan now for almost 7 years. Their military invasion of Afghanistan in December 1979 is what pulled the plug on the SALT II Treaty. That invasion put the SALT II Treaty on ice. The United States immediately reacted with sanctions against the Soviet Union, a grain embargo and other actions. Later, those sanctions were lifted. But the Soviets did not lift their siege of Afghanistan.

What we have seen there is the savage murder of men, women, and children, the dropping of booby-trapped toys from helicopters and airplanes, the result being that thousands of Afghanistan children who have had their arms blown off, legs blown off, and their eyes blinded; and millions of Afghans who love liberty have left the country.

The world goes on. Out of sight, out of mind. That appears to me to be the situation in Afghanistan. I know the difficulties are almost insurmountable, but the world press has the responsibility to reveal to the world as best it can, what is going on in Afghanistan—out of sight of the world.

So I hope that the free world will press the Soviets to get out of Afghanistan, as we hope for a summit between the two leaders of the United States and the Soviet Union, and as we hope for progress in arms control negotiations in Geneva and later at a summit.

LEGISLATIVE AGENDA

Mr. BYRD. Mr. President, in closing, may I say that we on our side will do whatever we possibly can to cooperate with the distinguished majority leader in getting legislation up throughout the day. And we will be discussing with him the various pieces of legislation which he identified.

Mr. President, I ask unanimous consent that I may reserve the balance of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

TEXTILE AGREEMENTS AND PUBLIC OPINION POLL

Mr. THURMOND. Mr. President, I would like to take this opportunity to voice strong concern over recently concluded textile bilateral trade agreements between the United States and Hong Kong and Taiwan.

Earlier this year, the United States Trade Representative announced that he would attempt to negotiate a "freeze" on textile/apparel imports to the United States from Hong Kong, Taiwan, and our other major suppliers. On the surface a freeze may seem appealing to some. However, closer examination proves the weakness of this strategy since textile/apparel imports from these and other nations reached record proportions last year. From Hong Kong alone, the United States absorbed over 1 billion square yards of textile/apparel imports in 1985. A freeze at those massive levels would not have been a bargain.

Yet, Mr. President, the recently completed agreements with Hong Kong and Taiwan do not even accomplish the freeze that Trade Representative Yeutter had announced that he would seek. To the contrary, the Hong Kong agreement guarantees 6 years of substantial growth from our largest value supplier of textile/apparel products. Over the life of this agreement, Hong Kong will be able to ship 7 billion square yards of textiles to this country. Much of this increase will be in sensitive apparel categories that already have high import penetration levels.

Mr. President, as always, the bottom line is jobs. Unfortunately, it is estimated that the increases allowed under the Hong Kong agreement alone will result in the loss of 25,000 jobs for American workers.

Mr. President, these agreements are just another factor leading to the continuing trend of record textile/apparel imports to the United States. During the first 5 months of 1986, textile/apparel imports from all sources grew at a staggering rate of 23 percent, compared to the same period in 1985. At the same time that import growth is soaring, the domestic market for textiles is only growing at a minimal rate of 1.5 percent a year. It is abundantly clear that we are headed for another record year of textile/apparel imports, and that we are facing a $20 billion textile/apparel trade deficit in 1986. These are the same circumstances that have cost us over 350,000 American textile industry jobs since 1980.

I have recently received the results of a national public opinion survey conducted by the Government Research Corporation and Mathew Greenwald & Associates. This survey polled the American public on their support for import controls and for controls on textile and apparel im-

ports in particular. According to this survey, 66 percent—I repeat, 66 percent—of the American people say their Congressman should vote to override President Reagan's veto of the textile bill and 73 percent say that their Congressman should vote to control clothing and textile imports. Also, 83 percent say that they will consider their Congressman's position on trade issues when deciding how to vote. In addition, 52 percent said that they would likely vote against their Congressman in November if he voted against controlling imports. It is evident that the vast majority of the American public favors limiting imports to help our trade situation. I ask unanimous consent that the fact sheet on the public opinion survey be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. THURMOND. Mr. President, I am a proud and enthusiastic supporter of the present administration on a wide range of issues. However, it is painfully evident to me that our current trade policy is extremely flawed and that thousands of U.S. manufacturing jobs, in all sectors, are being sacrificed because of it.

In an effort to help rectify this situation, last year I introduced the Textile and Apparel Trade Enforcement Act. The bill was designed to tie the growth of textile and apparel imports to the growth of the domestic market; reset textile and apparel import levels where they would be today had the administration adequately implemented and enforced the multifiber arrangement; allow foreign textile exporters over 40 percent of the U.S. market with built-in annual growth rates.

That legislation was approved overwhelmingly by both Houses of Congress. Unfortunately, President Reagan vetoed the Textile and Apparel Trade Enforcement Act. Mr. President, I would like to have the attention of the Chair while I am speaking. That action has left the United States without an efficient and effective textile trade policy.

Mr. President, Congress can no longer ignore this situation. We must be willing to take a stand for the American worker and the American industrial base. In August, Congress will have the opportunity to overturn the President's veto of the textile bill. We must be willing to take that important step. If we do not, then textile imports from foreign countries, that subsidize their products and produce them at slave wages, will continue to flood our markets, displace our workers, and harm our industries.

Mr. President, textiles and apparel is a national industry and a national responsibility. It is composed of 5,000 textile companies, 20,000 apparel companies, 120,000 wool growing and shearing operations, 41,000 cotton farms, and thousands of supplier companies. This issue is absolutely vital to the jobs of over 4 million workers nationwide that are directly and indirectly employed by the fiber/textile/apparel industry. How long are we going to stand by and watch healthy, ablebodied American workers go on welfare in the name of free trade? We must act decisively to give this industry and its employees a fighting chance to survive.

Mr. President, in closing, I want to say that I favor trading with other nations but I also favor trading in a fair way—not free trade, but fair trade. Why should we give thousands and thousands of jobs to other nations when our own people lose their jobs here? I think our first responsibility, and I think the first responsibility of this Congress is to protect its own people. Yet, we have lost 350,000 jobs in the last 5 years that have gone elsewhere that we could give to Americans.

I think the original arrangement that the President agreed to and which he gave me a commitment on, which is that he favored keeping the import growth in line with the domestic growth, is a fair one, but what has happened? The import growth has been 23 percent—I repeat, 23 percent over the last year—whereas the domestic growth has been below 3 percent.

Mr. President, that is unreasonable. It is throwing Americans out of jobs, and steps should be taken to address it. As I stated before, I think this administration has done an outstanding job in so many ways, but how can we stand idly by and see American jobs go overseas? Mr. President, the American textile people today have modernized their plants and done everything to compete. But how can they compete, for instance, when some of these countries pay from 16 cents an hour to 50 cents an hour, as do China and Hong Kong, when our workers are paid about $7 an hour? It is just impossible to do that. Therefore, we ought to keep the import growth in line with the domestic growth. If the domestic market grows, the imports can grow accordingly.

Mr. President, I hope the administration will take another look at this matter. I hope that they will realize the harm that they are doing the people of this country by allowing jobs to go to other nations.

Mr. President, I yield the floor.

EXHIBIT 1

GIVE AMERICA A FIGHTING CHANCE—STOP UNFAIR IMPORTS

FACT SHEET—PUBLIC OPINION ON TRADE

The following information was compiled from a national public opinion survey conducted in June by the Government Research Corporation and Mathew Greenwald & Associates. The survey is nationally projectable. The maximum sampling error is (+/−) 4 percent at the 95 percent confidence level.

Do Americans support imports controls? Do they support an override of the President's veto of the Textile and Apparel Trade Enforcement Act (H.R. 1562)?

66 percent say their "Congressman should vote to override Reagan's veto and control clothing and textile imports." 7 percent are undecided.

Northeast: 66 percent support override.
Midwest: 63 percent support override.
South: 67 percent support override.
West: 68 percent support override.

73 percent say their "Congressman should vote to control clothing and textile imports."

78 percent "favor Congress passing a bill that would limit imports from countries that engage in unfair trade practices."

83 percent say they "will consider their Congressman's position on trade issues when they decide who to vote for.

52 percent said they would likely "vote against their Congressman in November" if he voted against controlling imports.

Are Americans concerned about international trade?

71 percent say they are "angry that America is getting taken advantage of by its trading partners."

77 percent say they are "worried that Congress will not do much to stop our trading partners from hurting the economy."

32 percent say they "know of someone who has lost his job because of competition from foreign imports."

84 percent believe "the clothing and textile industry has been hurt by our trade relations with other countries."

80 percent believe "the clothing and textile industry has been hurt because other countries put more limits on what we can sell to them."

81 percent believe "the clothing and textile industry has been hurt because foreign governments give subsidies to their companies."

69 percent believe "the clothing and textile industry has been hurt because our government has been out-negotiated by foreign nations."

78 percent believe "the clothing and textile industry has been hurt because our government has been too lenient in trade negotiations."

85 percent believe "the clothing and textile industry has been hurt because foreign companies pay their workers very low wages."

Do other National Public Opinion surveys support the findings of the GRC/Greenwald Poll? Yes.

A November (1985) New York Times-CBS News Poll found that 63 percent of the American public believe "restricting foreign imports would be the most effective way for the U.S. to help its trade situation."

A February (1986) Roper survey found that 65 percent of the American public "favor restricting foreign imports."

A GRC/Greenwald survey conducted in March (1986) found that 57 percent of the American public feels "the government is doing a bad job in handling foreign trade."

RECOGNITION OF SENATOR DIXON

THE PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for a period not to exceed 5 minutes.

EMERGENCY STORAGE NEEDED FOR POTENTIAL RECORD CROPS

Mr. DIXON. Mr. President, I rise today amid alarming reports from my home State of Illinois, and other States across the Midwest, that our farmers will soon face a widespread shortage of storage space for grain.

Many of our farmers' loan contracts expire on July 31. Due to the depressed state of our agricultural economy, our grain prices are low. For this reason, a great number of farmers will decide to forfeit their crops when their contracts expire.

At this time, it is estimated that the State of Illinois may be 113 million bushels short of storage space when these contracts expire. Currently, elevators and warehouses which are used to store Government grain must first be approved for Federal licenses by the Commodity Credit Corporation [CCC]. This process is time consuming and though a number of temporary, emergency storage facilities have been licensed, even more space is needed. We are in a situation in which the grain may have to be stored in inadequate facilities, which could have a serious impact on the quality of our grain.

Crop reports for the State of Illinois and, indeed, across the Midwest, indicate that a record harvest is due this fall. Country elevators and warehouses do not have the storage capacity for this bumper crop harvest.

In fact, Time magazine highlighted the problem in its July 21, 1986, edition. Mr. President, I ask unanimous consent that the article entitled "Amber Waves of Strain," be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. DIXON. Mr. President, last fall, I fought for an amendment to the 1985 farm bill which allows warehousemen to transfer grain from one federally licensed warehouse to another. This would enable the warehousemen to prepare their facilities for the upcoming harvest. The amendment passed the Senate by a vote of 86 to 0, but was inadvertently dropped in the farm bill conference. It was accepted again by both the House and Senate early this spring. Unfortunately, Mr. President, there are no warehouses to which we can send this grain.

The Department of Agriculture has taken a minor step toward reducing the great storage shortage. It has agreed to extend loan agreements for 12 months at the farmer's request. A producer can then repay the loan at any time, but will not be able to forfeit the grain until the 12 months have expired. The Department has also agreed to pay 26½ cents per bushel for the storage of this grain.

While this may alleviate some of our storage crisis, the Department still needs to take a good hard look at the problem and guarantee our Nation's farmers that they have received a fair deal.

It should be more than obvious by now that the American farmer has been made to suffer needlessly. Over the past several years, the decline of our agricultural economy has been rapid and threatens the very fabric of our Nation.

Our great Nation was founded on agriculture. It is important that we work our hardest to protect the Nation's agricultural sector and the family farmer.

I yield the floor, Mr. President.

EXHIBIT No. 1

AMBER WAVES OF STRAIN

Across the farm belt last week, it was clear that another bumper crop is on the way. In Illinois, the corn is already seven feet high in spots and not close to topping out. Some corn is tasseling weeks ahead of schedule, and an early harvest is in prospect. Soybeans have also benefited from perfect weather; many plants are waist high and flowering ahead of time. Good, dry planting weather came early this year across Iowa and Nebraska, and even scattered flooding has not hurt the promise of a bountiful harvest. Elsewhere in the Midwest, it is much the same, a year so good that Dennis Vercler, news director of the Illinois Farm Bureau, calls it "absolutely phenomenal."

Yet the great bounty of U.S. agriculture continues to be a curse as well as a blessing. As the corn rises speedily, so does a forest of new silos that signals a crop-storage problem of epic proportions. All across the corn belt, from Indiana to Nebraska and Missouri to Minnesota, a binge of bin and silo building is in full swing. Reason: by the end of summer, U.S. farmers and the Department of Agriculture will be buried under more excess wheat, corn, rice and other products than ever before in history. Last week the immensity of the surplus became clear in the marketplace, as commodities traders sent the price of corn futures plunging to $1.71 per bu., the lowest level in twelve years.

While farmers fret about how to store the huge harvest, much tougher questions will loom as unavoidably as tarpaulin-covered mountains of wheat. The unsentimental truth is that America's farm industry, once a source of pride and power, has become an economic burden. Because so many other countries have improved their agricultural output, maintaining American's vast farming capacity is now a costly exercise in excess. During fiscal 1986 the expense to taxpayers for supporting farm programs will reach, according to the Government's estimates, $24 billion—a 36% increase over last year. As exports shrivel and imports increase, the U.S. agricultural industry no longer even produces the hefty foreign exchange earnings that farmers once provided.

To put the situation in order, the Government is allowing thousands of farmers to fail but is spending billions to boost foreign sales and prop up incomes for those who survive. Yet the adjustment process is a bitter one that promises hardship not only for farm families but for the thousands of already troubled farm-oriented businesses, including machinery builders, petrochemical companies, seed producers and the mom-and-pop shops that keep small rural towns alive.

This year's corn crop will be the most dramatic example of U.S. agriculture's relentless surpluses. Because of the almost perversely ideal weather, with exactly the right amount of rain at the proper intervals, says Illinois' Vercler, "crop development is just about the best ever." Last year's corn crop was the largest in history, 8.9 billion bu., of which a record 5 billion bu. is left over in storage. The expected bumper harvest of 8 billion bu. this year, smaller in volume than 1985's because an increasing number of farmers have taken some acreage out of production to qualify for Government support programs, will send prices plummeting even further into the cellar.

Other vast surpluses abound. At the beginning of last month, the U.S. held 1.9 billion bu. of wheat, a record overstock, and 847 million bu. of soybeans, almost 40% more than at the same time last year. Kansas alone held 178.8 million bu. of grain sorghum, a livestock feed, almost 80% more than in June 1985. The U.S. is producing a huge excess of milk as well, a problem reduced only partly by the USDA's program this year to pay thousands of dairy farmers some $1.8 billion to send their herds to slaughter or export market.

The Midwest's surplus is so stubbornly large that even this year's severe drought in the South will fail to boost depressed farm prices. The sad result: farmers in those states will face a double bind of low prices and small harvests, which could push many of them over the financial brink. Last week's heat wave, which reached 105° F in parts of the Carolinas, further scorched crops and killed more than 500,000 chickens. "This could put us completely out of business," laments dairy farmer Charlie Bouldin, of Chatham County, N.C., who expects less than 30% of his hay and corn crops to survive.

But for most farmers, the problem is a lack of customers. Foreign sales of U.S. farm products have faltered because dozens of countries from Brazil to China have become more self-sufficient, while heavily indebted Third World nations lack the money to buy significant imports. This year total U.S. farm exports are expected to dip to $27.5 billion, down 12% from fiscal 1985 and 37% from 1981. At the same time, U.S. imports of such products as fish, fruit and vegetables have increased. Earlier this month the USDA announced that during May the U.S. became a net importer of farm products for the first time since 1959, except for occasions when dockworkers were on strike. May's farm deficit was $348.7 million. Although the USDA predicts a $7.5 billion agricultural-trade surplus for the year as a whole, the historic one-month deficit outraged farm-state legislators. Said Senate Majority Leader Robert Dole of Kansas: "Something is radically wrong when the greatest food producer in the world is buying more agricultural commodities than

it is selling. This trend simply cannot continue."

The best hope for boosting exports at the moment is the Food Security Act of 1985, the farm legislation passed by Congress last December. The act allows the Government to lower agricultural price supports and thereby make U.S. products cheaper in foreign markets. The new farm policy, however, is proving very costly. To compensate farmers for lowered price supports, the law provides dramatic increases in so-called deficiency payments, which are given directly to farmers to ensure that their net incomes remain stable. Under the new plan, farmers will generally derive a larger portion of their income, typically more than a third, from the Government. As a result budget-cutting pressure could force the program to be scaled back next year in Congress. Moreover, the dramatic increase in U.S. farm subsidies fans protectionist sentiment in other countries.

The subsidies, however, are backed by many farm-state voters with an understandably desperate zeal. More than 50,000 of the country's 2.3 million farmers hung up their tractor keys for good during 1985, and 50,000 more will probably be forced to quit this year. Says Enid Schlipf, who grows corn in Gridley Township, Ill.: "If a farmer's got a lot of debt, he's in deep trouble, no matter how good an operator he is." Foreclosures and bankruptcy have devastated the morale of many lifetime farmers and spurred at least a score of heartland suicides. Last week a 54-year-old farmwife in Chattanooga, Okla., despondent over her family's debts on their 1,280-acre wheat-and-cotton operation, killed herself by climbing atop a barrel of burning trash.

The financial strain has been aggravated by a get-tough lending policy at the Farmers Home Administration, the federal agency that makes and guarantees agricultural loans, and the Farm Credit System, a network of more than 600 banks and credit associations. Both organizations have adopted a more stringent policy, cutting off the most overextended farmers. The FCS suffered a loss of $2.7 billion last year, and holds some $12 billion in problem loans on its books. Says FHA Administrator Vance Clark: "We're going to lose a lot of farmers this year, and we've got to accept that."

Besides farm lenders, thousands of other businesses have suffered ripple effects. Tractor sales, for example, totaled only 58,500 in 1985, compared with 139,000 during the last good year, 1979. The slump has promoted several famous manufacturers to leave the business. Milwaukee's Allis-Chalmers, New York's Sperry and Chicago's International Harvester (renamed Navistar International) have sold their farm-machinery operations to competitors, a consolidation trend that has caused tens of thousands of employee layoffs. Of some 20 farm-equipment dealers who prospered in McLean County, Ill, five years ago, only three remain.

Some of the more optimistic farmers think they see a few rays of dawn on the horizon. The continuing decline of interest rates, for example, makes it easier for them to meet payments on their land and equipment. Falling prices for fertilizers, seed and other supplies have helped too, by reducing farm expenses. Finally, the falling value of the U.S. dollar should make farm exports more affordable for foreigners. But it will take the U.S. a long time to sell off the surpluses it has produced. Those rays of dawn are still barely visible through the lush, tall cornstalks.—By Stephen Koepp. Reported by Gisela Bolte, Washington; and Lee Griggs, Des Moines.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for a period not to exceed 15 minutes.

LIGHTS IN THE SENATE CHAMBER

Mr. PROXMIRE. Mr. President, I want to call the attention of my colleagues to the fact that the lighting in here is different than it has been for a long time, and it is much, much better. It is more relaxing. I always work better in the dark, and I think a lot of other people do, too. They accuse Democrats of working better in the dark but I think that is true of Republicans also—maybe a little more so.

I think we should be aware of the fact these glaring lights have their problems. My understanding is that medical studies have conclusively shown that cataracts are caused by bright lights. People who live in the parts of the world where they are exposed to bright sunlight have far more cataracts than people who live in the part of the world where the sunlight is not as prevalent. So I think if we can do this not just for 3 days, have the lights off Wednesday, Thursday, and Friday but have them off for much more of the time and, say, if we could only telecast the major debates in the Senate, because that is all that most people want to watch, I think we could make some real progress.

□ 1130

HOW PRESIDENT REAGAN HAS WRECKED ARMS CONTROL

Mr. PROXMIRE. Mr. President, once in a very great while an insight into a big and complex issue appears that all of us should welcome. Most Americans and most of us in the Congress are confused and bewildered by nuclear weapons arms control. Here is an immensely vital issue. Successful nuclear arms control treaties offer the one realistic opportunity for survival in this dangerous nuclear age. The American people know this. They overwhelmingly support arms control. Every time the professional pollsters question them they express 3 to 1 support or better for a negotiated end to the nuclear arms race. Those of us who rely on the electorate to win public office know this.

So whether it is a Member of the House or the Senate or the President of the United States or those who speak for the President, everyone in public office claim to favor arms control including those whose every action nullifies or sabotages arms control. For anyone who believes that this country can only advance arms control by negotiating treaties that stop or restrain the development, continuation, and deployment of new nuclear weapons, the behavior of this country's number one arms controller—the President of the United States, Ronald Reagan—is specifically puzzling.

The President of the United States is not just the main actor in arms control. He is truly a one man band. He is the whole show. This is specially true now.

Marshall Shulman, the director of the Institute for the Advanced Study of the Soviet Union at Columbia University, has recently said that in the 40 years he has been studying the Soviet Union, there has never been a time when the Soviets have been more ready to negotiate than they are now. For nearly a year the Soviet Union has unilaterally suspended all nuclear weapons tests as an initiative designed to begin super power negotiations to reach an agreement for a mutual end to nuclear weapons testing. Such an agreement would mark a major advance in arms control.

What has been the reaction of the administration? It has been an emphatic and consistent, No. No way. Never, Will not discuss it.

Now, to be sure, arms control negotiations with the Soviet Union are never easy. But Presidents Kennedy, Johnson, Nixon, Ford, and Carter all successfully negotiated arms control treaties with the Russians. Every one, all of these arms control treaties, was opposed by President Reagan.

But to truly appreciate the contradiction in the President's arms control support, consider a recent letter to New York Times correspondent James Reston by Gerard Smith, the principal negotiator of the first SALT treaty. Smith gives a marvelously telling insight into the Reagan administration's time posture on arms control: he wrote Reston the following:

I have been asking myself what we Americans would think if the Soviets had;

Failed to ratify the three latest arms control agreements that their premier had signed;

Walked away from negotiations for a comprehensive test ban and for limitations on anti-satellite systems;

Announced they were making an all-out effort to develop nation-wide defenses banned by the ABM treaty;

Announced that that treaty's correct interpretation permitted the development and testing of systems which the treaty by its very terms prohibited;

Had refrained from starting negotiations about strategic arms for many months, and then made offers which their former minister of foreign affairs had acknowledged to be non-negotiable and "absurd";

While claiming violations, had refrained from making effective use of the Standing Consultative Commission to resolve disputes

or was reported to have denied permission for its delegates to raise the issues;

Announced that it was breaking out of an agreement setting ceilings on missiles and bombers because of the bad behavior of the other party.

And Smith concluded: "This is what we have done and I suggest that it warrants a degree of caution in making judgments about Soviet behavior."

Mr. President, I submit that Gerard Smith's indictment of the Reagan administration's arms control policy is devastating. We can only understand how totally bankrupt this arms control policy is if we do as Mr. Smith suggests and ask ourselves how we would react if the Soviets had pursued the arms control policies the Reagan administration has followed. The answer is that we would be outraged. The administration has wrecked the fragile fabrics of arms control restraints put into place by six preceding administrations. Here is the teflon miracle at its most spectacular. No current national objective has more emphatic support across party lines than the end of the nuclear arms race. The American people recognize that we can only stop this suicidal and immensely burdensome race by building on the arms control agreements negotiated in the nuclear age. The Reagan administration has not only failed to build on the arms control agreements in place. It has deliberately wrecked them.

And somehow the President who has so conspicuously destroyed the fondest dreams of the American people for a negotiated peace has become the most popular President in 40 years. This is a true political miracle.

EDUCATION DEPARTMENT WINS JULY FLEECE

Mr. PROXMIRE. Mr. President, the Department of Education won my Golden Fleece Award for the month of July by earning a big, fat "F" for wasting well over $1 million of the taxpayers' money on useless consulting contracts. The Department is promoting a good line about getting back to the basics but when it comes to the taxpayers' money, those basics are waste, fraud, and abuse.

The villains of this Fleece are not all faceless bureaucrats but high-level political appointees, supposedly committed to wiping out waste. Yet these "true believers" have set a record for abuse which would make even the biggest spending liberal blink.

Start with the actions of a former Under Secretary, who directed the noncompetitive award of two contracts to a firm judged to be unqualified to do the work. Bureaucrats were concerned that the $335,000 involved would be wasted so they went to the Under Secretary with their fears. Their gutsy warnings fell on deaf ears when the Under Secretary told them to go ahead anyhow.

The bureaucrats were right; the work done was useless, and $335,000 of the taxpayers' money went down the tubes.

Next, the White House Initiatives staff in the Department finagled a $238,000 contract just as a fiscal year was about to end. Had this contract not been awarded, the money would have gone back to the Treasury. It would have reduced the deficit. Once again, career officials were doubtful, but were pressed to award the contract. The consultant was to set up three regional conferences, a questionable undertaking at best. But even this task was not performed. The money was wasted.

Finally, in another yearend spending spree, the Department shelled out approximately $300,000 in an effort to prepare job descriptions by using a computer. They spent the money and formally accepted the work. Then they promptly threw it in the wastebasket.

In response, the Department says they are doing better, that they are learning from these mistakes. Talk about costly lessons. Students this thickheaded should flunk. So should the Department of Education.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

THE ANTIDRUG OPERATION IN BOLIVIA

Mrs. HAWKINS. Mr. President, I read with mixed feelings today's front page headline of the Washington Post proclaiming "U.S. Army Joins Bolivian Drug Drive." My pleasure at seeing this type of cooperation against the drug traffickers in Bolivia was tempered by the knowledge that its advanced disclosure may permit the traffickers to flee into the jungles and, as a result, diminish the effectiveness of the operation. I have known about this operation for several days and was convinced that surprise was an important part of the effort.

In spite of this disappointment, I trust that when this operation gets underway on Friday, it will be D-Day for drug traffickers in Bolivia. Later this week, elements composed of U.S. Army Blackhawk helicopters, American DEA agents and Bolivian antidrug police (Umopar) will launch a series of strikes against the narcotics network that infests the Bolivian jungles. I believe that the Bolivian Government should be commended for this action. It is a courageous and farsighted move. I also believe that the Justice, State, and Defense Departments should be praised for their role in this operation.

The cooperation between these Departments in the war on drugs is almost as unprecedented as the cooperation between the Government of Bolivia and the United States.

In World War II, D-Day marked only the beginning in a long and difficult struggle against Nazi Germany. So, too, this week marks only the beginning of a long and difficult struggle against the merchants of the "White Death" in Bolivia. While I am pleased at these bold and tough steps against the drug processing centers, I hope that the Bolivian Government will not use these operations as camouflage for their refusal to get to the root of the problem by means of eradicating the entire coca crop.

Eradication is ultimately the only effective means of driving the traffickers out of business. If we do not go after the coca crop, the traffickers will simply set up new labs and processing centers and we shall find ourselves engaged in a never-ending struggle. It is my hope that this initiative signals the beginning of a new era marked by comprehensive action against the traffickers that will include both police actions such as this and coca eradication.

The tragic deaths of Lenny Bias, Don Rogers, and thousands of others has been a recent reminder of the danger of cocaine. Cocaine kills. But it does even more than kill; it breeds crimes, it devastates families, it destroys futures—not only in this country, but in producing and transit countries as well. Bolivia has been a country tottering on the edge of oblivion. It has come very close to losing its soul to the drug traffickers. It is my hope that this joint United States-Bolivian strike against the drug traffickers demonstrates a new will in Bolivia to confront and destroy the cocaine industry—to regain control over its own destiny, its own soul.

I also hope that this operation will set a precedent for other cooperative international enforcement efforts against the drug traffickers.

Mr. President, only time will tell, but it is my hope that we are entering a new phase in the war on drugs—a phase that is more deadly to these merchants of death.

I yield the floor.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized for not to exceed 5 minutes.

THE COMMUNITY AND FAMILY LIVING AMENDMENTS OF 1985

Mr. CHAFEE. Mr. President, each week I come to the floor of the Senate to talk about legislation I have introduced—S. 873, the Community and Family Living Amendments of 1985—which would reform the Medicaid Program as it relates to those with developmental disabilities. To date, my legislation has eight cosponsors—Senators STAFFORD, LEAHY, PELL, INOUYE, BINGAMAN, SASSER, HATCH, and NUNN.

The goal of this legislation is simple: to replace policies which increase dependency and break up families, with policies that allow dignity, encourage families to remain intact, and recognize individual potential by helping it to grow and flourish.

Medicaid is the Federal program which provides States with the bulk of funding for long-term care services for the disabled. Currently these funds flow primarily toward large facilities. The reason for this has more to do with what Medicaid will pay for than what system of care and services is best for each individual.

It is because of this funding bias and lack of alternative services that I introduced S. 873.

This bill stands for the preposition that there should be a range of services available for those with mental and physical impairments. It recognizes that the number of disabled individuals who require institution-based services is far smaller than those who need community-based services.

Mr. President, my bill would allow Medicaid expenditures to support people in a wide variety of settings: From natural family homes to new community residences of up to about 12 people. In addition, S. 873 would allow 15 percent of a State's total Medicaid budget to be used to support institutional placements.

One of my top priorities as a Member of the U.S. Senate has been to move us closer to the goal of a society in which those with disabilities can participate significantly in the work force, in schools, in recreational activities and in the community.

We are in an era of changing technology and experience. Our understanding of the capabilities of those with disabilities is changing quickly. We have made tremendous strides in our ability to help those with disabilities to learn and to participate in many different facets of life.

Today I would like to share an example of the tremendous strides that can be made when those with disabilities and those with technological expertise team up.

As many of my colleagues in the Senate know, my home State of Rhode Island is the sailing capital of the world. It stands to reason, therefore, that there are many individuals with disabilities in Rhode Island who would like to sail. Unfortunately, the design of a sailing vessel is almost always a barrier to handicapped individuals.

Recently, an organization in Rhode Island called Shake-A-Leg, whose members have experienced spinal cord injuries or traumatic brain injuries, and the Council of Disabled Sailors teamed up with naval architect Gary Mull and boat builder Tillotson-Pearson to develop a boat designed from the keel up for handicapped individuals. The result of their efforts is the Freedom-Independence.

The Freedom-Independence is a small sailing vessel specifically designed so that those who are handicapped can sail it without assistance. It is a barrier-free boat—the first of its kind in the world.

The design of this small boat represents a tremendous step forward for those who, simply because of their disability, have been denied access to a wonderful recreational activity that most other Rhode Islanders have the opportunity to enjoy.

Tillotson-Pearson has donated the first two Freedom-Independence boats to Shake-a-Leg. The boats are berthed at the Fort Adams State Park in Newport, RI, and free sailing lessons are being offered to help individuals learn to sail. Sailing Director Tommy Banks has reported that the response has been tremendous.

Soon these very special boats will be available throughout the world. Tillotson-Pearson will sell future boats manufactured according to the Freedom-Independence design to organizations for the disabled at no more than the cost of construction.

Freedom-Independence is the perfect name for this spectacular result of the partnership between those with disabilities who have a dream for the future and those with the skills to make that dream a reality. There are many other disabled individuals who have a dream for the future—a dream of independence and opportunity. We in Congress have the ability to make their dream a reality by enacting my legislation, S. 873.

The production of the Freedom-Independence is one more step forward on the path to ensuring that those with disabilities have the opportunity to participate in many facets of life that are taken for granted by those of us without disabilities.

My legislation, S. 873, is another step forward. I hope my colleagues will join me in this effort to make freedom and independence a reality for all disabled individuals, not just for those who sail.

FAST FOOD LABELING

Mr. CHAFEE. Mr. President, this statement deals with the fast food industry, and particularly that industry's actions to reveal to consumers how its food is made and what the ingredients are. I recently introduced legislation that would require the fast food restaurants to label their products just as we find labeling now on cans and products when we go into a supermarket.

Fast food has become a mainstay in the American diet—and yet we know nothing about it except what the chains choose to tell us. Recently I introduced a bill that would change this, requiring that fast food be labeled the same way that supermarket food is labeled.

The response to this proposal—S. 2446—has been very good. If the letters I get every day from people all over the country are any indication, the American consumer wants the kind of information that fast food labeling would provide.

A number of major papers have also lent their support. The latest editorial comes from the New York Times of June 26, and I shall ask that it be printed in full at the end of my statement.

I am pleased that we are now starting to see individual States moving to get fast food information out to consumers. So far, New York, California, and Texas have negotiated agreements under which five of the largest fast food chains will supply brochures with ingredient information to customers that request it. I understand that other States—and other chains—will soon follow suit.

This is certainly a step in the right direction. The States that are pushing for action deserve credit, as do the chains that are participating—Burger King, Jack in the Box, Kentucky Fried Chicken, McDonald's, and Wendy's.

But these actions are by no means the whole solution: to be truly useful to the consumer, fast food information should be universally available and should conform to agreed-upon standards.

You should not have to request some pamphlet—either at the restaurant or from company headquarters. It seems to me that fast foods should conform to the standards we apply to canned foods; that is, the list of the ingredients should be on the products themselves—on the wrapper or the box that you buy your hamburger in.

Otherwise, it is just more advertising—and possibly misleading advertising at that. As the Times editorial concludes, "a law defining proper disclosure seems in order."

I hope that my colleagues in the Senate will agree, and that the Committee on Governmental Affairs will move quickly to schedule hearings on fast food labeling, so that all sides of this issue may be fully aired.

Mr. President, I ask unanimous consent that the editorial I referred to be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 27, 1986]

FAST FRIES FRIED IN WHAT?

Arguably, the Federal laws that require ingredient lists on packaged foods sold in supermarkets could also apply to Big Macs, Whoppers and other standardized products sold by fast food chains. But Federal officials refuse to apply them, exaggerating the financial burden. Legislation to extend the rules to chains, in the interest of public health, has thus been offered by Senator John Chafee, Republican of Rhode Island, and Representative Stephen Solarz, Democrat of Brooklyn.

The bills are supported by the American Heart Association, the American Diabetes Association and the American College of Allergists. They would require chains with 10 or more outlets to provide nutritional information and lists of ingredients by quantity either on the wrappers or on signs. Customers with allergies or struggling against fat, salt and other ingredients would thus be able to protect themselves. The fast food outlets, meanwhile, would gain a further incentive to compete, as some already do, on the basis of health as well as taste.

The National Restaurant Association contends that listing ingredients on wrappers would cause "undue anxiety." But some anxiety in fast-food consumption is justified. Studies show that chain outlets often cook french fries and other foods in beef tallow, a flavorful shortening high in the saturated fat linked to heart disease. Chicken that's supposedly low in fat may, in a fast food sandwich, contain more fat than a pint of ice cream.

The two largest chains, McDonald's and Burger King, seek a more wholesome reputation for their foods. They have switched from animal fat to unsaturated vegetable oil in frying chicken and fish, but still use beef tallow to fry potatoes. Starting next month, both chains plan to make a grudging concession to the pressure for disclosure. McDonald's will distribute brochures listing ingredients, but only in New York outlets. Burger King plans to have pamphlets nationwide, but it ordered only 300,000 for 11 million daily customers and seems uninterested in promoting them. Other chains may follow.

To accelerate the pace of change, the law defining proper disclosure seems in order.

Mr. CHAFEE. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. If the Senator would withhold.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements therein limited to 5 minutes each.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1210

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR SAFEGUARDS

Mr. McCLURE. Mr. President, the nuclear accident last April in the Soviet Union alarmed and frightened the world; the lack of information regarding the accident and the potential for future accidents only served to heighten these fears. However, the International Atomic Energy Agency immediately became the key source of information regarding the accident, and over the months, the IAEA has been recognized by the leaders of the free world at the Tokyo Summit and by the Soviet leader, Gorbachev, as the only international agency with the potential for ensuring such an event not happen again anywhere in the world.

Responding to international concerns, the IAEA's Board of Governors recently called for a number of meetings to take place before October that should address and resolve, if possible, the critical issues raised as a result of the accident. These include a postaccident review meeting where the Soviet Union will present its analysis of the accident; two conventions, one to develop an international accident early warning system, and one to develop international safety standards; and the first meeting of a newly established group, the International Safety Advisory Group. The General Conference, which meets late in September, will have the results of these conventions and the member states will be asked to accept and sign a binding agreement regarding international safety and notification.

The development of an international program in nuclear safety has a precedent at the IAEA in the ongoing safeguards inspection system. IAEA safeguards are dedicated to restraining the proliferation of nuclear weapons by making sure nuclear plant operations and materials are not diverted to weapons production. The 112 member nations of the IAEA have voluntarily relinquished to the Agency some degree of control over their nuclear facilities to reassure the world that they are pursuing safe and peaceful nuclear development. It may be helpful for us to have a clear understanding of the way this system and these inspectors carry out this critically important work.

An article in the December, 1985 issue of the Science 85 magazine, "The Inspectors" by Carl Posey, gives a graphic description of a safeguards inspection made by "the man from Vienna"—an IAEA inspector. Posey calls the step-by-step inspection theoretical and a composite; for the inspector, the facility and the country he describes are unnamed, but the dedication of the inspector and the sensitive nature of his task are carefully and accurately delineated.

Posey notes the IAEA can not force nations to accept safeguards. I must add that neither can the Agency force nations to develop or comply with internationally accepted standards for nuclear safety. It can only carry out the dictates of its membership. To date, all signs indicate the member States are anxious to commit to such standards. If they do so, and propose a system for safety inspections, Posey's article makes clear the IAEA has competent, committed people capable of handling the task. The framework exists and must be added to, with conventions, agreements, increased funding, and greater support, if we are to continue put the atom to peaceful use, and prevent nuclear accidents.

Mr. President, I ask unanimous consent that the text of "The Inspectors" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INSPECTORS

(By Carl Posey)

The man from Vienna is tense. He has spent an uncomfortable night in a remote corner of this foreign nation, an unfamiliar breakfast will not let itself be digested, and he is preoccupied with rumors that all is not what it seems here. The sights of his destination through a gap in the black trees—the almost windowless gray boxes, the stacks and cooling towers, the domed enclosures where atoms are split for electricity and technical repute—stimulates yet another mental rehearsal of the careful routine the day must follow.

He has gone through it many times before at places where uranium is purified, loaded into fuel rods, consumed, cooled, or resurrected in another "combustible" form. Whether the plants lie in nations with thousands of nuclear warheads or in nations whose leaders thirst for their first taste of explosive fission, the essence of the routine is always the same. The visitor bears some mild celebrity, for against its instincts, this nation, on this day, relaxes its sovereignty, endures his scrutiny, just for him and for what he represents.

To his host, the operator of this facility, the nuclear safeguards inspector from the the International Atomic Energy (IAEA) in Vienna is both colleague and adversary. They share a belief in a nuclear future, but its evolution can make great trouble between them. The nation has known of this inspection for only a month, the reactor operator for barely a week. He shrugs. If all goes well, it can be done in one morning without even shutting down the reactor.

What follows lies at the core of the delicate balance between wars that are largely ritual and wars that are hot. The inspector must verify that the movement and location of uranium in this nation are exactly as the host nation says they are. He is here to prove nothing beyond the presence of a certain amount of nuclear material. It is verification, not detection. "Countries do not

submit to safeguards to prevent themselves from doing something," explains Hans Blix, the Swedish director general of the IAEA. "They submit because they have decided that they will not make use of a facility for producing weapons. And this willpower, the political will of a country, is where nuclear nonproliferation resides."

If nonproliferation resides in that political will, nuclear proliferation is embodied in the villain of nuclear mythology, the Diverter—the individual or group or nation bent on diverting uranium intended for power generation and research to primitive atom bombs. The potential diverter is any nation with nuclear material and without nuclear bombs. Inspection is the sharp but necessary slap nations must accept to demonstrate to other nations the continued firmness of their decision to forego nuclear weapons.

From an American perspective, the inspector's job seems obvious: verify that the bad guys have not diverted uranium or plutonium to weapons use. But one nation's bad guys are another nation's allies, and some nations are as bound by old animosities and fears as warring spouses. Thus, Israel's presumed nuclear arsenal must inevitaby persuade its enemies to seek fission weapons of their own, India's 1974 detonation of a "peaceful" fission device guarantees another in Pakistan. One must accept the fact that the Soviet Union will always suspect Germany of rearming, and that China and Taiwan and the two Koreas will never be quite comfortable about each other's nuclear abilities. In a world where mustard gas is used against troops of conscripted children, the nightmare of an unstable nation brandishing a rudimentary nuclear bomb is more than just a bad dream.

Against those possibilities, we have some 180 safeguards inspectors and the international apparatus they symbolize and serve. A typical inspector would be a male (although there are several women inspectors now) in his mid-30s, technically trained, with some experience in the nuclear industry, and a citizen of one of the 111 nations in the IAEA. Even though he finds his work physically and intellectually challenging, he may be a little worn around the edges, not so much from the acts of his ghostly adversary, the diverter, as from the day-to-day rigors of the job. He may have problems at home because he spends nearly a third of each year in the field, for periods of as much as a month at a time. But he retains some of the idealism that brought him into safeguards in the first place, and he believes in his ability to make a positive difference in the spread of nuclear weapons. He is unafraid of the radiation or of any of the other perils that some people see in the atom.

A reporter wanting to observe this inspector in an operational setting encounters formidable—and in the end impenetrable—obstructions. First, arranging such a visit requires the elusive consensus of the IAEA, nation, and operator, all shrouded in confidentiality. Nettled by earlier press reports, none of these players is very excited at the prospect of reporters sharing an inspection. At the same time, IAEA director general Blix insists on his organization being "open and transparent." So although an actual inspection is ruled out, the agency exposes itself to questions that permit an accurately imagined visit—a composite.

For this composite inspection, we go to a French-built Osiris-Isis reactor, a "light-water" unit. Osiris, like most research reactors, uses enriched uranium as fuel to produce large numbers of neutrons with broad experimental uses. Such research reactors have complex layouts that provide some attractive opportunities to a potential diverter. Attractive, but difficult, because the uranium there, as in other reactors, is closely watched. The flow of uranium in the world is substantial—more than 47,000 tons were mined in the non-Communist world in 1983 alone. But the uranium and its by-products in about 98 percent of the nuclear facilities in nonnuclear weapons states is safeguarded (subject to inspection), according to Peter M. Tempus, the Swiss physicist who directs the $30-million-a-year safeguards program. These safeguards apply of some 900 assorted power and research reactors, fabrication plants, and other nuclear facilities, including this Osiris type.

Uranium first comes under international safeguards after it has been pumped into containers as pressurized uranium hexafluoride (UF_6) gas. At a uranium enrichment plant, a centrifuge is used to increase the amount of easily fissionable U^{235}—which is less than one percent in nature—relative to the heavier, more stable, and more abundant U^{238}. Then, still in the form of "hex" gas, the uranium is transported on to a fuel fabrication facility. Here the gas is converted to powder, the powder is pressed into pellets or plates of uranium, and these are loaded into the long, cylindrical fuel rods that are inserted into a reactor core. At this point in its life cycle, the uranium has been out of the ground a year or more.

Shipped to a reactor, the uranium spends some five years in the core, radioactively burning away, before being removed and stored in a cooling pond for another year or two. New technology that makes it possible to reprocess spent fuel elements into usable plutonium has given these elements a modest immortality. While in the reactor, natural U^{238} becomes plutonium, a toxic, gray metal with a density nearly twice lead's and warm to the touch. At a reprocessing plant, plutonium can in turn be made into fuel for breeder reactors.

To the IAEA, relatively pure plutonium and uranium that is enriched much above 20 percent U^{235} are known as direct-use materials—only a few steps separate their peaceful form from the form the would need in a bomb. The critical mass required for a fission detonation is approximately 25 kilograms (55 pounds) of highly enriched uranium or about eight kilograms (18 pounds) of high-grade plutonium—a soccer ball of uranium, a warm grapefruit of plutonium.

Our hypothetical inspection of the Osiris research reactor makes use of procedures developed from blueprints that have been furnished to the IAEA by the host nation. All safeguards inspections are choreographed closely, shaped by the type of facility and also by the individual characteristics of each site. The first step is to examine the books; here, working under the watchful eye of the reactor operator, the inspector becomes an accountant.

A reactor consumes a known quantity of U^{235} per unit of energy generated and produces a predictable quantity of plutonium from its U^{238} for each level and period of operation. Every fuel element in the core is numbered and logged to record the percent of U^{235} it contained going into the core, the percent that remains after the indicated hours of operation at the indicated power levels, and the various ways in which the fuel elements have been rearranged to obtain maximum burnup before they are removed to a cooling pond for storage. The books also indicate the percentage of the total power drawn from each fuel element in the reactor core, a value needed to compute power production.

The scope of the inspection depends on the starting point. In this hypothetical case, there has already been an initial inventory, when the reactor was put into service, and another when it was fueled and started up. At that time, agency inspectors set small, metal seals on each fuel element and set up a system of surveillance that should detect any secret changes in that inventory. There are other records that are provided by the nation and the shippers of fuel. This elaborate cross-check ensures that material cannot be diverted simply by fiddling one set of books.

Inherent in the totals derived from the reactor logbooks is something called MUF, Material Unaccounted For. MUF is a statistical by-product of the fact that no measurement is ever perfectly exact, that something is lost every time the material is handled. But MUF can also be a screen for diversion. While attempting to explain all the discrepancies discovered in comparing IAEA, national, and operator records, the inspector must also look for that statistical anomaly in MUF—that small, steady rise in missing material beyond what experience would lead one to expect.

"If you find something," explains former inspector Joe Wilson, "your neck hairs don't bristle. It's like any audit trail. It requires explanation. And, as you move down the trail and need more explanations, you sense you are getting closer and closer to trouble."

The stresses of inspection, Wilson points out, often have to do with the fact that one is dealing with a colleague. "If you find something you don't understand, you are faced with an expert on the other side of the table. Your question to yourself is, 'Will I appear stupid?' or, 'Do I have an issue?' There's a lot of this tension."

Once the books are accepted and discrepancies either explained or deferred to some higher level of inquiry, the inspector puts away his figurative eyeshade and, in a dressing room nearby, dons the white robes of the nuclear industry.

The host takes the inspector to the vault where fresh fuel elements are lined up in polyethylene sleeves. The numbered elements here contain thin, rectangular plates of an enriched-uranium alloy. The inspector must take enough measurements to verify that the elements said to be here are in place and that the enrichment levels of the uranium match those stated in the shipping and inventory documents.

The instrument for doing this is a small case of microprocessor-equipped electronics and a sensor "gun," which measures the faint gamma radiation emitted by the fresh fuel rods and converts it to uranium enrichment levels. His host watches over his shoulder and may assist, though even a slight sense of being hurried may arouse the inspector's suspicions.

The first signal of a detected diversion, says conventional wisdom, would be a missing safeguards inspector. Vienna gossip persistently supports this with lurid fables, but in fact, there is no factual basis for such tales. Most inspectors would say that a diverter's early signals would be less clear, more like those between characters in a Henry James novel—a vague odor of reticence, of hurry, of cooperation withheld. This sense of things impending can lend an inspection a jittery watchfulness, one some-

times exacerbated by the fact that while English is the working language, it may not be mother tongue to either inspector or operator. "This is one of the most difficult areas," says an agency official with many years in safeguards. "This is part of the pressure. An unexpected answer. . .is it a misunderstanding, or something else?"

As the party moves toward the reactor itself, the inspector passes a point of no return. "This is the only way in and out of the reactor building," explains safeguards official Leslie Thorne. "It's like going aboard a submarine. A huge steel door shuts behind you. You feel the air pressure drop. Then the other door swings open, and you're inside the containment."

The reactor is a kind of raised concrete-and-metal pool of water, surrounded at the top by a railed gantry. "Hot cells' penetrate the lower portions. Experimenters place objects near the core using remote manipulators to drive claws on the other side of thick glass windows. At the top, scores of thickly bundled cables snake over the sides. Some 40 feet below, the lattice of the reactor core, partially obscured by a cooling chimney and core box and by a jungle of wires and control lines, turns the pool the color of a bright blue star. If this is a furnace, it burns cosmic coal.

In pressurized-water reactors, the reactor is covered by a heavy concrete slab. Across this slab, threaded through pinholes that are drilled in the massive retaining bolts, runs a thin, multistranded wire, joined by a small dime-sized button-snap seal. On one side of the seal is a faint inscription: "IAEA," along with a number. On the inside is a series of childish scratches, a unique fingerprint added at headquarters. Today's reactor is an open pool, and the seals are on the fuel elements themselves. To refuel in either case, you must break the seals and later apply new ones, with an inspector present on both occasions.

Several stories above the pool, against the domed interior roof of the containment and mounted on a catwalk beyond the abilities of even mild acrophobics, are twin super-8 cameras, adjusted to photograph, at regular intervals, the whole scene: the reactor; the transfer-and-storage channel linking it to another, smaller reactor next door; and the cranes used to move material into and out of the core. In an adjacent containment, separated by another airlock from the big reactor, a second set of cameras has a similar field of view. The plastic camera enclosures are wired shut and sealed. Now the inspector opens the seals, checks and reloads the cameras, and pockets the old seals and film. Back in Vienna, the wire strands attached to the seal will be scrutinized for concealed breaks, the scratch "fingerprint" verified, the film observed frame by frame. The cameras—which are slowly being replaced by expensive but handier, tamper-proof video recorders—photograph everything within their field of view at intervals too close together to permit unrecorded movement of uranium into or out of the reactor or storage channel.

Finally there is the spent fuel to check. This is where many inspectors have had their worst moments, at times when preliminary measurements suggested the substitution of dummy material. But this has turned out to be just another proof of Murphy's Law—the "dud" a frightening result of instrument error. "When you took measurements in the cooling pond," one inspector explains, "you had to put equipment underwater, the sensor on a stand, in an area with high radiation levels. The operators moved the fuel for us to and from the equipment which measured the radiation levels in each spent fuel element. Well, complex equipment doesn't always behave. Your bad moment is when the instrument doesn't do what it is supposed to. Is the fuel element a dud? If it is, you're in a serious situation. You're in the containment. You can't get out easily." He adds, with some relief, "So far, all of these have turned out to be false alarms."

That equipment has been replaced by a device that efficiently senses Cherenkov radiation in visible light. Real spent fuel emits this radiation, dummy fuel does not, and the device permits an inspector to verify the contents of even very old spent fuel elements whose Cherenkov radiation is low. In this Osiris facility, the spent fuel elements cool in the same pond as the reactor core, making them difficult to count just by looking. But if the cameras have not malfunctioned or been tampered with, the film will show that no spent fuel elements have been removed, and the look at the Cherenkov radiation ensures that none is a dummy.

But it is not all measurements, or all cut and dried. The inspector must be sensitive to every nuance of his host's behavior and to the physical facility as well. Why, he may ask himself, do the reactor control rods require so much space beneath the pool? Or, in another facility, Why is there a large empty room beneath the reactor? Can they change fuel downward as well as through the top of the reactor? What about the core? Is anything there that should not be? This manhole doesn't appear on the blueprints. . . or this tunnel. Where do they go? Why are they here?

Will I get out?

Our hypothetical inspection is finished by early afternoon, after some six hours in the facility. More elaborate inspections take 12 to 14. The inspector has been an auditor, a physicist, a chemist, and a diplomat. "Never a dull moment," says an Australian inspector. "Whether you get burnt out after five or six years, that's another question."

If the inspector finds the job challenging, surely the work of the diverter is even more difficult. The enriched uranium in the fresh fuel supply is hard to steal. Most operators, both for safeguards and economic reasons, keep fuel elements in bank-style vaults, and many do not even keep a key on the premises. Since the uranium is mixed with aluminum, a chemical-removal step is added to the diverter's problems. To get his 25-kilogram critical mass, moreover, the diverter needs dozens of elements. There is not usually this much material at a reactor, and if there were, it would require a good deal of hauling and theft under cameras; then there is that pesky inspector returning every few months.

Getting material out of the core is likewise difficult unless the thief is the plant operator or the host nation. Even so, it requires a lot of equipment movement, all under the eyes of safeguards cameras, to remove uranium from the core. Spent fuel is equally dangerous because it remains radioactive.

Diverters, obviously, are not available to explain their methods, but inspectors have their own ideas about how it could be done.

"The operator would say he'd had some trouble, had to take out more fuel than scheduled . . . the activity would show up on the cameras, but he'd have a plausible explanation, or perhaps he'd put the cameras out of order, drop something on them, perhaps, and then fire the people responsible as a cover. He would want confusion. . . ."

The IAEA guideline tells us that ". . . the optimum diversion strategy is a combination of diversion into MUF and falsification of flow or inventory data." This means substitution of dummy fuel elements both in the reactor and in the shipping process, undeclared reactor shutdowns, exaggerated burnup data, a shell game of uranium borrowed from other sites, inflation of measurement errors, altering serial numbers, and the like. For each diversion stategy, there is a countering safeguards procedure. Or that, at least, is the hope.

Two kinds of facilities—the uranium enrichment plant and the reprocessing plant—warrant especially close scrutiny because they are capable of producing significant amounts of fissionable, or weapons-grade, material. At uranium enrichment plants, the inspection process is technically straightforward. The individual centrifuge looks very simple, like a kind of high-tech spin dryer, designed to separate the U^{238} from the lighter U^{235}. But an enrichment plant contains hundreds of them, and they spin at thousands of revolutions per minute. Because such machines are difficult to build and operate successfully, centrifuge technology is jealously guarded by the countries that possess it. Their fear of stolen secrets is more than mere industrial paranoia. Pakistan, according to reports, has constructed centrifuges using blueprints spirited out of Urenco's Almelo enrichment facility in Holland. (But there is also some doubt that Pakistan can keep these exotic devices working.)

And in uranium reprocessing plants, complexity creates a kind of monster. Full-time safeguards staffs rotated in from Vienna monitor the transformation of spent fuel rods into a thin, pea-colored plutonium consommé. The end product of this "refinery" goes in bottles to an associated plant nearby, where, with materials being separated by technicians using sealed boxes, plutonium nitrate is chemically altered to plutonium oxide powder, which is used to fuel fast-breeder reactors.

Because everyone fears plutonium falling into the wrong hands, some nations with commercial reprocessing plants—the U.S. has none in operation—limit the explosive utility of their product. Japan precipitates plutonium and uranium together, producing a mixed-oxide powder from which it is difficult to obtain pure plutonium. France has suggested supplying customers a uranium "caramel" that can fuel a research reactor but is useless for weapons.

Ominously, the two percent of nuclear facilities not under international safeguards are not power reactors. They are fuel enrichment and reprocessing plants in nations that, by not ratifying the Non-Proliferation Treaty have signalled a belief that a nuclear explosive, especially one of those "peaceful" ones, is a sovereign right. And it is nations, not individuals, that concern the IAEA. "In most cases," explains safeguards director Tempus, "a group of people could divert material, but this would show up quite easily. For more sophisticated strategies, you would need to involve the entire structure of a state." Even then, he observes, because the material itself is radioactive, they could do plenty of damage without going to the trouble of building a bomb.

Still, once a diversion is indicated, a clock begins ticking away the countdown to a bomb. For highly enriched uranium or

weapons-grade plutonium, the IAEA assumes the countdown lasts about a week. Where the material is a mixed-oxide fuel and high-purity scraps, it is several weeks; for the fissionable material in spent fuel elements from power reactors, several months.

Says a State Department official with safeguards experience, "If 10 to 20 kilograms of plutonium were actually found missing, and some group said they had it and will blow up a city . . . the threat would be taken very seriously."

Others scoff at this possibility. "It is a question of belief outside of rational consideration," says an agency official.

It is academic. The acts of terrorists lie outside the IAEA narrow range of responsibilities. They are the problems of nations, internal security forces, the world of spies and counterspies. Safeguards deals with nations in their international setting, attempting to reinforce the political will to forswear nuclear weapons. And the record is reassuring. It has been more than 20 years since China joined the nuclear weapons club. The unruly mob of atomic weapons powers, the vision of the '60s, has not materialized. The nightmare has not happened.

One may argue that this has less to do with safeguards than with a global realpolitik that accommodates the fact that there are probably more atom bombs on Earth than we think, some in unexpected places. Perhaps. But safeguards also claims a 90 percent chance of detecting nuclear diversions, and most nations seem to believe it. Nor is the process completely placid. Inspectors can go as high as the 35-nation IAEA Board of Governors to get "anomalies" sorted out by IAEA members, and there is general willingness to go to what they call the extreme scenario should they detect a clear case of uranium diversion. This extreme scenario takes the matter to the U.N. Security Council, a step some may see as a feeble deterrent. At this an American inspector snaps, "Then you miss the point. The point of going to the Security Council is that you have all the diplomatic pressures of all the countries. It is then no longer in the hands of the IAEA, or even the Security Council. It become a matter of national interest."

That is how things are poised, the even-handedness and thoroughness of the ritual—the credibility of the inspectors' performance—balanced against the gravitation of real war; the political will of the international community bolstered against a descent to "a matter of national interest." It seems to work, most of the time.

In a moonscape not far south of Baghdad lies a sprawling structure, something out of Ozymandias, the remains of a powerful Osiris-Isis reactor complex purchased by Iraq from France and, by the summer of 1981, nearly complete. Twelve kilograms (62 pounds) of highly enriched uranium fuel had been received, and French engineers had begun to put the last touches on their great machine. The facility had been inspected by safeguards personnel a year earlier, when the first fuel arrived, and again in January 1981, at night and under wartime conditions. While safeguarded, the Tamuz-1 reactor would have been an effective producer of plutonium. It would have taken years to do so, all under the eyes of safeguards inspectors and French technicians. Still, plutonium production was possible.

For Israel, the prospect was apparently intolerable. On June 7, 1981, a flight of fighter-bombers swept in on the Tamuz facility in a surprise raid and transformed it into the ruin in the desert near Baghdad. With the possibility of an Iraqi nuclear weapons program, and perhaps the perceived imbalance between the IAEA's ability to detect diversions and to bring sanctions against them, Tamuz-1 became "a matter of national interest."

The remarkable thing is not that there has been a preemptive strike, but that there has been only one. And that the larger nightmare, the vision of fission bombs everywhere, has not happened.

NUCLEAR SAFEGUARDS: AN ECONOMIC DECISION

In the 1950s, the rapidly evolving American nuclear industry began looking at markets overseas—markets that had been effectively placed off-limits because of fears that shared nuclear technology inevitably meant the spread of weapons. The IAEA itself derived from President Eisenhower's 1953 "Atoms for Peace" proposal and came into being, with headquarters in Vienna, in 1957. Responsibilities formerly carried out by government and industry in the nuclear powers fell to the new agency, which took up the task of verifying the safeguards "bilaterals" that were part of sales agreements with client nations. In 1968, the "Treaty on the Non-Proliferation of Nuclear Weapons"—what people in the trade call the Non-Proliferation Treaty, or NPT—was settled among the United States, Soviet Union, and other powers and opened for signatures by the United Nations. Its main provisions are simple: Nuclear weapon states will block the spread of nuclear weapons and related technology to nonnuclear-weapon states, and nonweapon states will forego the development or acquisition of nuclear weapons. All nonweapon parties to the NPT must open *all* nuclear facilities to IAEA safeguards. The weapon powers, for their part, agree also to share nonweapon nuclear technology with signatory nations. Any of the 131 parties to the NPT may withdraw with three months' notice. None has, and it would be cause for alarm if any did.

In practice, the U.S. and Great Britain, both NPT weapon states, provide lists of nonmilitary facilities that are open to safeguards inspection and often used for training. The Soviet Union this year signed an agreement with the IAEA to open some peaceful nuclear facilities there to inspection, a precedent some observers see as a step toward on-site verification of disarmament terms. France, not a party to the NPT, nevertheless provides the agency with a list of nonmilitary facilities open to safeguards inspection. China, the last nation to become a known nuclear weapon power in 1964, did not join the IAEA (where Taiwan quietly continues under safeguards) until 1984. China is now negotiating with leading nations for more nuclear equipment and technology in exchange for submitting to appropriate safeguards.

But to many nations, the NPT works better for the haves than for the have-nots. Stung by this perceived discrimination and by the seemingly whimsical obstructions to a reliable supply of nuclear fuel, some nations with the raw materials to do so are electing to start up their own uranium fuel cycles. India, Pakistan, South Africa, Argentina, and Brazil, for example, have developed indigenous uranium supplies. And each escalation of their domestic ability to produce plutonium—because it moves them closer to nuclear weapons—greatly complicates the nonproliferation apparatus, even when the new facilities are placed under safeguards.—*C.P.*

FIRST ACROSS THE ATLANTIC IN 1919

Mr. PELL. Mr. President, Charles A. Linbergh is justly remembered and honored as the first man to make a solo nonstop flight across the Atlantic Ocean in 1927. Less known is the flight of the U.S. Navy's NC-4 flying boat, which crossed from Newfoundland to Lisbon, Portugal, with stops in the Azores Islands in May 1919.

The honor of accomplishing the first flight across the Atlantic belongs to the U.S. Navy, the NC-4, and to its designers and builders.

Glenn H. Curtiss, the inventor of the flying boat, had worked at the Navy's Bureau of Construction on the development of oceangoing planes and then had formed his own plant in Hammondsport, NY. The Curtiss plant subcontracted many of the planes' components in order that they might be completed on time; one of the subcontractors was the Herreshoff Manufacturing Co. of Bristol, RI, which built the hulls for the flying boats.

The flight of the big Navy flying boats began on May 2, 1919, with the formation of "NC Seaplane Division One" (N equals Navy, C equals Curtiss). On May 8, 1919, a squadron of three Navy Curtisses went on a thousand mile testing flight from Rockaway, NY, to Newfoundland, which was the established departure point for the transatlantic crossing. Other aviators, spurred on by the London Daily Mail's offer of 10,000 pounds prize money for the first to cross the Atlantic, were gathering at Newfoundland waiting for clear weather. At about 6 p.m. on Friday, May 16—67 years ago last May—the three Navy planes took off for the Azores, the first challengers to leave Newfoundland. A member of the Navy ground crew was the late Charles Callan of Barrington, RI.

The NC-1 and the NC-3 had difficulty on the flight to the Azores. Because of the fog, the NC-1 touched down in the water but could not take off again in bad weather. The waves destroyed enough of her hull to eventually cause her to sink, but luckily her crew was rescued.

The NC-1 also put down in the water and, unable to fly because of damage to the engines, ended her journey at Ponta Delgada, Sao Miguel, in the Azores.

The NC-4 had better luck. Under the command of the navigator, Lt. Comdr. Albert C. Read, the crew consisted of Lt. Elmer Stone, U.S. Coast Guard, pilot; Lt. Walter Hinton, copilot; Ens. Herbert C. Rodd, radio officer; Lt. James L. Breese, engineer; and Chief Machinist's Mate Eugene S. Rhoads, engineer. On Saturday, May 17, after a flight of 15 hours and 13 minutes, the NC-4 touched down in the harbor of Horta, Fayal, in the

Azores. Sunday's newspaper headlines in America treated it as a victory because the plane was safely in a Portugese port. The NC-4 was grounded at Fayal for 9 days by the fog. On the morning of May 27, the NC-4 flew eastward to Lisbon and after a flight of 9¾ hours became the first plane to conquer the Atlantic. In the space of 19 days, the NC-4 and its crew had traveled 3,322 miles in 41 hours and 58 minutes in the air.

The reception in Lisbon was tumultous and lasted for 3 days; 21-gun salutes were fired, and the Tagus River resounded with the ringing of church bells. The Portuguese Government awarded the fliers the Grand Cross of the Order of the Tower and Sword. On May 30, the NC-4 left for Plymouth, England, in order that the trip might end at the site of the Pilgrims' departure nearly 300 years before, in 1620.

To commemorate this landmark flight, the Navy has planned a recreation of the flight of the NC-4 during this summer. Representatives of the Government of the United States and Portugal will be on hand at festivities honoring the Navy for its seldom celebrated accomplishment. I know this reenactment flight will be of great interest in my own State of Rhode Island, where so many of our citizens are descended from residents of the Azores and Portugal. And Rhode Islanders can take particular pride in the fact that the Herreshoff Manufacturing Co. of Bristol, RI, played a major role in contributing to this successful flight—the first to conquer the Atlantic.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1240

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME AGREEMENT ON H.R. 3113

Mr. McCLURE. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar No. 578, H.R. 3113, dealing with the Central Valley project, it be considered under the following time agreement:

Two hours on the bill, to be equally divided between the chairman of the Energy Committee and the ranking minority member, or their designees;

That there be 5 minutes on the committee substitute, to be equally divided in the usual form, and if the amendment is agreed to, it be considered original text for the purpose of further amendments. If the committee substitute is not agreed to, this agreement be null and void.

One hour on all amendments in the first degree;

Thirty minutes on all amendments in the second degree;

That the following first degree amendments be the only first degree amendments in order, with the exception of the committee-reported substitute:

No more than two amendments to be offered by Senator METZENBAUM, to title III, on interest rates;

No more than two amendments to be offered by Senator METZENBAUM, to title III, on surplus corps;

That all amendments in the second degree must be germane to the first degree amendment they propose to amend, and are only in order to the Metzenbaum amendments;

That there be 5 minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate;

That no motions to recommit with instructions be in order;

And that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not object, this agreement has been cleared on our side of the aisle through the minority leader. We will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

COORDINATED CALIFORNIA WATER PROJECTS

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 578, H.R. 3113, an act providing for the coordinated operation of the Central Valley project and the State water project in California.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3113) providing for the coordinated operation of the Central Valley project and the State water project in California.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause, and insert the following:

TITLE I—COORDINATED OPERATION AGREEMENT

SEC. 101. That the Secretary of the Interior is hereby authorized and directed to execute and implement the "Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" (dated May 8, 1985).

SEC. 102. The Secretary of the Interior shall not contract for the delivery of more than 75 percent of the firm annual yield of the Central Valley Project not currently committed under long-term contracts until one year after the Secretary has transmitted to the Congress a feasibility report, together with his recommendations, on the "Refuge Water Supply Investigations, Central Valley Basin, California.".

SEC. 103. The Secretary of the Interior shall include in all new or amended contracts for the delivery of water from the Central Valley Project a provision providing for the automatic adjustment of rates by the Secretary of the Interior if it is found that the rate in effect may not be adequate to recover the appropriate share of the existing Federal investment in the Project by the year 2030. The contracts shall also include a provision authorizing the Secretary of the Interior to adjust determinations of ability to pay every five years.

SEC. 104. The Secretary of the Interior shall include in all new or amended contracts for the delivery of water from the Central Valley Project provisions ensuring that all deficits (outstanding or hereafter arising) in the payment of operation and maintenance costs of the Central Valley Project are repaid under the terms of such new or amended contracts, together with interest on any such deficits which arise on or after October 1, 1985, at a rate equal to the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the Project, adjusted to the nearest one-eighth of 1 percent.

TITLE II—SUISUN MARSH PRESERVATION AGREEMENT

SEC. 201. The Secretary of the Interior is authorized to execute and implement the agreement between the Department of the Interior, the State of California and the Suisun Resources Conservation District (dated November 1, 1985).

SEC. 202. The costs of implementing the agreement provided in section 201 of this title shall be shared by the Bureau of Reclamation and the California Department of Water Resources in strict accordance with article 12 of that agreement, provided that—

(a) payments made by the Secretary of the Interior shall not exceed 40 percent of the construction costs incurred under articles 6, 7, and 8 of the agreement, or $50,000,000, whichever is less, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein;

(b) the Federal share of continuing annual operation and maintenance costs, including monitoring, shall not exceed 40 percent of the actual operation and maintenance costs; and

(c) the costs incurred by the United States for construction and for annual operation and maintenance in connection with the implementation of said agreement shall consti-

tute an integral part of the cost of the Central Valley Project. The Secretary shall allocate such costs to the reimbursable and nonreimbursable purposes served by the project.

SEC. 203. Costs incurred both before and after the date of execution of the agreement herein authorized are to be included in the total for determining the Federal share of construction, operation, and maintenance costs.

SEC. 204. There are authorized to be appropriated for the implementation of the agreement referred to in section 201 of this title $50,000,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved therein and, in addition thereto, in accordance with subsection 201(b) of this title, such sums as may be required for operation and maintenance: *Provided*, That no Federal funds may be expended pursuant to this title in advance of appropriations therefor: *Provided further*, That appropriations pursuant to this title shall remain available until expended without any fiscal year limitation.

TITLE III—SMALL RECLAMATION PROJECTS ACT

SEC. 301. As used in this title, the term "the Act" means the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a et seq.).

SEC. 302. Section 1 of the Act is amended by inserting after the word "laws" ", with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purposes of water quality control,".

SEC. 303. The second sentence of section 3 of the Act is amended by striking "$1,000" and inserting in lieu thereof "$5,000".

SEC. 304. (a) Section 4(b) of the Act is amended by inserting "(1)" after (b) and by striking "by loan and grant under this Act" and inserting in lieu thereof "by loan and grant of Federal funds".

(b) Section 4(b) of the Act is amended by adding the following new paragraph at the end thereof:

"(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided*, That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further*, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the $5,000 fee described in section 3 of this Act. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 5(b).".

SEC. 305. Section 4(c) of the Act is amended by inserting the following after the first sentence: "Each project proposal transmitted by the Secretary to the Congress shall include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.".

SEC. 306. Section 5(b) of the Act is amended by striking everything after the words "joint use facilities properly allocable to fish and wildlife enhancement or public recreation;" and substituting the following in lieu thereof:

"(5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.".

SEC. 307. (a) Section 5(c)(1) of the Act is amended by striking "fifty" and inserting in lieu thereof "forty".

(b) Section 5(c)(2) of the Act is amended to read as follows: "interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan:

"(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres; or

"(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.".

(c) The remainder of section 5(c) of the Act is stricken in its entirety.

SEC. 308. Section 8 of the Act is amended by adding at the end thereof the following sentence: "The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this Act, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.".

SEC. 309. (a) Section 10 of the Act is amended in the first sentence by inserting before ": *Provided*" "and, effective October 1, 1986, not to exceed an additional $600,000,000".

(b) Section 10 of the Act is further amended by adding at the end thereof the following: "Not more than 20 percent of the total amount of additional funds authorized to be appropriated effective October 1, 1986, for loans and grants pursuant to this Act shall be for projects in any single State.".

SEC. 310. The provisions of sections 303 and 308 of this title shall take effect upon enactment of this title. The provisions of sections 304(a) and 305 of this title shall be applicable to all proposals for which final applications are received by the Secretary after January 1, 1986. The provisions of sections 302, 304(b), 306, and 307 shall be applicable to all proposals for which draft applications are received by the Secretary after February 1, 1986.

TITLE IV—VALIDATION OF CONTRACTS

SEC. 401. The Federal Power Act (Act of June 10, 1920, 41 Stat. 1063; 16 U.S.C. 791a et. seq., and Acts amendatory thereof and supplementary thereto) is amended in section 10(e) (16 U.S.C. 803(e)) by deleting "Commission." and inserting in lieu thereof: "Commission: *Provided, however*, That no charge shall be assessed for the use of any Government dam or structure by any licensee if, before January 1, 1985, the Secretary of the Interior has entered into a contract with such licensee that meets each of the following requirements:

"(A) The contract covers one or more projects for which a license was issued by the Commission before January 1, 1985.

"(B) The contract contains provisions specifically providing each of the following:

"(i) A powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States.

"(ii) The powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned.

"(iii) All revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee.

This paragraph shall apply to any project covered by a contract referred to in this paragraph only during the term of such contract unless otherwise provided by subsequent Act of Congress.".

Mr. McCLURE. Mr. President, as ordered reported by the Senate Committee on Energy and Natural Resources, H.R. 3113 is truly the culmination of years of effort and reflects years of success in the development of our water resources. The committee had carefully crafted what I consider to be for the West at large an extraordinarily productive measure and in the case of the State of California a truly comprehensive attempt to address the question of water management. Benefits will accrue to the Nation.

It is no secret and certainly should come as no surprise that, by and large, the days of authorizing massive new construction starts for the Bureau of Reclamation are almost over. You can only build Coulee Dam, Hoover Dam, the Central Valley project, the Central Arizona project, once. Most of the major physical water resource development sites have been constructed.

Today they are monuments to the integrity of the engineers of the past and testimonials to the foresight of the Congress and those who had the vision to look at the parched lands of our Western States and see a productive agricultural future. We are all sharing in the bounty of their efforts. But the job is far from done. The needs of water will continue and, in fact, are certain to grow.

Perhaps, here, in trying to meet the demands of the water resources future we can take a page from the energy crisis of the 1970's when we, as a Nation, discovered that our most economic new sources of energy were in fact the result of conservation—wise use of what we already had. So too, it may turn out to be in the field of water resources. As reported by the Committee on Energy and Natural Resources, H.R. 3113 is a landmark step toward a future of better water management.

On face value, it is obvious that title I of the bill provides for better water management by providing for the coordinated operation of the Bureau of Reclamation's Central Valley project and the State of California's State water project.

Title II furthers the effort of a comprehensive approach to California water problems and the operation of the two projects by authorizing the Suisun Marsh preservation agreement between the Federal Government, the State of California, and local entities. From a resource standpoint, operation of the two projects and the maintenance of water quality in the Suisun Marsh are inseparable.

Title III of the bill is the first comprehensive reauthorization of the Bureau of Reclamation's Small Projects Act in the 30 years that the program has been in successful operation and brings this program into step with contemporary water resources thought and responsibility. The amendments to the Small Reclamation Projects Act provides for significantly increased levels of non-Federal upfront cost sharing and redirection of the program to emphasize rehabilitation of existing water resource developments with commensurate water conservation and a heightened sensitivity to the needs of fish and wildlife and related environmental requirements.

Mr. President, this new emphasis is particularly timely from the standpoint of fish and wildlife and the environment as many of the projects which will utilize the program are old. They were constructed at a time when we were not as appreciative of the values associated with fish and wildlife or the potential adverse impacts on the environment which could result from water resource development.

And here I would take a moment to cite just one aspect of the amendments whereby it is required that each loan proposal transmitted to the Congress by the Secretary of the Interior be accompanied by an investigation of the potential for toxic or hazardous irrigation return flows. This is a direct result and in recognition of the unfortunate circumstances at the Kesterson National Wildlife Refuge in California and the related selenium contamination.

With this legislation we can do great good toward rectifying past mistakes while at the same time preventing future problems.

But, I have one paramount concern. None of this will come about—no water conservation, no better resource management, no fish and wildlife benefits, no going back to address the environmental problems of old projects, none of this will happen if, we in the Congress, place the threshold of participation by the water users at too high a level. We must remember that for the most part, these are already operating projects—they already work and provide benefits to the participants. But the additional benefits to the environment and fish and wildlife and better water management will not occur if the price is too high for those who would benefit directly from the project—and who also pay the bill. It would do little good to enact a program that would severly restrict the ability of the water user to participate.

If we are to achieve the mutually compatible goals of water conservation and mitigation of past and future adverse environmental impacts, we must authorize a program that offers a reasonable chance of acceptance by the water uses. It would be of little value if we, on the one hand were to improve the program from the environmental and fish and wildlife standpoint while at the same time burden the program with such constringent fiscal restraints or unrelated burdens that no water user organization was able to take advantage of the opportunity to improve a project.

We must not put our water users in the catch-22 position of offering them a program that requires substantial contributions, strengthens efforts and requirements to mitigate adverse fish and wildlife impacts—to which they all have agreed—and then place them in the untenable position of having agreed to assume these additional burdens—and then make the program unworkable.

This would be duplicitous and at best a hollow promise. It would be intellectually dishonest.

To my Western colleagues, the concepts embodied in H.R. 3113 are exciting. To my Eastern colleagues, I would propose that this legislation may serve as an important example of what may be in store in the future for my Eastern friends.

East or West, water is a finite resource. Limits have dictated to Westerners the need for development, conservation, and management of a scarce resource. To the east of the 100th meridian, citizens enjoy the free bounty of adequate precipitation—in fact in many eastern areas the problem has been too much water rather than too little. But in the east too, there are limits. Some areas are appproaching those limits and may benefit from turning to the Western States and their experience in water resource development.

I would assure my Eastern colleagues that just as they have helped us in the West to husband our resources, so too will we help them when the need arises.

Mr. President, I ask unanimous consent that the background and committee amendments sections from Report 99-265 which accompanied H.R. 3113 when it was reported by the Senate Committee on Energy and Natural Resources appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT 99-265

[Implementing the coordinated operation agreement for the Central Valley project and State Water project, California, to implement the Suisun Marsh Preservation Agreement, California, to amend the Small Reclamation Projects Act of 1956, as amended, and to validate certain contracts]

* * * * *

BACKGROUND

The Central Valley Project (CVP) and the State Water Project (SWP) are California's largest water resources development projects. The CVP is operated by the Bureau of Reclamation and the SWP is operated by the California Department of Water Resources. The two projects have commingled waters and interrelated operations. In many instances, the projects produce joint environmental effects.

The facilities of the CVP store, regulate, and divert flows of several rivers, principally the Sacramento and the San Joaquin, which flow into the Sacramento/San Joaquin Delta ("Delta") and then into San Francisco Bay. The CVP pumps water from the Delta and upstream points and exports it by means of canals to various locations, principally the San Joaquin Valley.

The SWP stores, regulates, and diverts flows of the Feather River, a major tributary of the Sacramento River. The SWP exports water from the Delta to the southern San Joaquin Valley, southern California, and the San Francisco Bay area.

The CVP and the SWP differ significantly in terms of water use, project yields, and export capacity. Ninety-five percent of the water delivered by the CVP goes to agricultural uses. By comparison, water delivered by the SWP goes about equally to agricultural and urban uses. The estimated yield of the CVP (water made available by the project on a reliable basis) is approximately three times greater than the SWP yield: 9.4 million acre-feet per year as compared to 3.1

million acre-feet per year. Finally, the SWP has a greater export capacity from the Delta than does the CVP: 6,400 cfs (cubic feet per second) versus 4,900 cfs.

Because the storage and export capacities of the CVP and the SWP differ and because the projects use some of the same water bodies, coordinated operation under the Coordinated Operation Agreement would provide benefits to each project in terms of greater operational efficiency. More importantly, granting the Secretary of the Interior the authority to enter into the COA is essential for ensuring both the maintenance of water quality standards in the Delta and the viability of the SWP in water short years.

In 1978, the California Water Resources Control Board set Delta water quality standards in Decision 1485 and held the CVP and the SWP jointly and severally responsible for maintaining these standards. Thus far, however, the Bureau of Reclamation has taken the position that it does not have the legal authority to make water releases for purposes of maintaining Delta water quality standards to the extent that such maintenance would require any reduction of exports to its contractors (water users). The result is that in dry years, the SWP alone would be forced to make water releases sufficient to maintain Delta standards which would in turn require severe reduction of water allotments to SWP contractors.

Execution of the COA would spread the potential burden of water reductions in dry years across both projects' contractors, thus lessening the impact on the SWP. This sharing of the responsibility for maintaining Delta water quality in dry years is a critical aspect of the COA which, in light of the Bureau of Reclamation's interpretation of its legal authority, makes legislative action necessary. In other respects, the CVP and the SWP have been in coordinated operation on a year-to-year basis since 1971, and with some modifications the COA largely formalizes the status quo. Pursuant to the COA:

Both the CVP and the SWP would be committed to meeting water quality and outflow standards for the Delta that are extracted from the standards contained in the State Water Resources Control Board's Decision 1485. Article 11 of the COA requires that the CVP and SWP be operated to meet the current Decision 1485 water quality standards which are referenced and made a part of the COA as "Exhibit A."

Mutually recognized annual water supplies of the two projects are established. CVP facilities built before the SWP are recognized as having the water supply yield they would have had if the later facilities had not been built. The CVP and the SWP have equal claims to the remaining water.

The COA would also provide for cooperative utilization of the facilities of the two projects for water conveyance and sales. Under the COA, conveyance through the other project's facilities would occur during times of project maintenance, to minimize adverse impacts on young striped bass in the Delta during May and June, and at such times when the SWP has excess capacity and the CVP needs to convey water for other purposes.

Implementation of the COA would free a substantial block of CVP water (estimates range up to 1.1 million acre-feet annually) for future long term water service contracts. There have been numerous requests for additional water supplies by current contractors. Delivery of some of the additional requested supplies would require the construction of new conveyance facilities while other supplies could be contracted for almost immediately.

During the consideration for H.R. 3113 by the Committee, various wildlife interests expressed concern that maintenance of existing wildlife refuges within the Central Valley Basin may require the allocation of a portion of the additional firm CVP yield possible by the implementation of the COA. In response, the Committee adopted an amendment that prohibits the Secretary of the Interior from contracting for more than a certain portion of the firm annual yield of the Central Valley project not currently committed under long term contract until 1 year after the Secretary of the Interior has transmitted to the Congress, along with his recommendations, a study on refuge water supply needs of the Central Valley Basin. The study is underway and due to be completed in October of 1987.

During Committee consideration of H.R. 3113, questions were also raised concernng contract repayment requirements and the sufficiency of rates to recover the Federal investment as well as operation and maintenance costs of the Central Valley Project. These concerns were also addressed by the Committee Amendment.

A critical environment aspect of the operation and management of the CVP and SWP is the effect of the projects on water quality standards in Suisun Marsh area, located approximately 40 miles northeast of San Francisco. The Suisun Marsh is the largest marsh in California encompassing more than 10 percent of the State's remaining wetlands. The Marsh consists of approximately 84,000 acres: 57,000 acres in wetland habitat and 27,000 acres in bays and waterways. Eighty percent of the wetland habitat is controlled by privately-owned duck clubs; 17 percent lies within State Wildlife Management Areas; and 3 percent consists of tidal lands. Although the abundance and diversity of the wetlands vegetation supports more than 250 species of fish and wildlife, its prime importance is its value to migratory birds. California is the wintering ground for 60 percent of the waterfowl population of the Pacific Flyway; Suisun Marsh harbors a substantial portion of these birds.

Salinity encroachment in the Marsh has become an increasing problem due to increased fresh water use in the Bay area, the San Joaquin Valley and the Central Valley. Ocean saltwater intrudes into the Marsh when the freshwater outflows from the Delta are decreased below the level necessary to prevent the tides from carrying saltwater upstream from the upper San Francisco Bay. Salinity inhibits the growth of plants necessary to provide food for waterfowl.

In May of 1978, the State of California in a report on the problems associated with management of the Marsh recommended that: "It is imperative that steps be taken now, even though the relative responsibility for the impacts of the SWP, CVP, and non-project operations have not yet been determined to protect those portions of the marsh most adversely affected by upstream use."

Congress initially addressed the water quality problems of the Suisun Marsh with enactment of Public Law 96-495, the Suisun Marsh Preservation and Restoration Act of 1979 which authorized limited structural efforts, and a study, directed towards mitigating adverse effects of the CVP on the Marsh. There followed 5 years of negotiations between the California Department of Water Resources, California Department of Fish and Game, the Suisun Resource Conservation District, and the Bureau of Reclamation for the purposes of reaching an agreement for achieving the water quality standards desired for the Marsh area.

As passed by the House, H.R. 3113 did not address the Suisun Marsh issue as negotiations on the agreement were still underway. Agreement was reached on November 1, 1985 between all the parties concerned and the Committee amended H.R. 3113 to reflect this agreement and authorize the Secretary of the Interior to execute and implement the agreement and to construct related facilities. Absent the agreement and construction of the facilities, achievement of water quality standards could require the release of up to 2 million acre-feet of water (1.2 million acre-feet from the CVP) during dry years. Such a release would reduce the additional CVP yield made available by the COA by at least 750,000 acre-feet. To fully address the water quality needs of the Delta and Suisun Marsh requires implementation of both the COA and the Suisun Marsh Preservation Agreement.

Relevant to the issues of water conservation and related development efforts in California and the remaining western reclamation States, including Hawaii, are the activities undertaken pursuant to the Small Reclamation Projects Act of 1956, Public Law 84-984. The primary purpose of the program established by the Act is to enable water user organizations in the 17 Western States and Hawaii to obtain loans and/or grants for the construction of small water resource projects independently from the more formal and time consumming procedures required for authorization of Federal projects under the Reclamation Act of 1920 as amended and supplemented.

Projects may be single purpose irrigation or drainage, or they may be mutli-purpose and include in addition to irrigation, municipal and industrial water, fish and wildlife enhancement, outdoor recreation, flood control, or hydroelectric power. Grants can be made for costs allocated to flood control and for about 50 percent of the costs allocated to fish and wildlife enhancement and outdoor recreation. Grants under the program have amounted to only about 3 percent of the total program. The costs allocated to municipal and industrial water supplies, hydroelectric power, the loan portion of the costs allocated to fish and wildlife and outdoor recreation, and the costs associated with serving lands in excess of the acreage limitations of Reclamation law are reimbursable with interest. The interest rate for fiscal year 1985 was 10⅞ percent.

Each loan applicant provides for financing of certain initial costs such as land and feasibility studies. From 1957 to 1970, the non-Federal up-front contribution averaged 11 percent. From 1974 to date, the non-Federal up-front contribution has averaged approximately 20 percent.

The maximum allowable loan and/or grant cannot exceed two-thirds of the total project cost. The total project cost ceiling is established at $15 million (January 1971 prices) and is indexed for inflation. The project ceiling was $41 million for calender year 1985 with a maximum loan and/or grant of approximately $26 million.

Under the current program, loans are to be repaid in the shortest practicable time, but in no event, longer than 40 years from

the date when the principal benefits of the project become available. The most recent loans have repayments periods from 25 to 30 years.

The current authorization ceiling of $600 million is only adequate to complete loans already approved. Statistics on the program as of January 16, 1986 are as follows:

SMALL RECLAMATION PROJECTS DISPOSITION OF $600 MILLION APPROPRIATION CEILING, JANUARY 16, 1986

	Loan amount	Grant amount	Total Federal	Contribution	Total project
Completed	$230,670,739	$5,283,444	$235,954,183	$45,154,097	$281,108,280
Administration			10,200,000		10,200,000
Under construction	241,461,127	19,539,166	261,000,293	53,050,963	53,050,670
Approved	44,960,000	9,405,000	54,365,000	19,586,000	73,951,000
Escalation			20,000,000		
Total	517,091,866	34,227,610	581,,519,476	117,790,767	699,310,243
Ceiling			600,000,000		
Balance			18,480,524		

Bureau of Reclamation Code 705 Based on January 1, 1986 Status Report summary 3.

It is anticipated that the ceiling increase of $600 million will permit the program to operate for an additional 12 to 15 years.

The Committee amendment also amends section 10(e) of the Federal Power Act to provide that no "falling water charge" or other annual charge shall be assessed by the Federal Energy Regulatory Commission against a licensee utilizing irrigation facilities under certain conditions.

In 1969, the three irrigation districts of the Bureau of Reclamation's Columbia Basin project in Washington State entered into amended project repayment contracts with the Department of the Interior. The amended repayment contracts provide that the irrigation districts may construct hydroelectric facilities within the project area and retain all resulting revenues. The irrigation districts have argued before the Federal Energy Regulatory Commission (FERC) that these amended contracts preclude the FERC from imposing any charges pursuant to section 10(e) of the Federal Power Act to hydrolectric developments within the project. The FERC has rejected this argument, and the irrigation districts have appealed the FERC's ruling to the U.S. Court of Appeals for the D.C. Circuit.

The irrigation districts currently operate five small hydrolectric projects with one project under construction and one additional site licensed. The amendment would affect three projects.

Consideration of relate legislation during the 98th Congress revealed that a similar contractural relationship exists in connection with the Salt River project in Arizona. The contract between the United States and the Salt River project was entered into in 1917. The Columbia Basin Project and the Salt River Project are the only projects identified by the Administration where such contracts exist. Legislation similar or identical to title IV of the Committee amendment has passed both the House and the Senate.

In amending and reporting H.R. 3113, the Committee has sought to address several relevant water issues in the context of one legislative proposal for consideration by the Senate.

LEGISLATIVE HISTORY

As ordered reported, H.R. 3113 combines elements of four measures in the 99th Congress: H.R. 3113, providing for the coordinated operation of the Central Valley project and the State water project in California; S. 1192, to implement the Coordinated Operation Agreement; S. 1171, to amend the Small Reclamation Projects Act of 1956, as amended; and S. 953, to validate contractual relationships between the United States and various non-Federal entities.

H.R. 3113 was introduced on July 30, 1985, by Congressmen Miller (California), Coelho, and Lehman, and was reported by the House Committee on Interior and Insular Affairs on September 9, 1985 (H. Rept. 99-257). H.R. 3113 passed the House on September 9, 1985. Although hearings were not held on the text of H.R. 3113 by the House Committee, oversight hearings on the Coordinate operation agreement were held before the Subcommittee on Water and Power Resources on May 23, 1985 (unprinted).

S. 1192 was introduced on May 22, 1985, by Senators Wilson and Cranston and was referred to the Committee on Energy and Natural Resources where a hearing was held before the Subcommittee on Water and Power on July 16, 1985 (S. Hrg. 99-258).

COMMITTEE AMENDMENTS

The Committee struck all after the enacting clause of H.R. 3113, and inserted a substitute text in lieu thereof. As ordered reported, H.R. 3113, in addition to authorizing the Secretary of the Interior to enter into and implement the Coordinated Operation Agreement for the Central Valley Project and State Water Project in California, also authorizes the Secretary to execute and implement the Suisun Marsh Cooperative Agreement, amends the Small Reclamation Project Act of 1956, as amended, and amends section 10(e) of the Federal Power Act.

As referred to the Committee, H.R. 3113 amended the Act of August 26, 1937 (50 Stat. 850) to authorize and direct the Secretary of the Interior to operate the Central Valley Project, in conjunction with the State of California Water Project, so as to conform to State water quality standards and provide water of a certain quality at the intake of the Contra Costa Canal (a feature of the Central Valley Project). In addition, H.R. 3113 amends the Act of August 26, 1937, to provide that costs attributable to the Central Valley Project for the purposes of salinity control and complying with certain State water quality standards would be nonreimbursable project costs. The Congressional Budget Office estimated that about $50 million of the cost of the Central Valley Project would become nonreimbursable as a result of the cost reallocation mandated by H.R. 3113 and that any additional costs incurred to comply with new State water quality standards would also be nonreimbursable as a result of the legislation. Finally, H.R. 3113 as referred to the Committee amended the Act of August 26, 1937, to authorize and direct the Secretary of the Interior to execute and implement the "Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" subject to certain conditions.

In regard to the Coordinated Operation Agreement, the Committee amendment substitutes the text of S. 1192 for the language of the House passed bill. This, in effect, provides a straightforward authorization for the Secretary of the Interior to execute and implement the COA. The Committee noted in its deliberations on H.R. 3113, that as passed by the House, the bill would evaluate the status of several provisions of the COA from that of elements of an agreement to the authority of statute. Concern was expressed that by doing so, the delicate balance achieved by competing interests during the negotiations leading up to the COA may be upset. Serious concern was also expressed as to whether or not investing the Secretary with the authority to enter into a cooperative agreement, while at the same time elevating some of the provisions of the agreement into the statute, may imply that the Secretary has the authority to make allocations of water which would circumvent the prescribed statutory terms of the original project authorization act. Finally, the Administration noted in its comment on H.R. 3113 that: "While we can support H.R. 3113 to the extent that it authorizes and directs the Secretary to execute and implement the May 1985 COA, we have major reservations and concerns with the remainder of the bill." The full text of the Administration's comments on H.R. 3113 is included in the Executive Communications section of this report. The Committee shares some of the Administration's concerns.

The Committee amendment in the nature of a substitute includes several provisions which, while not directly related to the COA, are nevertheless believed by the Committee to be relevant to the Central Valley Project or to western water resources. The amendment includes authorization for the Suisun Marsh restoration program thereby addressing further demands that may be made on the operation and management of the Central Valley Project; such action is complimentary to the authorization of the COA and furthers the effort to deal with the water resources of the area in a more coordinated and comprehensive manner. Problems associated with the water quality of the Suisun Marsh were not addressed in the House passed bill. The Committee amendment also substantively amends the Small Reclamation Projects Act of 1956, as amended, and amends the Federal Power Act; neither of which were included in the House passed bill.

Identified by section, the additional provisions would provide as follows:

SEC. 102. This section provides that the Secretary of the Interior shall not contract for the delivery of more than 75 percent of the firm annual yield of the Central Valley Project not currently committed under long term contracts until 1 year after the Secretary has transmitted to the Congress a feasibility report, together with his recommendations, on the "Refuge Water Supply Investigation," Central Valley Basin, California. This section was added to address the concerns expressed by fish and wildlife interests that with authorization and implementation of the COA, all available water supplies may become subject to long-term contracts without consideration of refuge needs. The Committee notes that the effect of the amendment is not to reserve water for refuge needs in the sense that it creates a legal reservation.

SEC. 103. This section provides that new or amended contracts for delivery of water from the Central Valley Project shall include provisions allowing for adjustment of rates and the redetermination of ability to pay. The effect of this section is to codify current practice by the Bureau of Reclamation.

SEC. 104. This section provides that new or amended contracts for the delivery of water from the Central Valley Project include provisions ensuring that operation and maintenance cost deficits of the Central Valley Project be repaid with interest. The effect of this section is to codify current practice by the Bureau of Reclamation except for the imposition of interest charges on operation and maintenance deficits originating as a result of project irrigation functions. In addition, the section provides that interest would be charged at a rate equal to the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project.

SEC. 201. This section authorizes the Secretary of the Interior to execute and implement the Suisun Marsh Preservation Agreement.

SEC. 202. This section prescribes the sharing of costs between the Bureau of Reclamation and the California Department of Water Resources for the implementation of the agreement. The Federal share is not to exceed 40 percent of the construction costs or $50 million (indexed for cost increases or decreases) whichever is less, and not to exceed 40 percent of the related operation and maintenance costs. All Federal costs are to be considered costs of the Central Valley Project and are to be allocated to the reimbursable and nonreimbursable purposes served by the project.

SEC. 203. This section provides that costs incurred before and after the date of execution of the agreement are to be included in the total for determining the Federal share of construction, operation, and maintenance costs.

SEC. 204. This section authorizes the appropriation of $50 million (subject to indexing) for the implementation of the agreement and also such sums as may be required for operation and maintenance.

SEC. 301. This section specifies that the amendments made by title III of H.R. 3113 apply to the Small Reclamation Projects Act of 1956, as amended (hereinafter referred to as the "Act" in the context of amendments made to the Small Reclamation Projects Act by H.R. 3113 as ordered reported).

SEC. 302. This section amends section 1 of the Act so as to emphasize the use of the program for the rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment, and for purposes of water quality control.

SEC. 303. This section amends section 3 of the Act to increase the filing fee for project applications from $1,000 to $5,000 to reflect the inflation that has occurred since enactment of the original Act in 1956.

SEC. 304. This section amends section 4(b) of the Act to provide that Federal funds cannot be used as "matching funds" for purposes of meeting the cost-sharing requirements of the Act. This section also amends section 4(b) to provide for a 25 percent upfront financing requirement which may be reduced to as low as 10 percent if the Secretary of the Interior determines that an organization is unable to secure financing from other sources under reasonable terms and conditions. This section recognizes the need to secure increased levels of non-Federal financial participation in water resource related developments, but also recognizes that flexibility must be provided to the Secretary so that he may respond to the unique financial and economic circumstances surrounding individual project proposals and loan applications.

SEC. 305. This section amends section 4(c) of the Act to require the Secretary of the Interior to transmit to the Congress with each loan proposal a certification of successful irrigability of project lands and an investigation of the potential for toxic or hazardous irrigation return flows. This section reflects the committee's concern that the viability of a project proposal be examined in the context of the available physical resource. In addition, the Committee, keenly aware of the unfortunate circumstances surrounding toxic contamination at the Kesterson National Wildlife Refuge in California, believes that an analysis of the potential hazards posed by irrigation return flows should be integral to the preparation of any project proposal submitted pursuant to the Small Reclamation Projects Act.

SEC. 306. This section amends section 5(b) of the Act to insure that cost-sharing requirements for project costs allocated to flood control for projects funded by the Small Reclamation Projects Act shall be on the same basis as required for Corps of Engineers projects. The Congress is presently considering legislation (H.R. 6 and S. 1567) which addresses fundamental changes in the policies guiding water resource development activities by the Corps of Engineers. It is the intent of the Committee that the policies which govern flood control activities by the Corps of Engineers should equally apply to identical activities undertaken by the Bureau of Reclamation pursuant to the Small Reclamation Projects Act.

SEC. 307. This section amends section 5(c)(1) of the Act to shorten the repayment period on project loans from 50 to 40 years and amends section 5(c)(2) of the Act to require that market rates of interest apply to the interest bearing portions of loans made pursuant to the Act. These conditions reflect the fiscal realities confronting the Federal Government in continuing monetary support for basic infrastructure and water resource development needs.

SEC. 308. This section amends section 8 of the Act to require the Secretary of the Interior to transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service such funds as may be necessary for investigations required pursuant to the Fish and Wildlife Coordination Act for purposes of the Small Reclamation Projects Act.

SEC. 309. This section amends section 10 of the Act to authorize the appropriation of an additional $600 million for projects under the Small Reclamation Projects Act. In addition, section 10 is amended to require that no more than 20 percent of the newly authorized $600 million may be spent for projects located in a single State. The Committee notes that the benefits of the Small Reclamation Projects Act have largely accrued to three States. By adopting the language limiting expenditures of no more than 20 percent of the newly authorized funds to any one State, the Committee intends that the benefits of the program will be distributed over a wider geographical area.

SEC. 310. This section seeks to apply the new requirements made by the amendments to the Small Reclamation Projects Act in as equitable a manner as possible given that many organizations have already expended considerable sums in preparing loan applications under the terms of the "old" Act. The Committee recognizes that the amendments made to the Small Reclamation Projects Act by H.R. 3113 as ordered reported are substantive and will impose additional financial requirements on applicants. The Committee, therefore, has been selective as to the application of the new requirements to final applications received by the Secretary prior to January 1, 1986, and draft applications received by the Secretary after February 1, 1986.

SEC. 401. This section amends the Federal Power Act to provide that no charge shall be assessed for the use of any Government dam or structure if the Secretary of the Interior has entered into a contract with such licensee which covers one or more projects for which a license was issued by the Federal Energy Regulatory Commission prior to January 1, 1985, and if the contract contains provisions specifically providing each of the following: A powerplant may be built by the licensee utilizing irrigation facilities constructed by the United States; the powerplant shall remain in the exclusive control, possession, and ownership of the licensee concerned; and all revenue from the powerplant and from the use, sale, or disposal of electric energy from the powerplant shall be, and remain, the property of such licensee. The section applies to any project covered by such a contract only during the term of such contract unless otherwise provided by subsequent Act of Congress. Similar language has previously been considered by the Committee in the context of S. 1132 in the 98th Congress and S. 953 in this Congress.

Mr. JOHNSTON. Mr. President, today we consider historic water legislation for California. The bill before the Senate, H.R. 3113, would authorize the Bureau of Reclamation to operate the Federal Central Valley project in coordination with the California State water project. Enactment of this legislation will make possible a number of far-reaching changes in the utilization of these two water development projects and help to resolve nearly 20 years of litigation.

In essence, H.R. 3113 would ensure that in drought years environmental water quality standards will be main-

tained in the Sacramento-San Joaquin Delta and that the burden of meeting these standards will be shared equally by the water contractors of the Federal and State projects. In the absence of the coordinated operation agreement, the burden of meeting delta water quality standards could, as a legal matter, fall upon the contractors of the State water project alone. In return for sharing this burden, Federal water contractors will receive the benefit of being able to contract for new long-term water supplies from the Central Valley project. These long-term supplies will become available as the result of clarification of certain water rights under the terms of the coordinated operation agreement.

Mr. President, the terms of the coordinated operation agreement go beyond this compromise, but that is the heart of it. I think the agreement is a creative solution to a difficult problem, and I commend all those who were involved in negotiating its provisions.

Beyond the coordinated operation agreement, H.R. 3113 contains several other provisions that relate to the Central Valley project. H.R. 3113, as reported by the Committee on Energy and Natural Resources, would mitigate the negative environmental effects of the Central Valley project and the State water project by authorizing the construction of facilities for the protection of Suisun Marsh. In addition, H.R. 3113 includes several provisions imposing greater fiscal discipline on the repayment of the Federal expenditures on the Central Valley project. All of these provisions are in the public interest, and I am happy to see them included in the bill.

Beyond the coordinated operation agreement and other matters relating to the Central Valley project, H.R. 3113 accomplishes two other meritorious goals.

First, the bill authorizes an additional $600 million for loans and grants under the Small Reclamation Projects Act of 1956. This new authorization is made subject to substantially increased requirements for cost-sharing and other provisions ensuring wider distribution of benefits under the loan program.

Finally, Mr. President, H.R. 3113 would validate certain contracts entered into by a limited number of public utility districts for the construction and operation of hydroelectric projects at Bureau of Reclamation dams. The contracts in question allow these utility districts to keep all revenues from the generation of electricity at the projects in question. The complete retention of all revenues conflicts with provisions of the Federal Power Act requiring the payment of annual charges for hydroelectric projects located at Government dams. H.R. 3113 would simply make clear that the affected districts are entitled to retain the benefit of their bargain with the Federal Government.

In sum, Mr. President, H.R. 3113 accomplishes a number of disparate purposes. The common element shared by these purposes is that they are all in the public interest. I know that some would not agree with that assessment, and in the case of the Small Reclamation Projects Act, I believe we will hear some interesting debate. Nevertheless, I believe the legislation is sound, and I hope to see it passed without significant amendment.

Mr. MURKOWSKI. Mr. President, I rise in support of H.R. 3113 as reported by the Senate Committee on Energy and Natural Resources and I would like to associate myself with the remarks of the distinguished chairman of the committee, the senior Senator from Idaho.

Mr. President, as chairman of the Subcommittee on Water and Power it was my privilege to preside over the formulation of H.R. 3113 as ordered reported.

The distinguished chairman, in his remarks, alluded to the years of effort which have gone into the bill before us. This is a particularly relevant comment when considering the coordinated operation agreement for the Bureau of Reclamation's Central Valley project and California's State water project. There have been over 26 years of negotiations between all parties concerned in coming up with this document dating back to before 1960 when the first coordinated operation agreement was reached. For the benefit of those members who are interested, the operation agreement was printed in the appendix to the committee report on H.R. 3113, Senate Report 99-265. I would caution you, the complexity of the agreement—it takes 46 pages of the committee report—is intricate and reflects the archane language which is common to so many western water agreements. The agreement has been described as delicate. That is probably an understatement. The agreement has been endorsed almost unanimously by the water resources and environmental communities.

As a nation we invest in our future. We pay Social Security taxes in anticipation of old age. We provide dollars for defense to ensure our security and the ability of our children to be free of a totalitarian government. We invest funds to clean up our Nation's waters so that we and generations to come may enjoy a healthfull environment. We set aside what otherwise might be economically productive lands so that we may experience the wilderness. We protect our free flowing streams so that others in years to come may experience the excitement of rapids or the serenity of deep free flowing rivers, all in the name of the future.

So too, must we invest in the development of our natural resources to leave a lasting legacy of jobs, income, and productivity. And for a lasting benefit, I can think of no other with greater benefits than investment in the development of our water resources.

In the case of the coordinated operation agreement and the Central Valley project and the State water project, much of the investment has already been made, but to realize greater economic and environmental benefits, the projects must be operated together so as to make the best use of the available resource.

The Suisun Marsh Preservation Agreement, title II of H.R. 3113 as reported, is much more than simply an agreement. The title authorizes funding and construction of facilities to protect the water quality of the Suisun Marsh as well as related management activities. As most of my colleagues in the Senate know, I am an enthusiastic hunter and fisherman and I have a strong appreciation for the relationship between habitat and wildlife. Our efforts to preserve and enhance the wildlife habitat at Suisun Marsh will provide benefits for generations to come.

Title III of H.R. 3113 provides for an increase in the appropriations ceiling for the Small Reclamation Projects Act as well as a comprehensive restructuring of the program and related requirements. Quite frankly, I consider the opportunities for water conservation and benefits to wildlife as a result of the amendments made to the Small Reclamation Projects Act to be a real milestone in the management of our water resources. Testimony before my Subcommittee on Water and Power indicates that we have a real chance to be able to go back on older water resource projects and redress past oversights and adverse environmental impacts. This is an opportunity that must not be missed. Many of these projects have already provided benefits for generations of water users. We can not only continue those benefits, but expand the scope of the projects to include other beneficial uses as well.

Mr. President, the history of water resources development in our country has all too often been marred by conflicts between project advocates and the environmental community. This need not be so. Water projects can be beneficial to wildlife and adverse impacts mitigated.

Title III of H.R. 3113 strikes a fine balance between the concerns of the environmental community and the need to maintain a viable program. I would stress however, that if we are to address those concerns, we must maintain a program that will be used by the water resources community. I be-

lieve that the amendments as reported reflect a true spirit of compromise between all concerned in an effort to continue a proven and improved water resources program.

I am looking forward to working in the future with project supporters and the environmental community in the preparation and consideration of other legislation to continue the development of our Nation's water resources.

Mr. McCLURE. Mr. President, I move adoption of the committee amendment in the nature of a substitute.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time on the committee substitute?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1250

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2204

Mr. METZENBAUM. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2204.

Page 11, line 14, strike subparagraph 307(b)(A) and insert in lieu thereof the following:

"(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of 320 irrigable acres; or".

Mr. METZENBAUM. Mr. President, this amendment requires that all loan recipients whose farms are in excess of 320 acres shall be obligated to pay full cost for their water. In other words, whatever it costs the Government for the interest in connection with their loans shall be borne by those who make the loans, provided that their acreage is in excess of 320 acres.

Frankly, Mr. President, the amendment does not go as far as I would like to go. I believe that there is no reason to subsidize any portion of the interest and expect the rest of the taxpayers of this country to bear that burden. But I am realist enough to understand that sometimes you work out compromises and you work in the appropriate direction.

I believe we are establishing a precedent that all but the smallest farms should pay market interest. It is my firm belief that everyone should pay market interest. But I think that this first step is an important reform and I want to say that I appreciate the cooperation of the chairman, Senator JOHNSTON, and the minority and majority staff. It is my understanding that this amendment is now acceptable.

Mr. McCLURE. Mr. President, this amendment would serve to reduce the irrigable acreage eligible to receive the full benefits of the Small Reclamation Projects Act while at the same time retaining support for the small landowner. The amendment would provide that lands held in private ownership in excess of 320 irrigable acres would pay interest on that portion of the loan attributable to providing benefits to those lands. This means that those landowners in excess of the 320 acreage limitation would pay market interest as provided in the Small Reclamation Projects Act as amended by H.R. 3113.

An analysis of the seven loan applications now under review in the Bureau of Reclamation was made to determine the impact of the proposed amendment. Of the 9,895 ownerships, fully 9,801 are small landholders with less than 320 acres benefiting from the proposed loans: That constitutes over 99 percent of the beneficiaries of the program. As my colleagues can see, the benefits of the program go to the small landowner.

In turn, the amendment would provide an appreciable increase in the return to the Treasury. Under current law, for these seven projects, about $30,000 would be charged annually in interest on the irrigation portion of the loan. Under the terms of my amendment, comparable loans would pay in excess of $463,000; a more than fifteen-fold increase in annual interest returned to the Treasury.

Although this amendment does increase the costs to the water users, it is acceptable to them in a spirit of compromise and in an effort to maintain a viable program. The amendment is also strongly supported by the Environmental Policy Institute.

Mr. President, I join with the Senator from Ohio in commending this amendment to our body. It has been accepted on this side. I hope it will be approved very quickly.

Mr. JOHNSTON. Mr. President, I commend the Senator from Ohio. In his role as guardian of the taxpayer, he has found still another place where we can protect the interest of the taxpayers while, at the same time, preserving the small farmer. That is a pretty good compromise. I congratulate him for it. I join in asking for the passage of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2204) was agreed to.

Mr. METZENBAUM. Mr. President, I thank both the majority and the minority managers of the bill for their comments. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2205

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. McCLURE, proposes an amendment numbered 2205.

Mr. METZENBAUM. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13 after line 3 insert the following new section:

"SEC. 311. The Secretary of the Interior and the Secretary of Agriculture shall review the effect of the Small Reclamation Projects Act of 1956, as amended, on the operation and objectives of the programs of the Department of Agriculture dealing with the production of surplus commodities as determined by the Secretary of Agriculture pursuant to the Agriculture Act of 1949, as amended, and shall jointly submit a report on their findings to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House no later than 120 days from the date of enactment of this Act together with their recommendations, if any, for any changes to either or both programs to better achieve the objectives of such programs."

Mr. METZENBAUM. This amendment requires the Interior and Agriculture Departments to complete a

study in 120 days on limiting or prohibiting production of surplus crops.

The amendment requires the Departments of Agriculture and Interior to analyze the feasibility of limiting or prohibiting beneficiaries of Bureau of Reclamation loans from growing surplus crops.

The analysis shall include specific statutory options to accomplish the objectives of limiting or prohibiting beneficiaries of Bureau of Reclamation loans from growing surplus crops.

Finally, in making their report, the Departments shall consider the administrative feasibility or any options presented to Congress.

Mr. McCLURE. Mr. President, I commend the Senator from Ohio for this amendment. As all members of the committee are aware, this issue of surplus crops is one of the most difficult and potentially one of the most contentious that we face in the committee as we try to report legislation. I think this, in the form the Senator from Ohio is now offering it, gives us the opportunity to move toward the resolution of that question.

It certainly will provide us with better information and a better basis on which to make decisions regarding the future of this question.

I commend the Senator from Ohio. I commend the amendment to all Members of the Senate and hope that it will be adopted expeditiously.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho is correct on the difficulty and contentiousness of this issue. It is terribly complicated. We ended up realizing that we really did not have enough knowledge to be able to solve the problem even if we could solve the philosophical problems attenuating crop production because the knowledge base is simply not there. I commend the Senator from Ohio for coming up with at least a way to get that knowledge so that perhaps next year, the problem may be solved in light of better information. I urge my colleagues to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2205) was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I might inquire of the Senator from Ohio that the unanimous-consent agreement states that the Senator from Ohio would be able to offer two more amendments. Does he wish that opportunity?

Mr. METZENBAUM. No, Mr. President, I do not. If the Senator from Idaho wishes to make a motion to vitiate that part of the unanimous-consent agreement, I have no problem with it.

Mr. McCLURE. Mr. President, if a Senator present on the floor states he does not wish to offer either of the other two amendments, I think that disposes of all the amendments that are available under the unanimous-consent agreement. I therefore make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I ask unanimous consent that a letter dated June 25, addressed to me from the Environmental Policy Institute, be made a part of the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL POLICY INSTITUTE,
Washington, DC, June 25, 1986.

Senator JAMES McCLURE,
Chairman, Senate Energy and Natural Resources Committee, Washington, DC.

DEAR SENATOR McCLURE: The Environmental Policy Institute commends the work of the Senate Energy and Natural Resources Committee for its work in reauthorizing the Small Reclamation Projects Act of 1956 (H.R. 3113). In particular we are pleased that a greater emphasis is now placed on rehabilitation and betterment as opposed to the old approach of new dam construction to solve problems.

We note that the Committee has recognized the budgetary realities of today and has taken one more reform minded step by requiring 25% upfront financing for projects. We recognize this can prove to be a hurdle for some organizations where necessary work needs to take place and hence we agree with giving the Secretary of Interior the authority to reduce this to 10% in the case of hardship.

Concomitant with this, the principle of shortening the repayment period to 40 years and requiring market rates on the interest bearing portions of loans is a continued step in the right direction given the current economic and budgetary climate.

It is important to note that the Committee appears genuinely concerned with the problems the country is now facing with respect to toxic or hazardous return flows by requiring certification with each proposal of successful irrigability and whether their is a potential for these problems. As an institution, we feel the future water crisis is one of quality not quantity and your action is another step in meeting that challenge.

The question of equity has surrounded the discussions on the reauthorization of this program. In our review of the program we found that huge disparities existed as to where the benefits were being bestowed. Your proposal of not allowing 20% of the total amount of funds authorized to go to any one state is a critical element in restoring balance to this program. Your proposal is far more lenient than the one we advocated (15% to any one state in any one year) but we support you in the spirit of compromise.

Perhaps the most difficult question for all of us has been the issue of surplus crops. How to address this in terms of today's farm economy, the historical mission of the Reclamation program, the geographic and climatic variations in the 17 Reclamation states and the need to preserve agriculture and continue diversity in the food chain are difficult issues to balance in this program.

As you know, the Committee was not able to reach consensus on how to move forward in this area. I endorse the following proposal as to limits of where we can go in the spirit of moving the program and the other legislation in titles I and II forward. I recognize that staff and Committee Members have labored intensely over the most appropriate approach to take with this issue.

In reviewing the various proposals and the reforms advocated, along with the impact on the irrigated farms participating in the program, I agree with the Committee amendment to allow the first 320 acres to be interest free (so that surplus crops could continue to be grown) and that market interest rates be charged on acreage above that receiving benefits. I agree with the Committee that though this may be "punting" on the issue of surplus directly, the effect will be to discourage the large-scale production of surplus through this loan program. I feel that it meets the concerns raised in Committee with respect to the small family farmer in the non-agribusiness states being able to stay in business as well as alleviating the administrative programs associated with earlier proposals.

In conclusion, Mr. Chairman, it is my belief that the Committee has gone further in the reform area that it originally envisioned, while at the same time producing a legislative package that is a win/win situation for the nation as a whole.

Sincerely,

PETER CARLSON,
Director, Water Resources Project.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1300

Mr. CRANSTON. Mr. President, I ask that the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator yield for a brief colloquy?

Mr. McCLURE. I am pleased to yield to the Senator from Colorado.

Mr. HART. I thank the Senator from Idaho. It is my understanding that a number of important small reclamation projects would be eligible for funding under the terms of this measure. Many of these have significant value for water storage, irrigation, recreation, and wildlife enhancement throughout the West. As the Federal commitment to large-scale reclamation projects shrinks, the role of small rec-

lamation projects increases—particularly in the arid Western States.

In Colorado, for example, the Stagecoach Reservoir project has been mentioned as a particularly important water storage facility for residents of the Upper Yampa River Valley.

If it is eventually funded and proves to be both economically and environmentally sound, this project would enhance fishing and recreational opportunities for millions of visitors to western Colorado. The project is also designed to decrease streambank erosion along the Yampa River and provide needed irrigation water to farmers and ranchers in the area.

Is it my colleague's understanding that the Stagecoach project would be eligible for funding under this authorization bill?

Mr. McCLURE. That is my understanding.

Mr. HART. I thank the Senator and I yield the floor.

● Mr. ARMSTRONG. Mr. Chairman, I understand that H.R. 3113 includes amendments to the Small Reclamation Projects Act [SRPA] and increases the authorization ceiling for loans and grants under that act. I am concerned about a Colorado project, the Stagecoach project near Steamboat Springs, CO, which I believe you are familiar with. That project has a pending application under the Small Reclamation Projects Act, and I wanted to know whether the amendment increasing the ceiling for SRPA loans and grants would apply to this project.

● Mr. McCLURE. Yes; I am familiar with the project and am aware that its application has been pending for a SRPA loan/grant before the Bureau for some time, awaiting the ceiling increase on the SRPA. It is one of the projects that could be funded by the increase. Moreover, it is my understanding that this project is in its final stages of the Bureau of Reclamation application process and that the Bureau has listed it as one of the next projects to be approved for a loan or grant under the amended Small Reclamation Projects Act.

● Mr. ARMSTRONG. That is my understanding also. However, I am told that the Office of Management and Budget has refused to allocate funds for the project. For fiscal year 1987 the Bureau of Reclamation requested funds to start five specific projects under the SRPA, including Stagecoach, but the OMB apparently refused to approve more than three projects. When the Bureau resubmitted three recommendations, again including Stagecoach, OMB again refused to allocate funds for the project, in spite of the fact it offers 50 percent non-Federal financing, where two others accepted offer only 4 percent and 19 percent non-Federal participation. To date, the Upper Yampa Water Conservancy District, the project's sponsors, have spent well over $1,250,000 on the preparations and application process, and further delay of the project could increase the costs by up to $1,000,000. Because of this I ask the committee to clarify, perhaps in the conference report, that the amendment is intended to include the Stagecoach project, provided that it meets all the requirements of the Bureau in accordance with their standard application procedures. Such language would ensure that the Stagecoach project does not receive special treatment, only that it gets equal treatment.

● Mr. McCLURE. I believe that is a reasonable request, and I will do what I can to clarify the matter.●

Mr. CRANSTON. Mr. President, I rise in support of H.R. 3113, to authorize the coordinated operation agreement, the Suisun Marsh Preservation Agreement, and amendments to the Small Reclamation Projects Act.

The coordinated operation agreement, commonly known as the COA, is an historic, and tremendously important agreement between the Federal Government and the State of California regarding the operation of the Federal Central Valley project and the State water project.

After years of negotiation, the Federal Government has agreed to comply with State water quality standards for Sacramento-San Joaquin Delta and California has agreed to provide capacity in the State water facilities for conveyance of Federal project water.

In the past, the Bureau of Reclamation has insisted that the Federal Government need comply with State water quality standards for the Sacramento-San Joaquin Delta only to the extent that they did not conflict with the official project goals of the Federal Central Valley project. California has insisted that both projects have a responsibility to provide adequate flows of fresh water through the delta in order to keep saline water from moving into the delta from San Francisco Bay.

Now, after 15 years of negotiations, the Federal Government has accepted the State's position. Under the terms of the COA, the Federal Government would be obligated for the first time to abide by State water quality standards as they affect the Sacramento-San Joaquin Delta. The COA provides that both the Federal Government and the State will adopt a policy to protect the delta and limit water pumping diversions during drought years, even if it means reducing deliveries to their contract buyers, in order to maintain the delta standards.

The COA provides another important benefit to both the State and Federal Government through the coordination of the two huge water projects. Despite the proximity of their pump stations, a dependence on a common water source, and the shared use of a downstream reservoir, these projects have always operated independently. By coordinating pumping schedules and sharing reservoir and aqueduct systems, the CVP and State water project could serve their customers more efficiently and improve water quality in the delta. The Central Valley project has more water than it can deliver—1.1 million acre feet not under contract—and the State water project has excess capacity in its reservoirs and aqueducts. The COA would permit the Federal Government to sell its excess water to the State. And in return, the State would make its facilities available for the delivery of additional irrigation water to existing or new customers.

The House has included a number of additions to the COA in its version of H.R. 3113. Besides authorizing the Secretary of the Interior to implement the COA, the House bill requires the Federal Government to meet San Francisco Bay and delta standards unless the Secretary of the Interior determines that compliance is inconsistent with congressional directives and to operate the CVP so that water quality at the Contra Costa Canal intake at least meets the standards set by the State in August 1978. Finally, the bill makes the costs of providing water for the purpose of salinity control and meeting State water quality standards nonreimbursable. These additions represent a delicate compromise enabling all California interests—Federal Central Valley project contractors, State project contractors, Contra Costa County and delta water users, environmentalists, and the State itself—to support the legislation. Such broad support on a water issue is practically unprecedented in California.

I want to advise my Senate colleagues, and in particular those Senators who will serve as conferees on this bill, that I strongly support the House provisions on the COA. I am going to vote for the Senate bill today to advance the legislation and get the bill to conference. But I intend to fight for the House language there.

I would like to add, final action on the COA is even more urgent in light of the recent First District Court of Appeals decision ruling redefining the State water resources control board's powers. In that case, the court ruled the State board has more authority to maintain water standards than it has asserted and directed the board to take a broader view of its authority during the hearings scheduled to start next year on new delta water quality standards. The board is expected to hold three sets of hearings beginning July 1987 and ending mid-1989 for the adoption of a new set of water rights

and water quality standards by 1990. Approval of this bill will eliminate some of the issues the board would otherwise be forced to consider and resolve them amicably.

Mr. President, to sum up, passage of this bill is vital to California. I urge my colleagues to vote for H.R. 3113. It is helpful to the Nation. I thank those Senators who have been involved in advancing it and urge my colleagues to vote for H.R. 3113.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask that the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I should like to ask the manager of the bill, the distinguished Senator from Idaho, about his intentions regarding a rollcall. I know there has been some discussion that we might have one, some discussion we might not. In view of the fact that there seems to be no controversy over this, and as far as I know it is widely supported in the Senate, I personally, do not see any particular reason to have a rollcall.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. CRANSTON. Yes, of course.

Mr. McCLURE. Mr. President, I thank the Senator for making the inquiry, and I think it is a useful exercise to at least state, if we do not have a rollcall, why not. We have been discussing the question of whether or not a rollcall should be asked to indicate the degree of support in the Senate for this measure. I think, to the best of my knowledge, there is the potential for one or two votes against it, and I think all the rest of the Members with whom I have had any contact or of which I am aware would support this measure.

I want the House to understand that the absence of a rollcall is not the absence of interest but the absence of opposition. This is widely supported in this body, and I do not intend to ask for a rollcall. But I do appreciate the Senator from California raising that issue because I would want everyone to understand it is based upon widespread support for this bill.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. CRANSTON. Yes. I thank the Senator from Idaho very much for that clarifying and helpful statement. I, of course, yield to my friend from Louisiana.

Mr. JOHNSTON. Mr. President, this bill once was a very contentious bill, highly visible, highly controversial, but I am glad to say all the problems have been worked out, many at the behest of the Senator from California [Mr. CRANSTON]. I think it is widely understood and so far as I know there is no opposition. There may be, if you had a rollcall, one dissenting vote, perhaps two. Otherwise, it would be completely endorsed by the Members of the Senate, and I endorse the decision of the floor manager, the Senator from Idaho, not to have a rollcall vote because it is virtually unanimously approved.

Mr. CRANSTON. I thank the Senator very, very much. I think that is helpful. I must say that whatever controversy there has been over the bill is not related to the operating agreement in California; it is related to the other matters that do not affect the part in which I am particularly interested.

Mr. McCLURE. If the Senator will yield, I fully concur in that assessment.

Mr. CRANSTON. I thank the Senator very much.

Mr. WILSON. Mr. President, I rise in support of this legislation because it marks a very important development for the State of California. Today, we are considering what is perhaps one of the most important water bills for California in the last decade. It is a bill which memorializes an agreement that has been long in coming between the Federal Government and the State of California, one that will, to put it simply and not quite adequately, detail how both of these entities will operate major water projects in conjunction with one another in order to meet a multitude of objectives, the primary one being the maintenance of water standards in the Sacramento-San Joaquin Delta, and also the provision of surplus waters to thirsty southern California, a growing and already populous area that will increasingly be in need of water as it fulfills its predicted growth.

I commend the Bureau of Reclamation for its fine work in bringing these COA negotiations to a successful conclusion. The California water community has been clamoring for years for a COA, and it is only through the dogged determination of the Bureau of Reclamation and their counterparts in the State department of water resources that we have come this far.

I express my appreciation to the Energy Committee and in particular to its distinguished chairman for the efforts that they have made in bringing this bill to the floor. As was just developed in the colloquy between my senior colleague from California and the chairman of the committee, it is actually the collateral questions that have occupied so much of the time and energy of the Energy Committee rather than the Coordinated Operations Agreement itself. This is a relatively noncontroversial matter but one of enormous importance.

Title III of the bill, which relates to reauthorization of the Small Reclamation Projects Act, does contain an issue that I would comment on and not just in passing. It is proposed that there be a cap upon the participation by a single State in loans available from the fund created by the reauthorization of the Small Projects Act. I believe the 20-percent cap that has been proposed really is unrealistic in terms of the experience of the States participating in these Small Reclamation Projects Act projects. The fact is I think it would make much greater sense to have not an arbitrary cap but to provide for a formula that will allow fair participation to respond to the needs of all participating States. Clearly, it would be unfair for a single State to dominate by its participation to this money, to the detriment of those other States, and that is not at all what I would propose. Rather, it seems to me that what we have done in this language is to engage in an inflexible standard.

□ 1310

I hope that in the conference, the conferees will examine the experience and look to the reality of whether or not such a cap does not unfairly, without benefit to anyone, prejudice a State, a populous State like my own, which can expect to be an eager participant in these programs.

Mr. President, having made that comment, expressing my opposition to the cap, let me say that this entire effort has occupied some 4 months of committee markup. I am grateful that the committee persisted and persevered and elected to devote as much time and energy as they did to the resolution of all the collateral questions. What they have done in the process is to permit the underlying bill to become a high priority for passage in the 99th Congress. That is no small feat.

I am, however, opposed to the COA authorizing language agreed to by the Energy Committee. I will not attempt to improve upon the committee's language here on the floor only because I am convinced that my concerns will be adequately addressed in the forthcoming House/Senate conference, and that California's water needs will be best served by moving this bill to conference as expeditiously as possible.

Most of the language improvements that I speak of are embodied in the House-passed version of H.R. 3113, a bill that I support. I have reason to believe its language will survive relatively unchanged in the report of the House-Senate conference committee on H.R. 3113.

The COA is crucial to California for a number of reasons. The two most important features deal with improved water quality and supplemental water

supplies. Under the terms of this agreement, the State and Feds will be—for the first time ever—jointly committed to maintaining water quality standards in the San Joaquin-Sacramento River Delta which serves both the State and Federal water projects.

As a corollary to the water quality agreement, the Bureau of Reclamation will be free to begin contracting over 1 million acre-feet of water to potential customers. This much-needed water has remained unused since 1978 when the Bureau imposed a moratorium on new water contracts pending the outcome of the COA negotiations.

Finally, the COA authorizes the Secretary to commence negotiations with the State of California on the possible interim sale of Federal water to southern California. I do not think I have to remind anybody here how important new water supplies are to the heavily populated areas of southern California, and the prospect that some of the Federal water out of the Central Valley project may be made available to the cities of Los Angeles and San Diego is a new development.

The authorization of the COA is of overriding importance to California. Despite my objections to language contained in title I of the bill, I will not be offering any amendments, in the interests of moving this bill though the Senate and on to conference.

Mr. President, I cannot overstate the importance to California residents of the passage of this legislation in this Congress. While I would again have fault to find with the language of the Senate version in its simple statement of reauthorization, rather than detailing, as does the House version of H.R. 3113, all the requirements that are necessary in order to make the Coordinated Operations Agreement work, I look to the conference, and it is my expectation that the language contained in the House version, which I think is definitely preferable, will be the product of the conference, with little change.

Because of the importance of moving this legislation in this Congress, I do not intend to offer amendments to either title. Instead, it is much more important, and I think the interests of California water users will be better served, if we move this legislation as expeditiously as possible to conference, so that we can see it as a final product on the President's desk before this Congress adjourns sine die.

I urge my colleagues to take the same view of it. It seems to me that without amendment, we can go to conference with a record that clearly indicates what changes are necessary and allow the conferees to make those changes.

Mr. President, title III of H.R. 3113 reauthorizes the Small Reclamation Projects Act by providing $600 million in new loan and grant authority to the Bureau of Reclamation.

I strongly support the Small Reclamation Program because ever since 1956 when this program was first created, it has served as a valuable tool in California and all arid Western States for the conservation and wise use of scarce water resources. By assisting local entities to develop and maintain irrigation and multipurpose projects, communities dependent on a strong agriculture economy have thrived and helped make agriculture the number one industry in California.

As much as I support the reauthorization of this program, however, there is one provision in the bill before us that is particularly onerous for California.

Section 309(b) of H.R. 3113 provides that no State may receive more than 20 percent of the $600 million for loans and grants authorized by this bill for the Small Reclamation Projects Act.

For all but one State—California—this provision will have no meaning. Of the funds previously authorized since 1956 to implement this program, only California's share has consistently exceeded 20 percent. The respective shares of the next two closest States—Arizona and Texas—have been less than 15 percent.

The reason that California's participation in this program is greater than that of other Western States is simple: California has more needs that any other individual State. With a statewide population of 25 million people, it is by far the most populous of any western reclamation State and has more than 10 million acres of prime agricultural land under irrigation.

Many of the irrigation water systems that service these lands need rehabilitation, new conservation features, water quality improvements, supplemental supplies, new flood control works, fish and wildlife enhancement work—all of which qualify for loans under the Small Reclamation Projects Act.

Meeting these extensive needs in California, however, has not come at the expense of meeting the needs of any other water district in any other State. The fact is that no other water district has gone wanting because of California's participation in the Small Reclamation Projects Act.

It is true that in the past, water districts in other States have been denied small reclamation project loans. But these districts were denied because they did not meet certain qualifying loan criteria. They were not denied because the money they were asking for was given to a California water district instead.

Recognizing that California's past participation in the Small Reclamation Program has not been at the expense of any other State, why limit California's future participation to 20 percent? I have found no answer to this question in the committee report language.

First. Why cap California's participation in the Small Reclamation Projects Act at 20 percent?

Second. Is there any evidence that demonstrates that California has taken advantage of the program in the past at the direct expense of any water district in any other State?

Third. Has the committee or the Department of the Interior done any kind of scientific analysis which concludes that without a 20-percent cap for California, non-California water districts will be denied the opportunity to participate in this program under the new $600 million authorization that we are now considering?

Fourth. Is there any reason to believe that a 20-percent cap for California will somehow boost participation by non-California States in this loan program? Put differently, how will a 20-percent cap help qualify water districts for small rec loans when these same water districts are often hardpressed to meet the terms of the loan criteria for this program?

In sum, notwithstanding my colleagues' assertions to the contrary, I remain unconvinced that a 20-percent cap for California will do anyone any good, and I do not believe anybody would disagree with me that it will do California a world of harm.

As far as I know, there are not any greater national issues at stake. This cap, for example, will not save the taxpayers any money and it will not help relieve our budgetary deficit woes.

However, in the interests of moving this important California water package before us today, I will refrain from belaboring this issue any further on the floor and will not offer any amendment to modify this bill with the hope—and the expectation—that this issue will be reasonably resolved in the upcoming conference committee on this bill.

With that, Mr. President, I thank the distinguished managers of the bill, and I urge expeditious passage of this measure.

Mr. McCLURE. Mr. President, I thank the junior Senator from California for his remarks, and I thank the distinguished senior Senator from California for his remarks with respect to this bill and the labor it took to bring it to the floor and to have the nearly unanimous support of this body for its several provisions.

In doing so, I want to recognize the hours that have been devoted by both the majority and minority professional staffs of the committee to the negotiations that brought about this result. It was not easily achieved; it did re-

quire a great deal of time on their part.

I think that sometimes the staffs go perhaps noticed but not noted with respect to the achievements as well as the contributions to a legislative result, and I sincerely appreciate the work done by the staffs on both sides of the aisle to achieve the result here today.

Mr. JOHNSTON. Mr. President, I join in that sentiment. Sometimes the finest work of staff is on a bill which on the floor has the least difficulty, takes the least time, and has no controversy, because all that controversy has been moderated by the staff and the difficulties have been settled and the language has been smoothed out. That is the case on this measure.

So, I particularly congratulate the staff on both side for excellent work.

Mr. McCLURE. I agree totally with the Senator from Louisiana. The fact that we have no controversy at this point illustrates the truth of his remarks.

Mr. President, I think we are ready for passage of the bill. I know of no request for a rollcall vote; therefore, I will not request one.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (H.R. 3113) was passed.

The title was amended so as to read:

An act to implement the coordinated operations agreement, the Suisun Marsh Preservation Agreement, and to amend the Small Reclamation Projects Act of 1956, as amended, and for other purposes.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1400

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, we are trying to bring to the floor the supplementary extradition treaty with the United Kingdom. I understand it may be possible to do that, even though Senator LUGAR has a conflict with a meeting with the Foreign Minister of Pakistan. I still hope we can do that today.

Then there is the Philippines economic aid authorization that I understand is being worked on. Risk retention—I am advised it is possible that we might work out a time agreement. But we would very much like to complete action this afternoon on the extradition treaty; also, the supplemental Philippines, and risk retention if we can.

There are also a number of nominations that have been around for some time. Robert Ortner, of New Jersey, to be Under Secretary of Commerce for Economic Affairs, has been on the calendar since May 25. Morton L. Abramowitz, of Massachusetts, a career member of the senior Foreign Service class of Career Minister, to be Assistant Secretary of State, reported May 20. In fact, Ortner was reported March 25, not May 25. George Salem, to be Solicitor for the Department of Labor, reported June 18. Clarence B. Gibbs, of Texas, to be Commissioner of Internal Revenue, which is a very important appointment.

I must say I hope Mr. Gibbs can be confirmed so that he can perhaps participate in the tax conference. In the past, we have had the IRS Commissioner present during the tax conference to help us on some of the questions we have. He has not been confirmed, so that is one I hope we might be able to do yet today.

For the Department of Defense, M.D.B. Carlisle—I understand we might be able to take that up this week, or it was my understanding before the recess—to be Assistant Secretary of Defense; Saundra Brown Armstrong, to be a Commissioner of the U.S. Parole Commission; Harry W. Shlaudeman to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brazil; Jonathan Moore to be U.S. Coordinator for Refugee Affairs. They have been around since June 26.

And there are two others, Robie Marcus Hooker Palmer to be Ambassador to Hungary and Mary Kate Bush to be U.S. Alternate Executive Director of the International Monetary Fund. If those who have problems with those nominations could advise us on this side, it would help us as we plan the balance of the week.

I made a special plea for the IRS Commissioner, since he would, I hope, be represented or be there in person during the tax conference, which starts tomorrow morning at 10:30.

Mr. President, I understand the manager on the United Kingdom treaty cannot be here until 2:45 or 3 o'clock. It seems to me that since we cannot stir up any business and there is nothing for us to do at the moment, we should stand in recess.

Mr. MATSUNAGA. Will the distinguished majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MATSUNAGA. Did I understand the majority leader to say we may be taking up the Manion confirmation today?

Mr. DOLE. I thought we did that earlier.

Mr. MATSUNAGA. I understand the majority leader's response.

RECESS UNTIL 2:50 P.M.

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 2:50.

The motion was agreed to and, at 2:09 p.m., the Senate recessed until 2:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HECHT).

□ 1450

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEST BAN TREATY

Mr. KENNEDY. Mr. President, the decision to hold talks on test ban issues is a worthwhile development but it is regrettable that in the same breath the administration chose to reiterate its hardline opposition to a comprehensive test ban treaty which has been the goal of every American President since Eisenhower. The administration is painfully behind in the curb on arms control. U.S. scientists acting on their own achieved a significant breakthrough early in this month when they succeeded in placing sophisticated monitoring stations near the main Soviet nuclear test site. Their achievement is a major step toward resolving the problem of verifying a test ban agreement. Now the President says he is going to talk with the Russians about the verification issue but it is sad that an administration supposedly committed to arms control has to be shown the way by private citizens.

CONDEMNING THE GOVERNMENT OF CHILE FOR THE DEATH OF RODRIGO ROJAS DE NEGRI

Mr. KENNEDY. Mr. President, I send a resolution to the desk on behalf of myself, Mr. GORE, Mr. SIMON, Mr. HARKIN, and Mr. KERRY, and ask for its immediate consideration.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, I think it is regrettable that Members of the Senate cannot even send a resolution to the desk.

Mr. President, I send a resolution to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. The Senator has that right.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The resolution has been received and appropriately referred.

Mr. KENNEDY. I would prefer to have the right to proceed to immediate consideration. But we will proceed as best we can.

Mr. President, I send a resolution to the desk and urge the Senate to act quickly and favorably on it. The resolution is a straightforward one: It commends the U.S. Ambassador to Chile, Mr. Harry Barnes, for attending the funeral of Rodrigo Rojas de Negri and condemns the Government of Chile for the brutal murder of this 19-year-old United States resident on the streets of Santiago.

Darkness is descending on the people of Chile. Hope for an early and peaceful return to democracy is fading. The virulent repression and inhumanity of the Chilean regime knows no bounds. From the day General Pinochet seized power in 1973, through the assassination of Orlando Letelier on the streets of Washington and now to the fiery execution of Rodrigo Rojas—a graduate of Woodrow Wilson High School in Washington who had just returned this spring to his native Chile—General Pinochet's reign of terror continues.

The violence and repression grow with each passing day as students, housewives, physicians, and lawyers are beaten and arrested on the streets of Santiago.

According to America's Watch, during March and April alone, the Government was responsible for 5 violent deaths, 22 attempted murders, 1,610 detentions for political activists, and 141 cases of torture and cruel, inhumane, or degrading treatment. Since April, the repression has grown worse. During the first 2 weeks of May, the Chilean security forces raided 39 shanty towns and rounded up over 94,000 individuals. Of that enormous group, only five were ever charged with criminal misconduct.

In the wake of these raids, which often leave the shanty towns in shambles, groups of university students have taken to visiting the towns to help their residents rebuild their destroyed homes, to stay and comfort them, to share meals with them.

On July 2, Rodrigo Rojas and a friend, Carmen Quintana Arancibia, went with a group of 60 university students to a shanty town in the outskirts of Santiago. The town had recently been ransacked by the Chilean military and the students were there to show support and to provide comfort to the residents.

Rodrigo's family is well acquainted with the horrors of the Pinochet regime. His mother disappeared in 1975 and was tortured and raped by the Chilean secret police. She fled to Washington in 1977, where she raised her two sons. She was barred from returning to Chile. Rodrigo decided to spend the summer in Chile to reaquaint himself with his Chilean roots. His visit to the shantytown was part of that effort. The only item he had with him was his camera.

According to eyewitnesses, on the morning of July 2, soldiers with blackened faces arrived in the shanty town and began to attack the students. They singled out Rodrigo and Carmen, brutally beat the two, poured a flammable liquid over their bodies and set them on fire. The two were then thrown into a vehicle, driven away and thrown in a roadside ditch. They were discovered wandering aimlessly later that day, incoherent, with burns over 60 percent of their bodies.

The two were taken to a local public hospital with poor facilities. Rodrigo's mother, Veronica de Negri, with the help of the U.S. Ambassador and Consul General, attempted to have her son moved to a hospital with a better treatment facility. She was told her son was under arrest, and the authorities refused to permit his transfer. With the help of Ambassador Barnes and Isabel Letelier, Dr. John Constable, a burn specialist at the Massachusetts General Hospital, flew to Santiago to offer treatment. But Rodrigo Rojas died on Suday July 6, and Ms. Quintana remains in critical condition.

Even in death, the Chilean Government persecuted Rodrigo. During his funeral procession on July 9, the Chilean authorities fired tear gas and water cannons into the crowd which included Ambassador Barnes.

Ambassador Barnes deserves to be commended for his commitment to human rights and democracy in Chile, and for his compassionate role in the Rojas case. He is serving in one of the world's most difficult posts, during one of Chile's most difficult times. He has had the courage to oppose the Pinochet regime and to align himself clearly with the forces of democracy in Chile. This country is privileged to have an envoy of the quality of Harry Barnes and his dedicated work in Chile brings credit to the United States.

The Chilean Government continues to deny any responsibility for the death of Rodrigo Rojas. Indeed, it maintains that Rodrigo set himself on fire. But many eyewitnesses accounts have confirmed that it was members of the Chilean security forces who actually set the youths on fire. Those eyewitness accounts have been documented by the Chilean Human Rights Commission.

The government of General Pinochet is clearly responsible for the death of Rodrigo Rojas. Throughout his years of power, Pinochet has actively encouraged his security forces to use whatever wanton violence is necessary to repress the people of Chile. The torture and inhumane treatment of the citizens of Chile continue today with the approval of Pinochet. This latest tragedy is simply an extraordinarily stark example of this dictator and his policy at work.

It is time the U.S. Senate spoke out against General Pinochet. There are some who continue to support this reprehensible regime in the name of fighting communism. But the surest way to bring the Communists to power in Chile is for General Pinochet and his murderous henchmen to cling to power. Without some lessening of the repression, without some movement toward democracy, the prospects for an increasing cycle of violence and repression are great. And without a dramatic shift in policy soon, the rise in the appeal of the Communists is inevitable. The best thing the Communists have going for them in Chile is the continuation of the cruel Pinochet dictatorship and the widespread perception that it is propped up by U.S. aid and U.S. moral support.

Make no mistake about it. In his speech of July 11, he made his position clear: General Pinochet has not moved, is not moving, and has no intention of moving his country toward democracy. Just 2 days after the disruption of Rodrigo Rojas' funeral, he declared that he intended to remain as dictator well into the 1990's. No country can move peacefully toward democracy while its dictator declares himself President for life.

It is time the United States put itself clearly on the side of democracy in Chile and distanced itself from the Pinochet regime. Over the past year the United States has supported international loans to Chile. That must end. Although Ambassador Barnes has expressed support for the National Accord, no branch of the Government in Washington has voiced support for that accord which is Chile's only real hope for democracy.

It is time for the United States Congress to repudiate the Pinochet regine and state its unequivocal support for the immediate restoration of democracy in Chile. And the place to begin is with the resolution before us today. No incident more clearly symbolizes the need for Pinochet to go than the senseless, savage murder of Rodrigo Rojas.

The United States alone may not be able to bring democracy back to Chile,

but without our help, democracy may never return to Chile.

This resolution is a step toward placing the United States where it ought to be—on the side of democracy in Chile. I urge the Senate to adopt it.

Mr. LUGAR. Mr. President, I appreciate the words of the distinguished Senator from Massachusetts.

Before proceeding to the consideration of the treaty that will be before the Senate, let me indicate that not only in response to his words, but simply as an affirmation of my own feeling, I have written to His Excellency Ricardo Garcia Rodriguez, Minister of Interior, Republic of Chile. I have indicated to the Minister that:

Like most Americans, I was deeply shocked by the brutal murder of Mr. Rodrigo Rojas de Negri who was, as you know, a U.S. resident, and also the information that a friend of his, Miss Carmen Quintana Arancibia, had been burned over 60 percent of her body in the same incident. I understand that a special investigator has been appointed to look into these events and to make a report to the judicial authorities. I assure you, Mr. Minister, that I shall be following the case with interest, up to and including the apprehension, indictment, trial and punishment of those persons responsible for these heinous acts.

I wish also to take advantage of this opportunity to share with you some of my broader concerns on U.S./Chilean relations. Over many years now we have received constant assurances from your government that it has serious plans for a democratic transition and a full return to the rule of law. We are still waiting—13 years now—for tangible proof that your government is prepared to take the kinds of steps which would lead to that consummation. I am personally aware of the fact that since 1973 there has been precisely one conviction and punishment for a human rights violation in Chile; others, including individuals found guilty of cutting the throats of three labor leaders last year, are still at large. It is frankly difficult to continue to grant credibility to any further verbal assurances; what are required are concrete acts. This case is your best opportunity, at least as far as I am concerned.

I also arises quite opportunely in the sense that I understand your government has just appointed an advisory commission on human rights. I am sure that the new commission will want to be involved in this case, and I look forward to its report to the commission.

I should add that I fully support President Reagan's policy of encouraging a return to democracy in Chile. In that sense, I and fifteen other members of the Committee not long ago voted in favor of a resolution which congratulated the parties of the National Accord for their fundamental charter, and urged your government to engage with it, so that an effective transition may take place as soon as possible. This is the policy which is being implemented in Chile by Ambassador Harry Barnes.

I think it would be a vast mistake to underestimate the depth of feeling which exists in many quarters in the United States, including the Senate, on the need for a genuine democratic transition in Chile. Incidents of the sort which occurred last week, in which two young people died needlessly and violently, serve as reminders, and contribute cumulatively to a serious deterioration in bilateral relations.

Sincerely,

RICHARD G. LUGAR,
Chairman.

□ 1510

Mr. President, I signed the letter and mailed it yesterday.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. LUGAR. Yes.

Mr. KENNEDY. I want to express at least my appreciation and I am sure that of all Americans for the action which has been taken by the chairman of the committee. I see our ranking minority member, my good friend from Rhode Island [Mr. PELL] rising. I think it is useful to remind the Chilean officials of the strong bipartisan support for the resolution which came out of the Foreign Relations Committee with only one dissenting vote. I know, because I have had the opportunity to speak to both the chairman of the Foreign Relations Committee and the ranking member, about their strong support for that resolution. I had been hopeful that we would have the opportunity to address that on the Senate floor and permit the Senate to work its will. I still have not lost hope that that can be done.

I hope that the chairman of the Foreign Relations Committee would watch very carefully the investigation which now has been assigned to this special investigator, because there have been serious questions that have been raised about this individual's particular neutrality. It is worthwhile to have all of the facts out, which all of us want, so that we can have accountability. Certainly, nothing can be done to remedy the tragedy, the horrific tragedy that took place with this young man and this young woman.

There have been serious allegations about whether this can be an impartial investigation. I know that those issues have been raised with the chairman of the committee. I want to give him assurance that I shall work very closely with him and with the Senator from Rhode Island and others interested so that we are going to be able to obtain the facts and we will be able to get accountability.

I think the Government of Chile ought to heed well the words of the chairman of the Foreign Relations Committee of the Senate and also the words of the ranking minority member. I express my appreciation for their actions to date and I look forward to working closely with them in the future. Perhaps we might even get the successful passage of this resolution before the August recess.

Mr. PELL. Mr. President, I ask the Senator from Massachusetts that I be made a cosponsor of his resolution.

Mr. KENNEDY. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I join him in urging the passage of this resolution, which is a very useful and very needed one.

ORDER OF BUSINESS

Mr. PELL. Mr. President, I wish to address a question to the Senator from Indiana. I understand that shortly, we shall take up the extradition treaty. Does the Senator know what the intention of the leadership is with regard to Irish aid as well?

Mr. LUGAR. Mr. President, I am pleased to advise my friend that we are ready to take up the supplemental treaty presently. Following that, it is our intention—and I have cleared this at least with the majority leader and perhaps the Senator would wish to do so with the distinguished minority leader—to take up the economic support for Ireland legislation, S. 2572, immediatly thereafter.

Mr. PELL. I am delighted to hear that, Mr. President. I thank the Senator for his response.

Mr. LUGAR. I thank the Senator.

I thank the Senator from Massachusetts for his generous comments.

EXECUTIVE SESSION

SUPPLEMENTARY EXTRADITION TREATY WITH THE UNITED KINGDOM

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Treaty Document No. 99-8, the Supplementary Extradition Treaty with the United Kingdom.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The treaty will be stated.

The legislative clerk read as follows:

Treaty Document No. 99-8, Supplementary Extradition Treaty with the United Kingdom.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

1530

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The assistant legislative clerk read as follows:

TEXT OF THE RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Supplementary Extradition Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland, with Annex, signed at Washington, June 25, 1985, subject to the following amendments:

(1) Amend article 1 to read as follows:

"For the purposes of the Extradition Treaty, none of the following shall be regarded as an offense of a political character:

(a) an offense for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit his case to their competent authorities for decision as to prosecution;

(b) murder, voluntary manslaughter, and assault causing grievous bodily harm;

(c) kidnapping, abduction, or serious unlawful detention, including taking a hostage;

(d) an offense involving the use of a bomb, grenade, rocket, firearm, letter or parcel bomb, or any incendiary device if this use endangers any person; and

(e) an attempt to commit any of the foregoing offenses or participation as an accomplice of a person who commits or attempts to commit such an offense."

(2) Amend article 2 to read as follows:

"Nothing in this Supplementary Treaty shall be interpreted as imposing the obligation to extradite if the judicial authority of the requested party determines that the evidence of criminality presented is not sufficient to sustain the charge under the provisions of the treaty. The evidence of criminality must be such as, according to the law of the requested party, would justify committal for trial if the offense had been committed in the territory of the requested party.

"In determining whether an individual is extraditable from the United States, the judicial authority of the United States shall permit the individual sought to present evidence on the questions of whether:

(1) there is probable cause;

(2) a defense to extradition specified in the Extradition Treaty or this Supplementary Treaty, and within the jurisdiction of the courts, exists; and

(3) the act upon which the request for extradition is based would constitute an offense punishable under the laws of the United States.

"Probable cause means whether there is sufficient evidence to warrant a man of reasonable caution in the belief that:

(1) the person arrested or summoned to appear is the person sought;

(2) in the case of a person accused of having committed a crime, an offense has been committed by the accused; and

(3) in the case of a person alleged to have been convicted of an offense, a certificate of conviction or other evidence of conviction or criminality exists."

(3) Insert after article 2 the following new article:

"ARTICLE 3

"(a) Notwithstanding any other provision of this Supplementary Treaty, extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

"(b) In the United States, the competent judicial authority shall only consider the defense to extradition set forth in paragraph (a) for offenses listed in Article 1 of this Supplementary Treaty. A finding under paragraph (a) shall be immediately appealable by either party to the United States district court, or court of appeals, as appropriate. The appeal shall receive expedited consideration at every stage. The time for filing a notice of appeal shall be 30 days from the date of the filing of the decision. In all other respects, the applicable provisions of the Federal Rules of Appellate Procedure or Civil Procedure, as appropriate, shall govern the appeals process."

(4) Renumber the remaining articles 4, 5, 6, 7.

DECLARATION

The Senate of the United States declares that it will not give its advice and consent to any treaty that would narrow the political offense exception with a totalitarian or other non-democratic regime and that nothing in the Supplementary Treaty with the United Kingdom shall be considered a precedent by the executive branch or the Senate for other treaties.

Mr. LUGAR. Mr. President, I ask unanimous consent that second reading of the treaty be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, today we begin debate on the question of whether the Senate should give its advice and consent to the ratification of the Supplementary Extradition Treaty with the United Kingdom. The Foreign Relations Committee has spent the better part of a year reviewing this treaty. In June it accepted a compromise resolution of ratification put forth by myself and the distinguished Senator from Missouri, Senator EAGLETON. The committee then voted 15–2 to recommend that the Senate consent to the ratification of the treaty with this compromise resolution.

The supplementary treaty was negotiated in order to assist both countries in the fight against terrorism. It is only one weapon in the struggle against terrorism but it is an important one. If we are serious about controlling terrorism, we must approve this treaty.

Mr. President, in the balance of my remarks I will discuss why the treaty is necessary and give an overview of the action taken by the Foreign Relations Committee. Later in this debate the distinguished Senator from Missouri [Mr. EAGLETON] will describe the committee approved compromise in more detail.

BACKGROUND

Article V of the current extradition treaty with the United Kingdom provides that extradition shall not be granted if "the offense for which extradition is requested is regarded by the requested party as one of a political character." Generally speaking, what constitutes an offense of a political character has been left to the courts to define. In the case of common crimes, such as murder or assault, courts have found them to be of a political character if: First, the act was committed during a political uprising; second, the uprising involved a group of which the accused was a member; and third, the act was incidental to the uprising. In three cases where the test has been applied, the Federal courts have denied requests by the United Kingdom for the extradition of members of the Provisional Irish Republican Army accused of committing acts of violence. Matter of Mackin; Matter of Doherty; and In re McMullen. In a fourth, a petition for certiorari, which seeks to overturn a finding of extraditability, was filed by the defendant on July 2. Quinn versus Robinson.

Mr. President, I ask unanimous consent that copies of these opinions and the petition for certiorari be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

[In the Matter of the Requested Extradition of Desmond MACKIN by the Government of the United Kingdom of Great Britain and Northern Ireland]

UNITED STATES OF AMERICA, PETITIONER-APPELLANT v. DESMOND MACKIN, RESPONDENT-APPELLE DESMOND MACKIN, PETITIONER GEORGE V. GRANT, UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF NEW YORK, RESPONDENT

NOS. 424, 335 AND 290, DOCKETS 81–1324, 81–3064 AND 81–3070

United States Court of Appeals, Second Circuit

Argued Oct. 30, 1981

Decided Dec. 23, 1981

United States appealed from a decision of a magistrate appointed by District Court for the Southern District of New York denying a request by the United Kingdom for the extradition of a number of the Provisional Irish Republican Army, and alternatively petitioned for mandamus relating to such decision. The Court of Appeals, Friendly, Circuit Judge, held that: (1) the decision by the magistrate to deny the extradition request was not appealable; (2) the magistrate did not exceed her jurisdiction by deciding that the offenses for which the IRA member's extradition was sought came within the political offense exception in the extradition treaty between the United States and the United Kingdom, and thus there was no basis for mandamus; and (3) the Court of Appeals had no jurisdiction to entertain the IRA member's petition for habeas corpus.

Ordered accordingly.

1. Extradition and Detainers (17)

Magistrate's decision denying extradition request made by the United Kingdom was not appealable. 18 U.S.C.A. § 3184; 28 U.S.C.A. § 1291.

2. Extradition and Detainers (9) Mandamus (61)

Magistrate did not exceed her jurisdiction by deciding that offenses for which extradition of member of the Provisional Irish Republican Army was sought by United Kingdom was a political offense under extradition treaty between United States and United Kingdom, and thus there was no basis for issuing mandamus to require magistrate to grant the extradition request. 18 U.S.C.A. § 3184; 28 U.S.C.A. § 1651.

3. Habeas Corpus (45(2))

Court of Appeals had no jurisdiction to entertain petition for habeas corpus. 28 U.S.C.A. § 2241.

Thomas H. Belote, Sp. Asst. U.S. Atty., New York City (John S. Martin, Jr., U.S. Atty. S.D. N.Y., Mark F. Pomerantz and Robert S. Litt, Asst. U.S. Attys., New York City, of counsel), for petitioner-appellant, the United States.

Keara M. O'Dempsey, New York City (Beldock, Levine & Hoffman, and Frank Durkan, O'Dwyer & Bernstein, James Gilroy, James P. Cullen, Shelia Donohue, The Brehon Law Society, New York City, of counsel), for respondent-appellee, Desmond Mackin.

Before FEINBERG, Chief Judge, and FRIENDLY and PIERCE,* Circuit Judges.

FRIENDLY, Circuit Judge:

This appeal by the United States and an alternative request by it for mandamus consolidation therewith [1] relate to a decision of United States Magistrate Naomi Reice Buchwald (the Magistrate) of the District Court for the Southern District of New York dated August 13, 1981. The decision denied a request by the Government of the United Kingdom of Great Britain and Northern Ireland for the extradition of Desmond Mackin pursuant to Article VIII of the Extradition Treaty (sometimes hereafter the Extradition Treaty or the Treaty) between the United States and the United Kingdom. The Treaty, which is the successor to the very limited provision in Article 27 of Jay's Treaty, 8 Stat. 116, 129 (1794), and Article X of the Webster-Ashburton Treaty of 1842, 8 Stat. 572, 576-77, was signed on June 8, 1972 and entered into force on January 21, 1977, 28 U.S.T. 227, T.I.A.S. 8468. After the request had been submitted to the United States through diplomatic channels, a Special Assistant United States Attorney for the Southern District of New York, acting for and on behalf of the United Kingdom, filed an appropriate complaint in the District Court for the Southern District of New York pursuant to 18 U.S.C. § 3184.[2] Mackin was arrested under authority of an order of a district judge under that statute and has been held in custody since then. The complaint was referred to the Magistrate by a judge of the District Court for the Southern District of New York pursuant to Rule 9 of that court's Magistrates Rules.

The requested extradition was based upon Mackin's indictment in Northern Ireland on charges of attempted murder, on March 16, 1978, of a British soldier, Stephen Wooton, in Andersonstown, Belfast, Northern Ireland; wounding Wooton with intent to do grievous bodily harm, contrary to Section 18 of the Offenses Against the Person Act of 1861; and possession of firearms and ammunition with intent, in contravention of Section 14 of the Firearms Act (Northern Ireland) 1969. Mackin was arrested in Northern Ireland after the incident but was released on bail and failed to appear for trial there, entered the United States illegally and was apprehended by the Immigration and Naturalization Service.[3]

After taking extensive evidence, receiving briefs and hearing argument, the Magistrate delivered a lengthy and thorough opinion. She concluded that the United Kingdom had satisfied its burden, under Article IX(1) of the Treaty, of producing evidence "sufficient according to the law of the requested Party . . . to justify the committal for trial of the person sought if the offense of which he is accused had been committed in the territory of the requested Party . . ." with respect to the first and third of the offenses charged.[4] However, the Magistrate declined to issue the certificate to the Secretary of State provided for by 18 U.S.C. § 3184 on the ground that the offenses charged came within Article V(1)(c)(i) of the Treaty, which states:

(1) Extradition shall not be granted if:

(c)(i) the offense for which extradition is requested is regarded by the requested Party as one of a political character . . . ."

The Magistrate pointed to cases holding or indicating that the political offense exception is not limited to "purely" political offenses against a government, such as treason, sedition and espionage, but extends also to "relative" political offenses, to wit, crimes against persons or property which are incidental to a war, revolution, rebellion or political uprising at the time and site of the commission of the offense, see *Ornelas v. Ruiz*, 161 U.S. 502, 16 S.Ct. 689, 40 L.Ed. 787 (1896); *In re Castioni*, [1981] 1Q.B. 149 (1890); *In re Meunier*, [1894] 2 Q.B. 415 (1894); *In re Ezeta*, 62 F. 972, 977-1002 (N.D. Cal.1894); *Garcia-Guillern* v. *United States*, 450 F.2d 1189, 1192 (5 Cir. 1971), *cert. denied*, 405 U.S. 989, 92 S.Ct. 1251, 31 L.Ed.2d 455 (1972); *Abu Eain* v. *Wilkes*, 641 F.2d 504, 518-23 (7 Cir. 1981), *cert. denied*, —— U.S. ——, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981). She found that: (1) at the time of the offenses charged against Mackin the Provisional Irish Republican Army (PIRA) was conducting a political uprising in the portion of Belfast where the offenses were committed; (2) that Mackin was an active member of PIRA; and (3) that the offenses committed against the British soldier were incidental to Mackin's role in the PIRA's political uprising in Belfast. Accordingly, she concluded that the crimes for which Mackin was indicted were "of a political character" within the meaning of Article V(1)(c)(i) of the Treaty.

As indicated above, the United States has appealed from the Magistrate's decision to deny the request of the United Kingdom, and in the alternative has sought mandamus to require her to grant the request. In addition to challenging the Magistrate's conclusion that Mackin's crime was "of a political character", the Government contends that decision whether an offense falls within Article V(1)(c)(i) is committed exclusively to the executive branch. Mackin contends that the Magistrate's order is not appealable because it is not a final decision of a district court of the United States within 28 U.S.C. § 1291 and that this court lacks power to issue a writ of mandamus under 28 U.S.C. § 1651 because of the requirement in that section that such issuance must be "necessary or appropriate in aid of . . . [an issuing court's] jurisdiction[] and agreeable to the usages and principles of law." If a contrary view should be taken on either of these points. Mackin contends that the applicability of Article V(1)(c)(i) is a question for the judicial branch and that the Magistrate's decision on the merits of that issue was correct.

Appealability

[1] Discussion of the appealability of orders granting or denying requests for extradition must go back as far as *In re Metzger*, 46 U.S. (5 How.) 176, 12 L.Ed. 104 (1847)—a case decided just prior to enactment of the predecessor of the present extradition statute and which doubtless led to that statute's adoption, see notes 6 & 8, *infra*. Although the extradition treaty with France there at issue, 8 Stat. 580 (1848), unlike the Webster-Ashburton Treaty of the previous year with Great Britain, made no provision that the person whose extradition had been requested should be brought before a judge or magistrate "to the end that the evidence of criminality may be heard and considered", President Polk and Secretary of State Buchanan elected to submit the French Government's extradition request to Judge Betts of the District Court for the Southern District of New York, who, after a hearing, committed Metzger to custody to await the order of the President, see *In re Metzger*, 17 Fed. Cas. 232 (No. 9511) (D.C.S.D.N.Y.1847). Although the Supreme Court thought that in seeking a hearing before a judicial officer the executive had acted "very properly, as we suppose", 46 U.S. (5 How.) at 188-89, it concluded that the case "was heard and decided by the district judge at his chambers, and not in court" *id.* at 191. In that role the district judge was exercising "a special authority, and the law has made no provision for revision of his judgment. It cannot be

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*When this appeal was heard, Judge Pierce was a District Judge for the Southern District of New York, sitting by designation. He was inducted as a judge of this court on November 30, 1981.

[1] Also consolidated were a petition by Mackin to this court for a writ of habeas corpus and a motion for immediate release.

[2] This provides:

Whenever there is a treaty or convention for extradition between the United States and any foreign government, any justice or judge of the United States, or any magistrate authorized so to do by a court of the United States, or any judge or a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within his jurisdiction, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or magistrate, to the end that the evidence of criminality may be heard and considered. If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of the treaty or convention; and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made.

The statute goes back to the Act of August 12, 1848, 9 Stat. 302. It was continued as Rev. Stat. § 5270, appears as 18 U.S.C. § 651 (1940 ed.), and was codified in substantially its present form in 1948, 62 Stat. 822.

[3] Although Mackin is also subject to detention by the INS pending deportation, he has consistently indicated his willingness to be deported to the Republic of Ireland and detention pending deportation would thus be brief.

[4] The Magistrate's opinion does not specify which of the offenses that Mackin is charged with are supported by probable cause, *id.* at 20-21. However, for the purposes of this appeal the parties are in agreement that the Magistrate found probable cause existed only as to the first and third offenses. Government Brief at 7n.*; Appellee's Brief at 5.

brought before the District or Circuit Court; consequently it cannot, in the nature of an appeal, be brought before this court." *Id.* at 191-92. Since the Supreme Court thus had no appellate jurisdiction, under the most famous of constitutional decisions it likewise could not issue a writ of *habeas corpus* on Metzger's behalf. Thus the doctrine of the unappealability of extradition decisions by judges and magistrates was born.[5]

The prime purpose of the 1848 statute, 9 Stat. 302, which followed immediately on the *Metzger* decision, was to provide additional judicial officers to handle extradition requests.[6] Nothing on the face of the statute or in its legislative history shows an intention to alter the Supreme Court's ruling with respect to appealability.[7]

That question arose in *In re Kaine*, 55 U.S. (14 How.) 103, 120, 14 L.Ed. 345 (1852). Kaine was charged by the British Government with a murder in Ireland, apparently in a case having political overtones. *Id.* at 114-15. The request for extradition was made by the British Consul in New York and heard by a United States commissioner who ordered Kaine to be committed. The Circuit Court declined to issue *habeas corpus*, and Kaine sought to bring these rulings before the Supreme Court in a number of ways. Justice Curtis, concurring in a careful opinion, concluded that the Commissioner's action was unreviewable on appeal for the reason that, like the judge in *Metzger* and despite the 1848 statute, he was not exercising "any part of the judicial power of the United States", *id.* at 119; that the refusal of the Circuit Judge to issue a writ of *habeas corpus* could not be reviewed since it was not the cause of Kaine's commitment; and that the Supreme Court could not issue the writ on its own account since this would be a prohibited exercise of original jurisdiction.[8]

The decision in *Kaine* that the Act of August 12, 1848, was not intended to alter the holding in *Metzger* regarding the nonappealability of decisions granting extradition was recognized in a 1853 opinion of Attorney General Cushing to Secretary of State Marcy. The Attorney General stated, "Nor can appeal be taken from the decision of Mr. Justice Edmonds to any other court, so as to revise that decision. The judge or magistrate in this case acts by special authority under the act of Congress; no appeal is given from his decision by the act; and he does not exercise any part of what is, technically considered, the judicial power of the United States." 6 Op. Atty. Gen. 91, 96 (1853). Not long therefter, the common understanding with respect to the appealability of orders denying extradition requests was reflected in another opinion rendered by the Office of the Attorney General to Secretary of State Seward in 1863, 10 Op. Atty. Gen. 501, 506. This stated unequivocally, in response to an objection by a foreign government to a district judge's denial of extradition.

In cases of this kind, the judge or magistrate acts under special authority conferred by treaties and acts of Congress; and though his action be in form and effect judicial, it is yet not an exercise of any part of what is technically considered the judicial power of the United States. No appeal from his decision is given by the law under which he acts, and therefore no right of appeal exists. (*Ex parte Metzger*, 46 U.S. (5 How.), 176 [12 L.Ed. 104]; *U.S. v. Ferreira*, 54 U.S. (13 How.), 40-48 [14 L.Ed. 42]; in *re* Kane [sic], 55 U.S. (14 How.), 103, 119 [14 L.Ed. 345], Curtis J.) The decision of Judge Leavitt is thus beyond the reach of correction either by executive or judicial power.[9]

and suggested that the foreign government submit a new request. Further evidence of the nonappealability of orders granting extradition can be found in a Report of the Senate Judiciary Committee on the nation's extradition laws. S. Rep. No. 82, 47th Cong., 1st Sess. (1882).

The Government suggests that the basis for the nonappealability of extradition orders was altered by the creation of the courts of appeals by the Act of March 3, 1891, 26 Stat. 826, since these courts are not subject to the constitutional limitations confining them to appellate jurisdiction which played a part in the *Metzger* decision and in Justice Curtis' opinion in *Kaine*. This, however, relates to the ability of the courts of appeals to exercise original jurisdiction over petitions for writs of *habeas corpus*, and not to the appealability of decisions under § 3184. It is thus not surprising that courts at every level have continued to state that decisions, even when made by district courts, denying or granting requests for extradition are not appealable under 28 U.S.C. § 1291. *Collins* v *Miller*, 252 U.S. 364, 369, 40 S.Ct. 347, 349, 64 L.Ed. 616 (1920); *Caplan* v. *Vokes*, 649 F.2d 1336, 1340 (9 Cir. 1981); *Abu Eain* v. *Wilkes*, 641 F.2d 504, 508 (7 Cir. 1981), *cert, denied*, ——U.S. ——, 102 S. Ct. 390, 70 L.Ed.2d 208 (1981); *Antumes* v. *Vance*, 640 F.2d 3, 4 n.3 (4 Cir. 1981); *Matter of Assarsson*, 635 F.2d 1237, 1240 (7 Cir. 1980), *cert. denied*, 451 U.S. 938, 101 S.Ct. 2017, 68 L.Ed.2d 325 (1981): *Gusikoff* v. *United States*, 620 F.2d 459, 461 (5 Cir. 1980); *Brauch* v. *Raiche*, 618 F.2d 843, 847 (1 Cir. 1980); *Hooker* v. *Klein*, 573 F.2d 1360, 1364 (9 Cir.), *cert. denied*, 439 U.S. 932, 99 S.Ct., 323, 58 L.Ed.2d 327 (1978); *Jhirad* v. *Ferrandina*, 536 F.2d 478, 482 (2 Cir.), *cert. denied*, 429 U.S. 833, 97 S.Ct. 97, 50 L.Ed.2d 98 (1976); *Greci* v. *Birknes*, 527 F.2d 956, 958 (1 Cir. 1976); *United States ex rel Sakaguchi* v. *Kaulukukui*, 520 F.2d 726, 729-30 (9 Cir. 1975); *Shapiro* v. *Ferrandina*, 478 F.2d 894, 901 (2 Cir.), *cert. dismissed*, 414 U.S. 884, 94 S. Ct. 204, 38 L.Ed.2d 133 (1973); *Sayne* v. *Shipley*, 418 F.2d 679, 685 (5 Cir. 1969), *cert. denied*, 398 U.S. 903, 90 S.Ct. 1688, 26 L.Ed.2d 61 (1970); *Wacker* v. *Bisson*, 348 F.2d 602, 607 (5 Cir. 1965); *Jimenez* v. *Aristeguieta*, 290 F.2d 106, 107 (5 Cir. 1961). To quote from the most notable example, Justice Brandeis said in *Collins v. Miller, supra*, 252 U.S. at 369, 40 S.Ct. at 349, that "the proceeding before a committing magistrate in international extradition is not subject to correction by appeal".[10] Although none of the cases cited above squarely holds that an order denying a request for extradition is not appealable, these statements are not merely dicta, as the Government argues. Along with their statements as to the nonappealability of orders granting or denying extradition requests, courts have made clear that the extraditee in cases of grant and the requesting party in cases of denial have alternative, albeit less effective avenues of relief. The extraditee may seek a writ of *habeas corpus*, the denial or grant of which is appealable, see note 8, *supra*, and the requesting party may refile the extradition request. *Collins v. Loisel*, 262 U.S. 426, 43 S.Ct. 618, 67 L.Ed. 1062 (1923); *Hooker v. Klein, supra*, 573 F.2d at 1365-66; *in re Gon-*

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[5] Metzger turned out to have the last laugh, see Swisher, History of the Supreme Court—the Taney Period 1836-64, 179-80 (1974).

[6] The principal purpose of the bill as stated by Representative Ingersoll was "to enlarge the facilities to comply with our obligations" under extradition treaties. "It often happened that an individual came to this country where the crime was obvious, and the application for the fugitive regular; but there was no such officers in the part of the country where the fugitive was found as were authorized or were willing to take on themselves the burden and the weighty responsibility of issuing a warrant to arrest and to take the preliminary proceedings toward handing over the individual to the properly authorized officer. The object of this bill was to appoint officers and to authorize others to carry out the provisions of the treaties with France and England, at all times without delay and the denial of justice. It provided for the appointment of commissioners, or authorized the courts of the United States to appoint commissioners to take the preliminary steps, and to procure the authority of the Secretary of State, to whom the treaties give authority to deliver up fugitives to foreign countries, for the accomplishment of the desired object." Cong. Globe, June 23, 1848.

[7] During the floor debates of the proposed extradition act Senator Dayton referred to the Supreme Court's decision in the *Metzger* case, but did not intimate that the bill would alter the result of that case. Cong. Globe, July 28, 1848.

[8] The majority, speaking through Justice Catron, was at pains to make clear that its refusal of *habeas corpus* was on the merits, 55 U.S. (14 How.) at 117-18, without deigning to answer the jurisdictional problems developed by Justice Curtis. However, the stress laid by the majority on the need for employing magistrates "to issue the warrant, cause the arrest and adjudge the criminality", particularly in the case of criminals fleeing from Canada and caught "in hot pursuit" without any need of transmission of an extradition request through diplomatic channels in Washington since otherwise "in the entire range of country, west of the Rocky mountains, and for more than five hundred miles on this side of it, throughout the great western plains, no arrests could be made, nor would they be attempted", suggests agreement with Justice curtis that a magistrate's action under the 1848 was not within the judicial power of the United States.

Justice Nelson's lengthly dissent, joined by Chief Justice Taney and Justice Daniel, apparently predicated jurisdiction on the Circuit Court's refusal to issue a writ of *habeas corpus;* he thought that decision to be "a proper subject to review by this court, by virtue of the writ of habeas corpus." 55 U.S. (14 How.) at 148. On the merits he held that the request must be presented through diplomatic channels and that the Commissioner had no power to act because he had not been specially authorized to do so by a court of the United States.

Again the extraditee had the last laugh. Justice Nelson, sitting as Circut Judge, later ordered Kaine's release on the grounds, *inter alia*, that there had been insufficient evidence of Kaine's criminality. *Ex parte Kaine*, 14 Fed. Cas. 78 (No. 7597) (C.C.S.D.N.Y.1853).

The Act of February 5, 1867, 14 Stat. 385 ultimately vindicated Justice Nelson's position on *habeas corpus* appealability by providing for an appeal from final decisions of the circuit courts on petitions for *hebeas corpus. See Benson v. MacMahon*, 127 U.S. 457, 8 S.Ct. 1240, 32 L.Ed. 234 (1888); *In re Luis Oteiza cortes*, 136 U.S. 330, 10 S.Ct. 1031, 34 L.Ed. 464 (1890).

[9] In *United States v. Ferreira*, 54 United States (13 How.) 40, 14 L.Ed. 42 (1851)), the Court had held that a United States District Judge, acting on a claim arising under the treaty with Spain for the cession of Florida, was not exercising the judicial power of the United States and that an appeal from his decision to the Supreme Court would not lie.

It is notable that the citation of *In re Kaine, supra*, in the Attorney General's opinions was to Justice Curtis' concurring opinion, which the Department of Justice evidently regarded as embodying the correct view. 6 Op. Atty. Gen. 91, 96, 10 Op. Atty. Gen. 501, 506.

[10] Under English law, an extraditing magistrate's decision denying extradition has been held unappealable, *Atkinson v. United States of America Government*, [1971] AC 197 at 213, [1969] 3 ALL ER 1317, HL. Lord Reid was of the view that this was "settled law" reaching back to the early 19th century, *id.* at 1324.

zalez, 217 F.Supp. 717 (S.D.N.Y.1963); *Ex parte Schorer*, 195 F. 334 (E.D.Wis. 1912). Both these remedies are inconsistent with the notion that the original orders were appealable. If the grant of a request were appealable, *habeas corpus* would not lie since that writ cannot be used as a substitute for an appeal. *Stone v. Powell*, 428 U.S. 465, 477 n.10, 96 S.Ct. 3037, 3044 n.10, 49 L.Ed.2d 1067 (1976); *Sunal v. Large*, 332 U.S. 174, 178–79, 67 S.Ct. 1588, 1590–91, 91 L.Ed. 1982 (1947). If denial of a request were appealable, a second request would ordinarily be defeated by the principle of *res judicata*. See *Hooker v. Klein*, *supra*, 573 F.2d at 1367–68.

Despite the Government's argument in this case, the general belief with respect to the unappealability of extradition orders has been very recently shared by the Department of Justice and the Department of State. On September 19, 1981, Senator Thurmond, along with several colleagues, introduced "a bill developed over the past 2 years in close cooperation with the Department of Justice and the Department of State to modernize the extradition laws of the United States." 127 Cong. Rec. S9952. Among many other features, the proposed Extradition Act of 1981 confines to the Attorney General the right to file a complaint charging that a person is extraditable to a foreign country, § 3192(a), provides that this may be done only in a United States district court, *id.*, directs that the court certify to the Secretary of State its findings with respect to extraditability, § 3194(e), provides for appeals of such findings to the appropriate United States court of appeals, § 3195(a), and limits the extraditee's rights to seek review by other means, § 3195(c). Secretary of State Haig expressed the particular pleasure of the Department over several provisions of the bill, including one "which for the first time permit[s] appeal from a district court's decision on an extradition request (section 3195)", 127 Cong. Rec. S9953. A legal memorandum accompanying the proposed bill stated in unequivocal terms, 127 Cong. Rec. S9957:

"Under present Federal law, there is no direct appeal from a judicial officer's finding in an extradition hearing. A person found extraditable may only seek collateral review of the finding, usually through an application for a writ of habeas corpus. The foreign government that is dissatisfied with the results of the hearing must institute a new request for extradition. The lack of direct appeal in extradition matters adds undesirable delay, expense, and complication to a process which should be simple and expeditious." (Footnotes omitted)

At a hearing held on October 14, 1981, before the Senate Judiciary Committee, Michael Abbell, Director, Office of International Affairs, Criminal Division, Department of Justice, praised the bill because, among other things

"It permits both a fugitive and the United States, on behalf of the requesting country, to directly appeal adverse decisions by an extradition court. Under present law a fugitive can only attack an adverse decision through habeas corpus, and the only option available to the United States, on behalf of a requesting country, is to refile the extradition complaint."

Daniel W. McGovern, Deputy Legal Adviser of the Department of State, said

"Under present law there is no direct appeal from a judicial officer's finding in an extradition proceeding. A person found extraditable may only seek collateral review of the finding, usually through an application for a writ of habeas corpus. The foreign government that is dissatisfied with the results of the hearing must institute a new request for extradition. The lack of direct appeal in extradition matters adds undesirable delay, expense and complication to a process which should be simple and expeditious. Section 3195 [of the proposed bill] remedies this defeat in current procedure by permitting either party in an extradition case to appeal directly to the appropriate United States court of appeals from a judge or magistrate's decision."

It is true, of course, that efforts by the Government to resolve an ambiguity in legislation in its favor should not preclude it from arguing, if the efforts have not yet succeeded, that the legislation should be construed in the manner which it asked Congress to make clear. *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 47, 70 S.Ct. 445, 452, 94 L.Ed. 616 (1950); *United States* v. *Southwestern Cable Co.*, 392 U.S. 157, 169–70, 88 S.Ct. 1994, 2000–2001, 20 L.Ed.2d 1001 (1968); Sands, 2A Sutherland Statutory Construction § 49.10 at 261 (1973). But here the executive branch did not tell Congress that the law was uncertain and would benefit from clarification; it said flatly that the law was the exact opposite from what it contends in this case and that the law needed to be changed. Beyond this, and apart from the massive authority we have cited, what the Government told Congress was right and what it argues to us is wrong.

The only conceivable basis for appellate jurisdiction over orders granting or denying extradition is section 1291 to Title 28 which authorizes appeals to the courts of appeals from "fiscal decisions of the district *courts* of the United States". In contrast § 3184 proceedings are to be conducted by "any *justice* or *judge* of the United States, or any *magistrate* authorized so to do by courts of the United States or any *judge* of a court of record of general jurisdiction of any State". Decisions have noted the difference between § 3184's references to "judges", "justices", and "magistrates" and 1291's reference to "district courts". *Jimenez* v. *Aristeguieta*, 290 F.2d 106, 107 (5 Cir. 1961); *Shapiro* v. *Ferrandina*, 478 F.2d 894, 901 (2 Cir.), *cert. dismissed*, 414 U.S. 884, 94 S.Ct. 204, 38 L.Ed.2d 133 (1973). Even when the decision to grant or deny is by a district judge, this still is not a decision of a district court within 28 U.S.C. § 1291. See *Jimenez* v. *Aristeguieta*, *supra*, 290 F.2d at 107. Although the distinction was criticized by the dissenting judge in that case, it goes back to the Supreme Court's 1847 decision in *In re Metzger*, *supra*, and we approved of it in *Shapiro* v. *Ferrandina*, *supra*, 478 F.2d at 901 & n.3. It is even clearer that the decision of a magistrate is not a final decision of a district court; when Congress has desired to permit an appeal from a decision of a magistrate directly to a court of appeals, it has said so. 28 U.S.C. § 636(c)(3). There is still greater difficulty in considering the decision of a state judge to be a final decision of a district court. Yet it would be curious if such decisions were nonappealable whereas the decision of a United States judge or magistrate was.[11]

There are similar problems in reading 28 U.S.C. § 1291 to include the decision of a judge of a court of appeals or a justice of the Supreme Court. It is instructive, in this regard, to examine the statutory provisions applicable to writs of *habeas corpus*, 28 U.S.C. §§ 2241–55. Section 2241 provides, *inter alia*, that writs of *habeas corpus* may be granted by "any circuit *judge*". Evidently fearing that, without more, the action of a circuit judge would not be reviewable, Congress provided in § 2253 for an appeal from the decision of circuit judge pursuant to § 2241: "In a *habeas corpus* proceeeding before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is held." Congress' failure to adopt a similar statutory provision with respect to an extradition order of a circuit judge under 18 U.S.C. § 3184 is evidence that it did not intend such a decision to be appealable to a court of appeals. Yet the Government has suggested no rational basis for a state of the law wherein an extradition decision of a United States district judge or magistrate would be appealable but that of a United States circuit judge would not be. When we add these considerations to the historical background of 18 U.S.C. § 3184 and the many decisions we have cited,[12] we think it clear that no appeal lies under 28 U.S.C. § 1291 from the Magistrate's decision here.[13]

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[11] The Government suggested at argument that such a decision might be appealable through the hierarchy of state courts and would ultimately be reviewable by the Supreme Court under 28 U.S.C. § 1257. We find nothing in the long history of international extradition in the United States which suggests that Congress intended state courts to have a role beyond the initial commitment proceedings; the sparsity of federal judges and commissioners in 1847 doubtless made that limited resort necessary, see note 6, *supra*. The parties cited us no state court case dealing with extradition under § 3184, and our research has found none more recent than the mid-19th century. In saying this we are aware that in naturalization cases where 8 U.S.C. § 1421 vests jurisdiction in both the district courts and "all courts of record in any State of Territory", 8 U.S.C. § 1421, courts of appeals have routinely heard appeals from district court naturalization decisions, e.g., *Jubran* v. *United States*, 255 F.2d 81 (5 Cir. 1958); *Taylor* v. *United States*, 231 F.2d 856 (5 Cir. 1956); *Hing Lowe* v. *United States*, 230 F.2d 664 (9 Cir. 1956); *Brukiewicz* v. *Savoretti*, 211 F.2d 541 (5 Cir. 1954); *Ralich* v. *United States*, 185 F.2d 784 (8 Cir. 1950); *Marcantonio* v. *United States*, 185 F.2d 934 (4 Cir. 1950), whereas appeals from state court decisions proceed through the state systems. In *re Ramadass*, 455 Pa. 86, 284 A.2d 133 (1971) (and cases cited therein); *In re Marque's Petition*, 341 Mass. 715, 172 N.E.2d 262 (1961); *Calo* v. *United States*, 400 Ill. 329, 79 N.E.2d 619 (1948); *In re Bogunovic*, 18 Cal.2d 160, 114 P.2d 581 (1941). However, extradition has international aspects far more serious than naturalization. Moreover, the naturalization decisions occur in a statutory framework that differs in an important respect from that governing extradition. Section 1421 of Title 8 vests "the district *courts*" with jurisidiction over naturalization proceedings, and thus, there is little question but that § 1291—which permits appeal from "*all*" final decisions of the "district courts"—is applicable. In contrast, as noted above, § 3184 vests individual judges with jurisdiction over extradition requests.

[12] The Government relies heavily on the decision in *Application of United States*, 563 F.2d 6376, 641 (4 Cir. 1977), upholding § 1291 jurisdiction over a district court's denial of an application under 18 U.S.C. § 2518 for interception of wire or oral communications, enacted as part of the Omnibus Crime Control and Safe Streets Act of 1968, which can be made to any "judge of competent jurisdiction", with successive applications also a possibility, § 2518(1)(e), as in the case of extradition. Such orders lack the long history of nonappealability of those in extradition proceedings. Consequently we have no occasion to consider whether the court was correct in finding § 1291 jurisdiction.

[13] The Magistrate suggested that an order upholding the political offense exception might be appealable whereas orders denying extradition for lack of sufficient evidence of probable cause were not, since the latter were akin to a preliminary

Mandamus

[2] The Government's alternative petition for mandamus under 28 U.S.C. § 1651 encounters, as an initial obstacle, the argument that issuance of the writ is not "necessary or appropriate in aid" [14] of our jurisdiction since the Magistrate's decision is unappealable and we thus have no jurisdiction to aid. The Government replies, in part, that if we were to issue the writ and require the Magistrate to grant extradition, such a grant would almost certainly become the subject of a *habeas corpus* proceeding in the district court and its order in such a proceeding would be reviewable here under 28 U.S.C. § 2253. Compare *Ex parte United States*, 287 U.S. 241, 53 S.Ct. 129, 77 L.Ed. 283 (1932) (Supreme Court has power to grant mandamus requiring a district court to issue a bench warrant for the arrest of an indicted defendant since a conviction would be reviewable by a court of appeals and, on *certiorari*, by the Supreme Court.)

We have considered somewhat similar questions in *United States v. Dooling*, 2nd Cir., 406 F.2d 192, 197, *cert. denied*, 395 U.S. 911, 89 S.Ct. 1744, 23 L.Ed.2d 224 (1969) and *United States v. Weinstein*, 2d Cir., 452 F.2d 704, 708–13 (1971), *cert. denied*, 406 U.S. 917, 92 S.Ct. 1766, 32 L.Ed.2d 116 (1972). In *Dooling* we issued a writ to compel a district judge to sentence convicted defendants rather than to pursue a course, indicated by him, of dismissing the indictment upon grounds which were in part considered and rejected without leave to renew before trial by another district judge. We considered it not to be a fatal obstacle to issuance of the writ that the Government might not have been able to appeal if the judge had proceeded as he had intended, 406 F.2d at 198. In *Weinstein* we issued mandamus requiring a district judge to vacate an order dismissing an indictment after having entered a judgment of conviction although the Government could not have appealed under then existing law and the defendant obviously would not. We concluded "that the phrase 'in aid of their respective jurisdictions' should not be read so as to prohibit [the courts of appeals] . . . from vacating orders, in actions generally subject to their supervision, that were beyond the power of the lower court to make, even though in the particular case there was no frustration of an appeal." 452 F.2d at 711. Quite recently the Third Circuit has upheld its power to issue a writ of mandamus to consider whether the District Court of the Virgin Islands lacked, as it thought, legal authority to convene an investigatory grand jury although no case arising from action of the putative grand jury was or, in the nature of things, could be before the court. *United States v. Christian*, 3rd Cir., 660 F.2d 892. We thus assume, at least *arguendo*, that mandamus could issue here if other tests with respect to that extraordinary remedy were met.[15]

We have discussed the standards governing issuance of the writ in a number of recent cases, e.g., *American Express Warehousing, Ltd. v. Transamerica Insurance Co.*, 380 F.2d 277, 280–82 (2nd Cir. 1967); *Investment Properties International, Ltd. v. IOS, Ltd.*, 459 F.2d 705, 707 (2nd Cir. 1972); *Kaufman v. Edelstein*, 539 F.2d 811, 816–19 (2nd Cir. 1976); *National Super Spuds, Inc. v. New York Mercantile Exchange*, 591 F.2d 174, 181 (2nd Cir. 1979); and *In re Attorney General of the United States*, 596 F.2d 58 (2nd Cir. 1979). While some of these cases granted the writ and others denied it, all the opinions agree that mandamus is reserved for "exceptional cases," whatever that may mean, and, more informatively, that "the touchstones are usurpation of power, clear abuse of discretion and the presence of an issue of first impression." *American Express Warehousing, supra*, 380 F.2d at 283.

The only issue here raised by the Government which might qualify under these standards is its claim that the Magistrate exceeded her jurisdiction by deciding whether the offenses for which Mackin's extradition was sought came within Article V(1)(c)(i) of the Treaty rather than deferring that decision to the executive branch. If she was correct in rejecting that contention, the case would not be appropriate for mandamus since there was nothing any more "extraordinary" in her decisions as to conditions in Northern Ireland in 1978 or as to the nexus between the offenses and what she found those conditions to be than there would be in any extradition case where the political offense exception was advanced [16] and, whether right or wrong, she clearly did not abuse her discretion in deciding as she did. We will now consider whether the Magistrate's decision of the jurisdictional issue was correct.

The Magistrate's jurisdiction to decide the political offense question

The Government's argument that the Magistrate had no jurisdiction to decide the political offense question begins with the language of the Treaty. Article V(1)(c)(i) speaks of an offense which "is regarded by the requested Party as one of a political character." As a matter of the ordinary meaning of language, "the requested Party" would seem in this case to be the Government of the United States, represented, as is uniformly true in matters of foreign relations, by the President, *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319–20, 57 S.Ct. 216, 220–21, 81 L.Ed. 255 (1936); L. Henkin, Foreign Affairs and the Constitution 45–50, 93 (1972), and not by a judicial officer. The Government asserts that this construction is reinforced by other provisions of the Treaty, notably Articles XIV(1) and XI(1), where it claims the term "requested Party" must mean the Government of the United States and not the courts.[17] It tells us further that the phrase "regarded by the requested Party as one of a political nature" represents a change from the language of older treaties and argues that by calling for the subjective opinion of the requested Party, the Treaty thus refers to the Secretary of State.

The Government's argument ignores the fact that the "new" language or an equivalent has been used in United States treaties at least since the turn of the century. The Extradition Treaty with Peru, 31 Stat. 1921 (1900), at issue in *Garcia-Guillern v. United States, supra*, 450 F.2d 1189, contained a provision stating "[i]f any question shall arise as to whether a case comes within . . . [the political offense exception] the decision of the authorities of the government on which the demand for surrender is made . . . shall be final." Identical language was contained in a 1901 treaty with Servia, 32 Stat. 1890, Art. VI. If anything, reference to the "authorities" of the United States Government is more suggestive of the executive branch than is the broader phrase, "requested Party", at issue in this case, thus undercutting the Government's theory that the "requested Party" language was intended to change existing law. Moreover, the phrase "requested Party" was used in the 1963 Extradition Treaty with Israel, 14 U.S.T. 1707, Art. VI(4), as to which the Seventh Circuit has rejected an argument by the Government similar to that here considered, see *Abu Eain v. Wilkes, supra*, 641 F.2d at 517. See also Extradition Treaty with Brazil, 15 U.S.T. 2093 (1961).

The Government's textual argument also ignores the existence of numerous treaties whose language explicitly envisions that courts will decide the political offense question. For example, a 1932 extradition treaty with Greece provides that "[t]he State applied to, or courts of such State, shall decide

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hearing or a refusal of a grand jury to indict, in both of which circumstances the Government's remedy is to try again. In contrast, a ruling on the political offense exception is more like a judicial one applying law to the facts. We find nothing in the statutory language or the cases to support this distinction. Beyond this. If the Government were allowed to appeal the Magistrate's adverse finding with respect to the political offense exception, it would be hard to deny Mackin a cross-appeal from her finding of probable cause.

[14] The words "or appropriate" were added, apparently without explanation, in the revision of 1948. *Compare* Judiciary Act of 1789, § 13 & 14, 1 Stat. 80–82; Judicial Code of 1911, § 262, 36 Stat. 1162; and 28 U.S.C. § 1651. See 28 U.S.C. § 1651 Historical and Revision Notes.

[15] One reason for our assuming this only *arguendo* stems from our discussion with regard to appealability. If the Magistrate was not in fact exercising the judicial power of the United States, query whether a writ of mandamus can be issued to her by a court of appeals under 28 U.S.C. § 1651, contrast 28 U.S.C. § 1361.

[16] It is noteworthy that, despite the claims in the Government's brief, at 25–26, that a failure to obtain the extradition of Mackin would have "the potential for causing a significant interference in our relations with the United Kingdom", no affidavits from State Department or other Government officials attesting to this danger were submitted to the Magistrate, as was done in *In re Attorney General, supra*, 596 F.2d at 64 (affidavit of the Attorney General that "the failure to recognize the privilege would adversely affect the entire law enforcement and intelligence-gathering apparatus of the United States.")

[17] Article XI(1) of the treaty provides that "[t]he requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition." This provision hardly establishes that "requested Party" "can refer only to the Government (i.e., the State Department)", as the Government's brief asserts, p. 28. The term "requested Party" is most naturally interpreted as a reference to the government of the United States or Great Britain, as the case may be, without any intent to refer to particular branch of those governments. The separate reference to "the diplomatic channel" would be unnecessary if "requested Party" did in fact mean the State Department.

Article XIV(1) of the treaty provides "[t]he requested Party shall make all necessary arrangements for and meet the cost of the representation of the requesting Party in any proceedings arising out of a request for extradition." It does this provision no violence to read it as fixing the international legal obligations of the United States and Great Britain without speaking to the manner in which each nation goes about meeting these obligations as a domestic matter.

Against this Mackin argues that the Government's equation of "the requested Party" with the executive branch does not fit Article V(2) which provides that extradition may be refused on any ground specified by "the law of the requested Party". This same argument applies to the numerous references in the treaty to "the territory of the requested Party", e.g., Arts. VI, VII, VIII, and IX. Likewise, Article VII(5)(a) speaks of certification of arrest warrants by "a judge, magistrate or other competent authority of the requesting Party", a usage inconsistent with the notion that "requested Party" refers specifically to the executive branch.

whether the crime or offense is of a political character", 47 Stat. 2185. See also Treaty Concerning the Mutual Extradition of Criminals with Czechoslovakia, 44 Stat. 2367 (1925); Treaty of Extradition with Albania, 49 Stat. 3313 (1935); Treaty for the Extradition of Fugitives from Justice with Austria, 46 Stat. 2779 (1930). The Government has suggested no reason, and we are unable to envision any, why courts should determine political offense questions under some treaties, but not under others. If the State Department had wanted to change the rule reflected in the above treaties and in the cases cited *infra*, it would hardly have done so on a piecemeal basis in treaties with individual foreign states and without disclosing its intention to the Senate.[18] Rather it would have adopted the more open and decisive approach of seeking legislation, as it is currently attempting to do, see p. 137, *infra*. It seems much more likely that the language was intended to preclude a foreign state from arguing that the United States was bound by a definition of political offense derived from international law or the law of the requesting state.

The Government seeks to buttress its textual argument with arguments of policy and analogy. It calls attention to decisions that determination whether a case falls within the exception provided by Article V(i)(c)(ii), to wit, that "the person sought proves that the request for his extradition has in fact been made with a view to try or punish him for an offense of a political character" lies solely with the executive branch. See *In re Lincoln*, 228 F. 70, 73-74 (E.D.N.Y.1915), *aff'd per curiam*, 241 U.S. 651, 36 S.Ct. 721, 60 L.Ed. 1222 (1916); *Garcia-Guillern v. United States*, *supra*, 450 F.2d at 1192; *In re Gonzalez*, 217 F.Supp. 717, 722 (S.D.N.Y.1963). Recognizing the latter principle, the Seventh Circuit in *Abu Eain*, *supra*. 641 F.2d at 516-17, perceived no inconsistency between confiding to the courts a decision with respect to past facts and refusing to allow them to probe the motives of a requesting government—a conclusion with which we agree. The Government notes that a judicial decision on the political offense exception may cause difficulties in this country's foreign relations; such difficulties would exist also, indeed might be heightened, if decision were placed solely in the executive branch, unless the political offense exception were to be eviscerated in practice in the case of extradition treaties with nations with which we are allied or whose favor we especially desire. See also I. A. Shearer, Extradition in International Law 197-98 (1971). The Government relies on cases such as *The Three Friends*, 166 U.S. 1, 17 S.Ct. 495, 41 L.Ed. 897 (1897), and *Underhill v. Hernandez*, 168 U.S. 250, 18 S.Ct. 83, 42 L.Ed. 456 (1897), holding that determination when a state of war or belligerency exists in a foreign country is solely for the executive; these are adequately distinguished in the Seventh Circuit's opinion in *Abu Eain*, 641 F.2d at 514 n.14. That court likewise sufficiently answered, *id.* at 514-15, the arguments made here by the Government, on the basis of *United States v. Curtiss-Wright Export Corp.*, *supra*, and *Chicago & Southern Air Lines, Inc. v. Waterman S.S. Corp.*, 33 U.S. 103, 111, 68 S.Ct. 431, 436, 92 L.Ed. 568 (1948), as to the special ability of the executive branch to acquire the facts with respect to conditions in foreign countries.

Moreover, whatever we might decide if we were writing on a clean slate, the rock on which the Government's arguments shatter is the long-standing recognition that courts shall determine whether a particular offense comes within the political offense exception. This principle was in existence at least as long ago as when *In re Kaine*, *supra*, was decided in 1852. Four years after enactment of the Act of August 12, 1848, Justice Catron, speaking for four members of the Supreme Court, wrote that "extradition without an unbiased hearing before an independent judiciary . . . [is] highly dangerous to liberty, and ought never to be allowd in this country", *In re Kaine*, *supra*, 55, U.S. (14 How.) at 113. Although this statement is directed at extradition proceedings in general and not specifically at the political offense issue, Justice Catron's opinion gives no indication that the political offense issue ought to be treated differently from other issues at the extradition hearing. More importantly, an example cited by Justice Catron, relating to the alleged mistreatment of one Jonathan Robbins, suggests that the members of the Court joining in his opinion were of the view that "an unbiased hearing before an independent judiciary" was particularly necessary in cases where the political offense exception is at issue.

In 1799 Jonathan Robbins (also variously referred to as Thomas Nash and Nathan Robbins) was surrendered by the United States to British naval officials, pursuant to Article 27 of Jay's Treaty. The British sought Robbins' extradition for a murder allegedly committed aboard a British naval vessel. Jay's Treaty contained no provision regarding the procedure to be followed in extradition cases, and at the time there was no legislation on the subject. Believing he had a relatively free hand, President Adams arranged the delivery of Robbins by instructing District Judge Bee of South Carolina to hand the extraditee over to the British. Adams' action caused an extraordinary national outcry. See, e.g., 10 Annals of Congress 580-640 (1800). As Professor Moore notes, "[t]he case created great excitement, and was one of the causes of the overthrow of John Adams' administration." 1 Moore, Extradition 550-51 (1922); see also *In re Kaine*, 55 U.S. (14 How.) at 111-12. The outcry against Adams' action seems to have arisen, in large part, from the widespread perception that Robbins was an American seaman who had been impressed into the British navy and that the murder for which he was charged had occurred either in the course of a mutiny or while fleeing from the British in an escape attempt. See Speech of John Marshall, 10 Annals of Congress 613 (1800), reprinted in, 18 U.S. at 5 Wheat, App. 201, 204-05, 215 (1820). Robbins' supporters apparently conceded that he had committed a murder, yet argued that a murder committed in fleeing from illegal impressment should not be extraditable.

Although the term "political offense" was not current at the time, and apparently was not used in the debates surrounding the Robbins case, 10 Annals of Congress 580-640 (1800), the argument made on Robbins' behalf bears many resemblances to the political offense doctrine. In both instances an otherwise extraditable crime is thought to be rendered nonextraditable by the circumstances surrounding its commission and by the motives of the criminal. Significantly, in later years the Robbins case came to be regarded as centering on the political offense question. As Justice Nelson wrote in *Ex parte Kaine*, 14 Fed. Cas. 78, 81 (No. 7597) (C.C.S.D.N.Y.) (1853), "It was the apprehension of the people of this country, at the time, that the offense of Jonathan Robbins, who was delivered up under the treaty with Great Britain of 1794, was a political offense. . . ."

The circumstances of the Robbins case described above assume importance because, as Justice Catron noted in *In re Kaine*, *supra*, "[t]hat the eventful history of Robbins' case had a controlling influence on our distinguished negotiator [Daniel Webster], when the Treaty of 1842 was made; and especially on Congress, when it passed the Act of 1848, is, as I suppose, free from doubt." 55 U.S. (14 How.) at 112. With the Robbins case thus firmly in the legislature's mind, it is difficult to avoid the conclusion that when Congress charged commissioners and judges with determining whether evidence exists to "sustain [a] charge under the provisions of . . . [a] treaty", 9 Stat. 302, sec. 1, it had no intention of silently excepting the political offense issue from the magistrates' consideration. Rather, the combination of the view that the Robbins case involved the political offense question, and the perception that extradition without judicial oversight was "highly dangerous to liberty and ought never to be allowed in this country", *In re Kaine*, *supra*, 55 U.S. (14 How.) at 113, strongly suggests that it was precisely the political offense question that was of the greatest concern to Congress in passing the Act of August 12, 1848. This view is buttressed by the references to the political offense issue in the debates on the act, see Cong. Globe, July 28, 1848 (remarks of Mr. King and Mr. Bedger).

We recognize that Justice Nelson's later opinion as a Circuit Judge in *Ex parte Kaine*, *supra*, 14 Fed.Cas. at 81, contained language suggesting that decisions concerning the political offense exception are solely for the executive branch. Justice Nelson wrote "the surrender, in such cases, involves a political question, which must be decided by the political, and not by the judicial, powers of the government. It is a general principle, as it respects political questions concerning foreign governments, that the judiciary follows the determination of the political power, which has charge of its foreign relations, and is, therefore, presumed to best understand what is fit and proper for the interest and honor of the country." We think Justice Nelson misunderstood the import of the Robbins incident, and that Justice Catron's view of the mistrust of exclusion of the judiciary from the extradition process is a far sounder interpretation of the views of the times. Moreover, this view is more consistent with the concern with individual liberties that formed the basis for Justice Nelson's dissenting opinion in *In re Kaine*, *supra*, 55 U.S. (14 How.) at 141-42, 147. If there is to be a change in this, the alteration should come from Congress.

The doctrine that decisions with respect to the political offense exception is for the courts was also recognized in *In re Castioni*, *supra*, [1891] 1 Q.B. 149, although, as the Government points out, there was no need to address the question there since the British Extradition Act of 1870 provided a defense to any person who could "prove to the satisfaction of the . . . magistrate or the Court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact

[18] As far as we are aware, following Justice Nelson's opinion in *Ex parte Kaine*, *supra*, the argument that the "requested party" language made the political offense decision solely for the executive branch was not made again until 1980 in *Abu Eain*, *supra*.

been made with a view to try or punish him for an offense of a political character." 33 & 34 Vict., c. 52, § 3(1). In *In re Ezeta*, 62 F. 972 (N.D.Calif.1894), the court assumed that it had power to determine whether the offense was political. It evidently regarded this as part of its duty, imposed by 18 U.S.C. § 3184, to hear and consider the evidence of criminality and to determine whether there is evidence "to sustain the charge under the provisions of the treaty". In *Ornelas v. Ruiz*, 161 U.S. 502, 16 S.Ct. 689, 40 L.Ed 787 (1896), the Supreme Court reversed a ruling by a district judge discharging, as a political offender, a person whom a magistrate had found not to be one; the Court expressed no disapproval at the magistrate's having decided the question, although saying, *id.* at 512, 16 S.Ct. at 692, that "[t]he contention that the right of the executive authority to determine what offenses charged are or are not purely political is exclusive is not involved in any degree." The principle that the judicial officers named in § 3184 are to determine whether or not the crime charged is a political offense has been sustained in a number of other reported cases, *Jimenez* v. *Aristeguieta*, 311 F.2d 547 (5 Cir. 1962), *cert. denied*, 373 U.S. 914, 83 S.Ct. 1302, 10 L.ED.2d 415 (1963); *Garcia-Gullern* v. *United States*, 450 F.2d 1189 (5 Cir. 1962); *Shapiro* v. *Ferrandina*, 478 F.2d 894 (2 Cir.), *cert. dismissed*, 414 U.S. 884, 94 S.Ct. 204, 38 L.Ed.2d 133 (1973); *Jhirad* v. *Ferrandina*, 536 F.2d 478 (2 Cir.), *cert. denied*, 429 U.S. 833, 97 S.Ct. 97, 50 L.Ed.2d 98 (1976); *Abu Eain* v. *Wilkes*, 641 F.2d 504 (7 Cir. 1981), *cert. denied*,——U.S.——, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981); *In re Lincoln*, 228 F.70, 74 (S.D.N.Y.1915) (dicta); *United States ex rel. Karadzole* v. *Artukovic*, 170 F.Supp. 383 (S.D.Cal.1959); *Ramos* v. *Diaz*, 179 F.Supp. 459 (S.D.Fla.1959); *In re Gonzales*, 217 F.Supp. 717 (S.D.N.Y.1963), although only *Abu Eain* and *In re Lincoln* contain discussion of the issues.

One reason for the lack of discussion is that the position that the judicial officers designated in § 3184 lack power to determine whether the offense was political is a new one for the executive branch. In 1908, a foreign ambassador wrote to the Secretary of State, proposing that a provision be included in the extradition treaty about to be entered into, whereby the political offense determination would be made by the courts of the requested country. In response, Secretary Elihu Root wrote:

"According to the system of jurisprudence obtaining in the United States, the *question as to whether or not an offense is a political one is always decided in the first instance by the judicial officer* before whom the fugitive is brought for commitment to surrender. If the judicial authorities refuse to commit the fugitive for surrender on the ground that he is a political offender, or for any other reasons, the matter is dead. . . . Bearing in mind, therefore that under our system of jurisprudence, it is not possible for any fugitive who claims to be a political offender to be extradited, it is hoped that your Government will be satisfied without insisting upon the insertion of an express stipulation providing that the question as to whether an offense is political shall be decided by the judicial authorities." (Emphasis added.)

Letter from Secretary of State Root, dated June 12, 1908; quoted in 4 G. Hackworth, Digest of International Law 46 (1942). In 1960 the Assistant Legal Adviser to the Department of State wrote a United States Attorney:

"With regard to the assertion that Mylonas' extradition is being sought for acts connected with crimes of offenses of a political character, it should be noted that this is a matter for decision, initially, by the extradition magistrate on the basis of the evidence submitted to him." (Emphasis added.)

Letter of State Department Assistant Legal Advisor to U.S. Attorney, dated June 22, 1960, concerning *In re Mylonas*, 187 F.Supp. 716 (N.D.Ala.1960); cited in 6 M. Whiteman, Digest of International Law 842-853 (1968).[19] The view of the Department of Justice and the Department of State with respect to the existing law appears also in the materials recently presented to the Senate in connection with S. 1639, § 3194(a) of which would remove from the court's jurisdiction "to determine whether the foreign state is seeking the extradition of the person for a political offense, for an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions." The Senate was told in the Legal Memorandum accompanying the bill, 127 Cong.Rec. S9956 (Sept. 18, 1981):

"Under the present law, the courts decide whether the crime for which extradition has been requested is a political offense . . . citing in n.56 four of the cases cited above. An almost identical statement was made by Deputy Legal Adviser McGovern, p.4.

It follows that, as the law now stands, both the judicial and the executive branches have recognized that under § 3184, decision whether a case falls within the political offense exception is for the judicial officer. The Government cites us to no overriding principle which dictates a contrary result. The Court said in *Baker* v. *Carr*, 369 U.S. 186, 211, 212, 82, S.Ct. 691, 706, 707, 7 L.Ed.2d 663 (1962), that "It is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance" and "a court can construe a treaty and may find it provides the answer." While the policy arguments made by the Government are not without force, particularly in an age of spreading terrorism they are not so overwhelming as to justify us in concluding that the 1848 statute and its successors did not mean that the judicial officer should decide whether the offense for which extradition is sought is political. Whether the national interests would be better served by the position here advocated by the executive branch, which it has asked Congress to adopt in S. 1639, is for that body to determine. We therefore conclude that the Magistrate correctly sustained her own power to decide the political offense question and thus, for reasons heretofore explained, there is no basis for our issuing mandamus.

Mackin's Habeas Corpus Petition

[3] Immediately after the Magistrate's decision the Government refiled its extradition request before District Judge Sand in accordance with the procedure recognized in *Hooker* v. *Klein*, *supra*, 573 F.2d 1360, and applied for a new warrant of arrest. Believing that the question of appealability should be resolved before action by him the judge held this request in abeyance pending a request for a stay to the Magistrate. She granted such a stay pending application to this court for a stay pending expedited appeal, which this court granted. Before we granted the stay, Mackin filed a petition for *habeas corpus* with this court and a motion for immediate release. Since our stay of the Magistrate's decision will terminate upon the coming down of the mandate, unless the Government should request and we should see fit to grant an extension of the stay pending application for certiorari or the decision of the renewed application before Judge Sand,[20] we must consider the petition for *habeas corpus*.

This need not detain us long. The statute, 28 U.S.C. § 2241, provides that writs of *habeas corpus* may be granted by "the Supreme Court, any justice thereof, the district courts, and any circuit judge within their respective jurisdictions." A court of appeals is conspicuously absent from this list. It has repeatedly been held that courts of appeals have no jurisdiciton to entertain petitions such as Mackin's. *Posey* v. *Dowd*, 134 F.2d 613 (7 Cir. 1943); *Jensen* v. *Teets*, 219 F.2d 235 (9 Cir. 1955); *Loum* v. *Alvis*, 263 F.2d 836 (6 Cir. 1959); *Parker* v. *Sigler*, 419 F.2d 827 (8th Cir. 1969). See also FRAP 22(a) and accompanying Notes of Advisory Committee on Appellate Rules.

The government's appeal is dismissed for lack of jurisdiction. Its alternative application for mandamus is entertained solely on the issue of the Magistrate's jurisdiction to rule on the political offense exception and is otherwise dismissed; the portion entertained is denied on the merits. Mackin's petition for *habeas corpus* is dismissed for want of jurisdiction. Mackin may recover his costs.

[In the Matter of the Requested Extradition of Joseph Patrick Thomas DOHERTY by the GOVERNMENT of the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND]

(No. 83 Cr. Misc. 1)

UNITED STATES DISTRICT COURT, S.D. NEW YORK

Dec. 12, 1984

United States, acting on behalf of Great Britain, requested extradition of member of Provisional Irish Republican Army. The District Court, Sprizzo, J., held that murder for which Great Britain sought extradition from United States of member of Provisional Irish Republican Army was "political offense" within meaning of exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense where the victim was a British army captain and killing occurred in context of attempted ambush of British army patrol in area in which political change was to be effected.

Extradition denied.

1. Extradition and Detainers (5)

Under exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense, no act may be regarded as political where nature of act is such as to be violative of international law and inconsistent with international standards of civilized conduct.

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[19] The word "initially" refers to the fact that when the judicial officer on a *habeas* court decides that the offense is not political, the Secretary of State may still decline to order extradition. See Note, *Executive Discretion in Extradition*, 62 Colum.L.Rev. 1313, 1315 & cases cited in note 18 (1962); 1 Moore, *Extradition* 549-76 (1891); Hyde, *International Law*, 606-08 (1922).

[20] Judge Sand should consider the renewed application on the record before the magistrate and such other relevant evidence as the United States or Mackin may introduce and give such weight to the Magistrate's conclusions as he deems appropriate. See *Hooker* v. *Klein*, *supra*, 573 F.2d at 1369-70 (concurring opinion of Judge Chambers).

2. Extradition and Detainers (5)

Under exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense, political offense exception is not limited to actual armed insurrections or more traditional and overt military hostilities and it is not for the courts in defining parameters of the exception to regard as dispositive factors such as likelihood that politically dissident group will succeed or ability of that group to effect changes in government by means other than violence.

3. Extradition and Detainers (5)

Under exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense, fact that violence is used in itself is not dispositive; instead, court must assess nature of act, context in which it is committed, status of party committing act, nature of organization on whose behalf it is committed, and particularized circumstances of place where act takes place.

4. Extradition and Detainers (5)

Murder for which Great Britain sought extradition from United States of member of Provisional Irish Republican Army was "political offense" within meaning of exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense where the victim was a British army captain and killing occurred in context of attempted ambush of British army patrol in area in which political change was to be effected.

See publication Words and Phrases for other judicial constructions and definitions.

5. Extradition and Detainers (5)

Under exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense, it is proper for court to consider nature of organization, its structure, and its mode of internal discipline in deciding whether act of its members can constitute political conduct.

6. Extradition and Detainers (5)

Under exception to extradition treaty between United States and Great Britain for offense regarded by rquested party as political offense, offense of member of Provisional Irish Republican Army would not be regarded as political merely because Great Britain had recognized necessity to enact special legislation and to create special courts to deal with problems created by escalating violence in Northern Ireland.

7. Extradition and Detainers (5)

Escape from prison of member of Provisional Irish Republican Army pending verdict in murder prosecution was offense political in character within meaning of exception to extradition treaty between United States and Great Britain for offense regarded by requested party as political offense where the escape was organized and planned under direction of the PIRA to effectuate its purposes rather than those of member himself.

Rudolph W. Giuliani, U.S. Atty., S.D. N.Y., New York City, for petitioner; Thomas E. Moseley, Sp. Asst. U.S. Atty., New York City, of counsel.

Somerstein & Pike, New York City, for respondent; Mary Boresz Pike, Stephen A. Somerstein, New York City, of counsel.

SPRIZZO, District Judge:

Petitioner United States of America, acting on behalf of the United Kingdom of Great Britain and Northern Ireland, has requested the extradition to the United Kingdom of respondent Joseph Patrick Thomas Doherty. This request is made pursuant to 18 U.S.C. § 3184 and the Treaty of Extradition between the United States of America and the United Kingdom of Great Britain and Northern Ireland, 28 U.S.T. 227, T.I.A.S. No. 8468 (effective Jan. 21, 1977) ("the Treaty"). The Government of the United Kingdom seeks Doherty's extradition on the basis of his conviction in Northern Ireland on June 12, 1981 for murder, attempted murder, and illegal possession of firearms and ammunition, and for offenses allegedly committed in the course of his escape from H.M. Prison, Crumlin Road, Belfast, on June 10, 1981.

Doherty was arrested by the United States Immigration and Naturalization Service on June 18, 1983, in New York City. A provisional warrant of arrest was issued by Chief Judge Constance Baker Motley on June 27, 1983, pursuant to Article VIII of the Treaty. A formal request for extradition was filed in accordance with Article VII of the Treaty in the Southern District of New York on August 16, 1983. A hearing was held by the Court in March and April 1984 pursuant to 18 U.S.C. § 3184.

The facts of this case are not in substantial dispute. The incidents giving rise to the extradition request are briefly as follows. Respondent Doherty was a member of the provisional Irish Republican Army ("PIRA"). On May 2, 1980, at the direction of the IRA, Doherty and three others embarked upon an operation "to engage and attack" a convoy of British soldiers. Transcript of Hearing ("Tr.") at 631.

Doherty testified that he and his group took over a house at 371 Antrim Road in Belfast, and awaited a British Army convoy. Some three or four hours later, a car stopped in front of 371 Antrim Road and five men carrying machine guns emerged. There men, members of the Special Air Service of the British Army ("SAS"), and Doherty's group fired shots at each other.

In the exchange of gunfire Captain Herbert Richard Westmacott, a British army captain, was shot and killed. Doherty was arrested, charged with the murder, among other offenses, and held in the Crumlin Road prison pending trial. On June 10, 1981, after the trial was completed but before any decision by the Court, Doherty escaped from the prison along with seven others. He was convicted *in absentia* on June 12, 1981 of murder, attempted murder, illegal possession of firearms and ammunition, and belonging to the Irish Republican Army, a proscribed organization.

Pursuant to Article IX of the Treaty, the Court must be satisfied that probable cause exists with respect to the offenses for which the requesting party seeks Doherty's extradition. *See Sidona v. Grant*, 619 F.2d 167, 175 (2d Cir.1980). Petitioner produced a Certificate of Conviction for the offenses related to the death of Captain Westmacott, and a Warrant for Arrest of Doherty with respect to the escape from the Crumlin Road prison. *See* Request for Extradition. Doherty has not contested that he is, in fact, the person named in those documents, or named as respondent herein. Indeed, he testified as to his involvement in both the May 2, 1980 incident which resulted in the death of Captain Westmacott and the June 10, 1981 prison escape. *See* Tr. at 631–45, 654–67. Therefore, the Court finds that probable cause clearly exists.

Doherty asserts that the extradition request must be denied, however, pursuant to Article V(1)(c)(i) of the Treaty, which provides:

(1) Extradition shall not be granted if:

* * * * * *

(c)(i) the offense for which extradition is requested is regarded by the requested Party as one of a political character; . . .

Petitioner denies that this so-called "political offense" exception to the Treaty is applicable in this case. The Court must determine, therefore, whether the offenses for which Doherty was convicted in relation to the May 2, 1980 incident, and those for which he is accused in connection with the escape from prision, are of a political character.

It seems clear, as the evidence established, that the centuries old hatreds and political divisions which were spawned by England's conquest of Ireland in medieval times continue to resist any permanent resolution. Instead they have smoldered, sometimes during long periods of quescience, only to repeatedly erupt with tragic consequences. The offenses which give rise to this proceeding are but the latest chapters in that unending epic. *See In Re Mackin*, 80 Cr.Misc. 1, p. 54 at 49–74 (S.D. N.Y. Aug. 13, 1981), *appeal dismissed*, 668 F.2d 122 (2d Cir.1981).

The Provisional Irish Republican Army, of which respondent is a member, claims to be a contemporary protagonist in that ancient struggle. The evidence established that the Irish Republican Army and more particularly the PIRA, had for a time lost much public support and had indeed become dormant, while other groups, emulating the pattern of civil rights groups, emulating the pattern of civil rights groups in this country, sought to achieve an amelioration of alleged political and economic deprivations by peaceful means. It is indeed unfortunate that those efforts failed, but fail they did. Perhaps, given the long standing enmities, anxieties, and fears that exist between the Unionists and Republicans in Ireland, it was too much to expect that they would succeed. Nevertheless it was the collapse of those peaceful efforts that ironically led to a resurgence of the PIRA.

On January 30, 1972 in Londonderry, what started out as a peaceful demonstration ended in a bloody confrontation in which 13 civilians were killed. *See* Tr. at 61, 133–34. Since British troops were regarded as at least in part responsible for that tragedy, their presence which had been initially welcomed, became a subject of increasing antipathy and concern.[1] The result was a fresh impetus for the PIRA, and increasing support for those who would resolve Ireland's political problems by violence.[2]

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[1] It was clear from the testimony that by August 1969, a state of civil disorder had been reached that had threatened the viability of the Northern Irish government. As a consequence, the Prime Minister requested assistance from the United Kingdom and British troops were sent to maintain order. It is also clear that they were initially well received. *See* Tr. at 60, 130–31.

[2] While the Court is not persuaded that the methods and objectives of the PIRA are in fact shared by a majority of the people in Ireland, or indeed by a majority of the Catholics in Northern Ireland, that circumstance is not dispositive of the issue of whether respondent, as a member of that group is entitled to rely upon the political offense exception to the Treaty. Indeed, at the time of the American Revolution, there were a large number of colonists who not only desired a continued union with England, but regarded the thought of armed opposition to the Crown as both treasonous and abhorrent. *See, e.g.*, J.R. Alden, *The American Revolution 1775–1783* (1954); S.E. Morison, *The Oxford History of the American People* (1905); C.H. Van Tyne, *Loyalists in American Revolution* (1902).

Following the resurgence of the PIRA, the level of violence both by the PIRA and armed Loyalist groups continued to escalate in a continuing and seemingly inexorable series of events that between 1972 and 1979 claimed the lives of over 1,770 persons, nearly 1,300 of whom were civilian casualties, and injured hundreds of others. See Review of the Operation of the Northern Ireland (Emergency Provisions) Act 1978 (the "Baker Report") (P.Ex. 18) at 152; see also New Ireland Forum, The Cost of Violence arising from the Northern Ireland Crisis since 1969 (R.Ex. UU) at ¶2.1 This alarming and at times wanton destruction of life and property necessitated the enactment of special laws, see Northern Ireland (Emergency Provisions) Act 1973 (R.Ex.BB); Prevention of Terrorism (Temporary Provisions) Act 1976 (R.Ex. CC); Northern Ireland (Emergency Provisions) Act 1978 (R.Ex. DD); see also Report of the Commission to consider procedures to deal with terrorist activities in Northern Ireland (the "Diplock Report") (R.Ex. AA); Suppression of Terrorism Act 1978 (P.Ex. 15), including the creation of special Diplock Courts to try political offenders, and transformed the Catholic areas of Belfast and Londonderry into zones of military occupation.

Were the Court persuaded that all that need be shown to sustain the political offense exception is that there be a political conflict and that the offense be committed during the course of and in furtherance of that struggle, the respondent would clearly be entitled to the benefits of that exception. However, that conclusion is but the beginning and not the end of the analysis that must be made to determine whether in fact Doherty may be properly extradited.

While it is true that some of the older English cases, *see, e.g., In re Meunier* [1894] 2 Q.B. 415, 419; *In re Castioni* [1891] 1 Q.B. 149, 156, 159, 166, and some of the American cases that have relied upon them, *see, e.g., In re Mackin, supra,* 80 Cr. Misc. 1 at 24-25; *In re Gonzalez,* 217 F.Supp. 717 720-21 (S.D.N.Y.1963); *In re Ezeta,* 62 F. 972, 999 (N.D.Cal.1894), have assumed that that is all that need be shown, such an approach is hardly consistent with either the realities of the modern world, or the need to interpret the political offense exception in the light of the lessons of recent history. Nor is it reflective of the more recent English precedents which have, relying upon that experience, adopted a more restrictive view of that exception, *see, e.g., Regina v. Governor of Pentonvill Prison, Ex parte Cheng* [1973] W.L.R. 746, 753; *Regina v. Governor of Brixton Prison, Ex parte Schtraks* [1964] A.C. 556, 591-92, a view shared by at least one American court. *See Eain v. Wilkes,* 641 F.2d 504, 518-21 (7th Cir.1981), *cert. denied,* 454 U.S. 894, 102 S. Ct. 390, 70 L.Ed.2d 208 (1981). But *see Karadzole v. Artukovic,* 247 F.2d 198, 204-05 (9th Cir. 1957), *affg, Artukovic v. Boyle,* 140 F.Supp. 245 (S.D.Calif.1956), *vacated,* 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958); *Quinn v Robinson,* No. C-82-6688 RPA, slip op. at 22-23, 29-32 (N.D.Cal. Oct. 3, 1983), *appeal pending,* 83-2455 (9th Cir. Oct 14, 1983); *In re McMullen,* Magistrate No. 3-78-1099 MG, slip op. at 3 (N.D.Cal. May 11, 1979).

Many loyalists suffered the consequences of these beliefs both before and after independence. Given the nature of that history it would indeed be anomalous for an American court to conclude that the absence of a political consensus for armed resistance in itself deprives such resistance of its political character.

How then is the political exception doctrine to be construed and what factors should limit its scope? Not every act committed for a political purpose or during a political disturbance may or should properly be regarded as a political offense. Surely the atrocities at Dachau, Aushwitz, and other death camps would be arguably political within the meaning of that definition. The same would be true of My Lai, the Bataan death march, Lidice, the Katyn Forest Massacre, and a whole host of violations of international law that the civilized world is, has been, and should be unwilling to accept. Indeed, the Nuremberg trials would have no legitimacy or meaning if any act done for a political purpose could be properly classified as a political offense. Moreover, it would not be consistent with the policy of this nation as reflected by its participation in those trials, for an American court to shield from extradition a person charged with such crimes.

[1] The Court concludes therefore that a proper construction of the Treaty in accordance with the law and policy of this nation, requires that no act be regarded as political where the nature of the act is such as to be violative of international law, and inconsistent with international standards of civilized conduct. Surely an act which would be properly punishable even in the context of a declared war or in the heat of open military conflict cannot and should not receive recognition under the political exception to the Treaty. Cf. McGlinchey v. Wren, 3 Lr.L.Rep. Monthly 169 (Irish Sup.Ct.1982) (political offense exception of Treaty between Northern Ireland and the Republic of Ireland limited by the highest court of the Republic to "what reasonable, civilised people would regard as political activity.")

[2] The Court rejects the notion that the political offense exception is limited to actual armed insurrections or more traditional and overt military hostilities. The lessons of recent history demonstrate that political struggles have been commenced and effectively carried out by armed guerillas long before they were able to mount armies in the field. It is not for the courts, in defing the parameters of the political offense exception, to regard as dispositive factors such as the likelihood that a politically dissident group will succeed, or the ability of that group to effect changes in the government by means other than violence, although concededly such factors may at times be relevant in distinguishing between the common criminal and the political offender.

[3] Nor is the fact that violence is used in itself dispositive.[3] Instead the Court must assess the nature of the act, the context in which it is committed, the status of the party committing the act, the nature of the organization on whose behalf it is committed, and the particularized circumstances of the place where the act takes place.

[4] Considering the offenses for which extradition is sought in the light of these precepts, the Court is constrained to conclude that the political offense exception clearly encompasses those offenses. We are not faced here with a situation in which a bomb was detonated in a department store, public tavern, or a resort hotel, causing indiscriminate personal injury, death, and property damage. Such conduct would clearly be well beyond the parameters of what and should properly be regarded as encompassed by the political offense exception to the Treaty. Whatever the precise contours of that elusive concept may be, it was in its inception an outgrowth of the notion that a person should not be persecuted for political beliefs[4] and was not designed to protect a person from the consequences of acts that transcend the limits of international law.

Nor is this a case where violence was directed against civilian representatives of the government, where defining the limits of the political offense exception would be far less clear. Similarly, this is not a case where the alleged political conduct was committed in a place other than the territory where political change was to be effected, a circumstance that would in all probability render the political offense exception inapplicable. *See, e.g., Cheng, supra,* [1973] W.L.R. at 752-53, 755-56, 771; *Schtraks, supra,* [1964] A.C. at 591. Finally, the Court is not presented with facts which establish that hostages were killed or injured or where the principles embodied in the Geneva Convention have clearly been violated.

Instead, the facts of this case present the assertion of the political offense exception in its most classic form. The death of Captain Westmacott, while a most tragic event, occurred in the context of an attempted ambush of a British army patrol. It was the British Army's response to that action that gave rise to Captain Westmacott's death. Had this conduct occurred during the course of more traditional military hostilities there could be little doubt that it would fall within the political offense exception. The only issue remaining, therefore is, does the political exception become inapplicable because the PIRA is engaged in a more sporadic and informal mode of warfare.

[5] The court is not unmindful of the fact that it would be most unwise as a matter of policy to extend the benefit of the political

[3] In England the law may indeed be reaching the point where any violent conduct will not be regarded as political when peaceful means are available. See testimony of David J. Bentley, Legal Advisor to the Home Office of the United Kingdom, Tr. at 1270-74. However, even a recent English case suggests that a political assassination committed in the country where political change is sought to be effected may be protected political conduct. See Cheng, supra, [1973] W.L.R. at 755-56.

[4] The concept was first enunciated during an era when there was much concern for and sympathy in England for the cause of liberation for subjugated peoples. *See Schtraks, supra,* [1964] A.C. at 582-83; *see also Cheng, supra,* [1973] W.L.R. at 754-56. Nevertheless, even then there was a concern that the term "political offense" should not be defined too precisely or too formalistically lest it unduly restrict proper modes of political conduct or impermissibly sanction every act committed during the cause of a political struggle. In any event, it seems fair to conclude that the Victorian and post-Victorian climate in which the doctrine arose would hardly have been sympathetic to the kind of paramilitary terrorism that has become the plague of the modern age.

It is also significant that even at an early stage in the development of the political offense exception, the English courts found means to limit the concept by excluding from its definition anarchistic activity directed at all governments in general rather than at a particular regime. *See In re Meunier, supra,* 2 Q.B. at 419. Some American courts have resorted to a similar rationale, *see Eain, supra,* 641 F.2d at 521-22. *Eain* is explicit in recognizing that the best approach may be to balance the policy considerations which underline that exception against those which make it necessary to limit that exception to insure that it does not afford a haven for persons who commit the most heinous atrocities for political ends. *See Eain, supra,* 641 F.2d at 519-20; *See also In re Quinn,* Criminal No. CR-81-146-MISC, slip op. at 107-11 (N.D.Cal. Sept. 29, 1982) (Magistrate's Opinion).

offense exception to every fanatic group or individual with loosely defined political objectives who commit acts of volence in the name of those so called political objectives. Therefore it is proper for the Court to consider the nature of an organization, its structure, and its mode of internal discipline, in deciding whether the act of its members can constitute political conduct under an appropriate interpretation of the Treaty.

However, the PIRA, as the evidence showed, while it may be a radical offshoot of the traditional Irish Republican Army, has both an organization, discipline, and command structure that distinguishes it from more amorphous groups such as the Black Liberation Army or the Red Brigade. Indeed, as the testimony established, its discipline and command structure operates even after its members are imprisoned and indeed, as Doherty testified, it was at the direction of the PIRA that he escaped and then came to the United States. *See* Tr. at 650-73, 830; *see also In Re Mackin, supra,* 80 Cr.Misc. 1 at 78-80.

Given that defined structure, the fact that the PIRA may not be likely to achieve its objectives does not deprive its acts of their political character. This Court cannot, in interpreting the Treaty, make the political exception concept turn upon the Court's assessment of the likelihood of a movement's success. History is replete with examples of political and insurrectionary movements that have succeeded in effecting political changes that were believed to be improbable if not impossible.

[6] The Court is not, however, persuaded by the argument that respondent's offense must or should be regarded as political merely because the United Kingdom has recognized the necessity to enact special legislation and to create special courts to deal with the problems created by the escalating violence between Republicans and Unionists in Northern Ireland. If that were the case, any lawless group could create political status for itself by merely escalating the level of this lawlessness to a point where the government is constrained to deal with it by special remedies.

The Court also specifically rejects respondent's claim that the Diplock Courts and the procedures there employed are unfair, and that respondent did not get a fair trial and cannot get a fair trial in the courts of Northern Ireland. The Court finds the testimony of the Government witnesses as to this issue both credible and persuasive. The Court concludes that both Unionists and Republicans who commit offenss of a political character can and do receive fair and impartial justice and that the courts of Northern Ireland will continue to scrupulously and courageously discharge their responsibilities in that regard. Nevertheless, the fairness of the administration of justice in those courts does not and cannot deprive respondent's offenses of their essentially political character.[5]

Finally, the Court does not accept as dispositive the view expressed by David J. Bentley, Assistant Legal Advisor to the United Kingdom Home Office, which indicates that in England the political offense exception to extradition is now believed to encompass only those situations in which the sovereign has some interest over and above that of enforcing peace and public order in prosecuting an alleged political offender. *See* Tr. at 1232-33, 1245-53. The fact that a sovereign may be neutral in punishing violent conduct designed to achieve political ends does not in itself transform offenses that would otherwise be clearly political in nature into ordinary common law crimes.

Moreover, were the Court to accept such a view, it would be placed in the delicate situation of having to assess the neutrality and indirectly the good faith of the sovereign seeking extradition,[6] a circimstance that could adversely affect the conduct of foreign relations and might well be inconsistent with the Treaty's structure, which clearly places such determinations in the hands of the Secretary of State. *See In re Mackin,* 668 F.2d 122, 133-34 (2d Cir. 1981); *Eain, supra,* 641 F.2d at 513, 516-17. *See also Sindona, supra,* 619 F.2d at 174-76. That possibility is obviously present here where it is certainly at least arguable that the United Kingdom may not be entirely neutral with respect to the issue of Irish independence because it is the end of British rule in Ireland that has been and continues to be the principal objective of the Irish Republican movement.

[7] In sum, the Court concludes for the reasons given that respondent's participation in the military ambush which resulted in Captain Westmacott's death was an offense political in character. The Court further concludes that his escape from Crumlin Road prison, organized and planned as the evidence established that it was, under the direction of the PIRA and to effect its purposes rather than those of Doherty himself, was also political. That conduct and all of the various and sundry charges which are connected therewith and for which extradition is sought are not extraditable offenses under Article V(1)(c)(i) of the Treaty.[7] The request for extradition is therefore denied.

It is SO ORDERED.

[5] It is significant of course that the discretion vested in the prosecution by the emergency legislation to try offenders in the Diplock Courts is indeed exercised on the basis of a determination that what would otherwise be common law offenses are politically motivated. *See* Northern Ireland (Emergency Provisions) Act 1978 (R.Ex. DD) at §§ 29, 31.-(1), Schedule 4 Notes 1 & 2; Northern Ireland (Emergency Provisions) Act 1973 (R.Ex. BB) at §§ 26.-(1), 28.-(1), Schedule 4 Notes 1 & 2; Diplock Report (R.Ex. AA) at ¶¶3-11 & Appendix; Tr. 409, 414-18, 519, 918-20.

[6] The Court is not persuaded by the fact that the current political administration in the United States has strongly denounced terrorist acts and has stated that to refuse extradition in this case might jeopardize foreign relations. *See* Affidavit of Terrell E. Arnold ¶ 3 (June 14, 1984). The Treaty vests the determination of the limits of the political offense exception in the courts and therefore reflects a congressional judgment that that decision not be made on the basis of what may be the current view of any one political administration. *See, e.g., In re Mackin,* 668 F.2d 122, 132-37 (2d Cir. 1981), *Eain, supra,* 641 F.2d at 513.

[7] Of course it is clear that where an offense otherwise political in character is committed for purely personal reasons such as personal vengence or vindictiveness, that circumstance might well deprive the offense of its political character. In this case there is no suggestion that Doherty had any personal hostility to Captain Westmacott. There is some suggestion that the physical attack upon one of the guards may have had some retaliatory aspects, *see* R.Ex. Y at 2. However, on balance the Court is persuaded that that guard was assaulted because he sought to prevent the escape.

WILLIAM JOSEPH QUINN, PETITIONER-APPELLEE, v. GLEN ROBINSON, UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF CALIFORNIA, RESPONDENT-APPELLANT

[No. 83-2455]

United States Court of Appeals,

Ninth Circuit

Argued and Submitted July 11, 1984.

Decided Feb. 18, 1986.

Accused, who had been found extraditable to the United Kingdom for murder of police constable and conspiracy to cause explosions likely to endanger human life, filed petition for habeas corpus. The United States District Court for the Northern District of California, Robert P. Aguilar, J., granted relief, and the United States, on behalf of the United Kingdom, appealed. The Court of Appeals, Reinhardt, Circuit Judge, held that: (1) political offense exception to extradition was inapplicable, and (2) issue whether conspiracy charge was time barred and thus not extraditable under applicable treaty, would not be addressed on appeal.

Vacated and remanded.

Duniway, Circuit Judge, filed an opinion concurring in the judgment.

Fletcher, Circuit Judge, filed a concurring and dissenting opinion.

1. Extradition and Detainers (2)

Right of foreign sovereign to demand and obtain extradition of accused criminal is created by treaty.

2. Extradition and Detainers (2)

In absence of treaty, there is no duty to extradite.

3. Extradition and Detainers (6)

United States citizenship does not bar extradition by the United States.

4. Extradition and Detainers (5)

Under doctrine of dual criminality, accused person can be extradited only if conduct complained of is considered criminal by jurisprudence or under laws of both requesting and requested nations; in addition, there must be evidence that would justify committing accused for trial under law of nation from whom extradition is requested if offense had been committed within territory of that nation.

5. Extradition and Detainers (19)

Doctrine of "specialty" prohibits nation requesting extradition from prosecuting extradited individual for any offense other than that for which surrendering state agreed to extradite.

6. Extradition and Detainers (17)

Because of limited function of extradition proceeding, there is no appeal from extradition order by government or by defendant.

7. Extradition and Detainers (14(1))

Res judicata does not apply to extradition orders, and government is free to reinstate extradition request after it has been denied in first extradition proceeding.

8. Habeas Corpus (21)

Petition for writ of habeas corpus is only mechanism by which defendant can seek review of extradition order.

9. Extradition and Detainers (14(1))

Authority of magistrate to determine whether crime is extraditable under provisions of treaty includes consideration of whether crime is nonextraditable because it falls within political offense exception. 18 U.S.C.A. § 3184.

10. Constitutional Law (68(1))

Political question doctrine did not preclude federal court from determining whether political offense exception to extradition was applicable. 18 U.S.C.A. § 3184.

11. Habeas Corpus (92(2))

Scope of district court's review of magistrate's extradition order on petition for writ of habeas corpus is limited to whether magistrate had jurisdiction, whether offense charged is within treaty, and whether there was any evidence warranting finding that there was reasonable ground to believe accused guilty.

12. Extradition and Detainers (14(1))
Habeas Corpus (92(2))

Preliminarily, magistrate must determine in extradition proceeding and district court must review on petition for writ of habeas corpus whether extradition treaty was in effect and applicable to case and whether person named in complaint is individual before the magistrate.

13. Habeas Corpus (92(2))

Political offense question is reviewable on habeas corpus as part of question whether offense charged in extradition request is within extradition treaty.

14. Habeas Corpus (92(2))

Question whether offense comes within extradition treaty ordinarily involves determination of whether it is listed as extraditable crime and whether conduct is illegal in both countries; these are purely legal questions that habeas court may review de novo.

15. Extradition and Detainers (17)

Purely factual questions in extradition cases are reviewed under "clearly erroneous" standard.

16. Habeas Corpus (92(2))

Because magistrate's probable cause finding in extradition proceeding is not finding of fact in the sense that the court has weighed evidence and resolved disputed factual issues, it must be upheld on habeas review if there is any competent evidence to support it.

17. Habeas Corpus (92(2))

Political offense issue in extradition proceedings is mixed question of law and fact.

18. Extradition and Detainers (17)

District court must review magistrate's determination in extradition proceeding of political offense issue in same manner that appellate court reviews district court's findings on mixed fact and law question: review of application of law to fact depends on whether determination is essentially factual, in which case it is reviewed under "clearly erroneous" standard, or whether it requires court to consider legal concept in mix of fact and law and to exercise judgment about values that animate legal principles, in which case issue is reviewed de novo.

19. Habeas Corpus (92(2))

On habeas review of extradition order, district court must review magistrate's purely factual findings underlying application of political offense exception under "clearly erroneous" standard while mixed determination at issue, such as question whether crime was incidental to political uprising, must be reviewed de novo.

20. Extradition and Detainers (17)

There is no question that Court of Appeals reviews legal questions and mixed questions in extradition cases de novo.

21. Habeas Corpus (113(12))

Court of Appeals must determine in extradition case whether habeas court erred, as matter of law, in overruling magistrate's factual findings on extradition requests and will defer to extradition tribunal's factual findings unless it agrees with district court that they are clearly erroneous.

22. Extradition and Detainers (5)

Two distinct categories of political offenses, for which extradition is unavailable, are pure political offenses, those acts aimed directly at the government, and relative political offenses, otherwise common crimes committed in connection with political act or committed for political motives or in political context.

23. Extradition and Detainers (5)

Pure political offenses, including treason, sedition, and espionage, are not extraditable.

24. Extradition and Detainers (5)

Political offense exception to extradition, even if meant to protect acts of representatives of former government, does not extend to protect those carrying out governmental policy calling for acts of destruction whose nature and scope exceed human imagination; thus, crimes against humanity are to be excluded from coverage under political offense exception.

25. Extradition and Detainers (5)

American version of incidence test for determining whether offense is of political nature and thus not extraditable, when properly applied, serves purposes and objectives of political offense exception well and should continue to be used.

26. Extradition and Detainers (5)

Test for determining whether offense is of political nature and thus not extraditable, as traditionally articulated by American courts, is idealogically neutral, and it is inappropriate to make qualitative judgment regarding foreign government or struggle designed to alter that government in applying the test.

27. Extradition and Detainers (5)

It is fact that insurgents are seeking to change their governments that makes political offense exception to extradition applicable, not their reasons for wishing to do so or nature of acts by which they hope to accomplish that goal.

28. Extradition and Detainers (5)

Tactics that are used in internal political struggles as part of effort to gain right to self-government are simply irrelevant to question whether political offense exception to extradition is applicable.

29. Extradition and Detainers (5)

Application of political offense exception to extradition to acts of domestic political violence comports in every respect with both original justifications for exception and traditional requirements of incidence test for determining application of the exception; however, application of exception to acts of international terrorism would comport with neither.

30. Extradition and Detainers (5)

Not every offense of political character is nonextraditable.

31. Extradition and Detainers (5)

Traditional United States incidence test for determining application of political offense exception to extradition by its terms protects acts of domestic violence in connection with struggle for political self-determination but was not intended to and does not protect acts of international terrorism.

32. Extradition and Detainers (5)

Uprising component of incidence test for determining application of political offense exception to extradition makes exception applicable only when certain level of violence exists and when those engaged in that violence are seeking to accomplish particular objective; thus, exception does not apply to political acts that involve less fundamental efforts to accomplish change or that do not attract sufficient adherents to create requisite amount of turmoil.

33. Extradition and Detainers (5)

Uprising component of incidence test for determining application of political offense exception to extradition serves to exclude from coverage criminal conduct that occurs outside the country or territory in which uprising is taking place.

34. Extradition and Detainers (5)

Term "uprising," as component of incidence test for determining application of political offense exception to extradition, refers to revolt by indigenous people against their own government or occupying power.

See publication Words and Phrases for other judicial constructions and definitions.

35. Extradition and Detainers (5)

Persons committing acts of piracy, terrorism, or other crimes on the high seas are unable to invoke protection of political offense exception to extradition.

36. Extradition and Detainers (5)

Uprising can exist, for purposes of uprising component of incidence test for determining application of political offense exception to extradition, only when turmoil that warrants that characterization is created by nationals of land in which disturbances are occurring.

37. Extradition and Detainers (5)

In applying traditional American incidence test for determining whether offense is of political nature and thus not extraditable, courts may not determine whether particular forms of conduct constitute acceptable means or methods of engaging in uprising, rejecting *Eain v. Wilkes*, 641 F.2d 504 (7th Cir.).

38. Extradition and Detainers (5)

Incidental to component of incidence test for determining application of political offense exception to extradition is not satisfied by any connection, however feeble, between common crime and political disturbance; act must be causally or idealogically related to uprising.

39. Extradition and Detainers (5)

Traditional liberal construction of requirement of incidence test for determining application of political offense exception to extradition that there be nexus between act and uprising is appropriate.

40. Extradition and Detainers (5)

Under liberal nexus standard for incidental to component of incidence test for determining application of political offense exception to extradition, neither proof of potential or actual effectiveness of actions in achieving group's political ends nor proof of motive of accused or of requesting nation is required, nor is organization or hierarchy of uprising group or accused's membership in any such group determinative.

41. Extradition and Detainers (5)

Incidental to component of incidence test for determining application of political offense exception to extradition, like incidence test as a whole, must be applied in objective, nonjudgmental manner, and all that courts should do is determine whether conduct is related to or connected with insurgent activity.

42. Extradition and Detainers (5)

Incidence test for determining application of political offense exception to extradition has never required that accused prove his political motivations directly, or establish that acts were ordered by leadership of uprising group or were effective in obtaining group's objective, nor need accused prove membership in uprising group.

43. Extradition and Detainers (5)

Murder of police officer is related to uprising, for purposes of incidence test for determining application of political offense exception to extradition, whether reason for act is to avoid discovery of munitions or to avoid reduction of forces by capture.

44. Extradition and Detainers (5)

Uprising component of incidence test for determining application of political offense exception to extradition was not established with respect to alleged member of Irish Republican Army, whose extradition was sought for murdering police constable and for conspiring to cause explosions likely to endanger human life, where the offenses occurred in England, not Northern Ireland, and any violence in England was not being generated by English citizens or residents.

45. Federal Courts (612)

As general rule, federal appellate court does not consider issue not passed upon below; however, federal appellate court has discretion to decide whether to address issue that district court did not reach where question is purely legal one and record has been fully developed prior to appeal.

46. Federal Courts (611)

In deciding whether to exercise its discretion to decide to address issue that district court did not reach, federal appellate court should consider whether resolution of issue is clear and whether injustice might otherwise result.

47. Extradition and Detainers (14(2))

Probable cause to believe that defendant committed murder of police constable, for which his extradition was sought, was established by competent evidence, despite defendant's contention that irregularities in the evidence made the evidence unreliable and thus incompetent.

48. Extradition and Detainers (14(2))

Country seeking extradition is not required to produce all its evidence at extradition hearing and it is not court's role to determine whether there is sufficient evidence to convict accused.

49. Extradition and Detainers (17)

Magistrate in extradition hearing does not weigh conflicting evidence and make factual determinations but, rather, determines only whether there is competent evidence to support belief that accused has committed charged offense, and, on review, Court of Appeals can determine only whether, because of absence of competent evidence, magistrate's determination is wrong as matter of law.

50. Extradition and Detainers (17)

Credibility of witnesses and weight to be accorded their testimony is solely within province of extradition magistrate.

51. Extradition and Detainers (14(1))

Although there is no explicit statutory basis for ordering discovery in extradition hearings, extradition magistrate has right, under court's inherent power, to order such discovery procedures as law and justice require.

52. Extradition and Detainers (14(1))

In exercising its discretion to order discovery in extradition hearing, magistrate should consider both well-established rule that extradition proceedings are not to be converted into dress rehearsal trial and whether resolution of contested issue would be appreciably advanced by requested discovery.

53. Habeas Corpus (92(2))

Habeas court on review of extradition proceeding can determine whether extradition magistrate's decision to deny discovery constituted abuse of discretion that deprived accused of due process.

54. Habeas Corpus (113(11))

Court of Appeals would not resolve, on appeal in extradition case, whether conspiracy charge against accused was time barred, thereby making the offense nonextraditable under the applicable treaty, where the multiple legal issues involved in the issue were complicated, their resolution was not clear, and determination of the issue could lead to introduction of additional facts.

Mark N. Zandies, Asst. U.S. Atty., San Francisco, Cal, for petitioner-appellee.

Patrick Sarsfield Hallinan, Colleen Mary Rohan, Dale A. Drozd, Hallinan, Osterhoudt & Poplack, San Francisco, Cal., for respondent-appellant.

Appeal from the United States District Court for the Northern District of California.

Before DUNIWAY, FLETCHER, and REINHARDT, Circuit Judges.

REINHARDT, Circuit Judge:

Pursuant to 18 U.S.C. § 3184 (1982) and the governing treaty between the United States and the United Kingdom of Great Britain and Northern Ireland ("United Kingdom"), Extradition Treaty of June 8, 1972, United States—United Kingdom, 28 U.S.T. 227, T.I.A.S. No. 8468 [hereinafter cited as *Treaty*], the United Kingdom seeks the extradition of William Joseph Quinn, a member of the Irish Republican Army ("IRA"), in order to try him for the commission of a murder in 1975 and for conspiring to cause explosions in London in 1974 and 1975. After a United States magistrate found Quinn extraditable, Quinn filed a petition for a writ of habeas corpus. The district court determined that Quinn cannot be extradited because a long-standing principle of international law which has been incorporated in the extradition treaty at issue—the political offense exception—bars extradition for the charged offenses. The United States government, on behalf of the United Kingdom, appeals.

This case requires us to examine the parameters of a foreign sovereign's right to bring about the extradition of an accused who maintains that the offenses with which he is charged are of a political character. Ultimately we must determine whether the political offense exception is applicable to the type of violent offenses Quinn is alleged to have committed. We undertake this task with the aid of very little helpful precedent. The United States Supreme Court has discussed the political offense exception only once, and then during the nineteenth century. See *Ornelas v. Ruiz*, 161 U.S. 502, 16 S.Ct. 689, 40 L.Ed. 787 (1896). The only time we considered the subject, *see Karadzole v. Artukovic*, 247 F.2d 198 (9th Cir.1957), the Supreme Court vacated our opinion, *see Karadzole v. Artukovic*, 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958) (mem.), an opinion which, in any event, has subsequently been roundly and uniformly criticized, *see Eain v. Wilkes*, 641 F.2d 504, 522 (7th Cir.), *cert. denied*, 454 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981); Garcia-Mora, *The Nature of Political Offenses: A Knotty Problem of Extradition Law*, 48 Va.L.Rev. 1226, 1246 (1962); Lubet & Czackes, *The Role of the American Judiciary in the Extradition of Political Terrorists*, 71 J.Crim.L. & Criminology 193, 205 (1980). Only one circuit has previously considered in any detail how or whether the exception applies when the accused person or persons have engaged in conduct involving the use of some of the more violent techniques or tactics that have come to mark the activities of contemporary insurgent or revolutionary movements. *Eain v. Wilkes*, 641 F.2d 504 (7th Cir), *cert. denied*, 454 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981). The few opinions of other circuits that have considered the exception shed no light on the difficult questions we must resolve here.[1] Therefore, we must carefully examine the historic origins of the political offense exception, analyze the various underpinnings of the doctrine, trace its development in the lower courts and elsewhere, and seek to apply whatever principles emerge to the realities of today's political struggles.

In the case before us, we find, for reasons we will explain in full, that the charged offenses are not protected by the political offense exception. We vacate the writ of habeas corpus and remand to the district court. We hope that Quinn may be extradited on the murder charge but that the district court must consider Quinn's remaining defense to the conspiracy charge before extradition is permitted for that offense.*

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[1] *See In re Mackin*, 668 F.2d 122 (2d Cir.1981) (determining that magistrate had jurisdiction to decide the applicability of the political offense exception, but declining to review the merits of the magistrate's decision on appeal or writ of mandamus); *Escobedo v. United States*, 623 F.2d 1098 (5th Cir.) (determining in one paragraph that charges arising out of the kidnapping of Cuban Consul in Mexico in 1976 were not within political offense exception because of absense of any violent political disturbance to which they could have been incidental), *cert. denied*, 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed.2d 497 (1980); *Sindona v. Grant*, 619 F.2d 167 (2d Cir.1980) (determining that charge of fraudulent bankruptcy was not within political offense exception because of absence of any political disturbance to which the act could have been incidental; that there was no evidence that the requesting nation sought accused's extradition on fraudulent bankruptcy charge in order to try him covertly for a political offense; and that degree of risk to accused's life from extradition was an issue that properly fell within purview of executive branch); *Garcia-Guillern v. United States*, 450 F.2d 1189 (5th Cir.1971) (determining that charge of embezzlement by public official was not within political offense exception because of absence of political disturbance to which the offense could have been incidental), *cert. denied*, 405 U.S. 989, 92 S.Ct. 1251, 31 L.Ed.2d 455 (1972); *Jimenez v. Aristeguieta*, 311 F.2d 547, 558-60 (5th Cir.1962) (determining that potentially political character of alleged murders did not bar extradition on separate charges of fraud and embezzlement when those acts were not incidental to a violent political disturbance).

* I have been authorized to include this footnote on behalf of the full panel.

We are unanimous in our decision that the writ of habeas corpus issued by the district court must be vacated. We reach this difficult decision by somewhat different routes.

Judge Duniway concurs in the result but not for the reasons that are set forth in this opinion. His reasons appear in his separate concurring opinion.

Judge Fletcher concurs in the reasoning set forth in this opinion with the exception of the part that treats England and Northern Ireland as separate entities for purposes of applying the "uprising" component of the political offense doctrine. Her disagreement on that point causes her to dissent from the holding that Quinn may be extradited on the murder charge. As her concurring and dissenting opinion states, she would remand in order to permit the district court to determine the extent of Quinn's ties to Northern Ireland. I do not find it necessary to reach that issue, *see* page 68 *infra*, but believe that Judge Fletcher's argument regarding the necessity for such ties has considerable merit.

We are unanimous in our holding that a remand to the district court is required with respect to the conspiracy charge. We also are unanimous that extradition on that count would not be proper in the absence of an appropriate resolution of the statute of limitations issue, a decision that must be made initially by the district court.

I. BACKGROUND

A. The Extradition Treaty

[1,2] The right of a foreign sovereign to demand and obtain extradition of an accused criminal is created by treaty. *Ramos v. Diaz*, 179 F.Supp. 459, 460-61 (S.D. Fla. 1959). In the absence of a treaty there is no duty to extradite, *see Factor v. Laubenheimer*, 290 U.S. 276, 287, 54 S.Ct. 191, 193, 78 L.Ed. 315 (1933); Epps, *The Validity of the Political Offender Exception in Extradition Treaties in Anglo-American Jurisprudence*, 20 Harv.Int' L.J. 61, 74 (1979); *cf.* Bassiouni, *International Extradition: A Summary of Contemporary American Practice and a Proposed Formula*, 15 Wayne L.Rev. 733, 734 (1969) (in Western world, "extradition is a matter of favor or comity rather than a legal duty"), and no branch of the United States government has any authority to surrender an accused to a foreign government except as provided for by statute or treaty. *Factor v. Laubenheimer*, 290 U.S. 276, 287, 54 S.Ct. 191, 193, 78 L.Ed. 315 (1933); *Ramos*, 179 F.2d at 460-61.

The extradition treaty between the United States and the United Kingdom provides for the reciprocal extradition of persons found within the territory of one of the nations who have been accused or convicted of certain criminal offenses committed within the jurisdiction of the other nation. *Treaty, supra* p. 1, at art. I. Murder and conspiracy to cause explosions, the offenses with which Quinn has been charged, are extraditable offenses under the Treaty. *Id.* art. III(1), (2).

[3-5] United States citizenship does not bar extradition by the United States. *See Charlton* v. *Kelly*, 229 U.S. 447, 467, 33 S.Ct. 945, 952, 57 L.Ed. 1274 (1913); *Escobedo* v. *United States*, 623 F.2d 1098, 1104-07 (5th Cir.), *cert. denied*, 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed.2d 497 (1980). However, under the doctrine of "dual criminality," an accused person can be extradited only if the conduct complained of is considered criminal by the jurisprudence or under the laws of both the requesting and requested nations. *Factor*, 290 U.S. at 293, 54 S.Ct. at 195; *Caplan* v. *Vokes*, 649 F.2d 1336, 1343 (9th Cir. 1981); *see, e.g., Treaty, supra* p. 1, at art. III(1)(a). In addition, there must be evidence that would justify committing the accused for trial under the law of the nation from whom extradition is requested if the offense had been committed within the territory of that nation. *Hooker* v. *Klein*, 573 F.2d 1360, 1367 (9th Cir.), *cert. denied*, 439 U.S. 932, 99 S.Ct. 323, 58 L.Ed.2d 327 (1978); 18 U.S.C. § 3184 (1982); *see, e.g., Treaty, supra*, p. 1, at art. VII(d). United States courts have interpreted this provision in similar treaties as requiring a showing by the requesting party that there is probable cause to believe that the accused has committed the charged offense. *See, e.g., Glucksman* v. *Henkel*, 221 U.S. 508, 512, 31 S.Ct. 704, 705, 55 L.Ed. 830 (1911); *United States ex rel. Sakaguchi* v. *Kaululukui*, 520 F.2d 726, 729-31 (9th Cir. 1975). The doctrine of "specialty" prohibits the requesting nation from prosecuting the extradited individual for any offense other than that for which the surrendering state agreed to extradite. *United States* v. *Rauscher*, 119 U.S. 407, 420-21, 7 S.Ct. 234, 241, 30 L.Ed. 425 (1886); *Caplan* v. *Vokes*, 649 F.2d at 1343; *see, e.g., Treaty, supra* p. 1, at art. XII.

The treaty between the United States and the United Kingdom provides certain exceptions to extradition, notwithstanding the existence of probable cause to believe that the accused has committed the charged offense. In particular, the treaty specifies that "[e]xtradition shall not be granted if . . . the offense for which extradition is requested is regarded by the requested party as one of a political character. . . ." *Treaty, supra* p. 1, at art. V(1)(c).

B. Factual Background

Quinn, a United States citizen, was arrested on September 30, 1981 in Daly City, California pursuant to a provisional arrest warrant issued by a United States magistrate upon application of the United States acting for an on behalf of the United Kingdom. On November 4, 1981, the United Kingdom formally requested Quinn's extradition to face charges of the murder of Police Constable Stephen Tibble and conspiracy to cause explosions of a nature likely to endanger human life.[2]

The duration of the conspiracy with which Quinn is charged is from January 1, 1974 to April 3, 1975, the day before Quinn was arrested for questioning regarding separate 1974 offenses of kidnapping and assault. Quinn was, in fact, charged, tried, and convicted at that time in Ireland, in a special court utilized for the trial of political cases, of membership in an outlawed organization—the IRA. He was imprisoned in Dublin as a "special category prisoner"—a political prisoner incarcerated in a manner akin to prisoner-of-war status—until January 2, 1976.

The evidence before the United States magistrate regarding the conspiracy centered around six specific bombing incidents:

1. On January 18, 1974, a hollowed-out copy of the Bible containing a bomb was mailed to and received by Bishop Gerard William Tickle in London. At that time, Bishop Tickle was the Roman Catholic Bishop to the British Armed Forces. Quinn's fingerprints were found on the wrapping paper around the bomb, which was defused without causing any harm.

2. On January 30, 1974, a letter bomb was sent to the Surrey, England home of Crown Court Judge John Huxley Buzzard who, at that time, was a senior Treasury Prosecuting Counsel. When Judge Buzzard began to open the package, it partially exploded, lacerating his face, hands, and wrist and causing the loss of the ends of two fingers on his left hand. Quinn's fingerprints were on the wrapping around the bomb.

3. On February 4, 1974, a letter bomb was sent to the offices of Max Aitken, Chairman of the Daily Express newspaper in London. Aitken's assistant secretary, who partially opened the package, believed it looked suspicious and called a security guard. As the security guard picked up the package, it partially exploded and the officer lost most of the fingers on his left hand. Quinn's fingerprints were found on the book in which the bomb was concealed.

4. On December 20, 1974, a bomb was found in the foyer adjacent to the loading platform at Aldershot Railway Station in Hampshire County, England. The bomb was defused without causing any harm, and the fingerprints of a number of Quinn's alleged co-conspirators were found on the wrapping paper and bomb mechanisms.

5. On December 21, 1974, a bomb was discovered in an attache case in the archway entrance to the Kings Arms Public House in Warminster, England. The bomb was defused and the fingerprints of Gilhooley, a fugitive who was not indicted as a co-conspirator, were found on its timing mechanism.

6. On January 27, 1975, a bomb was found in a black bag on the front step of the Charco-Burger Grill on Heath Street in London. The bomb was defused and Quinn's fingerprints were found on the Irish newspaper that had been used to wrap the bomb.

Searches of two flats in the London area conducted during this time period revealed explosives, detonators, fuses, and diagrams of bomb construction. Fingerprints matching those of Quinn, his alleged co-conspirators, and Gilhooley were each found on at least one item at each location.

The murder with which Guinn is charged took place in February 26, 1975. On that day, Police Constables Adrian Blackledge and Leslie White were patrolling the West Kensington area of London on foot, looking for burglary suspects. Blackledge saw a man engaged in "suspicious" behavior, such as looking around and changing directions. Blackledge lost sight of the man but later, while White was on lunch break, saw the suspect reappear from one of a number of houses on Fairholme Road. Blackledge approached the man while he waited at a bus stop, identified himself as a police office, and asked the man where he had been. The suspect was unable to give Blackledge the address of the house he had emerged from and gave his name as William Rogers. The suspect said he would take Blackledge to the home he visited, began to walk away, then ran.

A chase ensued, and other plainclothes police officers, including Temporary Detective Constable Derek Hugh Tibble, who was on a motorcycle dressed in civilian clothes, caught up to the suspect, got off his motorcycle, and assumed a crouched position. The suspect shot Tibble three times and ran, evading the other officers. Tibble died that afternoon.

Blackledge described the suspect as 25-30 years old, with straight, short, light brown hair of about collar length, a heavy build, a slightly tanned complexion, and a "mellow" Irish accent. Wilson estimated the suspect's height at five feet ten inches. He offered a description of the suspect that differed in only two respects from Blackledge's. Wilson described the suspect as slimly built, and said he had dark brown hair. Quinn speaks with an American accent but has been reputed to have assumed an Irish accent on occasion. He normally has a pale complexion. He has a slim build and dark brown hair.

On December 12, 1975, British police arrested Quinn's alleged co-conspirators after a six-day siege with hostages in a flat in London. In the flat they discoverd, among other things, a revolver. Bullets fired from this revolver revealed rifling characteristics similar to those on the bullets recovered from Tibble's body.

Quinn's alleged co-conspirators became known as the "Balcombe Street Four" during their trial under the British Prevention of Terrorism Act on charges stemming from their activity as members of an Active Service Unit ("ASU") of the Provisional Irish Republican Army ("PIRA"), a more violent offshoot of the IRA. ASUs are small

[2] Quinn was originally charged with one count of murder of a police constable, three counts of sending letter bombs in the London area, two counts of causing explosions in the London area, one count of placing an explosive device in the London area, and one count of conspiracy with six other persons to cause explosions in the United Kingdom. The request for extradition on all but the murder and conspiracy charges was withdrawn by the United Kingdom prior to the hearing before the magistrate.

groups of PIRA members who conducted a series of violent actions in England, including bombings designed to pressure the British government into negotiating independence for Northern Ireland. Quinn's alleged co-conspirators were tried in a special criminal court in London utilized only for prosecution of "political cases," and the prosecution at their trial argued that the motive in setting the bombs was purely political.

On May 14, 1975, Constable Blackledge was taken to the Special Criminal Court in Dublin, where Quinn was appearing on the charge of being a member of the IRA. Blackledge pointed Quinn out to Rollo Watts of the Special Branch of New Scotland Yard and identified Quinn as the man who had shot Tibble. On October 8, 1981, Watts was shown a photograph of Quinn taken in San Francisco on September 29, 1981, at the time of Quinn's arrest by the FBI. Watts identified Quinn as the man that Blackledge had identified in Ireland six years earlier.

C. Decisions Under Review

After the United Kingdom formally requested Quinn's extradition, a United States Magistrate conducted preliminary proceedings and a hearing to determine extraditability pursuant to 18 U.S.C. § 3184 (1982). Quinn contended that the conspiracy charge was time barred, that the evidence was insufficient to establish probable cause to believe he had committed the alleged crimes, and that all the offenses for which the United Kingdom seeks his extradition are "offenses of a political character" upon which extradition cannot be based. At the hearing, Quinn introduced evidence regarding activities of the IRA and the PIRA in Northern Ireland and in England that were designed to cause the overthrow of British rule in Northern Ireland. Quinn did not testify at the hearing or otherwise offer any evidence of his own motivation for his alleged participation in the charged crimes.

On September 29, 1982, the magistrate rejected Quinn's defenses and issued a Certification of Extraditability and Order of Commitment to the Secretary of State. The magistrate held that in order to qualify for the protection afforded by the political offenses exception, Quinn had to show three elements: that there was a violent political uprising, that he was a member of the uprising group, and that the crimes were committed in furtherance of the uprising. The magistrate concluded that there was a violent political uprising in the United Kingdom at the time of the alleged crimes sufficient to bring into play the political offense exception. However, he found that Quinn had not proved the other two elements of a political offense.

According to the magistrate, Quinn's evidence of his membership in the IRA was of little weight since he had failed to demonstrate that he was a member of the PIRA or of the Active Service Unit that allegedly conducted the bombings. The magistrate also determined that Quinn failed to show that the charged crimes were "in furtherance of" PIRA political goals. According to the magistrate, because the ASUs often acted without guidance from superiors, their targets may have been chosen for personal reasons—such as spite or revenge—rather than out of political motivations. Second, the magistrate determined that the bombings could not be "in furtherance" of the uprising because there was no evidence that any hierarchy within the PIRA had considered their potential effectiveness in promoting the group's political goals. Third, relying in part on *Eain v. Wilkes*, 641 F.2d 504 (7th Cir.), *cert. denied*, 454 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981), the magistrate found that the bombings failed to meet the "direct link" test because they were directed at civilians rather than the government the IRA was attempting to displace and they did not take place in Northern Ireland. Quinn contended that the murder of Officer Tibble was a political offence because it was motivated by the killer's fear that, if captured, he would be questioned and forced to reveal information about PIRA activities. The magistrate rejected this argument as well, finding that the murder was motivated by a simple desire to escape capture.

[6-8] Quinn filed a Petition for Writ of Habeas Corpus commanding Glen E. Robinson, the United States Marshal, to release him.[3] The district court did not address all of Quinn's arguments[4] because it determined that the offenses for which extradition is being sought are non-extraditable political offenses.[5]

In granting Quinn's petition, the district court identified three legal errors in the magistrate's analysis and found that the magistrate erred in its factual findings regarding Quinn's membership in the PIRA and the killer's motive for the Tibble murder. First, the district court held that the magistrate was wrong in requiring Quinn to show, as a separate element, membership in an uprising group. Second, the district court concluded that the magistrate erred in imposing a requirement that the acts potentially be politically efficacious or directed by a hierarchy within the PIRA in order to meet the requirement of being "incidental to" the uprising. Third, the court disagreed with the magistrate's application of *Eain* to this case, noting that the motive of the petitioner in *Eain*, a member of the Palestinian Liberation Organization ("PLO"), in bombing civilians was to drive them out of Israel. Here, in contrast, the court found that the motive was to influence the British government in its relationship with the PIRA and Northern Ireland and that the potential harm to civilians was merely a consequence of the activities designed to influence the government. As to the Tibble murder, the district court determined that the magistrate erred in finding no political motive. Although it agreed that the killing was the result of an effort to avoid immediate capture, the court said that it was incidental to the uprising because Quinn was trying to avoid a capture that could lead to the discovery of the bomb factory.

II. JURISDICTION TO CONSIDER THE POLITICAL OFFENSE EXCEPTION

As it has in other recent extradition cases, *see, e.g., In re Mackin*, 668 F.2d 122 (2d Cir. 1981); *Eain v. Wilkes*, 641 F.2d 504 (7th Cir.), *cert. denied*, 454 U.S. 894, 102 S.Ct. 390, 70 L. Ed.2d 208 (1981), the government contends that both the magistrate and the district court lacked jurisdiction to determine whether the political offense exception bars extradition. According to the government, the language of both the jurisdictional statute and the treaty precludes a judicial determination of whether the exception applies. Moreover, the government contends, such a determination involves political questions that only the executive branch of the government can resolve. Like every court before us that has considered these arguments, *see, e.g., Mackin*, 668 F.2d at 135-37; *Eain*, 641 F.2d at 512-18; *In re Ezeta*, 62 F. 972, 996-97 (N.D.Cal.1894), and like those that have not explicitly considered them but have proceeded to determine whether the exception applies, *see, e.g., Ornelas v. Ruiz*, 161 U.S. 502, 510-12, 16 S.Ct. 689, 692-93, 40 L.Ed. 787 (1896); *In re Doherty*, 599 F.Supp. 270 (S.D.Y.1984), we believe the government's contentions to be meritless.

A. The Language of the Statute and the Treaty

The government contends that the jurisdictional statute, 18 U.S.C. § 3184, fails to authorize the magistrate to determine whether the political offense exception applies and that the treaty explicitly contemplates an executive branch resolution of the question. According to the government, section 3184's command that the magistrate consider whether "the evidence [is] sufficient to sustain the charge under the provisions of the proper treaty" authorizes the magistrate to determine only whether there is possible cause to believe the accused committed the offense. The government further notes that the treaty calls for the "requested party" to determine if it regards the offense as one of a political character. *See Treaty, supra* p. 1, at art. V(1)(c)(ii). According to the government, the term "requested party" refers to the Secretary of State, not the judiciary.

[9] The government's construction of both the statute and the treaty is in error. The "requested party" language has been used in treaties since at least the turn of the century, *see Mackin*, 668 F.2d at 132-33 (citing treaties), and has consistently been interpreted to refer to the country, not any particular branch of its government. The language does not undermine the well-established responsibility of the extradition magistrate—and the judiciary on habeas review—to determine whether the charged offense is or is not extraditable. *Id.; Caplan v. Vokes*, 649 F.2d 1336, 1342-44 (9th Cir.1981); *Eain*, 641 F.2d at 517-18. The determination whether a crime is extraditable "under the provisions of the treaty" includes consideration of whether the crime is

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[3] Quinn followed the proper procedure for seeking review of the magistrate's extradition order. Because of the limited function of an extradition proceeding, *see Charlton v. Kelly*, 229 U.S. 447, 461, 33 S.Ct. 945, 949, 57 L.E.d. 1274 (1913) (analogizing extradition hearing to a preliminary hearing in a criminal case), there is no appeal from an extradition order by the government or by the defendant, *Collins v. Miller*, 252 U.S. 364, 369-70, 40 S.Ct. 347, 349, 64 L.Ed. 616 (1920); *In re Mackin*, 668 F.2d 122, 125-27 (2d Cir. 1981); *Eain v. Wilkes*, 641 F.2d 504, 508 (7th Cir.) *cert denied*, 454 U.S. 894, 102 S. Ct. 390, 70 L.Ed.2d 208 (1981); *Hooker v. Klein*, 573 F.2d 1360, 1368 (9th Cir.), *cert. denied*, 439 U.S. 932, 99 S.Ct. 323, 58 L.Ed.2d 327 (1978). *But cf.* Proposed Extradition Act of 1984, H.R. 3347, 98th Cong., 2d Sess. § 3195(a)(1) (making extradition decision appealable), *printed in* H.Rep. 998, 98th Cong., 2d Sess. 54 (1984). However, res judicata does not apply, *Hooker*, 573 F.2d at 1368, and the government is free to reinstitute an extradition request after it has been denied in a first extradition proceeding, *Mackin*, 668 F.2d at 128; *Hooker*, 573 F.2d at 1368. A petition for a writ of habeas corpus is the only mechanism by which the defendant can seek review. *Mackin*, 668 F.2d at 128; *Eain*, 641 F.2d at 508; *Hooker*, 573 F.2d at 1364. *See generally* Lubet & Czackes, *supra* p. 3, at 199.

[4] Quinn raised the same arguments before the district court that he had presented to the magistrate, *see supra* p. 12, except that he no longer contended that there was insufficient evidence to find probable cause to believe he had engaged in a conspiracy to cause explosions.

[5] Quinn remains in custody because we granted the United Kingdom's motion for a stay of release pending appeal.

nonextraditable because it falls within the political offense exception. *See Ezeta*, 62 F. 996-97. We fail to see how the magistrate could determine whether there is probable cause that the defendant committed an extraditable crime without determining whether the charged offense is one for which extradition is prohibited. Nor can we conclude in the absence of explicit language that Congress, in enacting 18 U.S.C. § 3184, intended to restrict the ability of the judiciary to carry out its role in protecting the liberty interests of individuals by requiring us to review extradition orders without considering all aspects of the pertinent question—whether there is probable cause to believe that the accused committed an extraditable offense.

B. The Political Question Doctrine

[10] The government next argues that because three of the factors enumerated in *Baker v. Carr*, 369 U.S. 186, 217, 82 S.Ct. 691, 710, 7 L.Ed.2d 663 (1962), are present in this case, the judiciary should abstain, under the political question doctrine, from determining whether the political offense exception applies. The government contends that determinig whether the exception applies requires a policy determination of a kind clearly inappropriate for the exercise of judicial discretion, that different pronouncements from the executive and judiciary on matters necessary to a determination of the applicability of the exception could embarrass the government, and that the issue does not lend itself to resolution through judicially discoverable manageable standards. Other circuit courts have considered and rejected the precise arguments advanced by the government in this case. *See Mackin*, 668 F.2d at 132-37; Eain, 641 F.2d at 513-18; *cf. Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 796-98 (D.C. Cir. 1984) (Edwards, J., concurring) (political question doctrine is a very limited basis for nonjusticiability and does not bar review of a tort claim for damages consequent to terrorist activities), *cert denied*, —— U.S. ——, 105 S.Ct. 1354, 84 L.Ed.2d 377 (1985). *But see id.* at 826 (Robb, J., concurring) ("[T]here is simply 'no justiciable standard to the political offense.' ") (quoting *Extradition Reform Act of 1981: "Hearings on H.R. 5227 Before the Subcommittee on Crime of the House Committee on the Judiciary*, 97th Cong., 2d Sess. 24-25 (testimony of Roger Olson, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice)). Like these courts, we recognize the executive branch's interest in matters that touch on foreign policy. However, as did Judge Friendly in *Mackin*, 668 F.2d at 134, we also recognize the individual liberty concerns at stake in cases of this nature and note the Supreme Court's long accepted conclusion that "extradition without an unbiased hearing before an independent judiciary . . . [is] highly dangerous to liberty, and ought never to be allowed in this country." *In re Kaine*, 55 U.S. (14 How.) 103, 112, 14 L.Ed. 345 (1852).

In identifying the specific *Baker v. Carr* factors that it claims are present in this case, the government begins by noting that in order to consider whether the political offense exception applies, a court must determine whether a political uprising was in progress in the foreign land when the offense occurred. *See infra* p. 41. The government contends that such a factual finding requires a policy determination. We disagree. We need not determine whether the uprising was "justified" or was motivated by political forces of which we approve.[6] Rather, we must determine simply whether an uprising was in progress. "The existence of a violent political uprising is an issue of past fact: either there was demonstratable, violent activity tied to political causes or there was not." *Eain*, 641 F.2d at 514. Furthermore, like the Seventh Circuit, we believe that even if unique, sensitive information that is available to the State Department bears on this factual issue, there are adequate mechanisms—such as *in camera* disclosure—for ensuring that the material can be produced for judicial consideration. *See id.* at 514-15.

The government also contends that the presence of a second factor enumerated in *Baker v. Carr* counsels judicial abstention. The government argues that a judicial determination that Quinn's extradition is precluded by the political offense exception would "recognize" political terrorists and would thus constitute a potentially embarrassing pronouncement different than the pronouncements of the executive branch. Like the Seventh Circuit, *see Eain*, 641 F.2d at 515, we do not believe the executive branch has refused to recognize the existence of terrorists. Rather, in some cases, it may have refused to recognize the *legitimacy* of these groups. We fail to see why a judicial acknowledgment that terrorist groups exist would constitute a "recognition" of those groups in the sense of legitimizing their actions. *Cf. Tel-Oren*, 726 F.2d at 822 (Bork, J., concurring) (noting the judicial acknowledgment of effect of PLO on the foreign relations of the United States does not grant the PLO any form of "official recognition" and its similar to the executive branch's commenting on the subject of the PLO while continuing to maintain that the group is not deserving of recognition).

Far from embarrassing the executive branch, assigning to the judiciary the responsibility for determining when the exception applies actually affords a degree of protection to the executive branch. As a political branch, the executive could face undue pressure when public and international opposition to the activities of an unpopular group create conflicts with the treaty obligation created by the political offense exception. *See* Epps, *supra* p. 4, at 84 ("[T]he requesting state is much more likely to be irate if a court deems the fugitive extraditable but the executive reverses that decision."); *cf. Eain*, 641 F.2d at 513 (assignment of this determination to judiciary allows executive branch to avoid risk of political and economic sanctions that could result from discretionary executive refusal to extradite) (quoting Lubet & Czackes, *supra* p. 3, at 200; citing I.A. Shearer, *Extradition in International Law* 192 (1971); Note, *Bringing the Terrorist to Justice: A Domestic Law Approach*, 11 Cornell Int'l L.J. 71, 74 (1978)). By assigning the initial determination of when the exception applies to the impartial judiciary—particularly life-tenured Article III judges—Congress has substantially lessened the risk that majoritarian consensus or favor due or not due to the country seeking extradition will interfere with individual liberty. *See* C. Van den Wijngaert, *The Political Offense Exception to Extradition* 100 (1980) ("[A]dministrative decisions with respect to extradition are much more likely to be influenced by political elements than the decisions of the courts."). The treaty's assignment to the judiciary of the task of determining the applicability of the political offense exception "reflects a congressional judgment that that decision not be made on the basis of what may be the current view of any one political administration." *In re Doherty*, 599 F.Supp. 270, 277, n. 6 (S.D.N.Y. 1984).[7]

Nor does the assignment to the judiciary of the initial determination of the applicability of the political offense exception deprive the executive branch of all discretion to determine that a person claiming the protection of that exception should not be extradited. The executive branch has the ultimate authority to decide whether to extradite the accused after a judicial determination that the individual is, in fact, extraditable. *Eain*, 641 F.2d at 516 (citing *In re Ezeta*, 62 F. 972 (N.D.Cal.1894)); 18 U.S.C. § 3186 (1982). Although the Secretary of State's authority to refuse extradition is presumably constrained by our treaty obligations, the contours of executive branch discretion in this area have never been expressly delineated. Bassiouni, *supra* p. 4, at 756 ("[T]he statute should probably be interpreted to grant the Secretary only limited discretion to differ from the courts in the matter of treaty interpretation. In fact, the Secretary has always based his refusal to surrender upon a determination that the treaty did not require extradition in that instance. . . . [T]he Secretary apparently considers his discretion only coextensive with the issues presentable at the extradition proceedings . . . [and] has refused surrender infrequently (only twice between 1940 and 1960). . . ."). Nevertheless, it is clear that the Secretary of State has sole discretion to determine whether a request for extradition should be denied because it is a subterfuge made for the purpose of punishing the accused for a political crime, *see In re Lincoln*, 228 F. 70 (E.D.N.Y.1915), *aff'd*, 241 U.S. 651, 36 S.Ct. 721, 60 L.Ed. 1222 (1916) (per curiam), or to refuse extradition on humanitarian grounds because of the procedures or treatment that await a surrendered fugitive, *Arnbjornsdottir-Mendler v. United States*, 721 F.2d 679, 683 (9th Cir. 1983); *Escobedo v. United States*, 623 F.2d 1098, 1105 (5th Cir.), *cert. denied*, 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed.2d 497 (1980); 18 U.S.C. § 3186 (1982).

Finally, the government points out the difficulty of defining which offenses are of a political character. It suggests that this difficulty demonstrates an absence of judicially discoverable manageable standards, another factor that, according to *Baker v. Carr*, counsels for judicial abstention. As in many areas of the law, and as we discuss further in the remainder of this opinion,

[6] Clearly, if application of the exception required us to approve of the political goals of an uprising group, executive discretion in granting protection from extradition would be more appropriate than judicial reviews. *See e.g.*, Note, *Terrorist Extradition and the Political Offense Exception: An Administrative Solution*, 21 VaJ. Int'l L. 163, 182 (1980).

[7] We note that since this case was argued, Congress has enacted the 1984 Act to Combat International Terrorism, Pub. L. 98-533, 98 Stat. 2706 (to be codified in scattered sections of 18 U.S.C., 22 U.S.C., & 41 U.S.C.). Section 201(a) of that Act, 98 Stat. 2709, urges the President "to seek more effective international cooperation in combating international terrorism, including . . . extradition of all terrorists." This mandate supports some of the substantive conclusions we reach below. *See infra* pp. 64-65. However, it does not assign to the executive initial responsibility for determining when the exception applies or suggest that the relationship between the United States and the requesting nation should be considered when a judicial determination is made regarding whether the exception applies.

there has always been debate about the precise contours of the political offense exception. But the absence of perfect predictive ability in discerning whether a given act falls within the exception is not synonymous with an absence of manageable standards. Rather, as with other complex legal problems, the basic standards that guide us in deciding whether the exception applies are refined on a case-by-case basis as new situations arise. The determination whether there was a violent political disturbance in the requesting country at the time of the alleged acts and whether the acts were incidental to the disturbance, *see infra* pp. 62-72, are mixed questions of law and fact, *see Ornelas v. Ruiz*, 161 U.S. 502, 509, 16 S. Ct. 689, 691, 40 L.Ed. 787 (1896), that do not require a political judgment. *See Eain*, 641 F.2d at 516. We fail to see how the judicial construction of 18 U.S.C. § 3184 and the applicable treaty, and the application of these laws to the facts of a given case, differs from all other judicial decisionmaking.

As the Supreme Court noted in *Baker v. Carr*, "it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance." 369 U.S. at 211, 82 S.Ct. at 706-07.[8] The magistrate properly considered the applicability of the political offense exception to the offenses charged against Quinn, and we as well have a responsibility to construe the treaty and to determine whether "it provides the answer." *Id.* at 212, 82 S.Ct. at 707.

III. STANDARD OF REVIEW

A. District Court Review of The Magistrate's Order

[11-13] The scope of the district court's review of a magistrate's extradition order on a petition for writ of habeas corpus is limited to "whether the magistrate had jurisdiction, whether the offence [sic] charged is within the treaty and, by a somewhat liberal extension, whether there was any evidence warranting the finding that there was reasonable ground to believe the accused guilty." *Fernandez v. Phillips*, 268 U.S. 311, 312, 45 S.Ct. 541, 542, 69 L.Ed. 970 (1925); *accord Zanazanian v. United States*, 729 F.2d 624, 626 (9th Cir.1984). Preliminarily, the magistrate must determine, and the court must review whether the extradition treaty was in effect and applicable to the case and whether the person named in the complaint is the individual before the magistrate. *See Ivancevic v. Artukovic*, 211 F.2d 565 (9th Cir.), *cert. denied*, 348 U.S. 818, 75 S.Ct. 28, 99 L.Ed. 645 (1954). As discussed *supra* Section II., the political offense question is reviewable on habeas corpus as part of the question of whether the offense charged is within the treaty. *See Eain*, 641 F.2d at 513-18.

[14-16] The question whether the offense comes within the treaty ordinarily involves a determination of whether it is listed as an extraditable crime and whether the conduct is illegal in both countries, *Factor v. Laubenheimer*, 290 U.S. 276, 54 S.Ct. 191, 78 L.Ed. 315 (1933); *see supra* p. 5; these are purely legal questions that the habeas court may review *de novo*. *Kamrin v. United States*, 725 F.2d 1225 (9th Cir.1984); *Cucuzzella v. Keliikoa*, 638 F.2d 105 (9th Cir.1981). Purely factual questions in extradition cases are reviewed under the clearly erroneous standard. *See, e.g., Caplan v. Vokes*, 649 F.2d 1336, 1342 (9th Cir.1981) (finding that accused was a fugitive reviewed under clearly erroneous standard). The magistrate's probable cause determination "serve[s] only the narrow function of indicating those items of submitted evidence on which the decision to certify extradition is based." *Caplan v. Vokes*, 649 F.2d at 1342 n. 10. Because the magistrate's probable cause finding is thus not a finding of fact "in the sense that the court has weighed the evidence and resolved disputed factual issues," *id.*, it must be upheld if there is any competent evidence in the record to support it. *See Fernandez*, 268 U.S. at 312, 45 S.Ct. at 542; *Zanazanian*, 729 F.2d at 626; *Valencia v. Limbs*, 655 F.2d 195, 197 (9th Cir.1981).

[17-19] The political offense issue, in contrast to the determinations discussed above, is a mixed question of law and fact. *See Ornelas v. Ruiz*, 161 U.S. at 509, 16 S.Ct. at 691. Accordingly, the district court must review the magistrate's determination on this issue in the same manner that an appellate court reviews a district court's findings on mixed fact and law questions. Review of the application of law to fact depends on whether the determination is "essentially factual"—in which case it is reviewed under the clearly erroneous standard, *United States v. McConney*, 728 F.2d 1195, 1203 (9th Cir.) (en banc), *cert. denied*,—U.S.—, 105 S. Ct. 101, 83 L.Ed.2d 46 (1984)—or whether it requires the court to consider "legal concepts in the mix of fact and law and to exercise judgment about values that animate legal principles"—in which case the issue is reviewed *de novo*, *id.* at 1199-1204. Accordingly, a district court must review the magistrate's purely factual findings underlying the application of the political offense exception under the clearly erroneous standard, while the mixed determinations at issue—such as the question whether the crime was incidental to a political uprising—must be reviewed *de nove*.[9]

B. Appellate Review of the District Court's Decision

[20] As discussed *supra* Section I.B., the district court disagreed with some of the magistrate's factual findings and legal determinations, as well as its ultimate conclusion on the mixed questions of whether the charged crimes were political offenses. There is no question that we review the legal questions and mixed questions *de novo*. *McConney*, 728 F.2d at 1199-1204. Quinn contends, however, that we should uphold the *district court's* factual findings unless they are clearly erroneous, while the government urges us to defer to the factual findings made by the *magistrate* unless they are clearly erroneous. In support of his argument, Quinn contends that *Hooker v. Klein*, 573 F.2d 1360 (9th Cir.), *cert. denied*, 439 U.S. 932, 99 S.Ct. 323, 58 L.Ed. 2d 327 (1978), requires us to focus on "the findings of fact and conclusions of law made by the district court in granting or denying habeas relief." *See id.* at 1368. In that case, however, the habeas court affirmed the extradition court[10] without making specific findings. We focused on the findings of the court that had ordered extradition, which were adopted by the district court that heard the petition for writ of habeas corpus. *See also Caplan v. Vokes*, 649 F.2d 1336 (9th Cir. 1981) (clearly erroneous standard applied to factual findings of district court that had both ordered extradition and denied petition for habeas corpus).

[21] It would make little sense for us to ignore the factual findings of the judicial tribunal that made the initial factual determinations and defer, instead, to the differing factual findings made by a similar tribunal that merely reviewed the record of the earlier proceedings and held no evidentiary hearing of its own. Rather, we must determine whether the habeas court erred, as a matter of law, in overruling the magistrate's factual findings. Accordingly, we will defer to the extradition tribunal's factual findings unless we agree with the district court that they are clearly erroneous.

IV. THE DEVELOPMENT OF THE POLITICAL OFFENSE EXCEPTION

A. Origin of the Exception

The first-know extradition treaty was negotiated between an Egyptian Pharaoh and a Hittite King in the Thirteenth Century B.C. *See* I.A. Shearer, *supra* p. 22, at 5. However, the concept of political offenses as an exception to extradition is a rather recent development. In the centuries after the first know extradition treaty, and throughout the Middle Ages, extradition treaties were used primarily to return political offenders, rather than the perpetrators of common crimes, to the nations seeking to try them for criminal acts. *See* I.A. Shearer, *supra* p. 22, at 166; Recent Decisions, *The Political Offense Exception to Extradition: A 19th Century British Standard in 20th Century American Courts*, 59 Notre Dame L.Rev. 1005, 1008 (1984) [hereinafter cited as *20th Century American Courts*]. It was not until

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[8] Whether the political offense exception applies in a particular case requires an inquiry not unrelated to and somewhat less intrusive than that required to determine if the Attorney General is prohibited from deporting or returning an alien to a country if "such alien's life or freedom would be threatened in such country on account of . . . political opinion," 8 U.S.C. § 1253(h) (1982). *See Bolamas-Hemandez v. INS*, 767 F.2d 1277, 1283 (9th Cir.1984) (evaluating whether threatened persecution is based on political opinion). We note that, rather than considering such a determination as one properly left to the executive branch, Congress has recently amended this section of the Immigration and Nationality Act to *remove* the Attorney General's discretion in making the determination that an alien is likely to be persecuted on the basis of political opinion. *See INS v. Stevic*, 467 U.S. 407, 104 S.Ct. 2489, 2496 n. 15, 81 L.Ed.2d 321 (1984) (discussing effect of section 203(e) of the Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102, which amended 8 U.S.C. § 1253(h)).

[9] In *Ornelas v. Ruiz* 161 U.S. 502, 16 S.Ct. 689, 40 L.Ed. 787 (1896), in reviewing a determination that a raid on a Mexican town was not protected by the political offense exception, the Court considered whether the extradition court "had no choice on the evidence" but to conclude that the acts were politically motivated. *Id.* at 511. Although this standard of review is substantially the same as the clearly erroneous standard's requirement that the reviewing court have "the definite and firm conviction that a mistake has been committed," *United States v. United States Gypsum Co.*, 333 U.S. 364, 68 S.Ct. 525, 92 L. Ed. 746 (1948), earlier in its opinion the Court noted that the magistrate's judgment that the charged offense is an extraditable crime should be reversed if "palpably erroneous in law," *id.* at 509, suggesting a *de novo* review of the legal aspects of the magistrate's mixed fact and law determination. We note that since *Ornelas* was decided in 1896, the Supreme Court has held that various mixed question of law and fact are reviewed *de novo*, *see, e.g. Ker v. California*, 374 U.S. 23, 33-34, 83 S.Ct. 1623, 1629-30, 10 L.Ed.2d 726 (1963) (reasonableness of searches and seizures), a standard of review we adopted for all mixed questions of fact and law in *United States v. McConney*, 728 F.2d 1195, 1203 (9th Cir.) (en banc), *cert. denied*,—U.S.—, 105 S.Ct. 101, 83 L.Ed.2d 46 (1984).

[10] Under current practice extradition hearings are generally conducted by magistrates. However, 18 U.S.C. § 3184 grants jurisdiction to conduct extradition hearings to "any justice or judge of the United States, or any magistrate authorized so to do by a court of the United States, or any judge of a court of record of general jurisdiction of any State."

the early nineteenth century that the political offense exception, now almost universally accepted in extradition law, was incorporated into treaties.

The French and American revolutions had a significant impact on the development of the concept of justified political resistance, *see* Declaration des droits de l'homme et du Citoyen du 26 aout 1789, art. 2(Fr.) *incorporated as* La preamable de la Constitution de 1791 (Fr.) *reprinted in Les Constitutions de la France Depuis 1789,* at 33, 33 (S. Godechot ed. 1970) (declaring as an inalienable right "la resistance a l'oppression"); La Constitution de 1793, art. 120 (Fr.) *reprinted in Les Constitutions de la France Depuis 1789, supra,* at 79, 91 (France "donne asile aux etrangers bannis de leur patrie pour la cause de la liberte."); The Declaration of Independence para. 1 (U.S. 1776) ("[W]henever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it . . ."), as did the political philosophers of the time, *see* J. Locke, *The Second Treatise of Civil Government* ch. XIX (T. Cook ed. 1947); J.S. Mill, *On Liberty and Considerations on Representative Government* (R. McCallum ed. 1948). In 1834, France introduced the political offense exception into its treaties, *see* I.A. Shearer, *supra* p. 22, at 166-67, and by the 1850's it had become a general principle of international law incorporated in the extradition treaties of Belgium, England, and the United States as well. *See* C. Van den Wijngaert, *supra* p. 22, at 5-14; Epps, *supra* p. 4, at 62-63.

The political offense exception is premised on a number of justifications. First, its historical development suggests that it is grounded in a belief that individuals have a "right to resort to political activism to foster political change." Note, *American Courts and Modern Terrorism: The Politics of Extradition,* 13, N.Y.U.J.Int'l L. & Pol. 617, 622 (1981) [hereinafter cited as *Politics of Extradition*]; *see also In re Doherty,* 599 F.Supp. 270, 275 n. 4 (S.D.N.Y.1984) ("The concept was first enunciated during an era when there was much concern for and sympathy in England for the cause of liberation for subjugated peoples.") (citation omitted). This justification is consistent with the modern consensus that political crimes have greater legitimacy than common crimes. *Politics of Extradition, supra* p. 31, at 623. Second, the exception reflects a concern that individuals—particularly unsuccessful rebels—should not be returned to countries where they may be subjected to unfair trials and punishments because of their political opinions. *See* M. Bassiouni, *International Extradition and World Public Order* 425 (1974); C. Van den Wijngaert, *supra* p. 22, at 3; Garcia-Mora, *supra* p. 3, at 1226, 1238. Third, the exception comports with the notion that governments—and certainly their nonpolitical branches—should not intervene in the internal political struggles of other nations. *See* C. Van den Wijngaert, *supra* p. 22, at 3, 158, 204; *Politics of Extradition, supra* p. 31, at 622.[11]

B. Comparative Legal Standards

None of the political offense provisions in treaties includes a definition of the word "political." I.A. Shearer, *supra* p. 22, at 168. Thus, the term "political offense" has received various interpretations by courts since the mid-nineteenth century. Garcia-Mora, *supra,* p. 3 at 1230-31; Wise, *Book Review,* 30 Am.J.Comp.L. 362, 363 (1982) (reviewing C. Van den Wigngaert, *The Political Offense Exception to Extradition* (1980)); *cf.* M. Bassiouni, *supra* p. 32, at 371-72 (inability to define precisely the term "political offense" promotes a necessary flexibility of the concept). Not every offense that is politically motivated falls within the exception. Instead, courts have devised various tests to identify those offenses that comport with the justifications for the exception and that, accordingly, are not extraditable.

[22, 23] Within the confusion about definitions it is fairly well accepted that there are two distinct categories of political offenses: "pure political offenses" and "relative political offenses." *See Karadzole v. Artukovic,* 247 F.2d 198, 203 (9th Cir.1957), *vacated,* 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958) (mem.); *see generally* Garcia-Mora, *supra* p. 3, at 1230; *20th Century American Courts, supra* p. 30, at 1009. Pure political offenses are acts aimed directly at the government, *see* Lubet & Czackes, *supra,* p. 3, at 200, and have none of the elements of ordinary crimes, Garcia-Mora, *supra* p. 3, at 1230. These offenses, which include treason, sedition, and espionage, Garcia-Mora, *supra* p. 3, at 1234; Lubet & Czackes, *supra* p. 3, at 200, do not violate the private rights of individuals, Garcia-Mora, *supra* p. 3, at 1237. Because they are frequently specifically excluded from the list of extraditable crimes given in a treaty, *see 20th Century American Courts, supra* p. 30, at 1009, courts seldom deal with whether these offenses are extraditable, *see id.,* and it is generally agreed that they are not, *see* Lubet & Czackes, *supra* p. 3, at 200 (citing *In re Ezeta,* 62 F. 972(1894)).

The definitional problems focus around the second category of political offenses—the relative political offenses. These include "otherwise common crimes committed in connection with a political act," Lubet & Czackes, *supra* p.3, at 200, or "common crimes . . . committed for political motives or in a political context," *20th Century American Courts, supra* p. 30, at 1009. Courts have developed various tests for ascertaining whether "the nexus between the crime and the political act is sufficiently close . . . [for the crime to be deemed] not extraditable," Lubet & Czackes, *supra* p. 3, at 200. The judicial approaches can be grouped into three distinct categories: (1) the French "objective" test; (2) the Swiss "proportionality" or "predominance" test; and (3) the Anglo-American "incidence" test. *See generally* Carbonneau, *The Political Offense Exception to Extradition and Transnational Terrorists: Old Doctrine Reformulated and New Norms Created,* 1 Assoc. of Student Int'l L. Societies Int'l L.J. 1, 11-31 (1977); Garcia-Mora, *supra p. 3,* at 1239-56; *20th Century American Courts, supra* p. 30, at 1009-17. More recent developments allow for further distinctions between the British test and the test employed in the United States. *See generally* Lubet & Czackes, *supra* p. 3, at 201-10.

The early French test, most clearly represented in *In re Giovanni Gatti,* [1947] Ann.Dig. 145 (No. 70) (France, Ct.App. of Grenoble), considered an offense non-extraditable only if it directly injured the rights of the state. *See 20th Century American Courts, supra* p. 30, at 1010. Applying this rigid formula, French courts refused to consider the motives of the accused. Garcia-Mora, *supra p. 3,* at 1249-50. The test primarily protects only pure political offenses, *see id.* at 1235-36 (discussing cases), and is useless in attempting to define whether an otherwise common crime should not be extraditable because it is connected with a political act, motive, or context. *Id.* at 1252. Because politically motivated and directed acts may injure private as well as state rights, the objective test fails to satisfy the various purposes of the political offense exception. *Politics of Extradition, supra* p. 31, at 629-30. Nevertheless, this test has one benefit: because it is so limited it is not subject to abuse; perpetrators of common crimes will not be protected because of alleged political motivations. *Id.* at 630; Garcia-Mora, *supra* p. 3, at 1251.[12]

In contrast to the traditional French test, Swiss courts apply a test that protects both pure and relative political offenses. The Swiss test examines the political motivation of the offender, *see* Garcia-Mora, *supra* p. 3, at 1251, but also requires (a) a consideration of the circumstances surrounding the commission of the crime, *see* Carbonneau, *supra* p. 34, at 23-26, and (b) either a proportionality between the means and the political ends, *see 20th Century American Courts, supra* p. 30, at 1010-11, or a predominance of the political elements over the common crime elements, *see* Garcia-Mora, *supra* p. 3, at 1254.

At least one commentator has suggested that the first condition of the Swiss test is a requirement of a direct connection between the crime and the political goal—a condition that essentially requires the presence of a political movement. *See* Garcia-Mora, *supra* p. 3, at 1253 (citing Swiss cases). Others point out that the early Swiss requirement that a crime be incident to a political movement has been explicitly rejected in later cases. *See, e.g.,* Carbonneau, *supra* p. 34, at 26-28 (citing Swiss cases). More recent Swiss cases concentrate less on the accused's motive, relying instead almost entirely on an ends-means test under which politically motivated conduct is protected by the exception only if the danger created by the conduct is proportionate to the objectives, *i.e.,* if the means employed are the only means of accomplishing the end and the interests at stake are sufficiently important to justify the danger and harm to others. *See* Carbonneau, *supra* p. 34, at 28-29 (citing Swiss cases).

The comprehensiveness and flexibility of the "predominance" or "proportionality" test allows it to be conformed to changing realities of a modern world. *See* Garcia-Mora, *supra* p. 3, at 1255. But because the relative value of the ends and the necessity

[11] The differing justifications partially explain the differences between the test we apply in determining whether the political offense exception applies and the analysis we make when determining whether an alien is entitled to relief from deportation because of a threat of political persecution. *See supra* note 8 & *infra* note 15. The Refugee Act of 1980, Pub.L. No. 96-212, 94 Stat. 102 (codified in scattered sections of 8 U.S.C. (1982)), responded to a "national commitment to human rights and humanitarian concerns." S.Rep. No. 256, 96th Cong., 2d Sess. 1, *reprinted in* 1980 U.S. Code Cong. & Ad.News 141, 141. The political offense exception, in contrast, is justified by an acceptance of the right to political self-determination as well as by humanitarian concerns.

[12] French courts have more recently begun to follow a less rigid approach, first set forth in *In re Rodriguez,* 2 Gaz. Palais 113 (Ct.App. Parts Fr. 1953). The new French test is similar to the Swiss test in considering the context in which the crime was committed and the motivations of the accused, *see* Carbonneau, *supra* p. 34, at 19-22, but French courts have not incorporated a rigid ends-means test, *id.* at 30.

of using the chosen means must be considered, the criteria applied by Swiss courts incorporate highly subjective and partisan political considerations within the balancing test. *See* C. Van den Wijngaert, *supra* p. 22, at 158; *Politics of Extradition, supra* p. 31, at 631.[13] The test explicitly requires an evaluation of the importance of the interests at stake, the desirability of political change, and the acceptability of the means used to achieve the ends. The infusion of ideological factors in the determination which offenses are non-extraditable threatens both the humanitarian objectives underlying the exception and the concern about foreign non-intervention in domestic political struggles. Moreover, it severely undermines the notion that such determinations can be made by an apolitical, unbiased judiciary concerned primarily with individual liberty. *See supra* pp. 20-22.[14]

The "incidence" test that is used to define a non-extraditable political offense in the United States and Great Britain was first set forth by the Divisional Court in *In re Castioni,* [1891] Q.B. 149 (1890). In that case, the Swiss government requested that Great Britain extradite a Swiss citizen who, with a group of other angry citizens, had stormed the palace gates and killed a government official in the process. *Id.* at 150-51. Castioni did not know the victim or have a personal grudge against him. The habeas court considered:

[W]hether, upon the facts, it is clear that the man was acting as one of a number of persons engaged in acts of violence of a political character with a political object, and as part of the political movement and [up]rising in which he was taking part.

Id. at 159 (per Denman, J.). The court denied extradition, finding that Castioni's actions were "incidental to and formed a part of political disturbances," *id.* at 166 (per Hawkins, J.), and holding that common crimes committed "in the course" and "in the furtherance" of a political disturbance would be treated as political offenses, *id.* at 156 (per Denman, J.).

Although both the United States and Great Britain rely explicitly on *Castioni,* each has developed its own version of the incidence test. British courts proceeded first to narrow the exception in 1894. In *In re Meunier,* [1894] 2 Q.B. 415, the court extradited a French anarchist charged with bombing a cafe and military barracks, *id.* at 415, concluding that anarchist action is not incident to a two-party struggle for political power, *id,* at 419 (per Cave, J.). The court held that the political offense exception protects those who seek to substitute one form of government for another, not those whose actions disrupt the social order and whose "efforts are directed primarily against the general body of citizens." *Id.*

The rigid "two-party struggle" requirement of the British incidence test has not survived. More recently, British courts have taken other factors into account, noting that political offenses must be considered "according to the circumstances existing at the time." *Regina v. Governor of Brixton Prison (ex parte Kolczynski),* [1955] 1 Q.B. 540, 549 (1954) (per Cassels, J.). In *Kolczynski,* a British court refused to extradite Polish soldiers who were at risk of being punished for treason although the Polish government officially sought their extradition for common crimes. *See id.* at 543, 545. No political uprising existed at the time the crimes were committed. *Id.* at 544. Instead of a distinct uprising, the new British incidence test requires some "political opposition . . . between fugitive and requesting State," *Schtraks v. Government of Israel,* [1964] A.C. 556, 591 (1962) (per Viscount Radcliffe), and incorporates an examination of the motives of the accused and the requesting country in those situations in which the offense is not part of an uprising, *see* Lubet & Czackes, *supra* p. 3, a 202-03.[15]

C. Original Formulation of the United States Incidence Test

The United States, in contrast to Great Britain, has adhered more closely to the *Castioni* test in determining whether conduct is protectd by the political offense exception. The seminal United States case in this area is *In re Ezeta,* 62 F. 972 (N.D. Cal.1894), in which the Salvadoran government requested the extradition of a number of individuals accused of murder and robbery. The fugitives maintained that the crimes had been committed while they unsuccessfully attempted to thwart a revolution. *See id.* at 995. Extradition was denied because the acts were "committed during the progress of actual hostilities between contending forces," *id.* at 997, and were "closely identified" with the uprising "in an unsuccessful effort to suppress it," *id.* at 1002. However, an alleged act that occurred four months prior to the start of armed violence was held not to be protected by the incidence test despite the accused's contention that El Salvador's extradition request was politically motivated. *Id.* at 986.[16]

As we noted at the outset, the Supreme Court has addressed the political offense issue only once. In *Ornelas v. Ruiz,* 161 U.S. 502, 16 S.Ct. 689, 40 L.Ed. 787 (1896), Mexico sought the extradition of an individual for murder, arson, robbery, and kidnapping committed in a Mexican border town, at or about the time revolutionary activity was in progress. *Id.* at 510, 16 S.Ct. at 692. The Court allowed extradition on the basis that the habeas court had applied an improper, non-deferential standard of review to the extradition court's findings. *Id.* at 511-12, 16 S.Ct. at 692-93. It continued by listing four factors pertinent to the political offense inquiry in the case: (1) the character of the foray; (2) the mode of attack; (3) the persons killed or captured; and (4) the kind of property taken or destroyed. *Id.* at 511, 16 S.Ct. at 692. It found that although the raid (in December 1892) may have been contemporaneous with the revolutionary movement (in 1891), it was not of a political character because it was essentially unrelated to the uprising. The Court noted that the purported political aspects of the crimes were negated "by the fact that immediately after this occurrence, though no superior armed force of the Mexican government was in the vicinity to hinder their advance into the country, the bandits withdrew with their booty across the river into Texas." *Id.*

Since *Ornelas,* lower American courts have continued to apply the incidence test set forth in *Castioni* and *Ezeta* with its two-fold requirement: (1) the occurrence of an uprising or other violent political disturbance[17] at the time of the charged offense, *see, e.g., Garcia-Guillern v. United States,* 450 F.2d 1189, 1192 (5th Cir. 1971), *cert. denied,* 405 U.S. 989, 92 S.Ct. 1251, 13 L.Ed.2d 455 (1972); *Ramos v. Diaz,* 179 F.Supp. 459, 462 (S.D.Fla. 1959),[18] and (2) a

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[13] The Swiss, aware that their test incorporates factors that preclude ideological neutrality, allow only their highest court to determine when the political offense exception applies. *See Politics of Extradition, supra* p. 631 (citing 1 L. Oppenheim, *International Law* 579 (4th ed. 1928).

[14] A number of commentators have suggested that perhaps the most useful test for when the exception should apply can be derived from the theory of "ideological self-preservation." *See, e.g.,* M. Bassiouni, *International Extradition: United States Law & Practice* ch. VIII, at § 2-74 to § 2-77 (1983); C. Van den Wijngaert, *supra* p. 22, at 157-58. The premise of this theory is that a political crime is justified if it is a form of self-defense, in that the means used to attempt to secure a fundamental right were limited to the least harmful means available. The commentators suggest that an objective test could be derived from this theory and would weigh (a) the nature of the rights violated by the state; (b) the nature of the state conduct that violated these rights; and (c) the nature of the individual conduct that violated the law of the state in an attempt to defend these rights. As one commentator has noted, *see* C. Van den Wijngaert, *supra* p. 22, at 158, this test resembles the Swiss proportionality test but, in addition to the balancing required by that test, it requires an evaluation of the conduct of the requesting nation. Despite the initial appeal of the theory of ideological self-preservation, we believe it is an inappropriate test. It is subject to all the criticisms to which the Swiss test is subject. Moreover, it requires the kind of evaluation of the conduct of another nation that violates the principle of non-intervention in the internal affairs of another state. *See id.* It thus runs counter to one of the primary tenets underlying the political offense exception, *see supra* pp. 31-32, and requires the judiciary to undertake a task for which it is particularly ill-suited, *see supra* pp. 20-21 & note 6.

[15] The British refusal to extradite those who are at risk of persecution parallels the United States' standards for asylum, *see* 8 U.S.C. § 1158(a) (1982), and for prohibiting the Attorney General from returning an alien to a country in which the alien's life or freedom would be threatened, *see* 8 U.S.C. § 1253(h) (1982). However, in contrast to the British standard, United States courts hesitate to evaluate either the accused's motives when applying the political-offense incidence test, *see infra* pp. 42, 69, or the alien's subjective fears when determining whether the Attorney General is prohibited from returning an alien to a specified country, *see Bolanos-Hernandez v. INS,* 767 F.2d 1277, 1283 (1984). *But see id,* at 1321 n. 11 (courts consider subjective fear in determining whether alien qualifies for grant of asylum). In the United States in the extradition context the Secretary of State evaluates the risks that an accused will be persecuted if extradited. *See supra* pp. 23-24.

[16] The court referred that issue to the executive branch. 62 F. at 986; *see supra* pp. 23-24.

[17] Although unnecessary to the resolution of the cases before them, a number of courts have stated that a "war" could qualify as the violent political disturbance for purposes of the incidence test. *See, e.g., Eain v. Wilkes,* 641 F.2d 504, 518 (7th Cir.), cert. denied, 451 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981); *Sindona v. Grant,* 619 F.2d 167, 173 (2d Cir. 1980). Although the terms "rebellion," "revolution," "uprising," and "civil war" may for our purposes be treated as synonymous, none is for any purpose synonymous with the term "war." As we discuss further below, *see infra* note 33, we question the propriety of applying the incidence test in the same manner in the case of crimes occurring during wars as in the case of crimes occurring during uprisings.

[18] American courts generally will take judicial notice of a state of uprising. *See e.g., Karadzole v. Artukovic,* 247 F.2d 198, 204 (9th Cir. 1957) (noting that district court properly took judicial notice of struggle for political control in Croatia), *vacated and remanded,* 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958) (mem.); *Ramos v. Diaz,* 179 F.Supp. 459, 462 (S.D.Fla. 1959) (extradition court took judicial notice of revolutionary movement in Cuba); *In re McMullen,* No. 3-78-1099 MG, slip op. at 4 (N.D.Cal. May 11, 1979) (magistrate took judicial notice of uprising in Northern Ireland). *But see In re Abu Eain,* No. 79 M 175, slip op. at 13-14 (N.D.Ill. Dec. 18, 1979) (magistrate refused to take judicial notice of Middle East hostilities), *reprinted in ABU Eain v. Adams,* 529 F.Supp. 685, 688-95 (N.D.Ill. 1980).

charged offense that is "incidental to" "in the course of," or "in furtherance of" the uprising, *see, e.g., Eain,* 641 F.2d at 518; *Sindona v. Grant,* 619 F.2d 167, 173 (2d Cir. 1980); *Garcia-Guillern,* 450 F.2d at 1192. While the American view that an uprising must exist is more restrictive than the modern British view and while we, unlike the British, remain hesitant to consider the motives of the accused or the requesting state, *see* Lubet & Czackes, *supra* p. 3, at 203, 205, American courts have been rather liberal in their construction of the requirement that the act be "incidental to" an uprising, *see* Garcia-Mora, *supra* p. 3, at 1244.

The American approach has been criticized as being "both underinclusive and overinclusive," *see* Lubet & Czackes, *supra* p. 3, at 203, and as "yield[ing] anomalous . . . results," *see 20th Century American Courts, surpa* p. 30, at 1013–14. Although these criticisms have some merit, neither flaw in the American incidence test is serious. Some commentators have suggested that the test is underinclusive because it exempts from judicially guaranteed protection all offenses that are not contemporaneous with an uprising even though the acts may represent legitimate political resistance. *See, e.g.,* Lubet & Czackes, *supra* p. 3, at 203–04. For example, the attempted kidnapping of a Cuban counsul, allegedly for the purpose of ransoming the consul for political prisoners held in Cuba, was held by a court not to be a political offense because the act was not "committed in the course of and incidental to a violent political disturbance." *Escobedo v. United States,* 623 F.2d 1098, 1104 (5th Cir.), *cert. denied,* 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed.2d 497 (1980).

There are several responses to the charge of underinclusiveness. First, in their critiques, the commentators fail to give sufficient weight to the existence of a number of ameliorative safeguards. For example, review of certifications of extradition by the Secretary of State, *see supra* pp. 23–24, serves partially to remedy any underinclusiveness problem. If a court finds the accused extraditable, the Secretary has, at the very least, broad discretion to review the available record and conduct a *de novo* examination of the issues and, if necessary, to consider matters outside the record in determining whether to extradite. *See* Lubet & Czackes, *supra* p. 3, at 199. The potential underinclusiveness dangers of the uprising requirement are also mitigated by the fact that purely political offenses are never extraditable. *See id,* at 206; *supra* pp. 33–34. Additionally, because of the rule of dual criminality, *see supra* p. 5, individuals accused of offenses that constitute protected activity under the First Amendment will not be extradited. *See* Lubet & Czackes, *supra* p. 3, at 206. Second, it is questionable whether the incidence test is, in fact, underinclusive. While it does not protect all politically motivated offenses, it protects those acts that are related to a collective attempt to abolish or alter the government—the form of political offense that the exception was initially designed to protect, *see supra* pp. 31–32. Third, any effort to protect all crimes that are in some way politically motivated would either require the abandonment of the objective test for determining which offenses fall within the exception—in our view a most undesirable result—or would result in the protection of innumerable crimes that fall far outside the original purposes underlying the exception.

A number of commentators suggest, on the other hand, that the American test is overbroad because it makes non-extraditable some offenses that are not of a political character merely because the crimes took place contemporaneously with an uprising. *See* Garcia-Mora, *supra* p. 3, at 1246; Lubet & Czackes, *supra* p. 3, at 205; *Politics of Extradition, supra* p. 31, at 628. We think these commentators misunderstand the test. They all cite *Karadzole v. Artukovic,* 247 F.2d 198 (9th Cir. 1957)—"one of the most roundly criticized cases in the history of American extradition jurisprudence," *Eian v. Wilkes,* 641 F.2d 504, 522 (7th Cir.), *cert. denied,* 454 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981)—to support their argument.[19] In *Artukovic,* the Yugoslavian government sought the extradition of a former Minister of the Interior of the puppet Croatian government which took over a portion of Yugoslavia following the German invasion in April 1941. Artukovic was charged with directing the murder of hundreds of thousands of civilians in concentration camps between April 1941 and October 1942. Prior to a hearing by an extradition magistrate, the district court granted habeas relief, concluding that the charged offenses were non-extraditable political offenses. *Artukovic v. Boyle,* 140 F.Supp. 245, 246 (S.D.Cal.1956). We affirmed, applying the *Castioni* language and noting that the offenses occurred during the German invasion of Yugoslavia and subsequent establishment of Croatia. *Karadzole v. Artukovic,* 247 F.2d 198, 202–04 (9th Cir. 1957). We considered but were unpersuaded by the agrument that because war crimes are so barbaric and atrocious they cannot be considered political crimes, *see id.* at 204, and that United Nations resolutions called for the extradition of war criminals, *see id.* at 205.

The Supreme Court vacated our opinion in a one paragraph per curiam opinion and remanded for an extradition hearing pursuant to 18 U.S.C. § 3184. *See* 355 U.S. 393 (1958). The Court did not comment on the substantive issues and may well have based its order solely on the fact that the habeas court considered the legal questions involved in Artukovic's extradition before an extradition court had an opportunity to make the preliminary findings mandated by section 3184. *See United States v. Artukovic,* 170 F.Supp. 383, 393 (S.D.Cal.1959). In his subsequent decision the magistrate denied extradition on the ground that there was insufficient evidence to establish probable cause of Artukovic's guilt, *see id.* at 392, but in dicta he adopted our vacated political offense analysis, *see id.* at 393.[20]

We do not believe that *Artukovic* adequately supports the commentators' suggestion that the incidence test is overinclusive. We think it more likely that the problem lies not in the test itself but in the fact that we erred by applying it in that case.

The offenses with which Artukovic was charged fall within that very limited category of acts which have been labeled "crimes against humanity." In *Artukovic* we erroneously assumed that "crimes against humanity" was synonymous with "war crimes," and then concluded in somewhat irrelevant fashion that not all war crimes automatically fall outside the ambit of the political offense exception. *See* 247 F.2d at 204. Our analysis was less than persuasive. We did not need then, and do not need now, to reach a conclusion about whether all war crimes fall outside the bounds of the exception. *Cf.* C. Van den Wijngaert, *supra* p. 22, at 143 (suggesting that, under international law, states remain free to consider war crimes as political offenses). The offenses with which Artukovic was charged were crimes against humanity; it matters not whether or not they were also war crimes; either way, crimes of that magnitude are not protected by the exception.

Crimes against humanity, such as genocide, violate international law[21] and consti-

[19] The extradition question in this case originally went up and down the federal court system for almost a decade. *See Artukovic v. Boyle,* 107 F.Supp 11 (S.D.Cal.1952), *rev'd sub nom. Ivancevic v. Artukovic,* 211 F.2d 565 (9th Cir.), *cert. denied,* 348 U.S. 818, 75 S.Ct. 28, 99 L.Ed. 645, *reh. denied,* 348 U.S. 889, 75 S.Ct. 202, 99 S.Ct. 645 (1954), *on remand,* 140 F.Supp. 245 (S.D.Cal.1956), *aff'd sub nom. Karadzole v. Artukovic,* 247 F.2d 198 (9th Cir. 1957), *vacated and remanded,* 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958) (mem.), *surrender denied on remand sub nom. United States v. Artukovic,* 170 F.Supp. 383 (S.D.Cal.1959). After Congress removed protection from alleged Nazi war criminals who claimed to be at risk of persecution if deported, *see* Immigration and Nationality Act—Nazi Germany, Pub.L. No. 95-549, 92 Stat. 2065 (codified at 8 U.S.C. §§ 1251, 1253–54 (1982)), deportation proceedings that had been initiated in 1951 on the basis of Artukovic's 1948 illegal entry into the United States were reinstated. *See Artukovic v. INS,* 693 F.2d 894, 896 (9th Cir. 1982). We held that the stay of Artukovic's deportation, granted in 1959 on the ground that Artukovic would be subject to persecution if deported to Yugoslavia, *see id.* at 896, could not be revoked without a hearing, *see id.* at 899. Then, in 1984, Yugoslavia filed a new extradition request; a magistrate determined that there was probable cause to believe Artukovic committed the charged offenses. *See Extradition of Artukovic,* CV 84-8743-R(B) (C.D.Cal. May 1, 1985). The district judge denied the habeas petition, *see Artukovic v. United States,* No. CV 85-3611-R (C.D.Cal. February 6, 1986), and Artukovic was extradited a few days later.

[20] Because the Supreme Court vacated the judgment in *Artukovic* without discussion of the merits, *see* 355 U.S. 393, 78 S.Ct. 381, 2 L.Ed.2d 356 (1958), we cannot reach any conclusion about whether it believed Artukovic's acts were protected by the political offense exception. However, it is clear that our opinion has no precedential value. *See County of Los Angeles v. Davis,* 440 U.S. 625, 634 n. 6, 99 S.Ct. 1379, 1384–85 n. 6, 59 L.Ed.2d 642 (1979) ("Of necessity our decisions 'vacating the judgment of the Court of Appeals deprives that court's opinion of precedential effect . . . .'") (quoting *O'Connor v. Donaldson,* 422 U.S. 563, 577–78 n. 12, 95 S.Ct. 2486, 2494–95 n. 12, 45 L.Ed.2d 396 (1975)).

[21] *See* M. Bassiouni, *supra* note 14, at ch. VIII, §§ 2–80, 2–83 (1983); C. Van den Wijngaert, *supra* p. 22, at 44, 140–41; Garcia-Mora, *Crimes Against Humanity and the Principle of Nonextradition of Political Offenders,* 62 Mich.L.Rev. 832, 939 (1964) (citing Convention on the Prevention and Punishment of the Crime of Genocide, *adopted* Dec. 9, 1948, T.I.A.S. No. 1021, 78 U.N.T.S. 277); *see also* I.A. Shearer, *supra* p. 22, at 186 (Genocide Convention imposes extradition obligation on parties thereto).

Courts have heretofore, on the few occasions when conduct by former governmental officials was involved, *see, e.g., Jimenez, v. Aristeguieta,* 311 F.2d 547 (5th Cir.1962); *In re Ezeta,* 62 F. 972 (N.D.Cal.1894), simply assumed without discussion or analysis that the political offense exception was applicable and that the incidence test constituted the proper standard. That is what we did in *Artukovic.* Because all acts of government officials that carry out a government policy are, by definition, political, applying the incidence test makes little sense and leads to paradoxical results. It gives special protection to officials when they are suppressing an uprising and strips them of protection at all other times. Conceptually, the appropriate analogy to individuals acting in furtherance of an uprising is government officials acting in furtherance of a government policy, not in connection with an uprising. Thus, a serious question exists as to whether we should apply the incidence test where extradition is requested of persons who commit crimes while officials of a government.

Since the political offense exception is rooted in a desire to protect those rebelling against autocratic

tute an "abuse of sovereignty" because, by definition, they are carried out by or with the toleration of authorities of a state.[22] While some of the same offenses that violate the laws and customs of war[23] are also crimes against humanity, crimes of the latter sort most notably include "murder, extermination, enslavement, . . . or persecutions on political, racial or religious grounds . . ." of entire racial, ethnic, national or religious groups. *The Nurnberg (Nuremberg) Trial*, 6 F.R.D. 69, 130 (Int'l Military Tribunal 1946). Various "inhumane acts . . . committed after the beginning of [World War II] did not constitute war crimes, [but] . . . constituted crimes against humanity." *Id.* at 131.

[24] Wholly aside from the *Artukovic* court's confusion of "war crimes" and "crimes against humanity," we do not believe that the political offense exception, even if meant to protect the acts of representatives of a former government,[24] should have been extended to protect those carrying out a governmental policy calling for acts of destruction whose "nature and scope . . . exceeded human imagination," *Excerpts from Speech by German President*, N.Y. Times, May 9, 1985, at 10, col. 1, 3 (excerpts from Speech to Parliament on May 8, 1985 by President Richard von Weizsacker, as translated by the West German Foreign Ministry) (noting that the Nazi genocide is "unparalled in history"). These crimes are simply treated differently and are generally excluded from the protection of many normally applicable rules. *See, e.g., The Nurnberg (Nuremberg) Trial*, 6 F.R.D. at 107-11 (individuals accused of these offenses can be tried before international tribunal because offenses violate international law). They are certainly in our view to be excluded from coverage under the political offense exception.

[25] Accordingly, we do not consider the "underinclusiveness" and "overinclusiveness" problems of the incidence test to have been as severe as has been suggested by some of the commentators. Rather, we believe that the incidence test, when properly applied, has served the purposes and objectives of the political offense exception well. More recently, a number of courts have begun to question whether, in light of changing political practices and realities, we should continue to use the traditional American version of that test. They have suggested that basic modifications may be required and, specifically, that certain types of conduct engaged in by some contemporary insurgent groups, conduct that we in our society find unacceptable, should be excluded from coverage. For the reasons we explain below, we believe that the American test in its present form remains not only workable but desirable; that the most significant problems that concern those advocating changes in the test can be dealt with without making the changes they propose; and that efforts to modify the test along the lines suggested would plunge our judiciary into a political morass and require the type of subjective judgments we have so wisely avoided until now.

D. The Recent Political Offense Cases

Recently, the American judiciary has split almost evenly over whether the traditional American incidence test should be applied to new methods of political violence in two categories—domestic revolutionary violence and international terrorism—or whether fundamental new restrictions should be imposed on the use of the political offense exception.

In both *In re McMullen*, No. 3-78-1099 MG (N.D.Cal. May 11, 1979), and *In re Mackin*, No. 80 Cr. Misc. 1 (S.D.N.Y. Aug. 13, 1981), *appeal dismissed*, 668 F.2d 122 (2d Cir.1981), extradition magistrates applied the traditional United States incidence test despite expressing serious concern over the nature of the charged offenses. In *McMullen*, the United Kingdom sought the extradition of a former PIRA member accused of murder in connection with the bombing of a military barracks in England. Finding that McMullen's acts took place during a state of uprising throughout the United Kingdom and were incidental to the political disturbance, the magistrate denied extradition noting that "[e]ven though the offense be deplorable and heinous, the criminal actor will be excluded from deportation if the crime is committed under these pre-requisites." Slip op. at 3.[25] The magistrate's formulation of the test for the political offense exception in *Mackin* was similar.[26] In that case, the United Kingdom's request for the extradition of an IRA member accused of murdering a British soldier in Northern Ireland was denied.[27]

In contrast, although asserting that the existing incidence test "is sufficiently flexible to avoid [the] abuses [noted by commentators]," 641 F.2d at 519, and while ostensibly applying the traditional test, *see id*, at 515-16, 518, the Seventh Circuit in *Eain v. Wilkes*, 641 F.2d 504 (7th Cir.), *cert. denied*, 454 U.S. 894, 102 S.Ct. 390, 70 L.Ed.2d 208 (1981), superimposed a number of limitations on the exception that had not previously been a part of United States law. Abu Eain, a resident of the occupied West Bank and a member of the PLO, was accused by the State of Israel of setting a bomb that exploded in the Israeli city of Tiberias in 1979, killing two boys and injuring more than thirty other people. A magistrate granted Israel's extradition request, the district court denied habeas corpus relief, and the Seventh Circuit affirmed.

First, the *Eain* court distinguished between conflicts that involved "on-going, organized battles between contending armies," 641 F.2d at 519, and conflicts that involved groups with "the dispersed nature of the PLO," *id.*, nothing that in the former case, unlike the latter, a clear distinction can be drawn between the activities of the military forces and individual acts of violence. Second, although acknowledging that motivation is not determinative of the political character of an act, *see id.* at 520 (citing Lubet & Czackes, *supra* p. 3, at 203 n. 102), and characterizing its next requirement as that of a "direct link" between the offense and the conflict, *id.* at 521, the court examined the motivation for and political legitimacy of the act. The court appears to have concluded that, according to the evidence presented, the PLO's objectives were not politically legitimate: the PLO sought changes in "the Israeli political structure as an incident of the explusion of a certain population from the country," *id.* at 520, and its activities were therefore more properly characterized as aimed at Israel's "social structure" rather than its "political structure," *id.* Third, the court held simply that regardless what the political objective is, "the indiscriminate bombing of a civilian population is not recognized as a protected political act." *Id.* at 521.

Thus, the Seventh Circuit in *Eain* redefined an "uprising" as a struggle between organized, non-dispersed military forces; made a policy determination regarding the legitimacy of given political objectives;[28]

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regimes, there is, as we have suggested, some question whether the doctrine is applicable at all in the case of former government officials. There are, however, two policies in addition to the protection of those who engage in political uprisings that underlie the political offense exception. They are concerned about the safety and welfare of those who have engaged in political activity that is offensive to the government now in power and a commitment to nonintervention in the internal affairs of foreign countries. Both these policies would be applicable in the case of former government officials who have fled their native land. Thus, it can be argued that while the incidence test may be inappropriate for evaluating the extraditability of former government officials, the exception itself is applicable and a different test should be devised for use in such cases. *See also infra* note 33 (discussing application of the incidence test to wars between nations). However, we leave these questions for resolution in future cases.

[22] *See* Bassiouni, *International Law and the Holocaust*, 9 Cal.W.Int'l.L.J. 201-56 (1971) ("Crimes against humanity" including genocide "involve wholesale human depredation which could not occur without the state's instigation or acquiescence.") Garcia-Mora, *supra* note 21, at 933-34 (quoting Draft Code of Offenses Against the Peace and Security of Mankind art. 2, para. 11, Report of the International Law Commission to the General Assembly, 9 U.N. GAOR Supp. (No. 9) at 9-11, U.N. Doc. No. A/2693 (1954)); *cf. The Nurnberg (Nuremberg) Trial*, 6 F.R.D. 69, 108 (Int'l Military Tribunal 1946) (holding that international tribunal had jurisdiction to hold individual defendants responsible for aggressions, crimes against humanity, and war crimes because these individuals, who occupied responsible positions in the German government, must have known that their acts violated Germany's responsibilities under international law); M. Bassiouni, *International Criminal Law: A Draft International Criminal Code* 65 (1980) (pointing out that various war crimes necessarily involve a policy level government decision).

[23] War crimes include "devastation not justified by military necessity." *See The Nurnberg (Nuremberg) Trial*, 6 F.R.D. at 130.

[24] The incidence test was originally intended to afford protection to individuals engaged in political resistance; the test was designed to identify a set of protestors, namely, those engaged in an uprising designed to change the existing government. *See supra* pp. 31-32. It is unclear whether this test applies to former government officials, *cf. In re Ezeta*, 62 F. 972, 1000 (N.D. Cal.1894) (noting that most extradition cases involve acts committed against the government, and that such cases are only of *some* value when the pending case concerns acts that were committed by representatives of the then-existing government), and even whether the political offense exception is applicable at all to such individuals.

[25] The United States government subsequently sought to deport McMullen because of his illegal entry into this country and his undocumented status. We found that McMullen had established that, because he had deserted the PIRA, his life or freedom would be threatened if he returned to the United Kingdom. *McMullen v. INS*, 658 F.2d 1312 (9th Cir.1981).

[26] The magistrate in *Mackin* also evaluated whether Mackin was a member of a group engaged in an uprising. We do not find any support in the case law for imposing this requirement. *see* discussion *infra* pp. 69-70.

[27] In contrast to the *McMullen* magistrate, the *Mackin* magistrate suggested that sufficiently "anarchistic" acts, such as those directed at civilians, would be extraditable. However, the fact that a group that engaged in dispersed political violence frequently directed at civilians carried out the bombing was, in the magistrate's view, insufficient to remove the acts from the exception's protection.

[28] The Seventh Circuit did not characterize the PLO's efforts to expel Jews from Israel as a part of a plan to commit a "crime against humanity." We express no view here as to whether the PLO's actions might constitute such a crime. See *supra* p. 47

and excluded violent acts against innocent civilians [29] from the protection afforded by the exception. *Cf.* Note, *Terrorist Extradition and the Political Offense Exception; An Administrative Solution*, 21 Va. J.Int'l L. 163, 177-78 (1980) (criticizing *Eain* Magistrate's test because it invites ideological and foreign policy determinations by extradition courts). As part of its justification for the new limitations it imposed on the applicability of the exception, the *Eain* court expressed concern that, in the absence of these restrictions nothing would prevent an influx of terrorists seeking a safe haven in America. . . . Terrorists who have committed barbarous acts elsewhere would be able to flee to the United States and live in our neighborhoods and walk our streets forever free from any accountability for their acts. We do not need them in our society. . . . [T]he political offense exception . . . should be applied with great care lest our country become a social jungle. . . . *Id.* at 520.

The District Court for the Southern District of New York has recently rejected portions of the *Eain* analysis but accepted some of the new restrictions propounded by the Seventh Circuit. In *In re Doherty*, 599 F. Supp. 270 (S.D.N.Y. 1984), the court denied the United Kingdom's request that a PIRA member accused of attacking a convoy of British soldiers in Northern Ireland be extradited. The extradition court rejected the notion that the exception protects only "actual armed insurrections or more traditional and overt military hostilities." *Id.* at 275. Noting that "political struggles have been . . . effectively carried out by armed guerillas," *id.*, the court concluded that a dissident group's likelihood of success and its ability to effect changes by other than violent means were not determinative factors. *Id.* Nevertheless, the court agreed with the Seventh Circuit's tacit conclusion that the traditional incidence test is "hardly consistent with . . . the realities of the modern world," *id.* at 274.

The *Doherty* court continued by approving of the *Eain* court's willingness to balance policy considerations so that the exception "does not afford a haven for persons who commit the most heinous atrocities for political ends." *Id.* at 275 n. 4. Although such issues were not raised in *Doherty*, the court stated explicitly that the exception would not protect bombings in public places, *id.* at 275; acts that "transcend the limits of international law," *id.;* acts "inconsistent with international standards of civilized conduct," *id.* at 274; harm to hostages, *id.* at 276; violations of the Geneva convention, *id.;* or the acts of "amorphous" or "fanatic" groups without structure, organization, or clearly defined political objectives, *id.* Thus, the *Doherty* court, like the *Eain* court, concluded that the traditional incidence test is insufficient to determine which offenses are protected by the exception. Both courts felt it necessary and appropriate to judge the political legitimacy of various ends and means and to exclude "illegitimate" acts from protection even if the incidence test were met. While not identifying their new limitations as such, both incorporated significant aspects of the Swiss ends-means or proportionality test into Anglo-American jurisprudence.

V. THE POLITICAL OFFENSE EXCEPTION AND THE REALITIES OF CONTEMPORARY POLITICAL STRUGGLES

A. The Political Reality: The Contours of Contemporary Revolutionary Activity

The recent lack of consensus among United States courts confronted with requests for the extradition of those accused of violent political acts committed outside the context of an organized military conflict reflects some confusion about the purposes underlying the political offense exception. *See supra* pp. 31-32. The premise of the analyses performed by modern courts favoring the adoption of new restrictions on the use of the exception is either that the objectives of revolutionary violence undertaken by dispersed forces and directed at civilians are by definition, not political, *see, e.g., Eain*, 641 F.2d at 519 ("Terrorist activity seeks to promote social chaos."), or that, regardless of the actors' objectives the conduct is not politically legitimate because it "is inconsistent with international standards of civilized conduct," *Doherty*, 599 F.Supp. at 274. Both assumptions are subject to debate.

A number of courts appear tacitly to accept a suggestion by some commentators that begins with the observation that the political offense exception can be traced to the rise of democratic governments. *See* I.A. Shearer, *supra* p. 22, at 166; G. Van den Wijngaert, *supra* p. 22, at 100; Carbonneau, *supra* p. 34, at 5. Because of this origin, these commentators argue, the exception was only designed to protect the right to rebel against tyrannical governments, *see e.g.*, Epps, *supra* p. 4, at 65, and should not be applied in an ideologically neutral fashion, *see e.g., Carbonneau, supra p. 34, at 44; see also In re Gonzales*, 217 F.Supp. 717, 721 n. 9 (S.D.N.Y. 1963) (evaluating whether acts in question "were blows struck in the cause of freedom against a repressive totalitarian regime"). *But see* C. Van den Wijngaert, *supra* p. 22, at 102 (noting that democratic states may also suppress political conduct in the guise of criminality).

These courts then proceed to apply the exception in a non-neutral fashion but, in doing so, focus on and explicitly reject only the *tactics*, rather than the true object of their concern, the political *objectives. See* C. Van den Wijngaert, *supra* p. 22, at 102. The courts that are narrowing the applicability of the exception in this manner appear to be moving beyond the role of an impartial judiciary by determining tacitly that particular political objectives are not "legitimate."

[26] We strongly believe that courts should not undertake such a task. The political offense test traditionally articulated by American courts, as well as the text of the treaty provisions, *see e.g., Treaty, supra* p. 1, at art. V(1)(c), is ideologically neutral. We do not believe it appropriate to make qualitative judgments regarding a foreign government or a struggle designed to alter that government. *Accord In re Doherty*, 599 F.Supp. 270, 277 (S.D.N.Y.1984); *see generally supra* note 6. Such judgments themselves cannot be other than political and, as such, involve determinations of the sort that are not within the judicial role. *See supra* Section II.B.

A second premise may underlie the analyses of courts that appear to favor narrowing the exception, namely, that modern revolutionary *tactics* which include violence directed at civilians are not politically "legitimate." This assumption, which may well constitute an understandable response to the recent rise of international terrorism, skews any political offense analysis because of an inherent conceptual short-coming. In deciding what tactics are acceptable, we seek to impose on other nations and cultures our own traditional notions of how internal political struggles should be conducted.

The structure of societies and governments, the relationships between nations and their citizens, and the modes of altering political structures have changed dramatically since our courts first adopted the *Castioni* test. Neither wars nor revolutions are conducted in as clear-cut or mannerly a fashion as they once were. Both the nature of the acts committed in struggles for self-determination, *see* M. Bassiouni, *International Extradition: United States Law & Practice*, ch. VIII, at §§ 2-71 to 2-72, and the geographic location of those struggles have changed considerably since the time of the French and American revolutions. Now challenges by insurgent movements to the existing order take place most frequently in Third World countries rather than in Europe or North America. In contrast to the organized, clearly identifiable, armed forces of past revolutions, today's struggles are often carried out by networks of individuals joined only by a common interest in opposing those in power.

[27] It is understandable that Americans are offended by the tactics used by many of those seeking to change their governments. Often these tactics are employed by persons who do not share our cultural and social values or mores. Sometimes they are employed by those whose views of the nature, importance, or relevance of individual human life differ radically from ours. Nevertheless, it is not our place to impose our notions of civilized strife on people who are seeking to overthrow the regimes in control of their countries in contexts and circumstances that we have not experienced, and with which we can identify only with the greatest difficulty. It is the fact that the insurgents are seeking to change their governments that makes the political offense exception applicable, not their reasons for wishing to do so or the nature of the acts by which they hope to accomplish that goal.

[28] Politically motivated violence, carried out by dispersed forces and directed at private sector institutions, structures, or civilians, is often undertaken—like the more organized, better disciplined violence of preceding revolutions—as part of an effort to gain the right to self-government. *See Politics of Extradition, supra* p. 31, at 632-33. We believe the tactics that are used in such internal political struggles are simply irrelevant to the question whether the political offense exception is applicable.

B. Relationship Between the Justifications for the Exception, the Incidence Test, and Contemporary Political Realities

One of the principal reasons our courts have had difficulty with the concept of affording certain contemporary revolutionary tactics the protection of the political offense exception is our fear and loathing of international terrorism. *See, e.g., Eain*, 641

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for a discussion of the meaning of the term "crimes against humanity." Our comments are limited to the form of analysis actually employed by the *Eain* court.

[29] The distinction between "innocent" and "guilty" civilians may not be as simple as it may first appear and is not always an ideologically neutral distinction. C. Van den Wijngaert, *supra* p. 22, at 156 & n. 839. Similarly, we question how a court is to define "indiscriminate," as opposed to "defensible," bombings of civilians. Any such effort would probably directly involve the court in the types of political judgments that the American version of the political offense exception has always sought to avoid.

F.2d at 520. The desire to exclude international terrorists from the coverage of the political offense exception is a legitimate one; the United States unequivocally condemns all international terrorism.[30] However, the restrictions that some courts have adopted in order to remove terrorists activities from coverage under the political offense exception are overbroad. As we have noted, not all politically-motivated violence undertaken by dispersed forces and directed at civilians is international terrorism and not all such activity should be exempted from the protection afforded by the exception.

Although it was not accepted as international law, the position of the United States, not only on international terrorism but also on the extradition of international terrorists, was made clear in 1972 when it introduced its Draft Convention on Terrorism in the United Nations. *See* U.N. Draft Convention for the Prevention and Punishment of Certain Acts of International Terrorism: United States Working Paper, U.N. Doc. A/C.6/L.850 (September 25, 1972), *reprinted in* 1 R. Friedlander, *Terrorism: Documents of International and Local Control* 487 (1979). The Draft Convention calls either for trial of international terrorists in the State where found or for their extradition. *See id,* at art. 3; *see also* 1984 Act to Combat International Terrorism § 201, Pub.L. 98-533, 96 Stat. 2706, 2709 (to be codified at 18 U.S.C. § 3077) (reaffirming United States' position on the extradition of international terrorists).

[29] The policy and legal considerations that underlie our responses to acts of international terrorism differ dramatically from those that form the basis for our attitudes toward violent acts committed as a part of other nations' internal political struggles. The application of the political offense exception to acts of domestic political violence comports in every respect with both the original justifications for the exception and the traditional requirements of the incidence test.[31] The application of that exception to acts of international terrorism would comport with neither. First, we doubt whether the designers of the exception contemplated that it would protect acts of international violence, regardless of the ultimate objective of the actors. Second, in cases of international terrorism, we are being asked to return the accused to the government in the country where the acts were committed: frequently that is not a government the accused has sought to change. In such cases there is less risk that the accused will be subjected to an unfair trial or punishment because of his political opinion.[32] Third, the exception was designed, in part, to protect against foreign intervention in internal struggles for political self-determination. When we extradite an individual accused of international terrorism, we are not interfering with any *internal* struggle; rather, it is the international terrorist who has interfered with the rights of others to exist peacefully under their chosen form of government.

There is no need to create a new mechanism for defining "political offenses" in order to ensure that the two important objectives we have been considering are met: (a) that international terrorists will be subject to extradition, and (b) that the exception will continue to cover the type of domestic revolutionary conduct that inspired its creation in the first place. While the precedent that guides us is limited, the applicable principles of law are clear. The incidence test has served us well and requires no significant modification. The growing problem of international terrorism, serious as it is, does not compel us to reconsider or redefine that test. The test we have used since the 1800's simply does not cover acts of international terrorism.

1. *The "Incidence" Test*

[30, 31] As all of the various tests for determining whether an offense is extraditable make clear, not every offense of a political character is non-extraditable. In the United States, an offense must meet the incidence test which is intended, like the tests designed by other nations, to comport with the justifications for the exception. We now explain the reasons for our conclusion that the traditional United States incidence test by its terms (a) protects acts of domestic violence in connection with a struggle for political self-determination, but (b) was not intended to and does not protect acts of international terrorism.

2. *The "Uprising" Component*

The incidence test has two components—the "uprising" requirement and the "incidental to" requirement. The first component, the requirement that there be an "uprising," "rebellion," or "revolution," has not been the subject of much discussion in the literature, although it is firmly established in the case law, *see supra* note 1. Most analyses of whether the exception applies have focused on whether the act in question was in furtherance of or incidental to a given uprising. Nevertheless, it is the "uprising" component that plays the key role in ensuring that the incidence test protects only those activities that the political offense doctrine was designed to protect.

As we have noted, the political offense doctrine developed out of a concern for the welfare of those engaged in a particular form of political activity—an effort to alter or abolish the government that controls their lives—and not out of a desire to protect all politically motivated violence. *See In re Ezeta,* 62 F. 972, 998 (N.D.Cal.1894) ("'Any offense committed in the course of or furthering of civil war, insurrection, or political commotion.'") (quoting John Stuart Mill); *In re Castioni* [1891] 1 Q.B. 149, 156 (1890) ("a sort of overt act in the course of acting in a political matter, a political rising, or a dispute between two parties in the State as to which is to have the government in its hands") (per Denman, J.).

[32] The uprising component serves to limit the exception to its historic purposes. It makes the exception applicable only when a certain level of violence exists and when those engaged in that violence are seeking to accomplish a particular objective. The exception does not apply to political acts that involve less fundamental efforts to accomplish change or that do not attract sufficient adherents to create the requisite amount of turmoil. *See Escobedo v. United States,* 623 F.2d 1098 (5th Cir.), *cert. denied,* 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed.2d 497 (1980). Thus, acts such as skyjacking (an act that has never been used by revolutionaries to bring about a change in the composition or structure of the government in their own country) fall outside the scope of the exception.

[33, 34] Equally important, the uprising component serves to exclude from coverage under the exception criminal conduct that occurs outside the country or territory in which the uprising is taking place. The term "uprising" refers to a revolt by indigenous people against their own government or an occupying power. That revolt can occur only within the country or territory in which those rising up reside. By definition acts occurring in other lands are not part of the uprising. The political offense exception was designed to protect those engaged in internal or domestic struggles over the form or composition of their own government, including, of course, struggles to displace an occupying power. It was not designed to protect international political coercion or blackmail, or the exportation of violence and strife to other locations—even to the homeland of an oppressor nation. Thus, an uprising is not only limited temporally, it is limited spatially. *See 20th Century American Courts, supra* p. 30, at 1021 n. 115.

[35] In his concurring opinion, Judge Duniway points out that the limitation to acts occurring within the territory in which there is an uprising means that persons committing acts of piracy, terrorism, or other crimes on the high seas will be unable to invoke the protection of the political offense exception. His observation is correct. Just as skyjackers and other international terrorists are not protected under the exception, neither are persons who commit or threaten to commit violent crimes on the high seas. The political offense exception was never intended to reach such conduct.

While determining the proper geographic boundaries of an "uprising" involves a legal issue that ordinarily will be fairly simple to resolve, there may be some circumstances under which it will be more difficult to do so. We need not formulate a general rule that will be applicable to all situations. It is sufficient in this case to state that for purposes of the political offense exception an "uprising" cannot extend beyond the borders of the country or territory in which a group of citizens or residents is seeking to change their particular government or governmental structure.

[36] It follows from what we have said that an "uprising" can exist only when the turmoil that warrants that characterization is created by nationals of the land in which the disturbances are occurring. Viewed in that light, it becomes clear that had the traditional incidence test been applied in *Eain,* discussed *supra* pp. 50-52, the result would have been identical to that reached by the Seventh Circuit. When PLO members enter Israel and commit unlawful acts, there is simply no uprising for the acts to be incidental to. The plain fact is that the Israelis

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[30] *See Tel-Oren v. Libyan Arab Republic,* 726 F.2d 774, 795 (D.C.Cir.1984) (Edwards J., concurring), *cert. denied,* — U.S. —, 105 S.Ct. 1354, 84 L.Ed.2d 377 (1985); 1984 Act to Combat International Terrorism, Pub.L. 98-533, 98 Stat. 2706 (to be codified in scattered sections of 18 U.S.C., 22 U.S.C., & 41 U.S.C.); *cf.* European Convention on the Suppression of Terrorism art. 1, *done* Jan. 27, 1977, *reprinted in Control of Terrorism: International Documents* 87 (Y. Alexander ed. 1979) (Council of Europe declares terrorist acts excluded from political offense exception to treaties between members of that Council); Protocol I to the Geneva Conventions art. 51, *adopted* June 8, 1977, U.N. Doc. A/32/144 annex I, *reprinted in* 16 Am. Society Int'l L., *Int'l Materials* 1391, 1431-32 (1977) (condemning violence designed to spread terror among civilian populations).

[31] *See, e.g.,* G.A.Res. 3103, 28 U.N. GAOR Supp. (No. 30) at 142, U.N. Doc. A/9030 (1974) (armed struggles for independence and self-determination are "in full accordance with the principles of international law").

[32] In cases where it appears that a fair trial is unlikely, the Secretary of State retains discretion to refuse extradition even if a court determines that the incidence test is not met. *See supra* pp. 23-24.

are not engaged in revolutionary activity directed against their own government. They are not seeking to change its form, structure, or composition through violent means. That the PLO members who commit crimes are seeking to destroy Israel as a state does not help bring them within the political offense exception. In the absence of an uprising, the violence engaged in by PLO members in Israel and elsewhere does not meet the incidence test and is not covered by the political offense exception. To the contrary, the PLO's worldwide campaign of violence, including the crimes its members commit in the state of Israel, clearly constitutes "international terrorism."

Moreover, Eain's conduct may have fallen outside the political offense exception for an additional, though related, reason. Not only was there no uprising in Israel, but Eain himself was not a national of that country. It is not clear whether, even when the violence is primarily conducted by nationals and thus an uprising may properly be found to exist, a foreign citizen who voluntarily joins the fray is protected by the exception. The exception was designed to protect those seeking to change their own government or to oust an occupying power that is asserting sovereignty over them. We question whether it should apply when the accused is not a citizen of the country or territory in which the uprising is occurring. In the absence of a tangible demonstration that he or she has more than a transitory connection with that land, the acts of a foreign national may simply not qualify for protection.

Although we find substantial merit to the argument that foreign nationals should be excluded from coverage under the political offense exception, the incidence test has never previously been analyzed in a manner that considers the question in any detail. Because of the conclusion we reach with respect to other issues in the case before us, there is no need for us to answer the question here. Accordingly, we leave its resolution to a subsequent time. It is enough for our purposes merely to note that the fact that Eain was not an Israeli might well have constituted another basis for holding that his conduct was not protected under the incidence test.

[37] In short, the *Eain* and *Doherty* courts' objective that this country not become a haven for international terrorists can readily be met through a proper application of the incidence test. It is met by interpreting the political offense exception in light of its historic origins and goals. Such a construction excludes acts of international terrorism. There is no reason, therefore, to construe the incidence test in a subjective and judgmental manner that excludes all violent political conduct of which we disapprove. Moreover, any such construction would necessarily exclude some forms of internal revolutionary conduct and thus run contrary to the exception's fundamental purpose.[33] For that reason, we reject the *Eain* test and especially the concept that courts may determine whether particular forms of conduct constitute acceptable means or methods of engaging in an uprising.

3. *The "Incidental to" Component*

When describing the second requirement of the incidence test, the "incidental to" component, American courts have used the phrases "in the course of," "connected to," and "in furtherance of" interchangeably. We have applied a rather liberal standard when determining whether this part of the test has been met and have been willing to examine all of the circumstances surrounding the commission of the crime. *Garcia-Guillern v. United States*, 450 F.2d 1189, 1192 (5th Cir.1971), *cert denied*, 405 U.S. 989, 92 S.Ct. 1251, 31 L.Ed.2d 455 (1972); *Ramos v. Diaz*, 179 F.Supp. 459, 463 (S.D. Fla.1959).

[38] Commentators have criticized United States courts for applying the "incidental to" component too loosely or flexibly. *See supra* p. 42. We disagree with this criticism. To put the matter in its proper context, it is necessary to bear in mind that the offense must occur in the context of an "uprising." Acts "incidental to" an uprising are, as we have noted, limited by the geographic confines of the uprising. In addition, the act must be contemporaneous with the uprising. Moreover, the "incidental to" component is not satisfied by "any connection, however feeble, between a common crime and a political disturbance," Garcia-Mora, *supra* p. 3, at 1244. The act must be causally or ideologically related to the uprising. *See, e.g., Ornelas v. Ruiz*, 161 U.S. 502, 511, 16 S.Ct. 689, 692, 40 L.Ed. 787 (1896) (concluding that rapid withdrawal of bandits after foray, in absence of threatening armed forces, suggested that acts were not incidental to uprising).

[39] We believe the traditional liberal construction of the requirement that there be a nexus between the act and the uprising, *see supra* p. 42, is appropriate. There are various types of acts that, when committed in the course of an uprising, are likely to have been politically motivated. There is little reason, under such circumstances, to impose a strict nexus standard. Moreover, the application of a strict test would in some instances jeopardize the rights of the accused.

[40] Under the liberal nexus standard, neither proof of the potential or actual effectiveness of the actions in achieving the group's political ends, *In re Castioni*, [1891] 1 Q.B. 149, 158-59 (1890) (refusing to consider whether the act was a wise mode of promoting the cause) (per Denman, J.), nor proof of the motive of the accused, *Eain*, 641 F.2d at 519, or the requesting nation, *Garcia-Guillern*, 450 F.2d at 1192; *Ramos v. Diaz*, 179 F.Supp. at 463, is required. Nor is the organization or hierarchy of the uprising group or the accused's membership in any such group determinative. *See Eain*, 641 F.2d at 519.

When extradition is sought, the "offender" at this stage in the proceedings has ordinarily only been accused, not convicted, of the offense. It would be inconsistent with the rights of the accused to require proof of membership in an uprising group. For example, the accused might be able to show that the acts were incidental to the uprising but might be unable to prove membership because he or she did not commit the offense or was not a member of the group. Furthermore, requiring proof of membership might violate the accused's Fifth Amendment rights both because it might force him to supply circumstantial evidence of guilt of the charged offense and because membership in the group itself might be illegal. Also, we question how one proves membership in an uprising group. Uprising group often do not have formal organizational structures or document membership. In addition, it is entirely possible to sympathize with, aid, assist, or support a group, help further its objectives and its activities, participate in its projects, or carry on parallel activities of one's own, without becoming a member of the organzation. Still, one may be acting in furtherance of an uprising.

On the other hand, a number of factors, though not necessary to the nexus determination, may play a part in evaluating the circumstances surrounding the commission of the offense. For example, proof of membership in an uprising group may make it more likely that the act was incidental to the uprising. *See, e.g., Ramos* v. *Diaz*, 179 F.Supp. at 463; *Castioni*, 1 Q.B. at 157-59 (per Denman, J.). The similarity of the charged offense to other acts committed by the uprising group, and the degree of control over the accused's acts by some hierarchy within the group, may give further credence to the claim that the act was incidental to the uprising. And while evidence of the accused's political motivation is not required and is usually unavailable, evidence that an act was "committed for purely personal reasons such as vengeance or vindictiveness," *In re Doherty*, 599 F.Supp. 270, 277 n. 7 (S.D.N.Y. 1984), may serve to rebut any presumption that a nexus exists. The exception is not designed to protect mercenaries or others acting for nonpolitical motives.

[41] Under the liberal nexus test we have traditionally applied, or even under a strict nexus standard, there is no justification for distinguishing, as *Doherty* suggests, between attacks on military and civilian targets. The "incidential to" component, like the incidence test as a whole, must be applied in an objective, non-judgmental manner. It is for the revolutionaries, not the courts, to determine what tactics may help further their chances of bringing down or changing the

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[33] A number of courts have suggested that the incidence test is applicable whether it occurs during a violent political disturbance such as an uprising, rebellion, or *war*. *See supra* note 17. If, by using the term "war" these courts meant a civil war, *see e.g., In re Ezeta*, 62 F. 972 (N.D. Cal. 1894), we have no difficulty with their characterization of the test; we see no difference between an uprising, a rebellion, a revolution, and a civil war. In contrast, if these courts used the term to refer to violent conflicts between nations that transcend national boundaries, we question whether the protections afforded by the exception should be available and, if so, whether the incidence test should apply.

First, we note that wars between nations are the manifestation of hostilities between two or more governments and that those who participate in these wars typically are representatives of one of the involved governments. Thus, the questions regarding the political offense exception's applicability to government officials arise. *See supra* note 24. Second, we note that one of the primary purposes of the exception is to protect revolutionary activity. *See supra* pp. 31-32. Although the two other justifications for the exception, *see id.*, suggest that perhaps offenses incidental to wars should receive some protection, the absence of the primary justification cautions against applying the same test to transnational military conflicts as is applied to uprisings. Third, the application of the incidence test to international conflicts is inconsistent with the tranditional formulation of the test and the jurisprudence in this area. With the exception of the *Artukovic* case, *see* discussion *supra* pp. 44-48 & notes 19-24, (in which the offenses were not, in any event, necessarily incidental to World War II) courts do not appear to have applied the incidence test to offenses engaged in during the course of military conflicts between nations. Rather, they have followed the *Castioni* formulation that the offense must be related to "a political rising," 1 Q.B. at 165 (per Hawkins, J.), or the *Ezeta* formulation that it must be related to a "civil war, insurrection, or political commotion," 62 F. at 998.

As in the case of other acts by government representatives, we need not decide whether acts committed in the course of hostilities between nations should be protected by the exception. We need only note that if they are we question the applicability of the incidence test in such circumstances.

government. All that the courts should do is determine whether the conduct is related to or connected with the insurgent activity. It is clear that various "non-military" offenses, including acts as disparate as stealing food to sustain the combatants, killing to avoid disclosure of strategies, or killing simply to avoid capture, may be incidental to or in furtherance of an uprising. To conclude that attacks on the military are protected by the exception, but that attacks on private sector institutions and civilians are not, ignores the nature and purpose of the test we apply, as well as the realities of contemporary domestic revolutionary struggles. *See supra* pp. 57–59.

We should add that the spatial limitations imposed under the "uprising" component may not be circumvented by reliance on the "incidental to" component. As we said earlier, for the political offense exception to be applicable at all, the crime must have occurred in the country or territory in which the uprising was taking place, not in a different geographic location. *See supra* pp. 64–65.

VI. THE INCIDENCE TEST APPLIED TO THE CHARGED OFFENSES

A. The Magistrate's Factual Findings and Legal Conclusions

In disposing of this case, the extradition magistrate first made a legal determination that the incidence test has three prongs, the latter two of which are "flip sides of the same question": (a) the existence of an uprising; (b) that the charged offense be in furtherance of that uprising; (c) and that the accused be a member of the uprising group. In evaluating the applicability of the first prong to the instant case, the magistrate made a number of factual findings, a legal determination, and a conclusion based on the mixed fact and law determinations. First, the magistrate found that there was a violent political uprising in Northern Ireland at the time of the commission of the crimes with which Quinn is charged. He also noted that, were his inquiry limited to conditions in London, he would "find that the severity of the political disturbance [in London] was insufficiently grave to bring into play the political offense exception." The magistrate then made a legal determination that because Northern Ireland and London are both constitutionally a part of the United Kingdom, and because offenses committed in both geographic areas are directed against the same sovereign, he must consider the United Kingdom as a whole. Accordingly, he determined that a political uprising existed throughout the United Kingdom.

In applying the second and third prongs of his test the magistrate made the factual finding that Quinn was a member of a conspiracy involving the Balcombe Street Four, who were convicted on nineteen counts of bombing and shooting attacks, and that the case against the four was based on the theory that they were members of an Active Service Unit. The magistrate concluded, however, that this was an insufficient basis for considering the offenses to be "in furtherance of" the uprising. First, the magistrate held that membership in the uprising group is a necessary component of the incidence test, and that Quinn's IRA membership and involvement in an ASU conspiracy were insufficient to establish that he was a member of the PIRA, the group that the magistrate labeled the uprising group in this case. Next, the magistrate held that Quinn had failed to establish that the bombings were in furtherance of the PIRA's political goals (a) because he failed to show that they were ordered by the command within the PIRA hierarchy, (b) because he failed to show that the PIRA considered their efficacy in advancing its objectives; and (c) because he failed to introduce any evidence of his own political motivations. Third, the magistrate adopted the holding of the Seventh Circuit in *Eain v. Wilkes*, and concluded that "[b]y definition, there can be no direct link between [these bombing directed against innocent civilians] and the political goal of the IRA to force British withdrawal from Northern Ireland, as these actions neither took place in Northern Ireland nor were they directed against the government the IRA was attempting to displace."

B. Our Areas of Agreement With the District Court: The "Incidental To" Prong

[42] Like the district court, we believe the magistrate reached a number of erroneous legal conclusions. The incidence test has never required that an accused prove his political motivations directly, or establish that the acts were ordered by the leadership of the uprising group or were effective in obtaining the group's objectives. Nor need an accused prove membership in the uprising group; the magistrate's hairsplitting distinction between Quinn's proven IRA membership and his involvement in a conspiracy with ASU members on the one hand, and his failure to prove conclusively PIRA membership on the other makes apparent the logical absurdity of requiring proof of membership in a specific group.

Quinn is accused of having been a member of a conspiracy involving the Balcombe Street Four and he does not challenge the probable cause finding on this charge; his fingerprints were found on the bombs and within the flats where bombs were constructed. Quinn has already been convicted of and has served a prison sentence for his membership in the IRA. There is no evidence that he was involved in the conspiracy for other than political reasons, and his alleged co-conspirators, the Balcombe Street Four, were convicted of politically motivated bombings. Moreover the PIRA's use of bombing campaigns as a political tactic is well-documented. Accepting the magistrate's factual findings, which are not clearly erroneous, and applying the legal standards we have explained above, we think it quite clear that if an uprising, as that term is defined for purposes of the political offense exception, existed at the time the offenses were committed, the bombings were incidental to that uprising.

[43] Furthermore, because various disparate acts may be incidental to an uprising, we agree with the district court's conclusion that the Tibble murder would be incidental to the uprising, although we believe the analysis performed by both the magistrate and the district court is in error with respect to this incident. It does not matter if the killer's motivation in killing Officer Tibble was to conceal a bomb factory or to avoid capture. A murder of a police office is related to an uprising whether the reason for the act is to avoid discovery of munitions or to avoid reduction of "forces" by capture. Regardless which of these goals motivated the killer, if an uprising existed at the time, this offense as well was incidental to it.

C. Our Area of Disagreement With the District Court: The "Uprising" Prong

With regard to the uprising prong of the incidence test, we must again review the magistrate's factual findings under the clearly erroneous standard and his legal conclusions *de novo*. The district court failed to do this, construing the magistrate's conclusion that there was an uprising throughout the United Kingdom solely as a finding of fact. The district court summarized the magistrate's factual findings as to the levels of violence that existed in Northern Ireland and elsewhere in the United Kingdom at the time Quinn allegedly committed the charged offenses, and properly adopted them. However, the district court failed to analyze the magistrate's legal conclusion that because the requisite level of violence existed in Northern Ireland and because Northern Ireland is "in a constitutional sense" a part of the United Kingdom, an uprising existed in the United Kingdom as a whole.

The magistrate traced the history of the constitutional relationship between Ireland and England, the Irish nationalist movement in opposition to British rule in Northern Ireland, and the history of violent political disturbances concomitant with the struggle to liberate Northern Ireland from British rule. During the 1700's, economic and political differences between the Catholics in the south of the one, unified, colonized country of Ireland and the Protestants in the north grew, and in 1800 Ireland's parliament was dissolved and the country became a part of the United Kingdom. Many Catholics continued to demand liberty through the period in the late 1800's when "home rule"—under which Ireland would have remained a part of the United Kingdom but with local control of domestic affairs—was contemplated. In 1914 the British Parliament passed a bill instituting home rule but it was not implemented because of the outbreak of World War I.

After increased violence between Irish rebels—including the IRA—and British forces broke out in 1919, the British Parliament passed the Government of Ireland Act in 1920. That Act divided Ireland into two partially self-governing countries. Most of Ireland's political leaders initially rejected the proposed division, demanding complete independence for all of Ireland. Eventually partition was accepted and in 1921 southern leaders and Great Britain signed a treaty creating the Irish Free State in the south (which became the independent Republic of Ireland in 1949) and Northern Ireland in the north. Under the treaty, Northern Ireland separated from Great Britain. Although it remained a part of the United Kingdom with representation in the British Parliament, it had its own governor, parliament, prime minister, and cabinet and controlled most domestic matters independently. Certain powers, such as levying income taxes and maintaining a militia, were reserved for the British Parliament. The Ulster Unionist Party, the Protestant party, retained control of the parliament in Northern Ireland and Catholics were excluded from political power and subjected to civil discrimination.

IRA-organized violence, with the objective of separating Northern Ireland from the United Kingdom and reuniting the northern and southern parts of Ireland, continued in Northern Ireland. In 1969, the PIRA split off from the IRA, which adopted the view that violence was not the best means to achieve its goals at that time. The PIRA advocated armed insurrection and after one campaign of violence in 1969, British troops were sent into Northern Ireland. PIRA bombing campaigns continued between 1970 and 1972. In 1971, the British passed the

Special Powers Act, which provided for internment without trial. In 1972, the British dissolved the Parliament of Northern Ireland and once again established direct rule. PIRA bombings continued through 1973, when the Special Powers Act was replaced by the Emergency Provisions Act. The Emergency Provisions Act abolished jury trials for certain offenses, relaxed standards of admissibility for confessions, and provided special tribunals for the trials of those accused of political crimes.

The PIRA was responsible for a number of bombing campaigns again in 1974 and 1975. These campaigns were designed to "bomb the British government to the bargaining table" and to force the withdrawal of British troops from Northern Ireland. The PIRA took responsibility for the bombings of both military and civilian targets in both Northern Ireland and England. In 1974 the Prevention of Terrorism (Temporary Provisions) Act, which applies to the entire United Kingdom, was passed. The Act extended the length of time police could detain those suspected of political violence; made it illegal to refuse to give to the authorities information about those suspected of committing acts of political violence; suspended habeas corpus rights for detainees; and proscribed the IRA and the Irish National Liberation Army and formal support for them.

The magistrate correctly concluded that there was an uprising in Northern Ireland at the time of the offenses with which Quinn is charged. PIRA members, although a minority faction, sought to change the structure of the government in that country, the country in which they lived. Criminal activity in Northern Ireland connected with this uprising would clearly fall within the political offense exception.

[44] We cannot conclude, however, that the uprising extended to England. We do not question the fact that throughout the time of the alleged conspiracy, some politically motivated violence was taking place in England as well as in Northern Ireland. *See, e.g.,* J. Bell, *The Secret Army: The IRA 1916-1979,* at 403-24 (1980). However, as the magistrate noted, in general the violent attacks and the responses to them were far less pronounced outside of Northern Ireland. It is clear from the record that the magistrate correctly concluded that the level of violence outside Northern Ireland was insufficient in itself to constitute an "uprising."[34]

There is a second and even more significant reason why the "uprising" prong is not met in this case. As the magistrate found, what violence there was was not being generated by citizens or residents of England. In fact, the magistrate determined that a large percentage of the bombing incidents in England were attributable to the Balcome Street Four. The critical factor is that nationals of Northern Ireland, seeking to alter the government in that territorial entity, exported their struggle for political change across the seas to a separate geographical entity—and conducted that struggle in a country in which the nationals and residents were not attempting to alter their own political structure.

We do not ignore the constitutional, legal, and military relationship between England and Northern Ireland. The ties are so well established, *see generally* 1 *Europa Year Book 1984,* at 991-96; 14 *World Book Encyclopedia* 403-06b (1985 ed.), that had evidence of the relationship not been presented to the magistrate, judicial notice would have been appropriate. It is beyond dispute that during the time of the conspiracy with which Quinn is charged, Northern Ireland was, in essence under British rule: the British government had dissolved the Northern Ireland Parliament, declared a state of emergency, and made the Secretary of State for Northern Ireland directly answerable for the government of Northern Ireland to the United Kingdom Parliament at Westminster.[35]

We do not question whether the PIRA sought to coerce the appropriate sovereign. Nor do we pass judgment on the use of violence as a form of political coercion or the efficacy of the violent attacks in England. But, as we have already said, *see supra* pp. 62-68, the word "uprising" means exactly that: it refers to a people *rising up,* in their own land, against the government of that land. It does not cover terrorism or other criminal conduct exported to other locations. Nor can the existence of an uprising be based on violence committed by persons who do not reside in the country or territory in which the violence occurs.

In light of the justifications for the political offense exception, the formulation of the incidence test as it has traditionally been articulated, and the cases in which the exception has historically been applied, we do not believe it would be proper to stretch the term "uprising" to include acts that took place in England as a part of a struggle by nationals of Northern Ireland to change the form of government in their own land.[36] Accordingly, we need not decide whether had an uprising occurred, the protection afforded by the exception would have been extended to one who, like Quinn, is a citizen of a different and uninvolved nation. *See supra* pp. 66-67. Because the incidence test is not met, neither the bombing conspiracy nor the murder of Police Constable Tibble is a non-extraditable offense under the political offense exception to the extradition treaty between the United States and the United Kingdom.

VII. ISSUES NOT ADDRESSED BY THE DISTRICT COURT

In addition to contending that all the crimes with which he is charged are protected by the political offense exception, Quinn argued to the district court that the magistrate erred in concluding (1) that the conspiracy charge was not time barred and (2) that there was sufficient competent legal evidence to establish probable cause to believe that he murdered Police Constable Tibble. Because it held that the political offense exception barred extradition, the district court did not reach either of these issues.

A. Appellate Discretion to Resolve These Issues

[45, 46] As a general rule, "a federal appellate court does not consider an issue not passed upon below." *Singleton v. Wulff,* 428 U.S. 106, 120, 96 S.Ct. 2868, 2877, 49 L.Ed.2d 826 (1976). But this rule is not inflexible. *Youakim v. Miller,* 425 U.S. 231, 234, 96 S.Ct. 1399, 1401, 47 L.Ed.2d 701 (1976). We have discretion to decide whether to address an issue that the district court did not reach if the question is a purely legal one and the record has been fully developed prior to appeal; in deciding whether to exercise this discretion we should consider whether the resolution of the issue is clear and whether injustice might otherwise result. *See Lien Ho Hsing Steel Enterprise Co. v Weihtag,* 738 F.2d 1455, 1461 (9th Cir.1984); *In re Howell,* 731 F.2d 624, 627 (9th Cir.1984).

The government suggests in a footnote in its appellate brief that we should exercise our "pendent" jurisdiction and resolve the issues not addressed by the district court, yet it failed to brief those issues on appeal. Quinn argues on appeal that the two remaining issues are not properly before us; he also did not brief either of these issues on appeal. We do have before us the parties' memoranda to the district court and the full factual record developed before the magistrate and, at this point, the questions appear to be purely legal. Accordingly, we evaluate the remaining factors to determine whether to reach these issues.

Clearly, in considering the risk that injustice might result, we must be more concerned about the possible unjust deprivation of Quinn's liberty than about any other source of justice. The delay that could result from a remand on these issues affects both parties; we cannot see any other manner in which a remand might cause injustice to the government. However, because Quinn has asked us not to reach these issues, the fact that a remand might prolong his pretrial detention is unsufficient, in itself, to convince us that we should resolve issues that have not been addressed on appeal.

The crucial factor, then, appears to be whether the resolution of either of these issues is clear. We believe that the probable cause issue is clear and we thus resolve it. The statute-of-limitations issue, in contrast, is quite complex and involves a discovery request as well. Accordingly, we do not reach that issue at this time.

B. Probable Cause: The Tibble Murder

[47] Although he accepts the magistrate's conclusion that there is probable cause to believe that Police Constable Tibble was murdered, Quinn contends that the magistrate erred in concluding that there was any competent evidence to support the belief that he was the murderer. Quinn points to alleged procedural irregularities in the circumstances surrounding Constable Blackledge's identification, the "double hearsay" method of presenting this evidence through Inspector Watts, *see supra* pp. 11-12, the six year delay between Blackledge's identification in Ireland and Watts' photo identification after Quinn's arrest in San Francisco, and some contradictions between the description of the assailant Blackledge originally gave the police and Quinn's actual physical characteristics, *see supra* p. 10. Quinn contends that because of these irregularities the evidence is unreliable and cannot be considered "competent," *see supra* pp. 25-27, and that it thus cannot sup-

[34] In his discussion, the magistrate considered separately the level of violence in Great Britain and in Northern Ireland. It is not clear whether in referring to Great Britain he meant England or England, Scotland, and Wales. In any event, his conclusion that the requisite level of violence existed only in Northern Ireland was correct.

[35] The Secretary of State did not gain parliamentary consent to establish a new parliament until 1982. *See* 1 *Europa Year Book 1984, supra* p. 81, at 991-92, 996.

[36] In one other case, *In re McMullen,* No. 3-78-1099 MG (N.D.Cal. May 11, 1979), the extradition magistrate also concluded that, because the PIRA violence was not confined to Northern Ireland, the uprising extended throughout the entire United Kingdom. For the same reasons that we find that there was no uprising in England or Great Britain at the time of the acts with which Quinn is charged, we believe the uprising determination in *McMullen* was in error.

port the probable cause finding. We disagree.

[48, 49] Clearly the evidence introduced before the magistrate for the purpose of linking Quinn with the Tibble murder is not overwhelming. If that were all the evidence introduced at a murder trial, Quinn could not be convicted. But the country seeking extradition is not required to produce all its evidence at an extradition hearing and it is not our role to determine whether there is sufficient evidence to convict the accused. The magistrate does not weigh conflicting evidence and make factual determinations but, rather, determines only whether there is competent evidence to support the belief that the accused has committed the charged offense. *See supra* p. 27. And on review we can determine only whether, because of an absence of competent evidence, the magistrate's determination is wrong as a matter of law. *Cf. Ker v. California*, 374 U.S. 23, 33-34, 83 S.Ct. 1623, 1629-30, 10 L.Ed.2d 726 (1963) (reasonableness of search and seizure is mixed question of law and fact which is reviewed *de novo*); *United States v. McConney*, 728 F.2d 1195, 1203 (9th Cir.) (en banc) (probable cause determination is mixed question of law and fact which is reviewed *de novo*), *cert. denied*, —— U.S. ——, 105 S.Ct. 101, 83 L.Ed.2d 46 (1984).

[50] The credibility of witnesses and the weight to be accorded their testimony is solely within the province of the extradition magistrate. *See Garcia-Guillern v. United States*, 450 F.2d 1189, 1192 (5th Cir.971). The magistrate was free to determine the weight to be accorded to the various descriptions of the killer. In addition, although the magistrate may take the circumstances of an identification into account in assessing its reliability, there is no *per se* rule that specifies which identification procedures are "competent" for probable cause purposes. An identification does not fail to constitute competent evidence merely because the required United States procedures for admissibility of the identification at trial were not followed. *See Zanazanian v. United States*, 729 F.2d 624, 627 (9th Cir.1984) (multiple hearsay method of presenting evidence may decrease reliability of evidence but evidence may nevertheless be sufficiently reliable to be "competent"); *Escobedo v. United States*, 623 F.2d 1098, 1102 & n. 10 (5th Cir.) (single photograph identified by witness sufficient to support probable cause finding), *cert. denied*, 449 U.S. 1036, 101 S.Ct. 612, 66 L.Ed2d 497 (1980). Barring hearsay from extradition proceedings would thwart one of the objectives of bilateral extradition treaties by requiring the requesting nation to send its citizens to the extraditing country to confront the accused. *Zanazanian*, 729 F.2d at 626-27.

Because the magistrate properly determined that there is competent legal evidence to support the belief that Quinn murdered Officer Tibble, the habeas petition cannot be granted for lack of probable cause. *See Fernandez v. Phillips*, 268 U.S. 311, 312, 45 S.Ct. 541, 542, 69 L.Ed. 970 (1925); *Valencia v. Limbs*, 655 F.2d 195, 197 (9th Cir.1981).

C. The Statute of Limitations on the Conspiracy Charge

In addition to the political offense exception, the extradition treaty between the United States and the United Kingdom provides that "[e]xtradition shall not be granted if . . . the prosecution for the offense for which extradition is requested has become barred by lapse of time according to the law of the requesting or requested Party. . . ." *Treaty, supra* p. 1, at art. V(1)(b). Neither the United States nor the United Kingdom imposes a statute of limitations on murder charges. Since the United Kingdom has no relevant limitations period, the applicable statute of limitations on the conspiracy charge is that which is set forth in 18 U.S.C. § 3282 (1982).

Under section 3282, prosecution on a conspiracy charge is barred "unless the indictment is found or the information is instituted within five years next after such offense shall have been committed." The United Kingdom does not follow the same criminal procedures as the United States; no indictment is issued for a conspiracy charge, and the extradition magistrate determined that the United Kingdom's "laying of an information" is not analogous to the United States procedures mandated by section 3282.

Quinn contends that the conspiracy charge is time-barred because the conspiracy terminated on April 3, 1975, and the United Kingdom's extradition request was not filed until November 1981, well over five years later. However, the magistrate concluded that the statute of limitations was tolled when Quinn became a fugitive from justice after the murder of Officer Tibble,[37] and that the tolling continued through the time of Quinn's Daly City arrest, notwithstanding the British government's fairly consistent knowledge of his whereabouts from the time that Blackledge identified him in 1975 through the time he was incarcerated in Ireland and the years that he subsequently lived openly and notoriously in San Francisco.[38] The government, which originally specified that it would not contend that Quinn was a fugitive at any time and which addressed the issue only after the magistrate *sue sponte* ordered the parties to do so, asks that the magistrate's findings on the fugitive issue be affirmed. In the alternative, it contends that the habeas court should affirm the magistrate's conclusion that the extradition request is timely by concluding that the United Kingdom's "laying of an information" satisfies the United States' statute of limitations.[39]

[51-53] Each of these questions is complex. Complicating them further, Quinn contends that the magistrate erred as a matter of law in refusing his request for discovery on the fugitive issue. He seeks documents that would demonstrate that the United Kingdom knew his whereabouts and was dilatory in initiating proceedings. He also contends that, because the standard of proof for the fugitive issue is a preponderance standard,[40] he is entitled to discovery in order to test the credibility of the Blackledge identification that serves as the premise for the theory that his absence from the United Kingdom was due to a desire to avoid arrest or prosecution.[41]

[54] The multiple legal questions involved in the statute of limitations issue are complicated; their resolution is not clear and could even lead to the introduction of additional facts. Accordingly, it would not be proper for us at this time to decide this issue which the district court did not reach and the parties have not briefed on appeal. Nor would it be appropriate to indicate any view as to its ultimate outcome. Shoud the United Kingdom continue to be interested in pursuing Quinn's extradition on the conspiracy charge so that he may be tried for that offense, it will have to await the district court's determination whether the charge is time-barred, and possibly our subsequent review.[12]

VII. CONCLUSION

For extradition to be denied for an otherwise extraditable crime on the basis that it falls within the protective ambit of the political offense exception, the incidence test must ordinarily be met. (We reserve the question whether offenses committed by government officials or in connection with wars between nations are covered by the exception and, if so, a different test would be appropriate.) The incidence test can components, designed so that the exception comports with its original justification and protects acts of the kind that inspired its inclusion in extradition treaties. First, there must be an uprising—a political disturbance related to the struggle of individuals to alter or abolish the existing govenment in their country. An uprising is both temporally and spatially limited. Second, the charged of-

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[37] The magistrate determined that an individual who flees from the scene of the crime is, by definition, a fugitive. We do not believe the issue is quite that simple. *See United States v. Parrino*, 180 F.2d 613, 616 (2d Cir.1950) (Learned Hand, C.J.).

[38] The magistrate determined that Quinn must have known that he was wanted by the authorities in question, a requirement for being determined to be a fugitive, *see United States v. Gonsalves*, 675 F.2d 1050, 1053 (9th Cir.1982). In contrast, in its memorandum in opposition to the writ, the government does not argue that there is sufficient evidence to demonstrate that Quinn acted from 1975 until 1981 with the intent of avoiding arrest or prosecution for this offense, as required by *United States v. Wazney*, 529 F.2d 1287 (9th Cir.1976), and its progeny. Rather, the government suggests that the Ninth Circuit's intent rule be abandoned in favor of a "mere absence from the jurisdiction" rule, a suggestion we have previously rejected in an extradition case, *see Caplan v. Vokes*, 649 F.2d 1336, 1341 (9th Cir.1981).

[39] Quinn argues that the limited scope of habeas review of an extradition order precludes a reversal of the magistrate's finding on this point. In order to determine the appropriate standard of review, the district court must decide on remand what portion of the magistrate's determination of this issue was based on factual findings and what portion was based on legal conclusions.

[40] *See Jhirad* v. *Ferrandina*, 536 F.2d 478, 485 (2d Cir.1976).

[41] Although there is no explicit statutory basis for ordering discovery in extradition hearings, *see Merino* v. *United States Marshal*, 326 F.2d 5, 12-13 (9th Cir. 1963), the extradition magistrate has the right, under the court's "inherent power," *see First National City Bank of New York* v. *Aristeguieta*, 287 F.2d 219, 226 (2d Cir. 1960), *vacated as moot*, 375 U.S. 49, 84 S.Ct. ,144, 11 L.Ed.2d 106 (1963), to order such discovery procedures "as law and justice require," *Jhirad* v. *Ferrandina*, 536 F.2d at 484. In exercising discretion, the magistrate should consider both "the well-established rule that extradition proceedings are not to be converted into a dress rehearsal trial," *id.*, and whether the resolution of the contested issue would be appreciably advanced by the requested discovery, *id.* Although the accused is not entitled to introduce evidence that goes to his defense, "he may offer limited evidence to explain elements in the case against him". *Jimenez* v. *Aristeguieta*, 311 F.2d 547, 556 (5th Cir. 1962). Needless to say, a habeas court can determine whether the magistrate's decision to deny discovery constituted an abuse of discretion that deprived the accused of due process. *See Id.; Jhirad*, 536 F.2d at 484.

[12] In the alternative, the United Kingsom is free to withdraw its request for extradition on the conspiracy charge, in which case Quinn could be extradited to and tried in the United Kingdom on the murder charge. *See supra* p. 6.

fense must have been committed in furtherance of the uprising; it must be related to the political struggle or be consequent to the uprising activity. Neither the objectives of the uprising nor the means employed to achieve those objectives are subject to judicial scrutiny. And while the nature of the uprising group and any evidence of the accused's motivations may be relevant, proof on these elements is not required or necessarily determinative. Acts of international terrorism do not meet the incidence test and are thus not covered by the political offense exception. Crimes against humanity also are beyond the scope of the exception.

The conspiracy to cause explosions and the murder with which Quinn is charged do not fall within the political offense exception. Although an uprising existed in Northern Ireland at the time the charged offenses were committed, there was no uprising in England. The crimes did not take place within a territorial entity in which a group of nationals were seeking to change the form of the government under which they live; rather the offenses took place in a different geographical location. We do not decide whether Quinn's status as a citizen of an uninvolved nation would also preclude him from receiving the protection of the exception.

We conclude that the magistrate did not err in finding probable cause in connection with the charge that Quinn murdered Officer Tibble. However, we cannot properly determine at this point whether the conspiracy charge is time-barred. That matter must first be considered by the district court.

We vacate the writ of habeas corpus and remand to the district court. We hold that Quinn may be extradited on the murder charge but that the district court must consider whether the conspiracy charge is time-barred before extradition is permitted for that offense.

Vacated and remanded.

Duniway, Circuit Judge (concurring in the judgment):

I concur in the judgment, but I cannot concur in the lengthy opinion of Judge Reinhardt and the very extensive dicta that it expounds.

I agree that the magistrate had jurisdiction, including jurisdiction to determine whether the offenses with which Quinn is charged were of a political character. I agree that the district court had jurisdiction on habeas corpus to decide that question and that we have jurisdiction on appeal to consider it. I have no doubt that the evidence is sufficient to enable, indeed, to require, the magistrate, the district court, and this court to say that the offenses charged against Quinn are extraditable offenses, and that the only basis upon which extradition could be denied is the treaty provision that "extradition shall not be granted if . . . the offense . . . is regarded by the requested party, [the United States], as one of a political character."

My principal difficulty is with part V of Judge Reinhardt's thoughtful and careful opinion, and especially with part V, B, 2, and the geographical limitation announced there, reading as follows:

Equally important, the uprising component serves to exclude from coverage under the exception criminal conduct that occurs outside the country or territory in which the uprising is taking place. The term "uprising" refers to a revolt by indigenous people against their own government or an occupying power. That revolt can occur only within the country or territory in which those rising up reside. By definition acts occurring in other lands are not part of the uprising.

The limitation may be useful to us in this case, but I doubt that it is a valid one. To consider an old example, let us suppose that the treaty was in effect immediately following the revolutionary war, and his majesty's government sought to extradite John Paul Jones for piracy in British waters. Would we grant extradition because there was no uprising in Great Britain? Assume that we had a comparable treaty with the government of Nicaragua. Suppose that, today, a citizen of Nicaragua, active in the so-called contras, were to sink a vessel owned by the Sandinista government on the high seas, and flee to this country. Would we grant extradition because his act did not take place within the territorial waters of Nicaragua?

Particularly today, with the airplane, the helicopter, the high speed motor vehicle, the railroad, the speedboat and submarine, genuinely revolutionary activities can take place outside the geographic boundaries of the requesting state. I fear that if we adopt the geographic limitation propounded in the opinion today, we will find ourselves trying to work our way around it tomorrow.

I much prefer the rationale of the Seventh Circuit in *Eain v. Wilkes*, 7 Cir., 1981, 641 F.2d. 504. There, the court held that the political character of the offense provision does not apply to "the indiscriminate bombing of the civilian population" (p. 521). I cannot believe that the framers of the treaty intended that the exception would embrace the kind of activities that the record in this case reveals. As the *Eain* court said, "We recognize the validity and usefulness of the political offense exception, but it should be applied with great care lest our country become a social jungle and an encouragement to terrorists everywhere." (p. 520)

This case does not involve the "random bombing" that *Eain* involved. But every letter bomb to which Quinn was connected was directed to an innocent, albeit influential, civilian who had no direct connection to the troubles in Northern Ireland. Nor does the fact that Tibble was a policeman make any difference. The evidence does not indicate that Quinn knew or believed that he was a policeman. Moreover, it would make no difference if he did either know it or believe it. The killing of Tibble was an attempt to avoid arrest for extraditable offenses. The fact that Tibble was a policeman cannot metamorphose that killing, which, on its face, was a murder to escape arrest, into an offense regarded by the United States as one of a political character.

I concur in part VII C of the opinion, and in the judgment.

FLETCHER, Circuit Judge, concurring and dissenting:

I respectfully dissent from my colleagues' conclusion that Quinn may now be extradited on the murder charge. The decision facing this court is excruciatingly difficult. Quinn is accused of hideous crimes—violent and cruel and some of them cowardly. Innocent victims were targeted for receipt of letter bombs mailed anonymously. A decision that the full force of the law should not be invoked to punish persons found guilty of such acts seems inconceivable. However, the political offense exception to the treaty of extradition has a long history of protecting persons rebelling against their governments.

This longstanding tradition among western nations is an acknowledgment of the right of the governed to oppose unjust governments. Although the nations, ours included, have acknowledged the heinous nature of violent political crimes, they have nonetheless, under treaties and statutes, denied extradition when an individual's conduct falls within the narrow exception for the "political offense."

I find that I can concur in much of Judge Reinhardt's opinion. In part I, Judge Reinhardt simply and eloquently outlines the facts and the difficult dilemma that confronts us. In Part II he rightly concludes that the determination as to what constitutes a political offense within the meaning of the treaty and the statute is a task for the court. I also agree with his discussion of the standard of review to be applied by both the district court and our court.

In Part IV, Judge Reinhardt ably documents the evolution of the political offense exception, paying particular attention to the development of the incidence test in the United States. His description of the conflicting approaches taken by various United States courts grappling with issues similar to ours highlights the difficult nature of our charge. In Part V, I wholly agree with his condemnation of international terrorism and his conclusion that acts of international terrorism not be protected under the political offense exception. I believe, as does Judge Reinhardt, that the traditional incidence test applied by courts of this country since the 1800's accommodates the exclusion of acts of international terrorism from protection. The new limitations imposed by the courts in *Eain v. Wilkes* and *In re Doherty* unnecessarily break from the traditional test by inquiring into and evaluating the legitimacy of given political objectives and the conduct of internal political struggles. The political offense exception should be applied in an ideologically neutral fashion; it is neither necessary nor appropriate for courts to balance policy considerations. I believe the Seventh Circuit in *Eain* improperly rested its decision on its conclusion that only organized forms of aggression are afforded protection under the political offense exception and on its distinction between attacks on military and civilian targets. These limitations run counter to the reasons that originally supported creation of the political offense exception. I agree with Judge Reinhardt that the incidence test neither requires proof of membership in an uprising group nor recognizes a distinction between attacks on military and civilian targets. For these reasons I join Judge Reinhardt in rejecting the *Eain* test.

I concur in Judge Reinhardt's conclusion in Part VI that if an uprising existed at the time the offenses were committed, the bombings and the Tibble murder were incident to that uprising. I disagree, however, with his further conclusion that because the level of violence in Northern Ireland far exceeded that in England, the uprising did not extend to England.

I find persuasive the magistrate's and district court's findings that a severe political uprising existed in the United Kingdom, including England, at the time the acts of which Quinn is accused took place. The magistrate recognized the constitutional unity of Northern Ireland and Great Britain, and noted the numerous violent incidents that occurred in areas outside Northern Ireland, particularly in and around London. I cannot agree with Judge Reinhardt's conclusion that when PIRA members revolt against their British rulers in Northern Ireland, such acts are protected

under the political offense, exception, whereas the identical violent acts carried out against the same British rulers in London lose their protected status.

I disagree that this interpretation of the "uprising"component of the political offense exception sanctions previously extraditable violent acts. Judge Reinhardt is rightly concerned that "uprising" not encompass "terrorism or other criminal conduct exported to other locations." I share his concern. But in my view, the acts of Irish nationalists against the British in London are not international "terrorism or other criminal conduct exported to other locations." The longstanding ties between England and Northern Ireland, which Judge Reinhardt acknowledges are "well established," cannot be avoided or ignored. Although Northern Ireland may have been "separated" from Great Britain by treaty when the Irish Free State was created, it remained a part of the United Kingdom with representation in the British Parliament and it has been occupied by British troops all these many years. The acts of terrorism in England by members of the PIRA can hardly be termed acts of international terrorism.

The magistrate in another extradition case involving a PIRA member charged with bombing a British military barracks in England reached this same conclusion. McMullen was found not extraditable because his acts fell within the political offense exception. *See In re McMullen,* No. 3-78-1899 MG (N.D.Cal. May 11, 1979), *Reprinted in Extradition Act of 1981: Hearings on S. 1639 Before the Senate Comm. on the Judiciary,* 97th Cong., 1st Sess. 294, 294-96 (1981). I likewise conclude that Quinn's actions in London were part of an overall uprising in Northern Ireland and England.

Given my conclusion that the offenses of which Quinn is accused are protected under the political offense exception, I must address whether this protection extends to one who, like Quinn, is a citizen of a different nation from that in which the uprising is occuring. I do not believe that mercenaries or volunteers in a foreign conflict can claim protection under the political offense exception. I deduce from Judge Reinhardt's views on international terrorism that he would agree. To be entitled to protection, an individual would have to demonstrate tangible and substantial connections with the country in which an uprising occurs. It could be short of citizenship, but there must be a showing of substantial connection—for example, that he or she had lived in the country or territory and planned to continue to live there under a changed regime.

In Quinn's case, we lack sufficient information with which to make any such evaluation. We know that Quinn is a United States citizen, and that he resided in San Francisco during the years immediately preceding his arrest. In an Order Denying Bail, the magistrate noted Quinn's long standing family roots and ties in this [San Francisco] local community. He has a father and uncles and aunts here, he was educated here, and was employed in a family business at the time of his arrest. Except for a sojourn abroad, during which the alleged events occurred which resulted in the charges filed in the United Kingdon, he has for the most part resided in this community.

Because we do not know the extent of Quinn's ties to Northern Ireland, I would remand the case for an initial determination by the district court as to whether Quinn should be treated as an Irish national and afforded the protection of the political offense exception. Accordingly, I dissent from the holding that Quinn may now be extradited on the murder charge.

I agree with my colleagues that Quinn may not be extradited on the conspiracy charge at least until after the district court considers the question of the statute of limitations. However, I believe that the district court should not be required to reach that question unless it first concludes that Quinn's ties to Northern Ireland were insufficient to invoke the protection of the political offense exception. For the reasons I have explained, I concur in the holding remanding the conspiracy count.

UNITED STATES OF AMERICA, ET AL., PLAINTIFFS-APPELLEES, v. J.B. STRINGFELLOW, JR., ET AL., DEFENDANTS-APPELLEES, CONCERNED NEIGHBORS IN ACTION AND PENNY NEWMAN, INTERVENORS-APPELLANTS

[No. 84-5682]

UNITED STATES COURT OF APPEALS, NINTH CIRCUIT

Argued and Submitted March 6, 1985—Decided Feb. 18, 1986.

Citizens groups sought to intervene in Government's action against parties allegedly responsible for release of hazardous wastes. The United States District Court for the Central District of California, Malcolm M. Lucas, J., granted permissive intervention with conditions, and group appealed. After initial reversal without opinion, 755 F.2d 1383, the Court Appeals, Reinhardt, Circuit Judge, held that citizens group was entitled to intervene as of right, inasmuch as intervention was necessary to protect group's interests, which were not adequately represented by existing parties.

Reversed and remanded.

1. Federal Court (587)

Order denying intervention as of right was final appealable order, even though permissive intervention had been granted. 28 U.S.C.A. § 1291.

2. Federal Courts (544)

Citizens group's participation in litigation as permissive intervenor did not estop it from timely appealing that portion of district court's order denying it intervention as of right; although group unwillingly participated in litigation, it made clear that it was not consenting to denial of intevention as of right. Fed.Rules Civ. Proc.Rule 24, U.S.C.A.

[United States District Court—Northern District of California]

IN THE MATTER OF THE EXTRADITION OF PETER GABRIEL JOHN MCMULLEN

MAGISTRATE NO. 3-70-1099 MG

MEMORANDUM DECISION

Having denied extradition of Peter Gabriel John McMullen by an oral order made at the conclusion of argument on May 9, 1979, and having dismissed the extradition proceeding against Mr. McMullen, the Court is taking this means of setting forth in detail the facts and legal authorities which lead to our ruling that the defendant came within the political offenses exclusion provided in Article V, 1 C(i) and (ii) of the extradition treaty between the United States and Great Britain.

At the outset, it must be stated that in ruling, we make no finding that the defendant would not be subject to extradition because of Treaty Article V, 2, which in this case, is the possibility of physical or mental mistreatment the defendant could suffer should he be incarcerated in a British prison in either England or Northern Ireland.

The government concedes that should the facts meet the requirements of the political offense in the treaty provisions, it is mandatory that the Court deny extradition.

This has been a unique extradition proceeding. It cannot be characterized as the usual type of extradition normally which has it source in either a bank embezzlement, robbery, extortion, fraud or murder, all absent political overtones.

The background of this litigation could relate back to the early turn of this century and at least to the year 1921 when the conflict between the Irish people and Great Britain was partially resolved with the creation of the Republic of Ireland. Sporadically since 1921 and particularly in the decade commencing in 1970 the conflict, politically and nationalistic in concept and objective has flared and erupted between certain groups in Northern Ireland and Her Majesty's government. Not all the Ulster inhabitants seek freedom from British rule and unification with the Irish Free State. One organization within and without the borders of Northern Ireland has continued to press and to this day continues to fight for Northern Ireland's independence from British rule. This is the Provisional Irish Republican Army (PIRA) which has since 1970, engaged in various sorts of terrorist or guerrilla activities, covert in execution in its quest for nationalization of Northern Ireland.

The standards that must be established to bring what otherwise would be common law crime (e.g., murder) within the political offense exception of the treaty are two-fold. One, the act must have occurred during an uprising and the accused must be a member of the group participating in the uprising. Second, the accused must be a person engaged in acts of political violence with a political end. Although these are not the verbatim standards set out in the British decision of *In Re Castioni,* 1 QB, 148 (1891), they are, in essence, what is required to be proved by the accused in order to avoid extradition, where this treaty exception is asserted by way of defense. *In Re Castioni,* supra, was cited by the Ninth Circuit in 1957 in its decision of *Karadzole* v. *Artukovic,* 247 F.2d 198 in affirming a District Court decision denying extradition involving a World War II war crime. In *Artukovic,* the Ninth Circuit speaking through Circuit Judge Stevens acknowledged that American courts have more or less adopted the standards of *Castioni* in political offense cases (pg. 203) The treaty provides the political character of an otherwise criminal offense for which extradition is sought must be so regarded or determined as such by the requested party, in this instance, the United States of America. We do not look to the Executive arm of the government, particularly the State Department for a determination as what this government considers as an act of political offense relative to criminal activity occurring on the soil of a foreign nation. Extradition is a judicial proceeding. The decisional law of the courts of the United States is the source in answering this question: "What is a crime of a political character"? The language in *Artukovic* is of assistance when it quotes *Castioni* as to what is a politically motivated crime. The political offense crime must be incidental to or formed as a part of a political disturbance and committed as furthering a political uprising. Even though the offense be deplorable and heinous, the criminal actor will

be excluded from deportation if the crime is committed under these pre-requisites.

Was there in 1974 a disturbance in Northern Ireland that meets the first of these steps? In executing a derogation with respect to the International Covenant in Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (Government Exhibit 4c) and (RT 10) the British government recognizes there existed a "public emergency" as defined in the covenant due to violent civil disturbance or disruption concerning the United Kingdom's conduct of its affairs in Northern Ireland. The record in this case shows that highly placed officials in the British government made direct admissions that an insurrection was occurring in Northern Ireland in 1970 and 1974.

Aside from these admissions by the British government of a public emergency or an insurrection existing in Northern Ireland, we cannot shut our eyes as to what has occurred in Northern Ireland since 1970 through 1979 with respect to the activities of PIRA in its insurgent and terrorist activities, seeking independence for the six countries that comprise Northern Ireland (Ulster). The PIRA's terrorist/guerrilla activities were not and are not confined to these six counties, but extend to Great Britain. This, together with the presence of British troops in Northern Ireland since 1972, and the termination of Home Rule, leads the Court to the obvious inescapable conclusion that an insurrection and a disruptive uprising of a political nature did, in fact, existed in Northern Ireland in 1970 and particularly in 1974, when Mr. McMullen is charged with the crimes against Claro Barracks, a British Army installation. We find this necessary atmosphere or condition existed as one of the steps necessary in the application of the political exception defense. *In Re Ezeta*, 69 F.2d 972; *Ramos* v. *Diaz*, 179 F.Supp. 454.

The government attempts to brush aside McMullen's bombing barrack activities, in this era of insurrection, killing, bombing and other underground covert terrorist activities by the PIRA, as being personally motivated, hit and run and isolated from PIRA's terrorist campaign. The government further argues that there is no proof that on the date of McMullen's alleged crime there was any open activity by the PIRA against the British government. This argument is novel and totally unacceptable. Because PIRA guns may have been silent, that it did not throw nor ignited bombs on the day of McMullen's bombing, although they may have been very active in terrorist conduct the day prior and the day after test the Court's credibility. A political disturbance, with terrorist activity spanning a long period of time cannot be disregarded even if, in fact, the PIRA lifted not one single finger in either Northern Ireland or Great Britain to further its cause of nationalism of Ulster on the day Claro Barracks were bombed.

The evidence in this case considering allegation of the British Government, in its complaint filed against the defendant, and the statement which McMullen gave to the New Scotland Yard in May 1977, irrefutably establishes the defendant was a member of the PIRA in 1974. At that time, he was a deserter from the British Army. The detachment from which he deserted took part in the Bloody Sunday firing in Derry in 1972.

Expert testimony, documentation, literature, and the reports and findings, international groups and organizations concerning civil rights which in the record clearly establish the PIRA in 1970 and in 1974 was a political terrorist organization with an objective of nationalizing Northern Ireland. No one disputes this. The proof before us more than adequately establish from British sources and defense evidence that prior to 1974 and in 1974, McMullen was a member of the PIRA, an organization existing in an era of political upheaval, which was engaged in and conducted political violence, of the most extreme nature with a solely political objective. The record is likewise well documented the British Army and its facilities were prime targets for the PIRA's guerrilla warfare. To say McMullen's activities in entering England, seeking out a British military barrack, clandestinely securing the necessary explosives to complete the bombing the premises and executing the bombing, was a product of his own vengeance or personal motivation free of any political consideration, is not supported by the record. We must reject the government's assumption or speculation that McMullen was solely, personally motivated in the bombing of the barracks. There is too much evidence to the contrary supportive of a finding that he acted as a member of PIRA, his activities were directed by persons in authority in the PIRA, and that the bombing was a crime incidental to and formed as part of a political disturbance, uprising or insurrection and in furtherance thereof.

With this evidence before us the burden shifts to the government to offer evidence that contradicts circumstances or activities which make the political exception applicable. *Ramos* v. *Davis*, supra. None was offered to meet this burden. The government suggests we disregard the testimony of Dr. Jeffrey Prager and Dr. Rona M. Fields, on the grounds that they were unqualified to give expert testimony on the subject of political offenses. The cross-examination of these two experts was brief and in no way discredited their expertise nor soiled their opinions regarding political offenses in Northern Ireland. We accept their opinions and conclusion.

We find that the defendant has established by evidence, which we most conclude as preponderating that the act of bombing the Claro Barracks was political in character. Thus, all the two requisites of establishing the political offense exception of the Treaty having been met, we find that Peter Gabriel John McMullen is therefore not extraditable under the provisions of the Extradition Treaty in force between the United States of America and the United Kingdom as of 1974.

□ 1540

Mr. LUGAR. Mr. President, it was because of these cases that on June 25, 1985, the United States and the United Kingdom signed the Supplementary Extradition. Its purpose is to reverse the three cases where extradition was denied and put an end to this development in the law. It was submitted to the Senate for advice and consent to ratification July 17, 1985.

COMMITTEE ACTION

The principal focus of the Foreign Relations Committee's deliberations was the political offense exception. Article 1 of the treaty, as submitted, excluded from treatment as a political offense all serious violent crimes. Accordingly individuals sought for extradition to the United Kingdom would have no longer been able to interpose a defense based on political considerations at their extradition hearing. Their only recourse would have been to appeal to the Secretary of State to exercise his discretion to deny the extradition request notwithstanding a court ruling.

Tesimony at the committee's hearings revealed that in recent years suspected IRA terrorists had been able to escape extradition by asserting that their acts fell within the political offense exception to extradition. It was also shown that these cases had the effect of encouraging political violence in Northern Ireland by signaling, however erroneously, that there was broad support in America for acts of political terrorism committed in Ireland.

All committee members were critical of these cases. No member supports the political offense exception as a shield to protect terrorists.

On the other hand, members were mindful of the tradition in the United States of providing a haven for political refugees. As the hearing testimony revealed, this tradition runs deep in American thought and jurisprudence. To discard it altogether because of a few unfortunate cases struck several members as an extreme solution.

Two principal reasons were advanced for limiting the scope of the political offense exception in extradition requests from the United Kingdom. First, in a democracy such as the United Kingdom violence should never be deemed an acceptable part of the political process. To even permit courts in the United States to consider political motives as justifiying murder or other violent crimes showed a lack of respect for the democratic process. Where the individual can bring about political change through the ballot box, the bomb and the bullet have no place.

Second, to refuse to extradite even a few terrorists undermines U.S. antiterrorism policy. That policy is bottomed on the proposition that cooperation with our democratic allies is an essential element in the war against international terrorism. For the United States to refuse to extradite suspected terrorists makes it that much more difficult to enlist the allies in antiterrorism efforts. This perceived inconsistency in United States policy has made all the more apparent after the assistance the United Kingdom extended to the United States in connection with the retaliation against Libya for the terrorist attack on the West Berlin disco.

The importance of international cooperation in the fight against terrorism was underlined at the May 1986 Tokyo Summit. There, the leaders of the seven industrial democracies, including the United States and the

United Kingdom, issued a strong statement pledging themselves:

To make the maximum efforts to fight against the scourge [of terrorism]. Terrorism must be fought effectively through determined, tenacious, discreet, and patient action combining national measures with international cooperation.

Set against these very strong arguments were concerns about the precedential effect that would result from a change in the political offense exception. The fear was expressed that in the rush to deal with the problem of the moment, international terrorism, a valued American tradition, the right of political sanctuary, would be lost. Furthermore, taking the political offense exception away from the courts left the executive branch with the sole discretion to determine whether to extradite when political issues were involved. Individual justice might be sacrificed to broader foreign policy issues.

After considerable discussion, the committee reconciled these competing concerns through adoption of a compromise resolution of ratification sponsored by Senator EAGLETON and myself. This resolution takes the unusual, although not unprecedented, step of making Senate consent to ratification conditioned on the acceptance by the Government of the United Kingdom and the executive branch of the United States of amendments to the text of the treaty. These amendments were developed in close consultation with the administration and the British Government. While both governments would have preferred that the Senate approve the treaty as submitted, both are willing to accept the committee's changes.

Should the Senate consent to the treaty with the committee's amendments, these amendments will become an actual part of the compact between the two governments. For ease of reference the text of the treaty, revised to reflect the committee's proposed amendments, is reprinted in the appendix to the committee's report.

The essence of the committee's compromise if found in what are now articles 1 and 3 of the supplementary treaty. Article 1 narrows the list of offenses which a court may treat as political offenses. In effect, those who commit serious acts of violence, or attempt to commit, or participate as an accomplice in these acts, can no longer escape extradition by claiming their offenses were political. Thus, in each of the four cases I described earlier, had the supplementary treaty been in effect the political offense issue would, without question, have been decided against the defendant.

Article 3, on the other hand, gives the courts the opportunity to refuse extradition to the United Kingdom when the request is a pretext or when the individual would be subject to political or religious persecution. Article 3 allows an individual wanted for an offense listed in article 1 to show that he is in fact being sought, not for the crime he allegedly committed, but because of his race, religion, nationality, or political opinions. Alternatively, the individual sought may try to establish that were he surrendered, he would be prejudiced or punished by reason of any of these factors. If he can prove either by a preponderance of the evidence, he can defeat the extradition request.

This approach has precedents in both United States and foreign law. In the United States the courts have undertaken to narrow the political offense for certain violent crimes and have suggested in dicta that extradition can be denied for humanitarian reasons.

In the United Kingdom, fugitives sought for extradition are precluded from claiming that violent acts should be considered political offenses. However, these individuals are able to avail themselves of humanitarian safeguards similar to that found in article 3. The same is true for those states party to the European Convention on the Suppression of Terrorism. Articles 1 and 2 of that convention narrow the political offense exception, but article 5 gives to the state from which extradition is sought the right to refuse a request for humanitarian reasons.

Senate approval of the committee's compromise will not bring United States practice into complete conformity with British and European law, however. In the United Kingdom, if extradition is denied for humanitarian reasons, the individual's case must be submitted for prosecution in accord with British law. Likewise, article 7 of the European Convention on the Suppression of Terrorism requires any party denying extradition for humanitarian reasons to submit the case for prosecution. In the United States, however, if an individual wanted for extradition to the United Kingdom successfully invokes the humanitarian exception contained in article 3 of the supplementary treaty, he will, given the current state of United States law on jurisdiction over acts committed abroad, most likely escape prosecution for his acts.

Because the consequence of an individual prevailing under a humanitarian exception differs so greatly in the United States from that in the United Kingdom or elsewhere in Europe, the committee added a second part to article 3, which will be applicable only to extradition requests from the United States. Article 3(b) provides that either party to a United States extradition proceeding commenced by a request from the United Kingdom may appeal a finding relating to the humanitarian exception. As the individual already has an effective right of appeal by way of filing a petition for a writ of habeas corpus, this section gives the Government a right of appeal it does not have under current extradition law. In view of the effect of a finding under article 3(a) in favor of the defendant, I believe the grant of appeal rights to the Government is warranted.

The committee made a second major change in the supplementary treaty as submitted as well. It has included, as article 2 of the amended treaty, a restatement of the procedures that govern the consideration of an extradition requests in U.S. courts. This article reaffirms that the magistrate or Federal judge is to permit the individual to present evidence in connection with the request. It insures that no individual is to be extradited without a fair hearing.

The committee also gave considerable attention to the issue of retroactivity. What is now article 5 of the supplementary treaty provides that the treaty will apply to offenses committed before the treaty becomes effective. This makes it retroactive. For example, if some of those who participated in the attempt to murder Mrs. Thatcher and her cabinet at Brighton in 1984 were found in the United States after the supplementary treaty came into force, article 5 would insure that they could not escape extradition by relying on the cases I cited above.

The courts have examined the question of the retroactivity of extradition treaties on several occasions. They have found no constitutional problem with retroactivity. Indeed, they have held that absent an express provision to the contrary, extradition treaties will be construed to be retroactive. Moreover, the Senate has approved a retroactive clause identical to that in article 5 in treaties with France in 1970 and Sweden in 1983. Twenty-three other supplementary treaties in recent years have been approved with some types of retroactive clause.

The committee also made several other changes in the supplementary treaty as submitted. The list of crimes in article 1 has been shortened by deleting acts involving the mere possession of firearms and conspiracy offenses. Article 2 of the treaty, as submitted, would have made the statute of limitations of the requesting state applicable. The committee approved an amendment offered by Senator Helms deleting this provision.

Finally, the committee recommends that the Senate approve the resolution of ratification with a declaration. This declaration states that the Senate will not approve treaties with totalitarian or nondemocratic regimes. It also makes clear that neither the supplementary treaty nor any particular provision of it is to be considered a precedent for the treaties. The executive branch and foreign governments

are therefore on notice that the Committee on Foreign Relations will conduct a searching review of any new supplementary extradition treaties. Each will be considered on its own merits.

The supplementary treaty has been one of the most difficult and contentious issues the committee faced this Congress. The committee has worked long and hard to develop a compromise that could win broad, bipartisan support. I believe that the package it has approved meets this need. I urge the Senate to approve it.

□ 1550

Mr. PELL. Mr. President, I join the chairman of the Foreign Relations Committee, Senator LUGAR, in urging the Senate to give its advice to the supplementary extradition treaty with the United Kingdom with the amendments and declaration proposed by the committee.

This treaty has been one of the most contentious and divisive issues to come before the committee during this Congress. It has been contentious and divisive because it presented the committee with two apparently irreconcilable choices—to make it easier for Britain to bring fugitive terrorists to justice or to preserve the American tradition of barring extradition if a judicial determination has been made that the offense involved is political in nature.

Extradition can be a potent weapon in the war against terrorism, and make no mistake about it—it is a war. At the same time, it is a very major step to abandon more than a century of law and practice regarding the political exception to extradition. Our country refused to enter into extradition treaties at all for the first 50 years or so of our existence, because we harbored a great distrust of foreign legal systems. When we did enter into extradition treaties, it was on the condition that political offenses would be excluded and that U.S. courts would decide what constituted a political offense. This approach was grounded in the belief that rebels and political dissidents should not be turned over for trial to the very government they opposed.

All of the more than 100 extradition treaties that the United States has concluded have included a provision excluding political offenses—and that includes the treaty that has been in force with the United Kingdom since 1977. Last year, concerned about the denial by U.S. courts of British extradition requests in three cases involving members of the Provisional Irish Republican Army, the administration submitted to the Senate a supplementary treaty. The supplementary treaty, as submitted, would have eliminated the political exception for acts of violence, and with it, the traditional role of U.S. courts to deny extradition in connection with alleged political offenses.

That struck many on the committee as a remedy disproportionate to the problem at hand. There was broad agreement that the current treaty must be strengthened in order better to combat terrorism; but there was also considerable concern about the extent to which it would be prudent to depart from over a century of law and practice on the political exception.

When the committee first considered the treaty in April, I, and others on the Democratic side, made an effort to respond to the administration's concerns while at the same time preserving a meaningful role for U.S. courts. We tabled a proposal that was a sincere effort to reconcile these two objectives.

The administration, however, did not accept our proposal, and I regret very much that the administration chose to mount a public campaign of misrepresentation and distortion of what we were trying to accomplish. I have had two personal friends murdered by the IRA—The Irish Republican Army; so I feel as strongly about terrorism and the IRA as anybody, and I want to ensure that the murderers of my friends and others in similar circumstances are extradited if they ever come to the United States.

The search for a compromise went on, however, and it is a tribute to the efforts of Senators LUGAR and EAGLETON that a way was found to reconcile the seemingly irreconcilable. They developed a compromise that consists of two paired elements. First, article 1 sets forth a list of violent crimes for which the political defense could no longer be claimed. The list is not as extensive as the one the administration had proposed, but it nevertheless covers all typically terrorist acts. Second, article 3(a) provides that notwithstanding article 1, a U.S. court may deny extradition based on a persuasive factual showing that trumped-up charges are involved or that the person sought could not get a fair trial because of his race, religion, nationality, or political opinions. This latter provision establishes an affirmative right of inquiry into the justice system in Northern Ireland.

Thus, article 1 considerably narrows the applicability of the political exception; but that action is balanced by article 3(a) which preserves a meaningful role for U.S. courts in two important areas of individual rights. This is an excellent compromise, and I urge my colleagues to support adoption of the resolution of advice and consent.

Mr. THURMOND. Mr. President, I rise today in support of the Supplementary Extradition Treaty between the United States and Great Britain. This treaty will make it easier to extradite terrorists and members of the outlawed Irish Republican Army accused of violent crimes. It would do that by narrowing the "political exception" test that presently allows persons accused of violent acts to escape extradition by claiming that their crimes were politically motivated.

Opponents of the treaty have said the United States should not abandon its long tradition of exempting political acts from extradition. Mr. President, we are not abandoning a long tradition. Rather, we are now distinguishing between political rebels—to whom the United States has traditionally offered safe haven—and terrorists, who should be speedily extradited.

Approval of this treaty will greatly assist the British Government in bringing terrorists to justice. This treaty will substantially narrow the scope of those crimes which qualify for the "political exception" test. No longer will the crimes of murder, voluntary manslaughter, kidnaping, abduction, and serious unlawful detention—hostage-taking—be regarded as political offenses. In addition, offenses which involve the use of a bomb, grenade, rocket, firearm, letter bomb, parcel bomb, or any incendiary device whose use endangers any person shall no longer be regarded as political offenses. People who commit any of the previously mentioned crimes in Great Britain or Northern Ireland and then seek safe haven in the United States would be subject to extradition.

Finally, this treaty contains due process safeguards.

First, it requires the judicial authority of the United States to permit the individual sought to present evidence on the questions of whether: There is probable cause; a defense to extradition exists; and the act upon which the request for extradition is based would constitute an offense punishable under the laws of the United States.

Second, extradition shall not occur if a person establishes by a preponderance of the evidence that he is being extradited for punishment on account of his race, religion, nationality, or political opinions.

Third, if the judicial authority determines that the evidence of criminality presented is not sufficient to sustain the charge under the provisions of the treaty, then there is no obligation to extradite.

Mr. President, I urge my colleagues to support this treaty.

Mr. LUGAR. Mr. President, at this moment, I ask unanimous consent—and this follows clearance by the majority leader, the distinguished minority leader, and by Senator PELL—I ask unanimous consent that, after disposition of the pending business, the Senate return to legislative session; and I further ask unanimous consent that upon return to legislative session the Senate turn to Calendar item No.

696, S. 2572, the Economic Support for Ireland and the United Kingdom bill.

The PRESIDING OFFICER (Mr. EVANS). Is there objection? Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me, Mr. President.

Mr. President, a short while ago, when Senator KENNEDY, the able Senator from Massachusetts, was on the floor, I was involved in some work relating to the Agriculture Committee. I could not get here in time to hear the Senator's remarks in person. I did hear them, most of them, on the intercom.

I feel obliged to mention a few matters to the Senate at this time relating to a view that I have of Chile that is contrary to that of the distinguished Senator from Massachusetts.

Let me say at the outset that I do not pretend to be an expert on Chile. I have been there twice—once 10 years ago; the second time last week. Nor do I present myself as a pro-Pinochet Senator or anti-Pinochet Senator. I want democracy for Chile, just like everybody else.

But, I am firmly anti-Communist and I cannot support anybody or anything tending to force Chile into a situation which will result in another communistic takeover of that country. The country survived Salvador Allende, a Marxist, who brought the country to ruin. Now they have a military government about which much is written and broadcast but very little of which is complete or accurate.

I say that not in defense of the Government. I should say, however, that it is the only military government I ever heard of that has voluntarily given up its powers to a constitutional system. There may be many things that I do not know about Chile, but I can perceive from the broad statements made by the Senator from Massachusetts, he does not know very much about it either.

I do not present myself as an expert, I will say again, but at least I have been there and I have met with the people of Chile, including about 50 or 60 American citizens who live in Chile. And I can tell you, Mr. President, that they present an entirely different picture from that which I heard Senator KENNEDY discuss just a few minutes ago.

Now, having said that, Mr. President, I am very pleased that I have given a shot of adrenalin to the news media of the United States. Nothing exhilarates them more than to launch an attack upon the distinguished President of the United States, Mr. Reagan, or to launch an attack on JESSE HELMS. Sometimes they are accurate. I cannot remember the last time they were accurate, but sometimes they are.

But let us discuss just for the record precisely what happened during my visit last week for 4 days in Chile.

□ 1600

And I say again for the purpose of emphasis that I do not present myself today or at any time as an expert on Chile.

The facts are, Mr. President, that some months back I was invited to visit Chile by the National Agricultural Society of Chile, which is a private organization that has been devoted to the improvement of agriculture in that country for 148 years. It does not have the remotest connection with the Government. It never has. As chairman of the Senate Agriculture Committee, I accepted that invitation 3 or 4 months ago because I had heard of the enormous strides Chile was making in agriculture production since it instituted a no-subsidy, free-market policy in the agricultural sector.

So last week I spent 4 days, as I say, in Santiago, which is the capital city. While I was there I was constantly besieged by the free press of that country. We hear constantly that Chile is an oppressed country, and pictures are painted of dead bodies lying all over the streets. I walked the streets of Chile daytime and nighttime. I saw no dead body. I brought mine back to the United States alive. So, so much for that. I suspect there is more violence in some sections of New York City than there is in Santiago.

But in any case, while I was there I met constantly with the press, not by my design but by theirs. For example, I went to see the distinguished president of the supreme court. They do not call him the chief justice. He is the president of the supreme court, and a delightful man. The judiciary in Chile is separate from and independent of the executive branch of Government. At every stop, Mr. President, 30 or 40 newspapermen and newspaperwomen rushed forward with their notebooks and tape recorders, TV cameras, and so forth, and from their questions it was obvious that they represented every section of the political spectrum—a fact that was also attested to by the publications displayed on every newsstand.

So Chile has a free press, free to criticize the Government, which it does. And I heard of no editor being beheaded down there. I have heard of no newspaper being shut down as is the case in Nicaragua. Several times I thought I might be back in Washington when I saw all of those news people. But there is one difference. There, when I picked up the papers the next morning and had them translated for me—I do not read Spanish—I found that I was quoted accurately. That does not happen in the United States. It was a unique and pleasant experience.

On one such occasion I happened to say that I was ashamed of the press in the United States because the major media had not presented both sides of the question relating to Chile. In fact, by my own knowledge—this nonexpert who spent 4 days there, and only 4 days—the facts presented in the United States media about the current situation in Chile are not correct. Nevertheless, I was not prepared for the outburst of ignorance which has blared forth in the U.S. press since I returned to Washington.

This is the same press, Mr. President, that so eagerly anticipated the coming of Mao Tse-tung in China, Fidel Castro in Cuba, the downfall of the Shah of Iran, the triumph of Mugabe in Zimbabwe, the defeat of the United States in Vietnam, and the defeat of the Sandinistas in Nicaragua. Now look at our media today. They are shocked that I have expressed concern, and, yes, dismay as to whether the State Department's policies in Chile will bring about a democratic transition to freedom, or not.

I have been in the Senate since January 1973, a little over 13½ years. But before that, I was involved in the news business. I ran a broadcasting company, a television station, and some radio stations. Even then, I did what little I could to warn the American people that the media and the Marxists and the U.S. State Department were in an unholy, if unintentional, alliance. I do not retreat from that one inch.

I remember doing an editorial on our television and radio stations about this fellow, Fidel Castro. And the newspapers jumped all over me, said this guy HELMS is pro-Batista. He embraces tyrants. It is not so. It was not so then, and it is not so now. But what I was trying to say is, you had better watch out because this fellow, Fidel Castro, no matter what the New York Times or CBS says, is a Marxist. They said, oh, no, he is an agrarian reformer. He is a nice guy. He is for liberty, freedom, peace, serenity and tranquility for the united people of Cuba.

Who was right?

What about my position on Mao? I talked about that. Again I was castigated. "You are an old Chiang Kai-shek supporter." No. I was an anti-Communist then, and I am an anti-Communist now.

And what about the Shah's successor? How do you like him? There were some of us around who said, oh, boy, you had better watch out. For all of his warts and for all of his defects, the Shah of Iran is at least anti-Communist, and he is a friend of the United States. They said, no, no, no, HELMS, you embrace dictators. Now look at Iran.

I remember Zimbabwe, and my friendship with a Methodist minister who was elected as the first black Prime Minister of Zimbabwe. His name is Abel Muzorewa. The U.S. State Department undermined Prime Minister Muzorewa and made it possible for Mr. Robert Mugabe to become the Prime Minister, a Marxist. Now look at the violence in Zimbabwe. How about that, Mr. President?

Whatever the faults of their predecessors in these countries, the citizens of those unfortunate nations now look back to the period when they had the Shah of Iran, and Bishop Muzorewa and, yes, Somoza, as the good old days. It was clear even then that the successors of these gentlemen were about to institute tyrannies far beyond anything the world had ever imagined.

So, was JESSE HELMS wrong about these great reformers like Castro, Mugabe, and all the rest of them? I will leave that to the judgment of the American people, but they will not be able to judge because they are not getting both sides of it. All they get is that JESSE HELMS and anybody else who puts up a warning finger is a guy who embraces despots.

How about the Vietnamese Communists? Those of us who said, "Whoa, wait a minute, we ought to go ahead and take a stand against communism, unequivocal, to not try pussyfoot, be on both sides." We were the guys who were in favor of the despots.

Mr. President, I remember the debate on the Senate floor about Argentina and the United Kingdom, and the Malvinas, or the Falklands, as they are better known here.

□ 1610

Frankly, I doubted that there was any wisdom to our encouraging Great Britain to come across around the world to get involved over a piece of worthless real estate called the Falkland Islands, and I said so. I was immediately condemned as being anti-British, turning against an ally, and that sort of thing.

But what I had in mind, Mr. President, was, I asked myself, how many lives is that little piece of worthless real estate worth? In fact, I wanted the British and the Argentines to sit down and work out the question of sovereignty, because history is on the side of the Argentines, whether you like it or not. So I was accused of embracing the dictators of Argentina.

But, you know, Mr. President, 1,200 young men gave their lives in a useless war that need not have ever happened. Yes, I voted against the resolution on this floor because I thought that the British and Argentines ought to sit down and talk this thing out.

But here I am advertised as a guy who loves dictators.

Mr. Herblock had his cartoons, bless his heart. He is always positive, but he is only sometimes right.

In any case, the citizens of Chile, to get back to that subject, are in the unique position of having overthrown a Communist dictatorship.

How many times has that happened? The people of Chile have a vivid memory of what happens when a Communist coalition takes control, ignoring the laws, ignoring the constitution, ignoring the Congress, ignoring the judiciary. That all happened under the Marxist Salvador Allende.

The Chilean people have not forgotten what it means to have every one of their human rights abrogated by the arbitrary whim of a Communist regime. So I think that it is safe to say that they have a very different point of view from that of the major media of the United States and the State Department.

Yes, sir, the people had their fill of communism. The women of Chile got in the streets and beat on their casseroles, their pots and pans, and demanded that the government be ousted, and it was.

I heard the distinguished Senator from Massachusetts lament the fact that Allende was overthrown. Well, the people overthrew him. It was not the CIA, not ITT. I remember when the late Senator Church looked into the matter. He would have loved to prove that the CIA overthrew Allende. But after weeks of hearings, he could not.

Since returing from Chile on Sunday, I have encountered many self-styled experts on Chile, but, unfortunately, most of them fall into one of two categories.

The first category consists of the Marxists and the crypto-Marxists who would like nothing better than to have another Allende-style government in control of Chile.

The second category consists of experts who have never been to Chile.

Well, I am not embarrassed to say I have been to Chile because I have only been there for 4 days, but I will say again I do not pretend to say here on the floor this afternoon that I am an expert on Chile. However, that visit enabled me to see the great gulf between the imaginary Chile and the real Chile that exists in the fevered reports in our newspapers and on our television screens.

Surely, very few of those writing and broadcasting about Chile care very much about the facts. I do not suppose they want to know them. They would not look at the facts if the facts were put right under their noses. But just in case there are even two or three who may have a qualm or two about what they are writing or broadcasting, let me offer just a few facts. Later on, I will give a more comprehensive review of things that I perceived while in Chile.

First, in referring to what the distinguished Senator from Massachusetts said, I must ask the question: Is the Chilean Government there trying to cover up the Rojas case, the case of the young man who was burned to death? The answer is definitely no.

On the very day that the incident occurred, the government realized that the circumstances were far beyond that capability of a normal criminal investigation and, therefore, the court of appeals was petitioned to establish what we, in this country, would call an independent prosecutor to investigate the case and bring the perpetrator to justice.

Bear in mind, this is not the Government. This is the independent court.

The court, almost immediately, appointed such a prosecutor chosen from the ranks of the judiciary, and the investigation was begun.

For the purpose of emphasis, let me say again that this is not an investigation by the Government. It is an investigation by the independent judiciary.

Second, is the Chilean judiciary really independent?

The answer to that, I believe, is "Yes." As I say, I visited with the president of the supreme court, the equivalent of our Chief Justice. All Chilean judges are chosen from a career service and cannot be dismissed by the Government. In other words, if Mr. Pinochet does not like a judge, he cannot do anything about it.

The judicial service itself selects a panel of nominees from which the Government must choose.

By the way, many of the judges serving today in Chile were appointed by the Allende government. They have not been dismissed.

The proof of the judiciary's independence is that a number of Chilean military and security personnel have been convicted of human rights abuses and imprisoned, and in two cases the death penalty was imposed.

You do not hear that from the distinguished Senator from Massachusetts.

Incidentally, the anomaly: One of the international human rights groups condemned Chile about an episode. In Chile, the judiciary investigated and found the two men who did it and put them to death, and then the same human rights group condemned Chile for executing them. So the judiciary cannot suit this human rights group at all.

A third question, Was the special prosecutor in Chile appointed because of pressure from the U.S. State Department?

Absolutely not. The special prosecutor had been appointed before that sanctimonious press conference of the State Department called for an inves-

tigation. The investigation was already underway.

Surely, wherever you think of Chile, surely sometimes the State Department ought to mention that and maybe even say, "We commend the Chileans."

No; they pretended they had to call for an investigation when, in fact, the investigation and the request for a special prosecutor occurred on the very day of the death of this young man.

A special prosecutor was appointed and he was working the day before the State Department in its press conference made the demand.

I asked the distinguished U.S. Ambassador to Chile why he was not aware of this and why he had not reported it to the U.S. State Department. He said, "Well, I was out of town." I said, "Good Lord, man, didn't you have a No. 2 man who could have picked up the telephone?"

□ 1620

He did not answer.

Now, fourth, Mr. President, did the Chilean Government try to block the transfer of Roja—this is the burned young man—to a better equipped hospital? On the contrary. As soon as Rojas and his friend Carmen Quintana were discovered, they were taken to the nearest medical facility. When it was seen how badly burned they were, they were immediately taken to the largest public hospital, which was specially equipped to treat burn victims.

How does that square with what we have been reading and what we have been hearing?

When the family asked for a transfer to a private hospital, the private hospital sent its staff doctor to examine the patients, the young man and the young woman and the private doctor found that Rojas was so severely burned over 60 percent of this body, that his vital signs were failing so rapidly, and that he had respiratory complications, that any move would be highly dangerous to the patient. This was only 30 hours after the incident occurred.

In his medical report, this private doctor stated that there would be no benefit to the patient from the move. Meanwhile, the young woman, who was less severely burned, was transferred.

Question No. 5. Is it true that there is good evidence that Rojas and Quintana were beaten and burned by military personnel? The answer to that is, nobody knows. The alleged witnesses have not come forward. They have not been identified by the distinguished Senator from Massachusetts or anybody in Chile that I know of. Yet the flat statement is made that these were soldiers, with blackened faces. How do they know?

This much is known about the young man and the young woman: Both families come from the far left end of the political spectrum, no question about that, persons who were supporters of the Allende government. But the point I am trying to make, Mr. President, is until the testimony of sworn witnesses can be taken in court, should not statements by unidentified individuals be laid aside and given no credibility?

I could say that statements were made, if they were made, by people who have a political interest in making accusations against the Government. But I am not going to say that. I do not know that. I do not know who they are. But neither does the Senator from Massachusetts, nor does any other Member of the Senate, nor does the U.S. Department of State.

There are some alternative explanations about which I have no knowledge as to their credibility. It was suggested to me, for example, that the killings were a provocative act by the Communists themselves, or that the revolutionary couple, the young man and the young woman, were carrying incendiary devices that exploded accidentally. I do not know. But officials of the Government and the press, the free press in Chile, have stated that the parka, the coat worn by the young man, Rojas, was burned only on the inside, not on the outside.

So what does that do to the statement that was made here this afternoon in this Chamber, as a matter of fact, when it is not a known fact, that whoever assaulted these people doused them with gasoline. How do you douse somebody on the inside of a coat? In any case, I do not know and I do not claim to know. But I say this: Elementary fairness would indicate to the U.S. Department of State and to every Senator that we wait until there is some credible testimony, sworn testimony, by identified witnesses.

I could comment on the young woman who was burned. She had been arrested previously on the university campus there for inciting a riot. Experts have identified the young woman passing out incendiary devices on the tape as Carmen Quintana, the woman burned in this incident. I do not know it is true, but it should give pause to those anxious to rush to judgment. I have a videotape that one of the television stations—not the Government—voluntarily gave me.

Finally, question 6. Reference was made to the funeral for the young man, Mr. Rojas, and the fact that Ambassador Barnes attended that event. The record ought to be made clear, but it will not—you will not read about this in the paper; you will not see it on television. But not one leader of the democratic—let me say it again for emphasis—not one leader of the democratic opposition was present.

The only people who were present were representatives of the Communist Party, the MIRista revolutionaries, and the Marxist-Leninist elements of the Socialist Party. Their flags, their banners, their wreaths with the hammer and sickle were present everywhere. That is why, Mr. President, I said Ambassador Barnes, whether intentionally or not, had planted the U.S. flag right in the middle of a Communist rally. Because that is what it was.

Why, Mr. President, do you suppose that the U.S. Department of State has not mentioned the fact that this rally crowd began roughing up the police who were there, and those nice little people who just came to the funeral just happened to have their sledgehammers with them and they went over and destroyed the tomb of the Pinochet family?

Whatever you may think of President Pinochet, I think his dead parents and his dead mother-in-law deserve more respect. But they took their sledgehammers and they destroyed that tomb. Not once mentioned in the press here or on television, not once referred to by the U.S. Department of State.

I talked to Ambassador Barnes. At his own request, not mine, because I was not going to bother the Ambassador while I was in Chile. I went there, as I said at the outset of my remarks, at the invitation of an agricultural society, a commitment that I had made 3 or 4 months ago. But the Ambassador requested to come see me at my hotel.

We had a candid discussion. He did not agree with me and I did not agree with him. But, you know, Mr. President, the Ambassador said that he saw no politician from the democratic left or the democratic center. He mentioned only one personality—this is the Ambassador himself speaking, not JESSE HELMS. The Ambassador himself said he saw only one personality, a man who has been identified as belonging to the Marxist-Leninist wing of the Socialist Party.

□ 1630

The only other Ambassador who went to this rally was the French Ambassador, and the presence of these two Ambassadors supporting the antidemocratic cause has been of great concern in Chile.

A couple more points and I will conclude with great gratitude to my friend from Indiana for indulging me.

The morning after my visit with the Chief Justice or president of the Supreme Court, there was an item in El Mercurio, an independent newspaper, and the oldest in the Western Hemisphere, and I was struck by the fact that almost immediately, beginning about 8 o'clock, we could not handle the telephone calls coming in. There

proved to be about 40 to 50 American citizens living in Chile who called, and they said, "Praise the Lord for somebody coming down here and looking at both sides of it." The head of the American Chamber of Commerce, for example, the head of the computer section of the United Nations in Santiago, and many, many housewives and others called saying the same thing. But in any case, Mr. President, let me set my own position straight and then I will conclude.

One. I believe that the United States Government, the United States State Department, should have taken public notice of the quick action of the Chilean Government to seek a special prosecutor. Only fairness dictates that.

Two. The U.S. Government should not have and should never prejudge any case before the evidence is in, but that is precisely what happened—a condemnation, an assumption of facts that certainly had not been established.

Three. The U.S. Government should have been wary about giving public support to a case involving antidemocratic political figures. I believe—and you may disagree with me, Mr. President—that the U.S. Ambassador made an error of judgment to lend the dignity of his office and the American flag to a politicized demonstration which even the democratic opposition in Chile avoided.

I have a great deal of other things which must be said about Chile, but I will talk about those at a later time. But I will summarize by saying what I have said earlier, that I am not pro-Pinochet or anti-Pinochet. I just want to see our Government do whatever it can to stand against communism, and I do not see how you are helping the anti-Communist cause when such activities as I witnessed and learned about occur. We can disagree on this act or that act, but after talking to leaders of all of the political factions and parties one at a time—once or twice we had two at a time. I did not have any Communists or their allies there. I do not want to spend my time with them. However, the uniformity of the resentment of all political sectors against the U.S. State Department and the major media of the United States was an enlightening matter to me. I hope we can do better, and in any case I have to say to my friends at the State Department, if I have any, I am never going to hesitate to disassociate myself, wherever I am, from what I think are foolhardy activities.

Mr. President, I thank the distinguished Senator from Indiana for his patience with me. I wish I could have gotten over here earlier, but I know he understands the circumstances. I thank the Senator for yielding to me, and I thank the Chair.

AMENDMENT NO. 2206

(Purpose: To strike out article 5 relating to retroactivity of the treaty)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. DODD, Mr. HATCH, Mr. KERRY, Mr. DECONCINI, and Mr. HELMS, proposes an amendment numbered 2206.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out Article 5 of this Treaty and insert in lieu thereof the following:

"ARTICLE 5

"This Supplementary Treaty shall apply to any offense committed before or after this Supplementary Treaty enters into force, provided that this Supplementary Treaty shall not apply, (1) to an individual whose extradition was sought prior to the entry into force of this Supplementary Treaty, or (2) to an offense committed before this Supplementary Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission."

Mr. D'AMATO. Mr. President, I rise to offer this amendment to modify article 5 of the Supplementary Extradition Treaty between the United States and the United Kingdom. Senators DODD, HATCH, KERRY, DECONCINI, and HELMS are cosponsors of this amendment. Although I have serious reservations about the whole treaty, I am particularly concerned over the retroactive provision found in article 5 of the Foreign Relations Committee reported treaty.

This amendment is quite simple. It modifies the provision in section 5 that allows this extradition treaty with the United Kingdom to be retroactive. My amendment will except individuals whose extradition was sought prior to the entry into force of this supplementary treaty.

The supplementary treaty emasculates the political offense exception, which the United States has historically used as a cornerstone of its extradition policy.

Although most supplementary extradition treaties are retroactive, few specifically state that crimes committed before or after enactment are retroactively covered. No other treaty retroactively changes the political offense exception.

I commend the administration's effort to draft a treaty with an ally in an attempt to combat terrorism. It is vitally important that nations victimized by terrorist acts work closely together to better prevent and respond to future terrorist attacks. I also commend the Foreign Relations Committee's efforts to improve upon the language of the supplemental treaty that was originally submitted to the Senate.

However, while the Supplemental Extradition Treaty as amended in committee is an improvement, it is still unacceptable.

Mr. President, I yield to no one in my abhorrence of terrorism. Last August, legislation I introduced was incorporated into the International Security and Development Cooperation Act of 1985, which called upon the President to negotiate a viable treaty among those nations plagued by terrorism to effectively prevent and respond to terrorist attacks. I sincerely want to promote cooperation with our allies to battle terrorism.

I am not concerned that the provisions of this treaty will be retroactive. Our courts have a distinguished record in extraditing terrorists. We should not sweepingly overrule their carefully considered judgments that deny extradition in certain cases. Yet that is precisely what this treaty seeks to do. Approving this treaty in its present form may well result in the extradition of certain individuals who American courts have refused to extradite after the most careful consideration.

Such a result would be similar to the enactment of a bill of attainder or an ex post facto law in violation of the principle contained in article I, section 9, clause 3, of our Constitution: "No Bill of Attainder or ex post facto Law shall be passed."

I cannot support a bilateral international document that contradicts the general prohibition in American law against ex post facto laws and bills of attainder. Although there may be an exception to this rule in some cases, it is extremely questionable that we can justify breaking this rule in the cases of individuals whose extradition has already been denied by American courts.

I note that the report the Foreign Relations Committee filed explains that there is no definition in the United Kingdom treaty of what constitutes a political offense. The supplemental treaty is touted as a blow against terrorism, but neither the term terrorism, nor any definition of terrorism, is to be found in the treaty. The fact that we have come to no common definition of terrorism is another disability of this proposed new treaty.

I ask whether our courts have behaved irresponsibly in refusing to extradite certain individuals so that it becomes necessary to overturn their decisions by legislative act? Have our courts failed to distinguish between the terrorist and the person deserving

the protections of the political offense exception? The answer is no.

Our courts, operating within the context of current law and existing treaties, have served us well. The accused innocents have been protected, and the proven guilty have been extradited.

Another problem I have with this treaty is that it singles out Irish people, and subjects them to much narrower rules than affect any other nationality. Under this treaty, virtually all "relative" political offenses are eliminated. The political offense exception is firmly entrenched in American extradition practice.

The United States is a party to nearly 100 bilateral extradition treaties. Each one has a provision that exempts political offenders from extradition. No other treaty, even those which have been recently concluded, contains the narrow political offense exception provision found in the proposed United States-United Kingdom Supplemental Extradition Treaty.

I agree with the opinion in the 1984 extradition case, in the matter of Doherty, which stated that:

> A proper construction of the treaty in accordance with the law and policy of this Nation, requires that no act be regarded as political where the nature of the act is such as to be violative of international law.

Recent bilateral extradition treaties, such as those with Italy, the Republic of Ireland, Jamaica, and others, limit the political offense exception by excluding those crimes which violate international law. The supplemental treaty, on the other hand, seems to be other than a forthright effort to combat terrorism. It seems to be an attempt to address one nation's particular political problem—and to do so unfairly.

Offenses that fall within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft; the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation; the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents; and the International Convention Against the Taking of Hostages, should be, and in most recent extradition treaties are, included in U.S. extradition treaties.

A better way for the United States to combat terrorism would be to initiate broader treaties on terrorism among nations that are victims of terrorism. A general multilateral agreement on terrorism would ease the way for bilateral extradition treaties.

Certain parts of the proposed Supplemental Extradition Treaty are welcome additions to the original treaty. Certain crimes, such as hijacking and crimes against internationally protected persons, are acts of terrorism that are covered by multilateral treaties and should be excluded from the political exception rule. As for those accused of certain other crimes listed in the treaty, I feel it is important that the question of whether they should be extradited should continue to be decided upon by our independent judicial system.

The courts have soundly applied the existing treaty. I cite the case of *Abu Eain* v. *Wilkes*, 614 F.2d 504 (7th Cir. 1981), as an example of how responsibly our courts have behaved and of how effective they have been in combating terrorism. In that case, the seventh circuit granted an extradition request by Israel. The court approved the extradition of a Palestinian who had set off a bomb in a crowded marketplace, killing five people and injuring many more. The court clearly stated that the political exception doctrine does not protect outrages against humanity such as random bombing "intended to result in the coldblooded murder of civilians."

Yet another major reservation I have about this supplementary treaty is based on my lack of faith in the court system used in Northern Ireland, particularly the infamous Diplock courts. These courts were created in 1973 under the Northern Ireland—Emergency Provisions—Act. Even before this act, the Government introduced a new system of detention without trial. This controversial court systems does not provide for jury decisions. Instead, one judge determines, on questionably gathered evidence, the fate of a defendant. Some say that the defendant's fate is predetermined. Some say that these are nothing but kangaroo courts. From the information I have seen, it would be hard to disagree. I am concerned that the proposed treaty will expose the innocent to the highly questionable practices of these courts.

Mr. President, this Supplementary Extradition Treaty between the United States and the United Kingdom needs much work before I can support it. The Committee on Foreign Relations has made several helpful changes, including those that strike the British preference in the statute of limitations provisions; allow U.S. courts discretion to deny extradition if the accused would be prejudiced by reason of race, religion, nationality or political opinions; provide a rule of inquiry by U.S. courts; and allow defendants to submit evidence on conditions in the home nation and its court system.

Unfortunately, these changes do not go far enough. It is imperative that we remove the retroactivity clause and correct the other deficiencies I have cited. I strongly urge my colleagues to support this fair and reasonable amendment.

□ 1640

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, in response to the distinguished Senator from New York, let me attempt to set the record straight, to begin with, on a suggestion that the treaty we are considering would operate as ex post facto law. This is not the case.

I cite *Calder* v. *Bull*, 3 U.S., 386, 390 (1798), the Supreme Court defined an ex post facto law as:

> "1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offence, in order to convict the offender."

I make this point, Mr. President: The fact is that murder is a criminal act which takes place quite apart from the extradition process or the extradition treaty. In trying to make a case of ex post facto law or of retroactivity, the assumption, I suspect, on the part of the proposers of this amendment or others that were considered by our committee is that, somehow or other, we are imposing extraordinary penalties or new penalties or augmenting the hazard for the individual.

As a matter of fact, the acts have been committed and the fugitives are in one place, and the hope of a country is that they might be somewhere else so that they might face the consequences, have at least some court of justice take a look at their situations.

As I pointed out in my opening statement—but I want to reiterate because it is pertinent to the argument on this matter—article 5, which the distinguished Senator from New York has cited, of the supplementary treaty we are considering today, provides that the treaty will apply to offenses committed before the treaty becomes effective.

□ 1650

For example, if some of those who participated in the attempt to murder Mrs. Thatcher and the Cabinet in Brighton were found in the United States in 1987, next year, article 4 would insure that they could not escape extradition by taking advantage of the case law as it now stands, the point being that the deed has already occurred.

There is a law in the United States and in Great Britain against murder

and against attempted murder. This is not really a change in the situation at that point.

Mr. D'AMATO. Mr. President, I wonder if my colleague will yield for a question?

Mr. LUGAR. Yes. I am happy to respond.

Mr. D'AMATO. Mr. President, would my colleague be willing to support an amendment that said that there would be no retroactive effect covering those people who have already been sought for extradition and the courts have turned down? That is really what my amendment does. So anyone who has attempted to undertake an attack against Prime Minister Thatcher or any of the other acts would not be covered. We say, "whose extradition was sought." In other words, the extradition had to be sought and there was a determination. What we really are saying is to go back where a case has been tried, where the request for extradition has been denied lawfully and now pass a law that would allow that person to be sought again and not have the protection of the political section heretofore because we have changed it in the truest sense, certainly goes back to violating what I think our forefathers and the Constitution said we should not be undertaking.

Mr. LUGAR. I would have to respond to my distinguished friend that I would object to the exception that he makes. I appreciate that he narrows the scope very substantially and almost narrows it specifically to the case of Doherty and perhaps to the case of Quinn, which is cited, these being, I think, the two cases in point.

Let me say simply as a part of my answer that debate in the committee considered these cases carefully.

I indicated in my opening statement that advice and counsel was sought from our Government and from the British Government for a number of reasons which the Senator will understand. These two cases are celebrated and they have a very important content in the relationship of the United States and Great Britain because of their celebration. They are not unknown situations.

Therefore, I would have to resist the amendment on the basis that it is such an important aspect of the relationship of the countries and of our consideration with them that it would destroy much of the value of this treaty.

Mr. D'AMATO. I point out to my distinguished colleague that basically it would seem to me we are talking about really one case. That would be Doherty. Inasmuch as the courts have already ruled against Quinn, there is little likelihood, even though he has sought to go to the Supreme Court, that they will overrule. If anything they may not even hear that case.

Really what we speak about is a situation where we may be violating an established principle of law so well engrained in this country, in our Constitution, that in order to keep good relationships with an important ally one person is sacrificed.

It seems to me that that is a very dear price for us to pay and for our ally to say we seek good faith by turning over the well-established principles of law to go back so that we may retry this person who is literally given the protection of the court under the existing laws so that we are going to change these laws and now apply them in an ex post facto fashion. I think that it may be a price that even though it involves maybe one individual is something that we should not be paying.

I thank the distinguished colleague again for having yielded for me to make that observation.

Mr. LUGAR. I appreciate as always the comments. The distinguished Senator from New York makes important points.

As I admitted in my comments, these are tough cases of law and the fact that the Senator has reduced his focus really to the single case is an important consideration.

I respond again that a single case has been given a great deal of consideration and we have had testimony before our committee that the treatment to Doherty, specifically, under the treaty we are now talking about today, would not be unconstitutional.

Let me simply cite testimony from Prof. Steve Lubet, of Northwestern Law School, presented to the Foreign Relations Committee on October 22 of last year.

> The necessity of such a rule is made clear by recent events in the Republic of Ireland. There, a judge ruled in the last few weeks that the extradition treaty between the United States and Ireland was invalid because it had not properly been ratified by the Irish parliament, or Dail. Consequently, the judge ruled that James Gilliland, who is wanted in the United States for financial crimes, could not be extradited. This ruling would appear also to apply to one Joseph Maloney, who is wanted in the United States for the murder of his wife. One can say with relative confidence that any technical defect in the ratification of the extradition treaty between the United States and Ireland will eventually be remedied. Nonetheless, in the absence of a rule allowing retrospective treaty application, any subsequent rectification would not apply to Gilliland and Maloney. Consequently, these men would never be required to face trial in the United States, notwithstanding the clear illegality of the alleged offenses at the time of commission.

Mr. D'AMATO. Mr. President, will my distinguished colleague yield for an observation?

Mr. LUGAR. I am happy to yield.

Mr. D'AMATO. I am most appreciative.

The arguments put forth by the distinguished law professor as it relates to this amendment would not really be the case because we have crafted this amendment in such a way to say that this supplementary treaty shall apply to any offense committed before or after the supplementary treaty enters into force, provided that this supplementary treaty shall not apply, first, to an individual whose extradition was sought prior to the entry into force of this treaty and, second, to an offense committed before this supplementary treaty enters into force which was not an offense under the laws of both contracting parties.

The murder of one's wife, the planting of a bomb, and the bombing of civilian targets clearly are offenses and would be covered and people could be extradited.

So really what we come down to is, one, an individual whose extradition was sought prior.

So, therefore, the professor argues that this would open the door to the wholesale inability to bring murderers, and to bring terrorist, in the truest sense, to justice. As a result of our limiting the force of this amendment, limiting it quite narrowly, what we are really saying is, the rule of law that exists today as it relates to people who had their day in court, have been tried, who, in essence, have been acquitted, should be continued, where it has been ruled that they should not be extradited. It just seems to me that we should look at this because this is politics. What we are talking about is the policital relationship between the United States and England.

I am wondering if we really want to pay an extraordinary price in maybe being able to extradite one individual who has been refused extradition and have that case come again before our courts and work its way through the Federal system with all attendant furor and emotions that will come from both sides. Are we at that point, during the process of fighting to eliminate terrorism, seeing to it that we use our resources as best as possible, that we cooperate with our allies; serving that interest by making it possible for one individual who the courts have already said should be extradited to be charged again, to be brought up again for possible extradition?

I think that the political consequences and fallout from an attempt, first of all for passing this treaty in this manner with this section 5 as it presently exists, will be something that will bring irreparable harm and far outweighs the benefits of a treaty that makes it easier to bring terrorists to justice. If that is what we seek, I support that.

But it seems to me that we may be voting and I have no doubt that the chairman may have the votes, but that is only the first hurdle.

A far larger issue then comes in as to whether or not this truly is going to

prove that we are truer friends to the English, to the United Kingdom, by doing this. And the furor attendant with an attempt to try Mr. Doherty thereafter I think is one that will not inure to the benefit of our strong relationship between the United States and the United Kingdom and also Prime Minister Thatcher who has been a true ally during some very difficult times, not the least of which was allowing our planes the accommodation that made possible our strike against terrorism in Libya, our steadfastness of purpose in conjunction with that.

□ 1700

I think we jeopardize the total picture by allowing this kind of deviation of the rule of law. I ask my distinguished friend, my chairman, and colleague, who has labored so well in this area, if he might not look to reevaluate it. Is it worthwhile to seek one man, retry him, and how that will be perceived in terms of the United States bending the rule of law because we wish to demonstrate our friendship, our solidarity, with the English people, with the United Kingdom, in the battle against terrorism?

I do not think we need to do it in that fashion. I think we could still be that strong ally in the battle against terrorism, no matter who provokes it or who brings it about. I think we cloud the issue and we do damage to the very purpose that we are attempting to do, to fight international terrorism wherever it is spawned from. Because that is what I know my distinguished colleague seeks to do. That is what he has been about, what the committee has been about.

That is why I crafted an amendment so narrow in purpose that it does not, in my opinion, do damage to the basic tenets of what we seek to do here, to deal with terrorism effectively, but yet to preserve the rule of law.

I do not believe that we serve that cause that you have worked so hard on by opening this door to bring back possibly one individual whose case has already been heard and adjudicated in the courts of this country.

Again, I thank my chairman. I hope that my colleagues and the distinguished chairman of the Foreign Relations Committee, possibly in the time that may elapse before a vote, that possibly there is a way to deal with this situation so that we do not create, if anything, maybe the martyrdom syndrome which I believe would really be kind of self-defeating in terms of the purposes that you and others have worked to achieve.

Mr. LUGAR. Mr. President, I am pleased to respond to the overall question and comment of my distinguished colleague from New York by saying simply that I must resist the amendment. The effect of this amendment would be to protect two individuals, who are admitted terrorists and who are now in the United States, from further extradition proceedings.

Now, it is important to consider the specific individuals we are talking about, since the distinguished Senator from New York has, as he pointed out, narrowed the amendment.

Joseph Doherty was born in Belfast on January 20, 1955, and, as a teenaged member of a youth gang, was sentenced to youth custody for a number of burglaries. At 17, he joined the Provisional IRA and held various low level positions within that organization. In 1974, as a result of his activities, he was arrested and convicted for transporting some 80 pounds of explosives in a hijacked car. He received a 10-year sentence, of which he served 5 years and 9 months.

On May 2, 1980, soon after his release, Doherty met PIRA members, Robert "Fats" Campbell, Paul Patrick "Dingis" McGee, and Angelo Fusco. According to Doherty, they planned to ambush an Army convoy from a house in Belfast. Armed with an M-60 machinegun and a Heckler Koch rifle, Doherty and the others took over 371 Antrim Road, Belfast, a private dwelling. They took hostage at gunpoint an innocent woman who was living in the house. Her husband and sister were also taken hostage when they entered the house later. While they were holding these three hostages, Doherty and the others prepared for an ambush which they intended to carry out with powerful weapons in this residential area. When a plainclothes Army unit arrived outside, the terrorists fired immediately killing an officer, Captain Westmacott. He left a widow and a young daughter. Doherty admitted that he fired on his own initiative and that he shot to kill and avoid capture, without being entirely certain about just who his targets actually were.

Doherty was brought to trial on April 27, 1981, in open court, legally represented at public expense. On June 12, he was found guilty of the murder of Captain Westmacott and related offenses. He was sentenced to life imprisonment and the court recommended that he serve a minimum of 30 years. In the meantime, however, Doherty and his codefendants had arranged their escape. This took place on June 10, 1981, using weapons smuggled into prison. As part of this escape plan, Campbell pointed an automatic pistol at Prison Officer Richard Kennedy. The prison officer tried to prevent the escape but was struck from behind with a blunt instrument and then kicked and punched while prone on the ground. He sustained severe lacerations to the head which required 28 sutures. Another prison officer who was there said that he saw Kennedy lying on the floor, with three prisoners, including Doherty, beating him.

After their escape, Doherty and the others entered the Republic of Ireland secretly where Doherty remained in hiding before being given a false passport by Provisional IRA. He entered the United States on or about February 1, 1982, lying about his identity and purpose at his immigration inspection.

Now, those are the facts with regard to Mr. Doherty.

Let me just cite the law so that we are clear, really, with regard to the allegations on retroactivity.

I cite from Collins against Loisel, U.S. marshal for the eastern district of Louisiana, an appeal from the District Court of the United States for the Eastern District of Louisiana. It is No. 880, argued May 4, 1923; decided June 4, 1923.

The provision of the Fifth Amendment against double jeopardy does not prevent the commitment of a person for extradition on new affidavits after he has been discharged on others identical in form and substance.

Under the extradition treaty with Great Britain, a fugitive may be arrested a second time upon a new complaint charging the same crime, when he has been discharged by the magistrate on the first complaint or the first complaint has been withdrawn.

Refusal of the State Department to issue a warrant of extradition because of the pendency of *habeas corpus* proceedings, does not bar further proceedings for the same cause on a new complaint.

A discharge in *habeas corpus* based on mere irregularities in extradition proceedings, does not operate as *re judicata* against a new proceeding for the same offense.

I make these points, Mr. President, because of the well-established point of law and this has been faced by at least courts in this country before.

I pointed out in my opening statement that 23 other countries have found a similar situation with regard to retroactivity. I would further cite the facts with regard to Mr. Doherty indicate clearly a record of criminal activity, offenses which have been adjudged prior to the time he came to the United States under a false passport and lied to immigration officials.

So, Mr. President, I am forced to resist the amendment of the distinguished Senator from New York. At this point, I am prepared to proceed to a final resolution of it, although I understand my distinguished colleague from Rhode Island wishes to speak on the amendment.

Mr. PELL. Mr. President, I thank the chairman.

I also listened carefully to the arguments of the Senator from New York which were well-reasoned and had merit, but I believe, on balance, we are better off leaving this treaty the way we worked it out in the committee with a great deal of effort. We considered these questions. I think, on balance, we ought to support the treaty

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the way it was drafted and I intend to support our chairman.

(Mr. PRESSLER in the chair.)

Mr. LUGAR. Mr. President, I see no other Senator wishing to debate, unless my distinguished colleague wishes to speak.

Mr. D'AMATO. Mr. President, I know several other of my colleagues would like to speak on this matter.

In the case of Mr. Doherty—and I do not mean to be arguing his case, but rather I think it is important because really what we are saying here is: let us not violate the well-documented established principle of law in terms of retroactivity and possibly then have the opportunity to avail the British Government, if they wished to seek extradition and reopen this case, so to speak, the case of the People against Doherty.

□ 1710

When the court, in the rather well-reasoned decision that has been sustained by none other than Justice Friendly—Henry Friendly—one of the great jurists of America—I might read what Justice Friendly said. I will read part of it. This is Justice Friendly, when he heard the appeal of the lower court, a court which denied extradition.

Justice Friendly said, "The case was not fairly distinguishable from one in which Captain Westmacott's death occurred during a clash between two fully-organized military forces," and held that the acts committed, the ambush, and those committed in the prison escape were political in character and did not constitute extraditable offenses under the treaty.

If we were to look to the trial court judge, Judge Sprizzo.

We are not faced here with a situation in which a bomb was detonated in a department store, public tavery, or resort hotel causing indiscriminate personal injury, death, property damage, such conduct would clearly be well beyond the parameters of * * * the political offense exception.

So the court in its decision clearly stated we are not condoning terrorism and—

Nor is this a case where violence was directed against civilian representatives of the government * * *. Finally, the court is not presented with facts which establish that hostages were killed or injured or where the principles of the Geneva Convention have been violated.

This is what the court goes on to say, talking about the facts.

Are we willing to change a well-established principal of law to get out one man?"

Boy, I think that is a rather sorry spectacle. Let us get out one man, let us say it is the political process, and change well-established rules of law to get out one man.

Instead the facts of this case present the assertion of the political offense exception in the most classic form. The death of Captain Westmacott, while a most tragic event, occurred in the context of an attempted ambush of a British patrol. It was the British Army's response to that action that gave rise to Captain Westmacott's death.

The court goes on. This is the court. The court goes on to say,

It would be most unwise as a matter of policy to extend the political offense exception to every fanatic group or individual with loosely defined political objectives who commit acts of violence in the names of those so-called political objectives. Therefore, it is proper for the court to consider the nature of an organization's structure and its mode of internal discipline, in deciding whether the act of its members can constitute political conduct under an appropriate interpretation of the treaty.

The court concludes that respondent's participating in the military ambush which resulted in the captain's death was an offense political in character.

I think it is important that we distinguish this and then say do we really jeopardize going back, changing the law so that we can satisfy a government's quest for one man, for his retrial so to speak in a court that would have no opportunity to look at the facts, to look at what brought about the occurrence where the English captain was killed.

This was a firefight. It was a firefight. There were two combatant sides. The captain, as the court said, and as I say, was tragically killed. The court reviewed this. Now, to allow this situation to deteriorate where there can be no review, rather we pass in this treaty a provision that says we will hand this man back, that the courts will have no ability to look at the facts I believe really does a great disservice to what we are attempting to do; that is, to legitimately come together in a battle against international terrorism.

Again, I hope that my distinguished chairman might be able to reconsider because of the benefits that are contained in other areas of the treaty. Why should this one glaring deficiency that really cries out for modification be included in a treaty that otherwise might be accomplishing some very important goals?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of this amendment offered by the distinguished Senator from New York, and myself, among others.

The Senator from New York I think has very adequately addressed what is the rationale for this amendment.

I would just explain to my colleagues here that this treaty is one that has consumed a significant amount of time of the Foreign Relations Committee over the last year or so, most specifically in the last 4 to 5 months. We spent countless hours in informal sessions trying to resolve what for many of us were deep concerns about a precedent-setting treaty when it came to the question of extradition.

As a result of those many meetings we were able to forge a document that was certainly a vast improvement over what was originally submitted.

I say to my good friend and colleague from New York that while he is disturbed about some of the provisions of this particular treaty, I would say to him that the product that we see before us today is significantly improved over what we were asked to support about a year ago.

I, for one, supported sending this treaty to the floor. My hope is to be able to, of course, hear as well as to support it.

I commend the chairman, I say specifically, for his patience in all of this, Senator EAGLETON who is not with us here today who deserves great credit for a Herculean effort along with Senator KERRY, Senator BIDEN, Senator SARBANES, and Senator PELL who really hosted and has shown great patience over and over again so we could try to produce a product here that would be at least marginally acceptable to a significant majority of the committee.

My hope is to support this treaty. However, I do think this amendment is a good amendment because it does not do what I think could be harmful; that is, to oppose retroactivity entirely.

This country has ratified a number of treaties over the past decade or more that include a retroactivity provision. I do not have in front of me at this moment all of the treaties where such a provision is included but, suffice it to say to my colleagues, that there are a dozen or more treaties that include such a provision, and possibly more.

So this amendment, if it were one being offered by the Senator from New York that would entirely wipe out retroactivity, I would not be cosponsor of despite the fact that in committee I would say when such an amendment was offered I would have supported it. It would have wiped out retroactivity entirely.

I think if we are going to be at least consistent on that, retroactivity would make some sense.

I would add as a practical matter that there was, as many will recall, a terrible bombing that jeopardized the life of the Prime Minister of England that caused the loss of life of a number of people in her government not too many months ago. No one yet, as far as I know, has been apprehended that was involved in that terrorist act. And I would call that a terrorist act.

There is, of course, a possibility at some point that one of those involved may emerge or show up in this country. I would certainly not want to be a party to an effort that would deprive this country from extraditing those individuals involved in that incident and

were we to eliminate retroactivity entirely that would be the fact.

This amendment, however, does not do that. It merely singles out those particular cases, and in fact I believe there is only one that would be affected by this amendment, a case that has already been adjudicated in the courts. In that particular case the individual was not extradited after a lengthy judicial proceeding.

In the absence of this amendment, the effect of this amendment would allow that case to be reopened and that individual to be extradited. One of the most basic fundamental principles of law again, as the distinguished Senator from New York has pointed out already here this afternoon, is the issue of double jeopardy.

□ 1720

Frankly, in the absence of this amendment, we would be subjecting that individual to double jeopardy. I do not think anyone here, regardless of their views on the question of extradition, of this particular treaty, would want to be a party to that.

I would point out as well that on the retroactivity clause in every other single treaty that has been ratified by this Senate, there is not a single instance that we have been able to find, nor has the Department of State been able to find, where an individual would have been subjected to a new trial, under that particular provision.

So this is a unique situation where we have an individual who could be tried again, the only such situation that I know of.

This amendment, of course, only provides for protection against that kind of situation and not the situation that I mentioned earlier, that would involve those people who have yet to have been identified, involved in an earlier incident, an incident that predates the ratification of this treaty.

So I think this is a very well-crafted amendment, a thoughtful amendment, and that it narrowly defines and identifies those situations that could cause a double jeopardy to prevail.

I would hope that our colleagues would support this amendment. Again, I emphasize it retains retroactivity. It would allow for the prosecution, allow for the extradition and potential prosecution, of those individuals involved in terrorist activities that have to be apprehended, involved in an incident that occurs prior to the ratification of this treaty. It merely protects those individuals who have had their cases adjudicated.

I believe again on the basis of the principle of jurisprudence against double jeopardy that simple fairness dictates that this amendment be adopted, lest we engage or find ourselves engaged as a participant in a practice that I think would offend the sense of fairness of every Member of this body regardless of one's views on the question of the substance of this particular treaty.

My hope is, again, Mr. President, that the Senate would agree to this amendment and that we would move on to the consideration of the full treaty.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I attempted to cite during my argument the Supreme Court case that clearly indicated the retroactivity situation is not to be considered double jeopardy. A rehearing might occur. I think we have had a good discussion of the law.

At this point, I have visited with the distinguished Democratic leader and my ranking colleague, and unless there is further debate——

Mr. DODD. Can I ask the distinguished chairman a question? I mentioned earlier, and I hope I did not misspeak, that I know of no other incidents where an individual had been subjected to extradition once the matter had been adjudicated and where a retroactivity clause was included in a new extradition treaty. I may be wrong whether or not there is such a case. I may have misspoken.

Mr. LUGAR. I will respond by saying I do not know the circumstances that brought forward the 1923 case that I cited. It clearly dealt, however, with the possibility of a second review on an extradition treaty situation. I am not certain of the circumstances of the individual or individuals involved.

Mr. DODD. I appreciate the chairman responding to that question. I will just mention at this time and ask unanimous consent that a letter dated June 23, 1986, to one of our colleagues be included in the RECORD. It is signed by Mary V. Mochary, Deputy Legal Advisor of the State Department. I would reference and ask that the first paragraph on page 3 of this letter be particularly noted.

Fifth, you asked if there were any precedents for extraditing an individual under the new, retroactive treaty when that person's extradition has been refused under the earlier treaty. The Justice Department has advised me that they have been unable to discover such a case.

I just make that point. I thank the distinguished Senator.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES
DEPARTMENT OF STATE,
THE LEGAL ADVISER,
Washington, D.C., June 23, 1986.

DEAR MR. STOCKTON: Boris Feldman told me you called with a number of questions concerning the retroactivity provision in the U.S.-U.K. Supplementary Extradition Treaty. I hope that the following answers will be responsive.

First, you asked for a list of supplementary extradition treaties which are retroactive. Our supplementary extradition treaties with the following countries are retroactive: Austria, Iceland, Belgium, Latvia, Bulgaria, Lithuania, Congo (Brazzaville), Luxembourg, Cuba, Poland, Czechoslovakia, Rumania, Ecuador, San Marino, Estonia, France, Sweden, Switzerland, Guatemala, United Kingdom, and Honduras. Of these treaties, the French and Swedish have a retroactivity provision closest to that in the U.S.-U.K. Treaty. Specifically, article 5 of the U.S.-U.K Treaty states:

"This Supplementary Treaty shall apply to any offense committed before or after this Supplementary Treaty enters into force, provided that this Supplementary Treaty shall not apply to an offense committed before this Supplementary Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission."

Article 8 of the 1970 Supplementary Extradition Treaty with France reads:

"This Supplementary Convention shall apply to offenses specified in Article II of the 1909 Convention as herein amended committed before as well as after the date this supplementary Convention enters into force, provided that no extradition shall be granted for an offense committed before the date this supplementary Convention enters into force which was not an offense under the laws of both countries at the time of its commission."

Similarly, article 13 of the 1983 Supplementary Extradition Treaty with Sweden states:

"This supplementary Convention shall apply to offenses encompassed by Article II committed before as well as after its entry into force."

I have attached copies of the French and Swedish Treaties.

Your second question concerned for which period supplementary extradition treaties are made retroactive, back to the date of the original treaty or forever. Supplementary extradition treaties, as can be seen from the three examples quoted above, typically are made competely retroactive. That is, they go back forever, not merely to the date of the original treaty. It should be noted that even when a supplementary treaty is retroactive only to the original treaty, that original treaty itself will usually be retroactive, as are most U.S. extradition treaties. This complete retroactivity must be considered along with the requirement that the charged offense be a crime in both countries when committed. The second clause of Article 5 of the U.S.-U.K. Supplementary Treaty makes this point explicitly. Thus, there is no difficulty, constitutional or otherwise, with complete retroactivity.

Third, you noted that our extradition treaties with Colombia, Mexico, and the Netherlands have been circulated as precedents for the U.S.-U.K. Treaty. These three treaties all have retroactivity clauses. *See* Colombia Treaty, art. 20; Mexico Treaty, art. 22; Netherlands Treaty, art. 20. Moreover, all three are of the "all offense before

as well as after" type, and are thus good examples of retroactivity provisions similar to the U.S.-U.K. Treaty. One difference, however, is that the Colombia, Mexico, and Netherlands treaties are not supplementary extradition treaties, but complete extradition treaties. In this sense, our supplementary treaties with France and Sweden, which I have attached, are prehaps better precedents.

Fourth, you correctly noted that there is no retroactivity clause in the European Convention for the Suppression of Terrorism, which is, in many respects, a model for the U.S.-U.K. Supplementary Treaty. Since the U.S. was not a party to the preparation of this Convention, we cannot be sure why no retroactivity clause was included. Perhaps it is because the European Convention was a multilateral agreement, and this complicated matters. In any case, U. S. practice is clear and consistent. Retroactivity clauses are regularly included in U.S. bilateral extradition treaties.

Fifth, you asked if there were any precedents for extraditing an individual under a new, retroactive treaty, when that person's extradition had been refused under the earlier Treaty. The Justice Department has advised me that they have been unable to discover such a case. They did find several instances where extradition was granted under a new, retroactive treaty when it could not have been obtained under the previous treaty. See, *e.g.*, In re Burt, 737 F.2d 1477 (7th Cir. 1984). In such cases, however, since the U.S. knew that extradition was not possible, we did not seek it. The Justice Department also advised me that we have had several instances where our extradition request was refused and we have then proceeded to negotiate changes that would permit the request to be granted. None of these cases, however, has yet reached the stage where the new, retroactive treaty is fully in force, so no renewed request has yet been made. Nonetheless, this serves to illustrate that U.S. practice is to seek extradition under a new treaty when it was denied under an earlier treaty.

Finally, you asked if the double jeopardy provisions of the U.S. Constitution would be implicated by the extradition under the Supplementary Treaty of an individual whose extradition was refused under the earlier Treaty. Double jeorpardy would simply not be an issue in such a case. As you may know, the Fifth Amendment right to be free from double, jeopardy does not attach until the individual's trial has begun. An extradition proceeding is not a trial, but more akin to such pretrial proceedings as an indictment or a grand jury. These pretrial proceedings do not implicate the right to be free from double jeopardy, and neither does an extradition proceeding. An extradition request may be refiled at any time and, in practice, often is.

I hope I have properly addressed all of your concerns. If you have any additional questions, please let me know. In closing, I would like to emphasize that the retroactivity provision in the U.S.-U.K. Supplementary Extradition Treaty is consistent with established practice in U.S. extradition treaties, is fully consistent with the U.S. constitution, and serves important U.S. law enforcement interests. Virtually all of the supplementary extradition treaties, and many of the complete extradition treaties, which the U.S. has concluded contain a retroactivity provision. Such provisions have been consistently upheld by U.S. courts. In the Burt case, for example, the U.S. Court of Appeals for the Seventh Circuit examined the retroactivity question and concluded there was no constitutional problem with Burt's extradition to West Germany even though the applicable treaty had not become effective until 15 years after the crime. Moreover, since the purpose of this Supplementary Extradition Treaty is to close loopholes in the extradition process, which have permitted accused terrorists to escape accountability for their crimes, it would be counterproductive to adopt a treaty that would continue the loophole for any of those accused terrorists. Retroactivity clauses serve the important purpose of making improvements in our bilateral extradition relations, such as the closing of the "political offense" loophole for terrorists, available for use in a timely, simplified, and coherent manner.

Sincerely,

MARY V. MOCHARY
Deputy Legal Adviser

Mr. HATCH. Mr. President, I would like to say a few words about article 5 and I would like to say a few words with regard to the whole treaty. As I understand, the distinguished Senator from New York presently has an amendment pending.

Article 5 of the treaty has been called the retroactive provision and for good reason. Although there is no question about double jeopardy, since extradition is not a trial on the merits, there is a serious Fourth Amendment issue regarding the violation of due process and complete disregard of fundamental fairness relating to the reinstitution of extradition proceedings against individuals who have already been subjected to an extradition proceeding.

There is an article 1, section 9, issue dealing with the creation of a possible ex post facto law. Some prominent constitutional commentators and scholars have been concerned about this particular provision. Are not treaty provisions subjected to constitutional prohibitions?

It is for this reason, Mr. President, and these concerns, that I am supporting Senator D'AMATO's amendment seeking to remove the potential constitutional difficulties raised by article 5 of the Supplemental Treaty.

Mr. President, I do not mean to take the time of the distinguished Senator from Connecticut or the distinguished Senator from Rhode Island today, but I think it is important that I speak on this treaty. I would like to take a few moments to do so.

Mr. President, there is no one in this body who has more admiration for the Prime Minister of Great Britain than I have. There is no one in this body who has supported her programs and policies with more enthusiasm than I have. And there is no one in this body who has denounced terrorism and terrorists with greater feeling and anger than I have. In fact, on the last point, many of my colleagues have distinguished themselves in pointing out the evils of terror-violence and in seeking remedies for the terrible consequences of that loathesome practice.

But terrorism, Mr. President, is not the real issue here. In fact, despite the letter of transmittal by the Secretary of State to the President of the United States, and despite the letter of transmittal by the President of the United States to the Senate of the United States, nowhere in the treaty is the word "terrorism" ever mentioned or the term "terrorism" ever defined. What we have instead is a treaty proscribing violence, which may be criminal violence and which may be insurrectional violence. The difference between the two, and the issue of who is a victim of terrorism, are at the heart of the debate over this treaty which continues down to the present moment.

The terms of this treaty would change over 175 years of American extradition practice by eliminating the so-called political offense exception to extradition. American courts historically and traditionally have defined a political offense as "an offense committed in the course of and incidental to a violent political disturbance, such as war, revolution and rebellion." I cite *Garcia-Guillern v. United States,* 450 F. 2d 1192; *Jiminez v. Aristeguieta,* 311 F. 2d 560; and *Escobedo v. United States,* 623 F. 2d 1098. Any rebel engaged in an act of insurrection, rebellion, or revolution—all of which are recognized by international law—against an oppressive and repressive regime of a militaristic, authoritarian, or totalitarian nature can—under the terms of the supplementary extradition treaty—be extradited to stand trial for what has been historically, traditionally, and legally been considered to be an act or acts of political defiance and defense. When I asked Judge Abraham D. Sofaer, legal adviser to the U.S. Department of State, whether in the Crown Colony of Hong Kong—listed as one of the territories to which the treaty applies—a group of freedom fighters organized to rebel against English control before Hong Kong reverted to the People's Republic of China (PRC), would be subject to the treaty. He answered: "They might." Antigua has recently gone through an insurrection of a rather complicated nature, but it did involve an armed uprising and it did involve the issue of sending British troops.

We are told by the Department of State that other treaties of this nature will be negotiated with friendly, stable democracies. Negotiations are in fact underway with West Germany, Belgium, France, Italy, and Spain. There is no doubt that all of these countries are friendly. There is no doubt that all of these countries are democracies. But stability may in fact be another matter. Spain has already suffered through several attempted Coup

D'etats. What would happen to Spanish democracy if King Juan Carlos, or Premier Felipe Gonzalez, fell victim to terrorist assassins? As reluctant as I am to raise this issue, given the State Department's future intentions, it must of necessity be discussed.

The real issue of the treaty is who can be considered to be a victim of terrorism. Margaret Thatcher and her government consider all military and security personnel to be terrorist victims and seek to apply this treaty against those who have planned or committed violence against military and security targets. But no less than Secretary of State, George Shultz, said during an interview in August 1985 that terrorist "targets are civilians noncombatants, bystanders or symbolic persons or places." Note his emphasis upon civilians and noncombatants.

Attorney General Edwin Meese, speaking on the subject of terrorism at Tel-Aviv University in May 1986, drew a clear distinction between terrorism and "ordinary warfare, or legitimate military activity." He went on to say in a significant and, for our purposes, vital statement that "the targets of terrorism are innocent civilians rather than combatant forces." This is the absolute antithesis of the position espoused by the Government of Great Britain. Last, but certainly not least, President Ronald Reagan declared that terrorist victims are "innocent people." If this is a treaty directed against terrorism, then we should deal with that noxious subject and protect its innocent victims. If this is a treaty directed at those who challenge military and civil authority, then American extradition law as it has worked, and worked well, for the past 175 years will not only suffice, but it will protect those who need protection and punish those who require punishment.

As long as I am on this subject, Mr. President, I would like to clarify one major misconception that has abounded in the debate over the treaty. The British Government and the administration proponents of the treaty would have us believe that the United States is inundated with Irish PIRA terrorists who have escaped the heavy hand of justice in Great Britain. In truth, there have been only four alleged terrorists during the past 30 years who were not found extraditable during their extradition hearing. All of them were indeed alleged members of the PIRA. One returned to England voluntarily. One has been ordered deported by the Ninth Circuit Court of Appeals, having his grant of political asylum revoked. One has had his extradition denial reversed, in a very technical decision, by the Ninth circuit and has been found to be extraditable. The last one is setting records for sitting in a New York jail, even though a Federal magistrate's court denied Great Britain's extradition request. None of them is at liberty. None of them is roaming this country free. None presents any threat to either the United States or to the United Kingdom.

As for the treaty itself, there are several sections which bother me a great deal, and which I deem to be a departure from American law and American legal practice. I am profoundly disturbed by article 3, section (b), which would allow an appeal of an extradition finding from a Federal magistrate's court by either the accused offender or the Government. Current law and practice allows only an appeal to a district court and, under certain limited situations, to a circuit of appeals by way of habeas corpus. The U.S. Government ordinarily, and just about always, does not have the right of appeal either by statute or by case law. This rule, still followed, was laid down by justice Brandeis nearly seven decades ago: "The proceeding before a committing magistrate in international extradition is not subject to correction by appeal." The appeal procedure established by the treaty, although voted by the Senate in the Comprehensive Crime Control Act of 1983, was eliminated by conference and is not part of U.S. law.

Article 3, section (a), would change the general rule of noninquiry, which is current law in all but a minority of jurisdictions. The general rule is that the U.S. extradition court will not look into the nature of the legal process found in the requesting state. As much as I abhor the diplock courts and their violation of due process of law, to change our domestic statutes by way of treaty rather than by legislative process, or even court decision, is to violate the spirit of the legislative and judicial process.

Article 3 represents an attempt to change American law. It is a fundamental change in extradition practice and therefore a fundamental change in American legal procedure by means of the treaty process. I have consistently opposed this approach, as has been attempted in more than 40 ILO conventions and I oppose this approach as manifested by this treaty. It is a twisting of constitutional intent and it is misapplication of the treaty process.

Article 5 of the treaty has been called the retroactive provision, and for good reason. Although there is no question about double jeopardy, since extradition is not a trial on the merits, there is a serious fourth amendment issue regarding the violation of due process and complete disregard of fundamental fairness relating to the reinstitution of extradition proceedings against individuals who have already been subjected to an extradition proceeding. There is also an article 1, section 9, issue dealing with the creation of a possible ex post facto law. Some prominent constitutional commentators and scholars have been concerned about this provision. Are not treaty provisions subjected to constitutional prohibitions? It is for this reason, Mr. President, and for these concerns, that I am supporting Senator D'AMATO's amendment seeking to remove the potential constitutional difficulties raised by article 5 of the supplementary treaty.

Treaties per se are not automatically constitutional in all of their aspects merely through the wording of article 6 of the U.S. Constitution. Treaties are not only instruments relating to foreign affairs. The contents of many treaties, conventions, and executive agreements have domestic effects as well as foreign aspects. Many of these effects are beneficial. Some are not. I have long been concerned and I shall continue to be concerned over treaties and conventions which would change the nature and substance of American domestic law by their provisions. I am concerned about the dubious constitutional validity and suspect legality of many provisions of this supplementary treaty.

I am also concerned, Mr. President, about the operation of the so-called diplock courts in Northern Ireland. I am bothered by their sweeping powers of arrest, by the lack and prohibition of jury trials, by the denial of any right to bail to diplock court defendants, by the placing of the burden of proof upon the accused offender, by the creation of new offenses unknown to the common law, and by the use of coerced confessions in the investigatory process. The distortion and abuse of accomplice testimony is another serious concern. Surely, the best way to combat terrorism and terrorists is through a legal process which emphasizes and protects fundamental legal rights—not which creates a litany of legal wrongs. I do not feel that article 3, section (a), provides sufficient protections from these abuses to an accused offender subject to the U.S. extradition process.

The way the article is worded at present, the protections granted are already part of our extradition and legal practice. There has to be double criminality. And this would negate, ab initio, any charge relating to political beliefs, religious beliefs, race, nationality, or whatever. And speaking of double criminality, article 1, section (b), introduces a new crime into American law, or at least an act which, to my knowledge does not exist in U.S. criminal jurisprudence—assault causing grievous bodily harm. The double criminality principle mandates that there be specificity in proscribed criminal acts.

I decry the diplock courts. I decry the way they are run. I decry the abuses that are occurring. I think we ought to do something about it, and I

do not like this treaty, in part because of them.

As much as I want to stamp out terrorism, I also want to make sure that we do not stamp out some basic legal rights as well. I am concerned that this treaty does not do the job for which it was intended. I do not understand why we need a treaty of this nature. The fight against terrorism is not an easy one. I understand that. And there are not always easy choices to be made. But in the last analysis, Mr. President, the choice must always come down on the side of the rule of law. I am sure that none of us would wish it to be otherwise.

I thank my colleagues for being patient with me and allowing me to make this statement because of the press of time. I really hope we examine this treaty at every step of our approval process, because I find much wrong with it, although I believe the intent of those who are sponsors is meritorious. I know the Prime Minister of Great Britain feels very deeply about it, and I feel sorry I have to oppose it.

I thank the chairman and yield back the floor.

Mr. LUGAR. Mr. President, I thank the Senator from Utah for offering his scholarship and assistance throughout the debate on this issue. His contribution today is an important one.

● Mr. LEVIN. Mr. President, I will vote against tabling the D'Amato amendment, but this is a very close call.

I believe that we should extradite individuals who have committed terrorist acts. This is essential if the United States, as part of the community of nations, is to win the battle against terrorism.

In the effort to win this battle, we must preserve our own most cherished principles of law. The retroactive application of a new law or treaty always raises the concern that fundamental fairness is being transgressed. In the specific case to which this amendment particularly speaks, the legal process has proceeded so far along that retroactive application of the treaty would go beyond the bounds of our traditional sense of justice. It is for this reason I vote against tabling the D'Amato amendment.

□ 1740

Mr. LUGAR. Mr. President, I move to table the D'Amato amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. STAFFORD] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 156 Ex.]

YEAS—65

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Murkowski
Armstrong	Gore	Nickles
Baucus	Gorton	Nunn
Bentsen	Gramm	Packwood
Bingaman	Grassley	Pell
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Broyhill	Hecht	Pryor
Burdick	Heflin	Quayle
Chafee	Hollings	Roth
Cochran	Humphrey	Rudman
Danforth	Johnston	Simon
Denton	Kassebaum	Simpson
Dixon	Kasten	Stennis
Dole	Kennedy	Stevens
Domenici	Laxalt	Thurmond
Eagleton	Lugar	Trible
Evans	Mathias	Wallop
Exon	Mattingly	Warner
Ford	McConnell	Wilson
Garn	Melcher	

NAYS—33

Biden	Harkin	Matsunaga
Bradley	Hart	McClure
Bumpers	Hatch	Mitchell
Byrd	Heinz	Moynihan
Chiles	Helms	Riegle
Cohen	Inouye	Rockefeller
Cranston	Kerry	Sarbanes
D'Amato	Lautenberg	Sasser
DeConcini	Leahy	Specter
Dodd	Levin	Weicker
Durenberger	Long	Zorinsky

NOT VOTING—2

Stafford	Symms

So the motion to lay on the table amendment No. 2206 was agreed to.

□ 1800

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to the distinguished majority leader.

Mr. DOLE. Mr. President, if we could have order, I will make an important announcement.

Mr. BYRD. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Senators will please take their seats.

Mr. DOLE. Mr. President, I am advised by the distinguished Senator from North Carolina that he will take just about 10 minutes and then there will be a short debate with both managers. Then I think there will be a motion to table and a rollcall vote on that.

We think we can arrange to finish it without any additional rollcall votes.

I understand the minority would like to not have any votes after 6:30 p.m. We believe we can accommodate.

Also, if we can get an agreement on the budget matter that we are now circulating to either complete that tomorrow night or, say, between 9 and 11 o'clock on Friday morning, we could indicate that there would be no afternoon session on Friday, or if we could do it all tomorrow, there would not be a Friday session. But I will discuss that with the minority leader.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

AMENDMENT NO. 2207

(Purpose: To provide for a defense to extradition)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2207.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Treaty, insert the following new article:

"Article——

"(a) Paragraph (b) of this Article shall be known as the Reagan-Shultz-Meese Defense.

"(b) Notwithstanding any other provision of this Supplementary Treaty, in the United States, the competent judicial authority shall consider as a defense to extradition a showing that the person for whom extradition is sought has committed the specified acts in furtherance of an armed uprising, insurrection, or rebellion against the military authorities of the state in which the accused person is a national, if such acts did not include wanton crimes of violence against civilian personnel.".

THE ABROGATION OF THE POLITICAL OFFENSE DOCTRINE

Mr. HELMS. Mr. President, the ratification of the Supplementary Extradition Treaty between the United Kingdom and the United States would create a precedent profoundly altering the United States treatment of persons who escape from tyranny while fighting for freedom.

This treaty makes no legal distinction between terrorists who kill and maim innocent men, women, and children on the one hand, and freedom fighters who are engaged in military or paramilitary actions in just wars for the reestablishment of traditional moral, cultural, and religious values.

For the first time in history, a person fighting against extradition would not be able to present the political offense defense in a U.S. court. For over 200 years, our tradition has been

that a court may rule against extradition based on the consideration that the accused was engaged in military operations in an effort to win freedom for his or her country. Indeed, this tradition has become a basic legal principle.

Moreover, the treaty would seriously impair the battle against terrorism by lumping criminal terrorists in with genuine freedom fighters. Although it is easy to stir emotions with accounts of PIRA terrorists who attack the civilian population at large, the ratification of the treaty, as it stands, would abolish the distinction between terrorists and genuine freedom fighters.

Once the legal distinction has been abolished between terrorists and freedom fighters, it will be very difficult to sustain support for the Afghan Mujahideen, Savimbi's UNITA fighters, the Nicaraguan resistance, the Cambodian resistance, or any other group fighting against an established tyranny.

It is not enough to say that treaties abolishing the political offense defense will only be concluded with established democracies. It is not enough to say that there is no right of rebellion against a country with democratic institutions. It is not enough to say that the United Kingdom itself is a democracy.

These things are not in themselves sufficient reason to abrogate an objective legal principle and substitute a subjective and changing judgment based upon political expediency. There is no commonly accepted definition of a "democracy." The word itself is claimed both by free countries and abysmal dictatorships. The history even of Western democracies sadly demonstrates that freedom is not forever, and that democracies, like republics and other forms of free government, can fall prey to totalitarian forces.

Moreover, a nation that is free in the main part of its territories, may not be free in all of the territories that it governs. From the time of the Barons at Runnymede, the history of Great Britain is a history of different groups and classes struggling to be free. The United States itself is a product of that history. It is very difficult for an outsider to be certain that the process has been completed.

THE SUPPLEMENTARY EXTRADITION TREATY AND THE AMERICAN REVOLUTION

The impact of abolishing the political offense doctrine may best be seen in our own history. Article 1 of the Supplementary Treaty, as reported, includes the following:

For the purposes of the Extradition Treaty, none of the following shall be regarded as an offense of a political character:

* * * * *

(b) murder, voluntary manslaughter, and assault causing grievous bodily harm;

* * * * *

(d) an offense involving the use of a bomb, grenade, rocket, firearm . . . or any incendiary device if this use endangers any person.

If this treaty had been in effect in 1776, or even after the Treaty of Paris in 1783, this language would have labeled the boys who fought at Lexington and Concord as terrorists. There is no question that the British authorities in 1776 would have considered the guerrilla operations of the Americans to be murder and assault. Their offenses included the use of bombs, grenades, rockets, firearms, and incendiary devices, endangering persons, as may be demonstrated by reference to our National Anthem. Yes, there is no doubt whatsoever that such a treaty would have required us to extradite the patriots who fired "the shot heard 'round the world" to swing on a British gallows.

For this reason, the infant United States was properly wary of extradition treaties. It was many, many decades before the first one was signed. And remembering our revolutionary origin, American courts developed the doctrine of the political offense exception: No extradition if the accused was sought for violent actions relating to a battle for his country's freedom.

THE DISTINCTION BETWEEN PATRIOTS AND TERRORISTS

The distinction between patriots and terrorists is not difficult to understand. Both President Reagan and Secretary of State Shultz have succinctly made this distinction in recent statements. The Supplementary Treaty flies in the face of both these statements.

At the Tokyo Summit, President Reagan said:

The cliché line is going around that, well, one man's terrorist is another man's freedom fighter. No such thing.

The people that are customarily called freedom fighters are fighting against organized military forces in what—even if it is a civil war, it is a war. Terrorists, as I said before, are people who deliberately choose as a target to murder and maim innocent people who have no influence upon the things that they think of as their political goals.

The President said that on May 7, 1986.

Then, in an interview a few months ago, Secretary of State Shultz made exactly the same distinction. Let me quote from an interview:

Q. Is there an accepted definition of terrorism—and how would you distinguish between the terrorist and the insurgent?

A. There is no legal or universally accepted definition of terrorism. We describe it as the use of threat or violence for political purposes to create a state of fear which will cause individuals, groups, or governments to alter their behavior or policies. Its targets are civilians, noncombatants, bystanders, or symbolic persons or places.

An insurgent is in revolt against an established government. His objective is political power. His methods are military or paramilitary. He actively seeks support, usually within one country.

That interview was in August 1985.

□ 1810

Finally, it should be noted that U.S. Attorney General Edwin Meese also adopted this same distinction in a major address on terrorism which he delivered at the Jonathan Institute in Tel Aviv:

I think Benjamin Netanyahu summed it up very well when he said: "Terrorism is the deliberate and systematic murder, maiming and menacing of the innocent to inspire fear for political ends." Now I suggest that that definition is vitally important, because it describes the nature of the battle we are talking about. And it also describes the character of the participants. It provides a clear distinction which separates terrorism from ordinary warfare, or legitimate military activity, because it demonstrates that the targets of terrorism are innocent civilians, rarther than combattant forces.

That was on May 15, 1985.

Any reasonable treaty on extradition, even with a democracy, must preserve this distinction. A terrorist aims his attack at the people. His aim is to disorient, disrupt, and destabilize. His hope is to break down all organized force through fear and paralysis. Thus he strikes at innocent civilians, especially women and children. He makes bombings in crowded places unpredictable. He attacks symbolic persons such as Prime Minister Thatcher and Lord Mountbatten or soldiers off duty relaxing in nightclubs. He frequently attacks these targets in other countries to draw attention to his political cause, or to raise money through blackmail. No patriot resorts to such criminal tactics, even in defense of freedom.

A patriot, on the other hand, attacks the military or defense forces of the occupying power. As Secretay Shultz says, his methods are military or paramilitary, in the tradition of the American Revolution. He does not engage in attacks which harm civilians or which might be expected to harm civilians. He does not attack soldiers when they are sleeping peacefully in their homes, or relaxing in nightclubs. He may attack soldiers on duty or in the barracks, but it is the duty of soldiers and their commanding officers to be prepared against such attacks. Moreover, as Secretary Schultz points out, such attacks are only considered to be part of an insurgency when they are conducted within the country which the troops are occupying.

THE POLITICAL OFFENSE DOCTRINE AS A DEFENSE

It is important to understand that the political offense doctrine has always been construed narrowly by the courts. No one can escape extradition for crimes just because that person asserts that the crimes were committed in pursuit of political goals. It is a defense that the accused can raise in the courts against extradition; it is not an automatic right. The court

must weigh the evidence adduced in support of the fact that the actions of the accused were part of a true insurgency. Courts can, and have, rejected the political offense doctrine as a defense when the courts determined that the accused was, in fact, a terrorist, or a common criminal, and not a rebel.

The political offense doctrine was established nearly 200 years ago to provide a haven under international law for unsuccessful rebels who fought for their freedom against established authority in their country and lost.

This doctrine has been carried forward in all the Western democracies until the present day.

Terrorism is a term which has no legal definition. However, in common use, it is applied to wanton crimes of violence, even when politically motivated, against innocent civilians. International law has created exceptions to the political offense exception for certain specific crimes, namely: Attacks upon airplanes in international travel; seizure of hostages in international transport; the use of bombs and booby traps directed against civilian targets; attacks upon diplomats, embassies, and heads of state.

In U.S. law, the political offense exception has received a narrow definition in circuit courts of appeals. The definition is as follows: a violent act or acts committed in furtherance of an armed uprising, insurrection or rebellion by a national of the country in which the disturbance was taking place. Clearly it excludes acts against civilians, and acts of wanton and reckless violence—such as described in the previous paragraph—even when a political motivation is asserted by the offenders. Just as clearly, it excludes attacks across national borders, and conspiracies relating to those attacks.

It is natural that an incumbent administration in a situation of insurrection and rebellion will attempt to obtain custody of leaders of the rebellion by any and all means. One of the traditional methods is the extradition of such individuals by accusing them of having perpetrated common crimes. Those alleged criminal acts are in fact the acts of rebellion or insurrection which the political offense exception seeks to protect.

It is very tempting to abrogate the political offense exception in order to help a long-time ally that is faced with violent insurrection. But we should not give up the principles which have been ingrained in our legal system since the founding of our constitutional republic.

Mr. President, I have sent to the desk an amendment which is pending to restore the political offense doctrine. It is based on the distinctions made by President Reagan, Secretary Shultz, and Attorney General Meese, which I have just quoted. Therefore, with the Senate's permission, I shall call it the Reagan-Shultz-Meese defense. I think we should have a rollcall vote on whether that defense should be preserved, so I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I yield the floor.

Mr. LUGAR. Mr. President, let me indicate, before I begin my thoughts about this amendment, that it has been suggested, due to the constitutional necessity of a two-thirds majority on a treaty vote, that we have a division of the House after the rollcall vote on the Helms amendment, or more particularly my motion to table that amendment. That would apparently be satisfactory as far as the parliamentary situation is concerned. I mention that to Members because they are concerned, I know, about the time of departure.

The intent would be to have a rollcall vote on the Helms amendment and then a division of the House establishing the two-thirds on the treaty as a whole.

Mr. President, in a democracy such as the United Kingdom, violence should never be deemed an acceptable part of the political process. To permit courts in the United States to consider political motives as justifying murder or other violent crimes shows a lack of respect for the democratic process. In Great Britain, we are not talking about a society in revolution or a society experiencing substantial political violence. We are talking about a remarkable democracy, a peaceful democracy, a democracy operating under law.

Let me just make the point—because the distinguished Senator from North Carolina has called this amendment and used the names of the distinguished Attorney General, Mr. Meese, and the President of the United States was very clear on this specific idea.

Mr. MOYNIHAN. Mr. President, I hesitate to interrupt. The distinguished chairman is making an important statement and deserves the full attention of this body.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Will Senators please take a seat and staff take a seat in the back of the room?

The Senator from Indiana.

Mr. LUGAR. Mr. President, if Members would follow just this one paragraph of the President of the United States, I believe the intent that he has is clear. He addressed the Nation in a radio broadcast on May 31 of this year. He said:

> Some Members of the Senate Foreign Relations Committee have gone so far as to prepare a substitute treaty permitting those who have murdered British policemen and soldiers, for so-called political reasons, to avoid extradition.

Now, listen carefully to what the President had to say about those members of the Foreign Relations Committee who had such an idea. He said:

> Well, this substitute is not a compromise—it's retreat. Its passage would be a victory for terrorism and a defeat for all we've been trying to do to stop this evil.

Now, the President spoke very directly to precisely the amendment offered by the Senator from North Carolina. He characterized it as retreat; something that, in fact, would assist terrorism. And he was talking about this treaty. This was after he had given a report about his conversations with the distinguished Prime Minister of Great Britain.

Well, let me just add one further thought. The Prime Minister of Great Britain was asked in a radio interview on the April 27, 1986:

> Prime Minister, what do you say to the suggestion that one man's terrorist is another man's freedom fighter? What is a terrorist?

Prime Minister Thatcher said:

> Look, is anyone suggesting that there is any possible justification, if there is any justification, for terrorism, to attack free societies, democratic societies? Of course there is not. There is no justification for the IRA. Everyone in Northern Ireland has the same right to vote for a Member of Parliament as we have in the rest of the United Kingdom. Everyone in Northern Ireland has the same civil rights. What they are trying to do is trying to get something by virtue of fear when the result of the ballot has denied it to them. And to suggest that there is any form of terrorism ever justified in democracy is totally and utterly wrong.

Mr. President, I suggest that the eloquence of our President and the distinguished Prime Minister, and those two governments that have worked together to fashion at least a treaty and have worked with the Senate Foreign Relations Committee on the amendments that we have had that we believe have perfected this treaty, have spoken eloquently to the point.

Therefore, Mr. President, I, of course, yield to my distinguished colleague if he has a comment, and then I will move to table the amendment.

Mr. PELL. Mr. President, I thank the chairman.

I do not agree with the President's characterization of the amendment that was originally offered in the committee. But I do think that I agree with our chairman that the amendment by the Senator from North Carolina would undo the treaty that has been very carefully crafted with a great deal of work and a good deal of compromise and effort on both sides of the aisle to reconcile various viewpoints. Accordingly, I intend to vote to table.

Mr. HELMS. Mr. President, notwithstanding the eloquent statement by

the distinguished chairman, I still say that the President, I have just discovered, has said the same thing twice, which unquestionably supports this amendment. He stated it in Tokyo and then I was just handed a copy of a radio address of May 31. And the President said:

Terrorists intentionally kill or maim unarmed citizens, often women and children, often third parties who are not in any way part of a dictatorial regime.

Terrorists are always the enemy of democracy. Luckily, the world is shaken free of its lethargy from moving forward to stop the bloodshed.

□ 1820

Mr. President, nothing could be clearer. The Secretary of State, the Attorney General, and the President of the United States have stated precisely the thrust of this amendment.

One can get different interpretations and take other quotes. But I have two that I have introduced in the RECORD just now.

I see no reason why this amendment should not be accepted.

Mr. LUGAR. Mr. President, I think the idea of our President is quite clear. I simply reiterate that when confronted with it the Senate Foreign Relations Committee rejected the precise amendment that the Senator from North Carolina is suggesting. The President said this substitute is not a compromise. It is a retreat. It would be a victory for terrorism if passed. That I think is pretty clear. I would simply say the letter of transmittal of this treaty says in my judgment the same thing.

Mr. President, I move to table the Helms amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana, Mr. LUGAR, to lay on the table the amendment of the Senator from North Carolina, Mr. HELMS. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Vermont [Mr. STAFFORD], the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 157 Ex.]

YEAS—87

Abdnor	Baucus	Biden
Andrews	Bentsen	Bingaman
Boren	Grassley	Metzenbaum
Boschwitz	Harkin	Mitchell
Bradley	Hart	Moynihan
Broyhill	Hatfield	Murkowski
Bumpers	Hawkins	Nickles
Burdick	Hecht	Nunn
Byrd	Heflin	Pell
Chafee	Heinz	Pressler
Chiles	Hollings	Proxmire
Cochran	Inouye	Pryor
Cohen	Johnston	Quayle
Cranston	Kassebaum	Riegle
Danforth	Kasten	Rockefeller
Denton	Kennedy	Roth
Dixon	Kerry	Rudman
Dole	Lautenberg	Sarbanes
Domenici	Laxalt	Sasser
Durenberger	Leahy	Simon
Eagleton	Levin	Simpson
Evans	Long	Stennis
Exon	Lugar	Stevens
Ford	Mathias	Thurmond
Garn	Matsunaga	Trible
Glenn	Mattingly	Wallop
Gore	McClure	Warner
Gorton	McConnell	Weicker
Gramm	Melcher	Wilson

NAYS—9

Armstrong	Dodd	Humphrey
D'Amato	Hatch	Specter
DeConcini	Helms	Zorinsky

NOT VOTING—4

Goldwater	Stafford
Packwood	Symms

So the motion to lay on the table was agreed to.

□ 1840

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NORTHERN IRELAND AND UNITED STATES TRADITION

Mr. DECONCINI. Mr. President, I wish to take just a moment to discuss the Northern Ireland-United States tradition with respect to this treaty.

Mr. President, the U.S. Senate is widely recognized as the most open and deliberative governmental body throughout the world. Currently, people struggling for freedom, fairness, and liberty, in such locations as Afghanistan, South Africa, Nicaragua, and South Korea, seek these rights through protest and politically related activities. The Senate has historically debated the role of the court system to shield political fugitives exercising these rights from extradition to any country. This administration has demanded emergency action to enhance the extradition of fugitives with this proposed Supplemental Extradition Treaty with the United Kingdom.

I think we need to be perfectly honest in discussing this treaty with Great Britain. This historic exception for political fugitives and the political crimes defense was invented by Thomas Jefferson. This was added to our treaties by Daniel Webster and refined by John Stuart Mill. It is embedded in the United States system of individual justice. And it has been a universal principle of international law for more than a century. Yet, the British Government; under the auspices of international terrorism, wants to fundamentally change this provision.

Although the official topic of this bebate is the Supplementary Extradition Treaty, the broader question of the situation in Northern Ireland cannot and should not be ignored. In fact if anything useful is accomplished by this treaty before us today it is that it provides a means for drawing the Senate's attention to the struggle of the people of Northern Ireland and the unfortunate role that one of our Nation's allies has become locked into during this struggle.

Rather than rubberstamp this executive agreement as eradicating terrorism, as President Reagan and Prime Minister Thatcher might label it, we should carefully discuss the legal historical, and political implications of this treaty. I do not object to assisting both leaders in combating terrorism. I adamantly deplore and consistently condemn the actions of the IRA and do not object to a treaty which would treat ordinary rebels as criminals who should be surrendered. I also do not object to court decisions which have discussed the "wanton crimes exception" to the political crimes defense.

However, both President Reagan and Prime Minister Thatcher are not satisfied with this and apparently want this treaty to symbolize public indignation against terrorism. They would argue that a rebellion against an allegedly democratic country with a judicious legal system cannot be justified. Nothing could be further from the truth. Northern Ireland is patrolled by British Army troops and has claimed sovereignty over its citizens for centuries. The judicial system is riddled with juryless trials, warrantless raids of private homes, and torture-filled prisons. This is the infamous Diplock system.

I strenuously object to a treaty constructed under the guise of fighting international terrorism and subsequently involving the United States on the side of the British in an Anglo-Irish conflict since Ireland was petitioned in 1920. I object to a treaty which undermines the tradition of the United States providing refuge for persons protesting against their government. I object to a treaty reversing the decisions of the courts of the United States based upon the concepts of international law. I object to a treaty which is uneven in administering justice and politically motivated—especially in its retroactivity.

Mr. President, I have been interested in the problems of Northern Ireland for many years and this past summer I had the great pleasure of visiting this bittersweet country. I have spoken with numerous representatives on all sides of the conflict there. I have testified before the Constitution Subcom-

mittee on the legal amenities of this treaty. Although the Foreign Relations Committee has revised and altered much of the language to which I refer, this still does not adequately address my concerns.

The administration claims that this treaty was negotiated in order to improve law enforcement cooperation and counter international terrorism and other crimes of violence. In the cause of preventing and reacting to terrorism, we must carefully scrutinize what kind of response we make. If the British are as concerned as we in the United States are, why have they failed to implement economic sanctions against Libya?

America has a long and proud tradition of providing refuge for political dissidents, some of which were saluted in the recent Liberty Weekend celebration. Some of this heritage dates back to colonial times and was brought to us by the British. Our tradition should not change. Our court system is not broken. Ours is a system and tradition of asylum for political dissidents and individual justice.

The ongoing strife in Northern Ireland cannot be addressed by a treaty based on political payoffs to Great Britain or a revision of U.S. extradition law. We have talked around the issue of Northern Ireland for too long. An end to this bitter struggle will come only through new political solutions from the British—not the United States. Before this august body considers change in our laws and legal system, it is my view that major changes should take place in all facets of life in Nothern Ireland. For example; the British should seriously consider changes in the court system and implementing a timetable to reach these endeavors.

Mr. President, I firmly believe that only when the British begin to dismantle the Diplock courts and implement some of the traditions they so proudly passed on to our Founding Fathers will justice begin to emerge in Northern Ireland. I am certain that the British will then no longer call upon us to change our extradition laws. We must stick with this country's own long tradition grounded in our revolutionary past.

Mr. EAGLETON. Mr. President, I support the resolution of ratification reported by the Senate Foreign Relations Committee.

For the last 12 months, the Senate Foreign Relations Committee has wrestled with the United States-United Kingdom Supplementary Treaty and the sensitive and highly emotional issues embodied therein, to wit, the right to forcibly rebel against what some perceive as an oppressive government and whether, in the context of extradition, limits should be imposed on that presumed right as between democratic allies.

The controversy in committee centered around the supplementary treaty's redefinition of the political offense exception as it would apply between the United States and the United Kingdom by excluding certain violent offenses from its ambit. There is no question that bilateral and multilateral extradition treaties among countries generally, if not universally, except the political offender from extradition. Each of the some 100 bilateral extradition treaties to which the United States is a party contains some provision broadly excepting political offenders.

As the politics of revolution changed, as the present era of terrorism emerged, so has the U.S. policy toward a broad political offense exception evolved. It is now standard for the executive branch to negotiate treaties that bar certain types of offenses from the political offense exception, assaults against heads of states, skyjacking, and hijacking, for example, offenses which are already within the scope of multilateral treaties.

The United States-United Kingdom Supplementary Treaty continues the trend of narrowing the political offense exception by excluding offenses within the scope of any of four multilateral treaties regarding the taking of hostages, crimes aboard aircraft, or crimes against protected persons, and a large number of specified violent crimes against persons.

The administration presented the treaty as an important step toward combating terrorism and improving law enforcement cooperation with our closest ally. Opponents of the treaty painted it as an anti-Irish measure which, if ratified, would represent full United States compliance with the political status quo in Northern Ireland and would sacrifice the historic concept of the United States providing asylum for so-called political fugitives. I emphasize "so-called."

Mr. President, we all decry violence when it is directed toward us. When a suicide bomber drives into the Marine Corps headquarters in Beirut killing 241 U.S. servicemen, we label it "terrorism"—and properly so. When Navy diver Stetham was beaten and shot aboard TWA Flight 842, we labeled it "terrorism"—and properly so. When Sgt. Kenneth Ford was killed in the Berlin disco, we labeled it "terrorism"—and properly so. Indeed, we took severe retaliatory military action against Libya for this event.

It should be noted that all of these actions were against U.S. servicemen. Of course, we are just as incensed when an American civilian is harmed as in the case of Mr. Leon Klinghoffer when he was pushed over the rail of the *Achille Lauro*. We labeled it "terrorism"—and properly so.

We are actively seeking the perpetrators of these heinous offenses against American military personnel and civilians. We would seek prompt extradition of these culprits. We would not tolerate their offenses as being deemed in any way "political." We would take all necessary action to see that they were punished.

Twice this year, on February 19, by a vote of 92 to 0, and on June 25, by a unanimous vote, the Senate has passed legislation expanding U.S. law by making it a crime for anyone in any country to assault any U.S. citizen as part of any act of terrorism. That legislation even goes so far as to specifically authorize the United States to use forceful methods—that is kidnaping—to bring a terrorist to justice in this country.

Yet, when a civilian in England is injured by a bomb; when a plainclothes police constable in London is murdered; when the murder of a plainclothes British soldier in Belfast is attempted; when a British Army officer is murdered, some say, indeed some of our United States courts have said, those violent acts are merely "political" offenses.

Those four incidents above are the reason we are here today. In each case, *Matter of Mackin*, 668 F. 2d 122 (2d. Cir. 1981); *Matter of Doherty*, 599 F. Supp. 277 (S.D.N.Y. 1984); In re *McMullen*, Magistrate No. 3-78-1099 MG (N.D.Cal. May 11, 1979); and *Quinn* v. *Robinson*, No. C-82-668 RDA (N.D.Cal. 1983) a Federal district court denied extradition of members of the Provisional Irish Republic Army accused or convicted of heinous violent acts.

Mr. President, the United States has sought aggressively to gain international accord on a total rejection of political violence as an instrument of political change; however, these decisions, one of which was reversed by the court of appeals, sent a very different message. They proclaim that the American judicial system somehow accepts the notion that violence is an acceptable method of accomplishing political goals, at least in Northern Ireland.

Mr. President, terrorism is terrorism. If the killing of 241 U.S. marines in their barracks, arguably an act of war, is internationally condemned as an act of terrorism, then IRA bombs that explode throughout Great Britain, killing civilians and military alike, are acts of terrorism. Terrorism is not only what is directed at the United States. Terrorism is not only committed by people with a swarthy complexion who speak Arabic. Terrorism is also committed by people with rosy cheeks who speak with a brogue.

Americans condemn all acts of terrorism as being inherently violative of civilized behavior. But too often, as in the matter before us, one particular group of terrorists captures the sym-

pathy of some, whether for historical, racial, ethnic, or ideological reasons. Strangely, some see fit to deem these terrorists as "freedom fighters." There is a small—a very small—section of the Irish community in the United States which has sympathy for the IRA and their misdeeds. They seem trapped in a time warp of the Kilmainham "martyrs" of the Easter Rising.

□ 1900

A brief look at the history of the division of Ireland confirms that the present-day IRA has cloaked itself in a pervasive nationalist myth that a united Ireland is somehow preordained. Nothing could be further from the truth. The 1916 Easter Rising characterized by William Butler Yeats as "a terrible beauty" was anything but beautiful. The Irish Catholic characterized it this way:

The movement which has culminated in deeds of unparalleled bloodshed and destruction of property in the capital of Ireland was as criminal as it was insane. Only idiots or lunatics can have supposed it could prove successful. Traitorous and treacherous as it undoubtedly was, it was most traitorous and treacherous to our native land.

It was only the stupidity of the British military courts in condemning and making martyrs out of the Easter Rising ringleaders that gave birth to the notion that Ireland was locked into a death struggle with the British. In fact, the question of the division of Ireland was long ago settled with the acquiescence of the Free Irish State. The Irish Civil War was not fought on the issue of partition. The Government of Ireland Act of 1920 legislated for the partition of Ireland along the lines set out by Lloyd George in 1916 and for two home rule governments in Ireland, one in Dublin for 26 counties and one in Belfast for the 6 northeastern counties. Provisions were made for the eventual unification of Ireland, but only when and if a majority in the north wanted it.

The 1921 treaty, ending the civil war maintained the partition established by the 1920 Government of Ireland Act. The Dail in the Republic voted to accept the treaty in 1922 by a vote of 64 to 57. Under that treaty, a new government, the provisional government of Ireland, was formed to take over the administration of Southern Ireland until the Irish Feee State was formally established. Michael Collins, the mainspring of post-1916 Irish nationalism, signed the treaty and was subsequently killed in an ambush by the antitreaty forces who were then, as now, a lunatic fringe which had turned on their fellow Irishmen in defiance of the lawfully constituted state for which they had fought. In 1925, the Free State Government accepted, albeit reluctantly, the Boundary Commission Report which ratified the division of Ireland as a permanent arrangement. Throughout the early days of the Free State, the issue of sovereignty took precedence over the issue of unity.

True, political parties in the south continue to call for the end of the British occupation of the north and for an end to partition, but they articulate no policies to achieve that end. The November 15, 1985, Anglo-Irish Agreement, signed by the Governments of the Republic of Ireland and Great Britain, and approved by the Irish Parliament by a 13-vote margin, continues recognition of the separate existence of Northern Ireland. It states in its first article that the two governments:

(a) Affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;

(b) Recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;

(c) Declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

Thus, the IRA today, like its antecedent IRB of the Easter Rising, is an aberration, representative of only a small number of fanatic nationalists in the North and the South.

The IRA has killed over a thousand people, most of them their own countrymen, since 1968. While playing on the endemic divisions between the two parts of Ireland and within Northern Ireland, their true agenda is to set up a socialist society, not just in Northern Ireland but in all of Ireland. They are a bunch or PLO-trained and PLO-sponsored terrorist thugs.

And, I hasten to add, the terrorism is not only on one side. We saw only a few days ago the thuggery in Portadown, Northern Ireland, where Catholic families were terrorized by Protestant thugs. These activities were denounced by Secretary of State for Northern Ireland Tom King:

Last night's incident was a disgraceful, calculated attack by thugs and hooligans on people's homes. It must be condemned by all decent people. No society can tolerate vicious and barbaric assaults of that kind.

Further, on this point, while on vacation over the Fourth of July, I read the following article in the Boston Globe of July 2, 1986, and ask unanimous consent that it be printed in the RECORD at this point. This article describes what the four Ulster soldiers did in murdering a citizen in Northern Ireland and how they were sentenced.

There being no objection, the article ordered to be printed in the RECORD, as follows:

[From the Boston Globe, July 2, 1986]

FOUR ULSTER SOLDIERS SENTENCED TO LIFE IN MURDER OF CATHOLIC

BELFAST.—A court yesterday convicted four Ulster Defense Regiment soldiers of murder in the random slaying of an unarmed Roman Catholic man and sentenced each of them to life in prison.

The verdict came just hours after another defense regiment soldier was killed by a bomb the Irish Republican Army claimed it had set.

Lord Justice Basil Kelly, who presided over the two-month nonjury trial at Belfast Crown Court, said members of the predominantly Protestant Ulster Defense Regiment who testified for the defense conspired to "distort true events."

The four soldiers were convicted of killing Adrian Carroll, 24, outside his home in Armagh while they were on patrol in November 1983.

Carroll was a Roman Catholic who, according to testimony, had no political connections.

The four were convicted after testimony that one of the defendants, Pvt. Neil Latimer, changed from his uniform into jeans, a windbreaker and tartan cap before walking up to Carroll and shooting him in the neck, head and shoulders with a .38-caliber handgun.

The three other defendants—Pvt. Noel Bell, 22; Lance Cpl. James Hegan, 36; and Pvt. Alfred Allen, 26—pretended to arrest Latimer and drove him away in their patrol vehicle.

Mr. EAGLETON. Mr. President, terrorism breeds terrorism. We condemn it wherever and however found. We provide no sanctuary for any terrorist of any persuasion, of any stripe.

Some have argued, erroneously in my opinion, that circumscribing the political offense exception somehow violates some constitutional rights of the fugitive. Let me dispose of that bromide right now. The political offense exception is not a recognition of some inalienable U.S. constitutional right of the fugitive. A person has no constitutional right to commit a crime in another country and escape extradition because the crime was "political." The only "right" involved is the discretionary act of the state, if it so wishes of its own free choice, to give political asylum for humanitarian reasons.

□ 1910

I would further point out that the Federal district judge in one of the four cases cited earlier, a case where the judge denied extradition on the grounds that the crime constituted a political offense, looked at the question of fairness of the Diplock courts. District Judge Sprizzo's opinion states:

The Court also specifically rejects respondent's claim that the Diplock Courts and the procedures there employed are unfair, and that respondent did not get a fair trial and cannot get a fair trial in the courts of Northern Ireland. The court finds the testimony of the Government witnesses as to this issue both credible and persuasive. The Court concludes that both Unionists and Republicans who commit offenses of a political character can and do receive fair and impartial justice and that the courts of Northern Ireland will continue to scrupulously and courageously discharge their responsibilities in that regard.

There are elements in the administration of justice in Northern Ireland which are unfair, no question about it. The widespread use of administrative detention, their search and seizure procedures are antipathetic to our judicial principles. However, it is important to make the distinction that these abhorrent practices do not impact upon extradition cases because they do not apply to fugitives who are apprehended in the United States.

Finally, it should be noted that the United States and the Republic of Ireland currently allow extradition for defendants who will be tried in Diplock courts. Nonpolitical security offenses are now and always have been extraditable to the Diplock courts. Dominick McGlinchey was extradited from the Republic of Ireland to face trial in a Diplock court.

Mr. President, I wish to address in some detail one new article added to the supplementary treaty by the committee, article 3(a). When the supplementary treaty was submitted to the Senate, concern was expressed about the possibility of sham prosecutions, in which a foreign government would trump up charges against a dissident in order to obtain his extradition for trial and punishment.

Senator DODD posed a disturbing hypothetical involving the Philippines. He suggested that, if the supplementary treaty had been in effect with the Philippines while Benigno Aquino was in exile in the United States, the Marcos regime could have submitted fraudulent affidavits charging Aquino with a violent crime in order to secure his extradition. Aquino would not have been allowed to assert the political offense exception or to challenge the Marcos regime's motives in seeking his extradition.

I, and several other members of the committee, felt strongly that such a situation should not be allowed to occur. We therefore began working to add a provision to the treaty to meet that concern, what we referred to in a short-hand way as the "Ninoy Aquino" clause, or the "trumped-up charge" clause. Following these discussions among Democrats on the committee, I worked with Chairman LUGAR to develop language to embody the necessary protection against trumped-up charges.

In selecting what "trumped-up language" to use, we decided to draw upon existing language found in current United Kingdom statutes. That is, instead of concocting new language, we decided to travel the course of trying to use existing British—and later American—legislative "boilerplate."

The chairman and I first met on June 4 to discuss a variety of amendments to the supplementary treaty. At that time, I proposed to add the following reservation—taken from the United Kingdom Fugitive Offenders Act—to the supplementary treaty:

RESERVATION

(a) Nothing in this treaty shall be interpreted as imposing an obligation to extradite if the competent judicial authority of the requested state has substantial grounds for believing that the request for extradition for an offense mentioned in Article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons, or that, having regard to all the circumstances, it would be unjust or oppressive to extradite a person to the requesting State.

(b) Nothing in paragraph (a) shall be deemed to derogate from the discretionary authority of the President of the United States under United States law to withhold extradition.

The chairman, Senator LUGAR, was opposed to this language. After lengthy discussions, he and I tentatively agreed on a second version—taken from the 1870 United Kingdom Extradition Act, as amended by the 1978 Suppression of Terrorism Act:

ARTICLE

Nothing in this Supplementary Treaty shall be interpreted as imposing an obligation on the United States to extradite if the person sought proves to the satisfaction of the competent judicial authority of the United States that the request for extradition has in fact been made with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

This second version differed from my initial proposal in three major respects. First, the new version changed the proof requirement: instead of "substantial grounds for believing" that the specified conditions had been met, the person sought was now required to prove the elements "to the satisfaction" of the court; and he was now required to prove that the request for extradition was "in fact" based on the impermissible grounds.

Second, the phrase "the person's position may be prejudiced" was narrowed to specify that the person sought must prove that "he might, if surrendered, be prejudiced at his trial or punished, detained, or restricted in his personal liberty" by virtue of the impermissible factors. Third, and most significant, the final clause of my initial proposal—granting courts broad discretion to deny extradition on the ground that it would be "unjust or oppressive"—was deleted. This narrowed substantially the grounds on which extradition could be denied under the trumped-up charge clause.

The second version of the clause was the subject of much discussion in the week following my June 4 meeting with the chairman. He and I met again on June 11 to work out the final language of this and other amendments to the supplementary treaty. We agreed on the following language for the trumped-up charge clause:

ARTICLE 3

(a) Notwithstanding any other provision of this Supplementary Treaty, extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try to punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at this trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(b) In the United States, the competent judicial authority shall only consider the defense to extradition set forth in paragraph (a) for offenses listed in Article 1 of this Supplementary Treaty. A finding under paragraph (a) shall be immediately appealable by either party to the United States district court, or court of appeals, as appropriate. The appeal shall receive expedited consideration a every stage. The time for filing a notice of appeal shall be 30 days from the date of the filing of the decision. In all other respects, the applicable provisions of the Federal Rules of Appellate Procedure or Civil Procedure, as appropriate, shall govern the appeals process.

Another principal argument raised against the treaty revision has been the reputed unfairness of the so-called Diplock courts in which security offenders are brought to trial in Northern Ireland. Under the Diplock court system, the trials are public, the defendants are given notice of the charges, they have the right to counsel, the right to confrontation, and the privilege against self-incrimination. Over 50 percent of those cases that have actually proceeded to trial in the Diplock courts have resulted in the acquittal of the defendant. There also exists the right to appeal from a conviction in a Diplock court, and a recent appeals court decision in Belfast gives me every reason to believe that guilty verdicts are given strict judicial scrutiny. Last year, an appeals court in Belfast voided the murder conviction of "Mad Dog" Dominick McGlinchey on the basis of insufficient evidence. This reversal is noteworthy because McGlinchey has been described as the most wanted terrorist in all of Ireland. He has been implicated in over 30 killings and 200 terrorist attacks. If the judicial system in Northern Ireland can act fairly in the case of Dominick McGlinchey, it is hard to find the basis for an argument that due process is simply not available.

It is true that Diplock courts do not afford the right to a jury trial, an enshrined feature of our judicial system. However, we have never required our extradition partners to adhere to every feature of our system. We maintain treaties with numerous countries that do not have a jury system, including Israel and France.

□ 1920

This third version, derived in part from section 3194 of the Extradition Act of 1984, H.R. 3347, adopted by the House Judiciary Committee on October 4, 1983, contains the language actually adopted by the committee on June 12. It differs from the second version in two important respects.

First, the final version specifies the burden of proof that must be satisfied by a person invoking article 3(a): "a preponderance of the evidence." This is the usual standard in a civil lawsuit; it means that the person sought must prove that his claim is more likely true than not.

Second, the final version requires the person to prove that he "would" be prejudiced at trial, or punished, detained, or restricted in his personal liberty, on the impermissible grounds—rather than that he "might" be so affected, as the second version had provided. This change was highly significant: it indicates that the court may not speculate as to the likelihood of the prohibited events occurring, but rather must find that they "would" occur. In connection with the "preponderance of the evidence" requirement, this provision imposes a significant evidentiary burden on the requested person.

As one can readily perceive, each version of article 3(a) got narrower and narrower and narrower.

I wish to underscore, Mr. President, this narrow scope of article 3(a). The description as the "Ninoy Aquino clause" or the "trumped-up charge clause," is itself suggestive. As the principal author of this article 3(a), it was my intent to authorize a court, under most unusual factual conditions, to deny extradition based on a factual showing that the extradition request for this particular person was a sham, or that he would not get a fair trial upon his return because of the enumerated factors.

As far as I can ascertain, Judge Sprizzo's in dictum assessment, mentioned earlier, on the fairness of the Diplock court system is the only American case commenting on that system. His assessment, of course, was known to me when I authored article 3(a) and was known to other members of the committee. Frankly, but for the existence of Judge Sprizzo's in dictum analysis of Diplock, I would have drafted article 3(a) in a different form. I consider Judge Sprizzo's opinion, as it relates to the fairness of the Diplock court system, as being conformative to our intent in fashioning article 3(a) and conformative to applicable extradition law both before and after the supplementary treaty is ratified.

It would be a ludicrous reading of the Supplementary Treaty as a whole to conclude that the United States and the United Kingdom went to enormous pains to eliminate the political offense defense for a whole host of heinous crimes as set forth in article 1, then undid it all in article 3(a) by creating a huge new loophole by which terrorists could seek protracted sanctuary in the United States.

What might be called the judicial coddling of the four terrorists cited earlier in this speech gave rise to this treaty. Article 3(a) was not written to engender a new breed of terrorist coddling. As the author of article 3(a), I wish to assure my colleagues that it has the narrow and focused scope as I have stated heretofore.

If any of my colleagues wish to delude themselves that they are opening up once again the whole matter of a political offense exception, then I urge them to disabuse themselves of such delusion. If that is what some wish to believe, I assure them they are wrong. If that is what they wish, this supplementary treaty does not provide them any comfort and, in fact, if that be their belief, they should vote against the treaty.

Finally, Mr. President, I would emphasize that article 3(a) is not intended to give courts authority generally to critique the abstract fairness of foreign judicial systems. It is directed at the treatment to which this particular person will be subjected. And it is directed at the likelihood of prejudice by reason of race, religion, nationality, or political opinions. A court may not deny extradition because it concludes that a foreign tribunal does not provide every procedural safeguard provided by U.S. courts. Rather, the test should be whether the procedures that would be applied to the requested person, on account of his race, religion, nationality, or political opinions, would be so unfair as to violate fundamental notions of due process.

Mr. President, I hope that this account of the drafting and adoption of article 3(a) will be useful to courts in construing its application.

Mr. President, I yield the floor.

(Mr. HUMPHREY assumed the Chair.)

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Missouri, not only for his extraordinary leadership and scholarship, for his patience and diplomacy in working through the last few weeks and, for that matter, the better part of a year of hearings and meetings with interested people, but I thank him also for an extraordinarily thoughtful statement. And, from the standpoint of the distinguished Senator from Missouri, clearly, as he has identified himself as the chief author of section 3(a), a very critical aspect of the treaty, this offers, it seems to me, to both scholars and jurists a very important view of that section.

I believe, in his statement, although it comes late in the day, was an extraordinarily important point of trying to commend everybody who has been involved, but it speaks especially well of the Senator himself, that he devoted this time and this effort to such a labor of love.

I thank the Senator. I appreciate hearing his statement.

Mr. PELL. Mr. President, I wish to join with our chairman in thanking from the bottom of my heart the Senator from Missouri for the role that he took and the leadership he exercised. I do not know what we would have done if he had not taken hold of it the way he did. I am very grateful to him, indeed. I recall vividly the other prolonged meetings in my office as we all tried to work out a possible compromise. A very, very real debt, indeed, is owed to the Senator from Missouri. Without him, I do not think we would be on this floor with a complete victory.

Mr. EAGLETON. Mr. President, I am very grateful, indeed, for the fine praise from both the chairman, Senator LUGAR, and the ranking minority member, Senator PELL. Thank you very much.

Mr. LUGAR. Mr. President, very shortly, I understand the distinguished minority leader will be on the floor. At the time that he arrives, I will propound a unanimous consent that will guide us toward the conclusion of this matter.

For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk proceeded to call the roll.

□ 1930

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIPLOCK COURT SYSTEM

Mr. LUGAR. Mr. President, for purposes of legislative history, I ask unanimous consent that an analysis of the Diplock courts, prepared for the Committee on Foreign Relations by the Department of State and used during the committee's deliberations, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIPLOCK COURT SYSTEM—NORTHERN IRELAND

I. BACKGROUND

In the early 1970's, the British government found itself unable to control the rapidly escalating violence in Northern Ireland through ordinary criminal justice procedures. The government resorted to interning suspected terrorists without trail at the direction of the Executive for Northern Ireland. Recognizing the dangers inherent in this unfettered executive power, Parliament enacted in 1972 a more regular system of administrative detention for suspected terror-

ists. This system remained extra-judicial, however, and was considered foreign to the common law and in contravention of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the European Convention on Human Rights").

In 1972, the British government responded to public criticism of the detention procedures by appointing a commission, headed by the jurist Lord Diplock, to recommend new legal procedures for dealing with terrorist activities in Northern Ireland. The Commission issued a report recommending that the government return to controlling terrorism through courts of law (although it recommended that administrative detention be preserved for extreme cases). The Commission recommended creation of a separate trial court for terrorist crimes, which would provide substantially greater procedural safeguards than the administrative detention system, but fewer safeguards than ordinary criminal courts. The new courts would at minimum comply with the requirements of Article 6 of the European Convention on Human Rights.

Most of these recommendations were adopted by various statutes enacted in 1973 and thereafter. These provisions were consolidated in the Northern Ireland (Emergency Provisions) Act 1978 ("the 1978 EPA"). Although detention did not end with the creation of the "Diplock" courts, it was used less frequently and was finally phased out as the security forces grew capable of arresting and convicting suspected terrorists under the new judicial procedures.[1]

The criminal justice system in Northern Ireland is based upon an Act of Parliament, the 1978 EPA.[2] The 1978 EPA must be renewed by Parliament every six months. Parliament has also enacted a series of anti-terrorism statutes for the entire United Kingdom, now known as the Prevention of Terrorism (Temporary Provisions) Act 1984 ("the 1984 PTA"). The renewal provisions in that Act are similar to those of the 1978 EPA.

II. PROVISIONS AFFECTING INDIVIDUAL RIGHTS

A. Search and seizure

The English law of search and seizure has recently been restated and modified by the Police and Criminal Evidence Act of 1984 ("the 1984 PCEA"). The rules are generally similar to those in the United States. Whereas the U.S. standard is "probable cause," the U.K. standard is "reasonable grounds" for the search. In practice, the two standards are similar. As in the United States, a warrant is required for most searches of private premises; typical exceptions exist for emergencies, hot pursuit, etc. A warrant is not required to search a person or vehicle in a public place, so long as there are reasonable grounds for the search; nor is a warrant required for a search pursuant to an arrest. Written reports must be made of all searches of persons or vehicles not pursuant to an arrest warrant. England does not have a statutory exclusionary rule for illegally seized evidence. However, courts may exclude illegally obtained evidence in exercising their power to exclude unfairly prejudicial evidence in the interests of justice.

The 1978 EPA grants the police and British soldiers broader power to conduct searches and seizures in Northern Ireland. Police and British soldiers stationed in Northern Ireland have the power to enter any premises (except for dwelling houses) or vehicles to search for munitions and radio transmitters. To enter and search a dwelling house for munitions or transmitters, there must first be a suspicion that those articles are present; a soldier must then obtain authorization from an officer, and a policeman must have authorization from someone of the rank of chief inspector or above (§ 15). Soldiers and police may also stop and search any person in public for munitions and transmitters. If the person is not in a public place, he may be searched only if the policeman or soldier suspects he has munitions or ammunition.

Upon authorization by a superior officer, soldiers and policeman may also enter and search any place to ascertain whether someone is being unlawfully detained there or is in physical danger (§ 17). Soldiers or police may also enter any place when necessary to preserve the peace or maintain order (§ 19). Except for the power to stop and search persons for munitions or transmitters (§ 15(3)), no provision in the 1978 EPA allows general stop and frisk powers such as are available to police in the United States. As in England, only searches pursuant to an arrest are generally permitted (PCEA § 32).

B. Arrest

The general rule in England is that a policeman may arrest someone without warrant only if he has reasonable grounds for suspecting that the person has committed, is in the act of committing, or is about to commit an offense (§§ 25, 26). Except under the provisions of the 1978 EPA, no one may be arrested solely for questioning. A policeman may also arrest someone in order to protect the public or because he has reasonable grounds to doubt the person's stated name and address. The law in England and Northern Ireland requires that a policeman inform the arrested person of the ground for the arrest as soon as practical; if the policeman fails to do so, the arrest is unlawful. The 1978 EPA makes an exception to this rule for a soldier, who need only state he is making an arrest as a member of Her Majesty's forces.

Prior to enactment of the 1984 PCEA, an arrested person in England had to be brought before a magistrate within 24 hours of arrest (except, in the case of a "serious offense," only "as soon as practicable"). In practice, these rules resulted in detentions without charge for an uncertain time (often up to three or four days). The 1984 PCEA has changed the common law rule to provide that only in cases of serious offenses, where an investigation is being carried out diligently and expeditiously, may detention without charge extend beyond 24 hours. An officer of the rank of superintendent or above who is in charge of the police station at the time must authorize any additional detention up to 36 hours after arrest. Beyond 36 hours, continued detention without charge may occur only upon a warrant issued by a Magistrate's Court for up to an additional 36 hours. The warrant may be renewed up to 96 hours total before the arrestee must be released or charged.

The 1978 EPA changed the law of arrest in Northern Ireland in three respects. First, it allows the police to arrest anyone "suspect[ed] of being a terrorist" (not suspected of any specific crime) and to hold the person up to 72 hours for questioning. The term "terrorist" is not defined (§ 11). Second, the EPA changes the "reasonable grounds for suspecting" standard of warrantless arrest to one of mere suspicion (§ 12). Third, the EPA permits a British soldier to arrest a person on suspicion of an offense and hold him up to four hours for questioning (§ 13).

The 1984 PTA and its predecessor laws give wider powers of arrest to police throughout the United Kingdom. Under the PTA, the police may arrest anyone reasonably suspected of the "commission, preparation or instigation of acts of terrorism" connected with Northern Ireland (§ 12). This standard requires less than reasonable suspicion that a specific illegal act has been committed, but unlike the EPA provision authorizing arrest on suspicion of being a terrorist, the PTA ties the suspicion to specific acts. The 1984 PTA arrest power allows detention for questioning up to 48 hours (and, in the discretion of the Secretary of State, for up to five additional days). Police in Northern Ireland can release a suspected terrorist after detention under either the EPA or PTA and then rearrest him under the other statute.

C. Admissibility of confessions

In offenses involving terrorism in Northern Ireland, rarely can witnesses be found who will agree to testify. Convictions, are usually based upon confessions or incriminating statements made by a defendant. As a result, police interrogation plays an important role in gathering evidence to convict terrorists. In the last fifteen years, the law in Northern Ireland has accommodated greater police powers to arrest and detain for questioning, but it has also been modified to limit the potential for abuses.

1. Right to Silence

There is no duty in England or Northern Ireland to answer questions put to a person by the police. The only exception is under the 1978 EPA, which imposes a duty to identify oneself properly when asked to do so by a policeman on the street and to answer his questions about "any recent explosion or any other incident endangering life or concerning any person killed or injured in any such explosion or incident" (§ 18). The right to silence in the United Kingdon does not forbid (until after an indictment) continued questioning by the police of anyone asserting that right. In England (and in Northern Ireland), police are no longer allowed to question an arrestee at all after indictment.

2. Admissibility Standard

Before enactment of the EPA in Northern Ireland and the PCEA in England, the common law rule of admissibility of confessions was known as the "voluntariness" standard: after arrest, only a voluntary confession could be used against a defendant. This standard was interpreted to mean that any statement obtained by "fear of prejudice or hope of advantage, exercized or held out by a person in authority, or by oppression" was inadmissible. Northern Ireland

[1] The last detention order was issued in 1975, and all detained persons were released by the end of that year. The statutory provisions for detention, section 12 of the 1978 EPA, were not renewed by Parliament in 1980, but the Secretary of State of Northern Ireland retains the power under section 33(3) of that act to revive them immediately by order. Because the use of detention contravenes the European Convention on Human Rights and the U.N. Covenant on Civil and Political Rights, Britain has filed notices of derogation under the emergency derogation provisions of those instruments.

[2] The 1978 EPA is a consolidation of the 1973 EPA, which enacted most of the Diplock Commission's recommendations, and the 1975 EPA, which had amended the 1973 EPA pursuant to the recommendations of a commission created by Parliament to study the operation of the 1973 EPA (the Gardiner Commission). Parliament recently commissioned a new study of the 1978 EPA by Lord Baker. His recommendations are being considered by Parliament for inclusion in a revised EPA.

courts interpreted the voluntariness standard even more strictly than the English courts: "any set-up [by the police] which makes it more likely that those who did not wish to speak will eventually do so" was ruled to make a statement obtained thereby "involuntary" and thus inadmissible. This rule prohibited almost all modern psychological interrogation techniques.

The Diplock Report found that the prevailing voluntariness standard was so rigid that it had forced the authorities to resort to extra-legal administrative detention proceedings instead of trying confessed terrorists in courts of law. The Diplock Report recommended, and the 1978 EPA adopted (§ 8), the admissibility standard found in Article 3 of the European Convention on Human Rights: all statements of a defendant are admissible, unless he presents prima facie evidence that he was subjected to "torture or to inhuman or degrading treatment in order to induce him to make the statement," whereupon the prosecution must satisfy the court that the statement was not so obtained. Since the Convention standard was adopted, the European Court of Human Rights has interpreted it to permit a certain amount of rough treatment of a suspect, including slapping his face.

The Diplock courts have interpreted the EPA admissibility standard as preserving their common law discretion to exclude confessions "in the interests of justice." They have exercised this discretion in cases in which evidence existed of physical maltreatment of the defendant by police.

3. Right to Counsel

In England and Northern Ireland, the Judges' Rules provide that whenever an arrested person demands to see a lawyer, the police must stop questioning him and give him the opportunity to notify his attorney (or a friend or relative) or to arrange for counsel to be appointed. Police are permitted to delay a meeting between the arrested and his counsel if they believe that it would cause unreasonable delay or hindrance to the process of the investigation or to the administration of justice. In serious cases, arrested persons were often unable to meet with counsel until after indictment. Parliament therefore adopted for Northern Ireland (as part of the Royal Ulster Constabulary ("RUC") code of conduct) the rule that a defendant has an absolute right to see an attorney after 48 hours, and every 48 hours thereafter. Each arrested person must be given a printed notice of his right of access to an attorney.

D. Limitations on speech and assembly

The EPA establishes as a criminal offense actual or professed membership in one of eight terrorist organizations (along with solicitation of support for members of those organizations, or carrying out their orders) (§ 21). The 1984 PTA contains a similar provision for England, applicable to two of the groups listed in the 1978 EPA. Both acts grant the Secretary of State power to add or remove an organization from the list of proscribed groups if it "appears to him to be concerned in terrorism or in promoting or encouraging it." The Republic of Ireland also proscribes organizations, specifically the IRA since 1939. Penalties run to ten years under the EPA, five years under the PTA and 7 years in the Republic of Ireland. Baker considered arguments that membership in certain groups should not be outlawed, but concluded that the prohibition was an important symbol for the people, both as an expression of public outrage at the acts of the groups involved and as a disincentive to youths considering joining up.

The 1978 EPA renders illegal collecting, disseminating or possessing information about individual police, soldiers, judges, or prison employees that might be useful to terrorists planning acts of violence. The burden is on those charged to show a reasonable excuse. The EPA also proscribes training persons in the use of firearms and explosives, dressing or behaving in public like a member of a proscribed organization, wearing a hood in public (§§ 21-23, 25-26). The 1984 PTA also makes it a crime to withhold information that might help prevent terrorist acts or aid in the apprehension or prosecution of a terrorist (§ 11). In order to cut off support for terrorist groups, Section 10 of the PTA makes it a crime to solicit or acept "any money or other property . . . intending that it shall be applied or used for or in connection with the commission, preparation or instigation of acts of terrorism [connected with Northern Irish affairs] (§ 10)."

E. Miscellaneous provisions

1. Burden of Proof for Possession of an Illegal Object

The Diplock Report found that the government's burden of proving that a defendant was in possession of terrorist objects (e.g., arms, ammunition explosives) found in the same place as the defendant or in a place he frequented was too high: perpetrators of terrorist bombings and shootings are rarely caught in the act: testimony of witnesses is difficult to obtain in Northern Ireland because of sympathy and intimidation; and terrorist acts need to be prevented before they claim innocent victims.

Following Lord Diplock's recommendation, the 1978 EPA relieves the prosecution of part of the burden of proving possession. It creates a permissible inference that, if certain illegal articles (firearms, ammunition or explosives) are found on the same premises as the defendant, or in a place he occupied or "habitually used otherwise than as a member of the public," then the court "may accept the fact proved as sufficient evidence of his possessing . . . that article at the time unless it is further proved that he did not at that time know of its presence in the premises in question, or, if he did know, that he had no control over it" (§ 9(1)). In effect, the provision forces a person on the premises where the proscribed articles are found to explain himself. It does not affect the legal standard of proving possession beyond a reasonable doubt. Similar burden of proof provisions exist in the United States and have been held constitutional by the Supreme Court. For example, in *County Court of Ulster County, New York* v. *Allen*, 442 U.S. 140 (1979), the Court upheld a New York statute that made the presence of a firearm in an automobile presumptive evidence of its illegal possession by all persons occupying vehicle.

2. Young Persons

The 1978 EPA also adopted several provisions recommended with respect to youths who shoot soldiers or commit other specified crimes. The Act permits the Secretary of State to direct that any "young person" (age 14 through 16) may be held without bail in such custody as is necessary to ensure his safety or that of others (e.g., by imprisonment) (§ 3). Such direction must be renewed every two months. The Act permits a court to imprison a young person convicted of an offense which is punishable in the case of an adult for five years or more (§ 10). The maximum term for those crimes requiring remand to a juvenile home is six months.

3. Exclusion

In order to deal with the problem of importation of terrorism, the PTA authorizes the Secretary of State to issue exclusion orders. Such orders expire after three years and may be rovoked by subsequent order of the Secretary. The Secretary may exclude any person who "is or has been concerned in the commission, preparation or instigation of acts of terrorism" that are "designed to influence public opinion or Government policy with respect to affairs in Northern Ireland," or who is attempting or may attempt to enter . . . with a view to being concerned in the commission, preparation or instigation of such acts of terrorism. . ." (§§ 3(6), 4(1)). These orders can exclude an individual from Northern Ireland, Great Britain, or the United Kingdom. British citizens who are ordinarily resident" in the area from which exclusion is sought are not subject to an exclusion order.

IV. SPECIAL CRIMINAL COURTS: "DIPLOCK COURTS"

Based upon the recommendation of the Diplock Report, the EPA creates a second type of criminal court in Northern Ireland, known colloquially as "Diplock courts." Their principal distinction from ordinary criminal courts in Northern Ireland is that they have no jury; all offenses are tried before a single judge (§ 7). Appeals are taken as of right to a three-judge panel of the Court of Appeals.

A. Jurisdiction

The jurisdiction of the Diplock Courts extends to all trials in which any charge against the defendant is for one of a specified set of common law offenses characteristic of terrorism and listed in schedule 4 of the EPA. "Terrorism" itself is not a crime under the EPA although suspicion of being a terrorist is grounds for detention for questioning under § 11 of the EPA and § 12 of the PTA). The scheduled offenses include murder, kidnapping, assault, conspiracy, crimes involving firearms or, explosives, arson, belonging to a proscribed organization, aggravated burglary and mayhem (schedule 4). The EPA does not provide for distinguishing non-terrorist offenders of the scheduled crimes and trying them before a jury.

B. Trial by judge alone

Although the right to trial by jury is all but gone in civil trials in England (though not in Scotland or Northern Ireland), it is still available as of right in all criminal trials, except for those under the 1978 EPA. The primary reason that the EPA provides for trying terrorist cases before a judge alone is Lord Diplock's observation that the jury system was in danger of a complete breakdown in Northern Ireland. Terrorists were engaging in actual intimidation of juries, and there was widespread fear of retaliation for "bad" jury verdicts. As Lord Diplock observed, "[a] frightened juror is a bad juror even though his safety and that of his family may not actually be at risk." Seating a jury had become difficult because of nearly endless rounds of challenging potential jurors by both sides. Trial by a panel of one's peers, seldom occurred: juries tended to be almost exclusively made up of protestants in trials of republican terrorists. Loyalist suspects were rarely convicted by protestant juries.

Although trial by jury is a treasured part of the Anglo-Saxon legal heritage, it is not considered essential to just trials in most legal systems of the world (including many inheritors of the British common law tradition). Unlike a jury, the judge in a Diplock court must state reasons for his decision in writing. His decisions of fact as well as of law can be overturned on appeal. Acquittal rates in Diplock courts are very similar to those in the jury courts of Northern Ireland; indeed in 1983 the rate for Diplock courts was higher.

C. Bail

The 1978 EPA removes the power to grant bail from magistrates and justices of the peace and makes it available only upon application to a High Court judge (or to the trial judge when trial is adjourned). Threats, intimidation and actual violence created intolerable pressure on magistrates and justices of the peace.

Requirements for bail have also been modified. At the time of the Diplock report, the likelihood that the accused would continue to commit crimes if released was not a grounds for denial of bail in Northern Ireland (although it was in England). The EPA made that a ground for denying bail. The EPA also added a requirement that all other conditions of bail must be complied with and that the accused may not interfere with any witness.

The EPA shifts onto the accused the burden of satisfying the High Court judge that he has met the requirements for bail; in England, the burden is on the prosecution. Between 1973 and 1982, around 40 percent of bail applications to the High Court were granted.

D. Right to counsel

In England and Northern Ireland, a person has an absolute right to be represented by an attorney at trial and (subject to the provisions for delay discussed above) in the police station before indictment. A defendant must always be informed of his right to counsel. Moreover, in Northern Ireland, an application for legal aid must be granted unless the defendant is found to have sufficient financial means to obtain his own counsel. Usually, an indigent defendant is provided both a barrister and a solicitor. By contrast, in England the right to free counsel is not absolute except when a defendant is tried for murder or when the prosecutor takes an appeal.

E. Right to confrontation

All defendants have a common law right to confront the witnesses against them at trial. Traditionally, that right has extended to proceedings leading to indictment (the "committal proceeding" in England and the "preliminary enquiry" in Northern Ireland). The prosecution and the suspect may present evidence in the form of written statements, but either side may refuse to accept such form of evidence and demand that witnesses give live testimony.

In some cases in Northern Ireland in which indictments were based on the testimony of accomplices (called "supergrasses"), these preindictment proceedings became particularly chaotic, with spectators shouting threats at the witness to make him change his mind about giving evidence for the prosecution. As a result, the prosecution has occasionally invoked a little-used procedure that has long existed in England and Northern Ireland, the "voluntary bill of indictment." This procedure enables the prosecution to apply for an indictment in an ex parte proceeding to a judge of the High Court, Court of Appeal, or Crown Court; the accused has no right to be heard or to confront witnesses against him. In cases in which the testimony of a "supergrass" accomplice is the sum of the prosecution's evidence, use of the voluntary bill deprives the defense of an early opportunity to hear and cross-examine the "supergrass." In the United States, a defendent has no right at all to confront witnesses before indictment.

One potential area for unfairness in preindictment proceedings was dealt with by the judiciary itself. The Northern Ireland preliminary enquiry proceeding does not provide for the committing magistrate to edit out inadmissible, prejudicial material from the statements given before sending them to the trial judge with the indictment. This is sensitive because of the judge's role as sole trier of guilt or innocence in Diplock courts. On his own initiative, the Lord Chief Justice instituted a pretrial review proceeding, whereby another judge reads and edits committal papers before they are sent to the trial court, to ensure the trial judge sees no prejudicial material inadmissible at trial.

F. Supergrasses

"Supergrass" is British slang for an accomplice who becomes a witness for the prosecution against his former colleagues. In the last few years the police in Northern Ireland have made widespread use of the testimony of republican and loyalist insiders, themselves often guilty of serious crimes. Supergrass testimony has resulted in some well-publicized convictions based solely on the basis of the supergrass's uncorroborated testimony.

Accomplice testimony, especially when given in return for leniency, has been viewed with distaste for centuries in England. Yet accomplice and co-conspirator evidence has always been admissible in England, so long as the trial judge first warns the jury that, although they may find the defendant guilty solely on the basis of the accomplice's testimony, it is "dangerous" to do so. Opposition to the use of supergrass testimony focuses on the fact that, because there is no jury in Diplock courts, the judge can warn himself. In at least one major trial of 35 IRA defendants, however, a judge did dismiss the charges after declaring the evidence of the prosecution's supergrass "entirely unworthy of belief." Accomplice and co-conspirator evidence has always been admissible in U.S. courts, subject only to the trier of fact's evaluation of its credibility.

V. GOVERNMENT RESPONSES TO CHARGES OF UNFAIRNESS

The British government has been very responsive to criticisms of its handling of security in Northern Ireland. In 1971 the government of Ireland lodged a complaint with the European Commission on Human Rights, alleging that British authorities had breached Article 3 of the European Convention on Human Rights in authorizing the use of wall-standing, hooding, subjection to noise, deprivation of sleep, and deprivation of food and drink as interrogation techniques in Northern Ireland. Shortly thereafter, the British government suspended existing procedures and set up a committee of inquiry that found the techniques used did not amount to brutality. After criticism of that report, another committee was set up; two of its members found the techniques justifiable in exceptional circumstances, while a third member found the techniques illegal and objectionable. The government then abolished the techniques and subsequently paid substantial compensation to the victims of those interrogation methods. In 1978 the European Court of Human Rights, reversing the Commission's finding of torture, found that the techniques had amounted to inhuman or degrading treatment, but not torture.

When resort was made to administrative detention in 1971, the British government was quick to set up the commission under Lord Diplock to recommend legal procedures to deal with terrorist activities in Northern Ireland. The Commission's report was largely followed in enacting the 1973 EPA. At the same time as juries were suspended, capital punishment was abolished. In 1974 a new committee was formed under Lord Gardiner to consider the whole range of measures used to deal with terrorism in Northern Ireland, with particular regard to the protection of civil liberties and human rights. Its recommendations were incorporated into the 1975 EPA. The 1974 and 1976 PTA were reviewed by Lord Shackleton in 1978 and Lord Jellicoe in 1983. Those recommendations were incorporated in the 1984 PTA.

In 1977 Amnesty International investigated complaints that suspects were being physically maltreated while in the custody of the Royal Ulster Constabulary ("RUC"). The government immediately set up an independent committee headed by Judge Bennett to investigate RUC interrogation procedures and practices. The report found that some violence had been used during interrogation, and it made several recommendations that were implemented as part of the RUC code of conduct and in the 1984 PTA and the 1984 PCEA. After the measures undertaken in 1971, when the Republic of Ireland filed its complaint with the European Commission, and in 1979, after the Bennett report, charges of maltreatment by police and soldiers in Northern Ireland declined dramatically.

A review of the 1978 EPA was commissioned by Judge Baker in 1983. His report is currently under study for incorporation in a new EPA for Northern Ireland. The Standing Advisory Commission on Human Rights also reported to Parliament in 1977 on the state of protections for human rights under law in Northern Ireland and recommended that a bill of rights be enacted for the entire United Kingdom. The combination of the problems brought to light in practice in Northern Ireland and in the various commissioned reports led to a complete review of English criminal procedure by the Royal Commission on Criminal Procedure, whose suggestions were substantially incorporated in the 1984 PCEA. In addition to the various reports commissioned by Parliament, the operation of the EPA is debated every six months when both Houses vote on whether to continue the Act in force.

AMENDMENT NO 2208

Mr. LUGAR. Mr. President, I send the committee reported amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an executive amendment numbered 2208.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

(1) Amend article 1 to read as follows:

"For the purposes of the Extradition Treaty, none of the following shall be regarded as a offense of a political character:

(a) an offense for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit his case to their competent authorities for decision as to prosecution;

(b) murder, voluntary manslaughter, and assault causing grievous bodily harm;

(c) kidnapping, abduction, or serious unlawful detention, including taking a hostage;

(d) an offense involving the use of a bomb, grenade, rocket, firearm, letter or parcel bomb, or any incendiary device if this use endangers any person; and

(e) an attempt to commit any of the foregoing offenses or participation as an accomplice of a person who commits or attempts to commit such an offense."

(2) Amend article 2 to read as follows:

"Nothing in this Supplementary Treaty shall be interpreted as imposing the obligation to extradite if the judicial authority of the requested party determines that the evidence of criminality presented is not sufficient to sustain the charge under the provisions of the treaty. The evidence of criminality must be such as, according to the law of the requested party, would justify committal for trial if the offense had been committed in the territory of the requested party.

"In determining whether an individual is extraditable from the United States, the judicial authority of the United States shall permit the individual sought to present evidence on the questions of whether:

(1) there is probable cause;

(2) a defense to extradition specified in the Extradition Treaty or this Supplementary Treaty, and within the jurisdiction of the courts, exists; and

(3) the act upon which the request for extradition is based would constitute an offense punishable under the laws of the United States.

"Probable cause means whether there is sufficient evidence to warrant a man of reasonable caution in the belief that;

(1) the person arrested or summoned to appear is the person sought;

(2) in the case of a person accused of having committed a crime, an offense has been committed by the accused; and

(3) in the case of a person alleged to have been convicted of an offense, a certificate of conviction or other evidence of conviction or criminality exists."

(3) Insert after article 2 the following new article:

"ARTICLE 3

"(a) Notwithstanding any other provision of this Supplementary Treaty, extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

"(b) In the United States, the competent judicial authority shall only consider the defense to extradition set forth in paragraph (a) for offenses listed in Article 1 of this Supplementary Treaty. A finding under paragraph (a)—shall be immediately appealable by either party to the United States district court, or court of appeals, as appropriate. The appeal shall receive expedited consideration at every stage. The time for filing a notice of appeal shall be 30 days from the date of the filing of the decision. In all other respects, the applicable provisions of the Federal Rules of Appellate Procedure or Civil Procedure, as appropriate, shall govern the appeals process."

(4) Renumber the remaining articles 4, 5, 6, 7.

Mr. LUGAR. Mr. President, these are the amendments that Senator EAGLETON and I prepared for our compromise resolution of ratification. I know of no objection to them. I ask for their adoption.

The PRESIDING OFFICER. Is there objection to the adoption?

Mr. BYRD. Mr. President, does the distinguished Senator ask for their adoption en bloc?

Mr. LUGAR. I do. I ask unanimous consent for the adoption en bloc.

Mr. BYRD. There is no objection on this side.

Mr. LUGAR. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Indiana.

The amendment (No. 2208) were agreed to en bloc.

Mr. LUGAR. Mr. President, the majority leader has consulted with the minority leader; and as the distinguished Democratic leader is now present, I raise the following request:

I ask unanimous consent that the treaty now be advanced through its various parliamentary stages up to and including presentation of the resolution of ratification, and that the committee-reported declaration be considered and agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I further ask unanimous consent that at 2 p.m. tomorrow, the Senate proceed to vote on the resolution of ratification and that no further action or debate be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask for the yeas and nays on that final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I thank the Chair. I thank the distinguished Democratic leader. I thank my colleague, Senator PELL.

ROUTINE MORNING BUSINESS

Mr. LUGAR. Mr. President, I move there now be a period for the transaction of routine morning business as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR FASCINATING COLLEAGUE IS RECOGNIZED IN THE PRESS

Mr. BYRD. Mr. President, the style section of this morning's Washington Post carries a feature story about one of the finest minds and most interesting people ever to sit in the U.S. Senate, our colleague, the distinguished senior Senator from New York [Mr. MOYNIHAN].

I urge all my colleagues to read this fascinating story about Senator MOYNIHAN. It tells how he prevailed against hardships to become an aide and adviser to Gov. Averell Harriman, and Presidents Kennedy, Johnson, Nixon, and Ford.

Now he sits in the U.S. Senate, and I am pleased and honored to have him with us. According to the article, he seems just as happy to be here. His daughter, Maura, is quoted as saying: "One thing about my father you should know * * * he loves being Senator."

In addition to his lifetime of work as a public servant, Mr. MOYNIHAN has also come to be regarded as one of the Nation's foremost intellectuals, as evidenced by his recent book, *Family and Nation*. This study calls attention to the plight of American families and urges the adoption of a family policy to address those problems rather than simply paying lipservice to traditional family values. Senator MOYNIHAN explains: "You cannot experiment with social policy. You can't do that with citizens. When you cite a problem, and ask questions, you'd better hope the answers are the right ones. People's lives are at stake."

As in so many cases, the senior Senator from New York is right on mark.

Mr. President, I ask that the splendid article from the Washington Post be reprinted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 16, 1986]

MOYNIHAN: THE MYTHS AND THE APPETITES

(By David Remnick)

Has teevee land ever seen a man so tickled as Daniel Patrick Moynihan?

As he describes the plight of the American family to Phil Donahue, the senator's knees lock and his shoe tips wag. His bushy brows hump up like two millipedes on a twig, then ascend to his thatchy forelock. When the audience applauds him, Moynihan applauds back. And as the clapping flattens into a

roar, his mouth goes pursy, forming a fleshy Irish rose.

His daughter Maura—late of Harvard and the rock group the Same—has seen the look before. "Dad's mouth gets like that when he's happy," she says.

After the show, Moynihan lumbers toward the elevator. He is a towering sight—6 feet 4 inches—and surprisingly trim. He is one of those men whose waggy midlife jowls make them seem far heavier than they are.

"Saddle up, children!" he yells tinnily, and the entourage shuffles over to meet him. There is something antique, something mythological about Moynihan. The theater he has become—the herky-jerky Anglo-speech, the bow tie slightly askew, the tweedy caps and professorial rambles—they all make him seem vaguely not there, a figure not of the present but of an unreal history, an American Edmund Burke taking dominion on the Hill.

The sources of Moynihan's real satisfactions these days run deep. His New York Senate seat appears safe. As an analyst of American family problems, he is being hailed as an embattled prophet redeemed. Even the publicity ball is rolling pleasantly to his feet. Donahue—perhaps the most influential book seller in American history—twice showed Moynihan's book. "Family and Nation," to the cameras. Twice! The senator is even more delighted than the PR woman from Harcourt Brace.

"Well!" he chirps in the elevator. "You can't say that fella didn't try to sell any books!"

The limo ushers Moynihan crosstown to further flattery. The editors of the Encyclopaedia Britanica have arranged to bestow medals on the senator and five others for making scholarly work accessible. In the course of a very few minutes Moynihan refers to political theorist R.H. Tawney, physicist Max Planck and other academic immortals. He lobs bons mots like bonbons. And now Moynihan's mouth is blooming again. He is enjoying that uniquely intoxicating sensation: He is talking, and everyone is listening. In his odd pizzicato, he is discoursing obscurely on the universality of scientific experiments— ". . . and so it will turn blue in Bul . . . gar . . . ee . . . ya and it's turn blue in Pa . . . ta . . . go . . . nee . . . ya!"

"One thing about my father you should know," Maura Moynihan says. "He *loves* being senator."

"I couldn't believe it!" Moynihan says, in his Washington office a few days later. "In the elevators people were saying 'Hey! We were watching you on television! We saw you on Donahue!' "

The moment is optimal for Moynihan, too. When he first spoke out on the state of the black family as an undersecretary of labor in the Johnson administration 21 years ago, he cited the problem of single-parent homes as a "tangle of pathology." He caught swift hell for that. The times did not permit such an analysis—too soon after the civil rights initiatives—and the attacks on Moynihan were sometimes ugly and cruel, Black leader James Farmer wrote that the Moynihan Report was "the fuel for a new racism," and its data would "turn the Grand Dragon of the Ku Klux Klan into a prophet." Moynihan was deeply wounded. He abandoned plans to write a book on the black family:

"I thought, let someone else do that."

Finally, he did write his book. "Family and Nation," which was first delivered as a series of lectures last year at Harvard, shifts somewhat the emphasis of Moynihan's old argument from race to class, and it has been received with almost universal acclaim. Although it is conspicuously lacking for answers and recommendations, Moynihan has once more framed the critical questions on family and poverty. This time there is applause.

"Pat was right all along," says Sen. Bill Bradley (D-N.J.). "He set an agenda and stayed with it." "Pat deserves all the acclaim he's getting on this," says Sen. William Proxmire (D-Wis.). "He was dead right."

"The subject of the family is on the agenda now," says Moynihan, who is hoping that he and his fellow Democrats can pull together a set of coherent proposals for the years ahead. He compares the need for a family policy to the need for basic social welfare programs preceding the years of the New Deal. "And that sort of thing requires preparation, thinking. You know by 1935 if you wanted a Social Security bill, there were people you could turn to who could tell you what it should be. They'd been working on it for 30 years.

"We have behavioral, social and structural problems to deal with and the first step in the legislative process is to protect the few things we do have. Even if the president does raise the subject of the family, he's wrong about what we have to do about it. With the Reagan administration there came to power an official doctrine that you have problems because you tried to do something about them. It's a national tragedy."

The overall Moynihan Myth, the one that he propagates, is one of ideological, liberal consistency. And yet he has shifted his imagery and allegiances radically over his career.

As an aide to former New York governor Averell Harriman in the '50s and to John F. Kennedy and LBJ in the '60s, he was a mainstream Democrat, part regular, part reformer, part broker, part civil rights advocate. As an adviser to Johnson he wrote a crucial speech on poverty in black America. As an adviser on domestic affairs to Richard Nixon and the spokesman for a temporary policy of "benign neglect" toward the tumult in the black urban community, he began forfeiting those liberal credentials. He lost some old friends. Upon his return to Harvard in 1971, he was accorded a dismal attic office and a good many sneers. He even lost one tenure vote before finally gaining a secure post on the faculty.

Moynihan's sympathies—or lack of them—stunned some of his more liberal friends. During the Vietnam era he was often more critical of the protesters than of the war—"I can live with the robber barons, but how do you live with these pathological radicals," he said in 1969.

As President Ford's U.N. ambassador, Moynihan was a swaggering figure, hoisting the nameplate of the United States in pugnacious opposition to much of the Third World. Suddenly he was the Neoconservative of U.N. Plaza, an ally of Commentary editor Norman Podhoretz, Public Interest editor Irving Kristol and other converts to the Temple of Toughness. During Moynihan's U.N. career, William F. Buckley's National Review proclaimed him Man of the Year.

After denying for weeks that he would run, Moynihan won his Senate seat by outflanking his Democratic rivals Bella Abzug, Ramsey Clark and Paul O'Dwyer to the right and his Republican rival, incumbent and Buckley brother James, to the left.

He came to the Senate in 1977 as a kind of New York version of Sen. Henry (Scoop) Jackson—a liberal on social policy, a hawk on defense and foreign affairs. He brought with him some of Jackson's most militantly neoconservative former aides, among them Elliott Abrams, Chester Finn, Abram Shulsky and Gary Schmitt. Soon there were furious denunciations of the Carter foreign policy in the office—the weakness, the weakness! At times the office seemed like the Washington bureau of Commentary.

Almost immediately Podhoretz and others involved in neoconservative organizations such as the Coalition for a Democratic Majority began chatting up Moynihan as a presidential candidate, for in his first five years in office, Moynihan pleased most of his neoconservative allies. His Americans for Democratic Action ratings were 70, 60, 47, 72, 75—the numbers of their kind of moderate Democrat.

"But Pat started moving in a different direction," Podhoretz says ruefully. With Reagan in office, Moynihan sounded his odd, burbling bugle of opposition. After voting in favor of Reagan's intitial round of tax cuts—"not my finest moment," he says now—he began taking a more antagonistic approach to the administration.

Opposition has long been his strongest suit. First it was opposition to the Democratic orthodoxy of the '70s; now it's opposition to the conservative orthodoxy of the '80s.

"I've always liked that role," he says.

With liberals Gaylord Nelson, Birch Bayh, Frank Church, Hubert Humphrey, Walter Mondale and George McGovern all gone from the Senate, and with the political climate itself shifted to the right, Moynihan suddenly finds himself greatly valued, even by his old ideological enemies. "I feel delighted with the intellectual and political growth of Pat Moynihan," says George McGovern—who did not win Moynihan's vote in 1972. "Pat's been moving in the right direction. After flirting with all the neos, he's returned to his natural instincts. There's been a maturing process. He grew away from his natural base—a liberal, Irish Democrat—and that got him in trouble, I thought. Now he's returned."

In contrast, of course, Moynihan's neoconservative allies are disappointed. The relationship with Podhoretz, which had once been so close, has deteriorated. Abrams (who is Podhoretz's son-in-law), Finn, Shulsky and Schmitt all took posts in the Reagan administration. Not only did they want to serve in the executive branch, they had all drifted rightward from their mentor Moynihan. Tim Russert, Moynihan's political guru, was one of the few who did not enter the administration; after a stint with Mario Cuomo, Russert became a vice president at NBC News.

Moynihan holds fast to what might be called the "I never changed, the world did" theory. "The Democratic Party in the early '70s went very considerably to the left," he says. "There were some of us who didn't, that's all."

Of the term neoconservative, he says, "I didn't like it then and I don't like it now. Why take the honorable word 'liberal' away from people who want it?" And of neoliberal, well, Moynihan would rather resort to visual aids.

"Come, come, I'll show you something in my bathroom."

Moynihan points the way with a forefinger as long and knobby as E.T.'s.

Hanging above the toilet are two framed magazines. There is a Nation cover with the logo. "The Conscience of a Neoconservative." The Nation, obviously, thought Moynihan had no conscience—the cover drawing shows the senator wearing a holster with a couple of six-shooters and a bullet strap loaded with tiny missiles. The other cover is from The New Republic with a smiling Moynihan under the logo, "Pat Moynihan, Neo-Liberal."

"Well . . . there you see . . . the value of labels."

Like so much drizzle on a hot street, Moynihan's patience evaporates. As far as he is concerned, the subject can be dismissed.

And so he turns his attention to an ornate relief map of New York State that hangs on another wall in the bathroom. His finger wanders from the plains of west New York to the rivers converging in Pennsylvania.

"Well!" he says. "Would you like to see how the Indians got to Pittsburgh?"

Moynihan's mythology of self is a thing to behold. His daughter Maura grew up on it: "the myth of Dad. When we were growing up we'd recount with reverence how he shined shoes in Times Square and became the ambassador to India. We thought it was extraordinary! The American dream. He'd always say, 'This country has been good to me.' "

Moynihan's version of his public life also has a mythological quality.

When he was in the Nixon White House he pushed a liberal Family Assistance Program and tried to get Nixon to read, and emulate, Britain's progressive Tory, 19th-century Prime Minister Benjamin Disraeli. "I gave him books about progressive conservatives," Moynihan says. "After all, half the legislation [Reagan] is now trying to repeal was enacted under Nixon."

But of Nixon's darker side, Moynihan says he never saw it. "I was half a world away" in India as U.S. ambassador during Watergate. Furthermore, he saw the 1972 election not as a matter of Republican versus Democrat, but of a moderate Nixon versus a far-out McGovern.

But after Scoop Jackson died in 1983, Moynihan never stepped into the breach as the national neoconservative. "When he first got to the Senate I thought he might run for President," says Sen. Sam Nunn (D-Ga.). "But not lately. The ambition to do that isn't there."

Moynihan says the presidential talk never came from him. "It should be recorded that no conversation ever took place with me. If there had been I would have said no. I was not interested in that."

Why not?

"I'm very sorry! I think people should have to explain *why* they think they should be president, not why not. You have to think you'd be a good president. Anyone who thinks that has a lot of explaining to do. If you're of the view that there are people who could do the job better than you, well . . . It's not something I've ever thought of doing. I very much wanted to be senator. Well, once I got to be one I very much wanted to be one . . . I'm not interested in being an astronaut, or in commanding a nuclear submarine, either. You don't have to explain that. A senator—that's a useful job."

Moynihan adores the life of a senator, and many of his critics even contend that his shift to the left was a deliberate attempt to keep the favor of New York voters. To prevent a challenge from the left in the 1982 election, Russert went around to various county organizations hyping Moynihan's more liberal positions and his work for the state. In the meantime Russert discovered that the chief threat from the Republican side, former congressman Bruce Caputo. had lied about his military record. Exit Caputo. "We did a little accounting after the election," Moynihan says with glee, "and we found that we won 50 [of 62] counties in 1982. I'm the only New York Democrat to do that."

New York political analysts say that Moynihan's opposition in 1988 is bound to come once more from conservative opponents such as Lewis Lehrman.

Since the death of Jackson and the electoral defeat of the late Jacob Javits in 1980, Moynihan has had few close friends in the Senate. He spends time occasionally with Bradley, Gary Hart (D-Colo.), Alan Simpson (R-Wyo) and a few others, but he is something of a Senate loner, an intellectual among politicians. Another Senate loner, Hart, says, "You just don't become a buddy with Pat overnight. Patrick is clearly a prophet, and, frankly, he's not always appreciated. He's one of our few people with a sense of history. Intellectuals are not always appreciated here."

Although he seems to write a serious book nearly every year—one year on arms control, another on the welfare state—Moynihan's reputation is the less intellectual senatorial skills—legislative initiative, cajolery, mixing with the constituents, the dull details of Capitol life—is middling at best.

Staffers say Moynihan's working days follow a pattern more reminiscent of a 19th-century don than that of a state-of-the-art senator. Often, he has trouble sleeping and will write in the middle of the night. He is grouchy and impatient at work in the morning. "He's impossible most mornings," says a former aide. For two or three hours after lunch, he retreats to his "hideaway" for a nap on the couch or some writing. He follows that with a couple hours more of work at the office in the afternoon. "Moynihan just doesn't have the patience or the passion for all the detail work," says one former aide. "And he's impossible to schedule. A lot of the time he'll be all set to go to a dinner in Buffalo or something and he'll call and say 'i just don't want to go!' And that's it. Russert was always pushing him to do more politically, but he hates it. He's a certain sort of good senator, but in other ways he just doesn't care that much. He takes an almost totally golbal view of his job, and the hell with the rest of it."

Occasionally an article—in, for example, The New York Times Magazine in 1979—will mention the persistent rumors about Moynihan and alcohol. (Russell Baker remarked on his reputation as "a convivial imbiber of spirit and grape.") Says Moynihan, "I go home and have two or three drinks with my wife and split a bottle of claret." Asked directly if drinking was for him a problem in any way, Moynihan is quiet for a while, then says slowly, "No. I hope not. Here I am, 59 years old . . . without a day's break since 1965 or 1964. A steady life—one wife, three kids, three mortgages."

Says Russert, "I've heard that stuff and generally it's from people who are either jealous or oppose him. As a senator or a campaigner he's always been 100 percent."

If Moynihan has any political problems they are rooted in the contrast in style and substance between him and the junior senator in his state, Alfonse D'Amato, a Long Island Republican who displaced Javits. When he first came to the Senate, Moynihan could not have seemed any less "local" than his colleague Javits. But with the advent of D'Amato, Moynihan seems an almost wholly national and international figure. D'Amato rarely misses a ribbon cutting.

Moynihan is cool to D'Amato. During one late-afternoon interview, a piercing buzzer in his office summons Moynihan to the floor for a vote. On his way out of the chamber after the vote, D'Amato passes by. Moynihan exchanges greetings with a few other senators—"Well, well, hello, hello!"—but he and D'Amato do not even acknowledge each other.

They both walk to the Senate subway, first D'Amato, then Moynihan. They are waiting for the little Senate trains to shuttle them back to the Russell Building, but they wait at separate tracks.

No waves, no hellos.

Moynihan's public insouciance masks a great deal of personal pain and trial in his life.

The myth is that it doesn't hurt.

He is the son of Margaret Phipps, the daughter of a successful trial attorney, and John Moynihan, a peripatetic newspaperman who preferred the bottle and the track to family responsibility. John Moynihan worked as a publicity man at RKO for most of Moynihan's childhood, and the family lived in a middle-class neighborhood in Queens.

But one day, when Pat was 11, John Moynihan bolted the family. Moynihan, his mother, his sister Ellen and his brother Michael had to move to cold-water flats in Yorkville and the Upper West Side. They moved a lot to take advantage of the one month's free rent offered by some New York landlords. Pat shined shoes around Times Square.

Moynihan, who has been married to the former Elizabeth Brennan since they were aides in the Harriman administration three decades ago, seems not to have talked about his difficult childhood even with his three grown children. "He never discussed it all when we were kids—never, never," Maura Moynihan says. "I never saw a picture of [John Moynihan] and I know nothing about him. Just that he was supposed to be witty and talented."

Moynihan's economic fortunes continued to fluctuate throughout his adolescence. After several years of financial struggle, his mother married again and the family moved to the suburbs. After that marriage disintegrated the Moynihans moved in with relatives in Indiana. The family later moved back to New York, where Margaret Moynihan opened a bar in the Hell's Kitchen area when Moynihan was 20. Moynihan's old campaign biography says he was "raised in New York City's Hell's Kitchen District," a phrase that was later dropped.

Moynihan graduated first from Benjamin Franklin High School in East Harlem and was voted the most popular boy in his class. Before entering City College in the fall Moynihan worked on the Hudson River docks, first as a stevedore, then as a checker. An oft-repeated anecdote from that period in his life is full of swagger:

"A friend told me about the qualifying examination for City College and mainly to prove to myself that I was as smart as I thought I was, I went up and took the test. I remember playing it very tough—I swaggered into the test room with my longshoreman's loading hook sticking out of my back pocket. I wasn't going to be mistaken for a sissy college kid."

Moynihan's account is part truth, part mythology. Even Doug Schoen, who has since become a pollster for Moynihan, wrote in his mainly adoring biography, "Pat," that Moynihan was admitted to college on the strength of his grades in high school. "Moynihan may have confused his admission to City College with his entrance into the Navy officer's training program," Schoen wrote.

Moynihan's Navy training took place at Middlebury College in Vermont, and it was there that he began to see the way the upper half lives. He began meeting boys from Andover and Exeter. At Tufts, where he finally earned his B.A. and before shipping off for a stint in the Navy, the education had a similar class tone.

All of Moynihan's hurts, his careening from one place and economic situation to another, were suspended and eased in 1950 when he won a Fulbright scholarship to study at the London School of Economics. With money coming in from both the scholarship and the GI Bill, Moynihan loved the situation:

"I was living abroooad . . . and had plenty of *monnnney* and had no! thing! to! do! There were no classes, there were no exams."

Sander Vanocur, now a correspondent for ABC News in Washington, met Moynihan when they were both young and living in London:

"Pat seemed to me the richest man in the world in those days. And one of the happiest. He was so absorbed in the place. He would talk for hours about the doors in Regency architecture, knew everything about it. One day he got me to jump over a fence with him on High Street, Kensington, and sneak into the Holland House where the Whig aristocracy used to meet. He made the place come alive.

"Pat was loved by the English. He was an American—so out front and full of life."

Moynihan came back to the United States an Anglophile. He is partial to Cockney pub songs such as "The Lambeth Walk," odd British evening slippers, English soaps, colognes, cheeses, mustards and ales. He used to stuff his handkerchief up his jacket sleeve in the British mode, but that mannerism has disappeared.

"When Dad was ambassador to India I was interested in the Hindu era, Mom was interested in the Mogul era and Dad was interested in the Raj," says Maura Moynihan.

A photo of Moynihan reviewing an honor guard of Indian Gurkha soldiers 13 years ago shows the new ambassador wearing a bowler on his pate and a carnation in his lapel. He looks as though he were meeting Mountbatten in Raj heaven.

"But I like Irish things, too," he adds quickly. On his office wall is a landscape by Jack Yeats. "It's a beauty, isn't it?"

Seven years ago in The Nation, Fred Powledge wrote a "journalist's apologia" for a favorable piece he wrote on Moynihan in a 1967 issue of Life magazine.

"I should have caught on when . . . I saw him unlimber an Abercrombie & Fitch fly-fishing outfit, complete with rod, reel, little hat and dry martini, to pursue trout in a mud puddle," Powledge wrote. "He was, I realized then, a cartoon, not the real stuff."

Moynihan, for all this theater, is nothing at all like a cartoon. The Anglophile reviewing Gurkhas, the department-store fisherman, the stammering academic pol, these are cartoons. And funny ones, too. But in an era of technopoliticians, legislators without flair or intellectual adventure, he is unique on Capitol Hill.

Moynihan, who was abandoned by his own father, has spent much intellectual energy and political capital working on the deepening problems of single-parent families. And yet he resists discussing the past and the notion that his present work reflects a private hurt:

"Oh, oh, it's not something I talk about very much. I was not abandoned. It was not something that happened, like an automobile accident; it was stretched out, it took place over time . . . It was not a traumatic event.

"It wasn't a traditional breakup. The husband wasn't functioning very well, and just went off. It was more in the nature of a divorce. The problem now is the institutionalization of a single-parent home."

After a conference on the underclass and family earlier this month in New York, Moynihan had some time to kill before flying back to Washington. He spent it going door to door at a welfare hotel near Union Square. He was struck by the sight of 12-year-old girls holding their own babies, and the human problems represented in those images.

"The truth is, we are in a lot of trouble," says Moynihan. "And if there's one thing basic to all this it's that you cannot experiment with social policy. You can't do that with citizens. When you cite a problem, and ask the questions you'd better hope the answers are the right ones. People's lives are at stake!"

ARMS CONTROL: THE POSSIBILITY FOR PROGRESS

Mr. BYRD. Mr. President, in an opinion piece published in the Charleston Daily Mail last week, my distinguished colleague from West Virginia, Senator ROCKEFELLER, discussed the outlook for meaningful arms control between the United States and the Soviet Union.

Mr. ROCKEFELLER has expressed a deep interest in the arms control process and, as my designee, recently served as a member of the Senate observer group at the United States-Soviet arms control talks in Geneva, Switzerland.

Mr. ROCKEFELLER's observations were clear and to the point. He made the case that arms control is central to America's national security, and that the opportunity for agreement exists largely because the United States has demonstrated its determination to achieve progress. However, Mr. ROCKEFELLER rightly warns that the Geneva negotiations are fragile and the arms control effort could easily fall apart if the United States and the Soviet Union do not take advantage of the opportunity offered by the Geneva talks.

I ask unanimous consent that the text of Mr. ROCKEFELLER's opinion piece, "Arms Control: Making the Most of the Possibility for Progress," be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARMS CONTROL: MAKING THE MOST OF THE POSSIBILITY FOR PROGRESS

(By Sen. Jay Rockefeller)

Victor Karpov, the Soviet Union's chief negotiator at the Geneva arms control talks, is a stern, unyielding man who gestures abruptly when making a point.

During a recent Senate delegation trip to observe the Geneva process first-hand, I sat directly across a table from Karpov for the course of an entire evening. For more than three hours, Karpov and I went back and forth, debating the fundamental issues which separate the two superpowers.

When confronted with Russia's violations of SALT II or with the Soviets' despicable behavior in Afghanistan, Karpov never budged an inch, never deviated from the Kremlin's line. Karpov's intransigence points out the enormous difficulties inherent in achieving a fair, lasting, and—above all—mutually verifiable arms control agreement. Decades of animosity and suspicion cannot be eradicated overnight.

Nevertheless, I came away from Geneva convinced that a breakthrough is possible, that we have reached a critical juncture with the Soviets. In my view, the next six months may well determine whether real progress is achieved at the negotiating table—or whether the whole arms control process will break down.

The opportunity for agreement lies in the fact that American determination in Geneva to date has paid off: The Soviets have accepted the principle of deep reductions in the nuclear warheads of both sides; they have fallen off their insistence that the British and French nuclear forces be counted as part of "our" side of the equation, and they have indicated their willingness to negotiate more stringent verification measures, including "on-site" inspection of military facilities.

But the major obstacle to agreement lies in our differences over how President Reagan's "Star Wars" missile defense system is to be addressed in the negotiations. The Soviets contend that deep cuts in offensive weapons cannot take place without parallel limitations on strategic defenses against those weapons. President Reagan argues that the U.S. should accept no limits on the promise of developing and deploying his Strategic Defense Initiative.

While I was in Geneva, the Soviets outlined a new proposal which may provide the basis for accord on this difficult problem. They called for an extension of the Anti-Ballistic Missile (ABM) Treaty for 15 to 20 years, as well as a strengthening of the terms of that treaty. This is in stark contrast to their earlier—and totally non-negotiable—position that all "space strike" weapons should be banned. We should vigorously pursue this offer in Geneva.

The Reagan Administration is now conducting SDI research within the terms of the ABM Treaty. It is unlikely that we would bump up against the constraints of that treaty until the end of the decade, even if the president receives the full $33 billion in research money he has requested for SDI. Budgetary pressures will almost certainly result in that time-frame being stretched out even further.

The Republican-controlled Senate Armed Services Committee recently voted to cut Reagan's "Star Wars" budget by $1.45 billion. Even greater cuts will be made on the floor of the House and Senate. As Senator Goldwater's committee report noted, "negotiating leverage is sometimes a perishable

commodity—we should be prepared to consider adjustments to the pace and scope of the SDI" as part of an arms control package. "Star Wars" has reached the zenith of its usefulness as a bargaining chip.

The basis for a settlement is there. We should press for a 10-year guaranteed extension on the ABM Treaty and attempt to redefine the terms of the treaty in a way that would allow us to continue to pursue strategic defense research. In this way, the president could keep alive the promise of SDI while recognizing—and taking advantage of—the inevitable; given the technological and budgetary problems posed by the SDI, we are not going to be able to make an informed decision on "Star Wars" deployment for another decade.

In exchange for agreeing to limits on SDI, we should demand deep cuts in the most threatening element of Soviet strategic forces: their heavy, land-based MIRVed ICBMs. Bringing these first-strike weapons down to a level that does not pose a preemptive threat to our own forces would enhance our own security and reduce the "hair trigger" threat of nuclear war. In addition, we must demand that allegations of Soviet cheating—in particular, the development of the SS-25 missile, the coding of their missile test data, and the Krasnoyarsk ABM radar in Siberia—be adequately redressed before we commit to a new treaty.

While the claims of Soviet cheating on SALT II must be resolved, it is important to note that President Reagan has not alleged that the Soviets have violated any of the core provisions of SALT—those dealing with numerical limits on the most threatening components of the nuclear equation: multiple-warhead missiles and cruise missile-carrying bombers. SALT has required the Soviets to dismantle 1,339 missiles, while we have only had to dismantle a small fraction of that. Continued adherence to the key limits in SALT is in our interest. We should respond to Soviet non-compliance by taking proportionate measures ourselves—not by rejecting the most essential and stabilizing elements of the treaty.

Back in 1974, arms control talks with the Soviet Union had reached a stalemate. At a summit meeting that year in Vladivostok, President Nixon and Soviet Premier Brezhnev broke the logjam by agreeing on the broad terms of an accord—leaving the details to be negotiated back in Geneva. The planned summit meeting between President Reagan and Soviet leader Gorbachev could achieve a similar breakthrough if the two sides work diligently and in good faith over the next several months to make it possible.

If, on the other hand, we and the Soviets do not take advantage of the opportunity before us, we could well end up derailing arms control and inviting a spiraling arms race between offensive and defensive weapons on both sides. Without a summit at year's end—and it may not occur if there is not a tangible prospect of progress on arms control—we could begin 1987 with little direction or momentum in Geneva. And if the president proceeds with his decision to disregard SALT II by deploying more than 130 B-52 bombers armed with cruise missiles, we could well end up with no arms control structure—past, present, or future—in sight.

Arms control is not an exercise in goodwill nor an end in itself. It is a vital element of our national security policy. That is why the Joint Chiefs of Staff have traditionally supported nuclear arms control agreements with the Soviets; they know that arms control provides important predictability and reassurance in the superpower nuclear equation. It is in the strategic interests of the U.S. to achieve meaningful, balanced, and verifiable arms agreements with the Soviet Union. The alternative is an unbridled competition in nuclear weapons.

President Johnson initiated talks with the Soviets in November, 1966 on the challenge of controlling the nuclear arms race. Twenty years later, the two superpowers are still struggling to find the right formula to reduce the risk of nuclear holocaust. As my brief exposure to Soviet negotiator Karpov demonstrates, the Geneva process will be long and hard. If the Soviets continue to negotiate in good faith—and President Reagan is willing to make certain concessions on SDI—it is not inconceivable, however, that the summit will produce the framework for a historic arms control agreement.

Mr. BYRD. Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3459. A communication from the Comptroller General of the United States transmitting, pursuant to law, his report on the fourth special message of the President deferring certain budget authority; jointly, pursuant to the order of January 30, 1975, to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on the Budget.

EC-3460. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of July 1, 1986; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-3461. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, the 15th annual report of NACOA; to the Committee on Commerce, Science, and Transportation.

EC-3462. A communication from the Secretary of Energy transmitting, pursuant to law, a report on State authority and nonregulated utility compliance with the Public Utility Regulatory Policies Act; to the Committee on Energy and Natural Resources.

EC-3463. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on projects funded under the Consolidated Federal Program; to the Committee on Finance.

EC-3464. A communication from the Assistant Secretary of State transmitting, pursuant to law, the texts of ILO Convention No. 161 and Recommendation No. 171; to the Committee on Foreign Relations.

EC-3465. A communication from the Acting Chairman of the Federal Energy Regulatory Commission transmitting, pursuant to law, the Commission's 1985 Government in the Sunshine report; to the Committee on Governmental Affairs.

EC-3466. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to establish a simplified Government personnel management system; to the Committee on Governmental Affairs.

EC-3467. A communication from the Secretary of Labor transmitting, pursuant to law, a report on community service employment for older Americans; to the Committee on Labor and Human Resources.

EC-3468. A communication from the Executive Secretary of the Office of the Secretary of Defense transmitting, pursuant to law, a report on DOD procurement from Small and Other Business Firms, October 1985-April 1986; to the Committee on Small Business.

EC-3469. A communication from the Administrator of the Veterans' Administration transmitting a draft of proposed legislation to provide authority for disclosure of names and addresses of veterans in relation to receipt of certain benefits; to the Committee on Veterans' Affairs.

EC-3470. A communication from the Under Secretary of Agriculture transmitting, pursuant to law, the fourth quarterly report on commodity and country allocations under Public Law 480; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3471. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, three Soil Conservation Service plans; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 447. An original resolution to amend Senate Resolution 28, as amended, agreed to February 27, 1986.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 1991;

Kenneth A. Gilles, of Virginia, to be Assistant Secretary of Agriculture;

Kenneth A. Gilles, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation;

Robert W. Beuley, of Virginia, to be Inspector General, Department of Agriculture;

Kathleen W. Lawrence, of Virginia, to be Under Secretary of Agriculture for Small Community and Rural Development; and

Kathleen W. Lawrence, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 2645. A bill to provide for the establishment by law of the requirements for strategic and critical materials to be stockpiled in the National Defense Stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. HEINZ (for himself, Mr. GLENN and Mr. GORE):

S. 2646. A bill to provide that no change may be made in the prospective payment rates established under section 1881(b)(7) of the Social Security Act with respect to outpatient maintenance dialysis services until certain requirements are satisfied; to the Committee on Finance.

By Mr. WEICKER (for himself and Mr. BUMPERS):

S. 2647. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment, to transfer certain functions of the Small Business Administration to the Corporation, and for other purposes; to the Committee on Small Business.

By Mr. KENNEDY (for himself and Mr. GORE):

S. 2648. A bill to improve the public health through the prevention of childhood injuries; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 2649. A bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income children, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2650. A bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to pregnant women and infants, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself and Mr. GORE, Mr. SIMON, Mr. HARKIN, Mr. KERRY, Mr. PELL, Mr. WEICKER and Mr. CRANSTON):

S. Res. 446. A resolution condemning the government of Chile for the death of Rodrigo Rojas de Negri; to the Committee on Foreign Relations.

By Mr. MATHIAS:

S. Res. 447. A resolution to amend Senate Resolution 28, as amended, agreed to February 27, 1986; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 2645. A bill to provide for the establishment by law of the requirements for strategic and critical materials to be stockpiled in the national defense stockpile, and for other purposes; to the Committee on Armed Services.

STRATEGIC AND CRITICAL MATERIALS STOCK PILING AMENDMENTS ACT

● Mr. McCLURE. Mr. President, today I am introducing legislation for myself and Senator SYMMS to address the highly questionable policies of past administrations that have plagued the national defense stockpile for over four decades. Such questionable policies have resulted in using the stockpile for purposes other than national defense—for example, fighting inflation, reducing deficits, stabilizing prices, supporting foreign policy objectives, and so forth.

Mr. President, this administration's proposed stockpile modernization proposal as announced by the President on July 8, 1985 is a clear example of an attempt to use the stockpile for purposes other than national defense. Our view of the administration's proposal is shared by Congressman BENNETT, chairman of the Subcommittee on Seapower and Strategic and Critical Materials of the House Armed Services Committee. As my colleagues know, the Congressman and I asked the General Accounting Office [GAO] to conduct an investigation into the methodology and planning factors used by the National Security Council in its study that was the basis for the President's modernization proposal. While that investigation has not been completed, GAO has provided Congressman BENNETT and me with a letter dated June 6, 1986 that reflects their progress to date and provided us with a preliminary assessment of their findings. Since I published the full text of the GAO letter in the RECORD on that same date (pages S7073 and S7074), I will not bother to do so again. Suffice it to say, the letter from GAO reflects that they have found the National Security Council's study not to be a sufficient basis for setting stockpile goals nor a basis for other U.S. mobilization planning.

In addition to requesting a GAO investigation of the President's July 8 proposal, Congressman BENNETT and I have been working together in an attempt to formulate legislation that would, once and for all, bring stability to the management of our national defense stockpile. The bill we are introducing today represents a merging of the concepts embodied in bills previously introduced by Congressman BENNETT (H.R. 3743) and I (S. 2102) on November 13, 1985, and February 26, 1986, respectively. Congressman BENNETT introduced our merged legislation on May 8, 1986, as H.R. 4781. I am pleased to inform my colleagues that H.R. 4781 has been incorporated in the House version of the fiscal year 1987 defense authorization bill now pending before the full House of Representatives. Senator SYMMS and I are hopeful that the Armed Services Committee of the Senate will expedite consideration of the legislation we are introducing today which is identical to that contained in H.R. 4781.

Mr. President, we would urge the cosponsorship of our bill from all of our colleagues who share the concerns we have expressed today and in the past regarding the management of our national defense stockpile. I ask unanimous consent that the text of my bill be printed in the RECORD in full at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic and Critical Materials Stock Piling Amendments Act of 1986".

SEC. 2. STOCKPILE REQUIREMENTS.

(a) PURPOSE OF STOCKPILE.—Section 2 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a) is amended by adding at the end the following new subsection:

"(c) It is the intent of Congress—

"(1) that the National Defense Stockpile be used to serve the interest of national defense only and not be used for economic or budgetary purposes; and

"(2) that the quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years in the event of a national emergency.".

(b) ESTABLISHMENT OF STOCKPILE REQUIREMENTS BY LAW.—Section 3 of such Act (50 U.S.C. 98b) is amended to read as follows:

"ESTABLISHMENT BY LAW OF STOCKPILE REQUIREMENTS

"SEC. 3. (a) The materials that are strategic and critical materials for the purposes of this Act, and the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored, shall be established by law.

"(b) Such materials when acquired, together with the other materials described in section 4, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the 'stockpile').

"(c) Determinations under subsection (a) shall be known as 'stockpile requirements'.".

(c) INITIAL LEVEL OF STOCKPILE REQUIREMENTS.—The determinations in effect as of October 1, 1984, under section 3(a) of the

Strategic and Critical Materials Stock Piling Act shall be the stockpile requirements for the purposes of such section, as amended by this Act, until otherwise provided by law.

SEC. 3. TRANSFER OF CERTAIN STOCKPILE FUNCTIONS TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—Sections 5, 6, 10, and 11 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d, 98e, 98h-1, 98h-2) are amended by striking out "President" each place it appears and inserting in lieu thereof "Secretary".

(b) DEFINITION OF SECRETARY.—Section 12 of such Act (50 U.S.C. 98h-3) is amended by adding at the end the following new paragraph:

"(3) The term 'Secretary' means the Secretary of Defense.".

(c) TECHNICAL AMENDMENT.—Section 11(b) of such Act (50 U.S.C. 98h-1) is amended by striking out "each year" and all that follows through "the next fiscal year" and inserting in lieu thereof "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31, United States Code, for the next fiscal year,".

SEC. 4. ANNUAL RECOMMENDATION OF STOCKPILE REQUIREMENTS BY SECRETARY OF DEFENSE.

The Strategic and Critical Materials Stock Piling Act is amended by adding at the end the following new section:

"ANNUAL RECOMMENDATIONS BY SECRETARY OF DEFENSE

"SEC. 14. (a) IN GENERAL.—In order to assist Congress in establishing stockpile requirements under section 3, the Secretary shall submit to Congress an annual report on stockpile requirements. Each such report shall be submitted with the annual report submitted under section 11(b) and shall include—

"(1) the Secretary's recommendations with respect to stockpile requirements; and

"(2) the matters required under subsections (b) through (e).

"(b) NATIONAL EMERGENCY PLANNING ASSUMPTIONS.—Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary. Assumptions to be set forth include assumptions relating to each of the following:

"(1) Length and intensity of the assumed emergency.

"(2) The military force structure to be mobilized.

"(3) Losses from enemy action.

"(4) Military, industrial, and essential civilian requirements to support the national emergency.

"(5) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

"(6) Domestic production of strategic and critical materials.

"(7) Civilian austerity measures.

"(c) CONSIDERATION OF MATERIALS BASED ON NET IMPORT RELIANCE.—

"(1) IN GENERAL.—In determining the materials to be recommended to Congress under subsection (a)(1) as strategic and critical materials (and the quantity and quality of such materials to be recommended), the Secretary shall consider—

"(A) whether each of the materials determined under paragraph (3) should be recommended as a strategic and critical material; and

"(B) in the case of any such material, whether the quantity determined under paragraph (5) with respect to such material is the appropriate quantity of such material to be established by Congress as the stockpile requirement for that material.

"(2) MATTERS TO BE INCLUDED IN REPORT.—In each report under this section, the Secretary shall identify—

"(A) each material determined under paragraph (3); and

"(B) the quantity determined under paragraph (5) with respect to each such material.

"(3) MATERIALS TO BE IDENTIFIED.—The Secretary shall identify each material that the Secretary determines is necessary for the security of the United States, essential to the economy of the United States, and obtained from foreign sources.

"(4) CLASSIFICATION OF MATERIALS BASED ON NET IMPORT RELIANCE.—Each of the materials identified under paragraph (3) shall be classified by the Secretary for the purposes of this section as follows:

"(A) CLASS A MATERIALS.—A material shall be classified as a class A material if—

"(i) the material is not produced in the United States or is produced in the United States in limited quantities; and

"(ii) the net import reliance of the United States for the material is greater than or equal to 65 percent.

"(B) CLASS B MATERIALS.—A material shall be classified as a class B material if—

"(i) the material is produced in the United States but is not available in sufficient quantities in the United States; and

"(ii) the net import reliance of the United States for the material is greater than or equal to 30 percent but less than 65 percent.

"(C) CLASS C MATERIALS.—A material shall be classified as a class C material if—

"(i) the material is produced in substantial quantities in the United States; and

"(ii) the net import reliance of the United States for the material is less than 30 percent.

"(5) QUANTITY TO BE DETERMINED.—For each material identified under paragraph (3), the Secretary shall determine the following:

"(A) CLASS A MATERIALS.—In the case of a material classified under paragraph (4) as a class A material, the Secretary shall determine the quantity of such material equal to three years' net imports of such material.

"(B) CLASS B MATERIALS.—In the case of a material classified under paragraph (4) as a class B material, the Secretary shall determine the quantity of such material equal to two years' net imports of such material.

"(C) CLASS C MATERIALS.—In the case of a material classified under paragraph (4) as a class C material, the Secretary shall determine the quantity of such material equal to one year's net imports of such material.

"(6) DETERMINATION OF NET IMPORTS.—For purposes of paragraph (5), a year's net imports of a material is the quantity of the material equal to the amount by which—

"(A) the sum of—

"(i) the average annual imports of such material into the United States during the base period; and

"(ii) the average annual shipment of such material from the stockpile as excess material during the base period; exceeds

"(B) the average annual exports of such material from the United States during the base period.

"(7) BASE PERIOD DEFINED.—For purposes of paragraph (6), the term 'base period' means the most recent period of five calendar years for which data is available.

"(d) EFFECT OF ESTABLISHING STOCKPILE REQUIREMENTS IN ACCORDANCE WITH DETERMINATIONS UNDER SUBSECTION (c).—The Secretary shall include in each report under this section an analysis of the effect (including the cost and the impact on world markets) of establishing the stockpile requirements in accordance with the materials, and the quantities of materials, identified under subsection (c).

"(e) DIFFERENCES BETWEEN RECOMMENDATIONS AND NET IMPORT RESULTS.—When the stockpile requirements recommended by the Secretary in a report under this section differ from the materials and quantities that are identified under subsection (c), the Secretary shall also include in the report a detailed explanation for such differences, including—

"(1) a description of the assumptions used to determine the recommended stockpile requirements; and

"(2) a detailed analysis supporting the recommended quantity and quality for each material recommended as a strategic and critical material.

"(f) PERIODIC REVIEW.—The Secretary shall conduct a detailed review of the stockpile requirement for each strategic and critical material at least once every five years. If the Secretary determines at any time that the stockpile requirement for a material should be revised, the Secretary shall submit to Congress a report that—

"(1) notifies Congress of that determination;

"(2) sets forth the Secretary's recommended stockpile requirement for that material; and

"(3) sets forth the assumptions used by the Secretary in determining that recommended requirement.".

SEC. 5. STOCKPILE MANAGEMENT.

The Strategic and Critical Materials Stock Piling Act is amended by adding after section 14 (as added by section 4) the following new sections:

"INTERAGENCY AGREEMENTS

"SEC. 15. (a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an interagency agreement with the head of any other department or agency for the performance of functions of the Secretary relating to section 6.

"(b) REIMBURSEMENT.—The Secretary shall reimburse the head of any such agency for expenses incurred by that agency in the administration of functions relating to the stockpile assigned to that agency by the Secretary under such an interagency agreement.

"APPROPRIATIONS TO BE MADE TO DEPARTMENT OF DEFENSE

"SEC. 16. Appropriations for the operation and management of the stockpile and for deposit to the National Defense Stockpile Transaction Fund shall be made as part of appropriations made to the Department of Defense for the military functions of the Department.".

SEC. 6. EXTENSION OF USES OF STOCKPILE TRANSACTION FUND AND CODIFICATION OF REVOLVING FUND PROVISIONS.

(a) IN GENERAL.—Section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) is amended—

(1) by striking out the second sentence of paragraph (1); and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such

limitations as may be provided in appropriation Acts) for—

"(A) the acquisition of strategic and critical materials under section 6(a)(1);

"(B) transportation, storage, and other incidental expenses related to such acquisition;

"(C) development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation related to such upgrading);

"(D) testing and quality studies of stockpile materials; and

"(E) other reasonable requirements for management of the stockpile.

"(3) Moneys in the fund shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 110 of Public Law 97-377 (96 Stat. 1911) is amended by striking out "Notwithstanding" and all that follows through "That during" and inserting in lieu thereof "During".

SEC. 7. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—Section 4(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c(a)) is amended—

(1) by striking out "on the day before the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraphs (1) and (3) and inserting in lieu thereof "on July 29, 1979", and

(2) by striking out "on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraph (2) and inserting in lieu thereof "after July 29, 1979".

(b) CLARIFYING AMENDMENT.—Section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) is amended by striking out "the form most" and inserting in lieu thereof "a form more".●

By Mr. HEINZ (for himself, Mr. GLENN, and Mr. GORE):

S. 2646. A bill to provide that no change be made in the prospective payment rates established under section 1881(b)(7) of the Social Security Act with respect to outpatient maintenance dialysis services until certain requirements are satisfied; to the Committee on Finance.

MORATORIUM ON PROSPECTIVE PAYMENT RATES

● Mr. HEINZ. Mr. President, for 78,000 Americans, kidney dialysis treatment is a hard, painful reality. For 4 hours a day, 3 days a week, 52 weeks a year for the rest of their lives, end-stage renal disease [ESRD] patients must rely on a dialysis machine to remove toxins, salt, and water from their blood, functions their own kidneys can no longer perform. Sixty percent of these patients are treated with reused dialysis equipment and devices.

Today, I am introducing legislation to protect these vulnerable ESRD patients by placing a moratorium on a proposal by the Health Care Financing Administration that would cut the reimbursement rate for dialysis and jeopardize the safety of these patients.

At a March 6 hearing of the Senate Special Committee on Aging, I and the other members of the committee learned of the serious risks involved in the reuse of dialyzers and other devices used in dialysis treatment. These risks include exposure to formaldehyde, a known carcinogen, as well as infection and liver damage. The Federal Government has refused to conduct a meaningful assessment of the safety and efficacy of reuse. Safe reuse procedures have not been developed, leaving ESRD patients exposed to tremendous risks and haphazard reprocessing procedures.

The Health Care Financing Administration [HCFA] has proposed significant reductions in the pretreatment reimbursement rates for ESRD facilities. HCFA claims to have two major objectives in this proposed rate reduction: to encourage use of home dialysis, and to "encourage economy and efficiency in furnishing dialysis services." The result of this proposed rate reduction will be that tens of thousands of Americans will be made significantly more vulnerable to the dangers of reuse.

It may very well be that facility rates should be adjusted. But the fact of the matter is that many ESRD facilities will attempt to recoup their losses by increasing reuse of dialysis devices and equipment. In 1983, when HCFA reduced payment rates for dialysis in ESRD facilities, its objectives were to encourage use of home dialysis, and to encourage economy and efficiency in dialysis services. The industry responded to these reductions not by increasing home dialysis, but by reusing dialysis devices. These same objectives are being sought through this new round of proposed rate reductions. In all likelihood the new proposed reduction will push the industry even further toward reuse, even while a clinical assessment of the safety of reuse and the development of safe reuse procedures are still desperately needed.

HCFA's definition of "economy and efficiency" seems to mean exposing dialysis patients to even greater risks of formaldehyde poisoning from reprocessed dialyzers. On June 26, I along with Senators GLENN, D'AMATO, and JOHNSTON, and Representatives RANGEL and MOLINARI, sent a letter to Dr. Otis Bowen, Secretary of the Department of Health and Human Services. We asked that HCFA's proposed reductions be postponed until studies could be completed on the effects of rate reductions on quality of care and on reuse, the actual risks involved in reuse could be determined, and the effects of reductions on rural and urban dialysis facilities had been examined.

We have not received the answers to any of these questions, but the rate reductions are due to be imposed on August 1, 1986. For that reason, I am calling for a legislative moratorium on the proposed rate reductions. HCFA's proposal notice contains no mention whatsoever of any quality of care issues. Yet such issues, including the effect of rate reductions on reuse, staffing patterns, and the possible closures of dialysis facilities in rural areas, are precisely those with which we should be most concerned.

This legislation complements S. 2547, the 1986 ESRD Patient Rights Act which I introduced last month along with my distinguished colleagues Senators GLENN, BINGAMAN, HAWKINS, and WILSON. S. 2547 requires ESRD facilities to clearly inform patients of the potential risks and benefits associated with reuse, and to allow patients to refuse reuse at any point during their treatment without fear of reprisal or intimidation. Together these bills will help protect the rights and safety of dialysis patients, and will ensure the continued high quality of care that has come to be associated with the Medicare ESRD Program.

For more than a decade the Medicare End-Stage Renal Disease Program has been tremendously successful at helping to provide life-sustaining treatment to tens of thousands of Americans. It is crucial that we enable this vital program to continue its history of high quality care. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be reprinted at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MORATORIUM ON CHANGES IN PROSPECTIVE PAYMENT RATES FOR OUTPATIENT MAINTENANCE DIALYSIS SERVICES.

(a) Moratorium Imposed.—

(1) No change may be made pursuant to title XVIII of the Social Security Act in the prospective payment rates established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) that are in effect on the date of the enactment of this Act until 60 days after—

(A) the Secretary of Health and Human Services (in this section referred to as the "Secretary") certifies to the Congress that—

(i) audited information is available with respect to the costs of providing outpatient maintenance dialysis services for cost reporting periods or fiscal years ending after June 30, 1984, and before July 1, 1985, and

(ii) the Secretary will utilize such information in the determination of any change in such rates;

(B) the Secretary has studied and submitted final reports to the Congress on—

(i) the anticipated effects of any reduction in such rates on the quality of care provided to individuals receiving such services (including, but not limited to, the effects on the dialysis equipment purchasing patterns and the staffing of renal dialysis facilities and providers of such services),

(ii) the anticipated effects of any reduction in such rates on the use of reprocessed dialysis devices and supplies by such facilities and providers,

(iii) the safety, efficacy, and patient outcomes (both morbidity and mortality) of the use of reprocessed dialysis devices and supplies, and

(iv) the differing effects of any reduction in such rates on facilities and providers located in urban and rural areas; and

(C) the Commissioner of Food and Drugs has developed and implemented safety standards for the use of reprocessed dialysis devices and supplies.

(2) The study required by paragraph (1)(B)(iii) shall be conducted by the National Center for Health Services Research and Health Care Technology Assessment.

(b) Interim and Final Reports.—

(1) The Secretary shall—

(A) initiate the studies required by subsection (a)(2) not later than 60 days after the date of the enactment of this Act, and

(B) submit an interim report on the progress of the studies to the Congress 180 days after the date of the enactment of this Act and every six months thereafter until a final report has been submitted with respect to each such study.

(2) The Secretary shall submit a final report with respect to each of the studies required by subsection (a)(2) upon the completion of the report.●

● Mr. GLENN. Mr. President, today I join Senator HEINZ in introducing the ESRD [End-Stage Renal Disease] Patient Protection Act of 1986. This legislation is simple and straightforward, and I hope it will prove to be unnecessary.

Three times a week, 52 weeks a year, 78,000 ESRD patients—4,500 in Ohio alone—spend 3 hours hooked up to kidney dialysis machines which cleanse the toxins and the water from their blood that have accumulated due to their improperly functioning kidneys. Sixty percent of the 1,200 U.S. clinics reuse the medical devices which filter the dialysis patient's blood. There is little question that there already is an incentive to reuse these devices since it is cheaper to reuse them than to use new devices and because the clinics are reimbursed by Medicare at the same rate regardless. Without question, there is no consensus about the safety of reuse. However, in my mind, there is little question that there should be Federal standards which provide guidelines for safe and effective reuse. I have called for, and will continue to call for, such standards.

Simply stated, the bill we are introducing would prohibit the Reagan administration from implementing a recent regulatory proposal to reduce Medicare reimbursement rates to dialysis clinics before the Department of Health and Human Services (DHHS) has completed studies on how this proposal would affect the ESRD program. Specifically, it would require the Secretary of DHHS to use the most up-to-date data available and adequately evaluate how reimbursement reductions would affect the quality of care ESRD patients receive. One would hope that before making a proposal that may threaten the quality of care kidney dialysis patients receive, the administration would conduct such studies. Unfortunately and, after years of similar experiences, perhaps not too surprisingly, this is not the case.

This year, the Senate Special Committee on Aging has repeatedly voiced its concerns about the federally unregulated practice of reusing dialysis devices for ESRD patients. On March 6, we held a hearing which was the culmination of a committee investigation into the reuse of kidney dialysis devices. Testimony was presented from patients and physicians who have major concerns with the practice of reusing dialysis devices. In the interim between the hearing and today, we have written to the Food and Drug Administration (FDA) and DHHS requesting their assistance in assuring quality care for all dialysis patients. In addition, we have introduced legislation, the ESRD Patient Rights Act of 1986, which would: First, assure that ESRD patients are aware of the potential risks and benefits of reusing dialysis devices; second, give patients the right to choose whether or not they want to reuse; and third, prohibit dialysis clinics from refusing treatment to a Medicare patient who chooses to not reuse.

I believe that there very likely is some fat we can squeeze from the Medicare ESRD program. It is my hope that the Congress and the administration can work together to better target and retrieve this fat. But let's not do it at the expense of the ESRD patients. At a time when there is so much uncertainty surrounding the practice of reuse, it makes no sense to provide additional incentives to reuse before we have Federal standards for reuse. I urge all my colleagues to join me in supporting this important legislation.●

By Mr. WEICKER (for himself and Mr. BUMPERS):

S. 2647. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment, to transfer certain functions of the Small Business Administration to the Corporation, and for other purposes; to the Committee on Small Business.

CORPORATION FOR SMALL BUSINESS INVESTMENT CHARTER ACT

● Mr. WEICKER. Mr. President, I am today introducing, along with Senator BUMPERS, legislation to create a federally chartered, privately owned corporation which will relieve the Federal Government of the need to provide funds annually for small business investment companies [SBIC's] and minority enterprise small business investment companies [MESBIC's]. SBIC's and MESBIC's are venture capital companies which provide vital risk capital to small businesses, the locomotives of our economy. Very often, they provide capital to companies which cannot raise money from banks or other lending institutions and which may be too small for traditional venture capital firms. Among the success stories of the SBIC's are Apple Computer, Cray Research and Federal Express.

The SBA through its SBIC and MESBIC venture capital programs, has provided $6 billion in equity capital to approximately 70,000 firms, creating 920,000 jobs. The assisted companies have produced jobs, economic gains, and tax revenues far exceeding the Government's outlays.

The Small Business Investment Act of 1985 which first authorized the Small Business Investment Company Program, recognized "that small business concerns are faced with a real difficulty in obtaining long-term and equity capital required for adequate growth and development. Commercial banks are not able to furnish such financing; their function lies primarily in short- and intermediate-term lending; they do not supply venture capital or long-term credit." This funding void still exists today, and the SBA's venture capital programs are filling this critical credit gap.

This legislation would create a new entity known as Cosbi—the Corporation for Small Business Investment—to fill that gap. Cosbi would issue securities to the private capital market, benefiting from its federally chartered status to raise money at only a slight premium over the cost of money to the Treasury. In that respect Cosbi would be like Sallie Mae, Fannie Mae and Freddie Mac, and other Government-sponsored enterprises which raise money in the private capital markets. Cosbi in turn would loan its capital to the SBIC's and MESBIC's which would be the shareholders of Cosbi.

While S. 2647 is similar to an earlier version of Cosbi which I introduced on May 17, 1984, as S. 2686, it makes significant improvements. It clarifies that Cosbi will pay in cash for the entire outstanding portfolio of SBIC debentures currently owned by the Federal Financing Bank which I understand amounts to about $1 billion. Those debentures will carry a Government guarantee to facilitate Cosbi in its ability to raise capital and use the portfolio as an asset base. The bill also clarifies that in the event that Cosbi falls on hard financial times, the Secretary of the Treasury may provide up to $500 million to bail out the Corporation only upon an express act of appropriation by Congress. An earlier version of Cosbi would have given the Treasury Secretary unbridled discretion to purchase up to $1 billion in Cosbi securities. Finally, S. 2647 provides for a continuing role for the SBA in terms of supervising Cosbi.

While this is an exciting concept, there are a number of areas which remain uncertain and which will be examined when the Small Business Committee holds hearings on this proposal. In particular, we will examine the larger question of the proper role for the SBA and the Federal Government in regulating Cosbi. The Federal involvement continues to be substantial under this proposal and despite our hopes and expectations that Cosbi will prove a financial success, there is always the risk that things won't go as anticipated. In that event, we want to be sure to establish the proper safeguards to protect the public interest in the context of assuring that the purposes of the Small Business Investment Act are being fulfilled. Additionally, we will examine in the hearings the likely market reception to Cosbi securities if they do not maintain a Federal guarantee. Can Cosbi hope to sell its paper without a Federal commitment, and what type of exposure is the Government undertaking if there is some sort of backstop or guarantee? Finally, what is the budget impact of selling the portfolio to Cosbi for cash and will we realize any net savings if the portfolio continues to carry a Federal imprimatur?

Mr. President, privatization is in the vogue now, and everyone will agree that at a minimum Cosbi represents a step in the right direction. An identical bill has been introduced in the House of Representatives by PARREN MITCHELL, chairman of the House Small Business Committee and hearings have been held.

I ask unanimous consent that a section-by-section analysis of the bill along with the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Corporation for Small Business Investment Charter Act".

SEC. 2. Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(a) by inserting before the semicolon in paragraph (3) the following: ", or a company qualified to conduct business with the Corporation under section 357 of this Act";

(b) by inserting before the semicolon at the end of paragraph (5) the following: ", except that for purposes of title III the term means one which, together with its affiliates, is independently owned and operated, is not dominant in its field of operations and—

"(A) does not have net worth in excess of $7,000,000 and does not have an average net income, after Federal income taxes, for the preceding two years in excess of $2,500,000 (average net income to be computed without benefit of any carryover loss), except that such net worth and net income limitations shall be adjusted effective January 1 of each year following the effective date of this Act. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase during the twelve-month period ending with the previous October in the implicit price deflator for gross national product published by the United States Department of Commerce, with 1986 being the initial year for adjustment; or

"(B) otherwise qualifies under size standards for financial assistance established by the Administration under the Small Business Act, as amended (Public Law 163, Eighty-third Congress).".

(c) by striking "and" at the end of paragraph (7);

(d) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(e) by inserting after paragraph (8) the following new paragraphs:

"(9) the term 'Corporation' means the Corporation for Small Business Investment, as constituted under this Act; the Corporation shall be classified as and considered to be a corporate instrumentality of the United States;

"(10) the term 'Board of Directors' means the Board of Directors of the Corporation;

"(11) the term 'disadvantaged small-business concern' means a small-business concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages;

"(12) the term 'law' includes any law of the United States or any State (including any rule of law or of equity);

"(13) the term 'organization' means any corporation, partnership, association, business trust, or other business entity;

"(14) the term 'security' has the meaning ascribed to it by section 2(1) of the Securities Act of 1933 (15 U.S.C. 77(b)(1));

"(15) the term 'small business investment security' shall include—

"(A) debentures, bonds, promissory notes, obligations or securities issued by small business investment companies, and

"(B) such other small business investment company securities as determined by the Corporation;

"(16) the term 'private capital' means the combined private paid-in capital and paid-in surplus of a corporate small business investment company, or in the case of an unincorporated small business investment company, the permanent partnership capital; and

"(17) the term 'licensee in good standing' means a small business investment company which was approved by the Administration to operate under the provisions of this Act and was issued a license as provided in section 301 of this Act, unless such licensee (A) is in default under the provisions of preferred securities or debentures and such preferred securities or debentures have been declared due and payable by the Administration, or (B) is in liquidation by the Administration for regulatory reasons.".

SEC. 3. Title III of the Small Business Investment Act of 1958 is amended by adding the following new section at the end thereof:

"TRANSFER AND PHASEOUT

"SEC. 322. (a) A licensee in good standing shall have a period of three months from the date the Administration receives notice under section 352(h) of this Act in which to qualify under section 357(a) or section 359(a) of this Act.

"(b) Within six months after the Administration receives notice under section 352(h) of this Act, the Administration shall promulgate final rules and regulations to effect the orderly termination of operations of any licensee in good standing that is not qualified under section 357(a) or section 359(b) of this Act, and the Administration shall enter into an agreement with the Corporation which provides for the administration of such rules and regulations by the Corporation.

"(c) The final rules and regulations adopted by the Administration for termination of the operations of any licensee under subsection (b) of this section shall, among other things, suspend such licensee's authority under this Act to obtain financial assistance from the Administration and shall require revocation of the license of any such licensee effective within two years after the publication of such rules and regulations, except that the license revocation for any such licensee which has outstanding debentures or preferred securities as provided in this Act shall be within two years after such debentures or securities are due or paid, whether voluntarily or otherwise.

"(d) The Administration shall furnish to the Corporation all books and records of the Administration necessary to carry out the provisions of this Act within thirty days after written request by the Corporation unless the Administrator certifies to the Corporation that such books and records are not available within such time, provided that the Administration shall not furnish information on any individual licensee unless the licensee has entered an agreement for the release of such information. Any such information received by the Corporation shall be kept confidential by the Corporation, its officers, agents and employees, under the same provisions which would have been applicable if it had been retained by the Administration.".

"SEC. 4. Title III of the Small Business Investment Act of 1958 is amended—

(a) by amending the table of contents to read as follows:

"TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

"PART A

"Sec. 301. Organization of small business investment companies.
"Sec. 302. Capital requirements.
"Sec. 303. Borrowing power.
"Sec. 304. Provision of equity capital for small-business concerns.
"Sec. 305. Long-term loans to small-business concerns.
"Sec. 306. Aggregate limitations.
"Sec. 307. Exemptions.
"Sec. 308. Miscellaneous.
"Sec. 309. Revocation and suspension of licenses; cease and desist orders.
"Sec. 310. Examinations and investigations.
"Sec. 311. Injunctions and other orders.
"Sec. 312. Conflicts of interest.
"Sec. 313. Removal or suspension of directors and officers of licensees.
"Sec. 314. Unlawful acts and omissions by officers, directors, employees, or agents; breach of fiduciary duty.
"Sec. 315. Penalties and forfeitures.
"Sec. 316. Jurisdiction and service of process.
"Sec. 317. Interest subsidy.
"Sec. 318. Joint ownership of companies, benefits.
"Sec. 319. Preferred stock asset coverage requirement, exemption.
"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Fi-

Id. at 520.

"Sec. 321. Issuance and guarantee of trust certificates.
"Sec. 322. Transfer and phase-out.

"PART B

"Sec. 351. Purposes.
"Sec. 352. The Corporation for Small Business Investment.
"Sec. 353. Common and preferred stock.
"Sec. 354. Obligations and securities.
"Sec. 355. Legal investments and exempt securities.
"Sec. 356. Loan and investment operations.
"Sec. 357. Qualification of small business investment companies.
"Sec. 358. Operations of small business investment companies.
"Sec. 359. Special small business investment companies.
"Sec. 360. Audits and reports.
"Sec. 361. Transfer of SBA guaranteed securities to the Corporation."

and

(b) by inserting the following heading prior to section 301:

"PART A".

SEC. 5. Title III of the Small Business Investment Act of 1958 is amended by inserting the following new sections at the end thereof:

"PART B

"PURPOSES

"SEC. 351. The Congress hereby declares that the purposes of part B of this Act are—

"(1) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for loans and investments in small business investment companies, including loans guaranteed by the Small Business Administration, and will provide liquidity for small business loans and investments;

"(2) to encourage the formation of new small business investment companies and to stimulate and supplement the orderly and necessary flow of private equity capital and long-term loan funds to and improve the distribution of investment capital available for small-business concerns as defined under this Act; and

"(3) to amend the Small Business Investment Act of 1958 to provide for an orderly transfer of certain functions of, and securities guaranteed or owned by, the Small Business Administration to the Corporation for Small Business Investment as constituted under this Act.

"THE CORPORATION FOR SMALL BUSINESS INVESTMENT

"SEC. 352. (a) There is hereby created a body corporate to be known as the Corporation for Small Business Investment (hereinafter referred to as the 'Corporation'). The Corporation shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Corporation in such other place or places it may deem necessary or appropriate for the conduct of its business.

"(b) The Corporation, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, or by any county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(c) Within sixty days of the date of enactment of this Act, an interim Board of Directors of the Corporation shall be appointed by the President, one of whom the President shall designate as interim Chairman. The interim Board shall consist of five members, two of whom shall be representative of small business, two of whom shall be representative of small business investment companies, and one of whom shall be the Administrator. The interim Board shall arrange for an initial offering of common stock and take whatever other actions are necessary to proceed with the operations of the Corporation.

"(d) The Corporation shall have a permanent Board of Directors which consist of fifteen persons. When small business investment companies have purchased and fully paid for $15,000,000 of common stock of the Corporation, the holders of such common stock shall elect ten members to the Board of Directors. The President shall appoint the remaining five directors.

"(e) At the time the events described in subsection (d) of this section have occurred, the interim Board shall turn over the affairs of the Corporation to the permanent Board of Directors. The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The Board shall at all times have as members appointed by the President at least one person from a small business investment company operating under section 359 of this Act, and two persons who shall be representative of small business. The directors elected by the common shareholders shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Corporation, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(f) The Board shall determine the general policies which shall govern the operations of the Corporation. The Board shall select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Corporation and shall discharge all such executive functions, powers, and duties.

"(g) The Corporation shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry out its operations, and have officers and exercise the powers granted by this section in any State without regard to any qualification, licensing, or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Corporation;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such attorneys, officers, employees, and agents as may be required, determine their qualifications, define their duties, fix their compensation, require bonds from them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and proper conduct of its business.

"(h) When the permanent Board of Directors is duly constituted and the Corporation is ready to conduct business, it shall so notify the Administration.

"COMMON AND PREFERRED STOCK

"SEC. 353. (a)(1) The Corporation shall have voting common stock, having such par value as may be fixed by its Board of Directors from time to time, which may be issued only to small business investment companies. Each share of voting common stock shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The free transferability of the voting common stock at all times to any person, firm, corporation, or other entity shall not be restricted except for the restriction in subparagraph (5)(B) of this subsection and except that, as to the Corporation, it shall be transferable only on the books of the Corporation. The initial maximum number of shares of voting common stock that the Corporation may issue and have outstanding shall be one hundred million shares. The maximum number of shares of voting common stock may be increased or decreased by the affirmative vote of the holders of at least a majority of the total outstanding shares.

"(2) The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. The initial maximum number of shares of nonvoting common stock that the Corporation may issue and have outstanding shall be one hundred million shares. The maximum number of shares of nonvoting common stock may be increased or decreased by the affirmative vote of the holders of at least a majority of the total outstanding shares. Any nonvoting common share issued shall be fully transferable, except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

"(3) The holders of the voting or nonvoting common stock shall not have preemptive rights.

"(4) In order to accumulate funds for its capital surplus account from private sources—

"(A) the Corporation shall require each small business investment company to make payments of nonrefundable capital contributions not to exceed 2 per centum of the private capital of each such company;

"(B) the Corporation also may require each small business investment company to make payments of nonrefundable capital contributions not to exceed 2 per centum of any increases in the private capital of each such company; and

"(C) the Corporation also may require each small business investment company

which sells a small business investment security to the Corporation to make, or commit to make, a nonrefundable capital contribution not to exceed 1 per centum of the unpaid principal balance of such security;

"(5)(A) The Corporation, from time to time, shall issue to each small business investment company its voting common stock evidencing any capital contributions made pursuant to paragraph (4) of this subsection.

"(B) Such voting common stock shall be retained by such companies for a period of not less than three years, subject to such conditions as may be established by the Corporation.

"(C) In addition, the Corporation may issue shares of nonvoting common stock in return for appropriate payments into capital or capital and surplus.

"(D) Such dividends as may be declared by the Board of Directors in its discretion shall be paid by the Corporation to the holders of its voting and nonvoting common stock.

"(6) Notwithstanding any other provision of law, any depository institution, as defined in section 19(b)(1)(A) of the Federal Reserve (12 U.S.C. 461(b)(1)(A)), shall be authorized to make payments to the Corporation of the capital contributions referred to in this subsection, to receive stock of the Corporation evidencing such capital contributions, to purchase additional shares of such stock, and to hold or dispose of such stock, subject to the provisions of this Act.

"(b)(1) The Corporation is authorized to issue nonvoting preferred stock, having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

"(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid. The Corporation may prescribe that any class of preferred stock of the Corporation may be converted into voting or nonvoting common stock of the Corporation.

"(3) In the event of any liquidation, dissolution, or winding up of the Corporation's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"OBLIGATIONS AND SECURITIES

"SEC. 354. (a) The Corporation is authorized to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Corporation. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Corporation shall determine, with the approval of the Secretary of the Treasury. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein. The Corporation shall insert appropriate language in each of its obligations issued under this section and under section 356 clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Corporation. The Corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price. Any obligation or security of the Corporation may be issued and sold in definitive form, in book entry form or in such other form, with or without delivery of physical evidence of ownership, as shall be prescribed by the Corporation.

"(b) For the purposes of this section, the Corporation is authorized to issue obligations which are subordinated to any or all other obligations of the Corporation, including subsequent obligations. The obligations issued under this section shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation and may be made redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations. Any of such obligations may be made convertible into shares of common stock in such manner, at such price or prices, and such time or times as may be stipulated therein.

"(c) The Secretary of the Treasury, in his discretion, may purchase any obligations issued by the Corporation pursuant to subsection (a) of this section as now or hereafter in force and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act (40 Stat. 288), as amended as now or hereafter in force, and the purposes for which securities may be issued under such Act, as now or hereafter in force, are extended to include such purchases. The authorities provided to the Secretary of the Treasury by the preceding sentence shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $500,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be on terms and conditions as shall be determined by the Secretary of the Treasury, taking into consideration the objectives that the Corporation retain the ability to make credit available to eligible borrowers on reasonable terms as reflected in the current average rate on outstanding marketable obligations to the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, on such terms and conditions and at such price or prices as the Secretary may determine, any of the obligations acquired by the Secretary under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"LEGAL INVESTMENTS AND EXEMPT SECURITIES

"SEC. 355. All obligations issued by the Corporation pursuant to sections 354 and 356, all preferred stock issued by the Corporation pursuant to section 353(b) and all obligations guaranteed by the Corporation pursuant to section 356 shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Corporation shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Corporation shall, for the purposes of section 14(b)(2) of the Federal Reserve Act (12 U.S.C. 355(2)), be deemed to be an agency of the United States. The obligations of the Corporation shall be deemed to be obligations of the United States for purposes of section 3124 of title 31, United States Code. For the purpose of section 101(39) of title 11, United States Code, the Corporation shall be deemed to be an agency of the United States; however, for the purpose of section 101(33) of title 11, United States Code, the Corporation shall not be deemed to be a governmental unit, but instead shall be deemed to be a corporation.

"LOAN AND INVESTMENT OPERATIONS

"SEC. 356. (a) After the permanent Board of Directors has been duly constituted and the debentures purchased as provided in section 361 of this Act, the Corporation is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Corporation, small business investment securities.

"(b) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security or ownership interest in small business investment securities created by the Corporation or by any eligible small business investment company may be perfected either through the taking of possession of such securities or by the filing of notice of such interest in such securities in the manner provided by such State law for perfection of security or ownership interests in accounts.

"(c) The Corporation is authorized to guarantee securities based on or secured by pools or trusts of the small business investment securities eligible for purchase by the Corporation under this section and to act either as issuer or as guarantor of such securities issued by an eligible small business investment company. Such securities shall bear interest at a rate equal to the rate on the underlying small business investment securities less an allowance for servicing and other expenses as determined by the Corporation.

"(d) Securities issued pursuant to subsection (c) of this section may be in the form of debt obligations secured by pools of loans, or trust certificates of beneficial ownership in such pools of loans or both. Small business investment securities set aside pursuant to the offering of participations or pooled interests shall at all times provide for payments that, in the reasonable judgment of the Corporation, are adequate to ensure the timely principal and interest payments on such securities.

"(e) Nothing contained in this section shall be construed to impede small business investment companies operating under section 359 of this Act from receiving a proportionate and fair share of available funds.

"QUALIFICATION OF SMALL BUSINESS INVESTMENT COMPANIES

"SEC. 357. (a) The Corporation shall establish appropriate criteria for the qualification of small business investment companies to conduct business with the Corporation. Such criteria may include, among other things, the general business reputation and character of the owners and management of the small business investment company, and the probability of successful operations of such small business investment company, including adequate profitability and financial soundness. Licensees in good standing which make capital contributions and acquire and maintain common stock of the Corporation pursuant to section 353(a) of this Act, contract with the Corporation pursuant to the provisions of section 358(a) of this Act, and authorize the release of records to the Corporation pursuant to section 322(d) of this Act shall be deemed to be qualified under this section.

"(b) Each small business investment company authorized to operate under the authority of Part B this Act shall have private capital of not less than $1,000,000. In all cases, such private capital shall be in an amount adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently.

"(c) Notwithstanding the provisions of section 23A of the Federal Reserve Act (12 U.S.C. 371c), ownership interests in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event may any such bank acquire ownership interests in any small business invesment company if, upon the making of that acquisition the aggregate amount of ownership interest in small business investment companies then held by the bank would exceed five percentum of its capital and surplus.

"(d) Each small business investment company shall have authority to purchase stock issued by the Corporation and to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and subject to such rules as the Corporation may prescribe.

"(e) Thirty days after the Administration receives notice from the Corporation pursuant to section 352(h) of this Act, the provisions of sections 301-306 inclusive, sections 308-318 inclusive, and sections 320 and 321, of this Act shall be inapplicable to small business investment companies which qualify under section 357(a) or section 359(a) of this Act and which remain qualified to conduct business with the Corporation.

"(f) All specific references to small business investment companies operating under the Small Business Investment Act of 1958 in any law of the United States, or regulations promulgated thereunder by any agency of the United States Government, or any law of any State in effect on the effective date of this Act, shall be deemed to refer to and include small business investment companies operating under the provisions of part B of this Act.

"OPERATIONS OF SMALL BUSINESS INVESTMENT COMPANIES

"SEC. 358. (a) The Corporation shall enter into agreements with small business investment companies qualified under section 357 or section 359 of this Act governing the operations of such companies, in accordance with the provisions and purposes of this Act.

"(b) Each small business investment company is authorized to provide equity capital and loans to small-business concerns, in such manner and under such terms as the small business investment company may fix in accordance with the rules of the Corporation. Equity investments and loans made under this section may be made directly or in cooperation with other investors or lenders on a participation or guaranteed basis. Each small business investment company may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services.

"(c) Small business investment companies shall engage only in the activities contemplated by this Act and in no other activities.

"(d) For the purpose of eliminating conflicts of interest which may be detrimental to small-business concerns, to small business investment companies, to the shareholders or partners of either, to the Corporation, or to the purposes of this Act, the Corporation shall adopt rules to govern transactions with any officer, director, shareholder, or partner of any small business investment company, or with any person or concern, in which any interest, direct or indirect, financial or otherwise, is held by any officer, director, shareholder, or partner of (A) any small business investment company, or (B) any person or concern with an interest, direct or indirect, financial or otherwise, in any small business investment company.

"(e) The Corporation shall adopt rules which shall provide that small business investment companies, either singularly or jointly, shall not be permitted to assume control over small-business concerns except on a temporary basis if reasonably necessary for the protection of its investment and then only under restrictions as determined by the Corporation.

"(f) Except as otherwise provided by the rules of the Corporation, financings of small-buisness concerns by small business investment companies shall be for a minimum period of five years. In the case of small business investment companies operating under section 359 of this Act, financings shall be for the minimum period of four years, except as otherwise provided by the rules of the Corporation.

"(g) Without the approval of the Corporation, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this Act for any single enterprise shall not exceed 20 per centum of the private capital of such company. In the case of small business investment companies operating under section 359 of this Act, the limitation shall be 30 per centum.

"(h) Small business investment companies shall not provide financing to a small-business concern for relending, foreign investments, passive investments or the acquisition of farm land. For purposes of this subsection, farm land shall mean land which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.

"(i) Each small business investment company shall be subject to an annual audit and shall make such reports to the Corporation at such times and in such form as the Corporation may require.

"(j) The Corporation shall adopt appropriate measures to assure compliance by small business investment companies with the provisions of this section. Failure by a small business investment company to comply with the provisions of this section shall entitle the Corporation to terminate or suspend the agreements between the Corporation and a small business investment company or to take corrective action warranted under the circumstances which shall include, but is not limited to: suspensison or termination of agreements between the Corporation and such company; assessment of penalties against such company or its officers or directors: or removal or suspension of officers or directors of such company. In appropriate cases, the Corporation is authorized, in its discretion, to refer violations of the provisions of this section to the Administration for investigation or to refer such violations to the United States attorney in the jurisdiction in which such violations may have occurred or in which the small business investment company, or its officers or directors, are located.

"(k) In order to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small-business concerns, the provisions of the Constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges or other charges which may be charged, taken, received, or reserved by lenders shall not apply to any business loan made by a small business investment company pursuant to provisions of this Act. This subsection shall apply to business loans made by a small business investment company in any State on or after the effective date of this Act, unless such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of the subsection to apply to business loans made in such State. In any case in which a State takes an action described in this subsection, such State or constitutional or other provision shall not apply after the date such action was taken with respect to any business loan made by a small business investment company pursuant to a commitment to make such loan which was entered into on or after the effective date of this Act and prior to the date on which such action was taken.

"SPECIAL SMALL BUSINESS INVESTMENT COMPANIES

"SEC. 359. (a) The Corporation shall adopt reasonable criteria regarding the qualification of a special type of small business investment company (hereinafter referred to as 'special small business investment companies'), the investment policy of which is that its investments will be made solely in disadvantaged small-business concerns. Licensees in good standing operating under the provisions of section 301(d) of this Act which make capital contributions and acquire and maintain common stock of the Corporation pursuant to section 353(a) of this Act, contract with the Corporation pursuant to the provisions of section 358(a) of this Act, and authorize the release of records to the Corporation pursuant to section 322(d) of this Act shall be deemed to be qualified under this section.

"(b) In order to benefit special small business investment companies, there is hereby authorized and created a special-purpose trust (hereinafter referred to as the 'Trust') which shall operate in conjunction with the Corporation as follows:

"(1) The Trust shall operate in accordance with a trust agreement between the Trust

and the Corporation to carry out the purposes of this Act.

"(2) The Trust shall be administered by five trustees, three of whom shall be nominated by the special small business investment companies and appointed by the Board of Directors of the Corporation. At least three of the trustees shall, at all times, be persons from special small business investment companies. One of the trustees shall be appointed by the President, to serve at the pleasure of the President, and one of the trustees shall be ex-officio, the Chairman of the Board of Directors of the Corporation, or his designee.

"(3) The nomination of trustees by special small business investment companies shall be by vote of such companies, which shall be cumulative, by number of shares of voting common stock of the Corporation held by each such company. Each of the trustees nominated by the special small business investment companies shall be appointed as trustees by the Board of Directors of the Corporation unless such Board, for good cause shown, refuses to approve any such nominee, in which event a new nominee shall be nominated by the special small business investment companies. Nominees, upon appointment by the Board, shall serve for terms of three years, and no such trustee shall serve more than two consecutive terms.

"(4) The trustees appointed by the Corporation shall have custody and control of the trust estate to administer, sell, invest and reinvest the trust estate with the care, skill, purdence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

"(5) The Trust shall establish separate accounting for all preferred securities, debentures, loss reserves and other funds acquired and the application of funds for the purposes specified in this section. The trustees shall make an annual accounting of the Trust's operations to the Secretary of the Treasury.

"(c) Within thirty days after the Administration receives notice from the Corporation pursuant to section 352(h) of this Act, the Administration shall convey to the Corporation in trust all of the right, title, and interest to all preferred securities and debentures issued by small business investment companies operating under authority of section 301(d) of this Act, and held by the Administration. The Corporation shall grant and convey to the Trust such securities and debentures and other funds designated for the Trust in trust, to be administered in accordance with the provisions of this Act.

"(d) The Trust shall apply all of the funds held in trust and income thereon, dividends on any preferred securities held in trust, and interest on any debentures held in trust, together with the proceeds from any retired preferred securities held in trust, and proceeds from any maturing debentures held in trust—

"(1) to cover any losses realized on preferred securities or debentures held in trust, preferred securities purchased by the Trust in accordance with the provisions of this section or debentures purchased or guaranteed by the Corporation in accordance with the provisions of this section;

"(2) to reduce the interest rate on debentures purchased or guaranteed by the Corporation in accordance with the provisions of subsection (e) of this section;

"(3) to purchase preferred securities in accordance with the provisions of subsection (e) of this section; and

"(4) to cover the operating costs of administering the Trust.

"(e) The trustees of the Trust are authorized to purchase preferred securities, and the Corporation is authorized to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by special small business investment companies. Such purchases or guarantees may be on such terms and conditions as the Trust or the Corporation deems appropriate, subject to the following:

"(1) The Trust may purchase shares of nonvoting stock (or other securities having similar characteristics) issued by special small business investment companies, provided—

"(A) dividends are preferred and such securities are subject to such rate of cumulative dividends, redemption or other conversion provisions, terms and conditions as may be determined by the Trust;

"(B) on liquidation or redemption, the Trust is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Trust) the Trust shall be paid any amounts as may be due pursuant to subparagraph (A) of this paragraph;

"(C) the purchase price shall be at a price determined by the Trust and, in any one sale, $50,000 or more; and

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed 200 per centum of the private capital of such company. The amount of such securities purchased by the Trust in excess of 100 per centum of such private capital from any company may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in venture capital as determined by the Trust. For the purpose of the subsection, the term 'venture capital' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other ventures for profit or debt instruments which are subordinate by their terms to other borrowings of the issuer.

"(2) The Corporation may purchase or guarantee debentures issued by special small business investment companies which shall be subordinate to any other debentures, bonds, promissory notes or other debts and obligations of such companies unless the Corporation in its exercise of reasonable investment prudence and in considering the financial soundness of such company determines otherwise, provided—

"(A) the effective rate of interest during the first five years of the term of any debenture purchased by the Corporation under authority of this section shall be at a rate determined by the Corporation to be the rate of return on comparable small business investment securities purchased by the Corporation reduced to such lower rate as determined and provided by the Trust, such reduction in rate not to exceed 3 per centum per annum; and

"(B) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this subsection or transferred to the Trust under subsection (c) of this section shall not exceed 400 per centum of a company's private capital less the amount of preferred securities outstanding.

"(3) Debentures purchased and outstanding pursuant to paragraph (2) of this subsection (e) may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(B) of this subsection (e).

"(f) The Trust and the Corporation are authorized to extend the benefits of this section to any special small business investment company which is owned, in whole or in part, by one or more small business investment companies, in accordance with rules promulgated by the Trust and the Corporation.

"(g) All dividends on preferred securities, interest on debentures, gains from sales of any securities and all other income of the Trust shall be exempted from all taxation now or hereafter imposed by the Congress or by any State or by any country, municipality, or local taxing authority.

"(h) Fifty years after the effective date of this Act, all preferred securities purchased by the Trust from special small business investment companies shall be redeemed and, together with the remaining corpus and interest of the Trust, less any funds owed to the Corporation, shall be transferred by the Trust to the United States Treasury for covering into miscellaneous receipts. Thereafter, the Trust shall be terminated and special small business investment companies operating under the authority of this section shall operate under the authority of section 357 of this Act.

"AUDITS AND REPORTS

"SEC. 360. (a) The Administration shall have review authority over the Corporation to ensure that the public purposes of this Act are carried out. The Administration's reviews shall cover the Corporation's criteria for the qualification of small business investment companies to conduct business with the Corporation and the Corporation's agreements, rules or regulations governing the operations of small business investment companies, but shall not extend to the Corporation's internal operations such as personnel, salary, and other usual corporate matters.

"(b) The Administration may examine the books and records of the Corporation and may require the Corporation to make such reports as the Administration deems desirable. The Administration, not later than January 31 of each year, shall report to the Congress on reviews made under this section.

"(c) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(d) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Small Business Committees of the Congress not later than six months following the close of such fiscal year. The report shall

set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Corporation, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Administration and to the Corporation. In addition to such annual audits, the Corporation shall be subject to audit by the General Accounting Office, at the request of either of the Small Business Committees of the Congress, as long as the Corporation holds small business investment company securities guaranteed by the Administration and acquired by the Corporation pursuant to section 361 of this Act.

"(e) The Corporation shall, as soon as practicable after the end of each fiscal year, transmit to the President, the Small Business Committees of the Congress and the Administration a report of its operations and activities during last year.

"TRANSFER OF SMALL BUSINESS ADMINISTRATION GUARANTEED SECURITIES TO THE CORPORATION

"SEC. 361. (a) To carry out the purposes set forth in section 351 of this Act, and notwithstanding any law, rule, or regulation, the Secretary of the Treasury is authorized and directed to sell to the Corporation during fiscal year 1987, all of the right, title and interest to all small business investment company securities guaranteed by the Administration and held by the Federal Financing Bank (the 'Bank'), providing such securities are due in fiscal year 1988 or any subsequent year. The Corporation shall fully pay in cash for such securities during fiscal year 1987 at a price equal to the outstanding principal balance of such securities, except that $100,000,000 of the purchase price shall be paid by the Corporation to the trustees for the Trust to carry out the trust functions specified in section 359 of this Act. Such securities may be freely transferred, hypothecated or sold by the Corporation. Interest on such securities shall accrue to the benefit of the Bank up to the date of transfer of title of the securities from the Bank to the Corporation.

"(b) To the extent the Corporation is prepared to conduct business during fiscal year 1987, the Secretary of the Treasury is authorized to sell to the Corporation during fiscal year 1987, all of the right, title and interest to any small business investment company securities guaranteed by the Administration and held by the Bank which are due in fiscal year 1987. The Corporation shall fully pay in cash for such securities during fiscal year 1987 at a price equal to the outstanding principal balance of such securities. Such securities may be freely transferred, hypothecated or sold by the Corporation. Interest on such securities shall accrue to the benefit of the Bank up to the date of transfer of title of the securities from the Bank to the Corporation.".

SEC. 6. Except as otherwise provided in this Act, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this Act, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this Act shall be applicable and effective, without regard to any other law.

SEC. 7. Notwithstanding any other law this Act shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SECTION-BY-SECTION SUMMARY OF THE BILL TO BE KNOWN AS THE CORPORATION FOR SMALL BUSINESS INVESTMENT CHARTER ACT

Section 1. This section provides that the Act may be cited as the "Corporation for Small Business Investment Charter Act."

Section 2. This section amends section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) by redefining one of the terms defined therein, and adds the definitions of certain terms used in the Act.

Subsection (a) adds the phrase "or a company qualified to conduct business with the Corporation under section 357 of this Act" to the definition of "small business investment company," "company" and "licensee."

Subsection (b) modifies the definition of "small business concern" to provide that for purposes of Title III of the Act, a "small business concern" is one that is independently owned and operated, is not dominant in its field of operations, does not have net worth in excess of $7,000,000 and does not have average net income for the preceding two years in excess of $2,500,000. This latter size standard is subject to an annual inflation adjustment. In the alternative, the size qualification also may be met under standards established by the Small Business Administration (the "Administration").

Subsections (c), (d) and (e) add nine new definitions to the end of section 103. New paragraphs (9) and (10) define the terms "Corporation" and "Board of Directors" to mean the Corporation for Small Business Investment and its Board of Directors. New Paragraph (11) defines "disadvantaged small business concern" as a small business concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. New paragraph (12) defines the term "law" to include any law or rule of law or equity of the United States or any State. New paragraph (13) defines the term "organization" to mean any corporation, partnership, association, business trust or other business entity. New paragraph (14) provides that the term "security" has the meaning ascribed to it by Section (2)(1) of the Securities Act of 1933. New paragraph (15) defines the term "small business investment security" to include debentures, bonds, promissory notes, obligations or securities currently issuable by small business investment companies plus such other small business investment company securities as the Corporation may permit to be issued. New paragraph (16) defines "private capital" of a small business investment company to be the combined private paid-in capital and paid-in surplus or, in the case of an unincorporated small business investment company, the permanent partnership capital. New paragraph (17) defines "licensee in good standing" to mean licensee as defined in the Act unless such licensee is in default under the provisions of preferred securities or debentures or such securities have been declared due and payable by the Administration or the licensee is in liquidation for regulatory reasons.

Section 3. Title III of the Small Business Investment Act of 1958 is amended by adding a new section 322. Subsection (a) provides that a licensee in good standing shall have three months after the date the Corporation gives notice to the Administration that it is ready to conduct business to qualify under sections 357 or 359. Section 357 establishes the criteria for qualification of small business investment companies to conduct business with the Corporation and section 359 establishes the criteria for qualification of special small business investment companies to do business with the Trust.

Subsection (b) provides that within six months after the Administration receives notice (under section 352(h) of the Act) that the Corporation is prepared to do business, the Administration shall promulgate rules and regulations to effect the orderly termination of any licensee in good standing which has not qualified under sections 357 or 359 of the Act, and the Administration shall contract with the Corporation to administer these regulations.

Subsection (c) provides that such rules and regulations shall suspend the licensee's authority to obtain financing or financial assistance from the Administration. The revocation of license must be effective within two years of the publication of the rules and regulations except such revocation may be delayed within two years of the maturity of preferred securities or debentures of a licensee.

Subsection (d) provides that the Administration shall furnish to the Corporation all of its books and records necessary to carry out the provisions of the Act within thrity days of a written request by the Corporation unless the Administrator certifies that such books and records are not available within such time. Information on individual licenses shall not be furnished unless the licensee has agreed to such release. Information furnished by the Administration to the Corporation shall be kept confidential.

Section 4. Title III of the Small Business Investment Act of 1958 is amended by revising the table of contents and by inserting the heading "Part A" prior to section 301.

Section 5. The Small Business Investment Act of 1958 is amended by inserting the heading "Part B" at the end thereof.

A new Section 351 entitled "Purposes" is added.

This section sets forth the purposes of Part B of the Act. It is declared that the purposes of this Part of the Act are (1) to establish a Government-sponsored private corporation, financed by private capital, which will serve as a secondary market and warehousing facility for loans to and investments in small business investment companies, and will provide liquidity for small business loans and investments; (2) to encourage the formation of new small business investment companies to stimulate and supplement the orderly and necessary flow of private capital and long-term loan funds to and improve the distribution of investment capital available for small business concerns; and (3) to provide for an orderly transfer of certain functions of and securities guaranteed or owned by the Small Business Administration to the Corporation for Small Business Investment as constituted under the Act. These purposes reflect the belief that a government-sponsored private corporation financed by private capital can more appropriately, efficiently and profitably stimulate investment in small business investment companies.

New section 352 is entitled "The Corporation for Small Business Investment."

Subsection (a) establishes a corporation to be known as the Corporation for Small Business Investment (the "Corporation") which would have succession until dissolved. The Corporation would maintain its principal office in the District of Columbia and would be deemed to be a resident and citizen of the District for purposes of venue and jurisdiction in civil actions. Finally, the Corporation would be authorized to establish offices wherever necessary or appropriate for the conduct of its business.

Subsection (b) provides that the Corporation, as an instrumentality of the United States, would be exempt from State taxation, except that any real property of the Corporation would be subject to taxation to the same extent that other property is taxed. The Corporation would not be exempt from federal income taxes.

Subsection (c) provides that until the permanent Board of Directors is designated, the President would appoint an interim Board of Directors consisting of five members, one of whom would be designated by the President as interim Chairman. The interim Board would be appointed by the President within sixty days of the enactment of the Act. Of the five members, two would be representative of small business, two would be representative of small business investment companies, and one would be the Small Business Administration Administrator. The main function of the interim Board is to arrange for an initial offering of common stock of the Corporation and to take whatever other actions are necessary to proceed with the operations of the Corporation.

Subsection (d) provides for a permanent Board of Directors consisting of fifteen persons. When $15,000,000 of common stock of the Corporation has been purchased by small business investment companies, the holders of common stock would then elect ten members of the Board of Directors. The remaining five would be appointed by the President.

Subsection (e) provides that once the events described in paragraph (d) have occurred, the interim Board would turn over control of the affairs of the Corporation to the permanent Board. The directors appointed by the President would serve at the pleasure of the President and until their succesors have been appointed and have qualified. At least one of the directors appointed by the President must be from a special small business investment company, operating under section 359 of the Act. Two directors shall be representative of small business. The directors elected by the common stockholders would each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Corporation, and would serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant would be filled by appointment of the President and any elective seat on the Board which becomes vacant after the annual election of the directors would be filled by the Board, but only for the unexpired portion of the term.

Subsection (f) sets forth the responsibility of the Board for determining the general policies which would govern the operations of the Corporation and for selecting, appointing, compensating and prescribing the functions, powers and duties of the executive officers of the Corporation.

Subsection (g) provides that the Corporation would have the normal powers exercised by a corporation including the power to sue and be sued, to use a corporate seal, to adopt bylaws, to conduct business in any state, to deal in various ways with property, to appoint and dismiss officers and employees, to enter into contracts, and to exercise other specified or necessarily incidental powers.

Subsection (h) provides that when the permanent Board of Directors is duly constituted and the Corporation is ready to conduct business, it shall so notify the Administration.

A new section 353 is entitled "Common and Preferred Stock."

Paragraph (a)(1) of this section provides that the Corporation shall have voting common stock which may be issued only to small business investment companies. Each share of common stock shall have such par value as the Board of Directors may fix from time to time. Each share is entitled to one vote with cumulative voting rights at the elections of directors. The maximum number of authorized shares of voting common stock of the Corporation shall be 100,000,000 shares. This maximum number of authorized shares may be increased or decreased by an affirmative vote of a majority of the total outstanding shares. Such stock is freely transferable except as to the restriction on retention by small business investment companies for three years in section (5)(B) below and that, as to the Corporation, it is transferable only on its books.

Paragraph (a)(2) provides for nonvoting common stock and that the number of authorized shares of nonvoting common stock of the Corporation shall be 100,000,000 nonvoting common stock. This maximum number of authorized shares may be increased or decreased by an affirmative vote of a majority of the total outstanding shares.

Paragraph (a)(3) provides that holders of voting and nonvoting common stock shall not have preemptive rights.

Paragraph (a)(4) provides that the Corporation will raise funds for its capital surplus account by requiring nonrefundable capital contributions from each small business investment company, not to exceed, in total, two percent of the private capital of each such company. In addition, the Corporation may require small business investment companies which sell securities to the Corporation to make, or to commit to make, capital contributions not to exceed one percent of the unpaid principal balance of such securities.

Paragraph (a)(5) provides that the Corporation will issue shares of its common stock to each small business investment company to evidence any capital contributions made pursuant to paragraph (a)(4) of this section. It is further provided that the Corporation may issue additional shares of nonvoting common stock in return for appropriate payments into capital or capital and surplus. Thus, the Corporation is authorized to issue nonvoting common stock to the general public. Any dividends declared by the Board of Directors are to be paid by the Corporation to the holders of its common stock. Common stock issued to small business investment companies under paragraph (a)(5) must be retained for three years, subject to such conditions as may be established by the Corporation.

Paragraph (a)(6) of this section provides that, notwithstanding any other provision of law, any depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act, is authorized to make capital contributions to the Corporation as provided in this subsection, and to receive nonvoting common stock evidencing it contributions. This authorization is intended to encourage the purchase of Corporation stock by depository institutions which generally are prohibited from owning stock in other entities.

Subsection (b)(1) authorizes the Corporation to issue a class of nonvoting preferred stock. Under the Act, if the Corporation so prescribes, such stock could be converted into voting or nonvoting common stock of the Corporation.

New section 354 is entitled "Obligations and Securities."

Subsection (a) of this section authorizes the Corporation (after approval by the Secretary of the Treasury) to issue obligations with maturities, rates of interest and terms and conditions as set by the Corporation. At the option of the Corporation, such obligations could be redeemed before maturity. This subsection makes clear that these obligations are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation. The Corporation is authorized to purchase in the open market any of these obligations at any time and at any price. Finally, the Corporation can prescribe that any obligation or security can be sold in definitive form or in book entry form with or without delivery of physical evidence of ownership.

Subsection (b) provides that the Corporation may issue subordinated obligations with such maturities and rates of interest as set by the Corporation. At the option of the Corporation, these obligations could be redeemed before maturity, and may be convertible into shares of common stock.

Subsection (c) provides discretionary authority for the Secretary of the Treasury to purchase any obligations issued by the Corporation and authorizes the Secretary to utilize the proceeds of the sale of any securities under the Second Liberty Bond Act for the acquisition of any obligations of the Corporation.

The prospective Treasury acquisitions are limited in several important respects. First, the amount of such holdings must be approved in advance through appropriation Acts of the Congress. Second, the holdings authorized under this subsection cannot exceed $500,000,000 at any time. Moreover, the yield must be at a rate determined by the Secretary in relation to the current average rate on outstanding Treasury obligations of comparable maturities. This will assure yields comparable to other Treasury holdings. The Secretary is authorized to sell the obligations of the Corporation at any time, price and upon any conditions and to treat such sales or redemptions as public debt transactions.

Under current law such public debt transactions are not included in the calculation of federal deficit figures. If such acquisitions are made, they will be reflected in the aggregate public debt totals at the time of acquisition. It is anticipated that this discretionary authority will, in fact, not be used but will be held in reserve by the Secretary. It would only be used in the event the private market floundered and it became necessary for the Congress to provide support for the small business investment company market through appropriate Treasury support. The Congress and the Secretary will be responsible for determining that such Treasury support is used only when necessary.

As a public debt transaction, this authority will not be reflected as budget authority or outlays in the federal budget when obligations are purchased. When they are sold, no change in the deficit will occur. Since the transactions are public debt financing mechanisms, they only show up in those accounts.

New section 355 is entitled "Legal Investments and Exempt Securities."

This section makes all obligations issued by the Corporation lawful investments acceptable as security for all fiduciary, trust and public funds under the authority or control of the United States. The stock and obligations issued by the Corporation would be classified as exempt securities under the laws administered by the Securities and Exchange Commission. The Corporation is deemed to be an agency of the United States for the purposes of section 355(2) of title 12 which gives the obligations of the Corporation the same investment status as other federally guaranteed obligations of the United States. With this status, the obligations of the Corporation would be considered liquid investments and, thus, could be used to satisfy reserve requirements of banks and savings and loan associations. Finally, for purposes of the Bankruptcy Code, and, specifically section 101(33) of title 11, the Corporation would be deemed to be a corporation and not a governmental unit; consequently, the U.S. Government does not by law have first priority over other creditors in the event of dissolution, liquidation or winding up of the business of the Corporation. For purposes of section 101(39) of title 11, however, the Corporation would be deemed to be an agency of the United States for the purpose of inclusion of its obligations within the provisions of the Bankruptcy Code relating to repurchase agreements.

New section 356 is entitled "Loan and Investment Operations."

Subsection (a) of this section authorizes the Corporation to issue commitments or otherwise deal in securities issued by small business investment companies after the permanent Board of Directors has been duly constituted and Administration-guaranteed debentures purchased under section 361 of the Act.

Subsection (b), which essentially restates section 1087-2(a)(2) of title 20, simplifies the procedure for perfecting a security or ownership interest in small business investment securities created by the Corporation or by an eligible small business investment company. Notwithstanding the provisions of any state law to the contrary, including the Uniform Commercial Code as in effect in any State, a security or ownership interest in small business investment securities created by the Corporation or by any small business investment company may be perfected either through taking possession of such securities or by filing notice of an interest in such securities in the manner provided by State law for perfection of security or ownership interests in accounts.

Subsection (c) authorizes the Corporation to guarantee securities based on or secured by pools or trusts of the small business investment securities eligible for purchase by the Corporation under this section. The Corporation is further authorized to act either as an issuer or guarantor of such securities. Thus, for example, the Corporation could guarantee collateralized securities issued by small business investment companies, and such securities so issued or guaranteed would bear interest at a rate equal to the rate on the underlying small business investment securities less an allowance for servicing other expenses as determined by the Corporation.

Subsection (d) provides that these securities may be in the form of debt obligations secured by pools of loans, or trust certificates of beneficial ownership in such pools of loans, or both. Thus, the Corporation is provided with the authority to operate a collateralized security program. The remainder of this section authorizes the Corporation to determine the adequacy of payments on such securities to assure their timely repayment.

Subsection (e) provides that nothing in this section shall be construed to impede small business investment companies operating under section 359 of the Act from receiving a proportionate and fair share of available funds.

New section 357 is entitled "Qualification of Small Business Investment Companies."

Subsection (a) restates the criteria of 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. 681(c)) for determining the qualification of small business investment companies to conduct business with the Corporation. It specifies some of the factors (business reputation and character of the owners, and the and probability of success of the proposed company) which must be taken into consideration in determining qualification. This section also provides that any small business investment company that is currently licensed and approved by the Small Business Administration to operate under the provisions of the Small Business Investment Act of 1958 is automatically qualified to operate under the provisions of the Act if such company subscribes to stock of the Corporation, as provided in section 353(a) of the Act, contracts with the Corporation, as provided in section 358(a) of the Act, and authorizes the release of records, as provided in section 322(d) of the Act.

Subsection (b) essentially restates section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) with the exception that the specific minimum private capital requirements of that section have been increased form $500,000 to $1,000,000, the current minimum requirement of the Small Business Administration. Under the Act, it is required that each small business investment company have sufficient private capital to assure sound and profitable operations and active and prudent management.

Subsection (c) restates the provisions of section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) which permits the purchase of ownership interests in small business investment companies by national banks, and by other Federal Reserve member banks and FDIC-insured banks when not prohibited by State law, up to an aggregate of 5 percent of the bank's capital and surplus. This authorization retains the current small business investment company exemption from the Glass-Steagell Act, and, specifically, section 371(c) of title 12, which generally prohibits banks from engaging in non-banking related activities.

Subsection (d) essentially restates section 303(a) of the Small Business Investment Act of 1958 (15 U.S.C. 683(a)) by authorizing small business investment companies to borrow money and to issue obligations therefor, under conditions and rules prescribed by the Corporation. This paragraph goes further, however, and authorizes small business investment companies to purchase stock issued by the Corporation since purchase of such stock will be a prerequisite for qualification as a small business investment company.

Subsection (e) provides that thirty days after the Administration receives notice from the Corporation under section 352(h) of the Act that the Corporation is ready to conduct business, the provisions of sections 301-306, inclusive, sections 308-318, inclusive, and sections 320 and 321 of the Act shall be inapplicable to small business investment companies qualified under section 357 or 359 of the Act.

Subsection (f) provides that all specific references to small business investment companies operating under the Small Business Investment Act of 1958 in any federal or state law or regulation shall now be deemed to refer to and include small business investment companies operating under the provisions of the Act. The foregoing provision is intended to insure that small business investment companies are accorded the same treatment under the Act as they currently enjoy under other statutes that make reference to small business investment companies operating under the provisions of the Small Business Investment Act of 1958. References to small business investment companies can be found in several statutes and regulations including, but not limited to, the following: in the Internal Revenue Code, 26 U.S.C. sections 243(a)(2), 542(c)(8), 586, 1242 and 1243; in the Investment Company Act of 1940, 15 U.S.C. sections 80a-18(k); and in regulations promulgated pursuant to the Internal Revenue Code, 26 C.F.R. section 1.533-1(d), and pursuant to the Investment Company Act of 1940, 17 C.F.R. sections 270.17(a)-6 and 270.18c-2(a).

New section 358 is entitled "Operations of Small Business Investment Companies."

Subsection (a) of this section authorizes the Corporation to enter into agreements with small business investment companies governing the operations of such companies to carry out the provisions of the Act. This gives the Corporation the general authority to establish criteria for the operations of small business investment companies.

Subsection (b) essentially combines the provisions of sections 304(a) and 305(a) and (b) of the Small Business Investment Act of 1958 (15 U.S.C. 684(a) and 685(a)(b)) by authorizing small business investment companies to make equity investments and loans directly or in cooperation with other investors or lenders on a participation of guaranteed basis.

Subsection (c) adopts SBA's current regulations which provide that small business investment companies shall engage only in the activities contemplated by the Act and in no other activities.

Subsection (d) restates the provisions of section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d). For the purpose of controlling conflicts of interest, the Corporation is empowered to adopt rules governing transaction between or among small business investment companies and persons interested in them as officers, directors, shareholders or partners.

Subsection (e) provides that the Corporation shall adopt rules that will prevent small business investment companies from assuming control over small business concerns, except under limited conditions, such as situations where it was necessary to do so to protect an investment. This provision is a restatement of the Administration's current control regulations.

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Subsection (f) provides that financings of small business concerns by small business investment companies shall be for a minimum period of five years. In the case of small business investment companies operating under section 359 of the Act, the minimum period is four years. This provision is consonant with one of the purposes of the Act which is to provide long-term loan funds to small business concerns and conforms with current Small Business Administration regulations.

Subsection (g) restates the provisions of section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) to provide that a small business investment company may not acquire obligations or securities for any single enterprise in excess of 20 percent of its private capital without the approval of the Corporation. In the case of small business companies operating under section 359 of the Act, this limitation is 30 percent.

Subsection (h) prohibits small business investment company investments in small business concerns for relending, foreign investments, passive investments or the acquisition of farm land. The prohibitions also are contained in current Small Business Administration regulations.

Subsection (i) provides that each small business investment company shall be subject to an annual audit and shall make such reports as the Corporation may require. These audits could be made by independent auditors acceptable to the Corporation or the Corporation itself, in its discretion.

Subsection (j) provides that the Corporation shall adopt appropriate measures to assure compliance by small business investment companies with the provisions of section 358 of the Act. It follows those provisions of sections 309 through 315, inclusive of the Small Business Investment Act of 1958 (15 U.S.C. 687) that specify grounds for administrative action against small business investment companies. Under this general authority, the Corporation would establish criteria for good business practices of small business investment companies which would be contained in agreements between the Corporation and small business investment companies. Failure to adhere to these criteria would subject the small business investment company to revocation of its qualification to conduct business with the Corporation and other appropriate administrative or legal action. Such revocatory authority currently exists for the Administration under 308(d) of the Small Business Investment Act of 1958 (15 U.S.C. 687(d)). The Corporation will have broad authority to take whatever actions are necessary under the circumstances to carry out the provisions of this section. Examples of measures which may be taken include: (1) suspension or termination of agreements between the corporation and a company; (2) assessment of penalties against a company or its officers or directors; or (3) removal or suspension of officers or directors of a company. In appropriate cases, such as suspected criminal activity, the Corporation is authorized to refer a violation of this section to the Small Business Administration for investigation or to the United States attorney for the jurisdiction in which the violations occurred or in which the company or its officers and directors are located. While the Corporation is not subject to the Administrative Procedure Act, it is intended that the Corporation will adopt rules or have provisions in its agreements with small business investment companies which will assure such companies or their officers and directors of reasonable opportunity to be advised of the nature of alleged violations of this section and an opportunity to be heard by responsible officers of the Corporation before dispositive actions is taken by the Corporation.

Subsection (k) restates section 308(h)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 687(i)(1)). It declares that the purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns. Any business loan made by a small business investment company pursuant to the provisions of the Act is exempt from the provisions of the Constitution or the laws of any State that expressly limit the rate or amount of interest, discount points, finance charges or other charges that may be imposed by lenders. However, such exemption can be overriden if a State adopts a law or certifies that the voters of such State have voted in favor of a provision which states explicitly that such exemption does not apply to business loans made in such State. Even if a State overrides the exemption by passing a law or certifying voter action, such law or certification will not apply to any loans made by a small business investment company pursuant to a commitment to make such loan after the effective date of the Act and prior to the date such law was passed or such certification occurred.

New section 359 is entitled "Special Small Business Investment Companies."

The provisions of this section essentially continue the existing special small business investment program (i.e., the Minority Enterprise Small Business Investment Company Program) of preferred security purchases and subsidized interest rates for five year terms. In place of the Administration, these benefits would be provided by the Trust created in the section.

Subsection (a) of this section is essentially a restatement of section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)). It requires that the Corporation adopt reasonable criteria for the qualification of a "special type of small business investment company" the investment policy of which is to facilitate ownership in small business concerns by persons whose participation in the free enterprise system has been hampered because of social or economic disadvantages.

Subsection (b) creates a special-purpose trust (the "Trust"). The Trust would be administered under a trust agreement between the Corporation and five trustees, three of whom would be nominated by the MESBICs and appointed by the Board of Directors of the Corporation. At least three of the trustees must be persons from special small business investment companies. One trustee would be appointed by the President and one trustee would be the Chairman of the Board of Directors of the Corporation, or his designee. The trustees nominated by special small business investment companies and appointed by the Board of Directors of the Corporation would have three year terms and could not be reappointed for more than two consecutive terms. The trustees of the Trust would have full authority to administer, sell, invest and reinvest the trust estate, subject to the "prudent man" rule for fiduciaries. The Trust would establish separate accounting for all such preferred securities, debentures and other funds held in trust and would provide an annual accounting of its operations under this subsection to the Secretary of the Treasury.

Subsection (c) provides that within 30 days after the Administration receives notice from the Corporation (under section 352(h)) that it is prepared to conduct business, the Administration shall convey all preferred securities and debentures issued by small business investment companies under section 301(d) of the Act to the Corporation in trust.

Subsection (d) provides that the trust corpus and income shall be administered in the following manner: (1) to cover any losses on the preferred securities or debentures held in trust, preferred securities purchased by the Trust or debentures purchased or guaranteed by the Corporation; (2) to reduce the interest rate on debentures purchased or guaranteed by the Corporation under subsection (e) of this section; (3) to purchase preferred securities under subsection (e) of this section and (4) to cover operating costs of the Trust.

Subsection (e) authorizes the trustees to purchase preferred securities and the Corporation to purchase or guarantee debentures of special small business investment companies. The Trust's purchase of such non-voting securities is subject to such terms and conditions as determined by the Trust, including: (1) dividends are preferred; (2) on liquidation or redemption, the Trust is entitled to the preferred payment of the par value of such securities; (3) the purchase price shall be $50,000 or more and (4) the amount of such securities purchased by the Trust shall not exceed 200 per centum of the private capital of such company. Also, the amount of such securities purchased by the Trust in excess of 100 per centum of such private capital may not exceed an amount equal of funds invested in venture capital by such company as determined by the Trust.

The Corporation is authorized to purchase or guarantee debentures issued by special small business investment companies. The rate of interest on such debentures shall be determined by the Corporation based upon comparable small business investment securities purchased by the Corporation reduced to a lower rate provided by the Trust, not to exceed three per centum per annum. The amount of debentures purchased or guaranteed or transferred to the Corporation under subsection (c) of this section shall not exceed 400 per centum of a company's private capital less the amount of preferred securities outstanding.

Subsection (f) provides that the benefits of this section may be extended to special small business investment companies owned, in whole or in part, by other small business investment companies.

Dividends on the preferred securities, interest on the debentures, gains on sales of securities and other income of the Trust would be exempt from federal, state and local taxes under paragraph (g).

Subsection (h) provides that the Trust will terminate fifty years after the effective date of the Act. All of the preferred securities outstanding will be redeemed and the corpus and interest of the Trust, less any funds owed to the Corporation, will be transferred to the U.S. Treasury.

New section 360 is entitled "Audits and Reports."

Subsection (a) of this section provides that the Administration shall have review authority over the Corporation to insure that the public purposes of the Act are carried out. This review applies specifically to

the Corporation's criteria for qualification of small business investment companies to conduct business with the Corporation and the Corporation's agreements, rules and regulations governing the operations of small business investment companies. It does not extend to the Corporation's internal operations, such as personnel, salary and other corporate matters, or to the operations of individual small business investment companies.

Subsection (b) provides that the Administration may examine the books and records of the Corporation and may require the Corporation to make reports to the Administration. The Administration shall report to the Congress on its reviews under this section no later than January 31 of each year.

Subsection (c) requires an annual audit of the accounts of the Corporation to be performed by an independent certified public accountant and such report must be furnished to the Secretary of the Treasury.

Subsection (d) requires the Secretary of the Treasury to deliver a report of each fiscal year audit of the Corporation to the President, and to the Small Business Committees of the Congress within six months of the end of such fiscal year. In addition to a normal report of the fiscal structure of the Corporation, the report is to include recommendations as the Secretary deems advisable and any indication of impairment of capital or insufficient capital. The Corporation also is subject to audit by the General Accounting Office at the request of either of the Small Business Committees of the Congress, as long as the Corporation holds small business investment securities guaranteed by the SBA and acquired pursuant to section 361 of the Act.

Subsection (e) requires the Corporation, as soon as practicable after the end of each fiscal year, to transmit to the President, the Small Business Committees of the Congress and the Administrator of the Small Business Administration, a report of its operations and activities during each year.

New section 361 is entitled "Transfer of Small Business Administration Guaranteed Securities to the Corporation."

This section provides for the sale during fiscal year 1987 to the Corporation of the Federal Financing Bank's portfolio of Administration-guaranteed debentures issued by small business investment companies due in fiscal year 1988 or later. If the Corporation is operational in fiscal year 1987, it could acquire debentures maturing in fiscal year 1987. The Corporation would pay cash for such securities in fiscal year 1987 at a price equal to the outstanding principal balance of the securities. $100,000,000 of the purchase price would be paid to the Trust created under section 359 of the Act to carry out the trust functions of the Trust. The sale contemplates the substitution of private financing for the obligations acquired by the Corporation.

Section 6. This section provides that the powers and functions to the Corporation and its Board of Directors shall be exercisable, and the provisions of the Act shall be applicable and effective, without regard to any other law.

Section 7. Territorial Applicability.

This section provides that, notwithstanding any other law, the Act is applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territories, possessions and dependencies of the United States.●

● Mr. BUMPERS. Mr. President, I am delighted to join with Senator WEICKER in moving forward the concept of COSBI, the Corporation for Small Business Investment, by introducing in the Senate the COSBI authorization legislation which was recently marked-up in the House Small Business Committee.

This is an innovative proposal to privatize the financing of the SBA's Small Business Investment Company Program, which is well known to Senators as one of the most successful small business programs ever enacted. The SBIC Program, Mr. President, owes its existence primarily to Senator Lyndon Johnson, who was majority leader in 1958 when the SBIC Act was passed by Congress, and Senator Sparkman, who was the distinguished chairman of the Senate Small Business Committee, and others on both sides of the aisle who worked hard to answer a profound, unmet need in small business financing.

The SBIC Program in recent years has made possible some of America's great entrepreneurial successes—Apple Computer, Cray Research, Federal Express, Digital Switch, NBI, Nike, Winnebago, Lifeline Systems, Pandick Press, to name but a few of the familiar corporate names which would never have gotten off the ground without help from the SBIC Program.

The Federal cost of this program is modest, in the neighborhood of $225 million annually, compared to many Government programs, and the jobs and tax revenues produced by successful businesses mentioned above. The SBIC's, however, have been plagued by the vicissitudes of the congressional authorization, appropriations, and budget processes and, worse, repeated attacks from the White House which has sought to abolish the program entirely.

The SBIC's have a right to feel aggravated with this process. For the last 2 years, Mr. President, they have awakened almost every day to another depressing news story indicating that they were not long for this world. And this, Mr. President, is an industry which has an exemplary record and does not deserve such treatment. So the SBIC industry has fashioned legislation which will give up entirely the SBA guaranty of SBIC debentures and allow them to take control of their own destinies.

This bill, Mr. President, is consistent with the reforms which Senator WEICKER authored, with the support of the SBIC industry, I should add, which removed SBIC financing from the Federal Financing Bank and provided for the sale of SBIC debentures in the private capital markets, with an SBA guaranty. That major change in financing, incidentally, produced $551 million in budget savings over 3 years, and was a key provision of the SBA reauthorization which President Reagan signed into law on April 7 of this year as part of the Combined Omnibus Budget Reconciliation Act.

The bill which Senator WEICKER and I are introducing today will carry this process a giant step further through COSBI. What we propose is a financing entity to meet the needs of small business for venture capital through a privately financed but federally chartered corporation for small business investment. COSBI would, initially, purchase the SBIC debentures now held by the Treasury in the Federal Financing Bank. This should produce a large savings for the Treasury and go a long way toward reducing the deficit. Additionally, it will allow COSBI to issue securities, which will furnish the proceeds for continued financing of the SBIC leverage program by the purchase of SBIC debentures by COSBI.

COSBI securities will not be guaranteed by the Government, so the Federal role will be substantially diminished.

This is a complex proposal, Mr. President, and I will not attempt to explain all its details at this point, but members of the Senate Small Business Committee are eager to work toward understanding and improving it. There are many questions which must be answered, the most important of which is, obviously, "will it work?" Additionally, there are concerns about the role which SBA will have in relation to COSBI. Under the House bill, which we are using as our starting point, SBA's existing regulations would be made statutory and SBA would conduct an annual audit of COSBI. Individual SBIC's however, would no longer be subject to annual audits by the SBA's inspector general. This is a question which must be carefully examined by the Small Business Committee in hearings, and it would be premature to express any view on this question which, I understand, is of considerable importance to the SBIC industry.

Finally, we must be sure that COSBI, which is intended to be a profitmaking venture, will adequately take care of the needs of the minority enterprise SBIC's. These companies, so essential to the continued and improved growth of new businesses owned and operated by economically disadvantaged minorities, are willing to take the risk of foregoing direct Federal funding. We must be sure, however, that this industry is ready to leave the nest, so to speak.

Mr. President, I look forward to working with Senator WEICKER and other members of the Small Business Committee, as well as our friends in the SBIC industry, on this important legislation. There is much work to be

done, and not much time left this year.●

By Mr. KENNEDY (for himself and Mr. GORE):

S. 2648. A bill to improve the public health through the prevention of childhood injuries; to the Committee on Labor and Human Resources.

CHILD INJURY PREVENTION ACT

● Mr. KENNEDY. Mr. President, today I am introducing the Children's Injury Prevention Act of 1986. The problem of injuries to children has been highlighted this year by the celebration for the first time of Children's Accident Prevention Week. As indicated by this new commemorative week, there is a growing awareness throughout the country that the toll from injuries to children is too high to be ignored.

Injuries are responsible for 50 percent of all the deaths of children over the age of one; they are responsible for two-thirds of all deaths of children over the age of 15. Injuries account for more deaths among children than all diseases combined. They are also the leading cause of death for all individuals up to the age of 34. There is good reason that injuries have been called the last major plague of the young.

We must resist the notion that injuries are simply accidents—random events, beyond the realm of human control. It is because injuries have been regarded as unavoidable accidents or behavioral problems there has often been little faith that human effort or design could control them.

In fact, most injuries are predictable. Our researchers can tell us where, how, and even when they will happen. For example, we know that this month and through the summer, there will be 7 deaths every 10 days because of all-terrain vehicles. These vehicles, which have been often viewed as toys, have caused 415 deaths and 185,000 serious injuries since 1982. Half of the deaths have been children under 16; a quarter have been under 12.

We can also predict that there will be about a quarter of a million accidents from people falling down stairs next year. There will be approximately a half million serious bicycle accidents. About 250,000 children will be seriously injured in automobile accidents next year and thousands will die. Almost 5 million children will suffer injuries that are related to products and approximately 126,000 of them will be injured by hazardous toys.

This is the bad news. The good news is that if injuries can be predicted, they can also be prevented. Researchers can identify common design flaws, typical human errors, and successful approaches for reducing the risk of injury. They can also devise better modes of diagnosis, treatment, and rehabilitation from injuries. Government involvement can increase public awareness, enforce design standards, and promote injury reduction efforts. Our best investment is clearly in prevention.

The legislation I am introducing today will utilize the high office of the Secretary of the Department of Health and Human Services to gather more information and promote public awareness on the problem of injuries to children. It directs the Secretary to report and make recommendations about this senseless and unnecessary cause of childhood mortality.

The bill will also authorize a center for injury control within the Center for Disease Control. This center will promote research into the causes, prevention, treatment, and rehabilitation from injuries. It will also promote cooperation between the Federal Government and the State and between the States to reduce the toll of injuries.

Mr. President, a recent report on injury issued by the National Academy of Sciences recommended that such a center be created. This report pointed out that no central agency has had responsibility for reducing the incidence of injuries and that injury control has not been given a high priority.

Last year, the Appropriations Committee took note of that report and put aside $10 million to support an effort like the one we would authorize with this bill. Those funds have already begun to be spent. Those of us who realize the wisdom of the Appropriations Committee must now join them in creating this link in the chain of national health policy.

I hope my distinguished colleagues will join me in support of this new direction for the national public health effort. I believe that once my colleagues are made aware of this national menace of injuries, especially injuries to children, they will join me in support of this reasonable approach. I urge them to do so—for their own children, for their children's children, and the children of the Nation.●

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 2649. A bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income children, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2650. A bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to pregnant women and infants, and for other purposes; to the Committee on Finance.

CHILDREN'S HEALTH LEGISLATION

● Mr. KENNEDY. Mr. President, today I am introducing two bills that will have a significant impact on the health of pregnant women and children throughout the country. These bills will make health care available to those who currently have little access to it but have the most to gain from it.

Mr. President, the plight of children in our society has become increasingly alarming. Over the last decade, the percentage of children without health insurance has doubled from 9 percent of all children to 18 percent of all children. When children who have no insurance for part of the year are counted, that number rises to 25 percent of all children.

This rise in the number of uninsured children has occurred at the same time that the number of children living below the poverty line has increased. Approximately 25 percent of all children below the age of 6 in our country are living in households that have incomes below the poverty line.

Though Medicaid was established to provide health services for the poor, especially for mothers and children, today this coverage is available to only 48 percent of children who live in poverty households. Fifty-two percent of poor children do not have Medicaid coverage—or any other health coverage. In addition, less than half of the women of child-bearing age whose incomes are below the poverty level are eligible for Medicaid.

In these years of obsession with Government spending, it seems reasonable to ask whether this policy even saves money. The truth is, Mr. President, that even by this miserly yardstick, this policy fails. Children comprise 50 percent of all Medicaid recipients. Yet they account for only 14 percent of Medicaid expenditures. Women are 25 percent of the recipients in the program. Yet they account for only 12 percent of the costs. The average cost of providing Medicaid service to a child was $400 per capita last year. By contrast, the average per capita cost of providing medical services to individuals last year was four times as large. These numbers show clearly that health care for children is a bargain.

Of course, cost is not the principal issue here. But the facts remain that children are not expensive to provide for. A small investment can go a very long way.

Mr. President, the disadvantages of inadequate health care begin early in life. They begin even before birth. Lack of health care during pregnancy increases the risk that a baby will be below the normal birthweight by 300 percent. Low-birthweight babies are at the greatest risk of becoming infant mortality statistics.

Earlier this year, I introduced, along with a larger bipartisan group of Senators, a bill (S. 2333) that will make health care more available to pregnant women and their infants. The bills I

am introducing today will extend the initiative of that earlier bill.

The first of the two bills, the Children's Health Care Act of 1986, which I am introducing with my distinguished colleague, Senator HATCH, will allow States to extend Medicaid benefits to as many as 3 million children who live in poverty households around the country. The bill will permit States to separate AFDC eligibility from Medicaid eligibility so that it will no longer be necessary to enroll in AFDC in order to be eligible for Medicaid. Under the terms of the bill, States will have the option of offering Medicaid to children to any age up to age 18 as long as they live in poverty households with incomes up to 100 percent of the Federal poverty line. Because a healthy family is the best environment for a healthy child, States will also be able to enroll the parents of those children if they chose to do so.

The Southern Governors' Association has recommended this change in the law. The National Governors' Association unanimously endorsed it. It is time for those of us in Congress to do our part.

Earlier this year, we introduced a bill to extend a similar option to States to provide Medicaid coverage for pregnant women and their infants. That bill was introduced with solid bipartisan support. It was clearly understood by all the cosponsors that nothing is gained and, in fact a great deal is lost, when health care is denied to pregnant women and their newborn infants. The toll we pay in the use of prolonged and expensive hospital intensive care services, and in children with lifetime disabilities, is unacceptably high. I cannot think of a better example where an ounce of prevention really does equal a pound of cure or a pound of care.

As important as that bill is, it will not eliminate the barriers to health care for poor pregnant women. Other barriers, including delays in eligibility determinations and arbitrary limitations on numbers of medical visits and services, endanger the tremendous gains we can make by expanding Medicaid eligibility. The bill we are introducing today would provide for accelerated enrollment of pregnant women into the Medicaid Program and remove limitations of amount, scope, and duration on medical services for pregnant women. It would also provide expanded services for those pregnant women who are at highest risk of a poor birth outcome.

These amendments will increase the odds that prenatal care will begin in the first trimester of pregnancy rather than months later—after eligibility has been determined. They will also ensure that pregnant women receive all the services ordered by their doctors. These changes should greatly increase the odds that expanding Medicaid services to poor pregnant women and their infants will succeed in reducing the great cost and human toll caused by low birthweight and infant mortality.

This bill will also ensure that Title V, Maternal and Child Health Clinics, get reimbursed fully by Medicaid when they provide services to pregnant women enrolled in Medicaid. And it will improve the reporting done by title V clinics about the service they provide.

Mr. President, these bills could benefit 3 million women and 3 million children living in poverty households around the country. Children, those little people who are the hope of our future, deserve better than they are receiving in 1986. The first step is to ensure their mothers access to decent health care during their pregnancies. The next step is to provide for the children themselves. It is difficult to find arguments against proposals such as these. I hope my colleagues from both sides of the aisle will join in supporting these very sound pieces of legislation.●

ADDITIONAL COSPONSORS

S. 329

At the request of Mr. HECHT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 329, a bill entitled the Highway Speed Modification Act of 1985.

S. 961

At the request of Mr. SARBANES, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 961, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia.

S. 1322

At the request of Mr. HECHT, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1322, a bill to amend the Geothermal Steam Act of 1970.

S. 1836

At the request of Mr. MITCHELL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1836, a bill to provide the protection of ground water through State standards, planning, and protection programs.

S. 2049

At the request of Mr. PROXMIRE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2049, a bill to prohibit Export-Import Bank loans to Angola.

S. 2064

At the request of Mr. WARNER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2064, a bill to require the President to make an annual report on the national strategy of the U.S. Government to certain committees of Congress and to require joint committee meetings to be held on such report.

S. 2103

At the request of Mr. MCCLURE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2103, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed with State insurance departments or agencies.

S. 2129

At the request of Mr. KASTEN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2129, a bill to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

S. 2187

At the request of Mr. DECONCINI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2187, a bill to amend title 38, United States Code, to exempt from sequestration certain benefits for veterans and dependents and survivors of certain veterans which are paid based on the service-connected disability or death of veterans.

S. 2270

At the request of Mr. SIMON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2270, a bill to amend the Immigration and Nationality Act to deter immigration-related marriage fraud and other immigration fraud.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes.

S. 2333

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2345

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2345, a bill to improve counseling, education, and services relating to acquired immune deficiency syndrome.

S. 2453

At the request of Mr. COHEN, the names of the Senator from North Dakota [Mr. ANDREWS], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Kentucky [Mr. FORD], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 2453, a bill to enhance the capabilities of the United States to combat terrorism and other forms of unconventional warfare.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2494

At the request of Mr. BRADLEY, the names of the Senator from Vermont [Mr. STAFFORD], the Senator from New Jersey [Mr. LAUTENBERG], and Senator from New Mexico [Mr. BINGAMAN] were added as a cosponsors of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2539

At the request of Mr. WARNER, the names of the Senator from Alabama [Mr. DENTON], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. ABDNOR], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Kentucky [Mr. FORD], the Senator from Ohio [Mr. GLENN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Florida [Mrs. HAWKINS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maine [Mr. MITCHELL], the Senator from Oklahoma [Mr. NICKLES], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. ZORINSKY], the Senator from New York [Mr. MOYNIHAN], the Senator from Idaho [Mr. MCCLURE], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. QUAYLE], the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 2539, a bill to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and citizens of the United States who reside overseas.

S. 2547

At the request of Mr. HEINZ, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2547, a bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from Medicare patients with respect to the use of reprocessed dialysis devices and supplies.

S. 2576

At the request of Mr. DURENBERGER, the names of the Senator from Florida [Mrs. HAWKINS] and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 2576, a bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims.

S. 2620

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2620, a bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes.

S. 2621

At the request of Mr. HUMPHREY, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2621, a bill to increase Government economy and efficency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to reduced Government competition with the private sector to provide goods and services.

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. INOUYE], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week".

SENATE JOINT RESOLUTION 360

At the request of Mr. GARN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 360, a joint resolution to designate July 20, 1986, as "Space Exploration Day".

SENATE JOINT RESOLUTION 366

At the request of Mr. HELMS, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 366, a joint resolution to disapprove the Act of the District of Columbia Council entitled the "Prohibition of Discrimination in the Provision of Insurance Act of 1986".

SENATE JOINT RESOLUTION 371

At the request of Mr. DECONCINI, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 371, a joint resolution to designate August 1, 1986 as "Helsinki Human Rights Day".

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 371, supra.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. DODD, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Concurrent Resolution 39, a concurrent resolution expressing the support of the Congress for Costa Rica's neutrality and urging the President to support such neutrality.

SENATE RESOLUTION 381

At the request of Mr. DECONCINI, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Resolution 381, a resolution expressing the sense of the Senate with respect to U.S. corporations doing business in Angola.

SENATE RESOLUTION 385

At the request of Mr. SASSER, the names of the Senator from Georgia [Mr. NUNN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Resolution 385, a resolution to express the sense of the Senate that certain action be taken to end hunger in the United States by 1990.

SENATE RESOLUTION 446—CONDEMNING THE GOVERNMENT OF CHILE FOR THE DEATH OF RODRIGO ROJAS DE NEGRI

Mr. KENNEDY (for himself, Mr. GORE, Mr. SIMON, Mr. HARKIN, Mr. HART, Mr. KERRY, Mr. PELL, Mr. WEICKER, and Mr. CRANSTON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 446

Whereas Rodrigo Rojas de Negri, a 19 year old student of Woodrow Wilson High School in Washington, D.C. and a legal resident of the United States, returned in May 1986 to his native Chile;

Whereas on July 2, 1986 Rodrigo Rojas and Carmen Quintana Arancibia were among a group of university students visiting a shanty town outside Santiago, Chile;

Whereas on July 2, 1986 Rodrigo Rojas de Negri and Carmen Quintana Arancibia were brutally beaten, set on fire, thrown into a vihicle and driven away by Chilean soldiers;

Whereas the Chilean authorities blocked efforts to have Rodrigo Rojas transferred from the public hospital, Posta Central, to the Hospital de Trabajador, a facility with a better burn treatment facility;

Whereas on July 6, 1986 Rodrigo Rojas died of the injuries he had incurred;

Whereas on July 9, 1986 Chilean authorities disrupted the funeral procession of Rodrigo Rojas, which included the U.S. Ambassador to Chile, by firing tear gas and water cannons.

Resolved,

SECTION 1. The Senate commends Ambassador Harry Barnes for attending the funeral of Rodrigo Rojas on July 9, 1986 and for his efforts to obtain proper medical care for the youth;

SEC. 2. The Senate holds the Government of Chile responsible for the injuries inflicted on Rodrigo Rojas de Negri and for the denial of proper medical care; and

SEC. 3. The Senate condemns the Government of Chile for the death of Rodrigo Rojas de Negri.

SENATE RESOLUTION 447—AMENDING THE PROVISIONS OF SENATE RESOLUTION 28

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 447

Resolved, That, Section 6 of Senate Resolution 28, as amended, agreed to February 27, 1986, is amended as follows:

Strike out all of Section 6 and insert in lieu thereof:

"SEC. 6. Effective June 1, 1986, the use of tape duplications of broadcast coverage of the proceedings of the Senate for political or commercial purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political or commercial purposes."

AMENDMENTS SUBMITTED

CENTRAL VALLEY PROJECT, CALIFORNIA

METZENBAUM AMENDMENT NO. 2204

Mr. METZENBAUM proposed an amendment to the bill (H.R. 3113) providing for the coordinated operation of the Central Valley Project and the State water project in California; as follows:

Page 11, line 14, strike subparagraph 307(b)(A) and insert in lieu thereof the following:

"(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of 320 irrigable acres; or"

METZENBAUM (AND MCCLURE) AMENDMENT NO. 2205

Mr. METZENBAUM (for himself and Mr. MCCLURE) proposed an amendment to the bill H.R. 3113, supra; as follows:

On page 13 after line 3 insert the following new section:

"SEC. 311. The Secretary of the Interior and the Secretary of Agriculture shall review the effect of the Small Reclamation Projects Act of 1956, as amended, on the operation and objectives of the programs of the Department of Agriculture dealing with the production of surplus commodities as determined by the Secretary of Agriculture pursuant to the Agriculture Act of 1949, as amended, and shall jointly submit a report on their findings to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House no later than 120 days from the date of enactment of this Act together with their recommendations, if any, for any changes to either or both programs to better achieve the objectives of such programs."

SUPPLEMENTAL EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN

D'AMATO (AND OTHERS) EXECUTIVE AMENDMENT NO. 2206

Mr. D'AMATO (for himself, Mr. DODD, Mr. HATCH, Mr. KERRY, Mr. HELMS, and Mr. DECONCINI) proposed an amendment to the resolution of ratification to Treaty Doc. 99-8, Supplementary Extradition Treaty between the United States of America, and the United Kingdom of Great Britain and Northern Ireland; as follows:

Strike out Article 5 of this Treaty and insert in lieu thereof the following:

"ARTICLE 5

"This Supplementary Treaty shall apply to any offense committed before or after this Supplementary Treaty enters into force, provided that this Supplementary Treaty shall not apply, (1) to an individual whose extradition was sought prior to the entry into force of this Supplementary Treaty, or (2) to an offense committed before this Supplementary Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission."

HELMS EXECUTIVE AMENDMENT NO. 2207

Mr. Helms proposed an amendment to the resolution of ratification to Treaty Doc. 99-8, supra; as follows:

At the appropriate place in the Treaty, insert the following new article:

"ARTICLE ——

"(a) Paragraph (b) of this Article shall be known as the Reagan-Shultz-Meese Defense.

"(b) Notwithstanding any other provision of this Supplementary Treaty, in the United States, the competent judicial authority shall consider as a defense to extradition a showing that the person for whom extradition is sought has committed the specified acts in furtherance of an armed uprising, insurrection, or rebellion against the military authorities of the state in which the accused person is a national, if such acts did not include wanton crimes of violence against civilian personnel.".

LUGAR EXECUTIVE AMENDMENT NO. 2208

Mr. LUGAR proposed an amendment to the resolution of ratification to Treaty Doc. 99-8, supra; as follows:

Amend the treaty as follows:

(1) Amend article 1 to read as follows:

"For the purposes of the Extradition Treaty, none of the following shall be regarded as a offense of a political character:

(a) an offense for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit his case to their competent authorities for decision as to prosecution;

(b) murder, voluntary manslaughter, and assualt causing grievous bodily harm;

(c) kidnapping, abduction, or serious unlawful detention, including taking a hostage;

(d) an offense involving the use of a bomb, grenade, rocket, firearm, letter or parcel bomb, or any incendiary device if this use endangers any person; and

(e) an attempt to commit any of the foregoing offenses or participation as an accomplice of a person who commits or attempts to commit such an offense."

(2) Amend article 2 to read as follows:

"Nothing in this Supplementary Treaty shall be interpreted as imposing the obligation to extradite if the judicial authority of the requested party determines that the evidence of criminality presented is not sufficient to sustain the charge under the provisions of the treaty. The evidence of criminality must be such as, according to the law of the requested party, would justify committal for trial if the offense had been committed in the territory of the requested party.

"In determining whether an individual is extraditable from the United States, the judicial authority of the United States shall permit the individual sought to present evidence on the questions of whether:

(1) there is probably cause;

(2) a defense to extradition specified in the Extradition Treaty or this Supplementary Treaty, and within the jurisdiction of the courts, exists; and

(3) the act upon which the request for extradition is based would constitute an offense punishable under the laws of the United States.

"Probable cause means whether there is sufficient evidence to warrant a man of reasonable caution in the belief that:

(1) the person arrested or summoned to appear is the person sought;

(2) in the case of a person accused of having committed a crime, an offense has been committed by the accused; and

(3) in the case of a person alleged to have been convicted of an offense, a certificate of conviction or other evidence of conviction or criminality exists."

(3) Insert after article 2 the following new article:

"ARTICLE 3

"(a) Notwithstanding any other provision of this Supplementary Treaty, extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

"(b) In the United States, the competent judicial authority shall only consider the defense to extradition set forth in paragraph (a) for offenses listed in Article 1 of this Supplementary Treaty. A finding under paragraph (a) shall be immediately appealable by either party to the United States district court, or court of appeals, as appropriate. The appeal shall receive expedited consideration at every stage. The time for filing a notice of appeal shall be 30 days from the date of the filing of the decision. In all other respects, the applicable provisions of the Federal Rules of Appellate Procedure or Civil Procedure, as appropriate, shall govern the appeals process."

(4) Renumber the remaining articles 4, 5, 6, 7.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources has rescheduled the hearing originally scheduled on Tuesday, June 24, 1986. This hearing now will take place Wednesday, July 23, beginning at 2 p.m. in room SD-366, Senate Dirksen Office Building, Washington, DC 20510.

Testimony will be received on the general relationship between the Federal Energy Regulatory Commission and related State public utility regulatory commissions and S. 1149, to amend the Federal Power Act to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost.

Those wishing to testify should contact the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, room SH-212, Hart Senate Office Building, Washington, DC 20510. For further information, please contact Mr. Russell Brown at 202-224-2366.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy, of the Committee on Agriculture, Nutrition, and Forestry, has scheduled its third in a series of hearings entitled: "Preparing for the GATT: A Review of Agricultural Trade Issues."

The subcommittee, chaired by Senator BOSCHWITZ, will focus on agricultural trade barriers around the world. This encompasses both market access issues and the use of export subsidies—including those of the United States.

The hearing will take place on Tuesday, July 22, 1986, at 9:30 a.m., in room 332, Russell Senate Office Building.

For further information, please contact the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 16, in closed session to conduct a business meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 16, in order to review recommendations and reports relating to televised Senate proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KELSEY ORESTIS: CHAMPION OF RIGHTS FOR THE MENTALLY ILL

● Mr. COHEN. Mr. President, a recent State-by-State evaluation of our Nation's mental health system has concluded that, with a few exceptions, the care provided by States to our Nation's seriously mentally ill is at best, mediocre, and sorely in need of improvement. The evaluation, which was done by the Public Citizen Health Research Group, concluded that the problem is not so much lack of money, as a lack of commitment and a lack of caring.

The State of Maine scored very well in the public citizen survey, ranking fourth in the Nation in terms of the quality of care available for the mentally ill. If it is true that commitment and caring are the keys to such success, Kelsey Orestis of Lewiston, ME, should certainly serve as an inspiration to the rest of the Nation.

An active member of several mental health organizations and founder of the Region IV Mental Health Services Coalition, Kelsey Orestis has proven an extremely effective advocate for the mentally ill. She has fought, and won, battles for increased State funding for community based programs in the Lewiston-Auburn and Tri-County areas. She also continues to work to put an end to discrimination against the mentally ill, and to improve public awareness about mental illness and its effects on patients and their families. In recognition of her efforts, she was recognized earlier this year as one of three recipients of the Commissioner's Award from the Maine Department of Mental Health and Retardation.

Mr. President, I would like to take this opportunity to commend the attention of my colleagues to an article from the Lewiston Daily Sun which further describes the accomplishments of this remarkable woman, and I ask that the article be printed in the RECORD.

The article is as follows:

KELSEY ORESTIS: CHAMPION OF RIGHTS FOR THE MENTALLY ILL

(By Joe O'Connor)

If anyone doubts that mentally ill people are the victims of discrimination, says Kelsey Orestis, they should consider the terms used to describe them.

"These are terms that are used for criminals rather than ill people," she says. For example, we speak of mental "institutions" rather than hospitals, that are occupied by "inmates" rather than patients, who are "committed," rather than hospitalized.

"For centuries, I think since the beginning of mankind, those people who were different were shoved into a closet and had the door closed behind them," Mrs. Orestis says.

Changing that situation has been Mrs. Orestis's goal for the past several years. As a member of several mental-health organizations, and the founder of the Region IV Mental Health Services Coalition, she has fought for increased funding for additional community-based programs in this area, as well as for greater public awareness about mental illness and its effects on patients and their families.

In the short time that she has been involved in advocating for mental health programs in the Lewiston-Auburn and Tri-County areas, Mrs. Orestis has scored some remarkable victories, including winning major funding for community services from the Legislature.

Those efforts were recognized this month, when she was one of three recipients of the Commissioner's Award from the Department of Mental Health and Retardation.

In presenting her with the award, Commissioner Kevin Concannon said Mrs. Orestis "has been a strong advocate for her community and its needs and has shown what we all are taught: that one person, for sure, can make a difference."

The wife of attorney and former Lewiston mayor John C. Orestis and the mother of three children, age 13, 17, and 20, and an accomplished photographer and pilot, Mrs. Orestis was involved in several community

organizations before 1984, when she was appointed to the Governor's Advisory Committee on Mental Health.

It was at a meeting of that committee in late 1984 that a member from Waterville mentioned that the newly-formed crisis intervention program there was doing very well.

"Right away, I said, 'What program is that?'" Mrs. Orestis recalls.

What the Waterville woman was referring to was a three-part community program approved that year for Augusta-Waterville, Portland, and York County. The program included social clubs, long- and short-term housing, and a crisis outreach program that sends mental health workers to visit people who are having a crisis, rather than waiting until the crisis is so severe that hospitalization is required.

When Mrs. Orestis heard about that program, her immediate reaction was: "Why can't we have something like that here?"

In early 1985, she held a meeting at her home, which resulted in the formation of the Region IV Mental Health Services Coalition.

The coalition is composed of representatives of the Governor's Advisory Council for Mental Health, St. Mary's Hospital, Tri-County Mental Health Services, Androscoggin Home Health Services, Relatives and Friends Together for Support, and the Lewiston Housing Authority.

Contending that the need for such services is equally great in Region IV (which basically consists of Franklin, Oxford, and Androscoggin counties) as in those other areas, the coalition approached the Legislature with a request for about $275,000 to establish similar programs.

The bill came within two votes in the Appropriations Committee," Ms. Orestis said, but failed to win a majority. However, Bureau of Mental Health Director Michael DeSisto, who had supported the coalition's request, managed to locate funds elsewhere in his budget to fund the social club and residential program.

In February, the coalition opened the social club at 100 Pine St., Lewiston, where short-term housing for as many as four people can also be provided. With the same BMH grant, the coalition also rented a supervised long-term apartment for one person, also in Lewiston.

This year, the coalition won legislative approval of $200,000 for a crisis intervention team which will provide around-the-clock, on-the-scene services to mentally-ill people who are experiencing increased symptoms that, without treatment, could result in their being hospitalized.

Throughout the struggle to improve community services in Lewiston-Auburn and the surrounding area, Mrs. Orestis has been active in other mental-health organizations. She is a board member of the Advocates for the Developmentally Disabled and represented the Maine State Alliance for the Mentally Ill at a legislative seminar in Washington, D.C., in March, during which she met with the state's four-member congressional delegation.

This summer, Mrs. Orestis is running for a seat on the national board of the Alliance for the Mentally Ill.

Mrs. Orestis has high praise for the professionals in the Bureau of Mental Health and in community organizations such as Tri-County Mental Health Services.

"They are very dedicated people. I'd say that 95 percent of them work beyond what they're supposed to do, and put in extra hours, because they want to do a good job," she said. "What is available is very, very good; there just isn't enough of it."

Following the success in getting improved community services, Mrs. Orestis said the Region IV Coalition is now turning its sights on education.

That type of situation is typical, she says. Quoting a mother whose son is mentally ill, she says, "When someone in a family has a broken leg, flowers come, cards come, casseroles come. When you have mental illness in the family, nothing comes. People are embarrassed by it—they don't know how to talk about it, to the family or to the mentally-ill person."

The worst part about this, she says, is that the thing most needed by the mentally ill and their immediate families is support from other family members and friends—"and when you need it the most, you get it the least."

"You really become isolated, and this has to change," she says.●

THE PASSING OF ADMIRAL RICKOVER

● Mr. DODD. Mr. President, I note with sadness the passing of Adm. Hyman G. Rickover a week ago. Our Nation lost a dedicated patriot, our military a brilliant leader and teacher.

A few days after our Statue of Liberty celebrations had ended it is fit to recall that Admiral Rickover's career has been the epitome of the realization of the American dream. Born to poor Jewish parents in Poland, he arrived in the United States as a 4-year-old child. His achievements, his enormous success was based solely on the formula of talent, hard work, and single-minded dedication.

He earned his best known sobriquet "Father of the Nuclear Navy" by presiding over the most important modernization program of the U.S. Navy, the construction of our fleet of nuclear submarines. Through sheer tenacity and superior technical expertise he overcome the resistance of those who did not share his insight. During the decades of heading the program he was uncompromising in demanding the best quality for the defense of our Nation and the best return quality for the defense of our Nation and the best return on our taxpayers' hard-earned money. Today, our nuclear submarines provide the most reliable leg of our triad of strategic deterrent, thanks to the vision of Admiral Rickover.

Our Nation has had many legendary military leaders who were subject of colorful anecdotes. I can think of only one, however, who became a legend behind a desk instead of the battlefield, Admiral Rickover. His eccentricity, bluntness, occasional abrasiveness were perhaps necessary concomitants of his unquestionable brilliance. Even his adversaries respected him, though, as he worked harder than any of his subordinates and demanded more of himself than of anyone else.

His ultimate satisfaction was the knowledge of a job well done. He cared little who gets the credit. On being called the father of the nuclear Navy he reacted in the following manner: "I don't concern myself with junk of that kind, I did the best I could." He did, indeed.●

CONNECTICUT SMALL BUSINESS SURVEY

● Mr. WEICKER. Mr. President, during November 1985 through January 2, 1986, a unique small business survey was sponsored by the Travelers. Known as the Connecticut small business survey, it mailed a poll to over 70,000 companies in the State with 500 or fewer employees. I am pleased to report that nearly 10 percent of the small business owners responded. It was the first time a statewide small business survey had ever been completed in Connecticut. Its purpose was to provide an indepth profile of Connecticut small business, elicit opinions and concerns of small business owners, and obtain opinions on many important issues facing small business today.

The survey revealed many significant findings including:

Finances—small business, particularly "smaller" small business, is primarily concerned about finances, whether capital formation, cash-flow, sales volume, or profits.

Industrial revenue bonds [IRB's]—one-half of the respondents were unsure whether IRB's should be continued. There is either uncertainty concerning the value of IRB's or, more likely, most are unfamiliar with these bonds.

State government—more than one-half of small businesses in Connecticut are aware of economic development activities offered by the State; awareness is highest among manufacturing firms.

Federal and State Contracts—three-quarters of respondents had a high success rate when competing for Government contracts.

Federal deficit—all types and sizes of businesses indicated that the Federal deficit is a serious problem and favored spending cuts as a means to control the deficit.

Imports—nearly one-half of the small businesses buy imports while only 10-percent export products.

Unemployment/workers compensation—roughly one-half of the respondents prefer national uniformity.

Small Business Administration—64 percent favor continuing the SBA.

Further, the survey demonstrated how active small business is in the political arena both as voters and contributors. Finally, the survey fulfilled the objectives of profiling small business and soliciting the opinions of small business owners on important issues. A summary of the survey will

be used by Connecticut's delegates to the White House Conference on Small Business to recommend Government action on issues of importance to small business.

I commend Murray Gerber, president of Prototype Plastics Mold Co. in Middletown, CT, and Shaw Mudge, president of Shaw Mudge & Co. in Stamford, CT, co-chairmen of the Connecticut Small Business Conference and the Travelers Insurance Co. for their ledadership. The survey will provide Federal and State policymakers with a unique perspective on an important, highly diverse, entrepreneurial sector of our State's economy.●

THE GENERAL FEDERATION OF WOMEN'S CLUBS

● Mr. HATCH. Mr. President, I rise in support of H.R. 2459, a bill amending the charter of the General Federation of Women's Clubs. As you may know this legislation is identical to S. 1827, a bill I introduced earlier this Congress.

The General Federation of Women's Clubs is the largest and oldest nondenominational, nonpartisan, international service organization of volunteer women in the world with membership in the United States numbering 50,000. In 1984 alone, GFWC members donated $50 million and 18 million hours on volunteer projects. The effect of the GFWC's work is seen around the world.

The General Federation of Women's Clubs aims at involving their members in concerns of their local community. To this end, the GFWC has sponsored seminars on child abuse, missing children, latchkey children, women in the Third World, and disposal of hazardous wastes. Such seminars provide a forum for open discussion of the problems and possible solutions. The GFWC also lends its time to CARE and Save the Children. GFWC members are committed to improving the quality of life of the communities they serve.

A special project of the GFWC is the youth city councils. This event is a leadership training program for teenagers ages 13 to 18. Elections are held for positions on a mock city council. Once elected, these youth city councils work on projects to better their locality. Once YCC in my own State of Utah reduced juvenile crime by 50 percent within their city. Many of the YCC's hold a Christmas dinner and dance for the elderly members of their community.

Because they are such an asset to our society, it is urgent we help them in the best way we can. This bill will enable the GFWC to qualify for 501(c)(3) tax status. They presently hold a 501(c)(4) tax status. As a result, they would be able to apply for special third class rates of postage. The money they save on postage can be applied to many of their worthwhile projects.

I congratulate my fellow Senators in supporting the legislation to amend the General Federation of Women's Clubs charter so that this fine organization may continue to serve this Nation and the world as it has for the past 95 years.●

THE NATIONAL DAIRY PROMOTION BOARD

● Mr. BOSCHWITZ. Mr. President, recently the National Dairy Promotion and Research Board, which was created by Congress in 1983, held its second annual board meeting here in Washington.

The report on its marketing promotion efforts, combined with the numerous other dairy promotional groups around the country, is encouraging.

The board has wise and capable leadership under Ivan K. Strickler of Iola, KS, chairman of the board, and Joe Westwater, the chief executive officer. My own State of Minnesota is capably represented on the board by George Rydeen of Stillwater, Leslie Winters of Bingham Lake, and Robert L. Gee of Moorhead.

This, incidentally, is the 50th anniversary of the observance of June as Dairy Month. I congratulate dairy farmers in Minnesota and across the Nation on this anniversary and wish them continued success in the future.

I also request that a column by Sonja Hillgren of UPI, who covers agriculture here in Washington, reporting on the National Dairy Board's activities, be printed in the RECORD.

As Ms. Hillgren notes, consumption of dairy products is increasing, in large part because of promotion efforts. I've often said that the problem in dairy is not overproduction, it's underconsumption. We need to sell milk aggressively to help our dairy farmers, to provide nutritious food for consumers, and to take the pressure off the Federal budget. I applaud the National Dairy Promotion Board for its efforts.

The column follows:

[From the Broward Review Record, May 28, 1986]

AMERICANS RESUMING DORMANT LOVE AFFAIR WITH A GLASS OF MILK

(By Sonja Hillgren, United Press International)

Sipping a tall glass of milk as a refresher may have become fashionable again.

For years, milk suffered from Americans' aversion to fat in their diets, along with a stodgy image. Price increases also pushed customers away.

This week, farmers who serve on a 2-year-old, 36-member dairy board created to promote dairy consumption will celebrate the resumption of America's love affair with the cow and her products.

Other news for dairy farmers is less encouraging.

A controversial government program is paying some of them to get out of business to reduce surplus dairy products the government buys to prop up prices. Beef producers were so angry about how the program was conducted that they forced changes by a federal court suit.

Many dairy farmers, like others in agriculture, have suffered from the farm crisis.

Just around the corner are scientific developments like a bovine growth hormone that could increase production sharply and force more dairy farmers out of business.

Despite many uncertain developments, "the one strong point of the industry is the fact that commercial sales are increasing," said Ron Hamel, a spokesman for the National Dairy Promotion and Research Board.

"I think the image of dairy products has definitely become more positive over the past couple years," Hamel said.

Dairy farmers, by contributing 15 cents for every 100 pounds of milk sold to national promotion, are each involved in marketing their product rather than simply producing it, sometimes with only the government as the market.

Hamel said optimists would hope that reducing production under the current dairy program and increasing consumption with promotion will bring supply in line with demand and eliminate surpluses that have cost taxpayers several billion dollars over the past few years.

Established by Congress in 1983, the National Dairy Promotion and Research Board began operating two years ago. Since the board began an extensive national advertising campaign, consumption of dairy products has risen.

"This is the first time in more than 20 years we have seen a major upturn in dairy products use," said dairyman and board chairman Ivan Strickler, of Iola, Kan., as the board began meeting in Arlington, Va.

The Agriculture Department said the two-year increase is the largest since the early 1940s.

Strickler said commercial use of milk has increased 7 percent since 1983. Cheese use is up 12 percent and butter use has increased 5.7 percent. Only dry milk made no significant gains.

"We believe the board's promotional efforts, combined with those of other dairy promotion groups around the country, have made the difference," Strickler said.

Jim Miller of the Agriculture Department's Economic Research Service gives promotion some, but not all, the credit.

"Declines in inflation-adjusted dairy prices, an improving economy and recently expanded promotion efforts are the roots of the uptrend," he said.

One secret to dairy's new success is image. Dairy products went from being regarded as contributors to fat-related health problems to foods needed for a healthy diet. Diet-conscious Americans are drinking more low-fat milk.

A major part of the board's promotion budget, set at $66.4 million for fiscal 1986, promotes dairy products as a key source of calcium. Agriculture Department data show 75 percent of Americans get calcium from dairy products.

Millions of Americans were exposed to the board's national campaign to raise awareness about osteoporosis, a bone-destroying disease common to older women. Consuming calcium is believed to prevent the disease.

"Young women are low dairy product consumers, and many drink virtually no milk," Miller said.●

NBC CONTINUES ITS WAR AGAINST DRUG ABUSE

● Mrs. HAWKINS. Mr. President, in the war on drugs, we fight with an arsenal of diverse weapons. Together, they attack both the supply and the demand side of this problem.

On the demand side, where the battle is for control of public opinion about drug use, there is no tool more potent than the television airwaves. TV is more pervasive, it reaches more people, and its message is the most influential.

It is with this in mind, Mr. President that I would like to take this time to speak once again about work done by the National Broadcasting Co. in the fight against drug abuse.

"Wasted!" the NBC television stations division's dramatic half-hour special examining drug and alcohol abuse among the Nation's young people, has just won a first place Gold Camera Award in the U.S. Industrial Film Festival Awards competition. This honor is presented to films which effectively present a message to their intended audience.

"Wasted!" was part of NBC television stations' ongoing "Just Say No" campaign to combat drug and alcohol abuse among young people. The program was produced as a companion-piece to a five-part news series. This series was, in turn, integrated into newscasts of the five NBC television stations during the week prior to the broadcast of "Wasted!"

Focusing on youngsters ranging in age from 10 to 12 who already abuse drugs and alcohol, "Wasted!" examined how they got started at such early ages, why their substance abuse behavior continued and what effect their abuse problems has had on family and friends.

Since it began in 1979, NBC's "Just Say No" campaigns have grown steadily in scope and intensity. Throughout the years, the network's commitment to a drug free society has spread to every area of NBC programming. Today, at NBC it is not just the news division that examines and discusses the drug menace. NBC entertainment division regularly features programs which discuss this vital issue and which stress the need to say "No" to drugs. And now NBC sports has joined in the effort. Realizing the importance of sports in defining roles for young people, NBC has asked its sportcasters to take time out during broadcasts to offer antidrug messages aimed at children and teenagers.

NBC also produces quality public services announcements which it runs during prime time where they can have their greatest effect. The network also sends printed materials about drug abuse to schools, thereby lessening the burden on the Federal Government to print and distribute this information.

Next year NBC plans to expand its message even further in an attempt to encourage those who know someone with a drug problem to find that person help. Their slogan next year will be "Help Someone To Say No."

Mr. President, our society is invaded by the drug menace. To beat it, we must continue to fight on all fronts.

I applaud this private sector initiative, taken on voluntarily by NBC. They are demonstrating what I have long believed, Americans, working together in the best spirit of our Nation can once-and-for-all time whip drugs.●

INDIANA ELEMENTARY SCHOOLS SELECTED FOR NATIONAL RECOGNITION

● Mr. QUAYLE. Mr. President, I would like to draw to your attention and to the attention of my colleagues the Department of Education's Elementary School Recognition Program, part of Secretary Bennett's overall effort to focus on excellent educational programs in the early years of a child's education, a period crucial to the formation and development of our young.

This year marks the first recognition program for elementary schools. Public and private schools were examined separately for school effectiveness through detailed applications, school visits and interviews with parents, teachers, and administrators. The awards were based primarily on the efficacy of schools' utilization of resources and the degree to which schools met students' needs. Special emphasis was placed on student achievement in reading and in mathematics and on the school's record of overcoming obstacles to learning and sustaining progress.

As a representative of Indiana, I take pride in the accomplishments of Indiana's elementary schools. Of particular note, two public and four private elementary schools were recently recognized by the Department of Education through the National Elementary School Recognition Program for excellence in education.

Skiles Test Elementary School of Indianapolis and Southport Elementary School in Southport were among the 210 public elementary schools recognized for singular accomplishments in the field of education. St. Paul Lutheran School and Holy Cross Lutheran School in Fort Wayne, St. Mark Catholic School in Indianapolis, and the Stanley Clark School in South Bend were among 60 private schools selected as providers of superior education.

I commend these particular schools—their administrators, instructors, students, and parents—for doing such a fine job. Our Indiana schools have displayed a profound commitment to educational excellence and I send my wishes for continued success at these six schools.●

MARY ROOS

● Mr. QUAYLE. Mr. President, we all pride ourselves that we are known and respected in our States because of our contributions to the formulation of public policy. Sometimes we forget that we are also known, I hesitate to say better known, through the personal contacts that our constituents have with our staffs—and in that regard no staff member plays a more important role than the receptionist.

Mary Roos has served as my receptionist for the last year and I wish I had a count of the friends that she has made in that brief time. Whether on the phone or in person, she treats each visitor not only with courtesy and cheerfulness but also with a genuine friendliness that can only be reciprocated.

Mr. President, I want to take this occasion to publicly wish Mary well, to tell her she will be missed not only by me and the staff but also by all the Hoosier friends that she has made and, finally, to tell her that we are saving a spot for her when she returns from Japan.●

ADVANCE NOTIFICATION

● Mr. LUGAR. Mr. President, by agreement, section 36(b) of the Arms Export Control Act provides that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 20 calendar days to review and consult with the administration on the proposed sale. Section 36(b) requires that Congress then receive a statutory notification of the proposed arms sales and upon such notification, has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 14, 1986.

Dr. M. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter 18 February 1976, the Director, Defense Security As-

sistance Agency, indicated that you would be advised of possible transmittals to Congress of Information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian recipient tentatively estimated to cost $50 million or more.

Sincerely,

GLENN A. RUDD,
Acting Director.●

NATIONAL PROGRAM TO CONQUER ALZHEIMER'S DISEASE

● Mr. METZENBAUM. Mr. President, during the past several years, I have worked with a remarkable organization, effective in its commitment to heighten public awareness of a cruel and devastating disease. The Alzheimer's Disease and Related Disorders Association has successfully established over 160 chapters across the country. It has enlisted the support and dedicated efforts of families, health care professionals, researchers. It has encouraged research into causes and treatment of a disease which a Gallup poll listed as the fifth most feared disease in America.

The figures on Alzheimer's disease are depressingly familiar: Presently, in 1986, 2.5 million Americans suffer from this deadly neurological disorder.

By the year 2030, the elderly population will have almost doubled to 21 percent of the total population. Nearly half of that 21 percent will be over 75, the most vulnerable age for Alzheimer's disease. The magnitude of the problem at that time will be overwhelming.

The social and economic consequences will unquestionably burden families, health professionals, and institutions far beyond their limits. Even now, the desperation of families has spawned personal tragedies. Some families have seen entire life savings wiped out in a matter of months. There are reports of murder and suicide as the strain imposed by Alzheimer's becomes unbearable.

From a public health perspective, Alzheimer's disease can already be labeled an epidemic.

Federal involvement and funding for research have increased, but much too slowly. It is true that more scientists have entered into the research effort, resulting in some promising findings, but the effort in no way equals the severity and magnitude of the need. Diseases impacting on far fewer Americans have received research funds 10 times greater than Alzheimer's disease—over $200 per victim, whereas, Alzheimer's research receives less than $20 per victim. It takes time and energy and commitment to develop the scientific potential required for an all-out effort to conquer this disease.

We must build on the momentum that exists. We must move ahead before our families, our health care professionals, and our health care institutions are totally overwhelmed. And we must find ways, through home and community-based efforts, to assist the families now desperately trying to provide home care for their loved ones.

There is much we can do. The Alzheimer's Disease and Related Disorders Association provides thoughtful and comprehensive proposals:

Expand support for medical research;

Strengthen and expand the Alzheimer's disease centers;

Provide family support services;

Develop policies for meeting the costs of long-term care;

Ensure equitable treatment under Federal disability programs;

Establish a consistent policy for veterans with Alzheimer's disease;

Develop training curricula and special training programs aimed at all involved personnel;

Promote coordination and public awareness through a national advisory council;

I have introduced two bills, S. 1835 and S. 2183, which are cosponsored by several of my colleagues. Bills have also been introduced by other Members of this Congress. We welcome, we urge your support for these bills, and for all efforts to eliminate this dreaded disease.

Mr. President, I ask to have printed in the RECORD, the Alzheimer's Disease and Related Disorders Association policy agenda, entitled "A National Program To Conquer Alzheimer's Disease." I urge that it be carefully read by every Member of this Congress as we seek to develop national policy which will eliminate Alzheimer's disease within this century, within the lifetime of our children and grandchildren.

The document follows:

NATIONAL PROGRAM TO CONQUER ALZHEIMER'S DISEASE

"For more than two million Americans with Alzheimer's disease, each day is fraught with fear and frustration. Fear of getting lost in one's own neighborhood; of not recognizing members of one's immediate family; of not being able to perform simple, familiar chores.

". . . But until a way to prevent Alzheimer's disease is found, these families need our support and understanding."—President Ronald Reagan on proclaiming November as National Alzheimer's Disease Awareness Month; November 8, 1985.

INTRODUCTION

Based on his study of the world's great civilizations, the historian Toynbee concluded that a society's quality and durability can best be measured "by the respect and care given its elderly citizens." That being the case, never before has the measure of this country's commitment to the elderly been so critically important.

The challenges ahead

The rapid increase in the elderly population has given rise to a host of medical, economic, and social challenges which, if left unanswered, threaten a hemorrhaging in our society. And nowhere are those challenges more evident or more threatening than for the families and loved ones of the more than 2.5 million persons now suffering from a deadly neurological disorder known as Alzheimer's disease.

A national association responds

From the time the Alzheimer's Disease and Related Disorders Association (ADRDA) was first created in late 1979, the families, care givers, health professionals, and scientists who make up the organization have strived to mount a national effort to combat this dread disease. That effort includes:

Research aimed at finding the cause and cure for Alzheimer's disease;

Education of the general public, health professionals, and care givers;

Chapter formation of a nationwide family support network;

Advocacy of essentially-needed government assistance and patient and family services.

In furtherance of these goals, the ADRDA submits the following National Program intended to serve as a guide in helping to meet some of the challenges brought on by Alzheimer's disease.

The growing threat of Alzheimer's disease

Medical researchers have established that Alzheimer's disease, the most widespread form of dementia disorders, is not simply a part of the aging process—as evidenced by the fact that many of its victims are in their forties and fifties. Yet for some reason the vast majority of Alzheimer's sufferers are elderly persons.

According to the U.S. Public Health Service, Alzheimer's disease affects at least one person in twenty between the ages of 65 and 75, and every fifth person over 80 years of age. It follows, therefore, that as the number of elderly persons grows society can expect to encounter a substantial increase in the incidence of Alzheimer's disease and related disorders.[1] Apart from causing widespread human suffering, the disease will then carry particularly severe social and economic implications, as families, health professionals, and institutions are strained far beyond their limits.

Of course, from a public health perspective there can be no doubt that Alzheimer's disease has already reached epidemic proportions.

EXPANDING SUPPORT FOR MEDICAL RESEARCH

"The tacit assumption in our society that everyone will eventually become "senile" must be put aside. The expected norm should be that of a vigorous, intellectually active aging process."—Dr. Robert Katzman, Professor and Chair, Department of Neurosciences, University of California at San Diego.

Eighty years have elapsed since a German neurologist named Alois Alzheimer first described the effects of a progressive fatal dementia on a 51-year old patient. But it is only in the past decade that the disease which bears his name has received major research attention. Since 1976, research funding provided through the National Institutes of Health has increased from $4 mil-

[1] Today, the elderly constitute about 11 percent of the total U.S. population. By the year 2030, the Bureau of the Census projects that 21 percent of the population, 64.5 million persons, will be age 65 or older. Nearly half of the total will be over age 75.

lion to nearly $50 million annually. Over the same period, the number of scientists studying the disease in the U.S. jumped at least tenfold.

With greater federal involvement and increased scientific interest have come promising new research findings. One of the major advances over the past decade was the discovery that Alzheimer's patients often suffer from certain biochemical abnormalities in the brain. Most strikingly, they lack an enzyme that helps produce an important chemical messenger, or neurotransmitter, involved in learning and memory. In other studies, scientists have discovered similarities in protein fragments found in the damaged areas of the brain and in the brain's blood vessels, suggesting that perhaps science is moving closer to finding the underlying cause of Alzheimer's disease.

More recently, scientists have begun to suspect that the symptoms of Alzheimer's disease can be associated with loss of specific populations of brain cells. This finding could suggest that relatively normal brain function might be restored if the function of the damaged brain areas could be compensated for or replaced.

But in spite of this remarkable progress, as one government publication describes it, a diagnosis of Alzheimer's disease "carries with it a sentence of eventual mental emptiness."

In other words, there is still much to be done. For while new knowledge is helping to reduce the degree of impairment of Alzheimer's victims, science is still unable to prevent the disease, cure it, or stop its progression. And although research funding has increased in recent years, the total spent on finding a cause or cure still amounts to less than one-tenth of one percent of the $32 billion spent annually to care for victims of Alzheimer's disease.

Recommendations

That federal support for research on Alzheimer's disease be assigned a high priority at the National Institute on Aging, the National Institute of Neurological and Communicative Disorders and Stroke, and the National Institute of Allergy and Infectious Diseases.

That funding for research on Alzheimer's disease be increased to at least $75 million in fiscal year 1987.

STRENGTHENING ALZHEIMER'S DISEASE CENTERS

"Full support of the Alzheimer's disease centers program is a crucial element in this war. In good conscience, we cannot recruit a cadre of scientific soldiers and send them into battle without the ammunition they need to keep fighting."—Dr. David Drachman, Professor and Chair of Neurology at the University of Massachusetts Medical School.

From a scientific standpoint, there are a number of issues surrounding Alzheimer's disease that must be addressed, not the least of which is finding a clinical diagnostic procedure for identifying Alzheimer's patients. Recognizing that a mechanism was needed that would address several of these problems simultaneously, two years ago Congress and the President launched a new and innovative effort designed to complement the work being conducted by independent researchers.

Since 1984, ten Alzheimer's research centers have been established—each having clinical demonstration units together with a staff of investigators drawn from various scientific disciplines. As required by Congress, the ten centers are administered by the National Institute on Aging, working in cooperation with the National Institute of Neurological and Communicative Disorders and Stroke, the National Institute of Mental Health, and the National Institute of Allergy and Infectious Diseases.

The ten existing centers have already begun to have a dramatic impact on the status of research into Alzheimer's disease. As a result of the centers program, for example, a network of over 100 scientists throughout the country have begun to work together, sharing ideas, knowledge, and resources. Among other things, the participating scientists have already begun to standardize the diagnostic instruments used in identifying Alzheimer's disease.

Unfortunately, budget cutbacks threaten to weaken the centers program and slow the pace of scientific advances—at a time when promising research leads point to the need for a stronger commitment to this effort. Additional funding in the amount of $2 million is rquired simply to maintain the basic centers program. Beyond that, an additional $5 million would permit the ten centers to expand clinical data gathering activities and support work on new and emerging research leads.

Recommendations

That an additional $2 million be provided in fiscal year 1987 to more adequately support the activities of the ten existing research centers.

That an additional $5 million be provided to expand both basic research projects and clinical activities.

That an additional $2.2 million be appropriated to support the establishment of two new research centers.

PROVIDING FAMILY SUPPORT SERVICES

According to the National Center for Health Statistics, over eighty percent of all home care is provided to the chronically ill elderly by family members. For the families of Alzheimer's victims, this usually entails mobility assistance, personal care, and household assistance.

Apart from placing an enormous financial burden on families, meeting the extensive needs of an Alzheimer's victim often results in severe stress and family dysfunction, manifested as physical illness, anxiety, depression, and family conflict. This is due, in large part, to the fact that Alzheimer's disease usually runs an agonizingly slow course, lasting anywhere from five to twenty years. Recognition of this fact has led to the development of programs designed to help ease the burden on caregivers; foremost among these has been the development of an extensive family support network by the Alzheimer's Disease and Related Disorders Association.

But peer support is clearly not enough. Family caregivers are in desperate need of a wide range of services, including respite care, adult day care, transportation, administrative and legal assistance, and in-home personal and medical services.

Recommendations

That the federal government forge a partnership with state and local agencies to launch a nationwide effort to help meet the needs of families caring for Alzheimer's victims. In so doing, government agencies at all levels should draw upon the knowledge and expertise of the Alzheimer's Disease and Related Disorders Association.

That the Administration on Aging be directed to support exemplary projects to serve as models for rendering family support services. To the extent feasible, this effort should be carried out through a partnership arrangement with national voluntary organizations, such as the Alzheimer's Disease and Related Disorders Association.

That the federal government offer subsidized loans to public and private nonprofit institutions to finance the development of respite care programs and adult day care centers for Alzheimer's victims and their families.

That the National Institute of Mental Health continue its research on the family stress problems related to the care of Alzheimer's victims.

MEETING THE COSTS OF LONG-TERM CARE

Long-term care is, of course, a growing national concern. In his most recent State of the Union Address to Congress, President Reagan focused attention on the fact that "devastating illness can destroy the financial security of a family."

Nowhere is that more evident than the families struggling to cope with Alzheimer's disease, for the nature of this illness is such that the long-term care needs of its victims most often arise at a time when the family's economic and social resources—including savings, pensions, and other assets—are dwindling. Furthermore, the care of treatment of Alzheimer's patients is deemed "custodial" and specifically excluded from coverage under Medicare and practically all private health insurance plans. Consequently, the catastrophic costs of caring for an Alzheimer's victim are borne almost entirely by their families. And while Medicaid offers some help, this program most often favors institutionalization—and is available only after a famly has exhausted nearly all of its resources. (Of course, all of these problems are more pronounced when victims have no family or loved ones to turn to for help and support.)

To further compound the problems, families of Alzheimer's victims frequently encounter difficulties in obtaining access to nursing home care, since many facilities prefer short-stay, Medicare or privately-insured patients.

Recommendations

Federal policies should be developed which stimulate a broader range of alternative programs and services. To this end, Medicare coverage should be extended to victims of Alzheimer's disease; the Secretary of HHS should be directed to authoriize Medicare waivers and home health care for these individuals.

Far more emphasis (and resources) should be devoted to health services research on alternative delivery systems. A major portion of this research ought to be financed on developing an integrated continuum of care, including cost-effective strategies for expanding community-based care and in-home services.

Federal statutes should expressly prohibit nursing homes from discriminating in the acceptance or refusal of individuals as patients on the grounds that those individuals are on Medicaid or are victims of Alzheimer's disease.

Families and care givers should be allowed a tax deduction or refundable tax credit to help defray the added costs associated with caring for an Alzheimer's victim at home.

Any federal and/or private initiative to address the need for catastrophic or chronic illness insurance should include coverage for victims of Alzheimer's disease.

ENSURING EQUITABLE TREATMENT UNDER FEDERAL DISABILITY PROGRAMS

The Social Security Administration has national responsibility for the administration of both the Social Security Disability program and the Supplemental Security Income (SSI) program. The former provides cash benefits to those disabled workers and their dependents who have contributed to the social security trust fund; the latter provides for a minimum income level for the needy aged, blind, and disabled who qualify because of financial need. Under both programs, the definition of disability is the same: "an inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months." (The decision as to whether an applicant is disabled, as defined by law, is made by a special disability determination unit in each state.)

Although federal statutes do not preclude benefit payments to Alzheimer's victims, the guidelines used to determine eligibility are rather vague when it comes to this disease. This, in turn, has led to wide variations from region to region, resulting in an uneven policy toward individuals who hold a rightful claim to benefits.

Recommendations

Federal regulations and guidelines used in evaluating disability claims should be amended to include specific reference to Alzheimer's disease and related disorders.

A mechanism should be established whereby the most current scientific knowledge available to the National Institutes of Health is communicated to those responsible for overseeing and administering disability programs.

Government agencies, working together with the medical and scientific community and ADRDA, should devise specific assessment tools for use by examining physicians.

ESTABLISHING A CONSISTENT POLICY FOR VETERANS WITH ALZHEIMER'S DISEASE

The Veterans' Administration currently has no uniform nationwide policy regarding the care of veterans with Alzheimer's disease. As a consequence, some victims of the disease are admitted for treatment at VA medical facilities, while others are denied admission or referred elsewhere. In other instances, patients are being forced to leave VA facilities, thereby disrupting their care and placing even greater strain on families.

Recommendations

The VA should develop a fair and consistent policy with respect to the care and treatment of Alzheimer's victims. That policy, in the form of written guidelines, should be distributed to VA installations throughout the country.

Local VA facilities should be instructed to develop and implement screening, counseling, and treatment programs for veterans and their families.

The eligibility requirements for veterans diagnosed as having Alzheimer's disease should be lowered to age 50.

A portion of VA intermediate-care hospital beds, perhaps ten percent, should be set aside for the care of veterans suffering from Alzheimer's disease and related organic brain disorders.

The VA should institute a system of enrollment and tracking to permit greater coordination of inpatient care and community-based services.

Pilot studies and/or model projects undertaken by the VA should take into account the special needs of veterans suffering from Alzheimer's disease.

MEETING TRAINING AND EDUCATION NEEDS

"To the extent that individuals can be trained to help themselves and contribute to society, they preserve their autonomy and morale and they free formal and informal providers for other productive activities."—Dr. Robert N. Butler, Professor of Geriatrics, Mount Sinai School of Medicine.

Despite a growing awareness of the extent and burden of dementias such as Alzheimer's disease, there still exists a serious shortage of trained personnel, including research investigators, hospital and nursing home staff, safety and transportation personnel, home health aides, and family members.

Recommendations

Greater emphasis should be placed on career development of faculty and research investigators. As part of this effort, NIH should (1) expand the number of National Research Service Awards in the field of neuroscience, with particular emphasis on Alzheimer's disease and (2) strengthen the training component of the specialized Alzheimer's research centers.

Clinical training needs must be re-evaluated in light of new research findings. Specifically:

New training curriculum must be developed which targets on treating persons with Alzheimer's disease; special attention should be paid to basic training (and continuing education) for clinical care providers;

The Secretary of HHS should institute special training programs aimed at nursing home personnel, home health aides, pathologists, medical examiners, safety and transportation personnel, and families.

Special emphasis should also be placed on the needs of special populations, such as minorities and the frail elderly.

PROMOTING COORDINATION AND PUBLIC AWARENESS

The fundamental need exists for greater cooperation and coordination among the several research institutions, health care providers, and families now engaged in one facet or another of this national problem. Furthermore, greater public awareness is essential if society hopes to overcome the growing challenge of Alzheimer's disease.

Recommendations

A national advisory council should be established to help develop, encourage, and guide research on Alzheimer's disease, as well as to serve as a mechanism for conveying new information and ideas to physicians, nurses, care givers, and family members. The council, with the full support of federal agencies, should promote collaborative efforts among those agencies, university research centers, pharmaceutical houses, and others throughout the medical and scientific community.

The council, as well as key federal, state, and local agencies should utilize the knowledge and expertise of the Alzheimer's Disease and Related Disorders Association.●

CAMPBELL SOUP COMPETES THROUGH MODERNIZATION, INNOVATION

● Mr. LAUTENBERG. Mr. President, I would like to share with my colleagues an article on one of New Jersey's leading companies which recently appeared in the Washington Post business section.

The article is about Campbell Soup Co., which is based in Camden, NJ. To meet increasing competition from Japanese producers, Campbell has set out to modernize its operations and marketing, adopting some Japanese techniques to produce fresher products at substantial savings to the company.

Mr. President, I want to recognize R. Gordon McGovern, president and chief executive officer of Campbell, for his continuing dedication not only to the quality of Campbell products, but to the quality of life in his community. Campbell Soup is one of the prime movers behind efforts to redevelop the Camden area. This article provides a good example of the type of leadership and innovation which has made Campbell Soup a national leader in the food industry.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, June 22, 1986]

A JAPANESE FLAVOR FOR CAMPBELL SOUP

(By Martha M. Hamilton)

All-American Campbell Soup Co. is taking on the Japanese—as a competitor and as a role model.

Since 1980, the Japanese share of the market for soups in the United States has grown from virtually nothing to 9 percent, with products produced by Japanese companies taking a growing share of supermarket shelf space. Nissin foods, makers of Oodles of Noodles, is the largest Japanese producer of soups for the U.S. market.

Despite that increase, Campbell still dominates the market in a fashion many companies would envy: 62 percent of the U.S. market for all types of soup and 82 percent of the market for canned soups. but officials at Campbell say they would rather be vigilant than vulnerable.

"I think that people didn't worry enough when the Japanese companies started competing with the auto manufacturers and the steel mills," said R. Gordon McGovern, president and chief executive officer of the food company, which ranks number 100 in the Fortune 500.

Campbell officials say that they believe that Japanese food manufacturers may be able to establish themselves in the United States with low-cost, high-quality products and then expand. "So, I'm worried," said McGovern. "Officially."

There are four Japanese-owned soup plants in the United States already and another is being built in California, according to Campbell officials. "They say they're making essences [cubes of concentrated flavorings] for the Japanese market," McGovern said. "We've been trying to track [the progress of the company] by satellite."

Campbell has committed itself to spend $1.2 billion between now and 1990 to upgrade and to restructure its 22 plants in an effort to keep ahead of competition. Campbell's plan? To adopt many of the approaches that have contributed to the efficiency and quality of manufacturing in Japan.

"We called this thing the 'total systems approach,' which I guess is gobbledygook to some people," McGovern said. "It's a way to

collect all our efforts to make sure our food distribution is the best it can be."

That translates into a program with several facets. A major one is revamping manufacturing to produce products in smaller batches as they are ordered to eliminate costly inventories, both of raw materials and of the finished product. McGovern said they expect to have reduced the company's inventory costs by $50 million this year and to use capital that has been tied up in inventory more productively.

The program also includes closer computer links with retailers, an attempt to develop closer relationships with suppliers to ensure the quality of the supplies Campbell receives and revamping the sales force into 22 regional forces that sell all Campbell's products instead of just soups or frozen foods. Other major features are "quality circles," in which the workers who are closest to processing and other activities can devise ways to improve them, and statistical monitoring at every step of the way.

Several of these features—"just-in-time" manufacturing and quality circles—have achieved a certain corporate chic throughout the United States. But Campbell officials say that it goes below the surface, that they are committed to fundamental change at their company.

The company has trained about 300 workers in statistics at the University of Tennessee to monitor processing better, and it has handed out copy after copy of a book called "Japanese Manufacturing Techniques" to Campbell employes.

"You've got to take about 10 years, because you're changing a culture," said Lewis W. Springer, senior vice president. Making those changes involves convincing people that they won't suffer from change. "We've done a massive training program. The major thing is getting those hourly people in a plant like Camden, N.J., to say, 'I get it. I agree with it.' "

"You've got to have faith in this because it takes time to get results," Springer said.

"The Japanese have found a way to produce quality products in a very cost-effective manner. It's clearly an effort to copy a very successful manufacturing program," said George Novello, an industry analyst with E. F. Hutton. "You rarely see companies in the U.S. get as involved as Campbell."

"When you hear the speeches that McGovern gives, there's no question that he feels that there are different and better ways to run a manufacturing business than some of the traditional ways," said Leonard Teitlebaum of Merrill Lynch.

McGovern, who had run the company's Pepperidge Farm subsidiary and who took over as president in 1980, is credited by industry observers with taking Campbell in a more consumer-driven, marketing direction that has resulted in a proliferation of new products and an emphasis on freshness.

"We're pushing hard on refrigerated and fresh products, which is where we think the market is going," McGovern said.

In addition to manufacturing soup, Campbell produces Pepperidge Farm products, Vlasic pickles, Mrs. Paul's frozen seafood, V-8, Prego spaghetti sauces, Swanson products, Le Menu frozen dinners and Godiva chocolates. It also sells fresh mushrooms and hydroponically grown tomatoes and avocados with the Campbell label on them.

Among the company's new products designed to keep up with rapidly evolving tastes are Le Orient, a new line of frozen dinners; Fresh Chef sauces and salads sold from the refrigerated shelves of groceries, and a constantly growing line of newly packaged or newly configures soups.

"We introduced dry soups last fall and have about 20 percent of the dry soup market," McGovern said. "We've leased a ramen noodle factory in Ohio. We have microwaveable soups, frozen soups, soups in glass jars, low-sodium soups. We're going to catch you every way we can."

I think what they're saying is that soup in any form is their bailiwick, and they don't want it taken away from them," said Novello of E.F. Hutton. Soup accounts for more than one-third of the company's total earnings, he noted. "It's the key business," Novello said. "They want to use that as a lever" for further expansion.

"If we're the best there is in soup, and doing it here, then we can broaden our soup base," said McGovern. That will allow Campbell to keep up with the super-powers in food processing that mergers, such as the Nabisco-R.J. Reynolds combination, have produced, he said. The nature of the ownership of Campbell's stock protects it from being the target of an acquisition, McGovern said. About 60 percent of the stock is in the hands of the Dorrance family, heirs to John T. Dorrance, who originated the canned, condensed soups that made the company famous, but takeover speculation appears to account for higher prices for the stock in recent months.

Moving into the dry-soup business may allow Campbell to expand in worldwide markets, where it accounts for about 30 percent of the sales. "We tried to take wet soup [canned soup] to the rest of the world and discovered that it was really the specialty end of the business," McGovern said.

Other products are aimed at capturing consumers who seldom sit down for family meals but who "graze" or eat "hand-held" foods.

In the meantime, Campbell is at work on the Le Orient version of itself.

The biggest evangelist for change within the company has been Springer, a former manager of the company's oldest facility, its 97-year-old plant in Camden, which the company is spending $37 million to upgrade. Springer preaches the gospel according to W. Edwards Deming. Deming was invited to Japan in 1949 by the national society of engineers, who wanted advice about how to restore their war-ravaged economy.

Deming emphasized statistical control of quality throughout production, in contrast to the American method of checking quality at the end of the manufacturing process.

Some of the changes are under way at the Camden plant, where one of two warehouses is being eliminated. "What we would like to do is, if you get an order for one case, you produce one case," said plant manager David Winkler. "What we have done in the past is to produce for the sake of production, to keep everyone busy." That kept the two warehouses full.

The plant is being upgraded, despite its age, because of its location. "From a construction point of view, it's expensive," Springer said. "But from a just-in-time-manufacturing point of view, probably 29 percent of the people in the U.S. live within 200 miles of that plant."

Workers in the Camden plant and others participate in quality circles and task forces to devise ways of improving production. One task force is trying to determine what percentage of cans arrives on supermarket shelves damaged and how it happens.

"We've inspected the process here and gotten a number of damaged cans that were going through our system and were not caught," said Dennis Wrigley, a forklift operator at the plant who is a member of the task forces. "Then we went out to the stores to see the level of damage, which is more. We're backtracking now" to determine where the additional damage occurs, he said.

"It's a little bit more interesting than just stacking soup all day," he said.

If Campbell succeeds in reorienting itself, the transformation should result in both fresher products and substantial savings, according to company officials. "What we're trying to do is reduce the cycle time" between the arrival of raw ingredients and when the soup or other food product reaches the store, Springer said. About two years ago, the cycle time for soup was about six weeks, according to Springer. That time has been reduced to about two weeks now. By Aug. 1, 1987, that time may be reduced to a single week, he said.

"The faster you can move it, the less money is tied up," he said. In the past the company emphasized large orders, delivered by truckload to warehouses, and kept substantial amounts of capital tied up in ingredients, trucking and storage. "I think what happened is, over time, as we got more volume and had low interest rates, people forgot how much money was tied up," Springer said.

The approach that the company is trying to adopt from the Japanese is designed to remedy that, he said. "I think some people think it's just something to talk about, but it's not," he said. "It's really asset management."●

TRADE PROGRESS: ROCKY MOUNTAIN ENERGY—REPUBLIC OF CHINA JOINT VENTURE

● Mr. GOLDWATER. Mr. President, it is not often that any of us can report good news. Even less frequently can we report news that is good for both our beleaguered energy minerals industry and our international trade balance. However, I am very pleased to say that I can report both today.

This morning here in Washington an agreement was signed between Rocky Mountain Energy, the mining subsidiary of Union Pacific, and the Republic of China which will result in an equity contribution by the Republic of China in a United States mining venture.

The agreement cements a unique joint venture between Rocky Mountain Energy and Taiwan Power Co., the leading utility on Taiwan, to explore for, and develop, uranium resources here in the United States. Over the next 5 years, the companies will focus their exploratory activities on smaller but higher grade, lower cost uranium deposits in several States, including Arizona. About $3.6 million will be spent each year to find these new reserves. If economically mineable deposits are discovered, the partners will negotiate new agreements to develop these energy resources. The agreement also provides technical training in field geology for employees of Taipower and gives the company the option to purchase cer-

tain already proven U.S. uranium reserves.

This agreement is good for both sides. First, it is an additional, concrete step in the Republic of China's program to address the growing trade imbalance between our nations.

Let me take a moment to update you on these efforts, a subject I discussed in some detail last November.

The Republic of China has undertaken a coordinated, planned program to reduce their trade surplus with the United States. Elements of this program include:

Elimination of, or a substantial reduction in, tariffs on U.S. products;

Drafting a liberalized Trade Act adopting a simplified import-export permit system and eliminating the current prohibited commodities classification;

Initiation of a unique "Buy American" policy that has resulted in 11 "Buy American" trade missions to the United States and the purchase of more than $8 billion in American goods;

A significant loosening of restrictions on the import of United States products to Taiwan;

An opening of the service industry on Taiwan to United States investment;

The establishment of United States products exhibits in Taiwan and trade seminars in the United States on how to tap the Taiwan market; and

A tough crackdown on commercial counterfeiting in the Republic of China.

Even with the best of efforts, we may never reach a perfect trade balance with Taiwan. The Republic of China is a society of 19 million people, whose economic survival is dependent upon exports. It is too much to expect that a country of 19 million citizens can purchase as much total goods, commodities, and services, as a country of over 230 million citizens. But we can expect a responsive attitude toward our interests and an honest effort to redress the trade imbalance insofar as practical, and that is exactly what is reflected in the agreement with Rocky Mountain Energy.

Second, by the agreement, the Republic of China has recognized that the United States uranium industry can guarantee security of supply to a degree greater than any other energy exporting country.

For a nation almost totally dependent upon imports for its energy supply, such security is of great importance. It is an advantage other countries and U.S. utilities also should consider carefully.

Third, by the type of deposit sought in the program, both Taipower and the American company are making a clear statement that the U.S. uranium industry can again become competitive on world markets. The target of the exploration program, a target U.S. geologists feel is achievable, is a new high-grade, low-cost deposit found in several States of the Western United States. If these deposits can be developed on a commercial scale, it will be good news for this depressed industry.

Finally, the agreement may open important new markets for United States uranium in the Republic of China and beyond. This could further reduce trade deficits, create new jobs in depressed areas of the West and contribute to bringing back the U.S. energy minerals industry.

As I said, it is nice to report good news for a change. This agreement is good news, and I hope there will be similar favorable reports to make in the future.●

S. 2539—UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT

● Mr. WARNER. Mr. President, on June 10, Senators LAXALT, INOUYE, WILSON and TRIBLE joined me in introducing S. 2539, the "Uniformed and Overseas Citizens Absentee Voting Act". We were subsequently joined by Senators, HOLLINGS, KENNEDY, KERRY, and DENTON, who lent their names to the "Dear Colleague" letter which was sent out to inform the Senate of what this legislation was and why we had introduced it. In the 30 days since we sent that letter out, there has been substantial support for this bill: It gives me great pleasure today to report that 33 Senators, one-third of the Senate, are now cosponsors of S. 2539.

It is always gratifying to receive this kind of support for a legislative initiative, but I want to stress that it comes from both sides of the aisle and from both liberals and conservatives. That is as it should be, because voting is not a Republican or Democratic issue, especially when it concerns the ability of our service men and women to cast their ballots while they are bearing the burden of defending our freedom overseas. When it comes to insuring their right to cast those ballots, the only issue is an American issue, and the duty of the Senate is clear. It is to enact the commonsense solution that this bill provides to the problem of involuntary disenfranchisement that all too often victimizes our soldiers, sailors, diplomats and businessmen who represent us in foreign lands.

The 33 Senators who have joined in cosponsoring this legislation have sent a strong message that we need to take quick action on S. 2539 in the next few weeks to insure that it becomes law. Our House colleagues will complete the subcommittee markup of their version of this bill today, with the expectation of reporting it for final floor action following the Labor Day recess. I would hope that we can move swiftly to consider this bill in the Rules Committee, to work our will on its provisions. and to take final action on it promptly, possibly even prior to the Labor Day recess.

I thank my colleagues who have joined in cosponsoring this legislation for their support. I hope that we will be joined by other Senators who, as they examine S. 2539, will recognize that it is a significant step forward to insure that those who defend our freedom are also able to share in its privileges.●

UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT

● Mr. D'AMATO. Mr. President, I rise today in support of S. 2539, the Uniformed and Overseas Citizens Absentee Voting Act, introduced by my distinguished colleague from Virginia. It is one of the most comprehensive absentee voting reforms I have seen, and I am proud to join as a cosponsor of this bipartisan legislation. In the past, U.S. citizens abroad for whatever reason have had difficulty participating in Federal elections, primarily because of foreign mail services less reliable than our own U.S. Postal Service.

This revision of an 11-year-old law is most welcome. The bill eases voting procedures for Americans abroad by improving the absentee ballot mailing process and reforming current laws. At present, an American abroad must mail in a request for an absentee ballot. If the ballot is not received in time, the voter has no recourse. The passage of S. 2539 provides for forms to be made readily available to voters abroad that will serve as substitute ballots if the absentee ballots do not arrive in time. Broadening the American electoral base is a goal we all have sought.

An individual's right to vote is too important to be at the mercy of the mails. S. 2539 is a significant step toward ensuring that right for all, and I am proud to cosponsor it.●

CHINA: A MIX OF OLD AND NEW LIFESTYLES

● Mr. D'AMATO. Mr. President, Alan Emory, a distinguished journalist from the Washington Bureau of the Watertown (NY) Times, recently returned from a visit to China. Mr. Emory traveled as part of a group of journalists organized by the Georgetown University Center for Strategic and International Studies.

In 1981, Mr. Emory wrote a 10-part series on a trip he took to China as a tourist. Now, 5 years later, he returned to this fast-changing nation and details his impressions in a new 14-part series that I think would be informative and insightful reading for all.

Change is found everywhere in the China of 1986. Mr. Emory reports that the young Chinese speak with great enthusiasm about what is happening in their country under the reforms instituted by Deng Xiaoping. Westernization and modernization are sweeping across this nation, affecting almost every part of daily life. Cars jam the streets that once were used mostly by cyclists. Market stalls sell blue jeans and jogging suits, and American films are extremely popular and play on Chinese TV. This nation is clearly one undergoing radical change.

Economically, one can now see a touch of local capitalism in the new China. Officials still vehemently deny that China's economic system is becoming more like that of the United States, yet shoppers crowd the market place every afternoon. It appears that the profit motive is now encouraged, rather than discouraged, and that for the time being, the military has had to take a back seat to the economy.

Emory describes the changes taking place on the farm, the emphasis on milk production, the general increase in living standards, the assimilation of Western technology and modernization into this traditional society, and the basic change in attitude that he has witnessed.

Yet, Emory points out that such changes cannot occur without some obstacles. China must implement these changes while trying to deal with a huge population, the problem of centralized control, a shifting role of the Communist Party in the factory and on the farm and the issues of education and transportation.

China, has entered a period of change that is both fascinating and significant. These changes have already begun to affect China's relationship with the Soviet Union and the United States. Therefore, I encourage all my colleagues in the Senate to take the time to read Mr. Emory's informative articles.

The material follows:

'MODERN' CHINA GOING ON A BUYING SPREE

(By Alan Emory)

BEIJING—There are a lot of good, smart people in China, a veteran diplomat observes, but "the system" makes it difficult for them.

He adds, "Almost everything China is doing is going in the right direction, except for costs."

One can see the results of changes in China "almost every day," says a western ambassador. The historical picture of beggars in the streets and dogs eating chidren's bodies has vanished.

"I think they are happy," the ambassador observed in an interview in his office. "They are smiling. Their clothes are getting more colorful. They are warmly dressed in winter."

The Chinese, in fact, are on a buying spree. Says the diplomat, "They've got money to burn."

Despite the progress to a more modern mode of life and more than a touch of local capitalism, handlabor still accounts for 90 to 95 percent of the work performed. A westerner of Chinese heritage notes wryly that if one inch were added to every man's shirt sleeves the textile business would undergo an explosion.

It is very difficult for a youngster to get into college in this country. Maybe one in a 1,000 hopefuls is lucky.

However, graduates of designated high schools, similar to United States preparatory schools, are admitted.

Large numbers of Chinese are waiting for jobs. In the interim they are allowed to open up shops. However, if they do not belong to a work unit they cannot obtain adequate housing.

Many of the big hotels have discos, but they are usually closed to domestic Chinese. In the Beijing (Peking) Hotel there is a sign outside the disco advising that only westerners and overseas Chinese and people from Hong Kong and Macao may be admitted.

Says a Chinese journalist, in explanation, that is because officials fear the locals would overcrowd the place. In his work unit, he adds, there is disco dancing for members and their families, and outsiders are free to participate.

The disco story—Chinese youngsters love disco, but dislike rock—is just one form of apartheid for the country's citizens. There are two forms of currency, the regular money, called Rmb, and the scrip provided to visitors, called foreign exchange certificates (FECs).

The Chinese merchants and others who may come into possession of FECs are supposed to exchange it for local money. Chinese citizens are not expected to have FECs although that is the only money that is accepted for most items in the hard-currency Friendship stores.

The Friendship stores now allow the Chinese public to buy, but only a limited number of items.

Inevitably, there is some cheating because every regulation has holes in it.

For example, a taxi driver may keep FECs he receives for his fares and turn in local currency to his bosses, using the scrip privately.

As one westerner put it, there is no point trying to take Rmb to a bank in New York because no one can use it outside of China itself. Regulations specify no money is to be taken out of the country.

The Chinese public is not only excluded from using FECs and entering hotel discos, but from obtaining rooms in the modern hotels. Those are reserved for overseas diplomats, business types and tourists.

There are many signs that cracks are appearing in the government's long-standing attempt to suppress individual enterprise. Says one expert, "The work ethic is bursting forth."

Take the story of the western ambassador who wanted to put a roof over his embassy's patio to protect guests from the elements.

All foreign embassies must channel such requests through the Diplomatic Service Bureau, but the Chinese put the price so high—they like to set labor costs at U.S. domestic levels—and the ambassador was resigned to postponing the project as too far over budget.

To his surprise, Chinese members of the embassy staff offered to build the roof themselves, doing the work on their days off. Their offer was reasonable, and the ambassador took it.

The telephone operator, drivers and others pitched in, and, when the project had been completed, they presented the ambassador with a pile of receipts for materials purchased, told him they had kept something for themselves and gave him the left-over money.

When he got over his shock he explained the job had come in under budget, and the Chinese were entitled to the agreed-on figure.

One Chinese at this embassy uses his pay to help buy a piano, another a refrigerator, a third stamps for his collection.

Embassies cannot fire people easily. Says one diplomat, "They just send somebody worse, a phone operator right off the farm. I'd love to put an ad in the paper, but I can't."

When a British rock group appeared here recently authorities wanted the audience to remain seated throughout, but the attempt was futile.

There is concern about what the Chinese see as unhealthy influences, such as pornography, much of which comes in from Taiwan.

"This is not what we fought the revolution for," say local officials.

WESTERN REVOLUTION SWEEPING THE FORBIDDEN CITY

(By Alan Emory)

BEIJING—Five years ago hordes of cyclists pedaled down Beijing's broad Chang An Avenue, sharing the road with a few cars and buses.

Today China's capital city has become one monster traffic jam. New Yorkers would feel right at home.

In many other respects the China of 1986 has absorbed western dress, hotels—now, even, golf.

Signs in English, as well as Chinese, are everywhere, even on the temples in the Forbidden City. Commercial billboards dominate the major boulevards here. American films are popular and play on Chinese television, which has at least four channels.

And all over, in every major city, there is building, for apartments, for offices, for banks. Many of the new structures are skyscrapers, and there are splashy new hotels, but unless a traveler is with a group it is almost impossible to obtain a room.

For the Chinese professional life is not easy in Beijing, even when an apartment with new appliances rents for only $1 a month. Try and get one. The waiting is endless.

In 1981 there were a few splashes of color in Chinese dress. Now, mainly among young people, bright red and pink jackets and blouses break out from the revolutionary tradition of blue, gray and olive green.

Women go for quilted jackets, sweaters with multi-colored stripes and designs and spiky high-heeled shoes. Young people of both sexes favor blue jeans. Men in shirts, ties and dark suites are no longer rarities.

The Mao suits still dominate, but, especially among the young, they are fading. In fact, dress style and color are becoming a demarcation of age groups.

A year ago it was impossible to get a taxi at the Beijing airport. Now there are fleets of Toyotas and Volkswagens. Says one westerner, "I don't know where the drivers come from."

And the green grass was a rarity in 1981, and trees were few and far between. Now the plane swooping down to Beijing airport flies over green fields and leafy trees, and the cities have parks with grass and lots of trees of their own.

Today's Chinese, observes a western diplomat, are "well fed, well clothed, smiling"—and making money. Chinese officials stoutly deny they are on the road to capitalism, but tell that to the shopkeepers whose stores are mobbed every afternoon.

Boxes of Chinese-made washing machines are stacked dozens of feet high.

Young couples stroll the sidewalks and parks hand-in-hand. The women wear lipstick, though not the older ones.

The government specifically approves the lipstick and western suits, a strange development in itself, but only a few years ago the same government condemned such practices.

The evidence is strong that the new Chinese effort is working—imperfectly, perhaps, but working.

Signs in English pair up with those in Chinese on many storefronts and billboards—advertising is thriving—and western tourists have become so numerous as they are no longer curiosities in the major cities. Chinese do not flock around them to practice their English as they once did, although the young people now have their "English-speaking corners," where they do their thing on specified days.

Hotel staffs speak enough English to accommodate the tourists, from room numbers to handling telephone calls, which are quick and cheap to the United States, to dining room courtesies. However, a request for orange juice still produces orange soda pop, although that and local beer are now served chilled, rather than warm.

To take a taxi, a visitor, to be safe, must have the destination address written out in Chinese ideographs, along with the instruction to the driver to wait, if necessary. In Beijing cabs are relatively cheap. A half-hour ride to destination, an hour's wait and a return trip cost $10.

Chinese TV gives a picture of life in the city—three generations of a family in one room, parents, children married with one child, a sheet across the bed for privacy.

In Shanghai, the country's most populous city, a family lives in a space of about 10 square feet, but in the countryside it is five times that.

Here in Beijing, which is located on the same latitude as Philadelphia, the building boom tries to keep pace with demand, as in most cities, but cannot. There are two-bedroom apartments covering 500 square feet, but to have access to such living space a Chinese must be a fairly high-level party official.

The Chinese people are as friendly as ever. Only in the hardcurrency ironically-named "Friendship" stores does one experience a sense of resentment on the part of clerks.

China's 'Rough' for Foreigners

(By Alan Emory)

Beijing—Life for a westerner in China is not easy.

Virtually everybody has to stay at a hotel, although the American president of a joint United States-Chinese manufacturing venture has managed a house outside Shanghai. But even that is rented from a nearby hotel.

There are just no apartments available.

A three-bedroom apartment here goes for about $6,000 a month, plus a $300 management fee.

At the Beijing Hotel a room costs $100 a day, and suites are double that.

Diplomats from five English-speaking countries here may send their children to an international school, which covers the first eight grades. Nothing is left over for children of business families, and there is no high school.

Children have to be sent to another country for secondary schooling.

The Japanese have schools for their children.

American officials here say the cost of doing business is the same for everybody. The major needs are for access to domestic markets, the ability to return profits to the home country and to manage the labor force, including hiring and firing, and incentive systems.

As one official put it, it is difficult to sell in China and if the sale is made, "What do you do with the money when you get it?"

On the other hand, he adds, "If you think it is bad now you should have been here in the seventies."

The Chinese, according to westerners, do not understand competition. Many companies have shifted their focus of attention to Hong Kong, where requirements are fewer.

Unlike in China, in Hong Kong there is no mandate for equipment to be shipped in from the United States, just design specifications, and businessmen say a product can be placed on the market there in only three months.

The forecast is that a tight foreign exchange situation—the Chinese make it almost impossible for take hard currency out of the country—will persist for at least another year.

There has been no drop in the curiosity the Chinese possess about the U.S.

Students, who now cluster about visitors at "English-speaking corners" in major cities, ask about jobs in America, are amazed at the size of U.S. tax rates and, when a journalist tries to explain the national budget and talks about welfare, he is immediately asked, "What about defense?"

When another said he wrote about defense matters in Washington, one student observed, "Oh, Star Wars."

The students are also curious about the Soviet Union and express some envy of Soviet youngsters who get to dance disco.

When they ask about Libya, strangely enough, the questions are not ideological.

The youngsters say they listen more to English-language broadcasts on the Voice of America than to those in Chinese.

One teacher in Shanghai, whose pupils are 11-year-olds, said she liked the writings of Jack London and Ernest Hemingway because of their use of short sentences. She said she taught English phonetically, but that bored her classes, which preferred mathematics.

To one visitor who said he was from Virginia, a young Chinese exclaimed, "Country Roads." That was pretty close. The song is about West Virginia.

The Chinese say they watch the television news program "20-20" on videotape.

Among their favorite American movies are "Gone With the Wind" and "Kramer vs. Kramer."

The Chinese are not reluctant to talk about themselves and their lifestyles.

At the Great Wall two teen-age young women from Bao Ding, in Hebei Province, where Chiang Kai-shek attended military academy, talked about living with their parents and working in a state-run woolen factory making $23 a month, plus a bonus of about $15 to $20.

They give all the money to their parents and receive pocket money in return. They are too young to think of marriage, they say, giggling.

They work an eight-hour day six days a week, with some summer vacation and national holidays off—the Spring Festival, Labor Day (May 1), New Year's Day and National Day. They visit Beijing on holidays, and the Great Wall meant a two-hour express train trip for them.

One of the young women was wearing designer sunglasses, a T-shirt and jeans.

There is no mistaking the enthusiasm with which the young Chinese talk about what is happening in their country under the reforms instituted by Deng Xiaoping.

And one high school student, reluctant to see his conversation with a group of visiting Americans end, asked, "Why are Americans always in such a hurry? Do you make more money that way?"

Population a Major Worry for 'New' China

(By Alan Emory)

Shanghai.—Population control and cigaret smoking are confronting the Chinese people with difficult decisions.

Even acid rain is intruding on parts of the country.

The five-year-old edict that no Chinese family is to have more than one child has become a sensitive issue, but local officials insist there has been a 96-percent success rate.

They readily concede that the average couple here wants more than one child. Larger families are a Chinese tradition.

On the other hand, they say, the now-scorned Cultural Revolution under Mao Zedong, which is referred to as a "10-year disaster," led to a population explosion the government is determined to bring under control.

Despite many horror stories about forced abortions, Chinese officials maintain they are relying on persuasion and education to achieve their goal.

And there are loopholes in the rules.

In the remote mountainous areas, where more people are required to cultivate more land and there is a lack of manpower, parents are permitted to have at least two children per family.

Parents are allowed to have another child whenever they give birth to one who is handicapped or mentally retarded.

Some people are not happy about the one-child restriction, officials agree, so the government's job is to make them believe family planning is good for the state. Those officials insist most parents finally accept the persuasion, although some still harbor grudges about the limitations.

In a few cases, one official conceded reluctantly, "forcible measures," which he refused to spell out, are taken, but he adds that the results have not been good.

Some women who have had extra children have been deprived of work bonuses or other incentives.

Families who had their children before the one-child edict took effect are, of course, not bound by it.

Parts of China are deep in anti-smoking campaigns.

Success will not come easily. Mao was a chain smoker, and, legend has it, when friends pleaded with him to stop he replied, "Don't bother. I'm making a contribution to the country."

Deng Xiaoping is also a chain smoker.

About half Chinese men smoke and about one in every three in the population as a whole.

There has been some peer pressure to stop, but young people, who have to shell out $1 a pack, are smoking more, while their elders smoke less. There is more smoking in rural areas than in cities.

Shanghai Vice Mayor Liu Zhen Yuan, whose city has placed 6,000 anti-smoking placards on streets and in public parks and has staged mass meetings with notices at movie and other theaters and public places, says the main activity is public relations, telling people smoking is dangerous to their health.

There is no warning on the cigaret packages, but anti-smoking slogans are printed on postal envelopes and wrapping paper and signs are up in foodstuff factories.

Says Liu, it is hard to say if the campaign will succeed.

Young people in colleges and schools are being mobilized for anti-smoking efforts, and the World Health Organization's Eric Goon says the world is watching Shanghai for results.

Some Chinese cities are considering a "Quit Smoking Day."

Liu told a group of American journalists organized by the Georgetown University Center for Strategic and International Studies recently, "Personally, I am not in favor of smoking in public places, but that may be because I'm a nonsmoker."

As for acid rain, it has become a threat in some parts of China.

Says Chengdu Deputy Mayor Pan Zhao Qing, "We do have problems with air pollution."

He says there is environment monitoring on the east side of his city, and he attaches "great importance" to improving the situation.

"We need to strengthen our monitoring measures," he says, "limiting the time factorys can operate. They have been asked to improve their equipment, and we are encouraging a factory to make environmental protection equipment. We believe we can solve the situation, and we have tangible results already."

Experts from the Chinese Academy of Sciences in Beijing have warned that new industries may increase pollution to the point where health and the environment will be damaged unless there is widespread installation of anti-pollution devices.

China says it has been monitoring acid rain in Beijing, Shanghai and Chongqing (formerly Chungking) since the late 1970s and that it made a nation-wide survey less than five years ago.

Scientists name industrial air pollution as the major culprit.

FARMERS HARVESTING PROFITS FROM CHINESE REFORM

(By Alan Emory)

CHENGDU.—There is a revolution down on the farm in China.

But it's not so much what they plant and how they plant it as how the farmers live and how much money they make. Some, by Chinese standards, are making it big.

Where a poor peasant in the Chengdu area of western Sichuan Province—the most populous in the country—may earn $67 a year, and Deng Xiaoping is aiming at an average income of $800 a year by the turn of the century, Xia Song, who runs a nursery and has a two-story house overlooking a large courtyard, rakes in $8,700 after expenses.

He has two tape recorders, a motorbike, washing machine, a "woofer" and a black-and-white television set. He has ordered a color TV.

In China peasants often earn more than soldiers or professionals. A 28-year-old single onion farmer, who cycles 12.5 miles to Chengdu to sell his wares in the "free market," makes $100 a month before expenses, including the 33 cents he pays the market authority daily for his stall space. Say Chinese journalist wryly, "That's more than I make."

The farmer says he is saving to buy a TV set.

Are the soldiers jealous? A 35-year-old infantry platoon leader with nearly 20 years of army service told a group of American journalists organized by the Georgetown University Center for Strategic and International Studies, "Not in the least. I come from a peasant family myself. I am very satisfied with rural reforms. Things are getting better in my home village."

Under the reforms a farmer contracts with the government to produce a certain amount and receives a set price. Anything over that he is free to sell himself at whatever he can get.

China's population is too big and its usable land too limited. By the end of the century, the government hopes, farm manpower will be cut in half and machines will take over.

For the moment, however, machines are not much in evidence, and the work, such as planting and seeding, is virtually all hand labor. Small tractors become vehicles to transport farm produce into town, and the machines are normally brought out for plowing and irrigation and are very seasonal.

Farm output has doubled in the last five years. Fewer people are entering the armed forces and shifting to cities because of job opportunities on the farm, where they can receive $15 to $25 a month more than in factories and pay lower taxes, to boot.

In Shanghai's suburbs two-thirds of the rural population has moved into new housing in the last few years.

The once-dominant farm communes have been abolished in favor of cooperatives and private operations. Land is distributed under contract, and towns take over administrative services, while farm groups control the economics. Centralized management has disappeared.

A local People's Congress decides how much to collect, how money should be spent, such as on law and order, education, welfare and medical care.

Where the government does come into play is on the use of arable land. It may not be shifted to other purposes unless the government gives its blessing.

There is concern that land for crops is too scattered and ownership is on too small a scale for full exploitation.

Some officials talk of diversifying local economies, increasing town employment by as much as two-thirds and increasing machinery horsepower.

There is discussion of centralizing grain sales. Many farmers have dropped production of grain in favor of higher-income-producing crops like celery, some are leaving the farm for commerce or industry and the country has been plagued by weather problems and other natural disasters.

One policy under consideration is to have farm surpluses purchased at higher prices than those authorized by the state to retain rural enthusiasm for agriculture.

CHINA GIVING PRIORITY TO PRODUCTION OF MILK

(By Alan Emory)

CHENGDU.—Many of China's cities are short of dairy products.

The milk producers have enough output for their farms and local communities, according to Du Reng Sheng, director of the national government's State Council Rural Development Research Center.

The average Chinese consumes less meat and dairy products than the average American, Du says, and China is concerned because a milk cow consumes "enough grain for several persons."

The Chinese consumption of about 3.3 pounds of milk per capita a year contrasts sharply with the 582 pounds for an American civilian in 1984.

"We are ready to produce more dairy products," Du told a group of American journalists organized by the Georgetown University Center for Strategic and International Studies in Beijing.

"The first step is to supply the major cities. That is still in the developmental stage. We have too little milk."

China has about 1 million milk cows, producing about 1.1 billion pounds a year.

By contrast, the United States last year, with one-fifth China's population, has more than 11 million milk cows with a total output of 143.7 billion pounds.

The country imports cattle mainly from Denmark, Sweden and the Netherlands, but some from the United States.

Du says the quality of feed must be improved.

He also says that farm prices must be held down because the alternative is higher wages, then higher industrial prices and the familiar inflation spiral.

In "golden" Wenjiang County, just outside of Chengdu, lives Xia Song, 45, who runs a nursery so profitable that he has no car or truck because his customers come to him.

He started out with a 15-year contract in 1979, and his early profits enabled him to increase his workable land from about a quarter of an acre to two acres.

He raised pigs and borrowed from friends to expand his operation.

Now he pays $530 a year to the village committee, $130 to a peasant cooperative and $400 to help the elderly and poor.

Over the past two years he has reaped a profit of about $8,700 on a gross income of about $10,000.

"I'm a flower lover," he said. Increasing urban construction and factories prompted him to go into the nursery business to "make life more colorful."

After he became prosperous, he added, he was not afraid to show it. He built a house on land that had been distributed to his family and hired five relatives to work the place.

He says he teaches them how to plant flowers and to market their products.

He pays them between 67 and 80 cents a day.

He estimates his annual tax bill at about $500.

Xia says the situation has changed substantially since landlords exploited farmhands.

"I employ people and pay them reasonably according to their work." he says. "There are very few cases of jealousy."

In the Wenjiang "free market," a kilogram (2.2 pounds) of pork sells for $1. The farmers running the stall says it is the same

price the state charges, but the quality is better.

Ling Zhong, 46, sells vegetables and eggs, and has five members of his family helping on the farm.

"We need money from sales to make both ends meet," he says, "Most of our profits help maintain the business."

High-ranking government officials say that the old "rigid" economic system must be abandoned and "market forces" be allowed to take over.

It could have been Ronald Reagan speaking.

PROVINCE CAPITAL TEEMS WITH HEAVENLY ABUNDANCE

(By Alan Emory)

CHENGDU.—The early mists shroud the capital city of Sichuan Province, famed for its fiery dishes and, with 104 million residents, the largest in China.

When the sun burns the mists off the dusty roads in the surrounding lush agricultural area become clogged with farmers on their way to market.

A clashing of honking horns, squealing pigs, shouting individuals, quacking ducks, snorting mules and screeching motorbike tires assault the ears.

Whole pigs are strapped onto carts and handlebars, geese are loaded into baskets, chickens stroll across roads and up and down stairs and into living rooms of rural homes.

Men haul huge blocks of concrete for miles, becoming human beasts of burden in what is called "The Land of Heavenly Abundance."

A sign in the Qing Shi Qiao farmers' market reads, "No rotten vegetables should be sold. Efforts should be made to sell vegetables fresh."

The market at midday is jammed with people. Stalls with vegetables, pork, eggs and spices crowd up against each other.

One area is ablaze with the color of local flowers, another alive with the chirping of small parakeets and a sparrow-like bird colored orange, red and yellow.

In nearby Wenjiang County farmers grow oilseeds, oat, and wheat. They have also put up a sausage factory to supply the local market.

At one farm a woman said she did the farming while her husband, a construction worker, was on the road. He sent back part of his income of $1,300 a year. Compare that with the average income in Chengdu of $137 last year—up 86 percent from 1980—the $800-a-year income that is Deng's goal for the turn of the century and the $333,000 annual income some officials concede is being made by a few rich farmers.

There are a half-million "peasants"—a term used in China to describe just about every rural resident—with annual incomes of less than $67 a year.

The poorer peasants are concentrated in mountain areas.

Local officials say the state has created a development fund to provide long-term loans at low rates.

Communities of brick homes with thatched roofs are surrounded by groves of bamboo, one variety of which is the sole food of the giant panda.

Sichuan is the panda's home, as well the birthplace of Deng Xiaoping and the place where Zhao Ziyang, the prime minister, operated as Communist Party boss from 1975 to 1980.

Bordering the fields are "marble" trees, which are grown to raise silkworms.

Many of the homes are lighted by natural gas, which, the owners say, provide more illumination than electric bulbs.

A Tibetan poet of the 8th Century wrote of the perilous 1,400-mile road linking his home with this province, "It is more difficult to go to Sichuan than to get into Heaven."

There are 15 ethnic groups in Sichuan, which covers 220,000 square miles, 87 percent of it rural.

Chengdu, its capital, has a center-city population of 1.3 million living on a latitude comparable to that of Houston, Texas, but with the surrounding countryside the figure jumps to 8.3 million.

Despite all the farm activity, the average peasant works less than one-sixth of an acre, while in the United States the average farmer works more than 1.7 acres.

The residents of Chengdu were unhappy when the local government decided to raze the walls of the old city.

The huge statue of Mao Zedong in the center of town is being cleaned and is hidden by scaffolding.

Signs in the city read, "Leave Home for Work Happily. Return Home from Work Safely," and, "Carry Through the Revolution to the End."

Smokers indulge in Double Happiness cigarets.

A sign over a bookshop advises, "A foreign language is a weapon in the struggle for life."

In the old part of the city narrow streets wind through miles of shops and eating stalls, many of them privately operated. They open out into broad boulevards of the new city, with modern statues, foliage and gardens.

Pedal cabs share some of the space with buses and trucks. There is a huge underground store that was formerly a bomb shelter.

Pan Zhaoqing, deputy mayor of Chengdu and secretary of the local Communist Party committee, says there are 100,000 independent enterprises now, of which individuals own about 3,000 and households another 5,000.

Some farmers in the outskirts live about 100 yards from the fields they cultivate.

Localities have their own health clinics, which charge for medicine, but not for the care itself.

IMPRESSIONS, FROM BLUE JEANS TO CANDY

(By Alan Emory)

BEIJING.—A kaleidoscope of impressions of the China of 1986 . . . Market stalls in several of the major cities sell blue jeans, as well as jogging suits, which have become every-day wear for adults and youngsters alike.

The Chinese government's airline, which now uses American and British aircraft, serves fruit juice in paper cartons. Orange, pear and kiwi are available on request.

The airline also gives each passenger a memento of the flight. Once it was a small costume jewelry pin, once a datebook in red leatherette, twice a digital clock on a clear lucite stand. Travelers also receive varieties of Chinese candy.

There is a drive on in China's scientific community to have the country go on daylight saving time five months a year. Backers say it could mean an annual saving of up to 2 billion kilowatt-hours of electricity.

Traffic authorities in Beijing, known as China's "kingdom of bicycles," want a crackdown on careless cyclists, claiming that accidents they cause are creating a nightmare for other road users. There are more than 5.6 million bicycles in the capital city, two for every three people.

Many Chinese hotels now provide rubber moisture containers to make envelopes easier to seal, pencil sharpeners in the shape of horses and pens with red and black inks.

Hotels that are not at the top of the list have poor plumbing. One in Beijing had dripping water from the shower pipe—a free-standing curved piece of metal in one corner of the bathroom—and from the sink faucets, despite widespread reports in the newspapers of a water shortage in the area.

Chinese proverb: The peasants leave the land, but not the country.

Groups of visitors at offices, factories and farms regularly are provided with large cups of blue-and-white china filled—and refilled—with green tea, poured from a huge pot or long thermos. It is a ritual that accompanies every meeting, no matter how formal or informal.

No hotel tap water is drinkable, but the Chinese still provide two pots or thermos bottles in each room, one with hot water for tea, the other cold water for drinking and brushing teeth.

Maj. Joseph Gallagher, the assistant Army attache at the United States Embassy here, has been assigned to the 10th Mountain Division at Fort Drum, but is not sure when he will move to Northern New York.

A delegation from Michigan showed up in Sichuan Province to provide expertise to the Chinese on building roads and, in return, to receive black-neck pheasant eggs. Michigan is home to the ringneck pheasant, which lives on the ground, but has become so vulnerable to being run over that it is nearing extinction. The black-neck roosts in trees, and the Michigan group hopes to cross-breed the pheasant with the new eggs. Question: How does the new bird decide whether to fly up to a tree or stay on the ground?

In Sichuan's capital city of Chengdu the Jin Jiang Hotel rooms have light switches that do not work by themselves. After an initial reaction of dismay the visitor discovers a rectangular hole in the wall near the door into which he must insert the rectangular plastic block to which his room key is attached. That turns on the lights. Of course, when the traveler takes his key out when he leaves the room he also extinguishes the lights and also wipes out the time on the electric clock in the bedside table, which must be reset every time the tenant returns.

A traveler to China does well to bring along lots of business cards. The Chinese, from journalists to public officials, carry stacks of them to exchange.

Two "must" restaurants in Beijing are Quan Ju De, where everything served is duck, except for one shrimp dish and fruit for dessert, and the Fang Shan, at the back of the Forbidden City, bordering on a large lake. Word of warning: the Peking duck in Peking (Beijing) is slightly greasier than the best versions served in the United States.

Breakfasts in China are an event. There are always several small dishes of cold meat or fish, and eggs are provided as a matter of course. Tea may be green or "black," and there is coffee, which one group of visiting Americans found very palatable. In Chengdu, capital of Sichuan, however, no salt or pepper is on the table. There is the option of using a searing hot pepper oil, which really spices up the eggs.

Other meals take some getting used to. Desserts, such as they are, are often served about two-thirds of the way through. The final course is soup. One lunch for a group of visiting Americans recently involved nine appetizers, called "Nine Dishes in a Box," and was followed by no less than 15 other courses. One unusual dessert was black bean rice, which could be topped with fruit or sugar. Another, described as "eight-jewel," was a kind of apple brown betty studded wtih nuts. Delicious . . .

CULTURAL REVOLUTION "SURVIVORS" RECALL HARDSHIPS

(By Alan Emory)

SHANGHAI. Xia Qi-yan had a problem. He knew Mao Zedong's wife back when.

She was, the 72-year-old retired journalist says, "a third-rate actress who gained leading roles by seducing directors."

So, when the Cultural Revolution came, he was placed in solitary confinement in prison and slapped so hard on the head he became partially deaf.

His wife didn't know where he was and was not supposed to ask.

He managed, however, to send her letters through a newspaper he had worked for.

Two years later he got out, but was called a "traitor," "Japanese collaborator," "secret agent" and "Trotskyite."

The press was tightly controlled then, Xia observes. Ironically, two of the "Gang of Four" imprisoned now for their part in the Cultural Revolution, which today's China blames for most of its ills, worked for his paper.

Xia says his critics on the paper "were not responsible for my being put in prison. They learned their lesson from the Cultural Revolution. They knew I was not anti-revolutionary."

He had been a bank apprentice and joined the Communist Party in 1937. He liked to write, and friends, knowing that, invited him to a dinner, where he met the editor-in-chief, Tang Na, who was the first husband of Mao's wife, Jiang Qing.

Tang said he wanted a first-hand report on damage the Japanese had caused to the Nanking-Shanghai railway in 1945, and if Xia would report on that he would get a free trip out there.

"That's how I became a journalist," he says.

Lin Zhen Yuan, vice mayor of Shanghai, had been working in a scientific institute and had received his Ph.D. in Russia. When the Cultural Revolution was launched, he was dubbed a "secret agent . . . revisionist."

He could not continue his research work, but luckily was assigned to a plant making integrated circuits, and, after a short stint as an ordinary factory worker, became chief engineer.

He was heavily criticized, however, for his technical proposals and "put under house arrest" because of his earlier stay in the Soviet Union.

Another who studied in the Soviet Union, but who has managed to preserve his political career, is Li Peng, one of the five Chinese vice premiers and a man China watchers have tabbed a possible successor to Deng Xiaoping.

Xia Song, who runs a successful nursery outside Chengdu, in Sichuan Province, says it took him a year to be "cleared" after the Cultural Revolution. He had been charged with "going capitalist."

He had been an accountant with an income of $25 a year and was "on my own" after his parents died in the late 1950s.

"Don't blame the critics," he told a group of American journalists recently. "It wasn't their fault. It was the fault of the Cultural Revolution for taking the wrong political line.

"I tried to make friends with them. The party secretary apologized to me for the criticism."

A farmer in Chengdu's free market says that, as a 16-year-old student, he was sent to the countryside to work during the Cultural Revolution and then was shipped to the border of Yunan Province, 500 miles from his home and family.

Says Du Ren Sheng, director of the State Council Rural Development Research Center in Beijing, many survived the Cultural Revolution in fairly good shape, both Deng Xiaoping and what he called "small potatoes."

In what amounts to a minority point of view, Du says the Cultural Revolution "enable me to have a better understanding of the countryside and enriched my thinking and ideas. It was both a gain and a loss."

Those days are not in the past, and the attitude in China today is upbeat and optimistic.

The press, however, is still tightly controlled and continues to promote the Community Party policy.

Chinese journalists, of whom there are about 400,000, take this as a matter of course and offer no objections, even in private, although they insist they "adhere to the facts."

U.S.-CHINESE DRUG CO. EXPECTS PROFIT BY YEAR'S END

(By Alan Emory)

SHANGHAI.—Picture an American capitalist and a Chinese Communist standing in the front of a small bus, explaining to a group of American reporters how they linked up in a $10-million 50-50 venture to sell vitamins and other pharmaceutical products.

Not so crazy.

At a time when joint American-Chinese ventures are running into problems, Squibb Corp. and the Shanghai Pharmaceutical Industrial Corp. have formed a company called SASS to produce vitamins, cardiovascular products and antibiotics, three-quarters of which will be sold to the Chinese.

The products are already being advertised—"rather primitively," the firm's upstate New York president confesses—both on television and in the newspapers.

The 25 percent of the output that will be exported will provide the foreign exchange SASS needs to meet Chinese requirements, says 61-year-old John McCoy, a native of Coffeyville, Kan., but a resident of Ithaca for the past 18 years.

His partner, Jin Bai Chang, 60, insists he is "not a capitalist. I am a technician."

Unlike American Motors, which is threatening to pull out of its $51-million joint deal in China because of the difficulty in getting profits back home, SASS is sailing along.

Mr. McCoy sees profits by the end of 1986—one year of operation—and when Squibb makes its three-year review of the setup in 1988 he expects a "go" for the full 15 years of the contract.

Some western businessmen arrive in China with stars in their eyes, according to veteran observers in this country.

One says wryly, "They check their brains at the door."

Mr. McCoy recognizes they may think about quick profits: "You can't resist the pull of 1.1 billion potential customers out there."

But, he says, he has no problem about profits because "we don't have any," although by the end of the year "we may see something like a profit."

Then he can worry about getting money back to the United States. Until that time he is not "too edgy."

Mr. McCoy and his wife live in a house at the Shanghai airport owned by a hotel and pay $120 a day rent, which he calls a "tremendous drain" on the venture's dollar reserves. He considered building a house, but that would have taken two years.

The plant receives its sugar from Manchuria, its tetracycline from Xian, home of the excavated army of terra cotta soldiers.

Much of the material, and all of the equipment, however, come from abroad.

The operation sprang from a cocktail party conversation at the United Nations about 15 years ago, and the contract was signed in 1982. It has largest sales in China than most such joint enterprises because, as Mr. McCoy says, "The Chinese need everything we make."

The 170 workers put in a nine-and-a-half-hour day five days a week.

Mr. McCoy says he has encountered no more bureaucratic problems than anywhere else in the world. Products must be tested in government laboratories, much as the Food and Drug Administration requires test in the United States.

SASS products carry high prices by Chinese standards, so the advertising is important. However, Mr. McCoy confesses, local ad agencies "were started yesterday" and are "run more on chutzpah than anything else."

The joint venture will avoid "adverial advertising" for the time being, though "that may come later."

Mr. McCoy says the government's attitude toward joint ventures is influenced by the lack of foreign exchange and fees that is something it cannot afford "to be generous with."

He adds that many items he had assumed would be available were not or were of poor quality. However, he did have the advantage of a Chinese partner who had been in the business a long time.

He says there was a "large vacuum" in China into which he moved, and "when the Chinese situation changes, even briefly, it affects our situation."

A western diplomat charged, "We are all being ripped off," but, while businessmen are asked whether they want to quit and go home, Mr. McCoy said, "nobody's left yet. For everybody complaining there is someone waiting to get in."

Adds a high-ranking American official, "Business is making money. It wouldn't be here otherwise."

SHANGHAI GRAPPLES WITH OVERPOPULATION PROBLEM

(By Alan Emory)

Shanghai.—Take an automated steel plant that has 25,000 workers, but no one to control traffic clogging a narrow causeway that leads out to the plant's ship-loading area in the Yangtze River.

Add huge crowds of people jamming the Bund, a long street paralleling a waterfront that looks like Hong Kong, with its junks and rust buckets.

Add a mass of humanity thronging Nanking Road, the fabled main shopping street, in the afternoons and ornate buildings, with intricate stone work and colored brick.

Now you get a picture of Shanghai, China's largest city, like a part of Europe transplanted to the Orient, overflowing with people, 12 million of them.

Here a visitor sees much more western-style dress and better styling than in other cities. Streetcars are packed so solidly with people there is no room for anyone to fall down.

For the past two years Shanghai has been choked with Chinese trying their sideline enterprises and trade. More than a million commute to the city to do business, and it is a huge problem to move them around.

There are circular civilian overpasses for pedestrians high above the crowded shopping streets, but the city is plagued by too many intersections in its original plan.

Narrow streets force cars to creep along at 10 miles an hour.

To relieve the congestion, the city is planning for a two-phase subway system, one of about eight miles, the second about 12 miles, plus two major highways running north and south and a belt of elevated highways.

Most of the subway equipment will be purchased from France and Japan, officials say, with the underground rail system scheduled for completion in five years and the full network of subways and roads in the next decade.

As a bus moves out of the center city where 6 million Chinese live, the apartment buildings become shabbier and more crowded. They are relatively old structures.

Along the waterfront stand huge cranes to unload ships. Office structures and apartments are shooting up in the industrial areas.

Shanghai is a steel city, and about 15 miles from the center stands the gigantic Bao Shan steel plant. The country is desparately short of steel, and substantial imports have dug into China's demand for foreign currency.

Says one official, "China was 50 years behind times, but has managed to close the gap." Nary a soul is visable as molten ingots roll down a blooming hill, but some workers dip their ladles into furnaces of liquefying metal without the benefit of protective goggles or face shields, and plant visitors are not provided with goggles.

Shanghai officials say proudly that every factory has smoke controls, and some are switching from coal to gas for fuel.

The factories, however, pour waste into one of the city's two main rivers, creating a major pollution problem.

The officials argue that Shanghai has one of the best records in the country in limiting population, enjoying an advanced economic and cultural level that makes it easy to accept the family planning goal of one child per family.

By 1992, they maintain, the growth rate will level off, and they say the area is already feeling a lack of manpower.

Says Vice Mayor Liu Zhen Yuan, there are not more young people waiting for jobs. He is trying to control the population flooding in from the countryside and to increase labor efficiency.

Shanghai, he admits, is lagging in economic reforms, but he attributes that to financial problems. citing the city's size and influence, he observes, "Whatever Shanghai does will have nationwide repercussions. We must be extremely prudent."

Liu would like Shanghai, which is on the same latitude as Sarasota, Fla., to become a port of call for the U.S. Navy. Discussions for such a move are under way, and French and Italian sailors already make port here.

Shanghai is the source of the Chinese Communist movement and was home to many of the Gang of Four, whose leadership of the Cultural Revolution has now led to their imprisonment and disgrace.

Vice Mayor Liu says that opposition from those sympathetic to the Gang of Four will continue, but he adds that people have made their own comparisons and choices on which regime benefited them the most.

The question, he says, is, "Are you better off now?' I'm sure the answer is certain."

China Not in Danger of "Going Capitalist"

(By Alan Emory)

Beijing.—Vice Premier Li Peng may not be a Gilbert and Sullivan fan, but he would love the line, "Things are seldom what they seem."

China, he says, allows "a certain type of people to get well off," but insists also, "in China there will not be millionaires."

"When we work out a blueprint," he maintains, "we do not work out a blueprint for capitalism in China. If such a thing really occurs, it means the failure of our plan."

Li makes his remarks in a low-key conversational tone. His right arm moves up and down for slight emphasis, and he keeps a pen in hand to make notes as he goes along.

A youthful-looking 56, Li is one of five vice premiers in the Chinese government, but is considered "more equal" than some of his colleagues, a powerful influence and a strong potential successor to Deng Xiaoping, even though he was Soviet-educated and speaks Russian fluently.

A black haired man with a ruddy complexion, wearing glasses, Li met recently in the Great Hall of the People with a group of American journalists organized by the Georgetown Center for Strategic and International Studies.

Green velvet drapes stretched from floor to ceiling, at least 25 feet above a huge green figured oriental rug. The walls were covered with large Chinese scenic paintings and calligraphy.

The room is known as Chung Fu Hall and is the considered the Chinese equivalent of Capitol Hill.

All the questions were asked first, one per reporter, with the interpreter taking notes and Li, appearing to understand much of what was being asked, nodding occasionally and referring to a list of questioners already in hand.

When the last query had been posed he asked, "Can I answer the questions now?"

While his interpreter translated his answers Li looked up in the air as if for inspiration. Sometimes he pointed with his index finger for emphasis.

The wealthy in China, he said, had "an obligation and a duty to help people in poorer regions." In addition, the government "has an obligation to protect those incomes that are earned by legitimate means."

While he thinks the country's economy should have developed faster than it did, he says the "use" of advanced western technology should not "change . . . the socialist nature of our economy." The 16 million private enterprises account for "a very, very minimal part" of the national economy.

Surrounded by aides in various styles of address, one in a light-colored western suit and cardigan sweater, others in Mao suits of gray and black—one identified by Li as a former journalist—the Chinese leader gave this explanation of economic reform in his country.

Price structure would be improved, but not by stepping "backwards," with the goal a "socialist commodity economy."

Better wages are to be offered to "those who have made greater contributions to society," but if prices are unreasonable that becomes impossible. The pricing system will not be capitalist.

The price of vegetables, for example, will be kept on "a stable level," with a steady flow to market, but the supply cannot be "totally free (or) open," and some state concerns must sell vegetables at low prices to keep the market in line.

"I'm afraid," Li said, "some of our friends from the west have a misunderstanding that the market economy in China is identical (with theirs). It is not the same thing."

He singled out coal as a problem, with the international market price three to four times what it was in China. If China raised its coal prices accordingly, he cautioned, electricity prices would soar.

Li maintained that price reforms would resume next year, but at a slow pace. When an aide whispered it might be "five years or longer," Li agreed with "the latter part of this statement . . . longer than five years."

Li met the Americans wearing a gray western suit and dark sweater, striped tie and brown loafers dressed up with buckles. He occasionally referred to the individual questioners by the location of their newspapers, such as "San Diego Calif.," or "New York."

The United States, he observed, was a "military big power," but China's independent foreign policy involved a national security plan that stressed "self-defense". While praising Congress and the Reagan Administration's "spirit of cooperation," he emphasized that China had "mainly relied on our own efforts" to modernize its military forces.

Slicing a million men off the armed forces rolls, he said, "reflects the sincerity of the Chinese government for peace."

He was slightly defensive about his pet project, the still-on-paper multi-billion-dollar harnessing of the waters of the Yellow River in a giant Three Gorges project, noting that he had visited large hydro plants at Hoover Dan and on the Columbia River in the western U.S.

Li said the Chinese economic policy contained "no empty slogans," and, at one point, conceded, "Maybe we will even make some mistakes."

He shrugged off relations with the Soviet Union by observing that the need is for "concrete deeds, not rhetoric," and, "just because they are socialist doesn't mean they will get along (with us)."

U.S. Regarded by China as an Ally, Not a Friend

Beijing.—The United States has almost assumed the role of Mr. Nice Guy in China.

The U.S. position here has greatly improved, and both Chinese and western experts agree that the only catch is American arms sales to Taiwan, which are being phased out and are no longer regarded as a serious problem.

Former President Richard M. Nixon is treated like an old friend here. He was responsible for launching the process of reopening diplomatic relations, and Jimmy Carter made it official.

When President Reagan visited China in 1984 the government here pulled out all the stops.

A top American official here says both the rhetoric and the strategy have changed in

China, which has a limited defense budget and is counting on the U.S. to offset Soviet military strength while the Chinese build up their economy.

Nevertheless, the best description of the U.S. here is that of an ally, rather than a friend.

Vice Foreign Minister Zhu Qi Zhen recently told a group of American journalists organized by the Georgetown Center for Strategic and International Studies that if the U.S. were not "prudent" on Taiwan the "mutual trust" between the U.S. and China could be damaged.

Americans credit the Chinese with a "hard-headed" approach in their dealings. Trade has mushroomed from almost nothing a decade ago to more than $8 billion.

Licenses to do business, which formerly required three to six months to obtain, can now be obtained in 60 days.

There are about 17,000 Chinese students pursuing their education in the U.S., compared with 1,500 American students in China. Chinese officials are worried that significant numbers of their young people will want to stay in the U.S.

The Chinese have serious concerns about the Soviet Union, but they say they are serious about improving relations with Moscow. Economic ties are strictly on a pragmatic plane. Where they are of mutual benefit to both countries they move forward.

Experts say it has nothing to do with "international politics."

Despite favorable prospects for boosting trade, Chinese officials emphasize "three obstacles" that hamper Sino-Soviet negotiations. The largest, by far, is the massing of Soviet troops on the Chinese border, the second, the Soviet occupation of Afghanistan, and the third, Russian support of Vietnam's incursions into Cambodia.

Chinese journalists point out that three years ago the Soviets promised to invite a group of local reporters and editors to visit their country, but three days later declared such a trip would be impossible, and the offer was never renewed.

The Chinese are using a lot of Soviet training and equipment, but are trying to get away from the Soviet political system. Western observers maintain it does not work in the Soviet Union and it does not work for the Chinese.

One sore point mentioned in this capital city is Soviet businessmen's demand for 50 apartments at a time when housing is in very short supply.

Despite the Soviet military presence on its border, China is determined to reduce its military force from 4 million to 3 million. American experts do not see that reduction as inviting a Soviet land invasion, maintaining the Chinese are not losing any real fighting manpower, but are taking on "a leaner look."

Vice Minister Zhu says the danger of war with the Soviets "still exists," although the forces for peace are making "great progress." He expresses concern about the threat of a U.S.-Soviet arms race and explains China is unhappy about the U.S. military buildup.

Zhu used an old proverb to describe the situation: "The boat rises with the rising water. When the water rises the boat will also rise."

In contrast with the way it regards the U.S. and U.S.S.R., China looks at Canada with a good deal of affection. Says one diplomat, "The maple leaf is very bright and shiny."

One reason is Norman Bethune, a Canadian chest surgeon, who aided Mao Zedong during the Communist revolution, but later died of blood poisoning.

Mao wrote an essay about him and, during the Cultural Revolution, it was one of three or four such essays that had to be memorized.

Says one Canadian official, "it was the best public relations job we ever did, and it didn't cost us a cent."

In addition, Canada established diplomatic relations early with Beijing, backed its admission to the United Nations, never set up "colonies" here, has supplied the country with wheat since 1960, when the Chinese were starving, has provided high-technology goods and, as one official put it, "they have nothing to fear from us."

Canada has nine officials in China to promote trade and to advise the Chinese on how to sell in Canada.

CHINA A MIX OF OLD, NEW LIFESTYLES

(By Alan Emory)

BEIJING.—China is a huge paradox.

In the major cities skyscrapers and hotels are rising from the ground like trees in a forest.

Consumer markets have become important.

Yet there was a burst of publicity about the first modification of yoke for oxen in 3,000 years.

This is a country in which Xue Yongxing, deputy editor of the Xinhu News Agency's international news department and a former student at the London School of Economics, lives with his wife and 7-year-old daughter in one room and shares a kitchen and bathroom with two other families.

Despite the massive challenges facing today's China, the country has made significant progress, and the reforms instituted by Deng Xiaoping are enjoying widespread popular support.

China is trying to deal with a huge population, the problem of centralized control, a shifting role of the Communist Party in the factory and on the farm, with foreign technology and culture and the issues of education and transportation.

Comments one western ambassador, "Deng recognizes he is not immortal. He has put in a team to carry out his plans."

Bureaucrats are becoming cautious. The military finds its resources taking a back seat to the economy.

Some experts say it is matter of "pace, rather than direction," and that China will continue to tilt toward the United States and Europe for economic and strategic reasons.

The Chinese insist that their reforms will be carried through to the end as the only way to stimulate the economy and that reports of a slowdown create an inaccurate impression.

This year, they say, the policy is to consolidate and digest the reforms and accumulate the benefits, eliminate the "negative aspects" and give independent enterprises more automony.

The Chinese reject the observation that the reforms have weakened the role of the Communist Party and assert the party may emerge stronger. They say the party has leaders present in all enterprises, and, while it is wrong for them to interfere in the day-to-day running of a plant, it is proper for them to tell managers to do a good job of operation.

There should be more consultation between party officials and plant managers, they add, but they agree that "having two bosses" is not practical.

Party neighborhood committees have been "kicked out" of the farms, but that was apparently because they had no grasp for agriculture.

Du Ren Sheng, director of the State Council's Rural Development Research Center, said "rigid" systems must be eliminated and replaced by "market forces."

He said a progressive income tax might soon be introduced, although that did not mean the country was returning to "egalitarian practices."

While the Chinese obviously have a much warmer feeling for the West, both as a source of help to bring the country into the 1980s and as a buffer to the threat of the Soviet Union, there are still reservations.

One diplomat says, "They feel in their hearts the West owes them something, that the West forced opium on them, that European colonies pressed China into degradation, that the West did not help much in fighting the Japanese in World War II and that many major Western nations did not accept the Communist revolution for a long time."

In addition, he notes, there is the historic Chinese sense of superiority, the Middle Kingdom with a long history of civilization.

To show how foreign visitors "lap that up," he acidly told the story of a western businessman whose speech gushed over the Chinese "love of life" and "love of family."

The diplomat wondered how that squared with years of dead bodies in the streets and forced abortions.

Nevertheless, most China watchers agree, the modernization will continue, despite "zigs and zags, fits and starts" and a certain amount of corruption as the country takes a rigid authoritarian economic system apart and tries to discover the ingredients to make it more responsive to market forces.

One likened the problem to "unscrewing an appliance, and a spring you didn't notice goes whizz and flies out of sight." It takes a replacement part to make the appliance work.

Members of Chinese think tanks concede, "We are going to make mistakes," but say, "We hope to catch them and back off and start again."

With added economic freedom here come better pay, more responsibility, a better lifestyle and increasing social and political pressures. The operator of the village bicycle shop is doing well, but wants to move to the city to make more money.

China would like to halt the move to the already overcrowded cities and prevent the proliferation of slums.

Some Chinese have voiced unhappiness with the system and the lack of labor mobility.

Corruption is spurred by party officials who see others doing well and want to get a piece of the action, though one expert insisted there was no "blatant squeeze money under the table."

The greening of China is not just economic or political. Grass and trees have brought color to the landscape, as western-style dress has brought color to the population.●

NAUM AND INNA MEIMAN: ONE WISH

● Mr. SIMON. Mr. President, Naum and Inna Meiman continue to languish in their Moscow apartment. The Meimans are a warm and caring couple who have been denied exit visas

from the Soviet Union for no justifiable reason.

The Meimans are elderly and ailing. Their one wish is to live out what is left of their lives together free in the West. Naum is 74 and desperately wants to see his daughter, Olga, who lives in the United States. Inna urgently needs cancer treatment only available in the West.

We cannot allow the Soviets to treat the Meimans like captives. This infringement of their rights cannot be tolerated any longer.

The Meimans deserve the best that life can offer, and I strongly encourage the Soviet authorities to grant them permission to emigrate.●

POSTPONEMENT OF EULOGY PERIOD FOR THE LATE SENATOR JOHN P. EAST

Mr. LUGAR. I ask unanimous consent that the time set aside for Senators to eulogize the late Senator John P. East for tomorrow be postponed to occur from 10 a.m. to 12 noon on Tuesday, July 22.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THURSDAY

RECESS UNTIL 10 A.M. TOMORROW

Mr. LUGAR. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Thursday, July 17, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. LUGAR. Mr. President, further, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, Senator PROXMIRE, Senator MELCHER, Senator SASSER, and Senator HARKIN.

Mr. BYRD. Mr. President, reserving the right to object, I will not object.

Mr. LUGAR. Mr. President, I ask that my unanimous-consent request be amended that in the case of Senator PROXMIRE, 15 minutes be allotted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader.

Mr. LUGAR. I recall the request by the distinguished Senator from Wisconsin. I am certain my colleague will be pleased to accommodate him.

ROUTINE MORNING BUSINESS

Mr. LUGAR. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LUGAR. Mr. President, following morning business, it will be the intention of the majority leader to turn to Calendar No. 645, Senate bill 2129, the risk retention bill. Amendments are expected to be offered to the bill. Therefore, votes will occur during the session of the Senate on Thursday.

By unanimous consent, at 2 p.m. tomorrow, a rollcall vote will occur on the United States-United Kingdom extradition treaty.

□ 1940

Also, the Senate could turn to the joint resolution and the concurrent resolution coming from the House dealing with the March sequester order.

The Senate could also turn to any other Legislative or Executive Calendar items cleared for action.

Mr. President, does the Democratic leader have anything further?

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader [Mr. LUGAR] for his courtesy. I have nothing I would suggest for further action today.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I suggest the abence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. LUGAR. Mr. President, I move, in accordance with the previous order, that the Senate now stand in recess until the hour of 10 a.m., Thursday, July 17, 1986.

The motion was agreed to and the Senate, at 7:44 p.m., recessed until Thursday, July 17, 1986, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1986:

DEPARTMENT OF JUSTICE

Stephen S. Trott, of California, to be Associate Attorney General, vice Arnold I. Burns.

William F. Weld, of Massachusetts, to be an Assistant Attorney General, vice Stephen S. Trott.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of sections 8067, title 10 United States Code, to perform duties indicated with grade and date or rank to be determined by the Secretary of the Air Force provided that in no case shall any of the following officers be appointed in a grade higher than lieutenant colonel.

DENTAL CORPS

Benjamin P. Graham, xxx-xx-xxxx

MEDICAL CORPS

Bruce A. Oksol, xxx-xx-xxxx
Patricia H. Sanner, xxx-xx-xxxx

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

MEDICAL CORPS

To be colonel

Kenneth Klint, xxx-xx-xxxx
Michael G. Wise, xxx-xx-xxxx

To be major

John R. Billingsley, xxx-xx-xxxx
Garrison V. Morin, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Roy A. Rosenquest, Jr., xxx-xx-xxxx

To be major

Benjamin P. Graham, xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be colonel

Abrahams, Lewis J., xxx-xx-xxxx
Blosser, Fred M., xxx-xx-xxxx
Buchanan, William E., Jr., xxx-xx-xxxx
Burgess, John O., xxx-xx-xxxx
Daniel, Benge R., Jr., xxx-xx-xxxx
Dyer, Charles L., xxx-xx-xxxx
Eshelman, Enos G., Jr., xxx-xx-xxxx
Faner, Richard M., xxx-xx-xxxx
Hand, Ronald E., xxx-xx-xxxx
Hansen, Steven C., xxx-xx-xxxx
Hanson, Robert W., xxx-xx-xxxx
Howard, Clinton W., III, xxx-xx-xxxx
Howard, James H., xxx-xx-xxxx
Hurd, Joseph J., xxx-xx-xxxx
Klish, John W., xxx-xx-xxxx
Kubinski, Eddie A., xxx-xx-xxxx
Mansfield, Michael J., xxx-xx-xxxx
Matiasevich, Laurie N., Jr., xxx-xx-xxxx

Mikitka, Michael A., xxx-xx-xxxx
Miller, Ronald I., Jr., xxx-xx-xxxx
Mills, Michael P., xxx-xx-xxxx
Murata, Steven M., xxx-xx-xxxx
Ogletree, Robert C., Jr., xxx-xx-xxxx
Ortiz, Ramon F., xxx-xx-xxxx
Preisch, James W., xxx-xx-xxxx
Rapley, John W., xxx-xx-xxxx
Raybeck, Gerald E., xxx-xx-xxxx
Regent, Howard S., xxx-xx-xxxx
Rogerson, John N., xxx-xx-xxxx
Rome, William J., xxx-xx-xxxx
Ruemping, Dale R., xxx-xx-xxxx
Savage, Michael G., xxx-xx-xxxx
Schrader, James A., xxx-xx-xxxx
Schutte, Dale A., xxx-xx-xxxx
Seek, Brian J., xxx-xx-xxxx
Shaner, John W., xxx-xx-xxxx
Snell, Gerald M., xxx-xx-xxxx
Walker, Robert C., Jr., xxx-xx-xxxx
Walker, William A., III, xxx-xx-xxxx
Wilcox, Charles W., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Abdou, Fathy A., xxx-xx-xxxx
Abernathy, George T., xxx-xx-xxxx
Ankov, Donald H., xxx-xx-xxxx
Ansell, Lee V., xxx-xx-xxxx
Arrants, Charles D., xxx-xx-xxxx
Aycock, Thomas M., xxx-xx-xxxx
Banas, William R., xxx-xx-xxxx
Baugh, Eric R., xxx-xx-xxxx
Bell, Christopher P., xxx-xx-xxxx
Bergman, Ronald J., xxx-xx-xxxx
Bissell, David D., xxx-xx-xxxx
Brown, William H., xxx-xx-xxxx
Button, Jesse H., xxx-xx-xxxx
Campbell, James C., xxx-xx-xxxx
Carrizales, Arthur, xxx-xx-xxxx
Clardy, William F., xxx-xx-xxxx
Clarke, William R., xxx-xx-xxxx
Conage, Thomas J., Sr., xxx-xx-xxxx
Darling, David H., xxx-xx-xxxx
David, Lydia D., xxx-xx-xxxx
Davidson, Thomas W., xxx-xx-xxxx
Dennis, Larry G., xxx-xx-xxxx
Dodd, Lloyd E., Jr., xxx-xx-xxxx
Dozier, Kenneth C., xxx-xx-xxxx
Duffy, Gloria B., xxx-xx-xxxx
Edwards, Charles H., xxx-xx-xxxx
Eibling, David E., xxx-xx-xxxx
Erickson, Donn R., xxx-xx-xxxx
Ficke, Albert J., xxx-xx-xxxx
Fornal, Robert E., xxx-xx-xxxx
Franks, Dennis W., xxx-xx-xxxx
Fronefield, Helen P., xxx-xx-xxxx
Gorman, Richard J., xxx-xx-xxxx
Hall, Dudley W., xxx-xx-xxxx
Hanlon, Thomas M., Jr., xxx-xx-xxxx
Hardy, Marion J., xxx-xx-xxxx
Hassan, Robert M., xxx-xx-xxxx
Hui, Noel T., xxx-xx-xxxx
Ingle, Robert M., Sr., xxx-xx-xxxx
Jacobson, James M., xxx-xx-xxxx
Jansen, George A., xxx-xx-xxxx
Joyner, Ira T., Jr., xxx-xx-xxxx
Kayson, Matthew A., xxx-xx-xxxx
Kunkel, Alan R., xxx-xx-xxxx
Lambert, Harry M., xxx-xx-xxxx
Locker, Dan L., xxx-xx-xxxx
Marsh, John R., xxx-xx-xxxx
Martin, Thomas A., III, xxx-xx-xxxx
Matamoros, Aurelio, Jr., xxx-xx-xxxx
Mays, Steven C., xxx-xx-xxxx
McCarthy, John P., xxx-xx-xxxx
McDonald, Stephen D., xxx-xx-xxxx
McLaughlin, Chester S., Jr., xxx-xx-xxxx
Miller, Edward A., xxx-xx-xxxx
Mills, Harry Brooker, II, xxx-xx-xxxx
Mumm, Alan H., xxx-xx-xxxx
Murphy, Thomas F., xxx-xx-xxxx
Obenza, Nelia J., xxx-xx-xxxx
Ohagan, Richard B., xxx-xx-xxxx
Percy, James R., xxx-xx-xxxx
Perkins, Edward W., xxx-xx-xxxx
Perlstein, Robert S., xxx-xx-xxxx
Poel, Richard A., xxx-xx-xxxx
Pueblatarilonte, Jose L., xxx-xx-xxxx
Rake, Geoffrey W., Jr., xxx-xx-xxxx
Reeves, Glen I., xxx-xx-xxxx
Rostermundt, Gene E., xxx-xx-xxxx
Sanda, Venugopala R., xxx-xx-xxxx
Seaman, John M., xxx-xx-xxxx
Shelat, Sudhir P., xxx-xx-xxxx
Sinha, Nanda K., xxx-xx-xxxx
Spiegel, Robert S., xxx-xx-xxxx
Sterner, Paul E., xxx-xx-xxxx
Stottlemyer, Keith D., xxx-xx-xxxx
Swiney, Merrill F., xxx-xx-xxxx
Tolley, Douglas G., Jr., xxx-xx-xxxx
Wainner, Kenneth F., Jr., xxx-xx-xxxx
Walker, Wayne T., xxx-xx-xxxx
Welling, David R., xxx-xx-xxxx
Whittle, Edward, xxx-xx-xxxx
Winters, Adam D., III, xxx-xx-xxxx
Woods, Wayne G., xxx-xx-xxxx
Zimmerman, Alfred M., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be lieutenant colonel

Anderson, Gary A., xxx-xx-xxxx
Baiorunos, Barry J., xxx-xx-xxxx
Bell, Leroy, xxx-xx-xxxx
Bierman, Thomas A., xxx-xx-xxxx
Bloxom, Robert M. Jr., xxx-xx-xxxx
Brosnan, Paul J., xxx-xx-xxxx
Bursinger, James C., xxx-xx-xxxx
Caldon, William P., xxx-xx-xxxx
Casey, Larry J., xxx-xx-xxxx
Chema, Michael H., xxx-xx-xxxx
Collins, Terry E., xxx-xx-xxxx
Copenhaver, Donald J., xxx-xx-xxxx
Corley, John M., xxx-xx-xxxx
Cornelius, James D., xxx-xx-xxxx
Crooks, Williams E., xxx-xx-xxxx
Duckett, Mark A., xxx-xx-xxxx
East, John R. III, xxx-xx-xxxx
Edwards, Donald B., xxx-xx-xxxx
Ellison, Larry J., xxx-xx-xxxx
Elwell, Charles W. Jr., xxx-xx-xxxx
Endter, Paul D., xxx-xx-xxxx
Falsey, David W., xxx-xx-xxxx
Finlayson, Richard S., xxx-xx-xxxx
Finnessy, John J., xxx-xx-xxxx
Florence, Michael J., xxx-xx-xxxx
Floyd, Claborne L., xxx-xx-xxxx
Fuhs, Quentin M., xxx-xx-xxxx
Golden, Gary J., xxx-xx-xxxx
Graham, Benjamin P., xxx-xx-xxxx
Graham, Garbeth S., xxx-xx-xxxx
Griffith, Carl M., xxx-xx-xxxx
Hagge, Mark S., xxx-xx-xxxx
Hall, Bruce K., xxx-xx-xxxx
Hatfield, John H., xxx-xx-xxxx
Hermesch, Charles B., xxx-xx-xxxx
Himan, Jeffrey L., xxx-xx-xxxx
Houston, Glen D., xxx-xx-xxxx
Knudson, Rodney C., xxx-xx-xxxx
Koerner, Harry W., Jr., xxx-xx-xxxx
Kyrios, Dean M., xxx-xx-xxxx
Lamb, Robert M., xxx-xx-xxxx
Levering, Nicholas J., xxx-xx-xxxx
Loeb, Andrew H., xxx-xx-xxxx
Mansueto, Michael A., xxx-xx-xxxx
McCartney, James G., xxx-xx-xxxx
McDonald, Daniel K., xxx-xx-xxxx
McDuffie, Michael W., xxx-xx-xxxx
Meng, Thomas R., Jr., xxx-xx-xxxx
Mohs, David T., xxx-xx-xxxx
Morgan, Richard A., xxx-xx-xxxx
Nation, Ivan E., xxx-xx-xxxx
Panzek, John T., xxx-xx-xxxx
Peterzen, Robert M., xxx-xx-xxxx
Pinkerton, Kenneth C., xxx-xx-xxxx
Robbins, James W., xxx-xx-xxxx
Robinson, Charles J., III, xxx-xx-xxxx
Sallen, Bruce T., xxx-xx-xxxx
Saunderson, John R., xxx-xx-xxxx
Schindler, William G., xxx-xx-xxxx
Schmeltzer, Lawrence D., xxx-xx-xxxx
Schmitt, Stephen M., xxx-xx-xxxx
Smartt, William H., IV, xxx-xx-xxxx
Snyder, James L., xxx-xx-xxxx
Soulen, Garrett C., xxx-xx-xxxx
Sprague, Donald M., xxx-xx-xxxx
Staley, Edward C., xxx-xx-xxxx
Steele, Richard H., xxx-xx-xxxx
Stenquist, Glenn R., xxx-xx-xxxx
Sutton, Thomas L., xxx-xx-xxxx
Tanaka, Wayne K., xxx-xx-xxxx
Tarsitano, Ben F., xxx-xx-xxxx
Tollefson, Robert C., xxx-xx-xxxx
Tuttle, Richard D., xxx-xx-xxxx
Warschaw, Alexander J., xxx-xx-xxxx
Wiley, Michael G., xxx-xx-xxxx
Wilson, William W., Jr., xxx-xx-xxxx
Wright, Edward F., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Abernathie, Gordon C., Jr., xxx-xx-xxxx
Acorda, Feliciano R., xxx-xx-xxxx
Aldana, Buenaventura Q., xxx-xx-xxxx
Amisial, Pierre A., xxx-xx-xxxx
Anthousis, John E., xxx-xx-xxxx
Arnold, Rudolph P., xxx-xx-xxxx
Artim, Richard A., xxx-xx-xxxx
Atwell, Dwayne H., xxx-xx-xxxx
Atwood, Hoarce D., xxx-xx-xxxx
Baldwin, Stephen W., xxx-xx-xxxx
Belarmino Jesus, B., xxx-xx-xxxx
Biesenbradley, Rita A., xxx-xx-xxxx
Blake, Winston H., xxx-xx-xxxx
Bonikowski, Frank P., xxx-xx-xxxx
Bost, James W., xxx-xx-xxxx
Brichta, Robert F., xxx-xx-xxxx
Briggs, Richard R., xxx-xx-xxxx
Burke, Robert Thomas, xxx-xx-xxxx
Calzado, Julieta M., xxx-xx-xxxx
Carson, Horace R., xxx-xx-xxxx
Christenson, Paul J., xxx-xx-xxxx
Church, Tommie G., xxx-xx-xxxx
Coffman, Avon C., II, xxx-xx-xxxx
Collins, Robert L., xxx-xx-xxxx
Contiguglia, Jospeh J., xxx-xx-xxxx
Daly, Mary B., xxx-xx-xxxx
Dassah, Harry, xxx-xx-xxxx
Davis, Haywood H., Jr., xxx-xx-xxxx
Delagarza, Vincent W., xxx-xx-xxxx
Desai, Kaushik R., xxx-xx-xxxx
Dickey, Robert P., xxx-xx-xxxx
Doyle, John E., III, xxx-xx-xxxx
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Abbott, Steven W., xxx-xx-xxxx
Antinopoulos, Peter C., xxx-xx-xxxx
Bedell, Charles E., xxx-xx-xxxx
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Thompson, Craig F., xxx-xx-xxxx
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Thomsen, Kenneth S. xxx-xx-xxxx
Tisdale, Bradford W., xxx-xx-xxxx
Todaro, Robert F., xxx-xx-xxxx
Tomlinson, Daniel A., xxx-xx-xxxx
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Trumbo, John R., xxx-xx-xxxx
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Varner, Donald R., Jr., xxx-xx-xxxx
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IN THE AIR FORCE

The following cadets, U.S. Air Force Reserve Officers Training Corps, for appointment in the Regular Air Force in the grade of second lieutenant under the provisions of section 531, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

Adames, Michael F., xxx-xx-xxxx
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Addicott, Ronald L., xxx-xx-xxxx
Alexander, Robert M., xxx-xx-xxxx
Allen, Bradley K., xxx-xx-xxxx
Andersen, John E., xxx-xx-xxxx
Anderson, Reid R., xxx-xx-xxxx
Atkinson, Leslie C., xxx-xx-xxxx
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Bagley, Daniel T., xxx-xx-xxxx
Baker, Robert P., xxx-xx-xxxx
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Barker, Patrick K., xxx-xx-xxxx
Bassette, Roy D., III, xxx-xx-xxxx
Bate, Kevin D., xxx-xx-xxxx
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Berry, Christopher A., xxx-xx-xxxx
Bishop, Jeb S., xxx-xx-xxxx
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Bitanga, Dulce D.M., xxx-xx-xxxx
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Boone, Steven E., xxx-xx-xxxx
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IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3383:

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To be colonel

Anderson, William R., xxx-xx-xxxx
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Jackson, James A., xxx-xx-xxxx
Mallett, Gerald G., xxx-xx-xxxx
Page, Robert S., xxx-xx-xxxx
Rodman, Glen A., Jr., xxx-xx-xxxx
Taylor, Loren L., xxx-xx-xxxx
Thompson, Luther C., xxx-xx-xxxx

CHAPLAIN

To be colonel

Entwistle, Daniel A., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Hakim, Simon Z., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Gray, Willard P., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Armour, Raymond L., xxx-xx-xxxx
Beatty, Robert R., xxx-xx-xxxx
Blacksher, William, xxx-xx-xxxx
Bollo, Conrad A., xxx-xx-xxxx
Canepa, Joseph F., xxx-xx-xxxx
Cramer, George H., xxx-xx-xxxx
Dearing, Laurence S., xxx-xx-xxxx
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Slade, Randall E., xxx-xx-xxxx
Sullivan, William F., xxx-xx-xxxx
Wightman, Richard O., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Rowan, Edward L., xxx-xx-xxxx
Snyder, Howard M., xxx-xx-xxxx
Winn, Richard H., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

O'Donnell, Carol A., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3370:

ARMY PROMOTION LIST

To be colonel

Crowley, Robert L., xxx-xx-xxxx
Davenport, William, xxx-xx-xxxx
Greaves, John D., III, xxx-xx-xxxx
Harry, Joe E., xxx-xx-xxxx
Hasenei, Gordon J., xxx-xx-xxxx
Hollenbeck, Robert, xxx-xx-xxxx
Irby, Thomas M. Jr., xxx-xx-xxxx
Johnson, Donald L., xxx-xx-xxxx
Klein, Kenneth C., xxx-xx-xxxx
Kokalas, Joseph J., xxx-xx-xxxx
Lemp, James F., xxx-xx-xxxx
Livingstone, John H., xxx-xx-xxxx
Myers, Roger A., xxx-xx-xxxx
Nance, Daniel R., xxx-xx-xxxx
O'Neal, Harold G., xxx-xx-xxxx
Prante, Howard J., xxx-xx-xxxx
Rogers, Lee E., xxx-xx-xxxx
Schultz, John J., xxx-xx-xxxx
Sowder, Donald D., xxx-xx-xxxx
Stoneman, Kent, xxx-xx-xxxx
Suarez, Jose A., xxx-xx-xxxx
Sullivan, Charles D., xxx-xx-xxxx
Theisen, Robert C., xxx-xx-xxxx
Vachon, Reginald I., xxx-xx-xxxx
Welch, Charlie G., xxx-xx-xxxx
Winters, Ross V., xxx-xx-xxxx
Wroblewski, Ralph H., xxx-xx-xxxx

CHAPLAIN

To be colonel

Curry, Cecil B., xxx-xx-xxxx

DENTAL CORPS

To be colonel

Debs, John F., xxx-xx-xxxx
Desjardins, Ronald, xxx-xx-xxxx
Linhart, Donald S., xxx-xx-xxxx
Pearson, Craig D. xxx-xx-xxxx
Petruzillo, Michael, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Campbell, Selma R., xxx-xx-xxxx
Modarelli, Robert O., xxx-xx-xxxx
Segli, Floyd R., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Bauscher, William A., xxx-xx-xxxx
Linder, William W., xxx-xx-xxxx
Seng, Barry S., xxx-xx-xxxx
Smith, Robert G., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

Bryan, Leland W., xxx-xx-xxxx
Carson, James O., III, xxx-xx-xxxx
Efird, Crayon C., xxx-xx-xxxx
Fiore, Francis A., xxx-xx-xxxx
Funk, Leonard L., xxx-xx-xxxx
Garcia, Jenaro A., xxx-xx-xxxx
Golden, John C., xxx-xx-xxxx
Hurst, Edward J., xxx-xx-xxxx
Kramer, Willard S., xxx-xx-xxxx
Lamborn, George L., xxx-xx-xxxx
Lindenau, Joern N., xxx-xx-xxxx
Lindsey, Edward G., xxx-xx-xxxx
Mackey, Walter L., xxx-xx-xxxx
Majors, David L., xxx-xx-xxxx
McCarthy, Kevin P., xxx-xx-xxxx
Meinerth, Barry R., xxx-xx-xxxx
Parkman, William D., xxx-xx-xxxx
Perry, Dennis R., xxx-xx-xxxx
Robbins, Billy R., xxx-xx-xxxx
Robinson, Raymond C., xxx-xx-xxxx
Ross, Dennis M., xxx-xx-xxxx
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Slattery, Stephen M., xxx-xx-xxxx
Sweeney, Thomas, xxx-xx-xxxx
Trimble, William L., xxx-xx-xxxx
Vecchiarello, Frank, xxx-xx-xxxx
Washburn, Ronald G., xxx-xx-xxxx
Welchman, Allan R., xxx-xx-xxxx
Wiitala, Donald E., xxx-xx-xxxx
Williams, Robert D., xxx-xx-xxxx
Winkler, Edward H., xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Bender, Gilbert L., xxx-xx-xxxx
Pierce, David W., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Blaumeiser, Arlene., xxx-xx-xxxx
Johnson, Donald L., xxx-xx-xxxx
O'Neil, James A., xxx-xx-xxxx
Peck, Teri F., xxx-xx-xxxx
Rubin, Ned E., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Keary, George T., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Calverley, Roderick, xxx-xx-xxxx
Gerber, Carl J., xxx-xx-xxxx
Holt, George R., xxx-xx-xxxx
Leslie, James R., xxx-xx-xxxx
Thomason, William B., xxx-xx-xxxx
Tint, Khin M., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Alcala, Jose G., xxx-xx-xxxx
Baker, Ralph A., xxx-xx-xxxx
Daniel, William G., II, xxx-xx-xxxx
Hill Richard C., xxx-xx-xxxx
Rayl, Charles R., xxx-xx-xxxx
Ritter, Ronald L., xxx-xx-xxxx
Ward, Thomas E., xxx-xx-xxxx
Williams, Addison K., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Wells, James R., Jr., xxx-xx-xxxx

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3359:

MEDICAL CORPS

To be colonel

Leffik, Martin I., xxx-xx-xxxx
Oetgen, William J., xxx-xx-xxxx
Winkel, Craig, xxx-xx-xxxx

To be lieutenant colonel

Nickel, Gary W., xxx-xx-xxxx
Stock, Margaret O., xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Wednesday, July 16, 1986*

The House met at 10 a.m.

The Reverend Monsignor Vincent D. Breen, superintendent of education, Diocese of Brooklyn, Brooklyn, NY, offered the following prayer:

Who are we, God, that You have done for us such great things? You have given us this great Nation where so many different peoples are made one. We can expect nothing, God, from ourselves for everything that we have comes from You. We are dependent on Your love and Your kindness.

Our life is Your gift, our Nation is Your grace.

Bless the Members of Congress here assembled and all the peoples of this Nation and this world.

Let us pray for all who are engaged in this work of government that they may never cease in their attempts to find peace and that there may be an end to injustice, to disregard for human life, and to senseless oppression of human beings.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 3838) "An act to reform the internal revenue laws of the United States," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. CHAFEE, Mr. WALLOP, Mr. LONG, Mr. BENTSEN, Mr. MATSUNAGA, Mr. BRADLEY, and Mr. MOYNIHAN, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4116) "An act to extend and improve the Domestic Volunteer Service Act of 1973," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mrs. HAWKINS, Mr. QUAYLE, Mr. KENNEDY, and Mr. DODD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4421) "An act to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mrs. HAWKINS, Mr. QUAYLE, Mr. STAFFORD, Mr. KENNEDY, Mr. DODD, and Mr. KERRY, to be the conferees on the part of the Senate.

REV. MSGR. VINCENT D. BREEN

(Mr. SOLARZ asked and was given permission to address the House for 1 minute.)

Mr. SOLARZ. Mr. Speaker, I was pleased to have played a role in making it possible for Monsignor Breen to deliver the invocation this morning.

Monsignor Breen is the superintendent of Catholic schools in the diocese of Brooklyn, which is the largest Catholic diocese in the country. He presides over 175 elementary schools, 23 secondary schools, with a student population of over 100,000.

He has become one of the leading spokesmen, not just in New York, but throughout the Nation for nonpublic education. But I think what makes Monsignor Breen so very special is the fact that he has not only been an able and articulate and persuasive advocate of his own constituency, but has also been able to understand the needs and been willing to speak out on behalf of public education and other constituencies as well.

I have been privileged to know and to work with Monsignor Breen over the course of the last decade. He began his career as an assistant pastor in a parish in the assembly district I used to represent. He has obviously gone on to much bigger and better things.

I consider him a very close friend, a model and an inspiration, someone whose life and whose career embody the most decent values, not only of his church, but of our country.

I commend to my colleagues in the Congress this very special human being who has graced us this morning with what I consider to be a very eloquent invocation.

CHILD CARE ACT OF 1986

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, as you know, many households in today's economy are headed by single parents or depend on two incomes for survival. In this regard, it is becoming increasingly difficult for children to be cared for at home during the day. This is particularly the case for many low-income Americans who are struggling both to participate in the work force and to afford the high cost of child care.

For this reason, Mr. Speaker, I urge you and our colleagues to endorse the Child Care Act of 1986, sponsored by a bipartisan group of 38 House Members. This act helps low-income families escape the day care dilemma by establishing a $200 million Federal program to help finance their child care. At the same time, this program is funded by eliminating the dependent care tax credit for high-income families, thereby making this proposal deficit-neutral. Finally, the act requires home care providers to register with appropriate State agencies, allowing parents to make informed decisions about where to place their children.

Mr. Speaker, I am sure you agree that it is a tragic situation when low-income Americans willing to work are denied an equal opportunity to become self-supporting because of unaffordable or inaccessible child care. We are able to help these people at no cost to our Federal budget, and I urge Members on both sides of the aisle to support this important legislation.

TRADE POLICY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I think over the break, a lot of us spent many, many hours in our district. My district of Denver, CO, has all sorts of economic problems.

One of my frustrations as a Member of Congress is that those economic problems are really beyond the control of this Congress in that they really are caught up in a trade policy, a trade policy dealing with mining and the dumping of minerals and commodities, a trade policy dealing with farm products. Again, we can compete with anybody with our farm products if we are allowed into their markets fairly.

The big problem that we have in this country is that most people do not even know who our trade negotiator is. That should be one of the most impor-

tant people in our Government, but I defy any of you to try and name him.

I think that they have a profile about belly high to a snake.

Second, it should not be a political person; it should be a very astute person. We can only have one person negotiating for this country. We cannot have 535 Members of Congress doing that.

So it pains me very much to see my district harmed by the lack of having a firm, strong trade negotiator and trade policy out there demanding that American products also be allowed into free markets.

So often the press frames this as free market versus protectionist. I do not think it is. Let us talk about reciprocal free markets.

I am a freetrader, but only if there is reciprocity involved. I hope the administration gets cranked up because I am tired of seeing my district harmed by this.

□ 1010

DENYING CONVICTED SPIES PROFITS FROM WRITING BOOKS AND ARTICLES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, today I am introducing legislation that would provide forfeiture of any profits made by anybody convicted of an offense involving national security. We have on the books the "Son of Sam" legislation which would prevent convicted murderers, while sitting in their cells after having terrorized the community and killing individuals, from making profits by writing books and articles about their ventures.

We think we ought to be able to do the same for the spy "Son of Sam." That treasonous nephew of Uncle Sam who would betray our entire Nation and then, while sulking in a cell, make profits from writing books and articles about how he betrayed the greatest country in the world.

DUMPING OF HIGH-LEVEL NUCLEAR WASTE IN NEVADA

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, the people of Nevada are beginning to wonder just what kind of conspiratorial game is being played within the bowels of the Department of Energy. Through an inquiry by Chairman MARKEY, DOE officials now admit that they have no working papers on the selection of the three potential sites for a high-level nuclear dump, and they have underestimated the cost of one site by $1 billion. We can no longer doubt that this process is stilted, biased, and dishonest. The three States that have been selected as potential sites were set up, and we in Nevada, the projected "cheapest" site for the dump, wonder if we have been set up the most.

I have already asked the President to remove Ben Rusche, the chief DOE instigator of this slanted selection process, from his post. I would ask my colleagues from Texas and Washington to join me in seeking Rusche's removal.

THE BEAM IN THINE OWN EYE

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, Aesop's tale about the lion and the wolf may help us understand the nature of the trade war between the United States and Canada.

The wolf was carrying a lamb which he had lifted from a flock, when the lion intercepted him and took away his prize. "You have no right to rob me of my property," cried the wolf. The lion laughed: "By which one of your tricks did you come to the rightful possession of your lamb?" As he devoured his prey, the lion concluded the dispute thus: "Insofar as my own lamb is concerned, it was a present from a dear friend."

For many years Canada has cleverly exploited the trick of the self-inflicted currency depreciation to gain illicit trade advantages, and now she is annoyed at the invasion of her turf by her powerful neighbor.

Mr. Speaker, the U.S. Government should set an example in being a leader, not a follower. It should spurn the cheap trick of deliberate currency debasement as unbecoming to a great trading nation, and let it remain the refuge of the weak, the undisciplined, and unprincipled. Competitive currency depreciations can never solve the world's trade problems.

Only a dollar with a stable gold content can.

BUREAUCRATIC MANEUVERING BLAMED FOR GEORGIA SCHOOL'S LOSS OF DESIGNATION AS A NATIONAL SCHOOL OF EXCELLENCE

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, the children of Mount Bethel Elementary School in Cobbs County, GA, are being held hostage today by the U.S. Department of Education.

Mount Bethel Elementary has been recognized by the Georgia Department of Education as 1 of 30 schools of excellence in our State. Yet—because of a complaint filed against the Cobb County School System in a case totally unrelated to this particular school—this model program is being denied designation as a national school of excellence.

This is a gross injustice to the students and faculty at Mount Bethel. The school clearly meets all criteria to be named a national school of excellence. This unwarranted action compromises the significance of the entire program.

I urge Secretary Bennett to immediately designate Mount Bethel Elementary as a national school of excellence. Years of dedication and hard work by parents, teachers, and students at Mount Bethel should not be invalidated by bureaucratic maneuvering.

TRAGEDY IN CHILE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I was horrified to hear of the death in Chile of Rodrigo Rojas. A 19-year-old Washington resident, Rojas and his companion were set afire by men in uniform who broke up a demonstration in Santiago.

Rojas died 4 days later. The United States has called for a thorough and impartial investigation by Chilean legal authorities into Rojas' death.

This tragedy is another reminder of Chile's abysmal human rights record. Although General Pinochet lifted the state of siege last year, people continue to be arrested without reason. Many are constantly harassed and abused. Others have been tortured and killed at the hand of the government.

Meanwhile, the dream of elections and a return to civilian rule are fading. The long scheduled plebiscite of 1989 will have only one candidate, nominated by the military. General Pinochet has already expressed his desire to win that election.

The deaths of Rodrigo Rojas and his companion were senseless and brutal. General Pinochet must step down, the reign of terror must end, and democracy must be restored in Chile.

CONDITIONING U.S. FOREIGN AID TO COUNTRIES WHERE ILLICIT DRUGS ARE PRODUCED

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, our Nation has been shocked by the cocaine-related deaths of two prominent athletes. From every quarter, we are summoned to launch a national cru-

sade against the insidious proliferation of drug abuse, and particularly cocaine.

Last year, I worked for passage of an amendment to address an important element of this problem.

We reduced our foreign aid to Bolivia by $7 million with specific language, noting their failure to abide by agreements with the United States to eliminate their production of narcotics. The Ambassador from Bolivia visited my office at that time and begged me to restore the funds. He warned me that the Bolivian Government could fall without this needed U.S. support.

His pleas fell on deaf ears. Bolivia is the source of one-half of the cocaine which enters the United States. By conditioning our aid, we sent a message to Bolivia to abide by their agreements with the United States to eradicate their cocaine operations or lose our support.

Recent news that Bolivia has now called on the United States to help eradicate the illegal cocaine production shows that this policy can work.

Addressing the supply of narcotics is only half of the equation, but our experience with Bolivia shows that the United States should steadfastly refuse to send foreign aid to nations whose export of narcotics to the United States is corrupting and killing our children.

THE CONTADORA PEACE PROCESS: NO SOLUTION

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, critics of administration policy in Central America often refer to the Contadora peace process as the solution to the crisis facing us in the region. They seem to imply that negotiation of an agreement among the nations in Central America is an end in itself, that achieving an agreement will, by itself, bring peace to the region.

Costa Rican Foreign Minister Rodrigo Madrigal disputes that notion, and I believe his opinion is worth remembering as we continue to seek peace in Central America.

In reference to a recent Nicaraguan announcement that it would sign a Contadora Peace Act, Foreign Minister Madrigal says:

To sign a peace act without the verification and control mechanisms is to sign a dead letter. We cannot sign just to sign, and we cannot sign and leave for later negotiations such important topics as security, verification, and control.

The Costa Rican Foreign Minister added:

The Peace Act should be an entirety that includes commitments and mechanisms to fulfill and follow upon those commitments, and Nicaragua has not said that it commits itself to signing the act as an entirety.

PAKISTAN'S DEVELOPMENT OF NUCLEAR WEAPONS

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, news reports yesterday indicate that Pakistan has either crossed the nuclear threshold or is teetering on the edge of constructing a nuclear weapon. Should we feel threatened by this development? Yes. Should we feel betrayed by these reports? Yes.

Pakistan lies in the heart of one of the most volatile regions of the world. Its neighbor and historic adversary, India, has already detonated a nuclear explosive and both nations have refused to sign the Non-Proliferation Treaty renouncing the use of nuclear weapons. A Pakistani "bomb" would seriously jeopardize the uneasy stability of the region and threaten American security interests. To allay Pakistani security fears, the United States has pumped billions of dollars into Pakistan's Defense programs over the past 6 years. But always on the understanding that Pakistan would not pursue the nuclear option. Yesterday's report suggests a grave betrayal of that understanding.

I call upon the President to use his meetings this week with the Pakistani Prime Minister as an opportunity to express American outrage at this development and to make perfectly clear that the United States will not be in the business of financing a Pakistani nuclear weapons program.

GUARANTEEING A 1987 COLA FOR SOCIAL SECURITY RECIPIENTS

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, I am introducing a bill today that guarantees Social Security beneficiaries a cost-of-living adjustment [COLA] next January.

If the rate of inflation does not increase more than 3 percent this year, seniors will not receive a COLA raise. Under present economic conditions such an increase appears unlikely.

Cuts in Federal programs and skyrocketing medical costs are eroding retirees incomes even though inflation as a whole has slowed.

If current inflation projections prove correct, seniors will not receive a COLA increase in January of 1988.

Seniors cannot be expected to live at the same income levels when the cost of essentials keeps going up. It is important to note that my bill does not award any new Social Security benefits; it merely allows COLA's to be paid this year rather than waiting to reach the arbitrary 3-percent inflation level. In fact, the budget plan passed by Congress assumes a 2 percent COLA in 1987.

I am calling on my colleagues to join me in preserving the financial security of our Nation's elderly.

□ 1020

PORNOGRAPHY COMMISSION: "A GLASS-BOTTOM BOAT TOUR OF THE HUMAN SEWERS"

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, the day that we left before this last break I introduced H.R. 5100, the Omnibus Family Decency Act, to try to put into law many of the recommendations of the Meese Commission on Pornography.

Pornography in this country has reached such vile proportions that one of the heads of the Commission described their 1½-year investigation on the Meese Commission as a "glass-bottom boat tour of the human sewers of this country."

Now, I realize with just 4½ weeks left before the August break and 4 more weeks when we come back, and with all of the legislation before us, there is not much that we can do in this remaining legislative session. But next year this Congress is going to have to face up to this problem of unbelievable horror and proportions.

The most repugnant aspect of pornography concerns the exploitation of children. If you were in the Kremlin and were part of their propaganda machine trying to convince your oppressed people that their lives are better than the United States, besides the drug problem in this country and the crime problem, you would point to the vile phenomenon of child pornography as one of the reasons that the West truly is a degraded civilization.

I hope that Members will reject the ACLU opinion that once child pornography is produced, once it is on film, in photographs, then you can traffic in it, distribute it, and it is somehow or other constitutionally protected free speech.

This is rubbish. It is probably the darkest hour in the entire history of the American Civil Liberties Union that they will protect the trafficking and distribution of child pornography. That is madness.

PRESIDENT REAGAN'S ACTION IN THE WAR ON DRUGS IN BOLIVIA DESERVES OUR SUPPORT AND COMMENDATION

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I do not often agree with President Reagan's military policy, but I strongly agree with the President in the use of force with the Bolivians to attack the weak link in the drug chain in Bolivia. The manufacturers are the ones that need to be eradicated. The President has acted wisely and decisively to use American forces in conjunction with the Bolivians to attack these manufacturers.

The Bolivians need our help. Frankly, the Bolivian soldiers and police are poorly paid and are poorly equipped. They are no match for the merchants of death in the jungle.

Bolivian society is dominated from top to bottom by cocaine traffickers. The war against drugs can and must be won, and if the United States is prepared to work with Bolivia and Colombia to use United States forces to eradicate these drug manufacturing facilities, we should commend the President and support him for this action.

Mr. Speaker, this is an important step forward, it deserves our support, and it deserves our continuing vigilance and resources.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON TOMORROW, JULY 17, 1986, DURING THE 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule on Thursday, July 17, to mark up the Money Laundering Control Act of 1986. The ranking minority member, Mr. WYLIE, concurs in this request.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

A VOTE TO OVERRIDE THE PRESIDENT'S VETO OF THE TEXTILE AND APPAREL TRADE ENFORCEMENT ACT

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the education and impulse of most Americans is to believe in the free market system. We're competitors; we're entrepreneurs; and we believe in a fair fight.

That's the way we try and work here at home. But globally, there comes a time, when we must question the ideology of free trade and deal with the reality of a world that does not share our belief.

That time is now. The bilateral textile and apparel trade agreement with Hong Kong, signed just last week, is not a feather in the cap of this administration and its trade representatives. And it's a blow to the 2 million Americans who still gain their livelihood from the manufacture, distribution, and sale of textiles and clothing made in the United States of America.

What the administration has done, in effect, is to give one of the top foreign exporters to the U.S. market a larger and larger share of our market over a 6-year period—above and beyond its record-setting year of 1985. Over the past 5 years, Hong Kong has increased its textile and apparel exports of the United States by 63 percent. This new agreement, allows them to continue this growth by allowing them to ship another 246 million square yards. This is a clear case of the rich getting richer at the expense of American workers.

It's time to halt the march of American jobs and American opportunities overseas. This isn't just a question of giving import relief to a single industry. It's a question of whether we'll wise up and stop giving away the kitchen sink.

We only need to look around us: to Europe, to Asia, to South America, to understand that we stand alone in delivery of our markets to heavily subsidized exports. As an industrial nation we must compete not only in the factory and in the market—but at the negotiation table, as well.

This recent trade agreement with Hong Kong clearly demonstrates failure to obtain even a marginally acceptable textile and apparel agreement. But we have another chance. On August 6, this House is again scheduled to vote to override the President's veto of H.R. 1562, the Textile and Apparel Trade Enforcement Act.

It's our best—and perhaps, last—chance of saving a great American industry. I strongly urge your support for this override. It's reasonable. It's desperately needed. And it will help our textile and apparel industry survive and thrive into the 1990's.

GRAMM-RUDMAN: THIS ONE CAN'T BE FIXED

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, it is often said, "If it ain't broke, don't fix it." But in the case of Gramm-Rudman, it is too broke to fix.

I urge my colleagues to abandon any plans to redraft Gramm-Rudman. Even if we solve the problem of the separation of powers—the very issue on which the Supreme Court brought this law down—the problem of delegation still remains.

Can this Congress delegate to a person or agency exclusively within the domain of the executive branch the authority to make cuts that we ourselves do not have the courage or diligence to vote upon? In its decision striking Gramm-Rudman down, the Supreme Court in a very poignant footnote said, "We are not answering that question."

So, sure enough, even if we fix Gramm-Rudman, it will be back in court. Litigation will require another 6 months before a final decision is rendered. And if the Court knocks down the bill a second time—which I think it could—this House and our country will certainly be worse off than they are now: We will have a $220 billion deficit instead of a $160 billion or $140 billion deficit.

If we want to cut the budget, which by all means we should do, let us step up to the batting cage and swing at the pitch. Let us hope we hit the ball. We may not get all the way to the arbitrary Gramm-Rudman number of $144 billion, given the slowing of the economy, but I am confident that this House, without any artificial mechanism, will truly reduce the deficit and reverse the old pattern of inevitable deficit increases.

Let us leave Gramm-Rudman alone. Let it die the death the Supreme Court has appropriately relegated it to. Let us put our energy into cutting the budget instead.

THE WAR ON DRUGS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the report in today's Baltimore Sun that the President has authorized the Army to send helicopters and men to assist the Bolivian Government in stamping out drug production in its central and northern areas is welcome news.

When I introduced legislation a few weeks ago to penalize nations which refused to reduce narcotics export to the United States, I urge the President to marshal our defense forces to participate in the very real war on drugs. In committing men and equipment to help in eradicating drug production at the source, the President has signaled for the whole world our national commitment to stamp out this plague.

With the advent of "crack" and custom-made narcotics, there can no longer be any doubt that we must commit the Nation to a massive attack on these pernicious drugs. There is no longer any room for half measures.

There is nothing—not diplomacy; not the economic interests of banks

which have delinquent loans in drug-producing countries; not the fear of offending friendly nations—which can justify anything less than attacks such as the President has authorized for Bolivia. I welcome the news. I thank the President and hope that this is the signal for the last and successful phase of the battle to eradicate the death-dealing narcotics which are weakening the Nation and killing our young.

AUTHORIZING DONATION OF CERTAIN NONFEDERAL LANDS WITHIN BOUNDARIES OF GETTYSBURG NATIONAL MILITARY PARK

Mrs. BURTON of California. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 483 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 483

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4259) to amend the Act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from California [Mrs. BURTON] is recognized for 1 hour.

Mrs. BURTON of California. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 483 is an open rule providing for the consideration of H.R. 4259, to authorize the donation of certain lands to the Gettysburg National Military Park in Pennsylvania. This rule allows 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. After general debate, the bill shall be considered for amendment under the 5-minute rule. Finally, after the amendments have been disposed of and the Committee rises, H.R. 4259 will be subject to one motion to recommit with or without instructions.

Mr. Speaker, this is a straightforward, open rule without any waivers on any of the legislative provisions in H.R. 4259. The purpose of H.R. 4259 is to provide authority for the National Park Service to accept a donation of 31 acres of land, identified as the "Taney Farm," to the existing Gettysburg National Military Park. This parcel has been identified as critical to maintaining the overall integrity of the military park and to preserving the primary topographical elements of this Civil War battlefield, as it was a staging area for Confederate troops during the historic battle of Gettysburg in 1863. It is expected that additional maintenance costs for this parcel will be nominal and that the Park Service budget for the battlefield will not be significantly affected by this acquisition.

H.R. 4259 has a broad base of support, from the Interior Committee, which reported it by voice vote, from 264 House Members who voted for it under suspension of the rules, and from the President who favors its adoption.

As you can see from what I have outlined, all conditions appear to be favorable for this acquisition and I hope my colleagues will agree by supporting this rule and final passage of H.R. 4259.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentlewoman from California has explained, this was before the House under suspension. It failed to get a two-thirds majority, and it was fully debated. Opposition arose from the gentleman from Pennyslvania [Mr. GOODLING].

I understand that an agreement has been reached, and when the measure reaches the floor of the House, it should not be controversial.

We all remember Gettysburg. We all remember the War Between the States and the blood that ran red in streams on that battlefield. And we know that the park is of great historical value.

The 31 acres will add to that.

I am happy that the gentleman from Pennyslvania has worked out his problems. I supported him on the suspension and will do so again if necessary.

Mr. Speaker, I have no further requests for time. I urge adoption of the rule and the passage of the bill, depending on the position of the gentleman from Pennyslvania [Mr. GOODLING].

Mr. Speaker, I yield back the balance of my time.

□ 1035

Mrs. BURTON of California. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 2, not voting 31, as follows:

[Roll No. 214]

YEAS—398

Akaka	Coyne	Gray (IL)
Alexander	Craig	Gray (PA)
Anderson	Crane	Green
Andrews	Crockett	Gregg
Annunzio	Daniel	Gunderson
Anthony	Dannemeyer	Hall (OH)
Applegate	Darden	Hall, Ralph
Archer	Daschle	Hamilton
Armey	Daub	Hammerschmidt
Atkins	Davis	Hansen
AuCoin	DeLay	Hartnett
Badham	Dellums	Hatcher
Bartlett	Derrick	Hawkins
Barton	DeWine	Hayes
Bateman	Dickinson	Hefner
Bates	Dicks	Hendon
Bedell	Dingell	Henry
Beilenson	DioGuardi	Hertel
Bennett	Dixon	Hiler
Bentley	Donnelly	Hillis
Bereuter	Dorgan (ND)	Holt
Berman	Dornan (CA)	Hopkins
Bevill	Dowdy	Horton
Biaggi	Downey	Howard
Bilirakis	Dreier	Hubbard
Bliley	Duncan	Huckaby
Boehlert	Durbin	Hughes
Boggs	Dwyer	Hunter
Boland	Dymally	Hutto
Boner (TN)	Dyson	Ireland
Bonior (MI)	Early	Jacobs
Bonker	Eckart (OH)	Jeffords
Borski	Eckert (NY)	Jenkins
Bosco	Edgar	Johnson
Boucher	Edwards (CA)	Jones (OK)
Boulter	Edwards (OK)	Jones (TN)
Boxer	Emerson	Kanjorski
Brooks	English	Kaptur
Broomfield	Erdreich	Kasich
Brown (CA)	Evans (IA)	Kastenmeier
Brown (CO)	Evans (IL)	Kennelly
Bruce	Fascell	Kildee
Bryant	Fawell	Kindness
Burton (CA)	Fazio	Kleczka
Burton (IN)	Feighan	Kolbe
Bustamante	Fish	Kolter
Byron	Flippo	Kostmayer
Callahan	Florio	Kramer
Carney	Foglietta	LaFalce
Carper	Foley	Lagomarsino
Carr	Frank	Lantos
Chandler	Franklin	Latta
Chappell	Frenzel	Leach (IA)
Cheney	Frost	Leath (TX)
Clay	Fuqua	Lehman (CA)
Clinger	Gallo	Lehman (FL)
Coats	Garcia	Lent
Cobey	Gaydos	Levin (MI)
Coble	Gejdenson	Levine (CA)
Coelho	Gekas	Lewis (CA)
Coleman (MO)	Gephardt	Lewis (FL)
Coleman (TX)	Gibbons	Lightfoot
Collins	Gilman	Lipinski
Combest	Gingrich	Livingston
Conte	Glickman	Lloyd
Conyers	Gonzalez	Loeffler
Cooper	Goodling	Long
Coughlin	Gordon	Lott
Courter	Gradison	Lowery (CA)

Lowry (WA)	Penny	Smith, Robert (OR)
Lujan	Pepper	Snowe
Luken	Perkins	Snyder
Lundine	Petri	Solarz
Lungren	Pickle	Solomon
Mack	Porter	Spence
MacKay	Price	Spratt
Madigan	Pursell	St Germain
Manton	Quillen	Staggers
Markey	Rahall	Stallings
Marlenee	Rangel	Stangeland
Martin (IL)	Ray	Stark
Martin (NY)	Regula	Stenholm
Martinez	Reid	Stokes
Matsui	Richardson	Strang
Mavroules	Ridge	Stratton
Mazzoli	Rinaldo	Studds
McCain	Ritter	Stump
McCandless	Roberts	Sundquist
McCloskey	Robinson	Sweeney
McCollum	Rodino	Swift
McCurdy	Roe	Swindall
McDade	Roemer	Synar
McEwen	Rogers	Tallon
McGrath	Rose	Tauke
McHugh	Rostenkowski	Tauzin
McKernan	Roth	Taylor
McKinney	Roukema	Thomas (CA)
McMillan	Rowland (CT)	Thomas (GA)
Meyers	Rowland (GA)	Torres
Mica	Roybal	Towns
Michel	Rudd	Traficant
Miller (CA)	Russo	Traxler
Miller (OH)	Sabo	Valentine
Miller (WA)	Savage	Vander Jagt
Mineta	Saxton	Vento
Moakley	Schaefer	Visclosky
Molinari	Scheuer	Volkmer
Mollohan	Schneider	Vucanovich
Monson	Schroeder	Walgren
Montgomery	Schuette	Walker
Moody	Schulze	Watkins
Moorhead	Schumer	Waxman
Morrison (CT)	Seiberling	Weber
Mrazek	Sensenbrenner	Weiss
Murphy	Sharp	Wheat
Murtha	Shaw	Whitley
Myers	Shelby	Whittaker
Natcher	Shumway	Whitten
Neal	Shuster	Wilson
Nelson	Sikorski	Wirth
Nichols	Siljander	Wise
Nielson	Sisisky	Wolpe
Nowak	Skeen	Wortley
Oakar	Skelton	Wright
Oberstar	Slattery	Wyden
Obey	Slaughter	Wylie
Olin	Smith (FL)	Yates
Ortiz	Smith (IA)	Yatron
Owens	Smith (NE)	Young (AK)
Oxley	Smith (NJ)	Young (FL)
Packard	Smith, Denny (OR)	Young (MO)
Panetta	Smith, Robert (NH)	Zschau
Pashayan		
Pease		

NAYS—2

Fields	Hyde

NOT VOTING—31

Ackerman	Ford (TN)	Morrison (WA)
Aspin	Fowler	O'Brien
Barnard	Grotberg	Parris
Barnes	Guarini	Torricelli
Breaux	Hoyer	Udall
Campbell	Jones (NC)	Weaver
Chapman	Kemp	Whitehurst
Chappie	Leland	Williams
de la Garza	Mikulski	Wolf
Fiedler	Mitchell	
Ford (MI)	Moore	

□ 1055

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 483 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4259.

IN THE COMMITTEE OF THE WHOLE

□ 1058

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4259) to amend the act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring back to the House H.R. 4259, which was sponsored by our able colleague, the gentleman from Pennsylvania [Mr. KOSTMAYER]. Initially it was considered under a cloud of misunderstanding, and I am pleased that it has now been cleared up, and that this measure is as it should have been, noncontroversial.

Mr. Chairman, this is a straightforward proposition which would authorize the donation, at no cost to the Federal Government, of a 31-acre parcel known at the "Taney Farm," for inclusion within Gettysburg National Military Park. The land would be donated by the nonprofit Gettysburg Battlefield Preservation Association.

Let me say to the Members of the House that solely on merit this bill deserves enactment. Unfortunately, some of the discussion that has previously taken place has lost sight of those facts.

This is not an indiscriminate addition to the Gettysburg National Military Park, rather it involves land that is important historically and geographically to the park. The Subcommittee on National Parks and Recreation received testimony form the National Park Service and others underscoring the strategic importance of the farm during the later part of the Battle of Gettysburg on July 2 and 3, 1863. Additionally, at 1978 report of the Advisory Council on Historic Preservation identified the Taney Farm as a "critical area."

Mr. Chairman, the legitimate and appropriate inclusion of the Taney Farm within Gettysburg National Military Park has become wrapped up in a dispute regarding the overall boundaries of the park. I want to point out to Members that the addition is within the congressionally authorized lands for the park as set forth in its 1895 enabling act.

In 1974, the National Park Service developed an administrative plan for the park's boundary that was a modification of the 1895 boundary map. This plan has served as an unofficial guide for the park's boundary for the last 12 years. It is important to note that the 1974 administrative plan for the park's boundary was never enacted by Congress. As such, the boundary provisions of the 1895 act, which include the Taney Farm, remain in force.

The National Park Service, which supports H.R. 4259, has authority to accept the Taney Farm donation under existing law but is hesitant to do so because of continuing questions regarding the overall boundary of the park. Because of those concerns we gave H.R. 4259 a full hearing so that there would be no misunderstanding about the legislative authority for including the Taney Farm within the park. Additionally, the National Park Service has recently undertaken a study of the historical lands associated with the Battle of Gettysburg to provide future guidance on where the park's boundary line should rest.

In reviewing whether to authorize the addition, the Committee on Interior and Insular Affairs was concerned not only with the park itself but the impact on the surrounding area. The facts of this review speak for themselves. This particular tract is historically and geographically appropriate to the park. The property will be conveyed to the Federal Government at no cost and it contains no structures that require perpetual care. Further, the addition will not detract from the local tax base, since the land is already tax-exempt because of its ownership by a nonprofit organization.

Mr. Chairman, I have been pleased to work with the gentlemen from Pennsylvania [Mr. KOSTMAYER and Mr. GOODLING] in resolving any outstanding questions regarding possible impacts of this measure on the surrounding community. Based on our understandings, I believe we can proceed with this measure in a more noncontroversial manner.

I urge adoption of H.R. 4259.

□ 1105

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4259 which authorizes the donation of a 31-acre land parcel to the National Park Service as an addition to the Gettysburg National Park.

While I strongly feel this bill should move forward, I certainly understand and share the concerns of the gentle-

man who represents the Gettysburg area, Mr. GOODLING. I believe that when considering the whole picture, rather than just this particular measure, Mr. GOODLING's concerns are definitely valid. Certainly as additional land is purchased and added to the park, the local tax base is adversely affected. The more the park expands, the greater the erosion of the tax base.

Unfortunately, Congress has never established a boundary for Gettysburg Park. The map associated with the 1895 authorizing legislation for the park did not clearly delineate the parcels to be included within the boundaries. This has resulted in a great deal of ambiguity as to the actual congressional intent when the park was created. Although an administration boundary was negotiated in 1974, it was never established by Congress. The land parcel included in H.R. 4259 is adjacent to the 1974 administrative boundary.

In order to clear up the confusion regarding the boundaries of the park and prevent future boundary disputes, I strongly believe that Congress should establish a permanent boundary for Gettysburg Park. I have been advised that the National Park Service is currently studying this issue and will submit recommendations to Congress this year. It is my hope that the study will be conducted in close consultation with all elected officials representing the Gettysburg area, including Mr. GOODLING. Furthermore, I would hope that Congress will take action on a permanent boundary proposal following completion of the study. Finally, I would urge that this body respect a freeze on further expansion of the park beyond the 1974 administrative boundary until a permanent boundary is thoroughly considered and established.

In closing, I am pleased that an agreement has been reached on this legislation. It is certainly a meritorious proposal and I strongly urge all of my colleagues to support its passage.

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER], a member of the committee and a key sponsor of this measure.

Mr. KOSTMAYER. Mr. Chairman, I want first to commend the gentleman from Minnesota [Mr. VENTO] who chairs the Subcommittee on National Parks and Recreation for the marvelous job he has done in bringing this bill to the floor, guiding it through the subcommittee and the full committee as well.

I also want to commend my colleague, the gentleman from Pennsylvania [Mr. GOODLING], who has represented his district and its interests so diligently in this matter and with whom I have now reached an agreement which will result in the passage of this legislation which I introduced on February 26, 1986.

Mr. Chairman, under the provisions of H.R. 4259, 31 acres will be added to the Gettysburg National Military Park at Gettysburg, PA. At that time the boundaries of the park will be frozen pending the outcome of a study currently being conducted by the National Park Service and scheduled to be completed by the end of this year.

Mr. Chairman, let me say that in my judgment the battle fought at Gettysburg in 1863 is one of the saddest and bloodiest chapters in the history of the Republic. It deserves to be commemorated. The Civil War itself in general and the battle of Gettysburg in particular represent I think a number of important notions, one of which is that the several States are inseparable, that they are whole. This is something we take for granted in 1986, but something which certainly was not taken for granted in 1863. It is what was at issue then, Mr. Chairman, what indeed was at stake.

This is what Lincoln himself was talking about at Gettysburg on November 19, 1863, when he returned to the scene of the battle and uttered these words, "testing whether this Nation or any other Nation so conceived and so dedicated can long endure." The endurance of that idea, was what those men fought and died for at Gettysburg, whether or not this Nation so conceived and so dedicated can long endure.

It did endure.

It continues to endure and this legislation will commemorate the struggle and sacrifices made on those three hot summer days during July 1863 in that small central Pennsylvania village where the forces of history came together and a nation and an idea prevailed through pure human sacrifice and courage.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, as I indicated when this bill came to the floor under suspension, I had no objections to the addition of 31 acres to the park, particularly 31 acres that had already been taken off the tax rolls. My objections were several others.

First of all, my objections dealt with what it does in relationship to a precedent, in relationship also to the 3,874 acres that were agreed to in the 1974 Senator Bible agreement, realizing that the organization which purchased this land at the request of the park superintendent has great ideas about how much more acreage should be added in order to commemorate this battle.

The 1974 agreement, as a matter of fact, indicated that this particular piece of land was not important. They said that the Taney Farm, I am saying, is not important, because when they transmitted to Congress their boundaries they indicated this land was not part of that portion.

Therefore, Senator Bible said that implicit in this approval is the firm understanding that the depicted boundaries will not be subject to change in the future.

You have to have lived in this area the last 20 or 30 or 40 years to understand why 95 percent of the people become very concerned when changes are made in these boundaries. They have watched all sorts of purchases made similar to this purchase. The park superintendent tells a group to go out and purchase this land because "I think it is important and you are a nonprofit historical organization. You go out and get it and someday we will take it off your hands because we will get Congress to do just that."

They have watched purchases made where the inflated price that was paid was unbelievable. I do not know where the people come from who determine what the price of the land is in Gettysburg, but the price becomes the price as you would buy it in Montgomery County or Fairfax County. They see that as something that they just do not understand, because they know they cannot buy it for farm land. They cannot buy it to develop because they cannot pay those kinds of prices.

Second, they have seen all sorts of arrangements made where the land is purchased at an inflated price and then they allow them to live there for 10 years. That is a great agreement. I would like to get some of those myself. Or another one is where the business was in bankruptcy, so they purchased it, the Federal Government, at a big price, allowed the person to stay another 10 years to operate this bankrupt operation. So they are very concerned.

I notice this organization that purchased this land says that they want to educate the public and join together with the public to determine the importance of some of the pieces of land there so that in the future there will not be any controversy.

The approach they have taken thus far is not an approach that is going to build up confidence in the people in Adams County. In fact, it has done just the opposite.

So I am hoping that with our colloquy today we will start the kind of arrangement with local and State officials that will as a matter of fact bring about a relationship that if there are pieces of land that are truly important, we should consider that.

Now, keep in mind they did not say in 1974 that this piece was. Keep in mind that those who are historians and those who will do anything as a nonprofit organization to bring about a means to their end, they find any-

thing historically important if it is within eyesight of a historically important area.

For instance, from this point if you can see for 5 miles, then certainly you should purchase all the land within 5 miles, because that is very important.

The park superintendent on radio said that this land was important because there was some sniper fire around the buildings. I am sure that is true of most of the district of the gentlewoman from Maryland, Mrs. BEVERLY BYRON. It is certainly true of a lot more of Adams County, as a matter of fact. I am sure there was a lot of sniper fire there.

Nevertheless, it was not the 31 acres where my objection was. It was the precedent that I was afraid was being established to get that 5,000 that some of these people say they need to commemorate this battle and the manner in which it was done.

As of today, I still have not been asked by the park superintendent, by this historical organization or by anyone from Adams County to please push this legislation, please become a part of getting this land transferred. Not one person as yet has come to me.

I did finally meet two people who were apparently involved when we were commemorating the Pennsylvania rededication of the Pennsylvania monument. I said, "Gee, it's nice to meet you folks. I had no idea who you were. You haven't contacted me yet. I do not know if you plan to or not."

But you see, they are new people in the area. They, too, do not understand the controversy that has developed over the years.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes, I am happy to yield.

Mr. VENTO. Well, Mr. Chairman, I want to thank the gentleman for yielding and for his statement and for the positive work that he has done so that we can bring this here today with an agreement.

I understand the concerns of the gentleman. I am sure the gentleman realizes when we look at these measures when they are submitted, we try to look at the facts. Obviously, we know there should be some grassroots work done by organizations and by the professionals and the Park Service in terms of communication with the gentleman. I hope they do get the message and that they do at the very least get in communication with the gentleman with regard to the changes certainly in the boundaries, especially when they result in problems.

Let me further add that the gentleman points out the increase in the land prices around Gettysburg and other national parks generally in terms of what has happened and in terms of escalation. One of the factors that results in the reason for the cost escalation is because many times we do a designation of a national park resource that actually enhances the value around the area and the Park Service is between a rock and a hard place basically because one of the mandates under the laws is that they have to pay for the highest and best use of that land. If it has, for instance, commercial potential, even by virtue of simply being adjacent to a park which we have designated, that becomes a cost factor, which I suppose points to what we should do in terms of designation. We should really try to include the parcels that we intend to be included in the park so that we do not come back time and again, as we have in this case, and modify the boundaries.

Second, of course, some of the measures that are used, for instance lifetime tenancy or 10 years of tenancy to a landowner are meant to try to soften the effect of a purchase of land.

What we are looking for in terms of additions to parks is a nonacrimonious way to go about this; hence the use, for instance, of nonprofit groups which purchases this land and then donate it, so it saves both the cost to the Government and provides a nonacrimonious way to expand the park.

As the gentleman well knows, this process has its flaws. He points them out. I think it is very useful for me and for the other members of the committee and those who are involved in terms of conservation units in general to listen to the types of concerns and the backlash that does occur with regard to the land purchases, even under this type of method which we think of as being less acrimonious, for instance, then simply a straight out eminent domain.

So I want to thank the gentleman. I have agreed to enter into a colloquy and will be happy to do so at the appropriate time.

□ 1120

Mr. GOODLING. Mr. Chairman, I would like to make just one or two other comments first. I can understand some of the concerns that the gentleman has expressed. When you are dealing with the people back in the district and you find that they as taxpayers have just paid a big price for a piece of land which has tripled in value almost from the time the professor bought the land until the professor sold the land, and then find 10 years of living there also, it is difficult to sell to them.

I would merely ask the committee to listen very carefully to the people in the district and not only those who profess to be historians when you talk about historical value.

I mentioned when we had the discussion under suspension that the Eisenhower Farm is a good example in point. From the minute the Eisenhower Farm was donated you had this same kind of group and organization say that now all land that can be seen from the Eisenhower Farm must be bought by the Park Service in order to protect that farm. Well, the farm is already protected. The only importance there is the house and the barn where the President spent a little bit of time, and his widow much more time. You did not need a lot of additional land in order to protect it; it was already protected right there.

There was no significance to the property whatsoever, unless we can convince—and I was a part of that—the son as a matter of fact to bring back some of the valuable things in the household; otherwise, there was no reason to visit the farm at all. Unless we can continue to get him and the family to agree to keep those things there, there is no significant purpose for visiting.

These are the things that I want to point out. I think that when you have hearings in the future I would hope that you would get as much input from the 95 percent back there that are also affected by anything that we do. We want to commemorate a battle that was very, very important, but at the same time we want to make sure that everything that we do is very, very significant, not in the eyes of dreamers who sometimes do not live in the real world, but by the general population, particularly if they want to build that kind of cooperation that they say they want to build, which has not existed during the last 20 years.

Mr. Chairman, I would now like to engage my colleague, the gentleman from Minnesota [Mr. VENTO], in a colloquy on the subject of H.R. 4259, legislation which would provide for the donation of a 31-acre tract of land known as the Taney Farm to the Gettysburg National Military Park.

Quite simply, my concern is that the 3,874 acre limitation prescribed by the Bible agreement of 1974 will be exceeded. Although not a legislated boundary, it has administratively represented the park's land protection objectives for over 10 years and I would like to ensure that the acreage limitation not be breached in the future.

I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Does the gentleman from Pennsylvania agree that an accurate restoration of the historic setting is important to visitor understanding of the battle's events and does he support the completion of a study by the National Park Service of the historically important lands associated with the Battle of Gettysburg? This study would help to clear up ambiguities relating to the boundary.

Mr. GOODLING. Yes, that is correct, as long as it realistically accounts for local concerns and is done through

proper channels. However, in an attempt to be fair to all parties involved, I believe it is important that we freeze existing boundaries until that study is completed. This action, of course, would occur only after the aforementioned 31 acres, which are already off the local tax base, would become a permanent part of the Gettysburg National Military Park.

Mr. VENTO. A de facto freeze is in place and will remain in place. Currently, the National Park Service is not adding to the Gettysburg National Military Park without specific legislative authority outside of the 1974 administrative boundary.

Furthermore, it is understood that in the process of conducting its study, the National Park Service will consult with members of the community and their elected representatives at all levels of government, as well as interested historians and historical groups. I agree with the gentleman from Pennsylvania that it is important to clarify at this time that future additions outside of the 1974 administrative agreement to the park must be approved by Congress just as this donation of 31 acres has been subject to the full legislative process.

Mr. GOODLING. I appreciate the statement of the gentleman from Minnesota and yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Minnesota [Mr. VENTO] for his diligent work, and the gentlemen from Pennsylvania, my colleagues, Mr. GOODLING and Mr. KOSTMAYER.

Mr. Chairman, since the first 3 days of July in the year 1863 millions of Americans, many of them former veterans of that conflict in the 50th reunion and the 75th reunion—as a boy I can remember that reunion—and the centennial, which I attended personally in 1963, of that famous battle, have traversed across the country to view those hallowed grounds and walk over Seminary Ridge and Cemetery Ridge and the roundtops and all of the various famous scenes of that battle.

Gettysburg is certainly the most visited national park that we have in our country. Any additions that we can secure, particularly for nothing, in the confines of that area deserve consideration.

I might say that almost no area in that entire field was spared any part of the battle. The battle raged for 3½ days over hundreds of acres on the Emmitsburg Road and the main roads leading into Gettysburg not only from the south but from the west, the Cashtown Road, and from the north, as Confederate troops came back down from the Harrisburg area and converged on the field. So just about every acre of ground for miles and miles around saw some part of that battle, and every part of that ground has some historic significance.

I commend those who accumulated this 31 acres and turned them over to the Federal Government. I think that it will be a valuable addition to the most populous national park in our country.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to associate myself with the gentleman's remarks concerning this subject. The gentleman as a senior member of the Committee on the Interior has been a strong supporter of this measure, and I want to thank him publicly for his support and his efforts along this way with regard to this Gettysburg National Park.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 4259

Be it enacted by the Seante and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall accept on behalf of the United States, the donation of approximately 31 acres of land known as the "Taney Farm" for administration as part of the Gettysburg National Military Park in Pennsylvania if such land is offered to be conveyed to the United States without cost to the United States by the Gettysburg Battlefield Preservation Association. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Are there any amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. NATCHER] having assumed the chair, Mr. DURBIN, Chairman of the Committe of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4259) to amend the act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park, pursuant to House Resolution 483, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 408, nays 1, not voting 22, as follows:

[Roll No. 215]

YEAS—408

Akaka	Coelho	Ford (MI)
Alexander	Coleman (MO)	Ford (TN)
Anderson	Coleman (TX)	Frank
Andrews	Collins	Franklin
Annunzio	Combest	Frenzel
Anthony	Conte	Frost
Applegate	Conyers	Fuqua
Archer	Cooper	Gallo
Armey	Coughlin	Garcia
Atkins	Courter	Gaydos
AuCoin	Coyne	Gejdenson
Badham	Craig	Gekas
Bartlett	Crane	Gephardt
Barton	Crockett	Gibbons
Bateman	Daniel	Gilman
Bates	Dannemeyer	Glickman
Bedell	Darden	Gonzalez
Beilenson	Daschle	Goodling
Bennett	Daub	Gordon
Bentley	Davis	Gradison
Bereuter	de la Garza	Gray (IL)
Berman	DeLay	Gray (PA)
Bevill	Dellums	Green
Biaggi	Derrick	Gregg
Bilirakis	DeWine	Guarini
Bliley	Dickinson	Gunderson
Boehlert	Dicks	Hall (OH)
Boggs	Dingell	Hall, Ralph
Boland	DioGuardi	Hamilton
Boner (TN)	Dixon	Hammerschmidt
Bonior (MI)	Donnelly	Hansen
Bonker	Dornan (CA)	Hartnett
Borski	Dowdy	Hatcher
Bosco	Downey	Hawkins
Boucher	Dreier	Hayes
Boulter	Duncan	Hefner
Boxer	Durbin	Hendon
Brooks	Dwyer	Henry
Broomfield	Dymally	Hertel
Brown (CA)	Dyson	Hiler
Brown (CO)	Early	Hillis
Bruce	Eckart (OH)	Holt
Bryant	Eckert (NY)	Hopkins
Burton (CA)	Edgar	Horton
Burton (IN)	Edwards (CA)	Howard
Bustamante	Edwards (OK)	Hoyer
Byron	Emerson	Hubbard
Callahan	English	Huckaby
Carney	Erdreich	Hughes
Carper	Evans (IA)	Hunter
Carr	Evans (IL)	Hutto
Chandler	Fascell	Hyde
Chapman	Fawell	Ireland
Chappell	Fazio	Jacobs
Cheney	Feighan	Jeffords
Clay	Fish	Jenkins
Clinger	Flippo	Johnson
Coats	Florio	Jones (OK)
Cobey	Foglietta	Jones (TN)
Coble	Foley	Kanjorski

Kaptur	Morrison (WA)	Skelton
Kasich	Mrazek	Slattery
Kastenmeier	Murphy	Slaughter
Kemp	Murtha	Smith (FL)
Kennelly	Myers	Smith (IA)
Kildee	Natcher	Smith (NE)
Kindness	Neal	Smith (NJ)
Kleczka	Nelson	Smith, Denny (OR)
Kolbe	Nichols	Smith, Robert (NH)
Kolter	Nielson	Smith, Robert (OR)
Kostmayer	Nowak	Snowe
Kramer	Oakar	Snyder
Lagomarsino	Oberstar	Solarz
Lantos	Obey	Solomon
Latta	Olin	Spence
Leach (IA)	Ortiz	Spratt
Leath (TX)	Owens	St Germain
Lehman (CA)	Oxley	Staggers
Lehman (FL)	Packard	Stallings
Lent	Panetta	Stangeland
Levin (MI)	Parris	Stark
Levine (CA)	Pashayan	Stenholm
Lewis (CA)	Pease	Stokes
Lewis (FL)	Penny	Strang
Lightfoot	Pepper	Stratton
Lipinski	Perkins	Studds
Livingston	Petri	Stump
Lloyd	Pickle	Sundquist
Loeffler	Porter	Swift
Long	Price	Swindall
Lott	Pursell	Synar
Lowery (CA)	Quillen	Tallon
Lowry (WA)	Rahall	Tauke
Lujan	Rangel	Tauzin
Luken	Ray	Taylor
Lundine	Regula	Thomas (CA)
Lungren	Reid	Thomas (GA)
Mack	Richardson	Torres
MacKay	Ridge	Towns
Madigan	Rinaldo	Traficant
Manton	Ritter	Traxler
Markey	Roberts	Udall
Marlenee	Robinson	Valentine
Martin (IL)	Rodino	Vander Jagt
Martin (NY)	Roe	Vento
Martinez	Roemer	Visclosky
Matsui	Rogers	Volkmer
Mavroules	Rose	Vucanovich
Mazzoli	Rostenkowski	Walgren
McCain	Roth	Walker
McCandless	Roukema	Watkins
McCloskey	Rowland (CT)	Waxman
McCollum	Rowland (GA)	Weber
McCurdy	Roybal	Weiss
McDade	Rudd	Wheat
McEwen	Russo	Whitley
McGrath	Sabo	Whittaker
McHugh	Savage	Whitten
McKernan	Saxton	Williams
McKinney	Schaefer	Wilson
McMillan	Scheuer	Wirth
Meyers	Schneider	Wise
Mica	Schroeder	Wolf
Michel	Schuette	Wortley
Mikulski	Schulze	Wright
Miller (CA)	Schumer	Wyden
Miller (OH)	Seiberling	Wylie
Miller (WA)	Sensenbrenner	Yates
Mineta	Sharp	Yatron
Moakley	Shaw	Young (AK)
Molinari	Shelby	Young (FL)
Mollohan	Shumway	Young (MO)
Monson	Shuster	Zschau
Montgomery	Sikorski	
Moody	Siljander	
Moorhead	Sisisky	
Morrison (CT)	Skeen	

NAYS—1

Fields

NOT VOTING—22

Ackerman	Fiedler	Moore
Aspin	Fowler	O'Brien
Barnard	Gingrich	Sweeney
Barnes	Grotberg	Torricelli
Breaux	Jones (NC)	Weaver
Campbell	LaFalce	Whitehurst
Chappie	Leland	
Dorgan (ND)	Mitchell	

□ 1140

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4259, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1150

FUTURES TRADING ACT OF 1986

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 474 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 474

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 474 is a simple open rule providing for the consideration of H.R. 4613, a bill to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements in that act. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The rule also provides that when the bill is considered for amendment under the 5-minute rule, it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as original text for the purpose of amendment and that each section shall be considered as having been read.

In addition, the rule provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

Finally, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4613 is a 3-year reauthorization for the regulatory programs of the Commodity Futures Trading Commission. The bill provides authorization levels of such sums as may be necessary to carry out the functions of the CFTC under the Commodity Exchange Act for fiscal years 1987, 1988, and 1989. In addition, the bill makes several changes in the Commodity Exchange Act which fine tune and clarify regulatory and enforcement authorities of the CFTC.

Mr. Speaker, since House Resolution 474 is an open rule, Members who disagree with the recommendations of the Agriculture Committee on the issue of leverage trading will be afforded every opportunity to offer germane amendments to that section of the bill. The issue of leverage trading was the most controversial of all the issues the committee faced during the reauthorization process, and the committee has proposed a compromise which in effect limits leverage trading in the future to gold, silver, and platinum, while requiring the CFTC in the next 2 years to conduct a study of the entire leverage trading industry.

Mr. Speaker, House Resolution 474 is a noncontroversial rule and I recommend its adoption to my colleagues.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple open rule. This is a relatively routine bill. There will be some discussion when the measure reaches the floor, but the bill needs to be passed.

The rule has been ably explained, Mr. Speaker, I urge adoption of the rule so that we can get down to the business of passing the measure.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I would be happy to yield to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

As I read the legislation, would the gentleman enter into a colloquy with me?

This legislation has nothing to do with the Commodity Credit Corporation or any of the funding problems we have had with that agency, is that correct?

Mr. QUILLEN. That is my understanding.

Mr. GEKAS. Is that generally agreed?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Texas.

Mr. FROST. I thank the gentleman from yielding.

Yes, Mr. Speaker, that is correct.

Mr. GEKAS. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GEKAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 27, as follows:

[Roll No. 216]

YEAS—404

Ackerman	Bereuter	Burton (CA)
Akaka	Berman	Burton (IN)
Alexander	Bevill	Bustamante
Anderson	Biaggi	Byron
Andrews	Bilirakis	Callahan
Annunzio	Bliley	Carney
Anthony	Boehlert	Carper
Applegate	Boggs	Carr
Archer	Boland	Chandler
Armey	Boner (TN)	Chapman
Aspin	Bonior (MI)	Chappell
Atkins	Bonker	Cheney
AuCoin	Borski	Clay
Badham	Bosco	Clinger
Bartlett	Boucher	Coats
Barton	Boulter	Cobey
Bateman	Boxer	Coble
Bates	Brooks	Coelho
Bedell	Broomfield	Coleman (MO)
Beilenson	Brown (CO)	Coleman (TX)
Bennett	Bruce	Collins
Bentley	Bryant	Combest
Conte	Hopkins	Murphy
Conyers	Horton	Murtha
Cooper	Howard	Myers
Coughlin	Hoyer	Natcher
Courter	Hubbard	Neal
Coyne	Huckaby	Nelson
Craig	Hughes	Nichols
Crane	Hunter	Nielson
Crockett	Hutto	Nowak
Daniel	Hyde	Oakar
Dannemeyer	Ireland	Oberstar
Darden	Jacobs	Obey
Daschle	Jeffords	Olin
Daub	Jenkins	Ortiz
Davis	Johnson	Owens
de la Garza	Jones (OK)	Oxley
DeLay	Jones (TN)	Packard
Dellums	Kanjorski	Panetta
Derrick	Kaptur	Parris
DeWine	Kasich	Pashayan
Dickinson	Kastenmeier	Pease
Dicks	Kemp	Penny
Dingell	Kennelly	Pepper
DioGuardi	Kildee	Perkins
Dixon	Kindness	Petri
Donnelly	Kleczka	Pickle
Dorgan (ND)	Kolbe	Porter
Dornan (CA)	Kolter	Price
Dowdy	Kostmayer	Pursell
Downey	Kramer	Quillen
Dreier	LaFalce	Rahall
Duncan	Lagomarsino	Rangel
Durbin	Lantos	Ray
Dwyer	Latta	Regula
Dymally	Leach (IA)	Reid
Dyson	Leath (TX)	Richardson
Early	Lehman (CA)	Ridge
Eckart (OH)	Lehman (FL)	Rinaldo
Eckert (NY)	Lent	Ritter
Edgar	Levin (MI)	Roberts
Edwards (CA)	Levine (CA)	Robinson
Edwards (OK)	Lewis (CA)	Rodino
Emerson	Lewis (FL)	Roe
English	Lightfoot	Roemer
Erdreich	Lipinski	Rogers
Evans (IL)	Livingston	Rose
Fascell	Lloyd	Rostenkowski
Fawell	Loeffler	Roukema
Fazio	Long	Rowland (CT)
Feighan	Lott	Rowland (GA)
Fields	Lowery (CA)	Roybal
Fish	Lowry (WA)	Rudd
Flippo	Lujan	Russo
Florio	Luken	Sabo
Foglietta	Lundine	Savage
Foley	Lungren	Saxton
Ford (MI)	Mack	Schaefer
Ford (TN)	MacKay	Scheuer
Frank	Madigan	Schneider
Franklin	Manton	Schroeder
Frenzel	Markey	Schuette
Frost	Marlenee	Schulze
Fuqua	Martin (IL)	Schumer
Gallo	Martin (NY)	Seiberling
Garcia	Martinez	Sensenbrenner
Gaydos	Matsui	Sharp
Gejdenson	Mavroules	Shaw
Gekas	Mazzoli	Shelby
Gephardt	McCain	Shumway
Gibbons	McCandless	Shuster
Gilman	McCloskey	Sikorski
Glickman	McCollum	Siljander
Gonzalez	McCurdy	Sisisky
Goodling	McDade	Skeen
Gordon	McEwen	Skelton
Gradison	McGrath	Slattery
Gray (IL)	McHugh	Slaughter
Gray (PA)	McKernan	Smith (FL)
Green	McKinney	Smith (IA)
Gregg	McMillan	Smith (NE)
Guarini	Meyers	Smith (NJ)
Gunderson	Mica	Smith, Denny (OR)
Hall, Ralph	Michel	Smith, Robert (NH)
Hamilton	Mikulski	Smith, Robert (OR)
Hammerschmidt	Miller (OH)	Snowe
Hansen	Miller (WA)	Snyder
Hartnett	Mineta	Solarz
Hatcher	Moakley	Solomon
Hawkins	Molinari	Spence
Hefner	Mollohan	Spratt
Hendon	Monson	St Germain
Henry	Moody	Staggers
Hertel	Moorhead	Stallings
Hiler	Morrison (CT)	Stangeland
Hillis	Morrison (WA)	Stark
Holt	Mrazek	Stenholm
		Stokes
		Strang
		Stratton
		Studds
		Stump
		Sundquist
		Sweeney
		Swift
		Swindall
		Synar
		Tallon
		Tauke
		Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Torres
		Towns
		Traficant
		Traxler
		Udall
		Valentine
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walker
		Watkins
		Weber
		Weiss
		Wheat
		Whitley
		Whittaker
		Williams
		Wilson
		Wirth
		Wise
		Wolf
		Wolpe
		Wortley
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)
		Young (MO)
		Zschau

NOT VOTING—27

Barnard	Gingrich	Moore
Barnes	Grotberg	O'Brien
Breaux	Hall (OH)	Roth
Brown (CA)	Hayes	Torricelli
Campbell	Jones (NC)	Waxman
Chappie	Leland	Weaver
Evans (IA)	Miller (CA)	Whitehurst
Fiedler	Mitchell	Whitten
Fowler	Montgomery	Wright

□ 1215

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 474 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4613.

IN THE COMMITTEE OF THE WHOLE

□ 1217

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act, with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4613, the Futures Act of 1986, provides a 3-year reauthorization, through fiscal 1989, for financing the regulatory programs that are carried out under the Commodity Exchange Act by the Commodity Futures Trading Commission. In addition to the extension, the bill makes several changes in the law that are mostly in the nature of fine-tuning a regulatory system that generally is working effectively.

The regulatory system that this legislation would continue oversees one of the most dynamic and complex areas of our national economy. Futures trading began in agricultural commodities, but today it is a multibillion-dollar financial system that is used to share and reduce risks and reduce costs for commodities of many kinds.

The futures markets perform two vital functions for our economy. First, they provide machinery for hedging the system in which farmers, businessmen, and others can reduce costs by shifting risks to other investors. Second, the markets perform the function that economists call price discovery. That means that buyers and sellers are brought together in a central market where their bids and offers can allow supply-and-demand forces to determine future prices and price trends.

In 1974, after it became apparent that earlier regulatory systems were not good enough to provide the effective safeguards needed in a rapidly changing industry, the Agriculture Committee was instrumental in creating the Commodity Futures Trading Commission. Also, we took another step forward by encouraging the futures industry to create an industry self-regulatory organization, the National Futures Association.

In reviewing the situation this year, our committee has been pleased to see that the CFTC has continued to improve its operations and has met the challenge of providing effective protection for the public. We have been pleased to see, also, that the National Futures Association is making strides toward the self-regulatory goals Congress set for it.

Because the regulatory system is generally working well, the changes we are proposing in the law at this time are basically in the nature of improvements rather than drastic changes in philosophy or direction.

The major provisions of the bill include the following:

A 3-year reauthorization of appropriations for the CFTC. This period was chosen so that the next reauthorization will not coincide with the next review of the omnibus farm bill.

Technical amendments to clarify the fact that the Commodity Exchange Act prohibits fraud in connection with any futures contract, whether or not the contract is executed on a futures market.

A requirement that the CFTC rescind its options pilot program within 90 days of enactment, and that it establish a permanent program for commodity options trading on futures markets. The CFTC itself has already gone part way to this objective by its decision to grant permanent nonpilot status to options trading in nonagricultural commodities.

A provision authorizing the CFTC to serve investigatory subpoenas on persons outside the United States, a power that would be similar to the existing authority of the Federal Trade Commission. I should point out that the committee report notes that we expect the CFTC to use its new authority appropriately, only in the precomplaint investigatory stage of enforcement proceedings, and with sensitivity to the concerns of foreign governments and exchanges.

A provision authorizing the CFTC to ask for temporary appointment of an ex parte receiver when it is seeking to prevent the dissipation of assets or destruction of records in actions to enforce compliance with the act.

A provision allowing CFTC employees and Commissioners to invest in actual commodities as long as no nonpublic information is used and the transactions do not involve futures, options, or leverage.

A section that simplifies procedures for CFTC review of disciplinary actions and membership restrictions imposed by registered futures associations, such as the National Futures Association. In particular, this section removes a requirement that grants an automatic stay of a disciplinary action whenever a party files an appeal to the CFTC or the CFTC starts its own review. Under the pending bill, there would be no stay unless the CFTC affirmatively decided to grant one.

A technical provision repealing a section of existing law under which the CFTC must complete initial action on registered futures association rules within 30 days.

And, finally, a provision making changes in the law as it applies to leverage transactions.

The leverage issue is one on which there has been much discussion and debate. Congress gave the CFTC exclusive jurisdiction to regulate gold and silver leverage transactions in 1974. Later, we banned leverage in agricultural commodities, authorized CFTC to ban such transactions in some cases and pressed hard for effective regulation. In 1982, Congress specifically directed the CFTC to provide effective regulation for leverage transactions in commodities except for those subject to a legal ban on agricultural commodity leverage. Under the leadership of Chairman Susan Phillips, the CFTC did provide regulation which is now in place.

This year, the Agriculture Committee was faced with proposals that would have, in effect, outlawed leverage, and some members of the committee favored these proposals. But a strong and bipartisan majority of the committee opposed any change that would have had the unfair effect of putting two CFTC registered and regulated firms out of business. Equally, the committee did not favor granting a permanent monopoly on leverage to those two firms. Instead of these courses, the committee has adopted what we believe to be a fair compromise that provides continued freedom to compete coupled with effective regulation to protect the public.

Under this compromise:

Leverage trading in the future would be limited to gold, silver, and platinum, although existing contracts in other commodities would be allowed to run their course.

Acting with the assistance of a futures industry association, the CFTC would be required to conduct within 2 years a survey of persons interested in entering the leverage business. Following the survey, the Commission would make a report on whether leverage transactions serve an economic purpose, on the most efficient manner to admit new entrants to the industry, and on appropriate additional regulations for the industry. Following this report, new firms would be admitted to the leverage business on a gradual basis.

This completes a brief description of H.R. 4613. I urge the Members of the House of Representatives to support the bill as reported by the Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to have this opportunity to express my support for H.R. 4613, the Futures Trading Act of 1986.

The Commodity Futures Trading Commission is an independent Federal agency that regulates futures trading. Futures trading grew out of agricultural origins and it now has expanded into a risk sharing endeavor used not only by traders and dealers in traditional agricultural commodities, but also by the world's financial management sector as an essential financial management tool.

I would like to commend the Commission for doing an outstanding job of regulating the futures industry. Through the years, the Commission has matured into an effective regulator of the futures industry and watchdog for the public's best interest.

H.R. 4613 continues the basic structure of the futures regulatory system and maintains the industry-supported self-regulation program. The bill provides a 3-year reauthorization for the CFTC.

The bill directs the Commission to drop the pilot program status of the agriculture and nonagriculture options within 90 days after enactment. Members of the committee felt the program has become a proven success and should be continued on a permanent basis.

The Commission is also authorized to serve investigatory subpoenas on

persons outside the United States. The committee felt that the Commission needed this investigatory tool to ensure that foreigners trading on American exchanges have not manipulated the markets. The Commission is directed through report language to consult with State Department officials when issuing subpoenas outside the United States to avoid offending foreign governments and minimize any perceived intrusion on the sovereignty of other countries.

Other provisions in the bill include the following:

A technical amendment to clarify that the act prohibits fraud in connection with any futures contract, whether or not the contract is executed on a futures market.

A provision authorizing the Commission to request a temporary ex parte receiver when it is seeking to prevent the dissipation of assets or destruction of records in actions to enforce compliance with the act.

A section that simplifies and clarifies procedures for CFTC review of disciplinary actions and membership restrictions imposed by registered futures associations.

A technical provision repealing a section of existing law under which the CFTC must complete initial action on registered futures association rules within 30 days.

A provision allowing CFTC employees and Commissioners to invest in actual commodities as long as no nonpublic information is used and the transactions do not involve futures, options, or leverage.

An amendment to allow the gradual entry of more persons into the leverage market.

One of the most difficult tasks faced by the Agriculture Committee when considering reauthorization was trying to develop a fair compromise on the leverage issue. We had hoped to develop a compromise that could be agreed to by all interests. Unfortunately, we found that there is no perfect solution. Amendments which would have banned leverage or redefined leverage transactions as futures contracts and thereby requiring that they be traded on exchanges were rejected. It is my understanding that similar amendments will be offered again today. These approaches would have had the unfair impact of putting two CFTC registered and regulated leverage firms out of that business. Another alternative would have been to grant a permanent monopoly to these two firms but this option would have been unfair to other persons who would want to enter the business and would have been anticompetitive.

The provisions of H.R. 4613 are a compromise which neither puts legitimate businessmen out of business, nor would it codify an anticompetitive monopoly for these businessmen. Leverage trading would be limited by statute to gold, silver, and platinum for new contracts. New entrants will be allowed into the market after the Commission conducts a survey of interested persons and then reports its findings and necessary regulatory changes to allow for an expanded market to the Agriculture Committee. The tools are in place to turn much of the additional cost of regulating leverage transactions over to the registered futures association which would be industry funded.

The Office of Management and Budget advised that they felt the temporary moratorium on the number of firms that trade leverage contracts should be lifted at the earliest possible time. They also felt that the trading of leverage transactions should not be restricted to gold, silver, and platinum. However, they did not recommend that leverage contracts be written for agricultural commodities. As you can see, the administration felt Congress did not go far enough or fast enough in opening up the trading of leverage contracts.

I feel H.R. 4613 strikes the best possible compromise on the leverage issue. The anticompetitive moratoria would gradually be lifted so that the regulation of new entrants would be manageable. The bill also gives the Commission time to survey interested persons to determine who is interested in trading leverage contracts and to determine what changes are necessary in the regulations for an expanded market. The bill gives the authority for an industry supported self-regulator to assist the Commission in regulating an expanded leverage market.

I would like to encourage my colleagues to join me in rejecting amendments that would eliminate leverage transactions and to support the provisions in H.R. 4613.

□ 1225

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 5 minutes to the chairman of the subcommittee, the gentleman from Tennessee [Mr. JONES], who, along with the gentleman from Missouri [Mr. COLEMAN], has done excellent work in this endeavor. And, Mr. Chairman, because of a personal commitment I am going to ask the gentleman from Tennessee [Mr. JONES] to manage the bill on behalf of the committee for the balance of the debate.

Mr. JONES of Tennessee. Mr. Chairman, I thank the distinguished chairman of the committee.

Mr. Chairman, I rise in support of H.R. 4613, and ask my colleagues to join me in opposing amendments which may be offered later that would undo a carefully crafted compromise the Agriculture Committee adopted on the issue of leverage transactions.

My subcommittee held extensive hearings, both last year and earlier this spring, in preparation for this reauthorization of the Commodity Futures Trading Commission. I want to note that every conceivable point of view on all the major issues addressed in this bill—and in the committee report—were heard and given fair consideration during the process.

I especially want to commend Chairman DE LA GARZA and the ranking minority member of the full committee, Mr. MADIGAN, for their leadership and efforts on this bill. In addition, I particularly thank the ranking member of my subcommittee, Mr. COLEMAN, for the hard work and close cooperation he has been willing to devote throughout the consideration of H.R. 4613.

For the most part, the committee has managed to settle nearly every issue we originally had at hand when this reauthorization process began. Our ability to compromise and bring forth a consensus on many difficult matters is in part a result of the traditionally nonpartisan nature of issues involving the futures industry and regulatory activities of the Commodity Futures Trading Commission.

Much of our progress is also due in no small measure to the very able leadership of CFTC Chairman Susan Phillips. Chairman Phillips, along with the other four dedicated CFTC Commissioners, has brought a sense of commitment and maturity to the commission that serves the public interest well, is appropriately responsive to the Congress, and is even-handed in its regulation of the commodities industry.

Unfortunately, the issue of leverage transactions continues to be a matter for further debate and disagreement among some of our colleagues and among some exchanges in the futures industry. I fully recognize that this has become a controversial issue about which several members of our committee feel strongly.

I have nothing but respect for those opponents of leverage from whom we will hear today, and on most other items in this bill we worked together closely and in strong agreement. However, the proposal to ban leverage transactions has been debated at length and was defeated in subcommittee by a vote of 9 to 5, and was rejected again in the full committee by a vote of 30 to 12.

I urge my colleagues to support the committee's bill, and to again reject any attempts to directly or indirectly put legitimate businessmen out of business.

Mr. Chairman, Members of the House have been provided with an excellent committee report which fully explains the details of this bill and circumstances surrounding each of its provisions.

However, for the record, let me briefly explain the major provisions of the bill as reported.

It would reauthorize appropriations for the Commodity Futures Trading Commission for 3 years.

It would make technical amendments to the act to clarify that the act prohibits fraud in connection with any futures contract, regardless of whether executed on a contract market.

It would require the Commission, within 90 days after enactment of the bill, to rescind its options pilot program and establish a permanent program for commodity options trading on contract markets.

It would expressly authorize the Commission to serve investigatory subpoenas on persons outside the United States;

It would authorize the Commission to seek appointment of a temporary ex parte receiver when it seeks—in connection with an action to force compliance with the act—an ex parte freeze on assets or records to prevent the assets from being dissipated or the records destroyed;

It would permit Commission employees and Commissioners to invest in actual commodities so long as no nonpublic information is used and the transactions do not involve futures, options, or leverage, and authorize the Commission to permit, by regulation, other transactions by Commissioners or employees;

It would simplify and clarify the procedures for Commission review of disciplinary actions and membership restrictions imposed by registered futures associations;

It would delete from the act a provision that requires the Commission to complete initial action on registered futures association rules within 30 days; and with regard to leverage transactions, it would prohibit all leverage contracts except gold, silver, coin, and platinum contracts and temporarily prohibit the entry of new firms into the leverage business until a survey of the industry to determine how many firms are interested in entering the leverage business and report to Congress is completed, within 2 years.

The report would include the results of the survey. Additionally, the report would contain the Commissioner's determination of whether leverage transactions serve an economic purpose, the most efficient manner to permit new entries into the business, and the appropriate leverage business regulatory scheme to ensure financial solvency and prevent manipulation or fraud.

Further, the report would include regulations governing the leverage business, which must provide for permitting additional firms to enter the business, could provide for a registered futures association to perform leverage regulatory functions, and could provide for permitting new entries into the business on a gradual basis, so as not to place an undue burden on the Commission.

I believe each of these provisions reflect a well thought-out middle-ground solution to a variety of problems, and I urge your support of the committee bill.

Mr. Chairman, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to take one moment to commend the subcommittee chairman, the gentleman from Tennessee [Mr. JONES], on his outstanding leadership in the subcommittee in developing this bill as it came through, because most of the work was done in subcommittee and the issues that we initially started out with were sometimes contentious. But under his leadership we were able to work out those issues. I think we have satisfied the concerns of most people. It was a joy to work with the gentleman in trying to develop this compromise bill which we bring forward today to the House in a bipartisan fashion. I think this is a good bill.

So again I want to thank the gentleman and say that I appreciate his cooperation in this endeavor.

Mr. Chairman, I yield 9 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding to me and want to join in commending the chairman and the ranking member of the full committee.

I had the distinct pleasure of serving with the chairman of the subcommittee some years ago when I was the ranking Republican on his subcommittee. That was one of the more enjoyable experiences I have had here in the Congress, and I have since looked forward to working with him as often as possible.

The only disadvantage of that relationship was that I had to become involved, whether I wanted to or not, in the issue of commodity futures regulation. Let me say that, as far as Vermont is concerned, until such time as we have futures for butter or cheese or nonfat dry milk, my State has absolutely no parochial interest in this particular issue.

So why am I getting involved by offering an amendment in this very contentious matter? In fact, I learned that my staff has a file which is entitled "Why?" Why, they ask, does JEFFORDS get involved in these kinds of issues? Good Lord, with all the time he is going to have to expend, why walk into a big fight when he does not have to?

Well, I cannot stand by when I see a very contentious issue for which there seems to be a reasonable and rational solution.

□ 1235

Well, let me give you an idea of the various disagreements that there are with respect to this issue. On the one hand, the CFTC, on a 3-to-2 vote, recommended that all these leverage contracts be put on an exchange. On the other hand, the administration has taken the position that we ought to open up the trading of leverage contracts to all commodities immediately. That gives you an idea of the diversity of opinion on this issue.

Now, what is a leverage contract, you ask. A leverage contract is distinguished from a futures contract in that a leverage contract deals with a direct negotiation between a principal, the provider of a commodity, and individuals who want to purchase that particular commodity. In a futures exchange, you are dealing with a middle man who is trying to put together an agreement between individuals on a much shorter term basis to provide, at a future date, certain commodities.

The biggest difference is leverage contracts allow individuals to trade small amounts, whereas futures contracts require larger purchases.

What about this amendment? We are talking about two businesses which offer people the opportunity to purchase from them silver or platinum or gold in relatively small amounts, putting 20 percent down with a 10-year contract. They have available to them, if they so desire, the commodity, providing they pay the full price.

The question came to us some 8 years ago. We have been dealing with this thing for 8 years trying to find a solution. Finally we got together and said that somehow we have to solve this little problem and put it to bed.

We have effectively given two firms a monopoly and given the CFTC regulation over these leverage concerns for 8 years now. Obviously, to give a monopoly to two firms concerns me. Should we give two concerns a monopoly? No; we ought to end the monopoly. The amendment does this.

The amendment orders that others be allowed into this business in an orderly fashion.

There are some, though, who say we should not have any leverage contracts. The administration wants to open trading up to all immediately.

Well, I took a look at it and examined what the public demand for these products is. Ninety-five percent of the leverage contracts deal only with the three precious metals.

Since there is great contention and since we are moving to expand this trading, why not limit it to those areas where there seems to be public demand.

The amendment, therefore, limits it to the areas of platinum, gold, and silver.

In addition to that, we said that we had better be careful not to open it up too quickly, because we do not know what is going to happen. We, therefore, have a phase-in period often 2 years.

Now, the Justice Department would say, well, let us shorten that up. Maybe that is something we can negotiate later on.

It also says that we ought to study and make sure that, as we do allow and authorize broader trading of these leverage contracts, we do not create problems. Perhaps we ought to have a study. There is a study in the bill which seeks to discover whether there is an economic purpose.

There is general agreement that there is no real economic purpose for this, as there is not for a lot of things. It is hard to argue that there is economic purposes for certain futures contracts. It is a service that people want to have: The ability to buy in small amounts, certain commodities. It is about a $750 million business; gold and silver coins, and platinum. People buy contracts because it gives them a sense of security against problems in the future, whether it be dollar, interest rate, or inflation changes.

Let me read to you a letter which appeared in the New York Times written by Fowler C. West of the CFTC. Let me read from this letter of Fowler C. West. Many of you may recognize his name. He was a lead on the Agriculture Committee staff for some time.

He says:

A key goal of the Commission's strong leverage rules—

And I remind you parenthetically that there are strong rules here to control these businesses now—

is to assure that only solvent and reputable companies make up the leverage industry. To the extent that competitive reasons are behind the aggressive and effective lobbying of some futures exchanges to eliminate leverage totally, these competitive issues are better settled in the marketplace than at the expense of customer protections.

The leverage issue is a major customer protection test for Congress and the commission. If the 1978-79 moratoriums are lifted, allowing new companies to enter the business—a course called for by the Office of Management and Budget and the Justice Department—the workload of overseeing this industry segment could be significant. The House committee bill, through Representative Jim Jefford's amendment, wisely proposes a two-year study of this impact. Clearly, only strong Federal regulation will allow the commission to lift the anti-competitive moratoriums and assure that reputable companies will govern operations.

FOWLER C. WEST,
Commissioner, Commodity Futures Trading Commission.

WASHINGTON, *July 9, 1986.*

I point this out because one of the big arguments for leverage contracts is that if we do away with this kind of a business, the people who are attracted to dealing with these leverage businesses will go to what is called the boiler rooms. They want to buy gold and silver. They cannot get it on the exchanges so, without leverage, these illegal operations, which have plagued many areas of the country, will go back into full swing. This will create serious problems for the consumers who deal in this way, who want very much to have possession of precious metals.

My amendment was adopted, as the chairman of the subcommittee pointed out, by a 30-to-12 vote. It is a middle ground which protects the customers who want to deal in this market. It tries to limit leverage trading to those areas where there seems to be a demand and yet opens trading up to competition so that we get out of the monopoly that we created some years ago.

Mr. Chairman, I think this is a good bill. It has been hard fought, as pointed out in the subcommittee and in the full committee. I would urge to vote against amendments, especially in this area with respect to leverage contracts.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN], a very valuable member of the subcommittee.

Mr. GLICKMAN. Mr. Chairman, I would like to thank my colleague, the gentleman from Tennessee, the distinguished chairman of the subcommittee, for yielding to me and also for his work in connection with this bill.

This bill, while seemingly complicated, is very important because it is the bill which basically regulates the way commodities are traded on futures exchanges. It could be cattle on the Chicago Mercantile Exchange. It could be gold on the New York Commodity Exchange. It could be wheat on the Kansas City Board of Trade, or it could be indexes on stocks perhaps on one of the Chicago or New York Exchanges, or it could be oil on the New York Mercantile Exchange.

The fact that these futures are traded on these exchanges is life or death for the operation of America, because the availability and stability of commodity prices are very important to the stability of this country.

What this bill does is generally continue a process by which we give the Federal regulatory agency with jurisdiction over these matters, the Commodity Futures Trading Commission, enforcement tools to make sure that the public is protected, to make sure that the big boys do not make money at the expense of consumers in this country, at least make money unnecessarily.

It does not interfere with legitimate business trading, and that is what we have done.

All my colleagues in front of me have talked about these issues very well. I will not explain them, but I would like to mention three issues quickly.

Number one, this Congress has been interested in making sure that the public knows if people who operate futures exchanges trade fairly with them, so through our jawboning we were able to get what is called audit trail requirements on exchanges; that is also for the jurisdiction of the Commodity Futures Trading Commission, to make sure that the public knows when trades take place, and that is very important to make sure that is no fraud or self-dealing on these exchanges.

Second of all, the committee has gone ahead and encouraged futures exchanges, whether in Chicago, New York or elsewhere, to include more members of the public on the boards of their exchanges to make sure that the exchange directorship is not just people in the business of operating futures exchanges, but also the public as well.

The third thing we have done is looked at the pilot program on options, so that options can be traded now and that is a tool that I think will be available and accepted by many, many people using futures markets.

Finally, Mr. Chairman, I want to talk about leverage, because I think that is going to be important.

The issue of leverage is probably going to be the biggest deal in this debate today. The gentleman from New York [Mr. SCHUMER] and I are going to offer an amendment which is basically what the CFTC would like us to do. It has the effect of banning leverage transactions after a period of years.

The reason for us doing this is because we believe that leverage transactions, which are basically futures transactions not traded on an exchange, are almost inherently fraudulent and difficult to regulate and result in the public being taken advantage of all over this country.

Most of the complaints the CFTC gets with respect to consumer confidence have to do with leverage and most of the leverage is in the gold area, people buying long-term contracts for gold not being traded on an exchange.

My amendment is supported by major consumer groups and many of the major futures exchanges as well as a lot of folks in the farm communities and passage of my amendment will restore more confidence than anything that I can think of to insure the integrity and the incredibility of the futures markets in this country.

I hope Members will support the Glickman-Schumer amendment on leverage transactions.

Mr. JONES of Tennessee. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I want to simply follow up on the remarks made by my colleague, the gentleman from Kansas [Mr. GLICKMAN].

I think there will be a great deal of discussion; in fact, I think most of the debate today will center on the issues of futures contracts versus leverage contracts. I think without question most people really do not know what the difference is. I must say that it is very hard to tell the difference.

One of the differences is, if it is in fact a futures contract, the law requires that it be traded upon an exchange; however, if it is labeled a leverage contract it is not required to be traded on such an exchange.

Well, if you take a hard look at a leverage contract, you have to come to the conclusion that in fact it is a futures contract. If it walks like a duck, if it quacks like a duck, if it looks like a duck, most likely it is a duck; but here we have, because of simple labeling, a distinction made between a contract and calling it on the one hand a futures contract and on another a leverage contract.

The distinction will also be made by the proponents that a leverage contract is a contract for 10 years, where a futures contract is not. That is printed on the front; however, whenever you look at the trading and leverage contract, we find that the average contract is held for only 4 months.

Again, this appears to be a guise to get around the law, a means of in fact trading futures contracts off exchanges by simply calling them by another name.

Now, you may wonder, what is the difference? What difference does it make whether or not these are traded on exchanges or off? The real thing it comes down to is the protection of the public, the protection of the American people. Let us take a look at that.

As far as futures regulations, we find that the exchange trading itself requires protection for the customers against market abuse. There is no such safeguard as far as leverage contracts are concerned. In order for an instrument to be traded upon one of the exchanges, it has to have an economic purpose. It has to provide for hedging or price discovery or price dissemination functions.

□ 1250

A leverage contract does not have that. In fact, it has no demonstrable economic purpose.

A clearinghouse that is required for a futures contract in an exchange ensures financial integrity in the market. There is no such protection on a leverage contract.

Manipulation—certainly something that my Oklahoma farmers have been very sensitive about and very concerned about, particularly as it applies to livestock—is prohibited. It is against the law; if someone manipulates on one of the exchanges, he can be sent to jail. That is not true as far as a leverage contract. A leverage contract by its very definition promotes, allows, and encourages manipulation of the markets.

And as far as competitive pricing is concerned, on a trading floor competitive prices must be maintained. There is no competitive pricing requirement as far as leverage contracts are concerned.

This is the first step to open up leverage contracts as far as precious metals are concerned for trading throughout this Nation. It is a step that will allow every pawn dealer, every coin dealer, and anyone else who wishes to deal in leverage contracts out of the back door of his house; he will be able to do that if we move in the direction in which we are moving now. In fact, some have said privately as far as the administration is concerned that they want to move so that they can in fact trade leverage contracts on agriculture products.

I think that this is the wrong direction, and that is the reason that I am supporting the Glickman amendment. I am also going to offer, should the Glickman amendment not pass, an amendment that would at least give the States themselves the opportunity to protect themselves, because this legislation does not provide any protection for the States, and the Commodity Futures Trading Commission has stated that there is no way that they can go out and enforce the rules, the regulations, and the laws to protect the American people. So I urge the adoption of the Glickman amendment and the amendment which I will offer.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not want to get too far into the debate here on the leverage issue; we will have this shortly. However, I do not want our colleagues who might get this first impression to have a lasting misimpression.

We have heard statements that a majority of the complaints that have been filed with the CFTC are a result of leverage transactions. We have heard that there are no safeguards for the public on leverage transactions.

Let me remind my colleagues that the CFTC presently regulates very effectively the two leverage transaction merchants that we are talking about. We have just gotten a memorandum from the CFTC staff, which has just made an investigation of one of them, very thoroughly, and finds no problems.

We have seen in the last 2 years since these regulations have been developed that less than 4 percent of all the complaints have come in on this particular subject matter to the CFTC. So I think that it is a wild statement to say that a majority of complaints represent this particular area of the industry when really in the last 2 years since the regulations have been put into place, they have accounted for less than 4 percent.

Mr. Chairman, I just want to clean up the record here as we are making it, but I will reserve my comments for later on when we get to the amendment of the gentleman from Kansas [Mr. GLICKMAN].

Mr. Chairman, I reserve the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, I want to express my support for the amendment of the gentleman from Kansas [Mr. GLICKMAN], but I also want to express to the chairman and to the committee and to the entire Congress that I have been working with cattlemen all my life, and I spend a lot of time in cattle sale barns visiting with cattlemen who have 20 head, 50 head of cattle—some maybe a little more—and over the years I have tried to work with them to try to get a handle on the live sale of cattle in their sale barns and its relationship with the live cattle futures on the Chicago Board of Trade and other places.

Let me express, Mr. Chairman, that my cattlemen are concerned, and I think that the time has come, and I am going to be offering an amendment after a while, to allow the cattlemen to have a referendum on whether they would like their cattle to be sold, manipulated, or worked with—whatever their opinion may be—on the futures market. I think that we should allow those who have the product to decide for themselves whether they want their product to be sold in the futures market. If they decide that they do not want it to be sold on the futures market, then there should be an orderly phaseout of that, and I provide it in my amendment, which I will discuss at greater length a little later on today.

Just last week, Mr. Chairman, I met with over 300 cattlemen in a sale barn in McAlester, OK. I asked them a question, if they felt that they would like their cattle to be removed from being sold on the futures market. Over 90 percent of the cattlemen in that room raised their hands.

I know in a number of other commodities we have allowed referenda. We have allowed our wheat producers and others to vote on certain pro-

grams. I think that it is only right to allow our cattlemen, our live cattle producers, to be able to decide on whether they want to have their cattle marketed on the live cattle futures market. So I am going to be offering an amendment concerning that after a while. Potatoes and onions were removed a few years ago from being able to be sold on the futures market.

I think that we should allow those people who own the product, whose own livelihood is involved, to decide on whether they are going to have their product sold on the futures market or not.

I wanted to express this because just a few days ago, last Friday, we had that meeting, and it has been something that has been tugging at me for years, and I have attempted to try to get more openness, I have attempted to try to get an educational program, I think that the CFTC and others will know that I tried to offer amendments and tried to get some changes made, and that has never come about. I think that we should allow the cattlemen to decide by vote with their product, with their livelihood at stake, with their future at stake, to make that decision on whether they want their live cattle to be sold on the futures market.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. JONES of Tennessee. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Futures Trading Act of 1986".

FRAUDULENT PRACTICES

SEC. 2. Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by—

(1) striking out "on or subject to the rules of any contract market," the second place it appears in the first sentence; and

(2) adding, at the end thereof, the following:

"Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, its territories, or its possessions involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.".

OPTIONS TRANSACTIONS

SEC. 3. Section 4c(c) of the Commodity Exchange Act (7 U.S.C. 6c(c)) is amended to read as follows:

"(c) Not later than 90 days after the date of the enactment of the Futures Trading Act of 1986, the Commission shall issue regulations—

"(1) to eliminate the pilot status of its program for the trading of commodity options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated; and

"(2) otherwise to continue to permit the trading of such commodity options under such terms and conditions that the Commission from time to time may prescribe.".

EXTRATERRITORIAL SERVICE OF SUBPENAS

SEC. 4. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended by—

(1) inserting "(except as provided in the proviso to the following sentence)" immediately before "may administer oaths and affirmations, subpena witnesses" in the third sentence;

(2) striking out "or any State" in the fourth sentence and inserting in lieu there of ", any State, or any foreign country of jurisdiction"; and

(3) inserting, immediately before the period at the end of the fourth sentence, a semicolon and "and a subpena issued under this subsection may be served on any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country; *Provided*, That a subpena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission".

EX PARTE APPOINTMENTS OF TEMPORARY RECEIVERS

SEC. 5. The proviso to the first sentence of section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting in the parenthetical phrase immediately before the close parenthesis", and other than an order appointing a temporary receiver to administer any books, records, documents, funds, assets, or other property that is subject to such restraining order and to perform such other duties as the court may consider appropriate".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 6. Section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by—

(1) inserting immediately before the period at the end of the first sentence the following: "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission"; and

(2) striking out the second and third sentences and inserting in lieu thereof the following: "The foregoing prohibitions shall apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this section.".

REAUTHORIZATION

SEC. 7. Effective October 1, 1986, section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.".

REGISTERED FUTURES ASSOCIATION DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS

SEC. 8. Subsections (h) and (i) of section 17 of the Commodity Exchange Act (7 U.S.C. 21 (h) and (i)) are amended to read as follows:

"(h)(1) If any registered futures association takes any final disciplinary action against a member thereof or a person associated with a member, or denies admission to any person seeking membership therein or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule or regulation, may prescribe as necessary or appropriate in furtherance of the purposes of this Act.

"(2) Any action with respect to which a registered futures association is required by paragraph (1) of this subsection to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved thereby. Such application must be filed within thirty days after the date such notice is filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

"(3) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish procedures for expedited consideration and determination of the question of a stay.

"(i)(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

"(A) if the Commission finds that—

"(i) the member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted;

(ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and

(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall so

declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2) of this subsection, or remand the case to the association for future proceedings; or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

"(2) If after a proceeding in accordance with paragraph (1) of this subsection, the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

"(3) In a proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)—

"(A) if the Commission finds that—

"(i) the specific grounds on which the denial or bar is based exist in fact,

"(ii) the denial or bar is in accordance with the rules of the association, and

"(iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall so declare and, as appropriate, affirm or modify the action of the association, or remand the case to the association for further proceedings, or

"(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the action of the association and require the association to admit the applicant to membership therein or permit the person to be associated with a member, or, as appropriate, remand the case to the association for further proceedings.

"(4) Any person (other than a registered futures association) aggrieved by a final order of the Commission entered under this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 6(b) of this Act.".

REGISTERED FUTURES ASSOCIATION RULES

SEC. 9. Section 17(j) of the Commodity Exchange Act (7 U.S.C. 21(j)) is amended by striking out the third sentence.

LEVERAGE TRANSACTIONS

SEC. 10. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended to read as follows:

"SEC. 19. (a) Except as authorized under subsection (b), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

"(b)(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a) of this section, contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

"(2) No person may engage in any activity described in paragraph (1) of this subsection who is not permitted to engage in such activity by the rules, regulations, and orders of the Commission in effect on the date of enactment of the Futures Trading Act of 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2) of this section.

"(c)(1) Not later than 2 years after the date of the enactment of the Futures Trading Act of 1986, the Commission shall, with the assistance of a futures association registered under this Act, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1) of this section and shall transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this Act to render such assistance as the Commission shall specify. Such report shall include the Commission's findings and any recommendations concerning—

"(A) whether such transactions serve an economic purpose,

"(B) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

"(C) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.

"(2) Such report shall also include Commission regulations governing such transactions. Such regulations shall provide for permitting additional persons to engage in such transactions. Such regulations shall become effective on the expiration of 45 calendar days on which either House of Congress is in session after the date of the transmittal of such report to Congress. Such regulations—

"(A) may authorize or require, notwithstanding any other provision of law, a futures association registered under this Act to perform such responsibilities in connection with such transactions as the Commission may specify; and

"(B) may require that permission for additional persons to engage in such business be given on a gradual basis, so as not to place an undue burden on the resources of the Commission.

"(d) This section shall not affect any rights or obligations arising out of any transaction subject to the provisions of this section, as in effect before the date of the enactment of the Futures Trading Act of 1986, that was entered into, or the execution of which was confirmed, before the date of the enactment of such Act.".

AMENDMENT OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Tennessee:

(1) On page 6, line 5, strike out "must" and insert "shall"

(2) On page 7, lines 7 and 11, add quotation marks at the beginning of the lines.

(3) On page 7, move the matter on lines 13 through 18 flush with the lefthand margin on line 20.

(4) On page 8, line 15, strike out the comma and insert a semicolon.

(5) On page 8, line 17, strike out the comma and insert a semicolon.

(6) On page 8, move the matter on lines 20 through 23 flush with the lefthand margin on line 25.

(7) On page 10, line 17, insert a comma after "activity"

(8) On page 11, line 15, strike out "purposes." and insert "purpose;"

Mr. JONES of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that this technical amendment, which would correct some typographical errors, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. JONES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Glickman: Beginning on page 9, strike out line 15 and all that follows through line 22 on page 12, and insert in lieu thereof the following:

LEVERAGE TRANSACTIONS

SEC. 10. (a) Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in the first proviso to the third sentence (relating to the definition of the term "commodity"), by striking out ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act"; and

(2) in the sixteenth sentence (relating to the definition of the term "commodity trading advisor")—

(A) by striking out the comma after "a contract market" and inserting in lieu thereof "or"; and

(B) by striking out "or any leverage transaction authorized under section 19,".

(b) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in each of subparagraphs (C) and (D) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section"; and

(2) in paragraph (3)(E) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section".

(c) The first sentence of section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b)) is amended—

(1) by inserting "or" after "4th,"; and

(2) by striking out ", or section 19".

(d) The first sentence of section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by striking out "or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function as such as standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

(e) Section 9(e) of the Commodity Exchange Act (7 U.S.C. 13(e)) is amended by striking out each place it appears the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such as standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.".

(f) Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by striking out "or 19".

(g) Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is repealed.

(h) Section 22(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)(C) is amended—

(1) by inserting "or" after the semicolon at the end of clause (i);

(2) by striking out clause (ii); and

(3) by redesignating clause (iii) and clause (ii).

(i) The amendments by this section shall become effective 2 years after the date of enactment of this Act.

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

□ 1300

Mr. GLICKMAN. Mr. Chairman, first of all, I want to say that I am offering this amendment on behalf of myself and the gentleman from New York [Mr. SCHUMER], but I would refer my colleagues also to the additional views of myself, the gentleman from South Dakota [Mr. DASCHLE], the gentleman from Missouri [Mr. VOLKMER], the gentleman from Texas [Mr. STENHOLM], the gentleman from Washington [Mr. MORRISON], the gentleman from Wisconsin [Mr. GUNDERSON], and the gentleman from Oregon [Mr. ROBERT F. SMITH], on this particular issue in the back of the committee report.

This amendment strikes a section in this bill which authorizes the expansion of leverage transactions.

Before I tell you why I am offering an amendment, I would like to quote from the Journal of Commerce of May 1, 1986, a headline editorial which reads: "Congress, Don't Duck This."

I quote from the article:

Everyone knows the old saw that goes. "If it walks like a duck and talks like a duck and looks like a duck, it must be a duck"—unless of course, the federal government rules otherwise. Though numerous examples of this phenomenon exist, few are more blatant and potentially more dangerous to investors than the case of "leverage" contracts.

Leverage contracts are actually off-exchange-traded futures contracts. They permit an investor to "leverage" capital by controlling a specific amount of a commodity—such as gold, silver or platinum—with a margin deposit accounting for a small percentage of the total value of the contract. They are, like exchange-traded futures contracts, highly speculative. Unlike exchange-traded futures, the inherent risks are not limited to the changing tides of the marketplace.

The purpose of my amendment would repeal from the Commodities Exchange Act the special exemption which permits leverage contracts to exist in defiance of the regulatory structure mandated by the act and would simply require that leverage contracts meet the same test and regulation as other futures and options contracts regulated by the Commodity Futures Trading Commission.

What we are basically saying is that this particular instrument, which is sold by a couple of dealers in this country to, for the most part, unsuspecting investors, which is causing a great amount of loss and grief to those investors, should be regulated the exact same way as a futures contract.

Years ago, Congress said, and has repeated that statement, a futures contract must be traded on an exchange. Why? Because the public would be protected if it were traded on an exchange and Congress has honored that request over and over and over again. What I am basically saying to you, my colleagues, is that this leverage contract which has been around for a long time is basically a futures contract, not trade on an exchange. The investors are not given any protection. In many, many cases, if not the majority of cases, they lose money. It hurts the reputation of other futures contracts which are necessary for the argicultural and energy and financial areas, and we ought to get rid of it once and for all.

This amendment is supported by the North American Securities Administrators, all the State Securities Administrators all over this country. It is supported by Consumers Union, Consumer Federation of America, Public Citizen, the New York Commodities Exchange, the New York Merchantile Exchange, and both Chicago Exchanges in the committee record indicate their support for what I am trying to do.

Let me tell you some of the reasons why I believe we should eliminate leverage contracts. First, there is no economic value or purpose to this contract. They are not used as hedging instruments. They are purely speculative and poor bets at that.

The economists for the Commodity Futures Trading Commission and others agree that they would not meet the test necessary to qualify for trading on an exchange. They serve no valid economic purpose.

A futures contract must serve an economic purpose to be traded. These do not serve any economic purpose.

Second, there is no exchange or clearinghouse with these instruments. The liquidity, stability, credibility, and policing provided by exchanges and clearinghouses in the traditional futures markets are completely absent in the leverage business.

The trade is between the leverage company and the customer alone. In the futures market, you have to go through a central futures exchange which provides protection.

Third, the prices are set by the leverage company. The futures markets provide a means of price discovery through a system of open outcry in the public forum.

Many of you have been ot the Chicago Board of Trade or the Merc where you see the folks screaming at each other and deciding on what the price is.

In the leverage business, the leverage company's prices are set strictly by the leverage company. There is no negotiation.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 5 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, fourth, the leverage company is a principal. In the traditional futures markets, the exchanges provide a forum where buyers and sellers trade, as I talked about. The exchanges are essentially neutral.

In the leverage business, the other side of the customers' transaction is always taken by the house, the leverage company. There is no such neutrality. The likelihood of the customer being taken advantage of is much greater in the leverage business than it is in the futures business.

There is nontransferability in the leverage business. He is wedded to that leverage company; not so in the futures business. There is a greater danger of misperception of the markets. There are many other reasons why these markets are different, but the main reason is they cannot be adequately regulated.

The only reason that the off-exchange securities offerings work, by the way, in that particular area, is the presence of State securities agencies, but there is no backup for the CFTC in this area, so there can be no effective regulation of the area.

Frankly this amendment has been talked about for years. It is a consumer protection amendment which basically says we should not allow a transaction which I believe is inherently problematic and even fraudulent.

For that reason, I would urge that my colleagues vote on a very important consumer protection amendment, vote to preserve the integrity of the futures markets in this country, vote to protect customers all over America because if you vote against my amendment, you are implicitly voting to open up the entire markets in this country to over-the-counter non-exchange-traded futures markets.

I think that is bad for the country. I think it hurts the futures markets and I think it hurts a lot of customers around America.

I have many other points to raise but I think I will stop now.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman made a correct statement, but maybe not the latest up-to-date statement, and that is the exchanges who support the gentleman's amendment.

We have a letter from the Chicago Mercantile Exchange and the Chicago Board of Trade to the gentleman from Tennessee [Mr. JONES], the chairman, which states that they support, as reported by the House, the bill that we have before us.

Perhaps in the committee hearings they expressed a different opinion, and I think the gentleman is correct in expressing that opinion, but I think not to mislead anybody, I am sure the gentleman did not want to mislead anybody here.

Mr. GLICKMAN. Mr. Chairman, I did not. I would like to, however, make a clear point.

In the committee hearings, here is the statement on leverage from the Chicago Mercantile Exchange.

> We support Congressman Dan Glickman's position as an effective way to resolve the leverage issue.

The Chicago Board of Trade says, on page 397 of the committee report, "A congressional declaration that leverage contracts are futures and must be traded like all other futures," is what they say.

Now, for some reason, they have had a conversion, but I would point out to my colleague from Missouri that they do not say that they oppose this amendment. What they say is they support the bill without amendment.

They may have all sorts of other fish to fry in this case than I do, but the clear record is that they have supported my position.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I think there is one other point. I also read the letter and that is about as general a letter as I have ever seen written about a topic. Nowhere in it does it even mention the word "leverage contracts," if I can remember correctly.

I would simply point out to try to lead the House to assume that there was been some change of attitude with regard to this issue, I think, would be very misleading.

I would agree that the real issue that we are talking about here is the question of manipulation. Do we want to allow manipulation in the market? That is what it is. The leverage contracts allow manipulation. People who are in favor of manipulation ought to vote against this amendment. But if, in fact, they are opposed to manipulation, and I have been getting an earful from my Oklahoma cattlemen, I can tell you about manipulation of the markets, they darned sure better vote for the Glickman amendment.

Mr. GLICKMAN. Mr. Chairman, I would urge my colleagues in the desire to improve our markets and protect American consumers to vote for this amendment offered by the gentleman from New York [Mr. SCHUMER] and myself.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I have just one question on that Chicago Mercantile issue. Is it not a fact that the bill now drafted and before us would ban leverage contracts on all commodities, with the exception of precious metals, which are predominantly traded on the two New York futures exchanges?

Mr. GLICKMAN. Mr. Chairman, that is correct.

Mr. LENT. Mr. Chairman, I thank the gentleman.

□ 1310

Mr. JEFFORDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. COLEMAN of Missouri. Mr. Chairman, while we are on the subject and it is current in our thinking here, I would just simply read from the letter to clear up the record, again, that perhaps Mr. JONES—and perhaps Mr. JONES wants to read his own letter; I am rather presumptuous in talking about his letter that he shared with us today.

The concluding paragraph is, and this is from the CEO's of the Board of Trade and the Chicago Merc:

> The Committee is to be commended for its diligence in forging realistic and moderate solutions to difficult issues facing the futures industry and the CFTC. Considering the close scrutiny given these matters by the Committee, our two Exchanges support the bill as reported.

I think it is very clear that they have understood, and I hope that everybody can finally see the light; the gentleman from Oklahoma and others, if they want to do that, to be able to come back and support this as the committee has written it.

The other thing that I want to mention is that if Mr. GLICKMAN is trying to characterize his amendment as a consumer protection amendment, I think that the gentleman from New York has accurately just asked the question, that the metals involved that we are directing ourselves at on these leverage issues are traded on two futures exchanges in New York City, and that if we have any protection involved—I am not sure it is consumer protection, but it might be exchange protection in this particular case.

So let us again moderate our viewpoints, and I do not think that a vote against Mr. GLICKMAN's amendment is against consumers of this country whatsoever. It gives them actually more freedom and possibility to provide their own opportunities to buy and sell these precious metals, as Mr. JEFFORDS will now explain.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. ENGLISH. Mr. Chairman, I just want to make one quick comment to the gentleman regarding Mr. GLICKMAN's statements on consumer protection. I think whenever you look at a letter from the Commodities Futures Trading Commission which states that on trading on these firms, that 98.4 percent of all these contracts are unprofitable, I would say that there are some consumers that need to be protected from somebody, because there certainly are a lot of folks losing their shirts.

Mr. JEFFORDS. I thank the gentleman for his comment; not that it is exactly relevant, because recently on metals about everybody has lost money because the market has been going down.

Mr. Chairman, I guess we have pointed out some of the things that we all should be aware of. There is a question which is of deep interest to those that come from the New York City area, because the one exchange does feel threatened; those that are located

in New York City do feel threatened by this amendment, and anticipate they may lose some business.

There has been an analogy made here to a duck. I would say, in some regards, that analogy is correct; but this is like a little duckling who likes to stay close to the nest egg. What we are dealing with here are people who are interested in small transactions.

For instance, on the exchanges, one has to come up with $5,000 as a minimum to get involved in the operation of dealing in metals. With respect to the leverage business, it is $500 to $1,000, and that is the basic difference as to why these are in operation and why there is such an interest in them. It gives the person who does have a little bit of money, that they want to make sure they have some security, in what they put into precious metals.

Now that may be a bad judgment. Prices go down, as has occurred; or they my go up. That is speculation; that is true, and one can make the argument that perhaps there is no economic purpose.

The big difference is that there is a demand out there, and that is demonstrated by the fact that the two businesses which have had this monopoly for some 8 years have about $750 million in business a year.

The question is, What would happen if you do away with them and put them on the exchanges? All indications are that some of the trading leverage would go back to the boiler room. That is where it was before; that is why you had all the complaints, initially; that is why the CFTC is regulating these kinds of instruments.

Since they have been regulated, those complaints have gone away. The latest report, which we have just received from CFTC on the biggest firm in California, indicates that the number of complaints has gone down even further than the 4 percent; it is down around 3.2 percent now, and that there are very few complaints issued at all after this very excellent regulation by the CFTC.

Let me go back, Mr. Chairman, to the fact that we are dealing only with precious metals. The question that we had to face was whether or not to continue the monopoly, as I guess to a limited extent the Glickman amendment would do; or whether to establish that there is a demand for investment vehicles which will be serviced either in the boiler rooms or by these legitimate, well-regulated companies.

The committee concluded that the best answer was "OK, perhaps we shouldn't create monopolies. That's not a good thing for the Federal Government to do, and let's not allow this to continue for an indefinite period of time."

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 3 additional minutes.)

Mr. JEFFORDS. So what happened, Mr. Chairman, is that we did regulate. We are now providing the public with the service they demand in a well-regulated fashion. It has not created problems to any significant degree, and the bill will open leverage trading up to competition on a gradual basis. Because we need to give the CFTC time to regulate greater trading by other leverage firms, we open up trading on a well-ordered, studied basis.

As I pointed out earlier, there is a matter of contention. The administration, through the OMB, suggests that we "open it up to everything immediately." The CFTC, by a 3-to-2 vote, says, "Put it on the exchanges." We have created a middle ground and say "Let's open it up in this limited area where there seems to be public demand, where we can provide the protection, and where we can do it on a basis that we know we are moving into an area slowly as to whether or not it perhaps should be expanded; but not right now, let's keep it down where it is."

In addition to that, we believe that by doing the way we have done here, we will continue some very legitimate businesses who are employing a significant number of people who are providing a service to the public in a well-regulated fashion.

I read earlier from the letter of Fowler C. West and the two dissenters who indicated that this is a consumer protection approach; and that the States should not be afraid. They have authority, and this should be pointed out, they have authority now in the areas that are not regulated, to be able to move in on people who are creating fraud or are in violation of the law here.

So the States have protection, and they have protection now.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. COLEMAN of Missouri. Mr. Chairman, is the gentleman saying that the States right now can enforce their State laws against fraud against these boiler operators that we have all talked about, where all the complaints pour in, but not these two leveraged transaction merchants that are in business today. Is that correct?

Mr. JEFFORDS. That is correct.

Mr. COLEMAN of Missouri. Because they are regulated right now intensively by the CFTC.

Mr. JEFFORDS. That is correct.

Mr. COLEMAN of Missouri. And these are the only people we are talking about here; is that correct?

Mr. JEFFORDS. That is correct.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. GLICKMAN. Mr. Chairman, would the gentleman tell me what the CFTC's position is on the leverage issue? What would the CFTC like to see with leverage?

Mr. JEFFORDS. Well, 3 to 2. With an emphasis on that, there is a wide divergence of opinion on this. They would like to see that they be put onto the futures exchanges; but for the reasons I have stated and for the reasons for the dissent by Fowler C. West pointed out, that that is not the best place to do it.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will continue to yield, I think the record ought to be made clear. The CFTC has voted to approve the position of the Glickman-Schumer amendment. They would like to see leverage ended.

Mr. JEFFORDS. In loose terms, that is correct. On the other hand, the administration has taken the opposite view, to the opposite extreme.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. ENGLISH. Mr. Chairman, I believe the States now have so-called blue sky laws that deal with off-exchange transactions in the securities area. Is the gentleman saying that the States have that same authority as far as leveraged contracts are concerned?

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ENGLISH and by unanimous consent, Mr. JEFFORDS was allowed to proceed for 30 additional seconds.)

Mr. JEFFORDS. Obviously, any time there is an intrusion of the Federal Government, as we have seen in stocks or wherever else, that there is limitation on the authority of the States to get involved in the regulation that is being done in more orderly fashion, across the 50 States, by a Federal entity, as the CFTC is here. So in a sense they do not have the broad allowance to get into this area, but as far as the kinds of concerns of boiler-room operations and fraud, protection of the public; yes, they do have that authority.

Mr. ENGLISH. Mr. Chairman, I believe the gentleman just answered my question "no"? Is that not the simple answer?

Mr. JEFFORDS. Well, if the gentleman wants to make it that way.

Mr. ENGLISH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have got to say, in all honesty and candor, that I really do not have anything against leveraged contracts being traded off-exchanges if we could assure the public they would be protected.

The reason that the CFTC favors the Glickman amendment is due to the fact that the CFTC knows good and well they cannot provide that kind of protection.

We also have, as I just pointed out, the issue of the blue sky laws that I think most people are familiar with, that give protection as far as securities are concerned. As far as leveraged contracts, the States do not have that same kind of authority, and this bill does not provide it to them.

Really we are left with two remedies, as I see it: if you in fact are concerned about manipulation; if in fact you are opposed to manipulation—and keep in mind that leveraged contracts, by their own definition, provide for manipulation: guaranteed manipulation—then we had better get some protection for the public.

□ 1320

We had better do it either by adopting the Glickman amendment, which bans leverage contracts altogether and keep in mind that they serve no economic purpose. There is no reason to have a leverage contract other than the fact that it is a gambling device. You might as well go to Atlantic City or Las Vegas, put your money down on the tables because it is the same type of gamble, the same type of procedure.

But that being as it is, that is one way to do it, just eliminate it, ban it.

The second way, should they not be banned, should the Glickman amendment not be adopted, then I will offer my amendment, which at least gives the States the opportunity to protect themselves, to decide themselves as to whether or not they want these contracts traded in their jurisdictions.

The CFTC does not have the funds, they do not have the personnel, they do not have the means by which to protect the American people if this legislation moves forward as it is today.

So I would urge my colleagues to consider very carefully as to how they want to treat this subject, whether in fact they are going to support manipulation, whether in fact they are going to provide the mechanism within their States for their people to be bilked out of dollars, millions of dollars. That is the issue that is before us, or whether or not they are going to insist that their States be protected either by banning leverage contracts altogether or by at least giving those States the opportunity to decide for themselves as to whether or not they want leverage contracts traded. So with that, I urge the adoption of the Glickman amendment.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before I give my statement, I would like to say that, since reference has been made to the letter that was dated under July 15 from the Chicago Board of Trade and the Chicago Mercantile Exchange, that a change has been made as far as their position is concerned from the hearings that Mr. GLICKMAN quoted, held last March 18 and 19.

Let me read in part what this letter says, Mr. Chairman:

This letter is to inform you that the Chicago Mercantile Exchange and the Chicago Board of Trade support the passage of H.R. 4613, the Futures Trading Act of 1986, as reported by the House Committee on Agriculture.

This legislation reauthorizes funding for the Commodity Futures Trading Commission (CFTC) and makes numerous changes in the Act. As is true of the legislative process, controversies occurred and compromises were reached.

Mr. Chairman, I think that needs to be made a part of the RECORD for that reason.

COMMITTEE ON AGRICULTURE,
SUBCOMMITTEE ON CONSERVATION,
CREDIT, AND RURAL DEVELOPMENT,
Washington, DC, July 15, 1986.

DEAR COLLEAGUE: Since the Futures Trading Act of 1986, H.R. 4613, is coming to the Floor soon, I wanted you to know that the Nation's two largest commodity exchanges support the bill as reported by the Agriculture Committee.

A copy of a joint letter I received from the Presidents of the Chicago Mercantile Exchange and the Chicago Board of Trade is reprinted on the reverse side of this letter.

Several amendments affecting leverage transactions may be offered that would undo carefully crafted compromises adopted in the Agriculture Committee. I hope you will join the Chairmen and Ranking Minority Members of the full Committee and the Subcommittee in opposing major amendments to the bill as reported.

With kindest regards and best wishes, I am,

Sincerely,

ED JONES,
Chairman.

CHICAGO MERCANTILE EXCHANGE,
CHICAGO BOARD OF TRADE,
July 15, 1986.

Hon. ED JONES,
Chairman, Conservation, Credit, and Rural Development Subcommittee, Washington, DC.

DEAR CHAIRMAN JONES: This letter is to inform you that the Chicago Mercantile Exchange and the Chicago Board of Trade support the passage of H.R. 4613, the Futures Trading Act of 1986, as reported by the House Committee on Agriculture.

This legislation reauthorizes funding for the Commodity Futures Trading Commission (CFTC) and makes numerous changes in the Act. As is true of the legislative process, controversies occurred and compromises were reached.

The Committee is to be commended for its diligence in forging realistic and moderate solutions to difficult issues facing the futures industry and the CFTC. Considering the close scrutiny given these matters by the Committee, our two Exchanges support the bill as reported.

Sincerely,

WILLIAM J. BRODSKY,
President and CEO,
Chicago Mercantile Exchange.
THOMAS R. DONOVAN,
President and CEO,
Chicago Board of Trade.

Mr. Chairman, for the past several years, I witnessed in my subcommittee a trend which I find very disturbing. What we are witnessing here is one part of an industry attempting to use the Government to completely obliterate its competition. I find this being attempted more and more. A couple of years ago some crop insurance companies decided they could use the Government to rid themselves of competition from master marketers and independent agents. Of course it did not work but the fight caused serious disruption in the Federal Crop Insurance Program resulting in poor service to the farmers we are trying to serve.

There have been several references made to a so-called leverage loophole in the law during the consideration of this bill.

I took the time to look up the definition of loophole in Webster's dictionary, and here's what it said:

An ambiguity or omission in the text through which the intent of a statute, contract, or obligation may be evaded.

First of all, the sections of the Commodity Exchange Act relating to leverage are not the least bit ambiguous, and neither is the legislative history. For 12 years, and in three different reauthorization bills, the Congress has stated over and over again that leverage contracts are legitimate commodity investments—separate and apart from futures contracts—and should be brought under a distinct and strong set of regulations. The committee bill is consistent with this longstanding position.

As far as I'm concerned, anyone has the right to change his mind about whether or not the leverage industry should be permitted to continue in business, but I reject the notion that for some reason we have created a loophole in the law to protect shady dealings in the commodities industry.

Today we have seen the end result of a multiyear effort by a major New York exchange to nip in the bud a blossoming industry which by all evidence is providing an investment opportunity that thousands of investors want to participate in.

This anticompetitive trend seems to be characterized by larger commercial institutions trying to stifle smaller companies. It didn't succeed when the crop insurance companies tried it and I do not think it will succeed today. I would caution these exchanges to worry about their own internal operations which are blemished enough and to desist from attempting to use

the Government for a competitive edge.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, it might be helpful at this point to distinguish exactly what the difference is and what we are going to be doing in the future, likely what this law will provide for, will allow.

Is it not true that the likely result of this law will in fact mean that leverage contracts, instead of being traded on two firms, two firms that are closely watched by the CFTC, that what we will likely see now is that these leverage contracts with respect to the metals will be traded all across the Nation?

Mr. JONES of Tennessee. The answer is that the industry will be expanded and there will be an opportunity to trade all across the industry.

Mr. ENGLISH. So if the chairman will yield further, so instead of a situation in which the CFTC is being able to basically regulate the industry by looking at only two firms and what business they carry out, now the CFTC will be under the obligation of expanding to do that all across the Nation.

Mr. JONES of Tennessee. Competition is good for all of us.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Does the gentleman wish me to yield to him?

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I just want to clear up this business about the States' ability to regulate, not regulate in a sense but be able to enforce the regulations. Under the law there is a special provision for jurisdiction of States. One of the provisions, which is section 6(d), allows the attorney general of any State or the administrator of the securities laws of any State to go into the Federal courts and get injunctions or other relief against the people that are in violation of the CFTC rules.

In addition to that, there are special provisions which provide that, "nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State"; and, further, under section 8 "nothing in this act shall prohibit an authorized State official from proceeding in State court against any person registered under this act other than a full broker or registered futures association for an alleged violation of any antifraud provision of this act or any antifraud rule, regulation or order issued pursuant to the act."

There is full authority in the States to go in and enforce what we are doing here. So you do not have to rely upon the CFTC in an expansion or not. I thought that ought to be cleared up.

Mr. COLEMAN of Missouri. I thank the gentleman for his contribution. Of course, the gentleman is the author of the compromise language which the gentleman from Kansas wishes to strike from this particular bill.

I am not going to belabor and repeat the points made in the discussion, but there has been some discussion about the type of individuals who utilize leverage contracts and that somehow these people are uninformed and unsophisticated and are taken advantage of.

Let me again repeat because I know our colleagues who have not been exposed to this issue because they are not on our committee, that the two leverage transaction dealers now who are under discussion are thoroughly regulated and in fact they are more intensely regulated than some of the futures exchanges, which we all acknowledge exist and support. That is happening right now. We are not talking about those people, we are talking about some ephemeral group of people who are in boilerrooms somewhere supposedly taking advantage of the public.

That may be the case and why the States can enforce their own antifraud statutes, and why the CFTC can prosecute them also for violations because they are not one of the two people regulated under current law.

But who are the people that take advantage of the leverage contracts that we are talking about today? Well, the major leverage contractor, Monex, in California has made a survey of their clientele, and they are not the unsophisticated, unsuspecting little old lady that we heard about here today earlier. What we have are persons who are, on the average, 35 to 44 years of age, who are professionals, college graduates, 63 percent of them, they tend to be professionals, managers, salesmen. We find that 89 percent read the Wall Street Journal. In fact, if you are aware, you can see the ads in the Wall Street Journal. That is the main method of communication, I think, and advertisement for this particular firm. And 58 percent read Business Week, a business publication.

So we are not talking about people who are not well educated, who are not understanding of the process but people who do not have, as the gentleman from Vermont said, maybe the big bucks to go into the futures markets in order to invest and do that on a very large basis where they can on the small leverage transactions.

Everything that a person has in front of them in the newspapers, solicited advertisements, direct mail pieces, have to be approved by the CFTC, by these companies. In other words, you could put a stack of disclosures together that these companies have made in order to provide consumer protection, in order to conform with the regulations the CFTC currently has.

I want to point out again that just recently, in fact just within the last week, the CFTC by its own staff has made an audit of the Monex operation, and Monex has released this because it is a glowing report by the CFTC staff showing that, of all the things that they have to regulate, that they are doing very well. There are three technical minor issues involved that are being cleared up.

I asked the chairman, Susan Phillips, yesterday whether or not this audit is a glowing report and a positive report. She said by all means that it is. I think it speaks for itself. It goes through all the things that this company has to disclose to the public; its marketing, its advertising, the way it does business, its customer orders and confirmations, the training by its employees, the review—they even went into the correspondence of this company, reviewed the correspondence, the complaints. We all get complaints. We all get complaints about our own representation in our own offices. We sometimes do not like it but we read them. Here we have an agency that goes in and sees the complaints made to this particular company and reviews them, the customer complaints and the account procedures.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired.

(By unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 3 additional minutes.)

Mr. COLEMAN of Missouri. On top of that, we have information from the files of the Commission which again show that the complaints that have been made by the public against these two leverage dealers, and again let us focus on these two, those are the ones under regulation and the only ones we can deal with in this particular bill, that they constitute 2½ percent of the current reparation cases pending before the CFTC, 2½ percent. And there have only been five cases filed in the last 2 years since we have had the good enforcement and the good regulations in place, that we asked the Commission to put in place. Only 5 cases out of 25,000 customers that Monex has and 75,000 transactions. There are only five cases pending. I think that is a pretty good track record in anybody's book. So let us not throw everybody together in one

bushel basket around here and say anybody who is in the leverage business is bad, because the two companies, and more importantly the one that is the major one, have basically a clean bill of health from the CFTC as of last week. Complaints are down, the regulations are in place.

Mr. JEFFORDS has crafted an amendment that this committee, our Committee on Agriculture, overwhelmingly sustained by opposing a similar Glickman amendment in committee because it recognizes that this is a very difficult area that we are in and we are gradually trying to get ourselves out of. That is to have this gradual movement to open up the process to competition but only after a 2-year study and only after the National Futures Association, which will fund itself, a self-regulatory body which will get its own funds, through its own membership, not taxpayer dollars, to be sure and advise the CFTC as to what is necessary, to advise us so we can go into this thing with our eyes wide open on a very cautious basis.

I commend the gentleman from Vermont for his amendment. I stand in support of it today in opposing my friend from Kansas, who has a great intent and desire to have his view presented. He does a very good job. I just kind of think at the present time that it is wrong, and we ought to support the committee version.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I have one of the "Dear Colleague" letters that has been circulated with reference to this pending amendment. It indicates that of the two leverage trading firms remaining in business, 98 percent of the contracts, that one firm sold, were unprofitable for the client investors and 76 percent were unprofitable for the other firm.

□ 1335

I just wonder which firm is it, the one where 98 percent of the clients lost money or the one where only 79 percent lost money?

Mr. COLEMAN of Missouri. Mr. Chairman, let me respond to the question, because the question has been raised about people losing money on leverage contracts. The gentleman from Kansas admitted that there are losses on the futures exchanges as well.

But the point of it is that Phil Johnson, who was the chairman of the——

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired.

(By unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 2 additional minutes.)

Mr. COLEMAN of Missouri. Phil Johnson, who was a widely respected former Chairman of the CFTC, in 1982 said in hearings before our committee that he approximated that 90 percent of the people who invested in the futures market at that time lost money, including the gentleman's futures market in New York City. So I do not think that is really an issue, because when one of the two leverage dealers out here, when they go ahead and have to buy the precious metal on the COMEX, for example, they go in as a customer of the COMEX. In fact, they have to leverage 60 percent. They come in and purchase through your commodity exchange. They are a major customer of your exchange. So the only people making money when people lose money on leverage transactions are your traders on the COMEX, because they buy and sell the gold for Monex who is the leverage merchant.

I think it is not something that the gentleman really supports his position on and one which really is neither here nor there, because it seems like everybody seems to be losing money either on the futures exchange—that is not an issue.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think the difference is every time somebody loses money on a futures transaction, somebody else makes money. It is usually a customer or a trader, somebody else in the marketplace.

But with a leverage transaction firm, if 98 percent of the customers of that firm are losing money, the only person who is making money is the leverage transaction merchant. It is not another customer

Mr. COLEMAN of Missouri. The gentleman, knows, though, that in a leverage transaction a leverage dealer does not make his money from losses that their customers incur. They make it on the interest because it is a leverage. They borrow money, the customers do. They lend it to them. They make money on the commissions.

So just because a customer of a leverage merchant loses money does not mean that the merchant itself gains.

Mr. Chairman, is the gentleman nodding in agreement with my statement?

Mr. GLICKMAN. No. I think that that is one of the ways they make money, but an LTM also will make money on their own hedging of their customers' transactions themselves.

Mr. COLEMAN of Missouri. The gentleman knows they are prohibited from doing that by CFTC rules.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has again expired.

(At the request of Mr. JEFFORDS, and by unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 1 additional minute.)

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I think another answer is that granted, people lose money and some say, well, why do you not do away with the business. The problem is the business will not be done away with. You will be back to the boilerrooms. The question is whether you want people, if they are losing money, to lose it in a well regulated, fraud-free business or whether you want it to be lost by some guys who are defrauding them and doing it in an unregulated business.

So I think that is probably the best answer to the argument.

Mr. COLEMAN of Missouri. We are not doing a very good job for advertising this business today here on the floor.

Mr. JEFFORDS. If we discourage people from investing in these things if they lose money, that may be the biggest service we can give them. But the demand is out there. That is obvious.

Mr. COLEMAN of Missouri. The gentleman is right. At least under Government regulation and disclosure, people will go into these transactions with their eyes much wider open than if we float these things back to the boilerroom operations, which is where these will go if they are not regulated by the CFTC.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, unlike the last time I stood in this well to protect one of my constituents from being legislated out of business, it pleases me on this occasion to join the leadership of both Houses and a strong majority of the Committee on Agriculture and the subcommittee involved for the same purpose today.

I would urge Members to reject the rhetoric and hyperbole being offered by those who would amend the committee's bill today.

The issue before us is plain and simple: competition or not.

The committee, under the able leadership of Chairman DE LA GARZA and Chairman JONES and the ranking member, on two occasions this year rejected this same amendment by 30 to 12 in the full committee and 9 to 5 on the rejection in the subcommittee. That I think should be meaningful to the Members of this body, because the committee has had several years now

to study this. They have had these proposals before and they have rejected them time after time.

Monex International is one of those two CFTC licensed precious metal dealers that happens to be located in my district. It is the larger of the only two so licensed in the United States. Eighty-five percent of this particular company's business is in the retail purchase and sale of commodities pursuant to regulated leverage transactions. This company was founded in 1967 and employs more than 200 people in the county of my residence.

Believe it or not, this company is not trying to be unregulated or deregulated. Ladies and gentlemen of this body, it has spent 10 years actively seeking Federal regulation. Time and time again Monex came to Congress seeking a mandate for action by the CFTC. Finally, in 1984, CFTC adopted a stringent scheme of regulation to govern the leverage business, a business frozen to two companies by an anticompetitive regulatory moratorium.

Now the committee report is very specific on that, because due to the Jeffords compromise in the committee, which was adopted by the committee after due deliberation, it requires the Commission now to conduct a study of up to 2 years and report to the Congress, one, whether leverage transactions serve an economic purpose; two, the most efficient manner consistent with the public interest to permit additional persons to engage in this business; and three, the appropriate regulatory scheme to govern leverage transactions to ensure the financial solvency of the transactions and to prevent manipulation or fraud.

The issue of how to deal with leverage trading has been difficult for the committee, but they have responded and they have responded well. Amendments that would have banned leverage contracts or revoked exclusive commission regulation of leverage or redefined leverage transactions as futures contracts, thereby requiring that they only be traded on exchanges, were rejected by the subcommittee and by the full committee.

The committee bill is a compromise that neither, and I quote the report, "* * * puts legitimate businessmen out of business nor codifies an anticompetitive monopoly for those businessmen." It is the essence, in my view and in the view of the subcommittee and the committee, of fairness.

In conforming to new regulations, Monex, one of the two companies, has restructured its computer and software systems, substantially revised its existing literature and disclosure documents and reorganized its corporate structure. The committee has done this at the cost of over $1 million. By all measures, including the CFTC, Monex is a very tightly regulated company.

Nineteen years after it was founded by the same businessman who still owns the company today and 2 years after expensive compliance with the toughest of all of the CFTC's regulations, this amendment is saying, "Now, hold it. Leverage contracts should be illegal? Put this company out of business?" No, says the administration. No, says the full committee. No, says the subcommittee. I do not buy it either, nor should this House.

Why should these contracts be illegal when Congress has told the CFTC to regulate them since 1974? Why should these contracts suddenly be deemed futures contracts? They were not futures contracts in 1974. They were not futures contracts during the first——

The CHAIRMAN. The time of the gentleman from California [Mr. BADHAM] has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 5 additional minutes.)

Mr. BADHAM. They were not futures contracts during the first CFTC reauthorization in 1978, and they were not futures contracts during the second CFTC reauthorization in 1982, but today precisely the same instruments are now desired to be futures contracts by Members of this House whose proposals were rejected in the subcommittee and rejected in the full committee.

What difference does it make? The answer tells us that. Unless traded on an exchange in New York or Chicago, futures contracts are illegal.

□ 1345

That is not a proper way to do business in this country. The exchanges know that, which is why they advance this innocuous-sounding new theory.

As pointed out earlier, Chicago Board of Trade goes along with the idea until they wrote the letter to Chairman JONES of yesterday. Now, it has been said that it does not say they support leverage contracts, but the two say, "We support the bill."

The letter that Mr. JONES received from the two says very clearly, "The Chicago Mercantile Exchange and the Chicago Board of Trade support the passage of H.R. 4613," July 15, "* * * the Futures Trading Act of 1986, as reported by the House Committee on Agriculture."

You cannot stand up here and say that those people did not know what was in the bill. They knew what was in the bill and they support the bill. Even the minority members of CFTC have seen the evil that would transpire if these amendments were to be adopted. That is as stated by the gentleman from Missouri, the gentleman from Vermont and other Members of this body, you drive the people underground into the bucket shop that are doing this. That is what the freeze and the regulation was put into effect for some years ago.

Now we are trying to preserve that and have a study so that these people can come back with more, if needed, regulations and more, if needed, opening of the business.

CFTC, by a bare majority, goes along with the idea thus far because they know it would mean one less set of regulations to worry about. Let me add here that the convenience of Government officials is really not a reason to ban legitimate business activity in the United States.

Why would a New York exchange care about a Newport Beach company? They both trade gold and silver. From Newport Beach Monex services over 13,000 active customers engaged in transactions exceeding $500 million annually. I presume the exchange wants a piece of that action. Well, they already have it, as was pointed out by the gentleman from Missouri.

They cannot say, "ban our competition;" they would never get away with it. So why do they want to get away with it by subterfuge, and they should not according to the subcommittee and the full committee. I agree with the administration, the majority of the committee, the majority of the subcommittee.

In fact, there has been some consideration to offering an amendment prepared by the Department of Justice which would ensure and enhance whatever potential for competition exists between leverage dealers and future exchanges. But the study called for in the Jeffords compromise, the support of the committee, the subcommittee and the administration I think makes it clear that we should support what the committee has done with this very technical issue.

I stand here, once again, in this case to ask the Members not to put a well-run, legitimate company out of business. Let us either improve the competitive position of some big commodities exchange or relieve this Government agency of some work? No; let us let people stay in business who are regulated, who are legitimate and should remain in business.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman.

Mr. BROWN of California. I thank the gentleman for yielding to me.

Mr. Chairman, I want to commend the gentleman for his very thoughtful and extensive statement on the question before us here. I think it is noteworthy that I not only joined him in his previous efforts to protect the egg cracking machine, but I subscribe wholly to the position he has expressed here. I assure him that in both cases it was not because the industry or the business concerned were from

Orange County. I do not have too many concerns about protecting Orange County, but I think that the gentleman is correct in this case.

The CHAIRMAN. The time of the gentleman from California [Mr. BADHAM] has expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. BADHAM was allowed to proceed for 3 additional minutes.)

Mr. BADHAM. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman.

Mr. Chairman, I think the gentleman's stand is clearly a principled stand and was, in both cases, protecting an individual small businessman from a threat to be forced out of business by virtue of what, in my opinion, and I think he shares that view, would be an unfair regulatory process.

I think the real issue, as he has stated it, is whether nor not we want to stifle competition in an area where a firm is providing a real, legitimate, important service which needs to be protected.

I might point out that I joined with two other distinguished colleagues, Mr. PANETTA and Mr. COELHO, in a dear colleague letter in which I stated, we all three stated, our opposition to this amendment and our support for the bill as it has been reported out by the committee.

I think as the gentleman indicated, that the committee acted with good judgment. We recognize the need for a further analysis of this problem. We provided for it in the bill. In the meantime, I think it would be highly unwise to engage in an action as represented by this amendment which would force out a business, a legitimate business enterprise, even though it is in Orange County, which has been providing a service over these many years.

I want to thank the gentleman for his very eloquent statement.

The real issue before the House is an attempt to stifle competition, not to protect customers and prevent fraud. The CFTC has just completed an audit of the operations of Monex—the principal leverage transaction merchant—and it has passed muster. Both Monex and IPMC have been in business since before the establishment of the CFTC in 1974 and are still in business complying with CFTC regulations.

These regulations assure protection of the public—the scam and boiler-room operations about which complaints are registered are those conducted by other firms—those firms which do not and cannot meet CFTC regulations. The Glickman amendment does absolutely nothing to bring those problems under control. It would merely put out of the leverage business legitimate operations that have met the test.

On the other hand, the principal advocate of the amendment is a New York exchange on which precious metals are traded that fears competition. Its fears are unfounded because any leverage merchant must cover its transactions by hedging on the exchange. Thus, business by leverage merchants translates to business on the exchange.

Also, what is the record of customer protection? Last year the clearing house for the exchange was unable to meet its obligations to the tune of $15 million when the gold market suddenly moved against it. It took a year before its customers were made whole. No default has ever occurred as to any customer of the two leverage companies. In fact, leverage companies must cover 90 percent of the value of their transactions. Its customers must be provided with detailed disclosure information and also have 3 days to rescind the first transaction they make with the leverage merchant. No such requirement exists as to the exchange. These are but a few of the public protection requirements unique to leverage that do not apply to the exchange.

Mr. BADHAM. I thank the gentleman, and I certainly appreciate his remarks.

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman.

Mr. COELHO. I thank the gentleman for yielding to me.

Mr. Chairman, I just join in support to the gentleman's statement in part. I do not agree with the gentleman's statement in regards to the egg cracking machine, as he knows, but in this particular case, I rise in strong support of his position and opposition to the amendment offered by the gentleman from Kansas.

This particular matter was debated in subcommittee extensively. It was debated in full committee extensively. It lost in both instances. It lost in the full committee by a 3-to-1 margin. I think that the indication of the people that deal with this on a regular basis understand all the arguments here and basically what we have is one group of people trying to put another group of people out of business. I do not think it makes any sense.

I think that we should permit the Commission to properly handle this, and I rise in strong opposition and compliment the gentleman on his statement.

Mr. BADHAM. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to the debate with a great deal of interest and I get the distinct and regrettable impression that we are discussing a quite different amendment than that which in fact was offered by the gentleman from Kansas.

The amendment offered by the gentleman from Kansas would do very little. It would simply require that dealers in leverage contracts register with CFTC as leverage transaction merchants, and it would require transactions in leverage contracts to be conducted on and to be subject to the rules of boards of trade designated by CFTC as contract markets and as self-regulating institutions. That is all it does.

Now, I have heard some prodigious crocodile tears shed here and I was very much touched and would have been even more touched if they had been factual, about what disastrous consequences this amendment would impose on the two trading companies that trade in this particular business, namely, the International Precious Metals Company and Monex International, Ltd., of Newport Beach.

The hard fact of the matter is this amendment would not force either of those companies out of business; it would simply require them to register with CFTC as leverage transactions merchants and function in a regulated climate. So they would continue to exist.

As a matter of fact, if they would be forced out of business by that kind of situation, then we should say "good riddance" because they are probably too crooked to be around.

I do not want to say anything bad about these corporations, but I would simply observe that in the first quarter of this year, International Precious Metals dealt with its clients and customers and 98.4 percent of them lost money. At Monex of Newport Beach, 75.9 percent of its customers lost money.

□ 1355

Now, I am not going to say that Monex and International Precious Metals skinned anybody, but functioning in an unregulated climate, which has not been scrutinized extensively by the CFTC, certainly afforded them a splendid opportunity to do something. Why? There is no prohibition against insider trading, as one finds in the regular markets. There is no prohibition against fraud. There is no requirement for there to be a paper trail, and the State regulatory agencies are not able to enter in to police the situation.

Now, is this bad? Of course it is bad. Worse of all, the State blue sky laws and the State agencies are not able to function.

So what happens? The citizen who enters these markets all of a sudden finds his money is gone, he goes to

court, there is no paper trail, and there is no way for him ever to prevail in a lawsuit against a guy with deep pockets.

The amendment, I reiterate, is a very simple one. It simply sets up a situation which requires registration and regulation. Everybody talks about how this is going to force these two corporations out of business. The harsh fact of the matter is that it is not going to force them out of business. As a matter of fact, it is going to set up a situation where they will get a little bit of competition.

If the House does not adopt the amendment today, the consequences at which we look are that we have a simple situation where for a period of 2 years, while CFTC studies this market situation, nobody can get into the business in competiton with either Monex International Ltd. or International Precious Metals. These two companies have a good thing, and let us remember that, in the case of International Precious Metals 98.4 percent of their clients have lost money, and in the case of Monex 75.9 percent of their clients have lost money. So under the committee bill we are going to confer upon them a monopoly for a period of 2 years. During those 2 years, CFTC is going to study this matter but they have already done so for quite some time and they support the Glickman approach and not the committee's provision.

CFTC has said that it cannot regulate this market unless it is subject to essentially self-regulating institutions and the trading is done within the structure of regulated mercantile exchanges. There are a number of them. And they have testified that they feel that it is a good idea, that leverage trading should in fact be regulated.

I heard one of my good colleagues and friends for whom I have the highest regard tell us that the board of trade of the city of Chicago is opposed to the Glickman amendment. Nothing is further from the truth. In point of fact, the Chicago Board of Trade has said: "There is one issue which we generally agree with the CFTC—leverage. CFTC has proposed that section 19 of the Commodities Exchange Act be repealed."

That is exactly what the gentleman from Kansas [Mr. GLICKMAN] suggests, and it makes eminent good sense.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, all this amendment really does is say that we are going to take a situation now where activities involving trades in precious metals are conducted in the dark of the Moon, without the slightest public supervision, under circumstances where CFTC says they cannot scrutinize and they cannot regulate, and move it out into the broad sunlit uplands, where it can be scrutinized, where everybody can be sure that they are fairly treated, where there are paper trails, and where there is opportunity to detect insider trading and fraud on those persons unwary enough to enter this particular area.

I have heard it said that a lot of these people read the Wall Street Journal. A great number of people read the Wall Street Journal, and a great number of people who read it are fleeced regularly. I have heard how they were graduates of various schools, and so forth, and I would observe that doctors and persons of great professional skills are regularly fleeced because it is so easy to fleece a fellow who has some money and wants to make some more money real quick.

The hard fact of the matter is, if we want to stop fraud, if we want to stop rascality, if we want to put in a little competition, if we want to see to it that these matters are conducted in the open glare of daylight, where honest men have an honest chance to make an honest buck and where rascals, rogues, and knaves cannot prosper in the dark, then we should endorse the Glickman amendment. If we want rascality to continue to proliferate and monopoly to rule and evil men to be able to skin honest men without the slightest possible obvious, intelligent supervision or regulation, then we should, of course, vote against the Glickman amendment.

Mr. Chairman, these contracts are purely speculative and the deck is stacked against the customer. As I stated earlier, data supplied by the two existing leverage companies shows that the vast majority of their leverage customers lost money in the first quarter of this year—98.4 percent at International Precious Metals Corp., Fort Lauderdale, FL, and 75.9 percent at Monex International Ltd., Newport Beach, CA. Why?

There is no exchange or clearinghouse and prices are set by the leverage company. The other side of the customer's transaction is always taken by the House, the leverage company. They provide the cards, cut the deck, deal, keep score, control the pot, and, some allege, even tape a few aces to the bottom of the table. That's no poker game I want to sit in on, let alone sanction. They need to be exposed and subjected to the same regulations as exchange-traded futures contracts.

Also, I am very troubled by the lack of any State presence. One of the reasons that the off-exchange securities offerings marketplace works is the presence of State securities agencies serving as local cops on the beat. Through the system of concurrent securities jurisdiction, the SEC and the States share regulatory responsibility over the off-exchange sale of securities. There is no such backup for the CFTC should off-exchange futures trading be allowed to continue, and inevitably to grow.

The Commodities Committee, Board of Directors and members of the North American Securities Administrators Association have contacted the Committee on Energy and Commerce to express their urgent concerns. I ask unanimous consent that their June 12, 1986, letter be printed in the RECORD at the close of my remarks.

I urge my colleagues to consider this matter very carefully. A vote for the Glickman amendment is a vote for our constituents and for cleaning up the sometimes shadowy images of futures trading.

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.,
June 12, 1986.

Re H.R. 4613—Reauthorizing of the Commodity Futures Trading Commission.

The Honorable JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
U.S. House of Representatives,
2125 Rayburn House Office Bldg.,
Washington, DC.

DEAR CHAIRMAN DINGELL: On behalf of the Commodities Committee, Board of Directors and the members of the North American Securities Administrators Association, Inc. ("NASAA"), I am writing to express our urgent concerns about impending Congressional action regarding leverage contracts, as contained in H.R. 4613, the House bill to reauthorize the Commodity Futures Trading Commission ("CFTC"). We believe that the special interest juggernaut promoting leverage created by the leadership of the House Committee on Agriculture must be halted.

We do not believe it necessary or appropriate to dwell on the history of the leverage "industry" and the special interest concessions granted by the Congress in the Commodity Exchange Act in 1974. Legitimizing a few leverage firms was a mistake then, and a worse mistake is about to be made. The House Ag Committee CFTC reauthorization bill would not only reaffirm the legitimacy of the two remaining "legal" leverage firms, but would also set the stage for the entry into the business of any other firm meeting the minimum qualifications. This would mean opening the floodgates of a full-scale over-the-counter futures market. Such a market would be so rife with fraud and consumer and investor abuse that the very prospect is chilling. On top of that, the House Ag Committee contemplates no additional role in regulation for the states. The CFTC, with its meager resources and hypersensitivity to industry pressure, is to be the sole watchdog.

If these leverage contracts are to be allowed, they should be effectively regulated. If they are to be effectively regulated, they should be regulated by the appropriate regulators: the Securities and Exchange Commission, and the state "blue sky" agencies.

Leverage contracts have always been and will always be securities. In the mid-seventies, in the few instances where the opportunity arose, leverage contracts were almost uniformly held to be securities in court and

administrative decisions. [I have taken the liberty of enclosing copies of decisions rendered (1) by the New York Supreme Court in an injunctive action brought against Monex International, Ltd. by the State Attorney General under New York's securities law; (2) by the Wisconsin Commissioner of Securities against Monex, *et al.*, under the Wisconsin securities act; (3) by the U.S. District Court of Minnesota in a private civil action brought against a firm named Continental Finance Corporation under federal securities law; and (4) by the Supreme Court of Minnesota in an appeal of an action brought by the State of Minnesota Attorney General and Securities Commissioner against Coin Wholesalers, Inc., to enjoin the sale of margin sales (leverage) contracts, brought under the Minnesota securities act. A decision rendered by the Supreme Court of Canada is being sent under separate cover. In its decision, the Canadian court held the Monex leverage contracts to be securities based on a review of American statute and case law.] But for the pre-emption of state securities laws imposed by the Commodity Exchange Act in 1974, is it not likely that regulation of leverage contracts as securities by federal and state securities regulators was inevitable? Hence, a very close relationship arose between the leverage interests and the House Ag Committee.

S.B. 2045 would have the effect of banning leverage. It is being stalled in committee by Senator Wilson. Monex is headquartered in Newport Beach, California. Senator Wilson is from San Diego. In the face of a letter writing campaign by NASAA members and personal lobbying by the undersigned [see the enclosed NASAA position paper], the House Subcommittee and Committee rejected Representative Glickman's H.R. 3434 (which would have effectively banned leverage) and sent instead a very pro-leverage CFTC reauthorization bill to the House floor.

NASAA and the Commodity Exchange of New York ("COMEX") have joined forces in an attempt to eradicate leverage. The leverage supporters have dismissed the COMEX opposition as based on fear of competition and on self interest. However these leverage supporters have completely disregarded NASAA's opposition and the stated opposition of the CFTC. Both positions are based on a strong interest in consumer protection, and a recognized lack of resources and inability to regulate even the existing leverage firms, let alone a full-scale over-the-counter futures market. In fact, it is difficult if not impossible to formulate counter arguments to our consumer protection position.

The truth must be aired as to what is occurring concerning leverage. Our warnings and fears have been collectively ignored to date. If we must tolerate the continued existence of leverage contracts, then we should and must be given the authority to regulate them and those who sell them on a functional basis. The contracts are securities and those who would sell them are investment companies and broker-dealers. We urgently request your assistance in derailing this runaway train before hundreds of thousands of unwitting consumers fall into the ever growing ranks of commodity fraud victims.

I am available at any time to provide you with whatever further information you may need. Please do not hesitate to contact me at the above address or directly at (303) 866-2607. Thank you for your most valuable time and attention.

Respectfully,

PHILIP A. FEIGIN,

Assistant Securities Commissioner, Colorado Division of Securities.

Chairman, Commodities Committee, North American Securities Administrators Association, Inc.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, nobody can express himself as well as the gentleman from Michigan. I agree with him in everything he says, and I would like to point out one other thing.

Not only are these two firms granted a monopoly for 2 years, but after that the whole business opens up so that this kind of operation, the potential for scam, no longer stays with these two businesses, it becomes available for everybody around the United States. That is what the National Association of Securities Administrators is so scared of.

What we are trying to do is get these transactions on an exchange, and if the Members vote my amendment down, they are going to make it so that almost every American is subject to being fleeced.

Mr. DINGELL. And during which time intensive study as to how honest men may be skinned under a monopolistic situation will be going forward so that the handbooks on how you can skin honest men are already in print and available to the rascals and knaves of this society who want to find out how honest men can be separated from their hard-earned earnings.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I have one additional thing to point out. I would like my colleagues to know that over the last several months these firms, particularly the firm of Monex, have written to the CFTC asking to be granted exemptions, all sorts of exemptions from the requirements that my colleague, the gentleman from California, says are going to be put upon them.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to my colleague, the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding, and I join with the gentleman from Wisconsin and with the good committee chairman in supporting the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

I think the issue is simple. We have heard from the gentleman from California and so many others about free and open competition. We heard about that in 1929, in 1930, and in 1931 before the securities markets were regulated. All the companies that were going to be regulated said, "Don't let the Government come down upon us. Don't let there be fair and open disclosure." They did not want the kinds of regulations that have made the securities market in America the strongest in the world. You ask anybody and they will say the reason that the securities markets in America are strong and free and open and vibrant, with new people coming into the business every day, is that there have been some reasonable and modest regulations.

Now let me state the problem with the existing bill. I respect the Committee on Agriculture and its good chairman and its subcommittee chairman for trying to close things off, but what they did is they said that for three commodities the theme of the bill agrees with the amendment offered by the gentleman from Kansas [Mr. GLICKMAN], that these leveraged contracts should not be traded in the dark, that people should not be allowed to add an extra quarter of a point on for no good reason and put it in their pockets, and so what they did is they said certain other things should be added to the bill except for three commodities. Why are three commodities exempted? Well, maybe it is because there are a couple of companies that are involved.

But what the Glickman amendment does is not to say that those companies will go out of business but to say that they should trade like everybody else on a free and open market. And when there is talk about these exchanges wanting a monopoly, what are the exchanges? The exchanges are like this Congress of the United States. We are not a monopoly. We have 435 people of different viewpoints all converging and having those viewpoints clash.

That is what an exchange is. It is a pit. It is a place where every little entrepreneuer can get started, but he has to trade openly, publicly, and for the benefit of his client.

In the dark of night, as we learned in 1929, 1930, 1931 and 1932, bad things happen. This amendment says, let us bring everything into the light. That is why it deserves support.

We talk about consumers. That is why consumer groups, including the Consumers Federation of America, Consumers Union, Public Citizen, and others, are all strongly in support of the amendment.

So, Mr. Chairman, I thank the gentleman from Wisconsin very much for yielding, and I urge my colleagues to

support the Glickman amendment. It is the only way to bring fairness and equity not to two companies or even a hundred entrepreneurs but to literally tens of thousands of people who trade these materials and who should be trading them in a free, open, and enlightened and lit-up market.

Mr. Chairman, I thank the gentleman from Wisconsin again for his time and indulgence.

Mr. GUNDERSON. Mr. Chairman, I do not know that there has been a time before in the 6 years that I have been in this Congress when I have come to the floor in opposition to the distinguished chairman of this subcommittee, a gentleman for whom I have the highest regard and with whom I have worked time and time again. Yet I find myself in this situation, and I want to address myself again to those who are listening to this issue and who say that it is very complicated, confusing, and who want to know what it is all about.

As a Member of this subcommittee and of the full committee, having studied the issue and having listened to the debate on both sides, I had to step back for just a second because it seemed like we could not see the forest for the trees.

□ 1405

I think that is really what the debate in front of us is on this particular amendment.

Why are we here today? We are here today because we have made a decision in previous Congresses to regulate the trading of futures contracts, to regulate the trading of commodities. We have chosen to do that through the CFTC. We have chosen to do that on exchanges with both public and private regulations.

Now, why did previous Congresses make that decision? They made that decision because they believed it was in the interests of consumer protection to have some type of governmental regulation over the exchange, over futures trading in this country.

We have got to ask the question, if that is why we are here, if that is what we are doing in reauthorizing the CFTC, How do leverages fit into this whole discussion that we are having?

I would suggest and I think anyone would have to suggest that leverages are legally and economically indispensable from a futures contract in every sense of the word, with the exception that they are not traded on exchanges.

As I studied this issue and debated where I ought to come down, it become obvious to me that if we had not had in this country at the point of this debate two companies involved in the transaction of leverage options, our subcommittee, our full Agriculture Committee in this Congress, would have voted almost unanimously not to allow them to happen. We would have said it ought not to be. We ought to trade futures on an exchange regulated both publicly and privately.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 4 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, if we come to that conclusion, as I have, then we have to take a look at the compromise which is in front of us as a part of the legislation and we have to take a look at the amendment offered by our colleague, the gentleman from Kansas, and ask a couple questions.

Are leverage actions a proper way of doing business? I contend they are not. They are not because under a leverage transaction the broker is also the exchange. There is not an exchange which is a middle man, but rather the leverage industry serves as both the broker and the exchange; but if you come to the conclusion that it is a proper way for handling the trading of futures in our society, then you have got to ask some other questions. Why under this compromise do we only allow two companies to operate in the leverage business?

Why do we only allow precious metals to exist and to be traded? Why not aluminum? Why not copper? Why not foreign currencies and even why not agricultural commodities, which is perhaps the issue most of us are concerned about and why we have a CFTC in the first place.

Now, I agree with my colleague, the gentleman from Vermont, that you cannot and should not preserve a monopoly. I agree with that, but at the same time the gentleman goes on and suggests in his compromise that we cannot open up the industry totally and we do not want to put a couple of them out of business, so we have decided to restrict them to only a couple precious metals.

It seems to me we have got to go back and ask if this compromise is so much of a compromise, that it is the worst of all worlds, and I would suggest that it is.

Last year this Congress adopted the 1985 farm bill. We adopted the 1985 farm bill, whether you like it or not, on the basic premise that agriculture in this country was going to become more market-oriented. The only justification that people give for leverage transactions is that they allow the little guy to be involved in the futures, trading futures; and yet if that is our contention and if the purpose of reauthorizing the Commodity Futures Trading Commission is to update it to modern times, then it seems to me incumbent upon us in this Congress to make sure that in that update, in the reauthorization, we make sure that we allow leverage transactions if we are going to legalize them to be available to the little guy in agriculture.

So then we come back to the compromise again, which does not allow egg options. I tell you, Mr. Chairman, we are going to the worst of both worlds. This compromise is so much of a compromise that it is wrong from all perspectives.

I encourage you to understand and go back to why we are here in the first place. We are here because we want to protect the consumer. That is why we have the CFTC. That is why we have the law on the books and if that is the case, then I would suggest that we ought to support the amendment of the gentleman from Kansas and we ought to tell the two exchanges personally involved in leverage transactions. "You don't have to go out of business. No one is suggesting that in any way, shape or form. You simply have got to do it in the way that we have decided it ought to be done. You have got to do it on the exchange."

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the chairman of our full committee, the gentleman from Texas, in a colloquy on the issues of speculative limits, hedging, and aggregation.

During the committee's deliberations and hearings, we learned that certain regulatory policies had not kept pace with market changes. In particular, futures exchanges and organizations, as well as market users, urged the committee to take action in the areas of increasing speculative limits, modernizing and expending the definition of hedging and reforming the Commission's aggregation policy. The committee, as I understand it, was impressed with the seriousness of these concerns. The committee determined to defer adopting any statutory changes in these areas because we were assured by the Commission that it had the authority to address these matters under existing law and it would do so promptly. Again, as I understand it, the committee expects the Commission to proceed to address these matters in an orderly, but timely, fashion and to report on its progress to the committee on a regular basis.

I would ask the gentleman from Texas if my understanding and the comments I have just made are correct from his point of view.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to my colleague, the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, the gentleman from Illinois is completely correct. The committee and its subcommittee received substantial testimony on the speculative limit, hedg-

ing, and aggregation issues. The committee, as expressed in its report, concluded that these were important issues which the Commission should resolve as high priority items on the regulatory agenda. We recognized that, at least in the first instance, these issues called for the Commission's expert scrutiny. The committee will be thoroughly exercising its oversight powers to follow the Commission's progress toward removing regulatory barriers in these areas and expects to receive periodic, regular Commission briefing from Chairman Phillips on Commission action in these areas.

Mr. MADIGAN. Mr. Chairman, I thank the distinguished gentleman from Texas, the chairman of the committee, for his response.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the pending amendment. I do so hopefully to close the debate very briefly, Mr. Chairman.

To correct some innuendo or misconception or bad perception of the situation regarding leverage, we heard well-intentioned, possibly, but out of the scope of the debate on the basic issue about rascality and fraud and in the dark of the night; that has nothing to do with it. Actually, it is a very simple question.

In this great country of ours, the United States of America, the customer, the consumer, is king. The entrepreneur looks to see where he might sell an item or a service. This is how leverage got started. Several people saw a need and were able to provide it and they have provided it; but what I wanted to bring forward to the Members is this thing about they are not regulated. They are more regulated, if I might say, the regulations from the CFTC for customer protection, they have minimum adjusted net capital requirements of $2.5 million.

Cover requirements are at least 90 percent of LTM's customer obligations must be covered with either physical commodities or futures contracts. At least 25 percent of LTM's total obligations must be covered with physical commodities.

Leverage transaction requirements, leverage transactions time-stamped to within nearest 10 seconds (absolutely chronological audit trail maintained for leverage transactions), 10 seconds. This is not done by the Securities and Exchange Commission. We are now looking to doing it in the futures.

It is said that somehow this is different, that if regulated in the exchange, it will provide a profit for everyone who ventures into it. This is not done in any market and specifically in the securities and exchange area. No one is guaranteed a profit. No one is guaranteed that he is not going to lose money. I do not care what the percentages are.

You have further that confirmations are issued to customers within 24 hours of transactions. Customer may rescind first transaction within 3 days.

It is just replete, Mr. Chairman, with regulations. They are really more regulated than the exchanges in the Securities and Exchange Commission.

So let us put out of our minds this rascality and in the dark of night. That has no place here.

The basic issue is that a couple individuals, now they are basically down to two, saw a need that was presented to them, in their opinion, for a service. They have provided it.

Some people make money, some people lose money. This is when you play in the market.

The issue now here is, do we, by law, put out of business two firms that have not done anything that is illegal, immoral, or does not affect the health, safety or morals of our community? It is just a service which they have provided which is played, as you do in the stock exchanges, as you do in the futures market, and as you do with leverage.

So the question is, do we, by law, put someone out of business that is doing nothing that impacts on health, safety and morals? I say "no."

Mr. GLICKMAN. Mr. Chairman, will my distinguished chairman yield on that point?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, first of all, I disagree. Neither the CFTC, the State securities administrators, or one of the two companies agree that this is going to have anything to do with business.

The Chairman of the CFTC, in its recommendation for reauthorization, said, "The amendment did not necessarily terminate the business of these firms. They could, with some modifications to their operations, continue in business."

Mr. DE LA GARZA. That is enough for me to answer the gentleman. What the gentleman does, he puts them out of business. He moves them. They have to go to the exchange.

Mr. GLICKMAN. Well, Mr. Chairman, if the gentleman will yield further, that is what we are requiring from everybody else. That is why, after 1929, we set up the regulation of the financial industry.

Mr. DE LA GARZA. This has nothing to do with 1929 and the financial crash.

Right now there is inside manipulation. If you read the headlines, the problem is not in this area. The problem is in the stock exchanges, manipulation inside, people getting rich and so on. That is where the mess is. Even though they are closely scrutinized and supervised, the rascality is in another exchange. It is not in the leverage area.

Basically, that is where we are, that the committee in its wisdom refused to deal in the way the gentleman presents it, both in the subcommittee and in the full committee.

The CFTC has their own opinion on it, but the issue here is now, do we sustain what the committee has done, which is a very fragile compromise, a very fragile compromise that eventually will lead to the area of more competition? Certainly you cannot have more supervision than you have now.

I would hope the Members would vote with the committee and against the amendment.

Mr. LENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas [Mr. GLICKMAN] and the gentleman from New York [Mr. SCHUMER].

First, it should be said I think once again that the purpose of this amendment is not to put the two existing leverage firms out of business. Rather, it is to insure that all firms selling leveage contracts to the public comply with the same rules followed by other futures merchants. This is not a radical step. It is simply a necessary closing of a loophole in the law and the only fair course for us to take.

For over 60 years, the fundamental principle of futures trading is that it must take place around a licensed exchange. This requirement is fundamental for three reasons.

First, it provides a central marketplace necessary for efficient hedging and price discovery.

Second, it protects the integrity of the market by providing a meaningful system of safeguards through exchange regulation and Federal Government oversight.

And, finally, it assures the financial integrity of the futures market.

□ 1420

In contrast, leverage contracts afford none of these protections to investors. In traditional futures trading, prices are set by open outcry in a public forum; in the leverage business, the leverage company unilaterally sets the price.

In the futures market, buyers and sellers trade through exchange facilities and get the benefits and the protections of an exchange, whereas in the leverage business, the leverage merchant is the principal, a party to the contract whose interest is adverse to that of the customer.

Mr. Chairman, it is time now to put these leverage merchants on the same footing as we do other futures merchants, and to charge them with the same duties and responsibilities. We must do this to protect the American

investors. They are entitled to receive the same protection when trading leverage contracts as they have when trading other commodities instruments.

Mr. Chairman, I urge adoption of the Glickman-Schumer amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GLICKMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 193, not voting 19, as follows:

[Roll No. 217]

AYES—219

Ackerman	Gibbons	Mrazek
Akaka	Gilman	Murphy
Anthony	Gingrich	Natcher
Applegate	Glickman	Neal
Aspin	Gonzalez	Nelson
Atkins	Gradison	Nielson
Bartlett	Gray (PA)	Nowak
Barton	Green	Oakar
Beilenson	Guarini	Oberstar
Bennett	Gunderson	Obey
Bereuter	Hall (OH)	Owens
Berman	Hall, Ralph	Pease
Biaggi	Hamilton	Petri
Bliley	Hammerschmidt	Rahall
Boland	Hansen	Rangel
Bonker	Hayes	Ray
Boucher	Henry	Reid
Boulter	Hertel	Richardson
Bryant	Holt	Ridge
Byron	Horton	Rinaldo
Carney	Hughes	Ritter
Carper	Hutto	Roberts
Chandler	Jacobs	Rodino
Clay	Jenkins	Roemer
Coats	Johnson	Rose
Cobey	Jones (OK)	Roukema
Collins	Kanjorski	Rowland (CT)
Conte	Kaptur	Russo
Conyers	Kastenmeier	Sabo
Cooper	Kemp	Savage
Coughlin	Kennelly	Scheuer
Coyne	Kildee	Schneider
Crockett	Kleczka	Schroeder
Daniel	Kolter	Schumer
Daschle	Kostmayer	Seiberling
Davis	LaFalce	Sharp
Dellums	Leach (IA)	Shaw
Dickinson	Lehman (CA)	Shelby
Dicks	Lent	Shuster
Dingell	Levin (MI)	Sikorski
DioGuardi	Levine (CA)	Sisisky
Donnelly	Loeffler	Skelton
Dorgan (ND)	Lowry (WA)	Slattery
Dowdy	Luken	Smith (FL)
Downey	Lundine	Smith (IA)
Dwyer	MacKay	Smith, Robert (OR)
Early	Manton	Snyder
Eckart (OH)	Markey	Solarz
Edgar	Martin (NY)	Spratt
Edwards (CA)	Mavroules	St Germain
Edwards (OK)	McCurdy	Staggers
English	McGrath	Stark
Erdreich	McHugh	Stenholm
Evans (IL)	Meyers	Stokes
Fascell	Mica	Strang
Feighan	Mikulski	Stratton
Fish	Miller (CA)	Studds
Florio	Miller (OH)	Swift
Foglietta	Miller (WA)	Synar
Ford (MI)	Molinari	Tauke
Ford (TN)	Mollohan	Taylor
Fowler	Monson	Towns
Frenzel	Montgomery	Traficant
Garcia	Moody	Traxler
Gejdenson	Morrison (CT)	Udall
Gephardt	Morrison (WA)	Vander Jagt
Vento	Weiss	Wyden
Visclosky	Whittaker	Wylie
Volkmer	Whitten	Yates
Vucanovich	Williams	Yatron
Walgren	Wirth	Young (FL)
Watkins	Wise	Young (MO)
Waxman	Wolpe	
	Wortley	

NOES—193

Alexander	Frost	Moorhead
Anderson	Fuqua	Murtha
Andrews	Gallo	Myers
Annunzio	Gaydos	Nichols
Archer	Gekas	Olin
Armey	Goodling	Ortiz
AuCoin	Gordon	Oxley
Badham	Gray (IL)	Packard
Bateman	Gregg	Panetta
Bates	Hartnett	Parris
Bedell	Hatcher	Pashayan
Bentley	Hawkins	Penny
Bevill	Hefner	Pepper
Billirakis	Hendon	Perkins
Boehlert	Hiler	Pickle
Boggs	Hillis	Porter
Boner (TN)	Hopkins	Price
Borski	Howard	Pursell
Bosco	Hoyer	Quillen
Boxer	Hubbard	Regula
Brooks	Huckaby	Robinson
Broomfield	Hunter	Roe
Brown (CA)	Hyde	Rogers
Brown (CO)	Ireland	Rostenkowski
Bruce	Jeffords	Roth
Burton (CA)	Jones (TN)	Rowland (GA)
Burton (IN)	Kasich	Rudd
Bustamante	Kindness	Saxton
Callahan	Kolbe	Schaefer
Campbell	Kramer	Schuette
Carr	Lagomarsino	Schulze
Chapman	Lantos	Sensenbrenner
Cheney	Latta	Shumway
Clinger	Leath (TX)	Siljander
Coble	Lehman (FL)	Skeen
Coelho	Lewis (CA)	Slaughter
Coleman (MO)	Lewis (FL)	Smith (NE)
Coleman (TX)	Lightfoot	Smith (NJ)
Combest	Lipinski	Smith, Denny (OR)
Courter	Livingston	Smith, Robert (NH)
Craig	Lloyd	Snowe
Crane	Long	Solomon
Dannemeyer	Lott	Spence
Darden	Lowery (CA)	Stallings
Daub	Lujan	Stangeland
de la Garza	Lungren	Stump
DeLay	Mack	Sundquist
Derrick	Madigan	Sweeney
DeWine	Marlenee	Swindall
Dixon	Martin (IL)	Tallon
Dornan (CA)	Martinez	Tauzin
Dreier	Matsui	Thomas (CA)
Duncan	Mazzoli	Thomas (GA)
Durbin	McCain	Torres
Dymally	McCandless	Valentine
Dyson	McCloskey	Walker
Eckert (NY)	McCollum	Weber
Emerson	McDade	Wheat
Fawell	McEwen	Whitley
Fazio	McKernan	Wolf
Fields	McKinney	Wright
Flippo	McMillan	Young (AK)
Foley	Michel	Zschau
Frank	Mineta	
Franklin	Moakley	

NOT VOTING—19

Barnard	Fiedler	Roybal
Barnes	Grotberg	Torricelli
Bonior (MI)	Jones (NC)	Weaver
Breaux	Leland	Whitehurst
Chappell	Mitchell	Wilson
Chappie	Moore	
Evans (IA)	O'Brien	

□ 1440

Mrs. KENNELLY, Messrs. FORD of Tennessee, NOWAK, ATKINS, SAVAGE, WILLIAMS, MARTIN of New York, MONSON, KEMP, and ST GERMAIN, Ms. OAKAR, Mr. DAVIS, and Mr. COBEY changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATKINS: On page 12 after line 22, insert the following:

SEC. 11. The Commodity Exchange Act, as amended, is further amended by—

(1) inserting in section 5 after "to designate any board of trade" the following: "except as specified in section 5(h) of this Act";

(2) inserting in section 5 a new subsection (h) as follows:

(h) Beginning with contracts which expire during or after December 1987, designation shall be hereby deemed withdrawn for all contract markets for live cattle until or unless the Secretary of Agriculture determines by a referendum that the designation of such board of trade as a contract market is approved or favored by at least a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for sale of at least twenty (20) head of the live cattle specified in the futures contract for which such board of trade is seeking designation.

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Chairman, the gentleman from Iowa [Mr. SMITH] and I have a very simple amendment to the legislation before the committee.

Mr. Chairman, basically the language we have presented as an amendment would allow the cattlemen and demand that the Secretary of Agriculture call a referendum to be voted on by the cattlemen whether they would like to have their live cattle participate, in a live markets future.

I have been working with cattlemen, and I have been a cattleman myself, for many years. I think the time has come that the cattlemen should be allowed to vote on whether they want their product; live cattle, to be marketed on the futures market. It is a very simple, a very clean amendment, and I would ask my colleagues to vote to allow our cattlemen to have that opportunity to cast their vote on whether they want their live cattle marketed on the futures market.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I want to commend the gentleman from Oklahoma [Mr. WATKINS] and the gentleman from Iowa [Mr. SMITH] for offering this amendment.

Last Friday, the gentleman from Oklahoma and I participated in a meeting with farmers in the southern part of Oklahoma.

□ 1450

And there was a large group of cattlemen there who felt very strongly that the position of the futures market was dictating the price and damaging them. I think the amendment that the gentleman offers makes very good sense because it allows those who are most affected to determine whether or not they want to continue to be a part of this particular market process. One of the disagreements I have with this administration, for example, is their opposition to letting the farmers themselves determine what is in their best interests.

I think what this amendment does is allow those cattle producers to determine for themselves what is in their best interests.

Mr. Chairman, I commend the gentleman and support him.

Mr. WATKINS. Mr. Chairman, I appreciate the gentleman from Oklahoma's [Mr. JONES] remarks because he was there out of concern for the cattlemen. We had over 300 cattlemen at the meeting. They are deeply concerned about what direction they seek in the market for their cattle. I have been working with the cattlemen since 1974, long before coming to Congress, about this problem. I have asked that we have more openness concerning the cattle futures program. I have asked that more education be allowed our cattlemen and farm youth to know the future market. None of this has taken place. I think it is time that we allow the cattleman, that person who owns that product, that right to vote of whether they want their product on the futures market. So, Mr. Chairman, I ask all my colleagues on both sides of the aisle to allow our cattlemen to vote whether they want to allow the live futures market for live cattle.

Mr. SMITH of Iowa. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I was the original sponsor of the Commodity Futures Trading Commission Act. Back at that time we had the CEA, which was an office with only 17 people down in the Department of Agriculture, and a lot of abuses were taking place. We would just as well have outlawed futures but I preferred to save the futures for legitimate use, especially in grain. So I do not have to apologize to anybody for saying that I am for the futures markets. I want to protect them. I think they have a place, if they are properly used.

I voted for the last amendment because I thought leverage contracts would extend the jurisdiction of the CFTC to an area they should not be into. They have too much work to do without being into that. I am for this amendment, too, because this contract is not performing properly. This cattle contract is an embarrassment to the grain contracts and to the legitimate contracts that are regulated by the CFTC. Sooner or later it is going to hurt all of the Commodity Futures Trading Commission contracts if we do not get rid of this contract or else clean it up. That is the position I am taking.

Now, the problem with the contract is this: there are six times as many hedgers on the short side as there are on the long side. That means there are six times as many speculators on the long side as there are on the short side. The contract is so much out of balance that it cannot help but be subject to abuses, and it is subject to abuses. One of the speculators down there abused the contract by violating limits 15 times in 5 months, 15 times in 5 months.

That was one of the big speculators.

This contract is an embarrassment to the other contracts. What this amendment would do is simply say that after December of 1987 there will not be a contract unless between now and then the Secretary of Agriculture conducts a referendum just as he does on 30 marketing orders, and gets an approval of the producers that have 20 head or more in the feed lot during that year.

I think that it is a good amendment, and I think, as a matter of fact, this amendment is necessary in order to preserve the support that we now have for the Commodity Futures Trading Commission and other futures contracts.

Now, we could just as well put this agency under the SEC. I thought seriously about that when I first introduced the bill to establish the CFTC. I thought it would be better to have a separate agency.

But I will tell you this, if we cannot clean up a contract like this, if we cannot clean up insider trading abuses, then we had better put it under the SEC where they have more employees and computers and resources to handle these types of problems.

I ask you to vote for this amendment as a way of voting to help save the CFTC and those needed contracts.

These abuses and shortcomings have been going on for some 10 years, it is not something that just happened overnight.

Ten years ago there were only three or four State cattle organizations that supported this position. In the last year it has become a landslide; the majority in almost all the State cattle organizations support this position. The National Cattle Organization, employees at the national level, may not yet but their members do support this position. And I think it is the right position to take at this time.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. Yes; I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding.

This is the amendment that deals with the cattle futures?

Mr. SMITH of Iowa. That is right.

Mr. COLEMAN of Missouri. The previous amendment which the House voted on, on which there was a lot of confusion as Members streamed into the Chamber, had nothing to do with the cattle futures issue, did it?

Mr. SMITH of Iowa. That is true.

Mr. COLEMAN of Missouri. It had nothing to do with agricultural products, did it?

Mr. SMITH of Iowa. No; that is true.

Mr. COLEMAN of Missouri. It had to do with the precious metals, gold, silver, and platinum, is that correct?

Mr. SMITH of Iowa. Yes; that is true except to this extent: the CFTC is so overloaded down there with the small number of employees that they have compared to the SEC and the small computer capacity that, if they handle contracts like the live cattle contract it absorbs their ability to handle other contracts.

Mr. COLEMAN of Missouri. But this proposal goes to the cattle issue.

Mr. SMITH of Iowa. That is right.

Mr. COLEMAN of Missouri. The previous amendment did not go to the merits of that issue.

Mr. SMITH of Iowa. No; that is right.

Mr. COLEMAN of Missouri. I think the House Members, some of them were, I think, confused as they came in here and voted on the last amendment, the previous amendment thinking that that had something to do with the cattle issue. I think the gentleman is absolutely right, it had nothing to do with the cattle issue. This is the cattle issue.

Mr. SMITH of Iowa. I will settle for the vote we got on that last bill.

Mr. COLEMAN of Missouri. I think that in the full House people might want to reconsider their vote on the previous amendment if they thought that that was a cattle issue.

I thank the gentleman for yielding.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. Yes; I yield to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa [Mr. NEAL SMITH]. it is apparent that there are unexplained disruptions in the cattle futures market which are resulting in lost cash for cattle producers. The problem with cattle futures is simply that the purchaser-speculator

seems to have too much of the market advantage; the producer has too much of the loss.

The Congress and the Commodity Futures Trading Commission have not, in my opinion, given sufficient attention to the inequities cattlemen face in the futures market.

My support for this amendment is not without reservation, however. While a problem in this area obviously exists, we must be careful that what is done by Congress does not lead to market disruptions and disorder of the type that occurred after USDA's announcement of its plan for the wholeherd buyout.

In a short time, the gentleman from Oklahoma [Mr. JONES] will offer a well-crafted amendment directing that a comprehensive review of this issue be carried out. This is long overdue. Relevant committees of both bodies of Congress have ignored this problem for far too long.

Support for the Smith amendment will be a strong signal of congressional interest in finally forcing the problems with cattle futures to the forefront. This in itself is an important contribution of the amendment before us.

The Smith amendment would place a moritorium on cattle future trading after next September. What is needed, but has not been forthcoming, is a responsible congressional investigation before that time with recommendations to address the issue of futures market abuse without jeopardizing orderly markets for the cattle producer.

This is why Members should support the Smith amendment. Only with the deadline that the Smith amendment provides will the cattleman be assured that the full attention of Congress is turned toward his problems with the futures market.

Finally, the Smith amendment contemplates a producer referendum. I respect the choice involved in this device under this amendment. The referendum in Smith amendment is on whether producers wish to use a particular marketing outlet: the futures market. It does not involve questions of how much can be produced and whether producers wish to abide by production limits.

Mr. SMITH of Iowa. Mr. Chairman, I urge a vote for this amendment.

Mr. WATKINS. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of Iowa. I yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman from Iowa's position. He is probably one of the foremost authorities on this issue.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. SMITH] has expired.

(On request of Mr. WATKINS and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 1 additional minute.)

Mr. WATKINS. Mr. Chairman, will the gentleman continue to yield?

Mr. SMITH of Iowa. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding further.

Mr. Chairman, the gentleman from Iowa, I say to my colleagues, has probably studied this issue more than any other person in the House. I appreciate working closely with him and coauthoring this amendment with him along with the gentleman from Oklahoma [Mr. JONES] because this is very crucial. He has explained it in much more detail than I have. All I can say to all the people here is that the cattlemen want to have some kind of control over the product that they raise. Right now they do not. They want to have the opportunity to vote for it. This will allow the Secretary of Agriculture to call a referendum, that is all it would do, letting the cattlemen vote on whether they want a futures market for live cattle.

Mr. SMITH of Iowa. I want to add, it is necessary because under the law as it has always been written, the Commodity Futures Trading Commission determines whether or not there is an economic purpose for a contract. They have determined there is an economic purpose only because the packers are on the short side of the contract and they are getting big advantages out of this. They should be on the long side of the contract. They have not determined that there is an economic purpose for producers.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. SMITH] has again expired.

(By unanimous consent Mr. SMITH of Iowa was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. If we pass this amendment and it becomes law, I think they will clean this contract up, they will find a way to prevent people from owning contracts on the short side who ought not to be there such as packers and that will help to even up the contract so it will not be so subject to abuses.

The packers should not be on the short side of this contract, and that is a principal reason it is overloaded on the short side. If this amendment passes, they will be required to find a way to clean up the contract.

Mr. MARLENEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and I have a great deal of respect for the gentleman from Iowa, who I know has put in a tremendous, tremendous amount of work and research and has had a tremendous amount of staff work done over a long period of years on futures markets, particularly as they pertain to livestock. I see nothing wrong, absolutely nothing wrong in allowing our livestock producers an opportunity to render their judgment on the ultimate destination, the ultimate disposition, the ultimate price of their livestock, and the manner in which they are traded.

I would urge my colleagues to support the Watkins-Smith amendment to this particular bill.

Cattlemen in my State of Montana have often accused the futures market of driving down the cash price of cattle, which is the amount of money that a rancher gets for his cattle at the sale barn or the packing plant. Recent swings in the futures price on the Chicago Mercantile Exchange have convinced many cattlemen that something is definitely wrong.

Through the last several months, the Nation's cattlemen have become increasingly concerned about the effects of cattle futures trading on cash markets. The recent volatility of and downward pressure on futures and cash prices have many cattlemen questioning the integrity of the beef cattle markets.

When USDA announced its plan to send more than a million cows to slaughter under the whole-herd buyout program, it triggered a chain reaction that reignited the longstanding dispute over the merits of cattle futures trading.

The markets, reeling after the announcement, fanned the flames of controversy when they went limit up or down during 11 of the first 20 trading days following the announcement. Cattle producers in Montana who correctly feel burned by the dairy buyout, will not soon forget the volatility of the futures market during this extremely trying time.

The real victim is the cow-calf man. Since there is really no contract for his commodity because he doesn't yet have calves when he needs to hedge, he cannot even play as anything other than a speculator. So he sits on the sidelines and just has to watch as the futures market drags his cash price down.

If we cannot have this amendment, the least we should do is to answer two key questions asked by the National Cattlemen's Association: Do live cattle and feeder cattle futures contracts still meet an economic need? Does there exist or is there potential for market manipulation through futures trading?

Mr. ROBERT F. SMITH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very difficult issue for many of us. I have been in the livestock industry all my lifetime. The question of the futures market has always been a controversial one. I think likely the question is when the market is low the futures market may well drive the market lower; when the market is high, there are many operators in this country who use the futures market as a tool for marketing.

The ability to forward-contract is essential if we are to have stability in the livestock industry. The facts are that, since April and the announcement of the whole herd buy out, the livestock industry has been in complete turmoil. We have just recovered, by the way. Yesterday the futures market in this country was about the same as it was on April 1 with the announcement of the whole herd dairy buy out. This market is coming back, but it is fragile, it is very fragile.

My concern simply with this amendment is that it will again begin to be a destructive issue in what I consider to be a recovering livestock industry. That is my business and I represent a lot of livestock people in this country.

Now, the National Cattlemen's Association has called for a study analyzing what is going on in the beef futures market. I agree totally with that, and I understand one of our Members may offer an amendment.

I would support, certainly, a study to determine if there is outside influence in our market, where and how the beef futures market is controlled, if it is, by outside influences and whether or not it is a marketing tool that we ought to use in the future.

However, this, I believe, is a precipitous step. It is too rapid. I again say to you that trying to prohibit members of my industry from voting on an issue, it may be a precarious position but in all good judgment I believe it is our responsibility of judgmental people to review certainly the futures market in this country, then to make our judgement, and then to make our statement to our producers all across this country so that we may recommend to them and they will help us correct the situation if it needs correcting.

So I suggest to you that I am asking for delay, I am merely saying let the Agricultural Committee study this issue, not extend it forever; but I am sure that there will be those who can commit to a study for this issue in the very near future, if not early next year. So I ask you to deliberate about that, to vote against this amendment, not voting against the livestock people in America but voting for them in a reasonable, judicious study of the issue. Then we will determine whether or not we ought to eliminate the futures market or whether we should continue it.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, I have deep respect for the gentleman in the well. But I would like to point out that, since I have been in Congress, we have had three studies concerning the CFTC and agricultural products.

I would like to point out to the gentleman I think more than anything, right now the beef and live cattle market is controlled by speculators. Speculators in the market have nothing to do with the product of the farmer or cattleman who has worked hard all his life. Beef imports also have much to do with the market. These are the two things that probably have a greater impact on the market today than anything else. Right now the livelihood, the future of the cattlemen is at stake. The very ones who put all their labor in raising that product.

So I ask my colleagues to vote yes for the Smith-Watkins-Jones amendment.

Mr. ROBERT F. SMITH. If I may reclaim my time from the gentleman, he makes good points. I am certainly concerned about beef imports. I am very much concerned about who might manipulate our beef futures market in this country. This is not a study for delay that I am asking for. It is a study to find in depth, and I have been here 4 years and no one has requested even a review of the futures markets. I am very supportive of that idea. I do not want to delay the issue, but I think this good judgment is that we ought to study the issue first and act later.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to remind the gentleman there have been three studies, one by the GAO, one by a committee and one by the CFTC. So there have been studies before. But the CFTC takes the position that if an economic purpose is served to anyone, they cannot do anything about it. This is the only contract the CFTC administers which is so lopsided or thin with so many hedgers on one side compared to the other.

□ 1505

The CHAIRMAN. The time of the gentleman from Oregon [Mr. ROBERT F. SMITH] has expired.

(On request of Mr. SMITH of Iowa, and by unanimous consent, Mr. ROBERT F. SMITH was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. It is the only one they administer where they have so many people on the short side who should be on the long side. That is the reason it is not working appropriately.

If we put this amendment in this bill, my contention is that they will revise their contracts so that packers cannot swallow up the short side. They should not be on the short side of this contract as "hedgers."

Mr. ROBERT F. SMITH. Mr. Chairman, I understand the gentleman's point. If a study of the futures market in our Committee on Agriculture, and I am on the Livestock Subcommittee, if that is the area that it is designed to go, I will assure the gentleman that if that is the case, I will then join the gentleman, if we find out that is exactly the case, in legislation to correct. That is the way you correct it, through legislation, after you discover what indeed are the details of the problem. There are many other problems with the futures market that I have. I want to join with the gentleman and try to correct those.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. ROBERT F. SMITH] has again expired.

(At the request of Mr. MARLENEE, and by unanimous consent, Mr. ROBERT F. SMITH was allowed to proceed for 1 minute.)

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, for a point of clarification, when will the referendum take place?

Mr. ROBERT F. SMITH. Mr. Chairman, I yield to the gentleman from Iowa [Mr. SMITH] for a response.

Mr. SMITH of Iowa. There would not be a contract after December 1987 unless a referendum had been approved. So the Secretary of Agriculture would set the referendum, presumably, in the next 5 months.

Mr. MARLENNE. Mr. Chairman, if the gentleman will continue to yield, so the industry has essentially until January 1, 1987 to prove the case or disapprove the case if in fact we want to do something about what is happening in the futures market.

Mr. SMITH of Iowa. Yes. If the majority are not for this, there will not be any disruption at all.

Mr. ROBERT F. SMITH. Mr. Chairman, reclaiming my time, the point is that the sword of Damocles will be held over the heads of the futures market and those people who are legitimately using the futures market as a marketing tool all of this time.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Oklahoma and the gentleman from Iowa, not that my heart is not with them, not that I cannot say in all honesty that many of the points the gentlemen raised, particularly the gentleman from Iowa who has been an adamant studier of this perceived problem for as long as I have been in the Congress, are valid.

But I rise in opposition today because my heart is with the gentlemen but my head is not.

I have some questions about us precipitously making a decision like we are asked to do today. In all due respect, and I hope the two gentlemen who have offered this amendment will correct me if I am wrong with this statement, let me ask the gentlemen, did the gentlemen appear before our subcommittee and specifically talk

about the issue of referendum on the elimination of beef cattle futures?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I have had this bill in for at least 6 or 8 years.

Mr. STENHOLM. That is not what I asked.

Mr. SMITH of Iowa. Every year I have asked for a hearing on the bill and an opportunity to appear on the bill.

Mr. STENHOLM. I agree with the gentleman on that statement.

My question was, Did the gentleman appear before our subcommittee and specifically ask on the CFTC authorization for our subcommittee and the full Committee on Agriculture to study this issue?

Mr. SMITH of Iowa. My written request covered that. I made a written request to the committee to appear on that bill and that covers it.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I did not specifically, but I had a much smaller request. I wanted more openness and an educational program but I have not gotten to first base. So I joined with the gentleman from Iowa in order to try to get this to the floor so our cattlemen can be able to vote on this thing.

That is all we are asking for, for the Secretary of Agriculture to let the cattlemen vote and let them decide on which way they want to market their cattle.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for his response. The gentleman makes my point of why I strongly would urge this House to oppose the amendment.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, all I want to say is before the subcommittee all Members of Congress are invited to testify and appear. No one has ever been turned down.

Mr. STENHOLM. Mr. Chairman, that is certainly correct.

Certainly this is a confusing issue and most any one of us who represent agricultural producers of lifestock and, in my own case I am one of them, certainly there is a lot of desire on my part to support this. But I would point out that in a case as complicated as marketing in today's 1986 agricultural world, this is not a decision that I, as a Member of Congress, would like to pass on in a referendum until we have had an opportunity in the proper body, and I believe that body to be the House Committee on Agriculture, to review and to accept the challenge.

I think the gentleman is making his point very well, the gentleman from Iowa, the gentleman has had his bill in. Up until the last couple of weeks, or since the dairy whole-herd buy-out, this has not been near the controversy out in the country as it is today.

We always would like to close the door after the horse is out.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, this has been a controversy a lot longer than that. This has been a controversy ever since I have been in the U.S. Congress.

Let me say this. I think our cattlemen have a legitimate request here for being able to vote on their future. They are hurting out there.

As the gentleman well knows, out in the farming community, out in the cattle industry, they are hurting as far as producers go. I think we should allow them this opportunity to vote, and we should request the Secretary of Agriculture to do it.

Mr. STENHOLM. Again, I respectfully disagree with that point. I have no problem with producers voting.

Where I have a problem is once again us abdicating our responsibility of providing what it is we are going to vote on, an analyzation of the marketing process, whether or not the futures market is doing those things to our producers that many of us believe that they are. These are things that I think should properly come before the Conservation and Credit Subcommittee and the Livestock and Dairy Subcommittee, and for us to take a good hard look at before we make an action like the gentleman asks us to make today.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Nebraska.

Mr. DAUB. Does someone know and could answer how many cattle there are on feed right now, and what the impact of this amendment would be relative to the perception of the market if it passed, and what pricing might occur if in fact there is an oversupply of cattle on the market right now?

Mr. STENHOLM. I do not know. The numbers are substantial.

But the gentleman raised the proper questions of why I, as a member of the House Committee on Agriculture, is one who——

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(At the request of Mr. DAUB, and by unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. STENHOLM. These are questions that I do not know the answer to.

I am very concerned at this moment with the volatility that we have in the market for us to make some decisions that will be perceived by these same speculators who will have until December 1987 to make this judgment. I do not know the answer to that question. I am concerned what it will do to the market.

I urge a no vote on this amendment. I urge a yes vote on the amendment of the other gentleman from Oklahoma who is coming up with an amendment later that will instruct the House Committee on Agriculture to do exactly what the gentleman from Oregon stated a moment ago and what the gentleman from Iowa and the gentleman from Oklahoma want us to do. There is an orderly way to do it. This is not the way to do it. Let us proceed according to order.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The first contract that would be affected would be the December 1987 contract, if any is affected. So there are no cattle on feed now which would be involved. Nobody is going to feed them until December 1987. So no cattle on feed are affected by this whatever.

Mr. DAUB. Mr. Chairman, will the gentleman yield for a cross-colloquy so that I could try to find out a little more about this?

Mr. STENHOLM. I am happy to yield to the gentleman from Nebraska.

Mr. DAUB. I say to the gentleman from Iowa, for whom I have high regard and in fact think is on the right track, there is a problem. I really agree. I think this is bringing it all to a head so that this place we so dearly love and want to continue to serve in will finally do something about the problem.

But I am concerned about if in fact the market mechanism has too many cattle in it now relative to the market, and we do what the gentleman would like us to do today, even if it would not pass the other body or even if it would be dropped in conference, does that shake up the preception and drive price down?

□ 1515

Mr. SMITH of Iowa. It cannot have any effect on the existing cattle because all of them will have been eaten before this contract takes effect.

Mr. STENHOLM. I know the gentleman from Iowa knows this as well as I do, but beef that will be fed in December 1987, many are born today. The idea that this is delayed until December 1987 and will not affect the market, this one cattle producer with

a cow-calf operation knows full well that what we do in this body affects all markets. I am concerned about that without us having individual information. That is what we hope to do with the next amendment.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from Texas is making a key point. He is pointing out that the market for the cattlemen is being controlled by speculators. We all know what happened with the whole herd buyout. Before one dairy cow hit the market the market bottomed out very fast. The nuclear disaster in Russia; the market bottomed out.

That is what we are saying: The speculators are controlling the market, not the cattlemen.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(On request of Mr. SMITH of Iowa and by unanimous consent, Mr. STENHOLM was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. Chairman, the gentleman brought up something that I think is important that I did not mention. This does not affect the feeder cattle contract. You are talking about calves; they are not included in this. This only affects live cattle. That is cattle that are on feed in feedlots. There is no effect on those calves at all.

Mr. STENHOLM. The gentleman makes a very good point.

My point is that it will affect the cash market of the feeder cattle producer because of the speculative nature of the market. The question that we have to determine is the proper role of futures in that. My suggestion to the House is to defeat this amendment, support the amendment of the gentleman from Oklahoma that will come up next which instructs the House Agriculture Committee to do that which the gentleman from Iowa has been asking and pleading for for years to seriously do.

I think the time is now for us to do it. Let us do it in the proper way. That is all I am saying. Then maybe the referendum will be the proper way to go.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(On request of Mr. ROBERTS and by unanimous consent Mr. STENHOLM was allowed to proceed for 30 additional seconds.)

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Kansas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, I simply want to associate myself with the gentleman's comments. He is entirely correct. I have the privilege of representing the same segment of agriculture as he does.

What would happen in this referendum if you had a 51-49 turnout? That is the kind of question that we need to really get into.

Mr. STENHOLM. The gentleman makes a very good point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. WATKINS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 265, answered "present" 2, not voting 22, as follows:

[Roll No. 218]

AYES—142

Ackerman	Gray (PA)	Roe
Akaka	Guarini	Roemer
Anderson	Hall, Ralph	Rostenkowski
Annunzio	Hammerschmidt	Roybal
Applegate	Hawkins	Rudd
Badham	Hayes	Russo
Bateman	Hefner	Sabo
Bates	Hertel	Savage
Bedell	Howard	Saxton
Bennett	Hughes	Scheuer
Bentley	Hunter	Schroeder
Bevill	Jacobs	Schumer
Biaggi	Jenkins	Sharp
Borski	Jones (OK)	Shumway
Boucher	Kanjorski	Sikorski
Boxer	Kildee	Sisisky
Burton (CA)	Kramer	Skelton
Chappell	Lantos	Smith (IA)
Clay	Lewis (CA)	Smith (NE)
Conyers	Lightfoot	Snowe
Coyne	Lipinski	Snyder
Craig	Lowry (WA)	St Germain
Crockett	MacKay	Stark
Daniel	Markey	Stokes
Darden	Marlenee	Studds
Daschle	Martinez	Stump
Daub	Matsui	Tauke
Dellums	McCurdy	Taylor
Dingell	McHugh	Thomas (CA)
Dixon	McKernan	Torres
Donnelly	Miller (CA)	Traficant
Dorgan (ND)	Mineta	Traxler
Downey	Mrazek	Vento
Dwyer	Murphy	Volkmer
Dymally	Murtha	Watkins
Early	Myers	Waxman
Edwards (OK)	Natcher	Weber
Emerson	Neal	Weiss
English	Oakar	Whitten
Evans (IL)	Oberstar	Williams
Florio	Owens	Wirth
Foglietta	Parris	Wolpe
Ford (MI)	Penny	Wright
Frank	Perkins	Yates
Garcia	Price	Yatron
Gonzalez	Reid	Young (MO)
Goodling	Richardson	
Gray (IL)	Rodino	

NOES—265

Alexander	Gibbons	Nielson
Andrews	Gilman	Nowak
Anthony	Gingrich	Obey
Archer	Glickman	Olin
Armey	Gordon	Ortiz
Aspin	Gradison	Oxley
Atkins	Green	Packard
AuCoin	Gregg	Panetta
Bartlett	Gunderson	Pashayan
Barton	Hall (OH)	Pease
Beilenson	Hamilton	Pepper
Bereuter	Hansen	Petri
Berman	Hartnett	Pickle
Bilirakis	Hatcher	Porter
Bliley	Hendon	Pursell
Boehlert	Henry	Quillen
Boggs	Hiler	Rahall
Boland	Hillis	Ray
Boner (TN)	Holt	Regula
Bonker	Hopkins	Ridge
Bosco	Horton	Rinaldo
Boulter	Hoyer	Ritter
Brooks	Hubbard	Roberts
Broomfield	Huckaby	Robinson
Brown (CA)	Hutto	Rogers
Brown (CO)	Hyde	Rose
Bruce	Ireland	Roth
Bryant	Jeffords	Roukema
Burton (IN)	Johnson	Rowland (CT)
Bustamante	Jones (TN)	Rowland (GA)
Byron	Kaptur	Schaefer
Callahan	Kasich	Schneider
Campbell	Kastenmeier	Schuette
Carney	Kemp	Schulze
Carper	Kennelly	Seiberling
Carr	Kindness	Sensenbrenner
Chandler	Kleczka	Shaw
Chapman	Kolbe	Shelby
Cheney	Kolter	Shuster
Clinger	Kostmayer	Siljander
Coats	LaFalce	Skeen
Cobey	Lagomarsino	Slattery
Coble	Latta	Slaughter
Coelho	Leath (TX)	Smith (FL)
Coleman (MO)	Lehman (CA)	Smith (NJ)
Coleman (TX)	Lehman (FL)	Smith, Denny (OR)
Collins	Lent	Smith, Robert (NH)
Combest	Levin (MI)	Smith, Robert (OR)
Conte	Levine (CA)	Solarz
Cooper	Lewis (FL)	Solomon
Coughlin	Livingston	Spence
Courter	Lloyd	Spratt
Crane	Loeffler	Staggers
Dannemeyer	Long	Stallings
Davis	Lott	Stangeland
de la Garza	Lowery (CA)	Stenholm
DeLay	Lujan	Strang
Derrick	Luken	Stratton
DeWine	Lungren	Sundquist
Dickinson	Mack	Swift
Dicks	Madigan	Swindall
DioGuardi	Manton	Synar
Dornan (CA)	Martin (IL)	Tallon
Dowdy	Martin (NY)	Tauzin
Dreier	Mazzoli	Thomas (GA)
Duncan	McCain	Towns
Durbin	McCandless	Udall
Dyson	McCloskey	Valentine
Eckart (OH)	McCollum	Vander Jagt
Eckert (NY)	McDade	Visclosky
Edgar	McEwen	Vucanovich
Erdreich	McGrath	Walgren
Fascell	McKinney	Walker
Fawell	McMillan	Wheat
Fazio	Meyers	Whitley
Feighan	Mica	Whittaker
Fields	Mikulski	Wilson
Fish	Miller (OH)	Wise
Foley	Miller (WA)	Wolf
Ford (TN)	Moakley	Wortley
Fowler	Molinari	Wyden
Franklin	Mollohan	Wylie
Frenzel	Monson	Young (AK)
Frost	Montgomery	Young (FL)
Fuqua	Moody	Zschau
Gallo	Moorhead	
Gaydos	Morrison (CT)	
Gejdenson	Morrison (WA)	
Gekas	Nelson	
Gephardt	Nichols	

ANSWERED "PRESENT"—2

Edwards (CA) Leach (IA)

NOT VOTING—22

Barnard	Grotberg	O'Brien
Barnes	Jones (NC)	Rangel
Bonior (MI)	Leland	Sweeney
Breaux	Lundine	Torricelli
Chappie	Mavroules	Weaver
Evans (IA)	Michel	Whitehurst
Fiedler	Mitchell	
Flippo	Moore	

□ 1535

Messrs. CHENEY, HILLIS, CARR, TAUZIN, and PASHAYAN changed their votes from "aye" to "no."

Messrs. DANIEL, SISISKY, YATES, HUNTER, TAUKE, VOLKMER, LIGHTFOOT, and YOUNG of Missouri changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma: Page 12, after line 22, add the following new section:

STUDY OF CATTLE FUTURES

SEC. 11. (a) The Committee on Agriculture of the House of Representatives shall carry out, in cooperation with, among others, grant institutions (described in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977), a study to determine—

(1) the economic purpose of trading in contracts for cattle for future delivery (as defined in section 2(a)(1)(A) of the Commodity Exchange Act);

(2) whether such trading is being manipulated; and

(3) the economic effect of such trading on cattle producers and the beef industry.

(b) If the study carried out under subsection (a) reveals that there is manipulation of trading in contracts for cattle for future delivery and that such manipulation has adverse effects cattle producers or the beef industry, then the Committee on Agriculture of the House of Representatives shall report to the House of Representatives legislation that will prevent such adverse effects in the future.

(c) This section shall take effect on the date of the enactment of this Act or October 1, 1986, whichever occurs later.

Mr. JONES of Oklahoma (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Chairman, this amendment directs the Committee on Agriculture to conduct a study about the futures market and its impact on the beef industry, specifically to look into three purposes:

One, the economic purpose of trading in contracts for cattle for future delivery.

Two, whether such trading is being manipulated.

And, three, the economic effect of such trading on cattle producers and the beef industry itself.

Mr. Chairman, I think we know the depressed conditions in agriculture and that is particularly true in the cattle industry. Of all industries, this is one that has been hard hit and unfairly hard hit.

Over the past few years the cattle industry producers themselves have voluntarily thinned their herds as a way to get supply and demand back in line. Just about the time they were to see daylight, to see a better future, they were hit first of all by the announcement of the Secretary of Agriculture of the whole herd dairy buyout program that depressed prices. That was immediately followed in the minds of most cattlemen by the effect of the futures market having on further depressing cattle prices.

Studies have been made by the CFTC, by the GAO, and what this amendment does is to direct the Committee on Agriculture to conduct a study and specifically to determine the economic effects of such trading on the cattle industry and whether or not any manipulation is occurring.

I think that the information gained from such a study, which will be bipartisan, which will represent the cattle industry itself, and it will be done in cooperation with land grant institutions, which is a very important part, I think that will give us the information when we need to deal with this very volatile situation.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I would like to point out, and I am not against the amendment, but the gentleman refers to manipulation. Manipulation is a word of art. It indicates fraud.

We are not claiming there is fraud. I do not want them to come back with a study and merely says there was no manipulation and no fraud.

The fact of the matter is that packers are trading on the short side of this contract and the CFTC permits it. That is what they should not be doing. They ought to clean up the contract. Just finding there is no manipulation is not going to be sufficient.

Mr. JONES of Oklahoma. Mr. Chairman, I think the gentleman makes a very good point. As far as the intent of Congress is concerned in regards to this study, I agree wholeheartedly with what the gentleman says and I believe the committee will look into it from that perspective.

Mr. WATKINS. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, as we know, the amendment of the gentleman from Iowa and my amendment just went down trying to allow the cattlemen to have that opportunity to vote and decide their own fate and their own future.

I know the gentleman's efforts here to get this study are very important. I am going to support the gentleman on this, because I know the cattlemen want this also.

I want to point out that we have had three studies. I would like to ask the chairman in this colloquy when he thinks that we can expect this study to take place and when it would probably be concluded and will there be an independent type of investigator looking into it?

Mr. JONES of Oklahoma. Mr. Chairman, I will yield to the chairman of the committee. In talking to the distinguished chairman and the chairman of the subcommittee, every indication was that this would be expedited and that it would be ready for action early in the next Congress.

Mr. WATKINS. I think that is what the gentleman from Oklahoma wants and the same for this individual.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the distinguished chairman.

Mr. DE LA GARZA. Mr. Chairman, I would like to inform the gentleman that our committee is already doing this, has already initiated preliminary steps for an investigation of this sort.

Actually, this amendment is not needed. We are willing to go along because the gentleman is well-intentioned and is trying to make a qualitative contribution; but our committee has already initiated a study that will bring in every sector that needs to be brought in for the study.

Mr. WATKINS. Mr. Chairman, if the gentleman will yield further, what are the differences in the study and what the gentleman is doing now than what has been done in the past with the GAO, Agriculture Department study, and the CFTC study?

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(At the request of Mr. WATKINS, and by unanimous consent, Mr. JONES of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. Yes, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, one unique thing that our committee would like to get to is that there is too much confusion. There is somewhat a degree of emotion. The cattlemen and the producers do not all stand together. This association says yes. This one says no. This cattlemen's association says they play the market. This one says they don't.

So this has not been done by any of the previous studies, to my knowledge, of what it is that the producer feels is wrong with it, how it impacts on him. That is one area that we are going to look into.

Mr. WATKINS. Mr. Chairman, will the gentleman yield.

Mr. JONES of Oklahoma. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, when does the gentleman from Texas think this study would be concluded and this investigation?

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will continue to yield, I would assume by the beginning of the next session.

Mr. WATKINS. By the end of January 1987?

Mr. DE LA GARZA. Sometime by the end of the session.

Mr. WATKINS. January or February of 1987?

Mr. DE LA GARZA. Yes.

Mr. WATKINS. Well, I thank the chairman for expediting it as quickly as possible.

Mr. JONES of Oklahoma. Mr. Chairman, in conclusion, let me just say that there have been studies. The cattle industry, the cattle producers have been very disappointed by those studies. I think the directions that we put in those amendments are those that will give a new direction to the commitee and will give the kind of information that will help the cattle industry and I urge its adoption.

Mr. ROBERT F. SMITH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to congratulate the gentleman from Oklahoma [Mr. JONES] for what I think is a judgmental way to address this issue. That is the reason I spoke out on the original amendment.

I think all of us, whether we be on one side of this issue or the other on the amendment just defeated, we can all support the idea of the gentleman from Oklahoma [Mr. JONES] simply because we all want to find out whether or not the cattle futures market in America is indeed determining the market or whether it is being manipulated.

Now, I agree totally that before we take precipitious action in an area that is so important, that could affect the market itself since it is fragile at this time, that we all support this idea of the amendment of the gentleman from Oklahoma, that we take it to the Agriculture Committee. We heard the chairman say he would give it dispatch and early recognition and I think we can take care of all of our problems.

The cattlemen in this country are in deep trouble. We are very concerned and it does not matter to me how you voted on the last amendment. Support this study because then we will get to the root of this problem and if it needs correcting, we will correct it.

□ 1550

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Oklahoma [Mr. JONES].

Mr. Chairman, I think that it is essential that we proceed with the study suggested by the gentleman from Oklahoma. The other gentleman from Oklahoma [Mr. WATKINS] has made some important points in the previous debate that I think deserve to be examined. While I did not agree with the amendment at this time, I think that this study is an essential followup to the points he raised and I commend the Jones amendment to my colleagues.

Mr. Chairman, I would like to commend the Agriculture Committee for their diligent work on the reauthorization of the Commodity Futures Trading Commission [CFTC]. In light of the enormous growth in futures trading it is our responsibility to fully reauthorize the CFTC in a timely fashion. I believe the Commission has been able to meet the challenge of its growing responsibilities while at the same time existing within a very modest budget.

I rise today to express my support for this amendment which will direct the Agriculture Committee to investigate the cattle futures markets. This investigation would determine whether or not the cattle futures markets have adequately served the cattle producers and industry. If the investigation does point out some problems with the cattle futures, I would fully support a referendum or some legislative measures to correct the cattle futures market to make it more useful to the individual cattle feeder.

I understand the recent concerns the cattlemen have with the futures market; however, I believe we must conduct a thorough study on the cattle futures before we direct the Secretary of Agriculture to conduct a referendum on whether or not cattlemen want to abolish the cattle futures. If the study concludes that there should be some changes in the cattle futures or a total abolishment, then we or the USDA should take the proper legislative or administrative actions.

In recent months numerous cattle producers from my home State of Nebraska have expressed their discontent with the cattle futures on the Chicago Mercantile Exchange. Many cattle feeders charge that the futures markets are manipulated by huge cattle traders and speculators. As a result, cattle producers feel they are selling on the cash market which is solely influenced by the big traders' concentration of power. Perhaps the fact that only 7 to 10 percent of cattle producers use the futures markets warrants further investigation for its applicability and usefulness.

I realize cattle producers can use the futures markets to hedge and eliminate the risk of a declining market. However, in light of the recent volatility of cattle futures prices, I believe it is impossible for an average cattle feeder to decide when to place his hedge to reduce his market risk. It is said that while only a few cattlemen trade futures, many use the price information generated by futures markets in making production and marketing decisions. But, how can one ask a cattleman to rely upon the futures markets when he has observed 14 limit or near limit moves in either direction on the cattle futures markets since April 1. Many cattle feeders in my State have lost confidence in the futures markets and simply don't use them as a risk management tool.

In Nebraska, the economic problems of the cattle industry are compounding the economic difficulties we are facing in Nebraska because receipts from the sale of cattle account for over one-half of all agricultural receipts. While wheat, corn, soybeans, and dairy are important to my State, there is no question that cattle is still a crucial industry in Nebraska and many other States. Different sectors of agriculture are going through difficult economic times, but I can assure you that no sector of agriculture is having a more difficult time than the cattlemen and livestock feeders of this country.

As a Representative from a State who is second in the Nation in total cash receipts in livestock, I obviously share the cattlemen's concern, and I believe that an investigation of the futures markets is the least this body can do for one of our most important economic sectors in the Nation. Therefore, I commend and fully support this amendment that would direct the Agriculture Committee to investigate the cattle futures market, and I would offer any assistance to this investigation.

Mr. MARLENEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are many of us who strongly suspect that the market is being manipulated, and that the best course of action would have been to have the last amendment pass, to have a moratorium on futures market activities as far as live cattle are concerned, but I think that this is an alternative, and an alternative that we should support, and I urge the passage of this amendment.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks. There is no question at this time that there is a tremendous unrest in the livestock industry of this country based on the suspicion that there is manipulation of the market at the commodities trading level. I think that this study is critical. I hope that the chairman of the Committee on Agriculture here in the House will keep to the timely schedule that he has discussed in colloquy here this afternoon.

It is essential that we get answers for this industry. It has nearly self-destructed in large part in the last 5 years, and if it is a market-oriented destruction, we deserve an answer for it, and they deserve an answer from us.

Mr. MARLENEE. Mr. Chairman, I assure my colleague from Idaho that I will do my part in the Ag Committee to urge the chairman to complete the study, to instigate the study, and to have a thorough study.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, during the last 2 weeks out in my district I have met with many of our cattlemen. They are deeply concerned about this situation, and I strongly support this study.

Mr. Chairman, I rise in support of the amendment offered by Mr. JONES of Oklahoma, which would require that a study of the cattle futures market be conducted.

We must act urgently to determine whether the cattle futures market is being rigged or manipulated and whether this is having a detrimental effect on cattle producers' prices and net incomes. I previously supported the amendment that would have given the cattle producers a chance through a referendum to determine for themselves whether the use of the cattle futures market should continue.

I have been consulting many of the producers in Nebraska, and they are strongly in favor of the investigation. They have suffered for the last few years from very low prices and have, in an effort to meet the challenge, voluntarily reduced their herd sizes.

As many of you know, Nebraska is one of the top cattle producing States, and much of our sandhills is well suited for cattle production. In Nebraska at this time, the cattle inventory totals 5.8 million head down from a record high of 7.41 million in 1974. What's more, the U.S. cattle inventory is 105.5 million the lowest number since the 1963 total of 104.5 million. The record high is 132 million in 1975.

Cattle prices have plummeted to the June Omaha average of $55.45 per hundred weight, from a record high of $75.00 in April 1979. As the well-informed know, this price situation is killing our vital livestock industry.

Cattle producers have suffered the unjust onslaughts of uninformed and unproven allegations that have led Americans to sharply reduce their red meat intake. The 1986 projected beef per capita consumption is 76.1 pounds, down from the record of 95 pounds in 1976.

They have suffered, along with the rest of agriculture, with unconscionably high interest rates, inadequate credit sources, skyrocketing costs, and a U.S. export policy that thwarts their best efforts to crack foreign markets in a significant way with our high quality meat and meat products.

Furthermore, they were subjected to the cattle price crash as a result of the Dairy Termination Program announcement by the USDA on March 28. This sent cattle prices tumbling for a week and the futures were down by the daily trading limit during this period.

My cattle producers are alleging abuses in the live cattle futures markets. They deserve to have their allegations answered. They deserve to know whether the cattle futures market is providing them with the benefits that a free market is supposed to give them.

Then we can take the proper action to correct the situation. This must be done as soon as possible in order to get the cattle industry back on its feet and once again to make the cattle industry profitable.

In conclusion, I urge the Congress to vote for the Jones amendment to require a study designed to examine the economic justification of the cattle futures trading. We must act swiftly and decisively to help our beleagured cattle industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. JONES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROBERT F. SMITH. Mr. Chairman, I demand a recorded vote.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 1, not voting 24, as follows:

[Roll No. 219]

AYES—406

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Courter
Coyne
Craig
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NOES—1

Crane

NOT VOTING—24

Ackerman	Crockett	Mitchell
Barnard	Evans (IA)	Moore
Barnes	Fiedler	O'Brien
Bonior (MI)	Grotberg	Seiberling
Bonker	Hopkins	Smith (FL)
Breaux	Jones (NC)	Torricelli
Chappie	Leland	Weaver
Coughlin	Lundine	Whitehurst

□ 1610

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding that there will be a revote asked on my amendment which passed by about 26 votes, relating to leverage transactions, when we get into the full House.

I want to explain this, because it is extraordinarily complicated and I know a lot of Members did not really understand the specifics of what we are doing.

My amendment bans leverage transactions 2 years after the date of this bill. A leverage transaction is a way of selling gold between a dealer and a customer. Leverage transactions, however, are really futures but are not traded on futures exchanges like any other kind of commodity you would sell.

What my amendment basically says is, these strange instruments called leverage transactions have to be sold the same way as futures on an exchange. Why? Because they protect customers so they do not get taken advantage of; so they do not get fleeced. These transactions are much more amenable to manipulation and fraud than futures transactions.

What we are basically saying in my amendment is they be treated the same way. Now let me tell you, Mr. Chairman, if you do not accept my amendment what will happen. For 2 years, we will grant two firms—one in southern California and one in south Florida—a monopoly over these leverage transactions; no other firms can get in.

Then after the 2 years is over, the sky is the limit. After the 2-year period, other firms can get in and sell these instruments to the public and not be subject to the same regulation as the futures industry is, and that means different regulation and a lot of your constitutents are going to get fleeced in the process.

This is a consumer amendment; it is a fair play amendment. It is supported by all the consumer groups: the Consumer Union, the Consumer Federation of America, Public Citizen, as well as all State securities commissioners.

The issue is one of equality in regulation, and I would urge you, when it comes for a revote, to stay with your other position, stay with your consumers in your home and vote the right way to do it.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I would simply like to identify with the gentleman's remarks. We do anticipate that a separate vote will be demanded on this matter which has already been resolved at least once. We have had a full debate.

This amendment simply closes what to me appears to be a loophole in the existing law so that those people who sell in a leverage contract gold and silver simply have to comply with the same rules and regulations as those who sell futures commodities and any other commodities.

So I think the amendment ought to be reaffirmed.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I too would like to join with the gentleman from Kansas [Mr. GLICKMAN] in urging the House to stick with its vote. There is no question that if we open this thing up there are going to be literally thousands of people across this country that are going to get fleeced; this is a consumer issue, it is a consumer vote, and I simply make the point that leverage contracts allow manipulation. Let us ban manipulations in this kind of trading.

Mr. GLICKMAN. Mr. Chairman, I urge my colleagues to stay with their prior vote, stay with the consumers in this country, and do the right thing.

□ 1620

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would urge Members to please listen to this hopefully short debate as we go hopefully perhaps to another vote on a very important amendment.

First of all, I must apologize to the body and to my colleagues here.

Sometimes when you work out a compromise which seems to have everyone happy or seems to work out all the problems that have been discussed, one gets self-confident. As you watch the vote and you see you are ahead 30 or 40 votes, you perhaps get overconfident. Then all of a sudden you realize the people are confused about the issues. You hear people say, "I understand the cattle farmers are in favor of this vote," or, "I understand this is a question of whether or not you are going to allow people to be defrauded." Let me try to set forth what the issues are here and what the amendment that was originally adopted by the committee overwhelmingly and by the subcommittee overwhelmingly and the essence of which is agreed to by the administration in the sense that they even want to go further.

Mr. COLEMAN of Missouri. Mr. Chairman, people are not in order, and we are in the process of putting people out of business with the Glickman amendment and we cannot even hear ourselves think here.

Mr. JEFFORDS. The gentleman from Missouri has made a good point. Please listen. We are talking about the lives of 500 people or somewhere in that area who may lose their jobs by that last amendment that was passed.

The question that is being posed to you is that this is a proconsumer amendment that you voted on. The answer, and all of the objective evidence is that the answer is absolutely the other way around. The reason that the leverage contracts came about was because there is a body of people out there who desire to purchase gold and silver who cannot and do not desire to work on the futures exchanges. They are the ones who have only $500 or $1,000 to invest versus the $5,000 that is required in the futures market.

What happened was that you had boiler room operations going, people being defrauded, people being sold a bill of goods about gold and silver and platinum. We got the CFTC involved. We got two of the only legitimate businesses that were in the operation, we sanctified them and said, "We will let you go, we will regulate you, and we are going to regulate you just as soundly and as good as we can." And we did that.

In fact, the number of complaints is now so small with respect to those two businesses, around 3 percent this year relative to 97 percent in other areas of futures trading commodities.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Is the gentleman saying that the two firms in question are already being regulated by the CFTC today under current law?

Mr. JEFFORDS. That is the correct point.

Mr. COLEMAN of Missouri. There was some discussion earlier that these people did their work in the dark of night. I presented to the House a copy of a memorandum of an aduit by the CFTC staff last week which gave these people a clean bill of health. It is not done in the dark. It is not done away from the scene. We have only two firms, and they are highly regulated by the Commission today.

What the gentleman's compromise amendment does is to provide continu-

ation of those two firms in this business but to lift that ceiling and take away that monopoly and allow free competition in the future on an orderly basis. Is that not what the essence of the gentleman's amendment does?

Mr. JEFFORDS. That is exactly what the amendment says. We are trying to protect the public, it is already protected in that business. We are going to throw it right back where it was in the boiler rooms and do exactly what the other side said they were trying to prevent.

Mr. COLEMAN of Missouri. There are a lot of people who came into this Chamber who thought that the Glickman amendment had something to do with the cattle industry, that this had something to do with agricultural products. It has nothing to do with the cattle industry; it has nothing to do with agricultural products; it has to do with gold and silver and platinum and two companies in this country that are highly regulated in their futures and we are about to revote on that and everybody ought to know what we are voting on this time.

So it is one thing to lose on the merits; it is another thing to lose on misinformation or the lack of information.

That is why we are taking a few minutes here to remind the Members of the merits of this proposal.

Mr. JEFFORDS. I know that the gentleman from Michigan was very eloquent, but I do not believe that he fully understood what we are discussing here. I see he is approaching the well of the House, and I am sure—I would hope that he would only say, admit that these are two well-regulated businesses and that all we are trying to do is to allow them to proceed to open it up to competition.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think my colleagues would gather, from the rather desperate tone that we are hearing, that there are a number of unfortunate, barefoot, high-minded speculators in precious metals that are now in enormous personal and financial peril.

So let us all shed one collective tear for those unfortunate persons.

Having done so, let us dispense with emotions and let us buckle down to a consideration of the facts.

What are the facts? First of all, the Glickman amendment does not put either of these unfortunate firms out of business. It allows them to continue in business. What is their business? It is engaging in the sale of leveraged contracts for the future purchase or sale in precious metals.

They are, you must know, trading supposedly regulated, but in point of fact not regulated, contracts because the CFTC says you cannot regulate them because they are traded off in a dark corner somewhere. They are not regulated on a designated exchange. The bill, as it came forth from the committee, confers upon those two firms a 2-year monopoly to continue the same practice.

The Glickman amendment does something that is very interesting: it says that they have got to be regulated in the same way you regulate the sellers of sow bellies, not that you are going to impose some enormous burden upon these poor, unfortunate souls, but rather that you are simply going to see to it, first of all, that they function in the open, second of all, that they function on a regulated exchange, third of all, that they do not get a monopoly for 2 years, and fourth of all, that the little guys who do business with them have a measure of protection.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding.

Would the gentleman agree that, when those people defend the use of a leveraged transaction because it helps a little guy, does not the compromise presently in the bill, unless we adopt the Glickman amendment, prohibit the little farmer from participating in leveraged transactions of agricultural commodities because the compromise only allows transactions in gold and silver, nothing else?

Mr. DINGELL. The gentleman is absolutely correct. It confers a monopoly on two firms. It only allows the leveraged trading in metals such as gold and silver, and it does not allow the seller who wants to trade in soybeans or corn or in sow bellies to engage in leveraged transactions. That is one of the interesting things. It also confers a splendid, highly lucrative monopoly on two firms.

Now let us look at how well those two unfortunate, barefoot firms have suffered during the period of their existing monopoly.

One firm has seen 98 percent of its clients lose money. The other has not done quite so well. It has only watched 79½ percent of its clients lose money.

These are not unfortunate bumpkins. They are not functioning in an open and fair marketplace. They are functioning in an environment which CFTC says cannot be regulated because it is not a regulated market.

Now, the committee will tell you very well, "Oh, yes, they are regulated," but CFTC will tell you that they cannot be regulated because there is no way in which the marketplace can be regulated.

Now, I have no objection to shedding tears for the suffering that these unfortunate moneymaking fools are undergoing. They are doing splendidly. What we are saying is to let us look after the public at large. Let us see to it that we have a marketplace which is open, which is fair, which is regulated. and which affords opportunity for all persons with a reasonable expectation that they play upon a fair and a level playing field.

Let us not confer a special monopoly on persons who have been cutting the fat hog for a long period of time. Let us finally begin to get under control an area which is enormously rich, an opportunity for rascality. Let us support the wise action which was taken earlier in adopting the Glickman amendment. Let us see to it that the person who would speculate in precious metals has the same protections as those who speculate in other futures contracts.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I start, I want to tell you I am against the Glickman amendment. I would like to respond to the previous speaker's points that he made.

Mr. Chairman, the point was made that the Glickman amendment does not put these two firms out of business. Technically that is true. What it says to these two firms is to go and compete in the marketplace with the commodity exchange in New York City. It is kind of like asking you to go out and compete with General Motors if you are a bicycle shop today. Go out and build automobiles to compete with General Motors, you can do it even though you have just a bicycle shop today.

That is exactly the comparison we ought to be making.

We are talking about small operators and small potatoes in relationship to giant exchanges.

The second point that he made, he says these two firms are not regulated on an exchange today. That is right. But they are more regulated than the firms on the exchanges because they are under regulation and have been under the CFTC for the last several years. And the track record of these two firms is much better than the futures exchanges have been. Two and one-half percent of the complaints coming into the CFTC originate from the business of these people. After the regulations were put in place, they have dribbled off to practically nothing.

The third point that he made: we are going to continue a monopoly, he says. Ladies and gentleman, you have approved a monopoly since 1978 for these two firms. What the committee bill does is remove that monopoly over the next 2 years in an orderly fashion to provide competition to these two firms. That is what we are trying to

get, the free enterprise competition in this industry.

The fourth point that he mentioned was that the little guy does not have any protection under current law or under the committee proposal.

The little guy does a lot better under our proposal with the committee and a "no" vote against Glickman because he has the opportunity to go in and buy gold and silver and platinum, where he cannot play with the big boys in New York. And he is fully regulated by this Commission.

And now I hear that there are calls in this Chamber for these leveraged contracts to be expanded into agricultural products. I cannot imagine a Representative of any agricultural sector in this House wanting to stand up and support that position. We do not want agricultural leverage contracts, and we prohibit it, and it is prohibited today, and it is prohibited under the committee bill.

□ 1635

These are all red herrings that have been pulled along the path by the opposition.

Finally, the gentleman talks about the losses and shedding crocodile tears about people who lose money. Well, people lose money on the futures market and people lose money on the stock market and people lose money any other way that you want to lose money. What we have done is protected the consumer under strong regulation of the CFTC. WE are trying to take off the monopoly lid. We do not want agriculture options.

I say defeat the Glickman amendment. The gentleman sells it as a consumer protection matter. What the gentleman is doing is protecting one or two exchanges in New York City, and the gentleman is saying to thousands of people throughout this country, you do not have the right to buy and sell gold and silver in small amounts. I say that is wrong. Defeat the Glickman amendment.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, is it true that if the gentleman asks for a separate vote on this and we want to concur with the full committee that rejected this amendment by 30 to 12, if we want to concur with the subcommittee that defeated this amendment by 9 to 5, if we want to allow these people who have been in business since the 1960's, regulated since the 1970's, if a separate vote is asked, the gentleman would vote no?

Mr. COLEMAN of Missouri. Absolutely, vote "no" on the Glickman amendment.

Mr. BADHAM. That would preserve the current law that allows these people to remain in a regulated business.

Mr. COLEMAN of Missouri. That is correct.

The administration is against the Glickman amendment, and so is the committee. It is a bipartisan effort. It is a technical subject. We hope we have now provided enough information to make a good decision on the final vote.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, very briefly, I do not take the floor to urge you to vote one way or another on this issue. But I take the floor because I think the basic integrity of the Committee on Agriculture has been impugned and attacted sort of with a cloak of using the word "rascality" and "in the dark of night," and implied that we in the committee somehow have protected something illegal and bad for the community and for the citizens of this country.

That is not so. What emotions prompted the speakers to use that approach I do not know. It is not that important to us how you vote on the issue. But we want you to be apprised of the issue. The issue is that the committee studied the proposal and the subcommittee did not accept the amendment. The whole committee did not accept the amendment.

No matter how you slice it, these people are regulated. In the stock exchange, you do not have audit trail. In the futures exchange, you do not have audit trail. They have 10 seconds on a chronological audit trail. A purchaser may rescind his transaction within 3 days. They have to read to him the contents of the contract and he has to sign that he was read the contract. This is what we are debating here.

Somehow I get the implication that the committee did not do its job. We did.

I know there was some confusion. Some Members thought they were voting on the cattle issue. Other Members thought they were voting on a consumer issue, retail or what have you. That is not the case. The case is that there is a place in America for this type of transaction. Leverage contracts cannot work with commodities that go from season to season. You are not going to have a futures contract on wheat deliverable 10 years or 8 years or 5 years.

Actually what it is is the two firms that are involved, but that is not important. The important thing is a private individual who wishes to invest, it is more like an investment in real estate, the leverage is. You invest a few pennies, a few dollars, and you have an opportunity to win or to lose, as you do in the stock market. For someone to say here that this type of leverage contract you are assumed to lose, you will be fleeced, but not in the stock market where they are manipulating—now you read in the newspapers where you have inside information, that is regulated.

One final thing, and please listen to me on this thing. There are shops that do this that are not regulated. These are not touched. So if you take those two businesses out, they will be left to the State solely to contract little shops or movable shops that trade in gold in silver. Saying you would just send them into the futures market, you are just putting them out of business.

That is my concern, basically, that we here by law will put out of business the legitimate businessman that, because of his ingenuity, is in an area that was at one time a gray area. We have legislated. We have now tried to correct that. I do hope that a few Members will see fit to vote with us.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, on that point, is the chairman asking the House for a no vote on the Glickman amendment?

Mr. DE LA GARZA. The gentleman is correct.

The poor, the small consumer will best be served if you vote no. We hope that you vote with us to maintain the integrity of the committee. Vote "no."

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. NATCHER] having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act, pursuant to House Resolution 474, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a vote on the so-called Glickman amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Beginning on page 9, strike out line 15 and all that follows through line 22 on page 12, and insert in lieu thereof the following:

LEVERAGE TRANSACTIONS

SEC. 10. (a) Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in the first proviso to the third sentence (relating to the definition of the term "commodity"), by striking out ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act"; and

(2) in the sixteenth sentence (relating to the definition of the term "commodity trading advisor")—

(A) by striking out the comma after "a contract market" and inserting in lieu thereof "or"; and

(B) by striking out "or any leverage transaction authorized under section 19,".

(b) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in each of subparagraphs (C) and (D) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section"; and

(2) in paragraph (3)(E) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section".

(c) The first sentence of section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b)) is amended—

(1) by inserting "or" after "4h,"; and

(2) by striking out ", or section 19".

(d) The first sentence of section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by striking out "or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

(e) Section 9(e) of the Commodity Exchange Act (7 U.S.C. 13(e)) is amended by striking out each place it appears the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.".

(f) Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by striking out "or 19".

(g) Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is repealed.

(h) Section 22(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)(C)) is amended—

(1) by inserting "or" after the semicolon at the end of clause (i);

(2) by striking out clause (ii); and

(3) by redesignating clause (iii) and clause (ii).

(i) The amendments by this section shall become effective 2 years after the date of enactment of this Act.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GLICKMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 192, nays 218, not voting 21, as follows:

[Roll No. 220]

YEAS—192

Anthony	Gibbons	Nielson
Applegate	Gilman	Nowak
Aspin	Glickman	Oberstar
Bartlett	Gonzalez	Obey
Barton	Gradison	Owens
Beilenson	Gray (PA)	Pease
Bennett	Green	Petri
Bereuter	Gregg	Rangel
Biaggi	Guarini	Ray
Bliley	Gunderson	Reid
Boland	Hall, Ralph	Richardson
Bonker	Hamilton	Ridge
Boucher	Hammerschmidt	Rinaldo
Boulter	Hansen	Roberts
Bryant	Henry	Rodino
Burton (CA)	Hertel	Roemer
Byron	Horton	Rose
Carney	Hughes	Roukema
Carper	Jenkins	Rowland (CT)
Chandler	Johnson	Russo
Chappell	Jones (OK)	Sabo
Clay	Kanjorski	Scheuer
Coats	Kaptur	Schneider
Cobey	Kastenmeier	Schroeder
Conte	Kemp	Schumer
Conyers	Kennelly	Seiberling
Cooper	Kildee	Sharp
Coyne	Kleczka	Shaw
Daniel	Kostmayer	Sikorski
Daschle	LaFalce	Sisisky
Dellums	Leach (IA)	Skelton
Dicks	Leath (TX)	Slattery
Dingell	Lent	Smith (FL)
DioGuardi	Levin (MI)	Smith (IA)
Donnelly	Levine (CA)	Smith, Robert (OR)
Dorgan (ND)	Lowry (WA)	Snowe
Downey	MacKay	Snyder
Dwyer	Manton	Solarz
Early	Markey	Spratt
Eckart (OH)	Martin (NY)	St Germain
Eckert (NY)	Matsui	Staggers
Edgar	Mavroules	Stark
Edwards (CA)	McCurdy	Stenholm
Edwards (OK)	McGrath	Stokes
English	McHugh	Strang
Erdreich	McKernan	Stratton
Evans (IL)	Meyers	Studds
Fascell	Mica	Swift
Feighan	Mikulski	Synar
Fish	Miller (WA)	Tauke
Florio	Molinari	Taylor
Foglietta	Montgomery	Traficant
Ford (MI)	Moody	Traxler
Fowler	Morrison (CT)	Udall
Frenzel	Morrison (WA)	Vento
Fuqua	Mrazek	Visclosky
Garcia	Natcher	Volkmer
Gejdenson	Neal	Vucanovich
Gephardt	Nelson	Walgren
Watkins	Whitten	Wylie
Waxman	Williams	Yates
Weiss	Wirth	Yatron
Wheat	Wolpe	Young (MO)
Whittaker	Wright	
	Wyden	

NAYS—218

Akaka	Gekas	Nichols
Alexander	Gingrich	Oakar
Anderson	Goodling	Olin
Andrews	Gordon	Ortiz
Annunzio	Gray (IL)	Oxley
Archer	Hall (OH)	Packard
Armey	Hartnett	Panetta
Atkins	Hatcher	Parris
AuCoin	Hawkins	Pashayan
Badham	Hayes	Penny
Bateman	Hefner	Pepper
Bates	Hendon	Perkins
Bedell	Hiler	Pickle
Bentley	Hillis	Porter
Berman	Holt	Price
Bevill	Hopkins	Pursell
Bilirakis	Howard	Quillen
Boehlert	Hoyer	Rahall
Boggs	Hubbard	Regula
Boner (TN)	Huckaby	Ritter
Borski	Hunter	Robinson
Bosco	Hutto	Roe
Boxer	Hyde	Rogers
Brooks	Ireland	Rostenkowski
Broomfield	Jacobs	Roth
Brown (CA)	Jeffords	Rowland (GA)
Brown (CO)	Jones (TN)	Roybal
Bruce	Kasich	Rudd
Burton (IN)	Kindness	Savage
Bustamante	Kolbe	Saxton
Callahan	Kolter	Schaefer
Campbell	Kramer	Schuette
Carr	Lagomarsino	Schulze
Chapman	Lantos	Sensenbrenner
Cheney	Latta	Shelby
Clinger	Lehman (CA)	Shumway
Coble	Lehman (FL)	Shuster
Coelho	Lewis (CA)	Siljander
Coleman (MO)	Lewis (FL)	Skeen
Coleman (TX)	Lightfoot	Slaughter
Collins	Lipinski	Smith (NE)
Combest	Livingston	Smith (NJ)
Courter	Lloyd	Smith, Denny (OR)
Craig	Loeffler	Smith, Robert (NH)
Crane	Long	Solomon
Dannemeyer	Lott	Spence
Darden	Lowery (CA)	Stallings
Daub	Lujan	Stangeland
Davis	Luken	Stump
de la Garza	Lungren	Sundquist
DeLay	Mack	Sweeney
Derrick	Madigan	Swindall
DeWine	Marlenee	Tallon
Dickinson	Martin (IL)	Tauzin
Dixon	Martinez	Thomas (CA)
Dornan (CA)	Mazzoli	Thomas (GA)
Dowdy	McCain	Torres
Dreier	McCandless	Towns
Duncan	McCloskey	Valentine
Durbin	McCollum	Vander Jagt
Dymally	McDade	Walker
Dyson	McKinney	Weber
Emerson	McMillan	Whitley
Fawell	Michel	Wilson
Fazio	Miller (CA)	Wise
Fields	Miller (OH)	Wolf
Flippo	Mineta	Wortley
Foley	Moakley	Young (AK)
Ford (TN)	Mollohan	Young (FL)
Frank	Monson	Zschau
Franklin	Moorhead	
Frost	Murphy	
Gallo	Murtha	
Gaydos	Myers	

NOT VOTING—21

Ackerman	Crockett	McEwen
Barnard	Evans (IA)	Mitchell
Barnes	Fiedler	Moore
Bonior (MI)	Grotberg	O'Brien
Breaux	Jones (NC)	Torricelli
Chappie	Leland	Weaver
Coughlin	Lundine	Whitehurst

□ 1655

Mr. MARLENEE changed his vote from "yea" to "nay."

Mr. TAYLOR, Ms. KAPTUR, and Mr. FEIGHAN changed their votes from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 401, noes 7, not voting 23, as follows:

[Roll No. 221]

AYES—401

Akaka	Carper	Early
Alexander	Carr	Eckart (OH)
Anderson	Chandler	Eckert (NY)
Andrews	Chapman	Edgar
Annunzio	Chappell	Edwards (CA)
Anthony	Clay	Edwards (OK)
Applegate	Clinger	Emerson
Archer	Coats	English
Armey	Cobey	Erdreich
Aspin	Coble	Evans (IL)
Atkins	Coelho	Fascell
AuCoin	Coleman (MO)	Fawell
Badham	Coleman (TX)	Fazio
Bartlett	Collins	Feighan
Barton	Combest	Fields
Bateman	Conte	Fish
Bates	Conyers	Flippo
Bedell	Cooper	Florio
Beilenson	Courter	Foglietta
Bennett	Coyne	Foley
Bentley	Craig	Ford (MI)
Berman	Daniel	Ford (TN)
Bevill	Dannemeyer	Fowler
Biaggi	Darden	Frank
Bilirakis	Daschle	Franklin
Bliley	Daub	Frenzel
Boehlert	Davis	Frost
Boggs	de la Garza	Fuqua
Boland	DeLay	Gallo
Boner (TN)	Dellums	Garcia
Bonker	Derrick	Gaydos
Borski	DeWine	Gejdenson
Bosco	Dickinson	Gekas
Boucher	Dicks	Gephardt
Boulter	Dingell	Gibbons
Boxer	DioGuardi	Gilman
Brooks	Dixon	Gingrich
Broomfield	Donnelly	Glickman
Brown (CA)	Dorgan (ND)	Gonzalez
Bruce	Dornan (CA)	Goodling
Bryant	Dowdy	Gordon
Burton (CA)	Downey	Gradison
Burton (IN)	Dreier	Gray (IL)
Bustamante	Duncan	Gray (PA)
Byron	Durbin	Green
Callahan	Dwyer	Gregg
Campbell	Dymally	Guarini
Carney	Dyson	Gunderson
Hall (OH)	McDade	Schumer
Hall, Ralph	McGrath	Seiberling
Hamilton	McHugh	Sensenbrenner
Hammerschmidt	McKernan	Sharp
Hansen	McKinney	Shaw
Hartnett	McMillan	Shelby
Hatcher	Meyers	Shumway
Hawkins	Mica	Shuster
Hayes	Michel	Sikorski
Hefner	Mikulski	Siljander
Hendon	Miller (CA)	Sisisky
Henry	Miller (OH)	Skeen
Hertel	Miller (WA)	Skelton
Hiler	Mineta	Slattery
Hillis	Moakley	Slaughter
Holt	Molinari	Smith (FL)
Hopkins	Mollohan	Smith (IA)
Horton	Monson	Smith (NE)
Howard	Montgomery	Smith (NJ)
Hoyer	Moody	Smith, Denny (OR)
Hubbard	Moorhead	Smith, Robert (NH)
Huckaby	Morrison (CT)	Smith, Robert (OR)
Hughes	Morrison (WA)	Snowe
Hunter	Mrazek	Snyder
Hutto	Murphy	Solarz
Hyde	Murtha	Spence
Ireland	Myers	Spratt
Jacobs	Natcher	St Germain
Jeffords	Neal	Staggers
Jenkins	Nelson	Stallings
Johnson	Nichols	Stangeland
Jones (OK)	Nielson	Stark
Jones (TN)	Nowak	Stenholm
Kanjorski	Oakar	Stokes
Kaptur	Oberstar	Strang
Kasich	Obey	Stratton
Kastenmeier	Olin	Studds
Kemp	Ortiz	Stump
Kennelly	Owens	Sweeney
Kildee	Oxley	Swift
Kindness	Packard	Swindall
Kleczka	Panetta	Synar
Kolbe	Parris	Tallon
Kolter	Pashayan	Tauke
Kostmayer	Pease	Tauzin
Kramer	Penny	Taylor
LaFalce	Pepper	Thomas (CA)
Lagomarsino	Perkins	Thomas (GA)
Lantos	Petri	Torres
Latta	Pickle	Towns
Leach (IA)	Porter	Traficant
Leath (TX)	Price	Traxler
Lehman (CA)	Pursell	Udall
Lehman (FL)	Quillen	Valentine
Lent	Rahall	Vander Jagt
Levin (MI)	Rangel	Vento
Levine (CA)	Ray	Visclosky
Lewis (CA)	Regula	Volkmer
Lewis (FL)	Reid	Vucanovich
Lightfoot	Richardson	Walgren
Lipinski	Ridge	Waxman
Livingston	Rinaldo	Weber
Lloyd	Ritter	Weiss
Loeffler	Roberts	Wheat
Long	Robinson	Whitley
Lott	Rodino	Whittaker
Lowery (CA)	Roe	Whitten
Lowry (WA)	Roemer	Williams
Lujan	Rogers	Wilson
Luken	Rose	Wirth
Lungren	Rostenkowski	Wise
Mack	Roth	Wolf
MacKay	Roukema	Wolpe
Madigan	Rowland (CT)	Wortley
Manton	Rowland (GA)	Wright
Markey	Roybal	Wyden
Martin (IL)	Rudd	Wylie
Martin (NY)	Russo	Yates
Martinez	Sabo	Yatron
Matsui	Savage	Young (AK)
Mavroules	Saxton	Young (FL)
Mazzoli	Schaefer	Young (MO)
McCain	Scheuer	Zschau
McCandless	Schneider	
McCloskey	Schroeder	
McCollum	Schuette	
McCurdy	Schulze	

NOES—7

Brown (CO)	Marlenee	Watkins
Cheney	Solomon	
Crane	Walker	

NOT VOTING—23

Ackerman	Barnard	Barnes
Bereuter	Fiedler	Moore
Bonior (MI)	Grotberg	O'Brien
Breaux	Jones (NC)	Sundquist
Chappie	Leland	Torricelli
Coughlin	Lundine	Weaver
Crockett	McEwen	Whitehurst
Evans (IA)	Mitchell	

□ 1720

Mr. MARLENEE changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4613, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5161, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-683) on the resolution (H. Res. 493) waiving certain points of order against consideration of the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5162, ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, FISCAL YEAR 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-684) on the resolution (H. Res. 494) waiving certain points of order against consideration of the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION RELATING TO THE FEBRUARY 1, 1986, SEQUESTRATION ORDER OF THE PRESIDENT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-685) on the resolution (H. Res. 495) providing for the consideration of a joint resolution relating to the February 1, 1986, sequestration order of the President, which was referred to the House Calendar and ordered to be printed.

REPORT ON AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION BILL, 1987

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-686) on a bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

CONFERENCE REPORT ON S. 415, HANDICAPPED CHILDREN'S PROTECTION ACT OF 1985

Mr. HAWKINS submitted the following conference report and statement on the Senate bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination:

CONFERENCE REPORT (H. REPT. 99-687)

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 415), to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Handicapped Children's Protection Act of 1986".

AWARD OF ATTORNEYS' FEES

SEC. 2. Section 615(e)(4) of the Education of the Handicapped Act is amended by inserting "(A)" after the paragraph designation and by adding at the end thereof the folowing new subparagraphs:

"(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a handicapped child or youth who is the prevailing party.

"(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

"(D) No award of attorneys' fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if—

"(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

"(ii) the offer is not accepted within ten days; and

"(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

"(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys' fees and related costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

"(E) Whenever the court finds that—

"(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

"(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

"(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding,

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

"(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of this Act.".

EFFECT OF EDUCATION OF THE HANDICAPPED ACT ON OTHER LAWS

SEC. 3. Section 615 of the Education of the Handicapped Act is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (b)(2) and (c) shall be exhausted to the same extent as would be required had the action been brought under this part.".

GAO STUDY OF ATTORNEYS' FEES PROVISION

SEC. 4. (a) The Comptroller General of the United States, through the General Accounting Office, shall conduct a study of the impact of the amendments to the Education of the Handicapped Act made by section 2 of this Act. Not later than June 30, 1989, the Comptroller General shall submit a report containing the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. The Comptroller General shall conduct a formal briefing for such Committees on the status of the study not later than March 1, 1988. Such report shall include the information described in subsection (b).

(b) The report authorized under subsection (a) shall include the following information:

(1) The number, in the aggregate and by State, of written decisions under section 615 (b)(2) and (c) transmitted to State advisory panels under section 615(d)(4) for fiscal years 1984 through 1988, the prevailing party in each such decision, and the type of complaint. For fiscal year 1986, the report shall designate which decisions concern complaints filed after the date of enactment of this Act.

(2) the number, in the aggregate and by State, of civil actions brought under section 615(e)(2), the prevailing party in each action, and the type of complaint for fiscal years 1984 through 1988. For fiscal year 1986 the report shall designate which decisions concern complaints filed after the date of enactment.

(3) Data, for a geographically representative selective sample of States, indicating (A) the specific amount of attorneys' fees, costs, and expenses awarded to the prevailing party, in each action and proceeding under section 615(e)(4)(B) from the date of the enactment of this Act through fiscal year 1988, and the range of such fees, costs, and expenses awarded in the actions and proceedings under such section, categorized by type of complaint and (B) for the same samples as in (A) the number of hours spent by personnel, including attorneys and consultants, involved in the action or proceeding, and expenses incurred by the parents and the State educational agency and local educational agency.

(4) Data, for a geographically representative sample of States, on the experience of educational agencies in resolving complaints informally under section 615(b)(2), from the date of the enactment of this Act through fiscal year 1988.

EFFECTIVE DATE

SEC. 5. The amendment made by section 2 shall apply with respect to actions or proceedings brought under section 615(e) of the Education of the Handicapped Act after July 3, 1984, and actions or proceedings brought prior to July 4, 1984, under such section which were pending on July 4, 1984.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

Managers on the Part of the House.

AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
PAT WILLIAMS,
CHARLES A. HAYES,
MATTHEW G. MARTINEZ,

DENNIS E. ECKART,
Managers on the Part of the Senate.
ORRIN HATCH,
LOWELL P. WEICKER, JR.
DON NICKLES,
TED KENNEDY,
JOHN F. KERRY,

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 415) to authorize the award of attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in the conference, are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. The Senate bill provides for "a reasonable attorney's fee."

The House amendment provides for "reasonable attorneys' fees."

The Senate recedes.

2. With slightly different wording, both the Senate bill and the House amendment provide for the awarding of attorneys' fees in addition to costs.

The Senate recedes to the House and the House recedes to the Senate with an amendment clarifying that "the court, in its discretion, may award reasonable attorneys' fees as part of the costs. . ." This change in wording incorporates the Supreme Court *Marek* v. *Chesny* decision (87 L. Ed. 2d 1).

The conferees intend that the term "attorneys' fees as part of the costs" include reasonable expenses and fees of expert witnesses and the reasonable costs of any test or evaluation which is found to be necessary for the preparation of the parent or guardian's case in the action or proceeding, as well as traditional costs incurred in the course of litigating a case.

3. The Senate bill provides for the award of attorney's fees "to a parent or legal representative."

The House amendment provides for the award of attorneys' fees "to the parents or guardian."

The Senate recedes.

4. The Senate bill limits the amount of the fee awarded whenever a parent or legal representative is represented by a publicly funded organization which provides legal services.

The House amendment provides that fee awards shall be based on prevailing rates in the community.

The House recedes to the Senate and the Senate recedes to the House with an amendment clarifying that "fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished." See, *Hensley* v. *Eckerhart*, 461 U.S. 424 (1983); *Marek* v. *Chesny*, 87 L. Ed 2d 1 (1985); and *Blum* v. *Stenson*, 104 S. Ct. 1541 (1984). However, no such awards of attorneys' fees shall be calculated by using bonuses or multipliers. The conferees want to make it clear that the inclusion of the prohibition against calculation of fees using bonuses and multipliers is limited to cases brought only under part B of the Educaton of the Handicapped Act. The conferees do not intend in any way to diminish the applicability of interpretation by the U.S. Supreme Court regarding bonuses and multipliers to other statutes such as 42 U.S.C. 1988. See, *Hensley* v. *Eckerhart*, *Blum* v. *Stenson*, *Evans* v. *Jeff D.*, 106 S. Ct. 1531 (1986). In addition, several new sections would be added to clarify that under part B of the Education of the Handicapped Act, no award of attorneys' fees and related costs subject to the provision of the act may be made for services performed subsequent to the time a written offer of settlement is made to a party (if the offer is made at least 10 days prior to the date of the action or proceeding) if the offer is not accepted within ten days and a court or administrative officer finds that the relief finally obtained by the party is not more favorable to the parent or guardian than the offer of settlement. However, attorneys' fees may be awarded to a prevailing parent or guardian who was substantially justified in rejecting the settlement offer. Furthermore, the court shall reduce accordingly the amount of attorneys' fees and related expenses otherwise allowable if they determine that:

(1) the parent or guardian, during the course of the action or proceeding unreasonably protracted the final resolution of the controversy;

(2) the amount of attorneys' fees other wise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience and reputation; or

(3) the time spent and legal services furnished were excessive considering the nature of the action or proceeding.

Finally, the preceding situations in which the court reduces the amount of fees and related expenses otherwise allowable shall not apply if the local or state educational agency is determined to have unreasonably protracted the final resolution of the action or proceeding or if a violation of section 615 of the Education of the Handicapped Act is found.

The conferees intend that this provision clarify the application of the *Marek* v. *Chesny* decision to the Handicapped Children's Protection Act. One exception is made to the applicability of the *Marek* v. *Chesny* decision. When the parent or guardian is substantially justified in rejecting the settlement offer, the *Marek* v. *Chesny* decision would not apply. Substantial justification for rejection would include relevant pending court decisions which could have an impact on the case in question.

In enumerating three conditions under which the amount of attorneys' fees would be reduced, the committee intends to protect against excessive reimbursement. The second condition is a codification of the policy for awarding fees in footnote 11 of *Blu* v. *Stenson*.

5. The House amendment, but not the Senate bill, specifies that fees, expenses, and costs awarded to the prevailing party may not be paid with the funds provided under part B of EHA. The report accompanying the Senate's bill restates existing policy that bars the payment of such fees and the costs under part B.

The House recedes. The conferees wish to emphasize that existing law bars payment of attorneys' fees with funds appropriated under B of EHA.

6. The House amendment, but not the Senate bill, provides for a GAO study of the impact of the bill authorizing the awarding of fees and costs.

The Senate recedes to the House with an amendment expanding the data collection requirements of the GAO study to include information regarding the amount of funds expended by local educational agencies and state educational agencies on civil actions and administrative proceedings.

7. The House amendment, but not the Senate bill, sunsets the court's authority to award fees at the administrative level after a period of time specified in the legislation.

The House recedes.

8. With slightly different wording, both the Senate bill and the House amendment authorize the filing of civil actions under legal authorities other than part B of EHA so long as parents first exhaust administrative remedies available under part B of EHA to the same extent as would be required under that part.

The House recedes. It is the conferees' intent that actions brought under 42 U.S.C. 1983 are governed by this provision.

9. The House amendment, but not the Senate bill, requires public access to hearing decisions.

The House recedes. The conferees wish to emphasize that public access to hearing decisions is existing law.

10. The House amendment, but not the Senate bill, requires that the public educational agency provide parents with an opportunity to meet informally in an attempt to resolve a complaint.

The House recedes.

11. The House amendment, but not the Senate bill, includes an anti-retaliation provision.

The House recedes. It is the conferees' intent that no person may discharge, intimidate, retaliate, threaten, coerce, or otherwise take an adverse action against any person because such person has filed a complaint, testified, furnished information, assisted or participated in any manner in a meeting, hearing, review, investigation, or other activity related to the administration of, exercise of authority under, or right secured by part B of EHA. The term "person" the first time it is used means a state educational agency, local educational agency, intermediate educational unit or any official or employee thereof.

12. The House amendment, but not the Senate bill, makes retroactive its provision regarding the effect of EHA on other laws (section 3).

The House recedes.

Managers on the Part of the House.
AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
PAT WILLIAMS,
CHARLES A. HAYES,
MATTHEW G. MARTINEZ,
DENNIS E. ECKART,
Managers on the Part of the Senate.
ORRIN HATCH,
LOWELL P. WEICKER, JR.
DON NICKLES,
TED KENNEDY,
JOHN F. KERRY,

APPOINTMENT OF CONFEREES ON H.R. 3838, TAX REFORM ACT OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take

from the Speaker's table the bill (H.R. 3838) to reform the internal revenue laws of the United States, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DUNCAN moves that the managers of the part of the House at the conference on the disagreeing vote of the two houses on the bill, H.R. 3838, be instructed to insist that the conference report result in:

1. A fair tax burden for all taxpayers, both corporate and individual, coupled with marginal tax rates no higher than the Senate bill.

2. Fair treatment of families in the lower and middle income groups, which requires a full $2,000 personal exemption for both itemizers and nonitemizers.

3. Preservation of the House position with respect to individual retirement accounts to the extent consistent with preserving retirement and savings incentives for low and middle income taxpayers.

4. No net increase in Federal taxes.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. DUNCAN] is recognized for 1 hour.

Mr. DUNCAN. Mr. Speaker, I yield 30 minutes to my distinguished chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], to use in any way he so desires.

The SPEAKER pro tempore. Without objection, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the motion really speaks for itself. The other body should be commended for its progress on tax reform, and it did make important strides forward in taking into account the distressed state of our farm economy, as well as our energy industries and capital formation.

As to the four points of the motion, I believe they respond to the main concerns which have been expressed by my colleagues on both sides of the aisle. Certainly we want a fair distribution of the tax burden, and the bulk of taxpayers have made it clear they like the low marginal rates set in the other body's bill.

Fairness especially needs to be applied to low- and middle-income families, and that does call for a full $2,000 exemption for those who itemize deductions as well as those who do not. Itemizers are not necessarily better off financially.

IRA's are extremely popular throughout the country, and the prevailing opinion I have heard is that they should be retained in a manner which is consistent with the preservation of retirement and savings incentives for taxpayers up through the middle brackets.

Finally, Mr. Speaker, my motion would instruct the managers on the part of the House to insist that the conference report result in no net increase in Federal taxes. I do not believe that is likely to prove unpopular, either.

These instructions are intended to provide our conferees sufficient flexibility in conference while stressing issues which are clearly important on a bipartisan basis. I urge my colleagues to adopt these motions to instruct.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 30 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak on the motion to instruct conferees. As many Members know, I have consistently opposed motions to instruct conferees in the past—whether such motions were offered to tax legislation or to any other legislation. Even though such motions are not binding on the conferees, I strongly believe in the legislative principle that conferees should be given maximum flexibility to develop compromises in conference without the constraint of negotiating instructions from the House. As all Members know, the responsibility of House conferees is to defend the House position on legislation in conference with the other body. Motions to instruct conferees often attempt to compromise House positions on legislation before actual negotiations with the other body begin.

Nevertheless, I have closely examined the text of the motion to instruct conferees on the tax bill currently pending before the House. The four elements of the instructions are clearly designed to be politically attractive—advocating that the House conferees insist on fairness, low rates, relief for low- and middle-income taxpayers, a $2,000 personal exemption, IRA deductions, and that taxes not be increased. I am sure that we can all support these instructions since they are very popular positions. In fact, these instructions will probably pass with as much support as did many similar sense-of-the-Senate resolutions adopted by overwhelming margins in the other body.

However, someone needs to stand up and inject some reality into this debate by observing that everything comes with a price—there is no free lunch. These instructions and the many sense-of-the-Senate resolutions are internally inconsistent. The conferees will not be able to achieve all that their respective bodies are asking of them. We cannot fix up the Senate bill, as many Members and Senators would like, by restoring politically popular deductions—such as IRA's or sales tax, or by addressing the retroactive unfairness of the Senate bill, or by moving up the effective date for the individual rate cuts by 6 months—without paying a price. All the popular elements of these instructions and resolutions must somehow be balanced with compensating revenues. We are kidding ourselves—and more importantly, kidding the American people by promising more than we are prepared to deliver. We cannot promise the sugar and avoid discussing the pain. But that's precisely what all these instructions and resolutions do.

Mr. Speaker, upon considerable reflection, I've decided to support this motion to instruct conferees. We all want fairness, the lowest possible rates, restoration of IRA's, and other personal deductions which are important to all our constituents—Democrats and Republicans alike. However, every one of us who supports these instructions bears responsibility for also supporting ways to pay for these politically popular provisions. Personally, I am prepared to support in conference other features of the House bill as a source of revenues to finance modifications to the other body's bill. Those of my colleagues who join me in voting for this motion to instruct must, by implication, agree to provide the revenues necessary to accomplish such changes. With such strong implied support for the difficult parts of reform as well as the popular we should make swift progress in this historic conference.

□ 1730

Mr. Speaker, I encourage my colleagues on both sides of the aisle to support this resolution. I feel sincerely that a forward step is being made on a historical event and that the conference should begin on a very positive note.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Speaker, I thank my colleague from Tennessee [Mr. DUNCAN] for yielding, and rise in very strong support of his motion to instruct the conferees.

I want to say publicly how grateful I am to him for his strong leadership, and also to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, both for the comments they have made and the leadership that both sides of the aisle are showing, in

what the chairman of the Committee on Ways and Means has called a historic moment.

This is a historic moment. Think how far we have come toward reforming the tax system for the American people. President Reagan's tax cuts lowered the top rate from 70 to 50 percent, and now, thanks to efforts by BRADLEY GEPHARDT, KEMP, KASTEN, PACKWOOD, ROSTENKOWSKI, and DUNCAN, we are talking about cutting it to 27 percent. While certainly split at times on how to do it, we in this body recognize a shared obligation to make the Tax Code fairer, simpler, with lower rates on labor and capital, and particularly less of a burden on the American family.

I think the terms of this motion to instruct fill the commitment of both sides of the aisle. I think the gentleman from Illinois has done a remarkable job promoting support for reform that is essential to making our economy grow, making the tax system more efficient, fairer and simpler, within the confines of revenue neutrality.

Certainly the Members of this side of the aisle have been proponents of capital formation, proponents of a fair tax system on labor and capital in business. The gentleman from Tennessee talked about fair treatment of agriculture and energy, those important elements of our industrial sector that desperately need a fair chance to help lead toward a healthier economy.

I suggest that what we have also done here in this resolution is support two things that are extremely important to the American family and low-income working people. First, by this resolution, in effect, we are saying to every low-, middle-, and upper-middle-income family in America, whether they itemize or not, that every taxpayer and dependent will get a full $2,000 exemption.

This will be the most significant tax change for American families, especially low-income families, since the dependent exemption was doubled from $200 to $400 in 1921.

Many economists have suggested that had that exemption of $600 in 1946 been adjusted for inflation, it would be worth almost $3,000. We are only doubling it to $2,000, but it is an extremely important part of this reform. I think American families are going to be deeply grateful that the Congress on both sides of the aisle and both sides of Capitol Hill support that full $2,000 exemption for every taxpayer and dependent, whether they itemize or do not itemize.

I just want to again thank the gentleman from Tennessee, applaud his leadership and that of the chairman of the Committee on Ways and Means.

Second, this motion instructs the conferees to agree on marginal tax rates no higher than in the Senate bill—that is, personal tax rates of 15 and 27 percent, and a top corporate rate of 33 percent. And we're doing it while keeping basic deductions for mortgages, State and local income and property taxes, charitable contributions, and so on. This means low tax rates on both labor and capital and certainly a lower tax burden on the American family, and the type of tax reform that will establish a more efficient economy, more growth and capital formation, which all of us think are important to a future healthy economy.

If we adopt this motion, and agree on a bill according to these instructions, it will be a great victory for all American taxpayers and families.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. DAUB], a member of the Committee on Way and Means.

Mr. DAUB. Mr. Speaker, I thank the gentleman, my ranking Member on this side of the aisle, for offering to all of us today here in the House the opportunity to participate in what the chairman of the committee, the gentleman from Chicago, IL, Mr. ROSTENKOWSKI, has said about wanting to start this most historic process of the conference out on a postitive note.

It does embody what we all today could vote for very proudly. When I had the privilege to become a member of this committee and think about the prospects of tax reform, I did not really know what would be in store for me personally nor really for the body politic or all of my colleagues on that committee.

It has been a most exciting experience to watch the chairman, his staff, the staff of the joint committee, my ranking member and our staff work together to bring about what has to be considered when we are done, and we are not done yet, the most historic piece of reform legislation since 1900.

I think it is important that we send our conferees to this conference with a very well-crafted instruction. As the chairman pointed out in his opening remarks, indeed, we approach instructing conferees at any time very cautiously. Most of the time, we like to avoid it. But if you take a good look at the four parts to this instruction, it gives each one of us the chance to go home saying, "We had a shall part to play in developing the framework within which this historic piece of legislation could be fashioned."

I think each one of us can go home with a feeling of pride tonight if we participate in it. There are good reasons for tax reform. The deficit, Gramm-Rudman not withstanding, is going to be $3 trillion by 1992. There are fewer taxpayers who are going to be shouldering the load for food stamps, farmers' aid and foreign aid, as we look at a labor-short economy ahead, and we have a Tax Code that is like a leaky bucket; it is full of holes.

This tax reform for middle America, for the farmers in my State, is just what the doctor ordered. I hope that my colleagues will all join with the gentleman from Tennessee, Mr. DUNCAN, in supporting his motion to instruct the conferees and we should be grateful for his leadership.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the ranking member for yielding.

Mr. Speaker, this is an historic occasion. A lot of people have been given credit here this afternoon, the chairman, ranking member and others, and I think one who deserves a great deal of credit for arriving at this particular place in our history is the gentleman from New York, JACK KEMP, who has been a champion of tax reform for a long time, who is responsible for having it included in the Republican platform of 1984.

I urge my colleagues to vote for this instruction.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 338, nays 61, not voting 32, as follows:

[Roll No. 222]

YEAS—338

Akaka	Boner (TN)	Coble
Alexander	Bonker	Coelho
Andrews	Boucher	Coleman (MO)
Annunzio	Boulter	Coleman (TX)
Anthony	Boxer	Collins
Applegate	Broomfield	Combest
Archer	Brown (CO)	Conte
Armey	Bruce	Cooper
Aspin	Bryant	Courter
AuCoin	Burton (CA)	Craig
Badham	Burton (IN)	Crane
Bartlett	Bustamante	Daniel
Barton	Byron	Dannemeyer
Bateman	Callahan	Darden
Bates	Campbell	Daschle
Bennett	Carney	Daub
Bentley	Carper	Davis
Bereuter	Carr	DeLay
Bevill	Chandler	Derrick
Biaggi	Chapman	DeWine
Bilirakis	Chappell	Dickinson
Bliley	Cheney	Dicks
Boehlert	Clinger	Dingell
Boggs	Coats	DioGuardi
Boland	Cobey	Dornan (CA)

Downey	Leath (TX)	Rostenkowski
Dreier	Lehman (CA)	Roth
Duncan	Lent	Roukema
Durbin	Levin (MI)	Rowland (CT)
Dwyer	Lewis (CA)	Rowland (GA)
Dyson	Lewis (FL)	Rudd
Eckart (OH)	Lightfoot	Russo
Eckert (NY)	Lipinski	Saxton
Edgar	Livingston	Schaefer
Edwards (CA)	Lloyd	Schneider
Edwards (OK)	Loeffler	Schroeder
Emerson	Lott	Schuette
English	Lowery (CA)	Schulze
Erdreich	Lowry (WA)	Schumer
Evans (IL)	Lujan	Sensenbrenner
Fawell	Luken	Sharp
Feighan	Lungren	Shaw
Fields	Mack	Shelby
Fish	MacKay	Shumway
Flippo	Madigan	Shuster
Florio	Manton	Sikorski
Foglietta	Marlenee	Siljander
Foley	Martin (IL)	Sisisky
Ford (MI)	Martin (NY)	Skeen
Fowler	Martinez	Skelton
Franklin	Matsui	Slattery
Frenzel	Mavroules	Slaughter
Fuqua	Mazzoli	Smith (FL)
Gallo	McCain	Smith (IA)
Gaydos	McCandless	Smith (NE)
Gejdenson	McCloskey	Smith (NJ)
Gekas	McCollum	Smith, Denny (OR)
Gephardt	McCurdy	
Gilman	McDade	Smith, Robert (NH)
Gingrich	McGrath	
Glickman	McKernan	Smith, Robert (OR)
Goodling	McKinney	
Gordon	McMillan	Snowe
Gradison	Meyers	Snyder
Gray (IL)	Mica	Solomon
Green	Michel	Spence
Gregg	Mikulski	Spratt
Gunderson	Miller (CA)	St Germain
Hall (OH)	Miller (OH)	Staggers
Hall, Ralph	Miller (WA)	Stallings
Hamilton	Mineta	Stangeland
Hammerschmidt	Moakley	Stark
Hansen	Molinari	Stenholm
Hartnett	Mollohan	Strang
Hatcher	Monson	Stump
Hefner	Montgomery	Sundquist
Hendon	Moorhead	Sweeney
Henry	Morrison (WA)	Swift
Hertel	Mrazek	Swindall
Hiler	Murphy	Synar
Hillis	Natcher	Tallon
Holt	Neal	Tauke
Hopkins	Nelson	Tauzin
Horton	Nichols	Taylor
Howard	Nielson	Thomas (CA)
Hubbard	Nowak	Thomas (GA)
Huckaby	Olin	Torres
Hughes	Ortiz	Traficant
Hunter	Owens	Traxler
Hutto	Oxley	Udall
Hyde	Packard	Valentine
Ireland	Parris	Vento
Jeffords	Pashayan	Volkmer
Jenkins	Pease	Vucanovich
Johnson	Penny	Walgren
Jones (OK)	Petri	Walker
Jones (TN)	Pickle	Watkins
Kanjorski	Porter	Weber
Kaptur	Price	Whitley
Kasich	Pursell	Whittaker
Kastenmeier	Quillen	Wilson
Kemp	Ray	Wirth
Kennelly	Regula	Wise
Kildee	Reid	Wolf
Kindness	Richardson	Wolpe
Kleczka	Ridge	Wortley
Kolbe	Rinaldo	Wyden
Kolter	Ritter	Wylie
Kostmayer	Roberts	Yatron
Kramer	Robinson	Young (AK)
Lagomarsino	Roe	Young (FL)
Lantos	Roemer	Young (MO)
Latta	Rogers	Zschau
Leach (IA)	Rose	

NAYS—61

Anderson	Berman	Conyers
Atkins	Borski	Coyne
Bedell	Brooks	Dellums
Beilenson	Clay	Dixon
Donnelly	Lehman (FL)	Savage
Dorgan (ND)	Levine (CA)	Scheuer
Dymally	Markey	Seiberling
Early	McHugh	Solarz
Fascell	Moody	Stokes
Ford (TN)	Morrison (CT)	Stratton
Frank	Oakar	Studds
Garcia	Oberstar	Towns
Gibbons	Obey	Visclosky
Gonzalez	Panetta	Waxman
Gray (PA)	Pepper	Weiss
Guarini	Perkins	Wheat
Hawkins	Rahall	Williams
Hayes	Rangel	Wright
Hoyer	Rodino	Yates
Jacobs	Roybal	
LaFalce	Sabo	

NOT VOTING—32

Ackerman	Dowdy	Mitchell
Barnard	Evans (IA)	Moore
Barnes	Fazio	Murtha
Bonior (MI)	Fiedler	Myers
Bosco	Frost	O'Brien
Breaux	Grotberg	Torricelli
Brown (CA)	Jones (NC)	Vander Jagt
Chappie	Leland	Weaver
Coughlin	Long	Whitehurst
Crockett	Lundine	Whitten
de la Garza	McEwen	

□ 1750

Messrs. DYMALLY, HAYES, GARCIA, and LEHMAN of Florida changed their votes from "yea" to "nay."

Messrs. SCHUMER, McCAIN, GRAY of Illinois, and PENNY, and Mrs. BOXER changed their votes from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees: Messrs. ROSTENKOWSKI, PICKLE, RANGEL, STARK, GEPHARDT, RUSSO, PEASE, DUNCAN, ARCHER, VANDER JAGT, and CRANE.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 461, IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

Mr. KASTENMEIER, from the Committee on the Judiciary, submitted a privileged report (Rept. No. 99-688) on the resolution (H. Res. 461) impeaching Harry E. Claiborne, judge of the U.S. District Court for the District of Nevada, of high crimes and misdemeanors, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION RELATING TO THE FEBRUARY 1, 1986, SEQUESTRATION ORDER OF THE PRESIDENT

Mr. DERRICK, Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House without intervening motion a joint resolution containing the text printed in section two of this resolution, debate on said joint resolution shall continue not to exceed two hours, to be equally divided and controlled by Representative Wright of Texas and Representative Michel of Illinois, or their designees, and the previous question shall be considered as ordered on said joint resolution to final passage without intervening motion except one motion to recommit, which may not contain instructions. Upon the passage in the House of said joint resolution: (1) the House shall be considered to have adopted a concurrent resolution containing the text printed in section three of this resolution; and (2) notwithstanding the provisions contained in sections 274(f) and 254(a)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, any joint resolution reported to the House by the Temporary Joint Committee on Deficit Reduction pursuant to section 274(f) shall not be in order for consideration in the House unless called up by the chairman of the Committee on the Budget. The joint resolution made in order by this resolution shall not be enrolled until the House and Senate have completed action on the concurrent resolution considered to have been adopted by the House by this resolution.

SEC. 2. The text of the joint resolution is as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, The Congress hereby ratifies and affirms as law the report of the Directors of the Congressional Budget Office and the Office of Management and Budget, issued on January 15, 1986 pursuant to section 251(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 (51 Fed. Reg. 1918-2336 (1986))."

SEC. 3. The text of the concurrent resolution is as follows: *"Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of the joint resolution H.J. Res.——, the Clerk of the House of Representatives shall make the following corrections: (1) strike out all after the resolving clause and insert in lieu thereof the following: "That, effective on and after March 1, 1986, the Congress hereby ratifies and affirms as law the February 1, 1986, sequestration order of the President as issued under section 252(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 and as affected by laws enacted after February 1, 1986, and before the date of adoption of this joint resolution."; and (2) change the title of the joint resolution to read as follows: "To ratify the February 1, 1986, sequestration order of the President for Fiscal Year 1986 isssued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985"." In preparing said concurrent resolution as adopted by the House, the clerk shall fill in the blank with the number of the joint resolution considered pursuant to this resolution.

The SPEAKER. Is there objection to consideration of the resolution?

There was not objection.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] for purposes of debate only, and pending that I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration in the House of a joint resolution affirming as law the Gramm-Rudman report of the Directors of CBO and OMB. The joint resolution is printed in section 2 of the rule. The rule provides 2 hours of general debate on the joint resolution to be equally divided and controlled by the distinguished majority and minority leaders, or their designees. The rule provides one motion to recommit which may not contain instructions.

Mr. Speaker, the rule also provides that upon adoption of the joint resolution, the House is considered to have adopted the concurrent resolution printed in section 3 of the rule. The concurrent resolution directs the Clerk of the House to make changes in the joint resolution before enrolling it. As corrected, the joint resolution will affirm as law the President's February 1, 1986, sequestration order as modified by any laws enacted between February 1 and the date of enactment of the joint resolution. Until the House and Senate complete action on the concurrent resolution, the joint resolution shall not be enrolled.

Upon adoption of the joint resolution, it will not be in order to consider a joint resolution reported from the Joint Committee on Deficit Reduction unless called up by the chairman of the Budget Committee. Under Gramm-Rudman, if the joint committee were to report another resolution affirming the fiscal year 1986 sequestration order, it would be in order in the House. The rule will make sure we do not have to reconsider the fiscal year 1986 sequestration report once we adopt this joint resolution.

Mr. Speaker, this rule simply allows the House to reaffirm its commitment to deficit reductions achieved by Gramm-Rudman. We must act quickly on this serious matter. I urge adoption of the rule and the joint resolution.

□ 1805

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statements just made by the gentleman from South Carolina.

Let me say this is rather a unique situation because the resolution that we make in order here is a resolution that has been agreed upon by the leadership on both sides. It will provide that the time will be controlled by the gentleman from Texas [Mr. WRIGHT] on the majority side, and the gentleman from Illinois [Mr. MICHEL] on our side, or their designees. So that is quite unique.

I think both sides of the aisle understand the importance of the resolution that this particular rule makes in order.

Following the Supreme Court's decision on Gramm-Rudman-Hollings, our first priority should be to preserve the $11.7 billion in budget savings achieved through the March 1 sequestration order.

I support the plan that has been worked out to move the affirmation of the sequestration order quickly and cleanly through the House of Representatives this week. It is critical that the March 1 sequestration order be ratified without changes. If we allow any changes in the status quo—no matter how small—our chance to retain these savings will disintegrate before our eyes.

The rule before us affirms the sequestration as it exists today. It satisfies Gramm-Rudman-Hollings by permitting us to vote on the joint resolution called for under the fallback procedures. It also allows us to vote on a concurrent resolution that would correct technical deficiencies and recognize any legislation enacted subsequent to March 1 which modified the sequestration order.

It is important that we get this legislative chore done promptly and without any amendments which would torpedo the sequestration. If we cannot process a ratification of savings that have already occurred, it is hard to see how we will deal with the much tougher choices we have yet to make with regard to the fiscal year 1987 budget.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE AND THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The SPEAKER laid before the House the following communication from the Director of the Congressional Budget Office and the Director of the Office of Management and Budget; which was read and referred to the Temporary Joint Committee on Deficit Reduction:

CONGRESSIONAL BUDGET OFFICE,
CONGRESS OF THE UNITED STATES.
OFFICE OF MANAGEMENT AND BUDGET,
EXECUTIVE OFFICE OF THE PRESIDENT.
July 16, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On July 7, 1986, in its decision on *Bowsher* vs. *Synar*, the Supreme Court held that powers invested in the Comptroller General under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, (Act) are unconstitutional. Accordingly, as required by the alternative provisions of the Act, the Director of the Office of Management and Budget (OMB) and the Director of the Congressional Budget Office (CBO) do hereby submit to you, by reference, the Sequestration Report for Fiscal Year 1986. The Report, which was submitted in accordance with section 251 of the Act, is contained in the Federal Register of January 15, 1986 (Vol. 51, No. 10, Book 2, pages 1917-2336).

As required by law, this joint report:

Estimates budget base levels, including the amount by which the projected deficit exceeds the maximum of deficit amount for the fiscal year;

Provides OMB and CBO economic assumptions, including the estimated rate of real economic growth; and

Calculates the amounts and percentages by which various budgetary resources must be sequestered in order to eliminate any deficit excess.

The report is in three parts: a summary and two appendixes that provide a detailed listing of all sequestration reductions by agency and budget account, and by programs, projects, and activities for defense programs. The Directors of OMB and CBO were able to agree on the conceptual application of P.L. 99-177 to all budget accounts except one. This difference is discussed in the summary section.

Sincerely yours,

RUDOLPH G. PENNER,
Director, Congressional Budget Office.
JAMES C. MILLER III,
Director, Office of Management and Budget.

NATIONAL FAMILY REUNION WEEKEND

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 274) to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation, I yield to the gentlewoman from Kansas [Mrs. MEYERS], who is the chief sponsor of House Joint Resolution 577.

Mrs. MEYERS of Kansas. Mr. Speaker, I appreciate this opportunity to address National Family Reunion Weekend. Passage of this resolution will encourage families throughout the country to celebrate the tradition of family reunions during the weekend of August 1 through 3.

Family reunions help build a strong foundation for a family. They nurture the character and identity of individuals by establishing traditions so important to each of us. Family reunions help preserve the spirit and unity of the family, and can give individuals a strong sense of heritage and pride. In addition and most important, reunions can bridge the gap between generations, bringing together both young and old to celebrate a family's rich past.

My distinguished colleague in the other body, Senator GRASSLEY, and I in the House have asked the President to issue a proclamation designating the first weekend in August as National Family Reunion Weekend. I am pleased that it has been brought to the floor in such a timely fashion, and would particularly like to thank all of my 227 colleagues who so graciously added their names as cosponsors to this legislation.

I thank the gentleman for yielding.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 274

Whereas the family is the foundation of a strong America;

Whereas the family nutures the character and identity of individuals;

Whereas it is important to strengthen and preserve family spirit and unity;

Whereas tracing ancestral roots and creating a family tree can be an important discovery process;

Whereas family reunions of any size provide a strong sense of heritage and pride; and

Whereas family reunions bridge the gap between generations, bringing together the young and old alike to celebrate a family's rich past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weekend of August 1, 1986, through August 3, 1986, is designated as "National Family Reunion Weekend" and the President is authorized and requested to issue a proclamation calling upon the families of America to observe such weekend with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LUPUS AWARENESS MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 279) to designate the month of October 1986, as "Lupus Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation, I yield to the gentlewoman from Connecticut [Mrs. JOHNSON], who is the chief sponsor of House Joint Resolution 531.

Mrs. JOHNSON. Mr. Speaker, as the original sponsor of House Joint Resolution 531, I am proud to support this motion cosponsored by 228 of my colleagues, to designate October 1986 as "Lupus Awareness Month."

Tens of thousands of Americans are afflicted with this mysterious, often fatal, surprisingly common disease. It is more prevalent than muscular dystrophy, cystic fibrosis, rheumatic fever, multiple sclerosis, or even leukemia. Yet the vast majority of the people in the United States have never even heard of Lupus.

Over 500,000 Americans have been diagnosed with Lupus, though no one yet has been able to identify its cause. Ninety percent of Lupus victims are young women in their childbearing years. However, Lupus has been known to attack men, teenagers, as well as individuals over age 55.

Lupus may affect only the skin, or it may affect any organ in the body. It has often been called the great impersonator, for it is frequently misdiagnosed as arthritis, epilepsy, psychosis, and other diseases with symptoms it mimics. Some mild cases of Lupus may never even receive medical attention, but if left unchecked too long, a severe case of Lupus can be fatal. Too many will remain at risk without increased research and improved physician training in the recognition of this disease.

Lupus Awareness Month costs the Federal Treasury nothing, but it will provide hope to thousands of individuals and families across the Nation.

I would like to thank all of my colleagues who have helped to make this resolution a reality, and recognize the Lupus Foundation of America, Inc., for its hard work and commitment in the fight against this disease.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 279

Whereas Lupus Erythematosus is a disease of unknown cause that affects over five-hundred thousand people in the United States, 90 percent of whom are women in their childbearing years;

Whereas Lupus Erythematosus, though not a rare disease, is unfamiliar even to some physicians which may result in the disease being misdiagnosed or diagnosed too late;

Whereas Lupus Erythematosus in the most severe form can be fatal;

Whereas The Lupus Foundation of America, Inc., its constituent chapters, and other voluntary health organizations are established throughout the United States to serve and support victims of lupus and their families, encourage funding for research, and increase public awareness; and

Whereas the public and the Federal Government are not sufficiently aware of the incidence of Lupus Erythematosus: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1986, is designated as "Lupus Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1645

EMERGENCY MEDICAL SERVICES WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 529) designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object; I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 529

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel, and reciprocal recognition of training and credentials by the States;

Whereas the designation of "Emergency Medical Services Week" will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating "Emergency Medical Services Week": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 21, 1986, through September 27, 1986, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TOURISM WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 642) to designate the week beginning May 17, 1987, as "National Tourism Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection I yield to the gentleman from Tennessee [Mr. BONER] who is the chief sponsor of House Joint Resolution 642 to designate the week of May 17 as "National Tourism Week".

Mr. BONER of Tennessee. I thank the gentleman for yielding to me.

Mr. Speaker, National Tourism Week has become one of our Nation's most popular commemorative weeks since it was first celebrated in 1984. Today I urge my colleagues to support legislation designating the week of May 17-23, 1987, as "National Tourism Week" next year. Since I introduced this resolution (H.J. Res. 642) in late May, over 230 Members of Congress have signed on as cosponsors. I believe this is a great testimony to the important role that tourism plays as one of our country's leading employers and economic generators.

America is known throughout the world for its warm and friendly people, and as a wonderful travel destination with varied and exciting attractions. Gracious hospitality, courtesy, and customer service are an American hallmark.

In my home State of Tennessee, the "Tennessee Homecoming '86" program is currently underway. It's the largest community effort undertaken in our State and it is having a dramatic, positive impact on State tourism and economic development. On a national scale, National Tourism Week does the same thing. It involves thousands of participants in all our States and U.S. territories enabling Americans to showcase their tourist attractions, culture, cuisine, and, above all, hospitality. The wide media coverage National Tourism Week receives helps attract additional visitors and revenue to our States.

As chairman of the Congressional Travel and Tourism Caucus, I have had the opportunity to see the dramatic impact National Tourism Week has had. That is why I urge my colleagues to continue the National Tourism Week tradition and pass House Joint Resolution 642 saluting travel and tourism in the United States.

Mr. HANSEN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. I thank the gentleman for yielding to me.

Mr. Speaker, I rise today in support of House Joint Resolution 642 so that National Tourism Week is once again officially celebrated in 1987. As vice chairman of the Congressional Travel and Tourism Caucus, I have long advocated the importance of tourism promotion for our States as a means of raising jobs and revenue. National Tourism Week is an excellent way of highlighting our recognition that travel and tourism is an important force in our Nation's economic recovery.

It promises to be banner years in 1986 and 1987 for tourism in the United States. Americans are traveling domestically in record numbers because our country has so much to offer vacationers. In addition, foreign visitors are streaming into the United States because the value of the dollar has stabilized and continuing low inflation has kept down the cost of a vacation in the United States.

As the Nation's leading travel destination, California recognizes the tourism plays an essential role in economic development in our State. Last year, the California Office of Tourism was budgeted at $5.6 million. This year an additional $2 million was added to the State tourism office's budget for the coming fiscal year.

Tourism is our Nation's third largest private employer with employees in a wide range of areas in each one of our congressional districts. Tourism means jobs with transportation companies, hotels, and motels, restaurants, amusement parks, and souvenir shops, to name a few. Mr. Speaker, I think it's very appropriate that the Congress officially recognizes tourism as one of our country's best assets.

Mr. NELSON of Florida. Mr. Speaker, as secretary-treasurer of the U.S. Congressional Travel and Tourism Caucus, it was my pleasure to join my caucus colleagues in sponsoring House Joint Resolution 642, to declare the week of May 17, 1987, as "National Tourism Week."

This resolution is an important way to applaud the commendable efforts of an industry that is vitally important not only to my own State of Florida's economy, but to that of the Nation. The tourism community—including millions of workers in hotels, entertainment, amusement parks, recreation, transportation, restaurants, retail, and other tourist-related enterprises—makes a valuable contribution to the economic welfare of this country.

According to a report recently released by the U.S. Travel Data Center in Washington, DC, in 1984 alone U.S. residents spent $224 billion traveling away from home. This averaged more than $430,000 a minute. And the spending accounted for 6.1 percent of our gross national product for that year.

The important people who make all this possible deserve a week of commemoration, during which time we will focus well-deserved national attention on the travel and tourism industry.

I urge passage of House Joint Resolution 642, National Tourism Week, today.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 642

Whereas tourism is vital to the United States, contributing to economic prosperity, employment, and the international balance of payments;

Whereas travelers from the United States and other countries spend $259,500,000,000 in the United States during 1985, directly producing five million nine hundred thousand jobs, $59,600,000,000 in wages and salaries, and over $33,200,000,000 in Federal, State, and local tax revenues;

Whereas if viewed as a single retail industry the travel and tourism sector of the economy constituted the third largest retail industry in the United States in 1985 as measured by business receipts;

Whereas tourism contributes substantially to personal growth, education, and appreciation of intercultural differences among all people;

Whereas tourism enhances international understanding and good will; and

Whereas as people throughout the world become aware of the outstanding cultural and recreational resources available across the United States, travel and tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 17, 1987, is designated as "National Tourism Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL INFECTION CONTROL WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 623) to authorize the designation of a calendar week in 1986 and each year thereafter as "National Infection Control Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 623

Whereas nosocomial infections directly cause more than twenty-thousand deaths each year and indirectly contribute to sixty-thousand additional deaths;

Whereas one-third of all such infections are preventable;

Whereas the spread of infection in day care centers is a new source of concern; and

Whereas increased public awareness, dissemination of information, and assistance are essential to combat and prevent the problem of infection; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate a calendar week in 1986 and each year thereafter as "National Infection Control Week" and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, activities, and ceremonies.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 4, strike out "and each year thereafter" and insert in lieu thereof "and 1987".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: In the title strike out "and each year thereafter" and insert in lieu thereof "and 1987".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

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STEEL PLATE INDUSTRY IMPACTED BY IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, our steel plate industry, like the domestic steel industry as a whole, continues to be squeezed by imports. In 1985 and thus far this year, imports have captured roughly 30 percent of our domestic markets in carbon steel plate and alloy steel plate. Regrettably, this situation shows no sign of abating.

It is of particular concern to me that our domestic capability to produce armor steel plate, a specialized form of alloy plate, not be compromised by imports. We must maintain a production capability second to none for this critical defense product.

Toward this end, I ask the conference committee on H.R. 3838, the Tax Reform Act of 1986, to adopt a small amendment to the section of the bill imposing a new excise tax on funds obtained by employers following pension-plan terminations. In the context of this landmark tax bill, the amendment is indeed minor. It consists of a precisely targeted transition rule with a $1 million revenue impact. In its effect on the domestic armor steel plate industry, however, the amendment looms large.

The proposed amendment applies to Lukens Steel of Coatesville, PA. Although it is a small steel producer, representing less than 1 percent of domestic steel capacity, Lukens manufactures roughly half of our domestic armor plate. It is the primary supplier of armor plate for the Army's tanks and personnel carriers and for major infrastructure components in the Navy's Trident nuclear submarine, *Nimitz* class carrier and *Los Angeles* class attack submarine. It is an important supplier for numerous other defense programs as well.

As currently written, H.R. 3838 will cost Lukens $1 million in tax that it otherwise could invest in equipment for its armorplate production plant. Section 1232 of the bill imposes a 10 percent excise tax on an employer's proceeds from any pension plan terminated by the employer after December 31, 1985. In February 1986, Lukens terminated a plan it had inherited following a small merger. Solely because Lukens missed the retroactively imposed deadline by a few weeks, section 1232 now requires it to pay roughly $1 million of the proceeds from this termination to satisfy the new excise tax.

I believe that the national interest in a strong and competitive armor-plate industry requires that we target these funds for Luken's plant modernization effort rather than collect them for general revenues. Accordingly, the proposed amendment to H.R. 3838 will both exempt these funds from the excise tax through a special transition rule and require Lukens to invest them in heat-treating equipment for armor-plate production.

The importance of this amendment cannot be underestimated. In 1976, there were seven armor-plate production facilities in this country. Now, there are only four, and these exist under the shadow of increasing competition from imports. Lukens seeks to meet this competition head on. We must not, as an inadvertent byproduct of tax reform, hinder its effort to do so.

The fairness of this amendment is beyond dispute. While its larger domestic competitors have increasingly concentrated on nonsteel business ventures, Lukens has continued to invest in basic steel production. In the past decade, Lukens has spent more than three times its net earnings on steel-making equipment. Its armor plate plant modernization effort is but the latest example of this. Lukens

has earned the privilege of favorable congressional action on this amendment.

Mr. Speaker, we must not let an arbitrary transition rule retard Lukens' effort to make itself and, in turn, the critical domestic armor plate industry better able to respond to import competition. Little would be gained and much would be lost by our failure to adopt the amendment to H.R. 3838 that will remedy this problem. I urge my colleagues on the conference committee to incorporate the amendment into the bill.

STEVEN ROSS COMMENDED FOR PRESENTATION BEFORE THE SUPREME COURT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I would like to call the attention of the Members to the excellent work of the counsel to the clerk of the House, Steven Ross, in his oral arguments before the Supreme Court in the Charles Bowsher et al. versus Mike Synar et al. and to include in the RECORD an article in the American Lawyer which also commends his work.

GRAMM-RUDMAN'S "TRIGGER" UNDER FIRE

(By Lyle Denniston)

Top Washington lawyers have a knack for turning a big moment in the Supreme Court into a grand occasion. Six lawyers appeared for *Charles Bowsher et al.* v. *Mike Synar et al.*, the historic argument over the constitutionality of the Gramm-Rudman budget law, and during the two-hour hearing, all but one performed as the opportunity demanded.

The lawsuit, brought by 12 members of the House, is a monumental struggle for control over the federal budget and its soaring deficit, and a deeper, longer-running battle between Congress and the presidency over each other's jealously guarded powers.

Aware of its own dalliance with hard choices over spending and taxes, Congress created Gramm-Rudman's automatic budget-cutting "trigger" mechanism. Under the law the U.S. comptroller general, who heads the General Accounting Office, is given the task of estimating the budget cuts necessary to stay within deficit ceilings. If Congress fails to meet the comptroller's budget goals, the officer may order the necessary cuts, which the president is required to implement.

A special U.S. district court, set up by the Gramm-Rudman law to review its constitutionality, struck down the trigger mechanism. The court concluded that since the tasks given to the comptroller are "executive functions" they may not be performed by an official who is removable by Congress, but rather one who is subject to removal from office by the president. The comptroller general, by law, can be fired only by Congress, making him "subservient" to Congress, the court declared.

The office of comptroller general has long been at the center of a major constitutional dispute over the separation of executive and legislative powers; the comptroller seems to have some of each. That is why the appeals in the Gramm-Rudman case by the current comptroller, Charles Bowsher, and by the House and Senate have historic significance.

The hearing could have been a showcase for two well-known lawyers from opposite sides of the profession in Washington, D.C.: Lloyd Cutler, name partner of Wilmer, Cutler & Pickering and former White House counsel, and Alan B. Morrison, director of Public Citizen Litigation Group. Cutler represents comptroller general Bowsher, and Morrison represents the 12 representatives, led by Representative Mike Synar, an Oklahoma Democrat.

Both Cutler and Morrison have impressive credentials before the Court and both were as good as they were expected to be. But the star performance was given by Steven Ross, the young general counsel to the clerk of the House, representing the House leadership. The Senate's counsel, Michael Davidson, made sense of the intricacies of Gramm-Rudman without losing sight of their constitutional meaning, and Solicitor General Charles Fried, representing the executive branch, made unusually effective use of hyperbole.

The one disappointing performance came from Lois Williams, litigation director for the National Treasury Employees Union. She provided some stimulating rhetoric but allowed herself to get mired in complexity, creating doubt about what she was trying to argue.

Cutler appeared first for those defending the law, and his argument was a call for boldness. He suggested that the Court reach back to the 1921 law creating the comptroller's office and strike down Congress's power to fire that officer rather than read the comptroller general out of the Gramm-Rudman process. Congress, he implied, would rather have the comptroller involved in the budget process than retain its power to remove him.

Justice Sandra Day O'Connor suggested that Congress had already made its preference known, assigning itself the task given the comptroller as a "fallback" should the courts rule against letting the comptroller act. Cutler said the Court would never have to pass on the comptroller's role if it made the removal power "a nullity."

Unsatisfied, Justice William Rehnquist commented. "It seems to me that you really risk interfering with Congress's intent far more when you tamper with the 1921 act than if you adjudicate the 1985 [Gramm-Rudman] act." Disagreeing, Cutler said that Congress in 1921 had intended to make the comptroller general "an independent officer," and thus it seemed clear that "Congress would have preferred to have an independent comptroller general." with a 15-year term, even if the president could fire that officer. When Justice John Paul Stevens asked Cutler whether he thought the 1921 law was unconstitutional in giving Congress the power to fire that officer, Cutler said he "would have great difficulty" defending that law. Justice Byron White noted that the Senate and House were defending that power, and Cutler suggested that, as counsel to the comptroller, he "would defend its validity perhaps with less enthusiasm than our colleagues."

Cutler was noticeably more effective with the second part of his argument. He challenged the Justice Department's position as presented in its briefs that anyone exercising powers like those of the executive branch should be subject to firing by the president, acting at will.

Cutler had mentioned in his opening sentences that this case posed a test of whether "the concept of the independent officer" could survive. Justice White asked what would happen if the Court ruled in favor of the Justice Department. Cutler replied that such finding "would have very serious implications for all [independent] agencies . . . except those which are limited to deciding particularized cases based on past facts."

The House's lawyer, Steven Ross, followed Cutler to the lectern and exceeded the celebrity audience's expectations in his first appearance before the justices. Ross took the complexity out of the comptroller general's budget task, laying an early foundation for his arguments that Congress had not given away its powers unconstitutionally and that the choice of comptroller general was the right one politically. Under Gramm-Rudman, he said, Bowsher would be doing only "an accountant's job," acting as "the impartial budget scorekeeper," one who would not be responsible "for a single policy judgment."

Ross made the point that the House had been unwilling to give the triggering power over automatic budget cuts to anyone who "shares office space with the president," such as the federal budget director. To make sure "these calculations are walled off from any possible manipulation," said Ross, the House insisted that they be made by "the independent, long-tenured comptroller general."

When Ross began to defend the comptroller general's history as an independent official, Justice O'Connor broke in to suggest that, historically, the comptroller general had been "an employee of the legislative branch." Ross gave a short historical lecture, emphasizing the "unique, independent status" of the comptroller. After Justice O'Connor quizzed him on the nature of the tasks given to the comptroller, Ross found a way to turn the answers into a constitutional argument with political overtones. Ross noted that Gramm-Rudman had been a political compromise, and thus the Court "should be especially wary of overturning" the result by reading some new limitation into the Constitution's separation-of-powers doctrine.

Justice O'Connor tested Ross's argument on the proper allocation of budget-related powers by asking whether the task given the comptroller by Gramm-Rudman could have been given to someone who worked directly for the president. Congress could have done that constitutionally, he replied. But he added, "I think that would have been a political impossibility." O'Connor then pressed for a constitutional basis for giving those powers to an independent officer. "Where the Constitution does not specifically prevent the political branches from utilizing a particular mechanism." Ross replied, "this Court owes deference to the choices of those political branches." With that answer, he was able to imply three key points: that the Court should not meddle with pacts between the other branches; that Gramm-Rudman had been a compromise in which, initially, the president had joined Congress; and that the Court need not impose a constitutional restriction where one was not strictly required.

As his time was expiring, Ross was pressed for a second time by Justice Stevens about Ross's argument that the comptroller had not really been given any important functions that belonged to Congress or to the White House. Stevens said that if it would have been a "political impossibility" for Congress to give those functions to an executive branch official, wasn't that inconsistent with the view that the comptroller was only doing the work of an accountant? "There are differences between constitu-

tional realities and political realities," Ross answered quickly. Even if the task to be done was limited enough that it could, without constitutional problems, be given to an independent officer like the comptroller, that did not mean it was so limited that Congress was politically willing "to give it to someone who shares office space with the president," Ross said. ". . . The political reality of this bill" he continued, "was that when it came to the House, it was necessary for the House to formulate an officer that all within the House could trust his nonpartisanship. That officer was clearly the comptroller general."

Michael Davidson, the Senate's lawyer, offered a well-crafted argument designed mainly to show that the triggering function was actually the most important part of Gramm-Rudman because it was "a mechanism, reliable and predictable in nature, necessary to discipline the budget process." This, he added, is Gramm-Rudman's "unique contribution to deficit reduction." If the Court were to rule that such a role could only be assigned to someone who could be fired at any time by the president, Congress may well prefer not to have Gramm-Rudman at all, he suggested.

The Senate counsel's theory was that Congress had not improperly given away its legislative power by giving the task of calculating budget cuts to the comptroller. Congress, he said, would make all of the "hard political judgments" before ever calling in the comptroller and would have every opportunity to shape the budget differently on its own, rather than simply waiting for the trigger to be pulled by the comptroller.

Like Ross, Davidson sought to play upon the current Court's general reluctance to second-guess Congress's key legislative choices. He argued that a decision wiping out the comptroller general's role in the Gramm-Rudman process would "radically change the statute" in a way that would not carry out Congress's objectives.

Just before he finished. Davidson delicately made his way through a somewhat embarrassing exchange with Chief Justice Warren Burger, The Senate lawyer had suggested that the Court could conclude that Congress might prefer to keep Gramm-Rudman intact even at the cost of losing the power to fore the comptroller. The chief justice recalled that suggestion and asked. "Where do we get our authority to try to make judgments of that kind?" Davidson carefully pointed out that the Court, in a decision Burger himself had written, had held that the Court would have to speculate about Congress's preferences in deciding whether to strike down some parts of a law, rather than the entire statute, and also held that it had the power to do so. Burger then asked whether "that was a key factor" in the decision he himself had written. Davidson suggested that it definitely was a part of that judgment but conceded that it was a "preliminary" matter.

Solicitor General Charles Fried was the first to argue for Gramm-Rudman's challengers. He immediately argued that Congress had handed a great deal of power to the comptroller general. That officer, he said, had been given the "critical responsibility" of setting "reductions in outlays throughout the government. "He said that the powers given the comptroller by the new law "are so sweeping they affect every nook and cranny of the executive department. They give orders to the president himself. They affect every one of the executive agencies."

Anyone with such powers, he went on, should be subject to removal by the president at will. When O'Connor suggested that Fried was espousing "kind of a novel doctrine," Fried replied. "The reason that the argument that I'm making sounds novel is that these powers are entirely novel."

Turning to his constitutional rationale, Fried said that "our constitutional scheme is one in which Congress makes general laws, and the executive administers those laws. Congress cuts the pie, the executive chooses. In this case, Congress has sought both to cut the pie and to choose." If Congress could get by with its Gramm-Rudman assignments to the comptroller, he asked rhetorically, "That may Congress not assign to him? The idea has great potential."

Fried was met with a sarcastic comment and question from Justice Thurgood Marshall. "You paraded quite a few horrible things that could happen if Congress took over the job," the justice said. "Why is it not possible for the president to do the same? . . . [I]s Congress the only body in government that does wrong?" Fried suggested that the president probably "has committed as many wrongs as the Congress," but that each had done so in its own sphere. "It would be a pity if they started committing each other's wrongs," he said. The laughter that ensued apparently upset Marshall, who asked, "Does that help me at all?" Fried said he thought so and quoted from the Constitution on the division of powers. The justice remained discontent. He said, "I learned that in my first year of high school. Now can we get to something else?" Undaunted, the solicitor general said, "It is a dangerous confusion to start giving executive powers to Congress or, I suppose, legislative powers to the president."

The plainest, most direct language against Gramm-Rudman came from Alan B. Morrison, counsel to the 12 congressmen challenging the bill. The public interest lawyer began by bluntly accusing Congress of "trying to create an elaborate mechanism under which it could obtain a reduction in the budget deficit without having either to increase taxes or to cut any of the spending programs, because it was unable to muster the votes needed to do that under our lawmaking provisions of the Constitution." In Gramm-Rudman, he said, Congress sought to "accomplish through the back door that which it could not accomplish through the front door."

Morrison warmed to his oratory: "I suggest to you that the very reason that Gramm-Rudman was enacted was because the Congress found that it was not making the hard choices. It wanted to have defense, it wanted to have social programs, it wanted to have clean air, it wanted to have transportation, and it couldn't pick and choose among them." So it passed off the chore, he said, and "that kind of abdication goes to the very heart of our system of government, and it changes all of the dynamics around in our legislative process."

The other Gramm-Rudman challenger, the Treasury Employees Union's Lois Williams, seemed from the beginning to have difficulty distinguishing her points. It was never clear when she was talking about the separation-of-powers theory and when she was discussing Congress's delegation of its powers to others.

Williams was straightforward, however, when she discussed how the comptroller general is chosen and how that very process illustrates that, once in office, the comptroller "exists to serve the needs of the Congress." She said that the comptroller is well aware that he is "accountable to Congress." Although Congress has never fired a comptroller, that "doesn't really prove anything. . . . [I]t may very well demonstrate that everyone understands the relationship that exists."

Her simplest declaration was this: "Because Congress didn't trust the president to administer the law, it gave it to the officer it could trust, and we submit that that decision was fatal to the act."

Lloyd Cutler handled the rebuttal and closed by suggesting that the federal budget deficit "is a growing cancer and may soon become inoperable." Cutler added, "It is very important in the history of this country and the development of being able to deal with the complexities of modern government that this Court has not struck down the notion of the independent officer."

Whaling rights: The Justice Department sent one of its new, but higher ranking, advocates to the Court to argue *Japan Whaling Association* v. *American Cetacean Society.* The result was a beginner's performance. Associate attorney general Arnold Burns, the number three official at the department, appeared to put more effort into persuading the Court that he wanted to win than into making the only argument that could win.

Because the case concerns the future of the world's whales and involves a deal struck between the U.S. and Japanese governments, it is politically, socially, and diplomatically sensitive. But for the Court, it is only a test of what Congress meant in adopting a 1971 law. Burns chose, unaccountably, not to dwell on congressional intent.

Under the 1971 law, in the so-called "Pelly amendment," the U.S. secretary of commerce is told to report to the president when any other nation's fishermen operate to impair international fish conservation programs. Such a report would prohibit that nation from fishing within 200 miles of U.S. shores and could result in a cutoff of that nation's fish exports to the U.S. The only issue before the Court is whether the secretary has a binding duty to give such a report automatically when there is an impairment of a zero whaling quota.

In return for a promise from Japan that it would end all taking of whales by 1988, the U.S. government agreed that it would not report Japan for its refusal to obey the global ban on whaling that took effect this year. A dozen wildlife groups sued in federal court to try to force sanctions against Japan for not obeying that ban. The U.S. District Court and the U.S. Circuit Court of Appeals in the District of Columbia ruled that the commerce secretary had to report Japan for continuing to take whales.

Burns chose to stress the government's belief that less whaling would occur, ultimately, if the U.S.-Japan deal were left intact and to bemoan the nullification of a diplomatic pact.

Justice Harry Blackmun told Burns, "I can understand your policy argument all right." But he added that "the hurdle you have to get over is, what Congress intended." Burns began by suggesting that the Pelly amendment "drips with words of discretion, "but he did not get to the language directly at issue in the case. Later he sought to explain what Congress had in mind in 1971 by discussing changes in the law made in 1979. When he summed up by saying, "That tells us precisely what they had in

mind," Justice Marshall abruptly commented, "It's not precise to me." Burns made no effort later to help the Court focus on congressional intent in 1971. On rebuttal, he brashly said he "challenged our adversaries to show us legislative history" and chided them for not having done so. "We have a very clear legislative history," he said, but he did not offer it.

His companion, George Mason University law professor Scott Whitney, representing the Japanese fishing and whaling industries, spent most of his time criticizing the conservationists and suggesting that it would be hypocritical—even "immoral"—for the U.S. to coerce Japan into giving up rights to whale. Like Burns, he offered the Court little that was useful concerning the intent of Congress in 1971.

The wildlife group's *pro bono* attorney, William D. Rogers, senior partner of Washington, D.C.'s Arnold & Porter, made his adversaries' omissions more obvious. The only issue, he said at the start, is "what Congress said. There has been considerable discussion about a number of other interesting issues." But he, too, spent little time on congressional intent.

When he was more than half way finished, Justice O'Connor asked, "What about the legislative history at the time of the adoption of the Pelly amendment, rather than later?" She did not get a direct answer, so she persisted. Again Rogers did not respond. After the justice noted once again, "You still haven't mentioned anything about the legislative history of the Pelly amendment," he finally supplied the answer, with direct quotes from lawmakers.

ACID RAIN LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 60 minutes.

Mr. JEFFORDS. Mr. Speaker, I took this special order today of the urgent situation with attempting to get the passage of an acid rain bill this year. First of all, I recognize that following me there is a speical order scheduled to commend one of my friends and, I am sure, a friend of many others. I refer to the unfortunate death of Jonathan Binghan of New York. So I would ask all those who are going to participate in my speical order that we try to keep our comments as short as possible so that the special order can take place rapidly.

Mr. Speaker, I reserved this time today because I believe the House is at a critical juncture in the struggle to develop a just and reasonable solution to the problem of acid rain.

My home State of Vermont, due to its peculiar location, was the first to feel the impacts of acid rain. Pollutants from the Ohio Valley, dispersed into the upper atmosphere by "tall stacks," are carried northeast by the jet stream and dumped on the great mountain ranges of the Northeast—the Green Mountains, the White Mountains and the Adirondacks.

Acid rain is not a new problem for Vermont. Back in 1979, I introduced legislation on behalf of the citizens of Vermont to accelerate acid rain research and establish an interagency committee to implement a comprehensive plan to reduce acid rain. And in 1980, when President Carter proposed to convert more than 100-fired plants to coal, I pushed, along with Mr. CONTE and others, for a strong acid rain title in the 1980 Omnibus Energy Act.

In the past decade, the impact of these airborne pollutants upon our environment has become strikingly clear, particularly in the Northeast. The decline of high-elevation forests in Vermont is well documented, as is the acidification of hundreds of lakes throughout the Northeast. Most recently, sugar maple trees in Vermont have been dying at an alarming rate. Acid rain is threatening to turn Vermont—the Green Mountain State and the home of maple syrup—into the brown mountain State with sour syrup, dead lakes, and stunned trees.

Despite the abundance of evidence, Vermonters are repeatedly told that more study is necessary. But I don't think Vermont sportsmen, maple producers, and outdoorsmen would agree.

And scientific experts don't either. Their message is: "the science does support the bill." Last August, the EPA released the preliminary results of its eastern lakes survey which showed startling new signs of damage. In the East, over 1,000 lakes are dead, and over 4,000 lakes have virtually no buffering capacity left to neutralize acid rain.

The prestigious National Academy of Sciences has found a direct link between sulfur dioxide emissions and acid rain damage. In a March 1986 report, the NAS concluded that a causal relationship exists between SO_2 emissions and the acidification of lakes in the Adirondacks.

Research conducted by the U.S. Forest Service made public at a Senate Environment and Public Works Committee hearing last December turned up alarming declines in growth throughout the Southeastern United States in yellow pines, an important commercial species. The regional survey of southern pine stands found growth reductions of 40 to 50 percent over the last 20 years.

This study is significant for two critically important reasons. First, it illustrates that acid rain is not exclusively a Northeastern problem. Florida lakes and Southern Appalachian forests are dying, while fragile alpine environments in the West are also threatened.

Second, this study is especially significant because it illustrates the economic costs of not acting to reduce acid rain. Opponents of the bill complain loudly about the cost of reducing emissions, but they ignore the costs of inaction. Forest decline could have a devastating economic impact on the forest products industry in the East. In addition, a draft study prepared by the EPA, Brookhaven National Laboratory and the Army Corps of Engineers estimated that materials damage to statues, monuments, and historical buildings may be as high as $6 billion per year. If Congress weighs the costs of action against the costs of inaction, I am confident that Congress will move expeditiously and favorably on this legislation.

After 4 years and a number of approaches, we have finally developed an acid rain bill which can pass the House of Representatives. H.R. 4567, as approved by the Health and Environment Subcommittee, will mandate the emissions reductions necessary to curb acid rain. And it will give the States maximum flexibility in achieving these emissions reductions.

Last November, the House 92 Group Acid Rain Task Force began the formidable task of crafting a consensus bill which would attract widespread bipartisan and interregional support. The task force developed a list of criteria which we believed an acid rain bill must meet to gain House approval. I am happy to report that H.R. 4567 meets these criteria.

The first is flexibility: The bill mandates tough new statewide average emissions standards for sulfur dioxide and nitrogen oxide. The Governor of each State will have the flexibility to choose from a wide array of options to meet this statewide emissions standard. The bill does not mandate scrubbers. In many States, switching from high-sulfur to low-sulfur coal will be sufficient to meet the emissions standard. By providing this flexibility, H.R. 4567 will promote least-cost methods of meeting emissions standards and saving ratepayers millions of dollars. The flexibility of H.R. 4567 also allows Governors concerned about the loss of high-sulfur coal jobs to preserve these jobs.

The second criterion is ratepayer protection. The bill would create a pollution control trust fund with a small fee on fossil fuel power produced in or imported into the United States. This trust fund would be used to cap residential rate increases attributable to the bill to no more than 10 percent. This fee would increase the average residential customer's monthly rate by an average of only 25 to 50 cents per month. The inclusion of this provision in the bill illustrates the willingness of the sponsors to reduce to the extent possible the regional inequity in rate impacts.

The third and most important criterion: large and meaningful reductions. Recent scientific evidence suggests that reductions of sulfur dioxide alone is not enough to ensure the future protection of our forests, lakes, and streams. In addition to a 10-million ton reduction in sulfur dioxide, our bill re-

quires a 4-million ton reduction in nitrogen oxide emissions. Nitrogen oxide is a precursor of ozone, which has been linked to forest decline and crop damage in numerous studies. Nitrogen oxide emissions will be reduced by tightening emissions standards on cars and trucks. The tough emissions reductions in H.R. 4567 will ensure that our forests, lakes, and streams do not meet a fate similar to those in Europe.

Mr. Speaker, this is the year for acid rain legislation. H.R. 4567 currently boasts 165 cosponsors, with 21 of the 42 members of the full Energy and Commerce Committee adding their names to the list. Members from 35 States—Republican and Democrat, liberal and conservative—have joined me in cosponsoring this flexible, least-cost approach to reducing the emissions responsible for acid rain.

The bill has been endorsed by a wide range of groups, including the New England Governors Conference. I am including for the RECORD the text of a letter sent by the New England Governors to the distinguished chairman of the Energy and Commerce Committee, JOHN DINGELL, urging expeditious consideration of H.R. 4567.

Our bill has also been strongly endorsed by the League of Women Voters, the League of Conservation Voters, the Sierra Club, the National Audubon Society, the National Clean Air Coalition, and numerous other groups.

I urge all Members to join this bipartisan effort by cosponsoring the working for passage of H.R. 4567.

NEW ENGLAND
GOVERNORS' CONFERENCE, INC.,
Boston, MA, June 12, 1986.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN DINGELL: We write in support of H.R. 4567, the legislation to establish a national acid rain control program.

This bill is based on several principles that have been strongly advocated by the New England Governors' Conference, Inc., the National Governors' Association, and other organizations over the years. These principles include: Significant reductions in both sulfur dioxide (10 million tons) and nitrogen oxide (4 million tons) emissions; a two-phased approach; state flexibility in implementing the reductions; and a funding mechanism to equitably share the costs of the program.

The broad, bipartisan support for H.R. 4567, as demonstrated by the approval of the Subcommittee on Health and the Environment and the list of over 150 cosponsors, is evidence that a national consensus has finally been reached on how to deal with the serious and complex acid rain problem. We urge you to expeditiously bring H.R. 4567 forward for consideration by the full Committee on Energy and Commerce, and to support its passage.

We would be pleased to provide you with any additional information you may require.

Sincerely,

Michael S. Dukakis, Governor of Massachusetts; John H. Sununu, Governor of New Hampshire; William A. O'Neill, Governor of Connecticut; Madeleine M. Kunin, Governor of Vermont; Joseph E. Brennan, Governor of Maine; Edward D. DiPrete, Governor of Rhode Island.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I wish to thank my colleagues, Congressmen JEFFORDS and SIKORSKI, for holding this acid rain special order. I too am concerned about the future of acid rain legislation during this Congress. To those of us in New England, the elimination of acid rain ranks as one of the highest priorities.

It is ironic to me when I read about the current issues before Congress like tax reform and acid rain. Although I am getting a fair quantity of mail on tax reform, most of it is negative. Yet, in the press, tax reform is an issue whose time has come. The issue of acid rain is a very different matter, however. I am constantly getting pleas from my constituents, "please get on with acid rain legislation." To my constituents, acid rain is an issue whose time has come.

The issue is quite simple, my constituents do not want to see their lakes and trees die, their buildings crumble, and they have disturbing questions regarding the health effects of acid rain on their children. To them the answer is simple, the Federal Government should fulfill its constitutional requirement by protecting the health and welfare of our people. It is time for Congress to act.

I am concerned about the potential health effects, particularly on those with chronic lung problems. We have clear documentation of the seriousness of sulfuric acid and the oxides of sulfur and nitrogen inhaled by people with chronic bronchitis, asthma, and emphysema. There are also serious threats to our water supply as the result of the corrosion of water pipes carrying highly acidic waters.

Last year, when our colleague from Massachusetts, Mr. CONTE, attempted to offer an acid rain amendment on this floor, I spoke of these serious health risks. I raise this issue once again as a reminder that there are serious consequences by delaying action on acid rain legislation.

We do not have the time to waste by literally studying the acid rain problem to death. We already have enough evidence to justify immediate congressional action. It is time that we stopped talking about acid rain and did something about it.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I rise today to state in the strongest possible terms my support for H.R. 4567, the Acid Deposition Control Act of 1986, and to express my thoughts on the seriousness of the problem of acid rain.

Acid rain is one of the most severe challenges facing New York's environment and it is one we can't solve alone. Already more than 200 of our pristine Adirondack lakes have been so damaged by acidic deposition that they no longer support fish populations and another 200 are acidified to the point that life is threatened. Furthermore, forest mortality is increasing at an alarming rate, and evidence shows a linkage to acid rain.

Even though New York has one of the most effective State and local emission control programs in the Nation, our forests, lakes and wildlife are ravaged by pollutants from outside our borders. A full and final solution to this problem can therefore only be achieved through Federal action. H.R. 4567, the new acid rain bill, has the best chance of any legislation yet offered to see favorable action on the floor of the House and Senate. This new plan reaches across regional boundaries and unites Republicans and Democrats in a bipartisan effort to control this silent killer. There are already over 150 cosponsors of the bill, and subcommittee hearings and markup have already taken place.

Preliminary analysis indicates that this program will reduce sulfur dioxide emissions by 10 million tons or more and curtail nitrous oxide emissions by at least 4 million tons annually. Both of these pollutants have been identified as the primary cause of acid rain, and control is the only way to stop the mounting damage resulting from these emissions.

While making significant reductions, this program is flexible, efficient and cost effective. Giving Governors the discretion to develop State plans, this program is designed to meet the needs of each region of the country. A Governor can receive Federal assistance if residential electricity rates will rise more than 10 percent. The bill allows for use of innovative technologies as control methods for sulfur and nitrogen oxides, and mandates tougher standards for new powerplants and tighter standards for new cars and trucks.

Mr. Speaker, acid rain is the greatest environmental challenge facing the 99th Congress. Across the country and especially the Northeast, acid rain poses a threat to aquatic and terrestial resources, to local economies and to our health. The problem demands immediate attention, and I therefore strongly urge the full Committee on Energy and Commerce to take quick action on markup and reporting of H.R. 4567, and I urge all Members to vote for the bill when it reaches the floor.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, today I rise in support of H.R. 4567, the Acid Deposition Act of 1986. This is the first bill to address the acid rain problem that has been embraced by a broadly based, bipartisan coalition; 163 members have cosponsored this legislation—I urge that we keep the momentum going.

H.R. 4567 would result in a 10-million-ton reduction in annual sulfur dioxide emissions and a 4-million-ton reduction in annual nitrogen oxide emissions by 1997, using 1980 levels as a base. Each State would be responsible for developing its own strategy to achieve the mandated emissions reduction, free to choose a control method that best fits its needs. This is an important change from prior bills which would have required utilities to install expensive scrubbers.

This Federal package meshes well with legislation which Wisconsin recently passed. Wisconsin took the initiative in combating acid rain by passing one of the most progressive laws in the Nation. In some ways Wisconsin's law is more stringent than H.R. 4567: For example, Wisconsin's law will accomplish the sulfur dioxide reductions mandated in the Federal law by 1993 instead of 1997.

However, we in Wisconsin realize that a good law in one State—or even a series of individual States—won't solve our acid rain problems. About half of the Pollutants that cause acid rain within Wisconsin, for example, come from out of State—mostly from Minnesota, Illinois, Indiana, and the Ohio Valley. Because acid rain doesn't recognize State boundaries, comprehensive Federal legislation is needed.

Various groups who agree with the overall goal of reducing sulfur dioxide and nitrogen oxide emissions have criticized some of the provisions of the legislation. But this legislation was forged with compromise from all regions and interests, in order to keep its support broad based and bipartisan. This is not a perfect bill, but work has been done to make the bill as fair as possible.

For example, some have taken issue with the provision which would establish a nationwide trust fund to keep consumer bills from rising more than 10 percent in any State because of the changes mandated. The Federal subsidies would be obtained by levying a nationwide fee on electrical generation. There is a cap, however, of one-half mill per kilowatt-hour, or about 25 to 50 cents on the typical electric bill. Furthermore, the Health and Environment Subcommittee amended this provision to give the Environmental Protection Agency the power to vary the fee—if possible—in proportion to sulfur dioxide emission rate—higher fees would be charged to States with higher sulfur dioxide emissions. I strongly support rewarding cleaner States by reducing their contributions to the trust fund. And insofar as we can maintain broad-based support, we should consider making other changes as well.

But we must not lose sight of our bigger goals when considering the individual provisions of the bill. While we continue our debate over the details, acid rain continues to destroy lakes, streams, forests, and building materials. There is no doubt in my mind that Wisconsin—and the Nation as a whole—will be far better off with this bill than without it. We should get on with the business of passing this legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from new York.

Mr. GILMAN. Mr. Speaker, I would like to thank the gentleman from Minnesota [Mr. SIKORSKI] and the gentleman from Vermont [Mr. JEFFORDS] for reserving this time so that we could reemphasize our collective desire to see Congress act on the pressing environmental problem of acid rain. I commend them for the leadership they have demonstrated thus far in bringing together a broad coalition in support of H.R. 4567, the Acid Deposition Control Act of 1986. I would also like to take this opportunity to again commend my colleague, the chairman from New York [Mr. BOEHLERT] our good friend from California [Mr. WAXMAN], and the gentleman from Iowa [Mr. TAUKE], all of whom made significant contributions in reaching a bipartisan accord on H.R. 4567.

I have seen firsthand the insidious effects acid rain has had within my own congressional district. My district encompasses a large portion of the scenic Hudson River Valley, which is threatened by acid rain. The ponds and lakes of beautiful Harriman State Park, which is also in my district, have been significantly acidified by acid deposition. While the Northeast has been the most vocal in expressing its concern for the deleterious effects of acid rain, there is increasing concern among those residing in the Western and Southern portions of the United States, over the adverse effects of acid rain on those areas. All in all, over 3,000 lakes and 23,000 miles of streams in the United States have been lost, millions of acres of forests and cropland are at risk, and thousands of monuments and innumerable buildings are corroding yearly at a cost of billions to taxpayers. United States pollution has contributed to the Canadian acid rain problem, and has strained our relations with our friendly northern neighbor. We have seen Germany lost over 9 million acres of forestland, and Sweden lose over 18,000 lakes. As these statistics indicate, acid rain is wreaking untold damage on our environment, our economy, and our quality of life.

In the past, many industries and government officials cautioned against enacting acid rain legislation until there was conclusive evidence about what causes acid rain and what damage it in turn causes. We can now see the damage, and study after study has proven that sulfur dioxide and nitrous oxides emissions help cause acid rain. While we may not know everything about the causes and effects of acid rain, we certainly have enough knowledge to act upon. Acid rain is truly a national, even an international, problem, and must be addressed on the Federal level.

As a member of the 92 Group Task Force on Acid Rain, I am pleased that H.R. 4567 is the first acid rain bill to be reported out of subcommittee. This task force, chaired by Mr. BOEHLERT, led the effort to produce a bill that limits the emissions of pollutants that cause acid rain without unduly burdening any one region or economic sector and without adding to the budget deficit. H.R. 4567 was designed from the start to garner bipartisan support and recognize acid rain as a national problem. Unfortunately, there has been an uncomfortable amount of misinformation circulated about this bill. As one who participated in the formulation of this bill, I can state with certainty that this bill was designed to remedy the acid rain problem in a least-cost approach: a least-cost in terms of job losses, a least-cost to consumers, and a least-cost to utilities that must intall new technology to cut down emissions.

Significant thought and contemplation was channeled into H.R. 4567. The bill recognizes that each State can best protect its interests while meeting the required emissions reductions. Governors may decide to install technology to protect high-sulfur coal jobs in their States. Governors may decide to choose less costly methods of emissions reductions. Or, Governors can select a mix of control methods. Obviously, this bill offers the States a great deal of flexibility in meeting its requirements.

The bill guarantees that residential rates will not rise more than 10 percent as a result of acid rain control technologies. Moreover, most residential ratepayers will face less than a 1-percent increase. These provisions ensure that the polluter will pay the bulk of the cost but without making selected areas of the country bear an unreasonable share of the cost burden.

Over 155 Members of Congress have supported this legislation because it is a compromise measure that accommodates varying regional, economic, and

environmental interests. The bill reflects the input of environmentalists, industries, State Governors, and experts from across the Nation and ideological spectrum. Accordingly, I urge the Committee on Energy and Commerce to expeditiously consider this important legislation, and, further, I urge my colleagues to support this bipartisan initiative to help curb acid rain. The acid rain problem will only continue and worsen with time. Congress must act. Let us work together and enact substantive acid rain legislation this session.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I rise today to participate in this special order focusing on one of our Nation's most pressing environmental problems—acid rain. My friend from Vermont, Mr. JEFFORDS, and my friend from Minnesota, Mr. SIKORSKI, should be commended for reserving time today to bring added attention to this issue.

My interest in acid rain control goes back many years. The spring of 1983 found me in Hartford, CT, chairing acid rain field hearings which were organized by the New England Caucus. In past Congresses, I have cosponsored the strongest acid rain proposals introduced in the House. In this 99th Congress, I again am an original cosponsor of two stringent acid rain control proposals, H.R. 1030, the New England Caucus's acid rain bill, and H.R. 4567, the Jeffords-Sikorski-Boehlert acid rain bill.

Of these two bills, H.R. 4567 has received the broadest support. In fact, this measure holds the most promise yet for congressional action on acid rain. H.R. 4567 is the product of a 92-Group Task Force, chaired by Representative SHERWOOD BOEHLERT. It has been modified somewhat since that task force took final action. However, with each modification it appears to be gaining more momentum. The House Subcommittee on Health and the Environment already has marked up the package.

In my view, the time has come for the House to make the difficult decisions that will lead to a substantial reduction in sulfur dioxide and nitrogen oxide emissions that are linked to acid rain. Mr. Speaker, H.R. 4567 would require a 11-million ton reduction of sulfur dioxide and a 4-million ton reduction of nitrogen oxide by 1997. But unlike prior efforts to reduce these acid rain-causing emissions, this bill affords States the opportunity to select the method of reduction. This flexibility will allow competition within our free market system to develop the most economical ways to meet the reduction targets.

H.R. 4567 affords the House an opportunity to move the congressional debate on acid rain off dead center. This issue, for a variety of reasons, had died in committee each time it has been raised. Now, we have a chance to begin a real debate, and send to the Senate an acid rain control measure that is rooted in environmental, economic, and political realities.

Acid rain has been linked to forest decline, soil erosion as well as the loss of aquatic life in lakes, river, and streams. No longer can we afford to sit on our hands and allow this to happen.

I strongly support passage of H.R. 4567 and urge the leadership of the House Committee on Energy and Commerce to expedite consideration of this measure.

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Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from Connecticut.

I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I have got pages of eloquent testimony before me that give compelling arguments for supporting this very important measure, but I will insert those in the RECORD and make it brief.

I think it is somewhat ironic that we are preceding a special order to eulogize a former distinguished great Member of this body, the gentleman from New York, Mr. Bingham, who if he had been here today would be speaking eloquently for this bill because of the great environmental record he achieved while serving in this institution.

H.R. 4567 represents so much. it represents the spirit of bipartisanship that does this House proud, with people like the gentleman from Minnesota [Mr. SIKORSKI], the gentleman from California [Mr. WAXMAN], working with people like the gentleman from Massachusetts [Mr. CONTE], the gentleman from New York [Mr. GILMAN], and the gentleman from New York [Mr. FISH], and the gentleman from Connecticut [Mr. McKINNEY].

I was privileged to play a small role in fashioning this bill. It is a compromise bill. It is not the perfect legislation. I do not think we have ever had from this institution perfect legislation, but we have legislation that clearly addresses a national need. We have legislation that has brought together Republicans and Democrats, liberals and conservatives from all regions of this country to do something about a problem.

Governor Kean of New Jersey has said that if all we do is study the problem of acid rain we will end up with the best documented environmental disaster in history. The time for study and the time for talk is in the past. This is the time for action.

I commend the gentleman in the well for his leadership.

I proudly identify with the gentleman from Minnesota [Mr. SIKORSKI] and the gentleman from Massachusetts [Mr. CONTE] and the gentleman from New Mexico [Mr. RICHARDSON] and, yes, our Speaker of this great institution and all my colleagues on both sides of the aisle who are serious about the problem of acid rain and who are determined to do something about it. We are doing ourselves proud.

Mr. Speaker, I'd like to thank the distinguished gentleman from Vermont for reserving the time this evening, and thank my colleagues who have joined us for this important effort. We need to talk about the most serious, unattended environmental threat faced by our country. The problem is air pollution, specifically acid precipitation or acid rain and it's ruining forests and crops, historic structures like the Statue of Liberty, lakes and rivers, and possibly even the health of humans.

As one of the coauthors of H.R. 4567, the Acid Precipitation Control Act, I have been encouraged by the willingness of many of my colleagues to address the issue this year in a serious, bipartisan, consensus fashion. We have balanced many competing interests, and we are prepared to iron out other difficult issues.

Most important, we are asking our colleague, the distinguished chairman of the Energy and Commerce Committee, for the chance to bring an acid rain bill before the full House for consideration this year.

Mr. Speaker, we have never said that a solution to the acid rain crisis will be cheap or simple. But delaying a solution will only make the solution more difficult and more expensive. Has it ever been any other way?

Since the introduction of H.R. 4567, the polluters and their allies in Congress have shown great ingenuity in devising bigger and bigger excuses for why we must continue to dump poison into the atmosphere. Most sadly, they have offered precious little in the way of a constructive solution themselves.

For example, our opponents are fond of saying that Canada has done nothing to reduce her pollution that eventually falls on the United States. This just isn't true, and can only revive bad feelings between our countries. Together with 21 other nations, the Government of Canada has pledged to reduce acid emissions by 30 percent by 1993, and has already ordered drastic emission reductions at specific industrial plants around the country.

Our opponents have also said the bill conflicts with ongoing progress in understanding and controlling the

problem. They have apparently given up on trying to prove that a problem doesn't exist. Perhaps they've read the October 1985 report written by a group of nonpartisan prominent environmental scientists, which says:

Adequate scientific information exists to select emission reduction strategies to reduce acid deposition efficiently.

To be sure, supporters of H.R. 4567 have never claimed we know everything about acid rain. That's why we have written a bill which allows States to adopt whatever strategy they wish, and which allows Governors and Congress to make corrections in the program as our understanding improves.

The last line of argument used by our opponents is that the costs of compliance are so high that they outweigh the benefits to be gained. But the cost-inflating studies still referred to by the polluters have been thoroughly debunked by at least four respected, unbiased organizations. We have specifically designed a bill that limits the worst-case costs to consumers to a few dollars a year.

As to benefits, just adding up the known costs of damage we could avoid to public buildings and monuments, crops, and entire species of trees, the figure is greater than the estimated costs of our bill. By opposing an emissions reduction program, the polluters are basically asking our children to pay the bill for the damage they cause today.

Mr. Speaker, contrary to what our opponents have told the public, H.R. 4567 is a flexible, reasonable, polluter-pays approach to the problem which does not pit region against region.

It achieves deep reductions of the pollutants which we know cause or contribute to environmental damage. It is flexible, allowing each State to match its own strategy with local needs. We include provisions to protect consumers and coal miners, and offer no gold-plated boondoggles to the polluters. Clean States or those who have already invested in emission reductions would not be penalized again, while hard-hit States would be helped out with a limited cost-sharing scheme. Congress can make midcourse corrections to conform to scientific advances.

This bill is the closest thing this body has seen to a workable compromise on the acid rain issue. We are calling upon the distinguished gentleman from Michigan, the chairman of the Energy and Commerce Committee, to work with us in fashioning a reasonable, responsible bill that saves precious economic and natural resources for the future. We're confident it can be done.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from New York.

I yield to the gentleman from California [Mr. ZSCHAU].

Mr. ZSCHAU. Mr. Speaker, I thank the gentleman from Vermont for yielding this time to me.

I want to associate myself with the remarks of the gentleman from New York [Mr. BOEHLERT], who said it very well when he said there is a time to study, there is a time to talk, and there is a time to act on issues. This is the time to act on acid rain. Fortunately, we have an excellent legislative vehicle in order to provide that action, H.R. 4567, of which I am a cosponsor. The legislation mandates reductions in the volume of emissions, but it allows flexibility in order that the latest and best and most effective technologies for cleanup can be applied.

Past legislation of this nature has been stalled in part because of the inequitable treatment of Western States, but I want to emphasize that Western States, and particularly my State of California, are supported in this legislation.

The approach that is taken is consistent with our objectives. In fact, on sulphur dioxide emissions, we are already in compliance.

In closing, I want to urge our colleagues on the Energy and Commerce Committee to take prompt and favorable action on H.R. 4567.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from California for his excellent words and for his leadership in this area, pointing out as is so important that this bill has Members who are supporting it from one corner of the country to the other, from California to Maine. That is because we have tried to be fair and to try to recognize the very difficult problems that the solutions to acid rain create in some areas, as well as the problems they create in other areas.

I thank the gentleman for his very excellent words.

Mr. Speaker, I am happy to yield to the gentleman from Minnesota [Mr. SIKORSKI], whom I have joined in this special order and thank him for his leadership.

Mr. SIKORSKI. Mr. Speaker, I want to commend the gentleman from Vermont [Mr. JEFFORDS] for his long-time and hearty efforts against acid rain and the other Members on both sides of the aisle who have been so instrumental in moving this issue forward in respect to acid rain.

This year marks the culmination of efforts to move acid rain control legislation through Congress. Acid rain is not a new issue. Many of us have watched as acid rain has destroyed European and then American resources since the 1970's. In the early 1980's, Congress judged the acid rain problem crucial enough to initiate the debate on a national level. In 1982 and again in 1984 acid rain legislation was voted on. Now it is 1986—and it's time to act on H.R. 4567, the Acid Deposition Control Act of 1986, sponsored by over 168 Members of this body.

We've traveled light years in understanding the terrible effects of acid rain on the spaceship we call Earth. Today even the President agrees with what the National Academy of Sciences told us years ago: Acid rain is a serious environmental problem that must be controlled. Yet, given the solid scientific evidence, our institutions of government have not come far at all.

There is a parallel here with the space shuttle *Challenger*, whose explosion could have been avoided had the expert information and evidence questioning the shuttle's safety not been ignored, even suppressed, at the decisionmaking levels.

Bureaucracy, political pressure and finger-pointing equalling a perpetual motion machine may be convenient "outs" for the shuttle disaster, but we, as Members of Congress responsible for protecting the health and environment of America, do not have those excuses. The O-rings in the acid rain debate—SO_2 and NO_x—have been isolated and proven life-threatening through study after study after study. The technicians and scientists have been urging swift action for years.

No one is keeping the evidence from us. No one is suppressing the numbers. No one, not even the President of the United States, can ignore the threat that acid rain poses to our health, our environment, and our economy. Only those with an economic stake in acid rain are holding out for a body count. Here it is: Over 3,000 lakes and 23,000 miles of streams have been lost, millions of acres of forests and cropland, deserts and mountains are at risk, thousands of historical monuments are corroding at a cost of billions to taxpayers—one was the Statue of Liberty—and up to 50,000 premature deaths each year are caused by sulfur dioxide. There is your acid rain body count.

The political record on acid rain has paralleled the scientific in its thoroughness. Over the past 4 years, Congress has held extensive field hearings throughout the country and an extensive series of hearings right here in Washington. Since its introduction in April of this year, H.R. 4567 has been made the subject of rigorous debate in two House subcommittees. We have heard from over 100 witnesses, from local and State government officials to administrators, from utility and industry analysts to coal miners, from environmental advocates to public utility commissioners and scientists, from Governors to Members of Congress—and from all over the country. Witnesses from the West and the Midwest, the Northeast and Southeast have given us an accurate and exhaus-

tive representation of perspectives on H.R. 4567.

A lot of thought, a lot of compromise, and a lot of consensus-building has gone into cementing the blocks of this bill together. Acid rain is no longer a political issue. It is no longer a regional issue. It is a national crisis. By a margin of 90 percent to 7 percent, the American people want acid rain stopped. And liberals and conservatives, Democrats and Republicans alike know acid rain for what it is—an environmental and economic menace that must be halted.

It is high time to act—the Energy and Commerce Committee has spent an average of 12½ days to act on major pollution bills. H.R. 4567 was reported out of the Health and Environment subcommittee over 50 days ago. I urge the committee to consider H.R. 4567 soon, so this Congress can consider acid rain legislation before the end of this session.

Remember this: Germany has lost over half its forests, Sweden 18,000 lakes. The American obituary is growing daily. And if we succeed this year with this carefully drafted, geographically broad-based and bipartisan attempt to control acid rain, by the end of this century, we might—just might—reduce the acids shot into our skies by almost 50 percent. That would mean that we would have almost done what the National Academy of Sciences—this country's most prestigious national scientific body—told us needed to be done—20 years after they told us to act immediately.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I rise in support of the gentleman from Minnesota as original sponsors of the legislation, H.R. 4567.

As an original cosponsor of H.R. 4567, the Acid Deposition Control Act, I am grateful to my colleagues for reserving this time for statements on the subject of acid rain.

Although often associated with America's Midwestern and Northeastern regions, acid rain is a national, indeed an international, problem. For years sulfur dioxide and nitrogen oxide emissions have been returning to Earth in acidic rains that are killing our lakes, destroying our forests, decaying our historical monuments, and harming relations with our neighbors. No region has been totally free from responsibility for the generation of acid rain, and no region has been immune to its harmful effects. The Gulf States, for instance, are often labeled as generators of emissions that cause acid rains in other regions; maybe so, but acid rains are also having a substantial harmful impact on the great and beautiful forests of east Texas. We must come to grips with this problem on a bipartisan national basis, and we must do so soon.

H.R. 4567, cosponsored by Representatives of both parties from more than 30 States, is just such a bipartisan national effort. It provides for a uniform statewide average emissions rate for electric utilities and industrial boilers, but it also gives States the flexibility to develop their own plans to achieve the required reductions. The bill provides for a modest fee on electricity generation to be used to prevent consumer electricity rates from grossly disproportionate increases in those States in which compliance is most costly. Finally, the bill addresses another nationwide source of acid rain by putting in place a schedule for the tightening of nitrogen oxide emissions for new cars and trucks.

The bill will not be cost free, but its price will be modest. After years of study we know what the problem is and what must be done to solve it. I hope we can move quickly toward passage of H.R. 4567.

Mr. JEFFORDS. Mr. Speaker, I appreciate the gentleman coming, for no other reason than his eloquence and dedication to this cause for people to recognize that all four corners of the country in essence are represented here this afternoon.

Mr. UDALL. Mr. Speaker, I wish to speak today about a matter of great importance to this country: Acid rain. Acid rain is responsible for damaging thousands of lakes and streams in the Eastern United States and Canada; whole species of trees and other plants are slowly disappearing from New England forests and we are just beginning to realize the damage done to buildings and other manmade structures. In recent years, we have discovered that the devastating effects of acid rain are not limited to New England and Canada. High altitude lakes in the Rocky Mountains have been found to have higher acidic levels than normal and some scientists believe that given the makeup of the western terrain, even small amounts of acid rainfall could do great damage throughout the West. Acid rain is truly the most pressing environmental problem facing the Congress today.

During the last few sessions of Congress, the acid rain debate has been plagued by regional and party positioning. This year, the authors of various acid rain control proposals put aside our differences to come up with a compromise solution to this critical problem. H.R. 4567 does not benefit any one group at the expense of another. It is fair, reasonable and realistic. For the first time, an acid rain control proposal has been endorsed by over 150 Members of the House. Also for the first time, the Health and Environment Subcommittee of the Energy and Commerce Committee has reported out an acid rain control bill. It is my hope that, given this strong show of support, the full Energy and Commerce Committee will act quickly on this measure.

Mr. CONTE. Mr. Speaker, I am pleased to join with Congressmen GERRY SIKORSKI and JIM JEFFORDS in this special order on acid rain.

Congress has already waited too long to take action on acid rain, and New England is suffering because of it. Numerous studies have shown that New England receives more than 50 percent of its sulfur dioxide waste from outside of the region, and its killing the fish and destroying the countryside. Two hundred and seventy bodies of water in my State are already acidified. The ecosystem is permanently altered because of the high acidity, and it is not getting better. A University of Massachusetts study found that over 80 percent of the ponds, rivers, and reservoirs in Massachusetts are sensitive to acid rain.

In Massachusetts and in many other States, the local causes of acid ran are being addressed, but the tons and tons of airborne garbage generated by industry in the Midwest continues to be dumped on my State. It is time to change Massachusetts from a long distance garbage dump back to a place where the fish live longer and the trees have leaves.

H.R. 4567, the National Acid Deposition Control Act, would begin this process. This legislation provides for reductions in sulfur dioxide and nitrous oxide emissions to protect us from acid rain. It also is sensitive to the economic interests of the Midwest and Appalachia, and it minimizes the impact of the program on residential electric rates.

The bill has been endorsed by the New England Governors' Conference and the National Governors Association, and recently Gov. Michael Dukakis, who has worked very hard to curtail acid rain, signed a resolution with Premier Richard Hatfield of the Eastern Canadian Premiers urging "expedient implementation" of many of the provisions of this legislation. I am submitting a copy of this resolution for the RECORD, and hope my colleagues will carefully examine it.

I join with my colleagues in urging my good friend JOHN DINGELL, the chairman of the Energy and Commerce Committee, to report this legislation to the Full Committee as soon as possible. Acid rain has been an issue for many years now, but the House has yet to consider any legislation on it. It is time to let the House work its will on acid rain.

RESOLUTION 14-4

Whereas, the New England/Eastern Canada Sulfur Dioxide Emissions Reduction Plan is currently being implemented by the Conference of New England Governors and Eastern Canadian Premiers, and is evidence of what may be accomplished through transboundary cooperation; and

Whereas, the Prime Minister of Canada and the President of the United States have endorsed the Joint Report of the Special Envoys on Acid Rain; and

Whereas, scientific evidence continues to mount that transboundary air pollutants including sulfur dioxide, nitrogen oxides, ozone, and others adversely affect many regions of the United States and Canada and require immediate control actions: Now therefore be it

Resolved, that the Conference of New England Governors and Eastern Canadian Premiers urges the expedient implementation of the recommendations contained in the Joint Report of the Special Envoys on Acid Rain, especially the review of opportunities under existing programs and authori-

ties to limit transboundary air pollution. Opportunities so identified should be utilized as rapidly as is possible; and be it further

Resolved, that New England/Eastern Canada Acid Rain Action Week be designated in 1987 to coincide with International Acid Rain Action Week, and that events be organized to increase public awareness of the problem of the long-range transport of air pollutants; and be it further

Resolved, that the Committee on the Environment is directed to examine the feasibility of preparing a regional-scale map of air pollution and deposition, and report back to the 15th Annual Conference.

Adopted by the Fourteenth Annual Conference of New England Governors and Eastern Canadian Premiers on June 13, 1986.

Governor MICHAEL S. DUKAKIS,
Co-Chairman.
PREMIER RICHARD B. HATFIELD,
Co-Chairman.

Mr. WAXMAN. Mr. Speaker, it is time that we listened to the American public and our Nation's leading scientists and did something about the acid rain problem by passing H.R. 4567, the Acid Deposition Control Act of 1986.

A recent Lou Harris poll confirms that the American public wants prompt action on acid rain. According to the spring 1986 Harris poll, a substantial 79 to 17 percent majority is convinced that acid rain is a "serious problem."

The public's impatience is understandable. It was more than 5 years ago that the National Academy of Sciences, America's most prestigious scientific organization, undertook a major study on acid rain and unambiguously recommended "prompt tightening of restrictions on atmospheric emissions." The Academy warned that "continued emissions of sulfur and nitrogen oxides, in the face of clear evidence of serious hazard to human health and to the biosphere, will be extremely risky from a long term economic standpoint, as well as from the standpoint of biosphere protection."

In the years since this report was released the National Academy of Sciences has produced two additional major reports affirming the need for control action. This recommendation was also echoed in a major acid rain study produced under the auspices of the White House Science Advisor. More recently, the Joint Report of the U.S., Canadian Acid Rain Envoys, which was embraced by President Reagan last spring, endorsed the key scientific underpinnings that led the National Academy and others to seek an immediate reduction in acid-forming sulfur dioxide and nitrogen oxides pollution.

Our scientists have told us that the warning signs are clear. What we risk by ignoring the acid rain problem is an environmental and economic tragedy of historic proportions. Those who label such concern as alarmist have only to consider the acid devastation that has already befallen Central Europe and Scandinavia. In Sweden and Norway, more than 30,000 lakes have been acidified. In West Germany, the government reported in 1984 that fully 50 percent of the Nation's trees have been damaged by acid rain and related air pollution. Official skepticism in these countries has given way to public alarm and government action.

It is time that the United States followed suit and enacted H.R. 4567.

H.R. 4567 requires significant nationwide cutbacks in the two major acid forming air pollutants, sulfur dioxide and nitrogen oxides. After new growth is accounted for, over 9 million tons of sulfur dioxide pollution and 4 million tons of nitrogen oxides pollution would be reduced annually by 1997. Those that contribute the most to acid rain—electric utilities, industrial boilers, factories, cars and trucks—would be required to reduce their pollution.

H.R. 4567 gives the Governors of each State the flexibility to create sensible and effective acid rain control strategies. Governors can choose to rely upon control technology to protect high sulfur coal jobs, to rely upon a change to lower sulfur fuels, or to select a mix of control steps.

H.R. 4567 provides financial assistance to assure that residential electricity rates do not increase more than 10 percent as a result of the sulfur dioxide control requirements in the bill.

There is little doubt that acid rain control as provided for in H.R. 4567 is a stupendous bargain. According to the Congressional Office of Technology Assessment, the control requirements in H.R. 4567 will cause an average residential rate increase of less than 3 percent. This figure compares very favorably with the thousands of lives that preliminary EPA studies have concluded acid rain control could save from fatal respiratory ailments. In fact, EPA has estimated that the materials damage occurring in our cities from acid deposition amounts to more than $5 billion, and this figure does not even reflect the widespread damage being done to our Nation's lakes and forests.

With more than 160 co-sponsors, H.R. 4567, the Acid Deposition Control Act, is a historic breakthrough that offers real hope for acid rain control. It was reported out of the Health and Environment Subcommittee last May 19, and is now pending before the full Committee on Energy and Commerce.

I urge my colleagues to work for the prompt consideration and passage of this bill in the Energy and Commerce Committee, and on the House floor.

We are losing precious time.

Mr. ATKINS. Mr. Speaker, I take great pleasure in rising once again to join my colleagues in this special order in support of H.R. 4567, The Acid Deposition Control Act of 1986. I was proud to join 163 of my colleagues in cosponsoring this carefully negotiated bipartisan compromise legislation that takes the all important first step toward addressing this problem that has poisoned hundreds of ecosystems throughout the country. Damage from acid rain however, is more extensive in the Northeast than any section of the country.

Acid precipitation results from oxides of sulfur and nitrogen reacting with water vapor in the atmosphere. It has, in many areas, either alone or with other pollutants damaged lakes and eliminated fish populations, forests and crops.

This program represents the first realistic approach toward effective control of this problem, because it would require a two-phase reduction in emissions with an evaluation after the initial phase in 1993. If second stage reductions do not seem to be achievable, then new legislation may be enacted raising or lowering standards for the second stage to be complied with by 1997.

The overwhelming support for H.R. 4567 that was displayed by the Subcommittee on the Environment in reporting out the bill furthers the case for immediate action by the full committee. I therefore strongly urge Chairman DINGELL to bring up H.R. 4567 in full committee before the August recess so that it can still see floor action before the end of the session in October.

Critics of the legislation claim that it will cost the power industry between $3.5 billion and $6.2 billion. However, this expense will be more than offset by the estimated $5.7 billion savings in health and environmental costs.

We have already overwhelmingly approved and are close to an agreement on the reauthorization of Superfund which addresses the No. 1 environmental problem in the Nation, hazardous wastes. Let's show the American people that we are willing to take the lead in addressing the problem of acid rain by pushing H.R. 4567 out to the floor and passing it before we adjourn the 99th Congress.

Mr. BOLAND. Mr. Speaker, I am pleased to join my colleagues for this special order on acid rain.

I can think of few environmental problems which pose a greater threat to our Nation's air and water supplies than does the problem of acid rain. For years, those of us from New England have been especially sensitive to the effects of acid rain because we have seen those effects all around us. The degradation of the streams, lakes, forests, and soil of New England, and the Northeast, as a result of acid rain have been well documented. Our region continues to suffer from this environmental catastrophe, but now it has been joined in its suffering by other regions of the country. Acid rain is no longer a local problem, it is a national problem with which we must deal.

We have studied acid rain, and studied it, and studied it. We may not know all there is to know about its causes, but we certainly know enough to realize that the emissions of nitrogen oxide and sulfur dioxide are among its principle components. And we certainly should be aware that to control acid rain, and to begin to end its devastation of our bodies of fresh water, we must control those emissions.

In my judgment, the time has long since passed for commencing the effort to control acid rain. I believe it is imperative that Congress pass meaningful legislation on this issue this year. H.R. 4567 represents a reasonable and effective compromise which I believe can be enacted this year. It gives us what we need—a national control program with a fixed schedule for achieving emissions reductions, and with a financing mechanism that will insure that no region of the country bears too much of the burden of achieving those reductions.

As my colleagues are aware, the House Energy and Commerce's Subcommittee on Health and the Environment strongly endorsed H.R. 4567 and we now must wait for

the full committee's consideration. It is my hope that Chairman DINGELL will expedite the committee's work on this bill. New England, and the Nation, need acid rain control legislation, and they need it this year.

Mr. SOLOMON. Mr. Speaker, the rains that fall in the Adirondack and Catskill Mountains of upstate New York today contain large quantities of sulfuric acid. The Adirondacks now receive more than 27 pounds of wet sulfate deposition per acre each year.

Sinking into the soil, this acidic rainfall washes out nutrients while deadly metals like mercury leach out and flow into our ponds and streams. Some of our lakes are as acidic as diluted lemon juice.

In 1982, the New York State Department of Environmental Conservation had documented the acid death of fish stock in 264 lakes and ponds, totaling 11,000 acres. Another 63,000 acres containing 256 lakes were similarly threatened. Many have been likewise ruined since the survey was taken.

Just what puts the acid in acid rain? Eighty-three percent come from sulfate sources outside New York State. In June 1983, the National Academy of Sciences reported a direct link between sulfur dioxide from industrial smokestacks and the death of aquatic life in the lakes and streams of Canada and the Northeastern United States.

I have been convinced by this and other scientific evidence that the time is past for studying this issue, and the time for action was long overdue.

In November 1985, I introduced legislation (H.R. 3677) that called for a carefully monitored 13-year program to reduce sulfur dioxide emissions by up to 10 million tons.

My bill would be implemented in two phases, and would be monitored and adjusted by the Federal Environmental Protection Agency [EPA].

Phase 1 would be a 6-year program to reduce sulfur dioxide by 5 million tons in 31 States bordering on or east of the Mississippi River. Each State's share of reductions would be based on its relative share of current emissions.

This phase would be followed by a 3-year period of evaluation by the EPA Administrator, who would have limited flexibility to alter the plan by adjusting emissions reductions goals or by modifying the requirements on individual States. Phase 2 would then resume the reduction program for another 5 years.

In sum, my legislation would set strict Federal standards to curb acid rain while permitting wide latitude for low-cost, innovative ideas for cleanup. This latitude is essential to maintain cost-effectiveness and State control.

I want to take action now, but I fail to see why any acid rain control program should proceed willy-nilly without careful monitoring of the results. Frankly, I think some extremists in the environmental movement have hurt the credibility of the scientific evidence by refusing to admit that some 20 percent of our problem comes from our own automobiles and from Canada.

Be that as it may, I introduced my bill last November because the Energy and Commerce Subcommittee on Health and the Environment was so deadlocked over regional differences on this issue that a bill had failed even to be introduced, let alone acted upon. No action on this critical issue had been taken, in fact, since the 98th Congress, when an earlier bill of ours was defeated by one vote in the subcommittee.

This spring, however, a united and concerted bipartisan effort resulted in legislation that has at last cleared the subcommittee. The bill, H.R. 4567, would mandate that the Nation reduce its sulfur dioxide emissions by 9 to 10 million tons annually by 1997.

I am proud to be an original cosponsor of this legislation, which incorporates the emissions goals and the flexibility for implementing those goals that I find to be essential ingredients for any acid rain control bill that is cost-effective.

H.R. 4567 would assure New York's acid deposition will reach an acceptable level of 18 pounds per acre annually at a cost of no more than a 1-percent rate hike for residential consumers.

The entire program would cost between $3.8 and $4.9 billion a year, according to the Office of Technology Assessment. The polluter pays, yet there is a plan to subsidize those areas where the cost of pollution control systems would push utility costs over 10 percent a year.

Representatives from the League of Women Voters chapters in my district recently stopped by my office to express their support for our acid rain control efforts. The league calls the plan "fair, equitable and workable," an assessment with which many of my constituents, environmentalists, sportsmen, and resort workers alike, have expressed their agreement.

All that is left now is for the Energy and Commerce Committee to face this critical issue squarely and to mark up H.R. 4567 so that the full House of Representatives can have the chance to debate and vote the soundest potential solution to acid rain, one of the most serious threats to our environment still unaddressed.

Mr. MCCAIN. Mr. Speaker, I commend my distinguished colleagues Mr. JEFFORDS and Mr. SIKORSKI for holding this special order to discuss a problem whose consideration on the House floor is long overdue. America has one of the highest standards of living in the world as a result of our industrialized economy. However, along with industrialization has come some very dangerous consequences. One of these is the phenomenon known as acid rain.

Acid rain is implicated in the deterioration of 10 percent of West Germany's famed Black Forest. We do not want this travesty to occur in the United States. There have been reports of forests in the Northeastern States that are beginning to deteriorate. The forests are not the only part of our environment to be affected. There have been reports of lakes in the Adirondack Mountains of New York which are now devoid of fish due in some measure to acid rain.

The Western United States have been fortunate to avoid much of this deterioration. But increasing evidence suggests that acid rain is beginning to spread from the Eastern United States into the majestic mountains of the West.

America must act to control the main causes of acid rain; 10.6 million tons of sulphur dioxide are emitted by high-sulphur coal burning powerplants each year. We need not accept this discharge. There are alternatives. By burning low-sulphur coal, sulphur dioxide emissions may be reduced by up to 50 percent. Coal scrubbers may eliminate 90 percent of the present sulphur dioxide emissions from coal. Implementation of these methods should begin as soon as possible keeping in mind we should strive to impose the lowest possible cost on the consumer. Acid rain has done enough damage. It is time for this body to act so as to reverse the negative trend affecting the flora and fauna of North America.

Mr. Speaker, in my opinion the Udall-Cheney bill is the best alternative to solve these problems. H.R. 2679 ensures that those States where acid rain is most prevalent will shoulder most of the expense of the cleanup. I strongly believe in the polluter must pay notion. When the Four Corners plant in Arizona needed pollution controls we did not ask other States to subsidize the $400 million cost, we paid it ourselves. The same method should apply in the case of acid rain.

Udall-Cheney allows States the flexibility to decide their own method of cleaning up, while providing for any midcourse correction which may be dictated by new research. H.R. 2679 also provides a credit to those States which have already implemented their own programs.

The affect of acid rain in the west has not yet been fully determined. This bill establishes a special western acid rain study. The findings of this committee will guide the Western States in their attempts to address whatever problem exists. Udall-Cheney is the most equitable of all the acid rain bills and will ensure cleanup of acid rain with the least expense to the consumer.

Mr. Speaker, regardless of our differences, the Eastern and the Western as well as the Midwestern United States must join together in order to stem the tide of acid deposition damage. I urge the Energy and Commerce Committee to pass meaningful legislation in the 99th Congress which the whole House can consider. Thank you.

Mr. KOSTMAYER. Mr. Speaker, I rise in support of H.R. 4567, the Acid Deposition Control Act of 1986.

This legislation would establish a new, national program to control the air pollution that causes acid rain.

The Congress has come very close to approving acid rain control legislation in past years but has failed, unfortunately, to get such a program implemented. On May 20, however, the Subcommittee on Health and the Environment approved H.R. 4567 by an overwhelming margin, signifying the broad-based bipartisan support that this legislation enjoys.

H.R. 4567 is a good approach to acid rain control—it offers significant emissions reductions within realistic goals, provides for State flexibility and protects threatened coal mining jobs.

Basically, H.R. 4567 would reduce sulfur dioxide and nitrogen oxide emissions in two stages with significant reductions realized by 1997. Specifically, this legislation would

reduce sulfur dioxide emissions by 9 million tons annually and nitrogen oxide emissions by 3 to 4 million tons annually.

One of the many merits of this bill is its flexibility—States would decide for themselves how to meet the necessary emissions reductions. Therefore, those States that wish to protect coal mining jobs that may be threatened by this legislation could choose any type of technological solution that is available, provided that it has been approved by the Environmental Protection Agency. Nowhere in this legislation is emissions control technology limited to expensive scrubbers.

As far as the costs are concerned, it is estimated that if enacted, this legislation could result in the expenditure of about $3.8 to $4.9 billion a year. However, estimates for the amount of damage done to buildings alone go as high as $6 billion a year. This, of course, does not include the social and environmental costs of lost lakes, streams, and forests—those costs which cannot be calculated monetarily but are by no means less important.

Another aspect of this legislation is the establishment of a national trust fund which would, in effect, set a 10-percent ceiling on rate increases that utilities could pass on to consumers. This Federal trust fund would be financed by a very small surcharge—about 25 to 50 cents per month—which would be imposed on utility customers all across the Nation.

H.R. 4567 is sound legislation and long overdue. Acid rain is one if the most serious environmental problems that we face and it is one that will not go away. Sufficient studies have been conducted, the results are conclusive, and it is time that we did something about it.

Thank you, Mr. Speaker.

Mrs. BOXER. Mr. Speaker, acid deposition, popularly known as acid rain, is a serious source of environmental pollution which knows no boundaries. Once thought to be restricted to the heavily industrialized regions of Eastern North America, ongoing studies document that acid rain threatens valuable aquatic, timber resources, and recreational areas throughout the Western United States as well.

In March 1985, the World Resources Institute and the University of California at Berkeley released a 50-page research report on the "American West Acid Rain Test." The results of this report confirmed suspicions about acidic problems in the Western States and concluded that such acidity in the "West's snow, fog, rain, and dry air posed disturbing and increasing threats to the West's valuable commercial and recreational resources." Acid rain affects lakes, streams, and their watersheds by overwhelming their buffering capacity and eventually killing fish and other aquatic forms of life. Many sensitive lakes in the Sierra Nevada already do not meet the EPA's standards for acidity. If this acidification continues, many popular sports fish may disappear. Acid rain runoff also carries toxic metals, such as aluminum, lead, and mercury, from the soil into the drinking water supply, creating a major health hazard. Forests in 11 Western States, half of which are of commercial value in addition to being of scenic value, have already suffered substantial damage due to high levels of ozone. Irreplaceable natural resources, including Yosemite, Sequoia, Mount Rainier, North Cascades, and Rocky Mountain National Park, are still being damaged by acid rain, and H.R. 4567 is the first focused, coordinated, national step toward reducing that damage.

The Acid Deposition Control Act of 1986 would require States to develop a desperately needed emissions limitation compliance schedule for toxic emissions. Nitrogen oxides, which are produced by fossil fuel burning, are a more important cause of acid deposition in the West than in the East. The sources of Western and Eastern dioxide emission also differ. Industrial operations rather than electrical utilities are the primary source of sulfur dioxide in the West. While these regional differences do exist, the problem and its effects are national and must be treated as such. For this reason, I strongly urge the passage of H.R. 4567 which is designed to fairly distribute the costs and benefits of these necessary acid rain controls.

Mr. MARTIN of New York. Mr. Speaker, I want to commend my colleagues, Mr. JEFFORDS of Vermont and Mr. SIKORSKI of Minnesota for taking this special order today. I am sincerely grateful for their continued willingness to direct attention to the problem we as a nation face with respect to the effects of acid rain. As a Member who represents most of the Adirondack Mountain area of New York, I thank you on behalf of my constituents and, indeed, on behalf of all Americans who have had the occasion to experience the peacefulness of the Adirondacks, and of our children who hope to experience its beauty in the future.

Since coming to Congress in 1981, I have been involved in the issue of acid rain, and my frustration has grown as again and again we have been denied the opportunity to consider even one piece of meaningful acid rain legislation on the floor of the House. Upon introduction of H.R. 4567, my hopes were rejuvenated as I was convinced that this proposal would see the light of day. For the first time, we have legislation which addresses the interests of the West and Midwest, and the South and the East. This legislation takes the first step toward a final bill that could control emissions which cause acid rain, without imposing an undue economic burden on any interest or region.

My optimism continued to flourish as the House Subcommittee on Health and the Environment, chaired by our able colleague, Representative WAXMAN, scheduled hearings, at which I and many other members testified, and conducted markup of the measure. However, Mr. Speaker, the subcommittee completed its action on May 20, almost 2 months ago. The time has come for the full Energy and Commerce Committee to consider H.R. 4567. Time is running out if we are to see acid rain control legislation acted upon by the full House and Senate prior to the end of this Congress. Yes, there are controversies which must be resolved and yes, we must seek to work together in this regard. I fully realize that there may be some changes required in order for us to gain a sufficient number of votes to pass the bill. This would not discourage us, however, as we pursue our goal.

We must also keep in mind our Canadian neighbors. My district has many, many miles of border with our Canadian friends. The question of acid rain controls touches every aspect of our relations with our greatest ally and neighbor. No one was more pleased than I with the issuance of the United States-Canadian envoy report which acknowledged that acidic air emissions are being transported through the atmosphere and over the United States-Canadian border. And I was even more pleased that the President accepted these findings. The recommendations contained in the report—a $5 billion clean coal demonstration program—are encouraging, but they are not the end of the line as far as I am concerned.

My message today is this—if there are any doubts about the damage which has resulted from the effects of acid rain and the need to take strong action now, visit the Adirondacks. View the damaged forests; take note of the lakes which can no longer support aquatic life; and evidence the corrosion of the copper pipes carrying drinking water to my constituents. I believe you will no longer question the need for Congress to take the lead and enact legislation such as H.R. 4567.

Mr. WIRTH. Mr. Speaker, for the first time since acid rain became a household word, we may soon have the opportunity to consider on the House floor an acid rain control bill that enjoys bipartisan support from all over the country. H.R. 4567, the Acid Deposition Control Act of 1986 represents an historic step forward in the Nation's commitment to protecting our lakes and forests from the real and growing danger of acid rain.

Countless studies have shown that unless we bring the acid rain threat under control, rivers, lakes, and forests all across America will succumb to this silent killer. Rapidly accumulating evidence has shown that acid rain is a threat that respects no boundaries and cannot be corrected unless the Federal Government, the States and industry work together. To forge just such a partnership, this piece of legislation combines the best features of a number of bills that I and other Members have supported in the past as well as a number of new, innovative ideas. As a result it has been cosponsored by 165 Members.

Although acid rain first appeared to be a purely Northeastern problem, recent scientific research has shown that acid rain is rapidly becoming a threat in the intermountain West. Many of the 7,000 lakes in the high Rocky Mountains lie on granite bedrock surrounded by the sheer walls of glacial cirques. They have very little buffering capacity, or the ability to neutralize acids. This means that these lakes could be acidified by air pollution only one-tenth as severe as acid deposition levels that have killed lakes in the Northeast.

We must act now, before our mountain lakes and streams begin to show the effects of acid rain. I urge our colleagues to support this innovative piece of legislation to curb acid pollution before we start to see lifeless bodies of water in the intermountain area as well as the Northeast.

This bill would require the States to limit the emissions of sulfur dioxide (SO_2), which combines with water to form sulfuric acid. But it

gives Governors the power to select the reduction method most appropriate for their individual State. This freedom of choice element gives States the option of switching to cleaner, low-sulfur coal. It also allows States, if they so choose, to install scrubbers so they can continue to burn high-sulfur coal. This flexibility has garnered support for the bill from groups as diverse as Wisconsin Electric Power and the Wilderness Society.

Most electric power plants in Colorado, and many other Western States, already are in compliance with these stricter controls on sulfur emission. But copper smelters, which have long enjoyed an exemption from the Clean Air Act, would be forced to comply with existing Clean Air Act requirements by 1988. Since these smelters account for nearly 70 percent of the total SO_2 emissions in the intermountain West, bringing these smelters into compliance with air pollution rules would result in a 400,000 ton reduction in SO_2 emissions inventory. This represents a big step forward for Colorado and other States of the Rocky Mountain West.

Finally, this bill also addresses the air pollution problems which plague many American cities, including Denver in my State. The bill includes provisions to tighten up car and truck emissions standards for both particulates and nitrous oxides—two of the principal contributors to the brown cloud of photochemical smog that hangs over many cities of the West.

Mr. Speaker, unless we act soon, acid rain will destroy some of our most beautiful lakes and forests. This bill provides a fair, balanced and bipartisan solution to a growing national problem. I urge our colleagues to support it. Acid rain does not have to be a fact of life.

Mr. CHANDLER. Mr. Speaker, I come before you today to add my voice to the over 160 Members who are concerned about the national acid rain problem and who are cosponsoring H.R. 4567.

I address this serious issue not as a Member whose district has a critical acid rain problem—as some of my colleagues in the East are facing—but as a Representative from a State which has not yet suffered environmental damage to the extent found in other parts of the country. I emphasize the word yet, because our forest rangers in Washington State list acid rain as one of the most serious threats to lakes and forests. Though acid rain has been traditionally regarded as a Northeastern problem, acid rain is now the subject of half a dozen studies in Washington State.

Acid rain not only threatens our lakes and forests, but is a problem with geopolitical overtones. Canada has charged that its environment has been fouled by American pollution while Scandinavian countries have leveled similar charges at their European neighbors to the south. Taking responsible steps to control the sulfur dioxide and nitrogen oxide emissions from industrial boilers, automobiles, and coal-fired plants will benefit both our environment and our relationship with our Canadian neighbors.

H.R. 4567 presents the ideal opportunity to not only curb the emissions which contribute to acid rain in the Northeast, but to prevent similar damage to forests and lakes in the West. The price to Westerners for prevention is small compared to the irreparable harm which acid rain could cause. The trust fund established in H.R. 4567 to help offset the costs of meeting the lower emission standards, is a realistic method for keeping residential electric rates from rising above 10 percent. This funding method requires a small contribution from States who are not exceeding the emission goals stated in H.R. 4567, but rightly ensures that the regions and industries not meeting the 1997 emission levels will be responsible for financing the appropriate control methods to reach those goals.

I urge the House Energy and Commerce Committee to promptly consider this fair and responsible bill. Acid rain will not go away without a cooperative, national effort, and I believe H.R. 4567 is a realistic and cost-effective approach.

Mr. GALLO. Mr. Speaker, several years ago I became active in efforts to curb acid rain pollution in this country. At the time, I was a member of the New Jersey General Assembly, and I supported legislation which directed Congress to take action to reduce acid rain.

Now, as a Member of Congress, I have been presented with an opportunity to follow through on these efforts. Needless to say I am extremely disappointed that it has taken this body such a long time to act on such a severe problem. Nonetheless, I am happy to be a sponsor of H.R. 4567, and I would like to urge rapid consideration and passage of this legislation by the House.

Acid rain is one of the most critical environmental problems that we face today. It is a problem which must be attacked at the source. We cannot prevent acid rain deposition once sulfur dioxide and nitrogen oxide are released into the atmosphere.

H.R. 4567 aims directly at the sources of these emissions.

Our bill creates a 10-year program to reduce the quantity of these pollutants released into our air. The program created by this bill sets a performance standard; it does not set inflexible programmatic standards.

In order that the costs associated with meeting the program of reductions demanded by our bill are not passed on to the ratepayers from a single utility, our bill establishes a trust fund which will smooth out utility-by-utility rate fluctuations.

What we have in H.R. 4567 is a workable, bipartisan approach to a problem which is global in nature. What we have in H.R. 4567 is a long overdue solution to a problem that has for far too long been neglected.

Mr. Speaker, my fellow sponsors, and I, have placed these remarks before this body in the hope that action will be swift and sure.

For the future of our Nation, our continent, and our planet as well, I emplore you to direct our body to expedite its actions on this bill.

Mr. GEJDENSON. Mr. Speaker, I rise today to express my strong support for H.R. 4567, the Acid Deposition Control Act of 1986. This compromise bill is a great step toward resolving the conflict between various regions of the country on the acid rain issue. H.R. 4567 mandates desperately needed reductions in the emissions that cause acid rain and provides a workable cost-sharing method to achieve these reductions.

Acid rain has already caused considerable damage to lakes, streams, trees, and fish in the Northeast. I am particularly concerned about the potential threat of acid rain damage in my congressional district in eastern Connecticut. A recent Environmental Protection Agency [EPA] study revealed that many lakes in eastern Connecticut are extremely vulnerable to damage from acid rain because of their low acid neutralizing capability [ANC]. More than 60 percent of the lakes tested in the Northeast have a low ANC which makes them vulnerable to acid rain.

The problem of acid rain worsens as we speak. The time to act is now, before even more lakes, streams, forests, and wildlife are damaged. H.R. 4567 was approved by the House Energy and Commerce Health and Environment Subcommittee by a large margin. The full Energy and Commerce Committee should mark up this bill immediately so that we can begin to solve the acid rain problem before even more destruction of the environment occurs.

Mr. MAVROULES. Mr. Speaker, it is time for that final thrust to push the Acid Deposition Control Act of 1986 through the Committee on Energy and Commerce and into law. We have so little time left in this session of Congress that we must act quickly to implement this legislation before more destruction occurs.

I am very excited about the momentum with which H.R. 4567 has gained support. Chairman WAXMAN is to be commended for getting H.R. 4567 through subcommittee consideration quickly and efficiently. Many of us have been tirelessly fighting for acid rain legislation for years. Finally, others are beginning to see the light. Presently there are over 160 cosponsors of the bill. This support is both bipartisan and well distributed across the Nation. Even President Reagan is finally coming around, realizing the devastation caused by acid rain, as presented by the National Academy of Sciences.

Regional politics and special interests must be put aside. The environment is everyone's concern. It is the responsibility of each of us here to protect what nature has given us. We are not just talking about the fate of a few forests: The survival of future generations is dependent on an acid free environment.

The phenomenon of acid rain is an international issue that affects Canada and Mexico as well. As concluded by the United States-Canadian Joint Envoy Report, a result of the March meeting between President Reagan and Canadian Prime Minister Brian Mulroney, there is no doubt that acid rain is a serious international environmental problem. We must join with our neighboring nations in addressing the problem of acid rain.

For those people concerned with the cost of reducing sulfur dioxide and nitrogen oxide emissions, let me ask this: How much more will it cost to repair the damage done by acid rain if we do not address the problem immediately? While we linger debating about what to do, buildings are eroding and forests are being destroyed. No amount of money can replace a forest or the wildlife within it.

I call on Chairman DINGELL to expedite the consideration of this bill by the full Committee on Energy and Commerce. H.R. 4567 is writ-

ten to satisfy the widest range of citizens: Consumers, corporations, and environmentalists. It combines nationwide air pollution controls with a national financing plan designed to ease the burden of cleanup costs. A uniform, statewide average emissions rate for electric utilities and industrial boilers is established, while giving States the flexibility to decide how to achieve the necessary reductions.

The Acid Decontrol Act of 1986 is a thorough piece of legislation and one that is much needed. We must maintain the current momentum and make H.R. 4567 into law.

Mr. McGRATH. Mr. Speaker, it is now time to rid America of one of its most dangerous, manmade, environmental concerns. Over the last 30 years, thousands of lakes, streams, and other waterways throughout the Northeast and Canada have been put on the endangered species list. In the Adirondack Mountain region of New York State alone, nearly 200 lakes have lost all aquatic life and over 300 more are slated for the same fate.

Acid rain, the deadly fallout of sulfur and nitrogen compounds from the sky, is a tremendous threat to areas as far west and south as California and Florida. Recently, a bilateral study commission of American and Canadian officials called for the United States Government and industry to undertake a 5-year, $5 billion program to test cleaner methods of burning coal in factories and powerplants. While the White House at first questioned these findings, a recent summit involving the President and Canadian Prime Minister Brian Mulroney encouraged the administration to acknowledge this report and concede that acid rain is a manmade problem. This was a critical step in solving the effects of acid rain on our Nation.

However, it was the House of Representatives who has made the largest push for the control, and future elimination, of the acid rain problem. Through H.R. 4567, the House has carefully formulated legislation to control acid rain by sharply reducing air pollutants from coal-fired boilers and motor vehicles.

Under the measure, users of coal-fired boilers would have to reduce their sulfur emissions by as much as 10 million tons over the next decade. Sulfur emissions are believed to be the primary cause of acid rain. The bill also calls for reductions in nitrogen oxide emissions from cars and trucks, another potential cause of acid rain, according to a schedule planned by the Environmental Protection Agency. The measure spells out cuts for industrial emissions, and gives the States discretion in how to achieve these reductions. The proposal also includes a mechanism that would cushion utility customers from sharp electric rate increases.

I believe this is a very comprehensive bill in an attempt to make significant headway to end the ecological nightmare of dead lakes and defoliated forests. The legislation is the result of reasonable compromises between the concerns of industry and protection of the environment.

Although some feel that acid rain is not yet a critical problem, we do know that where acid rain occurs there is environmental damage. With H.R. 4567, steps are now being taken to ensure the well-being of our country, forests, and streams. I urge my colleagues on the Energy and Commerce Committee to expedite action on this bill and work for its passage.

Mr. RIDGE. Mr. Speaker, in all the debate about the harmful effects of acid rain, one area of research has been somewhat neglected—potential health effects from drinking water contaminated by acid rain. A recent study on this subject completed by scientists at Pennsylvania State University, however, indicates a strong connection between acid rain and potential health problems stemming from the consumption of highly acidified drinking water. These findings, presented at a conference at Pennsylvania State University on June 12, 1986, add new credence to longstanding fears that acid rain poses a significant threat to public health.

The study compared the acidity of stream water in parts of Pennsylvania before and after heavy rainfall. The findings show definite changes in the quality of water during periods of high stream flow following heavy rainfall. Among the most significant changes was an increase in the corrosive properties of the water. When water becomes highly acidic, it can corrode and dissolve pipe joints, releasing higher than normal amounts of toxic lead.

Community water supplies examined in the study showed unacceptable levels of lead which can cause a number of health problems, particularly in children. It is well known that children who consume lead are more likely to have difficulty learning to read, may suffer from emotional instability, and may have a greater risk of mental illness because of damage to their nervous systems.

So devastating are the effects of lead consumption that the Environmental Protection Agency is considering lowering the lead standard from 50 to 20 parts per billion. If this standard is tightened, current levels of lead in drinking water—precipitated by acid rain—will be in excess of Federal standards in many parts of Pennsylvania and the Nation.

As a strong supporter and original cosponsor of H.R. 4567, I was convinced before this study that the known effects of acid rain warrant immediate action to reduce emissions that cause acidification. After reviewing the results of this study, however, I am even more strongly convinced we can stall on this issue not a moment longer. Doing nothing about acid rain costs far more than cleaning it up. Our natural resources, our national landmarks and now the health of our citizens are threatened by inaction. I ask my colleagues, if not us, who will stop the rain?

Mr. STUDDS. Mr. Speaker, today I join a number of my colleagues, Democrats and Republicans from all sections of the country, in support of H.R. 4567, the Acid Deposition Control Act of 1986. I am pleased to be a cosponsor of this bill, which would reduce the yearly amount of sulfur dioxide and nitrogen oxide emissions by about 5 million tons by 1997.

Acid rain is a pressing international and local problem. The introduction of harmful acids into the atmosphere has caused an unfortunate strain in our relations with our friendly neighbor to the North, Canada. Moreover, acid rain has affected hundreds of American cities and towns, including many of the communities in southeastern Massachusetts that I am privileged to represent.

Extensive testing and analysis by the acid rain monitoring project of the University of Massachusetts indicates that the State's water resources are among the most acidic in the country. Nearly three-quarters of the ponds and streams on Cape Cod are labeled endangered, critical, or acidified. More than half the bodies of water in nearby Plymouth and Bristol Counties are similarly impacted. These aquatic systems are no longer able to support fish species that flourished years ago, and the total fish population has declined severely.

Mr. Speaker, the real tragedy about the acid rain problem is that we know how to solve it. Acid-spewing powerplants could be fitted with scrubbers, devices which would remove much of the acid before it could reach the atmosphere. These same powerplants could alternatively be required to burn low-sulfur fuel, which would also reduce the acid introduced into the environment. We do not lack the knowledge required to find solutions to the acid rain dilemma; we lack only the political will to implement those solutions.

My hope is that this Congress will muster the courage to address this growing local, national, and international problem. H.R. 4567 is far-reaching legislation, moderate in its costs and invaluable in its benefits. The bill establishes a uniform, statewide average emissions rate for electric utilities and industrial boilers. It is applauded by the National Governors' Association because it gives States the flexibility to decide how to achieve the necessary reductions.

We have come to learn that we cannot expect leadership on this issue from the White House. Despite the conclusion of the United States-Canadian Joint Envoy Report that acid rain is a serious environmental problem, the administration continues to refuse to take the steps necessary to achieve an acid-free environment. Congress must therefore take the lead and enact strong acid rain control legislation, preserving lakes and streams in Massachusetts and across the country for the benefit of future generations.

Mr. RINALDO. Mr. Speaker, I want to commend my colleagues, Mr. JEFFORDS and Mr. SIKORSKI, for requesting this special order on the Acid Deposition Control Act of 1986, H.R. 4567, and I want to join them in urging action on H.R. 4567 as soon as possible.

I have introduced acid rain legislation in each of the last two Congresses. I participated actively in the negotiations that led up to the introduction of H.R. 4567, and I am proud to be a principal sponsor of that bill.

As someone who has been pushing for acid rain legislation, I am pleased by the work of the Health and Environment Subcommittee in reporting this bill to the full committee without delay.

The truth is we have a great deal of work ahead of us, and there is no time to lose. That is why I hope everyome involved in this issue, on both sides of the aisle, and within Congress and without, will seek to work together cooperatively and constructively to enact an acid rain bill into law.

In my own judgment, that is the goal we ought to keep before us.

Some Members are opposed to H.R. 4567 because it goes too far. Others, are disappointed that it doesn't go far enough.

I know some are upset that the bill as amended by the subcommittee falls below the 10 million ton reduction level. As a Member whose legislation would have reduced sulfur dioxide emissions by nearly 11 million tons. I share the view that the greater reduction, the greater the benefit.

But I don't think we can afford to lose sight of our ultimate goal, which is a bill that will significantly and effectively reduce acid rain.

We are closer now than we have ever been to passing an acid rain bill, but the ultimate test will be to fashion a measure that Members across the country and on both sides of the aisle can support.

I don't think we can succeed if we wind up putting region against region, and it is certainly not the intention of this Member to penalize or punish any State. My goal is to reduce emissions and acid rain in as equitable and fair a manner as possible.

I again want to commend my colleagues for scheduling this time today, and I look forward to working with them as we continue our effort to enact and acid rain bill.

Thank you.

Mr. SCHEUER. Mr. Speaker, Congress has been talking about acid rain for quite some time now. It has been 18 years since Swedish scientists first linked sulfur dioxide emissions to acid rain. Scientific documentation of acidified lakes in New York's Adirondack Mountains appeared over 12 years ago.

Since then, the evidence of acid rain's devastating environmental impact has continued to accumulate. No region of this country is immune.

In addition to the documented evidence of dead lakes in the Northestern United States, studies have revealed acid lakes in Florida, declining forests in the Southeastern United States, and threatened ecosystems even in the pristine wilderness areas and national parks on the Western United States.

Mr. Speaker, the implication is plain: acid rain is no longer a regional problem. It is a national problem.

Indeed, as the recent special envoy's report to the President recognizes, it is an international issue. Our relationship with Canada is being strained by acid rain caused in part from emissions generated in the United States.

And with the startup of Mexico's Nacozari smelter, tons of sulfur emissions will be dumped into the atmosphere of the Southwestern United States.

Even across the Atlantic, the controversy rages.

The Scandinavian nations are gnashing their teeth in frustration over the industrial pollution that is raining on their region from smokestacks in England, France, Germany, Italy, Belgium, and Holland.

There is no remedy for these problems under international law.

Ultimately, there is a need for an international solution, but in the interim, we in Congress must work for a national solution.

Mr. Speaker, with this new recognition of the national nature of acid rain, we can finally move beyond the regional deadlocks that have generated endless debate about whether we should control acid rain. Acid rain requires a national response, and the issue we can now address is: What is the most effective and cost-efficient way to accomplish acid rain control?

H.R. 4567 represents a significant improvement over prior acid rain proposals precisely because it recognizes the national and international nature of the acid rain problem. It appropriately places the responsibility for solving the problem where it belongs: on the Nation as a whole.

H.R. 4567 gives the States the responsibility for making the cost-benefit analysis involved in choosing a control strategy. Those States that wish to take advantage of their abundant resources of high-sulfur fuel may choose to do so by installing appropriate emissions control equipment. Other States may choose to meet the emissions standard by switching to low-sulfur fuel.

And, under an amendment which I offered along with Congressman WALGREN, States have an option to encourage utilities to use new emerging technologies which can meet the bill's emissions standards at far lower costs than scrubbers.

The choice belongs to the States.

Mr. Speaker, the distinguished chairman of the subcommittee, Mr. WAXMAN, moved expeditiously to hold thorough, open and comprehensive hearings. Every conceivable party with an interest has had a full opportunity to testify and to document their positions. And after hearing all of this testimony, the subcommittee voted out the bill by a 16-to-9 vote, with bipartisan support.

This bill deserves to move forward. It is a balanced, fair, and bipartisan solution to the acid rain problem, and I urge my colleagues to help ensure that all Members will have an opportunity to consider it on the floor.

MR. HORTON. Mr. Speaker, I want to commend my colleagues GERRY SIKORSKI and JIM JEFFORDS for reserving this time to impress upon congressional and administration leadership the tremendous importance for complete consideration of the new acid rain bill, H.R. 4567.

Acid rain and its side effects have been discussed, studied and debated over and over again in the past decade. Representing a six-county district in the upstate New York area, I can testify first hand to the devastating impact of acid rain in the Northeast.

For years, the issue of acid rain seemed like a black-and-white issue, with little or no middle ground. However, H.R. 4567 represents the most reasonable and most practical bill that has come before this body. Significant reductions in both nitrogren oxide and sulfur dioxide will be phased in, taking into account the varying regulations already promulgated by individual states.

Opponents of this bill has some legitimate concerns about the ramifications of this bill. That is inevitable in such an encompassing bill as this. Coal mining regions in particular have the potential of economic disruption should this bill pass. That notwithstanding, the acid rain problem must be addressed. It is having, and will continue to have, major economic consequence—particularly in the Northeast region of the country.

Last fall, many environmental scientists, in a review of the acid rain dilemma, noted, "Adequate scientific information exists to select emission-reduction strategies to reduce acid deposition efficiently." The idea that more studies must be conducted, more test must be completed, simply does not wash anymore.

Mr. Speaker, this is the right bill at the right time. Polls continue to show that the American people understand the importance of acid rain and the potential consequences of leaving it unchecked. The coalition that has assembled in sponsoring this bill—including all but one Member from my State of New York—is a clear example of the merits of this bill, and the urgency for the measure's consideration.

With more than 150 cosponsors from across the political spectrum and across the country, I hope that H.R. 4567 can move forward from the Energy and Commerce Committee for full House consideration in the very near future. The time for studying the problem is over—the evidence that serious damage is being caused to our environment is overwhelming. As Tom Kean, the popular Governor of New Jersey said, "If all we do is continue to study the problem, we'll end up with the best documented environmental disaster in history."

We, as Members of Congress, must not let that happen.

Mr. Speaker, I want to especially commend my very good friend SHERRY BOEHLERT and the dozens of other Members who are responsible for this excellent bill. Their efforts have not gone unnoticed by the people in my district or in this Nation. I hope we can move expeditiously in passing H.R. 4567, for everybody's sake.

Mr. OBERSTAR. Mr. Speaker, I join my colleagues in urging prompt action on an acid rain control program this year.

We are all familiar with, and deeply disturbed at, the terrible toll that acid rain is taking on our lakes and streams, forests, fields, and even our buildings.

But its effects are even more insidious, far reaching, and potentially dangerous to human health.

Mercury, for instance, is found free in the ambient air from natural sources, and may also be released during the burning of fossil fuels. Normally it is in a somewhat inert form, but when it enters acidified water and sediments, it is changed to methylated mercury, which is extremely bioaccumulative as it moves up the food chain, inevitably, to human beings.

Indeed, the precursors to acid rain are but one manifestation of the problem of long-range, airborne transport of toxics, to the Great Lakes and other water bodies, and to the land. PCB's, DDT, toxaphene, and other pesticides are all long-range airborne toxicants found in the Great Lakes and, probably, other lakes as well. These toxics fall equally on the ground, where they can be taken up by grass, which is consumed by cattle and, again, can reach the dinner table.

We have done enough research to convince us that acid rain must be controlled

now. We know the sources, the precursors, the effects. Research on long-range airborne transport of other toxics is just beginning. That work must be given higher priority; these toxics may have an even more immediate impact on human health as well as the environment.

Mr. GREEN. Mr. Speaker, I rise today to voice my strong support for the Acid Deposition Control Act of 1986. This legislation has strong bipartisan support and has cosponsors representing all geographical areas of the United States.

Acid rain is no longer a problem of a few dead fish in the Adirondack lakes. It has become a national problem that demands a national solution. In the past, acid rain has been deemed a problem exclusive to the Northeast. However recent studies indicate that this is indeed a nationwide problem. Since 1973, the catch of striped bass on the east coast has declined 90 percent, costing coastal areas an estimated $220 million annually and 7,000 jobs. Fisheries professionals concluded that acid rain arriving in the stripers' spring spawning season may be the doom of this legendary inshore game and table fish. Acid rain damage in the South, Midwest, and West is now being detected.

The Acid Deposition Control Act of 1986, passed by a bipartisan vote of the Health Subcommittee of Energy and Commerce, is a workable solution to this urgent national problem. The bill offers the flexibility that is needed to implement this complex legislation. There are no mandated control methods—each Governor can decide what is best for his State's economy and environmental needs.

This bill also protects the ratepayers. The EPA Administrator is directed, if possible, to implement a graduated emission fee, so that the dirtier emissions are taxed at a higher rate than cleaner States. In other words, the "polluter pays" principle is upheld in this bill. Consumer electricity rates are protected from increasing by more than 10 percent in any State because the Federal Government will subsidize installation of pollution control devices.

Unlike acid rain legislation of the past, this bill enjoys wide bipartisan support and offers a realistic approach of addressing this most severe environmental problem. I would like to thank my colleague from Vermont, Mr. JEFFORDS, for arranging this special order and hope that it brings the urgent need of this legislation to the attention of our colleagues in the House of Representatives.

Mr. JEFFORDS. Mr. Speaker, I thank all my colleagues for joining me here today. I urge the Interstate and Foreign Commerce Committee to take expeditious action on this bill.

GENERAL LEAVE

Mr. JEFFORDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, I want to express the appreciation of the New York delegation for the courtesy that the gentleman from Vermont has extended to us in connection with the subject of the passing of our former colleague, Jack Bingham.

We certainly appreciate the agreement and cooperation of the gentleman from Vermont [Mr. JEFFORDS] and we express our thanks to him.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I would just like to say that I would like to join the gentleman in this special order, because I have many fond memories of working with the gentleman from New York, Mr. Bingham, and have the greatest memories with respect to his dedication to the issue which I just discussed and many other important issues.

Mr. STRATTON. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I rise on behalf of the New York delegation to have this special order in commemoration of our distinguished former colleague, Jack Bingham.

Presented to me here just a short while ago is a list of some of the achievements of former Congressman Bingham and it is certainly a staggering list of any individual over a relatively short number of years.

Jack Bingham was born in New Haven, CT, in 1914.

He attended the Groton School in Groton, CT.

He was a Phi Beta Kappa from Yale University in 1936 and the editor of the Yale Law Journal in 1939.

He was admitted to the New York Bar in 1940.

He joined the staff of the Office of Price Administration in 1941.

He enlisted in the Army in 1943, serving in military intelligence; was discharged from the Army in 1945 as a captain with the War Department staff citation. He served as Special Assistant to the Assistant Secretary of State from 1945 to 1946.

He served as a Deputy Administrator to the Technical Cooperation Administration from 1951 to 1953.

He served as secretary to Gov. Averell Harriman from 1955 to 1958.

I might add that the people in the Chamber may be interested to know that his assistant in that particular assignment was the current senior Senator from New York, PAT MOYNIHAN.

He was selected in 1961 and 1962 as the representative of the U.N. Trusteeship Council and served as president of the Trusteeship Council.

He served as the U.S. Representative on the Economic and Social Council of the United Nations, with the rank of Ambassador.

He was selected as the U.S. delegate to four U.N. General Assemblies, and was Congressman from the city of New York, the Bronx specifically, from 1965 to 1983.

He was distinguished member of the Foreign Affairs Committee, instrumental in the passage of the War Power Act of 1973; fought to reform the congressional seniority system in the early seventies; fought to abolish the Joint Atomic Energy Commission in 1977; was the chief author of the 1978 Nuclear Non-Proliferation Act of 1978.

□ 1850

During all of that time, he was one of the most active and outspoken supporters of the State of Israel.

Jack left the Congress as a result of the redistricting that took place in 1983.

So we have here an individual who has certainly contributed much in his capacity in all of those organizations and has served very tremendously the area of his city in addition to his achievements here in the House.

His election as Congressman from the Bronx actually gained him national recognition because he had taken on the incumbent candidate, Congressman Charles Buckley, who had been a long-time Member of the House of Representatives, the chairman of the Public Works Committee, and one of the powers in the House, and many people felt that Jack was taking on an impossible job, but it turned out to be a David-and-Goliath victory for the brash gentleman from the Bronx, and he served, as I have just indicated, nine terms in the House of Representatives.

He has an outstanding family. Our family has always remembered the Christmas cards that come out with the growing number of grandchildren, and how they manage to get them all in the card is a mystery to me.

Most of all in that family is his wonderful wife, June, who is extremely talented, and many Members may recall when Mr. Bingham was a Member of the House, June wrote some very interesting and humorous items with respect to the life of Congresspeople as we all know it over the years.

Mr. Speaker, I yield to my colleague, the Speaker of the House of Representatives.

Mr. O'NEILL. I want to thank you, SAM STRATTON and TED WEISS for requesting this special order.

I was terribly sorry to learn of the death of my old friend and colleague,

Jonathan Bingham. I am grateful for this opportunity to express my great respect for one of the finest gentlemen that I ever met, and one of the great gentlemen of this House.

Let me say that he truly loved the Congress of the United States. He was elected to Congress after defeating a powerful committee chairman here in the Congress of the United States, who was also a powerful leader in the city of New York. Many were shocked that a Congressman with such power and tenure would be upset by the so-called reform candidate. But it was soon clear that Jonathan Bingham was much more than a reform candidate. He was a man of extraordinary intellect, a man of tremendous character. He was a man with a tremendous energy and dedication, and he was tireless in the pursuit of his goals. He put his mark on some of the most critical legislation that has ever passed this House during those 9 terms. He was, for example, one of the stalwarts behind the War Powers Act of 1973, the Nuclear Non-Proliferation Act of 1978, and, oh, so many others. I recall so well the leader that he was and the part that he played in the reform of the rules as we battled them out in the Democratic Caucus.

Above all, Jonathan Bingham had tremendous care—he truly loved his fellow man and was totally dedicated to peace and human rights. He had deep compassion for the less fortunate of the world, and he labored for their betterment. He was truly a very great, great individual.

Millie and I want to extend our deepest sympathy together with our sincere affection and respect to June Bingham—a beautiful and talented woman. We share in her loss.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. STRATTON], for yielding and for taking this special order so that we may pay tribute to our late, dear friend, Jonathan Bingham, and express our heartfelt condolences to his wonderful wife, June.

In all my years in politics, I have never met a person for whom I had greater admiration and affection than Jack Bingham. His entire life was one of public service and achievement, and through it all he remained a thoroughly humble and decent man. In so many ways, he was an inspiration to those of us who were privileged to know him and serve with him in this institution.

Jack came to this House in 1965 after many years of distinguished public service: As an officer in military intelligence in World War II, as a special assistant to an Assistant Secretary of State, as deputy administrator of the Technical Cooperation Administration, as secretary to one of the great political figures of our time, Gov. Averell Harriman, and as a distinguished and active public servant in a variety of capacities at the United Nations.

Jack Bingham came to this House as a fighter, as a reform Democrat from New York City who defeated a heavily favored House veteran in a primary election. For the next 18 years as a Congressman, Jack continued to be a fighter for the causes he believed in. For example, he was instrumental in the passage of the War Powers Act, legislation which continues to be of great importance today in the conduct of American foreign policy. He was chief author of the Nuclear Non-Proliferation Act, the most significant legislation designed to control the spread of nuclear weapons, and he also sponsored the Soviet Jewish Refugee Assistance Act of 1972.

Jack was also instrumental in effecting one of the most important institutional reforms of our time by successfully arguing that the Democratic caucus should elect committee chairmen by secret ballot. That major change in our Democratic rules paved the way for other important reforms which helped to transform this House to the more open, responsive institution that it is today.

Jack Bingham was a courageous and thoughtful legislator who served his district and our Nation with great skill and devotion. But those of us who knew him well will remember him best for his extraordinary personal qualities and as a cherished friend. He was a true gentleman in the sense of John Henry Newman's classic definition of a gentleman: Someone who never knowingly causes another person pain. Jack was a kindly man, a person who respected other people and inspired that response in them. As a younger colleague of his in the New York delegation, I was consistently the beneficiary of his experience, advice, encouragement, and affection.

Jack Bingham was a good and gracious man who was my friend, and I shall always miss him deeply. As I extend my condolences to June and the entire Bingham family, I would like to close with the words which perhaps best sum up our feelings for Jack, words spoken by Senator MOYNIHAN, our friend and colleague from New York. Senator MOYNIHAN said that Jack "must have known how much we admired him; I only hope he knew how much we loved him. No finer person ever graced our politics or touched our lives."

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman from New York, and also the New York delegation, for permitting me to participate in this special order for Jack Bingham.

I had the privilege of serving with Jack on the Committee on Foreign Affairs, and I say very quickly to my colleagues that we missed Jack from the day he left, and we still miss him.

He was an unusual person in many ways. He had a patrician air about him that fooled you because he was very humble and courteous and considerate. That also fooled you, because he was a man of steel and great determination; a man not only of intellect, but also of vision. He had a definite picture of the world and the way that it should be, and the way in which the United States ought to play its part in making it a better and a safer place.

□ 1900

He implemented that in everything that he did in this Congress and in the Foreign Affairs Committee and we all know that. Jack's imprint on foreign policy and matters related to the foreign policy in the United States, both at the executive level and at the legislative level, is really and truly indelible. It is a record of which all people can take pride in.

It is a loss to this country, not just to the Congress, because of Jack Bingham's death.

Those who love him the dearest should fully appreciate what his service, his life has meant to this country. He touched so many great issues that have his mark and his print.

Whether it was Nuclear Nonproliferation or the War Powers Act or the Export Trading Act or the constant determination that he expressed with respect to the military and gaining a perspective in our arms sales around the world, Jack Bingham led that fight in order to try to bring some balance into the consideration of the great might of the United States and the great sales that we make on military equipment around the world, the impact that it would have on other people. We have the whole process of 36(b) in which we have prior notice and consideration by the Congress on every defense sale over a certain amount because of Jack Bingham's concern.

The impact statements which are now required with respect to the defense posture statement were germinated by Jack Bingham and translated into legislative activity.

But he did not stop there. His concern went to people all over, not only those in this country who suffered the most, but also abroad. So you found him being a leader in the population programs: The first person to speak out on the problem of the Ethiopian Jews; a strong defender of Israel, out

in the front constantly on working out what was best in terms of a strong and friendly bilateral relationship with the United States and Israel.

In so many ways, quietly, effectively, with great skill and determination, it almost seemed at times as if he was plodding against the wall, but I want to tell you, and those of you who know him and love him as I do, you realize that sooner or later, the wall gave way and Jack Bingham did what he started out to do.

I can think of no greater accolade for any of my colleagues than to say that Jack Bingham was that kind of a man: Gentle, courteous, intelligent, a loving husband and father, a great patriot, a contributor to this Nation and to his people. All of us whose lives he touched can be very proud Jack Bingham served in the Congress of the United States with the greatest of distinction.

Jeanne-Marie and I extend our sympathy and condolences to June and to their children and to the extensive Bingham family, but we do it with love and with affection and with pride.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, I thank my colleague and my other colleague, the gentleman from New York, TED WEISS, for taking this time.

I would like to bring another dimension to this discussion, if I may, because as a Bronxite myself and a person who is completing his 20th year in public life, and if Jack Bingham were still with us today, he would be completing his 21st year in public life.

I say that to you because it was back in 1964 when a group of people in the Bronx decided that it was time for a change, a political change within the Democratic Party. I remember 1964 well because, as a part of a group of young turks, or reformers, or whatever we were called—we were called many other names in those days, too, by the regulars, but the bottom line was that 1964 was a significant year for us because it was the year that we captured two congressional seats. Jack Bingham captured the seat that was held at that time by Charles Buckley and south of that congressional district, the gentleman from New York [Mr. SCHEUER] defeated the Congressman from New York, Jim Healey.

But what was significant about that was that for the first time in the Borough of the Bronx, and I think throughout the city of New York, there came about a movement to change the system and to allow new people into the system.

I must admit in those days to my colleagues from New York, SAM STRATTON, that my hair was black, I did not wear glasses and I was probably about 20 pounds lighter, but the bottom line was that what developed in 1964 carried over to 1965. I was a recipient of what happened in 1965 because of what had taken place with Jack Bingham in 1964.

There were five assemblymen, five State representatives elected out the Borough of the Bronx that year, and it was because the road had been paved and we were there.

I will tell you that it is interesting that both myself and our State attorney general, Robert Abrams, were members of that 1965 class. I say to my colleagues here who know him as a Member of this body, as a national leader, there was that other dimension that made it possible for people like myself to get to this point where I, too, can be a member of the board of directors of this country.

I think that really what comes out of it all is that July 3, we were all on recess, and so when the word came that Jack had left us, we did not get a chance and have an opportunity to be there for the services and to spend some time with the family. But I am delighted that the family is here today because I think it is significant that all of us would have been with you and shared those moments, but we were all in different parts of the world.

I would just like to say to the Bingham family, and there are so many of you, I would just like to say to the gentleman from New York [Mr. STRATTON] who, I think, mentioned those Christmas cards, every year, I thought the walls were expanding and the big picture got bigger and bigger. I can see how the picture got to the size it is.

Anyway, having said that, I would just like to say that Jack truly was a man of intelligence, of common sense, and of heart. I am delighted that I could take this moment to share with my colleagues.

I have a prepared statement which I will enter into the RECORD. You are going to talk about Jack Bingham, the Congressman, and I wanted to talk a little bit about Jack Bingham, the Bronxite, who made it possible for other Bronxites to get to this point.

I thank my colleague.

Mr. Speaker, on July 3, when Jack Bingham died, all Congress lost a very dear friend. He was a hard worker who believed that his country could conduct its foreign policy with a measure of intelligence, common sense, and heart.

I learned a lot about foreign policy by watching Jack in action. I also learned a lot about the fine art of politics. Jack knew how to get a job done, but he always maintained his dignity and style. He was a credit to this institution.

He represented the values of an earlier era in American politics, an era characterized by commitment and a strong belief that our Government should do all it can to help people help themselves. He was, in short, committed to the founding principles of our Nation.

Jack looked upon our Nation's foreign policy as an extension of these principles. He believed that America should stand for human rights and Democratic values. A staunch friend of Israel, Jack Bingham understood the mutual benefit of our relationship with that nation. He was determined to protect that relationship, to nurture it. Our two nations benefited a great deal from Jack's hard work.

Jack walked with kings and kept the common touch. He was a fellow New Yorker, a fellow Bronxite. We will all miss Jack, but his legacy will live on forever. I want to extend my deepest sympathy to his fine family.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, it is with sadness and regret that today we join in paying homage to our dear friend and former colleague, the gentleman from New York, Jonathan B. Bingham. His presence in this Chamber was an inspiration to us all. Even after his retirement in 1982, we could not forget nor neglect his sterling examples of leadership.

Congressman Bingham never lost his reputation as an outstanding legislator during his nine terms in the House. He was always known as a man of integrity and as a man of conviction—a man who would never betray his principles.

Jonathan Bingham was first elected to Congress in 1964. He brought with him a wealth of experience and a family tradition of public service. His father, Hiram Bingham, served as a Republican Governor and U.S. Senator from the State of Connecticut. Despite the switch in parties, Jack Bingham carried on this tradition of public service proudly and bravely. As a part of a reform movement, he had the courage to challenge an entrenched incumbent in the 1964 primary. Pundits at the time compared the race to the David and Goliath battle, for Jack's victory was not anticipated.

However, those who knew Jack Bingham were not surprised. A graduate of Groton School, and a Phi Beta Kappa member of the Yale University class of 1936, Jack Bingham served as editor of the Law Journal at Yale Law School, then as a member of the prestigious Manhattan law firm of Cravath, deGersdorff, Swaine & Wood, and then at the Federal Office of Price Administration. He cut his promising career short at the outbreak of World War II, rising to the rank of captain with Army intelligence. His experiences placed him in demand by our State Department, where he served during the mid and late forties,

and again in the early fifties. He served as secretary to Gov. W. Averell Harriman, of New York, throughout the entire Harriman administration, 1955 to 1958.

President Kennedy recognized Jonathan Bingham's talents when he appointed him to the United States delegation to the United Nations in 1961, a position he left only when he resigned to run for Congress in 1964.

During his 18 years in the House, Jonathan Bingham left a legacy for us of many accomplishments. Among the noteworthy statutes he authored were the Soviet Jewish Refugee Assistance Act of 1972 and the Nuclear Nonproliferation Act of 1978. During the 10 years we served together on the House Foreign Affairs Committee, I came to rely upon Jack's views and expertise, and to respect his outspoken and unwavering support for our ally, Israel.

The redistricting of 1982 which cost New York State five Members of Congress also caused us to lose Jonathan Bingham. At that time, Jack refused to run in what he called "an agonizing primary contest against a younger Democratic colleague with whom I have no quarrel." Always the gentleman, we were sorry to lose Jonathan Bingham, but respected his gracious decision.

Subsequent to his leaving Congress, I was honored to have been invited by Jack to address his international relations class of Columbia University. It is indicative that Jonathan Bingham spent his last years passing his life's wealth of experience on to our Nation's leaders of tomorrow.

Jonathan Bingham is survived by his devoted wife of 47 years, June; by his 3 daughters; by his son; by 5 of his 6 brothers; and by his 10 grandchildren. We all join in expressing our deepest condolences.

But in a sense their loss is our loss.

Perhaps the statement made by our colleague in the other Chamber, the senior Senator from New York [Mr. MOYNIHAN] on the day of Jonathan Bingham's death best summarizes the feelings we all share. The Senator, himself a former staff member for Congressman Bingham, stated: "He must have known how much we admired him; I only hope he knew how much we loved him. No finer person ever graced our politics or touched our lives.

In conclusion, Mr. Speaker, I would like to insert in the RECORD a moving tribute to Jack Bingham by one of his former staffers, M.J. Rosenberg who devoted his last column as editor of the Near East Report as a fond remembrance of Jack which eloquently captured his qualities. The column entitled "Jack Bingham Remembered" follows, so that his thoughts can be shared by my colleagues.

[From the Near East Report, July 14, 1986]

JACK BINGHAM REMEMBERED

(By M.J. Rosenberg)

I recall thinking that I would never get the job. Jonathan Bingham was one of the most respected and influential members of the House of Representatives. I was in my mid-twenties, with no Capitol Hill experience, and—worst of all—I was neither a Yale graduate nor a lawyer. I had to screw up all my courage for my interview with the Connecticut-raised Bronx representative who was looking for someone to fill the position of chief legislative assistant (L.A.).

Bingham's top aid, Gordon Kerr, ushered me into the Congressman's presence. I was well-prepared for any legislative query he might throw at me. He looked intimidating. Almost six-and-a-half feet tall, slim, with snow white hair. He could have been elected on his looks alone! He told me about his political views. He was a liberal Democrat, a battler for equal opportunity for blacks and women. He was an outspoken opponent of the Vietnam war.

But his real love was foreign policy and his special passion was Israel.

Part of the reason for that was political. He had many Jewish constituents. But he and his wife, June, had been ardent Zionists in the pre-state era. They had first visited the country in 1950.

Bingham recognized that as a Mayflower-descended Protestant he could be especially helpful to the Jewish state on the Foreign Affairs Committee. He had unique credibility when he worked to put the foreign aid bill over. His Jewish colleagues—and especially his friend Rep. Ben Rosenthal—recognized that and wisely let the Connecticut Yankee take the lead. In his time, Bingham helped enact aid bills worth billions of dollars in assistance to Israel.

He asked me about my Jewish and Zionist background and said that the letter of recommendation he had received from AIPAC's founder, I.L. Kenen, carried a great deal of weight with him. After ensuring that I was knowledgeable about—and shared his views of—the environment, affirmative action, and government programs to help the poor, he offered me a job. He said that I, like his previous L.A.s, would serve for just one year. "In a year's time you can learn a great deal up here. You may even have an impact, in a small way."

After six months, Bingham asked me to stay another year. I stayed another seven and, if he hadn't been unfairly gerrymandered out of his seat, I would never have left.

Bingham, himself, was a civics textbook image of a Congressman. He worked long hours. He studied committee reports. He regularly disregarded the advice of staff members who urged a vote for an ill-conceived bill because it would score a few points back home. Personally, he was wonderful to work for—even-tempered, fair, generous. His staff was loyal to him and to each other. He was thoughtful. On a half-dozen occasions, he took this awe-struck aide to the White House. I'll never forget how he introduced me to President Ford. "Mr. President, you know my L.A. Mike Rosenberg?" Later he used the same approach with President Carter—and with Menachem Begin and Anwar Sadat. On the way back to the Hill, he would tease me about my "uncharacteristic shyness today."

But my favorite memory of Jonathan Bingham, who died last week, concerns my older son Nicky. Bingham adored him—and Nicky loved Bingham—and one night he insisted on taking the five-year-old onto the House floor. Aides were not routinely permitted there—although the children and grandchildren of Representatives were. My wife, Mindy, and I ran up to the tourist gallery in time to see Bingham introducing Nicky to Mo Udall, Liz Holtzman, and Speaker Tip O'Neill.

Then Bingham left Nicky sitting in one of those hallowed seats (with Silvio Conte, I believe) while he successfully urged his colleagues to support his amendment to cut off aid to Syria. The amendment passed and Bingham led Nicky back to us. Now 11, Nick still proudly recalls the day he "helped Bingham pass a bill." So do we.

Today, as I leave Near East Report for my new position as Washington representative of the American Jewish Committee, I think of the man who won't be there to share in my excitement. But, in a very real sense, he will be. I'll certainly never forget the Congressman who took a chance on an inexperienced kid and changed his life. The tenants in the Bronx won't forget the statesman who walked out of high-level meetings to call a landlord and tell him that he had better not raise rents again. The Soviet Jews in Israel—absorbed under the "Bingham resettlement program"—won't forget their benefactor, and especially not the old Jews living in the Jonathan Bingham Home in Ashkelon. He'll be remembered, quite simply, because, for many of us, he is irreplaceable.

Boss, I miss you already.

□ 1910

Mr. Speaker, we join the Bingham family in mourning the loss of a brilliant statesman, a giant amongst legislators.

Mr. STRATTON. I thank the gentleman for that.

Mr. Speaker, I yield to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman from New York [Mr. STRATTON] and our colleague TED WEISS for reserving this special order.

"Former Representative Jonathan Brewster Bingham, the veteran liberal Democrat from the Bronx died yesterday at Presbyterian Hospital. He was 72 years old." So wrote the New York Times on July 4. It tells the sad fact about the passing of Jack Bingham. It is cold; it is stark; it is tragic; it is true.

There is more to Jack Bingham, as we well know, in that simple statement. Oh, yes, the Times went on to write more; but I think it is important for us to pause and reflect upon all of the years that we were associated with Jack Bingham.

Much has been said about his accomplishments; they are many, and there is no question they are etched indelibly on the records on the House of Representatives of the United States of America, and will be forever recorded in the archives of our Nation.

There are several perspectives that require addresssing when talking about Jack Bingham the gentleman, the gentleman who was concerned for people. Then you searched his record and you saw that attitude reflected in

all of his conduct. Talk about Jack Bingham the effective Congressman, his accomplishments and his performance is replete with legislative achievements; many in different areas, that touched a locality, touched a nation, touched the world.

Some of those achievements have been mentioned already; the War Powers Act: how critical a piece of legislation that was. The Soviet Jewish Refuge Assistance Act: how that touched an individual who was thusly affected and needed that assistance. The Nuclear Non-Proliferation Act, in a time when there was controversy and concern over the world.

These are just lines, but we transform them, have them apply in human terms to the universe in which we live and we have to conclude, clearly, that here was a gentleman and a colleague of ours that we could so proudly call a colleague in this very distinguished body that we hold so dear, and dear to us was a gentleman of extraordinary character and depth and effectiveness.

Reference was made to the David and Goliath performance. I recall it. I was not involved in politics at the time, but it was heresy to even contemplate that a Jack Bingham could unthrone the omnipotent Charles Buckley, but he did it. It was more than just defeating an individual; clearly it was more; BOB GARCIA made reference to its real, full impact, and lasting impact; it made it possible for people who desired to participate in the political process to come forward and not be constrained in a monolithic, Democratic Party in the Bronx that picked and choosed according to the whim of an individual. The bosses ruled and reigned supreme.

I know that if that situation existed today neither BOBBY nor myself would be in the Congress, and others would never have achieved the position they have in public life. He opened the door. He made it possible for people to have genuine opportunity to participate in the political process.

He was clearly a unique political figure. He was a man who viewed politics as a vehicle to advance virtue. A man who viewed politics and principle as being inseparable. He did not merely advance causes; he championed them. Big difference.

He did not wait until it was politically profitable, or until the uncertainty of the issue was clear; he had feelings about an issue and led the parade, irrespective of the consequences.

There is something else that has not been mentioned: His relationship to his constituents, and his staff. His staff revered him, and still do. That is an important quality; it tells so much about an individual.

Long before I entered politics, I knew the people in the Bronx would talk about Jack Bingham, before I even knew Jack Bingham. His name was legendary, his friends were legion. That told you something. That told a great deal if you would pause to think about it. Most people, I guess in more cases than this, take their Congressmen for granted.

I know his passing leaves many individuals with a void, because their whole political involvement whether it was active or latent, was an association with an individual; in this case Jack Bingham. I know I have spoken to so many who regret deeply his passing. I spoke to Jack after he left, and I would ask, "Is there a life after Congress?"

Of course the answer was yes; I knew he was involved in a number of causes and I knew he would be, teaching and the like, and he was happy doing it. I think the last time I appeared on the stage with him he was playing his violin, at Le Moyne College in conjunction with a pianist. I think it was the first time I ever heard him play.

A violin: What a strange instrument in this day, but I reflected back when violins were played in almost every household, and it made one feel warm, because it made you feel and look back upon a life, a different life, a warmer life, a closer life; and he kind of preserved that tradition.

Many things have been said about Jack, and many more will be said. All I can say is that I served with him. I respected him deeply. We did not always vote together; but I guess we voted together more times than we differed. I know we did. One would have to admire his talent in this House and admire him as an individual.

It has been said several times—and it will be said again—that he was a wonderful husband and he had a most extraordinary wife. That seems to be unanimous. You know, after a person dies, we speak to each other; and the stories are told, stories that have heretofore been untold, and the accomplishments of an individual heretofore went unheralded.

□ 1920

And we learned more and more about the kind of man that Jack was, and his family.

Well, clearly his family was an extended family, more than just his wife and four children and grandchildren. They were his staff, his dear friends, and others. And you could see it.

One day I visited, having been invited to his home in Riverdale one summer's day, where he would have an annual reception. There you saw people from everywhere, from every walk of life. It was just a comforting notion to know that people like Jack Bingham, who although patrician in appearance, was no less plain and humble and warm than any other person that I have met in my life. It is said that life should be measured by its breadth and not its length. And if we use that criterion with Jack Bingham, his was a very rich and rewarding life indeed.

He inherited a tremendous estate, spiritual, political and intellectual estate, and he leaves a legacy of even superior worth to all of those who loved him and respected him and revered him.

I thank the gentleman for this opportunity.

Mr. STRATTON. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding.

Mr. Speaker, I want to express my appreciation to the gentleman for this opportunity to participate in the special order.

I want to express the enormous sense of loss that I felt when I received the news of Jack Bingham's death, and I want, too, to extend my condolences and deepest sympathy to June and to the entire Bingham family.

Over the 17 years that I have served in public office, I have encountered many beautiful people, idealistic, thoughtful, committed individuals. But there is no one I have ever met for whom I developed a deeper sense of absolute trust and respect. Jack Bingham was a very special person, with a special sensitivity, a special gentleness, a special ability to touch our humanity.

I felt very privileged to have had the opportunity to know this man and to work with him.

One of the best decisions that I think I have ever made was to become a member of the Subcommittee on International Trade and Economic Policy of the Committee on Foreign Affairs, chaired by Jack Bingham. I sought membership on his subcommittee not because of any prior involvement of my own in the subject matter of the committee's jurisdiction but because I was wisely counseled by many of my colleagues on the Committee on Foreign Affairs that there was no chairman from whom I would learn more than from Jack Bingham.

And I was not disappointed. Jack Bingham became a very real personal inspiration for me. His vision of the more just and more peaceful world formed all of his actions and prompted his involvement in those issues that are to this day of truly universal significance; the issues of nuclear war, nuclear energy, population, war and peace.

It was through Jack Bingham that so many of us in the Congress came to understand the enormous dangers attendant upon the spread of nuclear weapons and nuclear technology to more and more nations. It was he who

provided our leadership in the effort to halt the spread of the nuclear weapons and nuclear technology. There are few Members who can claim greater credit for jogging the consciences of policymakers on the issue of nonproliferation, for expanding our education on the critical security significance of this question. He was, of course, the author of the most important nonproliferation document since the Atomic Energy Act of 1954, the Nuclear Nonproliferation Act of 1978.

But there were so many other ways in which Jack made his commitments manifest. It was not only through his service in the Congress, it was before entering the Congress and subsequent to his service in the Congress that Jack Bingham continued to serve his Nation and the world community.

More recently, his involvement in the area of population has been important to many of us who are deeply concerned about the trend of population growth around this world of ours.

Jack was always soft of voice but resolute in his convictions. He was a visionary, and he was extraordinarily courageous. He was one of the least personally ambitious public figures I think I have ever known. It was precisely because of the universal recognition by his colleagues that in fact was his deep commitment to the vital issues of the day rather than personal ambition which motivated his activity, that he commanded such respect within this body and indeed among all who had the privilege of working with him.

His voice will be sorely missed by all of us; his legacy will be lasting.

I thank the gentleman.

Mr. STRATTON. I thank the gentleman for his contribution.

I yield to the gentleman from Pennsylvania [Mr. KOSTMAYER]. Mr. Speaker, it is a little hard to make the selections here. We have so many people here, but that is the measure of the man that we are honoring.

Mr. KOSTMAYER. I thank the gentleman.

Mr. Speaker, I will be very brief.

Mr. Speaker, I am not a New Yorker, and I was in fact not a close personal friend of Jack Bingham's, and I am certainly not a senior Member who had served for a long period of time with Congressman Bingham. But I wanted to speak ever so briefly about an area of his work which I felt was very important and which I knew that he felt was so important, an area of his work and a contribution that he made which knew no barriers or boundaries, not limited to his congressional district or to the Bronx or to the city and State of New York or indeed to our own country. It was an area of work which dealt almost exclusively with people who were not residents of our own country but who were among the poorest people of this planet, people in the Third World, in Africa, in Asia, and Latin America. It was, of course, the work of the international family planning of population assistance to which he dedicated such a great portion of his life and his career in the Congress and which he continued to be active in even after he left this House.

I can remember on those occasions when he called me as a member of the authorizing committee to cajole and push and press and prod for additional fundings for, I think, one of the most important causes which we were involved in as Members of the House.

I thought and have always thought how odd it was that one so privileged, so patrician, really, would be so deeply involved in an area which means so much to poor people, to underprivileged people, to people who have so little and who will never be in a position to return the favor.

The late President Kennedy once said, "To those of us to whom much is given, much is also asked."

Indeed, much was given to Jack Bingham but much was also asked and indeed he gave a great deal. He knew that, unless we are able to alleviate the suffering and the poverty that afflicts people in the Third World, that the chances for world peace would remain, as I think they do today, so distant and so dim.

Pope John XXIII once said that in a world of want there can be no peace. Congressman Bingham knew that in a world of want there will be no peace, that these issues are terribly important. And while they may not be popular at home, they are important issues for us to be concerned with. There are millions of people in the world, poor women especially in the Third World, who will benefit today as their families do, from the work of the International Family Planning that Jack Bingham was so responsible for.

So, while they cannot be here to honor him or to honor his work, we are here to do it for them. I am privileged to be a part of this special order and to pay tribute to the late Congressman Bingham.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Speaker, it was with deep sorrow and great surprise I learned of the death July 3 of former Congressman Jonathan Bingham of New York.

I had the great pleasure and privilege of serving with Jack Bingham on the Foreign Affairs Committee, and during Jack's last 4 years in Congress, I served as the ranking Republican on the International Economic Policy and Trade Subcommittee, which he chaired.

Working with Jack on that subcommittee, I came to know and respect his strong desire for improving America's competitiveness in international trade while seeking to preserve America's national security interests. Even though we served on opposite sides of the aisle, and often differed, our subcommittee activities seldom became mired in partisan, political posturing, but rather it was a forum for reasoned, deliberate consideration of economic and trade issues that affected significant American foreign policy and national security interests. Whether we debated export controls, nuclear nonproliferation, or trade promotion, Jack Bingham's leadership was always impressive, and his willingness to treat opposing views fairly and with respect won him the admiration of the minority members of his subcommittee.

I remember particularly the lengthy consideration of legislation amending the Export Administration Act, which was a highly complicated, technical piece of legislation. Jack Bingham was extremely interested in making changes in the law which would put the United States on a more equal footing with our trading partners who competed with us in high technology trade. In my efforts to support these changes, I was also concerned about protecting U.S. national security interests which I believed might be adversely affected by some of the proposed changes. All during the debate and markup process, Jack Bingham was thoughtful and receptive to my concerns. I believe the final, successful passage of the Export Administration Act of 1979 was attributable to Jack's expert leadership and to his willingness to address our concerns about that legislation.

In my capacity as ranking member on Jack's subcommittee, I also had the privilege of traveling with him on a study mission to China. Our discussions with Chinese officials regarding trade and nuclear issues offered significant opportunities to advance relations between our two countries. The study mission also offered me the opportunity to see Jack Bingham in an unofficial role as well. His sense of humor and love of music was not readily apparent to those of us who worked with him in the Halls of Congress. But in the camaraderie of traveling together, Jack's gracious style and easygoing manner made a working travel experience an enjoyable one. I am sure no one will forget his spontaneous participation in our group sing alongs in China. It was a remarkable display by a remarkable man. It was also a time shared with his wife, June, who is here today. Our tribute to Jack is also a tribute to June, for she as much as Jack carried out the sense of dedication to duty and love of country that was so reflected in Jack's career

in the Government, whether in the legislative or executive branch.

Norma and I extend our deepest sympathy to you June, and offer to you and your family our condolences on the loss of Jack. We know the loving memory of him will give you strength and carry you forward.

I thank the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman very much for yielding.

I also want to thank him and my other very good friend from New York [Mr. WEISS] for arranging this special order.

I always knew how much Jack Bingham meant to me, but I must confess that it was not until this special order this evening, after listening to so many of our colleagues pay tribute to Jack, that I fully understood and appreciated how much he meant to the other Members of the House as well.

Jack Bingham was a giant. He was the political equivalent of a California redwood.

In a Chamber with 435 Members, he towered in stature, not just physically, but personally, over almost all of the other Members of the House.

I remember after I was first elected to Congress back in 1974 Jack was one of the first people with whom I consulted about which committees to serve on. He perhaps more than anyone else was responsible for a decision I have never regretted, to seek an assignment to the Committee on Foreign Affairs.

Perhaps he regretted it, since I served with him for many years on the committee, but I know that I never have.

He was someone for whose judgment I had the greatest respect. I agreed with him on almost every issue. So long as I serve in this House I know that I will never forget him because in the years when he was a colleague of ours, whenever there was a vote and I would come into the Chamber, usually from those doors over here [indicating] which those of us who still have offices in the Longworth Building tend to come through, the very first thing I would do upon entering the Chamber was to look up at the board to see how Jack Bingham had voted because I wanted to know how he had voted before I voted.

□ 1935

Now that he is no longer with us, now that his name no longer appears on the board, I often ask myself when I have to cast a difficult vote when I am not sure what the right thing to do is how Jack Bingham would have voted if he had still been a Member of the House.

I was wondering listening to the other Members who spoke what it was exactly about Jack Bingham that made him one of the most respected Members of the House, and I dare say one of the most effective Members as well. It seems to me it was not just because of his intelligence, although he was clearly one of the brightest Members of the Congress. It was not just because of his decency, although there was hardly a nicer Member of the House. It was not, I think, because of his integrity, although there was not a more honest Member of the House.

I think it was primarily because of two reasons. First, because Jack Bingham was a man of extraordinary good judgment, and I think his colleagues in the House understood that and, therefore, valued his opinion and sought it out.

But I also think it was because of another factor as well, and one which was perhaps even more important. That was that in an institution where politics and political considerations are not exactly unknown, Jack Bingham was one of those rare Members who almost invariably voted primarily on the basis of the merits of an issue.

When Members wanted to know what was in the best interests of the country, they knew that when they solicited the judgment of Jack Bingham, they would get an answer which reflected not what was in his personal political interests, but what he believed was in the best interest of America.

Oliver Wendell Holmes once said that people had an obligation to take part in the actions and passions of their time at the peril of having been judged not to have lived. I would submit that by that standard, Jack Bingham lived well. He left his mark on some of the most vital issues of the times. If there are fewer nations that today possess nuclear weapons, it probably has a lot to do with legislation which Jack Bingham, more than anyone else, secured the adoption of in this Congress. If there are fewer people in a world already suffering from the problems of overpopulation, it probably has a lot to do with the fact that Jack Bingham, more so than any other Member of the Congress, helped secure funding for vitally important population planning programs.

If the State of Israel is today secure against its enemies, and if it enjoys the strong support of the Congress and the people of our country, it is probably due to the efforts of Jack Bingham during the course of his many years in the Congress. Today it is rather fashionable for Members of Congress to routinely support the State of Israel. That was not always the case. I know it always had a very special meaning to me to see someone like Jack Bingham out front fighting the good fight on behalf of our sister democracy in the Middle East.

There was hardly an international issue of any significance with respect to which Jack Bingham was not deeply and intimately and effectively involved.

I was privileged to work very closely with him for several years as a member of the Foreign Affairs Committee. I looked up to him, not just as a colleague or as a friend, but as a role model. He was truly an inspiration.

I want to say to June and to the members of his family who are here today how grateful I am to you for having shared him with us. The people of the world have lost a tribune for the oppressed. The people of America have lost a leader who embodied the highest values and ideals of our Nation. We in the Congress have lost a colleague who was among the most outstanding Members ever to serve in this institution in the history of the Republic. And I have lost a friend whom I will always remember as long as I live.

Mr. STRATTON. Mr. Speaker, I now yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding to me. I would like to commend the gentleman and also my colleague, the gentleman from New York [Mr. WEISS] for providing us this opportunity to reflect in sadness, but also in great respect, on Jack Bingham's passing.

I am a Member of Congress who is new and came to Congress the year after Jack Bingham left. My greatest sadness is not having had the opportunity to serve with him for all of the reasons that my colleagues have so eloquently expressed, the great grace and dignity and leadership and integrity which he brought to this place.

I am here to speak especially because, in addition be being a great New Yorker, Jack Bingham was a son of New Haven, a son of Connecticut, out of the town that I represent quite proudly today. I like to think that some of those virtues that he carried with him all through his life and all through his service on the national scene were in part due to his rearing in the town of New Haven, which has so many great institutions, and among them Yale University and Yale Law School. I am proud to be a graduate of Yale Law School, and it always makes me proud to know what kind of champion of what is good and right in the world to have a son of Yale Law School like Jack Bingham.

He is sorely missed by all of us here, even those who did not serve with him, for all that he brought here.

I am a friend and a colleague in the legal profession of his son, Tim

Bingham, who is still in the New Haven community and is a leader there and with them I have the pleasure of working with right now on a project that Jack would be and was, I am sure, proud of, a program called Connecticut Hospice. It needs some help in the legislative process this year, and Tim and I are working together on that.

The legacy that Jack has left behind is one that we all continue to share and that lives even in his passing. It is the legacy of a reformer, first and foremost, a person who was an idealist and who would fight for his ideals and was willing to swim against the tide. That is something that not all do, in fact few do. He did it with such grace and effectiveness.

There were his contributions in the area of the War Powers Act and nonproliferation. The gentleman from New York remarked about his leadership at an earlier time when it was not so popular to stand up an stand strong in support of Israel. There was his work on population control. There was his work on handgun control where he did not realize the successes he sought, but some of us still struggle hoping that there will be a brighter day in that area. There was his work in the area of campaign finance reform, hoping that election to Congress would be something that would not become the province of the rich or the captive of those with great resources.

Those are the kinds of things that live on beyond him and that those of us who so much respect his record can honor his passing most by working to continue to achieve.

□ 1945

Mr. STRATTON. I thank the gentleman for his contribution.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 60 minutes.

Mr. WEISS. Mr. Speaker, I yield to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. I thank the gentleman for yielding to me.

Mr. Speaker, I was proud to be a colleague and friend of Jack Bingham, and saddened to learn of his death in New York on July 3. He was a real gem in this institution. He was a forceful and tough debater of issues, but he also had about him a manner of decency and goodness and fairness.

In all our years in the Congress, I never heard him utter a harsh or bitter word about, or to, a colleague or a witness. He was a man who had a good sense of history, humor and a good set of priorities. He was a gentleman's gentleman, and a legislator's legislator.

When the time came for Jack to leave the House, he bid us farewell with restraint and grace, typical of his style throughout his 18 years in this House.

Jack was a lawyer, journalist, a military intelligence officer, a diplomat, administrator, and an author. His father, Hiram Bingham, was a U.S. Senator from Connecticut and provided Jack with an early introduction to public life.

Jack was a Member who commanded attention when he spoke. And he didn't make a lot of speeches—his was not the work of the headline-grabber, but that of the carefully reasoned and thoughtful contributor to the great debates of his time.

Jack Bingham made a difference. He was one of the Members instrumental in environmental revelation, cracking the old seniority system, and he was one of those people to whom the rest of us looked to for guidance.

To his talented wife, June, one of my favorite ladies in the congressional family, and his fine family, I share in their pride in the life of a great man and a good man, a fine and caring public servant. Of his generation of leaders, truly he was one of the best and the brightest.

We use the word distinguished in this House quite frequently; but of whom can it be said more truly than of this man, whose motives never were questioned by anybody, no matter how one might disagree with him; a straight and honorable, a high minded and principled man.

Mr. Speaker, I also insert in the RECORD a tribute to Jack Bingham written by his former legislative assistant, M.J. Rosenberg, reprinted here from the Near East Report.

JACK BINGHAM REMEMBERED

(By M.J. Rosenberg)

I recall thinking that I would never get the job. Jonathan Bingham was one of the most respected and influential members of the House of Representatives. I was in my mid-twenties, with no Capitol Hill experience, and—worst of all—I was neither a Yale graduate nor a lawyer. I had to screw up all my courage for my interview with the Connecticut-raised Bronx representative who was looking for someone to fill the position of chief legislative assistant (L.A.).

Bingham's top aide, Gordon Kerr, ushered me into the Congressman's presence. I was well-prepared for any legislative query he might throw at me. He looked intimidating. Almost six-and-a-half feet tall, slim, with snow white hair. He could have been elected on his looks alone! He told me about his political views. He was a liberal Democrat, a battler for equal opportunity for blacks and women. He was an outspoken opponent of the Vietnam war.

But his real love was foreign policy and his special passion was Israel.

Part of the reason for that was political. He had many Jewish constituents. But he and his wife, June, had been ardent Zionists in the pre-state era. They had first visited the country in 1950.

Bingham recognized that as a Mayflower-descended Protestant he could be especially helpful to the Jewish state on the Foreign Affairs Committee. He had unique credibility when he worked to put the foreign aid bill over. His Jewish colleagues—and especially his friend Rep. Ben Rosenthal—recognized that and wisely let the Connecticut Yankee take the lead. In his time, Bingham helped enact aid bills worth billions of dollars in assistance to Israel.

He asked me about my Jewish and Zionist background and said that the letter of recommendation he had received from AIPAC's founder, I.L. Kenen, carried a great deal of weight with him. After ensuring that I was knowledgeable about—and shared his views of—the environment, affirmative action, and government programs to help the poor, he offered me a job. He said that I, like his previous L.A.s, would serve for just one year. "In a year's time you can learn a great deal up here. You may even have an impact, in a small way."

After six months, Bingham asked me to stay another year. I stayed another seven and, if he hadn't been unfairly gerrymandered out of his seat, I would never have left.

Bingham, himself, was a civics textbook image of a Congressman. He worked long hours. He studied committee reports. He regularly disregarded the advice of staff members who urged a vote for an ill-conceived bill because it would score a few points back home. Personally, he was wonderful to work for—even-tempered, fair, generous. His staff was loyal to him and to each other. He was thoughtful. On a half-dozen occasions, he took this awe-struck aide to the White House. I'll never forget how he introduced me to President Ford. "Mr. President, you know my L.A. Mike Rosenberg?" Later he used the same approach with President Carter—and with Menachem Begin and Anwar Sadat. On the way back to the Hill, he would tease me about my "uncharacteristic shyness today."

But my favorite memory of Jonathan Bingham, who died last week, concerns my older son Nicky. Bingham adored him—and Nicky loved Bingham—and one night he insisted on taking the five-year-old onto the House floor. Aides were not routinely permitted there—although the children and grandchildren of Representatives were. My wife, Mindy, and I ran up to the tourist gallery in time to see Bingham introducing Nicky to Mo Udall, Liz Holtzman, and Speaker Tip O'Neill.

Then Bingham left Nicky sitting in one of those hallowed seats (with Silvio Conte, I believe) while he successfully urged his colleagues to support his amendment to cut off aid to Syria. The amendment passed and Bingham led Nicky back to us. Now 11, Nick still proudly recalls the day he "helped Bingham pass a bill." So do we.

Today, as I leave Near East Report for my new position as Washington representative of the American Jewish Committee, I think of the man who won't be there to share in my excitement. But, in a very real sense, he will be. I'll certainly never forget the Congressman who took a chance on an inexperienced kid and changed his life. The tenants in the Bronx won't forget the statesman who walked out of high-level meetings to call a landlord and tell him that he had better not raise rents again. The Soviet Jews in Israel—absorbed under the "Bingham resettlement program"—won't forget their

benefactor, and especially not the old Jews living in the Jonathan Bingham Home in Ashkelon. He'll be remembered, quite simply, because, for many of us, he is irreplaceable.

Boss, I miss you already.

Mr. WEISS. Mr. Speaker, I thank our distinguished friend for his very eloquent and moving statement.

Before I yield to others of our colleagues, let me just express my appreciation to the distinguished dean of our delegation, Mr. STRATTON, for joining with me in calling this special order and to all of our colleagues for their participation.

The outpouring of respect and love that we have all heard and witnessed this afternoon I think gives some small indication of the regard in which Jack Bingham was held.

Mr. Speaker, I am pleased to yield at this time to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. I thank the gentleman for yielding to me.

Mr. Speaker, I wisn to briefly comment on the last statement given. I have never heard a more true statement by a greater soulmate of a Member of this body. The gentleman from Arizona was giving a eulogy that could just as easily have applied to himself. No two greater men have served in this body.

Mr. Speaker, to reminisce about Jack Bingham is to recall, above all, two traits: his integrity—unwavering uncompromising; and second, his capacity to rise above the hurly burly of politics and focus on the larger issues of our time—arms control, the environment, population growth, the rule of law.

Jack was never knee jerk. He understood history and the difficulties of choicemaking. He was prepared to deal with the real world because he cared for the ideal.

I had the privilege to serve with Jack on a private foundation board—Jack considered it a club—the 20th Century Fund—as well as in this body.

As a midwesterner working with a son of New York, I always associated Jack with that patrician sense of "noblesse oblige" which too often is parasitic but which in Jack's case uplifted and energized. Jack was a leader by example as well as birth; by wry humor as well as substance.

A millennium and a half ago in "The Consolation of Philosophy," Boethius noted:

> If there be any good in nobility, I believe it to be only this, that it imposes upon those which are noble, that they should not suffer their nobility to degenerate from the virtues of their ancestors.

Within the context of legalitarian American traditions, Jack Bingham represented for this House the noblest of noble values.

As Alexander Pope wrote to Mr. Addison:

> Statesman, yet friend to truth! of soul sincere,
> In action faithful, and in honor clear;
> Who broke no promise, serv'd no private end,
> Who gain'd no title, and who lost no friend.

Jack Bingham stood out among those who stand out.

We, of this House, extend to June and his family our heartfelt condolences.

Jack will be much missed—for what he stood, for what he symbolized, for what he was—a colleague and friend.

Mr. WEISS. I thank the gentleman for his statement.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. I thank the gentleman for yielding to me.

Mr. Speaker, I commend the gentleman in the well, Mr. WEISS, and our colleague, Mr. STRATTON, for taking this time to pay tribute to one of the finest persons it has ever been my privilege to know let alone associate with in the work of the world.

As I listened to the many eloquent and interesting statements of my colleagues about this truly great American, I could nevertheless still feel that words are really inadequate to convey the sense that we all had of this really great individual.

I suppose one could say truthfully that he came as close to the platonic ideal of a political leader or a statesman of anyone we have associated with. A person of great intellectual force, of great strength of character, of nobility of spirit, of warmth, of feeling, and in every sense, the kind of person that we could look up to and who inspired, who was a leader by inspiration and force of mind and character and not merely by happenstance.

He was also a particularly American statesman. He lived up to the ideal that I thought was represented by the Founding Fathers, a person who understood history, a person who understood the way the world works, and yet, who also understood the finest ideals of our country. Someone who, in the words of Abraham Lincoln, "Called forth the better angels of our nature." Because he himself shared in the highest sense the ideals of our country; the finest ideals.

Even then those words cannot really convey the kind of person that we were so fortunate to have had in our midst.

□ 1955

Perhaps I can express it in a different way. Before I came to Congress in 1971, I read frequently in the paper about this Member of Congress, Jonathan Bingham, who seemed to be in the forefront of the good causes for peace, for ending our involvement in Vietnam, and at that time for reforming our rather antiquated institutional procedures. I thought, boy, this gentleman must be a really amazing person, and when I came to Congress, I met a person of great modesty, of great intellectual integrity and good judgment, but one who had no pretensions at all.

Then I found myself on a little reform task force that met once a week for breakfast and was starting the effort to try to reform our seniority system and give the caucus more say-so in the inner workings of our party. And here was a person who was unpretentious and modest but whose ideas cut right through to the essence of things, and with Dick Bolling and some of the other leaders who emerged from that period, we did accomplish those reforms.

I also found, as a member of the Organization of Members of Congress for Peace Through Law, now known as the Arms Control and Foreign Policy Caucus, that Jack Bingham was not only a person of tremendous breadth of understanding of the important issues of the struggle for a more peaceful world and a more humane world but a person who understood the mechanics and the politics and the human relations factors that one needs in order to make progress in this area. So to me he was an ideal Member of Congress and an ideal leader in our country.

I was also privileged to serve with him and with my distinguished chairman, Congressman UDALL, for 12 years on the House Interior Committee. I do not think that many people realize that in addition to being a political reformer and a leader in foreign affairs, he was also a very strong environmentalist. We have mentioned his role in nuclear issues, but he was also one of the leaders in getting strip mining control legislation, in getting urban recreation areas and urban considerations in our recreation programs, and in getting historic preservation, including the authoring of the National Historic Preservation Act amendments, along with me and several other Members. He led the efforts in the Interior Committee to create the Eleanor Roosevelt National Historic Site, Wallkill in Hyde Park, NY, which was authorized by Congress in 1977, and he supported very vigorously the creation and the implementation of the land and water conservation fund legislation, as well as legislation for many individual park and wilderness areas in other places.

I always had the feeling that here was one Member on whom I always can count to support good environmental legislation, and I can second what Mr. UDALL said about his outstanding record and the way we looked up to him on that committee.

So, Mr. Speaker, I guess I have said about all one can say in a brief span about this really great man, this great statesman, this great patriot, this

great humanitarian, except one other thing: He was also a great friend. It also has been my privilege in recent years to have the opportunity to associate with his wonderful wife, June, and I am looking forward to continuing that association in the years to come.

Mr. WEISS. Mr. Speaker, I thank the gentleman from Ohio [Mr. SEIBERLING] for his eloquent statement.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding, and I thank both gentlemen for holding this special order for this very important tribute to a very important man.

God does not make the piece of cloth that Jack Bingham was cut from very big. There are not that many swatches on that piece of cloth. I think that JOHN SEIBERLING comes out of that swatch, I think that MOE UDALL does also; I think only a small handful of people who serve in this place do.

It struck me when I first ran for Congress 10 years ago that there was a point in my race when I said to myself, "I am going to get out of this race. I can't serve in Congress. I am only 29 years old. My father is a milkman. Who am I to go down there and serve where Henry Clay and Daniel Webster once worked?"

Then another guy came over to me and said, "Who do you think those guys are down there anyway? Do you think you are going to be meeting with Daniel Webster and Henry Clay every single day?"

So I stayed in the race and I won. Then about 6 months later the same guy came up to me and said, "Well, have you had lunch with Hank or Dan yet?" And I said, "No."

He said, "I mean Henry Clay and Daniel Webster. Have you met them yet down there?"

I said, "Well, you would be surprised. You know, these guys aren't who you think they are at all. There really aren't that many Daniel Websters or Henry Clays there."

When I think back now, after 10 years in this place, I would have to number just a few people that I would be able to put in that rarified air, that special category of statesmen, those who place history before themselves, who place issues before the next election, and I would have to put Jack Bingham at the forefront of that very small and distinguished group of people.

Like STEPHEN SOLARZ, when I walk into this Chamber for rollcalls, I look up at the board to see how Members vote. You want to know how Members are voting on an issue, you want to know how Members from your delegation vote, and you want to know how Members who always vote the opposite of you are voting. And for me, when I looked up at the board, there was always one other name that I looked at, and that name was Jack Bingham because I always wanted to know what the right vote was as well, what the vote of one man was who was divorced from any consideration as to whether it would help him or hurt him in getting reelected, whether someone had twisted his arm, or whether this sort of thing was completely ignored. This was a man who was just voting principle. That is what Jack Bingham was to me up on that board, and I think that is what he was to most of the Members who came here tonight to pay tribute to him. He was a very special person, a very distinguished man to be sure, a man who has left a tremendous legislative history and a man who has also left an ideal of what a Congressman or a Congresswoman should be and can be if he or she wants to be that. He was somebody I looked up to, somebody that I believed was a mentor, if not on a regular basis, by example. I knew I was watching someone who had a style and a grace and a character that separated him from not just ordinary people but ordinary Congressmen.

I worked with him on a number of issues. I served on the Interior Committee with him for 6 years until he retired. I worked with him on nuclear powerplants, on nuclear safety, and environmental issues, but I did not really come to know him until 1980 when we worked together on the issue of the sale of 48 tons of uranium to India. We worked together over several months on that issue, he, as the mentor, and I, as the student learning from him. I was learning not just about the issue itself but the way in which this issue can, in fact, be presented to Members so that they can understand it.

Well, we lost that issue ultimately late that year, in 1982, the Presidential election politics, although he was successful in shepherding it through the House. And I thought it was coincidental and ironic but a reflection of the prophetic powers of Jack Bingham that yesterday the front pages of the Washington Post carried the story that Pakistan is now on the verge of detonating a nuclear weapon. That to some people is still a little note, but it is something that Jack Bingham was warning us of when we were giving aid to India with uranium in 1980, and we are just now taking the next step, with Pakistan about to joint the nuclear club. And this will eventually, in my own opinion, finally play out a scenario which will unfortunately have given the truth to what Jack Bingham was warning us about.

□ 2005

The other issue that I spent a great deal of time working with him on was the nuclear freeze issue. He and I were the primary House sponsors of that bill. It consumed almost all of 1982 for me and I think a great deal of 1982 for him in his last year in Congress. I knew that just by dint of his personal attachment to that issue that not just the Foreign Affairs Committee, but Members on both sides of this aisle had to take seriously an issue which had not been debated in this Congress seriously in 25 years. It came from being an issue which was a back burner, an undiscussed and almost impossible to comprehend issue, to one which was debated on the floor of this House with Jack Bingham's leadership leading the fight, quarterbacking the debate. That was understood by every Member of the Congress and by the public in this country.

For me his legacy is such that if he did nothing else, he made that contribution to educating Congress and the country as to the importance of that issue and the issue of nonproliferation of nuclear weapons, then he would have done more than just about any other Member that I have served with here.

But he was more than that to me and I think most of us who came here tonight. He was man of unparalleled principle, of commitment to excellence and commitment to doing right. For that I stand here and offer my tribute to him and to his family, because he was a rare man. He is missed by many and will be forever.

I believe that as long as the Nuclear Non-Proliferation Act stands on the books of 1978, every President in this country and every country in the world will have to get around that act in their efforts to lead this world to destruction. John Bingham's legacy will be embodied in that act as he tried to leave that legacy, that law, which helps to serve as the last warning to those on this planet who would destroy it and Jack Bingham for that reason I believe will go down in history as a great man.

I thank the gentleman.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his very eloquent statement.

I am pleased to yield to our very distinguished friend, the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding and I also thank the gentleman from New York [Mr. STRATTON] for organizing this special order.

I would like to spend just a couple minutes paying my last respects to Jack Bingham in the presence of his family.

I came to the Congress 10 years ago. I was assigned to the Foreign Affairs

Committee. I was thinking about which subcommittees I should go on and a wise counselor said, "I'm not sure of the name of the subcommittee, but you ought to choose your subcommittee on the basis of who the chairman of the subcommittee is," and that person recommended that I go on Jack Bingham's subcommittee. I followed that advice. It was excellent advice indeed. I had the privilege of serving on the Subcommittee on Economic Policy and Trade under Jack's leadership for 4 years before I moved on to the Ways and Means Committee.

I must say that it was a genuine privilege for me to be on that subcommittee and to have Jack Bingham serve as my mentor as I learned, tried to learn how to be a good Congressman.

I can add relatively little to the descriptions of others who have gone before me this evening. Jack preeminently was a gentleman and a gentle man. He was a principled person, as others have said. He was a scholar. He had an understanding of the world's history and that of our Nation and of the lessons of history for our current problems.

He was a man of reason, a man of patience with the newest and most inexperienced Members of Congress.

He was an activist. I smile when I say that because it seems almost a misnomer to refer to Jack Bingham as an activist, for he never ever to my knowledge was seen bustling around the Capitol or bustling around the House Office Building the way that some people do who consider themselves activists, and yet in terms of his accomplishments he certainly would have to be considered as one of the preeminent activists of this body.

He was a quietly effective persistent activist on a whole range of issues that were outlined by my distinguished colleague, the gentleman from Ohio, JOHN SEIBERLING.

Few people in the history of this body could match his record of accomplishment in substantive legislation. He was, as others have said, a role model. He would smile if he could be here to understand how many different people he served as a role model for. Certainly I was one of those and I think I am a better and a better Congressman for having had him as a role model.

As I remember Jack Bingham, I am reminded of the quotation of Robert Kennedy, who said, "Our future may lie beyond our vision, but it is not completely beyond our control. It is the impulse of America that neither fate nor nature nor irresistible tides of destiny will determine our lives; rather, destiny will be determined by the work of our own hands matched to reason and principle. There is pride in that," said Robert Kennedy, "even arrogance, but there is also experience and truth. In any event," he said, "it is the only way we can live."

That is the way Jack Bingham lived, a man of principle who believed in reason, who believed in activism and who made a great many contributions to this body, to the Nation, and to the world.

I thank the gentleman.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, we share these moments with June, and with June and Jack's children, children by marriage, grandchildren and brothers, in a feeling of respect and admiration and love that is almost palpable. The nice part about it, of course, is that we had sort of a trial run of this in a late fall day in 1982 when Jack and June were in the galleries as Members paid their respects to Jack upon leaving this body after 18 years of outstanding service. He was able at that time to get some idea of how we felt and thought about him.

For me Jack Bingham was a friend, a colleague, and a constituent as well. In all, he was a very, very remarkable human being.

I have always felt a special responsibility in my service in Congress since Jack left the House, because in a very real sense my continuation in this body I owe to no small extent to Jack's generosity of spirit. After the 1980 census it was determined that we would lose five Members from New York State, three from New York City. Before it even became clear as to how those lines would be drawn in 1982, Jack made it clear publicly that if his district and mine were in some fashion to be combined into one district, that he would retire rather than engage in and become party to what could become a divisive political campaign.

I have spent almost 35 years in politics and at various levels of government. I have not only never been the beneficiary, I have never witnessed or heard of another act of similar graciousness.

This generous and rare act, by no means isolated, exemplified the grace for which Jack Bingham was known. It was this quality which made him so respected, admired, and beloved by constituents and colleagues alike, by those who shared his political views as well as by those who opposed them.

His concern for humanity and his commitment to America's ideals were not retired when he left Congress. Jack called me in Washington the day after the recent bombing of Libya to tell me that he had heard an interview in which I said that I thought the attack was a great mistake. He said that I would probably receive a fair amount of criticism in the immediate aftermath of the event, but he felt confident that as time went by the American people would conclude that the bombing had been the wrong thing to do.

That was one of our last conversations, but it was typical of Jack. He knew how important and reassuring his call would be to me. Just as importantly, it demonstrated his continued active involvement with the great issues of the day. Indeed my current campaign literature proudly carries his statement of endorsement for my reelection to Congress.

I hold another very heavy responsibility in that I represent many of the constituents that Jack represented. I know that the kind of job that I do is frequently compared to Jack's work as the Representative of the district in Bronx which we now share. I try to live up to the kind of standard he set. I know that I will never quite reach it, but it is a very high and very important standard to try to reach.

It was a special honor to be a friend of Jack Bingham and it was a privilege serving with him in this body. Many of us in the House looked to him for leadership on a broad range of issues but most importantly on matters relating to nuclear proliferation and arms control.

As a member of the Foreign Affairs and Interior Committees, he was respected for his integrity and wisdom. His was a voice of reason and rationality during an uncertain and tumultuous period in this House and this Nation. The list of Jack's accomplishments reads like a summary of the major foreign affairs achievements of the last two decades and have already been detailed by SAM STRATTON and others of our colleagues.

In 1967 he was one of only 18 Members who voted to stop the bombing of North Vietnam. Two years later he was the principal House sponsor of the McGovern-Hatfield bill to end the war.

Jack was instrumental in the passage of the War Powers Act of 1973, which placed limits on a President's power to commit U.S. forces overseas in situations where they might become involved in hostilities. He was an original sponsor of an immediate bilateral nuclear freeze, and he wrote and sponsored the Nuclear Non-Proliferation Act of 1978, which placed strict control on nuclear exports.

We will all miss him; of course the members of his family will miss most on a day-by-day basis.

But I think that we will all continue to learn from him and we will certainly remember with love and affection his great achievements and his great friendship.

Mr. Speaker, I am pleased to yield to my friend, the gentleman from Ohio [Mr. SEIBERLING].

□ 2020

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to my friend, the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I cannot help but add that one of Jack Bingham's most typical decisions was his decision to defer from running again for reelection in favor of the gentleman who is in the well, because Jack Bingham understood the kind of person that the gentleman in the well is, and the kind of person Jack Bingham was.

One of our colleagues this evening remarked, not on the record, that one felt that he could never do an unworthy act in Jack Bingham's presence. The gentleman in the well has as far as I know never done an unworthy act, and is the kind of person who is carrying on in Jack Bingham's tradition. I think it is only just that we recognize that.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his kind words.

Jack, we know, enjoyed immensely those relatively free years which were his after he left here; years spent with his family and friends back home in Riverdale, years which he was able to devote to the writing, teaching, composing, and violin playing which were sometimes neglected of necessity during his many years in civic life.

He was an accomplished musician and composer, he enjoyed performing with his family before friends and neighbors, and he was a beloved member of the Bronx community.

Unhappily for all of us, those years have been cut short, but we have wonderful memories of him, and we will carry them with us all of our days.

Mr. RANGEL. Mr. Speaker, I rise to honor our former colleague, Jonathan Bingham, who passed away on July 3 in New York City. I would like to commend my colleagues, TED WEISS and SAM STRATTON, for calling this special order.

Jack Bingham was one of the finest public servants to represent New York. During his nine terms in the House of Representatives, Congressman Bingham gained a reputation as a major mover and shaker. He was instrumental in passing the War Powers Act of 1973, implementing the Nuclear Non-Proliferation Act of 1978, and abolishing the pro-nuclear Joint Atomic Energy Committee.

Known as a man of deep conviction, Jack opposed conducting business as usual with right-wing dictatorships. He also fought long and hard to reform the seniority system, and eventually was successful in pushing through a proposal to elect committee chairmen by secret ballot. An outspoken supporter for Israel and the right of Soviet Jews to emigrate, he wrote the Soviet Jewish Refugee Act of 1978.

Jack's long career as a public servant began during World War II, and spanned all levels of government. Between the times when he practiced law in New York, he served in the New York State government, the State Department, and the United Nations. He was a man who wore many hats, and he wore them well. It was a pleasure to know him.

Mr. Speaker, we are lucky to have men such as Jonathan Bingham in our midst. It is therefore most fitting that we have gathered today to honor his memory. Let us remember his accomplishments, and strive to continue his legacy.

Mr. VENTO. Mr. Speaker, I want to commend my colleagues from New York for sponsoring today's special order on Congressman Jack Bingham.

I had the privilege of serving with Jack and benefited greatly from his expertise as well as his commitment to this body.

I served with Jack on the Interior Committee. At that time we were very much involved with the development of a nuclear waste storage policy and the export of nuclear power capabilities. Jack's expertise in foreign policy was essential at that time. His input certainly helped me and other members of the committee to develop sound and responsible national policy.

Campaign finance reform was of particular interest to Jack. Congressman Bingham recognized that until we address the Supreme Court decision of Buckley versus Valeo, any reform would be incomplete. Subject to the erroneous decision that the ability to spend money is protected as free speech, campaigns now operate under the cloud of unlimited and independent political expenditures. I was pleased to join with Jack as a cosponsor of his constitutional amendment to return political campaigns to the people and their elected representatives and I am proud to have continued this effort.

Jack left a lasting mark on our national policy and his continued commitment to this institution will be missed.

Mr. BONKER. Mr. Speaker, I want to join with the New York delegation and my other colleagues, who are among the many friends of Jonathan Bingham.

Our former colleague met the high standards of this institution and public service with dignity, and in fact set new standards which we who remain can only hope to achieve. He felt strongly about U.S. foreign policy and international relations, an area where he made his major contributions as a member of Congress. He was indeed an inspiration when it came to the issue of world peace.

Jonathan Bingham possessed many attributes as an individual and a leader. Obviously he was a skilled politician, a necessity for anyone representing a congressional district in New York. Certainly his long record of legislative achievements testifies to his ability as a knowledgeable, thoughtful legislator. But Jonathan Bingham was above all a statesman. As chairman of a Foreign Affairs subcommittee he lead congressional delegations to many countries. Always he earned the respect of foreign leaders and the admiration of his colleagues.

On the Foreign Affairs Committee, Jack Bingham was something of a role model for many of us. He served with distinction as chairman of the Subcommittee on International Economic Policy and Trade. While I now serve as chairman of that subcommittee, I cannot possibly measure up to the many accomplishments of my predecessor in that position.

As others have noted today, the list of Jack Bingham's contributions is almost endless. He was the champion of nuclear non-proliferation and author of the Nuclear Non-Proliferation Act of 1978, which placed strict controls on the export of sensitive nuclear technology. In more recent years, he led the nuclear freeze movement in the House, devoting much of his time to the prevention of nuclear war. He was involved in a variety of issues which have helped to shape this Nation's foreign policy. I will mention just a few examples of Jack's impressive accomplishments: Jack was one of only 18 Congressmen who voted to stop the bombing in Vietnam in 1967, and was the principal sponsor of the McGovern-Hatfield bill in 1969 to end the war; he authored key provisions of the Arms Export Control Act to provide for congressional veto of major arms sales; he was a major architect of U.S. foreign economic policy; he shaped American technology transfer policy in rewriting the Export Administration Act in 1979; he authored anti-boycott legislation which prohibits U.S. complicity in the Arab boycott of Israel; he was consistently an outspoken supporter of Israel; as a long-time supporter of the United Nations, he served as a U.S. representative in the 1960's and continued work on behalf of UNICEF even after his retirement from the Congress; he authored numerous other critical pieces of U.S. law, such as the International Emergency Economic Powers Act; and was a well-respected and highly regarded activist on population and environmental issues.

Jack also had an impressive list of activities over the years of public service, including the Helsinki Commission, U.N. representative, author of "Shirt Sleeve Diplomacy: Point 4 in Action" and coauthor of "Violence and Democracy" and "Pursuit of Public Health"; Board of Directors of America's Watch human rights group; the Fund for Peace, and the Population Crisis Committee. I know of no one else who has made so many contributions to this body and American public policy.

Perhaps the greatest of Jack's many contributions was his thoughtful, intelligent vision of the world which was based in a deep respect for humanity. His impressive record of leadership instilled in his colleagues a deep respect for the man and for his principles. He was a man of unquestionable integrity.

As Millicent Fenwick so eloquently stated at the time Jack retired 4 years ago, "We use the word distinguished in this House quite frequently, but of whom it can be said more truly than of this man, whose motives never are questioned by anybody, no matter how one may disagree with him; a straight, an honorable, a high-minded and principled man."

In my book, Jack Bingham was one of the few true statesman to have graced these halls. It was a privilege to have served with and under him, and an honor to have succeeded him as chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade. He was an inspiration and role model for us all.

My heart goes out to Jack's wife June, and the entire family. I hope that they can take comfort that their loss is shared by all. Though

he has departed our ranks far too early, his legacy will continue. His contributions, both in terms of legislative achievements and personal commitment to fairness and human respect, have touched all who knew Jack.

Mr. BOLAND. Mr. Speaker, I would like to thank my colleagues in the New York congressional delegation for sponsoring this special order, so that we might comment on the life of our friend, Jonathan Bingham, whose passing we now mourn.

I had the privilege of serving in the House during the entirety of Jack Bingham's career in the Congress. He brought to the House a reputation for decency and commitment to principle which was the result of 20 years of dedicated service to the people of New York and the Nation. That reputation was only enhanced by Jack's nine terms in the House of Representatives.

Jack's tenure at the State Department and at the United Nations gave him a consuming interest in foreign affairs, an interest which he further developed to the benefit of all of us through his service on the House Foreign Affairs Committee. When I think of Jack, however, I will always think of his steadfast dedication to the cause of world peace. The legislation to which his name will be forever connected—The War Powers Act of 1973, the Nuclear Non-Proliferation Act of 1978; and The Nuclear Freeze Resolution—are testaments to his conviction that the Congress has ample opportunity, and a clear responsibility, to be an active participant in the development of policies that promote peace, rather than war. Jack Bingham had no illusions about the nature of the world in which we live, but neither did he despair that world events could not be influenced by people who understand the terrible dangers posed by nuclear weapons. He never stopped trying to positively influence those events; to change the direction of those policies that he thought did not make sense in an era of nuclear arms, international unpredictability, and frequent tension, and in so doing, to make the world a safer place.

Jack Bingham is survived by his wife, June, who was truly his partner in his life's work, and his 3 daughters, son, 5 brothers, and 10 grandchildren. We share their grief at his passing, but, as sad as we are that Jack has preceded us into that which we all must one day venture, his legacy remains with us. Having accomplished the mission for which he was put on this Earth, it was time for him to move on. He left his mark on his family and on his Nation—no one could ask for more.

Mrs. BURTON of California. Mr. Speaker, when I learned of the death of my friend Jonathan Bingham during the recess, my thoughts went back immediately to the many hours my husband Phillip and I spent with this fine gentleman.

Jonathan Bingham was truly one of the most decent and principled people to grace these halls. He was an early, outspoken opponent of the Vietnam War, and was deeply involved in the reforms in the early 1970's that have made such a difference in the way this body operates.

My thoughts are with his wife June and their four children.

Mr. HORTON. Mr. Speaker, tonight I join with my colleagues to posthumously honor a close friend and revered fellow Member of the House, Jonathan Bingham. As a member of the New York delegation, I had the honor and privilege of serving in the House the entire duration of Jack's tenure, from 1965 to 1983.

Jack was among the most knowledgeable Members on the complex and controversial issues of foreign aid and reform in congressional policies and procedures. His input on these matters, particularly the latter, was especially welcomed and important to me as the ranking minority member of the Government Operations Committee.

Jack's list of accomplishments during his nearly two decade career in Congres is far too lengthy to list here tonight. He will be especially remembered, however, for his role in the passage of three important pieces of legislation. In the early 1970s, he worked to make substantial reforms in the congressional seniority system. At about that time he was also a key player in the War Powers Act of 1973, which successfully placed reasonable and responsible limits on the power of the President to commit our forces in hostile situations.

Congressman Bingham must also receive a large share of the credit for House passage of the Nuclear Non-Proliferation Act of 1978, which imposed strict limits on the export of nuclear power and nuclear technology. His tireless efforts to reduce the possibility of nuclear mishap or expansion made him a leader in the National peace movement.

Another example of his foresight on international affairs was his adamant opposition to restoring military aid to the Phillipines in 1980. His opposition rested solely on his allegation that Ferdinand Marcos' government was a right-wing dictatorship, undeserving of our support. Six years later, his dream of restoring democracy in the Phillipines has become a reality.

From his earlier years as an ambassador representing our country on the Economic and Social Council of the United Nations to his long tenure as a Congressman from the Bronx, Jack Bingham was a statesman and a friend to the people of New York.

Throughout his career, he was extremely concerned about New York. But through his position on the House Foreign Affairs Committee, he attained a leadership role in international affairs. His opinion was highly respected by Members from both sides of the aisle.

Mr. Speaker, Jonathan Bingham was a dedicated and conscientious member of this body. My wife Nancy and I join the other Members here tonight to express our deepest and heartfelt sympathies to Jack's family. His legislative accomplishments remain as a constant reminder of the contributions he made in his 18 years of representing the Bronx.

Mr. SCHEUER. Mr. Speaker, I rise today to pay tribute to the memory of a truly outstanding Congressman from New York, the late Jonathan Bingham.

I had the privilege of serving with Jack in this body for over 20 years.

As a matter of fact, we began our careers together during a turbulent period in New York City's political history.

In the early sixties, as members of the reform movement lead by Eleanor Roosevelt and Senator Lehman, Jack and I worked very closely in the effort to revitalize New York City's Democratic Party.

Those were exciting days that I look back upon with great fondness.

Jack fought the good fight in those battles and I believe his reform background had a profound influence on his career as a U.S. Representative.

As some of my senior colleagues will recall, Jack was an influential force in our own reform movement here in the House of Representatives.

In 1974, Jack was a leader in many of the post-Watergate reforms, perhaps the most important of which was the requirement that full committee chairmen be ratified by a recorded vote of the Democratic Caucus.

Outspoken in his views and unshakable in his convictions, Jack was an influential visionary in other areas as well.

He was among the first of our colleagues to recognize the threat of unrestrained global population growth, and he was an articulate proponent of international population assistance.

Jack also fought hard over many years for legislation to control the sale of handguns.

Although ultimately unsuccessful in this effort, he waged this battle in his characteristic fashion; A clear commitment to an ideal, unflagging enthusiasm, and dogged determination.

Throughout his career, his wife June was his closest confidant and a pillar of strength.

To June and her family, I offer my heartfelt condolences.

Mr. Speaker, Jack Bingham served this body with honor and distinction.

We would do well to remember his legacy as we go about our business in our offices, in committee, and here on the floor.

Mrs. BOGGS. Mr. Speaker, Jonathan "Jack" Bingham, descendant of the earliest American pilgrims, with a continuous history of service to his Nation was first elected to Congress in 1964. The son of a distinguished Republican Senator from Connecticut, he had worked for Democratic Gov. Averell Harriman of New York, and Democratic U.N. Ambassador Adlai Stevenson in the early 1960's. Having defeated a popular incumbent, he was at first denied his favored committee, Foreign Affairs, but later became chairman of its International Economic Policy Trade Subcommittee.

Jack was a diplomat in his own right who thoughtfully considered legislation and who knew how to get a bill passed without ruffling feathers and by giving others credit for his own accomplishments. In so doing, he brought honor to this House and served the cause of democracy and the promotion of peace throughout the world.

The last visit I was privileged to share with Jack, at the unveiling of the bust of Martin Luther King, Jr., in the Rotunda of the Capitol, pointed out his devoted interest in human and civil rights.

In all of his work he was aided by his able and effective wife, my friend June, a renowned author and brilliant internationalist to whom I extend my expressions of warm affection and deepest sympathy.

Mr. GREEN. Mr. Speaker and honored colleagues, it is both an honor and a privilege to speak to you about the late Jack Bingham.

When I came to Congress I was deeply impressed by the grace and talent of John Bingham. Few Members have been as devoted to the public interest as he, and I know that his loss is felt deeply by all of us in Congress.

Our former colleague was a major force in the Congress. He was a member of the Foreign Affairs and Interior Committees, and was an outspoken supporter of Israel. He wrote the Soviet Jewish Refugee Assistance Act of 1972 and was the House author of the Nuclear Nonproliferation Act. He was instrumental in the passage of the War Powers Act and was a key factor in the successful drive in 1977 to abolish the Joint Atomic Energy Committee. He was a congressional leader in the area of housing. He was one of the first to recognize the value of the Mutual Housing Concept which was proven successful both in Europe, and, through his leadership, in the United States. These initiatives, as well as the many others he authorized and promoted will stand as a testament to Jack Bingham's outstanding legislative record. He was truly a dedicated public servant.

Jack will be missed by his colleagues, constituents, friends and family, but he will be remembered for his achievements, contributions, good humor and wit.

Our Nation is lessened by his passing, but we, as his colleagues will follow his example and will always feel his great presence in Congress.

Mr. LEVIN of Michigan. Mr. Speaker, Jonathan Bingham had a deep humanitarian concern for the well being of women and children in the Third World. He believed that access to family planning was essential both to improve child survival and enhance the status of women. In and out of Congress, he patiently worked to educate U.S. policymakers on the importance of international population issues. He continued to do so, although it was controversial and some chose the path of reticence on the subject.

As chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade:

He held hearings in the spring of 1980 to highlight the critical role of population in development.

In September of 1980, he held 3 days of hearings on Depo-Provera to establish the need for new, improved, and safe contraceptives.

In May of 1981, he successfully pressed for a substantial increase of $20 million in the fiscal year 1982 population account.

After leaving Congress, Congressman Bingham demonstrated his continuing commitment to international population and humanitarian concerns by actively serving on the boards of the U.S. Committee of UNICEF, the Population Crisis Committee and the Institute for International Development.

Thank you, Mr. Speaker.

Mr. MONTGOMERY. Mr. Speaker, I want to join in this special tribute to our late friend and colleague from New York, Jonathan Bingham. He came to Congress in 1965, 2 years before I did. We served together in this Chamber for eight terms until he retired in 1982. During that time, I found Jonathan to be a very sincere and hard working Member and I enjoyed having the chance to get to know him and his wife, June.

Not only did he represent the 22d District of New York for 18 years, he also served this country in a number of diplomatic positions dating back to the early 1950's. In addition, he authored a number of books and articles on democracy and diplomacy.

I share the sense of loss with others in this House today. But we should also remember Jonathan Bingham's more than 30 years of distinguished public service. He will be missed but his accomplishments will remain.

Mr. YATES. Mr. Speaker, Jack Bingham was an absolutely wonderful human being and a very dear friend. The news about his death in New York came as a terrible shock. Even now it is hard to accept the fact that this exceptionally intelligent, gifted and thoroughly decent man has left us.

I first met Jack when we were both at the United Nations in the early 1960's. There was nothing indifferent about Jack Bingham. His philosophy of government and public service was rooted in the idea that government is a rational process and there is a moral responsibility to use its power and influence to make this world a better place. And in this general approach to government he did not differentiate between domestic and foreign policy. That is why he was one of the earliest and most active opponents of our policy in Vietnam, which he recognized as the national disaster it proved to be. To Jack basic human rights were anything but abstract and he did everything he could to get this country to implement a foreign policy that fostered human rights and made sense in terms of the needs and aspirations of ordinary people everywhere.

Jack was an excellent politician and a very effective Member of the House. I remember fondly his first election to the House in 1964, which was a remarkable victory and a tribute to his skill and hard work. His opponent had been declared unbeatable. He scoffed at Bingham's chances. Jack's victory shattered the machine. Among his many legislative achievements, I would rank the Nuclear Proliferation Act, which he shepherded through the House, as truly historic. He will also be remembered for the reforms to the seniority system of the House and for the more open process of the House that resulted from his efforts in the early 1970's.

I will miss Jack Bingham very much. He was a good friend and truly one of the finest men I ever knew. Addie joins me in extending our deepest and most sincere sympathy to June and all the Bingham family.

Mr. FISH. Mr. Speaker, I rise today to pay tribute to the late Congressman from New York, Jonathan Bruce Bingham, who passed away July 3. We served together in this body for 14 years and in that time I came to know Jack as a warm and thoughtful colleague.

His legislative accomplishments are well known. Jack was a member of the Foreign Affairs Committee and wrote the Soviet Jewish Refugee Assistance Act of 1972 and remained prominent in the issue of Soviet emigration. He also was the chief sponsor of the Nuclear Nonproliferation Act of 1978 which bans the export of nuclear fuel and reactors to nations that will not open their facilities to international inspection.

We use the term "gentleman" to refer to our colleagues in the House. Well, Jack was more than just a gentleman, he was a gentle person. He was a distinguished colleague, highly respected due to his soft-spoken words of wisdom. As the New York Times said of him: "Of Bombast Jack Bingham had none, nor did he need it. He had conviction."

I extend my deepest sympathies to his dear wife, June.

Mr. SOLOMON. Mr. Speaker, I would like to take this opportunity to join my colleagues from New York and indeed from across America who are paying tribute today to the late Jonathan Bingham, a respected and admired member of our State delegation.

Congressman Bingham was acknowledged as a skilled legislator in a number of areas, but many of us remember him best for his outstanding contributions to the diplomatic complexities involved in field of foreign affairs.

Prior to his joining the House Foreign Affairs Committee, Congressman Bingham held several prestigious and highly influential posts at the United Nations. He was the principal adviser to the U.S. Ambassador to the U.N. on colonial and trusteeship questions, and was himself a representative with ambassadorial rank at UNECOSOC. He was also an alternative representative to four sessions of the General Assembly, and was a member of the U.S. mission from 1961 to 1964.

Congressman Bingham not only made a significant contribution to U.N. proceedings during his tenure, he also brought many of the diplomatic and foreign policy skills with him when he came to Congress. This is one of the major reasons he contributed so much to the committee, and particularly to the Subcommittee on International Economic Policy and Trade, on which he was chairman.

I am grateful for the opportunity to acknowledge his contributions, and to pay homage to his memory today.

Mr. RODINO. Mr. Speaker, I rise to pay tribute to a former colleague and friend, a man of peace and compassion who served his district and nation well: Representative Jonathan Bingham.

On July 3, Representative Bingham passed away after a bout with pneumonia. We will miss him, but we are comforted by the knowledge that his wisdom and compassion will live on in his landmark legislative achievements.

Jack Bingham was fortunate enough to be born to privilege, but he never forgot those who were less fortunate. Jack was the author of the Soviet Jewish Refugee Assistance Act of 1972 and he often led the fight for the rights of Americans—minorities, women, the handicapped—who were historically excluded from fully enjoying the blessings of our great Nation.

When our Nation was caught up in the insanity of the Vietnam war, Jack led the fight for passage of the War Powers Act of 1973, which limited a President's power to commit United States troops overseas without a congressional declaration of war. He was the chief author of the Nuclear Nonproliferation

Act of 1978, which banned the export of nuclear fuel and reactors to nations that refused to open their facilities for inspection.

Mr. Speaker, I commend to you for publication in the RECORD, the following two articles from the New York Times and the Washington Post about Representative Bingham and his great achievements.

[From the New York Times, July 4, 1986]

EX-REP. JONATHAN BINGHAM, 72, DIES

(By Eric Pace)

Former Representative Jonathan B. Bingham, the veteran liberal Democrat from the Bronx, died yesterday at Presbyterian Hospital. He was 72 years old and lived in the Riverdale section of the Bronx.

A hospital spokesman said Mr. Bingham had died of pneumonia and related complications.

Mr. Bingham, a lanky, 6-foot 2-inch lawyer who was a former diplomat at the United Nations, first entered Congress in January 1965 after defeating Charles A. Buckley, the Bronx Democratic leader. He maintained a reputation as a staunch liberal on Capitol Hill for nearly two decades, retiring late in 1982 at the end of his ninth term.

He had withdrawn from the Democratic primary in 1982 after his district, which covered the heart of the Bronx—from the Grand Concourse to Co-op City—was redrawn. The new 19th District took in much of Representative Mario Biaggi's district in the east Bronx, spread across the northern Bronx and into parts of Yonkers.

A member of the Foreign Affairs Committee, Mr. Bingham was an outspoken supporter of Israel. He also wrote the Soviet Jewish Refugee Assistance Act of 1972 and was the chief House author of the Nuclear Nonproliferation Act of 1978, banning the export of nuclear fuel and reactors to nations that refuse to open their facilities to international inspection.

SOUGHT TO CONTROL HANDGUNS

In addition, he was one of the main forces behind Congressional rule changes in 1974 that provided for more democracy in the choice of committee chairmen and apportioned more power to subcommittee chairmen.

Over the years, Mr. Bingham tried but failed to bring about legislation controlling the sale of handguns. He was also a fervent critic of what he said was the insidious influence of campaign contributions on the political process.

Mr. Bingham, who was widely known as Jack, could be blunt-spoken. "Congress has put a lot of stupid restrictions on foreign aid," he said shortly before he retired. He added, "It's not entirely the fault of Congress, but our relations with Cuba are stupid."

In February 1977, he conferred for more than eight hours in Havana with Fidel Castro the Cuban leader, who insisted that a major precondition for normalizing relations with the United States was the lifting of the United States embargo on trade with Cuba.

Yesterday, Senator Daniel Patrick Moynihan, Democrat of New York and a former aide to Mr. Bingham, said Mr. Bingham "must have known how much we admired him; I only hope he knew how much we loved him. No finer person ever graced our politics or touched our lives."

SON OF A GOVERNOR

Jonathan Brewster Bingham was born April 24, 1914, in New Haven, the youngest of the seven sons of Hiram Bingham—who went on to become a Republican Governor of, and Senator from, Connecticut—and Alfreda Mitchell Bingham.

Mr. Bingham graduated from the Groton School and, in 1936, from Yale College, where he was elected to Phi Beta Kappa and headed the undergraduate newspaper.

After graduating three years later from Yale Law School where he was an editor of the Yale Law Journal, he practiced law with the Manhattan-based firm of Cravath, de Gersdorff, Swaine & Wood until 1941. He then joined the staff of the Office of Price Administration, and went into the Army from 1942 to 1945, serving in military intelligence and rising to captain.

Mr. Bingham served in the State Department in 1945 and 1946 in Washington. He then resumed the practice of law in New York until 1951, when he was briefly assistant director of the State Department's Office of International Security Affairs and then, for three years, was deputy administrator of the Technical Cooperation Administration, the formal name of the Point Four foreign aid program.

LOST STATE SENATE RACE

After more legal work in New York, he became secretary to the Governor of New York, W. Averell Harriman, for four years, beginning in 1955. In 1958, Mr. Bingham was defeated in a bid for the State Senate.

From 1959 to 1961, he was a member of the New York law firm of Goldwater & Flynn, and from 1961 to 1964 he was a member of the United States delegation to the United Nations.

He served in 1961 and 1962 as United States representative, with the rank of minister, in the United Nations Trusteeship Council, where he was elected president for 1962.

In 1962 and 1963, Mr. Bingham was United States representative, with the rank of ambassador, at the United Nations Economic and Social Council.

He was the author of "Shirt Sleeve Diplomacy: Point 4 in Action," which came out in 1954, and a co-author—with his brother Alfred—of "Violence and Democracy," which appeared in 1970.

A spokesman for the Bingham family said yesterday that Mr. Bingham had been admitted to the hospital six weeks ago and had been treated with drugs used for Legionnaire's disease, a kind of pneumonia. But the spokesman said that Mr. Bingham had more than one other type of pneumonia, and that they were the cause of death. The spokesman said it was his understanding that Mr. Bingham had not been diagnosed as having Legionnaire's disease.

His survivors include his wife, the former June Rossbach, whom he married in 1939; five brothers, Alfred and Hiram, both of Salem, Conn.; Mitchell, of Pacific Palisades, Calif.; Brewster, of New Haven, and Charles, of Farmington, Conn.; three daughters, Sherrell Bingham Downes of Washington; Micki B. Esselstyn of New Haven; and Guru Nam Kaur Khalsa of Great Falls, Va.; a son, Timothy W., of New Haven, and 10 grandchildren.

A memorial service is to be held at 4 P.M. Tuesday at the Riverside Church, Riverside Drive at 122d Street. The family requests that no flowers be sent and that contributions be made instead to Yale University or the Population Crisis Committee, 435 East 52d Street.

[From the Washington Post, July 4, 1986]

EX-REP. JONATHAN BINGHAM DIES; SUPPORTED REFORM AND FOREIGN AID

(By Bart Barnes)

Jonathan B. Bingham, 72, a New York Democrat who served nine terms in the House of Representatives, where he was a staunch supporter of congressional reform, foreign aid and similar programs and an equally strong critic of nuclear power and right-wing dictatorships, died of pneumonia yesterday at Columbia Presbyterian Hospital in New York City.

Mr. Bingham served in Congress from 1965 until 1983. He declined to seek a 10th term after a redistricting plan split his Bronx congressional district three ways. "To run in this district would mean an agonizing primary contest against a younger Democratic colleague [Rep. Ted Weiss] with whom I have no quarrel," he said announcing his retirement.

As a reform Democrat, Mr. Bingham drew national attention in 1964 when he challenged Rep. Charles A. Buckley, chairman of the House Public Works Committee and a powerful figure in New York's Democratic Party, in the party primary.

Buckley, a veteran of 30 years in the House, claimed credit for enriching the city and New York state with more than 250 federal public works projects, and he made light of Mr. Bingham's bid to unseat him. "If I had to pick an opponent, I'd pick Bingham. He's just a big stiff," Buckley said.

Political analysts likened the contest to the biblical battle between David and Goliath, Mr. Bingham, in the role of David, won that election by 4,000 votes. He won every election after that handily.

On Capitol Hill Mr. Bingham was instrumental in the passage of the War Powers Act of 1973, which placed limits on a president's powers to commit U.S. forces overseas in situations where they might become involved in hostilities. In the early 1970s he fought to reform the congressional seniority system, and he was the author of a proposal, which was subseqently adopted, to elect committee chairmen by secret ballot.

As an opponent of nuclear power, Mr. Bingham was the major force behind the successful drive in 1977 to abolish the Joint Atomic Energy Committee, which traditionally had supported nuclear interests. Most of the committee's work was transferred to the Interior Committee, which tended to cast a more skeptical eye on nuclear power issues.

Mr. Bingham also was a key figure in the passage of the Nuclear Non-Proliferation Act of 1978, a measure that placed strict controls on the export of nuclear power supplies and material. In 1980 he opposed restoration of military aid to what he considered a right-wing dictatorship under Ferdinand Marcos in the Philippines.

Born in New Haven, Conn., Mr. Bingham was the youngest of seven sons of Hiram Bingham, a former Republican governor and U.S. senator from Connecticut. He grew up in Connecticut and in Washington. He attended Groton School, Yale University and Yale Law School.

Mr. Bingham practiced law in New York, then worked for the old Office of Price Administration during the early years of World War II. Later in the war he served in the Army and was in military intelligence. From 1951 to 1953 he was deputy administrator of the Technical Cooperation Administration, an agency created to promote eco-

nomic and social development in Asia, Africa and Latin America. He wrote a book about that experience, "Shirt-Sleeve Diplomacy: Point 4 in Action."

From 1955 to 1958, Mr. Bingham was secretary to W. Averell Harriman when the latter was governor of New York. He was U.S. representative on the Economic and Social Council of the United Nations with the rank of ambassador when he resigned that post in 1964 to run for Congress.

An accomplished musician who played the piano and several stringed instruments, Mr. Bingham played chamber music with his wife and four children. He sometimes campaigned for office by inviting constituents for tea and a concert at his Victorian mansion in Riverdale, NY.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to our former colleague, the Honorable Jonathan Bingham, whose death on July 3 was a tremendous loss to the people of this Nation.

Jack and I were members of the same class—the 89th Congress—and his outstanding dedication to high standards was an inspiration to his friends and fellow citizens, and his record of excellence and creative accomplishments as a citizen, as a public servant, and as a Member of Congress were most noteworthy.

Before coming to the House of Representatives, Congressman Bingham served our country with great distinction in international relations and foreign affairs, as Special Assistant to the Assistant Secretary of State and as Assistant Director of the Office of International Security Affairs.

During his tenure in the Congress, Jack served on the important House Foreign Affairs Committee, and was chairman of the committee's Subcommittee on International Economic Policy and Trade, where he had compiled a splendid record of achievement. His diligent efforts as a member of the House Interior and Insular Affairs Committee and the Commission on Security and Cooperation in Europe were both fruitful and beneficial to the citizens of this Nation.

Jack Bingham will be sorely missed by all those he served, and all who had the privilege to work with him and know him. Mrs. Annunzio and I extend our deepest sympathy to his devoted wife, June, and to the other members of his family who survive him.

Mr. MANTON. Mr. Speaker, on July 3, the Nation lost one of its great public servants of the last 20 years, Jonathan Bingham. Jack Bingham spent his life serving his country. As an Ambassador to the United Nations, an Administrator in many State Department programs, in military intelligence in World War II, secretary to New York Gov. Averell Harriman, and in the House of Representatives from 1965 until 1982.

Mr. Speaker, Jack represented the people of the Bronx well. He fought to reform Congress and campaign financing. Always active in foreign affairs, Jack was a staunch supporter of Israel and the chief House author of the Nuclear Nonproliferation Act of 1978.

Mr. Speaker, the city and the State of New York, join the Nation in mourning Jack Bingham, who we were privileged to have him serve us. My condolences go out to his wife June, his family, and all who knew him.

Mr. FRANK. Mr. Speaker, we are all indebted to our colleagues Mr. WEISS and Mr. STRATTON for giving us the opportunity to express our sadness at the loss of one of the best of our former colleagues, Jonathan Bingham.

Jack Bingham demonstrated that commitment to principle in no way incompatible with civility to people with whom one disagrees. he had one of the most distinguished congressional careers in recent times. His expertise on the complex question of nuclear proliferation; his strong support of American policy which recognized our interest in a strong and independent Israel; his principled defense of civil liberties; his compassion for those in need—these and many other areas of public policy benefited enormously from Jack Bingham's intelligent and thoughtful advocacy. He engaged in that advocacy in a consistently gracious and generous manner. There are people who think that beligerence is a prerequisite for effectiveness in a legislative body. Jack Bingham's example refutes that conclusively.

He graced this House during his tenure in a way that few have. His retirement—necessitated by redistricitng and a typically gracious decision on his part to defer to a younger colleague with whom he was in close agreement—was wholly in keeping with his career. Jack Bingham was a class act in every way. We are all diminished by his death.

Mr. Speaker, one of the those who served with Jack Bingham—himself with great distinction—was my predecessor, Father Robert Drinan. They fought hard and well together on many issues, and I include BOB DRINAN'S eloquent remarks about Jack Bingham at this point in the RECORD:

STATEMENT OF ROBERT F. DRINAN, S.J., MEMBER OF CONGRESS FROM 1971-81, ABOUT THE LATE CONGRESSMAN JONATHAN BINGHAM

One of the first occasions when I had the opportunity to talk at length with Jack Bingham was at the funeral of Congressman Bill Ryan of Manhattan. It was also on that occasion that I first came to know Jack's beautiful and multitalented wife June.

Both Jack Bingham and I had been close to Bill Ryan—especially during his last several months of illness from cancer. Jack Bingham and I became good friends after the sad funeral of Bill Ryan in New York City.

I followed the lead of Congressman Bingham in his authorship in 1972 of the Soviet Jewish Refugee Assistance Act. I cheered as did countless others when Jack Bingham in December 1974 moved successfully in the Democratic Steering Committee that all committee chairmen be voted on separately. That creative move, which resulted in the defeat of two chairmen in January 1975, moved the House away from the system of seniority without accountability—a system that was not used in any other legislative body in the world.

I was also with Jack Bingham in his valiant if largely unsuccessful efforts to control the sale of handguns. I had more problems with Congressman Bingham's leadership on behalf of the War Powers Act of 1973. But eventually due, at least in part, to Congressman Bingham's persuasiveness, I voted to override President Nixon's veto of the War Powers Act even though I had voted against this measure in the House and against the Conference Report.

I applauded Jack Bingham's successful drive in 1977 to abolish the Joint Atomic Energy Committee. I followed very closely with approbation his work on the Nuclear Non-proliferation Act in 1978, a law which placed strict controls on the export of nuclear power supplies and materials.

The many friends of Jack Bingham were disappointed when in 1982 he felt obliged to forego a tenth term in the Congress because he did not want to take on a younger Democratic colleague in a primary. Jack Bingham said that this would not be appropriate because he had no quarrel with his younger associate. The graciousness with which Congressman Bingham ended his 18 years in Congress was characteristic of the gentleness that was present in all that he did or said.

In his life outside of Congress Jack Bingham was a truly renaissance man. He was close to many of the leading political and cultural figures of the day. His wife June wrote one of the finest books in existence about the late Protestant theologian Reinhold Niebuhr. Jack's four children are carrying on the noble traditions of their parents' families and are serving society in a wide variety of distinguished ways.

After he left the Congress Jack Bingham became a professor at Columbia University Law School. In that capacity he shared his vast knowledge of law and government in courses that were always very popular. I was happy to speak to his class at his invitation. I discussed the work of the House Judiciary Committee during the 10 years I served on that body with particular emphasis on the work of the Subcommittee on Criminal Justice which I had chaired. After the late afternoon class I enjoyed dinner with Jack and his delightful wife June at their home in New York City—a spacious and beautiful house which has been the scene for many historic political events as well as for reunions of the numerous members of the illustrious Bingham family.

The contributions which Jack Bingham made to the Congess and the country are very significant and will be long-lasting. He was a good and gracious man who cared deeply about all human beings and about the world in which we live. He left a legacy for his lovely wife, his extraordinarily attractive family and for all of us. The memory of Congressman Jonathan Bingham will always be held in benediction by those who knew him and loved him.

Mr. HUGHES. Mr. Speaker, I am pleased to have this opportunity to say a few words in tribute to Jonathan Bingham, a respected legislator and a great man.

For nearly two decades, Jack Bingham served his district and his Nation with the highest degree of legislative competence and ability, insisting that our Government reach out to those in need of help, opportunity or protection. As a member of the Foreign Affairs Committee, he was a strong and effective voice for social justice and human dignity, authoring both the Soviet Jewish Refugee Assistance Act of 1972 and the Nuclear Nonproliferation Act of 1978.

Throughout his career, he never wavered from his conviction that all people should be treated fairly and decently. He truly cared about people as individuals, and took the trouble to understand them, to know their prob-

lems, and to do everything he could to help them.

I am glad to have had the opportunity to work with Jonathan Bingham, and wish to extend my sincere condolences to his family.

Mr. BARNES. Mr. Speaker, this is indeed a sad day. One of the finest people ever to serve in this House has been taken from us far too early.

As I thought about what I would say today, I could not help but think back to that day just 4 years ago when we gathered on this floor to pay tribute to Jack Bingham on the occasion of his retirement from the House after 18 years of service. Amid the outpouring of affection for Jack and the dismay that he was leaving us while still in his prime, there was one constant note of optimism. It was that Jack would continue, even in his retirement, to serve his country and his party, to give us his counsel, to work for the causes he believed in.

And he did not disappoint us. From time to time he appeared before the Foreign Affairs Committee, on which I serve, and before other Committees of the Congress, to testify on behalf of those causes. As chairman of the Subcommittee on Western Hemisphere Affairs, I particularly appreciated his testimony on behalf of Americas Watch, a leading human rights organization whose board he had joined, on human rights in El Salvador. El Salvador is one of the most contentious issues the House has dealt with since I have been here. We have great difficulty—and little success—being civil with each other on this issue. Yet when Jack Bingham entered that hearing room and took his place at the witness table, when he delivered his typically calm and carefully reasoned statement, a certain decorum seemed to descend on the proceedings. Here was a man whose motives, whose integrity, whose single-minded desire to do what was right no one could question.

But little did we know what a short time Jack would have to continue to share his example with us. Who among us could have guessed that he would be gone so soon? We can ill afford to lose a man like this. Four years ago I said that I could not imagine the Foreign Affairs Committee without Jack's voice of reason and compassion. That was not just idle rhetoric. Looking back, I really believe we can see the effects of the departure of men like Jack Bingham on the level of debate in our committee and in the House. When the old pillars of reason and decorum and civility go, the effect on this institution is visible.

I also think back to Jack's retirement statement. Because of redistricting, Jack's district had been combined with that of our colleague, TED WEISS. Jack said that although he would prefer to stay in the House, he did not choose to run against a younger colleague with whom he had no quarrel. Who among us would make such a statement? It was one of the all time class acts. I don't know when we will see its equal again.

I know that I was enriched by the brief time that I was privileged to know Jack Bingham, and I know many of my colleagues were as well. I am terribly saddened by his loss. My heart goes out to Jack's wife, June, and to his entire family. But the most fitting thing that we could do for Jack Bingham's memory would be to rededicate ourselves to the task of trying to live up to the high example that he set in the House.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to submit their statement for the RECORD.

The SPEAKER pro tempore. Is there objection of the request of the gentleman from New York?

There was no objection.

IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LUNGREN] is recognized for 60 minutes.

Mr. LUNGREN. Mr. Speaker, 2 weeks ago, Americans by the millions celebrated the centennial of the Statue of Liberty, a symbol of the hope and opportunity that our Nation itself embodies. Perhaps due to Emma Lazarus, Americans have also associated the statue with questions of immigration and emigration. This association gives us an opportunity to reflect on these questions, the most pressing of which concern immigration reform.

If we do not enact comprehensive immigration reform legislation this year, fear and anger may conquer public debate over our Southwestern borders. In all probability, public anxiety will escalate in coming years over the movement of illegal narcotics and perhaps terrorists across the border. Public anger may rise as more people discover the conditions of violence and degradation that characterize some areas of the border region. And public frustration may grow over burgeoning migration statistics and the costs illegal immigrants exact from Government services. The implications of such developments for our foreign and domestic policies are so grave as to rank 1986 immigration reform legislation as a preeminent priority for Congress.

Although I have not conducted a survey, my legislative staff and I have observed an increasingly bitter tone in the letters my office receives on immigration reform issues. A growing number of demands for military intervention on the Southwestern border reflects deep frustration over developments in the sometimes-chaotic border areas. In my opinion, it is particularly significant that even the Los Angeles County Board of Supervisors has passed a resolution requesting President Reagan to send U.S. troops to the border. Jorge Bustamante, a Mexican sociologist based in Tijuana, told the Wall Street Journal in May that, in his 18 years of research on immigration issues, he had "never seen the paranoia so high in the United States."

Given the recent media attention to terrorism—and particularly to the possibility of terrorist actions in the United States, it is plausible to argue that a portion of this so-called paranoia can be attributed to fear of terrorism. Indeed, the May 14 edition of the Wall Street Journal discussed such anxieties in an article entitled "Fear of Terrorists Directs New Attention to Illegal Immigrants." The Journal reported that, in Brownsville, TX, an elderly woman disrupted a county commission meeting to decry rifle-toting guerrillas who were allegedly wading across the Rio Grande and onto her property. When a brief electrical blackout struck El Paso recently, residents fretted about a possible terrorist attack. According to El Paso police sergeant Hank DiMatteo, "This type of thing would never have happened before. But there is a heightened sense of awareness and anticipation." Indeed, the Immigration and Naturalization Service has seen a 100-percent increase in reported sightings of terrorists.

While I do not believe that the United States faces a genuinely imminent threat from a terrorist march across our border, one cannot ignore the empirical roots that give rise to worry among border area residents. During a seminar last month at the Georgetown University Center for Strategic and International Studies, Richard Inzunza of the Immigration and Naturalization Service stressed the porous nature of the border, the increasingly international character of illegal movement across the Mexican border, and the limited mission of the INS.

He pointed out at that time that not only were people from Mexico and other Central American and South American countries coming across the border, but we had them coming from the countries of Asia, from Africa, and from Eastern Europe; we had people from virtually all countries of the world coming across into Mexico and then coming across the border illegally into the United States.

His comments were reinforced by those of David Crosland, formerly Acting Commissioner of the INS, who told the Wall Street Journal:

> Our immigration system is designed to identify persons coming here to work and to protect American labor—not to protect us from terrorists.

Nevertheless, Mexican authorities alerted the INS in January that four Libyans had arrived in Mexico City with large sums of money and intentions of entering the United States. Suspicious of their circuitous journey through Europe before arriving in Mexico, the officials denied them entry into Mexico and sent them to

Panama. Shortly after this incident, the INS apprehended three suspected Sikh terrorists in El Paso and Atlanta.

Obviously, these two incidents do not establish sufficient foundations for all of the apprehensions voiced about terrorism in the Wall Street Journal and elsewhere. But when one combines such activities with the continuing strength of terrorism in Europe and Asia, and then notes that virtually anyone can presently travel across our border, it becomes apparent that real reasons do exist for fear about the border now and in the future. It is not surprising that border area residents call for radical measures like militarization when they feel that terrorists may be minutes away from their own homes.

Unfortunately, Federal, State, and local law enforcement officials have good reason to believe that drug traffickers are in fact minutes from those same homes. Speaking of the narcotics problem in Mexico, Drug Enforcement Agency Administrator John Lawn told the New York Times last month that "Production is increasing, quantities are increasing, purities are increasing." The Times reported in its May 12 edition that United States drug enforcement authorities seized over 10,700 pounds of cocaine as it was being smuggled across the Mexico-California border between October 1, 1985, and March 30, 1986. "That is three times more than was seized along the entire Mexican border during the previous 5 years," the Times stated. The Drug Enforcement Agency has reportedly identified 70 "class 1" drug traffickers in Mexico, giving that country the highest total of these high-volume traffickers in the entire world.

According to the June 26 edition of the New York Times, officials of the Border Patrol in south Texas say they have captured $35 million worth of illegal narcotics—although the seizure of drugs is not among its primary missions. The Times reported that in one "typical" case, Border Patrol officers arrested three Mexicans crossing the border and carrying 350 pounds of marijuana on their backs. They also carried 9-millimeter machineguns.

Tragically, the increase in cocaine trafficking and production in Mexico and other countries has contributed to an increase in suffering here in America. On July 10, the National Institute on Drug Abuse revealed that while medical examiners reported 185 cocaine-related deaths in 1981, an incomplete count for such deaths in 1985 presently stands at 563. Admissions to hospital emergency rooms for cocaine treatment soared from 3,300 in 1981 to 10,000 in 1985.

Not surprisingly, these statistics have generated a great deal of frustration. Commenting on public perceptions of the drug problem, Select Narcotics Committee Chairman CHARLES RANGEL observed earlier this week that many citizens do not discern the details of Government narcotics control policy. "All they know," he stated, "is that more and more is coming across the border and more and more is coming into their neighborhoods. They want to know why." The New York Times reported yesterday that Manhattan District Attorney Robert Morgenthau feels overwhelmed by the cocaine problem and believes that a massive escalation of Federal efforts is now required, according to the Times, even Federal officials like U.S. Attorney Rudolph Giulani feel that the Government is failing in its drug control efforts.

Residents of the border area have witnessed other consequences of these developments. Mr. William von Raab, Chief of the U.S. Customs Service, recently told the Senate Subcommittee on Western Hemisphere Affairs of the burgeoning town of Presidio, TX, not far from El Paso, that drug traffickers have deposited so much money there for laundering purposes that one bank in the hamlet of 7,000 is now the sixth largest bank in Texas. Unfortunately, these traffickers and their employees bring weapons to the United States as well as their money. In its May 14 edition, the Wall Street Journal reported that:

> Border agents have also been alarmed by recent incidents of violence related to drug trafficking * * *. The most startling case involved six Colombians arrested for the machinegun slaying of a top drug informant, who was mowed down on the streets of Baton Rouge, LA, in March. Drug enforcement officials allege that three of the Colombians crossed the border near San Diego and traveled to Louisiana to collect a bounty estimated at $300,000 for killing the informant.

Such incidents make the recent call of San Diego County Sheriff John Duffy for U.S. Marines a little less shocking.

It is thus apparent that narcotics have cast a very long but very real shadow over the border region, with very sober implications for discussion of immigration policy alternatives. Candidates for major political office in Arizona and Texas have already employed concern about drug trafficking as themes in their campaigns. With their propensity toward violence, their commerce in deadly new substances like "crack" and "black tar," and the vast financial scope of their enterprises, drug traffickers will probably generate even more uneasiness in the future. Additional requests for the Marine Corps may ensue.

While some Americans have voiced concern about the movement of terrorists and drug traffickers across the border, many others have expressed indignation at the conditions of life prevailing in the border area for both residents and undocumented aliens. In the May 11 edition of the San Diego Union, Edward L. Fike reflected the emotions felt by many residents of San Diego County as they contemplate the area between San Diego and the slums of Tijuana:

> It's like nothing else so much as a war zone. No other piece of real estate anywhere is invested with such terror, tradgedy and hope for so many human beings. The danger and the uncontrolled conditions are without parallel at any other border in the world.
>
> By the hundreds and thousands, aliens emerge from Tijuana's tenements in the late afternoon of every day to await darkness and an illegal rush into the United States. The mesas and canyons are alive with people, mostly men but also a surprising number of women and children. They gather in throngs on U.S. soil that the pitifully outnumbered, overwhelmed border patrol must concede to them in the no man's land.

Mr. Fike continues:

> Last month, more than 70,000 undocumented aliens were apprehended here.

This is in the San Diego area—

> an all-time record that is an astonishing 41-percent increase over the figure as recently as last January and 68 percent higher than the arrests in April a year ago. Indeed, illegal aliens caught here—

And again, I might repeat, this is just in San Diego—

> account for about 40 percent of all such arrests in the United States. The Immigration and Naturalization Service estimates that for every illegal alien apprehended, another one or two or three make their way into this country. In other words, as many as 200,000 aliens each month are invading the United States at the San Diego border.

Mr. Fike contends that many "street thugs" accompany those crossing the border for work.

> They resist arrest; they shoot the Border Patrol; and some of them rob, rape, and murder in the canyon paths of no man's land. There is no knowing the number of persons who were terrorized and victimized by rampaging bandits until the Border Crime Prevention Unit, composed of San Diego police officers and Border Patrol agents, was organized and deployed in January 1984. The border violence, though reduced, rages on.
>
> I visited the hell at our doorstep with Border Patrol officers during a recent afternoon and night of the full Moon. Our first stop in the gathering dusk was on a small knoll just north of the so-called soccer field, where multitudes of aliens were gathered awaiting darkness. It was a bizarre, unbelievable scene. A confrontation between a corporal's guard of border patrolmen and an immense army poised to invade this country. Neither side would move until after sunset. There has never been anything like this in the entire history of the United States.
>
> My guide, Alan Eliason, chief patrol agent, casually recalled that he had been fired upon while standing where we stood. Such is the danger routinely faced by these unsung guardians. Border agents are sometimes fired upon by the invaders, but they must be very careful in defending themselves because the aliens are protected by a body of rights the moment they set foot on

U.S. soil. No thoughtful American would suspend human rights at the border, but we should realize that the consequence of this is to put the Border Patrol at great risk.

Later in his commentary, Mr. Fike adds the following observations:

For some undocumented aliens, crossing into the United States is the end of the road. They are murdered by bandits who have been robbing, raping, and butchering them for years. The bandits * * * have worked a dreadful strategy of robbing 20 or more aliens at a time. They shadow a group of aliens gathered around their smuggler-guide. As the group makes its way through the canyons, the bandits shoot one of them, thereby terrorizing the others into immediate surrender of whatever savings and valuables they possess.

Fike concludes his essay on this note:

The criminal fallout from our border chaos is affecting the well-being of San Diegans in their daily lives. Illegal aliens now account for more than 25 percent of arrests by the San Diego Police Department for burglaries and car thefts.

A final point: The enormity of the illegal alien crisis at our doorstep overwhelms rational consideration because it is so irrational itself. The learned essays we read from time to time about how illegal aliens boost the U.S. economy are irrelevant to the mass exploitation, misled hopes, suffering, and tragedy. It is unconscionable that Americans should countenance either such a human price for their mere economic benefit, or, on the other hand, willingly submit to the dangers inherent in an uncontrolled border.

While I do not subscribe to all of Mr. Fike's deeply felt comments, I must recall once again that I myself am familiar with the locations he describes. I myself have seen the notorious "soccer field," where hundreds, if not thousands, of undocumented aliens meet in the twilight hours.

As you stand there, you are appalled by the fact that they have already broken the law. They are already standing on U.S. territory. The fact of the matter is the soccer field is a large plain, a level piece of ground that is just across the border from Mexico and the reason why they are able to gather there and the Border Patrol officers can only view them from above is that if the Border Patrol officers were to descend down into the soccer field, these people would have an opportunity to easily escape over to the Mexican side before they were there. If the Border Patrol officers stay down there, they go across in other areas and if they gain the high ground, they get past the Border Patrol officers. So they stand there in the twilight hours waiting before they begin their journey into the inside of the United States.

Unfortunately, I have also visited the so-called spider holes, where undocumented aliens hide from the authorities. While the term "spider holes" may seem hyperbolic or exaggerated to some, it is only too accurate a description of the inhuman hovels that the Border Patrol periodically discovers. Indeed, the term "hovels" may be too generous.

What you ought to see is these spider holes. They may be as shallow as 3 feet deep. They may be wide enough for three or four people to lay side by side to sleep at night, but they generally have a very small hole in which the people go inside to them, protected from detection by the Border Patrol, yes; protected from detection by bandits, they hope, sometimes protected from the heat or the rain or the cold. There are rodents in them, no latrines, no facilities, no running water. The only water that they use is the water that they get from runoff and irrigation with all the pesticides that are in there; no protection from disease, and not just a couple of them. I was in one place that maybe several thousand people live in, all living in holes that you might expect to see in the Third World, that you might expect to see in the poorest countries of the world, but I happened to see these in San Diego, CA, one of the wealthiest counties in the entire United States. I just do not see how the United States can countenance allowing people to live in those situations.

And if you are not concerned about them, as I think you should be, if you are not concerned about their plight, the fact that they have no real facilities means that they have to use whatever is available and the concern about thereby despoiling the water that is available to the communities that surround them is a concern that people now are having.

A report in the June 26 edition of the New York Times confirm's Mr. Fike's general perspective. According to the article, Border Patrol officials believe that the border constitutes a sort of "monster," where violence and desperation frequently devour law and order. As illustrations, in south Texas some Border Patrol officers, unaccustomed to violence beyond occasional scuffles, now find themselves so often caught in gun battles that some have begun to carry submachine guns.

Near McAllen, Texas, just north of the Rio Grande, D'Wayne Jernigan, head of the Customs Service office, said: "All the time now we're finding bodies in the river, in groves of trees, beside the road; people shot in ambushes."

William R. Logan, the regional commissioner of Customs in Houston, concurred. "There are now numerous, numerous murders all along the border, every day," he said.

The article continues:

Near Sells, Arizona, just over the border, a customs officer, Glenn Miles, was shot to death earlier this year, apparently by drug traffickers. In April, Al Guitierrez, a photographer for the El Paso Herald-Post, was kidnapped by a Mexican drug trafficking suspect while he was working just across the border in Ciudad Juarez. Mr. Guitierrez was beaten and detained for 12 hours before he was dumped beside a road.

At this point, the report assumes the character of a catalog of turmoil:

So far this year, Border Patrol officers at San Diego have found near the border the bodies of eight immigrants robbed and murdered on their way north. In nearby Chula Vista, according to Police Chief William Winters, "we're losing over 100 stolen cars a month" to illegal aliens. In Brownsville, Texas, the Police Department says two-thirds of the crimes committed in the city are directly attributable to illegal aliens.

At the conclusion of this grim account, the Times provides its own description of the notorious "soccer field":

Every evening Border Patrol officers, looking down at a plain they call the "soccer field" just on the United States side of the border from Tijuana, watch while as many as 5,000 Mexicans gather, waiting for dusk. For several miles on either side of this field, hundreds of other Mexicans sit on rocks or lean against the northern side of the border fence.

Observing them a few hundred yards inside the United States, lone Border Patrol officers sit in four-wheel-drive vehicles roughly every half-mile.

As darkness falls, the Mexicans are joined by hundreds of others and begin pouring north in streams. Some walk behind guides in straight, tight lines as many as 100 people long, others in less organized groups, hundreds and hundreds of Mexicans, including entire families with women and children.

The article concludes:

They climb over fences, tramp through farmers' fields and pour across the highway in such numbers that some are struck by cars and killed. Residents have dubbed Highway 117, about a mile north of the border, Camino de la Muerte, or Highway of Death.

On June 18, the Georgetown University Center for Strategic and International Studies conducted a seminar on the subject of "the Security Implications of Immigration Flows." Mr. Richard Inzunza, Special Assistant to the Commissioner of the Immigration and Naturalization Service, spoke at the gathering. Mr. Inzunza strongly emphasized the violent and criminal elements of life along the border. He noted first that every fifth Border Patrol agent can expect to be shot at, and then that the INS makes more drug seizures than any other Federal agency. When a questioner pressed him about alleged civil rights violations by the Border Patrol, Mr. Inzunza expressed a combination of exasperation and frustration. Noting that each Border Patrol agent arrests an average of 460 individuals each year, he appeared to suggest that such totals and the high level of crime make dangerous confrontations between border officials and illegal aliens almost inevitable. While those factors by no means excuse civil rights violations or the excessive use of force by any authorities, they are suggestive

of the high level of tension prevailing in the border regions.

In the view of some Border Patrol officials, the tension may be about to overflow. According to the Los Angeles Times, these officials believe that the Civilian Materiel Assistance group—which some have referred to as a vigilante organization—has crossed the Mexican border and confronted migrants who they suspect of drug trafficking, the leader of the CMA group, J.R. Hagan, denies these charges. He says that he and his group merely patrol border regions in the United States to detect the activities of smugglers. In any event, it is important to note that during a recent radio call-in show featuring Mr. Hagan, almost all of the calls supported his group's activities. One caller, tragically in my view, described the CMA as "the best group of volunteers in this country."

In sum, it is clear that the ingredients exist for an explosive reaction on the part of Americans to conditions at the southwestern border. Crime is rampant among the undocumented entrants into the United States.

Now, by that I am not suggesting that every single member who comes into the United States in this group is committing crime. In fact, I do not believe the vast majority of them are, but we do know that crime is up among this group. Crime is up, as crimes as committed against illegal aliens coming to this country in increasing numbers. Crime is up as more illegal aliens are committing crimes in this country; so we have just a situation in which the border is absolutely out of control.

Criminal activities are spreading into urban and residential areas. The physical and psychological conditions of existence for undocumented aliens compare unfavorably at times with medieval Europe. While medieval conditions may be interesting for purposes of anthropological investigation, they are intolerable for people who have to live next to them. In this context, I found it significant that my colleague, RON PACKARD of Carlsbad, CA, recently called immigration policy "the hottest, most crucial issue" in his district.

Unfortunately, the issues of crime and human degradation may become even hotter if left unattended. As Edward Fike indicated in his editorial, authorities believe that the number of border crossings by undocumented aliens has significantly increased this year. Mr. Inzunza of the INS stated last week that while 1.2 million illegal aliens entered the United States last year, approximately 2 million will probably make the trek this year, Roger Brandemuehl, Chief of the Border Patrol, has justifiably labeled these figures very alarming.

As the value of the peso and the price of Mexican oil continue to drop, the alarms may sound even louder. This is because many undocumented aliens enter the United States for specifically economic reasons. Interestingly enough, both Mr. Inzunza and Mexican Congressman Romeo Flores Caballero noted the economic motives and migratory character of much of illegal immigration. Mr. Inzunza observed that naturalization rates continue to be low for immigrants from Latin America.

An article in the May 18 edition of the New York Times reinforced these points. Focusing on the village of Santiago Comaltepec in Mexico, it observed that residents of the village occasionally leave their homes for about a year to work in the United States. Then they return with the new purchasing power that American wages provide them. When the article was being written, a village policeman had just returned from a year-long stay in America, where he had been receiving the dizzying wage of $5 an hour. He and his fellow village residents, who have lived in the same area for many generations, have no intention of making the United States their new home. A village councilman put it this way: "They don't go there to live, They go there to work, to earn a lot of money. Then they come back. Who would want to live there? This is their country." In other words, economics serves as the breeding ground for illegal immigration. As the gap between the Mexican and American economies widens, the incentive for illegal entry grows stronger.

Not surprisingly, the exponential growth of illegal entries into the United States has multiplied the responsibilities of local law enforcement and health services. In turn, local government officials have been to react angrily to the burden this Federal responsibility places on them. Susan Golding, presently a supervisor in San Diego County, has demanded that the Federal Government pay that county $23 million for criminal justice and medical expenses that have alledgedly arisen from the undocumented alien deluge. Officials in El Paso County and Los Angeles County have made similar claims. In New York, city officials welcomed yesterday's Federal district court decision granting the use of Medicaid funds to illegal aliens. According to the New York Times, this ruling could result in $25 million in Federal Medicaid funds for the city. More importantly, it could lead to additional lawsuits against the Federal Government as States, localities, and special interest groups seek the approval of funds for illegal aliens in their areas. Unfortunately, many senior citizens and poor individuals may not see the equity of granting Medicaid to those given the puzzling appellation of nonlegal permanent resident aliens—that is the name that the Federal judge used instead of illegal aliens—when they themselves frequently struggle to acquire even the most basic health care. If the total of illegal entries does in fact reach 2 million this year, local governments may not be the only parties losing patience with the immigration situation.

Mr. Speaker, it is by no means my intention to argue that drug trafficking, terrorism, or crime in the border States should by themselves mandate the passage of H.R. 3810, H.R. 1061, or any other attempt at comprehensive immigration reform. But we must recognize that these perceived or actual dangers have already begun to influence public opinion. If Congress does not act on comprehensive immigration reform legislation this year, the emotionalism generated by code words such as terrorism may preclude reasonable legislative programs in this issue area.

Parenthetically, I should observe that the House lacks any substantive excuse for continued delay. The Senate has repeatedly passed comprehensive immigration reform legislation. The Reagan administration endorsed reform of our immigration laws as early as July 1981, and has continued to endorse such legislation over the succeeding 5 years. On March 11, the President met with congressional leaders—leaders from the House, leaders from the Senate, the chairman of the Committee on the Judiciary, the chairman of the Judiciary Subcommittee on Immigration, the ranking Republican on the Committee on the Judiciary, the ranking Republican on the Subcommittee on Immigration, and other Members, the Attorney General of the United States, the head of the White House staff, and also Senator SIMPSON, from the U.S. Senate, who has been largely responsible for efforts to move immigration reform on that side, and also the whip in the U.S. Senate. On that day the President said four different times that he supported immigration reform. On July 2, President Reagan stated again that he backed immigration reform legislation, adding that it was necessary to correct a loss of control at America's borders. Finally, as many of my colleagues are aware, a July 1 New York Times poll reported that almost 7 out of every 10 Americans favor employer sanctions, a key component of the immigration reform package.

Although formidable problems do remain in the sphere of immigration reform, Americans should be proud of the progress of immigration legislation in the postwar era. Unlike the 1940's, when Congress balked at the prospect of large-scale admission of wartime refugees—notably European Jews—and post-bellum displaced persons, America has emerged as the world's most generous country when it comes

to the admission of refugees. Through a series of legislative initiatives in the Truman and Eisenhower administrations and passage of the 1965 immigration reform bill, America has gradually but firmly rejected discrimination against certain nationalities in the operation of its immigration policies. The New York Times released a survey on July 1 which indicated that 68 percent of all Americans believe that new immigrants would be welcome in their neighborhoods. In this centennial year of the Statue of Liberty, it would indeed be tragic if Congress failed to forestall a response to immigration problems based on fear and anger, and thereby undid much of the good that has been accomplished in this area over the last 40 years.

The potential of rash responses to our uncontrolled border also entails foreign policy implications. Accusations about narcotics trafficking in Mexico have already led to anger in the Mexican Government. President de la Madrid told commentator John McLaughlin on June that he now regards Customs Service Chief William von Raab as a unreliable source of information because of his allegations concerning corruption in the provincial governments. In a June speech in San Diego, Mexican Foreign Minister Bernardo-Sepulveda called proponents of draconian border controls voices of darkness. I shudder to think of the aftershocks in Mexico City following a large-scale militarization of U.S. borders.

In other words, Mr. Speaker, we can head off that kind of reaction if we do what we were elected to do as Members of Congress, and that is deal with an important national issue. I can think of very few issues that are as important and national in scope as immigration.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to my friend from Pennsylvania, a member of this committee.

Mr. GEKAS. I thank the gentleman for yielding, and want to commend him at the outset on his articulate and persistent advocacy of immigration reform. It was one of the first issues with which I was confronted when I came to the Congress, and it seems to be everlasting in its scope and the attention which it draws from members of the Committee on the Judiciary and from others in the Congress.

I must reinforce what the gentleman has said with respect to the demands, as I view them, of the American public, that we do something about this unholy terror of loose borders and lack of domestic security, as it were, because of the leaking borders.

I was very much concerned when I first came, and the gentleman alluded to this, as to what people felt about the propriety of imposing employer sanctions as a way to control our borders. There was a mixed reaction and even the chamber, I remember, opposed it, the U.S. Chamber of Commerce. I could not understand why.

I must report to the gentleman, as he already has other evidence, that in some polling that I did on my own that that has turned around, at least in my district, and people are willing to see the Congress support a judicious system of employer sanctions to forge at least one way of bringing about immigration reform.

Here the more remarkable thing was on the question of amnesty, which these very same people to whom I allude now, were unalterably opposed. They thought amnesty was a crime. In other words, to reward someone for illegally coming to the United States was beyond the thinking of the general populace as I determined it then.

There has been a dramatic turnabout even in that because I tell you now that when it is coupled with immigration reform and amnesty is described as part of the package that must be put together in order to obtain immigration reform; even that segment of the populace that historically and traditionally and viscerally opposed amnesty are willing to accept it in the quest for proper immigration reform.

So the gentleman is on the right track. There is no question that the public wants it. The President wants it; history demands it. Who are holding it up? Why are we not getting immigration reform? That question we will continue to try to answer.

I thank the gentleman for yielding.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his comments.

I think it is interesting that the gentleman has done polling in his own area and has discovered what I think many people would discover if they did it in their own districts. Yes, it is true. I guess, much like myself, when first confronted with the question of immigration reform, people reflexively draw away from the possibility of employer sanctions.

But thinking about it, looking at the options, seeing that those in the field, the border patrol officers themselves who are given the responsibility on a day-to-day basis to try to police our borders, have determined that that is the single most important weapon or tool that can be given them and have now come around and have accepted that as something that is necessary.

Similarly, I think there is support for a legalization program if carefully drafted that does apply to those people who have been here for a substantial period of time, who have put down roots in our community, who are not wards of the welfare state, who have not committed crimes, who have been in continuous residence, that is, have wanted to stay and live in our society and become members of our society.

Not that this is what we want to have occur in the future, but because of the laxness of our controls on the border, we have allowed this to develop. Now we say, let us take care of these people. Let us deal with them humanely and fairly. Let us recognize that they committed an illegal act and require certain additional obligations on their part, such as being disabled from eligibility from welfare for 5 years, eligibility for public health benefits, except in an emergency; require them to learn English or be engaged in a course of study for English; require them to learn American history and Government or be engaged in a course of such study.

With those additional obligations, create a manner, a system by which they could legalize. I think there is support across the board for that.

The problem is that so many special interest groups, and I do not use that term pejoratively, I mean people who have a particular narrow interest based on their own experience, are more intimately involved in it and view this issue with higher intensity, that they are all together creating the difficulty of bringing a bill to the floor and passage.

I guess it is because most of them are trying to only support the perfect bill, or solution, from their perspective, and since we all know perfection is impossible, particularly in this Chamber, they are against anything that would come out.

As I have said before, and as I said in the last Congress, it seems to me our pursuit of the perfect has caused us to reject the best. I just hope we can get on track before this year is out.

Unfortunately the clock is ticking and it may defeat us, as it has in the last two Congresses, but we cannot afford to give up. The American people should not allow us to give up and the country demands that we not give up.

Mr. GEKAS. Mr. Speaker, I thank the gentleman.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I sincerely hope that the July 4th celebration of what is best in America will spur Members of Congress to act in accord with the best of their predecessors. Congress must enact responsible and comprehensive immigration reform legislation. And Congress must approve it this year.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special

orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ZSCHAU) to revise and extend their remarks and include extraneous material:)

Mr. MARTIN of New York, for 60 minutes, on July 23.

Mr. WALKER, for 5 minutes, today.

Mr. BEREUTER, for 60 minutes, on July 18.

Mr. CONTE, for 5 minutes, today.

(The following Members (at the request of Mr. MOODY) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MILLER of California, for 60 minutes, today.

Mr. FRANK, for 60 minutes, on July 17.

Mr. FRANK, for 60 minutes, on July 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ZSCHAU] and to include extraneous matter:)

Mr. LAGOMARSINO.

Mr. DAUB in two instances.

Mr. GALLO in two instances.

Mr. RINALDO.

Mr. COURTER in three instances.

Mr. EMERSON.

Mr. PURSELL.

Mr. EDWARDS of Oklahoma.

Mr. BROOMFIELD.

Mr. RITTER.

Mr. HYDE.

Mr. COBEY.

Mr. GREEN.

Mr. SILJANDER.

Mr. SHUSTER.

Mr. BLILEY.

Mrs. ROUKEMA.

Mr. HORTON in two instances.

(The following Members (at the request of Mr. MOODY) and to include extraneous matter:)

Mr. UDALL.

Mr. RODINO.

Mr. HAMILTON.

Mrs. SCHROEDER.

Mr. KILDEE in two instances.

Mr. LUNDINE.

Mr. MORRISON of Connecticut.

Mr. KASTENMEIER.

Mr. SMITH of Florida.

Mr. EARLY.

Mr. SCHUMER.

Mr. DYSON in two instances.

Mr. RANGEL.

Mr. MATSUI.

Mr. TRAFICANT.

Mr. WEISS.

Mr. HOYER.

Mr. WOLPE.

Mr. BOLAND.

Ms. MIKULSKI.

Mr. LELAND.

Mr. ANTHONY.

Mr. MOAKLEY.

Mr. FLORIO.

Mr. HERTEL of Michigan.

Mr. FOLEY.

ADJOURNMENT

Mr. SEIBERLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Thursday, July 17, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3883. A letter from the Secretary of Health and Human Services, transmitting the 1985 report on the consolidated federal programs under the maternal and child health service block grant, pursuant to 42 U.S.C. 706(a)(2); to the Committee on Energy and Commerce.

3884. A letter from the Director, Congressional Budget Office and the Director, Office of Management and Budget, transmitting the sequestration report for 1986 estimating the budget base levels of total revenues and total budget outlays, pursuant to Public Law 99-177, section 274(f) (99 Stat. 1100); to the Temporary Joint Committee on Deficit Reduction.

3885. A letter from the Secretary of Education, transmitting a copy of final regulations with invitation to comment for debt collection; what procedures does the Secretary follow for IRS tax refund offsets, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3886. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification that a study has been conducted with respect to converting the audiovisual services function at Chanute Air Force Base, IL, and a decision has been made that performance under contract is the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Armed Services and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Federal regulation of brokered deposits: a followup report (Rept. 99-676). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Home-based clerical workers: Are they victims of exploitation? (Rept. 99-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Consumer Product Safety Commission's response to hazards of three-wheel all-terrain vehicles [ATV's] (Rept. 99-678). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4531. A bill to extend the Wetlands Loan Act, and for other purposes; with amendments (Rept. 99-679). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5050. A bill to establish the Social Security administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, to provide for more prudent and effective management of the title II trust funds, and for other purposes; with amendments (Rept. 99-680). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 4555. A bill to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Building"; with amendments (Rept. 99-681). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. H. Res. 493. Resolution waving points of order against consideration of H.R. 5161, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-683). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. H. Res. 494. Resolution waiving certain points of order against consideration of H.R. 5162, making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-684). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. H. Res. 495. Resolution providing for the consideration of a joint resolution relating to the February 1, 1986 sequestration order of the President (Rept. 99-685). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. H.R. 5177. A bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-686). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee of Conference. Conference report on S. 415 (Rept. 99-687). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. H. Res. 461. Resolution impeaching Harry E. Claiborne, Judge of the United States District Court for the District of Nevada, of high crimes and misdemeanors; with an amendment (Rept. 99-688). Referred to the House Calendar.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 4351. A bill to withdraw and reserve for the Department of the Navy certain public lands within the Bravo-20 Bombing Range, Churchill County, Nevada, for use as a training and weapons testing area, and for other purposes; with amendments (Rept. 99-689, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 3810. A bill to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes; with an amendment. Referred for a period ending no later than July 28, 1986 to the Committees on Agriculture, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, Post Office and Civil Service, and Ways and Means, for consideration of such portions of the bill and amendment as fall within those committees' jurisdiction pursuant to clauses 1(a), 1(d), 1(g), 1(h), 1(o), and 1(v) of rule X, respectively (Rept. 99-682, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ST GERMAIN (for himself, Mr. WYLIE, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. MITCHELL, Mr. FAUNTROY, Mr. LAFALCE, Ms. OAKAR, Mr. BARNARD, Mr. GARCIA, Mr. ROEMER, Mr. LEHMAN of California, Mr. MORRISON of Connecticut, Mr. COOPER, Ms. KAPTUR, Mr. ERDREICH, Mr. CARPER, Mr. TORRES, Mr. NELSON of Florida, Mr. GORDON, Mr. MANTON, Mr. MCKINNEY, Mr. PARRIS, Mr. MCCOLLUM, Mr. WORTLEY, Mr. BEREUTER, Mr. HILER, and Mr. BARTLETT):

H.R. 5176. A bill to amend title 31, United States Code, to establish new requirements and procedures in order to prevent money laundering, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITTEN:

H.R. 5177. A bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. GEKAS (for himself, Mr. MCCOLLUM, Mr. LUNGREN, Mr. SENSENBRENNER, Mr. KINDNESS, Mr. BROWN of Colorado, Mr. SWINDALL, Mr. SHAW, Mr. WALKER, Mr. GUNDERSON, Mr. FRANK, Mr. HORTON, Mr. MILLER of Ohio, Mr. DEWINE, Mr. RUDD, Ms. KAPTUR, Mr. ACKERMAN, Mr. PORTER, Mr. DANNEMEYER, and Mr. RITTER):

H.R. 5178. A bill to provide forfeiture of media royalties by those convicted of an offense involving national security; to the Committee on the Judiciary.

By Mr. MARTINEZ (for himself, Mr. HAWKINS, Mr. HORTON, Mr. ATKINS, Mr. CONYERS, Mr. DIXON, Mr. DYMALLY, Mr. FAZIO, Mr. HAYES, Mr. MITCHELL, Mrs. SCHROEDER, and Mr. STOKES):

H.R. 5179. A bill to establish in the legislative branch an Office of Civil Rights Assessment to assist Congress in the analysis of the status of, and proposals relating to, voting rights and other civil rights in the United States; to the Committee on the Judiciary.

By Mr. NOWAK:

H.R. 5180. A bill to designate the Federal Building at 111 W. Huron Street, Buffalo, NY, as the "Thaddeus J. Dulski Federal Building"; to the Committee on Public Works and Transportation.

H.R. 5181. A bill to designate the U.S. Courthouse at 68 Court Street, Buffalo, NY, as the "Michael J. Dillon Memorial United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. TORRES:

H.R. 5182. A bill to insure the payment in 1987 of cost-of-living increases under the OASDI Program in title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. WISE (for himself, Mr. CONYERS, and Mr. LELAND):

H.R. 5183. A bill to require divestiture from the oil industry in South Africa, and to prohibit exports of crude oil and refined petroleum products to South Africa, unless certain conditions are met, and for other purposes; jointly, to the Committee on Foreign Affairs, Interior and Insular Affairs, and Rules.

By Ms. OAKAR:

H.J. Res. 671. Joint resolution designating 1987 as the "Year of the Reader"; to the Committee on Post Office and Civil Service.

By Mr. FAZIO:

H. Con. Res. 367. Concurrent resolution providing for development and implementation of a coordinated plan for telecommunications systems for the House of Representatives, the Senate, and the agencies of the legislative branch, to the Committee on House Administration.

By Mrs. LLOYD:

H. Res. 496. Resolution to express the sense of the House of Representatives with respect to the continued income tax deductibility of contributions to Individual Retirement Accounts; to the Committee on Ways and Means.

By Mr. ZSCHAU:

H. Res. 497. Resolution expressing the sense of the House of Representatives on the need for greater international cooperation in responding to nuclear disasters; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

426. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to nondeferral of funding of construction of storage facilities for the strategic petroleum reserve; to the Committee on Energy and Commerce.

427. Also, memorial of the Legislature of the State of Louisiana, relative to the anti-terrorist actions taken by the President; to the Committee on Foreign Affairs.

428. Also, memorial of the Legislature of the State of Louisiana, relative to "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

429. Also, memorial of the Legislature of the State of Louisiana, relative to the operation of the Small Business Administration; to the Committee on Small Business.

430. Also, memorial of the Legislature of the State of Louisiana, relative to the Archer/Moore energy act; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 526: Mr. PERKINS, Mr. THOMAS of Georgia, Mr. KEMP, Mr. DORNAN of California, Mr. SILJANDER, Mr. WISE, Mr. BORSKI, Mr. MCKINNEY, and Mr. TAUZIN.

H.R. 585: Mr. GREEN.

H.R. 1086: Mr. MCCANDLESS.

H.R. 1309: Mr. FORD of Tennessee, Mr. BREAUX, and Mr. DINGELL.

H.R. 1402: Mr. BARNES and Mrs. SCHROEDER.

H.R. 1453: Mr. WILLIAMS.

H.R. 1875: Mr. WRIGHT, Mr. ROYBAL, Mr. REGULA, and Mr. STANGELAND.

H.R. 1902: Mr. LELAND, Mr. WILLIAMS, and Mr. TRAFICANT.

H.R. 2109: Mr. BROWN of Colorado.

H.R. 2840: Mr. RINALDO.

H.R. 2977: Ms. MIKULSKI and Mr. LANTOS.

H.R. 3259: Mr. MCKINNEY.

H.R. 3712: Mr. BRYANT.

H.R. 3906: Mr. HUGHES.

H.R. 3956: Mr. BOULTER.

H.R. 4014: Mrs. HOLT.

H.R. 4025: Mr. WOLF, Mr. FLIPPO, Mr. MCMILLAN, Mr. CARR, Mr. WALGREN, and Mr. DASCHLE.

H.R. 4057: Mr. HAMMERSCHMIDT, Mr. WALGREN, Mr. DIOGUARDI, Mr. FLIPPO, Mr. SWINDALL, Mr. CAMPBELL, Mr. CARR, and Mr. HUNTER.

H.R. 4067: Mr. SCHUMER and Mr. BOULTER.

H.R. 4126: Mr. MCCAIN.

H.R. 4142: Ms. KAPTUR, Mr. PEPPER, Mr. HAYES, Mr. STRANG, Mr. YOUNG of Florida, Mr. LAGOMARSINO, Mr. PASHAYAN, Mr. GRAY of Illinois, Mr. PETRI, Mr. BIAGGI, Mr. MAVROULES, Mr. LIGHTFOOT, Mr. APPLEGATE, Mr. PEASE, and Mr. PURSELL.

H.R. 4243: Mrs. BURTON of California.

H.R. 4333: Mr. DYSON.

H.R. 4388: Mr. BORSKI and Mr. DYSON.

H.R. 4422: Ms. MIKULSKI.

H.R. 4439: Mr. PORTER, Mr. GINGRICH, and Mrs. BYRON.

H.R. 4469: Mr. DWYER of New Jersey and Mr. MARTINEZ.

H.R. 4535: Mrs. BURTON of California, Mr. MITCHELL, Mr. HORTON, Mr. MRAZEK, Mr. MARTINEZ, Mr. MANTON, Mr. DONNELLY, Mr. NIELSON of Utah, Mr. TORRICELLI, Mr. JACOBS, Mr. MORRISON of Connecticut, Mr. KOLTER, and Mr. RINALDO.

H.R. 4545: Mr. MARKEY, Mr. GEJDENSON, Mr. CARR, and Mr. BOUCHER.

H.R. 4567: Mr. BREAUX and Mr. ROEMER.

H.R. 4633: Mr. LELAND, Mr. HORTON, Mr. SEIBERLING, Mrs. BURTON of California, Mr. BEVILL, Mr. QUILLEN, Mr. RANGEL, and Mr. TORRES.

H.R. 4664: Mr. BATEMAN.

H.R. 4682: Mr. MATSUI.

H.R. 4763: Mr. GREEN.

H.R. 4765: Mr. MCKINNEY.

H.R. 4766: Mr. MCKINNEY.

H.R. 4776: Ms. MIKULSKI.

H.R. 4820: Mrs. SCHROEDER.

H.R. 4838: Mr. DYSON, Mr. FORD of Michigan, Mr. TORRES, and Mr. SABO.

H.R. 4854: Mr. BOEHLERT.

H.R. 4872: Mr. ATKINS, Mr. COURTER, Mr. WEAVER, Mr. MOODY, Mr. GLICKMAN, and Mr. KOSTMAYER.

H.R. 4876: Mr. ROSE, Mr. SMITH of New Hampshire, Mr. SIKORSKI, Mr. STANGELAND, and Mr. ECKART of Ohio.

H.R. 4882: Mr. DWYER of New Jersey and Mr. GEJDENSON.

H.R. 4922: Mr. EDWARDS of California, Mr. LEVINE of California, Mr. MARTINEZ, and Mr. WILLIAMS.

H.R. 4932: Mr. SCHEUER.

H.R. 4933: Mr. MRAZEK and Mr. LOTT.

H.R. 4934: Mr. HORTON, Mr. ROGERS, Mr. LOTT, Mr. LUNDINE, Mr. MCKINNEY, Mr. BOSCO, and Mr. NOWAK.

H.R. 4935: Mr. DELLUMS, Mr. LEVINE of California, Mrs. COLLINS, and Mr. TOWNS.

H.R. 4938: Mr. BARNES, Mr. TOWNS, Ms. OAKAR, Mr. FUSTER, Mr. FAUNTROY, Mr. FRANK, Mr. SAVAGE, Mr. KLECZKA, Mr. MORRISON of Connecticut, Mr. BATES, Mr. ACKERMAN, Mr. DELLUMS, Mr. OWENS, Mr. RANGEL, Ms. KAPTUR, Mr. MITCHELL, Mr. STARK, Mr. LEVINE of California, Mr. LUNDINE, and Mr. WILLIAMS.

H.R. 4945: Mr. NEAL, Mr. HANSEN, Mr. OLIN, Mr. ROEMER, Mr. FISH, Mr. ROWLAND of Georgia, Mr. DWYER of New Jersey, and Mr. MINETA.

H.R. 4950: Mr. DAUB, Mr. CHAPMAN, Mr. BOEHLERT, Mr. WEBER, Mr. THOMAS of Georgia, Mr. MONSON, Mr. HENRY, Mr. MARTINEZ, Mrs. BENTLEY, Ms. SNOWE, Mr. LEWIS of Florida, and Mr. GOODLING.

H.R. 4972: Mr. HUTTO, Mrs. BOXER, Mr. SCHEUER, Mr. GARCIA, Mr. LIPINSKI, and Mr. LEVIN of Michigan.

H.R. 4980: Mr. KOLBE and Mr. NELSON of Florida.

H.R. 5031: Mr. BOULTER.

H.R. 5050: Mr. ECKART of Ohio.

H.R. 5060: Mr. LAGOMARSINO, Mr. MARTINEZ, Mr. LEVIN of Michigan, Mr. COATS, Mr. BLILEY, Mr. PENNY, Mr. BEDELL, and Mr. CONTE.

H.J. Res. 379: Mr. SISISKY, Mr. BONIOR of Michigan, Mr. EMERSON, Mr. KASTENMEIER, Mr. CARNEY, Mr. SKELTON, Mr. SHELBY, and Ms. MIKULSKI.

H.J. Res. 381: Mr. STAGGERS and Mr. ATKINS.

H.J. Res. 435: Mr. DYSON.

H.J. Res. 531: Mr. WOLPE.

H.J. Res. 547: Mr. KASTENMEIER, Mrs. LLOYD, Mr. MILLER of Ohio, Mr. MILLER of Washington, and Mr. ROBERTS.

H.J. Res. 611: Mr. HOWARD, Mr. FIELDS, and Mr. YOUNG of Florida.

H.J. Res. 619: Mr. JENKINS, Mr. SUNIA, Mr. MILLER of Washington, Mr. OWENS, Mr. SAVAGE, Mr. ROBERT F. SMITH, Mr. STENHOLM, and Mrs. BOXER.

H.J. Res. 642: Mr. LAFALCE, Mr. DUNCAN, Mr. ANTHONY, Mr. O'BRIEN, Mr. PACKARD, Mr. PEPPER, Mr. OLIN, Mr. WILSON, and Ms. OAKAR.

H.J. Res. 643: Mr. NEAL, Mr. BUSTAMANTE, Mr. MACK, Mr. DOWDY of Mississippi, Mr. DARDEN, Mr. STALLINGS, and Mr. HEFNER.

H.J. Res. 646: Mr. BEILENSON, Mr. BEVILL, Mr. BONIOR of Michigan, Mr. HANSEN, Mr. HARTNETT, Mr. COELHO, Mr. STRANG, Mr. BRYANT, Mr. ACKERMAN, Mr. DIXON, Mr. PURSELL, Mr. OWENS, Mr. SAVAGE, Mr. COURTER, Mr. COUGHLIN, Mr. FOWLER, Mr. SCHUETTE, Mr. LIGHTFOOT, Mr. SOLARZ, Mr. HATCHER, Mr. BENNETT, Mrs. BOXER, Mr. NATCHER, Mr. MARKEY, Mr. ANDREWS, Mr. HOWARD, Mr. SAXTON, Mr. MRAZEK, Mr. MCCLOSKEY, Mr. LEHMAN of California, Mr. SUNIA, Mr. WOLPE, Mr. MANTON, Mr. CHAPPELL, Mr. YOUNG of Alaska, Mr. LUNDINE, Mr. MCCAIN, Mr. CARR, Mr. BRUCE, Mr. ROSE, Mr. LELAND, Mr. WHEAT, Mr. MATSUI, Mr. BONER of Tennessee, Mr. KOLBE, Mr. DWYER of New Jersey, Mr. STOKES, Mr. ORTIZ, Mr. LIPINSKI, Mr. RITTER, Mr. KASICH, Mr. MOORHEAD, Mr. CARNEY, Mr. DONNELLY, Mr. HYDE, Mr. UDALL, Mr. STENHOLM, Mr. DE LUGO, Mr. LEWIS of California, Mr. MOAKLEY, Mr. DIOGUARDI, Mr. DOWDY of Mississippi, Mr. PEPPER, Mr. FOGLIETTA, Mr. PICKLE, Mr. TRAFICANT, Mr. NEAL, Mrs. BOGGS, Mr. NELSON of Florida, Mr. LUNGREN, Mr. LEWIS of Florida, Mr. LOWRY of Washington, Mr. RALPH M. HALL, Mr. RANGEL, Mr. CHANDLER, Mr. BATEMAN, Mr. ROTH, Mr. BADHAM, Mr. WALKER, Mr. WIRTH, Mr. GEKAS, Mr. HAMMERSCHMIDT, Mr. FRANKLIN, Mrs. COLLINS, Mr. LOWERY of California, Mr. DORGAN of North Dakota, Mr. LEHMAN of Florida, Mr. PRICE, Mr. FOLEY, Mr. BORSKI, Mr. SABO, Mr. DICKINSON, Mr. O'BRIEN, Mr. TOWNS, Mr. DEWINE, Mr. DASCHLE, and Mr. COBLE.

H.J. Res. 649: Mr. BROOKS, Mr. HANSEN, Mr. BURTON of Indiana, and Mr. JACOBS.

H.J. Res. 667: Mr. BLILEY, Mr. CARR, Mr. MCCAIN, Mr. MCDADE, Mr. BURTON of Indiana, Mr. YOUNG of Missouri, Mr. OWENS, Mr. HORTON, Mr. CARNEY, Mr. WEISS, Mr. COURTER, Mr. GORDON, Mr. BILIRAKIS, Mr. BARNES, Mr. LELAND, Mr. ROE, Mr. MRAZEK, Mr. MANTON, Mr. FRANK, Ms. OAKAR, Mrs. BENTLEY, Mr. FAZIO, Mr. RINALDO, Mr. FAUNTROY, Mr. BIAGGI, Mr. KRAMER, Mr. LUNGREN, Mr. EVANS of Illinois, Mrs. BOXER, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. CONTE, Mr. WORTLEY, Mr. FROST, Mr. FASCELL, Mr. LIPINSKI, and Mr. HYDE.

H. Con. Res. 129: Mr. FAZIO, Mr. BROWN of California, Mr. TORRICELLI, Mr. SYNAR, and Ms. KAPTUR.

H. Res. 352: Mr. CLINGER, Mr. PURSELL, Mr. TRAFICANT, and Mr. HOWARD.

H. Res. 404: Mr. WRIGHT, Mrs. BURTON of California, Mr. ROBERT F. SMITH, and Mr. SISISKY.

H. Res. 468: Mr. TALLON, Mr. RICHARDSON, Mr. RIDGE, Mr. KANJORSKI, Mr. FAUNTROY, Mr. TORRICELLI, Mr. MACK, Mr. BIAGGI, Ms. OAKAR, and Mr. GEJDENSON.

H. Res. 471: Mr. BILIRAKIS, Mr. GEJDENSON, Mr. REID, Ms. KAPTUR, Mr. HUGHES, Mr. SHAW, Mr. STUDDS, Mr. COELHO, Mr. SAVAGE, Mr. BERMAN, Mr. SAXTON, Mr. HORTON, Mr. DURBIN, Mr. BATEMAN, Mr. MACK, Mr. LAFALCE, Mr. MARKEY, and Mr. KANJORSKI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5161

By Mr. COMBEST:

—Beginning on page 49, strike line 17 and all that follows through page 50, line 7.

—On page 49, line 21, strike "$305,500,000" and insert in lieu thereof "$280,000,000".

By Mr. FRENZEL:

—At the end of Title VI, insert the following new section:

"SECTION 608. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act is hereby reduced by 4.92 percent."

By Mr. LUNGREN:

—Page 49, line 21, strike out "$305,500,000" and insert in lieu thereof "$152,750,000".

By Mr. SUNDQUIST:

—Page 32, line 10, strike out "$423,000,000" and insert in lieu thereof "$403,000,000".

H.R. 5162

By Mr. FRENZEL:

—At the end of Title V, insert the following new section:

"SECTION 508. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act shall be reduced by 5.09 percent."

EXTENSIONS OF REMARKS

WEST EUROPEAN ACTIONS AGAINST LIBYA

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HAMILTON. Mr. Speaker, I wish to bring to the attention of the Members of the House a list of actions against Libya taken by Western European governments. Assistant Secretary of State Rozanne L. Ridgway of the Bureau of European and Canadian Affairs provided this list to the House Subcommittee on Europe and the Middle East after the subcommittee requested it in an open hearing on May 21, 1986.

In the immediate aftermath of the April 15, 1986, U.S. air strikes against Libya, there was criticism of the failure of the European allies, except Britain, to support the United States operation. Since April, the United States and its European allies have developed a growing consensus on how to deal with Libya and its role in supporting terrorism. The list shows that West European nations, with the apparent exception of Greece, have implemented the measures announced by the EC Council of Ministers on April 21 to limit the size of Libyan diplomatic missions and to restrict the mobility of Libyan personnel in their countries. Subsequently, the European Community also has established a Working Group on Terrorism which will improve coordination of antiterrorist actions among themselves as well as with the United States.

Although differences over perspective and policy still exist between the United States and Europe, the actions described in this list prove that through consultation and coordination with the European allies and other friendly states, a greater degree of cooperation can be achieved.

I urge my colleagues to review these measures taken by our allies:

WEST EUROPEAN STEPS TAKEN AGAINST LIBYA

A. General actions: In January, the EC agreed to ban exports of arms to Libya. On 14 April, the EC agreed to:

Reduce the staffs of Libyan diplomatic missions (Libyan People's Bureau);

Restrict the travel of Libyan diplomatic personnel;

Impose stringent visa requirements for all Libyans; and

Refuse to accept any Libyan who had been expelled from another state.

The EC states also agreed to reduce the size of their diplomatic missions in Tripoli and reaffirmed that they will not export arms or other military equipment to Libya.

The West Europeans—with the exception of Greece—have implemented this agreement. In the case of reducing the size of their diplomatic missions, many of the West Europeans did not have to take any initiative because the Libyans expelled some of their diplomats and non-diplomatic personnel in retaliation for the Europeans expelling members of the Libyan People's Bureau (LPB).

The West Europeans are also cooperating among one another—and with us—on countering terrorism better than heretofore. The EC has established a Working Group on Terrorism to supplement and complement the work of other, previously-existing groups.

The UK, France, West Germany, Italy, and Canada also joined the U.S. and Japan at the Tokyo Summit in issuing a strong statement pledging cooperation to work against terrorism.

B. Individual countries:

UNITED KINGDOM

Broke diplomatic relations with and banned arms sales to Libya in 1984;

Has cut oil imports from Libya;

Implemented other EC decisions;

Supported U.S. air strike against Libya; and

Mrs. Thatcher took lead in Tokyo in working for strong statement on terrorism.

WEST GERMANY

Implemented EC decisions;

Reduced size of People's Bureau by 22 people (of 41);

Limited guarantees of credits;

Advised West German nationals to leave Libya; and

Police and security forces cooperated fully with U.S. in West Berlin.

FRANCE

Implemented EC decisions;

Prevented attack on U.S. consulate;

Expelled six Libyans, including two diplomats;

Cut trade (one-quarter of what it was in 1983);

Stopped direct import of Libyan oil (still purchasing indirectly);

Supporting Chad vis-a-vis Libya; and

Warned Libya that an attack against France or other Mediterranean states would lead to French military retaliation.

NETHERLANDS

Took lead in EC decisions for boycotting sales of weapons, establishing EC Counterterrorism Working Group, and committing EC not to "fill-in" behind U.S. in Libya.

Working diligently to expand European-U.S. cooperation.

Implemented EC decisions (the Benelux countries—the Netherlands, Belgium, and Luxembourg—expelled 7 of 14 Libyans in Brussels who were accredited to all three countries).

Sharply limited export credits to Libya.

PORTUGAL

Implemented EC decisions: expelled five Libyan members of People's Bureau and restricted travel by members of PB.

ITALY

Implemented EC decisions;

Reduced size of PB by 10 people (of 47) and expelled 37 other Libyan nationals;

Restricted travel by members of PB;

Strongly advised Italian nationals to leave Libya (number reduced from 15,000 to about 2,000);

Cut arms sales to Libya; and

In the forefront of warning Libya not to launch further terrorist attacks. (Italy has publicly warned Libya that attacks against Italian soil could bring military retaliation and that Italy could fire first in face of a direct threat.)

TURKEY

Security forces foiled Libyan terrorist attack against U.S. Officers Club in Ankara. The State Prosecutor brought charges against several Libyans implicated in the incident. Three were members of the PB and were not tried on grounds of diplomatic immunity. All three, and an employee of Libyan Airlines, also charged, have left Turkey.

The two Libyans accused of attempting to carry out the attack were tried and sentenced to five years in prison.

CANADA

There is no Libyan PB in Canada, and Canada does not export arms to Libya. Canada has agreed not to admit persons expelled by other countries for terrorist activities, and it is screening travelers to prevent the arrival of known terrorists.

Politically supported U.S. air strike against Libya;

Ended all government support for exports to Libya and banned the export of specified oil field equipment;

Sought to prevent any Canadian nationals from "filling-in" behind U.S. in Libya; and

Works closely with U.S. in the International Civil Aviation Organization.

NORWAY

There is no Libyan People's Bureau in Norway, which has had a limited relationship with Libya. Norway does not sell arms to Libya and only limited trade.

Norway has reduced the number of Libyan diplomats (resident in Denmark) accredited to it.

DENMARK

Implemented EC decisions

Reduced staff of Libya People's Bureau from 11 to six; and

Monitoring travel/activities of Libyans remaining in Copenhagen.

LUXEMBOURG

Implemented EC decision: There is no Libyan People's Bureau or any other Libyan entity in Luxembourg. The Government has reduced the number of Libyans accredited to Luxembourg.

SPAIN

Implemented EC decisions:

Expelled 14 Libyans, including a Consul General;

Restricted travel by members of People's Bureau;

Begun to curb arms exports; and

Broke up Libyan-backed anti-U.S. terrorist group Cut oil imports from Libya (probably due mainly to market conditions).

BELGIUM

Implemented EC decisions: Reduced size of Libyan PB in Brussels.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

GREECE

Agreed to EC measures, but has not yet implemented them.

AMBASSADOR ADELMAN ON THE ASAT TESTING PROHIBITION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. COURTER. Mr. Speaker, when the House takes up the 1987 defense authorization bill, we will inevitably return to the question of antisatellite systems and the current ban on the testing of the U.S. system. In this connection, Ambassador Kenneth Adelman, the Director of the Arms Control and Disarmament Agency, wrote the following essay which appeared recently in the Christian Science Monitor.

In his characteristic clear and direct style, Ambassador Adelman unravels and discredits two of the major arguments advanced by opponents of the U.S. ASAT system. In response to the argument that the Soviet ASAT system is primitive and ineffective, Adelman explains that the Soviet system is fully operational, and that, in fact, a more advanced system is under development. In examining the argument that United States testing will precipitate a space arms race, Adelman notes that the Soviets have a variety of dedicated and dual-capable ASAT systems, including the Moscow ABM system, and they are working on more exotic and unverifiable systems.

The message is unmistakable: the Soviets are in space to stay and, consistent with their military doctrine, they intent to prevail in this potential theater of conflict. The Soviets will never relinquish their existing systems, and it is incumbent upon the United States to develop an effective deterrent to Soviet space strike weapons. I urge my colleagues to read Ambassador Adelman's essay on this critical subject.

The essay follows:

LIFT THE BAN ON ASAT TESTING

(By Kenneth L. Adelman)

In coming days the United States Congress will again decide whether to help or harm prospects for real arms control in Geneva. That is a key issue as Congress chooses whether to continue its year-long unilateral ban on US testing of antisatellite systems (ASAT).

Continuing the ban would contribute nothing to US arms control efforts or its security. Rather, it would simply perpetuate a Soviet monopoly in operational ASAT capability while the Soviets pressed forward with other systems and technologies that could further threaten US space assets.

Congressional proponents of the ban reason:

1. That the current Soviet co-orbital ASAT is primitive and ineffective.

2. That continued testing of the American ASAT system will only spur the Soviets to develop more-advanced and effective ASAT weapons.

Test ban proponents sometimes add that the US will benefit disproportionately from a negotiated ASAT treaty, on grounds the US is more dependent than the Soviets on satellites. All this leads to the incongruous argument that a Soviet monopoly in operational ASAT capability is somehow preferable to a US effort to develop a deterrent against it.

What's wrong with this line of reasoning?

There is no basis whatever to believe that the Soviet ASAT system is ineffective. It's not a "dog of a system," as some in Congress contend. On the contrary, the observed reliability and probability of success of the operational Soviet ASAT show it to be quite effective. Claims that the Soviet system is unreliable are based on juggled statistics that lump together *flight tests* of the currently operational Soviet system with *developmental tests* of a newer version.

The Soviets are *already* pursuing more-advanced weapons with ASAT capabilities—principally high-energy lasers. They do so with scant regard to unilateral US actions on ASAT or to the current state of arms negotiations. In other words, developments that critics argue will follow from US resumption of ASAT testing are already taking place.

A broad ASAT agreement would almost certainly prove unverifiable and dangerously porous. The Soviet co-orbital system is smaller than a Volkswagen; the Soviet booster used to launch the co-orbital system is the same booster used by the Soviets for other space mistakes. It's small and easily concealable.

If the US does not know how many Soviet interceptors have been manufactured and stored. The US would not know whether existing systems had actually been destroyed or were still being produced secretly. The Soviets could easily maintain a covert ASAT capability within the terms of a comprehensive ban on testing or deployment. In addition, with minimal development and testing, almost any intercontinental ballistic missile or sea-launched missile would attack satellites with nuclear warheads. So could antiballistic missile interceptors like the Galosh missiles that comprise the Moscow ABM system. Upgraded Galosh launchers may be reloadable; this only intensifies their potential utility as ASAT weapons.

Directed-energy weapons and other advanced technologies could be used in ASAT applications, although the US may not detect such tests.

Effective verification is critical here, since the satellites that serve US and allied security are so few. Cheating even on a very small scale could pose a disproportionate risk.

In short, to ensure the safety of US satellites, we must be able in the last resort to deter attack by threatening retaliation in kind. We relied on deterrence to prevent use of chemical weapons by each side in World War II; the US relies on deterrence to prevent use of nuclear weapons today. An ASAT capability can deter Soviet attack on US satellites in the same way.

Should deterrence fail, a US ASAT capability is essential to counter the targeting satellites that would allow the Soviets to pinpoint US and allied forces.

Differences between US and Soviet dependence on satellites are often exaggerated. The Soviet Union, too, is heavily and increasingly dependent on them.

Satellites are not only vital in the event of nuclear war. They could be still more important in conventional conflict. It is critical that the US be able to deter an ASAT attack without crossing the nuclear threshold. This requires that the US have a conventional ASAT system at the earliest possible time.

A final point: Unilateral concessions do not yield progress in arms control. Indeed, the overall impact of the congressionally mandated ban on ASAT testing has been to weaken the US bargaining position in the Geneva talks. And whatever one may think of the prospects for an adequate regime to control ASAT systems, US national security is hardly served by a law that freely cedes to the Soviets a monopoly in the capacity to destroy satellites in space. It is time for Congress to take a more considered look at the ASAT issue's complexities.

JOURNEY TO OPPORTUNITY

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. EARLY. Mr. Speaker, the recent glorious 100th birthday celebration of the Statue of Liberty brought back many fond memories, particularly for Mr. CONTE, the son of Italian immigrants who arrived on Ellis Island—the first stop on the "Journey to Opportunity"—80 years ago.

I'd like to share with my colleagues the following article authored by our distinguished friend and colleague from Massachusetts, SILVIO CONTE, a personal recount of his parent's immigration to the United States, as it appeared in the Berkshire Eagle on July 3, 1986.

[The article follows:]

WASHINGTON, D.C., July 4, 1986.—I remember sitting at the kitchen table of our house in the Lakewood section of Pittsfield. I was just a boy of 10 or 11 and my father, a big hearted bear of a man, had just returned from a hard day of work at the General Electric Company's old porcelain plant. He was smiling from ear to ear.

"Why are you so happy tonight Pa," I asked him.

He shook his head from side to side and, in a thick Italian accent, said "Tomorrow, Silvio, is the Fourth of July—birthday of freedom."

My father came to this country in 1905 at the age of 18 to find opportunity in the "land of the free." He was one of more than 12 million souls that passed through Ellis Island, the "Isle of Tears," as part of the boundless human tide of hope that flowed over America's shores at the turn of the century.

When I was older, my father told me of the excitement, fear, joy and sorrow he remembered of his first hours on Ellis Island and of the wonder he felt in seeing the towering Statue of Liberty after weeks at sea aboard a crowded cargo ship.

Herded off the ships by the thousands, men, women and children were channeled into Ellis Island's cavernous, echo-filled processing chambers. There, hopeful immigrants huddled together by family, nationality or, in his case, shuffled alone among the masses passing to America.

The questions, he recalled, came fast and furiously from blue-jacketed strangers who spoke in a tongue he knew nothing of. Their crude and impersonal manner left mothers crying for their frightened children and fathers scrambling to keep their families together. Those with enough money, their health and a little savvy made it through the madness to the ferry to Manhattan and

my father, a strong willed young man ready to take on the world, found his way through the labyrinth of questions, documents and humanity to set out and carve his dreams from the promise that was America.

My mother's stories of Ellis Island were less nostalgic. Her earliest memories of America began one cold, rainy day when as a young girl of 8 or 9, she was dressed in warm clothes and taken, with her two brothers from their home in Vecenza, Italy to the docks of a French shipping port where thousands of people waited in long lines to board battered, ill-equipped trade ships converted for human cargo. Her father had left some time earlier for America to establish a home and make enough money to send for his family.

After days of travel and hours standing in line, officials examined my uncle, then only a very small child, and decided he was too ill to make the passage to America. The trip had been years in the planning and my grandfather, already in America, was expecting his family to arrive soon in New York Harbor. Uncertain what to do, my grandmother decided to send my mother and uncle back to Vecenza with a family friend and call for them as soon as he recovered. Reluctantly, she and my other uncle sailed for America.

A short time later, the day came for the two small children to set out on the long voyage and join their family across the Atlantic. Without parents to look after them on the long voyage, my mother and uncle were entrusted in the care of an older man during the crossing and told that he would protect them. Unfortunately, however, the ship's male and female passengers were separated for the crossing, and the two children, just 8 and 10 years old, were moved to different parts of the ship. They were allowed to visist during the day when they played together on deck but had to fend for themselves at night without the care of their chaperone who found himself deathly ill with sea sickness throughout the voyage.

After weeks of storms and the loneliness of long nights alone in the communal chambers of the battered old ship, the children rose very early one morning to the frantic calls in many languages that New York could be seen from the upper deck. My mother said everyone rushed to the deck to catch a glimpse of the huge statue they had been told of and recounted the eerie silence of hundreds of faces staring into the distance, caught on the awe of America.

After finding their way from the ship, the children were shuffled roughly through the Ellis Island processing line. Alone and frightened, they gave their names to a young man in a blue jacket who told them to stay where they were until he returned. A short time later, he arrived with another similarly clad official and a tall imposing figure wearing a bushy moustache and carrying a bag of fruit.

"Do you recognize this man," one of the men asked pointing to the stranger.

"No" they replied, "We've never seen him before."

The stranger was dismayed and deeply hurt that his own children did not recognize him, but that was a typical consequence of what immigrants endured in order to bring their families to America.

Frightened that his children would be returned to Italy because of mistaken identity, he returned to his home in North Adams to find a lawyer that could plead his case. After more than a week of internment in the cold, lonely Ellis Island processing chambers, the children finally rejoined their family and set out for the Berkshires and their new life in America.

My parents were among the many millions of immigrants who passed through Ellis Island to America's shores at the turn of the century. Their stories of the passage and the excitement, fear and anxiety were told many a time as I grew up, and their incredible determination often spurred me on through the tough times of the Depression and World War II.

America grew up, in many ways, during the early 1900's and much of this country's tremendous growth came through the efforts of young, dynamic immigrants looking to realize their dreams in the land of the free. My father made his way to North Adams soon after passing through Ellis Island and found work on a dangerous but boldly enterprising venture called the Hoosac Tunnel. My mother also found home in North Adams and, after a year in school, went to work spinning thread in the old Greylock Mills. After walking the four miles to work every day, she ran seven thread spinning machines, walked four miles home and spent the evening helping her mother run a boarding house that became home to men working on the Hoosac Tunnel.

It was at the boarding house that my mother met the hard working, kind hearted Italian wayfarer who would become her husband and my father. Always looking for opportunity and willing to work any hours, Pa later found employment at GE's porcelain plant and worked his way to foreman, supervising a crew of more than 70 men. He used to take me down to the plant with him from time to time and always beamed with pride in the company and his accomplishments. Like so many fiercely optimistic new Americans, my father knew that his country offered no free lunches, no easy deals. But it offered one very precious commodity and offers it to this day—opportunity.

Even when the Great Depression erased much of what my parents had gained in America, they never lost their desire for a better life, their quest for a better world. They taught themselves English, learned new customs and made certain their children knew the value of hard work and an honest dollar. As proud Italian immigrants, they honored their heritage but grew to honestly love America and instilled in me the tremendous pride and patriotism that carried me to the United States Congress where I have proudly served 28 years.

On this 100th birthday of the installation of the Statue of Liberty, I have decided to go and see for myself what my parents saw from crowded passenger ships 80 years ago. I decided to visit the Statue of Liberty and Ellis Island this fourth of July as the nation unveils a refurbished, healthy new statue that will stand for future generations as our symbol of the freedom we cherish.

As I prepare to leave for the Fourth of July celebration in New York harbor, I carry with me not only some of my most proud and loving memories of my parents but with the pride that as a national legislator, I play a very personal role in maintaining that freedom.

Whether working on the House floor to pass new laws that benefit all Americans, talking with constituents in the First District or standing up for the less fortunate, I have never forgotten the opportunity this nation offered my parents. I hope that my efforts will somehow bring the same opportunity to others.

After 100 years, the torch of liberty still stands high above this nation and burns in the hearts of millions of our countrymen. When I look out my office window on the Capitol of this nation, I look back on my parents and the deep pride they felt in being Americans—true Americans—able to live the lives they dreamed of in this land of the free.

And I, too, am proud to be an American.

INDUSTRIAL SHIPPERS AND BUSINESSES BELIEVE CONRAIL SHOULD BE SOLD THROUGH A PUBLIC OFFERING

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Ms. MIKULSKI. Mr. Speaker, Congress and the administration agreed that Conrail should be returned to the private sector when we adopted the Northeast Rail Service Act of 1981.

Since that time, I have been concerned that any sale plan guarantee: The economic viability of Conrail; continued rail competition in the Northeast and Midwest, particularly to our Nation's ports; and the best return to taxpayers for their investment in Conrail.

After reviewing the facts and all plans presented on the Conrail sale, a consensus has emerged that the best way to return Conrail to the private sector is through a public offering.

Conrail has proven it is a viable railroad that can, and should be allowed to, stand alone in the marketplace. A public offering would guarantee just that, preserving important service and competition, while maximizing the return to the American taxpayer.

The heavy support a public offering plan has from the Nation's business and industrial community is strong evidence of the merits of this approach.

In fact, a number of key groups, including the Greater Baltimore Committee and the Maryland Chamber of Commerce, have written to the chairman of the Energy and Commerce Committee, Representative JOHN DINGELL, to urge action on a public offering plan in this Congress.

I am including their assessment, and those of the National Industrial Transportation League, the USX Corp.—formerly United States Steel—and PPG Industries for inclusion in the RECORD. I am also including a list of major shippers who support an independent Conrail, a principal goal of a public offering plan.

Mr. Speaker, it is my hope that we can work with the administration to take final and decisive action on legislation to permit a public offering in the 99th Congress.

GREATER BALTIMORE COMMITTEE,
Baltimore, MD, May 6, 1986.

Rep. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DINGELL: As the institutional representatives for more than 2,500 businesses in Maryland, the Greater Baltimore Committee (GBC) and the Maryland Chamber of Commerce applaud your com-

mitment to devise new legislation which would provide an equitable solution to the Conrail sale. It is clear to Maryland business leaders that the Administration's proposal—S. 638—is hopelessly flawed and sets a bad standard for national public policy.

Maryland business leaders have no quarrel with the assertion that Conrail should be returned to the private sector. Conrail's dramatic resurgence as a viable railroad opens the way to achieving a permanent solution to the Conrail saga. However, any legislative solution should strengthen—rather than weaken—our Nation's rail network. The failure of S. 638 to provide for the even-handed treatment of competitive issues raises national as well as regional concerns.

Maryland business leaders strongly object to the inadequate $1.2 billion price tag established by Secretary Dole in S. 638. A recent audit indicated that Conrail's tangible assets include $910 million in cash, an employee pension fund with an excess $325 million and other assets conservatively valued at $6.5 billion. In addition, Conrail turned a substantial profit of $440 million in 1985 and $1.25 billion during the last four fiscal years.

It now appears that Conrail has turned the financial corner and is hardly the candidate for bankruptcy Secretary Dole would have us believe. In fact, the entire Northeast/Midwest economy which Conrail serves has enjoyed an economic comeback. Even though its traffic shrunk 4.58 percent in 1985, Conrail's profits rose to record highs. Indeed, Conrail Chairman Stanley Crane recently indicated his company's ability to repay some $900 million to the federal government by 1989. The GBC and the Maryland Chamber feel strongly that it is inappropriate for Secretary Dole—as the representative of the federal government and ultimately the taxpayer—to accept the lowest bid for a valuable federal asset.

In reference to the issue of competition, a merged Norfolk Southern-Conrail would have a negative impact on the Chessie System Railroads which operate in Maryland. Viewed from a strictly parochial perspective, Maryland could ill afford the loss of an estimated 5,000 jobs which would result from a NS-CR merger. In fact, Maryland's business leadership suspects that the passage of S. 638 would have a serious impact on competitive rail rates in our region and thus affect the future growth of the Port of Baltimore. Finally, when examined from a national perspective, it seems ludicrous to think that the Pittsburgh and Lake Erie (P&LE) and Guilford Transportation would provide serious competition to a combined Norfolk Southern-Conrail railroad.

In conclusion, the Greater Baltimore Committee and the Maryland Chamber support your contention that the final act to the Conrail saga requires a fresh approach. Viewed from a business perspective, S. 638 raises more questions than it answers. If the Dole proposal to sell Conrail is to be viewed as the cornerstone of the Administration's privatization policy, then the plan needs to be reworked to eliminate the giveway aspects on price and restore the balance on the competitive issues. Once again, we endorse your efforts to stop the stampede for S. 638. We think the House leadership is bringing a healthy dose of rationality to a process that has been sorely lacking in creative judgement.

Sincerely,

HENRY A. ROSENBERG, Jr.,
Chairman, Greater Baltimore Committee.
RICHARD E. HUG,
Chairman, Maryland Chamber of Commerce.

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE,
Washington, DC, May 5, 1986.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CHAIRMAN DINGELL: The National Industrial Transportation League, the nation's oldest and largest shippers' transportation trade association, would like to commend you for your recent announcement about the best means for returning Conrail to the private sector.

The League shares your view that a sale of the railroad to Norfolk Southern Corporation does not best serve the public interest, and that a new transfer mechanism is needed to assure adequate protection of the public interest.

As we have communicated to your committee's Commerce, Transportation and Tourism Subcommittee, the League believes that the public interest would best be served by a public sale which enhances competition, maintains service, and develops the financial viability of the railroads in the northeast.

We look forward to working with you and your staff in achieving our common goal—Conrail's return to the private sector in a manner that protects the public interest and serves the nation's commercial transportation needs.

Sincerely,

JAMES E. BARTLEY,
Executive Vice President.

U.S. STEEL CORP.,
Washington, DC, May 19, 1986.

Hon. JOHN D. DINGELL,
House of Representatives, Washington, DC.

DEAR JOHN: On behalf of the members of Shippers for an Independent Conrail, we want to express our appreciation for the position you have taken on the sale of Conrail. As you can see from our statement of purpose, we are in total agreement.

While we have actively opposed the sale of Conrail to Norfolk Southern, we do believe Conrail should be returned to the private sector. We support a public offering, such as the Morgan Stanley or Allen & Company proposals and believe the present time is especially right for a public offering.

We stand ready to assist you and others in Congress in an effort to keep the process moving and to find the right solution for this important rail-shipper issue. Our first priority has been to stop the Norfolk Southern bid; however, we do believe Conrail can and should be returned to the private sector as an independent entity. In fairness to all concerned, we urge the Congress and the Administration to resolve this issue this year.

Sincerely,

——— ———,
Chairman, Shippers for an Independent Conrail.

SHIPPERS FOR AN INDEPENDENT CONRAIL,
Washington, DC, May 1, 1986.

Shippers for an Independent Conrail (SIC) is a coalition of companies dependent on Conrail for rail transportation. SIC supports the return of Conrail to the private sector as an independent and viable entity. The timing and method of this transformation must preserve or enhance rail competition.

Acme-Evans Co., Air Products and Chemicals, Inc., Alabama By-Products Corp., Alabama Coal Association, Alcan Aluminum Corp., Allied-Signal Corp., American Bakers Association, American Crystal Sugar Co., American Iron and Steel Institute, American Maize-Products Co.

American President Intermodal Co., Ltd., Amoco Oil Co., Anderson & Anderson Contractors, Inc., Anker Energy Corp., Associated Industries of Mass., Baltimore Gas & Electric Co., Barbour Coal Co., Barnes & Tucker Coal Co., Bay State Shippers, Inc., Bethlehem Steel Corp.

Boise Cascade Corp., Bradford Coal Co., Buncher Co., Cabot Corp., Clorox Co., ConAgra, Inc., Consumers Power Co., Copperweld Corp., Dart & Kraft, Inc., Dexter-Carpenter Coal Sales Corp.

Diamond Bathurst Inc., Diamond Crystal Salt Co., Drummond Coal Company, Inc., Early & Daniel Co., Elkem Metals Co., Energy Trading Corp., General Mills, Inc., Grafton Coal Co., Hepburnia Coal Co., Independent Bakers Association.

Industrial Mining Co., Inland Steel Co., Institute of Scrap Iron & Steel, Interlake, Inc., International Salt, Keystone Bituminous Association, LTV Corp., Magnum Minerals, Inc., Manville Corp., Mining & Reclamation Council of America.

National Intergroup, Inc., National Piggy-Back Service, National Starch & Chemical, New England Electric System, Ohio Mining & Reclamation Assn., Ohio Oil Gathering, Olin Chemicals, PBS Coal Co., Peabody Holding Co., Pennsylvania Coal Mining Assn.

Pennsylvania Power & Light, Pennwalt, Perdue Farms, Inc., Pfizer Inc., Potlatch Corp., PPG Industries, Inc., Rail-Van Consolidated, Reading Anthracite Coal Co.

Robbins Manufacturing, Inc., Rochester PiggyBack Services, Rohm and Haas Co., Sunkist Growers Inc., Tidewater Grain Co., U.S. Steel Corp., Universal Foods, Inc., Witco Chemical Corp.

PPG INDUSTRIES, INC.,
Pittsburgh, PA, June 2, 1986.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Re. future of Conrail.

DEAR CHAIRMAN DINGELL: PPG Industries wants to commend you for your position and thank you for significant efforts regarding the future of Conrail.

PPG strongly supports a stand-alone Conrail, privately owned. We are in complete agreement with your stated point to Secretary Elizabeth Dole that ". . . there is no justification for the Government to undertake the largest parallel railroad merger in the history of the United States and create the massive anti-competitive impacts . . . that would ensue." We agree that the DOT plan is seriously flawed, that DOT should go back to the drawing boards.

DOT seems overly committed to their assumption that a stand-alone Conrail cannot survive the 1990's. We think this is a pre-

sumption that should be decided only by the marketplace, by the skills of Conrail's management, and the dedication of its employees. DOT should not be allowed to proceed on its presumption that Conrail will fail. Even if DOT's projection occurs in the 1990's and Conrail approaches bankruptcy, prudent private owners can and will seek merger within well established public processes (ICC) provided for *all* rail mergers. Certainly, we would agree that DOT need not and should not take back Conrail.

Generally, PPG believes that the mergers of mega-railroads in the U.S. have gone far enough, and probably too far. Such mega-mergers, parallel or end-to-end, should be subject to significantly increased scrutiny, for anti-competitive concerns.

Thank you for your efforts on this important issue.

Very truly yours,

DONALD G. GRIFFIN.

GREG FOSSEDAL EXPOSES PENTAGON AUDIT FOLLIES

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. COURTER. Mr. Speaker, the conventional wisdom holds that, when all else fails, defense procurement problems should be audited out of existence. As Hoarier Institution Media Fellow Gregory A. Fossedal demonstrates in the following Wall Street Journal essay, "More Audits Won't Curb Defense Waste, the size and complexity of the Pentagon audit machinery have reached the point of diminishing returns. The result is just more red tape and fewer weapons getting into the hands of our Armed Forces. I urge all serious students of this distrubing phenomenon to pay careful attention to Mr. Fossedal's essay.

[From the Wall Street Journal, June 30, 1986]

MORE AUDITS WON'T CURB DEFENSE WASTE

(By Gregory A. Fossedal)

Defense contractors have charged hundreds of dollars for a toilet seat, and billed the government for such expenses as an executive's dog-kennel bill. Wouldn't it be nice if the Pentagon hired hundreds of auditors, gave them the right to research files without a subpoena, and sent guilty managers to prison?

Well, no. In fact, as with the oil industry and its scandals of the 1970s, the defense-contracting mess today argues not for new rules, but for sweeping deregulation. Instead, in recent years, Congress has created several new agencies, endowed with growing staffs and powers, to crack down on businesses. The perverse result has cost taxpayers billions of dollars.

Let's consider one such body, the Defense Contract Audit Agency. The agency scrutinizes the expense reports firms submit to Pentagon contract officers, and checks on bids companies submit to win contracts. Created in 1965, the DCAA concentrated on reviewing a sample of the largest contracts, much as the Internal Revenue Service does with taxpayers. The idea, said Defense Secretary Robert McNamara, was to "reduce overall manpower requirements" by consolidating scattered service effort, and lighten the load on industry. "Defense contractors," he said, "will now have to deal with only one audit agency."

NO DUE PROCESS

Today, private contractors face at least six other audit agencies, but the DCAA may be the most feared. In 1968, the agency reviewed 682 contracts worth less than $4 billion. In 1985, it scrutinized more than 100,000 contracts and proposals valued at $300 billion. In 1966, the agency had 166 employees; today, 4,600. In 1966, the agency had a budget of $20 million; in 1985, $180 million, a ninefold increase. (By comparison, the Pentagon's total budget went from $63.5 billion in 1966 to $260 billion in 1985, only a fourfold increase.) Agency auditors use their clout to inspect private files without subponeas—even those of subcontractors that may do less than $100,000 in annual business with the government. Westinghouse Electric Corp. has challenged this practice in court but lost the first round of its suit this spring.

Once, firms proved innocent of alleged overpricing could recover legal expenses. Now they may have to pay even if they win in court. The stakes are high, since the DCAA can impose stiff fines, or initiate criminal proceedings, without due process, indeed without informing a company why a finding was reached. Executives say the DCAA often leaks tentative reports to other agencies and even to the press, pressuring companies and contract officers to obey its findings.

One small electronics company, for instance, was under audit for more than one year by the agency, which forwarded its adverse ruling to the Justice Department. Yet the agency refused to send the firm a copy, or meet company representatives to discuss the facts of the case. During the investigation, one DCAA auditor showed up repeatedly without notice, demanding information on the sport—or else made an appointment and then failed to appear. (An official of the company made details of the case available but, fearing reprisal, asked that it not be identified.)

The head of the DCAA, William Reed, says the facts described would be a violation of agency procedures. The firm, he says, should have complained to the auditor's district manager. However, it did. After several requests, the company, with 10% to 20% of its annual business at stake, was denied a meeting by the head of the local branch office.

Despite such tactics, the DCAA is under the gun to challenge industry claims even more aggressively. Aides to Secretary of Defense Caspar Weinberger, for example, have complained that only 50% to 55% of possible pricing defects discovered by agency auditors are recovered by the actual contract officer. The problem with reading to much into such figures is that many of these "possible" overcharges are justifiable, and almost all are debatable.

An engineer working on the space shuttle, let's say, is called to Washington to discuss an urgent defect in the craft's O-rings. He can't find seating on a commercial flight, so the company flies him out on its private jet, at a cost of $10,000, along with two other executives who needed to be in Washington anyway. How much should the government reimburse the company? The whole cost of a chartered flight? One-third the cost? Nothing, since the other executives planned a trip anyway?

Most auditing decisions are stickier, involving judgments on technical engineering issues of costing techniques obscure even to a trained expert. Defense firms typically face an array of 44,000 specifications; the instruction book on procurement runs 32 volumes and takes up 6 feet of shelf space. A request for payment must square not only with all these rules, but the myriad interpretations put on them by different agencies. When the Army decided it wanted a replacement for its standard jeep, 63 agencies and commands had to approve the decision. And since withholding information on a contract is now a potential felony, firms err on the side of inclusion. Five competitors for the C-5A cargo plane wrote a total of 240,000 pages of material. The mass, along with accompanying material, weighed 3.5 tons and took several trucks to deliver.

Small, innovative firms are vital to the defense industry. Alas, they are hit hard by such paper work, and must follow everything from affirmative-action rules to the Davis-Bacon wage act. In 1980, Electronic Engineering Times magazine estimated that 50% of small high-technology defense contractors were either going bankrupt or dropping out of competition for government contracts, largely due to growing regulation. The number of aerospace suppliers fell to 3,000 in 1980 from 6,000 in 1967. Today, defense consultant Jacques Gansler says the problems facing small firms are even worse.

In 1985, Sen. Dan Quayle (R., Ind.) solicited opinions from seven contractors with $500 million in sales or less. Each one alleged abusive behavior by DCAA auditors, duplicative audits by other agencies, or conflicting rulings on the same regulation. Confronted with such widespread complaints, Mr. Reed counters that the agency hasn't had to discipline a single employee in his memory. This could mean that the DCAA has been perfect. A more plausible interpretation is that the agency takes a lax attitude toward its own employees, and companies are reluctant to press charges.

It's difficult to estimate the subtle costs of over-regulation. Savings generated by auditors are, by contrast, visible and concrete. The DCAA can point to a specific toilet seat or wrench to justify its activity. The agency says it found about $7.8 billion in such fraud in 1985: Three cents saved for every dollar the Pentagon spends, but, as Mr. Reed notes, $43 for every dollar in the agency's own budget.

If the Pentagon really believes this is a fair expression of the costs and benefits involved, it's behaving foolishly. It should request huge increases in the agency's budget, and do so until the ratio nears $1 saved for $1 spent. The Defense Department knows, though, that the claimed savings are bogus. Many are never recovered, making DCAA's estimate, as auditor George Spanton puts it, "totally unrealistic."

Odds are the cost of the agency's activity far exceeds its own annual budget. A study by the Pentagon's logistics commanders says regulation accounts for one-third of procurement costs, a figure corroborated by officials at Martin Marietta Corp. and Hughes Aircraft Co. Several years ago, McDonnell Douglas Corp. was asked to produce an experimental plane, the YC-15. The company bid $164 million and estimated the project would take 2½ years. When the government offered special immunity from most oversight bureaucracy, the prototypes were rolled out 10 months early and cost $84 million.

"For nearly 40 years, we have tied to centralize power over . . . weapons acquisitions by building ever-larger centralized organizations," writes Thomas McNaugher, a re-

search associate at the Brookings Institution. "No one familiar with the Defense Department would say that the effort has been very successful." Deregulation, by contrast, would mean that program managers and private businesses would have more chances to do mischief. But they would also be able to act flexibly and creatively.

OPPOSED MY MR. WEINBERGER

In a hopeful sign, such defense leaders as Sen. Sam Nunn (D., Ga.), Caspar Weinberger and David Packard have all talked about trimming bureaucracy and over-regulation. Unfortunately, their proposals to "cut" read like a replay of past reforms that did the opposite, Sen. Nunn, for example, talks of fighting "micromanagement" in Congress and "bureaucracy" in the Pentagon. But his reform bill would add a new central procurement czar with yet another staff of bureaucrats, while making only cosmetic reductions in other agencies and congressional committees.

So it may take some time before the new rhetorical emphasis on cutting red tape becomes actual policy. "Tell these guys [in Congress] you need a reduction of bureaucracy," one congressional aide says. "and they'll set up a new agency to look into it." In the meantime, true reformers who want to know whether Messrs. Nunn and Aspin are serious have a simple test. Don't watch what they say. Watch what they cut.

A TRIBUTE TO TOMMY HICKS AND SHIDONI GALLERY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. RICHARDSON. Mr. Speaker, recently the Shidoni gallery in Tesuque, NM, held its 20th anniversary. One of the prime sculpture galleries in the United States, the Shidoni gallery in Tesuque has achieved an international reputation and widespread artistic recognition.

Tommy Hicks, a chemist by profession, has made Shidoni the success story that it is.

Mr. Speaker, I commend Tommy Hicks and the Shidoni gallery for their outstanding record.

FOWL START LEADS TO FAIR GAINS FOR SHIDONI

(By Matt Mygatt)

TESUQUE.—Art nourishes the soul and pocketbook at Shidoni Inc., but chicken droppings and a piano helped start what has become one of the nation's largest fine arts bronze foundries.

"We got to shovel chicken manure out of a chicken coop to get started," said Tommy Hicks, who quit his job as a chemist in Amarillo, Texas, in 1971, sold his piano for $350 and headed west.

The investment paid off.

"We're anticipating $2 million in sales this year," Hicks said. "In volume, we're probably second-largest in the United States."

The foundry, its adjoining offices and studios cover about 20,000 square feet. Hicks calls it Shidoni Pueblo.

A nearby 5,000-square-foot gallery nudged into the side of a hill is new.

The eight-acre compound blooms with all manner and size of sculpture. Hicks calls it an outdoor sculpture garden.

But Shidoni sprang from humble beginnings.

Hicks, 60, has been a sculptor since 1952, and for 20 years he worked as a petroleum chemist.

"After 20 years with Texaco, I decided to give sculpture a chance," he said.

Hicks said he received a call from an arts organization which wanted to start an arts compound in this small village north of Santa Fe.

"They had a real need at that time for a foundry," he said.

But times were tough.

"I sold a piano for $350 to help me get over here," Hicks said. "That didn't last very long. I wound up on food stamps for about two months, which was about the most degrading thing I've ever done.

"The ranch we bought was 76 acres and was an old chicken farm. All the buildings were falling down. The building I picked was a chicken coop."

The business, founded in February 1971, was christened Shidoni Foundry.

"Shidoni is a Navajo word, like a greeting to a friend," he said. "Being very friendly and being from Texas, we came up with that. It would have sounded kind of corny to call it the Howdy Foundry."

His first furnace was fashioned from a big barrel. "We didn't have any backing or anything to start with," said Hicks, who started the business with his wife.

"It started out as a real Mom and Pop operation, and we have 41 people working now," Hicks said.

The workers are needed because bronze casting is very labor-intensive, he said.

Shidoni specializes in the lost wax method of bronze casting developed centuries ago by artisans wanting to retain all of the detail in an original sculpture. The method involves many intricate processes, from the making of the initial mold of an artist's sculpture to the coloring process called patina.

"The first casting I made was perfect," said Hicks. "The next 100 were failures. But our percentage now is very good because we can't afford failures."

A lot of money goes into labor and expenses such as natural gas bills that run $2,000 a month to heat bronze ingots to their 1,950-degree melting point.

"Sculpting is expensive for an artist to do," said Randy Larson, 30, a seventh-generation foundry worker and sculptor who used to make facial prostheses as a dental technician.

"It's nice to work here and be able to do your art work at the same time," he said.

Allan Houser of Santa Fe, a sculptor known for his stylized Indian pieces, uses Shidoni.

"They do good, quality work," said Houser, 71. "I do a lot of monumental sizes in bronze and they please me. If I need it in a rush, they drop a lot of things."

Hicks said the foundry has cast everything from dime-sized medallions for the city of Santa Fe to a 21-foot dinosaur that stands in front of the New Mexico Museum of Natural History in Albuquerque.

"Right now we're working on what probably will be the largest single sculpture—40 feet long. It will be in Texas," he said.

Hicks, now chief executive officer of the outfit, said he hires only the best artists to work at Shidoni.

"The quality is what has made us," he said.

SHIDONI SCULPTURE

Shidoni is adapted from a Navajo word meaning "friend" and for nearly fifteen years Shidoni has been a friend and important resource for artists and collectors.

It began in Tesuque, north of Santa Fe, when sculptor Tommy Hicks built a small two-man bronze art foundry in an abandoned chicken coop. It has grown into a facility comprising 15,000 square feet surrounded by an 8½ acre sculpture garden. Nearly 40 people are employed casting, fabricating, or selling works of art for hundreds of artists from all over North America.

The foundry is a complete sculpture facility. Silicon bronze is cast with the sand method or lost wax ceramic shell technique. State of the art technology is applied to the ancient process of bronze casting to produce sculptures from miniature to monumental in scale.

Every Saturday afternoon visitors are welcome to watch the Shidoni artisans heat bronze to a molten 2000° Farenheit and pour the glowing metal into waiting sculpture molds. Methods utilized by sculptors for centuries as well as modern techniques are available at Shidoni for enlarging smaller works to large scale pieces. An experienced fabrication shop is also part of the services available for large works which are welded rather than cast.

Shidoni Gallery began this year with a new 5,000 square foot indoor gallery. Designed specifically to show sculpture, the gallery has spacious ceilings and takes full advantage of natural light. A series of small one and two person shows throughout the summer will highlight the work of several sculptors. A wide range of work in a variety of media and styles will be included.

Shidoni Gallery will also be showing two dimensional work including paintings by Russell Hamilton, Bill Gersh and Lalla Lepeshkin. These artists, as well as others, will have feature exhibitions throughout the year.

The 11th Annual Outdoor Sculpture Show opens in June in the verdant sculpture garden. Monumental steel, stone and wooden sculptures are included in this yearly event that runs through September. This show attracts sculptors throughout the southwest and from across the nation.

LIABILITY INSURANCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. RODINO. Mr. Speaker, I note with interest that the National Association of Attorneys General [NAAG], comprised of the leading law enforcers of every State, recently completed a study entitled, "An Analysis of the Causes of the Current Crisis of Unavailability and Unaffordability of Liability Insurance." Because insurance is a State-regulated industry, the State attorneys general are in a special position to assess the nature and magnitude of the problem now faced by increasing numbers of local governments and private businesses when insurance companies withdraw coverage or raise premiums. I believe that the State attorneys' conclusions about the crisis in securing liability insurance will be helpful to Members studying the issue.

NAAG also adopted a resolution at its summer meeting held in Seattle, WA, June 9–12, 1986, calling for the repeal by Congress of the Federal antitrust immunity currently enjoyed by the insurance industry. The resolution

notes that the antitrust exemption, adopted in the McCarran-Ferguson Act—15 U.S.C., sections 1011–1015—in 1945, predated subsequent developments in antitrust jurisprudence that permitted States, under the State action doctrine, to exercise their own powers of taxation and regulation—including price regulation—without hindrance from the Federal antitrust laws. Consequently, and in the words of the resolution, "Serious questions have been raised about the current crisis in liability insurance and whether it may have been fostered by the industry's antitrust exemption."

Because of the relevance and timeliness of the NAAG resolution to the current debate about insurance practices, I am submitting it for inclusion in the RECORD.

REPEALING THE INSURANCE INDUSTRY'S EXEMPTION FROM THE ANTITRUST LAWS

Whereas, The Sherman Act, the Clayton Act, and decisional law prescribe the appropriate standards of conduct for competing businesses and for individual firms acquiring and exercising market power in the United States; and

Whereas, those laws prohibit activities in restraint of trade that have repeatedly been shown to be harmful to the economy and injurious to consumers; and

Whereas, in 1944, the Supreme Court determined, in United States v. South-Eastern Underwriters Association, 322 U.S. 533, that the business of insurance constitutes commerce within the scope of the antitrust laws; and

Whereas, in 1945, Congress, apprehensive about the effect of South-Eastern Underwriters on the powers of states to tax and regulate insurance, adopted the McCarran-Ferguson Act (15 U.S.C. sections 1011–1015), granting the insurance industry broad exemption from most provisions of the Sherman and Clayton Acts, including the proscriptions against such anticompetitive practices as price-fixing, agreements not to compete, monopolization, mergers of dominant firms, tying agreements, and a wide range of other conduct that is unlawful for nearly every firm outside the insurance industry; and

Whereas, subsequent developments in antitrust law, particularly evolution of the state-action doctrine, have made it clear that nothing in the Sherman and Clayton Acts would hinder the exercise of traditional state powers of taxation and regulation, including price-regulation, making the antitrust immunity of the McCarran-Ferguson Act unnecessary for the purposes that originally motivated Congress to enact it; and

Whereas, it is also clear that nothing in the antitrust laws prohibits insurers from sharing information on losses in order to price their product, or from engaging in reinsurance and other risk-sharing arrangements common to the industry, making the antitrust immunity of the McCarran-Ferguson Act unnecessary to the legitimate needs of the insurance industry; and

Whereas, the insurance industry is critical to the national economy, with Americans paying over $140 billion per year in premiums on property/casualty insurance alone, and with insurance being a necessity for many enterprises; and

Whereas, serious questions have been raised about the current crisis in liability insurance and whether it may have been fostered by the industry's antitrust exemption; Now, therefore, be it resolved, that the National Association of Attorneys General, reaffirming its commitment to the historic right of the states to regulate and to tax insurance and its commitment to the importance of the antitrust laws to free and competitive markets, urges the Congress of the United States to repeal the special immunity from the antitrust laws granted to the insurance industry and to subject insurance companies to the rules of the competitive marketplace applicable to other firms; and

Be it further resolved, that the Association authorizes its Executive Director and General Counsel to make these views known to the Congress, the Administration, and other interested parties.

HOUSE JOINT RESOLUTION 666

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. UDALL. Mr. Speaker, House Joint Resolution 666 was introduced and approved by the House with over 100 cosponsors. I have been notified that many other Members have indicated a desire to cosponsor the measure since that action was taken. Although they cannot be added as cosponsors at this time, I do want to include their names in the RECORD at this point to acknowledge their interest in, and support for, this measure.

The Members are as follows: Representatives BARNES, BREAUX, CLAY, DYSON, EDWARDS of California, EVANS of Illinois, FASCELL, FISH, FROST, HALL of Texas, HEFNER, HEFTEL of Hawaii, HUGHES, JACOBS, LEVINE of California, LUKEN, MCCAIN, MATSUI, MILLER of California, ROBINSON, and YATES.

MORRISTOWN DAILY RECORD ENDORSES 2-YEAR DEFENSE BUDGET

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. COURTER. Mr. Speaker, one of the most unfairly ignored Packard Commission recommendations is the 2-year defense budget. As the Morristown, NJ, Daily Record notes in the following editorial, there is much to be said for the long-term defense goals and program stability that 2-year defense budgets would promote.

Of course, as the Record shrewdly observes, there has historically been stiff congressional opposition to this idea, largely because it would mean less "micromanagement" of every widget and horseblanket procured by the Defense Department. But the bottom line is our national security, and this precious commodity is best preserved through commonsense innovations like the 2-year defense budget. I recommend the following editorial to my colleagues.

[From the Morristown (NJ) Daily Record, June 25, 1986]

COHERENCE IN DEFENSE

Every year, the president submits a defense budget to Congress, and every year zealous congressional micro-managers tinker with each item. This fine-combing and -tuning seriously undermines the stability of this country's defense programs.

The Pentagon has formulated a modest proposal to retrieve some of that stability: a two-year instead of an annual defense budget. Actually, the idea has circulated for quite a while. As an experiment, the House Armed Services Committees provided in last year's defense authorized bill that the Pentagon submit a two-year budget beginning next January for fiscal 1988. Congress has not agreed to approve a biennial budget, just to receive one.

But, for several reasons, the time has come for Congress to seriously consider approving two-year defense budgets. First, by dispensing with yearly tinkering sessions, Congress would be fostering longer-term goals and strategies.

Second, budgetary stability saves the government tens of millions of dollars in defense procurement programs each year. Conversely, a lack of budgetary stability endangers those programs. In major programs every year of delay can raise the cost by up to 30 percent. For example, the Pentagon wanted to build 144 F-15 fighter planes a year at a cost of $20 million per plane. Congress forced the Pengaton to reduce procurement to 30 planes a year, stretched out over five years. The result: each plane cost $10 million more.

On the other hand, multi-year procurement is a sure way to cut defense spending substantially. The cost is fixed, the Pentagon's commitment to the contracted company is firm, deliveries are often made ahead of schedule, and the whole program can come in under cost.

So why is Congress balking at the sensible idea of a biennial budget? For one thing, many Congressmen don't relish the idea of relinquishing some control over the defense appropriations process. But Congress would still be approving, amending or rejecting a budget submitted by the president. Considering that our principal adversary, the Soviet Union, adopts five-year plans, the introduction of two-year budgets seems relatively innocuous: Congressional power will hardly be circumscribed.

Instead, Congress would be forced to conceive of the larger picture and accept or devise alternative longer-term strategies. Bold and imaginative initiatives would replace counterproductive tinkering. And lest liberal opponents of biennial defense budgets forget, two-year commitments would apply as much to a defense program under a liberal administration as to one under a conservative regime. Congress still has the last word.

There is way too much confusion in the current defense appropriations system. Such disorder ultimately endangers national security. Congress ought to get more serious about bringing more coherence to the process. A two-year defense budget is a good place to start.

PULLING STRINGS: SAVVY LOBBYISTS GAIN CLOUT IN WASHINGTON FOR FOREIGN CLIENTS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. WOLPE. Mr. Speaker, I would like to draw the attention of my colleagues to the following article "Pulling Strings: Savvy Lobbyists Gain Clout in Washington for Foreign Clients" that appeared earlier this week in the Wall Street Journal. This report is a significant contribution to the growing body of evidence detailing the impact these inside influence peddlers can have on policymaking in our Government. The news is far from reassuring. Just yesterday, Representative KAPTUR and I released a study conducted by the General Accounting Office which provides more information about the extent of this practice. The GAO report only served to confirm the suspicions that had prompted the introduction last fall of our legislation, the Foreign Agents Compulsory Ethics in Trade Act. Included in the list of former top-level officials who have lobbied on behalf of foreign clients since leaving our Government are a former Chairman of the International Trade Commission, a former Assistant to the President for National Security Affairs, and a Deputy U.S. Trade Representative, just to name a few. The problem is very serious and it is clear that Congress is getting serious about addressing the problem. I invite all of my colleagues to join me, Congressman GLICKMAN and Congresswoman KAPTUR in supporting our new legislation, H.R. 5097, the Foreign Representation Restrictions Act of 1986 which seeks to close this damaging revolving door and assure the integrity of our Nation's policymaking process.

The article follows:

[From the Wall Street Journal, July 14, 1986]

PULLING STRINGS: SAVVY LOBBYISTS GAIN CLOUT IN WASHINGTON FOR FOREIGN CLIENTS

(By Edward T. Pound and David Rogers)

WASHINGTON.—Three years ago William Timmons was already one of the savviest, best-connected Republican lobbyists that American blue-chip companies could hire. Then President Reagan made him a "Wise Man."

Appointed in May 1983 to the U.S.-Japan Advisory Commission—dubbed the Wise Men in Japan—Mr. Timmons achieved the enviable status of a man stamped by his government as someone to be listened to both in Washington and in Tokyo. At the time, Mr. Timmons had no known foreign clients. But his appointment, which dovetailed with his growing relationship with Foreign Minister Shintaro Abe, was soon followed by fast growth of a new Timmons lobbying and trading firm, Global USA. Mr. Timmons formally separated himself from the firm for a little over a year and a half, but his advice and reputation remained. And when he bought back his stock, Global held annual contracts of $1.2 million from some of Japan's biggest companies.

The story of Global's rapid rise is a tale of the riches and revolving-door politics of lobbying in Washington.

Critics contend that a new breed of high-powered influence peddlers—typified by former Reagan aide Michael Deaver, whose overnight success is under investigation—has been emboldened by the Reagan administration's pro-business tone.

Questions arise about lobbyists' activities for domestic as well as foreign clients. Trade groups seek to dominate the agencies that regulate their industries. Members of Congress raise campaign funds from the same interests that seek to sway legislation—and many lawmakers worry about the danger of becoming beholden to the lobbyists.

In the area of lobbying for foreign nations and companies, activity has exploded in recent years, and Washington has become the stage for a large case of international dealers. Global USA's world, for example, encompasses not only exclusive Washington clubs but also a business partner previously convicted of rape and arson. And it includes ties to Korean businessman Tongsun Park, the central figure in a 1970s payoff scandal in Congress. Beyond mere lobbying, Global's principals are credited by some with helping Tennessee interests to gain the bulk of steam-coal sales to Japan last year.

REGISTRATIONS UP

Foreign-agent registrations at the Justice Department, required under a 1938 law, have grown by about 1,000 since 1981, to more than 7,500, and as President Reagan has reasserted U.S. influence abroad, his political allies have often cashed in at home. "The Reagan administration . . . extends a warm welcome to you and your president," wrote GOP lobbyist Joseph Blatchford in a letter last year to the Ecuadorean ambassador. "Here in Washington," the lawyer hastened to add to his future client, "the squeaky wheel gets the grease."

Politicians under protectionist pressure fear the loss of secrets in trade negotiations and wonder whether U.S. officials have the will to talk tough to foreign competitors who may hire them weeks later. The Senate Judiciary Committee has approved legislation that would slow the revolving door between government service and private lobbying.

Examples of that door are legion. On a government trip weeks before he resigned last year as an assistant secretary of state, Langhorne Motley made 11 contacts with Brazilian interests where a potential financial relationship couldn't be ruled out, according to a report he filed with State Department lawyers after the trip. Three of the contacts—Brazilian exporters of shoes, computers and orange juice—have since signed contracts valued at $444,000 annually with Mr. Motley's consulting firm.

TALKING ABOUT PROBLEMS

Mr. Motley denies that his intention was to seek business. "We were talking about their problems," he says. "If that falls into the realm of the definition of lining up business, so be it."

Seeking help from those close to the party in power is a bipartisan tradition. President Carter's brother, Billy, provoked public embarrassment by his dealings with Libya. And government records show that as U.S. trade representative in the Carter years, Democrat Robert Strauss wrote letters to Japanese officials giving unusual status to his former political aide, lobbyist Robert Keefe, who had Japanese clients and was seeking more.

"I have asked Mr. Keefe to convey to you and the prime minister some thoughts I have regarding positive efforts to achieve better U.S.-Japan relations," wrote Mr. Strauss in a letter April 6, 1979, to Rokusuke Tanaka, then state minister. The same day, Mr. Strauss also provided his friend with a letter of introduction to U.S. Ambassador Mike Mansfield. The letters are on file at the trade officer here, including a January 1979 letter to then Prime Minister Masayoshi Ohira that Mr. Strauss asked Mr. Keefe to deliver.

"Every time I go to Japan I'm trying to raise business," explains Mr. Keefe, who denies any impropriety. "The American side didn't know [then Prime Minister] Ohira from a hill of beans, and I did. I think I was useful." Mr. Strauss, now one of Washington's most powerful Democratic lobbyists, says, "I never gave it a thought of helping Keefe." He says Mr. Keefe was just one of "three or four back channels" he used with the Japanese on trade issues. Mr. Strauss says he also used a reporter for a major U.S. newspaper to deliver a message to a Japanese official, but he refuses to identify the newsman.

UPGRADING A BACK CHANNEL

The chief beneficiaries of the recent lobbying upsurge have been firms that trumpet their Reagan ties. One of the hotest such firms is Black, Manafort, Stone & Kelly, which, in a successful pursuit of a $360,000 contract from the Bahamas, boasted of "personal relationships" with State Department officials that can be "utilized to upgrade a back-channel relationship" for the Bahamas' economic and political benefit.

Beyond the hyperbole, such firms have shown they can deliver. When Colombian flower exporters were accused of dumping subsidized roses on the U.S. market, they hired Heron Burchette Ruckert & Rothwell, a Washington law and lobbying firm whose founders include James Lake, a former Reagan campaign aide and a friend of Trade Representative Clayton Yeutter.

Shortly after U.S growers filed their complaint with the trade representative's office last Aug. 5, Mr. Lake obtained a meeting with Mr. Yeutter on Sept. 10 for his client—Ascoflores—and the Colombian ambassador. Reports filed at the Justice Department list three additional meeting—on Sept. 16, Sept. 17 and Sept. 18—between Mr. Lake and Mr. Yeutter at a time when the attorney for the domestic growers says he couldn't even get a phone call answered by the trade representative's office. On Sept. 19, the ruling came down refusing any inquiry into the complaint.

PLAYS DOWN ROLE

Mr. Lake plays down his role but says, "The fact that I'm a friend of Clayton's is not a disadvantage." Both Mr. Lake and the trade representative's office argue that the substance of the case weighed against domestic growers: Roger Bolton, a spokesman for Mr. Yeutter, says the trade-office staff had recommended to the growers' attorney that the petition not be filed, because of insufficient evidence. "This wasn't even a close call," Mr. Bolton says. But Democratic Rep. Leon Panetta, whose California constituents include rose growers, says, "I think Lake had an influence. That's for damn sure. He's a heavy."

Sometimes the lobbyists' role can extend to foreign shores as well. Interior Department official Harold Furman played a lead role in the department's campaign to promote the huge Three Gorges Dam project in China and to line up a "Team America" of U.S. firms eager for contracts. Weeks after leaving the department last November,

Mr. Furman was back in China accompanying an executive of the accounting firm Coopers & Lybrand, which had hired him as a consultant, and an executive of the construction company Bechtel Group Inc. Both companies had a financial interest in the project, which has since been delayed. In China the party of three met Zhengying Qian, the water minister, who Mr. Furman says "described me as an old friend."

In the recent explosion of foreign lobbying here, Japanese interests have taken the lead. Last year the Japanese paid U.S. agents $23.5 million, not counting fees from U.S. subsidiaries of Japanese firms. Equally striking is the number of poorer countries such as the Dominican Republic and Ecuador that vie for influence. In the contest for fees, top Republican lobbyists have backed both sides in the Angolan guerrilla war and have virtually begun a private Caribbean initiative of their own to match the president's.

These huge sums and the intense activity test a time-honored system. The U.S. has ong prided itself on offering an open, adversarial system to resolve trade disputes. But in an era of large trade deficits, the image of insiders wielding influence and information provokes an anti-foreign as well as anti-lobbying reaction.

"There is an element of abuse of the openness of the U.S. system," says Clyde Prestowitz, a former senior Commerce Department attorney dealing with Japan and trade policy. "We're talking about big bucks, and the Japanese and other governments are spreading it around liberally."

The proposed restrictions reported by the Senate Judiciary Committee would bar the government's highest officials, including members of Congress, from lobbying or working for a foreign entity for three years after leaving office. Current law primarily focuses on limiting a former official's contacts with his old agency or on issues he dealth with, but includes no such ban on dealing with foreign interests. Even if the new law is enacted, however, it will leave many heavyweights like William Timmons largely unaffected.

In many respects, Mr. Timmons personifies the gradual evolution of a Washington deal maker from a purely domestic operator to an international one. A former White House aide to Presidents Nixon and Ford, Mr. Timmons, 55 years old, is a friend and adviser of Cabinet secretaries and since 1968 has been a manager of GOP presidential conventions.

AN OFFSHORE BASE

The lobbyist is most widely identified with his Washington firm, Timmons & Co., which boasts a corporate clientele as American as major-league baseball, which it also represents. But in early 1982, Mr. Timmons established a second company, Snomit International Ltd., in the British Virgin Islands. This was partly to give himself an offshore base, but his associates say that its primary purpose was as a tax shelter to protect income earned abroad while working on behalf of U.S. clients in Japan and Europe.

Global USA, incorporated in Jaunary 1983, moved Mr. Timmons fully into the international arena. The company's ambition, according to partners in the firm, was to strike deals of its own while representing the interest of others.

Even before his May 1983 appointment to the U.S.-Japan Advisory Commission, which dealt with trade, security and other bilateral matters, Mr. Timmons had developed a relationship with Japanese Foreign Minister Abe that complemented his longstanding friendship with William Brock, the U.S. trade representative in President Reagan's first term and now the Secretary of Labor. As a lobbyist for Chrysler Corp., Mr. Timmons had a major stake in the amount and type of Japanese auto imports allowed each year, while Mr. Abe was minister for trade and industry before becoming foreign minister.

Mr. Timmons's partners in Global exemplify both the sophisticated image and the rougher side of the new international dealers.

One partner is Stanton Anderson, the lawyer son of a Baptist minister with a client list that includes deposed Philippine leader Ferdinand Marcos. He served for a time on the Reagan-appointed Advisory Committee for Trade Negotiations. And his office is decorated with Japanese prints and framed photographs advertising ties to this and past GOP administrations.

Mr. Anderson, 45, and Mr. Timmons both worked in the Nixon White House in the early 1970s. Mr. Anderson, who is a partner in the law firm of Anderson, Hibey, Nauheim & Blair, had established himself as a power in his own right even before his association with Global, having built a large foreign clientele during the Reagan years.

A second partner is Global's managing director, Robert Conkling, who was involved in past international dealings with Mr. Park, the Korean businessman. Superior Court records for the District of Columbia show that in 1975, Mr. Conkling was imprisoned after being convicted of armed rape, armed kidnapping, sodomy and assault with a dangerous weapon. According to the court files, he abducted three young women at gunpoint during two incidents in 1973 and 1974 and sexually assaulted them. The court records also show that Mr. Conkling was convicted of arson in 1958 in Pennsylvania.

DAY-TO-DAY OPERATION

Mr. Conkling, 49, brought less prominence to the firm than Mr. Timmons or Mr. Anderson did, but more foreign experience. Mr. Timmons offered him a second chance after his troubled past, and Mr. Conkling provided a loyal set of hands to run Global's day-to-day operation.

When Mr. Timmons was appointed to the U.S.-Japan Commission, Mr. Anderson says, Mr. Anderson and Mr. Conkling, in effect, bought his 40% share of stock through the company. Upon his return in early 1985, Mr. Anderson says, Mr. Timmons was able to repurchase 30% of the firm at no increase in the pre-share cost, again making him the firm's largest shareholder.

Because he had removed himself from Global, Mr. Timmons wasn't required to register as a foreign agent with the Justice Department when Global signed up its first Japanese clients weeks later. At the time of his appointment, some foreign lobbyists resigned from other presidential commissions after the White House concluded that federal law generally prohibited registered foreign agents from serving on such panels.

Mr. Timmons declines to be interviewed. His partner Mr. Anderson says that Mr. Timmons left Global solely because he wanted to avoid the appearance of any conflict of interest, and he denies that the transfers back and forth were prearranged. But he refuses to release documents detailing the transactions. "It was not intended to be a sham," Mr. Anderson says, "nor was it a sham."

EARNINGS CLIMBED

While Mr. Anderson denies any conflict on the founder's part, Global's earnings had increased substantially by the time Mr. Timmons returned. Within weeks of his appointment to the commission, Fanuc Ltd., a Japanese manufacturer of industrial robot machines, hired Global for $200,000 a year, according to reports by Global to the Justice Department. By July, two more companies, heavy-equipment maker Komatsu Ltd. and a subsidiary of Yamasaki Machining, had signed annual contracts of $250,000 and $200,000 respectively, according to Global filings. And before the commission completed its report in September 1984, the electronics company Kyocera Corp., Japan Aircraft Development Corp. and All Nippon Airways Co. had followed suit.

Mr. Anderson and other Global officers argue that at least the early contracts were being negotiated before the commission appointment. But Mr. Timmons' new position was widely regarded as a political plum adding to his prestige particularly in Japan, and he continued to counsel Global officials.

"There were occasions when we met with Bill at our request to find out more about how things were going with the Wise Man commission," says Raymond Waldmann, who was Global's president in 1983 and who now is a Boeing Co. executive in Seattle. "Timmons had some views about the way the business relationship with Japan was evolving, and that was very helpful to us in terms of looking for clients," says Mr. Waldmann, another former Reagan administration official.

COAL PURCHASES

One consistent theme, as native to Tennessee as Mr. Timmons himself, was coal. The commission's own 1984 report recommends increased Japanese purchases of steam coal. While it is unclear what role Mr. Timmons played in this recommendation, he had an interest in such sales before and after his service.

Writing under the Snomit International letterhead in January 1983, four months before he was named to the commission, Mr. Timmons urged his friend Mr. Brock, who was then the U.S. trade representative, to take advantage of a coming visit by Japanese Prime Minister Yasuhiro Nakasone to press the need for more coal purchases. "Ask Nakasone if he will arrange a meeting between you and appropriate Japanese government officials when you're in Japan to discuss coal." Mr. Timmons wrote, adding a note that reflected his close knowledge already of Mr. Abe. "If you agree to this," the memo reads, "it is important that you raise [the coal issue] directly with Prime Minister Nakasone, not with Foreign Minister Abe who already understands the reasons."

William Morris, a longtime friend of Mr. Brock and Mr. Timmons, was an early consultant to Global and was active in promoting coal exports after leaving the Commerce Department in April 1983. As the assistant secretary for trade development, Mr. Morris had participated in U.S. talks encouraging coal sales to Japan. Later, apart from his role with Global, he was also a vice president until last year with P&C Bituminous Coal in Tennessee. He now is Global's president.

Industry sources estimate that P&C was the major beneficiary of Japanese purchases of steam coal in 1985. Shipping reports show that more than 596,000 metric tons of steam coal were shipped to Japan

from P&C and an affiliated firm, Diversified Fuel Exports, and that nearly 308,000 metric tons were shipped through a third Tennessee firm linked to P&C's owner, Eddie Pen, a prominent Republican campaign contributor.

The purchases, which were made without any apparent public bidding, infuriated other exporters, and P&C's success is seen as testimony to Messrs. Morris' and Timmons' influence in Washington and Tokyo. "If they [the Japanese] buy steam coal, it is only on a political basis," says one source knowledgeable about the coal industry and Japan's practices. "They ask, 'Who do I buy it from? Which company will give me the most political mileage?' "

In the labyrinthine world of international dealings, the players are often hazy figures. One figure that crops up in connection with Global is Tongsun Park, who was indicted here in 1977 on bribery and conspiracy charges in connection with payments he made to congressmen. Two years later, the Justice Department dropped the indictment after Mr. Park, who was a flamboyant Washington party-giver, testified against House members who had received cash from him.

Mr. Park has long been a friend of Messrs. Timmons and Conkling. (At Mr. Conkling's recent wedding, Mr. Park served as a groomsman and Mr. Timmons as best man, according to Mr. Anderson.) He has operations today in Europe, the Caribbean and suburban Washington. A decade ago, before he got trapped in the "Koreagate" net, Mr. Park was represented by Mr. Timmons.

Months after Foreign Minister Abe assumed that post in late 1982, Mr. Park attended a Global USA dinner for Mr. Abe in Washington. Fluent in Japanese and described as friendly with Mr. Abe, Mr. Park also acted as an interpreter at a Washington meeting between Global and Japanese officials, according to someone who was there.

Mr. Park's presence at the Global dinner caused two Global officials, Mr. Waldmann and J. Michael Farrell, to ask Mr. Timmons whether the Korean had financial dealings with Global. They say Mr. Timmons assured them that Mr. Park wasn't involved in Global's business. "I didn't want personally to have any ties with Park. He had a rather checkered background," explains Mr. Farrell, who sold his Global stock in December 1984 and now is the Energy Department's general counsel.

Mr. Waldmann left Global at the end of 1983 after, he says, he tried, but failed to get Mr. Conkling removed from a management role in Global because he disliked his business dealings and practices.

During its early days, Global paid fees to, and was affiliated with, Japan Market Development Co. (JMD), now defunct but then a politically well-connected Tokyo concern. A former JMD executive, Akira Nagashima, says that JMD was established at the suggestion of Messrs. Timmons and Conkling.

Mr. Nagashima acknowledges that the company used the name of Hisashi Matsunaga, a retired shipping executive, in its promotion materials, but insists that Mr. Park had nothing to do with JMD. Mr. Matsunaga, formerly a senior executive at Japan Line Ltd., is a close friend of Mr. Park's. He says that Mr. Park introduced him to Mr. Nagashima and his partner, Minoru Kusuda, the executive secretary to former Prime Minister Eisaku Sato and now the auditor of the Japan Foundation, a cultural arm of the foreign ministry. Mr. Kusuda, who was appointed to the foundation post by Foreign Minister Abe, his close political associate, confirms that JMD was set up at Mr. Timmons's request.

"I think Mr. Park cooperated very closely with Mr. Kusuda and Mr. Nagashima," says Mr. Matsunaga. "He—Tongsun Park—wanted to utilize Mr. Kusuda's influence in Japan." He says that Mr. Park used to meet with Messrs. Kusuda and Nagashima when he traveled to Tokyo.

Mr. Matsunaga says that Mr. Park also introduced him to Messrs. Timmons and Conkling several years ago. Mr. Matsunaga, now the president of Sunrise Development Japan Ltd., says that last year, at the request of Mr. Park, he briefed Mr. Timmons and American shipping companies on how they might pursue contracts with auto makers to carry Japanese cars to the U.S.

Global's Mr. Conkling declines to be interviewed. But documents show he became involved in business dealings with Mr. Park soon after Mr. Conkling finished his prison sentence in 1976. Mr. Conkling helped Mr. Park in an unsuccessful attempt to sell surplus Korean weapons, produced in the U.S., on the international arms market, says Samuel Cummings, an arms dealer who runs a company called Interarms and who says he met with Messrs. Park and Conkling in the 1970s.

After Global was established three years ago, Mr. Conkling continued to sometimes share a London office also used by Mr. Park, according to Global's Mr. Anderson. Mr. Anderson acknowledges that after Global's formation, Mr. Conkling was involved with Mr. Park in a hotel venture in the Dominican Republic. But Mr. Anderson says that Mr. Park "doesn't have anything do to with Global."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 17, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 18

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2506, to establish a Great Basin National Park in the State of Nevada, S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and S. 2384, to permit the acquisition of certain lands for an administrative site for the New River Gorge National River, West Virginia.
SD-366

Finance
International Trade Subcommittee
To hold hearings on S. 1655, to provide for enforcement of prohibitions concerning the importation or sale of merchandise in United States commerce.
SD-215

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

Joint Economic
Economic Resources, Competitiveness, and Security Economics Subcommittee
To hold hearings to review the rate of inflation in the purchase of goods and services by the Department of Defense.
SD-562

JULY 22

9:00 a.m.
Armed Services
Closed business meeting, to further discuss the provisions of S. 2638, authorizing funds for fiscal year 1987 for the Department of Defense, authorizing funds for fiscal year 1987 and 1988 for national security programs of the Department of Energy, and authorizing funds for fiscal year 1987 for military construction programs (pending on Senate calendar).
SR-222

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 2592, to strengthen Federal deposit insurance programs and to enhance competition in the financial services sector.
SD-538

Finance
To hold hearings on S. 1862, to provide for an estimate of the increase in U.S. exports that would result from the elimination of certain foreign trade barriers (incorporated in S. 1860 as Title II).
SD-215

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of

all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri River Basin Program, South Dakota, S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri River Basin Program, Nebraska, and H.R. 5028, the Lower Colorado Water Supply Act.

SD-366

Environment and Public Works
Business meeting, to consider S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.

SD-406

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to review activities of the International Atomic Energy Agency (IAEA), focusing on nuclear safety measures

SD-342

Labor and Human Resources
Aging Subcommittee
To hold hearings to review health care services available for people with Alzheimer's Disease and related dementia.

SD-430

1:30 p.m.
Finance
Business meeting, to consider certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989.

SD-215

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of James E. Burnett, Jr., of Arkansas, to be Chairman of the National Transportation Safety Board.

SR-253

Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.

SD-430

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.

SR-253

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the report of the National Commission on Space.

SD-628

JULY 23

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Federal Reserve's second monetary policy report for 1986.

SD-538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.

SR-253

Finance
To hold hearings on S. 1865 and S. 1837, bills providing for a new round of multilateral trade negotiations to reduce or eliminate trade barriers and distortions, and to revise U.S. trade and financial agreements to meet specified objectives (S. 1865 incorporated in S. 1860 as Title IV).

SD-215

Governmental Affairs
To hold hearings to review the recent U.S. Supreme Court decision on the constitutionality of the Gramm-Rudman Balanced Budget Act.

SD-342

Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.

SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.

SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program, and other pending calendar business.

SD-366

Environment and Public Works
Business meeting, to continue consideration of S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.

SD-406

Select on Indian Affairs
To hold hearings on S. 2105, S. 2106, S. 2107, bills to provide for the settlement of certain water rights claims of the Papago Indian Tribe of Arizona, and S. 2564, to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses.

SR-385

1:30 p.m.
Finance
Business meeting, to continue consideration of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989.

SD-215

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.

SD-366

3:30 p.m.
Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).

2125 Rayburn Building

JULY 24

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to discuss the legal drinking age in the District of Columbia.

SD-138

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on operating differential subsidy programs reform.

SR-253

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.

SD-366

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on S. 2037, to improve the targeting of Federal aid for the General Revenue Sharing program, and for other related proposals.

SD-342

Small Business
Business meeting, to consider certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989.

SR-428A9

2:00 p.m.
Appropriations
To meet to consider subcommittee allocations of budget outlays and new budget authority allocated to the committee as contained in S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989, under the provisions of 302(b)(1) of the Congressional Budget Act of 1974.

S-128, Capitol

3:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters.

SH-219

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.

SR-253

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

Environment and Public Works
To hold hearings on the nominations of Thomas L. Adams, Jr., of Kentucky, to be Assistant Administrator for Enforcement and Compliance Monitoring of the Environmental Protection Agency, and Kenneth M. Carr, of California, to be a Member of the Nuclear Regulatory Commission.

SD-406

JULY 28

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on S. 1817, to temporarily suspend Most Favored Nation status for Romania for six months, and S. 1492, to permanently withdraw Most Favored Nation status for Romania.
SD-215

JULY 29

9:00 a.m.
Office of Technology Assesment
Closed meeting, followed by an open meeting, to discuss pending business matters.
S-407, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

Finance
International Trade Subcommittee
To hold hearings on S. 2614, to establish customs regulations allowing parallel importation of genuine, trademarked articles in the case where related parties own the trademarks in the United States and abroad.
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 30

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Finance
To hold hearings on S. 1871, relating to imports which threaten to impair the national security (incorporated in S. 1860 as Title X).
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to examine energy innovation and the patent process.
SD-342

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income program to receive benefits while working.
SD-215

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SD-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SD-332

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of section 404 of the Clean Water Act, relating to the wetlands dredge and fill permit program.
SD-406

4:00 p.m.
Select on Intelligence
Closed business meeting, to be followed by a closed briefing on intelligence matters.
SH-219

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to markup S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Aging Subcommittee
To hold hearings to review certain reauthorization provisions of the Older Americans Act.
SD-430

AUGUST 13

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 9

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430.

CANCELLATIONS

JULY 17

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to

Families with Dependent Children program.

SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.

SD-430

JULY 22

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.

SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.

SD-430

SENATE—*Thursday, July 17, 1986*

Legislative day of Monday, July 14, 1986

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

"We the People of the United States * * * do ordain and establish this Constitution of the United States of America."

God of our fathers, these words are so familiar that we hear them with a yawn. Help us to realize how revolutionary—how radical they must have sounded at a time when governments were sovereign and people were subjects. As we approach the bicentennial of the Constitution, awaken the people of the unprecedented political system which is our legacy and renew them in their understanding and commitment. Help them to comprehend that in this system the people are sovereign and the Government receives its "just powers" from their "consent." Help the people to recognize that the system breaks down when they abdicate their sovereignty. Forgive the false thinking of the people as "us" and the Government as "them." Gracious God, may November 4 and the time between now and then see the renewal of the people in taking their sovereignty as seriously as the Senate does. In the name of Him who is Lord of history. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished and able majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the President pro tempore, the Presiding Officer, Senator THURMOND, of South Carolina.

TV IN THE SENATE

Mr. DOLE. Mr. President, I indicate that this is our second day in the dark in the TV age. We will be back again in the light on Monday. But I do believe that this little hiatus has allowed us to focus on some of the areas that I think the Senator from Wisconsin, the Senator from Alaska, and others wanted us to focus on. The Rules Committee had a meeting yesterday and took up a number of issues that affect Members on both sides and what we can and cannot do or should or should not do. As I understand, the discussion on appropriate use of tapes, whether or not they can be used for political purposes or for what purpose is continuing. I guess the sticking point there is that even though Members might be prohibited by Senate rules, those who are not Members of the Senate who might be trying to become Members of the Senate would not be prohibited from using certain tapes.

So there is an area there that I think the Senator from Alaska [Mr. STEVENS] has zeroed in on that is very important.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate that with a little luck we might be able to finish our business this evening. At 11 o'clock we will start S. 2129, the risk retention bill. It is my understanding that it can probably be completed prior to 2 o'clock. At 2 o'clock we have a rollcall vote on the United States-United Kingdom Extradition Treaty, and then we will take up a couple of authorization bills—one with reference to the Philippines, one with reference to Irish aid—which again it is my understanding at this time will not take a great deal of time. And also at 2 o'clock there will be a meeting of the so-called Joint Committee on Deficit Reduction. If they report out a resolution affirming the cuts that were made earlier this year, and we can complete that this evening, there would be no need for a session tomorrow. If not, we would come in tomorrow morning rather early, say, start at 9 o'clock, and maybe complete action on it by 11 o'clock.

So I would urge my colleagues who are involved in any of these matters of legislation, they could certainly do everyone a favor, including their own colleagues, if they could be on the floor when the bill for which they are responsible is pending.

TAX REFORM CONFERENCE

Mr. DOLE. Mr. President, within the half-hour we will start the tax conference on H.R. 3838, the Tax Reform Act of 1986.

I think it is well to indicate before this conference starts that tax reform has been President Reagan's principal domestic policy initiative during his second term, and I am pleased he supports the Senate version of this legislation with its lower taxes. I am hopeful that we will be able to keep these lower tax rates in conference.

I think it was very significant that by an overwhelming vote yesterday the House instructed their conferees to stick with the top rate in the Senate bill. I believe we have a bill which we can honestly call reform, and we should be proud to work hard in conference to bring back a conference report as close as possible to the bill we passed last month.

But I would point out, there is a problem which has not had much attention that is in both the House and the Senate bill, and I think it should be a top priority in the conference. And, I say this in a nonpartisan way, it ought to be a top priority for anybody who might be running in 1988. It is a matter I think has been overlooked. Senator BENTSEN alluded to it on the floor a time or two and I am going to touch on it briefly now.

In each bill, in the House bill and in the Senate bill, the individual rate cuts go into effect 6 months after many of the current tax breaks are repealed or reduced. In the Senate bill, items such as a limitation on the itemized deductions for consumer interest and the deductions for IRA's are effective as of January 1, 1987. Keep that in mind. That is January. 1, 1987. But the rate cuts do not take effect until July 1, 1987.

That means the top individual rate in the Senate bill for 1987 is 38.5 percent, not the 27 percent that has been advertised in our statements and in the media. Taxpayers are going to be a bit cynical and unhappy if they find that much or all of their promised tax cuts are really not there when they prepare their 1987 tax returns. In fact, they may have a tax increase. There has been a lot of discussion over the last few weeks that we should provide larger tax cuts for the middle class. I certainly have no quarrel with that sentiment. It is a good one. But I also want to make certain we make good on the promises we have already made. I for one, will do all I can as a conferee for the Senate to eliminate or substantially reduce the discrepancy in effective dates.

I understand, based on some estimates, if we move the effective date of the rate cuts to January 1, 1987, it will cost $25 billion. We should not forget that the Senate bill raises almost $23 billion in 1987. In other words, we

have a big bulge. We have more money raised than we need. It is pretty obvious that the staggered effective rates are a major reason for this $23 billion tax increase. Of course, the Senate bill is revenue neutral over the 5 years. But we should be more than a little concerned over the short run impact in 1987.

I know that many of my colleagues who are conferees share the view that the rate cuts ought to be effective the same time you start losing your deductions. I would hope we could figure out some way to match the other provisions because I really believe—and I say this in a totally nonpartisan way—that the constituents of some Senators who may be runing in 1988 are going to discover that unless we make everything start at the same time, this big tax cut that was advertised with a top rate of 27 percent, is really going to be a tax rate of 38.5 percent. They are not going to get a tax cut, and many will get tax increases.

□ 1010

I will be working with the Senator from Texas [Mr. BENTSEN] and others in an effort to focus on what I consider to be the rather prominent, but so far overlooked, issue in the entire tax reform debate.

Again, as we go to the conference, I want to compliment Senator PACKWOOD, and Senator LONG, Chairman ROSTENKOWSKI, and Representative DUNCAN. The rest of us who are conferees are proud to be a part of this conference.

It is my hope that we can complete action by the time the August recess starts. If we do not take final action on the conference report until we return in early September, we will still have it on the President's desk by mid-September at the latest. In view of statement made as recently as this morning by Chairman PACKWOOD and ROSTENKOWSKI, I think we are going to have a very productive conference.

Again, I remind the American people that this is a bipartisan piece of legislation. The vote was 97 to 3 in the Senate. The vote was 20 to 0 in the Senate Finance Committee. Every Republican and every Democrat on that committee voted for the Senate version. All but three Senators voted for the Senate version, and their concerns were primarily related to the middle-income taxpayers, which in my view will be corrected in the conference.

Again, I underscore the need to make certain that we have the rate cuts start at the same time some major deductions are lost. Otherwise, many Americans are going to find out in the first year—not only the first year of this so-called Tax Reform Act that instead of a decrease in taxes, they may have an increase.

EULOGIES FOR THE LATE SENATOR JOHN EAST

Mr. DOLE. Mr. President, we had planned on the eulogies for our late friend John East today. They have been postponed until July 22, which will be next Tuesday, at 10 a.m. We will have a period of 2 hours, from 10 a.m. to 12 noon, for that purpose.

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The PRESIDING OFFICER (Mr. ANDREWS). Under the previous order, the acting Democratic leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the minority leader be reserved for his use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM CONFERENCE

Mr. PROXMIRE. Mr. President, I commend my good friend from Kansas, the majority leader, in connection with his statement on the tax bill.

He is a hundred percent correct. I speak as a Democrat; and if we have a tax bill that goes into effect and is staggered in such a way that the taxes will be higher—and they will be higher, much higher—in the first half of 1987, I think the whole Congress is going to be in trouble; because people have been told over and over that this is going to be a tax break for the individual, that it is going to be a fair tax, that they will be not paying as much taxes. It can be reversed, as the majority leader has said. He is an expert in the tax area and I am not. I think he has demonstrated that this would be an inequity that would be very hard for any of us to explain.

Over 5 years, it may even out. But in the first 6 months of 1987, as this goes into effect, as it might, you will have people paying higher taxes, and that is what they will look at. We are all human. We would compare the taxes we pay in 1987 with what we pay in 1986, and our conclusion will be that we laid an egg, that we made a mistake.

I think the majority leader has spoken very well on that.

THE CHAPLAIN'S PRAYER

Mr. PROXMIRE. Mr. President, I say to my good friend Chaplain Halverson that today he delivered another splendid prayer.

Every time I come to the floor and hear the Chaplain's prayer, as I have told him in the past, we start on a high note in the Senate every day, and then we go downhill.

His statement this morning we especially need to be reminded of, that people are sovereign, something we sometimes forget. It is an excellent reminder for us. We serve at their sufferance, we serve on their behalf, and this reminder by the Chaplain, I think, is something all Senators should keep in mind.

DO WE NEED STAR WAR'S ILLEGITIMATE KID BROTHER?

Mr. PROXMIRE. Mr. President, the New York Times recently—July 10, 1986—carried an editorial referring to star wars' illegitimate brother. They did not use the term "illegitimate." But in view of the fact that this is a public meeting, I do not want to use the term they used, even though it was in the New York Times.

The editorial contended that the legitimate star wars is the President's dream of a space-based system that would defend the American people and its cities against enemy nuclear attack. This said the New York Times is "the sickly child of Mr. Reagan's vision." The sickly child has an illegitimate brother. Why is the brother illegitimate? Because this relative has no daddy who will acknowledge him. But unlike the sickly child, this illegitimate offspring according to the Times lives, it breathes. It grows. It has a reasonable future. It aims at a significant national defense purpose. It may work. This illegitimate brother of star wars would develop from the present star wars research. Its purpose: To defend our missile silos against Soviet ICBM attack.

The Times calls that healthy for two reasons: First, here is a mission that has a reasonable chance of success in the foreseeable future. Second, the research necessary to make progress can be conducted in full compliance with the ABM Treaty. Third, the cost of the fully deployed system would be a modest fraction of the cost of the star wars super astrodome defense. Fourth, the defense of the Nation's missile silos would actually increase the credibility of America's deterrence. This is in sharp contrast to the Reagan super star wars that would aim at destroying the credibility of Soviet deterrence by exploding Soviet missiles in their boost phase. Fifth, and finally, the Armed Services Committees of the House and Senate are, in fact, funding research on star wars at a level that would permit genuine progress to achieve U.S. missile defense, but could make no significant advance in the super star wars dream of protecting the American people and American cities.

Mr. President, I have paid this tribute to this healthy, illegitimate child. Now let me say why I think that even this practical and relatively cost efficient alternative to his legitimate brother is a waste of money. First, and

above all, this so-called healthy star wars has no truly legitimate purpose. What is its purpose? Its purpose is to defend our missile launchers. What missile launchers? Answer: stationary, land-based missile launchers. But where do we deploy our nuclear missiles? A full 75 percent are already deployed in mobile launchers. Fifty percent are based in virtually invulnerable, invisible, highly mobile submarines. Many of these subs are constantly moving under the vast oceans of the Earth or capable of being at sea in minutes. Another 25 percent of our strategic nuclear missiles are either deployed in bombers that are traveling at close to the speed of sound in the enormous air envelope that encompasses the Earth or they can be airborne in minutes. No star wars, legitimate or illegitimate, would add one scintilla of protection to this 75 percent of our present nuclear deterrent.

Now, how about the remaining 25 percent of our deterrent? Couldn't the defense of that fraction of our deterrent serve as a practical purpose for the illegitimate star wars? No, it would not. Not if we pursue a far surer and less costly method of assuring invulnerability. How? Here's how: We can and should convert our land-based missiles to mobile single warhead missiles. Congress has started that with Midgetman.

With a nuclear deterrent that is already three-quarters mobile and can be made 100-percent mobile at a far smaller cost, why should Congress spend any money on star wars beyond the purpose mentioned in the last sentence of the Times editorial—that is, a research program permitted by the ABM Treaty and designed to insure against any technical advance made by a comparable Soviet program? There is no way the country could deploy even the illegitimate star wars beyond the protection of a single launcher without violating the ABM Treaty. So why ever proceed beyond laboratory research? Let's keep this star wars stillborn in the embryo stage in perpetuity.

□ 1020

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that the higher deficits for 1986 and 1987 are being caused by less income. The economy is sputtering and that is driving down revenues.

Like most myths, this one contains a half truth. The economy is growing slower than anticipated, but anticipated by whom? By Congress and the administration is the answer to that question. We make a deliberately misleading forecast about economic performance. Then when it proves in fact to be misleading we point the finger of blame not at ourselves, but at the economy. To say that the deficit is going up because the economy is sputtering certainly sounds better than to say that it's going up because we cooked the books.

When we passed the fiscal year 1986 budget resolution, we assumed that the economy—real GNP—would grow by 3.6 percent. Revenues were assumed to be $796 billion. Now, it looks like economic growth will have trouble reaching 2.5 percent while revenues will be around $766 billion, a drop of $30 billion from the estimate.

Were this type of error unusual, this Senator would not be here talking about a myth. But the truth is exactly the opposite. Since 1976, we have overestimated economic growth in 10 out of 11 years. We underestimated growth in only 1 year, and the President's chief economist lost his job as a result. That is why I am saying that these forecasts, and the pretended surprise when they turn out to be optimistic, are disingenuous.

And this smoke and mirrors serves still another purpose for it helps shift attention away from the fact that we are overspending. The 1986 budget projected that we would spend about $967 billion. In fact, even counting the $11.7 billion cut which took place March 1, we will spend about $987 billion, around $20 billion over our projected ceiling. Spending on the military, up nearly $16 billion—10 percent—during the first two-thirds of this year, will lead the way.

The bottom line, Mr. President, is that the deficit in fiscal year 1986 is going to be around $220 billion, a staggering 28 percent increase over the Gramm-Rudman ceiling of $172 billion. Revenues are down around $30 billion because we deliberately used an optimistic economic forecast. And spending is up $20 billion because we have yet to get control of outgo—Gramm-Rudman notwithstanding.

Will 1987 be a replay of 1986? We have passed a budget which says the deficit will be around $142 billion. But it is increasingly clear that the economic forecast is too optimistic. And spending is once again underestimated.

Here is one Senator who is willing to predict that unless we reduce the deficit by another $30–$40 billion, in addition to the reductions assumed in the budget, our deficit will stay in the $200 billion range. We have the time to make these hard decisions. But do we have the will during an election year?

TV IN THE SENATE

Mr. PROXMIRE. Mr. President, finally, before I yield the floor, I wish to call attention once again to the fact that Friday may be the last day in which we enjoy the bliss of relative proper lighting.

The majority leader referred to it as darkness and I referred to it as darkness yesterday, but this is the kind of light that I think most of us enjoy. It prevents developing cataracts. The best way to develop cataracts over your eyes so you go blind when you are about my age is to expose your eyes to bright sunlight or bright lights. So we are asking for that among many other difficulties.

I would also like to suggest, Mr. President, that the Rules Committee give very careful consideration to not having television in the Senate after 7 o'clock at night. That would be one way of curtailing evening sessions and it would also be a constructive and positive way of putting the Senate on the basis where all of us could have a little more healthy lifestyle.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for not to exceed 5 minutes.

PROFESSIONAL SPORTS NEED DRUG TESTING AND TREATMENT PROGRAMS NOW

Mrs. HAWKINS. Mr. President, at long last the tide may be turning against the drug use apologists. And the message about the dangers and horrors of drug abuse may be getting through. There is tragedy in the deaths of Len Bias, the great basketball star from the University of Maryland, and Don Rogers, defensive back with the Cleveland Browns professional football team. Cocaine snuffed out the lives of these two young athletes, and their hopes and dreams. Len Bias had just signed with the Boston Celtics. A promising career in professional basketball and commercial endorsements would have made him a millionaire at the tender age of 22. Rogers, 23, had many years of outstanding performance on the gridiron ahead of him. Both were superb athletes and had no known physical problems.

Their untimely deaths begs the question: How much cocaine is toxic? The answer to that question comes from Dr. Jeffrey Isner, cardiologist at New England Medical Center hospitals. He says, "no amount of cocaine is safe." Another expert at the same institution, neurologist Louis Caplan, says, "using cocaine is like playing Russian roulette. Cocaine's a loaded gun." Why wasn't this message getting through loud and clear before Len Bias died?

Len Bias had a cocaine level of 6.3 milligrams per liter of his blood. Don Rogers had a level of 5.2 milligrams. Lethal doses have ranged from less

than 1 milligram to 21 milligrams. The dose that a person can tolerate 1 day, may prove fatal the next day.

Drug use among athletes seems to be a special problem. There is intense pressure and competitiveness in sports competition, particularly in professional sports.

Drug testing is the best antidote to drug use in sports or the workplace. Professional clubs have been slow to implement effective drug testing programs. Baseball Commissioner Peter Ueberroth and the club owners favor mandatory testing. But the baseball players' union wants no part of it. The argument is that testing violates the players' civil rights. It is gratifying that about half of the baseball players have agreed to drug testing clauses in their contracts.

The National Football League has had compulsory testing for four seasons. But the testing takes place during physical examinations at the start of training camp. The problem with this is that a player knows the test is coming and can avoid drugs for 1 week or 10 days before hand. To correct this shortcoming, NFL Commissioner Pete Rozelle announced on July 7 a plan to enact mandatory random drug testing for all players. But he has already run into rough sledding. The NFL Players Association promptly announced it is opposed to random testing as a violation of their privacy. The players' group asked for further negotiation.

The National Hockey League has no drug program. Representatives of the club owners and the players have talked about testing and counseling as part of a new league-player agreement. But that is on the back burner.

The National Basketball Association adopted a drug program in 1984. This program calls for suspension of a player who has been treated for drugs three times. There is no mandatory testing. But it is heartening that Red Auerbach, coach of the Boston Celtics, and star performers Ralph Sampson and Bob Lanier, recently came out in favor of mandatory testing.

The deaths of Len Bias and Don Rogers from cocaine points up the compelling need for mandatory drug testing in professional sports. Professional sports needs drug testing, periodic random followups and treatment programs. The sooner all parties concerned recognize that fact, and do something about it, the better.

Mr. President, clearly as a society we must face headon the threat posed by illegal drug use. In that regard, I ask unanimous consent to have printed in the RECORD a perspective article by Dick Marlowe that appeared recently in the Orlando Sentinel entitled "Whose Rights Should Come First in the Fight Against Drug Abuse?"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHOSE RIGHTS SHOULD COME FIRST IN THE FIGHT AGAINST DRUG ABUSE?

A subject you can expect to hear more about in the coming months is drugs in the workplace. Until recently, the subject has been fairly hush-hush because no one really knew the extent of the problem or how to deal with it.

But the deaths of Len Bias, the No. 1 draft choice of the Boston Celtics, and Don Rogers, defensive back of the Cleveland Browns, assure that the drug problem finally will get the attention it deserves.

While nearly everyone agrees that America is confronted with a severe drug-abuse problem, the nation is divided on the question of mandatory drug-testing programs. Some interesting statistics have turned up in a study by two public-opinion research companies: Populous Inc. of Greenwich, Conn.; and Decision Making Information of McLean, Va.

If the survey is correct, 50 percent of the nation believes that mandatory drug-testing programs in the workplace could be part of the solution. But the other half thinks such programs are inappropriate and a violation of constitutional and personal rights. The situation is a perfect example of one person's rights running head-on into those of another.

Do employers not also have rights? How about the right of an entrepreneuer to protect his investment? Or the right of the employer to protect profits and ensure the quality of products or services? And what about the safety of other employees?

Certainly as consumers, we have the right to expect that non-prescription medicines we take off the shelf at the drugstore have not been packaged by someone not in command of his senses. And a construction worker perched high above a city street to steer a steel beam into place should have the right to know if the person running the crane is stoned.

The survey was based on 1,050 telephone interviews with men and women 17 and older, and on personal interviews with 20 adults in New York and Connecticut. It may not tell us anything at all—most random samples are suspect, even though the experts contend that such surveys are fairly accurate in 95 out of 100 cases. On the other hand, the results may tell us quite a bit.

The survey was one of the first attempts to get the viewpoint of the American people on mandatory drug testing, and the split-down-the-middle results could indicate that we are in for a peck of trouble.

Although half of those polled indicated that they believe mandatory drug testing to be unconstitutional and a violation of personal rights, nearly all of those who were interviewed in person agreed that employers also have the right to protect profits and ensure product quality and job safety.

According to the study, more women (52 percent) than men (46 percent) are opposed to mandatory drug testing in the workplace. And 60 percent of those in the 24-34 age group are opposed to testing, while 64 percent of those over 55 support testing.

Other findings were that 57 percent of conservatives support drug testing, while 60 percent of liberals oppose it; two-thirds of union members oppose it; and the more education one has, the more likely he or she is to oppose testing.

Interestingly, even those who oppose testing in general would favor it in situations in which their own safety could be jeopardized. Most of those polled, for example, strongly support mandatory drug testing for airline pilots, air-traffic controllers, police officers, physicians, bus drivers, military personnel and employees of pharmaceutical companies. Most think that professional athletes, teachers and elected officials should submit to mandatory testing.

The unanswered question raised by the survey is this: How many of those against mandatory testing are opposed because they are using drugs themselves?

Mrs. HAWKINS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mrs. HAWKINS. Mr. President, I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, the request of the Democratic leader is granted.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, this is my 83rd speech on the U.S. Senate, beginning in March 1980 and continuing during the intervening years.

I will be happy to yield the floor to any Senator who wishes to have the floor, and for the transaction of any business I will be glad to yield.

I ask unanimous consent, Mr. President, that if I am interrupted in the course of these remarks for the purpose of yielding, as I have indicated I will be glad to do, that the remarks not show an interruption in the RECORD.

The PRESIDING OFFICER. Without objection, the request of the Senator is granted.

Mr. BYRD. I thank the Chair.

Mr. President, I now have claimed my reserved time which was under the standing order and I also ask unanimous consent that I may speak beyond that time if no other Senator wishes the floor.

The PRESIDING OFFICER. Without objection, that request is granted.

THE UNITED STATES SENATE

THE SENATE CLASS OF 1958

Mr. BYRD. Mr. President, the United States Senate is an unbroken

thread, running from our time back to its first meeting in New York in April 1789. By this I mean that the Senate is a continuous body. While the entire House of Representatives is elected every two years, only one-third of the senators run at each biennial election. Since two-thirds carry over, our rules are continuous and do not have to be readopted at the beginning of each Congress. However, if the Senate is an unbroken thread, elections can dramatically alter its color and texture. In modern memory we recall some momentous elections: the election of 1946, which brought to power the post-New Deal Republican 80th Congress; the election of 1948 in which the Democrats regained control of Congress while Harry Turman upset Thomas E. Dewey. The election of 1954 saw the beginning of twenty-six straight years of Democratic majorities in the Senate, and a majority in the House which still continues. The election of 1964 produced a flood of Democratic Congressmen who made Lyndon Johnson's Great Society possible. And the election of 1980 ended the Democratic majority in the Senate and established the present Republican control. Today, in my continuing series of addresses on the history of the U.S. Senate, I would like to pay tribute to the "Class of 1958," my class, swept into office by that remarkable election, and its long impact upon this institution.

We hear much about the election of 1958 these days, as commentators seek to analyze the Congressional races of 1986. Then as now, a popoular Republican president sat in the White House, two years after his triumphant reelection, barred by the Constitution from seeking a third term. Then as now, most of the seats up for election were held by Republicans. Twenty-two Republican seats are up this year, as opposed to eleven for the Democrats. One must go back to 1926 to find more Republicans (twenty-six) up for reelection in a single year. The closest parallel was 1958 when twenty-one Republican and thirteen Democratic seats were up.

The Republican seats were occupied by Frank Barrett (Wyoming), J. Glenn Beall, Sr. (Maryland), John W. Bricker (Ohio), Ralph Flanders (Vermont), Barry Goldwater (Arizona), Roman Hruska (Nebraska), Irving Ives (New York), William Jenner (Indiana), William Knowland (California), William Langer (North Dakota), George Malone (Nevada), Edward Martin (Pennsylvania), Frederick Payne (Maine), Charles Potter (Michigan), William Purtell (Connecticut), Chapman Revercomb (West Virgina), H. Alexander Smith (New Jersey), Edward Thye (Minnesota), Arthur Watkins (Utah) and John J. Williams (Delaware).

The Democratic incumbents included Harry Byrd, Sr. (Virginia), Dennis Chavez (New Mexico), Albert Gore, Sr. (Tennessee), Spessard Holland (Florida), Henry Jackson (Washington), John Kennedy (Massachusetts), Mike Mansfield (Montana), John Pastore (Rhode Island), William Proxmire (Wisconsin), John Stennis (Mississippi), Stuart Symington (Missouri) and Ralph Yarborough (Texas). In addition, B. Everett Jordan, a Democrat, had been appointed to fill an unexpired term from North Carolina, while John Hoblitzell, Jr., a Republican, had been appointed to the Senate from West Virginia, both stood for election in 1958.

All of the incumbent Democrats ran for reelection. Five of the incumbent Republicans announced their voluntary retirement. Of the sixteen remaining Republicans, only William Langer has served three terms. Seven were two-term Senators, members of the Class of '46, the Republican landslide that had resulted in the Republican majorities of the 80th Congress. Five were first-term members, who had won election on Eisenhower's coattails, while three others were mid-term appointees.

Traditionally, mid-term elections favor the party out of power. Despite president Eisenhower's enormous personal popularity, his party had lost control of both the Senate and House in 1954 and had been unable to win it back in the trail of his successful reelection in 1956. Thus, by 1958, the country had gone for 4 years with a Republican president and a Democratic Congress. However, the margin of difference between the two parties during these years was a slim 49 to 47. A coalition of conservative senators from both parties gave frequent support to the president's program, and blocked measures which he opposed. In addition, Senate Democratic Majority Leader Lyndon Johnson and House Speaker Sam Rayburn had pursued a policy of cautious accommodation with the president. So, a relatively stable political climate existed in Washington, despite the division of parties between the White House and Capitol Hill.

The election of 1958 changed all of that. As the historian Michael Foley has pointed out in his important book, *The New Senate: Liberal Influence on a Conservative Institution, 1959-1972*, the Republicans handed the Democrats a number of issues on which they could campaign successfully. There was a severe economic recession that year. There was national anxiety over the Soviet Union's successful launch of the first earth satellite, Sputnik. There was a scandal in the White House that resulted in the resignation of presidential assistant Sherman Adams, accused of accepting favors from those doing business with the government. There was the Republican failure to amend the Taft-Hartley Act, as promised in their platform. There was uncertainty over the administration's civil rights program. And there was the president's lame duck status, caused ironically by the Republican 80th Congress' 22nd Amendment to the Constitution. This amendment, everyone agrees, was passed as a posthumous slap at Franklin D. Roosevelt, the only president elected for more than two terms. But since the amendment has gone into affect, it has limited only Republican presidents: Eisenhower, Nixon and Reagan.[1]

Perhaps the most spectacular act of political suicide that year was committed by Senate Republican Leader William F. Knowland. A man with great popularity in his home state of California—where he was elected on both the Republican and Democratic tickets in 1952, William Knowland aspired mightily to be President of the United States. Two major obstacles stood in his way: Vice President Richard Nixon, another Californian who hungered for the presidency, and the political tradition that favored governors over senators in presidential campaigns. Until that point in the twentieth century, only Warren G. Harding had gone directly from the Senate to the White House. In order to beat Nixon for the Republican nomination and then win the general election in 1960, Knowland decided that he must leave the Senate and get elected governor. From that position he could control California's delegation to the Republican convention, and he could avoid taking stands on those controversial issues upon which senators must cast their votes regularly.

In his typically blunderbuss style, Knowland bullied a very reluctant Governor Goodwin Knight into not running for reelection as governor but for his Senate seat instead. California voters thus were faced with the bizarre spectacle of their governor running for senator and their senator running for governor. Showing disdain for this sort of political musical chairs, the voters unceremoniously and overwhelmingly defeated both Knowland and Knight. Poor William Knowland not only found his career in ashes, but two years later he had to watch his rival Richard Nixon take the Republican nomination and then lose the presidential election to John Kennedy—a United States senator![2]

Knowland's misery did not lack company. The Republicans lost thirteen Senate seats that year. They also lost three of the four new Senate seats from Alaska and Hawaii which were added during the 86th Congress. Suddenly the Senate ratio jumped from 49

Footnotes at end of article.

Democrats and 47 Republicans to 64 Democrats and 34 Republicans, at the beginning of the session, which proved to be a world of difference.

Every Democratic Senator running for reelection won. Five Republicans also were reelected: Senators Beall, Goldwater, Hruska, Langer, and Williams. Gone were Senators Barrett, Bricker, Hoblitzell, Jenner, Malone, Payne, Potter, Purcell, Revercomb, Thye, and Watkins, all Republicans, all defeated. In their places were, in alphabetical order, Robert C. Byrd (West Virginia), Howard Cannon (Nevada), Thomas Dodd (Connecticut), Clair Engle (California), Philip Hart (Michigan), Vance Hartke (Indiana), Eugene McCarthy (Minnesota), Gale McGee (Wyoming), Frank Moss (Utah), Edmund Muskie (Maine), Jennings Randolph (West Virginia), Harrison Williams (New Jersey), and Stephen Young (Ohio). Three new Republican Senators bucked the national tide that election: Kenneth Keating (New York), Winston Prouty (Vermont), and Hugh Scott (Pennsylvania).

These were young men. The average age of the newly elected Democrats was only 46. They ranged from Stephen Young, the oldest at 69, to Harrison Williams, the youngest at 39. I was 41 years old at the time of my election to the Senate. The new Republican Senators, by contrast, averaged 56 years of age, a full 10 years older than the Democrats. Despite our youth, we were not inexperienced in government. Ten of the sixteen new Senators had served previously in the House of Representatives. One, Ed Muskie, had been Governor of Maine; and another, Phil Hart, had been Lieutenant Governor of Michigan. Vance Hartke had been mayor of Evansville, Indiana; Howard Cannon had been city attorney of Las Vegas, Nevada; and Gale McGee, a professor of American History at the University of Wyoming, had served as legislative assistant to Senator Joseph O'Mahoney. As a professor, McGee was one of only five non-lawyers among the sixteen new members; the others were Gene McCarthy, a professor of economics and sociology, and Senators Prouty and Randolph whose careers were in business; and myself.

By way of explanation I did not get my LLB degree from American University until 1963, when, at the age of 45, I graduated cum laude on that day when, as the commencement speaker, the late John F. Kennedy, President of the United States, delivered an important foreign policy address. He personally presented me with my law school diploma.

The class of 1958 not only changed the political alignment of the Senate but also altered the ideological alignment of the Democratic party within the Senate. Note that not one of the thirteen new Democrats whom I listed represented a state from the old Confederacy. The election had increased the ranks of northern and western Democrats over southern Democrats, and had given Senate Democrats their most liberal complexion in years. By contrast to these freshmen members, the Democrats with the most seniority in the Senate were preponderantly southern. Of the 16 standing committees in 1959, 10 were chaired by southerners. Not all of these southern chairmen were conservatives for they included such independent and progressive-minded men as J. William Fulbright and Lister Hill. But for the most part, those Senators with seniority, chairmanships, and positions on the policy and steering committees tended to be more conservative than the newly elected class. The class of '58, joined by other liberal senators, including Joseph Clark and William Proxmire, tended to brand their seniors as the "Senate Establishment" and the Inner Club.

Mr. President, occasionally in my speeches I have referred to this so-called "Inner Club," a term which today is perhaps more familiar to political scientists than to my colleagues in the Senate. This phrase was coined and popularized by the journalist William S. White in his book, *Citadel, The Story of the U.S. Senate,* published in 1956. White's book was a loving salute to this institution, which he covered for many years for *The New York Times.* Writing shortly before the great changes of 1958, White argued that the old definition of the Senate as "the most exclusive club in the world" was no longer applicable. Within the Senate he saw two clubs: an Inner Club and an Outer Club. The Inner Club, he said, was "an organization without name or charter, without officers, without a list of membership, without a wholly conscious being at all. . . . At the core of the Inner Club stand the southerners, who with rare expections automatically assume membership almost without the taking of the oath of office."

According to William S. White, a member of this Inner Club needed to be "the Senate type," that is, "a man for whom the Institution is a career in itself a life in itself and an end in itself. . . . When the Senate type thinks of the Presidency he thinks of it as only *another* and not as really a *higher* ambition. . . . The Senate type makes the Institution his home in an almost literal sense, and certainly in a deeply emotional sense. His head swims with its history, its lore and the accounts of past personnel and deeds and purposes. To him, precedent has an almost mystical meaning." One of the keys to the true Senate type, as White defined it was tolerance—"tolerance toward his fellows, intolerance toward any who would in any real way change the Senate, its customs or its way of life."

The personification of the Inner Club on the Democratic side of the aisle was Richard Russell of Georgia. On the Republican side White cited the late Robert Taft. Other leading members of the Inner Club were Majority Leader Lyndon Johnson and Minority Leader William Knowland. George Aiken, Prescott Bush (the Vice President's father), Hubert Humphrey, and Theodore Green were among those whom he identified as "Senate types" and members of the Inner Club. Carl Hayden could be its president said White, if it only had officers.

But there were also those who did not qualify for membership in the Inner Club. These were the rest of the Senators, whom White relegated to the Outer Club. They existed in the "outer life of the Senate, in which all the members are theoretically more or less equal at the time of decision that comes when a roll-call is added up." But the leadership came overtly and subtly from the Inner Club. White compared the cases of two Democratic Senators, Herbert Lehman of New York and Hubert Humphrey of Minnesota, both articulate, imaginative, and aggressive liberals. Yet, Lehman was decidedly Outer Club, while Humphrey, through his friendship with Lyndon Johnson, had become part of the Inner Club "by the mysterious operation of acceptability-by-association."

White described the difference this way: "I have seen one member, say a Lehman of New York, confined by niggling and almost brutal Senate action to the most literal inhibitions of the least important of all the rules. And again I have seen a vital Senate roll call held off by all sorts of openly dawdling time-killing for hours, in spite of the fact that supposedly it is not possible to interrupt a roll call once it is in motion, for the simple purpose of seeing that a delayed aircraft has opportunity to land at Washington Airport so that a motorcycle escort can bring, say, a Humphrey of Minnesota in to be recorded." [3]

Mr. President, William S. White did not use the term "Inner Club" in a pejorative way, but those who were excluded from the Club felt less charitable about it. And certainly, they placed a negative connotation on the term "the Senate Establishment." This latter epithet sprang from a series of speeches delivered in the Senate by Joseph S. Clark of Pennsylvania in February 1963, and later published as a book. The Senate establishment was "almost the antithesis of democracy," said Senator Clark. "There are a number of States, most of them Democratic, but one or two of them Republican, which inevitably and

always return to the U.S. Senate, members of one party, and under the custom which has grown up over the years of following the rule of seniority in making committee assignments, and in connection with the distribution of other perquisites of Senate tenure, the result has been that those who have been here longest have become chairmen of committees, and as such chairmen have exercised virtual control over the distribution of favors, including committee assignments and other perquisites of office in the Senate, and largely . . . determine who shall be selected to post of leadership in this body."

The Senate establishment saw to it, in the words of Joseph Clark, that Senators operated "under archaic, obsolete rules, customs, manners, procedures and traditions." The majority of Senate Democrats, since the election of 1958, were members of their party's liberal wing, Senator Clark calculated, but the establishment was largely drawn from its conservative minority. Clark pleaded for the Senate to modernize its procedures and to eliminate the "control by a small group of bipartisan senators . . . who are committed to the status quo, who seem to be committed to sectional rule; who . . . have an unawareness of the modern world and of the dangers confronting us from a resourceful antagonist overseas, whose government is able to act in an instant; an unawareness of the danger that our Government will not be able to act in a crisis because the Senate of the United States has rendered itself, by its ancient, archaic, and absolute rules unable to act when its majority is ready for action." [4]

I think it is clear from these summaries that there is a yawning gap between the Senates of William White and Joseph Clark. But the class of '58 set out to bridge that gap, to break down the Inner Club and the Senate establishment, if they couldn't break into them. Liberal Senators put new pressure on Majority Leader Lyndon Johnson to carry out their agenda, pushing him into new action on civil rights, and demanding reforms in the operations of the caucus and the appointment of members to committees. They became all the more eager for action when their young, dynamic, forward-looking colleague John F. Kennedy was elected to the Presidency in 1960 and set out to get the Nation moving again.

Whether one belonged to the Inner Club or to the Outer Club, and whether one felt comfortable or uncomfortable with the Senate establishment, was reflected in one's committee assignments. As all new Senators realize, their careers in this institution will largely be determined by the committee assignments they receive. Three members of the class of '58 drew coveted appointments to the Appropriations Committee—Senators Tom Dodd and McGee and I. Senators Hartke and McCarthy were appointed to the Finance Committee; Senators Cannon and Engle to Armed Services; and Senators Dodd and Hart to Judiciary. In remarks on the Senate floor in February 1959, Senator McGee pointed to the significant assignments given to the new freshman class, and commented that "some of the astute veterans in the Senate assure me that they do not recall when freshmen Senators have received the important posts which the group of freshmen senators have received this year." [5]

I can remember that, when I first came to the Senate, Senator Randolph and I went into the office of the Majority Leader, then Lyndon Johnson. I recall that every pocket of Mr. Johnson's coat seemed to be filled with papers. He sat there, and Senator Randolph and I told him what committees we would like to be on: I said I would like to be on the Appropriations Committee. I was advised to go see Senator Russell and Senator Hayden. Senator Hayden was the chairman of that committee.

I recall that Senator Hayden smoked a cigar, and he sat quietly listening to me and puffing on the cigar. He said to me: "Young fellow, not many Members of the Senate get appointed to the Appropriations Committee. They have to be here for a while."

Later one day, not very long into the session, Senator Johnson approached me in the aisle over here, toward the west door, and said, "Bob, I'm putting you on the Appropriations Committee." He said, "One or two of the senior Members don't like it, but you're going on that committee." I went on the Appropriations Committee that year, and I have been on that committee now for 28 years.

Not everyone was so satisfied. For instance, no freshman drew appointment to Foreign Relations, although many had sought that committee. Senator Edmund Muskie, who asked for Foreign Relations, Commerce, and Judiciary, was among those who discovered that the road to committee assignments led straight to Lyndon Johnson. Right after his election, Muskie had gotten some fatherly advice from Majority Leader Johnson. "Don't make up your mind right away on a key issue, even if you are pressured," Johnson told him. "Wait until they get to the M's in the roll call." Muskie took this to heart when shortly afterward he found himself being pressured by none other than Lyndon Johnson, who wanted Muskie's vote on an important procedural issue at the opening of the 86th Congress. "Well, Senator" Muskie replied, "I think I'll follow your advice and just wait until they get to the M's." But when the roll was called, Muskie voted against Johnson's position. Johnson retaliated by ignoring Muskie's requests for committee assignments and instead placing him on the Banking and Currency, Government Operations, and Public Works committees. It took Ed Muskie another decade before he got on the Foreign Relations Committee. But he took the assignments in stride and made the most of them. It was as chairman of a subcommittee of the Public Works Committee, for example, that he drafted pioneering environmental legislation for clear air and clean water.[6]

Committee assignments made to these freshmen Senators eventually led to chairmanships, as they built their seniority. Senator Cannon chaired both the Rules and the Commerce Committee; Gale McGee chaired the Post Office and Civil Service Committee; Frank Moss chaired the Aeronautics and Space Sciences Committee; Senator Muskie became the first chairman of the Budget Committee; Senator Randolph chaired the Environment and Public Works Committee, and Senator Williams had a long tenure as chairman of the Labor and Human Resources Committee. Others never chaired standing committees, but made effective use of their chairmanships of subcommittees and special committees. In addition to Senator Muskie's achievements as chairman of the environmental subcommittee, one thinks of Tom Dodd's efforts to combat juvenile delinquency, and Phil Hart's anti-trust subcommittee—both of the Judiciary Committee. As early as 1959, Senator Harrison Williams became chairman of the Labor Committee's Subcommittee on Migratory Labor, from which position he sponsored legislation for the health and education of migrant farm workers.

Some members of the class of '58 aspired to leadership roles within their parties. In 1969, Senator Hugh Scott became Republican Whip, and, following the death of Everett M. Dirksen, he became Republican Minority Leader, a post he held until his retirement in 1977. On the Democratic side, I served as secretary to the Democratic Policy Committee from 1967 until elected Democratic Whip in 1971, and then Majority Leader in 1977. Senator Frank Moss succeeded me as secretary to the Democratic Policy Committee, while Ed Muskie chaired the Legislative Review Committee.

Mr. President, the class of 1958 was a fortunate one in terms of longevity and seniority. The 13 Democratic members averaged 18 years in the Senate, while the 3 Republicans averaged 13 years. In their first stand for reelection, in 1964, all Democrats in the class won their races, with the exception of Senator Clair Engle, who had died that year. That was the election in which President Lyndon John-

son's coattails not only carried back all of the incumbent Democrats but added a host of new Democrats to the House and Senate, including Robert F. Kennedy, who defeated Kenneth Keating to become Senator from New York. In the 1970 election, Eugene McCarthy and Stephen Young did not stand for reelection, and Tom Dodd was defeated. The rest of the class once again were reelected. Not until the third reelection bid, in 1976, did the class ranks thin noticeably. Hugh Scott retired. Philip Hart, suffering from a terminal illness, did not run for reelection, and died shortly before his term ended. Vance Hartke, Gale McGee, and Frank Moss all were defeated. Winston Prouty died in 1971. Among those reelected in 1976, Ed Muskie was appointed Secretary of State in 1980; Harrison Williams resigned in 1982; and Howard Cannon was defeated in 1982. Jennings Randolph, who had been elected to fill a short term in 1958 and was therefore part of another election cycle, retired in 1984. At that time, I became the last member of the class of '58 still serving in the Senate.

In their many years of service, the members of the class of '58 saw great changes in the Senate. A pivotal presidential election occurred two years after our election. One of our colleagues, John Kennedy, went to the White House, and Lyndon Johnson gave up his post as Majority Leader to become Vice President. The pace of the Senate changed dramatically under Johnson's successor, Mike Mansfield, who for the most part avoided night sessions and round-the-clock sessions. In fact, by 1961, the Senate had settled down to such a leisurely pace that it frustrated the young President who had promised to get this country moving again. Kennedy's New Frontier legislative program stalled in Congress, despite his party's large majorities in the Senate and House. During this period the freshmen members of the class of '58 passed through their Senate apprenticeships and into positions of national prominence and influence. By contrast, the so-called "Senate Establishment" lost ground, as Professor Michael Foley has recorded: "The senior Democrats' preoccupation with the highly sensitive issues of civil rights, medicare, aid to education, and so on; the embarrassment of continually losing seats to the liberals; and the departure of Lyndon Johnson all contributed toward the establishment's decline." [7]

Kennedy's death in November 1963, and Lyndon Johnson's ascension to the Presidency changed the political climate of Washington. The combination of sympathy for the martyred President and legislative skills of the new President helped enact bills long stalled in Congress. And the election of 1964 brought in such an overwhelming number of Democrats that Johnson's entire Great Society program was enacted with breathtaking speed during the 89th Congress. The class of '58 earned many of the trophies for legislation passed in this heady period. Howard Cannon, who served on the Commerce Committee during this period, took pride in the 20 major Federal consumer laws that were passed in the 1960's, noting that experts had called it "the greatest single period of concentrated consumer activity in the history of the Nation." [8] In 1964, Phil Hart of Michigan was assistant floor manager of the Civil Rights Act, and the following year he served as floor manager for the Voting Rights Act. Vance Hartke was one of the principal authors of the Higher Education Act of 1966 and the Adult Education Act of 1967.

Eugene McCarthy chaired the Select Committee on Unemployment, where he helped raise support for the Youth Conservation Corps and for vocational training and retraining. Ed Muskie sponsored the Clean Air Acts of 1963 and 1965, the Water Quality Act of 1965, the Clean Rivers Restoration Act of 1966, and the Housing and Urban Development Act and Model Cities Act of 1966. Jennings Randolph sponsored the Public Works and Economic Development Act of 1965, and fought hard for the 26th Amendment to the Constitution, giving the right to vote to 18-year-olds. Harrison Williams shepherded the Mass Transit Act through the Senate in 1964, was a tireless worker for the Elementary and Secondary Education Act of 1965, and helped enact legislation for Federal compensation for miners disabled by black lung disease. Senator Randolph and I also had a very important leading part in the enactment of that legislation. This is just a small sampling of their accomplishments in the social legislation of the 1960's.

Of course, the 1960's also saw the war in Vietnam, which divided members of the class of '58 just as it divided the Nation. All of the members of the class voted for the Gulf of Tonkin Resolution, and I think it safe to say that for most of Lyndon Johnson's term in the White House the majority of the class supported his initiatives in Vietnam. As the war progressed, however, doubts grew. Among the first to break with the President was Senator Eugene McCarthy. In 1967, McCarthy sat in a hearing of the Senate Foreign Relations Committee listening to Under Secretary of State Nicholas Katzenbach expound an extreme view of the President's constitutional powers as commander-in-chief. As Carl Marcy, then chief of staff of the committee recalled, "It became clear that Senator McCarthy had *had* it. He stood up and stomped out of the hearing room into the back office." Marcy could see the Senator was distraught, so he got up and followed him out. Both Marcy and Pat Holt, another member of the committee staff, recall McCarthy saying, "Someone's got to take them on. And if I have to run for President to do it, I'm, going to do it." [9]

Senator McCarthy had become so disenchanted with the Johnson administration's policies that he declared his candidacy for the Democratic nomination in 1968. Few gave him any chance of success, but in March, 1968, McCarthy had such a strong showing at the polls in New Hampshire that he drove Johnson out of the race. Senator McCarthy has told the story of this remarkable race in his book, *The Year of the People.* As we know, McCarthy made a fine race but lost the nomination to his former Senate colleague from Minnesota, Hubert Humphrey. Humphrey in turn chose another member of the class of '58 as his vice presidential running mate—and most commentators believed that it was Ed Muskie who came through that election most creditably.

In an election that saw a Republican ticket of Richard Nixon and Spiro Agnew, a third-party ticket of George Wallace and Curtis LeMay, and a beleaguered Democratic ticket of Humphrey and Muskie, Muskie often seemed to be the one cool voice of reason, the one unflappable man. Those of us in the Senate knew that Senator Muskie possessed a considerable temper, but he kept it under control in the most trying circumstances, as he was dogged and heckled by antiwar demonstrators during the campaign. One example was his performance in Washington, Pennsylvania. When hecklers threatened to drown his remarks, Senator Muskie invited one of their spokesman on the platform and gave him 10 minutes to speak. When that quieted things down, Ed Muskie addressed the audience, telling them how his father had fled czarist tyranny in Poland to come to America, how he had supported his family working as a tailor, and how his son had been elected Governor of his State and then Senator. "Now that may not justify the American system to you," said Muskie, "but it sure did to him." He concluded: "There are those of us in this system who have worked for the objectives that I hear you voicing every day. Maybe not as effectively as we might, because of our shortcomings and weaknesses; maybe not in the way you would and that you will when you are given the opportunity. But don't misjudge the basic good will of this American system toward the objective of making it truly a system responsive to the needs and the will and the voice of the two hundred million Americans who make up this society." The previously hostile crowd applauded him vigorously. [10]

It was that tone of reason and responsiveness that won Ed Muskie great respect in the election of 1968, and which helped the Democratic ticket close the seemingly unsurmountable gap with the Republicans with which they had started the race. Although the Humphrey-Muskie ticket lost, it was one of the closest margins in the history of presidential elections. Ed Muskie immediately became the front-runner for the Democratic nomination in 1972, and might well have received the nominaton had it not been for the "dirty tricks" aimed at him by the Nixon administration. Revelations of those scurrilous tactics contributed to President Nixon's resignation two years later.

The 1970's saw members of the class of '58 in leadership positions within the Senate, using their influence to resist and to shape the policies of the Nixon administration. Having begun their careers challenging the Senate establishment, they now were the establishment, because of their seniority and their individual abilities. But times had changed in the Senate. By the 1970's there was no longer an Inner Club and the power of the committee chairmen had been considerably diminished. Reforms initiated by Democratic Leader Mike Mansfield had insured more equality among members. Junior Senators were not only assured of assignments to powerful committees, but the Democrats among them also received subcommittee chairmanships that immediately tested their mettle. Reforms also granted staff assistance to every member of a committee. The concentration of power which earlier critics like Joe Clark had decried was now dispersed, to the detriment, some said, of party leadership and efficiency in the legislative process. Others applauded the new openness of the Senate, and Phil Hart aptly described this new style by saying: "We are all constructively free-wheeling individuals." [11]

Mr. President, when we talk about the class of 1958's path through the 1970's it seems most fitting to focus on Philip Hart. Many of our younger staff members today probably have no recollection of him, and may wonder for whom the Hart Senate Office Building was named. "Why Hart?" they might ask. In 1976 the Senate named its newest office building after Phil Hart, who was then dying of cancer. By then he had earned the title of the "Conscience of the Senate." He was a leader in enacting and protecting major civil rights legislation. He sponsored truth-in-lending and truth-in-packaging legislation. He fought against the oil import quota system. He fought against the antiballistic missile systems. He led the movement to liberalize the Senate's rules. He sponsored the Comprehensive Correctional Training and Employment Act to provide educational and training facilities for prisoners. He took many of his positions despite their unpopularity in his own state. He helped tighten the Nation's handgun control laws, although he represented a State with a large population of hunters and gun owners. He fought the auto industry on antitrust matters, even though it was the predominant industry in his home State of Michigan.

It was as chairman of the Antitrust and Monopoly Subcommittee that Phil Hart did his best work and received the most attention. Senator Hart advocated a system of vigorous and independent competitive enterprise, and resisted with all his might the trend toward corporate conglomerations, which he believed would stifle American business creativity and responsiveness to consumers. He championed the medium-sized and small businesses, and introduced legislation to break up monopoly power in the United States. He did not advocate a nation of small shopkeepers and backyard manufacturers, but he argued against concentrating our manufacturing assets in a handful of giant corporations. "If we are going to rely on competition to give the consumer good value, then competition must be encouraged. But it cannot flourish if the number of competitors is constantly diminished," he warned. [12]

When Philip Hart died in 1976, at the age of 64, one poet captured his spirit this way:

The Conscience of the Senate
Served for 18 years;
Decided against a fourth term:
"No person is irreplaceable,"
Died in December
Philip A. Hart.

Few knew why the A;
Somehow it sounded right
And was almost always there.
Some say for Aloysius
But I say America,
Philip America Hart.

Grew a beard in '71
A promise to his kids,
The only one in a hundred
And he wore it well.
A for Allright
Philip Allright Hart.

Didn't care for IBM
Or any other Giant.
"Too much power with too few
Endangers the public interest."
A for Antitrust
Philip Antitrust Hart.

Pushed to tighten gun control
Though he hailed from a hunting state.
Fought the Detroit auto industry
Though it threatened reelection.
A for Antagonist
Philip Antagonist Hart.

The friend of American consumers,
The advocate of civil rights,
Left a legacy of humanity;
Integrity is his monument.
A for Amen
Philip Hart—Amen. [13]

Amen also to the class of 1958. They shared their tragedies, including the untimely deaths of Clair Engle and Phil Hart, and the unsuccessful presidential bids of Eugene McCarthy and Ed Muskie. But individually and collectively, they left their mark on this institution and on the Nation. Elected during the Eisenhower administration, they tackled some of the greatest foreign and domestic problems ever facing the Nation, and played critical roles in enacting the Great Society, ending the war in Vietnam, and dealing with the Watergate scandal. Today they have all left the Senate, save one. It is my honor to pay tribute to them with these remarks. History will remember the class of 1958.

Mr. President, I ask unanimous consent that footnotes to the "Senate Class of 1958" be printed in the RECORD.

There being no objection, the footnotes were ordered to be printed in the RECORD, as follows:

FOOTNOTES TO "SENATE CLASS OF 1958"

[1] Michael Foley, *The New Senate: Liberal Influence on a Conservative Institution, 1959-1972*, (New Haven, 1980), 25-6.

[2] The biography of William F. Knowland remains to be written. An interesting profile can be found in "The Senator from California," *New Yorker*, XXXII (July 7, 1956), 70-2.

[3] William S. White, *Citadel, The Story of the U.S. Senate* (New York, 1956), 81-94.

[4] Joseph S. Clark, *The Senate Establishment* (New York, 1963), 21-5, 121.

[5] *Congressional Record*, 86th Congress, 1st sess., 2741.

[6] Rowland Evans and Robert Novak, *Lyndon B. Johnson: The Exercise of Power (New York, 1966), 200-1.*

[7] Foley, *The New Senate*, 129.

[8] George Douth, *Leaders in Profile: The United States Senate* (New York, 1975), 423.

[9] *Carl M. Marcy, Chief of Staff, Foreign Relations Committee, 1955-1973*, Oral History Interviews, September 14-November 16, 1983, Senate Historical Office, 201; *Pat M. Holt, Chief of Staff, Foreign Relations Committee*, Oral History Interviews, September 9-December 12, 1980, Senate Historical Office, 214.

[10] Theo Lippman, Jr., and Donald C. Hansen, *Muskie* (New York, 1971), 11-15.

[11] Foley, *The New Senate*, 258.

[12] Douth, *Leaders in Profile*, 318-26; *Washington Post*, 15 February 1970, 27 December 1976; *Detroit Free Press*, 15 December 1976.

[13] *Computer Decisions* (1977), 4.

□ 1050

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

AFRICAN FAMINE RELIEF

Mr. MELCHER. Mr. President, there is $225 million in African famine relief which has already been appropriated and which is available to use. But the State Department people say that all food needs have been met in Africa so they are not prepared to use it.

I must say that that is an inaccurate statement by the State Department,

to say that all food needs in Africa have been met. They certainly have not been met.

The problem still exists in many countries in Africa beyond the six that they named to be helped this year by funds out of those that we have already appropriated for famine relief. There remain a number of other countries in Africa which are still suffering from the effects of the dought, and, beyond that, are suffering from indigenous lack of food within their country.

We have been reviewing some of those countries in Africa that have applied for food assistance from the United States, countries which are not getting as much as they could use.

I will mention Kenya, Senegal, Zambia, and Guinea.

There are probably more. We will continue to check with them and find out whether sufficient food supplies have been arranged to take care of the people in Africa.

Might I point out that this is a continent of many countries, and that within Africa, itself, on the average, about 4 million youngsters, children, die each year from diseases or malnutrition.

The diseases are related to nutritional levels.

We can stop that if we are alert and active.

I mentioned the $225 million already appropriated for African famine relief that the State Department tells us is not needed and will not be used. That is money already appropriated. But, Mr. President, we have a number of food assistance programs that are entirely off-budget. In other words, we have the food, we have it in abundance, we have it in storage, owned by the United States and paid for by the United States out of the Treasury. We now have the problem of paying additional storage costs because we have the food in storage. Beyond that, we have a decline in agricultural exports from this country this year that is startling and very worrisome for all of us.

We find ourselves with all this abundance not wisely using it but costing us more money just because we have the abundance.

I suggest, Mr. President, and strongly suggest, that we must take action here in the Senate within the coming days to pinpoint the need for broadening out our food assistance to Africa and other countries that are in need of food for two obvious benefits:

□ 1100

One, for the people who need the food. That is one benefit. The second benefit is to the United States itself in utilizing this abundance of surplus commodities, to bring those commodity surpluses down so we can have some price recovery by expanding our exports. And in effect, Mr. President, also by helping with this food, we have trade development for the long run in these various countries.

Mr. President, I think this is an urgent matter. I think it is at a crisis stage this summer, and I think it is necessary for the Senate to be considering it. We must present these arguments, I believe, and expedite the utilization of this food abundance with expanded exports by offering amendments to bills that come before us in the Senate.

We are engaged in preparing such amendments, and I hope when the time comes, they will find acceptance by an overwhelming majority here to vote in favor of these types of amendments.

Mr. President, I am prepared to yield the floor. Before I do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

RECOGNITION OF SENATOR HARKIN

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized for not to exceed 5 minutes.

Mr. HARKIN. I thank the Chair.

HUMAN RIGHTS IN CHILE

Mr. HARKIN. Mr. President, I took this opportunity today to begin the first of a series of special orders I shall make on the subject of human rights and foreign policy. Today, I shall discuss the case of Chile and the slaying of Rodrigo Rojas in Santiago, Chile.

The tragic and brutal death of Rodrigo Rojas has brought to the attention of the American public the horror which all Chileans have been forced to suffer under the repressive rule of General Augusto Pinochet. Although thousands of Chileans have been tortured and killed in the past 13 years, the case of Rodrigo Rojas is special. For Rodrigo was a resident of Washington, DC, and a graduate of a high school in the District.

Rodrigo had returned to his native Chile 2 months earlier. He wanted to find himself by "touching his roots." Chilean novelist Ariel Dorfman described Rodrigo's plight: "He was a sweet, bright, very mixed up kid [who] was confused about his relationship with his mother who had been tortured by the Chilean Government. He had two fathers, one who abandoned him, one who was killed. He needed to find meaning in his life."

Rodrigo's mother, Veronica, had "disappeared" in Chile in 1975, taken to the headquarters of the secret police where she was repeatedly tortured and raped.

Rodrigo Rojas' inner search ended on the morning of July 2.

□ 1110

Rodrigo, with a Nikon camera in hand, accompanied a group of about 60 university students to a shantytown on the outskirts of Santiago.

According to Amnesty International, soldiers fell on the students, sticks flailing, and then singled out Rodrigo and his 18-year-old companion, Carmen Quintana. The soldiers dragged the two to a nearby street and set about beating them.

When they lay on the ground, one soldier, according to eyewitness accounts, brought out a can of gasoline, poured the contents on the two young people, and set them on fire.

Another soldier then threw blankets over the blazing bodies, which were then hurled into a car and driven away to a nearby town, where they were thrown into a drainage ditch.

Alive, but badly burned, Rodrigo and Carmen were taken to a public clinic but were denied suitable treatment. Aided by Ambassador Harry Barnes, Rodrigo's mother, Veronica de Negri appealed to Chilean authorities to move her son to a better burn treatment facility.

Government authorities, claiming that Rodrigo was under arrest, refused the request of the Ambassador and Mrs. de Negri.

Suffering from severe burns over more than 60 percent of his body, and denied adequate care, Rodrigo died on Sunday, July 6.

Carmen remains in grave condition.

Persecution of Rodrigo continued even after his death. On July 9, Rodrigo's funeral was broken up by police officers with tear gas and water cannons.

The Chilean Government has tried to destroy the democratic aspirations of the Chilean people, just as his forces extinguished the life of Rodrigo Rojas.

The most brutal aspect of his rule began just immediately after the coup that brought him to power in September 1973, when an estimated 25,000 Chileans were killed.

The repression continues today.

During March and April of this year, the government was responsible for 5 violent deaths, more than 1,600 political detentions, and 141 cases of torture.

In the first 2 weeks of May, the government rounded up more than 94,000 individuals. Just five were charged with crimes.

Pinochet has been just as relentless in his efforts to suppress democracy in Chile, as he has been in violating the human rights of the Chilean people.

Political parties are outlawed, opposition papers censored, and the radio government controlled.

The National Accord, formed last year by the opposition to promote a peaceful transition to democracy, has been stonewalled by Pinochet.

This week, in a direct affront to the democratic opposition, General Pinochet announced that he would run unopposed for the presidency in 1989, and remain in power for another 10 years.

Pinochet's absolute refusal to accept a democratic transition has forced the Reagan administration in the past year to abandon its previous posture of constructive engagement toward the repressive dictator. Four years of embracing Pinochet has only helped Pinochet strengthen his stranglehold over the Chilean people.

In the past year, the administration has begun to distance itself from General Pinochet. The arrival in Santiago of Harry Barnes, who has done so much for Rodrigo Rojas in the past 2 weeks, has signaled a new direction in administration policy. The United States drafted resolution expressing concern at the persistence of serious human rights violations in Chile, which the U.N. Commission on Human Rights passed this March, is another example.

Those of my colleagues truly concerned about a peaceful transition to democracy, and the restoration of human rights in Chile, must encourage the efforts of Ambassador Barnes and the recent steps taken by the administration.

However, mixed signals are still being sent by Washington and the White House, signals which in Santiago, where Pinochet controls the press with an iron grip, are twisted to his advantage.

Although Ambassador Barnes has publicly supported a return to democracy, the Senate has yet to pass a resolution supporting the National Accord. Although the Senate condemned the participation of the torture ship, the *Esmeralda*, in our July 4 celebrations, the administration and the House did not.

Although the administration now rebukes Chile for its poor human rights record, it still resists using the only leverage it has with Pinochet and continues to support international loans to Chile.

The United States can support a democratic transition by helping isolate General Pinochet and stating forcefully and unequivocally our opposition to his undemocratic and terrorist policies.

We cannot recreate democracy in Chile, a country whose democratic tradition is second only to the United States. But we can push for an opening that will help give renewed life to the democratic aspirations of the Chilean people.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business with statements therein limited to 5 minutes each.

CONGRESSIONAL STRATEGY ON SALT

Mr. BIDEN. Mr. President, the day before yesterday's news carried reports that the White House has, after an initial rejection, agreed to honor a Soviet request for a special meeting of the Standing Consultative Commission, the bilateral forum established by the two superpowers for the discussion and resolution of issues relating to compliance with existing arms control agreements. The Soviets tendered this request as a consequence of the President's May 27 announcement that the United States would "no longer be bound" by the terms of the SALT II agreement, which was accompanied by administration statements indicating that the United States would likely act to exceed one of the key SALT II sublimits later this year.

It is as yet too early for any confident interpretation of the significance of the adminstration's policy reversal on the question of meeting with the Soviets to discuss the May 27 decision. White House officials may simply have felt the need to respond affirmatively to the Soviet request for fear of losing ground to General Secretary Gorbachev in the contest for opinion in Western Europe, where the administration's SALT II decision has been widely criticized. Conversely, the decision to join in a special meeting of the SCC may reflect a willingness to reconsider—or even a disposition to reverse—the May 27 decision, which has proven so unpopular among the American people as well as among our allies. Most probably, the truth lies somewhere in between—reflecting the continuing internecine warfare that for over 5 years has characterized the Reagan administration arms control policy, contributing so substantially to a total absence of negotiating progress on arms control, the first President since Dwight D. Eisenhower to not have any success in the arms control area.

In any case, the decision does provide occasion for a brief review of where matters now stand with regard to the issue of American compliance with the basic terms of the SALT II treaty.

In response to the May 27 announcement, Congress has responded with what essentially constitutes a two-track approach. On the first track are nonbinding resolutions, introduced in each Chamber, urging a reversal of the decision and continued compliance with the SALT limits for so long as the Soviets remain in compliance with those limits. On the second track is binding legislation: a Biden-Cohen bill in the Senate (S. 2524) and a similar bill, sponsored by Congressman DICKS, in the House of Representatives.

On the first track, the House has already acted. On June 24, the House passed and sent to the Senate House Concurrent Resolution 350. In the Senate, meanwhile, two different nonbinding resolutions have been introduced. One—sponsored by Senators CHAFEE, HEINZ, BUMPERS, and LEAHY (S. Res. 431)—has already obtained 48 cosponsors. Similar language, put forward by Senator HART, passed the Armed Services Committee by a vote of 10 to 9 despite that committee's Republican majority and generally conservative character.

On the second track, in accord with the overall congressional strategy, no action has yet occurred. In the Senate, however, efforts have been underway to refine the Biden-Cohen language; and at some appropriate point that bill, as modified by such consultations, will be reintroduced as an original bill on which all members who have asked to cosponsor Biden-Cohen—there are now approximately two dozen—will become original cosponsors.

Mr. President, twice in the past decade the Senate has been called upon to play a major role in shaping the arms control policy of the United States. The first was in 1979 during the Foreign Relations Committee's extensive examination of the SALT II treaty. Although the false alarm concerning a Soviet brigade in Cuba delayed the treaty's consideration—and the Soviet invasion of Afghanistan then blocked any possibility of ratification—it was clear, after long debate, that a strong Senate majority had come to support the treaty as a solid contribution to American national security. Indeed, in the absence of the tragic and brutal Soviet action in Afghanistan, SALT II would in all probability have been ratified in early 1980.

It was this level of accumulated support for the terms of SALT II—in the Senate, among the American people, and among our NATO allies—that produced the Reagan administration's original decision, adhered to for the past 5 years, to implement a "no undercut" policy concerning compliance with the SALT II terms.

Now, with the administration's recent decision to abandon that policy, the Senate again is called upon to play a major role in arms control. It ap-

pears clear that nonbinding resolutions urging continued SALT II compliance will pass both Houses and that mandatory legislation can probably pass the House and I believe has a good shot in the Senate. What will be crucial, therefore, is the degree of Senate support on both tracks. To be effective in reversing the administration's policy, the passage of a nonbinding resolution must give clear indication of the Senate's disposition to move forward, if necessary, to binding legislation. Accordingly, I urge my colleagues to support Senate Resolution 431 and to join as cosponsors of the Biden-Cohen binding legislation, so as to make clear that the Senate will take a stand on this issue.

Mr. President, as I stated upon introducing the Biden-Cohen legislation, I deeply regret having reached the conclusion that binding SALT-compliance legislation was necessary. I believe, as a matter of principle, that the President of the United States should be allowed as much flexibility as possible in conducting the foreign policy of the United States. In the case of SALT II, however, we face the functional equivalent of a national emergency in the conduct of American strategic policy.

The reasons are no secret. Within this Government and within the Atlantic Alliance there are no secrets. Control over the arms control policy of the United States has fallen into the hands of a small cabal of right-wing ideologues who have sought for years to topple the entire structure of arms control. With the President's decision of May 27, as publicly elaborated and expanded on by those advisers, they are now well on their way to a victory that could inflict severe damage on the national security interests of the United States.

Accordingly, I believe that Congress must be prepared to act, and act decisively, to ensure that a structure of arms control erected over a period of a quarter century is not wrecked by this small, but well positioned, minority. Under almost any analysis, adherence to the SALT II limits over the past 7 years has proven of major benefit to the United States, requiring large-scale dismantlement of Soviet weapons systems and very little adjustment in our own strategic arsenal. It was for precisely that reason that, in 1984 and again in 1985, the Senate by overwhelming majorities urged the President to continue the "no undercut" policy of compliance with the SALT II numerical limitations. With the White House decision of May 27, the Senate must now confront the possible need for far more decisive action.

□ 1130

RISK RETENTION AMENDMENTS

Mr. KASTEN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 645, which is S. 2129, the risk retention bill.

The PRESIDING OFFICER (Mr. DURENBERGER). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. Section 1 of the Product Liability Risk Retention Act of 1981 (hereinafter referred to as "the Act") (15 U.S.C. 3901, note) is amended—

(1) by striking "Product"; and

(2) by striking "1981" and inserting in lieu thereof "1986".

SEC. 3. (a) Section 2(a) of the Act (15 U.S.C. 3901(a)) is amended—

(1) by striking paragraphs (1) and (3);

(2) by redesignating paragraph (2) as paragraph (1), and by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(3) by inserting after paragraph (1), as so redesignated, the following:

"(2) 'liability insurance' means insurance covering an organization's legal liability for damages because of injuries to other persons, damage to their property, or other loss or damage to such other persons arising out of its business, trade, products, services (including professional services), premises, or operations, but does not include (A) personal risk insurance or (B) workers' compensation and employers' liability insurance;

"(3) 'organization' means any association, business, corporation (whether for-profit or not-for-profit), professional corporation or partnership (including individual practitioners with respect to their business or professional activities), church, hospital, school, university, or other institution, or a State or local government (or agency of such a government);

"(4) 'personal risk insurance' means homeowners, tenant, private passenger non-fleet automobile, mobile home, and other liability and casualty insurance primarily for personal, family or household needs rather than for business or professional needs;".

(4) in paragraph (5), as so redesignated—

(A) by striking ", Bermuda, or the Cayman Islands";

(B) in subparagraph (A), by striking "product liability or completed operations";

(C) by amending subparagraph (C) to read as follows:

"(C) which—

"(i) is chartered or licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any State; or

"(ii) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and had certified to the insurance commissioner of at least one State that it satisfied the capitalization requirements of such State, except that any such group shall be considered to be a risk retention group only for the purpose of continuing to provide insurance to cover product liability or completed operations liability (as such terms were defined in this section as in effect before the date of enactment of the Risk Retention Amendments of 1986);"; and

(D) by amending subparagraph (E) to read as follows:

"(E) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members;"; and

(5) by amending paragraph (6), as so redesignated, to read as follows:

"(6) 'purchasing group' means any group of persons—

"(A) which has as one of its purposes the purchase of liability insurance on a group basis; and

"(B) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and".

(b) Section 2(b) of the Act (15 U.S.C. 3901(b)) is amended—

(1) by striking "product liability and product"; and

(2) by inserting "and personal risk insurance" immediately after "insurance" the second time it appears.

(c) Section 2 of the Act (15 U.S.C. 3901) is further amended by adding at the end thereof the following:

"(c) Nothing in this Act shall be construed to exempt a group authorized under this Act from the policy form or coverage requirements of any State no-fault autombile insurance law.

"(d) The authority to offer or provide insurance under this Act is limited to liability insurance. This Act does not authorize a risk retention group or a purchasing group to provide coverage of any other line of insurance.".

Sec. 4. (a) Subsection (a)(1) (C) and (D) and subsection (b)(1) and (2) of section 3 of the Act (15 U.S.C. 3902(a)(1) (C) and (D) and (b) (1) and (2), respectively) are amended by striking "product liability or completed operations".

(b) Section 3(a)(1)(F) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "if—" and inserting in lieu thereof "if";

(2) by striking clause (i);

(3) by striking "(ii)";

(4) by striking "and" the second time it appears; and

(5) by adding at the end thereof the following: "any such examinations shall be coordinated to avoid duplication and unjustified repetition; and".

(c) Section 3(a)(1)(G) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended by striking "the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of" and inserting in lieu thereof "there has been".

(d) Section 3 of the Act (15 U.S.C. 3902) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any State to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices in the solicitation or sale of insurance to a member or a prospective member of a risk retention group, or other fraudulent conduct by any such group; or

"(3) the solicitation or sale of insurance by, or the operation of, a risk retention group that is in a hazardous financial condition.

"(e) Any risk retention group which intends to do business in a State other than the State in which it was chartered shall furnish notice of such intention to the insurance commissioner of such State. Such notice shall—

"(1) be furnished by certified mail;

"(2) identify the State in which such group was chartered;

"(3) state the number of members of such group in the State in which the risk retention group intends to do business; and

"(4) specify the lines and classifications of liability insurance which the risk retention group intends to offer.".

Sec. 5. (a) Section 4(b) of the Act (15 U.S.C. 3903(b)) is amended—

(1) in paragraph (1), by striking "product liability or completed operations liability insurance, and comprehensive general" and "which includes either of these coverages,"; and

(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

(b) Section 4 of the Act (15 U.S.C. 3903) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any State to enjoin—

"(1) the solicitation or sale of insurance by an insurer, agent or broker to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices by an insurer, agent or broker in the solicitation or sale of insurance to a member or a prospective member of a purchasing group, or other fraudulent conduct by any such group or its insurer, agent or broker; or

"(3) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer that is in a hazardous financial condition.".

SEC. 6. The Act (15 U.S.C. 3901 et seq.) is amended by adding at the end thereof the following:

"REQUIREMENTS OF CERTAIN INSURANCE POLICIES

"SEC. 6. Any insurance policy issued by a risk retention group shall state the following in 10-point type:

"This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.".

Mr. KASTEN. Mr. President, I ask unanimous consent that the committee amendment to S. 2129 be agreed to and treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, the legislation now before the Senate is the Risk Retention Amendments of 1986. The bill amends the Product Liability Risk Retention Act of 1981 in order to make it easier for businesses, associations, professionals, governmental entities, and other organizations to form collective purchasing groups and self-insurance groups for general liability insurance. I am joined in this effort by the bill's cosponsors, Senators DANFORTH, HOLLINGS, ROCKEFELLER, PRESSLER, GORE, SASSER, KASSEBAUM, SIMON, INOUYE, WEICKER, and SARBANES.

In 1981, I was one of the original sponsors of the Product Liability Risk Retention Act. This act was passed to facilitate the ability of manufacturers, product sellers, and distributors to obtain self-insurance coverage on a group basis for product liability risks. The law also facilitates the ability of businesses to purchase comprehensive general liability insurance, which includes product liability insurance, on a group basis.

The Product Liability Risk Retention Act of 1981 specifically authorized the creation of two different mechanisms to facilitate the ability of businesses to insure product liability risks: "Risk retention groups," which are authorized to self-insure product liability risks, and collective purchasing groups which are authorized to purchase comprehensive liability insurance on a group basis, if the policy includes coverage for product liability risks. The law facilitates the establishment of such groups by preempting to the extent necessary, certain State laws which restrict the organization of group captive insurance companies and the sale of insurance on a group basis.

The measure before the Senate today amends the 1981 act to make it easier for others to form collective purchasing groups and risk retention groups for general liability insurance, without imposing on them conflicting requirements in each State in which they operate. Since the Risk Retention Act was intended only to address the problem of obtaining affordable product liability insurance, the 1981 act's definitions of "risk retention groups" and "purchasing groups" restrict the application of the law to product liability or completed operations liability insurance. The amendments we are introducing today expand the definition of such groups so as to permit them to cover others seeking general liability insurance.

These amendments expand the definition of those eligible to form risk retention and purchasing groups under the act to include businesses, professional groups, hospitals, schools, churches, or other institutions, and State and local government entities. Such groups would be able to form purchasing groups or risk retention groups to obtain all types of general liability insurance, except for personal risk insurance, workers' compensation, and employers' liability insurance.

Today, the increasing cost and scarcity of liability insurance has become a matter of national concern. Manufacturers, municipal governments, truckers, hazardous waste disposers, day care operators, schools, corporate directors and officers, nurse-midwives, physicians, architects, and other professionals find themselves facing huge premium increases for liability insurance. Some have had their coverage canceled or drastically reduced. Others cannot obtain coverage at any price.

During the Commerce Committee's hearing on the Risk Retention Amendments of 1986, the bill received the support of groups including the National Association of Insurance Brokers, the National Rural Electric Cooperative Association, the Risk and Insurance Management Society, Public Citizen's Congress Watch, Consumers union, the Consumer Federation of America, U.S. PIRG, the National League of Cities, the National Association of Wholesalers-Distributors, the American College of Nurse-Midwives, and the Council of Large Public Housing Authorities.

But despite the support of these varied and esteemed organizations, a number of witnesses at the hearing on this legislation raised concerns regarding the scope of the legislation and the need to assure that insurance regulators in nonchartering States have sufficient authority with respect to fraudulent practices by risk retention groups and purchasing groups, improper sales to the general public by such groups, and the financial condition of such groups.

□ 1140

In response to these very legitimate concerns, the committee adopted a number of modifications which are incorporated into the favorably reported committee amendment. First, the authority of a State insurance commissioner to conduct an investigation into the financial condition of a risk retention group has been expanded. Under the 1981 act, such an investigation could only be instigated when the commissioner had reason to believe the risk retention group was in a financially impaired condition and the commissioner in the group's chartering State had not begun to initiate such an investigation. The committee amendment eliminates the requirement that an insurance commissioner must have reason to believe the risk retention group is in a financially impaired condition before an investigation is initiated. Such investigations must, however, be coordinated with other State insurance commissioners to avoid duplication.

The committee also added a provision which allows the insurance commissioner of any State to initiate a delinquency proceeding if there has been a finding of financial impairment, pursuant to the Risk Retention Act.

In addition to these new provisions regarding the financial stability of risk retention groups, the committee also added provisions regarding State authority to regulate the marketing practices of risk retention groups. First, a State may enjoin the sale or solicitation of coverage by a risk retention group to the public or any person who is not eligible for membership in such group. Second, a State may enjoin false, deceptive, or fraudulent acts or practices in the solicitation or sale of insurance to a member or prospective member of a risk retention group, or other fraudulent conduct by any such group. Third, a State may enjoin the sale or solicitation of insurance by, or the operation of, a risk retention group that is in a "hazardous financial condition."

Mr. President, before concluding, I ask unanimous consent to have printed in the RECORD a letter received recently from Mr. Douglas A. Riggs, General Counsel of the U.S. Department of Commerce, supporting the Risk Retention Amendments of 1986.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 25, 1986.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: This letter expresses the views of the Department of Commerce on S. 2129, the "Risk Retention Amendments of 1986."

The Department of Commerce supports S. 2129.

The Product Liability Risk Retention Act of 1981 has two basic purposes. It permits companies to join together to form a Risk Retention Group which is an insurance company licensed under the laws of a state and able to provide product liability or completed operations insurance to its members in any other state. The Act also allows companies to form a Purchasing Group which has as its principal purpose to purchase product liability or completed operations insurance on a group basis from a commercial insurer. A group can purchase a general liability policy, but only if it includes products or complete operations coverage.

When enacted, the Act avoided any Federal regulation of the insurance industry and was intended to meet the limited insurance crisis encountered in the mid to late 1970's. Since enactment, the Act has been used sparingly.

S. 2129 broadens the scope of self insurance and group insurance authority granted by the Product Liability Risk Retention Act. The Act presently is limited to products and completed operations liability. S. 2129 will broaden the scope of the Act to cover all general liability insurance with certain specified exceptions. By broadening the coverage, S. 2129 should help provide a market-oriented solution to the extremely difficult liability insurance crisis currently being experienced by a wide range of companies, professionals, state and local governments and others. The amendments should also provide an expansion of insurance capacity and, at the same time, allow more efficient use of the commercial insurance marketplace. Although S. 2129 cannot be a total solution to the insurance crisis, it could provide immediate help in easing the liability insurance crisis affecting many businesses, professionals, and other institutions.

The current liability insurance crisis is far broader in scope than the earlier crisis. Amending the Act to remove the current coverage restrictions would facilitate the use of Risk Retention Groups as an alternative insurance mechanism and would obtain maximum benefit from the group-purchasing provision.

Under the proposed amendments, Risk Retention Groups would be formed by organizations for which liability coverage is either unavailable or unaffordable. There would be little incentive to form a group absent one or both of those conditions. Purchasing Groups are particularly beneficial to smaller companies and organizations. Small insurance buyers are less attractive to commercial insurers in a tight market, but as a group they can generate a strong premium base and administrative costs are reduced when a master policy covers many insureds.

The adoption of S. 2129 should have the effect of helping smooth the insurance cycle over a period of time. Sharp drops in insurance costs during periods of "cash flow underwriting" provide a temporary benefit to the buyer but inevitably lead to the crisis periods such as currently being experienced. The knowledge that substantial insurance buyers can create their own alternative insurance mechanisms will be an incentive to commercial insurers to avoid sharp peaks and valleys in their costs.

The proposed amendments would continue to rely on the state regulatory system to ensure the solvency of the insurers. Regulation of commercial insurance as opposed to personal lines has been kept to a minimum by most state insurance departments. They generally feel that commercial transactions are between knowledgeable buyers and sellers and that they need not interfere. The auditing for solvency is generally the responsibility of the state in which the company is domiciled and, therefore, the regulation of Risk Retention Groups would follow current practice.

The legislative history of the 1981 Act indicated that nothing in the Act in any way changed the relationship between state regulation of insurance and federal antitrust laws established by the McCarran-Ferguson Act. The legislative history also make clear that the 1981 Act should not be construed to provide any immunity or defense to any action under the antitrust laws for any Risk Retention Group or group member. We believe that the same intent should govern the 1986 amendments to the Act, and that it would be appropriate to reflect that intent in the legislative history of the amendments.

I must emphasize that the Administration does not accept the passage of the Risk Retention Amendment of 1986 as a substitute for meaningful tort reform to assist in resolving the availability and affordability liability insurance crisis. Congress must pass tort reform legislation.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DOUGLAS A. RIGGS,
General Counsel.

AMENDMENT NO. 2209

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself Mr. FORD, Mr. DANFORTH, Mr. KASTEN, Mr. HOLLINGS, Mr. GORE, and Mr. ROCKEFELLER, proposes an amendment numbered 2209.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. Section 1 of the Product Liability Risk Retention Act of 1981 (hereinafter referred to as "the Act") (15 U.S.C. 3901, note) is amended—

(1) by striking "Product"; and

(2) by striking "1981" and inserting in lieu thereof "1986".

SEC. 3. (a) Section 2(a) of the Act (15 U.S.C. 3901(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) 'financially impaired' means that a risk retention group does not meet the minimum capital or surplus requirements, or both, of the State in which such group is chartered, or that such group has incurred losses that will deplete all or substantially all of its capital or surplus, or both, unless there is a reasonable prospect for replenishment of such capital or surplus, or both;";

(2) by striking paragraph (3), and by redesignating paragraph (2) as paragraph (3);

(3) by inserting immediately after paragraph (1), as amended by paragraph (1) of this subsection, the following:

"(2) 'hazardous financial condition' means a risk retention group that is not able or will not be able to (A) meet its obligations to its policyholders regarding known claims and reasonably estimated expected claims, or (B) pay its other obligations in the normal course of business, and there is no reasonable prospect for it to do so;";

(4) by redesignating paragraphs (4) through (6) as paragraphs (7) through (9), respectively;

(5) by inserting after paragraph (3), as so redesignated, the following:

"(4) 'liability insurance' means insurance covering an organization's legal liability for damages because of injuries to other persons, damage to their property, or other loss or damage to such other persons arising out of its business, trade, products, services (including professional services), premises, or operations, but does not include (A) personal risk insurance or (B) workers' compensation and employers' liability insurance;

"(5) 'organization' means any association, business, corporation (whether for-profit or not-for-profit), professional corporation or partnership (including individual practitioners with respect to their business or professional activities), church, hospital, school, university, or other institution, or a State or local government (or agency of such a government);

"(6) 'personal risk insurance' means homeowners, tenant, private passenger non-fleet automobile, mobile home, and other liability and casualty insurance primarily for personal, family or household needs rather than for business or professional needs;";

(6) in paragraph (7), as so redesignated—

(A) by inserting "any group of units of local government or agencies thereof, or" immediately after "means";

(B) by striking ", Bermuda, or the Cayman Islands";

(C) in subparagraph (A), by striking "product liability or completed operations";

(D) By redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, and by inserting immediately after subparagraph (C) the following:

"(D) whose activities do not include the provision of any insurance except the insurance described in subparagraph (A) and reinsurance with respect to the risks of its own members or organizations whose businesses are similar or related with respect to the nature of their exposure to the risk of liability, as provided in this paragraph;

"(E) whose activities, subject to the limitations of subparagraph (B) of this paragraph, are permitted to such a group by the laws of its domicile, including management, operations, insurance and investment activities and the provision of loss control and claims administration (including loss control and claims administration services for uninsured risks retained by members of the group);";

(E) in subparagraph (F), as so redesignated, by striking "and";

(F) by amending subparagraph (G), as so redesignated, to read as follows:

"(G) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and"; and

(G) by adding at the end thereof the following:

"(H) the name of which includes the phrase 'Risk Retention Group';"; and

(7) by amending paragraph (8), as so redesignated, to read as follows:

"(8) 'purchasing group' means any group of persons—

"(A) which has as one of its purposes the purchase of liability insurance on a group basis; and

"(B) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and".

(b) Section 2(b) of the Act (15 U.S.C. 3901(b)) is amended—

(1) by striking "product liability and product"; and

(2) by inserting "and personal risk insurance" immediately after "insurance" the second time it appears.

(c) Section 2 of the Act (15 U.S.C. 3901) is further amended by adding at the end thereof the following:

"(c) Nothing in this Act shall be construed to exempt a group authorized under this Act from the policy form or coverage requirements of any State no-fault automobile insurance law.

"(d) The authority to offer or provide insurance under this Act is limited to liability insurance. This Act does not authorize a risk retention group to provide, or a purchasing group to purchase, any other line of insurance.

"(e) Insurance provided under this Act shall not be construed to authorize coverage of punitive damages or intentional, fraudulent, or criminal conduct, to the extent that any such coverage is either prohibited by statute or has been declared unlawful by the highest court of the State whose law is applicable to a coverage claim.".

SEC. 4. (a) Subsection (a)(1) (C) and (D) and subsection (b) (1) and (2) of section 3 of the Act (15 U.S.C. 3902(a)(1) (C) and (D) and (b) (1) and (2), respectively) are amended by striking "product liability or completed operations".

(b) Section 3(a)(1)(C) of the Act (15 U.S.C. 3902(a)(1)(D)) is amended to read as follows:

"(D) submit to the State insurance commissioner of each State in which it is doing business a copy of the group's annual financial statement submitted to the State in which the group is chartered or licensed as an insurance company, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves by a person with the minimum qualifications of an associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries, or a qualified loss reserve specialist;".

(c) Section 3(a)(1)(F) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "if—" and inserting in lieu thereof "if";

(2) by striking clause (i);

(3) by striking "(ii)";

(4) by striking "and" the second time it appears; and

(5) by adding at the end thereof the following: "any such examinations shall be coordinated to avoid duplication and unjustified repetition;".

(d) Section 3(a)(1)(G) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of" and inserting in lieu thereof "there has been";

(2) by adding immediately before the semicolon the following: ", or comply with a lawful order issued in a voluntary dissolution"; and

(3) by inserting "and" immediately after the semicolon.

(e) Section 3(a)(1) of the Act (15 U.S.C. 3902(a)(1)) is amended by adding at the end thereof the following:

"(H) comply with an injunction if such injunction was issued by a Federal or State court of competent jurisdiction, after notice and opportunity for a hearing and the issuance of findings of fact and conclusions of law, upon a petition by the State insurance commissioner alleging that the group is in a hazardous financial conditions or is financially impaired;".

(f) Section 3 of the Act (15 U.S.C. 3902) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices in the solicitation or sale of insurance to a member or a prospective member of a risk retention group, or other fraudulent conduct by any such group;

"(3) the solicitation or sale of insurance by, or the operation of, a risk retention group that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance by, or the operations of, a risk retention group that within the previous five years has been found to have engaged, or whose officers, organizers or directors have been found to have engaged, in knowing and willful false, deceptive, or fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violation will be repeated.

In any proceeding under paragraph (3) of this subsection, all relevant evidence shall be admissible to prove the financial condition of a risk retention group.

"(e) Before any group may operate as a risk retention group in any State, such group shall furnish to the insurance commissioner of that State and each other State in which the group intends to do business a plan of operation or feasibility study which includes the coverages, deductibles, coverage limits, rates and rating classification systems for each line or classification of liability insurance that the group intends to offer. After it is chartered to operate, the risk retention group shall revise such plan or study if it intends to offer any additional lines or classifications of liability insurance.".

SEC. 5. (a) Section 4(b) of the Act (15 U.S.C. 3903(b)) is amended—

(1) in paragraph (1), by striking "product liability or completed operations liability insurance, and comprehensive general" and "which includes either of these coverages,"; and

(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

(b) Section 4(c) of the Act (15 U.S.C. 3903(c)) is amended by adding at the end thereof the following: "A purchasing group may not purchase insurance from a risk retention group that is not domiciled in a State or from an insurer not admitted in the State in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such State.".

(c) Section 4 of the Act (15 U.S.C. 3903) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by an insurer, agent or broker to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices by an insurer, agent or broker in the solicitation or sale of insurance to a member or a prospective member of a purchasing group, or other fraudulent conduct by any such group or its insurer, agent or broker;

"(3) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer or marketed by agents or brokers who within the previous five years have been found to have engaged in knowing and willful false, deceptive, or

fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violations will be repeated.".

SEC. 6. The Act (15 U.S.C. 3901 et seq.) is amended by adding at the end thereof the following:

"REQUIREMENTS OF CERTAIN INSURANCE POLICIES

"SEC. 6. Any insurance policy issued by a risk retention group shall state the following in 10-point type:

"This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.

"ENFORCEMENT

"SEC. 7. (a) For purposes of enforcing this Act, if the insurance commissioner of any State has reason to believe that a risk retention group or purchasing group has engaged or is engaging in conduct subject to State law under this Act or in conduct in violation of this Act in that State, the commissioner may make use of any of the powers permitted under the laws of such State regarding insurers admitted to do business in that State, except that if a commissioner seeks an injunction against a risk retention group or purchasing group because of conduct in violation of section 3(d) or section 4(d) of this Act, the commissioner shall obtain an order for scuh injunction from a Federal or State court of competent jurisdiction.

"(b) Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or from operating, in any State or in all States upon a finding by such court that such group is in a hazardous financial condition in accordance with section 3(d)(3) of this Act. Such order shall be binding on such group, its officers, agents, servants and employees, and upon persons acting in active concert with any of them who have actual notice of such order.".

SEC. 7. This Act shall take effect on the date of its enactment, except that the provisions of section 3(e) of the Act, as added by section 4(f) of this Act, shall not apply to any line or classification of liability insurance (as defined in the Product Liability Risk Retention Act of 1981, as amended by this Act) which was offered on the day before such date of enactment by any risk retention group which has been chartered and operating for at least three years before such date of enactment.

Mr. GORTON. Mr. President, simply to clarify for the RECORD, this amendment is presented on behalf of myself and the distinguished Senator from Kentucky [Mr. FORD] together with the chairmen of the full committee and the subcommittee and other members of the Commerce Committee. It is an agreed amendment in the nature of a substitute for the bill as it was reported by the Commerce Committee.

The purpose of the bill, as the distinguished Senator from Wisconsin so ably pointed out, was to help with respect particularly to certain groups, such as nurse midwives and local governments, which have been increasingly unable to purchase insurance or only to find insurance at highly prohibitive prices, to enter into risk retention groups essentially cooperatives, which would provide the kind of coverage which those groups need.

The purpose is a good one. As a matter of fact, we do not have a single member of the committee who did not agree with that purpose.

On the other hand, it was a matter of great concern, particularly to the Senator from Kentucky and myself, that the bill as originally reported by the committee, with the committee amendment which has just been put forth, was far too broad and gave insufficient regulatory control to nonchartering States, since these risk retention groups could operate across the length and breadth of the Nation after having been chartered in one State only.

Fortunately, there has been a spirit of great cooperation in dealing with these concerns expressed by the Senator from Kentucky and myself. We, and the balance of the committee and its staff, have worked with the National Association of Insurance Commissioners and with others.

At this point, Mr. President, I would like to thank some individuals whose work has been especially important: Mike Mullen of Crowell & Moring; Skip Myers and Marilyn Richmond of Heron, Burchette, Ruckert & Rothwell; Karen Erhnman of the American College of Nurse Midwives; Martha Moloney of the staff of the Senator from Kentucky [Mr. FORD]; Larry Harrington and Goody Marshall of the staff of the Senator from Tennessee [Mr. GORE]; Chuck Harwood of the subcommittee staff; of course, the staff director, Allen Moore; and Amy Bondurant of the minority staff. And, most importantly, I would like to thank Senators DANFORTH and KASTEN in connection with their efforts to reach a consensus on a bill which is very, very important and because it is so important must be written correctly.

The amendment which is now before us in our opinion significantly improves the bill by permitting the formation and operation of risk retention groups while permitting legitimate regulatory oversight by State officials who are concerned that these groups operate in a way which is financially sound and also fair.

At this point, Mr. President, so as not to unduly lengthen discussion of a proposal which I believe has broad and perhaps unanimous agreement, I ask unanimous consent to have printed in the RECORD at this point a statement of detailed explanation of precisely what it is that this amendment accomplishes.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

STATEMENT OF EXPLANATION OF AMENDMENTS TO THE RISK RETENTION ACT

The following amendments are intended to clarify S. 2129 with respect to the authority of state insurance commissioners to oversee the operation of risk retention groups and purchasing groups established under the Risk Retention Act.

DEFINITION OF A HAZARDOUS FINANCIAL CONDITION

This amendment (section 2(a)(1), as amended) defines a "hazardous financial condition" as the condition of a risk retention group that is "not able or will not be able" to (A) meet its obligations to its policyholders regarding known claims and reasonably estimated expected claims or (B) pay its other obligations in the normal course of business and there is no reasonable prospect for it to do either. This statutory definition of the term hazardous financial condition is intended to establish a uniform objective standard for determining when a group should be enjoined from soliciting additional sales or conducting operations in a state. It is intended that this statutory definition embody the explanation of the term hazardous financial condition set forth in the Committee Report to S. 2129, S. Rep. No. 99-294, at 15-16.

As stated in the Committee Report, it is intended that the primary responsibility for regulating the financial condition of a risk retention group rests with the State in which the group is chartered. But to assure that any plainly under-reserved or undercapitalized organizations do not operate and cause harm to group members of the public, the insurance commissioner of each State in which the group operates is given authority to enjoin its operations if there is a judicial finding that the group is in a hazardous financial condition. Each state insurance commissioner is given this added authority to prevent and prohibit unsound and hazardous operations, not to interfere with legitimate, adequately funded groups. This provision is intended to address the concern that a risk retention group in a "hazardous financial condition" will be allowed to continue to operate because of the failure of the commissioner of the chartering jurisdiction to exercise adequate regulatory supervision.

Whether a group is in a hazardous financial condition is to be determined in accordance with the general actuarial principles for determining loss reserves, capital, and surplus and not the capital and surplus requirements of a particular State or the particular insurance, accounting and reserve requirements of that State. A group is in a hazardous financial condition if the group has not set aside adequate reserves and loss adjustment expenses to pay known claims and reasonably estimated expected claims that will be incurred during the policy period. In addition, the group should have sufficient surplus, reinsurance, or contingent reserves or a combination of these to assure that it can respond to highly probable excess claims.

As the Committee Report noted, "there is little uniformity among insurers in the use of [methods for calculating loss reserves]." Therefore, it is intended that the estimated loss reserves of the group should be considered adequate unless it can be demonstrated by the insurance commissioner of the State seeking to enjoin a group that the assumptions or methodology involved for establishing loss reserves are materially in error or will plainly leave the group with insufficient funds to pay reasonably estimated claims that will be made against its members. It is also intended that any action or inquiry to determine a group's hazardous financial

condition should be coordinated to avoid undue administrative burdens on a risk retention group.

The authority to enjoin a group in a hazardous financial condition is intended to allow state insurance commissioners the authority to intervene at a point before a group actually becomes insolvent. It is intended to allow for regulatory action to prevent substantial insolvencies when a projection of the premium income to be allocated to reserves, investment income, surplus, letter of credit and other assets appear to be insufficient to pay the known claims and the reasonably estimated expected future claims (including reasonably likely variations in claim frequency and claim size) that will be made against group members, and there is no reasonable likelihood that this insufficiency can be corrected. This authority should be used in a manner that will protect the public interest, but action not in good faith that would undermine or impede the interstate operation of legitimate and financially responsible risk retention groups should be avoided.

Whether a group has sufficient reserves and other assets to pay the "reasonably estimated expected claims" that have been, or are likely to be incurred by the members of a group, is a factual question. A group's financial statement or feasibility study is not conclusive. The amendment provides that all relevant evidence is admissible regarding the financial condition of a group. Thus, a court can look behind the estimated claims in a feasibility study and consider other evidence regarding the size and frequency of claims to which the particular members of the group will be exposed.

VOLUNTARY DISSOLUTION

Section 3(a)(1)(G) authorizes an insurance commissioner to conduct a delinquency proceeding, which is similar to a bankruptcy proceeding, for a financially impaired risk retention group. This amendment would include a voluntary dissolution within the proceedings authorized under paragraph (G).

LIMITATION ON COVERAGE

This amendment to section 2(d) clarifies that risk retention groups and purchasing groups are limited to providing liability insurance coverage as defined in the Act and are prohibited from providing coverage for "any other line of insurance" such as life or health insurance.

SCOPE OF ACTIVITIES OF A RISK RETENTION GROUP

This amendment clarifies the definition of a risk retention group and its authorized activities. A risk retention group is a group whose primary activity consists of assuming and spreading all or any portion of the liability risk exposure of its group members. Paragraphs (B) and (C) of section 2(a)(4) as set forth in this amendment specify in further detail the scope of a group's authorized activities. Paragraph (B) states that the activities of a risk retention group may not include the provision of any insurance except the liability insurance authorized in subparagraph (A) and "reinsurance with respect to the risks of its own members or organizations whose business is similar or related with respect to the nature of their exposure to the risk of liability." This is intended to limit a group to reinsuring its own members or establishing a program similar to interinsurer pools for similar risks.

Paragraph (C) provides that subject to the limitations of subparagraph (B) and subject to the laws of its domicile, a risk retention group may engage in such activities as management, operational, insurance and investment activities related to its insurance operations, and the provision of loss control and claims administration (including loss control and claims administration services for uninsured risk retained by members of the group that are related to its authorized insurance activities). This is intended to make it clear that a group may engage in all activities reasonable and necessary to the conduct of its insurance business. A group, of course, may not engage in investment activities prohibited by the chartering state.

PROHIBITED INSURANCE COVERAGE

This amendment (section 2(e), as amended) states that insurance provided under this Act shall not be construed to authorize coverage of punitive damages or intentional, fraudulent, or criminal conduct to the extent that any such coverage is either prohibited by a statute or has been declared unlawful by the highest court of the State whose law is applicable to a coverage claim. (It is intended that a declaration by an appellate court of a state affirmed without full review, would also be effective for this purpose.) This amendment is intended to place a risk retention group and a purchasing group in the same position as a commercial insurance company with respect to authorized liability coverage. For example, insurance of punitive damages is prohibited in some states for intentional conduct, but not for vicarious liability. It is not restricted in other states. This amendment is intended to apply the substantive law of the state that is applicable to any coverage claim. The term "intentional conduct" as used in this provision is limited to conduct in which there is a specific intent to cause injury. It is not, however, intended to exclude coverage for losses resulting from intentional choices regarding the manufacture or design of a product.

FINANCIAL REPORTS

This amendment (section 3(a)(1)(D), as amended) requires a risk retention group to submit to the State insurance commissioner of each state in which it is doing business a copy of the group's annual financial statement submitted to the State in which the group is chartered or licensed as an insurance company and requires the statement to be certified by an independent public accountant and to contain a statement of opinion on loss and loss adjustment expense reserves by a person with the minimum qualifications of an associate in the Casualty Actuarial Society, a member of the American Academy of Actuaries, or a qualified loss reserve specialist (as determined by criteria established by the National Association of Insurance Commissioners). This amendment is intended to assure the quality and integrity of financial reports made by risk retention groups.

ENFORCEMENT AUTHORITY

This amendment (section 7, as added by this legislation) states that for the purpose of enforcing this Act, if the insurance commissioner of any State has reason to believe that a risk retention group or a purchasing group has engaged or is engaging in conduct in violation of the Act in that State, the Commissioner is authorized to make use of any of the powers permitted under its state laws regarding insurers admitted to do business in that State except that if a Commissioner seeks to enjoin a risk retention group or a purchasing group because of conduct in violation of section 3(d) or section 4(d), the Commissioner must obtain an order from a Federal or State court of competent jurisdiction.

This amendment is intended to give the insurance commissioner of any state in which a risk retention group or a purchasing group is operating, administrative authority to investigate the conduct of the group if the Commissioner has reason to believe that the group has engaged in conduct in violation of the Risk Retention Act, and to take appropriate action. This would include the imposition of administrative sanctions for the failure to register or file financial statements, to respond to a request for documents or other information, etc., and it would authorize and require a commissioner to rely on his procedural law and regulations in any inquiry or proceeding. However, if a Commissioner seeks to enjoin a group from operating because of conduct in violation of section 3(d) such as false or deceptive advertising, fraudulent conduct, or unlawfully selling to the public, then a Commissioner must seek a court order from a State or Federal court of competent jurisdiction. This will assure that any decision to prohibit a group from operating because of a violation of the Risk Retention Act will be made by an independent judicial officer. It is intended that court orders enjoining this conduct (including penalties for contempt for breach of an order) will be the sole remedy for any conduct described in section 3(d) or 4(d).

It is intended that risk retention groups comply with certain requirements that are specifically referred to in the Act, such as the notice requirements of Section 3(e), as well as certain regulatory requirements established by state law, e.g., the provisions cited in Section 3(a)(1)(A)-(G). A "violation of this Act" refers to those violations specifically set forth in the Act. Violations of state law which are not preempted by this Act are also subject to sanctions. For example, false, deceptive, or fraudulent acts or practices in the solicitation or sale of insurance as referred to in Section 3(d)(2), and the failure to comply with unfair claims settlement practices law of a state as referred in Section 3(a)(1)(A), constitute conduct which may be the subject of an enforcement action.

It is understood that any action taken against a group will be subject to any ameliorative provision of State law that may allow a person by subsequent action to cure a violation of law (such as filing an incomplete report or a report containing unintentional errors). It is also intended that States may enact statutes and issue regulations to implement the authority granted by this section and other provisions of the Act.

NAMING OF GROUPS

This amendment (section 2(a)(b), as amended) requires that any risk retention group must include in its name the phrase "Risk Retention Group." This is to assure that those dealing with a risk retention group will be aware of its special character.

PURCHASING GROUPS

This amendment (section 4(c), as amended) establishes the qualifications of organizations underwriting the liability risks of a purchasing group. It provides that a purchasing group may not purchase insurance from a risk retention group that is not domiciled in one of the United States (thus it may not purchase insurance from an offshore captive unless it is licensed in a state or is an eligible excess surplus lines insurer) or from an insurer that is not admitted in the State in which the purchasing group is

located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of the State in which the group is located.

REPEATED FALSE, DECEPTIVE OR FRAUDULENT CONDUCT

This amendment (section 3(d) as amended) allows the insurance commissioner of a state to enjoin the operation of a risk retention group in that state if within five years the group has engaged in knowing and willful false, deceptive or fraudulent conduct in violation of the Risk Retention Act or any other law under circumstances that present a reasonable likelihood that such violations will be repeated. This is intended to prevent groups which have engaged in knowing and willful deliberate violations of the law in one or more states from moving state to state and repeatedly engaging in any such conduct. Groups which engage in a pattern of fraudulent conduct or other knowing and willful false or deceptive conduct would come under the scope of this amendment. Generally, one or two unrelated violations of this Act would not indicate circumstances that present a likelihood of repeated violations, but a series of knowing and willful violations, particularly if they represent a pattern of conduct which are not corrected, could establish circumstancial evidence that there is a reasonable likelihood that such violations will be repeated. A state should not have to wait until fraud occurs before taking action under these circumstances.

PLAN OF OPERATION OR FEASIBILITY STUDY

This amendment (section 3(e) as amended) requires that before any group may operate as a risk retention group in any State, the group must furnish to the insurance commissioner of that State a plan of operation or a feasibility study which sets forth the coverages, deductibles, coverage limits, rates and rating classification system for each line or classification of liability insurance that the group intends to offer. Providing a copy of this plan or study is intended to give an insurance commissioner additional information about the future operations of a risk retention group such as the coverages that will be provided and to furnish information about the rates and rating plan so that in an appropriate case a commissioner can make an additional inquiry. This amendment also requires that if a group offers additional lines or classifications of liability insurance, it must provide a revised plan of operation or feasibility study to reflect such changes.

INJUNCTION PROCEDURE

This amendment (section 3(a)(1)(H), as amended) provides that a risk retention group must comply with an injunction if the injunction is issued by a Federal or State court of competent jurisdiction, after notice and opportunity for a hearing, and the issuance of findings of fact and conclusions of law, upon a petition by the State insurance commissioner alleging that the group is in a hazardous financial condition or is financially impaired. The amendment is also intended to permit a temporary restraining order to be issued on an emergency basis, subject to due process requirements and a prompt court hearing subject to the requirement of this amendment. This amendment is intended to set forth basic due process requirements in cases in which a commissioner seeks to enjoin a group because of its financial condition.

Mr. GORTON. One of my principal concerns about this bill surrounds the significance of participation in a risk retention group for certain State regulatory purposes. For instance, many State regulatory schemes require proof of insurance or financial responsibility before an individual can undertake a hazardous activity such as applying pesticides to the land of another. These requirements are intended primarily for the protection of third parties who may be injured by the activity. My question to my colleague is whether a State must accept participation in a risk retention group as proof of insurance for the purposes of these other regulatory statutes?

Mr. KASTEN. A State would not be required to accept a risk retention group policy as proof of insurance or financial responsibility under any State statute that requires that such coverage can only be provided by an insurer admitted in the State or by a surplus line carrier eligible to offer coverage in the State. If, however, the statute contemplates that such a requirement can be met through coverage by an insurer licensed or eligible in any State, participation in a risk retention group would meet that requirement.

Mr. GORTON. I thank the Senator.

Mr. FORD. Mr. President, I am pleased to join with my colleague from Washington in cosponsoring the substitute for S. 2129, the Risk Retention Amendments of 1986. Since I was one of the dissenting votes during the Commerce Committee's consideration of this legislation, I am particularly pleased that a substitute has been agreed to by all the parties involved in this legislation. This substitute is a far better piece of legislation than the bill reported from the Commerce Committee on March 27, 1986.

My main concern with the provisions of the bill, as reported by the Commerce Committee, was that deregulation of insurance was not the answer to the present liability crisis. The substitute recognizes the need for continued review by State insurance commissioners of risk retention groups. The substitute strengthens the financial review. I want to underscore that, Mr. President. The substitute strengthens the financial review.

I believe my amendment which was accepted as a part of the package and allow State insurance commissioners in nondomicile States to enjoin activities of unsound risk retention groups will aid States in their ability to protect their citizens.

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I would like to address the problem of one group—as my friend from Washington has done—the nurse midwives. The nurse midwives have been instrumental in bringing this legislation to the attention of the Senate. Despite relatively few actual claims, insurance for nurse midwives malpractice coverage will cease this summer. Without insurance, they cannot pursue their profession and in my State, nurse midwives provide a very valuable service. Nurse midwives serve many parts of eastern Kentucky which do not have other forms of medical service available and they are filling the void being left by obstetricians abandoning the practice in the face of huge malpractice awards. I had hoped to deal with the problems of the nurse midwives separately, but they choose to remain in the coalition in support of S. 2129. Because of the particular problems of the nurse midwives, it is hoped that the House of Representatives will put S. 2129 on a fast track so that nurse midwives will not be left without insurance this summer.

I would like to thank the chairman of the Commerce Committee, Senator DANFORTH, for allowing the talks to continue on this bill after it was reported from the Commerce Committee. Also, my thanks to the Senator from Washington, Senator GORTON, who shared my views with the problems of S. 2129 as reported from the committee and kept the pressure on to find a compromise to this problem. He and I both agree that S. 2129 is a far better bill as a result of the continued talks.

As he stated, Mike Mullen, a former Commerce Committee staff member who was very helpful to me on several major pieces of legislation, has represented the proponents of this bill. Mike has continued to find compromise solutions to various problems with this bill and I would like to thank him for his patience. I guess he learned the art of compromise while serving on the Commerce Committee staff. I would also like to thank the National Association of Insurance Commissioners for participating in the talks that led to the substitute. The Commerce Committee staff—Amy Bondurant, Chuck Harwood, and Kevin Curtin, and from my personal staff, Marth Moloney, and Marianne McGettigan of Senator GORTON'S staff—we are Irish today—for their continued work, long hours, and their patience in arriving at this substitute and they are to be commended for their fine work.

So, Mr. President, I hope that we will be able to go forward with this piece of legislation without many trials and tribulations with respect to amendments. I know some people would like to make a Christmas tree out of the legislation. But I hope we can suggest that those who would like to do that with this piece of legislation would refrain.

Mr. President, I would like to ask unanimous consent that the pending substitute amendment be considered as original text for the purpose of future amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. I yield the floor, Mr. President.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I simply want to say that I support the amendment. I think it is a wise amendment. It improves the legislation. Most importantly it improves the changes for swift passage of this legislation, not only here in the Senate but also in the House of Representatives.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Parliamentary inquiry. What is the question before the Senate?

The PRESIDING OFFICER. The amendment in the nature of a substitute is the pending business.

Mr. KASTEN. I believe we are able now to go forward and vote on the amendment in the nature of a substitute as original text subject to amendment.

Mr. HOLLINGS. Mr. President, I think unanimous consent should be made that the pending substitute amendment can be considered as original text for the purpose of further amendment after it has been agreed to. Is that correct? I ask unanimous consent.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from South Carolina? Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question, is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 2209) was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I am extremely pleased that the Senate is today considering S. 2129, the Risk Retention Amendments of 1986. I am an original cosponsor of S. 2129 and fully endorse the intent of the legislation. The legislation would make it easier for businesses, professional groups, local government entities, and other buyers of insurance to obtain commercial liability coverage.

The hearings held on February 19 and March 20 by the Senate Commerce Committee on the availability and affordability problems faced by insurance buyers underlined the fact that many entities are indeed facing a crisis. I certainly agree with the testimony of the National Association of Insurance Brokers at the March 20 hearing on S. 2129 that the conventional marketplace is not functioning as well as it normally does. S. 2129 will create a safety valve for those who face the prospect of having to continue operations with no insurance at all.

I am sympathetic with the specific problems of the American College of Nurse-Midwives, who need expeditious enactment of S. 2129 as the group faces the bleak prospect of "going bare" by mid-summer. The testimony of the Risk and Insurance Management Society at the March 20 Commerce hearing stated that the swift enactment of the bill is particularly crucial in these times of crisis. I certainly hope the legislation will be expeditiously considered and passed into law.

At the Commerce Committee hearing, witnesses noted that the insurance crisis has arisen during a period of falling interest rates, prior to which competing insurance companies had been underpricing their product in order to maximize cash flow and enhance investment income. The committee report accompanying S. 2129 discusses the problems experienced by the insurance industry which precipitated the crisis:

"When interest rates began to fall, companies were forced to increase premiums because investment income was no longer compensating for underwriting losses. This practice of cash flow underwriting was linked directly to the current crisis.

I believe that expansion of the Risk Retention Act is an appropriate response to this insurance crisis. In 1981, Congress enacted the Product Liability Risk Retention Act of 1981, which was reported by the Commerce Committee as S. 1096. This bill was enacted to facilitate the ability of product manufacturers and sellers to purchase product liability insurance on a group basis and to establish self-insurance coverage on a group basis for product liability risks. Risk retention legislation first had been considered by the committee as a response to the high cost and unavailability of product liability insurance during the insurance crisis of the mid-1970's.

The cyclical nature of the insurance market has resulted in another crisis in the mid-1980's. The policy underlying the 1981 act is applicable to other lines of liability coverage and the broad scope of the current crisis warrants expansion of the 1981 act to facilitate the formation of risk retention and purchasing groups beyond that of product manufacturer and seller groups.

Mr. President, the bill as reported from the committee makes changes in the overall regulatory framework of the 1981 Risk Retention Act. I have recently cosponsored a package of provisions to further clarify S. 2129 with respect to the authority of State insurance commissioners to oversee the operation of risk retention groups and purchasing groups established under the Risk Retention Act. These provisions, which clarify the authority of each insurance commissioner to obtain adequate reports and information about risk retention groups doing business in their State, will be accepted by the committee as a substitute amendment for S. 2129. I want to commend Senator GORTON and Senator FORD for their hard work to ensure that this important issue was fairly addressed. Also, a group of insurance purchasers and the National Association of Insurance Commissioners have worked closely with the committee to develop this package, which will help to assure adequate oversight for the consumer but will retain the needed flexibility to facilitate the formation of these groups.

More specifically, the substitute amendment provides a statutory definition of the term hazardous financial condition, one which is intended to establish an objective standard for determining when a group should be enjoined from soliciting additional sales or conducting operations in a State. To assure that any plainly under-reserved or under-capitalized organizations do not operate and cause harm to group members or the public, the insurance commissioner of each State in which the group operates is given authority to enjoin its operations if there is a judicial finding that the group is in a hazardous financial condition. The authority to enjoin a group in a hazardous financial condition is intended to allow State insurance commissioners the authority to intervene at a point before a group actually becomes insolvent. This authority should be used in a manner that will protect the public interest, but action not in good faith that would undermine or impede the interstate operation of legitimate and financially responsible risk retention groups should be avoided.

The substitute amendment authorizes an insurance commissioner to conduct a delinquency proceeding for a financially impaired risk retention group. The amendment clarifies that risk retention groups and purchasing groups are limited to providing liability insurance coverage as defined in the act and are prohibited from providing coverage for "any other line of insurance" such as life or health insurance.

It clarifies the definition of a risk retention group and its authorized activities. A risk retention group is a group whose primary activity consists of assuming and spreading all or any portion of the liability risk exposure of its group members. A risk retention group may engage in such activities as management, operational, insurance,

and investment activities related to its insurance operations, and the provision of loss control and claims administration; activities necessary to the conduct of its insurance business.

The amendment states that insurance provided under this act does not allow coverage of punitive damages or intentional, fraudulent, or criminal conduct to the extent that such coverage is either prohibited by a statute or has been declared unlawful by the highest court of the applicable State law. The substitute amendment requires a risk retention group to submit to the State insurance commissioner of each State in which it is doing business a copy of the group's certified annual financial statement submitted to the State in which the group is chartered or licensed as an insurance company.

If the insurance commissioner of any State has reason to believe that a risk retention group or a purchasing group is engaging in conduct in violation of the act in that State, the amendment provides that the commissioner is authorized to make use of any of the powers permitted under its State laws regarding insurers admitted to do business in that State. This amendment is intended to give the insurance commissioner of the State of operation administrative authority to investigate the conduct of the group if necessary. However, if a commissioner seeks to enjoin a group from operating because of false or deceptive advertising, fraudulent conduct, or unlawful selling to the public, then a commissioner must seek a court order from a State or Federal court of competent jurisdiction.

It requires that any risk retention group must include in its name the phrase "Risk Retention Group" to assure that those dealing with a risk retention group will be aware of its special character. The amendment establishes the qualification of organizations underwriting the liability risks of a purchasing group.

To prevent groups which have engaged in willful violations of the law from moving State to State and repeatedly engaging in such conduct, the amendment allows the insurance commissioner of a State to enjoin the operation of a risk retention group in that State if within 5 years the group has in another State engaged in willful false, deceptive, or fraudulent conduct in violation of the act under circumstances presenting a likelihood that such violations will be repeated. It requires that before any group may operate in any State, the group must furnish a plan of operation or a feasibility study which sets forth the coverages, deductibles, coverage limits, rates and rating classification system for each line or classification of liability insurance that the group intends to offer. The amendment provides that a risk retention group must comply with an injunction issued by a court of competent jurisdiction upon a petition by the insurance commissioner alleging that the group is in a hazardous financial condition or is financially impaired.

Mr. President, I urge the Senate to expeditiously pass this needed and important legislation.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, as an original cosponsor of this measure, I rise in support of passage of S. 2129, the Risk Retention Amendments of 1986. This measure comes none too soon to deal with a serious national emergency.

Mr. President, I must say that West Virginia has had more than its fair share of problems with respect to this whole question of liability insurance. The stories are dramatic ones.

In January, Raleigh County, WV, had its liability insurance policy terminated. Raleigh County Commissioners, fearing personal liability, transferred all the county's prisoners to another jail and released nine inmates, rather than pay their room and board elsewhere. The county commissioners also felt compelled to shut down 11 county agencies, close down 2 parks, and blockade all but one door to the county courthouse. All these disruptive actions—actions directly contrary to the public's interest in sound, local government—were attributable to the county's inability to obtain insurance.

Fortunately, there was good news for the citizens of Raleigh County. Several weeks after the crisis, the county commissioners signed an agreement with a Turkish insurance company, the only company that would answer their plea for coverage.

This is not an isolated incident. Nationwide, our communities have faced a similar dilemma. Do they eliminate services because they cannot afford to insure these services and the officials who provide them? Or do they continue to provide services without adequate insurance coverage, and ask their municipal officials to run the risk of being dragged into court?

The insurance crisis certainly has not been confined to the public sector. Businessmen, nonprofit associations, hospitals and health professionals, to name just a few, have been hit hard by the insurance crisis. In some cases, insurance is totally unavailable to the consumer; in other instances, the insurance is available but at a prohibitive cost.

The liability crisis has spread to virtually every segment of American society—and we are paying and will continue to pay a high price for this. It's not only jeopardizing essential business and community services—it's threatening jobs and economic growth. For example, a recent study by the American Textile Machinery Association found that foreign manufacturers of machine tools and other hardware pay only 1 percent to 5 percent as much for liability insurance in their home markets. It's clear we need some alternatives to the limited and costly insurance options available to us.

The Risk Retention Amendments Act of 1986, while not the solution to the insurance crisis, is a step in the right direction. It's one way to help provide municipalities, professionals, associations, and businesses with the latitude they need to help them through this insurance crisis—and future insurance crises.

The Risk Retention Act gives these groups the option of forming insurance pools on a nationwide basis. Many States, including my own, currently allow insurance pools on a statewide basis; however, other States do not provide this option. It's clear that the patchwork of laws from State to State has prevented interstate pooling. The Risk Retention Act preempts State law, where necessary, to help the formation of risk retention groups among the States. In small States like West Virginia, where the number of potential participants is so limited, interstate pooling is often essential to form a viable risk retention group.

Recent experience in the medical malpractice area in West Virginia demonstrates the importance of national risk retention groups—at least as an option. This spring, in response to the problems in the medical malpractice insurance area, the West Virginia State Legislature passed a malpractice tort and insurance reform measure. The Governor signed the bill to the displeasure of the three major providers of insurance for health care professionals. These three insurance companies promptly issued cancellation notices to 7,000 professionals—mainly doctors and 60-plus hospitals. In the end, the legislature called a special session and passed a bill that the insurers could live with. In the meantime, however, West Virginians were held hostage to the will of the insurance industry. This measure would be a potential antidote to that kind of behavior. West Virginians might have felt less desperate if they knew there was another insurance option open to their doctors and hospitals.

Mr. President, I trust that this measure will clear the Senate today. I know that a broad coalition of interested parties—the nurse-midwives, the State insurance commissioners, and others—have been meeting over the last 2 months to achieve a compromise on this measure. I'm pleased that a package has finally been ironed out.

This crisis has demonstrated that insurance coverage is no longer a luxury in our society—it's a necessity. We should all welcome another insurance alternative.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. McCLURE). The Senator from Illinois.

Mr. SIMON. Mr. President, I had two amendments prepared, one of which I will not be offering. The amendment I am not going to be offering is an attempt to modify the McCarran-Ferguson Act.

What we have in the McCarran-Ferguson Act is an amendment which passed without a vote in this body or a vote in the other body because it was put on in conference, an exemption from antitrust laws for the insurance companies.

You have two shoe stores in your community in South Carolina, I say to Senator HOLLINGS, who get together and if they set the price of shoes we can put them in jail for a few years. But for insurance companies to get together and set prices is perfectly legal.

That should not happen. That should not be.

The insurance companies say, "We are not doing it." If they are not doing it, then why object to modifying the bill?

Insurance companies ought to be able to share risk information, and my amendment would let them do that.

I an not offering my amendment because Senator THURMOND has agreed to hold a hearing on it. I have met with insurance executives and they are now talking about accepting some kind of a modification to the McCarran-Ferguson. I think we are making headway.

There is a second amendment I have, however, which I think is also needed. I am willing to hold back on that. It concerns data collection.

When I started looking at this whole insurance thing, I found that getting hold of information on this is like grabbing onto a balloon. You just cannot get solid information. We are the only Western country, incidentally, that does not have Government control on insurance, central Government control on insurance.

I see my friend Senator DANFORTH is here. He is a key man on this.

I an not advocating that. I do think we have to know what the situation is. We have to have accurate information.

Frankly, I am either going to get a commitment from somebody that we have a hearing on this or I will proceed with an amendment and we will have a hearing on the floor.

I think the American people are entitled to good, solid information in this property and casualty area. I would be pleased to yield to any of my colleagues for whatever they want to say.

Mr. DANFORTH. If the Senator will yield, the Senator from Illinois has raised a point which is not new to the Commerce Committee, the question of the availability of information with respect to the cost of insurance and the insurance industry generally. That is a point which was raised very strongly and debated with some degree of heat within the Commerce Committee, not in connection with this bill but in connection with the product liability bill, which we have reported out and which we hope will come to the floor of the Senate sometime in the next month or so.

Undoubtedly, there will be an opportunity to discuss whether the product liability bill goes as far as the Senator from Illinois would like it to go, with respect to information requirements.

The leader in the Commerce Committee, in pressing for additional information requirements on insurance, was Senator ROCKEFELLER. He had language that he was prepared to propose.

There were those who took the opposite position; Senator FORD in particular. They took the position that this was not only burdensome, but that it raised certain questions with respect to the applicability of the McCarran-Ferguson Act.

The Commerce Committee has not had a hearing on this subject alone, but we have had many days of hearings in the committee on the question of product liability, during which time a number of Senators expressed themselves on several occasions on the question of the availability of insurance data.

We have also located here and there and throughout the transcripts of the hearings on the product liability bill what I believe is such information as exists on this subject.

My hope would be, with respect to risk retention, that we can get on with the risk retention bill and that we would not attempt to solve all of the problems related to the availability of insurance in this rather limited bill.

The one thing that I have realized in dealing with the insurance problem over the past year or so that I have served as chairman of the Commerce Committee, is that the description used by the Senator from Illinois, when he said studying the insurance industry is like grabbing a balloon, is very apt. I have viewed it as grabbing hold of a greased pig.

I think this is a very difficult problem. When you ask people what the solutions are, you get very different answers.

I do not think, however, on the problem of risk retention, there is, if not unanimity, virtual unanimity that this bill would provide at least some help to some groups that are now very, very hard pressed to get insurance. For example, there are midwives who urgently need this help.

My comment to the Senator from Illinois is that he is opening up a hornets' nest. I think it is fair to say that the question of insurance information, if not the most hotly contested issue in the product liability bill, certainly was on the list of hotly contested issues.

□ 1210

I hope he would withhold his amendment and bundle it up with all the other controversial questions that will come before us when we pick up the product liability bill.

Mr. SIMON. If my colleague will yield so I may respond, his analogy of the greased pig is very probably correct. He probably has more experience at grabbing greased pigs than I do. But I will accept his word.

Mr. DANFORTH. Also grasping nettles.

Mr. SIMON. I commend my colleague from West Virginia. He has shown an interest in this whole disclosure question. I appreciate his not putting this on this bill. Frankly, the disclosure on the product liability is only on the product liability issue. I want to have broader disclosure. I want to find out what is going on in this whole property casualty field so we can get hold of this thing.

My response to the distinguished Senator from Missouri is I would sooner not put this amendment on, but please, let us have a hearing on this whole broad question of disclosure and get that collection. That is really what we need. I do not think my appeal is an unreasonable one.

Mr. DANFORTH. Mr. President, the Senator from Illinois made this appeal to me yesterday and I suggested that he get together with the two principals in this controversy, Senator ROCKEFELLER and Senator FORD, and see what he could work out. I would be happy to work with the three Senators in attempting to come up with some reasonable approach.

Mr. SIMON. With all due respect to Senator ROCKEFELLER and Senator FORD, Mr. President, neither one happens to be the chairman of the committee. The real principal is the Senator from Missouri and if he says yes, the answer is we will have hearings.

Mr. DANFORTH. We have had a lot of hearings on the insurance question and I would be happy to discuss it with the Senator from Illinois. I really am reluctant to get us into the business which I think we have precluded ourselves from under the McCarran-Ferguson Act. That is one of the concerns that I have.

Mr. SIMON. I want to yield to my colleague from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Illinois for yielding, and particularly for the point he makes. Government is

the art of the possible and it is possible to pass a good risk retention bill. Senator KASTEN and I agree on that. I would join in the chairman's request that the Senator from Illinois withhold that particular amendment on this particular bill.

That is not to say I do not agree with the Senator 100 percent. We have orchestrated the risk retention bill with the mayors, the industry, the injured parties, the entities who are not able, like nurse midwives and others, to get coverage. We feel we have a good bill. This not that kind of confrontational no amendment kind of situation. But it is a situation where we diligently worked things out and promised to withhold amendments just like the one the Senator from Illinois is talking about; namely, getting the information from the insurance industry. In the markups on the product liability legislation, I compared the Senate Commerce Committee to a jury and said that we were making findings without the facts.

What the Senator from Illinois is so accurately observing is that we do not have the facts and we need further study. There is a lot of information. States have reacted; in this year already, 40 States have acted with respect to the so-called insurance crisis or tort liability issue. Seven of them have ordered studies only. So 47 of the 50 States are acting or have acted. Yet we still have on the calendar and will discuss at some time before we leave, the Federal product liability bill with an alternative settlement provision. That is about as far as we can move right now.

I would join the Senator in getting that insurance data as an amendment when we further consider any of these other matters such as product liability or any other insurance matter that comes before us. I have sent a letter—I do not have the answer right now—to Ms. Driscoll. She is the president of the National Association of Insurance Commissioners. I mailed that just a week before last, asking for all this information that the commissioners say they already have. I am going to see what they do provide at this particular point in the mid-year. Talking to friends in the industry, I have been advised that the insurance industry would have to change over its computers and computer programs if we passed this amendment now with three readings in the House, and three readings in the Senate. It would cause such a chaotic situation for the insurors at the moment that they would have to oppose risk retention which the insurors are not opposing now.

I hope the Senator would withhold this particular amendment and would put me on as a cosponsor when we offer the amendment later on any other matter.

The Senator from West Virginia deserves the thanks of all of us for pressing this particular point and working it out with respect to our product liability bill. He stood firm and would not yield until we had that provision. I think we can get accurate information with his amendment which applies to all commercial property casualty insurance. But I would appreciate the Senator withholding it at this time.

Mr. SIMON. I thank the Senator from South Carolina and I will withhold, because I think the bill itself is a good bill. But I will have an amendment on product liability.

Frankly, I hope the Senator from South Carolina, who is very persuasive, can persuade the chairman of the Commerce Committee to hold a hearing on this subject because I think it is absolutely essential that we get accurate information and we do not have it now.

One example: Insurance companies; some of them use the purchase value of securities and some of them use the market value of securities. There is a huge difference sometimes in those two things. So we get figures that look great on paper but we really do not know what we are getting. I think it is absolutely essential that this country know where we are going in the area of insurance. We do not know.

Mr. DANFORTH. Mr. President, if I could respond to the Senator from Illinois, we did have 2 full days of hearings in the Commerce Committee on the overall question of the insurance industry, the state of the insurance industry today, and the reasons for the increase in insurance rates. We had a variety of witnesses—expert witnesses, witnesses from the industry and so on—that testified at that time.

I am not trying to be in any sense coy with the Senator from Illinois. But we have remaining only about 4 or 6 weeks of Congress with a seemingly infinite amount of work to do both in the Commerce Committee and on the Senate floor. I do not want to commit to an open-ended promise to hold hearings.

But I hope that the Senator from Illinois would take at least a brief look at what we already have done on this issue and consider what the Senator from Illinois believes fruitfully could come out of further hearings. If it is a dry run, and is not likely to contribute additional information, I think the Senator would be the first to say that we should not hold a hearing just for the sake of holding a hearing. But take a look at what we have.

I know Senator HOLLINGS is very persuasive. He certainly is a very effective and energetic ranking member of the Commerce Committee, but he also is very diplomatic and understands some of the problems that we have in bringing Members together who have very diverse interests. I would like to communicate with the Senator from West Virginia and the Senator from Kentucky and try to get them on board for any further addition in their area.

Mr. SIMON. I thank the Senator from Missouri. I will not offer the amendment. I will follow his suggestion; I will read the transcript and see what we can gather. Frankly, since Senator HOLLINGS will go on as a cosponsor on the amendment, that name has such power in this body that I am sure the amendment will be adopted unanimously even though the insurance companies are against it.

I thank the Chair.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I think there has been a good deal of statesmanship that has taken place in the last few minutes; I want to congratulate the Senator from Illinois for not offering, at this particular moment, the data disclosure amendment which I strongly support and which I cosponsored. I want to say to the chairman of our committee, as well as to the ranking member, that I think the Senator from Illinois made the right decision, at least for this particular moment. I also want to say that the Senator from Illinois is correct in stating that the data disclosure amendment to the product liability bills applies only to product liability insurance. I wish that it would have covered much more, but the subject matter of the bill is product liability.

Much has been said about this issue of insurer data disclosure lately. Insurers maintain that the data is available to policymakers and that they "have all the data we could possibly want." Just 1½ months ago, however, the insurers' statistical agents told the distinguished chairman of the House Judiciary Committee, PETER RODINO, that they didn't have the data that he had asked for. It was only a few weeks later, when the heat began to rise on this subject, when they said to Chairman DANFORTH, "yes, we do have some information. In fact, we have a lot of information we would be glad to give you."

The truth of the matter is that some of the data—by no means all of it—has very recently been made available. However, it's not in a form that's easily used by policymakers and most importantly, it fails to include much of the information that policymakers need.

For example, insurers have been aggressively pushing for tort reforms at the Federal and State levels. They say that a "litigation" explosion is causing the insurance crisis. Insurers have run countless ads around the country talking about the tremendous increases in

lawsuits which, they claim, have caused spiraling insurance prices.

Yet, when pressed on this subject insurers admit that they don't have hard data to show a tort explosion. They don't have the data to distinguish how much they paid out in settlements versus how much they paid out as a result of adjudication. They say that there's been a vast increase in noneconomic damages but insurers can't tell you how much they actually paid out in noneconomic damages.

I say all of this not because I oppose tort reform. I clearly don't oppose tort reform—I just voted in favor of a fairly far-reaching product liability reform bill in the Senate Commerce Committee. I believe, however, that Congress and State legislatures would be in a much better position to decide how to address this problem if we had the facts before us.

Horror stories and anecdotes are not the way to examine an industry that affects every part of our lives. We need the facts and we need them as soon as possible. Legislating in the dark will make for bad laws at the Federal and State levels.

The States have played a lead role in the insurance area and I believe that should continue. The purpose of this amendment is not for Congress to regulate insurance but rather to develop a centralized database that can be used by policymakers.

Senator SIMON's amendment is a very reasonable and flexible one. It substantially alleviates any paperwork burden or duplication by providing that this information may be gathered from the insurers' existing statistical organizations—like the Insurance Services Organization [ISO], the National Association of Insurance Commissioners, and A.M. Best. The amendment also provides the Secretary of Commerce with the flexibility to determine what type of information will be needed to assess insurance industry practices. Improving on the bill I originally introduced with Senator SIMON, this amendment leaves it to the implementing regulations to spell out the necessary data.

Mr. President, while there is indeed some insurance data out there, it's not the data we must have to be effective policymakers on this issue and it's not in a format that would be useful to us and to State regulators. Furthermore, the information that's available, is not comprehensive and is scattered through several different sources.

I look forward to joining with my distinguished colleague from Illinois when we, hopefully, can offer his insurance amendment jointly. I agree that the Senate Commerce Committee has not given sufficient attention to the insurance information issue. We have had, at best, parts of 2 days on the subject. But it really has not been very well aired, and it certainly has not been very well aired with respect to the bill which the Senator from Illinois has introduced and which I have cosponsored.

I respect the Senator's willingness not to offer the amendment at this particular moment because of the importance of this particular risk retention bill. If this amendment were to be debated, it might be debated at great length. Were it to pass, it might put the Risk Retention Act in jeopardy. But the Senator from Illinois is right on target with respect to the insurance industry information disclosure. That battle must be joined and that battle must be won, and I look forward to working with my colleague from Illinois in that effort.

It's undisputed that our Nation is in the midst of an insurance crisis that's affecting every sector of our society, we now need hard facts to work from—not anecdotes.

I thank the Chair.

Mr. KASTEN. Mr. President, I also want to thank and commend the Senator from Illinois for his decision to not at this time come forward with his amendment. As has been pointed out in the debate, the Senator from West Virginia [Mr. ROCKEFELLER], along with other members of the Commerce Committee, has been active in this every difficult area. It has been characterized in a number of different ways today. I believe that the whole of insurance and the insurance reporting question is a significant problem. However, the legislation that is before us today is of not only great significance, but also great urgency. The Senators who have been working on this legislation together with a number of outside groups, are urging passage of this legislation today, without further amendment. These outside groups include the American College of Nurse-Midwives, the Alliance of American Insurers, the American Insurance Association, the Conference of Mayors, the Independent Insurance Agents of America, the National Association of Casualty and Surety Agents, the National Association of Insurance Brokers, the National Association of Insurance Commissioners, the National Association of Independent Insurers, the National Association of Professional Insurance Agents, the National Restaurant Association, and the Risk Insurance Management Society. In other words, Mr. President, such diverse interests as the nurse-midwives, the municipalities, much of the insurance industry are urging, and I quote from their statement, "your opposition to any other amendments to this legislation."

Our position, Mr. President, is not that a number of these questions are questions that are without merit. That is not the case. They are questions with great merit. But our position is that this legislation is of a crucial, time-sensitive nature. What we must do today is move forward with the bill, as amended. I appreciate the fact that my colleagues recognize the urgency and therefore that the Senator from Illinois is willing at this time to withhold his amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1300

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

AMENDMENT NO. 2210

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], proposes an amendment numbered 2210.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

SEC. . The Act (15 U.S.C. 3901 et seq.) is amended by adding the following new section:

"GUARANTY FUND PROTECTION IN CERTAIN STATES

"SEC. . Any state which

"(1) maintains a liability insurance guaranty fund for the payment of claims in the event of insolvency of insurers licensed by the state; and

"(2) maintains a liability insurance guaranty fund for the payment of claims in the event of insolvency of eligible surplus lines carriers in that state;

may require as a condition of doing business in that state that a risk retention group contribute to a separate insurance guaranty fund in that state, or provide a comparable guaranty, assurance, or mechanism for the payment of claims in the event of insolvency of the risk retention group, or provide such other measures as are necessary to guard against insolvency.

Mr. LAUTENBERG. Mr. President, there has been a big problem in the insurance market. For many individuals, and for many businesses, liability insurance is unavailable. For many, it is unaffordable. The bill before us tries to respond to that problem.

But, the bill's answer falls short. The bill misses the mark. The bill would not fix the insurance market. It would create alternatives. But, these alternatives would be underregulated.

They would lack the protection for consumers and claimants that my State provides and that other States can provide.

Insurance companies are State regulated. Federal law hands that off to the States. Now, this bill would preempt State regulation. It would preempt State regulation when State regulation is the only kind we have. It would preempt State consumer protection, when that's the only protection we have.

One key form of consumer protection is preempted. That is the protection provided by State liability insurance guaranty funds. These funds are supported by assessments on licensed insurers. If one insurer becomes insolvent, the others stand behind the policies. That is what my amendment would address. It would put back protections against insolvency.

It would give certain States the power to make risk retention groups provide the same protection as other insurers.

Mr. President, when someone walks into a Federal savings bank, I think they know that it is FDIC insured. That is important. People know about it. It is a measure of security. When we look at the trouble they had in Maryland—with their crisis with savings and loans—we realize how important that backing is.

□ 1310

When people buy property and casualty insurance in the States, they also have some protection. State by State, there are guaranty funds. Now, banking consumers may well be more conscious of bank deposit insurance, more conscious than insurances consumers are of guarantee funds. But, if and when an insurer goes bust, they thank their lucky stars that the guaranty fund was there.

Now, an insurance company set up under this bill, a so-called risk retention group, will not give that protection. It would be exempt from State guaranty funds. If a risk retention group goes bust, well, it is tough luck for the policyholders. It is tough luck for the claimant, the person injured by the policyholder.

Mr. President, my amendment would change that. My amendment would give certain States back the power to protect the public. It would give them back the power to require insurers operating in their States to provide guaranty fund protection. Or the State could require other assurances that claims will be paid in case of insolvency.

Now, Mr. President, I originally intended to offer an amendment that would apply to all States. It would have allowed any State to require risk retention groups to contribute to a guaranty fund.

But, I am refraining from offering that. Instead, I offer an amendment that deals only with certain qualifying States. The amendment would apply only to a State that has guaranty fund protection over all insurers in their State.

In most States, there are two kinds of insurers. There are admitted insurers. And there are surplus lines insurers eligible to do business in the State.

Admitted insurers are licenced by the State. Surplus line insurers are not licensed, but they are eligible to accept business if admitted insurers cannot provide the coverage needed.

In most States, there are guaranty funds for admitted insurers. But, most States have not guaranty funds for surplus lines insurers.

Now, some have said, why give States the power to require risk retention groups to join guaranty funds, if the State does not require surplus lines carriers to join guaranty funds? That is not fair. The State could discriminate against risk retention groups.

Well, Mr. President, I do not want to see discrimination against risk retention groups. I think they should not be subject to more onerous requirements than other insurance providers.

This amendment avoids that issue, Mr. President. This amendment deals only with States that have both an admitted carrier guaranty fund and a surplus line guaranty fund.

There is no chance of discrimination. It would only apply to a State that maintains guaranty funds for admitted carriers, and also for surplus lines carriers.

The point here is that in those States, every insurer is protected by a guaranty fund.

In those States, risk retention groups would be treated no different from surplus lines carriers. They would be treated no different from admitted carriers.

And the policyholders would have the same level of protection, regardless of whom they buy their policy from. And claimants would have the same measure of protection.

Mr. President, this amendment has the support of the National Insurance Consumer Organization. I repeat, this amendment has the support of the National Insurance Consumer Organization. That is a public interest group that supports risk retention groups. It is on record supporting risk retention groups. But it also supports guaranty funds.

In a State that has a surplus lines fund and admitted carriers funds, there is no danger that the commissioner will discriminate against risk retention groups. This amendment would simply give the commissioner that power to hold the groups to the same standard of consumer protection.

That is why that consumer group supports the amendment.

Mr. President, as far as I know, New Jersey is the only State that would qualify under this amendment. But, that is today. Perhaps, this amendment will encourage other States to set up surplus line guarantee funds.

Mr. President, insolvency is not some hypothetical danger. Insolvency is inevitable. It is going to happen. Sooner or later, a risk retention group will go bust.

In 1984 and 1985, 41 licensed insurers became insolvent. That is 41 licensed by the States. Those insolvencies affected policy-holders in virtually every State in the Nation. But, State insurance liability guaranty funds stepped in. They protected policy holders and claimants from total loss.

Let me just cite a few examples. These are real cases. My source is the National Committee on Insurance Guaranty Funds. But I should caution my colleagues, these are just examples. The list I have goes on for pages. I cite just a few examples.

Let us take Wisconsin. In 1985, the Iowa National Insurance Co. went bust. That was an Iowa company. Across the country $13 million in claims were paid off by guaranty funds. Three million dollars in claims in Wisconsin, where the Iowa National wrote a nice book of business. Three million dollars in claims were paid off, because there was a guaranty fund. Three million dollars that the public would have gone stuck for.

And, Mr. President, if some day in the future, if a risk retention group goes bust, the public will go stuck.

Let us take Alabama. In 1985, the Transit Casualty Insurance Co. went bust. Now, that was a Missouri company. But it sold insurance in Alabama. It sold insurance that went sour, just like the company went sour. In Alabama, $3.75 million was paid off by guaranty funds, close to $4 million. And, according to this report, the case is still open.

That is $4 million worth of protection. That is $4 million that the people of Alabama won't have with risk retention groups. That is $4 million dollars of protection they cannot have.

Mr. President, I want to talk about one insurance insolvency that hit my State. In 1984 the Ambassador Insurance Co. went insolvent. Now, here was a company that was chartered in Vermont. That is where a lot of the risk retention groups will be formed. Because Vermont has friendly laws. Maybe too friendly.

The Ambassador Insurance Co. was chartered in Vermont, but wrote a fraction of its premium there. In its last 9 months of operation, it wrote 7 percent of its premium in Vermont. It wrote 20 percent in New Jersey. It wrote more business in New Jersey

than anywhere else. Then it went bellyup.

Mr. President, over 4,500 people have made claims in New Jersey alone. Total claims have topped $50 million and they are still coming in.

Now, the Ambassador was a surplus lines insurer in New Jersey. It was not licensed by the State. But it was found eligible to write business, once an agent could show that insurance could not be procured from licensed companies. It was found eligible to write in other States. New York, Arizona, California, were all big States for Ambassador.

New Jersey did not have a guaranty fund for surplus line carriers. That is, until the Ambassador fiasco.

After Ambassador, New Jersey set up a surplus lines guaranty fund. It requires surplus lines carriers eligible to do business to contribute. Now, some surplus lines companies left New Jersey. Others stayed.

But, New Jersey provides protection to all insurance buyers. It does not matter: Admitted company or surplus lines company. New Jersey provides protection to its policyholders. It provides protection to claimants.

Now, this bill would tell the people of New Jersey that it cannot protect consumers if a risk retention group goes bust. An insurer can come into the State without that protection. It can go up to a State where charters are obtained easily, get a charter, and then come into New Jersey. It can write insurance without guaranty fund protection. It can leave people stark naked, like the 4,500 claimants in the Ambassador fiasco.

Mr. President, I cannot support that.

My amendment would allow States the power to protect their people. States could require protection against insolvency. States could require risk retention groups to form their own guaranty fund. If that is not feasible, States could require other comparable assurances.

But, I repeat, the amendment applies to only certain States. The State has to have guaranty funds for admitted carriers and surplus lines carriers. There is no chance that a commissioner can hold risk retention groups to a higher standard than surplus lines carriers.

Mr. President, I remind my colleagues: This bill goes far beyond the problems of nurse midwives and the hazardous waste disposal industry. They may be the principal groups today, but this bill goes far beyond that. It authorizes other broadly defined groups to start selling insurance, insurance without the guaranty fund protection that goes with policies written by licensed companies.

Mr. President, I am afraid that someday, sooner or later, an insurer set up under this law will go bust. It will go bust, and there will be no mechanism to guaranty claims. There will be no mechanism to pick up the pieces. Policyholders will cry foul. They will want to know why their policies are worthless. Claimants will cry foul. They will want to know why they cannot collect compensation for their injuries.

New Jersey has a mechanism to pick up the pieces. New Jersey has a mechanism for protecting consumers in the event of insolvency. Other States can provide the same protection.

The point is, this Congress should not deprive States of the power to protect its citizens.

Mr. President, I ask unanimous consent that there be printed in the RECORD some information on insurance insolvencies in the various States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE ON INSURANCE GUARANTY FUNDS,
Schaumburg, IL.

SPECIAL NCIGF REPORT—STATE INSURANCE GUARANTY FUNDS AND INSURANCE COMPANY INSOLVENCY ASSESSMENT INFORMATION—1969 THROUGH 1985

The NCIGF has recently completed a survey of state guaranty associations regarding assessments made for insolvencies. Guaranty associations in all states except Arizona, Alaska, South Dakota, Tennessee, and Utah responded to this year's survey. The information shows the guaranty funds have assessed insurers approximately $871,943,276 between 1969 and 1985. This figure does not include assessments made under the preassessment funds in New York and New Jersey (a post-assessment law was adopted in New Jersey in 1974), nor does it include payments made by the individual companies under the insolvency provision of the Uninsured Motorist endorsement. During the same period, guaranty associations have refunded $155,779,126 to member companies. Total net assessments by guaranty associations between 1969 and 1985 equals $716,164,150.

The attached report provides a state-by-state analysis of assessments made by the guaranty associations. It does not take into consideration recoupments made through premium tax offset and policyholder surcharge provisions. The report also contains a list of insolvencies occurring during the years 1969 and 1985, a listing of total amounts assessed and refunded by each guaranty association, and an exhibit detailing the total amounts assessed for each insolvency.

RICHARD J. MARCUS,
Executive Secretary.

ASSESSMENTS HAVE BEEN MADE BY THE GUARANTY FUNDS TO COVER THE INSOLVENCIES OF THE FOLLOWING COMPANIES

Company	Declared insolvent	Domicile
Key Insurance Exchange	1969	California.
Fidelity General Insurance Co.	1970	Illinois.
Liberty Universal Insurance		Texas.
Ohio Valley Insurance Co.		Ohio.
Sutton Mutual Insurance Co.		New Hampshire.
Citizens Casualty of New York	1971	New York.
First American Insurance Co.		Florida.
Homeowners Insurance Co.		Illinois.

ASSESSMENTS HAVE BEEN MADE BY THE GUARANTY FUNDS TO COVER THE INSOLVENCIES OF THE FOLLOWING COMPANIES—Continued

Company	Declared insolvent	Domicile
LaSalle National Insurance Co.		Illinois.
Los Angeles Insurance Co.		California.
Maine Insurance Co.		Maine.
Trans Plains Insurance		Texas.
United Bonding Co.		Indiana.
Maryland National Insurance Co.	1972	Georgia.
Metro Casualty Co.		Missouri.
Commercial Underwriters	1973	Michigan.
First Fire & Casualty Co. of San Antonio, TX		Texas.
Gateway Insurance Co.	1974	Pennsylvania.
Granite Mutual Insurance Co.		Pennsylvania.
Professional Insurance Co.		New York.
Rockland Mutual Insurance Co.		Massachusetts.
United Amercian Insurers		Iowa.
Associated Merchants Mutual Ins. Co.	1975	Massachusetts.
Captiol Mutual Fire Insurance Co.		Pennsylvania.
Epic Insurance Co.		Arizona.
Financial Fire & Casualty Ins. Co.		Florida.
Glaco Automobile Insurance Co.		Montana.
Guardian Mutual Insurance Co.		Pennsylvania.
Interstate Ins. Co. of W. Collingswood		New Jersey.
Manufacturers & Wholesalers Indemnity Exchange.		Colorado.
Medallion/Missouri General Ins. Co.		Missouri.
Mobile County Mutual/Mobile Ins. Co.		Texas.
National Mutual Insurance Co.		Michigan.
Pennsylvania Taximen's Mutual Ins. Co.		Pennsylvania.
Resources Insurance Co. of New York		New York.
Satellite Insurance Co.		Pennsylvania.
Security Fire & Casualty Insurance Co.		South Carolina.
State Security Insurance Co.		Pennsylvania.
Summit Insurance Co. of New York		New York.
Transnational Insurance Co.		California.
Westgate—California		California.
Wisconsin Surety Co.		Wisconsin.
Bankers Fire & Casualty Ins. Co.	1976	Florida.
Manchester Insurance & Indemnity Co.		Ohio.
Southern American Fire Insurance Co.		Florida.
Woodland Mutual		Michigan.
All-Star Insurance Corporation	1977	Wisconsin.
Builders Insurance Co.		Puerto Rico.
Empire Mutual Ins. CO./Allcity Ins. Co.		New York.
Maryland Indemnity Insurance Co.		Maryland.
New York National Insurance Co.		New York.
Penn State Mutual Insurance Co.		Pennsylvania.
Bankers Mutual Insurance Co.	1978	New York.
Commonwealth Insurance Co.		Puerto Rico.
Consolidated Mutual Insurance Co.		New York.
Consolidated Underwriters		Missouri.
Eldorado Insurance Co.		California.
Signal/Imperial Insurance Cos.		California.
American Reserve Insurance Co.	1979	Rhode Island.
Long Island Insurance Co.		New York.
Reserve Insurance Co.		Illinois.
Atlantic and Gulf States	1980	South Carolina.
Concord Mutual Insurance Co.		Pennsylvania.
Cosmopolitan Insurance Co.		New York.
State Farmers Insurance Co.		Nebraska.
Church Layman Mutual Insurance Co.	1981	West Virginia.
Eastern Insurance Co.		Florida.
Fauquier Mutual Fire Insurance Co.		Virginia.
Market Insurance Co.		Illinois.
Proprietors Insurance Co.		Ohio.
Security Casualty Co.		Illinois.
Amherst Insurance Co.	1982	Pennsylvania.
Cotton Belt Insurance Co.		Tennessee.
Equitable Insurance Exchange, Inc.		Texas.
Great Indemnity Insurance Co.		Puerto Rico.
Kenilworth Insurance Co.		Illinois.
Lloyds of America		Texas (only)
Main Insurance Co.		Illinois.
Safeguard Mutual Insurance Co.		Pennsylvania.
Stuyvesant Mutual Plate Glass Ins. Co.		Pennsylvania.
Interco Underwriters Exchange	1983	California.
Lincoln Insurance Co. of Puerto Rico		Puerto Rico.
Superior Lloyds		Texas (only)
Western Carriers Insurance Exchange		California.
Ambassador Insurance Co.	1984	Vermont.
Aspen Indemnity Corp.		Colorado.
Colonial Assurance Co.		Pennsylvania.
Dome Insurance Company		Virgin Islands.
Excalibur Insurance Co.		Minnesota.
Financial Security Insurance Co.		Hawaii.
Gibraltar Mutual Ins. Co.		Pennsylvania.
Golden West Ins. Exchange		California.
Guaranty Insurance Co.		Puerto Rico.
Gulf American		Florida.
Horizon Insurance Co.		New York.
Ideal Mutual Insurance Co.		New York.
Independent Indemnity Co.		California.
Lawyers Prof. Liability Ins. Co.		Florida.
Nassau Insurance Co.		New York (only)
North-West Insurance Co.		Oregon.
Northeastern Fire Ins. Co. of PA.		Pennsylvania.
Oklahoma Insurance Logistics Co.		Oklahoma.
Surety Insurance Company of California		California.
Universal Casualty Ins. Co.		Florida.
American Consumer Insurance Co.	1985	New York.
American Fidelity Fire Ins. Co.		New York.

ASSESSMENTS HAVE BEEN MADE BY THE GUARANTY FUNDS TO COVER THE INSOLVENCIES OF THE FOLLOWING COMPANIES—Continued

Company	Declared insolvent	Domicile
American Protective Excess Ins. Co.		Delaware (only)
Columbus Insurance Co.		Ohio.
Commerical Standard		Texas.
Commonwealth Marine		Delaware.
Consumers Ins. Group (Kent Ins. Co.)		Florida.
Early American		Alabama.
Eastern Indemnity		Maryland.
GLacier General Assurance Co.		Montana.
Guard Casualty & Surety Co.		Indiana.
Iowa National Mutual Ins. Co.		Iowa.
Pacific American		Delaware.
S&H Insurance Co.		California.
Southwestern Insurance Co.		Oklahoma.
Southwestern National Ins. Co.		Oklahoma.
Standard Fire Ins. Co.		Alabama.
Temple Mutual Ins. Co.		Pennsylvania.
Transit Casualty Co.		Missouri.
Union Indemnity		New York.
United Employers Ins. Co.		Texas (only).

Insolvent company	Total assessed	Domicile
1982		
Amherst Insurance Co.	1,499,419	Pennsylvania.
Cotton Belt Insurance Co.	364,584	Tennessee.
Equitable Insurance Exchange, Inc.	15,000	Texas.
Great Indemnity Insurance Co.	3,170,041	Puerto Rico.
Kenilworth Insurance Co.	4,599,254	Illinois
Lloyds of America (Texas only)	1,084,484	Texas (only).
Main Insurance Co.	2,431,266	Illinois.
Safeguard Mutual Insurance Co.	7,978,698	Pennsylvania.
Stuyvesant Mutual Plate Glass Insurance Co.	1,999,957	Pennsylvania.
1983:		
Interco Underwriters Exchange	4,216,027	California.
Lincoln Insurance Co.	4,202,265	Puerto Rico.
Superior Lloyds		Texas (only).
Western Carriers Insurance Exchange	9,862,520	California.
1984:		
Ambassador Insurance Co.	10,795,161	Vermont.
Aspen Indemnity [1]	2,870,396	Colorado.
Colonial Assurance Co.	2,348,123	Pennsylvania.
Dome		Virgin Islands.
Excalibur	29,029.008	Minnesota.
Financial Security Insurance Co.	15,705,027	Hawaii.
Gibraltar Mutual Insurance Co.	224,595	Pennsylvania.
Golden West Insurance Exchange	1,999,812	California.
Guaranty Assurance Co.	2,613,101	Puerto Rico.
Gulf American	4,253,591	Florida.
Horizon Insurance Co. [1]	3,634,906	New York.
Ideal Mutual Insurance Co. [1]	119,913,293	New York.
Independent Indemnity Co.	91,904	California.
Lawyers Professional Liability Insurance Co.	16,545,490	Florida.
Nassau	13,230,271	New York (only).
North-West Insurance Co.	1,998,497	Oregon.
Northeastern Fire Insurance Co. of Pennsylvania		Pennsylvania.
Oklahoma Insurance Logistics Co.		Oklahoma.
Surety Insurance Co. of California		California.
Universal Casualty Insurance Co.	41,149,005	Florida.
1985:		
American Consumer Ins. Co.		New York.
American Fidelity Fire Ins. Co.		New York.
American Protective Excess Ins. Co.		Delaware (only).
Columbus Ins. Co.	3,568,464	Ohio.
Commercial Standard	2,802,889	Texas.
Commonwealth Marine	400,000	Delaware.
Consumers Ins. Group (Kent Ins. Co.)	3,297,451	Florida.
Early American [1]	11,318,640	Alabama.
Eastern Indemnity [1]	6,397,017	Maryland.
Glacier General Assurance Co.	23,792,579	Montana.
Guard Casualty & Surety Co.		Indiana.
Iowa National Mutual Ins. Co.	13,031,043	Iowa.
Pacific American [1]	4,193,355	Delaware.
S&H Ins. Co.	9,999,174	California.
Southwestern Ins. Co.		Oklahoma.
Southwestern National Ins. Co.	16,056,395	Oklahoma.
Standard Fire	931,817	Alabama.
Temple Mutual Ins. Co.		Pennsylvania.
Transit Casualty Co.	6,941,513	Missouri.
Union Indemnity [1]	4,350,995	New York.
United Employers Ins. Co.		Texas (only).

[1] These figures do not include amounts assessed by the Louisiana and Missouri guaranty funds to pay for claims arising out of the noted insolvencies. Data showing total yearly assessments by these funds has been reported to the NCIGF and is reflected elsewhere in this report. Information from these funds indicating assessment allocation by insolvency, however, is not available.

INSOLVENCY ASSESSMENTS AND REFUNDS

[From Nov. 1969 through Dec. 31, 1985]

State	Amounts assessed by Guaranty Association	Amounts refunded by Guaranty Association	Net assessments
Alabama	$11,802,996	0	$11,802,996
Alaska	2,359,182	$1,146,766	1,212,416
Arizona	3,553,000	0	3,553,000
Arkansas	9,594,773	0	9,594,773
California	185,857,918	41,778,844	144,079,074
Colorado	5,398,787	1,207,401	4,191,386
Connecticut	5,383,604	3,431,157	1,952,447
Delaware	4,193,800	0	4,193,800
District of Columbia	1,672,020	80,555	1,591,465
Florida	158,760,284	6,875,825	151,884,459
Georgia	18,584,704	4,834,264	13,750,440
Hawaii	20,604,520	500,000	20,104,520
Idaho	3,907,707	46,280	3,861,427
Illinois	36,953,086	6,963,265	29,989,821
Indiana	3,739,862	1,245,000	2,494,862
Iowa	6,193,705	525,441	5,668,264
Kansas	2,836,627	72,179	2,764,448
Kentucky	9,222,656	662,440	8,560,216
Louisiana	11,330,857	3,500,000	7,830,857
Maine	2,153,913	109,724	2,044,189
Maryland	16,401,586	1,090,300	15,311,286
Massachusetts	30,064,357	10,186,963	19,877,394
Michigan	30,010,758	8,491,652	21,519,106
Minnesota	36,771,000	6,029,776	30,741,224
Mississippi	4,392,310	586,621	3,805,689
Missouri	7,222,570	849,281	6,373,289
Montana	3,088,560	257,556	2,831,004
Nebraska	7,465,720	4,745,370	2,720,350
Nevada	7,157,669	1,908,358	5,249,311
New Hampshire	3,272,153	315,545	2,956,608
New Jersey	17,097,431	12,478,931	4,618,500
New Mexico	1,594,507	0	1,594,507
New York	(1)	(1)	(1)
North Carolina	5,156,871	709,073	4,447,798
North Dakota	302,303	0	302,303
Ohio	22,859,650	5,878,141	16,981,509
Oklahoma	13,602,284	0	13,602,284
Oregon	12,332,492	0	12,332,492
Pennsylvania	39,174,851	7,301,239	31,873,612
Puerto Rico	37,679,525	15,703,173	21,976,352
Rhode Island	2,761,023	1,090,581	1,670,442
South Carolina	3,636,756	782,436	2,854,320
South Dakota	166,908	0	166,908
Tennessee	850,396	280,352	570,044
Texas	30,441,799	0	30,441,799
Utah	120,182	0	120,182
Vermont	2,931,019	0	2,931,019
Virginia	7,398,483	0	7,398,483
Washington	5,667,435	292,352	5,375,083
West Virginia	4,884,329	782,106	4,102,223
Wisconsin	11,424,524	2,999,053	8,425,471
Wyoming	1,909,824	41,126	1,868,698
Total	871,943,276	155,779,126	716,164,150

[1] New York has a preassessement fund.

[From the Business Insurance, Oct. 21, 1985]

REGULATORS WARN INSURERS ABOUT SOLVENCY

(By Linda J. Collins)

WHITE SULPHUR SPRINGS, W.VA.—The United States has become a "casino society," and the current insurance market reflects this change, says the president of the National Assn. of Insurance Commissioners.

This shift toward speculation and away from sound financial practices became apparent when "states replaced prior approval laws with open competition and cut property and casualty insurers free to charge as they wished," said Bruce W. Foudree, NAIC president and Iowa insurance commissioner.

Mr. Foudree made his remarks during a speech prior to a panel discussion of "Regulatory Responses to Insurer Insolvency" at the National Assn. of Casualty & Surety Agents/National Assn. of Casualty & Surety Executives' 1985 Conference, in White Sulphur Springs, W.Va., Oct. 6-9.

Other state insurance regulators on the panel included John E. Washburn of Illinois, John C. Neff of Tennessee and Lyndon L. Olson Jr., of Texas.

"What began as healthy competition turned into wholesale cash-flow underwriting, which in turn led to gambling by many insurers," Mr. Foudree said. Prices then became "less and less based on risks."

He said cash-flow underwriting was "virtually condoned by regulators when the NAIC mandated the inclusion of investment income in rate making."

During the cash-flow underwriting cycle, insurers put themselves into debt and gambled that investment income would cover their shortfall, Mr. Foudree said.

"They hoped, like desperate losers, to recover losses by generating increased investment income. They gambled and lost when interest rates dropped," he said.

Insurers also lost when the industry was hit with record losses in 1984, Mr. Foudree said.

As a result, some insurers became insolvent, and many others face insolvency, he said.

Illinois Director of Insurance Mr. Washburn added current insolvencies differ from past insolvencies, since it is "no longer the small, specialized insurer that's going down. Rather, these are large, multiline companies, and they're going down relatively quickly."

The result has been insurer panic, Mr. Foudree said.

"This is where we are now, with wholesale midterm cancellations by entire lines of coverage, sudden and dramatic price increases and massive non-renewals by some companies," he said.

These shock waves are being felt throughout society, creating major problems of availability of insurance and reducing public confidence in the industry, he said.

Mr. Neff, commissioner of the Tennessee Department of Commerce and Insurance, agreed that the current market situation is bringing the insurance industry's image to an all-time low.

"Wholesale midterm cancellation is just abominable," he said.

And, he warned that Congress may intervene if it does not see effective state regulation.

Mr. Olson, chairman of the Texas State Board of Commerce and Insurance, agreed that the current actions of the industry may result in federal regulation.

"We favor state regulation, but next year we will call for federal regulation" if there are not some fundamental changes in the way insurers do business, he said.

The insurance industry is giving signs that it is no longer conservatively managed, Mr. Foudree agreed.

"Going into some companies and looking at their financials today is like looking under rocks. We're finding all kinds of odd and ugly creatures," he said.

Insurance commissioners are seeing underreserving, high expense and operating ratios, abuses in the use of credits and schedule rating, and a lack of knowledge of or control over action taken by branch offices and managing general agents, Mr. Foudree said.

Mr. Washburn said the major problem regulators face today is a shortage of money or information to regulate properly.

"By the time we hear the street talk of what companies are doing, it is too late," Mr. Washburn said.

To speed up the collection and analysis of insurers' financial data, the NAIC has begun a pilot project to automate examinations and data collection, Mr. Foudree explained.

But, insurance regulators must be on guard more than ever because of insurers' "extensive use of surplus relief agreements and special accounting maneuvers, which ar-

tificially inflate surplus and hide true financial condition," he said.

Such moves are forcing regulators not to trust insurers' annual statements and quarterly financial data, he said. Regulators are forced to "get tougher," he said.

To ensure that insurance companies have made adequate provisions for future losses, Mr. Foudree said, the NAIC is considering requiring that insurers create additional reserves, especially for catastrophic and extraordinary losses. It is seeking special tax recognition for such reserves, he said.

The casino society also has spawned a new kind of coverage that could prove very dangerous for the industry, he said.

Because nervous investors sought greater security for investments, insurers began to compete aggressively in the sale of financial guarantee products to back mortgages, municipal bonds and other debt instruments, he explained.

This may pose a major threat to the solvency of many insurers because "insurers gambling in financial guarantees can go down in a big way fast," he said.

Mr. Foudree sees the same absence of logic among insurers "in their headlong rush to sell financial guarantees as they used in cashflow underwriting."

"Are we headed for a repeat performance of what we're seeing now, with panic, public outcry and possible disruption of the entire U.S. financial system?"

[From the Business Insurance, July 15, 1985]

FAULTY PROTECTION—CURRENT INSOLVENCY LAWS INSUFFICIENT AND IN NEED OF REFORM

(By Albert B. Lewis)

Current State insurance insolvency laws are inappropriate and are insufficient to respond to contemporary problems involved in the rehabilitation and liquidation of an insolvent insurer. State uniform insolvency laws mandate the appointment of the insurance regulator of the insolvent insurer's state of domicile as the rehabilitator or liquidator. The venue for the insolvency proceeding is, therefore, the courts of the domiciliary state.

In the insurance industry today, small rural states, as a revenue-producing policy, offer a non-restrictive statutory and regulatory climate to attract insurers. Among the insurers that domicile in these states are smaller, speculative entrepreneurs that use this regulatory climate to obtain immediate cash flow at the expense of a sound and viable financial structure that will pay future claims.

The large conglomerate holding companies use these lax regulatory and statutory environments as a safe harbor, to further their conglomerate purposes through intercompany manipulations and transactions. The problem of an ineffective regulatory climate is compounded by understaffing and underfunding. This is in furtherance of revenue yield.

These rural states usually lack local commerce, industry or population to generate premium income. Therefore, these domiciled insurers rely upon other states for their premiums. These out-of-state premiums are obtained by acting as an excess and surplus lines insurer or by obtaining a license in states with the commerce and population to generate premiums.

When an insolvency occurs with the regulator of the state of domicile as the administrator, several inequities and inconsistencies result.

First, the selection of the very regulator whose primary regulatory responsibility was to prevent an insolvency is rewarding the regulator's failure with the power and patronage of an insolvency administration.

If this regulator's office lacked the ability to properly regulate the insurer to prevent or detect the insolvency, then how can it properly administer the multimillion-dollar insolvency?

Although insolvencies can occur in states having the most effective regulatory posture, the speed with which an insurer's insolvency is discovered and controlled will determine the extent of the insolvency. In my five years as superintendent of insurance in New York state, no insurer ever came into my office to request termination or restriction because of its insolvency. Only effective regulatory action by an insurance department to discover the insolvency and terminate the insurance assumptions will mitigate the insolvency aspect.

An underfunded, undermanned and lax regulatory climate permits an insolvency to grow undetected. In small rural states, the consequence of an insurance commissioner terminating or restricting an insurer—a loss of jobs, commerce and revenue—can further delay the necessary rapid regulatory response.

States selected solely for their weak regulatory posture usually have the fewest resident policyholders and claimants. Their regulatory delay in acting will have the least effect upon their resident policyholders and claimants. In addition, their court's approach to the insolvency proceeding could be more concerned with the state's own pecuniary benefits in administering the insolvency than with the welfare of other state's policyholders and claimants.

In a federal bankruptcy action, recognition is given to the theory that those creditors most affected should have a continuous and important role in the insolvency proceeding. The contrary usually prevails in an insurance insolvency.

In all insolvencies, there should be an objective review by the administrator to determine the cause of the insolvency. There should be an evaluation of claims against officers and directors in the case of a fraudulent insolvency, an evaluation of possible criminal complaints and civil litigation. The small, poorly staffed and underfunded regulator cannot perform this function properly, and may be reluctant to point a finger at the cause of the insolvency if it means pointing to the regulator's office or to a prominent citizen of that state.

Although state insolvency statutes uniformly give the regulator of the insolvent insurer's state of domicile the power to act in an insolvency, state statutes providing guaranty funds for unpaid claims are not uniform. The trigger of these guaranty funds to respond to unpaid claims could vary from an order of insolvency, to an order of rehabilitation to a final order of rehabilitation to an order of liquidation. The triggering order is that of the court of the state of domicile of the insolvent insurer. Therefore, the out-of-state policyholders' and claimants' rights are once more controlled by this court of domicile.

The state court of the domiciled insolvent lacks broad interstate jurisdiction to determine many ancillary and essential matters in the insolvency.

For example, in each state of licensure of the insolvent where deposits or letters of credit were a condition of licensing, ancillary proceedings are begun by the regulator in the state court of licensure.

If the insolvent insurer is a subsidiary of a conglomerate that is itself bankrupt, then the conglomerate's proceeding in the federal bankruptcy court will continue separate from the insurance insolvency proceeding. The manner in which they will interact is up to the personalities of the parties and the courts. There is no law governing their cooperation or interrelationships to protect the policyholders, claimants or the public.

The insolvent insurer's domiciliary and the federal court have no statutory authority to deal with all of these proceedings in a single forum. These multiple proceedings are more costly and inefficient than they would be if they were brought in a single jurisdiction with appropriate power over all relevant proceedings.

The only two choices available to the state courts and the administrator are liquidation or rehabilitation.

The rehabilitation powers are limited to a six-month stay of all litigation or, upon a proper showing, additional stays pending a decision on whether to rehabilitate or liquidate.

In rehabilitation, the best that can be hoped for is the raising of additional capital to relieve the insolvency and to provide sufficient capital to continue as an insurer. The opportunity for rehabilitation is dependent on another entrepreneur putting capital into the insurer. In most proceedings, this road has been actively and unsuccessfully pursued by management prior to the insolvency petition.

An insolvent insurer could be turned into an investment venture if the court were empowered to give some financial incentives to an entrepreneur. Without this power, most insolvencies end in liquidation.

And, liquidation payments to policyholders usually are too little, too late.

The general creditors of a liquidation include policyholders, claimants, guaranty funds, tradesmen, professional fees, rent, etc. As a liquidation proceeds with the conversion of assets into cash or liquid securities, the claimants and policyholders are not paid for an extended period of time. They are left on their own to defend or pay claims and await a liquidator's accounting to reimburse them.

The first partial interim accounting takes place at least four years after the liquidation order. The percentage paid in an interim accounting to policyholders of claimants varies with the type of policy coverage issued by the insolvent.

In casualty coverage, the exact number of claims is not known until the statute of limitations has run out. If the casualty coverage has a long-tail liability, such as medical malpractice or products liability, then the time to determine all of the claims may be 10 years or longer after the end of the policy period, depending on the relevant statutes of limitation. In these cases, the liquidator will not make any significant interim accounting and payment until at least eight or 10 years after the liquidation order.

During the liquidation, all the insolvent insurer's assets are invested and earning interest. The assets of the insolvent insurer will be growing while its liabilities will be unpaid and fixed. In time, these asset increases may even wipe out the insolvency deficit.

The unpaid claimants, policyholders and creditors will receive no benefit from these asset increments. These unfortunate victims of the insolvency will be forced to pay their unpaid insured claims, or they will be forced to pay for defending any suit brought

against them and pay any judgments against them.

During this interim, the liquidator literally will be wallowing in funds from its portfolio earnings. When a partial accounting payment is made, it will be too late and too little to help the policyholders or the claimants. In the long period between the insolvency and the payment in a partial accounting, the policyholder or claimant may, themselves, have become insolvent.

Proper federal legislation is needed to permit the relief of policyholders, the most victimized people in a liquidation. This legislation should provide for the reorganization, rehabilitation or insolvency by the insurance commissioner of the state with the highest exposure of unpaid policyholder claimants.

An insurance regulator should control the proceeding because of the need for insurance expertise in handling a complex insolvency.

The selection of the state insurance regulator with the highest state claimants to direct the reorganization means the administrator will be from the state with the greatest interest in the plight of the unpaid policyholder.

In addition, the court should be empowered to approve a proposed plan of the state regulator to rehabilitate, liquidate or reorganize the insolvent insurer with a prorated reduction in liabilities, a structured payout of these liabilities over a period of time that will help the policyholder and claimant.

Such legislation would significantly reduce the administrative and bureaucratic costs involved in multiple state actions. It also could provide a single federal venue for claimants covered by a guaranty fund to petition for an appropriate order to trigger the benefits of their state funds.

An example of the inadequacy of the current state laws is best illustrated by the insolvencies of six life insurers wholly owned by Baldwin-United Corp. National Investors Pension Insurance Co., National Investors Life Insurance Co. and Mount Hood Pension Insurance Co., domiciled in Arkansas, and National Equity Life Insurance Co. Inc., S&H Life Insurance Co. and University Life Insurance Co. of America, all domiciled in Indiana, were respondents in a petition dated July 13, 1983, by the Arkansas and Indiana insurance commissioners in their respective courts for an order of rehabilitation of their domiciled insurers.

The total policyholder liability for the companies was more than $4.63 billion, representing mostly single-premium deferred annuities. The Arkansas and Indiana insurance departments are among the smaller state insurance departments in terms of staff and funding. The six companies were the largest in the country writing single-premium deferred annuities.

They all were involved in intercompany financial transactions that they called reinsurance and retrocessions, but there was no real risk transfer out of these commonly owned companies. These fund transfers were to respond to management's plans for tax avoidance and to fund their parent conglomerate's acquisitions.

The transfers eventually resulted in some $926 million investment in Baldwin-United subsidiaries for these six insurers' portfolios.

In the transfer, the funds were moved between the Arkansas and Indiana insurers. In the rehabilitation proceeding, the two states decided to handle the six companies' rehabilitation as a single pool and not untangle each of the intercompany transactions. This decision was based on the rehabilitators' belief that if these transactions were unraveled, it would be inequitable and disadvantageous to some of the policyholders and it also would result in complex and uncertain counterproductive litigation between the rehabilitators.

Neither rehabiltator nor state court considered the cost and saving or the productivity of having one rehabilitator instead of two, and thereby avoiding duplication of work. In the interest of maintaining each state's right to the patronge and power of this large, mulitbillion-dollar proceeding, the policyholders' and claimants' rights were subordinated.

Both states' proposals of rehabilitation were opposed by several parties recommending modification; however, the courts of both issued identical orders approving the rehabilitation plan.

While these rehabilitation plans were approved, a rash of lawsuits arising out of these insolvencies were instituted. A federal bankruptcy action was instituted against the Baldwin-United parent. Class actions were instituted in the federal courts against brokers and agents who marketed the policies.

In the class action, six state guaranty associations intervened to oppose a proposed settlement by the stockbrokers-agents. These association intervened almost 18 months after the suit was begun, alleging that the settlements were insufficient and that these state guaranty associations could be liable for any losses suffered by their residents.

In 12 states where the Baldwin-United life insurers were licensed, ancillary actions were commenced by these state regulators to take possession of any deposits and letters of credit held in these states.

Arkansas and Indiana policyholders of these companies are the fewest in number and the smallest in dollars of liability. The rehabilitation orders of Arkansas and Indiana were interlocutory orders and not the final orders of rehabilitation that would have triggered many of the states' guaranty associations to pay policyholder claims. Because the orders were interlocutory and not final, the rights of those out-of-state policyholders to be repaid their losses by their state guaranty funds were held in limbo.

Ninety-five percent or more of the $4.63 billion in policyholder liability represented single-premium deferred annuity policies, and many of these policyholders were retired or elderly people, to whom these policies represented their life savings. The anxieties of these policyholders could have been removed by payments from their state guaranty funds.

In the Baldwin-United bankruptcy proceeding, the Internal Revenue Service has indicated a joint and several liability of Baldwin-United and its subsidiaries of some $400 million. In addition, it is alleged that the intercompany transactions by the six life insurers may have increased the tax liability of some of the companies by disqualifying them as life insurers.

The rehabilitation called for in the Indiana and Arkansas orders was not really a rehabilitation, but was in reality a liquidation that delayed for a period of 3½ years the payment or redemption of the single-premium deferred annuities. The restriction of policyholders' ability to redeem their policies for 3½ years gave the regulators the opportunity to accumulate the interest earned over 3½ years and to use it to offset the deficits.

The problems raised by state insolvency laws in this matter include the costly duplication of rehabilitations in two states, the multiple actions pending in other states' courts concerning the insolvent companies and the failure of the Arkansas and Indiana courts to issue a final order of rehabilitation so that policyholders of other states with guaranty funds could be recompensed.

In addition, the bankruptcy reorganization plans being considered for the parent conglomerate are not involved in the dual state administration of the six insurers. The class-action suits in the federal court numbered 200 or more, which were consolidated under the multiple litigation rules of the federal court into a single proceeding.

If, as has been alleged in class actions against the brokerage firms that sold the single-premium deferred annuities, the contracts are security transactions subject to Securities and Exchange Commission rules and law and are not life insurance policies in that they lack a mortality contingency, then their insolvency may be subject only to federal bankruptcy jurisdiction.

If these companies were subject to the federal bankruptcy laws, then there would be no duplication of rehabilitation and no need for ancillary proceedings. The reorganization of these companies would all be within a single court jurisdiction, and the creditors' committee would be made up of a class of creditor policyholders represented by a claimant from a state with significant liability exposure.

The federal court would have no problem triggering the guaranty funds by a final order of rehabilitation or by calling the procedure what it is—a liquidation, delayed by 3½ years. The result would be a less costly administration and a higher yield to the policyholder.

The case of the Ambassador Insurance Co. of Vermont further highlights the inadequacy of state insolvency laws.

Ambassador is domiciled in Vermont and wrote insurance in 49 states and the District of Columbia. The claims of Vermont policyholders represent less than 1% of the loss reserves. The Vermont Insurance Department also is among the smaller insurance regulatory offices.

The Vermont Insurance Department did not act to assume control of the company and obtain an order of liquidation until the insolvency reached more than $53.8 million. In some states, guaranty funds will be responsible for the claims. In most, however, the claimants and policyholders are left without coverage.

The Vermont court, after a contested action by Ambassador's management, has ordered the company's liquidation. Some of Ambassador's malpractice insurance policyholders are non-profit hospitals. This insurance covers long-tail liabilities and has large incurred-but-not reported claims.

The liquidation, therefore, will be prolonged and should extend until the statute of limitations on medical malpractice has been exhausted on claims incurred during the policy period. In New York, for example, the statute of limitations could be as long as 24 years for claims occurring before July 1, 1975, and 10 years on a claim occurring after July 1, 1975. The liquidation will not provide any immediate funds to the insured to settle or pay claims until many of the suits have been concluded.

The liquidation is irrelevant to the immediate problem of the claimants and the policyholders. The non-profit hospitals that purchased Ambassador malpractice insur-

ance may be forced into bankruptcy themselves, triggering insolvency clauses in leases, mortgages and other contracts. This approach will have a catastrophic effect on the delivery of health care to the areas around these hospitals.

In the Ambassador proceeding, an offer was made to avoid the liquidation by purchasing a single-premium deferred annuity with the liquid assets of the insolvent insurer.

The offer would use $85.8 million of the company to obtain an insurers' agreement to pay $190 million over 11 years for payment of claims and creditors. If this had been accepted by the Vermont commissioner, the proposed effect would have been to give the company a positive net worth in 11 years.

The payments of the $190 million were not pledged to coincide with claim maturity, but were structured to permit the obliger to use this interest income from the $85.8 million and thereby increase the funds available for claims.

The proposal was rejected by the commissioner on the grounds that only a full loss-portfolio transfer, in which there would be an unequivocal assumption to pay all claims when due, would satisfy statutory solvency.

In short, the commissioner's prerogatives were limted to a situation of all or nothing at all. The commissioner found other objectives to the proposal, one of which was that it provided excess profit to the insurer and the brokers who formulated the proposal.

The commissioner indicated that he could purchase a single-premium deferred annuity at lower cost and higher-yield, and that he may in fact purchase one in his efforts to preserve the Ambassador estate during liquidation.

This action by the commissioner to save the estate unnecessary cost or commission is laudatory, but it will not help the policyholders facing liquidation, judgments and claims.

If the court had the power to order a structured payment program and/or a partial reduction of claims, then the assets of the insolvent insurer could be used in an immediate program to help claimants and policyholders.

In the Ambassador case, while the Vermont commissioner is concerned about protecting the estate from depletion by rejecting this plan, he has accrued some $11.436 million in expenses between Nov. 10, 1983 and Oct. 31, 1984, of which more than $2.54 million represents rehabilitation expenses. The Vermont commissioner used a law firm in Ohio, which cost $732,679, a law firm in Washington, which cost $179,110, and a consulting firm in New York, which cost $960,025.

Other states in which Ambassador was licensed have begun proceedings to assume control of Ambassador deposits and letters of credit. In a bankruptcy proceeding, these additional actions could be consolidated in the single court, and the court could approve a proposal to reduce the claims and vendor obligation by a specific percent and/or a graduated payout of claims over time. There could be a reserve for IBNR claims, to be held until the claims are better defined. Claims pending or involved in litigation could be subject to arbitration proceedings.

The policyholders and claimants could be protected from the specter of insolvency by a proscribed and scheduled flow of funds from the assets and their earnings. Policyholders and claimants would be able to negotiate settlements around these payments. Guaranty funds also would benefit by these partial payouts and, since guaranty fund payments ultimately are paid by the insurance buyer, the consumer also would benefit.

This type of new alternative to the policyholders and claimants of an insolvent insurer is far more responsive than a partial payout seven years in the future. Industry would be relieved of funding a guaranty association and/or the administrative cost of liquidation would be controlled by the single federal court.

Only the lawyers and accountants would be adversely affected.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KASTEN. Mr. President, I rise in opposition to the amendment. I simply want to remind the Senate that we adopted an amendment earlier, the Gorton, and others, substitute. In that amendment, we increased the ability of insurance commissioners, particularly in nonchartering States, to regulate the activities of risk retention groups and insurance purchasing groups and we gave insurance commissioners the ability to intercede earlier if a group is plainly undercapitalized or underreserved. We also required that risk retention groups submit to the State insurance commissioner of each State in which they are doing business a copy of the group's annual financial statement. The Gorton amendment also increased the enforcement authority of State insurance commissioners. I believe that that amendment, which has been agreed to, goes as far as we ought to go.

We have a number of people who have joined together in developing this legislation. They include a number of groups representing all aspects of the insurance industry as well as consumers of insurance. They have written a letter saying, "We respectfully urge your opposition to any other amendments to this legislation." Those groups include the American College of Nurse-Midwives, the Alliance of American Insurers, the American Insurance Association, the Conference of Mayors, Independent Insurance Agents, and others.

We have made a number of steps in the direction that the Senator is talking about. I believe that we have gone far enough.

The amendment that the Senator brings up currently applies to only one State, New Jersey, but it could apply to other States in the future. If this occurred, risk retention groups could find it more difficult to operate in other States around the country.

One of the goals of our legislation is to break down some of the impediments to the establishment of risk retention groups. We do not want to make it difficult for risk retention groups to be set up.

This amendment goes beyond what is necessary in this legislation in order to protect consumers; it could destroy the balance that we have among parties supporting the legislation. I hope that the amendment will be defeated.

Mr. FORD. Mr. President, I understand the motivation of the distinguished Senator from New Jersey. I have little disagreement with him. However, we have worked long and hard to bring this bill to the point it is today. As my distinguished colleague from Wisconsin has stated, many groups have been involved in the debate and in working out the various sections of this legislation. The compromises to which we have agreed are significant.

One item that is in this substitute that Senator GORTON of Washington and I submitted this morning, early, is the fact that it gives—and it is my amendment—the insurance commissioner in each State the authority to seek to enjoin and otherwise do those things that are necessary to see that these groups are solvent.

I understand that there is one State that is different, one State that does requires its surplus lines to pay into a guaranty fund. But, Mr. President, we paint with a broad brush here. We try not to force the States to do things they basically do not want to do.

The control of these groups will be in the hands of the insurance commissioner of New Jersey and he is a good one. He is an activist. I am sure that he will be on top of any problem. And this legislation gives him the authority to discover the financial condition of a group before it begins to operate in the State.

We have been considering this legislation for some time, day in and day out, week in and week out. Since the middle of March, when this bill was reported from the committee, we have been negotiating with all the groups the distinguished Senator from Wisconsin has just enumerated. The amendment of the Senator from New Jersey was not discussed in the hearing on this issue or in the days of negotiations.

The groups want a clean bill. They want it as it is with no changes. If we begin to change it, we have put a crack in the bill. We have damaged the nurse-midwives that need insurance and need it very badly and very quickly.

So, Mr. President, I encourage my colleagues not to support this amendment and I am very hopeful that the distinguished Senator from New Jersey would allow us to go to a vote very soon. I suspect the chairman of the subcommittee will move to table his amendment.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Senator BRADLEY be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I shall be brief in response to my distinguished colleagues, the managers of the bill, the Senator from Wisconsin [Mr. KASTEN] and the Senator from Kentucky [Mr. FORD].

This bill is not at all designed to force any action by any State. It is designed to permit them and if a State insurance department or an insurance commissioner recommends a guarantee fund for a risk retention group, he or she must first have established within that State a guarantee fund for license insurers and a guarantee fund for surplus insurers. Surplus insurers carry 20 percent of the insurance today. So while few States have guarantee funds for surplus lines, it is possible or likely that they will be coming down the pike, to use that expression.

What we are saying is that States should be allowed—allowed—to make their own decisions. That is hardly inconsistent with what many of us believe ought to be happening in terms of Federal law.

The fact that there have been amendments permitting injunctions, permitting review, permitting tests on solvency in the law, gives some assurance. But what it says—and I remind my colleagues—is that if things start sliding downhill and the rate picks up, then an insurance commissioner or a State insurance department has the ability to go in and enjoin that company from further operating.

What happens, I ask my colleagues, to those who have taken out insurance under this risk retention opportunity and now stand naked, to use that expression, without any insurance to support them? It could bankrupt their businesses, could interrupt their opportunity. And the claimants who have a legitimate claim against the insurer now would have to stand there without protection unless it could itself or the individuals themselves remain solvent.

So, Mr. President, while I note the fact that there has been considerable work done on this bill, it does not mean that it is so perfect that it does not require amendment. I urge the adoption of my amendment and hope my colleagues in the Senate will so respond.

□ 1330

Mr. KASTEN. Mr. President, I see no one on the floor who wants to debate further. Therefore, I move to table the Lautenberg amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Vermont [Mr. STAFFORD], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—69

Abdnor	Exon	Mathias
Andrews	Ford	Mattingly
Armstrong	Garn	McClure
Baucus	Goldwater	McConnell
Bentsen	Gore	Murkowski
Boren	Gorton	Nickles
Boschwitz	Gramm	Nunn
Broyhill	Grassley	Packwood
Burdick	Harkin	Pressler
Byrd	Hatch	Quayle
Chafee	Hawkins	Rockefeller
Chiles	Hecht	Roth
Cochran	Heinz	Rudman
Cohen	Helms	Simpson
Cranston	Hollings	Stennis
Danforth	Humphrey	Stevens
Denton	Inouye	Thurmond
Dixon	Kassebaum	Trible
Dodd	Kasten	Wallop
Dole	Laxalt	Warner
Domenici	Leahy	Weicker
Durenberger	Long	Wilson
Evans	Lugar	Zorinsky

NAYS—27

Biden	Heflin	Mitchell
Bingaman	Johnston	Moynihan
Bradley	Kennedy	Pell
Bumpers	Kerry	Proxmire
D'Amato	Lautenberg	Pryor
DeConcini	Levin	Riegle
Eagleton	Matsunaga	Sarbanes
Glenn	Melcher	Sasser
Hart	Metzenbaum	Simon

NOT VOTING—4

Hatfield	Stafford
Specter	Symms

So the motion to lay on the table amendment No. 2210 was agreed to.

□ 1350

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, it is my understanding that the Senator from Ohio wishes to speak on this bill. It is also my understanding that there are no further amendments.

I just want to advise the Senate that after the Senator speaks, which will probably be limited to less than 5 minutes, we can then move the final passage.

Mr. METZENBAUM. I will send an amendment to the desk and I will speak rather briefly, whether it is 5 or 7 minutes.

Mr. KASTEN. I simply wanted to advise the Senate we are likely to have a vote on final passage prior to 2 o'clock.

Mr. DOLE. Mr. President, will the Senator from Ohio yield to me without losing his right to the floor?

Mr. METZENBAUM. I yield.

SUPPLEMENTARY EXTRADITION TREATY WITH THE UNITED KINGDOM

Mr. DOLE. Mr. President, we are scheduled to have a vote at 2 o'clock. I would like to delay that vote until we finish action on this bill as amended.

As in executive session, I ask unanimous consent that notwithstanding the consent agreement with respect to the extradition treaty, the rollcall vote occur on the resolution of ratification immediately following passage of the vote on S. 2129, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2211

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2211.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, add the following new section:

That the Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" commonly known as the McCarran-Ferguson Act (59 Stat. 33), is repealed.

(b) The repeal made by this section shall be effective as to conduct engaged in beginning one year after the date of enactment of this Act.

SEC. 2. (a) In any action brought under the provisions of the Clayton Act of the Sherman Act alleging a violation of either such Act for conduct that would have otherwise been lawful pursuant to the provisions of the Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" no award of treble damages or criminal penalties shall be awarded against two years after the date of enactment of this Act.

(b) During the two year period referred to in this section, no relief shall be granted against any person in an action referred to in subsection (a) for conduct by such person during such period, if such person has, in good faith, relied upon an advisory opinion issued by the Department of Justice.

Mr. METZENBAUM. Mr. President, this amendment is a small step toward treating the insurance industry like we treat every other industry in this country. This amendment applies the antitrust laws to insurance, just as they apply to other industries.

The insurance industry is now exempt from the Federal antitrust laws. There is no logical reason for that to be the fact.

Why is it exempt? It is exempt because in 1945, the insurance industry managed to lobby through Congress one of the biggest, most valuable special interest antitrust exemptions in history. The McCarran-Ferguson Act is what they called it. The lobbyists who rounded up the votes for that bill must have gone down in the lobbying hall of fame. For over 40 years, the insurance industry has been able to avoid Federal laws against price-fixing and many other types of anticompetitive behavior. They have been able to avoid the Federal consumer protection laws.

The Federal Trade Commission cannot sue the insurance industry for misleading consumers except in rare cases by reason of McCarran-Ferguson. The Justice Department cannot sue insurance companies for fixing prices except in rare cases because of McCarran-Ferguson. Private parties who are hurt by anticompetitive practices cannot sue either.

What is the justification for this sweeping exemption? The insurance industry will tell you it is because State regulation is adequate.

I remember what happened when McCarran-Ferguson was passed because, at that point, I happened to be in the State legislature. I remember as a young legislator at that time the chairman of the Republican Party in Ohio who was also the insurance lobbyist came to me and said, "We want to regulate the insurance industry." This seemed to be difficult for me to comprehend. Why would this powerful industry want regulation? Then I looked behind his request to find that what had occurred was that the McCarran-Ferguson Act was passed providing the exemption on the assumption that the States would provide adequate regulation.

It is no secret. The States have failed to do their job. State regulation of the industry is a farce. In my own State, for many years has been an abomination and a joke, and my State probably provides tougher regulation than in any other State of the Union.

The industry goes about its business in this country totally unregulated, totally free to do whatever it wants, totally free to charge whatever kinds of rates it wants.

No one knows what the figures are. There is no way of anyone comparing the price of a policy that they can buy from one company with one offered by another company. You cannot get the facts. You cannot get the figures. And the insurance industry does nothing but take out big ads in the newspaper complaining about what all their problems are.

I say that it is time that this country recognized its obligation to the people of the country and see to it that the insurance industry is treated like other industries in this country.

Every other industry in this country has to comply with State antitrust laws as well as Federal antitrust laws, but the insurance industry does not have to. Why is the insurance industry different? I will tell you why it is different. It is because every time there is a legislative effort to get rid of McCarran-Ferguson, a massive lobbying campaign is mounted to preserve this exemption that was passed 40 years ago.

□ 1400

It is wrong. It is not in the best interests of the country. It is not the way this country should be run.

There is probably no industry in the country that has more economic wealth or controls more of what goes on in this country without anybody being able to know what they are doing and how they are doing it. You have mutual companies that are not mutual, and the policyholders have no rights. You have stock companies that do not provide the public with information so as to know what they are doing. All this industry does is complain and cut back on insurance for people without giving any adequate explanation as to why they are doing it.

Now I am realistic enough to know that this amendment is not going to fly today. I know that it would not pass on an up-or-down vote today. But I say that there will be a day, and that day will not be far distant, when the American public will say, "enough is enough," and the U.S. Congress will recognize its obligation to repeal McCarran-Ferguson. I believe the American people think that there should be competition in the insurance industry and I think that Congress knows that the rules of free enterprise should apply to this industry just as they do to every other.

I am going to withdraw the amendment, not because I do not believe that the amendment is right, but because I do not believe that the timing is right to go forward at this point.

But I hope that the chairman of the Judiciary Committee will see fit to hold hearings on the bill which I will introduce in lieu of this amendment, and I will work to repeal an exemption that has been around far too long.

Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection it is so ordered. The Senator has a right to withdraw the amendment. The amendment is withdrawn.

Mr. KASTEN. Mr. President, I say to the Senator that I appreciate the fact that he has withdrawn the amendment.

Modification of a 40-year-old law should be made carefully and deserves the full consideration of the relevant committees. This amendment would bring about a drastic change in the regulation of insurance. It is important that the issue be fully considered before being brought to the Senate floor, but I appreciate many of the points which the Senator has brought up.

Mr. DANFORTH. Mr. President, the Risk Retention Amendments of 1986 were reported by the Commerce Committee on March 27, 1986. These amendments have my full support.

The high cost and unavailability of insurance is a serious national problem that requires quick action. Manufacturers, child care providers, schools, hazardous waste disposers, nurse-midwives, truckers, and many professionals are faced with an insurance market in which coverage is unavailable. Many of those who can still obtain insurance are finding that they must pay huge increases in their premiums or buy policies with reduced coverage and increased deductibles.

Moreover, this problem is not limited to a few localities. The recently completed New York State report on liability insurance included statistics showing that based on analysis of 39 States, difficulty in obtaining insurance existed in 107 different insurance lines. Over 500 instances of availability problems were noted by those States that reported.

The legislation before the Senate today has remarkably broad support and many groups have expressed an interest in utilizing the provisions of this legislation. But, it is not going to solve all the problems associated with the liability crises. It is not a panacea. It can provide some immediate relief, however.

Since March, when the bill was reported by the Commerce Committee, an effort has been underway to address concerns expressed in particular by State insurance commissioners. That effort has resulted in the amendment which was offered today by Senator GORTON, and which has been accepted. It will increase the ability of insurance commissioners, particularly in nonchartering States, to regulate the activities of risk retention groups and insurance purchasing groups. Insurance commissioners will be able to intercede earlier if a group is plainly undercapitalized or underreserved. The amendment contains numerous other requirements, such as one requiring a risk retention group to submit to the State insurance commissioner of each State in which it is doing business, a copy of the group's annual financial statement. The amendment also increases the enforce-

ment authority of State insurance commissioners. I believe Senator GORTON's amendment, which I am pleased to cosponsor, is in keeping with the goals of this legislation and I am pleased that it was adopted without further modifications.

Mr. President, as I noted earlier, we cannot hope to solve all the problems related to the insurance crisis with the passage of this one bill. There are still many issues to be addressed, and I appreciate the fact that my colleagues agree with me that these issues cannot and should not be addressed in the context of the Risk Retention Amendments of 1986. The need for this legislation is urgent and I urge that it be approved.

● Mr. SIMON. Mr. President, I would like to ask the distinguished Senator from Wisconsin about his views on the applicability of the Risk Retention Act to trustees of employee benefit plans.

The purpose of this bill is to allow these groups to bind together to provide their members with liability insurance. We are all aware of the difficulty the nurse-midwives and municipalities have had in obtaining liability insurance.

Little publicized is that many pension and health and welfare benefit plans have been unable to secure insurance coverage which will pay for any losses to a plan in the event of a breach of duty by plan trustees or other persons who owe a fiduciary duty to the plan. This coverage used to be available at an affordable premium to cover such losses and to cover any legal fees associated with legal proceedings which the plan might be forced to expend in connection with fiduciary breaches. But, like so many other groups, employee benefit plan trustees are having trouble finding insurance.

Employee benefit plans are an important part of our economic system and require available and affordable liability insurance as do all other entities covered by the risk retention bill. The way I read the bill, employee benefit plans are covered by this legislation. I hope that my distinguished colleague will agree.

Mr. KASTEN. I am delighted that my colleague has chosen to point out the need to assure that employee benefit plans have liability insurance available to them so that they are not forced to consider terminating or curtailing operations and thereby denying millions of Americans pension and health and welfare benefits. You are quite correct that the bill before us today covers employee benefit plans. Such plans would fall within the definition of "organization" as set forth in section 3(a)(3) of the bill. As the committee's report states at page 10, this term is "intended to be construed broadly," and that broad construction is intended to include fiduciary insurance coverage for employee benefit plans.●

Mr. DANFORTH. Mr. President, the trucking industry is facing a serious insurance crisis. A recent General Accounting Office survey of insurers writing policies for trucking companies showed that they raised their premiums an average of 72 percent in 1985 and planned further increases in 1986.

The trucking industry is required by section 30 of the Motor Carrier Act of 1980 to maintain a number of different types of insurance. The industry and the insurance companies contend that section 30's requirement of "environmental restoration" coverage has made it especially difficult for trucking concerns to obtain affordable insurance. The difficulty is said to arise in part from the Department of Transportation's [DOT] definition of environmental restoration as including "the potential for damage." The insurance companies are hesitant to write environmental restoration coverage because they feel this definition is too open ended.

Mr. RIEGLE. Mr. President, I am also aware of the concerns that have been raised about the meaning of the term "environmental restoration" by the trucking and insurance industries. Given the serious insurance crisis faced by the trucking industry, I wonder whether the chairman of the Commerce Committee would be willing to write DOT a letter requesting that it open a rulemaking to reexamine the meaning of the term "environmental restoration." If so, I would like to join you in sending a letter to DOT.

Mr. DANFORTH. I agree with the Senator's recommendation and will be pleased jointly to send such a letter to DOT.

Mr. CRANSTON. Mr. President, I support S. 2129, the risk retention bill.

This legislation will help meet the critical need for affordable liability insurance for those men and women engaged in providing important services ranging from health and dental care to child care. The bill enables these professional groups to pool resources to fund their mutual liability risks at reasonable costs.

The incredible cost of liability insurance is forcing many essential services to close their doors to the public. Clearly, our liability insurance system is not meeting the need. Whatever the reasons for the current crisis, it is proper for Congress to act to remove obstacles to the ability of people to help themselves. The Risk Retention Act allows professional groups to join together to pool their own risk coverage.

This will be a step toward encouraging greater competitions in the liability insurance industry.

My colleagues have raised serious questions about the future regulation of the insurance industry. Under our system of private risk retention, it is essential that the insurance which covers those risks be reasonable, affordable, and adequate to the task. There should be hearings in Congress on these questions, so that our balanced regulatory system of State and Federal responsibilities can be brought up to date.

Mr. PRESSLER. Mr. President, I rise to urge my colleagues to support this piece of legislation. The Risk Retention Amendments of 1986 is a positive first step in the very complex task of developing solutions to the continuing high cost and scarcity of liability insurance. No one should look upon this measure as a cure-all for the insurance problems confronting many businesses, governments, and professionals. But removing the impediments to forming risk retention groups will provide relief to some of these organizations.

Passage of S. 2129 does not mean our work on this issue is complete. Much work remains to be done. I am pleased that the Commerce Committee, on which I serve, was able to report out a bill which addresses many of the problems associated with product liability insurance. Hopefully, we will be able to pass that bill before the end of this Congress. It is essential.

One provision of that measure is my amendment to reform the doctrine of joint and several liability to discourage targeting of "deep pocket" defendants rather than those truly responsible for the harm. We must go further in correcting the inequitable situation in which many cities, businesses, and other "deep pocket" defendants find themselves. I intend to offer a broader and stronger floor amendment to the product liability bill which will go much farther in reforming the joint and several doctrine. Preferably, I would like to see a much purer form of several liability applied across the board to all forms of liability. The deep-pocket problem has been cited as the primary cause for liability insurance pricing problems. This area, in particular, cries out for reform.

I have made my intentions known to my colleagues on the Commerce Committee. I want to take this opportunity to inform my other colleagues of my forthcoming amendment on joint and several liability, which would build upon the already substantial progress we have made in the Commerce Committee.

Mr. STEVENS. Mr. President, I share with my colleagues a desire to see this legislation move forward. I therefore will not press my view that this measure would be made stronger by the restoration of language permitting risk retention groups to be chartered in Bermuda or the Cayman Islands.

Mr. President, our Government has negotiated a landmark Mutual Legal Assistance Treaty with the Government of the Cayman Islands. This treaty—the very first of its kind throughout the Caribbean—will result in vital international cooperation in fighting a wide range of criminal activities. I think we should be careful in ensuring that the actions we take in this body do not, even with the best of intentions, do harm to the wholly legitimate economic interests of our demonstrated allies, such as the Cayman Islands.

The Cayman insurance industry has, in a brief span of time, become the world's second largest captive insurance center, with more than 300 registered companies. Fully 80 percent of the Cayman insurance industry's capacity—around $1 billion at present—is directly attributable to meeting the needs of American companies and trade associations, professional groups, and nonprofit entities for whom sufficient liability coverage has just not been available or affordable.

The overriding purpose of the legislation before us is to facilitate the formation of more risk retention groups; and yet by not restoring the ability to form offshore, we are removing one of the most popular provisions of the 1981 Risk Retention Act.

I believe, Mr. President, that the Cayman insurance industry has proven itself well-regulated and responsible. Current Cayman insurance law mandates detailed applications for insurance licenses, a comprehensive business plan, and regular audited reports. Since enactment of the 1981 act, not a single State complaint has been raised against the Cayman Islands or any of its captive insurers for conduct or malfeasance attributable to establishment in the Cayman Islands. In fact, State authorities in numerous States, including my own, have praised Cayman insurance regulators for their cooperation and performance.

We must keep in mind the provisions contained in S. 2129 which give the States a strong regulatory role through the entire risk retention group formation process. These provisions, coupled with the 1981 act's requirement that any group forming offshore certify it meets the minimum capitalization requirement of at least one State, provide strong assurances that the misconduct of any group formed offshore could be dealt with swiftly and surely.

As a practical matter, reallowing formation of risk retention groups in the Cayman Islands would certainly further S. 2129's goal of relieving the insurance crisis afflicting this Nation. I do hope the opportunity will present itself to correct this deficiency in the future.

Mr. WEICKER. Mr. President, I am pleased to be an original cosponsor of S. 2129, the "Liability Risk Retention Act of 1986."

I commend Senators KASTEN, DANFORTH, HOLLINGS, and other members of the Commerce Committee for their diligence and determination in bringing this important bill before the Senate in a relatively short amount of time in order to provide some relief for the many groups that need it.

I am not suggesting, by any stretch of the imagination, that this legislation will solve the myriad of problems surrounding liability insurance availability and affordability that plague our Nation today. But it is a start. It will provide interim relief for businesses and other groups that cannot purchase coverage at all or cannot individually afford a particular insurance premium. Day care centers, restaurant owners, toxic waste disposers, nurse-midwives and cities and municipalities are just a few of the many and varied groups and businesses that will benefit.

Earlier this year, on February 20 and 21, the Senate Small Business Committee held hearings to air the liability insurance issue. Several of the witnesses who testified urged that the 1981 Product Liability Risk Retention Act be expanded to include other groups and businesses. In addition, I have received correspondence from a number of major associations and organizations representing small business throughout our Nation expressing support for this legislation.

I am aware that a great deal of discussion and negotiation has taken place in order to get this bill to its present state and I commend the efforts of those who have worked diligently to do so. In particular, I support the amendments offered by Senators GORTON and FORD that expand the jurisdiction of State insurance regulators to examine and ensure solvency of risk retention groups and to prevent fraudulent acts by purchasing or risk retention groups. I believe these amendments strike a proper balance between regulating the industry and providing the necessary immediate relief to the groups that desperately need liability insurance coverage.

I therefore urge my colleagues to vote in favor of this bill, as amended.

Mr. DOLE. Mr. President, as I am sure you are aware, the liability insurance crisis is widespread and cuts across many lines of liability coverage. There has been a lot of disagreement over what has caused this crisis but this legislation is certainly a step in the right direction in helping us address these concerns. I want to commend the efforts of the distinguished chairman of the Commerce Committee, Senator DANFORTH, and the chairman of the subcommittee, Senator KASTEN, for their fine efforts in bringing this bill to the floor.

Mr. President, this legislation expands the 1981 Product Liability Risk Retention Act to permit risk retention groups to offer general liability coverage to their members in addition to product liability coverage. S. 2129 is a response to one aspect of the overall liability insurance problem: the unavailability and high cost of liability insurance. Its passage will insure that some manufacturers, service industries, municipal governments, hazardous wastes disposers, day-care providers, tavern owners, nurse midwives, and physicians, and others who cannot obtain liability coverage at any cost, or else at cost-prohibitive prices, will now have the opportunity to obtain insurance coverage.

Expansion of the Risk Retention Act to include all lines and classifications of commercial liability insurance, except for workers' compensation and employer's liability, is an appropriate response. Federal action is warranted, because the existence of affordable and readily available liability insurance is vital to the operation of the economy. The preemption of State law is central to the Risk Retention Act's objective of facilitating the efficient operation risk retention groups by eliminating the need for compliance with numerous nonchartering State statutes that would thwart the interstate operation of liability risk retention groups.

I am pleased that the committee has been able to address the concerns raised by witnesses testifying before the committee. It is a credit to the insurance industry, State insurance commissioners, existing risk retention groups, and the various organizations desiring to form risk retention groups, that all could work together for the good of the consumer. I applaud their efforts.

Mr. SASSER. Mr. President, I applaud the action of the Senate today in passing S. 2129, the risk retention bill.

For some time now we have been facing a crisis in commercial liability insurance. Firms—even those which never had a liability claim—are finding that their insurance rates are skyrocketing. Even worse, many firms are finding that they cannot obtain insurance at any price. Faced with this situation, many companies must either go without insurance or close their doors.

As I travel around my State of Tennessee, I talk to small businessmen who face the prospect of losing their businesses because of lack of insurance coverage. Earlier this year, I held field hearings of the Small Business Committee in Tennessee. I heard from the managers of day care centers, a lumber company, a petroleum marketing company, as well as State insurance officials.

What I learned from that hearing, was this, Mr. President: we simply must provide some mechanism for businesses which are unable to obtain insurance at any price. S. 2129 is an opportunity to do just that. The bill will expand the Product Liability Risk Retention Act of 1981 to permit professional groups, churches, schools, hospitals, State and local governments, and others to purchase their liability insurance on a group basis and to form risk retention groups.

At the hearings in Tennessee, the director of the Holly Tree Day Care Center in Franklin outlined the need for this legislation. Their 1984 liability premium was $3,000. Their insurance company refused to renew their policy for 1985—even though the day care center had never had a claim with them. The center finally found a company who agreed to write a policy for 1985 for $9,000—a 300-percent increase.

Many small day care centers cannot afford these increases. They face the choice of going without insurance or closing their doors. Yet, they provide a critical service that we cannot allow to simply vanish. Studies show that before 1990 there will be a need for 10,000 day care slots in middle Tennessee. We simply must provide a mechanism for these day care centers to continue.

Another group facing an immediate crisis from the loss of insurance coverage is the nurse-midwives. In many areas of my State—particularly east Tennessee—nurse-midwives fill the gaps left by the lack of a full-time physician. In many counties in my State there simply is no substitute for their services.

As I mentioned, the insurance crisis is not confined to social service professionals.

One of the witnesses at the Small Business Committee hearings in Nashville was Alan Oakley who, with his father, owns a lumber company in Tennessee. Astounded at an premium increase that jumped from $13,000 to $31,000 when his company had filed no claims, Mr. Oakley called some fellow businessmen to see if his case was unique. It wasn't.

He found a roofing contractor whose premium increased from $21,000 to $67,000, a towing company whose premium went from $14,000 to $30,000, an insulation company whose premiums went from $12,000 to $22,000, and a local hardware company whose premiums went from $32,000 to $76,000. None of these businesses had claims that would begin to explain the rise in rates.

Now, S. 2129 won't solve all the insurance problems being faced by professionals and small businessmen, but it will be a start—and it is a start we must make now.

Mr. McCONNELL. Mr. President, today, I would like to take this opportunity to express my support for S. 2129, the Risk Retention Amendments of 1986. As reported by the Senate Commerce Committee, S. 2129 will make it easier for businesses, professional groups, and other organizations to form risk retention or purchasing groups in order to facilitate the acquisition of general liability insurance.

As I have previously asserted Mr. President, the liability insurance crisis has become a pervasive problem in the American economy. One indication of the magnitude of this problem is the fact that in 1 week alone, three Senate committees held hearings addressing some part of the crisis. One such hearing was held at my request on S. 2046, the Litigation Abuse Reform Act of 1986, which I introduced earlier this year and recently modified on June 5.

The liability insurance crisis affects all of us. Municipal governments, truckers, school systems, and doctors are all finding the cost of liability insurance exorbitant and in some cases prohibitive. The increased cost of premiums are passed on to us Mr. President, in the form of higher taxes, loss of services, and the increased cost of goods and services. The bill recently reported by the Commerce Committee will enable groups and organizations such as the above mentioned to organize and help themselves through the formation of risk retention groups. It is an appropriate and necessary response to the difficulties facing many professional organizations in obtaining liability insurance coverage.

Mr. President, one such group which contacted my office supporting this legislation were the nurse-midwives. Nurse-midwives perform an extremely valuable service in my home State of Kentucky, particularly in rural areas which have no other available source of medical service. The nurse-midwives must have insurance in order to practice their profession in my State. The service they perform has become even more important now that many obstetricians have either retired or left their practice because of the ever present threat of malpractice suits and enormous damages being awarded. For the nurse-midwives Mr. President, this bill offers them a chance to help themselves and in turn help the people who need help the most. Without this legislation and until we decide to do something about the liability crisis, the economy of this nation will continue to suffer under the repressive grip of the high cost of obtaining liability insurance.

Mr. President, I introduced the Litigation Abuse Reform Act because I see our society resorting to solving almost any problem imaginable through the process of litigation. Without restraint, this problem threatens to choke off the vibrance of our economic well-being. The high cost and sometime unavailability of liability insurance is the price we are already paying.

In closing Mr. President, I will simply reiterate my support for S. 2129, the Risk Retention Amendments of 1986. The root causes of the liability insurance crisis are complex to say the least, and by no means do I believe this legislation to be a cure-all for the crisis. However, I do believe that this bill will offer relief to the businesses, professions, and organizations currently held hostage by huge premiums and in some instances, loss of coverage. For these reasons Mr. President, I would urge my colleagues to join me in supporting this important piece of legislation. Thank you.

Mr. KASTEN. Mr. President, I know of no further debate on the amendment. I ask that we now move to third reading.

The PRESIDING OFFICER. Is there further debate? If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KASTEN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. STAFFORD], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD], would vote "yea."

The PRESIDING OFFICER (Mr. WEICKER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—96

Abdnor	D'Amato	Grassley
Andrews	Danforth	Harkin
Armstrong	DeConcini	Hart
Baucus	Denton	Hatch
Bentsen	Dixon	Hawkins
Biden	Dodd	Hecht
Bingaman	Dole	Heflin
Boren	Domenici	Heinz
Boschwitz	Durenberger	Helms
Bradley	Eagleton	Hollings
Broyhill	Evans	Humphrey
Bumpers	Exon	Inouye
Burdick	Ford	Johnston
Byrd	Garn	Kassebaum
Chafee	Glenn	Kasten
Chiles	Goldwater	Kennedy
Cochran	Gore	Kerry
Cohen	Gorton	Laxalt
Cranston	Gramm	Leahy

Levin	Nickles	Sasser
Long	Nunn	Simon
Lugar	Packwood	Simpson
Mathias	Pell	Specter
Matsunaga	Pressler	Stennis
Mattingly	Proxmire	Stevens
McClure	Pryor	Thurmond
McConnell	Quayle	Trible
Melcher	Riegle	Wallop
Metzenbaum	Rockefeller	Warner
Mitchell	Roth	Weicker
Moynihan	Rudman	Wilson
Murkowski	Sarbanes	Zorinsky

NAYS—1

Lautenberg

NOT VOTING—3

Hatfield	Stafford	Symms

So the bill (S. 2129), as amended, was passed, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. Section 1 of the Product Liability Risk Retention Act of 1981 (hereinafter referred to as "the Act") (15 U.S.C. 3901, note) is amended—

(1) by striking "Product"; and

(2) by striking "1981" and inserting in lieu thereof "1986".

SEC. 3. (a) Section 2(a) of the Act (15 U.S.C. 3901(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) 'financially impaired' means that a risk retention group does not meet the minimum capital or surplus requirements, or both, of the State in which such group is chartered, or that group has incurred losses that will deplete all or substantially all of its capital or surplus, or both, unless there is a reasonable prospect for replenishment of such capital or surplus, or both;";

(2) by striking paragraph (3), and by redesignating paragraph (2) as paragraph (3);

(3) by inserting immediately after paragraph (1), as amended by paragraph (1) of this subsection, the following:

"(2) 'hazardous financial condition' means a risk retention group that is not able or will not be able to (A) meet its obligations to its policyholders regarding known claims and reasonably estimated expected claims, or (B) pay its other obligations in the normal course of business, and there is no reasonable prospect for it to do so;";

(4) by redesignating paragraphs (4) through (6) as paragraphs (7) through (9), respectively;

(5) by inserting after paragraph (3), as so redesignated, the following:

"(4) 'liability insurance' means insurance covering an organization's legal liability for damages because of injuries to other persons, damage to their property, or other loss or damage to such other persons arising out of its business, trade, products, services (including professional services), premises, or operations, but does not include (A) personal risk insurance or (B) workers' compensation and employers' liability insurance;

"(5) 'organization' means any association, business, corporation (whether for-profit or not-for-profit), professional corporation or partnership (including individual practitioners with respect to their business or professional activities), church, hospital, school, university, or other institution, or a State or local government (or agency of such a government);

"(6) 'personal risk insurance' means homeowners, tenant, private passenger non-fleet automobile, mobile home, and other liability and casualty insurance primarily for personal, family or household needs rather than for business of professional needs;";

(6) in paragraph (7), as so redesignated—

(A) by inserting "any group of units of local government or agencies thereof, or" immediately after "means";

(B) by striking ", Bermuda, or the Cayman Islands";

(C) in subparagraph (A), by striking "product liability or completed operations";

(D) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, and by inserting immediately after subparagraph (C) the following:

"(D) Whose activities do not include the provision of any insurance except the insurance described in subparagraph (A) and reinsurance with respect to the risks of its own members or organizations whose businesses are similar or related with respect to the nature of their exposure to the risk of liability, as provided in this paragraph;

"(E) whose activities, subject to the limitations of subparagraph (B) of this paragraph, are permitted to such a group by the laws of its domicile, including management, operations, insurance and investment activities and the provision of loss control and claims administration (including loss control and claims administration services for uninsured risks retained by members of the group);";

(E) in subparagraph (F), as so redesignated, by striking "and";

(F) by amending subparagraph (G), as so redesignated, to read as follows:

"(G) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and"; and

(G) by adding at the end thereof the following:

"(H) the name of which includes the phrase 'Risk Retention Group';"; and

(7) by amending paragraph (8), as so redesignated, to read as follows:

"(8) 'purchasing group' means any group of persons—

"(A) which has as one of its purposes the purchase of liability insurance on a group basis; and

"(B) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar or common to such members; and".

(b) Section 2(b) of the Act (15 U.S.C. 3901(b)) is amended—

(1) by striking "product liability and product"; and

(2) by inserting "and personal risk insurance" immediately after "insurance" the second time it appears.

(c) Section 2 of the Act (15 U.S.C. 3901) is further amended by adding at the end thereof the following:

"(c) Nothing in this Act shall be construed to exempt a group authorized under this act from the policy form or coverage requirements of any State no-fault automobile insurance law.

"(d) The authority to offer or provide insurance under this Act is limited to liability insurance. This Act does not authorize a risk retention group to provide, or a purchasing group to purchase, any other line of insurance.

"(e) Insurance provided under this Act shall not be construed to authorize coverage of punitive damages or intentional fraudulent, or criminal conduct, to the extent that any such coverage is either prohibited by statute or has been declared unlawful by the highest court of the State whose law is applicable to a coverage claim.".

SEC. 4. (a) Subsection (a)(1) (C) and (D) and subsection (b) (1) and (2) of section 3 of the Act (15 U.S.C. 3902(a)(1) (C) and (D) and (b) (1) and (2), respectively) are amended by striking "product liability or completed operations".

(b) Section 3(a)(1)(D) of the Act (15 U.S.C. 3902(a)(1)(D)) is amended to read as follows:

"(D) submit to the State insurance commissioner of each State in which it is doing business a copy of the group's annual financial statement submitted to the State in which the group is chartered or licensed as an insurance company, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves by a person with the minimum qualifications of an associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries, or a qualified loss reserve specialist;".

(c) Section 3(a)(1)(F) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "if—" and inserting in lieu thereof "if";

(2) by striking clause (i);

(3) by striking "(ii)";

(4) by striking "and" the second time it appears; and

(5) by adding at the end thereof the following: "any such examinations shall be coordinated to avoid duplication and unjustified repetition;".

(d) Section 3(a)(1)(G) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of" and inserting in lieu thereof "there has been";

(2) by adding immediately before the semi-colon the following: ", or comply with a lawful order issued in a voluntary dissolution"; and

(3) by inserting "and" immediately after the semi-colon.

(e) Section 3(a)(1) of the Act (15 U.S.C 3902(a)(1)) is amended by adding at the end thereof the following:

"(H) comply with an injunction if such injunction was issued by a Federal or State court of competent jurisdiction, after notice and opportunity for a hearing and the issuance of findings of fact and conclusions of law, upon a petition by the State insurance commissioner alleging that the group is in a hazardous financial condition or is financially impaired;".

(f) Section 3 of the Act (15 U.S.C. 3902) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices in the solicitation or sale of insurance to a member or a prospective member

of a risk retention group, or other fraudulent conduct by any such group;

"(3) the solicitation or sale of insurance by, or the operation of, a risk retention group that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance by, or the operations of, a risk retention group that within the previous five years has been found to have engaged, or whose officers, organizers or directors have been found to have engaged, in knowing and willful false, deceptive, or fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violation will be repeated.

In any proceeding under paragraph (3) of this subsection, all relevant evidence shall be admissible to prove the financial condition of a risk retention group.

"(e) Before any group may operate as a risk retention group in any State, such group shall furnish to the insurance commissioner of that State and each other State in which the group intends to do business a plan of operation or feasibility study which includes the coverages, deductibles, coverage limits, rates and rating classification systems for each line or classification of liability insurance that the group intends to offer. After it is chartered to operate, the risk retention group shall revise such plan or study if it intends to offer any additional lines or classifications of liability insurance.".

SEC. 5. (a) Section 4(b) of the Act (15 U.S.C. 3903(b)) is amended—

(1) in paragraph (1), by striking "product liability or completed operations liability insurance, and comprehensive general" and "which includes either of these coverages,"; and

(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

(b) Section 4(c) of the Act (15 U.S.C. 3903(c)) is amended by adding at the end thereof the following: "A purchasing group may not purchase insurance from a risk retention group that is not domiciled in a State or from an insurer not admitted in the State in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such State.".

(c) Section 4 of the Act (15 U.S.C. 3903) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by an insurer, agent or broker to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices by an insurer, agent or broker in the solicitation or sale of insurance to a member or a prospective member of a purchasing group, or other fraudulent conduct by any such group or its insurer, agent or broker;

"(3) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer or marketed by agents or brokers who within the previous five years have been found to have engaged in knowing and willful false, deceptive, or fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violations will be repeated.".

SEC. 6. The Act (15 U.S.C. 3901 et seq.) is amended by adding at the end thereof the following:

"REQUIREMENTS OF CERTAIN INSURANCE POLICIES

"SEC. 6. Any insurance policy issued by a risk retention group shall state the following in 10-point type:

"This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.

"ENFORCEMENT

"SEC. 7. (a) For purposes of enforcing this Act, if the insurance commissioner of any State has reason to believe that a risk retention group or purchasing group has engaged or is engaging in conduct subject to State law under this Act or in conduct in violation of this Act in that State, the commissioner may make use of any of the powers permitted under the laws of such State regarding insurers admitted to do business in that State, except that if a commissioner seeks an injunction against a risk retention group or purchasing group because of conduct in violation of section 3(d) or section 4(d) of this Act, the commissioner shall obtain an order for such injunction from a Federal or State court of competent jurisdiction.

"(b) Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or from operating, in any State or in all States upon a finding by such court that such group is in a hazardous financial condition in accordance with section 3(d)(3) of this Act. Such order shall be binding on such group, its officers, agents, servants and employees, and upon persons acting in active concert with any of them who have actual notice of such order.".

SEC. 7. This Act shall take effect on the date of its enactment, except that the provisions of section 3(e) of the Act, as added by section 4(f) of this Act, shall not apply to any line or classification of liability insurance (as defined in the Product Liability Risk Retention Act of 1981, as amended by this Act) which was offered on the day before such date of enactment by any risk retention group which has been chartered and operating for at least three years before such date of enactment.

□ 1420

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I simply want to thank a number of Senators and their staffs who have been active in the compromise legislation that passed today. I think the 96-to-1 vote indicates the strong bipartisan support this bill has.

I particularly want to thank the ranking member of the Consumer Subcommittee, the Senator from Kentucky, Senator FORD. I also want to thank Senator HOLLINGS, Senator DANFORTH, and Senator GORTON. The staff also deserves a great deal of applause. I want to say thank you to all concerned.

This bill is a first step but only a first step toward dealing with the liability insurance crisis that is confronting the Nation. It is, however, an important step and we have done it in a strong bipartisan manner.

Mr. FORD. Mr. President, I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The point of order is well-taken. The Senate is not in order.

The Senate will be in order.

The Senator from Kentucky.

Mr. FORD. Mr. President, I join my distinguished colleague from Wisconsin in what he has just said. With the overwhelming support that we have, I look forward to this bill clearing the House. Many of those interested will be able to form risk retention or purchasing groups and obtain their insurance coverage.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT—TREATY DOCUMENT NO. 99-8

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that notwithstanding the consent agreement with respect to the Extradition Treaty, that the rollcall vote occur on the resolution of ratification after 5 minutes of debate to be equally divided between Senators LUGAR, KERRY, and DODD.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, I would like to have 3 minutes if I could, in addition to the time in the agreement.

Mr. DOLE. Mr. President, I ask unanimous consent that there be an additional 3 minutes for the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, I would like to have 5 minutes.

Mr. DOLE. Mr. President, I request that there be 10 minutes altogether, divided equally between Senators LUGAR and KERRY.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE SESSION

SUPPLEMENTARY EXTRADITION TREATY WITH UNITED KINGDOM

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to vote on a resolution of ratification to the

United States-United Kingdom Supplementary Extradition Treaty.

The treaty will be stated.

The legislative clerk read as follows:

Treaty Document No. 99-8, Supplementary Extradition Treaty with the United Kingdom.

The PRESIDING OFFICER. Under the previous order, there will be 10 minutes of debate, divided pursuant to the unanimous-consent agreement.

The Senator from Connecticut.

Mr. DODD. Mr. President, about the time the Foreign Relations Committee completed its work on the pending agreement, the National Law Journal, in a very thoughtful editorial, came out in opposition to the agreement as drafted and presented to the committee.

Even with the changes in the agreement—significant changes—that were made by the committee, I told my colleagues at the final markup session that the editorial comments in the June 16 issue of the Journal expressed my concerns and doubts about the wisdom of approving this agreement. The final paragraph of that editorial, I believe, sums up the issue before us about as well as it can be done. Let me read it:

In foreign policy, no one expects governments to treat friends and foes alike. But American courts, in the exercise of the police power over individuals, should not be enlisted into administering uneven and politically motivated justice. They should, instead, continue to neutrally administer the objective principles of a uniform political-offense doctrine that is well-grounded in this country's revolutionary past.

With those concerns and doubts in mind, I nevertheless, along with 14 other members on the committee, voted to send this agreement to the full Senate. Like some of the others, I did so very grudgingly. This is not the kind of vote that you never look back on or think about again. It was the opposite kind of vote. It gnaws at you. It may not haunt you, but it continues to pester and irritate. That is the kind of vote it was in committee. But there was always the knowledge that the committee had modified the agreement substantially and the hope that the Senate would go even further.

With the events of yesterday, that hope unfortunately is gone. There will be no additional changes in the agreement.

□ 1430

At this point, what remains of the political offense exception is little more than a footnote, and the retroactivity provision can probably be used to go after even those individuals for whom extradition was previously denied. The scales of justice are tipped in favor of police powers of the state versus due process and protection of the rights of the individual.

That balance goes against the grain. Its long-term effect is corrosive. The underlying proposition in this agreement is that all acts of political violence are wanton crimes and acts of terrorism.

It equates all political violence with terrorism, and that is a bogus proposition. It's as bogus as equating political opposition to sedition or treason. And it's as bogus as equating the political reality of Belfast to the political reality of London. But that is the proposition before us, and it all comes—unfortunately, I think—neatly wrapped in the jargon of antiterrorism.

Mr. President, in the final analysis, we must all recognize that the debate over extradition law as it relates to offenses of a political character is both serious and complicated. It deserves a great deal of thought and consideration. Certainly, we all want to bring terrorists before the bar of justice. Just as clearly, we know that improvements can be made in our extradition agreements to do that.

In seeking those improvements, however, we must always keep in mind the means we choose to achieve the ends we seek. Short-circuiting the political offense exception to deal more effectively with the scourge of terrorism is a means to an end. But by doing it serves notice that we are prepared to undermine the kind of political principles that have made our democracy the envy of the world.

That is a grave mistake, for our strongest weapon against terrorism is our determination to stand by our political principles, not walk away from them.

I do not believe the Senate should give its advice and consent to the ratification of the treaty before us.

With great reluctance, Mr, President, I shall vote against this treaty.

Mr, President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr, President, I should like, if I may, to ask the chairman of the committee one or two questions.

At the time that we were about to entertain passage of article 3(a) the chairman entered into a colloquy with me and the distinguished Senator from Delaware. I would like just to ascertain at this moment, after having heard the comments of the distinguished Senator from Missouri, whether or not that colloquy is in the report language and whether or not, as it took place at that time—does that colloquy still stand as the intent of the chairman as the principal sponsor of the amendment?

Mr. LUGAR. The Senator is correct. We did have a colloquy. It is printed on pages 4 and 5 of the report. I do stand by my statements in that colloquy.

Mr. KERRY. It is the chairman's view that it is that colloquy which represents the intent of the chairman of the committee with respect to the interpretation of article 3(a). Is that correct?

Mr. LUGAR. That is correct.

Mr. KERRY. I thank the distinguished chairman and I reserve whatever time remains subject to the comments of the distinguished Senator from Missouri.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr, President, I yield 3 minutes to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, the Senator from Massachusetts [Mr. KERRY] has not announced how he will vote on final passage on this treaty. Of course, it is up to him to announce whenever as he sees fit.

The Senator from Connecticut has announced that, although he voted for the treaty in committee, he is now going to vote against it, as I understand it, on final passage.

The treaty before us is identical to the treaty as it came out of committee. His sudden revulsion about the crimes covered in the treaty is a bit amazing, because the crimes listed in article 1 are no different today than the crimes before contained in the treaty as it came out of committee. The crimes include the following, Mr. President, such minor little crimes as murder, kidnaping, the use of bombs, grenades, rockets, letter or parcel bombs, incendiary devices, and the like.

These are not crimes of politics, Mr. President. There is no State in the United States where a candidate for public office runs around throwing bombs, grenades, rockets, letter or parcel bombs, and incendiary devices and tries to pull it off and explain it as an act of politics. Yet we are to be told by some that when these bombs and devices are thrown around in Northern Ireland and then those who throw them come over here as fugitives, they are somehow expatriate politicians and we are to treat them with all kinds of understanding and sympathetic favor.

They are terrorists; that is what they are. Terrorism is the same whether you have a swarthy complexion and talk in Arabic or whether you have pink cheeks and talk with a brogue. When terrorism is committed against us—whether it is a dead American serviceman on TWA flight 842 or whether it is 241 marines in a barracks in Lebanon or whether it is a sergeant in a disco in Berlin—when people blow up our military personnel, we say it is terrorism and sometimes we seek revenge. In one instance, we sought the maximum revenge: We bombed Bengazi and Tripoli to show our revulsion for acts of terrorism committed against us.

Yet, when terrorism is committed against other people, the British, for

example, we are supposed to treat the terrorists with jurisprudential favor.

Let me, if I may, ask the chairman of the committee a couple of quick questions.

Was the chairman of the committee present yesterday when I gave my speech on the meaning and interpretation of article 3(a)?

Mr. LUGAR. I was, Mr. President.

Mr. EAGLETON. Did the chairman of the committee find anything in my speech on article 3(a) which did violence in any way, shape, or form to the meaning of the supplementary treaty that is now before us?

Mr. LUGAR. The Senator's speech was eloquent and scholarly.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAGLETON. I agree with the chairman on both counts and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Indiana has 1 minute and 20 seconds remaining.

Mr. LUGAR. Mr. President, if I may have the attention of the Senate, this treaty presents a remarkable opportunity for the United States of America and in particular for the United States Senate today to affirm the strength of our friendship with Great Britain, the strength of our passion to fight terrorism and to do so in a constitutional framework. The drafting of the treaty has been careful. Some would say it has been original and ingenious. I am indebted to the distinguished Senator from Missouri [Mr. EAGLETON] for his special contribution in making certain we do have a bipartisan point of view on something that is of grave importance to our country and to freedom-loving people around the world.

Mr. President, I yield back all the time.

The PRESIDING OFFICER. Twenty-one seconds remain.

The Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Mr. President, while I have concerns with the compromise treaty reported by our committee, I believe it represents an attempt to balance the need to deal with the threat of international terrorism and the necessity for maintaining basic democratic traditions and individual safeguards.

Despite the interpretation given article 3(a) of this supplementary treaty by our distinguished colleague, Mr. EAGLETON, this is the view of only one Senator and does not reflect the intent of the committee. The intent of the committee is to be found in the colloquy between myself, the chairman of the committee, and Senator BIDEN.

Article 3(a) provides that notwithstanding article 1:

extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try to punish him on account of his race, religion, nationality, or political opinions or that he would, if surrendered, be prejudiced at his trial or punished, or detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

To assure that a judge would be clear as to what was the committee's intent as it related to article 3(a), it was agreed that the following colloquy between myself, the chairman and the committee, and Senator BIDEN would be incorporated into the report accompanying the supplementary treaty. I believe it is important to reiterate this colloquy.

Senator KERRY. Mr. Chairman, as part of tha report language I would ask you if it is your understanding and intention as principal sponsor of this amendment that an individual, as part of showing that he would, and I quote the language of Article 8 (now article 3), "if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinion," would that individual be able to challenge the fairness of the judicial system to which he would be returned and thereby raise a right of inquire into the fairness of that system?

Mr. CHAIRMAN. Yes.

Senator KERRY. And that is your intention in this particular amendment as well as in the treaty?

The CHAIRMAN. That is correct.

Senator BIDEN. Let me make sure as part of this colloquy that I understand the nature of the rule of inquiry into the justice system in Northern Ireland that we are establishing here.

My understanding is this: That notwithstanding that probable cause has been established in an American court; notwithstanding that the accused is the person sought: notwithstanding that it is an extraditable offense under the terms of this treaty we are about to vote on; and notwithstanding that otherwise it is an offense for which extradition would lie; and notwithstanding all of that, the defendant will have an opportunity in Federal court to introduce evidence that he or she would personally, because of their race, religion, nationality or political opinion, not be able to get a fair trial because the court system or any other aspect of the judicial system in the requesting country, or that the person's extradition has been requested with a view to try to punish them on account of their race, their religion, their nationality or political opinion.

The CHAIRMAN. My answer is yes.

Mr. President, the reason for article 3(a) and the reason for this colloquy establishing an affirmative right of inquiry into the administration of justice system in Northern Ireland is very clear—the people of Northern Ireland do not enjoy fundamentally, guaranteed democratic rights.

The substitute treaty, which includes article 3(a), and which was reported favorably by the Committee on Foreign Relations, June 12, 1986 by a vote of 15-2, was jointly authored by the chairman, Senator LUGAR, and our Democratic colleague, Senator EAGLETON. The only understanding as to the intent of the committee relating to article 3(a) was the clarification contained in the colloquy between myself, Senator BIDEN, and one of the two principal authors of the substitute treaty—the chairman.

From the very beginning, there were concerns on the part of many committee members that basic human rights and civil liberties not be sacrificed in our rush to narrow the application of the political crimes defense in American extradition law.

Article 3(a) addresses more than just the so-called narrow issue of trumped-up charges. The so-called Ninoy Aquino test involves not only the issue of trumped-up charges, but also the issue of due process and the fairness of the system of justice to which a fugitive would be extradited. It was not just the fact that the Marcos government was preparing to file false charges against Ninoy Aquino that the Senate raised strong objections to a similar treaty negotiated with the Philippines in 1982. It was also the fact that Ninoy Aquino could not get a fair trial if he were returned to the Philippines. As a result, that treaty was subsequently withdrawn by the Reagan administration.

Despite the fact that Great Britain is a close ally of the United States, we cannot ignore the fact that the administration of justice system in Northern Ireland has more in common with the Philippines under Ferdinand Marcos than it does with the justice systems of either the United States or Great Britain itself.

It is important that we look at the system of justice in Northern Ireland, because that is the primary thrust of article 3(a). There is no consitution; there are no Bill of Rights to accord basic civil liberties to anyone, let alone the Irish Catholic minority.

In fact, the National Council for Civil Liberties in Great Britain, which opposed the Supplementary Extradition Treaty as negotiated by both our governments, noted that Northern Ireland has experienced emergency legislation continuously since 1922. In a September 16, 1985, letter to Morton Halperin, director of the American Civil Liberties Union, the National Council pointed out that there are currently two pieces of emergency legislation, both of which severely restrict civil liberties—The Northern Ireland Emergency Provisions Act of 1978 and the Prevention of Terrorism Act of 1984.

According to the National Council, the emergency legislation—

has destroyed the basic safeguards developed over centuries in our legal system to protect the citizens from wrongful arrest, detention and conviction. It provides government ministers, the police and army with far wider powers than the rest of the United Kingdom and which cannot be challenged in the courts. It allows the detention and interrogation of those against whom there is no evidence at all. It allows a minister to punish an individual by totally excluding him or her from Britain or Northern Ireland on the basis of evidence which will never be scrutinized in a court of law. It removes trial by jury for the most serious offences including murder and in some circumstances denies the right to silence. It allows the police to submit evidence in court which has been obtained unlawfully through ill-treatment of the suspect. The system of justice has been grossly distorted to facilitate obtaining convictions and it cannot be said that defendants in Northern Ireland are given a trial that would be considered fair and just in your country or Great Britain. The government has made it clear that it has no intention of removing, or substantially amending, either piece of legislation.

Under the Prevention of Terrorism Act, any Secretary of State can "exclude" anyone from Britain to Northern Ireland or vice versa if he believes that person to be involved in acts of political violence related to Northern Ireland. The defendant has:

No right to know the evidence against him or her.

No right to trial.

No right to appeal.

According to the National Council, exclusion is the United Kingdom's own system of internal exile. It is an imprisonable offense to break the exclusion order or to help someone to do so. It uproots men and women from their jobs, homes, and families without any redress. It cannot be challenged in the courts.

The National Council communication pointed out further that:

Independent research by academics for the Cobden Trust has shown that these extreme powers are open to abuse and are abused. The vast majority of those detained are not questioned about any specific offence and are released without charge, held only for information gathering. The stigma of detention under terrorism legislation remains on their file. Because of the inflexibility of the legislation, 40 percent of all those cases denied jury trial have been found to be for nonpolitical offences. The long periods of detention coupled with relaxed rules of evidence have led to a heavy police reliance on confessions and a higher proportion of convictions based solely on confessions which defendants claim were involuntary and untrue. The safeguards for suspects in detention, inadequate and unenforceable as they are, do not even apply to those held by the army. Finally, we cannot know how many innocent people have been 'excluded' as the Minister's evidence is never presented in court.

References in this debate have been made to the Diplock Court system in Northern Ireland—courts in which there are juryless trials. Last year, the Social Democratic Labor Party issued a report entitled: "Justice in Northern Ireland." It should be pointed out that the SDLP advocates a peaceful, democratic solution to the problems of Northern Ireland. It rejects violence from either the Catholic or Protestant side.

According to the SDLP report, suspected terrorists are tried by a single judge in the Diplock courts—the vast majority of which have been openly associated with the Protestant Unionist Party. There is strong evidence that these judges are becoming "case-hardened." As evidence, the SDLP cited Diplock Court Judge Lord Justice Gibson, who commended three policemen charged with killing an unarmed IRA member "for their courage and determination in bringing the deceased to justice—in this case the final court of justice." Lord Justice Gibson dismissed the charges against the three policemen.

The court system also has a very strict system of bail. The police have an inordinate amount of influence on the bail procedure, and it is rarely granted to suspected members of outlawed organizations. The availability of bail is often a good indicator of whether the phrase "innocent until proven guilty" is taken seriously. In Northern Ireland it is not. Indeed, for the crime of weapons possession, the court explicitly shifts the burden of proof to the defendant.

This unavailability of bail is compounded by a system which allows excessive pretrial remands. This can lead to imprisonment for up to 2 years pending trial. This would be added on top of any precharge detention by the police or army.

During his pretrial internment, it is often impossible for an accused to see a lawyer. Access to lawyers is sometimes conditioned on a confession of guilt. And at other times police demand to be present during all lawyer/client meetings. Recently, Judges have started to use a "Bill of Indictment" for serious charges. This prohibits the defendant from having any type of preliminary hearing to address the evidence against him. Therefore, this whole process of pretrial interment is often without any method of review.

As bad as the pretrial proceedings and internments might be, it is at the trial itself where the rights of the accused are most violated. Almost any confession, no matter how involuntary, is admissible. And the uncorroborated testimony of paid informants who have been granted immunity for their own crimes (supergrasses) is accepted as ample evidence of guilt.

Confessions are the most important part of the whole administration of justice system in Northern Ireland. Over 80 percent of all criminal cases in Northern Ireland involve confessions. This is because of the abandonment of the "voluntariness" standard. Any criminal justice system concerned with the prospect of convicting innocent people, including that of Great Britain, has a rule that only voluntary confessions can be admitted into evidence. However, the Diplock courts allow coerced confessions to be used in court. And this level of coercion can and does involve the use of violence. The only standard established is that the violence cannot include "torture or inhuman treatment." Moreover, the confession is always assumed admissible, and it is up to the defendant to prove that "violence or inhuman treatment" was used to obtain it.

This judicial promiscuity has led to a radical shift in criminal investigative techniques. Instead of the usual prearrest criminal investigation, police now rely on post-arrest interrogation to gather evidence. In line with this new procedure, the Royal Ulster Constabulary has setup two major interrogation centers. These centers are designed to intensify isolation and create an atmosphere of fear. Long periods of solitary confinement are combined with long periods without sleep. Throughout, different interrogators alternatively menace and befriend the suspect.

Another common method used to obtain convictions is the testimony of "Supergrasses." Supergrasses are paid informants who have been granted immunity for their own crimes, often murder. The uncorroborated testimony of one Supergrass is often enough to convict as many as 40 suspected terrorists. Supergrass trials are usually mass trials involving between 10 and 40 defendants. It is alleged that police "comb the prisons" looking for people willing to cooperate, and sometimes suggest names of people to the informer of which incrimination will increase the informer's value. Needless to say, corroboration of immune testimony has always been considered necessary in any justice system worth its salt.

In sum, the Diplock courts give very little value to the rights of the accused. It is extremely likely that many innocent people have, and will continue, to spend long periods of time in prison. And it is more likely than not that people will be convicted of crimes they did not commit.

Mr. President, it has been asserted during this debate that the Diplock Court System in Northern Ireland has been given a clean bill of health by our own judicial system. Federal District Judge Sprizzo's opinion in the *Matter of Doherty,* 599 F. Supp. 270 (S.D.N.Y. 1984) was cited as follows:

The Court also specifically rejects respondent's claim that the Diplock Courts and the procedures there employed are unfair, and that respondent did not get a fair trial and cannot get a fair trial in the courts of Northern Ireland. The court finds the testimony of the Government witnesses

as to this issue both credible and persuasive. The Court concludes that both Unionists and Republicans who comment offenses of a political character can and do receive fair and impartial justice and that the courts of Northern Ireland will continue to scrupulously and courageously discharge their responsibilities in that regard.

Thus, it was argued that Judge Sprizzo's opinion as it relates to the issue of the fairness of the Diplock Courts, should be considered dicta on this matter, since it is the only known opinion rendered on the Diplock Court system by a Federal judge of the United States.

This line of argument is a fallacious on two grounds. First, Judge Sprizzo relied upon the testimony of U.S. Government witnesses who were representing the Government of Great Britain as their client. The defendant did not produce any evidence on his behalf, and under existing practice in U.S. extradition law most probably would have been precluded from doing so.

Second, but more importantly, Judge Sprizzo, under U.S. extradition law, did not have the right to launch an independent inquiry into the administration of justice system in Northern Ireland. Passage of this Supplementary Extradition Treaty will change all that. For the first time in the 143-year-old history of extradition treaties with other nations, an affirmative right of inquiry is not only granted our court system in the case of fugitives whose extradition is sought to Northern Ireland, it is encouraged. The Committee on Foreign Relations, by agreeing to article 3(a) and the subsequent colloquy between myself, the chairman, and Senator BIDEN, is saying there are serious problems with the administration of justice system in Northern Ireland—so serious that the ability of a fugitive to obtain a fair trial, be accorded due process, or enjoy the most fundamental of individual safeguards is called into question and must be investigated. With article 3(a) we are conferring upon a potential fugitive the right to introduce evidence on the fairness of the administration of justice system in Northern Ireland—a right fugitives do not now enjoy under our traditional application of extradition law.

This is not a narrow provision. It is a very broad, and far-reaching provision that represents a marked departure from past practice in extradition law and should be so interpreted by the court system in this country.

Article 3(a) becomes all the more important in light of the recent revelations that give credence to the suspicions for years among the Irish Catholic minority in Northern Ireland that there has been an official "shoot to kill" policy being carried out by the security forces.

William Safire reported on the John Stalker case in the June 30, 1986 issue of the New York Times. According to the Safire column:

In what may be Mr. Stalker's last case, the deputy chief constable of Manchester found himself on the trail of prey that his higher-ups did not want caught. The suspects were members of the elite security forces assigned to stop Irish terrorism; the potential crime being investigated was a secret policy of shooting to kill those thought to be I.R.A. terrorists.

* * * in two more years, more than 30 shootings of suspects had taken place in Northern Ireland. A powerful article from Belfast in April 1985 by Jo Thomas of The New York Times reported angry denunciations of 'trigger-happy hit squads' who blazed away and asked questions later. When the world press gets interested, motions have to be gone through, and the respectable Constable John Stalker was chosen.

Apparently he did his job too well. He followed the tracks of the shootings into the office of Sir John Herman, Northern Ireland's top police officer, and reportedly found embarrassing connections to MI-5, the secret service. As a result, Mr. Stalker was taken off the case, his draft report suppressed; he is now under investigation himself for any kind of wrongdoing the worried security forces can pin on him to discredit his findings.

Mr. President, Mr. Safire made the following, and most telling point, in concluding his column:

Terrorists endanger individual lives, but toleration of a cop who deliberately kills a suspect threatens our way of life.

I would go even further and point out that a shoot-to-kill policy is the ugliest manifestation of state-sponsored terrorism. The British Government cannot be allowed to sweep this under the rug. In fact, I believe it is incumbent upon every Judge in our country, before whom a request for extradition is made, to monitor very closely whether or not the British Government complies with the request from the Government of the Republic of Ireland for John Stalker's report.

If the world community of nations is going to be able to deal effectively with terrorism, it has to condemn it no matter where it occurs or who is the perpetrator of such terrorist acts—be they governments or individuals, be they allies or enemies. I agree with my colleague and friend from Missouri that terrorism is terrorism, and distinctions should not be made when government's sanction these acts.

I think it is important to understand what we are doing with this compromise. We are narrowing the list of crimes for which a political offense exception defense can be raised, but we are not abandoning the principle upon which this defense is built. The political crimes exception doctrine has been an integral part of our extradition law for 143 years. For the first 50 years of our existence, the United States refused to engage in any extradition because of our lack of confidence in most foreign legal systems. When we did join in entering into extradition agreements with other nations, we did so on the condition that political offenders would not be surrendered to the legal systems of foreign nations. And to insure that such fugitives would not be surrendered, we wrote the political crimes defense into our treaties. As a further protection of individual rights, extradition was made a judicial function precisely to insure that persons under the protection of our laws could not be surrendered to foreign regimes for political reasons. Ironically, the political crimes defense has been a shared tradition firmly rooted in Anglo-America extradition law.

This judicial tradition grew directly out of a 1799 incident which many Americans, at the time, regarded as an example of the inability of the executive branch to deal fairly with the political questions of extradition. Jonathan Robbins had escaped to the United States from a British naval vessel during a mutiny in which an officer was killed. President John Adams, responding to a British request for extradition, ordered the return of Robbins to the British navy. Robbins was returned, court-martialed, and hung. This executive action resulted in a major public outcry in the United States. This one act on the part of the President eventually contributed to the demise of Adams' administration.

The Robbins case has been the foundation upon which extradition law in the United States has been built. Former Chief Judge Henry J. Friendly of the U.S. Second Court of Appeals for the Second clearly spelled out the statutory basis for authority accorded the judiciary in extradition matters. After casting doubt on the government's arguments that treaty language and policy considerations precluded judicial consideration. Judge Friendly observed the following:

"Moreover, whatever we might decide if we were writing on a clean slate, the rock on which the Government's arguments shatter is the long-standing recognition that courts shall determine whether a particular offense comes within the political offense exception. This principle was in existence at least as long ago as when In re Kaine, supra, was decided in 1852. Four years after the enactment of the Act of August 12, 1848, Justice Cartron speaking for four members of the Supreme Court, wrote that "extradition without an unbiased hearing before an independent judiciary . . . (is) highly dangerous to liberty, and ought never to be allowed in this country," In re Kaine, supra, 55 U.S. (14 How.) at 113. Although the statement is directed at extradition proceedings in general and not specifically at the political offense issue, Justice Catron's opinoin gives no indication that the political offense issue ought to be treated differently from other issues at the extradition hearing. More importantly, an example cited by Justice Catron, relating to the alleged mistreatment of one Johnathan Robbins, suggests that the members of the Court joining in his opinion were of the view that "an unbiased

hearing before an independent judiciary" was particularly necessary in cases where the political offense exception is at issue.

The circumstances of the Robbins case described above assume importance because, as Justice Catron noted in In re Kaine, supra, "(t)hat the eventual history of the Robbins' case had a controlling influence on our distinguished negotiator (Daniel Webster), when the Treaty of 1842 was made: and especially on the Congress, when it passed the Act of 1948, is, as I suppose, free from doubt." 55 U.S. (14 How.) at 112. With the Robbins case thus firmly in the legislature's mind, it is difficult to avoid the conclusion that when Congress charged commissioners and judges with determining whether evidence exists to "sustain (a) charge under the provisions of . . . (a) treaty," Stat. 302, sec. 1, it had no intention of silently excepting the political offense issue from the magistrates' consideration. Rather, the combination of the view that the Robbins case involved the political offense question, and the perception that extradition without judicial oversight was "highly dangerous to liberty and ought never to be allowed in this country." In re Kaine, supra 55 U.S. (14 How.) at 113, strongly suggests that it was precisely the political offense question that was of the greatest concern to Congress in passing the Act of August 12, 1848. This view is buttressed by the references to the political offense issue in debates on the act, see Cong. Globe July 28, 1848 (remarks of Mr. King and Mr. Bedger).

As Justice Catron pointed out in the In re Kaine case, after the Robbins' affair "public opinion had settled down to a firm resolve * * * that so dangerous and engine of oppression as secrete proceedings before the Executive and the issuing of secret warrants of arrest, founded on them, and long imprisonments inflicted under such warrants of arrest, and then, an extradition without an unbiased hearing before an independent judiciary, were highly dangerous to liberty and ought never to be allowed.

This public resolve is what led to signing of the first modern extradition treaty in 1842—the Webster-Ashburton Treaty. It firmly established that the courts, not the President, should make extradition determinations—although the treaty did not contain an explicit political crimes defense, the principle was implicit in the way each country viewed the agreement. As Secretary of State Fish wrote in 1876: "public sentiment of both countries made inclusion of the defense unnecessary." And this resolve, giving authority to the courts, was carried over into a treaty with France the very next year which was the first to include an explicit political offense exception clause.

Judicial determination of extradition requests was subsequently codified into American domestic law with the Extradition Act of 1848. It was obvious that the intent of Congress in enacting this legislation was to specifically limit Executive power in order to render impossible a recurrence of President Adams' action in surrendering Jonathan Robbins to the British.

This original intent to place political extradition questions in the hands of the judiciary for determination was followed and supported by 150 years of case law. Ironically, it was a British case Castioni (1 Q.B. 149, 1891), which solidified further the political crimes defense in American extradition law. Castioni was arrested in England on a charge of murdering an official during a small, popular uprising in Switzerland. The British court rule that "fugitive criminals are not to be surrendered for extradition crimes, if these crimes were incidental to, and formed part of, political disturbances." This precedent was followed soon by the American courts in In re Ezeta 62 F. 972 (W.D. Calif. 1894). In that case, a new regime in El Salvador requested the extradition of the deposed President who was living in the United States. The court held that the alleged crimes of the deposed President fit within the political offense exception, and extradition was refused. Since that time, every American court which addressed squarely the issue, has ruled that the courts, not the Executive, has the legislative authority to determine what constitutes a political offense.

However, an even larger number of cases have not even addressed the issue of whether or not the political crimes defense is within the exclusive purview of the courts to determine. Instead, it has been assumed correctly that the judicial prerogative exists and rulings have followed accordingly. For most of our history even the executive branch itself assumed judicial authority in this area. As Secretary of State Root wrote in 1908:

"The question as to whether or not an offense is a political one is always decided in the first instance the judicial officer before whom the fugitive is brought for commitment to surrender. It the judicial authorities refuse to commit the fugitive for surrender on the ground that he is a political offender, or for any other reason, the matter is dead . . . Bearing in mind, therefore, that under our system of jurisprudence, it is not possible for any fugitive to be extradited, it is hoped that your government will be satisfied without insisting upon the insertion of an express stipulation providing that the question as to whether an offense is political shall be decided by the judicial authorities."

This was reaffirmed on June 22, 1960, when the assistant legal advisor for the Department of State wrote a U.S. attorney in the Mylonas case that:

"With regard to the assertion that Mylonas' extradition is being sought for acts connected with crimes or offense of a political character, it should be noted that this a matter for decision, initially, by the extradition magistrate on the basis of the evidence submitted to him."

It has been asserted by proponents of this supplementary treaty that three extradition treaties ratified in recent years accorded to the executive branch the sole responsibility to determine whether or not a fugitive can be accorded the political crimes defense against extradition. These treaties were with Mexico, negotiated on May 4, 1978, Colombia, negotiated on January 25, 1980, and the Netherlands, negotiated June 24, 1980. However, of the three exception provisions in these three treaties, only that in the Mexican treaty places the responsibility to determine whether the political offense exception applies unqualifiedly with the executive authority. The Colombian Treaty empowers the executive authority to decide "unless otherwise provided by the laws" of the requested state. The Dutch Treaty empowers the "executive authority" to decide "except to the extent that the national laws of—the requested—State expressly grant such powers to its courts.

In the case of the Dutch and Colombian Treaties, the Committee on Foreign Relations erroneously noted that regarding political offenses:

In the United States, the laws do not grant such powers to its courts, and the authority, therefore, would rest with the Executive Branch.

This erroneous finding by this committee was corrected the following year, when the committee requested referral of S. 1940, the Extradition Act of 1981. The committee expressly recognized judicial determination in current American law and was a leading advocate of its continuance. Of particular concern to the committee were those provisions of S. 1940 that would have given the Executive express, exclusive authority to determine political offenses and would have set forth statutory standards for them. Subsequently, the committee proposed amending the Judiciary Committee bill to allow for a continued role for the courts. As the committee stated:

The Committee on Foreign Relations proposes amending section 3194 (a), as reported by the Committee on the Judiciary, to permit the appropriate courts to make findings concerning the application of the political offenses exception. While it can be argued that the Secretary of State is generally better able than the courts to assess the circumstances justifying a political offense exception, the Committee favors the retention of some role for the judicial process. Most countries with whom the U.S. has extradition agreements permit the courts to make such determinations. Moreover, American courts have reviewed political offense questions for nearly one hundred years. Preserving limited court jurisdiction to interpret the exception pursuant to legislative guidelines would continue this well-established tradition. It would also provide a check against an executive authority that could, depending upon the political sensitivities involved in a given case, result in inconsistent and unsound application of the political offense exception.

This action by the Committee on Foreign Relations in 1982 probably ac-

counts for the fact that five treaties subsequently negotiated by the Reagan administration did not attempt to alter the court's role in determining whether or not a political offense exception defense should be accorded a fugitive. These treaties include Costa Rica, December 4, 1982; Ireland, June 12, 1983; Italy, October 13, 1983; Jamaica, June 14, 1983; and Thailand, December 14, 1983. All five of these treaties, four of whom are what we would consider nations with democratic traditions and legal systems compatible with our own, returned to the status quo on the political offense determination.

In summary, out of the more than 90 bilateral extradition treaties we have with other governments, only one, with Mexico, clearly entrusts the political offense determination to the Executive.

I cite this history as a means of making a very important point. The very foundation upon which the political crimes defense doctrine in American jurisprudence has been predicated in our historical distrust of systems of justice abroad which do not meet our own standards of due process and individual safeguards. What article 3(a) does is to compensate for our narrowing of the political crimes defense in this particular supplementary treaty with Great Britain by according a priority to the underlying principal upon which the political crimes defense is predicated. In other words, our district of the administration of justice system in Northern Ireland is of such a magnitude that a balance has to be established. And that balance is granting the affirmative right of inquiry to our court system.

The debate in the Senate Committee on Foreign Relations in attempting to find the proper balance between the need to deal with threats such as terrorism and the necessity for maintaining basic democractic institutions and individual safeguards was unlike the extradition law reforms presently pending in the British Parliament. As the Economist correctly pointed out on March 29, 1986 it is harder for foreigners to retrieve fugitives from Great Britain than it is for Britain to retrieve fugitives from most other nations. As was pointed out, between 1979 and 1983, 35 percent of the 116 requests from non-Commonwealth nations to extradite a fugitive from Great Britain were refused.

The problem in finding the proper balance between the need to deal with the threat of international terrorism and the necessity for maintaining basic democratic traditions and individual safeguards poses a dilemma for both our nations. This concern was reflected in the February 1985 presentation to Parliament by the Home Secretary on extradition reform in which the Thatcher government emphasized that "it is generally accepted that persons accused or convicted of political crimes should not be extradited."

This principle, to which the Thatcher government maintains is inviolate under extradition law, which was reiterated in "Criminal Justice Plans for Legislation," Cmnd. 9658, March 1986, is reflected satisfactorily in even this substitute supplementary treaty.

On April 1, 1986, Sir Geoffrey Howe, in refusing demands from the Indian Government to negotiate a new extradition treaty to deal with the Sikh extremist problem, emphasized that improvements in the Fugitive Offenders Act, which governs extradition between Britain and members of the Commonwealth, would suffice.

Yet, the political crimes exception to extradition in the Fugitive Offenders Act is extraordinarily broad. In addition, under the act, a British magistrate may deny extradition if he determines that it would be unjust or oppressive to return a fugitive to the requesting country. In other words, a determination is made as to whether or not the administration of justice system of the requesting state meets British standards.

This balance, which can only be achieved through the broad interpretation of article 3(a) is one that the Thatcher government recognizes as the British Parliament debates reforms in their own extradition laws. While recommending the abolition of the prima facie requirement in extradition proceedings, the Thatcher government has made it very clear to Parliament that there are other effective means by which the rights of the fugitive are protected including the maintenance of the double criminality rule and "the proper application of the political safeguard."

It should not be lost on my colleagues that in Great Britain the issue of extradition reform is being dealt with in the context of a Parliamentary debate, rather than through treaties. Unfortunately, the same respect for our institutions has not been forthcoming.

We are told that this supplementary treaty is very similar to the European Convention on the Suppression of Terrorism signed by a vast majority of the countries of Western Europe. It is argued that ratification of this supplementary treaty represents an obligation on our part to join the other democracies of the free world in doing our part to stop terrorism. But even many of our Western European allies remain sensitive to the issue of human rights and civil liberties. The European Convention on the Suppression of Terrorism recognizes the legitimacy of maintaining the political crimes defense, even in a modern-day world plagued by incidents of terrorism. The European Convention contains an express provision allowing any country to file a political offense reservation either upon the signing or the ratification of the treaty. The provision reads as follows:

ARTICLE 13

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, or an offence inspired by political motives, provided that it undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:

a. that it created a collective danger to the life, physical integrity or liberty of persons; or

b. that it affected persons foreign to the motives behind it; or

c. that cruel or vicious means have been used in the commission of the offence.

Of the 20 countries which have signed the European Convention on the Suppression of Terrorism, nine have done so with article 13 or political offence reservations. There is a possibility that three more of the 20 will file reservations upon ratification. The nine countries which have already done so are: Cyprus, Denmark, France, Germany, Iceland, Italy, Netherlands, Norway, Portugal, Sweden, and Switzerland. Of those nine, France and Italy filed reservations upon signing.

Article 3(a) is an attempt to maintain our own integrity as the world's leading democracy. Article 3(a) is about human rights and civil liberties and our distrust of systems of justice that do respect these fundamental individual safeguards. After all, democracy is the one form of government in the world in which the rights of the individual are of paramount concern and the safeguarding of those individual rights is a constant concern. If there is not an institutionalization of those rights in the administration of justice system, then there is no democracy.

Our Founding Fathers were an exceptionally remarkable group of men. We were fortunate to have had the intellectural talent and creativity available to use when we launched this most exciting experiment in self-governance that has given us the world's leading democracy. What the Declaration of Independence proclaimed—the remarkable and heady concept of man's "inalienable" right to "life, liberty, and the pursuit of happiness"—the Constitution forged into reality.

Yet, having drafted our Constitution, the Congress went even further to meet the criticisms that the Constitution lacked clear-cut guarantees of freedom of speech, religion, due process, and other vital rights. Twelve amendments were drafted, 10 of which were ratified by the States and became known as the "Bill of Rights." Hence, from the very founding days of our Republic we committed ourselves to securing basic rights for our citizens. And as the civil rights struggles of the 1960's demonstrated, our work to

apply those rights to all Americans is never finished.

Democracy, the fundamental underpinning of which is the accordance of, and the respect for, individual rights, cannot be compromised. If it is compromised, it is no longer a democracy.

The administration has argued that by giving up a 143-year-old legal tradition, we are going to be selective in doing so. We are going to apply it only to democracies. We will not enter into similar treaties with totalitarian or authoritarian regimes. We are told that Great Britain is a democracy. We all agree that the problem is not Great Britain. But Northern Ireland does not even remotely resemble a democracy and it is Northern Ireland for which this treaty would apply primarily.

What I and other of my colleagues on the committee found particularly disturbing was the administration's contention that the administration of justice system in Northern Ireland was not only fair, but entirely justifiable under the circumstances. Thus, the administration of justice system in Northern Ireland has become acceptable to this administration. It is not acceptable to the U.S. Senate and that is the reason for article 3(a). This is the fundamental point which the courts must address once this treaty is ratified.

The discussion of the history of the political offense exception in American jurisprudence and our fundamental respect for the rights of the individual goes to the heart of the rationale behind article 3(a) of this treaty. If we are going to narrow significantly the application of the political crimes defense, then the committee determined that the courts would have to make a judgment as to the acceptability of the administration of justice system in the jurisdiction for which extradition is being sought.

Does the administration of justice system meet even minimal standards within a democratic context? If it does not, then the courts under article 3(a) have an obligation not to extradite. In so doing, the courts will be reaffirming the foundation upon which the political crimes defense in extradition law has rested for 143 years—that we will not extradite a fugitive to a system of justice unacceptable to us.

Mr. Chairman, this has been the essential problem for me from the very beginning of our consideration of this Supplementary Extradition Treaty. We were not being asked to give our advice and consent merely to another extradition treaty. We were being asked to give our advice and consent to the ratification of new standards of justice and individual rights acceptable to a democracy. This flies completely in the face of our history, our democratic institutions and traditions, and our fundamental struggle to achieve civil liberties for all our citizens.

That is the danger. By packaging this as an antiterrorist measure, we are saying the standards of justice in Northern Ireland are acceptable for the people of Northern Ireland. This line of reasoning would lead one to the logical conclusion that these standards would be acceptable for our own citizens as well.

We are on the verge of establishing a precedent with this Supplementary Extradition Treaty. We will be codifying into our system of jurisprudence standards we have consistently rejected as being an anathema to a democracy. It has very dangerous implications for Americans and for the civil liberties they have come to expect from their government. Article 3(a) remedies this problem. It rejects the notion that the standards of justice in Northern Ireland are standards acceptable to us or democracies in general.

We cannot succumb to the notion that to fight terrorism, fundamental civil liberties must be abolished. Many will argue that it cannot happen here in the United States. But if the executive branch of our Government believes that the administration of justice system in Northern Ireland is acceptable as the only effective tool to fight terrorism, then it can happen here. That is the reason for article 3(a). The Committee on Foreign Relations is sending a strong signal to the court system of our Nation that the standard of justice in Northern Ireland is unacceptable to us, until changed to reflect basic safeguards for the individual.

While the distinguished Senator form Missouri is entitled to his own view of what article 3(a) really means and what was his intent as a coauthor of the substitute treaty before us, that view is his and his alone. It does not reflict the action of the Committee on Foreign Relations on June 12 when it was agreed that the colloquy between myself, the chairman, and Senator BIDEN would serve as the clarification as to what was the intent of the committee regarding article 3(a).

THE UNITED STATES-UNITED KINGDOM EXTRADITION TREATY

Mr. MATHIAS. Mr. President, some things in life we do because they are expedient. Some things we do because they serve our own interest. Some things we do because they obstruct the path of others.

The ratification of this treaty is something that we should do simply because it is right.

It is possible to recall many stories that would justify the need for this treaty. But one of the problems with this issue is that it is burdened with too many stories, with too much history.

What we must attempt now is to help ensure a more stable, less turbulent future. I believe this treaty will provide the means to move in that direction.

The treaty should be ratified and I urge Senators to vote for ratification.

THE DIPLOCK COURTS, THE GARDINER REPORT, AND THE INIQUITIES OF CRIMINAL JUSTICE IN NORTHERN IRELAND

Mr. HATCH. Mr. President, the Diplock Courts were established by the Northern Ireland Emergency Provision Act of 1973, and reconstituted in the 1975 and 1978 acts of the same title. They were named after Lord Diplock, who was appointed by the Crown to review the situation in Northern Ireland relating to investigation and internment. Lord Diplock presented his report to the British Parliament in December 1972. This report led to the passage of the Northern Ireland Emergency Provisions Act of 1973. This Act has formed the basis of the administration and maladministration of criminal justice in Northern Ireland since that time. Needless to say, the emergency is still in effect.

Lord Diplock declared that "a frightened juror was a bad juror," and then recommended that juries be abolished and that cases involving terrorist suspects in the future be heard before a single judge. Diplock further recommended that confessions taken from suspects in police custody be accepted as evidence provided that the court (a single judge) was satisfied that the statements were not obtained by torture or by inhuman and degrading treatment. The presumption was to be that all concessions were in fact voluntary, unless there was clear and convincing evidence to the contrary. In point of fact, the threshold of protection was a very low one indeed, and there have been numerous cases where coercion would have been found by an American court. These recommendations were enacted into law or became part of established judicial procedure in Northern Ireland.

The new legislation passed in 1973 also extended police powers to detain and question suspects beyond the traditional 48-hour limit, substituting a 72-hour period in its place. Great emphasis was placed by the British Government, at the time, on the "temporary" nature of the legislation enacted. That legislation is still in force. The 1978 act allows the police to bring an arrested suspect to a specially built interrogation center and to hold the suspect there, without being charged, for up to 72 hours, without access to family and without access to a lawyer.

There is no right to bail for a person charged with an offense under the Diplock legislation. In cases involving the use or attempted use or conspiracy to use explosives and firearms, the burden of proof shifts from the state to the defendant in the sense that the accused must satisfy the court that he,

or she, did not have control or knowledge of those articles in question, and that the defendant had not consented to putting the illegal items where they were discovered, or did not even approve of those items in question being where they were discovered. In traditional Anglo-American law, and in the criminal law of the United States, and in the common law of Great Britain, the burden in a criminal trial is upon the state to prove the guilt of the defendant beyond a reasonable doubt.

Since the year 1980, the British Government has utilized so-called "supergrasses" (alleged accomplices) to help secure convictions. These "supergrasses," or accomplices, are granted total immunity from prosecution, given a new identify, and provided with financial support for life, comparable to the Witness Protection Act in the United States. But the results have been far different, for lengthy prison sentences, including life sentences, have been handed down after conviction based on uncorrobated evidence offered by a "supergrass." Lord Gilford, a Queens counsel of the English bar, has recently completed a critical study of the use of "supergrasses."

Also under the Diplock court procedures, the average period of incarceration and custody before trial is 2 years. There is no speedy trial rule to help protect the rights of criminal suspects in Northern Ireland. The British have always emphasized swift and certain justice as being the linchpin of their criminal justice system. But with Diplock defendants, it becomes slow and tenuous injustice. Suspects and defendants in Northern Ireland are not granted British justice in the sense that we have studied and applied that type of justice in American courts.

Lord Gardiner was appointed to head a committee to inquire into the problem of the preservation of civil liberties and human rights in dealing with terrorism and criminal subversion in Northern Ireland. The appointment was made in June 1974, and the report was delivered in January 1975.

The Gardiner report declared that "the suspension of normal legal safeguards for the liberty of the subjects may sometimes be essential in a society faced by terrorism, to counter greater evils." (This cannot be the case in the American constitutional, legal system). But the Gardiner report then goes on to warn that "if continued for any period of time it [the suspension of civil rights and liberties] exacts a social cost from the community." It also exacts a legal cost from the community, for it undermines the very fabric of the legal structure of a democratic, pluralistic society, and further undermines the very values which that besieged society is trying to protect.

The Gardiner report goes on to admit that the evidence of witnesses for the Crown, given almost exclusively by army officers and police officers, who are usually members of the special branch, "is, in the main, hearsay—firsthand, secondhand or even of a remoter degree. Much of it is derived from paid informers who receive payment varying from beer money to weekly wages and even substantial lump sums: some of them have criminal records."

It should also be noted that in 1984, an international legal team concluded that there was inadequate control over the use of deadly force by the Northern Ireland police and the British Army Forces. In fact, it was discovered that the crack S.A.S. units in Northern Ireland literally have a license to kill. Its soldiers rarely take prisoners, as was dramatically demonstrated in the liberation of the Iranian Embassy in London from terrorists a few years ago. It is meant pure and simple to terrorize whoever they think are terrorizers.

Terrorism is, as the Secretary of State has said this past week, a bestial act, and terrorists are, as President Reagan has often declared, barbarians. Terrorism is war upon democratic, pluralistic society. It is war upon law and legal systems. It is an outright attack upon those very democratic values which everyone in this Chamber holds dear.

But to treat terrorists with antidemocratic and antilegal measures is not only to denigrate the society which is fighting to protect itself, it also helps to bring about a weakening of the rule of law and a diminution in the respect for law by all members of democratic, free society. Terrorism is criminality, pure and simple. It should be dealt with as criminality. It should have applied against it those laws and procedures developed by a free, open democracy which operates upon principles of due process, fundamental fairness, and the presumption of innocence, no matter how horrendous the criminality charged.

The protections offered by article 3, section (a), of the Supplementary Treaty on Extradition are not really protections at all, beyond those already afforded by the American constitutional and criminal justice system. If someone is being accused of an act merely because of his race, religion, nationality, or political opinions, or if one has been convicted of an act relating directly to his, or her, membership in those categories, extradition would not lie because of the principle of double criminality. That is to say, those alleged crimes would not be criminal acts in this country merely because those acts were alleged to have occurred because of a person's race, religion, political opinions, or national origins.

I should also like to point out, Mr. President, that in the European Convention on the Supression of Terrorism, which is often cited by proponents of this treaty, France, Italy, Norway, Portugal, and Sweden (among others) had major reservations.

Mr. President, we need to do something about terrorism at home and abroad. We need to do something about terrorists who are able to gain safe haven and escape the jurisdiction of victim countries and to avoid legal process against them. We need to cooperate with our friends and allies overseas to control, and if possible, to eliminate the terrorist scourge once and for all.

But as I said yesterday, and as I say again today, this is a bad treaty. It is bad law. It is bad procedure. It is bad practice. It will not aid in capturing or rendering terrorists to justice. It will create injustice. We cannot afford to pay that price. I recommend a vote against this treaty, and I intend to vote against it for the reasons that I have given.

Mr. LEVIN. Mr. President, I will vote for this treaty, although I am concerned that it does not explicitly draw a distinction, which is real, albeit hard to define, between terrorist acts and legitimate acts of armed rebellion.

There is a legitimate distinction, and we should continue to recognize that.

The Helms amendment's purpose was to do this, and that is why I almost voted for it. However, the language was too broad, and I regretfully could not support it.

I am pleased that the Foreign Relations Committee, after arduous work, maintained the right of inquiry in U.S. courts. Thus, extradition will not occur if the person sought establishes to the satisfaction of U.S. judicial authority, by a preponderance of the evidence, that the request for extradition has in fact been made with a view to try him or punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at his trail or punished, detained, or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.

I am particularly relying on the colloquy between the principal sponsor of the committee language, Senator LUGAR, and Senators KERRY and BIDEN, which is printed in the committee report and reads as follows:

Senator KERRY. Mr. Chairman, as part of that report language I would ask you if it is your understanding and intention as principal sponsor of this amendment that an individual, as part of showing that he would, and I quote the language of article 8 [now article 3], "if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinion," would that individual be able to challenge

the fairness of the judicial system to which he would be returned and thereby raise a right of inquiry into the fairness of that system?

The CHAIRMAN. Yes.

Senator KERRY. And that is your intention in this particular amendment as well as in the treaty?

The CHAIRMAN. That is correct.

Senator BIDEN. Let me make sure as part of this colloquy that I understand the nature of the rule of inquiry into the justice system in Northern Ireland that we are establishing here.

My understanding is this: That notwithstanding that probable cause has been established in an American court; notwithstanding that the accused is the person sought; notwithstanding that it is an extraditable offense under the terms of this treaty we are about to vote on; and notwithstanding that otherwise it is an offense for which extradition would lie; and notwithstanding that it is an offense under this treaty for which the political offense doctrine would not otherwise apply; notwithstanding all of that, the defendant will have an opportunity in Federal court to introduce evidence that he or she would personally, because of their race, religion, nationality or political opinion, not be able to get a fair trial because of the court system or any other aspect of the judicial system in the requesting country, or that that person's extradition has been requested with a view to try or punish them on account of their race, their religion, nationality or political opinion.

The CHAIRMAN. My answer is yes.

Mr. LEVIN. I commend the members of the committee, for their task was a difficult one. The committee wisely retained this right of inquiry, to which I lend my full support.

In spite of its flaws, this treaty is appropriate as part of the battle against terrorism. The right of inquiry in the U.S. Federal courts is preserved, and this is an important tradition to maintain. I am unhappy the D'Amato amendment, which would have exempted any individual whose extradition was sought prior to the entry into force of this treaty, was not accepted yesterday. But, on balance, the procedural safeguards in this treaty meet my concern about the lack of an explicit distinction of a legitimate armed resistance or rebellion which does not aim at innocent civilians.

Because of my concern about preserving the political offense exception, I am pleased that the Senate has included the declaration, stating that the Senate will not give its advice and consent to any treaty that would narrow the political offense exception with a totalitarian or other nondemocratic regime and that nothing in this supplemental treaty with the United Kingdom shall be considered a precedent by either the executive branch or the Senate for other treaties. This declaration is important, and I support it.

Mr. BIDEN. Mr. President, it has taken a long time for us to get to this point.

We started debate on this treaty almost a year ago exactly, on August 1, 1985. And there were a lot of problems with the treaty that was presented to us at that time.

So, under the leadership of our good chairman, we went to work on it. Three day long hearings, and 3 half-days of markups later, we bring this document to the floor.

The amended treaty that you have before you is not a perfect document, in my judgment. It is a long way from that.

But it is a vast, vast improvement on the treaty that was presented to us almost a year ago. At that time, I said in committee that if the administration had simply modeled this supplementary treaty on the European Convention on the Suppression of Terrorism, the committee would have been able to dispense with it rather quickly.

Well, at the end of the day Mr. President, that is pretty much what we have done with the treaty. We took the very good model of the European Convention, and we grafted as much of it into this treaty as possible.

And it is those changes which made it possible for me to vote for this treaty in committee.

I want to spend my time on the floor addressing one particular provision of the treaty, explaining how we arrived at that provision, and what we hope it will accomplish.

I understand that there was some discussion last night on the legislative history of the treaty.

Before I get to any discussion of legislative history, however, I want to turn first of all to the committee's report.

Any Senator who wants to can stand up here on the floor, claim principle authorship of this or that provision of the treaty, and proceed to put our own legislative bent on it—in an attempt to influence some poor law clerk who may not yet even have been born, but whose eventual job it will be to unravel this debate and tell his judge just what article 3(a) or any other provision in the treaty really means.

I don't envy that poor law clerk, not after what we went through over the past year to come up with this treaty.

But I would tell that law clerk to look straightaway at the report of the Foreign Relations Committee that accompanies the treaty.

Because that is of course the docment that all 15 of us who voted for the treaty had to read and sign off on.

The report is our best effort to lay out what the treaty means, and it is obviously far more important than anything each of the 15 of us who voted for the treaty says it means today.

The provision that concerns me most is article 3(a), and I will turn to the committee's report for the best explanation of that provision. This explanation appears in paragraph two of the section on committee comments and recommendations.

It says:

Article 3, part (a) contains two distinct concepts. First, it authorizes a court to deny extradition based upon a persuasive factural showing that the requesting party has trumped-up charges against a dissident in order to obtain his extradition for trial or punishment. Second, it authorizes a court to deny extradition if the person sought for extradition can establish by a preponderance of the evidence that he would be prejudiced at his trial, or punished, detained or restricted in his personal liberty because of his race, religion, nationality or political opinions.

It is important to understand that there are two distinct concepts in article 3(a)—both of which were arrived at after pressure from this side of the aisle.

The first concept—to prevent against trumped-up charges—has been discussed at great length. I will not say anything more about it, except to affirm its importance to a wise application of the treaty.

The second concept here—the guarantee of a fair trial—is of great concern to me, and is the heart of the compromise that Senator LUGAR and I worked out so that we could even have a treaty to vote on today.

I understand that there was a lot of discussion last night about the legislative history of article 3(a), and it is important that some aspects of that history be clarified.

But before I do that, I would ask my colleagues again to turn to the committee's report, which contains a very succinct explanation of article 3(a), and the second concept within it.

That explanation is in the form of a colloquy between Senators KERRY, LUGAR, and myself. It was made a formal part of the committee report precisely so that committee members and future law clerks would not be misled about the intent and meaning of article 3(a).

That colloquy went as follows:

Senator KERRY. Mr. Chairman, as part of that report language I would ask you if it is your understanding and intention as principal sponsor of this amendment that an individual, as part of showing that he would, and I quote the language of article 8 [now article 3], "if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinion," would that individual be able to challenge the fairness of the judicial systen to which he would be returned and thereby raise a right of inquiry into the fairness of that system?

The CHAIRMAN. Yes.

Senator KERRY. And that is your intention in this particular amendment as well as in the treaty?

The CHAIRMAN. That is correct.

Senator BIDEN. Let me make sure as part of this colloquy that I understand the nature of the rule of inquiry into the justice system in Northern Ireland that we are establishing here.

My understanding is this: That notwithstanding that probable cause has been established in an American court; notwithstanding that the accused is the person sought; notwithstanding that it is an extraditable offense under the terms of this treaty we are about to vote on; and notwithstanding that otherwise it is an offense for which extradition would lie; and notwithstanding that it is an offense under this treaty for which the political offense doctrine would not otherwise apply; notwithstanding all of that, the defendant will have an opportunity in Federal court to introduce evidence that he or she would personally, because of their race, religion, nationality or political opinion, not be able to get a fair trial because of the court system or any other aspect of the judicial system in the requesting country, or that that person's extradition has been requestd with a view to try or punish them on account of their race, their religion, nationality or political opinion.

The CHAIRMAN. My answer is yes.

Mr. President, I would submit to you that this colloquy between Senator LUGAR, KERRY, and my self is historic.

I say that in all sincerity, and I say that because that colloquy—signaling this body's intention to create a right of inquiry into the fairness of a foreign judicial system—represents a first.

There is no right of inquiry in any of the other 96 extradition treaties that we have on the books.

Previous to this treaty, our courts were not permitted to look into the fairness of foreign judicial systems when they made a decision about extradition. The only issue was whether an offense had been committed that was an offense under the laws of both States.

Why did we feel that a right of inquiry was essential in this case, Why did we go back on 150 years of extradition treaty practice and almost 200 years of extradition judicial practice?

The simple explanation is that Northern Ireland has a very different system of Justice from anything that we have ever experienced in the United States. Their system of justice is even very different from what prevails in the rest of the United Kingdom.

And we felt it was necessary that American judges have more than the usual authority to inquiry into that system, and to ensure that those we extradite will in fact get a fair trial.

How is that system different?

Well, both pretrial and trial procedures differ markedly from anything we have in the United States.

At the pretrial level, they have an arrest and detention statute that allows the police or the army to arrest people without warrant or any statement of probable cause, and then to detain those people without charge for up to 7 days.

They have a search and seizure provision that allows the police or the Army to go into someone's home without warrant or any statement of probable cause at any time of the day or night, and search and seize to their heart's delight.

They have a police practice which allows them to shoot plastic bullets into crowds, something that isn't done anywhere else in the United Kingdom or the world, except in South Africa.

Those are just relief examples of the variations in pretrial procedures that exist in Northern Ireland.

What has been the result of these procedures? I would ask my colleagues to be the judges.

Arrest without charge or warrant? Well, only 8.6 percent of those arrested were eventually charged with any crime. That compares with a figure of 90 percent for the rest of the United Kingdom.

Search and seizure without a warrant? Well, between 1970 and 1978, the last time the police released these figures, there had been 299,000 warrantless home searches. Now that is in a country that only has 1½ million people, and less than 400,000 homes.

And the use of plastic bullets? Fifteen people have been killed with them, and all they are supposed to do is control the crowd. Seven of the 15 were kids. Lots more people have been blinded or disfigured by these bullets. No wonder no other police chief in England will authorize their use, not even during the notorious Brixton riots a few years ago. And no wonder the only police force in the world, other than Northern Ireland that uses them is in South Africa.

Those are just a few examples of the kinds of pretrial procedures in use in Northern Ireland. I think they underline the reasons for my concern, and the concern of the Foreign Relations Committee, about sending people for trial over there without first ensuring that they can get a fair one.

What about the trials themselves? Are the procedures there different from our own system?

You bet they are.

They don't use juries in Northern Ireland, and there has been a lot of debate about that.

But there is no doubt about the effect. A single judge presides over all issues of fact and law. You can imagine the result.

The judge rules a confession obtained under duress inadmissible, and then the same judge finds the individual guilty.

The net result is a steady decline in the number of acquittals, as judges become case hardened over years of presiding over the supposedly separate issues of fact and law.

Another change in trial procedure is the use of uncorroborated evidence to convict large groups of people.

In Northern Ireland, they call these "supergrass" trials, grass being the Irish for informer. What happens is that one person, with a promise of immunity, implicates anywhere from 20 to 50 people, and becomes the sole witness and source of evidence at trial.

These kinds of show trials have been used often in Northern Ireland, and have prompted protests from both communities, Catholic and Protestant, Loyalist and Nationalist.

We would not stand for that kind of evidence in American courts, and it is important that we look closely at it when it becomes the grounds for an extradition request against an American or any other citizen.

Mr. President, I understand that it is difficult to draw the line between public security and private liberty where a place like Northern Ireland is concerned.

I understand that the people who created that court system thought they were acting in the best interests of all the people of Northern Ireland.

And I understand that terrorism in Northern Ireland is a disease, that requires strong action.

But, Mr. President, I know that bad laws—injustice that is sanctioned by legal means—are often cited in Northern Ireland to justify violence.

I know that the terrorist's best weapon is a law that discriminates, a law that violates, a law that provokes injustice for some rather than promotes justice for all.

And I remember that South Africa's long time Prime Minister Mr. Vorster, once said about northern Irish law. He said and I quote, that he would trade in all the emergency powers at his disposal for one special powers act from Northern Ireland.

So there are very special laws, Mr. President, that we in the United States would not stand for under any conditions.

And before we go shipping over American citizens, or citizens of any other country, over to Northern Ireland for trial, we need to ensure that these people will in fact be able to get a fair trial.

That is what the second clause in article 3(a) of this treaty does. I am pleased that it has been included in the treaty, and it is the main reason that I was able to support this treaty in committee.

Before I leave this discussion of article 3(a), there are just two further points that need to be addressed.

Both were raised in last night's debate.

The first point again concerns the legislative history of article 3(a).

Of course, the committee report is the best source for the committee's thoughts on the subject, and has been made available to all Members.

But on the matter of the actual negotiations that led up to the creation of article 3(a), I feel compelled to add certain facts to the record that are

critical to interpretation. Without these facts, the record is incomplete.

No Senators can claim principle authorship of the treaty or any of its parts, and therefore the right to be the final arbiter of its meaning.

The committee report, and not the remarks of any of us, will serve as the principle interpretation of the treaty—should any be needed.

If anyone is going to stick to the other view—that the principal author of any particular section is therefore the sole interpreter for all time, all courts, and all occasions—then I would have to claim principle authorship of the second clause in article 3(a), and insist on my interpretation of it.

But that is not how legislative history is made. So for the benefit of all those poor law clerks who will wade through this material some day, I will simply insert into the RECORD the legislative history that led to the creation of that second clause in article 3(a).

As the Democratic negotiator on the treaty, Senator EAGLETON was asked by a number of Democrats to get into the treaty some protection against unfair trials.

I wrote to him myself suggesting an approach from the British Fugitive Offenders Act, a copy of which I submit for the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 5, 1986.

Senator THOMAS O. EAGLETON,
197 Dirksen,
Washington, DC.

DEAR TOM: The major issue on the U.S./U.K. Supplemental Extradition Treaty is whether the decisions are made in open court or behind closed doors in the executive branch, where political considerations may overrun considerations of justice and individual rights.

In reviewing the Lugar Substitute Treaty and the proposed Democratic amendments to that treaty, I place primary emphasis on the amendment that concerns review by "competent judicial authority." I believe that language from the British Fugitive Offenders Act (1967) should be included in whatever is eventually voted on by the Committee. I know that language to this effect was discussed in yesterday's caucus, and that you will be offering some version of it in your discussions this afternoon. I attach a copy of suggested language for this amendment, language which resulted from our pre-recess caucus on the subject.

I would ask that you press for its inclusion, in the strongest possible terms. I believe that this language would solve the major problem with the Administration's approach to the issue.

I am also convinced that the inclusion of this language in Britain's legislation for extradition with other Commonwealth nations—presumably those in whose justice systems it has the most confidence—argues very strongly for its inclusion in this bilateral arrangement.

If we can find agreement on this issue, I think we can move the treaty out with a very substantial vote. Thank you for agreeing to carry the ball for us this afternoon.

Sincerely,

JOSEPH R. BIDEN, Jr.,
U.S. Senator.

Copy of suggested language follows:

Nothing in this [Convention] *Supplemental Treaty* shall be interpreted as imposing an obligation to extradite if competent judicial authority of the requested state has substantial grounds for believing that the request for extradition for an offense mentioned in Article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons, *or that, having regard to all the circumstances, it would be unjust or oppressive to extradite a person to the requesting State.**

Mr. BIDEN. After much negotiation on the subject, Senator EAGLETON came back to his democratic colleagues with the language that appears in the treaty at article 3(a).

We were not satisfied, however, and proposed to offer in committee an amendment which would duplicate the language from the British Fugitive Offenders Act. A copy of that amendment is inserted here for the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SUBSTITUTE TREATY, OFFERRED BY SENATORS BIDEN, DODD, AND KERRY

1. Substitute Treaty as offered by Lugar-Eagleton, except for Article 8.

2. Article 8 to read as follows:

Notwithstanding any other provision of this treaty, extradition shall not occur if the competent judicial authority of the requested state has substantial grounds for believing that the request for extradition for an offense mentioned in article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons, or that, having regard to all the circumstances, it would be unjust or oppressive to extradite a person to the requesting state.

3. Report on Article 8 to read as follows:

This article is taken from the European Convention on the Suppression of Terrorism and the British Fugitive Offenders Act. The European Convention is the model for much of the rest of this treaty. The Fugitive Offenders Act governs extradition between the United Kingdom and members of the Commonwealth.

In making a determination under this article, the judicial authority shall not consider any offense in article 1 of this treaty to be an expression of political opinion.

"Judicial authority", for the purposes of this provision, refers to the Federal court system in all those cases in which the United States is the requested state.

Mr. BIDEN. However, as we were about to go into committee for the final markup on the treaty, Senator LUGAR made an extraordinary effort to accommodate his colleagues on this side of the aisle.

After some discussion, we agreed to conduct a colloquy in committee which was to serve as interpretation for the second clause of article 3(a). And that colloquy was made a permanent part of the committee report.

I present for the RECORD a copy of my part in the colloquy, every word of which was scrutinized and approved by our chairman.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Let me make sure I understand the nature of the rule of inquiry into the justice system in Northern Ireland that we are establishing here.

My understanding is this:

—Notwithstanding that probable cause has been established;

—Notwithstanding that the accused is the person sought;

—Notwithstanding that it is an extraditable offense under the terms of the treaty;

—Notwithstanding that otherwise it is an offense of which extradition would lie;

—Notwithstanding that it is an offense under this treaty for which the political offense doctrine would not otherwise apply;

The defendant shall have an opportunity in federal court to introduce evidence that he or she personally would, because of their race, religion, nationality or political opinion, not be able to get a fair trial because of the court system or any other aspect of the judicial system in the requesting country; or that that person's extradition has been requested with a view to try or punish them on account of their race, religion, nationality or political opinion.

Mr. BIDEN. So, in the interests of a complete legislative history, the future law clerks now have the sequence of events and the very pieces of paper that led up to the creation of article 3(a), with its "Aquino clause" in the first part, and its "fair trial clause" in the second part.

I said that I had two final problems with last night's debate on the treaty. And the second is this: There was an effort last night to enlist the three sentence dicta in Judge Sprizzo's opinion in the Doherty case as definitive on the issue of the fairness of the Northern Ireland court system.

Of course, that could not even be the case. Poor Judge Sprizzo was not permitted by law to even look at the fairness of that judicial system—as prior to this treaty, there was no right of inquiry—so he could not possibly have given us the definitive word on that system.

I think that judgment will be made on a case-by-case basis as it should. And to assist in that determination, I submit for the RECORD an article on that system of justice from the Yale Journal of World Public Order.

And I sincerely hope, now that the record has been clarified and completed on this issue, I hope that the intent and meaning of article 3(a) is clear.

* From UK Fugitive Offenders Act, 1967.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC SECURITY AND INDIVIDUAL FREEDOM: THE DILEMMA OF NORTHERN IRELAND

(By Thomas P. Foley)

Northern Ireland has been the scene of recurring and often horrifying violence since 1969, as terrorist groups have clashed with each other, with the British Army, and with the Royal Ulster Constabulary (R.U.C.). The situation has been a difficult one for both the people and the legal system of Northern Ireland: faced with one problem of highly dedicated terrorists, the British government has had to confront directly the tension between its duty to protect public security and its concomitant obligation to safeguard individual freedom. This Article focuses on the British government's most recent legislative response to this tension, the Emergency Provisions Act (EPA),[1] and appraises its success in accommodating the competing demands of public safety and private liberty.

The EPA cannot be assessed without some understanding of the historical background of the current situation and of the different sources of the violence wracking Northern Ireland. Section I of the Article is intended to provide this information in capsule form. Section II explains the operation of the EPA, with particular attention to its breadth and to its potentially counterproductive effects. The standards for the admissibility of confessions to crimes covered by the EPA and the lack of procedures for the independent investigation and evaluation of complaints against the security forces are analyzed in detail in Sections III and IV, respectively. In Section V, the Article concludes with recommendations for legal reform that would establish a better balance between the need for public security and the need for legal protection against excessive or unnecessary intrusions on individual freedom.

I. ORIGIN AND NATURE OF THE PRESENT CONFLICT

British control of all of Ireland was consolidated in the sixteenth century,[2] and maintained for hundreds of years thereafter despite repeated insurrections by Irish desirous of breaking the link that had been established by force of arms.[3] The Government of Ireland Act, passed by the British Parliament in 1920,[4] formally partitioned northern and southern Ireland by establishing separate parliaments of limited powers for each.[5] The northern entity, composed of six counts within the province of Ulster, became Northern Ireland, and has remained continuously within the British domain.[6] Under the terms of the Anglo-Irish Treaty of 1921,[7] the southern entity, composed of the remaining twenty-six counties of Ireland, became in 1922 the Irish Free State.[8] Today it is the Republic of Ireland, which is completely independent of Great Britain.[9]

The demographic fact that helped shape the creation of Northern Ireland and that remains basic to the situation is that approximately 65% of the population are Protestants,[10] the descendants of seventeenth-century Scottish and English colonists,[11] whose religion[12] and history differ from those of the Catholic minority. The Republic of Ireland, on the other hand, has a predominately Catoholic population,[13] and a constitition that until recently conferred on the Catholic church a special role in national affairs,[14] and that still outlaws divorce.[15] Great Britain partitioned Ireland ostensibilty to guarantee that the Protestants in the North would be ensured political power in their own state despite the existence of the overwhelming Catholic majority in the South.[16] The demographic consequence of its partition, however, was to create a Catholic minority in Northern Ireland that itself has been without political power. This demographic and political dilemma—whether the Protestants in the North should be a minority as compared with the Catholics throughout Ireland, or whether the Catholics in the North should be a minority is compared with the Protestants there—heretofore has proven insoluble.

While the conflict in Northern Ireland is often described as one pitting the Protestant majority against the Catholic minority, this strictly religious characterization obscures the true nature of the conflict. The term "Protestant" describes that part of the population which traces its lineage to the seventeenth-century colonists, and which is largely Protestant, while the term "Catholic" describes the native Irish, who have been predominantly Catholic since the fifth century. To the extent that these sectarian labels imply that the conflict is a "religious war," that Protestants are attacked because they attend a Protestant church, and that Catholics are attacked because they attend a Catholic one, they are misleading. Rather, the conflict should be understood as one between the Unionists, or Loyalists, who wish to maintain the state of union with Great Britain as a link to their heritage, and the Nationalists, or the more militant Republicans, who wish to reinstitute an undivided Ireland as a link to their heritage. Two related issues—the preservation of historical and cultural ties, whether to Great Britain or to Ireland, and the fact that political power may depend on which ties are preserved—have inspired the violence, not religious beliefs per se.[17] The historical division between Unionist and Nationalist, and therefore between Protestant and Catholic, rendered even more acute by years of discrimination against the minority, has made Northern Ireland fertile ground for violence and civil unrest.

The Unionist Party, closely connected through much of its existence to the often violently anti-Catholic Orange Order,[18] governed Northern Ireland without interruption until 1972,[19] when the imposition of direct rule from Westminster effectively suspended parliamentary government within Northern Ireland.[20] It is now admitted that during this period discrimination against the Catholic minority was widespread in housing, employment, and the administration of justice.[21]

Progess toward equality of opportunity in housing[22] and employment[23] has been

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[1] Northern Ireland (Emergency Provisions) Act, 1978, ch. 5. The first version of the EPA was enacted in 1973. *See* Northern Ireland (Emergency Provisions) Act, 1973, ch. 53. Unless otherwise indicated, all citations in this Article are to the 1978 EPA.

[2] *See* Hayes-McCoy, *The Tudor Conquest (1534-1603)*, in THE COURSE OF IRISH HISTORY 174 (T. Moody & F. Martin eds. 1967).

[3] Concise histories of Ireland include R. EDWARDS, AN ATLAS OF IRISH HISTORY (1973); J. BECKETT, A SHORT HISTORY OF IRELAND (1973); THE COURSE OF IRISH HISTORY (T. Moody & F. Martin eds. 1967); T. MOODY, THE ULSTER QUESTION: 1603-1973 (1974); L. DE PAOR, DIVIDED ULSTER (1973).

[4] *See* McCartney, *From Parnell to Pearse (1891-1921)*, in THE COURSE OF IRISH HISTORY, *supra* note 3, at 294, 311-12.

[5] Government of Ireland Act, 1920, 10 & 11 Geo. 5, ch. 67; *see* R. HULL, THE IRISH TRIANGLE, CONFLICT IN NORTHERN IRELAND 34 (1976).

[6] R. HULL, *supra* note 5, at 19-20.

[7] *See* Treaty, Dec. 6, 1921, Great Britain-Ireland, 26 L.N.T.S. 10.

[8] *See* Irish Free State (Agreement) Act, 1922, 12 Geo. 5, ch 4.

[9] *See* R. HULL, *supra* note 5, at 19-21. Great Britain formally recognized this independence with the passage of the Ireland Act of 1949. Ireland Act, 1949, 12, 13 & 14 Geo 6, ch. 41.

[10] IRELAND, A CHRONOLOGY AND FACT BOOK 143 (W. Griffin ed. and compiler 1973) [hereinafter FACT BOOK].

[11] *See* Clarke, *The Colonisation of Ulster and the Rebellion of 1641 (1603-1660)*, In THE COURSE OF IRISH HISTORY, SUPRA note 3, at 189.

[12] It should be noted that Protestantism in Northern Ireland is not monolithic, it embaces many separate sects. *See Fact Book supra* note 10, at 143.

[13] Data collected in 1961 indicated that about 90% of the population was Catholic. *Id.* This figure may actually understate the percentage of Catholics, for intermarriage during the last generation is widely thought to have pushed the Catholic percentage over 95%. *See* Perry, *These Irish Eyes Aren't Smiling on a Paddy's Day Parade*, Wall St. J., March 15, 1983 at 26, col. 3.

[14] BUNREACHT NA hEIREANN (Constitution of Ireland), arts. 442.2, 3 (repealed 1972).

[15] *Id.* art. 41.3(2).

[16] *See* R. HULL, *supra* note, at 55-56.

[17] As described by The Times of London, [t]here are two communities in Northern Ireland, different in their origins, nursing different historical myths, possessing distinguishable cultures, having different songs and heroes, and wearing different denominations of the same religion. Religion is the clearest badge of these differences. But the conflict is not *about* religion. It is about the self-assertion of two distinct communities, one of which is dominant in the public affairs of the province. The Times (London), Aug. 30, 1969, at 7, col. 1 (editorial) (emphasis in the original).

This is not to suggest that "sectarian" murders—ones committed against an individual known to be of a certain religion—do not occur. The important point is that the victims in such murders are likely to have been chosen because it is assumed that they also oppose the political aspirations of their assassins. Politics in most cases has primacy over religion, although the religious element plays some role, and the religious labels often are used for the sake of convenience. Some Unionist factions, however, do stress the "evils" of Catholicism. *See* "P. Marrian, Paisley: Man of Wrath" (1973).

[18] "W. Flackes, Northern Ireland, a Political Directory, 1968-1979," at 103 (1980).

[19] "T. Moody," *supra* note 3, at 32, 48.

[20] Northern Ireland (Temporary Provisions) Act, 1972, ch. 22 (authorization of direct rule); *see generally* "The Sunday Times Insight Team, Ulster 280-310" (1972).

[21] *See* "The Sunday Insight Team," *supra* note 20, at 27-55 (general discussion of discrimination); "Fair Employment Agency for Northern Ireland, an Industrial and Occupational Profile of the Two Sections of the Population in Northern Ireland" (1978) (general discussion of employment discrimination); "R. Miller, Occupational Mobility of Protestants and Roman Catholics in Northern Ireland" (1979) (structural discrimination in occupational patterns); "K. Boyle, T. Hadden & P. Hillyard, Law and State: The Case of Northern Ireland," chs. 2, 7, 9 (1975) (discrimination in the administration of justice).

[22] Public housing is now being awarded on the basis of objective criteria, which has reduced significantly concern about discriminatory awards. Housing remains a serious problem, however, as 14.1% of the housing stock is classified as unfit for human habitation, compared with 4.6% for England and Wales. Rowthorn, *Northern Ireland: an economy in crisis*, 5 CAMBRIDGE J. ECON. I, at 15 (1981).

[23] The Fair Employment Agency, which was established to monitor public and private employment practices, now requires the recipients of gov-

made, but true economic equality between majority and minority has not yet been realized.[24] The burdens of inequality have been complicated by the fact that Northern Ireland generally is much poorer than the rest of the United Kingdom.[25] Attempts to remedy inequalities have been handicapped during the last decade by economic decline, as continuing violence and the problems in the British and world economies have combined to deter new industry from locating in Northern Ireland and to persuade some existing firms to close or relocate.[26]

Catholic suspicions about fairness in the administration of justice still run deep.[27] The foundations for these fears are embedded deeply in Irish history.[28] In Northern Ireland, the Unionists maintained their control from 1922 to 1972 with the help of the Special Powers Act,[29] a sweeping measure that gave authorities extraordinary powers of search and seizure, internment, and censorship.[30] The Act was supplemented by additional regulations and statutes which prohibited, for example, membership in proscribed organizations[31] and the display of certain flags and emblems.[32] The Unionists used the legislation to stifle dissent in the minority community,[33] which was not protected by a written system of constitutional rights,[34] and which lacked the political power to defend itself.

The Special Powers Act was justified on the ground that it was necessary to combat a highly feared secret organization, the Irish Republican Army (I.R.A.).[35] Ironically, however, during the period from 1922 to 1968, the I.R.A. was largely inactive as a military unit in Northern Ireland.[36] Nonetheless, official state visits by British dignitaries and British national holidays were marked by systematic arrests and temporary detention of suspected I.R.A. members.[37]

The current wave of violence began in 1968, when civil rights marchers protesting housing discrimination were attacked by Protestant mobs and by members of a new disbanded all-Unionist reserve police force.[38] The violence, which has continued with only brief respites,[39] has sprung from several sources[40] and has claimed thousands of victims from both sides.[41] On the side of the Republicans, two groups have been especially active. The best known is the Provisional I.R.A.,[42] which has directed an assassination campaign against representatives of the British Army, the R.U.C., the Ulster Defence Regiment (U.D.R.—a kind of National Guard composed of volunteers from Northern Ireland), and their respective reserves.[43] The Provisional I.R.A. also has killed politicians, judges, prison employees, and members of other terrorist groups, as well as hundreds of unintended victims.[44] A second group, the Irish National Liberation Army (I.N.L.A.) is the military wing of the Irish Republican Socialist Party.[45] It too wages a military battle, sometimes with terrifying success,[46] but its membership is apparently less numerous than that of the Provisional I.R.A.[47]

Loyalist terrorist activity seems motivated by fears of a possible union with the Republic of Ireland and by anger at what is perceived to be violence directed against the Protestant and Loyalist majority community. This activity has been aimed primarily at Catholics, through intimidation of families living in mixed areas and attacks on Catholic pubs and individuals.[48] Just as different Republic factions have engaged in internecine strife, Loyalist groups occasionally have attacked each other, although their differences appear to concern territorial control and racketeering more than differences in political and military strategy.[49]

There are two major Loyalist terrorist organizations. The Ulster Volunteer Force (U.V.F.) originated in the early twentieth century in response to the "threat" posed by an independent Ireland, but then largely disappeared after the partition of Ireland.[50] A group claiming its name and heritage emerged violently in the 1960s, and was declared illegal in 1966.[51] This proscrip-

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ernment contracts to hold Equal Opportunity Certificates, which the agency may revoke upon findings of non-compliance with their terms. *See* FAIR EMPLOYMENT AGENCY FOR NORTHERN IRELAND, SIXTH REPORT AND SETTLEMENT OF ACCOUNTS 4-5, 10-12 (1982).

[24] Rowthorn, *supra* note 22, at 8-10, 18-22. This study found that "[m]any people continue to live in real poverty and deprivation—especially Catholics, who remain lower paid, more poorly housed, and more prone to unemployment than Protestants." *Id.* at 15.

[25] The standard of living in Northern Ireland was substantially lower than that of the United Kingdom generally until the late 1960's. Although important gains have been made since then, average earnings remain lower, and unemployment higher than in the United Kingdom as a whole. *Id.* at 14-16.

[26] *Id.* at 16-18. It has been estimated that the conflict has destroyed or prevented the creation of 25,000 manufacturing jobs in Northern Ireland. *Id.* at 18. Unemployment in Northern Ireland is now running at about 24% of the work force. Irish Times, Jan. 5, 1983, at 9, col. 1.

[27] The basis for these suspicions, embodied in an expression heard often in the poorer Catholic communities that "there's one justice for 'them,' and another for 'us,'" has been thoroughly documented in K. BOYLE, T. HADDEN & P. HILLYARD, *supra* note 21, at chs. 7, 9.

[28] For example, in the eighteenth century the all-Protestant parliament of Ireland enacted a comprehensive set of anti-Catholic measures which forbade Catholics from holding any government office, from entering the legal profession, and from holding commissions in the army and navy. See Wall, *The Age of the Penal Laws (1691-1778)*, in THE COURSE OF IRISH HISTORY, *supra* note 3, at 217.

[29] Civil Authorities (Special Powers) Act (Northern Ireland), 1922, N. Ir. Pub. Gen. Acts, 12 & 13 Geo. 5, ch. 5, *repealed by* the Northern Ireland (Emergency Provisions) Act, 1973, ch. 53, § 31(2).

[30] *See* Bishop, *Law in the Control of Terrorism and Insurrection: The British Laboratory Experience*, 42 L. & CONTEMP. PROBS. 140, 157-58 (1978).

[31] Bishop, *supra* note 30, at 159.

[32] Flags and Emblems (Display) Act (Northern Ireland), 1954, N. Ir. Pub. Gen. Acts, 2 & 3 Eliz. 2, ch. 10.

[33] The history of the special power laws in Northern Ireland, as well as the Catholic perception of their effect, was offered in 1978 by Gerry Fitt, M.P. for West Belfast:

> As anyone in Northern Ireland knows, emergency provisions legislation of this description was first placed on the statute book in the Northern Ireland House of Commons in 1922. It was known as the Special Powers Act. From 1922 until 1929 it was renewed every twelve months by the Parliament in Northern Ireland. In 1929 the Government said that the Act should become a permanent part of Northern Ireland legislation. Therefore, it was not of necessity debated every year in the Northern Ireland House of Commons.
>
> Throughout those years certain sections and provisions of the Special Powers Act were used against individuals in Northern Ireland. That did not stop the violence, it increased it. Every year, at Easter, whenever there was a Royal visit or if there seemed to be a heightening of tension between Republican and Loyalist communities, the Act was brought into being, and though people were not charged, they were interned.
>
> Looking back, we now see that such legislation as this is no guarantee that there will be a diminution of violence. 959 PARL. DEB., H.C. (5th ser.) 1544 (1978) (statement of G. Fitt, M.P. for West Belfast).

[34] Rose, *On the Priorities of Citizenship in the Deep South and Northern Ireland*, 38 J. POL. 247, 275-76 (1976).

[35] *See* Bishop, *supra* note 30, at 157.

[36] For example, its one northern "campaign," conducted by the I.R.A. from 1956 to 1962, resulted in the deaths of eighteen persons, the majority of them members of the I.R.A. *See* J. BELL, THE SECRET ARMY, 321-97 (1972).

[37] *See supra* note 33.

[38] *See* THE SUNDAY TIMES INSIGHT TEAM, *supra* note 20, at chs. 1-4; DISTURBANCES IN NORTHERN IRELAND: REPORT OF THE COMMISSION APPOINTED BY THE GOVERNOR OF NORTHERN IRELAND, N. IR. CMD. NO. 532 (1969) (Lord Cameron, Chairman) [hereinafter CAMERON REPORT].

[39] Almost 2,300 people have been killed, and over 25,000 seriously injured, in politically related violence since 1969. During the same period, over 12,000 bombs and incendiary devices have been exploded in Northern Ireland, and 29,429 shooting incidents have been reported. The violence peaked in 1972, the year after internment without trial was introduced, and the first year of direct rule from Westminster, with almost twice as many violent incidents as any of the next succeeding four years. ROYAL ULSTER CONSTABULARY, CHIEF CONSTABLE'S ANNUAL REPORT 1982, at 48 (table 6) (1983). Violence declined sharply in 1980. *Id.* It escalated again in 1981, however, when 101 people were killed (44 members of the security forces, and 57 civilians, some terrorists), 578 bombs were exploded, and 1,142 shooting incidents took place. *Id.*

[40] It has been estimated that of 2,250 politically related fatalities classified as of June, 1982, 53.2% were caused by Republican terrorist organizations, 27% by Loyalist organizations, 11.2% by security forces, and 8.2% by undetermined agents. McKeown, *Numbering the Dead: A Register of Northern Ireland's Casualties*, IN DUBLIN, Dec. 16, 1982, at 20, 22.

[41] Of the fatalities, 56.9% were civilians, 29.2% were members of the security forces, 11.5% were members of terrorist groups, and 2.4% could not be classified. *Id.* Of the 1,885 dead who were natives of Northern Ireland, 1,016 were Catholic and 839 were Protestant. *Id.* Given that over half the fatalaties have been caused by Republican groups, the conclusion seems inescapable that a substantial number of Catholics have died at the hands of their co-religionists.

[42] It is important to distinguish the Provisional I.R.A. from the Official I.R.A.—"Official" because a majority of the delegates at a 1970 I.R.A. congress voted to support its position. It maintained a distinct military presence until 1972, when it declared a unilateral cease-fire on the ground that a majority of the population of Northern Ireland favored union with the United Kingdom. Its policy, first announced in 1970, has been to work for full minority rights within the United Kingdom, but also to support a decentralized government in Northern Ireland which, it believes, would lead eventually to union with the Irish Republic. *See* W. FLACKES, *supra* note 18, at 111-20.

[43] *See* T. COOGAN, THE I.R.A. 461-81 (1980).

[44] *Id. See also supra* notes 39-41.

[45] W. FLACKES, *supra* note 18, at 72.

[46] The group claimed responsibility for the March, 1979 assassination of Airey Neave, M.P., Conservative Shadow Secretary for Northern Ireland and close friend of Prime Minister Thatcher, *Id.* It also claimed responsibility for a December, 1982 pub explosion which left 16 people dead and 29 seriously injured. Wash. Post, Dec. 8, 1982, at A28, col. 3.

[47] W. FLACKES, *supra* note 18, at 72.

[48] *See* K. BOYLE, T. HADDEN & P. HILLYARD, TEN YEARS ON IN NORTHERN IRELAND, 21-22 (1980) [hereinafter TEN YEARS ON]. It is easily, but not necessarily correctly, argued that Loyalist terrorists are more "sectarian" than their more "political" Republican counterparts. This apparent distinction is probably a function of the nature of the conflict, Republican terrorists can pick "political" targets who are symbols of the political and economic status quo, while Loyalist targets are more obviously "sectarian." *Id.*

[49] *Id.*

[50] M. DILLON & D. LEHANE, POLITICAL MURDER IN NORTHERN IRELAND 28 (1973).

[51] Id. at 28-35.

tion was lifted briefly in 1974, when the U.V.F. undertook a short-lived political action campaign.[52] It soon reverted to terrorism, however, and was banned again under the terms of the EPA.[53]

The second, and much larger, Loyalist organization, is the Ulster Defence Association (U.D.A.) Founded in 1971 to coordinate opposition to the I.R.A. among various Protestant groups,[54] It has recruited large numbers of working class Protestants from all over Northern Ireland.[55] Its initial purpose was to demonstrate the strength of opposition in Northern Ireland to a united island, and to that end it organized impressive and disciplined public military maneuvers.[56] It changed its position in 1977 and campaigned politically for the creation of a Northern Ireland independent of Great Britain and the Irish Republic.[57] In 1981, however, during a hunger strike by Republican prisoners, the U.D.A. abandoned the approach and returned to its Loyalist position.[58] While the U.D.A. has never been proscribed, it has played a major role in the intimidation of Catholics, and few doubt that some of its members have been involved in assassination and bombing.[59]

The final actors in this military drama are the government forces, which include some 30,000 members of the British Army and the R.U.C.,[60] and who patrol a country of 1.5 million inhabitants.[61] These troops are ostensibly assisted in their efforts to maintain order by the existence of emergency legislation, the scope and effects of which this Article is intended to analyze.

II. THE EPA: PROTECTION OF PUBLIC SECURITY AT THE EXPENSE OF INDIVIDUAL FREEDOM

Adopted in 1973 following the recommendation of a British government commission chaired by Lord Diplock,[62] the EPA has remained fundamentally unaltered since its enactment. A government committee, chaired by Lord Gardiner and appointed in 1974 to assess the antiterrorist measures in the context of human rights and civil liberties, recommended some important changes,[63] but essentially the EPA was left intact. Sixteen semi-annual reviews of the EPA undertaken by the British Parliament have resulted in only one major change: the power of internment, which originally could be invoked at the discretion of the Secretary of State, can now be invoked only with parliamentary approval.[64] At each review, the British government has recommended continuation of the EPA,[65] and Parliament has appeared willing to accept this recommendation virtually automatically.[66] A small but vocal minority (about 20 of the approximately 670 members of Parliament) has consistently criticized the invasions of individual freedom permitted under the EPA,[67] but it received no widespread support, at least during the first fourteen renewal debates.[68]

While the application of the EPA is confined to Northern Ireland,[69] its scope within the province is far-reaching. The Act applies primarily to "scheduled offenses," [70] which generally constitute "terrorist" crimes such as arson, kidnapping, use of explosives, and hijacking.[71] It established special police and judicial procedures to be used in the investigation and trial of scheduled offenses.[72] It permits arrest and search without warrant of those suspected of "committing, having committed, or being about to commit" offenses covered by the EPA,[73] and makes it illegal for those witnessing or having knowledge of terrorist incidents to refuse to cooperate with the authorities.[74] Persons suspected of being terrorists may be arrested without warrant and detained for up to seventy-two hours.[75] Moreover, its extraordinary powers are not limited to scheduled offenses: British troops are permitted to arrest and detain temporarily without charge or warrant any individual suspected of any crime.[76] The EPA also creates new categories of crimes, such as wearing hoods in public,[77] and retains many features of earlier emergency laws.[78] Given this scope, the conclusion that the EPA has touched the lives of many thousands of people in Northern Ireland is inescapable.

British government officials have acknowledged the wide sweep of the EPA as well as its intrusive character. Merlyn Rees, a former Secretary of State for Northern Ireland, described its scope as follows:

All terrorist type offenses to be categorized as "scheduled offenses",

Trials of scheduled offenses to be by a senior judge, sitting alone [no right to a jury trial], but with more than usual rights of appeal;

Bail in scheduled cases to be given only by the High Court (rather than by a magistrate) and then only if stringent precautions were made;

The arrest without warrant and detention by the police for up to 72 hours of any person suspected of being a terrorist . . . ;

The arrest and detention of a suspect [for any offense] for up to four hours by members of the Army;

Wide powers of search and seizure by members of the security forces;

Reversal of the normal onus of proof in relation to offenses of possession of arms and explosives;

A fresh system of detention by the executive.[79]

Acknowledging the severity of the measure at the time of its enactment, then Secretary of State William Whitelaw declared that "[t]he Bill contains some features unpalatable to a democratic society. Her majesty's government does not disguise the fact that it imposes serious limitations on the traditional liberty of the subject." [80]

The bipartisan consensus that had suported automatic continuation of the EPA broke doen in 1981, when the British Labour party supported a motion introduced in parliament that called for a broad investigation of the operation of the Act.[81] In analyzing the emergence of opposition to the EPA, it may be noted that the Act has generated two distinct but related concerns: (1) that the EPA must be scrutinized because it contemplates intolerable violations of individual rights; and (2) that the EPA, when considered instrumentally, must be judged a failure because its counterproductive effects—the possible swelling of terrorist ranks, and the erosion of respect for law and order—fule the very crisis that the EPA was intended to quell.[82]

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[52] W. FLACKES, *supra* note 18, at 147.

[53] *Id.*

[54] *Id.* at 138-39.

[55] *Id.* at 138.

[56] *Id.* at 139.

[57] *Id.* at 140-41.

[58] Interview with Andrew Tyrie, Chief of Staff, U.D.A., in Belfast, Northern Ireland (Oct. 20, 1981).

[59] TEN YEARS ON, *supra* note 48, at 20.

[60] As of July, 1979, 13,000 regular soldiers and almost 12,000 police and reservists were deployed in Northern Ireland. 969 PARL. DEB., H.C. (5th ser.) 934-35 (1979), (statement of Humphrey Atkins, Secretary of State for Northern Ireland). By December 1980, the total had climbed to 31,500. TEN YEARS ON, *supra* note 48, at 25.

[61] NORTHERN IRELAND INFORMATION SERVICE, FACTS AT YOUR FINGERTIPS 4 (1981).

[62] *See* REPORT OF THE COMMISSION TO CONSIDER LEGAL PROCEDURES TO DEAL WITH TERRORIST ACTIVITIES IN NORTHERN IRELAND, CMD. 5, NO. 5185 (1972) (Lord Diplock, Chairman) [hereinafter DIPLOCK REPORT] The EPA contained a provision repealing the Special Powers Act. EPA, 1973, ch. 53, § 31(2). It should be understood as the latest version of the emergency laws that have been in effect in Northern Ireland since its establishment. *See supra* notes 29-33 and accompanying text.

[63] *See* REPORT OF A COMMITTEE TO CONSIDER, IN THE CONTEXT OF CIVIL LIBERTIES AND HUMAN RIGHTS, MEASURES TO DEAL WITH TERRORISTS IN NORTHERN IRELAND, CMD. 5, NO. 5847 (1975) (Lord Gardiner, Chairman) [hereinafter GARDINER REPORT]. The Gardiner Report's criticisms of the internment program were instrumental in persuading the government to abandon internment in favor of the trial of suspected terrorists in special courts. *See id.* at para. 148, at 43; *infra* note 105 and accompanying text. The Report also recommended that Parliament reaffirm judicial discretion to exclude the admission into evidence of statements made under questionable circumstances. GARDINER REPORT, *supra*, para. 50, at 17. The recommendation was not adopted. *See infra* notes 181-85 and accompanying text.

[64] Northern Ireland (Emergency Provisions) Act 1978 (Continuance) Order, 1980 STAT. INST., No. 1049.

[65] *See, e.g.*, 959 PARL. DEB., H.C. (5th ser.) 1499-1500 (1978) (statement of Roy Mason, Secretary of State for Northern Ireland); 969 PARL. DEB., H.C. (5th ser.) 931-35 (1979) (statement of Humphrey Atkins, Secretary of State for Northern Ireland).

[66] *See, e.g.*, 969 PARL. DEB., H.C. (5th ser.) 925-1066 (1979) (parliamentary debate on continuation of the EPA); 959 PARL. DEB., H.C. (5th ser.) 1499-1586 (1978) (same).

[67] *See, e.g.*, 959 PARL. DEB., H.C. (5th ser.) 1539 (1978) (statement of Tom Litterick, M.P. for Birmingham); 969 PARL. DEB., H.C. (5th ser.) 944 (1979) (statement of Brynmor John M.P. for Pontypridd).

[68] *See infra* notes 81-82 and accompanying text.

[69] EPA § 36(2).

[70] Id. § 30, sched. 4.

[71] Id.

[72] See, e.g., id § 2 (special conditions for bail); id. § 6 (special courts for trial of scheduled offenses); id. § 7 (no jury trials of scheduled offenses).

[73] Id. §§ 13, 14.

[74] Section 18 of the EPA provides that "any member of Her Majesty's forces on duty or any constable may stop and question any person for the purpose of ascertaining" the person's identity and movements "and what he knows concerning any recent explosion or other incident . . . . " Failure to stop or refusal to answer to the best of one's "knowledge or ability" can result in six months in prison or £100 fine, or both. Id § 18.

[75] Id. § 13. Other anti-terrorist legislation permits the detention of suspected terrorists for periods up to seven days. Prevention of Terrorism (Temporary Provisions) Act, 1976, ch. 8, § 12(2).

[76] Id. § 14(1).

[77] Id. § 26.

[78] For example, section 21 of the EPA prohibits membership in proscribed organizations. Id. § 21. This offense is analogous to one defined under regulations issued pursuant to the Special Powers Act. *See supra* note 31 and accompanying text. Both the Provisional I.R.A. and the U.V.F. are proscribed. EPA § 21, sched. 2.

[79] Ress, *Terror in Ireland—and Britain's Response*, in BRITISH PERSPECTIVES ON TERRORISM 83, 84 (P. Wilkinson ed. 1981).

[80] PEACE PEOPLE, THE CASE FOR THE REPLACEMENT OF THE EMERGENCY PROVISION ACT BY NORMAL JUDICIAL PROCESS 3 (n.d.) (quoting William Whitelaw) (on file with *The Yale Journal of World Public Order*).

[81] *See* 7 PARL. DEB., H.C. (6th ser.) 1032-46 (1981). The motion was defeated by a vote of 279 to 213. *Id.* at 1046.

[82] J. Don Concannon, M.P. and former Minister of State for northern Ireland, articulated these concerns as follows: [w]hile we fully accept the need to protect the community against terrorism, we are deeply concerned about the erosion of basic civil liberties. The continued and unreviewed emer-

Regarding the first concern, while it is undeniable that the right to live is the most basic human right, and that the right to live without fear of death or grievous bodily injury is almost equally central, it seems undeniable that the government's responsibility to protect individual freedom has been seriously compromised under the emergency regime. Military forces are virtually omnipresent.[83] Almost 300,000 warrantless home searches were authorized between 1971 and June, 1978.[84] These home searches occurred at an average rate of about ninety per day.[85] Between 1972 and 1978 more than 25,000 persons were arrested and detained for periods ranging from four hours to seven days.[86] Of those detained between September, 1977 and August, 1978, only about 35% were ultimately charged with an offense.[87] In the first ten months of 1980, 3,868 persons were arrested by the police and army under the EPA.[88] A mere 8.6% of those arrested were eventually prosecuted,[89] compared with an 80 to 90% average for those arrested in England and Wales.[90]

Important as this immediate concern for human rights may be it can be, argued that the second concern—that the EPA produces longterm counterproductive effects—is even more fundamental. If the EPA creates resentment, drives people into the terrorist groups, and undermines basic respect for the rule of law across Northern Ireland, it may be exacerbating the violence it was designed to combat and making it even more difficult to achieve a definitive resolution of the situation that would guarantee public security and basic individual freedom.

With respect to the relationship between the EPA and the recruitment of terrorists, it seems plausible that the incursions into homes through search and seizure and the arrest and detention of persons without warrant or charge may encourage the involvement of young people in the violence. It should be noted that the current violence is largely the product of young people who have grown up since the beginning of the most recent period of terror. Two-thirds of those serving prison terms longer than four years were under fifteen years of age when the current emergency began; one-third were under nine.[91] Northern Ireland, which formerly had the lowest per capita prison population in Western Europe, now has the highest and youngest.[92] Moreover, one study of the backgrounds of terrorists has concluded that most I.R.A. operations are carried out by recent recruits whose backgrounds make them representative members of the working class Catholic communities in which they live.[93] In short, many of the terrorists at work are typical members of a younger generation that has grown up with violence and with the extreme measures taken to curtail it.

While the history and traditions of the Catholic communities in Northern Ireland ensure substnatial resentment of British security forces and justice,[94] the process by which this general resentment is translated in individual cases into active support of a terrorist group is not clear. Perhaps the internment of relative without trial or the destruction of property during a pre-dawn house search, or harassment on a local street might be sufficient to push a Catholic youth into membership in the youth wing of the Provisional I.R.A. But even given this uncertainty, the potential effects of the searches permitted under the EPA on terrorist recruitment is enormous. If only 2% of the 600 families whose homes were searched each week between 1970 and 1978 produced terrorist volunteers, the Provisional I.R.A. could have afforded a complete turnover every year in its corps of 500 active duty volunteers.[95]

The second pernicious effect of the EPA is that it may be undermining the respect for law and order necessary for a peaceful long-term solution to the crisis. This danger was recognized nine years ago in the Gardiner Report, which noted that the basic strategy of the terrorists was to provoke governmental reactions that would destroy the popular support that the government would otherwise enjoy.[96] It also noted that short-time measures might restore order, but that long-term solutions required popular support.[97] Unfortunately, these warnings do not appear to have been heeded, as the government, at least since the passage of the EPA, has focused almost exclusively on imposing repressive measures, and not on building a long-term consensus.

Even accepting the primacy of the EPA's short-term goal—the suppression of violence—the EPA must be adjudged a failure, because violence continues to wrack Northern Ireland.[98] Because the Act has failed to stop the terror, the population has lost confidence and has grown angry at the legal system, which has deprived individuals of basic civil liberties without offering any compensating increase in personal security. While the issue is not susceptible to quantitative analysis—for obvious reasons the participants are unwilling to speak—it seems plausible that as this loss of confidence and anger grow, the net effect of the EPA may be to produce more violence, not less.

The loss of respect for law is a dangerous development in any country, but especially so in Northern Ireland, where history guarantees a long and deep popular memory of civil strife.[99] Decision-makers should assess carefully whether measures implemented for short-term gains are outweighed by less tangible but more dangerous long-term consequences. While some form of emergency law will probably continue in Northern Ireland, further reliance on the deprivation of liberty demonstrates that the government itself is not fully committed to the rule of law as the appropriate vehicle to preserve public order. Thus, so long as the current crisis lasts, the daily impact of emergency law must be tempered by respect for the equitable administration of justice.

III. ADMISSIBILITY STANDARDS

A detailed analysis of the admissibility standards created under the EPA suggests strongly that the EPA should be reformed to make inadmissible as evidence statements obtained from persons interrogated under suspicious circumstances.

Section 8 of the EPA provides that any statement made by the accused during the investigation of a scheduled offense is admissible unless the accused can present "prima facie evidence" that he or she was "subjected to torture, inhuman or degrading treatment" for the purpose of inducing a statement.[100] This new standard represents a substantial erosion of the traditional common law principle of voluntariness, under which a statement was admissible only if offered freely.[101] The new standard

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gency powers as they stand may impede the possbilities of a peaceful settlement. *Id.* at 1040.

[83] *See supra* note 60 and accompanying text.

[84] PEACE PEOPLE, TIME FOR A CHANGE 8 (1980) (parliamentary submission) (on file with *The Yale Journal of World Public Order*) [hereinafter TIME FOR A CHANGE].

[85] *Id.*

[86] TIME FOR A CHANGE, *supra* note 84, at 9.

[87] *See* REPORT OF THE COMMITTEE OF INQUIRY INTO POLICE INTERROGATION PROCEDURES IN NORTHERN IRELAND app. I, at 141, CMD. 5, No. 7497 (1979) (His Honor H.G. Bennett, Chairman) [hereinafter BENNETT REPORT].

[88] 945 PARL. DEB., H.C. (5th ser.) 271, 605-06 (1980) (response of Humphrey Atkins, Secretary of State, to written parliamentary question no. 49).

[89] *Id.* Given that so few of those detained under the EPA are ever charged with an offense, concern has arisen that the provisions of the EPA are not being used to investigate terrorist incidents, but rather to compile information about individuals and even entire communities. One recent survey found that 72% of a geographically and socioeconomically diverse sample of arrestees were not questioned about their involvement in specific incidents at all. *See* D. WALSH, ARREST AND INTERROGATION: NORTHERN IRELAND 1981 (1981) (on file with *The Yale Journal of World Public Order*).

[90] *See* ROYAL COMMISSION ON CRIMINAL PROCEDURE, REPORT, CMD. 5, No. 8092, para. 3.17, at 43, para. 4.43, at 83 (1981).

[91] NORTHERN IRELAND OFFICE, THE CORRYMELLA CONFERENCE (OCTOBER 1979) ON PRISONS IN NORTHERN IRELAND, 1980 ONWARDS, WITH SPECIAL REFERENCE TO THE LONG-TERM PRISONER 13 (CHART 3) (1979) (government paper submitted to the conference) (on file with *The Yale Journal of World Public Order*).

[92] THE PEACE PEOPLE, THE H-BLOCK PROTEST, HUNGER STRIKES AND EMERGENCY LAW 7 (1980 (on file with *The Yale Journal of World Public Order*).

[93] Boyle, Haden & Hillyard, *Emergency Powers: Ten Years On*, FORTNIGHT, Jan. 1980, at 3, 4. The authors based their conclusions on their systematic review of the record in cases adjudicated by the courts of Northern Ireland in 1975 and 1979. *See also* TIME FOR CHANGE, *supra* note 84, at 9-10.

[94] *See supra* notes 27-34 and accompanying text.

[95] A secret paper of the British Ministry of Defence estimated that the Provisional I.R.A. had 500 "activist" members. MINISTRY OF DEFENCE, NORTHERN IRELAND FUTURE TERRORIST TRENDS, at G-1 (Dec. 15, 1978) (on file with *The Yale Journal of World Public Order*). A copy of the report was diverted and made public. The numerical strength of terrorist groups is, for obvious reasons, difficult to estimate accurately.

[96] GARDINER REPORT, *supra* note 63, para. 17, at 7. For a discussion of this strategy generally, see R. CLUTTERBUCK, LIVING WITH TERRORISM 17 (1975); P. WILKINSON, TERRORISM AND THE LIBERAL STATE 66 (1977).

[97] GARDINER REPORT, *supra* note 63, para. 19, at 7.

[98] *See supra* notes 193-96 and accompanying text.

[99] DIPLOCK REPORT, *supra* note 62, para. 13, at 9.

[100] Section 8 of the EPA (formerly section 6) provides that:

(1) In any criminal proceedings for a scheduled offence, or two or more offences which are or include scheduled offences, a statement made by the accused may be given in evidence by the prosecution in so far as—

(a) it is relevant to any matter in issue in the proceedings; and

(b) it is not excluded by the court in pursuance of subsection (2) below.

(2) If, in any such proceedings where the prosecution proposes to give in evidence a statement made by the accused, prima facie evidence is adduced that the accused was subjected to *torture or to inhuman or degrading treatment* in order to induce him to make the statement, the court shall, unless the prosecution satisfies it that the statement was not so obtained—

(a) exclude the statement, or

(b) if the statement has been received in evidence, either—

(i) continue the trial disregarding the statement; or

(ii) direct that the trial shall be restarted before a differently constituted court (before which the statement in question shall be inadmissible).

(3) This section does not apply to a summary trial. EPA § 8 (emphasis added).

[101] *See infra* notes 136-37 and accompanying text.

is also dangerously vague, because it leaves uncertain how much abuse constitutes "inhuman or degrading treatment." [102] This issue is of more than academic concern. Permitting the security forces to mistreat prisoners to the point of "torture, inhuman or degrading treatment" has ensured that this provision of the EPA would generate enormous tension and controversy.[103] Finally, reflecting the standard's vagueness, the courts of Northern Ireland have proven incapable of interpreting it in a coherent fashion.[104] These factors make a powerful argument that the standard should be fundamentally changed.

A. The Controversy

Since 1975 the anti-terrorist strategy of the British government has been to eschew internment, in which detainees were held up to four years without charge or trial, in favor of the pursuit of convictions in the courts.[105] Those accused of terrorist offenses have been tried by special non-jury "Diplock Courts" created by the EPA in 1973.[106] The hope of the government has been that the return to the rule of law—symbolized by the end of internment—would alleviate the deep-seated mistrust of the legal system prevalent in the Catholic community.[107] The basic problem with this hope has been that the emergency regime of the EPA, despite the suspension of internment, cannot be viewed as normal law.[108]

In particular, section 8, by removing the common law test of voluntariness in the admissibility of confessions, has caused major changes in traditional police and legal procedure. At the police level, a shift has occurred from pre-arrest acquisiton of independent evidence to post-arrest interrogation as the primary tool of gathering evidence.[109] At the trial level, a shift has occurred from the jury's determination of the accused's guilt or innocence to judicial rulings on the admissibility of the accused's confession [110]—rulings that, given the reliance on confessions, are practically dispositive of the question of guilt or innocence.

During 1976 and 1977, the two years after internment was abandoned, 3,147 persons were charged with scheduled offenses under the EPA.[111] A conviction was obtained in 94% of these cases, a figure not in itself alarming.[112] However, between 70 and 90% of these convictions were based wholly or mainly on admissions made to the police and held admissible by the courts under section 8.[113] At the same time, the number of complaints of ill treatment during interrogation increased from 180 in 1975 to 384 in 1976,[114] and almost 1100 for 1977 and 1978 combined.[115]

The opening of special police interrogation centers at Castlereagh and Gough Army Barracks was accompanied by large increases in the number of complaints of ill treatment during interrogation made against the police.[116] Such complaints were made by the Northern Ireland Civil Rights Association, by representatives of the mainly Catholic Social Democratic and Labour Party,[117] by the Catholic Church,[118] and by solicitors defending alleged terrorists in the Diplock Courts.[119] The Ulster Defense Association and the Loyalist-oriented Ulster Civil Liberties Advice Center also complained,[120] which indicates that the perception of ill treatment was not confined to the Catholic community. The wave of complaints received widespread publicity through two national television documentaries.[121] Finally, after the Police Surgeons Association began to speak out,[122] and Amnesty International issued a damning report about the situation,[123] the government appointed a Committee of Inquiry into Police Interrogation Procedures in Northern Ireland—the Bennett Committee.[124]

The Bennett Committee was not empowered to investigate individual complaints, as could Amnesty International,[125] but nevertheless in its March 1979 report it found that there were cases "in which injuries, whatever their precise cause, were not self-inflicted and were sustained in police custody." [126] The Committee's report contained sixty-four findings and recommendations designed to improve the supervision of interrogation and to eliminate the possibility of further abuses.[127] These recommendations included installing closed-circuit T.V. in all interview rooms,[128] limiting the length of interviews and the number of interviewers,[129] promulgating a formal code of conduct for interviewers,[130] and granting an absolute right of access to a solicitor after a person had been detained forty-eight hours in custody.[131] The government has formally accepted most of these recommendations,[132] though questions have been raised as to whether that commitment has been honored fully in practice.[133] But even accepting that improvements were made as a result of the Bennett Committee report, the basic difficulties created by the section 8 legal standard remain.

B. Legal Debate: Standards Old and New

The Diplock Commission, whose recommendations guided the drafting of the EPA,[134] believed that the then prevailing common law standard regarding the admissibility of confessions so favored the defendant in Northern Ireland that in the struggle against terrorism the authorities were being forced to rely on the detention of suspected terrorists and not on their trial in courts of law.[135] The necessary implication of the Commission's judgment was that to foster a return to the rule of law symbolized by judicial trials, it was necessary to suspend an important legal protection—the principle of voluntariness in the admissibility of confessions.

The principle of voluntariness, operative thoughout the United Kingdom before the enactment of the EPA, was deeply established in a common law.[136] It is well summa-

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[102] *See infra* notes 186–88 and accompanying text.
[103] *See infra* notes 116–27 and accompanying text.
[104] *See infra* notes 168–79 and accompanying text.
[105] Internment, which had been the official strategy since 1971, proved counterproductive. *See.* K. BOYLE, T. HADDEN & P. HILLYARD, *supra* note 21, at 55–77. In the four months following its implementation in 1971, the number of murders increased twelvefold over the number committed in the preceding four months. SUNDAY TIMES INSIGHT TEAM, *supra* note 20, at 269. The Gardiner Report severely critized the internment strategy. GARDINER REPORT, *supra* note 63, para. 148, at 43. Its criticisms helped persuade the government to change strategy. TEN YEARS ON, *supra* note 48, at 24.

Nearly 2,000 people, including only 107 Protestants, were interned without trial for varying periods of time between August, 1971 and December, 1975. N.Y. Times, Dec. 6, 1975, at 1, col. 1, at 6, col. 2. The power of internment is still on the books, EPA § 12, sched. 1, but it can be invoked only with parliamentary approval. *See supra* note 64 and accompanying text. It has not been used since 1975. TEN YEARS ON, *supra* note 48, at 24. The government continues to retain and to use its significant powers of temporary detention. EPA §§ 11, 14; *see supra* notes 75, 86 and accompanying text.
[106] The courts are known by the name of the chairman of the commission that recommended their establishment. *See* DIPLOCK REPORT, *supra* note 62, at paras. 35–41, at 17–19. Among their special features are the lack of jury trial, EPA § 7, and the reversal of the burden of proof in bail proceedings and trials of possession offenses. EPA §§ 2, 9. For a general discussion of the operation of Diplock Courts, see TEN YEARS ON, *supra* note 48, at 57–88.
[107] *See* TEN YEARS ON, *supra* note 48, at 102.
[108] *See supra* notes 69–80 and accompanying text.
[109] Grier, *The Admissibility of Confessions Under the Northern Ireland (Emergency Provisions) Act*, 31 N. IR. L.Q. 205, 208 (1980).
[110] *Id.*
[111] AMNESTY INTERNATIONAL, REPORT OF AN AMNESTY INTERNATIONAL MISSION TO NORTHERN IRELAND 2 (1978) (AI Index EUR 45/01/78) (reporting data supplied by the R.U.C.).
[112] Sunday Times (London), Oct. 23, 1977, at 3, col. 1 (reporting research of the Law Department, Queen's University, Belfast).
[113] *Id.* Research on the evidence used against defendants in Diplock trials between January and April, 1979 indicates that in 56% of the cases a statement from the defendant was the only evidence, in 30% of the cases the evidence consisted of the defendant's statement and other evidence, in 6% of the cases no statement was made, and in 6% of the cases the nature of the evidence could not be determined. TEN YEARS ON, *supra* note 48, at 44.
[114] TEN YEARS ON, *supra* note 48, at 39.
[115] TIME FOR A CHANGE, *supra* note 84, at 17.
[116] TEN YEARS ON, *supra* note 48, at 39; *see generally* P. TAYLOR, BEATING THE TERRORIST? INTERROGATION IN GOUGH AND CASTLEREACH ch. 7 (treatment at Castlereagh) & ch. 12 (treatment at Gough).
[117] *See* AMNESTY INTERNATIONAL, *supra* note 111, at 3 (complaints of Northern Ireland Civil Rights Association and Social Democratic and Labour Party).
[118] *Id.* (statements of Tomas O'Fiach, Archbishop of Armagh).
[119] *Id.* at 3–4 (solicitors' letter of complaint to Secretary of State).
[120] *Id.* at 3 (dossier compiled by Ulster Defense Association), 4 (videotape produced by Advice Center).
[121] *See* P. TAYLOR, *supra* note 116, at 163–64 (March 1977 BBC broadcast of interview alleging mistreatment) & at 221–22 (October 1977 Thames Television Company broadcast of "Inhuman and Degrading Treatment").
[122] *Id.* 261. Doctors working at the Crumlin Road Jail examined the medical records of forty-four prisoners and found twenty-eight to have significant physical injuries. *Id.*
[123] AMNESTY INTERNATIONAL, *supra* note 111.
[124] *See* BENNETT REPORT, *supra* note 87.
[125] *Id.* para. 2, at 1.
[126] *Id.* para. 163, at 55.
[127] *Id.* para. 404, at 135–40.
[128] *Id.* para. 404(36), at 138.
[129] *Id.* para. 404(24) at 137.
[130] *Id.* para. 404(25), at 137.
[131] *Id.* para. 404(45), at 138–39.
[132] NORTHERN IRELAND OFFICE, ACTION TO BE TAKEN ON THE RECOMMENDATIONS OF THE COMMITTEE OF INQUIRY INTO POLICE INTERROGATION PROCEDURE IN NORTHERN IRELAND (n.d.) (on file with *The Yale Journal of World Public Order).*
[133] *See* Walsh, *Arrest and Interrogation*, in THE ADMINISTRATION OF JUSTICE IN NORTHERN IRELAND 6 (proceedings of conference held in Belfast, June 13, 1981) (on file with *The Yale Journal of World Public Order).* Walsh found that recommendations regarding the permitted number of detectives involved in interrogation and the right of access to solicitors were often ignored. *Id.* at 7.
[134] *See supra* note 62 and accompanying text.
[135] DIPLOCK REPORT, *supra* note 62, para. 87, at 31.
[136] *See* Ibrahim v. Rex, [1914–15] All E.R. 874. The case involved the appeal of a soldier who had been convicted of murder, the issue of the admissibility of the defendant's confession was raised because he had confessed when asked by his commanding officer why he had committed the crime. After reviewing the development of the common

rized in an official R.U.C. manual that describes the law of evidence outside the context of the EPA: "The accepted test of voluntariness is in these terms:—The confession must not have been induced by threat of prejudice or detriment or hope of advantage of a temporal character held out by a person in authority, or by oppression." [137] The Diplock Commission recommended that the law be changed so that in trials of scheduled offenses confessions obtained in violation of the principle might still be admissible.[138] Its proposed substitute rule, derived from Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms,[139] was to make statements admissible unless "torture or . . . inhuman or degrading treatment" was used to induce them.[140] This suggestion, adopted in what is now section 8 of the EPA,[141] represented a sharp and obvious departure from the principle of voluntariness.

1. Non-physical Force Atmosphere—Flaws in the Diplock Commission's Approach to Interrogation

The Diplock Commission clearly foresaw that the new admissibility standard would permit interrogators to use psychological pressure to induce confessions. It stated that the proposed standard would permit the creation of a psychological atmosphere in which the person being questioned would be more willing to speak, and, furthermore, that in creating this atmosphere the use of "promises of favours" and "indications of [unfavorable] consequences" to induce statements was allowed.[142] The common law standard excluding statements made in "hope of advantage" or under "threat of detriment" thus was clearly rejected. The Commission believed that modern techniques of interrogation, which seek to create in the suspect the desire to confide in the questioner, do "not involve cruel of degrading treatment." [143] The actual or threatened use of violence, however, was to continue to render a confession inadmissible.[144]

At the Castlereagh and Gough interrogation centers, both of which have been designed to intensify the prisoner's sense of isolation and thereby create the "psychological atmosphere" foreseen by the Diplock Commission,[145] suspects are kept isolated for up to seven days.[146] They suffer severe stress and fatigue.[147] The future appears grim—they may believe they will be beaten or will receive long prison sentences—and they are kept awake long hours and probably find it difficult to sleep in a strange and frightening environment.[148] Each day relaxed interrogation teams start the questioning anew, alternately menacing or befriending the disoriented suspect.[149] Evidence indicates that these techniques succeed relatively quickly, as "even the strongest wills" weaken due to isolation, stress, fatigue, and uncertainty.[150]

Psychological pressure theoretically may be sufficient to produce confessions, but in the atmosphere sanctioned by the Diplock Commission it was perhaps inevitable that the psychological approach would be mixed with or give way to violence. As has been seen, evidence from numerous and diverse sources suggests that violent interrogation has occurred frequently.[151]

2. "Torture, Inhuman or Degrading Treatment"—Flaws in the Diplock Standard

The second major problem with the section 8 admissibility standard is that it is fundamentally ambiguous in two critical respects. First, an important inconsistency separates the Diplock Commission's intended interpretation of "torture, inhuman or degrading treatment" and the interpretation of that standard by the European Commission on Human Rights, to whose decisions, given the origins of the standard,[152] the courts of Northern Ireland inevitably have looked for guidance. Second, it is unclear to what extent the section 8 standard preserves the common law tradition of judicial discretion in ruling on the admissibility of confessions. These two ambiguities have combined to produce enormous and dangerous confusion.

The European Commission offered a thorough interpretation of the "torture, inhuman or degrading treatment" standard in its opinion in the 1969 *Greek Case (Denmark v. Greece)*.[153] The case involved a complaint by four countries brought against Greece over its suspension of certain constitutional rights afforded its citizens, as well as its alleged torture of political prisoners. In sustaining some of the allegations of the complaint the Commission rendered the following definitions:

Inhuman treatment: at least such treatment as deliberately causes severe suffering, mental or physical, which in the particular situation is unjustifiable.[154]

Torture: often used to describe inhuman treatment, which has a purpose, such as the obtaining of information, or confession, or the infliction of punishment, and it is generally an aggravated form of inhuman treatment.[155]

Non-physical torture: the infliction of mental suffering by creating a state of anguish and stress by means other than bodily assault.[156]

Degrading treatment: treatment or punishment of an individual may be said to be degrading if it grossly humiliates him before others or drives him to act against his will or conscience.[157]

The Commission's majority opinion stated that a distinction must be drawn between acts prohibited by Article 3 and "a certain roughness of treatment [that] may take the form of slaps or blows of the hand on the head or face."[158]

An illustration of the Commission's view of this distinction may be found in the case of *X against the United Kingdom*,[159] a routine criminal case in which the applicant claimed to have been attacked by a police dog and assaulted twice while handcuffed.[160] While the Commission rejected the applicant's version of the facts, it concluded in dicta that even on its face the application did "not disclose a treatment so serious as to amount to inhuman or degrading treatment within the meaning of Art. 3 of the Convention." [161] Thus, it is clear that the interpretation by the European Commission tolerates physical mistreatment not permissible under the voluntariness principle—a possibility that the Diplock Commission apparently did not foresee.[162]

Two decisions on admissibility, handed down immediately before and after the enactment of the EPA, illustrate well the nature of the change that the implementation of the standard of the European Convention was intended to effect. Shortly before the EPA established the new admissibility standard, the Lord Chief Justice of Northern Ireland held in *Regina v.*

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law doctrine on admissibility, Lord Sumner concluded that [i]t has long been established as a positive rule of English criminal law that no statement by an accused is admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement, in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority. *Id.* at 877.

This venerable doctrine still plays an important role in British criminal law. *See* Director of Public Prosecutions v. Ping Lin, [1975] 3 All E.R. 175 (House of Lords). In this case a drug possession conviction was upheld after a finding that any hint of inducement in the questioning of the defendant had been overcome by three specific refusals by the police to make a deal. The language of the opinion laid out the principle of voluntariness in virtually the same language as had been used in the *Ibrahim* case of some sixty years before. *Id.* at 175.

The voluntariness test has also been accepted by the courts of Northern Ireland in deciding cases outside context of the EPA. *See* Regina v. Corr, 1968 N. Ir. L.R. 193 (C.C.A.). The court found admissible statements made by the defendant after questioning by the police. Although the appellant made no allegations of oppressive, harsh, or misleading interrogation, the court noted in dicta that even "vigorous cross-examination" might have been enough to render the admission involuntary.

The effect of a vigorous cross-examination or . . . of a series 'of searching interrogatories' on one who is not free to get away from his questioner may, in certain circumstances, be to arouse hope of release or fear of further detention or other prejudicial result in the mind of the suspect according to whether or not he makes answers or keeps silent. But it also acts more directly by subjecting the person questioned to a degree of pressure which saps his will and makes him talk. We think such pressure may well . . . suffice to make statements obtained by it inadmissible in point of law. *Id.* at 211.

[137] K. Masterson, Evidence in Criminal Cases 21 (1978).

[138] Diplock Report, *supra* note 62, para. 89, at 32.

[139] *See* European Convention for the Protection of Human Rights and Fundamental Liberties, art. 3, 213 U.N.T.S. 221; Diplock Report, *supra* note 62, para. 90, at 32. Article 3 is not an admissibility standard per se; rather, it flatly prohibits the use of "torture, inhuman or degrading treatment."

[140] Diplock Report, *supra* note 62, para. 89, at 32.

[141] *See supra* note 139.

[142] Diplock Report, *supra* note 62, para. 89, at 32.

[143] *Id.* para. 84, at 30.

[144] *Id.* para 91, at 32. The Commission's attitude toward violence may be inferred from the following: [w]e do not think that . . . the police . . . should be discouraged from creating by *means which do not involve physical violence, the threat of it, or any other inhuman or degrading treatment*, a situation in which a guilty man is more likely than he otherwise would have been . . . to speak . . . *Id.* (emphasis added).

[145] *See* Ten Years On, *supra* note 48, at 45.

[146] *Id. at 45–46.*

[147] *Id. at 46.*

[148] *Id.*

[149] *Id.*

[150] *Id. at 45.*

[151] *See supra* notes 116–22 and accompanying text.

[152] *See supra* note 139 and accompanying text.

[153] 1969 [The Greek Case] Y.B. Eur. Conv. on Human Rights 1 (Eur. Comm'n on Human Rights). The case was a consolidation of applications by Denmark, Norway, Sweden, and the Netherlands.

[154] *Id.* at 186.

[155] *Id.*

[156] *Id.* at 461.

[157] *Id.* at 186.

[158] *Id.* at 501. Ironically, the Commission used these exact definitions in rendering its opinion in the 1971 case of Ireland v. United Kingdom, which involved a number of complaints of ill-treatment during interrogations at the Holywood Army Barracks betwen August and December 1971. Ireland v. United Kingdom, 1978 E.C.H.R. 377, No. 5310/71 (judgment of Jan. 18, 1978). At the time of the complaint the Special Powers Act, the predecessor of the EPA, was still in effect. *See supra* notes 29–32 and accompanying text.

[159] 1971 Y.B. Eur. Conv. on Human Rights 250 (Eur. Comm'n on Human Rights).

[160] *Id.* at 252.

[161] *Id.* at 276.

[162] *See supra* note 144 and accompany text.

Flynn [163] that confessions obtained at the Holywood Army Barracks were inadmissible because the Barracks was "a set-up officially organized and operated to gain information . . . from persons who would otherwise have been less willing to give it." [164] The Diplock Report specifically criticized this decision, [165] and the Lord Chief Justice accommodated that criticism in an opinion delivered shortly after the new standard took effect. In construing the new standard, he found in *Regina v. Corey* [166] that "[t]here is no need now to satisfy the judge that a statement is voluntary in the sometimes technical sense which that word has acquired in relation to criminal trials." [167]

Despite this apparent initial clarity, later cases have revealed that the courts of Northern Ireland are deeply troubled by the departure from the common law, and are finding the new standard difficult to interpret. One leading case on section 8 which betrays this difficulty in *Regina v. McCormick*,[168] which concerned the admissibility of statements made by five defendents charged with offenses ranging from murder to membership in a proscribed organization.[169] After noting that the European Convention cases permit " 'a certain roughness of treatment,' " the Lord Justice (the trial court judge) wrote that decisions under article 3 appear to contemplate the use of physical violence not permitted under the common law standard.[170] He further argued that if the Diplock standard were interpreted in the same way as article 3,[171] it must be read to permit the use of "a moderate degree of physical maltreatment for the purpose of inducing a statement." [172] Put differently, the court appeared to hold that a statement would be held admissible unless "torture, inhuman or degrading treatment" in the sense described by the European Commission was used for the purpose of inducing it.[173]

Shifting directions, however, the opinion then examined the power of judicial discretion, which, it maintained, provided nonstatutory control over the means by which statements are obtained.[174] It invoked language from *Regina v. Corey*,[175] the earlier case interpreting the section 8 standard, to the effect that judges were still permitted to exclude statements if their admission " 'would not be in the interests of justice.' " [176] Seizing on this "interests of justice" rationale, the opinion excluded some of the statements at issue in *McCormick* because in its view they had been induced by physical violence.[177]

In short, the opinion is contradictory. After apparently endorsing the view that "it is open to an interviewer to use a moderate degree of physical maltreatment for the purpose of inducing a statement," [178] the opinion excluded statements precisely on the ground that violence had been used to obtain them. The rationale of the opinion was further obscured by language in the conclusion to the effect that the discretionary power "should not be exercised so as to defeat the will of Parliament as expressed" in section 8. [179]

The second basic ambiguity in the interpretation of section 8 is, however, precisely that the will of Parliament with respect to the judicial power of discretion is impossible to determine. The Diplock commission clearly intended that its proposed standard would suspend the common law principle of voluntariness, and would remove from judges the discretionary power to depart from the standard even should the "interest of justice" require it. [180] It seemed neither to anticipate the use of physical violence in interrogation, nor to be aware that the case law under article 3 permitted such conduct. [181]

The Gardiner Committee, the only Parliamentary body to review the EPA, conceded that reading the Diplock Report might lead one to believe that by enacting the EPA, Parliament had intended that judges no longer have discretion over admissibility in trials of scheduled offenses. [182] It rejected this review, however, and argued that Parliamentary withdrawal of such well-established judicial power could only be made in "clear terms," [183] which the EPA failed to do. The Gardiner Report favored an express statutory affirmation that judicial discretion was unimpaired, and recommended a provision to that effect to Parliament. [184] Such language has not been inserted, however.

In short, the language which the Gardiner Committee maintained was necessary to remove the power of discretion has not been inserted in the EPA. Nor has the language it suggested that would affirm explicitly the power of discretion. While Parliament has not resolved the matter, some courts in Northern Ireland have concluded that their discretionary power still survives.[185]

It seems fair to draw at least conclusions from this confusion. First, the section 8 standard is inherently ambiguous in two fundamental respects. First, the approach of the Diplock Commission and that of the European Commission differ with respect to the permissiblity of the use of physical violence. This tension has not been resolved, and the courts of Northern Ireland have been left with the difficult task of reconciling the Diplock approach, which did not contemplate the use of physical violence,[186] and the European Commission approach, which has found "slaps or blows of the hand on the head or face not unacceptable."[187] In addition, it is not clear whether in trying to reconcile these two approaches, the courts of Northern Ireland may invoke their common law discretionary powers, although some have continued to do so.[188]

The second conclusion to be drawn is that it seems likely that the confusion over the "torture, inhuman or degrading treatment" standard had contributed to the use of violence during interrogations. One study of post-*McCormick* cases has concluded that "the possible exclusion of statements did not act as an effective control of policy malpractice."[189] The authors of the study asserted that the inherent ambiguity of section 8 as revealed in judicial application may have persuaded some interrogators that physical ill treatment was permissible.[190] Although section 8 and the admissibility of confessions were, strictly speaking, outside its mandate,[191] the Bennett Committee noted that "the uncertainty, despite the standards upheld and applied by the courts, about what is permissible and what is not, short of the use of physical violence or ill treatment, may tempt police officers to see how far they can go and what they can get away with."[192] It is clearly questionable whether the Commission's confidence that the application of the standard would prevent the use of physical violence was justified. It is unquestionable that its general apprehension of the problems likely to be caused by the standard was justified.

C. Defense of the New Standard: A Rebuttal

A defense of the new standard of admissibility would probably focus on its ostensible efficacy. Concern that the standard may encourage psychological or even physical violence is misplaced, it could be argued, because such violence can be justified in the name of community safety. Confessions are crucial, given the present situation, because witnesses are reluctant to testify out of fear of the terrorists or out of general disrespect for the system of justice. Confessions are difficult to obtain with traditional means of interrogation, however, because dedicated terrorists are not likely to "crack" as would

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[163] (Belfast City Comm'n, May 23, 1972) (ruling by Lowry, L.C.J.), *digested in* 23 N. Ir. L.Q. 343 (1972).

[164] Note, *Admissibility of Confessions and the Common Law in Times of Emergency*, 24 N. Ir. L.Q. 199, 202 (1974) (quoting Regina v. Flynn (Belfast City Comm'n, May 23, 1972)).

[165] DIPLOCK REPORT, *supra* note 62, para. 83, at 30.

[166] Note, 1979 N. Ir. 49 (Belfast City Comm'n, Dec. 6, 1973) (ruling by Lowry, L.C.J.), *digested in* 25 N. Ir. L.Q. 180 (1974).

[167] 1979 N. Ir. 50.

[168] 1977 N. Ir. 105.

[169] *Id.*

[170] *Id.* at 110.

[171] On this issue, the court asserted that the terms torture or inhuman or degrading conduct in section 6 of the 1973 Act are taken from Article 3 and Parliament in using these words was accepting as guidelines the standards laid down in the European Convention on Human Rights and incorporating these in the domestic legislation. *Id.* at 109.

[172] *Id.* at 111.

[173] *Id.*

[174] *Id.*

[175] *See supra* notes 166-67 and accompanying text.

[176] 1977 N. Ir. at 112 (quoting Regina v. Corey (Belfast City Comm'n. Dec. 6, 1973). Judicial discretion permits the court to exclude statements which satisfy the strict legal tests of admissibility, but which the court concludes could not be admitted without "operat[ing] unfairly against a defendant." Collis v. Gunn, [1964] 1 Q.B. 495, 501. Like the principle of voluntariness, which section 8 explicitly abandoned, it is deeply embedded in the common law. *See* GARDINER REPORT, *supra* note 63, para. 47, at 16.

[177] 1977 N. Ir. at 112. In a later case, *Regina v. O'Halloran*, the Lord Chief Justice appeared to deny the permissibility of any degree of physical violence. 1979 N. Ir. 45 (C.A.). In dicta, he expressed doubt that even under the section 8 standard a court should ever admit statements once violence had been shown to have occurred during the interrogation. *Id.* at 47.

[178] 1977 N. Ir. at 111.

[179] *Id.* at 114.

[180] The Diplock Report asserted that "the current technical rules, practice and judicial discretion as to the admissibility of confessions ought to be suspended for the duration of the emergency in report of Scheduled Offenses." DIPLOCK REPORT, *supra* note 62, para. 89, at 32.

[181] *See supra* notes 153-61 and accompanying text.

[182] GARDNER REPORT, *supra* note 63, para. 48, at 16-17.

[183] *Id.* at 17.

[184] *Id.* para. 50, at 17.

[185] An evidence manual written by an R.U.C. investigator has concluded that the judicial power of discretion survived the enactment of the EPA. *See* K. Masterson, *supra* note 137, at 25-26. Grier has concluded, rather safely, that "a precise analysis of the scope of the judicial discretion in the context of section 8 is not yet feasible." Grier, *supra* note 109, at 224.

[186] *See supra* notes 143-44 and accompanying text.

[187] *See supra* notes 153-58 and accompanying text.

[188] *See supra* notes 176-77 and accompanying text.

[189] TEN YEARS ON, *supra* note 48, at 48.

[190] *Id.*

[191] BENNETT REPORT, *supra* note 87, para. 3, at 2.

[192] *Id.* para. 84, at 31.

ordinary criminals. In short, such a defense would squarely pose an alternative: a choice must be made between violence in interrogation and violence in the streets, and the former is to be preferred.

This defense is vulnerable to several attacks. In the first place, it can be argued that questions of efficacy are simply irrelevant. The techniques contemplated under section 8 are *a priori* unacceptable. The psychological damage inflicted by the nonphysical abuse may be just as significant as that inflicted by more physical forms of persuasion. The physical violence that is the inevitable product of the new standard would never be tolerated as punishment for persons already proven guilty. Accordingly, it cannot be accepted as an appropriate instrument for use in the determination of guilt.

Even should the efficacy argument be accepted in principle, it can be defeated on its own terms. The new admissibility standard has not, as far as can be ascertained, contributed to a decline in the level of violence. While the overall level of violence fell sharply in the last four months of 1976,[193] this decline was in all likelihood due to the emergency of the Peace People, a non-sectarian peace group which inspired broad-based marches calling for an end to the conflict.[194] There was, however, no evidence that the interrogation practices tolerated under section 8 were effective in decreasing the number of terrorist crimes,[195] whatever their success in producing individual confessions.[196] In fact, terrorist acts measured in number of deaths by violence and number of terrorist incidents actually increased in 1976, the full first year in which the new approach was employed. It is plausible that the interrogation controversy increased opposition to government policies and added new recruits to terrorist rolls, at least on the Republican side.

A second flaw in the efficacy argument is that it fails to take account of data indicating that only a relatively small number of those interrogated under the new standard have been charged with a crime. For the period between September, 1977 and August, 1978, only 37% of those interrogated at Castlereagh and 24% of those interrogated at Gough and Strand Road, Londonderry were ultimately charged.[197] During the first ten months of 1980, only 8.6% of all those arrested under the EPA were ever charged.[198] These figures admit of only two conclusions: either large numbers of innocent people have been subjected to prolonged interrogation, or prolonged interrogation failed in most cases to produce a confession from those who had something to confess.

Equally damaging to the efficacy defense of section 8 is the finding by Boyle, Hadden and Hillyard that "the majority of those who did make a confession did so relatively quickly." [199] Fifty percent of all those covered in their survey who chose to make a statement did so within the first three hours of interrogation, and a further 25% within the next three hours.[200] Prolonged interrogation, stress, fatigue, and mental and physical harassment do not appear to have been important factors in inducing most confessions. Perhaps the extended interrogations could be justified if it could be shown that the last 25% of the confessions, those which were not forthcoming until after the initial six hours of interrogation, came from hardened men and women of violence. The very fact that the government has never produced any data which support this conclusion is suggestive; if evidence showing that those who confessed after prolonged interrogation tended to be those most responsible for the violence, one must assume that it would have been given wide publicity during the long period of criticism of the security forces for their interrogation practices.[201]

Whatever success section 8 may be claimed to have had in inducing true confessions must be balanced against the significant danger that it may also induce false confessions. The underlying rationale of the voluntariness principle was to guard against this danger, as well as to discourage improper police practices.[202] Although no clear proof of a false confession has been found, substantial doubts about the validity of confessions have been raised in a significant number of cases.[203] One R.U.C. detective, a member of an interrogation team, has estimated that 2% of all those convicted were innocent.[204] That would suggest that between 1976 and 1977 over 50 innocent people were convicted.[205]

The last and most damaging argument to be made against those who would justify section 8 on grounds of efficacy is that it contributes to the perceived substantive unfairness in the legal system.[206] Police interrogation practices as condoned by section 8 are certain to arouse popular anger, and further diminish prospects for popular cooperation with security forces. The Diplock Commission warned that "the reputation of Courts of Justice would be sullied if they countenanced convictions on evidence obtained by methods which flout universally accepted standards of behavior." [207] Ironically, however, section 8 is contributing to precisely that result.

IV POLICE COMPLAINT PROCEDURES

So long as extraordinary powers are conferred on the security forces by statutes such as the EPA, it is essential that the exercise of these powers be tempered by the establishment in Northern Ireland of procedures for the independent investigation and evaluation of allegations of police misconduct. The need for such procedures is made even more pressing by the longstanding tradition of discrimination against the Catholic minority in the administration of justice.[208] Therefore, it must be regarded as a critical failing of the legal system in Northern Ireland that such procedures are virtually nonexistent.

The call for the establishment of procedures for the independent investigation of complaints was sounded almost as soon as the current cycle of violence began in Northern Ireland in 1969. The Cameron Report, which studied the rioting of that year, recommended the abandonment of the longstanding policy that only the Chief Constable institute disciplinary courts of inquiry[209] and that independent procedures be established.[210] These recommendations were not adopted, however, and despite further calls for the institution of such procedures,[211] and the implementation of some superficial reforms,[212] the need remains as pressing as ever.[213]

In 1970, the parliament of Northern Ireland significantly overhauled the administration of the R.U.C. by the passage of the Police Act (Northern Ireland),[214] which removed the constabulary from the direct control of the Minister of the Interior of Northern Ireland.[215] The act made the constabulary responsible to the Police Authority,[216] a public body appointed by the Governor of Northern Ireland [217] and to be composed of diverse community representatives.[218] Part of the Police Authority's mandate was, and remains, to keep itself "informed as to the manner in which complaints from the public against members of the police force are dealt with by the Chief Constable."[219] As part of its general power

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[193] The indices for the measurement of terrorist activity showed declines of 30% to 60% during the last four months of 1976 as compared with the same period for 1975. ROYAL ULSTER CONSTABULARY, CHIEF CONSTABLE'S ANNUAL REPORT FOR 1977, at 72-73 (tables 1-5) (1978). Nonetheless, terrorist activity, as measured by the number of politically related murders, ran at high levels in 1976, the first full year of the new emphasis on conviction in courts of law. The data show the year to have been the third worst since the outbreak of the violence in 1969. *See* ROYAL ULSTER CONSTABULARY, CHIEF CONSTABLE'S ANNUAL REPORT FOR 1982, at 48 (tables 3) (1983).

[194] *See* N.Y. Times, Sept. 5, 1976, at 15, col. 1; *id.* Oct. 24, 1976, at 18, col. 1; *id.*, Nov. 28, at 17, col. 1.

[195] Despite the substantial decline at the end of the year, 297 politically related fatalities occurred in 1976, as compared with 247 in 1975. ROYAL ULSTER CONSTABULARY, CHIEF CONSTABLE'S ANNUAL REPORT FOR 1979, at 59 (tables 6) (1980). Similarly, 3,339 terrorist incidents were reported in 1976, as compared with 2,496 in 1975. *id.*

[196] Charges were brought against 708 terrorist suspects in 1976, more than double the number for 1975. P. TAYLOR, *supra* note 116, at 80.

[197] BENNETT REPORT, *supra* note 87, app. 1, at 141.

[198] *See supra* note 89 and accompanying text.

[199] TEN YEARS ON, *supra* note 48, at 44-45.

[200] *Id.* at 45.

[201] *See supra* notes 116-24 and accompanying text.

[202] R. CROSS, EVIDENCE 446-47 (2d ed. 1963).

[203] TEN YEARS ON, *supra* note 48, at 46.

[204] P. TAYLOR, *supra* note 116, at 339.

[205] *Id.*

[206] *See supra* notes 27-28 and accompanying text.

[207] DIPLOCK REPORT, *supra* note 62, para. 89, at 32.

[208] *See supra* notes 27-33 and accompaning text.

[209] *See* Constabulary (Ireland) Act, 6 & 7 will. 4, ch. 12, § 24.

[210] CAMERON REPORT, *supra* note 38, at para. 230.

[211] *See* GARNIER REPORT, *supra* note 63, para. 97, at 32.

[212] *See infra* notes 222-28 and accompanying text.

[213] This issue also has received substantial attention throughout the United Kingdom as a whole. *See* REPORT OF A WORKING PARTY APPOINTED BY THE HOME SECRETARY ON THE ESTABLISHMENT OF AN INDEPENDENT ELEMENT IN THE INVESTIGATION OF COMPLAINTS AGAINST THE POLICE, CMD. 5, No. 8193 (1981) (Lord Plowden, Chairman) (rejecting the establishment of independent investigations in favor of reliance on investigation by officers from other forces); REPORT OF AN INQUIRY INTO THE BRIXTON DISORDERS, CMD. 5, No. 8422 (1981) (Lord Scarman, Chairman) (concluding after analysis of the causes of the Brixton race riots that independent evaluation of complaints is appropriate.

[214] 1970 N. Ir. Pub. Gen. Acts, ch. 9.

[215] *Id.* § 1.

[216] *Id.*

[217] *Id.* § 1(3), sched. 1,§§ 1-9. After the imposition of direct rule from Westminster, control over the Police Authority was vested in the Secretary of State for Northern Ireland.

[218] *Id.* This reform was instituted at the recommendation of the Hunt Committee, which had been appointed in the wake of the 1969 rioting to analyze the structure of the police force. *See* REPORT OF THE ADVISORY COMMITTEE ON POLICE IN NORTHERN IRELAND, N. IR. CMD., No. 535, at 3 (1969) (J. Hunt, Chairman) (hereinafter HUNT REPORT). The committee found that the police were too directly responsible to elected officials in a political sytem in which victory virtually was guaranteed to the members of a single party. *Id.* paras. 84-85, at 21-22.

[219] 1970 N. Ir. Pub. Gen. Acts, ch. 9,§ 12(1). The wording of the statute speaks of the "Inspector General," but regulations issued since its enactment have replaced that phrase with the phrase "Chief Constable." BENNETT REPORT, *supra* note 87, para. 284, at 96.

to keep itself informed, the Authority can request reports on complaints and investigations,[220] and in cases that affect "the public interest," can require the Chief Constable to convene a tribunal of inquiry.[221]

The issue of police complaint procedures has received extensive attention in Northern Ireland since the publication of the Cameron Report. In addition to proposing the establishment of the Police Authority, the Hunt Commission recommended that complaints be investigated by police officers from counties different from those of the officers beign investigated,[222] and the Black Report, which reviewed the problem once more in 1974, found that this reform had been implemented.[223] In the meantime,the Gardiner Report had called for the establishment of independent procedures,[224] but this proposal was rejected by the Black Report, which instead endorsed the establishment of a Police Complaint Board.[225] Finally, the Bennett Report of 1979 recommended further limited reforms, including a policy that in cases that have aroused "public disquiet," every effort be made to use investigating officers from other police forces in the United Kingdom.[226]

Despite all this attention to the problem the basic structure remains the same. As the Black Report endorsed as a fundamental principle,[227] and as the Bennett Report accepted for what it claimed was the lack of a better alternative,[228] operational control over the investigation of complaints remains in the hands of the police. While four separate procedures for the investigation of complaints have been established, none can be called independent in any meaningful sense. Thus, the complaint procedures remain inadequate, and the public perception of the legal system suffers as a result.

A. *Criminal Prosecution by the Director of Public Prosecutions*

Under regulations issued pursuant to the 1970 Police Authority Act, the Chief Constable is the disciplinary authority for all ranks up to and including Chief Superintendent, while the Police Authority is given responsibility for the higher ranks.[229] The authority for the lower ranks has been delegated to a Senior Deputy Chief Constable, who evaluates the complaint in the first instance and then assigns a member of the Complaints and Discipline branch of the R.U.C. to investigate it.[230] After the investigator's report has been reviewed, the Chief Constable must send it to the Director of Public Prosecutions (D.P.P.) unless he is "satisfied that no criminal offence has been committed."[231]

Under Article 5 of the Prosecution of Offences Order,[232] the decision to press any criminal charge, including the indictment of a police oficer, is entirely the responsibility of the D.P.P., whose discretion in this regard is subject only to his accountablity to the Attorney General of the United Kingdom.[233] The inherent weakness of this putative independence is apparent, however, in that the Order establishes no power of investigation, and, in fact, the D.P.P. has no staff for investigation.[234] Any further information required by the D.P.P. must be requested form the Chief Counstable.[235] Thus, the prosecution decision is only nominally an independent one; the D.P.P.'s dependence on the R.U.C. for the investigation of any complaint against members of the R.U.C. is absolute.

B. *R.U.C. Disciplinary Procedures*

The role of the D.P.P. in the evaluation of complaints against the police is to determine whether the senior police officer's report contains sufficient evidence upon which to initiate criminal proceedings against the accused policeman.[236] A variety of factors, including the credibility of potential witnesses, the admissibility of evidence, and the presence of competing demands on limited staff may influence the D.P.P.'s decision.[237] None of these factors may necessarily address the issue of whether an assault or some other behavior warranting disciplinary action has occurred. Nonetheless, the R.U.C. has consistently interpreted British double jeopardy rules to require that if the D.P.P. has considered and rejected criminal charges against a constable or police officer, internal disciplinary action is automatically precluded. The result of this interpretation has been substantially to undercut whatever role the R.U.C. internal disciplinary procedure might play in the investigation of complaints against the police.

The literal wording of the double jeopardy rule would not appear to require that a decision not to prosecute rule out internal disciplinary proceedings. According to the Police Order of 1977, "where a member of the police force has been acquitted or convicted of a criminal offence he shall not be liable to be charged with any offence against discipline which is in substance the same as the offence of which he has been acquitted or convicted."[238] As the Bennett Report pointed out, however, "[a]cquitted means, of course, acquitted by a court, but, in the application of the 'double jeopardy' rule, 'acquitted' has also been taken to refer in some degree to decisions by the Director of Public Prosecutions that there should be no prosecution."[239] It also noted that the R.U.C. approach to the double jeopardy rule has been more absolute than was intended.[240] Nonetheless, the R.U.C. disciplinary machinery, which could play an important role in controlling misconduct that falls below the level of an indictable offense but that is still counterproductive or unbecoming, will not investigate a case in which the D.P.P. has declined to prosecute.

C. *Tribunals of Inquiry*

A third procedure for the evaluation of complaints against the police is that the Police Authority can require the establishment of a tribunal of inquiry.[241] In cases in which the complaint "relates to a matter affecting or appearing to affect the public interest,"[242] the Police Authority can require the Chief Constable to refer the complaint to a tribunal consisting of a lawyer appointed by the Lord Chief Justice of Northern Ireland and two police officers appointed by the Authority itself.[243]

Although the tribunal option would appear to offer some promise of independent investigation, as of 1979 it had been invoked only once since the Police Authority was established in 1970.[244] The number of complaints has remained relatively constant; in 1972, 2,617 complaints were filed, and in 1979, 2,183 were filed.[245] To discharge its statutory mandate to keep itself informed of complaints against the police, the Police Authority during this period relied exclusively on the reports it received from the R.U.C. It had considered the tribunal option only twice before the first and only establishment of a tribunal of inquiry, which was appointed in 1979 to consider the case of James Rafferty.[246]

The facts and aftermath of the Rafferty case suggest that any hope that the tribunal of inquiry might be able to exercise independent investigatory power is misplaced. After his arrest on November 11, 1976, Rafferty, who had no prior criminal record, was interrogated for three days.[247] Upon his release he was examined by two doctors, one a police surgeon, who found him to be suffering severe bruises and a spinal laceration, and who recommended urgent hospital treatment.[248] Rafferty was hospitalized for four days after his release, during which time the extent of his injuries was confirmed by two more doctors, one a Fellow of the Royal College of Surgeons.[249] No criminal charge was ever brought against him.

Although the matter was raised by one of its own members almost immediately after the incident, for two years the Policy Authority refused repeated requests to initiate a tribunal of inquiry.[250] During that period

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[220] 1970 N. Ir. Pub. Gen. Cts, ch.9,§ 15(2).

[221] *Id* § 13.

[222] HUNT REPORT, *supra* note 218, para. 133, at 32.

[223] REPORT OF THE WORKING PARTY FOR NORTHERN IRELAND, CMD. 5, No. 6475 (1975) (Sir Harold Black, Chairman) [hereinafter BLACK REPORT].

[224] GARDINER REPORT, *supra* note 63, para. 98, at 32.

[225] BLACK REPORT, *supra* note 223, para. 53, at 16. This reform was instituted in 1977. *see infra* notes 259-71 and accompanying text.

[226] BENNETT REPORT, *supra* note 87, para. 357, at 118.

[227] BLACK REPORT, *supra* note 223, para. 22(i), at 8.

[228] *Id.* para. 356, at 117-18.

[229] R.U.C. (Complaints) Regulations, 1977 STAT. R. & O.N. IR., No. 235; R.U.C. (Discipline and Disciplinary Appeals) Regulations, 1977 STAT. R. & O.N. IR., No. 236.

[230] BENNETT REPORT, *supra* note 87, para. 285, at 97.

[231] 1970 N. Ir. Pub. Gen. Acts, ch 9, § 13(5). Pursuant to powers conferred by the Prosecution of Offences Order, the D.P.P. has required the Chief Constable to send it any allegation of criminal conduct made against a police officer. Prosecution of Offences (Northern Ireland) Order, 1972 STAT. INST., No. 358, art. 6(3)(b); *see* BENNETT REPORT, *supra* note 87, para. 286, at 97.

[232] Prosecution of Offences (Northern Ireland) Order, *supra* note 231, art. 5.

[233] *Id.*

[234] BENNETT REPORT, *supra* note 87, para. 288, at 98.

[235] *Id.*

[236] P. TAYLOR, *supra* note 116, at 57.

[237] *Id.*

[238] Police (Northern Ireland) Order, 1977 STAT. INST., No., 53, art. 14.

[239] BENNETT REPORT, *supra* note 87, para. 364, at 120.

[240] *Id.* para. 365, at 121. This policy has continued despite the issuance in 1977 of a Home Office circular that warned specifically against an overly broad application of the double jeopardy rule in the context of police disciplinary procedures. *Id.*

[241] Police (Northern Ireland) Act, 1970, ch 9, § 13(2).

[242] *Id.*

[243] *Id.* § 13(3). These officers may be affiliated with any police force in the United Kingdom. *Id.*

[244] BENNETT REPORT, *supra* note 84, para. 392, at 130. During the same period, almost 20,000 formal complaints were filed against the police, including 1,382 alleging an assault during interrogation, during the period from 1976 to 1978. *Id.* app. II, at 142 (data supplied by the R.U.C.).

[245] NORTHERN IRELAND CIVIL RIGHTS ASSOCIATION, THE RAFFERTY FILE 13 (1980) (copy on file with *The Yale Journal of World Public Order*) [hereinafter RAFFERTY FILE].

[246] P. TAYLOR, *supra* note 116, at 105.

[247] *Id.* at 88.

[248] *Id.* at 96.

[249] *Id.* Rafferty was also found to be suffering from some degree of amnesia. *Id.* at 97.

[250] *Id.* at 97-105.

the investigations undertaken by the R.U.C. and by the D.P.P. both came to naught.[251] Finally, in October, 1978, the Police Authority agreed that a tribunal should hear the case, and in the spring of 1979, the tribunal was appointed.[252] The tribunal began to hear testimony in December, 1980.[253] After medical testimony corroborated the severity of his injuries, Rafferty himself testified. Certain cross examination of Rafferty by counsel for the police witnesses was ruled improper, whereupon counsel and the police witnesses refused to participate further in the proceedings.[254] Following this action, the tribunal sought and obtained supboenas that required the police witnesses to testify.[255] Six of the witnesses appealed this decision, and nine days later Lord Justice Gibson quashed the subpoenas,[256] ruling that the tribunal was not exercising a judicial function and therefore could not avail itself of the subpoena power of the courts.[257] This decision effectively ended the inquiry, for the police witnesses indicated that, at the advice of counsel, they would not participate further in the inquiry unless legally compelled to do so.[258] Thus, the Police Authority's first and heretofore only tribunal of inquiry, held four years after the occurrence of the incident it was to investigate, broke up after two days of testimony. Any confidence that the community might have had in its institutional capacity to conduct independent investigations was perhaps permanently destroyed.

D. The Police Complaints Board

The fourth procedure for the evaluation of complaints lies with the Police Complaints Board, which consists of at least six members,[259] none of whom may be affiliated with a police force.[260] According to the Black Report, which endorsed the establishment of the Board,[261] the rationale underlying its creation was to introduce "some form of independent scrutiny" into the investigation of complaints made against the R.U.C. but which are not referred to the D.P.P.[262] The Board was intended neither to make its own investigations,[263] nor to usurp the position of the D.P.P.;[264] rather, by receiving copies of complaints and investigation reports,[265] and was to consult with and make recommendations to the Chief Constable about possible internal disciplinary procedures.[266] The Board is not sent copies of compaints that the Chief Constable forwards to the D.P.P. until after the question of criminal proceedings has been settled.[267]

The fundamental problem with this structure is that because virtually all complaints made against the police allege some criminal conduct,[268] they are therefore sent first to the D.P.P.[269] Thus, the Board is not involved in the evaluation of any complaint that alleges criminal conduct; either the D.P.P. presses criminal charges, which eliminates any role for the Board, or the D.P.P. does not, which, given the peculiar interpretation of the double jeopardy rule in Northern Ireland, has the same effect.[270]

In short, the Police Complaint Board's power is confined to whatever role it might play with the Chief Constable concerning the appropriateness of internal disciplinary proceedings in those rare cases in which criminal behavior is not alleged in the complaint at issue. Even this limited power has not been used effectively,[271] and if it were, it is the possible criminal behavior of members of the R.U.C., not minor disciplinary infractions, with which the public is most concerned. Thus, it is most unlikely that the Board will ever play an important role in the investigation of complaints against the police.

E. The Need for Independent Investigations

No procedure for the independent investigation of complaints against the police yet exists in Northern Ireland. Criminal prosecution by the D.P.P., the tribunals of inquiry, and the Police Complaint Board are all thoroughly dependent on the cooperation of the R.U.C. The constabulary's internal disciplinary powers, even should they be exercised in good faith, are seriously handicapped by the interpretation of the double jeopardy rule. Until this failing is remedied, public confidence in the legal system, so important to the achievement of a peaceful solution to the conflict, will remain seriously diminished.

Two factors guarantee that even if the R.U.C. changed its interpretation of the double jeopardy rule to permit departmental investigations despite a decision not to prosecute, independent investigations would still be required. The first, not unique to Northern Ireland, is the inherent difficulty in asking members of the police force to investigate their colleagues. Members of the R.U.C., like policemen everywhere, share a spirit of loyalty and are anxious not to harm a fellow officer performing a difficult job. This spirit of corporate unity, no doubt made even more intense by the death of 173 members of the police at the hands of terrorists between 1969 and 1982,[272] inevitably penetrates and weakens the independence and objectivity of police investigations.

The second factor arguing in favor of the need to establish independent complaint procedures is a legal one which concerns the possibility of conflict of interest. In cases in which the complaint stems from police conduct during an interrogation, the complainant may have been charged with a criminal offense on the basis of his or her admission. A vigorous investigation of the complaint may have the effect of rendering inadmissible the confession made by the criminal defendant *qua* complainant. In light of this circumstance, the Bennett Commission found that the "investigation of a complaint will consciously or unconsciously be influenced by the wish to support the Crown case against the complainant."[273] A vigorous investigation of a complaint may be viewed not only as a slap against fellow officers, but also as an actual reward for criminal defendants. Thus, a conflict of interest inevitably is presented to the prosecutor who directs the investigation of the complaint and to the police who perform the actual investigation itself.

So long as no independent investigation of complaints against the police exists in Northern Ireland, the perception of discrimination in the administration of justice, already so deeply rooted in the Catholic community,[274] is bound to continue. Thus, one important goal of the last decade of British policy in Northern Ireland—public acceptance of the R.U.C. as "civilian, impartial, and accountable"[275]—is bound to fail. The data show that only fourteen prosecutions were pressed against police officers in the years 1976 through 1979, and not a single conviction was obtained.[276] Despite the wave of negative publicity that preceded the appointment of the Bennett Committee, at the time its report was issued not a single police officer had been convicted of a crime arising out of a maltreatment claim.[277] The Standing Advisory Committee on Human Rights has repeatedly urged that "justice must not only be done, it must be seen to be done."[278] Given the present state of the procedures for the investigation of complaints against the police, it is hardly surprising that many people neither see justice being done, nor believe that it is being done at all.

V. AMELIORATING THE SITUATION: AN AGENDA FOR REFORM

Incremental reforms can be implemented that would help convince the public that a system offering substantive and procedural fairness can be built in Northern Ireland. Indeed, the very implementation of reforms in the admissibility standard and in the procedures for the investigation of complaints made against the police would send a clear signal that the authorities themselves are

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[251] *Id.*

[252] *Id.* at 105.

[253] Raferty File, *supra* note 245, at 7.

[254] *Id.*

[255] *See In re* Sterritt, 1980 N. Ir. 234, 234.

[256] *Id.*

[257] *Id.*

[258] *Id.* at 235. Lord Justice Gibson called the result "singularly unfortunate," but held that the law left him no room for a different decision. *Id.* at 240.

[259] Police (Northern Ireland) Order, *supra* note 238, art. 3(1).

[260] *Id.* art. 3(2).

[261] Black Report, *supra* note 223, para. 53, at 15-16.

[262] *Id.* para. 16, at 6-7; *see supra* notes 229-31 and accompanying test.

[263] Black Report, *supra* note 223, para. 22(i), at 8.

[264] *Id.* para. 22(ii), at 8.

[265] Police (Northern Ireland), Order, *supra* note 238, art. 5.

[266] *Id.* art. 6. As a power of last resort the Board can compel the Chief Constable to initiate a disciplinary hearing. *Id.* art. 6(2).

[267] *Id.* art. 8(1).

[268] *See* BENNETT REPORT, *supra* note 87, para. 329, at 110.

[269] *Id.*; *see supra* notes 229-31 and accompanying text.

[270] *See supra* notes 236-40 and accompanying text. In a special report to the Secretary of State, the Board itself expressed the view that the extent of the restriction on its scope caused by the double jeopardy rule was not fully appreciated by its members at the time of their appointment, and that the rule "constitutes a serious curtailment" of the effectiveness of their role. BENNETT REPORT, *supra* note 87, para. 397, at 132.

[271] The Bennett Report noted that as of March, 1979, the Board had not exercised any of its powers. *Id.* para. 398, at 132. In June, 1981, an independent investigatory group found that the Police Complaint Board and the tribunals of inquiry, whose weakness had been betrayed in the Rafferty case, were "equally ineffective." THE ADMINISTRATION OF JUSTICE IN NORTHERN IRELAND, *supra* note 133, at 4.

[272] ROYAL ULSTER CONSTABULARY, CHIEF CONSTABLE'S ANNUAL REPORT 1982, at 48 (table 6) (1983).

[273] BENNETT REPORT, *supra* note 87, para. 352, at 117.

[274] *See supra* notes 27-33 and accompanying text.

[275] HUNT REPORT, *supra* note 218, para. 176; *see* AMNESTY INTERNATIONAL, *supra* note 111, at 1-2.

[276] P. TAYLOR, *supra* note 116, at 58.

[277] BENNETT REPORT, *supra* note 87, para. 157, at 52. During this period 19 officers were prosecuted. Of these, 16 were acquitted outright, in one case the prosecution declined to continue after trial had begun, and 2 convictions were reversed on appeal. *Id.*

[278] *See* STANDING ADVISORY COMMITTEE ON HUMAN RIGHTS, FIFTH REPORT (1980) (on file with *The Yale Journal of World Public Order*). The committee was created by the Northern Ireland Constitution Act, 1973, ch. 36, § 20.

determined to govern within reasonable limits prescribed by law, and without resort to "emergency" powers that invite arbitrary and capricious misuse. No reform can be expected to eradicate overnight centuries of hatred and mistrust. Sensible and feasible measures are available, however, that could begin the process of building confidence in the rule of law that is the surest weapon against those who would resort to violent and extra-legal means to achieve their objectives.

A. Interrogation Practices and the Admissibility Standard of Section 8

The fact that the admissibility standard of section 8 of the EPA is derived from the European Convention on Human Rights does not justify ignoring the manifold problems it has created. Decisions under the Convention appear to condone the use of physical violence in interrogations by the police, and the standard's imprecision has made impossible the coherent judicial interpretation of its requirements. Reforms must be implemented to resolve both these difficulties.

1. Physical Violence in Interrogation Is Counterproductive and Should Be Specifically Proscribed

The use of physical violence in interrogation is counterproductive in at least two ways: (1) as the Diplock Commission recognized, it may prevent the development of any rapport between the person questioned and the questioners; and (2) it only exacerbates the atmosphere of community distrust that permeates Northern Ireland. An explicit and absolute ban on its use might make possible more effective interrogation and certainly would improve community relations.

To make such a ban meaningful, the message must be clearly conveyed to all concerned that not only will evidence that has been obtained by the use or threat of violence be excluded from the courts, but that members of the police force who violate the proscription will be punished. The promulgation of a code of permissible interrogation practices would constitute a useful first step in the communication of such a message.[279] In addition, the establishment of independent procedures for the evalution of complaints made against the police would deter further abuse and assure the public that the problem is taken seriously by the authorities.

2. The admissibility Standard of Section 8 Should Be Abolished and the Common Law Test of Voluntariness Restored

The practical operation of section 8 has created serious problems that have not been offset by any compensating increase in public safety. This fact should be recognized, and the standard abolished. The voluntariness test should be restored, together with a re-affirmation of the power of judicial discretion to exclude admissions of dubious probative value or ones made under questionable circumstances. Other provisions of the EPA have provided the security forces sufficient powers of investigation and detention such that this counterproductive and unfair standard can be safely abandoned.

[279] *See* BENNETT REPORT, *supra* note 87, paras. 180-83, at 63-64. Professors Boyle, Hadden, and Hillyard have drafted such a code that could serve as a model on which to base the regulation of interrogation practices. TEN YEARS ON, *supra* note 48, at 110-13.

B. The Investigation of Complaints Against the Police

The clear lack of any power of independent investigation in the hands of the D.P.P., the Police Authority, or the Police Complaints Board and the regular acquittals in the few prosecutions of members of the police preclude the development within the Catholic community of any feeling of confidence in the fairness or impartiality of the R.U.C. That confidence is especially important in a society in which the police are, and have been for decades, vested with special emergency powers of unreviewable discretion that permit the detention of suspects for days without charge. A thoroughgoing reform of the procedures for the investigation of complaints against the police is essential in a community in which distrust between members of a minority community on the one hand, and members of the security forces and the majority community on the other, is rampant.

1. The Rule Against Double Jeopardy Must Be Construed Literally

A decision by the D.P.P. not to prosecute should not result in the absolution of those accused of disciplinary offenses that do not rise to the level of criminal behavior. The use of internal disciplinary machinery should not be confused with the public prosecution of a criminal offense. Misconduct which is less than criminal still may merit disciplinary sanction, and the R.U.C.'s interpretation of the double jeopardy rule should be changed to take cognizance of this fact.

2. Complaints Must Be Investigated by Persons Institutionally Independent From Those Persons Being Investigated

Systems for the investigation of complaints made against the police generally involve four steps—the receipt of the complaint, the investigation of the complaint, the determination whether to initiate proceedings, be they disciplinary or judicial, and the ultimate resolution of the complaint. Independence can be established at any or all of these steps.[280] It can be ensured by establishing a special police unit to investigate complaints, or by creating an oversight position in the form of an ombudsman.

A special police unit established solely to investigate complaints against the police should be designed to take account of the need to protect police morale as well as the need for the thorough and independent investigation of complaints. As a full-time body, the unit would be able to develop expertise in the investigation of complaints. Its independence from other branches of the police and the freedom of its members from ordinary police work should serve to insulate it to a substantial degree from the pressures typically created by the investigation of fellow officers. This independence should serve to impress the public with the seriousness with which the police examine allegations of wrongdoing, although public perception in Northern Ireland will depend ultimately on the achievement of demonstrably fair results. That such a unit can successfully identify and investigate problems within the ranks of police has been demonstrated elsewhere.[281]

A second alternative to the present system would be the creation of an ombudsman, a Public Complaints Commissioner, who would have the authority to scrutinize all investigations of complaints within a certain period after the receipt of the complaint by the police.[282] A staff of civilian investigators would assist the ombudsman, who would possess full subpoena power, the right of access to police records, and the power to order public hearings on the basis of either the staff or police investigations.

A combination of the two approaches—the creation of both special investigation unit and an ombudsman—would be an ideal solution to the complaint problem in Northern Ireland. Under this plan, a special investigation unit would answer to the Chief Constable, but its actions would be monitored by an ombudsman.[283] The ombudsman would play several roles—he or she could receive complaints independently of the police, serve as a conciliator in cases calling for informal resolution, monitor ongoing investigations, and conduct investigations when the circumstances require. Providing the ombudsman with an independent staff empowered to compel testimony and the production of documents by the police would eliminate the problems encountered heretofore by the Policy Authority and the Police Complaints Board. Public hearings ordered under the ombudsman's powers would have real authority, in contrast to the tribunals of inquiry, and would be likely to produce full police cooperation. Although this approach would not institutionalize a completely independent investigation process, it would accommodate the demands of investigative competence and objectivity, police morale, and public confidence.

No procedure for the investigation of complaints against the police can operate effectively without police cooperation. Moreover, a police force cannot function effectively

[280] The author has surveyed elsewhere possible methods for the creation of such independence. *See* T. FOLEY, COMPLAINTS AGAINST THE POLICE (1980) (mimeo) (copy on file with *The Yale Journal of World Public Order*). *See also* Note, *The Administration of Complains, by Civilians Against the Police*, 77 HARV. L. REV. 499 (1964); Grant, *Complaints Against the Police—the North-American Experience*, 23 CRIM. L. REV. 338 (1976) (independence in the determination and resolution of charges); Hudson *Police Review Boards and Police Accountability*, 36 LAW & CONTEMP. PROBS. 515 (1971) (survey of complaints procedures with emphasis on police cooperation); Lenzi, *Reviewing Civilian Complaints of Police Misconduct*, 48 TEMPLE L.Q. 89 (1974) (analysis of alleged systematic violations of constitutional rights by members of the Philadelphia Police Department, with suggestions for more effective complaint procedures).

[281] *See Get the cops*, ECONOMIST, May 28, 1977, at 71 (successful investigations of corruption in the Hong Kong police); *Sins of the fathers*, ECONOMIST, June 25, 1977, at 23 (efforts of Scotland Yard special investigating team to uncover police corruption). The resignations from the constabulary of the corrupt officers identified by the Scotland Yard team are reported to have increased public confidence in the police and heightened departmental morale. *Id.*

[282] For general discussions of the ombudsman concept, see Gellhorn, *The Norwegian Ombudsman*, 18 STAN L. REV. 293 (1966); Gellhorn, *Finland's Official Watchmen*, 114 U. PA. L. REV. 327 (1966); Gellhorn, *Settling Disagreements with Officials in Japan*, 79 HARV. L. REV. 685 (1966). A police complaints ombudsman was established in Toronto in July, 1981. *Civilians Are Watching the Watchmen*, MACLEANS, Aug. 24, 1981, at 54. The possible establishment of such a position has received extensive attention in Australia. *See* AUSTRALIAN LAW REFORM COMMISSION, REPORT NO. 1: COMPLAINTS AGAINST THE POLICE (1979); AUSTRALIAN LAW REFORM COMMISSION, REPORT NO. 9: COMPLAINTS AGAINST THE POLICE (Supplementary Report 1980).

[283] This approach is under review by the Australian Law Reform Commission. *See* AUSTRALIAN LAW REFORM COMMISSION, REPORT NO. 1, *supra* note 282, paras. 65-79, at 17-21.

without the consent and support of the community it serves. The Chief Constable has, therefore, two mutually reinforcing interests—the enforcement of community support and respect for the rule of law, which is critical to effective law enforcement. Criminal activity, whether committed by police or terrorists, undermines respect for law if left unpunished. The public's revulsion at acts of violence is the natural ally of the police, but the lack of an independent procedure for the investigation of complaints deprives the constabulary of the support which could be so important in the struggle for peace in Northern Ireland.

Legal institutions and protections will not themselves eradicate the generations of mistrust in Northern Ireland. But as the public's patience with the terrorism committed in its name wears thin, desire for the rule of law undoubtedly will grow stronger. This popular desire for fair and effective law enforcement will not materialize, however, unless a legal system is established in which justice not only is done, but is seen to be done. In Northern Ireland, where memories are understandably long, reforms of the kind suggested in this Article must be implemented if this critical goal is to be achieved.

Mr. BIDEN. Mr. President, the problems of Northern Ireland are close to the hearts of many in this body, and many millions of our fellow citizens.

It is not often, however, that we get to consider on the floor of the Senate any legislation, treaties, or whatever, that will directly affect that situation.

And though I do not for a moment believe that this treaty will do much to resolve the problems there, I am pleased that its consideration permitted this body to look into the troubles that have taken almost 2,500 lives and caused 250,000 serious injuries.

In the United States, I would remind my colleagues, those figures would translate into more than 250,000 deaths and 1.3 million serious injuries—five times our losses in Vietnam.

Almost 70 years ago exactly, William Butler Yeats wrote of his Ireland:

Too long a sacrifice
Can make a stone of the heart.
O, when may it suffice.

There has been a lot of dark tragedy in the years since Yeats wrote those words—broken lives and broken dreams, lost lives, lost limbs, lost livelihoods, closed minds and cluttered souls.

Now there is an Anglo-Irish agreement on the books, the first real progress since Yeats' time. And there is a real chance that the United States can help advance that peace process.

And I consider this treaty a down payment on a peace process that involves Ireland, England, and the United States.

The treaty does not resolve anything. But it shows the united front against terrorism and violence as a way forward.

And I look forward to more and stronger efforts by the British Government to resolve this sad and unrelenting problem, efforts that unite the peoples of Ireland instead of dividing them.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. There is no time left.

The question is on agreeing to the resolution of ratification to Treaty Document No. 99-8, the Supplementary Extradition Treaty with the United Kingdom.

The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. STAFFORD], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD], would vote "yea."

The result was announced—yeas 87, nays 10, as follows:

[Rollcall Vote No. 160 Ex.]

YEAS—87

Abdnor	Glenn	McConnell
Andrews	Goldwater	Melcher
Armstrong	Gore	Metzenbaum
Baucus	Gorton	Mitchell
Bentsen	Gramm	Moynihan
Biden	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hart	Nunn
Boschwitz	Hawkins	Packwood
Bradley	Hecht	Pell
Broyhill	Heflin	Pressler
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd	Inouye	Quayle
Chafee	Johnston	Riegle
Chiles	Kassebaum	Rockefeller
Cochran	Kasten	Roth
Cohen	Kennedy	Rudman
Cranston	Kerry	Sarbanes
Danforth	Lautenberg	Sasser
Denton	Laxalt	Simon
Dixon	Leahy	Simpson
Dole	Levin	Stennis
Domenici	Long	Stevens
Eagleton	Lugar	Thurmond
Evans	Mathias	Trible
Exon	Matsunaga	Wallop
Ford	Mattingly	Warner
Garn	McClure	Wilson

NAYS—10

D'Amato	Hatch	Weicker
DeConcini	Helms	Zorinsky
Dodd	Humphrey	
Durenberger	Specter	

NOT VOTING—3

Hatfield	Stafford	Symms

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

□ 1500

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I ask unanimous consent that the President be notified of the action of the Senate agreeing to the resolution of ratification.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I take this occasion to thank all members of the committee, all Members of the Senate who have fashioned a very important and constructive treaty.

I am especially grateful to members of the staff of the Foreign Relations Committee on both sides of the aisle who have worked especially long and with great purpose to bring a very technical set of articles into this treaty.

I thank as always my distinguished colleague, Senator PELL, for his relationship to this bill and to the unity that we fashioned that made it a very good bipartisan effort.

Mr. PELL. Mr. President, I, too, would like to join in thanking our colleagues and the chairman of the committee in working out this treaty.

On the Democratic side the particular architect of it was the Senator from Missouri [Mr. EAGLETON] who really gave a great deal of himself and time to helping fashion and leading the compromise that emerged.

I also thank particularly Geryld Christianson, the staff director of our side, who gave equally of his energy and intelligence to help work this treaty out.

I thank the majority for their cooperation. I believe we have fashioned a good treaty and were able to reach a sensible mean between two extremes.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will now return to consideration of legislative business.

ANGLO-IRISH AGREEMENT SUPPORT ACT OF 1986

The PRESIDING OFFICER. The Senate will now proceed to the consideration of Calendar No. 696, S. 2572, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2572) to provide economic support for the November 15, 1985, agreement between the Government of Ireland and the Government of the United Kingdom, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LUGAR. I request the Chair again to clarify, is the Senate bill 2572, a bill to provide economic support for Ireland and the United Kingdom, now before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. LUGAR. I thank the Chair.

Mr. President, I lay before the Senate, S. 2572, the Anglo-Irish Agreement Support Act of 1986. The Foreign Relations Committee favorably reported this legislation as an original bill on June 19, 1986.

For the benefit of my colleagues, I wish to briefly discuss, first, the Anglo-Irish Agreement which is the underlying reason for this legislation, second, to note the commitments of the Irish, British, and United States Governments to implementing this agreement, third, the specific provisions of the bill that pertain to the United States support of that agreement, and, finally, some of the policy and fiscal issues which the Foreign Relations Committee took into account in its deliberations on this legislation.

ANGLO-IRISH AGREEMENT

As Members know, on November 15 of last year, the Governments of the United Kingdom and the Republic of Ireland signed what many believe is a historic agreement affecting Northern Ireland. That agreement, while affirming that Northern Ireland remains a part of the United Kingdom until such time as a majority of the people in Northern Ireland decide differently, gives the Government of the Republic of Ireland a role in administering the province. The Irish Government is to be consulted on various issues affecting the province. In addition, the two governments pledged to seek international support to promote economic and social development in these areas in the north and in the Republic hardest hit by the violence of recent years.

THE INTERNATIONAL FUND

As their principal new vehicle to provide for economic reconstruction of Northern Ireland and affected areas of the Republic of Ireland, the British and Irish Governments have proposed to establish an international fund to which the United States and other countries might contribute. The objectives of the proposed international fund are, first, to challenge the chronic unemployment and deprivation which create an economic and social environment in which instability can flourish—Northern Ireland has suffered the loss of 60 percent of its manufacturing jobs since 1968—and second, to encourage contact, dialog, and reconciliation between Nationalists and Unionists throughout Ireland. The fund is to stimulate private investment and enterprise and encourage voluntary effort, including self-help measures.

Technical talks on the proposed fund were initiated among the British, Irish, and United States Government in December 1985 and are continuing in efforts to work out operational details on the scope of the fund's activities, the degree of United States Government involvement in policy formulation for the fund, and participation by other donors.

S. 2572—THE ANGLO-IRISH AGREEMENT SUPPORT ACT

These developments are the genesis of the legislation before the Senate today. Responding to the request by the two governments for a concrete display of U.S. support for the Anglo-Irish Agreement, the administration submitted a proposal in early March calling for a package of economic and development assistance, including a cash contribution to the international fund of $20 million in each of fiscal years 1986 and 1987. The Foreign Relations Committee held a hearing on the proposal on April 10 and on June 19 reported out S. 2572.

The purpose of this legislation is to authorize economic assistance for Northern Ireland and those parts of the Republic of Ireland affected by the sectarian strife of recent years. The bill authorizes up to $10 million of previously appropriated Economic Support Fund [ESF] moneys for fiscal year 1986 and $10 million in new ESF for fiscal year 1987. In addition the bill authorizes access to four U.S. Government credit and guarantee programs: The Housing Guarantee Program and the Private Sector Revolving Fund of the Agency for International Development, the Trade and Development Program [TDP], and the Investment Guarantee Program of the Overseas Private Investment Corporation [OPIC]. The bill requires a Presidential certification that certain objectives have been furthered concerning nondiscrimination in employment, and equal opportunity, prior to release of any U.S. funds. The bill also requires an annual report on the activities of the international fund which will be the channel through which United States assistance will be provided to Northern Ireland and the Republic of Ireland.

PRIOR ACTIONS ON IRISH ASSISTANCE

Let me inject at this point, Mr. President, some comments about other actions in the House and Senate relating to this issue. The House has already passed an authorization for $50 million a year for 5 years for a total cash contribution of $250 million, in addition to access to the four credit and guarantee programs. Prior to the recent recess, the Senate passed the supplemental appropriations conference report for fiscal year 1986 which contained a provision making available $50 million in cash for fiscal year 1986 to the international fund to be established pursuant the Anglo-Irish Agreement. That funding, Mr. President, would be provided by transfers from already appropriated moneys in the international affairs account.

I opposed this provision in the supplemental appropriations conference report, a report approved by the Senate 1 week after the Senate Foreign Relations Committee reported out the authorizing legislation we are discussing at this moment. It was and remains my judgment that the $50 million funding level contained in the supplemental appropriations conference report is too much, too soon. I strongly support the Anglo-Irish Agreement, but I believe that the United States cannot afford to make a contribution of $50 million in fiscal year 1986.

BUDGET CONSTRAINTS AND COMMITTEE ACTION

The bill before us at present reflects that reality and authorizes a lower figure. Our own budget constraints have meant that worldwide funding for foreign assistance programs has already been severely cut. We simply do not have the funding in the international affairs accounts to address existing foreign assistance commitments, and we certainly cannot afford to make an additional commitment of the magnitude of $50 million in fiscal year 1986.

To summarize, Mr. President, the administration proposal included $20 million a year for 2 years as a cash contribution whereas the House has authorized $50 million a year for 5 years. The legislation which is before us now authorizes $10 million for the international fund in fiscal year 1986 and an additional $10 million in fiscal year 1987. That level reflects the judgment of the Foreign Relations Committee as to a useful and prudent level of funding consistent with our own budget constraints. The limitation of funding to a 2-year authorization reflects the committee's longstanding reluctance to provide multiyear authorization and its commitment to review the status of the fund, its operations and contributions, before reauthorizing U.S. participation.

Let my colleagues understand, Mr. President, that there are significant differences between the House-passed bill and this proposal, not only in relation to the funding levels but also with respect to the time periods for an assistance program. Our available funding is already too limited to safely allow a $50 million cash contribution in fiscal 1986 and 1987, let alone the mortgaging of future resources over a 5-year period.

CONCLUSION

Mr. President, the issue of United States assistance to Northern Ireland has been a difficult one for the Foreign Relations Committee. Just as there are some Members who may believe that no sum is too great in assisting our friends in Ireland, there are other Members who believe that the task of assisting the economic and social reconstruction of Northern Ireland should be left exclusively to the Governments of the United Kingdom

and the Republic of Ireland, that the United States should not be providing any forms of assistance.

In considering this legislation presently before the Members, the Foreign Relations Committee had to view the administration's request for assistance to Northern Ireland not only in terms of the need to demonstrate political support for the Anglo-Irish Agreement but also in the context of the impact of the Gramm-Rudman-Hollings legislation on foreign assistance funding levels. I appreciate the efforts all Members have made to help in resolving this issue.

Mr. President, I believe this legislation addressed the need to demonstrate U.S. support for the Anglo-Irish Agreement while simultaneously acknowledging the degree of fiscal responsibility so necessary under current circumstances. I urge its adoption by the Senate.

Mr. PELL. Mr. President, today the Senate is being asked to consider S. 2572—a bill to authorize economic assistance for Northern Ireland and the affected areas of the Republic of Ireland. The President requested that Congress provide a multiyear aid program for Northern Ireland and affected areas as a symbol of United States support for the recently concluded Anglo-Irish Agreement. This agreement, signed last November by the United Kingdom and the Republic of Ireland, represents the most significant effort to date by the United Kingdom and the Republic of Ireland to address years of sectarian violence which has pitted neighbor against neighbor and drained the region of its economic vitality. This accord establishes an intergovernmental conference concerned with Northern Ireland and with relations between the two regions of Ireland. It sets forth the guidelines for comprehensive cross-border cooperation on security, economic, social and cultural matters.

S. 2572 provides $10 million in ESF funds for fiscal years 1986 and 1987 for Northern Ireland and authorizes access to four United States Government credit and guarantee programs for the region in hopes of reversing the economic decay which is both a side effect and catalyst for political strife. The ESF funds will be channelled through a newly created international fund which will be charged with developing a plan for economic reconstruction of Northern Ireland. Contributions from other nations will also be welcomed by the fund.

Mr. President, the levels of assistance authorized in this bill and the length of the program are not all that many of us, including me, would have wished, and well below what the Congress has already appropriated for fiscal year 1986. Nor are these levels as great as those envisioned in the President's original request to the Congress. This in my view is most unfortunate. However, I do think that this bill, if passed by the Senate will still represent a significant gesture by the United States in support of efforts to end years of hatred and violence in that troubled land. It should serve as well to encourage other nations to follow suit with additional financial assistance for this economically depressed region. I urge my colleagues to support this bill.

□ 1510

Mr. MOYNIHAN. Mr. President, I just rise briefly to express the appreciation of many of us in the Chamber to the Committee on Foreign Relations and the distinguished leadership for bringing this measure to the floor promptly and straightforwardly.

I would like to simply note that the distinguished chairman, the Senator from Indiana, has said that we proceed in response to the President's request with a measure that is straightforwardly presented as a symbol of United States support for the Anglo-Irish agreement which was signed on November 15, 1985. On that occasion, President Reagan hailed the agreement for its "promise of peace and a new dawn for the troubled communities of Northern Ireland." He promised to work "closely with the Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement."

I think it is useful to record at this time that the agreement at Hillsborough signed last November, in very considerable measure, followed from almost a decade of statements from this body, the Congress and the President—bipartisan in all cases—to suggest that were such an agreement reached there would be a measure of support from the United States. This was in response to the rising violence in the 1970's.

On St. Patrick's Day, March 17, 1977, the Speaker of the House; then Governor of New York, Hugh Carey, Senator KENNEDY, and myself, issued a statement calling on Americans to cease any support, however unintended, for violence in Northern Ireland and for the United States to be of such assistance as it could be in bringing about a measure of reconciliation in what is perhaps one of the oldest ethnic conflicts in Europe.

On August 30 of that year, President Carter stated that "the people of Northern Ireland should know that they have our complete support in their quest for a peaceful and just society." And he added that if a peaceful settlement was reached there, "The U.S. Government would be prepared to join with others to see how additional job-creating investment could be encouraged, to the benefit of all people in Northern Ireland." That commitment, made by President Carter, was reaffirmed by President Reagan.

Now in a quite extraordinary act of statesmanship and personal courage, Margaret Thatcher, Prime Minister of the United Kingdom, and Garret FitzGerald, Prime Minister of the Republic of Ireland, reached agreement last November on three propositions.

First, that the majority of the Province of Ulster would decide its political condition—whether it remained part of the United Kingdom, became independent, joined the Republic, or whatever. Second, that at this moment, the majority does not desire a change. And, third, that should a time come when a majority desire a change the respective parliaments of London and Dublin would introduce the appropriate legislation.

That was an extraordinary achievement, coming 60 years and more after the partition, and the civil war that preceded and followed it.

Now, Mr. President, the roots of this controversy, sectarian and otherwise, go far back into our history. The American Revolution and the similar efforts of our time in Ireland were intertwined; parts of an English-speaking world, asserting political propositions that were successful here, but not there. We have not been apart from those matters. We have been involved with them, for a long time.

But, just as importantly, Mr. President, the tragedy of Ulster is a specific example of a general condition of the world today. The great Marxist proposition that the world would be divided along class lines, that the proletariat would unify the world, and that would be the nature of conflict has not been the case.

Just last week in Ulster, there were deaths and violence over the alleged attack by Catholics on Protestant symbols in the course of an annual event, an event that goes back a very long way. I once saw, on the walls in a Protestant slum in Dublin, the slogan, "Remember 1689." That is the situation there.

That very same week, in India, the exact same thing happened when Hindus evidently attacked a religous symbol which Muslims were going to parade with and many more people were killed.

Look about you in the world and you find this kind of conflict, that can sustain hate and destruction over generations, over centuries, and that can foster degrees of violence not known save in all-out warfare.

If we can do but one small thing to help—being joined by Canada, by Australia, by the European Community—in this part of the world—much of the political violence of our age began in Ireland and in Russia in the late 19th century—we shall have made more of

a statement than affects just this small community in a corner of Europe. We shall have done something large and helpful about a condition which is pervasive and dreadfully unpromising.

□ 1520

I also would like to remark that there-quarters of this aid is directed to the portions of the island which are under the jurisdiction of the United Kingdom, and a quarter to areas in the Republic which are part of the affected area.

Finally, Mr. President, I would like to point to the proposition which the distinguished chairman made—that 60 percent of manufacturing jobs in Ulster have been lost in the last 10 years. There is an old proposition of Vladimir Lenin: "The worse, the better." And there are those in this kind of conflict who would wish to see things become worse, not better. Who would like to see the thing grow toward a crisis, an ultimate resolution prevented by spasms of violence—which is the worst thought possible and the most destructive possible thought. Today we are speaking out against that thought. We are acting against it; We are acting to create jobs; we are acting for the better. We ought to do so. We owe this to ourselves and we owe it to the leaders and the parliaments of the two countries that brought about the Hillsborough agreement.

I hope and trust that this legislation will pass the U.S. Senate without dissent, as an act of faith and as an act of power, to affect change for the better.

I would only ask the distinguished managers, in concluding my remarks to which they have listened with great courtesy, if I might be added as an original cosponsor to the legislation.

Mr. LUGAR. I ask unanimous consent that the distinguished Senator from New York be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the Senator.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am greatly impressed by the erudite remarks of the Senator from New York. It reminds us that he always has a second profession on which to fall back; that is, professor at Harvard.

Mr. KENNEDY. Mr. President, with our action on this bill authorizing economic assistance to Northern Ireland, the Senate is taking an important step toward peace and reconciliation in Northern Ireland.

Last month, the Senate approved a $50 million contribution to the International Fund in the current fiscal year, as a first installment in a longer term commitment. Today's authorization of funds for future years is an important next step in assuring much needed United States support for the historic Anglo-Irish Agreement signed last November by Prime Minister Thatcher of Great Britain. This far reaching accord offers the best opportunity in a decade to achieve a peaceful settlement of the conflict in Northern Ireland, and the provision of United States financial assistance is a significant element in the prospects for the success of that accord.

The Anglo-Irish Agreement provides new hope to the people of Northern Ireland that the Nationalist and Unionist traditions may at last be able to achieve a peaceful settlement that respects the rights of both traditions and ends the violence that has wracked the Province for the past 17 years, at a cost of over 2,500 lives and untold damage to the fabric of the community.

Most important, the agreement sends an important message to the people of Ireland—and the United States—that peaceful progress is possible in Northern Ireland, and that the path of the bomb and the bullet is not the way to Ireland's future.

In one of its central provisions, the Anglo-Irish accord includes the unprecedented British acceptance of a role for the Republic of Ireland in the day-to-day affairs of Northern Ireland. With this specific new role for Ireland, the long-suffering Catholic minority in the north will have greater assurance that its rights and aspirations will be more fairly honored and more fully protected.

Sadly, even this modest step has provoked a new wave of intransigence and violent opposition by militant extremists in the Protestant majority. In the face of this development, fulfillment of the bipartisan United States commitment to the accord is all the more important, as a sign that the United States stands firm with Ireland and Britain in doing all we can to see that the accord succeeds.

The United States assistance and other contributions to the International Fund will be used for economic reconstruction and revitalization of hard-hit areas in both Northern Ireland and Ireland affected by the current violence. One of our principal goals is to provide employment opportunities for the most severely depressed areas of Northern Ireland—some of which have unemployment rates of 60 percent. The funds will also help to catalyze private investment in Northern Ireland, to attract new capital and thus provide further employment opportunities.

In addition, a substantial U.S. contribution is expected to induce contributions from other nations. Earlier this month, Canada made a commitment to provide $10 million to the International Fund. Australia and the members of the European Community are also expected to contribute funds.

The real hope and the best hope for lasting peace in Northern Ireland is the credible promise of common progress in the future for both communities—if only they put aside their ancient differences and learn to live and work together in peace.

With the passage today of this assistance package, we will be providing substantial encouragement for that hope, and I urge the Senate to approve this legislation.

Mr. LUGAR. Mr. President, I know of no further desire on the part of Members of the Senate to debate this legislation. With that, I move adoption of the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Anglo-Irish Agreement Support Act of 1986".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that the Anglo-Irish Agreement is a clear demonstration of the determination by the United Kingdom and the Republic of Ireland to make progress concerning the complex situation in Northern Ireland. The Congress strongly supports the Anglo-Irish Agreement and is particularly encouraged that these two neighboring countries, faithful friends of the United States, have joined together to rebuild a land that has too often been the scene of economic and human misery. In recognition of our ties of kinship, history and commitment to democratic values, the Congress believes that the United States should participate in this renewed commitment to social and economic progress in Northern Ireland and affected areas of the Republic of Ireland.

(b) It is, therefore, the purpose of this Act to provide for United States contributions in support of the Anglo-Irish Agreement, such contributions to consist of economic support fund assistance for payment to the International Fund established pursuant to the Anglo-Irish Agreement, as well as other assistance to serve as an incentive for economic development and reconciliation in Ireland and Northern Ireland.

PROVISION OF ASSISTANCE

SEC. 3. (a) In addition to other available authorities, the following authorities may be used to provide assistance or other support to carry out the purposes of section 2 of this Act:

(1) Section 108 of the Foreign Assistance Act of 1961 (regarding the Private Sector Revolving Fund);

(2) Sections 221 through 223 of the Foreign Assistance Act of 1961 (regarding the Housing Guaranty Program);

(3) Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (regarding the Overseas Private Investment Corporation) without regard to the limitation contained in clause (2) of section 231 of that Act; and

(4) Section 661 of the Foreign Assistance Act of 1961 (regarding the Trade and Development Program).

(b) Assistance under this act may be provided without regard to any other provision of law.

ALLOCATION OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Of the amounts appropriated for the fiscal year 1986 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not more than $10,000,000 shall be used for United States contributions to the International Fund.

(b)(1) In addition to amounts otherwise available for such fiscal year to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), there are authorized to be appropriated $10,000,000 for the fiscal year 1987 for payment of a contribution or contributions to the International Fund.

(2) Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS

SEC. 5. (a) The United States contributions provided for in this Act may be used only to support and promote economic and social reconstruction and redevelopment in Ireland and Northern Ireland. The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

(b) The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c) Each fiscal year, the United States may make a contribution or contributions to the International Fund only if the President certifies to the Congress that he is satisfied that—

(1) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements of the International Fund—

(A) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(B) will address the needs of both communities in Northern Ireland.

Each such certification shall include a detailed explanation of the basis for the President's decision.

ANNUAL REPORTS

SEC. 6. At the end of each fiscal year in which the United States Government makes any contribution to the International Fund, the President shall report to the Congress on the degree to which—

(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the International Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity; and

(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland.

DEFINITIONS

SEC. 7. For purposes of this Act—

(1) the term "Anglo-Irish Agreement" means the Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland, done at Hillsborough Castle in Northern Ireland on November 15, 1985; and

(2) the term "International Fund" means the international fund for economic development pursuant to article 10 of the Anglo-Irish Agreement.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HANDICAPPED CHILDREN'S PROTECTION ACT—CONFERENCE REPORT

Mr. WEICKER. Mr. President, I submit a report of the committee of conference on S. 415 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition on discrimination, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 16, 1986.)

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise in support of the conference report on S. 415, the Handicapped Children's Protection Act. Two years ago, the Supreme Court decided in Smith versus Robinson that Public Law 94-142 does not permit the award of attorneys' fees to parents who prevail in civil actions to protect their child's right to a free and appropriate public education. At that time, the Court reasoned that, had Congress intended that the award of attorneys' fees be available under the Education of the Handicapped Act, it would have explicitly stated so in that act.

The Supreme Court decision was not a unanimous one. In their dissenting opinion, Justices Brennan, Marshall, and Stevens stated:

> Congress will now have to take the time to revisit the matter. And until it does, the handicapped children of this country whose difficulties are compounded by discrimination and other deprivations of constitutional rights will have to pay the costs.

The handicapped children of this country have paid the costs for 2 years now. But today we correct this error. In adopting this legislation, we are rejecting the reasoning of the Supreme Court in Smith versus Robinson, and reaffirming the original intent of Congress that the educational rights of handicapped children and their parents shall not go unprotected.

The Handicapped Children's Protection Act states explicitly what is implicit in the Education of the Handicapped Act regarding the civil right of handicapped children to an education. By allowing the courts to award attorneys' fees to prevailing parents or guardians, handicapped children are protected against discrimination in the same manner as are other vulnerable groups. What we do here today is to make the Education of the Handicapped Act consistent with more than 130 other fee shifting statutes which provide for the award of attorneys' fees to parties who prevail in court to obtain what is guaranteed to them by law. Without this remedy, many of our civil rights would be hollow pronouncements available only to those who could afford to sue for enforcement of their rights.

The passage of this bill today reaffirms our commitment to equality of opportunity and equal justice for all. Today, we stand together in our resolve to recognize the handicapped members of our society as citizens of this Nation—entitled to all rights and remedies available under the law.

Finally, I particularly want to thank my colleagues Senator HATCH, the chairman of the Committee on Labor and Human Resources; and Senator KERRY, the ranking minority member of the Subcommittee on the Handicapped, for their diligent efforts at accommodating diverse points of view in developing this conference agreement.

I urge the adoption of the conference report.

I yield to the distinguished Senator from Massachusetts, the ranking

member of the Subcommittee on the Handicapped.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President.

Mr. President, first of all I would like to thank as well as congratulate the distinguished Senator from Connecticut for his work with respect to not only the conference but the entire effort to improve the Handicapped Children's Protection Act. I would like to thank the staff and those others who have been involved in this process.

Mr. President, I rise in strong support of the pending conference report on S. 415, the Handicapped Children's Protection Act. This vital legislation reverses a U.S. Supreme Court decision Smith versus Robinson which has had a devastating effect on the ability of parents of handicapped children to fully access legal remedies available to them which protect their handicapped children's educational rights. The conference report concludes many weeks of dedicated work on the part of Members and their staff, resulting in an impressive initiative designed to enhance the opportunities for equality in education for persons with disabilities. In particular, I would like to commend the subcommittee chairman, Senator WEICKER and his staff for their excellent contribution to this piece of legislation. Senator WEICKER'S unbending commitment to uphold the rights of all handicapped individuals is a model for us to follow. I applaud his tireless efforts in this area.

In Smith versus Robinson, the Supreme Court ruled that all handicapped educational cases were to be handled exclusively under Public Law 94-142, the Education of the Handicapped Act, thus precluding parents from bringing special educational cases under section 504 of the Rehabilitation Act of 1973 and therefore recovering attorneys' fees under section 505 of the same act. In passing the pending conference report, Congress is specifically rejecting the reasoning of the Supreme Court in Smith versus Robinson. It is essential to note that when Congress passes a new law we intend for that law to supplement and improve upon existing statute, not to supplant it.

When Congress passsed Public Law 94-142, their clear intent was to enhance the existing laws governing the rights of disabled citizens, including the Rehabilitation Act. By limiting the availability of reasonable attorneys' fees to parents and/or legal guardians who prevail in civil actions, the Court greatly misinterpreted the intent of Congress when it passed Public Law 94-142. Endorsing the conference report before us today, will allow Congress to clarify its views in this regard and to reaffirm its commitment to ensuring that all handicapped children have a right to a public education.

This conference report represents a victory in protecting the educational rights of all handicapped children regardless of their economic situation. I commend my colleagues on the conference committee for eliminating a dangerous provision in the Senate-passed bill which placed a cap on attorneys' fees for publicly funded attorneys but did not set the same limitations on attorneys' fees for privately funded attorneys. By eliminating this blatant double standard and permitting attorneys' fees to reflect the prevailing rates in the community, the conferees have endorsed the concept that economically disadvantaged handicapped children will not be singled out and unfairly discriminated against. By removing the cap, the conferees have wisely recognized the fact that the lack of sufficient funding sources seriously impedes the ability of public advocates to adequately work on behalf of indigent handicapped children when their educational rights are being denied.

By deleting this dangerous provision, conferees have demonstrated their understanding of the harmful effects that an attorneys' fee cap will have on less fortunate families, particularly the negative impact on families who are most in need of a reimbursement of attorneys' fees and who are most likely to depend on legal services performed by publicly funded attorneys. By striking the cap, the conference report will encourage schools to settle cases expeditiously and will consequently deter reluctant schools from prolonging judicial proceedings in an attempt to force plaintiffs to abandon their case. The attorneys' fees cap greatly undermined the strength of this act and simply did a disservice to all disabled students and their families; once again I commend its elimination.

I would like to briefly address another issue for the RECORD regarding settlement offers in determining the amount of attorneys' fees to be awarded. In deciding the fee award, we do not want the courts undertaking needlessly complicated steps when they compare different forms of relief, especially when it is not obvious that the offer was as favorable as the final award. In addition, we recognize that a general offer in the final settlement is not as beneficial as a more specific judgment and in concurrence with a 1984 first circuit court case, Garrity versus Sununu, the courts should "construe ambiguities in the offer against the offeror."

The legislation also provides that the settlement rule does not apply when a parent is substantially justified in rejecting a settlement. For example, a parent may reject an offer when they have not had an adequate chance to investigate or discover the extent of possible violations or relief necessary to adequately address their problems.

I applaud my colleagues for including in the conference report a retroactivity provision. I would like to underscore that the purpose of this clause is to permit fee awards in suits in which a fee application was pending on or after July 4, 1984, and was rejected because of Smith versus Robinson, or for a suit pending on its merits on or after July 4, 1984 in which the time for filing a fee application expired after July 4, 1984. It is critical that we clarify the availability of rights afforded to parents of handicapped children so that actions and proceedings successfully resolved in that period will not be treated differently from those resolved prior to the decision or after passage of the act itself.

Important civil rights laws of this type can be justified as matters of simple equity and basic human rights to which cost should not be used as an excuse.

In the final analysis we cannot forget that the issue of equity and availability of education is a fundamental right for all Americans. In Brown versus Board of Education, the Supreme Court established the cornerstone of equal educational opportunity lawsuits brought on behalf of handicapped children;

> In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

In sum, Mr. President, let me just say that the conference report offers handicapped children a protection to their right to an education. This legislation represents the spirit of our great Nation—the spirit to assist our fellow citizens. I am proud to be a party to a piece of legislation which improves the educational opportunities to handicapped children and I strongly urge my colleagues to adopt the pending conference report which will enhance the lives of disabled youth throughout society.

Mr. President, finally, I would say that I applaud my colleagues for including the retroactive provision in the conference report. I would like to underscore that the purpose of this clause is to permit fee awards which were pending previously but which were rejected because of Smith versus Robinson. I think it is critical to clarify the availability of those rights.

Again, Mr. President, I thank the chairman for his assistance in this matter. I yield the floor.

Mr. HATCH. Mr. President, today, we are considering the final passage of

S. 415, the Handicapped Children's Protection Act of 1986. This legislation originally was introduced 3 years ago in response to the Smith versus Robinson Supreme Court decision. In order to clarify the intent of Congress and reaffirm the rights of handicapped children as provided under Public Law 94-142, Senator WEICKER introduced S. 2859 which was later reintroduced at the beginning of the 99th Congress as S. 415. As cosponsor of S. 415 and as a conferee, I am pleased that the conference agreement we are now voting on reflects the culmination of several years of deliberation and refinement.

The agreement we are now considering is a compromise which I feel accomplishes two major objectives. First, it provides for the award of reasonable attorney's fees to prevailing parents in an Education of the Handicapped Act action or proceeding.

Second, it includes the application of provisions from the Marek versus Chesny, Blum versus Stenson, Evans versus Jeff D., and Hensley versus Eckerhart decisions to cases brought under part B of the Education of the Handicapped Act in order to protect against excessive reimbursement.

Let me again emphasize that the conference agreement developed is a compromise. Without the passage of this carefully crafted document, handicapped children and their parents cannot be fully protected since they have no recourse under current law if their rights are violated. I would like to commend Senator WEICKER and Congressman WILLIAMS for their diligence in finally reaching consensus. Senators KENNEDY, KERRY, NICKLES, my other colleagues who served as conferees, should also be acknowledged for their efforts in reaching this final resolution.

I firmly believe that handicapped children and their parents deserve to have their rights for a free and appropriate public education protected under the law. Thus I encourage my colleagues to support the final passage of S. 415, a bill which will assist in accomplishing this worthwhile goal.

Mr. SIMON. Mr. President, I support the conference report for S. 415, the Handicapped Children's Protection Act of 1986 and strongly commend the conferees for their untiring efforts to reach agreement.

The passage of this legislation will remedy the injustice created by the Supreme Court's Smith versus Robinson decision of July 5, 1984. In that decision, which was contrary to the original intent of Congress, the Court ruled that Public Law 94-142, the Education of All Handicapped Children Act, does not allow the award of attorneys' fees to parents who prevail in court actions to protect the right of their child to a free appropriate public education. The Court's decision also denied the parents of handicapped children the right to seek relief from education discrimination through section 504 of the Rehabilitation Act or other statutes guaranteeing civil rights.

As an original cosponsor of Public Law 94-142, I am in strong disagreement with the Court's interpretation of the congressional intent in regard to the avenues of relief available to parents and the availability of attorneys' fees. S. 415 will restore the intended protections to all handicapped children.

The Supreme Court reasoned that when Congress adopted the comprehensive enforcement mechanism for the protection of handicapped children's rights in Public Law 94-142, we superseded and eliminated rights previously enacted under other laws. This reasoning was particularly faulty, and in passing S. 415, Congress is rejecting that reasoning. As legislative approaches to protecting the rights of handicapped persons grow, and we adopt new laws, we are building upon the existing laws, with the full knowledge of those laws and with the assumption that their provisions remain in effect as the context for new legislation. When there is intent to modify, limit, or supersede existing law, Congress does not hesitate to do so explicitly. Just as Congress' enactment of title VII of the Civil Rights Act of 1964 did not deprive women and minorities of existing provisions against discrimination, the enactment of Public Law 94-142 in no way deprived handicapped children of existing constitutional and statutory provisions protecting their rights.

The conference agreement makes the authorization of fee awards retroactive for actions and proceedings that were pending on July 4, 1984, or brought after July 3, 1984. This provision is necessary to ensure that actions and proceedings successfully resolved in the period between the Court's decision and enactment of this legislation will not arbitrarily be treated differently from those resolved either prior to the decision or subsequent to this legislation. This provision clarifies, as part of our rejection of the Court's decision in Smith versus Robinson, the availability of these rights prior to that decision.

The conference agreement provides that the award of attorney fees and related costs authorized by S. 415 may not be made for services performed after a written offer of settlement, if the offer is made at least 10 days prior to the date of the action or preceeding if the offer is not accepted within 10 days and a court or administrative officer finds that the relief finally obtained is not more favorable than the offer of settlement. However, fees may be awarded when there is a finding that the rejection of the settlement offer was substantially justified.

The determination of whether the relief offered was as favorable as that obtained is a question of fact for the court. The court should not, however, enter into difficult attempts to make complex or arbitrary comparisons of different forms of relief. For a court to deny an award of fees on the basis of a rejection of an offer, it must be manifestly clear that the relief offered was as favorable as that obtained. There are many variables that could affect the relative favorability of the relief. For example, if the original offer is in any way contingent on some other factor, either implicit or explicit, such as the availability of appropriate staff or funds, that relief would be less favorable than the same relief without contingencies. Similarly, if the original offer did not include a mechanism for implementation, the relief would not be as favorable as the same relief which includes a mechanism for implementation. General offers are less favorable than specific relief. Furthermore, where the parent or guardian has not had adequate opportunity for discovery in order to ascertain the scope of possible violations or the scope of the needed relief, substantial justification would exist for rejection of an offer.

Mr. President, this conference agreement will restore the ability of parents of all handicapped children to seek the remedies they need to ensure their children's rights to a free appropriate education. It will do so within the framework of the original intent of those who supported and voted for Public Law 94-142. As one of those supporters, I am grateful to my colleagues who worked so diligently to resolve the differences between the House and Senate bills. They have earned the gratitude of parents across this country who continue to look to us for the protection of their children's future.

Mr. WEICKER. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KERRY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATIONAL PROGRAMS FOR THE DEAF

Mr. WEICKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1874.

The PRESIDING OFFICER laid before the Senate the amendment of

the House of Representatives to the bill (S. 1874) to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals, throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

(The amendment of the House is printed in the RECORD of June 26, 1986 beginning at page 15677.)

Mr. WEICKER. Mr. President, I rise in support of S. 1874, the Education of the Deaf Act of 1986. This bill passed the Senate on May 6, 1986, and was amended and passed by the House on June 26, 1986. I am pleased that we are accepting the House amendments and I would like to thank my colleague on the House side, Congressman PAT WILLIAMS, for his leadership on this legislation.

By accepting the House amendments, several improvements are made which I believe will serve to further facilitate quality educational programs for deaf individuals. Specifically, the scope of deaf education which the Commission is charged to study is expanded to include the continuing education needs of deaf adults as well as the problems associated with illiteracy among deaf individuals. In addition, the minimum number of Commission members who must be deaf is increased from two to five.

The general authority for Kendall Demonstration Elementary School and the Model Secondary School for the Deaf is amended with a charge to these schools to develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in situations alongside hearing students.

The House amendments make other technical and substantive changes to the original Senate bill which we accept. Notably, the House amendment provides authority for the establishment of Federal endowments for Gallaudet and the National Technical Institute for the Deaf. Such programs are intended to stimulate the financial independence of these two schools. By providing a separate authorization of appropriations for the endowments, we insure that, should Federal funds be committed to this purpose, those funds will not be taken from those which are required for operation and maintenance of the schools.

Finally, the House has amended the bill to provide an indefinite authority for appropriations to the schools. While we do accept this change, this is in no way intended to signal a shift in Federal funding policy for Gallaudet and NTID.

Mr. HATCH. Today, we are considering the final passage of S. 1874, the Education of the Deaf Act of 1985. This legislation was introduced by my colleague, Senator WEICKER, on November 11, 1985, as a response to a GAO study on educating deaf students at Gallaudet College for the Deaf here in Washington, DC, and at the National Technical Institute for the Deaf in Rochester, NY, and to an oversight hearing conducted by the Subcommittee on the Handicapped. This bill unanimously passed on the floor on May 6, 1986. Representative PAT WILLIAMS of Montana then offered an amendment in the nature of substitute bill, which passed the House on June 26, 1986. Senator WEICKER subsequently agreed to the House amendments.

This bill accomplishes several major objectives: it changes the name of "Gallaudet College" to Gallaudet University;" places both Gallaudet College and the National Technical Institute for the Deaf on a 5-year reauthorization schedule; creates a Commission to make a study of the quality of educational programs for the deaf; requires an annual independent audit of both Gallaudet and the National Technical Institute for the Deaf; and provides for establishment of an endowment fund at both of those institutions.

In my view, the most significant and far-reaching provision of this bill is title 3, which establishes a national Commission on the Education of the Deaf. This Commission is mandated to make a study of the quality of infant and early childhood education programs, and of elementary, secondary, postsecondary, adult and continuing education furnished to deaf individuals. It is also to study the problems associated with illiteracy among deaf persons in America. It has been 20 years since a similar study, known as the Babbidge Report, was done.

In light of the significant areas of need among the deaf community today, this Commission is urgently needed to identify areas of strengths and weaknesses in the educational system, and to make recommendations so that we can begin to address the problems identified. It is my hope that the Commission will take this mandate to heart and earnestly seek to work together on these goals.

Mr. President, I move the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut.

The motion was agreed to.

Mr. WEICKER. Mr. President, I would like to especially pay tribute to all of the staff who have worked on this bill, particularly Jane West, Terry Muilenburg, and Lani Florian, of my staff, because indeed there were many problems in the preceding legislation, which were ironed out after many months of negotiations. I believe the majority of the credit belongs to the members of the staff who have worked so long on this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1540

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS—SENATE JOINT RESOLUTION 332

Mr. BYRD. Mr. President, as in morning business, I ask unanimous consent that the following Senators be added as cosponsors to Senate Joint Resolution 332, the joint resolution to designate the week of November 16, 1986, through November 22, 1986, as National Software Awareness Week: Senators ZORINSKY, PELL, INOUYE, NUNN, KERRY, MATSUNAGA, LEAHY, DODD, CRANSTON, ROCKEFELLER, RIEGLE, PRYOR HEFLIN, LAUTENBERG, BUMPERS, HATCH, STEVENS, EVANS, DOLE, GARN, HEINZ, CHAFEE, LUGAR, WEICKER, and COCHRAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAFFIRMING THE FIRST ROUND OF GRAMM-RUDMAN-HOLLINGS CUTS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to Senate Joint Resolution 374, just reported out of the Temporary Joint Committee on Deficit Reduction.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 374) ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986.

The Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DOMENICI. Is the Senator from New Mexico correct that the resolution now pending has a statutory time limit of 2 hours, to be equally divided between the Senator from New Mexico and the ranking minority member of the Budget Committee?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, is the time divided between the two leaders?

The PRESIDING OFFICER. The Chair misstated himself. The time is divided between the two leaders or their designees.

Mr. BYRD. Mr. President, I designate Mr. CHILES on this side of the aisle to be in control of the time.

Mr. DOMENICI. Mr. President, the distinguished majority leader has indicated that the Senator from New Mexico should manage the time on this side.

Mr. BYRD. Would the distinguished Senator from New Mexico yield for a question?

Mr. DOMENICI. I should be pleased to.

Mr. BYRD. Would the Senator be averse to having a brief quorum call, with consent, perhaps, or without consent, that the time not be charged to either side so the Senators may know what business is before the Senate?

Mr. DOMENICI. Is the distinguished minority leader asking that that occur now?

Mr. BYRD. I would if the distinguished manager has no objection.

Mr. DOMENICI. I not only have no objection, but I would just as soon have the time equally charged.

Mr. BYRD. Very well, Mr. President.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll, with the time to be charged equally to both sides.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak on another subject matter out of order and shall be glad to relinquish the floor at any time we are ready to proceed. It is understood that this time comes out of our side on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. BYRD's remarks at this point are printed later in today's RECORD.)

□ 1550

Mr. DOMENICI. Mr. President, I yield myself 10 minutes.

Mr. President, the United States House of Representatives did their duty; late this morning they voted 339 to 72 to ratify and confirm the $11.7 billion outlay sequester pursuant to Gramm-Rudman-Hollings which has been rendered invalid by the United States Supreme Court decision.

As everyone knows, the Supreme Court said that the automatic triggering mechanism implemented ultimately by the Comptroller was invalid. The Supreme Court rather forthrightly indicated that Congress in adoption of the Gramm-Rudman-Hollings 5-year Emergency Deficit Reduction Act provided a fallback mechanism, and they said clearly and unequivocally that we had up to 60 days to ratify, confirm, and make valid the previous order which was rendered invalid.

That is what the House did this morning. They adopted that fallback resolution. Many people said it would not work. Well, at least it worked this morning by an overwhelming vote.

The way the process is set up, in order to bring this resolution to the United States Senate in the manner that it is before us, so that it is subject to a statutory time limitation and nonamendable, we had to use that portion of the law which prescribed a joint meeting of the budget committees of both Houses to report out the resolution.

We now have that resolution before us. It is now the same resolution which the House adopted. That means, if and when we adopt this joint resolution this afternoon, we will basically have accomplished a retroactive implementation of the across-the-board cuts plus the COLA freezes which had been executed by the Comptroller General pursuant to the statutory portion which was declared invalid.

Mr. President. I clearly understand, and the joint committee that met this afternoon understood, if you read the statute, it says this resolution is not amendable. The fallback provision intended that the work be done by the OMB and CBO, that they resolve the disputes, and then the joint committee should ratify it and bring it to both bodies so that we could perform the last legislative function before the President of the United States has to sign.

We have done that. When we vote this in today, we will have accomplished the same.

That means that in terms of the basic cuts, including the COLA freezes, even though there may be some who dislike them, who oppose them, basically they were already done and we are now ratifying them. Frankly, the rules are very clear that we could not amend it now in this joint resolution of ratification. So we are here in a sense doing what has already been done, but making it valid.

For those who wonder whether we ought to do this, let me just remind you, our best estimates are that if we fail to ratify this, leave it in the law, we will effectively add $11.7 billion to this year's deficit. If we think we are going to have trouble come August, September, and October of this year, we will have real trouble if we do not accomplish this mission today, because instead of the budget deficit being somewhere between $170 billion and $180 billion, it will be $20 billion higher.

For myself, I understand that we have to do this. I urge that we do it. I am one who does not think the cost-of-living increases for military and civilian retirees should ever have been treated differently than the Social Security cost-of-living automatic adjustments. I voted on the Senate floor with many to freeze them all or freeze none. Nonetheless, it appears there is no opportunity to amend the carrying out of this order which already occurred some months ago, and consequently for fiscal year 1986 that will be a fait accompli, that they will have a 1-year freeze on their cost of living adjustments as prescribed in the Gramm-Rudman-Hollings Act.

I do not know what will happen to those cost-of-living indexes in the future. It is clear to me that to continue to do that is grossly unfair, if we choose to select them out of the whole inventory of automatic cost-of-living indexes. Frankly, I do not believe we ought to continue to do that. But that is not the issue today.

So, Mr. President, I compliment the House bipartisan leadership and thank the bipartisan membership of the Senate Budget Committee. They attended the meeting today.

I think they all understood the consequences of failure to act. As a result of understanding that, there were no negative votes as we reported this resolution out of the joint committee. Everyone there affirmed the facts as I have described them when they said "aye" to report this resolution which is now before the Senate.

I would say to those Senators who are listening in their offices or through their staff that in managing this for the majority, I do not intend to use the full hour. If there is no one interested in coming forth and discussing this issue, as soon as my friend, the distinguished senior Senator from Florida, the ranking minority member, has completed whatever he wants to say on this and the distinguished minority leader has completed whatever he desires to say, I am going to yield back time and hope we will proceed to dispose of this matter.

Having said that, at this point I yield the floor and suggest the absence of a quorum and ask that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll. The time will be charged equally to both sides.

The assistant legislative clerk proceeded to call the roll.

□ 1600

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

REAFFIRMING FIRST ROUND OF GRAMM-RUDMAN-HOLLINGS CUTS

Mr. DOLE. Mr. President, I am not going to spend a lot of time speaking, because I do not believe there is any reason for the Senate to spend a lot of time on this matter.

What is done is done. The $11.7 billion in spending cuts that were put into effect with the March 1 sequester order are history. Those cuts were assigned in the exact manner that Congress set out last fall when we adopted Gramm-Rudman-Hollings, and there is no cause for backtracking now.

We should affirm the cuts and get on with the business at hand—implementing the spending cuts set out in the budget resolution we adopted in late June. We have our work cut out for us if we are going to meet that $144 billion target. So let us not make matters any worse by adding $11.7 billion or any part of that to the amount we have to cut.

I appreciate how quickly and expertly Senator DOMENICI and Senator CHILES handled this matter, and I hope we can dispose of it in a few moments.

Mr. HART. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. HART. The majority leader will recall that the Senator from Colorado was a vigorous opponent of the concept of Gramm-Rudman and the procedures underlying it and understands that the resolutions before the Senate this afternoon do not address the question raised by the Supreme Court as to how that process is now to continue.

Mr. DOLE. That is correct.

Mr. HART. But it is the further understanding of the Senator from Colorado that presumably at the time the debt ceiling measure is brought up, there will be what is called around here a "fix" proposed by the Senator from Texas or someone else to remedy the deficiencies pointed out by the Supreme Court—in fact, under the Constitution.

The question I ask the majority leader is this: Will there be adequate notice to the Senate as to when the debt ceiling or any other instrument is to be brought up and that fix or any other fix offered to it, and can the Senate have assurances that any proposals to amend Gramm-Rudman to satisfy the objections of the Supreme Court will be circulated to Senators in a timely fashion, say, no less than 48 hours before debate and vote on that measure are to occur?

Mr. DOLE. I do not see any problem with that. As I understand it, Senators GRAMM, RUDMAN, and HOLLINGS have been working on an amendment which would cure the problem because of the Supreme Court ruling. It may be that we will be on the debt ceiling as early as Wednesday of next week.

I hope that if they have their amendment, they will insert it in the RECORD or somehow make certain that it is properly circulated to Senators.

The answer is, "Yes."

Mr. HART. If the Senator will yield further——

Mr. DOLE. The Senator from South Carolina is here, and perhaps he can enlighten both of us on when they intend to do this.

Mr. HOLLINGS. At the moment, we are waiting for an opinion from the Department of Justice. We will be ready to submit a bill amending Gramm-Rudman-Hollings tomorrow morning.

Obviously, it would be referred to the Committee on Governmental Affairs, but we want everybody to be placed on notice that we plan to attach it to the debt limit bill.

Mr. HART. I appreciate the comments of both Senators.

The principal concern of the Senator from Colorado has to do with the way the original Gramm-Rudman measure came on the floor of the Senate in the first place. A number of us, as Senators may recall, felt that there was an effort to pass that very serious measure too hastily. There was a weekend session, and in an effort to find out what it meant, how it worked, and there was genuine debate on that measure, and I think the record was clarified and expanded because of that.

Speaking very bluntly, the concern of the Senator from Colorado—and I think a number of other Senators who have questions about this process—would be that late one evening, with very little notice, the debt ceiling would be brought up, the so-called fix or amendment offered to it, and a vote sought within a matter of a few minutes or an hour or two, without adequate notice and debate and understanding.

If we have some assurance that that will not happen—I am not asking what the content of the proposal is at this time—just that the process will permit 48 hours' notice before this measure comes up, and adequate opportunity for many of us to study the measure and understand it and ask questions about it, as to whether it is constitutional and its process and procedure. That is all the Senator from Colorado seeks to have assurance on now.

Mr. DOLE. I do not have any problem with that. It seems to me that there is nothing magic about 48 hours.

Mr. HART. A reasonable time.

Mr. DOLE. A reasonable time. I think at least 24 hours in your hands to look at it and the staff to look at it.

It may be that we will be on the debt ceiling by Wednesday of next week. So if they are prepared to introduce this measure, that might satisfy the concerns of the Senator from Colorado.

Mr. HOLLINGS. We definitely will be prepared to do it by Monday, at least if the RECORD is open for the submission of bills.

Our intent is the same as the Senator from Colorado, to work with our colleagues. We have been working with our colleagues as well as the leadership on the House side. We have had several meetings, discussed it with the Justice Department, and the Office of Management and Budget. The idea in submitting it as soon as possible here is to open it up for criticism and improvement.

□ 1620

I will have to agree with the Senator from Colorado. We did submit Gramm-Rudman-Hollings in a hasty fashion. However, very valuable contributions were made to Gramm-Rudman-Hollings over a 3 month period. But the idea here is to submit the bill so everyone can examine it, criticize it, and make recommendations to improve it.

If we can find a better way to carry out the original intent of Gramm-Rudman-Hollings, we will adopt it. If you folks have a better idea I will join you, so that when it is put in as an amendment to the debt limit bill, there will be no surprises. We have the same intent that you have.

Mr. HART. Mr. President, the Senator from Colorado will just alert the majority leader that in all fairness the Senator from Colorado and the Senator from New York have introduced as of weeks ago a measure to repeal Gramm-Rudman. I do not know what the parliamentary situation will be.

But at the present time it would be the intention of the Senator from Colorado to offer that repeal proposal and I simply want the majority leader and the principal sponsors of the underlying measure to be aware of that fact so there are not any surprises there either.

Mr. DOLE. Mr. President, I appreciate that notice and I will assure the Senator from Colorado there will be adequate notice, reasonable notice to him and to other Senators.

As soon as this new proposal is drafted we may not be in tomorrow but we could come in for that purpose or we could somehow distribute it to Members by mail.

I thank the Senator from Colorado.

Mr. HOLLINGS. Mr. President, if the Senator will yield for a comment in response to the Senator from Colorado, I do not like the RECORD to just appear with the word "repeal." I think we live in the real world and the realism is that the House has just confirmed this particular discipline just a few hours ago by a vote of 339 to 72.

On March 1, the sequester was taken and $11.7 billion was saved. We then saved a billion dollars as we debated

the good and bad of Gramm-Rudman-Hollings on the farm bill. We saved $18 billion on reconciliation. With respect to tax reform, the chairman of the Senate Finance Committee was the first to agree that without the revenue neutrality provision they would have had a very difficult time passing it. But in contrast, they were successful and now over on the House side they reaffirmed the sequester by a vote of 339 to 72.

I understand that a man convinced against his will is of the same opinion still.

I am not going to change your minds but I do not want the RECORD to appear like there is any real threat to abandon this particular discipline. On the contrary, as we said at the time when Gramm-Rudman-Hollings was enacted, it was not put together by us politicians around the conference table. It was put together by the families of America around the kitchen table and they are demanding that we continue with this particular discipline and eliminate these deficits.

Mr. DOMENICI. Mr. President, I yield 5 minutes to the distinguished Senator from Texas on our time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman of the Budget Committee for yielding.

We have an opportunity here to take a first step after the Supreme Court decision striking down the involvement of the Comptroller General to assure the American people that we are serious about the commitments we made in Gramm-Rudman-Hollings.

On this one vote we will save over the next 3 years at least $60 billion. Gramm-Rudman is a bitter bill but the disease we are trying to cure is a disease that can kill our recovery that has brought jobs and hope and opportunity to our people; a recovery that put 10.3 million Americans to work in permanent productive taxpaying jobs of the future.

I am proud of the vote in the House of Representatives. It is a bipartisan vote. I think it is a vote in good faith to fulfull our obligations in carrying out a commitment we made to the American people in setting out a 5-year program to bring the deficit down and to balance the budget in fiscal year 1991.

I am hopeful that the Senate today will adopt this resolution overwhelmingly, thereby reaffirming the seriousness of our commitment and encouraging the financial markets of the Nation to believe that the deficit will be reduced and that over the next 5 years $1 trillion that would have gone to fund increases in the Federal debt will be free to go into the private sector of the economy to build new homes, new farms, new factories to generate new economic growth.

I have often wondered as I have read all the headlines, "Gramm-Rudman-Hollings Cuts Denies, Hurts," Why I have never seen the headline "Gramm-Rudman-Hollings Saves."

It is as if the money that is not being spent by the Government came from heaven and if Government does not spend it, it is lost forever. We all know that is not true. That money comes out of the pockets of the working men and women of America and if it is not spent by Government it goes back to families to invest in the American dream, and that is what that bill is about.

Tomorrow, I am hopeful that we will have a final version of what is clearly going to be called Gramm-Rudman-Hollings II, to fix the triggering mechanism to put us back on course to meet the targets. I predict that will be adopted by Congress with a reconstituted Gramm-Rudman-Hollings.

I believe we will meet the targets of $144 billion as a deficit this year and we will do it without an across-the-board cut going into effect.

I believe we will also meet the targets in subsequent years and I suspect that it will take a lot of work. Gramm-Rudman-Hollings, reconstituted or not, is not a four-sided fort you are going in and go to sleep in, but it is a good wall to your back which is vitally important in any conflict.

I submit if we do all of those things we will look back on this debate and be very proud that in our day and time and here in this important period in the budget debate, we did something worthy of being remembered.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I urge the Senate today to affirm this action and approve the $11.7 billion spending cuts. This was our first act of the sequester.

I think the Supreme Court ruling makes it very necessary for us to reaffirm that sequester. I think it is essential for a host of reasons, but in one of the greatest senses I think we are here to reaffirm our vows. I think if we fail to do that we would be sending a disastrous signal and I think we would not be doing a favor for anybody or any of the agencies that are under this sequester because basically we would just be adding a greater one to them in the following year.

Take Federal retirees. Basically, the money has been withheld from them now. They have already gone through the pain. If we were to go back and if there was to be some change for this, what we would be saying is there would be a $20 billion-plus base of which cuts would have to come off of because this was a 6-month provision. So we would be assuring them of a major sequester into their cost of living for 1987. I think that is the thing that would be unfair. I think that is the thing that would be unconscionable. I think at the same time we would be sending a signal that we have decided to charge back down the hill after we said that we were going to invoke this discipline and try to make ourselves hold to a fight against the deficit.

It is clear now OMB is now saying what we told them they should be saying some weeks before. The economy is softening. We have troubles for 1987. They are admitting that now and that is all the more reason that we have to pick up the money, have to reaffirm the cuts at 11.7 that we approved earlier.

□ 1620

I think that this is a step that the House has moved forward with. I trust the Senate is going to overwhelmingly adopt this provision as well. I think it is something that is very necessary for us to do.

Mr. DOMENICI. Mr. President, I yield myself as much time as I need.

Mr. President, I might state, I believe we have cleared on our side that there is not a need for a rollcall vote on the adoption of this resolution. Senators are asking me. We are now waiting to confirm that.

Mr. CHILES. I say to my distinguished chairman, we do not know of anybody on this side, but I think we are not prepared to tell you that yet. We will ultimately know that.

Mr. DOMENICI. Mr. President, I do not know if I am detecting in the discussions at this point some significant sense of accomplishment here or not. But let me suggest that the sequester that we are now going to ratify retroactively—as the distinguished majority leader said, it is something that is already done; we are just technically having to redo it because of the court—it seems that maybe we are saying we accomplished a significant thing in this sequester and we are proving that we are going to get this deficit under control.

While we are waiting for other Senators who might want to speak—and the Senator from New Mexico is ready to vote at any time here as soon as we know from the other side—I just want to say that from my standpoint, as chairman of the Budget Committee—I wear that hat in terms of that committee with its responsibilities—and as a Senator from New Mexico, I do not want to see another sequester. This was a small one in size, which everybody knew in advance because the amount was a trial run set in the conference. It was not going to meet any targets, necessarily, it was just going to take that much out of the budget.

Let me tell you, there is no doubt that if we do not fix the situation that exists today, in terms of fiscal year

1987, the sequester will not be a small one, it will be a very large one. And it really is no way to run the U.S. Government. We will be taking 50 percent of perhaps a $20 billion to $25 billion outlay cut out of the Defense Department out of a very low base. We will be taking half of $20 billion to $25 billion in outlays, more than that in budget authority, out of the domestic programs that are in the sequester inventory prescribed by this law.

So I want to commit to Senators that I am going to do everything I can within Gramm-Rudman-Hollings, the processes that are there, if amended, as amended, to see to it that we do not have another sequester. We may be working long and late, but there are ways that we can do our job. It may not be satisfactory to everyone here. It may not be satisfactory to the White House, but I think that is what we have to do. We do not want another sequester. We need to do whatever is required between now and October 5, or thereabouts, to make sure we take the actions necessary to avoid another across-the-board cut.

Mr. President, I yield back the balance of my time.

Mr. CHILES. Mr. President, I yield back the balance of my time.

Mr. KASTEN. Mr. President, I believe the job before us is very straightforward, and no one in this room should have any second thoughts about supporting this sequester.

What we need to do is move quickly to reaffirm the sequester for this fiscal year.

If we fail to overwhelmingly adopt this resolution we will be breaking our promise to the American people.

Furthermore, if we fail to cut this $11 billion for this year, we are setting ourselves up for an additional $17 to $20 billion to be added to next year's deficit.

Let me give just one example of what this means. In agriculture, if we fail to make this modest reduction for this year funding, there will be a much larger cut necessary in fiscal year 1987. Preliminary indications are that if we fail to take this cut this year we will be forced to cut domestic agriculture programs by over $2 billion in this next fiscal year. That cut would not be necessary if we take our medicine today.

By reducing Federal deficit spending we will be supporting small business, laborers, farmers, and the working taxpayers of America. Furthermore, we will help erase the uncertainty about what role the Federal Government will play in the Nation's economy.

It is clear that we need to cut this deficit spending to spur growth in the private sector. The Federal Government should not be tying up these resources which are so critical to economic growth.

The course of action we set today will be critical. I believe we must vote to reduce the deficit now so that the rest of our economy can expand.

Mr. PELL. Mr. President, as one of those who voted against the Gramm-Rudman Act, I feel I have little choice but to oppose the resolution before us today to reaffirm the $11.7 billion in budget cuts which were contained in the President's March 1 sequestration order.

When Gramm-Rudman was before us last December, I said its fallacy was that it would substitute, in place of thoughtful and reasoned judgment, "a complex formula of automatic budget cuts, triggered by uncertain economic predictions made by nonelected government officials."

To be sure, the Supreme Court cured one part of that fallacy by removing some of the power from the hands of nonelected government officials. But the rest of the fallacy remains. The resolution before us today is based on the same complex formula of automatic cuts, triggered by the same uncertain predictions.

The only difference is that we are being asked to give it our stamp of approval. But we are given no more opportunity to exercise thoughtful and reasoned judgment than we were before the Supreme Court acted.

Like every Member of this body, I am wholly committed to taking all reasonable steps to reduction of the Federal deficit. But I am equally committed to the proposition that, in doing so, we must exercise care and judgment at every step to assure that the cuts we make do not bear unfairly or arbitrarily on some sectors of the population.

One provision of the sequestration order of March 1 did, unfortunately, bear unfairly, and that was the denial of the fiscal year 1986 cost-of-living adjustment [COLA] of 3.1 percent for military, Federal civilian, railroad, and other retirees. It was a great inequity for these groups to have been denied their COLA increase while others, notably Social Security recipients, were provided for, and Congress should have had an opportunity to correct the problem.

The resolution before the Senate today does not provide that opportunity, and it is for that reason that I oppose it. Cutting the deficit by automatic pilot is no more palatable in July than it was in December.

The PRESIDING OFFICER. All time having been yielded back, under the provisions of Public Law 99-177, paragraph 254(a)(4)(A), the Senate will now vote on the passage of House Joint Resolution 672, which is identical to Senate Joint Resolution 374.

The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 672) was ordered to a third reading, was read the third time, and passed.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 368.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object.

Mr. DOMENICI. Mr. President, I withdraw the request and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 672

Mr. DOMENICI. Mr. President, I renew my request and ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 368.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I withdraw my reservation. The matter has been cleared on this side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 368) correcting the enrollment of House Joint Resolution 672.

The Senate proceeded to consider the concurrent resolution.

Mr. DOMENICI. Mr. President, I think the clerk has described for the Senate what this is. This cures some technical problems and causes the previous resolution to be enrolled along with the exact language of the House resolution.

□ 1630

So that when we adopt it, we will have adopted the exact same language as the House resolution, and thus the ratification of the previous cuts will be completed.

Mr. President, I move that we adopt House Concurrent Resolution 368.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I understand there are no objections to

us proceeding. Therefore, I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 368) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSTPONEMENT OF SENATE JOINT RESOLUTION 374

Mr. DOMENICI. Mr. President, I checked with both leaders. I ask unanimous consent that Senate Joint Resolution 374 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I thank all those who have helped us expedite this matter and compliment the Senate for the action it took today.

Mr. HOLLINGS. Mr. President, I compliment our distinguished chairman of the Budget Committee and only take judicial notice that this could not have occurred if we had television. The reason I know this is because if we had TV, I would still be talking. [Laughter.]

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I want to commend both Senators DOMENICI and CHILES for their expeditious handling of these matters, and it seems to me we have accomplished in about less than an hour what many of us thought might take a couple of days, at least the full 2 hours plus maybe waiting a day for the committee to act. I also commend our friends on the House side.

ORDER OF PROCEDURE

Mr. DOLE. There will be no further votes today, and there will be no votes tomorrow. I am not certain yet whether there will be a session tomorrow. If there is a session, I can assure Members there will be no votes tomorrow. I cannot give that assurance for Monday. I hope to be able to announce the schedule for next week in the next 30 minutes. But I cannot give that assurance for tomorrow.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for his statement. He anticipated my question with reference to Monday. I can understand he is not in a position at the moment to make an unequivocal statement with reference to Monday at this point. There will be no rollcall votes tomorrow as I understand it.

Mr. DOLE. That is correct.

Mr. BYRD. There will be no more rollcall votes today, and there may or may not be a session tomorrow.

Mr. DOLE. There may or may not be a session. There are a couple of items. One is a budget matter that I do not think there is any opposition on this side with reference to the Panama Canal. By not acting on this it is costing the taxpayers money by the day. We are trying to resolve that now by going to the Congressional Budget Office for another number. I am working on this side to see if we cannot free up some of the nominations. There are holds on this side on the Executive Calendar.

Mr. BYRD. Mr. President, I thank the majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 6 p.m., with Senators, with the exception of the distinguished minority leader, permitted to speak therein for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENCOURAGING SIGNS IN ARMS CONTROL DIALOG BUT ADMINISTRATION AND SOVIETS MUST DO MORE

Mr. BYRD. Mr. President, after 5 years of relative stagnation in the arms control dialog between the United States and the Soviet Union, the news media this week have reported several signs of possible new flexibility on both sides.

It would be a positive development if these reports reflected a true willingness by both governments to conduct a meaningful, two-way dialog aimed at resolving major differences and reaching reasonable, verifiable, arms control agreements.

However, it could be a setback for the cause of national security and arms control if the Soviets, simply are continuing their propaganda competition and their public-relations blitz.

The Soviet Government needs to demonstrate to the world that the Soviets truly are committed to achieving arms control progress instead of scoring public-relations points.

Both the American administration and the Gorbachev government now should intensify their efforts to negotiate arms limits in private, so as to increase the prospects for significant progress in the Geneva talks and establish a foundation for a truly productive summit later this year.

In particular, the Soviets should stop stonewalling on the issue of setting a definite summit date. Regardless of the timing of the U.S. response to their recent arms control offer, General Secretary Gorbachev committed himself last year to such a summit, and he should honor that commitment.

If the General Secretary wants arms control progress at a summit, agreeing to a specific meeting date is the best way to increase chances for such movement. Delay only reduces such prospects, since it is an ironic feature of both democratic and totalitarian governments that, without specific deadlines, their bureaucracies on both sides drag their feet and delay making the necessary difficult decisions and hard policy choices.

For our part, the United States should develop an American response to the lastest Soviet arms proposals as carefully and as quickly as possible, without delays caused by continued disagreements within the administration.

Such continued disagreements threaten to undermine our negotiating position with the Soviets and our credibility with our allies. I again urge the President to instill more unity and discipline within his administration on these matters.

The Washington Post has elaborated on these persistent arms control differences within the administration and has addressed the administration's agreement to discuss its SALT II policy in the Standing Consultative Commission [SCC].

This decision to meet in the SCC is appropriate, since that body was designed to address SALT II compliance issues. The willingness to use this forum, which has been neglected in the past, is welcome.

In addition, I urge the administration to take the opportunity of such a meeting within the SCC to press the Soviets about our concerns regarding Soviet noncompliance, instead of just responding to Soviet questions about our SALT policy, as reported in the media is being contemplated.

At the current time, I believe this is a more effective way to resolve compliance problems than U.S. abandonment of SALT II central numerical limits.

In the past 5 years there have been missed opportunities, lost opportunities, and wasted opportunities on both

sides, and it would be unfortunate if this situation continued.

I ask unanimous consent that the article to which I referred previously, and other related articles, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 17, 1986]

U.S. STANCE AT SALT MEETING DEBATED

(By Lou Cannon and Walter Pincus)

The White House announced yesterday that U.S. and Soviet representatives will convene in Geneva next week to discuss President Reagan's decision to stop observing SALT II treaty limits on strategic nuclear weapons, but sources said there was still disagreement within the administration over what the U.S. position should be at the meeting.

The announcement by White House deputy press secretary Edward P. Djerejian, echoing unofficial reports earlier this week, said the United States had agreed to a Soviet request for a special session of the U.S.-Soviet Standing Consultative Commission (SCC). A senior White House official said the meeting is expected to last two weeks and that the U.S. delegation will be headed by retired general Richard H. Ellis, former chief of the Strategic Air Command and the U.S. member of this commission.

An administration source said the president's instructions to Ellis, which will set limits on what he can say, are being debated.

The internal disagreement over the U.S. approach to the meeting reflects a deeper conflict between the State Department and the Pentagon over how to deal with the Soviets on arms control issues. Sources said that the Defense Department looks upon the meeting as a Soviet "propaganda move" while the State Department sees it as an opportunity for a "productive exchange" that could provide momentum for a new strategic arms control pact.

"It has no purpose other than to keep the spotlight on a U.S. decision that Moscow thinks is unpopular in the rest of the world," said a U.S. official who wants the administration to stress Soviet violations of SALT II as the cause of the president's decision.

But an official who favors a more positive approach said that U.S. negotiators, after mentioning Soviet violations, could stress Reagan's desire for interim retraints leading to an agreement to made "significant reductions" in nuclear arsenals.

Djerejian said the meeting is expected to begin next Tuesday. He said U.S. representatives will be prepared to respond to Soviet concerns about Reagan's May 27 statement that the United States may exceed limits of the unratified SALT II treaty later this year. He said the Soviets are expected to respond to U.S. charges of Soviet noncompliance with arms control agreements.

"This special session of the Standing Consultative Commission offers us the opportunity to renew the president's request that the Soviet Union join us in establishing an interim framework of truly mutual restraint," Djerejian said.

The disagreement over the position that the U.S. should take at the SCC meeting has been aggravated by a running dispute between Ellis and Assistant Secretary of Defense Richard N. Perle.

Perle has charged that Ellis in the past has exceeded his instructions in trying to reach unauthorized compromises with Soviet representatives over alleged arms treaty violations. Ellis has argued that the SCC was designed to reach solutions rather than simply hear complaints. But at the last two sessions of the SCC, Peele has succeeded in limiting Ellis' instructions to prevent him from negotiating.

Perle and others have sought to reshape the staff of the U.S. delegation to the SCC with personnel more sympathetic to their point of view. Ellis has been given a new deputy commissioner, Stephen R. Hanmer, Jr., who until recently served as a deputy to Perle.

In another move, Frank DeSimone, a longtime Ellis ally and executive secretary of the delegation, was replaced when his contract expired. Kenneth L. Adelman, director of the arms control agency and a Perle supporter, named Air Force Col. Bruce Clark as DeSimone's replacement.

[From the Washington Post, July 16, 1986]

SOVIETS WELCOME MEETING WITH U.S. ON SALT

(By the Associated Press)

Moscow, July 15.—A Soviet spokesman today welcomed a U.S.-Soviet meeting in Geneva next week to discuss President Reagan's decision to abandon the 1979 SALT II treaty, but said Moscow attaches much more importance to Washington's response to Soviet leader Mikhail Gorbachev's recent proposals for reducing strategic and medium-range nuclear weapons.

"We are waiting for that letter," Foreign Ministry spokesman Gennady Gerasimov told a news conference.

Yesterday, the United States agreed to a meeting in Geneva of the Standing Consultive Commission to discuss the future of the Strategic Arms Limitation Treaty. Gerasimov refused to confirm the date of the meeting, saying it was an already agreed upon process.

A U.S. official in Washington yesterday said that the United States agreed to the Geneva meeting on condition other issues could be raised at the session, including alleged Soviet violations of the unratified SALT II treaty.

Despite the indications that the superpowers are broadening discussions on arms control, they have still failed to make arrangements for Gorbachev to go to the United States later this year for a meeting with Reagan.

Gerasimov noted, however, that "there is progress . . . , an element of forward movement" in diplomatic exchanges to set up a meeting between Secretary of State George P. Shultz and Foreign Minister Eduard Shevardnadze."

The Soviets canceled talks slated for May after U.S. planes bombed Libya on April 15.

[From the Washington Post, July 15, 1986]

U.S. AGREES TO MEETING ON SALT II

(By David Hoffman and Walter Pincus)

President Reagan informed the Soviet Union yesterday that the administration has agreed to Moscow's request for a meeting in Geneva to discuss his decision to stop observing the limits of the unratified SALT II treaty, White House officials said.

The decision marked a shift from the administration's initial reaction to the Soviet proposal for a meeting of the Standing Consultative Commission, a joint U.S.-Soviet group established in 1972 to monitor the first SALT agreement. Top administration officials have been sharply critical of the commission, and at first talked about rejecting the Soviet proposal as a propaganda move.

The White House decision to attend the meeting is the latest in a series of attempts by the administration to send positive signals to Moscow concerning arms control and American desires for a second summit meeting between the President and Soviet leader Mikhail Gorbachev. Recently, for example, Reagan publicly described the latest Soviet arms control proposal as "the beginning of a serious effort" toward negotiations.

A White House official said Reagan informed the Soviets that the United States does not want the meeting to become a vehicle for publicizing Moscow's criticism of Reagan's May 27 decision on SALT II. The official said the U.S. role in a meeting, which the Soviets want to begin next week, would be to listen to Soviet questions about the SALT decision.

In a move that brought sharp criticism from Congrss and the allies, Reagan decided that the United States would no longer be bound by the limits in the treaty—which was signed in 1979 but never ratified by the Senate—but would wait until later this year to determine whether the United States actually surpasses the limits.

Reagan said his action was based on Soviet violations of the treaty and indicated he would review Soviet actions in Geneva, and any change in Moscow's compliance practices, before deciding to actually exceed the treaty limits when the 131st B52 bomber is outfitted with air-launched cruise missiles, now scheduled for mid-November.

White House officials said the Soviets were notified through diplomatic channels yesterday of Reagan's acceptance. Separately, the president is preparing a letter to Gorbachev responding to the latest Soviet arms control proposals.

The Soviets sought the meeting on SALT II to get a clarification of Reagan's plans, in part because the U.S. decision on whether to break through the treaty limits in November or December appears to coincide with the time frame for a possible summit meeting.

It could not be learned yesterday whether U.S. officials intend to use the Geneva meeting to repeat administration charges that the Soviets already are in violation of the SALT agreement. A White House official said, "We have to see what they are coming up with first."

Deputy White House press secretary Edward P. Djerejian said yesterday that Reagan already has discussed his SALT II decision in public and private, and is willing to talk about it "obviously with the Soviets also." But Djerejian, in a briefing for reporters, refused to disclose the nature of Reagan's response to Moscow, saying the commission meetings are held in "strict confidentiality . . . even the fact that a meeting at times takes place is kept in confidence."

One explanation for Reagan's shift on the Geneva meeting is congressional debate over the SALT II decision and a Senate vote expected later this month on a nonbinding resolution calling on the president to reverse it. The resolution has bipartisan support from 48 senators, and backers predicted that if Reagan had turned down the Geneva meeting, the resolution would almost certainly get approval.

Top Reagan administration arms control policy-makers have looked with contempt in the past at this commission, saying it was ineffectual at resolving what Reagan alleges

are serious Soviet violations of the treaty. Defense Secretary Caspar W. Weinberger called for the panel to be abolished in a report to Reagan before last November's summit with Gorbachev.

However, officials yesterday cited an instance before Reagan came to office when a special session of the commission called by the United States was used to get Moscow's explanation for several alleged violations. In 1983, the Soviets turned down a Reagan administration request for a special session to discuss violations.

Gen. Richard H. Ellis, former commander of the Strategic Air Command and the U.S. representative to the commission, has repeatedly been criticized by top Pentagon officials for attempting to use the panel to resolve U.S. charges of Soviet violations without specific instructions from Washington.

Ellis is scheduled Tuesday to brief a group of senators who monitor the Geneva arms talks on Reagan's decision to allow U.S. representatives at the meeting.

[From the Washington Post, July 17, 1986]

SOVIETS MODIFY STANCE ON BRITISH, FRENCH ARMS

(By Karen DeYoung)

LONDON, July 16.—Soviet Foreign Minister Eduard Shevardnadze said today that Moscow's insistence that Britain and France freeze their nuclear forces at current levels does not affect those countries' plans to "modernize" their nuclear arsenals.

British officials, while noting that Shevardnadze's statement left numerous unanswered questions, characterized it as evidence of a "slight movement" in the Soviet position, which has been a principal sticking point at talks in Geneva between the United States and the Soviet Union on intermediate-range nuclear weapons.

Of the range of East-West arms control negotiations now under way, Shevardnadze said, "my personal view is that the most promising area" for agreement is over deployment of intermediate-range weapons in Europe.

Shevardnadze's comments came in a news conference at the Soviet Embassy at the end of a three-day official visit here that both governments have characterized as successful. Prime Minister Margaret Thatcher has accepted an invitation, brought here by Shevardnadze, to visit Soviet leader Mikhail Gorbachev in Moscow next year.

Appearing relaxed and occasionally joking during the 45-minute press session, Shevardnadze continued the upbeat and optimistic attitude toward East-West relations, particularly in the area of arms control, adopted by several Soviet officials in recent weeks.

On the question of a summit between President Reagan and Gorbachev, Shevardnadze said that the Soviet Union was "working hard to prepare" for it. He said that "substantial preparation are under way" in Moscow in "10 to 12 areas" to be reviewed at a preliminary meeting between himself and Secretary of State George P. Shultz and then to be discussed at summit.

But he repeated Soviet insistence that dates for neither a Shevardnadze-Shultz meeting, nor a Reagan-Gorbachev summit, can be set until Washington responds to existing Soviet proposals for strategic weapons cuts.

"The ball in now in the U.S. court," Shevardnadze said. "A great deal will hinge on the answers the United States gives us."

Asked if Moscow was growing frustrated with the lack of a U.S. response, he counseled patience. "The United States is in the process of preparing a reply," he said. "Wait and see. I said the ball is in the U.S. court, but I didn't say we have scored a goal against the Americans."

Among the other points made during the session, Shevardnadze:

Made Moscow's first public reference to U.S.-Soviet talks on nuclear testing that are due to begin next week in Geneva. "We have a fundamental agreement from the United States to resume negotiations . . . on banning nuclear tests," he said.

Although both sides have agreed that the talks will begin "without preconditions," the Soviets want to discuss a comprehensive ban on all nuclear tests, while the Reagan administration has said continued testing is necessary until agreements are reached to eliminate nuclear weapons.

[In Washington, the White House issued a statement Wednesday saying that "the United States and the Soviet Union have agreed to have experts meet shortly to discuss issues related to nuclear testing," Washington Post staff writer Lou Cannon reported.]

Said that Moscow hopes to "convince the United States that we have very good arguments" that it is not violating the Antiballistic Missile Treaty and the Salt II agreement on strategic weapons limitation during talks on the issue that Washington recently agreed to in response to a Soviet request.

Said that "on the question of space weapons," including the Reagan administration's Strategic Defense Initiative, which Moscow opposes, "there is a possibility of finding more mutually acceptable approaches."

Referred to chemical weapons negotiations, on which Britain yesterday proposed a new verification formula at the Geneva Conference on Disarmament, as an area where Britain and the Soviet Union could undertake "joint work."

But Shevardnadze expressed the most enthusiasm over the possibility of East-West agreement on limiting intermediate-range weapons in Europe. The Soviets have proposed reduced deployments of their SS20 missiles, to be matched by reduced numbers of U.S. Pershing II and cruise missiles in Western Europe.

Although the Soviets long have insisted that British and French nuclear weapons be included in any accounting of western deployments in Europe, they have said recently that those non-U.S. arsenals should be negotiated separately with London and Paris.

The two remaining Soviet conditions on exempting the British and French weapons from talks with Washington on intermediate-range weapons, however, have been that neither country expand its nuclear arsenal in the meantime and that the United States agree not to transfer "nuclear weapons to other countries."

That position has been interpreted to rule out Soviet acceptance of British and French plans to modernize their nuclear arsenals, both because the modernization plans allow for substantial expansion in the number of each country's warheads, and, in the case of Britain, because it is modernizing its forces with a new nuclear weapons-equipped Trident submarine system purchased from the United States.

Both British and American officials noted that Shevardnadze's comments on the subject today left unclear whether acceptance of British nuclear "modernization" meant acceptance of a Trident system.

TED REID OF VIRGINIA NATIONAL LEADER IN HIGH TECH EDUCATION

Mr. TRIBLE. Mr. President, I point with pride to one of my constituents, Dr. Theodore "Ted" Reid of Annandale, VA, and congratulate him on being named the recipient of the 1986 Distinguished Service to Science Education Award.

Ted has been instrumental in focusing public attention on the need for and support of science education, and because he has made substantial contributions to the improvement of science education at the elementary, secondary and college levels. His influence has been pervasive, reaching into every region of the United States.

I am also pleased that in my State of Virginia, boards of education have been leading the way for teachers and students to develop to the maximum of their potential in science education by creating high schools of science and technology. It is the work of Ted Reid and his colleagues that has created the programs to enhance the role of science education in Virginia and in America.

On September 1, 1967, Dr. Reid joined the Science Education Directorate of the National Science Foundation as Associate Program Director in the Academic Year Study Program. Ted now prepares guidelines for, and evaluates proposals for, science development. As one of Ted's colleagues stated, "Ted Reid has been important to the development and causes of science because he is wise, courageous and sensitive—and because he cares. He is a creative force at work within the constraints always imposed by bureaucracies, a man who enjoys joining people with people, and, people with ideas."

Mr. President, it is important to emphasize the vital contributions that educational leaders, such as Ted Reid, make to the Nation in attracting highly talented men and women to careers in mathematics, science, and technology; to develop teacher capabilities in these critical areas; and to retain good teachers in the school systems.

I ask unanimous consent that a copy of his award be printed in the RECORD at this point.

There being no objection, the copy of the award was ordered to be printed in the RECORD, as follows:

THE NATIONAL SCIENCE TEACHERS ASSOCIATION OF THE UNITED STATES IS HONORED TO PRESENT TO THEODORE L. REID THIS CITATION FOR DISTINGUISHED SERVICE TO SCIENCE EDUCATION

In recognition of his long and productive career and substantial contributions to the large-scale improvement of science education at all levels in the United States.

His interest in science education began during his tenure as professor of chemistry at the University of South Dakota where he

developed an extensive program of institutes for science and mathematics teachers which supported over 800 teachers and was funded by the National Science Foundation. He left South Dakota in 1967 to accept a position with the National Science Foundation to continue and to extend his work in science education. A lifelong concern for the special problems faced by Native Americans was stimulated by his work with students from the Pine Ridge and Rosebud reservations while in South Dakota. He has had a profound effect in the science and mathematics education of American Indians. There are children in practically every Indian Reservation in the United States who have benefited.

Dr. Reid has been important to the development and causes of science education because he is wise, courageous and sensitive—and because he cares. He is a creative force at work within the constraints always imposed by bureaucracies, a man who enjoys joining people with people and people with ideas. He works with no thought of power or reward and is quiet, confident, and knowledgeable. He leads by example and by gentle prodding, and is equally home discussing science with grade school children, science educators and scientists. And he meets with all of them to create better programs and to enhance the role of science education in American life.

In appreciation of his ability to work effectively with a broad spectrum of groups and individuals, and his untiring and extreme dedication to improve science and science education at all learning levels, the National Science Teachers Association proudly presents this citation to Theodore L. Reid.

LETTER TO PRIME MINISTER NAKASONE

Mr. DOLE. Mr. President, Americans followed the recent parliamentary election in Japan with more than the usual interest. Many of us in this Chamber have come to know Prime Minister Nakasone, whose political life appeared to hang in the balance. Nearly a year ago, for example, I led a Senate delegation to Tokyo to conduct discussions with him.

I think it is fair to say that, while we have had our differences with the trade policies of his government, we greatly admire the courage he has shown in attempting to reform some of Japan's traditional practices in the trade area.

No society can change its basic modes of operating overnight. But with clear-headed and firm-willed leadership, serious progress can be made. Prime Minister Nakasone has repeatedly promised to make it. We take him at his word, and we applaud his efforts. There is, however, more to be done.

Mr. President, I am today releasing a letter addressed to the Prime Minister, cosigned by Senator BYRD and by members of the Finance Committee, which of course is the committee preeminently concerned with trade issues in this body.

The letter congratulates the Prime Minister on his party's landslide victory in recent parliamentary elections. More importantly, it suggests that this occasion represents an unprecedented opportunity for the United States and Japan to make new progress in resolving critical international trade issues.

Mr. President, Japan is a vital ally and friend. We must not allow commercial grievances to divide us. We must make every effort to solve them, and now we have been presented with an extraordinary chance to do so. We would be foolish not to seize the moment.

I want to thank this distinguished minority leader again for his support in this vital matter. And I ask unanimous consent that a copy of the letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, July 16, 1986.

His Excellency, YASUHIRO NAKASONE,
Prime Minister,
2-1 Kasumigaseki, 1-Chome, Chiyoda-ku,
Tokyo 100, Japan.

DEAR MR. PRIME MINISTER: We are writing to offer our congratulations and best wishes on the occasion of the triumphant victory of your party in the recent parliamentary elections. This impressive ratification of your leadership represents an unprecedented opportunity for our two nations to make progress in resolving the issues of international trade which have caused us mutual concern.

We hope that your government will seize this historic moment to implement the philosophy expressed in the recent Maekawa Report, and to open Japanese markets accordingly.

The intention which you expressed during your meeting in April with President Reagan to increase imports, especially of manufactured goods, represents a laudable vision for the future. The test of such an intention, of course, will lie in actual results.

To this end, it is our hope that both of our governments can use the occasion of your electoral success to redouble our efforts in market-opening negotiations concerning such products as semiconductors, tobacco, aluminum, soda ash, autoparts, and agricultural processed goods, as well as the bidding to supply products and services in connection with the construction of Kansai International Airport. In addition, we hope for renewed efforts to increase Japanese purchases of American wood products, chemicals, coal, silicon, beef, and other competitive American exports.

We look forward to continued cooperation and friendship between our nations.

Sincerely yours,

Robert C. Byrd, Minority Leader; Russell B. Long; Lloyd Bentsen; Max Baucus; George Mitchell; David Boren; Spark Matsunaga; Bob Dole, Majority Leader; Bob Packwood; John Danforth; John Heinz; Bill Roth; David Durenberger; Daniel Patrick Moynihan; John H. Chafee; David Pryor; Chuck Grassley; Steve Symms; Malcolm Wallop; Bill Bradley; Bill Armstrong.

INTERVIEW WITH JUDGE BORK

Mr. HATCH. Mr. President. On September 5, 1985, Patrick B. McGuigan, the editor of Judicial Notice, conducted an interview with Robert H. Bork of the U.S. Circuit Court of Appeals for the District of Columbia. Judge Bork has served as Solicitor General of the United States, Acting U.S. Attorney General, and as a member of the circuit court of appeals since 1982. Prior to his Government service, he was distinguished professor of law at Yale.

In the interview Judge Bork discussed the "interpretivist" and "noninterpretivist" approaches to legal analysis. I believe my colleagues will find Judge Bork's views enlightening. Therefore, I ask unanimous consent to have the interview printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN INTERVIEW WITH JUDGE ROBERT H. BORK

(By Patrick B. McGuigan)

Q. I am going to try to cover several areas and I want to start out with a general discussion of judicial and legal policy, and your philosophy on some of those things. First question: What is the proper role of judges in a democratic society?

A. The quick answer is: To try to discern the intent of the people who wrote the law they are applying, whether it is constitutional law or statutory law or precedential law.

Q. In a speech three years ago to the Free Congress Foundation's Conference on Judicial Reform, you spoke of the difference between the "interpretivist" (or strict constructionist) school of constitutional and legal analysis and the "noninterpretivist" (or activist) school. Will you review that difference for our readers?

A. There has recently grown up, in the law schools in particular, a school of constitutional philosophy which holds that judges are not properly bound by the intent of the framers of the Constitution, but may, indeed should, make new constitutional law, create new rights. And it is suggested that they may do so either because moral philosophy suggests inhibitions on legislative powers not found in the Constitution, or because judges think the legislative process is malfunctioning in some way that they themselves define.

Interpretivists believe the contrary. They think the job of a judge is to understand the principle that the framers were trying to protect, and apply that principle in today's circumstances, which the framers could not have foreseen. But the idea is always to protect the value or the freedom that the framers were trying to protect—and not some new freedom.

Q. In that 1982 speech, you maintained that if the notion that judges can draw their constitutional rulings from outside the Constitution "achieves entire intellectual hegemony in law schools, as it is on the brink of doing, the results will be disastrous for the constitutional law of this nation." Why would that be disastrous?

A. Because you would have a small group of unelected, unrepresentative judges making the basic law of the nation, quite ir-

respective of the desires of the electorate, and quite irrespective of the meaning of the Constitution. That would bring minority tyranny in spades.

Q. In your Bicentennial speech to the American Philosophical Society back in 1976 you said something that struck me as especially profound. I want to quote just one sentence. Your words were these: "The case has been made, perhaps most effectively by Joseph Schumpeter, that the intellectual classes, given their typical desire to politicize all of society's processes, pose the greatest danger to the future of democratic government." You said something along the same line in your 1982 speech at the Free Congress conference, expressing concern about what you called the "gentrification" of the Constitution.

A. I was talking about the fact that if judges begin to create new personal freedoms on the theory that the times demand them or that it is the best moral view, or something of that sort, they will in fact enact as constitutional law the moral judgments of a particular socio-economic class to which they belong and to which they respond.

Judges are not representative of the population at large—either socially or economically or religiously or any other way. They tend to respond to law school faculties, to clerks coming out of those law schools, to journalists, to members of the writing intellectual class. Those are groups with a point of view which does not run the full spectrum of American opinion. If judges simply enforced their own morality, you would get as constitutional law those moral views of a particular class, and a morality that is not by any means generally shared in this country. That's what I meant by the gentrification of the Constitution.

As to the first quotation, I was talking about the fact that the intellectual classes—until very recently, when a significant counter-intellectual movement arose—really seemed to want to politicize, and hence regulate, a great many aspects of life, including markets. What I was talking about was that democratic government is endangered when you politicize everything because it is not possible for representative institutions like Congress to make all of the millions of regulations that are then essential.

So that power necessarily shifts from elected representatives to vast bureaucracies. When you have a democratic government, in the sense that elected representatives are making the decisions, you necessarily have a more or less limited government, because they can't handle everything at once.

Q. In your speech on December 6, 1984, to the session at the American Enterprise Institute in which you were presented the Francis Boyer Award, you crafted what I thought was a powerful and succinct defense of the historically unique American political structure. Let me read that back to you. You said:

"Our constitutional liberties arose out of historical experience, and out of political, moral, and religious sentiment. They do not rest upon any general theory. Attempts to frame a theory that removes from democratic control areas of life the framers intended to leave there can only succeed if abstractions are regarded as overriding the constitutional text and structure, judicial precedent and the history that gives our rights life, rootedness and meaning. It is no small matter to discredit the foundations upon which our constitutional freedoms have always been sustained, and substitute as a bulwark only abstractions of moral philosophy."

These are powerful words and it is a sentiment not necessarily shared in legal circles. Could you elaborate a little bit about what you were driving at there?

A. Yes. The effort to create individual rights out of a general, abstract, moral philosophy, I think, is doomed to failure from the beginning because I don't think there is any version of moral philosophy that can claim to be absolutely superior to all others. What I was saying in the passage you quote is that the rights we enjoy, which were handed down to us, arose out of particular circumstances and particular sentiments and religious beliefs. They are not connected by a general philosophy. And——

Q. In essence, were they a blending? A compromise, if you will?

A. Well, they are a compromise, but also, they were quite specific. The framers had known certain kinds of abuses by government, and they wanted to make sure those abuses did not recur in our national government.

They didn't sit down and work out a utilitarian philosophy or a contractarian philosophy or something of that sort. If the framers intended to leave large areas of life to the democratic process, and we say, "No, the framers' intention doesn't count because we have a moral philosophy that says they shouldn't have," then that casts doubt upon the freedoms the framers did give us because they are not supported by that abstract moral philosophy.

I think that approach undercuts the legitimacy and the prestige of our historically rooted freedoms.

Q. Many of your comments on the present state of constitutional and legal interpretation seem to me to reflect implicit criticism of the prevailing mentality in our law schools. What ideology . . .

A. May I just stop and say it is not implicit. It is explicit.

Q. Quite all right. What ideology then, if any, animates the law schools?

A. I doubt that there is a single ideology that animates law schools today. Instead, there are a lot of competing ideologies ranging from the law and economics group to the Critical Legal Studies people.

Among many constitutional law professors, there is a continual search for general philosophic principles about the nature of a just society which the professors would like judges to convert into constitutional law. This is a relatively new development and I can't say I understand all the reasons for it. Perhaps they just live playing with philosophy and find law too mundane and pedestrian. Or perhaps, in some cases, the professors have realized they are never going to get the electorate and their representatives to agree with them on sound social policy. A quick way, the only way, to the society they want is to get judges to make this society over.

The sin of wanting judges to do good things simply because the electorate won't do them is not confined to liberalism. Conservatives have been known to be infected with that desire, too. There are still a number of them around who want that.

Q. How do we turn the situation around in the law schools? What is the agenda and what are some of the specific steps required to restore respect for judicial restraint in our law schools?

A. When you say "an agenda", I don't know that I have an agenda. It seems to me that for the first time in quite a while there is a very sophisticated conservative intellectual movement taking place in law, economics, political science, and elsewhere. That is good because it provides a needed competition in the intellectual marketplace.

The thing to do is encourage young people of that sort to go into academic life and to engage in intellectual debate. We must trust that eventually the power of superior ideas will prevail.

Q. You were a law professor for many years. Did you ever feel isolated in those days?

A. Intellectually, not socially.

Q. All right. Good answer! Turning for a moment to a specific area of the law flowing from what we have been talking about, how would the contending schools of interpretation—the interpretivists and the noninterpretivists—approach the constitutional legitimacy of, say, the death penalty? I am not necessarily asking for what the correct outcome is on the constitutionality (or lack thereof) of the death penalty, but how would an interpretivist approach the matter and noninterpretivist approach it?

A. Well, I think for an interpretivist, the issue is almost concluded by the fact that the death penalty is specifically referred to, and assumed to be an available penalty, in the Constitution itself. In the Fifth Amendment and in the Fourteenth Amendment. It is a little hard to understand how a penalty that the framers explicitly assumed to be available, can somehow become unavailable because of the very Constitution the framers wrote.

I suppose the noninterpretivists would proceed, as some of them have, by saying, "Well, the standard, for example, of what is a cruel and unusual punishment under the Eighth Amendment is an evolving standard. It moves with the society's new consensus about what is consistent with human dignity, what is too cruel, etc., etc."

And then they say that evolving standard has now reached the death penalty, and eliminates it. But it is not made clear why the standard should evolve.

Q. In the absence of a constitutional amendment?

A. That's right. Furthermore, if we do look to what society's current standards are, it is quite clear from the statutes on the books that society's current consensus favors use of the death penalty.

I am not discussing whether the death penalty is a good or a bad idea but only the different constitutional approaches to it.

Q. In the whole area of Fourth Amendment interpretation, namely the provisions protecting suspects from unreasonable searches and seizures, have the courts gone to far? Let me go on. In your opinion, in the case of *U.S.* v. *Mount* issued last March, you had a particularly succinct sentence, I thought:

"Where no deterrence of unconstitutional police behavior is possible, a decision to exclude probative evidence with the result that a criminal goes free to prey upon the public should shock the judicial conscience even more than admitting the evidence."

That's pretty tough stuff, and my question is, is that view still a minority among the judiciary, or are things changing?

A. I think they may be changing, but I really can't speak for the judiciary because I don't know in general what most judges think. There appear to be two possible reasons for the exclusionary rule. One is to deter unconstitutional police behavior. It is

still being debated whether or not the rule does do that.

The other reason sometimes given is that courts shouldn't soil their hands by allowing in unconstitutionally acquired evidence. I have never been convinced by that argument because it seems the conscience of the court ought to be at least equally shaken by the idea of turning a criminal loose upon society. The only good argument really rests on the deterrence rationale, and it's time we examine that with great care to see how much deterrence we are getting and at what cost.

Q. In your 1976 speech entitled "Can Democratic Government Survive?" you contended that to many academics, "a sense of guilt had become as essential to good standing as proper manners used to be." Later in that speech you elaborated, "It takes confidence in your values to punish for crime, and yet punishment rates in the United States and all the western world declined even as crime rates soar. It takes assurance to enforce community standards of behavior, and though most of us do not like it, pornography in its ugliest form has become what a national magazine called a plague." In a powerful summation, after you sketched those things out with allusions to Alexis de Tocqueville, you asserted: "A people without energy and self-confidence runs a great risk of tyranny." True enough, but aren't things changing for the better?

A. Yes, I think I have to qualify that somewhat. I am not so sure today that I see as many signs of guilt in the intellectual world as I did then. The late 1960s and early 1970s, with the student rebellions and turmoil, seemed to create a lot of intellectual guilt in their elders. There still may be some of that. But I don't think people flaunt their guilt quite as much as they did then. It got to the point where you couldn't go to a cocktail party without listening to at least one confession of guilt.

Q. You also said, [paraphrasing] "It takes confidence to punish crime, to enforce community standards on things like pornography."

A. Well, I think the electorate and the American people at large have begun to show that they don't suffer from this lack of confidence in their values, and that they want more punishment for crimes, they want high community standards. They want certain community standards enacted into law.

Q. You said, "A people without energy and self-confidence runs a greater risk of tyranny." I found that a compelling sentence.

A. Well, if a people does not have confidence in its values, and if it is not a vigorous people, then it's much easier for government or for a faction to get a hold of government and enforce its narrow values. An apathetic people or a people with a defeatist attitude would be easier to tyrannize than a people that stands up and resists because it has confidence in its values.

Q. Some analysts (political scientists and others) maintain that in essence the Equal Rights Amendment movement, the ERA movement, is dead. I am not so sure of that. In any case, ten years ago you observed, "The ERA represents less a revolution in sexual equality than it does a revolution in constitutional methods of government." What did you mean by that?

A. I no longer feel free to comment about ERA since I'm now a judge. But I do feel free to explain what I meant ten years ago, which was that the Amendment didn't say that Congress shall have power to provide for sexual equality in all cases, or something of that sort. What it said was, "Judges shall have power to decide what sexual equality is in all cases."

Now the role that men and women should play in society is a highly complex business, and it changes as our culture changes. What I was saying then was that it was a shift in constitutional methods of government to have judges deciding all of those enormously sensitive, highly political, highly cultural issues. If they are to be decided by government, the usual course would be to have them decided by a democratic process in which those questions are argued out.

Q. In your AEI lecture last year you maintained that "the institutions of law, in particular the schools, are becoming increasingly converted to an ideology of the Constitution that demands * * * an infusion of extra constitutional moral and political notions. A not untypical example of the first is the entry into the law of the First Amendment of the old and incorrect view that the only kinds of harm that a community is entitled to suppress are physical and economic injuries. Moral harms are not to be counted because to do so would interfere with the autonomy of the individual. That is an indefensible definition of what people are entitled to regard as harm."

Now you actually seemed to be saying there that lawmakers can act on moral impulses! Seriously, isn't that a self-evident proposition? And are there really serious constitutional scholars who disagree on this?

A. Oh, yes, I discussed a case which was, in fact, *Cohen* v. *California*, in which the Supreme Court was going to deny the community the right to say, "We find the use of that word in public immoral * * *"

Q. The F*** word?

A. Yes. You will find a long list of scholars who would say that. They've got the thing turned upside down. They would say the judges may have a view of morality which they may read into the Constitution and that this overrides any view of morality the legislature might have. So you wind up with judges instead of legislatures making public morality, which I think very odd where the Constitution doesn't speak to the question.

I could give you a long list of scholars who hold this odd view of judicial supremacy.

Q. What is the rule or method of constitutional interpretation that led to the so-called "privacy doctrine" which has given us (through judicial interpretation) abortion on demand, constitutional protection of homosexual rights, and so forth?

A. Well, the so-called right of privacy was born in the case of *Griswold* v. *Connecticut*. And again, but for the fact that I wrote this before I became a judge, I would be hesitant to say it, but I did write it before I became a judge.

I don't think there is a supportable method of constitutional reasoning underlying the *Griswold* decision. The majority opinion merely notes that there are a lot of guarantees in the Constitution which could be viewed as guarantees of aspects of privacy. As a matter of fact, that's a misnomer because a lot of them guarantee public action. But the opinion then says, since we have all these Amendments which can be viewed as guaranteeing particular rights of privacy, we can generalize and create a general right of privacy.

Of course, that right of privacy strikes without warning. It has no intellectual structure to it so you don't know in advance to what it applies.

Q. Well, my next question is, I think you have already answered it—is this a legitimate expression of the intent of the framers?

A. Well, as I said years, ago, I thought the privacy notion had little to do with the intent of the framers.

Q. I am now going to ask you a couple of questions about areas where some conservatives disagree with you. Many of us have pushed for "withdrawal" or significant restriction of federal court jurisdiction over certain controversial social issues, including abortion and busing, school prayer, and so forth. We have maintained that this power exists under Article III, Section 2, of the Constitution, which defines the Supreme Court's jurisdiction "with such Exceptions and under such Regulations as the Congress shall make." You have maintained, eloquently, that this power does not reach as far as many conservatives believe. Although none of the Court regulating measures appear likely to pass in the near future, the significance of the discussion and of the controversy is clear. Will you elaborate your views for our readers?

A. In the first place, I am quite clear that the Congress has the power to remove jurisdiction as it likes from district courts and courts of appeals. Those are courts that Congress need not have created, and I think it could remove all jurisdiction and leave us all sitting here until we died off. That would be constitutional. The problem really arises only with respect to the Supreme Court, which is created by the Constitution and given appellate jurisdiction by the Constitution.

Now, as to Article III, Section 2, which you point out has the exceptions clause. It says the courts shall have appellate jurisdiction with such exceptions and regulations as the Congress may make. The question then becomes whether that enables the Congress to remove entire categories of jurisdiction from the Supreme Court because it dislikes what the Court is doing. And I must confess, although I have given an answer to that in the past, it seems to me the answer is not entirely clear for the following reason: I am clear that the exceptions clause was never designed for a use like this. If you should only use a clause for the purposes for which it was designed, then you shouldn't use it for this purpose.

Q. For what purpose was it designed?

A. I think it was designed for administrative detail and convenience and so forth. The reason we know it was not designed for the purpose we are discussing is that if the framers had been trying to create a check against a runaway Supreme Court, that's the last check they would have devised, because in the most important classes of cases you can't use it.

For example, if a challenge to an all-male draft or registration came up on constitutional grounds, you could hardly take away the Supreme Court's jurisdiction. If you did, jurisdiction would remain in all the state court systems; and, under the supremacy clause which requires judges to apply the Constitution, I don't think you can remove jurisdiction from state courts.

The result is that with respect to any policy that requires national uniformity you can't use the exceptions clause. The framers would never have designed a check on the Court that couldn't be used in very important cases.

The other reason is, if you were really devising a check to vindicate democracy against a runaway judiciary, you wouldn't

devise a mechanism that puts the issue in a different set of judges. The framers would have devised a mechanism that put the issue back into Congress or state legislatures. But they didn't do that.

And that's what makes me think that they never intended the exceptions clause as a democratic check on the Supreme Court. They probably weren't even thinking about judicial review as a problem. In those days, nobody had ever seen judicial review. They didn't know what kind of a problem it could become.

Having said that, on the other side it must be said that Congress did not give the federal courts and indeed the Supreme Court certain kinds of jurisdiction for years and years and years after the Constitution was created. It's a little hard to say that Congress need not have given jurisdiction, but once having given it, may not take it away.

So I am a little bit in balance on this issue, and I would not want to have to decide it unless I heard arguments on both sides. On the one hand, the clause was not meant for this purpose; on the other hand, that isn't conclusive proof that it could not be used for this purpose.

Q. Let me ask you about the *Ohlman* libel-law case in which you filed a concurring opinion. The court had sided with the Evans and Novak columnist team in a dispute over a column they printed about a Marxist college professor. You expressed concern in your opinion about "a remarkable upsurge in libel actions accompanied by a startling inflation of damage awards."

Mike McDonald, of the American Legal Foundation, has strongly criticized your opinion, saying "the old Bork would have frowned on the judicial identification of and attempt to solve perceived social problems caused by libel suits since such matters are quintessentially legislative tasks. The new Bork, though, rejects this separation of powers."

A. I don't think I have to defend myself. He's quite wrong about the old Bork. I mentioned the upsurge in libel actions, and there has been an enormous increase in such suits. It seems pretty clear that, along with the meritorious suits, there are a number that are filed not because anybody has been really damaged, but to punish columnists or somebody else who has written something the plaintiff does not like. It's not a question of judges assuming a general power to go out and solve social problems. Judges have no such power. But we do have a First Amendment. And the First Amendment enjoins judges to keep the process of political discussion open. If judges change the way libel law is applied, and they have, so that it begins to represent a threat to political discussion, then in an opinion like *Ohlman* I don't think I am going out to solve a social problem. I think I am defending the central meaning of the First Amendment if I say, "Wait a minute. This particular lawsuit poses too much of a threat to political discussion and the freedom of the press." Not all libel suits pose such a threat, but some do.

Q. Returning, almost, to some of the things we have talked about at the beginning of the interview. I think there is a very important matter in legal policy that is not understood by laymen, by nonlawyers, that I have come to understand from my work in the area. That is terribly important—and that is standing. What is standing, the term "standing"—explain it to the folks out there. First of all, what is it? And second, why has it become a problem in the modern judiciary?

A. Standing is a requirement that courts have gotten out of Article III, the judiciary article of the Constitution. The issue of standing is jurisdictional. If a court concludes that a party lacks standing, the court may not proceed to decide the merits of the suit. Though it is sometimes said that standing raises the question whether the party is fit to litigate an issue, whether he has been injured directly so that he possesses "that concrete adverseness which sharpens the presentation of issues" (*dBaker* v. *Carr*, 1962), it is clear that much more is involved. The standing requirement, at bottom, has to do with what kinds of interest courts will undertake to protect. As Justice Powell put it in *Warth* v. *Seldin* (1975):

"In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry involves both constitutional limitations on federal court jurisdiction and prudential limitations on its exercise. In both dimensions [standing] is founded in concern about the proper—and properly limited—role of the courts in a democratic society."

This should make it clear that the jurisdictional requirement of standing keeps courts out of areas that are not properly theirs. It is thus an aspect of democratic theory. Questions of jurisdiction are questions of power, power not merely over the case at hand but power over issues and over other branches of government. Article III of the Constitution confers the "judicial Power of the United States" and limits that power in several ways. Among the most important limitations is that expressed in section 2 of article III, confining our jurisdiction to "Cases" and "Controversies." The meaning of those terms, however, is decided by federal courts. It follows that judges can determine the extent of their own power within American government by how they define cases and controversies. It is for this reason that the proper definition of those terms is crucial to the maintenance of the separation of powers that is central to our constitutional structure.

"Standing" is one of the concept courts have evolved to limit their jurisdiction and hence to preserve the separation of powers. A critical aspect of the idea of standing is the definition of the interests that courts are willing to protect through adjudication. A person may have an interest in receiving money supposedly due him under law. Courts routinely regard an injury to that interest as conferring upon that person standing to litigate. Another person may hve an equally intensely felt interest in the proper constitutional performance of the United States government. Courts have routinely regarded injury to that interest as not conferring standing to litigate. The difference between the two situations is not the reality or intensity of the injuries felt but a perception that according standing in the latter case would so enhance the power of the courts as to make them the dominant branch of government. There would be no issue of governance that could not at once be brought into the federal courts for conclusive disposition. Every time a court expands the definition of standing, the definition of the interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts.

Q. Back in that 1976 speech you observed that recently there has occurred a shift in opinion about "the omniscience of government." You continued: "Detailed bureaucratic government may be benevolent in intention, but it is often perceived by its beneficiaries as officious intermeddling." The subsequent election seemed to show that you perceived a political trend that was just beginning. Is this shift in mood good? And what is the proper role of government?

A. I think the shift in mood is good. I think we were and still are an overregulated people, and the regulation, in many cases, really doesn't accomplish any identifiable good result. That is a pragmatic judgment and has nothing to do with my job as a judge. In this court we deal with a lot of governmental regulation and I try to apply it as was intended.

I don't think I can define the role of government in abstract terms. This is kind of a parallel to my feeling that you can't define the rights of the individual by abstract general philosophy.

In dicussing the role of government, we really ought to have something in the back of our head, a kind of an idea about a budget of regulation. There is just so much regulation we can handle as a society and do so effectively. We must not overregulate people so that they begin to lose their vigor and their innovativeness and so forth.

What the government should do is identify those areas where it can make a real contribution at a relatively low cost to free social processes. And I can't define those for you. It seems to be a pragmatic judgment in each case.

Q. It might vary from era to era.

A. Sure. And I can't define it in philosophical terms.

Q. In that same 1976 speech, you said: "The enormous profusion of regulations is incompatible with the democratic process. Democratic government is limited government for the simple reason that there are economies of scale in government institutions, as in all others." Is that the point you are making?

A. Yes, that's right. That's a point I think I made, well, earlier in this interview, that you can't have ten Congresses all working at once. You have one Congress. We can only handle so much information. When you try to regulate too many things, the innumerable decisions simply can no longer be made democratically. They are going to be made by bureaucracies and by so many bureaucracies that even congressional oversight may be ineffective. That's what I meant by the tendency to get away from democratic government.

Q. What—I want to ask you a few personal questions, just things about your philosophy, as it were. One, is why are you a lawyer? Why is Bob Bork a lawyer? What things started you down that path?

A. Well, I think the major thing was that Columbia School of Journalism wouldn't send me an application. So I went to law school instead.

Q. Really?

A. Yes. I like words, I like writing, I like argument, I like thinking about problems of public affairs which seemed to me to mean either journalism or law. When I got out of college I thought, quite wrongly, that in order to be a journalist I should go to a graduate school of journalism.

It turns out that was not necessary at all but I didn't know that. I didn't know any journalists, so I sent off to Columbia and asked for an application, and they wrote back and said, "We see you have a degree from the University of Chicago." That was the old Hutchins degree, which was a bit weird. They said, "We don't recognize it. So

if you will go some place else for two years, we will then send you an application form." That infuriated me, so I went to law school.

Q. That's great! That's a great story. I would be remiss if I didn't ask the obvious question to handle however you wish. Judge Bork, you are frequently mentioned as being among the top five from whom President Reagan might select his next Supreme Court nominee. I realize this is really a tough question for you, but how does that make you feel, and do you think it is really in the cards?

A. I know no more than what the newspapers say, so I have no idea whether it might be in the cards. And, it has been going on for a number of years now, so it doesn't really make me feel any particular way. I have gotten inured to it.

Q. What is your personal political philosophy, broadly defined?

A. Well, I suppose it is generally known so there is no harm in speaking about it. In matters of economics, I belong in general to the Free Market School. On the other hand, I am not a libertarian in social matters. Most people would probably say I am a conservative. But political outlook has little to do with judicial philosophy. As you pointed out, there are conservatives who favor judicial activism, and I know political liberals who favor judicial restraint.

Q. I sense an increasing attention and concern among average Americans about the role of the judiciary in a democratic society. What book or books would you recommend from the past or present for the intelligent layman to read if he wants to comment on or criticize ongoing legal policy, legal decisions? In essence, what I mean by this is what should the average guy who gets interested in these issues read to become better informed on the theory and reality of American law?

A. That's an impossible question. I taught a seminar on constitutional theory using books and articles for three semesters, as the course materials, and I didn't find any work that I regarded as adequate.

I hope to write that book myself, but I am sure lots of people won't think it adequate either.

Q. What four or five books most powerfully influenced your political philosophy?

A. It was more a long series of conversations at the University of Chicago and at Yale than it was any particular book. But I suppose back then *The Road to Serfdom* influenced me. Perhaps the *Federalist Papers, The Possessed* by Dostoevski, *Witness* by Whittaker Chamber, *Darkness at Noon* by Arthur Koestler. It would take me days to recall all of the books you would have me mention.

One difficulty is that a lot of books influenced my philosophy because I disagreed with them. Often our ideas are formed and refined as much by those with whom we disagree as by those with whom we agree.

You see, I think political philosophy is more a matter of practical wisdom than of abstract speculation. What's consistent with freedom in this case? How much is it going to cost us? Not in terms of money alone, but also in terms of freedom and social cohesions.

These are matters of understanding the world in a very practical sense and making judgments both about values and costs and benefits. The *Federalist Papers* perceived of political philosophy that way.

Q. What four or five books most powerfully influenced your judicial/legal philosophy?

A. What influenced it primarily was a seminar I taught with Alex Bickel in which we argued about these matters all the time. We taught it for seven years, and I finally worked out a philosophy which is expressed pretty much in that 1971 *Indiana Law Journal* piece which you have probably seen—"Neutral Principles And Some First Amendment Problems." I have read a lot of books that influenced me. But I never read one that came to me as a revelation.

Q. No, but the ones that you played off and disagreed with?

A. Oh, that. I can give you the names of those, *The Least Dangerous Branch*, by Alex Bickel, which was the best of the ones I disagreed with. *Democracy and Distrust*, by John Ely. Ronald Dworkin's writing. Harry Wellington's articles. There are a lot more. I could go through the reading list for my seminar. I think I disagreed in some respects with everybody that I gave to the students to read. I couldn't find much to give them to read of what I believed.

Q. In essence, we are inventing the system? We are inventing the philosophy all over again, reempowering. . .?

A. Bickel made this point years ago. The judiciary had sort of a tradition. There wasn't much theory. It was tradition. Judges do this; they don't do that. The last thirty years shattered that tradition and now the theories justify judicial activism. These are the theories I referred to earlier as noninterpretivist. And there is the interpretivist counter theorizing beginning to pick up. We can't rely upon tradition any more. Now we need theory.

Q. The question is, what are the theoretical constructs? What are the practical rules of legal procedure to reempower the intent of the framers in 1986?

A. Well, I have given five or six speeches that seem to me to contain most of the pieces. Now, I've got to sit down and put them together in a short book, as soon as I find the time.

Q. A few years ago I remember talking at length with a man I came to admire more and more with the passage of time. He is Professor Raoul Berger, an old-line FDR liberal Democrat whose intellectual honesty has led him, in essence, to be a defender of conservative critics of the modern judiciary, and one of your more articulate and forceful admirers.

Berger made the point, in his speech at the 1982 Conference on Judicial Reform, that he did not think there were many grounds for optimism. He counseled the audience against "facile optimism" for resolving the difficult problems, and for getting the courts back on track, and winning the intellectual battles and so forth. What is your perspective of that?

A. Well, there is obviously no room for "facile optimism". There never is. But there is reason for some optimism.

There was a time, when I first started writing about antitrust and teaching it, that the situation seemed hopeless. Many of the rules created by the courts make little economic sense and were doing consumers more harm than good. But only a few people thought that. It seemed the weight of the political and the intellectual traditions of antitrust were too heavily against the free market for reform ever to take place. Most people in the field regarded that a few of us were saying as eccentric if not ridiculous, so far out of the mainstream as to be mostly irrelevant. But look now. Gradually those ideas have become the dominant ideas in antitrust scholarship. And they have significantly affected the enforcement policies of the Department of Justice and the Federal Trade Commisssion, a result I would have thought absolutely impossible twenty years ago.

I am not at all sure that the debate over the proper role of the courts is an intellectual argument we can't win similarly.

Q. One step at a time?

A. Yes. I find a lot of young people today who are quite responsive to the way I argue about constitutional law. That was not so true twenty years ago.

Q. Might it not be a good idea, getting back to our earlier discussion of legal education, for constitutional law courses, for example, to spend the whole semester on the Constitution, *The Federalist Papers*, and perhaps Joseph Story's *Commentaries*, rather than a week on those things and the remaining eleven weeks on case law?

A. As a matter of fact, usually there are fourteen weeks, and few professors spend even a week on Story, or *The Federalist Papers*, or the original Constitution. I know I did not. I think you have put your finger on something. Walter Berns has made the point that nobody in law school is teaching the Constitution. They are teaching Supreme Court opinions. If we are going to have a well-rounded legal profession that understands the philosophy as well as the latest precedent, we really ought to have a full semester at least on the history, *The Federalist Papers*, Story, and so forth.

Most law students today read primarily cases of the last twenty years or so because the older cases get weeded out of the case book. They have no idea that some constitutional subjects have undergone a revolution, because they do not know any prior history. They sometimes think that some decision is really essential to our freedom, and if it were overruled, all kinds of terrible things would happen, without realizing that this country went on for a century and three quarters without that decision. Maybe it is a good decision or a bad decision—but it is not, as students tend to suppose, an inevitable decision.

I would like to see a course built of that sort you describe. Indeed, I would like to teach it for my own education.

THE PRECARIOUS STATE OF THE U.S. AIR TRANSPORTATION SYSTEM

Mr. PRESSLER. Mr. President, our air transportation system is an accident waiting to happen. I come to that conclusion reluctantly, but the evidence seems to point to a steady deterioration in the safety of our commercial aviation system since deregulation.

Between 1982 and 1986, commercial airline passenger traffic and the number of commercial flights are expected to have increased over 30 percent. And, between 1982 and 1985, the number of near-misses, both on the ground and in the air, increased almost 150 percent, and 1986 statistics are already running ahead of 1985 in this category.

These statistics represent only a small part of the overall problem. Additional factors include airport congestion, weaknesses in FAA inspection

programs, the increasingly serious nature of airline maintenance violations, FAA budget cuts in important research and development projects, and a slowdown in spending of airport and airways trust fund moneys. All of these elements add up to an airport and airways system which is unable to cope with current or future levels of air traffic.

The question before us, then, is what can be done to meet this potentially hazardous situation? The Subcommittee on Aviation of the Commerce, Science and Transportation Committee, on which I serve, just completed a hearing designed to explore the various problems plaguing our air system, and what potential solutions are available or can be developed to deal with this situation. One of those suggested remedies is the formation of a Presidentially-appointed Aviation Safety Commission which would spend 1 year studying FAA's management of aviation safety. This proposal, put forth by the distinguished minority leader and others, may very well be one effective step we should take.

However, a yearlong study does not deal with some of the more immediate problems that are foreshadowed by the statistics I noted earlier. We need to start work immediately on finding ways to prevent any incidents which could occur in the near term, particularly in the crowded Northeast air corridor. I will be taking an in-depth look at these safety problems in an effort to develop both short- and long-term methods to alleviate and correct the present deficiencies in air safety.

Finally, Mr. President, in order to help my colleagues remain up-to-date on the current state of our airports and airways, I ask unanimous consent that an article from the July 7, 1986, issue of Fortune magazine, entitled "The Worsening Air Travel Mess," be printed in the RECORD. This article describes the difficulties today's travelers are encountering with delays, confusing fares, overbooked flights, and many of the safety issues confronting our air transportation system—issues which need to be dealt with sooner rather than later.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Fortune, July 7, 1986]

THE WORSENING AIR TRAVEL MESS

(By Jeremy Main)

(Oh, how was your trip?

(Are you kidding? When I got to the terminal, the line for tickets stretched all the way out to the sidewalk. Every seat was taken, and a lot of people got left behind. The guy next to me was in his undershirt and barefoot. The air conditioning didn't seem to be working, the air was foul, and I felt dopey the whole trip. The john was a mess. The seats were worn and scruffy. And the traffic made us two hours late.

(Why in the world did you go by bus?

(What bus? I flew.)

That's air travel, 1986. Flying, once a rather glamorous experience, is today's mass transportation. this summer promises to be particularly uncomfortable for the air traveler in the U.S., especially the businessman, who must often fly to the busiest airports at the worst times. It will also pose big challenges to people who run the airlines. With luck, the next few months won't be as trying as the summer of 1984, when a shortage of air traffic controllers combined with horrendous weather to cause record delays. Since then, though, passenger volume has grown by 5.5% a year, and fear of flying abroad this year seems likely to increase the load of passengers on domestic flights. Bad weather, which still can slow up air traffic more than any other problem, could make a lot of people wish they had, well, taken the bus.

The deregulation of U.S. airlines that began in 1978 has brought air travel within the means of millions, and that, of course, is laudable. Flying remains a safe way to travel. But as air traffic volume repeatedly breaks records—the one-day high of 111,152 flights under U.S. air traffic control was set on June 5, and it probably won't last long—the air transport system keeps bumping up against its physical limits. That means even more crowded terminals, jam-ups in the parking lots and access roads, harassed ticket agents, and, worst of all, flight delays.

John R. Huggins, president of Woodside Management Systems Inc., the largest U.S. corporate travel agent, echoes a common warning: "We can expect delays and inconvenience, which will be at a maximum in the peak summer months. The efficiency of the business traveler will be significantly decreased." Daniel T. Smith, manager of consumer and industry affairs for the Airline Passengers Association, anticipates considerable "inconvenience and delay," and he doesn't see much relief in the foreseeable future. "It's a matter of physics. The system can accommodate only so many planes."

While passengers tend to remember the horror stories about air travel—the fistfight in Honolulu on a Sunday afternoon because the airlines had overbooked flights back to the mainland—the statistics suggest less dramatic deterioration, but deterioration nonetheless. Judging from data collected by the government, the quality of service is declining. Complaints by passengers to the Department of Transportation, flight delays, and the bumping of passengers from overbooked flights all have increased in the past year and a half.

Unprecedented fines levied by the Federal Aviation Administration on American Airlines, Continental, and Eastern Air Lines for maintenance violations also signal declining standards. The FAA charged Eastern with infractions such as extending the interval between overhauls of its Boeing 727s without government approval. American was fined for failing to fix a leaky toilet. The problem was not merely hygienic: Water escaping to the outside of the plane formed a chunk of ice that knocked off an engine in midflight. Fatal accidents on scheduled flights remain rare, but the number of near misses on the runways and in the air have increased ominously, suggesting that overworked and perhaps inexperienced controllers may be having trouble keeping planes sorted out.

Considering the chaotic state of the industry, it is not surprising airlines are having trouble maintaining standards. Robert L. Crandall, chairman of American, has noted that since deregulation, 72 new airlines have started, and 33 have disappeared. In the first quarter alone, the industry lost $500 million.

The major reason for the deterioration of service, though, is the overburdened system of airports and airways. The number of passengers in the U.S. has risen from 292 million on 14.7 million commercial flights in 1980 to a predicted 392 million on 19.2 million flights this year. The FAA foresees over 650 million passengers and 26.4 million flights in 1997. This growth will have to fit in a system already strained at peak hours.

If only travelers would distribute their movements evenly around the clock and around the country, the system would have plenty of capacity. Trouble is, people have the awkward habit of all going to the same places at the same times. Fly to New York, St. Louis, or Denver at the start or end of a business day, and you can count on a delay. The FAA tots up a delay when a plane is more than 14 minutes late. On average, about 34 flights out of every 1,000 have been delayed in recent months. So far this year, 85% of those delays came about because of traffic at eight airports: Atlanta, Boston, Chicago, Denver, La Guardia, Newark, St. Louis, and San Francisco. Newark, struggling with an increase of daily People Express flights from zero to 440 in six years, accounted for 18% of all delays in the first five months of 1986. Delays at those eight cities are far more than 34 in 1,000.

Since deregulation the entire system has been made more susceptible to delay by the emphasis the airlines have put on so-called hub-and-spoke operations. Squadrons of planes converge on a single airport at a peak period to swap passengers and transfer them to the outbound spokes of the system. That makes business sense because the hubs capture customers from the farthest reaches of the system. But when a hub is hit by bad weather—for example, summer turns the Mississippi valley into thunderstorm alley and socks in the St. Louis airport—the whole wheel comes apart.

Airline executives argue that delays could be cut radically if the FAA and the Department of Transportation would hire more controllers. The FAA now has some 14,000 of them, 2,000 fewer than before the 1981 strike. A $12-billion federal plan to modernize airports and air traffic contol is far behind schedule. The reason: the Reagan Administration will not spend the money accumulating by the billions in a government trust fund financed by airport taxes levied on passengers and freight. Some $4 billion is uncommitted in the trust fund, helping the Office of Management and Budget make the federal deficit appear smaller, but not helping the airlines or their passengers at all.

The Air Transport Association, which represents the major carriers, would like air traffic control put under a semiprivate corporation that would respond more to airlines' needs. The corporation would collect the airport taxes that now get swallowed up in the trust fund and use the money to operate and improve air traffic control. The FAA would retain airline inspection and certification functions. Then, says Thomas G. Plaskett, an American Airlines senior vice president, today's capacity problems would be solved.

Government officials, predictably, do not agree. James R. Smith, who worries about airport capacity for the Department of Transportation, points to some steps that are already being taken to increase the ca-

pacity of the system. New microwave landing aids, more intensive use of parallel and intersecting runways to speed the flow of traffic, and other improvements will help a bit. Miami is widening taxiways, Phoenix is building a new terminal, and Dallas-Fort Worth is adding a runway. But these improvements will add only marginally to capacity. Says Smith. "You can do just so much with existing facilities, and then you have to find more landing places. The ultimate solution is airports."

No major new airports have been built since Dallas-Fort Worth opened in 1974, and with one exception, none is likely to be built for a long time. More airports did not seem necessary until traffic exploded after deregulation; now it's hard to find a community that will not fight plans to create an airport nearby. Only Denver has approved a new airfield.

The airlines will be bumping up against capacity limits for years to come. Access to key airports during peak hours remains among the more valuable assets an airline can own. Pan Am recently paid Texas Air $65 million to acquire three gates at Boston and La Guardia and 64 landing slots at La Guardia and National Airport in Washington to serve Pan Am's new shuttle service.

The ability to reduce and cope with delays and other problems varies dramatically from one carrier to another. Department of Transportation figures show, for example, that American Airlines, one of two major carriers to make a profit in the first quarter, drew only about one-fifth as many complaints per 100,000 passengers as People Express, the archetypal no-frill discounter. In the three months ending in March, passengers complained about People twice as often as they did about any other major airline.

Yet People Express's phenomenal success in attracting passengers spawned so many imitators that today 88% of passengers travel on discount tickets. Other airlines have managed to bring down prices by cutting their own costs and going to two-tier pay systems. United, for instance, pays its bottom-tier starting pilots $1,527 a month, compared with People's starting rate of $1,833. TWA pays new stewardesses $12,000 a year compared with People's $17,000 for new "customer service managers." All of which suggests that price competition will continue, drawing even bigger crowds to the already crowded skies.

Every airline overbooks to make up for the inevitable no-shows, who suffer no penalty other than the possible loss of a cheap fare requiring advanced booking. The trick for the airline is to gauge the no-shows to a fine point, and that has become harder because bookings have increased. The result for some carriers has been an increase in bumpings: Passengers with reservations find that there is no place for them aboard their scheduled flight. People's relatively unsophisticated reservations system led to hundreds of bumpings last winter. In December the rate averaged 36 passengers bumped per 10,000, far above the industry average. American, by comparison, bumped only one in 40,000 passengers involuntarily in December, partly because it pays generously in cash or tickets for volunteers to give up their seats on overbooked planes.

Passengers complain that fares are too complicated to understand, vary too much, and sometimes change, if not quite in midflight, at least after reservations have been made. Pan Am recently offered a one-way flight on a 747 between New York and Los Angeles for as little as $99, while American's advance-purchase special-coach round-trip ticket on a DC-10 cost $248 and its regular round-trip ticket $980. All three prices bought basically the same transportation.

A New York businessman says that he made a reservation to fly to Oakland last fall on People for $119. When his girlfriend later made a reservation on the same flight, the price had gone up to $149. Once they were airborne—which is when People collects the fares—they were told the price was $199. He refused to pay more than $149 and, he says, persuaded 22 passengers to sign a petition stating they had to pay more than the price quoted when they made their reservations. The Oakland police were waiting for him at the airport, but he was released after some questioning and arguing. People's managing officer for marketing, Stephen Schlachter, replies that the company never raises rates once the flights are put on sale. For instance, People is now accepting reservations through September 14 and promises not to raise any rates on flights up to that date. But he agrees that misunderstandings have occurred.

Airline service also shows the strain of price wars and tight budgets in small ways. When foul-ups leave passengers stranded overnight, most lines are less likely than before deregulation to pay for meals and hotels—unless the plane is diverted to an unexpected destination. In-flight feeding, which for years has been among the more degrading experiences of modern life, is not improving. In a survey of what the airlines spend feeding their captive diners in the third quarter of 1985, *Air Transport World* found a range from USAir's low of $2 per meal to a high of $6.06 at Northwest and Pan Am. Not much room for filet mignon on those budgets. For a while after TWA flight attendants went on strike against the carrier's new owner, Carl Icahn, and his new work rules, TWA stopped serving hot meals entirely. The 2,800 new stewardesses hired and trained in a hurry did not have time to learn how to handle the ovens. Eventually they got further training in-flight, and TWA resumed serving hot meals on May 26.

According to some not unbiased observers, even the quality of air in the cabins may be suffering. Matthew Finucane, director of flight safety for the Association of Flight Attendants, claims that some airlines, which he will not identify publicly, try to save fuel by decreasing air circulation in flight, resulting in too little oxygen and too much pollution in the air. "Attendants sometimes work in a blue haze and show signs of disorientation and numbness," he says. The airlines emphatically deny that cockpit crews ever reduce air circulation to save fuel.

Says Kelly Nelson, a senior vice president of Ask Mr. Foster Travel Service: "The airlines are cutting corners. I notice a deterioration in things like the maintenance of carpets and seats. But I strongly believe that the safety standards are kept up to the old levels."

Travelers' prospects are not completely cheerless. Low fares without frills have become too commonplace to be sure-fire competitive winners, so travelers are beginning to see some return to amenities. Pan Am says its new Boston-New York-Washington shuttles will offer full service, which presumably will mean a chance to gulp a drink and bolt a snack during the brief flight. After a three-month experiment with no frills, Frontier, owned by People, went back to full service recently. People Express itself appears to want to move up the social ladder; the line already offers first-class service on international and transcontinental flights and will add it on all other flights this summer.

Most lines have cut their operating costs to where they can compete with the discounters. Fuel prices have fallen sharply. A study by Salomon Brothers, the investment banking firm, finds "the airline industry's financial health has improved dramatically." The author, Julius Maldutis, says he was amazed how rapidly the airlines recovered between 1983 and 1985 from the profit decline that came after deregulation. The industry could be highly profitable this summer, he says.

Pan Am and People Express still need strong turnarounds to put them in good health, as do Texas Air's Continental and Eastern, which Texas Air is acquiring. But Republic and USAir have already bounced back. American, Delta, Northwest, Piedmont, and United remain financially strong.

Don't get your hopes up, though. Renewed financial strength will not lift air travel back to its glory days before it became mass transit. The beleaguered traveler may encounter an unexpected touch of class here and there, but price cutting, cost cutting, and passenger volume will continue to rule the industry.

A PIONEERING AIRLINE C.E.O. LOOKS AHEAD

(Originally a bitter opponent of airline deregulation, Francisco A. Lorenzo ("Please call me Frank") is now its leading exponent. Through Texas Air Corp., the holding company of which he is chairman and chief executive, Lorenzo, 46, reigns over Continental Airlines, New York Air, and Jet Capital Corp., a financial holding company. Texas Air's acquisition of Eastern, which may be completed by August, could make Lorenzo's airline system the largest in the U.S. He built it by piling up debt, defying unions, and skillfully steering that airline through Chapter 11 reorganization. "People still think of me as a financial guy," he says. "I have very little to do with that. I'm the guy who determines the marketing equation and figures out how to make a company work." In an interview with Fortune writer Roy Rowan, Lorenzo explained what he thinks airlines have to do to improve service and how the Eastern acquisition fits into his vision of the industry future.)

On why airlines are receiving so many complaints: Before deregulation this was an industry that was responsive to the government, not the consumer. The changeover still needs to be worked through so more attention is paid to the passenger, particularly in ticketing and assuring a hassle-free trip. Ironically, Continental and the other low-fare airlines tend to generate more than their share of complaints. Most complaints involve misunderstandings about reduced fares. Also, when your plane is completely full it's going to put pressure on your service.

On the hazards of the fare wars: The big, high-priced airlines are known for bait and switch. When customers call up and can't get the advertised but highly restricted fare, they often decide to buy a ticket at the much higher regular rate. You'll never catch American or United advertising its regular fare. This deception puts carriers like Continental and People Express that have genuine low fares at a disadvantage. We're trying to sell our customers on straightforwardness and simplicity. We say, "Call us, and the price you see advertised is the price you get." But it's very hard for us

to keep to those virtuous beliefs—we lose a lot of passengers.

On overbooking problems: We, like everybody else in the industry, make our money at 5 P.M. and have to fill our seats at such peak hours. Even then, no-show rates run in the 20% range. So as an industry we have to overbook. Under the economics of deregulation we can pass on the financial gain from flying full airplanes to the passenger in the form of a lower fare. Nevertheless, we're starting to put a charge on a charge in reservations—a 25% cancellation fee on restricted fares. I think it's only a matter of time before we adopt the theater ticket concept—if you don't go, you lose your money.

On Eastern's marketing strengthens: People like to fly with an airline that goes to a lot of places and sells all kinds of tours through package and travel agents. When you operate 60% of the flights out of a city like Miami, as Eastern does, and are the biggest buyer of discounted hotel space for package tours, you're going to get most of the business. Another of Eastern's marketing advantages is its computerized reservations system. One of Continental's disadvantages is not having a reservations system that connects with the travel agents' computers. This is crucial since 70% of all bookings come through travel agents. After the merger Continental will be plugged into Eastern's reservations system.

On Texas Air's financial strength: Texas Air has a strong balance sheet—our debt is long term and the interest on it manageable, New York Air and Continental have both grown tremendously. Continental earned $61 million in 1985, $11 million more than in 1984. It may seem remarkable, but this airline has 74% more capacity than it did prebankruptcy. It should be out of Chapter II within 60 days. The plan has already been approved by all but two out of several hundred creditors.

On the possibility of more union resistance to changes management might make to Eastern: At Continental we have a record of attacking core problems. The union leaders know that. They're going to have to be realistic about the changes that are necessary. Strikers returned to Continental with a changed attitude. They now realize what they were getting from the unions was pure gibberish. Recently, however, the unions have been hearing the call for low costs even from the most robust companies. I think the message is beginning to sink in.

On what the merger means to air travelers: Whether we cut Eastern's fares will depend on what makes sense. That, of course, would put further pressure on costs. Other airlines cut costs by cutting services. They take the cherries off the desserts and ticket agents off the counters. Customers notice these things. But the companies have to make these savings because they're still paying senior pilots $125,000 for flying 50 hours a month. Our basic philosophy will be to provide consumers with what they demand of an air transportation product—full-service flights at low fares.

On whether deregulation has gone too far: You either have freedom of the marketplace or you don't. Ten years ago we had an industry where you never could make much money. Now the upside opportunities are vastly improved. But deregulation also provided an opportunity for airlines to fail.

On the formation of what Lorenzo calls megalines: In the postderegulation era, first there was the new airline phase. Then came the consolidation and cost-cutting phase. Now we're heading into the megaline phase, which will leave the U.S. with from five to eight major carriers, instead of a dozen or so today.

AVIATION SAFETY

Mr. BYRD. Mr. President, today I testified before the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation in support on a bill I have introduced (S. 2417) entitled the Aviation Safety Commission Act.

I ask unanimous consent that my statement be printd in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ROBERT C. BYRD BEFORE THE SUBCOMMITTEE ON AVIATION, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, WASHINGTON, DC, JULY 17, 1986

Madam Chairman, let me commend you for scheduling these hearings on the issue of aviation safety, an issue about which there has been growing public concern since the enactment of the Airline Deregulation Act of 1978 (P.L. 95-504). With each report of a commercial air carrier crash, as well as reports of other safety-related incidents, the American public has become increasingly concerned about aviation safety.

There is reason for concern. According to the National Transportation Safety Board (NTSB), 1985 was the worst year for domestic commercial aviation since 1977. Last year, there were 526 fatalities from all U.S. air carriers, compared to 655 fatalities in 1977.

The FAA and representatives of the airline industry have argued that the safety of the domestic passenger carriers has improved in the years since deregulation. However, this assessment is based solely upon the number of accidents and fatal accidents in any given year.

That approach is not necessarily the most useful indicator of the current status of aviation safety. Focusing exclusively on accidents is of limited usefulness, because it ignores any consideration of incidents which did not become accidents. It is often only luck that separates incidents and accidents. For example, on May 17, 1986, an American Airlines 727 passenger jet and a US Air DC-9 came very close to a disastrous collision at Chicago's O'Hare Airport. Both aircraft were cleared by an air traffic controller for take-off at the same time from intersecting runways. It was only because the US Air copilot happened to notice the on-coming American Airlines jet, and the pilot was able to take last-minute emergency action, that a disaster was avoided for the 224 passengers and crew on board the two aircraft.

There are other data which should be included in any consideration of the status of aviation safety. A more complete picture of aviation safety is provided by considering data regarding accidents, as well as data on near mid-air collisions and surface operational errors (e.g., runway incursions). Such data, collected and reported by the FAA, indicate that the number of near mid-air collisions increased from 568 in 1980 to 758 in 1985, an increase of 33 percent. There are similar indications that the number of surface operational errors increased from 87 in 1980 to 103 in 1985, a 21 percent increase.

I believe that a more complete assessment of the status of aviation safety can be rendered by considering what I will call "aviation safety incidents." This broader concept includes all reported aviation accidents, reported near mid-air collisions, and reported surface operational errors involving section 121 and 135 certificated air carriers.

From this perspective, since the enactment of the Airline Deregulation Act of 1978, FAA data—when adjusted to take into account the increases in traffic volume since airline deregulation—indicate a dramatic decline in the margin of aviation safety. Specifically, the indications are that aviation safety incidents have been occurring more frequently since deregulation, relative to departures, aircraft miles, and aircraft hours.

These data are presented graphically in charts 1 through 3 of my testimony. The charts present data for three key indicators of airline activity—number of revenue aircraft departures, revenue aircraft miles, and revenue hours flown. Aviation safety incidents are plotted against these indicators to provide a picture of the margin of safety.

However, it is important to point out that these graphs were based on very limited FAA data, and that the quality of the data which is available from the FAA may be limited as well. Indeed, FAA's data collection, verification, and data base maintenance and management practices have been identified by the NTSB and GAO as a problem area. Without an adequate data base, FAA is severely limited in its ability to anticipate potential aviation safety problems and to define approaches to the resolution of such problems.

Unfortunately, for the time being, anyone attempting to assess the status of aviation safety must use FAA data. Any such assessment must acknowledge the serious limitation in the quality and quantity of that data. With those caveats in mind, I believe that the data do provide an indication of the margin of aviation safety. Let me turn to the charts in my testimony.

Chart 1 presents data from 1975 to 1985 on the number of airline departures per incident. The chart shows that, in 1975, an incident was reported for every 12,805 departures. By 1980, an incident was reported for every 7,377 departures, a 42% decline in the number of departures between incidents during the period 1975-1980. However, during the period 1980-1982, there was a 63% increase in the number of departures per incident. This is an indication that the margin of safety improved during that period. Then, during the period 1982-1985, the margin of safety declined again as the number of departures per incident decreased 56%.

Chart 2 presents a similar picture during the same time period, based on the number of airline revenue aircraft miles per incident. The chart shows that during the period, 1975-1980, the margin of safety declined as indicated by the 38% decrease in the number of aircraft miles between incidents. That is, in 1975, an incident was reported for every 5.6 million revenue aircraft miles. By 1980, there were 3.5 million aircraft miles per incident. From 1980 to 1982, there was an improvement in the margin of safety as the number of miles per incident increased about 71%. During the period 1982-1985, the margin of safety eroded again as the number of miles between incidents declined 56%.

Chart 3 presents the decline in the margin of safety in terms of the number of revenue aircraft hours per incident. The data indi-

cate a declining margin of safety as the number of hours per incident decreased 36% from 1975 to 1980. Once again, there was a noticeable improvement in the margin of safety as the number of hours per incident increased from 1980 to 1982. After 1982, however, there is a 53% decline in the number of hours per incident from 1982 to 1985.

The data suggest an improvement in the margin of safety from 1980 to 1982. This may be a reflection of the 1981 Patco strike when the FAA reduced the volume of air traffic by imposing limits on the number of flights at the busiest airports to compensate for the reduction in the number of air traffic controllers manning the tower during the strike. The result of such control appears to have been a significant improvement in the margin of safety.

That has some interesting implications for the present situation. Indeed, based upon its assessment of the status of the Nation's air traffic controller workforce, the GAO has suggested that FAA should consider imposing controls on the growth of air traffic until that workforce is adequately staffed. The data I have presented here indicate that such an approach could have salubrious results.

Madam Chairman, I believe the data I have presented here indicate that the margin of aviation safety has declined significantly. Simply put, the problem is that the skies have gotten more crowded since deregulation, and there is no indication that the future will bring less crowded skies.

Since 1978, there has been significant growth in the number of commercial passenger airlines, as well as the number of aircraft operated by such carriers. For example, prior to the enactment of the Airline Deregulation Act of 1978, there were a total of 29 carriers, including 10 major carriers and 19 commuter airlines. In 1985, according to FAA information, there were a total of 220 air carriers, including 60 major carriers, and 160 commuter airlines. In 1986, there are 307 passenger air carriers, an increase of almost 40% over the previous year. Of the 307 passenger air carriers, 116 are major air carriers, and 191 are commuters.

In addition, the number of aircraft operated by the major air carriers and the commuter airlines has increased steadily since deregulation. In 1984, the total commercial passenger fleet was 3,824 aircraft, a 78% increase over the 2,145 aircraft operated in 1978.

The largest growth in the number of aircraft has occurred in the commuter fleet. In 1978, commuter airlines operated a fleet of about 500 aircraft. By 1984, commuter airlines operated a fleet of 1,132 aircraft, an increase of 126%.

One disturbing phenomenon closely related to the growth of the airline industry is the declining level of pilot experience. The rapid expansion of the industry has resulted in record levels of pilot hiring by the airlines. For example, in 1985, the airlines hired more than 8,000 pilots, putting a severe strain on the existing pool of available experienced pilots.

The declining level of pilot experience is attributed in large measure to high pilot turnover at commuter airlines. Commuter airlines have been experiencing high pilot turnover as their pilots, trained at the expense of the commuter airline, are moving to jobs with the major air carriers. For example, Henson Airlines is reported to have lost an average of one pilot per week to the major airlines. In 1985, Henson lost 70 of its 220 pilots.

In an effort to cope with high pilot turnover, the commuter airlines have been lowering hiring standards. It would appear, based on comments made by former NTSB chairman, Jim Burnette, that the Nation's commuter airlines have been "scraping the bottom of the barrel" in their search for pilots.

A key indicator of the declining level of pilot experience is the number of hours a pilot or first officer has spent in the cockpit. In 1983, only 8% of the pilots flying for commuter airlines had fewer than 2,000 flight hours. By 1985, 23% of commuter pilots had fewer than 2,000 hours.

It should also be noted, that the problem of pilot experience is not confined to commuter airlines. According to Future Aviation Professionals of America, there has also been a steady decline in the experience of pilots hired by the major airlines. For example, in 1983, pilots flying for major airlines had an average of 2,342 hours of flight experience in jet aircraft. In 1985, they had only 818 hours in jet aircraft. Compounding the problem is the fact that over the next 20 years, approximately 70% of the pilots employed by the major airlines are expected to retire.

The question for the future, then, is where, and how, will an expanding passenger airline industry find new pilots? Traditionally, the major airlines have relied on the American military for pilots. At one time, almost 75% of the pilots employed by the major airlines were former Navy or Air Force pilots. Today, less than one third of the pilots employed by major airlines are former military pilots, in part because the military is training fewer pilots.

In view of the prospects for continued growth of the airline industry, declining levels of pilot experience may gain increasing prominence as a significant factor in aviation safety incidents.

According to the FAA's long-term forecast, the domestic airline industry is expected to continue the strong growth enjoyed since deregulation. For example, the FAA expects that enplanements for major domestic carriers will increase almost 62% during the forecast period of 1985-1997. Enplanements for commuter airlines are expected to increase 102% over the forecast period.

The growth expected by the FAA in the airline industry will bring increased burdens of FAA traffic control systems, and other services necessary to manage the increasing volume of air traffic which will be using the Nation's airspace. For example, the FAA expects the number of aircraft operations at FAA towered airports to increase 46% over the forecast period of 1985-1997.

The question is whether the FAA has the resources and capability to handle the challenges posed by the growth in the domestic airline industry. For example, serious concern has been expressed by GAO about whether the air traffic control system is adequate to handle the greater workloads resulting from the increases in air traffic volume expected to occur between now and 1997. Indeed, there is concern that even at current levels of air traffic, the Nation's aviation safety system has been pushed to—and sometimes beyond—its limits.

Consider, for example, that although air traffic volume has increased in the years since airline deregulation, the number of air traffic controllers has decreased. Prior to the Patco strike on July 31, 1981, the air traffic control system employed 13,205 "full performance level" (FPL) controllers. As of April 30, 1986, according to the FAA, the system employed 8,861 full performance level controllers—4,344 fewer controllers than before the Patco strike.

FAA officials have expressed confidence in the air traffic control system, and the FAA is in the process of trying to add 500 controllers per year to its workforce for fiscal years 1986 and 1987. Nevertheless, GAO's analysis of the FAA's air traffic controller workforce suggests doubts about whether the air traffic control system will have an adequate number of full performance level controllers to handle the increase in air traffic expected from now until the end of the decade and beyond.

The March 7, 1986, issue of the Washington Post, contained a report on the results of a study of the Nation's air traffic controllers by the General Accounting Office. The GAO report is based upon a survey of 4,500 radar qualified controllers and other personnel with the air traffic control system. According to the Post story, the GAO found:

1. "70 percent of controllers in a system-wide survey reported that they are handling more traffic than they should handle."

2. "The FAA has met its goal of about 12,500 controllers, compared with 16,200 before the strike, but has fewer controllers at the highest experience level—8,300 today compared with 13,200 in July 1981."

3. "Retirement of experienced controllers will be a greater problem than the FAA has estimated, because of controller disgust with management and fears of changes under way in the Federal retirement system." According to the Post account, "84 percent of controllers and 81 percent of supervisors eligible to retire in the next two years said they will do so."

4. Air traffic is growing rapidly so controller workload will likely continue to be a concern for some time."

5. "Sixty percent of controllers said they are working too long daily without a break. A substantial number of supervisors agreed."

6. "The FAA is heavily dependent on controller overtime—908,000 hours in fiscal 1985 compared with 377,000 hours in fiscal 1980."

Based on these findings, the GAO has suggested that it would be prudent to limit the growth in air traffic before the air traffic control system loses "its proper margin of safety."

The GAO report confirms the uneasy picture emerging from other studies done on the air traffic control system since the Patco strike in 1981.

What is the FAA's response to the GAO report? The New York Times of March 18, 1986, carried a story which bore the headline "air safety chief minimizes survey findings." The Times story indicated that the FAA has essentially disregarded the GAO study. Indeed, GAO representatives who conducted the study of air traffic controllers told a House subcommittee that "officials of the FAA had belittled their study of the air traffic control workforce and later dismissed the findings of the study as just another survey."

At the beginning of its study, GAO presented the questionnaire to be used to gather information to the FAA for comments and suggestions. According to the Times story, FAA's response was "that the FAA could derive nothing of value from the questionnaire." Incredibly, FAA apparently dismissed the GAO findings as just another

survey, and FAA officials said that "controllers were predictable complainers."

So there we have it. There is nothing wrong with the air traffic control system, except that the controllers are "predictable complainers"!

I have been concerned about what appears to be the deteriorating condition of the Nation's air safety system. I know many of my colleagues share my concern that the safety of the American public may be threatened by the weakening of the Nation's air safety systems as the result of overworked personnel, attrition, and other factors.

In addition, concern has been expressed that the competitive economic environment established by airline deregulation has created incentives for cost-conscious airlines to cut costs, and improve profits, by cutting aircraft maintenance budgets and maintenance personnel. The growth in the number of airlines and the number of aircraft in the commercial passenger fleet make it difficult for FAA to ensure that the airlines are conducting proper aircraft maintenance practices. The problem is compounded by the decreases in the number of FAA inspectors to do the job. In fact, in 1986, there are 30% fewer FAA inspectors than in 1978. This decrease in the number of inspectors has occurred while the number of air carriers has increased over 100%.

Indeed, in testimony before the Transportation Subcommittee of the Appropriations Committee on March 19, 1986, Jim Burnette, then Chairman of the National Transportation Safety Board, commented that the FAA does not have an adequate airline maintenance surveillance system in place. Mr. Burnette noted that while FAA has improved its efforts in airline inspections, without more inspectors, it is difficult for the FAA to be more aggressive.

It is clear that FAA is facing significant challenges in the face of the explosive growth of the commercial passenger airline industry since airline deregulation. The adequacy of the FAA's efforts to conduct surveillance of the airline industry to ensure compliance with Federal regulations regarding aircraft maintenance and airline operations have been called into question by GAO and others.

Over the years, FAA officials have reiterated the agency's policy that safety is a major responsibility and goal of the FAA. However, a statement of policy and its implementation are often not the same. When the airline deregulation act was enacted in 1978, Congress affirmed, as a matter of policy, that the implementation of the act "result in no diminution of the high standard of safety in air transportation attained in the United States at the time of the enactment of such act." (Section 107.) Clearly, eight years after the enactment of P.L. 95-504, that essential policy goal has yet to be achieved.

Part of the difficulty may be the conflicting statutory duties given to the FAA. These duties, to promote commercial aviation and aviation safety, form the core of the Nation's aviation policy. Section 103(a) of the Federal Aviation Act of 1958 (P.L. 85-726) directs the FAA administrator to consider the "regulation of air commerce in such manner as to best promote its development and safety." The administrator is to consider the "promotion, encouragement, and development of civil aeronautics" to be in the public interest.

Shortly after the enactment of the Airline Deregulation Act, Congress expressed concern that the conflict between FAA's responsibility to ensure safety and promote "civil aeronautics" could adversely affect aviation safety. A 1980 congressional report questioned whether FAA's dual responsibilities are appropriate to the agency's mission, or whether they present contradictions that impair proper agency function in the context of the historical evolution of the airline industry. The report concluded that the FAA's conflicting policy goals were providing inadequate policy direction, and that this was "hurting government efforts and could eventualy lead to a situation that would endanger public safety."

Madam Chairman, since that report was published six years ago, there is still reason for concern. For example, in January, 1984, the General Accounting Office released a report which was critical of FAA's safety standards for small passenger aircraft. The report found that FAA standards for such aircraft were lower than for larger commercial passenger aircraft. The GAO report indicated that FAA did not impose more stringent safety standards on small passenger craft because the cost of such standards would be too financially burdensome on the industry. The report included an FAA comment which noted that the imposition of such a burden would frustrate one of the basic purposes of the FAA—to promote aviation in this country.

Indeed, there are indications that FAA provides assistance to the very air carriers it shuts down for safety-related violations. A report on the FAA and its inspections of commuter airlines, in the June 10, 1985, issue of U.S. News and World Report, reviewed several cases where FAA had extended its help to the very airlines which the agency had cited for serious safety-related deficiencies. When the FAA shuts down a carrier, the U.S. News Report noted, "the FAA will try to get it back in operation."

In particular, the report noted that the FAA had played a major role in helping Provincetown-Boston airlines back in service after the carrier's operating license was lifted for deliberately falsifying records. According to the U.S. News story, the airline resumed operations in a short period of time, and then was involved in a crash near Jacksonville, Florida which killed 13 persons on December 6, 1984.

In view of the declining margin of aviation safety, and the questions raised about the ability of the FAA to meet the challenges brought by airline deregulation, I believe it is time for an intensive, objective re-examination of the FAA, the Nation's aviation safety policy, and the impact of airline deregulation on aviation safety. In particular, it is time to consider whether FAA has been provided adequate resources, and has used such resources effectively and efficiently to ensure aviation safety; and whether the conflict between the FAA's responsibilities defined in section 102 of the Federal Aviation Act of 1958 (P.L. 85-726) impedes aviation safety.

These concerns prompted me to introduce S. 2417, "the Aviation Safety Commission Act," to address the issues I have raised here today. The bill was introduced on May 7, 1986, and has 15 cosponsors, including Senator KASSEBAUM, the able and distinguished chairman of the Aviation Subcommittee, the distinguished ranking member, Senator EXON; as well as other distinguished members of the subcommittee, such as Senators GOLDWATER, and FORD.

In addition, the bill is cosponsored by several members of the Commerce Committee, including the distinguished ranking member of the committee, Senator Hollings; as well as Senators Rockefeller, Kasten, Long, and Riegle. It should be noted that the Chairman of the Appropriations Subcommittee on Transportation, Senator Andrews; and the ranking member, Senator Chiles, are also consponsors of this legislation.

My bill directs the President to appoint a seven-member "blue ribbon" commission, the "Aviation Safety Commission," to make a complete study of the organization and functions of the Federal Aviation Administration and the means by which the FAA may most efficiently and effectively enhance aviation safety.

The members of the commission are to possess extensive experience and expertise at the highest levels of corporate management. To ensure the independence of the Commission's deliberations and judgment, my bill provides that members of the commission shall have no ties to the commerical aviation industry, or to the Federal Aviation Administration.

The commission is directed to consider whether the FAA has been provided adequate resources to ensure aviation safety; and to consider whether the dual responsibilities of the FAA are in conflict, and whether any such conflict impedes aviation safety. The commission is also to consider whether the FAA should be reorganized as an independent Federal agency with aviation safety as its sole responsibility, and whether airline deregulation has had an adverse impact on the margin of safety. This should include a review of whether the practice of airline self-compliance with maintenance standards is an outmoded approach in an environment designed to maximize cost-savings.

The commission is directed to consider whether it is desirable to require that, when the National Transportation Safety Board issues recommendations related to aviation safety, some or all of those recommendations be made mandatory.

In the exercise of its duties, the commission is to consult with a broad spectrum of representatives of the aviation industry, and to consult with the National Transportation Safety Board.

One year from the date of enactment, the commission is to submit a report to the President and the Congress containing the commission's findings and recommendations, including any recommendations for legislation.

Finally, my bill authorizes $2.5 million to support the activities of the commission.

Madam Chairman, I believe the time has come for a thorough, independent examination of the aviation safety issues I have raised here today. Such an assessment will make a valuable contribution to congressional efforts during the consideration of aviation issues which will begin next year with the reauthorization of the Airport and Airway Improvement Act of 1982 (Title V of P.L. 97-248). I am confident that the distinguished chairman of the subcommittee, and the distinguished ranking member will prevail on the chairman of the full committee to schedule a mark-up for S. 2417 as soon as possible, and that the committee will report the bill soon thereafter.

I thank the members of the committee for their support for S. 2417. That concludes my statement. I will be glad to answer any questions you may have.

(The charts referred to are not reproducible in the Record.)

MESSAGES FROM THE HOUSE

At 11:28 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; and

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month."

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3838) to reform the internal revenue laws of the United States; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. GEPHARDT, Mr. RUSSO, Mr. PEASE, Mr. DUNCAN, Mr. ARCHER, Mr. VANDER JAGT, and Mr. CRANE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4259. An act to amend the Act of February 11, 1985 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park;

H.R. 4510. An act to amend the Export-Import Bank Act of 1945, and for other purposes;

H.R. 4613. An act to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act;

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March";

H.J. Res. 529. Joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week";

H.J. Res. 623. Joint resolution to authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week; and

H.J. Res. 642. Joint resolution to designate the week beginning May 17, 1987, as "National Tourism Week."

At 3:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 672. Joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 368. Concurrent resolution correcting the enrollment of House Joint Resolution 672.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated;

H.R. 4259. An act to amend the Act of February 11, 1985 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park; to the Committee on Energy and National Resources;

H.J. Res. 529. Joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week"; to the Committee on the Judiciary; and

H.J. Res. 642. Joint resolution to designate the week beginning May 17, 1987, as "National Tourism Week"; to the Commttee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4510. An act to amend the Export-Import Bank Act of 1945, and for other purposes;

H.R. 4613. An act to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act; and

H.J. Res. 623. Joint resolution to authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3472. A communication from the Director of the Congressional Budget Office and the Director of the Office of Management and Budget, transmitting jointly, pursuant to law, the Sequestration Report for Fiscal Year 1986; to the Temporary Joint Committee on Deficit Reduction.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-797. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE CONCURRENT RESOLUTION No. 156

"Whereas, the state of Louisiana is currently faced with severe financial problems; and

"Whereas, due to the current economic conditions and the fiscal crisis of the state, local governments are also experiencing severe financial problems; and

"Whereas, state and local sales taxes are a major source of revenue; and

"Whereas, the Food Security Act of 1985 prohibits participation in the food stamp program by states who impose either a state or local sales tax on purchases made with United States Department of Agriculture food coupons; and

"Whereas, Louisiana in addition to its financial situation has the highest unemployment rate in the nation; and

"Whereas, it is crucial that Louisiana keep the food stamp program in place and available as a benefit to needy recipients.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to repeal that portion of the Food Security Act of 1985 that prohibits participation in the food stamp program by states who impose either a state or local sales tax on purchases made with United States Department of Agriculture food coupons.

"Be it further resolved that a duly attested copy of this Resolution be immediately transmitted to the President of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to each presiding officer of each house of each state legislature in the United States."

POM-798. A resolution adopted by the National Society of the Sons of the American Revolution relating to funding levels for the Strategic Defense Initiative; to the Committee on Appropriations.

POM-799. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Armed Services.

"RESOLUTION

"Whereas, There is pending before the Congress of the United States H.R. 4641, introduced by Representative Brian J. Donnelly of Massachusetts, which seeks to provide that the President may award to Richard F. Walsh of Quincy, Massachusetts, two military decorations he earned through serving his country during World War II; and

"Whereas, These military decorations are known as the distinguished flying cross which is for his act of heroism, that allowed the safe return of his B-24 bomber and its crew from a bombing mission of April thirtieth, nineteen hundred and forty-four and the purple heart which is for injuries received during a bombing mission of July fourth, nineteen hundred and forty-four; now therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully urges the Congress of the United States to enact the legislation providing for the President to award Richard F. Walsh these military decorations which he earned while serving his country during World War II; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States, to the presiding officer of each branch of Congress, to the Members thereof from this commonwealth and to the members of the Veterans Affairs Committee in the House of Representatives of the United States."

POM-800. A resolution adopted by the National Society of the Sons of the American

Revolution relating to the designation of Revolutionary War graves; to the Committee on Energy and Natural Resources.

POM-801. A resolution adopted by the City Council of Lubbock, Texas relating to federal highway user taxes; to the Committee on Environment and Public Works.

POM-802. A resolution adopted by the National Society of the Sons of the American Revolution supporting repeal of the War Powers Resolution; to the Committee on Foreign Relations.

POM-803. A resolution adopted by the National Society of the Sons of the American Revolution relating to Soviet occupation of certain Bering Sea islands; to the Committee on Foreign Relations.

POM-804. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Foreign Relations.

"RESOLUTION

"Whereas, The 12 years after the Vietnam War have witnessed the triumphant return of 566 military and 25 civilian prisoners of war from Southeast Asia; there currently remain more than 2,436 Americans still missing or otherwise unaccounted for in Indochina; and

"Whereas, The families of servicemen and civilians missing in Indochina still suffer untold grief and uncertainty due to lack of an adequate accounting; and

"Whereas, The President has declared the issue of America's missing or otherwise unaccounted for in Indochina a matter of high national priority and has high level dialogue with the governments of the Laos People's Democratic Republic and the Socialist Republic of Vietnam on this issue; and

"Whereas, The Socialist Republic of Vietnam, in February 1984, promised to accelerate the resolution of this humanitarian issue and, in February 1985, indicated it was interested in normal relations with the United States; and

"Whereas, There is a growing body of evidence that Americans continue to be held captive in Indochina; therefore be it

"*Resolved,* That the Senate support the President's pledge of high national priority to resolve the status of more than 2,436 Americans still missing and unaccounted for in Indochina; and be it further

"*Resolved,* That the strongest signal that can be sent to the governments of Vietnam and Laos is the united voice of the American people, demanding that the United States Government and Congress take more decisive and aggressive action to secure the freedom of our POW's; and be it further

"*Resolved,* That the Senate urge the President and the Congress of the United States to ensure that this issue remains one of national priority and to accelerate efforts in every possible way to obtain the immediate release of Americans who are still being held captive in Indochina; and be it further

"Resolved, That copies of this resolution be transmitted to the Honorable Ronald Reagan, President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania, and to the legislatures of the 50 states."

POM-805. A resolution adopted by the City Council of West St. Paul, MN, favoring efforts to halt the persecution of the BAHA'I minority in Iran; to the Committee on Foreign Relations.

POM-806. A resolution adopted by the Senate of the State of Illinois; to the Committee on Foreign Relations.

"SENATE RESOLUTION No. 900

"Whereas, Since September 1984, mounting unrest against racial oppression in the Republic of South Africa leading to the violent death of more than 1,000 individuals, most of them black, the detention of individuals without charge and a declared state of emergency in several areas of the country have all led to a crisis situation in that country; and

"Whereas, Blacks living in South Africa are subjected to numerous human rights violations in addition to the denial of the most basic of individual rights, including the right to own land, to travel, to vote and to politically organize, choosing their own leaders; and

"Whereas, Peaceful resolution to the violence is unlikely because of the government's refusal to allow black South Africans the right to self-determination; and

"Whereas, The Government of the United States, the United Nations, and practically every sovereign nation in the world has called for South Africa to end its practice of apartheid; and

"Whereas, The African National Congress is today's oldest and most viable political and social activist organization of resistance in the country, still functioning in spite of having been banned in 1960; and

"Whereas, The 98th United States Congress adopted the "Mandela Freedom Resolution," calling for the unconditional release of Nelson Mandela, the black South African leader who has been imprisoned for over 23 years, and his wife, Winnie Mandela, who has been a "banned" person in South Africa for over 20 years; and

"Whereas, Economic sanctions have been used as a means to promote change through peaceful means, in addition to diplomatic efforts; and

"Whereas, It is imperative that the Government of South Africa recognize the legitimacy of the African National Congress and its chosen leader, Nelson Mandela; and

"Whereas, Continued violence and unrest in the Republic of South Africa can only result in more deaths to blacks and whites of that country and the surrounding countries; and

"Whereas, It is in the best interest of all parties involved to negotiate a peaceful solution that will benefit the country of South Africa and its inhabitants, both black and white; therefore, be it

"*Resolved, by the Senate of the Eighty-Fourth General Assembly of the State of Illinois,* That we urge Congress and the President of the United States to encourage South Africa to (1) free Nelson Mandela and lift the ban on his wife, Winnie Mandela; (2) impose stricter economic sanctions as a means to speed the process of peaceful negotiations; and (3) establish a framework for political discussions which can lead to a peaceful settlement with the black majority; and be it further

"*Resolved,* That a suitable copy of his preamble and resolution be presented to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois Congressional Delegation."

POM-807. A resolution adopted by the National Society of the Sons of the American Revolution favoring retention of the "Star Spangled Banner" as the national anthem; to the Committee on the Judiciary.

POM-808. A resolution adopted by the National Society of the Sons of the American Revolution relating to the adoption of State laws with respect to birth certificates; to the Committee on Labor and Human Resources.

POM-809. A resolution adopted by the National Society of the Sons of the American Revolution, relating to medical nuclear preparedness; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 2991. A bill for the relief of Betsy L. Randall.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1654. A bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 355. A joint resolution to designate August 1986 as "Cajun Music Month."

S.J. Res. 356. A joint resolution to recognize and support the efforts of the United States Conmittee for the Battle of Normandy Museum to encourage American awareness and partici ation in development of a memorial to the Battle of Normandy.

S.J. Res. 371. A joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day".

By Mr. DOMENICI, from the Temporary Joint Committee on Deficit Reduction, without amendment:

S.J. Res. 374. An original joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Arnold I. Burns, of New York, to be Deputy Attorney General; and

John W. Roberts, of Arizona, to be U.S. marshal for the district of Arizona for the term of 4 years.

By Mr. GOLDWATER, from the Committee on Armed Services:

Robert Clifton Duncan, of Massachusetts, to be an Assistant Secretary of Defense.

Mr. GOLDWATER. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 20, June 26, and July 14, 1986, at the end of the Senate proceedings.)

**1. In the U.S. Army, there are two appointments as permanent professors at the U.S. Military Academy (list begins with Col. Frank R. Giordano). (Ref. #1187)

**2. In the U.S. Army, there are three promotions to the grade of colonel (list begins with John D. Black). (Ref. #1188)

**3. In the U.S. Navy, there are 213 promotions to the grade of captain (list begins with Peter L. Andrus). (Ref. #1189)

**4. In the U.S. Navy, there are 374 promotions to the grade of commander (list begins with Robert Fredric Aarstad). (Ref. #1190)

**5. In the U.S. Navy, there are 963 promotions to the grade of commander (list begins with John Christian Abeles). (Ref. #1191)

**6. In the U.S. Navy, there are 1,400 promotions to the grade of lieutenant commander (list begins with Bruce Allen Abbott). (Ref. #1192)

**7. In the U.S. Army, there are three promotions to the grade of major (list begins with Alan D. Sodergren). (Ref. #1199)

**8. In the U.S. Naval Reserve, there are 1,093 promotions to the grade of commander and below (list begins with Leo G. Patten). (Ref. #1200)

**9. In the U.S. Navy and Naval Reserve, there are 37 appointments to the grade of captain and below (list begins with Gerald P. Garrett). (Ref. #1207)

*10. Brig. Gen. Fred M. Carter, U.S. Army National Guard, to be major general. (Ref. #1213)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 2651. A bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BENTSEN:

S. 2652. A bill to designate the Dr. Hector Perez Garcia Post Office Building; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 2653. A bill to transfer the Community Development Credit Union Revolving Loan Fund to the National Credit Union Administration Board to administer the fund; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2654. A bill to permit States and political subdivisions of States to enforce State or local antiapartheid laws with respect to contracts funded in whole or in part by funds provided by the Federal Government; to the Committee on Governmental Affairs.

By Mr. LEAHY (for himself, Mr. ANDREWS, Mr. KENNEDY, Mr. BURDICK, and Mr. BRADLEY):

S. 2655. A bill to amend titles XI and XVIII of the Social Security Act with respect to Medicare policies concerning continuing care, to improve the quality assurance system as it applies to Medicare beneficiaries, and for other purposes; to the Committee on Finance.

By Mr. TRIBLE:

S.J. Res. 372. Joint resolution authorizing establishment of a memorial to honor America's astronauts; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S.J. Res. 373. Joint resolution designating the week beginning May 10, 1987, as "National Fetal Alcohol Syndrome Awareness Week"; to the Committee on the Judiciary.

By Mr. DOMENICI, from the Temporary Joint Committee on Deficit Reduction:

S.J. Res. 374. Joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986.

By Mr. LEVIN:

S.J. Res. 375. Joint resolution designating the week beginning September 21, 1986, as "National Adult Day Care Center Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 2651. A bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes; to the Select Committee on Indian Affairs.

NAVAJO-HOPI LAND EXCHANGE ACT

Mr. DECONCINI. Mr. President, the Federal Government has created a situation in my State which is a national disgrace and an international embarrassment for the United States. The situation to which I am referring is the federally mandated relocation of thousands of Indians, primarily Navajos, which some have called the largest forced relocation in this country since the internment of Japanese-Americans during World War II.

I have always believed that the 1974 act imposing this mandate on the Native American families in Arizona should be repealed. Unfortunately, it appears that the repeal option has no political support. While I must by necessity face this political reality, I cannot in good conscience turn my back on these families who live with the agony of losing their homelands. I must move forward now and propose legislation which is designed to resolve the underlying land dispute that has caused this tragic situation and reduce the number of people that will have to be removed from their ancestral homelands by 90 percent. This legislation will simultaneously dramatically reduce the Federal costs which would be incurred if the Relocation Program were to be continued.

I take this step after refraining from introducing repeal legislation in the past 4 years because I had a personal commitment from Chairman Sidney of the Hopi Tribe that he would negotiate an alternative settlement with the chairman of the Navajo Tribe. I deeply regret that this commitment has not been upheld. Since this became evident in the past year, I have been exploring the different ways Congress could establish a more humane policy which deals fairly with both tribes and the residents of the disputed lands. I believe that this bill addresses the heart of the problem.

The now infamous Navajo-Hopi land dispute originated over 100 years ago in the arid Southwest. In the beginning it was basically a dispute between neighbors—a dispute which many believe would have been solved eventually by the two tribes if the three branches of the Federal Government had not intervened constantly in the matter. Historical records show that the roots of both tribes were firmly planted in the Southwest United States long before the U.S. Government began setting aside designated areas for their use. However, as settlers moved into this area in increasing numbers, President Arthur, in 1882, set aside a reservation of 2,435,300 acres for "the use and occupancy of the Moqui (Hopi), and such other Indians as the Secretary of the Interior may see fit to settle thereon."

For centuries the Hopis had lived in villages atop mesas in the center of what essentially became the 1882 Reservation and farmed the lands below. Although there were relatively few Navajos living on the land of the 1882 Reservation, their numbers increased rapidly, particularly as a result of the Navajos being pushed westward by Americans leaving the eastern seaboard to find new opportunities in the West. As their population increased, the Navajos moved closer to the mesas. Since the Navajo economy was by this time based primarily upon sheepherding, they needed larger areas of the arid land to sustain themselves. This movement ultimately increased the conflicts over land use and, more importantly in the dry Southwest, over sources of water. The cultural and economic frictions continued with varying degrees of intensity over the years until the 1930's when Washington again took action. A Government commission was created to look into the problem, with the solution that an area of 520,727 acres of the original 2,435,300 acres was designated for the exclusive use of the Hopi. Grazing District 6, as the area was called, was increased to over 600,000 acres in 1941. As a result of this designation, the first Navajo relocation was required because about 100 families lived within the exclusive Hopi Reservation.

The Hopi Tribal Council was not satisfied with the District 6 solution and

continued to press a claim to the entire 1882 Reservation. As a result, in 1956, Congress passed legislation conferring jurisdiction on a U.S. district court to determine the rights and interests of the Navajos and the Hopis within the 1882 Reservation and vesting title to the land in both tribes. Six years later, in the case of Healing versus Jones, the court ruled that the two tribes had joint, equal, and individed rights in the 1,822,000 acres, of the original 2,435,300 acres, outside of District 6 known as the Joint Use Area [JUA]. The basis for the court's decision was an interpretation that the Navajos were the "other Indians" referred to in the 1882 Executive order that created the reservation. However, the court said that it lacked authority to divide the JUA, thus leaving the matter still unresolved.

Following this decision, the Hopis continued to press the issue in the courts and the Congress. In 1974, Congress passed Public Law 93-531, over the objection of a few more-farsighted individuals, which gave the U.S. district court for Arizona jurisdiction to partition the JUA between the two tribes. Since this meant that thousands of Navajos would have to be uprooted from their homes and relocated, a temporary Navajo-Hopi Indian Relocation Commission was also created and directed to provide a "thorough and generous Relocation Program." The deadline for relocation was set for 1986. In 1977 the court approved the partition plan submitted by a Federal mediator, since the two tribes could not agree on a plan.

When the 1974 legislation failed to produce the anticipated results, Congress came back in 1980 and amended the act to increase the authorization for the Relocation Commission to authorize attorneys' fees and to further direct the Secretary of Interior to protect the rights and property of relocatees. To assist in the relocation, the Navajo Nation was authorized to acquire 400,000 acres of new land—250,000 acres to be provided by the United States and 150,000 acres to be purchased by the Navajo Nation. However, none of these efforts have decreased the ongoing conflict. The dispute continues to grow more costly and time-consuming. In addition, litigation has continued to be filed. The cost of five damage claims filed by the Hopi could amount to well over $150 million, with the United States possibly being held liable for a portion of the damages given its actions in the matter as trustee for the two tribes.

The 1882 dispute also has spawned another major lawsuit that ultimately could reach the same proportions as the 1882 claim. In 1934, legislation was passed defining the boundaries of the Navajo Reservation in Arizona; the Hopi have claimed an interest in this land. In 1974, the U.S. district court was given jurisdiction over the issue; the case if now pending. It, too, could result in another Relocation Program that will be costly in both human tragedy and money.

Instead of solving a simple land dispute the Federal policies and programs that have been implemented, albeit with good intentions, have escalated this into a major human rights issue that is now a matter of international as well as national concern. The plight of the thousands of Navajos who are being forced to relocate is at the very heart of the current controversy—ownership of land is no longer the important issue. After 12 years of experience, virtually everyone agrees that the massive Relocation Program has proven to be disastrous. Much more was involved than anyone realized when we began down the unknown path of relocation. More attention should have been given to the fact that the Navajos have extremely strong religious and cultural ties to the land on which they live, and that severing those ties cuts them away from all that they believe in, both culturally and spiritually.

In addition to the severe psychological problems the relocation program has caused, it also has generated fundamental problems of survival. Many of the Navajos, especially the elderly, are unable to assimilate into the mainstream of American culture because they do not speak English and do not have job skills other than sheepherding. The result is that studies have shown that relocatees are "plagued by various psychological, physiological, economic, and social problems." A Surveys and Investigations Report released in early 1985 by the House Appropriations Committee summed it up by saying that relocation is "complicated and can be tragic" and that "to the traditional Navajo family it is the end of a way of life."

The record on relocation is full of tragic cases. Most revealing are statistics that show that possibly as many as one-half of the relocatees are no longer in the homes provided to them by the Relocation Act. Unscrupulous merchants, real estate agents and loan companies were quick to take advantage of these honest but naive people who are totally unprepared to live in the modern world.

The inability of the Navajo-Hopi Indian Relocation Commission to carry out the relocation program after 12 years of effort is proof that the program is unworkable. The tragic part of this failure is that many human lives have been ruined as a consequence and many, many more will be ruined if it is permitted to continue. A recent oversight hearing by the Interior Subcommitte of the House Committee on Appropriations concluded that the Commission had thoroughly botched the job. What started out as a temporary program that was to cost $40 million and be completed by 1986 has grown into an almost endless program that may cost almost $500 million before it is possibly completed in 1993. Approximately 1,800 families, or approximately 7,650 individuals, remain to be relocated and the Commission admits that it cannot relocate more than 275 per year. Still unknown at this time is the ultimate cost of the 1934 dispute which, according to the presiding judge, may take 40 years to work its way through the courts. Furthermore, some have estimated that it could end up costing as much as the 1882 dispute.

When one looks at the history of the land dispute objectively it becomes clear that the most logical solution is one that minimizes the human misery and cost of relocation and that settles all claims between the parties in a fair and equitable manner. In essence, this was the conclusion of a recent Presidential commission. In February, 1985, President Reagan appointed retiring Secretary of the Interior William Clark as a special emissary to "seek a speedy and final resolution of these issues so that old wounds may begin to heal and to minimize the hardships that are falling on individual members of the two tribes." Judge Clark and his assistant, Richard Morris, worked very closely with the leaders of both tribes for many months in an attempt to find a comprehensive solution to the dispute. In the end, their efforts did not succeed because they lacked the authority to force a resolution. However, the report filed by Judge Clark with the President on October 21, 1985 concluded that:

> Time constraints demand that the responsible agencies of government now undertake whatever action they deem appropriate to solve inter-tribal issues. If action is to be taken, it is hoped that the whole range of issues—not just today's relocation problem—be addressed. Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputeds may persist for still another century.

Acting on that advice, Congressman UDALL, chairman of the House Interior Committee, and Congressman MCCAIN developed a bipartisan comprehensive bill, H.R. 4281. As with all compromises it does not totally please either party, but it does treat both parties fairly. Under the bill the massive relocation of Navajos would be drastically reduced by an exchange of land between the two tribes, and by the payment of money by the Navajos to the Hopi. All Navajo and Hopi claims in six enumerated lawsuits would be extinguished and the authorization for future claims removed.

One of the most important features of the Udall-McCain bill, given the present budget constraints, is that the total Federal cost would be reduced from almost $500 million to a little

over $100 million. At a time when the need to balance the Federal budget is on everyone's mind, this reduction is extremely important.

Unfortunately, Chairman UDALL recently announced that due to the strong opposition of the Department of Interior, he would not push the bill anymore this year. He said that the consensus and cooperation he had hoped for had not materialized and that he would not continue to hold out false hope to those supporting the bill.

I have great respect for my good friend and colleague, Congressman UDALL, and I do not argue with the assessment he made at that time. However, I believe that new information and circumstances make it imperative that we continue to search for a solution as rapidly as possible.

It was thought by some that perhaps the Bureau of Indian Affairs could assist in the relocation process and perform more efficiently and humanely than had the Relocation Commission. In the fiscal year 1986 Interior appropriations bill, the BIA was given new authority and money to help accelerate the Relocation Program. I strongly objected to this at the time on the basis that simply throwing more money at a bad program will not make it workable. Since then, Mr. Swimmer has testified before congressional committees that he can carry out the relocation within 2 to 3 years and within the intent of Congress. Regrettably, in an effort to take over and speed up the relocation process, the Bureau of Indian Affairs is making the same mistakes as the Commission. The BIA has proven my case. As the result of a pilot project designed to lure relocatees onto the new lands, the BIA now has one incomplete house built on the wrong site, two dry wells and one road that ends a half-mile from the house. The total cost for the Federal Government for this one misadventure is a staggering $375,000.

The most serious charge made against the Commission is that it has proceeded to carry out relocation without a comprehensive, workable and humane plan. One congressional investigator said that the Commission's housing program was run on a "hit-or-miss" basis with no real underlying plan. Even Mr. Swimmer strongly criticized the Commission for not having a plan. However, I have received a copy of a confidential internal report which says that the BIA is also conducting its relocation efforts without a comprehensive plan. It appears that the BIA may be abandoning all caution and care in its headlong rush to finalize a program that we never should have undertaken in the first place.

Some have suggested that this is an effort to wind up the program before the American public is aroused by the inhumane treatment of the Navajo people. The situation is receiving increasing attention by the news media and most have found serious problems with the relocation program.

In addition, recent official action by the Hopi Tribe has created a confrontational atmosphere that very likely will result in unnecessary violence and severe emotional trauma to those subject to relocation. Recently, the Hopi Tribal Council put the Navajo Tibal Council on notice to devise a plan within 30 days to move hundreds of families off of their land. This demand was officially made in a July 7, 1986 letter from Hopi Chairman Sidney to Navajo Chairman Zah. I see three serious problems with this demand. First, it is extremely inflammatory at a time when tempers and emotions need to be cooled. Second, it demands that the Navajos do in 30 days what the Commission has been unable to do in 12 years. Third, and most importantly, it is in direct contravention of the personal assurances given by Chairman Sidney to Congressman UDALL at the hearing on H.R. 4281 that the July 7 date in the 1974 act would not be considered a deadline for relocation. It also contravenes similar assurances made by Assistant Interior Secretary Ross Swimmer at the same hearing.

The uncertainties surrounding the July 7 deadline and the unknown consequences for those still on the HPL is creating an explosive situation that could be ignited by members of the two tribes or Government officials. Several minor confrontations have recently occurred between members of the two tribes. It is clear from these actions that matters rapidly are getting out of hand and that Congress must take action to protect the rights of all individuals involved and prevent possible violence.

Over the last year, stories about the harshness of the Relocation Program have appeared in major news publications such as Newsweek, Time, the Washington Post, and the New York Times. Stories have also been run on major TV new programs such as 20-20 and CBS Nightwatch.

The public gradually is beginning to realize the existence of this discredited program and reactions are becoming stronger. As a result, the callous treatment of the Navajos by the Federal Government has become an international embarrassment for the United States. Last month, the European Parliament added the Navajo-Hopi relocation to its list of human rights concerns, along with those of South Africa, the Soviet Union, and Nicaragua. The United States has an important leadership role to play in the world in regard to promoting human rights and democratic principles. Its association with the Navajo-Hopi relocation will do tremendous harm to these efforts.

The need to turn the Relocation Program around as rapidly as possible has considerably more political support than may have been evident a few weeks ago. Senator CRANSTON, the distinguished Senator from California who has no direct interest in the issue, recently introduced a bill calling for a moratorium on relocation and the creation of a select commission to review the Relocation Program and make recommendations. Congressman RICHARDSON also has introduced moratorium legislation in the House. A survey of the members of the House Interior Committee showed widespread support for the Udall-McCain bill.

Even though the Department of Interior expressed opposition to the Udall-McCain bill, there are opposing views within the administration. The appointment of Judge Clark as a special Presidential emissary on this matter demonstrates concern at the highest level of the executive branch. Judge Clark's report made strong recommendations to the President supporting a comprehensive plan that would reduce relocation. In fact, Richard Morris, Judge Clark's assistant, submitted testimony on H.R. 4281 which concluded that H.R. 4281 was the type of comprehensive plan which he had envisioned and that it included "most of the general negotating proposals which we—Clark and Morris—were ready to lay on the table."

In almost every debate on the floor of the Congress, there is reference to the need to reduce Federal spending. The House and Senate Budget Committees have completed a conference on the budget resolution in which they searched for every possible way to save money. Yet, we continue to pour millions of dollars into a program that is totally discredited. If we continue this Relocation Program, some have estimated that it ultimately may cost the Federal Government almost $500 million. However, if we pass the bill I am proposing, we eliminate a great deal of human misery and save approximately $350 million. Key features of my bill not only limit the costs to the Federal Government for the Relocation Program itself, but also limits the liability of the Federal Government in the five pending cases.

Mr. President, these are some of the many reasons why I am introducing this bill which is similar to the Udall-McCain bill, but which has been modified to address some of the concerns raised in regard to that bill. In essence, my bill is a comprehensive solution which would settle all of the outstanding issues between the Navajos and Hopi. It would provide an exchange of land to minimize relocation and it would pay $175 million in compensation to the Hopi. In addition, the bill would provide an opportunity for both tribes to once again reach a trib-

ally negotiated or arbitrated solution to these disputes. In the event that the tribes are unable or unwilling to negotiate a settlement, the bill will impose a final, lasting and comprehensive solution. I do not expect that either tribe will be entirely pleased with an imposed solution.

My bill is consistent with established Federal policy for resolution of Indian land claims. Reducing relocation to an absolute minimum would be more consistent with the traditional ways we have addressed Indian land claims in the past. In other cases where non-Indians have been involved, there has been no displacement of people in order to settle claims. In fact, there has been an obvious reluctance to return property to Indians in land claim cases. These policies clearly exist for a very good reason, and we should do our best to follow them in this situation.

I would prefer that the leaders of the Hopi Tribe and the Navajo Nation sit down and settle their problems without the intervention of the U.S. Congress. If this had happened in the beginning, we would not be debating this matter 100 years later. Judge Clark indicated in his report that the Navajo demonstrated a willingness to negotiate and in fact presented various proposals for negotiations. Unfortunately, there were no similar efforts from the Hopi; without two parties there cannot be a negotiation or compromise. This stalemate leaves no other alternative than a congressionally devised plan which is fair to all concerned.

Mr. President, I have been involved in the Navajo-Hopi land dispute for most of my political career. My conclusion in this matter is essentially that arrived at by the Clark-Morris report. "Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputes may persist for still another century." I do not believe that we need leave this problem to future Congresses to deal with. With the appropriate cooperation, we can devise a just plan that will work without the need to drive thousands of proud and honest people from their ancestral homelands.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo-Hopi Land Exchange Act of 1986."

SEC. 2. For the purpose of this Act, the term—

(1) "Commission" means the Navajo and Hopi Indian Relocation Commission established pursuant to section 12 of 1974 Act;

(2) "Land Dispute" means the dispute between the Hopi and Navajo Tribes relating to the scope of the Navajo and Hopi Reservations as defined in the 1882 Executive Order and the 1934 Act and collateral disputes arising under the 1974 Act.

(3) "Navajo New Lands" means those lands within the State of Arizona acquired for the Navajo Tribe pursuant to section 11 of the 1974 Act.

(4) "1974 Act" means the Act of December 22, 1974 (88 Stat. 1712), as amended by the Navajo and Hopi Indian Relocation Amendments of 1980 (94 Stat. 929);

(5) "1934 Act" means the Act of June 14, 1934 (48 Stat. 960);

(6) "Secretary" shall mean the Secretary of the Interior.

TITLE I

SEC. 101. Notwithstanding any other provision of law, (a) no Navajo Indian or Hopi Indian shall be required to relocate pursuant to the provisions of the 1974 Act or pursuant to any judgment or order of any court, and (b) no development of, or construction upon, the Navajo New Lands shall take place until final settlement of the Land Dispute in accordance with the provisions of Title II or Title III of this Act.

SEC. 102. Nothing in this Act shall alter, affect or delay any payment which is due and owing to a relocatee under the provisions of the 1974 Act.

SEC. 103. The Commission and the Secretary shall take such actions as may be necessary to ensure that no Indian is subjected to any undue hardship by reason of the provisions of section 101.

TITLE II—ARBITRATION

ELECTION TO ARBITRATE

SEC. 201. Within 30 days of the passage of this Act the Hopi Tribe may elect to pursue an arbitrated solution to the Land Dispute. Such election shall be made by sending a notice of intention to arbitrate, accompanied by a resolution of the Hopi Tribal Council authorizing the Hopi Tribe to participate in final and binding arbitration, to the Secretary. If no such election is received by the Secretary, then the provisions of Title III shall become effective.

SEC. 202. Upon receipt of the Hopi Tribe's election to arbitrate, the Secretary shall notify the Congress, the Navajo Tribe and the President of the American Bar Association that an arbitrated settlement has been elected.

SELECTION OF ARBITRATORS

SEC. 211. Within 30 days of notification by the Secretary, the President of the American Bar Association shall select three persons who are willing to act as arbitrators.

SEC. 212. The Arbitrators chosen by the President of the American Bar Association shall possess the following qualifications:

(1) They shall be individuals of national prominence and unimpeachable integrity;

(2) They shall be independent persons having no interest of any kind in the outcome of the Land Dispute and no prior professional or business association with either the Navajo Tribe or the Hopi Tribe, and

(3) No government officials or sitting judges may be designated as arbitrators.

SEC. 213. Vacancies in the panel of arbitrators shall be filled in the same manner in which the original appointments were made.

SEC. 214. Each arbitrator shall receive a reasonable fee, not limited to the daily rate of pay pursuant to GS-18 under the General Schedule contained in section 5332 of Title 5, for each day (including time and travel) or portion thereof during which such arbitrator is engaged in the actual performance of his or her duties as an arbitrator. All arbitrators shall be reimbursed for travel, subsistence, and other expenses incurred by them in the performance of their duties. There are hereby authorized to be appropriated such sums as may be necessary for the purpose of this section.

ARBITRATION PROCEDURE

SEC. 221. Within 60 days of the Hopi Tribe's election to arbitrate, the Hopi Tribe and Navajo Tribe shall each submit its written plan for settlement of the Land Dispute to the arbitrators. Such plan may be accompanied by any exhibits or other documents which the Hopi Tribe and Navajo Tribe wish the arbitrators to consider.

SEC. 222. The arbitrators shall arrange for visits to both the Navajo and Hopi reservations. The visits shall commence on the thirtieth day following the submission of the arbitration plans, or, if such thirtieth day is not a business day, on the next succeeding business day. Each tribe shall be permitted to conduct a one day tour of its reservation and the affected areas for the arbitrators. The arbitrators and the host tribe shall be accompanied by a member of the non-hosting tribe who shall be permitted to observe, but not interrupt or interfere with, the tour. Each tribe will be allowed to submit to the arbitrators a written statement addressing factual issues it wishes to dispute in respect of information provided by the host tribe during the tour. Such statements shall be submitted to the arbitrators within seven days of the relevant tour.

SEC. 223. Commencing on the tenth day following the later reservation tour, or, if such tenth day is not a business day, on the next succeeding business day, the arbitrators shall conduct a two day hearing at which written and oral testimony may be presented regarding the settlement plans submitted by the Hopi Tribe and Navajo Tribe.

SEC. 224. The arbitrators shall designate the place of this hearing and may adopt any rules which they deem desirable for the hearing's orderly procedure.

SEC. 225. The arbitrators shall have no authority to subpeona information although they shall have authority to administer oaths.

ARBITRATORS' DECISION

SEC. 231. Within thirty days of the last hearing day, the arbitrators shall render a decision selecting either the settlement plan submitted by the Navajo Tribe or the settlement plan submitted by the Hopi Tribe.

SEC. 232. In making their decision, the arbitrators shall be guided by, and select the plan which best serves, the following goals:

(1) To provide for a just and final settlement of all of the claims between the Navajo Tribe and Hopi tribes;

(2) To minimize the impact upon traditional cultural and religious values of the members of the Navajo and Hopi tribes;

(3) To provide each tribe with a fair and equivalent value for its interest in the disputed areas and its interest in legal claims terminated, if any; and

(4) To minimize direct and indirect federal liability and costs arising form these disputes.

SEC. 233. The arbitrators shall notify, in writing, the Congress, the Secretary, the Navajo Tribe and the Hopi Tribe of their decision. The arbitrators shall then submit the settlement plan chosen to the Attorney General of the United States who shall, within 30 days, advise the arbitrators only on the constitutionality of any or all provisions of such plan. The arbitrators shall have limited discretion to modify such plan to conform to the advice of the Attorney

General and to make technical changes. The arbitrators shall transmit such modified plan, together with a report thereon, to the Secretary. The Secretary shall promptly submit such plan and report to the Congress.

Such plan shall lie before the Congress for a period of forty-five calendar days (excluding Saturdays, Sundays, holidays, or days on which either House is not in session) after which time it shall have the force and effect of law and shall be conclusive and binding upon the Navajo and Hopi Tribes and upon all other parties as to the rights and interests of the respective tribes in any lands or interest in lands which are determined and settled by said plan.

SEC. 234. The decision of the arbitrators shall not be subject to judicial review.

NEGOTIATION OPTION

SEC. 241. At any time prior to the arbitrators' rendition of their final decision, the Navajo and Hopi tribes may submit to the arbitrators their written agreement to formulate a final and binding negotiated settlement within 45 days. Such agreement shall be accompanied by resolutions of the Navajo Tribal Council and the Hopi Tribal Council delegating the authority to enter into a binding settlement agreement to their respective negotiating teams.

SEC. 242. Once the Navajo and Hopi tribes have agreed to a settlement, that settlement shall be sumitted to the arbitrators. Thereupon, the provisions of section 233 shall apply.

SEC. 243. If the Navajo and Hopi tribes invoke the provisions of section 241 above, but fail to reach a negotiated settlement within the 45 day time period, the arbitration process shall continue from the point at which it was interrupted in accordance with the provisions of sections 231 through 234.

SEC. 244. The provisions of section 241 may be invoked only once during the arbitration process.

TITLE III—COMPULSARY LAND EXCHANGE

SEC. 301. The provisions of this Title III shall become effective only if the Hopi Tribe does not elect to arbitrate the Land Dispute as described in Title II above.

TRANSFER OF NAVAJO EXCHANGE LANDS

SEC. 311. Effective 30 days after the passage of this Act, and notwithstanding any other provision of law, all beneficial interest of the Hopi Tribe in and to the surface estate of the tracts of land described pursuant to section 312 (the "Navajo Exchange Lands"), title to which is now held by the United States in trust for the benefit of the Hopi Tribe pursuant to section 10(b) of the 1974 Act, shall be transferred to the Navajo Tribe and title thereto shall, thereafter, be held by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation.

SEC. 312. The boundaries of the Navajo Exchange Lands, comprising approximately 350,000 acres more or less, are as depicted on a map entitled "Navajo Exchange Lands", dated ————, which is on file and available for public inspection in the Office of the Assistant Secretary of the Interior for Indian Affairs and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of such tracts of land. The Secretary may, by publication in the Federal Register, correct clerical or typographical errors in said map or description.

SEC. 313. The Navajo Exchange Lands shall be used by the Navajo Tribe in providing homes, farms and grazing land for the benefit of (i) members of the Navajo Tribe currently residing upon such land; (ii) members of the Navajo Tribe who voluntarily moved from such land subsequent to passage of the 1974 Act but who have not yet received replacement homes and (iii) married couples consisting of a member of the Navajo Tribe and a member of the Hopi Tribe and the children of such couples.

TRANSFER OF MOENCOPI SETTLEMENT LANDS

SEC. 321. Effective 30 days after the passage of this Act and notwithstanding any other law, all of the beneficial interest of the Navajo Tribe in and to the tract of land described pursuant to section 322 (the "Moencopi Settlement Land"), title to which is now held by the United States pursuant to the 1934 Act for the benefit of the Navajo and such other Indians as may have been located thereon on June 14, 1934, shall be transferred to the Hopi Tribe and title thereto shall, thereafter, be held by the United States in trust for the exclusive benefit of the Hopi Tribe as a part of the Hopi Reservation.

SEC. 322. The boundaries of the Moencopi Settlement Land, consisting of 79,027.20 acres more or less, are depicted on a map entitled "Moencopi Settlement Land," dated ————, which is now on file and available for public inspection in the Office of the Assistant Secretary of the Interior for Indian Affairs and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of such tract of land. The Secretary may, by publication in the Federal Register, correct clerical and typographical errors in said map or description.

SEC. 323. The Moencopi Settlement Land shall be in full satisfaction of any interest the Hopi tribe may have in the Navajo Indian Reservation deriving from the 1934 Act.

TRANSFER OF HOPI EXCHANGE LANDS

SEC. 331. Effective [date], and notwithstanding any other law, all the legal or beneficial interest of the Navajo Tribe in and to the Navajo New Lands described pursuant to section 332 (the "Hopi Exchange Lands") of this section shall be extinguished and title thereto shall, thereafter, be held by the United States in trust for the benefit of the Hopi Tribe as a part of the Hopi Reservation.

SEC. 332. The boundaries of the Hopi Exchange Lands, comprising approximately 350,000 acres more or less, are as depicted on a map entitled "Hopi Exchange Lands", dated ————, which is on file and available for public inspection in the Office of the Assistant Secretary of the Interior for Indian Affairs and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of such tracts of land. The Secretary may, by publication in the Federal Register, correct clerical and typographical errors in said map or description.

PAYMENTS TO THE HOPI TRIBE AND EXTINGUISHMENT OF CLAIMS

SEC. 341. (a) Effective with the next regular payment of royalties after January 1, 1987:

(1) fifty per centum of the royalties payable to the Secretary for benefit of the Navajo Tribe from Peabody Lease Numbered 14-20-0603-9910 shall be credited by the Secretary to the Hopi Tribe, and

(2) twelve and one-half per centum of the royalties payable to the Secretary for the benefit of the Navajo Tribe from Peabody Lease Numbered 14-20-0603-8580 shall be credited by the Secretary to the Hopi Tribe.

(b) The authority of the Secretary to credit funds pursuant to subsection (a) of this section shall expire when the total amounts paid to the credit of the Hopi Tribe shall equal $75,000,000, plus the fair market value, but not more than $25,000,000, of the allotments authorized pursuant to section 365.

SEC. 342. The payments by the Navajo Tribe to the Hopi Tribe described in subsection 341 shall be in exchange for the extinguishment of all claims which the Hopi Tribe may hold against the Navajo Tribe in the following named causes of action:

(1) Sidney against Zah, civil numbered 58-579, as authorized by section 6(d) of the 1974 Act;

(2) Sidney against Zah, civil numbered 85-801, as authorized by section 16 of the 1974 Act;

(3) Hopi Tribe against Navajo Tribe, civil numbered 76-935, as authorized by section 18(a)(1) of the 1974 Act;

(4) Hopi Tribe against Navajo Tribe, civil numbered 76-936, as authorized by section 10(a)(2) of the 1974 Act; and

(5) Sidney against Navajo Tribe, civil numbered 76-934, as authorized by section 19(a)(3) of the 1974 Act.

SEC. 343. There is hereby authorized to be appropriated $75,000,000 to be paid over to the Hopi Tribe by the Secretary of the Interior on behalf of the United States over a five year period in annual installments of $15,000,000. Such sum shall be paid to the Hopi Tribe in settlement for the extinguishment of all claims which the Hopi Tribe holds against the United States in the actions described in section 342 above.

SEC. 344. Any and all claims for accounting, rents, or monetary damages that the Hopi Tribe may have against the Navajo Tribe and the United States as asserted in the causes of action described in section 342 above shall hereby be extinguished.

SEC. 345. The claim of the Hopi Tribe to title to lands in the Navajo Reservation, as asserted in the cause of action entitled Sidney against Zah, civil number 74-842, pursuant to section 8 of the 1974 Act, shall hereby be extinguished.

SEC. 346. The following provisions of the 1974 Act, are hereby repealed:

(1) Subsections (d), (g), and (h) of section 6;

(2) section 8;

(3) section 16;

(4) section 18; and

(5) section 29.

ESTABLISHMENT OF NAVAJO REHABILITATION FUND

SEC. 351. Notwithstanding any other provision of law, effective 30 days after passage of this Act fifty per centum of the revenue derived by the Navajo Tribe directly from the development of coal or other mineral resources on the lands transferred to the Navajo Tribe in the State of New Mexico pursuant to section 11(a)(1) of the 1974 Act—shall be deposited by the Secretary in a special trust fund to be known as the Navajo Rehabilitation Fund. Such funds, including any interest or investment income accruing thereon, shall be available to the Navajo Tribe with the approval of the Secretary of the Interior solely for purposes which will contribute to the continuing rehabilitation and improvement of the eco-

nomic, educational, and social condition of Navajo families who were directly and substantially, adversely affected by the relocation program adopted pursuant to the 1974 Act or the freezes on development codified therein.

SEC. 352. The Navajo Rehabilitation Fund shall be administered for the purposes established by section 351 for so long as coal or other minerals may be produced in paying amounts from the lands described in that section. At the end of such period, all remaining funds in the Navajo Rehabilitation Fund shall be transferred to the general trust funds of the Navajo Tribe.

RIGHTS OF PERSONS REQUIRED TO RELOCATE PURSUANT TO THE PROVISIONS OF THIS ACT OR THE 1974 ACT

SEC. 361. Notwithstanding any other law and except as may otherwise be provided in this section, heads of households and the members thereof who voluntarily relocated from Hopi lands and who have been certified as eligible for relocation benefits by the Commission remain eligible for relocation benefits and shall receive such benefits on or before January 1, 1988.

SEC. 362. Navajo heads of households and the members thereof who have been determined, in a survey to be performed by the U.S. Census Bureau in cooperation with the Navajo census office to be residents of the Moencopi Settlement Lands shall have until January 1, 1988 to relocate from such lands and such households shall be eligible for all the relocation benefits under section 15 of the 1974 Act unless such persons elect to receive allotments as provided in section 365.

SEC. 363. Navajo heads of households and the members thereof who have been determined, in a survey to be performed by the U.S. Census Bureau in cooperation with the Navajo census office, to be actual physical residents of the Navajo Exchange Lands eligible for relocation benefits under the 1974 Act shall cease to be eligible for relocation benefits whether or not such persons were previously certified by the Commission to be eligible for relocation benefits.

SEC. 364. (1) Navajo heads of households and the members thereof who have been determined in a survey to be performed by the U.S. Census Office in cooperation with the Navajo census office, to be residents of the lands partitioned to the Hopi Tribe pursuant to the 1974 Act which are not part of the Navajo Exchange Lands and, who have been certified as eligible for relocation benefits under the 1974 Act by the Commission or who would be eligible for such benefits shall remain eligible for such benefits unless such persons elect to receive allotments as provided in section 365.

SEC. 365. (a) Upon the request of an head of household described in sections 362 or 364 of this title, the Secretary shall grant such head of household an assignment of Hopi land of 640 acres which shall include the current place of residence of such head of household.

(b) An assignment of land under this subsection shall vest an interest in the land in the head of household which may be transferred or devised to a person who would be an heir of such person pursuant to the provisions of section 372 of title 25, United States Code. An abandonment of such lands shall result in the reversion of the assignment interest to the Hopi Tribe.

(c) The Secretary shall pay to the Hopi Tribe from the funds described in subsection (a) of section 341 an amount which equals the fair market value of such assignment.

(d) The Secretary may grant not more than two assignments to heads of household described in section 362 and not more than sixty assignments to heads of households described in section 364.

(e) Eligible heads of household shall have until June 1, 1987, to elect to take such assignment in lieu of relocation benefits.

(f) Lands assigned to Navajo families pursuant to this section shall be subject to the jurisdiction of the Hopi Tribe which shall provide such families with equal protection of its laws; except that (i) all conservation practices, including grazing control and range restoration activities shall be coordinated with the Navajo Tribe and executed pursuant to the written consent of the Navajo Tribe, and (ii) the Secretary shall take such action as may be necessary in order to assure the protection of the rights and properties of individuals receiving assignments and the rights and properties of their heirs.

DISSOLUTION OF THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SEC. 371. The Commission shall have one hundred and eighty days within which to wind up its affairs and it shall cease to exist at the end of such time. Section 12 of the 1974 Act shall thereby be repealed.

SEC. 372. The Secretary shall appoint a Special Assistant, who shall report directly to the Secretary, to assume the responsibility of carrying out all remaining relocation activities required by the 1974 Act, and by this Title.

SEC. 373. All of the Commission's records, files, buildings, supplies, personnel, funds and authorities shall be tranferred to such Special Assistant.

SEC. 374. When the Secretary determines that relocation activities growing out of the 1974 Act and this Act have been substantially completed, he shall discharge the Special Assistant and transfer any remaining responsibilities to the Bureau of Indian Affairs.

EXCHANGE INTENDED TO PROVIDE EACH TRIBE WITH FAIR AND EQUIVALENT VALUE FOR SUBSTITUTED PROPERTY

SEC. 381. It is the intent of Congress, in the exercise of its plenary power over Indian affairs and on behalf of the United States as the guardian and trustee for the Navajo and Honi Tribes, that—

(1) the substitution of the lands transferred pursuant to section 331 and the revenue interests transferred pursuant to section 341 of this title shall be a good faith effort to replace the value of the lands taken from the Hopi Tribe pursuant to section 311 and the extinguishment of claims pursuant to sections 342 and 343;

(2) the lands transferred to the Hopi Tribe pursuant to section 321 of this Title shall be a good faith effort to settle any interest the Hopi Tribe may have in the Navajo Indian Reservation pursuant to the 1934 Act; and

(3) the lands transferred to the Navajo Tribe by section 311 of this Title, which will result in a substantial decrease in the numbers of Navajo families who will be required to relocate, is adequate consideration for the transfer of Navajo lands and revenue interests to the Hopi Tribe;

REPEAL OF PROVISIONS OF 1974 ACT

SEC. 391. Subsection (1) of section 10 and the last sentence of section 23 of the 1974 Act are hereby repealed.

SEC. 392. Except as repealed by this Act or as inconsistent with the provisions of this Title, all provisions of the 1974 Act as amended, shall remain in full force and effect.

By Mr. BENTSEN:

S. 2652. A bill to designate the Doctor Hector Perez Garcia Post Office Building; to the Committee on Governmental Affairs.

DR. HECTOR PEREZ GARCIA POST OFFICE BUILDING

● Mr. BENTSEN. Mr. President, today I introduce a bill that will enable us to honor a man who has devoted his life to helping others. This measure will designate the United States Post Office Building located at 809 Nueces Bay Boulevard in Corpus Christi, TX, as the "Dr. Hector Perez Garcia Post Office Building."

Dr. Garcia's accomplishments are truly outstanding. Let me cite only a few examples. Between 1942 and 1946, he served as an infantry officer in the Engineer and Medical Corps, during which he was awarded the Bronze Star Medal with six Battle Stars.

Upon returning home, Dr. Garcia became actively involved in community affairs ranging from serving on the board of the Red Cross to working on the Texas Advisory Committee to the U.S. Commission on Civil Rights. Perhaps he is best known as the founding father of the American GI Forum, a veterans' group composed of Americans of Mexican origin.

His talents and achievements have been recognized nationally. Dr. Garcia has served as a Presidential representative of both Presidents Kennedy and Johnson, and he has held an array of advisory positions under Presidents Johnson and Carter. In 1984, he was awarded the highest civilian award, the Medal of Freedom, by President Reagan.

It is quite fitting when a man selflessly pursues a life for the benefit of society, that he be recognized for his contributions. Dr. Garcia has helped bring the struggle of the Hispanic community to a national focus in an attempt to rectify the social inequities that exist. He has proven himself a dedicated and effective leader both locally and nationally.

In recognition of his accomplishments and service, I urge the Senate to approve this legislation to rename the Corpus Christi Post Office in his honor.●

By Mr. D'AMATO:

S. 2653. A bill to transfer the Community Development Credit Union Revolving Loan Fund to the National Credit Union Administration and to authorize the National Credit Union Administration Board to administer the fund; to the Committee on Banking, Housing, and Urban Affairs.

COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND TRANSFER ACT

● Mr. D'AMATO. Mr. President, I rise today in support of local community

credit unions throughout the country. These credit unions have proven to be focal points for community development in some of the most economically depressed communities in the country.

The Community Development Credit Union Revolving Loan Fund makes available $6 million to community development credit unions each year. Each credit union receives between $100,000 and $200,000 for a period of 5 years. This small deposit provides a capital base for credit unions that are just getting started. The funds provide stability and security for communities that are trying to solidify their economic and social bases.

Currently, the Community Development Credit Union Revolving Loan Fund is administered by the Department of Health and Human Services. Unfortunately, HHS has not made administration of the fund a priority. About $3 million which has been appropriated by Congress for CDCURLF activities has been withheld from use. This is a clear violation of the intent of Congress.

I am not pleased that Congress has been ignored in this situation. These funds were intended to be seed money for community development activities. Local community credit unions provide security for some of the most impoverished communities in the country. Congress appropriated these funds in order to provide an economic base for growth in these communities. Clearly, some sort of change is needed to insure that these funds are administered as intended by Congress.

The legislation I am introducing today transfers the Community Development Credit Union Revolving Loan Fund from the Department of Health and Human Services to the National Credit Union Administration [NCUA]. This transfer will assure Congress that the funds will be used to foster community development. The transfer from HHS to the NCUA will place the program under more appropriate auspices.

The transfer of these funds is budget neutral. Furthermore, the Department of Health and Human Services has stated no objection to giving up its administrative authority over this program.

As inner-city problems continue to rise, a concerted effort must be made to instill growth and stability in low-income communities. I ask my colleagues for their commitment and support as we work toward this goal.

Mr. President, I also ask unanimous consent that the full text of this legislation be printed in the RECORD at the conclusion of my remarks.

S. 2653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Development Credit Union Revolving Loan Fund Transfer Act".

SEC. 2. TRANSFER OF COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.

(a) ADMINISTRATION OF FUND BY NCUA.—

(1) IN GENERAL.—Beginning on the date of the enactment of this Act, the National Credit Union Administration Board shall administer the Community Development Credit Union Revolving Loan Fund.

(2) TRANSFER OF AUTHORITY.—All authority to carry out the purposes of the Fund and to prescribe regulations in connection with the administration of the Fund which, on the day before the date of the enactment of this Act, was vested in the Secretary of Health and Human Services shall vest on such date in the Board. Except as provided in subsection (c), the Secretary shall have no further responsibility with respect to the Fund.

(b) CONTINUED AVAILABILITY OF APPROPRIATED FUNDS.—All funds appropriated to the Fund appropriated to the Fund and interest accumulated in the Fund which continue to be available under section 633 of the Omnibus Budget Reconciliation Act of 1981 shall continue to be available to the Board to carry out the purposes of the Fund.

(c) TRANSFER OF ASSETS; ETC.—The Secretary shall transfer to the National Credit Union Administration all assets, liabilities, grants, contracts, property, records, and funds held, used, arising from, or available to the Secretary in connection with the administration of the Fund before the end of the 60-day period beginning on the date of the enactment of this Act.

(d) SAVINGS PROVISIONS.—

(1) REGULATIONS.—Any regulations prescribed by the Secretary in connection with the administration of the Fund shall continue in effect until superseded by regulations prescribed by the Board.

(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the enactment of this Act.

(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the administration of the Fund shall abate by reason of the enactment of this Act, except that the Board shall be substituted for the Secretary as a party to any such action or proceeding.

(e) DEFINITIONS.—For purposes of this section—

(1) BOARD.—The term "Board" means the National Credit Union Administration Board.

(4) FUND.—The term "Fund" means the Community Development Credit Union Revolving Loan Fund established under title VII of the Economic Opportunity Act of 1964 (as in effect before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981).

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2654. A bill to permit States and political subdivisions of States to enforce State or local antiapartheid laws with respect to contracts funded in whole or in part by funds provided by the Federal Government; to the Committee on Governmental Affairs.

ENFORCEMENT OF STATE AND LOCAL ANTI-APARTHEID LAWS

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation that further expresses my personal abhorrence of the doctrine of apartheid practiced by the Government of South Africa. My legislation would assure that State and local governments will not suffer the loss of Federal aid due to their enforcement of local laws limiting or prohibiting contracts with parties having business interests in South Africa. My distinguished colleague, Senator MOYNIHAN, is cosponsoring this bill.

My legislation would permit States and political subdivisions of States to enforce State or local antiapartheid laws with respect to contracts funded in whole or in part by Federal moneys. Such laws would not affect the eligibility of States or local governments to receive Federal funds, or the amount of Federal funds which may be allocated to them. However, should the application of such local laws increase the cost of any federally aided contract, the Federal Government will not be responsible for paying the increase.

I have defined the term "antiapartheid law" to include local laws that require contracts to contain provisions relating to a contractor's business relationships in South Africa or to limit or condition the award of contracts on the basis of such relationships. It also covers laws which prohibit or restrict the purchase of goods originating in South Africa.

This legislation is needed immediately to assist those local governments which have chosen to restrict their dealings with those who do business with South Africa. According to the American Committee on Africa, there are at least 25 local governments that have passed such legislation. It is my understanding that some of these laws specify that they do not apply to federally funded contracts; however, some laws do permit local discretion with respect to their application to contracts involving Federal funds. New York City has enacted a local antiapartheid law, local law 19, which applies to all contracts entered into by the city.

New York City enacted local law 19 in 1985. Compliance with this law is now a condition of doing business with the city. Local law 19 requires contractors to agree not to do business with the agencies that enforce apartheid in South Africa and not to supply the city with goods originating in South Africa. If the lowest bidder does not agree to these conditions, but another bidder within 5 percent of the low bidder does agree, the bid would be re-

ferred to the board of estimate to determine whether it is in the public interest to award the contract to other than the low bidder. The board of estimate can go with the low bidder even if it is in violation of local law 19. To date, the low bidder has always been chosen.

The U.S. Department of Transportation believes that New York City's antiapartheid law interferes with the competitive bidding process; as a result, DOT had withheld about $138 million in Federal aid for city highway projects. In order to assure that these funds were not lost to New York City. I introduced an amendment to the fiscal year 1986 supplemental appropriations bill (Public Law 99-349) signed by the President on July 2. My amendment permits New York City to continue to enforce its local law without the loss of Federal funds. However, it only applies until the end of fiscal year 1986 and it does not cover jurisdictions other than New York City. That is why the legislation I am introducing today is so necessary—we must not allow this protection of a local antiapartheid law to expire in just 10 weeks.

This legislation would amend Federal contract law to allow local governments to meaningfully participate in the antiapartheid movement if they are willing to bear any additional costs that ensue. It provides a long-term solution to the problem faced by all State and local governments that wish to follow this course of conscience without depriving local taxpayers of desperately needed Federal aid.

Mr. President, we all agree with the President that apartheid "is wrong and we condemn it." It is now time to enable local governments to follow this lead without being penalized for their initiatives. This is just as important as is passage of the Kennedy-Weicker antiapartheid legislation which I am cosponsoring to impose some meaningful sanctions on the Government of South Africa. I urge my Senate colleagues to support this bill and to join me in our crusade against State-sponsored racism.

Mr. President, I ask for unanimous consent to have the full text of my legislation printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law and subject to subsection (b)—

(1) the eligibility of a State or a political subdivision of a State to receive funds under any Federal law; and

(2) the amount of funds which a State or a political subdivision of a State is eligible to receive under any Federal law,

shall not be affected by the application of any anti-apartheid law of the State or political subdivision to a contract entered into by the State or political subdivision which is funded in whole, or in part, with funds provided by the Federal Government.

(b) The Federal Government shall not be responsible for the payment of the amount of any increase in the cost of any contract entered into by a State or political subdivision of a State if such increase is a result of the application of an anti-apartheid law of that State or political subdivision.

SEC. 2. For Purposes of this Act—

(1) the term "anti-apartheid law" means a law which requires a state or a political subdivision of a State to include in contracts entered into by such State or political subdivision provisions and conditions relating to the contractor's business relationships in South Africa or to limit or condition the award of contracts on the basis of such relationships or to take such relationships into consideration in the award of contracts; or a law which prohibits or restricts the purchase of goods originating in South Africa; and

(2) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.●

● Mr. MOYNIHAN. Mr. President, today I join with my colleague from New York to introduce legislation supporting antiapartheid efforts by our State and local governments.

This bill will allow localities to enforce antiapartheid bidding standards that differ from Federal regulations, without the loss of Federal funds.

Last year, New York City passed an antiapartheid law that modified the competitive contract bidding process. Known as local law 19, it requires companies seeking to work for the city to declare that they do not conduct business directly with agencies responsible for enforcing apartheid and will not supply the city with goods originating in South Africa.

Mr. President, the citizens of New York City had taken a stand. They said they could no longer abide a racist, repressive regime from a nation that professes kinship with Western democracies.

And the New Yorkers did more than protest. Local law 19 grants preferential treatment to bidders who comply to its antiapartheid provisions. If the bid from such a company is within 5 percent of a bid from a company who does not so comply, the bidder who does adhere to antiapartheid principles will be awarded the contract.

Now if this law comes into conflict with Federal competitive-bidding regulations (as the Department of Transportation and the Department of Justice so found), the only reasonable solution is for the city to be able to choose whichever contract they find appropriate—as long as they agree to pay any increase in cost that results.

The solution is eminently fair. As long as it involves no added cost to the Federal agency, States, and localities should have the right to make their own decisions regarding their own, individual involvement with the South African regime, without the threat of Federal penalty. The bill I cosponsor today guarantees this right.●

By Mr. LEAHY (for himself, Mr. ANDREWS, Mr. KENNEDY, Mr. BURDICK, and Mr. BRADLEY):

S. 2655. A bill to amend titles XI and XVIII of the Social Security Act with respect to Medicare policies concerning continuing care, to improve the quality assurance system as it applies to Medicare beneficiaries, and for other purposes; to the Committee on Finance.

BETTER HEALTH CARE ACT

Mr. LEAHY. Mr. President, the Better Health Care Act of 1986, which I am introducing today along with Senator ANDREWS, Senator KENNEDY, Senator BURDICK, and Senator BRADLEY is a companion to H.R. 4330, the Medicare Continuing Care Equity and Quality Assurance Act of 1986, recently introduced by Congressman ROYBAL, chairman of the House Select Committee on Aging.

The Better Health Care Act addresses problems of access and quality in the Medicare Program. It is a comprehensive bill which, if accepted in its entirety, would go a very long way toward correcting some of the flaws in the administration of the Medicare Program.

Mr. President, let me say at the outset that I am realistic about the chances for that to happen. I know that not every provision in the Better Health Care Act will become law, at least not immediately. It is my hope that in introducing this legislation, it will help to focus attention on the serious gaps in long-term care and weaknesses in national health care policy. If this bill contributes in any way to the policy discussions on health care and, if some of its provisions are accepted by the Senate Finance Committee, I will feel well satisfied.

Others apparently agree with me. Senator HEINZ has introduced major health care legislation as have Senator KENNEDY, Senator BAUCUS, Senator BRADLEY, and others. I am proud to be a cosponsor of several of these bills and to support their efforts by introducing the Better Health Care Act of 1986.

I delayed the introduction of the Better Health Care Act pending a response to my request for a cost estimate from the Congressional Budget Office [CBO]. However, CBO has informed me they are unable to cost the full bill, due to the press of the budget work.

Although the CBO estimate is pending, some information is available. The bill's provisions are not new; in fact, it

is a composite of what I consider to be the best features of several proposals which respond to the issues of quality care and access to care.

Some of the provisions are actually cost saving. For example, replacing the current Medicare waiver of liability with a system of prior authorization is estimated to save $50 million. Other provisions have no cost—the requirements for hospital discharge planning and for the Health Care Finance Administration [HCFA] to observe the Administrative Procedure Act are two examples.

Some provisions do carry a cost and still others are unknowns. For instance, HCFA claims that elimination of the 3-day prior hospitalization requirement for skilled nursing care is costly. Others dispute that, saying it could, in fact, save some money. The real unspoken concern is that elimination of that catch-22 may lead to more people getting nursing home care who need it and could offset the savings in Medicare reimbursement to hospitals.

All the same, simply refusing to pay bills is ducking the question. We know the elderly population is growing at a rapid pace and that the "old" old segment is the fastest growing age group. Our health care policies are already inadequate to meet the needs. Hiding our heads in the sand will not make the problem go away—it will only get worse while we are not looking.

Senator HEINZ said, when he introduced the Medicare Quality Protection Act of 1986 which is similar in many respects to my bill, that CBO has put a preliminary price tag of $200 million over 3 years on the legislation. He reasons that less than $70 million a year is a small price to pay for protecting the quality of care under the Medicare system.

I agree with Senator HEINZ. At the same time I know that concern about the deficit and the need to observe the Gramm-Rudman-Hollings requirements force us to be realistic about how much we can accomplish in health care reform and how fast we can do it.

This means we must look for savings elsewhere to offset any increases in health care. I believe the first step is to get our priorities in order. For example, I believe the $100 million proposed for Contra aid in Nicaragua could be better spent to implement the provisions of Senator HEINZ's bill or the Better Health Care Act.

Savings might also be found in the strategic defense initiative budget. I think the American people would support a $200-million reduction in that program to be transferred to the Medicare budget. Another place where $100 million could be taken might be the Forest Service road budget. With more miles of roads in our forests than in the entire interstate highway system, I doubt the money would be missed. Still more could be found by cutting a few million from the B-1 bomber line item.

I am introducing this bill because it addresses the need to continue to use acute care facilities wisely and to pay for less costly posthospital care. In this way, I believe we will encourage preventive health care, encourage cooperation among the components of the health care system, and control the growth of expensive skilled nursing care in accordance with actual need.

However, I will work with the Finance Committee to refine the provisions of the bill at such time as its cost is known and when there is full information about the 1987 budget recommendations.

When Congress authorized the Prospective Payment System [PPS] for inpatient hospital services and the Diagnoses Related Groups [DRG's] in the Social Security Amendments of 1983, we were very concerned about the rising cost of health care in this country. The Medicare Program was in financial trouble and we had to move quickly to protect the program and to ensure access to quality health care for the elderly.

The Prospective Payment System has proved to be cost effective, with hospital costs in 1986 increasing by only 6 percent, the lowest rate of increase in 20 years. It is probably safe to say that acute care is being used more efficiently and appropriately than before PPS.

But at the same time as PPS provides a powerful incentive for hospitals to be cost effective, it disrupts the entire health care system, leaving older patients vulnerable to being discharged "quicker and sicker," as the expression goes, and spotlighting the gaps in posthospital care services. As well, it has put health care providers at odds with one another and created a nightmare of redtape and intricate procedures and processes. Both consumers and health care providers are constantly struggling to adjust to the new system, in good faith.

It is not an easy task. Since PPS and DRG's came into being, studies have been carried out to evaluate the new system and to determine how it impacts on the access to and quality of care for Medicare patients. These early studies produced different conclusions about the new PPS system, but there was general agreement that the peer review system which monitors the program, known as Peer Review Organizations [PRO's], did not pay enough attention to quality issues. Therefore it was difficult to determine the effects of PPS either in the inpatient hospital setting, or after hospital discharge.

About all we did learn from these early studies was that Medicare reimbursement to hospitals slowed down, that hospitals did find creative ways to reduce costs, that under PPS, acute care appeared to be used more appropriately. Very little information was available about cost shifting, the impact on access and quality, urban/rural differences or why so much confusion existed about the new system.

Throughout this time, so called "anecdotal" information was coming to our attention, indicating serious flaws in the PPS/DRG system. HCFA showed little interest or willingness to accept this type of information as a reliable source. Subsequent studies bear out the anecdotal evidence.

Mr. President, for the past 3 years I have been gathering information and data, on an informal basis, from hospital administrators, nurses, doctors, home health agencies, State officials, the PRO, nursing home staff, and from older people and their families, about how the PPS/DRG system is working in Vermont.

Everything I learned from them has been corroborated by the findings of these later studies and in testimony given at congressional hearings. What is happening in Vermont is happening across the country.

Physicians say they are pressured to make early discharges and that fear of denied admissions compromises their professional judgment and violates their responsibility to prescribe the most appropriate care for some patients.

Home health agency personnel tell of ever increasing requests for their services and of restrictions on being able to provide it. They report that clients are much sicker than before PPS/DRG's.

PRO's are concerned because their contracts hold them to a strict "medically needy" claims review criteria. They are forbidden to take into account any patient characteristics or extenuating circumstances. Does the 85-year-old woman with a walker live alone? Can she prepare her meals at home? Does she have a telephone? Can she function well enough, physically, emotionally, and socially to care for herself?

Hospitals worry about urban/rural wage differentials and complicated rules and regulations that increase paperwork. Many must find new ways to earn revenue. Can they do it without upsetting the balance of the health care system in their State, county, or community? How many hospitals will be closed and how will that effect access to care in rural areas?

Nursing home administrators complain that the "catch-22" of a 3-day-prior hospital stay requirement for skilled nursing care is obscuring the growing need for more skilled nursing care facilities. Worse, people in need of care are not getting it.

Older people are bewildered, frightened, and misinformed about the new system. The letters I receive from them break my heart and at the same time, infuriate me because of the insensitivity they suffer.

Other concerns include arbitrary administrative decisions from the Health Care Financing Administration, lack of consumer input, unclear appeal procedures, and just too much red tape all around.

Mr. President, as I said earlier, all these concerns and more have been corroborated through studies conducted by a variety of groups and organizations, including the General Accounting Office, American Medical Association, American Society of Internal Medicine, Health Economics Research, Inc., Senate Aging Committee, Inspector General of HHS, Rand Corp., the Prospective Payment Assessment Corp., the Commission of Professional and Hospital Activities, Health Care Financing Administration, Health Economics Research, Inc., and the Office of Technology Assessment.

It is not necessary to reiterate the problems in technical or professional jargon. Information is available to anyone who is interested. I merely want to underscore that the provisions of the Better Health Care Act address real problems and affect real people.

The PPS and DRG system was never meant to deny older people appropriate care or to so complicate the Medicare Program as it has. When I supported the Social Security Amendments of 1983, I wanted to protect precious health dollars and resources from being wasted or misused. I did not give consent to create havoc within the health care system, particularly in rural areas, or to harass older people.

The temptation to quote from studies and reports, or from constituent letters is strong. I will confine these references to one source—"The Attempted Dismantling of the Medicare Home Health Benefit," prepared by the National Association for Home Care [NAHC]. The report, which focuses on home health services, illustrates how HCFA has systematically attempted to destroy the Medicare home care benefit by "dismantling" its components one by one, by creating extreme administrative and financial hardship. NACH president, Val Halamandaris, has said:

> Most of these procedures were adopted without due process, and amount to nothing more than bureaucratic lawlessness.

Every word in this report is worth reading. While it is centered on home health services, the basic premise that the Government—HCFA—is carrying out its own agenda in the implementation of PPS/DRG's, carries through to every phase of Medicare and our commitment to the elderly.

I believe this is the essential factor behind the problems which have come to the attention of Congress and which has led to the introduction of major legislation on the subject. In short, it is not the health care system or older people which have created the problem. All roads seem to lead to HCFA. My bill will place more controls on HCFA while improving access to care, protecting quality of care, and allowing health care providers to do their jobs in the best interest of patients and the community.

In putting this bill together, I also tried to respond to many of the recommendations in Mr. Halamandaris' report because I feel so strongly that home health care is an essential service which must be a component of any health care cost-containment program.

Following is a summary of the major provisions of the Better Health Care Act of 1986:

Creates a continuing care policy council [CCPC] of continuing long-term care providers, intermediaries, and consumers to make recommendations to the Secretary of Health and Human Services on the implementation of this act and on other continuing care policies under Medicare and Medicaid.

Replaces the current Medicare waiver of liability with a system of prior and concurrent authorization for continuing care claims that protects the beneficiary's rightful access to Medicare's continuing care benefit and that provides incentives for provider participation.

Creates uniform assessment criteria for claims review to ensure equity in claim determinations within and across intermediaries and over time.

Lifts restrictions on beneficiary appeals to make all claims appealable and to permit providers to represent beneficiaries in all cases of appeal.

Builds PRO review of "medical necessity" and "practical considerations" into the current appeals process for Medicare continuing care benefits.

Changes performance evaluation standards for fiscal intermediaries to balance incentives for cost savings with accuracy.

Promotes research in the use of Medicare continuing care benefits in a manner that is cost effective and most appropriate to beneficiary needs.

Requires that DHHS award, administer and evaluate its peer review organizations [PRO's] contracts under the stipulation that at least one-half of the PRO's level of effort is for the purposes of quality assurance.

Requires that DHHS conduct quality assurance activities on all Medicare covered health care providers including hospitals, physician offices, nursing homes, home health agencies, and hospices.

Requires that PRO's have a 24-hour hotline to receive questions and complaints from Medicare providers, beneficiaries, and others concerning health care quality problems.

Requires that PRO's have a local consumer advisory board [CAB] which conducts ongoing oversight of the PRO's, provides input into the award and evaluation of PRO contracts, and can receive input from Medicare beneficiaries and other parties.

Requires that DHHS prepare reports on the performance of the Medicare quality assurance system, on the impact of DRG's on health care quality, on improved methodologies for quality assessment and assurance in all care settings, and on the feasibility of extending the PRO based quality assurance to all payers, all patients, and all providers.

Creates a national council on quality assurance to provide oversight of the PRO system and promote the development of improved methods for measuring and assuring quality.

Establishes guidelines and standards for hospital discharge planning to prevent premature discharge and ensure a smooth transition to posthospital care.

Eliminates 3-day prior hospitalization requirement for skilled nursing care.

Defines intermittent care to include one or more visits per day on a daily basis by a nurse or home health aide for up to 60 days, with monthly physician certification of the need for services on such a basis.

Allows home health agencies to aggregate the cost of services provided to clients.

Requires HCFA to abide by the Administrative Procedures Act requirements.

Mr. President, I ask unanimous consent to introduce and have properly referred, the Better Health Care Act, at this point.

I would like to thank those from whom I borrowed so liberally in putting this bill together. Especially, I am grateful to Congressman ROYBAL for allowing me the honor of introducing a companion bill to his H.R. 3800.

A very special and deeply felt thank you is due to everyone who makes up the Vermont health care system and to the hundreds of individual Vermonters who shared their stories and experiences with me over the last 3 years. I am indebted to them for their time, their knowledge, and their patience.

Mr. ANDREWS. Mr. President, I am pleased to join with Senator LEAHY in cosponsoring the Better Health Care Act of 1986. This legislation is designed to improve the quality assurance system as it applies to Medicare beneficiaries.

The health problems of rural America, particularly the elderly living in these areas, are among the Nation's most severe. One year ago, Senator

BURDICK, Senator LEAHY, and I established the Senate rural health caucus which has addressed some of the very issues that are included in this proposal. Through my various discussions with health care experts, and more importantly, with many senior citizens in my State, I have found that major changes are needed regarding quality assurance under Medicare covered services. The Better Health Care Act of 1986 ensures that our Nation's elderlys' rights to nursing home and home health care are protected by making various modifications in Medicare's treatment of long-term care.

The major features of this legislation include: First, creating a national continuing care council that will be responsible for making recommendations to the Secretary of Health and Human Services concerning continuing care policies; second, removing obstacles to home health care by guaranteeing that the patient will continue to receive care during the claims review process; third, establishing uniform assessment criteria for claims review that will ensure equity in claim determination; and fourth, establishing guidelines and standards for hospital discharge planning to prevent premature discharge and ensure a smooth transition to posthospital care.

It has been said that a civilized nation can be judged by the treatment of its elderly. Let us work to see that America does not fail in that judgment. I look forward to working with members of the Senate Rural Health Caucus and the Senate Finance Committee to see that this major and timely initiative becomes a reality by the time the 99th Congress adjourns.

By Mr. TRIBLE:

S.J. Res. 372. Joint resolution authorizing establishment of a memorial to honor America's astronauts; to the Committee on Energy and Natural Resources.

ESTABLISHMENT OF MEMORIAL TO HONOR AMERICA'S ASTRONAUTS

Mr. TRIBLE. Mr. President, today I am introducing a joint resolution to honor our American astronauts by establishing a memorial in the District of Columbia. This legislation would authorize the L-5 society to build a privately funded memorial in recognition of those who have given their lives and of those who have dedicated their careers to space exploration.

Throughout history explorers, scientists, and doctors have risked life and career to discover the mysteries of our universe. We have honored those great men and women. Those names are etched into our collective conscience: Columbus, Lewis and Clark, Curie, Carver, Admiral Byrd, Lindberg, Neil Armstrong.

Today the horizon of mankind reaches beyond the Earth to the Moon and the solar system. Our venture into space has lead to thousands of scientific and technical discoveries. We can create pure medicines, communicate around the world in a moment, search the Earth from above for mineral resources, observe the formation of weather and act to protect our citizens from its dangers. It has enabled us to take our first look at a quasar at the rim of the universe that is 14 billion years old, a figurative fingerprint of the Almighty from the dawn of creation.

The untold potential of space remains to be realized, but as we have learned, the price of discovery is high. We still grieve over the loss of the Shuttle *Challenger* and remember the crew lost in the *Apollo* fire. Others have given their lives and many more have devoted their professional lives to the space program. These great Americans deserve an honored place beside those many other Americans who have spent their lives in building our Nation.

This astronaut memorial will be a living example of what has happened in the space program and what possibilities exist for the future. The L-5 society is already engaged in the search for an appropriate site and will hold a nationwide design competition for the memorial. This memorial will keep the faith with those who gave their lives in support of the belief that mankind's place is among the stars.

By Mr. HATCH:

S.J. Res. 373. Joint resolution designating the week beginning May 10, 1987, as "National Fetal Alcohol Syndrome Awareness Week;" to the Committee on the Judiciary.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

● Mr. HATCH. Mr. President, the consumption of alcohol during pregnancy has been shown to cause extremely serious problems. To call attention to these problems and encourage their solution, I am pleased to introduce this resolution which designates Mother's Day Week, May 10 through 16, 1987, as "National Fetal Alcohol Syndrome Awareness Week."

As we know, alcohol abuse over a period of time can contribute to many serious disorders in adults, including muscle and heart disease, malnutrition, digestive problems, and cirrhosis of the liver. But when alcohol is used during pregnancy it can harm not only the mother but the frail fetus as well. We have learned in recent years that alcohol used during pregnancy causes extremely serious birth defects.

Throughout pregnancy, a fetus is dependent entirely on its mother to provide nutrients for physical development because the mother's blood carries them directly through the placenta into the baby's blood stream. Thus, alcohol in a mother's blood stream is transported directly into her baby's blood stream, which can adversely affect the child's development.

Several of the negative consequences of fetal alcohol syndrome have been identified, for example, the occurrence of deficient growth before and after birth. More specifically, alcohol use during pregnancy can cause a reduction in height and weight and in brain size, which is associated with mental retardation. Development disabilities can result with the infant experiencing delays in learning to walk and speak. Heart defects also plague babies suffering from fetal alcohol syndrome.

Some of the facts already known about fetal alcohol syndrome include the following:

Fetal alcohol syndrome is one of the three leading causes of birth defects with accompanying mental retardation in this country.

Fetal alcohol syndrome ranks behind only Down's syndrome and spina bifida as the most common cause of mental retardation due to birth defects.

Less severe effects, including increased irritability and hyperactivity, are characteristics of babies whose mothers have consumed alcohol during pregnancy.

Not only are the problems associated with fetal alcohol syndrome severe, but the magnitude of those affected is great. An estimate of the number of infants born with fetal alcohol syndrome is 3,600 to 6,000 each year. Thirty-six thousand babies each year exhibit the less severe alcohol-related defects. The dollar costs are staggering, running over $1.5 billion per year. It is impossible to measure the emotional costs of fetal alcohol syndrome.

Not every baby affected by alcohol has all the symptoms of fetal alcohol syndrome. Some children have only one or two alcohol-related birth defects. Some of these more subtle defects can adversely affect a child's performance in school, even when the child has a normal level of intelligence.

Research is just beginning to show the amount of alcohol that may harm the developing baby. While there are not yet any hard and fast rules, we do know that even moderate amounts of alcohol pose a risk to the unborn baby. For example, women who consume two normal-size drinks a day throughout their pregnancy increase their chances of miscarriage and of having a baby that is smaller than babies born to women who avoid alcohol altogether. Women who drink heavily during pregnancy—six of more drinks a day—clearly risk giving birth to a child with fetal alcohol syndrome.

There is much that we still do not know about alcohol-related birth defects. We are not sure at what point during the pregnancy the developing baby is most likely to be harmed by al-

cohol. Until the facts are in, however, the strong advice offered by Surgeon General Koop to women who are pregnant or who want to become pregnant, is "refrain completely from drinking alcoholic beverages."

Even one alcohol-related birth defect is an unnecessary tragedy. The fact is that all alcohol-related birth defects, including fetal alcohol syndrome, are completely preventable if women refrain from drinking while they are pregnant.

Let us spread the message that alcohol and pregnancy don't mix. This resolution is a first step. I urge you to join me in cosponsoring it.

I ask unanimous consent that the complete text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 373

Whereas fetal alcohol syndrome is one of the three major known causes of birth defects with accompanying mental retardation in the United States, and the only preventable one;

Whereas fetal alcohol syndrome can result in such serious health problems as: deficiencies in prenatal and postnatal growth that are associated with mental retardation; developmental disabilities that may cause an infant to experience delays in learning to walk and speak; and heart defects, including defects in the wall between the pumping chambers of the heart;

Whereas in cases in which fetal alcohol syndrome is avoided, infants may still experience alcohol-related birth effects, known as fetal alcohol effects, which are a series of health problems that include increased irritability during the newborn period and hyperactivity;

Whereas the discovery of fetal alcohol syndrome as a major health problem is a recent occurrence, and many questions regarding the illness remain unanswered;

Whereas there has never been an infant born with fetal alcohol syndrome whose mother did not consume alcohol during pregnancy;

Whereas fetal alcohol syndrome can be prevented if pregnant women and women considering pregnancy abstain from alcohol consumption; and

Whereas the Surgeon General of the Public Health Service has issued an advisory stating that pregnant women and women considering pregnancy should not consume alcohol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 10, 1987, hereby is designated "National Fetal Alcohol Syndrome Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.●

By Mr. LEVIN:

S.J. Res. 375. Joint resolution designating the week beginning September 21, 1986, as "National Adult Day Care Center Week"; to the Committee on the Judiciary.

NATIONAL ADULT DAY CARE CENTER WEEK

● Mr. LEVIN. Mr. President, today I am introducing a joint resolution to establish the week of September 21, 1986, as "National Adult Day Care Center Week."

There are more than 1,000 adult day-care centers operating in the Nation today. They play an important role in helping to improve the quality of life for many adults who need an alternative to costly full-time medical and institutional care. Professional nurses, dieticians, and therapists offer medical testing and referrals, nutrition education, and physical therapy to the elderly, which reduces the need for long-term hospitalizations or nursing care. Adult day-care centers allow senior citizens to remain in their homes, with their families, while at the same time giving them an opportunity to meet with peers and be socially active.

Mr. President, adult day-care centers save the Federal Government money by both reducing the need for hospitalizations and full-time nursing care. But more importantly, they allow the elderly to maintain independence and self-esteem which is often lacking institutional settings. I urge my colleagues to support this joint resolution, which will draw attention to the services and the potential of adult day-care centers.●

ADDITIONAL COSPONSORS

S. 827

At the request of Mrs. HAWKINS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 827, a bill to amend the Public Health Service Act to provide for the compensation of children and others who have sustained vaccine-related injuries, and for other purposes.

S. 1026

At the request of Mr. PRESSLER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1026, a bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 1054

At the request of Mr. HEINZ, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1054, a bill to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such act, and for other purposes.

S. 1145

At the request of Mr. GRASSLEY, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from North Carolina [Mr. BROYHILL] were added as cosponsors of S. 1145, a bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies.

S. 1747

At the request of Mr. ROTH, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1747, a bill to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries.

S. 1748

At the request of Mr. ROTH, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1748, a bill to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries.

S. 1787

At the request of Mr. MATHIAS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1787, a bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns.

S. 2181

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2181, a bill entitled the "Construction Industry Labor Law Amendments of 1986."

S. 2209

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2288, a bill amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and post partum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2291

At the request of Mr. BIDEN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2291, a bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board.

S. 2333

At the request of Mr. DURENBERGER, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2444

At the request of Mrs. HAWKINS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2444, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the dependent care State grant program, and for other purposes.

S. 2560

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Oklahoma [Mr. NICKLES], the Senator from Maryland [Mr. MATHIAS], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2560, a bill to amend schedule I of the Controlled substances Act to include cocaine free-base.

S. 2561

At the request of Mr. CHILES, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2561, a bill to amend the Controlled Substances Act to provide enhanced penalties for employment of persons under age 21 to distribute drugs.

S. 2562

At the request of Mr. ROTH, his name, and the names of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2562, a bill to amend section 405A of the Controlled Substances Act, relating to the distribution of a controlled substance in or near a school, to include the manufacture of controlled substances.

S. 2572

At the request of Mr. LUGAR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2572, an original bill to provide economic support for the November 15, 1985, agreement between the Government of Ireland and Government of the United Kingdom, and for other purposes.

S. 2576

At the request of Mr. DURENBERGER, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2576, a bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims.

S. 2588

At the request of Mr. DOMENICI, the names of the Senator from Tennessee [Mr. GORE], the Senator from California [Mr. WILSON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Alabama [Mr. HEFLIN], the Senator from Nevada [Mr. LAXALT], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 2588, a bill to provide permanent authorization for White House Conferences on Small Business.

S. 2593

At the request of Mr. BUMPERS, the names of the Senator from Tennessee [Mr. GORE], the Senator from Montana [Mr. MELCHER], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2593, a bill to establish the National Nuclear Safety Study Commission.

S. 2621

At the request of Mr. HUMPHREY, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2621, a bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to reduced Government competition with the private sector to provide goods and services.

S. 2646

At the request of Mr. HEINZ, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2646, a bill to provide that no change may be made in the prospective payment rates established under section 1881(b)(7) of the Social Security Act with respect to outpatient maintenance dialysis services until certain requirements are satisfied.

SENATE JOINT RESOLUTION 311

At the request of Mr. CRANSTON, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 332

At the request of Mr. BYRD, the names of the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. LUGAR], the Senator from Connecticut [Mr. WEICKER], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Software Awareness Week."

SENATE JOINT RESOLUTION 338

At the request of Mr. RIEGLE, the names of the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], the Senator from Tennessee [Mr. GORE], the Senator from Montana [Mr. BAUCUS], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 338, a joint resolution to designate November 18, 1986, as "National Community Education Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 366

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 366, a joint resolution to disapprove the act of the District of Columbia Council entitled the "Prohibition of Discrimination in the Provision of Insurance Act of 1986."

SENATE JOINT RESOLUTION 371

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to designate August 1, 1986 as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 136

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Texas [Mr. BENTSEN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 136, a concurrent resolution entitled "Volunteers are the Importance of Volunteerism."

AMENDMENTS SUBMITTED

RISK RETENTION AMENDMENTS

GORTON (AND OTHERS) AMENDMENT NO. 2209

Mr. GORTON (for himself, Mr. FORD, Mr. DANFORTH, Mr. KASTEN, Mr. HOLLINGS, Mr. GORE, and Mr. ROCKEFELLER) proposed an amendment to the bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Risk Retention Amendments of 1986".

SEC. 2. Section 1 of the Product Liability Risk Retention Act of 1981 (hereinafter referred to as "the Act") (15 U.S.C. 3901, note) is amended—

(1) by striking "Product"; and

(2) by striking "1981" and inserting in lieu thereof "1986".

SEC. 3. (a) Section 2(a) of the Act (15 U.S.C. 3901(a)) is amended—

(1) amending paragraph (1) to read as follows:

"(1) 'financially impaired' means that a risk retention group does not meet the minimum capital or surplus requirements, or both, of the State in which such group is chartered, or that such group has incurred losses that will deplete all or substantially all of its capital or surplus, or both, unless there is a reasonable prospect for replenishment of such capital or surplus, or both;";

(2) by striking paragraph (3), and by redesignating paragraph (2) as paragraph (3);

(3) by inserting immediately after paragraph (1), as amended by paragraph (1) of this subsection, the following:

"(2) 'hazardous financial condition' means a risk retention group that is not able or will not be able to (A) meet its obligations to its policyholders regarding known claims and reasonably estimated expected claims, or (B) pay its other obligations in the normal course of business, and there is no reasonable prospect for it to do so;";

(4) by redesignating paragraphs (4) through (6) as paragraphs (7) through (9), respectively;

(5) by inserting after paragraph (3), as so redesignated, the following:

"(4) 'liability insurance' means insurance covering an organization's legal liability for damages because of injuries to other persons, damage to their property, or other loss or damage to such other persons arising out of its business, trade, products, services (including professional services), premises, or operations, but does not include (A) personnel risk insurance or (B) workers' compensation and employers' liability insurance;

"(5) 'organization' means any association, business, corporation (whether for-profit or not-for-profit), professional corporation or partnership (including individual practitioners with respect to their business or professional activities), church, hospital, school, university, or other institution, or a State or local government (or agency of such a government);

"(6) 'personal risk insurance' means homeowners, tenant, private passenger non-fleet automobile, mobile home, and other liability and casualty insurance primarily for personal, family or household needs rather than for business or professional needs;";

(6) in paragraph (7), as so redesignated—

(A) by inserting "any group of units of local government or agencies thereof, or" immediately after "means";

(B) by striking ", Bermuda, or the Cayman Islands";

(C) in subparagraph (A), by striking "product liability or completed operations";

(D) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, and by inserting immediately after subparagraph (C) the following:

"(D) whose activities do not include the provision of any insurance except the insurance described in subparagraph (A) and reinsurance with respect to the risks of its own members or organizations whose businesses are similar or related with respect to the nature of their exposure to the risk of liability, as provided in this paragraph;

"(E) whose activities, subject to the limitations of subparagraph (B) of this paragraph, are permitted to such a group by the laws of its domicile, including management, operations, insurance and investment activities and the provision of loss control and claims administration (including loss control and claims administration services for uninsured risks retained by members of the group);";

(E) in subparagraph (F), as so redesignated, by striking "and";

(F) by amending subparagraph (G), as so redesignated, to read as follows:

"(G) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and"; and

(G) by adding at the end thereof the following:

"(H) the name of which includes the phrase 'Risk Retention Group';"; and

(7) by amending paragraph (8), as so redesignated, to read as follows:

"(8) 'purchasing group' means any group of persons—

"(A) which has as one of its purposes the purchase of liability insurance on a group basis; and

"(B) whose members, businesses or activities are similar or related with respect to the nature of their exposure to the risk of liability stemming from any business, trade, product, services, premises, or operations which are related, similar, or common to such members; and".

(b) Section 2(b) of the Act (15 U.S.C. 3901(b)) is amended—

(1) by striking "product liability and product"; and

(2) by inserting "and personal risk insurance" immediately after "insurance" the second time it appears.

(c) Section 2 of the Act (15 U.S.C. 3901) is further amended by adding at the end thereof the following:

"(c) Nothing in this Act shall be construed to exempt a group authorized under this Act from the policy form or coverage requirements of any State no-fault automobile insurance law.

"(d) The authority to offer or provide insurance under this Act is limited to liability insurance. This Act does not authorize a risk retention group to provide, or a purchasing group to purchase, any other line of insurance.

"(e) Insurance provided under this Act shall not be construed to authorize coverage of punitive damages or intentional, fraudulent, or criminal conduct, to the extent that any such coverage is either prohibited by statute or has been declared unlawful by the highest court of the State whose law is applicable to a coverage claim.".

SEC. 4. (a) Subsection (a)(1) (C) and (D) and subsection (b) (1) and (2) of section 3 of the Act (15 U.S.C. 3902(a)(1) (C) and (D) and (b) (1) and (2), respectively) are amended by striking "product liability or completed operations".

(b) Section 3(a)(1)(D) of the Act (15 U.S.C. 3902(a)(1)(D)) is amended to read as follows:

"(D) submit to the State insurance commissioner of each State in which it is doing business a copy of the group's annual financial statement submitted to the State in which the group is chartered or licensed as an insurance company, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves by a person with the minimum qualifications of an associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries, or a qualified loss reserve specialist;".

(c) Section 3(a)(1)(F) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "if—" and inserting in lieu thereof "if";

(2) by striking clause (i);

(3) by striking "(ii)";

(4) by striking "and" the second time it appears; and

(5) by adding at the end thereof the following: "any such examinations shall be coordinated to avoid duplication and unjustified repetition;".

(d) Section 3(a)(1)(G) of the Act (15 U.S.C. 3902(a)(1)(G)) is amended—

(1) by striking "the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of" and inserting in lieu thereof "there has been";

(2) by adding immediately before the semi-colon the following: ", or comply with a lawful order issued in a voluntary dissolution"; and

(3) by inserting "and" immediately after the semi-colon.

(e) Section 3(a)(1) of the Act (15 U.S.C. 3902(a)(1)) is amended by adding at the end thereof the following:

"(H) comply with an injunction if such injunction was issued by a Federal or State court of competent jurisdiction, after notice and opportunity for a hearing and the issuance of findings of fact and conclusions of law, upon a petition by the State insurance commissioner alleging that the group is in a hazardous financial condition or is financially impaired;".

(f) Section 3 of the Act (15 U.S.C. 3902) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by a risk retention group to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices in the solicitation or sale of insurance to a member or a prospective member of a risk retention group, or other fraudulent conduct by any such group;

"(3) the solicitation or sale of insurance by, or the operation of, a risk retention group that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance by, or the operations of, a risk retention group that within the previous five years has been found to have engaged, or whose officers, organizers or directors have been found to have engaged, in knowing and willful false, deceptive, or fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violation will be repeated.

In any proceeding under paragraph (3) of this subsection, all relevant evidence shall be admissible to prove the financial condition of a risk retention group.

"(e) Before any group may operate as a risk retention group in any State, such group shall furnish to the insurance commissioner of that State and each other State in which the group intends to do business a plan of operation or feasibility study which includes the coverages, deductibles, coverage limits, rates and rating classification systems for each line or classification

of liability insurance that the group intends to offer. After it is chartered to operate, the risk retention group shall revise such plan or study if it intends to offer any additional lines or classifications of liability insurance.".

SEC. 5. (a) Section 4(b) of the Act (15 U.S.C. 3903(b)) is amended—

"(1) in paragrpah (1), by striking "product liability or completed operations liability insurance, and comprehensive general" and "which includes either of these coverages,"; and

"(2) in paragraph (2), by striking "product liability or completed operations insurance, and comprehensive general".

"(b) Section 4(c) of the Act (15 U.S.C. 3903(c)) is amended by adding at the end thereof the following: "A purchasing group may not purchase insurance from a risk retention group that is not domiciled in a State or from an insurer not admitted in the State in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such State.".

(c) Section 4 of the Act (15 U.S.C. 3903) is amended by adding at the end thereof the following:

"(d) Nothing in this section shall be construed to affect the authority of any Federal or State court, upon the petition of a State, to enjoin—

"(1) the solicitation or sale of insurance by an insurer, agent or broker to the public or any person who is not eligible for membership in such group;

"(2) false, deceptive or fraudulent acts or practices by an insurer, agent or broker in the solicitation or sale of insurance to a member or a prospective member of a purchasing group, or other fraudulent conduct by any such group or its insurer, agent or broker;

"(3) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer that is in a hazardous financial condition; or

"(4) the solicitation or sale of insurance to, or the operation of, a purchasing group underwritten by an insurer or marketed by agents or brokers who within the previous five years have been found to have engaged in knowing and willful false, deceptive, or fraudulent conduct in violation of this Act or any other law, under circumstances that present a reasonable likelihood that such violations will be repeated.".

SEC. 6. The Act (15 U.S.C. 3901 et seq.) is amended by adding at the end thereof the following:

"REQUIREMENTS OF CERTAIN INSURANCE POLICIES

"SEC. 6. Any insurance policy issued by a risk retention group shall state the following in 10-point type:

"This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.

"ENFORCEMENT

"SEC. 7. (a) For purposes of enforcing this Act, if the insurance commissioner of any State has reason to believe that a risk retention group or purchasing group has engaged or is engaging in conduct subject to State law under this Act or in conduct in violation of this Act in that State, the commissioner may make use of any of the powers permitted under the laws of such State regarding insurers admitted to do business in that State, except that if a commissioner seeks an injunction against a risk retention group or purchasing group because of conduct in violation of section 3(d) or section 4(d) of this Act, the commissioner shall obtain an order for such injunction from a Federal or State court of competent jurisdiction.

"(b) Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or from operating, in any State or in all States upon a finding by such court that such group is in a hazardous financial condition in accordance with section 3(d)(3) of this Act. Such order shall be binding on such group, its officers, agents, servants and employees, and upon persons acting in active concert with any of them who have actual notice of such order.".

SEC. 7. This Act shall take effect on the date of its enactment, except that the provisions of section 3(e) of the Act, as added by section 4(f) of this Act, shall not apply to any line or classification of liability insurance (as defined in the Product Liability Risk Retention Act of 1981, as amended by this Act) which was offered on the day before such date of enactment by any risk retention group which has been chartered and operating for at least three years before such date of enactment.

LAUTENBERG (AND BRADLEY) AMENDMENT NO. 2210

Mr. LAUTENBERG (for himself and Mr. BRADLEY) proposed an amendment to the reported amendment to the bill S. 2129, supra; as follows:

At the end of the amendment add the following new section:

SEC. . The Act (15 U.S.C. 3901 et seq.) is amended by adding the following new section:

"GUARANTY FUND PROTECTION IN CERTAIN STATES

"SEC. . Any state which

"(1) maintains a liability insurance guaranty fund for the payment of claims in the event of insolvency of insurers licensed by the state; and

"(2) maintains a liability insurance guaranty fund for the payment of claims in the event of insolvency of eligible surplus lines carriers in that state;

may require as a condition of doing business in that state that a risk retention group contribute to a separate insurance guaranty fund in that state, or provide a comparable guaranty, assurance, or mechanism for the payment of claims in the event of insolvency of the risk retention group, or provide such other measures as are necessary to guard against insolvency.

METZENBAUM AMENDMENT NO. 2211

Mr. METZENBAUM proposed an amendment to the reported amendment to the bill S. 2129, supra; as follows:

At the appropriate place in the amendment, add the following new section:

That the Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance", commonly known as the McCarran-Ferguson Act (59 Stat. 33), is repealed.

(b) The repeal made by this section shall be effective as to conduct engaged in beginning one year after the date of enactment of this Act.

SEC. 2. (a) In any action brought under the provisions of the Clayton Act or the Sherman Act alleging a violation of either such Act for conduct that would have otherwise been lawful pursuant to the provisions of the Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" no award of treble damages or criminal penalties shall be awarded against any such person for conduct by such person occurring within two years after the date of enactment of this Act.

(b) During the two year period referred to in this section, no relief shall be granted against any person in an action referred to in subsection (a) for conduct by such person during such period, if such person has, in good faith, relied upon an advisory opinion issued by the Department of Justice.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a full committee markup on Thursday, July 24, 1986, to consider legislation authorizing the sale of certain Small Business Administration loans in order to meet the reconciliation instruction as imposed by Senate Concurrent Resolution 120, the concurrent resolution of the budget for fiscal year 1987. The markup will commence at 10 a.m. and will be held in room 428A of the Russell Senate Office Building. For further information, please call Bob Wilson, chief counsel of the committee at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing on Wednesday, August 13, 1986, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office building in Washington, DC.

The purpose of this hearing is to receive testimony on House Joint Resolution 17, to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-358, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Mr. Allen Stayman at (202) 224-2366.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, July

23, 1986, in Senate Russell 385, at 10 a.m., on the following bills:

S. 2564. A bill to provide for proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses;

S. 2105. A bill to provide for the settlement of certain claims of the Papago Tribe arising from the operation of Paint Rock Dam;

S. 2106. A bill to provide for the settlement of certain water rights claims of the Papago Tribe; and

S. 2107. A bill to provide for the settlement of certain claims of the Papago Tribe arising from the construction of Tat Momolikot Dam, and for other purposes.

Those wishing additional information should contact Peter Taylor or Patricia Zell of the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER AND POWER

Mr. KASTEN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, July 23, 1986, in order to conduct a hearing regarding the general relationship between the Federal Energy Regulatory Commission and related State public utility Commissions; and S. 1149, a bill to amend the Federal Power Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KASTEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 17, 1986, in order to receive testimony on the nomination of Clarence Thomas to be chairman of the EEOC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. KASTEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 17, to hold a hearing to consider the following nominations: Henry Frazier and Jean McKee, to be members of the Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KASTEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 17, in closed session to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. KASTEN. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, July 17, to conduct a meeting on S. 2417, and Aviation Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. KASTEN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 17, to hold a hearing on S. 2412, to withdraw and reserve certain public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Armed Services, be authorized to meet during the session of the Senate on Thurdsay, July 17, 1986, in order to consider pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY JOINT COMMITTEE ON DEFICIT REDUCTION

Mr. LUGAR. Mr. President, I ask unanimous consent the temporary Committee on Deficit Reduction, be authorized to meet during the session of the Senate on Thursday, July 17, 1986, in order to conduct a meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO MAJ. GEN. CLIFFORD H. REES, JR.

● Mr. GOLDWATER. Mr. President, I rise today to pay tribute to Maj. Gen. Clifford H. Rees, Jr., who will soon depart as the Director of Legislative Liaison of the Office of the Secretary of the Air Force to become the Commander of the Air Defense Weapons Center at Tyndall Air Force Base. FL. General Rees' nearly 4 years in legislative liaision have been marked by his constant efforts to keep the Congress as completely and accurately informed as possible about Air Force activities. During his tenure, we have considered some of the most important defense programs in the history of this Nation, including the Peacekeeper missile, the B-1B bomber, advanced technology—stealth—aircraft, strategic and tactical forces modernization, and research and development programs that will provide the technology base essential for Air Force weapons system into the next century. His complete and timely responses to our request ensured that we had the best information available when making these crucial decisions.

General Rees' energies were directed not only at the large issues of national defense, but extended to the well-being of the individual serviceman. I am sure I echo the sentiments of all my colleagues when I thank him for his prompt and thorough responses to our inquiries on behalf of our constituents. On many occasions, he provided me invaluable information which helped me understand and analyze the often complex issues that govern the military personnel system. His immediate attention to the serviceman's concerns greatly enhanced the Air Force's standing with the public, uncovered problems and, when appropriate, introduced positive changes to plans and programs.

All Americans are fortunate to have a man of Ted Rees' stature and integrity in our Nation's service. I wish him farewell and success in his new position, confident that a vital portion of our Nation's defense is being placed in capable hands.●

DR. CHARLES A. BLACK, AGRICULTURAL SCIENTIST

● Mr. ABDNOR. Mr. President, I take this opportunity to salute one of America's finest and most prominent agricultural scientists, Dr. Charles A. Black.

Graduating from Colorado State University in 1937, Charlie Black will be marking his 50th anniversary as a professional agricultural scientist next spring. I cannot even begin, Mr. President, to fairly represent the scientific accomplishments over the last half century of this fine gentleman from Lone Tree, IA.

Beginning his professional career as an assistant land classifier for the Resettlement Administration in 1937, Dr. Black then progressed from instructor to full professor to distinguished professor at Iowa State University. At the age of 70 Charlie Black currently holds the positions of C.F. Curtiss distinguished professor in agriculture and professor emeritus at Iowa State University and executive chairman of the board of the Council for Agricultural Science and Technology [CAST].

Among the dozens of honors and awards are the following: Fellow, American Society of Agronomy; Senior Postdoctoral Fellow, National Science Foundation; Gamma Sigma Delta Distinguished Service to Agriculture Award of Merit; Fellow, American Association for the Advancement of Science; Distinguished Service Award for Outstanding and Meritorious Service to American Agriculture, American Agricultural Editors Association; Henry A. Wallace Award for Distin-

guished Service to Agriculture, Iowa State University; and the National "Award" for Agricultural Excellence, National Agri-Marketing Association.

This summer, Charlie will receive yet another award. He will be the first recipient of the Charles A. Black Award created by CAST. Most significantly this award is for "Exemplary Contributions to Public Understanding of Food and Agricultural Sciences," and is in recognition of Dr. Black's role in the founding and growth of CAST. Under Dr. Black's guidance CAST includes 26 food and agricultural societies in its core consortium and is financially supported by some 400 companies and associations and 4,500 individuals. Thanks in large part to the wisdom, the intelligence, the perserverance, the integrity and the leadership of Charles Black, CAST is today a viable and effective voice for food and agricultural science. He has made an enormous contribution to national life by providing—through CAST—sound, scientific information that has helped to improve the quality of decisions that are made in the public policy process. Thanks to his influence, agricultural science is now a more effective part of this process. Dr. Black's involvement in CAST demonstrates his deeply held belief that, for the benefit of society, scientists have a responsibility to make the results of their research known to nonscientists.

As a nonscientists public official, I have benefited directly from the efforts of Dr. Black and CAST professionals. The CAST task force reports and committee hearing testimony prepared at the request of the Joint Economic Committee, of which I am vice chairman, have significantly strengthened the link between the agricultural scientific community and the political policymaking process. In my judgment, no greater tribute can be given to an American citizen than to recognize that he or she has improved the democratic system of government. Dr. Black has earned that tribute.●

ANTISMOKING CAMPAIGNS

● Mr. KENNEDY. Mr. President, although great strides have been taken in the antismoking campaign, smoking remains to be one of our Nation's greatest health issues. The Boston Globe magazine article "The Tobacco Wars" traces the history of the political campaign—from the first scientific proof that smoking was detrimental to one's health up to the current product liability litigation against tobacco companies. It focuses on the efforts of the most prominent political guerrillas and their achievements throughout the years.

Mr. President, I commend this two-part article to my colleagues and ask that it be printed in the RECORD.

The two-part article follows:

THE ANTISMOKING GUERRILLAS

(By Charles Kenney)

In the early 1930s, as Dr. Richard H. Overholt began his pioneering work in chest surgery, he noticed the difference between the lungs of patients who smoked cigarettes and the lungs of patients who did not smoke, and those differences—in both appearance and function—astonished him. Convinced that cigarette smoking reduced lung function, Overholt traveled the country, conveying his sense of alarm to colleagues at meetings of various medical associations. He would gaze out from a podium at assembled physicians who were puffing and squinting, Bogart-like, under dense, sagging clouds of sickly, bluish smoke. Overholt would stand up, tall, handsome, distinguished in appearance, a shock of wavy hair that has long since turned snow-white, and express his belief that cigarette smoking was dangerous. Then he would stand back and wait for the inevitable response to his message: laughter.

"They thought I was crazy, a lot of them," says Overholt. "I would propose resolutions that this was injurious to your health and we ought to inform patients. They'd vote it down by wide margins."

When Overholt began his medical career he had no idea that for the next five decades he was to be a combatant in one of the epic struggles in the annals of American industry. Overholt had no way of knowing so long ago that during the years that lay ahead he would bear witness to an unrelenting economic, cultural, and political conflict. But that is precisely what has come to pass, for Overholt is one of a handful of antismoking combatants who have waged war against the tobacco industry in an ongoing struggle over billions of dollars and countless human lives. For decades, it was an absurdly unbalanced conflict, pitting the $82 billion tobacco industry and its loyal, economic dependents—a mighty political and financial force—against a poorly organized collection of doctors, lawyers, and public health professionals, a vastly outnumbered group of guerrillas armed with more resolve than resources.

Yet, against these enormous odds, the antismoking forces have persevered. This year, as Overholt approaches his 85th birthday, attitudes toward smoking have changed so radically that the habit is now recognized by the US Surgeon General as "the leading health issue of our time," and by the American Psychiatric Association as a psychiatric disease. Even the American Medical Association, which for years resisted taking an activist role against smoking, recently has become an aggressive tobacco opponent and late last year went so far as to propose banning all cigarette advertising in the United States. And lawyers around the country have filed nearly 100 lawsuits against major companies charging that their failure to warn consumers of the dangers of tobacco was negligent. While the only two cases to reach trial have been won by the companies, more cases may be headed for court later this year. Activists and the tobacco industry are closely watching one case scheduled for trial this month in Oklahoma. The suit, brought by the mother of a 19-year-old man who died of mouth cancer, charges that the man's death was caused by chewing tobacco and that the company knew the product was dangerous yet never warned consumers.

However, suits against cigarette manufacturers were dealt a serious setback last month. A federal appeals court ruled that a 1965 law requiring companies to place warning labels on their packages renders the companies immune from charges that they failed to warn of cigarettes' hazards. In spite of that defeat, the plaintiffs are pressing on in attempting to prove that cigarettes are an unreasonably dangerous product and therefore no warning suffices.

The men and women who have fought alongside Overholt have been motivated, at least in part, US Public Health Service reports that cigarettes claim an estimated 350,000 lives annually—more Americans every year than died in World War II and Vietnam combined—and by the Surgeon General's findings that cigarette smoking is the chief cause of preventable premature deaths in the nation, the leading cause of lung cancer and emphysema, and a cause of seven other cancers as well as heart disease.

Overholt and his fellow activists contend that the tobacco companies' gravest offense is that they knew—years or even decades before the Surgeon General's landmark warning in 1964—that cigarette smoking could cause disease; that the companies not only failed to warn consumers of the dangers but sought to convince smokers that they faced no danger. To this day the industry maintains, in the words of Tobacco Institute spokesman Walker Merryman, "that while certain studies have been done which associate smoking with a variety of diseases, no causal relationship has yet been established."

Overholt's opinion is that the tobacco industry "has covered up the fact that they sell a product that causes disability and death. I think they've known it for 40 years." Many of his colleagues agree.

Spurred by their convictions, Overholt and other antismoking activists, after many more skirmishes lost than won, believe that they have finally gained momentum in the tobacco war and in the process have altered the course of American social history.

This transformation—and the people who made it happen—is the subject of this story. It is a story about the efforts of some of the antismoking activists who are working to topple the tobacco industry, a story not about cigarettes so much as about power, politics, money, medical science, and the law. And it is a story about conflict—conflict rich with irony—for among the tobacco industry's allies has been the US Congress, whose actions at nearly every juncture benefited not the antismoking activists, but the companies. The tobacco guerrillas have found themselves combating on occasion such groups as the American associations of newspaper and magazine publishers over cigarette advertising. They have also found wanting at some points the efforts of one of the leading health organizations in the United States: the American Cancer Society. And, in an exraordinary irony, the antismoking forces have at various times found themselves opposing the largest organization of physicians in the United States—the American Medical Association.

Through the retrospective lens of history, Overholt now seems a visionary of sorts. He saw the danger earlier than most and sounded an alarm. From that time more than a half-century ago, Overholt and other activists have progressed to the point where, in recent years, they have demonstrated a newly found grasp of strategic wisdom and political savvy. In proving its effectiveness, this social and political movement has come of age. And in so doing, the movement has helped precipitate a plunge in the percentage of adult Americans who smoke, from a high of 42 percent in 1964 to 30 percent in

1985. It is a change so great that professor Thomas Schelling, head of Harvard's Institute on Smoking Policy and Behavior—an institute whose very existence illustrates the progress of the antismoking movement—calls it "one of the most spectacular social phenomena in the postwar period."

If there was a moment in the tobacco war that symbolized the antismoking force coming of age, it may have come in Boston this past January 11, 22 years to the day after the publication of the original Surgeon General's report on the dangers of smoking. On that clear, frigid Saturday, leaders of the movement from across the country, traveling from as far away as Montana, California, and Hawaii, convened to talk strategy. Approximately 80 men and women, most of them lawyers but numerous doctors as well, made their way to the basement of the Northeastern University Law School, where they followed a winding corridor to the rear of the building. Behind closed doors they convened in a large amphitheater, where their discussion centered on legal strategies.

But his was more than a gathering of litigious minds—it was a slice of history. For in the room that day were activists who had tangled in every major battle of the tobacco conflict. Dr. Overholt, at 84 one of the pioneers of the movement, as though staking his symbolic historic claim, sat up front. Seated not far behind Overholt was the unmistakably ample frame of John Banzhaf III, a lawyer who single-handledly altered the course of the battle when, in 1968, he secured $200 million worth of free television time to air antismoking commericals—the most potent weapon ever in the war. Across the room and toward the rear was the fiery Dr. Alan Blum, founder of DOC (Doctors Ought to Care) and editor of two of the most comprehensive works on the subject, special issues of the New York State Journal of Medicine. A few rows in front of Blum sat Marc Z. Edell, an impeccably dressed, perfectly postured young lawyer who was suing the major tobacco companies on behalf of clients whose illnesses and deaths were caused, he contends, by cigarettes. Near Edell sat professor Kenneth Warner of the University of Michigan, the author of a widely praised analysis on the effects of the antismoking movement. At the front of the room was law professor Richard A Daynard, founder of the Tobacco Products Litigation Project and organizer of this conference. The participants in the meeting were of different ages, from varying backgrounds and regions of the country, but they were people who, as Daynard put it, shared a "determination to bring the tobacco industry to the bar of justice . . . to do something about this epidemic."

A few people will always smoke, Overholt said, but "I think we're going to destroy it as an industry."

And where once the possibility of victory seemed remote, at Northeastern that day the antismoking leaders talked not of past defeats, but of a war being won—a belief that victory for them was not merely possible or even likely, but inevitable.

When Overholt was growing up in Nebraska, not long after the turn of the century, cigarettes were an uncommon, even alien product in the United States. But that was changed by the First World War and General John J. Pershing's declaration that tobacco was "as indispensable as the daily ration." By 1918, cigarettes were distributed with each day's ration, and an army doctor reported from France that the effect of smoking on wounded soldiers was "wonderful. As soon as the lads take their first whiff they seem eased and relieved of their agony."

Overholt was too young to serve in the war but by 1926, when he left his native Nebraska for a fellowship in surgery at the University of Pennsylvania, cigarettes were taking deep root in American popular culture. Even before Overholt found evidence through surgery of tobacco's effects on human lungs, popular and scientific publications reported that smoking caused disease. In 1924, Readers Digest began what was to become a rentless antitobacco campaign. Four years later, a report in The New England Journal of Medicine found that heavy cigarette smoking was more common among patients with cancer than among noncancer patients. Between 1938 and 1940, three important articles in major medical and science publications found that heavy smokers had shorter life expectancies than nonsmokers; that there was a link between smoking and lung cancer; and that smoking heightened the risk of coronary disease.

In spite of such reports, however, per capita consumption of cigarettes in the United States doubled between 1920 and 1930, continuing a steep climb as the Depression settled upon the country and as Overholt arrived in Boston, in June of 1931, to work as a surgeon at the Lahey Clinic. He was one of the first physicians anywhere in the world to operate on the human chest—as Overholt puts it, "the last frontier in surgery."

Around 1933 or 1934, Overholt noticed the difference between the lungs of smokers and nonsmokers. He and a colleague soon found that tuberculosis patients who smoked didn't heal as well or as quickly after surgery as patients who didn't smoke. Nonsmoking patients, Overholt noticed, required shorter hospitalization periods than patients who smoked.

"Smokers develop a chemical bronchitis from the tar," says Overholt. "Some would get a postoperative pneumonia. They had low lung reserve, and smoking reduced their capacity more. Nonsmokers had smoother convalescence."

Opportunities to speak out against smoking were infrequent, particularly during the 1930s and 1940s, when it was not an issue of great controversy; and while Overholt did what he could, he was in great demand as a surgeon and unable to do nearly as much as he would have liked to fight smoking. "I felt very frustrated by it," he says.

As he fought, smoking was gaining popularity fast and taking strong hold, particularly among men—then the great majority of smokers. Smoking was also becoming an integral part of the image many men conveyed—an "image of masculinity," according to Allan Brandt, who teaches at Harvard Medical School. By the 1940s, cigarettes had grown so popular that President Franklin D. Roosevelt singled out tobacco as an essential crop, and draft boards offered deferments to tobacco farmers.

Perhaps most disappointing to Overholt was that as of the late 1940s even his own colleagues recognized no real danger from cigarette smoking. In 1948, an editorial in the Journal of the American Medical Association—the official voice of AMA—stated: "From a psychologic point of view, in all probability more can be said in behalf of smoking as a form of escape from tension than against it. Several scientific works have been published that have assembled the evidence for and against smoking, and there does not seem to be any preponderance of evidence that would indicate [that tobacco is] a substance contrary to the public health."

Comments such as these greatly discouraged Overholt. He knew that nothing would be done about "the poison," as he called it, until there was scientific proof it caused disease. At it happened, however, he was not discouraged for long, for within a year after the JAMA editorial he heard about work being done by Ernst Wynder, a young medical student in St. Louis, work that would change opinions about cigarette smoking in the medical community and the world.

In 1947, during his second year of medical school at Washington University in St. Louis, Ernst Wynder received permission to interview lung cancer patients. After interviewing 20 or so cases he became convinced that there was a high correlation between smoking and lung cancer. At the beginning of his third year in medical school, Wynder visited Dr. Evarts Graham, a thoracic surgeon. Wynder, a native of Germany, told Graham about the interviews he had conducted the prior spring and asked permission to continue inteviewing lung cancer patients. He also asked Graham to sign on as his adviser for the project. Although Graham flatly did not believe that cigarette smoking could cause lung cancer, he granted Wynder permission to proceed, and agreed to guide him.

They obtained a grant from the American Cancer Society, the first research money the society ever awarded to study the effects of cigarette smoking on health. As the two began analyzing the data, Graham's skepticism evaporated—so much so that he quit smoking. Wynder and Graham reported their findings in the May 27, 1950, issue of JAMA. The data were overwhelming: Of 650 men with lung cancer, more than 95 percent had been smoking for at least 20 years. Wynder and Graham wrote, without ambiguity, that cigarette smoking was an important factor in the etiology of lung cancer—a finding Wynder knew was historic.

"We knew we had a break-through, but we knew we had a number of obstacles to overcome," says Wynder, who is now president of the American Health Foundation in New York. "Being right in science is only one step." It is also necessary, he says, "to be *recognized* to be right."

"Pasteur says science must discover and apply the discovery, and oftentimes the application is more difficult than the discovery itself," says Wynder. "The discovery was simple. The application was to convince everyone else that what you've found is true, and appropriate action has to be taken."

The article was widely discussed in the medical community, but its findings were not taken to heart. "Among my peers there wasn't much support for this. That was perhaps a leading disappointment," Wynder says. "It took a great length of time before we had the support of the scientific community."

Many doctors were unmoved by Wynder's work, but in Boston Richard Overholt was delighted. He praised Wynder for the breakthrough and quickly sought to recruit another local ally in the person of Dr. Dwight E. Harken, who had already gained worldwide notoriety as the first surgeon ever to operate successfully on the inner chambers of the human heart. Wynder visited Boston and told Harken he believed cigarette smoking caused lung cancer. Harken replied that he considered that notion absurd. But, like

Evarts Graham, Harken changed his mind after seeing the data.

Not long after those findings—Harken believes it was 1951—an extraordinary thing occurred. Harken was approached by C. Sidney Burwell, then dean of Harvard Medical School. Harken recalls that Burwell told him that "he had an inquiry from a very reputable source," who preferred to remain anonymous, who wanted to know "the medical evidence on smoking." Burwell asked Harken whether he believed there was "any real casual relationship between cigarette smoking and cancer of the lung." Harken remembers. "I said, 'There's no question.' I said there could be no doubt about cancer being produced by smoking." Burwell asked Harken to put his view into letter form, and Harken complied. Burwell later told Harken that the party that had inquired about the matter was a major tobacco company. Harken does not recall which one.

Harken is one of the most distinguished men of science in the world, a professor of surgery emeritus at Harvard Medical School, former president of the American College of Cardiology, and the creator of the world's first intensive care unit. His reputation is as someone not given to paranoia or extremism. He says he has scoured his files for a copy of the letter that he wrote for Burwell, but he cannot find it. He believes, although he acknowledges that he cannot prove it, that a tobacco company got the letter. "Probably through one of the secretaries," he says. "They got to her and asked that it be taken out of the files." Harken is deadly serious about his theory and says of the industry: "I feel like it's kind of like fighting the Mafia."

Wynder's findings marked the beginning of a period during which scientific research revealed consistent statistical evidence linking cigarette smoking to lung cancer. In 1952, two British doctors, Richard Doll and A. Bradford Hill, after four years of interviews, found that out of 1,357 men with lung cancer, all but seven were smokers. In 1954, Drs. E. Cuyler Hammond and Daniel Horn of the American Cancer Society found that men smoking a pack or more a day were five times as likely to die of lung cancer as nonsmokers and twice as likely to die of heart disease. The evidence against cigarette smoking was mounting so fast and was so convincing that the AMA, a group that would soon show its reluctance to oppose the industry, banned all cigarette advertising in its publications.

While Wynder and others were augmenting the research on smoking and health, the American Cancer Society was reporting that the incidence of lung cancer in men was rising at an alarming rate. All of this posed what an article in Business Week, in December of 1953, called "potentially the gravest problem besetting any industry since prohibition shut down the liquor business."

It was clear that in addition to business analysts, some smokers also had noticed the scientific findings, for in 1953 and 1954, the first time since the Depression, cigarette consumption declined. For the nascent antismoking movement these were the signs of momentum—perhaps in its infancy, but momentum nonetheless.

Wynder recalls that it was also in 1954 that the tobacco industry, for the first time, seemed to acknowledge that it faced trouble. It came in the form of an advertisement in various publications disputing evidence that cigarette smoking caused lung cancer, and announcing the formation of the Tobacco Industry Research Council. The ad stated, in part, that studies linking smoking to cancer "are not regarded as conclusive in the field of cancer research," and that "there is no proof that cigarette smoking is one of the causes" of cancer. The ad was signed by the presidents of the major tobacco companies.

In his 1982 book, "Coffin Nails and Corporate Strategies," Harvard Business School professor Robert Miles wrote that "by the mid-1950s the smoking and health threat had become recognized as serious by all members of the Big Six [tobacco companies]. It was at that time that these corporations began to pool their resources and to carefully orchestrate their responses to this major event in their institutional environment."

Despite the scientific evidence, cigarette consumption again began to climb in 1954, and it would do so for another nine years. In the face of increasing consumption, the American Cancer Society, the American Heart Association, the National Cancer Institute, and the National Heart Institute organized a study group on smoking and health, which concluded that "the sum total of scientific evidence established beyond reasonable doubt that cigarette smoking is a causative factor in the increasing incidence of" lung cancer.

In response to what they referred to as the "health scare," the tobacco companies began aggressive marketing of filtertip cigarettes, which the public thought to be safer than nonfilter cigarettes—it was believed that filters would sift our some of tobacco's nicotine and tars. A congressional subcommittee later would assert that that belief was largely unfounded, but it was nonetheless the assumption upon which millions of smokers based their switch to filtered brands. In 1950, fewer than one in three cigarettes carried a filter, while seven years later nearly half of all cigarettes were filtered.

As the medical evidence mounted, Overholt, Wynder, and others were aware that a subcommittee of the US House of Representatives had stated that "the cigarette manufacturers have deceived the American public through their advertising." They were also aware that nothing came of the report, and the subcommittee was soon dissolved. All the news was not discouraging to Overholt and his fellow believers, however. The US Surgeon General Leroy E. Burney watched the mounting evidence with growing horror. Burney closely analyzed that evidence and found Wynder's research extremely persuasive—so persuasive that he called a press conference in July of 1957 and stated that prolonged cigarette smoking was a cause of long cancer. It was the first time the US Public Health Service had taken a position on the issue—the first time the US government told its citizens that cigarette smoking was dangerous.

Burney was not surprised that the companies reacted by digging in their heels and conceding nothing. That year the major tobacco companies formed a public relations and lobbying organization to represent their interests in Washington. They called it the Tobacco Institute, and in years to come, as battles over tobacco were waged in Congress, it would prove to be an organization of astonishing efficacy.

Progress was made in the years after Overholt had first seen the inside of a human lung nearly three decades earlier, and after Wynder had begun his painstaking series of interviews more than a decade before. Where Overholt had believed cigarette smoking was dangerous, Wynder had proved it, and his findings were corroborated by reputable scientists in both the United States and Great Britain. No longer were those cautions against the dangers of smoking ridiculed.

As he worked through the late 1950s, Wynder received some sad news. His friend and mentor—Dr. Evarts Graham—wrote him a touching letter of a profound irony, "the irony that fate has played on me," as Graham put it. Graham wrote of their "long and happy cooperation in this enterprise of trying to defeat the enemy who seems to have got the best of me now." Not long after writing to Wynder, Evarts Graham, who had quit smoking six years earlier after reviewing Wynder's data, died of lung cancer.

By the end of the 1950s, medical science had proved that cigarette smoking caused cancer. The evidence was so compelling by 1960 that the American Cancer Society stated that "the clinical, epidemiological, experimental, chemical, and pathological evidence presented by the many studies reported in recent years indicates beyond reasonable doubt that cigarette smoking is the major cause of the unprecedented increase in lung cancer." Yet consumption continued to climb along with tobacco-industry profits, and the American people were smoking more than ever. The researchers were sure they were right, but the task at hand was, as Wynder put it, "to be recognized to be right." Not a single major institution in the United States—not the tobacco industry, not the government, not leading health and medical associations—mounted any sustained effort to inform the American people.

On June 1, 1961, a number of major organizations took a step in that direction. The presidents of the American Cancer Society, the American Heart Association, the American Public Health Association, and the National Tuberculosis Association wrote to urge President John F. Kennedy to establish a commission to study the problem. After a delay of many months, Kennedy agreed and instructed the Surgeon General to appoint a blue-ribbon commission to investigate. The expectation of some, perhaps understandably, was that a government commission would do what government commissions generally do—present a meaningless report that would receive as much attention as Overholt had gotten from his colleagues in the 1930s. This commission, though, would be different.

In an effort to ensure political and scientific impartiality, Surgeon General Luther L. Terry cautiously selected the commission. He met in late July of 1962 with representatives of various medical associations, volunteer health organizations, and the Tobacco Institute, distributed a list of the names of 150 "eminent biomedical scientists"—none of whom had taken a public position on the subject of smoking and health—and explained that he would select a committee of 10 from the list. Then Terry made an extraordinary offer. He said that if anyone at the meeting objected to any of the names on the list, he would delete them. There were no serious objections. Terry quickly demonstrated how seriously he took the committee's impartiality: Soon after the panel was selected, the physician chosen as the committee's executive director told a reporter that he believed the evidence to date "definitely suggests that tobacco is a health hazard." Terry swiftly fired the man.

The committee began its work of reviewing the available scientific literature on smoking—7,000 articles in all—in late 1962 and worked in secrecy for 14 months. When the members finally had analyzed the data, "it blew all of our minds," says Dr. Peter V.V. Hamill, the committee's medical coordinator. "It was hair-raising."

On January 11, 1964, the committee convened a press conference and released a 387-page report that contained the most profound implications ever for the health of the American people in a government action. The report concluded that cigarette smoking was a primary cause of lung cancer, was overwhelmingly associated with emphysema, chronic bronchitis, and cardiovscular disease, and was a major factor in premature death.

It would be difficult to overstate the significance of that historic report. Untold numbers of Americans threw their cigarettes away that day, and millions more soon followed. There immediately ensued a precipitous drop in cigarette sales—20 percent in just the next seven weeks. The tobacco industry was shaken, for the report was a threat to any one company's market share, but to the industry's very existence.

The committee's final product was sweet vindication for the likes of Overholt and Wynder. They greeted it with great joy, each gratified that the government seemed now to have entered the fray on their side. But at the same time, each man felt a sense of frustration, and others surely felt bitterness, for in the eyes of these men and other antismoking activists, the report came perhaps a decade or more too late. The fact was that the committee had drawn its conclusions from data that in some cases were 10, even 20, years old.

Wynder says the evidence was clear in 1950, 14 years before the committee's findings were issued. And Overholt believes that the report should have been issued in 1954 or even 1944. "Lives," he says, "would have been saved."

Given the strength of the report and its lack of ambiguity, it would have been reasonable in January of 1964 for the antitobacco forces to expect a closing of the ranks and a frontal assault by the government, and by the major voluntary health and medical organizations, against cigarettes. Perhaps there were some who even anticipated that the industry would bow to the findings and, in deference to the public good, begin winding down its operations. After all, how could the companies combat the report? How could they manufacture and sell a product that caused, as the government told the nation's people, the deadliest of diseases?

That the companies would not only survive the report but actually see their profits grow in the years to come is testimony in part to extraordinary business and political acumen—brilliance, really. It is proof as well of the industry's ability to rally its economic dependents, including publishers and broadcasters, the advertising industry, tobacco farmers, paper producers, and governments at every level that counted on tobacco tax revenues.

But that the industry survived the report is owed as well to another important factor: In the mid-1960s, the antismoking movement was in disarray. Worse, it was a riderless horse, a movement without a strong institutional or individual leader. Overholt, Wynder, Harken, and the others did what they could, but these men were surgeons and researchers, not orators and lobbyists. The health establishment not only did not close ranks and mount an attack, but some groups effectively abetted the tobacco companies, and without doubt the most egregious offender was a national group of nearly 160,000 physicians—the American Medical Association.

At its 1964 convention, the AMA stated that it recognized "a significant relationship between cigarette smoking and the incidence of lung cancer and certain other diseases, and that cigarette smoking is a serious health hazard." In spite of that rhetoric the AMA subsequently opposed the first initiative against tobacco in the wake of the Surgeon General's report. Just two months after the report was released, the Federal Trade Commission proposed requiring warning labels on all cigarette packages and advertisements. The warning would read that cigarette smoking "is dangerous to health and may cause death from cancer and other diseases."

At the hearings on the proposal an AMA executive vice president stated that "labeling cannot be anticipated to serve the public interest with any particular degree of success. The health hazards of excessive smoking have been well publicized for more than 10 years and are common knowledge. Labeling will not alert even the younger smoker to any risks of which he may or may not be already aware." (Public-opinion surveys, however, would later indicate that the hazards of smoking, while having been known to the scientific community for more than 10 years, were anything but common knowledge until the mid-1960s.)

"Why did the AMA do this?" asks Elizabeth Whelan in her 1984 book, "A Smoking Gun: How the Tobacco Industry Gets Away with Murder". "Cynics suggested that AMA representatives were attempting to appease southern congressmen to ensure their support against socialized medicine—a charge that the AMA termed ridiculous." Whelan also reports that in 1964 the AMA put out a leaflet advising consumers to be moderate if they chose the habit but to "smoke if you feel you should."

"Negligent" is the word Overholt uses to describe the AMA's behavior. And Donald Shopland, acting director of the US Office on Smoking and Health, says the AMA should be "horsewhipped."

Perhaps there is a simple explanation of the AMA's behavior. Within weeks after the release of the Surgeon General's report, the AMA accepted a research grant of $10 million (to be given over a five-year period) from the Big Six tobacco companies—The American Tobacco Company, Brown & Williamson Tobacco Corporation, Liggett & Myers, Lorillard, Philip Morris, Inc., and R.J. Reynolds Tobacco Company. In 1968, the companies pledged to give the AMA an additional $8 million. Shopland says that during the time the AMA was receiving money from the tobacco companies, the AMA was "not willing at all to take any kind of a public stand, and, in fact, on several [pieces] of legislation that were introduced in Congress they took pretty much a tobacco-industry position."

Dr. Alan Blum of Manhassat, Long Island, who once worked at the AMA as an editor of its journal and is today one of the leading antismoking activists, says flatly that the money the Big Six gave the AMA "was a grant to buy off the complacency and, more importantly, the silence of the AMA for 14 years."

In the wake of the committee's report, Surgeon General Terry, moving quickly to support the warning proposal, said he was "convinced that the American people have been deceived and misled by cigarette advertising—and their health has been harmed as a consequence." At congressional hearings on the warning legislation, a parade of opponents to the bill—including the AMA, newspaper and magazine publishers, broadcasters, and advertising executives—marched across Capitol Hill. While industry ranks moved in lock step, the antismoking people stumbled hopelessly.

Professor Robert Miles of Harvard, who has studied the tobacco industry over the years, reported in "Coffin Nails and Corporate Strategies" that "the major difficulty that plagued the health groups throughout the congressional hearings was a lack of agreement about what they wanted Congress to do. . . . All they could seem to agree on was that smoking was harmful to health and that the federal government should do something about it. Their inability to develop an action plan comparable to that of [the industry's] strategy resulted in a disunity that became evident as the health groups testified before the congressional committee."

Not only were the antismoking troops out organized, they were outflanked: Nearly a fourth of all congressional committees and a third of the committees in the House were chaired by members from the six leading tobacco states (North Carolina, Kentucky, Virginia, Tennessee, South Carolina, and Georgia). But the industry could not have its way on everything—its strategists knew they had to yield on something. As a result, the companies volunteered to place a warning on packages, but it would be a much milder warning than the one proposed by the FTC. In return for agreeing to a warning, the companies demanded, and got, a major concession in the bill. The cigarette-labeling act prohibited any federal or state agency from requiring a health warning in cigarette advertising for four years (Congress would later extend that to six years). Instead of the originally proposed warning—that cigarette smoking "is dangerous to health and may cause death from cancer and other diseases"—the industry got what it wanted: cigarette smoking "may be hazardous to your health." Over the years that warning "paled with familiarity," says Michael Pertschuk, former FTC chairman.

The bill became law in July of 1965 and drew a chilly reception from some quarters. As article by Elizabeth Drew in The Atlantic Monthly called the bill "an unabashed act to protect private industry from government regulation," while a New York Times editorial called the new law "a shocking piece of special interest legislation."

In spite of the threat that the Surgeon General's report posed to its existence, the American tobacco industry was in very good shape by the late 1960s. Sales were again climbing. The tobacco companies had headed off government regulation, and they won a reprieve from regulation for years to come. Their right to manufacture, market, and sell a product that the Surgeon General's committee had declared carcinogenic was unfettered. That lack of regulation makes the cigarette unique, says Donald Shopland. No other product sold for consumption in the United States was so completely free of regulation. "We regulate everything," says Shopland. Except tobacco.

The companies had weathered the storm and emerged in fine shape. But that would not be so for much longer, for the industry was about to meet one of the most effective

antismoking activists ever—a relentless and unforgiving young man named John Banzhaf III.

When John Banzhaf graduated from Columbia Law School in 1965 he was not, like so many of his fellow students, burning with the fever of '60s activism. A young engineering graduate from MIT, Banzhaf recalls frankly that his ambition was "to become a big, fat, rich patent attorney." Instead, he became one of the most effective leaders of the antismoking movement.

Before settling in to a career that would make him a well-to-do patent lawyer, Banzhaf clerked for a judge in Washington for a year, then worked on a cruise ship. It was before he left on a lengthy cruise that Banzhaf set in motion events that would forever change the course of the tobacco war.

The thought struck him one day that cigarette advertisements on television presented one side of what was clearly a significant issue. He knew that the Federal Communications Commission's fairness doctrine required television networks and stations to provide free time to air views on all sides of controversial issues of public importance. Banzhaf's polemical nature was at work when he wrote to WCBS-TV in New York requesting "a balanced presentation" on smoking. He wrote that he sought balance to "all the cigarette advertisements, which by their portrayal of virile-looking or sophisticated persons enjoying cigarettes in interesting and exciting situations deliberately seek to create the impression and create the point of view that smoking is socially acceptable and desirable, mainly and a necessary part of a rich, full life." He was at the time a 26-year-old lawyer who had never practiced law and who was in the employ of a cruise line of Swedish registry. No doubt thinking him a quack, WCBS-TV dismissed his requests. That dismissal was precisely what the contentious lawyer in Banzhaf wanted. In early January of 1967, on the day he was to depart on a 92-day, around-the-world cruise, Banzhaf sat down in the purser's office of the MS *Kungsholm*, docked in New York Harbor. In the company of a book on admiralty law in Swedish, which was of no use whatsoever, and a pamphlet from the FCC on procedures for filing complaints, Banzhaf spent several hours writing a three-page letter requesting equal time under the fairness doctrine to rebut cigarette commercials. He wrote out the letter, typed it up, mailed it, and sailed around the world.

Not quite two months after he returned and was working for a major New York law firm, the FCC replied to Banzhaf. To the shock of the financial, tobacco, advertising, and broadcast industries—and to the surprise of John Banzhaf—he won. The commission ruled that he was entitled to substantial free time to air views opposed to cigarette smoking. The ruling was issued on a Friday. The following Monday morning, Banzhaf went to work and was quickly summoned by his law firm's senior partner. "He said, 'John, did you know that our major client was Philip Morris?" Banzhaf recalls. "He said, ' Did you know that wer're in the Philip Morris *Building?*' He said, ' Did you know that the word is going around the street already and people are calling up and asking what we're going to do for our clients tomorrow!' "

Banzhaf explained to his superior that he had no intention of continuing his legal action against the industry; that he wanted to practice law and planned to leave it up to the major health organizations to prepare counteradvertising, monitor network compliance, and fight the inevitable appeal by the industry. The anti-smoking forces would be gaining a staggering amount of free air time—it would eventually total some $200 million worth from the beginning of 1968 to the end of 1970—and Banzhaf assumed that the major health organizations, led by the American Cancer Society, would take up the fight. But he was wrong.

Banzhaf met with a group of officials from the leading health groups and told them, "The battle ahead will be long, hard, and costly. I am unequal to such a legal battle. I fear that I am hopelessly outclassed. I have carried this fight so far only on my own back and at no small risk. I cannot carry it any farther alone. I need your support."

Banzhaf wanted the major voluntary health organizations to use their considerable resources to defend the FCC decision against appeals from the industry to the FCC, and to defend the ruling in appeals courts, a process that Banzhaf knew would take years. Banzhaf also wanted the groups to organize their volunteers across the country to monitor local television stations to see whether they were complying with the FCC ruling.

The voluntary health organizations unanimously rejected his request. Banzhaf was shocked at the time, but in retrospect he believes they turned him down "for a variety of reasons. One was simply kind of bureaucratic inertia. They just didn't conceive of a health organization that would be taking legal action. To them that was a dirty word. There was speculation, which they denied, that they were afraid of offending the networks and the stations who give them a lot of free time for their other kinds of public-service announcements."

Former FTC chairman Michael Pertschuk sheds some light on the health organizations' decisions as well. In his Book "The Giantikillers," scheduled for publication next fall, Pertschuk writes that "like chambers of commerce, the organizational culture of voluntary associations like the Cancer Society is shaped by their dependence upon the support of the business community. Much of the staff and many of the volunteer leaders are simply not comfortable taking an aggressive, adversarial stand against any segment of the business community, nor with any form of political advocacy other than support for research funding."

Thomas Whiteside of The New Yorker, who has written insightfully on the tobacco industry and its opponents, puts it more bluntly. "The American Cancer Society, before Banzhaf, was playing footsie with the networks," says Whiteside. "They got their little scraps of time on Sunday morning early, and they didn't want to get into a scrape with a great big industry."

One of the problems created by the FCC ruling was the question of what to fill the enormous amount of free air time with. The voluntary health organizations had produced a few antismoking commercials, which were aired infrequently and often at odd hours of the morning. Those commercials were used more often, and Banzhaf says actors, writers, producers, directors, and others responded by volunteering their services to make additional antismoking spots.

Banzhaf felt a growing disaffection with the practice of law and an increasing interest in anti-cigarette activity. "I very slowly found myself getting turned on to this public-interest law," he says. "I mean, here I was actually seeing these [antismoking] commercials running. You would hear about people who were quitting or kids who were bugging their parents to quit. I got a feeling of pride out of it. Some publicity. I didn't mind the publicity; I liked it. I contrasted that with what I was doing at the law firm, which was dull, which either had no public interest or, in some cases, negative public interest, as I saw it; where you didn't come home with a feeling of accomplishment. I got interested in doing this on a more full-time basis."

In September of 1968, Banzhaf, as he puts it, wormed his way onto the list of speakers at the First World Conference on Smoking and Health, in New York City. While urging the voluntary health organizations to take up the fight, Banzhaf denounced the cancer society for its unwillingness to get down into the trenches and fight the cigarette war. At one point, although he says it was not during his speech, he called the cancer society "gutless." They dug their heels in, and I was denounced," says Banzhaf. "When they finally, absolutely refused to take it over, it was clear to me that I was going to do it alone."

Banzhaf knew that to continue the work he would need money for legal costs and staff. In Boston, physicians Overholt and Harken heard that the cancer society and others had rejected Banzhaf's plea for help, and they were appalled. Here was a young man who had won the most significant victory ever against the tobacco industry, and his request for help had been denied? It was absurd, and Overholt and Harken meant to do something abut it. Harken organized a party at his Cambridge home to solicit sponsors for the organization Banzhaf was about to found. Harken and Overholt, along with US Senator Maurine Neuberger, Louis Jaffe, the eminent Harvard Law School professor, Dr. Alton Ochsner, the legendary researcher of the effects of tobacco on health, and Dr. Paul Dudley White, the renowned heart specialist, agreed to become trustees of Banzhaf's organization, Action on Smoking and Health (ASH); and several of them contributed start-up money. Harken also appealed for funds for Banzhaf in a 1968 article in The New England Journal of Medicine in which he wrote that "the medical profession has a rare opportunity to help the minuscule financial structure of ASH through direct financial contribution and by encouraging patients to do likewise." Against the giant tobacco companies, Harken wrote, "the only advantage ASH has is its moral position." Thus was born the first organization in the United States dedicated solely to fighting the tobacco companies. In contrast to the political and economic might of the tobacco industry, Banzhaf's one-person staff (himself), two-room office, and $8,000 in contributions, which he used to pay the rent, seemed almost absurd. But it was a start.

The television screen was stark in black and white. A familiar face appeared, but somehow the face was not the same. The man looked strange, not quite right. Perhaps he was ill. Yes, that was it, he looked sick—very sick. William Talman, who played Hamilton Berger, Perry Mason's foil in years of courtroom episodes, looked directly into the camera and spoken: "I didn't really mind losing those courtroom battles. But I'm in a battle right now I don't want to lose. I've got lung cancer. So take some advice about smoking and losing from someone who's been doing both for years. If you

haven't smoked, don't start. If you do smoke, quit. Don't be a loser."

The commercial, which ran frequently as a result of Banzhaf's win at the FCC, was made all the more poignant by the fact that by the time it was aired, Talman, at age 53, was dead. During the 3½ years prior to Banzhaf's victory at the FCC, the cancer society reported it had distributed 982 antismoking spots to radio and TV stations throughout the country. During the eight months after the FCC ruling, the cancer society distributed 4,723 commercials. In all Banzhaf estimates that the FCC ruling gave the antismoking forces a staggering $200 million worth of free air time. There is no doubt, to this day, that the commercials were the most powerful weapon ever in the arsenal of the antismoking movement, and the tobacco companies knew it. They surely watched with alarm as the commercials worked their devastating power on cigarette sales. In 1968 and 1969, cigarette consumption declined, and the companies realized that the only way to get the counteradvertising spots off the air was to remove their own commercials, thus nullifying the free-time requirement. In early 1969, as the FCC issued notice that it wanted to ban all cigarette advertising on radio and TV, the companies hatched a plan to withdraw from the airwaves voluntarily. Executives in the tobacco industry was quite plainly that the tide was turning, slowly yet inexorably, against it. And to lessen mounting pressure, the companies acceded to a strengthened warning on packages and advertisements: "Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health."

Although the antismoking ranks, thanks in large measure to Banzhaf's work, were gaining momentum, the tobacco industry was in better shape financially in 1970—largely owing to diversification—than it had been 10 years earlier. Diversification notwithstanding, the Big Six still had a huge stake in the tobacco business, so huge that in the late 1960s the most heavily advertised product in the United States was tobacco.

Congress legislated tobacco broadcast ads off the air as of January 1, 1972. The virtual disappearance of powerful spots such as the one with William Talman resulted in an immediate increase in cigarette sales. But over the long term, most activists agree, the broadcast ban hurt the industry by stripping it of the single most powerful communications tool in society, and thus undermining the legitimacy of smoking.

By the early 1970's Banzhaf saw clearly that the battlefield had changed. No longer was the conflict to be waged in medical laboratories, for proof that smoking was dangerous was by then overwhelming. The new field of battle, Banzhaf knew, would be political. The war would be fought in Congress, certainly, but more important, he thought, it would be taken to state houses, county commissions, and even city and town halls. Banzhaf believed that to make major advances in the tobacco war, Americans who did not smoke had to be enlisted in the fight. And the announcement by Surgeon General Jesse Steinfeld, in 1971, that so-called secondhand or ambient smoke was dangerous to people who did not smoke was just the sort of alarming news needed to spur nonsmokers into action. Steinfeld went so far as to propose outlawing smoking in "all confined public places such as restaurants, theaters, airplanes, trains and buses." The Surgeon General's finding that secondhand smoke was harmful to nonsmokers "gave an important reason for the great majority of nonsmoking Americans to take an interest" in the antismoking movement, says Banzhaf. The nonsmoker's-rights movement, he says, "led to the Groups Against Smoking Pollution [GASP], to laws and ordinances restricting smoking in public places."

Banzhaf was already litigating against airlines to assign separate seating areas to smokers, and in 1971 United Airlines became the first major carrier to do so. Soon thereafter, under pressure from Banzhaf, the Interstate Commerce Commission limited smoking to the back five rows on interstate buses. And, again at Banzhaf's instigation, the state of Arizona enacted a comprehensive law prohibiting smoking in all elevators, indoor theaters, libraries, buses, and other enclosed spaces.

Banzhaf says the nonsmokers-rights movement "has a strong impact on getting people to quit. We're finding people more concerned with the here-and-now social acceptability and social pressures than they are about health risks. When smoking was an 'in' thing to do, it made you sophisticated and glamorous and sexy and attractive to other people, and you saw it on the silver screen and on TV, and you wanted to do it. Today, people increasingly see smoking as a kind of a dumb thing to do."

As Banzhaf looks back on it, he sees distinctly different phases in the antismoking movement. "Phase one was aimed at the smoker," he says. "There was the original Surgeon General's report, health education campaigns, the Fairness Doctrine decision, the banning of cigarette commercials, health warnings on packs and ads, tar and nicotine disclosure. They were effective—millions of people quit smoking.

"The second front was the nonsmokers'-rights movement. Its major emphasis, its major purpose, was to protect the nonsmoker from annoyance, physical irritation, and the health hazards of ambient tobacco smoke. It gave an important reason for the great majority of nonsmoking Americans to take an interest. There were laws and ordinances restricting smoking in public places. . . . The nonsmokers'-rights movement is making it much more difficult for people to smoke. If you can't smoke at your desk, if you've got to get up and go down the hall to a little smoky room every time you want to smoke a cigarette, if you can't buy a cigarette from a vending machine or somewhere else on the premises, it makes it much harder to keep up a habit which depends on automatic and rote response."

In 1973, the tide turned against the tobacco companies and in favor of the antismoking movement in the tobacco war. That year, per capita consumption of cigarettes in the United States began a steady decline that has continued, without interruption, until today. Still, the insurgents suffered defeats in all kinds of skirmishes. Funding for the National Clearinghouse on Smoking and Health, the only federal agency devoted to educating the public about the dangers of smoking, was cut by more than half.

The movement was far from unified, Banzhaf felt the cancer society and the heart and lung associations were contributing little to the effort, and they treated him as a pariah. And even then the tobacco industry had the run of Congress, and the antismoking forces had, in the nation's capital, not a single lobbyist.

THE TOBACCO WARS

(By Charles Kenney)

On a cold, snowy day in early 1986, Dr. Alan Blum paces inside his Manhasset, Long Island home, angrily denouncing the tobacco industry. As he frowns his way from the living room to the den, out to the kitchen by way of the dining room, Blum steps carefully to avoid piles of material stacked around him. There is paper everywhere. In the living room alone, there are nine boxes and 26 piles of paper varying in height from a few inches to a foot or more. There are 32 more stacks in the den, and at least another 20 in the dining room and the kitchen. In all, more than 70 piles containing what must be tens of thousands of pages cover much of the first floor of Blum's attractive home in this quiet suburb. There are audio- and videotapes as well, and books and magazine articles. It would seem impossible for any aspect of the smoking issue—health, politics, science, advertising, litigation—to be missing from this collection. After listening to Blum for a while, it becomes quite clear that these stacks are more than just information, more than just vast quantities of paper—they are the stuff of Blum's obsession.

Blum is a gaunt man who stands an inch or two over 6 feet, yet he weighs barely 150 pounds. With glasses, drooping mustache, and rail-like physique, Blum looks something like a coffeehouse folk singer. His demeanor, though, is more like that of a sentry at the battlefront. He is remarkably intense. It is clear that his anger sometimes veers toward rage. "I'm angry, and I think that anger should be translated into ways to get other people aware of the devastation," he says.

He paces almost continuously, checking his watch to make sure he does not miss his train to New York, where he will make a connection and head off somewhere to speak to medical students. Or is it a physicians' group? Perhaps grand rounds at a hospital? It would be easy to lose track, for Blum travels the country constantly, it seems, crusading against smoking. Even some of his fellow activists who consider him abrasive and difficult concede that he is an extraordinary public speaker. His speeches are often accompanied by slide shows for which his narration is alternately grimly serious and rollickingly funny, and his cutting ridicule of cigarette advertising inevitably brings down the house. Blum has conveyed his message to millions of people through hundreds of appearances on radio and television talk shows, at demonstrations, and in speeches to all manner of groups in more than 40 states. He has become one of the antismoking movement's elite through the intelligence, passion, and tirelessness of his commitment.

With time growing short before his train is to leave, Blum rails against the tobacco industry's public relations and lobbying organization in Washington, D.C., the Tobacco Institute. "The Tobacco Institute?" he asks in a mocking tone. "What is this about an institute about public relations? You could say the Pretzel Institute. It's not science. The Tobacco Institute is public relations. It's PR flack. It's propaganda. It's like the Nazi Institute for racial studies."

In the past, Blum debated representatives of the Tobacco Institute, but he refuses to do that now, saying that they are "not decent enough" to argue with.

"Cigarette smoking is a disease in and of itself," he says. "The act of promoting it

and the creating of a vehicle to sell it is a pathological and sociopathic process that's got to end. . . . I don't care so much about banning advertising . . . as much as destroying the cigarette industry. . . . You have to do something about the origin of the problem. The origin of the cigarette smoking problem is the cigarette industry. It's not the tobacco farmer, it's the manufacturer and the promoter. It's the advertising people who lend their sense of perverse reasoning and logic to selling a product that they know will result in death. . . . I'm out to end the sales of cigarettes.

"Also," he adds, quite matter-of-factly, "I think what's going to have to happen is putting some of these corporate presidents in jail for going after kids."

When Aan Blum was 5 or 6 years old, his father, a family doctor on Long Island and a three-pack-a-day Chesterfield smoker, suffered a major heart attack. After he recovered, Blum's father became convinced that smoking had contributed to his heart problem, and he quit. "We would be sitting watching baseball games in the '50s," Blum recalls, "and a commercial would come on—'Winston tastes good, like a cigarette should,' or Lucky Strike or what have you, and he'd ask me to go turn on the tape recorder and tape these things, because people wouldn't believe one day that this went on, that people were paid far more than you or I would ever see to propagandize, to get people to smoke, essentially to kill them. He was the only person I've ever met who was talking about cigarette advertising at that point. He was shocked that they could keep on advertising like that."

After graduating from Amherst College, inspired by his father, Blum went to Emory University School of Medicine in Atlanta, graduating with the class of 1975. Blum intended to start a family practice eventually, and toward that end he began a residency in family medicine in Miami. One day he saw a patient with lung cancer "so severe it was literally eating through her whole chest wall." He despaired. What could he do for this desperately ill woman? From reading the latest research, Blum knew that nine out of every 10 cases of lung cancer were caused by cigarette smoking—that cancer of the lung would virtually disappear if cigarettes did not exist—and it was perhaps the senselessness of the woman's terminal disease, its eminent preventability, that nagged at him. One evening soon afterward Blum was driving home listening to a Miami radio station when he heard a man named Bill Dwyer from the Tobacco Institute talking on the Larry King show about the antitobacco "do-gooders."

"So I called up naively," Blum recalls, "and I said, 'What's going on there? You have the most biased, nonsensical program. You have a paid PR person from the tobacco industry; why don't you have equal time?' And they first hung up, and I called back, and they said, "Okay, when do you want to come on?' Then he announced on the air that 'some doctor wants to challenge you, Bill.' " A debate was arranged for that April 1977.

"He beat the pants off me," Blum recalls. "He was a showman. Dwyer used this marvelous thing of being calm, being cool, talking about people like, 'this doctor here, this well-meaning doctor here.' " At this point in recounting the story, Blum slows into the imitation of an ever-so-deliberate, reasonable tone—" 'People who want to tell you how to run your life. People who don't think you're mature enough to make your own decisions in life. People who don't want to look at the evidence. We would love to know what caused cancer. We wish we could find out what it is that statistically has associated people who smoke with more diseases. We happen to feel that people who smoke are so much more outgoing, they have more fun, they enjoy life more.' " Blum stops and recalls his response. "And then when I'd get apoplectic and turn blue and say, 'but-but-but-you-you're-it-says-that-the Surgeon General says . . .' he'd say, 'Doctor, you know statistics can be made to do anything.' "

Blum pauses, lost momentarily in the vivid recollection. He says in an almost somber tone: "My wife says it's the only night in our lifetime together I didn't get any sleep. I was very upset. He made me lose my cool. He made me look like a fool."

Blum was soon obsessed with the issue. He felt compelled to act, and after thinking about various options he decided to start an organization he hoped would counter, in some small way, what he saw as the tobacco industry's insidious advertising. He called the organization DOC, for Doctors Ought to Care. Blum knew how effective anticigarette broadcast advertising could be, for he had closely followed the experience in the late 1960s of a young New York lawyer named John Banzhaf III. Invoking the fairness doctrine, Banzhaf had petitioned the Federal Communications Commission for free television time to rebut cigarette commercials. And he had won. The result was that antismoking forces were given $200 million worth of free air time to attack smoking. Their ads were so effective that to get them banished, the tobacco companies volunteered to stop their own TV advertising. Blum's idea was that DOC would raise money for anticigarette advertising. He recruited other physicians and collected funds to buy billboard space for antismoking ads. But billboard companies derive huge profits from the tobacco industry—nearly half of all billboards in the United States promote cigarettes—and the local billboard company refused to sell Blum any space. The company offered to give him free space for noncontroversial messages, but not to attack cigarettes. Blum lowered his sights a bit, bought space on bus benches in Miami, and posted signs mocking cigarette ads with slogans such as "Country fresh arsenic" and "Full-bodied cyanide." Blum and his few dozen fellow members of DOC spoke in junior high schools, organized picket-line protests of a Benson & Hedges-sponsored film festival, and while picketing the event, referred to the Virginia Slims tennis tournament as the "Emphysema Slims."

Blum also started a radio program, *The Doctor Show*, during which he discussed a variety of medical issues and gave his listeners advice. It originally ran for three hours on Sunday mornings but gained in popularity and was moved to a time slot every weekday morning for an hour. Blum was also writing five commentaries a week for the radio station and reporting medical stories for a local TV station—a relentless antismoking campaign on top of his responsibilities as a medical resident. Blum didn't mind the workload; in fact, he loved conveying his antismoking views to very large numbers of people. It was also a way for him to polish his communications skills.

While working in Miami as a resident, Blum was elected to the governing council of the American Medical Association Resident Physicians Section, and he discovered, much to his chagrin and astonishment, that the AMA held $1.4 million worth of stock in the nation's two largest tobacco companies—Philip Morris and R.J. Reynolds. At Blum's instigation, he and other residents brought this to the attention of the AMA Board of Trustees and urged the board to sell the stock. In urging divestment, Blum and several colleagues wrote to the board warning that if word of the AMA's stock ownership leaked to the public it would be very embarrassing. Nonetheless, the board rejected the proposal to sell the stock.

Why did the AMA buy the stocks in the first place? Kirk B. Johnson, general counsel to the AMA, explained last month that the AMA invests in tobacco companies to make money for its pension and insurance funds, and "it has an obligation to people who have stakes in those programs to use as its primary criteria and probably its sole criteria whatever will produce the best kind of income that these people are depending on it for."

Blum would not let the matter rest, however, and not long after his proposal was turned down he moved into a position where he was able to exercise more influence in such matters. Blum had long planned to go into family practice, but he had grown so enamored of the media work he was doing that when his residency was up in 1979 he chose a new direction. He applied for and was awarded a fellowship to work for a year at the *Journal of the American Medical Association* in Chicago, the official organ of the AMA. At *JAMA*, Blum worked as an editor and wrote about smoking. He also worked behind the scenes to try to persuade AMA officials to sell the tobacco stock, but the AMA brass was adamant.

The organization's House of Delegates reaffirmed that posture in the summer of 1981, when delegates voted overwhelmingly to affirm the decision not to sell the stocks.

Along with some of his colleagues, Blum made his views known to newspaper reporters, who wrote about the AMA's holdings, causing the organization some embarrassment. Soon thereafter, the AMA reversed its position and sold its shares. Blum was gratified, but he found that his efforts in that area had earned him the enmity of many officials at the AMA. By the end of his fellowship, he says, he did not find the atmosphere at the AMA "compatible."

While Blum was working in Miami, and later at the AMA, antismoking activists continued to win small skirmishes, but in important battles throughout the country they were beaten more often than not. An illustration of the tobacco industry's political muscle came in 1976, when Congress removed tobacco from the jurisdiction of the Consumer Product Safety Commission, making it the only consumable product that is totally free of federal regulation. And Philip Morris Incorporated successfully headed off the release of *Death in the West*—a powerful documentary about six Marlboro Man-style cowboys who were in various stages of dying from lung cancer or emphysema. (Philip Morris maintained, and a court agreed, that the company was deceived by the producers of the film and was not aware its commercials would be used in unfavorable light). To combat smoking, US Health, Education, and Welfare Secretary Joseph Califano established the US Office on Smoking and Health, but at least in part because of his opposition to cigarettes, Califano was fired by President Jimmy Carter, who did not want a Cabinet member alienating Southern tobacco states so close to an election. Meanwhile, in California, the in-

dustry spent $8.5 million to defeat two proposals to restrict smoking in public places.

In spite of its success, however, the tobacco industry publicly recognized the growing pressure of the opposition when the industry publication, *The Tobacco Observer*, characterized the nonsmokers' rights movement as "the most dangerous development to the viability of the tobacco industry that has yet occurred." That was not the only bad news for the tobacco companies. In 1979, Surgeon General Julius Richmond released a report stating that smoking was far more devastating than was known when the first Surgeon General's report was issued in 1964. Richmond's report stated that cigarette smoking is addictive, causes lung cancer in women, is harmful to the unborn child of a pregnant woman, and acts synergistically with occupationally hazardous materials such as asbestos. Richmond's findings jarred many smokers; public opinion surveys later revealed that during the 14 days after his statement, more Americans tried to quit smoking than had attempted to stop during any other two-week period since the 1964 report.

Richmond's report preceded a number of important victories for the antismoking forces. Studies in Japan and Greece showed a correlation between "involuntary" smoking and lung cancer in nonsmoking wives of men who smoked; a Federal Trade Commission staff report concluded that cigarette companies specifically target adolescents in their advertising and attempted to offset health concerns of consumers; and a pirated copy of *Death in the West* was shown, finally, on a San Francisco television station—to rave reviews.

But what most discouraged antismoking guerrillas such as Blum was the lack of activism on the part of the government and major voluntary health organizations—the American Cancer Society, the American Heart Association, and the American Lung Association. Ironically, it was a commission established by the American Cancer Society that, in 1983, sharply criticized the intertia of the government and the major voluntary organization. In evaluating the effectiveness of the antismoking movement, the National Commission on Smoking and Public Policy concluded that government efforts were "minimal and symbolic." The efforts of the health organzations it found "fragmented." None of the organizations, the commission stated, "has expended substantial sums in this area in relation to the size and scope of the problem." The commission's executive director estimated that the cancer society was allocating only about two-tenths of 1 percent of its annual income to combat tobacco.

Blum notes that the cancer society has done much more lately. But, he adds, "I don't think they've come anywhere near what they should be doing. It is disappointing that they haven't really rocked any boats or made any waves. I can understand a certain need for conservatism, but I think proportionate to their mission they haven't done what they could be doing."

Donald Shopland, the acting director of the US Office on Smoking and Health, agrees: "The cancer society and the heart association just were not involved to the degree they should have been, given the amount of mortality cigarette smoking causes."

After leaving the AMA, Blum spent a year in Australia as editor of the *Journal of Medicine of Australia* before returning to the United States. In January of 1983, he became editor of the *New York State Journal of Medicine*, where his objective was to create something unique: to dedicate an entire issue of a medical journal to the topic of cigarette smoking. Seven months later Blum had produced a 163-page issue of the journal that featured on this cover a decades-old advertisement for Chesterfield cigarettes. The ad featured an attractive young woman posed against a red background, holding up a package of Chesterfields, with the headline: "After a man's heart." (Blum's father, the heart attack victim, was a Chesterfield smoker.)

The issue, entitled "The World Cigarette Pandemic," was a landmark document. It included more than 50 articles by respected experts on every aspect of smoking. Included were articles from five men who had served as US Surgeon General, as well as interviews with Blum and current Surgeon General C. Everett Koop. The issue included articles on health, politics, the Third World, advertising, ethics, and more. The issue was hailed as a major contribution to the literature on smoking, for unlike most medical journals, it was circulated far beyond medical and scientific circles. An editor at the *Columbia Journalism Review* praised the issue and in so doing brought it to the attention of thousands of journalists who did not specialize in science.

Almost immediately after the issue's publication, Blum headed for Binghamton, New York, to speak to medical students. When he arrived at the office of Dr. George Gitlitz, a vascular surgeon, Blum recalls that Gitlitz told him, "Alan, if you never do anything for the rest of your career, you can rest [assured] that this was great."

Blum was delighted with Gitlitz's reaction, but he shot back: "You should see what I didn't put in." And right away Blum went to work on a second special issue, published last July, running 219 pages, and, in Blum's mind, "a far better issue."

Unlike virtually every other important antismoking activist in the country, Blum is pessimistic about the future. "We're not winning," he says. "At best, we're holding our own. We're looking at it and saying, 'We're winning the war on smoking. All my yuppie friends are no longer smoking. They're jogging.' And we're saying that must be the world, but we're not looking at the countries where cigarette smoking is still dramatically rising, not decreasing. This is a world problem. Not only are we not winning the war against smoking, but it's probably at its origin in Africa and Southeast Asia, and nothing is being done. Virtually no one works full-time to counteract this industry."

Blum checks his watch and frowns. Caught up in the topic, he has lost track of time and missed his train. He will catch the next one, agitated that this may mean he will miss his connection. He is upset as well because he has recently been fired from his job as editor of the New York State Journal of Medicine. He says he was working on a third special tobacco issue this past January when he was abruptly dismissed. He says he was told that three special issues were inappropriate for a state medical journal. He says he was told as well that he had run the journal poorly. He does not regret, however, having made this crusade central to his life. "It's the thing that I can do best," he says. "It's actually my best skill. I've frittered away all sorts of clinical acumen. I've got a sick kid right now, and I don't know what's wrong with him."

On the train to New York City, heading off to speak against smoking in a distant city, Blum wonders aloud what he will do to support his wife, who is pregnant, and his two children. He cannot conceal his distress. But his mind switches back as he looks up at a railroad station clock advertising Benson & Hedges. He shakes his head, a look of anger and disgust on his face. "See," he says, "they've even got the clock."

Many other antismoking activists express a good deal of optimism, a feeling founded in the belief that while their success in the past has been slow—often painfully so—a new weapon in the antitobacco arsenal could bring a decisive victory within the foreseeable future. The new weapon, as John Banzhaf III puts it, is to "sue the bastards!"

The man who has emerged as one of the engineers of the new weapons system is a professor of law at Northeastern University Law School named Richard A. Daynard, a man with a brilliant academic record. By the age of 29 he had earned a law degree from Harvard, a PhD in urban studies and planning from MIT, and was teaching law at Northeastern and psychiatry and the law at the New England Medical Center. Daynard is a thin, wiry man with a disheveled appearance. He seems to carry a permanent smirk on his face—not the grin of a wise guy, but a sign of affability. Daynard's initial involvement with the antismoking movement came in the mid-1970s, when he became interested in nonsmokers' rights. "I was always amazed," he days, "that as a nonsmoker I was expected to sit quietly and breathe other people's smoke."

The aggressive style of a Boston-based group called GASP (Group Against Smoking Pollution), founded in 1972, attracted Daynard, and he signed on as a volunteer. He drafted an ordinance restricting smoking in restaurants, which became the model for similiar measures in 27 Massachusetts communities. Daynard also mapped legal strategy for a state employee who wanted to work in a smoke-free environment, a landmark case that, after years of fighting, the worker finally won. By 1983, he had become president of GASP.

Daynard was always looking for ways to further his antismoking aims and, two years ago, as he was discussing products-liability law with students in a seminar, it occurred to him that the principles of such law might very well apply to the tobacco industry. At the heart of products-liability law, he says, lies a very simple principle: that companies are responsible for damage done by their products. Daynard believed it would be possible to argue successfully in court that the cigarette companies knew as early as the 1930s and '40s—long before Congress mandated warnings on cigarette packs and advertisements—that cigarettes were dangerous, yet they failed to warn smokers of those dangers, and that as a result of that failure, many people continued smoking, got sick from it, and died. Daynard knew that during the 1950s and '60s smokers who had become ill had brought suits against the companies, but they had failed, and since that time products-liability law had evolved to the point where it was less difficult for plaintiffs to win in court.

While this approach was germinating in Daynard's mind, other lawyers in different parts of the country were in the early stages of a handful of suits against tobacco companies. Before preparing a memorandum on the applicable law, Daynard called Banzhaf, founder of Action on Smoking and Health (ASH) and one of the most knowledgeable men in the country on antismoking litiga-

tion. Banzhaf told Daynard he knew of lawyers in New Jersey, Tennessee, and West Virginia who were suing tobacco companies. Daynard called them all. "What I realized after talking to them was that they had never talked to each other before," he says. "There was a vacuum there. None of these people had talked with each other, which was hardly the case on the other side." The other side, as Daynard calls the tobacco industry, has hired some of the best and most expensive legal talent in the United States, and it has demonstrated that it will continue to fight the suits at every turn, for these are cases the companies simply cannot afford to lose. In the fall of 1984, to combat the industry's legal might and to foster the sharing of ideas, information, and strategy on the antismoking side, Daynard organized the Tobacco Products Litigation Project.

How, he asks, could the companies not have known the dangers of smoking? He refers to the study published by Drs. Ernst Wynder and Evarts Graham in JAMA in 1950 and fairly shrieks: "1950! Anybody who can believe that the tobacco industry did not know about an article in JAMA on the effect of tobacco can believe anything. I have zero-point-zero-zero doubt. There is no possibility that they didn't know about these studies."

Daynard believes it inevitable that the lawsuits will succeed, in part because the companies' defense is fundamentally contradictory. "They say, number one, cigarette smoking is not dangerous," says Daynard. "And, number two, the plaintiff should have known smoking would kill him." Put another way—smoking isn't dangerous, but the plaintiff should have known it was dangerous.

"I think they're going to lose lots of cases, because juries are going to get very angry with them," he says. "A guy comes in, and he's on his last legs, or he's dead, and they say, 'He's a jerk, He should have known.'"

Millions could be won in these suits, says Daynard, because the purpose of products liability law is not only to force the manufacturer of a dangerous product to pay for the damage done by the product, but also "to bring companies to justice and stop their outrageous behavior."

The suits against the tobacco companies come in the wake of legal action against North American asbestos companies, and it is the success of that litigation, more than anything else, that encourages antismoking activists. So effective were the suits on behalf of former workers in asbestos plants—workers who became ill and died as a result of exposure to asbestos fibers—that the industry was brought to its knees. Johns-Manville (reconstituted as the Manville Corporation) paid out so much money to so many employees and former employees who sued that it became the largest American company ever bankrupted.

"There is very little difference between these cigarette cases and the asbestos cases," says Daynard. "The crucial parallel is that the companies knew long ago about the dangers and instead of actively informing the people who were exposed, did exactly the opposite—stonewalled and tried to deep-six the evidence."

There are two major differences, however. One, which may very well affect the court cases, is that Congress never required a warning label to be placed on asbestos packages, as it did with cigarettes. And the other, which will have no effect on the suits, is an enormous difference in the number of people affected. In his book on the fall of the asbestos industry, *Outrageous Misconduct*, which was published last year, Paul Brodeur reports that over the next 30 years or so, several hundred thousand people are expected to die prematurely of asbestos-induced illness. But the Surgeon General estimates that an even greater number of Americans will die of cigarette-induced diseases in *one* year.

A lawyer who is working on eight suits against tobacco companies and who also worked on asbestos cases—on behalf of an asbestos company—agrees with Daynard's assessment that the suits are similar. Marc Z. Edell of Morristown, New Jersey, says that from a legal perspective there are no major differences between asbestos and tobacco cases. In fact, says Edell, the quality of scientific research into cigarette smoking is far better than that on asbestos. "It is unbelievable to compare the literature on asbestos to the literature on cigarette smoking," he says. "There's a much stronger case against tobacco than there is against asbestos."

Edell maintains in his lawsuits that the scientific information on tobacco's dangers was sufficient as long ago as the 1930s and 1940s, so the tobacco companies "definitely should have warned" smokers back then.

To date, Daynard says, about 100 lawsuits have been filed by smokers or their survivors against the major tobacco companies. While the only two cases to reach trial thus far have been won by the companies, more cases may be headed for court later this year. In one suit, a Newton woman is charging the Liggett Group with negligence in the death of her husband six years ago. Joseph Palmer died of lung cancer at the age of 49 after having smoked between two and four packs of L&Ms a day for 23 years. Palmer's widow, Ann, contends that because Liggett & Myers manufactured, promoted, and sold the product she believes killed her husband, the firm bears some responsibility for her husband's death. And she is suing it for more than $1 million. Another suit, scheduled for trial this month in Oklahoma, was brought by the survivors of a 19-year-old Oklahoma man, charging that his death from mouth cancer was caused by chewing tobacco and that the company knew the product was dangerous yet never warned consumers.

Suits against the cigarette companies received a serious setback last month, when a federal appeals court—overturning a decision activists had seen as a major victory—ruled that the 1965 cigarette labeling act passed by Congress renders companies immune from suits that charge them with failing to warn consumers of cigarettes' hazards. The ruling came in a case in which Edell is suing several major tobacco firms on behalf of a New Jersey woman named Rose Cippolone, who died of lung cancer at the age of 58 after having smoked cigarettes for 42 years. Until the appeals court ruling, the Cippolone case had been considered strong because in the process of discovery—that is, pretrial disclosure of hitherto secret papers germane to the case—Edell has reviewed more documents and records from tobacco companies than any other lawyer in any suit.

Edell says he will appeal the ruling to the US Supreme Court and, if that fails, he will seek to try the case with a different legal strategy. Instead of arguing that the companies failed to warn Cippolone, he will contend that cigarettes are an unreasonably dangerous product—that their risks vastly outweigh their benefits. Edell says that, under the law, no warning is sufficient for products deemed to be unreasonably dangerous. "If the risks of the product outweigh the utility of the product, the warning is useless," he says.

The case depends in part upon whether a jury believes that Cippolone smoked cigarettes even though she knew they were dangerous—that she voluntarily assumed the risk of smoking. Before she died, Cippolone said in a deposition that she did not believe cigarettes would kill her, and according to Edell, that "certainly the government would never let people sell products that caused cancer." That belief on her part, says Edell, coupled with evidence that smoking is addictive, means that she did not voluntarily encounter the danger of smoking.

Prior to the appeals court ruling, Edell said that to win, he would try to demonstrate that the companies knew "there was sufficient information to give rise to a reasonable inference that the product which [the cigarette companies] were selling posed potential health hazards to the users of it." Now he cannot use that approach, although he says there is no question in his mind that that is true, and he has been working toward proving that point for nearly three years.

Edell has already spent about 200 days gathering depositions, questioning past and present chief executive officers of every major cigarette manufacturer, top officials at the Tobacco Institute, and officials from the AMA and advertising agencies. During the process of discovery, Edell has reviewed more than a million documents. He and his firm have already spent $1.5 million worth of legal time on the matter and, to date, have received not a dime. If he and his colleagues win the cases they will make money—perhaps a fortune—but if they lose, they will have lost millions in time. "It's a serious commitment," Edell says emphatically. "We are committed to it. We have eight cases. We will win one of these cases.

"You have got to paint a complete picture for the jury," he says. "You've got to explain to the jury what these people are like, what these tobacco companies are really like, and the extent to which they have gone, over the years, to minimize the health hazards to influence what has gone on in terms of regulation."

Edell believes he will win, in part because of a change over the years in the attitude of the public—and prospective jurors—toward smoking. "At this point the public is inclined to believe that cigarette smoking clearly causes lung cancer, whereas back in the '50s and '60s, when some of the earlier cases were being tried, there were many more smokers."

The tobacco industry is confident in its position on the suits, however. Scott Staph, a spokesman for the Tobacco Institute in Washington, says that since the early 1950s the companies have won every case brought against them. And he points to the appeals court ruling as protection for the companies.

Shortly before Christmas of 1985, the first two suits in the modern wave against the industry went to trial in California and Tennessee. Both plaintiffs lost.

Daynard was not the least bit surprised by one verdict. In the California case of Galbraith v. R.J. Reynolds, Inc., testimony from expert witnesses in the trial made it unclear just what caused John Mark Galbraith's death. Daynard says that 350,000 Americans died of cigarette-related diseases last year, and it appeared to him that Gal-

braith "wasn't one of them," Daynard thinks it a moral victory of sorts that the jury's vote was only 9-3 against Galbraith.

In the other losing case, tried in Knoxville, Tennessee, a judge directed the verdict against Floyd F. Roysdon, who contends he became afflicted with peripheral vascular disease as a result of smoking cigarettes. "The judge said everybody should have known the dangers," says Daynard. "But Roysdon had peripheral vascular disease, and nobody knows cigarette smoking causes peripheral vascular disease except doctors and cigarette companies." The Roysdon case is on appeal.

In spite of the losses, antismoking activists exude confidence about the lawsuits. "The minute the first one comes down, it's going to have a tremendous educational effect," says Banzhaf, the executive director of the antismoking group Action on Smoking and Health. "The tobacco industry has been telling people for years, "There is no evidence. We're not allowed to present our side. The government is biased." Once a jury of people decides that 'Yes, this guy's lung cancer, emphysema, whatever, was caused by smoking,' that, I think, will have an impact even on the most skeptical of people.

"Secondly, it's going to wake up a lot of people to the possibility that they can sue. The minute one of those things comes down, they're going to come jumping out of the woodwork. It will have an immediate impact on the financial status of the industry. Imagine what's going to happen on Wall Street the day after one of these suits is decided. In the long run it'll affect their ability to raise money through bonds. It will tremendously affect their ability to get liability insurance. They're going to have a hell of a time ever getting liability insurance again.

"So, in a sense, the entire corporate financial structure will be hit very, very significantly. The first suit will be a couple-hundred-thousand bucks, a million. Five or 10 years from now there will be large verdicts, and when punitive verdicts come in, we're talking big money."

Banzhaf envisions a day when, after successful lawsuits, the companies will be required to increase the price of cigarettes by perhaps $1 per pack; some people believe the increase could be triple that. "It would be a very, very strong disincentive for people to smoke," he says.

If there was a moment in the tobacco war that symbolized the antismoking forces' coming of age, it may have come in Boston this past January 11, 22 years to the day after the publication of the original Surgeon General's report on the dangers of smoking. On that bright, wintry Saturday, leaders of the movement, from as far away as Hawaii, gathered at the Northeastern University Law School. It was a historic meeting in its own way, for it included activists who had been involved in just about every major battle of the tobacco war. Dr. Richard H. Overholt, one of the pioneers of the movement, was there, as was Banzhaf, the lawyer who had single-handedly altered the course of the battle when he secured $200 million worth of free television time to air antismoking commercials—the most potent weapon thus far in the war. From New York had come Dr. Alan Blum, and from New Jersey, Marc Edell. Daynard presided over the gathering of people whom he described as sharing a "determination to bring the tobacco industry to the bar of justice . . . to do something about this epidemic."

There was a degree of pessimism, reflected in Blum's dark view that the struggle is not going well. That perspective was buttressed by a report, published by the Worldwatch Institute, a Washington think tank, only weeks before the meeting at Northeastern, contending that "the leading cause of premature death among adults in 1985 was not Africa's famine, warfare, or the attacks of international terrorists: It was cigarette smoking. Smoking remains at epidemic levels in industrial countries and is growing exponentially in the Third World . . . Antismoking efforts are meeting with only limited success in industrial countries and are failing in developing ones. World tobacco consumption is up 75 percent over the last 20 years."

Additional bad news was the disturbing trend showing that, increasingly, class lines distinguish smokers from nonsmokers. Thomas Schelling, Harvard professor of political economy and director of the Institute on Smoking Behavior and Policy at the John F. Kennedy School of Government, who was also at the Northeastern meeting, points out that poor and working-class people are more likely to smoke than better-educated and wealthier people. Schelling put this into stark relief: College-bound high school seniors are 2½ times less likely to smoke than are seniors who are not going to college.

In spite of such signs, however, it has grown increasingly clear during the past few years that the antitobacco forces are winning, that time is running out on the industry. Steadily, over the years, the percentage of the US population that smokes has shrunk from 42 percent in 1965 to 30 percent in 1985. Many family physicians, by quitting themselves, set an example that has been followed by millions of their patients—middle-aged men in particular. The physical-fitness craze that swept the country was an important factor, for it offered no place in the new regimen of health consciousness for cigarettes. Through the years prohibitions against smoking grew steadily, then geometrically, to the point where opportunities to smoke have been significantly curtailed. And Schelling points out that cigarettes have all but disappeared from the giant mirror of pop culture: prime-time television.

At Northeastern that day, in January the talk was not of defeats, but of victories—of a war being won. Those at the meeting recalled the success in San Francisco, where antismoking activists defeated the tobacco industry's million-dollar-plus campaign and won an ordinance restricting smoking in the workplace. There were additional encouraging signs. Two major Southern religious groups—the Southern Baptist Convention and the North Carolina Council of Churches, organizations in the heart of tobacco country—took tough antitobacco stands in recent years. Since 1970, one-third of all smokers—a total of 33 million Americans—have quit. Harvard University divested tobacco holdings from its endowment fund because the university believed the stocks were a poor investment. And one of the most important victories the antismoking people have won in Washington, D.C., came not long ago, in the form of a new labeling law in which four strongly worded warnings alternate on packages and advertisements.

There was a sense of progress at the meeting, a notion supported by the results of a scholarly analysis conducted by professor Kenneth Warner of the University of Michigan. Warner's study showed that specific antismoking initiatives correlated highly with reduced smoking in the population, and that as of 1978, without the work of the antismoking movement, per capita consumption of cigarettes would have been more than 33 percent higher.

One of the most significant changes has been the newfound political clout of the antismoking movement. At long last, all the voluntary health organizations threw their considerable weight behind their Washington lobbying organization—called "The Coalition on Smoking *or* Health." And their first major fight—the battle over explicit warning labels for packages and advertisements—demonstrated their muscle. Never before, says former Federal Trade Commission chairman Michael Pertschuk, had the tobacco industry lost a fight on Capitol Hill. Professor Warner observes that "the very existence of the coalition is remarkable, given the long history of often-bitter noncooperation among the three associations."

Simultaneously have come the first significant divisions within the legendary tobacco lobby. Appearing on *Face the Nation* earlier this year, Representative Charles Rose of North Carolina, one of the most staunchly loyal tobacco-industry supporters through the years, said, "Our position is changing. Those of us that represent the people who grow tobacco really are taking a different approach to the companies, because the companies are beginning to import foreign tobacco in ever-increasing amounts. They are hurting our constituents very badly. I'm not the lock-step loyalist to the tobacco companies that I was five years ago. In my opinion, the tobacco companies are rapidly losing their grip on Capitol Hill."

Even the American Medical Association has joined the fight in earnest, and in recent years it has become a central force in the antitobacco movement. The AMA's House of Delegates earlier this year voted to propose legislation outlawing all advertising of tobacco in the United States, and in February *JAMA* ran an issue devoted almost entirely to the topic of smoking.

"Who's winning?" asks Dr. Ernst Wynder, author of one of the earliest and most significant studies linking smoking to lung cancer. "We've got 35 million ex-smokers. When I first started, 75 to 80 percent of men smoked. Today it's down under 30."

At Northeastern that day there was a feeling brand-new to the antismoking movement, and that was a belief that victory for them was—not possible or even likely—but inevitable.

Professor Schelling says, "If I had to bet money, I would bet that smoking steadily declines from now on as a percentage of the population. If it goes down a quarter every decade, in 25 or 50 years it will be down to where only 5 to 10 percent of the population is smoking."

Perhaps those must gratified by the progress of the antismoking movement are the earliest pioneers—physicians such as Overholt, one of the first surgeons to operate on a human chest and see the effects of cigarette smoking, and Dwight Harken, the first man to perform surgery on the inner chambers of the human heart. Overholt, who is 84, and Harken, who will be 76 in a few weeks, say the antismoking movement has come a very long way indeed.

"We are winning the war," Overholt says. Some people will always smoke, he says, but he adds, "I think we're going to destroy it as an industry."

Harken agrees. He says he is particularly sanguine about the potential success of the

lawsuits. "I know we'll win one," he says of the suits. "I know we'll win one soon." But he is clearly alarmed by the possibility that victory will not come swiftly enough to be witnessed by activists of his generation. It is with sadness that he says that he is "scared they won't move fast enough. That none of us who were vigorously espousing this cause will be alive."

At Northeastern, Overholt and Daynard listen intently as William Townsley, a lawyer from Beaumont, Texas, talks about the 24 suits he and his partners have filed recently against the tobacco companies. The physicians listen also to George Braly, a lawyer from Ada, Oklahoma, who is suing several tobacco companies on behalf of the 19-year-old man who died from mouth cancer that Braly contends was caused by chewing tobacco. Townsley and Braly have a good deal in common. Both are conservative Reagan-Republicans, quiet men who seem to make an effort not to draw attention to themselves.

"He's a very thoughtful, careful guy," Daynard says of Townsley. "He's a very sound, meticulous guy. When he moves he will be very firmly supported. He will have examined the facts carefully." Townsley is a calm, even shy man who dresses conservatively and speaks in a quiet Texas drawl. He talks a bit about his cases and about what he calls "the cruel and dishonest response" by the tobacco industry to the 1964 Surgeon General's report. The decent thing, Townsley says, would have been never to promote cigarettes. He says that in court he will attempt to show that the industry has "dealt in bad faith with the public." That it aims its promotions at children, because "children are the replacement smokers for those who die and quit."

The industry's distortions "are causing people to underestimate the magnitude of this risk," he adds. "They need to concede that the Surgeon General was substantially correct."

These are not men given to extremism. But like Townsley's, Braly's voice takes on an edge when he talks—in almost a whisper—about the tobacco companies. Braly outlines his case, describing in painful detail the excruciating death of the 19-year-old cancer victim. Braly talks about going through the process of discovery with the tobacco companies, and as he does so he slowly, almost imperceptibly, shakes his head as though in disbelief. He narrows his eyes and says softly, "When you get involved with discovery, I am overcome with the sense of unspeakable evil from the tobacco companies."

Townsley describes some of his cases. He talks about the foundations of products-liability law, and he struggles a bit in his summation. "To encourage someone to use a deadly, addictive product," he says, groping momentarily for the word he wants, speaking in a low voice yet with a certain force, "is wrong."●

CALL TO CONSCIENCE: THE YUZEFOVICH FAMILY

● Mr. MITCHELL. Mr. President, the great festivities with which we recently marked the centennial of the Statue of Liberty serve to underscore the love Americans have for their freedom. The birthday party for the statue was in itself symbolic of that fact. During such a celebration it is only appropriate to reach out to those for whom liberty is not the reality we so enjoy.

Since February, many of my colleagues have participated in the 1986 Call to Conscience Vigil for Soviet Jews, of which I am coordinator. I would like to thank those who have spoken out on behalf of refusenik cases this year.

Their work publicizing the human rights record of the Soviet Union with regard to its Jewish community has been instrumental in obtaining emigration visas for refuseniks. A case in point is the recently released Apekin family. On July 1, after years of waiting, the Apekins left the Soviet Union, at least in part because of the rising level of public outrage over their treatment by the Soviet Government. A statement of mine on their behalf appeared in the CONGRESSIONAL RECORD only days before their release.

The following Members have participated in the Call to Conscience Vigil for Soviet Jews since February 1986:

The Honorable JAMES ABDNOR, the Honorable DAVID BOREN, the Honorable RUDY BOSCHWITZ, the Honorable DALE BUMPERS, the Honorable QUENTIN BURDICK, the Honorable JOHN CHAFEE, the Honorable LAWTON CHILES, the Honorable ALFONSE D'AMATO, the Honorable JOHN DANFORTH, the Honorable DENNIS DECONCINI, the Honorable CHRISTOPHER DODD, the Honorable ROBERT DOLE, the Honorable PETE DOMENICI, the Honorable THOMAS EAGLETON,, the Honorable JAMES EXON, the Honorable JOHN GLENN, the Honorable ALBERT GORE, the Honorable SLADE GORTON, the Honorable PHIL GRAMM, the Honorable CHARLES GRASSLEY, the Honorable TOM HARKIN, the Honorable MARK HATFIELD, the Honorable PAULA HAWKINS, the Honorable GORDON HUMPHREY, the Honorable DANIEL INOUYE, the Honorable JOHN KERRY, the Honorable FRANK LAUTENBERG, the Honorable PAUL LAXALT, the Honorable PATRICK LEAHY, the Honorable CARL LEVIN, the Honorable RUSSELL LONG, the Honorable MACK MATTINGLY, the Honorable HOWARD METZENBAUM, the Honorable DON NICKLES, the Honorable LARRY PRESSLER, the Honorable DAN QUAYLE, the Honorable DON RIEGLE, the Honorable JAY ROCKEFELLER, the Honorable PAUL SIMON, the Honorable PAUL TRIBLE, the Honorable PETE WILSON.

Today, I review the case of Leonid and Ekaterina Yuzefovich, of Moscow. Their story is typical of the thousands of Soviet Jews who wish to emigrate to Israel.

The Yuzefovich family first applied for emigration visas in 1980, and for 6 years they have been routinely refused. According to the Soviet agency which controls emigration, Leonid possesses knowledge of "state secrets." This is one of the most commonly used means the Soviet Government has to hold its people hostage.

Not only does the Soviet Government refuse to allow its citizens the free movement it promised when it signed the Helsinki human rights accords in 1979, it also forbids its people to freely express religious belief. The practice of Judaism is strictly controlled and teaching Hebrew or Jewish culture is forbidden. In spite of the official and unofficial antisemitism Jews face in the Soviet Union, Ekaterina and Leonid Yuzefovich have taught themselves Hebrew and now teach in secret to refusenik children.

The Soviet Government uses other means to discourage such dissidence as well. KGB agents have harassed the Yuzefoviches and warned them to stop their activities. And necessary mail from family members in Israel has been confiscated.

Despite the obstacles, the Yuzefovich family and their fellow refuseniks continue their struggle for freedom. Certainly this is a fight we Americans can understand. As we celebrate the 100th year of liberty's most cherished symbol, we should remember those who still await the chance to celebrate its reality.●

CHERI HARDER OF LOS ALAMOS, NM, NAMED PRESIDENT OF GIRLS NATION

● Mr. BINGAMAN. Mr. President, I am most pleased to inform my colleagues that Miss Cheri Harder of Los Alamos, NM, has been elected president of Girls Nation. This is a wonderful and most deserved honor for Cheri.

Girls Nation is sponsored by the American Legion Auxiliary, the sponsor of both Girls State and Boys State. Such programs are highly laudable. They provide valuable experiences for thousands of young women and men all over the United States. The experience is never forgotten by these young people. Important civic lessons are learned about local, county, State, and National Government, and patriotism is heightened. I am sure there are many among the leaders of our Nation past and present who were inspired to enter public service because of their experiences at Girls or Boys State.

Cheri Harder was sworn in as president of Girls Nation yesterday, July 16, 1986, following her election. It is the only elected position at Girls Nation and it is the first time a New Mexican has ever held the post. She, along with Dana Engstrom of Albuquerque, were U.S. Senators representing New Mexico at Girls Nation. They were elected at Girls State in New Mexico earlier this year.

Cheri Harder is 16 years old. She attends Los Alamos High School and is the daughter of James and Patricia Harder of Los Alamos.

I am extremely pleased and proud of her accomplishment. I wish to congratulate her, her parents, the American Legion Auxiliary and all the participants of this worthwhile program.●

OKLAHOMA STATE GOLF TEAM

● Mr. BOREN. Mr. President, the Oklahoma State golf team has long proved itself a most consistent winner. Being named College Golf Team of the Year is nothing new for a team that has finished first or second in the N.C.A.A. 11 times in the past 13 years. Coach Mike Holder has established a remarkable record by leading the Cowboys to victory in 51 percent of the tournaments they have entered.

This year's second place finish in the N.C.A.A. men's gold championship marks the end of another great season. Although a second place finish may be devastating initially for those so used to victory, this team can take comfort in the knowledge that they are nothing but first rate.

The team's winning attitude and demeanor have earned the respect of all who have come to be familiar with them. The words Coach Holder used to describe his All-American and N.C.A.A. champion, senior Scott Verplank would be an appropriate description of the entire team: "You have very few opportunities to be associated with someone great. I'm talking about the qualities that make this country great—courage, dedication, and hard work."

Indeed, we in Oklahoma are proud of athletes who display such character and command such admiration.●

U.S. IMMIGRATION REFORM

● Mr. SIMON. Mr. President, we will shortly be faced with a conference committee on immigration, and then the House and the Senate will face a decision as to what to do.

The St. Louis Post-Dispatch recently reprinted an article by Frank del Olmo, an editorial writer for the Los Angeles Times.

It contains so much common sense that I am taking the liberty of asking to have it reprinted in the CONGRESSIONAL RECORD, and I hope my colleagues who are concerned about this issue of immigration will read it.

So much that I hear is contrary to the American traditions; so much that I hear is unrealistic. Here is an article in tune with American traditions and in tune with reality.

I ask that "A Nation of Immigrants" be inserted in the RECORD at this point.

The article follows:

A NATION OF IMMIGRANTS—AS HUDDLED MASSES STILL YEARN TO BREATHE FREE, U.S. DOESN'T ALWAYS HELP

(By Frank del Olmo)

When America celebrates the centennial of the Statue of Liberty, we can expect more than the usual Fourth of July pomp and circumstance. I'm sure that I'm not alone in worrying that Hollywood glitz will overwhelm the rededication of austere and dignified monuments like the statue and nearby Ellis Island, where millions of immigrants first set foot on American shores. But I'm even more worried about the rhetoric.

If the speechmaking by President Reagan, Chief Justice Warren E. Burger and others lapses into the maudlin sentimentality with which this nation often celebrates its immigrant roots, the hypocrisy of it will be so transparent that it should embarrass us all. For, while we Americans celebrate an idealized immigrant past, we should not forget that we have been unable to write a realistic and humane immigration law for our own times.

Even as night-time fireworks illuminate Emma Lazarus' words at the base of the statue, which call on the world to send us its "huddled masses yearning to breath free," U.S. Border Patrol agents from San Diego to Brownsville, Texas, will be starting their evening shift. They will spend the night trying to arrest and expel from the United States as many of today's "huddled masses" as they can catch. Most of their prey will be Latin Americans seeking to enter this country to find jobs that they cannot get south of the U.S./Mexican border.

And before the July 4 speeches have been forgotten, Congress will return from its holiday break to resume the dreary process of trying to draft the new immigration law that everyone agrees is badly needed, but the specifics of which no one can agree on. They have been trying for six years now.

Of course, if Reagan and the other dignitaries were to talk frankly about immigration—past as well as present—to the people of the United States, they might focus enough public attention on the issue to break the political logjam that holds up immigration reform.

After reporting on immigration issues for more than 15 years, I have a few points that I'd like to see some platform dignitary make on July 4:

Americans should be reminded that every national or ethnic group that immigrated here was accused of undermining American life and culture, just as hysterical restrictionists are claiming about Latinos and Asians today. None did, obviously. Instead, they contributed to making the United States a stronger and richer nation. Acknowledging that might lead to a more thoughtful, and calmer, discussion of current immigration trends.

Americans who believe that there are too many people in the outside world wanting to come here should be told that, modern communications and transportation being what they are, simply passing laws in this country won't stop the process. A rational immigration policy for today should include longrange plans for economic development in Latin America and the rest of the Third World. This would be costly, but fewer of the world's poor would give up their homes if they could make a decent life for themselves and their families.

Amid all the talk about reforming immigration law, somebody should propose reforming the agency that enforces them. The Immigration and Naturalization Service is easily the most undermanned agency in the federal government, and as a result focuses on its enforcement duties and neglects its service functions. It would be foolish to enact a new immigration law without thoroughly reorganizing the agency that is supposed to make it work properly.

Any speakers who do address our present immigration dilemma should look beyond the conventional wisdom in pointing fingers of blame for the inaction of Congress. Latino and Asian civil-rights groups are not holding back reform. The problem is American agriculture—specifically the fruit and vegetable growers in the West who insist that they cannot harvest their perishable crops without a steady supply of cheap labor from Mexico. The day when these growers get an immigration measure that they like, comparatively powerless Latino lobbyists will have no chance of stopping it.

Finally, while conceding that the current consensus in this country is for a restrictionist immigration law, someone should point out that anti-immigration laws have been approved in the past, then rescinded when times have changed. The same could happen this time. Indeed, some demographers suggest that it may happen sooner than we think, as our native-born population grows older and has fewer children, and the nation still needs young, able-bodied workers to help support it.

None of these topics is likely to cause sentimental tears or stimulate patriotic fervor among the Americans who watch the centennial ceremonies for Lady Liberty. But if they lead to a clearer understanding of our immigrant present, as well as our immigrant past, they could ensure that the Statue of Liberty's bicentennial also will be an occasion to celebrate.●

PRECIOUS NATURAL RESOURCES

● Mr. WARNER. Mr. President, I rise today to share with my colleagues the observations of my constituent, John Hanes, Jr., concerning the responsibility of all citizens, as well as our Government, to preserve and protect our precious natural resources for future generations.

As past chairman of the Virginia Nature Conservancy, Mr. Hanes' remarks are very insightful, and I wish to present his article for inclusion in the CONGRESSIONAL RECORD.

I request that the full text of his article entitled, "Environment Defines Quality of Life" as printed in the Richmond News Leader be printed in the RECORD.

The article follows:

ENVIRONMENT DEFINES QUALITY OF LIFE

Environmentalist. Conservation. These have become buzz words. Almost everybody has a different view of what they mean; but almost everybody reacts to them with a high degree of emotion.

To some they mean an enlightened view of the world around us. To some they mean controversy and confrontation. To some they mean wild-eyed kooky people opposed to progress, who place the welfare of some obscure fish above the needs of human beings, and who want to bring the economic system to a grinding stop.

All of these views are, to some extent, correct. These words, just as "Liberal" and "conservative," have been appropriated by so many utterly different people for utterly different purposes that they have almost lost any original meaning they had in our common parlance.

The fact is that every one of us, as citizens, as businessmen and professsionals, as parents, as believers in the importance of morality under the Judaeo-Christian ethic, as Virginians, as Americans—has a tremendous stake in what these terms really do

mean. We should, therefore, be concerned that the important matters which they define be understood in the forefront of our political and economic decision-making processes, and not submerged in a sea of semantics.

There are, in fact, some real freaks who call themselves environmentalists. There also are a few people, in the worlds of business and politics, who believe that the only important values for humankind are economic and financial. There also are, in our country, a few people who feel that the Fascist approach represents conservatism, or that the Communist approach represents Liberalism.

TINY FRACTION

Only the most naive among us would believe that these fringe people represent anything but the tiniest fraction of our population, and only a fool would knowingly permit them to frame the terms of a debate that is fundamental to our well-being and our future.

Our educational system and our culture have produced far more people who understand the arithmetic of business and money—or politics—than of the natural resources of our world. This is also rooted in our history. Until the present century—in many ways, until the Second World War—we were a country of seemingly inexhaustible resources, freely available to and for the benefit of a population small in relation to those resources and the size of its land. It simply was not part of the upbringing of any American child that the land, the forests, the animals, the birds and fish, the water and air were other than limitless—were there for any purpose other than to be used according to the needs and wishes of every individual—or needed to be thought of in the context of the rights of others or the rights of posterity.

Many people alive and active today were brought up with these articles of faith ingrained in them, and inseparable from their concept of the freedom of the individual, under the American system of liberty.

Anyone with a long lifetime of such education and experience finds it very difficult to accept that the world may be different.

Self-interest, of course, is not an unknown human attribute. When the Chesapeake Bay rock fisherman or oysterman is told that he must suffer current economic loss to preserve a resource for future generations, or when a developer cannot realize maximum potential profits because he cannot build to the limits of the economic feasibility; or when a businessman is told he must spend large sums on an environmental protection system that will yield him no observable return in his income statement or balance sheet, it becomes easy for him to persuade himself that what is immediately good for him must also be one of the fundamental values of liberty that our forefathers fought to hand down to him, and, therefore, that he must defend at all costs.

BREAD ALONE

The "environment" is nothing more, and nothing less, than the world we live in. The "state of the environment" is nothing more, and nothing less, than the quality of our life. If man shall not live by bread alone, then it is the state of our environment that provides a significant portion of our values other than bread—and, incidentally, that also permits us to produce enough bread to go around when we no longer have available to us the fellow who could stretch two little fishes and five loaves to feed the multitude.

Certainly government must be involved in the protection of our environment. But that isn't enough. Government, in our country—happily—is still us; and what needs to be done won't be done unless we, as individuals, are knowledgeable and actively involved.

When the need to protect, preserve, renew, and hand on the natural resources that create a livable world for all of us becomes as deeply ingrained in our consciousness and our priorities as, say, the need suitably to protect and hand on our own personal wealth, then we will begin to insist that both government and the private sector implement the policies that will make this happen.

There is no one but us who can determine or affect the kind of world that will be passed on to future generations. We can never bring back the clouds of passenger pigeons that once darkened the skies of America. Whether the striped bass is still here for our grandchildren to catch, whether, indeed, there is enough pure water for them to drink or enough living room and beauty left in the world for the souls to grow and prosper, these things will depend on our wisdom, on our interest, on our actions—or on our failures.

CLOUDS OF PIGEONS

These is too much work that needs to be done to waste effort in name-calling, or in further enriching the legal profession by litigation. People of goodwill can accomplish a great deal more in other ways; and the few people not of goodwill are not going to be persuaded—but neither are they ever an important obstacle.

What is needed is a recognition that there no longer is—if there ever was—enough to go around. There no longer is—if there ever was—a world in which each person can act on his own without regard to the effect of his actions on our land, our water, and the creatures that are important to all of us, and that belong to all of us.

CHANGING CONCEPTS

The attitudes of mind, the laws and the political structures that were developed when a different world was perceived differently, simply no longer will serve our purposes.

Change, or course—and especially change in some of these concepts that we have invested with the mantle of our most cherished heritage—is really the most difficult thing for any of us to accept. We like to think of ourselves as "flexible," but we aren't. We will find every conceivable excuse for resisting change, except the true one, which is that we basically hate it. It is uncomfortable. It requires thought and effort. And it introduces uncertainty into our orderly world.

SIMPLE TRUTH

John Foster Dulles postulated a simple truth when he said that change is the only unchanging law of life. Our only real options are either to help influence it, or to let it roll over us.

If we substitute logical analysis for emotion, however, these concepts—such as that every landowner can do as he wishes with his land, regardless of its effect on his neighbors—are no more fundamental to, or even consistent with, the concept of individual liberty than that he is free to drive down the road at 80 m.p.h., drunk. Personal freedom must end at the border of our neighbors' rights if we are to have liberty at all.

SHORT TIME

The time has become short. The pace of growth of our population, and the logarithmic increase in the demands upon, and irreversible destruction of, our resources, gives us one very clear message: We are the last generation that will have the option to decide whether, it will preserve and hand on a meaningful part of the natural heritage and resources that we, and all our forefathers, received. For I have to tell you—and, unfortunately, the point is all-too-easily provable that what we don't do in the lifetime of those here today won't be there to do.

I [recently] had the opportunity to be present at the dedicaton of a new national park in Costa Rica. The Costa Ricans have now set aside—and in a truly meaningful and protected manner—9 percent of their entire country in national parks.

The President of the republic dedicated a plaque. It read:

"This unspoiled land is the heritage of all Costa Ricans. Many are dead; some are living; Most have not yet been born."●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notification I have received.

The information follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 16, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-42, concerning the Department of the Army's proposed Letter(s) of Offer to Saudi Arabia for defense articles and services estimated to cost $202 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST, *Director.*

[Transmittal No. 86-42]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.
(ii) Total estimated value:

	Millions
Major defense equipment[1]	0
Other	202
Total	202

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Two thousand two hundred sixty-three trucks, 1,389 trailers, 129 ambulances, support and concurrent spare parts.

(iv) Military Department: Army (VIP, VIQ, VIR).

(v) Sales commission, fee, etc,. paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 16, 1986.

POLICY JUSTIFICATION

Saudi Arabia—Trucks and Trailers

The Government of Saudi Arabia has requested the purchase of 2,263 trucks, 1,389 trailers, 129 ambulances, support and concurrent spare parts. The estimated cost is $202 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Saudi Arabia needs these vehicles to fill current shortages in their land forces and to satisfy the requirements of their five-year plan. Saudi Arabia has postponed buying quantities of vehicles due to budgetary limitations. These non-lethal transport vehicles will significantly improve the readiness posture of the Saudi Arabian Land Forces. Saudi Arabia will have no difficulty absorbing these vehicles into its armed forces.

The sale of these vehicles and support will not affect the basic military balance in the region.

The prime contractor for the 2½-ton and 5-ton trucks will be the LTV Aerospace and Defense Corporation, AM General Division, Livonia, Michigan. The contractor for the 1¼-ton trucks including the ambulances will be selected by competitive bids. The trailers will be procured from various sources.

Implementation of this sale will require the assignment of eleven U.S. Government personnel in Saudi Arabia for approximately 60 days.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

NAUM AND INNA MEIMAN: THE VIGIL CONTINUES

● Mr. SIMON. Mr. President, since March 6, 1986, I have been making daily statements in the CONGRESSIONAL RECORD to call attention to the plight of my friends Naum and Inna Meiman. Unfortunately, I must continue this "vigil" as the Meimans remain captive in Moscow.

Naum and Inna are Soviet Jews. They have applied for emigration visas to Israel, but Soviet officials have repeatedly refused their request.

The Meimans' dogged determination to emigrate has resulted in worldwide support for their cause. I have received letters from officials in several Western countries as well as the United States expressing deep concern for the Meimans. Their friends and family and many Members of the House and Senate have called on the Soviet Union to grant emigration visas to this refusenik couple.

The Meimans have suffered long enough. We cannot tolerate the abuse of their basic right to decide where they want to live. Although this method of publicity has been described as unorthodox, I will continue to make these statements on behalf of the Meimans until they are granted their freedom. I hope for the Meimans that my "vigil" will end soon.

I implore the Soviet officials to permit the Meimans to emigrate to Israel.●

TAX REFORM AND COMPETITIVENESS

● Mr. BAUCUS. Mr. President, this morning Representatives of the House and Senate began the difficult task of drafting a final, compromise tax reform bill. Among other things, they must make difficult decisions about how tax reform affects America's international competitiveness.

When we were drafting our bill, the Finance Committee carefully considered the impact tax reform might have on America's international competitiveness. We held several days of hearings and commissioned a detailed International Trade Commission study on this subject.

The Senate bill makes many changes that would affect competitiveness. So does the House bill. As the conferees work to integrate the two bills, their decisions will be crucial.

I am particularly concerned about the effect that the conference report will have on capital formation. If American companies are to modernize, they need to draw investment capital from the pool of domestic savings. However, our personal savings rate remains the lowest in the industrialized world.

To increase the pool of domestic savings, it is important for the conference report to retain some form of broad-based savings incentive like the IRA. In addition, it is important for the conferees to consider restoring some form of capital gains differential, especially if the conference report establishes individual tax rates significantly higher than those in the Senate bill.●

THE BIG SKY STATE GAMES

● Mr. BAUCUS. Mr. President, tomorrow will be a big day for Montana. Tomorrow is opening day of the first Big Sky State games in Billings, MT.

We are all familiar with the Olympic games. The Big Sky State games are modeled after the Olympics. This year, more than 2,000 fine athletes will compete in 12 sports in this long-awaited event.

I hope that this event will be the beginning of a long-lived tradition in Montana. I congratulate Bill Osborne of Billings, the organizer of the Big Sky State games, and all who took part in making this dream a reality.

Mr. President, I ask that an article from the June 30 Billings Gazette describing the Big Sky State games be printed in the RECORD.

The article is as follows:

[From the Billings (MT) Gazette, June 30, 1986]

BIG SKY STATE GAMES SCHEDULED FOR JULY 18—ATHLETES WILL FLOOD MAGIC CITY

(By Bill Osborne)

As state chairman for the United States Olympic Committee in Montana, I am delighted to know that the Big Sky State Games will begin July 18.

Since the passing of the Amateur Sports Act of 1978, the USOC has been the official coordinating body for the 38 national governing bodies that promote amateur sports in America. Because the Olympic Games are held only once in four years, it is very important to have amateur sports festivals held in the Olympic tradition on an annual basis.

The National Sports Festival, established in 1978 by the USOC, is the answer to annual competition to produce our Olympic athletes. The Nation is divided into four teams, North, South, East and West, and the competition between regions of the USA helps motivate athletes to excel.

The National Sports Festival has been a tremendous success. Two world records have been established and such great Olympians as Carl Lewis, Edwin Moses, Greg Louganis and Mary Lou Retton, all gold medal winners in the 1984 Olympics, were participants in the National Sports Festivals. Our own Montana gold medal winner Pat Spurgin, competed in the 1979 National Sports Festival in Syracuse, N.Y. It is truly an opportunity for the emerging athlete to test his skill against an established Olympian.

This year the name has been changed to the United States Olympic Festival to better describe the objective of the event—to help prepare athletes for the Olympic games. It will be held in Houston, Texas, from July 25 to Aug. 3.

The State Games are to each individual state what the United States Olympic Festival is to the nation. State Games mean grass root participation. With greater participation, we are providing the benefits of competitive sports to more individuals and we are producing a greater pool of talent from which to select our Olympic teams. State Games increase opportunities for all people to participate in sport and share the Olympic experience and ideal. The common bond is participation, bringing together people from all walks of life in a spirit of friendship and competition.

The concept of State Games was born in New York in 1978. Last year more than 80,000 athletes competed in the New York State Games called the Empire State Games. This year it is anticipated that 25 states will sponsor State Games.

I will open Montana's version of State Games July 18 at Daylis Stadium in Billings. More than 2,000 athletes will compete in 12 sports in the first annual Big Sky

State Games. Included in the list of participating athletes are six-year-old Bryan Reiter of Laurel in wrestling and 80-year-old Marie Griese of Billings who is entered in the bowling competition. It is truly an event for all ages. When the Big Sky State Games staff received an entry form from Lones Wigger of Carter, Mont., great excitement prevailed. Lones Wigger is the best known Olympian in Montana. He has been an Olympian since 1964 and has Olympic medals in his trophy case. Upon closer examination, it was learned that this entry was for Lones Wigger, Sr., the father of Lones Wigger, Jr., the Olympian. Isn't it great to have a 70-year-old shooter represent the Wigger family in the Big Sky State Games!

State Games just don't happen by accident. I made a decision a year ago to establish the Big Sky State Games in Montana. I received the blessing and encouragement of the USOC in July, 1985, and Governor Ted Schwinden added his support in the fall of 1985. I was in Madison, Wis., the summer of 1985 and volunteered to help the Wisconsin State Games staff launch the Badger State Games.

Definite plans for the first annual State Games were announced at an evening meeting on Sept. 25, 1985. Bob Knight, Olympic basketball coach and a great lover of Montana, was on hand to pass the State Games torch from Indiana to Montana. The Indiana State Games have been a tremendous success and are much appreciated by Knight.

It was decided to plan a torch run to promote the Big Sky State Games. The torch run would be Montana style. An authentic Olympic torch used in the 1984 Los Angeles Olympic Games torch run was obtained from AT&T, and the Jaycees organization of Montana enlisted 26 of their chapters to organize the run. Their national president, Ken Zimmerman, carried the torch on horseback and rode the first mile to begin a 3,000-mile journey through Montana.

George Miller, secretary general of the USOC, appeared in Billings at the Billing Rotary Club and publicly thanked Montana for initiating the Big Sky State Games. The USA Olympic volleyball team, gold medal winners in the 1984 Olympics, accepted an invitation to tour Montana as a promotion of the Games. Brent Musburger has prepared a PSA urging Montanans to get excited about the opening of the 1986 Games.

Opening ceremonies are scheduled for July 18. Julie Brown, a member of the 1980 and 1984 Olympics, will be the guest speaker. Mary Osborne, a member of the 1980 Olympic team will administer the "Oath to the Athlete" to the participants. The scene is set for a great night. The Olympic spirit will definitely be experienced by those in attendance.

Funding for the Games has been provided by the private sector. KOA, Coca Cola and First Banks are the major sponsors. Other significant contributions have been made by Hart-Albin, Universal Athletics, Artcraft Printers, The Billings Gazette, Deaconess Medical Center, Selover Buick, Sage Advertising, Mountain Bell, IGA Stores and the Northern Hotel. Facilities and equipment will be provided by Billings School District No. 2, Eastern Montana College and Rocky Mountain College.

You can still be a part of the Big Sky State Games. Most sports are still open for competition. Volunteers are needed for the administration of the sports. If you want to be a part of this movement, call the Big Sky State Games office at 245-8106, and let them know that you are interested in experiencing the Olympic spirit.

Let the Games begin!

Bill Osborne is a Billings businessman and a sports booster of long-standing in the Magic City.●

PANAMA CANAL COMMISSION AUTHORIZATION ACT, FISCAL YEAR 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 703, H.R. 4409, the Panama Canal authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4409) to authorize appropriations for fiscal year 1987 for operation and maintenance of the Panama Canal, and for other purposes.

The bill H.R. 4409 was considered, ordered to a third reading, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRIBUTION OF USIA FILM "THE MARCH"

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 724, H.R. 4985, concerning distribution of the USIA film entitled "The March."

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 4985) to authorize the distribution within the United States of the USIA film entitled "The March."

The bill (H.R. 4985) was considered, ordered for a third reading, read the third time, and passed.

Mr. DOLE. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR MONDAY, JULY 21, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, July 21, the reading of the Journal be dispensed with; that no resolutions come over under the rule; that the call of the calendar be dispensed with; and that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators THURMOND, PROXMIRE, SIMPSON, HEFLIN, MATHIAS, and MELCHER; to be followed by a period for the transaction of routine morning business not to extend beyond the hour of 1:30 p.m., with Senators permitted to speak therein for not more than 5 minutes each; provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA FOR NEXT WEEK

Mr. DOLE. Mr. President, let me indicate to my colleagues that we will convene at 12 noon on Monday. There will be leader time of 10 minutes each under the standing order, the special orders just referred to; until about 1:30, there will be routine morning business. Then at 1:30, we will turn either to—at least it is my present intention to turn to the consideration of S. 2610, the Philippines assistance bill, or the Export-Import Bank bill, H.R. 4510. I am inclined to believe it will be the Export-Import Bank bill because I am not certain we can get any agreement on the Philippines bill. If we cannot get an agreement, it will be postponed until some later time.

Also for next week, and I indicate my statements could be subject to change, it may be that the distinguished Senator from Utah [Mr. GARN] and the Senator from Wisconsin [Mr. PROXMIRE] who will be handling the export-import bill will be able to reach some agreement on the housing bill. If that is the case, we will follow the export-import bill with the housing bill, S. 2507. That is probably highly doubtful, but if they can reach some agreement, we are prepared to do that.

Then I would like to begin the debate on the debt limit extension on Wednesday, if possible. That might take Thursday and Friday. So I sort of serve notice that if we do get to that on Wednesday, it could extend, I would guess, 2 or 3 days and we might want to complete action on that on Friday.

Following that, we are looking at a number of items: military construction and the legislative appropriations bill.

□ 1700

On the 29th, we have the TV in the Senate vote. It is under a time agreement. Then we hope to have some more appropriations bills the following week. We will also then be in a position to see where we are on the DOD authorization bill, which I assume will be subject to a number of amendments. Again, it is a question of how long it is going to take and whether

there is any disposition to act on it on the House side. I know there are some inquiring about the DOD authorization bill.

ORDER FOR ADJOURNMENT UNTIL MONDAY, JULY 21, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that once the distinguished minority leader completes his history of the Senate speech the Senate stand in adjournment until 12 noon on Monday, July 21, 1986.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for making provision for me to have time to complete my statement on the U.S. Senate, which I will do well within the period allotted. I thank the Senator.

(The remarks of Mr. BYRD on the history of the Senate are printed earlier in today's RECORD.)

AUTHORITY FOR FINANCE COMMITTEE TO FILE A REPORT

Mr. BYRD. Mr. President, at the request of the distinguished majority leader, I make the following unanimous-consent request. I ask unanimous consent that during the adjournement of the Senate over until Monday, the Finance Committee be authorized to file a report to accompany the debt limit extension between the hours of 9 a.m. and 12 noon on Friday, July 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

ADJOURNMENT UNTIL MONDAY, JULY 21, 1986

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 12 noon, Monday next.

Thereupon, at 5:38 p.m., the Senate adjourned until Monday, July 21, 1986, at 12 noon.

HOUSE OF REPRESENTATIVES—*Thursday, July 17, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratitude, O gracious God, those about us whose lives witness to the wonder and wisdom of Your truth. We are thankful that these are men and women, humble of spirit and filled with the knowledge of Your Word, who testify with lives of dedication to the reality of faith. May each of us, as we meditate on the testimony of others, ever seek to do justice, love, mercy, and walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 325. Concurrent resolution to commend the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the fiftieth anniversary of Jesse Owens' victories at the 1936 Berlin Olympic games; and

H. Con. Res. 326. Concurrent resolution expressing the sense of the Congress that the existence of the Berlin Wall after 25 years is a visible indictment of the Communist system and that the continued vitality of the Western sectors of the city is a testament to the Berliners' courage and devotion to freedom.

The message also announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 354. Joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week; and

S.J. Res. 360. Joint resolution to designate July 20, 1986, as "Space Exploration Day."

DEATH PENALTY FOR COP KILLERS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, my anger is growing.

Too many police funerals, too many crocodile tears, and not enough punishment for the cop killers of our Nation.

Two weeks ago, New York City police officer Scott Gadell was shot and killed during a shootout with a suspected crack dealer. Was reloading gun when assailant walked up and shot him in head execution-style.

Just this past weekend, another New York City police officer, Steven McDonald, was shot and paralyzed from neck down by three teenage hoodlums.

In total, there have been 14 police officers shot in New York City already this year. New York City is not alone. Nearly 1,000 police officers nationwide have been killed by criminals in just the last 10 years.

Criminals don't think twice about shooting police officers, mainly because they know our criminal justice system will treat them with far more respect and compassion than they ever had for the police officers they killed.

Consider that 17 States and the District of Columbia have no death penalty for cop killers. I am sad to say that New York is one of those States.

I have authored a bill, H.R. 2531, that would withhold certain Federal funding from States that fail to adopt a death penalty statute for cop killers.

Death penalty is not only just punishment for cop killers, it is an effective deterrent to others.

This legislation deserves prompt and favorable action. The lives of our Nation's police officers depend on it.

RURAL ENTERPRISE ZONE LEGISLATION INTRODUCED

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, I am introducing a bill today, along with a bipartisan group of my colleagues, which would encourage business growth and the creation of new jobs in hard-hit rural areas by offering limited Federal tax incentives as rewards for new jobs and business activity in up to 45 depressed rural areas.

The direction of movement in rural America today is out. Businesses are packing up and moving out, hard-working people are out of work and practically out of hope, towns are out of money and young people trying to build a future are leaving rural American communities because opportunity lies elsewhere.

We have the opportunity to reverse this bleak trend and bring businesses, jobs, people, and money back into our rural communities by creating rural enterprise zones.

Under our bill, businesses in federally designated zones would qualify for a 10-percent tax credit on expenses for new employment and for deferral of capital gains tax if the proceeds of those sales of assets are reinvested in that zone.

The rural population in America comprises only 24 percent of our population. However, it holds 38 percent of the Nation's poverty, 67 percent of the Nation's substandard housing and has a 9.2-percent unemployment rate compared to the 7.2 percent in the rest of the Nation.

By extending enterprise zones to rural communities, we can give rural towns an economic boost they need to survive.

COORDINATED FEDERAL EFFORT TO RESEARCH RADON

(Mr. YATRON asked and was given permission to address the House for 1 minute.)

Mr. YATRON. Mr. Speaker, we all know that smoking causes lung cancer. Not many of us knows that a colorless, odorless radioactive gas in thousands of homes in America also causes this deadly disease.

The gas I am talking about is Radon. EPA says that between 5,000 and 20,000 Americans die every year of lung cancer caused by radon.

The General Accounting Office release a report this month that says radon may very well be a nationwide problem.

Thousands of homes in my State of Pennsylvania are contaminated and many of my constituents know firsthand how frightening this problem is.

The most alarming thing about it is that currently we know of no sure way to reduce the level of radon in a home.

Today, I am introducing a bill which will help us find ways to solve this problem. My bill will give EPA statutory authority to conduct and coordinate Federal efforts to research the problem of radon gas and it will make EPA the leader in helping States and citizens deal with the dangers of radon.

This legislation is needed because nothing in our laws gives any entity of the Federal Government the explicit

authority to take actions to alleviate indoor radon hazards.

Thirty of my colleagues have joined me as original cosponsors. I thank them for their support and encourage all my colleagues to find out whether your State, your constituents, may be endangered by radon.

CHILD CARE ACT OF 1986

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. speaker, I am sure our colleagues are aware that Government policies often involve difficult choices. In our efforts to provide comprehensive social welfare programs, we must consider their costs and further burdens to our staggering Federal deficit. Many of us lament the fact that many of our constituents live in or near poverty, but we must deal with the financial strain of continually supporting these low-income Americans on welfare. The solutions do not come easy, and there are no free lunches in this policy arena.

For these reasons, Mr. Speaker, I have joined 38 of our colleagues in supporting H.R. 4787, the Child Care Act of 1986. It creates a $200 million program to provide child care vouchers to low-income Americans. This will encourage many to find lasting employment, as they will not be forced to spend their entire paycheck or more for child care. The act also provides for improved registration of such centers to give parents better information about the quality of care.

Mr. Speaker, although this program is not a free lunch, its costs are surprisingly small. The act is deficit-neutral, funded by capping the dependent care tax credit at $50,000, while eliminating benefits for a scant 8 percent of its high-income credit users. The choices surrounding the Child Care Act are, for once, not difficult. We can choose to help low-income Americans choose to work and take themselves off the welfare payrolls.

For these reasons, Mr. Speaker, I urge our colleagues of both parties to support this important legislation.

LESSONS LEARNED FROM CHERNOBYL INCIDENT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, today I am introducing a joint resolution of the Congress that would apply the lessons of the Chernobyl tragedy to the nuclear industry and facilities in the United States.

Everyone knows that a task force is now at work in trying to assess and make a final report on what exactly happened at Chernobyl. However long that takes, whatever findings are finally brought forth, they should be applied against the reactor and industry of every single nuclear facility in the United States. This would assure the people of our Nation that what we can learn from the Chernobyl incident will be helpful to us through recommendations and findings in making sure that our reactors are safe and to implement such recommendations as to improve our nuclear reactors.

□ 1010

EXPERIENCE KEEPS A DEAR SCHOOL, BUT FOOLS WILL LEARN IN NO OTHER

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the arguments in favor of the floating dollar were exploded by R. William Lawson at the last meeting of the Trilateral Commission in Madrid. Mr. Lawson ought to know: He served as the Senior Deputy Governor of the Bank of Canada from 1973 to 1984. The floating dollar was championed by Canada long before it became the darling of the United States Treasury. At first, the Canadian dollar floated upward, but the floating of the past 10 years has been an unmitigated sinking from $1.03 United States to 71 cents, a depreciation of one-third. And what can Canada show for such a drastic amputation of her currency? Higher unemployment, and much higher interest rates than those prevailing in the United States. "The Canadians are mistaken in thinking that a fall in the exchange rate is the right way to get lower interest rates," said Mr. Lawson. "On the contrary, the way to lower interest rates is through the strengthening of public confidence in the future purchasing power of the dollar."

Our policymakers have picked the worst example to ape when they decided that the United States dollar should follow the Canadian downward on the slippery slope of currency depreciation. As Benjamin Franklin said in "Poor Richard's Almanac": "Experience keeps a dear school, but fools will learn in no other."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 796

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 796.

The SPEAKER pro tempore (Mr. YATRON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

JAPAN'S INVOLVEMENT NEEDED TO IMPROVE WORLD TRADE GROWTH

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. REGULA. Mr. Speaker, the enormous Third World debt poses a grave threat to the future stability of the world economy. In this regard, I would like to alert our colleagues to a recent article by James Robinson, chairman of the American Express Co., relating the debt problem to steps that our trading partners in Japan can take to help solve this dilemma.

World trade grew by a mere 3 percent in 1985 and Robinson predicts this year's picture will be equally dismal. This means developing countries cannot find sufficient markets for their exports and cannot earn enough income to pay their huge loans. At the same time, Japan is aggravating the issue with its proexport, isolationist trade policy. This is most apparent when we consider that the United States imports nine times more LDC products than Japan, even though Japan has a $50 billion trade surplus with our Nation alone.

Mr. Speaker, we should note Robinson's suggestions on how Japan can use its massive capital supply to help end the LDC debt crisis. He suggests that the Export-Import Bank of Japan finance LDC exports, that Japan underwrite loans and equity investments in these countries, and that Japan accelerate its massive oil imports from LDC's starved for revenue. Japan could also increase its capital contributions to the World Bank and IMF and practice a proimport trade policy dedicated to open markets and Third world development.

Mr. Speaker, Japan's success depends on a healthy world economy buying its exports. In this regard, Japan has a duty to help ease the LDC debt crisis and its strains on world economic stability. Robinson calls Third World debt an economic timebomb that could explode into a global depression. If this it true, Mr. Speaker, it is up to those nations which benefit most from world trade to defuse the bomb.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5161, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1987

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 493, and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 493

Resolved, That all points of order against consideration of the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, for failure to comply with the provisions of clause 2(l)(6) of rule XI and clause 7 of rule XXI are hereby waived. During the consideration of the bill all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 18 through page 7, line 16; beginning on page 8, line 20 through page 9, line 7; beginning on page 10, line 21 through page 14, line 25; beginning on page 15, line 9 through page 22, line 2; beginning on page 31, lines 1 through 24; beginning on page 35, lines 8 through 12; beginning on page 38, lines 6 through 22; beginning on page 39, line 19 through page 40, line 6; beginning on page 40, line 20 through page 41, line 3; beginning on page 42, line 15 through page 43, line 7; beginning on page 44, lines 3 through 9; beginning on page 45, line 8 through page 46, line 15; beginning on page 48, line 1 through page 49, line 4; beginning on page 49, line 17 through page 50, line 7; and beginning on page 50, line 13 through page 51, line 2.

The SPEAKER pro tempore (Mr. CLAY). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 493 is a rule to facilitate consideration of H.R. 5161, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and other related agencies for fiscal year 1987.

Since general appropriations bills are privileged, the rule does not provide any special procedures for consideration of the bill. The legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House will be in order.

All points of order against the bill for failure to comply with clause 2(L)(6) of rule XI, that is the rule which requires that committee reports be available to Members for 3 days prior to consideration on the floor, are waived. Although the Committee on Appropriations ordered the bill reported on June 26, 1986, the report was not actually filed until July 15. Since the printed copy of the report has not been available to Members for the required 3 days, the waiver of rule XI, clause 2(L)(6) is necessary.

Points of order against the measure for failing to comply with clause 7 of rule XXI, that is the rule which requires that relevant printed hearing and reports on appropriations bills be available for 3 days prior to House consideration of an appropriations bill, are also waived. Appropriate reports for this measure were filed 2 days ago. Since clause 7, rule XXI requires that these reports be available for three days, a waiver is necessary.

Finally, Mr. Speaker, the rule waives clause 2 of rule XXI which prohibits unauthorized appropriations and legislative provisions in general appropriation bills, against specified provisions in the bill. The precise provisions of H.R. 5161 for which these waivers are provided are detailed in the rule by reference to page and line in the appropriations bill.

Mr. Speaker, H.R. 5161 is an important measure which provides fiscal year 1987 appropriations for the Departments of Commerce, Justice and State, the Judiciary and other related agencies.

I believe that this rule will allow for expeditious consideration of this measure and will allow the House to move forward with the appropriation process for fiscal year 1987. Therefore, I urge that we adopt the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri [Mr. WHEAT] has ably explained the provisions of this rule. There is no need to repeat that.

However, there are a couple of points I would like to make with regard to the appropriation bill.

First concerning cost, the committee scores its bill as being $3.1 billion below the administration's request. However the administration does not agree with this scoring. According to administration calculations, this bill exceeds the administration's request by more than $700 million.

Among the items added to this bill which were not requested by the administration is a $306 million appropriation for the Legal Services Corporation. The administration had proposed termination of this program in 1987. This is a program which has been subject to serious abuses in the past. And even if some of the abuses are curbed, it is difficult to justify pouring hundreds of millions of dollars into a program of doubtful usefulness.

Mr. Speaker, there are a number of other parts of the bill where the administration objects to excessive funding.

However, there was one area where the administration requested full funding and the committee recommended termination, I was surprised to find. That is with regard to the Civil Rights Commission. The amount of expenditure is relatively small, and I thought we all agreed on the importance of a Civil Rights Commission. Yet the committee has chosen to terminate the Commission, apparently because they do not agree with the policy of its Chairman and want to punish him.

Mr. Speaker, the Civil Rights Commission should not be terminated just because somebody does not like the current Chairman's policies.

Mr. Speaker, this rule does not restrict the normal open amending process for a general appropriations bill. Therefore, I will support the rule so that the House may proceed to consider this important appropriation.

□ 1020

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, we are beginning another historic appropriations cycle. This is the first major appropriations bill that has come to the House floor.

We are, in my judgment, getting off on the wrong foot again. And the reason we are doing so is because of a rule that provides waivers of points of order to such an extent that we may as well not have rules. If we are not going to use our rules, we ought to repeal them permanently.

The first two rules that are waived for the whole bill relate to layover time. I will not object to those. Obviously the House is behind schedule. It would like to get at its work, and nobody wants any delay. We have had time enough to look over this bill. We have known what was coming. Those waivers are not a problem.

However, looking on page 2 of the rule, Mr. Speaker, one finds 14 separate instances of waivers of clause 2 of rule XXI.

Basically those waivers are in the rule because there is no authorization for the programs that are appropriated in this bill. It is also that clause, of rule XXI which covers other items such as legislating on appropriations bills and the like.

If we cannot begin a cycle by obeying the House rules, how in heaven's name are we ever going to get ourselves through this budget and appropriations process and meet the targets that we and the people of the United States have accepted?

I stress "ourselves" because we set the limits. We have also made a set of rules so that we can operate here under regular procedures. Under regular procedures, everybody knows how to work. Each committee's jurisdiction is known to all of the Members of Congress.

But, instead we bring in a rule with all of these various waivers of regular procedures. If this is what the Rules Committee intends to do with all of the appropriations bills, Mr. Speaker, we are going to have a very long summer. Nobody is going to be in a hurry to move under this kind of gag

process and under this kind of a disruption of the normal routine.

There will be modest protest today. We will have a vote on the rule. It will be passed.

But I would like to serve notice today that, if this sort of thing continues for the handling of appropriations bills, the process may move very slowly, and Members are going to enjoy a very long summer.

I think the Appropriations Committee and the Rules Committee will just have to pull up their socks and decide they have to observe some of the basic rules of this House of Representatives. That has not been done under this rule.

Mr. Speaker, I urge a vote against the rule, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no further requests for time, and recognizing that the rule does provide for the expeditious consideration of H.R. 5161, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 160, not voting 34, as follows:

[Roll No. 223]

YEAS—237

Ackerman	Byron	English
Akaka	Carper	Erdreich
Alexander	Chapman	Evans (IL)
Anderson	Chappell	Fascell
Andrews	Clay	Fazio
Annunzio	Clinger	Flippo
Anthony	Coelho	Florio
Applegate	Coleman (TX)	Foglietta
Aspin	Collins	Foley
Atkins	Conte	Fowler
AuCoin	Conyers	Frank
Barnard	Cooper	Frost
Bates	Coughlin	Fuqua
Bedell	Coyne	Garcia
Beilenson	Darden	Gaydos
Bennett	Dellums	Gejdenson
Berman	Derrick	Gephardt
Bevill	Dickinson	Gilman
Boggs	Dicks	Gonzalez
Boland	Dingell	Gordon
Boner (TN)	Dixon	Gray (IL)
Borski	Dorgan (ND)	Gray (PA)
Bosco	Dowdy	Green
Boucher	Downey	Guarini
Boxer	Duncan	Hall (OH)
Brooks	Durbin	Hamilton
Brown (CA)	Dwyer	Hatcher
Bruce	Dymally	Hawkins
Bryant	Dyson	Hayes
Burton (CA)	Eckart (OH)	Hefner
Bustamante	Edwards (CA)	Hertel
Hillis	Morrison (CT)	Shelby
Holt	Mrazek	Sikorski
Horton	Murphy	Sisisky
Howard	Murtha	Skelton
Hoyer	Myers	Smith (FL)
Hughes	Natcher	Smith (IA)
Jenkins	Nelson	Smith (NE)
Jones (OK)	Nichols	Snyder
Jones (TN)	Nowak	Solarz
Kanjorski	Oakar	Spratt
Kaptur	Oberstar	St Germain
Kastenmeier	Obey	Staggers
Kemp	Olin	Stangeland
Kennelly	Ortiz	Stark
Kildee	Owens	Stokes
Kolter	Oxley	Stratton
Kostmayer	Pease	Studds
LaFalce	Penny	Sundquist
Lantos	Pepper	Sweeney
Leath (TX)	Perkins	Swift
Lehman (CA)	Pickle	Synar
Lehman (FL)	Price	Tallon
Levin (MI)	Pursell	Thomas (GA)
Levine (CA)	Quillen	Torricelli
Lipinski	Rahall	Towns
Long	Rangel	Traxler
Lowry (WA)	Regula	Udall
Luken	Reid	Vento
Manton	Richardson	Visclosky
Markey	Rinaldo	Volkmer
Martinez	Ritter	Vucanovich
Matsui	Robinson	Walgren
Mavroules	Rodino	Watkins
Mazzoli	Roe	Weaver
McCloskey	Rose	Weiss
McCurdy	Rostenkowski	Wheat
McDade	Rowland (CT)	Whitley
McHugh	Rowland (GA)	Whitten
McKinney	Roybal	Williams
Mica	Rudd	Wilson
Mikulski	Russo	Wise
Miller (CA)	Sabo	Wolf
Miller (OH)	Savage	Wolpe
Mineta	Scheuer	Wright
Moakley	Schneider	Wyden
Mollohan	Schumer	Yates
Montgomery	Seiberling	Yatron
Moody	Sharp	Young (MO)

NAYS—160

Archer	Gallo	Madigan
Armey	Gekas	Marlenee
Badham	Gibbons	Martin (IL)
Bartlett	Gingrich	Martin (NY)
Barton	Glickman	McCain
Bateman	Goodling	McCandless
Bentley	Gradison	McCollum
Bereuter	Gregg	McGrath
Bilirakis	Gunderson	McKernan
Bliley	Hall, Ralph	McMillan
Boehlert	Hammerschmidt	Meyers
Boulter	Hansen	Michel
Broomfield	Hartnett	Miller (WA)
Brown (CO)	Hendon	Molinari
Burton (IN)	Henry	Monson
Callahan	Hiler	Moorhead
Carney	Hopkins	Morrison (WA)
Chandler	Hubbard	Neal
Cheney	Huckaby	Nielson
Coats	Hunter	Packard
Cobey	Hutto	Panetta
Coble	Hyde	Parris
Coleman (MO)	Ireland	Pashayan
Combest	Jacobs	Petri
Courter	Jeffords	Porter
Craig	Johnson	Roberts
Crane	Kasich	Roemer
Daniel	Kindness	Rogers
Dannemeyer	Kolbe	Roth
Daschle	Kramer	Roukema
Daub	Lagomarsino	Saxton
Davis	Leach (IA)	Schaefer
DeLay	Lent	Schroeder
DeWine	Lewis (CA)	Schuette
DioGuardi	Lewis (FL)	Schulze
Dornan (CA)	Lightfoot	Sensenbrenner
Dreier	Livingston	Shaw
Eckert (NY)	Lloyd	Shumway
Edwards (OK)	Loeffler	Shuster
Emerson	Lott	Siljander
Fawell	Lowery (CA)	Skeen
Fields	Lujan	Slattery
Fish	Lungren	Slaughter
Franklin	Mack	Smith, Denny (OR)
Frenzel	MacKay	Smith, Robert (NH)
Smith, Robert (OR)	Stump	Weber
Snowe	Swindall	Whittaker
Solomon	Tauke	Wirth
Spence	Tauzin	Wortley
Stallings	Taylor	Wylie
Stenholm	Thomas (CA)	Young (AK)
Strang	Traficant	Young (FL)
	Valentine	Zschau
	Vander Jagt	
	Walker	

NOT VOTING—34

Barnes	Edgar	McEwen
Biaggi	Evans (IA)	Mitchell
Bonior (MI)	Feighan	Moore
Bonker	Fiedler	O'Brien
Breaux	Ford (MI)	Ray
Campbell	Ford (TN)	Ridge
Carr	Grotberg	Smith (NJ)
Chappie	Jones (NC)	Torres
Crockett	Kleczka	Waxman
de la Garza	Latta	Whitehurst
Donnelly	Leland	
Early	Lundine	

□ 1045

Messrs. VALENTINE, GUNDERSON, COLEMAN of Missouri, DASCHLE, HILER, ECKERT of New York, FISH, MacKAY and GLICKMAN changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3806 AND OF H.R. 3305

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3806 and of H.R. 3305.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

JOINT RESOLUTION RELATING TO THE FEBRUARY 1, 1986, SEQUESTRATION ORDER OF THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, pursuant to the provisions of House Resolution 495, I call up the joint resolution (H.J. Res. 672) ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.R. RES. 672

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby ratifies and affirms as law the report of the Directors of the Congressional Budget Office and the Office of Management and Budget, issued on January 15, 1986, pursuant to section 251(a) of the Bal-

anced Budget and Emergency Deficit Control Act of 1985 (51 Fed. Reg. 1918-2336 (1981)).

The SPEAKER pro tempore. Pursuant to House Resolution 495, the gentleman from Texas [Mr. WRIGHT] will be recognized for 1 hour and the gentleman from Illinois [Mr. MICHEL] will be recognized for 1 hour.

The Chair will recognize the gentleman from Texas [Mr. WRIGHT], but before the gentleman from Texas begins, does the gentleman from Illinois [Mr. MICHEL] wish to make a designation?

Mr. MICHEL. I do, Mr. Speaker.

Mr. Speaker, in view of the absence of the gentleman from Ohio [Mr. LATTA] who has to be back in his own district today and who would normally have been my designee for handling the measure today, I should like to have the gentlewoman from Illinois [Mrs. MARTIN] serve as my designee to handle the time.

The SPEAKER pro tempore. Pursuant to the statement of the gentleman from Illinois [Mr. MICHEL], the gentlewoman from Illinois [Mrs. MARTIN] will be recognized for 1 hour.

The Chair now recognizes the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a joint resolution agreed upon by the leadership on both sides, supported by the members of the Budget Committee on both sides of the aisle. It was made necessary, as most Members realize, by the ruling of the Supreme Court in regard to the constitutionality of the designation under the Gramm-Rudman Act of the Comptroller General to make the ministerial finding with respect to sequestration which occurred last March.

Since the Court ruling invalidated that which already had been set in motion by way of a sequestration under the act passed by the Congress last year, this joint resolution becomes necessary. All it does is to ratify and reaffirm the action taken by direction of the Congress by the Comptroller General. It does it in a way which will be wholly constitutional under the procedures approved by the U.S. Supreme Court.

That is all that it does. It does nothing prospectively. This resolution does not change things with respect to the status of the deficit. This resolution simply sets things as they were. It avoids the invalidation of the sequestration order that occurred in the amount of some $11 billion last March. That is all that it does.

I should think that Members on both sides would want to ratify and support this judgment in that it was taken pursuant to the act of Congress itself.

The chairman of the House Committee on the Budget, the gentleman from Pennsylvania [Mr. GRAY], will elaborate slightly in further elucidation of the budgetary situation that this restores.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding time to me.

Mr. Speaker, the action we take today is intended to give full legal force and effect to the fiscal year 1986 sequestration order as modified by subsequent legislation. In effect, we will be modifying sequestration actions to date and restoring the status quo.

The Supreme Court has given us until early September to comply with its decision—a judgment which, if we fail to act, would restore the moneys cut by the President's sequestration order of February 1.

Today's action follows the fallback procedures of Gramm-Rudman with a slight modification. The powers of the temporary Joint Committee on Deficit Reduction are limited with respect to what can be done for fiscal year 1986. Since the joint committee can only report a joint resolution setting forth the contents of the January 15, 1986, report of CBO and OMB, the concurrent resolution is needed to take account of GAO's technical modifications and other changes which have been enacted since the President's sequestration order was issued.

If Congress fails to act quickly, it would not only increase the fiscal year 1986 deficit by several billion dollars, but would also adversely impact the fiscal year 1987 deficit by $15 to $20 billion, making our goal of compliance with the edicts of Gramm-Rudman all the more difficult to achieve.

While Congress must make every effort to implement the budget we adopted less than 1 month ago, Congress must also act to reaffirm the cuts which have already taken place and which have been incorporated into our budget decisions. A higher deficit due to failure to enact the fiscal policy we have agreed upon would be inexcusable. This is what the budget process and legislative process must do. But, we also need to recognize what the legislative process cannot do. It cannot cure the inherent flaw in Gramm-Rudman, the pretense that the budget deficit can be insulated from economic factors, entirely unrelated to spending policy, which cannot be controlled by Congress. Small changes in economic assumptions produce enormous changes in the deficit estimates.

While many of us do not agree with the Gramm-Rudman process itself, it is the law and we must live within its precepts.

Congress has enacted measures which recognize the reality of this year's sequestration and slightly modify its application. We have included the fiscal year 1986 cuts in our budget assumptions for the future.

Our intent is to reaffirm the status quo—reinforcing only that which is put in jeopardy by the Court's decision.

In doing so, we make no judgments as to matters which remain disputed. Today, we affirm the President's sequestration order of February 1 to the extent it was issued in compliance with the terms of Gramm-Rudman.

□ 1055

Mr. CONYERS. Mr. Speaker, will the gentleman yield to me, please?

Mr. GRAY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, the gentleman's explanation was very interesting and very tenuous, but may I ask, did the gentleman hear about the Supreme Court decision that came out last week concerning Gramm-Rudman?

Mr. GRAY of Pennsylvania. Yes; I am aware of the Supreme Court's decision.

Mr. CONYERS. Does that decision make any impression upon the gentleman in his conduct in the House of Representatives as the chairman of the Budget Committee?

Mr. GRAY of Pennsylvania. Absolutely, the decision of the Supreme Court was to invalidate the trigger for Gramm-Rudman, and it ruled that the Comptroller General was not able to pull the trigger for sequestration on Gramm-Rudman. What we do today does not deal with that issue; it deals with the March 1 sequestration.

Mr. CONYERS. Mr. Speaker, if my distinguished colleague will yield further, I believe he is aware that that decision invalidated the Gramm-Rudman-Hollings legislation that was passed? I believe he understands that to be the case?

Mr. GRAY of Pennsylvania. No; it is my understanding, that it does not invalidate the Gramm-Rudman-Hollings Deficit Reduction Act of 1985. What it invalidates as unconstitutional is the designation of the Comptroller General as the instrument for automatic sequestration.

Mr. CONYERS. I thank my colleague. I believe what he is saying is that the triggering mechanism behind the legislation is unconstitutional.

Mr. GRAY of Pennsylvania. The trigger mechanism was ruled unconstitutional. What the Court said was that the fallback procedure by which Congress, the Members of the House and the Senate, votes on these decisions must take place, and that it was unconstitutional to give to the Comptroller General the role of pulling the trigger for Gramm-Rudman.

Mr. CONYERS. Mr. Speaker, the gentleman's understanding of consti-

tutional law is very critical here. In other words, although we have found invalid the triggering mechanism of Gramm-Rudman, we are proceeding here as though the decision never occurred; in other words, everything is still all right. The American people just read the newspaper saying that there is no constitutional way that we can implement Gramm-Rudman, and the first thing we do after our busy recess back home is to come here and continue on without even mentioning that the U.S. Supreme Court has held this measure to be invalid on constitutional grounds, not economic grounds.

Now, the gentleman says that it does not mean anything. I am impressed with my colleague. If he says it does not mean anything, then we will just go ahead and forget about the Supreme Court.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GRAY of Pennsylvania. Mr. Speaker, let me just respond to my dear friend and colleague, the gentleman from Michigan.

The reason why we are bringing this measure up is because of that Supreme Court ruling. That Supreme Court ruling does mean something.

Mr. CONYERS. Oh, I see, trigger was unconstitutional, and that in order for those deficit reduction measures taken March 1 to stand, they must be voted for by the Congress. The Court did not rule that the entire bill was unconstitutional, only the trigger for sequestration.

I would remind the gentleman from Michigan that it was this gentleman from Pennsylvania who in December on the floor questioned the constitutionality of Gramm-Rudman on this very fact, the fact that we were handing the legislative responsibility to the Comptroller General. So the reason we are here today taking this legislative action is because of the action of the Supreme Court; and thus, according to that Court, it is only the action of this body and the other body that is valid to make these kinds of decisions.

Mr. CLAY. Mr. Speaker, will the gentleman yield in order that we may have a colloquy?

Mr. GRAY of Pennsylvania. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I understand that the report of the directors of the OMB and CBO includes a figure which provided for a 7.37-percent line item cut in medical payments to be made under the Federal Employees Compensation Act by the Office of Workers Compensation Programs. What impact does our action today have on this program?

Mr. GRAY of Pennsylvania. Mr. Speaker, I would say to the distinguished gentleman from Missouri that the action which we take today will not affect the status quo nor prejudice any action which has been taken in regard to that program.

Mr. CLAY. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Illinois [Mrs. MARTIN] is recognized for 1 hour.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the responsible bipartisan leadership that has worked out this difficult agreement, and I certainly support the object of ensuring that the beginnings of deficit reduction are in place.

Mr. Speaker, I rise in support of the joint resolution and its accompanying concurrent resolution, which together protect the $11.7 billion in savings mandated earlier this year under the provisions of the Gramm-Rudman-Hollings Balanced Budget Act.

Those savings, made under a sequestration order which became effective March 1, must remain in effect. Failure to do so would wreck havoc on our efforts to curtail the deficit.

If we add back $11.7 billion in spending, we will add that much more to the deficit for this fiscal year. In fiscal year 1987 the deficit would be up by $16.3 billion over what we calculated. We obviously would be a lot closer to another sequestration this fall. All of us would like to avoid a sequestration because we are aware of the harmful effects that automatic spending cuts can have on many essential programs.

The effect is compounded in the out years. It has been estimated that if we do not affirm the $11.7 billion in savings already made, our deficit would rise by $65.4 billion over the 4 years from fiscal year 1986 through fiscal year 1989.

The joint resolution before us today affirms the savings of the March 1 order and the accompanying concurrent resolution corrects technical deficiencies and recognizes any legislation enacted after March 1 which modified the sequestration order.

This is really just the first step in an exercise in discipline that the House will have to follow in the next few weeks if we are to avoid another sequestration. In the coming weeks we will have to enact appropriations and reconciliation measures to carry out the requirements of the budget conference agreement just approved in June. We will have to make sure that those bills fall within the ceilings, stipulated by the budget conference resolution and law. Furthermore, there are some measures called for in the resolution which are not reconciled. We must achieve these savings, reconciled or not if we are to get under the $154 billion ceiling for fiscal year 1987.

All these things are scheduled to be completed by August 15, when the first snapshot of whether we are meeting the fiscal year 1987 deficit target is to be taken by OMB and CBO.

Mr. Speaker, unfortunately the Congress still has a tremendous amount of work ahead on budget issues. To prove to the American people we are indeed committed to deficit reduction, we must enact the resolutions before this body.

Mr. JEFFORDS. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I would like to inquire as to certain words in the concurrent resolution which occur on page 3 and which read, in lines 11, 12, and 13, as follows: I am quoting, "* * * and as affected by laws enacted after February 1, 1986, and before the date of adoption of this joint resolution."

It is my understanding that those words did sanctify or provide the same protection under this, as far as it concerns the validity of an action which substituted a 12-cent assessment on dairy farmers for a 55-cent price cut which was enacted into law. Is it the gentlewoman's understanding that that is one of the laws that would be considered to be approved and controlled by this resolution?

Mrs. MARTIN of Illinois. The gentleman is correct. In the concurrent resolution, that change would be sanctified—I am using the word, "sanctified," since the gentleman did. So the gentleman's interpretation is correct.

Mr. JEFFORDS. Mr. Speaker, I thank the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Speaker, I reserve the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. CONYERS].

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Mr. CONYERS. Mr. Speaker, we are here, I think, under the understanding or the impression that this is a routine correction, a technical procedural requirement that is being fulfilled here. What the Congress is really being asked to do is ratify a constitutional flaw. What you are being asked to do now is to say the Supreme Court found out that GRAMM and RUDMAN could not write the law right, so what we are going to do now instead is fix it up for them.

I would suggest to you with all due respect, and I think every Member in this House has at least one exemption to Gramm-Rudman-Hollings that they have in their pocket—at least one—is that we take this opportunity on July 17, 1986, and send this bill back to the committee for hearings.

Could I point out to the distinguished leadership on both sides of the aisle that this incredible piece of legislation has never had one hearing in either body, that there has never been adequate debate or study on Gramm-Rudman, even on the floor of the House.

So with all due respect to the movers of this dubious proposition, I am going to vote against it. I am going to ask for a recorded vote and I am going to remind about 200-and-some Members that voted against Gramm-Rudman that this is a great opportunity to say something for the American people.

I think this bill, now that we know what it means, gives us a great opportunity to turn the whole thing back, and so I urge a no vote on this motion.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman.

Mr. Speaker, I rise very much in strong support of my distinguished colleague's statement, our distinguished colleague and chairman of the Subcommittee on the Judiciary, because I also want to go on record as being in very strong dissent with this maneuver.

I know that the skids have been greased, but I wholeheartedly agree with the distinguished gentleman from Michigan, because with what we are attempting to do here is by indirection cure what is basically unsound and that we have had the shameful embarrassing experience of having the Supreme Court tell us that we did not know how to behave within the constitutional framework.

I think it is preposterous for us to say we are going to remain silent if we were caught by surprise yesterday by passage on a voice vote of the kind of rule that makes it impossible to debate these steps that are being taken on an even basis, on an open basis, on a give and take basis, as we are supposed to be doing in a deliberative body. We never had a chance to voice our protest on the debate having to do with the budgetary aspects of this unwholesome legislation.

This reminds me very much, since I have been in the Congress these 25 years, of the various contortions and desperate maneuvers the Congress goes into when it is seeking an increase in its compensation. This has been true since the first Congress when the Constitution mandated that we set our own compensation. Every scheme has been thought of. We even had Swiss bankers come over and consult as to just what should be the proper level of pay. Finally, we established a commission of blue ribbon members of private enterprise that would recommend to the President. The President would then come to us, and all these kinds of maneuvers.

It is the same thing here. We are trying to duck accounting for what we in our instance, Members of the Democratic Party seeking office as Democrats to identify ourselves as separate and distinguished and absolutely contrary to what the Members of this body got elected to under another party. .

I will not abandon my right to vote on this matter. I will insist on a vote. The American people have a right to full and free debate by the House, if that has been truncated by yesterday's maneuver, and it has, I will not join those who would compound the sin by avoiding a vote today. I support the gentleman from Michigan and commend him.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding an additional minute, because the gentleman from Texas [Mr. GONZALEZ] makes an important point. Everybody that supports this amendment must support President Reagan's budget position, because that is what Gramm-Rudman represents.

So all I can say is that I expect every Republican to support this measure.

I think it is not illogical to expect that those on this side of the aisle may have some reservation about leading the Nation through a budgetary process which is totally untested and without precedent.

We are moving along fairly well as things stand right now. So I urge that we take this opportunity to send this bill back for hearings. Turn it down now. Let us give the President a surprise for a change. I am tired of him surprising us all the time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Education and Labor Committee, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I wish to thank the gentleman for yielding this time.

I think the Supreme Court has done us a favor in slowing us down and giving us the opportunity to address this problem of what we are now doing.

I have no objection to correcting what seems to be a constitutional defect in the process, but I think the time is long overdue when we should look at the process itself. The process of this type of trying to balance the budget by unbalancing the economy has gone on since 1978, although the previous administration called it fiscal austerity.

We attempted to do the same thing in 1979 and again in 1980 to follow the same process. In each instance we increased the national debt and built up huge deficits. That should have told us that we were not doing the right thing then. We brought on the recession of 1980 as a result of it.

Then in 1981 under a new administration we continued the same policies that we are now attempting to pursue of stagnant economic growth in this country, of creating this method of trying to reach the deficit.

So in 1981 we again increase the deficit with the same economic policies, the same monetary and fiscal and economic policies, known then as Gramm.

Then the action shifted to the Senate and we picked up steam and in 1982 we did again the same thing.

The deficit increased in 1982, 1983, 1984, 1985, and again now in 1986.

It would seem that we would wake up to the fact that what we are doing is wrong, that we are increasing the deficits. We are damaging the economy. We are certainly hurting a lot of innocent people.

I think the opportunity is here for us to do something about it. If a doctor had prescribed this type of medicine to one and the patient keeps getting sicker and sicker, you would at least stop taking the medicine. I suggest that is exactly what we should do.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, before I yield back the balance of my time, I would like to remind this body what we are doing here today.

Gramm-Rudman is the law. This is one Member who did not vote for that law, but we are not here today voting on Gramm-Rudman, nor are we voting today on correcting the constitutional question raised by the Supreme Court, the trigger, which was invalidated by the Supreme Court, and that was the only part of the law that was invalidated; nor are we voting on whether you are a Democrat or a Republican, nor are we voting on economic policies or fiscal policies.

What we are doing is voting to restore the status quo with regard to the legislation that has already been passed by this body and actions that were taken on March 1.

I would urge us to understand that. Therefore, I would urge each of us to comply with the law and to vote "yes" for this resolution.

Mr. LOTT. Mr. Speaker, I support the sequester resolutions made in order by the rule adopted yesterday. This is an unusual procedure under which we are operating. It might even be unprecedented. But the Supreme Court's decision in the Gramm-Rudman case last week has left us in a most unusual and unprecedented position.

The Court found part of that law unconstitutional, and in so doing invalidated the sequester order of last March 1. The Court has given us just 60 days to fix things or those funds will be released and we'll run up the deficit another $11.7 billion in the current fiscal year.

I don't think anyone here wants to revisit those issues. All we are doing in this expedited procedure is ratifying the status quo which existed prior to the Supreme Court ruling. If we don't do so we will be breaking the first important link in the Gramm-Rudman deficit reduction process.

Mr. Speaker, I know some Members are wondering if we are following the so-called fallback procedures set forth in the Gramm-Rudman law. The answer is, yes and no. As you know, the law provides that if any part of the law is invalidated by the Court a Temporary Joint Committee on Deficit Reduction, consisting of the House and Senate Budget Committees, comes into being. It is then supposed to report a joint resolution setting forth the content of the OMB/CBO sequester report.

The rule we adopted expedites that process somewhat by making it possible for us to consider these two resolutions to rafity both the OMB/CBO report and the subsequent sequester order and statutory modifications before the Joint Committee even reports.

This special procedure is necessary because the law only permits the Joint Committee to report the contents of the OMB/CBO report, and does not permit further amendments in committee or on the floor.

In other words, if we adhered strictly to the Gramm-Rudman requirements, we could not consider a resolution that incorporated changes made by the GAO, including some $6 billion in defense cuts, and subsequent enactments by Congress to modify the sequester order.

So we are considering two resolutions under the special rule adopted yesterday—a joint resolution that incorporates the contents of the OMB/CBO report as required by the law; and a concurrent resolution, that will be considered adopted after passage of the joint resolution, that ratifies subsequent GAO and statutory modifications. The concurrent resolution will ultimately be substituted for the joint resolution before being sent to the President. But, in the meantime we will have preserved the integrity of the Gramm-Rudman process to the extent feasible, both for sake of our own precedents and to make it possible for the other body to take this up as a privileged matter. The joint committee will meet today to report the required joint resolution to facilitate its consideration in the other body.

I want to commend the leadership on both sides for working out a process that is fair and as true to the Gramm-Rudman requirements as possible. I particularly want to single out the majority whip, Mr. FOLEY, and our Republican leader, Mr. MICHEL, for their efforts to make this work while preserving the basic outline of the Gramm-Rudman process. It is especially important, given the short timeframe available, that we have taken into consideration the special problems the other body might have if we had destroyed the privilege of the initial joint resolution.

Finally, Mr. Speaker, I want to express the hope that this same spirit of bipartisan cooperation and urgency will prevail as we confront the fiscal 1987 situation. We have some 13 appropriations bills and a reconciliation bill to put in place by mid-August if we are to avoid another sequester in September. This will be the real test of whether Gramm-Rudman works since the whole purpose is to force Congress to meet the deficit targets by setting our own priorities. If we fail this test, we will be back in this same old sequestration bind. Let's do our job.

Mr. BARNES. Mr. Speaker, I strongly oppose House Joint Resolution 672. What the House is considering today is a mistake, and it ratifies an earlier mistake—the enactment of the Gramm-Rudman law. The process we are using today is also a mistake, because it allows no amendments. The Supreme Court has ruled that the Gramm-Rudman process is unconstitutional. Rather than attempt to implement the February 1, sequestration order, which existed in the first place only because of that unconstitutional process, we should reclaim our budgetary responsibility.

The February 1, sequestration, requiring across-the-board cuts, was irrational, and had damaging and irrational effects on the Federal budget and the people of this country. We should not rush to approve those cuts retroactively, merely to sweep the issue under the rug and get it out of the way.

One specific issue I would like to address is the provision of Gramm-Rudman which denied a 1986 cost-of-living adjustment to Federal civilian and military retirees, while exempting Social Security recipients from Gramm-Rudman cuts. All of the COLA's should have been exempted. The joint resolution we are being asked to pass in the House today misses a chance to rectify this unfair discrimination.

Mr. Speaker, if the House passes this legislation here today, it means that this body is prepared to say to 3.5 million Federal civilian and military retirees, their families, and their survivors that we have no choice but to stand by while inflation and Social Security adjustments rise by 10.1 percent and their pensions fall 6.6 percent behind.

Members must recognize what we have done to our Federal civilian and military retirees. We've paid $0.90 cents on the dollar since 1979 that we promised to pay to our retirees. We've subjected their COLA's to so many delays and freezes since 1981 that retirees received just one 3.5 percent COLA over a 42-month period. Each year, we put these retirees through the anxiety of a budget cliffhanger in which their benefits hang in the balance. Last year, after exhaustive negotiations produced a budget that provided a COLA, Gramm-Rudman sequestration snatched it away at the 11th hour.

The notion that retirees can make do without their COLA, Mr. Speaker, simply doesn't stand up to even cursory scrutiny. More than half of all Federal civilian retirees receive less than $1,000 a month. Less than 10 percent receive more than $2,000 per month. Critically, the one-half million survivors of Federal retirees receive less than $490 per month. In human terms, these figures mean that when Congress denies a COLA to Federal retirees, tens of thousands of elderly men and women begin to wonder how they will meet their next rent increase or what they may have to eliminate from their diets in order to just get by.

Retirees, who have earned their benefits, who served in good faith, and who sacrificed wages throughout their careers based upon a promise of full protection of their retirement, have a right to resent the ratification of the 1986 COLA cut. They understand that while the Defense Department stockpiles billions in unexpended reserves due to lower inflation and fuel costs, they must go without the funds they need just to break even.

Mr. Speaker, the House should reject after-the-fact ratification of Gramm-Rudman and deal with budget policy the old fashioned way. We should make our own decisions, judge the merits ourselves, and present the results to the American people. This legislation here today should be defeated.

Mr. McCAIN. Mr. Speaker, I rise, reluctantly, in opposition to this resolution. I voted in favor of the so-called Gramm-Rudman concept when it was before the House of Representatives. I believed then, as I do now, that the runaway Federal deficit is our Nation's No. 1 problem and should be our No. 1 priority. It must be dealt with immediately. If we do not during this session of Congress, we markedly increase the chances that we will leave our children and our children's children a legacy of debt. We, as a body, would be betraying our responsibilities to do so.

In light of the apparent inability of Congress to impose fiscal discipline upon itself, Gramm-Rudman was the only viable option. I believe it remains so if the problems found by the Supreme Court can be addressed. This is a stick which is vitally needed to force Congress to make the hard choices which we all know must be made. However, I have always maintained that any effort to control the Federal deficit will take sacrifice on the part of all Americans, a sacrifice which must be borne equally.

By this yardstick, House Joint Resolution 672 does not measure up. Included in the resolution is the cancellation of the cost-of-living adjustment for military and civilian Federal retirees worth $1 billion. All other COLA's were untouched. I believe this results in disparate treatment for our military and civilian retirees. I would have supported the other $10.7 billion in the resolution, as painful as it is. These cuts were achieved in a manner that was as fair as possible. But I could not support cuts made in an unfair fashion, such as the COLA cancellation. I wish the rule for consideration of this resolution had afforded the House the opportunity to vote separately on the COLA provision. Because it did not, my sense of fairness prevented me from supporting the resolution.

Mr. CONTE. Mr. Speaker, I rise in opposition to this joint resolution, which has become necessary because of the Supreme Court's ruling on the lawsuit that MIKE SYNAR, I, and 10 of our colleagues filed against the sequestration provisions of Gramm-Rudman-Hollings.

Mr. Speaker, my opposition to Gramm-Rudman-Hollings was based on two grounds. First, I said, Congress had no business delegating its fundamental responsibilities to make laws regarding Federal spending to unelected bureaucrats, I said it was wrong, that it was bad policy, and that above all else, it was unconstitutional.

Fortunately, the Supreme Court agreed, and in a 7-to-2 decision, they ruled that the constitutional principal of separation of powers took precedence over political expediency.

My second objection dealt with the procedure by which cuts would be made to meet the deficit targets. I said then and I repeat now that if you want to reduce the deficit, you have to look at every item in the Federal budget, and cut or eliminate the ones that need to be cut or eliminated and protect the ones that need to be protected. The worst possible way to reduce the deficit is across-the-board cuts.

I have stood in this well many, many times, time and again, to oppose amendments to appropriations bills which made across-the-board cuts. They are bad policy; they are a shameful abdication of our most basic responsibilities. It is up to the authorizing committees, and then the Appropriations Committee to make decisions regarding spending for Federal agencies and programs. Across-the-board cuts may be politically appealing, but it's not the way to legislate.

Now, I hate to say to the supporters of Gramm-Rudman-Hollings "I told you so." But: I told you so. When we passed this misguided legislation, I said that when it came down to zero hour, there wouldn't be enough trees in this city for the supporters of Gramm-Rudman-Hollings to hide behind. Well, now it's zero hour, and you're out on the front line. You can't hide anymore.

You've got to vote today, on the record, to make $11.7 billion in cuts. Look at what you're voting to do:

Over 1 million students in this country had their Pell grants eliminated or reduced because of that cut.

Five hundred older Americans lost our Nation's commitment to safe and affordable housing because of that cut.

Nine million fewer Meals on Wheels have been served because of that cut.

Gramm-Rudman-Hollings hurt the air traffic controllers; it hurt the Coast Guard, which lost $86 million; it hurt the Customs Service, which lost $34 million; everybody got whacked, across the board, 4.3 percent, because you didn't have the guts to stand up here and do what your constituents elected you to do: govern this country.

So, I will vote against this joint resolution, and I just wish that enough of my colleagues had the courage to stand up here and do their job right. Think of the title of the book by the great President, John F. Kennedy, "Profiles in Courage," and be men and women of courage: vote this resolution down.

Ms. OAKAR. Mr. Speaker, yesterday afternoon, I appeared before the Committee on Rules to request that the rule on House Joint Resolution 372 make in order an amendment to exempt from the provisions of Gramm-Rudman the Civil Service, military, tier II railroad, CIA, Foreign Service, and certain FECA retirement cost-of-living adjustments [COLA] beginning in fiscal year 1987. Unfortunately, the rule reported by the committee and approved by the House does not permit any amendments to House Joint Resolution 372.

Because of these actions, the House will not have an opportunity to restore COLA equity as part of the measure to confirm the March 1, 1986, spending reductions under the Gramm-Rudman law. In effect, my amendment would have simply provided that Civil Service, military, tier II railroad, CIA, Foreign Service, and certain FECA retirees would be treated the same as Social Security beneficiaries. It guaranteed that our Nation's retirees would be treated equally and that they would be assured of the COLA we promised them.

Last December, the recipients of Civil Service, military, tier II railroad, CIA, Foreign Service, and certain FECA retirement benefits were abruptly denied their COLA. Scores of these retirees were informed only 2 weeks before they expected to receive their checks that their 1986 COLA adjustment had been suspended. The suspension became a denial on March 1, 1986. At the same time, their contemporaries, who receive Social Security benefits, were given a 3-percent adjustment. This action immediately established unequal treatment of our Nation's retirees, and placed an unnecessary financial strain on millions of senior citizens.

In 1983, Social Security recipients were required to sacrifice their COLA's for 6 months. Similar sacrifices have been made by all civilian retirees, as well as military and railroad retirees, over the past 3 years. While inflation has risen 10.1 percent over this period, civilian and military retirees have only received one COLA, in 1984, at a rate of 3.1 percent. Over the last 6 years, Federal annuitants and survivors alone have lost approximately 30 percent of their inflation adjustments. I believe the time has come for Congress to reexamine where sacrifices need to be made. In my opinion, senior citizens have done enough.

Just a few weeks ago, Members of this body affirmed their belief in COLA equity for all retirees. On June 24, the House approved, by a rollcall vote of 396 to 19, my legislation, H.R. 4060, which guarantees a COLA in January 1987 to recipients of Civil Service, military, tier II railroad, CIA, Foreign Service, and certain FECA retirement benefits. The amendment I wished to offer to the joint resolution was a logical extension of this bill; it simply sought to treat all retirees the same.

Unequal application of the law is never wise public policy. In the case of America's retirees, the Gramm-Rudman law is discriminatory. It singles out millions of retirees for unfair treatment. I fully support exempting Social Security beneficiaries from Gramm-Rudman. I ask that we do the same, prospectively, for the rest of our Nation's retirees.

While I will not seek to impede the will of this body at this time, I want to inform my colleagues that I intend to continue the fight for COLA equity. Every retiree should be assured of the COLA's that we promised to them. Our Nation's seniors should be exempt from Gramm-Rudman and should not have to fear for their welfare because of inappropriate actions of the Congress. We owe them at least that much.

Ms. MIKULSKI. Mr. Speaker, today Congress voted to affirm the Gramm-Rudman cuts that were imposed back in March. I opposed Gramm-Rudman for two reasons. First, because Gramm-Rudman indiscriminately cut Federal programs without considering the effectiveness and the importance of each program. We are elected by our constituents to make the tough decisions and we should not shirk that responsibility.

Second, because I knew that Gramm-Rudman would unfairly hurt the Federal employee. While we voted to protect Social Security and military retiree cost-of-living increases, which I wholeheartedly support, under Gramm-Rudman the Federal employee unfairly lost his or her COLA. That is why I am a cosponsor of H.R. 4060, the Federal employees cost-of-living bill.

H.R. 4060, which the House passed, would assure COLA equity. It would assure Federal retirees that after all their years of dedicated service to America, America's Government keeps its promises to them. Now that Congress has affirmed the Gramm-Rudman cuts, we must do all we can to protect Federal retirees. Federal retirees have dedicated their lives to service to our country. If we are to grant cost-of-living increase to some, we must grant cost-of-living increases to all. Especially to retired Federal employees.

I will continue to fight for our Federal workers, and I hope that all of my colleagues, as leaders of the U.S. Government, recognize their responsibilities to the Federal workers, who are the U.S. Government.

Thank you.

Mr. DAUB. Mr. Speaker, I rise in astonishment. I am astonished that the House finds itself here today to address a question it need not address because of a Court ruling that need not have been made.

The conversion of the majority party to support for strong fiscally responsible measures such as Gramm-Rudman has never been more than half hearted. The majority rightly figured it couldn't afford to be seen in opposition to Gramm-Rudman. It made a cold, electoral calculation before throwing its lukewarm support behind Gramm-Rudman. But since the mention of Gramm-Rudman gives the Democratic leadership the hives, as a condition of support, the Democrats insisted on a provision it knew was constitutionally suspect.

And what has happened? To no one's surprise the Supreme Court agreed that a provision the Democrats intended to be unconstitutional certainly was. All of which demonstrates that the Democratic Party can when it wants to successfully tramp on the Constitution; it is sound policy and fiscal responsibility that eludes this party.

This is one reason we are here today. Another is the Democratic Party's calculation that sequester, not legislation, was the way to proceed. It rejected efforts to instruct committees to make intelligent cuts, spread more evenly than the sequester allowed.

As a result some sectors such as agriculture and cost-of-living adjustments for civil service, military and railroad retirees took a disproportionate share of the 1986 sequester cuts. The only reason for this was the reluctance of the Democratic leadership to allow the House to proceed as it normally does and spread the burden more fairly.

All that can be said of these cynical decisions, is that it could have been worse. The first draft the Democrats produced for the sequester exempted so many nonagriculture programs that farm commodity programs would have to be cut drastically. In fact, those who voted for the majority's first version of Gramm-Rudman actually voted to cut agriculture programs by as much as 30 percent in 1 year.

Mr. Speaker, the only reason we are here today is because you and your party want us to be here. You insisted on an unconstitutional provision and an unfair, avoidable sequester. I don't see much political advantage in this tactic, just a lot of questions about your party's ability to govern.

Mr. VOLKMER. Mr. Speaker, today I support the legislation affirming the cuts made in March of this year under Gramm-Rudman. I do so realizing this legislation has a major flaw, but one in which we were not allowed to vote on separately.

Cost of living adjustments for 1986 for retired Federal employees, railroad retirees, and military retirees have not been exempted from this legislation. That is a mistake and one for which many will pay dearly.

If I had been allowed to make a choice it would have included legislation with such an exemption. But that did not happen. My choice is between addressing the deficit by supporting Gramm-Rudman or ignoring the deficit. I cannot ignore this spiraling deficit.

I begrudgingly support the March cuts knowing that in the long run addressing the deficit must be of the highest priority.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 495, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 72, not voting 20, as follows:

[Roll No. 224]

YEAS—339

Akaka	Bates	Boucher
Andrews	Bedell	Boulter
Annunzio	Beilenson	Boxer
Anthony	Bennett	Brooks
Applegate	Bentley	Broomfield
Archer	Bereuter	Brown (CA)
Armey	Berman	Brown (CO)
Aspin	Bevill	Bruce
Atkins	Bliley	Bryant
AuCoin	Boehlert	Burton (CA)
Badham	Boland	Burton (IN)
Barnard	Boner (TN)	Bustamante
Bartlett	Bonker	Byron
Barton	Borski	Callahan
Bateman	Bosco	Carney
Carper	Ireland	Petri
Chandler	Jacobs	Pickle
Chapman	Jeffords	Porter
Chappell	Jenkins	Price
Cheney	Johnson	Pursell
Clinger	Jones (OK)	Quillen
Coats	Jones (TN)	Ray
Cobey	Kaptur	Regula
Coble	Kasich	Reid
Coelho	Kastenmeier	Richardson
Coleman (MO)	Kemp	Ridge
Coleman (TX)	Kennelly	Ritter
Combest	Kindness	Roberts
Cooper	Kleczka	Robinson
Coughlin	Kolbe	Roe
Courter	Kostmayer	Roemer
Craig	Kramer	Rogers
Crane	LaFalce	Rose
Daniel	Lagomarsino	Rostenkowski
Dannemeyer	Lantos	Roth
Darden	Leach (IA)	Roukema
Daschle	Leath (TX)	Rowland (CT)
Daub	Lehman (CA)	Rowland (GA)
Davis	Lehman (FL)	Rudd
DeLay	Lent	Russo
Derrick	Levin (MI)	Sabo
DeWine	Levine (CA)	Saxton
Dickinson	Lewis (CA)	Scheuer
Dicks	Lewis (FL)	Schneider
Dingell	Lightfoot	Schroeder
DioGuardi	Lipinski	Schuette
Dorgan (ND)	Livingston	Schulze
Dornan (CA)	Lloyd	Seiberling
Dreier	Loeffler	Sensenbrenner
Duncan	Long	Sharp
Durbin	Lott	Shaw
Dwyer	Lowery (CA)	Shelby
Dyson	Lujan	Shumway
Eckart (OH)	Luken	Shuster
Eckert (NY)	Lungren	Sikorski
Edwards (CA)	Mack	Siljander
Edwards (OK)	MacKay	Sisisky
Emerson	Madigan	Skeen
English	Manton	Skelton
Erdreich	Marlenee	Slattery
Fascell	Martin (IL)	Slaughter
Fawell	Martin (NY)	Smith (FL)
Fazio	Matsui	Smith (NE)
Feighan	Mavroules	Smith (NJ)
Fields	Mazzoli	Smith, Denny (OR)
Flippo	McCandless	Smith, Robert (NH)
Foglietta	McCloskey	Smith, Robert (OR)
Foley	McCollum	Snowe
Ford (MI)	McCurdy	Snyder
Fowler	McDade	Solarz
Franklin	McGrath	Solomon
Frenzel	McHugh	Spratt
Frost	McKernan	St Germain
Fuqua	McKinney	Stallings
Gallo	McMillan	Stangeland
Gaydos	Meyers	Stark
Gejdenson	Mica	Stenholm
Gekas	Michel	Strang
Gephardt	Mikulski	Stratton
Gibbons	Miller (CA)	Stump
Gingrich	Miller (OH)	Sundquist
Glickman	Miller (WA)	Sweeney
Goodling	Mineta	Swift
Gordon	Molinari	Swindall
Gradison	Monson	Synar
Gray (IL)	Montgomery	Tauke
Gray (PA)	Moody	Tauzin
Green	Moorhead	Taylor
Gregg	Morrison (CT)	Thomas (CA)
Guarini	Morrison (WA)	Thomas (GA)
Gunderson	Mrazek	Torres
Hall (OH)	Murtha	Torricelli
Hall, Ralph	Natcher	Udall
Hamilton	Neal	Valentine
Hammerschmidt	Nelson	Vander Jagt
Hansen	Nichols	Vento
Hatcher	Nielson	Visclosky
Hefner	Nowak	Volkmer
Hendon	Oakar	Vucanovich
Henry	Oberstar	Walgren
Hertel	Obey	Walker
Hiler	Olin	Watkins
Hillis	Ortiz	Waxman
Hopkins	Oxley	Weaver
Howard	Packard	Weber
Hoyer	Panetta	Whitley
Hubbard	Parris	Whittaker
Huckaby	Pashayan	Whitten
Hunter	Pease	Wilson
Hutto	Penny	Wirth
Hyde	Pepper	Wolpe
Wortley	Wylie	Young (AK)
Wright	Yates	Young (MO)
Wyden	Yatron	Zschau

NAYS—72

Ackerman	Frank	Rinaldo
Alexander	Garcia	Rodino
Anderson	Gilman	Roybal
Biaggi	Gonzalez	Savage
Bilirakis	Hawkins	Schaefer
Boggs	Hayes	Schumer
Campbell	Holt	Smith (IA)
Carr	Horton	Spence
Clay	Hughes	Staggers
Collins	Kanjorski	Stokes
Conte	Kildee	Studds
Conyers	Kolter	Tallon
Coyne	Lowry (WA)	Towns
Dellums	Markey	Traficant
Dixon	Martinez	Traxler
Donnelly	McCain	Waxman
Dowdy	Moakley	Weaver
Downey	Mollohan	Weber
Dymally	Murphy	Weiss
Early	Myers	Wheat
Evans (IL)	Owens	Williams
Fish	Perkins	Wise
Florio	Rahall	Wolf
Ford (TN)	Rangel	Young (FL)

NOT VOTING—20

Barnes	Evans (IA)	Lundine
Bonior (MI)	Fiedler	McEwen
Breaux	Grotberg	Mitchell
Chappie	Hartnett	Moore
Crockett	Jones (NC)	O'Brien
de la Garza	Latta	Whitehurst
Edgar	Leland	

□ 1130

The Clerk announced the following pair:

On this vote:

Mr. Jones of North Carolina for, with Mr. Barnes against.

Messrs. FRANK, SAVAGE, LEHMAN of Florida, DONNELLY, DOWDY of Mississippi, BILIRAKIS, Mrs. BENTLEY, Messrs. MOAKLEY, WISE, DOWNEY of New York, BIAGGI, SCHUMER, HUGHES, ALEXANDER, SPENCE, CAMPBELL, Mrs. BOGGS, and Mr. TALLON changed their votes from "yea" to "nay."

Mr. STANGELAND, Mr. LEHMAN of Florida, and Mrs. BENTLEY changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1140

GENERAL LEAVE

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on House Joint Resolution 672, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HOUSE CONCURRENT RESOLUTION 368

The SPEAKER pro tempore. Pursuant to House Resolution 495, and the passage of House Joint Resolution 672,

House Concurrent Resolution 368 is considered as having been adopted.

The text of the concurrent resolution is as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the joint resolution House Joint Resolution 672, the Clerk of the House of Representatives shall make the following corrections: (1) strike out all after the resolving clause and insert in lieu thereof the following: "That, effective on and after March 1, 1986, the Congress hereby ratifies and affirms as law the February 1, 1986, sequestration order of the President as issued under section 252(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 and as affected by laws enacted after February 1, 1986, and before the date of adoption of this joint resolution."; and (2) change the title of the joint resolution to read as follows: "To ratify the February 1, 1986, sequestration order of the President for fiscal year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985."

RE-REFERRAL OF HOUSE CONCURRENT RESOLUTION 342, EXPRESSING SENSE OF CONGRESS REGARDING HANFORD NUCLEAR REACTOR TO THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND THE COMMITTEE ON ARMED SERVICES

Mr. UDALL. Mr. Speaker, I ask unanimous consent that House Concurrent Resolution 342, expressing the sense of Congress regarding continued operation of the Department's nuclear reactor at the Hanford Reservation in the State of Washington, producing power for the Bonneville Power Administration, which was initially referred only to the Committee on Interior and Insular Affairs, be re-referred jointly to that committee and to the Committee on Armed Services.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1987

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1144

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5161, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, we bring you a bill today, which as usual is one of the first bills that comes from the Appropriations Committee even though we seem to have more controversial matters than most subcommittees. We finished our hearings over 3 months ago and have been waiting for completion of the budget resolution process. I am glad at least that we can bring a bill to the floor at this time.

In the meantime, we have allocated 302(b) allocations from the full committee, and this bill is within the 302(b) budget authority allocation under the budget process.

Members may look on pages 4 and 5 of the report at the table setting forth the various statistics that Members would primarily want to know; that is, the budget authority for last year, the budget request by the administration, and our recommendations.

The first column, you will note, includes the urgent supplemental for fiscal year 1986. This column is the 1986 level with the supplemental.

It was obvious in looking at this budget, and with our 302(b) allocation, that the rule of thumb had to be that no agency, unless there was some special reason, would get more than a freeze; and some would have to take reductions below freeze level, and that is the way we proceeded in this bill.

I want to say at this time that we are sorry that Mr. O'BRIEN is not with us today; not able to be here. Mr. O'BRIEN has been a long-time, very loyal member of this subcommittee, who participated to a great extent in hearings and decisions in previous years and I appreciate the gentleman from Ohio [Mr. REGULA] taking over in his stead when he could not be here.

Also, I appreciate the other members of the subcommittee on both sides of the aisle and the staff, because this is a subcommittee bill. Nothing in here completely agrees—is completely supported by everybody, probably; or it not to our complete liking, but at least it is the best we could do with the 302(b) allocation that we have.

Members will notice that in this bill there are a large number of items that the administration proposed to leave out that the vast majority of the Members of the House wanted included. They include the RISS Program, grants to the States for certain expenditures they have in the area of law enforcement, EDA, juvenile justice, some NOAA programs, telecommunications facilities grants, and Trade Adjustment Assistance.

Now one reason they wanted to leave those out was that they wanted an offset for reimbursing the Departments for all the Gramm-Rudman cuts. That is what they proposed in every instance, was an increase to take care of Gramm-Rudman cuts. We could not under the circumstances take care of those cuts in each instance when we included some of these programs that Members want to continue.

Now there are certain items that had to be added because, as is expected in the budget process, some programs that were appropriated for last year need to be appropriated for this year. Largely, they are in the field of law enforcement, the diplomatic security initiative, and those kinds of things.

□ 1150

So we have done a lot of shifting in this bill. But we have on the whole brought you, I think, a good bill that I believe meets the requirements or the suggestions of a majority of the House by a substantial margin and is the best we could do and still meet our 302(b) allocation. I recommend the bill as we present it today.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Iowa has consumed 5 minutes.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to say on behalf of all of the subcommittee that we regret that our ranking member, Mr. O'BRIEN, is not here today. We have appreciated very much his leadership in this subcommittee. He has always done an outstanding job during his service as the ranking member, and many of the ideas incorporated into this legislation represent leadership that he has provided.

Mr. ROGERS, the other member of the subcommittee minority, and myself will present our ideas on this

legislation and respond on behalf of our side.

Mr. Chairman, the chairman of the subcommittee has outlined the issues effectively. I do want to say to the chairman and to our colleagues that what we have done here is a bipartisan effort. The chairman provided every opportunity for the minority to participate. It was not a committee divided on party lines but, rather, a committee that recognized our responsibilities as macroadministrators of the agencies supported by this legislation.

We tried as much as possible to deal with the challenges of the many different policy questions in a way that would serve the interests of the people of this Nation. They are tough questions. This bill covers a broad gamut of services and agencies that touch every facet of government.

Each of you can understand, as you read through the bill, how difficult it is to reduce or even to hold the line on some of the Federal responsibilities contained therein. A good example is the question of providing security in the Embassies. This is a wholly new cost burden that we have to recognize. We know the impact of terrorism around the world. We know how vitally important it is that our Foreign Service people be adequately protected, that they have a sense of security, that they can represent the United States effectively without having to be concerned about their own personal safety.

It is a temptation on the part of people to not take the assignments in foreign outposts because of the growing problem of terrorism and the growing threat to personal safety. Secretary of State Shultz came to our committee to point out the need to upgrade the security at our Embassies. It is expensive, but there really is not any choice if we are to remain a leader in the free world, if the objectives of the U.S. foreign policy are to be articulated throughout the countries of the world.

The same thing is true with the FBI. We had to provide increases for the FBI beyond what we normally might have done simply because of the responsibilities that this agency has to deal with the problem of domestic terrorism.

I think another agency that is an example of that is juvenile justice as well as the entire justice system. We all feel that it is the responsibility of the courts to be effective in administering our system of justice. We want people who violate the rules of society to be properly prosecuted. To do this costs money.

It takes not only prosecutors—and we increased the amount for that responsibility of the Federal Government—it likewise takes additional judges, it takes additional staff people to process the cases to ensure that there is prompt delivery of justice to the people that are faced with prosecution.

It likewise takes an increase in the Federal prison allocations in order to meet the needs of the justice system. We all hear from our constituents, I am sure, "Well, let's lock them up; let's take the people off the streets who are violating the personal safety of their fellow citizens." But to do this costs money.

Our bill also recognizes that one of the great concerns of people in this Nation is that of maintaining a strong economy, the challenge of providing employment for those who want to work, the challenge, in effect, of reducing unemployment.

So, of course, we put in money for economic development. This is seed money; this is money that is magnified many times over by virtue of giving some encouragement through the grants that EDA makes that will cause private investments, that will then in turn produce jobs.

Likewise with the Small Business Administration.

We are right at the revised 302(b) allocation; we are not above, we are not much below. I know that someone will probably raise the issue that we are over the allotment as far as the cash actual outlays in 1987. But I point out to all that this was triggered by the fact that we had to increase the FBI to address the terrorism issue, by the fact that we had to add some funding to the Bureau of the Census.

I know we all think "We just finished the census." But we are getting ready to do another one in 1990, and that is not far away.

The Bureau of Prisons I mentioned; the U.S. attorney, the FCC, and one I also want to mention is the Board for International Broadcasting. We have a substantial amount in here for modernization of our broadcast facilities. This is, I think, one of the effective things that we do in terms of world leadership. That is to tell the truth, to spread the truth throughout the world and particularly behind the Iron Curtain.

The facts of the disaster of Chernobyl, in my judgment, would not have been brought out as early as they were by the Soviet Government had it not been for the fact that our facilities in Europe were sending that message behind the Iron Curtain. If you will recall, I think it was the Swedish Government which first raised the issue because of the flow of radioactive material and, in turn, our information systems could make that knowledge available to people at risk behind the Iron Curtain.

We perhaps saved lives in Eastern Europe by virtue of the fact that the United States and our allies were early on telling the story of Chernobyl.

We will be debating the defense bill in the future, but the projection of ideas, the projection of truth is, certainly equally important as is the projection with arms.

We have recognized the importance of adequately funding our international information agencies.

I mention these because the reason we are over on outlays is because the budget resolution does not recognize the need in those areas, FBI, the information services, and some of the others.

We therefore, in order to properly address those problems, had to add money in terms of fiscal 1987 outlays. But what really drives expenditures down the road is budget authority, and in that instance, we have stayed within the allocation of the budget which was adopted by a very large majority of this body. In so doing, as a policy, this body has said that we agree with those allocations.

Our subcommittee has made every effort to be responsible and stay within the policy decision made before we went on the July recess.

I recognize, of course, that this is not a bill that is perfect by any means; that we deal with some things such as the United Nations that we would just as soon not have to spend money on. But we have been thrust into the role as leader of the free world. There is no other nation able to do it. That carries with it some burdens that cost money. But again if we are to maintain a society, if we are to maintain that beacon light of freedom for other nations, we have to take the leadership role that is ours in this post-World War II era.

There will be a continuing responsibility in that field. Unfortunately, we, in the United States, are the only ones who are equipped to do it.

Mr. Chairman, I urge my colleagues to support this bill. I think it represents a responsible approach to the challenges of providing for the security of the United States, for the security of our people in the Embassies, for the leadership we are required to meet in the world for funding agencies, such as drug enforcement, the information agencies, the Commerce Department, the Trade Agency. Again recognizing we are going to have continuing challenges in the field of trade. This requires that agencies that are given that responsibility, such as the Department of Commerce and the International Trade Agency, have adequate funding.

Mr. Chairman, I urge my colleagues to support this bill, and I hope that we can move forward promptly.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has consumed 10 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I yield 7 minutes to the ranking member, the gentleman from Arkan-

sas [Mr. ALEXANDER], a very valuable member of our subcommittee.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the bill before us, H.R. 5161, providing appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies.

This is a good bill. It is below the budget request by $3 billion. At the same time, it provides funding for programs vital to the interests of our people.

Our chairman, the members of our subcommittee, and staff have worked very hard to bring to you a responsible bill. A bill which takes fully into account the budget constraints we face and the needs of our people.

During the July Fourth district work period, I spent the full period traveling through the First District in Arkansas, listening to the concerns of my constituents. At every stop, in every meeting, in almost every conversation, there were two overriding interests, more work for the workers, and higher farm prices.

Our people want jobs. Our people want to work. And, our people want better farm prices. We want an end to the economic conditions that are forcing Arkansans out of production lines and into unemployment lines. We want improved economic conditions, improved farm prices, and an end to the situation that is forcing our farmers off the land.

Our people want more jobs. The unemployment rate in the First District in Arkansas is higher than the rate for our State of Arkansas. It is more than a third higher than that for the whole Nation.

Now, this particular bill does not address the problems of our farmers. But, it does provide funding for programs vitally important to our small business operations, to our people who want jobs and can't find them, and to our people working in industries whose jobs are threatened by the flood of imports.

This bill provides funding for continuing the programs of the Small Business Administration which help our small business operators in time of stress and which help people who want to be small business operators.

This bill provides funding for continuing the Economic Development Administration programs. In Arkansas, alone, EDA seed money investments have generated more than 70,000 private sector jobs. These EDA investments have leveraged private sector investments in jobs producing businesses and industries at a rate of better than 1-to-1. The people who hold these private business and industry jobs are taxpayers. In fact, the taxes they pay more than repay the EDA investment. About every 18 months, the taxes paid by Arkansans working in jobs that came into being because of the Federal-State-local economic development partnership EDA embodies more than repay the total investment made in our State since 1965.

The investment the American taxpayers make in EDA programs makes money. It makes money for people who want to work. And, it makes money for the Federal Treasury because these workers more than repay the EDA investment.

In the last 24 hours alone, I have received more than 600 letters from people in First Congressional District asking for help in protecting their jobs from imports. I have supported legislation to accomplish that goal, and I will continue to support legislation that helps insure that our workers have a chance to compete on a level playing field. To insure that their jobs are not continually threatened by the unfair trade practices of other nations.

I am convinced that Arkansas and American business and industry can successfully compete with any in the world, under fair and equal conditions. So, I particularly support another part of the funding provided in this bill. That is the trade adjustment assistance funding in the International Trade Administration. This funding helps Arkansas and American businesses and industries improve their operations and gear up to meet the competition from imports. This program has proven its worth repeatedly as businesses and industries using the technical assistance have not only been successul in staying in operation and keeping our people working, but, in many instances, expanding their work force.

At a time when more than 8 million Americans are looking for work, when tens of thousands are in jobs threatened by imports, and when small businesses are under severe stress, we need to keep these programs in operation, even if the funding levels must be and they must, constrained by the national effort to reduce deficits.

I have included a report from the National Association of Development Organizations which reports on the devestating effects of the farm crisis on rural communities and further illustrates the need for government agencies to provide economic assistance to these communities.

Getting private sector jobs for Arkansans and Americans. Helping business and industry meet the competition from imports. That is what this bill is about.

I urge my colleagues who are concerned about putting people to work in their districts and keep those in import threatened businesses and industries at work to vote for passage of this bill. I urge you, in the name of Arkansans and Americans looking for work and not finding it, to resist any efforts during this debate to cut the heart out of programs that help put our people in meaningful, private sector jobs and keep them there.

[From NADO News, National Association of Development Organizations, June 27, 1986]

CAN RURAL COMMUNITIES SURVIVE THE FARM CRISIS?

This Special Report is based on a draft Committee Print prepared by the Senate Subcommittee on Intergovernmental Relations under the Chairmanship of Senator Dave Durenberger (R-MN). The May 1986 draft of "Governing the Heartland: Can Rural Communities Survive the Farm Crisis?," prepared principally by Thomas Stinson, focuses on the impact of the farm crisis on rural governments. Overall, the study shows that declining farm land values are putting heavy pressure on local tax bases. When combined with expected federal aid reductions, these pressures will force rural governments into the difficult choice of raising taxes, even as the tax base declines, or cutting essential public services.

For three years ominous headlines describing an expanding farm crisis have filled the nation's newspapers. The public has learned of the serious financial problems facing America's farmers and of the massive drops in farm income and farm land values which have occurred during this decade. Attention has been focused on the direct, often dramatic impacts on individual farmers, their families, and on small businesses in rural communities throughout America.

Another dimension of the farm crisis has been largely overlooked—the growing threat to the financial viability of rural local governments. Declining farm incomes and farm property values erode the local tax base. At the same time, demands for many publicly provided services increase, creating a squeeze between falling revenues and higher costs. In many communities the financial vise is being tightened further by cuts in federal and state aid.

If these trends continue, rural local governments cannot avoid both cutting services and increasing taxes. In the absence of such actions, local government revenues will fall short of existing expenditure levels by $106 per capita on average in the eight multicounty regions examined (in Arkansas, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, and North Dakota). Under more pessimistic assumptions about further drops in land values and cuts in intergovernmental aid, per capita revenue shortfalls of $250 or more were estimated for some areas (in Kansas and Montana). The higher taxes and reductions in services necessary to overcome such shortfalls have the potential to permanently change the quality of life in rural America.

THE TROUBLED AGRICULTURAL ECONOMY

Since 1980, net farm incomes have fallen precipitously. From 1980 through 1984, real farm income averaged only $25 billion in 1982 dollars, down nearly 40 percent from the average of the 1970s and down more than 25 percent from the average of the 1960s. Lower incomes have meant more borrowing and from 1980 to 1984 there was a 94 percent increase in the number of farmers with very high debt-to-asset ratios.

When farm incomes decline, main street spending also falls, eliminating jobs and reducing incomes in the local commercial sector. The size and scope of those impacts was estimated for a nine county region in southwestern Minnesota. Assuming that the average farm income levels of the early

1980s continue, there are 3,650 fewer commercial sector jobs (about 15 percent) than there would have been, had the relatively high income years of the mid-1970s continued.

VANISHING WEALTH

The decline in agricultural income since 1981 has produced an enormous drop in the value of farmland. Nationwide, agricultural land values fell by more than 30 percent, or $227 per acre, during the past four years. Only three states outside of New England have experienced increases in farm land prices since 1981. Nationally, farm land values declined only one other time in the postwar period, in 1954, when they fell by one dollar per acre. (See Page 6, Table 1.)

When viewed in constant dollars the results are even more sobering. Nationwide, between 1982 and 1985 farm land values fell by $146 billion—a loss of wealth for farm land owners equal to the combined assets of IBM, GE, Kodak, Proctor & Gamble, 3M, Dow Chemical, McDonalds, RCA, CBS, Upjohn, and Weyerhauser. In ten states farm land values have declined over 40 percent and in another three, farmland has dropped in value by more than 50 percent.

Yet, looking at changes in land values understates the loss of wealth and the potential problem facing local governments. When farm incomes decline, jobs in the local commercial sector disappear and incomes in that sector decline as well. Downtown property values reflect the net income which can be earned from that property, so over time the commercial segment of the local property tax base also will decline. The declines in nonfarm incomes, employment, the property values caused by lower farm incomes magnify the impact of the farm crisis on rural communities.

Based on short-term experience in southwestern Minnesota, a $1,000 change in the region's net farm income produces a $198 change in the net income of the region's merchants. A long-term increase or decrease of $64,000 in net farm income will increase or decrease commercial employment by one job. In addition, downtown property values decrease by approximately $15 for each permanent $1,000 decrease in agricultural incomes. If impacts on trading centers outside of the region are considered, the multipliers are larger.

IMPACTS ON LOCAL PROPERTY TAXES

Over time, this massive devaluation in farm assets will significantly erode the local tax base of rural communities. The impacts are already evident in Minnesota, where taxable valuations dropped about 25 percent between 1983 and 1985. In other states agricultural assessed values have remained relatively stable when measured in current dollars, because assessment systems based on agricultural productivity are slow to adjust to changes in market values. Nevertheless, taxable valuations have already dropped an average of 20 percent since 1981 in inflation-adjusted dollars. With land values continuing to fall, it is only a matter of time before declines in assessed valuations in current dollars are observed.

Dramatically increased rates of property tax delinquencies are a leading indicator of future problems. Between 1980 and 1985, annual delinquencies jumped sevenfold in the Nebraska localities examined—rising from $.75 million to over $5.5 million. Delinquencies also more than doubled in the Iowa, Kansas, Minnesota, and Montana communities surveyed.

School districts and county governments are likely to be the most seriously affected by the declining property tax base, since most farms are located outside of municipal boundaries. The major impact on city revenues will be through the accompanying decline in the market values of commercial real estate. In the crop reporting districts studied, approximately two-thirds of farm property taxes went to fund the local educational system, about 30 percent for county services, and the remainder to townships and special districts.

THE SERVICE SQUEEZE

Rural governments are being squeezed by increased service demands as well as falling revenues. Many of the new demands for services are a direct response to increasing unemployment and declining incomes in the agriculturally dependent regions. Although national unemployment rates fell from January 1985 to January 1986, unemployment rose in five of the states studied and fell in only two.

Rising unemployment and financial stress are taking their toll on rural Americans and straining social service facilities. A regional mental health center in southwest Minnesota reports outpatient services up 30 percent since 1984; 24-hour crisis intervention activities are up well over 300 percent; and drug, suicide prevention and family abuse consultations are up two-thirds. Similarly, overall social service demands are up 30 percent in northern Iowa, despite declining population.

DIM PROSPECTS FOR STATE AID

Rural local governments can expect little added assistance from their stato+governments. Most state's tax bases also depend on the health of the agricultural economy and many states are under serious budgetary stress. Six of the eight study states had tax revenues grow more slowly than the national average in fiscal 1985, 1986, or both. There were absolute declines in revenues in four of the eight states in one of those two years. Six of the eight states surveyed were among the 18 states forced to take the extreme step of making mid-year reductions in the fiscal 1986 budgets. For example, Nebraska was forced to cut $17 million virtually across-the-board from its budget and raise its sales tax to avoid further reductions. In Nebraska, state aid to local governments has already declined by two to four percent every year during the last five years.

Given that, on the average, rural communities receive a larger proportion of their revenues from state aid (37 to 38 percent) than from property taxes (27 percent) and federal aid (6 percent) combined, trends in the conditions of state budgets assume particular importance. In fact, tax revenue growth is expected to lag behind the national average in six of the eight farm states surveyed.

FEDERAL AID CUTS COMPOUND THE FISCAL SQUEEZE

Federal aid reductions, past and prospective, are compounding the effects of the farm crisis on rural governments. General Revenue Sharing (GRS) has been reduced, with elimination of payments to states, and subsequently frozen in nominal dollar terms. Between 1980 and 1985 there was a 23 percent cut in real dollars in the amount of federal aid provided state and local governments. Between 1982 and 1984 federal aid to general purpose local governments, excluding GRS, rose by only 0.1 percent nationwide. In the eight agriculturally dependent regions examined in the study, federal aid actually declined by 18 percent during the same period.

The proposed elimination of GRS will hit rural local governments twice as hard as the average locality. GRS comprised 44.5 percent of all federal aid received by agriculturally dependent local governments, but only 21.8 percent of the federal aid received by all general purpose local governments. For example, in Kansas GRS was 51.3 percent of the local federal aid received by agricultural communities in 1982. (See Page 6, Table 2.)

POLICY RESPONSES

The fiscal bind confronting rural governments is both immediate and long-term. In the short run the difficulties stem from the rapid rise in property tax delinquencies. The resulting cash flow problems are being compounded by reductions in state and federal aid.

Ultimately, the most serious problems are posed by the dramatic declines in farm land values. But, because assessed values in most states have only begun to reflect the steep fall in market values, serious long-term erosion in public services can still be avoided if prompt actions are taken at all levels of government. For local governments this means continuing efforts to "do more with less," although there is evidence that many have already exhausted the efficiency gains from cutback management. For state governments it means diversifying and broadening the tax base and attempting to maintain a constant level of state aid through tough fiscal times. For the federal government it means preserving a leaner, more targeted version of general aid to local governments and maintaining those portions of the tax code that support local economic development and self-help.

One possible federal policy response that avoids compounding rural state and local fiscal distress while contributing to federal deficit reductions would be adoption of a smaller but better targeted program of general assistance grants (Targeted Fiscal Assistance) to local governments. (Editorial note: this proposal has not been considered for adoption as NADO policy.)

Two elements of the federal revenue code are of particular importance to rural communities: the federal income tax deduction for state and local sales, income, and property taxes; and the interest exemption for state and local government bonds. The Congressional Research Service has estimated that the long-term impact of eliminating state and local tax deductibility would reduce state and local government revenues by 20.5 percent. Coming on top of the revenue squeeze resulting from the farm crisis, proposed policies which would eliminate the deduction for state and local taxes would profoundly restrict the capacity of state and local governments to meet long-term rural development needs. The impact would be particularly severe for agriculturally dependent states, because their citizens would receive fewer net benefits from tax rate reductions.

While tax deductibility encourages state and local governments to address their overall public service needs, the tax-exempt treatment of the income from their bonds directly supports efforts to satisfy public infrastructure needs and thereby lay a foundation for diversifying rural economies. Despite its importance to all communities, the tax-exemption of certain types of state and local bonds is being threatened. Many tax law provisions of particular importance to the bonds offered by rural communities are

proposed for elimination or severe limitation.

The elimination of the tax-exemption for small-issue industrial development bonds, which provide start-up capital for first-time farmers, and the effective limitation of public-private partnerships financed by tax-exempt revenue bonds are two examples of the types of provisions under attack in Congress. The House-passed tax reform bill also would eliminate the bank interest deduction for purchasing small-issue IDBs, virtually destroying the market for such bonds issued by small communities. It also would restrict the yield local governments may earn on bond proceeds during the facility construction period and retroactively terminate the tax-exempt status of bonds in cases of violation of arbitrage restrictions.

CONCLUSION

The farm crisis ranks among the most severe regional economic recessions since the 1930s. If left unchecked, it has the potential to seriously—and in some cases permanently—undermine the fiscal foundations of many rural communities. But, intelligent policy decisions made before the situation worsens can ease the impact of transition to a more stable agricultural economy, and rural local governments can avoid becoming another victim of the farm crisis.

Many of the problems facing rural local governments can be limited if governments at all levels begin to respond now, before the full effects of declining land values and increased service demands are felt. For state and local governments that means exploring all available avenues of potential savings, seeking new ways to deliver basic services, and building on their economic strengths. The federal government must give affected state and local governments the time and the tools to respond. In particular, the federal government must avoid implementing those budget reductions and changes in the tax code that will compound the rural governments' problems, making them worse at the very time they can least afford it. Rural communities face unprecedented economic and social challenges as agriculture is restructured and America enters its third century. The costs of assisting that transition pale when compared to those of ignoring it.

EDITORIAL COMMENT

Publication of this Special Report is not meant to imply that only agricultural areas are facing severe economic problems or that only state and local governments serving such areas are experiencing fiscal distress. Many other areas with economies based on forestry, mining, fisheries, and/or manufacturing are beset by difficulties beyond their control. Such areas share an interest with farming communities in an adequate and appropriate federal policy response. Clearly, such a response transcends agricultural policy and farm legislation.

TABLE 1.—THE DECLINE IN FARM LAND VALUES

[Percent change in average farm real estate values (per acre)]

States	Time period Feb. 1, 1981 to Feb. 1, 1986 (percent)	Time period Apr. 1, 1985 to Apr. 1, 1986 (percent)
Arkansas	−33	−17
Idaho	−23	−14
Iowa	−59	−21
Kansas	−41	−17
Minnesota	−55	−26
Missouri	−43	−8
Montana	−22	−8

TABLE 1.—THE DECLINE IN FARM LAND VALUES—Continued

[Percent change in average farm real estate values (per acre)]

States	Time period Feb. 1, 1981 to Feb. 1, 1986 (percent)	Time period Apr. 1, 1985 to Apr. 1, 1986 (percent)
Nebraska	−55	−18
North Dakota	−30	−12
South Dakota	−42	−14

TABLE 2.—GENERAL REVENUE SHARING SUPPORT FOR FARM STATE LOCAL GOVERNMENTS

[Dollars in millions]

States	Fiscal year 1986 GRS allocation	1972–86 total
Arkansas	$40.2	$840
Idaho	17.1	325
Iowa	49.3	1,050
Kansas	34.7	739
Minnesota	78.7	1,640
Missouri	68.4	1,510
Montana	16.9	324
Nebraska	25.7	550
North Dakota	11.2	252
South Dakota	12.5	299
Total	354.7	7,529

This report was prepared for NADO by William E. Bivens III, NADO's Projects Director. NADO represents locally-based economic development organizations located principally in small metropolitan and rural areas.

□ 1205

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS], who has been a very active member of the minority on the subcommittee.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this bill, even though it has some features in it that I would hope that perhaps in due time could be modified.

In essence, this bill provides 12,877,000,000-odd dollars. It is $633 million above the fiscal year 1986 Gramm-Rudman level. It is $3.1 billion below the administration's request, and it is slightly below the 302(b) allocation.

There are some major changes from the fiscal year 1986 Gramm-Rudman level, but principally in only three areas. One is the $411 million that we allocate for Justice, which is an increase for the FBI, the Drug Enforcement Administration, and the Federal Prison System. It provides an additional $107 million for Commerce, broadly distributed through several of their programs, including Patents and Trademarks, the NOAA, the International Trade Administration, and others. And finally, the changes from the fiscal year 1986 Gramm-Rudman include $131 million more for SBA, most of this for making good on defaults from prior years, guaranteed loans, and for preservation of the capital fund.

So I think it is a reasonable bill. It provides funds for programs important to our country, including, of course, the operations of the entire Commerce Department; including the Foreign Commercial Service, important for promoting our exports overseas; the U.S. Travel and Tourism Administration, helping to promote foreign travel to the United States, with a great deal of success I think; the public telecommunications facilities grants, which provide, of course, needed assistance to public television and radio stations; and the EDA, which I think is important to the emerging and growing communities across our country.

Also this bill, of course, covers the Justice Department. In the FBI we have increased funding to assist their field operations and increase antiterrorist activities. We have also increased by $50 million the Drug Enforcement Administration in their battles. And it includes important language, I think, which prevents the Department leadership from expanding the use of personnel above the level specified in their budget submission.

Also the bill covers the USIA. I would have preferred more funding for this particular agency, but the bill still provides a $13 million increase to help them carry the message of freedom from this country overseas.

I would quote Archibald MacLeish, who I think says what the USIA should be doing. Archibald MacLeish said, "There are those, of course, who will say that the liberation of man and mankind is only a dream." He said, "They're right. It's the American dream."

The USIA, I think with this increase will be more able to liberate man and mind across the world.

Of course, the bill provides funds for a wide range of additional programs, arms control, SBA, NOAA, trade adjustment assistance, and the like.

There are some funds in the bill which I would have preferred to leave out, but they are included and so be it. That is the way the system works. That is in the State Department's diplomatic security program. The bill provides $227 million, which is $862 million below the request. The administration had requested over $1 billion for increased diplomatic security around the world. Some of us were convinced that the Department of State has not become a good management agency as far as building projects, and I would cite Cairo, Egypt, as a prime example of that. We are not especially sure that they are at this point able to deal with this kind of a construction and management program. And I am still convinced that many of the projects on their list of many, many projects are not essential, insofar as antiterrorism is concerned.

Nevertheless, the committee bill, in conjunction with the recently passed supplemental appropriations bill for 1986, would have the effect of cutting their 2-year request for funding in half. It is my hope that this will force them to do a better job of setting priorities of which projects they would like to be first rather than take them all in a wholesale manner and perhaps have a lot of waste as we have seen in Cairo. This cut, in my judgment, is a step in the right direction in that respect.

But the bill also includes some reprogramming requirements. It will force the State Department to come back to Congress with more details on each project before they can begin it, so at least we will have another shot at looking at each construction project in detail so that we can be reasonably sure that the project is needed and will be carried out forthwith and under good practices.

So I hope this combination of reduced funding and the other reprogramming requirements will force the State Department to construct only the highest priority security-related projects in this Diplomatic Security Program.

Mr. Chairman, I recommend the adoption of the bill. There are some things in the bill which I would prefer not be there. Unfortunately, in the full committee some sections were added which I am disappointed in. I think it is a mistake, to be frank with you, in defunding the Civil Rights Commission.

□ 1215

That was adopted in full committee and I think it is an unfortunate occurrence because I think it does not make sense to me to burn down the church if you do not agree with the preacher.

That, unfortunately, is in this bill. Nevertheless, it is a good appropriations bill for fiscal year 1987 and I recommend its adoption.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for purposes of a colloquy with the gentleman from New York [Mr. NOWAK], I yield to the gentleman at this time.

Mr. NOWAK. I thank the gentleman for yielding to me.

Mr. Chairman, budgetary restraints have reduced the numbers of Immigration and Naturalization Service inspectors and caused severe congestion and delays at points of entry such as the Peace Bridge connecting the United States and Canada in my district in Buffalo and Kennedy International Airport in New York City. Aside from the inconvenience this is causing travelers, I am concerned that the lack of adequate inspection personnel also has the potential for impeding our efforts to control terrorism and drug smuggling.

I believe this Congress should clearly signal INS that within existing funding for fiscal year 1986 the agency should rearrange its priorities to reprogram available moneys to provide adequate inspection services at busy ports of entry, like the Peace Bridge and Kennedy Airport.

Mr. SMITH of Iowa. I agree with the gentleman from New York that INS inspection services are vital for a variety of reasons and the agency should seek to remedy the shortcomings you cited and that is the reason we added $33 million above the level eventually available for fiscal year 1986.

Mr. NOWAK. It is my understanding that an effort will be made in the other body to reexamine the spending requests for INS for fiscal year 1987 to determine if additional funds for inspections can be allocated and still keep within budgetary restraints. I would appreciate the support of the gentleman from Iowa in the future House-Senate conference on this legislation for any steps that can be taken so the import inspection functions of the INS will be adequately provided for in the upcoming fiscal year.

Mr. SMITH of Iowa. I certainly appreciate the gentleman's concerns and will keep in mind as we address this issue with the other body.

Mr. NOWAK. I thank the gentleman for yielding.

Mr. SMITH of Iowa. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. I thank the gentleman for yielding to me.

Mr. Chairman, I want to say to the Members what a pleasure it is to serve on this committee, and I want to take this opportunity to thank the chairman from Iowa and to thank the ranking member who is not with us today, Mr. O'BRIEN, who does an outstanding job, and I wish to thank his replacement, Mr. REGULA, who is filling in and carrying the same tradition of Mr. O'BRIEN.

This is one subcommittee in which the funding in this bill is to the testimony of the witnesses. If the witness suggested they had enough, it was left at that level. If they came in and presented a poor case, this is one of the few committees that eliminated commissions, reduced other commissions because the testimony did not justify the request for the money.

At the same time, this particular committee deals with several unpopular agencies that were underfunded. The Bureau of Prisons, which is probably one of the best run Federal programs because of the Director. The administration proposed funding for somewhere in the area of 35,000 or 37,000 inmates when they know the population is 40,000 and rising.

They know they want new prisons. This bill pays for the construction of three very expensive new prisons. Once we build them, we are going to have to staff them, but the bill comes down from the administration without the funding to do this.

Then we go to little agencies such as the Parole Commission. You go to the Parole Commission which is a very small agency. In this particular bill, we included $180,000 to add four positions. Not big positions—examiner/analyst, typists, training, and filing. That is only so that they can do half of what the Congress has told them to do.

In other agencies, the U.S. trustees, the bankruptcy program, we give them adequate funding. Not excessive amounts, but adequate to responsibly do the job. In the ITC we add a little money to do what they are going to have to do. The original request of the U.S. Trade Representative to OMB was for $15,682,000. The administration sends down to us a request of $12 million-plus. Here we are facing a $148 billion trade deficit and we going to pinch nickels and tell them to do something and not give them the funding.

The gentleman from Iowa, the gentleman from Ohio funded this particular program. They funded it not because there was any patronage or other such reason, they funded it because this allows them to do half of what they are supposed to do. It is not excessive, but it is adeqaute.

SEC; here is an agency that has programs such as the enforcement program, investment management, full disclosure, the regulation of the security markets, the Legal Services department, and everyone wants to get into the media and suggest that the SEC do a better job. For them to do a better job, you have to give them some of the tools.

This committee has increased funding a little in that agency because of no political pressures, but because it was the right thing to do. If there is one bill that is going to come before the House that has been well managed—and this is complimentary to Mr. SMITH of Iowa and Mr. REGULA and all the other committee members—it is this bill. Every single committee member had input in this committee. You can make a suggestion for addition or subtractions, and there are more suggestions to Mr. SMITH of Iowa and to Mr. REGULA for reductions than there were for increases, but we stayed within a certain number.

If any bill is going to really be suspect for an across-the-board cut, which would be bad judgment in my own, personal opinion, it is this particular bill. It probably would be politically expedient, but it would be totally irresponsible because the members of this

committee have funded to what the responsibility is.

I just want to thank the chairman for letting me serve on this committee.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the 1987 Commerce, Justice, State, and Judiciary appropriations bill. The committee has included $13 million for the Commission on the Bicentennial of the U.S. Constitution of which $2.7 million is earmarked for nationwide implementation of the National Bicentennial Competition on the Constitution and Bill of Rights. This will make the national competition possible in every congressional district in the Nation in 1987.

Several school systems throughout Indiana are already participating in the field testing of the National Bicentennial Competition on the Constitution and Bill of Rights. This Indiana project, part of a development and field testing program conducted by the Center for Civic Education, has recently been granted official recognition by the Commission, chaired by Chief Justice Burger.

Mr. Chairman, our Nation's schools need to improve civic education, which must begin with a vivid illumination of the principles and values embodied in our Constitution. The forthcoming bicentennial provide us a special opportunity to meet this need through the National Bicentennial Competition.

I am proud that Indiana my home State, is helping to develop and field test this program, I ask my colleagues to join me in support of it so that we may implement it nationwide as we celebrate the bicentennial.

□ 1225

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL], a member of the full committee.

Mr. PURSELL. Mr. Chairman, there are going to be several "warning reports" as appropriation bills start coming to the floor. We face a major fiscal year 1987 sequester in less than 3 months unless we vigorously enforce the assumptions in the budget resolution through reconciliation and appropriations action.

What concern me is whether or not these appropriation bills exceed the 302(b) allocation in outlays. Estimated outlays are used to calculate whether a sequester is necessary, not budget authority. The Commerce-State-Justice bill exceeds the 302(b) outlay target by $1 billion 52 million in discretionary spending. That is a lot of money. Indeed, if everyone of the 13 appropriation bills exceeded the allocation by $1 billion, we would unquestionably have a sequester.

As we work on the fiscal year 1987 appropriation bill in the next few weeks, we must make sure that they do not exceed the oulay targets. Otherwise we will be unable to avoid a painful and disruptive sequestration in the autumn.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I want to associate myself with the gentleman's remarks, and I want to make sure that the Members understand the relationship between the outlays and the Gramm-Rudman mechanism that this Congress has set in place.

Is it not true that the outlays are the trigger for a sequestration under Gramm-Rudman, and that if we do not have the outlays in order, we are going to have that problem down the line?

Mr. PURSELL. Absolutely. And there is no question that the budget authority will drive those outlays, particularly in the outyears. So I do not think we can divorce ourselves from outlays levels, and I would be hopeful that Congress could address the problem now. It is much easier now to make these reductions and to get somewhat of a freeze level, not to jeopardize these very critical programs in the bill. There are excellent programs in this bill, but in the long term, if we do not look at the outlays, we are going to have some very painful discussions and political decisions to be made later in the year.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Michigan.

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I would like to have the attention of the subcommittee chairman, if I may. First, I want to say to him and to the members of his subcommittee what a superb job they have done again on their annual appropriations bill. I think it is a superb piece of work. I know the constraints the gentleman has worked under. I know I speak for a number of Members in stating how much admiration we have for the gentleman and for the very hard and arduous work he has performed.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for those words.

Mr. AUCOIN. Mr. Chairman, on page 4 the bill deals with Export Administration, and though the specific dollar amount appropriated for Export Administration; namely, licensing and controls and enforcement, does not show up, it is my understanding that the gentleman appropriates approximately $52 million for those purposes?

Mr. SMITH of Iowa. That is correct.

Mr. AUCOIN. And it is further my understanding that that is approximately $2.5 million more than last year's level of appropriations?

Mr. SMITH of Iowa. Yes.

Mr. AUCOIN. However, it is $2.5 million less than the administration did request. I understand the subcommittee chairman's need to balance these competing needs, and this is obviously an area in which he felt that had to be done.

Mr. SMITH of Iowa. The difference is that they asked for a complete restoration of the Gramm-Rudman cut plus an increase for uncontrollable costs plus a program increase, and we just did not have room under our 302(b) allocation to provide all of that request.

Mr. AUCOIN. I can appreciate that. But I would make the further point, though—and I know the gentleman understands it—that one of the problems we have economically in the country, particularly in the high-tech sector, is that we have not enough personnel to deal with the speedy processing of export licenses, particularly in terms of high-tech products.

What galls me—and I think it galls other Members of Congress—is when we see budget requests that are very limited for the Department of Commerce in the area of export licensing, but when we get to the Department of Defense bill, where most of the personnel who deal with export licensing are there to slow down the processing further, we see major increases in personnel. I think that is a very real problem for the high tech industry, a growth industry that we must have if we are going to keep America out there on the cutting edge of technology, both militarily and commercially.

My question to the subcommittee chairman would be this: If ultimately in this Congress by some happenstance funds were able to be found in another agency that could be used for the purpose of augmenting the funds that he has appropriated for export licensing here in the Department of Commerce, would the chairman of the subcommittee believe that would be a wise expenditure of funds?

Mr. SMITH of Iowa. Certainly the matters are related, and, of course, if there is a shift in functions, we would expect a shift in funding to follow the shift in functions.

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for his response.

Mr. Chairman, I want to make one further point, and that is to point out the excellent work this committee has done in the field of trying to do something to come to terms with the overcrowding in prisons. Prison overcrowding is a chronic problem in this country, and, frankly, I was sickened just the other day as I watched television,

a television news report in Portland, and saw that a comparable overcrowding problem in the Multnomah County Jail in Portland was such that the sheriff had to release convicts into the streets. So I sat there watching on film on the evening news convicts just pouring out into the streets, celebrating, laughing, jumping with joy. It was something that made this Member of Congress very upset, and I know how it affected my constituents and taxpayers and law-abiding citizens.

At the Federal level the gentleman's committee, Mr. Chairman, has done a superb job in trying to deal with Federal prison overcrowding. I particularly want to compliment the gentleman for the three prisons he has provided funding for, particularly the one in Oregon which will help alleviate a serious problem of overcrowding in the Pacific Northwest.

I must also say that in Oregon where this prison will be located, the Sheridan-Willamina area, we have a very receptive community. This is a community that wants that prison. It is a function of the chronic economic problems that community has suffered, with high unemployment rates. They want this prison, not only as a solution to the overcrowding problem but also because of its economic importance. We are talking about 800 jobs. We are talking about something on the order of $5 million to $10 million annually into the local economy in Sheridan, Williamina, McMinnville, and so forth. That is a tremendous gain, and we thank the gentleman for his excellent work in that regard.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from Ohio for yielding this time to me.

First of all, let me thank the subcommittee for the hard work that the Members did in balancing priorities in this bill. I think that they have done some good work. I think that they have managed to bring their outlay figure in underneath the 302 allocation for the committee, and for that they are to be congratulated.

But let us understand that in doing that, they have brought it in very, very close to their 302 allocation. They are only $37,000 below what their 302 allocation was. Why do I raise that issue? Because if we are to readjust some of the priorities the committee has in its bill, we cannot add money for things we might want to do without subtracting money elsewhere; otherwise we come in conflict with the Budget Act.

□ 1235

Why do I raise that? Because there are some of us who believe that it is time in this country to have a tough fight on drugs. We think that it is time to go further than the subcommittee has gone in fighting drugs. The subcommittee has added $48 million. That is not enough. We should add more, but if you add more you have got to find a cut somewhere else.

It is the intention of some of the Members of this body to ask for cuts early on in this consideration so that we can come back and add an additional $50 million in money to the Drug Enforcement Administration.

Understand, we must do it that way. Our amendment will be out of order to add this money for drug enforcement if we have not cut elsewhere; so the cuts we are going to offer initially are aimed at giving us the resources that we need in order to add in money for the Drug Enforcement Administration later. It is the only thing we can do under the Budget Act, but it is time to fight drugs in this country. We have seen in the last few weeks that this is absolutely essential.

Can $50 million more than what the committee has approved be used? Yes; it can.

It is my opinion, based upon the research that I have done into the matter and the talks that I have had with officials, that it can provide additional air and marine interdiction of drugs coming in, something that every American wants.

It could provide additional grant money to State and local governments to be used to address the great problem of diversion of legally produced pharmaceuticals into illegal markets. We can use this money and use it well.

I would ask the Members to approve the cuts so that we can add the money into the DEA.

Mr. REGULA. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, later on in the debate today I intend to offer an amendment to the section which deals with the Small Business Administration. The amendment that I will offer will eliminate the Direct Loan Program, with the exception of $39 million that would go to MESBIC's, so we would be eliminating $58 million in direct loans.

I am offering this amendment because I believe the Direct Loan Program does not work. It is not effective. It does not catch a great chunk of the small business community and in fact it is not supported by much of the small business community.

In 1985, the last year for which we have definitive figures, there were a total of 720 loans issued under the Direct Loan Program, 720 loans out of nearly 13 million small businesses and those 720 loans totaled around $50 million, approximately the amount that we will be asking to delete today.

Even when the Direct Loan Program was in full swing back some years ago, it served less then 3,000 small business a year out of the total of some 13 million small businesses.

Additionally, the default rate for the Direct Loan Program is very high. It runs about 20 percent. It has run higher in previous years, but the Direct Loan Program default rate has been brought down; but even brought down it still runs 20 percent. That compares with the default rate of the Guaranteed Loan Program of around 9 percent and private sector loans of around 2 to 3 percent.

So I will be offering an amendment to delete the direct loan provision, which will save $58 million.

My amendment will also reduce the amount of guarantees by 10 percent from the amount that was in last year's post-Gramm-Rudman appropriation bill.

The subcommittee in recognizing the need to look at the guaranteed area reduced guarantees by 2.5 percent. I would reduce guarantees by a total of 10 percent. This would save approximately $39 million over the next 5 years.

I think at a time when we are asking so many areas of the budget and so many people who depend on things in the Federal budget to absorb reductions, that the Guaranteed Program could do better than absorb merely a 2.5-percent reduction.

I might add that there are many areas of the SBA that I am not touching, and I will mention those because I do not want anyone to be confused when my amendment comes up later in the day.

As I mentioned, we will not touch MESBIC's, minority enterprise small business investment companies.

We will not touch small business investment companies.

We will not touch the 503 development company loans.

We will not touch the Surety Bond Program.

We will not touch pollution control bonds.

We will not touch small business development centers.

We will not touch salaries and expenses.

We will, however, seek to eliminate the Direct Loan Program which is not working, which does not touch a significant segment of the small business community and which would save us $58 million, and we will seek to reduce the guarantee authority to try to save $39 million over the next 5 years and to have the Guarantee Program absorb some of the same kinds of reductions that other programs will be absorbing, like the Community Development Block Grant Program and the Urban Development Action Grant Program and other areas of discretionary spending.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Chairman, I thank the distinguished gentleman for yielding.

Mr. Chairman, my colleague, the gentleman from Oregon, Mr. LES AUCOIN, raised an issue earlier about the proposed transfer of funds in the appropriations bill from trade administration to the Trade Adjustment Assistance Program in the Department of Commerce.

I fully understand and appreciate the committee's effort to deal with the continuing problems of imports and the industries that are being heavily impacted, which often results in lost jobs. The Trade Adjustment Assistance has a considerable value.

On the other hand, we need to improve the Export Administration Program if we are going to improve the licensing of technology that is destined for world markets.

The subcommittee I chair has jurisdiction over the authorizing bill, which deals with these programs. It is my opinion that the Department of Commerce needs these funds to process the high volume of licenses that are now subject to delays because of manpower shortages.

We are in a fiercely competitive world environment in technology. If we have persistent delays and inefficiencies in the program, then our high-technology industries will be put at a disadvantage.

So I am hopeful that while the amount to be transferred, which is modest and already in the appropriation bill, does not serve as a precedent for future action of taking money out of one trade program and putting it into another.

I think everybody agrees we need to devote more resources to industries affected by imports, and we need to deal with export promotion.

I would add a similar statement with respect to transferring money from United States and Foreign Commercial Services. This is the only Government agency that exists in our foreign emissaries to help to facilitate export opportunities. Congress wisely established the Foreign Commercial Service, which incidentally has been expanded as a result of the trade bill which passed the House a few weeks ago, so that we can open up new markets for U.S. exporters.

Really, there are only two ways to deal effectively with our staggering trade deficit, that is to import less, which takes us down that perilous course of protectionism, or to export more. The only Government program that is currently in place abroad to help U.S. exporters is the Foreign Commercial Service; so I do not think we are wisely applying the resources we have if we cut short these export related programs.

Again, I can appreciate the need to strengthen the Trade Adjustment Assistance Act, but I am hopeful that in future years we will increase those programs as we see fit, but without taking away from existing agency budgets.

Mr. MINETA. Mr. Chairman, I join with my colleagues in supporting the Appropriations Committee's decision to close down the U.S. Commission on Civil Rights.

This is a sad day. The Commission has a long history of standing for the principles upon which this Nation was founded: That all people are created equal, and have equal rights under our laws.

Yet under this administration, the Commission on Civil Rights has lost sight of its mission, and no longer plays a useful role. A Civil Rights Commission which no longer stands for civil rights has lost its claim on the public trust. We in this Congress have an obligation to guard the Treasury against expenditures on agencies which serve no useful purpose.

As I said, this is a sad day. That we in this Congress are so disillusioned with the Civil Rights Commission that we must close it down stands as a monument to this administration's neglect of our Nation's minorities.

The Commission played a significant role for 25 years of our history. We shall all remember the Commission's achievements.

I congratulate the Appropriation Committee's leadership in bringing this measure to the floor, and urge support of the committee position.

Mrs. SCHROEDER. Mr. Chairman, I support the provision in this bill which provides funding for the U.S. Commission on Civil Rights only for the purpose of closing down operations by December 31, 1986.

All of us are uncomfortable with the idea of defunding the Commission. Congress created the agency in 1957, and sustained it in 1983 as an independent civil rights monitoring agency. Yet, in the 3 years since its reconstitution, the Commission has ignored its mandate, forgotten its responsibilities to monitor civil rights, and failed to produce objective and thorough reports on the state of civil rights in America.

The Commission has produced nothing of value to the Subcommittee on Civil Service, which I chair. Few hearings have been held, and fewer reports issued. The one major report issued, on pay equity, was a biased and irresponsible document. However, since the Chairman of the Commission had denounced pay equity as "the looniest idea since 'Looney Tunes'," the report came as no surprise.

Indeed, the Commission has become little more than a soapbox from which the Chairman and a few others espouse their personal opinions—and bill the Government for the privilege.

In 1985, I joined three other subcommittee chairs in asking the General Accounting Office to investigate allegations of gross personnel abuses and fiscal mismanagement. GAO delivered its report in March of this year after finding widespread mismanagement at the Commission, including:

Startling growth in the number of political appointees.

Dreadfully sloppy personnel and financial records.

High billing for per diem and travel by the Chairman and questionable billing for travel by his business partner.

Improper augmentation of appropriations by the acceptance of gifts from oil companies and political organizations; and

The inability to account for $175,000 of earmarked funds.

Such waste of scarce taxpayer resources convinced me that we should not continue to fund this organization.

I recognize that defunding the Commission will cost its dedicated career employees their jobs. I worked with Mr. Dixon to minimize the adverse impact on the career staff of the Commission. The language in the bill does this by establishing for them a special hiring preference for civil service jobs for which they are qualified. It is a one-time only preference which will be administered under procedures established by the Office of Personnel Management. Veterans preference is specifically maintained.

Since the Commission has not performed its mandated functions for the past 3 years, and has managed to waste nearly $12 million per year in the process, I urge my colleagues to support defunding the Commission on Civil Rights.

Mr. SMITH of Iowa. Mr. Chairman, I have no further requests for time.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $35,000,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $90,780,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,000,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSES

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $30,500,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $190,000,000: *Provided*, That during fiscal year 1987 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

AMENDMENT OFFERED BY MR. MONSON

Mr. MONSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MONSON: Strike page 2, line 23, through page 3, line 10.

Mr. MONSON. Mr. Chairman, I ask unanimous consent that a second amendment that I have at the desk be considered en bloc with this amendment.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. MONSON: In title II, page 17, line 5, strike "$412,000,000," and insert in lieu thereof "$462,000,000."

The CHAIRMAN. Is there objection to the request of the gentleman from Utah to consider the two amendments en bloc?

Mr. SMITH of Iowa. Mr. Chairman, I reserve the right to object until I know for sure what we are doing here.

Mr. Chairman, may I ask the gentleman, where is the second amendment?

Mr. MONSON. Mr. Chairman, if the gentleman will yield, the second amendment is on page 17.

Mr. SMITH of Iowa. And what does it do? Is the gentleman trying to transfer, is that what the gentleman is trying to do?

Mr. MONSON. Pardon?

Mr. SMITH of Iowa. The gentleman is proposing a transfer?

Mr. MONSON. Yes; I am, in a portion.

Mr. SMITH of Iowa. I am constrained to object, Mr. Chairman.

The CHAIRMAN. Objection is heard to the en bloc consideration.

The gentleman from Utah [Mr. MONSON] is recognized for 5 minutes in support of his first amendment.

Mr. MONSON. Mr. Chairman, I had hoped with these two amendments to propose that we reduce the funding for the economic development assistance programs and take some of that funding and increase the amount for the Drug Enforcement Administration to better fight the drug problem that is being created in our country. I think this would have been a very helpful amendment, and as has been pointed out during the debate today, if we are going to increase our efforts in the fight against drugs, we are going to have to make some cuts in order to do that.

I will be supporting other amendments that I believe will be offered that will do similar things as I am attempting to do at this time and will concentrate now on the effort to reduce the funding for the economic development administration assistance programs.

Will Rogers once said that all Government programs have three things in common. They all have a beginning, they all have a middle, and they all have no ending. And for some time now, Congress has proved Will Rogers correct. Today I offer a chance to change that.

For a number of years now, the President has tried to eliminate funding for the Economic Development Administration and Congress has resisted those attempts. While the merits have been debated time after time, this has not been done in the context of relative choices.

I think that is an important point that we need to make here today. We are now where we are taking about choices. We are now talking about the actual spending of this money and we need to make the choices that are going to help us to get our budget more closely in balance.

But now we must consider the benefits of the EDA relative to other choices. For too long, we've viewed these programs in isolation but now with it all but assured that the fiscal year 1987 deficit will break the target of $144 billion, we must ask if EDA should survive while civilian and military retirees have their incomes cut with defense and other vital functions of the Government also being threatened.

We all know this is an election year. None of us look forward to cutting programs that have any sort of support. But let's be clear on one thing: The spending reduction I propose today must be compared to the spending reductions we will consider if Gramm-Rudman targets are not met. If you think cutting civilian and military retirees is an easier vote than cutting the EDA, OK. But I think that our retirees have done their share for deficit reduction and that they should not be called upon to sacrifice more.

I have also pointed out already that we need to do more in the way of fighting the growing drug problem in our country. One way we can accomplish that is by making cuts that I propose at this time.

Last year, the debate over cutting funds for EDA centered around abuses and mismanagement of taxpayer's dollars. Supporters of EDA indicated that reforms were in the works and should take effect soon. But that has not come to pass. Last week, Senator WILLIAM PROXMIRE commented on the EDA handling of a project in Indiana, saying, "If ever an agency has clearly demonstrated its lack of concern over the appropriate spending of taxpayer's money, it is the Economic Development Administration * * *." That's not David Stockman saying that or Jim Miller but WILLIAM PROXMIRE, a Democratic Senator with an ADA rating of 70 in 1984.

□ 1250

The CHAIRMAN. The time of the gentleman from Utah [Mr. MONSON] has expired.

(By unanimous consent, Mr. MONSON was allowed to proceed for 5 additional minutes.)

Mr. MONSON. Of course, it is fair to say this is just one statement of abuse by the EDA, but here are just a few others:

With over $12 billion spent on EDA programs, former top-ranking EDA officials estimate that $3.5 billion has been "totally wasted."

The sum of $813,000 was wasted on a Phoenix, AZ, golf, jogging and tennis court that was built on a 60-acre landfill. When the Salt River predictably flooded, the entire project had to be abandoned.

The sum of $670,000 was given to a Tower, MN, project to build a marina complex. The project was too costly for the small town and the project became a total bust.

The EDA spent $179,000 on a community center beginning in 1975. It was so utterly useless that when it collapsed, no one even noticed. In 1979, a sharp-eyed woodsman noticed the EDA investment—collapsed, forlorn, deserted, and clothed in weeds.

The EDA provided a $500,000 grant to build a model of the Great Wall of China using Indiana limestone. Later, the EDA provided an additional $200,000 to build an accompanying model of the Great Pyramid of Egypt. After many complaints by the inspector general of the Department of Commerce over the lack of progress in completion of the project, the inspector general recommended termination of the grant and recovery of the $630,000 that had been disbursed. After the EDA continually failed to act, the EDA now finds that only $70,000 of the grant remains to be recovered, along with a few thousand dollars of construction equipment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MONSON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, does the gentleman know how many people

got employed building the Great Pyramid? The Egyptians were able to employ thousands of people when they built it. Did we get thousands of new employees building the Great Pyramid all over again?

Mr. MONSON. I am sure that we did not get thousands, but I wish that I could comment more specifically on the gentleman's question. I do not have that specifically in front of me.

Mr. WALKER. How about building the Great Wall of China? Did we get a few employees out of that? Surely we ended up with something for this money.

Mr. MONSON. I am sure again that we did get some people employed, but one indication that we have of the disaster of this program in providing jobs is that a Commerce Department analysis of 20 representative EDA projects indicated that out of a total $27.5 million investment, only 86 jobs had been created—a per-job cost of $320,000.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. MONSON. I am happy to yield to the gentleman.

Mr. WALKER. Mr. Chairman, the gentleman is saying that each job under that project cost us $320,000?

Mr. MONSON. Those are the figures that I have in front of me; yes.

Mr. WALKER. That is not $32,000, but $320,000 per job?

Mr. MONSON. That is the figure that I have, $320,000.

Mr. WALKER. There are a lot of my constituents who would like one of those jobs. Maybe the gentleman's amendment is not quite what I thought. If the EDA is out handing out $320,000 jobs, that sounds like something that we ought to be concerned about. I think that a few Members of Congress would like one of those jobs.

Mr. MONSON. I have been trying to think about what I would like to do when I resign from Congress, and maybe I am foolish standing here offering this amendment, because that is certainly a job that I would like to go after if it pays $320,000.

Mr. WALKER. I would agree with the gentleman.

Mr. MONSON. an inspector general study concluded that $100 million awarded under the 1983 Jobs Act had reaped dismal benefits. Twelve programs started in the first 6 months of the program revealed an incredible job cost of $20,000 each month.

In 1981, the EDA attempted a bulk sale of some of its loans and was offered less than 15 cents on the dollar.

An October 1985 report by the Commerce Department's inspector general indicated that the EDA jobs programs "will not alleviate unemployment to any meaningful extent. The major goals specified in the legislation—immediate jobs for the unemployed and rapid disbursement of funds—have not been accomplished." The report added "Twenty-two months after passage of the act, EDA has disbursed only $54 million of its $100 million appropriation. We estimate that no more than $3.5 million of the appropriation will eventually 'trickle down' as salary payments to the unemployed and underemployed targeted by the act."

Again, the question is not if the EDA has some merit—you can't spend $200 million and not have some people approve of the spending—but if the merit of EDA outweighs the cutting of federal retirees or defense spending even further. This is the choice that we are being asked to make today.

Once again, one of the other choices that we have is whether or not we can afford to put more money into drug enforcement. This is another way we can accomplish that.

Now we might not like making these hard choices, but that is what we are here for. Gramm-Rudman only forces us to make those hard choices—it is the guarantee that forces us to live up to our promises. In the coming weeks, we will have the opportunity to make our guarantee work or break it. We can go back to the empty promises of deficit reduction or we can fix the GAO provision. That is not a pleasant task for many of us. Failing that, we still have to deal with the fallback mechanism for sequestration. That also is something many of us are not looking forward to.

The CHAIRMAN. The time of the gentleman from Utah [Mr. MONSON] has again expired.

(By unanimous consent, Mr. MONSON was allowed to proceed for 1 additional minute.)

Mr. MONSON. We don't have the solid projections for the fiscal year 1987 deficit to base cuts on yet. But there is one thing for certain. If we can come up with enough savings now to meet the allowable target of $154 billion for fiscal year 1987, then we can avoid a larger sequester of an additional $10 billion to get it down to the required $144 billion target. Simply put, a number of savings now in the range of a few billion might prevent cuts of 10 billion plus in September. We can be penny wise now or pound foolish later.

Again, Gramm-Rudman cuts can be tough. We can deal with spending through sequestration or doing it our own way. Doing it our own way will be cheaper and more humane.

Now there are those who will oppose this amendment because they are opposed to any spending cuts—Gramm-Rudman style or any other. They will have their opportunity to do more of the same, offering higher taxes or slashing other vital programs and avoiding the opportunity to set additional priorities such as drug enforcement.

The CHAIRMAN. The time of the gentleman from Utah [Mr. MONSON] has again expired.

(On request of Mr. WALKER, and by unanimous consent, Mr. MONSON was allowed to proceed for 2 additional minutes.)

Mr. MONSON. Mr. Chairman, I was about to conclude. I would just hope that Members would speak loud and clear here today on the options that we have that they would pursue so that the voters here can judge their plan of action or inaction, so that we can demonstrate to people how serious we are about setting priorities in this Congress, how serious we are about removing deficits, and how serious we are about increasing the fight against problems in our country like drug abuse. We can do this if we will adopt the amendment that I have offered here today, and I ask for Members' support.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MONSON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, do I understand that the intent of the gentleman on this is that if his amendment would be adopted, it would take the money out of the Economic Development Administration, and that he does intend later on then to offer an amendment that would put $50 million into the Drug Enforcement administration? Would that be the gentleman's intention?

Mr. MONSON. I have an amendment waiting at the desk to do just that; yes.

Mr. WALKER. Mr. Chairman, would the gentleman yield further?

Mr. MONSON. I am happy to yield to the gentleman.

Mr. WALKER. In other words, a vote here to reduce the funding is in fact equivalent to an effort then to add additional money for drug enforcement in this country.

Mr. MONSON. That is what I am hoping to accomplish through the two amendments which I am proposing.

Mr. WALKER. Mr. Chairman, would the gentleman yield further?

Mr. MONSON. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. So we will get some deficit reduction under your amendment, we will get deficit reduction to the tune of about $140 million, but we will also get an additional $50 million in the Drug Enforcement Administration that will allow it to carry on a real war on drugs rather than a war on drugs with one arm tied behind its back.

Mr. MONSON. I appreciate very much the gentleman making that point, because this is a clear choice here. We can not only reduce the deficit by $140 million by supporting this amendment and later supporting the

second amendment that I will offer, but we can also improve our efforts to fight drugs about in this country, and we can show that we are really serious about setting the priorities that people want in this country today.

Mr. WALKER. I thank the gentleman.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the Members have to make a very significant policy decision here on this issue. I must point out that what we have proposed in this bill is only 30 percent of the amount that we had in the same program in 1981.

□ 1300

In other words, there has been a 70-percent reduction since 1981 in EDA funds. I think we recognize that there is a problem of adequate funding for a lot of things that have been very worthwhile.

EDA is a program that provides seed money in communities that want to develop industrial parks; to provide perhaps a highway or water or a sewer to reach out to industrial park development areas.

I do not question but what there have been some real gliches over a period of time, but just because the Ford Motor Co. spent $250 million on the Edsel and it was a failure did not mean that the Ford Motor Co. abandoned new product development. Just because in the Defense Department we have had some rather grievous programs that have not been very productive does not mean that we abandon the Defense Department.

I think the key to this is to make EDA work effectively and that is an administrative responsibility. But as a policy matter, the development of jobs, the development of the ability to compete in the world marketplace, I think requires a helping hand in some instances from the Federal Government. It is a matter of national policy.

So I say to the Members that are deciding whether or not to vote to delete the funding for EDA, you have to determine whether it has been effective in your districts in promoting industrial development and jobs; whether you think that this is a responsibility of the Federal Government to provide the necessary seed money in the future.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Utah.

Mr. MONSON. Mr. Chairman, I think that many of the points that the gentleman have made are very well taken and I think that in many circumstances, it would be very foolish to eliminate an entire program just because there have been some abuses.

But we are talking about widespread abuses here and I think that if the gentleman digs down deep inside him, he would have to admit that there are other ways to achieve what we want to achieve in economic development, like enacting programs like enterprise zones and other things that would provide jobs for people that would eliminate the need for a program like this that is not accomplishing what we want it to accomplish and we could still accomplish what we want to accomplish in this country in increasing jobs.

Mr. REGULA. Mr. Chairman, I reclaim my time to point out that I support the enterprise zone concept, but it is an indirect way of doing the same thing because with enterprise zones, you are reducing the amount of revenues that come to Government in order to encourage industrial development.

Here we are taking the positive approach of providing some funding. I say it is a limited amount when you compare it to the historical amounts that have been in economic development programs. I suppose, as a matter of policy, we have to decide which is more effective, or maybe a combination of both.

But either way, it is either going out from the Federal Treasury or it is not coming in to local government if you use the enterprise zone approach.

I think every instance of potential industrial development has a different set of requirements and one program may work in an intercity enterprise zone, but to reach out to the industrial parks that are developed outside many of the cities to provide growth, often requires some EDA funding.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield further to the gentleman from Utah.

Mr. MONSON. Again, the gentleman makes some good points, but I just used enterprise zones as an example. This is not the only thing that we could use to stimulate economic growth and jobs in this country.

I think another thing that has to be pointed out is that what we have done in this program here is gone way overboard in trying to accomplish what we want to do. It was supposed to be a targeted program. Eighty percent of the country is eligible for this program. It no longer accomplishes what it was intended to accomplish when it was first enacted.

I think that we either ought to get back to where it is accomplishing what we originally intended or we ought to eliminate it. That is what I am proposing today.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. REGULA] has expired.

(By unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, I think the gentleman makes a point and I think it is a responsibility of the administration, the executive branch of Government, to administer this program carefully, to target it.

We have reduced the fund 70 percent since 1981 because as a policy matter, we recognize that perhaps there is a limit to what we can do. I cannot pass judgment on all the projects that have been funded. That is why we have people in the administration to make those choices.

But conceptually, it has a value in giving local communities a helping hand in developing the necessary facilities for growth.

Mr. CLINGER. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

I recognize that there are deep, perhaps philosophical divisions within my own party on this side of the aisle with regard to the efficacy of the Economic Development Administration. But I think a number of things need to be pointed out here.

First, a number of the examples which were alluded to by our colleague from Utah [Mr. MONSON], with regard to the horror stories related to the Economic Development Administration date back to a time when we had a program called local public works. This, I think, all of us would agree had a tremendous amount of abuse connected with it. It was 100 percent money. It was supposedly a countercyclical program which was to solve the unemployment problems of the country at that time, and I think it is difficult to make the case that that was actually done.

But I would emphasize that the local public works program is totally separate and apart from the normal program activities of the Economic Development Administration. I would submit to you that over the course of its history from 1965 until we enacted local public works, EDA had had an exemplary record of doing the job that we here in Congress intended for it to do. That was, to address the serious problems of unemployment in very, very highly distressed areas.

I think that we can make the case that it has been effective in the regular program activities that it has been involved in since its beginning.

I would point out that most of the rising attacks against EDA really originated with our former Director of the Office of Management and Budget, Mr. Stockman, who had a real philosophical bent against this program and raised all kinds of specters about what a terrible program it was.

Since that time, we have been having to try to defend the very real

merits of the program against some rather spurious charges arising out of a particular limited program which is over and done with. We do not have local public works anymore. What EDA is involved in today are its traditional program activities.

What are those activities? First of all, let me point out that it is one of the few, if not the only Federal program specifically targeted toward economic development and job generation in the private sector. This is not a boondoggle; it does not create make-work jobs, leaf-raking jobs. It is designed to generate, to energize the private sector to provide jobs.

I have to tell you, it just is not going to happen in some communities without a program like EDA. We have a lot of rural communities that just are not going to be able to do it on their own. They are being asked to do more and more as time goes on. In fact, the gentleman from Minnesota and I have drafted a bill which this House has passed which will target this program, require a greater contribution on the part of the local communities to get any kind of benefit from the Economic Development Administration.

But the point is that without this aid, we would see many communities which have the possibility of coming back, of getting something going, fall by the wayside, fall off the cliff and not be able to survive.

Title I is a program directed toward addressing one of the most critical problems we have in this country and that is the crisis of our infrastructure. We know that our infrastructure, our highways, our bridges, our sewer systems, our water systems are wearing out faster than we are repairing or replacing them.

We need to address that problem. This is one of the few Federal programs where some minimal, and I would say modest assistance is available for that kind of activity, to begin to address the crisis that we have in our infrastructure.

The next program that I would point to is title III. Title III provides, again, very modest assistance. I must emphasize again, this is not a multibillion-dollar program. This is a very modest program which is targeted to very, very specific distressed areas. It is not going to the wealthier areas; it is only going to those that have a high degree of distress.

What does title III do? It provides very, very material assistance to provide planning expertise, to provide the kind of human infrastructure we need in order to get any economic development going.

In my own district, with a lot of rural communities, without the planning expertise, without the people who can really figure out how to make economic development work, we would not get anywhere. It is because of the fact that we have these very modest grants for planning assistance that we are able to do anything with economic development.

□ 1310

Finally, I would point to title IX. Title IX is addressed specifically to sudden and severe dislocations, sudden and severe rise in unemployment; and I submit to you that in many of the districts across this country, title IX has been the only lifejacket, the only life preserver out there to try to give some hope to people who have been devastated by a plant suddenly closing and moving out, by a military base suddenly being closed.

Title IX provides funds to assist in planning. Beyond that it provides, again, minimal funding to address that problem.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment for three reasons: First, EDA has done good work; second, it has already been cut severely over the last few years; and third, the DEA does not need the extra money. We are already giving them more than even they have requested in the appropriation submissions.

EDA, as the gentleman from Pennsylvania has just mentioned, in many of the poorer, smaller communities that we represent, is the only access that many of those towns have to getting some seed money in order to pull themselves up by the bootstraps.

I cannot speak for the so-called boondoggles that the gentleman from Utah had mentioned earlier; I assume that the gentleman from Pennsylvania's statement is correct that those occurred under an old program many years ago.

I can say to you, as can many in this body, many good projects have been conducted using EDA funding and expertise over the years. Now, we have already cut the EDA, even in this budget authority. We are cutting it by $1.4 million below fiscal 1986 and that is on top of the 30 percent that it has been cut since the fiscal 1981 level.

So EDA has already sustained a rather large hit. On top of that, the idea is to take the money from EDA and to beef up our fight against drugs by giving it to the DEA. I would point out that we have already in this bill, $412 million for the DEA, which is $671,000 more than even they requested for drug enforcement, and $48.3 million more than they got last year, 1986.

I do not know anyone who is more determined to wipe out drugs in this country than the DEA, who I think are doing an admirable job against severe, severe circumstances under an administration that has now a renewed effort, reaching outside the boundaries even of this country in fighting drugs coming into the country.

Yet the DEA says: "We can't use more money than $412 million." So I do not see that we need to take money from anywhere, frankly, at this point in time, and give it to DEA because they already have enough. Second, I think we would be cutting an agency, EDA, that has done a lot of good work for a lot of the poorer sections of this country and should not be cut another penny than it already has.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. MONSON. Mr. Chairman, I think the gentleman has made one good point, that we need to assist some of these distressed areas and rural areas. However, only 10 to 15 percent of the funding that is being provided for EDA is going to help those kinds of areas. The rest of it is going to help areas that really do not need this kind of stimulus in their economy from this source. They can get it through other means.

Mr. ROGERS. Reclaiming my time, Mr. Chairman, if that is true, then I think the gentleman should be going to the authorizing committee and changing the threshold levels for funding.

The gentleman may have a point, that some communities that are now eligible for EDA assistance perhaps should not be eligible, but that is not for us to decide here. That has to be decided by the authorizing committee, and change the legislation; and perhaps you might get an ally or two in that fight.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. MONSON. Mr. Chairman, I was not aware that in the appropriation process we had to spend as much as the authorizing committees provide that we can spend. Is that a fair statement?

Mr. ROGERS. What I am saying is, we in the appropriating process do not set the criteria by which a particular community would be eligible for aid under the law, the authorized law, and to change that kind of a situation, one has to go to the authorizing committee and have the authorizing committee change legislation which would change the eligibility of communities for aid, and we cannot do that in an appropriations bill.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. MONSON. Mr. Chairman, as I pointed out in my remarks, we have been hearing for over a year now that this is going to happen; it has not been

happening. I think we can either force it to happen or we can do something that I think is essential, and that is eliminate this program, because the abuses are there, we are not accomplishing what we need to, and we should be getting better value for our dollars and we should do it through programs that are going to better accomplish that.

Mr. ROGERS. I understand the gentleman's point, but I have a disagreement with him.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. ROGERS was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. WALKER. Mr. Chairman, can the gentleman tell me when the DEA said that they cannot use additional money to fight the war on drugs?

Mr. ROGERS. I will tell the gentleman that in their request to the appropriations committee, they requested less than we gave them. We gave them $412 million, and they requested $671,000 less than that.

Mr. WALKER. Mr. Chairman, the gentleman is referring to the February budget submission.

Mr. ROGERS. I am referring to the request by the DEA Administrator to the Appropriations Committee.

Mr. WALKER. That is the February budget submission; and the gentleman will admit that that came before the crack crisis had really hit in the country, and so that we are faced with a dramatic new problem in this country with regard to drugs, and that is one of the things we ought to be looking at.

My information is that if in fact, given the budget constraint that we operate under, if we could find a way to give DEA the money, that they could sure find some good ways to use it to fight drug abuse in this country, and I think——

Mr. ROGERS. Reclaiming my time, Mr. Chairman, they certainly have not told us that; no one from DEA, to my knowledge, has told the appropriating committee, "Look, we've got a new problem, give us some more money." That has just not happened. I have to assume that they feel adequately armed with the budget appropriations that we are providing for them.

Mr. WALKER. Mr. Chairman, if the gentleman would yield further. The gentleman does not believe that we could use additional money for marine and air interdiction of drugs?

Mr. ROGERS. I am saying to the gentleman, DEA apparently does not believe that.

Mr. WALKER. That is not true. I have the information that DEA does believe they can use additional money in that area.

Mr. ROGERS. Well, I would like to see that information, because no one has told the appropriating committee.

Mr. WALKER. Of course they have to get cleared by OMB in order to come up here with those submissions.

Mr. ROGERS. That is beside the point.

Mr. WALKER. Well, no it is not beside the point.

Mr. ROGERS. The point is that they have not requested more than we are giving them, period. No one.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman.

Mr. REGULA. Mr. Chairman, I think a point has to be made, too, that one of the problems with the increased drug addiction in this Nation is unemployment. It seems to me that one of the reasons that young people particularly in the larger urban areas are attracted to drugs is the fact that they have a lot of idle time on their hands, so that providing economic growth and jobs is also part of drug usage prevention.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have heard a number of interesting arguments for not giving money to the Drug Enforcement Administration and keeping it in the Economic Development Administration. I think we ought to look at some of those arguments.

I think the first things we ought to think about are: Are any of the things that have been said in favor of keeping the Economic Development Administration, more important than getting drugs off our streets? Has anything been said in favor of the Economic Development Administration that sounded better than getting drugs off the streets of America?

I submit I did not hear anything. I heard a lot of wonderful arguments, most of which cannot be shown by the facts. For example, we heard that just because they have had a few failures, we ought to let it go anyhow, because the Ford Motor Co. had a failure in the Edsel and we allowed it to survive.

I submit that this is an agency that has produced Edsel after Edsel after Edsel after Edsel after Edsel. Eventually a company like that would go broke.

The difference between this agency and that company is, we are the people who determine whether or not that company goes broke; and what the administration has said is, "This agency ought to go broke. It's a bad agency. We don't want any money for it." That has been the administration's request several times.

Now what we heard then was, "Well, they're getting better. They're getting better, they are better than they were before, and we're solved some of these problems." Well, let me give you the latest statistics: 40 percent of all the EDA loan portfolio is in default. Forty percent.

I see Mr. MACK on the floor. He is a banker. If 40 percent of his loan portfolio when he was a banker was in default, he would be in big trouble. He would be in big trouble, and that is what is happening in this agency right now.

In fact, we have got a situation with this agency where they went to offer their loan portfolio on the private market, and they were only offered 15 cents on the dollar.

□ 1320

This is a pretty bad agency. That is an agency which cannot be very well defended. One of those defaults, I would say to my colleagues, just one, just one single default last year cost the taxpayers $90 million; nearly half of all the money that we are spending for EDA was eaten up in one default that cost the taxpayers $90 million. There is something tragically wrong with this agency. That is the reason why the administration feels it should be eliminated. That is the reason why the gentleman from Utah has presented us with an amendment that allows us to do that. Let me make another point. We heard a few minutes ago that we ought to have some sort of positive funding toward helping economically distressed areas. Well, the positive funding. I would say to you, comes at great expense. To spend this $190 million of money under this program we spent $26 billion in bureaucracy. That is a pretty expensive positive effort. Twenty-six billion dollars of spending bureaucracy for this agency. That is not money that is given to any community; that is $26 billion in bureaucracy.

Million, I am sorry, the gentleman over here [Mr. OBERSTAR] corrects me. The gentleman is absolutely right. It is 26 to 190, it is $26 million.

We are spending $26 million in bureaucratic costs. Now it seems to me that that is a very, very expensive positive effort.

The administration has said we can do this job better and do it differently. I submit that we can. In the meantime, with what we are doing here we can save enough money to allow us to put $50 million to the fight on drugs. I think it is important to begin fighting drug abuse in this country. I think it is important to go beyond what DEA asked for. They are under OMB limitations. I just heard the gentleman say that they have severe problems. Well, they do. One of them is fund limitations. It seems to me that if we have a chance in this Congress to beef up the fight against drugs, we ought to take

that chance. This is our chance today. We ought to do it.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. REGULA. I thank the gentleman for yielding.

Would the gentleman agree that the fact that the administration is saying a program does not work is an admission of failure on their part to properly administer it, since they have been in charge for 5 years?

Mr. WALKER. Oh, sure, I would say to the gentleman that what they have found is that they have got a program here that cannot be managed efficiently. They have got a program here that after 5 years of struggling with it, they have found out that you cannot run it right. They have come up here for reforms. We passed the reforms, and the program is still a mess.

So I would agree with the gentleman. They have found that this is a program that cannot be run right.

Mr. REGULA. My second question is, if the gentleman would yield further, the gentleman is making a strong case for DEA. Will the gentleman offer an amendment to increase the appropriation for that by a sum of $50 million even though we may not take it out of any other agency?

Mr. WALKER. Well, as the gentleman knows, I cannot do that. Under the rule we would breach the 302 allocation at that point, and you cannot do that. So we have to take it out of someplace in order to put it in somewhere else. So the reason is it is very important to have a limitation of funds in some area of the bill before we get to DEA so we can put that $50 million in.

So that this gentleman will not violate section 302, and I think it is important to do that.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. SHAW and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

I think the gentleman just recognized that we have increased DEA by $48 million over last year. That is a very substantial increase for an important function of our Federal Government.

Mr. WALKER. This gentleman from Pennsylvania mentioned that during his remarks. I praised the committee for going that far. But what I have discovered is that we can do even more. At a time when we have a crisis in this country in drugs it seems to me we ought to be moving to do even more. We ought not do it with add-on spending, we ought to do it by taking moneys away from lesser priorities and adding it to a true priority. That is what the gentleman from Utah [Mr. MONSON] is trying to do. That is what this gentleman is supporting. I submit if we can take it away from EDA and give it to DEA, we will have a good reversal of the alphabet in favor of what the taxpayers want.

Mr. SHAW. Mr. Chairman, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman in the well. When we talk about economic development, there is no greater anchor to the economic development or the economic future of this country than the drug problem. And anybody, anybody in this body who says we are putting enough into DEA had not gotten outside of this room to see what is going on. You go to some of these other countries, the source countries where we are having our big problems, we find one DEA agent working four or five countries or in some of the worst problems we will find that we are vastly undermanned in those areas. When you ask what the problem is, it is budgetary. There is no question about that. I think we are getting our priorities messed up if we keep pumping all of this money, $190 million into EDA when we have the opportunity to take these funds and put it into DEA. I have seen Member after Member come to this well of the House and criticize the administration and criticize gosh knows who for not spending enough money on drug prevention. Well, I would say to the gentleman in the well and also to my colleagues here in the House that today we are going to have our chance. It is going to be the first real clean shot that we are going to get if we can approve either this amendment or one that I understand would be offered if this one does not pass to put in effect a mechanism where we can draw money out of one program and go ahead and put it directly into the DEA for our war against drugs.

There is no greater priority in this budget, as far as this Member is concerned, than the war against drugs.

I thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to associate myself with the remarks of the gentleman in the well and say I believe very strongly that the top priority that we face in addressing this piece of legislation is trying to turn the corner on this flow of drug trafficking. In my State of California it is a very serious problem. We have seen throughout the entire country that it is.

I would like to ask the gentleman to respond to a statement made by my good friend from Ohio about the problem that the administration may have had with management over the past 5 years of the EDA. It is not true that over the, I guess it is, nearly two decades or possible more than two decades' history that there has been a pattern of management problems that have existed, is that not the case?

Mr. WALKER. There is no doubt about that. We have had a whole pattern of mismanagement. I do not think that the Great Pyramid and the Great Wall of China were rebuilt under this administration. I do not know when it was, but it is sometime in the past. We have had a lot of problems with this program over a long period of time. And this administration, I think, sincerely wanted to correct those problems but has found that the program is just totally unmanageable.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(On request of Mr. DREIER of California and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. DREIER of California. Mr. Chairman, will the gentleman continue to yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for continuing to yield.

Mr. Chairman, one of the items that I continue to hear is that this was the one program that was designed to create new jobs. Is the gentleman aware of statements that have been made that there actually have been no net new job creations from the Economic Development Administration?

Mr. WALKER. Well, the gentleman is telling me something that I am not personally familiar with. I do not have those figures. But the gentleman may well be correct.

Mr. DREIER of California. I have not been given those figures, but I continue to hear them.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I, too, stumbled across the contention, and I spent some time studying on it. I think what we must understand here is, if we can

interject the word permanent, there has been no new net permanent jobs. What we find happening is that the jobs are created and they last as long as the project lasts, and the project lasts as long as the Government's money lasts, the Federal Government.

Mr. WALKER. If the gentleman will allow me to reclaim my time, the gentleman may be correct because of the 55 percent of loans that were delinquent to the agency, 90 percent of those companies were in liquidation in the past. So that you really had jobs that may have been created at one time under the program that would be lost if the whole firm is being liquidated.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out a couple of things. First of all that loan delinquency rate, large number of those loans—and they are bad—came under a totally different program, the Trade Adjustment Assistant Program. I would be the first to concede that most of those loans were basket cases to begin with. I would point out that the loan portfolio under title II, the default rate over 15 years was about 8 percent, which was a very, very modest default rate.

I think it is necessary to make the distinction between those loans that were Trade Adjustment Assistance loans and those loans that were EDA loans.

And finally, I would just say that under title II, which I think if we agree even 8 percent is not good, the program has been tightened. I would suggest to you that many of the criticisms of the agency, for management, arose from prior to 5 years ago. Actually, we had a bad administrator, quite frankly.

Over the last two administrators, Secretary J. Bonnie Newman and Secretary Orson Swindle, I think you will find that the administration is rather proud of the performance that they have been carrying on.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(On request of Mr. MACK and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, I appreciate what the gentleman from Pennsylvnia just said, but the information I had, which is the latest information available coming out of the administration, is that of all of the loans that the agency has, 40 percent of the EDA loan portfolio as of now is in default. That gives me a real concern.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Utah.

Mr. MONSON. I thank the gentleman for yielding.

Mr. Chairman, a lot has been said today about the problem cases that I related in my opening remarks on this amendment, and a lot has been said that indicates they are trying to persuade us that these are probably old cases. Most of these programs or projects that I referred to that have been problems have been within the last 4 to 5 years. These are not old programs that were at the beginning of the program. These are very current. They demonstrate that this problem is continuing, it has been there from the start, and it is continuing.

We have a chance to go ahead and do something that will not only save us money, reduce the deficit, but will increase our efforts against drug abuse in this country. I think that is a vital thing that needs to be done, because 85 to 90 percent of the drugs that are coming into this country are getting through right now. Only 10 to 15 percent are being stopped. You cannot tell me that a little bit more money is not going to help in fighting that problem.

Mr. WALKER. Let me ask the gentleman, reclaiming my time, does the gentleman mean that the re-creation of the Great Wall of China with pure Indiana limestone was done under this administration?

Mr. MONSON. That is the information that I have.

Mr. WALKER. Oh, my goodness, oh, I am disappointed, but it does not surprise me in this program.

Mrs. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentlewoman from Connecticut.

Mrs. JOHNSON. I thank the gentleman for yielding.

Mr. Chairman, I think one thing that is terribly important about EDA grants, and I think this pitting of drug enforcement against job creation is not the right way to approach this issue and is very misleading; you could make the argument that we would have fewer drug problems, particularly among young people, if we had more employment opportunities.

What I want to point out in regard to the EDA grants is that Secretary Brock now has a commission set up to look at alternatives to plant-closing legislation. That is because in a society whose economy is changing as rapidly as ours is, at a very fundamental structural level, it is important that there be national policies that address structural change. EDA is one of those policies that enables communities like the communities that I represent, as we lose brass, as we lose bearings, as we lose machine tools, to attract high technology, to attract alternate employers.

We have done that by helping communities who were down and out—and I mean down and out—who have very few resources to fund the front-end costs of putting up an industrial park. That is roads, that is lights, that is utilities, and that is costly. It is EDA grants that have been the Federal component of addressing the structural change and employment opportunities. And I do not want that to be lost sight of in this debate.

The CHAIRMAN. The time of gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I take the time to refer to the gentlewoman's contention that somehow we can fight drug abuse by putting more money into the EDA and getting more jobs. We have had a very tragic occurrence with a couple of men in the past few weeks who died because of crack. They were people who just had contracts of well over millions of dollars. You know, that is not an unemployment problem; that is purely and simply a drug problem. We have got a drug problem in this country. We have an influx of drugs, we have drugs on the streets, we have people who are stealing and everything else in order to get drugs.

Now, I would contend that what we need to do is stop fighting it indirectly but fight it directly. Let us fight drugs by going with DEA; let us fund DEA in a way that allows them to really conduct a real drug fight. They have been fighting with one arm tied behind their backs. Now, all we are saying in this is, you have to decide your priorities. I hate the fact that you end up balancing off the two also, but that is the only way that you can do it.

Under this bill, you have got to find savings in order to add in money.

Now, we are going to add in some money for DEA in order to fight drugs in this country. This is where we are going to save the money. I would suggest to the Members that this is the place that they can save the money to move ahead with the fight on drugs.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I think it has to be emphasized that there are $412 million in this bill for DEA. This represents about a 12-percent increase over last year, a total increase of $48 million. Our committee recognized very clearly the need to effectively fund DEA. We put in more than the admin-

istration requested. We responded in every way possible to a critical problem.

Mr. WALKER. If the gentleman would allow me to reclaim my time, the gentleman is absolutely right. There is $48 million additional in the bill for DEA. It is not enough. The crisis is such that it is not enough. We have got to have more money. Drugs are a problem today. They are on our streets today. We have to fight them today.

□ 1335

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Well, let us first get our alphabet soup straight. We are talking about EDA and not DEA. This is the agency that administers economic development programs, not drug programs. I think there is a lot of confusion over here on the other side of the aisle about which agency is doing what task in the public good.

There have been a number of persistent myths reiterated in the course of the just preceding debate, and I have made careful note of some of them, and I would like to address them as former chairman of the Subcommittee on Economic Development and as one who has followed this issue for over 20 years in this body.

The first, most persistent, myth that has been discussed is that of the EDA loan portfolio cited a moment ago about the number of loans or the percentage of that portfolio that is in default.

First of all, 95 percent of the loans and defaults are those that were entered into under the Trade Adjustment Assistance Program to bail out or try to give a helping hand to industries in a severely, sorely distressed sector of our economy, in the steel area. They were, as the gentleman from Pennsylvania [Mr. CLINGER] said earlier, basket cases to begin with. There was a good-faith effort to try to revive some of those industries. Some jobs were retained for a period of time.

We are not going to debate here, we do not have adequate time to do so, whether or not those were wise loans or not. But the loans were made and the portfolios were subsequently reviewed, and there were problems with those loans. That program has terminated. It no longer exists. Yes, the loans in default are still on the books.

In the regular EDA loan portfolio, however, the distress rate is about comparable to that of banking institutions. When you consider that those are loans made in areas of high economic distress, that is a darn good track record.

The second point is there have not been any loans made under the EDA program in the last 5 years. Do not criticize what does not exist. There is not a loan program today.

Now, in the EDA Subcommittee over the last 5 years, we have attempted to address the problem of the loan portfolio and the EDA Loan Program by going back and having the agency review, try to resurrect some of those loans, take care of the problem loans and weed out those that cannot be resuscitated, sell off in a responsible management fashion more that can be sold off and try to help the others where help is possible.

I repeat that the trade adjustment assistance program has terminated. What EDA has done in the past 5 years, frankly, I applaud. Under the recent Administrators of EDA, Mr. Campbell, later Ms. Newman, and now under Mr. Swindell, I think they have been very conservative in the management of the resources of this agency.

Now the EDA program funding level has been reduced 70 percent. If Congress had cut budgets in other parts of the Federal Government 70 percent we would not have the deficit we have today. Why take it out on this agency that has tried to create jobs and promote economic growth and give people an opportunity for a livelihood in the most distressed areas of these United States.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding to me.

I was struck by the gentleman's observation that so much of the loan activity was made available to the distressed steel industry. I would just like to ask the gentleman what is the condition of this industry today after these loans?

Mr. OBERSTAR. Mr. Chairman, if the gentleman was listening to what I said, the gentleman would have heard that this program has terminated. There are no more loans. There have not been any made in 6 years. The program is no longer in existence. The gentleman is talking about a dead duck. The gentleman is beating an old dead horse. So that problem that those who are opposed to the program would try to address is no longer a problem because the program does not exist anymore. It has been corrected.

Mr. ARMEY. If the gentleman will further yield, it is precisely the point of those of us on this side who are engaging in promotion of this amendment that the efforts have proven to be failures. The gentleman's citation of the steel case proves that.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, the gentleman is talking about ancient history in current events, something that happened 5 or 6 years ago. It no longer exists. We will not deal with a program that is no longer in existence since that is not something EDA is funding today, nor will it in the future.

The third point I want to make is that the Subcommittee on Economic Development——

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for an additional 5 minutes.)

Mr. OBERSTAR. The third point I want to make is that the Subcommittee on Economic Development, and the full Public Works Committee have reviewed the entire EDA program. We recognize that there were problems with EDA over its 20 years of existence and that program shortcomings needed to be addressed. It is rare for a committee in this body to take an existing program everybody loves and rewrite it. We did that on a bipartisan basis, the gentleman from Pennsylvania [Mr. CLINGER] and I, followed by the ensemble of the Subcommittee on Economic Development and the full Public Works Committee, without a dissenting vote. We reshaped a program into one that makes good sense, H.R. 10.

It has three times passed this House by a 3-to-1 vote margin, including in this Congress and it is now pending over in the Senate. If the Senate would pass that bill, we would have a sound, sensible Economic Development Program that, frankly, I would say to my colleagues on this side of the aisle, fits in with the overall governmental philosophy of the current administration.

We recognize that there were problems with EDA and we have addressed them in new legislation. But, more importantly, in the existing program, as it is currently run and has been for the past 5 years, those problems have also been addressed. No more bad loans are being made because none are being made. Fundamental economic investment is being made by EDA in sound, carefully targeted ways.

Furthermore, not 80 percent of the country is eligible for funding. That does not exist. Sure, the law exists, but it is not being administered to 80 percent of the United States. It is barely 40 percent. Probably more like 30 percent of the country is eligible under current standards, and less than that is even receiving funding.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to reemphasize that point. I know one of the criticisms that is always given is that somehow we have expanded the jurisdiction or the eligible areas to 80 per-

cent of the population, 80 percent of the country.

The fact is that, under the administration and under the administration for the last 5 years, the money has been targeted pretty much in keeping with what we designed in H.R. 10 in the reauthorization of the program so that it is targeted.

It is a lean program. It is sending money only to those areas that desperately need it, that cannot get off their backs without it.

Mr. OBERSTAR. That is correct.

So what we have is a greatly scaled-down, highly focused EDA program to provide economic development assistance to communities that have suffered severe economic distress, where investment dollars are scarce, where risk venture private sector capital is either not available or will not come in without some public participation, where there is a high degree of cost sharing with local units of government, and where investments will generate long-term growth. That is the way this program is being administered wisely and responsibly by the current administration. I applaud what they are doing. It is sensible funding and investment. It is an approach that is needed in this country.

Just this morning LTV Steel Corp. announced that it is filing bankruptcy. It is filing for reorganization. There are dozens of communities in which jobs are going to be affected by that decision, communities in my district, in Ohio, in Pennsylvania and in Illinois.

Where are they going to turn? How are they going to replace the jobs that will be lost. EDA will be there to provide a helping hand, not to bail out LTV. No, by no means. But to help a community that has a carefully structured long-term plan for economic growth to replace those jobs that have been lost due to the turndown in steel with some other jobs in some other growth sector or growth opportunity in our economy to help those communities, give them a helping hand to get started.

□ 1345

We found out in extensive and intensive hearings and objective studies that in the 20 years of the EDA program the Federal Government has invested $4.5 billion in matching funds generating $9 billion in non-Federal investment, creating 1½ million jobs that are still in place, and which, each year, are returning $6.5 billion in taxes to Federal and State treasuries. Each year, the EDA program is returning more in tax dollars to the Federal and State governments than the Federal Government invested in the 20 years of its operation.

It is a responsible program and a responsible investment.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that LTD Corp. just declared bankruptcy at noon today, and I think the gentleman was mentioning that a moment ago.

Mr. OBERSTAR. Yes; filed for reorganization.

Mr. WALKER. It is also my understanding that EDA, as a result of that, as a result of the loan guarantee given to them, the taxpayers are now going to be doffed for $90 million as a result of that bankruptcy; is that the gentleman's information?

Mr. OBERSTAR. I do not think that that will be the case.

Mr. WALKER. That information comes from EDA itself.

Mr. OBERSTAR. There is an exposure, but we do not know what is going to come under the reorganization and the restructuring in the bankruptcy that still has to take place.

Let me come back to a point I made earlier. The Trade Adjustment Program under which the loan guarantee that the gentleman refers to was made, no longer exists. There is no authority for it to continue.

Mr. WALKER. If the gentleman will yield further, I understand what the gentleman is saying, but it is my understanding coming from EDA itself that we may be liable for $90 million of additional money. We cannot afford it.

Mr. OBERSTAR. We do not know that. We do not know what will happen. Let me point out again, do not beat a dead horse. Do not talk about EDA today, criticizing it for something that happened years ago.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope we can get a vote soon on this; we have been going on for an hour and more.

I just want to point out a couple of things. There has been a lot of talk about illegal drugs. Everybody is against illegal drugs, so the answer is, "Throw more money at it." Just throwing more money, helter-skelter all over the place does not solve the problem on illegal drugs. What you have to do is put it where it can be used, and we have done that. We have increased drug enforcement money over the past 3 years faster than the administration wanted it. If they want more, we will try to get more.

The fact of the matter is, DEA in this budget is going up $48 million or 13 percent over last year's level of $364 million.

DEA is not the only place you fight drugs. We fight drugs also in the FBI. DEA is under the Justice Department and works with the FBI and other agencies. There is a $102 million increase in the bill for the FBI. Part of that goes to the fight on drugs. We have an increase of $72 million for the U.S. attorneys, marshals, and the Legal Divisions, and that is also coordinated with this. We have an increase of $136 million for new prisons, including one in Florida, and staff. We have put so much money into Florida on drugs that it will sink.

We have also given them more money for the cost of incarcerating the Mariel Cubans. We have put so much money into Florida they cannot take more money.

Mr. MACK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman.

Mr. MACK. I thank the gentleman for yielding.

Mr. Chairman, I would just make the comment, first of all, that I think we would take the risk about sinking as opposed to the problem that we are dealing with as far as drugs.

Mr. SMITH of Iowa. Well, the gentleman ought to talk to some people downtown then because we have been putting it in there faster than they can absorb it.

Anyway, this is not an argument on drugs. This amendment is on eliminating the EDA; it is not on reducing it, it is on eliminating the EDA. Now, it is said that we could take care of this with enterprise zones. That runs counter to what we are just doing on the tax bill. That is a shelter. Enterprise zones are tax shelters.

We are trying to get rid of tax shelters; that is what this whole argument is about. The administration is trying to get rid of tax shelters, and so they want a new tax bill.

What we have here, really, is a small amount of money that generates a large amount of private activity. Private money and local government activity. The EDA authorization bill passed the House last year by a 3-to-1 majority. Three-to-one. I think our subcommittee had the responsibility to fund it at the minimum level and we are at the minimum level consistent with a constructive approach of keeping the structure of the agency. It is down 30 percent compared to 4 years ago. Reduce it more, and there really is not much of a structure left.

I ask for a vote against the amendment.

Mr. NOWAK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. NOWAK. I thank the gentleman for yielding.

Mr. Chairman, I am now taking JIM OBERSTAR'S chairmanship of the EDA, and I have had an occasion to meet with the new Administrator, Mr. Swindle, on several occasions discussing both the old problems of the agency, some of which have been brought up here looking at the kinds of documentations that have been made in the prior 20 years of this agency and we really are talking about apples and oranges to a large degree.

We have, since 1981, and the figures that Mr. OBERSTAR from, the study, was done in that year and that was looking at the old program, and it still came out very, very positively. If you are looking at a cost-benefit Federal program.

On top of that, since 1981, I think that if you would make the same analysis, and we are going to look at that kind of analysis as soon as Mr. Swindle gets this year under his belt, and look at the kinds of program that we have today. I would have to believe that under this present administration and the other administrators of this agency in particular, that that leveraging that was quoted creating $9 billion, twice as much as the Federal investment and creating 1.5 million jobs, and we are talking permanent jobs; these are yearly jobs. We will find that this program is even having a bigger impact now because we have an administrator who is insisting on more leveraging, on better projects, on having greater participation by the local governments in the input if they are going to receive a grant.

I would look forward, instead of backward, in regard to this program and consider the kind of environment we are in now. This is a shaved down portion of what we used to have to operate with in this whole environment. You are going to have, I think, some problems in the future that you are going to be calling on this program to do a wider and bigger job than it has in the past.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, I do not want to ask to close time on this, but I wonder how many Members really want to speak who have not spoken?

I see five Members. Would it be reasonable to ask for 12 or 15 minutes? I hope nobody will ask to transfer time.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I know that I have been down here since the debate began and, of course, I understand we need to wait our turn. I see several other Members.

I would not want to propose what would be reasonable, but I do feel that many of us have a sincere working interest in this area and we would like to have our chance to be heard.

Mr. SMITH of Iowa. I understand. What would be reasonable?

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. FRENZEL. If the gentleman would allow us to transfer time to people who have not had time to speak on their own, I think he would probably get acceptance on his suggestion.

Mr. SMITH of Iowa. I would rather just give everybody the time they need. Is 3 minutes enough?

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. GINGRICH. I thank the gentleman.

Mr. Chairman, I just think it is a little bit wrong for the Appropriations Committee to come to the floor with major items and then be in a rush. Other Members may watch this debate and decide they want to participate. This is a fairly serious debate. Those who believe deeply in EDA have an important message. Those who want to change the priorities have an important message.

Mr. SMITH of Iowa. We are not in any rush; we have had over an hour on this and I have asked what is reasonable. Now, what is the gentleman talking about? I am not trying to rush anything. I asked what is reasonable. How much is reasonable, 3 minutes or 5 minutes apiece, or what is reasonable?

Mr. GINGRICH. I think House rules provide for 5 minutes apiece plus that time which is granted under unanimous consent; House rules are fairly clear.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that the time on this amendment be limited to 2:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. GINGRICH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I move to limit the time for debate on this amendment to 2:15 p.m.

□ 1355

The CHAIRMAN. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 15, noes 16.

So the motion was rejected.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I just cannot believe, as I sit here, the direction this debate is taking. We are being asked to make a choice between dealing with a crisis in drugs and dealing with a crisis in unemployment, and believe me, if Members do not think we have a crisis in unemployment, I can list for them 8½ million Americans who are now without a job.

We have got to move forward on both fronts. If my colleagues who are speaking so eloquently in support of additional funding for DEA would like to offer amendments to up that funding, I will be there and I will be strong with my support. The crisis in drugs in America is serious; we have to deal with it. But so, too, is the crisis in unemployment, and I am absolutely convinced that if we can have a measure of success in solving the problem of unemployment in the United States of America, we will make a great progress in solving the vast majority of society's ills—drug abuse, spouse abuse, alcoholism, you name it. So often, if we look at the source of the problem, it is a family where there is either unemployment or underemployment.

I say to my colleagues that we should not be pitting DEA against EDA. That is absolutely ludicrous. And we should not, as my colleague, the gentleman from Minnesota, pointed out before, be talking about ancient history. Sure, EDA has had problems, plenty of them. I have seen them, we have all seen them. But we have helped to correct those problems, and on a bipartisan basis in our Subcommittee on EDA, we have done that under the leadership of my colleague, the gentleman from New York, and the leadership of the ranking member, my colleague, the gentleman from Pennsylvania. We have made substantial progress in redirecting that agency and in fine-tuning the program.

We have 8½ million unemployed Americans today. Most often we pick up the paper and read the latest reports that unemployment is down, and we all applaud, as we should. We should be happy about that, but we cannot be self-satisfied, we cannot be content, because there are still 8½ million Americans unemployed.

The Economic Development Administration comes of age this year. It will be 21. It has been an interesting history for that agency. But I would sug-

gest to the Members that an agency of the Federal Government which has as its prime mission the preservation of existing jobs and the creation of new job opportunities should be encouraged, and I would also suggest to the Members that we should put things in perspective.

Sure, we have a national debt, and you bet we have a deficit problem of the first order. But we are not talking about a multibillion dollar program; we are talking about a program that has as its annual budget for dealing with the problem of job creation in all 50 of these United States an expenditure of less than the revenue derived from a one-penny excise tax per year on cigarettes.

Mr. Chairman, we are not talking big money, but we are talking important money, and anytime this body on a bipartisan basis can make a contribution toward strengthening an agency that gives promise of providing more job opportunities for all Americans, regardless of region, I think we are doing good work, and I would suggest to all of us that we get on with that good work.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to associate myself with the remarks of the esteemed gentleman from New York [Mr. BOEHLERT], who, I believe, not only made an excellent point but an awful lot of common sense. This issue should be scrutinized very carefully by everyone voting on this particular amendment.

I have worked in the field of narcotics abuse for 10 years, and I can say this: The greater the social disruption and social deprivation, the harder the cure and the more prone we are to social problems. Anyone who says we are going to correct the drug problem by throwing money into law enforcement is woefully misleading the American people. It is a comprehensive problem, and it is going to require a comprehensive and wholistic approach to alleviate it.

Let us just take a look at the facts just briefly on this drug issue. There is no heroin and there is no cocaine that is produced domestically. It comes in from overseas. I have a humble bill that says anyone importing more than 2 kilograms of cocaine or 1 kilogram of heroin, and committing a second offense, should be subject to a capital punishment penalty in this country. We, on the one hand, have the most easy-going laws in the whole world and then we complain about the drug issue. Then we want to take away the money that is geared toward stopping unemployment and city blight and social deprivation. This is completely counterproductive to the issue at hand.

EDA has had its problems, there is no doubt about it. It is incumbent upon Congress to make sure there is adequate oversight so that EDA operates the way it should.

Now, when the subcommittee chairman, the gentleman from Minnesota [Mr. OBERSTAR], mentioned LTV Steel, I can attest to the Members that LTV Steel is still one of the bigger employers in my district. I say to the Members that we lost 55,000 jobs—and they are probably tired of that litany—and they averaged $9 to $12 an hour with full benefits. The great recovery in another district, I say to the gentleman from New York [Mr. NOWAK]—and I support his position and his support of EDA 100 percent—is as follows: We have created 7,800 jobs that average $3.59 to $5.59 an hour with no fringe benefits. My district has lost $1 billion in annual payroll, not counting benefits.

This is nothing more than a veiled attempt to do what was attempted earlier, to kill EDA. But this time they play on the American public by getting their emotional level at a pitch because they are going to stop the drug problem. I say, "You can save that for the 6 o'clock news. Don't run that by me."

This is nothing more than an attempt to take away that money designed to help areas that need infrastructure help and employment opportunities, and I say you are callously disregarding that experience in America. Not everyone is enjoying this so-called economic revitalization. In fact, it does not exist in areas like mine.

The State of Ohio is No. 1 for unemployment among the large poplous States. It is No. 2 in America for the loss of population, trailing only the State of Michigan. I am still No. 1 for unemployment in my area, and my population has gone down. I assure the Members that the unemployed have left but my unemployment problem is still chronic.

For you to come before this body and attempt to use this drug issue in pursuit of decimating EDA is, in my opinion, a tragic lie and a farce attempted to be perpetrated on the American people. We do not need that type of emotionalism now.

We are going to work on the drug problem, but if we will work on the problem of providing economic opportunities to every American, then we will also have an impact on those areas of social concern. I want to do something on the drug issue, and I am hoping that after we straighten this EDA issue out, the same level of emotionalism will come forth when we look at the drug issue.

So, Mr. Chairman, I support the subcommittee chairman, the gentleman from Iowa [Mr. SMITH], and the other respective chairman for the stands they have taken.

□ 1405

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will try to reduce the level of emotionalism as I present my arguments.

I have sat here now through most of this hour and I appreciate the chairman's comments, because we will have a busy day today. We do want to move things along, but I think we need to take another look at this from another point of view.

I listened to the distinguished chairman of the Budget Committee this morning. The gentleman is a gentleman for whom I have a growing respect every time I see him in action. He has made it very, very clear, that in the budgetary process it becomes extremely complex for us to meet the target we have set for ourselves to reduce the deficit because of the vagaries of forecasting and many other things. Consequently, it becomes imperative for us, if indeed we are going to achieve the kinds of spending reductions that we must to get to the point at which the spending takes place and that becomes the appropriation bills.

Now, if we take a look at what is happening in America today, the first thing we must recognize is that this Congress does represent the American people. We listen to the folks back home and then we respond. The folks back home have been sending us a very clear message. They do not want increased taxes and will not tolerate them. They insist on spending reductions to the point that we have in this body more people who voted for Gramm-Rudman and the limitations than who wanted to, precisely because they knew their districts were demanding that vote. By that vote we imposed a limitation on our deficit spending which again responded to the American people who said they want that deficit eliminated.

As the chairman of the Budget Committee said today, it becomes extremely complex and difficult and a tenuous task for the budget process to respond to these limitations.

We are here today to help in that process, because there are two places in which we can make an effort, in the budgetary process as we try to define and plan spending and in the appropriations process where we do the spending.

Let us understand this. If you are a taxpayer in America today, it is the appropriations bill that constitutes this Congress reaching into your pocket and spending your money. It is at the appropriation bill where the most diligent surveillance must be given.

Now, what we have said here is that we are addressing then a program, yes, 21 years old, and in 21 years there is no definitive proof that it has done more good than it has done harm. In 21 years it has been funded by either taxing the American people or borrowing from the pool of loanable funds that could otherwise be borrowed by the private sector.

It has not created jobs. We are not even certain it has transferred jobs.

Have there been short-term employment gains? Periodically. But they have not remained, as they do in the private sector?

There are some things that can and must be done through the public sector and will and should be done well. There are others that can and must be done through the private sector.

We believe that economic development will best take place in the private sector if we reduce the deficit, if we hold interest rates down, if we reduce government spending and involvement and turn the private sector loose.

We do not need an Economic Development Administration. We do not need public bureaucrats trying to plan private investment. It does not work. It has not worked. It will not work. The Soviets have proved that and they are experiencing creeping capitalism because the Government cannot plan private investment.

The American people know that and a yes vote on this amendment is a vote to confirm what the American people already know, that the private sector can allocate scarce capital resources to the creation of permanent jobs and public decisionmaking foolishly miss out by giving those resources to temporary ventures.

I think as we face the dilemma of meeting the public challenge to reduce our deficits without increasing taxes and cutting spending and help the Budget Committee with that terribly difficult task they have, that we must with precision go into the appropriation bills in this manner and find those items in the appropriations bill where we are spending the taxpayers' money foolishly.

You say it is not too much money, $190 million.

Well, $190 million here, $90 million there, $100 million there, it will add up.

Mr. GRAY of Illinois. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment of the gentleman from Utah.

Mr. Chairman, I watched them tear a building down, a gang of men in a busy town.

With a ho heave ho and a lusty yell, they swung a beam and the sidewall fell.

I asked the foreman, "Are these men as skilled as the men you would hire if you had to build?"

He just laughed and said, "No, indeed, just common labor is all you need."

So I thought to myself as I turned and walked away, which of these roles have I tried to play?

Have I been a builder who works with care, measuring life by the rule and square, making my deeds to a well-made plan and doing the very best I can, or have I been a wrecker who walks the town content with the job of tearing down?

Mr. Chairman, the purpose of EDA is to generate activity and to help local communities who cannot help themselves. Inaction is just as destructive as the sledge hammer and when we do not provide a helping hand by our Federal Govermnent to work with State and local governments, then you are helping to wreck the last hope that these local communities have.

Now, I have great respect for my friends on this side of the aisle, but I have heard several misstatements of fact. As an example, some of the previous speakers said that no jobs have been generated under the EDA Program.

Now, Mr. Chairman, that is just not true. Let me give you one quick example. If you would like to catch the Eastern Airlines shuttle in the next hour, you can be in New York City before 3:30.

If you go over to the district in the Bronx, NY, of our friend, the gentleman from New York [Mr. BIAGGI], you will find an office building is going up that is creating, and please listen to me, 1,400 permanent jobs. It is in the CONGRESSIONAL RECORD when we debated the authorization legislation last year, and incidentally, we passed this 260 to 96, the EDA authorization. Mr. BIAGGI said on page 19412 of the CONGRESSIONAL RECORD of July 17, 1985, I have it right here if my friend will bother to read it, that for $2.7 million EDA grant, a $60 million private capital investment office building is now being built in the Bronx. The name of it is the Fordham Plaza and it is going to create 1,400 jobs.

I have gone to the telephone and called the gentleman from New York [Mr. BIAGGI]. He confirmed that this year, 1986, that office building will be completed and the people in New York will be working in that office building. Another success story for EDA.

My district has the Mark Twain Boat Co., Tuck Tape, Rend Lake—I can recite all kinds of permanent jobs that have been funded under EDA, 1½ million permanent jobs in this Nation since the inception of EDA.

And here is what is so ironic for this Member who came here 32 years ago and helped write the old ARA, which was the Area Redevelopment Act, and its successor, the EDA, and we heard these same arguments.

There is not enough money in this bill to build a hubcap on a Stealth bomber, and yet this is an all-American bill, for all American jobs for all American workers.

Wouldn't we love to use the same microscope being used by our friends on the Republican side, on the $13 billion the President wants to give to foreign governments this year in assistance; but this little pittance of a program to try to help some high unemployed community like I have in my district, and I am calling it that because we have 20- to 30-percent unemployment in some of the communities of southern Illinois because of coal mine closures and other factors, yet we come here with a small bill of less than $200 million for the entire Nation, and again I reiterate, that would not buy a hubcap on a Stealth bomber.

So I hope when the defense bill comes up, when the foreign aid bill comes up, that my friends on this side of the aisle will use this same scrutiny and take a hard look at some of the give away programs and start voting something for American jobs in this country. I urge the defeat of the amendment offered by the gentleman from Utah.

Thank you.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I would like for just one moment to reply to the statement that the chairman of the Appropriations Committee made just a few moments ago with regard to what was going on in Florida and the need for money.

Yes, Florida has received a lot of attention. There is no question about this. A lot of attention has been focused in ways of money that has been put into the Vice President's task force.

I believe that the people of Florida and the entire country have certainly gotten their money's worth with regard to that; but I have as a member of the Select Committee on Narcotics Abuse and Control and as part of the Subcommittee on Crime of the Judiciary Committee, have listened to and held hearings with regard to what effect that was having on the rest of the country.

Recently the Select Committee on Narcotics went down to the southwestern border of the United States. I thought we had a growing problem in Florida, but it seems that we have contained it to an extent, to the extent that the Governors of Texas, of New Mexico, of Arizona, have come to us and said, "What you are doing by shutting down Florida is killing us."

Perhaps we would like to hear from one of the gentleman from a southwestern State who has been very active in this area whether or not he thinks that we are doing enough for the DEA, or drug enforcement in the southwest United States.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for asking me the question. On that point, clearly the effective efforts in Florida have displaced a large degree of the drug trade to the Southwest. That was the essence of the testimony that came to us on the Select Committee on Narcotics. I can tell you, I have some specific figures in mind, some of them are classified, some of them are not, but I can tell you that of those 500 aircraft loads of narcotics coming across the border in recent months, we have only been able to apprehend only about 8 or 9. We have a very low measure of success in interdicting the narcotics trade in the southwest region. It is flourishing. It has been displaced largely from the Southeast, from Florida, and it is out of control right now.

Mr. SHAW. Mr. Chairman, I thank the gentleman for his statement.

I think the administration has been bombarded with criticism from the majority party in this body with regard to not asking for enough or not spending enough in the question of our war on drugs.

I think there is a lot of truth to that argument. Now I would say to the majority party in this House, you are going to have the opportunity to have a vote on putting more money into the Drug Enforcement Agency. This is the strongest statement that you can possibly make.

They do need more money. The administration has not requested enough money. We are not doing enough. We must do more.

Under the rule that we are operating under here today, this is the only way we are going to get with it. It is the only way we are going to get to it.

The makers of this amendment have selected this particular area of expenditure for transfer.

I think the question is not whether we are going to have an indictment of the EDA, but it is a question of setting the priorities of this House, and that is, do we put the DEA above the EDA.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman serves on some of the committees that have jurisdiction over the Drug Enforcement Administration. Would it be the gentleman's opinion that an additional $50 million could be efficiently spent by the Drug Enforcement Administration toward enhancing our war on drugs?

Mr. SHAW. I would say to the gentleman from Pennsylvania that we could put the whole $190 million in there and we still could do more. We must do a lot more than we are doing.

We are spread so thin with our Federal law enforcement officials in our war against drugs that it is pathetic. We must do more. This is the opportunity that this body is going to have to do more.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I am also on the Armed Services Committee and this prioritization that we have had to effect recently is working its way across the board. For the first time the Armed Services Committee, with some dissent, has started to move to fund aircraft to pursue these narcotics bearing airplanes coming into the United States with heroin, cocaine, and marijuana, for our children.

Recently this followed the statement by the President, a directive to the effect that narcotics is now a national security problem.

So I will say to the members of this committee who see a threat here in this proposed transfer that this is something that a number of committees in this House are going to have to be working on in the near future. We in the Armed Services Committee are just starting to make that realization and to actually change markups that affect that realization and to start spending money on interdiction of aircraft that bear narcotics.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. REGULA, and by unanimous consent, Mr. SHAW was allowed to proceed for 2 additional minutes.)

Mr. SHAW. Mr. Chairman, I would like to compliment the gentleman from California on the good work that he has done on the Armed Services Committee in support of our effort. The armed services of this country have not been entirely cooperative even moving into this new function, but they are doing it and it is being very effective.

□ 1420

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, would the gentleman agree that it is important not only to put money into DEA but also into the FBI, the justice system, and the Bureau of Prisons, to deal with the offenders in the drug problem as part of a total package along with what we have done with the armed services?

Mr. SHAW. I would agree with the statement that the gentleman just made. However, I think that it is a question of priorities, that the DEA is the No. 1 priority, and that this is the one that we can get to right now.

I think interestingly enough the drug problem is one that has a direct effect on economic development in this country, and we have the worst crisis now, and it is a growing crisis.

I think that every Member here ought to think back over the last 5 years and see where we were then and where we are now with regard to drug abuse in this country. Cocaine was hardly heard of 5 years ago; now we hear that it is one of the greatest killers that we have out on the street.

Mr. REGULA. Mr. Chairman, will the gentleman yield further?

Mr. SHAW. I yield further to the gentleman from Ohio.

Mr. REGULA. Certainly the gentleman agrees that the increase of $48 million or about 12 to 14 percent over last year was an important step forward.

Mr. SHAW. It is an important step forward, and I am not saying that we are not going in the right direction. I am saying that the problem has gotten way out in front of us, and the problem is moving a lot faster than we in this House are moving or even the administration is moving in getting toward the problem. That is why the problem continues to outdistance us, and this is the opportunity that we are going to have to get at the problem.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Maryland.

Mr. MITCHELL. I thank the gentleman for yielding.

Mr. Chairman, I stand with the gentleman in terms of my concern over the epidemic of drugs in this country, but let us look at it another way. If you take money from EDA, thus increasing the number of people who will not be able to find jobs, are you not really compounding your own problem, because the jobless time and time again out of sheer frustration are turning to drugs? It seems to me that you are just hurting your own cause.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SHAW] has expired.

(On the request of Mr. MITCHELL, and by unanimous consent, Mr. SHAW was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL. Mr. Chairman, will the gentleman yield further?

Mr. SHAW. I yield further to the gentleman from Maryland.

Mr. MITCHELL. Mr. Chairman, does the gentleman understand what I am saying?

Mr. SHAW. I understand what the gentleman is saying, but I think that the availability of drugs and the low price that they have gotten to are making them available to a much wider sector of the population, which is increasing the severity that we are facing. That is the problem that we are running into with crack, which has become and is rapidly becoming one of the biggest killers that we have got in America.

Mr. MITCHELL. I thank the gentleman for his response.

Mr. Chairman, study after study has demonstrated that among the factors that contribute to narcotics use, particularly among lower socioeconomic people, is the absence of jobs. So to the extent and degree that you cut EDA funds, denying the possibility of job-creating activities, you are setting up another potential population to become addicted to narcotics. There is no way that you can get around it. I am sympathetic to the gentleman's cause, believe me. I hate drugs and I hate drug pushers and all that bunch, but I am saying that the gentleman is really going to hurt his cause rather than help it if this transfer takes place.

Mr. SHAW. Mr. Chairman, I thank the gentleman for that contribution to this particular debate, our joblessness goes toward the rise in alcoholism, drug abuse, and everything else.

Mr. MITCHELL. I said that it was one of the factors.

Mr. SHAW. I think that all of us in this House would recognize that $50 million in the DEA is going to do a lot more toward having a direct impact on drug abuse than $50 million in EDA.

This particular amendment eliminates the funding of EDA, but there is going to be another amendment coming along that will give all the Members another chance at this thing, so all of them are going to have another bite of the apple. If they turn this amendment down they are going to have another chance, and that is to take the exact number out of EDA and put it into DEA.

(On request of Mr. ARMEY, and by unanimous consent, Mr. SHAW was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, this is a good argument, and I think that the point is well taken that the relationship between drug abuse and economic distress is clearly well established, and it is certainly one to which we want to respond.

The point that we are addressing here is, Will continuation of EDA funding after 21 years create the jobs that would solve that problem? There is no evidence that it has done so in the past 21 years, and indeed, even today the citation of its success on one hand was the help given the steel industry, and within the same context of the same 10-minute speech, we find out that LTV is defaulting, and we, the taxpayers, have 90 million dollars worth of loans to pick up. In fact, I cannot see where indeed in this process we have created the jobs that would have relieved the drug problem.

I think if we indeed can save here and free up items in our budget and resources in our National Treasury so that we can indeed make a direct assault on drugs, we would make progress on both fronts, and that I think would be good for the taxpayers and applauded.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, and I guess that I am caught here by an incredible contradiction in some way. The debate is being couched in terms of either you are for or against the war on drugs. But the interesting thing is that in order to be for the war on drugs, you have to be against the war on unemployment. You have to be for the DEA and against the EDA.

Well, it just does not come down to that. I wish that we could eliminate problems by saying, "If we vote money for this problem, that indicates that we have gotten rid of this problem." Indeed, there are two great, severe problems in this country, and I think that they have equally damaging ravages in different ways. One is the war on drugs, the drug crisis, and indeed there is a drug crisis. And of course the second one is unemployment.

I come from an area where we are dealing with both. I come from an area where we have been running regrettably at double-digit unemployment for 3 years. I come from an area where we are going through a great transition. We are going to make it, but the transition is moving from one economy to another economy. We do not ask for a lot of help, but we do ask for a little pump-priming now and then, and that is what the Economic Development Administration does.

Some have claimed that the Economic Development Administration does not produce jobs. Let me give the Members some examples. In Jackson County, WV, the Economic Development Administration provided a small grant that provided the ability to prepare an industrial park. One business has already moved in there; another is on its way. New jobs are being created in Jackson County, with EDA being responsible.

There is an incubator going up in Charleston, WV, thanks to a $1 million EDA grant. That incubator is going to provide many of the new-technology businesses and give them a start that is so important. Once again, new jobs are being created.

Finally, we have also suffered from plant closings. In South Charleston, WV, 300 jobs were lost when a major chemical facility closed a few months ago. We now face the imminent loss of 800 more. The city of South Charleston, trying to adjust to this, has applied for an EDA planning grant. We are not asking for a lot of money, but some assistance to plan our future, to plan that transition.

So I say to the Members that it is not fair to say that if you are for EDA, you are against the war on drugs. I am for the war on drugs, and I am for the war on unemployment, both of them equally ravaging.

I think that it is important that we note that, and recognize the ability of the DEA—the Drug Enforcement Administration—and the importance of it, and also of the Economic Development Administration.

In West Virginia we have seen the Economic Development Administration produce those jobs. We need to continue that program as we move into the new future that we think we have in West Virginia.

Mr. Chairman, I urge that this amendment be rejected.

Mr. ERDREICH. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Alabama.

Mr. ERDREICH. Mr. Chairman, I support the comments of the gentleman, and I rise in opposition to the amendment.

Mr. Chairman, what I hear from the other side, which just wants to eliminate the Economic Development Administration, just do away with it, it is posed in this idea of, "Well, it is an alternative, we will spend the money somewhere else." Actually, I think that their argument is just to do away with it.

I can just tell you of one example, in Jefferson County, AL, which I represent. The city of Birmingham in Jefferson County put together an EDA grant of $500,000. They added another $750,000 of local funds to put together better than a million dollar revolving loan fund to go out and create jobs. It is going to be a way to add new jobs to my community. It is a very effective way to encourage leveraging, because they are going to match that, obtain additional private funding to go to that loan progam.

It is a positive program. We do not want to see it eliminated.

I would again thank the gentleman for his comments, and I rise in strong opposition to the amendment.

Mr. WISE. The gentleman makes an excellent point, and I would add that in each of the instances that I have brought forth, the local communities are also putting up money. So it is not

a fact of just simply requesting a grant without any local contribution, a significant local contribution.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to associate myself with the gentleman's remarks. I can say that in the State of Washington the EDA program has been vitally important to the development of our ports, and roads for many of our cities. We have used it effectively in a whole host of jobs and economic development activities.

If you have read the study by Mr. OBEY talking about the bicoastal nature of the economic recovery, many of the States in the Middle West and the South and the West have been overlooked in this recovery, and EDA does play a role in job creation. So I want to associate myself with the gentleman's remarks. I hope that the House will vote down this very misguided amendment and will get on and pass this bill.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that anyone who reads this debate will find two rather fascinating themes. First, that everybody is somehow against drugs, but America is not winning the war against cocaine and heroin, but this is not the time to do anything about that defeat.

□ 1430

Second, that somehow there is a choice between economic development and fighting drugs.

Let me try to dispell both of those.

I think that the gentleman from Florida [Mr. SHAW] when he said that the problem is moving a lot faster than we in this House understand, was exactly right. We are currently fighting the drug war as though it were the Vietnam war, slowly, gradually and with defeat in the offing.

The administration requests are not adequate. That is correct. There is a circular reasoning in Washington where bureaucracies ask for what they think they can get from Congress, which then gives the bureaucracy about what it asked for. So if both underestimate the problem, the problem just keeps getting underfunded.

I would have hoped that we were shocked into setting our priorities by Len Bias' death. Let me say that I think it is Len Bias who disproves this whole economic argument about linking unemployment to drugs.

Neither Len Bias nor Don Rogers were unemployed; neither were poor. In fact, the cycle tends to be the opposite. It is drugs which lead people to lose their jobs and it is addiction which leads people to become criminals. I think we have it reversed if we are suggesting that it is unemployment which leads to drug addiction. Normally the person who starts buying drugs has the money to start with and only after becoming an addict do they begin to be unemployed and prey upon society.

Narcotics is a national security problem. The United States troops in Bolivia should frighten all of us. The clock is running. If we continue to have an underground drug empire 5 years from now, we can expect to have portions of the American military corrupted. They have not been corrupted yet because they have not been directly tied into fighting drugs. They are now getting tied into it.

That means junior officers and noncommissioned officers with relatively low salaries are going to be dealing with multimillion-dollar drug dealers. We have to win quickly or we risk corrupting the American military.

Frankly, when we talk about cleaning up Bolivia or Peru or Colombia, and we have not got the guts to clean up south Florida, I think we ought to ask who is kidding whom.

"Miami Vice" is much too close to being a documentary for any American to be comfortable. We need to be waging a World War II style unconditional surrender assault on cocaine and heroin. All over Washington, throughout State and local government, across the Federal Government, law enforcement officers find themselves outnumbered, outsophisticated and outmaneuvered by relatively high-technology cocaine and heroin networks.

There is an underground empire, as a recent 1,300-page book is entitled, and it is an assault on our sovereignty. Given our limited budget ceilings, how do we deal with the cocaine and heroin crisis? The answer is to set priorities.

The question before the House is not whether or not EDA is useful at the margin. It is whether the next million dollars ought to be spent stopping cocaine and heroin or in a Government bureaucracy. This is not a choice between creating jobs and stopping drugs.

American jobs in the world economy relate directly to drug addition. The drug empire diverts money; drug addicts misallocate money; drug addicts then become even more pervasive and disturbing by preying upon the innocent and the drug-addicted worker can be both dangerous and destructive.

As someone who flies jet airplanes regularly, every Member of Congress should worry about having drug addicts either in the air safety system or having drug addicts fix the airplane for the commercial airliner.

The fact is that the economic cost of cocaine and heroin in jobs weakens America far more than EDA helps it. Cutting drastically the cocaine/heroin trade and reducing the number of addicts and criminals will help create more jobs and save more jobs than EDA ever has.

So morally, in stopping crime and protecting innocents and in helping America be healthy enough, I think it is important to vote yes on this amendment.

Let me say one last thing. The longer there is an underground empire, we face the systematic subversion of our law enforcement agencies and now of our military on a scale which should sober and shock this Congress.

I think this is an important amendment. I think it sets the right kind of argument about priorities. If we are going to have limited spending, what matters most? Until you have financed the drug war enough to win it, I do not think whatever comes second in terms of Federal bureaucracies frankly ranks in the same league.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Maryland.

Mr. MITCHELL. Mr. Chairman, I thank the gentleman for yielding.

I want to help the gentleman retain his record of making pretty accurate statements and the gentleman usually does. The gentleman is sort of misleading in two things he said today, though.

One, I attempted to point out very clearly that unemployment is but one cause or factor. I did not attempt to make a linkage on that basis that it was the sole factor which you did in your statement. I did not think the gentleman meant to do that.

Mr. GINGRICH. I think that other gentlemen had. I was not referring purely to your comment, but there is a tendency to link the two.

Mr. MITCHELL. I am saying that is where you were in error.

Second, are you aware of the circumstances under which Len Bias' burial took place? He did not come from an affluent family. It was necessary to gather up funds from neighbors and friends to bury him, so using that example was not a good one.

I just do not like to see the gentleman stray from his record of accurate statements.

Mr. GINGRICH. Would the gentleman disagree that most cocaine users, according to the best information we currently have, tend to have money, tend to pay a fairly good amount of money, and tend, in fact, to be employed?

Mr. MITCHELL. I might have agreed with that before the introduction of crack.

Crack is a form of cocaine and that is so commonplace it has skewed all the data completely.

Mr. GINGRICH. But the gentleman would agree that cocaine addiction is

largely a problem of the people who have money.

Mr. MITCHELL. No; I might have in the past before crack got into the picture.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. MONSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 108, noes 302, not voting 21, as follows:

[Roll No. 225]

AYES—108

Archer	Gingrich	Oxley
Armey	Gradison	Packard
Atkins	Gregg	Parris
Badham	Hansen	Petri
Bartlett	Hiler	Porter
Barton	Hillis	Ray
Bates	Hopkins	Roberts
Bennett	Hunter	Roth
Bereuter	Hyde	Schaefer
Bilirakis	Ireland	Schulze
Bliley	Kasich	Sensenbrenner
Boulter	Kolbe	Shaw
Brown (CO)	Kramer	Shumway
Burton (IN)	Lagomarsino	Siljander
Callahan	Latta	Slattery
Carney	Leach (IA)	Slaughter
Carper	Lewis (CA)	Smith (NE)
Chandler	Lewis (FL)	Smith, Denny (OR)
Cheney	Livingston	Smith, Robert (NH)
Cobey	Loeffler	Snyder
Combest	Lowery (CA)	Stenholm
Coughlin	Lungren	Stump
Crane	Mack	Sundquist
Daniel	MacKay	Sweeney
Dannemeyer	Marlenee	Swindall
Daub	Martin (IL)	Tauke
DeLay	McCain	Thomas (CA)
DeWine	McCandless	Vucanovich
DioGuardi	McCollum	Walker
Dorgan (ND)	McGrath	Weber
Dornan (CA)	Meyers	Wolf
Dreier	Miller (WA)	Wylie
Eckert (NY)	Molinari	Young (FL)
Fawell	Monson	Zschau
Fields	Moorhead	
Frenzel	Nelson	
Gibbons	Nielson	

NOES—302

Ackerman	Bruce	Dingell
Akaka	Bryant	Dixon
Alexander	Burton (CA)	Donnelly
Anderson	Bustamante	Dowdy
Andrews	Carr	Downey
Annunzio	Chapman	Duncan
Anthony	Chappell	Durbin
Applegate	Clay	Dwyer
Aspin	Clinger	Dymally
AuCoin	Coats	Dyson
Barnard	Coble	Early
Bateman	Coelho	Eckart (OH)
Bedell	Coleman (MO)	Edgar
Beilenson	Coleman (TX)	Edwards (CA)
Bentley	Collins	Edwards (OK)
Berman	Conte	Emerson
Bevill	Conyers	English
Biaggi	Cooper	Erdreich
Boehlert	Courter	Evans (IL)
Boggs	Coyne	Fascell
Boland	Craig	Fazio
Boner (TN)	Crockett	Feighan
Bonker	Darden	Fish
Borski	Daschle	Flippo
Bosco	Davis	Florio
Boucher	de la Garza	Foglietta
Boxer	Dellums	Foley
Brooks	Derrick	Ford (MI)
Broomfield	Dickinson	Ford (TN)
Brown (CA)	Dicks	Frank
Franklin	Markey	Sabo
Frost	Martin (NY)	Savage
Fuqua	Martinez	Saxton
Gallo	Matsui	Scheuer
Garcia	Mavroules	Schneider
Gaydos	Mazzoli	Schroeder
Gejdenson	McCloskey	Schumer
Gekas	McCurdy	Seiberling
Gephardt	McDade	Sharp
Gilman	McHugh	Shelby
Glickman	McKernan	Shuster
Gonzalez	McKinney	Sikorski
Goodling	McMillan	Sisisky
Gordon	Mica	Skeen
Gray (IL)	Michel	Skelton
Gray (PA)	Mikulski	Smith (FL)
Green	Miller (CA)	Smith (IA)
Guarini	Miller (OH)	Smith (NJ)
Gunderson	Mineta	Smith, Robert (OR)
Hall (OH)	Mitchell	Snowe
Hall, Ralph	Moakley	Solarz
Hamilton	Mollohan	Solomon
Hammerschmidt	Montgomery	Spence
Hatcher	Moody	Spratt
Hawkins	Morrison (CT)	St Germain
Hayes	Morrison (WA)	Staggers
Hefner	Mrazek	Stallings
Hendon	Murphy	Stangeland
Henry	Murtha	Stark
Hertel	Myers	Stokes
Holt	Natcher	Strang
Horton	Neal	Stratton
Howard	Nichols	Studds
Hoyer	Nowak	Swift
Hubbard	Oakar	Synar
Hughes	Oberstar	Tallon
Hutto	Obey	Tauzin
Jacobs	Olin	Taylor
Jeffords	Ortiz	Thomas (GA)
Jenkins	Owens	Torres
Johnson	Panetta	Torricelli
Jones (OK)	Pashayan	Towns
Jones (TN)	Pease	Traficant
Kanjorski	Penny	Traxler
Kaptur	Pepper	Udall
Kastenmeier	Perkins	Valentine
Kemp	Pickle	Vander Jagt
Kennelly	Price	Vento
Kildee	Pursell	Visclosky
Kindness	Quillen	Volkmer
Kleczka	Rahall	Walgren
Kolter	Rangel	Watkins
Kostmayer	Regula	Weaver
LaFalce	Reid	Weiss
Lantos	Richardson	Wheat
Leath (TX)	Ridge	Whitley
Lehman (CA)	Rinaldo	Whittaker
Lehman (FL)	Ritter	Whitten
Leland	Robinson	Williams
Lent	Rodino	Wilson
Levin (MI)	Roe	Wirth
Levine (CA)	Roemer	Wise
Lightfoot	Rogers	Wolpe
Lipinski	Rose	Wortley
Lloyd	Rostenkowski	Wright
Long	Roukema	Wyden
Lott	Rowland (CT)	Yates
Lowry (WA)	Rowland (GA)	Yatron
Lujan	Roybal	Young (AK)
Luken	Rudd	Young (MO)
Manton	Russo	

NOT VOTING—21

Barnes	Fiedler	Madigan
Bonior (MI)	Fowler	McEwen
Breaux	Grotberg	Moore
Byron	Hartnett	O'Brien
Campbell	Huckaby	Schuette
Chappie	Jones (NC)	Waxman
Evans (IA)	Lundine	Whitehurst

□ 1450

Messrs. KLECZKA, CHAPPELL, SKELTON, ROE, and HUGHES changed their votes from "aye" to "no."

Mr. RAY and Mr. BATES changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: In title I, page 3, line 3, strike "$190,000,000" and insert in lieu thereof "$140,000,000."

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the two amendments I have at the desk be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SMITH of Iowa. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WALKER. Mr. Chairman, I am sorry that the gentleman from Iowa objected and uses the procedures of the House to muddy the situation here because it is very clear what I am going to attempt to do here, is take $50 million out of the EDA Program in order to put it into the drug enforcement program.

I have two amendments at the desk; one takes money out of the Economic Development Administration, and the other one puts it into the Drug Enforcement Administration. It is an attempt to upgrade drug enforcement. It is a clear symmetrical change between the EDA and DEA. That is what this gentleman is attempting to do. I provide the House with an assurance that if you adopt the amendment now before us to cut $50 million, I assure the House that, if the House adopts this amendment to take $50 million out of the Economic Development Administration, this gentleman will offer the amendment to put $50 million into the Drug Enforcement Administration. It will be clearly the transfer of money between the two.

I am sorry the procedures have to make it a one-two step procedure, but it seems to me that this may be something that the House wants to do. Let us think for a moment about the priorities here.

The House has just determined that you do not want to eliminate the Economic Development Administration. The question now before the House is, do you want to cut it back a little in order to put more money into the Drug Enforcement Administration? Why do you have to have that step? Because this committee came in up against their 302 ceiling. You have to take money out of some place in order to put more money in. If we want to have a real war against drugs and put additional money into the Drug Enforcement Administration, we have to take it out of somewhere else. That is what I am doing now. I am taking the money out here.

The question here is whether or not you think there are priorities to increase our war on drugs. What would

we do with an additional $50 million? Here is the list, my friends. The list is: we would increase marine and air interdiction of drugs coming into the country. That is something we can do with the additional money. It can be used to provide grants to States and local governments to address the diversion of legitimately produced pharmaceuticals to the illegal markets. It is also available money then to include more investigation of major narcotics violators. It would allow more efficient management of the national narcotics intelligence system. It would allow coordination with other Federal agencies to ensure that we would have a better war on drugs; it would allow more in the way of drug abuse education.

Now, the question is: Do we regard those as priorities? The committee has already put $48 million additional into the bill for drug enforcement. It is not enough. We need to do these additional things. We need to do them now. What this gentleman is suggesting is that it is now time to transfer the monies out of EDA and put them over into the Drug Enforcement Administration.

Let me also point out that we are hardly emasculating EDA when we do this. Under my amendment you could keep the entire economic adjustment grant program, you could keep the entire research and evaluation program, you could keep the entire technical assistance program, you could keep the entire planning assistance program, and all you have to do is take $50 million out of the public works grants and you would still have $72 million left in that program.

We are leaving enough for EDA to continue some of its work, but we are also making certain that what we do is get some badly needed funds into the Drug Enforcement Administration at a time they need it.

I quizzed Members during the last debate as to whether or not this money could be efficiently used based upon their experience in the committees. Their experience says to them, yes, indeed, this money can be very efficiently used. Now is the time to have a war on drugs.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, I am very interested in the war on drugs and particularly in the area of interdiction. I would point out, however, that of course interdiction is done by the Customs Service and by the Coast Guard, and that is done of course through the Department of Transportation and the Department of the Treasury.

Can the gentleman assure me that somehow this money is going to find its way from over in EDA, somehow, through this appropriation bill, is going to get over into Treasury and Transportation? Let me also ask specifically, though, one of the other problems that we found is, whenever this money becomes available it gets used for other things. For example, the Secretary of the Treasury a couple of years ago took money from the operation and maintenance account on flying airplanes in the war on drugs and wanted to use it to renovate offices, or to buy computers. Can the gentleman assure us on that?

Mr. WALKER. Reclaiming my time, the idea here is to get serious about a war on drugs. I made it very clear where I think the money should go, and I think that is where the money will go. I think it will be used very effectively because I think the crisis demands that it be used effectively. I would say to the gentleman that he well knows that interdiction also involves having drug enforcement agents on the ground in a lot of these foreign countries. This is money that can be used to pay for those drug enforcement agents that are on the ground to allow us to get the information that we use in the interdiction procedure. So I think it is very clear that the money can be used as part of our interdiction strategy, and that is precisely what this gentleman wants to do.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I would be glad to yield to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I thank the gentleman for continuing to yield.

Mr. Chairman, I would wholeheartedly agree with the gentleman that certainly we need any information that we can get that would assist us in this. However, one of the problems has been that we have people on the ground but we get into these turf battles. One of the difficulties we have got as far as the war on drugs is concerned is that DEA refuses to provide intelligence to Customs. That is something we have to deal with.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

□ 1505

Mr. WALKER. Mr. Chairman, I thank the gentleman. It seems to me that if the gentleman is correct, the last thing we want to do is starve the program to death in order to solve that problem. The problem then is coordination. I mentioned in my statement that one of the things that this additional money can be used for is for appropriate coordination among these agencies. I think that is extremely important as a part of all of this, but we are not going to get it unless we get the extra money.

I would say to the gentleman that that is what this is all about, that we cannot get the extra money unless we create the funds to do it by approving this amendment that we have before us.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I agree with the gentleman that that is an important feature. But I would strongly urge that any moneys that are going to be transferred and used be earmarked specifically for programs, for specific programs, for specific pieces of equipment, because, quite frankly, it gets lost.

Mr. WALKER. Mr. Chairman, as the gentleman knows, I cannot do that in the House. The rules of the House adopted by the gentleman's party do not permit me to legislate in an appropriations bill. I can only go so far as to put money in so that these things can be done.

I have made it very clear in the legislative history where I expect this money to be used. It seems to me that that is a clear indication to the agencies how it should be used.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I want to compliment the gentleman in the well for an amendment that I think is very timely. I think it comes at a very opportune time within this debate. I have an opinion that the debate is going to continue for just a very brief period of time and that we are going to be getting a recorded vote on this.

This does give us another bite at the apple. For those who do like the EDA, who do see some merit in the program, it gives you an opportunity to really focus on the exact amount we are talking about.

We cannot take this money and put it into the Treasury or put it in the Department of Transportation, as the gentleman from Oklahoma suggested, and I think the gentleman suggested right because there are additional needs there, too. The only one that we can deal with at this particular point in this particular bill is the DEA.

The gentleman from Pennsylvania is taking the direct approach, and it is going to give the Members of this House an opportunity to vote directly on this specific issue.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. BURTON of Indiana, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding to me. I want to congratulate the gentleman on his amendment.

There is no problem that is greater than the drug problem facing America. Today, the Task Force on International Narcotics Control held hearings. At those hearings, they had Mr. James Mills, the author of "The Underground Empire," testify before that committee.

I was concerned about the drug problem before that hearing today, but after hearing Mr. Mills, I am absolutely, unequivocally convinced this is the No. 1 problem facing America today.

I believe this amendment will help give the DEA the abilities and the resources they need to continue this fight and increase their fight against the drug traffickers around this world. If we do not take steps like this today to put the money where it is necessary, then I think we are going to reap the whirlwind in the not-too-distant future.

I submit to every Member of this body that they ought to get a synopsis at least of Mr. Mills' book and they will realize the gravity of the problem.

I think that this amendment today by the gentleman from Pennsylvania [Mr. WALKER] is one of the most important amendments to come before this body today, and I urge all of my colleagues to support it.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is an amendment to cut EDA by 26 percent. EDA has already been cut 30 percent from the level of 4 years ago. It is not an amendment to transfer money. As the gentleman correctly said, you cannot do that in this bill.

I think we made all the arguments on this in the last 2½ hours that can be made. I would hope we could get to a vote on this.

I think the gentleman from Pennsylvania will agree it is an amendment to cut EDA by $50 million. We just voted on one to eliminate it completely. That is purely and simply what it is, and 2 more hours of debate will not clarify anything.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman does understand, though, that the gentleman is the one who prevented me from being able to offer the symmetry in the amendment with his objection, that by unanimous consent we could have the real issue before us.

Mr. SMITH of Iowa. If we start allowing transfers section by section as we go through the bill, we will not get through this bill by next Christmas, let alone the other 13 appropriations bills. The gentleman understands that.

I ask for a vote on this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I just want to make one very brief point. We have already decided in the previous vote that we do not want to kill the Economic Development Administration, that we recognize it has performed a useful purpose in many of the distressed areas of this country.

All I would point out is that I used to serve as chief counsel for EDA and I have been on the Economic Development Subcommittee since my tenure in Congress. This amendment will kill EDA just as surely as the last vote would have killed it. If you take another 25 percent—we have already cut it 70 percent, as the chairman has said, and this would represent another 25-percent cut. Mr. Chairman, we are already at the very limit of when this program can be effective. If we cut it by this radical amount, $50 million out of the total operating authorization of $180 million, we have, for intents and purposes, killed this program.

I think the Members should be very clear that a vote for this amendment will kill the EDA.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman stated the case very precisely, as did the chairman of the subcommittee. The purpose of this amendment is not to carry on the war against drugs, it is to carry on a war against EDA, a war by other means, a war of attrition. It is transparent. It is obvious what they are trying to do.

We ought to defeat this amendment and defeat the idea of killing the Economic Development Administration.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am the ranking minority member of the Subcommittee on Crime, and I have heard a lot of discussion this afternoon in the preceding debate about whether the Drug Enforcement Administration wants or can use an additional sum of money of some $50 million. I can say unequivocally they not only would like to have it, they can certainly use it and then some.

The problem, of course, is that OMB put a lid on the DEA request for funding to the Appropriations Committee.

We have a multifaceted war on drugs going on. We need to have the program working at each level. We need the Coast Guard to get funded at higher levels than they are presently so they can do their job. We need to have more support for Customs and for the military's involvement. We need to get to the point where we have not only support for DEA and the Coast Guard and the military, but we need all of the resources of every single agency involved focused in in a way that is now being planned and in south Florida being coordinated. Each one needs more resources.

The bill, unfortunately, does not give us the opportunity to address anything in the drug area except DEA. That is why the proposal by the gentleman from Pennsylvania, it seems to me, has a lot of merit.

No. 1, it is not an elimination like the previous motion was of EDA. It is roughly a 25-percent reduction in the moneys appropriated. We have to find the money somewhere, and EDA seems to us to be the most logical place to find it.

No. 2, we have a chance by giving this kind of money out, if we do give $50 million, to allow the Drug Enforcement Administration to place agents in the field that they cannot do now.

When I was down in Argentina earlier this year, the point was made to me that we do not have a field office in Uruguay. We need to have one there.

When I was in Brazil, the Brazilian DEA agents said, "If there is one thing we need more than anything else, it is an opportunity to have two or three more agents. We cannot get out and find the intelligence in order to get at this problem if we do not have the manpower out in the field doing it. And they are absolutely the only ones out there doing it.

The Drug Enforcement Administration domestically does a lot more than we realize. When the Coast Guard acquires tons and tons of marijuana—and they are doing a fantastic job of confiscating marijuana right now as it comes by boat. Unfortunately, a lot of it is being flown in and dropped in the Bahamas and gets to Florida. They are doing a great job of doing it right now with a lot of coordination. When they get that marijuana, they physically turn that over for evidence and for future destruction to DEA. They get it all.

We do not have an incinerator in this country to burn it. When I was in south Florida just a couple of weeks ago, they told me the only contracting incinerator firm in the State of Florida or in the Southeast had broken off the contract and nobody is willing to burn this stuff. There is no way to get

rid of it and we need some funding to do that. I am sure that they did not have that problem at the time the request came up to the Appropriations Committee. That is expensive.

You go on down the line of what DEA does in every respect, and they certainly can use, as the gentleman from Pennsylvania explained item by item, the $50 million.

This is an opportunity to help the war on drugs. It is not the only opportunity that we will have. We will have more, I hope, this session, such as the money laundering bills, two of them, one voted out of the Subcommittee on Crime, one voted out of my Subcommittee on Financial Institutions in the last 2 days, to get at the profit part of this. We need to get to the demand side of the drug problem.

□ 1515

It is a big, major, major problem for this Nation and our people. But make no mistake about it: If the American people have the choice between building a golf course in Phoenix, AZ, with EDA funds versus putting some money in to stop crack with DEA, they want to stop the crack. They want the $50 million there. This amendment does not do away with EDA; it only pares it back slightly and it puts some additional resources that are long overdue into the Drug Enforcement Administration.

I strongly urge my colleagues to vote "aye" on this amendment. Let us do something for the drug problem.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, the one thing that I would wholeheartedly agree with the gentleman on is that certainly additional funds are needed in the war against drugs. I will support additional funds; I will vote for additional funds.

The one thing that I am concerned about though are promises that funds are going to find their way into the war on drugs simply because they are cut out of some other program. The thing I want to be assured of, and can the gentleman give me this assurance, if he can give me the assurance that this money will all be used in the war on drugs, every dime that is cut out of it?

Mr. McCOLLUM. Every dime.

Mr. ENGLISH. You can assure that?

Mr. McCOLLUM. I can assure it. The sponsor of this amendment, Mr. WALKER can assure it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I will assure the gentleman that every dollar of this is to be used for the war on drugs.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just to keep the record straight, I want to point out that the subcommittee added $103 million to the FBI which is absolutely essential on the war on drugs. That the subcommittee added $48 million or a 14-percent increase over last year, to the DEA. That the subcommittee added $136 million to the prison system which is a vital part of the war on drugs. That the subcommittee added $112 million to the U.S. courts. All of the amounts are over 1986 numbers. That the subcommittee added $34 million to the Immigration and Naturalization Service. That the subcommittee did not add anything, not any increase to EDA over 1986 levels.

If you add this all up, we have added hundreds of millions of dollars to dealing with the total problem of crime, and it includes drug enforcement, it includes the whole gamut of criminal enforcement.

Obviously the subcommittee has tried to be responsible in addressing this problem. But we also are concerned about jobs for Americans. We recognize too that we have to build the necessary facilities so that there is growth, that people have economic opportunity, and while we then did not cut EDA, we did not increase it on the job side, while at the same time we have already spent hundreds of millions in the whole area of crime and law enforcement.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate very attentively and I share my colleagues' concern about the resources that we are committing to law enforcement and all the agencies that are dealing with substance abuse.

My colleague over here that just said substance abuse is the No. 1 problem in this country, all I can say is "Amen." We have been saying that now for the past 3 years as the epidemic has spread throughout not just this country, but the world.

I have examined the gentleman from Pennsylvania's amendment and I am very sympathetic with what the gentleman wants to do, but I want to ask the chairman of the committee if he can tell me, are we transferring any money to the Drug Enforcement Administration? Do we have any assurance that if we transfer $50 million—do we have any assurance that we are going to transfer this money from EDA, which I am prepared to do, into drug enforcement?

I yield to the gentleman for his response.

Mr. SMITH of Iowa. This is strictly an amendment on whether or not to cut EDA 26 percent. When we come to the section in the bill on DEA, if somebody wants to make an amendment to increase funding he can make an amendment at that time.

There is no assurance how these additional funds will be spent. As was indicated earlier today, some of the additional funds that were made available in previous years were not spent that way when we did give them more money.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Because of the way the rules are structured in the House, as the gentleman well knows, I cannot offer this specific amendment. You do have the personal guarantee of this Member that I will offer that amendment of the $50 million for DEA if this amendment is adopted. So that in fact this House will have that specific vote, and I cannot imagine having eliminated it from EDA that we will not put it into DEA.

This gentleman will offer that amendment at the appropriate time.

Mr. HUGHES. I hear what the gentleman says and I understand under the rules that we just cannot transfer. But one of the things that concerns me about all the rhetoric that we hear about stepping up the war on crime, and how about the major problems we have with substance abuse, is that we do not really get serious about it. We talk about it, we talk about it but we are not really committing the resources. I can tell my colleague from Pennsylvania that $15 million, even though it is a substantial sum, is inadequate.

We are operating in the margin. We have not recovered from 1982 and those rounds of cuts in 1982. We hear about Crack today; we hear about Crack. That is the most recent phenomenon. But you know if you look at the DAWN reports it is not Crack and it is not cocaine and it is not marijuana and it is not heroin that is killing the people throughout our country, it is the prescription drugs that are being diverted into the illicit market. That does not have the same sex appeal.

We developed a few years units that we call the Diversion Investigative Units. We were to target leverated Federal resources into those communities where we had a major prescription diversion problem. They were so successful in 1982 that we eliminated them. We have no Federal response to the diversion problem today, and the DAWN reports show that over 50 percent of the deaths and overdoses in our hospitals throughout this country are caused by the diversion of the prescription drugs into the illicit market. Those are the drugs that are finding their way into school yards.

Last year, we put something like $1.7 million into a grant block program. The gentleman from Iowa worked with us as did the ranking minority member, and guess what? OMB has refused to spend the money. Here the Congress has provided $1.7 million to deal with a major drug problem in this country and the Office of Management and Budget refuses to spend the money.

Just like I heard it argued on the floor here today that the DEA has not asked for any more money, well they get their marching orders from OMB and they come in here before our committees and we ask them, "How much money do you really need?" Well, "all we need is what we are asking for." And we go round-robin, time and time again. Unfortunately, we are not spending the kind of money that we need to to deal with the substance abuse, not just in enforcement, but look at the money we are spending on education: $3 million. We ought to be ashamed of ourselves as a society. We are not dealing with the drug problem as we should in this country because we are not committing the resources in education; $3 million.

In New Jersey, we have 12,000 addicts that are walking around our streets that need help, that want help. They are hard-core addicts in many instances, out committing crime, that want help that we cannot reach. We have 4- and 5-month waiting lists in just what we just did. We cut the monies for treatment and detoxification.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. It costs us in New Jersey $2,600 to put somebody through a treatment program. It costs us $16,000 to house them in a prison, and we cut them loose because of overcrowding after a few months or a year or so only to go out and commit more crimes that are back in our criminal justice system once again.

We just ran two tests, one in New York and one in Washington and we found that people that are now coming into the criminal justice are on drugs. Some 65 percent of the people being arrested today, after they undergo urinalysis screening, show positive for drugs. It is a major problem in this country and unfortunately we are not realistically dealing with it.

When we provide moneys in the budget, even when we say we want to spend $1.7 million on diversion, why, the folks across town refuse to spend it.

□ 1525

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I thank my colleague for yielding

Let me ask the gentleman a direct question because I really respect the gentleman and his knowledge in this area. Is this a good proposition? Should we take $50 million and spend it in DEA? That is the question we have to decide.

Mr. HUGHES. Mr. Chairman, I will say to my colleague that if I could be assured that we are going to take $50 million out of DEA and it is going to end up in DEA, as I indicated, I would support it in a minute. It is a worthy proposition. And I am very supportive of the Economic Development Adminisration.

The committee has already cut EDA by 70 percent. I am prepared to take another $50 million out of EDA, although I prefer to take it out of other areas, if in fact it is going to be spent. But my point is, even when the Congress makes a decision about spending priorities, the Office of Management and Budget does not follow through and spend the money. A good example is the $1.7 million I just indicated that we provided for diversion. They refused to spend the money.

Mr. EARLY. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Chairman, I thank the gentleman for yielding.

I have deep respect for the gentleman, and I wish the Members of the House would respect the suggestion of the subcommittee chairman and the ranking member. This amendment is to the EDA, to strike EDA, and I think we should give the gentleman from Iowa [Mr. SMITH] and the gentleman from Ohio [Mr. REGULA] a chance. There is $1.4 billion being provided for fighting drug trafficking. It is not in this bill, but the taxpayers are going to pay that. The gentleman from Ohio [Mr. REGULA] and the gentleman from Iowa [Mr. SMITH] and all the members of the committee are ready to explain where it is.

All we are trying to do is diffuse the issue. Everyone is against drugs, but there is $1.4 billion that the taxpayers have to pay, and we should let the chairman of the subcommittee and the ranking member, when we come to the part of the bill, explain that and let us vote on the EDA money.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I want to explain to the gentleman that in describing the legislative history of this amendment, because I cannot under the rules of the House put specific things in it, I did in fact specify that the diversion of pharmaceuticals should be one of the things that this additional money is used for. I also explained that one of the things it should be used for is drug abuse education. I also explained that it should be used for better coordination between the agencies. The very things the gentleman has pointed out is what this money is for.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

(On request of Mr. BURTON of Indiana, and by unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I just have one brief question, and that is this: In the gentleman's remarks he made the comment that if this money were transferred to DEA, OMB might prohibit it from getting to its intended purpose.

It is my understanding, if the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] passes and the subsequent amendment putting this $50 million into DEA passes, OMB will have no ability to keep the money from getting to its intended use.

Mr. HUGHES. I do not know how the gentleman can say that. Let me just say to the gentleman that, as I said, the Congress in the last budget wanted to spend money for diversion. The Office of Management and Budget refuses to spend it for that purpose. They refused to spend the money for that purpose.

Mr. BURTON of Indiana. So the gentleman is saying he believes this $50 million, if we reassign it, will not get to its intended purpose?

Mr. HUGHES. I am saying that the Office of Management and Budget can override our priorities. They have been doing it. That is part of the problem.

Mr. BURTON. I doubt very seriously if that would happen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes apeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 256, not voting 25, as follows:

[Roll No. 226]

AYES—150

Archer	Bartlett	Bates
Armey	Barton	Bennett
Badham	Bateman	Bereuter

Bilirakis
Bliley
Broomfield
Brown (CO)
Burton (IN)
Callahan
Carney
Carper
Carr
Chandler
Cheney
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Dyson
Eckert (NY)
Edwards (OK)
English
Fawell
Fields
Foglietta
Frenzel
Gibbons
Gingrich
Glickman
Goodling
Gradison
Gregg
Hall (OH)
Hall, Ralph
Hansen
Hendon
Hiler
Hillis
Holt
Hopkins
Hughes
Hunter
Hutto
Hyde
Ireland
Kasich
Kemp
Kindness
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (FL)
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lungren
Mack
MacKay
Marlenee
Martin (IL)
McCain
McCandless
McCollum
McGrath
McMillan
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Monson
Moorhead
Mrazek
Nelson
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Ray
Roberts
Roemer
Roth
Roukema
Rudd
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Siljander
Skeen
Slattery
Slaughter
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Snyder
Solomon
Stallings
Stenholm
Strang
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Valentine
Vander Jagt
Vucanovich
Walgren
Walker
Weber
Wolf
Wylie
Young (FL)
Zschau

NOES—256

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bedell
Beilenson
Bentley
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner (TN)
Bonker
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Chapman
Chappell
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Daschle
Davis
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart (OH)
Edgar
Edwards (CA)
Emerson
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Henry
Hertel
Horton
Howard
Hoyer
Hubbard
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowry (WA)
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKernan
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Panetta
Pease
Pepper
Perkins
Pickle
Price
Quillen
Rahall
Rangel
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Shelby
Shuster
Sikorski
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)

NOT VOTING—25

Barnard
Barnes
Bonior (MI)
Boulter
Breaux
Byron
Campbell
Chappie
Dellums
Evans (IA)
Fiedler
Fowler
Grotberg
Hartnett
Huckaby
Jones (NC)
Lewis (CA)
Lundine
Madigan
McEwen
Moore
O'Brien
Schuette
Whitehurst
Wirth

□ 1535

The Clerk announced the following pair:

On this vote:

Mr. Lewis of California, for, with Mr. Schuette against.

Mr. RICHARDSON and Mr. FEIGHAN changed their votes from "aye" to "no."

Mr. FOGLIETTA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have a colloquy with the distinguished gentleman from Iowa [Mr. SMITH].

I have a point I would like to clarify with the gentleman, if I could, concerning the NOAA portion of the gentleman's bill.

First, I greatly appreciate the gentleman's support for the United States contribution toward the Salmon Interception Commission that is implementing our recently ratified treaty with Canada. I know that in the gentleman's bill he has added $1 million to the administration's request for funds for the Commerce Department contribution to the Commission's work and $2.256 million for the State Department portion. It is my understanding that, of the NOAA component, $5 million is expected to be made available to the States and Indian tribes for research based upon the priorities established by the Treaty Commission. Is this correct?

I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Yes, that was our assumption.

Mr. DICKS. Mr. Chairman, I thank the gentleman. I appreciate all the assistance that the gentleman has given us on this bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $26,000,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1987.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $188,600,000: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

□ 1550

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 4, line 22, insert the following after the figure $186,600,000, "of which not more than $10,900,000 shall be authorized for the Trade Adjustment Assistance program and not less than $23,100,000 shall be authorized for the Office of Export Administration, $12,700,000 shall be authorized for the Office of Export Enforcement and $16,800,000 shall be authorized for the Import Administration."

Mr. SMITH of Iowa. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] reserves a point of order on the amendment.

The gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes in support of his amendment.

Mr. FRENZEL. Mr. Chairman, I am grateful to the distinguished subcommittee chairman for reserving his point of order rather than making it immediately. When he makes it, I will concede the point of order, because my amendment under the current rule in the current form is clearly subject to a point of order.

That was a difficulty for me, Mr Chairman. The amendment in its current form would be out of order under normal rules. I could structure the amendment in a more artful form, but because of the fact that the items that I want to amend are not authorized, even in another form it would also be out of order.

In the area that troubles me, the committee has reduced the request of the administration in three specific functions. The damage is serious, in my judgment. These three functions were mentioned by the gentleman from Washington [Mr. BONKER], the subcommittee chairman, in the scheduled debate.

They are the Office of Export Administration, the Office of Export Enforcement, and the Office of Import Administration.

Those three units were cut from the request by about $5.6 billion. Had my amendment been in order, and had it been accepted, the $5.6 billion would have been put back into those three accounts. That amount would have been taken out of trade adjustment assistance for firms.

The amendment would not have transferred from the rather popular trade adjustment assistance for employees. It is financed from the firm program. We have talked about that program in the previous debate on another amendment. It was indicated then that that program has plenty of critics:

I do not really mean to tell the committee where to find the money. I merely take this time to ask the chairman to take a look at the three accounts which I have mentioned, which Chairman BONKER has already mentioned. If it is possible, as the bill moves along, I hope he will see whether they can be restored.

These are really important, Mr. Chairman. The first one is the Office of Export Administration, and that is the one that handles the export licenses. We already have a license application backlog. American exporters need to move this stuff promptly, particularly with our large trade deficit.

Mr. Chairman, this administration has worked very hard to improve the processing of licenses, and has gone so far as to bum some hardware out of the private sector to set up a system that works pretty well. We do need people to run it, and I think that we need more money than is in the bill before us, as I have indicated.

The second Office is the Office of Export Administration. That is the one that tries to catch the prohibited items leaving the United States. It has some help from Customs and other agencies, but the most effective administrator of our Export Enforcement Program has been the Department of Commerce. I hope that we are not going to short it.

The final Office is probably of even more interest to the House. That is the Office of Import Administration, where we try to administer our import laws where we have made restrictions or where we have imposed penalties for unfair actions on the part of our trading partners. That Office enforces quotas and so forth. It looks like it is going to be a little short, too.

The committee on the other hand took this other account, trade adjustment assistance for firms, and pumped it up. I again tell the distinguished subcommittee chairman that I took money from it only because it had the only large increase that I could find there.

I hope that the committee will look at those three accounts, and perhaps get another fix from the Department of Commerce. Then, as this bill moves along, perhaps these functions could be improved because I would hate to see those critically important functions of our Government jeopardized by being short in funding.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I appreciate what the gentleman is saying. First of all, what he is doing is proposing to change the authorizing legislation, which comes out of the committee on which the gentleman serves. But I appreciate what he says.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his consideration, and note that the authorization has not been enacted.

Mr. Chairman, when the point of order is made, I shall concede it.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Iowa [Mr. SMITH] insist on his point of order?

Mr. SMITH of Iowa. Mr. Chairman, I insist on my point of order. The point of order is that it changes existing law, and is legislation on an appropriations bill.

The CHAIRMAN (Mr. BROWN of California). The gentleman from Minnesota [Mr. FRENZEL] accepts the point of order, and the Chair rules in favor of the gentleman from Iowa [Mr. SMITH].

The point of order is sustained.

The Clerk will read.

The Clerk read as follows:

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $43,400,000, of which $29,805,000 shall remain available until expended: *Provided*, That not to exceed $13,595,000 shall be available for program management for fiscal year 1987: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $10,500,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities;

$1,100,000,000, to remain available until expended; and in addition, $28,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $38,000,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $8,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000. In addition, $3,000,000 of the new budget authority appropriated in this paragraph shall be for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions; and in addition, $1,800,000 shall be derived by transfer from the Fisheries Loan Fund.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $4,500,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $100,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $120,000,000 to remain available until expended, of which not to exceed $2,144,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law of the National Telecommunications and Information Administration, $13,000,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $23,000,000, to remain available until expended: *Provided*, That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

This title may be cited as the "Department of Commerce Appropriation Act, 1987".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $70,800,000: *Provided*, That none of the funds in this Act shall be used for positions for the Departmental Leadership offices of the Department of Justice in excess of 56.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,600,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $220,000,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1988: *Provided*, That of the funds available in this appropriation, $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys and the Antitrust Division, to remain available until expended.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $43,000,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $340,000,000.

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

For necessary expenses of the bankruptcy trustees, $13,200,000. In addition, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 97 Stat. 1071) is amended by inserting September 30, 1987, in lieu of September 30, 1986.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $596,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $155,000,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $53,000,000; and in addition, $5,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided*, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $46,000,000, to remain available until expended, of which not to exceed $550,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings

and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $30,000,000 of which $23,266,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984, such sums as may be necessary not to exceed $30,000,000 to be derived from the Department of Justice Assets Forfeiture Fund: *Provided*, That in the aggregate, not to exceed $10,000,000 shall be available for expenses authorized by subsections (c)(1)(B), (c)(1)(E), and (c)(1)(F) of that section.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for policy-type use of not to exceed one thousand five hundred seventy-nine passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,260,000,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1988; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $15,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That $13,800,000 for the expansion and renovation of the New York field office shall remain available until expended.

Mr. SMITH of Iowa (during the reading). I do not believe that there are any amendments up to page 16, so I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment from this point through line 18 on page 16.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order against that portion of the bill?

Are there any amendments to that portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventy-five passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $412,000,000, of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1988.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise only to point out that this is a portion of the bill where we could have added $50 million for drug enforcement, if in fact the House had permitted us to do it.

What we heard during the debate was that somehow we were going to find some money elsewhere. We had a couple of people stand up and say, "Well, let us get the money somewhere else."

No one did. No one found the money somewhere else, so now we are going to pass by that section of the bill where we could have put in an additional $50 million to fight the war on drugs, but now we are not. Because the House turned down our ability to do that, we are not now able to offer that amendment.

To offer the amendment now would violate 302 allocations under the budget, and the amendment cannot be offered. So I stand here disappointed that the House is not going to have the chance to take this item today, because it seems to me that we would have been responsible to have eliminated money so that we could have addressed this priority.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The gentleman from Pennsylvania is correct, that it would be subject to a point of order, but I do not know if any Member would make it. I would not make the point of order.

Mr. WALKER. Mr. Chairman, I would say to the gentleman that there are a number of Members around here who feel strongly that we ought not to be bringing bills onto the floor in violation of the Budget Act, and what I think the gentleman is suggesting is that maybe I ought to go ahead and offer the amendment anyway and violate the Budget Act. I kind of resent that idea that we would do that.

The gentleman's subcommittee did not want to violate the Budget Act, and I do not want to violate the Budget Act, either. What we should have done is the responsible thing, cut the money so we could add money. It is a shame that we did not decide to do that.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Kentucky.

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Mr. ROGERS. Mr. Chairman, if the gentleman will agree to take the money out of the State Department's Diplomatic Security Fund, which they requested $1.1 billion for this year alone, then the gentleman might get some support, at least from this gentleman.

Mr. WALKER. If we can get an agreement here that there is money under the State Department allocation that we can take out in order to get the $50 million, I would be very glad to offer an amendment to increase drug enforcement so that we can get the money somewhere else. But this gentleman, then, wants some assurance that he is going to get support from the committee on cutting the money elsewhere to put the money in for drug enforcement.

Can we get that kind of assurance?

I do not hear anybody giving me assurance that we are willing to cut the money. We are only willing to add money, not cut it.

That puts us in violation of the Budget Act and it seems to me that that would not be the responsible course of action for this Congress to take.

The shame is that we had the chance to find the $50 million and get it in there for drug enforcement. We did not do it.

Mr. EARLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to bring up some points. Everyone believes drugs are a serious problem, but the suggestion here today is that the committee is not responding to it.

In the testimony by someone who I think should know, the Director of DEA, Mr. Lawn, when the gentleman

from New Jersey [Mr. DWYER] asked him, "Do you have any idea what the overall Federal cost on the antinarcotic program is?" His answer, "Mr. Lawn. I have been told $1.4 billion." $1.4 billion.

I do not know how much we should be spending on fighting drugs. It is a serious problem. I would hope some people, some elected officials, would learn that we cannot just identify problems and suggest we go up and throw 2 buckets of money at them. That is not the cure.

The head of the FBI, when he testified to the committee, has in his budget 1,000 FBI agents for just drug enforcement, 1,000. He has the other costs that go along with it.

The average income of an FBI agent is probably $40,000 a year, with their overtime, so that is $40 million we are spending on drug enforcement. There is money that is going to be spent by the taxpayers, by the Coast Guard in their own budget. The Coast Guard is also going to get money from the Defense Department for fighting drugs. The Customs Service, the Defense Department, even the State Department have resources for this purpose.

In testimony before the committee, the State Department has their own Office of International Narcotics Matters. We are spending $55 million appropriated in this bill for those countries to fight drugs.

We are not just spending the DEA money, $400-plus million. We are spending three times as much as that.

For the people who want to fight drugs, how much is enough? How much do they want to spend? Do we want to just say throw some more money into DEA? Where are you putting it? Where is the demand that we are going to get a dollar's worth for a dollar spent?

The gentleman from Iowa, Mr. SMITH, the gentleman from Ohio, Mr. REGULA, all of the Republicans, all of the Democrats brought it up in the testimony. The taxpayers are going to spend at least $1.4 billion. Let us not suggest we are not doing anything.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $605,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $23,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles: $602,000,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $11,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary building and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $129,000,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,157,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,208,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities required or produced, including selling and shipping expenses, and expenses in connection with aquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $134,718,000 all funds appropriated herein to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,282,000 to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1986 through September 30, 1987, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1987, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1987, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal

Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), Section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1987—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(I) all criminal proceedings (other than appeals) are concluded, or

(II) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point, through line 5 on page 29.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there points of order against any of the portions indicated?

Are there amendments to this portion of the bill?

The Clerk will read.

The Clerk read as follows:

This title may be cited as the "Department of Justice Appropriation Act, 1987".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limita-

tion otherwise established by law; $1,675,000,000.

AMENDMENT OFFERED BY MR. RUDD

Mr. RUDD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RUDD:

Page 29, line 19, after "telecommunications;" insert "expenses necessary for the Inspector General of the Department of State, pursuant to the Inspector General Act of 1978;".

Mr. RUDD. Mr. Chairman, I have discussed this amendment with the distinguished chairman and the distinguished ranking member. It really is a technical amendment to ensure that no members of the Foreign Service will be appointed inspector general for the Department of State.

Last year, Congress mandated an independent inspector general to prevent any accidental or deliberate collusion of the inspector general with his fellows in the Department of State. The role of an inspector general should be separate and objective and to properly consider the effectiveness and efficiency of that Department.

Regrettably, the State Department has dragged its feet for the past year and has declined to carry out the law. State, so far, has limited the independent inspector general to audits and that certainly was not the intent of the Congress.

The General Accounting Office has reported time and again that the urgent need for an independent inspector general is necessary. I do not believe that we should go forward with any more State Department funds, especially for increased embassy security, the acquisition of more buildings, the counterterrorism program, research without protecting the taxpayer by getting in place the inspector general office that was mandated last year and dates back to the legislation of 1978.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, our subcommittee has always been very strong for inspectors general in both the independent agencies and the departments. We have even insisted that independent agencies install inspectors general and they have worked well, I think.

I do not think the gentleman's amendment is inconsistent with our position.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we are in agreement with the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. RUDD].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

REOPENING CONSULATES

For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States consulates as specified in section 103 of the Department of State Authorization Act, fiscal years 1982 and 1983, $1,500,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,700,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,500,000.

ACQUISITON AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $500,000,000, to remain available until expended, to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 99-669: *Provided*, That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be transferred to and merged with this appropriation.

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

For expenses, not otherwise provided, to provide for a government-wide Counterterrorism Research and Development program, $10,000,000.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,400,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $9,800,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $127,398,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $423,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

AMENDMENT OFFERED BY MR. RUDD

Mr. RUDD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RUDD: Page 32, line 10, strike out "$423,000,000" and insert in lieu thereof "$290,000,000".

Mr. RUDD. Mr. Chairman, this amendment will reduce the international organizations level in the bill from $423 million to $290 million, a reduction of $133 million.

My reason for doing so is to approximate the Soviet contribution to the United Nations and affiliate agencies of their contribution of $165 million, more or less.

□ 1610

In the beginning, the United Nations dared to stand up to Communist aggression around the world, and even went to battle to preserve freedom for a small and helpless nation, South Korea. Today, with its membership swelled to 159 nations, the United Nations does not possess the strength or the unity to even chastise the Soviet Union for its aggression and invasion against Afghanistan.

If the United Nations were to be graded on its success in the founding goals of promoting freedom, fostering international peace and aiding development of ties with the diverse countries in the world, it would receive a big "F" for failure on all counts.

The organization has just simply not done what it was set up to do. Instead, it has become a platform for the most virulent anti-Americanism seen anywhere on the globe. When we look at this body and its proceedings, we see a concentrated effort by those who profit from war and destruction, to turn this organization into a threering circus of anti-Americanism and support for worldwide terrorism and the evolution of a new international economic order to redistribute the world' resources.

The fact is that the United Nations has been kept alive through the generosity and longstanding patience of our Nation. Our Government provides the largest single share of funds for the United Nations, usually somewhere in the vicinity of about 25 percent; and the Soviet Union, the next largest contributor, pays something like 9 percent.

The nation that pays that lower figure has three votes in the United Nations; one from the Ukraine, one from Byelorussia, and one from the Soviet Union. The Soviet contribution this coming year is expected to be about $165 million; and we will be lucky to get that since they are about $250 million in arrears in their payments now.

This amendment would at the very least put us on an equal footing with the Soviets in our payments to the United Nations; so let us give only what the Soviets are giving; $165 million.

Our friends and foes in the United Nations need to know that our patience has worn thin; that we no longer will allow our pockets to be picked by an organization that has failed to live up to its founding goals, and appears to lack the will do do anything about it.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman.

Mr. LEACH of Iowa. Mr. Chairman, I understand there have been some gentleman's agreements worked out that will not make this quite as onerous; but I do think it fair that we recognize that the world is probably better off with the U.N. than without it.

Second, if we are going to participate in the U.N., we are probably better off participating on an effective, responsible basis; and I think some of the amendments lead in the direction of making life for our representatives more difficult.

Also, I think all of us should understand we have treaty obligations, and if the word of the United States is to be understood, we are going to have to keep that word; and treaties are very precise obligations of this country.

On the issue of cost, we also should understand we are way down the list of countries in what we contribute per GNP. We are way up the list of countries in what we get back in direct economic benefits. For example, the city of New York enjoys a $600-$900 million a year benefit from the location of the U.N. in that city.

All I would stress to the gentleman is that there is a tendency in this country to only indicate the things that have gone wrong up in New York, and frankly I do not think there is a Member of this body that does not know that there are problems there.

On the other hand, the issue is whether or not we want to leave the U.N. or pull the rug from under it, and my own sense is that this is not a very good time at this juncture in our history to pull the rug from under the multilateral obligations and the multilateral diplomacy of the United States.

I would hope we would bear that in mind as kind of a larger perspective.

Mr. RUDD. Mr. Chairman, I thank the gentleman for his sincere statement. I understand where he is coming from.

This amendment has nothing to do with eliminating our membership in the United Nations. The gentleman indicated that we must be effective. I question whether we are effective or not insofar as geopolitics are concerned, and politics.

I am pointing out the fact that the United Nations is really controlled by minions of the Soviet Union and their representatives; much more so than the United States. I think it is time that we brought this to the attention of everyone.

Mr. GILMAN. Mr. Chairman, I rise in opposition to the pending Rudd amendment.

Mr. Chairman, I believe that the Committee on Appropriations has acted quite responsibly, under the leadership, on this bill, of the gentleman from Iowa [Mr. SMITH] and the gentleman from Ohio [Mr. REGULA], to provide appropriate funding levels for a variety of programs within the Departments of Commerce, Justice, State, and related agencies. While we may disagree with one number or another in this complicated bill, it deserves our support on the whole.

I must speak out against the substantial cuts proposed by this amendment, which fall particularly heavily on the international organizations budget. This wholesale approach is unwarranted. There are many United Nations agencies which do vital work in the development of agriculture in countries where people are starving, for example.

I would like to speak for a moment on one of the more important programs, the United Nations Forces in Lebanon [UNIFIL]. UNIFIL stands between Israel on the one hand and radical groups, such as Hizballah and the PLO, on the other. It prevents Hizballah from infiltrating the area in which it is stationed thereby undermining more stable, moderate forces.

The committee has provided $18.4 million for this program, down from the administration request of $42.9 million. I regret that more money was not provided, and would hope that additional funds could be found at some point in the future deliberations on this bill. UNIFIL has the strong support of the leadership of the Committee on Foreign Affairs and the Subcommittee on Europe and the Middle East, which spends quite a bit of its time on the problems of Lebanon and its surroundings. This is not the time for cuts which would signal our retreat from assisting in the peacekeeping efforts in this most troubled region. I would like to remind my colleagues that UNIFIL is not staffed by Americans—it is Finns, Norwegian, Fijians, and others who do the hard work. We are being asked to help support this effort monetarily, that is all.

Accordingly, I would hope that my colleagues would defeat the pending amendment.

AMENDMENT OFFERED BY MR. PARRIS TO THE AMENDMENT OFFERED BY MR. RUDD

Mr. PARRIS. Mr. Chairman, I offer a perfecting amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS to the amendment offered by Mr. RUDD: At the end of the amendment, page 32, line 16, strike the period and add the following: ":*Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States payment for annual obligations of membership or other payment or contribution to the United Nations which exceeds the total payment of the Soviet Union to the United Nations for 1985.".

Mr. PARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I reserve a point of order on the amendment.

Mr. PARRIS. Mr. Chairman, my amendment would have the effect of reducing the assessed contribution of the United States to the regular budget of the United Nations to the same level as that of the Soviet Union in 1985—the last year for which such figures are available. There are a number of reasons which necessitate this action.

The United States plays a very important role in the United Nations of today; specifically, that of whipping boy for the Soviets and chief financier of the cause.

The facts are clear: there is simply no incentive at the United Nations to cut costs or otherwise hold down budget growth. The vast majority of nations voting on the budget pay a minuscule share of U.N. outlays, and, yet, every nation, no matter how large or small is given an equal vote. It is a little know fact that 143 of the 159 member nations, or 90 percent of the U.N. membership, pay less than a 1-percent share of the regular budget. More than half of those 143 contribute the minimum 0.1 percent of the budget.

For the latter group, every $1 million increase in the U.N. budget costs them only $100 per nation. Clearly, these developing countries receive a substantial return on their investment; yet, it is the United States and other developed nations that bear the brunt of these increased costs. The trouble is that the United States and other 1 percent+contributors have only 16 of 159 votes, or about 10 percent of the total vote, with which to control or even influence budget decisions.

The Soviet bloc and the so-called Group of 77, actually a group of 120—the Third World bloc—use the U.N. to attack the free enterprise system in general, the multinational corporations and the United States in particular, as the alleged source of the world's economic ills. Increasingly over the years, there has been a developing pattern of so-called nonaligned nations voting with the Soviet Union in a knee-jerk reaction condemning the United States in fact, the record shows that the nonaligned nations have voted 86.2 percent of the time with the Soviet Union. When you vote consist-

ently 9 out of 10 times on one side an issue, you can hardly be considered nonaligned.

When was the last time the U.N. passed a resolution condemning Soviet use of chemical weapons in Cambodia or Kampuchea? When was the last time the U.N. passed a resolution condemning the Soviet occupation of Poland or Afghanistan? When was the last time the U.N. passed a resolution condemning human rights abuses by the governments in Cuba and Nicaragua—or by the Soviets in Russia, for that matter?

As I have repeatedly stated, the U.N. has become a bottomless pit, into which the United States has dumped literally tens of billions of dollars. In 1946, the United States paid 40 percent of the U.N. regular budget or $7.7 million. By 1985, our percentage assessment had been reduced to 25 percent, however, our payment to the U.N. regular budget amounted to approximately $205 million, a 2,500-percent increase in 40 years. Indeed, in the past decade, the U.N. regular budget has more than tripled in size.

According to the official U.N. General Assembly report of the Committee on Contributions, dated August 9, 1985, the total cash payments received in satisfaction of assessments for 1984 was $1,607,446,000. Of that amount, only $134.7 million, or 8.3 percent was received from the Soviet Union. At the same time, $450.23 million was received from the United States—28.01 percent of the total amount—almost four times the amount furnished by the Soviets.

With respect to voluntary contributions, that same report shows that the Soviet Union contributed only one-half of one percent of the total $2.1 billion received, while the United States contributed 23.82 percent of it, a substantial margin of difference by anyone's standards.

It is also interesting to note that according to data obtained from the U.N. secretariat's January 20, 1986 report on the status of assessed contributions, the Soviet's are in arrears on their "mandatory assessed" payments to the U.N. in the amount of $235.6 million, nearly 80 percent of which is peacekeeping nonsupport. By and large, what the Soviets have paid, they have paid in rubles, which are useless outside of the Soviet Union.

The fact of the matter is, the Soviet Union contributes as little as possible, yet maintains near complete control over the disbursements at the U.N.—and we've seen what that has gotten us. It is time we put a stop to our role as financier of the Soviet Union cause until we regain some degree of control over the process.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, I am not suggesting that we withdraw from the United Nations. In fact, I believe we should maintain our membership and continue our efforts to bring that organization back to the original purpose for which it was created. But until it returns to an institution dedicated to the resolution of world conflict, I believe we should dramatically reduce our financial support of its operating and other program budgets, at least to a similar level of funding as the Soviet Union.

I urge my colleagues to speak for all of America and stop this farce and stop it now.

□ 1620

However, Mr. Chairman, unfortunately the rule on this measure was opposed by 160 Members when it was adopted a few moments ago, about an hour and a half or so back, by 160 Members, and the reason that it was, by almost 40 percent of the membership of this body who voted against it, is because it is fundamentally unfair. The rule provides that in any title of the bill where there is an amendment that is adopted which changes the appropriation level all other amendments are precluded.

Under the rule, Mr. Chairman, my amendment would be subject to a valid point of order.

I therefore, Mr. Chairman, regretfully ask unanimous consent to withdraw my amendment, and I yield back the balance of my time.

Mr. ARMEY. Mr. Chairman, would the gentleman yield?

Mr. PARRIS. Mr. Chairman, let me withhold that request.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I heard both the gentleman from Arizona and the gentleman in the well make reference to the apparent fact that the Soviets are in arrears in their contributions to the United Nations, and I would like to, if the gentleman could tell me, inquire does that condition affect their vote or their ability to vote in the United Nations in any way?

Mr. PARRIS. It is my understanding, I would say to the gentleman from Texas, and I am not an expert on the internal processes of the operation of the United Nations, but I have been told and there has been considerable discussion here today that if the United States were to dramatically reduce its contribution, then there is a trigger mechanism of some sort that would preclude our involvement in some aspects of the deliberations.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(On request of Mr. GRAY of Illinois and by unanimous consent, Mr. PARRIS was allowed to proceed for 1 additional minute.)

Mr. GRAY of Illinois. Mr. Chairman, will gentleman yield to me?

Mr. PARRIS. I yield to the gentleman from Illinois.

Mr. GRAY of Illinois. I thank the gentleman for yielding.

Mr. Chairman, maybe this gentleman can contribute a little bit.

Unless the Soviet Union gets 2 years in arrears, they are not precluded from voting. They have to be 2 years in arrears. If that answers the question of the gentleman.

Mr. PARRIS. I thank the gentleman. That is responsive to the question.

Mr. ARMEY. Mr. Chairman, will the gentleman continue to yield?

Mr. PARRIS. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for continuing to yield.

I take it that the Soviet Union is only 1 year in arrears, and if they go another year they would be precluded from voting. So that it is possible we could go 1 year in arrears and still vote.

Mr. PARRIS. I would say to the gentleman from Texas there is another aspect to this. The Soviet Union pays its United Nations obligations in rubles, which are worthless outside of the Soviet Union. So what is the difference?

Mr. Chairman, I renew my unanimous-consent request to withdraw my amendment to the Rudd amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. SUNDQUIST AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RUDD

Mr. SUNDQUIST. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SUNDQUIST as a substitute for the amendment offered by Mr. RUDD: Page 32, line 10, strike out "$423,000,000" and insert in lieu thereof "$408,000,000".

Mr. SUNDQUIST. Mr. Chairman, my amendment is very simple: it reduces our contributions to international organizations by $15 million.

As my colleagues know, during the last session, Congress expressed its concern over the United Nations' financial situation and our contributions to that international body. In Public Law 99-93, the State Department Authorization, Congress specifically addressed two important aspects of our U.N. contributions.

First, the Kassebaum amendment (section 143) limited our assessed contributions to not more than 20 percent of the U.N.'s budget.

Second, and in addition to the Kassebaum amendment, the Sundquist amendment (section 151) required that the issue of salary kickbacks be addressed and that efforts be made to correct that practice.

Salary kickbacks involve a system that requires certain U.N. employees to return either a portion or all of their U.N. salary to their respective national governments.

While the Appropriations Committee has taken an important step by taking the Kassebaum language into consideration, the law regarding salary kickbacks has yet to be implemented.

Simply put, the law requires a report to the Congress on the extent of salary kickbacks and on what actions are being taken to end that practice. It further requires the Secretary of State to recommend actions if "substantial progress" is not achieved in correcting the salary kickback system. These recommendations are to include a proportionate reduction in our assessed contribution to the United Nations. The report and recommendations were due on June 1 of this year.

This provision was worked out with, and agreed to, after discussions with the majority staff and the State Department. The language met everyone's concerns and gave State Department leeway in addressing the salary kickback problem.

Further, it should be noted that this section was approved unanimously by the House.

It was our intent to provide the Secretary of State and our U.N. Ambassador with leverage in their efforts to clean up the salary kickback practice.

Mr. Chairman, as I noted earlier, the law has not been implemented.

Now, why should we be concerned about salary kickbacks?

According to a Senate Intelligence Committee report, the Soviets and their allies subsidize their espionage activities against the United States through salary kickbacks. Soviet and Soviet bloc nationals employed by the United Nations must hand over their U.N. paychecks to their respective U.N. mission. They are then paid a lower salary and the remaining portion is kept by that government. Salary kickbacks net the Soviet bloc about $20 million a year, according to the Intelligence Committee report.

Today I offer this substitute amendment in the nature of a $15 million reduction. I offer this reduction on the basis that that will not put us in arrears in our U.N. contribution.

So we have a situation, then, of the law being ignored and the practice of salary kickbacks continuing.

Mr. Chairman, we have been patient in Congress. We have contacted, I have contacted the State Department on several occasions, and only today did I receive a response.

I believe Congress must act and my amendment would send a strong statement that we will not tolerate in this Congress continued abuse of the international civil service system and, more importantly, that we will not continue to ignore the misuse of our U.N. contributions for activities that are detrimental to our interests.

Some may argue that we have already reduced through the Appropriations Committee the contributions and we have. And I commend the distinguished chairman, Mr. SMITH of Iowa, and the ranking member, Mr. REGULA, and I further commend Mr. RUDD for his leadership in this activity and making this progress in the last year. But this step, I think, is necessary to make the additional cuts.

However, any reductions targeted at the salary kickback system are in addition to any other cuts.

This issue is clear, Mr. Chairman. Congress on a bipartisan basis sought to work with the State Department to cleanup the misuse of U.N. salaries. The law has not been implemented. As I noted earlier, we continue to see the U.N. contribution used against us.

I urge my colleagues to support this amendment.

Mr. RUDD. Mr. Chairman, will the gentleman yield for a quick colloquy?

Mr. SUNDQUIST. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Chairman, when my amendment was passed last year, it looked like this thing was settled because it was categorically agreed that about $20 million was a kickback for the espionage operations of the Soviet Union in the United Nations. When that failed in the conference or over in the other body, then, I commend the gentleman for the responsibility that he assumed assuring that this thing really is followed through. The gentleman has done a splendid job of that.

But am I to understand—I think the cutoff date was June 1 for the gentleman's amendment—that there would be some response, some activity to show that the State Department is really paying attention to what is going on and will try to remedy this bad situation in the Soviet Union? And that the gentleman has written to the State Department and the Secretary of State and has failed to get a response back?

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. SUNDQUIST] has expired.

(On request of Mr. RUDD and by unanimous consent, Mr. SUNDQUIST was allowed to proceed for 2 additional minutes.)

Mr. RUDD. Mr. Chairman, will the gentleman continue to yield?

Mr. SUNDQUIST. I am delighted to yield to the gentleman.

Mr. RUDD. I thank the gentleman.

Mr. Chairman, it looks like there is arrogance involved here and failure to respond to a reasonable request of the gentleman from Tennessee. Is that correct? What are the steps that were taken?

Mr. SUNDQUIST. The gentleman from Arizona is correct. On two occasions in the month of June, for instance, by letter to the Secretary of State I asked about the status, and there was no answer. I received no response.

Mr. RUDD. I would like to say for the record that I think that is total arrogance on the part of the Secretary of State and the Department of State in not responding to a very reasonable and legitimate request from a Member of this House.

Mr. SUNDQUIST. I thank the gentleman from Arizona for his assistance and his leadership in this area.

Mr. PARRIS. Mr. Chairman, will the the gentleman yield to me?

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. SUNDQUIST] has expired.

(On request of Mr. PARRIS and by unanimous consent, Mr. SUNDQUIST was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, will the gentleman yield to me?

Mr. SUNDQUIST. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman from Tennessee for yielding to me.

Mr. Chairman, I rise in support of the amendment introduced by my good friend, the gentleman from Tennessee, the desired effect of which is to eliminate use of this Nations U.N. contributions to support the Soviet practice of siphoning United States funds from the general U.N. budget into their own treasury.

The spirit of articles 100 and 101 of the U.N. Charter is clearly stated: Secretariat employees are to be international civil servants, loyal to the U.N. rather than to any particular nation. However, paragraph 1 of article 101 established a loophole allowing the Secretary General to appoint staff according to General Assembly recommendations. Today, virtually every one of the 275 professional secretariat employees from the U.S.S.R. are on a fixed-term contract, paid at a level no less than 20-percent above their U.S. civil service counterparts.

In addition, all the activities of these employees are coordinated in detail by the Soviet mission to the U.N. According to Arcady Shevchenko, a Soviet who was the U.N. Under Secretary General until his 1978 defection to the United States, Soviet employees are required to turn their U.N. salaries over to the Soviet Government and re-

ceive only a fraction of it in return. It was estimated in 1974 that about $15.2 million of the $22.7 million or 70 percent of the salaries earned each year by the Soviet secretariat staff ends up in Moscow. In short, the United States and the world are indirectly underwriting the work of the Kremlin.

Just another way in which the Soviet Union manipulates the U.N. to suit its own purposes.

I would strongly urge my colleagues to support this amendment.

Mr. MICA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, let me restate that. I guess I should say that I rise in very reluctant opposition to the amendment. I think the amendment could indeed send a good strong signal, the type of signal that Congressman SOLOMON and I attempted to deliver to the United Nations when we were appointed by President Reagan as delegates to this 40th session.

We have been very upset, very concerned by certain U.N. activities. Indeed, I share many of the concerns that are addressed in this amendment.

But I would like to remind the House that we do have some obligations. We have tried to send the message to the U.N. to meet those obligations. Last year, I managed on the floor of this House a bill that led to a cut in the United Nations budget of $79 million, the so-called Kassebaum-Solomon amendment.

In addition to that, the Office of Management and Budget has cut the United Nations by a further $10 million in the pending budget request. So I do not think there is any question that we share these concerns.

Through numerous Democratic and now Republican administrations we have been reminded that there is a basic responsibility to treaties and international agreements that we have in the United Nations. So unless our motive is to totally kill the U.N., totally do away with it—and some would say maybe this is what we should do—and to abridge all of our agreements, we should step back and use the financial leverage we have already created. If we do not, we will really leave ourselves out of the international ball game. I think we have some leverage which can allow us to stay in and participate. We have reduced our U.N. contribution to levels where now we are talking about leverage money.

Congressman SOLOMON has been a tremendous help and a critic of the United Nations. He and I have tried to bring issues of U.S. concern to the attention of the United Nations. We have started to see some results.

We have told the Soviet Union and we have told other nations that participate in Soviet bloc voting that we have had it. Right now is precisely the time—and I might say I have had that word from the President—that we stay and start to make these changes. Some changes have already begun.

After 10 straight years of not even being willing to condemn terrorism, this year, with the use of some of this leverage, we got a condemnation out of the United Nations. It was not the exact wording that we wanted, but it was a lot more than we have ever had before.

So I would like to say that I reluctantly oppose the amendment because I do not want to see a dollar spent or sent back to the Soviet Union improperly. However, we do need the leverage, and we need to stay in the game. Right now, for the first time in a decade we are winning.

Mr. SUNDQUIST. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for his work in this regard. I know he has been very involved in trying to get this organization headed in the right direction financially, and I commend his for that.

□ 1635

What my substitute amendment does is not to gut or destroy the United Nations, but to continue to send the message, and it is a cut in addition to the other cuts.

It is not just accidental that the letter arrived today from the State Department saying that they were willing to cut some. If it was not for this Congress and the threat of cuts, that would not have happened. If it was not for the work of the gentleman in the past it would not have happened.

So I am hopeful that what I am doing will have bipartisan support to continue to send the message, not just to our State Department, but to the United Nations that they have to get their house in order. With this cut we will not go in arrears in our contribution, but it will trim their sails a little bit.

Mr. MICA. Mr. Chairman, I thank the gentleman. I think that is why I said "reluctantly oppose." Indeed, I do think the amendment is a little too severe.

General Walters was here today just outside the chamber talking to some Members, talking about some of the new approaches that we have just developed and some of the responses we are getting, and I think that is helpful.

We have a general agreement. I guess we disagree in the amount of the cut.

AMENDMENT OFFERED BY MR. SWINDALL TO THE AMENDMENT OFFERED BY MR. SUNDQUIST AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RUDD

Mr. SWINDALL. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SWINDALL to the amendment offered by Mr. SUNDQUIST as a substitute for the amendment offered by Mr. RUDD: In the substitute strike the figure "$408,000,000" and insert in lieu thereof the figure "405,430,000".

Mr. SWINDALL. Mr. Chairman, I offer my amendment because it is fundamentally unconscionable to use the American taxpayers' money to finance what some might argue is the equivalent of the Eastern bloc's Radio Free Europe.

The purpose of my amendment is to delete $7,570,000 from the committee's suggested appropriation with respect to money that would otherwise be designated to the U.N.'s Department of Public Information.

The history of the Department of Public Information dates back to 1946 when the United Nations passed its first resolution on public information. Significantly, in that particular resolution it stated that the purpose of any public information disseminated by the United Nations would be to, "promote to the greatest possible extent an informed understanding of the work and purposes of the United Nations among the peoples of the world." The General Assembly emphasized that DPI should discharge this responsibility in an objective manner and without engaging in propaganda.

Since that time the Department of Public Information has been specifically created and specifically funded as it has grown in size and scope, its budget has spiraled. It now consumes an annual budget of over $30 million. Our pro rata contribution is 25 percent of that which amounted to roughly $8 million last year and roughly $7,570,000 this year.

I am offering this amendment as a result of a report recently completed by the GAO at the request of one of our colleagues in the other body, Senator SPECTER from Pennsylvania. The reason he requested such a study was undoubtedly because he suspected as many of us have long suspected that the DPI has been engaging for some time in the dissemination of information which has a clear bias against the United States.

He requested this systematic study because he wanted verification of these suspicions before taking any action.

The GAO report which has now been compiled and was released in April of 1986 is entitled "Analysis of Selected Media Products Shows Half Oppose Key U.S. Interests."

The objective of the report was, one, to determine if DPI materials have supported or opposed political positions taken by the United States; and two, whether these materials have

fairly and objectively discussed the United States and its policies.

In its report, the GAO, concluded that the DPI publishes and distributes over 2 million documents annually. It issues two periodicals. It coordinates the activities of 66 United Nations information centers located throughout the world, including the U.S. center here in Washington, DC. It broadcasts over 3,000 hours of radio programs annually in 25 languages to 167 countries via the shortwave facilities of the Voice of America. It distributes 110,000 taped programs to radio stations around the world. It also provides a variety of press services to almost 300 print and electronic media correspondents from 45 countries.

The report correctly concludes that it is evident that when we are financing nearly $8 million of the cost of these materials, we have an interest in making certain that the objectives of the United Nations in terms of keeping balance and neutrality in its materials are achieved.

Significantly, of the 90 media pieces that were examined by the GAO, targeting the topics of apartheid, disarmament, new world orders and the Palestinian question, all of the 3 GAO examiners involved in the study were in unanimous agreement on 79 of the items which they examined. Of these, 38 were determined to be neutral toward the United States, 40 were determined to be in opposition to positions taken by the United States, and only 1 was supportive of the United States positions on various issues.

Let me give you some examples of the DPI materials which were examined and the conclusions of the report regarding these examples.

On the Palestinian question, the DPI material challenged Israel's right to even exist. It criticized the United States role in promoting direct talks between Israel and its Arab neighbors. It criticized the Camp David accords and Egypt for signing them. It unequivocally equated Zionism with racism. It endorsed armed struggle as a way of achieving the rights of the Palestinian people.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

(By unanimous consent, Mr. SWINDALL was allowed to proceed for 3 additional minutes.)

Mr. SWINDALL. According to the GAO report, terms like "racist," "imperialist," and "barbaric" were identified as emotional language targeted against U.S. policy.

DPI's taped program, "Radio Perspective," the most accessible information outlet, was consistently rated as the most biased media type; it is also the media type over which DPI has the most control.

An example of this bias is the fact that, on a number of occasions, DPI selected representatives from the Soviet bloc countries, and only the Soviet bloc countries, to discuss issues on "Radio Perspective." A program which purported to examine the prospects for a world disarmament conference, for example, featured speakers from Poland, Hungary, Czechoslovakia, and Bulgaria and including no participants from the West.

The GAO also discovered that when statements by Western spokesmen were included on "Radio Perspective," they were "in some cases too short and/or vague to adequately explain their views of policies." In similar fashion, DPI used statements by American public figures who opposed U.S. policies rather than statements by official spokesmen, while opposition or dissident spokesmen from other countries were never included.

DPI's publications were found to be only marginally less biased, with the notable exception of materials reproduced from the department of disarmament affairs documents. One publication describing a conference on South Africa, for example, included lengthy excerpts from the speeches of Americans who attended the conference, namely Senator TED KENNEDY, Jesse Jackson, Atlanta Mayor Andrew Young, and Angela Davis, the former vice-presidential candidate of the Communist party USA. It is strongly implied that their views represent the full spectrum of American politics, and the desirability of popular action against President Reagan is likewise emphasized in thinly veiled terms.

Some publications, also identified as United Nations documents, and can only be classified as overt Soviet propaganda, could have been lifted verbatim from the pages of Pravda. One article written by a Romanian scholar provides in-depth analysis of "neo-colonialism and power relationships," "exploitation by colonialist forces" and the "policy of force" pursued by some member states. This particular publication, and others like it, were slated for "wide distribution" at the meeting in question.

The GAO acknowledges the potentially dangerous effect of multiplying DPI's misrepresentations, while a number of Third World leaders testify to the importance of the U.N. and U.N. materials in shaping the parameters of debate and educating the rising elites of these nations about international issues.

As the Congress and the administration well know, the Department of Public Information is only one part of a troubled and troubling organization; yet it is a vitally important part of that organization, as it speaks to the people of the world not only about the United Nations, but also about the policies and attitudes of its member governments.

□ 1645

If, as had been shown, DPI speaks the language of Orwellian doublespeak and distortion, the United States must take firm action to stop this practice.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

(By unanimous consent, Mr. SWINDALL was allowed to proceed for 2 additional minutes.)

Mr. SWINDALL. It is for that reason that I am offering this amendment to withhold the U.S. proportionate share which is one-quarter of the DPI budget until such time as the DPI achieves its own objectives of disseminating material which is neutral and balanced.

In these deficit-conscious times, the Congress simply cannot in good conscience ask the American taxpayer to continue subsidizing anti-American materials produced by the United Nations with funds in large part contributed by the U.S. taxpayers because of the actions of this Congress.

Mr. Chairman, I urge all my colleagues to vote in favor of this amendment to assure that the DPI achieves rather than simply gives lip service to its stated objective of disseminating material which is balanced and free of propaganda. I would further state that the effect of my amendment is to defund the DPI in a total amount of $7.57 million; $5 million of which would come from the undesignated cuts contained in the gentleman from Tennessee's amendment and an additional $2,750,000 would be achieved by the amount expressly reduced as a result of my perfecting amendment. The gentleman from Tennessee and I have already reached an agreement to that effect.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. SWINDALL. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment introduced by my good friend, the gentleman from Georgia, which would eliminate use of this Nation's U.N. contributions to support the Soviet propaganda machine that manifests itself in the form of the U.N. Department of Public Information.

According to Arcady Shevchenko, a Soviet who was the U.N. Under Secretary General until his 1978 defection to the United States, the director of the external relations division of the Department of Public Information of the United Nations had been identified as a KGB colonel—and, yet, he directs the dissemination of U.N. material to all of the 64 U.N. information centers throughout the world. The department's practice of slanting U.N.

publications in line with Soviet propaganda efforts has been more than amply documented. Case-in-point: the U.N. Department of Public Information [DPI] managed to avoid any reference to the Soviet destruction of KAL Flight 007 and the murder of all of its passengers including a Member of this Congress. In its press releases, the United Nations referred to ["the Korean airliner draft decision,"] "the loss of a Korean airliner," and "the disappearance of a Korean airliner;" but never once was there reference to its Soviet perpetrators—or what caused its loss.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

(On request of Mr. PARRIS and by unanimous consent, Mr. SWINDALL was allowed to proceed for 2 additional minutes.)

Mr. SWINDALL. Mr. Chairman, I continue to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, this is but one example of the DPI's standard operating procedure. Is this what our taxpayers mean for their hard earned dollars to be used for? I expect not.

The United Nations has increasingly become little more than a powerful political propaganda tool of the Soviet Union and the provider of an endless line of credit upon which the Soviet Union may draw at will to finance her expansionist policies throughout the world.

I would strongly urge my colleagues to support this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand it, and I would like the attention of the gentleman from Tennessee and the gentleman from Georgia. As I understand it, the gentleman from Tennessee shows great pleasure because the State Department has not responded to a request that the Congress made for a report; they just have not responded to that. Is that correct?

Mr. SUNDQUIST. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Tennessee.

Mr. SUNDQUIST. I thank the gentleman for yielding to me.

Mr. Chairman, it goes beyond my displeasure. It is that in an authorization passed by this House unanimously last July and August the United Nations or our State Department was to do certain things to end the kickback system. They did not do that, and we said then that if they did not do that would we reduce our appropriation or contribution by the amount of money in question.

I reduced it somewhat less than the $20 million in the interest of making sure we were not in arrears.

Mr. SMITH of Iowa. So the gentleman has, in order to enforce the requirement in the authorizing legislation, proposes to reduce the appropriation by $15 million.

Now the amendment of the gentleman from Georgia would make the reduction $17.5 million instead of $15 million. I also show my displeasure every time I can when a Department does not respond to either authorization legislation or a request in one of our committee's reports.

If the Department responds, then we can take care of the problem in the conference. Now, if that is the objective of both of the gentlemen, I do not see why we should have a vote on this. It seems to me if that is your intention, let us just go ahead and have a voice vote.

Mr. SWINDALL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Georgia.

Mr. SWINDALL. I thank the gentleman.

I just wanted to make it clear that the only reason I have framed my amendment as I have framed it, is in order to stay within the $18 million parameters so we do not go into arrearage and second, within that context, I would state that $5 million of his $15 million should be designated away from DPI.

Mr. SMITH of Iowa. I do not see any reason to have a record vote. Let us just vote on these two amendments and we will take it to conference and see if they respond.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no intention of not following the recommendation of the distinguished chairman of the subcommittee, but I do think that in the interest of fairness, we ought to place into a balanced context the statements that have just been made by the gentleman from Georgia.

I think for starters it ought to be pointed out that the General Accounting Office was commissioned by the gentleman to examine DPI materials only in four issue areas where it was known in advance, or should have been known in advance, that a summary of general assembly debate would in fact demonstrate on the basis of public knowledge an anti-American policy position record.

Those subjects were on South Africa, the Palestinian issue, disarmament, and so-called new world orders. Those areas, those four issue areas, covered only 22 percent of DPI publications, and in my judgment were selected in a way to predetermine the results.

It just seems to me that that is not the way to approach as important an issue as this if what you really want is an objective determination.

It should also be borne in mind that the United States mission to the United Nations, which is headed by our distinguished Ambassador, and former General Vernon Walters, in its release of the United Nations 40th General Assembly Period Review, said, and I am going to quote it:

Somewhat overshadowed by the 40th Anniversary celebration and the dramatic participation of world leaders were the solid achievements of this year's United Nations General Assembly.

(1) For the first time ever, the General Assembly unanimously and openly condemned terrorism;

(2) For the first time ever, the Security Council unanimously condemned the taking of hostages.

(3) For the first time, the General Assembly criticized human rights violations in Soviet-occupied Afghanistan and in Iran.

(4) The Assembly vigorously demanded the withdrawal of Soviet troops from Afghanistan and Vietnamese forces from Cambodia—by larger majorities than ever before. In addition, the United Nations took a series of important steps on drug abuse and narcotics, led by Secretary-General Javier Perez de Cuellar and Mrs. Nancy Reagan.

American resolutions on arms control and disarmament, in contrast to past years, were widely supported.

In general, the voting pattern and the tone of debate were more balanced.

□ 1655

This is the preamble, and it indicates quite clearly that the work that Ambassador Walters is doing in an effort to turn around or to create a better balance in the debates and determinations of the General Assembly is succeeding. It seems to me not only inappropriate but wrong-headed at this point to undercut the successful efforts that he has been making, especially by using a report or study by the General Accounting Office that is methodologically flawed and deliberately commissioned in a manner to demonstrate anti-American bias.

It also ought to be borne in mind that there are U.S. nationals in very, very important positions in the Department of Public Information. The associate spokesman for the Secretary-General is an American; the head of the press section is an American; the head of the U.N. Chronicle is an American; the editor of the U.N. Yearbook is an American; the chief of the pamphlet unit is an American. It seems to me what we ought to be doing is making sure that the efforts that we undertake in this body go toward improving conditions in the U.N. rather than hobbling the very people who have demonstrated they are doing a good job. And, Mr. Chairman, it seems very clear that Ambassador Walters has done a far better job than the gentleman who offered the amendment we are debating at this point.

The CHAIRMAN. The question is on the amendment offered by the gentle-

man from Georgia [Mr. SWINDALL] to the amendment offered by the gentleman from Tennessee [Mr. SUNDQUIST] as a substitute for the amendment offered by the gentleman from Arizona [Mr. RUDD].

The amendment to the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Tennessee [Mr. SUNDQUIST] as a substitute for the amendment offered by the gentleman from Arizona [Mr. RUDD].

The amendment, as amended, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. RUDD], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representatives to such organizations, and personal services without regard to civil service and classification laws, $5,750,000, to remain available until expended of which not to exceed $200,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico, International Boundary and Water Commission, and to comply with laws applicable to the United Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $11,000,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further*, That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, to remain available until expended, $4,100,000: *Provided*, That activities for the New River Project may be financed from these funds or from carry over balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,700,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $11,000,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $2,000,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $9,000,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,800,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

This title may be cited as the "Department of State Appropriation Act, 1987".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $14,600,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13B), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,400,000, of which $375,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $7,000,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,200,000: *Provided*, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $940,000,000, or which not to exceed $160,000,000 shall be available for payment of charges for space and facilities, and not to exceed $7,500,000 shall be available for contractual services and expenses relating to the supervision of drug dependent offenders: *Provided*, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organiza-

tions, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $72,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $47,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security partols, and other similar activities; $36,500,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administrating elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $30,000,000, of which an amount not to exceed $5,000 is authorized for official reception and representative expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $9,600,000.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,500,000, to remain available until expended. Funds appropriated under this heading in The Judiciary Appropriation Act, 1976, shall also be availble for this purpose.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $6,000,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1987.

This title may be cited as "The Judiciary Appropriation Act, 1987".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $320,000,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $3,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $64,000,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $30,000,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $140,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $13,000,000 to remain available until expended.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read from this point through line 7 on page 45, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order against the material contained in this portion of the bill?

Are there any amendments to this portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,800,000: *Provided*, That only so much of such sum shall be used as is necessary to close down the operation of such Commission by December 31, 1986, subject to the following conditions: Under procedures established by the Office of Personnel Management, no vacant career position of an executive agency of the United States, as such term is defined in section 105 of title 5, United States Code, for which a former employee of the Civil Rights Commission is qualified may be filled by the appointment of an individual, other than an individual who is preference eligible under section 2108 of title 5, United States Code, unless appointment to such position has been offered and rejected by each former employee of the Civil Rights Commission in the same commuting area who is qualified for such position. The preference extended by this provision shall not apply

to any former employee of the Civil Rights Commission after such employee rejects one position offered or after the expiration of 90 days after the separation of such employee from the Civil Rights Commission, whichever occurs first. For purposes of this provision, the term "former employee of the Civil Rights Commission" means any individual employed by the Civil Rights Commission on September 30, 1986, who is serving under an appointment, other than a temporary or intermittent appointment, to a permanent position, or is a career appointee of the Senior Executive Service, but does not include an individual in a position of a confidential or policy determining character which is excepted from the competitive service by the Office of Personnel Management and to which appointments may be made without examination by that Office.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For expenses necessary for the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $526,000 to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $21,150,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $167,700,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $300,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $96,300,000. Not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1988, for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $11,400,000: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $67,500,000: *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,100,000 of which $4,000,000 shall remain available until expended for expenses related to relocation of the Commission.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,483,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that this portion of the bill be considered as read through line 16 on page 49, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Are there any points of order against this portion of the bill?

Are there any amendments to this portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000: *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

AMENDMENT OFFERED BY MR. COMBEST

Mr. COMBEST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COMBEST: Beginning on page 49, strike line 17 and all that follows through page 50, line 7.

Mr. COMBEST. Mr. Chairman, today, I am offering an amendment to the State, Commerce, Justice appropriation for fiscal year 1987 that would eliminate the $305.5 million appropriation for the Legal Services Corporation [LSC]. This amendment is needed to stop the gross misuse of taxpayer dollars that persists with LSC attorneys despite the numerous restrictions placed on their activities.

I think it is unquestionable that the poor should have full access to our Nation's judicial system. Every American citizen is guaranteed certain rights under the Constitution, and it is my view that justice should not be denied simply because an individual cannot afford a lawyer. It was this intent of access to the system that motivated Congress to establish the LSC in 1974.

Over the past 12 years, however, LSC has become better known for its role of funding political activist lawyers throughout the country rather than for its role in providing legal assistance to poor people. This political activity and social reform agenda is often pursued through lobbying activity and class action lawsuits. These LSC activities have motivated many of us to push for lower funding to the LSC and greater restrictions on staff attorneys. But, regardless of how many restrictions are placed on LSC activities, misuse of tax dollars spent on social reform persists.

My constituents in West Texas have had enough of their hard-earned dollars being spent to further the agenda of social activist attorneys. Since I took office, I have received a steady flow of complaints from the people I represent regarding a LSC grantee in my district. As I worked to alleviate this local LSC problem, I have received numerous letters from individuals and companies throughout Texas and several other States relating similar complaints in their regions.

Mr. Chairman, I could stand here all afternoon detailing the horror stories that I have heard about the practices of LSC funded grantees. But, I think that I can best convey the seriousness of these activities by providing a before-and-after picture of a city in my district. Before an office funded by the LSC was opened in Hereford, TX, in the late 1970's, hereford was a developing agricultural community. Businesses considered the town to be a prime spot for their new enterprises. Now, in addition to the problems generally plaguing agriculture, life in Hereford is characterized by ethnic division and social and economic upheaval.

Allegations against the LSC-funded office abound, with the most frequent being class action lawsuits, union organizing efforts, representation of illegal aliens and political activities. The cruel irony of this situation is that the hardship brought on Hereford, TX, has been funded with the residents' own tax dollars.

Mr. Chairman, this appropriation bill provides $305.5 million for the LSC. Clearly, a large part of the money received by LSC grantees is not being used to serve the congressionally mandated purpose of legal assistance

to the poor. At the very least, the LSC is an organization that has run amuck of its intended purpose.

Because deserving clients are not being served while LSC attorneys pursue their social agenda, private and public sector initiatives are being made to meet the needs of the poor at the community level. It hardly seems appropriate to use Federal funds where State and local entities could more effectively and efficiently serve the needs of low-income citizens.

In light of our budget deficit, utilizing Federal funds in a manner that fosters bitterness and unrest in communities is unspeakable. I feel certain that few taxpaying constituents would want their tax dollars utilized in the manner that characterizes much of LSC activity.

I urge my colleagues to support this effort to eliminate the LSC's $305.5 million appropriation.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an outright, clean-cut amendment to strike funding for Legal Services from the bill. So we are going to have another vote on this subject. We voted on it, just about every year. I do not think we need to debate it for long period of time, because we all know what it is all about. We have been through it for a number of years.

Legal Services in this bill is funded at the appropriated level for fiscal year 1986. If every Agency and Department of the Government operated at freeze level for the next year, we would be below the $144 billion deficit level mandated by Gramm-Rudman.

Legal Services in this bill is at $305.5 million. In fact, it is about $16 million less than it was 5 years ago. It is an agency that is very heavy in personnel costs. Therefore, any denial of an increase to offset inflation is really a reduction in the program level because it costs more for rent, for lights, and for the kinds of things you have to do in those offices in addition to personnel costs.

The Legal Services attorney work for less than 50 percent of what they could get if they were not working for a program for the poor. Almost all of these attorneys are working in the Legal Services Programs because they want to serve the poor. They have a desire to do so, and they cannot stay with it for many years, but they will put in a couple years, somewhat like missionaries do in many instances.

□ 1705

Now, we had in Gramm-Rudman last year a provisions to protect the safety net as we called it. The adminstration was for it. The Republicans were for it. The Democrats were for it.

What good is a safety net at the same level or at an increase, as the budget resolution permits for these programs, if the people who are entitled to participate in the program cannot obtain the program benefits?

A significant portion of the money in the Legal Services Program is used to get people benefits that they are entitled to under Government programs. There are a lot of people in this country who do not know how to negotiate the complicated rules and so forth that govern Government programs like the Social Security Program. Some people say, "Well, go to your Congressman."

Well, let me tell you something. We investigated a few years ago, and we found that, in fact, there are only a few Members of Congress who are actually helping people negotiate those requirements. Members will send them perhaps to Legal Services or to somebody else, but they do not actually go down there with them and do what is necessary to get their records together and present them in the way that is required by law.

This is a program if you believe in a safety net, you have got to believe in at least having a freeze level for this program.

Now, this is the same thing we go through every year. I do not think it is necessary to have any extended debate, but I would hope that we would turn down this amendment again this year.

Mr. COMBEST. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Chairman, I appreciate the gentleman yielding on his time. I do realize that this has been something which has been going on here for some time. This, however, happens to be my first opportunity to deal with this matter.

Mr. SMITH of Iowa. It is the gentleman's right to do so.

Mr. COMBEST. If I might just add in this, not all Government programs, there are some I would certainly vote to eliminate, because I think they do no good; but I think that the service for which this was set up does provide some opportunity for people who cannot get assistance otherwise.

I do think, however, there are a number, and continuing to be a number of alternatives that are available, without spending Federal tax dollars to do it. I think there has been a massive abuse of the money that is being spent.

I appreciate the gentleman's time.

Mr. SMITH of Iowa. Mr. Chairman, let me say that the American Bar Association and I think every State association in the United States, including Texas, as a matter of fact, is very strongly in support of this program. In fact, the Texas Bar Association testified for an increase of something like $80 million over what we give them in this bill, because they know that in spite of the fact that private efforts are being made, to get pro bono help, and to establish trust accounts in which the interest will benefit Legal Services, that, all of the Legal Services that are needed are not being provided. We need to do all these things in addition to Federal funding for Legal Services at least at last year's level.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full time, but I did want to make the point here in this debate that in the subcommittee we did have a discussion at some length, and I hope we can continue that discussion next year, on the procedures that are in the law now as to defunding the existing grantee under the Legal Services Corporation. As the law now is, there is a long, drawn out, very expensive Federal court proceeding required before an existing grantee can be defunded, even if that grantee is not performing as required or certainly to the satisfaction of the board.

I attempted in the subcommittee to change that procedure somewhat. I think the effort perhaps was too late in getting started.

I do not want to try to change that in the appropriations for next year.

I know that is an interest that the gentleman from Texas has joined me in. I just wanted to let the gentleman know that we want to try to continue that effort to try to reform the procedures whereby a grantee of the Legal Services Corporation not performing its duties could be defunded in a reasonable procedure without spending more on the court proceedings to defund them than they actually got in the grant, which has happened in the past.

So I hope the gentleman might join in that effort as we go forward next year.

Mr. COMBEST. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Chairman, I certainly would be happy to again join that effort and continue to, assuming that we would not be successful here today; but may I say to the gentleman from Iowa, whom I highly respect, I think that certainly, yes, there are those who have asked for continued funding. One of the tremendous questions under the Legal Services Corporation is if the funding is actually being spent for the purpose which it was initially established to do, and that is to provide legal assistance to the poor.

There have been a continuing declining number of employees of Legal Services providing that service, and yet to those who remain their salaries have significantly gone up and there

have not been during that same period of time that there was an increase in that money, there has not been a substantial or an increased number of cases in which those individuals are handled for the indigent or for the poor.

Many of the instances, such as the pro bono and other types of services that are being provided, have increased significantly since the 1970's, so those services are now being provided on a much better basis and there are a number of alternatives which I will not spend the time to go through, but there are a number of alternatives that are listed as potentials for those people who do need the help.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman from Kentucky yield?

Mr. ROGERS. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I wonder, the gentleman made a statement about the problem of the defunding procedures not being adequate. I think the gentleman should know in oversight hearings before the Judiciary Committee, I asked the president of the Legal Services Corporation to please give me any instances of programs that he or his designee had been unable to defund or penalize because of the procedures. That was in May 1975.

I have reiterated my request several times since then and have had no answer.

I suggest that the people who are currently running the Legal Services Corporation are unable to produce one instance of a program that they are unable to take action against because of the procedures. So I think that this procedural argument is a bit of a red herring and I would hope that it would not continue to be raised.

Mr. ROGERS. Well, Mr. Chairman, I plan to continue to raise it because I know of instances myself, I cannot recite them by memory at this moment, but I know of instances myself where they have spent more on the procedure than the entire grant itself.

I just question whether or not we are in our right minds to allow that kind of a Federal agency to persist in spending money in that fashion.

I would suggest that if the gentleman still needs recitations of examples, that the gentleman get in touch directly now with the Legal Services Corporation and they will give the gentleman some information.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I have been in touch with them regularly, and with all due respect to the gentleman, they seem unable to supply an answer to that question; so I suggest that if the gentleman is interested in having this question decided on the merits, rather than on rumors, I think we ought to get the facts before us.

Mr. ROGERS. Well, I will be happy to discuss it with the gentleman and provide examples, if he cannot get them.

Mr. COMBEST. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Chairman, if I could ask a question for clarification, the gentleman from Connecticut said May of 1975. Did the gentleman mean 1985?

Mr. MORRISON of Connecticut. I meant 1985, and I thank the gentleman for correcting me.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words. I rise against the pending amendment.

The reason I do is that I heard the sponsor of this amendment, a colleague from Texas, describe his reasons, and the gentleman personalized and reported to this House about how in Hereford, TX, which is in Deaf Smith County in Texas, the Legal Services lawyers were such a big problem.

I want the record to show that the Subcommittee I chair on Housing and Community Development has gone twice to Hereford, TX, because of the abominable work camps in which migratory workers, most of them Mexican-Americans, or as they say around here, Hispanics. I do not accept that, because I am just a Mexican and Hispanic is a little bit more of an all-inclusive phrase and I like to be very specific.

The gentleman who is the author of the amendment also referred to the fact that these unowned legal employees of the Legal Services have stirred up and fomented racial strife.

Well, let me tell the House in the RECORD that what we found was that these lawyers were heroes. They have stood up to physical assaults, threats to bodily harm, serious bodily harm and injury, to defend the poorest of the poor, the most defenseless individuals we have living in our country, who are the migrant workers who are still in the migrant stream, and particularly in my home State of Texas. I think I ought to know a little bit about it because I was born in Texas and have lived there all along and happen to know that when somebody comes up here and reports that the only help these people, defenseless, voiceless, poor, poverty stricken, living in veritable cardboard shacks, if at all, in Hereford, TX, around Hereford, TX, and in other points in Hereford, TX, I find it compelling to rise and speak for the RECORD to say that God bless the Legal Services and the lawyers who have been willing to work at reduced fees and everything else in behalf of this cause.

Mr. Chairman, I urge my colleagues to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. COMBEST].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COMBEST. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1720

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas [Mr. COMBEST] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 278, not voting 50, as follows:

[Roll No. 227]

AYES—103

Archer	Hammerschmidt	Roth
Armey	Hansen	Rudd
Badham	Hendon	Schaefer
Bartlett	Hiler	Sensenbrenner
Barton	Hillis	Shaw
Bateman	Hutto	Shumway
Bentley	Hyde	Shuster
Bilirakis	Ireland	Siljander
Bliley	Kasich	Skeen
Boulter	Lagomarsino	Slaughter
Brown (CO)	Latta	Smith, Denny (OR)
Burton (IN)	Lent	Smith, Robert (NH)
Callahan	Lewis (FL)	Smith, Robert (OR)
Carney	Lightfoot	Snyder
Cheney	Lott	Solomon
Coats	Lowery (CA)	Stangeland
Cobey	Lungren	Stenholm
Coble	Mack	Strang
Combest	Marlenee	Stump
Craig	McCandless	Sweeney
Crane	McGrath	Swindall
Daniel	Michel	Taylor
Dannemeyer	Miller (OH)	Thomas (CA)
Darden	Molinari	Valentine
Daub	Montgomery	Vucanovich
DeLay	Moorhead	Walker
Derrick	Myers	Weber
Dornan (CA)	Nielson	Whittaker
Dreier	Oxley	Wolf
Dyson	Packard	Young (AK)
Eckert (NY)	Parris	Young (FL)
Fields	Petri	
Franklin	Ritter	
Gingrich	Roberts	
Gregg	Robinson	
Hall, Ralph	Rogers	

NOES—278

Ackerman	Glickman	Owens
Akaka	Gonzalez	Pashayan
Alexander	Goodling	Pease
Anderson	Gordon	Penny
Andrews	Gradison	Pepper
Annunzio	Gray (IL)	Perkins
Anthony	Gray (PA)	Pickle
Applegate	Green	Porter
Aspin	Guarini	Price
Atkins	Gunderson	Pursell
AuCoin	Hall (OH)	Quillen
Bates	Hamilton	Rahall
Bedell	Hefner	Rangel
Beilenson	Henry	Ray
Bennett	Hertel	Regula
Bereuter	Hopkins	Reid
Bevill	Horton	Richardson
Biaggi	Howard	Ridge
Boehlert	Hoyer	Rinaldo
Boggs	Hubbard	Rodino
Bonker	Hughes	Roe
Borski	Hunter	Roemer
Boucher	Jacobs	Rose
Brooks	Jeffords	Rostenkowski
Broomfield	Jenkins	Roukema
Brown (CA)	Johnson	Rowland (CT)
Bruce	Jones (OK)	Rowland (GA)
Bryant	Jones (TN)	Russo
Bustamante	Kanjorski	Sabo
Carper	Kaptur	Saxton
Carr	Kastenmeier	Scheuer
Chandler	Kennelly	Schneider
Chapman	Kildee	Schroeder
Chappell	Kindness	Schulze
Clinger	Kleczka	Schumer
Coelho	Kolbe	Seiberling
Coleman (MO)	Kolter	Sharp
Coleman (TX)	Kostmayer	Shelby
Conte	Kramer	Sikorski
Conyers	LaFalce	Sisisky
Cooper	Lantos	Skelton
Coughlin	Leach (IA)	Slattery
Courter	Leath (TX)	Smith (FL)
Coyne	Lehman (FL)	Smith (IA)
Crockett	Leland	Smith (NJ)
Daschle	Levin (MI)	Snowe
Davis	Levine (CA)	Solarz
de la Garza	Lipinski	Spence
Dellums	Livingston	Spratt
DeWine	Lloyd	St Germain
Dickinson	Long	Staggers
Dicks	Lowry (WA)	Stallings
Dingell	Lujan	Stark
DioGuardi	Luken	Stokes
Dixon	MacKay	Studds
Donnelly	Manton	Sundquist
Dorgan (ND)	Markey	Swift
Dowdy	Martin (IL)	Synar
Downey	Matsui	Tallon
Duncan	Mavroules	Tauke
Durbin	Mazzoli	Tauzin
Dwyer	McCain	Thomas (GA)
Early	McCloskey	Torres
Eckart (OH)	McCollum	Torricelli
Edgar	McCurdy	Towns
Edwards (CA)	McDade	Traficant
Edwards (OK)	McHugh	Traxler
Emerson	McKernan	Udall
English	McKinney	Vander Jagt
Erdreich	McMillan	Vento
Evans (IL)	Meyers	Visclosky
Fascell	Mica	Volkmer
Fawell	Mikulski	Walgren
Fazio	Miller (WA)	Watkins
Feighan	Mineta	Waxman
Fish	Mitchell	Weaver
Flippo	Moakley	Weiss
Florio	Mollohan	Wheat
Foglietta	Moody	Whitley
Foley	Morrison (CT)	Whitten
Ford (MI)	Morrison (WA)	Williams
Ford (TN)	Mrazek	Wilson
Frank	Murphy	Wise
Frenzel	Murtha	Wolpe
Fuqua	Natcher	Wortley
Gallo	Neal	Wright
Garcia	Nelson	Wyden
Gaydos	Nichols	Wylie
Gejdenson	Nowak	Yates
Gekas	Oakar	Yatron
Gephardt	Oberstar	Young (MO)
Gibbons	Obey	Zschau
Gilman	Olin	

NOT VOTING—50

Barnard	Fiedler	Martin (NY)
Barnes	Fowler	Martinez
Berman	Frost	McEwen
Boland	Grotberg	Miller (CA)
Boner (TN)	Hartnett	Monson
Bonior (MI)	Hatcher	Moore
Bosco	Hawkins	O'Brien
Boxer	Hayes	Ortiz
Breaux	Holt	Panetta
Burton (CA)	Huckaby	Roybal
Byron	Jones (NC)	Savage
Campbell	Kemp	Schuette
Chappie	Lehman (CA)	Smith (NE)
Clay	Lewis (CA)	Stratton
Collins	Loeffler	Whitehurst
Dymally	Lundine	Wirth
Evans (IA)	Madigan	

□ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Monson, for, with Mr. Barnes against.

Mr. Lewis of California for, with Mr. Schuette against

Mr. NICHOLS and Mr. RAY changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 49, line 21, strike out "$305,500,000" and insert in lieu thereof "$152,750,000".

Mr. LUNGREN. Mr. Chairman, I am not going to take a great deal of time to explain what is essentially a technical amendment. In light of the amendment offered by my colleague, the gentleman from Texas, a moment ago to strike funding for the Legal Services Corporation, my amendment is modest indeed.

All I do is reduce funding from the $305.5 million contained in the bill, to $152.75 million.

This is a 50-percent cut. I don't intend to berate everyone in this Chamber with the obvious. Despite the U.S. Supreme Court decision regarding Gramm-Rudman and largely as a result of it, the spotlight is on us once again. The American people are watching to see if we are really serious about the budget.

We are confronted with a number of choices, all of which are unpleasant and some of which—like raising taxes—are potentially harmful to our economy. It is therefore necessary for us to bite the proverbial bullet and do what every American family does out of necessity. We must learn to prioritize.

In this regard there is no better time to start than now. I am going to resist the temptation of going through the increasingly familiar litany of horror stories concerning the Legal Services Corporation. Rather, as we confront fiscal austerity, we must examine LSC spending in the context of our contemporary legal environment. In fact, a plethora of diverse and expanding options exist.

Since the U.S. Supreme Court decision in Bates verus State Bar of Arizona (1977), the right of attorney's to advertise has opened up an entirely new market in the delivery of legal services. According to a study by the American Bar Associations Committee on prepaid legal services, low price prepaid legal service firms now serve more than 12 million clients. Many of these firms now duplicate the service provided by LSC grantees. As Joel Hyatt argues:

New developments are taking place that suggest that there are now delivery systems that are more efficient than those currently utilized by Government. I think we can provide more service for less money . . . moreover, I do think there are more opportunities in the private sector for aid to lower income individuals than there were 10 years ago.

Similarly, the area of alternative dispute resolution is an ideal alternative to expensive and often time consuming litigation—in fact over 80 percent of LSC cases do not require litigation. There are a number of creative and innovative ways of resolving legal conflict in ways that are both more efficient as well as person oriented.

The American Bar Association Journal in January of this year notes that "in 1976 about 20 nonprofit Government dispute resolution programs were operating—today there are about 330." As the scope of alternative dispute resolution broadens so too does the range of services available to low-income persons.

If we are to adequately analyze this question in the context of an information society, an expanded definition of legal assistance is required. Briefly, some examples which come to mind include:

First, mediating structures such as community-based organizations and churches which intervene on behalf of their members.

Second, ombudsman or similar Government agencies on the Federal, State, or local levels.

Third, nonlawyer representation before various administrative agencies.

Fourth, television news and consumer advocate programing.

Fifth, newspaper columns oriented toward consumer or legal issues.

Sixth, lay legal manuals and do-it-yourself kits in routine matters.

Seventh, and library resources—including the potential offered by computers and software.

Certainly one of the most important elements of the Legal Service matrix concerns the pro bono work of private attorneys to assist indigent clients. While I think there is an increasing need for the participation of the private bar, even present participation levels offer encouragement. According to 1985 ABA figures the part-time participation rate of private attorneys is about 32 attorneys per 10,000 indigent persons.

An interesting argument is raised by LSC board member Leanne Bernstein in her views on the fiscal year 1987 budget request. She argues that assuming the average provider donates 3 percent of their time to pro bono work this calculates out as 0.96 attorneys per 10,000 poor people nationally. In conjunction with LSC's 1.62 attorneys per 10,000 indigents, this exceeds the LSC minimum access criterion of 2 full-time attorney's per 10,000 poor. My point is not that we should necessarily content ourselves with the present level of services, but rather, to emphasize the potential role to be played by the private bar in providing indigent legal services.

I would like to stress that my amendment is not an "either or" proposition. It does not remove the provision of indigent legal services from the public sector. Rather, it recognizes the evolving diversity of our contemporary legal environment. It recognizes that a new concept of public-private sector partnership offers us not just a cheaper alternative, but a superior one as well.

□ 1750

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. COMBEST

Mr. COMBEST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COMBEST: On page 49, line 21, strike "$305,500,000" and insert in lieu thereof "$280,000,000".

Mr. COMBEST. Mr. Chairman, this amendment to the State, Commerce, Justice Appropriation would reduce the $305.5 million appropriation for the Legal Services Corporation [LSC] to $280 million.

A $25 million reduction in LCS's appropriation is not a figure that I selected arbitrarily. As a matter of fact, $280 million is the funding request suggested in a dissent to LSC's fiscal year 1987 budget request. In this dissent, LSC Board of Directors member Lea Anne Bernstein reveals some astounding facts that confirm the serious need for Congress to reevaluate a $305.5 million appropriation to the LSC.

While I maintain my view that funding for the LSC should be completely eliminated, political reality dictates that Federal funding for Legal Services is unlikely to be eliminated in the near future. This amendment is a fair and reasonable effort that will allow Congress to adhere to its priority to deficit reduction, while continuing to make available Federal funds for legal assistance.

Given current budgetary constraints, the very least Congress should do is to take a hard look at how the money our Federal Government disburses is being spent. For example, in her dissent, Lea Anne Bernstein asserts that increases in LSC funding over the past 4 years have been "concentrated on a shrinking personnel base and a static caseload, indicating higher personnel salaries and less service." The average LSC staff attorney salary increased by 27 percent in a 2-year period, over three times the increase in the consumer price index for that same period. One staff attorney receives a salary in excess of $74,000 per year.

The dissent also points out that non-Federal funding for Legal Services rose to $106 million in fiscal year 1985 and that alternative sources of assistance to meet poor people's legal needs are increasingly available. These alternatives include mediation and dispute resolution programs, pro bono services by private attorneys, legal clinics and consumer protection agencies.

Mr. Chairman, I believe that this LSC budget dissent speaks for itself and soundly supports my amendment. My constituents in the 19th District of Texas do not want their tax dollars utilized to subsidize social activism or to serve the political agendas of attorneys.

With the shift toward community level legal assistance and the implementation of cost-effective programs, this $25 million reduction could be absorbed by the LSC without jeopardizing legal services to low-income citizens. I urge my colleagues to support me in this fair effort that has the recommendation of a member of LSC's own Board of Directors.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I will not take but a moment. This is another amendment on Legal Services. On the face of it, it does not look like a very large cut, but I want to remind you of this: We are at a freeze level in this bill. We are at the level that was requested in the budget. We are at a level $15 million below what it was in 1981. We require all areas of the country to be served. In order to serve all areas of the country in many cases it is necessary to lump several counties together and to have one field office in the county or somebody serving from another office. It is also necessary for some of these areas to be served only 1 day a week.

Cutting $25 million from the amount in the bill will have a serious impact upon this agency.

Now I would remind you again that last year we had a provision in the Gramm-Rudman law to protect the safety net. We cannot protect the safety net unless the program funds are there.

We have more people, more people now eligible for some of these programs than there were 3 years ago. So actually they have taken their share of the cuts.

So this agency is doing more than its share in staying at the appropriated level for fiscal year 1986, and I urge Members to turn down this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

I want to commend the gentleman on his statement and say that I think it is important to note that since 1981 on a current-services basis Legal Services has already been cut $100 million on current services. So a further cut would merely erode what the gentleman is talking about, the ability to provide nationwide services for all of the eligible clients.

Mr. SMITH of Iowa. Mr. Chairman, I urge a no vote on the amendment.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words, and I rise to support the amendment.

Mr. Chairman, I am frankly disappointed that we did not have sufficient order so that everybody in this group could have listened to and considered what Mr. LUNGREN's argument for his amendment was, as I did. I think we have to understand that this is not a random amendment brought to the floor singularly by one person. There are many, many of us in this House that understand we are facing a fiscal crisis. As I said earlier, the American taxpayer will not accept us taxing them any more, they are demanding cuts. We have lost faith inside and outside of this body in the budgetary process.

We see Gramm-Rudman as a desperate act to try to control spending. I might say, Mr. Chairman, there is scarcely a Member of this House for whom I have greater respect than the chairman of the Committee on the Budget, a sincere, diligent, hard-working, intelligent man. But even this morning he talked to us about the difficulties of trying to live with the imposed restraints of Gramm-Rudman through the budgetary process due to the vagaries of the science of economic forecasting.

The fact of the matter is this body has got to come to grapple with the spending cuts. We have looked at this area of the budget. Mr. LUNGREN of California has outlined the emerging private-sector opportunities for those folks who may need the safety net.

□ 1805

The private sector is responding. There are better initiatives even among government. We are continuing to fund a program that has failed in

its intended mission, not only because the mission was impossible, but because the people who staff the program have lost sight of the intent of Congress, and it has been tolerated too long.

We must face this question of spending cuts, and I dare say to you that if you go back to your districts and if you ask the people in your district, where do you want the Congress to cut first, they will tell you Legal Services because they know Legal Services has defaulted on the intent of Congress.

If we cannot pass this amendment and make this cut, we are going to go home this weekend, eventually, Mr. Chairman, and face some very, very irate constituents and for the very best of purposes.

I implore you to vote "yes" on this amendment.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I do not doubt the gentleman's veracity and knowledge of his district. I am sure there are people in the gentleman's district clamoring that Legal Services be cut. Some of the rest of us have not found that. The gentleman says that if you go home and if you ask people what do you want us to cut, they are going to demand Legal Services. That is apparently true in the gentleman's district. I do not think it is that widely true.

I just would like to point out that the gentleman from Texas read a dissent on the budget. We ought to be clear that the people she was dissenting from were all Reagan appointees. This was not a dissent from Justice Brennan and Justice Marshall. It was not a dissent from the gentleman from Iowa. It was not a dissent from anybody except the rest of the Reagan board.

Now I know people do not like to give things up. And some of my conservative friends focused on the Legal Services as an ogre a few years ago. It is an ogre that is now governed entirely by a board appointed by Ronald Reagan. The President appointed that board and they will not let loose of it.

Mr. ARMEY. The gentleman spoke very fast, but I believe I did get the drift.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I just want to point out that these are interesting statistics or accounting procedures. As I read this, this is actually not a freeze. This is an increase in the committee bill of $13,137,000. As I understand it, it is a freeze from pre-Gramm-Rudman.

So if we forget about the vote we had earlier today that sustained the cuts for this current year, it is then a freeze. But if you think that what we did today meant anything because we actually cut, what the committee brings to us is actually an increase of $13,137,000.

So we are really not going from a freeze. We are going from a freeze plus an increase over the Gramm-Rudman cuts. I hope that is clear.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for his remarks.

Mr. Chairman, I implore the body to vote "yes" on the recorded vote on the Combest amendment.

Mr. BOULTER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Texas to strike all funding for the Legal Services Corporation.

Beyond examining the merits, or, more appropriately, the lack thereof, of the LSC, I believe there's a broader issue that we're talking about here today. That is the question of whether this Congress is ever going to cut spending on programs that aren't delivering value for the tax dollars spent. Once a program finds its way into the Federal budget, is it now and forever to be on the taxpayers' invoice?

We are dealing here with no less a question than that. For truly, ladies and gentlemen, in the LSC we have one of the alltime turkeys, a program so rife with abuses of its function, so inadequate in meeting the objectives set out for it, that it truly cries out to be abolished. If we can't get rid of the LSC, what in the world are we ever going to cut?

And you know, we really are going to have to start cutting somewhere if we want to avoid sequestration. There isn't going to be a tax increase. The President is adamant about that, and there are enough of us in the House committed to sustaining and veto of a tax bill. If the targets of Gramm-Rudman are to be met, spending must be reduced.

Getting rid of the LSC will save about $300 million a year. I think we ought to proceed on the assumption that that is real money that could be put to good use by more deserving programs such as the FBI's drug enforcement efforts.

So there are sound fiscal reasons for ending the LSC. But the principal reason for doing so remains the fact that the organization has become almost nothing more than an instrument of political activism. Approximately 1,000 staff attorneys in the LSC branch offices are members of the National Lawyer's Guild—an avowedly socialist organization. Most of their activities are a not-so-subtle effort to use the courts to achieve sweeping "reform," through class action suits and other grandstand plays. Whether or not any real, live poor people actually receive any benefit is only an incidental byproduct. Following is a highly abbreviated list of abuses of the LSC, all found as a result of oversight by the Senate Labor and Human Resources Committee:

Dummy corporations have been formed to avoid adhering to congressional prohibitions against lobbying—The TRLA put about $40,000 into one.

The program's publications have recommended advocacy of civil disobedience, intimidation, and muckraking "as a means to embarrass opponents of community action groups."

Resources of the Corporation and its grantees were used after the Reagan victory in 1980 "to advocate a public policy of fighting threatened budget cuts in the LSC and other Federal social benefit and entitlement programs." Appointed to spearhead the effort, the director of LSC's Research Institute said that at stake was "survival of a committed, aggressive, and political staff."

Training programs were misused both to organize grassroots lobbying against the administration's proposed budget cuts and to train a cadre of community activists in the process of legislative and administrative advocacy.

California legal services programs lobbied against State proposition 9, using an estimated $100,000 in taxpayers' money for this effort.

The LSC successfully manipulated Congress and the media with a smoke screen of carefully orchestrated charges against Reagan-appointed Board members—who were subsequently cleared—in order to divert attention from the provisions in the continuing resolution LSC grantees wanted retained.

There have been repeated indications of LSC staff destroying files that documented activities of questionable legality in an attempt to prevent access by administration officials.

Grantees carried over substantial funds from 1 fiscal year to the next. According to Senator Grassley, nearly one-fifth of the annual appropriation was "squirreled away at the time the Corporation officials were telling Congress that clients were being turned away."

Attention was given by program managers to making excess balances invisible by purchasing certain assets. A memo circulated to one regional office staff was headed "Hiding Fund Balances."

In Texas LSC grantees used part of their funds to bring suit against the Texas right-to-work law. This is well outside of their purview.

This list could be extended through many pages. From distributing T-shirts that say "health cuts make me sick," to suing State health agencies to pay for performance of sex change operations, to refusing to assist Nicaraguan refugees fleeing the Sandinista regime—the LSC is right in the center of the whole far-left fellow traveler scene. These attorneys stepped right off the college campuses of the 1960's and early 1970's into LSC grantee offices and never missed a beat.

The abuses have been somewhat more subtle since Ronald Reagan took office and, at least nominally, became head of the agency. However, the political agenda is still foremost, as most persons in my own Texas Panhandle region will tell you. Out there, the local LSC grantee is involved not only in organizing migrant workers, but also junior high school students. Under the direction of Texas Rural Legal Aid, about 40 students left classes and demonstrated in front of their school.

Now, I'm confident that there are Members of this body who have some sympathy for the LSC's political agenda. But surely there is no

one here who can honestly say that tax money should be used for partisan political purposes. Those of you on the other side of the aisle who think the LSC ought to continue being funded in the light of these documented abuses, should consider giving NCPAC $300 million.

ALTERNATIVES TO LSC

Now, in trying to bring the LSC's misbegotten existence to an end, I'm not saying government has no responsibility to help persons who cannot afford legal services to get them. It does, and I'm willing to admit that part of that responsibility might accure to the Federal Government.

But there are any number of preferable alternatives to the LSC that would cost the taxpayers far less and do not have the same potential for abuse.

One would be Judicare. Under this system, attorneys in private practice would be paid on a fee-for-service basis to provide legal services to eligible persons within a specified geographical area. Under this model, all attorneys in the given geographical area are eligible to participate, and clients are free to choose any attorney they wish.

Judicare would perhaps have the same defect as Medicare—the Government might be billed by attorneys for more services than are actually needed, but still it is estimated that the cost would be far less than the present staff attorney system.

Another alternative is prepaid legal insurance. In this system, a group of eligible individuals or families is enrolled in a prepaid plan with a prescribed schedule of benefits. A set amount is paid into the plan to purchase coverage for the group. The plan may be operated by a consumer group, bar association, law firm, insurance company or other administrative organization.

Contracts with law firms are a third possibility. In this model, the current staff attorney offices stay open, but only in an administrative capacity for the purpose of contracting with private law firms to provide either general services or specialized services. Since all of the legal action is conducted by private attorneys, the potential for in-house ideologs to abuse the court system in pursuit of their agenda is not there.

Another alternative is the legal clinic, a private law firm that uses its own salaried attorneys, paralegals and support personnel to provide services on a high-volume, low-cost basis to clients eligible for legal services just as it does for its regular clients. Clinics are compensated on a fee-for-service basis.

Such clinics have been proliferating in recent years in response to a real need for low-cost, high-volume legal services. Their number would surely increase further if this system were adopted by the Government, advancing what I consider a highly salutary trend.

Another possibility is the organized pro bono project using volunteer private attorneys to provide services without fee to eligible clients. Volunteer attorneys may receive payment from the project for certain out-of-pocket expenses associated with representing clients. Project staff recruits volunteer attorneys, provide training and handles administrative tasks.

A voucher system would provide vouchers of a fixed amount to eligible persons that they could exchange for services from the legal practitioner of their choice—a law firm, a clinic, or whatever. This system has the virtue of allowing poor persons some choice of their legal representation.

A final option is increased use of law school clinics. Law school clinics use LSC funds to deliver legal services to eligible clients in a wide range of case types. The services provided are usually quite competent, clinical education is becoming more prevalent in law schools, so it would seem a natural progression to expand this effort.

CONCLUSION

These are just a few suggestions intended to illustrate that we don't have to continue living with a program that isn't working right. The Legal Services Corporation was a good idea that just turned into a monster. Let's get rid of it and start over again on the problem of providing legal services to the poor. The only thing stopping us is the inertia to which this body is increasingly prone. Let's overcome it and get about the business of making distinctions between the programs that are working and deserve continued funding and those that aren't and don't.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. COMBEST].

The question was taken; and on a division (demanded by Mr. LUNGREN) there were—ayes 45, noes 61.

RECORDED VOTE

Mr. LUNGREN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 204, not voting 66, as follows:

[Roll No. 228]

AYES—161

Andrews	Dornan (CA)	Lowery (CA)
Applegate	Dreier	Lujan
Archer	Duncan	Lungren
Armey	Dyson	Mack
Badham	Eckert (NY)	Marlenee
Bartlett	Edwards (OK)	Martin (IL)
Barton	Emerson	McCandless
Bateman	Fawell	McCollum
Bates	Fields	McGrath
Bentley	Franklin	McMillan
Bereuter	Gekas	Meyers
Bilirakis	Gingrich	Michel
Bliley	Gregg	Miller (OH)
Boulter	Gunderson	Miller (WA)
Broomfield	Hall (OH)	Molinari
Brown (CO)	Hall, Ralph	Montgomery
Burton (IN)	Hammerschmidt	Moorhead
Callahan	Hansen	Morrison (WA)
Carney	Hendon	Myers
Chandler	Henry	Nelson
Cheney	Hiler	Nichols
Coats	Hopkins	Nielson
Cobey	Hutto	Oxley
Coble	Hyde	Packard
Coleman (MO)	Ireland	Parris
Combest	Jones (TN)	Pashayan
Craig	Kasich	Petri
Daniel	Kindness	Pickle
Dannemeyer	Kolbe	Porter
Darden	Kramer	Quillen
Daub	LaFalce	Regula
Davis	Lagomarsino	Ridge
de la Garza	Latta	Ritter
DeLay	Leath (TX)	Roberts
Derrick	Lent	Robinson
DeWine	Lewis (FL)	Roemer
Dickinson	Lightfoot	Rogers
DioGuardi	Livingston	Roth
Roukema	Smith, Robert (OR)	Thomas (CA)
Rowland (CT)	Snyder	Thomas (GA)
Rowland (GA)	Solomon	Valentine
Rudd	Spence	Vander Jagt
Saxton	Stallings	Vucanovich
Schaefer	Stangeland	Walker
Schulze	Stenholm	Weber
Sensenbrenner	Strang	Whitley
Shumway	Stump	Whittaker
Shuster	Sundquist	Wolf
Siljander	Sweeney	Wortley
Skeen	Swindall	Wylie
Slaughter	Tallon	Young (AK)
Smith (FL)	Tauke	Young (FL)
Smith, Denny (OR)	Tauzin	Zschau
Smith, Robert (NH)	Taylor	

NOES—204

Ackerman	Gephardt	Oberstar
Akaka	Gibbons	Obey
Alexander	Gilman	Olin
Annunzio	Glickman	Owens
Anthony	Gonzalez	Pease
Aspin	Goodling	Penny
Atkins	Gordon	Pepper
AuCoin	Gradison	Perkins
Bedell	Gray (IL)	Price
Beilenson	Gray (PA)	Pursell
Bennett	Green	Rahall
Bevill	Guarini	Rangel
Biaggi	Hamilton	Ray
Boehlert	Hefner	Reid
Boggs	Hertel	Richardson
Bonker	Horton	Rinaldo
Borski	Howard	Rodino
Boucher	Hoyer	Roe
Brooks	Hubbard	Rose
Brown (CA)	Hughes	Rostenkowski
Bruce	Jacobs	Russo
Bryant	Jeffords	Sabo
Carper	Johnson	Scheuer
Carr	Jones (OK)	Schneider
Chappell	Kanjorski	Schroeder
Clinger	Kaptur	Schumer
Coelho	Kastenmeier	Seiberling
Coleman (TX)	Kennelly	Sharp
Conte	Kildee	Shelby
Conyers	Kleczka	Sikorski
Cooper	Kolter	Sisisky
Coughlin	Kostmayer	Skelton
Courter	Lantos	Slattery
Coyne	Leach (IA)	Smith (IA)
Crockett	Lehman (FL)	Smith (NJ)
Daschle	Leland	Snowe
Dellums	Levin (MI)	Solarz
Dicks	Levine (CA)	Spratt
Dingell	Lloyd	St Germain
Dixon	Long	Staggers
Donnelly	Lowry (WA)	Stokes
Dorgan (ND)	Luken	Stratton
Dowdy	MacKay	Studds
Downey	Manton	Swift
Durbin	Matsui	Synar
Dwyer	Mavroules	Torres
Dymally	Mazzoli	Traficant
Early	McCloskey	Traxler
Eckart (OH)	McCurdy	Udall
Edgar	McDade	Vento
Edwards (CA)	McHugh	Visclosky
English	McKernan	Volkmer
Erdreich	McKinney	Walgren
Evans (IL)	Mica	Watkins
Fascell	Mikulski	Waxman
Fazio	Mineta	Weaver
Feighan	Mitchell	Weiss
Flippo	Moakley	Wheat
Foley	Mollohan	Whitten
Ford (MI)	Moody	Williams
Ford (TN)	Morrison (CT)	Wilson
Frank	Mrazek	Wise
Frenzel	Murphy	Wolpe
Fuqua	Murtha	Wright
Gallo	Natcher	Wyden
Garcia	Neal	Yates
Gaydos	Nowak	Yatron
Gejdenson	Oakar	Young (MO)

NOT VOTING—66

Anderson	Boner (TN)	Burton (CA)
Barnard	Bonior (MI)	Bustamante
Barnes	Bosco	Byron
Berman	Boxer	Campbell
Boland	Breaux	Chapman

Chappie	Holt	McEwen
Clay	Huckaby	Miller (CA)
Collins	Hunter	Monson
Crane	Jenkins	Moore
Evans (IA)	Jones (NC)	O'Brien
Fiedler	Kemp	Ortiz
Fish	Lehman (CA)	Panetta
Florio	Lewis (CA)	Roybal
Foglietta	Lipinski	Savage
Fowler	Loeffler	Schuette
Frost	Lott	Shaw
Grotberg	Lundine	Smith (NE)
Hartnett	Madigan	Stark
Hatcher	Markey	Torricelli
Hawkins	Martin (NY)	Towns
Hayes	Martinez	Whitehurst
Hillis	McCain	Wirth

□ 1825

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

(1) Public Law 99-180 unless paragraph (2) or (3) applies;

(2) authorizing legislation for fiscal year 1987 for the Legal Services Corporation as passed by the House of Representatives unless paragraph (3) applies; or

(3) authorizing legislation for fiscal year 1987 for the Legal Services Corporation as enacted into law.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $860,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For expenses necessary for the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $14,000,000: *Provided*, That not to exceed $59,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, $111,100,000.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only, and hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $165,000,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $35,000,000. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $181,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $97,000,000, to remain available without fiscal year limitation.

AMENDMENT OFFERED BY MR. HILER

Mr. HILER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HILER: Page 52, line 6, strike "181,000,000" and insert in lieu thereof "178,600,000."

Page 52, line 9, strike "$97,000,000" and insert in lieu thereof "$39,000,000, for loans to Minority Enterprise Small Business Investment Companies."

Mr. HILER. Mr. Chairman, my amendment is a relatively simple amendment. What my amendment would do would be to delete the direct loan program, with the exception of the $39 million that goes to the MESBIC Program.

Additionally, my amendment would reduce the loan guarantee part of the Small Business Administration by 10 percent from the post Gramm-Rudman sequestration order.

Mr. Chairman, the direct loan program has not been a terribly effective program. It has been plagued by a very high default ratio. In fact, nearly 20 percent of the amount of money that goes into the direct loan program is defaulted upon.

Additionally, Mr. Chairman, the program has affected a very, very small number of our Nation's 13 million small businesses. in fact, in 1985, the last year for which we have definitive figures, the Small Business Direct Loan Program only affected 720 businesses.

Mr. Chairman, I think if we are going to have programs, we ought to have programs that are effective in creating jobs. We ought to have programs that affect the broad base of the small business community, and the direct loan program does not do this. So my amendment would seek to delete $58 million from that direct loan program.

It might be informative at this point to say to my colleagues what my amendment would not touch. My amendment would not touch the $39 million that goes to the minority enterprise small business companies; my amendment would not touch the small business investment companies; my amendment would not touch the 503 development company loans; my amendment would not touch the surety bond program; my amendment would not touch the pollution control bonds; my amendment would not touch the small business development centers; and my amendment would not touch salaries and expenses.

Mr. Chairman, along with the elimination of the direct loan program, my amendment would also reduce the guarantee part of the Small Business loan program by 10 percent from the post Gramm-Rudman figure that we just voted on earlier today.

I believe it is entirely appropriate that at a time when we are faced with several hundred billion dollar deficits and when we are asking for cuts in a variety of programs, we look at the Small Business guarantee program as well. In fact, I think the committee recognizes that because the committee reduces the Small Business guarantee fund by 2½ percent from last year's level. I would merely move that to a full 10-percent reduction. It is interesting to note that the figure I would end up with is the approximate figure we had in 1985, and in fact, when talking with the Small Business Administration, it is informative to note that requests this year for Small Business guarantees are running some 12 percent below the 1985 level. So the figure I would project for fiscal year 1987 would well meet the demand and would also save over the next 5 years approximately $40 million. Within the parameters of my amendment we would still provide over $2.2 billion to guaranteed loans in the general business area, we would still provide $5 million of guarantees in the handicapped area, we would still provide $50 million in the equal opportunity loan area, we would provide $373 million in guaranteed loans in the development area, I would ask to provide $20 million in the veterans area we would provide $272 million to the investment company area, $39 million into MESBIC's, and $233 million to Small Business investment companies, for a total package of $39 million in direct lending and $2.911 billion in guaranteed lending.

I think that this would be a totally appropriate amendment for the committee to adopt. My amendment is endorsed by the National Federation of Independent Businesses, by the U.S. Chamber of Commerce, and by the National Association of Manufacturers, and in fact with a key vote from the NFIB.

□ 1835

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HILER. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I thank my colleague. My colleague and I served together on the Small Business Committee and we have debated this issue back and forth for awhile.

Let me ask the gentleman a couple questions just for information's sake. Do these cuts affect the disaster loan area of small business?

Mr. HILER. No, they do not.

Mr. ROEMER. Not at all?

Mr. HILER. Not at all.

Mr. ROEMER. Did we set aside in the committee or through the appropriation bills any direct loans for handicapped, equal employment, or equal opportunity for veterans, or that sort of thing? When we eliminate direct, do we not eliminate their part of the package as well?

Mr. HILER. That would fall under direct loans, yes.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(At the request of Mr. ROEMER, and by unanimous consent, Mr. HILER was allowed to proceed for 2 additional minutes.)

Mr. HILER. In the committee print, there would be $15 million that would go for direct loans to the handicapped, $24 million of direct loans to equal opportunity loans and $19 million in direct loans to veterans. That would be expected to provide approximately 1,000 business loans out of the some 13 million small businesses that we have in the country; so approximately 1,000 people would be touched by the Small Business Administration.

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. HILER. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. How would it work if there were no direct loans for small business through this program? On the guaranteed loans, would they then get with a local bank or some other financial institution and have the agency guarantee their loan, rather than make a direct lending of the loan?

Mr. HILER. Well, the gentleman asks an excellent question.

The way that the program normally works is that if I wanted a loan and I went to my bank and asked for a loan for a small business and the banker said, "I'm sorry, we think that the level of risk is too high and so we will not lend you money under our normal terms; however, you might then consider a loan guarantee."

If I then asked for a loan guarantee and upon reflection the bank said, "You know, I'm sorry, but the loan guarantee is still too risky. Even if we have 90 percent of the loan guaranteed, we can't absorb that risk." Then you could go to the Small Business Administration and ask for a direct loan.

So what we are dealing with here are businesses that have been denied access to funding through the normal means, have been turned down for a guarantee, and that would only get money under the direct loan provisions; so we are talking about the riskiest of the riskiest businesses.

I am not sure that we do anyone any favors by putting people in business who are not able to get 90 percent guarantees.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(By unanimous consent, Mr. HILER was allowed to proceed for 2 additional minutes.)

Mr. HILER. In some areas, the equal opportunity loans, for instance, we have a 35-percent default ratio.

Have we done those people who have asked for a loan any favor by putting them into business, many times putting up some of their own capital, maybe mortgaging their homes, putting their child's education fund to risk, only to have them go belly up in a business that probably should never have been loaned the money for?

Mr. ROEMER. Mr. Chairman, will the gentleman yield on that point?

Mr. HILER. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. That is the very kind of opportunity that an agency like this might afford Americans who could not make it any other way. To me, that is the one real reason for direct loans at all, just the example the gentleman gave, I say to the gentleman from Indiana [Mr. HILER].

I generally agree with the gentleman's approach here. For example, a 10-percent cut in guarantees will not hurt anybody because the demand is below that already.

On the direct loan area, the default rate is high. I think we can save the taxpayers some money. It will not affect the vast majority of small businesses in America. It might help them if we lower the loan demand and lower interest rates; but in those categories, like equal opportunity and others, that might be their only hope.

Mr. HILER. Well, Mr. Chairman, I think the gentleman has an excellent point. I think we really have to question whether or not it ought to be Government policy to hand-pick a thousand people across the country and say that out of the 13 million small businesses, the other 12,990,999, or whatever it would be, you have to go through the normal mechanism. If you are turned down, so what?

But we will put our hand out and touch 1,000 of you and approximately 35 percent of you, at least in dollar amount, are going to go out of business. Have we helped that person?

I mean, if that person has put up all the capital they have saved maybe in equity in a home or maybe in a child's education, have we really helped them out, I would ask the gentleman from Louisiana?

Do we do that person any favors? I would maintain no. I think that we would well service those thousand individuals, as well as the small businesses.

Mr. ROEMER. Mr. Chairman, since the gentleman asked me the question, will the gentleman yield further?

Mr. HILER. I yield to the gentleman from Louisiana.

Mr. ROEMER. Let me respond briefly. I think we do, if in the overall scheme of things we can afford a fair amount of money for that one targeted purpose, I think even though the default rate is 35 percent, it would be of help to American business.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(At the request of Mr. BEDELL, and by unanimous consent, Mr. HILER was allowed to proceed for 2 additonal minutes.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. HILER. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, if I can just finish, I agree with so much of the gentleman's approach. I do not want to quibble, but I do not think it is a quibble to say that direct loans in a targeted manner, carefully done under a budget package, might be in America's best interests.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. HILER. I am happy to yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I really have to agree tremendously with the gentleman from Louisiana.

I have a gentleman who received one of those direct loans. I have had a company that as a result of that paid the loan back, employed several hundred people, was a tremendous help to that community.

I really take offense at the gentleman saying that this is a bad thing for those people that get them. Certainly it was a wonderful thing for me. It was a wonderful thing for my community. There may be cases where it is bad, but for the gentleman to say that we are not doing people a favor to help them by giving them a loan when in the opinion of the SBA it looks like they may have a good chance and they cannot get it from their banker, I think it is a terrible thing to say.

I want everybody here to know that some of those loans definitely benefit the people that get them and definitely benefit the communities in which they live and definitely benefit the employees who are working because of those loans.

I thank the gentleman.

Mr. HILER. Mr. Chairman, I thank the gentleman for his point.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(By unanimous consent, Mr. HILER was allowed to proceed for 1 additional minute.)

Mr. HILER. Mr. Chairman, I would just follow up by saying that today if you were to offer that loan, of course, there would be no direct loan because we do not have the general business direct loan program anymore.

Through some tight management over the last 5 years, through some fairly tight management by the administration over the last 5 years, the default ratio has been brought down; but probably at the time the gentleman got his loan the default ratio may have been approaching 50 percent. It was true through much of the seventies. I am not sure when the gentleman got his loan, and that is not important; but yes, I guess the gentleman was a beneficiary, but what about the other 50 percent of the gentleman's colleagues in that same position who went out of business and lost everything they had?

For the Government getting them into business, the riskiest of the riskiest, we are not talking about Federal Expresses, we are not talking about the ones that the small business investment companies help out. We are talking about extraordinarily risky small business ventures.

I would maintain that we do not do those folks any favor, and the program, by and large, is not affected today.

Mr. MITCHELL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, there was a deadly silence in the committee hearing room when we conducted hearings on the direct loan program. The deadly silence was occasioned by Mr. John Yeh, an Asian-American who was a deaf mute. He went to Galludet College, just a whiz in terms of numbers, could not get a job, decided to go into business, a deaf mute.

He went to every bank, and simply because of his physical condition he was turned down.

Mr. John Yeh is now owner and president of Integrated Microcomputer Systems in Rockville, MD. It is a high-technology firm. He got a $100,000 direct loan from the SBA. He now employs 175 people, 50 percent of whom belong to minority business groups, and 20 percent of whom are deaf.

Mr. Theodore Holmes, who is president of Chicken George Chicken in Baltimore, now operates 13 restaurants and has signed franchise agreements for stores in 14 new areas. He started out with a $25,000 direct loan and now has sales in excess of $9 million with more than 350 employees.

Mr. Fred Ruiz in Tulare, CA, started out with a direct loan from the SBA. He now employs 300 people, has annual sales of $18 million and a processing plant of 50,000 square feet. Its payroll exceeds $3.5 million.

Do not tell me, do not tell me about the 35 percent who fail, and by the way, that figure is way off. Tell me about the 65 percent who succeed. Tell me about all those jobs that have been created that would not have been created had there not been a modest investment on the part of the Federal Government.

I have got five sheets of paper here where guys started out—and "guys" is a generic term, that includes women, where they started out with little loans of $25,000 and they have grown into viable businesses. They have grown out of the 8(a) program. They now employ hundreds of people, and somebody would deny Americans that opportunity.

What is the reality? The reality came out in the hearing. The reality is that for certain veterans, for certain disabled people and for certain minorities, no matter how good their business plan is, no bank will approve them. We heard that time and time again.

Does not the Federal Government owe a responsibility to those who are disabled, those who are veterans and those who are minorities who want to go into business? Can they not get the same shot as everybody else?

What my colleague does not understand is that since we imposed Gramm-Rudman we have cut the whole SBA program down, down, down. Long before that we got started on the cuts and now this is the same old invidious and insidious technique of keep cutting, keep cutting; if you cannot destory the program, try to cut it down to the point where it has no potency, no viability, and no meaning.

It is a war of attrition. That is what they are talking about. I think this House knows better than to accept this amendment.

I think we know the success stories, 5 to 1, 6 to 1 against any failures.

I think we know this is a part of the entrepreneurial dream of all Americans. I think we know that you cannot play it both ways. You cannot rant and rave against welfare and other programs without giving minorities, the disabled, and others, an opportunity to build a viable entrepreneurship program.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

I think it is important to point out what has happened to American business in the last 5 or 6 years and it is very important for us to analyze what we want to do to help small businesses in this country.

This administration should be called the Big Business Administration. In fact, the very folks we pay money to to deal with antitrust laws are the ones who are shaking the pompoms and cheering every time there is a big merger in this country.

I happen to care about small business and believe that broadbased ownership in this country represents also the long-term maintenance of broadbased political freedoms.

The gentleman in the well has been a leader on small business issues. I have been privileged in the past to serve under his chairmanship in the Small Business Committee and he has done an excellent job.

Let me just make one point about the gentleman from Iowa. I do not know whether a lot of folks know it, but the gentleman built a very successful business, and was named the Small Businessman of the Year. I do not suppose he would say that, but I would like to say it. I did not know be received Small Business Administration help; but I think that the SBA has been very important to some small businesses, and with the backdrop of what has been happening with big business in this country, I think we should care a bit about the future and the economic health of small businesses.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(At the request of Ms. OAKAR, Mr. MITCHELL was allowed to proceed for an additional 3 minutes.)

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I heard the gentleman use the generic term "guys" and I have no problem with that, because the fact of it is that many women have benefited from these loans that otherwise were discriminated against in terms of just because of a perception that somehow they could not head up a small business, and people like the gentleman from Maryland, the distinguished chairman of the Small Business Committee, Members like the gentlewoman from Louisiana, LINDY BOGGS, have really been champions in this area to say, "Look, if you are going to have a hard time going to a regular financial institution, my heaven's, why can't you get some support form the Small Business Administration?"

We know that 95 percent of our businesses in this great country of ours are comprised of small businesses.

Why do we always want to discriminate against small businesses by

taking the little leverage that we give them?

I might add that many people who happen to be white men have benefited from getting those kinds of support systems.

And by the way, they paid back the loans.

This is a bunch of baloney always that we point out the few cases, it is the same argument that is used against giving people the same opportunities with college loans, equal opportunities in education.

□ 1850

You always point out one or two people like Dave Stockman and others who did not always pay their loans out on time, but then you forget to mention the 90 or more percent of the young people of this country who have paid back their loans. This is the same case with small business.

Let us not discriminate against small business people, and give everyone a chance, including minorities and women, to head up their own business.

Mr. MITCHELL. Mr. Chairman, I thank the gentlewoman.

Mr. Chairman, let us face the reality. Unemployment for minorities, for the disabled, and for many women, has remained just about static. I do not see anyone making a major effort to try to reduce unemployment in those categories. All I am saying is, give us our chance. Give us our chance in small businesses, minorities and others, to employ people and chip away at that employment that you pay for. You pay $22 billion a year for every 1 percent of unemployment.

In the long run, if you enable us to move into some kind of economic empowerment, we chip away at that.

Mr. HILER. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL. I yield briefly to the gentleman from Indiana.

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first I would say that I have served with the gentleman on the Committee on Small Business for 6 years, and so when we talk about insidious, invidious amendments, these are the kinds of amendments that I have been offering for 6 years. I think that I have been very consistent, and I think that the gentleman will recognize that.

The second thing that I would mention is, in response to a comment earlier: In terms of the broad-based aspect of this amendment, you know, doing everything for small business in America, at its peak, back in the late seventies, the Direct Loan Program was providing loans for approximately 3,000 businesses a year—at its peak.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. MITCHELL] has expired.

(On request of Mr. HILER, and by unanimous consent, Mr. MITCHELL was allowed to proceed for 1 additional minute.)

Mr. HILER. Mr. Chairman, will the gentleman yield further?

Mr. MITCHELL. I yield to the gentleman from Indiana.

Mr. HILER. Now it is going to provide loans for approximately 1,000 this year.

Mr. MITCHELL. Mr. Chairman, I would like to reclaim my time, because what the gentleman is saying is only a part of the picture. Every year you increase the numbers. Nobody expects the Federal Government to take care of all business. Nobody expects the Federal Government to do that all in 1 year; it is not physically possible.

I want to close out with just one more example, if I may, Earl Edwards, president of Care & Emergency, Inc., an ambulance and paratransit company serving Philadelphia. He started out with an SBA loan of $10,000, and $70,000 of his own money. The firm now has 60 vehicles, employs 120 people, and is one of the largest ambulance services in Pennsylvania.

He testified before us, "SBA loans solved these problems for us."

Mr. Chairman, I am not going to argue any more. The case is clear. I urge Members to defeat this amendment.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY TO THE AMENDMENT OFFERED BY MR. HILER

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey to the amendment offered by Mr. HILER: In the second paragraph, before the the period insert ", and $15,000,000 for the Handicapped Assistance Loan Program".

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, due to the lateness of the hour I will try to be brief.

Mr. Chairman, I offer this amendment to protect and to preserve the Handicapped Assistance Loan Program of the SBA, a program that I have had a great deal of interest in since coming to Congress.

As my good friend, the chairman of the Small Business Committee, knows, I served my first two terms here in the Congress on the Small Business Committee, two terms during which I very much enjoyed working on that committee. In the past, when the Handicapped Loan Program was in jeopardy, I took action to protect the program. When the committee sought to triple the interest rates on handicapped loans, I offered an amendment that passed to keep the interest rate at 3 percent. When the administration sought to eliminate the program, I took a lead to save it.

In my view, Mr. Chairman, the SBA Handicapped Program is a good program. Since its inception, the Handicapped Assistance Loan Program, which began in 1973, has provided 218 million dollars' worth of direct loans. It has aided over 2,500 businesses owned by handicapped persons and workshop shelters.

On July 1 SBA made its fourth quarter selections for direct loans. I reviewed the list and I am encouraged by the selections. They include Satellink, Inc., $150,000 a company that could well be a future success story similar to that which the chairman referred to before; the Clay County Rehabilitation Center; and the Bakersfield Association for Retired Citizens. The lot goes on and on and contains one company after another that seems like a success waiting to happen.

Mr. Chairman, I believe that at a time when handicapped persons are making great strides in improving their lives, and proving that they can make it in the business world—by the way, they have one of the lowest default rates of any of the direct loan programs, some 8.5 percent—they have proven that not only can they make a buck, and become productive citizens, but they are responsible when the time comes to pay their loans.

I offer this amendment in the hope of preserving and saving this important program.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman do anything with veterans or equal opportunity or any of the other categories that while he was on the committee we talked about and worked on so often?

Mr. SMITH of New Jersey. I thank my friend for that question. I target preservation of the handicapped program with this amendment. But I do agree with preservation of the programs you cite and I will ultimately oppose the amendment of the gentleman from Indiana [Mr. HILER]. Let me also say that I think there is a possibility Mr. HILER's amendment will pass. Reputable groups like the National Federation of Independent Businessmen, [NAB] the leading advocate of small business in this country, and other organizations, are calling for a positive vote, an affirmative vote, on Mr. HILER's amendment as a way to reduce the deficit. I think at the very

least, we can save the handicapped program if his amendment does pass.

Mr. ROEMER. If the gentleman will yield further, I would just like to say that I appreciate the gentleman's remark and his work on the committee.

The fact is that 7 out of 10 Americans work for a small business. This is the court of last resort for them. Frankly, it costs pennies to the taxpayer.

It ought to be tightened. It ought to be made better. We have tried to do that under the leadership of the gentleman from Maryland [Mr. MITCHELL] for 6 years.

I urge Members to defeat the Hiler amendment.

Mr. SMITH of New Jersey. I would agree. But I also hope Members will support my amendment to save the Handicapped Direct Loan Program should Hiler pass.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask for an affirmative vote on the Smith amendment, and a no vote, on the amendment of the gentleman from Indiana [Mr. HILER].

I would like to point out a couple of things. We are talking about direct loans for individuals. The only individuals that today get a direct loan are veterans, primarily Vietnam veterans, economically disadvantaged—that is minorities, primarily, including women, and the handicapped.

Even if you exclude the handicapped from this cut, you are going to have women, minorities, and veterans involved.

We are not talking about some of the 13 million small businesses going in and getting money. What we are talking about is some people who want to start a business. I contend that even if 20 percent of what we loan to them is lost, it is cheaper than having them on welfare, or some other kind of a program, because the average loan is only $62,000. Twenty percent of that, you see, is $12,000. It is cheaper to give them that loan, give them an opportunity to go out there and sell a few things or whatever they are going to do. In many cases they are successful and end up employing other people.

I think that this is really not a good amendment at all, and I urge Members to defeat the Hiler amendment after they have approved the Smith amendment.

Mr. HILER. Mr. Chairman, I rise in opposition to the Smith amendment.

Mr. Chairman, I would just like to take a couple minutes to try to correct maybe some inaccuracies that have been left.

First of all, it was mentioned earlier that the default ratio is not approaching 35 percent in the area of the economic opportunity loans. In fact, it is approaching 35 percent. It is estimated in 1985 to be over 37 percent. And as the gentleman from Iowa [Mr. SMITH] mentioned, the overall default ratio is about 20 percent in the Direct Loan Program.

Second, we are talking about approximately, in 1987, 1,000 loans. At the peak of the Direct Loan Program, we were giving about 3,000 loans. So we are not talking about a program that is helping the broad-based 13 million small businesses.

The third thing that I would mention is that this House over the last 5 years, when given an opportunity to either increase the direct loan money, to decrease the direct loan money, or keep it the same, has reduced since 1982 the direct loan money from about $180 million down to this year's $97 million. So this House over the last 5 years has presided over and has approved a 50-percent reduction in this program.

Why did the House do that? Because when the priorities were set, the priorities said that this program has not warranted the money, it is not delivering the goods for the money that we are putting in, and the money is better put in other places.

□ 1900

Over the last 5 years, this House, that side of the aisle and this side of the aisle have presided over a 50-percent reduction. I think that the time has come where we cut this program off because it is not getting the job done.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HILER. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I thank my colleague.

That is our point. There are many on this side of the aisle who did not want that 50-percent cut. They were honest about that. They thought the program was important enough to keep at full funding levels.

There were some on this side of the aisle, I happen to be one, who thought we could tighten up, save money, reset our priorities, target the direct loans to where they would do the most good and take some chances on some people in America who nobody else would take a chance at all on. But there is a point where we reach the law of diminishing returns and you force us to face the issue.

We either eliminate the direct loan program now or we keep it tight and directly targeted like we have it. I prefer the latter, not the former.

Mr. HILER. I think the gentleman makes a point. I think we hit the point of diminishing return some time back, I would say to the gentleman from Louisiana, and now is the time to cut it off.

But there is disagreement obviously.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise today in support of the Hiler amendment to the Commerce, State, and Justice appropriations bill. This amendment would eliminate funding for the Small Business Administration direct loan program. Cutting the funding for this program would save $58 million this year. It also reduces the limit on the guaranteed loan program by 10 percent, or $243 million.

This amendment is supported by every major small business organization in the country. One may wonder why small business organizations would support an amendment that eliminates funding for a program intended to help small business. They do this for two reasons.

First, the primary concern of American small business is reducing the federal budget deficit. This amendment would make an important step in that direction. Secondly, however, American small businessmen have come to recognize that this program does not aid small businessmen, but in fact represents excessive government intervention in the private credit market.

An examination of the recent history of this program reveals that the SBA loan programs are ineffective and wasteful. Of the nation's 14 million small businessmen, less than 0.2 percent receive SBA assistance. Nearly 80 percent of SBA loan recipients are repeat borrowers, indicating that SBA is not a major source of start-up capital.

Nineteen percent of the guaranteed loan program is in default. Thirty-five percent of the direct loan portfolio is not being repaid. Overall, $2.5 billion of SBA loans are delinquent. Furthermore, over the past decade, the taxpayers have been forced to pay out over $4 billion to cover defaulted SBA loans.

American small business is the backbone of the economy accounting for nearly 50 percent of the gross national product. Two out of every three new jobs are created by small business. This program, while well-intended, is clearly a failure. Small business does not need its hand held. It needs a strong, stable economy which allows opportunity and rewards entrepreneurial spirit. The Hiler amendment helps small business and I urge your support.

Mr. DREIER of California. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from Indiana. It is consistent with the goals that we in this body want to achieve in terms of providing Government assistance in the most cost-effective manner possible.

Although I believe further cuts are possible, the Hiler amendment will bring about significant savings without hampering the SBA's lending activities. We need to get our fiscal house in order, and there's no better place to start than at the SBA. In fact, the National Federation of Independent Business, the Nation's top small business organization, has told us that a vote for the Hiler amendment is a vote for small business.

The most significant savings, $58 million in 1987 and $150 million over 3 years, will come

about by eliminating the SBA's remaining direct business lending programs. SBA direct lending has already been reduced from a broad program to one serving only minority, handicapped, and veteran small business owners. This is clearly an inefficient use of tax dollars. If private financing is not available, these groups should be encouraged to pursue financing through the guaranteed loan program.

The default rate for SBA direct loans is the highest of all SBA finance programs and is far too expensive given limited budget resources. Even with recent improvements in the program, the default rate stands near 20 percent—an unacceptable level for any credit program. In addition, the administrative costs, which are three times higher than for the guaranteed loan program, are too high to justify continuation of direct lending considering our current budget dilemma.

Beyond this unacceptable loss rate, we should be shifting our emphasis from direct lending to loan guarantees so that we can leverage private sector sources of funding and provide more assistance with reduced Government outlays. In fact, this is something that has been recognized in recent years. The Government has been moving away from direct lending and placing more emphasis on loan guarantees.

In 1985, total Government direct loan obligations were nearly equal to guaranteed loan commitments—$12.36 billion for directs and $12.08 billion for guarantees. In 1986, directs were $9.378 billion and guarantee commitments were $17.863 billion. If, as expected, these levels remain through the outyears, total outlays will decline from $10.7 billion in 1986 to $5.5 billion in 1991.

Although the significance of SBA loan guarantees on the overall small business economy is questionable, they are clearly more efficient than direct lending. And since it is congressional intent to provide assistance, it should be done in the most cost-effective manner possible.

As I pointed out, the Hiler amendment is supported by NFIB. It also has the support of the U.S. Chamber of Commerce, the National Association of Manufacturers, and other small business organizations who view the direct loan program as something small business can do without. In fact, NFIB recommended eliminating the remaining direct lending programs as part of their 1986 SBA reform proposal. In it, they state:

After decades of operation, the direct business loan program has failed to win the approval of this small business community. Fully half of the 1,250 NFIB members polled in a 1985 survey opposed direct governmental lending to small business.

Mr. Chairman, I urge my colleagues to support the Hiler amendment. Failure to enact these important reforms will mean fewer resources for other more worthwhile programs, and a missed opportunity to structure Government assistance to small business in the most efficient and cost-effective manner possible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH] to the amendment offered by the gentleman from Indiana [Mr. HILER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. HILER], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HILER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were— ayes 118, noes 243, not voting 70, as follows:

[Roll No. 229]

AYES—118

Archer	Hammerschmidt	Ray
Armey	Hansen	Ridge
Atkins	Hendon	Roberts
Badham	Henry	Rogers
Bartlett	Hiler	Roukema
Barton	Hopkins	Rowland (CT)
Bateman	Hutto	Saxton
Bliley	Ireland	Schaefer
Boehlert	Jeffords	Schulze
Boulter	Kasich	Sensenbrenner
Broomfield	Kindness	Shumway
Brown (CO)	Kolbe	Shuster
Burton (IN)	Kramer	Siljander
Callahan	Lagomarsino	Slattery
Carr	Latta	Slaughter
Chandler	Lent	Smith, Denny (OR)
Cheney	Lewis (FL)	
Coats	Lightfoot	Smith, Robert (NH)
Cobey	Livingston	
Coble	Lowery (CA)	Smith, Robert (OR)
Combest	Lungren	
Craig	Mack	Spratt
Dannemeyer	MacKay	Stenholm
Darden	Marlenee	Strang
Daub	Martin (IL)	Stump
DeLay	McCandless	Sweeney
DeWine	McCollum	Swindall
Dickinson	McGrath	Synar
DioGuardi	McMillan	Tauke
Dornan (CA)	Meyers	Taylor
Dreier	Miller (OH)	Thomas (CA)
Dyson	Miller (WA)	Vander Jagt
Eckert (NY)	Moorhead	Walker
Fawell	Morrison (WA)	Whittaker
Fields	Nielson	Wilson
Frenzel	Olin	Wolf
Gallo	Oxley	Wortley
Gingrich	Packard	Wylie
Gregg	Penny	Zschau
Gunderson	Petri	
Hall, Ralph	Porter	

NOES—243

Ackerman	Bryant	Dowdy
Akaka	Carney	Downey
Alexander	Carper	Duncan
Anderson	Chappell	Durbin
Andrews	Clinger	Dwyer
Annunzio	Coelho	Dymally
Anthony	Coleman (MO)	Early
Applegate	Coleman (TX)	Eckart (OH)
Aspin	Conte	Edgar
AuCoin	Conyers	Edwards (CA)
Bates	Cooper	Edwards (OK)
Bedell	Coughlin	Emerson
Beilenson	Courter	English
Bennett	Coyne	Erdreich
Bentley	Crockett	Evans (IL)
Bereuter	Daniel	Fascell
Bevill	Daschle	Fazio
Biaggi	Davis	Feighan
Bilirakis	de la Garza	Fish
Boggs	Dellums	Flippo
Bonker	Derrick	Foley
Borski	Dicks	Ford (MI)
Boucher	Dingell	Ford (TN)
Brooks	Dixon	Frank
Brown (CA)	Donnelly	Franklin
Bruce	Dorgan (ND)	Fuqua
Gaydos	Mazzoli	Seiberling
Gejdenson	McCloskey	Sharp
Gekas	McCurdy	Shelby
Gephardt	McDade	Sikorski
Gilman	McHugh	Sisisky
Glickman	McKernan	Skeen
Gonzalez	McKinney	Skelton
Goodling	Mica	Smith (FL)
Gordon	Mikulski	Smith (IA)
Gradison	Mineta	Smith (NJ)
Gray (IL)	Mitchell	Snowe
Gray (PA)	Moakley	Solarz
Green	Molinari	Solomon
Guarini	Mollohan	Spence
Hall (OH)	Montgomery	St Germain
Hamilton	Moody	Staggers
Hefner	Morrison (CT)	Stallings
Hertel	Mrazek	Stangeland
Horton	Murphy	Stark
Howard	Murtha	Stokes
Hoyer	Myers	Stratton
Hubbard	Natcher	Studds
Hughes	Neal	Sundquist
Hunter	Nelson	Swift
Hyde	Nichols	Tallon
Jacobs	Nowak	Tauzin
Jenkins	Oakar	Thomas (GA)
Johnson	Oberstar	Torres
Jones (OK)	Obey	Torricelli
Jones (TN)	Owens	Traficant
Kanjorski	Parris	Traxler
Kaptur	Pashayan	Udall
Kastenmeier	Pease	Valentine
Kennelly	Pepper	Vento
Kildee	Perkins	Visclosky
Kleczka	Pickle	Volkmer
Kolter	Price	Vucanovich
Kostmayer	Pursell	Walgren
LaFalce	Rahall	Watkins
Lantos	Regula	Waxman
Leach (IA)	Reid	Weaver
Leath (TX)	Richardson	Weber
Lehman (FL)	Rinaldo	Weiss
Leland	Robinson	Wheat
Levin (MI)	Rodino	Whitley
Levine (CA)	Roe	Whitten
Lloyd	Roemer	Williams
Long	Rose	Wise
Lowry (WA)	Rostenkowski	Wolpe
Lujan	Rowland (GA)	Wright
Luken	Russo	Wyden
Manton	Sabo	Yates
Markey	Scheuer	Yatron
Matsui	Schroeder	Young (AK)
Mavroules	Schumer	Young (FL)

NOT VOTING—70

Barnard	Garcia	Miller (CA)
Barnes	Gibbons	Monson
Berman	Grotberg	Moore
Boland	Hartnett	O'Brien
Boner (TN)	Hatcher	Ortiz
Bonior (MI)	Hawkins	Panetta
Bosco	Hayes	Quillen
Boxer	Hillis	Rangel
Breaux	Holt	Ritter
Burton (CA)	Huckaby	Roth
Bustamante	Jones (NC)	Roybal
Byron	Kemp	Rudd
Campbell	Lehman (CA)	Savage
Chapman	Lewis (CA)	Schneider
Chappie	Lipinski	Schuette
Clay	Loeffler	Shaw
Collins	Lott	Smith (NE)
Crane	Lundine	Snyder
Evans (IA)	Madigan	Towns
Fiedler	Martin (NY)	Whitehurst
Florio	Martinez	Wirth
Foglietta	McCain	Young (MO)
Fowler	McEwen	
Frost	Michel	

□ 1910

The Clerk announced the following pair:

On this note:

Mr. MCCAIN for, with Mr. ORTIZ against.

Ms. KAPTUR changed her vote from "aye" to "no."

Messrs. CRAIG, GINGRICH, ROBERTS, and LEWIS of Florida changed their votes from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

Mr. SWIFT. Mr. Chairman, I rise in support of this legislation.

□ 1920

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $10,000,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $15,000,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $7,600,000 of which $7,100,000 shall remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $594,500,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided*, That not to exceed $1,000,000 may be used for representation abroad: *Provided further*, That not to exceed $15,558,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That receipts not to exceed $1,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $141,754,000. For the Private Sector Exchange Programs $10,245,000, of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $55,000,000 to remain available until expended: *Provided*, That not to exceed $12,000,000 of these funds shall be available for construction of facilities for Radio In the American Sector: *Provided further*, That such amounts as may be necessary shall be available until expended for contingent termination or cancellation costs.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $11,500,000, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing *for* the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $17,500,000.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 56, strike out lines 1 through 5.

Mr. CONYERS. Mr. Chairman, the hour is late, and so the National Endowment for Democracy amendment to zero fund it and thereby return $17.5 million to our Treasury will not, hopefully, take much time.

Our colleague from New York, RICHARD OTTINGER, offered this amendment last, and it nearly succeeded several years ago, and since then the situation has worsened.

The Congress and the President, as you know, make foreign policy, not private organizations receiving taxpayer money. That is why we offer this amendment, to eliminate funding for the National Endowment for Democracy, which should be more appropriately called the Taxpayer Funding for Foreign Elections Act.

Not only do they interfere in the political activities of our neighbors and friends; France, for example, but they actually take taxpayer money and run ads to tell the Congress how it ought to vote on its foreign policy. It has been embroiled in one dispute, one embarrassment after the other. It has been investigated by the GAO. It has been found wanting on nearly every policy.

But the most extraordinary event that it is funding money through a front organization to a Nicaragua organization that in turn came back and ran full-page ads advising the Congress how it ought to respond to the funding for the Contras.

In addition to that, we find that private citizens and public organizations can do much better to raise money for promoting democracy than the U.S. Government.

As you may know, we have an incestuous situation on the board. The board is comprised of representatives from the U.S. Chamber of Commerce, the AFL-CIO and the Democratic and Republican Parties. Guess who gets the grants; right; the organizations from all of the above members of the board.

It is an embarrassing situation. It has gained us nothing in terms of improving our foreign relations. It has increased our difficulty in dealing with our neighbors in both Europe and in Latin America. I urge that we take these few minutes and save ourselves this rather small amount of money but improve the nature of foreign relations and leave it to the private organizations which raised, incidentally, over $1.5 billion citizens giving money to private organizations not connected to the U.S. Government or our Treasury.

Please join with me and eliminate this so-called National Endowment for Democracy once and for all.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman from Michigan for yielding. I rise in support of the gentleman's amendment.

What happens when we try to get cute like this is that we do not fool anybody except a certain percentage of the American people. When we channel this money to the political organizations that we want to help, it always becomes known in the recipient country. People know in the various countries. In many cases I agree with where the money goes. But we are not accomplishing very much by this pretense except to kid the American people.

The argument is the American Government cannot just do it up front, so we pretend. The American Government cannot do it, so the American Government puts on a wig and a pair of dark glasses and pretends it is not the American Government and everybody knows that it is anyway. So we give money to French unions because they do not like President Mitterrand. That was where some of the money went. We give money in some places usefully and in other places unusefully, but it is a $17.5 million item that is inappropriate and it leads to a little more disingenuousness than is important. I am not going to preach to this body excessive honesty. I understand we are all in the business, and sometimes you tell a little more of the truth than other times. But the problem with this organization is that it has kind of a congenital inclination toward pretending to be what it is not. Anytime the Government of the United States gives money and runs around the world pretending that it is just a group of private citizens helping democracy in a cheerful, patriotic fashion, it does not work very well. I am not opposed to various kinds of intervention, but this is a clumsy one and it is $17 million—rather ill-spent dollars as a result.

I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. CONYERS. Mr. Chairman, I believe two additional things need to be said. First of all, the labor movement has been doing work of this kind independently for many years, and I think they have been doing a great job by and large. I think that them being encumbered with Federal funding embarrasses the Government and ourselves as well. The second thing is that the chairman of this committee, Mr. SMITH, attempted to improve their status somewhat by adding an amendment that specifically prohibits the expenditure of NED funds to finance the campaigns of candidates for public office of any country. Somebody is going to make a big deal about it. But let me tell you it does not prohibit funding for other nonrelated campaign items like polling, precinct organizing, public relations, and fund raising. So join me in saying goodbye to the National Endowment for Democracy.

Mr. Chairman, I will ask for a recorded vote.

Mr. Chairman, I yield back the balance of my time.

Mr. GINGRICH. Mr. Chairman, I move to strike the last word, and I rise I opposition to the amendment.

Mr. Chairman, I find that this particular amendment one of the more peculiar exercises in this body. It illustrates, I think, one of the great weaknesses of some of our friends on the left who are eager to oppose dictatorship but do not quite know how to help create democracy. Beginning in the late 1940's under Harry Truman, the United States Government responded to the Soviet empire by systematically financing efforts to help democracy through the Central Intelligence Agency. That was done up until the mid-1960's.

Now while the gentleman laughs, the truth is that the French unions that were non-Communist, the Italian elections of 1948, efforts in Portugal, efforts in Greece were systematically funded by the United States to create democracy.

In the mid-1960's that ceased to be fashionable, and Ramparts and others published all sorts of articles and the Central Intelligence Agency was no longer usable for covert purposes.

So for almost 20 years, and I know the gentleman does not believe there is a Soviet empire and he does not believe there is a KGB and he does not believe that they systematically bribe people and pay people and hire people on a routine basis; but for almost 20 years we were not competing head on with the Soviet empire. There are places on this planet where you can find local reporters, you can find a Danish newspaper editor who was jailed by his own government because he was bribed by the KGB, and there was no Western competition that was systematic. The gentleman is right. The labor unions were involved on their own. What do the labor unions say? They say that by themselves they cannot compete with the Soviet empire.

What does American business say? It says that by itself it cannot compete with the Soviet empire.

Now, I find it very puzzling that a few weeks ago the gentleman, if I remember the vote correctly, was quite willing to give money to the African National Congress even if it was dominated by Communists. But the gentleman—and that was the vote, and Mr. BURTON can explain the amendment and you voted against it. It was a very clear amendment. But I find that the gentleman now says, and I go back to my good friend from Massachusetts who said we do not do it very well overtly. Well, the question I would ask is this: the current rules of the game are we do it up front, we say we are doing it, we do it out in the open. Sure, we are doing it clumsily. We are a great democracy. We are often sloppy. You do not want us to do it covertly, you think we do it overtly clumsily. Our Soviet opponents do it systematically, they compete with us head on; they are deeply involved in trying to undermine freedom.

If this country is not going to systematically try to encourage democracy—let us just give you a couple of examples: we are trying to help in Poland, and I can cite example after example where we are trying to help. We are trying to subsidize Samizdat, illegal publications. We are trying to help in Czechoslovakia. We are trying to help in Hungary. We are trying to help in the Soviet Union.

Shcharansky's immediate ally in the Helsinki movement in Moscow is now actively working on a grant from this program and says flatly it is an important program.

We have programs in Afghanistan, the Cultural Council of the Afghan Resistance; the American Friends of Afghanistan; the Cultural Council of the Afghan Resistance in Islamabad, Pakistan. We have programs helping lawyers in South Africa.

If you do not want your government to behave secretly and you do not want your government to behave overtly and you are competing with the Soviet empire, how are you going to compete?

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I will be glad to yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

First of all, I want to clear up those who are puzzled with reference to money to the African National Congress. It is nonexistent money. There was an amendment to the South Africa bill that said that we should not give money to the African National Congress. It was a bill which in no way, shape, or form gave money to the African National Congress. They might as well have put in an amendment that said we should not give any money to the Soviet Union.

Mr. GINGRICH. May I reclaim my time?

Mr. FRANK. Well, the gentleman was asking a rhetorical question.

Mr. GINGRICH. No, I was not rhetorical. We were putting money in that bill which could have been——

Mr. FRANK. There is no money in the bill for the African National Congress.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

There was some $20 million in funds that could have been given to the African National Congress, and the gentleman well knows that.

Mr. FRANK. Will the gentleman yield to me?

Mr. GINGRICH. Just a second. Let me just make clear the point: the amendment offered by Mr. BURTON

said in order to receive the money, the organization had to be prodemocracy and could not be dominated by Communists. I simply found it odd that while it was acceptable to vote against Mr. BURTON's effort to restrict and make prodemocracy that distinction and the debate is fairly clear on those pages in the RECORD, that it is, on the other hand, inappropriate for us to be openly and publicly systematically trying to help democracy. I find it confusing.

Mr. FRANK. Will the gentleman yield further?

Mr. GINGRICH. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

First of all, the bill did not have money, and it was not intended to go to the African National Congress.

The second point——

Mr. GINGRICH. Wait a second. I take back my time.

Mr. FRANK. Well, the gentleman was——

Mr. GINGRICH. The bill had potential money.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Maybe we ought to take just a deep breath, Mr. Chairman, and think about what we are voting on. Some of the issues and some of the comments really do not address the issue here today. We are talking about an $18 million appropriation from the Congress, not hundreds of billions or tens of billions but $18 million for public diplomacy; providing some grants for prodemocratic institutions, and indeed some of the groundwork for democracy has been laid right in Haiti through this fledgling institution.

Also, we have supported some funding for antiapartheid efforts in South Africa. Let me say that, as chairman of the subcommittee which oversees this in the authorization process for this program, I received a number of complaints about the program. We investigated each and every complaint, and every one that was brought to our attention was addressed. As a result, NED is now subject to a full audit by the United States Information Agency. NED is now covered by the Freedom of Information Act. NED must consult with the State Department in a proper way when it is active in a given country.

We think we have addressed the legitimate concerns and will continue to do so.

I said on this floor 2 years ago, "You bring me your concerns, and we will address them." We have addressed every concern regarding this very small program.

□ 1935

We will continue to do that. But this is not the time to walk away from a very useful program that gives a little funding around the world in face of millions, if not billions, of dollars from the Soviet and East bloc countries to publish papers and promote clauses that are anti-American and to setup structures that are antidemocracy. If we do not spend just a little bit in this area, we could be talking about a great deal more in defense spending in the future.

If the Defense Department makes a contract and the contractor does not operate well, you do not do away with the Defense Department; you straighten out the process and you make sure those contracts do not continue.

I guess that could go for us in the Congress. If we give money for program by an act of the legislature and that does not work, you do not do away with Congress; you try to correct the process and make sure that grants are made properly. That is all we are talking about here.

I have worked with the majority side and the minority side, and we have addressed every single issue of substance. Now we are down to some philosophical differences. I do not know whether we will ever settle them. But if there are problems, I will continue to work to correct them, and I ask for your support on this issue.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to address the question that I had apparently mistakenly assumed was addressed to me by the gentleman from Georgia, because my attempt to answer it before was not warmly received.

The gentleman asked what I planned to do. I am in favor, as I said, anticipating the gentleman's rhetoric, of many of the things that this entity does. I am opposed to some of them, giving money to French unions. It did seem to me that democracy and France was likely to work out on its own without the gentleman from Georgia's intervention.

But with regard to some of these other things, as I said, I am in favor of them.

I think I would like to do them overtly. I think we make a mistake and put ourselves at a disadvantage because we act as if we are a little embarrassed by it. These are legitimate things for the Government to do, to support Samizdat, to do these other things. But when we setup the National Endowment for Democracy and we pretend that it is not the U.S. Government but it is this National Democratic Institute and this National Republican Institute and a free AFL–CIO and the Chamber of Commerce, it looks almost as if we are embarrassed by it. We would be better off doing it directly. We would, I think, have fewer of these kind of errors. You would not have the confusion of funding that you have with PRODEMCA, which became a funding entity.

People have become concerned about the fungibility of entities, and they accept money for this and they are also going to be doing that. Well, PRODEMCA takes money on the one hand, and then puts ads in the paper on the other hand.

I think it would be cleaner if we just had a direct Federal Government program where we said, OK, if we wanted to do this, we would do it. I think we detract from it by pretending.

I would again say with regard to the African National Congress that since there was not money intended to go in there, I regarded that at the time as a somewhat graceless effort to try to discredit that effort by people who were embarrassed at having to vote against South Africa in order to save a little face.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(At the request of Mr. CONYERS, and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I enjoyed debating with the gentleman from Georgia. The gentleman presents an opposite ideological view from mine, but I want to assure the gentleman of a couple of things.

First of all, and I think the gentleman knows this, I am perfectly aware of the existence of the Soviet empire.

Second, I am perfectly aware of the existence of the KGB.

Those matters taken care of, I would like to return to the chairman's plaintiff pleading that they have done everything that could be dealt with about all the objections. That is simply not the case. As a matter of fact, if it were, there would be no need for this amendment.

Ninety percent of the National Endowment funds go to the organizations represented on board. It has been for the last several years. It presently does that. It is embarrassing, it is incestuous, it is unfair, and it is highly undemocratic.

Now, the question that the gentleman from Georgia raises is, What else are we to do? Do we want to continue to have the CIA doing it as they did covertly in years past? Answer: No. But let us use AID, the Agency for International Development.

What about all the private organizations to the tune of $1.5 billion that are already working in all kinds of po-

litical programs to whatever extent that they choose to?

So it is not a matter of NED or nothing. It is a matter of us gaining face and operating an American democratic system oveseas in a way that brings some kind of respect to our allies.

The French Government was being subverted by a political arm funded by NED. In Latin America, there were countries in which our own Ambassador had to write back to the United States and the letter became public complaining that NED was undermining American foreign policy.

Now, enough is enough. For all of those who wanted to cut back Legal Services just a little bit, for all of those who wanted to cut back other programs just a tiny bit, minority businesses and small businesses, let us just cut NED back just a little bit, to a zero funding.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take 5 minutes. I hope I am not going to take anything near 5 minutes.

When we had a vote on the House floor recently on providing economic assistance to the democracies of Central America, we made a very clear statement that maintaining and preserving democracy in places even outside of the United States was important to us; it was important to our national security; and it was important to the security of allies we care about.

Now, there are many ways to try to preserve and maintain that sort of democracy. There are ways that involve military assistance. There are ways that involve economic assistance. But we do not have a method that we use that is more effective than the National Endowment for Democracy, which reaches out to bring into this battle for freedom, for free press, for free trade unions, for free churches, those elements of our society which are not government, but which are labor reaching out to labor, which are our political parties, which are our businessmen reaching out to businesses elsewhere.

This is a very small amount of investment to make in an organization that is doing a superb job of promoting the democratic system and, ultimately, the benefit that all of us enjoy from having democracies in the rest of the world.

I urge my colleagues not to play games with this, but continue to support one of those organizations we have funded that truly works, works well, and which we ought to be increasing funding for and not talking about eliminating.

Mr. MICA. Mr. Chairman, I would just like to make two quick points.

One, after last year's discussion of this issue, this subcommittee chairman approached each individual who indicated that he or she had a problem with the legislation. Everyone of them but one agreed to sit down and work it out and we did. That is why we are here today.

Second, to say that 90 percent of all the funds go to the individuals represented by the board is the same as saying 90 percent of all the funds that we appropriate go to our constituents. NED has a wide-range board. That was the whole idea; to have some people from every persuasion in our democracy.

This particular board is not dominated by the right or the left, by any particular group. That was the idea.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for his comments, because I would say the beauty of this is, this is the Chamber of Commerce and the AFL-CIO, it is the Democratic Party and the Republican Party, sitting together for a common cause that we can believe in. That is what makes this such a great organization.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am the last person in this House I expected to be talking on anything tonight because I am trying to drive my family home to Wisconsin tonight after we finish this ungodly debate.

Let me simply say that I guess I have a funny idea of the institutional reponsibilities of this government.

□ 1815

I have a lot of disagreements with President Reagan, but if our national interest is to be promoted, I think it ought to be done directly, whether it is overtly or covertly done, by the administration we elect to run this country for 4 years. Whether I voted for the President or not, I think that the country is best served if efforts to influence events in other nations on behalf of official U.S. policy are undertaken by the people elected to do that.

In this instance, while I disagree with Ronald Reagan 80 percent of the time on foreign policy issues, except for the Middle East, I would say that the country is best served if we leave this job in the hands of the administration. If we do not like the way they do it, at least they are accountable. But I find the idea that we give the Democratic and Republican Parties responsibilities to promote some of these programs laughable. The Democratic Party cannot even run its own primaries intelligently in this country, and we are asking the Democratic and Republican Parties nationally to start getting involved in how other countries run their political business. I find that idea to be absolute nonsense.

I find something else highly disturbing. To me, this program is a classic example of how insiders in this town get their hands on a little cash and sometimes do good with it, and sometimes create a lot of confusion and not much else.

I do not like the idea of the Republican Party and the Democratic Party official leadership in this country getting together on programs like this and deciding what is in the best interest of this country because, with all due respect to the chairman of the Republican National Committee and the chairman of the Democratic National Committee, they were not elected to do that by anybody. There were elected to run partisan operations; they were elected to keep each other honest; but they were not elected to tell the Congress of the United States how to run policy. They were not elected to tell any other government how to run their policy either.

I would much rather see efforts to influence the conduct of other political systems run either covertly or overtly directly by Government actions rather than involving political parties, involving labor unions because there are a lot of critical things that labor unions need to do abroad. There are a lot of critical things that business needs to do abroad, and I do not want to give Soviets or anybody else in any other political system the argument that they can use that unions or business organizations are just another agent of the U.S. Government and so you cannot trust them and you cannot believe them.

I think that is a bad mistake for us to make. I think it is a clumsy way for us to defend our interests. In fact, I think it backfires on us. I think it makes our own Government less able to defend our interests abroad, and I urge the Member to support the amendment of the gentleman from Michigan.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, the profoundest point that the gentleman just made is that this is an extraconstitutional, foreign policymaking body. The Congress and executive share foreign policy decisionmaking. This departs from that and makes, in effect, the political parties, the labor unions, the business interests in this country actors in the foreign policy arena. It is nuts.

One of the points that the gentleman from Massachusetts made, I think all of us should understand. This is the month of July. There are two great dates in the history of independence and democracy. One is July Fourth; one is July 14. The largest grant of the National Endowment of Democracy was to support a group that attempted to overturn the elected

Government of France. That is so extraordinary that everybody in this Chamber ought to think about it.

We are giving money to overturn the Government of France. That country, we believe, does not know enough about democracy. Let me also stress that when you really get right down and think about it, one of the difficulties is that the President of the United States is going to have to deal with governments around the world in which we are attempting to give money to support or subvert. What happens when someone from a political party of that country is elected that the National Endowment of Democracy opposed. It just puts us in an untenable political position.

I urge support of this amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman's amendment.

Those who criticize the resort to force or the refusal to rule out the use of force to protect and preserve democracy should champion the existence of the National Endowment for Democracy. This organization projects the experience of the United States at its best to help other nations establish and solidify democratic institutions.

Our Subcommittee on Western Hemisphere Affairs held a hearing last year on the prospects for a transition to democracy in Chile. All of the witnesses expressed great concern about what influence the United States could wield in encouraging movement toward democracy in that nation. Each recognized that the range of United States options is quite limited, but one of the witnesses specifically cited the National Endowment for Democracy as a valuable tool for influencing change in Chile. But, he also criticized the restrictions already placed on the Endowment. Any action to eliminate funding for the Endowment would be shortsighted and counter to our interests in trying to encourage the democratic forces in Chile and many other countries.

That hearing further proposed the sponsoring of visits of Chilean opposition party leaders to the United States, promoting opportunities for youth leaders to intern with the national Republican and Democratic Parties and to take courses with the American Institute for Free Labor Development. All these suggestions fall specifically within the activities of the National Endowment and the private institutes founded in conjunction with the Endowment.

For example, the National Republican Institute for International Affairs, of which I am the chairman, during its short existence has undertaken projects to promote democratic elections in Grenada, Colombia, Guatemala, and in Bolivia. The example of Bolivia is particularly noteworthy. A serious threat existed in Bolivia for the cancellation, postponement or disruption of the national elections which successfully took place last year. But that threat was apparent earlier in the year, and in March, before the elections the Republican Institute cooperated with a nonprofit, nonpartisan public policy institution in Bolivia called Fundemos to conduct a voter education program to strengthen support for the democratic process. The project was a comprehensive series of meetings, media publicity and seminars on proelection, prodemocracy and profree enterprise themes. The success of the project is apparent since, in spite of last minute fears of the elections being postponed, the Presidential election took place as scheduled when the Bolivian Congress rejected calls to postpone the elections.

To silence the valuable work of the National Endowment for Democracy and the associated party and private institutes would be a severe blow for the cause of peace and democratic forces in the free world.

After the attempt last year to delete funding for NED, I submitted for the record two newspaper commentaries which strongly supported the continuation of the democracy program. I want to share with my colleagues, again, some of those thoughts.

The following is from an article by Morton Kondracke, entitled "Touting Democracy Is Worth the Cost":

The basic conception behind the NED is for private American organizations—the Democratic and Republican Parties, the AFL-CIO and the U.S. Chamber of Commerce—to use federally supplied funds to assist democratic forces in the world openly * * *. These are some of the projects the endowment has initiated or is considering.

Institution building in the Third World.

The AFL-CIO has the most practice in this field and is scheduled to receive the bulk of NED money to expand its training of peasant union organizers and democratic politicians * * *. The union, the parties, and the chamber of commerce also could work with Third World newspaper editors, religious groups and businessmen to press for democratic change in their countries.

Aid to dissidents in Communist countries.

The AFL-CIO, on its own, assisted the Polish trade union Solidarity. Other NED ideas included publication of dissident books in the West (in hopes they would filter back behind the Iron Curtain) and provision of medical and financial assistance to dissidents and their families * * *.

The Soviet Union spends vastly more money than Western Countries to send representatives to peace, youth and cultural conferences around the world. The NED-backed Congress could strive to correct the balance. The Congress also would arrange meetings of Democrats to discuss how to foster freedom in various countries * * *.

A project to train and exchange lawyers and law students in human rights watchdog groups in Africa, Asia, and Latin America. [sic] * * *.

Projects such as these could be financed by the CIA—and often have been in the past. NED is a far better way to foster democracy—an open and above-board way, in keeping with American values.

Another article by George Will goes to the heart of the argument about the morality of intervening in another country's affairs as represented by the NED. He says:

The moral status of an action is conditioned by the actor's intentions and results. We are a good nation interested in nurturing good things in nations afflicted with bad regimes. Besides, we tolerate all sorts of foreign attempts to shape opinion in our open society * * *.

Many opponents have used NED's little appropriation as an excuse for preemptive indignation about imaginable violations of the everstricter rules of political hygiene that are binding only on the United States.

There is a moral failing that theologians call "scrupulosity." It involves seeing moral fault where there is none, or fanatically seeking perfect purity when that is not desirable or even possible. The assault on NED is, in part, another excuse of scrupulosity regarding foreign policy.

Congress, it sometimes seems, would like a foreign policy conducted by Emily Post with the Warren Court squinting over her shoulder lest there be any violation of procedural niceties. NED is not perfect. The controversy about it illustrates how pursuit of the perfect injures the good.

For all those who criticize the Reagan administration for relying only on military solutions to the problems of the world, the National Endowment for Democracy provides the most appropriate solution because it promotes the cause of peace and democracy without resort to any military element.

I urge my colleagues to give their strong support for continued funding of the National Endowment for Democracy.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. MICA. I thank the gentleman for yielding.

Mr. Chairman, the truth has been somewhat stretched in this debate. To call this institution an extra-constitutional policymaking body because, "It tried to overthrow the Government of France," is really stretching the truth. NED funded some publications for two democratic organizations in France. The so-called pro-Gaullist rightwing organization with which these groups were allegedly connected no longer exists.

We checked into these charges. The PRODEMCA charge, for example, is simply untrue. Not one single penny of NED money was used. It was totally separate, and the GAO so testified.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to comment on that one point. On the PRODEMCA question, NED found a different grantee to administer the moneyas soon as that question was raised.

□ 1955

But the point here is that it is not just ideological, if the gentleman will continue to yield.

Mr. LAGOMARSINO. I continue to yield to the gentleman from Florida.

Mr. FASCELL. The point is whether you believe that there is a genuine need to go out publicly and help democratic institutions in other countries at various levels.

The CHAIRMAN. The time of the gentleman from California [Mr. LAGOMARSINO] has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words, and I will just take a few minutes to conclude.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield first to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and I join the gentleman in rising in opposition to the Conyers amendment which would eliminate an important program for our own Nation, the National Endowment for Democracy.

This body created the Endowment in 1983 in order to enable our Nation to participate more actively in the fight to spread the good news of democracy.

For too long our Nation has abandoned the field of political competition to the adversaries of democracy. This program begins the fight—at the grassroots level—against totalitarianism and authoritarianism of the left as well as the right.

The Endowment has significant programs in Guatemala, in Panama, Peru, Grenada, South Africa, Guinea, Zimbabwe, and elsewhere. Some of these programs work to help underground movements in such places as Poland, the U.S.S.R., and elsewhere.

The Subcommittee on International Operations of the House Foreign Affairs Committee has held three oversight hearings on NED just this year. We heard from a wide variety of witnesses—including the GAO and the Inspector General of the USIA, which audits this independent agency. While there were minor shortcomings revealed, the programs were found to be well-run on the whole. Under the leadership of the gentleman from Florida [Mr. MICA] and the gentlewoman from Maine [Ms. SNOWE], chairman and ranking minority member, respectively, of the subcommittee, we will continue to look at these programs, and we will be examining our findings and bringing to the floor whatever corrective legislation is necessary.

The Endowment represents an important means by which the United States can influence opinion around the world on behalf of democracy. If we succeed with persuasion, we will find it less necessary to resort to force to defend basic democratic values.

The Endowment is a lean operation which faces a difficult task. I urge my colleagues to reject this amendment and to demonstrate our support for the efforts of courageous democratic leaders around the world who look to the Endowment—and the Congress—for support in their struggle against totalitarianism.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I think the key word here is "ideas." So often when we talk in this House about the struggle between the forces of freedom and totalitarianism, we are warned to be cautious about the use of military and economic pressure, and we are told that really it is a struggle of ideas. Well, it is a struggle of ideas, and that is what the National Endowment for Democracy is all about, a struggle for ideas.

I just want to cite five or six examples of what the Endowment is doing and ask, do we want to give up this struggle?

In South Africa today this program is contributing to the Legal Education Trust of the Black Lawyers Association and the Association of Black Civil Rights Lawyers. Do we want to give up that struggle?

In Nicaragua the National Endowment for Democracy is contributing to the Permanent Commission on Human Rights, the La Prenza, and to two independent labor unions. Do we want to give up that struggle for ideas?

In Afghanistan it is contributing to a program that gives educational opportunities to Afghan children living in sectors not under Soviet control.

In Chile it is sustaining the independent trade union movement, providing material aid to exiled trade union leaders.

These are the sorts of programs that promote ideas, that promote democratic forces, that we should be encouraging. We should defeat this amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. FASCELL] has expired.

(By unanimous consent, Mr. FASCELL was allowed to proceed for 1 additional minute.)

Mr. FASCELL. Mr. Chairman, I rise in further opposition to the amendment.

I just want to say that the general idea behind NED is to have cross-communication with other democratic forces at various levels, and that is the reason the four core groups are part of this organization; because they represent major elements in our own democratic society. But they are not the only ones involved. The grantees represent a broad range of organizations involved in the communication process with peoples of other countries. Yes, it is new, and yes, there will be some mistakes, but they have been and will be corrected. We have all kinds of protections written into the law, not the least of which is common sense. They are there.

Let me conclude with this one statement and point out why this amendment ultimately must be defeated. Mr. Chairman, I attended a parliamentary conference of democracies not too long ago, and speaker after speaker got up and spoke about the necessity of the United States as a democracy, regardless of our politics or our ideology or where we stand in the political spectrum, to educate, advance, and promote the cause of the democratic pluralistic system.

If you do not believe there is excitement out there with other political parties, you are wrong. For the first time in history, American political parties are showing an interest in the development of democracy abroad, encouraging the opportunity for pluralistic efforts. If you do not believe that, you are wrong because there is tremendous excitement all over the world about this effort, as small as it is, and it is only in its infancy.

In conclusion, Mr. Chairman, I would ask, Do you know that in the conference I attended, what the ultimate question was that the democracies were asking themselves? Parliamentarian after parliamentarian from every democratic country, asked this bottom line question: Does democracy have the right to survive? Our answer should be today, by defeating this amendment, that it not only has the right to survive but we will take steps to ensure that all over the world where people are interested, when people ask us to help, we will do so.

ANNOUNCEMENT OF THE DEATH OF THE HONORABLE GEORGE M. O'BRIEN

(By unanimous consent, Mr. HYDE was allowed to speak out of order.)

Mr. HYDE. Mr. Chairman, it is my sad duty to announce that at about 5:30 this evening our colleague, Mr. GEORGE O'BRIEN, passed away. I thought the body should know that now. I hope you will remember him in your prayers.

I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 228, not voting 82, as follows:

[Roll No. 230]

AYES—121

Akaka	Hammerschmidt	Rangel
Anthony	Hansen	Ray
Archer	Hefner	Roukema
Bates	Hertel	Sabo
Beilenson	Hiler	Schaefer
Boucher	Hughes	Schroeder
Brown (CA)	Jacobs	Seiberling
Brown (CO)	Jenkins	Sensenbrenner
Carney	Jones (TN)	Shuster
Chandler	Kanjorski	Sisisky
Coats	Kaptur	Skeen
Conyers	Kastenmeier	Smith, Denny (OR)
Crockett	Kennelly	
Daniel	Kindness	Stallings
Dannemeyer	Kleczka	Stark
Daschle	Leach (IA)	Stenholm
Daub	Leath (TX)	Stokes
Dellums	Leland	Studds
Dingell	Lowry (WA)	Sundquist
Donnelly	Luken	Swift
Dorgan (ND)	Markey	Synar
Downey	Marlenee	Tallon
Durbin	Mazzoli	Tauke
Dymally	McCloskey	Taylor
Dyson	McGrath	Torres
Eckart (OH)	Mikulski	Udall
Edgar	Miller (OH)	Vento
Edwards (CA)	Mitchell	Visclosky
Emerson	Moody	Volkmer
Evans (IL)	Morrison (CT)	Walgren
Fields	Nielson	Weaver
Ford (MI)	Oakar	Weiss
Ford (TN)	Oberstar	Wheat
Frank	Obey	Williams
Frenzel	Olin	Wise
Gonzalez	Owens	Wolpe
Gray (PA)	Pease	Wyden
Gregg	Perkins	Wylie
Hall (OH)	Petri	Yates
Hall, Ralph	Pickle	Young (FL)
Hamilton	Rahall	

NOES—228

Alexander	Conte	Glickman
Anderson	Cooper	Goodling
Andrews	Coughlin	Gordon
Annunzio	Courter	Gradison
Applegate	Coyne	Gray (IL)
Armey	Craig	Green
Atkins	Darden	Guarini
AuCoin	Davis	Gunderson
Badham	de la Garza	Hendon
Bartlett	DeLay	Henry
Barton	Derrick	Hopkins
Bateman	DeWine	Horton
Bedell	Dickinson	Howard
Bennett	Dicks	Hoyer
Bentley	DioGuardi	Hubbard
Bereuter	Dixon	Hunter
Bevill	Dornan (CA)	Hutto
Biaggi	Duncan	Hyde
Bilirakis	Dwyer	Ireland
Bliley	Early	Jeffords
Boehlert	Eckert (NY)	Johnson
Bonker	Edwards (OK)	Jones (OK)
Borski	English	Kasich
Boulter	Erdreich	Kildee
Brooks	Fascell	Kolbe
Broomfield	Fawell	Kolter
Bruce	Fazio	Kostmayer
Bryant	Feighan	Lagomarsino
Burton (IN)	Fish	Lantos
Callahan	Flippo	Latta
Carper	Foley	Lent
Carr	Franklin	Levin (MI)
Chappell	Fuqua	Lewis (FL)
Cheney	Gallo	Lightfoot
Clinger	Gaydos	Livingston
Cobey	Gejdenson	Lloyd
Coble	Gekas	Long
Coleman (MO)	Gephardt	Lowery (CA)
Coleman (TX)	Gilman	Lujan
Combest	Gingrich	Lungren
Mack	Pepper	Smith, Robert (OR)
MacKay	Porter	Snowe
Manton	Price	Solarz
Martin (IL)	Pursell	Solomon
Matsui	Regula	Spence
Mavroules	Reid	Spratt
McCandless	Richardson	St Germain
McCollum	Ridge	Staggers
McCurdy	Rinaldo	Stangeland
McDade	Ritter	Strang
McHugh	Roberts	Stratton
McKernan	Robinson	Stump
McKinney	Rodino	Sweeney
McMillan	Roe	Swindall
Meyers	Roemer	Tauzin
Mica	Rogers	Thomas (CA)
Miller (WA)	Rose	Thomas (GA)
Mineta	Rostenkowski	Traficant
Moakley	Rowland (CT)	Traxler
Molinari	Rowland (GA)	Valentine
Mollohan	Russo	Vander Jagt
Montgomery	Saxton	Vucanovich
Moorhead	Scheuer	Walker
Morrison (WA)	Schulze	Watkins
Mrazek	Schumer	Waxman
Murphy	Sharp	Weber
Murtha	Shelby	Whitley
Myers	Shumway	Whittaker
Natcher	Sikorski	Whitten
Neal	Siljander	Wolf
Nelson	Skelton	Wortley
Nichols	Slattery	Wright
Nowak	Slaughter	Yatron
Oxley	Smith (IA)	Young (AK)
Packard	Smith (NJ)	Zschau
Pashayan	Smith, Robert (NH)	
Penny		

NOT VOTING—82

Ackerman	Fowler	McEwen
Aspin	Frost	Michel
Barnard	Garcia	Miller (CA)
Barnes	Gibbons	Monson
Berman	Grotberg	Moore
Boggs	Hartnett	O'Brien
Boland	Hatcher	Ortiz
Boner (TN)	Hawkins	Panetta
Bonior (MI)	Hayes	Parris
Bosco	Hillis	Quillen
Boxer	Holt	Roth
Breaux	Huckaby	Roybal
Burton (CA)	Jones (NC)	Rudd
Bustamante	Kemp	Savage
Byron	Kramer	Schneider
Campbell	LaFalce	Schuette
Chapman	Lehman (CA)	Shaw
Chappie	Lehman (FL)	Smith (FL)
Clay	Levine (CA)	Smith (NE)
Coelho	Lewis (CA)	Snyder
Collins	Lipinski	Torricelli
Crane	Loeffler	Towns
Dowdy	Lott	Whitehurst
Dreier	Lundine	Wilson
Evans (IA)	Madigan	Wirth
Fiedler	Martin (NY)	Young (MO)
Florio	Martinez	
Foglietta	McCain	

□ 2005

The Clerk announced the following pairs:

On this vote:

Mr. Shaw for, with Mrs. Boggs against.

Mr. Hawkins for, with Mr. McCain against.

Mr. STRANG changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of the department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.)

□ 2020

POINT OF ORDER

Mr. BONKER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BONKER. Mr. Chairman, I make a point of order against section 607 of the bill under clause 2(b) of House rule XXI. This section imposes a new duty on the head of each of the agencies funded in this bill. The new duty is to determine, before procuring any item or service from a foreign entity, whether it engages, directly or indirectly, in activities which, if it were a U.S. person, would violate section 8 of the Export Administration Act of 1979. As acknowledged in the Appropriation Committee report on this bill, this constitutes a change in existing law. Therefore, section 607 violates clause 2(b) of rule XXI and should be stricken from the bill.

The CHAIRMAN (Mr. BROWN of California). Does any Member desire to be heard in opposition to the point of order?

If not, the Chair is prepared to rule.

The Chair sustains the point of order for the reason stated in the statement of the gentleman.

The paragraph is stricken from the bill.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: At the end of title VI, insert the following new section:

"SEC. 608. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available by previously enacted law is hereby reduced by 5.03 percent."

Mr. FRENZEL. Mr. Chairman, we have been engaged all day in a spirited discussion and debate in the amending process on this important appropriations bill.

So far the committee has been able to fight off all of the amendments that have been proffered. Various programs have been attacked with big and little bites, and in every case the bill has escaped.

I think that most Members, however, know that the bill, according to CBO, is miles over the outlay totals on which our congressional budget is based. It does fit within the 302(b) totals which the committee assigned to itself.

I do not feel, however, that that should mean anything to this House, because we score the budget and we score the deficit on the basis of outlays alone. I am not trying to reduce the outlay totals down to the budget totals in this amendment. I will leave that for others.

It is also worth noting, however, that in this bill the committee managed to appropriate about 5 percent more than last year in an environment of something under 3-percent inflation. So the committee found enough needs out there that it had to give more than a current-services budget to the total range of programs served here.

I would like to raise some programs; I would like to lower some. I would like to make deeper deep cuts than those embodied in my amendment. I think, however, in fairness to the committee, that I want to support the committee's sense of priority with respect to the functions within this bill.

Therefore, my amendment says "Let us take it down to a freeze of last year's spending."

If you will look on page 5 of the committee report you will see exactly what I am doing. The bill is compared in new budget authority over 1986. My amendment is going to reduce $633 million, which is the increase over last year. It reduces discretionary program amounts by 5.03 percent to achieve the $633 million cut.

There are, as I understand it, three entitlement programs in this bill. My amendment specifically exempts those entitlement programs. They amount to about $289 million.

My amendment, by cutting everything else by 5.03 percent, will result in a net savings of about $633 million. In my judgment that would make today a good day's work.

Mr. Chairman, I have offered these kinds of amendments often in the history of the House. Mostly they are not successful. Members say "Well, you cannot do that because such-and-such a program is in there"—for instance, one that was defended today, legal services—cannot stand any kind of a cut. EDA is another program where the suggestions to reduce expenditures were resisted, and it was said that we could not possibly cut that program.

I have a lot of things in that bill that I like, that I think should be increased and should not be cut at all, but I believe that the only way in which we can make the budget case is to make it across the board. We have to tell everyone, and everyone's program, that the suffering is going to be relatively equal.

That does not mean that we think everything was just perfect last year. We may disagree with what the committee has done, but we do not change the committee priorities. We say merely that all of us will take a little suffering so that altogether we will have less suffering to do when the sequester resolution comes around.

I think that the current budget deficit is a disgrace. We voted for a $175 billion deficit last year. It is going to be perhaps $50 billion above that by the time we finish the fiscal year. We voted for a $142 billion deficit this year. Heaven knows what it will be until we pass a sequester resolution, if indeed we have the courage, or the good sense, to pass a sequester resolution.

My amendment cuts 5 percent, except entitlement programs. The net cut under my amendment is $633 billion, or pretty close to that, anyway. I am trying to find a way that we can save ourselves terrible trouble in the future and relieve the budget crisis that troubles all of us. I hope that the amendment will be passed.

Mr. FISH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I introduced the administration budget for the Department of Justice H.R. 4624. Three areas I think would be interesting to my colleagues. For the Federal Bureau of Investigation, the administration requested $1,278,000,000. The appropriation reported to us is $1,260,000,000. In the case of the Drug Enforcement Administration, the request is $411 million, and the appropriation for this is $412 million. The President requested for the Immigration and Naturalization Service $609 million, and the appropriation is $605 million.

We went through this process authorizing for these important elements, and at the request of the Republican members of the Committee on the Budget, minority members of the Committee on the Judiciary attended a meeting, and to a man we were in favor of these figures requested by the administration for the FBI, for drug enforcement, and for the Immigration and Naturalization Service.

So, Mr. Chairman, I rise in strong opposition to the pending amendment.

This amendment will simply undercut core law enforcement functions of the Department of Justice and hamstring administration efforts to discourage drug trafficking, apprehend and prosecute criminals, and deter illegal entry into our country. We must not, on the one hand, pay lipservice to reducing the scourge of drugs, safeguarding our citizens from crime, and regaining control of our borders—and at the same time deny the Department of Justice the minimal resources to carry out its work. The effort to balance the budget requires us to establish priorities for Federal expenditures—not to reduce essential and nonessential governmental activity indiscriminately.

The effects of this amendment will be antithetical to the wishes of the American people; they for good reason, want more rather than less enforcement of our laws. This amendment, however, will compromise the missions of the Drug Enforcement Administration, the Federal Bureau of Investigation, and the Immigration and Naturalization Service. The Government's capacity to litigate criminal and civil cases will be reduced—and court security provided by the U.S. Marshals Service will be threatened.

I urge my colleagues to defeat this amendment rather than overlook the dangers the Department of Justice must address.

□ 2030

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did support the Gramm-Rudman proposal and I supported it because I felt, as I do now, that we needed a mechanism to force this body to make the tough decisions we have not been making on the budget in the past years.

We need to set priorities. We need to get the feel of where we are going to go. The idea of forcing us to make those choices is what Gramm-Rudman is all about.

We may not fully succeed in that, and as the gentleman who has offered this amendment has said, we may see a point when we do have to face another fuller sequestration or vote one ourselves or whatever later this fall.

But I do not want, as one Member, to see us start not doing our job right now.

We have the obligation and we have the opportunity in this legislation today to make some choices to fund absolutely essential programs that this Member happens to think merit the priorities that perhaps others might disagree with, but I think most of this body would believe have a higher rating than some other programs.

We should not begin the process of appropriations with cutting the spending programs that fund law enforcement in this country, that hire the U.S. attorneys that are necessary to prosecute the criminals, that pay for the salaries of those people who lock up the prisoners of this country in the jails, that fund the building of jails when we have a 50-percent overcrowding already and we do not have enough space to put the people in that we do convict or, fortunately enough can, for drug trafficking and other serious crimes.

We should not, in this stage of the game, go out and cut the spending for the Immigration and Naturalization Service, which cannot process the paperwork for those matters of legal immigration, let alone have enough border patrolmen to begin to get control of our illegal crossings at the border.

We should not go down the line in the entire area of justice where law enforcement and immigration is concerned and make an across-the-board decision to cut tonight.

If we are going to make across-the-board cuts, let us do it for every program together later on. Let us do it as we did earlier with Gramm-Rudman, but let us not do it on this bill and pick on these programs tonight.

I urge my colleagues, as much as I respect the efforts of the gentleman from Minnesota, to defeat this amendment; it should not be passed. We should not be cutting the basic law enforcement programs of this country.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full time, but let me say this: This bill is over $3 billion below the administration request and it is admittedly $633 million over the fiscal year 1986 Gramm-Rudman level, but look where that money is going.

Two-thirds of it, over $400 million, is going for justice. That includes the FBI, DEA and the prison system. That is two-thirds of the increase over Gramm-Rudman for last year; $100 million of it goes for such things as NOAA and the International Trade Administration, Patents and Trademarks. I do not know where you can cut out of those numbers; $131 million of that increase from Gramm-Rudman last year goes for the SBA, and most of that is for making good on defaults from prior-year guaranteed loans and for the preservation of the capital fund.

This subcommittee labored long and hard and the thrust of what we tried to do was cut. We did cut. We manifested a number of cuts and we brought the bill in $3.1 billion under the administration request. That is worth repeating.

We have cut until we do not know where else to cut. I oppose this motion. I think it is not well-taken at this time. There are those who would like to do further cutting, and I am one of them, but I just do not think this is the bill that you should do this cutting on.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I am really a little surprised here. We know that these are authorization numbers and we are talking about budget authority, but when we come to Gramm-Rudman sequestration, we are talking about outlay. We have to understand that budget authority drives the outlay numbers.

We cannot walk away from the outlay numbers. In this bill, we are $1,052,000,000 over in budget outlay numbers. So you cannot divorce the two and simply say that we are going to couch ourselves in the House budget resolution and the conference report and ignore budget outlays, because the day will come in all these appropriation bills, with all the outlay numbers being over, if they are, and we are going to be in serious, serious trouble.

So this is the easiest way to go across the board and treat all 13 appropriation bills as evenly and as fairly as we can. Otherwise, we are doomed here and we lack the fiscal discipline and the responsibility to try to even talk about balanced budgets and eliminating this deficit.

We will never achieve that and all the talk and all the hype of Gramm-Rudman is ridiculous. We have got to face it. Here it is tonight, the appropriation bill, the first one on the floor. If we cannot handle this amendment across the board fairly so nobody loses a project, this is the best way to do it.

This is the cleanest, easiest way to face the fiscal discipline that this House should adopt.

Mr. ROGERS. Mr. Chairman, let me point out this as I close.

We are not talking about cutting projects here. We are talking about cutting the FBI and the Drug Enforcement Program at a time when, as has been pointed out here today in debate, narcotics and drugs are flooding the country as never before. It does not make sense for the Congress to cut the funds of the FBI and the Drug Enforcement Administration and the Federal Prison System. That is the wrong place to cut at this time.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my understanding that this bill is about $633 million above the levels provided for in the budget resolution. Unless you want to fund the first appropriations bill to hit the floor at a level $633 million above what we have provided for in the budget resolution, you have to vote for this amendment.

This amendment is an across-the-board cut. It is the fairest, easiest way to get that spending level back within the budget.

I urge its adoption.

Mr. CONTE. Mr. Chairman, this amendment would gut this bill which contains funds for very important and, in most cases, very popular programs.

For example, listen to some of the major increases over fiscal year 1986 levels which the author of this amendment would presumably cut out:

The FBI plus $103 million; the Drug Enforcement Administration, plus $48 million; the Federal Prison System, plus 136 million; the U.S. Courts, plus $112 million; the Immigration and Naturalization Service to police our borders, plus $34 million; and the legal activities of the Department of Justice, plus $72 million.

These are all "law and order" increases we have in this bill. These programs would be cut by this amendment.

Where else would you take these cuts?

How about some of the programs our committee restored from OMB's trash pile— like juvenile justice programs, or State and local justice grants, or the regional crime information sharing systems so popular with your local police,

Or the Economic Development Administration, which this House voted twice today to maintain at the committee reported level,

Or how about those weather stations and services and other NOAA programs that many of you have urged our committee to save? That also includes the sea grant and coastal zone management State grants.

These programs would be cut by this amendment.

We also have in this bill, Mr. Chairman, the second part of the diplomatic security program. There is $400 million in here to improve the protection of U.S. facilities and—more important—Americans serving and working overseas.

The committee has already cut the request for the diplomatic security program by more than a billion dollars due to budget constraints. We should not cut further.

My colleagues, this amendment may sound politically appealing, but remember these programs which would have to take the cuts.

Vote down this amendment.

□ 2040

AMENDMENT OFFERED BY MR. LUNGREN TO THE AMENDMENT OFFERED BY MR. FRENZEL

Mr. LUNGREN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN to the amendment offered by Mr. FRENZEL: Before the period at the end thereof insert "; except that this section shall not apply to amounts appropriated or otherwise made available for the Drug Enforcement Administration or the Federal Bureau of Investigation".

Mr. LUNGREN. Mr. Chairman, I understand what the gentleman from Minnesota [Mr. FRENZEL] is attempting to do, and I think under the rather ungainly procedure that we go through around here, it may be the best way to try and have us meet our obligations.

However, I think there are circumstances under which exceptions must be made. Right now, during the very week in which we are seeing stories in our newspapers and on our television sets about the United States engaged in major actions against drug dealers who are growing and producing illegal drugs in foreign countries to come here, I do not think it makes a great deal of sense for us to cut the amount of money that the committee has come up with for that same effort inside the United States and on our borders that is carried out by the Drug Enforcement Administration or the Federal Bureau of Investigation.

Many people forget that until about 6 years ago, the Federal Bureau of Investigation never involved itself in drug investigations. That came out of the fact that the former Director, J. Edgar Hoover, was so concerned about the possibility of corruption involving his officers, if they were engaged in drug investigations, that he held out against President after President after President. That change only came about in 1981.

Since that time, we have had a close coordination between the FBI and the Drug Enforcement Administration: The number of arrests, the amounts of illegal drugs that have been taken, the number of convictions have all gone up; and yet, at the same time, no one can stand here and declare victory in our war on drugs. We are just beginning what needs to be done.

I think as strongly as we feel about the budget process and as much as many of us think we ought to apply across-the-board cuts in this whole area, I do not think we ought to do it with respect to these two agencies that have the prime responsibility for drug enforcement in this country.

So if there is an exception to be made, I think it ought to be made with respect to the FBI and the DEA. It will amount, I believe, to approximately $84 million. So you would subtract that from the $633 million that the gentleman from Minnesota has suggested would be saved by his particular amendment.

I think it is a worthwhile amount of money; it is a worthwhile $84 million to apply to that effort. It is not everything the administration asked for. It is not everything that those of us on the committees would have liked. It is the figure, however, that the committee came up with in adjusting their priorities for spending in all categories.

I think as much as people may either support or be against the Frenzel amendment, they ought to have a vote loud and clear that we can cut our effort against the drug problem that is coursing through our streets throughout this country.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

I want to thank the Chairman for his patience; I think everybody in the House today will recognize the Chairman has done a good job. I would like to also compliment the chairman of the subcommittee and the ranking minority member, and make it very clear that I in no way criticize the work of this committee; I think the committee is made up of honorable, hard working people, and you have done a good job.

I am about to do something that I find very difficult and distasteful to do; and that is to vote for an across-the-board cut. We will hear people at this point say, "It's not right, it's not fair, it's indiscriminating to vote for across-the-board cuts," but there have been several of us who have been on the floor this entire day and we have offered recommendations for selective cuts, programs that are 20 years old that have not a proven record of effectiveness. We tried to make the cuts there. Programs that are controversial; we have tried to make the cuts there. We have tried to make the selective cuts, and due of course to the ability of the members of the committee, we did not achieve those cuts.

We tried to transfer money to do exactly what it is the gentleman from California now is asking us to do. The fact is, if we cannot make the selective cuts line by line with amendments, we are going to end up having to make across-the-board cuts. Either on appropriations bills as they come up, or through across-the-board Gramm-Rudman sequestering.

The more we move away from a line item decision making process, the more we move toward indiscriminate across-the-board budget cutting. The bottom line is we will make budget cuts, because the American people are demanding an end to the deficit through reductions in spending.

We can do this work and make these on a basis by amendment or by work in the committees and subcommittees where we take out those programs that no longer serve the American people and for which there are better private alternatives in contemporary America to what we had 20 years ago when they were first implemented.

We will make the cuts, and in that regard, I am going to now recommend that we support first the Lungren amendment to the Frenzel amendment and then subsequently the Frenzel amendment, because we have tried and we have not been able to do it on a line item basis.

We will continue with this process for appropriations bills because it must be done.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope we are drawing to a close here, but a few statements have been made that I think—it is necessary because this is a terribly important amendment; it is necessary to make before we vote.

Now it was said that this is an excess of the budget resolution: Not so. The Budget Act provides a ceiling overall. The appropriations subcommittees then are assigned allocations within the subcommittees. This is within the 302(b) allocation.

The reason the Budget Act does that is because it recognizes there are certain times when subcommittees have unusual circumstances, and other committees would be in a better position to absorb than this one. That is the case here.

This bill is over the freeze level of last year, but it is for a good reason; it is under the freeze level except for the following things: We had to increase over last year prisons by $136 million. These are requests the administration made; what good does it do to prosecute people for drugs if you do not have a prison to put them in?

We have already seen pictures on TV of them turning people loose because they did not have places in prisons. This 5-percent cut would cut prisons, even if the Lungren amendment is adopted.

The legal division, the U.S. attorneys and the U.S. marshals, increase, $72 million. How can you prosecute them after you catch them unless you have U.S. marshals and U.S. attorneys?

We just voted last year and the year before to increase U.S. attorneys and U.S. marshals for this very reason: If you believe in law enforcement, you have to be against this amendment, because it denies us the opportunity to provide the prisons, to provide the U.S. attorneys, to provide the marshals.

In addition, the FBI's $102 million and DEA authority $48 million, even if the Lungren amendment passes, you have the other problems. INS is $33 million increase over last year; the Judiciary, $142 million. There are 3,300

cases they cannot try unless they have this money.

What good does it do to catch people if you cannot try their cases?

Then there is the Board for International Broadcasting, $23 million; SBA, $132 million, but that is to makeup for guarantees that banks have turned in. The banks were promised that, "If you make these guarantees, if there is a default, we'll make up the money." We have been in a recession in most of this country. Next year it comes to $132 million more than it was last year.

Then there is the Census Bureau for $71 million; the Patent and Trademark Office; and everybody knows the problem there. That comes to $778 million.

After we added that money over last year, we had to go below the freeze level on other programs in this bill. We are below the freeze level on other programs, in order to put that money in.

That is the reason we have 302(b) under the Budget Act. So I say this is a responsible bill, and we should not have across-the-board cuts; we have done our job on this bill, and I ask for a "no" vote on the Frenzel amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from California.

Mr. Chairman, I will try not to extend this discussion unnecessarily. I know that Members want to be moving on to other pursuits.

I would say, however, that for those who are concerned that if we cut 5 percent in any program we will suddenly turn it off, I would say that 5 percent of a prison appropriation is 5 percent; it does not kill all the prisons that anyone intends to build.

□ 2050

I would say with respect to the DEA that in the committee bill the DEA is given about a 13.3-percent increase. If it should receive a 5-percent increase, it would still be getting about three times the rate of inflation as an increase and have a pretty healthy way of operating. I voted to give it more money today, or I voted in an attempt to give it more money today which was not achieved.

I have got individual priorities within the bill as well. We all do. But to say that for each of us that we have a pet project that is so important that it cannot stand even a 5-percent cut to help relieve the budget difficulty. I think makes these programs all of an importance such as it will frustrate every attempt of ours to reduce the budget deficit.

I will repeat, Mr. Chairman, while the committee alleges that its bill is within its 302(b) allocations and may well be because they have not been published for the House, the Congressional Budget Office says it is over $1 billion above the outlay total projected in the budget resolution that we passed in this House not once but twice.

In addition, it is $633 million over the amount appropriated last year.

Now with respect to the amendment of the gentleman from California [Mr. LUNGREN] I can certify that it will cut about $84 million, $85 million off the total that I wanted to remove. It is my judgment that is a real mistake to cutback. I understand his interest in those two agencies. I like a lot of different agencies, too, that I would like to put more money in, but I am going to continue to vote to try to hold down this deficit.

I hope you will, too, and vote against his amendment and for mine.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN] to the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken, and on a division (demanded by Mr. LUNGREN) there were—ayes 38, noes 28.

So the amendment to the amendment was agreed to.

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I shall not take 5 minutes. But I hope, as we vote on this important amendment, we will give some thought to a couple of things. The first and most important is whether or not this body can hide from the deficit problem because that is what we are voting on. We are not voting on just an appropriation. We are voting on the question of whether or not we are going to try to hide from the fiscal problems this country has.

Ask yourselves, first of all, when you cast your vote if you are pleased with the job we have done with regard to fiscal 1986? I do not think there is a Member of this House or a Member of the other body that can stand up and say they are pleased with the job we have done. The fact is that budget will be over $50 billion more than the budget target. The fact is we have ignored that budget and we have ignored the crying need of this country to bring its financial house in order.

The second question I hope you will think about is whether or not this measure complies with the budget for 1987. If you will glance at the booklet on page 6, you will find the answer to that. It is very clear; the 302(b) allocation indicates for outlays that we are over $1 billion over the 302(b) allocation.

There is no question about this budget—it is way, way over the 1987 budget.

Now whether or not you think it is worth complying with, let us look at this: the Office of Budget and Management has already indicated that the 1987 budget may well be $10 billion to $20 billion over the $144 billion target. The simple fact is we have got to go back and cut money from that budget, not add to it.

I hope you will ask yourselves a third question, and that is what kind of an example you set with this vote. This is the first appropriation bill out. Each one of you knows if we establish the precedent of ignoring the budget, that we are not going to get the job done on the other appropriations bills. This vote is far more important than just this bill. This vote is a precedent for what comes next.

The question is whether you can run and hide, and you cannot. Because as soon as this is over, if we are well over budget, we are going to face sequestering again, and that is across the board.

I believe we are far better off to face up to the issue now. I think we are far better off to comply with the job that we are charged with by the American people and, what is more, I think we ought to look at this vote as an opportunity to be true to ourselves and to the American people.

I urge an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL], as amended.

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Iowa. Mr Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 125, not voting 93, as follows:

[Roll No. 231]

AYES—213

Andrews	Coble	Fields
Annunzio	Coleman (MO)	Flippo
Applegate	Coleman (TX)	Franklin
Archer	Combest	Frenzel
Armey	Cooper	Gallo
Badham	Coughlin	Gekas
Bartlett	Courter	Gingrich
Barton	Craig	Glickman
Bateman	Daniel	Goodling
Bates	Dannemeyer	Gordon
Bedell	Darden	Gradison
Bennett	Daschle	Gregg
Bentley	Daub	Gunderson
Bereuter	Davis	Hall (OH)
Bilirakis	DeLay	Hall, Ralph
Bliley	DeWine	Hamilton
Boehlert	Dickinson	Hammerschmidt
Borski	DioGuardi	Hansen
Boulter	Dorgan (ND)	Hendon
Broomfield	Dornan (CA)	Henry
Brown (CO)	Duncan	Hiler
Bruce	Dyson	Hopkins
Burton (IN)	Eckart (OH)	Horton
Callahan	Eckert (NY)	Hubbard
Carney	Edwards (OK)	Hunter
Carper	Emerson	Hutto
Chandler	English	Hyde
Cheney	Erdreich	Ireland
Coats	Fawell	Jacobs
Cobey	Feighan	Jeffords

Jenkins	Neal	Smith, Robert (NH)
Johnson	Nelson	Smith, Robert (OR)
Jones (OK)	Nichols	Snowe
Jones (TN)	Nielson	Solomon
Kanjorski	Olin	Spence
Kaptur	Oxley	Spratt
Kasich	Packard	St Germain
Kindness	Pashayan	Staggers
Kleczka	Penny	Stallings
Kolbe	Petri	Stangeland
Kolter	Pickle	Stenholm
Lagomarsino	Porter	Strang
Latta	Pursell	Stratton
Leach (IA)	Reid	Stump
Leath (TX)	Richardson	Sundquist
Lewis (FL)	Ridge	Sweeney
Lightfoot	Ritter	Swindall
Lloyd	Roberts	Tallon
Long	Robinson	Tauke
Lowery (CA)	Roemer	Tauzin
Lujan	Rose	Taylor
Luken	Rostenkowski	Thomas (CA)
Lungren	Roukema	Thomas (GA)
Mack	Rowland (CT)	Valentine
MacKay	Rowland (GA)	Vander Jagt
Marlenee	Russo	Vento
Martin (IL)	Saxton	Visclosky
McCandless	Schaefer	Volkmer
McCloskey	Schroeder	Vucanovich
McCurdy	Schulze	Walgren
McGrath	Sensenbrenner	Walker
McKernan	Sharp	Weaver
McKinney	Shelby	Weber
McMillan	Shumway	Whittaker
Meyers	Shuster	Wise
Mica	Sisisky	Wolpe
Miller (OH)	Skeen	Wylie
Miller (WA)	Skelton	Yatron
Molinari	Slattery	Young (AK)
Montgomery	Slaughter	Zschau
Moorhead	Smith, Denny (OR)	
Murphy		

NOES—125

Akaka	Gejdenson	Oakar
Alexander	Gephardt	Oberstar
Anderson	Gilman	Obey
Anthony	Gonzalez	Owens
Atkins	Gray (IL)	Pease
AuCoin	Gray (PA)	Pepper
Beilenson	Green	Perkins
Bevill	Guarini	Price
Bonker	Hefner	Rahall
Boucher	Hertel	Rangel
Brooks	Howard	Regula
Brown (CA)	Hoyer	Rinaldo
Bryant	Hughes	Rodino
Carr	Kastenmeier	Roe
Chappell	Kildee	Rogers
Clinger	Kostmayer	Sabo
Conte	Lantos	Scheuer
Conyers	Lehman (FL)	Schumer
Coyne	Leland	Seiberling
Crockett	Levin (MI)	Sikorski
de la Garza	Livingston	Smith (IA)
Dellums	Lowry (WA)	Smith (NJ)
Derrick	Manton	Solarz
Dicks	Markey	Stark
Dingell	Matsui	Stokes
Dixon	Mavroules	Studds
Donnelly	Mazzoli	Swift
Downey	McCollum	Synar
Durbin	McDade	Torres
Dwyer	McHugh	Traficant
Dymally	Mikulski	Traxler
Early	Mineta	Udall
Edgar	Mitchell	Watkins
Edwards (CA)	Moakley	Weiss
Evans (IL)	Mollohan	Wheat
Fascell	Moody	Whitten
Fazio	Morrison (CT)	Williams
Fish	Morrison (WA)	Wolf
Foley	Mrazek	Wright
Ford (TN)	Myers	Wyden
Frank	Natcher	Yates
Fuqua	Nowak	

NOT VOTING—93

Ackerman	Boland	Bustamante
Aspin	Boner (TN)	Byron
Barnard	Bonior (MI)	Campbell
Barnes	Bosco	Chapman
Berman	Boxer	Chappie
Biaggi	Breaux	Clay
Boggs	Burton (CA)	Coelho
Collins	Kennelly	Parris
Crane	Kramer	Quillen
Dowdy	LaFalce	Ray
Dreier	Lehman (CA)	Roth
Evans (IA)	Lent	Roybal
Fiedler	Levine (CA)	Rudd
Florio	Lewis (CA)	Savage
Foglietta	Lipinski	Schneider
Ford (MI)	Loeffler	Schuette
Fowler	Lott	Shaw
Frost	Lundine	Siljander
Garcia	Madigan	Smith (FL)
Gaydos	Martin (NY)	Smith (NE)
Gibbons	Martinez	Snyder
Grotberg	McCain	Torricelli
Hartnett	McEwen	Towns
Hatcher	Michel	Waxman
Hawkins	Miller (CA)	Whitehurst
Hayes	Monson	Whitley
Hillis	Moore	Wilson
Holt	Murtha	Wirth
Huckaby	O'Brien	Wortley
Jones (NC)	Ortiz	Young (FL)
Kemp	Panetta	Young (MO)

□ 2105

The Clerk announced the following pairs:

On this vote:

Mr. Ray for, with Mr. Hawkins against.

Mr. Dreier of California for, with Mr. Ortiz against.

Mr. McCain for, with Mrs. Burton of California against.

Mr. Schuette for, with Mrs. Collins against.

Mr. Monson for, with Mr. Hayes against.

Messrs. RICHARDSON, EDWARDS of Oklahoma, WOLPE, and Ms. KAPTUR changed their votes from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. DORNAN of California. Mr. Chairman, I move to strike the last word.

PARLIAMENTARY INQUIRY

Mr. SMITH of Iowa. Mr. Chairman, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Iowa. Mr. Chairman, where are we on the bill? I thought we were at the end of the bill. What has happened?

The CHAIRMAN. There are lines awaiting to be read, and the gentleman from California has moved to strike the last word.

The gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Chairman, realizing how late the hour is, I would like to explain what I propose to do with a prolife amendment to cut off the Bureau of Prisons from funding abortion.

The procedure, because of a change in rules during my break in service here, is that I have to ask Members who are proud of their prolife status to defeat the motion to rise.

Some of you were maybe not on the floor when the gentleman from Illinois [Mr. HYDE] announced that at 5:35 this afternoon, GEORGE O'BRIEN died.

□ 2115

He was a ranking member of this subcommittee, and I know for two centuries of tradition, when a Member of this body went to his eternal reward we have always adjourned. So I do not even know what we are doing in session anyway at this moment.

I know that it has only been 22 days since GEORGE O'BRIEN at this spot at this lecturn and he told me many times he was very proud of his pro-life votes. As proud of them as any votes cast in this Chamber. The last time I spoke, I tried to appeal to the conscience and the good will and the mutual respect of every Member in this House, that we have debated this issue as thoroughly as any issue I have seen debated in the last decade.

I think we all know how we are going to vote; I do not want anybody to be confused that we are voting merely to get out of here on a go-away Thursday. This is going to be a looked at, pro-life vote; this attempt to defeat the motion to rise.

I would just say about the passing of a great Member, and I say this with all seriousness and respect, that this issue revolving around life is the most deeply tormenting and, in a sense, confusing issue because it does involve the very essense of why we are alive; what we are all about.

I say with respect to GEORGE O'BRIEN, just within the past few hours, has the answers. He knows whether these votes are important or whether they are not important. He knows whether my side of the issue was incorrect in its assumptions of when human life begins or whether we were wrong, and the judgment of others in this House was correct.

I do know that in the memory of my friend, I just have to call for this move to stop our committee rising so that I have a chance to put before this Chamber a very important amendment, although the loss of life in terms of us that believe that it is human life with an immortal soul, is not great, it is less than 50 a year over the last 5 or 6 years. It nevertheless is simply abortions being performed with Federal tax dollars.

Mr. HYDE has written to Attorney General Meese, and I must say as a friend of Mr. Meese I am shocked that our good friend and colleague has not had an answer to a letter of May 20, but Mr. HYDE has pointed out that the Hyde amendment policy established for other Federal health programs, including those within the Department of Defense, the Department of Health and Human Services, the Federal Employees Health Benefits Program, the Indian Health Service, by Executive order, I might emphasize, that in all of these cases, there is no funding with taxpayer dollars of elective abortion except where the life of the mother

would be endangered if the fetus were carried to term, an extremely rare circumstance, so rare that I have never heard of it in 10 years that we have been discussing this.

No one has actually come to the floor with a documented case. But we put that language in there.

Mr. Chairman, at this point I am including Mr. HYDE's letter to Attorney General Meese.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 1986.

Hon. EDWIN MEESE III,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: I am writing to urge you to bring Justice Department policy into conformance with general federal policy on funding of abortions.

Last year, Senator Jesse Helms discovered that the Bureau of Prisons has been funding abortion on demand for inmates of federal prisons. I understand that a similar policy is in effect in the Marshals Service and in the Immigration and Naturalization Service. A last minute effort by Senators Helms and Armstrong to attach an anti-abortion amendment to the department's appropriations bill was defeated by a single vote.

The department's policy on funding of abortions clearly runs counter to the "Hyde Amendment" policy established for other federal health programs, including those within the Department of Defense, the Department of Health and Human Services, the Federal Employees' Health Benefits program, the Indian Health Service, et cetera—that is, no funding of abortions, except "where the life of the mother would be endangered if the fetus were carried to term" (an extremely rare circumstance). Some of these programs are covered by explicit provisions of law, while others (e.g., the Indian Health Service) has been brought into conformance by administrative order.

The Bureau of Prisons is, of course, required to provide inmates with basic medical care. But Congress and the President have made it crystal clear that abortion is not to be regarded as just another "medical procedure." Even the Supreme Court has recognized, in upholding the constitutionality of the "Hyde Amendment," that "abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life" (Harris v. McRae). As you know, the Court ruled that the federal government is not obligated to fund abortions, whether or not they are deemed to be "medically necessary."

Earlier communications from others concerned with this problem have brought no response from your office. I urge you to promptly issue the necessary administrative orders to prevent further funding of abortion, or abortion-related expenses (e.g., travel expenses) by programs under your authority. If this is not done promptly, anti-abortion amendments may be offered to the Department's FY 1987 appropriations and/or authorization bills—possibly complicating the passage of those measures.

Thank you for your attention to this important matter.

Sincerely,

HENRY J. HYDE.

Now, while these other programs are brought into conformance of the will of the majority of this House and how we work out that will with the Senate in conference, we have this exception of the Immigration and Naturalization Service, the Marshall Service, and I think that we have to be consistent in the House when it comes to human life.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Illinois.

Mr. HYDE. I think what the gentleman is saying is you are asking this House to defeat the motion to rise for the sole purpose of permitting you to offer an amendment which will deny Federal funding for abortions within our prisons; about 100 a year. You are not denying anybody the right to get an abortion, but just not with Federal taxpayers' dollars on the theory that an abortion in a prison is the same as an abortion in a hospital.

Mr. DORNAN of California. Exactly. Thank you for clarifying that point.

The CHAIRMAN. The Clerk will complete the reading of the bill.

The Clerk read as follows:

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last work.

Mr. Chairman, I say with regard to the gentleman from California that I have not seen his amendment; I do not know what it is. I know there are several amendments for limitations on the bill. I do not think we want to get into limitations on this bill. I would add that there is language that was carried last year and voted again this year in section 606 relative to abortion. I do not think that we ought to put an amendment on here for every agency of Government. I do not think it is necessary.

I have not seen the amendment; I do not know what his amendment is.

So at this time I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DORNAN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 189, not voting 94, as follows:

[Roll No. 232]

AYES—148

Akaka	Gonzalez	Owens
Alexander	Gordon	Pease
Anderson	Gray (PA)	Pepper
Andrews	Green	Pickle
Anthony	Guarini	Pursell
AuCoin	Hefner	Rahall
Bates	Hertel	Rangel
Bedell	Horton	Richardson
Boehlert	Howard	Rodino
Bonker	Hoyer	Rose
Boucher	Hughes	Roukema
Brooks	Jacobs	Rowland (GA)
Brown (CA)	Jeffords	Sabo
Carr	Jenkins	Scheuer
Chandler	Jones (TN)	Schroeder
Coelho	Kaptur	Schumer
Coleman (TX)	Kastenmeier	Seiberling
Conyers	Kolbe	Sharp
Cooper	Kostmayer	Sisisky
Coughlin	Lantos	Smith (IA)
Coyne	Leath (TX)	Snowe
Crockett	Lehman (FL)	Solarz
Daschle	Leland	Spratt
Dellums	Levin (MI)	Stark
Derrick	Lowry (WA)	Stokes
Dickinson	MacKay	Stratton
Dicks	Markey	Studds
Dingell	Martin (IL)	Swift
Dixon	Matsui	Synar
Downey	McCandless	Thomas (CA)
Dwyer	McCurdy	Thomas (GA)
Dymally	McKernan	Torres
Early	McKinney	Traficant
Edgar	Meyers	Udall
Edwards (CA)	Mikulski	Visclosky
Evans (IL)	Miller (WA)	Walgren
Fascell	Mineta	Watkins
Fawell	Mitchell	Weaver
Fazio	Moody	Weiss
Feighan	Morrison (CT)	Wheat
Foley	Morrison (WA)	Whittaker
Ford (TN)	Mrazek	Whitten
Frank	Murphy	Williams
Frenzel	Myers	Wise
Fuqua	Natcher	Wolpe
Gallo	Neal	Wright
Gejdenson	Nowak	Wyden
Gekas	Oakar	Yates
Gephardt	Obey	
Glickman	Olin	

NOES—189

Annunzio	de la Garza	Ireland
Applegate	DeLay	Jones (OK)
Archer	DeWine	Kanjorski
Armey	DioGuardi	Kasich
Badham	Donnelly	Kildee
Bartlett	Dorgan (ND)	Kindness
Barton	Dornan (CA)	Kleczka
Bateman	Duncan	Kolter
Bennett	Durbin	Lagomarsino
Bentley	Dyson	Latta
Bereuter	Eckart (OH)	Leach (IA)
Bevill	Eckert (NY)	Lewis (FL)
Bilirakis	Edwards (OK)	Lightfoot
Bliley	Emerson	Livingston
Borski	English	Lloyd
Boulter	Erdreich	Long
Broomfield	Fields	Lowery (CA)
Brown (CO)	Fish	Lujan
Bruce	Flippo	Luken
Bryant	Franklin	Lungren
Burton (IN)	Gilman	Mack
Callahan	Gingrich	Manton
Carney	Goodling	Marlenee
Carper	Gradison	Mavroules
Chappell	Gray (IL)	Mazzoli
Cheney	Gregg	McCloskey
Clinger	Gunderson	McCollum
Coats	Hall (OH)	McDade
Cobey	Hall, Ralph	McGrath
Coble	Hamilton	McHugh
Coleman (MO)	Hammerschmidt	McMillan
Combest	Hansen	Miller (OH)
Conte	Hendon	Moakley
Courter	Henry	Molinari
Craig	Hiler	Mollohan
Daniel	Hopkins	Montgomery
Dannemeyer	Hubbard	Moorhead
Darden	Hunter	Nelson
Daub	Hutto	Nichols
Davis	Hyde	Nielson

Oberstar	Schaefer	Stangeland
Oxley	Schulze	Stenholm
Packard	Sensenbrenner	Strang
Pashayan	Shelby	Stump
Penny	Shumway	Sundquist
Perkins	Shuster	Sweeney
Petri	Sikorski	Swindall
Porter	Siljander	Tallon
Price	Skeen	Tauke
Ray	Skelton	Tauzin
Regula	Slattery	Taylor
Reid	Slaughter	Traxler
Ridge	Smith (NJ)	Valentine
Rinaldo	Smith, Denny (OR)	Vander Jagt
Ritter	Smith, Robert (NH)	Vento
Roberts	Smith, Robert (OR)	Volkmer
Robinson	Solomon	Vucanovich
Roe	Spence	Walker
Roemer	St Germain	Weber
Rogers	Staggers	Wolf
Rostenkowski	Stallings	Wylie
Rowland (CT)		Yatron
Russo		Young (AK)
Saxton		Zschau

NOT VOTING—94

Ackerman	Frost	Michel
Aspin	Garcia	Miller (CA)
Atkins	Gaydos	Monson
Barnard	Gibbons	Moore
Barnes	Grotberg	Murtha
Beilenson	Hartnett	O'Brien
Berman	Hatcher	Ortiz
Biaggi	Hawkins	Panetta
Boggs	Hayes	Parris
Boland	Hillis	Quillen
Boner (TN)	Holt	Roth
Bonior (MI)	Huckaby	Roybal
Bosco	Johnson	Rudd
Boxer	Jones (NC)	Savage
Breaux	Kemp	Schneider
Burton (CA)	Kennelly	Schuette
Bustamante	Kramer	Shaw
Byron	LaFalce	Smith (FL)
Campbell	Lehman (CA)	Smith (NE)
Chapman	Lent	Snyder
Chappie	Levine (CA)	Torricelli
Clay	Lewis (CA)	Towns
Collins	Lipinski	Waxman
Crane	Loeffler	Whitehurst
Dowdy	Lott	Whitley
Dreier	Lundine	Wilson
Evans (IA)	Madigan	Wirth
Fiedler	Martin (NY)	Wortley
Florio	Martinez	Young (FL)
Foglietta	McCain	Young (MO)
Ford (MI)	McEwen	
Fowler	Mica	

□ 2135

Messrs. GRAY of Illinois, BEVILL, FLIPPO, NICHOLS, VENTO, DE LA GARZA, PRICE, ERDREICH, and PORTER changed their votes from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 29, after line 5, insert the following new section:

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion or to provide facilities for the performance of an abortion, or for expenses of travel, staff escorts, or housing related to the procuring of an abortion, except where the life of the mother would be endangered if the fetus were carried to term.

Mr. DORNAN of California. Mr. Chairman, in the interest of time, I am not taking the well. I do want to expedite this process.

I would just suggest again that everyone vote their conscience and everyone respect one another's decision.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DORNAN].

The amendment was agreed to.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MOAKLEY] having assumed the chair, Mr. BROWN of California, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading on the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 269, noes 66, answered not voting 96, as follows:

[Roll No. 233]

AYES—269

Akaka	Bilirakis	Chandler
Alexander	Bliley	Chappell
Anderson	Boehlert	Clinger
Andrews	Bonker	Coats
Annunzio	Borski	Coble
Anthony	Boucher	Coelho
Applegate	Brooks	Coleman (MO)
AuCoin	Broomfield	Coleman (TX)
Bateman	Brown (CA)	Conte
Bates	Bruce	Cooper
Bedell	Bryant	Coughlin
Bennett	Callahan	Courter
Bentley	Carney	Coyne
Bereuter	Carper	Daniel
Bevill	Carr	Darden
Daschle	Kasich	Ridge
Daub	Kastenmeier	Rinaldo
Davis	Kildee	Ritter
de la Garza	Kindness	Roberts
Dellums	Kleczka	Robinson
Derrick	Kolbe	Rodino
DeWine	Kolter	Roe
Dickinson	Kostmayer	Roemer
Dicks	Lantos	Rogers
Dingell	Leach (IA)	Rose
DioGuardi	Lehman (FL)	Rostenkowski
Dixon	Leland	Roukema
Donnelly	Levin (MI)	Rowland (CT)
Dorgan (ND)	Lewis (FL)	Rowland (GA)
Dornan (CA)	Lightfoot	Rudd
Downey	Livingston	Sabo
Duncan	Lloyd	Saxton
Durbin	Long	Schumer
Dwyer	Lowery (CA)	Seiberling
Dyson	Lowry (WA)	Sharp
Early	Luken	Shelby
Eckart (OH)	MacKay	Sikorski
Eckert (NY)	Manton	Sisisky
Edgar	Markey	Skeen
Edwards (OK)	Matsui	Skelton
Emerson	Mavroules	Slattery
Erdreich	Mazzoli	Smith (IA)
Evans (IL)	McCloskey	Smith (NJ)
Fascell	McCollum	Smith, Robert (OR)
Fawell	McCurdy	Snowe
Fazio	McDade	Solarz
Feighan	McGrath	Spratt
Fish	McHugh	St Germain
Flippo	McKernan	Staggers
Foley	McKinney	Stallings
Ford (TN)	McMillan	Stangeland
Frank	Meyers	Stark
Franklin	Mikulski	Stokes
Fuqua	Miller (OH)	Stratton
Gallo	Mineta	Studds
Gejdenson	Mitchell	Sundquist
Gephardt	Moakley	Swift
Gilman	Molinari	Synar
Glickman	Mollohan	Tallon
Gonzalez	Montgomery	Tauzin
Goodling	Moody	Taylor
Gordon	Morrison (CT)	Thomas (CA)
Gradison	Morrison (WA)	Thomas (GA)
Gray (IL)	Mrazek	Torres
Gray (PA)	Murphy	Traficant
Green	Myers	Traxler
Guarini	Natcher	Udall
Gunderson	Neal	Valentine
Hall (OH)	Nelson	Vento
Hamilton	Nichols	Visclosky
Hammerschmidt	Nowak	Volkmer
Hefner	Oakar	Vucanovich
Hendon	Oberstar	Walgren
Henry	Obey	Watkins
Hertel	Olin	Waxman
Horton	Owens	Wheat
Howard	Oxley	Whittaker
Hoyer	Pashayan	Whitten
Hughes	Pease	Williams
Hunter	Penny	Wise
Hutto	Pepper	Wolf
Hyde	Perkins	Wolpe
Ireland	Pickle	Wright
Jacobs	Price	Wyden
Jeffords	Pursell	Wylie
Jenkins	Rahall	Yates
Jones (OK)	Ray	Yatron
Jones (TN)	Regula	Young (AK)
Kanjorski	Reid	Zschau
Kaptur	Richardson	

NOES—66

Archer	Fields	Miller (WA)
Armey	Frenzel	Moorhead
Badham	Gekas	Nielson
Bartlett	Gingrich	Packard
Barton	Gregg	Petri
Boulter	Hall, Ralph	Porter
Brown (CO)	Hansen	Rangel
Burton (IN)	Hiler	Russo
Cheney	Hopkins	Schaefer
Cobey	Hubbard	Scheuer
Combest	Lagomarsino	Schroeder
Conyers	Latta	Schulze
Craig	Lujan	Sensenbrenner
Dannemeyer	Lungren	Shumway
DeLay	Mack	Shuster
Dymally	Marlenee	Siljander
Edwards (CA)	Martin (IL)	Slaughter
English	McCandless	Smith, Denny

(OR)	Stenholm	Tauke
Smith, Robert (NH)	Strang	Walker
Solomon	Stump	Weber
Spence	Sweeney	Weiss
	Swindall	

NOT VOTING—96

Ackerman	Fowler	McEwen
Aspin	Frost	Mica
Atkins	Garcia	Michel
Barnard	Gaydos	Miller (CA)
Barnes	Gibbons	Monson
Beilenson	Grotberg	Moore
Berman	Hartnett	Murtha
Biaggi	Hatcher	O'Brien
Boggs	Hawkins	Ortiz
Boland	Hayes	Panetta
Boner (TN)	Hillis	Parris
Bonior (MI)	Holt	Quillen
Bosco	Huckaby	Roth
Boxer	Johnson	Roybal
Breaux	Jones (NC)	Savage
Burton (CA)	Kemp	Schneider
Bustamante	Kennelly	Schuette
Byron	Kramer	Shaw
Campbell	LaFalce	Smith (FL)
Chapman	Leath (TX)	Smith (NE)
Chappie	Lehman (CA)	Snyder
Clay	Lent	Torricelli
Collins	Levine (CA)	Towns
Crane	Lewis (CA)	Vander Jagt
Crockett	Lipinski	Weaver
Dowdy	Loeffler	Whitehurst
Dreier	Lott	Whitley
Evans (IA)	Lundine	Wilson
Fiedler	Madigan	Wirth
Florio	Martin (NY)	Wortley
Foglietta	Martinez	Young (FL)
Ford (MI)	McCain	Young (MO)

□ 2200

The Clerk announced the following pairs:

On this vote:

Mr. Young of Missouri for, with Mr. Dreier of California against.

Mrs. Schneider for, with Mr. Monson against.

Mr. Shaw for, with Mr. Campbell against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5161, the bill just passed, and that I be permitted to include tables, charts and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4567

Mr. OLIN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4567.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REPORT ON H.R. 5203, LEGISLATIVE BRANCH APPROPRIATION BILL, 1987

Mr. FAZIO, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-693) on the bill (H.R. 5203) making appropriations for the legislative branch for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. COUGHLIN reserved all points of order on the bill.

DIRECTING THE CLERK OF THE HOUSE TO MAKE A CORRECTION IN ENROLLMENT OF H.R. 3511, BANK BRIBERY AMENDMENTS OF 1985

Mr. CONYERS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 371), to correct technical errors in the enrollment of the bill H.R. 3511, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 371

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 3511) to amend title 18, United States Code, with respect to certain bribery and related offenses, the Clerk of the House of Representatives shall make the following correction:

In section 2, in the matter inserted in title 18, United States Code, as a revised section 215, in subsection (b)(8), insert "holding" before "company".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT TO MONDAY, JULY 21, 1986

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 18, 1986, TO FILE REPORT ON DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1987

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Friday, July 18, 1986, to file a privileged report on a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL 3 P.M., FRIDAY, JULY 18, 1986, TO FILE REPORT ON H.R. 2482

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until 3 p.m. on Friday, July 18, 1986, to file its report on H.R. 2482.

I understand that this request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REPORT ON JOINT RESOLUTION RATIFYING AND AFFIRMING THE REPORT OF JANUARY 15, 1986, OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET AND THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE WITH RESPECT TO FISCAL YEAR 1986

Mr. GRAY of Pennsylvania, from the Temporary Joint Committee on Deficit Reduction, submitted a privileged report (Rept. No. 99-694) on the joint resolution (H.J. Res. 676) ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986, which was referred to the Union Calendar and ordered to be printed.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. GEORGE M. O'BRIEN, MEMBER OF CONGRESS

Mr. PRICE. Mr. Speaker, I offer a privileged resolution (H. Res. 500) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 500

Resolved, That the House has heard with profound sorrow of the death of the Honorable George M. O'Brien, a Representative from the State of Illinois.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PRICE] is recognized for 1 hour.

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members will be notified as soon as plans for services are complete. Members may contact the Office of the Sergeant at Arms for details when they are available.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mr. PRICE. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 22, 1986, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 2210

MAKE HASTE SLOWLY IN CANADIAN FREE TRADE TALKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, as most Members are aware, the United States and Canada recently began negotiations aimed at establishing a free trade pact between the two nations. Free trade is a subject about which one hears a great deal these days, but it is not something we are privileged to see in action very often. Mr. Speaker, with respect to the proposed Canadian-United States Free Trade Agreement, this Member—and I strongly suspect I am not alone—has many questions about what it is we are seeking to accomplish and, more importantly, about who will be the winners and who will be the losers when all the dust has settled. Mutual benefits are certainly not assured in anything approaching a bilateral balance.

On the eve of the opening of the talks, Canadian Prime Minister Mulroney expressed to the citizens of Canada his belief that a free trade pact with the United States would be a good thing for their country. He went on to say, however, that if it turned out that the pact did not lead to more jobs and more prosperity for the people of Canada, it would never be signed. Well, of course, he would make such a statement, and it is appropriate for him to do so. It is equally appropriate, however, for political leaders in this country to say the same thing to their citizens. I would be reassured to hear someone in the executive branch say that unless this agreement results in greater prosperity for America, in more jobs, in more agricultural and industrial production here, then it will be this country which would reject such an agreement. I have listened, Mr. Speaker, but I have not heard such a statement.

So perhaps it would not be inappropriate for a Member of Congress to make this point, and, Mr. Speaker, I will be happy to do so right now. I will say that unless a United States-Canada free trade agreement yields substantial benefits for the United States it should never see the light of day. Neither should particular economic sectors in this country be subjected to great losses in such a bilateral free trade pact. It is fine with me if Canada benefits, as long as we do, too. It will be up to the negotiators to devise a pact that leaves both of us better off than before—even in the short term. While there inevitably will be costs and lost business or markets associated with such an agreement, they must not be so heavy or so large for individual sectors as to cause great economic dislocation in those sectors.

Mr. Speaker, the handling on this side of the border of what has come to be called the shingle and shakes war does not in my opinion, bode well for these talks. As Members will recall, the President recently imposed tariffs on a number of wood products imported from Canada, because they were judged to have been heavily subsidized. The reaction in Canada was one of outrage. The Prime Minister is reported to have dashed off an immediate, sharp letter to the President, suggesting that the United States was not playing by the rules. He backed up his words with stiff new tariffs on various products made in this country. These tariffs were said to be in retaliation for our actions, and I note that we have not yet given a specific action response to this latest Canadian action.

The effect of all this is to make it appear that Canada is the aggrieved party in this affair, when that is not clearly the case. The timing of our action, coming on the eve of free trade talks, could not have been worse, and, in announcing our decision without first serving careful notice to the Canadians, we apparently violated an understanding between the two governments that each would not surprise the other in this manner. So I would agree that the Canadians had a point along these lines, and I wish we had handled it more adroitly. But a very real point—the fundamental point—is that the United States had, it would seem, a legitimate trade grievance. We retaliated because we judged that the Canadians were using unfair/illegal subsidies. Our retaliation and their subsequent retaliation essentially, at a minimum, cancels out our action. That, according to my arithmetic, still leaves them one ahead of us.

One other area of precedent that I think may not be a good one for us is the United States-Canada auto pact. Mr. Speaker, I may be wrong, but I have the impression that this pact is generally more favorable to the Canadians than it is to us. My suspicion is heightened by the fact that the chief Canadian negotiator has said that the auto pact should not be on the table during the current trade talks. Well, of course, the Canadians don't want to tinker with it if they are the major beneficiaries. But if it really is true that we are coming out on the short end of this agreement, then we ought to insist that it be included, or at least used as a bargaining chip, in the current talks.

Mr. Speaker, at least one other potential problem needs mention, and that is the very important issue of impacted sectors. It is entirely possible that the negotiators will be able to come up with a package which is in the overall benefit of both the American and the Canadian peoples. But then we will have to look at the losing sectors—short term and long term; there surely will be some. If an agreement is generally beneficial to the American people but leaves U.S. pork producers, cattlemen, or our forest industry devastated, then I do not be-

lieve it should be acceptable. Certainly I know that various of my colleagues have concern over a number of other goods, including potatoes, fish, beer, and various industrial products, and that they will not stand by while these commercial areas are devastated by either unfair trade practices or an inappropriate bilateral free trade agreement. I urge them not to wait too long in making their concerns known.

Mr. Speaker, as I understand the procedures, if a foreign nation requests negotations on the establishment of a free trade relationship, the President must seek instructions from the other body before agreeing to the talks. In the case at hand, it was decided to use the so-called fast-track approach. The administration's first hint of trouble came when the Senate Finance Committee barely agreed, on a tie vote, to let the talks proceed. That alone should have been sufficient justification for the administration to put this on the slow track.

For better or for worse we have entered these negotiations, and I am not suggesting that we retreat from them. We should proceed, with the hope that we can conclude an agreement of general and specific benefit to the peoples of both of these great North American nations. Some observers say that it is Canada which is more worried about these talks, and legitimately so, since it is they it is said, who stand to be swallowed up economically or culturally or in some other way by its much more powerful neighbor—the United States of America. Logically, that might be the case. But in past years this country has such a poor record in trade negotiations, a record of being overly generous, of not aggressively protecting our own best interests, of just plain giving away the store, that we as American legislators need to be worried, too. And so until I see a free trade agreement which I judge truly to be in the interests of the vast majority of the American people and not too damaging to any economic sectors, I intend to keep a very close watch on the course of these negotiations and am now publicly expressing my concern and suspicions about any fast-track approach.

ST. LOUIS PARK, MN—SUPERFUND SUCCESS STORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, I would like to bring to the attention of the House the extraordinary success achieved by the city of St. Louis Park, MN in its efforts to combat and conquer a complex ground water problem that has long plagued the area.

Potentially cancer-causing hydrocarbons were first detected in city well water in 1978. Since then, the city has worked diligently to remedy the situation. The cause of the contamination was a former creosote plant. The problem area became celebrated as one of the first Superfund toxic waste sites.

The ultimate result of the city's efforts is a $750,000 granular activated carbon treatment plant. The plant was put into operation on Wednesday, July 10, with a jubilant toast of the sparkling clean water. The plant has met and exceeded all targets, and now removes all cancer-causing hydrocarbons from the treated water.

Mayor Lyle Hanks and past St. Louis Park Mayor Phyllis McQuaid deserve special praise for their untiring and effective efforts to solve persistent city water pollution problems. So do dozens of other city officials, city employees, and general citizens.

St. Louis Park overcame many bureaucratic stumbling blocks along the way. Too many bureaucracies were involved. The Environmental Protection Agency, the Department of Justice, the Minnesota Pollution Control Agency, and the Minnesota Health Department, and even the Congress, were all simultaneously enmeshed in the proceedings. All of them tried to be helpful, but often the City felt that with friends like these, it didn't need any enemies.

But St. Louis Park did not get discouraged. It waited patiently for long-delayed approvals. It waited for its Superfund grant. It first sued, then negotiated with the successor corporation of the original polluter. Each of its efforts was carefully planned and effectively executed.

Completion of the new facility is a great tribute to local drive and determination. Lots of State and Federal agencies were involved, but the local folks got the job done.

This is a brilliant example of a local initiative and all Minnesotans can bask in St. Louis Park's reflective glory.

I offer my personal congratulations and appreciation to all the citizens of St. Louis Park for this splended accomplishment.

As an aside, I want to give personal thanks to City Manager Jim Brimeyer, on whose sturdy shoulders fell most of the administrative burdens. His patience and persistence have been exemplary. Every city should have a Jim Brimeyer.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HAWKINS] is recognized for 5 minutes.

Mr. HAWKINS. Mr. Speaker, almost 4 years have passed since the Job Training Partnership Act was signed into law. This act represents the cornerstone of the Nation's Federal employment and training program for disadvantaged youth, adults and dislocated workers. Since its enactment in October 1982, extensive oversight has been conducted on implementation of the act. During this Congress, the Subcommittee on Employment Opportunities has conducted 9 days of oversight hearings on the act.

In 1984, House and Senate staff conducted four bipartisan forums and site visits around the country on the effectiveness of the new law. Although many of the participants expressed concern with some facets of implementation, there was a consensus that Congress should avoid premature "tinkering" with the act. We are cognizant of the fact that frequent amendments to JTPA's predecessor, the Comprehensive Employment and Training Act [CETA], made effective planning and implementation difficult and undermined the stability of the system. As a result, both the House and Senate have been reluctant to propose changes in this law.

Today, however, in response to the requests for clarifying or perfecting changes in the law, I am joined by four of my colleagues in introducing amendments to JTPA. These amendments have been developed by a bipartisan coalition of Mr. JEFFORDS, the ranking Republican member of the Education and Labor Committee; Mr. MARTINEZ, chairman of the Subcommittee on Employment Opportunities; Mr. GUNDERSON, ranking Republican member of the subcommittee; and Representative PAT WILLIAMS. It is our intent to effect only a few essential changes in the law.

The major impetus behind the need for amendments stems from the fact that the act does not include a substate hold harmless provision for title II–A, the basic training grant for adults and youth. As a result, many service delivery area [SDA's] have experienced significant fluctuations in their funding levels which undermine program stability. I believe that it is necessary to point out that the committee views the substate hold harmless provision as a temporary solution and does not intend to preclude the likelihood of reviewing formula factors in the next Congress.

Earlier this year, the Department of Labor contracted with ABT Associates to review the formula factors and issue a report by September of this year. Because there would not be sufficient time for Congress to address this matter in September, we have decided to pursue a temporary solution to deal with this problem which has had a negative impact on numerous SDA's.

The other compelling reason for introducing these amendments is to clarify the use of the 6-percent incentive grant set-aside to include preventative technical assistance and post program data collection. Recently, the Department of Labor issued a proposed regulation which would prohibit the use of the 6-percent funds for both of these purposes after October 1, 1986. As one of the original authors of JTPA, I believe that it is imperative that Congress clarify its intent with respect to the 6-percent funds. It was certainly not my intent that technical assistance be provided only to SDA's who fail to exceed performance standards, but also to those who are in danger of failing to met performance standards.

The committee supports the Department of Labor's new post program data collection plans and believes that States and SDA's should be permitted to utilize the 6-percent funds for costs associated with developing and implementing such data collection for a period not to exceed 5 years.

This bill also addresses the plight of the growing numbers of dislocated farmers. In response to Mr. GUNDERSON's recommendations, our bipartisan coalition has incorporated

several amendments into this package which seek to encourage the delivery of services to this group.

Finally, youth unemployment continues to be one of the most serious problems facing our Nation today. Although unemployment has declined somewhat in recent years, overall youth unemployment remains at 19.1 percent and at an astounding 40.2 percent for black youth. I believe that it is incumbent on the Congress, the administration and the Nation to address the problems associated with youth unemployment such as illiteracy, lack of basic skills and school dropouts. While I am convinced that we need more than just a retargeting of existing funds, I do not believe that this clarifying and perfecting bill is the appropriate vehicle for addressing these problems in a comprehensive manner. However, this bill responds to this national problem, in part, by targeting a portion of the 8-percent education set-aside for dropout prevention, literacy training for youth and adults, and statewide school-to-work transition programs. The bill also encourages SDA's to provide a remedial education component in the summer by allowing SDA's to count the summer funds toward meeting up to one quarter of the 40-percent youth requirement under title II-A.

Mr. Speaker, for the benefit of my colleagues, I am including the following summary of these amendments in my remarks.

SUMMARY—JTPA AMENDMENTS

1. *Definition of Economically Disadvantaged*—changes the period of time during which family income is considered for eligibility from 6 months to 12 months. There is no comparable Senate provision.

2. *Designation of Service Delivery Area*—modifies one factor in providing for SDA self-determination. Currently a consortium of units of general local government with a population of 200,000 or more which serve a substantial portion of a labor market area shall be approved as a SDA. This amendment broadens this exemption so that a consortium which serves a substantial portion of one or more labor market areas can be considered. This is an amendment taken from Mr. Williams' bill, H.R. 4115. There is no comparable Senate provision.

3. *Literacy and Dropout Prevention Program*—targets a portion of the 8 percent state education set-aside on specific objectives. Currently, 8 percent of the money a state receives is held for joint education-SDA programs. Although the amendment provides no programmatic direction, it requires that 40 percent of the funds that are reserved for joint programs be focused on literacy, dropout prevention or statewide school-to-work transition programs, or any combination thereof. In total, 2.5 percent of the funds received by the State under the basic state grant would be reserved for these purposes. There is no comparable Senate provision.

4. *Sub-state Hold Harmless*—mandates a 90 percent substate hold harmless for Titles II-A and B based on the allocation for the preceding program year. This amendment corrects an oversight in the original bill. States already enjoy a 90 percent hold harmless provision. The effective date of this provision is July 1, 1987. The Senate bill provides for a hold harmless of up to 90 percent at the discretion of the Governor based on a three year average.

5. *Summer Youth Remediation*—permits SDAs to use basic state grant money (Title II-A) and SYEP money (Title II-B) to provide remediation as part of the summer youth employment program (SYEP). While current law does permit the use of these funds for this purpose, this amendment allows SDAs to count the Title II-B (SYEP) funds toward meeting not more than one-fourth of the 40 percent youth requirement under Title II-A. The Senate mandates that for the fiscal years 1987 to 1990, 25 percent of the SYEP money be used to provide remediation. Effective the summer of 1991, performance standards must be established for SYEP.

6. *Use of 6 Percent Funds*—allows the incentive grant set-aside to be used for general technical assistance and to fund the implementation of post-program data collection. Currently only those SDAs that have not exceeded their performance standards can receive or participate in technical assistance. This restriction does not allow for "preventative" technical assistance. The amendment permits long-term follow-up to be funded out of the 6 percent set-aside for a period not to exceed five years. The Department of Labor recently promulgated a proposed regulation which would prohibit using the 6 percent funds for either of these activities after October 1, 1986. The corresponding Senate provision only addresses the provision of preventative technical assistance.

7. *Summer Youth Programs*—allows Summer Youth Programs to be offered during the "regular vacation time of the student" whether or not it is in the "regular" summer months. This provision addresses the concerns of those schools that are going to the year-round school calendar. There is no comparable Senate provision.

8. *Identification of Dislocated Workers*—adds self-employed and farmers to the definition of dislocated workers under Title III. Similar to the Senate provision.

9. *Taxation of Job Corps Operations*—clarifies that Job Corps Contractors cannot be charged sales or use tax in the operation of a Job Corps Center. This language is merely a clarification of the intent of the law, and has the support of the Department of Labor. The Senate has no comparable provision.

10. *Labor Market Information*—requires the Secretary of Labor to develop a means by which statistical data relating to permanent dislocation of farmers and ranchers can be collected and published.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I was unavoidably detained on official business during rollcall vote No. 223 earlier today. I ask unanimous consent that my personal explanation appear in the RECORD. Had I been present on the House floor, I would have cast a "yea" vote for approval of House Resolution 493, the rule for the Commerce, State, Justice appropriations bill.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman WILLIAM H. GRAY III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting the official letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1986. The current level was last filed on June 4, 1986. Since my last report, Congress has completed action on, and the President has signed, temporary extension for certain housing programs, Public Law 99-345, the Military Retirement Reform Act, Public Law 99-348, and the urgent supplemental appropriations, Public Law 99-349.

The current level is used to compare enacted spending after the start of a fiscal year with the aggregate ceiling on budget authority, outlays, and revenues established in a budget resolution and enforced by point of order pursuant to section 311(a) of the act. The term current level refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

The procedural situation with regard to the spending ceiling is affected by section 311(b) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Enforcement against possible breaches of the spending ceiling under section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its "appropriate allocation" made pursuant to section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered.

The intent of the section 302(a) "discretionary budget authority" and "new entitlement authority" subceiling provided by section 311(b) of the Budget Act, as amended, is to protect a committee that has stayed within its own spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on Senate Concurrent Resolution 32 were printed in the CONGRESSIONAL RECORD, September 5, 1985, H7290.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 16, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule 10, I am herewith transmitting the status report under S. Con. Res. 32, the First Concurrent Resolution on the Budget for Fiscal Year 1986. This report incorporates the reductions in budgetary resources and outlays required by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177) which took effect on March 1, 1986, pursuant to the Presidential sequestration order of February 1.

In the House of Representatives, the procedural situation with regard to the spending ceiling is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceiling under Section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its "appropriate allocation" made pursuant to Section 302(a) of the Budget Act. The appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered.

The intent of the Section 302(a) "discretionary budget authority" and "new entitlement authority" subceiling provided by Section 311(b) of the Budget Act, as amended, is to protect a committee that has stayed within its spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on S. Con. Res. 32 were printed in the CONGRESSIONAL RECORD, September 5, 1985, H. 7290.

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority and of new entitlement authority.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1986 CONGRESSIONAL BUDGET, ADOPTED IN SENATE CONCURRENT RESOLUTION 32

REFLECTING COMPLETED ACTION AS OF JULY 15, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,069,700	967,600	795,700
Current level	1,052,913	979,996	778,469
Amount over ceilings		12,396	
Amount under ceilings	16,787		
Amount under floor			17,231

BUDGET AUTHORITY

Any measure providing budget or entitlement authority that is not included in the current level and exceeds $16,787 million, for fiscal year 1986, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 32 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority that is not included in the current level and would increase outlays for fiscal year 1986, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 32 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1986, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 32.

Fiscal year 1986 budget authority comparison of current level and budget resolution allocation by committee

[In millions of dollars]

	Current level budget authority
House committee:	
Total current level	−16,787
Appropriations Committee:	
Discretionary	−226
Authorizing Committee—Discretionary Action:	
Agriculture	(+1,608)
Armed Services	(−289)
Banking, Finance, and Urban Affairs	(+816)
District of Columbia	(...)
Education and Labor	(...)
Energy and Commerce	(+28)
Foreign Affairs	(+75)
Government Operations	(...)
House Administration	(...)
Interior and Insular Affairs	(−1,032)
Judiciary	(...)
Merchant Marine and Fisheries	(+78)
Post Office and Civil Service	(...)
Public Works and Transportation	(−71)
Science and Technology	(...)
Small Business	(+108)
Veterans' Affairs	(−48)
Ways and Means	(+801)
Sequester order	(−19,382)

Note.—Committees are over (+) or under (−) their 302(a) allocation.

ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SECTION 302(a)

[In millions of dollars]

Committee	NEA target	House reported	House passed	Enacted
Agriculture:				
H.R. 2100	−1,250	−954	−819	+3,250
H.R. 3128				−5
S. 1851			−20	−20
Subtotal		−954	−839	+3,225
Armed Services: H.R. 1872	−100	+1,336	+1,336	+1,780
Education and Labor:				
H.R. 3500	−339	−375	−375	
H.R. 2811		−174		
H.R. 2812		−174		
H.R. 7		+61	+61	
H.R. 3128		−174	−174	−455
Subtotal		−836	−488	−455
Energy and Commerce: H.R. 3128	−80	+23	+23	+37
Interior and Insular Affairs: H.J. Res. 187	+307	+285	+352	+175
House Judiciary: H.R. 484		+2	+2	

ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SECTION 302(a)—Continued

[In millions of dollars]

Committee	NEA target	House reported	House passed	Enacted
Post Office and Civil Service:				
H.R. 2851	−145	+2		
H.R. 3128		−145	−145	−72
H.R. 4061			+4	+4
Subtotal		−143	−141	−68
Veterans Affairs:				
H.R. 1538	+45	+311	+311	+286
H.R. 752		+2	+2	
H.R. 3500		+311	+311	
H.R. 2343		+1	+1	
H.R. 3128				+2
Subtotal		+625	+625	+288
Ways and Means:				
H.R. 3452	−2,454	−229	−229	−229
H.R. 3721		−155	−155	−155
H.R. 3918		−20	−20	−20
H.R. 3981		−6	−6	−6
H.R. 4006		−465	−465	−465
H.R. 3128		−2,366	−2,366	−382
H.R. 3838		+40	+40	
H.R. 2817		+2	+2	
Subtotal		−3,199	−3,199	−1,257

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 1986.

Hon. WILLIAM H. CLAY III,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1986 budget (S. Con. Res. 32). This report for fiscal year 1986 is tabulated as of close of business July 15, 1986. A summary of this tabulation is as follows:

[In millions of dollars]

	Budget authority	Outlays	Revenues
Current level	1,052,913	979,996	778,469
1985 Budget Resolution, S. Con. Res. 32	1,069,700	967,600	795,700
Current level is:			
Over resolution by		12,396	
Under resolution by	16,787		17,231

Since my last report the President has signed the Urgent Supplemental Appropriations bill, 1986, P.L. 99-349, the Military Retirement Reform Act, P.L. 99-348, and the Temporary Extension of Certain Housing Programs, P.L. 99-345. As a result of these actions, budget authority and outlay estimates have changed.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

PARLIAMENTARIAN STATUS REPORT—HOUSE SUPPORTING DETAIL, FISCAL YEAR 1986 AS OF CLOSE OF BUSINESS JULY 15, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds	710,401	629,772	
Other appropriations	538,839	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation Urgent Supplemental Appropriations, 1986 (P.L. 99–243)			
Federal Employees Benefits Improvement Act of 1986 (P.L. 99–251)		4	
VA Home Loan Guarantee Amendments (P.L. 99–255)		−51	
Department of Agriculture Urgent Supplemental, 1986 (P.L. 99–263)			
Omnibus Budget Reconciliation Act of 1986 (P.L. 99–272)	−4,259	−6,001	765
Advance to the Hazardous Substance Response Trust Fund (P.L. 99–270)			
FHA and GNMA Credit Commitment Assistance Act (P.L. 99–289)		−380	
Federal Employees Retirement Act of 1986 (P.L. 99–335)			−90
Military Retirement Reform Act (P.L. 99–348)	−25		
Urgent Supplemental Appropriations, 1986 (P.L. 99–349)	−3,600	475	
Temporary Extension of Certain Housing Programs (P.L. 99–345)		−304	
Total	−7,884	−6,256	675
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association	3	3	
Special benefits (federal employees)	14	14	
Family social services	100	75	
Payment to civil service retirement [1]	(37)	(37)	
Total entitlements	118	93	
Total current level as of July 15, 1986	1,052,913	979,996	778,469
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		12,396	
Under budger resolution	16,787		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BOULTER] is recognized for 20 minutes.

Mr. BOULTER. Mr. Speaker, this afternoon I accompanied a constituent of mine to a meeting at the Old Executive Office Building. During that meeting a recorded vote was ordered on an amendment offered by Mr. WALKER (rollcall No. 226). Had I been present, I would have voted "aye."

RULES OF THE TEMPORARY JOINT COMMITTEE ON DEFICIT REDUCTION

(Mr. GRAY of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GRAY of Pennsylvania. Mr. Speaker, by direction of the Temporary Joint Committee on Deficit Reduction, I submit for printing in the RECORD the rules of the Temporary Joint Committee adopted July 17, 1986:

RULES OF THE TEMPORARY JOINT COMMITTEE ON DEFICIT REDUCTION

(Adopted July 17, 1986)

1. The rules of the House of Representatives and the Senate, insofar as they are applicable, shall govern the Committee.

2. The joint reports of the Directors of the Congressional Budget Office and the Office of Management and Budget pursuant to sections 251(a) and 251(c)(1) of Public Law 99-177 shall not be subject to amendment by the Committee.

3. The chairmanship of the Committee shall be jointly held by the chairmen of the Committees on the Budget of the House of Representatives and the Senate. The ranking minority members of the House and Senate Budget Committees shall lead their respective delegations.

4. The meetings of the Committee shall be held at such times and in such places as the co-chairmen may designate. The co-chairmen shall provide prompt written or verbal notice of meetings to the office of each member.

5. A majority of the members representing each House shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present.

6. Actions taken by the Committee shall be determined by the majority vote of members representing each House.

7. Any member of the Committee may vote by special proxy if the proxy authorization is in writing, asserts that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee, designates the person who is to execute the proxy authorization, and is limited to a specific measure or matter. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time that the proxy is signed. Proxies may not be counted for a quorum.

Notwithstanding the foregoing paragraph, proxies may not be used for members representing the Senate on a vote to report any measure or matter.

8. An accurate stenographic record shall be made of all Committee meetings. The proceedings of the Committee shall also be recorded in a journal which shall, among other things, include a record of the votes on any question on which a recorded vote is demanded.

9. None of the meetings of the Committee shall be telecast or broadcast, whether directly or through such devices as wire recordings, wire tapes, motion pictures, or other mechanical means, if in conflict with a rule or practice of the House on the side of the Capitol where meetings are being held.

10. Committee staff shall consist of the combined staff of the Budget Committees of the House of Representatives and the Senate under the direction of the respective co-chairmen.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEVINE of California (at the request of Mr. WRIGHT), after 7:30 p.m., on account of official business.

Mr. ACKERMAN (at the request of Mr. WRIGHT), for the balance of the day, on account of official business.

Mrs. BYRON (at the request of Mr. WRIGHT), after 12 noon today, on account of attending a family funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of Washington) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, on July 21.

Mr. GINGRICH, for 60 minutes, on July 22.

Mr. GINGRICH, for 60 minutes, on July 23.

Mr. GINGRICH, for 60 minutes, on July 24.

Mr. GINGRICH, for 60 minutes, on July 25.

Mr. FRENZEL, for 5 minutes, today.

Mrs. BENTLEY, for 30 minutes, on July 22.

Mrs. BENTLEY, for 30 minutes, on July 23.

Mr. BOULTER, for 20 minutes, today.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. COELHO) to revise and extend their remarks and include extraneous material:)

Mr. FASCELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HAWKINS, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. FRANK, for 60 minutes, on July 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. OAKAR, prior to the vote on House Joint Resolution 672, in the House today.

Mr. DAUB, prior to the vote on House Joint Resolution 672, in the House today.

Mr. GILMAN, prior to the vote on the Rudd amendment to H.R. 5161 in the Committee of the Whole today.

(The following Members (at the request of Mr. MILLER of Washington) and to include extraneous matter:)

Mrs. HOLT.

Mr. JEFFORDS.

Mr. MORRISON of Washington in three instances.

Mr. MILLER of Ohio.

Mr. FIELDS in two instances.
Mr. CAMPBELL in four instances.
Mr. COURTER in three instances.
Mr. GUNDERSON.
Mr. GEKAS.
Mr. BLAZ.
Mr. GRADISON.
Mr. SHUMWAY.
Mrs. BENTLEY in two instances.
Mr. PURCELL.
Ms. SNOWE.
Mr. BATEMAN.
Mr. LAGOMARSINO.
Mr. GILMAN in two instances.
Mr. MCKERNAN.
Mr. ROTH in two instances.
Mr. DORNAN of California.
Mrs. JOHNSON.
Mr. EMERSON.

(The following Members (at the request of Mr. COELHO) and to include extraneous matter:)

Mr. FASCELL.
Mr. RANGEL.
Mr. SMITH of Florida.
Mr. ST GERMAIN.
Mr. HAWKINS.
Mr. UDALL.
Mr. MARTINEZ.
Mr. BEDELL.
Mr. STUDDS.
Mr. SLATTERY.
Mr. COLEMAN of Texas in two instances.
Mr. STARK in three instances.
Mr. MCHUGH.
Mr. FLORIO.
Mr. MANTON in two instances.
Mr. TRAXLER.
Mr. MILLER of California.
Mr. EDWARDS of California.
Mr. BOLAND.
Mr. DYMALLY.
Mr. HALL of Ohio.
Mr. LIPINSKI.
Mr. ORTIZ.
Mr. WILLIAMS.
Mr. JONES of Oklahoma.
Mr. MICA.
Mr. LAFALCE.
Mr. GARCIA.
Mrs. MIKULSKI.
Mr. ECKART of Ohio in two instances.
Mr. BOSCO.
Mr. BIAGGI in two instances.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 354. Joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 360. Joint resolution to designate July 20, 1986, as "Space Exploration Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), pursuant to House Resolution 500, the House adjourned until Monday, July 21, 1986, at 12 noon in memory of the late Honorable GEORGE M. O'BRIEN.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speakers's table and referred as follows:

3887. A letter from the Secretary of Defense, transmitting notification of an obligation or expenditure of funds in excess of amounts available in an appropriation or fund in advance of an appropriation, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

3888. A letter from the Chief of Staff, Department of Health and Human Services, transmitting information on the status of a statutorily mandated report to Congress from the National Institute of Health; to the Committee on Energy and Commerce.

3889. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of Army's proposed letter(s) of offer to Saudi Arabia for defense articles and services, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3890. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of funds awarded the Manchester Point Arena Band of Pomo Indians in Docket 630-84L before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

3891. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3892. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3893. A letter from the Clerk, U.S. Claims Court, transmitting a certified copy of the court's judgment order for the plaintiffs in re: *Sioux Tribe of Indians of the Crow Creek Reservation South Dakota* v. *The United States*, No. 115, pursuant to 28 U.S.C. 2509; to the Committee on Interior and Insular Affairs.

3894. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Southwest Mississippi Tributaries Basin, MS, together with other pertinent reports, pursuant to Public Law 98-63, title I, chapter IV; to the Committee on Public Works and Transportation.

3895. A letter from the Secretary of Transportation, transmitting the Urban Mass Transportation Administration quarter report for the second quarter of fiscal year 1986, pursuant to 49 U.S.C. app. 1603(h)(1); to the Committee on Public Works and Transportation.

3896. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Richard Creek, IL, together with other pertinent reports; to the Committee on Public Works and Transportation.

3897. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on San Diego County Streams, CA, together with other pertinent reports; to the Committee on Public Works and Transportation.

3898. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Pine Island Bayou Watershed, TX, together with other pertinent reports; to the Committee on Public Works and Transportation.

3899. A letter from the Chief of Staff, Department of Health and Human Services, transmitting a list of statutorily mandated reports to Congress that are currently overdue and an explanation of their status; jointly, to the Committees on Energy and Commerce and Ways and Means.

3900. A letter from the Comptroller General of the United States, transmitting a report entitled "Financial Audit—Federal Home Loan Bank Board's Financial Statements for 1985 and 1984" (GAO/AFMD-86-64), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

3901. A letter from the Comptroller General of the United States, transmitting a report entitled "Medicare—Issues Raised by Florida Health Maintenance Organizations Demonstrations (GAO/HRD-86-97); jointly, to the Committees on Government Operations, Ways and Means, and Energy and Commerce.

CONCURRENT RESOLUTION PASSED PURSUANT TO H. RES. 495

Pursuant to the provisions of H. Res. 495, the following concurrent resolution was engrossed and deemed passed:

H. Con. Res. 368. Concurrent resolution correcting the enrollment of H. J. Res. 672.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAMILTON: Permanent Select Committee on Intelligence. H.R. 4260. A bill to provide the Small Business Administration continuing authority to administer a program for small innovative firms (Rept. 99-646, Pt. 2). Ordered to be printed.

Mr. HAWKINS: Committee on Education and Labor. H.R. 1309. A bill to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes; with an amendment (Rept. 99-691. Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4090. A bill to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes; with an amendment (Rept. 99-692). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee on Appropriations. H.R. 5203. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-693). Referred to the Committee of the Whole House on the State of the Union.

Mr. GRAY of Pennsylvania: Temporary Joint Committee on Deficit Reduction. H.J. Res. 676. Joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986. (Rept. 99-694). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. HAMILTON: Permanent Select Committee on Intelligence. H.R. 4759. A bill to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with an amendment. Referred for a period ending not later than July 30, 1986 to the Committees on Armed Services, the Judiciary, and Post Office and Civil Service for consideration of such portions of the bill and amendment as fall within those committees' jurisdiction pursuant to clauses 1(c), 1(m), and 1(o) of rule X, respectively (Rept. 99-690, Pt 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4685. The Committee on Agriculture discharged from further consideration of H.R. 4685; H.R. 4685 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAXMAN (for himself, Mr. LUKEN, Mr. SCHEUER, and Mr. LAFALCE):

H.R. 5184. A bill to amend the Public Health Service Act to establish a national vaccine program for the development of new vaccines and the improvement of existing vaccines and a program to compensate the victims of vaccine-related injuries and deaths, and for other purposes; jointly to the Committees on Energy and Commerce, and Ways and Means.

By Mr. HAWKINS (for himself, Mr. JEFFORDS, Mr. MARTINEZ, Mr. GUNDERSON, and Mr. WILLIAMS):

H.R. 5185. A bill to make certain amendments to the Job Training Partnership Act; to the Committee on Education and Labor.

By Mr. BIAGGI:

H.R. 5186. A bill to establish a grant program, under the Attorney General, for assistance to the States in providing handgun speedloading devices and combat training for law enforcement officers; to the Committee on the Judiciary.

By Mr. BLAZ:

H.R. 5187. A bill to establish a Commission on War Claims for Guam; to the Committee on Foreign Affairs.

By Mr. BROWN of Colorado (for himself and Mr. STRANG):

H.R. 5188. A bill to amend the National Trail System Act to designate the Santa Fe Trail as a National Historic Trail; to the Committee on Interior and Insular Affairs.

By Mr. COLEMAN of Missouri (for himself, Mr. EMERSON, Mr. STANGELAND, Mr. HUCKABY, Mr. STENHOLM, Mr. DYSON, and Mr. SILJANDER:

H.R. 5189. A bill to provide for the establishment of rural enterprise zones, and for other purposes; jointly, to the Committees on Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

By Mr. CRAIG:

H.R. 5190. A bill to protect the integrity and quality of certain reaches of the Henry's Fork of the Snake River, ID, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRENZEL:

H.R. 5191. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain expense reimbursement allowances received by State police officers; to the Committee on Ways and Means.

By Mr. HUCKABY (for himself, Mr. UDALL, Mr. SEIBERLING, Mr. WEAVER, Mr. COELHO, Mr. MURPHY, Mr. EMERSON, Mrs. BYRON, Mr. TAUZIN, Mr. RAHALL, Mr. MCCAIN, Mr. LIVINGSTON, and Mr. ROEMER):

H.R. 5192. A bill to establish an emergency response program within the Nuclear Regulatory Commission; to the Committee on Interior and Insular Affairs.

By Mr. KANJORSKI:

H.R. 5193. A bill to insure the payment in 1986 and future years of cost-of-living increases under the Social Security Act without regard to the 3 percent threshold requirement; to the Committee on Ways and Means.

By Mr. ORTIZ:

H.R. 5194. A bill to designate the U.S. Post Office Building located at 809 Nueces Bay Boulevard in Corpus Christi, TX, as the "Dr. Hector Perez Garcia Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. OWENS:

H.R. 5195. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to cocaine penalties, and for other purposes; jointly, to the Committees on Energy and Commerce, and the Judiciary.

By Mr. PORTER:

H.R. 5196. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; jointly, to the Committees on Ways and Means, and the Judiciary.

By Mr. RANGEL: (for himself, Mr. STARK, and Mr. WAXMAN):

H.R. 5197. A bill to amend title XVIII of the Social Security Act to improve the administration of the end stage renal disease program and to clarify the responsibilities of end stage renal disease networks; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. ROE:

H.R. 5198. A bill relating to the duties on jacquard cards; to the Committee on Ways and Means.

H.R. 5199. A bill relating to the duties on certain weaving machinery and parts thereof; to the Committee on Ways and Means.

By Mr. SHUMWAY (for himself, Mr. ZSCHAU, Mr. HORTON, Mr. HANSEN, Mr. EMERSON, Mr. DENNY SMITH, Mr. FUQUA, Mr. COELHO, Mr. CLINGER, Mr. ROBERT F. SMITH, Mr. OLIN, Mr. NICHOLS, Mr. BEVILL, Mr. PASHAYAN, Mr. MONTGOMERY, Mr. CHAPPIE, Mr. STRANG, Mr. CRAIG, Mr. STALLINGS, Mr. BOSCO, Mr. MORRISON of Washington, Mr. SCHUETTE, Mr. WILSON, Mr. OBERSTAR, Mr. FLIPPO, Mr. BOUCHER, Mr. DERRICK, Mr. WILLIAMS, Mr. ROEMER, and Mr. LEHMAN of California):

H.R. 5200. A bill to provide for a clarification of the receipt-sharing of moneys received from the National Forest System and provided to the States and counties; jointly, to the Committees on Agriculture, and Interior and Insular Affairs.

By Mr. TRAFICANT:

H.R. 5201. A bill to amend chapter 44 (relating to firearms) of title 18, United States Code, to prohibit the sale or possession of the laser weapon other than under governmental authority; to the Committee on the Judiciary.

By Mr. YATRON (for himself, Mr. KOSTMAYER, Mr. MURTHA, Mr. EDGAR, Mr. KOLTER, Mr. TOWNS, Mr. OWENS, Mr. KANJORSKI, Mrs. ROUKEMA, Mr. GILMAN, Mr. SEIBERLING, Mr. COURTER, Mr. WALKER, Mr. MCDADE, Mr. FOGLIETTA, Mr. RITTER, Mr. WALGREN, Mr. SCHEUER, Mr. WIRTH, Mr. BORSKI, Mr. RODINO, Mr. GEKAS, Mr. DWYER, of New Jersey, Mr. HOWARD, Mr. MCKERNAN, Mr. GOODLING, Mr. CLINGER, Mr. GUARINI, Mr. SCHULZE, Mr. MURPHY, and Mr. COYNE):

H.R. 5202. A bill to address the problem of human exposure to radon through indoor accumulation by directing the Environmental Protection Agency to establish and coordinate a nationwide program of research and development, technical assistance to States, and dissemination of information to the public; to the Committee on Energy and Commerce.

By Mr. FAZIO:

H.R. 5203. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. WRIGHT:

H.J. Res. 672. Joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986; considered and passed.

By Mr. BEREUTER:

H.J. Res. 673. Joint resolution in support of an early transition to democracy in Chile and Paraguay; jointly, to the Committees on Banking, Finance and Urban Affairs, and Foreign Affairs.

By Mr. GEKAS:

H.J. Res. 674. Joint resolution to direct the Chairman of the Nuclear Regulatory

Commission to review, disseminate, and apply the recommendations of the report to be issued jointly by the Nuclear Regulatory Commission, the Department of Energy, and representatives of American nuclear industry regarding the nuclear accident at the Chernobyl nuclear facility in the Soviet Union; to the Committee on Interior and Insular Affairs.

By Mr. LUKEN:

H.J. Res. 675. Joint resolution to designate October 6, 1986, as "German-American Day"; to the Committee on Post Office and Civil Service.

By Mr. WALGREN:

H.J. Res. 677. Joint resolution to designate the week beginning March 29, 1987, as "American Physiologist Week"; to the Committee on Post Office and Civil Service.

By Mr. FLIPPO:

H. Con. Res. 369. Concurrent resolution requesting that the President establish an emergency Commission to review the Tennessee Valley Authority's power program with regard to the safety, economy, and financial stability of the program's operations; to the Committee on Public Works and Transportation.

By Mr. HALL of Ohio:

H. Con. Res. 370. Concurrent resolution expressing the sense of the Congress with respect to repression by the Government of Pakistan of individuals known as Ahmadis; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H. Con. Res. 371. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 3511; considered and agreed to.

By Mr. CROCKETT:

H. Res. 498. Resolution commending the Government of Ghana for its establishment of the W.E.B. DuBois Shrine and Memorial Center for Pan-African Culture; to the Committee on Foreign Affairs.

By Mr. DYMALLY:

H. Res. 499. Resolution condemning the government of Chile for the death of Rodrigo Rojas de Negri and commending United States Ambassador to Chile Harry G. Barnes for attempting to gain proper medical attention for the youth and for representing the United States at the funeral of Rodrigo Rojas de Negri; to the Committee on Foreign Affairs.

By Mr. PRICE:

H. Res. 500. Resolution expressing the condolences of the House on the death of Hon. George M. O'Brien, a Representative from the State of Illinois; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BROWN of Colorado introduced a bill (H.R. 5204) for the relief of Sonanong Doonpipat (Latch); which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 669: Mr. FRENZEL, Mr. WEAVER, Mr. MYERS of Indiana, Mr. MOORE, Mr. BOLAND, Mr. MOAKLEY, and Mr. SPRATT.

H.R. 822: Mr. KANJORSKI.

H.R. 864: Mr. SCHUETTE.

H.R. 880: Mr. LOWRY of Washington.

H.R. 1345: Mr. HUNTER.

H.R. 2013: Mr. SKELTON.

H.R. 2014: Mr. OWENS, Mr. MARTINEZ, and Mr. GEJDENSON.

H.R. 2256: Mr. HALL of Ohio.

H.R. 2531: Mr. WILSON.

H.R. 3024: Mr. CHAPPELL, Mr. FRENZEL, Mr. RUDD, Mr. DORNAN of California, Mr. HOPKINS, Mr. JONES of Oklahoma, Mr. ROEMER, Mr. BREAUX, Mr. STOKES, and Mr. BORSKI.

H.R. 3448: Mr. MACKAY.

H.R. 3465: Mr. SHELBY, Mr. LAFALCE, Mr. VISCLOSKY, Mr. DERRICK, Mr. MOLLOHAN, Mr. TAUZIN, Mr. SKELTON, Mr. BOEHLERT, Mr. CAMPBELL, and Mr. WILSON.

H.R. 3487: Mr. EVANS of Illinois and Mr. BONIOR of Michigan.

H.R. 3661: Mr. KOLBE and Mr. BORSKI.

H.R. 3663: Mr. WYLIE and Mr. SUNIA.

H.R. 3819: Mr. GRAY of Pennsylvania.

H.R. 3842: Mr. LEHMAN of Florida and Mr. LOEFFLER.

H.R. 4137: Mrs. JOHNSON.

H.R. 4260: Mr. BOEHLERT.

H.R. 4300: Ms. KAPTUR, Mr. LEVIN of Michigan, Mr. DOWNEY of New York, Mr. TRAFICANT, and Mr. FAUNTROY.

H.R. 4391: Mr. MCCOLLUM.

H.R. 4405: Mr. EVANS of Iowa.

H.R. 4450: Mrs. MARTIN of Illinois, Mr. JENKINS, Mr. CROCKETT, Mrs. KENNELLY, Mr. SPRATT, Mr. YOUNG of Alaska, and Mr. SWINDALL.

H.R. 4546: Mr. MONSON, Mr. SWINDALL, Mr. FROST, Mr. BEDELL, Mr. EDWARDS of Oklahoma, and Mr. GARCIA.

H.R. 4615: Ms. MIKULSKI, Mr. COELHO, Mr. MARTINEZ, Mr. BERMAN, Mr. OBERSTAR, Mr. ACKERMAN, Mr. DELLUMS, Mr. FAUNTROY, Mr. LELAND, Mr. WILLIAMS, Mr. UDALL, Mr. RANGEL, Mr. FAZIO, and Mr. KASTENMEIER.

H.R. 4630: Mr. HOWARD, Mr. FRANK, Mrs. BURTON of California, and Mr. FAUNTROY.

H.R. 4633: Mr. SHAW, Mr. GREEN, Mr. PERKINS, Mr. DURBIN, Mr. DORNAN of California, Mr. FORD of Michigan, Mr. KANJORSKI, Mr. DYMALLY, Mr. DWYER of New Jersey, Mr. BIAGGI, Mr. STUDDS, Mr. MCCLOSKEY, Mr. ROE, Mr. FAZIO, Mr. BORSKI, and Mr. SMITH of Florida.

H.R. 4683: Mr. TRAFICANT.

H.R. 4723: Ms. MIKULSKI, Mr. FAZIO, Mr. MANTON, Mrs. BENTLEY, Mrs. SCHROEDER, Mr. BARNES, Mr. MITCHELL, Mr. LELAND, Mr. GALLO, and Mr. LUKEN.

H.R. 4762: Mr. FOGLIETTA and Mrs. SCHNEIDER.

H.R. 4787: Mr. LOTT.

H.R. 4788: Mr. RAHALL, Mr. WEBER, Mr. YOUNG of Alaska, Mr. HENDON, and Mr. BOEHLERT.

H.R. 4825: Mr. MINETA.

H.R. 4884: Mr. GREGG, Mr. BLILEY, Mr. BEVILL, and Mr. BROWN of Colorado.

H.R. 4891: Mr. RICHARDSON.

H.R. 4898: Mrs. SCHROEDER.

H.R. 4911: Mr. GORDON, Mr. SIKORSKI, Mr. WILLIAMS, Mr. CHAPMAN, Mr. PENNY, Mr. BUSTAMANTE, Mr. FOLEY, Mr. JONES of Tennessee, Mr. KLECZKA, Mr. DARDEN, Mr. DYSON, Mr. MRAZEK, Mr. STRANG, Mr. MACKAY, Ms. OAKAR, Mr. TOWNS, Mr. COMBEST, Mrs. SCHROEDER, Mr. PERKINS, Mr. BRUCE, Mr. KOSTMAYER, Mr. WATKINS, Mr. GLICKMAN, Mr. COELHO, Mr. DASCHLE, Mr. NIELSON of Utah, Mr. BARTON of Texas, Mr. MCCURDY, Mr. ALEXANDER, Mr. STOKES, Mr. MANTON, Mr. WYDEN, Mr. VENTO, Mr. REID, Mr. PANETTA, Mr. DICKS, Mr. NELSON of Florida, Mr. COOPER, Mr. GRAY of Illinois, Mr. ROBERTS, Mr. OLIN, Mr. JONES of North Carolina, Mr. MORRISON of Connecticut, Mr. MARTINEZ, Mr. TRAFICANT, Mr. KINDNESS, Mr. ROE, Mr. HORTON, Mr. HYDE, Mr. LOWERY of California, Mr. BARNARD, Mr. STENHOLM, Mr. MAVROULES, Mr. MURPHY, Mr. GARCIA, Mrs. LLOYD, Mr. YATRON, Mr. LEVINE of California, Mr. RAHALL, Mr. DAVIS, Ms. KAPTUR, Mr. HEFNER, Mr. BONIOR of Michigan, Mr. ST GERMAIN, Mr. MOLLOHAN, and Mr. ROSE.

H.R. 5029: Mr. FISH, Ms. KAPTUR, Mr. LOWERY of California, and Mr. DEWINE.

H.R. 5062: Mr. GOODLING, Mr. DORGAN of North Dakota, and Mr. THOMAS of Georgia.

H.R. 5066: Mr. BENNETT.

H.R. 5091: Mr. HORTON, Mr. MONSON, Mr. WORTLEY, and Mr. KINDNESS.

H.R. 5103: Mr. MITCHELL, Mr. BOEHLERT, Mr. RUSSO, Mr. ORTIZ, Mr. BEREUTER, Mr. NEAL, and Mr. WEAVER.

H.R. 5144: Mr. ARCHER.

H.R. 5154: Ms. KAPTUR, Mr. RANGEL, Mr. SMITH of Florida, Mr. DOWNEY of New York, Mr. MARTINEZ, and Mr. MITCHELL.

H.J. Res. 90: Mr. HEFNER, Mr. GRAY of Illinois, Mrs. BOGGS, Mr. MAVROULES, and Mr. BROWN of California.

H.J. Res. 127: Mr. BROWN of California and Mr. BARNES.

H.J. Res. 244: Mr. MORRISON of Connecticut, Mr. YOUNG of Alaska, Mr. LIVINGSTON, and Mr. SPRATT.

H.J. Res. 524: Mr. EDWARDS of Oklahama.

H.J. Res. 644: Mr. COOPER.

H.J. Res. 656: Mr. MICA.

H.J. Res. 663: Mr. BARTON of Texas.

H. Con. Res. 225: Mr. OXLEY and Mr. UDALL.

H. Con. Res. 291: Mr. TOWNS, Mr. BRYANT, Mr. JONES of Oklahoma, and Mr. ROWLAND of Georgia.

H. Con. Res. 306: Mr. FAUNTROY and Mr. KOSTMAYER.

H. Con. Res. 351: Mr. FROST, Mr. CLAY, Mr. FEIGHAN, Mr. PARRIS, Mr. SHAW, Mr. BATEMAN, Mr. MCGRATH, Mr. ROTH, Mr. SOLOMON, Mrs. BYRON, Mr. COUGHLIN, Mr. LUNDINE, Ms. KAPTUR, Mr. SUNDQUIST, Mr. RINALDO, Mr. MARKEY, Mr. MCCAIN, Mrs. SCHNEIDER, Mr. MCKERNAN, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. SWIFT, and Mr. LEHMAN of Florida.

H. Res. 373: Mr. SKELTON, Mr. MRAZEK, and Mrs. BOXER.

H. Res. 377: Mr. ERDREICH and Mr. MACKAY.

H. Res. 413: Mr. MARKEY.

H. Res. 487: Mr. KEMP and Mr. CHANDLER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 796: Mr. OXLEY.

H.R. 3305: Mr. MARTINEZ.

H.R. 3806: Mr. MARTINEZ.

H.R. 4567: Mr. OLIN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5162

By Mr. WEAVER:

At page 22, line 16, strike the appropriation of $677,649,000 and replace it with $135,849,000.

EXTENSIONS OF REMARKS

IMPRESSIONS OF A VISIT TO THE SOVIET UNION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. FLORIO. Mr. Speaker, I have just returned from a visit to the Soviet Union where I met with high level United States and Soviet officials to discuss areas of mutual concern to our two nations. I was accompanied by six of my constituents from Cherry Hill and Haddonfield, NJ, on a visit that proved to be both memorable and informative. I wanted to extend my appreciation to Michael Varbalow, Alan Respler, Eugene Bass, Morton and Claire Jacobs, and Marcy Sanders for joining me on this trip and for their useful input during our stay in the Soviet Union.

In the coming weeks, I will be sharing my experiences with my constituents and my colleagues. However, I had the occasion to discuss my trip at a meeting of the Association of Trial Lawyers of America as I was being honored with an award for my work in the areas of environment and insurance. Although my meetings dealt with issues ranging from trade between the United States and the Soviet Union to tourism to energy and foreign policy, one of the most poignant aspects of my trip was the opportunity I had to meet with a number of Soviet refuseniks in Leningrad and Moscow and discuss with them the continous infringment of their fundamental human rights. I wanted to direct the attention of my colleagues to my remarks before the Association of Trial Lawyers:

REMARKS OF REPRESENTATIVE JAMES J. FLORIO BEFORE THE ASSOCIATION OF TRIAL LAWYERS OF AMERICA

I wanted to thank you for presenting me with this award and for providing me the opportunity to join you today.

Only last night, I returned from a seven day trip to the Soviet Union. I had prepared remarks for this event before my trip. I intended to address the subject of government involvement in environmental law and insurance liability issues—areas which are very important to our society and to your organization. Your interest in these vital concerns is commendable and I hope to continue working with you in addressing these problems in the Congress. I will be giving a copy of my remarks in this area to your leadership and I hope that they will be able to distribute these remarks to you.

I do so in order to use my few minutes with you to focus on the events that I have experienced in the last seven days—events that make all else secondary in significance by comparison. This audience, by definition, is committed to the preservation of fundamental rights and I hope that you will benefit from and act upon the experiences I would like to share with you.

I made a visit to the Soviet Union on behalf of the effort to assist Soviet Jewish "refuseniks"—a group of people that has been traditionally denied the rights that we, in this country, often take for granted. "Refuseniks" are those who seek to exercise the human rights guaranteed to them by international accord including the freedom of speech, the freedom of religion, the freedom of political thought and expression, and the freedom of movement and emigration. They are refused the right to emigrate and thereby call down upon themselves the full force and might of an oppressive system the likes of which we cannot imagine.

An application to emigrate immediately triggers the loss of jobs, pervasive surveillance, harassment which becomes commonplace, false criminal charges, trials of a sort, and imprisonment. All these abuses of the legal system we revere in this country are too frequent and deprivation and abuse are the norm. Without having experienced such a trip, it is almost impossible to comprehend the stealth and secrecy that this group must resort to in order to meet and worship according to their religion.

All of this abuse takes place because families seek to be reunited, because individuals seek medical treatment, because families and individuals seek to go elsewhere to conduct their lives and practice their religion in a way not possible in their homeland where, at best, they are shunned, and at worst, they are oppressed.

The preservation of human rights and the right of emigration are subjects of legal concern and therefore appropriate subjects of interest for organizations such as the Association of Trial Lawyers. More fundamentally, as citizens of this nation committed as we are to a system of values that stands in stark contrast to those experienced by the refuseniks, we should be morally concerned with the plight of the Soviet Jews and all other ethnic groups that suffer similar treatment in totalitarian regimes. I believe that all who know will care about this situation and hopefully assist in lifting the national and international level of awareness to this indefensible state of affairs. Lawyers more than most should have such a commitment.

I accept this honor bestowed upon me in recognition of the fact that the values I have expressed and have worked for in the Congress are shared by you. I leave you with hopeful anticipation that some of your formidable energies can be used to work on behalf of Soviet Jewry.

SOUTH AFRICAN MILITARY AIRCRAFT DEVELOPMENTS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SILJANDER. Mr. Speaker, during the June debate concerning economic sanctions against South Africa, the issue regarding South Africa's willingness and capacity to isolate itself and continue its apartheid policy was contested. Recently, we have seen clear signs that the South African Government is more than willing to go the course alone.

Yesterday morning's Washington Times article on South Africa's new supersonic aircraft, sheds light on the capabilities of the South African military to go it alone. I believe that this article offers strong evidence that the South African Government is capable of surviving sanctions.

Twenty years ago the free world imposed an arms embargo designed to pressure the South African Government. Those sanctions proved to be ineffective. Today, South Africa has the capability to manufacture its domestic military needs, and is now one of the world's largest arms exporters.

American influence in South Africa is already limited. Our corporate presence is our best possible resource for meaningful change. If economic sanctions are enacted, America's limited influence will end, and apartheid will be strengthened. Let's not let history repeat itself again.

[From the Washington Times, July 15, 1986]

S. AFRICA READY TO ROLL OUT HOMEMADE SUPERSONIC JET

(By Peter Younghusband)

CAPE TOWN.—The South African Air Force is about to unveil its own home-designed-and-built supersonic jet fighter plane, which it claims is comparable to the best in the world, according to diplomatic sources here.

The aircraft, to be called the Cheetah, will replace South Africa's aging Mirage jet fighters and boost the white-ruled republic's already comfortable margin of air superiority in the region.

The Cheetah, classified by the South Africans as a New Technology Fighter (NTF), is said to be vastly superior to the 13-year-old MiG-23—the most advanced Soviet fighter that the Russians are willing to supply to their Marxist friends in black Africa.

Angola, locked in a war with Jonas Savimbi's anti-communist resistance forces, received a delivery of 26 MiG-23s earlier this year and is now believed to have more than 50 of the jets, in addition to 48 older MiG-21s. According to Jane's Defense Weekly, the Luanda government is "the biggest Central African user of MiG-23s and the number of aircraft it has is out of all proportion to its needs."

Mozambique, also besieged by anti-communist insurgents, has only MiG-17s in its Soviet-supplied arsenal, and the other black "confrontation states" have negligible air power.

The South African Defense Force began worrying some five years ago about replacing its Mirages because of the worldwide arms embargo against the republic.

When it became clear that there was going to be no way around the boycott and that not even Israel—the country which supplied the Mirages—was going to be able to provide assistance, a decision was made to develop a new fighter locally.

Work has proceeded on the project secretly for two years. The plane has been pro-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

duced by the Atlas Aircraft Company, which already makes two models of the Impala jet—a trainer and a tactical fighter-bomber for close support of ground troops—based on the design of the Italian Macchi.

The Cheetah is an air superiority fighter, meaning that it is designed purely as a fighter aircraft with the object of establishing air superiority in any war situation.

No technical data is yet available, but it is likely that the aircraft frame and engine would be totally of local design and manufacture with some degree of importation or copying of avionics such as computerized firing and navigational systems.

According to the Institute of Strategic Studies, South Africa at present possesses 356 combat aircraft—the nucleus being one squadron of 20 Mirage F1s and a squadron of 12 Mirage 111s. The Mirage 111s are fighter-bombers (ground attack aircraft) and are supported in this role by Impalas armed with rockets and cannon, as well as a variety of helicopter gunships.

The expected unveiling of the Cheetah, at a time when foreign governments are coming under increasing pressure to impose worldwide economic sanctions against South Africa, is highly significant.

It proves South Africa's fast-growing industrial independence and is a clear indicator of the sort of resistance the country is capable of putting up to sanctions.

The South African arms industry is very much a case in point. Before the arms embargo was imposed 20 years ago, South Africa bought all its military needs from overseas suppliers.

Forced by the embargo to manufacture armaments locally, South Africa now supplies nearly all its own military needs—and has become the world's 10th largest arms exporter to countries in Africa, South America and the Far East. The arms industry has become a valuable earner of foreign exchange.

First produced were light armaments—automatic rifles and machine guns—and all ammunition needs, including grenades and aircraft bombs.

During forays into Angola in the late 1970s, the South African army captured a Soviet mobile multirocket launcher—the famed "Stalin Organ"—and produced an improved version.

Prototypes were obtained secretly of NATO's top artillery piece from the Canadian factory that produced the 155mm howitzer, which enabled the production here of the South African G5, capable of firing a neutron warhead with a range in excess of 25 miles.

South Africa also manufactures its own fast missile-carrying coastal patrol vessels, a copy of the Israeli "Reshef," armed with Scorpion" missiles, copies of the Israeli "Gabriel."

Earlier this year, the South Africans unveiled their home-designed-and-built helicopter gunship called the Alfa, which impressed arms buyers at a munitions trade fair in Chile.

The South African army has also modified the French Panhard armored car, adapting it for bush warfare as the "Ratel." The highly versatile vehicle armed with cannons and machine guns has been exported with the boast that it is "combat tested," both against SWAPO guerrillas in Namibia and against Cuban and Angolan forces.

ANTI-AMERICANISM GROWS NEW ROOTS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. COURTER. Mr. Speaker, in the following article, Joseph Godson explains the return of an anti-American spirit in some parts of Europe. Of course this is not equally true over the whole continent—France, for instance, has been seized by a powerful pro-American impulse in the last few years.

Americans have difficulty understanding European ambiguity about our Nation and our foreign policies. In my opinion, the most effective way to minimize European anti-Americanism is for us to demonstrate clear support for democracies everywhere in the world, and a consistent opposition to Soviet adventurism everywhere in the world. There is little reason for pessimism. Europe was the home of the first philosophers of freedom. Given a clear alternative between liberty and tyranny, there is no question where Europeans, like people everywhere, will turn.

[From the New York Times, June 11, 1986]

ANTI-AMERICANISM GROWS NEW ROOTS

(By Joseph Godson)

LONDON.—Widespread European criticism of President Reagan's announcement that the United States may no longer comply with the second strategic arms limitation accord has brought into focus the increasingly common European view that American society is violent, chaotic, crime-ridden and, under President Reagan, hell-bent on the use of force.

Many European critics of America call themselves liberals. But what underlies their attitude, known as neoanti-Americanism, is in fact a repudiation of liberal democratic capitalism and most of its values.

United States officialdom must handle this phenomenon with care and tact. How America deals with this challenge will be a test of its superpower status. How its friends and allies respond to it in their own countries will be a test of their maturity.

The assault on American values is especially troubling because it comes at a time when a new generation is about to assume the leadership of Western Europe—a changing of the guard that will have important implications in the 1990's and beyond. The European peace movement, which is largely dominated by young people and motivated by deep suspicion of America, provides a kind of window on the coming changes.

Postwar Europeans have matured under circumstances of affluence and political stability. They do not remember the postwar reconstruction or the first, most difficult days of the cold war; they have at best only a vague memory of the building of the Berlin Wall. They came of age during a period of détente, and their views of Soviet society have been colored by Leonid I. Brezhnev and Mikhail S. Gorbachev rather than Stalin. For them, America does not connote the Marshall Plan, the Berlin airlift or even John F. Kennedy, but rather the Vietnam War and the installation of Pershing and cruise missiles. The rifts opened by the debate over those deployments are deep and enduring.

Earlier bouts of European anti-Americanism were rooted mainly in resentment of what was seen as American hegemony. The current strain, on the other hand, reflects fear rather than resentment—fear generated by apocalyptic visions of nuclear disaster. Many Europeans are also frustrated by their inability to control their own destiny in the nuclear era—an exasperation that is probably here to stay, regardless of any change in the occupancy of the White House.

Most troubling of all, however, are those Europeans who equate American power with that of the Soviet Union. It is a view best expressed by the pernicious formulation of Neil Kinnock, the leader of the British Labor Party, that "the two countries pose an equal threat to world peace." This may not exactly reflect pro-Sovietism, but far too many Europeans are now inclined to say that, if it is American, it must be suspect.

Americans should, however, remember that Europeans have always viewed Russia rather differently than we do: the sheer propinquity of the Soviet Union inevitably softens Europeans' attitudes. Yet few people in Europe have any liking for the Soviet system. The Chernobyl nuclear disaster was informative in this respect. In Europe, as in America, Moscow's handling of the castastrophe showed the inefficiency of the Soviet system and the implausibility of Mr. Gorbachev's claim to be making radical changes in that system.

That is the good news. The bad news is that things may get worse after the next round of national elections in Europe. In the next year or so, Labor may come to power in Britain and the Social Democrats may win in West Germany. The Labor Party almost certainly, and perhaps the Social Democrats, too, would require the removal of cruise and Pershing missiles from their territories—decisions that could have devastating effects for the alliance. Americans must not, however, announce that they do not wish Labor or the Social Democrats to win—for this would almost certainly help both parties at the polls.

What, then, can Americans do? Alas, not very much. The roots of the new anti-Americanism run deep and have little to do with anything that we actually do in the world. What's needed on both sides is sensitivity. That is our only hope for preventing the trouble from getting worse and doing us all needless damage.

SMOKELESS TOBACCO

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. BLILEY. Mr. Speaker, earlier this year the Congress passed and the President signed the "Comprehensive Smokeless Tobacco and Health Education Act of 1985." One of the goals of this legislation was to discourage the use of smokeless tobacco products by minors.

Unfortunately, some manufacturers of bubble gum are attempting to market their product by imitating chewing tobacco. Recently, the smokeless tobacco industry shared their concern with me over the mixed messages this line of marketing may be sending to America's youth. A product meant for chil-

dren is being promoted through imitating a product meant specifically for adults.

The smokeless tobacco industry has consistently maintained that it does not promote its product for use by children under 18. I want to take this opportunity to include in the RECORD a copy of a letter which I recently received from the Smokeless Tobacco Council on this very subject.

SMOKELESS TOBACCO COUNCIL, INC.,
June 30, 1986

Hon. THOMAS J. BLILEY, Jr.
United States House of Representatives
Washington, DC

DEAR TOM: It has come to our attention that some manufacturers of bubble gum are attempting to market their product through direct imitation of chewing tobacco.

Caricatures of major league baseball pitchers adorn soft-pouch packages of bubble gum. The pouches display hard-sell messages to "kids and coaches," urging them to purchase the bubble gum, save the pouches and receive trade-in value on expensive athletic equipment.

The smokeless tobacco industry is deeply concerned about the mixed messages this line of marketing may be sending to America's youth. Bubble gum, a product primarily for the enjoyment of children, is being promoted in the guise of a product meant specifically for adults.

At a time when questions have been raised about the way in which the smokeless tobacco industry promotes its products, it is appropriate to reiterate our industry's concerns about the purchase of chewing tobacco and snuff by individuals 18 years of age and under.

Smokeless tobacco products are meant for adults only. The industry's voluntarily developed and adopted "Advertising and Sampling Code" reflects this intention. Our public service advertising delivers a clear and direct message.

Last year, our television public service announcement, distributed to more than 300 television markets nationwide, opened with the imperative statement: "Smokeless tobacco is NOT for kids."

Extensive newspaper advertising space, purchased for a complementary ad called "Some Things are Still for Adults Only," presented a similar, straightforward perspective: smokeless tobacco, a product that has been bought by Americans for more than 300 years, should be reserved for adults.

Our industry's education campaign is aimed toward smokeless tobacco users and the general public. Last year, more than 100,000 point-of-sale "Adults Only" notices were distributed to retail outlets in every state of the union.

The men and women who cultivate, manufacture, market, distribute, sell and purchase smokeless tobacco products are justifiably proud of their long record of responsible cultural and economic contribution to American life. The smokeless tobacco industry, one of America's oldest industries, does not condone the marketing of candy products imitative of smokeless tobacco products meant specifically for adults.

Because of your continued interest in the tobacco industry, we have taken this opportunity to make our position on this matter abundantly clear.

Sincerely,

MICHAEL J. KERRIGAN,
President.

THERE THEY GO AGAIN

HON. WM. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. BROOMFIELD. Mr. Speaker, I would like to call the attention of my colleagues to a statement made by Soviet Foreign Minister Eduard Shevardnadze yesterday in London.

In a typical display of disinformation, the Foreign Minister announced that the United States and the Soviet Union had agreed "to resume negotiations, to resume talks in Geneva on banning nuclear tests."

As it turned out, nothing could be further from the truth. In actuality, the Soviet Union had simply agreed to the United States' longstanding request to discuss verification problems with respect to the unratified Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. But rather than admit that they had finally decided to address the administration's compliance concerns with regard to these two treaties, the Soviet Foreign Minister apparently felt that some propaganda gains could be garnered by misrepresenting the nature of these meetings. Is there any wonder that the American people find Soviet credibility in the arms control area to be minimal at best?

For those of my colleagues who are interested in knowing exactly what was agreed to, the following White House press statement will help to set the record straight.

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
July 16, 1986.

STATEMENT BY THE DEPUTY PRESS SECRETARY

The United States and the Soviet Union have agreed to have experts meet shortly to discuss issues related to nuclear testing. We have further agreed to begin these discussions without preconditions.

The U.S. has long sought a meeting with the Soviets to present our concerns about the verification provisions of the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET). These treaties were signed in the 1970's, but they have not been ratified. The U.S. determined in the early 1980's that U.S. ratification could not be considered until verification improvements were made and U.S. compliance concerns were answered. We have made repeated offers to the Soviet government to present our ideas for improvements that would allow us to move forward on ratification of these treaties.

This upcoming meeting of experts will allow the U.S. to present its ideas and concerns to the Soviets—and to hear Soviet concerns. The U.S. will be ready to present and discuss our views on verification improvements in existing agreements which we believe are needed and achievable at this time. We hope the Soviets will be prepared to join in a constructive dialogue.

HOUSTONIAN DE MENIL GIVEN MEDAL OF ARTS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. LELAND. Mr. Speaker, I would like to congratulate one of my constituents and a dear friend, Dominique de Menil, on being awarded the National Medal of Arts by President Reagan earlier this week. The National Medal of Arts is a recognition of the contributions to the excellence and support of the arts in the United States of people such as Dominique de Menil and the other award recipients.

In the 1930's, Mrs. de Menil began her career as an arts patron by giving Max Ernst his first one-man show. Dominique and her late husband, John, played a great role in the renaissance of arts institutes in Houston. They worked on behalf of the Houston Museum of Fine Arts, the University of St. Thomas, and Rice University; built the Rothko Chapel in Houston; and organized numerous art exhibits in both the United States and Europe.

I have submitted into the CONGRESSIONAL RECORD two articles from the Houston Post which further details the contributions of Dominique de Menil and I recommend these to my colleagues.

[From the Houston Post, July 15, 1986]

HOUSTONIAN DE MENIL GIVEN MEDAL OF ARTS

(By Kathy Lewis)

WASHINGTON.—President Reagan awarded the National Medal of Arts to 12 Americans Monday including Houston arts patron Dominique de Menil during a ceremony at the White House.

In making the awards, Reagan said, "We celebrate 12 rich contributions to the American arts and, in a wider sense, we celebrate America itself."

Speaking after the awards luncheon in the East Room, Reagan recalled how early Americans had turned to Europe for culture.

"In our own time, we have seen the rise of superb regional orchestras, ballet and opera companies and the coming of age of fine museums throughout the country," Reagan said.

He also heralded the emergence of cities like Los Angeles and New York as "art capitals of world importance."

"So it is that in matters of culture today that Americans look not so much to the old world as to the new, to America itself."

Immediately after the White House tribute, de Menil flew to Houston to be the honoree at L'Alliance Francaise de Houston's Bastille Day party. Mayor Kathy Whitmire proclaimed Monday Dominique de Menil Day.

This was but the second year for the National Medal of Arts awards to artists and patrons of the arts.

The awards to artists were bestowed upon singer Marian Anderson, composer Aaron Copland, painter Willem de Kooning, author Eudora Welty, film director Frank Capra, choreographer Agnes De Mille, actress Eva Le Gallienne, philosopher Lewis Mumford and folklorist Alan Lomax.

Lomax was born in Austin, but lives and works in New York where he is a resident scholar at Columbia University. He is cred-

ited with introducing Burl Ives, Pete Seeger and Woody Guthrie to a national audience via his CBS Radio series on folk music during the 1930s and 1940s.

"I'm delighted that the government and general public have given recognition to the oral tradition, which is where all art comes from," Lomax said afterward.

"You can have your symphonies and operas but everything in the end goes back to folklore, folk music—the fantasy of humanity."

The three arts patrons recognized were de Menil, Seymour Knox, founder of the Albright Knox Gallery in Buffalo, and the Exxon Corp., for its support of the arts, including sponsorship of the Great Performances series on public television.

Many of those honored were in their 80s and were unable to attend the ceremony.

First lady Nancy Reagan delivered brief tributes to each honoree. She praised Anderson, 84, for paving the way for all black performers by breaking the color barriers on concert stages with her debut in 1955 the New York Metropolitan Opera.

Of de Menil, Mrs. Reagan said, "she began her career as a bold patron in the 1930s by giving Max Ernst his first one-man show."

"She has played a primary role in the renaissance of arts institutes in Houston where a new museum will soon house the world-acclaimed collection of Dominique de Menil and her late husband, John," she added.

The Menil Collection is scheduled to open next spring in Houston.

De Menil, who came to the United States in 1941 from France, also was praised for her work with the Houston Museum of Fine Arts, the University of St. Thomas and Rice University as well as for building the Rothko Chapel and organizing exhibitions in the United States and Europe.

Reagan said Monday he commended all of the winners for "crowning our nation's greatness with grace."

[From the Houston Post, July 8, 1986]

DE MENIL ONE OF 12 MEDAL OF ARTS WINNERS

(By Carl Cunningham)

Houston arts philanthropist Dominique de Menil is one of 12 American recipients of the 1986 National Medal of the Arts, to be awarded by President and Mrs. Reagan at a July 14 luncheon in the White House.

The medal was first awarded last year to outstanding American artists, individual and corporate arts patrons. De Menil 78, is one of two Texas recipients of the award. Folklorist-scholar Alan Loman, originally from Austin but now working in New York, is the other.

Others named to receive the award are: Seymour H. Knox, major patron of Albright-Knox Gallery, Buffalo, N.Y.; actress/author Eva Le Gallienne, Weston, Conn.; philosopher/literary critic Lewis Mumford, New York; author Eudora Welty, Jackson, Miss.; contralto Marian Anderson, Danbury, Conn.; film director Frank Capra, Beverly Hills, Calif.; composer Aaron Copland, Peekskill, N.Y.; painter Willem de Kooning, East Hampton, N.Y.; choreographer Agnes de Mille, New York; and Exxon corporation, corporate patron, New York.

De Menil was out of the country when the award was announced, but was reported to be "very pleased" and plans to attend the White House luncheon in her honor.

The National Medal of the Arts is the latest in a long list of awards de Menil has received. Her most recent award is the Legion of Honor, France's highest governmental award, which the French Ambassador to the United States personally awarded her in Houston in May 1985. She also has received the French Order of Arts and Letters, France's highest award in the field of the arts.

A 40-year list of accomplishments cited in support of the award praised de Menil and her late husband, John de Menil, for building one of the great private art collections of the world, for sponsoring the first one-man show by famed artist Max Ernst and for holding major art exhibitions in Houston, New York, Paris and Germany.

The de Menils also helped finance the Houston Museum of Fine Arts and the Contemporary Art Association, donated the cost of the Philip Johnson architectural design and established the Art History Department at the University of St. Thomas. They established the Institute for the Arts at Rice University and built the Rothko Chapel as an ecumenical house of workship and home for the last paintings of Mark Rothko. De Menil is also building a new museum, the Menil Collection, scheduled to open in April 1987. She is a board member of the Pompidou Center for the Arts in Paris.

The National Medal of the Arts was first proposed by President Reagan in 1983, as a way to honor distinguished artists and arts patrons. Congress agreed to establish an official medal and passed legislation Jan. 23, 1984, authorizing the president to award the medal "to individuals or groups who, in the president's judgment, are deserving of special recognition by reason of their outstanding contribution to the excellence, growth, support and availability of the arts in the United States."

U.N. 40TH ANNIVERSARY CORRESPONDENCE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. GREEN. Mr. Speaker, I am happy to share with my colleagues the following exchange of letters between President Ronald Reagan and my constituent, Ruth Bishop, president of the Southern New York State Division of the United Nations Association of the United States of America. The letters followed the successful celebration of the 40th Anniversary of the United Nations.

The letters follow:

THE WHITE HOUSE,
Washington, DC, June 10, 1986.

Mrs. RUTH BISHOP,
President, Southern New York State Division, United Nations Association of the United States of America, New York, NY

DEAR MRS. BISHOP: Thank you for your special contribution to the observance of the 40th anniversary of the United Nations.

I understand that the ceremonies at the three earliest New York sites of the United Nation headquarters were all great successes. The plaques installed at those sites will remind future generations of the early history of the United Nations.

Because we were among the founding members of the United Nations, we Americans should be aware of the history, powers, and purpose of this organization. I know you will continue to work for this goal.

God bless you.

Sincerely,

RONALD REAGAN.

June 18, 1986.

The President,
The White House, Washington, DC.

DEAR MR. PRESIDENT, your warm letter commenting upon our efforts to commemorate the 40th Anniversary of the United Nations was greatly appreciated. So much so that I am sharing it with UNA/USA members at our annual meeting in California next week. For it was the combined efforts of all which made the three events so successful.

Now that the all too familiar "middle age spread" which plagued the United Nations has been followed by severe across-the-board budget cuts and expenses are being drastically curtailed within the United Nations, our support and encouragement to the United Nations to strive to accomplish the goals for which it was created is now even more necessary than when, as you stated in your letter to me, we helped to found the United Nations.

Now our leadership role and financial support must grow in this new era of the United Nations.

Your words are to me a beacon of your understanding of this sensitive, historic opportunity for you to be counted with Roosevelt and Churchill in their pragmatic creation of the United Nations.

Thank you for your continued understanding and support for the United Nations.

Sincerely,

RUTH BISHOP.
(MRS. WALTER BISHOP.)
President, Southern New York State Division, UNA/USA.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. UDALL. Mr. Speaker, this is the third in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

We have recently focused considerable attention to the problems in Nicaragua. The intensity of the discussion, and the recent vote on funding Contra forces, has virtually overshadowed the critical plight of a neighbor in crisis.

Mr. Speaker, I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the south.

The article by William Broyles, Jr., reminds us that Mexico's current problems are increasingly becoming our own problems, and challenges us to begin confronting them today, not mañana.

The article follows:

[From U.S. News & World Report, March 31, 1986]

THE KEY IS MEXICO, NOT NICARAGUA

(By William Broyles, Jr.)

It was one of President Reagan's more vivid images: If we did not fund the contra forces in their fight against Nicaragua's

Sandinista government, we would have a Soviet-style state "only 2 days' drive from Harlingen, Texas."

The obvious question is: 2 days' drive though what? Mainly Mexico, that's what. And Mexico is right next door—not 2 days' drive from Texas and California but 2 minutes. As the President said last week, for the Communists "the road to victory is through Mexico."

Some perspective: Mexico is an oil-producing, industrializing country of 80 million people—more than East and West Germany combined. Its area is more than France, Italy, Spain, Britain and West Germany put together.

Mexico is our third-largest trading partner after Canada and Japan—and our primary resource of imported oil. Its economy and its people are intertwined with the culture and economies of two of our three largest states: Texas and California. And upon its economic good health depends the stability of our banking system. In terms of our long-range interests, Mexico is vital and Nicaragua a backwater with less than 3 million people.

And so how are things with our most important neighbor and ally in this hemisphere, if not in the world? Adrián Lajous, one of Mexico's leading bankers and economists, spoke last month at the Amundsen Institute in Texas. He said that relations between the United States and Mexico are "the worst since the 1920s."

"You are pressuring us on drugs and immigration and our bank debt, and you are ignoring us about Nicaragua," said a Mexican official. "You would never dream of brushing aside Germany or England on issue of European security, but on Central America you treat our views with contempt."

Mexico opposes aid to the contras; so does virtually every other democracy of Latin America. Mexico has lived a short boat ride from Communist Cuba for 27 years and is more conservative today than when Castro took over. "We don't like communists any more than you do," said a Mexican economist, "but aiding mercenaries isn't how to stop it."

Mexicans don't think they are the last domino before the Red tide from Nicaragua reaches San Diego, but many American policymakers do. They believe the ruling Partido Revolucionario Institucional (PRI) smothers democracy and the economy, and that the collapse of oil prices and the tough measures necessary to pay off Mexico's $100 billion in foreign debts will tear the country apart. Mexico, in this view, is a political and economic basket case, ripe for revolution.

But this doomsday vision is as hyperbolic as the lavish praise Americans showered back in the 1970s on the "Mexican miracle"—the 40 years of 6 percent real economic growth. Then Mexico was everyone's model for a Third World success; now it's the next Iran.

Neither view is true. Mexico's growth, particularly in the oil-boom years of 1978–81, masked structural problems that will be painful and difficult to solve. But today's crisis conceals its strengths. The Mexican political culture is still strong. The political elites of Mexico are united. The leftist parties are weak and co-opted by the government; guerrillas don't exist. The only strong opposition is in Sinaloa and in the border states, particularly Chihuahua, and that comes from the conservative PAN (Partido Acción Nacional) party—unlikely revolutionaries.

We should remember that the Mexican view of democracy is not ours. Our revulsion with Nicaragua's restrictions on freedom isn't necessarily shared in a country where one political party has ruled for 57 years. The PRI has kept its power through elections that would make Ferdinand Marcos blush. It controls the press and the private economy: Only four years ago the banks were nationalized.

But in its own peculiar way the PRI seems to be loosening its grip. Trade barriers have been lowered and the private sector encouraged. The government seems to be realizing that its image of political fraud and corruption discourages foreign investment. Mexico is not headed for revolution but toward more democracy—not less—a trend throughout Latin America that proves just how impotent Cuba has really been.

The wonder of our relations with Mexico is not that they are bad but that they are as good as they are. Only two other industrialized Western nations share land borders with Third World countries—South Africa and Israel. And they are isolated, besieged states on hostile terms with their neighbors. Mexico, in contrast, may stand apart from us when the rhetoric flies, but Mexicans know our futures are tied.

The issues that trouble our side of the relationship are definitely real. The stagnant Mexican economy is sending unprecedented waves of illegal immigrants across the border; Mexico is now our leading source of heroin and marijuana, and, thanks to the collapse of the world oil market, by the end of this month Mexico will be technically in default on the interest of its foreign debt. These are thorny, difficult matters: They require hard work on both sides of the border, and they don't have dramatic, headline-grabbing solutions. They are, in short, no-win issues—the sort that few politicians want anything to do with.

But Mexcio's problems are increasingly our problems, and toppling Marxists in Nicaragua won't solve them. We have to confront the real issues not simply for the good of Mexico but for the good of the United States. And we have to start today not mañana.

SECURITY AT THE CAPITOL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 16, 1986, into the CONGRESSIONAL RECORD:

SECURITY AT THE CAPITOL

Hoosiers visiting Washington this summer will see a new concern for security. Their belongings will be examined at building entrances, they can no longer shop in the Pentagon concourse, and they will see all over Washington scores of antiterrorist barricades. As visitors wait in line at the metal detectors, they may wonder why institutions of government "by and for the people" place such limits on the people's access.

The delicate balance between preserving the democratic nature of the institution and protecting the institution itself is at issue in the current debate on whether to place a wrought-iron fence at the perimeter of the Capitol grounds. Under a proposed security plan, visitors to the grounds would pass through metal detectors at gates in a high fence placed far from the Capitol building. Currently, visitors are checked as they enter the building itself. Critics of the fence claim it will keep out the public and hand a victory to the terrorists by turning an emblem of democracy into Fort Apache. The problem is that securing the Capitol inconveniences the people. Proponents argue that the fence is a reasonable precaution in light of the terrorist threat.

A Capitol security debate has followed each new terrorist attack on the Capitol since 1954, when 5 members of the House were shot by Puerto Rican nationalists firing from the House visitors gallery. It was suggested then that bulletproof glass be added to the galleries. The often-renewed proposal was rejected in 1973 due to the inability of the gallery's supporters to bear the weight of the glass. Instead, visitors to the gallery undergo a separate security check. Additionally, the chamber's walls and doors have been strengthened and the backs of members' chairs have been reinforced with steel plates.

On March 1, 1971 a bomb demolished a restroom in the Capitol and damaged six other rooms. The explosion provoked many of the precautions in force today. Packages and briefcases were inspected at entrances to the Capitol and office buildings. At 10 entrances X-ray machines are used. A system of electronic alarms and closed-circuit television was installed in the Capitol complex. Tunnels under the Capitol were wired with automatic alarms. A hazardous device detail with sniffer dogs was created in the Capitol Police Force, and false walls and other hiding places in the Capitol were sealed.

The current push for security measures dates to late 1983, when a blast outside the Senate chamber followed an incident in which a man with a bomb was arrested in the House gallery. The House was full of visitors and members, and only an improperly rigged detonator prevented a tragedy.

These events combined with terrorist attacks abroad to produce in Washington a new sense of vulnerability to terrorism. Beginning in 1984, approximately 15,000 Capitol staff were required to carry pass cards and enter congressional buildings at specified entrances. The number of Capitol entrances open to tourists was reduced to six. The Capitol Police Force was expanded. Trucks were used to block street entrances to the Capitol grounds until permanent concrete "flowerpots" could be installed. Metal detectors were installed at all entrances to Capitol office buildings, and incoming mail is now X-rayed.

With the new precautions, visitors and employees at the Capitol began to feel the costs of security. A million people visit the Capitol each year; at peak times they wait in long lines to be inspected. Many convenient entrances have been closed. Concrete barriers remain an ugly reminder that these are dangerous times.

The effectiveness of any measure designed to protect as large and accessible an institution as Congress is also in question. Members could be threatened in their districts as well as in Washington, and critics note that a bomb in a Capitol Hill restaurant at lunch hour would endanger as many Senators as one in the Capitol building.

In assessing how far security should go, we should take a realistic look at the nature and scope of the threat, and at what improved security can accomplish. Since the 1954 shootings, no one has been injured in an incident at the Capitol. Two members of

Congress have died by violence in recent years, one at Jonestown in Guyana and one in the downing of Flight 007 by a Soviet plane. Security measures would have had little conceivable effect on these tragedies. Nonetheless, the Capitol, as a major government landmark, is a prime target for any terrorist who wants to call attention to his cause.

My view is that precautions can be taken without hurting the scenic or public quality of the grounds. A proposal to turn the East Front parking lots into landscaped grounds would reduce the risk of truck bombings while actually enhancing the area's beauty. Searches of trucks entering loading docks, alarming windows and doors, limiting deliveries, coating windows with explosion resistant film, and filling the 61 vacancies on the police force are all good ideas.

Of the proposals, fencing the Capitol has received the most criticism. A fence would add to the siege mentality, disrupt the graceful descent of the hilly Capitol grounds into the flat lawn of the Mall, and, if not actually limiting access, destroy much of the feel of it. The Capitol is the preeminent symbol of American democracy. It should be open and accessible to the people more than any other building. It is, in a real sense, theirs. We should not move so fast that we lose sight of what the Capitol is all about and what it means. Fencing off the building that symbolizes our democracy causes me problems. The Congress, for all its faults, is remarkably accessible to the people it represents. Americans may often be concerned about this government, but time and again I have seen them walk freely about the Capitol with its unequaled access and believe again in democracy. We had better be very sure that the threat is serious and imminent before we limit that privilage. At the moment, I am not persuaded that it is.

MIAMI HERALD SUPPORTS SEATBELTS ON SCHOOL BUSES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SMITH of Florida. Mr. Speaker, I introduced H.R. 3305, the National Schoolbus Safety Act of 1985, to provide the mandatory installation of seatbelts on all new schoolbuses, and I would like to bring the following July 8, 1986, Miami Herald editorial to the attention of my colleagues.

The editorial follows:

SCHOOL-BUS SEAT BELTS?

Now that the law says Florida drivers and front-seat passengers must wear seat belts, what about school children riding in those rumbling yellow buses? As simple an issue as this might seem, it isn't. Organizations that study safety matters are split. Because of the numbers of children involved, the issue ought to be resolved.

Fewer than 15 children die in the nation each year on a school bus. That is an astounding safety record considering that 21 million children ride some three billion miles annually. School-bus safety standards set in 1977 are based on a theory of "compartmentalization." That means using high, padded seat backs designed to absorb the force of a crash and to keep children from being thrown about during an accident.

The National Highway Traffic Safety Administration (NHTSA) opposes the use of lap belts. It cites studies showing that children using them would hit their heads harder on the seat in front of them than if they were unbelted and the force was absorbed by their bodies. NHTSA also believes that children would receive more abdominal injuries from belts, and it questions whether young children could unbuckle the belts in an accident.

Advocacy groups and doctors' associations, including the American College of Emergency Physicians, challenge the NHTSA studies. The critics fault the dummies used and note that those studies covered only frontal crashes, not rollovers or side collisions. NHTSA's study shows that half of the deaths occur in rollovers and 14.7 percent in side-impact accidents. Advocates note that districts using belts report few problems with them, and they argue that using belts on buses reinforces the habit of buckling up in cars.

On the fence in the issue is the National Safety Council, which supports NHTSA but calls for more study. The National Transportation Board expects to release a review of bus accidents this fall, but there are no plans for additional crash tests. Because of the serious questions raised by NHTSA and the challengers to its studies, thorough testing would be advisable.

Now pending in Congress is a bill by Rep. Larry Smith, a Florida Democrat from Hollywood, to require the installation of belts and annual state inspections. Congress should use this opportunity to examine the issue fully and demand that those tests be done. School buses are already safe, but that is no reason not to make them safer if possible.

CONGRESSIONAL SALUTE TO HARRY E. HOGAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I take this opportunity to recognize the distinguished law enforcement career of Harry E. Hogan. Mr. Hogan was the first black deputy chief of police in Sacramento, and is retiring after nearly 21 years of dedicated service to the community.

Hired in 1965, Mr. Hogan was only the third black officer in the department. This potentially difficult situation was handled with the same grace that typified Mr. Hogan's play as a tackle on Woodie Hayes' Ohio State football team.

A veteran of the U.S. Air Force, Harry's law enforcement career began as a foot officer in Oak Park. He steadily moved up through the ranks of the Sacramento Police Department, along the way gaining the respect and admiration of his colleagues. In 1978, Mr. Hogan was promoted to captain, and for the past 5 years served as commander for Chief of Police John Kearns' office.

Harry owes his success to his ability to be compassionate and rational during times of crisis while never forgetting his commitment to law enforcement. The department has depended on Harry for two decades and his retirement will be, as Chief Kearns aptly stated, "one of the major losses this department has suffered since I've been chief." One of his major accomplishments was the central role he played in successful efforts by the Sacramento Police Department to change State and Federal laws and regulations on halfway house operations, parolee releases, and law enforcement access to public records on fugitive felons.

Mr. Speaker, Mr. Hogan's service to the Sacramento Police Department and the community have been most admirable. While his friends and colleagues will certainly miss his company, they will be glad to have enjoyed his many years of dedication and support. I highly commend Harry E. Hogan and extend to him my highest regards, respect, and best wishes for a happy and fulfilling retirement.

THE REBIRTH OF UPTOWN NEW YORK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. RANGEL. Mr. Speaker, I rise to let my colleagues know that the Apollo Theater is alive and doing well in Harlem. Its once-famous Amateur Night is again the talk of the town, and young people are once again provided with successful role models.

The tradition of Harlem, begun in the early part of this century, are kept alive in what is probably the quintessential symbol of what came to be known as the Harlem Renaissance. The rebirth of the Apollo is at hand, and with it comes a rebirth of Harlem's bright legacy.

Main street in Harlem—125th Street—is being renovated with a large infusion of capital and entrepreneurial talent. The Harlem Urban Development Corp. is a major contributor to this second rebirth, as are dedicated individuals in the community. I am proud to say that, despite the pressing problems which exist in the black community, Harlem is a neighborhood optimistically looking to the future.

I urge my colleagues to read the following articles. They reflect the new mood uptown. Harlem is on its way back.

[From the New York Times, June 11, 1986]

PLAYING AGAIN AT THE APOLLO: TOP DOG NIGHT

[By Samuel G. Freedman)

Ralph Cooper climbed the steps from the stage to the dressing rooms of the Apollo Theater. "This is the stairway," he said. "The stairway to the stars."

He pointed to the photographs that covered the wall, except where someone had carried off a souvenir, and with it a chunk of plaster. "Here's James Brown," Mr. Cooper said. "And Louis Jordan, Aretha, Lloyd Price."

Then he nodded toward a circular photograph of a man in a cashmere sweater, his wavy hair parted toward the side, in the style of the young Duke Ellington. "That," Ralph Cooper said, "is Ralph Cooper."

For 51 years, Mr. Cooper has been as much a part of the Apollo Theater as its greatest stars. He was, and he is, the master

of ceremonies who introduced them all—big bands and soul revues, performers with names like Peg Leg and Pigmeat, and the hopeful unknowns who skittered toward the microphone on the theater's legendary Amateur Nights.

THE TOP DOG CONTEST IS BACK

Amateur Night returned to the Apollo last year, and tonight the winners meet in the showdown called the Top Dog Contest. For Mr. Cooper, who saw Ella Fitzgerald and Sarah Vaughan start their careers with Amateur Night triumphs and dozens of others slink off stage to hoots and cat-calls, it is an occasion for remembrance.

"The Amateur Night is more than tradition, more than what made the Apollo's name," said Mr. Cooper, who gives his age only as 21-plus. "It is the glorified show in Harlem. It belongs to Harlem. It's the opportunity show."

If anything, Harlem needs the glory, the opportunity and the dreams that the Apollo and its Amateur Night represent more now than when Mr. Cooper began in 1935. Back then, the neighborhood had not one theater but many—the Lafayette and the Harlem Opera House among them—along with Blumstein's department store, Creole Pete's restaurant and nightspots like the Wellworth.

But over the decades the riots came and the middle class went, and by the late 1960's the shocks had transformed 125th Street from the main street of a black metropolis into a collection of fast-food joints, storefront churches and government offices.

Now Harlem is trying to recover, with the $16 million renovation of the Apollo Theater, 253 West 125th Street, as one linchpin. Chandeliers glisten and colored lights swirl in what was once a rundown former burlesque house whose airless dressing room smelled of yesterday's dinner, sweat and cigarettes. Whatever its condition, the allure was constant.

"You know, I was never nervous in this theater," Mr. Cooper said, standing on its empty stage. "It's the strangest thing. Some folks, the audience knows they're scared, eats 'em up. But I always had a straight-out feeling. I felt this was where I was meant to be."

LIVE RADIO BROADCASTS

From the outset, the Amateur Night raised Wednesday to holiday proportions in Harlem. Crowds packed all three tiers of the theater, and those who could not get in listened to the live radio broadcast, hanging on the outcome with a devotion otherwise reserved for Joe Louis fights.

"We never had no applause meters or stuff like that," Mr. Cooper said. "The whole judge and jury is the audience. In one night, you'll see four or five standing ovations and you'll hear boos like you never hear at Yankee Stadium."

Mr. Cooper saw bandleader Chick Webb hire Ella Fitzgerald the night she won the contest. Earl Hines did the same with Sarah Vaughan. Then again, Mr. Cooper watched a young singer named Luther Vandross—later to become an international star—get booed on four different nights before he captured the crowd. And that is hardly the least hospitable reception an Amateur Night audience ever gave.

"There was a guy one time, was a baritone singer," Mr. Cooper recalled. "He had a gorgeous, rich voice. He wanted to sing 'Old Man River.' So he walked onto the stage and started singing: 'Niggers all work on the Mississippi.' And you could hear a pin drop. Everyone's waiting for what comes next.

"He sings the next line: 'Niggers all work while the white folks play.' And then the audience came down on him. They booed and screamed and carried on. Later, this singer had tears in his eyes. He said, 'Those are the lyrics.' Later on, they changed it to 'people.' He wanted to go back and apologize. I was afraid to let him out there."

SKINNY GIRL, FUTURE STAR

Then there was the night in the late 1930's when Mr. Cooper had left work to get a late dinner at the Hot-cha, a restaurant on 135th Street and Seventh Avenue.

"Out came this young, skinny little girl," he recalled, "and she sang two numbers, 'When the Moon Turns Green' and 'Them There Eyes.' I'd never heard a voice like that, that kind of whiny, sexy voice. And that was Billie Holiday.

"Well, I took her back with me to the Apollo that night and rehearsed those two numbers. And she came back the next day for the show. She still had on her same clothes from the night before, so I sent her across the street with a chorus girl, got her dressed up.

"When I introduced her that night, I told the story. And she sang those two numbers, and totally, completely got the audience. They're screaming for more, and I say, 'She's only rehearsed two songs, we don't have no more. Come back tomorrow and she'll do another.'

"And I heard someone shout from the gallery, 'Let her do those two again, Coop.' So she did. And they went crazy again. She ended up playing the Apollo for the next four weeks."

NEW GENERATION ON STAGE

Tonight, another generation of performers will move toward the microphone—the blind singer William Robinson; the jazz violinist Karen Briggs; a comedian named Tommy Davidson who imitates the funk star Rick James; Omar Chandler, who sings a medley of Marvin Gaye's hits, along with 13 others nursing the same old fantasy of fame.

And Ralph Cooper, of course, will be there, too.

"I've always contended that every black performer has a love affair with the Apollo," he said. "I don't care how famous you are, you get out there and your heart beats different."

ON 125TH ST., NEW HOPE FOR HARLEM'S RENEWAL

(By Ronald Smothers)

The restoration of the Apollo Theater along with a number of more modest recent projects have fueled a new optimism along 125th Street in Harlem, an area accustomed to proposals rather than results.

But in the words of Con. Howe, the director of the City Planning Department's Manhattan office, even the grander proposals are now becoming "more likely rather than less likely."

The reopening of the Apollo by a group of investors led by Percy E. Sutton is, in the view of many planners, the most significant development in the 12-block area between St. Nicholas and Fifth Avenues.

"The Apollo is an international draw, capable of bringing attention to Harlem from all over, and it will be the excitement it generates that will help us turn the corner," said a spokesman for the Harlem Urban Development Corporation, Robin Vergis.

But there are other developments completed or nearing completion that, while less well-known, are contributing to the revitalization of 125th Street. Whether grand or modest, the projects share a common history: they came close to foundering because of investor's poor perception of the area, a lack of financing or government paperwork.

The same is true of many of the plans still on the drawing boards which have, almost by their sheer persistence, gradually gained greater support as the fortunes of the street appeared to improve.

The Loews Victoria, closed for eight years, is scheduled to open in September after completion of a $2.6 million renovation to the 2,225-seat theater. Refurbished as a five-theater complex, just east of the Apollo, it will give Harlem its first movie theater with first-run films in 16 years.

Plaza Nine Stores, a new one-story building with space for nine retail outlets—started in 1982 along with a municipal garage—is now being leased. Situated between Lenox Avenue and Adam Clayton Powell Boulevard, the structure was a joint effort of city government and the Harlem Urban Development Corporation.

The Mart 1-2-5, a new two-level building between Adam Clayton Powell Boulevard and Frederick Douglass Boulevard that will house more than 80 stalls and a food-concession area for street vendors, is scheduled to open in August after more than six years of planning and construction.

At 125th Street and Fifth Avenue, the National Black Theater recently moved a step closer to completing plans for renovating its home to include commercial and retail space along with performance space. The theater won approval of a state loan for part of the $3.5 million renovation and is awaiting approval of the city's portion of the loan.

One of the newer proposals is a plan by the Harlem Commonwealth Council to build a 14-story office building in place of the burned-out structure on the corner of 125th Street and Frederick Douglas Boulevard.

One of the grander plans is the Harlem International Trade Center, an office complex and hotel, designed specifically to promote United States trade opportunities with third-world countries.

NEW JERSEY TASK FORCE MAKES RECOMMENDATIONS ON CATASTROPHIC HEALTH INSURANCE FOR THE ELDERLY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. GALLO. Mr. Speaker, in response to the President's call for catastrophic health coverage for the elderly, I formed a task force of New Jersey health care experts to make recommendations to the Secretary of Health and Human Services, Dr. Otis Bowen.

It is becoming alarmingly clear that senior citizens are slowly being drained of good health and financial resources due to catastrophic illnesses and long-term health care needs. Unfortunately, senior citizens are often confused about what Medicare and private supplemental insurance policies cover and do not cover. Many times, elderly persons are caught off guard by the limited coverage of long-term health services, such as nursing home and home health care.

In recommendations presented to Secretary Bowen on June 20, members of my task force expressed the need for the Federal Government, in conjunction with State and local authorities, to educate the elderly on what services are and are not covered by Medicare.

The task force members also agreed that home health care coverage is a vital part of any solution to address long-term care needs of senior citizens and recommended a wider selection and more comprehensive coverage of home health services. Since the family is the cornerstone of our society, our aim should be to develop a Federal health policy that reinforces and supports family efforts to care for their loved ones within their own homes.

I feel that our New Jersey task force, comprised of State officials and representatives from hospitals, nurses associations, and home health providers, has reached some significant, vital conclusions regarding long-term care. They have worked diligently toward the goal of improving health care for the elderly and their suggestions carry great weight in my eyes.

I would like to thank all the members of my task force for contributing their time and their expertise to the report presented to Secretary Bowen. They and their report exemplify the worthy, but sometimes scarce, attributes of community service, dedication, and voluntarism. Marianne Heller, Director of Patient Care Coordination at Dover General Hospital, deserves special recognition for her work as task force chairperson.

Other members of the task force include Mr. George Batten of West Essex Community Health Service, Mrs. Kathleen Campbell of the Visiting Nurses Association of Morris County, Ms. Laura Cannon, Ms. Laura DeClerico, and Ms. Gloria Lombardi of the New Jersey State Nurses Association, Mr. Kenneth Courey and Dr. William Neigher of St. Clare's Hospital, State Senator Donald DiFrancesco, State Assemblyman Rodney Frelinghuysen, Mr. Ken Dolan of the Home Care Council of New Jersey, Mr. Paul Falcone of Healthforce, Mrs. Mary Germain of the New Jersey State Nurses Association, Mr. Rick Green of the New Jersey Department of Health, Ms. Judy Iverson of Tri-Hospital Home Health Care, Mrs. Carol Kurland of the New Jersey Department of Human Services, Mr. John Paul Marosy of the Home Health Agency Assembly of New Jersey, and Mrs. Judith Gardner Quinn of National Medical Homecare.

Our work will continue as we pursue efforts to educate senior citizens about their health benefits and as the task force makes further recommendations on proposals affecting the health care of the elderly.

PREVENTING YOUTH SUICIDE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. BIAGGI. Mr. Speaker, I wish to congratulate my colleagues on the passage of H.R. 4650, the Youth Suicide Prevention Act and am proud to be a cosponsor and strong supporter of this legislation, it is an important step in the effort to combat teenage suicide.

I convened a hearing on this vital subject in Westchester County to define the appropriate Federal role in order to combat this profound and distressing national tragedy. Although Westchester County operates a number of community-based strategies that are being used to attack the problem of youth suicide, one fact clearly emerged from the hearing. There must be a greater effort, at the Federal level, to attack this significant national health problem.

At this time, we are spending less than $2 million per year at the Federal level to research and prevent the problem of youth suicide. $2 million is a very small amount to address a problem of such alarming proportions. Consider for example that since 1960, the suicide rate for youth between the ages of 15 and 24 has tripled. According to the Department of Health and Human Services, a young person commits suicide every 90 minutes. Suicide is the third leading cause of death among adolescents and the second leading cause of death among college and university students. It is the fastest growing cause of death for young people.

H.R. 4650 will provide $1 million in fiscal year 1987 and such sums as necessary in subsequent 2 years to operate youth suicide prevention programs around the country. It is clearly the intent of this legislation to supplement, not supplant, State and local funds. These prevention programs will greatly assist efforts to utilize all community resources in developing such programs and provide for further cooperation among Federal, State, and local agencies. It is legislation that is long overdue.

The mourning and sadness associated with the loss of life affects family, friends, and many times the entire community. The premature loss of life by a young person is a tragedy devastating all. Yet, the self-inflicted death of a young person is an unspeakable horror, often not even acknowledged by our society which treats this matter as a shocking taboo. We must reach out to these troubled youth and respond to their needs and cries for help. Passage of H.R. 4650 marks an important step in the effort to do just that. We must continue our national commitment to address this distressing and alarming national tragedy.

SANDINISTAS' GRIP TIGHTENS AROUND NICARAGUA'S NECK

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. LAGOMARSINO. Mr. Speaker, for reasons that escape me, some continue to believe the Sandinista government in Nicaragua is neither totalitarian nor Marxist-Leninist with strong ties to Cuba and the Soviet Union. An article in the July 15, 1986, edition of the Washington Times offers compelling testimony of the strong Communist nature of the Sandinista regime in Nicaragua, and I believe the evidence cited in the article should be considered by all those who are involved in the debate on United States policy in Central America. I urge my colleagues to read carefully the following Washington Times article:

[From the Washington Times, July 15, 1986]

SANDINISTAS' GRIP TIGHTENS AROUND NICARAGUA'S NECK

(By Glenn Garvin)

MANAGUA, NICARAGUA.—A farmer watching TV coverage of a Sandinista rally in the city of Granada recently was surprised to see one of his close friends in the crowd, shouting and waiving a red-and-black Sandinista banner.

"I thought to myself, 'That son of a gun.' I know he hates them as much as I do," the farmer recalled. "I couldn't believe he would run around with them that way."

The farmer called his friend the next day to express his disgust. The friend, a tailor, was near tears.

"He told me he got to work that day [in Managua] and they said, 'You're going to Granada on the bus to be in the rally. Take this banner with you,'" the farmer said. "My friend said he would't do it. Then they said, 'Are you forgetting you belong to a cooperative? If you don't go, you don't get anymore needles or thread.'

"My friend said, 'Thank you very much for the banner. Of course, I'll be happy to go.'

"This is how the Sandinistas are. This is like a bitter medicine. They make you swallow it whether you like it or not. The people of Nicaragua have to swallow it and pretend. And the people outside don't want to know what's happening to us."

Every day more such stories are told around Managua. During the last year, the Sandinistas have grown less and less shy about using their political and economic muscle against the critical or uncooperative. "This is a far less open society than it was a year ago," says one diplomat.

Just before they took power in 1979—with overt help from Castro's Cuba—the Sandinistas promised they would respect freedom of the press and religion, maintain a mixed economy, and a pluralistic society. But literally within days they began encroaching on each of those things.

"After a month, you could see that the political direction was not democratic," said Violeta Chamorro, the newspaper publisher who served nine months on the first revolutionary junta before resigning in protest. "They were not fulfilling what they promised. They had only one line, a Marxist line."

During the ensuing seven years, some Nicaraguan liberties—like freedom of the press—have been all but abolished. Others, like the mixed economy, cling to a tenuous existence that grows more problematic every day.

Nonetheless, there is a general agreement among both Nicaraguan opposition figures and Western diplomats here that Nicaragua is not yet a totalitarian state. But they believe that is the eventual goal of the Sandinistas.

"If you look at a 7-year-old girl, would you describe her as a woman?" asked Enrique Bolanos, head of COSEP, the private enterprise organization here. "No, a woman can bear a child and a 7-year-old girl is not capable of that. But she will be. She's growing up. This government is growing up, too. If you measure it by degrees, it's getting very close."

Opposition leaders and diplomats say Nicaragua offers several reasons why they believe the Sandinista regime falls short of totalitarian:

Opposition parties are still legal, although most of their leaders say election rules are hopelessly fixed against them to prevent any serious challenge to Sandinista rule. Opposition parties control about a third of the national assembly seats, although they have been completely eliminated from the executive branch.

The Catholic Church, though under harsh attack and without any access to Nicaragua's media to get its message across, remains an opposition force.

Membership in opposition labor unions remains legal, even tough the unions are not allowed to strike.

About half the land in Nicaragua remains in private hands and free enterprise continues to exist, although it is enmeshed in a hopeless tangle of rules, regulations, and Marxist-style central economic planning.

Most of the opposition leaders believe the Sandinistas would move to suspend the remaining liberties if they thought they could do it without attracting too much international attention.

"They want to keep that appearance of pluralism," says one. "If they give us less political space, they would reduce their own credibility to a minimum." With import requirements next year of $1,25 billion and exports of only $294 million, the Sandinistas are heavily dependent on foreign aid, much of which comes from non-communist nations.

It was that same need for foreign aid that kept the Sandinistas from moving too fast when they first took over, Mr. Bolanos said.

"At the beginning, they worked at disguising their Marxism. 'We're pro-democracy, we're for freedom of the press,' they said. But they were thinking, 'Slowly we will establish our system, and if it's financed by the U.S. all the better. They got $100 million in American aid before Jimmy Carter—not Ronald Reagan, but Jimmy Carter—cut it off."

The government's official position is that civil liberties are fully guaranteed in Nicaragua, and whatever minor curtailments have been made are due to national security problems created by the American-backed resistance forces fighting the Sandinistas.

"We are taking measures that we would rather not take, but we are in a situation in which Reagan has declared war on this country," Nicaraguan President Daniel Ortega said recently, expressing the government's view.

But interviews with diplomats and opposition leaders, and an examination of the historical record make it clear the Sandinistas moved to consolidate their power and to restrict civil liberties long before the American-backed rebels appeared in March 1982.

Within a few days of taking power in July 1979, the Sandinistas seized both of Nicaragua's television stations. One belonged to deposed dictator Anastasio Somoza, but the other did not. In December 1979, the Sandinistas officially declared no other television stations would be permitted to open.

The first government censorship took place in January 1980, when the Sandinistas ordered a critical radio commentator off the air. In September 1980, the Sandinistas issued a decree banning virtually all news about the economy.

La Prensa, the closed opposition newspaper, was suspended from publication for the first time in July 1981, after reporting that someone was defacing religious billboards in downtown Managua.

Strikes were decreed illegal in September 1981.

"They also moved, right from the start, to merge the state and the Sandinista party," said an anti-government attorney. "They've been very successful at this. A lot of people who are carrying out their work think it's necessary for the government, when really it's only necessary for the party."

In August 1979, the Sandinistas declared their own party army would be "the only armed force of the republic" and all police and security forces would also be under party control. The same month, the Somoza family newspaper was confiscated and placed under party rather than government control.

In September 1979, the television stations were officially turned over to the party, and the party was given the sole legal right to use the name of Augusto Cesar Sandino, a nationalist Nicaraguan hero of the 1920s, for political purposes.

Today, the only daily newspapers in Nicaragua are under government control, as well as the television stations. All radio news is under government control, and entertainment programming—right down to the names of which records will be played—must be submitted in advance to government censors.

The censors take their jobs very seriously. "Even on a little children's program like Porky Pig, if one of the characters says something about the United States, they cut it off the soundtrack," said one broadcaster.

For a time, newspapers were forbidden to print the name of Alexis Arguello, the Nicaraguan who was the world boxing champion because he was critical of the Sandinistas.

Although it is still legal to belong to most Nicaraguan labor unions and professional organizations, the Sandinistas have taken steps to limit their effectiveness. Often this takes the form of creating a government-subsidized organization to compete with the private groups, and then restricting the private groups' ability to raise money.

For instance, the private bar association has been denied the legal status necessary to incur debts, to have a post office box, to own vehicles or real estate or to have employees.

The Sandinista bar association can do all those things, and get a government subsidy as well. The situation is the same for the two professional journalism associations, the Sandinista group and the private one. "If the Sandinista reporters need tape recorders, their association has them," says one reporter who belongs to the private association. "If they need to use a car, the association has vehicles. If I need any of that, too bad."

Although in some international circles there is still debate about whether the Sandinistas are Marxists, in Nicaragua the question is considered long since closed.

"During the revolution, the Sandinistas, every time they had one of these assaults and took some hostages, they published manifestoes," said Mr. Bolaños. "They always used the word Marxist. [Sandinista party founder Carlos] Fonseca said he dreamed of a Managua similar to Havana. So we knew when they came, we knew they were going to set up a society similar to the one in Havana. And they have been doing it."

GOVERNMENT BREAKS FAITH WITH ITS RETIRED EMPLOYEES

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. WEISS. Mr. Speaker, the first group of American citizens to suffer from the unfair Gramm-Rudman deficit reduction law was Federal retirees. In January, the 3.1 percent cost-of-living adjustment [COLA] to which they were entitled was cancelled by the Gramm-Rudman law.

On June 24, the House of Representatives recognized the unfairness of this action by voting to guarantee a COLA in fiscal year 1987 for Federal retirees. Then, on July 7, the Supreme Court struck down the procedure under which the Federal retiree COLA was eliminated and other mandatory spending cuts were made.

However, Gramm-Rudman is not the only measure which has harmed Federal employees and retirees in recent years. These individuals have been the victims of repeated efforts to cut their pay and reduce their benefits in recent years.

The following article, written by my constituent Harry H. Zucker, details his effort to preserve Federal retirement benefits by seeking recognition of their integrity from the Federal courts. I believe it is representative of the anger and frustration experienced by Federal employees and retirees around the country, who have seen the Government repeatedly renege on its promises.

I commend this article to the attention of my colleagues.

[From the News-Sun, Feb. 13, 1986]

GOVERNMENT BREAKS FAITH WITH ITS RETIRED EMPLOYEES

In 1920, the Congress, after carefully considering a retirement statute for its employees over a period of many years, enacted a participatory and joint contributory retirement system.

The legislative history encompassing the extensive debates and discussions on the floors of the House of Representatives and Senate, as well as in the committee reports, clearly spelled out that this retirement program was to be a contract between federal employees and the government (59 Cong. Rec. 6296, 6289, 6929 and 9288-1920); that this retirement program was deferred compensation for work already performed and remaining unpaid (59 Cong. Rec. 6300, 6378-1920) and that this retirement system did not encompass public funds, in that all monies paid by federal retirees subsequent to their retirement went into and stemmed from a trust fund which was distinct from the federal treasury and never owned by the federal government, and which existed solely on behalf of the federal employees and retirees as the cetui que trust. (Sec. 15, PL 215-66th Congress).

The words of the statute (which essentially have remained unchanged to this very day—were and remained consistent with the foregoing and always clearly bore out these concepts. Thereafter, and in 1969, a statute was enacted providing for certain cost of living adjustments (COLAs) to safeguard the retired employees against the ravages of inflation during the sunset years of their

lives and not allow such retirees to be cast into the pale of poverty.

For the first time, and thereafter, this COLA concept was toally supported by the federal employees and the government by joint and equal contributions made directly into the trust fund, amounting to one half of one percent of the employees' gross salaries, and these contributions were deemed to be sufficient to support these COLAs. It is impossible to relate this program and structure or describe it in any way other than by analogy to an insurance program with the same rights obtaining to that found in any subsequent concept.

Regretfully, and in 1976, the Congress, in the absence of any reasonably strong evidence demonstrating any clear and present budgetary danger of substantial deficit moved enactments supported solely by whim and caprice, in violation of the government's solemn word and in offense to the government's repute, dignity and honesty, reneging on its contract to pay its retired employees the COLAs spelled out in the 1969 statute for which the additional contributions had been paid by the participating employees since 1969 (and continuing to this very day).

Thereafter and in the succeeding years, the government made repeated attacks and assaults on its employees' retirement formulas, now claiming an alleged budgetary deficit. That this allegation is grossly incorrect is patently clear, in that the payments were made out of the trust fund (which the government did not own) and not out of the public treasury or out of the public funds, per se.

The matter was brought before the courts for relief and justice but only misapplication of law based on misunderstanding, misinterpretation of the words of the statute and, indeed, disregard of the salient words, history, legislative reports and minutes of the congressional debates dealing with the issue in gross and specifically, among other things the deferred compensation issue, the contract issue and trust fund issue, nullified our efforts.

Having brought an honest and valid action in litigation, we were entitled to an interpretation as to the meaning of the words of the statute or the meaning they were intended to have. Needless to say, the courts skimmed over the words of the statute as if the words were not there. The same effect obtained with respect to the legislative history.

Actually, what the courts were doing was assuming an unconstitutional legislative role in the premises, and by ignoring the statute and the words contained therein were performing "an act of de facto repeal" by withholding meaning, in effect, from the statute.

Of course, this unwarranted "judicial legislation" will result in a convoluted judicial system and tend to destroy law as we understand it. To add insult to injury, despite the fact that no court had ever made a direct ruling on the issues presented by us at litigation, we were denied recourse to the Supreme Court.

With the enactment of Gramm-Rudman, the Federal Employees Retirement System, in its entirety, is in jeopardy. How far will the people of the United States tolerate this travesty—this lynching—to continue? Here are people pleading for the recognition of a right which is analogous to insurance and for which premium payments have been made. If acquisitive taxpayers believe they will reap a harvest on the backs of federal employees and retirees, they had better have another think coming.

If the people will allow the government to get away with this charade, in this heavily insurance oriented society, those of us who do carry insurance contracts of whatsoever nature are in serious jeopardy. Further, if we cannot trust our government to do the right thing, whom can we trust? Certainly, as we have established in this case, the government has not earned our trust.

What are you going to do about this? We need access to justice.

WELCH: STEALTH TO OUTCLASS B-1B

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. DAUB. Mr. Speaker, I would like to bring to my colleagues attention recent comments by Gen. Larry Welch, former Strategic Air Command Commander in Chief, who is now the Air Force Chief of Staff. His remarks are from an Omaha World Herald story.

WELCH: STEALTH TO OUTCLASS B-1B

(By Howard Silber)

The B-1B bomber that has been flown by the Strategic Air Command less than one year will be old before its time in terms of warplane technology.

Gen. Larry D. Welch, SAC commander in chief, said the B-1B will be outclassed by the Stealth bomber, which is being developed by the Air Force as a radar-eluding nuclear weapons carrier.

Welch, who is expected to become Air Force chief of staff next month, said he opposes proposals to build more than the 100 B-1Bs presently authorized for SAC.

"It would be less effective to have the 101st B-1B than it would be to have the first ATB (advanced technology bomber)," Welch said in an interview.

The Stealth has been designated the advanced technology bomber just as the B-1B was known in its early development period as the advanced manned strategic aircraft.

The Stealth is being developed for the Air Force in what has been described as the most hush-hush U.S. government program since the Manhattan Project in which the atom bomb was built during World War II. Not even costs associated with the radical airplane have been made public.

It is known that the Stealth is being designed and that a prototype aircraft will be built by an aerospace industries team headed by the Northrop Corp.

A large new factory at Palmdale, Calif., is being readied for Stealth production. The plant in which B-1Bs are assembled is located on the same airport at Palmdale.

The World-Herald reported last June that the Stealth would resemble the "flying wing" experimental bombers that were built by Northrop in the late 1940s and early 1950s. Sen. Barry Goldwater of Arizona, chairman of the Senate Armed Services Committee, was the source of that information.

The shape of the Stealth and many of the materials used in its construction are intended to reduce its radar reflectiveness. The minimal radar return would enable it to penetrate what are expected to be increasingly sophisticated warning systems in and near the Soviet Union.

Welch said the Stealth will be a better all-around bomber than the B-1B.

Asked in an interview if the Stealth would have a greater weapons-carrying capacity, he replied:

"What I can say is that the ATB is a superb bomber design, it would be a superb bomber design even if it weren't stealthy.

"There is generally a feeling among some that you pay a tremendous price in performance and in cost for stealth technology, and that was once the case.

"But we're working on a level of stealth technology that accommodates itself very nicely to aerodynamic requirements.

"So, I can simply say that the ATB is a superb, efficient bomber design. When you add stealth to that design, it just gives you a dimension that you can't get anywhere else."

MORE THAN 100 PROPOSED

Some members of Congress have joined Rockwell International, the prime contractor for the B-1B bomber, in proposing that more than 100 of the planes be built.

The first B-1B was delivered last June. SAC now has six of them, a spokesman for the command said. All of these are at Dyess Air Force Base, Abilene, Texas.

Other B-1Bs are in production, and some are scheduled to be based near Rapid City, S.D., by the end of this year.

Welch said, "The reality of the situation is that the only way you could get money to build more B-1Bs is by delaying the ATB."

Welch said the contention that it would be less expensive to buy more than 100 B-1Bs at the expense of Stealth production is inaccurate.

The investment must be considered from the standpoint of the ability to do the job that will be assigned the Stealth—penetrating Soviet defenses, he said.

"It would cost more money to do that job with B-1Bs because the ATB would do the job much more efficiently," he said. More B-1Bs than Stealth bombers would be needed.

'SIMPLY CAN'T PENETRATE'

In the longer term, as Soviet defenses improve, "you simply cannot do the ATB job with the B-1B," Welch said. The B-1Bs "simply can't penetrate the kinds of defenses that we expect to have to penetrate with the ATB," he said.

"Even in the near-term, the dollar argument is erroneous in that the ATB does it with enough increased efficiency that the cost would be lower," said Welch.

The SAC chief said the B-1Bs are performing a necessary function.

"There were some good reasons for buying the B-1B now while it is available and taking the time to develop and field the ATB for the longer-term future, and all of those reasons are still with us," he said. "It was a valid decision when it was made, and it remains a valid decision."

Welch said he disagrees with proposals to disclose costs and other Stealth program details. Among others in Congress, Sen. John Glenn, D-Ohio, has said data on funding should be provided to help members of Congress make decisions on the defense budget.

'COMMITTEES FULLY BRIEFED'

"Anything that we reveal about the airplane, anything that we reveal about the (developmental) schedule—and the annual funding tells you something about scheduling—is undesirable," Welch said.

"There are committees in the Congress that are fully briefed on all aspects of the

ATB program. They know where every nickel is going. So it's not as if we're trying to avoid congressional oversight. We're not.

"I think the other members of Congress should trust the committee members. They are bipartisan committees. The committee members are knowledgeable people. They are highly respected representatives and senators.

"To reveal details about the ATB program simply so that more members of Congress could be informed would be grand, except that it also would inform the Soviets. We'd rather not do that," the general said.

"It's clear that the technology that is going into the ATB has been very well protected."

Welch said he is "firmly convinced that the Soviets don't know, within the span of a few years, when we're going to field the ATB."

The advanced cruise missile, also designed for SAC, is another highly secret or "black" program. Welch said much of the secrecy veiling the new missile will soon be lifted, possibly next year.

'RADAR-BAFFLING QUALITIES'

Like the Stealth, the new cruise missile, which is being developed by General Dynamics Corp., will have radar-baffling qualities.

It will be capable of penetrating "sophisticated defenses in the years to come," he said.

In the SAC arsenal, the advanced cruise missile will complement the airlaunched cruise missiles that are now carried on some SAC B-52 bombers.

Welch said crashes of air-launched cruise missiles in two test flights last winter over northern Canada were not indicative of weaknesses in the weapon.

In the first test, he said, the missile reached the target as planned. It crashed as it continued its flight to an area where it was to have been recovered. There would be no such attempt to salvage a missile in a combat situation.

There were unexpected headwinds during the flight, he said, and the missile "ran out of fuel before it got to the recovery area."

In the second test, someone neglected to remove an air inlet cover from the missile prior to the test and the engine would not start, Welch said.

RECENT EVENTS IN CHILE SUGGESTS HUMAN RIGHTS VIOLATIONS

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. LUNDINE. Mr. Speaker, recent events in Chile, particularly the tragedy involving District of Columbia resident Rodrigo Rojas de Negri, have once again exposed the Pinochet military regime as a flagrant and consistent violator of human rights. I continue to be very concerned about this situation especially as it bears upon U.S. participation in the multilateral development banks. Our votes on loans to Chile are recognized as a major symbol of U.S. support for Pinochet.

Not since the 1976 deaths of Orlando Letelier and Randy Moffit has the Washington community been so personally outraged by Augusto Pinochet's nefarious methods of government. One of Washington's citizens, one who came to Washington precisely to seek protection from the Pinochet regime, has died senselessly. That angers and saddens us. But Rodrigo Rojas de Negri could easily have been any Chilean youth. In fact, he is representative of many young Chileans who have risked torture or death by protesting their government's actions, or who simply ended up in the wrong place at the wrong time when General Pinochet wanted to send another message to the population.

That message is that human life is expendable in the pursuit of General Pinochet's political agenda. In Chile there are no human rights which supersede the power of the military.

The Reagan Administration has launched a belated diplomatic attack on the Pinochet government. This attack is personified by a valiant Ambassador who quietly but bravely expresses the sentiment of many Americans who despise the tactics of oppressive authoritarian governments such as exist in Chile or South Africa. I have a great deal of respect for Mr. Barnes.

Yet we must view the latest efforts of the Administration in the context of all its Latin American policies. Even without any such hideous incidents of burning young bodies on the roadsides, a small country such as Nicaragua has felt the full force of the administration's wrath. They have insisted on 100 million dollars in military assistance for the Contra forces, they have rejected the decisions of a neutral international tribunal like the World Court and they have persistently opposed any development aid to Nicaragua through the multilateral development banks. The crimes committed by the Pinochet government would seem to require every bit the force of indignation and outrage expressed against Nicaragua.

Instead, the United States has done nothing to bring pressure on Chile by using its considerable influence in the multilateral development banks despite congressional demands to that effect. Last year Chile received $1.1 billion dollars through the World Bank and the Inter-American Development Bank with the support of this administration. As my colleagues will recall, section 701 of the International Financial Institutions Act explicitly states that the American taxpayer does not want to send money allotted for development to bolster governments which are internationally recognized to be human rights abusers.

That policy of the administration must be reversed. The cycles of violence in Chile since 1973 are painfully repeated year after year. Yet even Mr. Barnes, official spokesman for the United States, appears unable to stem the cruel disregard for human rights. I can only ask why the administration would hesitate to use whatever pressure, economic as well as political, to aid those forces in Chile calling for an end to violence? One of the most obvious pressure points to use, and the one mandated by the Congress, is to oppose loans to this regime which is a persistent and gross violator of the human rights of its citizens.

In the next few days, I will be scheduling a hearing to investigate U.S. voting policy in the multilateral development banks in light of the new developments in Chile. I hope that when these hearings are held, we will learn that the administration has re-examined its policies in this area. In the meantime, I urge my colleagues to join with me in expressing our support for the existing human rights legislation and our insistence that it be observed.

THE FEDERAL HOSPITAL SYSTEM SHARING ACT OF 1986

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. FAWELL. Mr. Speaker, on June 26, the Grace Caucus introduced a legislative package of 14 bills which will save $25 billion over a 3-year period. I am cosponsoring 11 of the bills and sponsoring 1 of them—H.R. 5157, the Federal Hospital System Sharing Act of 1986.

H.R. 5157 implements the Grace Commission proposals which expand the scope of a 1982 law, the Veterans' Administration and Defense Department Health Resources Sharing and Emergency Operations Act (Public Law 97–174). The 1982 act provides for sharing of Federal hospital resources.

The Grace Commission study found that increased sharing of hospital resources between DOD and the VA would reduce costs. The GAO agrees with these conclusions. The 1982 act, however, only extends sharing authority to cover primary beneficiaries and does not include DOD dependents, retirees, or survivors.

Because DOD dependents, retirees, or survivors are not included under the 1982 law, the Grace Commission has concluded that sharing agreements between DOD and the VA have not been effective. H.R. 5157 corrects this flaw in current law by extending coverage to dependents and survivors of VA and military personnel.

There is a legitimate need to improve the operations of the federal hospital system. Health care budgets in the VA and DOD have increased over 400 percent in the past decade. Although Federal law permits interagency sharing to improve the quality of health care and avoid duplication of services, no law actually required such sharing prior to 1982. And the Grace Commission has documented the inadequacies of the 1982 law.

Real benefits can be achieved through hospital sharing. In the private sector, hospital sharing is a very common method to reduce unnecessary duplication and waste. Over two-thirds of all private-sector hospitals now share one or more services or facilities. In a study of a 25-hospital sharing arrangement in St. Paul/Minneapolis, more the $100,000 a year alone was saved in medical supply purchasing. The successes of the private sector can be copied in the federal hospital system.

H.R. 5157 would not reduce the medical care now provided by DOD to its approximately 186 hospitals and 310 outpatient clinics and by the VA to its approximately 168 acute care hospitals, 226 outpatient clinics, and 90 nursing homes. Instead, this bill ensures that these services will be provided efficiently by allowing all eligible persons to receive direct health from either DOD or VA facilities.

The text of H.R. 5157 follows:

H.R. 5157

A bill to increase Government economy and efficiency and to reduce the deficit by implementing a recommendation of the President's Private Sector Survey on Cost Control relating to the sharing of Veterans' Administration and Department of Defense healthcare resources

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Federal Hospital System Sharing Act of 1986".

PURPOSE

SEC. 2. The purpose of this Act is to improve the efficiency and reduce the costs of Veterans' Administration and Department of Defense hospitals by expanding the authority to share health-care resources.

SHARING VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE HEALTH-CARE RESOURCES

SEC. 3 (a) Section 5011(d)(1) of title 38, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "Under any such agreement, an individual who is eligible to receive direct health care in a facility of one agency that is a party of such a sharing agreement may be furnished health care at a facility of another such agency that is a party to the sharing agreement.".

(b) Section 5011(d)(3) of such title is amended by striking out "individuals who are not primary beneficiaries of" and inserting in lieu thereof "beneficiaries of an agency other than".

(c) Section 5011(g)(1) of such title is amended to read as follows:

"(1) The term 'beneficiary' means a person who is entitled by law to receive direct health care furnished by the Veterans' Administration or the Department of Defense.".

NEW HORIZONS FOR AMERICA'S YOUTH

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. EDWARDS of Oklahoma. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and the VFW's Ladies Auxiliary conduct a Voice of Democracy scriptwriting contest. This year more than 250,000 secondary school students participated in the contest, competing for the six national scholarships which are awarded as top prizes. The contest theme this year was "New Horizons for America's Youth."

I'm pleased to place in the CONGRESSIONAL RECORD the winning script from the State of Oklahoma, delivered by Melissa Lea Wood, a constituent of mine, who lives in Oklahoma City. I know how proud Missy's parents are of her accomplishment, and how proud her friends and teachers at Living Word Academy must be. I'm pleased to have this opportunity to share her work with others.

NEW HORIZONS FOR AMERICA'S YOUTH

The Horse Head nebula: a single, bright shimmering constellation in the universe of wonder, lying millions of miles from the earth.

In order to take a photograph of this fascinating discovery an extensive journey into the frontiers of outer space was required. Lifetimes of hard work and great amounts of money were consumed in developing that photograph from the far horizon of outer space. We need to travel as far into the depths of "Inner Space" as others have journeyed into the thresholds of outer space. Inner Space pertains to people—to their mind and soul and environment.

Inner Space is the new horizon for youth! Technology has progressed astronomically from the discovery of the steam engine to the launching of the first space shuttle. The headway made in the impersonal atmosphere of outer space shows us how much additional gain we can hope for in the personal sphere of Inner Space.

The first horizon in Inner Space our youth of today need to approach is crime. The people whose needs are not met are often those whose lives lean toward crime. Realizing that seventy-five percent of the world is illiterate will give us a starting place. An increase of education can lead to improvement in socioeconomic status. When people's needs are better met, the crime rate goes down. Each young person should obtain all of the education possible and encourage friends to do the same. School is the horizon of today!

As each star in the sky has its own amount of space to exist, so each individual on the earth needs space, also. Some have an enriched, enlarged, abundant space while others have an epic struggle just to exist from one day to the next. Each night one-half of the world's people go to bed hungry. I cannot rest happily in my portion of Inner Space as long as there are people hungry and starving. Perhaps we as young people, could set aside one or more days to fast. We would become more aware of how hunger feels and the money saved could be given to those who truly know hunger as a constant companion. Our increased awareness would be an incentive to help any civic and church groups near us who are legitimately fighting hunger. We must share our Inner Space with all.

Hundreds of years ago, the beautiful lands of our nation were discovered. Wave after wave of eager scouts made this land America. Today, many rivers and valleys and seashores are glutted with pollution. Even the air we breathe is changed. One state has cleaned up every river and stream. It is possible to reverse the process of pollution. We must clean-up our horizons so that the youth of all ages to come can enjoy the heritage of the "spacious skies and purple mountain majesty" before they are beyond saving. Our Inner Space must be preserved.

Another Inner Space dream is Peace. But how can I, a single young person do anything? Several years ago a young girl named Samantha mailed a letter to the leader of Russia. Through her sincerity and grave determination she was invited to Russia where she acted as a bond helping to secure terms of peace between Russia and America. Perhaps our history would be different if more young people had been equally aroused by the thought of war and had acted upon that feeling as Samantha did. Maybe there would be fewer graves filled with those who sacrificed their lives far from their loved ones; fewer war-torn veterans stricken with physical and emotional handicaps; fewer families mourning a brave soldier who will never return; fewer of our finest men perishing at the brink of life. Though Samantha was tragically killed in a plane crash, she demonstrated that each individual can play a big part in the survival of the world.

Perhaps we cannot take an actual picture of Inner Space as we did of the Horse Head nebula, but I would be satisfied with a picture of streets without crime, a child well fed, a sparkling clean river, and a nation and world at peace.

I begin my journey into Inner Space today.

INSULTS DON'T TAKE THE PLACE OF ARGUMENTS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to share with my colleagues an excellent analysis recently published in the New York Times by Prof. Paul Gewirtz of Yale University Law School concerning the Supreme Court's shockingly unprincipled and insensitive decision upholding Georgia's sodomy law.

THE COURT WAS "SUPERFICIAL" IN THE HOMOSEXUALITY CASE

(By Paul Gewirtz)

NEW HAVEN.—Last week, the Supreme Court decided one of the major open issues in American constitutional law, concluding that the Government has the power to criminalize private consensual homosexual acts.

Legal scholars have been discussing this issue for several decades, stimulated by Supreme Court cases expanding the protection of privacy, by increasing public attention to homosexuality and by an extraordinarily rich philosophic literature, going back to John Stuart Mill, on the legitimacy of morals legislation. Now, after avoiding the issue for years, the Supreme Court has spoken, in a written opinion that is so superficial, peremptory and insensitive that it deserves to be criticized on this ground alone, quite apart from the Court's conclusion about the constitutionality of sodomy laws.

Consider just two of the questions raised by the case. First, what is meant by the explicit provision in the Constitution protecting individual "liberty" from governmental infringements? The Supreme Court has already held that this provision includes the liberty to use contraceptives, to live with whom one wishes, to use pornographic material in one's home, to have an abortion if one chooses and to engage in other private conduct related to family, marriage and procreation.

Does the concept of constitutional "liberty" reflected in those prior cases extend to private sexual conduct between people of the same sex? If not, the reason must be more convincing that the Court's one-sentence assertion: "No connection between family, marriage or procreation on the one hand and homosexual activity on the other has been demonstrated by the Court of Appeals or by respondent."

In truth, Michael Hardwick, the homosexual who first brought this case, the Court of Appeals that originally ruled on it and Justice Harry A. Blackmun's dissent all made a clear connection. The principle underlying the various earlier cases, they argued, was that "liberty" includes intimate associations and private conduct central to one's fulfillment as a person, including sexual activity, and that this principle required protection

of homosexual intimacies as well as heterosexual ones. Perhaps that connection between the earlier cases and this one is not sufficient, but the Court does not tell us why.

The Court does tell us that "proscriptions against [homosexuality] have ancient roots." But as the Court itself acknowledges, the constitutional guarantee of liberty protects not only conduct that has been protected throughout our "history and tradition" but also freedoms that we have come to see as "implicit in the concept of ordered liberty." (If "history and tradition" were an exclusive guide, many constitutional protections we take for granted today would not exist.)

Mr. Hardwick and his defenders did not argue that history or tradition have protected homosexual rights: they argued instead that given the importance of intimate associations in a person's life and in a free society, a homosexual's right to have consensual sexual relationships in his home is an element of "ordered liberty." The Court treats this argument no better than a history-based one, calling it "at best, facetious." But insults do not take the place of arguments.

The Court is equally offhanded about a second major issue—the question of whether or not the Government may punish private conduct purely on the ground that it is deemed "immoral" without any evidence of concrete harm to others. This has, for centuries, been one of the most debated issues in the Anglo-American legal tradition. Yet a Supreme Court majority has now disposed of it summarily, saying simply: "We do not agree." The Court does not give reasons, or respond to the serious arguments on the other side, or explain why the Government's invocation of "morality" is deemed sufficient here, although the Supreme Court has rejected it in earlier cases.

The Court's refusal to engage these two large questions seriously, or even respond to Justice Blackmun's dissent, is more than an intellectual failing. It is also an insult—to homosexuals, but also to any Americans who care about liberty. In characterizing one of Mr. Hardwick's weightiest arguments as "at best, facetious," the Court makes its hostility explicit. Chief Justice Warren Burger's concurring opinion is pervasively hostile, calling homosexual acts "heinous" and asserting that eliminating laws against homosexuals "would cast aside millenia of moral teaching."

Perhaps even more striking than the majority's offhandedness and hostility is the opinion's failure to acknowledge in any way the human dimension of tis issue. Not a single sentence expresses any understanding of the fact that this case involves human beings who have needs for intimacy, love and sexual expression like the rest of us. Not a single sentence acknowledges the human anguish that anti-homosexual statutes can create or that these laws criminalize an American minority that has been struggling for political and civil membership for many years. These are not extra-constitutional matters; they are certainly relevant in deciding what ordered liberty means. Can it be that the justices do not see this human dimension?

To have addressed these things would not necessarily have required the Court to change its conclusions on constitutional law or to express approval of homosexual behavior. But such sensitivity would have made a difference. It is one thing to lose; it is even worse to lose believing one's claim has not even received respectful consideration. Fair judicial decision-making requires that consideration. The Court's insensitivity and offhandedness in this case represent more than a human deficiency; they represent a serious deficiency in the art of judging.

That failing is especially troublesome in this case because it may affect the broader political response to the decision. As the Court notes, a constitutional case decides only what a legislature is allowed to do, not what is desirable. But here the Court treats homosexuals' claims in such a dismissive way that it conveys a sense that similar treatment by legislatures would be appropriate. The opinion exacerbates homosexuals' already marginal status. It will also encourage public officials to summarily dismiss as "facetious" any argument that anti-homosexual laws intrude upon a personal freedom worth tolerating. In short, it will encourage the adoption and enforcement of such laws.

A TRIBUTE TO MR. STEVEN DeBOLT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. TRAFICANT. Mr. Speaker, I would like to take this opportunity to recognize the outstanding efforts of one of my constituents, Mr. Steven DeBolt of Newton Falls, OH. Mr. DeBolt recently received a distinguished service award for his achievements as a public educator from the Taft Institute for Two Party Government. This honor is bestowed competitively to only 30 of our finest secondary school educators from 30 different States across our Nation in recognition of those noble, unsung heroes who provide leadership and solid role models to our young people.

Mr. DeBolt received his BS degree from Kent State University in Kent, OH, and currently teaches American Government, History and Economics at Newburry High School. He is actively engaged in local politics, serving as a precinct committeeperson, and more recently running as a candidate for the Ohio State House of Representatives. Previously he was a congressional intern and was responsible for forming a school committee as a forum for political candidates in the State of Ohio. Besides having an interest in politics, Mr. DeBolt enjoys music, golf, and currently coaches golf and basketball at Newburry High School.

But what is perhaps best about Mr. DeBolt is his dedicated, unselfish devotion and participation in the education of our youth. He is a fine example of the responsibility and public spirit that is the key to our over 200 years of successful, participatory democracy which has its foundations in an educated populace. To quote Mr. DeBolt, "I believe that helping young people to get involved in politics and to motivate them to participate politically is the hardest challenge in education."

Mr. Speaker, I think we can all learn from this young man's outstanding example and accomplishments that exhibit a dedicated public spirit that must be promoted and encouraged throughout every level of our society and educational system. May Mr. DeBolt's dedication and achievements serve as an inspiration and continued recognition of the importance of educational opportunity at all levels of society. Mr. DeBolt is a fine example of the continuing need for us as responsible public servants to support educational opportunity and those who contribute to the pursuit of such a noble goal as a lifetime occupation.

I am pleased to take these few minutes to recognize the outstanding contribution to the 17th Congressional District of Mr. Steven DeBolt.

NOTEWORTHY REMARKS OF NEW JERSEY INSURANCE COMMISSIONER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. FLORIO. Mr. Speaker, throughout the course of my subcommittee's inquiry into the insurance crisis, I have called the attention of the House to items that might help inform Members about this important problem. Today I am inserting in the RECORD an article on recent remarks by the Insurance Commissioner of New Jersey, Kenneth Merin.

While reasonable people will differ over aspects of the complex problem of insurance availability, Commissioner Merin's candid and throughtful remarks deserve a wide audience.

Mr. Merin has made an important contribution to the discussion regarding the insurance crisis.

[From the Gloucester County Times, June 25, 1986]

REGULATORS HIT FOR INSURANCE CRISIS—MERIN: GOVERNMENT ACTIONS "ABYSMAL"

ATLANTIC CITY.—Insurance Commissioner Kenneth Merin said Tuesday regulators are partly to blame for the crisis that has caused rates for liability coverage to skyrocket and made it impossible for some businesses to buy insurance.

Merin, who recently re-assumed the Cabinet post he held for about a year from 1984 to 1985, described past government regulation of the insurance industry as "abysmal" as he spoke to the Professional Insurance Agents of New Jersey.

He also said he recognizes that cycles in the insurance industry and exorbitant awards in personal injury and other types of lawsuits have contributed to current high rates and companies' unwillingness to write insurance for certain enterprises, such as taverns and day care centers.

Describing the problems of companies producing polio vaccine in obtaining insurance, Merin noted that a California woman who had a rare adverse reaction to the medicine lost an $800,000 reward on appeal.

Meanwhile, a vaccinated man with a similar reaction won $10 million in a suit against the drug company, Merin said.

He told about 500 people attending the insurance agents' convention he thinks they would agree with him that people injured as a result of accident or other circumstances deserve some compensation.

What must be eliminated is the "lottery" system created by various courts, the commissioner said.

"I hope to work on different methods of compensation to get us out of this lottery-

type situation we've been in for the past 10 years," Merin said.

He added that the state Department of Insurance is installing sophisticated computer systems to improve its service to and regulation of the industry.

In an interview after his short speech, Merin said worker's compensation is one such system that could be used to settle fairly cases of people injured on the job without dragging disputes into court.

"I think there are a lot of things that do not have to be in the courts," he said.

Asked about his comments on poor regulation, Merin said the Insurance Department in New Jersey operated in 1982 much like it did in 1942.

In the same time period, however, the insurance industry changed dramatically and many companies expanded their financial services far beyond insurance, he said.

Regulators didn't keep up with the pace set by the industry, Merin said.

He declined to comment specifically on proposals now in the state Legislature to relieve the insurance crisis by, among other things, imposing caps on damage awards, requiring some disputes be solved in arbitration rather than before judges, and permitting some jury awards to be paid in installments rather than lump sums.

He said all the bills are "interesting."

Merin, a lawyer, served as Gov. Thomas H. Kean's director of policy and planning between stints as insurance commissioner.

He was research director of Kean's successful campaign in 1981 and was the governor's deputy chief counsel for more than two years.

BICENTENNIAL OF THE CONSTITUTION AND EDUCATION

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. KASTENMEIER. Mr. Speaker, although we live in a democracy, too few of our citizens participate in the political process. Similarly, too few Americans understand the values and principles that support our constitutional system of government. As representatives of the people, we in Congress must constantly strive to improve the education of our citizens about the fundamental principles of constitutional government and to encourage their enlightened participation in the political process.

The upcoming celebrations of the bicentennials of the Constitution and the Bill of Rights provide an excellent opportunity for all of us to help improve civic education in the United States. The Congress, during the last session, authorized an appropriation of $5 million to the Commission on the Bicentennial of the Constitution to support programs in elementary and secondary schools. The legislation also provides for a national bicentennial competition. This action provides us an opportunity to develop and promote innovative and effective programs to help our youth gain a better understanding of their democratic heritage.

I would like to draw my colleagues' attention to an excellent program designed to meet these needs that is being field-tested in my State of Wisconsin with the assistance of the Center for Civic Education. This project is the National Bicentennial Competition on the Constitution and Bill of Rights. Plans call for this instructional and testing program to be field tested widely in Wisconsin next fall by the Special Commission on the Bicentennial for Youth of Wisconsin under the leaderhip of Gladys Kauffman, executive director of the Wisconsin Bar Foundation. My constituents inform me of the excellent quality of this program and their high expectations for its successful use in Wisconsin. In addition, I am informed that the merit of the program has led to its having been awarded official recognition by the Committee on the Bicentennial of the United States Constitution chaired by Chief Justice Warren E. Burger.

Once the field-testing phase of this program is completed, the results will be used to improve it and make it available to every congressional district in the Nation. This will be made possible by the approval of the recommendations of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, that an appropriation of $13 million be made available to the Commission on the Bicentennial of the United States Constitution and that $2.7 million of these funds be earmarked for nationwide implementation of the National Bicentennial Competition on the Constitution and Bill of Rights. These recommendations are worthy of our support.

As Walt Whitman observed almost one century ago in words that still ring true today:

I say that democracy can never prove itself beyond cavil until it founds and luxuriantly grows its own forms of art, poems, schools, theology, displacing all that exists, or that has been produced anywhere in the past, under opposite influences.

Education and democracy go hand-in-hand. Together, they sustain and improve our society. Let us support endeavors like the Bicentennial of the Constitution and the Special Commission on the Bicentennial for the Youth of Wisconsin.

SAMUEL GOMPERS AND THE AMERICAN LABOR MOVEMENT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. DYSON. Mr. Speaker, this year marks the 100th anniversary of the American Federation of Labor's founding convention. 1986 also marks the publication of the first volume in an important series on the life of the founder and first president of AFL, Samuel Gompers.

During the past decade, Stuart B. Kaufman and other scholars at the University of Maryland have actively worked to compile a definitive record on Samuel Gompers and the fledgling American labor movement. This trek has taken Dr. Kaufman and his colleagues from London, England—where Gompers spent his childhood—to many of our Nation's cities whose workers were catalysts in the formation of the labor movement.

In the first volume of "The Samuel Gompers Papers: The Making of a Union Leader, 1850–86," the editors explore selected documents on the early career of Gompers that not only serves as an insightful biography, but tells of the political and intellectual complexities facing many of the leaders in the labor movement. This first book, as well as the upcoming volumes, will certainly preserve the history of American trade unionism and nourish many future discourses on the industrialization of our Nation.

I commend Stuart Kaufman and the editors of this important work on the publication of their first volume, and I submit for the RECORD a review written by Joe McCartin in the New York Times Book Review on July 6, 1986:

THE SAMUEL GOMPERS PAPERS: VOLUME ONE: THE MAKING OF A UNION LEADER, 1850–86

Edited by Stuart B. Kaufman (University of Illinois)

Samuel Gompers, founder of the American Federation of Labor and president for all but one of its first 37 years, shaped the American labor movement more than any other individual. While scholars have long debated the merits of the Gompers legacy of "business unionism," rarely have they probed the milieu out of which Gompers and his union tradition emerged. Stuart B. Kaufman and his editorial staff help remedy this with their publication of the first volume of the Gompers Papers, issued in the 100th year since the A.F.L.'s founding convention. Assembling newspaper accounts, census data, union literature and correspondence, the editors sketch Gompers's rise from an immigrant childhood in London's East End to the presidency of the fledging A.F.L. in 1886. The real value of this volume, however, lies more in what it reveals about the people and events surrounding Gompers than about the man himself. Faced with a dearth of material related directly to Gompers's early career, the editors have resourcefully selected documents that trace Gompers's development through the movements in which he participated—German-American socialism; the struggle of New York City's cigar makers to build a viable union; the conflict between the national trade unions and the Knights of Labor, a national industrial union that collapsed around 1900, for leadership of the labor movement. The volume's broad sweep conveys the complexity of what Mr. Kaufman calls "the political, intellectual and industrial climate" that shaped the American working class during the turbulent era of industrialization. The collection should enrich all future discussions of this enigmatic champion of American trade unionism.

HYMAN RICKOVER—PEACE THROUGH STRENGTH

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SHUSTER. Mr. Speaker, following is an excellent editorial about the life of Hyman Rickover from the Bedford Gazette of July 10, 1986:

HYMAN RICKOVER

Blessed are the peacemakers.

Admiral Hyman Rickover died Tuesday, at 86. For over thirty years, the father of the nuclear Navy had thrived on intellectual controversy, terrorized his officers, and clung to power with the grip of an angry

eagle, until, at the age of 82, someone had the courage to ease him out.

For those years, while Rickover's submarines promised swift and terrible retaliation, not one missile was fired in anger. Because Rickover fought so fiercely, we had peace.

Sam Pratt, of Rockland Manufacturing, can remember Rickover coming aboard, unannounced, without the usual retinue, to talk to shipyard workers—he was one himself—to get the inside dope on progress.

Jim Miltenberger, a native of Spring Hope, once described "the interview" with Rickover as a memorably harrowing experience. Rickover interviewed every Naval officer entering nuclear service, and made most of them uncomfortable.

The feisty little man generated controversy on all sides. "He attacked Naval bureaucracy, ignored red tape, lacerated those he considered stupid, bullied subordinates and assailed the country's educational system," The New York Times said. "And he achieved . . ."

Rickover's achievements will become the stuff of legend, because it took an uncommon will, and independence of spirit, to overcome lethargy, to drive a nation to the excellence he demanded.

Because they are so secret (at least until a worm sells out those secrets, in return for eight piddling years in prison), the Navy's nuclear missile ships are often underappreciated. As a deterrent to Soviet adventures, they have been momentous.

The Nautilus, which a quarter-century ago did the unheard-of by cruising under the North Pole, is now a museum in Groton, Conn.

There is no statue there to Rickover, a small man with a giant intellect and heart, but there should be. They didn't even invite him to the ceremony when the captain of the Nautilus was decorated in 1958.

But in reality, Rickover's monument is neither the Nautilus nor the 150 Navy ships now powered by nuclear drive. His monument to mankind is the thirty years of peace we have enjoyed, because he was a peacemaker.

OUR NATIONAL ANTHEM

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. DYSON. Mr. Speaker, over 170 years ago, Francis Scott Key wrote the Star Spangled Banner, our national anthem. He wrote this song after one of the most important battles of the War of 1812. The battle of Fort McHenry not only saved the city of Baltimore from certain destruction, but is also a shining example of American heroism. For nearly 20 hours the American Forces withstood a heavy artillery barrage from the British Navy. The American defenders, outgunned and overmatched refused to surrender. This gallant effort on the part of the American Forces, inspired Francis Scott Key to write a poem about the heroism he viewed while a captive on one of the British vessels. His poem was later set to music, and became what is now our national anthem. Since that time, the Star Spangled Banner has come to represent the spirit of American Independence throughout the world.

Recently, however, legislation has been introduced to change our national anthem to America the Beautiful. Many Americans, myself included, oppose any such action. Therefore, I would like to include for my colleagues the following resolution from the City Council of Baltimore, expressing their opposition to the legislation to change the national anthem from the Star Spangled Banner to America the Beautiful.

[The resolution follows:]

CITY COUNCIL OF BALTIMORE No. —

A RESOLUTION ENTITLED

A Resolution concerning National Anthem

For the purpose of requesting the Maryland Congressional Delegation to oppose legislation in the United States Congress that seeks to change the National Anthem from the Star Spangled Banner to another song.

Whereas, HR1052, a bill that is pending before the House of Representatives, seeks to change the national anthem from the Star Spangled Banner to America the Beautiful; and

Whereas, Although America the Beautiful is a moving song, the Star Spangled Banner was written by a witness to the bombardment of Fort McHenry who was inspired by what he saw; and

Whereas, The Star Spangled Banner commemorates the bombardment of Fort McHenry during the War of 1812: In September of 1814, protected only by their earthen bulwarks, the brave, patriotic defenders of Baltimore withstood intensive bombardment from the British who were in the Chesapeake Bay and out of range of the Fort's cannons. Throughout 20 hours of this bombardment, the courageous defenders held their ground and by dawn's early light our flag was still there. The British attack was repelled. Unlike our new Nation's Capitol that had been burned to the ground, Baltimore was saved from destruction; and

Whereas, Within the first year of its publication the Star Spangled Banner was the favorite patriotic song of the new nation; and

Whereas, The popular acceptance of the Star Spangled Banner continued through the end of the Century, its performance as the national anthem was required by Army and Navy regulations in 1890, and finally on March 3, 1931, because of its significance and endurance as a patriotic song, it was adopted by the President and Congress as the National Anthem in Public Law 823, and for these reasons; now, therefore, be it

Resolved, By the City Council of Baltimore, that the Maryland Delegation to the U.S. Congress is requested to seek an unfavorable report on HR1052 from the Subcommittee on Census and Population of the House Committee on Post Office and Civil Service, and be it further

Resolved, That copies of this Resolution be sent to the members of the Maryland Delegation to the U.S. Congress.

MAKING THE GRADE IN ANN ARBOR

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. PURSELL. Mr. Speaker, I would like to bring a recent editorial from Science magazine to the attention of the House.

As all Members are aware, the challenge which our local, county, and State governments face today is meeting the changing needs of the business and industrial community. Economic stability, growth, and development hinges on an area's ability to keep and attract business. Without that ability, jobs are lost, businesses close, and people move elsewhere.

As the Representative for Michigan's Second Congressional District, I'm proud to say we're keeping our businesses and attracting others. Local leaders in the communities I represent are making the grade. They have formed partnerships with business and education leaders in an effort to meet the needs and challenge of the 1980's.

The following editorial appeared in the June 6 edition of Science. It was written by Philip H. Abelson and points out some of the successful efforts underway in Ann Arbor. After reading the editorial, I think you will agree, Ann Arbor is making the grade.

Mr. Speaker, I would hope my colleagues will take a moment to read about the type of cooperative effort we need to undertake and encourage.

The article follows:

[From Science, June 6, 1986]

GLOBAL MANUFACTURING COMPETITION

(By Philip H. Abelson)

The United States has been experiencing enormous trade deficits, largely due to inability to compete in the production of high-quality, low-cost durable goods. The situation will not be quickly remedied, but emerging new technology and better management practices hold the promise of better days. A crucial determinant in the outcome of global competition will be activities occurring in Michigan, the leading manufacturing state.

Until the late 1970's, a smug arrogance was the dominant mood in the automobile industry. To a major degree, the research laboratories of the big three automobile manufacturers were merely window dressing. In 1979, when a Japanese engineer described at a symposium his painstaking analysis of stresses in the shell of a Honda, he was an object of derision. The industry had little contact with universities except to hire some of the graduates. The state government's principal actions were to pile taxes and regulations on the industry while cutting back support for engineering at the universities.

The oil crisis, demand for high-quality small cars, and a recession that brought Michigan unemployment in 1981 to 17 percent had the effect of that of a two-by-four on a mule. The state government, industry, universities, and citizens in general recognized the need for change as well as to learn some lessons from the Japanese.

On a recent visit to Ann Arbor and Detroit, I noted evidence of changes that have

occurred in the intervening years. The state government has provided $70 million for construction at the University of Michigan of new buildings for engineering. It has substantially increased its support for the engineering faculty and their research. The state is assisting in the financing of start-up companies such as those in robotics and machine vision.

The automobile industry is in the midst of change in the use of electronics, robots, machine vision, and new materials, as well as in supplier and employer relations. A new Buick-Oldsmobile-Cadillac plant at Hamtramck has 260 robots and many new computer-controlled features. To meet the needs for robots of various kinds and for machine vision a large number of new small companies have become active in southeast Michigan. They bring an excitement reminiscent of that of an early Silicon Valley.

Two nonprofit institutes in Ann Arbor have impressive leadership and roles of increasing importance. The Environmental Research Institute of Michigan has some of the world's best experts in remote sensing. They have produced robots with good shape discrimination, devices for very accurate measurements of features of automobiles, and a device for inspecting the exterior of an automobile for proper trim, taillights, and other features. The machine vision is fast, cheap, and capable. They have also developed a computer with parallel processing especially suitable for processing the complex data related to machine vision.

The Industrial Technology Institute has activities that include a flexible machining group looking at machine tools, sensors, materials handling, and automated design for manufacturability. It is a robotic evaluation center. The institute is helping to write the specifications for a manufacturing automation protocol. This will provide a common computer and control language that will allow robots and other equipment to communicate no matter who makes them.

The University of Michigan has been positioning itself to interact with these institutes and with companies large and small. In turn, auto companies now welcome professors and their students and permit them to use assembly plants as laboratories. One of the aims at the universities is to achieve interaction of experts in robotics, machine cognition, machine vision, and machine action with experts in computer-aided design of systems involving those technologies and new and superior materials. A goal is to develop highly adaptable robots with large-scale computing capability and expanded artificial intelligence.

One can encounter a great deal of enthusiasm and a climate of can-do in Ann Arbor. A new culture seems to be evolving there. If the rate of evolution continues, something will be created that will have impact beyond Michigan.

MARIANJOY REHABILITATION CENTER RECEIVES NATIONAL AWARD

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HYDE. Mr. Speaker, I am very pleased to bring to the attention of my colleagues the fact that the Marianjoy Rehabilitation Center in Wheaton IL, has been named the Nation's "Outstanding Rehabilitation Facility for 1986." The selection was made by the National Association of Rehabilitation Facilities [NARF], the national professional association for rehabilitation hospitals, and it was based on significant contributions to the quality of life for disabled individuals and distinguished activity within the rehabilitation facilities community.

Marianjoy's selection for this award comes as no surprise to those of us familiar with this outstanding facility. Since its founding in 1972 by the Wheaton Franciscan Sisters, Marianjoy Rehabilitation Center has come one of the most important assets of Chicago's western suburbs, and a vital part of an outstanding health care system.

As a medical facility specializing in the delivery of highly sophisticated physical rehabilitation services, Marianjoy provides an alternative to many individuals who have been pulled from the mainstream of life due to birth defects, traumatic accident, serious illness, heart problems, and other disabling events. Marianjoy offers hope as an alternative to a less productive existence, helping many physically impaired individuals to overcome disability and lead more productive, purposeful lives.

As one of three free-standing physical rehabilitation facilities in Illinois, and one of about 70 in the Nation, Marianjoy stands out as a leader in the provision of physical rehabilitation treatment, functional evaluation, and related programs and services. Marianjoy's approach to physical rehabilitation capitalizes on a patient's strengths and moves that patient toward independence and productive living.

I know my colleagues join me in congratulating all those associated with the Marianjoy Rehabilitation Center on this important achievement.

TURKISH TRADE UNIONS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HOYER. Mr. Speaker, in coming weeks, an important trial will be coming to an end in Turkey. Despite the fact that this trial has been proceeding since December 24, 1981, it has largely escaped American's attention. But it should not have been ignored, for its outcome will have a profound effect on at least one aspect of the democratic system Turkey aspires to maintain and nurture: The organized participation of workers in the economic, social, and political life of their country.

Following the 1980 military coup in Turkey, many members of the DISK trade union (Confederation of Progressive Labor Unions) were detained without charges. Fifty-two members were indicated subsequent to the coup. Ultimately the number of DISK members standing trial rose to 1,477.

These trade unionists remain on trial—over 4 years after the charges were originally levied against them—for allegedly "trying to change the form of government" in Turkey and "interfering with the work of the Parliament." The defendants and their lawyers consistently have denied that their DISK activities were directed to such ends. By early this year, all of them had been released from prison except those tried on separate charges. But they and their families continue to suffer financially and emotionally.

I am rising today not to support the position of either the prosecutors or the defendants in this particular trial. Rather, I want to underline the importance of organized labor participation in a democracy. And I want to alert the Turkish regime to the loss its own growing democracy would suffer were it to limit labor activities unduly.

Today, Turkey is a different place than it was in 1980. We and our European friends have followed Turkey's turn to greater civil freedoms with renewed hope and confidence. We have watched that country regain the respect of its citizens after a difficult, turbulent time. We have been heartened by its increasing willingness to open up sensitive issues of government to public debate and discussion.

Therefore I am taking this opportunity to urge the Turkish authorities to bring the DISK trail to an end swiftly and to allow the DISK trade unionists once again to lead normal and productive lives. Most importantly, let them contribute to the life of their country.

JUVENILE JUSTICE ACT PROGRAMS SUCCESSFUL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. KILDEE. Mr. Speaker, the Subcommittee on Human Resources held a hearing on June 19, 1986, to examine the role of the Juvenile Justice and Delinquency Prevention Act [JJDPA] in the development of successful programs for serving youth more effectively in the field of juvenile justice.

The Juvenile Justice and Delinquency Prevention Act is the first Federal act to comprehensively address the complex issue of the prevention and treatment of juvenile delinquency by providing assistance designed to promote deep and lasting changes in our State and local juvenile justice systems. I am pleased to report that the witnesses were unanimous in their view that this act has played a key role in the development of programs that serve children more effectively and humanely while still protecting the safety of the public. Their testimony is reinforced by the fact that many of the programs originally started with JJDPA seed money are now being continued with State dollars.

The experiences of Utah, Massachusetts, and Michigan illustrate that innovative approaches and programs are being developed at the State and local level using juvenile justice funds. In Massachusetts, the creative use of home-based treatment, nonsecure residential programs, and small, secure treatment facilities has established effective alternatives to large, custody-oriented training schools. Through its wide range of treatment options and the use of private nonprofit service providers, the State has improved its ability to respond to the diverse needs of its juvenile clients. Juvenile arraignments are declining at a faster rate than the juvenile population as a

whole with fewer youth being transferred to the adult system. In addition, the recidivism rate for juveniles passing through the Department of Youth Services [DYS] is dropping. Between 1972 and 1985, the percentage of new inmates in the State's adult department of corrections who were former DYS clients dropped 15 percent.

The experience of the State of Utah is similar. JJDPA funds have been used as seed money to develop a mix of programs based on a philosophy that youth can be changed and molded through effective, individualized treatment in the least restrictive setting that preserves the public safety. The Utah Youth Correction System is composed of two 30-bed regional secure facilities, three 15-bed regional observation and assessment centers, and about 30 different privately operated community-based alternative programs. Approximately three-fourths of the youth in custody are served in close proximity to their families, and 55 percent of the families of youth in secure facilities and in observation and assessment centers are involved in some form of family therapy or family counseling. This represents a dramatic increase in family involvement since the days of the large, centralized training school.

Preliminary results from a recent study of the Utah system by the National Council on Crime and Delinquency indicates a 72-percent reduction in charged criminal activity within the test group of severe, chronic juvenile offenders. This is reinforced by Utah's own data which shows a 75-percent reduction in recidivism in the year immediately following release from youth corrections and treatment in community-based programs.

In Michigan, the use of nonsecure community-based programs and a nationally recognized regional detention program has resulted in more cost effective and humane methods of treating troubled youth. In 1981, 63 juveniles were detained in adult jails and lockups. However, by 1985 this number was reduced to 13. The number of status offenders—for example runaways, truants, underage drinking—held in secure detention for more than 24 hours was reduced from 1,611 to 72 during that same time period. Juvenile justice funds also made possible research to examine the relative benefit of various types of diversion programs. The results of this study, indicating that family support and education programs are the most effective in preventing future delinquency, may be of great value to other States attempting to weigh the various diversion approaches.

The programs that have been developed and tested in these States demonstrate beyond doubt that taking care of our youth in an effective and humane way transcends the liberal/conservative traditions. We can be proud of the leadership and guidance that the Federal Government has provided in this area through the Juvenile Justice and Delinquency Prevention Act.

CENTER LINE, MICHIGAN CELEBRATES 50TH ANNIVERSARY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HERTEL of Michigan. Mr. Speaker, I would like to ask my distinguished colleagues to join me in paying tribute to the city of Center Line, MI which celebrated its 50th anniversary on July 5, 1986. Center Line, which is one of 14 cities I represent in the U.S. Congress, has a population of 9,286 and is a slightly smaller than 2 square miles. It is surrounded by the city of Warren.

Michigan became a State in 1837 and the settlement that was to later become the city of Center Line was established in that same year. What we know as Center Line today was originally named Hickory in 1837; it was changed to Aba in 1838; and became Warren Township in 1839.

It was more than a hundred years after the pickets were built around the fort at Detroit that the first pioneers moved into Center Line. Two obstacles slowed the settlement of this area. First, there were no roads to bring the people into the area; the only mode of transportation during the 18th and 19th centuries was the canoe and the only highways were the lakes and rivers. Second, the French had a policy to protect the fur trade by keeping the wilderness intact.

Up until the 1820's, Center Line was known as an impassable swamp and travelers detoured around it. Gradually, as land became scarce, the French, German, Belgium, and Irish immigrants poured into the township. With great courage and determination, they set to work with spade and ax and felled the trees and drained the swamps.

Legend has it that the name "Center Line" came from one of three Indian trails leading from the fort at Detroit to other trading posts. The center trail was called Center Line by the French. The city of Center Line lies on that trail.

On July 5, 1986, the city of Center Line celebrated its 50th anniversary of incorporation. Residents saluted their city by holding a parade in honor of this historic occasion.

STUDENTS FOR ORGAN TRANSPLANTS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. RINALDO. Mr. Speaker, within the past few weeks, we have had several cases of organ transplants saving the lives of infants. These well-publicized events, however, represent only a tiny fraction of the cases in which the donation of organs is desperately needed.

As a matter of fact, at this very moment, while we deliberate the critical issues before us in this House, 8,000 of our fellow Americans are in dire need of the hearts, kidneys, livers, and other organs they must have in order to survive.

Although 20,000 Americans die each year under circumstances that would make them candidates to become donors, only one-tenth of these individuals do in fact have their organs taken for donation purposes, thus helping to perpetuate the organ gap we face.

One of the anomalies of the organ gap is the fact that those who are by nature best qualified to close it are not doing so. Young people between the ages of 18 and 25 are ideal candidates to become organ donors because their bodies have not yet been ravaged by the debilitating diseases that afflict our elders. Yet only 24 percent of the population between the ages of 18 and 24 have signed organ donation pledge cards.

In recognition of the need for organ donations and of the unique potential young people have for filling the gap, one of my constituents—Paul L. Vetter of Mountainside, NJ—has taken the initiative by forming the charter chapter of the Students for Organ Transplants, the first campus organization dedicated to promoting the cause of organ donations among college students.

Last spring, Mr. Vetter organized a group of concerned collegians at the University of Notre Dame in South Bend, IN, where he will be a junior in September. This band of dedicated young people conducted a successful drive for signatures on organ donation pledge cards, enlisting the support of 2,000 of their fellow Notre Dame students.

Next year, Mr. Vetter and the Students for Organ Transplants intend to conduct a second drive on their campus and to persuade students at other colleges and universities to join their movement.

Mr. Speaker, Paul Vetter and his fellow Students for Organ Transplants at the University of Notre Dame deserve our highest praise for their altruistic efforts to save the lives of their fellow Americans by advancing the cause of organ donations.

Paul Vetter and the Students for Organ Transplants at the University of Notre Dame have demonstrated that there are young people who are not indifferent to the plight of human beings in need of help. I ask you and my colleagues to join me in commending Paul Vetter and the Students for Organ Transplants at the University of Notre Dame for their outstanding efforts to help their fellow Americans.

PLEA FOR FREEDOM

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. MOAKLEY. Mr. Speaker, Dr. Benjamin Charny is a 48-year-old mathmatician who lives with his family in Moscow. Since 1979, he and his wife, Yadviga, daughter, and son-in-law have been seeking permission to emigrate from the Soviet Union. Their requests have been continually denied. Soviet officials have claimed their refusal to grant permisson is based on Benjamin's having once held a security clearance for a job he had more than 15 years ago.

Although Dr. Charny is only 48 years old, he is gravely ill. He suffered from two heart at-

tacks and recently a tumor was discovered on his thyroid gland. The cardiologists did not permit surgery to be performed on Benjamin for fear that he would not survive the operation due to his severe heart condition. However, foreign visiting doctors have suggested that Benjamin try new treatment procedures that are offered in the West.

Although Dr. Charny has received all the medical help available in the Soviet Union, his brother Leon believes he would greatly benefit from the medical treatment offered to him in the West. Leon, who was allowed to emigrate in 1979, presently lives in Needham, a town in my district. He is deeply disturbed over this situation and is highly concerned about his brother's ill health. Leon Charny desperately hopes that his brother will be able to emigrate from the U.S.S.R. to live the remaining years of his life with his loved ones. After all, this right is guaranteed in the Helsinki accords to which the Soviet Union is signatory.

I urge Members of Congress to continue with their efforts on behalf of all the Jews in the Soviet Union who wish to practice their religious beliefs and cultural heritage freely. We must pledge to do all we can to see that the human rights of these and all individuals are not violated.

ROUKEMA LAUDS ALEX DOLINOFF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mrs. ROUKEMA. Mr. Speaker, this weekend one of my communities will honor a special citizen. In 1917 Alexis Dolinoff fled the Soviet revolution and came to our country. Like so many other immigrants, he sought freedom and he eagerly accepted the responsibilities that go along with a vibrant democracy. His new country gave him liberty and opportunity, and in return he gave integrity, maturity, artistry, and community leadership.

Alex Dolinoff was a lead dancer in his mother country and went on to become a ballet master in his new country. The discipline required for such achievements have also been evident in his civic contributions. For example, in 1946 Mr. Dolinoff helped found the Erskine Lakes Fire Company in Ringwood, NJ. He has been devoted to the company and its important works over the years and served as its chief in 1966. Even today, at 86 years of age, he works parttime on the company's beach patrol.

Alex was never blessed with a family of his own. We have all been blessed that he chose the fire company as his family.

We have just celebrated our national birthday and the anniversary of the Statue of Liberty. The best of what that glorious statue represents is personified in Alex Dolinoff.

On Saturday an entire community will honor a man who has performed for U.S. Presidents four times and foreign royalty nine times. These have drawn great public attention. An equally important contribution, however, which has not received such public acclaim has been Alex Dolinoff's devotion to the health and safety of his beautiful community.

This generous man continues a full life today, and all his friends thank him sincerely and wish him continued good health and happiness.

BETHLEHEM SOKOL'S DIAMOND ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. RITTER. Mr. Speaker, I wish to heartily congratulate assembly 78 and wreath 32 of the Slovak Catholic Sokol on their diamond jubilee. For 75 years, these two Bethlehem chapters have sought and achieved productive citizenship in their new country through their religious and ethnic traditions.

They gathered recently at Rathbone Hall in the Lehigh Valley to celebrate the jubilee to the strains of "Hej, Slovaci," the Slovak national anthem.

These fraternal organizations have concentrated not only on the healthy bodies of their membership, men and women, young and old, but also on the development of sound minds. Their emphasis on sports has led to championships in track, gymnastics, basketball, volleyball, calisthenics, bowling, and golf on both the local and national levels.

With the support of Sts. Cyril and Methodius Church, the Bethlehem chapters began with small numbers in 1911. Thirty-five members worked energetically to found the assembly and 22 women initiated the wreath. Assembly 78 now has 688 men and 110 boys in its youth branch, junior assembly 18. There are 772 women in wreath 32 and 80 girls in its youth group, junior assembly 58. Family life is honored over the years since many family names reappear as charter members of both organizations in the lists of current officers.

The Bethlehem chapters contribute their rich heritage of cultural identity and their ardent partiotism to brighten the entire tapestry that comprises our Nation. Tibor T. Kovalovsky, supreme secretary of the Slovak Catholic Sokol, spoke the truth well when he lauded assembly 78 and wreath 32 as "one of the leading assemblies of Sokols."

I have personally experienced the strength of tradition, culture, and family-centered community life which makes Slovak contributions so important to our Lehigh Valley and to America.

Celebrating the 100th anniversary of the Statue of Liberty gives us an opportunity to appreciate the history of Slovak immigration, the role of the Catholic Sokols in America and the significant Slovak impact on Bethlehem and Lehigh Valley life.

CONGRATULATIONS TO ED CODY

HON. WILLIAM W. COBEY, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. COBEY. Mr. Speaker, I was recently pleased to learn that one of my constituents has been elected president of the Private Carrier Conference [PCC]. ED Cody, distribution Manager of GoodMark Foods, Inc., in Garner, NC, was elected PCC president at the group's recent meeting in Atlanta.

The PCC is the national trade association representing the interests of manufacturers, distributors, shippers and receivers who operate their own truck fleets as an extension of their primary business endeavors. The PCC is the largest conference affiliated with the American Trucking Association, representing nearly 2,500 members.

Ed Cody attended John Carroll University in Cleveland. During the Korean conflict, he served his country with the 3d Armored Division. He began working for GoodMark Foods, then a General Mills company, in 1970. In 1981, General Mills "spun off" Goodmark and the company has since that time grown substantially.

Ed Cody has served as first vice president of the PCC before his election as president. He is also on the Board of Directors of the North Carolina Trucking Association. In addition, he was one of the founders of the Raleigh chapter of the Delta Nu Alpha Transportation Fraternity, and was recently named Man of the Year by the Tarheel Chapter of DNA. Ed has also been active in arranging for transportation for the Food Bank of Releigh, which salvages usable food for distribution to the needy through nonprofit agencies.

Ed and his wife of 32 years, Patricia, have nine children.

I recently had the opportunity to visit Ed and tour the GoodMark facility in Garner. I found the experience to be productive and highly informative in gaining a better understanding of both the company and of the importance of private carriage in our Nation's economy.

I congratulate Ed Cody on his election as PCC president, and on his many years of service to the transportation industry, Raleigh, and the State of North Carolina.

ELSIE AND BARNEY FRANK

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mrs. SCHROEDER. Mr. Speaker, now we know where BARNEY FRANK got his fighting spirit—from his mother's genes.

I want to share with my colleagues a Boston television editorial praising Elsie Frank.

THE DRG PROBLEM—A CALL FOR HEARINGS

(Delivered by John Spinola, Vice President & General Manager, WBZ-TV)

Elsie Frank is a fighter. She's 73 years old and on Medicare. And since Massachusetts joined the new Medicare payment system in October '85, she thinks the elderly are getting a raw deal.

This new payment scheme, called DRG's was designed to limit skyrocketing hospital costs by limiting hospital stays. But what is really happening to the elderly?

Recently, the Federal Inspector General looked at data from other states. He found some 3,000 cases of premature hospital discharge. We don't know just how many people in Massachusetts are discharged too

soon. Elder Advocates say it's a big problem, others claim it's not. It's time to find out what's really happening.

The state should step in and hold a series of public hearings. These hearings should be held in places which are easily accessible to older people, like senior centers or even in hospitals.

The questions are plentiful:

How do Medicare patients learn that they have a right to appeal a discharge decision?

What kind of pressure are doctors under to release patients quickly?

Are hospitals doing enough to help elderly plan for home care?

Is the quality of care being effectively monitored?

Answers to these questions are necessary. Especially for state policy makers who can propose state legislation to improve quality control under Medicare. If you agree that statewide hearings will help, write us at WBZ-TV. We'll make sure your letters are sent on to state officials. Help us find out if Medicare patients are being sent home from the hospital too soon and too sick.

NATIONAL BICENTENNIAL COMPETITION ON THE CONSTITUTION AND BILL OF RIGHTS

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. AKAKA. Mr. Speaker, I would like to take this opportunity today to bring to the attention of my colleagues a program of extraordinary value to our country. The State Department of Education in Hawaii, under the supervision of Elaine Takenaka, education specialist, is working with the Center for Civic Education of Los Angeles and educational leaders in over 20 other areas of the Nation to develop and field test the National Bicentennial Competition on the Constitution and Bill of Rights followed by a competition in which all students may participate, from the low achievers to the most gifted. I draw my colleagues attention to this project because when it is completed, it will provide an excellent opportunity for every Member of Congress to become involved in its implementation in school systems in their congressional districts.

The outstanding quality of this program has led to its having been granted official recognition by the Commission on the Bicentennial of the U.S. Constitution chaired by the Chief Justice. The Chief Justice has said that the most lasting legacy his Commission can leave is an educational one and that the occasion of the bicentennial should be used as an opportunity to provide a civics lesson for us all. This national competition is clearly an excellent means of doing so. The curricular program it presents is designed to help students to gain that level of understanding of the fundamental principles and values of our Constitution and Bill of Rights that leads to a reasoned commitment to their preservation and to the furthering of the ideals of our free society.

I am pleased to note that in its Commerce, Justice, State, and Judiciary appropriations bill for fiscal year 1987, the House Appropriations Committee has recommended that $13 million be made available for the Commission on the Bicentennial of the U.S. Constitution. In addition, the committee has also recommended that no less than $1 million be devoted to the nationwide implementation of the National Bicentennial Competition on the Constitution and Bill of Rights.

As we prepare to celebrate the formation of the Constitution and the foundation of our Government under that Constitution, I call upon my colleagues to join me in supporting these most worthy recommendations.

A TRIBUTE TO CELIA L. STEIN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. BIAGGI. Mr. Speaker, it is my privilege and pleasure to pay tribute to one of the outstanding citizens of New York's 19th Congressional District, Celia L. Stein. As cofounder and publisher of the Riverdale Press, one of the weekly Bronx newspapers, she has long been a community leader, demonstrating by her altruism and dedicated community service, an exemplary model of citizenship.

Earlier this month, Ms. Stein received the Riverdale Mental Health Association's Cleveland E. Dodge Memorial Award for outstanding service to community mental health. This award is based on her long-standing commitment to mental health issues affecting the quality of life for residents in the Bronx community. This award best exemplifies her qualities of compassion, devotion to humane causes, altruism, and generosity. Being recognized by the Riverdale Mental Health Association for such characteristics is truly an indication of the quality and excellence of character which Celia Stein possesses.

In 1944, Celia, along with her late respected and revered husband Joseph Stein, moved to Riverdale, NY and founded the Riverdale Press. While raising her sons, Bernard and Richard, she oversaw the Press' social news and edited her column "Ceil Selects," which earned her fame through her recipe selections. Her leadership skills were clearly evident in the fifties and sixties when she banded together a group of concerned parents to encourage the construction of schools in her neighborhood of the Bronx. As a result of her efforts, PS 24, JHS 141, JHS 143, and John F. Kennedy High School were opened.

Her many service organizations include serving on the advisory board of Bronx Community College and the Bronx Urban League. Since 1962, Celia Stein has served on the board of directors of the Riverdale Mental Health Association. As a charter and life member of the Riverdale Chapter of Brandeis University National Women's Committee, the Women's Committee of the Arthritis Foundation, and as a member of the Forum Committee of the Riverdale Neighborhood House, Celia demonstrates her diversity of interests and abilities.

Her many awards and achievements include: the Riverdale Community Council and the Anti-Defamation League "Couple of the Year" award for Celia and her husband, Joseph; the first woman to ever receive the B'nai B'rith Brotherhood Award of "Riverdalian of the Year;" and an honorary doctor of laws degree from Manhattan College.

Celia typifies the selfless dedication of a true community servant. We should look upon her life as a shining example for use to follow. I hope the children of the Bronx use Celia Stein as a role model—if so, the quality and character of the Bronx will shine as an example for all. And so, I call upon my colleagues in the House of Representatives to extend their congratulations and best wishes to Celia Stein as we recognize her receipt of the Riverdale Mental Health Association's Cleveland E. Dodge Memorial Award.

MEXICAN ANTIDRUG EFFORTS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SMITH of Florida. Mr. Speaker, on July 1, 1986, the New York Times carried an op-ed piece by Prof. Samuel I. del Villar on United States-Mexican antidrug programs. As chairman of the House Foreign Affairs Committee's task force on international narcotics control, I feel compelled to respond to that piece.

Professor del Villar states that the United States "has failed to recognize the damage its unsuccessful antidrug policies have had on Mexico. A common effort to fight drug trafficking should be urgently defined and coordinated."

If Mexico has been damaged by American antidrug efforts, the fault does not lie with us. However well or poorly the joint United States-Mexican antidrug programs have operated, the United States has made every effort to define what we want the Mexicans to do and to assist Mexico in those efforts. If a lack of definition and coordination exists, Professor del Villar should look first to his own backyard.

I do not question that the demand within this country for drugs has contributed to the increase in production in Mexico and elsewhere. But, Professor del Villar is categorically wrong when he states that the "effect of American policies is to raise the price of drugs." At least insofar as cocaine is concerned, the price of cocaine decreased after interdiction efforts increased.

Professor del Villar calls the growers of these drugs "victims" of American policies. But, the countries in which these drugs are grown and through which the drugs pass are signatories of the Single Convention that makes the growth of these drugs illegal. Any effort by a friendly foreign nation to help the United States eradicate or interdict illicit drugs is required by that nation under international law. These so-called victims are lawbreakers in their own countries. They are not innocent bystanders.

He also states that organized crime backed by narco-dollars poses a serious threat to Mexican stability. That crime, if organized, also is internal to Mexico itself. The threat to Mexico also is internal, financed by Mexicans and aliens and abetted by Mexicans who turn the other way when the criminals operated.

He then complains that hundreds of billions of pesos and 50,000 personnel are being wasted in the fight to prevent drugs entering the United States from Mexico. I would argue that a large portion of that money is American international narcotics assistance. Far from being wasted, the time and talent being used is, as I have stated, merely enforcing Mexico's international obligation to fight narcotics. Their efforts should be put to better use—once Mexico has complied with its obligations to stop the growing and shipment of illegal drugs.

Mr. Speaker, despite Professor del Villar's protestations, the United States is not asking Mexico "to bear alone the costs" of antidrug efforts. The United States is bearing the cost in increased cocaine and heroin addiction. Congress has increased funding for interdiction and other operations. Other countries in Latin America and elsewhere are cooperating with us to stop drug trafficking. Mexico is not alone. The American people are demanding, however, that Mexico accept its share of responsibility for the failure in recent years of its antidrug program—a program that has had the complete support of the administration and Congress.

Finally, nobody can equate today's drug growing in Mexico with our request that Mexico supply opium and marijuana for World War II medical uses. Professor del Villar seems to forget that, following World War II, our two countries conducted what appeared to be successful drug eradication programs. Until 5 years ago, the Mexican program was considered the best in the world. Only recently has opium and marijuana reemerged as a problem. I submit that the situation 40 years ago has no direct bearing on the drug production problem in Mexico today.

Finally, Mr. Speaker, I want to assure Professor del Villar and others that Congress recognizes the drug problem within the United States has supply and demand components. We do not deny our responsibility for the problem. I suggest that, before trying to place the blame entirely on the United States, critics ponder the words of that great American philosopher Benjamin Franklin: "Clean your finger before you point at my spots."

CONGRESSIONAL SALUTE TO GRAN FIESTA MEXICANA KERMES 1986

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. MATSUI. Mr. Speaker, every year, Our Lady of Guadalupe Church in Sacramento celebrates its Gran Mexican Festival "Kermes." It is with great pleasure that I wish them continued success in their Kermes as the people of Sacramento once again enjoy this cultural extravaganza.

Kermes is an exciting chance for the people of Sacramento to experience an authentic Fiesta Mexicana. The program, which will be held on June 29 at Southside Park, will be complete with traditional Mexican music, speakers and poets, and folkloric dance troups.

Our Lady of Guadalupe Church has been in Sacramento since 1945. From its inception, the Mexican church has been a vibrant unifying force of the Hispanic people of Sacramento and throughout northern California. The church is an active center for Hispanic participation in educational and community affairs.

Through Centro Gaudalupe, the church is also instrumental in providing a wide variety of social services to Sacramento denizens regardless of religion, sex, or nationality.

While providing a fun-filled day for Sacramentans of all ethnic backgrounds, the Kermes is also an important fund raising event. The church's continued services are partially funded by the Kermes' proceeds.

The members of Our Lady of Guadalupe Church are also to be acknowledged and commended for their admirable contributions to community service. The success of the Kermes festival each year is achieved through each individual's hard work and dedication within the group. Together, they unite to form an organization that promotes a sense of belonging to California Hispanics.

This hard work of Our Lady of Guadalupe Church and its service to the Hispanic community commands special respect. On behalf of Sacramento citizens. I thank the church and its members for their years of exuberant and dedicated service. I also wish them the best of luck with the Kermes.

NATIONAL BICENTENNIAL COMPETITION ON THE CONSTITUTION AND THE BILL OF RIGHTS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. GALLO. Mr. Speaker, educational leaders, teachers, and students in my congressional district are helping to develop and field test an exciting new program on the forthcoming bicentennials of the Constitution and the Bill of Rights which I would like to bring to the attention of my colleagues.

The project is being conducted in the Parsippany-Troy Hills School District under the leadership of Alan Markowitz, the supervisor of social studies for the district. The program we are working on is the national bicentennial competition on the Constitution and the Bill of Rights being administered by the Center for Civic Education and supported in this early stage by the Departments of Education and Justice. Mr. Charles Quigley, executive director of the Center for Civic Education, is to be commended for his efforts in developing, coordinating and gathering a great deal of support for this project. The exemplary nature of this project has led to its having been granted official recognition by the Commission on the Bicentennial of the United States Constitution chaired by the Chief Justice and directed by Mark Cannon.

I have visited the schools, the teachers, and the classrooms involved in this project. I have been pleased to have been able to provide assistance in the training of the teachers in the pilot program. It is clear to me that this project is an excellent means of bringing public attention to the need to commemorate these basic documents and of providing sound educational programs that can develop among our youth a profound understanding of and a commitment to their basic principles and values.

I am pleased to support this project. I ask my colleagues to join me in supporting the proposed appropriation to the Commission on the Bicentennial under Public Law 99-194 for the national bicentennial competition on the Constitution and the Bill of Rights which would make the program available in every congressional district in the Nation during the period of the celebration of the bicentennials.

SGT. JOE MATTHEWS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. EMERSON. Mr. Speaker, on Saturday, June 14, 1986, southeast Missouri lost one of its finest citizens. Sgt. Joe Matthews of the Missouri Highway Patrol Troop E in Poplar Bluff, died after an extended illness. "Sergeant Joe," as he was affectionately known, dedicated his life to helping young people, not only through his work on the highway patrol, but in virtually every other aspect of his life.

The highway patrol could not have made a better decision when they made Sergeant Joe the safety officer at Troop E. Joe is well-known to southeast Missourians because of his television appearances to protect young people from their No. 1 killer—the automobile accident. No one will ever know how many lives Joe may have saved by raising the consciousness of young people on the importance of safety in highway travel.

Sergeant Joe's interest in young people was not limited to highway safety, though. He was also active in drug abuse prevention programs and the Boy Scouts of America. He served as chairman of the local executive board and on the Eagle Board of Review. For this work, he was awarded the Silver Beaver Award—the highest award given to leaders who make outstanding contributions to Scouting. His work with young people was so appreciated and respected that he became the first person outside of the teaching profession to receive the Meritorious Educational Service Award presented by the Southeast Missouri State University Teachers' Association.

Everyone will miss Sergeant Joe, but I will miss him in a special way. When I first came to the Congress, I asked Joe to serve as the chairman of my academy review board, which makes recommendations to me on which candidates to nominate for the various service academies. His advice and counsel was invaluable to me and it will be sorely missed.

Joe leaves a wife and two sons who I know will miss him terribly. But he touched the lives of so many people throughout southeast Missouri, that his loss will be felt even by people he never knew. Sgt. Joe Matthews cared about young people, and there are many young people in southeast Missouri who will never forget that.

WASHINGTON STATE CHEETAHS

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. CHANDLER. Mr. Speaker, the Washington State Cheetahs, a girls U-15 premier soccer team and newly crowned Washington State U-15 Champions, have just returned from a trip to the People's Republic of China where they were the first United States girls' soccer team to visit and compete in the sport.

Seventeen young women from the Eighth Congressional District comprise the Cheetahs. They have consistently won local and State championships, have placed in regional competition, and have participated in tournaments throughout Washington, Colorado, and Canada.

In China, the girls traveled to Beijing, Tianjin, Shenyang, Guilin, and Guangzhou where, for 2 weeks, they worked side by side with the Chinese girls exchanging ideas and techniques in clinics and competition.

The sport of soccer has not yet achieved the national recognition as an adult sport in the United States that it enjoys as the world's No. 1 sport. But youth soccer in this country has grown more than any other sport among our young people. In soccer, the youth programs are literally where the action is.

The people of the Eighth Congressional District are proud of the Washington State Cheetahs and congratulate them on the success of their journey.

TRIBUTE TO LT. COL. BILLY F. WALTERS

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. ANTHONY. Mr. Speaker, I take the floor today to announce to my colleagues the retirement of an outstanding officer of the U.S. Army, Lt. Col. Billy F. Walters of Hope, AR, and to pay tribute to his more than 20 years of dedicated service to our country.

Billy Walters is a combat veteran who has forged a distinguished career in a wide variety of command and staff assignments as an air defense artillery officer and automatic data systems management specialist. His career culminates with his current assignment to the Defense Communications Agency where he has personal oversight of command and control projects that are vital to the national defense. Other key posts held in his diversified career include assignments as an operations staff officer to HQ, U.S. Army Europe; as executive officer to a Chaparral/Vulcan battalion in Europe; as a command and control specialist for HQ, U.S. Army Forces Command; as a military observer for the United Nations Truce Force in the Palestine; and as a battery commander in a 20mm air defense battalion in the Republic of South Vietnam.

After graduation from Henderson State University in 1965, Lieutenant Colonel Walters was commissioned as a second lieutenant. His military education includes completion of the air defense artillery basic and advanced officer courses and graduation from the U.S. Army Command and General Staff College. His civilian education includes an MBA from Southern Illinois and an MS from Kansas State University.

Awards and decorations which Lieutenant Colonel Walters has received include the Bronze Star Medal, the Defense Meritorious Service Medal, the Army Meritorious Service Medal, the Joint Services Commendation Medal, and two Army Commendation Medals.

Mr. Speaker, Lieutenant Colonel Walters has served his country faithfully and well. I feel certain that all the Members join me in praising his efforts and sacrifices on behalf of his fellow citizens and in wishing him, his wife Pat, their son Allen and their daughter Tracy all the best in the many years to come.

A TRIBUTE TO MARLESA LYNN

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. HATCHER. Mr. Speaker, I rise to commend a young lady, Marlesa Lynn Ball, from my district in Georgia who last month was crowned Miss Georgia 1986. Marlesa hails from Thomasville and wore the crown of Miss southeast Georgia before winning her current title. She will now compete in the Miss America Pageant in Atlantic City, NJ, on September 13, 1986.

Thomasville, which is known throughout the South for its roses, also has a rich history of producing beauty queens, and I would like to recognize the city for producing such fine representatives for the State of Georgia. Thomasvilleans have represented Georgia in the Miss America Pageant in 5 of the last 14 years, a feat that is quite astounding for a town with a population of less than 20,000 and in a State that is as diverse and large as Georgia.

I congratulate Marlesa and wish her the best of luck in Atlantic City.

SECOND ANNUAL CANDLELIGHT VIGIL TO HONOR POW'S AND MIA'S

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SCHUMER. Mr. Speaker, on Friday, July 18, the Veterans of Foreign Wars, Corrigan-Kiernan Memorial Post in Brooklyn, New York, will hold their second annual candlelight vigil to honor those POW's and MIA's who fought so valiantly for our country.

The Corrigan-Kiernan Post, which is celebrating its 40th anniversary this year, has been heavily involved in Veterans' affairs in Brooklyn, and last year over 800 people attended their candlelight vigil. This Brooklyn chapter of the National Movement for Veterans of Foreign Wars is a fine example of how small communities across America are keeping alive the spirit of those who served their Nation with dedication and honor.

Mr. Speaker, I know that all of my colleagues join me in supporting the Veterans of Foreign Wars in their efforts to keep alive the memory of our POW's and MIA's. We must never cease in our efforts to bring every American soldier home, especially those Vietnam veterans who are still unaccounted for.

UNITA: BEHIND THE FRONT LINE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. COURTER. Mr. Speaker, Angola today is occupied by an estimated 45,000 Cuban troops and thousands of Soviet, eastern bloc, and North Korean advisers who are assisting a small Communist faction to rule Angola.

For 10 years, however, a group of freedom fighters led by Dr. Jonas Savimbi has been resisting the Soviet-Cuban sponsored tyranny and that group has done remarkably well in seeking to end Marxist rule and establish a free and democratic Angola. That group is called UNITA, which stands for the National Union for the Total Independence of Angola.

To date, most press attention has focused on the military capabilities of UNITA. However, UNITA is much more than a guerrilla or military force. It is a political and social entity as well, and in fact closely approximates a national government. It controls large amounts of territory; it has substantial support among the population; it operates a sophisticated social and political infrastructure.

The UNITA office here in Washington has produced a paper entitled: "UNITA: Behind the Front Line" which discusses the background of UNITA and describes the social and political infrastructure which has been set up in the part of Angola which is controlled by UNITA. The paper describes an educational system with 22 secondary schools, a medical and social service system with more than 25 hospitals and almost 200 medical clinics served by a total of 2,500 medical personnel.

I believe that the information contained in this paper prepared by the Free Angola Office is important, and should be useful to Members as they consider the issue of aid to Angolan freedom fighters in the months ahead. I have met Dr. Savimbi as well as his foreign secretary, Jerimiah Chitunda, and I believe their efforts are in the best interests of the Angolan people. I am therefore pleased to submit for entry in today's RECORD the following paper "UNITA: Behind the Front Line."

UNITA: BEHIND THE FRONT LINE

INTRODUCTION

UNITA (the National Union for the Total Independence of Angola) was founded by Dr. Jonas Savimbi on March 13, 1966, to provide an effective vehicle to free Angola from Portuguese colonialism.

UNITA, was one of three national liberation movements (FNLA, MPLA) engaged in the armed struggle against the Portuguese.

In 1974, after years of intensified fighting, the Lisbon government signaled its inten-

tion to end its colonial rule in Africa. A ceasefire between the Portuguese and the three nationalist groups was reconciled, eventually leading to a common platform for independence negotiations, and finally the holding of the Alvor Conference in early 1975.

The conference ended with the signing by the four participants of the historic Alvor Agreement which stipulated (1) establishment of an interim (Portugal-FNLA-MPLA-UNITA coalition) government to run Angola until the proclamation of independence; (2) the holding of free elections for a Constituent Assembly; (3) the proclamation of independence.

The interim government had barely begun to function when Soviet weapons began to be clandestinely unloaded to arm the MPLA, and Cubans began training at the MPLA's guerrilla's camp. This was at a time when the three guerrilla armies were, by the Alvor Agreement, to be transformed into Angola's national army.

Skirmishes between the MPLA and the FNLA flared in March 1975 and rapidly intensified. UNITA, which tried to stay out of the inter-party fighting, relinquished its neutrality in response to the MPLA's continued aggression.

By August 1975, the Soviet-made armaments and hundreds and then thousands of Cuban soldiers allowed the MPLA to drive the FNLA and UNITA from Luanda and consolidate their control. Elections were dismissed, Angola was recolonized. The Soviet Union, once the answer to colonialism, became an Africa colonizer.

Today, Angola is occupied by 45,000 Cuban troops and colonial bureaucrats (at least 10,000 of whom have taken Angolan citizenship), as well as by thousands of East Germans, Poles, Czcechs, and North Koreans. The Soviets have sent nearly $2.5 billion in arms to maintain their imperialist rule.

And so for 10 years, UNITA has had to continue its guerrilla war—this time against the Cubans and Soviets who have replaced the Portuguese as the foreign rulers and exploiters of the Angolan people and land.

In its fight for freedom, UNITA has undergone dramatic growth, to become a self-sufficient military and social operation with an army of 60,000 troops and the active support of over one-half of the Angolan people.

POLITICAL STRUCTURE

UNITA's political structure is based on the principles of democracy with the basic unit of the party being the kimbos or villages, which are, in turn, connected through regional committees to an elected, 20-member Political Bureau and 55-member Central Committee.

The most important legislative body of UNITA is the Congress, made up of elected representatives from all the kimbos. The Congress meets every four years, sets political policy, military strategy, and elects party authorities, including the President, members of the Political Bureau and Central Committee.

Annual conferences are held to deal with the administrative matters of national importance. These conferences are attended by the members of the Political Bureau and the National Committee.

PRINCIPLES AND POLICIES

On Angola's political future and UNITA's political beliefs in general:

UNITA struggles for a true national harmony through the formation of a government of national unity.

UNITA firmly believes in democracy and wishes to establish a democratic society in Angola based on the basic principles of modern constitutionalism adapted to the African reality.

Angolans must be allowed to exercise their inalienable right to vote, to create legitimate permanent government institutions in the country.

Only the people's support or sanction expressed by vote or consensus may establish the legitimacy of the regime.

On the rule of law and the judiciary system: UNITA advocates a state based upon the rule of law.

UNITA advocates a judiciary system based on a constitutional and institutional framework of the fundamental principles of the rights and responsibilities, privileges and duties, and equality of all citizens before the law.

On the rights of individuals and minorities: UNITA undertakes to protect minority rights, be they racial, religious or ethnic. The peculiar social situation of Angola calls for harmonious co-existence of all ethnic groups and races that are the components of the Angola nation.

The state must protect the rights of all individuals without discrimination based on class, political beliefs, sex, race, language or nationality.

UNITA adheres to the values of liberty, equality and human dignity expressed in the Universal Declaration of Human Rights.

On civil liberties: Civil liberties must be the liberties of all citizens and not just of some; no citizen may be excluded from the national community against his own will.

On freedom of religion and the press: Freedom to practice one's religion is a fundamental human liberty which the state must protect.

UNITA guarantees the freedom of creed and worship and shall protect all religious institutions.

UNITA advocates the freedom of the press and accepts the idea of a national, free, and private press in Angola.

On health care: Health care must be a right, not a privilege, of every Angolan citizen. Health and medical care must therefore be free to the people.

On education: Education is the key to raising the level of production and the standard of living of Angolans; in unifying the country and bridging social, cultural and class differences; in raising the national conciousness and increasing the national ability to cope with modern day obligations in the international community.

UNITA shall guarantee the establishment of official and private schools insofar as they both promote the country's well-being.

On economy and economic development: UNITA's basic objectives in the economic sphere include the attainment of national self-sufficiency in food products and other essentials, health care, clothing and decent housing.

UNITA considers the agricultural sector to be the most important lever of the Angolan economy. In this sector, UNITA believes private initiative is essential, and the price of agricultural products is the key incentive to the farmers.

UNITA advocates laws and policies of the government that promote private enterprise.

On foreign relations: UNITA's basic foreign policy goals will be the preservation of Angola's political independence and protection against foreign aggression by all possible political and diplomatic means.

Socio-economic development will require interaction with the international community in a wide range of cooperative agreements, trade, diplomatic relations, friendship treaties and membership in international organizations.

UNITA is for the establishment of good relations with all neighboring countries on the basis of mutual respect, peace, and justice.

AGRICULTURE

The primary source of UNITA's strength lies in its scrupulous practice of self-reliance which spans from its military activities to its health and medical requirements.

Agriculture, the basis of Angola's economy, is the target of a comprehensive self-sufficiency program by UNITA. Primary production centers have been established with the object of maximizing large scale production with limited irrigation resources. In addition to the primary production centers, 53 secondary production centers (totalling 25,000 hectares of arable land) have been set up in UNITA territory.

The secondary production centers are protected settlements where villagers displaced by the war combine their efforts with members of the local population to grow various crops and vegetables such as maize, sorghum, soy-beans, pumpkin, and cabbage. The non-combatants view the FALA, UNITA's armed forces, as a safeguard to their way of life. Produce is readily offered to the UNITA Secretariat to sustain the conventional army.

A feature of UNITA's administration in the liberated territory which rarely receives public recognition is the strict approach to wild-life preservation. In other areas of Africa afflicted by guerrilla warfare, various species of game and bird-life have been decimated and, in some cases, totally eradicated. In UNITA's territory, however, the hunting of game (elephant, lion, buffalo, and various species of buck) is strictly controlled, and UNITA strives to raise the public awareness to preserving the wild-life resources of the country.

EDUCATION

UNITA has established an educational system which has as its first priority education to all Angolans without discrimination. Both public and private education is encouraged, and emphasis is given to restoring and preserving the Angolan people's cultural integrity lost through Portuguese colonialism and Soviet/Cuban repression. UNITA views education as essential to its plan of raising the national standard of living and to nurturing national unity.

There are a total of 22 secondary schools in UNITA-controlled territory. At UNITA's Jamba headquarters itself, more than 500 pupils attend the primary grammar school, while about 1,000 children attend the secondary grammar school. In addition, each year UNITA sends students overseas to acquire university educations vital to the movement, so that when the organization assumes power in Angola it will have a nucleus of educated professionals capable of leading with judgement and vision. UNITA regards the children as the future wealth of the nation and sees its schools as "nurseries of future leaders".

HEALTH AND SOCIAL SERVICES

UNITA has developed medical and social service infrastructure in the territory under its control. There is a hospital at UNITA's Headquarters at Jamba (which can accommodate about 250 patients) as well as five

other central hospitals in UNITA's liberated territory. Apart from the central hospitals, UNITA has 22 regional hospitals and 189 clinics/sanitary posts in the wider operational zones of Angola, served by a total of 2,500 medical personnel.

In addition to medical assistance to the population and the soldiers of FALA, UNITA's health service also provides its communities with such programs as furnishing homes to orphans, widows, the mutilated, mental patients, war prisoners, and the migratory population.

UNITA's health service staff increases considerably every year. This increase is due to the establishment of a technical school whose students are trained by qualified medical doctors and nurses.

DR. JONAS SAVIMBI

Jonas Savimbi was born August 3, 1934, at Munhango (Moxico Province) where his father was a Benguela Railway employee. His early education took place in Andulo, Dondi, Silva Porto (Bie) and Sa da Bandeira (Lubango). He left Angola in 1959 to pursue the study of medicine in Lisbon, Portugal.

Forced to leave Portugal in 1960 because of his militant anti-colonialist student activities, Savimbi took refuge in Switzerland where he enrolled in the School of Medicine at the University of Friboug. By 1961, Savimbi had changed his field of study and was working toward a degree in Political Science at the University of Lausanne.

During this same period of time, in order to decide on the extent of his personal involvement in the armed national liberation struggle against Portuguese colonialism, Savimbi established contact with Holden Roberto of the Union of the Population of Angola (UPA) and with Mario de Andrade and Viriato da Cruz, both of the Popular Movement for the Liberation of Angola (MPLA).

Tom Mboya, Foreign Minister of Kenya, a close personal friend, persuaded Savimbi to join UPA. He did so and soon became its Secretary-General. In that capacity, he succeeded in obtaining recognition of UPA by several African countries. He also promoted the fusion of UPA and the Angolan Democratic Party (PDA) into a single national liberation movement which called itself the National Front for the Liberation of Angola (FNLA). He hel;ped create the Revolutionary Government of Angola in Exile (GRAE) and became its Foreign Minister.

After obtaining his doctorate in Political Science at Lausanne in July 1965, Savimbi went to the People's Republic of China for training in guerrilla warfare.

Convinced that the leadership must become personally involved in the front lines of the guerrilla movement, Savimbi returned home to carry on the liberation struggle from inside Angola. This issue caused a final rupture with FNLA leaders who preferred to remain in exile, cut off from the people. In March 1966, Savimbi founded the National Union for the Total Independence of Angola (UNITA) in the village of Mwangai (Moxico Province).

In 1974, after the political changes in Portugal, Savimbi took the initiative toward dialogue, reconciliation, and cooperation among the three Angolan liberation movements. These efforts led to the convening of the Mombasa (Kenya) Conference where a common platform for the three movements to negotiate with Portugal was established. The success of this Conference led to the Alvor Conference in January 1975. There the FNLA, MPLA, and UNITA were able to work together harmoniously and to deal with Portugal with relative success.

During the 1975 civil war in Angola, Savimbi pressed for a conference to put an end to the hostilities, restore peace in the country, and safeguard the Alvor Agreement. This conference was held in Nakuru (Kenya) in June 1975.

The Soviet-Cuban intervention which installed the MPLA in power has completely destroyed the Alvor Accord and re-plunged Angola into a new foreign domination.

Since this intervention, Savimbi has used his guerrilla experience, his farsightedness, and his grass-roots support to continue the fight against Soviet/Cuban expansionism. UNITA has won victory after victory over the new aggressors from Cuba and Russia.

Since then, except for a few brief visits to the outside world, Dr. Savimbi has remained in the Angolan countryside, organizing and mobilizing the people in their struggle against foreign domination. This continuous contact with the people enabled him and the UNITA cadres to assess correctly the conditions of the struggle and to maintain widespread popular support.

Any permanent solution to the Angolan problem must reckon with this leader who knows and serves the cause of justice, liberty, and dignity for the Angolan people: Dr. Jonas Savimbi.

A TRIBUTE TO RAYMOND LOEWY, FATHER OF INDUSTRIAL DESIGN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. DYMALLY. Mr. Speaker, I would venture to say that the name Raymond Loewy is not well known to most people in the world. That should be surprising because the way our world looks today is due in significant measure to Raymond Loewy. When he died this past Monday the world of design lost one of its giants. And the world of industrial design lost its founder. After having reaped the benefits of Mr. Loewy's fertile mind, I expect we cannot imagine a time when our industrialized world looked different than it does now. But before Mr. Loewy came along people didn't pay much attention to the way products looked. Now so many things that are familiar to us are taken for granted. Many of them wouldn't have looked the way they do if it weren't for Raymond Loewy. So many familiar items of our everyday lives from the logo of the U.S. Postal Service to the shape of Nabisco cookies to the name Exxon to the shape of Coca-Cola machines didn't come from nowhere. They came from Mr. Loewy. I think it fitting that one who has contributed to much to the look of our world should be remembered in a special way. For this reason, I insert the eloquent tribute to Raymond Loewy by Albin Krebs, which appeared in the July 15, 1986 New York Times into the CONGRESSIONAL RECORD at this point:

RAYMOND LOEWY, STREAMLINER OF CARS, PLANES AND PENS, DIES

Raymond Loewy, the "father of streamlining" who more than half a century ago founded the industrial design movement that radically changed the look of American life, died yesterday at his home in Monte Carlo. He was 92 years old and had been in failing health for several months.

By the 1950's he and his associates had drastically altered the appearance of thousands of everyday items, from toothbrushes to automobiles to airplanes.

As head of Raymond Loewy Associates, the French-born Mr. Loewy was recognized as the most influential industrial designer in the United States. His company formed in the early 30's became the largest industrial design firm in the world. It ceased operation in New York in the late 70's and the Paris office was closed in 1984.

Mr. Loewy's artistic creed was: "Good design keeps the user happy, the manufacturer in the black and the aesthete unoffended."

FROM DOWDY TO SLEEK

His impact on industrial design was first felt in the 1920's, when everyday objects tended to be dowdy in color, ungainly in shape and bulky in form. Mr. Loewy's goal was to make such objects sleek and unencumbered.

He led the movement to change when he redesigned the Gestetner duplicating machine, ridding it of its gawky protuberances, encasing its mechanical parts in a simple shell and mounting the whole on a graceful base.

Mr. Loewy was later credited with creating a new profession of designers who have left their mark on nearly every aspect of modern life. As the architect Philip Johnson put it, "Raymond started industrial design and the streamlining movement."

Soon after Mr. Loewy's success with the Gestetner copier, the Loewy look began to crop up on hundreds of products—refrigerators, ballpoint pens, ocean liners and passenger trains, tricycles and motorcycles and buses, and eventually spacecraft.

Mr. Loewy gave objects a shape, an image a "packaged" look, putting his unique mark on Coca-Cola dispensers, dinnerware, sewing machines, toasters, electric clocks and radios and television sets, and even cookie shapes for Nabisco.

AN EAGLE AND A JET

The familiar eagle silhouette logotype of the United States Postal Service is a Loewy design, and so is the distinctive look of the President's white Air Force One jet.

The premier industrial designer was a showman, and by no means was he self-effacing. He said, for example, in a 1979 interview: "My early colleagues and myself helped create the life styles of Americans and, by osmosis, of the rest of the world. I found it difficult to reconcile success with humility. I tried it first but it meant avoiding the very essence of my career—total exhilaration and the ecstasy of creativity."

Raymond Fernand Loewy was born Nov. 5, 1893, in Paris, and lived a comfortable childhood in the affluent suburb of Neuilly. His father was a Viennese journalist, his mother a French woman determined that her sons would be successful. Mr. Loewy said she prodded them with the maxim, "It is better to be envied than to be pitied."

IN BUSINESS AT 15

Young Raymond showed a talent for sketching, designing modernistic automobiles and locomotives for his own amusement. In 1908, when he was 15, he designed and built a model airplane, powered by rubber bands, that flew more than 100 yards. It also won him a design prize and got Mr. Loewy into his first business. He patent-

ed the plane design and registered the trademark Aryel, based on his initials, and rented space to build the model airplanes for the children's market.

"It was a huge success," he said. "I learned about employment, sales, bookkeeping and writing manuals in three languages. In two years I knew about business and knew it could be fun."

After graduating from the University of Paris in 1910, Mr. Loewy studied advanced engineering at the Ecole de Laneau, but World War I intervened and he served with France's Fifth Army corps of engineers. The dapper young officer, who designed his own uniform because he found the standard issue inelegant, was inducted into the Legion of Honor and awarded the Croix de Guerre with four citations. He had been seriously injured by mustard gas.

Mr. Loewy's parents died during the war, and although he was penniless he completed his engineering degree at the age of 26. At the urging of his brother Georges, a research scientist in New York, he decided to seek work in America.

FIRST JOB AT VOGUE

Aboard ship he contributed a sketch of a woman passenger to a charity auction. It was bought by a British diplomat, who found it so fetching that he arranged an interview for Mr. Loewy with Conde Nast, publisher of Vogue.

Mr. Loewy was soon on the art staff of the magazine and doing fashion illustrations for Rodman Wanamaker's department store and, later, Gimbels and Saks Fifth Avenue.

He was financially successful, he said, but intellectually frustrated. "Prosperity was at its peak but America was turning out mountains of ugly, sleazy junk," he said. "I was offended that my adopted country was swamping the world with so much junky looking stuff."

In 1929 Sigmund Gestetner invited Mr. Loewy to give the Gestetner duplicator a facelift. The designer soon presented Mr. Gestetner with a clay model from which a new duplicator was fashioned and marketed unchanged for 40 years. This success led to Mr. Loewy's being engaged year-round by the Hupp Motor Company to improve product design.

The industrial design profession with its emphasis on functional styling had come into being.

A PRIZE IN PARIS

Mr. Loewy's firm expanded rapidly in the early 1930's and in 1935 he had his first spectacular success when he was commissioned by Sears, Roebuck & Company to design the Coldspot, the first refrigerator with nonrusting aluminum shelves. The Coldspot, which had sales of 140,000 in the first year and 275,000 the next, won first prize in design at the Paris International Exposition in 1937.

"What I had instinctively believed was being proved by hard sales figures," Mr. Loewy said. "You take two products with the same function, the same quality and the same price: the better-looking one will outsell the other."

By the outbreak of World War II Raymond Loewy Associates was design consultant to more than 100 companies and had a staff of 300 in offices in New York, London, Chicago, Sao Paulo and South Bend, Ind. Mr. Loewy, in consultation with his clients' engineers, designed Studebaker automobiles, International Harvester trucks, Frigidaires, sleeper airplanes for Trans World Airlines, aircraft fuselages for Lockheed and interiors for Glenn A. Martin airplanes.

For the Pennsylvania Railroad, he first designed the trash receptacles for Pennsylvania Station in New York and in the mid-30's, then went on to bigger things—an experimental locomotive that led to construction, in 1937, of the first all-welded locomotive and Mr. Loewy's clinching his reputation as the super streamliner.

In that connection, he later said, "I've been accused of being a shell designer—you start with a machine and enclose it. But in many cases the shell is essential. A locomotive without a shell would be nonfunctional."

There was hardly an area in which Mr. Loewy and his firm were not active. They designed fireproof passenger liners, a 650-acre community in Brazil and supermarkets in California. The interior of Gimbels department store in New York was a Loewy project; other large department stores he designed included Lord & Taylor stores in Manhasset, L.I.; Hartford and Millburn, N.J. "We did the first department stores without windows," he said.

During World War II Mr. Loewy designed a nonmetal lipstick tube (to save metal for the war effort) and directed the design of the cramped quarters on submarines. He redesigned the red-and-green Lucky Strike cigarette package, simply by divesting it of one color. "Lucky Strike green has gone to war," commercials explained, and Mr. Loewy got $50,000 for an idea that substantially increased the cigarettes' sales.

THE MANY COLORS OF LEVER HOUSE

One of Mr. Loewy's most famous commissions, in 1952, was the design and execution of interiors for the landmark glass-and-metal Lever House on Park Avenue, at 53rd Street. He equipped the offices with round-cornered desks adjustable in height, a new concept. And although a basic color of the building's interiors was a grayish beige, each floor of Lever House was given a different color scheme.

Mr. Loewy's visionary design prompted Lewis Mumford, the urban planner and critic, to write in the New Yorker: "I don't know any other building in the city in which so much color has been used with such skill and charm over such a large area. Both our school architects and our equally timid hospital architects have something to learn from this."

The 1953 Studebaker Starliner, almost devoid of the chrome that was customary on other cars and notable for its clean look, was praised by one critic as "the top car of all time," but some auto industry leaders found the Loewy design laughable.

"I alienated the automotive industry by saying that cars should be lightweight and compact," Mr. Loewy said in 1979, by which time most cars were indeed lightweight and compact. "In those days they looked like chrome plated barges."

Mr. Loewy later, in 1961, designed the Avanti and the Avanti II, the now-classic sports cars, for Studebaker.

In the 1950's, shortly after writing his aptly titled autobiography, "Never Leave Well Enough Alone," Mr. Loewy jumped with his characteristic enthusiasm into a new career, the design of trademarks and logotypes for companies, many of them in the oil business. His first client was British Petroleum, followed by Shell and, perhaps most famously, Standard Oil and Esso, which he transformed into Exxon.

THE IMPORTANCE OF THE LOGO

"The correct logo is paramount for sales," he said. "It goes on everything—gas stations, tanker trucks, refineries, overalls, oil cans. It must be visible in all climatic conditions."

During Mr. Loewy's last two decades as an active designer, he was often associated with Government projects. That put him on excellent terms with several presidents, notably John F. Kennedy. It was for Mr. Kennedy that he redesigned Air Force One, giving it the appearance of a clean white missile with the legend "The United States of America" running its length. Succeeding Presidents have altered the interiors of later models, but the Loewy design has remained on exteriors.

For several years, Mr. Loewy and his firm were consultants to the Skylab orbital workshop project of the National Aeronautics and Space Administration which he called "by far my most exciting job." It involved, he said, adapting cramped space "for the psychological comfort and safety of a crew in exotic conditions of zero gravity."

"My greatest problem was zero gravity," he said. "How do you design an interior for it?"

He insisted that the crew take their meals together, that they have total privacy for eight hours a day and that sleeping surfaces be designed so astronauts would not be forced into a fetal position by zero gravity.

It was also on Mr. Loewy's insistence that astronauts should always feel a semblance of gravity. And, he said, "They must have a porthole in order to have a vision contact with Earth."

Mr. Loewy, who estimated in 1979 that his firm had trained more than 2,000 men and women for positions of influence in industrial design, was the subject of a one-man retrospective at the Smithsonian Institution in 1975. At that time the director of the National Collection of Fine Arts, Dr. Joshua C. Taylor, paid him lavish tribute.

"Much in this exhibition will seem astonishingly familiar," Mr. Taylor wrote. "It may come as a surprise that so much with which we have been surrounded has been the product of one man's vision."

An American citizen since 1938, Mr. Loewy kept an apartment in New York, and a modern home in Palm Springs, Calif., in addition to a 16th century chateau near Paris. In recent years he spent much of his time in vigorous retirement on the Cote d'Azur.

Mr. Loewy was divorced from his first wife, Jean Thomson, who remained with the Loewy firm. He is survived by his second wife, the former Viola Erickson, and their daughter, Laurence.

CONGRESSMAN TONY P. HALL INTRODUCES RESOLUTION CONCERNING THE PERSECUTION OF AHMADI MUSLIMS IN PAKISTAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. HALL of Ohio. Mr. Speaker, today I am introducing a resolution expressing the sense of Congress with respect to the repression of Ahmadi Muslims by the Government of Pakistan.

The Ahmadi movement in Islam is one of the sects of Islam. There are approximately

3.5 million Ahmadi Muslims in the country of Pakistan.

The Government of Pakistan has been engaged in a campaign of direct and indirect repression against the Ahmadis. Ordinance XX, promulgated as a Presidential Decree in April 1984, provides for prison terms of up to 3 years and confiscation of real and personal property of any of Pakistan's Ahmadi Muslims merely for practicising their faith as they wish. Ordinance XX provides that:

Any (Ahmadi) . . . who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

On its face, this ordinance violates international standards of freedom of religion, the right to nondiscrimination, freedom from arbitrary arrest or detention and deprivation of property, and the right to equality before the law. The Subcommission on Prevention of Discrimination and Protection of Minorities of the U.N. Commission on Human Rights in August 1985 declared that Ordinance XX "prima facie, violates * * * the right of religious minorities to profess and practise their own religion," and called upon the Government of Pakistan to repeal Ordinance XX.

In addition, President Mohammad Zia-ul-Haq has announced Government measures to prevent Ahmadis from practicing their faith. Perhaps his best known statement with respect to the Ahmadis was his message to the International Khatm-E-Nabuwhat Conference in London in August, 1985. In this message, President Zia said:

In the last few years, in particular, the Government of Pakistan has taken several stringent adminstrative and legal measures to prevent the Qadianis (Ahmadis) from masquerading as Muslims, and from practising various Shaure-Islami (Islamic practices). We will Insha' Allah, persevere in our effort to ensure that the cancer of Qadianism (Ahamdism) is exterminated.

There can be little doubt that there is a clear policy by the Government of Pakistan to repress the Ahmadi faith and to discriminate against Ahmadis. Both the Lawyers Committee for Human Rights and Human Rights Advocates have determined that there are widespread violations of human rights in Pakistan and that Ahmadis are victims of systematic persecution based upon religious belief.

Hundreds of Ahmadis have been arrested wearing the Kalima, a Muslim religious insignia. Ahmadis have also been discriminated against with respect to admissions to educational institutions and the civil and military services of Pakistan.

Trying civilians in military courts is a violation of internationally recognized legal principles. Nevertheless, Ahmadi civilians have been tried by military tribunals in Pakistan. The imposition of death sentences and long prison terms against Ahmadis by special military courts, as occurred in the so-called Sukkur and Sahiwal cases, has raised concern that religious persecution was a factor in these decisions.

With respect to indirect acts of persecution against the Ahmadis, the Government of Pakistan has provided protection and encouragement to acts of repression and crimes against Ahmadis, including the murder of Ahmadis, mob attacks on Ahmadi mosques. and the defacement of Ahmadi religious property. Ahmadis have been forced to flee Pakistan and have sought asylum in other nations because of religious persecution.

Pakistan is obligated under the U.N. Universal Declaration of Human Rights and the U.N Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Moreover, article 20 of the Constitution of Pakistan states that "ever citizen shall have the right to profess, practice and propagate his religion, and every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."

Notwithstanding its international obligations to respect freedom of religion and the provisions of its own constitution, the Government of Pakistan has been engaging in a documented pattern of religious repression against its Ahmadi community. The actions of the Government of Pakistan against Ahmadi Muslims have received international condemnation.

Despite this condemnation, the Government of Pakistan persists in its persecution of Ahmadi Muslims. Several of my colleagues in both the House and Senate have brought their concerns about the plight of the Ahmadi community to the Government of Pakistan. The Government of Pakistan refuses to acknowledge any discrimination or repression against its Ahmadi Muslims.

In an effort to reiterate the concerns of the Congress, I am introducing a resolution regarding the repression by Pakistan against the Ahmadis. It is my hope that this legislation will serve to call more attention to the Ahmadi issue and to encourage the Government of Pakistan to end its violations of the basic rights of the Ahmadis.

The concurrent resolution calls upon the Government of Pakistan to: First, repeal Ordinance XX; second, cease persecution of, and discrimination against, the Ahmadis; third, provide that any trial of civilians by military courts be reviewed by civilian courts; and fourth, restore all internationally recognized human rights to all of the people of Pakistan.

For the benefit of my colleagues, the full text of the resolution follows:

H. CON. RES. 370

Concurrent resolution expressing the sense of the Congress with respect to repression by the Government of Pakistan of individuals known as Ahmadis

Whereas Ahmadis are individuals who profess their religion to be Islam, but have certain distinctive religious beliefs (as do other sects of Islam);

Whereas the Government of Pakistan and some of the people of Pakistan are discriminating against Ahmadis bacause of the religious beliefs of the Ahmadis;

Whereas there are approximately 3,500,000 Ahmadis living in Pakistan;

Whereas Pakistan is obligated under the United Nations Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

Whereas Article 20 of the Constitution of Pakistan provides that every citizen and religious sect has the right to practice and propagate religions and to establish religious institutions;

Whereas, in April 1984, the Government of Pakistan established Ordinance XX by presidential decree;

Whereas, notwithstanding the Constitution of Pakistan, Ordinance XX provides that any Ahmadi may lose the right to his or her property, be fined, and be imprisoned for 3 years, if the Ahmadi involved publicly suggests that Ahmadis are Muslims;

Whereas, in a message to the International Khatm-E-Nabuwwhat Conference (an international meeting of Muslims) in London in August 1985, President Mohammad Zia-ul-Haq of Pakistan stated that the Government of Pakistan has taken several emphatic measures in recent years to prevent Ahmadis from practicing the Islamic faith, and that the Government of Pakistan will exterminate the Ahmadi faith;

Whereas the imposition of death sentences and lengthy prison terms on Ahmadis, including civilians, by special military courts in Pakistan in certain cases indicates that religious persecution may be a factor in the decisions of courts in Pakistan;

Whereas trying civilians in military courts is a violation of internationally recognized legal principles;

Whereas hundreds of Ahmadis have been arrested for wearing Muslim religious insignia;

Whereas Ahmadis have been discriminated against with respect to admissions to educational institutions and the civil and armed services of Pakistan;

Whereas the Government of Pakistan has encouraged the people of Pakistan to commit acts of persecution against Ahmadis, including murder, attacks on mosques used by Ahmadis, and defacement of religious property;

Whereas Ahmadis have fled Pakistan and have sought political asylum in other countries because of religious persecution;

Whereas 2 organizations in the United States, the Lawyers Committee for Human Rights and the Human Rights Advocates, have determined that Ahmadis are being subjected to systematic and extensive discrimination on the basis of religious belief; and

Whereas, in August 1985, the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights determined in resolution numbered 1985-21 that Ordinance XX violates the right of religious minorities to profess and practice their own religion, and called on the Government of Pakistan to repeal Ordinance XX: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Government of Pakistan should—

(1) repeal Ordinance XX;

(2) cease persecution of, and discrimination against, Ahmadis;

(3) provide that any trial of civilians by military courts be reviewed by civilian courts; and

(4) restore all internationally recognized human rights to all of the people of Pakistan.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President with the request that such copy be transmitted to the Government of Pakistan.

SALE OF CONRAIL

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. SLATTERY. Mr. Speaker, the budget resolution for fiscal year 1987 assumes that the Federal Government will sell Conrail, yielding receipts of $1.9 billion. As a member of both the Budget and Energy and Commerce Committees, I support the sale of Conrail and I hope that the sale can be accomplished this year.

Over the past year and a half, the members and staff of the Energy and Commerce Committee have spent a tremendous amount ot time analyzing and investigating the President's proposal to sell Conrail to Norfolk-Southern, as well as other, competing proposals to sell Conrail through a public offering. As a result of this review and anaylsis, I have reached the conclusion that Conrail has become a highly successful railroad which is viable as a stand-alone entity today and can continue to be so in the foreseeable future. For this reason, I believe that the goal set by the budget resolution can be attained by a public offering.

I remain concerned over the potential anti-competitive impact of a Norfolk-Southern merger with Conrail and I also would not want to see such a merger result in a substantial loss of tax revenues to the Federal Treasury. In addition, I want to see the Federal taxpayers receive the best price possible for this public asset.

Mr. Speaker, I am pleased that several major agricultural groups, food processors and shippers share my views on this matter. I ask unanimous consent to include in the RECORD the text of several letters from representatives of these organizations that were received by Chairman DINGELL of the Energy and Commerce Committee.

NATIONAL GRANGE,
Washington, DC, June 19, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, DC.

DEAR CHAIRMAN DINGELL: The Senate approved the sale of Conrail to Norfolk Southern despite a growing number of opponents. We believe the sale of Conrail to Norfolk Southern will result in reduced service, less competition, and, in the long run, increased shipper costs.

The National Grange is one of a number of farm organizations which oppose the Conrail/Norfolk Southern merger. The creation of this monster not only jeopardizes competition in railroad services but also results in a loss of railroad jobs and the purchase price would fall significantly short of current government investments.

The Grange believes that Conrail has proven itself to be a viable entity. Conrail officials announced record earnings of $440 million for 1985. The fifth straight year of profits. Furthermore, 1985 was the fourth straight year in which Conrail carried about 180 million tons of freight. Notwithstanding $572 million in capital expenditures and maintenance—exceeding 1984 spending levels—Conrail's cash balance at the end of the year increased by $60 million to $910 million. Conrail should remain an independent entity, which helps to create competition.

While realizing the Secretary of Transportation continues to support a Norfolk Southern/Conrail merger, The National Grange continues to support the concept of some type of public offering. On behalf of the over 400,000 members of the Grange, allow me to encourage you and your Committee to move forward in developing a public offering plan for the disposition of the government's share in Conrail.

Thank you for your consideration. We look forward to working with you on this issue.

Kind regards.

Sincerely,

EDWARD ANDERSEN,
National Master.

HEINZ U.S.A.,
Pittsburgh, PA, May 22, 1986.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: Heinz USA, as a major food processing company with facilities located throughout the country, of which four are located on Conrail tracks, strongly supports an independent Conrail. We believe that public ownership would preserve Conrail as a solid competitive force in the marketplace, assuring the viability of a company that has demonstrated its efficiency and fiscal responsibility as evidenced by its profits since 1982.

We concur with your statements of April 29 and those in your May 1 correspondence to Secretary Dole that the proposed plan to sell Conrail to Norfolk Southern is flawed. The proposal is not in the best interests of the Federal Government nor of the nation's economy and transportation system, regardless of the value of Norfolk Southern's increased offer.

A reduction in the number of major eastern rail carriers to two would not only have a detrimental impact on rail competition in the Northeast and Midwest, but would also negatively impact other areas of the country.

We support your efforts in ensuring that Conrail will continue to serve the public interest.

Sincerely,

GRANT E. JACKSON,
General Manager,
Distribution and Customer Service.

HIRAM WALKER & SONS, INC.,
Fort Smith, AR, May 7, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: I recently noticed in one of our transportation trade publications that you have come out opposed to the Administration's plan for the disposition of ConRail. It is good to note that you find the Administration's plan flawed and not in the best interest of the shipping public.

This firm backs an independent ConRail—one that is neither aligned with the Norfolk Southern or any other major rail interest in the United States. We would urge that you continue your efforts to have ConRail turned over to the private sector.

Sincerely yours,

DEAN J. ANDERSON,
General Traffic Manager.

ORE-IDA FOODS, INC.,
Boise, ID, June 24, 1986.

Representative JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: Ore-Ida Foods, Inc., among the largest nationwide processors and shippers of frozen food, supports your position regarding the proposed sale of Conrail to the Norfolk-Southern railroad.

Of the many issues which have emerged during the Conrail debate, preservation of effective rail competition has the greatest significance for shippers and consumers. Lacking alternative railroads at its individual manufacturing plants, Ore-Ida is very dependent on competition among eastern destination carriers (Conrail, Norfolk-Southern, and the CSX System) to assure economic freight rates.

Through ownership of Conrail, the Norfolk-Southern would enhance its capacity to price aggressively and divert eastbound freight from efficient midwestern gateways to those which may better serve its individual interests. An independent Conrail affords an effective check against this prospect.

Thank you for your continuing efforts to assure that Conrail be returned to the private sector in a manner which best serves the public interest.

Sincerely,

GREGORY SURABIAN,
General Manager,
Traffic and Transportation.

QUAKER OATS CO.,
Chicago, IL, March 19, 1986.

Hon. JOHN D. DINGELL,
4719 Schaefer Road,
Dearborn, MI.

DEAR REPRESENTATIVE DINGELL: I am writing to request your vote in opposition to H.R. 1448, authorizing the sale of Conrail to the Norfolk-Southern Corporation.

Quaker is a major national producer of human and pet foods, and is a major user of the Conrail services and facilities. In our last fiscal year, we shipped approximately 11,000 carloads over Conrail.

We strongly urge the public sale of Conrail (rather than the sale to another railroad) because we feel that an independent Conrail is in the best interests of the country and the shipping public. To do otherwise would result in a dramatic reduction in competition in the Midwestern and Eastern parts of the country. Our analysis indicates that even if various trackage is sold to a third party, as proposed by DOT, competition will be significantly reduced in the long run. We believe that our total freight expense will be subject to significant increase and that service may suffer if control of Conrail passes to another carrier.

In the interests of a strong national rail system, the preservation of competition, and reasonable rail rates, we urge you to vote against H.R. 1449.

Sincerely,

CLIFFORD F. LYNCH,
Vice President, Distribution,
U.S. Grocery Products.

INSURANCE SOLVENCY THREAT AIRED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. FLORIO. Mr. Speaker, in the lengthy series of hearings on insurance that my subcommittee is conducting, one of the more troubling issues we have addressed is the rising wave of insurer insolvencies discussed in a recent hearing.

A number of concerns have been raised regarding the current system of State solvency regulation. Some observers have suggested that problems include inadequate data and industry reporting to State regulators, conflicts among the States, and inadequate State guaranty funds for payment of the claims of insolvent insurers.

Articles appearing in the National Underwriter and the Journal of Commerce described our hearing, including proposals for Federal action. I am inserting those articles in the RECORD for the information of all Members on this neglected, but very important aspect of the insurance crisis.

The articles follow:

INSOLVENT INSURERS TARGETED

(By Leah R. Young)

WASHINGTON.—Failures of interstate insurance companies require the creation of a federal bankruptcy court for insurance, a former New York superintendent of insurance told Congress.

Albert Lewis, who served as the state's insurance chief from 1978 to 1983, told a congressional hearing last week that differing state guaranty fund rules make it difficult to compensate policyholders or rehabilitate companies when insurers get into financial trouble.

"It is the best interest for all concerned that an economical and speedy resolution of the affairs of an insolvent insurer be obtained. It is my feeling that this can best be done in a single federal court established for insolvent insurers," Mr. Lewis suggested to a House Commerce subcommittee.

He told subcommittee chairman James Florio, D-N.J., that the problems that surfaced when Baldwin United became insolvent point to the need for a federal legal structure.

He noted that life insurance subsidaries that were part of the insolvent conglomerate were domiciled in Arkansas and Indiana, but those states did not have a heavy concentration of purchasers of the single-premium deferred annunities at issue.

The courts ruled that the commissioners would have to issue a final order of rehabilitation, he said, before state guaranty funds could be triggered, but the state regulators refused to trigger the funds since they had few policyholders to protect.

The plan to provide coverage to the policyholders, mostly senior citizens, he added, was built on deferring all annuity payments for 3½ years to allow investment income to accrue. The proceeding was not really a rehabilitation, he charged, but "a staged and delayed liquidation with the accumulation of investment income to fill the deficit."

A federal insurance bankruptcy court, Mr. Lewis said, would have the power to "place all creditors and debtors under the jurisdiction of a single federal court possessing the power to issue subpoenas and orders that will be effective in every state and territory of the United States."

Such a court could marshal assets and liabilities in order to seek compromises with creditors. "In a present state liquidation, a state regulator cannot achieve settlements based upon using reinsurance receivables, state guaranty funds and creditor give-backs to settle the outstanding reserves," he said.

He suggested further that such a court would be able to select the regulator with the largest number of policyholders involved as the referee.

Raymond L. Hayes, president of the National Association of Insurance Brokers, told the Florio committee that brokers need more timely information about the solvency of insurance companies than they have available to them. He told the lawmakers that the early warning information compiled by the National Association of Insurance Commissioners should be made available to the public.

He said brokers are "not unsympathetic" to concerns that such information about a company in trouble could drive it into insolvency, but he said "the first responsibility of the insurance regulator must be to protect the insurance buyer."

However, he told the committee that data collection about insurers should remain a state responsibility, that "we do not believe there is a need for federal collection or analysis of such data." Several bills to that effect are before Congress now.

CAPACITY OF STATE GUARANTY FUNDS QUESTIONED, FEDERAL ROLE SUGGESTED

(By Steven Brostoff)

WASHINGTON.—The extensive congressional inquiry into the insurance industry continued last week with a look at insurance company solvency and state guaranty funds, as some experts charged that guaranty funds could not handle a major insolvency and that some federal role in solvency regulation is required.

At a hearing before a House Energy and Commerce subcommittee, two former regulators said that because of the inequities inherent in the current "patchwork" system of state guaranty funds, some federal mechanism, such as a special bankruptcy court, is necessary to assure fair distribution of assets among all the states.

DISPUTE CONTENTION

This contention was disputed at the hearing by two current regulators and representatives of the insurance industry, all of whom said that while the guaranty fund system can be improved, there is no need for federal intervention.

Former New York Commissioner Albert B. Lewis, now a lawyer in private practice, argued that a single federal court for insolvent insurers is the best way to speedily and economically resolve the affairs of an insolvent insurer.

A federal court, Mr. Lewis said, would place all creditors and debtors under the jurisdiction of an entity that would have effective powers in every state. These powers, he said, would make it possible for the entity to seek effective debtor/creditor compromises.

PRESENT STATE LIQUIDATION

"In a present state liquidation, a state regulator cannot achieve settlements based upon using reinsurance receivables, state guaranty funds and creditor givebacks to settle the outstanding reserves," Mr. Lewis said. "This could be achieved by a federal court set up specifically for those types of insolvencies."

He added that currently, the state of domicile of an insolvent insurer decides the fate of policyholders, many of whom may have no relationship to the state of domicile. Under a federal court approach, Mr. Lewis said, the regulator of the state with the highest policyholder exposure could be named as the referee.

Jerome B. Gordon, senior vice president with the investment banking firm of Laidlaw Adams and Peck and a former special assistant to the New Jersey Commissioner, went even farther.

He said that the best way to resolve the current liability crisis and spate of insolvencies is to: eliminate the McCarran-Ferguson antitrust exemption, develop a dual insurance regulatory system along the lines of state/federal banking regulations, form an FDIC-type of unified guaranty fund with powers to handle rehabilitation and liquidation and fold state liquidation laws into conformance with the federal bankruptcy laws.

Meanwhile, two current regulators, Illinois Director John Washburn and Maryland Commissioner Edward Muhl, took a different view. They argued that the state guaranty fund system is constantly evolving and that National Association of Insurance Commissioners' Guaranty Fund Task Force feels fairly comfortable that the present system has the capacity to respond to insolvencies.

ACKNOWLEDGES STUDY RESULTS

Under questioning from Subcommittee Chairman Rep. James J. Florio (D.-N.J.), Director Washburn acknowledged that a recent study by the Illinois Department indicated that if a top 10 company went under, many state guaranty funds would be, in effect, tapped out after the fifth year of insolvency.

However, he said, the same statement could probably be made about any guaranty fund system, including FDIC. In practice, Director Washburn said, the insurance industry itself will step in to prevent a major company from going under, as it did a few years ago when GEICO was threatened by insolvency.

Industry representatives agreed that the state guaranty fund system should continue. G. Stephen Beimdiek, a Missouri agent representing Independent Insurance Agents of America, said the fact that insolvencies are a fairly new phenomenon indicates that the problem revolves around the tort system, rather than inadequate state regulations.

Phillip Schwartz, vice president for financial reporting and accounting with American Insurance Association, agreed noting that despite the high number of insurer insolvencies in 1985, "no claimants that I am aware of have been unpaid because of lack of capacity of any guaranty fund."

NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. WAXMAN. Mr. Speaker, in the area of health care, most of my legislative activity of the past 5 years has been trying to preserve health programs that are in place. I have tried

to protect health financing programs from budget cuts and health regulatory programs from deregulation.

Today I am trying to protect one of the most significant public health programs—childhood immunization—from its own demise.

Immunization has worked miracles in this country. Diseases such as polio and measles were once common and are now virtually gone. Few physicians can remember treating cases of whooping cough or tetanus. Some children are undoubtedly injured by vaccines, but the vaccines are the best weapon we have against widespread disease.

But because of insurance, liability, and manufacturers' pricing structures, vaccines are becoming the fastest rising cost in the health economy. And because of tort law restrictions and adversary proceedings, many of those children who are injured by vaccines are never compensated.

I do not believe that we can afford either to price vaccines out of the market or to let injured children go unattended. If we are to continue the miracle of immunization we cannot allow either result.

The bill I am introducing today is an effort to preserve the vaccine market and to provide for those who have adverse reactions to vaccines. It is also an attempt to encourage the development of new vaccines and to keep in place all safeguards for vaccine safety. This bill grows out of 5 years of oversight work on the immunizations program and several years of work on vaccine liability.

Under the legislation, anyone who believes that he or she has been injured by a childhood vaccine may petition a special master of a Federal court. If the injury is one recognized under the law, the compensation for the petitioner will be automatic. The Federal vaccine injury trust fund will pay for medical bills, rehabilitation expenses, special education costs, and such losses as lost wages and pain and suffering.

If the petitioner is satisfied with the compensation, the payments will be made on a regular basis. If the petitioner is unsatisfied, he or she may reject the compensation and go to court to sue the vaccine manufacturer under applicable State tort law. In that suit, however, the plaintiff must demonstrate that the manufacturer behaved negligently or breached its own standards or warrantees. It will not be sufficient to rely on strict liability for vaccine injuries.

I believe that most parents who sue manufacturers are doing so because they have a sick or injured child that needs care. Those parents now have only the court system to turn to for help, and the court system is an inefficient alternative to direct compensation. Those parents, I believe, will choose the compensation system of this bill and will reduce the liability costs of manufacturers.

I also believe that the tort system serves as a constant incentive to regulators and manufacturers alike to keep the vaccine supply as safe as it can be. There is real value to preserving that incentive, and I will oppose any effort to eliminate liability for negligence under State and Federal law.

There are a variety of other provisions in the bill, ranging from vaccine development to safety review. I have included a more detailed summary for the RECORD. Together these provisions provide the framework for what I hope can be a national vaccine policy, as recommended by the Institute of Medicine, by the Office of Technology Assessment, and by the Academy of Pediatrics. With such a policy, we can preserve the immunization victories that we have achieved and move on to more vaccine miracles soon.

SUMMARY OF NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

FEDERAL COMPENSATION SYSTEM

1. Any person who has sustained a childhood vaccine-related injury or death may file a petition for compensation under the National Vaccine Injury Compensation Program established by this legislation. Such persons are precluded from filing a claim in tort in either State or Federal court until a final judgment has been reached under the Program.

Petitions must be filed with the U.S. district court for the district in which the petitioner resides.

Petitions are to be heard by special masters appointed by the district courts.

The findings and conclusions of a district court may be appealed to the U.S. court of appeals in which the district court is located.

Individuals who have a pending civil action for a vaccine-related injury or death at the time this legislation is enacted may elect (within 2 years) to withdraw such action and to file a petition for compensation under the Compensation Program.

When consulted by individuals with respect to a vaccine-related injury or death, attorneys have an ethical obligation to advise such individuals about the availability of the Compensation Program.

2. In order to recover compensation under the Program, petitioners must establish that they both received a childhood vaccine and sustained an injury listed in the Vaccine Injury Table outlined in the legislation. If this demonstration is made, compensation under the Program is automatic. Compensation may also be available for an injury that falls outside those listed in the Table if the petitioner can establish that such injury was caused by the vaccine.

Such Table may be revised through regulations issued by the Secretary.

The court's judgment on a petition filed under the Program must be rendered not later than 1 year after the date on which the petition was filed.

3. If a petitioner meets these requirements, he or she may be compensated under the Program for actual and projected unreimbursable expenses (those expenses not otherwise paid for through either public or private health financing programs) including expenses for medical care, rehabilitation, special education, residential and custodial care, and other reasonably necessary services.

For injuries sustained before the enactment of this legislation, compensation for past expenses is limited to unreimbursable expenses incurred during the last eight years. Compensation would be available for all on-going unreimbursable expenses.

No punitive damages may be awarded.

Damages for pain and suffering may not exceed $250,000.

In cases of death, a fixed award of $250,000 is to be made.

Awards are to include an amount to cover reasonable attorneys' fee and other costs reasonably incurred during the petition proceeding.

Payments for awards made are to be paid on a periodic basis, but no payment may be made for a period in excess of 1 year.

4. Initial funding for the Compensation Program is provided through a loan from the Federal government. In subsequent years, the Program is supported through an excise tax that is to be placed on all routine childhood vaccines.

The amount of such tax is determined in accordance with a table outlined in the legislation and varies by type of vaccine.

COMMON LAW TORT LIABILITY SYSTEM

5. After a final judgment (including all appeals) under the Compensation Program has been made, a petitioner may file a civil suit in State or Federal court for damages resulting from a vaccine-related injury or death.

A petitioner has 90 days after the date of final judgment to make an irrevocable decision either to accept the award that has been made under the Compensation Program or to proceed with a civil tort claim. During this 90 day period, a petitioner is to receive payment for his or her unreimbursable medical expenses. A petitioner who elects to file a civil action automatically forfeits the compensation that would have been paid under the Compensation Program.

A civil tort action may be filed only on the basis of a claim of negligence or wrongful conduct. Claims based on strict liability or a vaccine manufacturer's failure to warn directly about potential risks will be dismissed.

Neither the final judgment nor the findings and conclusions of either the district court or the court of appeals with jurisdiction over a petition filed under the Compensation Program is admissible as evidence at the trial of a tort action.

6. Civil actions must be conducted on a trifurcated basis, with separate hearings held on the issue of liability, compensatory damages, and punitive damages.

No limits are placed on recovery for pain and suffering or lost wages.

No limits are placed on recovery for injuries resulting in death.

Compliance with an established Federal government standard for the manufacture and distribution of a childhood vaccine will be an affirmative defense in a claim for punitive damages.

NATIONAL VACCINE DEVELOPMENT PROGRAM

7. The Secretary is required to establish a National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization. Under such Program, the Secretary is to develop a plan that will lead to the development, production, and distribution of safe and effective vaccines (both childhood and adult vaccines).

8. To create better incentives for the development of improved and new vaccines, the Ophan Drug Act is to be amended to include human vaccines within the definition of "orphan drug".

TASER GUN PROHIBITION ACT OF 1986

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation to prohibit the private sale or possession of the Taser gun. The Taser, under Federal law, is classified as a firearm. It is a flashlight-sized unit that fires two barbed darts attached to about 15 feet of fine conducting wire. The barbs, when lodged in skin or clothing, transmit a 50,000 volt shock for as long as the trigger is depressed. This shock is sufficient to cause contraction of the skeletal muscles and will invariably incapacitate the victim.

As a former sheriff, I recognize that this weapon has utility as a law enforcement device. Police departments in eight major cities—including Los Angeles and Washington, DC—use the Taser. Those law enforcement officers who carry and use this weapon are well-trained in how to use it. I do not question nor dispute the value of the Taser as a law enforcement device. My bill would allow law enforcement and only law enforcement to use this weapon. While tests on the Taser have shown that, for most part, it is not lethal, if used improperly it can cause great physical harm and can be fatal.

While the Taser has a clear law enforcement utility, unlike other firearms it has no legitimate civilian or sporting purpose. Given this fact there is simply no need to continue to make this weapon available to the general public—and the criminal element. Several States have already passed legislation to ban the Taser and restrict its use. My bill would expand this wise action to all States.

This legislation is simple and straightforward. It would make it illegal for any civilian to use, sell, or possess a Taser. Those civilians who buy or are in possession of, a Taser before enactment would be allowed to keep the weapon—but they would not be allowed to use it.

While recognizing the utility of the Taser for law enforcement, as a former sheriff I also recognize the fact that the criminal element is growing increasingly sophisticated. This is especially true of the drug traffickers—who have also become increasingly more bold and brazen in increasing their operations and eluding law enforcement. The criminal element, organized crime in particular, has used the Taser and undoubtedly such use will continue to grow unless concrete action is taken to limit access to this weapon. In the wrong hands the Taser poses a threat to both law enforcement and private citizens. Let's take action now to remove this threat. I urge my colleagues to support this much needed legislative initiative.

H.R. 5201

A bill to amend chapter 44 (relating to firearms) of title 18, United States Code, to prohibit the sale or possession of the taser weapon other than under governmental authority

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taser Gun Prohibition Act of 1986".

SEC. 2. CHAPTER 44 AMENDMENTS.

(a) SECTION 922 AMENDMENT.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a taser gun.

"(2) This subsection does not apply with respect to—

"(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof of a State, or a department, agency, or political subdivision thereof; or

"(B) any lawful transfer or lawful possession of a taser gun that was lawfully possessed before the date this subsection takes effect.

"(3) As used in this subsection, the term 'taser gun' means any firearm that—

"(A) fires one or several barbs attached to a length of wire; and

"(B) upon hitting a person emits an electronic, magnetic, or other type of charge or shock for the purpose of temporarily incapacitating that person.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect on the 60th day beginning after the date of the enactment of this Act.

HOUSTON POST ENDORSES CONTRA AID

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. FIELDS. Mr. Speaker, I wish to bring to your attention, and the attention of my colleagues, an excellent editorial which appeared in a recent edition of the Houston Post, "Si to Contra aid," the Houston Post, July 14.

The editorial strongly urges the Congress to give its final approval to President Reagan's request for $100 million in aid to the Contras—the Nicaraguan freedom fighters struggling bravely to make democracy a reality once again in Nicaragua.

The Houston Post is right on target in urging that this aid request be approved—and be approved quickly. This fine editorial points out that the Sandinista regime is cracking down on internal dissent, making the success of the Contra forces all the more urgent.

In particular, the Post cites two examples of this increased repression with Nicaragua. The first is the government's decision to close down the leading opposition newspaper, La Prensa. The second is the Sandinista regime's decision to exile two leading members of the Roman Catholic clergy—a decision which Pope John-Paul II called "an almost incredible act."

Mr. Speaker, the time is past when the United States could ignore the excesses of the Marxist government of Nicaragua. Its repression at home and its determination to overthrow its democratic neighbors make it a genuine threat to the peace and stability of all of Central America.

The joy that all Americans felt on the celebration of the 100th birthday of the Statue of Liberty is only now beginning to fade. But before the glow from that wonderful event dies out, I believe we Americans owe it to our neighbors to foster democracy wherever we can. Liberty is, after all, more than a statue. It is a way of life for which millions of men, women, and children have struggled and died over time. The United States has the money and the means to make a difference in Nicaragua; we can be a force for positive change in that and other Central American nations.

The only thing we lack to achieve that positive change is the will to do so.

As the Houston Post urges us, let's approve these funds and help make liberty a reality in Nicaragua.

[From the Houston Post, July 14, 1986]

SI TO CONTRA AID

Congress, returning from its Fourth of July recess this week, should expedite final approval of President Reagan's request for $100 million in aid to Nicaragua's Contra rebels. The Central American nation's Marxist Sandinista rulers have been accelerating both their military buildup and repression of their people.

Diplomats stationed in Managua as well as intelligence sources report that the Nicaraguan air force has tripled its fleet of Soviet-supplied MI-17 helicopters to more than a score in the past two months. They are the most effective weapons against the rebels, who lack portable anti-aircraft missiles and launchers.

The Nicaraguan regime is also cracking down harder on internal dissent. In the past two weeks it has closed the opposition newspaper, La Prensa, exiled two leading Roman Catholic clergymen, and taken other steps to suppress "unpatriotic forces."

Leaders of Nicaragua's opposition political parties—spurred perhaps by U.S. House approval of the president's Contra aid package last month—have called for new national elections. Most of these parties refused to participate in the last election in 1984, charging that it was rigged by the Sandinistas.

The June 25 Contra aid vote by the Democrat-controlled House reversed its earlier rejection of the aid package, which includes $70 million in military assistance. The Republican-led Senate, which has passed its own version of the $100 million aid measure, is expected to act soon on the House bill. Congress provided $27 million in non-military Contra aid last year, but no arms funds.

Now that the Sandinistas have shed all pretense of tolerating democracy in Nicaragua, we should have no qualms about supporting those who seek a democratic alternative to the Marxist dictatorship in Managua. This includes the Contras now that they are under civilian leadership and reforms are being instituted to meet criticism that they are CIA-recruited mercenaries.

The rebel movement has attracted little popular support among Nicaraguans in its five years of existence. But the Sandinistas' increasingly heavy hand will give the Con-

tras a chance to cash in on their refurbished image—if they receive U.S. aid.

MILLER HAILS RICHMOND ART CENTER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MILLER of California. Mr. Speaker, on July 19, 1986, the Richmond Art Center in California will celebrate its 50th anniversary. It is one of the oldest and most respected community art centers in California and a source of inspiration for many youth.

The center was founded in 1936 by Hazel Gowan Salmi, who passed away in April of this year at 92. Mrs. Salmi's spirit was the center's guiding force, and her legacy is ably continued by John Toki, board president; Kathryn Reasoner, director, and Robert Tomlinson, curator.

Their efforts have culminated in a nationally recognized Artists-in-Schools Program which nurtures young talent.

I am honored indeed to have such a fine institution in my district and commend its board and staff.

A news article follows:

RICHMOND ART CENTER TO CELEBRATE ITS 50TH YEAR

(The Richmond Art Center celebrates its 50th anniversary with a Family Day Party July 19.

(The center was founded in 1936 by Hazel Salmi, with classes held in public schools.

(In a history of the center, she noted that in Richmond, then an industrial city, "anything of an aesthetic nature seemed insignificant, maybe suitable for women's leisure time, but certainly of no real importance."

(Salmi, who served as director until 1960, died in April at 92.

("My endeavor was to create an environment where creative artists of all ages might find congenial conditions," she said. It is one of the oldest community art centers in the state.)

(By David Weinstein)

RICHMOND, CA.—John Toki first learned to sculpt at the Richmond Art Center in 1965. Later, a professional artist and teacher, he taught workshops there and had a one-man show.

But the center lost its focus, he said, and his involvement waned. His interest, though, has been revived and last week he was named president of the center's Board of Directors.

After several years in the doldrums, the center is making a comeback, in time to celebrate its 50th year. Attendance is up at exhibits and classes, and the art world is convinced the shows are livelier.

"We're suddenly on the map again," said Kathryn Reasoner, director of the center since April 1985.

During the 1950s and 1960s, the Richmond Art Center was the place to see exciting work by young Northern California artists. Bob Arneson, Manuel Neri and Nathan Olivera showed their early work there, before winning fame.

Between 1968 and 1971, under curator-artist Tom Marioni, the center became too exciting for some city officials. They objected to a performance by Terry Fox, who attempted to levitate by holding tubes of urine and milk while lying in a circle drawn in blood. The city called the resulting mess a health hazard, and shut the gallery.

The center, which lost some of its edge when Marioni left, hit the skids in 1978, when Proposition 13 forced the city's Recreation and Parks Department to jettison its arts budget.

To keep the center going, the board split from the city and formed a private nonprofit corporation. The city allowed free use of its building. The budget dropped $100,000, to $150,000 in 1979. The staff was disbanded. Gallery shows, arranged by volunteer curators, varied from excellent to mediocre. Attendance at the gallery and classes fell.

"When we talked to people about the Richmond Art Center," Reasoner said, "it was, 'Oh, that used to be an incredible place. I haven't heard about it in a long time. Isn't it dead now?'"

During the 1970s, she said, the gallery became "a local community gallery," that never attained "quite that level of national attention, that real provocative stuff." It had a respected annual craft show—but crafts are never as respected as "fine art."

Reasoner attributes the center's resurgence to hard-working directors. Toki attributes it to Reasoner, and to the board's decision "to hire staff."

Before she was hired, the director also acted as curator. She became the first director since 1978 to have a curator and coordinator of education. Both were hired in July 1985. The center also has an assistant curator, a coordinator of the Artists-in-Schools program, and several gallery coordinators and office workers. Only the director works full time. The 38 teachers include some well-known artists.

Reasoner attributes much of the center's increased fame to the New Romantics Show, which attracted 1,200 people in February and March, and won largely laudatory reviews in the Bay Area press. Two years ago the typical show drew only 400 to 600 people, she said.

Under curator Bob Tomlinson, the center hopes to become a top gallery for young, innovative Bay Area artists.

John Balsiger, a Mechanics Bank vice president who stepped down this month as board president, said the board decided to boost exhibitions to increase awareness of the center. The strategy worked.

Enrollment at the center's classes has doubled in two years. During the winter quarter, 440 people took classes there in jewelry, ceramics, textiles, painting and other arts.

The center is reputed to have some of the best ceramic studios in the East Bay. And with the demise of Berkeley's Pacific Basin School of Textile Arts, and the move to San Francisco of Berkeley's Fibreworks, Richmond Art Center is expanding its textiles department, picking up students and faculty from the two schools.

Regaining a measure of fame does more than boost Reasoner's ego. It helps the center raise money. "When I talk to foundations in San Francisco," she said, "it really helps if they've heard of us."

The center combines exhibits and education through lunches with artists, panel discussions with critica, and student tours. The current show, "Shelters," has professional work in the main gallery and work by Richmond Unified School District students in the hall.

Today the annual budget is up to $265,000. A third comes from class fees. The center also picks up income from memberships, and gets about $30,000 a year from the city of Richmond.

Chevron USA and Mechanics Bank are big contributors. Other donors include the Clorox Co., the San Francisco Foundation, Soroptimists International of Richmond and the California Arts Council, which funds Artists-in-Schools.

The center earned $13,000 at a spring auction, and picks up change through its cut of gallery sales. Bank of America spent $10,000 on two canvases from New Romantics. The center also depends on volunteers. The Richmond Lions Club painted hallways during the studio restoration this spring.

The center still has money problems, Reasoner said. The budget for staff is still $65,000 less than in 1977, the last year under city control, when staff was paid $160,000. "We're getting there," she said, "but we are by no means at full staff."

The budget for promotion has increased, but the center lacks money for such basic services as transportation.

Reasoner said the center needs to appeal to sophisticated gallery goers and to the general West County public.

FAMILY PLANNING AND GLOBAL SECURITY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. McHUGH. Mr. Speaker, most people recognize that the best and most cost-effective medicine is preventive medicine. This is especially true in developing nations where health systems and nutrition are often inadequate.

Family planning is a form of preventive medicine because stronger mothers who space their pregnancies are more likely to give birth to strong children, with better chances of survival and living a productive life. U.S. family planning assistance to developing countries around the world is thus an important way of promoting greater peace and stability.

These basic points were recently reemphasized in an article in the Washington Post by Werner Fornos, who is president of the Population Institute. For the benefit of our colleagues who may not have seen this article, I am inserting a copy into the RECORD at this point.

FIVE BILLION AND COUNTING: WE NEED MORE BIRTH CONTROL

(By Werner Fornos)

The birth last week of the 5 billionth human to share our planet brings attention to the rapid increase of global population. Moreover, it raises serious questions regarding the durability of the earth's natural systems and resources.

The world is growing by an unprecedented 1 million people every four to five days, 85 million a year. Population has doubled in the last 35 years and it is projected to double again in the next 40.

Dr. Norman Borlaug, Nobel laureate and father of the green revolution, doubts the world's ability to feed an additional 5 billion people within the next four decades. Lester Brown, president of the Worldwatch Insti-

tute, offers overwhelming evidence that our planet's carrying capacity is already bursting at the seams.

But even if it could be proved that there is no correlation whatsoever between rapid population growth and the earth's ecosystems and resources, there still would be compelling reasons for encouraging lower birth rates: the health and very lives of millions of women and children in the Third World where 90 percent of the world population growth occurs.

Ten million infants die each year in the developing world. A major expansion of family planning services could reduce those deaths by half or more, according to findings of the World Fertility Survey.

An estimated 500,000 women in the developing world die each year as the result of pregnancy and childbirth complications. About one quarter of these women could be saved if unwanted pregnancies could be avoided, according to a Columbia University report.

The World Fertility Survey concluded that children born less than two years apart are much more likely to die in infancy or in early childhood than those whose births are spaced at intervals of two or more years. The pattern was present in all 41 developing countries included in the survey.

In Tunisia, Syria, Jordan, Yemen and Portugal, infants born less than two years apart are about 2½ times more likely to die in their first year than children born 24 to 47 months apart. In these same countries, infants born less than two years apart are up to five times more likely to die in their first year than those spaced at intervals of four or more years.

Children born less than two years apart are twice as likely to die before reaching their first birthday in Bangladesh, Morocco and Turkey than those spaced 24 to 47 months apart.

Meanwhile, a substantial portion of developing world women already have all the children they want, according to the World Fertility Survey. The range varies from 12 percent in Ghana to 61 percent in Colombia and Sri Lanka. The average is about 50 percent. But a great majority of these women do not have access to family planning information or services.

A Columbia University report claims that avoiding unwanted pregnancies would have a considerable impact on reducing maternal mortality, especially since the proportion of women who want no more children rises sharply with age and with the number of living children.

This is most significant because older women and those who already have many children stand a higher risk of dying as a result of childbirth than do women in their twenties and those with only two to four children.

Data on maternal and child mortality in the developing world should be an essential factor in the current political dialogue on U.S. funding for international population programs. If existing family planning services are cut back or withdrawn, there is every reason to believe that deaths among women during pregnancy and childbirth as well as among infants and children born at less than two-year intervals will escalate considerably.

The U.S. Agency for International Development has withdrawn its funding of the International Planned Parenthood Federation, the largest nongovernment provider of family planning services for Third World women. And the future of U.S. funding for the United Nations Fund for Population Activities, the largest multilateral organization providing such services, is in doubt.

The blue-ribbon Committee on African Development Strategies has urgently recommended resumption of U.S. contributions to both IPPF and UNFPA as a key to slowing down population growth and preventing future famines in Africa, the region of the world with the highest fertility rates and the highest susceptibility to malnutrition, hunger and starvation.

Today's unprecedented world population growth is due primarily to a combination of declining death rates and the young age structure of the developing world, where more than half of the population is either in or entering its childbearing years.

Lower mortality rates have resulted in large measure from improvements in nutrition and public hygiene and advances in medical technology—notably smallpox vaccinations, widespread use of antibiotics and malaria control programs.

While the full consequences of continued rapid population growth may be unknown, the choice the United States and the industrialized world must make is clear. By drastically cutting back or withdrawing international population assistance, we risk proliferating human suffering and chaos on a global scale and we would be signing the death warrants of countless women and children in the Third World.

Or we can substantially accelerate our longstanding commitment to the most effective and humane solution for reducing rapid population growth—voluntary family planning assistance—and reduce infant mortality by one half and maternal mortality by one quarter. If we are ready and willing to meet this monumental challenge, our legacy to future generations will be an opportunity for a better quality of life and the achievement of greater human dignity.

RESOLUTION URGES TEST BAN OF NUCLEAR WEAPONS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues an important resolution adopted by a community in my district. The City Council of Union City, CA, is urging the President to respond to the Soviet Union's unilateral halt of testing by establishing a nuclear weapons test ban.

This community joins many others in voicing its strong support of an achievable first step toward ending the threat of nuclear weapons.

I commend the members of the city council for pledging their commitment to a moratorium on nuclear weapons testing—therefore a commitment to peace.

The resolution follows:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY SUPPORTING NUCLEAR WEAPONS TEST BAN

Whereas, a nuclear war would result in death, injury and disease on a scale unprecedented in human history, including the probability of a nuclear winter threatening the entire global environment; and

Whereas, spending for the arms race is contributing to record budget deficits that threaten our nation's economic security while programs providing essential assistance to communities and meeting human and environmental needs throughout the country are being cutback; and

Whereas, a ban on nuclear testing would promote the security of the United States by constraining new developments in the U.S.-Soviet nuclear arms competition, by strengthening efforts to prevent the spread of nuclear weapons to non-nuclear countries, and by reducing the environmental hazards of nuclear tests and nuclear waste production; and

Whereas, a ban on nuclear testing would be a concrete and easily achievable first step towards a complete halt and deep reductions of ever expanding nuclear arsenals; and

Whereas, a ban on nuclear testing can be verified with high confidence by a worldwide network of seismic monitors, satellites and other verification technology operated by the United States and other nations; Now, therefore, be it

Resolved, That the City Council of the City of Union City calls upon the President to immediately respond to the Soviets' unilateral halt of testing by joining them in a mutual and verifiable suspension of testing as a first step towards freezing and reversing the arms race. This body also calls upon the members of our congressional delegation to support legislation that would enact a moratorium on nuclear testing, to be continued as long as the Soviets do not test. Copies of this resolution shall be forwarded to the President and to the Senators and Representatives comprising our congressional delegation.

BUILD-UP OF MERCHANT MARINE CRITICAL TO U.S. SURVIVAL

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mrs. HOLT. Mr. Speaker, I commend to the attention of the House an article by Rear Adm. George H. Miller, USN (Ret.) in the May edition of the Reserve Officers Association National Security Report.

Admiral Miller, an author and consultant on national security affairs, uses the article to express alarm at the woeful inadequacy of our Merchant Marine to reinforce and supply our military forces in event of major conflict. It is my hope that Members will read and heed the sound advice offered by Admiral Miller in the following article:

BUILD-UP OF MERCHANT MARINE CRITICAL TO U.S. SURVIVAL

(By Rear Adm. George H. Miller, USN (Ret.))

Because our government has failed to carry out the Merchant Marine Policy of Section 101, the US is losing world power and influence and the Soviet Union is gaining.

In March 1933, General of the Armies John J. Pershing, addressing the Sixth National Merchant Marine Conference in Washington, D.C. stated:

"The knowledge of the woeful lack of American shipping for the transportation of our armies abroad in 1917 and 1918 should make an indelible impression upon the mind

of every American and drive him to the conclusion that we must provide an adequate Merchant Marine under our own flag. . . .

"Everything depended upon sea transportation. . . .

"It was a desperate race against time. . . .

"Two lessons stand out clearly from that experience. The first is the wisdom of the historic national policy of Great Britain in maintaining a strong Merchant Marine. . . .

"The other lesson is the unwisdom of America and our risk of defeat because we had practically no ships on the high seas when we entered the war. . . ."

Heeding General Pershing's warning, President Franklin D. Roosevelt, assisted by Admiral Emory Land, wrote and sponsored the Merchant Marine Act of 1936, which sets forth U.S. Merchant Marine Policy in Section 101.

Even though the United States initiated a 50 ship-per-year merchant shipbuilding program in 1938 and raised the production goal from 50 to 200 ships per year by 1941, major U.S. campaigns during World War II were delayed again and again, primarily because of a shortage of merchant ships.

The humiliating Bataan death march occurred in the Philippines because the US did not have enough ships to supply and reinforce Army and Naval forces deployed there when we entered World War II. More Bataan death marches are waiting to happen today, simply because the US does not have enough US-flag merchant ships to support and reinforce our Army, Naval and Air Forces deployed overseas.

Following World War II, the Navy Department and the Maritime Administration were relegated to sub-cabinet levels, abolishing their direct access to the President and to one another.

To make matters worse, the Secretary of State negotiated a treaty with Liberia granting tax deferrals to US citizens who build merchant ships in foreign shipyards, man them with alien crews and register them under foreign flags.

The Soviet government, on the other hand, at the close of World War II, undertook a comprehensive study of national security and in the early 1950's undertook a major naval and merchant shipbuilding progam, which continues today.

The Soviet Union has heeded the obvious lesson of history—that Greece, Rome, England and others achieved wealth, influence and world power by using merchant ships to promote trade and colonize less developed lands and shipping choke points.

Merchant ship colonization has usually generated naval opposition from competing colonizers. The Soviets, however, have encountered no such interference.

In the mid-1970's, the US Deputy Chief of Naval Operations for Logistics, when asked how long the US Navy could sustain combat with support of the Merchant Marine the US then had, replied without hesitation, "About 1 day."

Moreover, Admiral Isaac C., Kidd, US Navy, Commander-in-Chief, Atlantic, stated a few years later that in a NATO war the US could expect shipping losses in the initial convoys to Europe to be as high as 50 percent.

Even though the hour is late, the least we must do now is build up a US flag Merchant Marine capable of competing head-to-head, politically, commercially, and militarily in the seaports of the world. If we continue to delay and await the final, last-ditch land and nuclear war, as we are now doing, it will be too late.

Here is what Congress should do:

Keep the Navy and Defense Department honest logistically to support and defend US Army, Naval and Air Forces now committed overseas.

Insist that present US Merchant Marine Policy be fully complied with.

Abolish the foreign-built flag-of-convenience tax breaks and see to it that US-built, US-manned, US-flag merchant ships have the same government support as other branches of national defense. The US cannot sustain major combat overseas without a US shipbuilding base just as adequate and modern as the US aircraft industrial base.

Terminate what former Senator John Tower referred to as the "bureaucratic and mental separation of the Navy and Merchant Marine."

Follow the lead of a few Congressmen who are already requiring the Navy to account for violations of present laws pertaining to the US Merchant Marine.

Let us not forget the lessons that we should have learned from the World Wars.

THE JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1986

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GUNDERSON. Mr. Speaker, today, I join with Messrs. HAWKINS, JEFFORDS, MARTINEZ, and WILLIAMS in introducing the "Job Training Partnership Act [JTPA] Amendments of 1986". I have enjoyed working with my distinguished colleagues in developing this legislation, which I feel represents a strong, bipartisan effort to update and perfect America's job training programs.

Since 1982, JTPA has served as the cornerstone of the Federal Government's efforts to provide employment and training assistance to economically disadvantaged adults and youth, and to workers who have been displaced from their jobs. While programs under JTPA can serve only a portion of those who are eligible for its services, these programs are working well throughout the country, due in large part to the partnership that was established under the act between Federal and State governments, local officials and the private sector. However, there are still a number of problems within JTPA for which "fine-tuning" changes are in order to make it more responsive to all populations that it is designed to serve. Further, since its enactment in 1982, a number of changes have occurred for which updating is appropriate. Therefore, the intent of these amendments is to carefully make these fine-tuning, updating, and technical changes while avoiding any substantive alterations to the act. We must keep in mind that one of the biggest obstacles to JTPA's predecessor CETA, was that of being in a constant state of change, and we must take great care not to repeat this counterproductive practice.

INTRASTATE HOLD HARMLESS

Over the past 2 years, throughout hearings held by the Subcommittee on Employment Opportunities, numerous witnesses testified in favor of Congress developing a more consistent funding mechanism for service delivery areas [SDA's], similar to that afforded to States. Currently "sub-state" funding to SDA's is based on a formula that is weighted very heavily on individual areas' unemployment rates. This has resulted in a number of SDA's experiencing devastating losses in funding just because their most recent unemployment rates dropped below a certain level, even though the need for employment and training services has continued in their region.

While funding to States is also based on formula weighted heavily on unemployment rates, States are currently protected against such drastic funding swings through a 90-percent hold harmless incorporated into JTPA that assures each State of 90 percent of its previous year's funding, regardless of changes in its unemployment rates. In our bill, we also extend this 90 percent hold harmless protection to service delivery areas, thus ensuring local programs of more consistent funding.

REMEDIAL EDUCATION

Another common concern that has been expressed repeatedly in hearings, as well as through reports provided to the subcommittee, focuses on the need for increased remedial education provided as an integral component of JTPA's employment and training programs, particularly within the Summer Youth Program.

Although we recognize the importance of providing basic skills training within JTPA and all other employment, training, and educational programs, such remedial education is very expensive and very time-consuming to provide in the traditional employment and training setting. Our bill contains several provisions which encourage States and service delivery areas to provide remedial education to JTPA program participants, without placing unrealistic requirements upon them which could in the end prove to be counterproductive.

Currently, many SDA's are not meeting the requirement under title II–A to spend 40 percent of their total allocation on youth. In order to encourage SDA's to provide valuable remedial education to youth in their Summer Youth Programs, our bill allows that up to one quarter of their 40-percent requirement may be met through money expended for remedial education in Summer Youth Programs, provided the services, materials, facilities, and equipment on which the money was spent for this purpose can be used year-round for participants in the summer youth and title II–A programs.

LITERACY AND DROPOUT PREVENTION

In order to place more emphasis on literacy and dropout prevention programs within the 8-percent education set-aside provided in the act, the bill requires that a substantial percentage of each State's education coordination money go toward such programs. Specifically, these moneys must be spent for: First literacy training to youth and adults; second, dropout prevention and reenrollment services to youth; and/or third, a state wide school-to-work transition program, or a combination of all of the above. In this way, the bill addresses concerns expressed nationwide that this money not be targeted in as great a proportion toward "high risk" groups as was the original intent of Congress.

POST PROGRAM FOLLOWUP

In an amendment to another set-aside within JTPA, our bill alters the 6-percent incentive grant money to allow for its use within States for post-program followup. The monitoring of JTPA participants after program completion is essential in evaluating the effectiveness of JTPA's services. Therefore, a clarification that the 6-percent moneys may be used for this purpose is very important to program evaluation.

DISLOCATED FARMERS

Finally, in order to update the Job Training Partnership Act in response to the increasing economic crisis which continues to force many of our Nation's farmers to leave farming, the bill incorporates several, changes into JTPA to make the program more responsive to the employment and training needs of these individuals These changes are intended to encourage the delivery of services under JTPA to dislocated farmers who are otherwise eligible, and to direct the Secretary of Labor to improve existing data collection methods to more accurately account for this population in need of such transitional assistance.

When enacted in 1982, the farm crisis had not yet risen to the proportion that ti has today. Therefore, the need to address the problems of dislocated farmers was not specifically addressed in the statute, or in the act's legislative history. Since that time, due to the movement of an increasing number of farmers out of farming into other areas of employment, many concerns have been expressed over the exclusion of dislocated farmers for participation under JTPA.

Over the past several years, as the crisis has become more prominent, it has become more and more evident that those increasing numbers of farmers leaving farming are and will be in need of substantive employment and training services. In response, the Department of Labor did issue regulations last year that have allowed distressed farmers to participate in programs under JTPA—providing States with flexibility to serve eligible farmers under both the title II-A and title III programs. However, even with this special consideration provided by the Department of Labor, many States and service delivery areas, particularly those with high concentrations of distressed farmers, continue to experience difficulties in identifying and serving this population, as was pointed out in a congressional hearing that was held in Council Bluffs, IA, by the Committee on Government Operations' Subcommittee on Employment and Housing in November 1985. To address these concerns, I, along with 21 other Members of Congress, sponsored a bill, H.R. 5062, the "Dislocated Farmer Training Amendments of 1986" which met many of the concerns brought to light at this hearing, and four of the major provisions of that bill are included in the JTPA amendments that we are introducing today.

TITLE II-A: DEFINITION OF ECONOMICALLY DISADVANTAGED

Under title II-A programs for disadvantaged adults and youth, program participation is based on the participants' being determined as "economically disadvantaged". While many farmers should be able to qualify for job search, support and job training assistance under this program, eligibility is determined on program applicants' previous 6 month's income prior to applying for participation. For many farmers this 6-month "look-back" does not fairly reflect their true income for the whole year. Further, most farm operators determine their income levels only once a year for income tax purposes, therefore the 6-month provision currently in the act does not realistically reflect the economic status of the distressed farmer, as would a 12-month review.

In order to address this problem and to ease participation criteria for farmers under title II-A our bill allows for consideration of the previous "12 month period" rather than the previous "6 month period." We feel that this should reflect more accurately the true economic circumstances of the financially distressed farmer as well as others for which a 12-months "look back" is more realistic.

TITLE III: IDENTIFICATION OF DISLOCATED SELF-EMPLOYED AND DISLOCATED FARMERS

To address the problems associated with determining eligibility for displaced farmers and self-employed individuals under title III, we have included an amendment to clarify that self-employed individuals, including farmers, shall be determined as eligible for participation under the Dislocated Worker Program if they are or will become unemployed due to general economic conditions in the community or because of natural disasters. The bill further directs the Secretary of Labor to establish categories of self-employed individuals and of economic conditions and natural disasters to which this new clause shall apply.

Through such an amendment, we hope to encourage delivery of services to dislocated farmers, as well as self-employed individuals, who have previously been underserved. This language should in no way be interpreted as being more restrictive than that already provided for under current law. In fact, through future communication with the Department of Labor, I am optimistic that we will be able to encourage States, where appropriate, to develop definitions that will allow for earlier intervention for these individuals, making the transition to alternative employment more effective.

In the bill which I introduced earlier this year, H.R. 5062, we actually listed "early warning" circumstances under which farmers should be declared as eligible for participation under JTPA. While this language would be too prescriptive for the purposes of these amendments, I am convinced that we must continue to encourage those States with significant numbers of dislocated farmers to develop definitions under title III that recognize those in the process of going out of business as eligible for program participation, as long as they provide proof of their intention to leave farming. This would provide farmers with the same sort of coverage allowed to industrial workers who are eligible for participation in dislocated worker programs upon notification that their jobs will end.

TITLE IV: DATA COLLECTION

In order to adequately identify those farmers who would qualify for assistance under JTPA, the bill we are introducing today amends title IV of JTPA, the Cooperative Labor Market Information Program, to require the Secretary of Labor to develop a means by which statistical data relating to permanent dislocation of farmers can be collected and directs the Department to collect such data. Further, the Secretary is directed to publish a report based upon this information, including a comparison of these findings with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and unemployment rates and an analysis of whether or not farmers are being adequately accounted for in such employment statistics. This addition to current law is intended to formally identify, for the first time at the Federal level, those farmers who are leaving farming and who will be in need of transitional assistance. Further, it addresses the concern that rural underrepresentation is occurring in current unemployment statistics, ultimately affecting funding allocations as provided for under a number of important Federal assistance programs, including JTPA.

In closing, I want to thank my colleagues, particularly Mr. HAWKINS and Mr. JEFFORDS, for working so closely with me on this legislation to ensure that distressed farmers are adequately covered under JTPA. And, I want to commend my colleagues on what I think of as a very sound and necessarily modest approach to strengthening our Nation's employment and training programs. I hope that we can expedite passage of this bill and see its incorporation into JTPA this year.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. UDALL. Mr. Speaker, this is the fourth in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the south.

In his recent article, Herb Schmertz, a nationally syndicated columnist, observes that Americans know more about the Soviet Union than they do about Mexico. I agree that this seems a tragic mistake, and hope Americans will be given ample opportunities by the media to appreciate Mexico's great importance to the United States.

The article follows:

[From Washington Times, June 24, 1986]

OUR BLIND EYE TO MEXICO

(By Herb Schmertz)

Americans know more about the Soviet Union than they do about Mexico. People can tell you of the czars and Peter the Great and the October Revolution who have never heard of the Institutional Revolutionary Party (PRI) forged shortly after Black Jack Pershing led a U.S. expeditionary force against Francisco Villa—a foray that left Mexicans permanently paranoid about U.S. intentions.

The republic that began seeking independence in 1810, shortly after our own revolution, and that shares a border with us stretching almost 2,000 miles, remains a

mystery to most Americans. And this seems to me a tragic mistake.

On June 13, The New York Times had a story asserting, among other things: "Mexico's economic crisis began in mid-1982, three months before Mexico's president, Miguel de la Madrid, took office for a six-year term." But this is patently ridiculous. Whenever Mexico's economic crisis began—and there is no certain date for it—it was certainly rolling along in fine fettle long before 1982.

The principal inference to be drawn from the Times story is that the paper lacks perspective on Mexican history. Mexico has been troubled economically for a long time, in some measure by statist fears on private enterprise, and that is one reason for the flood of emigration to the States that has made Mexican-Americans our second-largest minority group. Mexico's foreign debt was climbing precipitously long before 1982, and in fact almost quadrupled between 1976, when it was about $20 billion, and 1982, the year the crisis is said, by The New York Times, to have begun.

Anyone who has ever—as I have—heard Mexico's secretary of foreign relations, Bernardo Sepulveda, pontificate on Fidel Castro's Cuban regime or on the motivation of the Sandinistas becomes quickly aware that Mexico's left/leaning foreign policy establishment has a very different view of Soviet-sponsored Communism in Central America than does the United States. To compare Mexican immigration policies from its northern and southern borders is to see exactly what the word "schizoid" means, and the odds are that most PRI officials could give lessons on election-stealing to Ferdinand Marcos.

The larger question that emerges from such considerations is why the U.S. media do such a poor job of covering Mexico. Surely we can't lay the problem to reporters. It's hard to imagine anyone turning down the opportunity to go off to Mexico with a reasonable expense account for travel and an assignment to keep American readers posted on what's going on there and why.

The scenery—mountains, jungles, beaches, noble volcanoes such as Popocatepetl—is renowned for its beauty and grandeur. The cultural heritage—going far back past the coming of the Conquistadores to the days of the Maya, the Aztec, and the Toltec—is as rich and varied as any one earth. The Mexican people themselves are so famous for their hospitality and kindness that a whole advertising campaign has recently been built around them, inviting tourists to "come feel the warmth of Mexico." And the country is right here, just across the line, next door. So I doubt there's anything about Mexico that would prompt reluctance to take on an assignment there.

But any reporter may hesitate to accept a beat that is not of strong interest to the editors, that doesn't get regular and abundant space when the news hole is being filled. This may be the reason Americans know so little of our important neighbor, and so lack a consistent, regular look at Mexican affairs: because editors and publishers just don't appreciate Mexico's great importance to the United States.

TV coverage of Mexican news is rare unless there is an earthquake or a riot—as though there were nothing else to report in a country of 80 million people that has one of the most peculiar, and singular, systems of political governance now extant.

Mexico's present debt crisis is urgent, and the fall in the value of the peso a severe burden for every Mexican—but these are not problems that developed overnight. Or even since mid-1982. Americans should have been getting news on their development, causes, and likely consequences for years, as we get daily news of England or France or the Soviet Union. Let us hope the media will see and recognize this fault—and act promptly to provide us with the remedy: regular news from Mexico.

LEGISLATION ON BEHALF OF KIDNEY DISEASE PATIENTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. STARK. Mr. Speaker, I am pleased to join with Congressman RANGEL in today introducing a bill to provide new and better protections for kidney disease patients.

The legislation establishes a network program that better protects the rights of end stage renal disease [ESRD] patients and assures them quality of care. It also requires the establishment of standards to determine safe limits on the reuse of dialysis-related devices.

The Medicare ESRD Program provides a lifeline to the 80,000 Americans suffering from life-threatening permanent kidney failure. The program provides financial help in meeting the costs of this truly catastrophic disease. For example, Medicare pays about $20,000 per patient per year for maintenance dialysis. The cost of treatment also makes it a major Government health program, with a budget of about $2 billion per year.

To help ensure "effective and efficient administration of the benefits" provided under Medicare, Congress set up a system of regional "networks" that were designed to help meet the needs of medicare beneficiaries and work with facilities to provide quality of care. The networks are particularly important for including at least one patient representative in their programs. Because ESRD is a disease in which patients often feel frustrated by their absolute life-dependency on a machine, and the people and facility which maintain the machine, patient representation is particularly important in helping to give patients some "freedom" from what can be an enormous sense of dependency.

At present, there are 32 networks. Most do an excellent job, because they are assisted by the donation of large amounts of volunteer time by doctors, health professionals, and patients. These 32 regional networks have been funded at a little under $5 million per year.

In recent years, the Reagan administration has tried to eliminate the networks, either by requesting no appropriations, or by drastically reducing the number of networks. For example, this year, the administration had wanted to reduce the networks to two, and to provide only $1 million for their operation.

In the Consolidated Omnibus Budget Reconciliation Act of 1986 [COBRA], Congress prevented the administration from reducing the number of networks to less than 14. Now, in regulations, the administration will be proposing to move to 14 regions, with the operators of the networks determined by competitive bid. While this move during the coming months will cause a great deal of disruption and confusion, there are some potential benefits: if adequately funded, these larger networks could free up overhead costs and use the savings to better investigate the quality of care provided at various facilities within the region. This period of consolidation is therefore a logical time to clarify the law governing the operation of networks.

It is particularly important that we do more to strengthen patient quality of treatment protections at this time, because the administration is proposing some new reimbursement cutbacks in the program. Given the continuing budget crisis, Congress may give consideration to some portion of these cuts. Yet there is a fear and a danger that further budget cuts could adversely impact patient care. We do not want this to happen, and we need to enact statutory protections to prevent any possible budget cuts from hurting patients.

Mr. RANGEL'S and my bill do this in a number of ways. We require—

That networks collect, validate and evaluate information about patients and facilities; without information it is impossible to detect emerging problems in a facility's operation and assure quality of patient care.

That the information from the various networks be used to understand national trends and to detect regions that are failing to provide the most satisfactory modes of treatment; the information from the networks will be collected and reported annually by a National Registry of ESRD Data housed in the Health Care Financing Administration.

That the networks investigate all patient complaints about the quality of treatment and the quality of life at facilities, and that the networks shall conduct onsite reviews of the quality of care and operation of facilities on a periodic basis.

That the networks will be more involved in encouraging rehabilitation services for ESRD patients. While many ESRD patients maintain a normal work life, a large percentage slip into a cycle of joblessness and welfare dependency. Networks can help prevent this deterioration in the quality of life.

That the uncertainty of funding for networks will be eliminated by treating them as a Medicare reimburseable service. Fifty cents from each dialysis treatment payment shall be withheld from a facility's reimbursement and transfered to the networks in that facility's region on a quarterly basis.

That HHS shall establish protocols to determine the safe reuse of dialysis-related devices.

It is our hope that this legislation, which will result in no increase in Federal budget cost, will be included in the Medicare portions of this year's reconciliation bill. We welcome public comments and suggestions on ways to improve this proposal.

REFLECTIONS AND REMEMBRANCES

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BLAZ. Mr. Speaker, the people of Guam will climax their month-long celebration of our nation's independence on July 21 by marking the 42d anniversary of the liberation of our territory from enemy forces during World War II.

This year's celebration was especially significant because of the centennial of the Statue of Liberty. We took part in that tribute by hosting a naturalization ceremony for 500 new American citizens and by sending an official representative to the New York festivities.

Having lived through the war years as a teenager on Guam, I would like to share with my colleagues some reflections on those occupation years and how that experience shaped our people.

Our World War II experience was harsh by any standards. Severe deprivation, indignities, and punishment were commonplace. There was always that pervasive sense of personal insecurity. Most members of my generation as well as the older generation prefer not to dwell on the scars of those difficult years.

But those of us who survived the trail of the war years bear witness to a side of the occupation that I will call the "inner Guam," one that the enemy was never privileged to enter. It was the purest product of that caldron of war, the brightest star in the dark sky of those traumatic times.

They would recall, as I do, the manifestation and magnificence of the Chamorro spirit. Though only a legend to some, is a living, breathing reality to us; a source of strength that saw us through the worst of times and guides us in the challenging times ahead.

A GENERATION'S SPIRIT FORGED IN WAR

My generation was caught between childhood and adulthood. The unexpected and violent interruption of our lives and the common adversity that we shared gave our parents and elders an unusual opportunity to inculcate in us much more vital learning than we could have received in calmer times.

Challenged by the threatening experience of war and pressed to our limits, we learned things about human nature and ourselves that we might never have been able to grasp in peaceful, less demanding, times. We learned:

To be tolerant when conditions were intolerable;

To be generous when there was so little to give;

To be patient when our deepest desire was to end our bondage;

To be ourselves, preserving our language and culture while the enemy was trying to impose his on us.

Life seemed more endangered, more tentative, and therefore, more precious then. We learned through toil the sweetness of salt in the sweat that trickled down our faces at the peak of a hard day's work.

We clearly saw and keenly appreciated the basic choices of life, between freedom and bondage; justice and oppression; hope and despair; surviving and perishing. Through the heat and dust and smoke, we saw ourselves and what we stood for.

A REMEMBRANCE OF SCENES PAST

There were many painful experiences in that dark period in our history. But there were also many pleasant memories:

The long hours on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done; but with greater urgency as the winds of war swirled around the island;

The groups of neighboring farmers who pooled their strength to push back the jungle so we could plant;

The women caring for the sick, working the gardens and preparing food over open fires;

The men echoing each other's folksong at twilight as they cut tuba;

The labor camps where we realized how we had to protect each other, how we had to care for one another as an island family;

The devout men and women who emerged as our natural leaders and who would always lead us in prayer during our most trying and fearful moments as we labored to finish our forced labor projects under incredible duress;

There was the young Japanese officer who taught me elementary Japanese in exchange for my father teaching him English and who, after getting to know us, innocently asked my father why we were at war;

There was this same officer who came to say goodby as he left to defend against the invasion, leaving me with an indescribably mixed emotion of seeing a new friend leaving to fight those coming to liberate us;

There were the U.S. Marines who, after hopping from island to island, liberated one of their own and seemed almost as glad as we were that they had come back to Guam;

And there were the joyous faces of my fellow Chamorros, 26,000 strong, who had endured 32 months of harsh enemy occupation in a war they had no part in starting.

A TREASURE FOR THE FUTURE

The years have dimmed the images but not the memory. To me the war years were the most precious of my life. They provided me with a reservoir of experience and strength from which I have drawn abundantly over the years.

I draw on these qualities constantly in my personal life and professional career, reaching deep into that rich reserve of perseverance, adaptability and sense of community service that is our cultural heritage. And our territory can draw on that inner strength as we face the challenges of today.

Guam, in the midst of one of the world's most vital economic and strategic regions—faces the challenge of playing an increasingly larger role in the new century of the Pacific. This role brings with it new responsibilities and calls for new efforts on our part as well as on the part of the Federal Government. But as we recall and reflect on the meaning of our occupation and liberation, we can reach back into our treasure trove, into that Chamorro spirit, to find the strength and vitality to meet these new challenges.

I feel very much a custodian of that spirit and character, passing on to the next generation the heritage my elders gave to me.

The heart of that heritage is the manifestation and magnificence of the Chamorro spirit, a living reality to those of us who survived to carry on the traditions.

Si Yuus Maase, Guam, for enriching my life so much.

Si Yuus Maase, Guam, for making me the person I am today.

NORTH FOREST ISD AUTO BODY REPAIR PROGRAM IS A SUCCESS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. FIELDS. Mr. Speaker, at a time when our educational institutions are coming under ever-closer scrutiny, I would like to bring to your attention—and the attention of my colleagues—a very succesful educational program now being operated by the North Forest Independent School District in Houston.

This innovative vocational program teaches young people the skills they need for a car in the auto body profession. Since the program began last fall, the North Forest ISD has benefited by having the bodies of 18 of its school vehicles removed and having those vehicles repainted.

In the process, the school district has saved an estimated $18,000 and the 40 students who participated in the program last year gained valuable skills that they can use when considering careers. Last year, students had to be turned away from the program—and it's possible that some will be turned away this year as well. Four students at Smiley High School and one recent graduate are working at minimum wage this summer removing dents and repainting school district vehicles.

By all accounts, the students in the program are enthusiastic about the skills they gain through the program. And the school district, one of the least well-to-do in the Houston area, saves money that it can apply elsewhere.

Mr. Speaker, the auto body repair program is an outstanding example of what our schools can provide to the young men and women seeking the skills necessary to ensure their success in the careers of their choice.

I commend everyone connected with this innovative program, including John Sawyer III, superintendent of the North Forest ISD; Patrick Johnson, the North Forest ISD's vocational director; Sam Julian, the North Forest ISD's transportation director; Carlos Fernandez, who teaches the course; and the students who have participated in the program and who have made it such a success.

Mr. Speaker, I know you join with me when I tell them all, keep up the good work. We're proud of you.

RESTORE COLA'S CUT BY GRAMM-RUDMAN

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. COLEMAN of Texas. Mr. Speaker, I rise in support of reaffirming the Gramm-Rudman deficit reduction spending cuts, but I regret that I was not allowed to offer my amendment to exempt cost-of-living adjustments [COLA's] for military and Federal retirees from the automatic cuts, as well as to restore the January 1986 COLA.

Under the original Gramm-Rudman procedures, the first cuts took place on March 1, totaling $11.7 billion in outlays and about $24 billion in budget authority and other resources. The cuts were the result of an across-the-board reductions of 4.9 percent defense programs and 4.3 percent in domestic spending.

On July 7, however, the U.S. Supreme Court ruled that the automatic deficit reduction procedures of the Gramm-Rudman Act were unconstitutional. The Court gave Congress until September 5, 1986 to enact legislation to ratify the 1986 cuts that were made last March. If we do not pass today's legislation, those funds will automatically be available for spending. If we do not act today, the fiscal year 1986 deficit would rise and the fiscal year 1987 deficit would be increased by at least $10 billion.

Unfortunately, as the House of Representatives is aware, there was a major injustice in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177).

By including the cost-of-living adjustments for Federal, military, judicial, and railroad retirees, the Congress broke a good-faith contract with the employees of the Government and the Nation's rail system. Since this is the first opportunity we have had to improve the Gramm-Rudman-Hollings process, which I voted for last year, I regret that the rule prohibits me from offering an amendment to exempt these cost-of-living adjustments from future sequestration, and also to restore the January 1986 COLA. The amendment would be identical to legislation I introduced last January, H.R. 4025, which has over 90 cosponsors.

Although I will vote to reaffirm the Gramm-Rudman cuts because of the urgent need to reduce the deficit by cutting spending wherever possible, I do want to formally object to this continued disregard of our Nation's military and Federal retirees.

As I testified before the Rules Committee yesterday, my earlier legislation and my amendment would have changed the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt cost of living increases in civil service retirement and disability programs (including the Central Intelligence Agency retirement and disability system, the Comptrollers General retirement and disability system, the Foreign Service retirement and disability system, the judicial survivors' annuities system, the National Oceanic and Atmospheric Administration retirement system, the Coast Guard retirement system, the Public Health Service commissioned officers retirement system, and the Tax Court Judges survivors' retirement system), military retirement benefits, and tier II railroad retirement benefits from reduction under the President's sequestration order.

The effect of the amendment would be to return the power to withhold such cost-of-living adjustments to the Congress. This would provide the same treatment to Federal, military, and tier II railroad retirees as the Congress sought to provide Social Security and veterans pension recipients.

When the Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985, we did so out of desparation not only to reverse the fiscal trend of the last 5 years—unprecedented deficit spending—but also in order to free the Government from the confines of default which would have occurred had the Gramm-Rudman-Hollings measure not been adopted.

In the process, a contract between the Government and its employees was broken. This broken contract is one that has stemmed over many years and has contributed to the well-being of millions of Americans. By providing a fair and equitable employer-employee sponsored retirement plan, the Government has attracted qualified men and women at a lower rate of compensation than they would have been granted in the private sector.

In effect, Mr. Chairman, these men and women were promised a respectable retirement in return for a lower rate of pay during their working years, and up to now, the system has worked.

But last December, when the Senate insisted on attaching and reattaching the Gramm-Rudman-Hollings amendment to the Federal debt limit extension bill—thus holding Social Security and countless other programs hostage—the Congress overlooked the retirees who have given a lifetime toward the defense and operations of our Nation and its Government.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 provides that automatic spending increases shall be reduced as part of the sequestration order issued by the President to conform to the specific deficit level provided for fiscal years 1986 through 1991. These automatic spending increases, as defined in section 257 of the act, consist of 19 retirement and disability programs and three other Federal programs that are indexed to adjust with increases in inflation. Of these 19 programs, 13 are either Federal employee or military retirement and disability programs.

My amendment would have exempted all but one of these retirement programs (former Presidents) and would include the retirement program for tier II railroad retirement. These programs would no longer be considered as automatic spending increases for the purposes of the act. Consequently, COLA's for these programs would be protected in the same way as those for veterans' pensions and compensation.

I regret the action of the Rules Committee yesterday that prevented me from offering my amendment. The law as enacted greatly punishes the Federal, military, and railroad retirees who have given of themselves so that we may live a more safe and secure life as a nation. For the last 5 years, Federal and military personnel have contributed to deficit reduction through pay freezes and COLA reductions. During the last 3 years, inflation has risen by 10.1 percent, while retirees have received only one cost-of-living adjustment of 3.1 percent. As the law is now written, these retirees are a minority who have been singled out unfairly.

Mr. Speaker, I urge the reinstatement of the Gramm-Rudman cuts as a necessary and vital step toward reducing the Federal deficit, but I hope that we have future opportunities to also reinstate and restore justice for our Nation's Federal and military retirees.

Thank you very much.

AS AMERICAN AS BASEBALL, HOTDOGS, HAMBURGERS, AND IMPORTED TEXTILES

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. CAMPBELL. Mr. Speaker, Mat Self, president of Greenwood Mills, a South Carolina textile manufacturing concern, provided me with a very interesting letter from a manufacturer of denim fabric in Japan. He noted that this should dispel any doubt about a tie-in between Japan, Taiwan, Korea, and Hong Kong, and speculated: "From reading this individual's story about hamburgers, it looks as if the Far East is going after the service industry after they destroy our manufacturing base."

The letter follows:

From Sportswear International Magazine, we have learned your name as a quality Jeans Casual Wear Manufacturer. We are suppliers of Jeans Wear Casual Fabrics from Japan, but we think even in Jeans Wear field which represents typical basic American way of life same as Hamburgers, there are some customers who don't like cheaper and poorer taste. So if good meat and bread matches with a good cook, then it can make nice looking and good taste of Hamburgers which can catch those fussy customers in this overcatered market.

We think you are the good cook and we can be the suppliers of good meat and bread. Of course, we know the good cook always chooses about materials but if you spend too much time in choosing materials, your time for cooking is getting less and less. So we think we can help you to solve this problem and you can devote most of your time for cooking.

We are basically the suppliers of Hamburger materials, so our fabrics are mostly based on Indigo Dyed Cotton. But of course there are several kinds of Hamburgers like Meat Burgers, Cheese Burgers and Chicken Burgers and so on, so we have light, medium and heavy weight denims but also have Dobby, Jacquard, Clipped, Striped and Checked Indigo Fabrics, which are suitable for Shirts, Blouses, Jackets, Pants and Skirts.

We enclose part of our Collection for your reference. Unlike most of other Japanese Fabrics, our fabrics are mostly in running production, so we can supply sample yardages for making garments to check how they look like, sample yardages for salesman samples, also even bulk supplies

promptly like one of good sales points of Hamburgers. "Fast Supply."

We understand you have your own facility for making garments but if you need more in the Far Eastern areas, we can help you by introducing garment factories in Japan, Taiwan, Korea and Hong Kong through our overseas branches. At moment we are supplying Garments made in Japan, Korea and Taiwan to Japanese Jeans Wear people like Edwin, Wrangler Japan, Mcgregor Japan, etc.

If you are interested in our Hamburger story, please contact the undermentioned address. We can come to show you our full ranges of sample collection anywhere in Japan, Korea, Taiwan and Hong Kong.

TALKS RELATED TO NUCLEAR TESTING—A STEP IN THE RIGHT DIRECTION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BEDELL. Mr. Speaker, having been a consistent critic of the Reagan administration's record on arms control, it was with mild and pleasant surprise that I noted a statement yesterday announcing that the United States and the Soviet Union have agreed to sit down and talk about issues surrounding a nuclear test ban. While much of the rhetoric regarding the parameters of these talks has not changed, I believe the administration is finally taking at least a small step in the right direction.

As the author of House Joint Resolution 3—a measure to prevent nuclear explosive testing, I was often amazed at the administration's strident opposition to a sense of the Congress resolution merely aimed at promoting talks on nuclear weapons testing. During our debate on that issue, I consistently pointed out that House Joint Resolution 3 only suggested that talks on a CTB agreement begin. I also pointed out that in my opinion, a CTB agreement represented the first most readily achievable and securely verifiable step which the superpowers could take through which to move on toward the administration's ultimate goal of deep reductions in the world's nuclear arsenal.

Clearly, yesterday's announcement does not fulfill each of the recommendations advocated in House Joint Resolution 3, but at least the administration has expressed a desire to meet with Soviet counterparts on the issue of nuclear testing. I believe our efforts in support of House Joint Resolution 3 served to nudge the administration along but we must not be complacent. Congress does have a valuable role to play with respect to United States arms control policies through the exercise of our funding and oversight responsibilities governing our Nation's defense efforts.

The leadership exercised by our colleague DANTE FASCELL, chairman of the House Foreign Affairs Committee, in support of better long-term United States arms control policies has been tireless and unswerving. Chairman FASCELL'S commitment and skill in securing passage of House Joint Resolution 3 provided this administration with an insight into the American people's keen desire for solid arms control policies. I found his remarks on yesterday's announcement to be to the heart of the matter, that "the problems with verifying nuclear test bans are not technical, but political."

In this regard, I would like to commend to my colleagues attention the complete text of Chairman FASCELL'S remarks on this subject:

FASCELL EXPRESSES SUPPORT FOR THE AGREEMENT TO RESUME UNITED STATES-SOVIET NEGOTIATIONS ON NUCLEAR TESTING

"The agreement by both superpowers to discuss nuclear testing issues without preconditions in separate talks in Geneva is a long overdue step necessary to achieve a Comprehensive Test Ban (CTB) agreement," said Dante Fascell (D-FL), Chairman of the House Foreign Affairs Committee.

This is a follow-on to congressional efforts urging the administration to resume such discussions with the Soviet Union. Last February, the House of Representatives passed H.J. Res. 3, legislation urging the ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and calling for the resumption of negotiations on a Comprehensive Test Ban Treaty by a decisive bipartisan vote of 268-148.

The Chairman added that "the problems with verifying nuclear test bans are not technical, but political. By agreeing to separate talks, the administration can build off the nuclear testing verification provisions previously agreed to by the United States and the Soviet Union in this area as they work toward a CTB."

As expressed in hearings held by Chairman Fascell's Arms Control Subcommittee, a CTB has been pursued by every President since Eisenhower and is a laudable goal for a number of reasons, not the least of which is its contribution to reducing the risk of nuclear war and the arms race. "Reducing superpower arsenals is a goal we all share, but meaningful reductions will not be lasting unless both superpowers stop adding new and more deadly weapons to their arsenals," observed Fascell.

With this in mind, the Chairman noted that "the House Foreign Affairs Committee will monitor closely the progress of these talks" scheduled to begin as early as next week. Robert Barker, Deputy Assistant Director for Verification and Intelligence at the Arms Control and Disarmament Agency, is expected to head these talks for the United States delegation.

INTRODUCING THE NATIONAL FOREST TIMBER RECEIPTS CLARIFICATION ACT OF 1986

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. SHUMWAY. Mr. Speaker, today I am introducing the National Forest Timber Receipts Clarification Act of 1986. I am joined in this effort by 28 of my colleagues from both sides of the aisle who, like myself, believe that it is necessary to clarify congressional intent with regard to the formula by which national forest timber receipts payments to States and counties are calculated.

When western territories were admitted to the Union as new States, the Federal Government retained ownership of millions of acres of land. State accession statutes were intensely negotiated arrangements, and virtually all contain language in which the States agree to waive all interests in Federal lands and not to tax Federal properties within their jurisdiction. Realizing that the Federal lands are not on the counties' tax rolls, Congress recognized the importance of local governments' dependence on these resources. Thus, in 1908, local government was permanently given a share of the forest reserve receipts from these resources. Congress provided that the money was to be spent, "as the State shall prescribe" for road and school purposes in the counties where national forests are located.

This philosophy was strengthened in 1970 when the Public Land Law Review Commission completed a 6-year study which concluded that "the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal Lands." By enacting the National Forest Management Act of 1976, Congress expanded the previous gross formula to include several additional forest service revenues previously not accounted for in determining the 25 percent share of gross receipts shared with the States.

This legislation is necessary due to continued attempts by the Office of Management and Budget to alter the method of calculating timber receipts from 25 percent of the gross receipts to 25 percent of the net receipts. This activity is in direct violation of the congressionally approved policy that rural forested counties shall receive 25 percent of gross receipts.

For the benefit of my colleagues who are less familiar with this issue, the Department of Agriculture estimates that $245 million will be shared by 41 States and Puerto Rico as their portion of fiscal year 1986 national forest receipts. This figure represents 25 percent of the gross revenues that will be collected by national forests for timber harvesting, grazing, recreational activities, mineral development, and other special uses. Each State is required by law to use its share of the receipts for roads and public schools.

Under the OMB proposal, which would allow the Federal Government to deduct its costs of managing the national forests against total receipts collected for the year prior to remitting the States' 25 percent share, forested counties nationwide would witness an over 70 percent cut in funding for local schools and roads. Unfortunately, OMB is less forthcoming with a potential local revenue base with which to offset the major reduction in a rural county's share of Federal timber receipts. At this juncture, it would be impossible for local counties to raise lost Federal revenue locally because of continued ownership by the Federal Government of large tracts of forested county land under a tax-exempt status.

In many instances, a local county's road and public school annual budget is, in large part, comprised of its share of national forest receipts. Over the past 5 years, the county of Modoc, CA, has relied upon timber receipts to provide 50 percent of its annual county road department budget. The children of Modoc

County are just as dependent on timber receipts for their education. The $758,566.30 received by the Modoc County Office of Education provides for the salaries of 26 teachers which represent 20 percent of the entire instructional staff for the county.

It is my strong belief that once my colleagues have the opportunity to review how this proposal would adversely impact their rural constituents, they will join my 28 colleagues and me and strongly support this measure.

CHAIRMAN RODINO'S PLAN FOR THE ADMINISTRATION'S DRUG CONTROL PROGRAM

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. SMITH of Florida. Mr. Speaker, the July 12, 1986, edition of the Miami Herald contained an op-ed piece by the distinguished chairman of the Judiciary Committee, Hon. PETER W. RODINO, JR. In his comments, Chairman RODINO outlined the actions he believes we now need to take to coordinate the Federal Government's fight against illicit drugs.

I urge my colleagues to read these cogent comments.

The material follows:

[From the Miami Herald, July 12, 1986]

CONGRESS HAS A PLAN FOR ADMINISTRATION

(By PETER W. RODINO, Jr.)

For all the tough talk from official Washington about the war on drugs, the sober truth is that our national drug policy is in shambles—and the problem is only getting worse. That our national drug epidemic is outstripping efforts to control it can be illustrated by the following:

The amount of cocaine smuggled into the United States has increased almost sixfold since 1980, and drug-enforcement agents report they are overwhelmed by the volume of drugs entering this country.

Although efforts to contain drug smuggling off the coast of Florida have met with some success, new routes have sprung up all along the southwest border.

Drug trafficking and addiction continue to be major causes of crime and violence—yet investigators, prosecutors, courts, and prisons are all stretched to their limits.

Hundreds of thousands of addicts and users cannot get treatment—and are thus left suffering—because of inadequate funding.

The enormity of our drug problem is staggering. Among us are half-a-million heroin addicts, four million cocaine users, and 20 million marijuana smokers. studies' show that one-quarter of all high-school seniors smoke marijuana once a month, 5 percent use it daily, and 15 to 20 percent have tried cocaine.

Our nation pays a high price for all this. Research suggests that drugs cost our society as much as $100 billion yearly—half the national deficit—in health care, lost productivity, and other economic and social costs. The only beneficiary is organized crime, which reaps an estimated $110 billion annually from drugs, accounting for nearly 40 percent of all its activity and a considerable amount of its violence and corruption. And now we are faced with a new threat from intravenous drug use: AIDS.

But despite increased public awareness of our drug problem over the last few years, we have yet to develop an effective and comprehensive national strategy to address it. The federal response to drugs has been much too fragmented, with too many different agencies involved in the enforcement and prevention efforts. Nor have we given it the proper international focus in trying to cut off the problem at its source.

Moreover, budget cuts are compounding the problem today. According to a U.S. attorney from New Jersey, drug-enforcement efforts have been "directly threatened" by the Gramm-Rudman budget-cutting law. And funds for civilian prevention and education have virtually dried up under this Administration.

In 1982, Congress tried to address some of these problems by establishing a centralized authority for our national drug efforts. The President, however, vetoed the bill. Two years later, Congress succeeded in creating the Drug Enforcement Policy Board, but to this date we have still not seen the kind of high-level coordination and direction that Congress has sought.

We cannot delay action any longer. The time is now to address the drug problem at the highest level of our Government in a coordinated manner. All the talk about getting tough on drugs amounts to little more than a whimper unless we have the proper strategy and funding to back it up.

That is why I am sponsoring legislation calling on the President to convene a White House Conference on Narcotic Abuse and Control in order to develop strategy for further action in the war on drugs. Only the President is in a position to focus national attention and resources on this problem. A White House Conference—which can pool the wisdom of mayors, governors, law-enforcement officials, drug-abuse experts, and all the Federal agencies working on this problem—would enable him to begin this process in a comprehensive way.

We also need to begin asking some tough questions. Since most drugs come from abroad, why hasn't this problem become a higher priority on our foreign-policy agenda? Isn't this as much a part of our national security as anything else? Why has no Administration, whether Democratic or Republican, ever enforced the law suspending foreign aid to nations that have not cooperated in curbing drug production and trafficking—despite mounting evidence that many nations are doing little?

And why—despite official recommendations that a successful drug policy depends on prevention, training, and education programs to cut the demand that fuels the supply—has this Administration cut funds for these programs?

Our nation can no longer afford a shortsighted, fragmented, and underfunded drug policy. Cutting corners today will only add to the cost—and human misery—tomorrow. Since neither states and localities, nor parents and schools, can combat drugs alone, we need a strong and effective Federal presence. It all comes down to one basic fact: Too many lives are at stake, and with them the future health and productivity of our nation.

COMMERCIAL NUCLEAR POWER REACTOR EMERGENCY MONITORING NEEDED

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. HUCKABY. Mr. Speaker, today I am introducing a bill entitled the Nuclear Power Emergency Response Data System Act of 1986 [ERDS]. This is a concept under study at the Nuclear Regulatory Commission [NRC] to elevate and strengthen our technical purview of licensed nuclear facilities in the event of an emergency. In light of the recent tragedy of the Soviet reactors at Chernobyl, and our own concern at home about serious operating mishaps at some of our commercial reactors, I believe the ERDS Program will provide us with more oversight and assurances that appropriate actions are taken in response to a nuclear incident.

The NRC recently issued a report detailing serious management weaknesses at 16 of our domestic nuclear reactors which have led to operating failures. Until we have initiated plant design standardization and complementing NRC licensing reform measures applicable to our future nuclear reactors, we need an emergency monitoring arrangement so that we can avoid another severe accident similar to what occurred at Three Mile Island.

The ERDS concept envisions a direct electronic transmission of selected parameters from existing electronic data systems at the licensed reactors' own emergency response facilities. The ERDS would be for use only during emergencies at the facilities and would be activated by the licensees to begin transmission to the NRC Operations Center. The NRC's primary role in an emergency is to monitor the licensee to assure that appropriate recommendations are made with respect to offsite protective actions. The NRC's responsibilities would also include offering the licensee technical analysis and logistic support; communicating with offsite authorities and confirming with them the licensee's recommendations; and, keeping other Federal agencies, entities and the media informed of the status of the incident, as well as coordinating with other public affairs groups.

Experience with the voice-only emergency communications link, currently utilized for data transmission, has demonstrated that excessive amounts of time are needed for the routine transmission of data, and of verification or correction of data that appear questionable. Error rates have been excessive; initations have been slow; frequency of updates have been unreliable. In addition, the current system created an excessive drain on the time of valuable experts. When errors occur, they frequently create false issues which, at best, divert experts from the real problems for long periods of time. At worst, incorrect data may cause the NRC to respond with inaccurate or outdated advice that could result in the implementation of inappropriate protective actions.

With ERDS in place, there would be complete accuracy and reliablity because there

would be no human interfaces, and many systems incorporate automatic data validation. Timeliness would be excellent because the system is immediately available and capable of rapid transmission with frequent updating. The information transmitted would be complete, providing a quick assessment of the overall health of the plant. ERDS would be supplemented with voice communications that would be directed toward plant conditions and plant response, rather than individual instrument readings.

Cost is relatively low because most licensees are already installing systems to transmit data among their own emergency response facilities. However, there would be hardware and software interface requirements at the NRC to receive the diverse signals and formats. My legislation would provide funding through regular NRC appropriations and user fee assessments.

Overall, I believe ERDS is a necessary tool to uniformly assess and oversee the operations of our various nuclear plants during an emergency, at a time when licensees can use such support. Thirteen of my colleagues have initially joined me in authoring this worthwhile measure. I hope other Members will join us in sponsoring this legislation are gaining its quick approval by Congress.

THE JOB TRAINING PARTNERSHIP AMENDMENTS OF 1986

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MARTINEZ. Mr. Speaker, today I join my distinguished colleagues Mr. HAWKINS, Mr. JEFFORDS, Mr. WILLIAMS, and Mr. GUNDERSON in introducing the Job Training Partnership Amendments of 1986.

Last month marked the completion of the second year of our experience with the Job Training Partnership Act, the flagship legislation for the employment and training of America's disadvantaged youth and adults. Over the 2-year period, the Subcommittee on Employment Opportunities has held several oversight hearings on JTPA and listened to comments and suggestions regarding its functions from elected officials, corporate sponsors, State and local program operators, and various other public and private sector participants.

Mr. Speaker, I am pleased to report that the unique public/private partnerships created by this legislation are working well, and the response of State and local governments and the business community to JTPA's decentralized, flexible administration has been overwhelmingly positive. The JTPA clearly provides a solid foundation for increased private sector involvement in helping the disadvantaged to meet our country's labor market needs, even though limited funding has allowed only a small percentage of eligible individuals to participate in JTPA programs.

The past 2 years have affirmed that Federal involvement in employment and training problems should be aimed at fostering local solutions to local problems. We also know that program stability is necessary if service delivery areas are to continue their outreach to the disadvantaged. Therefore, this bill is noncontroversial, and addresses only those changes which can't be adequately handled at the local level or through the regulatory process. This JTPA amendments package has broad bipartisan support, and I urge my colleagues to support it when reported out of committee.

HELPING ONE ANOTHER IN CYPRESS CREEK

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. FIELDS. Mr. Speaker, as society advances, as cities expand and as we become more civilized, all too often the idea of helping one's neighbors gets lost. Fortunately, that's not the case in the Cypress Creek community in northwest Houston, TX.

Men and women in that community have joined together to assist one another when it means the most: when the lives and safety of their neighbors are threathened.

Eleven years ago, a Cypress Creek resident suffered a heart attack and 5 hours elapsed before a private ambulance arrived to transport the victim to a hospital for medical attention. The man died. But as a result of that treagedy, 13 local residents determined that they needed a more effective emergency medical service system. And they set about to solve the problem.

Area residents knocked on doors, raising the funds necessary to make the needed emergency medical services a reality.

Today, because of the dedication and generosity of the men and women of the Cypress Creek area, the Cypress Creek EMS has been named the best such service in the Nation. It provides high-quality emergency medical care to the community—and it provides that service free of charge. While each of the more than 500 calls it answers each month cost between $150 and $200, the Cypress Creek EMS is supported entirely by donations.

I applaud the National Association of Emergency Medical Technicians for their decision to name the Cypress Creek EMS as the best in the Nation. And I applaud the hundreds of men and women in that community who give of their time and their talent to ensure that their neighbors and friends have access of high-quality emergency medical care. Everyone has contributed financially, or with their time, to the Cypress Creek EMS shares in this award.

Mr. Speaker, I know you join me in saluting the Cypress Creek EMS—and all the other emergency medical services across our country—for the life-saving work they perform. They deserve our thanks for the work they do and for the protection they provide.

Thank you, Mr. Speaker.

SUPPORT LOWER TAX RATES FOR AMERICAN MIDDLE-CLASS TAXPAYERS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. COLEMAN of Texas. Mr. Speaker, yesterday the House of Representatives took a courageous step toward achieving fair and equitable tax reform for the millions of middle-class Americans who shoulder most of the tax burden in this country.

By a vote of 338 to 61, the House passed H.R. 3838 to instruct the House-Senate tax bill conferees to support a marginal tax rate of no higher than the 27 percent contained in the Senate version. Achieving this substantially lower marginal tax rate represents a major victory in the tax reform struggle because it will provide the bulk of tax relief to the average working family instead of special interests.

In my belief, if the tax conferees have one mission, it is to guarantee fairness for middle-income families. They are the real victims of an unfair tax system, and they ought to come away the real winner.

Unfortunately, the Senate version paid for its low rates by limiting or shutting down benefits to middle-income taxpayers, such as the elimination of the deductibility of individual retirement accounts [IRA's]. Yesterday's vote represented a clear message that the lower tax rates contained in the Senate bill will be paid for by the special interests that have used various loopholes to avoid paying their fair share for years.

The House yesterday also signaled a pro-family shift by urging the conferees to increase the personal exemption to $2,000, as well as to oppose a net increase in Federal taxes.

I am encouraged by the attitude of the conferees of both political parties that neither the House nor the Senate wants to weaken the incentives for economic growth. They are all conscious of the impact of the new Tax Code on capital formation, export promotion, and jobs. The tax breaks given to small business were as generous as they were thoughtful. But the larger question is one posed by President Reagan, and that is, Who decides where capital and investment ought to flow—the Government or the consumer?

Although there will probably be fewer subsidies for large corporations, the tradeoff is the American family that has more money to spend on investments that pay real, not paper, dividends. This tax rate of a maximum of 27 percent is a historically low rate that also frees America's corporations to produce more effective goods and services instead of tax maneuvers.

Mr. Speaker, I commend my colleagues in both parties for yesterday's vote, and I urge the House-Senate conferees to take heed of the impressive margin of that vote and adhere to the lower individual tax rates for average American working families.

COLA FAIRNESS IS ISSUE

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. CAMPBELL. Mr. Speaker, I came to the floor intending to vote for this resolution as a necessary step on the road to a balanced budget. My understanding has been that we would be allowed a separate vote on treating all retirement programs equally as far as annual cost-of-living adjustments are concerned.

Unfortunately, the leadership denied us that separate vote.

Thus, Mr. Speaker, I voted against ratifying the 1986 budget cuts because those veterans who fought in our wars and who risked their lives for the defense of our country and whose families made deep sacrifices in support of their careers were not treated fairly. Nor were those many other retirees who worked for our Government contributing their skills and talents treated fairly.

We should have had an opportunity to instill fairness and equity in the Gramm-Rudman-Hollings Deficit Reduction Act by restoring the cost-of-living adjustment for those retirees who were denied their increase, one that other retirees received. Because of procedural maneuvering, however, we were not allowed a vote to restore this COLA.

Mr. Speaker, I support a balanced budget and I support most of the reductions that had to be made to meet our budget targets, but I believe that fairness demands that military and other Federal retirees also receive a cost-of-living adjustment. I hope that the leadership will give us the opportunity to vote on this sometime in the near future.

ALZHEIMER'S DISEASE: WORKSHOPS ON HEALTH SERVICES RESEARCH AND FINANCING OF LONG-TERM CARE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Ms. SNOWE. Mr. Speaker, in February, and again in May, I cosponsored, along with many of my colleagues in the House and Senate, two workshops dealing with Alzheimer's disease. During those 2 days of discussion, experts from the field addressed the topics of health services research and the problems of financing long-term care for Alzheimer's disease. The workshops grew out of a concern for those who suffer from Alzheimer's disease and their families, and a recognition of the degree to which we still have only a limited understanding of what the needs of these families are.

Over 1.3 million Americans are affected with disorders that cause severe and progressive deterioration of mental function. Clearly, the long-term answer is to support biomedical research that provides a solution to the cause or causes of Alzheimer's disease and other related dementias. But in the meanwhile, as we struggle to find the biological answers, many families are running out of time and energy as they continue to care for their afflicted family member. Indeed, Alzheimer's has two victims—the individual who is experiencing the disease and the family that is attempting to deal with it.

For both of these victims, much more needs to be understood about the kinds of supports that are needed in order to assist care givers. The questions asked in the workshop on health services research were a first step in articulating the gaps in knowledge and defining how these gaps could be addressed. As we discovered, significant problems exist not only in identifying service needs, but in determining the availability and barriers to accessing those services. Methods for evaluating quality of care are still to be developed, and yet to be answered is the difficult question of how to finance the cost of the many years of care that is needed for Alzheimer's victims.

As is the case when we struggle to learn about new things, the way is often difficult and frustrating. Answers are not nearly as easy to develop as are the questions that need to be asked. These two workshops were a step toward opening up a dialog and creating an environment in which ideas and solutions could be discussed. The level of interest and the degree of knowledge that was shared in those workshops convinced me of how far we have come and the great distance left to be traveled.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

SPEECH OF

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. LENT. Mr. Speaker, our distinguished former colleague, the late Congressman Jonathan Bingham, was one of the finest Members to serve in the House of Representatives. I was honored to serve alongside him in the New York congressional delegation for many years.

Congressman Bingham represented a district which was the heart of Bronx, NY, for 18 years. He was a tough politician and he worked tirelessly in Congress to meet the needs of his constituents.

Respected and admired by his colleagues in Congress, Republican and Democrat alike, he lived by the highest standards of professional ethics, loyalty, and honesty. Throughout his long career in government, Congressman Bingham was a recognized leader in foreign affairs. A member of the House Foreign Affairs, he once cited his proudest legislative accomplishments as the Nuclear Nonproliferation Act of 1978 and the Soviet-Jewish Refugee Assistance Act of 1972.

The Congress and the American people have lost one of its most outstanding public servants, and we are deeply saddened by his passing. I extend my deepest sympathy to his beloved wife, June, and their children and grandchildren.

OUTRAGES AND DOUBLE STANDARDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. STUDDS. Mr. Speaker, 4 weeks ago, the House of Representatives voted down a resolution condemning the participation of the Chilean tall ship *Esmerelda* in the Statue of Liberty celebration. In so doing, the House ignored conclusive evidence that the *Esmerelda* has been used to detain, interrogate, and torture Chilean citizens following the bloody ascension to power of Gen. Augusto Pinochet in 1973.

Later that week, the House approved $100 million in virtually unrestricted assistance to help the CIA bring "democracy" to Nicaragua.

Shortly thereafter, a mine—apparantly planted by our "democratic" allies in Nicaragua—exploded under a bus, killing 32, including women and children.

That same week, the Chilean Army, whose delicate sensitivities this House spared in voting on the *Esmerelda,* killed an unarmed 19-year-old and critically injured his 18-year-old female companion.

The Chilean Government has denied what dozens of witnesses and the physical evidence say plainly is true: That soldiers doused the two teenagers with gasoline and set them afire. The State Department has called for an investigation, but Chile's experience after more than a dozen years of Pinochet, leaves no hope that those guilty will be punished.

The House of Representatives is the people's House, but these recent votes do not reflect the views of the American people; they do not embody our ideals or our traditions; they do not serve our national interests; and they do not correspond to the truth of what has been happening in Chile and in Nicaragua in recent years.

It should be American policy to act and to speak in support of liberty and respect for human life throughout the world. But our credibility will depend inevitably not so much on what we say, but on what we do. In recent weeks, the House of Representatives—a body controlled not by this administration but by the party that purports to offer America an alternative—has twice been tested and has twice failed. We should not doubt that further tests lie ahead, but if we are to pass those further tests, the lessons provided by the outrages and the double standards of this past month must first be learned.

CEREMONY FOR SERVICEMEN TO BE HELD IN GANDER, NEWFOUNDLAND

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ST GERMAIN. Mr. Speaker, 7 months have passed since 248 servicemen were killed in the tragic plane crash of Arrow Air

flight 1285. Understandably, the families of these deceased men are still grieving the sudden loss of their loved ones. When a loved one dies, a void is created that is impossible to fill. However, hopefully the relatives can learn to accept the death so they are able to proceed with their lives. This is always a very slow, difficult process.

To aid in this healing process, Mr. Charles T. McGarrigle is organizing a ceremony for the families of the deceased servicemen to be held in Gander, Newfoundland. This will bring the families together to the site of the accident so they may share in their sorrow and honor the 248 men who died while in the service of their country. I would like to commend Mr. McGarrigle in this most laudable and worthwhile effort.

Also, I would like to express my gratitude to the Newfoundlers who have generously extended their cooperation for this ceremony. Their assistance is consistent with the tremendous kindness and effort they demonstrated when the accident occurred in December 1985.

"GREAT LIVING CINCINNATIAN" AWARD

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GRADISON. Mr. Speaker, the Greater Cincinnati Chamber of Commerce recently honored two men with their annual Great Living Cincinnatian Award.

One of those honored was Neil Armstrong, spacecraft commander for the first manned lunar mission—Apollo 11—and the first man to walk on the Moon. Mr. Armstrong served as a professor of aeronautical engineering at the University of Cincinnati from 1971 until 1980. He recently distinguished himself as Vice Chairman of the Presidential Commission on the Space Shuttle *Challenger* Accident.

The second honoree was Jack Strubbe, senior vice president of the Kroger Co. Mr. Strubble received the award in recognition of his lifetime achievement in service to the city of Cincinnati. The following article from General Office News, published by the Kroger Co., highlights Mr. Strubbe's contributions. I would like to bring it to the attention of my colleagues.

The article follows:

JOHN L. STRUBBE: GREAT LIVING CINCINNATIAN

"Great Living Cincinnatian" is an award that must be earned. Not in one year, but through a lifetime of achievement and of service to the community. It is given annually by the Greater Cincinnati Chamber of Commerce to living persons who have brought distinction to the Greater Cincinnati area and to themselves.

In 1986, there were two winners. One was Neil Armstrong, the first man to walk on the moon. The other was Kroger Senior VP Jack Strubbe who, as the Cincinnati Post reported, "kept his feet on the home turf, finding adventure and purpose in a myriad of services to his community."

Jack Strubbe becomes the third Kroger executive to be honored as a Great Living Cincinnatian. Retired Chairman Jacob E. Davis and the late Joseph B. Hall, who served as Kroger CEO for longer than anyone except Barney Kroger (1946 through 1964), were previous winners.

Like Jack, both received national recognition as business leaders but, at the same time, gave unstintingly of themselves to help Cincinnati—with their good works often rendered anonymously.

LONG KROGER CAREER

Holding degrees in both law and engineering from the University of Cincinnati, Jack Strubbe joined Kroger as a staff attorney in 1950 (and three weeks later was recalled by the Marines to serve in the Korean War).

His rise with Kroger has been steady: General Attorney, Secretary, Corporate VP, Group VP and now Senior Vice President in charge of Operation Services, which covers store operation services, distribution operations, distribution administration, traffic, MIS, supply and equipment purchasing, energy use and conservation, and loss prevention and security.

INNOVATIVE LEADERSHIP

Jack Strubbe is known internationally for innovative leadership, particularly in the areas of productivity and technological development in the retail industry. He was the driving force behind the development of scanner checkout systems, now in 60% of Kroger stores.

The first scanner in the United States to be used under actual store conditions was in the Kenwood store in 1972—the original equipment is now in the Smithsonian Institution.

In 1976, the Supermarket Institute recognized his lifelong contributions to the supermarket industry with the Chairman's Citation for Outstanding Industry Service, citing his "pioneering leadership in food retailing technology."

PERSONAL SERVICE

Throughout his life, Jack Strubbe has followed a personal philosophy that states that each person has the obligation to give of himself to make his community a better place to live.

At the time he received the 1982 Brotherhood Citation from the National Conference of Christians and Jews, the Cincinnati Enquirer editorialized: "John L. Strubbe through his service has left indelible marks on Cincinnati's civic life."

Jack Strubbe and his wife, Nan (whom he describes as "the loveliest person I know") have four children: Bill, Laura, John Charles and Mary.

A CONGRESSIONAL SALUTE TO BATTALION CHIEF DONALD BLACKWELL

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GEPHARDT. Mr. Speaker, I rise to pay tribute to Battalion Chief Donald Blackwell of the St. Louis City Fire Department, who will be honored on his retirement, effective May 31, 1986.

Chief Blackwell, in his rise through the ranks, has given 32 years of faithful, protective service to the people and the city of St. Louis. He has been a leader and spokesman in the promotion of home safety through public educational programs and community organizer and enthusiastic supporter for many other worthy causes.

Firefighters in St. Louis have the status of community good neighbors and Chief Blackwell, through his time, energy, and talents, has done much to contribute to this image. Because of his keen interest in the well being of his fellow firefighters, Chief Blackwell was elected president of local 73 of the St. Louis Fire Fighters Association in 1977 by his peers.

In recognition of his outstanding service, my staff and I personally salute Chief Blackwell, and extend encouragement and best wishes to him in his ongoing duties as president of the firefighters labor local.

NO TO THE NEW U.S.-U.K. EXTRADITION TREATY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MANTON. Mr. Speaker, recently there has been much public debate on ratification of the proposed Extradition Treaty between the United States and the United Kingdom. This new accord would drastically alter the political offense provision of our existing treaty, which provides an extradition exemption for individuals charged with political offenses.

This exemption has been universally accepted for over 100 years. It is based on the idea that other governments may not extradite members of persecuted minorities, such as the nationalist community in Northern Ireland.

Many advocates of this agreement argue that the changes are necessary to continue our fight against terrorism. All reasonable people deplore terrorism.

Northern Ireland is a battleground. Over the weekend unionists went on rampages, attacking nationalist areas several nights in a row. The police only intervened reluctantly at the last moment. Justice would be better served if Britain dealt with the issues that created the violence, instead of finding ways to suppress those driven to violence by oppression. Having already perverted the judicial process in Northern Ireland, the British now are urging us to restrict ours.

No terrorist has ever escaped justice by hiding in the United States. This treaty is unnecessary and illadvised and should be rejected.

CONGRATULATIONS TO WILLIAM PENN HIGH SCHOOL

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GEKAS. Mr. Speaker, William Penn High School of Harrisburg, PA, was reputed the largest high school campus in the world. And we who have graduated from the elegant campus feel proud beyond the campus itself. The June class of 1936 undoubtedly added to the luster of the stream of important people

who were educated there, many of whom remain within the shadow of the campus today.

Mr. Speaker, I would ask my colleagues in the U.S. Congress to join me in extending congratulations and best wishes to the William Penn High School June class of 1936 as the class members gather to celebrate their 50th reunion on July 26, 1986.

SUBMISSIONS FOR THE RECORD

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. JONES of Oklahoma. Mr. Speaker, I would like to inform our colleagues that I am submitting for the RECORD two pieces of written testimony that were inadvertently omitted from the print of the hearing of the Subcommittee on Social Security entitled, "Legislative Proposals to Prohibit Disinvestment of the Social Security Trust Funds." The testimony was submitted by our colleague, Mr. CLINGER, and by James Roosevelt, Chairman of the National Committee to Preserve Social Security and Medicare. The date of the hearing was February 18, 1986.

The submissions follow:

STATEMENT OF HON. WILLIAM F. CLINGER, JR.

Mr. Chairman, I am delighted to have this opportunity to submit my statement on the recent disinvestment of the Social Security Trust Funds and proposals to ensure that the Treasury Department is not again allowed the opportunity to tamper with these Trust Funds. I realize that a number of bills have been introduced to correct this situation, however, I believe that my bill, The Social Security Trust Funds Safeguard Act of 1986, H.R. 4067, provides a workable solution to the problems outlined in your Subcommittee Report of December 16, 1985.

Enactment of H.R. 4067 will ensure the true independence and solvency of the Social Security Trust Funds even in the event of a fiscal emergency that occurred last year.

First, my bill directs the Treasury to make payroll taxes and other appropriations and administrative costs. During the debt ceiling crisis, the Treasury Secretary, in his role as Managing Trustee of the Social Security Trust Funds, failed to transfer the payroll tax revenues, thereby breaching his duty to the Trust Funds. Since it is obvious that the Treasury Secretary has a conflict of interest with his role as Managing Trustee, H.R. 4067 also directs the President to appoint a full-time Managing Trustee to oversee the Trust Funds. A separate agent to manage the Trust Funds will not only benefit the long term health of the Trust Funds, but will further enhance the independence of the Trust Funds from the General Treasury. This independent Managing Trustee will be appointed by the President for a four-year term. To further guarantee impartiality and independence, this individual may not, at the time of the appointment, be of the same political party of the President. In addition, the Managing Trustee may only be removed for cause and only after such cause has been reported to the Speaker of the House and the President pro tempore of the Senate.

Because the obligations in which the Trust Funds are invested are subject to the public debt, when other outstanding obligations equal the limit, no new oligations can be issued to the Trust Funds. So, unless Treasury has excess cash, or securities are redeemed to enable Treasury to raise cash, benefits cannot be paid. As insurance against such government default, my bill allows the Managing Trustee to invest in federally guaranteed private securities to provide some diversified investment strategy. And, should the government default on its obligations, these securites could be cashed in to pay benefits. Since there is some concern that authorizing private investment by a government agency would lead to a socialized economy, H.R. 4067 sets a limit on these investments of one to three months worth of benefit payments.

To keep Congress and the American people better informed about the financial status of the Trust Funds, my bill required the Managing Trustee to submit to Congress an annual investment plan for the fiscal year, allowing 60 days for review and revision if necessary. Each investment plan will set forth standards to govern the investment and disinvestment of the Trust Funds to ensure that it is not subject to budgetary considerations or partisan, political influence.

Mr. Chairman, our senior citizens deserve nothing less than the assurance that they will always be able to cash their benefit checks. H.R. 4067 guarantees this by removing any opportunity for the Treasury to use these Trust Funds as a slush fund while making sure that benefits will be paid in the event of government default.

Mr. Chairman, thank you again for this opportunity and I hope that you and the Members of the Subcommittee will seriously consider this legislation as a remedy for the uncertain situation that exists.

STATEMENT OF FORMER CONGRESSMAN JAMES ROOSEVELT

My name is James Roosevelt and I am Chairman of the National Committee to Preserve Social Security and Medicare—a grassroots lobbying and educational organization with two million members nationwide.

You might be interested to know that membership in the National Committee has doubled since the beginning of the 99th Congress. In my view, this phenomenal growth is due to the uncertainty about the future of the Social Security and Medicare programs.

As a recent example, our members reacted with anger and outrage at the raids on the Social Security Trust Funds last fall. Fortunately, Congressional action on November 14 and December 12 restored $28 billion in assets and assured continued payment of benefits. Legislation also required the Secretary of the Treasury to reimburse the Trust Funds for lost interest as a result of premature disinvestment of government bonds.

This Subcommittee now is considering equally important legislation to prevent manipulation of the Trust Funds in the future. Preventing any further manipulation of the Trust Funds is necessary to protect the financial security of older Americans and to restore confidence of working Americans in Social Security and Medicare.

Working closely with Rep. William Clinger, we drafted the Social Security Trust Funds Safeguard Act of 1986 (H.R. 4067). I urge you to pass this crucial legislation to prevent future raids, to end potential conflicts of interest on the part of the managing trustee, and to improve the investment of Social Security assets.

I fully concur with Chairman Jones' assessment that the raids on the Social Security Trust Funds amount to a violation of the compact between the federal government and the workers who finance the system with payroll taxes and beneficiaries who depend on Social Security for basic income in retirement. But if the Secretary of the Treasury could use the government's fiscal crisis as an excuse to cash in Social Security assets this one time, or should I say five times, he could do it again. The Social Security Trust Funds Safeguard Act would destroy this precedent.

Unlike other legislation introduced to protect the Social Security and Medicare Trust Funds, the Safeguard Act explicitly directs Treasury to make payroll taxes and other appropriations "immediately available" to the Trust Funds "exclusively" to pay benefits and administrative costs. Under this legislation, the President would appoint an independent managing trustee to replace the Secretary of the Treasury. We believe this change is mandatory, because the GAO report to this Subcommittee in December indicates that the Secretary of the Treasury has a conflict of interest in exercising his duties as both Secretary of the Treasury and the managing trustee of the Social Security Trust Funds.

Under the current arrangement, Trust Fund assets are a bookkeeping fiction and Trust Fund money is not segregated from other revenues collected by the Treasury. This presents a tremendous temptation to the Secretary of the Treasury to "self deal." An outrageous example of self-dealing is the failure of the Secretary to notify the Congress that the Trust Funds lost almost half a billion dollars in interest as a result of premature disinvestments of assets in 1984. Not even the Social Security actuaries were aware of Treasury manipulations.

American workers and their families expect the government to require the same safeguards for the Social Security Trust Funds as it requires for private pension trust funds established by employers. For example, once an employer allocates his contribution to a trust fund, he cannot under any circumstances use those funds for any other purposes. The responsibility of a trustee of a private trust fund is to maximize the welfare of the participants and not to benefit the employer. A person cannot act as a trustee if he has a conflict of interest. The Safeguard Act would require similar safeguards for the Social Security Trust Funds.

If Congress passes a bill creating an Independent Social Security Agency, and we urge it to do so, it may want to designate the chairman of the Social Security Board as the managing trustee. We would support this action. What is important is replacing the Secretary of the Treasury as managing trustee with someone who does not have a potential conflict of interest.

Other provisions of the Safeguard Act would improve the process of investing Trust Fund assets. Specifically, the bill requires 1) the Board of Trustees to submit an annual investment plan to the President and Congress and to give 60 days' notice of any amendments to the plan; and 2) the managing trustee to diversify investments by keeping a small reserve invested in federally guaranteed private bonds.

The Board of Trustees' responsibility should be to submit an investment plan to maximize income to the Trust Funds while maintaining the security of the fund. Recent experience teaches us that an arbi-

tary formula for cancellation of bonds can work to the disadvantage of the Trust Funds. Congress will also have the opportunity to review the plan annually.

While it is prudent for Social Security to invest the majority of its assets in low risk government bonds, I believe it is unwise to invest all assets in this manner. The Social Security Act currently permits investment of Social Security assets in federally guaranteed private bonds, but Treasury has never done so. When the government reached its debt ceiling last fall, Treasury should have invested Social Security assets in private bonds. Also, by placing some assets beyond the reach of the government, Social Security could still pay benefits even if the government is temporarily unable to honor its obligations.

In conclusion, I want to emphasize that government financing problems should not in any way affect the management of the Social Security Trust Funds nor the payment of benefits. While all benefit payments were made on time last fall, Social Security Trust Funds should never have been held hostage to passage of the Gramm-Rudman-Hollings deficit reduction plan. Social Security is financed separately from other government programs. Consequently, current and future Social Security beneficiaries should not be the ones to suffer for the failure to put the government's fiscal house in order.

Passage of the Social Security Trust Funds Safeguard Act would protect the Social Security Trust Funds from future manipulation. I want to thank the Members of the Subcommittee for their efforts to achieve this goal.

DEFENSE SECRETARY WEINBERGER ASKS FOR ADEQUATE DEFENSE BUDGET

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. COURTER. Mr. Speaker, Secretary of Defense Weinberger gave a speech yesterday to the American Security Council Foundation which I urge Members to read with great care. He explains very clearly why we need a stronger defense budget than the one under consideration by the Armed Services Committee which slashes $35 billion from the administration's request.

The only principle underlying the committee's proposal is that it costs less. May I remind Members that that was the identical principle which controlled the budgets presented by Stanley Baldwin and Neville Chamberlain in the 1930's. The conflict which followed, which cost England multiples of the supposed savings, could have been avoided, Churchill insisted, if they had been willing to sustain defense spending levels adequate to the threat Hitler presented.

How can we forget so much in less than 50 years?

The speech follows:

STATEMENT BY SECRETARY WEINBERGER

It is a special pleasure to address your first congressional summit—I appreciate the chance to demonstrate that I am in favor of high level summit meetings, despite what you may have read in the press. I certainly hope this summit with congressional leaders produces results—by convincing them of the need to continue supporting our defense rebuilding effort.

Recently I had the privilege of participating in the anniversary celebration for the Statue of Liberty—the symbol of America's noble values. I know that some criticized the military participation in that celebration—they decried what they called the "militarization" of Liberty Weekend. What a ridiculous notion that was—for who should celebrate the value of liberty if not those who have pledged their lives to guarantee our peace and freedom.

And in this audience today sit representatives of groups that are even now fighting to gain or to regain a measure of liberty for their countries. They have, as so many have in the past, come to America for aid and encouragement. Our message must remain what it has always been: we shall not abandon you.

Recalling the past sacrifices of free men and women and the dedication of our uniformed services to our Nation's liberty, I was struck by the irony of reopening the Statue of Liberty in the wake of an announcement that the House mark-up of the 1987 defense authorization bill was falling far short of the budget required to defend the same values we were celebrating.

I want to address the House authorization proposal today—I want to explain my very serious reservations about the proposed cut of $35 billion from the President's defense request. We all must realize this simple and dangerous reality: this bill does not provide the resources needed to maintain a high quality, high confidence defense for the United States and our allies.

I use very plain language in discussing this budget proposal because that is what is needed. And I am sorry if what is wanted by my critics is a pragmatic, conciliatory message. But I have a responsibility, too—a responsibility to tell Congress what we honestly believe is required for the defense of this Nation. And the House budget figure and the House Armed Services Committee action thus far simply will not provide the resources necessary to maintain the defense that the American people deserve and need.

Representative Bill Dickinson, the ranking minority member on the Armed Services Committee, recognized the inadequacy of the House proposal. ". . . it's not enough," he said. "I certainly urge the budget conference to provide more for defense."

The President's budget request would be sufficient. It represents our best informed estimate of what we must realistically spend on defense today, and what we must invest for security in the future.

But some in Congress see our budget only as an outlet for their frustration with the deficit; some may see a chance for imagined political gain at no cost.

But there are costs. The Nation will incur greater risks; we may have to send our military people in harm's way—and expose them to the risks of service overseas, whether in the skies over Libya, or in the bunkers of the 38th Parallel, without the best support—support that we could easily provide. We will ask our troops to risk their lives; while others refuse to risk their political fortunes.

A wise man once advised that to know a nation's intentions and capabilities, you should look to its defense budget. It is an expression of a nation's belief in itself and its willingness to protect what it holds dear.

Our defense budget request is just such an expression. It reflects the best considered judgment of our military and civilian professionals, who not only dedicate their lives to the protection of freedom, but who are perfectly willing to risk their lives in the service of freedom.

It is nothing less than that.

Those who question our strategy should look to our budget request. They will see clearly our resolve to continue improving national security and increasing prospects for peace in a far from peaceful world. They will see a proposed budget calculated to ensure deterrence and readiness today, and to provide the Soviets with incentives for reduced military forces and all manner of armaments.

Our defense program reflects our defense strategy. It is fundamentally balanced to counter threats to national security, and to allocate risk in a sensible manner that minimizes danger and protects our vital interests.

Our defense budget request gives substance to our strategy. It matches resources to the threat, and sets priorities for defense needs in a way that gives us high confidence in our ability to deter aggression, to resist the will of those who would deny our freedom, and to ensure the security of our allies.

Any who review our budget request will see our strategy clearly articulated in the priorities set forth. First, is the modernization of strategic forces to deter nuclear war. In this arena, our budget request supports a strong triad with eventual full deployment of the MX missile and continues three decades of commitment to assured, high confidence nuclear deterrence.

Second, is maintenance of the high quality, fully manned military forces that are critical to our defense capability. Our budget request includes proposals for continued adequate compensation, including a cost of living adjustment, that underpin our recruiting and retention successes. Increased funding for training and exercises to build confidence and expertise are also included.

And third, those who do look will see a budget request that invests in readiness and sustainability of the conventional forces required to maintain an unwavering commitment to our allies—not just to some, but to all allies, for all our allies are essential if we are to keep our own freedom. Our budget expands our ability to deter conflict in Europe with further deployment of M-1 tanks, combat vehicles, air defense systems, and tactical fighter aircraft.

And it invests in mobility, naval forces, pre-positioning of supplies and equipment, and training to respond to threats in the Pacific, along the sea lanes, in the Persian Gulf, and in our own hemisphere, where our rapidly deployable forces give confidence to fledgling democratic governments.

Though our strategy has remained constant since the end of the Second World War, some in Congress have suggested that we can no longer afford it. Some do not appear even to have read our budget before concluding it is too much. They propose deep cuts in the defense budget, and advise that we trim our strategy accordingly. They would force choices between high confidence in nuclear deterrence and conventional readiness; or choices of which allies to protect and which to abandon—deciding, for example, to concentrate on the protection of either European allies or Pacific nations or neither; or choices between readiness today and building a foundation for defense of future generations of Americans.

These are decisions that Americans must not be forced to make. Our strategy is to reduce risk, not to put our heads in the sand and ignore threats to ourselves and our allies, all for the sake of a tidy balance sheet.

As Chairman Aspin so rightly pointed out in his recent study of congressional inability to view defense budgets from a strategic perspective, change in national strategy is precisely what would be required if defense funding returns to the impoverished levels that characterized the 1970s—but not a change for the better or a change that made us more secure—but a change that increases the risk.

The drastic reductions proposed in the House authorization mark-up—even below the level contained in the House's own budget resolution—contradicts the strategy concerns of Chairman Aspin and threatens to undermine and disarm our strategy. It threatens us with a strategy far more appropriate to a Neville Chamberlain than to a Ronald Reagan.

We cannot overlook the radical nature of this approach. It calls for a change in national security policy that would sabotage our strategy for the protection of American interests. It is a euphemism for "costs less." The strategy of weakness always cost less . . . in the short term.

The cuts proposed by the House are not motivated by any discernible strategy. It is impossible to see these cuts as reflecting either strategic thinking or an awareness of the threats facing us, or the needs of our defense forces. In fact, rather than embodying a congressional list of defense priorities, the current authorization proposal simply cuts everything. Let me be specific.

The first problem we face is the rejection by the House committee of any pay raise at all for our troops, not even a cost-of-living raise—zero—at a time when Federal civilian employees have been voted a 3-percent raise.

This makes no sense. It took years of hard work and two large pay raises of 11 and 14 percent to redress the manpower problems and the moral injustices wrought by inattention to the needs of our troops throughout the 1970's. Now that we have achieved the highest quality force ever—a 100-percent volunteer force—with recruiting and retention rates sufficient to ensure a force of highly trained, talented, and capable military professionals—how can the American people accept a budget proposal that puts these improvements in immediate jeopardy. When you tell an employee that he or she is to get no increases at all, you are telling them we are totally dissatisfied with their work. Is that the kind of message the American people want to send to our troops who have performed so magnificently all of the times we have asked them to do so for us all?

Well there is more. Ongoing programs are slashed as well. The current proposal will reduce our buy of Navy ships and the F-14, F-15, F-16, and F-18 tactical fighters that protect our forces, and underwrite our conventional capability.

There is a great risk here. Our troops will have less air defense and less air support. Our pilots will be less well prepared because the authorization mark also cuts 5 percent in operations and maintenance funding, which means reduced flying hours, less proficiency training, and fewer realistic exercises.

But the naval and air protection of our troops is not the only place our forces will suffer. There will be fewer new Bradley fighting vehicles to protect our infantrymen; no new radio to replace those in use for decades; plus fewer helicopters, antitank weapons and missiles, and reduced ammunition and supply stores.

And all of this to what end? Because the world is safer? Because the Soviets have disarmed? No. So we can concentrate on strategic systems? No. The House also would drastically curtail strategic systems. For the fourth year in a row they would renege on the previous year's agreement for the acquisition of MX peacekeeper missiles. This year they propose funding only 12 instead of the 21 they promised last year. In addition, they would drop the only Trident submarine we requested for 1987. They know we will eventually need all of these things. Their only answer is to delay our acquisition of them and to make them all more expensive.

This House committee proposal would even require entrenching in military capabilities that have already been rebuilt. For example, the Army of the future, which the House proudly proclaims will be cut only 10 percent, would have less equipment. Even more pressing, the Army will find it increasingly difficult to attract and retain high quality recruits as the pay comparability gap widens each year that our forces do not receive even an adequate cost-of-living increase. If this should be enacted, and if it keeps up, we risk a return to the personnel problems of the 1970's—fewer recruits and lower retention rates, but less quality of manpower available in the Army.

For the Navy, the personnel story will be much the same. Further, the elimination of nine ships from this year's budget request reduces annual ship construction to a level that will make it impossible to attain the 600 ship fleet required for defense.

The Air Force faces similar problems. Procuring only 174 tactical aircraft per year will not even sustain the force we already have.

But there is more, and it is worse. In addition to the cuts mandated in the near term, the House proposal delivers a massive cut to our research and development effort. It cuts R&D on anti satellite weapons in half; it cuts development funding for the V-22 Osprey tilt rotor aircraft to carry our Marines safely into the battle area; it cuts one-third of the funds for the Amraam missile that will allow our pilots to defeat an enemy beyond visual range without following the missile into its target—as we would do now at far greater risk to our pilots; it slashes one quarter of the R&D funds for the Lantirn, which would give our pilots a new ability to fight in bad weather and at night—of particular interest in Europe. It cuts more than one-quarter from the strategic defense initiative—which is the first real effort to free our children from the threat of enemy nuclear missiles. And overall the House proposes cutting 18 percent from the research and development effort that is the very foundation upon which the future security our Nation depends.

In short, this House committee bill is not designed to meet any strategy at all. It reflects no priorities or order for defense. It is simply a bill designed to cost less.

And that same lack of direction is reflected in the way the House proposal approaches improving management of the Department's resources. It endorses the Packard Commission's recommendations for efficiencies in acquisition, but it denies us the tools to accomplish those efficiencies.

The Packard Commission's most significant and fundamental recommendation was that defense programs must be stabilized. Production rates must be set and maintained year after year at the most efficient levels possible; multi-year procurement contracting must be used to achieve the efficiencies and reduced costs possible from quantity purchases; and other efficiency enhancing procedures must be strictly adhered to.

But this House proposal turns its back on those recommendations. It arbitrarily reduces production rates below economic levels. For example, the House has reduced by one-third the FY-87 production rate for the F-16, which would have achieved $125 million in savings through efficient production rates. And this happens with almost every system: with Bradley fighting vehicles, tactical aircraft, helicopters, munitions, and so on.

Additionally, they deny us the benefit of multi-year procurements by approving only two of our requests. Again the F-16, one of our first multi-year programs, provides a good example of how this decision will waste defense resources we so badly need. Between FY-82 and FY-85, we saved $257 million on F-16 procurement due to multi-year contracting. But we have been denied permission to continue the F-16 multi-year contract, so no additional savings will be forthcoming.

The resulting stretch out of needed weapon systems will not only delay deployment of systems needed by our troops, but will end up costing the taxpayer more for the same defense capability. Let me give you just a couple of examples: The Patriot missile will increase by $220 million, the F-14A by $217 million, the E-6A by $249 million, the F-15 by $348 million, and the F-16 by $409 million. So, as I have argued all along, these cuts will not even give us that tidy balance sheet that seems to be Congress's highest priority.

The contradictions I have just described are duplicated throughout the bill. It notes the need to reduce congressional micromanagement, but still the bill goes into great detail directing how we should test the Bradley fighting vehicle, how we should account for costs, how we should test equipment, how we should not test equipment that would give us capabilities the Soviets have already deployed, how we should procure equipment, which systems should be competed, and even into such inappropriate areas as what religious apparel can be worn with the military uniform, and from which distributors military installations can buy alcoholic beverages.

One wonders just what the House Armed Services Committee had as its goals in marking up the authorization bill. To paraphrase a charge frequently leveled by the committee chairman at me, this bill may have the benefit of having kept peace in the committee, but it will not keep peace in the world. It will increase the risks we face in an already dangerous world.

And even the price of peace in the committee may prove quite high. Consider, for example, some obviously pork barrel decisions: the funding of unrequested National Guard facilities in home districts; the committee decision to authorize some $151 million for the procurement of 12 new T-46 trainer aircraft and initiation of the full $3.1 billion program for 650 aircraft—which the Air Force did not request because it had determined that other priorities—such as sufficient numbers of tactical fighters—were far more vital.

Also we have told the Congress repeatedly that 100 B-1 bombers are sufficient for all our current requirements, that we do not need or want any more B-1's—and that our future priorities are better met by funding the advanced technology bomber—an aircraft that offers a better chance for survival of future aircrews, greater capabilities, and compounds the future Soviet air defense problem which can reduce their strength in other areas. But the House committee says no—we must spend $200 milion we do not want or need to spend to keep the B-1 production line open.

There is much more, but you do not have enough time to listen to the full list.

We must not risk putting this President, or a future President in the same position that President Reagan faced in 1980, when he was forced to ask, "Who does not feel rising alarm when the question in any discussion of foreign policy is no longer, 'should we do something?' But, 'do we have the capability to do anything?' "

And we need not face that risk. The House committee has not yet completed its markup of the authorization bill. They will return to that task very soon and they can correct the manifest and manifold errors they are facing before it is too late. They already have the tools available to them—they could restore much of our defense program simply by authorizing an additional $14 billion worth of the President's defense request and using the full $299 billion available to them under the concurrent budget resolution. That would be a small step in the right direction.

Of course they could go farther—they could decide that the defense strategy which has protected America and its allies for more than 40 years is indeed a good one—and they could simply pass the President's very prudent defense budget request.

Thank you.

TIMETABLE FOR HAITIAN ELECTIONS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. OWENS. Mr. Speaker, on June 25, I addressed my fellow Members of the House concerning the political situation in Haiti. Because of Haiti's poverty and high unemployment that country is in a politically precarious position. The Duvalier-appointed military junta headed by Lt. Gen. Henri Namphy has released the following schedule for the election of a new government and the ratification of a new constitution. This democratic process holds great promise for political reform and improvement. Members of Congress should watch these proceedings carefully. We have a chance to support and aid the people of Haiti in their choice of a new government which appeals to, and benefits, the majority of the people of Haiti.

The schedule follows:

June 1986: Decree creating the Council for the Organization of the Rural Areas; decree creating an independent body charged with receiving views and opinions of all citizens.

July 1986: Decree concerning organization of political parties and the press.

September 1986: Decree a Constituent Assembly for the writing of a new constitution.

October 1986: Members of the Constituent Assembly will be elected by the people in every geographical department; members of the Constituent Assembly will work on a new constitution.

January 1987: The new constitution will be voted upon and proclaimed.

February 1987: The new constitution will be voted upon by referendum.

March 1987: Decree concerning the elections.

May 1987: Campaign for the election of mayors as well as members of the Council for the Administration of Rural Areas.

July 1987: Elected mayors and members of the Council for the Administration of Rural Areas will be sworn in.

September 1987: Legislative and presidential elections will begin.

November 1987: The President and members of the Legislative Chamber will be sworn in.

January 1988: The power of the Legislative Chamber will be validated.

February 1988: The elected president will be sworn in.

CONCERN OVER CONRAIL'S FUTURE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ECKART of Ohio. Mr. Speaker, on Tuesday, July 15, the chairman of the House Energy and Commerce Committee, the Honorable JOHN DINGELL, inserted into the RECORD letters from several State departments of transportation [DOT] stating their support for the return of Conrail to the private sector via a public stock offering.

I commend Chairman DINGELL for inserting these important statements into the RECORD. I also applaud the positions which these State DOT's have taken on this important transportation issue. Like them, I am deeply concerned over Conrail's fate. It is imperative that any sale realize the best return for the American taxpayer, continue and enhance rail competition, and not result in additional unemployment.

I, along with my colleague from Virginia, Mr. BLILEY, have introduced legislation which would facilitate such a public offering. Unlike the administration plan to merge Conrail with the Norfolk Southern Corp., this legislation, known as the Morgan Stanley plan, would result in a viable, independent, and competitive Conrail.

It is important to hear and understand the views of those most affected by the sale such as these State DOT's; however, thousands of shippers across the Nation have a tremendous financial stake in the disposition of Conrail. Hundreds of shippers have been in contact with Members to express their concern over the anticompetitive effects which would result under the administration's plan. Such anticompetitive effects could greatly increase the transportation costs to thousands of shippers, many of whom are already embroiled in a highly competitive trade war with cheap, imported goods. Such increases in costs could force many American industries to close their doors, adding to already high unemployment, and dampening economic growth and expansion.

Because of the importance of the Conrail sale to our economy, I am including in the RECORD some letters from shippers in support of the Morgan Stanley public offering plan which I have sponsored.

THE CLOROX CO.,
Oakland, CA, February 28, 1986.

Hon. JOHN D. DINGELL,
U.S. House of Representatives, Committee on Energy and Commerce, Washington, DC.

DEAR MR. DINGELL: The Clorox Company, headquartered in Oakland, California, is a manufacturer and marketer of a wide variety of household cleaning products, food products, and architectural coatings. We employ over 5,000 people nationwide at 34 facilities in 19 states.

The purpose of this letter is to urge your opposition to S. 638, the sale of Conrail to the Norfolk Southern Corporation.

We urge you to oppose S. 638 because the sale of Conrail to a competing private rail carrier will ultimately have an anti-competitive effect on rail shipping in the Eastern United States. A number of Clorox plants are served by Conrail for our in-bound raw materials. Acquisition of these lines by Norfolk Southern—which operates parallel tracks over many of these same routes—will reduce competition in shipping rates throughout the Northeast. This in turn will increase raw material prices, which may ultimately be passed on to consumers in the form of higher product prices. In our opinion, the sale of Conrail to a competing carrier will at least partially nullify the productivity gains and cost reductions manufacturers have realized since enactment of the Rail Revitalization and Regulatory Reform Act of 1976.

Instead, we uge you to return Conrail to the private sector through a stock offering to the public, as proposed by the Morgan Stanley group. This will have the advantages of: (1) maintaining competition in Northeast rail rates; (2) raising an additional $1.6 billion; and (3) maintaining operations and employment in a well-run organization which made a $500 million profit in 1984. In our judgment the advantages of this option far outweigh those of selling Conrail to the Norfolk Southern Corporation.

We urge you to examine S. 638 very carefully. We think you will agree that practically, as well as a matter of policy, a public offering of Conrail stock to the public is vastly preferable to a sale to Norfolk Southern. For these reasons we strongly urge you to oppose S. 638, and to support the Morgan Stanley proposal.

Sincerely,

DAVID L. GOODMAN,
Vice President,
Public Affairs and Marketing Services.

LADISH CO., INC.,
Cudahy, WI, March 17, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Building, Washington, DC.

Attn. Transportation Advisor: Tom Ryan.

GENTLEMEN: Ladish Co., Inc., a large manufacturer of forgings, is a Wisconsin Industry located on and served by the Chicago & Northwestern Transportation Company. We do ship product and receive raw material

and plant supplies via rail. We are to some degree dependent upon service from Conrail and therefore are concerned about its impending sale.

In our opinion, the sale of Conrail to the Norfolk Southern would be anti-competitive, a reason for re-regulation by the ICC, would eventually increase our transportation costs, and would have an adverse affect on the Chicago & Northwestern Transportation Co. who serves us.

There is definite evidence that Conrail can stand on its own as an independent Company. Therefore, we support the Morgan Stanley Plan and recommend that their offer be accepted.

Industry needs your support to keep Conrail independent and return it to the public where it belongs.

Sincerely,

ARTHUR R. KROENCKE,
Director of Transportation.

AMERICAN CRYSTAL SUGAR CO.,
Moorhead, MN, March, 25, 1986.

Hon. JOHN D. DINGELL,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DINGELL: As you are a member of the House Subcommittee on Commerce, Transportation and Tourism, I am writing in behalf of American Crystal Sugar Company regarding the sale of Conrail.

While Crystal supports the government's action to return Conrail to the public sector, there is great concern over the Department of Transportation's recommendation to merge the railroad with Norfolk Southern. We feel that such a merger eliminates competition and ultimately will result in disproportionately high rates into markets currently served by Conrail. As a farmers' cooperative, these added costs of doing business would be passed on directly to our grower owners.

A more attractive alternative from a shipper's viewpoint is to maintain the integrity of Conrail through public sale as outlined by the Morgan Stanley proposal and contained in House Bill H.R. 2873. I am seeking your support for this alternative as you evaluate the Conrail issue.

Thank you for your consideration.

Sincerely,

CARL D. EVANS,
Traffic/Distribution Manager.

CITGO PETROLEUM CORP.,
Tulsa, OK, March 24, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: Citgo Petroleum Corporation is a refining and marketing company with headquarters in Tulsa, OK. Citgo owns and operates a refinery in Lake Charles, LA, a lube oil blending plant in Cicero, IL, and terminals and other facilities throughout the United States. Citgo moved over 500 railroad cars of petroleum and chemical products over Conrail in 1985. While Conrail realized approximately $1 million on our business, we marketed Southwest petroleum in the Northeast. Our ability to compete against the Northeast refineries occurred through the pricing freedoms of the Staggers Rail Act and Conrail's willingness to help their customers compete in distant markets.

Unfortunately, not all railroads work with their shippers to lower rates, to improve services, and to offer innovative marketing alternatives. Norfolk Southern refused to lower rates or to work with Citgo on marketing our products, until November 1985, when the Senate began final discussion on the future of Conrail.

Citgo supports the return of Conrail to the private sector. We believe the Morgan Stanley offer (H.R. 2873) is the best sale proposal. H.R. 2873 promotes competition not a railroad monopoly; protects Conrail's employees who pay taxes and provides job opportunities in their communities through their payrolls—not unemployment and reduced tax revenues from lost salaries; and provides the American Taxpayer the best return on their investment over the long term—not a reduced price as offered by Norfolk Southern.

For the future of the American public and of Conrail, I request your vote against the Norfolk Southern purchase of Conrail and a vote for H.R. 2873, Morgan Stanley purchase of Conrail. If you wish to discuss this issue, please call me at 918-495-4801.

Sincerely yours,

ROYCE G. CASKEY,
Transportation Manager.

BLUE DIAMOND COAL CO.,
Knoxville, TN, June 17, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Bldg., Washington, DC.

DEAR SIR: It is clear that your efforts and those of many organizations that joined in opposing the proposed merger with Norfolk Southern and Conrail and supporting the Morgan Stanley proposal has played a major roll in defeating the Norfolk Southern takeover bid.

We are grateful to you and praise you for your leadership on this issue. If the takover bid by Norfolk Southern were allowed, it would have a devastating effect upon many coal producers in the United States, especially captive shippers. We ask you to please continue your efforts to defeat this proposal and support the Morgan Stanley proposal.

Sincerely,

CARLOS H. COURTNEY,
Traffic Manager.

CANTERRA COAL INC.,
Pittsburgh, PA, March 17, 1986.

Congressman JOHN D. DINGELL,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: Canterra Coal Inc. is a relatively small coal producer in Pennsylvania which presently employs approximately 225 people in its three companies. Canterra's 1985 coal sales were slightly over half a million tons. These figures represent a significant decline from just a few years ago when the employment, sales and shipment figures were more than 400 jobs, 45 million dollars in sales and 1.5 million tons, respectively. We like many other Pennsylvania coal producers were severely impacted by the 1981-82 business recession and continue to be affected by the longer term move of industry away from our area. Businesses like ours which depend on increased energy consumption, economic growth and reliable rail service are now fighting for our very lives.

When the U.S. Senate approved legislation on February 4th authorizing the sale of Conrail to the Norfolk-Southern Corporation, we felt it was necessary to write you concerning our emphatic opposition to this combination. In our view this merger would create a threat to the economic security of the entire Northeast region; substantially reduce the competitive freight rail service which would ultimately result in higher costs for its users; reduce employment for thousands of people whose livelihood depend on Conrail; and reduce cash and tax revenues to the government.

We are not adverse to the sale of Conrail. We can appreciate the need of the Federal Government to liquidate its shares and return the money to the Treasury. To that end, we urge your careful consideration of the other offers presented including the Morgan Stanley proposal.

We, who will be most severely affected, urge you to actively oppose the sale to Norfolk-Southern.

Very truly yours,

VINCENT P. ZODIACO,
Vice President.

MINNESOTA CORN PROCESSORS,
Marshall, MN, June 26, 1986.

Hon. JOHN D. DINGELL,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: Minnesota Corn Processors appreciates your thorough examination on the sale of Conrail. We have reservations on the proposal by Transportation Secretary Dole to sell Conrail to the Norfolk Southern Corporation. That very large merger would provide the expanded Norfolk Southern with monopolistic powers that would prevent us from marketing our products of corn in the Eastern USA, to customers located along the lines of Conrail.

Currently, our mill in Marshall, Minneosta runs 53 days out of every year to take care of these customers, and Conrail is doing an excellent job of servicing these customers. We have competitive rates and are able to compete very well with our competition located many miles to the east of us, in the corn belt states of Illinois, Ohio, and Indiana.

I see that Conrail had another successful year, making $440 million in 1985, and while spending $572 million for improvements and maintenance. That accomplishment makes five years in a row of profits. I can tell by your initial statements that you will give the subject of Conrail a very skilled examination, and, no doubt, you are considering a public offering along the lines of the Morgan-Stanley proposal. We believe that such a public offering would be in the best interests of shippers and transportation interests in the Eastern U.S.

Thank you for your consideration.

Sincerely,

JOHN PURDY,
Traffic Manager.

TRIBUTE TO DON LEDBETTER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GILMAN. Mr. Speaker, when I first came to Congress nearly 14 years ago, one of the first people I had an opportunity to meet was Don Ledbetter. As a new member of the House Post Office and Civil Service Committee, I soon came to know Mr. Ledbetter who was then serving as the president of the National Association of Postal Supervisors. With all the talk those days about influence peddling and access to the powers that be, this gentlemanly man dropped no names, wielded

no club of influence, but was one of the most persuasive association representatives that I have ever known.

In postal circles, Don is known as "The Dean," the postal leader who has served the longest in a position with his organization. Recently he announced his decision to retire from both the Postal Service and the National Association of Postal Supervisors. In these turbulent times at postal headquarters, his wisdom and calm sense of purpose will be sorely missed.

If anyone ever fit the title "Southern Gentleman," it is Don Ledbetter. He was not given to table pounding or screaming, but to quiet reason. This isn't to say he wasn't a fighter. He so angered one former Postmaster General by his efforts on behalf of supervisors, that the PMG wanted him removed from office. Apparently his critical remarks hit a sensitive nerve with this PMG who was trying to take something away from the supervisory work force. Well, Don just wouldn't stand for that—he fought back, but not in a derogatory manner, but in his quiet, very persistent and effective way.

Supervisors in the Postal Service have won some important battles because Don was there to lead them. They are the only management organization in the country to have a law which grants them factfinding rights in pay disputes with the Postal Service. For a group that represents only 44,000 workers, that is quite an accomplishment and something that I personally believe would not have happened without Don Ledbetter at the helm.

Don Ledbetter first entered the old Post Office Deparment in 1940 as a clerk in Memphis, TN and was promoted to his first supervisory position in August 1948. After serving in such positions as foreman, superintendent of registry, superintendent of delivey and collections, Director of Personnel and Assistant Director of Operations, he moved up the ladder to his present position of Sectional Center Director of Customer Services at Memphis. As a national officer for the supervisors, he is on leave from that position. When I asked whether he would ever want to return again and work in the Postal Service, he laughed and said "wouldn't that shake things up." There is no one in my opinion who understands the Postal Service better than he does but more importantly, there is no one with a better grasp of what midmanagement in the Postal Service needs and deserves.

Obviously, Don's fellow supervisors agree that his qualities of leadership set him apart from the rest. He was reelected in Baltimore, MD for his eighth term as NAPS president and prior to that he served as the association's secretary for a total of 26 years of service to NAPS. During his career, he worked with 11 different Postmasters General from Arthur Summerfield to Albert Casey and I understand has rated each of them in his 2-year report to the association's 50th Biennial Convention in Nashville, TN. Don should, better than most, know who was and who was not effective in their jobs as the top person at the U.S. Postal Service. Each one of our Postmasters General could have learned a great deal about management from Don.

We will miss Don Ledbetter, but know that he has probably ably prepared someone to take over the helm. He has been a valued adviser on postal matters and a good friend. I invite my colleagues to join in commending Don for an outstanding career of service to our U.S. Postal Service.

CONFRONTING TERRORISM: THE NEXT STEP

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MICA. Mr. Speaker, the House of Representatives has taken the lead, on more than one occasion, in addressing the difficult challenges besetting the United States in combating terrorism. As we address these matters, we are fortunate to have Congressman DANTE B. FASCELL as chairman of the Committee on Foreign Affairs. His leadership has been indespensable in this fight.

As the Congress completes legislation to reorganize and enhance the U.S. Government's ability to anticipate and deter acts of terrorism aimed at American diplomats, businessmen, and travelers, and U.S. interests abroad, our attention will be drawn more and more to consider ways in which we can work with our allies to stem the growing tide of international terrorism that threatens us all.

In a recent article, which I commend to the attention of my colleagues, Chairman DANTE B. FASCELL has suggested the "next step" all like-minded nations must take.

[From American Politics, July 1986]

CONFRONTING TERRORISM: THE NEXT STEP

(By Rep. Dante B. Fascell)

Over the past three years, the Congress has enacted both passive and active measures to combat the growing threat of terrorism. Early on, as chairman of the House Committee on Foreign Affairs, in recognition of this growing threat, I established a bipartisan staff task force to review diplomatic security, including host government cooperation in protecting U.S. citizens and embassies, as well as to examine the foreign policy implications of international terrorism. A principal focus of our efforts has been the evaluation of foreign airport security and the threat American citizens may face when they travel abroad.

In response to the ever swelling tide of terrorism, the Committee on Foreign Affairs has been a leading force, both in the Congress and the United States government as a whole, for legislation to give our government the tools it needs to combat international terrorism.

We initiated many important measures to combat the growing threat of terrorism, ranging from strengthening embassy and foreign airport security to stringent maritime security requirements and a host of other initiatives aimed at responding to the threat of international terrorism.

The problems of international terrorism, however, are complex and will not be solved simply through unilateral actions. The United States cannot go it alone; the problems transcend national boundaries and so do its solutions. The measures we have already taken are a significant first step, but state-sponsored terrorism can only be isolated and ultimately thwarted through international cooperation.

What is needed is the establishment of an international coordinating committee on terrorism, a concept that was first proposed by the Congress almost a year ago. I took this campaign to the United Nations last December and met with "Summit Seven" Ambassadors to Washington on this critical matter in April.

Initially, this proposal was not well received, even by our own government. We were told the idea was too radical; that our allies would never agree to such an arrangement. We were told that such a committee could never serve a useful purpose. In effect, we were told that an international coordinating committee was a failure before it ever was given a chance to succeed.

However, events of the past year provide clear evidence of the growing internationalization of terrorism. Americans have become a prime target of terrorists around the world. Planes are hijacked on an increasingly regular basis and passengers executed; on the ground, restaurants, cars, and buildings of all kinds are bombed. Women and children are murdered, and innocent civilians remain hostage in Lebanon. Tragically, such acts of barbarism most likely will continue into the foreseeable future.

Americans are not the only victims; all of our European allies have been touched by the hands of terrorism. In the past, European terrorism has tended to be more indigenous in nature. West Germans have suffered at the hands of the Bader-Meinhoff gang; in Italy, the perpetrators have been such groups as the Red Brigade and the list goes on. Understandably, our allies have concentrated their enforcement efforts on these internal terrorist threats, while relying on dubious economic relationships and other unwritten "diplomatic" understandings with international terrorist organizations and their state-sponsors for protection against external terrorism.

However, the explosion of international terrorist acts within their borders, including indiscriminate bombings and attacks on innocent civilians and public places, has vividly demonstrated the futility of attempts at accommodation.

Diplomatic and economic sanctions, such as denial of landing rights to, and withdrawal of diplomatic privileges from outlaw governments such as Libya, are effective weapons against terrorism. But these can only work when they are applied systematically and universally.

This fact has finally persuaded governments, including our own, that a mechanism is needed to enhance cooperation and communication among our allies to avoid working at cross purposes, which all too frequently has been the result during crisis situations.

In order to engage in an effective fight againt international terrorism, the civilized nations of the world must unite. An international coordinating committee could serve as the mechanism for the collective actions we need to stem the growing tide of international terrorism.

In the absence of wholehearted support from our allies, the United States has been forced to act unilaterally against terrorism, as evidenced by the "hijacking" of the Achille Lauro hijackers, and the military strike against Libya.

These actions have triggered predictable cries of outrage from all quarters. They have also sparked a renewed interest on the part of civilized nations to make tangible, cooperative efforts to combat terrorism. Quite simply, our allies are realizing that

they have as much at stake as we do in putting an end to the slaughter of innocents at the hands of terrorists.

An international coordinating committee would not be another layer of bureaucracy, nor an excuse for inaction. Rather, it is intended to serve as a vehicle for systematic communication among like-minded governments on ways to deal with international terrorism. As confidence among its participants grows, such a committee could evolve into a mechanism capable of dealing with such concrete issues as extradition, information sharing, the closing of outlaw embassies and economic sanctions.

In the long run, there are no beneficiaries of blind, ruthless terrorism. There are only victims. The time for coordinated action is now.

LAW ENFORCEMENT RISK REDUCTION ACT OF 1986

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BIAGGI. Mr. Speaker, I am introducing a bill today to provide Federal funds for the purchase of handgun speedloading devices for our Nation's police officers, and improved law enforcement training in combat situations.

The need for this legislation was tragically illustrated by the recent shooting death of New York City Police Officer Scott Gadell. On Saturday, June 28, Officer Gadell was shot and killed while reloading his gun during a shootout with a suspected crack dealer. The assailant, who has still not been captured, was using a 9mm automatic, with up to a 14-shot capacity. Officer Gadell, a 22-year-old rookie on the force, was armed with a standard six-shot police revolver.

I attended Officer Gadell's funeral and like so many others, I mourn his loss. But, that is simply not enough. There is no excuse for a courageous young officer like Scott Gadell to lose his life simply because he was matched against a better armed criminal. If we're going to put our police officers on the front lines in the war against crime, let's at least give them a fighting chance. As it stands now, the common street thug usually has superior weaponry to the police officer's, and that is an intolerable situation which must be immediately addressed.

As a 23-year police veteran myself, I have had extensive discussions with law enforcement officials about this problem. The consensus opinion is that police are generally satisfied with their six-shot revolvers. They don't want the automatic because those weapons are far more prone to jamming. What they do want, though, is the speedloader, which allows a police officer to load all six of their bullets at one time. The speedloader, which has been available since 1975, is similar in shape and size to the police revolver's cylinder and can be easily worn on the police officer's firearm belt. Speedloaders cost about $20 apiece, with carrying case. Some police departments, like Nassau County (NY), have already issued speedloaders as part of standard equipment to their officers. Most, though, like New York City, have not.

The speedloader's effectiveness is widely acknowledged, but it seems that many police departments just don't have the money to provide them to their officers. That's precisely where the Federal Government can and must help. The speedloader is not only readily available and inexpensive, it can save police lives. There is absolutely no reason why every police officer in the Nation should not have one.

Although current figures are not readily available, a study has shown that between 1971–75 3,800 New York City police officers fired their guns, with 232 of those incidents involving reloading. The point is clear. Seldom does a police officer face a situation when he or she needs to reload in a hurry, but when that rare instance does occur it is usually a matter of life or death. The Scott Gadell incident is stark evidence of that fact. I would suggest that a $20-investment to help save a police officer's life is money well spent.

Many in the police community argue that not only must we better equip our officers for combat situations, but we must also provide them with better training. States and localities often lack sufficent funding to provide their law enforcement officers with the comprehensive combat training that is needed. The "Shoot, Don't Shoot" video training device has become a popular training tool, but this and other similar training methods cost money that some law enforcement agencies simply do not have. The Federal Government has a responsibility to help meet this critical need and that is precisely what my bill proposes.

Mr. Speaker, the Federal grant program that would be established under this legislation would be administered by the U.S. Department of Justice. For obvious reasons, the bill is entitled the "Law Enforcement Risk Reduction Act of 1986," but as is always the case, a better equipped and better trained police officer also goes a long way toward reducing the risk to public safety. For these reasons, I urge that this legislation receive the prompt and favorable consideration that it deserves.

Mr. Speaker, at this time, I wish to insert the full text of my bill, along with a New York Times article detailing the shooting death of New York City Police Officer Scott Gadell:

H.R. 5186

A bill to establish a grant program, under the Attorney General, for assistance to the States in providing handgun speedloading devices and combat training for law enforcement officers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Risk Reduction Act of 1986".

SEC. 2. ESTABLISHMENT OF GRANT PROGRAM.

There is established a grant program to assist the States in providing handgun speedloading devices and combat training for law enforcement officers. Amounts under the program shall be made available to the States in such manner as the Attorney General shall prescribe by regulation, and the devices and training shall be provided to State and local law enforcement authorities in the manner provided by State law.

SEC. 3. DEFINITION.

As used in this Act, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

[From The New York Times, June 30, 1986]

HUNT IS ON FOR KILLER OF OFFICER

(By Robert D. McFadden)

Investigators alerted hospitals, posted stakeouts, canvassed homes and questioned witnesses yesterday in an intensive hunt for a wounded, safari-jacketed man who killed a 22-year-old rookie police officer in an alleyway gun battle in a Queens beach community.

With only a description and a nickname to go on, detectives vowed all out efforts to track down the killer of Officer Scott Gadell, who was fatally wounded Saturday afternoon behind a rooming house at 30-15 Seagirt Boulevard, two blocks off the Atlantic Beachfront in Far Rockaway.

Officer Gadell, who lived with his parents and a younger brother and sister in Wantagh, L.I., and was to celebrate his first anniversary on the force July 8, was shot once in the head as he tried to reload his gun in a fire-fight that blazed with 15 shots at a range of eight feet.

Detectives said the shooting erupted after Officer Gadell and his partner, cruising in a radio car, were approached by two men who said a gunman had fired at them nearby. Searching, they found and chased the suspect. The officers split up, and the gunman opened fire from a doorway as Officer Gadell approached.

POLICE SEEK GUNMAN'S IDENTITY

The gunman, apparently shot in the arm by Officer Gadell in the exchange, fled two blocks on foot, leaping fences and crossing yards, and sped away in a four-door 1970's-model Cadillac Seville with a dark blue body, a black vinyl top and a large dent in the right front door.

Officer Gadell died at Peninsula General Hospital Saturday night, three and a half hours after the shooting. He was the second city officer shot dead in the line of duty this year; 11 have been wounded. Last year, eight were shot and none were killed.

As the manhunt unfolded yesterday, the police said the identity of the gunman was unknown beyond a street name supplied by a woman friend and her brother. The police withheld the nickname and the identities of the woman, her brother and another man who were witnesses in the case.

AN "INTENSIVE INVESTIGATION"

Investigators discounted reports that tentatively identified the assailant as a 28-year-old Rockaway burglar and drug-dealer with many aliases who was free on bail in a narcotics case. Detectives said narcotics had no apparent role in the shooting, contrary to some reports.

"It's an intensive investigation," said a police spokesman, officer Edward Kulesa. "We have a description of the guy and we're working to identify him." The killer was described as a black man about 29 years old, 5 feet 8 inches tall, 180 pounds and wearing a brown safari-jacket and brown pants.

According to the police account, the suspect on Saturday afternoon had visited a woman friend at 413 Beach 28th Street, at Deerfield Road in Far Rockaway. She told the police she knew the man only by a nickname.

During the visit, the woman's brother telephoned and, upset over his sister's rela-

tionship with the man, went to her rooms with a friend to confront the man with his objections.

A dispute ensued, and as the brother and his friend left they were followed out by the suspect, who drew a 9 millimeter semi-automatic pistol and fired two shots at them in front of the building. Both shots missed.

As the gunman strode away, the brother and his friend got into a rented gray car and, six blocks away at Beach 22d and Deerfield, found the police car bearing Officers Gadell and James Connolly, 25, who became a police officer in April last year.

Told of the shooting incident, the officers, with the two men in the back seat, began cruising in search of the suspect. They saw him once, chased him for two blocks on foot, lost him and returned to their car to continue the search through the somewhat rundown neighborhood, where sea breezes wander among old bungalows and high-rise apartment blocks.

Just before 2:45 P.M., they saw the gunman once more running outside a three-story, mustard-colored stucco rooming house at 30-15 Seagirt Boulevard, on the corner of Beach 31st Street. The officers jumped out, drew their guns and split up, Officer Connolly going around one side of the building and Officer Gadell the other.

As Officer Gadell reached the alley, the gunman, crouching in a recessed basement entry, opened fire, Officer Gadell, leaping for the cover of a stoop, returned it. The gunman fired a total of nine shots in his barrage, as indicated by shells found at the scene.

Officer Gadell fired all six bullets in his .36-caliber revolver and was reloading—and momentarily vulnerable—when the gunman shot him. The officer, who was wearing a bulletproof vest, was shot on the left side of the forehead, just above the ear, investigators said.

Officer Connolly, who had been fired upon once by the gunman, ran around the building and found his partner wounded. He then radioed for assistance, the police said. Investigators, noting that no police procedures had been violated, said it was usually up to an officer in the heat of a chase or a gunfight to decide what point to summon backup help.

As the gunman retreated through the backyards—leaving a trail of blood on fences and sidewalks—and sped away in his car, Officer Connolly put Officer Gadell into their car and rushed to Peninsula General, a mile away.

Members of the victim's family—his parents, Richard and Carol Gadell; brother, Jeffrey, and sister, Fonda—were brought to the hospital from Long Island by the authorities. Officer Gadell died on an operating table at 6:17 P.M.

One other officer, Detective Anthony Venditti, was slain this year. He and another detective were shot outside a Queens diner on Jan. 21 as they trailed men believed to be involved in organized crime.

MEDICAID: ONE CUT TOO MANY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mrs. BENTLEY. Mr. Speaker, on Sunday the Baltimore Sun carried a story that the Department of Health and Human Services is preparing proposals that would delay or deny Medicaid benefits for many people with high medical costs, including disabled children and elderly people needing long-term care.

If that is true, then without even seeing the proposals or the legislation, I am voting no.

I realize we have a crisis in our budget deficit. I am all too aware of Gramm-Rudman-Hollings demands—my own offices are woefully understaffed to serve the needs of an urban constituency—but, there has got to be another way to save money other than taking away medical care from the chronically ill.

The possibility of a National Medical Insurance Program has been being discussed for as long as I can remember. The current crisis in liability insurance coverage in the medical field, plus ill considered proposals such as this one by HHS brings the day of Government medical insurance that much closer.

I don't believe the American people will or should support taking Medicaid coverage away from the mentally or chronically ill. If as a nation we cannot take care of these people, then our priorities are woefully out of whack.

HONORING THE ACCOMPLISHMENTS OF PHYSIOLOGISTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. WALGREN. Mr. Speaker, I introduce today a joint resolution to designate the week beginning March 29, 1987 as "American Physiologists Week," to mark the 100th anniversary of the founding of the American Physiological Society. This society and the work of physiologists have contributed immensely to the cure, treatment, and understanding of many diseases.

Just two of the areas in which physiology plays a crucial role are the fields of biomedical and behavioral research. Along with many other fields of study, the advances that have come in these two areas of medical care have resulted directly from the study of physiology and continue to be fields of incredible potential for dramatic breakthroughs that would improve the health of human kind.

Past research by physiologists has led to new procedures in blood transfusions; modern anesthesia; treatments for rabies and smallpox; vaccines for tetanus, polio, and measles; and the discovery of antibiotics and penicillin. More recently, the understanding of physiology has made essential contributions to the development of organ transplants, procedures for the artificial heart implantation, and the discovery of DNA.

During the week of March 29, 1987 the American Physiological Society will sponsor a scientific and educational convocation in Washington, DC that will be attended by internationally renowned physiologists, including Nobel laureates. I hope that my colleagues will join with me in sponsoring this resolution to give proper recognition and encouragement to those involved in such an important area of knowledge and research as physiology.

AMERICAN INDUSTRIAL COMPETITION IN THE INTERNATIONAL MARKETPLACE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Ms. MIKULSKI. Mr. Speaker, I rise today to submit for the record, and to recommend for my colleagues reading, an article by Peter A. Bowe of my district. Mr. Bowe is the vice president and general manager of the Ellicott Machine Corp. of Baltimore, MD.

Mr. Bowe's article, printed in the Baltimore Sun, points out that we must not debate whether a bill is "protectionist" or "free trade." What we must instead debate is whether the U.S. Government is providing U.S. manufacturers with a level playing field on which to compete against foreign competitors.

Other industrialized nations provide their manufacturers with all sorts of assistance: subsidies, direct grants to purchasers, rebates, and long-term financing. These subsidies often amount to 20 percent of the true cost of the equipment. Without our help, American manufacturers will not win contracts against subsidized foreign manufacturers.

We must decide whether we are serious about promoting American workmanship and American products abroad. And if we are, we can not worry about "protectionism" or "free trade." We must, instead, worry about fair trade and fair play in the international marketplace.

I am pleased to have the opportunity to submit Mr. Bowe's article for the RECORD.

FREE TRADE AND THE REAL WORLD

(By Peter A. Bowe)

Amid continuing debate over America's disturbingly large trade deficit and the reasons for it, most of the proponents of either free trade or protectionism have not shown a keen appreciation for the problems facing a typical American manufacturer exporting to a worldwide market. Public concern has focused instead on bilateral trade between the United States and specific countries such as Japan. While the U.S. and Japanese markets are indeed large, we can gain insight into the American trade deficit by focusing on the larger multilateral trade market—where U.S. companies compete with manufacturers from other developed countries for exports to developing countries. Such a focus highlights the non-existence of multilateral free trade and the complications of trying to attack the trade deficit with bilateral solutions such as import quotas or countervailing duties.

The experience of the company I work for, Ellicott Machine Corp., is illustrative. During the last 15 years, Ellicott has exported about $150 million worth of dredging equipment for harbor and mining projects. Most of these exports have been to developing countires where our competitors were exporters from the Netherlands, German, France and Australia. Competition has been on the basis of price, quality and, frequently, financial terms.

When Ellicott tries to compete with foreign manufacturers for exports to Third World markets, we have nothing to bring to the financing table other than the policies

of the U.S. Export-Import Bank, which adheres strictly to the guidelines of the Organization for Economic Cooperation and Development guidelines. Our competitors have many more financial weapons to rely on.

A quick review of these financial supports is revealing. Our Australian and Dutch competitors get 30 percent to 70 percent of their overseas marketing costs subsidized through direct government reimbursement covering travel, trade shows, promotional materials and the cost of maintaining permanent overseas sales representatives. Even for a company as small as Ellicott (which gets no such reimbursement), such costs routinely amount to hundreds of thousands of dollars a year, so this subsidy is significant.

Other countries offer direct grants to our customers for training in return for purchasing equipment. A recent $1.5 million training grant to China from the Netherlands was a key factor in the Chinese decision to buy $10 million of Dutch dredges which Ellicott could have built.

The Netherlands and Australia have traditionally supported dredge manufacturers by offering direct bounties, essentially a rebate equal to a fixed percentage of the vessel's cost. In the case of Australia, this cash rebate is 20 percent of construction costs including material, manufacturing overhead, depreciation and, of course, labor. This program undoubtedly is an expensive way to support manufacturing labor, but it works. An Australian dredge builder recently used this 20 percent bounty to overcome a 10 percent price advantage Ellicott otherwise would have had, and won a $2 million job for Africa. The cost to the U.S. was 10 man-years of manufacturing labor.

Most important by far as a competitive financial weapon is long-term financing with below-market interest rates. Ellicott encounters this all too frequently and is unable to respond. Typical terms are a 30-year loan with an interest rate fixed at 2.5 percent and an eight-year grace on principal repayments. This past year, a $1 million-plus dredge contract for Costa Rica went to a Dutch manufacturer even though a U.S. supplier offered the same equipment for 20 percent less. So much for the well-publicized Caribbean Basin initiative, which is oriented toward U.S. foreign investment and not U.S. exports.

Unfortunately, the Costa Rican incident was not an isolated one. In the last year alone, similar subsidized financing for dredges has been offered by the Dutch for Fiji, Honduras, Ecuador, Indonesia and India; by Germany for Thailand; by Japan for China and Thailand; by France for Mexico, the Central African Republic and South Africa. In each case the procedure was the same: Either a dredge sale by an Ellicott competitor followed from a government-government protocol for aid to a developing country specifically to buy a dredge (thereby precluding all foreign competition), or a non-American dredge builder offered subsidized financing in response to competition on price or quality from other countries' manufacturers.

In contrast, the United States never initiate competition on financial terms, and rarely responds to such offers from other countries. Why not? With the $10 billion U.S. budget for the Export-Import Bank and $12 billion for the Agency for International Development, you'd think it would. However, congressionally mandated regulations on AID financing eligibility exclude the funding of capital goods exports or foreign infrastructure projects which might require, for example, dredges. And Exim's policy is not to respond to foreign offers of subsidized financing unless they are in the form of a "mixed credit"—a combination of aid-agency money and foreign exim bank money at OECD consensus rates. Any financing of which more than 25 percent comes from a foreign government's aid agency—as in all the above examples—is outside Exim's purview.

The result is that the competitive problems of a company like Ellicott fall through the cracks. The current budget bill, which appears headed for passage, eliminates a $300 million Exim appropriation to cover even "mixed credit" responses, so our competitive financing options will likely be further reduced.

I am for free trade and a balanced budget, but our legislators must realize the trade deficit cannot be solved with *ad hoc* bilateral solutions that focus on specific foreign imports or exports to countries with trade-balance surpluses with the U.S. We must either stop or be able to respond to foreign governments' financial interference in multilateral markets. Any retaliatory trade action by Congress should address this problem, which now closes off the much larger worldwide market for American manufacturing exports, even those with price and quality advantages.

U.S. ARMED FORCES JOIN IN FIGHT AGAINST DRUGS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MANTON. Mr. Speaker, I rise to commend the President's decision to send U.S. Armed Forces to Bolivia to assist with a major assault on the illegal drug trade flourishing within the borders of that South American country. This use of U.S. military personnel and equipment is a bold move to confront and defeat drug traffickers on their home ground, and the President's initiative is to be applauded.

While I wish the President had consulted with the Congress prior to taking this action, quite frankly, I hope this foreshadows a growing role by our Nation's military forces to aid our allies in eradicating the continuing threat posed worldwide by a burgeoning drug trade. This strong response has been sorely needed and is long overdue.

Mr. Speaker, this action marks the first time U.S. military resources have been assigned to an operation of this scope. According to newspaper accounts, about 140 American military personnel have arrived in Bolivia in connection with the operation, providing advisory and technical support to the all-Bolivian antinarcotics police unit.

The use of our full military and intelligence resources is clearly warranted by the national security threat posed by the unabated international drug trade. Our quick response to Bolivia's urgent plea for assistance to aid in reaching isolated areas where traffickers process drugs should send a clear signal to our allies and the world that the United States has entered a new stage in the war on drugs. This precedent-setting action promises that we will now use all our available resources to their fullest to combat drug trafficking, including both our military and intelligence services.

While U.S. Air Force helicopters were used last February to ferry Colombian police in a series of raids on cocaine and heroin factories, the Bolivian operation marks the first such effort under the President's confidential April directive on antidrug efforts.

I would also like to commend the decision by Bolivian President Victor Pay Estensoro to ask for our help in eliminating narcotics trafficking in his country. He has set aside personal considerations in his determination to put an end to the drug trade in his homeland. His bold action may leave him vulnerable to both political and possible criminal reprisals.

Bolivia is a poor nation, yet it is estimated to supply between one-fourth to one-half of the world's cocaine supply. Bolivia is a nation where the drug trade brings in more than the total national budget. We need to help them provide the means by which they can take charge of their destiny and eliminate their country's drug trade.

While we have apparently lost some of the element of surprise that would have guaranteed that major traffickers and their operations would have been targeted, this operation is scheduled to continue for 2 months, which should result in substantial gains against Bolivia's drug trade.

Mr. Speaker, we cannot do enough to ensure a drug-free society in our country. Since arriving in Congress, I have made the fight against the drug plague one of my top priorities, joining numerous legislative initiatives to strengthen our laws to provide for streamlined enforcement efforts and to increase penalties against the drug pusher. This latest development in our fight against drug trafficking is indeed welcomed by all concerned citizens.

CAFE STANDARDS NEED RECONSIDERATION

HON. FRED J. ECKERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ECKERT of New York. Mr. Speaker, back in November I joined with a number of members on the Energy and Commerce Committee in urging Secretary Dole to ease the automobile mileage regulations known as the "corporate average fuel economy." We urged her to make the change and ease the standards so that they reflect the changed market conditions and to avoid the disruptions that would occur.

The disruptions in my district could cause thousands of hardworking taxpayers who are employed at Gleason Works, Rochester Products, Alton Tool Works, and other businesses in the Rochester area to lose their jobs. This could also have an adverse impact on the benefits of retirees from these businesses. While energy conservation is important, the change in standards is minimal when you consider what the effect could be on the jobs and retiree benefits of these people. They should not be forgotten in this process.

I stand up today on this issue because the Department of Transportation still has not acted on this issue. I am also inserting an article on this issue from the July 5, 1986, issue of Human Events. I urge my colleagues to read the article and join me in urging the Department of Transportation to ease these regulations.

FUEL ECONOMY STANDARDS NEED RECONSIDERATION

(By Richard B. McKenzie)

Tumbling gasoline prices have become a mixed blessing for the U.S. economy. They have increased the real incomes of Americans, moderated the forces of inflation, and enabled energy-dependent U.S. industries to better serve their customers' needs for cheaper and higher-quality products.

However, they have also created problems for U.S. automobile manufacturers, which are now torn between satisfying the demands of their customers for larger cars and meeting the demands of the "corporate average fuel economy" (CAFE) standards for the cars they sell. To minimize job displacement in the U.S. auto industry and enhance the short- and long-run competitiveness of U.S. auto firms—and even to conserve scarce energy resources—the CAFE standards should be moderated, if not outright repealed.

The CAFE standards, passed in 1975 when energy conservation was a popular battle cry, require U.S. auto firms to have an average fuel efficiency of 27.5 miles per gallon for the cars they sell—regardless of the fuel efficiency of their various model sizes and whether consumer preferences in automobile size enable producers to meet the standard.

Recent decreases in gasoline prices pose a problem for U.S. car companies because lower gasoline prices encourage consumers to buy larger cars. But sales of larger cars inevitably increase the average fuel consumption of the cars sold by U.S. auto manufacturers. CAFE thus constrains U.S. auto firms from producing what consumers want. More importantly, it forces domestic auto firms to deliberately curtail production—and employment—in an industry that has been hard hit by job losses.

A common presumption of CAFE's supporters is that U.S. auto manufacturers can make up for lost large-car sales with increased small-car sales. However, they fail to understand that the rising demand for larger U.S. cars can be tempered only by large-car price increases and quality and performance decreases, with two unfortunate consequences for U.S. manufacturers:

First, price increases on larger cars will shift some of the demand for those cars to smaller cars made in Japan, Korea, and Europe, leading to an overall reduction in car sales by U.S. manufacturers and in the number of jobs in the U.S. automobile industry.

Second, foreign car producers, many of which are not constrained by CAFE, can be expected to up-scale their cars to fill the demand for larger cars left unsatisfied by U.S. firms. Honda decided several years ago to introduce the Accura Legend, which may be almost twice the size of its Civic, when it recognized the growing U.S. demand for larger luxury cars and the fuel-economy restraints on domestic producers to meet that demand.

In short, U.S. automakers must now face growing long-run competition in the large-car market, where they once had a clear-cut comparative-cost and marketing advantage. Furthermore, while CAFE may improve the average fuel economy of U.S. cars sold, it will tend to raise the average fuel consumption of foreign cars.

CAFE supporters must realize that a fuel-economy standard is not likely to save much energy and that it may, in fact, encourage greater consumption of energy and other scarce resources.

Smaller cars with lower mileage costs will result in more miles driven, and an unsatisfied demand for larger cars will result in more purchases of other goods and services—from bigger houses and boats to more and longer vacations—that are also heavy users of energy and of many resources that are just as scarce, if not more so, than oil.

In addition, any reduction in consumer demand for gasoline will likely lead to lower energy prices throughout the domestic and world economies, which in turn will lead to more energy consumption through greater travel and through increased production of goods that can then be produced more cheaply than before.

CAFE is an unreasonable and counterproductive constraint on U.S. automakers and auto workers. It is restricting the rebound of the domestic auto industry and contributing to the continued displacement of American workers. It needs desperately to be reconsidered in light of today's market realities.

GRAMM-RUDMAN MISTAKE BEING COMPOUNDED

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. OWENS. Mr. Speaker, today we are being asked to reaffirm the mistake of Gramm-Rudman. The Supreme Court's order was stayed for 60 days in order to allow Congress the opportunity to decide whether or not they would affirm the March program cuts. Presumptively, the 60-day stay was to allow some consideration of whether or not Congress saw the cuts as reasonable public policy. If Congress did not act in the 60 days, the moneys would once again become available to the agencies and programs and they could belatedly draw down and use those funds.

The impact of the March cuts was dramatic. They fell on both the good and the bad programs. There was no policy consideration of when the impact would be on specific programs. There was no sorting out of priorities as we are elected to do. The ax simply fell.

Now we have the opportunity to reconsider those cuts. We have the opportunity to consider program impact. We have the opportunity to set priorities and yet we are being asked to simply pass up that opportunity and persist in failing in our responsibility to contribute to the underlying public policy debate.

I urge my colleagues to defeat this measure. I urge my colleagues to stop and consider, program by program, just what it is that we are doing here. There is no need to rush to a decision today. We do not have an infinite amount of time to consider the issues, but we do have more than the time allotted today. Let us pause, defeat this measure and give the issue the time and attention that it deserves.

SOCIAL ACTION COMMITTEE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ECKART of Ohio. Mr. Speaker, I want to take this opportunity to congratulate the Senior Adult Social Action Committee of the Cleveland Jewish Community Center for receiving the Workmen's Circle annual award for "Excellence in Principles and Practices." This award is given each year in recognition of those organizations and agencies in our local communities which "display high ideals in the performance of their fuctions."

The Social Action Committee was established in 1969 to serve as a vehicle for senior citizens to express their views and concerns over the many issues which affect them. Membership of the committee is open to senior citizens interested in community, State, and national issues. The committee encourages involvement through education, research, and communication with local and Federal elected officials. The committee has also sponsored numerous candidates forums, Social Security panels, and congressional updates.

I also applaud the leadership demonstrated by the Social Action Committee and its members in championing the needs of the hungry, the handicapped, and the exploited.

The 1986–87 Officers of the Social Action Committee also should be commended. They are: Rose Schneider, chairperson; Joel Marks, vcice chair; Ben Selcer, vice chair; Sandy Sands, secretary; and Marilyn Weiner, staff adviser.

It is groups such as this that allow government to be truly effective and responsive. Again, I commend the Social Action Committee and congratulate it on its recent receipt of this most deserving award.

GILMAN LAUDS COUNTEROFFENSIVE AGAINST NARCOTICS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GILMAN. Mr. Speaker, the recent news that President Reagan has ordered our U.S. military to assist the Bolivian Government in eradication missions there is lauded as a tactic that I believe will prove highly effective against the narco-terrorists that continue to plague our Nation. Bolivia being the source of much of the world's cocaine, Bolivian President Victor Paz Estenssoro deserves credit for acknowledging that a major offensive is needed if the many coca processing laboratories hidden throughout his nation are to be dismantled.

Earlier this week, the Select Committee on Narcotics Abuse and Control, on which I serve as ranking minority member, held a joint hearing with the Select Committee on Children, Youth, and Families on the new narcotics crisis facing us today: that of crack, a purified

and concentrated form of cocaine that causes addiction in far less time than other illicit substances. We heard testimony from a variety of witnesses, who concluded that crack is flowing across our Nation like a giant tidal wave. Where 1 year ago crack was virtually unknown, today it is found in every large and most midsized cities across America. Tomorrow the select committee will hold yet another hearing on this major threat in New York City, where i am certain we will learn of additional miseries suffered because of cocaine and crack.

Yet this recent development, of American military assistance to the Bolivian Army and the Bolivian national police in the form of Black Hawk helicopters, C5A aircraft and over 150 American military officers and enlisted men, is sorely needed in this national security effort. If anyone doubts that the drugs entering this country are not indeed a national security threat, they have not had their eyes opened to the reality of this crisis. This life-saving effort must be supported if we are to ensure a drug free tomorrow. To win this war, we must wage battles through the world against the narcotics producers and traffickers who seek to destroy us and our children. And we must take our war to the drug producing regions of the world.

We welcome the reports that our war against narcotics producers and traffickers has begun in earnest on the Bolivian front. It is hoped that we will soon extend this effort to other drug-producing battlefields.

JOHN F. KENNEDY HIGH SCHOOL—A SCHOOL FIGHTING FOR EXCELLENCE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BIAGGI. Mr. Speaker, it is my great privilege and pleasure to pay tribute to a high school in my district actively fighting one of our Nation's most alarming educational crisis—the rampant high school dropout rate. John F. Kennedy High School, located in the Bronx, has launched a serious campaign to keep their students in school.

The project, entitled "Kennedy Cares" focuses efforts on assisting potential dropout students. It is designed to assist those unmotivated, unfulfilled, and unenthusiastic students who are clearly at risk of dropping out of school before they receive their high school diploma. It is a critical opportunity for these students to seize control of their destiny and create their own future.

The dropout rate affects children, their family, and society as a whole. Once students drop out, they are unable to find jobs, must usually accept a lower income, and dig themselves deeper into the realm of poverty. It is interesting to note that for every $1 spent on a dropout program, we spend roughly $12 on social service programs for these students once they drop out. Programs such as "Kennedy Cares" addresses this national tragedy and works to provide opportunities and education for all. Clearly "Kennedy Cares" represents a firm investment in the future of this Nation.

"Kennedy Cares" was recently selected to receive funding under the Department of Education's Excellence in Education Program. Kennedy, which received a $20,000 grant for their project, was 1 out of only 121 individual public schools from across the entire country selected to receive funding under this excellence program. John F. Kennedy High School has made a serious commitment to address the dropout crisis, now reaching epidemic proportions in New York City, and the Nation as a whole. "Kennedy Cares" challenges every student to learn and to excel in school. It marks an important step in the effort to combat the dropout rate in New York City and serves as an example to schools throughout the Nation.

TAX REFORM THE NEXT STEP

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mrs. BENTLEY. Mr. Speaker, today our colleagues begin the process of reconciling differences in the tax reform bill as they were passed in each body. It seems a good time to remember that this reform movement was begun for the specific purpose of giving relief to the family and the middle- and lower-income taxpayers of the Nation.

In some areas, publicity and hoopla seem to have obscured that purpose. The individual retirement accounts, IRA, is severely restricted, apparently for no other reason than that it worked. People began to save rather than spend. Capital formation was made a little easier. Let us hope that the conferees will focus on the burdens of the family and the smaller taxpayer and restore the full scope of IRA's.

Even in treatment of our Federal employees, we appear to have forgotten that they are, in the main, middle- and lower-income working people. Our tax reform proposals look to tax for a second time the contributions of these workers to their own retirement. Aside from the injustice of such a tax, the reform in taxation to these people is another burden added to their loss of raises and other benefits over the past several years.

I support better depreciation schedules and capital gains treatment for business, but we should first make sure that tax reform doesn't become a new name for new taxes on the little guy.

H.R. 1875, MILITARY CHAPLAINS REFORM ACT OF 1984

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. WALGREN. Mr. Speaker, today I would like to voice my support for the Military Chaplains Reform Act of 1984, H.R. 1875.

That would provide for representation of chaplains in the military in proportion to the religious makeup of the armed services. It is clearly fitting that we provide religious support and counsel for those in the military by a clergyman of their own faith.

This bill is nonpartisan and seeks to give life to our deepest tradition. I urge my colleagues to join me in support of this bill and to work with me for its passage.

UNDERCOVER WORK ON THE PORN PATROL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. GARCIA. Mr. Speaker, as we all know the Attorney General's Commission on Pornography has recently published its voluminous report on pornography. Some of the language quoted in the report must have made the writers wince but they steeled themselves to the job, despite the sordidness they had to wade through, and came up with not one book, but two. They are to be congratulated.

One of the interesting suggestions in the report was that citizens keep a watch for pornographic material sold in local stores, and hinted at strikes and boycotts to rid the neighborhood of questionable material. As one modern sage has put it, "If the Constitution were before the citizenry today it would never pass." How unfortunate if this were true. However, I believe that most of us will take this report and its suggestions with a grain or two of salt. We have a constitutional right to say what we feel, and to read what we wish without a self-appointed board of censors making the decision for us.

Art Buchwald's article in today's Washington Post puts a humorous light on what could otherwise be a grim situation. I recommend it to my colleagues and know you will appreciate its message.

[From the Washington Post, July 17, 1986]

UNDERCOVER WORK ON THE PORN PATROL

The best thing about the report of Attorney General Meese's Commission on Pornography is its call for "Citizens' Watch" groups to monitor what types of publications are sold in the stores. If, in the view of the group, the material is pornographic, the citizens' groups will organize a boycott, and God knows what else, to rid the store of the rot.

I don't know how the people for this type of work are going to be selected, but I would like to volunteer my services. One of my greatest fantasies has been to censor magazines and send those who sell them to jail.

What, you may ask, are my qualifications for being part of a Citizens' Watch group? For one thing, I've read many of the magazines the Pornography Commission finds objectionable. Secondly, I know exactly where in the store such reading materials are kept. I have done a lot of dry runs since the report was published. I know how to distinguish between literature with no redeeming value as opposed to magazines that are just trying to give me a cheap thrill.

If you elect me I promise to go through every store in your neighborhood, and dump out anything that I feel might offend the community. You can trust me that no page

will be left unturned without my stamp of approval. I'm not only talking about nudity, depravity and sexually obnoxious material, but also other stuff that might not look offensive on the cover, but when you read between the lines could lead to crime too horrendous to mention.

Many of you may be asking, "How will the Citizens' Watch committee perform?" The guidelines haven't been laid down yet, but I would like them to work something like this: Every member of the committee will be issued a CW armband, which will give him or her permission to go into any store suspected of selling pornographic material. If such material is found, the CW committeeperson will throw it on the floor, pour cigarette lighter fluid on it and start a fire in the aisle. If there happens to be a lot of pornographic material, other members of the CW committee will stand outside and break all the windows in the store.

If the owner protests this type of treatment, the CW committee will organize a boycott. During the boycott, the CW will take down the names of customers entering the store. These will be sent to Ed Meese, who will put them into the attorney general's computer so that Washington will have some idea about who is propornography. Each Citizen's Watch committee will be able to plug in to the computer in case they have suspicious about a stranger hanging around a magazine stand.

I don't want anybody to get the idea that this is some sort of vigilante committee the attorney general's commission is recommending. We cannot prevent you from buying anything you want. But as Americans it is our right to make you damn sorry you did. The Citizen's Watch committee are your guarantee that you won't be poisoned by filthy pictures again.

The question will come up as to what qualifies the CW committees to decide the reading tastes of others. Their main strength is that they care about what is on sale and they're willing to do something about it. Once appointed as a CW deputy, the committeeperson will study at night to become an expert in pornography. The CW's primary role is to do the right job the Justice Department, because of the Constitution, can't do on its own.

So I need your vote. Without wanting to brag, I think I'm the best man for the job. I've hung around newsstands all my life. I can spot a Playboy or Penthouse reader a mile away, and I know how to read any magazine sealed with cellophane.

As soon as they start electing Citizen's Watch committees in your community, please think of me—the antipornographer everyone can trust.

THE RENAMING OF THE CORPUS CHRISTI POST OFFICE FOR DR. HECTOR GARCIA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ORTIZ. Mr. Speaker, today I am introducing legislation that would rename the U.S. Post Office Building located at 809 Nueces Bay Boulevard in Corpus Christi, the "Dr. Hector Perez Garcia Post Office Building."

This tribute is indeed befitting to a man who has dedicated his life to improving the quality of life of the Hispanics and his fellow man. Dr. Garcia's accomplishments and contributions are numerous as are the awards he has received in his recognition. He is probably best known as being the founder of the "American G.I. Forum," a veterans group composed of Americans of Mexican origin. He served in the Engineer and Medical Corps in World War II and was awarded the Bronze Star Medal along with six battle stars.

Dr. Garcia has served as an advisor and representative to Presidents Kennedy, Johnson, and Carter in many capacities ranging from various commission positions to special ambassador. Most recently, Dr. Garcia was awarded the Medal of Freedom from President Reagan. Dr. Garcia is a well-loved and admired leader in Corpus Christi community, south Texas, and the Nation. He is truly a role model and inspiration to the current as well as future generations of the Hispanic community. He is deserving of recognition, especially that which the renaming of the Corpus Christi main post office would provide.

I pay tribute to this man for his accomplishments, but more importantly, I salute him for his sensibilities, motivation, and dedication to improving the lives of his fellow citizens. Few can match his career which will reach into eternity through the lives of those he has touched.

MR. HAWKINS SUPPORTS BILL TO CREATE OFFICE OF CIVIL RIGHTS ASSESSMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. HAWKINS. Mr. Speaker, I rise today to express my support for the Office of Civil Rights Assessment Act of 1986 (H.R. 5179). This legislation will establish in the legislative branch an independent, bipartisan Office of Civil Rights Assessment to assist Congress in the analysis of the status of, and proposals relating to, voting rights and other civil rights in the United States.

The current U.S. Commission on Civil Rights, since its reconstitution in 1983, has been constantly embroiled in ideological debates and has wrongfully neglected its intended mandate of performing independent nonpartisan factfinding and research of civil rights issues. Moreover, the General Accounting Office has recently reported that this Commission has been grossly mismanaged, has failed to comply with the appropriations earmarks which were imposed upon it in fiscal year 1985, and has produced only three hearings and one report since 1983.

In light of these developments, which have cast doubt on the ability of the Commission to ever be viewed as an independent and productive executive branch agency, and in view of the importance of the mission which the Commission on Civil Rights was established to pursue, we find it of the utmost importance to form, for once and for all, an agency which will be independent, responsible, and able to perform the monitoring and research of civil rights issues. The Office of Civil Rights Assessment, which we will establish with this legislation, will be such an agency.

The OCRA, which is structured on the model of the Office of Technology Assessment and the Congressional Budget Office, will be governed by a bipartisan board composed of Members of both Houses of Congress. The board's membership will be evenly divided between both parties and both Houses. Thus, we will eliminate concerns regarding the political control and government of this civil rights agency.

The OCRA's mandate will be the same as the current Civil Rights Commission: It will investigate allegations of discrimination based on age, color, race, sex, religion, handicap, or national origin; it will study and collect information regarding discrimination; it will appraise Federal sector antidiscrimination policies and laws; and it will serve as a national clearinghouse for information regarding discrimination.

The OCRA will also be less expensive than the current Commission on Civil Rights because it will not have the structure of the State advisory committees which the Commission has and which cost approximately $5 million in fiscal year 1985.

I encourage other Members of the House to join with us to take this responsible step in preserving the vital functions of the Civil Rights Commission, while removing these functions from the political and ideological battlegrounds in which they currently lie.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. LaFALCE. Mr. Speaker, I would like to join with my colleagues in honoring a distinguished former Member from my State of New York, Jonathan B. Bingham, who died on July 3, just one day before the celebration of our Nation's independence.

Jack Bingham was a distinguished public servant and a tremendous human being. For nine terms in Congress he stood a role model to those with whom he served. His devotion to issues such as congressional reform and foreign aid also led to tremendous substantive accomplishments. For example, Congressman Bingham played key roles in the passage of some of the most important legislation of our time, including the War Powers Act in 1973, which is designed to prevent us from stumbling into another war such as in Vietnam, and the Nuclear Non-Proliferation Act of 1978, which is designed to prevent the ultimate catastrophe.

That Jack Bingham should have such a distinguished and accomplished public career should have come as no surprise for he came from a family with a tradition of public service. I'm sure that Jack's father, former Senator and Governor of Connecticut, Hiram Bingham, must have been extremely proud of his son's accomplishments.

We in Congress tend to focus on Jack's congressional career in assessing his contributions, but this is far too narrow an ap-

proach. Before his election to Congress, Jack was deputy administrator of the Technical Cooperation Administration, an agency created to promote economic and social development in Asia, Africa, and Latin America. He also represented this country on the Economic and Social Council of the United Nations, and ably assisted Averell Harriman, when he served as Governor of New York.

The breadth of Jack Bingham's career distinguishes it from many others—diplomat, state official, Congressman; and accomplished at all.

Jack's loss will be felt by us all, and I especially would like to extend my personal regrets to his wife, June, his children, and grandchildren, and to all those who cherished his presence. I know that includes those of us who served with him in the House of Representatives. He will be missed.

THE STATUE OF LIBERTY (AMERICA)

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. REID. Mr. Speaker, each year on the Fourth of July, millions of people celebrate the freedom and democracy enjoyed by all citizens of these United States. Embodied in the Statue of Liberty, this freedom represents the combined efforts of an entire nation of people, dedicated to the ideals upon which it was founded. In his poem entitled "The Statue of Liberty," Mr. Thomas J. "Speed" Funari of Las Vegas, NV, relates his feelings about the monument as a tribute to our achievements thus far and a source of inspiration for years to come. I would like to share it with my colleagues.

THE STATUE OF LIBERTY (AMERICA)

(By Thomas J. "Speed" Funari)

I was manufactured in a foreign country,
My name was the topic of controversy.
The king said we are going to give that monstrosity away,
As a token of friendship to the U.S.A.
I arrived at Ellis Island, that was completely bare,
The official said we will stand her up there.
They put buildings all around me,
To receive immigrants entering this country.
My right arm with the burning light, is high in the sky,
When the Europeans saw the light, they knelt and began to cry.
And said in their native tongue, we are free at last,
So help me God, we are going to forget the past.
We are equal in a nation of freedom and trust,
Just remember the rest is all up to us.
To study and become an American citizen,
With a foreign heritage that will soon be forgotten.
You have been the guiding light for us coming ashore,
We have restored you better, much better than before.
We are a nation free and are proud of you,
Believe me! We are going to do what we have to.

TRIBUTE TO VICE ADMIRAL KIRKSEY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. PURSELL. Mr. Speaker, I thank you for this opportunity to make mention of the service of an outstanding member of our Armed Forces.

On August 29 of this year, Vice Adm. Robert E. Kirksey, of the U.S. Navy, will retire. Vice Admiral Kirksey has had a long and successful career, having joined the Navy in 1948 while attending Michigan State University.

Among his many distinguished accomplishments, Vice Admiral Kirksey flew more than 200 combat missions over North Vietnam, coordinated the mine-clearing operations in Haiphong Harbor while commanding the U.S.S. *Cleveland,* and assumed command of the Pacific Fleet's first multipurpose aircraft carrier, the U.S.S. *Kitty Hawk.*

More recently, he commanded the 33-ship task force stationed in the Indian Ocean during the Iranian hostage crisis.

Shore tours for the vice admiral have included duty with the Naval Air Training Command and several assignments in the Office of the Chief of Naval Operations.

He was promoted to vice admiral in 1984 and serves as Director, Command and Control, Office of the Chief of Naval Operations.

Vice Admiral Kirksey's personal decorations include, among others, the Distingushed Service Medal, the Silver Star Medal, and the Bronze Star Medal with Combat "V".

Mr. Speaker, I ask that my colleagues here in Congress join with me in expressing a heartfelt thank you to Vice Adm. Robert E. Kirksey for his dedicated service and in wishing him a most enjoyable and fulfilling retirement.

NOT JUST ANOTHER FAMINE SAGA

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. ROTH. Mr. Speaker, Tug Wajale is the name of a refugee camp thousands of miles from here on the other side of the world. It is a refugee camp in Somalia close to Ethiopia's borders. Since January, the camp's population has been growing by 1,000 each day! Every single day, 1,000 Ethiopians come streaming across their border to escape from their own country.

There is a holocaust in Ethiopia. And we must speak out again and again. To those who have said "Never Again." I ask for your help. Six hundred thousand men, women, and children are still being held in concentration camps. Thousands of Ethiopians are simply disappearing from their homes, never to be seen again.

The time has come for the United States to stand up and be counted. We have the moral responsibility to lead a campaign to isolate politically and economically the gruesome regime of Colonel Mengistu. I applaud the courageous efforts of many reporters and writers who continue to place the true story of Ethiopia before the American people. One such writer is John Lofton of the Washington Times who aptly describes the situation in Ethiopia:

[The article follows:]

NOT JUST ANOTHER FAMINE SAGA

(By John Lofton)

"The truth is shocking in its clarity," the article begins, quoting Jason Clay, an anthropologist studying famine in Ethiopia as saying: "People are dying because of their government. And what groups like Live Aid are doing is helping the government set up a system that is going to cause people to die for decades to come."

Then this article quotes Dr. Claude Malhuret, whose relief agency "Doctors Without Borders" was kicked out of Ethiopia for denouncing that country's Communist government's massive violation of human rights, as saying:

"Western governments and humanitarian groups like Live Aid are fueling an operation that will be described with hindsight in a few years' time as one of the greatest slaughters in the history of the 20th century." And this article says: "The reality of Live Aid is that it cannot accomplish what it set out to do for the starving in Ethiopia. It never stood a chance. And evidence indicates that it is actually hurting millions of people there."

Now, if this were the lead of just one more article about how yet another Communist government can't feed its people (and remember it's Communism that causes poverty, and not vice versa), this would be a strictly dog-bites-man piece of investigative journalism. And even if this were one more article about how the brutal, savage Communist government of Ethiopia is forcibly starving millions, this would still not be an unprecedented story.

But what makes this article, written by Robert Keating, so newsworthy is that it appears in the July issue of *Spin,* a youth-oriented *Rolling Stone*-type monthly magazine whose editor, design director, and publisher is Bob Guccione Jr., the son of Bob Guccione Sr., who publishes *Penthouse* magazine.

And what a commendable and courageous article Mr. Keating has written. It demonstrates beyond a shadow of a doubt that the much ballyhood brainchild of one Bob Geldorf, the internationally televised Live Aid concert—regardless of its good intentions—was and is a sickening human tragedy on a massive scale.

For example, quoting knowledgeable sources, it reports:

That "the single greatest obstacle to feeding famine victims is the Ethiopian government" which has confiscated tons of food transported by Live Aid "to pay its army in grain or to trade for arms from the Russians."

That, according to anthropologist Bonnie Holcomb, "for every person saved in front of the camera, getting food and moving from a desperate situation to smiling and playing Frisbee, there are a lot of other things in motion behind the scenes. And the relief groups are totally irresponsible for not finding them out."

That, according to U.S. intelligence sources, troops of the Communist Ethiopian government "have systematically scorched

the farmlands, destroying crops and killing oxen, used napalm on starving non-combatants and employed chemical warfare and nerve gas on their own people."

That while to the outside world the Communist Ethiopian government portrays its resettlement program as an effort to save its people in the north, "in reality, it is a vicious and brutal plan carried out by the army, using food to lure the peasants to camps."

And that before being taken to resettlement camps, the victims are taken to a holding center to await transportation, a center that is disease-ridden and overcrowded, without latrines and with very little food. Furthermore, those who have escaped tell horror stories of having been beaten, been shot while trying to escape, and having watched their families being separated and brutalized. Those who don't escape from this holding center, it is said, are loaded by the hundreds into Soviet planes designed to carry 50 paratroopers and flown 500 miles to camps in southern Ethiopia.

Miss Holcomb, who interviewed scores of survivors, says: "People were crushed to death on the impact of takeoff and landing. They were suffocating, throwing up on each other, literally being asphyxiated. One woman was standing on a body she didn't know was dead or alive—but she couldn't move. Children had to be held over people's heads so they wouldn't be smashed. Women miscarried and bled. And then the army would come in with a hose, wash the planes out, and go back and do it again."

More than 600,000 were relocated this way and 100,000 reportedly died. Last spring, 70,000 people were being moved this way *each week*. Today, while the resettlement program has slowed, another plan called "villagization"—which will move more than 33 *million* Ethiopians, more than three-quarters of the population, to state villages—has been stepped up.

Miss Holcomb says that "aid should be stopped until the situation can be turned around. More lives can be saved by stopping aid."

Mr. Keating writes that the Russians are "the real force behind the Ethiopian government's war with its own people." And he reports that in less than 10 years the Soviets have given the Communist Ethiopian government a stockpile of chemical weapons, more than $4 *billion* in heavy arms, and between 5,000 and 8,000 military advisers. He writes:

"But while the picture Geldorf saw was one-sided, it had other dimensions. People are dying in Ethiopia because of starvation. But throwing money and food at the problem without consideration of the politics that is keeping people and food apart is inexcusable."

And Dr. Malhuret of "Doctors Without Borders" compares Ethiopia today with Nazi Germany in 1938 and the Communist Khmer Rouge genocide in Cambodia in 1977, observing: "The situation is so bad that no one should collaborate. We must denounce it."

So, what do the Live Aid folks have to say about all this?

Well, from London's West End, Live Aid's Executive Director Penny Jenden is quoted as saying that since they couldn't justify doing nothing, "we're constantly making deals with the devil." And if in the long term, she says, that means that what they're doing is in line with the Ethiopian government policy then "that is something we can't afford to weigh our opinion on."

The only problem, of course, is that you *can't* do business with the devil because, as the Scriptures tell us, he is a liar and a deceiver and was, from the beginning, a murderer—all of which is being proven in Ethiopia with a tragic vengenance.

FOOTNOTE

But some of the major media who are obsessed with the situation in South Africa, where fewer people die in a year than are murdered in Ethiopia by Communists in a week, don't want to hear any of this. Bob Guccione Jr. tells me that when he tried to get on NBC's "Today" program and ABC's "Good Morning America" to discuss Mr. Keating's superb article, he was turned down. He says he was told by producers for both programs that they were not interested in saying anything negative about Bob Geldorf and Live Aid.

NEUROFIBROMATOSIS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BOLAND. Mr. Speaker, I would like to take a moment to talk about a disease which we know very little about, neurofibromatosis [NF].

NF is a genetic disorder of the central nervous system occurring in 1 out of every 3,000 births. In the United States alone over 100,000 people suffer from this disease which crosses all ethnic, racial, and sex boundaries. Each child of an affected parent has a 50-percent chance of inheriting the gene and developing the disease. NF is unpredictable and its cause is unknown. There is no cure, and no specific medical treatment exists. Manifestations of this disease usually appear in childhood or adolescence, though they can also appear later in life.

As a cosponsor of a bill to establish a National Commission on Neurofibromatosis, it is my hope that through research we can bring this disease under control. The National Commission would have 2 years to assess the nature and extent of public and private research into neurofibromatosis, and to develop a plan to identify the additional research needed to develop a cure. This approach will help focus nationwide attention on what is being done, and what needs to be done in the future to address this problem.

I am confident that through research and the diligent efforts of NF organizations throughout the country we will find a way to defeat this dreaded disease.

TURKISH VISIT

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BOSCO. Mr. Speaker, recently I had the opportunity to visit Turkey along with six other Members of Congress as guests of the Turkish Foreign Policy Institute.

Perhaps the victim of too many late night movies and certainly typical of most Americans who know little about this part of the world, I had vague expectations of encountering an arid, tented landscape populated by turbaned men, veiled women, and an occasional camel caravan. What we found instead was a thriving, cosmopolitan center of commerce, a young population eager to learn the ways of the West yet proud of their own heritage, and a strong national sense of drive and vision determined to set a firm foundation for democracy, free enterprise, and world trade. The country is alive with change. Juxtaposed with the centuries old mosques, bazaars, and palaces of the Ottoman Empire are the earthmovers, steel trusses, and 10-foot cement pipes that will provide a modern infrastructure for this ancient society.

Turkey is a good friend and strong ally of the United States. The concept of old and new repeatedly comes to mind in comparing the two countries. Turkey's past goes back well before the birth of Christ, ours only a few hundred years. Yet our population is becoming middle aged, Turkey's is dominated by the young. Our democracy is now one of the oldest in the world, Turkey's one of the youngest. That we have much to offer each other in this leapfrogging of old and new provides exciting challenges for the future.

Our delegation was privileged to meet and talk with Prime Minister Turgut Ozal, head of the majority Motherland Party and elected in 1983. Joining the Prime Minister was Ogan Soysal, member of Parliament from Ankara and a most informed and trusted member of the governing party. More than any other single individual, Mr. Ozal is responsible for steering Turkey's economy toward a market dominated, prioritized, free enterprise system. According to our U.S. Embassy, the Ozal government has "completely reformed and liberalized the foreign exchange regime, abolished a wide range of controls on imports and exports, and reorganized the Government economic machinery in order to reduce bureaucratic obstacles to normal trade and commerce." These and other policies are proving effective in stimulating Turkey's economy. Real GNP increased from 3.9 percent in 1983, to 5.9 percent in 1984, and a healthy 4.9 percent in 1985. Exports increased about 25 percent in 1984 and an additional 10 percent in 1985. Because trade will play an increasingly more important role in Turkey's future prosperity, there is great concern amongst business and government leaders that the United States not bow to internal protectionist pressure. Our group heard two presentations along these lines, one from Metin Leblebicioglu related to shipping and another from A. Ahmet Kocabiyik on the subject of steel. Current moves to raise textile import fees in the United States are also of concern.

Turkey is making a major move to expand trade and attract foreign investment. The Turkish Industrialists and Businessmen's Association, founded in 1971, provides accurate, up-to-date, and detailed information to their counterparts around the world. Their Chairman, Nejat Eczacibusi, addressed our delegation, and we were most impressed with steps taken by the business community and government to make business opportunities in Turkey attractive.

Part of our delegation's focus related to United States' security interests and the crucial role that Turkey plays in NATO—Turkey was invited to join NATO shortly after Turkish troops distinguished themselves as part of the force protecting South Korea. Turkey's forces of 569,000 troops are second in number only to the United States in the NATO Alliance. Bordered by Bulgaria, U.S.S.R., Iran, Iraq, and Syria, Turkey plays a pivotal role as the free world's major presence in the region. Control of the Bosphorus Straits, through which must travel all Soviet commerce from the Black Sea to the Mediterranean, puts Turkey in a critical strategic position. Our delegation met with General Yazgan, commander of Landsoutheast for NATO, and discussed a number of issues including the Iran-Iraq war, buildup and use of chemical weapons in the region, United States military assistance—$615 million this year—and training and preparedness of troops.

A particular highlight of our visit was the opportunity to meet with the Minister of Foreign Affairs, Vahit Halefogln. This meeting encompassed discussions of Turkey's role as a strong ally of the United States, her participation in NATO and also recent attempts to negotiate with Greece over the division of Cypress. The Minister's vast background in these and other subjects and his eloquent presentation left all of our group pleased that our own country can depend on friends such as Mr. Halefogln and proud that our alliance is upheld by people of his quality. We were also most fortunate to be accompanied during our visit by Onur Oymen, a most skilled diplomat and Minister Plenipotentiary with the Foreign Ministry, as well as Nurettin Nurkan who proved invaluable in answering our many questions. Messrs. Oymen and Nurkan were splendid hosts, never once failing to provide detailed information on the many inquiries each of our members made, and also making each of us feel very much at home in Turkey.

Our own United States mission to Turkey was helpful and impressive in every respect. Headed by Ambassador Robert Strausz-Hupé, the U.S. mission is highly respected in the country. Mr. Strausz-Hupé at age 86 is clearly at ease in this important diplomatic assignment. As a scholar and experienced Ambassador, he is a true professional and is supported by others of high caliber. I might mention that the Ambassador is also a fine tennis player, with legendary skill on the courts. One young man who plays tennis as the Ambassador's partner was going blind in one eye until Mr. Strausz-Hupé personally arranged a trip to the United States and a successful operation that saved the youth's vision. Needless to say, such personal concern for others has made our Ambassador a most popular figure in Turkey and has won our country many friends.

Even after our delegation's visit was officially over, I decided to remain behind in Turkey. The warmth and hospitality of the Turkish people, the striking beauty of this exotic part of the world, and the excitement of a country on the move made it most difficult to leave. But I also wanted to talk with young people, to assess their views of their country and their futures. These discussions proved to be very enlightening. Without exception the youths I talked with have a positive view of the future and they want to participate in Turkey's rise to prominence in international trade and domestic improvement. Over and over again the importance of education was brought up. We were told that of some 400,000 young people who want to attend the various universities, only one of four will be admitted. This country of young people simply cannot accommodate the vast number of its citizens who yearn for a college education. Most of these youths look to the United States as a shining example. Many expressed the dream that someday they could visit or even attend school in our country. On several occasions, I met young people who had already returned from educational opportunities in the United States. One young woman, Lela Alaton, daughter of businessman Ishak Alaton, even started a leather importing business while she attended school in the United States and intends to keep the business going now that she has returned.

It is my hope, Mr. Speaker, that the Congress always keeps in mind the special friendships we have with the Turkish people. For many years to come, I hope we will be strong friends in trade, in world affairs and military matters, and in the exchange of ideas, ideals and values that will strengthen our democracies. The United States can help many young Turkish people fulfill their dreams for a bright future through education. Just as our delegation was heartened by the strength and intelligence of those with whom we met on this wonderful visit, so we should also commit ourselves to making opportunities even more abundant for future generations.

TENTH ANNIVERSARY OF THE VIKING LANDINGS

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. BATEMAN. Mr. Speaker, this week marks the 10th anniversary of the first landing of a spacecraft on the Planet Mars.

During these troubling times for NASA, it is easy to forget the many impressive achievements by this fine agency. Therefore, it is appropriate that we take a moment this morning to relive that exciting adventure.

Two spacecraft were launched from Earth in 1975 and traveled 440 million miles through space to reach Mars in the summer of 1976, the bicentennial year of the United States. They separated into two orbital craft and two lander craft, with the first lander craft reaching Mars on July 20, 1976, followed by the second landing on September 3.

Thirteen successful experiments were conducted which greatly expanded our knowledge of the Martian atmosphere and provided a monumental amount of data that continue to challenge scientific investigators today.

The success of the Viking project was due to the dedication and efforts of the National Aeronautics and Space Administration, especially its Langley Research Center, the Jet Propulsion Laboratory, and the Martin Marietta Corp.

Mr. Speaker, I think it is fitting that we remember this event today and resolve to continue our support for the space program. I believe it deserves our support.

INTRODUCTION OF JTPA TECHNICAL AND CLARIFYING AMENDMENTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. JEFFORDS. Mr. Speaker, today I am pleased to join with my colleagues, Mr. HAWKINS, Mr. MARTINEZ, Mr. GUNDERSON, and Mr. WILLIAMS, in introducing a package of technical and clarifying amendments to the Job Training Partnership Act [JTPA], Public Law 97-300. When JTPA was signed into law almost 4 years ago, those of us who worked on its development agreed to try to provide the job training system we created some stability. Thus far we have all been able to stave off any attempts to change the provisions in the law, and therefore I believe have provided that needed stability.

After several oversight hearings and four staff forums, an apparent need has been expressed from the field for a few technical changes and clarification of intent. There continues to be no support though, for a major rewriting of this law. The intent of these amendments is not to make major changes, but to strengthen our original intent and to make accommodation for some circumstances which were unforeseen when JTPA was originally enacted.

These amendments represent a bipartisan effort to address the needs that have been expressed by the employment and training community. Of particular concern are the dramatic shifts in funding many service delivery areas have experienced from year to year. Service delivery areas [SDA's] are allotted funds on a sub-State formula basis. Although a hold-harmless provision was included in the law in order to avoid serious shifts in funding to the States, a similar provision was not included at the sub-State level. As a result, some SDA's have experienced up to a 40 percent shift in funds from year to year.

This type of uncertainty does not lend stability to the programs operated under the authority of the law. It was clearly not what we intended when JTPA was enacted. A priority item in these amendments, then, is a sub-State hold harmless. Just as the hold harmless to the States is not discretionary, neither is this hold harmless. Further, if funds are not sufficient to meet the 90 percent hold-harmless requirements, then all SDA allotments within the State will be ratably reduced. No SDA will bear a greater burden under these provisions. These provisions do not eliminate the concerns regarding the appropriateness of the basic formula factors, but some interim relief is provided.

These amendments address a variety of other issues that need clarification; specifically, using incentive grant funds to provide technical assistance and post-program followup information; targeting education funds at the State level toward dropout prevention, illiteracy and school-to-work transition; addressing

sales and use tax issues related to Job Corps centers; providing remediation as part of the Summer Youth Employment Program; and assuring that self-employed individuals and farmers can be served under the dislocated workers provisions in the law.

The Senate has already taken action on a package of technical and clarifying amendments to JTPA. Some of the provisions contained in this bill are similar to those in the Senate-passed bill; others are not. Therefore, I am hopeful that we will be able to complete consideration of these amendments quickly, so that these improvements to the law can be in place this fall.

Action on our part is critical, particularly with respect to the development and implementation of post-program followup data collection. I appreciate the willingness of the chairman of the Education and Labor Committee, Mr. HAWKINS, to work with the minority members in drafting these amendments. I look forward to working with him to assure that the amendments we adopt are a reasonable response to the concerns of the field, and continue to support the original intent of the law.

A TRIBUTE TO CRAIG WORTHAM

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. WATKINS. Mr. Speaker, I take great pride today to inform this body that a constituent of mine, Craig Wortham, of McAlester, OK, was recently elected national president of the 300,000 member Vocational Industrial Clubs of America [VICA] student organization. I want to share with my colleagues the pride we of McAlester, Pittsburg County, the Third District, and Oklahoma share in Craig.

Craig is a senior in carpentry at the Kiamichi Area Vo-Tech School in McAlester. He is the son of Mrs. Etoy Holder of McAlester and Floyd Holder of Eufaula, and the grandson of Mr. and Mrs. J.C. Wortham of Savanna, OK.

The young man is the first Oklahoman to be elected president in the 20-year history of VICA and the result of the campaign and election were announced in late June at the national convention of over 10,000 VICA delegates in Phoenix.

Let the words of Charles Boyd, director of the school located in McAlester, speak here:

Craig Wortham is typical of the type of fine young people we have enrolled to the Kiamichi Area Vo-Tech in McAlester. All of the people involved with vocational education throughout Oklahoma are very proud to have Craig Wortham be our first National President from the State of Oklahoma.

Wortham's responsibilities as president of the prestigious student organization will include meeting with industry leaders throughout the United States to discuss vocational training of young people, as well as speeches and appearances before State VICA organizations. Part of his schedule will be coordinated by the national VICA headquarters in Leesburg, VA, my friend Perry Thoele tells me. A part of that schedule will include, we are informed, a visit this fall to Washington and the White House.

I hope that when Craig comes to town, I will be able to introduce him to as many of you as possible. He is representative of this Nation's future, and we in Oklahoma are very proud of him, his family and his teachers.

AN UNFORTUNATE MISCONCEPTION ABOUT INDIA'S SIKH COMMUNITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today to bring to the attention of my colleagues an unfortunate situation in the Punjab Province of northern India. I say unfortunate because there have been various reports detailing barbaric accounts of bloodshed between Hindus and Sikhs. It appears that extremists on both sides have given rise to tremendous suffering.

Here in the United States we have read many confusing newspaper accounts about terrorist attacks, reprisals, and counter-reprisals. It is difficult for most Americans to distinguish one extremist from another. However, it does seem clear to me, Mr. Speaker, that the entire Sikh community is being unfairly swept with the broad brush of terrorist stigma. Clearly, to destroy the image of some 15 million Sikhs throughout the world is unjust.

In addition, Mr. Speaker, I am concerned about a backlash of Hindu sentiment against Sikhs which can only foster further abuses of human rights and suffering. For example, last year nearly 500 Sikhs were killed in rioting by Hindu mobs after the assassination of Indira Gandhi. Less than 1 month ago, some 25 Hindu paramilitary troops were charged with beating Sikh policemen and freeing Hindu militants from jail in Amristar, India. In fact, the Washington Post just a few days ago, on July 14, related atrocities committed by roving gangs of Moslems and Hindus. The article details an incident in which an angry crowd burned two young Moslem men in their hospital beds.

Mr. Speaker, the situation in the Punjab Province of India is serious and appears to be intensifying. Atrocities on both sides damage the legitimate interests and efforts of moderates. Let the bloodshed cease! I implore both sides to stop this self-defeating violence and urge this country to intensify its efforts to mitigate further bloodshed.

HOUSE JOINT RESOLUTION 672 AFFIRMS THE FISCAL YEAR 1986 SPENDING REDUCTIONS

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. MORRISON of Washington. Mr. Speaker, today I voted in favor of House Joint Resolution 672 which affirms the fiscal year 1986 spending reductions under the Gramm-Rudman-Hollings legislation. These reductions totalled $11.7 billion in outlays and $24 billion in budget authority and other budgetary resources, and were achieved through across-the-board reductions of 4.9 percent in defense programs and 4.3 percent in domestic programs and through cancellation of cost-of-living adjustments in Federal pensions and certain other programs.

This resolution was necessitated by the recent Supreme Court ruling which disallowed the sequestration procedure included in the Gramm-Rudman-Hollings legislation, and triggered a fallback procedure requiring a vote on the cuts. Failure to affirm the fiscal year 1986 cuts would have the effect of increasing next year's deficit by at least $10 billion.

The need to reduce the deficit has never been more dramatic than it is today, with recent estimates projecting up to $220 billion in Federal red ink at the end of this year. Mr. Speaker, we cannot continue to spend like there's no tomorrow, while all the time borrowing from our children's future to fund the burgeoning Federal programs of today. That is why I supported the Gramm-Rudman-Hollings legislation, which established annual savings targets intended to achieve a balanced Federal budget by the year 1991.

I believe Gramm-Rudman-Hollings has set the stage for the thoughtful reprioritization of Federal spending, which must occur in the budget process if we're to avoid indiscriminate across-the-board cuts. I would have preferred to avoid the fiscal year 1986 across-the-board cuts through responsible budgeting, however, the reductions having already occurred must be affirmed to keep interest rates moving down and continue the move toward a balanced budget. This vote does not commit me to future support of across-the-board reductions for the sake of saving money. I will choose instead to be part of responsible prioritizing with the goal of meeting necessary deficit targets.

INDOOR RADON RESEARCH AND ASSISTANCE ACT

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. McKERNAN. Mr. Speaker, today I join Representative YATRON and several of my other colleagues in introducing legislation which will define the Federal Government's responsibility in addressing a most insidious form of pollution—radon gas.

Radon is a naturally occurring gas which is colorless, odorless, soluble in water, and chemically inert. It produces radioactive products that can be inhaled into the lungs, increasing the risk of cancer. According to the Environmental Protection Agency, risks exist even at low exposure levels and, in fact, the EPA considers any exposure level to be unsafe.

High concentrations of radon are found in bedrock, soil, and ground water across the country. Because it is a gas, it is particularly mobile—able to move directly from the soil or indirectly, through well water, into homes.

High radon levels have been found in parts of the State of Maine, particularly in areas having granite bedrock. The health risks have been compounded over the past several years as energy-conscious homeowners have made their dwellings more air tight, resulting in a loss of adequate ventilation and, consequently, increasing the concentration of radon within many homes.

Addressing the radon problem will be difficult. Not only is there a dearth of information relating to the causes, effects, extent, prevention, and abatement of indoor radon, but there curently is no clear statutory authority or responsibility for coordinating radon research or for providing financial assistance to alleviate indoor radon hazards.

The purpose of the Indoor Radon Research and Assistance Act is to clarify the Federal role and responsibility in addressing indoor radon contamination. While the measure does not give authority to regulate indoor air quality, it does seek to codify authority and define the scope of responsibility for the EPA.

The bill outlines what actions EPA should take, including, a national survey, research relating to the causes, effects, extent, prevention, and abatement of indoor radon, technical assistance to States, dissemination of information to the public, and development of reliable and inexpensive mitigation techniques.

Mr. Speaker, I believe that this is a very important piece of legislation and I urge my colleagues to support it.

TRIBUTE TO W. PAUL MOORE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. LAGOMARSINO. Mr. Speaker, I rise on this occasion to note the recent passing of a long-time friend and associate, W. Paul Moore.

"Mo" Moore was born July 16, 1918, in Lincoln, CA. In April, 1941, he entered military service and trained as an aviation cadet. Subsequenty, he flew 86 aerial missions in World War II, logging 250 Combat hours. He also served in the Korean War and Vietnam conflict. In 1968, after 26 years of service, Col. Moore retired from the Air Force and embarked upon a career in real estate.

He moved to Lompoc, CA in 1970, and became active in community affairs at many levels. A member of the Board of Realtors, he also served on occasion with the professional standards commitee. He was active in the Republican Party, and a member of the Retired Officers Association, the Air Force Association and the Vandenberg Village Country Club.

The passing of Mr. Moore saddens all who knew him. I know I express the sentiments of the entire Santa Barbara County community when I say that we were all enriched by his presence, and will be diminished by his passing.

Mr. Speaker, on behalf of the U.S. House of Representatives, I would like to extend the sympathies and condolences of me and my wife Norma, along with those of this House, to the family of W. Paul Moore and particularly to his wife, Phyllis, more well known as "Phil", a long-time personal friend, as well as to his mother, Mary, his sons, W. Paul Jr., and Mark, and his daughters Kathy Coonway and Kerry Lynn Sills.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. WILLIAMS. Mr. Speaker, I am delighted to join Chairman HAWKINS and ranking member, Congressman JEFFORDS, in introducing amendments to the Job Training Partnership Act. This bipartisan bill represents a consensus of opinion on the Education and Labor Committee and should be adopted by the House in expeditious fashion.

The bill includes a provision encouraging the development of a remedial education component in the Summer Youth Employment Program [SYEP]. This bill is a culmination of my efforts to achieve recognition of this need. In 1985, I introduced H.R. 1090 to mandate the inclusion of a competency based remedial education component in SYEP. Eighty-four Members of the House cosponsored this effort and hearings were held on the bill on May 22, 1985. This year I revised the bill in light of these hearings and comments we received from all partners in the JTPA system. On January 23, 1986, I introduced H.R. 4054 to encourage a remedial education component rather than mandate it. Ninety-five Members of the House joined me in cosponsoring this bill.

The bill being introduced today incorporates three components from H.R. 4054: First, encouraging a remedial education component within the Summer Youth Employment Program; Second, allowing programs to be conducted during the interval between the participant's regular school year; and, third, providing a 90 percent hold harmless for the SYEP allocations to serve delivery areas.

The bill also incorporates a number of the amendments that I introduced in H.R. 4115 on February 4, 1986. These include: First, designating of service delivery areas based on one or more labor market areas; second, providing a 90 percent hold harmless for the title II–A allocations to service delivery areas; and third, prohibiting a matching requirement on grants from the Secretary's discretionary funds under title III.

One issue that this bill did not address is the growth in the number of service delivery areas [SDA's] under the Job Training Partnership Act resulting in a sharp increase in the number of SDA's receiving relatively small allocations under title II–A. With limited resources, economies of scale must somehow achieve a balance with the wish of the Congress for locally determined and managed delivery systems.

According to a study by Job Training Partnership, Inc., in program year 1986, there are now 62 SDA's receiving allocations of less than $500,000, and 175 SDA's with allocations less than $1 million. This is a marked increase over the prior year, since in program year 1985, 35 SDA's received allocations below $500,000, and 138 SDA's received allocations below $1 million.

These facts are driven by the following statistics. In fiscal year 1982, there were 476 prime sponsors under the Comprehensive Employment and Training Act [CETA]. Through program year 1985 of JTPA, there were 597 SDA's, while in program year 1986, there are now 627 SDA's, an increase of 151 over CETA or a dramatic 32 percent increase. To be fair, this increase is somewhat overstated since, balance-of-state areas counted as one prime sponsor under CETA, while under JTPA, they were broken up into SDA's.

JOHNATHAN BINGHAM, MAN OF CHARACTER

SPEECH OF

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. SHARP. Mr. Speaker, it was with deep sorrow that I learned of the death of our former colleague, Johnathan Bingham. He was a special person and a special public servant.

The founders of our Republic were convinced that its success would depend upon the virtue and character of its leaders. They could only be pleased nearly 200 years later by the kind of Representative we witnessed in Congressman Bingham. He brought to public service intelligence, compassion, and idealism. His accomplishments have been recited and lauded here in the Chamber and elsewhere. They were certainly significant, and our Nation will continue to benefit from them. But we should take special note of the kind of man he was, his character, for that stands as a lasting example to us all.

THE WARSAW UPRISING OF 1944

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. LIPINSKI. Mr. Speaker, I am certain that most of my colleagues have heard about the heroic struggle of the Polish people against German troops in Warsaw during 1944. Now, however, new material has surfaced that puts this event into clearer perspective.

I would like to insert in the RECORD an article taken from the Polish National Alliance newspaper, ZGODA (July 1, 1986), which tells about a recent documentary that takes into account recent evidence about the uprising:

"BATTLE FOR WARSAW"—A POWERFUL DOCUMENTARY ACCOUNT OF 63 DAYS

To the contemporaries, the Warsaw Uprising remains one of the most controversial epics of modern history. Armed only with home-made or captured weapons, and outnumbered by more than 3 to 1, the people of Warsaw under the leadership of the Home Army (AK) held out for over 63 days

against the German troops and panzers. Their heroic goal was to liberate Warsaw from themselves before the Red Army came. Although the Soviet troops were only 10 miles away when the Uprising began, Stalin chose to delay his capture of Warsaw and to ignore until too late the pleas for help from the Poles besieged there. It suited his plans to eliminate the bulk of the non-Communist Poles before his own army arrived on the scene. Nearly a quarter of a million Poles lost their lives as a result, and their historical capital was almost razed to the ground. This was the price Poles had to pay for their patriotic and independent aspirations during the last months of World War II.

A one hour documentary, utilizing rare archival material (some only recently to come to light), as well as remarkable eye-witness accounts of the principal survivors living in Great Britain, has been recently produced. "Battle for Warsaw," directed by Peter Batty, a British film producer and author or the renowned film series "The World at War," is now available for everyone who would like to have this record of the last desperate fight by the Poles for a free Poland. If you would like information on how to obtain a copy, please contact my office.

VOTE ON HOUSE JOINT RESOLUTION 672

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. EDGAR. Mr. Speaker, this morning the House voted to affirm the fiscal year 1986 Gramm-Rudman cuts—as my colleagues know, I opposed the original Gramm-Rudman legislation last fall, and, had I been present, I would have voted against House Joint Resolution 672 today.

Mr. Speaker, based on conversations between my staff and the staff of the House leadership, it was my understanding that House Joint Resolution 672 would be voted on about noon today. Accordingly, I arranged to return from Pennsylvania to Washington at that time. As my colleagues know, debate on the resolution took less than one-quarter of the time expected and the vote occurred at about 11:15 a.m. Had the vote occurred on time, I would have voted once again against the Gramm-Rudman cuts in:

Community development, mass transit, Amtrak, veterans' medical care, veterans' readjustment and rehabilitation benefits, Federal disaster relief assistance, guaranteed student loans, child support enforcement, general revenue sharing for Pennsylvania communities, Small Business loans and loan guarantees, energy assistance funds, cost-of-living adjustments for military and Federal retirees, railroad retirement, activities of the FBI, the Immigration and Naturalization Service, and the Drug Enforcement Agency, aid to Israel, food aid to nations where starvation is rampant, and Fish and Wildlife Service programs.

And prospective cuts in: Summer youth employment, meals on wheels for senior citizens, home weatherization funds, and Job Corps and job training for the disadvantaged.

I still believe that the across-the-board cut approach of Gramm-Rudman has an unfairly severe impact on certain States like my State of Pennsylvania. In addition, I still oppose the notion that Congress should shirk its responsibility to make the hard choices to balance the budget and instead make indiscriminate cuts that cause even more hardship. We're elected to make public policy, not watch it happen.

PRESIDENT REAGAN: A DEVOTEE OF KEYNESIAN ECONOMICS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. TRAXLER. Mr. Speaker, Leonard Silk's column in the July 16 edition of the New York Times is something all Members should consider. I call special attention to Mr. Silk's perceptive analysis of the Keynesian economic policies followed by the Reagan administration, despite its rhetoric to the contrary.

[From the New York Times, July 16, 1986]

ECONOMIC SCENE

(By Leonard Silk)

Every sharp break in the stock market following a long boom causes a host of investors to ask, "Can it happen again?" Nobody has to be told that the "it" refers to the Crash of 1929 and the Great Depression of the 1930's.

The current market break, which has carried the Dow Jones industrial average down by more than 140 points from its July 2 record close of 1,909.03, is no exception. The pronouncements of most Wall Street analysts and economic pundits are full of reassurances: there is no panic evident, consumers still have strong buying plans, economics has made great progress since 1929, the greatly expanded role of the Government provides protection against collapse, the Federal Reserve would never permit another drastic contraction in the money supply (the alleged cause of the Great Depression), etc.

But not all economists are so confident that it can't happen again. For one, Prof. Kenneth E. Boulding of the University of Colorado, a former president of the American Economic Association, finds a "positive probability" of another Great Depression and enormous unemployment in the capitalist world. He sees "ominous" similarities between 1986 and 1928: "the stock market boom, the debt situation, the erosion of profit by interest, the increasing burden of interest on the society, the unmanageable budget deficit, the cowardice of Congress as reflected in Gramm-Rudman, the Polyanna charm of the President, the overly successful and rather puzzling control of price inflation, the big shift which now seems to be taking place in relative prices (in oil, for instance)."

Likewise, Prof. Ravi Batra of Southern Methodist University finds striking resemblances between the 1920's and 1980's. In his book, "The Great Depression of 1990," Professor Batra observes: "Banks earned mediocre incomes during the 20's. They have done much the same in the first half of the 80's. Then, as now, the farm sector was highly depressed because of the loss of foreign markets and the low prices received by American farmers. Then, as now, the coal industry was in the doldrums. So were textiles, shoes, shipping and the railroads, as they are now. Energy prices declined throughout the 20's. They have done the same so far in the 80's." Indeed, Professor Batra finds another depression all but inescapable, especially because of the growing concentration of wealth.

"One possible source of hope is that we do know more than we did in 1929," Professor Boulding says. "But in some ways we know less." He maintained that "economics has retreated into a naive monetarism, into the absurdly simplistic theory of rational expectations, into a blind mathematization and model building, losing sight of the real world."

Some economists warn that the greatest threat comes from the abandonment, by political and economic leaders of the major industrial democracies, of the principal lesson that emerged from the Great Depression; the doctrine, espoused by John Maynard Keynes, that to cure a depression and mass unemployment, government must act to increase the aggregate demand for goods, and hence for workers.

A British economist, John F. Brothwell of the University of Leeds, writing in the current issue of The Journal of Post-Keynesian Economics, finds it "ironic" that, at a time when the British economy and many of the Western economies are suffering high unemployment and are in need of Keynesian remedies, "the main 'remedy' being applied is the leech of monetarism, a remedy which undoubtedly has aggravated the disease, based on an economic theory which Keynes had struggled to overthrow."

The only country that might be said to have employed the Keynesian remedies of tax cuts, expenditure increases and big budget deficits—while still voicing anti-Keynesian rhetoric—has been the United States under President Reagan. American fiscal policy, reinforced by an expansive monetary policy, did work to lift the United States out of the 1981-82 recession, the worst of the post World War II period. And the American resurgence rescued the economics of Western Europe and Japan, raising the demand for their exports at the cost of a sharp decline in American exports and import-competing production. The heavy capital inflow, matching the American trade deficit, raised the value of the dollar to record heights.

But that solution to the worldwide slump is played out. The chronic budget deficits and trade deficits are forcing the United States to take corrective actions, lest the value of its currency and the stability of its economy be undermined. However essential this has become for the United States, cutting the budget and trade deficits will reduce aggregate demand for the goods and services in the world economy, aggravating unemployment in the industrial countries and jeopardizing the solvency of the developing countries.

In an ever more interdependent world, economic policies aimed at serving the interests of one country can play havoc with the interests of all. What is critically needed today are coordinated policies shaped to meet the needs of the world economy, or, as a growing number of economists warn, protectionism and other "beggar my neighbor" policies could bring another worldwide depression.

LYDIA C. BITTER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mr. EMERSON. Mr. Speaker, many fine people serve on the staffs in Congress. Some come here as young people, stay a while, make their contributions, and then move on. Others stay and commit themselves to lifetimes of service to Members and to the constituencies we serve.

Lydia C. Bitter, my senior staff member, came to Capitol Hill as a young woman in the late fifties and served loyally, helpfully and effectively in a variety of positions until her untimely death of cancer this past Sunday.

I first knew Lydia when we were colleagues on the staff of former Congressman Bob Ellsworth of Kansas, back in the early sixties. We were good friends then and remained so over the years. When I was first elected to Congress she arrived at my office on my first day, saying she was there to help. And help she did for the next 6 years, until that murderer, cancer, took her life, still vital and vibrant, many years too soon.

Lydia's career touched the lives of thousands of people. Some of those whose lives she touched knew her and others did not. I wish that all of those who benefited from her service could have known personally how seriously, passionately caringly she treated their problems and their concerns. Her personal interest in the welfare of each individual was profound. She would frequently talk with me about the cases she worked on. Whether it was the plight of a serviceman trying to get home to his ailing mother, a small rural community facing the closure of its post office, or the efforts of a constituent to establish retirement eligibility in the face of missing records, Lydia had the deepest empathy. She could always put herself in the other persons position, and from that feeling and knowledge and caring I can tell you she won an awful lot more than she lost.

Lydia was an unpretentious person. She lived simply and frugally. She had close friends. She loved her Chicago Cubs and the Washington Redskins. She served nobly and well, and all of us who knew her will miss her and cherish the memory of her.

SEA OF HUMANITY THREATENS THE WORLD

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 17, 1986

Mrs. JOHNSON. Mr. Speaker, our planet now carries 5 billion people. In a world of limited resources this is a staggering number of people competing for food, water, jobs, medical attention and opportunities. I invite my colleagues to read the following editorial which appeared in USA Today outlining some of the concerns presented by the birth of this 5 billionth child. The reasons for continued U.S. international family planning assistance are many and compelling and have been effectively outlined in this editorial:

A special baby was born last week. We don't know who the child is or where it was born. We do know that it was No. 5 Billion to join us on this teeming planet.

But even that numerical distinction was fleeting. In the few days since Little No. 5 Billion appeared, another 2 million babies have been born.

We don't even know if that baby is still alive. Chances are, the baby was born in the Third World. That means the baby has one chance in 10 of dying before its first birthday.

The world's population has doubled in the past 35 years. During the next 35, it will double again. Can we, the human beings already here, provide for the billions more soon to arrive? The evidence says "no."

About 15 million children under age 5 die each year because the rest of us can't get food and medicine to them.

Nearly a half-million women die in childbirth each year, many because they bear too many babies too soon.

A quarter of the world's families live in makeshift shacks. Half the Third World's city dwellers live in shantytowns. One billion people don't have safe drinking water.

The whole Earth pays the price for overpopulation. Lack of food, housing, and jobs causes political instability and social upheaval. Tropical forests are disappearing, grasslands are being overgrazed into deserts, and the air is being polluted by increased burning of fossil fuels.

Above all, the result of overpopulation is human misery.

Incredibly, there are some people who celebrate the addition of even more people on the overcrowded Earth. These happy-talk philosophers say more people create more resources, more opportunities for economic growth.

Tell that to the 15 million children who die each year in developing countries. Tell it to millions more who suffer from malnutrition. Tell it to the women who hear children, one right after the other, hoping just one will survive. Talk economic opportunities with the stick-thin men in Ethiopia. Tell the millions fleeing to the USA that the exploding populations they left behind are good for them.

No, on the world population issue, more isn't better. Many nations recognize that and look to us for help in family planning. Their leaders realize that education and birth control devices are needed to slow population growth.

But do our leaders realize that? Federal funding has been withdrawn from the International Planned Parenthood Federation and is being withheld from the U.N.'s population agency. Other programs have been cut. The administration is insisting that no U.S. funds go to any organization that has any connection with abortion. That makes no sense, because most of the funds are used for education and family planning, not abortions.

Ideology aside, people are suffering and dying because of overpopulation. It's better to spend money now on family planning than try to cope with the misery later. We must cut birth rates and ease the suffering of the 5 billion people already here.

Remember, No. 6 Billion will be here before we know it.

HOUSE OF REPRESENTATIVES—*Monday, July 21, 1986*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 17, 1986.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, July 21, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, help us to see the grandeur and the glory of living even as we are aware of suffering in our world. May we develop attitudes of thanksgiving and hearts full of praise for the marvelous gifts of life and love that surround us day by day.

For Your gift of life and for Your presence in every need, for Your forgiving spirit, for Your strength and hope that You freely impart, we offer this our prayer.

On this particular day, we pray for the family of GEORGE O'BRIEN. We are grateful for his good works among us, and we pray that Your peace that passes all understanding be with him and them now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, joint resolution, and concurrent resolution of the House of the following titles:

H.R. 4409. An act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March";

H.J. Res. 672. Joint resolution ratifying and affirming the report of January 15, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986; and

H. Con. Res. 368. Concurrent resolution correcting the enrollment of H.J. Res. 672.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 415) "An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1874) "An act to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3113. An act providing for the coordinated operation of the Central Valley project and the State water project in California.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2129. An act to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes;

S. 2572. An act to provide economic support for the November 15, 1985, agreement between the Government of Ireland and the Government of the United Kingdom, and for other purposes;

S. Con. Res. 137. Concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a National STORM Program; and

S. Con. Res. 143. Concurrent resolution expressing the sense of the Congress on the resumption of the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam.

COMMUNICATION FROM THE HONORABLE BILL BONER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. BILL BONER:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 17, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Speaker's Rooms, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On June 5, 1986 I notified you, pursuant to the requirements of Rule L(50) of the Rules of the House of Representatives, that certain present and former members of my staff had been served with subpoenas issued by the United States District Court for the Middle District of Tennessee. I have consulted with the General Counsel to the Clerk of the House and we have determined that compliance with the subpoenas may be effected consistent with the privileges and precedents of the House.

Sincerely,

BILL BONER,
Member of Congress.

COMMUNICATION FROM THE HONORABLE WILLIAM L. DICKINSON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. WILLIAM L. DICKINSON:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 18, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the United States District Court for the Middle District of Alabama. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

WM. L. DICKINSON.

APPOINTMENT OF CONFEREES ON S. 426, S. 410, H.R. 2005, and S. 1078

The SPEAKER pro tempore. Without objection, the Chair announces the appointment of the following Members as conferees to replace vacancies caused by the resignation of JAMES T. BROYHILL of North Carolina from the House of Representatives:

On S. 426, Mr. LENT.
On S. 410, Mr. LENT.
On H.R. 2005, Mr. TAUKE; and
On S. 1078, Mr. TAUKE.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

HOUR OF MEETING ON TUESDAY, JULY 22, 1986

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 4 p.m. on Tuesday July 22, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORT ON H.R. 4370, DEPARTMENT OF DEFENSE REORGANIZATION ACT

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on H.R. 4370, the Bill Nichols Department of Defense Reorganization Act.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

NATURAL RESOURCES AND DEMOCRATIC GOALS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last week, White House Chief of Staff Donald T. Regan stated that sanctions against South Africa would hurt the diamond trade and asked "Are the women of America prepared to give up all their jewelry?"

Regan is telling the world that the United States is only interested in South Africa's natural resources and that the present regime will guarantee us those natural resources.

Both assertions are false. Most Americans are interested in democracy in South Africa for all South Africans. Even the Reagan administration, at least in reference to Chile, understands that continued repression will bring results we do not care to see. Assistant Secretary of State Elliot Abrams said recently that "Our policy is to help the advancement of a transition to democracy. Those who oppose that run a great danger of playing into the hands of the Communists."

The same can and should be said of South Africa. Indeed, if you favor democracy and the availability of natural resources, and are opposed to communism, you should support sanctions against the present repressive, unstable regime.

In the long run, it is in our national interest to seek a free and stable South Africa, a better ally than a country wracked by apartheid and instability.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote, or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 22, 1986.

OCS PAPERWORK AND REPORTING ACT

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1068) to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978.

The Clerk read as follows:

S. 1068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "OCS Paperwork and Reporting Act".

SEC. 2. (a) Section 15(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1343(1)), is amended by—

(1) adding the word "and" after "activities;" in paragraph (C);

(2) deleting paragraph (D); and

(3) redesignating paragraph (E) as paragraph (D).

(b) Title VI of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by deleting section 601 (43 U.S.C. 1861).

(c) Title VI of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by deleting section 606 (43 U.S.C. 1865) and inserting in lieu thereof the following:

"INVESTIGATION OF RESERVES OF OIL AND GAS IN OUTER CONTINENTAL SHELF

"SEC. 606. The Secretary of the Interior shall conduct a continuing investigation to determine an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf.

"The Secretary of the Interior shall provide a biennial report to Congress on June 30 of every odd numbered year on the results of such investigation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1068 would implement a longstanding recommendation of the General Accounting Office to eliminate or modify certain reporting requirements of the Department of the Interior under the Outer Continental Shelf Lands Act.

Under existing law, the Interior Department must include in its annual OCS report, a list of all shut-in oil and gas wells and wells flaring natural gas. It also requires an evaluation by GAO of the Department's methods in determining whether or not to require production from the wells or the end of flaring.

For 5 consecutive years, GAO has reported to Congress that the Department's methods are reasonable and that the legislative requirement for this annual report be repealed. S. 1068 would carry out that repeal.

Another section of the OSC law requires the Department to conduct a continuing investigation to determine an estimate of discovered and undiscovered crude oil and natural gas on the OCS. This section presently includes a number of provisions that are out of date, have already been accomplished, or do not best meet the needs or intent of Congress.

S. 1068 eliminates the unnecessary provisions in this section but retains the requirements that the Secretary continue to make reserve and resource estimates and report to the Congress on a biennial basis.

I want to make it clear that this legislation only eliminates and modifies certain reporting requirements of the Department. It, in no way, changes the Department's shut-in and flaring gas well monitoring or production ratesetting responsibilities under other provisions of the law.

A more complete explanation of this particular point is contained in an exchange of letters between my good friend from Arizona, the chairman of the Interior Committee, Mr. UDALL, and myself, and Secretary of the Interior Hodel. Chairman UDALL and I wanted to make certain that the executive and legislative branches had the same interpretation about the effect of this legislation.

Secretary Hodel responded favorably to our questions and indicated his strong support for S. 1068.

The Congressional Budget Office estimates that enactment of this bill will save the Department some $250,000 annually. In this time of budgetary deficits, we should not overlook an opportunity—even as small as this—to eliminate unnecessary paperwork and reporting expenses.

I know of no opposition to this bill and I urge my colleagues to pass it today so that we may send it to the President for his signature.

Mr. Speaker, before concluding my statement, I am inserting copies of the letters on this matter between Secretary Hodel and Chairman UDALL and myself in the RECORD at this point in the debate.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, May 13, 1986.

Hon. DONALD P. HODEL,
Secretary of the Interior,
Washington, DC.

DEAR MR. SECRETARY: On July 9, 1985, the Senate passed S. 1068, the OCS Paperwork and Reporting Act. That bill is similar to H.R. 1983 which we introduced, with nine co-sponsors, on April 4, 1985.

As passed by the Senate, the bill was jointly referred to our two Committees. On April 9, 1986, the Committee on Merchant Marine and Fisheries favorably reported S. 1068, as amended by the Senate, without further amendment. The legislation is presently being considered by the Committee on Interior and Insular Affairs.

Prior to final disposition by the Interior Committee and passage by the House, we would like to take this opportunity to indicate our understanding about the effect of the bill and, if you agree, be advised of your affirmation of such effect. Assuming that we are able to reach a mutually acceptable understanding, the Interior Committee is prepared to move expeditiously so that the House can take final Congressional action very soon.

Section 2(a) of S. 1068 repeals Section 15(1)(D) of the Outer Continental Shelf Lands Act (OCSLA), which requires you to include in the Department of the Interior's annual report on OCS leasing and production "a list of all shut-in and flaring wells".

Section 2(b) repeals Section 601 of the OCSLA amendments of 1978. Section 601 requires that you provide an annual report to the Comptroller General on OCS oil and gas wells that are shut-in and natural gas wells that are being flared. Its also requires you to indicate the reasons for shutting-in or flaring each well and whether you will order its production or cessation of flaring. Finally, Section 601 requires the Comptroller General to review and evaluate the methodology which you used in deciding whether or not to require production of the well or the cessation of flaring.

Section 2(c) amends Section 606 of the OCSLA by deleting the seven subsections in existing law and replacing them with a single section that requires you to carry out two activities: (1) conduct a continuing investigation to determine an estimate of the total discovered crude oil and natural gas reserves by field (including proved and indicated reserves) and undiscovered crude oil and gas (including hypothetical and speculative resources) of the OCS; and (2) provide a biennial report to Congress on June 30 of every odd-numbered year on the results of the investigation.

Under existing law (Section 606), you are to include in the investigation a determination of the maximum attainable rate of production (MAR) of significant oil and gas fields of the OCS and whether actual production has been less than MAR, including the reasons therefore. Section 606 also requires that this continuing investigation include an estimate of discovered and undiscovered crude oil and gas reserves on the OCS, the relationship of all the information collected to requirements of conservation, industry, commerce, and the national defense and an independent evaluation of trade association procedures for estimating OCS reserves. These requirements, other than those related to the continuing investigation of resource estimates, would be deleted under S. 1068.

Prior to the enactment of the 1978 OCS amendments, concern about potential withholding of oil and gas production, the adequacy of resource information, and efficient rates of oil and gas production was manifested in investigations and hearings on the part of both the Congress and the Executive branch. Within the context of the OCS amendments, such concern was reflected, in part, by the inclusion of Sections 15(1) (D), 601 and 606.

These provisions, of course, only require the reporting of certain information to the Congress and they were intended to improve the data-gathering and monitoring work of the Department. We believe that such reporting requirements have essentially achieved their intended goals. A variety of oversight hearings and reports, particularly those developed by the General Accounting Office, indicate that the Department has made substantial improvements in its administrative control and monitoring of resource development activities on the OCS since 1978.

For example, the first GAO report issued on the Department's regulations of shut-in or flaring natural gas wells was highly critical of the Department's methods. In its November 21, 1979, report (EMD-803), GAO stated that the Department "lacks adequate oversight of shut-in or flaring natural gas wells on the outer continental shelf", and made a number of recommendations for improvement.

Subsequent to that report, GAO has made a series of findings indicating major improvement in the Department's oversight of shut-in or flaring natural gas wells. The 1985 GAO review was the fifth consecutive report to indicate that the Department's methodology is reasonable and that the legislative requirements for an annual report and a GAO evaluation of such methodology be repealed.

We agree with the GAO recommendation in this regard. At the same time, we want to make it clear that abolishing the report does not affect the Department's continuing responsibility for inspecting and monitoring OCS lease activities to ensure efficient development of oil and gas resources.

In particular, with respect to shut-in or flaring gas wells, we would note that Section 5(a) of the OCSLA gives you broad authority to prescribe rules and regulations that are necessary and proper "to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf. . ." Additionally, Section 5(i) prohibits the flaring of natural gas from the OCS unless you find "that there is no practical way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations."

These subsections are not amended by S. 1068 and, in conjunction with other provisions of the law requiring the conservation and efficient production of OCS resources, continued to require diligence on the part of the Department in monitoring the operation of all offshore oil and gas wells. We do not intend, in any way, that S. 1068 be interpreted as reducing those adminstration requirements on the Department.

With respect to the amendment to Section 606, we are repealing a number of outdated and unneeded reporting requirements. We are clearly de-emphasizing the need to report maximum attainable rates of production, analyses of projected MARs compared to actual production rates, the relationship of OCS production and reserve information to the requirements of conservation, industry, and the national defense, and an independent evaluation of trade association procedures for estimating OCS reserves.

We agree with the GAO report of September 10, 1982, (EMD-82-97) that the MAR is a hypothetical number of little practical value and that minimum use is made of the MAR reports. At the same time, we would note that we favor the continued use, where appropriate, of the maximum production rate (MPR) and the maximum efficient rate (MER). The former is the approved maximum daily rate at which oil may be produced from a specified oil well completion or the maximum approved daily rate at which gas may be produced from a specified gas well completion. The latter is the maximum sustainable daily oil or gas withdrawal rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to ultimate recovery.

Again, the elimination of the MAR reports and other elements noted in Section 606 do not, in any way, affect the continuing responsibilities of the Department to make certain that its rate-setting functions are carried out in accordance with the law.

For example, Section 106 of the Energy Policy and Conservation Act (PL-94-163, December 22, 1975) requires you to promulgate regulations to determine, to the greatest extent practicable, the maximum efficient rate of production, and, if any, the temporary emergency production rate in each field on federal lands which contain significant volumes of oil and gas. Furthermore, the President is authorized to require such fields to be produced at the MER or, during a severe energy-supply interruption, at the temporary emergency production rate.

Section 5(a)(7) of the OCSLA provides you with broad authority to promulgate and enforce regulation "for the prompt and efficient exploration and development of a lease area." Section 5(g) provides that an OCS lessee shall produce "at rates consistent with any rule or order issued by the President in accordance with any provision of law." The subsection also states that if no such rule or order has been issued,

". . . the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, which is safe for the duration of the activity covered by the approved plan. The Secretary (of the Interior) may permit the lessee to vary such rates if he finds that such variance is necessary."

We would also note that the 1978 amendments originally gave the Department of Energy certain rate settling responsibilities for the OCS. Pursuant to PL 97-100, the Department of the Interior Appropriations Act for Fiscal Year 1982, such responsibilities were returned to the Department of the Interior. These include the establishment of

diligence requirements for operators of federal leases and the setting of rates of production for those leases.

The requirements of the above-noted provisions with respect to rate-setting functions on the OCS still obtain, not withstanding the removal of the reporting requirements contained in S. 1068. We trust that the legislation will eliminate unnecessary and unneeded reporting efforts and paperwork and, thus, reduce administration costs. However, S. 1068 does not remove the obligations of the Department of the Interior to report annually on the OCS leasing program, or its responsibility to insure prompt and efficient OCS exploration and development and to monitor closely all shut-in and flaring natural gas wells. We also trust that the shut-in, flaring gas, and production rate data, which the Department will continue to gather under the various requirements of law, will be available to Congress and other interested persons, upon request.

We would appreciate a response to this letter as expeditiously as possible. If we mutually understand the intent of S. 1068 and the responsibilities that the Department will continue to carry out in the areas noted, we are prepared to move this bill to the House Floor for final passage as soon as possible.

Sincerely,

MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs.
WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries.

THE SECRETARY OF THE INTERIOR,
Washington, June 5, 1986.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of May 13, 1986, concerning S. 1068, the Outer Continental Shelf (OCS) Paperwork and Reporting Act. We have reviewed your letter and concur in your understanding of the impact of S. 1068.

We strongly support the amendments to section 15(1)(D) and section 601 of the OCS Lands Act (OCSLA) in S. 1068 to eliminate the report on shut-in and flaring wells, which goes both to the Congress and to the Comptroller General. We have long believed that this report does not meet the congressional intent behind the statute. The legislative history indicates that when the reporting provision was enacted, the Congress was concerned that OCS operators might delay oil and gas production in anticipation of future higher prices. To address this concern, the Congress enacted the reporting provision to provide for some oversight of the potential for (1) wells being shut-in for economic rather than production reasons and (2) for flaring gas which could be productively used. The report does not and cannot realistically meet the congressional intent. It contains statistical data that is best used to analyze shut-in well and flaring trends and anomalies rather than attempting to judge whether or not production is being deliberately withheld or gas is being flared unnecessarily. We understand that the elimination of the reporting requirements pertaining to shut-in or flaring wells in no way affects our responsibilities to monitor those wells as required by the OCSLA. We fully recognize that the authorities granted by section 5(a) and the prohibitions prescribed in section 5(i) are in no way amended by S. 1068.

With respect to the requirement for a continuing investigation to determine an estimate of the discovered and undiscovered crude oil and natural gas fields, we strongly support the amendments to section 606 of the OCSLA in S. 1068 that would eliminate those parts of the current report that do not best meet the needs of the Congress. This includes the elimination of the requirement that we determine the maximum attainable rate of production (MAR) of significant oil and gas fields of the OCS and whether actual production has been less than the MAR, and if so, why. The MAR, as the General Accounting Office has previously pointed out, is not the most useful information on production rates and, as you note, little use is made of the MAR reports. The current reserves determination program and maximum production rate as required by OCS Order No. 11, are better sources of information. We will also continue to use the maximum efficient rate in establishing and monitoring production rates as appropriate.

We fully understand that the amendments to section 606 of the OCSLA contained in S. 1068 in no way change our rate setting responsibilities under other provisions of the OCSLA, specifically sections 5(a) and 5(g), or under the provisions of section 106 of the Energy Policy and Conservation Act. We intend to continue to carry out those authorities as we have in the past.

Be assured we will continue to carry out our responsibilities under the OCSLA and will be happy to provide you with information on shut-in the flaring natural gas wells and data regarding production rates upon request. We welcome the changes contained in S. 1068 and strongly support its expeditious passage.

Sincerely,

DONALD PAUL HODEL.

□ 1210

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield muself such time as I may consume.

Mr. Speaker, I rise in support of S. 1068, the Outer Continental Shelf Paperwork and Reporting Act of 1986.

This piece of legislation simply eliminates a number of reporting requirements which heretofore have been mandated by the Outer Continental Shelf Lands Act. Both the General Accounting Office [GAO] and the Department of the Interior believe that these reporting requirements are unnecessary and support their elimination. As the chairman, the author of this legislation, has indicated, both industry and the Federal Government will achieve savings through enactment of this legislation. As a cosponsor of the House companion bill, I am pleased that the Senate has acted on this matter and that we are in a position today to approve their legislation and send it to the President for his signature.

Reducing Federal costs and streamlining the regulatory process is always a good idea in my mind, and I congratulate Chairman JONES on his efforts in support of this legislation and I urge that the House suspend the rules and pass S. 1068.

Mr. FIELDS. Mr. Speaker, as a cosponsor of the House version of this legislation, I rise in support of S. 1068, a bill which eliminates several unnecessary Government reports involving certain oil and gas activities on the U.S. Outer Continental Shelf.

As the chairman has indicated, this bill, which is strongly supported by both the Reagan administration and the General Accounting Office, has three important goals:

First, the bill repeals section 15(1)(D) of the Outer Continental Shelf Lands Act which requires the Department of the Interior to include in its annual OCS report to the Congress a "List of All Shut-in and Flaring Wells."

Second, S. 1068 eliminates the requirement contained in section 601 of the OCSLA amendments of 1978 which instructs DOI to provide to the Comptroller General an annual report explaining not only the reasons for shutting in or flaring each well but whether the Secretary intends to order production or halt such flaring.

Mr. Speaker, with the decontrol of domestic energy prices, these reports, which are expensive and time consuming to prepare, are no longer relevant or necessary.

While it is difficult to calculate the precise dollar amount saved by this legislation, it is clear that by eliminating these reports both the Federal Government and the oil and gas industry, which is now obligated to provide this data, will save thousands of dollars.

Finally, Mr. Speaker, the bill amends section 606 of the OCSLA to simply require that DOI conduct an ongoing investigation to assess the amount of discovered and undiscovered energy resources of the OCS and to provide this data on a biannual basis to the U.S. Congress.

Mr. Speaker, while this is a simple and noncontroversial bill, it is, nevertheless, an important step in our ongoing effort to eliminate unnecessary Government paperwork and reporting requirements.

I would urge my colleagues to support S. 1068.

Thank you, Mr. Speaker.

Mr. SHUMWAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 1068.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1068, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DEEP SEABED HARD MINERAL RESOURCES REAUTHORIZATION ACT OF 1986

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4212) to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes.

The Clerk read as follows:

H.R. 4212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Reauthorization Act of 1986".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking out "and" immediately after "1984," and

(2) by inserting ", and $1,500,000 for each of the fiscal years ending September 30, 1987, September 30, 1988, and September 30, 1989" immediately before the period at the end thereof.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congress passed the original deep seabed mining law in 1980 and it has been reauthorized twice since then.

The bill before us today, H.R. 4212, is a simple extension of the program at level funding of $1.5 million for each of the next 3 fiscal years.

This bill contains no other amendments to the law, would reauthorize a program supported by the administration, and enjoys the bipartisan support of the three committees of jurisdiction in the House. The only problem with the Ocean Mining Program, Mr. Speaker, is that the minerals market today is such that seabed mining would not be a profitable commercial enterprise at this time.

However, the essential work of preparing for that day must continue. The United States is heavily dependent on other nations for many of the metals that can be found in the deep seabed. It is important, therefore, that the regulatory and environmental work of the lead Federal agency, the National Oceanic and Atmospheric Administration—NOAA—continue.

NOAA has issued four licenses to explore the ocean for these minerals and will soon publish regulations for commercial recovery. This work, along with the important environmental efforts made by NOAA, should proceed at the modest level of funding contained in this bill.

I want to take this opportunity to thank the chairwoman of our Oceanography Subcommittee which has jurisdiction over this legislation, the gentlelady from Maryland, BARBARA MIKULSKI, and the ranking minority member on the subcommittee, NORM SHUMWAY of California.

I also want to express my appreciation to the distinguished gentleman from New York [Mr. LENT] for his service as ranking minority member of the Merchant Marine and Fisheries Committee. He worked with me in a bipartisan manner during this Congress and I wish him well in his new ranking position on the Energy and Commerce Committee.

This gives me a chance to welcome the committee's new ranking member, the gentleman from Michigan [Mr. DAVIS] and to thank him for his assistance on this bill.

The Interior and Foreign Affairs Committee also have jurisdiction over this bill and I would like to thank Chairmen UDALL and FASCELL—and their ranking minority members, Mr. YOUNG of Alaska and Mr. BROOMFIELD of Michigan—for helping us expedite the consideration of this bill. Also, I would like to commend the Interior Mining and Natural Resources Subcommittee chairman, Mr. RAHALL of West Virginia and his ranking member, Mr. CRAIG of Idaho, for their hearing and favorable report on this seabed mining bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to support H.R. 4212, legislation to reauthorize the Deep Seabed Hard Minerals Resources Act.

In passing the Deep Seabed Act in 1980, the Congress found that our Nation's industrial needs for certain hard minerals, such as nickel, copper, cobalt, and manganese, "will continue to expand and the demand for such minerals will increasingly exceed the available domestic sources of supply." Moreover, the Congress found that the United States is dependent upon foreign sources of supply for many of these hard minerals and, "The present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations."

In response to these needs and this national interest, the Deep Seabed Hard Minerals Resources Act was enacted to establish a system to license exploration and development activities by private industry of manganese nodules found on the deep seabed—that is to say the area of the ocean seaward of the outer edge of the Continental Shelf, beyond national jurisdiction. As well, the act requires that NOAA regulate deep seabed exploration and development activities to ensure marine environment protection, conservation of natural resources, and safety of life and property at sea.

To date, NOAA has issued exploration licenses to four U.S.-based consortia. As well, pursuant to this act, in 1984 the United States concluded a "reciprocating States Agreement" with England, France, West Germany, Italy, Japan, the Netherlands, and Belgium. This Agreement seeks to resolve conflicting mining area claims and establishes minimum regulatory requirements for each nation's ocean mining program. The Reciprocating States Agreement provides a legal management regime for industry development in the absence of a successfully negotiated Law of the Sea Treaty.

Mr. Speaker, as the chairman of our committee has stated, this bill provides a straight 3-year authorization of NOAA's ocean mining operations at $1.5 million per year, the same level of the program as presently authorized for. I am pleased to say that the administration strongly supports the reauthorization of this act, and I am aware of no opposition to this piece of legislation.

Mr. RAHALL. Mr. Speaker, the Committee on Interior and Insular Affairs is pleased to join with our colleagues on the Merchant Marine and Fisheries Committee in bringing to the floor H.R. 4212, the Deep Seabed Hard Mineral Resources Reauthorization Act of 1986, a bill that would reauthorize the Deep Sea Mining Program for an additional 3 years at the current funding level of $1.5 million per year.

The Deep Seabed Act of 1980 authorized the National Oceanic and Atmospheric Administration [NOAA] to issue licenses for exploration and permits for commercial recovery of manganese nodules in international waters. The act is intended to provide regulatory certainty to enable continued development of the mining potential of the deep sea, and provide an orderly progression from non regulation to U.S. regulation of its citizens under similar regimes in other countries to mining under an international regime.

Manganese nodules are a potential future source of strategic and critical minerals, con-

taining commercially interesting amounts of manganese, cobalt, nickel, and copper.

Currently, the United States produces no manganese or cobalt, next to no nickel, and our domestic copper industry is struggling for its survival.

I know there is not a single Member of Congress that is unaware of the volatile situation in South Africa. Not a day goes by without reports of the violence in that country, accompanied by constant warnings of labor unrest and strikes.

However, many may not be aware of our dependency on Southern Africa for many of our strategic and critical minerals. South Africa is our second largest supplier of manganese, and 50 percent of our cobalt, while mined in Zaire and Zambia, must use South Africa's railroads to get to port.

It is obvious that this Nation's supply of our most critical minerals is far from secure, and the Deep Sea Mining Program is an important step toward guaranteeing security. While commerical recovery of these deep sea resources is still years away, it is important that we move ahead with this program, protecting the ocean environment while assuring a future supply of these valuable resources.

I think that the current program is accomplishing these objectives and that the straight reauthorization provided by H.R. 4212 assures the program's continuity.

Mr. SHUMWAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4212.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4212, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MICRONESIAN WORLD WAR II CLAIMS

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4878) to require the Secretary of the Interior to submit to the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee certain information regarding Micronesian governments.

The Clerk read as follows:

H.R. 4878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no later than September 1, 1986, the Secretary of the Interior shall submit to the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee a statement of the total amount of assistance provided as of such date by the Government of Japan to the areas which as of January 1, 1986, were included in the Trust Territory of the Pacific Islands (including assistance to the Trust Territory Government, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau). Such statement shall identify the recipient of such assistance and whether such assistance was in the form of grants or goods and services (and the valuation thereof if in goods and services) on and after October 15, 1977.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from Colorado [Mr. STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4878, the bill before us today, represents a bipartisan effort to move closer to a final resolution of Micronesian claims arising from World War II.

This bill, a no-cost bill as can be attested to by the CBO letter contained in the House report, simply directs the Secretary of the Interior to submit to the House Interior and Insular Affairs Committee and to the Senate Energy and Natural Resources Committee by a date certain a statement specifying the total amount of assistance provided by the Government of Japan to the governments in Micronesia since 1977. Such a statement would identify the recipient of assistance and whether such assistance was in the form of grants or goods and services on and after October 15, 1977.

This committee has been seeking this information from the executive branch for some years without success. The October 15, 1977, date is the effective date of Public Law 95-134, which contains a provision authorizing the Secretary of the Interior to pay the remaining title I Micronesian war claims owed, providing the Japanese have contributed at least 50 percent of the total awards in grants or goods and services. The information to be provided by the Secretary is to enable Congress to determine whether Japan has indeed done this.

It is hoped that with this additional legislative prodding, we may yet see what supposedly is circulating within the executive branch. A recent headline in the Northern Marianas newspaper of July 4, 1986, summarizes the longevity of this unresolved matter of war claims: "Half of War Claimants Died Unpaid."

The last of the legislation providing for a new political relationship of free association between the United States and the Micronesian Governments was favorably reported from the Interior Committee in late June. The United Nations Trusteeship Council in late May approved a resolution to seek termination of the trusteeship before the U.N. Security Council this year. All of the pieces are slowly falling into place, with a few exceptions. This is one piece of unfinished business that Congress needs to complete in order to fulfill its commitments to the Micronesians. I would urge my colleagues to support this legislation.

□ 1225

Mr. Speaker, I reserve the balance of my time.

Mr. STRANG. Mr. Speaker, I yield myself such time as I may consume and rise in support of H.R. 4878.

Mr. Speaker, no new outlays or costs will be incurred to carry out the provisions of this bill. This legislation does no more than to direct the Secretary of the Interior to determine the level of contributions made by the Japanese Government to Micronesia. This question has remained unresolved for many years and, in spite of written and verbal requests to various Government agencies, a formal definitive response has not been received.

This legislation should finally clarify the issue.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 4878.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TEXAS WILDERNESS ACT AMENDMENTS OF 1986

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4685) to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas, as amended.

The Clerk read as follows:

H.R. 4685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be known as the "Texas Wilderness Act Amendments of 1986."

SEC. 2. BOUNDARY ADJUSTMENT.

(a) BOUNDARIES.—The boundaries of the wilderness areas designated by the Wilderness Act are modified as shown on the maps entited "Texas Wilderness Boundary Charges", numbered 1-5, dated June 1986.

(b) ADMINISTRATION OF WILDERNESS AREAS.—Subject to valid existing rights, lands designated as wilderness by subsection (a) shall be included within the national forest system and administered in accordance with the laws and regulations applicable to national forest wilderness areas, including the provisions of the Wilderness Act (16 U.S.C. 1131-1136) and the Texas Wilderness Act of 1984 (Public Law 98-574). In areas added to the national wilderness system by this Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

SEC. 3. MAPS AND BOUNDARIES.

As soon as practiable after enactment of this Act, the Secretary of Agriculture shall file a map and legal descriptions of each wilderness area affected by this Act, incorporating the boundary modifications referred to in section 2(a) of this Act, with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

The SPEAKER pro tempore. Is a second demanded?

Mr. STRANG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from Colorado [Mr. STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4685, the Texas Wilderness Act Amendments of 1986. This bill would modify the boundaries of the five National Forest wildnerness areas that the Congress designated on national forest lands in the State of Texas in 1984. These boundary changes have two purposes. The first is to increase the manageability of these wilderness areas by evening out jagged boundaries, and by moving the boundary lines to make them more easily signed and recognizable.

The second is to enable the addition to wilderness of small but ecologically and recreationally significant tracts of land just outside of the wilderness boundaries enacted in 1984. Since 1984, some of these lands have been acquired by a private conservation group specifically so that they could be added to wilderness. The boundary changes in H.R. 4685 will allow that to happen.

The net change of the boundary adjustments incorporated in H.R. 4685 would be an addition of 1,770 acres of wilderness. These additions are small ones, but they are significant beyond their acreage. They add greatly to the manageability of these areas, and to their wilderness values.

These areas are in east Texas. Representatives CHARLES WILSON and JOE BARTON, whose districts are affected by this bill, were cosponsors of this bill, and they, along with their colleagues from Texas, Representatives JOHN BRYANT and STEVE BARTLETT, submitted testimony in favor of the bill to the Public Lands Subcommittee. I want to thank all of those Representatives for their efforts in bringing this bipartisan proposal before the Congress and before our committee.

Mr. Speaker, when we passed the Texas Wilderness Act in 1984 which first set aside these five areas, our distinguished former colleague, Representative Sam Hall, and I had a long discussion on the floor about the effect of wilderness designation on the private mineral rights which underlie some of these areas. I want to emphasize that I, and the committee stand by what was said then.

This issue has been raised again regarding 45 acres in the areas added to wilderness by H.R. 4685, whose mineral rights are owned by ARCO. The bill before us designates this area as wilderness "subject to valid existing rights," and that includes those mineral rights. We are not talking about Federal leases here, but about privately owned mineral rights. The nature of those rights is not defined by Federal law, but by the property law of the State of Texas. The ownership of those rights will not be affected by this legislation. In fact, under the provisions of section 5 of the Wilderness Act of 1964, the Forest Service is expressly denied any right to condemn those rights or take them without the consent of their present owners, once the area is designated as wilderness.

The intent of this bill is to direct the Forest Service to do all it reasonably can to protect the surface values of these lands. However, if required, ARCO will be entitled to such access as is reasonably necessary.

This 45 acres is a small piece of land, but it is an important addition to the small Upland Island Wilderness area, enabling us to completely protect a ridge of upland pine in an area of Texas where most similar ridges outside of wilderness have long since been logged and roaded.

My staff have discussed this situation with ARCO, and ARCO has told them that, with the clarification I hope that my remarks today provides on this point, they are satisfied that this bill will not interfere with their rights in this area.

Mr. Speaker, I will conclude my remarks by saying that this is a worthy piece of legislation that has been worked out by Members from both sides of the aisle with the interested parties in their district. I support it heartily, and I ask all my colleagues to join me in voting for it.

Mr. GONZALES. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. GONZALES. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think the record ought to show that the committee did some excellent work here, and that this matter has had a long history that was very, very controversial.

I think that the record ought to show also that our former U.S. Senator Ralph Yarborough was the one who labored hard and fought against, at that time, insurmountalbe odds in order to get the East Texas Wilderness Area as a public accessible area. I think that when he left the Senate, it was one of those things that had ended up being a temporary defeat for him.

Today, though, I notice we have two coauthors and the addition of two of my colleagues from Texas whose districts, however, are some distance, like mine, from the East Texas Wilderness Area. Also the report shows that the area involved is in three congressional districts. One is JIM CHAPMAN's, the other is Mr. BARTON's, and the other is Mr. WILSON's.

Mr. WILSON, for many, many years here, had also been engaged in a rather bitter struggle as to the definition, so that even though the East Texas Wilderness Area is in one extreme, over in deep east Texas, for a while it was an all-Texas controversy and an issue.

What I wanted to ask was, I did not notice the presence of Mr. CHAPMAN signifying his cojoinder or his approval. Is there any reason for that?

Mr. SEIBERLING. Mr. Speaker, the gentleman is simply not one of the coauthors. But we had no objection from any of the Representatives from Texas. As far as I know, the gentleman is not opposed to this.

Mr. GONZALEZ. Mr. Speaker, I want to thank the gentleman and I want to thank the subcommittee for a good job. This is a very valuable action. It enhances the common good and the common wealth and the common substance of the State of Texas. It is a very, very priceless part of our heritage.

Mr. SEIBERLING. I thank the gentleman from Texas for his support and for his adding to the record of this legislation.

I personally visited most of these areas, as I try to do before we act upon them, and I can certainly say that they are outstanding examples of what was formerly a vast wilderness in east Texas. These will preserve some of the best remnants of that wilderness for people in Texas and other parts of the country to enjoy.

I think now that we have had 2 years in which these wilderness designations have been in effect, we can see that many of the fears that were expressed prior to their enactment have not materialized, and we are simply trying to make some minor adjustments here to have a better and more easily managed and easily identified set of areas.

□ 1235

Mr. GONZALEZ. If the gentleman will continue to yield, I would like to just sum up by praising the distinguished chairman from Ohio because, as he just said, he has personally visited these places. I have seen reports and pictures and movies of the chairman all the way from the Arctic and Alaska clear down to the east Texas wilderness.

I think the House should note that the gentleman has had a very distinguished career in this respect. I want to express the gratitude of my colleagues.

Mr. SEIBERLING. I thank the gentleman for his comments.

Mr. STRANG. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Colorado.

Mr. STRANG. I thank the gentleman for yielding to me.

Mr. Speaker, the gentleman's comments on ARCO would be construed to be generic in nature, I trust, and apply to any other mineral rights legally?

Mr. SEIBERLING. They would; that is right.

Mr. Speaker, I reserve the balance of my time.

Mr. STRANG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Texas wilderness boundary adjustment bill.

The bill adds approximately 1,700 acres to 5 existing wilderness areas in Texas through numerous small boundary adjustments and additions.

Several of the adjustments are to accommodate requests made by the Forest Service to improve the manageability of the boundaries while others are proposed by conservationists to round out the areas.

Some concern has been raised over the question of access to privately held mineral rights. I believe it is the committee's intent that the wilderness designations are subject to valid existing rights and that in the case of privately held mineral rights that reasonable access is assured. I understand this issue was debated in 1984 when the original Texas wilderness bill was passed and I understand the chairman stands behind this colloquy and has referred to it in his statement.

Mr. Speaker, I have had occasion to discuss passage of this bill today with my colleagues, Mr. BARTLETT and Mr. BARTON of Texas and they have urged me, strongly, to support this bill and express the support of the floor.

With this commitment, I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BRYANT. Mr. Speaker, I am an original cosponsor of H.R. 4685, the Texas Wilderness Boundary Adjustment Act. This bill adds another 1,800 acres to the 34,346 acres of wilderness established by the Texas Wilderness Act of 1984, which created five federally protected wilderness areas in east Texas. They are: the Big Slough Wilderness Area in the Davy Crockett National Forest, the Upland Island and the Turkey Hill Wilderness Areas in the Angelina National Forest, the Indian Mounds Wilderness Area in the Sabine National Forest, and the Little Lake Creek Wilderness Area in the Sam Houston National Forest.

The bill adjusts the boundaries of the five wilderness areas to make them more accessible to the public and to include several more unique sites. One of the sites called the Jug Hole, located in Indian Mounds, is a shaded rock pool which once served as a watering place for wagon trains.

The bill also makes management of the areas by the Forest Service easier. At present, the notification signs which the Forest Service has provided are 100 feet or more from the road.

The intrusion of some private land into the wilderness areas has made it exceedingly difficult for the Forest Service to manage them appropriately, and this legislation would resolve those problems. In addition, some environmental groups have acquired notable tracts of land adjacent to the wilderness areas and would like to see them protected by law from development. They would like them included in the designated wilderness areas; this bill would accommodate that.

I ask that the House adopt H.R. 4685 so that future generations can discover and enjoy a little bit more of Texas rich natural heritage as it is today.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 4685, as amended.

The question was taken; and (two-thirds have voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ELIMINATING DEATH AND TAXES

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, the opening sentence of the Education and Labor Committee report on H.R. 1309 claims that the bill is "designed to reduce and, eventualy, eliminate death" due to occupational diseases. Meanwhile, other congressional committees are promising ever lower taxes. While such rhetoric is comforting during this election year, the old saw is still true: There's no escaping death and taxes.

As much as I might wish to eliminate death due to occupational diseases, H.R. 1309 won't do it. Instead, the bill would simply notify workers who are already at risk. Even the committee report admits that in most cases this notice would come to late to help.

For this reason, I am offering an alternative that beefs up OSHA warnings of occupational health hazards so that workers can avoid harmful exposures. While this may not eliminate death, it will promote health working conditions. Now let's tackle those taxes.

ACID RAIN: A HARMFUL REALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, the Nation's scientists have reported that acid rain is a real and dangerous threat to our environment. The U.S. Environmental Protection Agency has confirmed that Florida has the greatest number and percentage of acidic lakes in the Nation. According to preliminary results of a survey completed by the EPA, over 25 percent of the lakes sampled were acidic and 54 percent were sensitive to becoming acidic. According to many researchers and conservationists, nothing is being done to protect these lakes and their fish populations. As a representative of the State of Florida, and concerned with the welfare of its natural beauty and aquatic life, I am a cosponsor of H.R. 4567, the Acid Deposition Control Act of 1986, legislation which, I feel, takes major steps in protecting our environment.

Acid rain is caused by the 25 million tons of sulfur dioxide and 19 million tons of nitrogen oxides emitted each year in the United States, mainly by utility plants. Over 1 million tons of sulfur dioxide alone is released in Florida each year. In the past, most concern over its effect has centered on the northeastern United States and Canada, where prevailing winds carry pollutants from the heavily industrialized Midwest.

While utility plants around our Nation realize the dangerous effects of acid rain, they are also concerned, and rightly so, about the cost of our actions to their customers. It is my belief that, due to the number of States involved in this problem, we can all work together so that, while our utilities should not suffer any adverse effects from H.R. 4567, neither should our environment suffer any adverse effects from acid rain.

Mr. Speaker, H.R. 4567, the Acid Deposition Control Act of 1986, is worthwhile and necessary legislation. And those who support such a bill have already obtained the wisdom and foresight to stop acid rain before irreversible acidification becomes widespread.

SECTION 504 OF THE REHABILITATION ACT AND DISCRIMINATION AGAINST PEOPLE WITH DISEASE IN THE WORKPLACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, last month the Department of Justice issued an opinion, titled a memorandum, at the request of the General Counsel to the Department of Health and Human Services on the question of the applicability of section 504 of the Rehabilitation Act to people suffering from AIDS or AIDS-related complex or infected with the AIDS virus.

Section 504 was passed by Congress and signed by the President to protect people who are ill, people who are handicapped, people who, through no fault of their own find themselves in imperfect health, from job discrimination.

A good deal of lipservice is paid in this country to the value of work and the importance of people working. Ironically, some of those who most fervently proclaim their devotion to the work ethic are not always very helpful when vulnerable individuals want to work.

This administration in particular has, in my judgment, been hypocritical in the extreme, on the one hand, in insisting on its devotion to the value of work and, on the other hand, in area after area, undercutting legislation on the books and previous regulatory policy that seeks to enable people to work where they have faced what we all understand to be barriers of an irrelevant sort because people do not like their race, their religion, their sex, their sexual orientation or the state of their health.

Section 504 says that if you are otherwise able to perform the job, the fact that you have some handicap, some illness, is not a valid ground for people to throw you out. That law, unfortunately, does not apply in general in the country. This particular act applies to those who are recipients of Federal funds. What we say is that you cannot come to the Federal Government and say, "Give me some money," and then use that money in part to discriminate against people who have some handicaps.

AIDS is a terrible illness. It has caused death in distressing numbers to a variety of our fellow citizens. It in particular strikes several groups who have been most vulnerable, some of whom are victims of prejudice in other ways. Among those are gay men.

Often the victims of employment-based prejudice, the gay men who suffer from AIDS, who have AIDS-related complex or a carrier from AIDS are in many ways doubly vulnerable.

Naively, many people thought that the clear statement in Federal law that you cannot discriminate against people based on their handicap if you are receiving Federal funds, and let me underline: This is not a case of the Federal Government dealing with people who are purely, privately involved. This has to do with people who are receiving Federal funds in this particular statute.

The question is what happens to people who are suffering from this illness, people who have AIDS-related complex, which means that they have some of its ill effects but not all of them. People who have the antibodies which means that they have a strong possibility.

□ 1245

The percentage is unclear. It is less than 50 percent, we believe and hope, but they have a possibility of contracting the disease.

In the great majority of cases, these are people who are capable of working. There have been instances of job discrimination. Tragically, there are cases of politicians with a lack of scruple that is extraordinary even in a profession where scruple is not always present.

There are people who have sunk to the point of demagoging against people with AIDS, a classic case of blaming the victim and inflicting pain and hardship on people who are already suffering and on their families and on their friends.

There are people who have sought to use this terrible illness as an excuse to bolster their prejudices against gay men in general and to further their ability to act in a bigoted manner.

Fortunately, the medical profession in this country has been extremely responsible in this area, including those who work for the Federal Government. I want to pay tribute to the people in the Department of Health and Human Services, to the Center for Disease Control, because in the face of demagogic efforts to mislead people about the way in which AIDS is transmitting, in the face of demagogic efforts to trade on this illness for political purposes, to further victimize individuals, the medical profession has been very clear. AIDS is not transmissible through the normal kinds of contact people have with each other. It is transmissible through sexual intercourse. It is transmissible through blood transfusions. It is transmissible when people inject themselves with needles or other instruments where the virus is a carrier, but it is not transmissible in the kind of day-to-day communication people have with each other in the workplace and in the home.

We have, tragically, cases of children being victims of AIDS.

There are no cases of a sibling transmitting to another sibling this illness. People who know small children know how intimately they live with each other. They share food. They share beds. They share bathroom facilities. They do not transmit AIDS to each other.

So people thought, given that AIDS is not transmissible even in the normal or even in the extraordinary workplace situation, it is not transmissible through casual contact, people thought the law would be clear. The law says that you cannot fire someone who is able to do the job because of his or her handicap.

The Department of Health and Human Services, understanding that AIDS is not transmissible in the ways that people interact with each other when they work and when they socialize in general, when they shop and in other ways come into normal contact with each other, the Department of Health and Human Services clearly figured that this would mean that

people who were recipients of Federal funds could not discriminate against people with AIDS, people with AIDS-related conditions, and they asked the Justice Department to clarify that and by every indication we have, the lawyers who do the basic work in the Justice Department read the law and said, "Yes, that's right. It says it right there."

If you have a handicap, AIDS, which is sadly always fatal in our experience to date, yes, if someone fires you because you have AIDS or AIDS-related complex or if you have the antibodies and they fire you, not because you cannot do the job, but because you have this illness, then you have been discriminated against by recipients of Federal funds; you have got to be protected.

That decision went up to the political levels of the Justice Department. The expectation of people at the Center for Disease Control and in the Health and Human Services and at the working level of the Justice Department was that the Justice Department would do something—which I suppose in this administration cannot always be expected—they would follow the law. That is not what happened.

In a memorandum issued from the Office of Legal Counsel, signed by Charles Cooper, the Department of Justice in as intellectually dishonest, cruel, and mendacious an opinion I have ever seen issued from the high levels of the Federal Government, simply stood the law on its head. Not only did they refuse to confirm what everyone expected, that the law prevents discrimination against people with AIDS, they wrote an instruction to bigots on how to discriminate. The Justice Department used its efforts to take the law apart and to instruct employers on how they might get away with discriminating against people with AIDS.

Fortunately, this opinion has already been repudiated by almost everyone with any knowledge in the field. It is unlikely in the end to mean a great deal because the courts will not, I believe, follow the Justice Department's invitation to violate the law, but it has a potentially savage impact, because it is an encouragement to bigotry. It is an encouragement to people to further victimize the victims.

I would like at this point, Mr. Speaker, to include, under the permission I got, some editorials in the RECORD. I want to quote from them briefly.

The Wichita Eagle Beacon, June 25, 1986, headline in the editorial: "AIDS Ruling Makes No Sense."

The Justice Department memorandum on employer treatment of victims of Acquired Immune Deficiency Syndrome (AIDS) is based, at best, on ignorance; at worst, on a blatant desire to subvert U.S. civil rights law.

The New York Times: "A License To Hound AIDS Victims," is the headline in its June 26 editorial.

Error and meanness suffuse the opinion on AIDS last week by Charles J. Cooper, head of the Office of Legal Counsel. His ruling, based on a mistaken reading of medical opinion about transmissibility of the disease, invites people to dismiss people who have it or carry it simply by invoking their fear of the disease being spread. Besides its needless cruelty to victims, the ruling will actually foster the spread of the disease by discouraging people in risk groups from taking the test.

The Seattle Post Intelligence of June 30, 1986:

The Justice Department's decision last week to narrow the rights of AIDS victims against discrimination from employers is a grievous reversal of the Federal Government's long-standing rule as protector of individual civil rights.

The New Republic, July 14 and 21—they took their summer break:

The Justice Department, making a vicious little distinction, has held that federal rules forbidding discrimination against the handicapped don't apply to AIDS victims, provided that employers are motivated by concern about the spread of the disease rather than by prejudice.

The Washington Post: The Washington Post's initial impulse was to be supportive of the decision on June 25. They said it was a thoughtful memorandum on the question of disability, but then they saw the reaction from the Department of Health and Human Services, not in this administration, heretofore thought of as a bastion of thoughtless radicalism, not previously considered to be the last redoubt of the most militant of those opposed to antigay prejudice.

They also, I guess, learned from the AMA how shoddy, and I believe deliberately shoddy, I think this is a case where the Justice Department acted—we have had some alternative quotes—not out of ignorance, but out of a politically motivated desire to mollify the most rightwing elements in its coalition and were prepared to do serious legal violence to the rights of vulnerable people for political purposes, about as unprincipled an action as it seems to me the administration could take; but the AMA repudiated it, too.

So the Washington Post reconsidered and on July 13, it said:

In effect, the memorandum provides a rather explicit set of directions for discriminating against not only AIDS victims, but anybody who might be carrying the disease. The memorandum—

It goes on to say—

makes the further mistake of suggesting heavily that the danger of infection through casual contact is an open question. The same Administration's Department of Health and Human Services quickly pointed out, uneasily, that Justice was not making a medical judgment and was offering no new medical findings.

The AMA, as I said, filing a brief in a case involving tuberculosis, but it made it very clear—and I ask here to include articles from the Washington Post and the New York Times—the headlines tell the story. Headlines do not always tell stories, and while they tell stories, they are not always the stories that are in the appended articles, but in this case, the headlines are accurate.

The New York Times said:

AMA assails decision of Justice Department on AIDS.

The Washington Post:

AMA opposes Justice Department on AIDS bias.

Because the AMA not only objected to the Justice Department attempting to license people to discriminate against people who are ill, we are talking about people who have an illness, who have some form of the illness, who are carrying a virus that may lead to the illness, who are able to work. These are people who have, one would have thought, enough grief and pain in their lives. These are people who may be facing a death sentence. These are people who may be worrying about when the death sentence will be passed, people who are worrying about how to help the ones that they love and who love them to carry on, people who are going to face enormous medical expenses. They are still capable of working, or else this would not have arisen.

People who are so ill that they cannot work do not have a claim and no one is arguing that; but people who are in that situation, who are capable of working, they find their Federal Government's Justice Department instructing their employees in a viciously worded opinion, and to also agree with the editorial that said that how to further victimize these victims, fire them.

If you are smart enough and you follow the Justice Department's map, forget the Federal law, forget the fact that they are ill and that they can do the job and you are firing them despite the fact that they can do the job because they are ill. We will tell you how to word it and you will be able to get away with it.

That was too much for the AMA, too much for the medical profession.

The Health and Human Services Department, obviously not happy in having to oppose the Justice Department, headed by one of the President's closest political advisors, but their commitment to the medical facts simply overrode political pressure.

The Los Angeles Times accurately headlines an article, "Health Agency says Justice Department Memo on AIDS Ignores Evidence." The memo does not reflect new scientific or medical information on AIDS transmission.

The article goes on to say:

Apparently angry with the Justice Department's comments on AIDS transmis-

sion, which imply the possibility of a casual spread of the disease, the Health and Human Services Department took the highly unusual action of challenging the statement of another Federal department.

So the general point is very clear. The Justice Department has appalled the medical profession, the Department of Health and Human Services, and a wide range of editorialists by acting in a self-appointed fashion as counsel to bigotry.

I want to continue with particular focus now—it is kind of hard to single out aspects of this opinion in the degree to which I think they appall people who believe in following the law in respect to scientific information that we have and of basic decency.

Probably the central problem which caused a substantial amount of upset with many of those who spoke had to do with the Justice Department's effort to falsify the state of our knowledge about how AIDS are transmitted. You see, the Justice Department has this problem. They admit that it is a violation of the law to fire someone because he or she has been handicapped, and to mollify their rightwing, they have to come up with some reason why they could not say that. The Department of Health and Human Services expected them to say it. The lawyers who work in the Justice Department expected them to say it. This administration, for political reasons, could not bring itself to say that the law is the law and that you cannot fire people who are otherwise able to do the job because they have this tragic illness.

So they pulled apart the decision to discriminate. They kind of factored it out to try to find some piece of bigotry that was legally salvagable. What they said was, "Well, if you can't fire someone because he or she is handicapped, but you can fire that person if you think, he or she is going to spread the illness."

And they said, "You can be wrong about how the illness spreads, but that won't make you legally liable."

In other words, the Justice Department position is, if someone has AIDS and is capable of doing the job, someone has the AIDS-related complex, is fully capable of doing his or her job and there is in fact no danger of that individual transmitting the illness to coworkers or customers or suppliers, but you mistakenly think that they might transmit it, you may fire them because of your own erroneous belief that they may transmit the disease, and that is perfectly OK, according to the Federal Government.

□ 1300

Not only that—remember, we are talking about Federal contractors—you can take money from the Federal Government, you can take money from the Federal Department of Health and Human Services, which says AIDS is not transmissible by these methods, and you can erroneously decide that it is and fire some individual, who will later face some serious problems, who will later need some money—you can fire that individual, add to the misery and pain that he or she is already going to face, and it is OK as long as you are sufficiently firm in your mistaken belief.

Of course, what the Justice Department has done is written an instruction to people. This is a manual for employers on how to fake it, because the average individual in a situation like that, they know that someone is ill with a disease, they do not understand the disease, and they fire them. The individual employer is not making that kind of, "Well, wait a minute, I am not firing him or her because he or she has AIDS, I am firing that individual because it might be transmitted."

Even the Justice Department recognizes limits to that argument. They consciously say—and it is hard, Mr. Speaker, when you discuss this opinion not to appear to be caricaturing it. I know some of my colleagues who will read what I say or hear it will think that perhaps I am being a little harsh in my description. That is why I read those editorials and that wide range of papers using words like "vicious" and "cruel."

I am not caricaturing it. The Justice Department says to an employer. "Fire the individual because he or she has the illness." And even though the law says that you cannot fire someone because of a handicap, they think, "Oh, yes, you can fire someone who has a handicap as long as you make it clear that it is not the fact that he or she has the handicap alone, but the fact that somebody else might get it from them that you are using as your basis to fire, even if that belief is wrong." So in other words there is no factual basis for firing the individual, but you can still fire them, but they understand that there has got to be at least the theoretical possibility of that.

Otherwise, under this opinion, you could fire someone in a wheelchair on the grounds that wheelchairs were contagious. That is an argument, by the way, only slightly less plausible than the one that they have made here. If, in fact, people with wheelchairs suddenly became unpopular in certain reaches of the far right, watch out for the Justice Department to claim that this could happen.

They had to argue as they did because medical opinion is overwhelming. We have had siblings living with each other, sharing food, sharing bathrooms, sharing showers, and beds, living with each other the way 6- and 8-year-old siblings do, and they do not give each other AIDS. It has not happened. AIDS happens when someone is injected, the body is pierced by an instrument which carries the virus, when someone gets blood, or when there are certain kinds of sexual activity, not the normal forms of intercourse in the workplace, at least not work that is able to get legal protection.

So there is no factual basis. But the Justice Department understood that unless it could conjure up some potential factual basis, then a terrible thing would have had to happen. They would have had to say that the law is the law, and that you cannot discriminate against people. In their absolute zeal to give people a chance to discriminate against people with AIDS, they falsify scientific evidence. They may not have falsified it knowingly, but I think that they falsified it, to use lawyers' terms, recklessly; that is, maybe they did not know, but if they did not know, it is because they made every effort not to know.

They did not do any check. They did a terrible thing. They said, and I am reading from page 12 of Mr. Cooper's mendacious memorandum, the Center for Disease Control "concluded in November 1985 that '[t]he kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of HTLV-III/LAV.' "

Let me just read that again. The Center for Disease Control, the Federal agency charged with deciding this and dealing with it, says "[t]he kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission * * *."

In other words there is no factual basis to these fears. Now here is the poor Justice Department. They have told employers that they can fire these people who are able to work if they make sure that they say—and see, you have the burden of proof if you are the victim of a firing. You have to go to court and prove what is the reason. So this is a very clever piece of lawyering at its worst. This is the kind of lawyerly behavior that led Dick the Butcher in Henry VI, part II, by Shakespeare, to utter that intermittently popular line. After the revolution he says, "The first thing we do, let's kill all the lawyers." This is the kind of lawyering that led people to say that, although I hasten to add that I do not suggest any such extremist measure.

But this is the kind of thing that gives lawyering a bad name, because they come up with a reason why you can discriminate, but they have a problem. The medical profession says, "But that's wrong. AIDS is not going to be transmitted by a salesclerk to somebody else. It is not going to be

transmitted by someone serving food to somebody else. It just doesn't happen that way."

So they had to try to impeach the evidence. They quote that and then they say, "It has been suggested, however, that conclusions of this character are too sweeping."

"It has been suggested." A semantic point, Mr. Speaker. Watch out for the passive voice when lawyers and politicians speak. When someone says, "It has been suggested," he is not suggesting it; you are not suggesting it; who is suggesting it? It, the atmosphere, the ether is making the suggestion. When people for political reasons want to offer up an opinion that is too stupid, too baseless, too worthless, in the most literal sense, to own up to, "it" is suddenly imported, and "it" suggests this.

Well, even the passive voice was not enough for them. They had to get some evidence. So they quoted a couple of people.

Now they quote two doctors; two doctors' names are mentioned. They quote a couple of books, but two doctors are mentioned, and only two, in the footnotes that suggest this point, and I want to be clear here.

They quote the CDC saying that you cannot transmit AIDS in the workplace. They understand what an obstacle that factual statement is to this instruction on how to discriminate, because even they admit that a mistaken opinion which is totally nonsensical cannot be justified. So they say of the CDC statement some people, it—not even some people—it has suggested that it is too sweeping.

They quote two doctors. They quote Dr. William Haseltine, who was recently reported to have declared, "anyone who tells you categorically that AIDS is not contracted by saliva is not telling you the truth."

And they quote Dr. Myron Essex:

> The CDC * * * has been trying to inform the public without overly alarming them * * *. But we outside the Government are freer to speak. The fact is that the dire predictions of those who have cried doom ever since AIDS appeared haven't been far off the mark.

The two medical people who are quoted, the two and only two medical people who are cited as sources for their effects to impeach the CDC, repudiate, angrily and indignantly repudiate the Justice Department's distortion of their remarks.

I spoke on the phone on Friday to Dr. Essex and to Dr. Haseltine. They both thanked me for giving them a chance once again to make it very clear. They agree with the Center for Disease Control. They agree that AIDS is not casually transmissible. And they are appalled by the misuse by the Justice Department of their statements.

In other words, Mr. Cooper understands that he has this real obstacle even to get across this shaky opinion of his. By the way, even understand the footing of this. The best argument that he has is that it is OK to be wrong when you fire people about transmissibility, but he understands that the error has to be at least plausible.

I understand that this may get a little complicated. This is not my complicating mode today, this represents the incredible degree of twisting and churning that the Justice Department is prepared to engage in to avoid the law.

They say "well, OK, we understand," the Justice Department says. "If the CDC is right, we are in trouble. So let us suggest that the CDC is wrong, and let us quote two leading medical researchers, Dr. Myron Essex and Dr. William Haseltine."

Dr. Essex and Dr. Haseltine are angry to be so used, because they do not say that. Dr. Essex's is the obvious one. Let us look at this. "The CDC has been trying to inform the public * * *. We outside the Government are freer to speak. The fact is that the dire predictions of those who have cried doom ever since AIDS appeared haven't been far off the mark."

This is quoted by Mr. Cooper in defense of his effort to impeach the CDC's statement about transmissibility. Dr. Essex makes it very clear that his statement had nothing to do with transmissibility. He was talking about the number of cases. He totally disagrees with the Justice Department and completely agrees with the CDC on transmissibility.

This, Mr. Speaker, is shoddy. For the Justice Department to take a quote from a leading AIDS researcher talking about an underestimate of the number of cases and to pretend that it had to do with transmissibility is intellectual dishonesty of the highest order, not worthy of any lawyer, and certainly an embarrassment when it comes from the Office of Legal Counsel of the Department of Justice.

So in Dr. Essex's case there is no excuse for it. It was simply a reach of an unrelated statement.

In Dr. Haseltine's case there is a little excuse, but not for it continuing. Let me say in fairness that I tried to speak to Mr. Cooper about it today. I called him this morning; he was not able to get back to me. I do not claim that he was avoiding me.

□ 1310

People in the Justice Department have been known to do that from time to time. In the case of Mr. Cooper, I tried to get him this morning. I called about 9:30. He was not able to get back to me as of about 12:30. I probably should have given him more notice. I certainly will be glad if he has any response to this to further discuss it.

I am going to include in the RECORD here as part of my permission a letter from Mr. Cooper to the New York Times, July 9, and an article he put in the Washington Post on July 13.

Let me talk about Dr. Haseltine. Dr. Haseltine made a speech at Harvard and it was reported in the Harvard Crimson. Prof. Alan Dershowitz read the report in the Harvard Crimson and wrote about it in the New York Times. He was quoted as saying what Mr. Cooper said he said. But Dr. Haseltine subsequently called to the attention of the people involved that it was a misquote and on February 24, 1986, Dr. Haseltine wrote to the Harvard Crimson and said, you made a mistake. It is not what I think.

Dr. Haseltine was very clear when I spoke to him on Friday. He telecopied to me today these letters. He was so eager to clear up the false impression the Justice Department has given of his views. He said, "I agree with the CDC. I am not at all supportive of the Justice Department's view that the CDC's conclusions are too sweeping. I think the CDC is exactly right."

He wrote to the Harvard Crimson February 24, 1986, and said, "You have got it wrong. That is not the case. You quoted me wrong."

The Crimson acknowledges and regrets its errors, it said.

Some things get better, Mr. Speaker. I have spent more of my life at Harvard than is perhaps good for me or it and I was never able to get the Crimson to admit or acknowledge its error. So Dr. Haseltine is particularly persuasive.

What he said in the letter was that the argument is made that even if documented, such cases would not alter the overwhelming fact the infection is not casually transmitted. Dr. Haseltine then wrote to the New York Times and said the same thing. "Look, you have got this wrong; Mr. Dershowitz has got it wrong."

The New York Times acknowledges that. In its editorial the New York Times points out that Dr. Haseltine's statement quoted in an article on the Times' op-ed page last March by Alan Dershowitz misrepresented Mr. Haseltine's views, as Mr. Dershowitz latter explained in the published later.

In other words, what the Justice Department is able to bring forward in defense of its attack on the CDC's conclusion is a quote that has as much to do with transmissibility as democracy has to do with what goes on in Afghanistan. It was just totally unrelated. They just took a quote by Dr. Essex; they liked what it said, they sliced it, chopped it, cut it, and they put it in there, totally without justification.

Dr. Haseltine did say something they saw in the New York Times in March that they liked. They ignored

the fact that Dr. Haseltine had repudiated it; that the man who quoted him repudiated it, that the man who quoted the man who quoted him repudiated it. That is a tough statement. It survived more repudiation than the deaths of Czarist Russia.

They printed it anyway. Dr. Haseltine has written to Mr. Cooper, June 30, 1986, and I have asked that all these documents be put in the RECORD. "Sirs," he says, with more restraint than I thought he could be expected to show, "regarding your memorandum reapplication of section 504 * * * remarks attributed to me are cited in summation of arguments relating to the possibility that the AIDS virus may be transmitted by means other than intimate contact. The remarks as cited misrepresent my views. To my knowledge, there is no evidence that transmission of the AIDS virus, other than by intimate sexual contact or exchange of body fluids and/or organs have resulted in infection.

"In my view, what is called casual transmission, such as is likely to occur in workplace settings, will never," underlined by Dr. Haseltine, "never pose a significant risk to uninfected coworkers.

"In this regard, I also bring to your attention that both Mr. Dershowitz—who cited these remarks in the New York Times "op-ed"—and I am on record as stating that the remarks quoted in the Times represent a distortion of my views. I request that you correct this error."

In his letter to the New York Times, Mr. Cooper said, "Well, Haseltine still thinks it is theoretically possible."

On a scientific basis, you do not often say that something is theoretically impossible. This administration is a great supporter of things that might be theoretically possible in the face of all the evidence, as anyone who looks at star wars will understand, but in the face of all the evidence, in all the documentation and all the medical conclusions, the fact that something may be theoretically possible is not usually considered to be a valid reason for discriminating against people. That is what we are left with.

This, in summary, is where we are. The law says that you cannot discriminate against someone who has a handicap if he or she can do the job. The people who are likely to be discriminated against in this case are, at this point, a majority of them, or at least a very large percentage of them, still are gay men.

This administration did not want to appear, for political reasons, to be defending the rights of gay men not to be discriminated against by bigots. So they set out to subvert the law; to ignore the legal interpretation of their working lawyers, and even to distort medical evidence by misquoting the two leading scientific researchers they could find, and they have no others. You have got to understand that this is a pretty good search. They have a March op-ed piece from the New York Times for Dr. Haseltine. So you understand how carefully they did it.

What happened was that the Justice Department said, "Hey, find me anything you can, anywhere, that a doctor undermines the CDC's conclusion that it is not casually transmissible." They came up with two. One had nothing to do with transmission and the other appeared to have to do with transmission, but had already been repudiated months before. They, of course, never checked with Dr. Haseltine. They did not call him up and say, "Are you doing it." I tried to call Mr. Cooper and I apologize for waiting until this morning, but I think their obligation in putting out that memorandum was to make some effort to contact Dr. Haseltine and Dr. Essex. They were both appalled to be used in this way.

So they say to an employer, "It is OK to fire someone who can do the job because of the fact that he or she has the illness or the complex related to it, as long as you say that you are doing it because you think it is going to infect other people, even if you are wrong." Even at that, that is shaky enough.

In other words, if they were right about transmissibility, they would have a shaky argument. But we go further. They say, "Not only even if you are factually incorrect in the situation, but even if you are simply absolutely off-the-wall in terms of the science, if you have this wholly unjustified unsupported view that flies in the face of all of the evidence that AIDS can be casually transmitted in the workplace, it is OK to fire some individual who can do his or her job and further inflict pain and misery and hardship on that individual and his or her family and friends because we do not want to offend the rightwing politically."

That is what we have here. That is why the American Medical Association and the Department of Health and Human Services and all these editorialists are appalled. Yes; I read some pretty harsh language before, vicious and cruel. We do not often, fortunately, use that kind of language in the United States. Civility is to be prized. But when the Justice Department engages in this kind of vicious, calculated assault on the legal rights of some of the most vulnerable people in our society, people who are twice vulnerable, gay men who are the subject of bigotry in general and then may, because of this illness or the fear that they have this illness, be further victimized, it is intolerable.

Of course, by undermining what the CDC says about transmissibility, what the CDC and the AMA and everybody else, including their own witnesses, Dr. Essex and Dr. Haseltine are the Justice Department's witnesses in this particular controversy. Their own two witnesses have just repudiated them.

If Perry Mason appeared in a version on television where poor old Ham Berger put two doctors on the stand to argue for something and they repudiated Ham Berger as decisively as Dr. Essex and Dr. Haseltine have repudiated the Justice Department, people would have said, "Hey, guys, a little more believability." Even for Perry Mason in a half hour, that would have been too neat.

□ 1320

So the Justice Department searches far and wide and they find two guys, and they find two guys and they misquote them. It is a terribly, terribly vicious thing they are doing, because the notion that AIDS might be casually transmissible is being manipulated unfairly and illegitimately as a grounds for bigotry in a number of areas, against a range of people among whom are gay men.

For the Justice Department to give aid and comfort to bigots with so little factual basis is an embarrassment. There are legitimate differences of opinion in this society about the role of government. I would have hoped that this would have been considered beyond the bounds of where politics would take you; where you would give aid and comfort to bigotry in so transparent a fashion; because that is what the Justice Department has done.

Of course, this happened at the same time of the Supreme Court's opinion in Hardwork and Powers in an act of moral cowardice and intellectual fogginess on the part of at least a couple of justices. I do not understand how justices, who have been in the majority on a whole series of privacy issues, including the question of abortion and related issues, somehow decide that right does not exist with regard to what people do, mutually consenting in the privacy of their homes; and I suppose Justice Powell had a guilty conscience about that. He wrote one of the least impressive opinions ever to issue from the Supreme Court when he said: Yes, this is a crime; he voted with the majority; but no, no one should ever go to jail for it. He said it would be a violation of the eighth amendment if anybody were ever punished for this thing that he upheld as a crime; and that is a degree of frankly moral cowardice that is unfortunate.

When that came out at the same time as this piece of mendacity from the Justice Department, I think bigots took more heart than they should, and they took more heart than they should because, editorials from Kansas and the States of Washington and California and New York, the AMA, the doctors involved; I am pleased to

see, Mr. Speaker, that decency retains an important consistency in America. That newspaper editorialists who have studied the facts, the medical profession itself, have repudiated the Justice Department's invitation to bigotry, and I believe with regard to AIDS that the courts will do the same thing and and we ought to warn employers: Rely at your peril on this instruction in bigotry.

This administration has got the right, as anyone does in this country, to say, what it wants; and they've got the right to put out this opinion which is so lacking in either moral or intellectual worth; but that does not change the law. The law, this Justice Department to the contrary, remains the law. Congress is not going to amend the law to reflect this invitation to bigotry; the courts are not going to back away from it, so employers who follow this do so at their peril; and they ought not to give in to that temptation.

Politicians who attempt to use this as a justification for efforts to discriminate against people with the AIDS virus, gay men in general, other than the risk groups, people who might be tempted to lock up everybody who had a blood transfusion, people who had a history of intravenous drug abuse and may have never kicked that habit. People who seek comfort in this opinion from that order understand how shoddily based it is.

The Department of Health and Human Services, the American Medical Association, and the two medical specialists that the Justice Department singled out have all repudiated it.

Mr. Speaker, I have never been less happy at the need to take this floor. I, like a lot of Members, think it is great to have the kind of open and wide range of disagreements that we have got in this country. I came back from the Soviet Union a month ago. I missed advertising: If you go to Russia, there is not much advertising in Moscow, and you realize that, as garish as it may be and intrusive as it may be, advertising is a sign of freedom. Because where there is no choice, why advertise? If everybody is going to have to march off somewhere, they do not need much advertising.

I like the kind of freedom to disagree and argue, but I am depressed when, for political purposes, the Justice Department with the approval of the President of the United States stoops on such intellectually shoddy grounds to impose pain on people in this society who are already victims.

Mr. Speaker, I hope that the reaction we have seen from the medical profession, from newspaper people, and from others will be such that this opinion of the Justice Department will very soon be consigned to the dust heap, where it belongs.

Mr. Cooper is already aware of his problem; he has been unusually defensive about it. He has published letters and articles trying to defend it. The facts remain the facts; that AIDS is not casually transmissible. The law remains the law, that you cannot fire someone if you are taking Federal funds who are otherwise capable of doing the job, and I believe that the effort by the Justice Department to subvert those medical facts and that law will not avail very much.

AIDS AND DISCRIMINATION

Suppose that you are an employer, and you learn that one of your employees is carrying the AIDS virus. Should you fire him to protect other employees' health? The answer to that one is no. No one has ever caught the disease through normal contact in the office, shop or school. But suppose that his presence bothers you and, medical risk or not, you want to get rid of him. There's a federal law prohibiting discrimination against handicapped people. Does it prevent you from firing him? In a memorandum last month the Justice Department argued that it does not.

That memorandum has been met with a great deal of sharp rebuttal, including a column by Charles Krauthammer in this newspaper. On the op-ed page today we publish the department's response to Mr. Krauthammer. Earlier, when the memorandum appeared, we commented on the law and the balance it needs to strike. But the Justice Department is asserting a policy that has deeply troubling implications, especially the status that it would provide for irrational fears of the disease and of the people who are infected. That is the point made by Mr. Krauthammer and, on Friday, by the American Medical Association in a suit now before the Supreme Court.

The Justice Department holds that, when Congress enacted protection for handicapped people, it did not intend to include those who carry communicable diseases. The law forbids discrimination on a long list of grounds—race, gender, age, handicap and so forth—but, Justice says, infection with AIDS or any other disease is not on the list. Since carriers aren't protected, Justice argues, it doesn't make any difference whether people's fears of contracting the disease by casual contact are rational or irrational. And if it's not illegal to discriminate against genuine carriers, then it's not illegal to discriminate against people only suspected of being carriers.

The courts will be asked sooner or later whether the department's reading of the law is correct. Sooner would be better.

In effect, the memorandum provides a rather explicit set of directions for discriminating against not only AIDS victims but anyone who might be suspected of carrying the disease—homosexuals in general. And perhaps, in addition, people afflicted by diseases other than AIDS. The case now before the Supreme Court involves tuberculosis. How about cancer? Until now, the discrimination statute has protected people suffering from it. The Justice Department thinks that it can distinguish between AIDS and cancer, but its logic is not compelling. An employer could claim that he feared catching an employee's cancer. Remember, Justice says that fear of the disease need not be rational.

The memorandum makes the further mistake of suggesting heavily that the danger of infection through casual contact is an open question. The same administration's Department of Health and Human Services quickly pointed out, uneasily, that Justice was not making a medical judgment and was offering no new medical findings. There are only three known ways to get the disease; sexual intercourse, direct introduction of infected blood into a person's bloodstream, and birth from an infected mother. More than 22,000 cases have been diagnosed so far, and not one of them has been shown to have been contracted any other way.

[From the New York Times, July 9, 1986]

WHAT THE JUSTICE DEPARTMENT REALLY SAID ABOUT AIDS

To the Editor:

"A License to Hound AIDS Victims" (editorial, June 26) seriously misunderstands and miscasts the opinion issued by my office on June 20 on claims of handicap discrimination filed by persons who have the acquired immune deficiency syndrome or carry the AIDS virus.

The opinion, responding to a request for legal advice from the Department of Health and Human Services, construed section 504 of the Rehabilitation Act of 1973, which prohibits discrimination in federally funded programs against qualified handicapped individuals solely by reason of their handicaps. The opinion does not pass on the wisdom, justice or fairness of discrimination against victims or carriers of AIDS. We were not asked to determine social policy in this area, only to determine the meaning of a law.

That law defines a "handicap" as "a physical or mental impairment which substantially limits one or more . . . major life activities." Analyzing this and the legislative history of section 504, we concluded that the disabling effects of AIDS constitute a "handicap," but that the ability alone to transmit the virus does not.

To be sure, the opinion surveys the current state of the medical literature on AIDS. But one searches our opinion in vain for the conclusion that AIDS is transmissible through casual contact—or for any conclusion on significant medical and scientific questions regarding AIDS and the AIDS virus. Indeed, the opinion notes the current absence of epidemiological evidence of transmission of the AIDS virus through casual contact and quotes the Centers for Disease Control's November 1985 conclusion that casual workplace contact "does not pose a risk for transmission of HTLV-III/LAV."

Your ire is no doubt directed at the sentence in our opinion following the C.D.C.'s "no risk" statement: "It has been suggested, however, that conclusions of this character are too sweeping." In support of this decidedly nonjudgmental point, the opinion cited, inter alia, an Op-Ed article by Prof. Alan Dershowitz (March 18), reporting a comment to this effect by Prof. William Haseltine of Harvard. In a subsequent clarification (letter, April 5). Professor Dershowitz notes, as does our opinion, that "epidemiological data strongly suggest that infection has very rarely, if ever, been casually transmitted in this country." But, contrary to your assertion, the "clarification" reaffirms Dr. Haseltine's view that "it is theoretically possible . . . for AIDS to be transmitted by saliva and casual contact." As lawyers, we are in no position to judge the correctness

of this view, but to ignore it would have been to choose among comparing medical judgments.

Accordingly, decisions grounded on fear of contagion—whether medically justified or not—are not handicap-based and thus not prohibited by a statute that prohibits discrimination on the basis of handicap.

Inexplicably, you conclude that our opinion is premised "on a mistaken reading of medical opinion about transmissibility of the disease." As I repeatedly stressed in a phone conversation with your editorialist, the medical and scientific facts on the communicability of the AIDS virus are irrelevant to our legal analysis.

The key legal question is whether communicability, real or imagined, satisfies the statutory definition of a handicap. The opinion does not purport to make medical or scientific judgments on risks of transmission, we advert to the issue only to note its potential relevance to whether an asserted fear of contagion is a pretext for discrimination based on handicap.

You are somewhat less reluctant than I to issue medical opinions. Your medical judgment that the virus is transmitted only by blood or semen may well be correct; I am certainly in no position to dispute it. But it would have been as improper for the Justice Department to declare that casual transmission is theoretically impossible as to declare that it is theoretically possible. It is simply not a question that this department should properly be taking any position on, even if it was of considerably greater legal consequence than it is.

Our business is to construe the law as written. We encourage and welcome legal scrutiny of our opinion, but such scrutiny will be constructive only if directed at the proper target.

CHARLES J. COOPER,
Assistant Attorney General, Office of Legal Counsel, Department of Justice.
WASHINGTON, *June 27, 1986.*

Mrs. BURTON of California. I join my colleagues in strong opposition to the Justice Department ruling on AIDS in the workplace.

Medical experts, including the cautious and conservative American Medical Association, have stated that the ruling ignores evidence that AIDS is not transmitted by casual means. The ruling says that this conclusion is "too sweeping", not necessarily accurate. Who suggests that? Not the AMA, not the Centers for Disease Control, not medical researchers, doctors and hospital officials I know in San Francisco.

The ruling, while technically applicable only to Federal agencies and employers receiving Federal funds, will have far-reaching consequences by encouraging all employers to believe they can discriminate against AIDS victims with impunity.

Mr. Speaker, this ruling is not based on medical reality, but on the fears and prejudices that have too often characterized this administration's response to AIDS. The medical profession, the public health community, the gay community and many others are working hard in the fight against AIDS. The administration should start helping, not throwing roadblocks in front of those trying to deal with this international health crisis.

Mrs. BOXER. Mr. Speaker, I thank Representative FRANK for calling this timely special order and I welcome this opportunity for Members of Congress to speak out on the Justice Department's ill-advised decision on AIDS in the workplace.

By all accounts, the spread of AIDS is the single greatest health hazard facing the United States today. Over 11,000 Americans have died from AIDS and over 1 million people are infected with the HLTV virus.

However, the Justice Department, with its misguided opinion that persons with AIDS can be legally discriminated against in the workplace, threatens to undermine all the efforts to stem this epidemic. This opinion is a slap in the face of the law, the Constitution, the medical profession, and most of all, common sense.

The Justice Department's decision is based on fear, not fact. Every study done by private and public health experts has shown that AIDS cannot be transmitted by casual, nonsexual contact. And yet the Justice Department chose to ignore facts and instead give legitimacy to fear, prejudice and stereotype. Surely we should expect better of the Federal agency that is charged with upholding the civil rights of all Americans.

Significantly, the medical community has not been silent on this issue. The American Medical Association has submitted a brief, in a related Supreme Court case to be heard next year, against the Justice Department's interpretation of the law. And in 1985, the Centers for Disease Control concluded that the type of contact that occurs in the workplace does not pose a risk for contracting AIDS.

When it comes to receiving sound medical advice, I prefer to put my money on the established medical profession, not the Justice Department.

Not only will the Justice Department's decision endanger civil rights—it also will hinder the effort to prevent further AIDS infection. If one can be legally discriminated against in the workplace for having AIDS, who can be expected to step forward and take an HLTV-III test? And without the test, one cannot determine whether one is at risk of spreading the virus.

Because a vaccine is still 5 to 7 years away, the only hope we currently have of stopping the spread of AIDS is education and voluntary restraint, The Justice Department ruling is a major setback in this important effort.

The Supreme Court will rule on this question next year through a case regarding tuberculosis in the workplace. I trust the Court will treat this as a health issue, not a political one. In the meantime, I urge my colleagues to do everything we can to see that this legally and morally misguided opinion is overturned.

Mr. STUDDS. Mr. Speaker, I thank my colleague from Massachusetts, Mr. FRANK, for requesting this special order today, for the issue is important and the time to speak out is now.

The Justice Department has determined that Federal law provides little real protection for employees who have AIDS, or who have been exposed to the AIDS virus.

Section 504 of the Rehabilitation Act bars employers from firing individuals solely because of a physical handicap. The Justice Department has correctly held that the disabling effects of the AIDS virus cannot be used as grounds for dismissing an employee still capable of competently performing assigned work. But it is the opinion of Attorney General Edwin Meese that employers may fire persons exposed to the AIDS virus if they do so because they fear the disease will prove contagious. The practical effect of this decision will be to eliminate any protection for those who have been exposed to AIDS.

The Justice Department position is unfortunately based not on facts, but on superstition. If AIDS could be transmitted as easily as the flu or the common cold, the Justice Department decision could not be challenged. But that is not the case. Medical authorities agree the disease may be transmitted through blood transfusion, the use of contaminated needles in the injection of drugs, and by sexual contact. There have been 22,000 diagnosed cases of AIDS in this country, but in no instance has the disease been contracted through the kind of casual contact typical of the workplace.

The implications of the Justice Department's decision were so serious that the Assistant Secretary of the Department of Health and Human Services felt compelled to issue an immediate response. The Justice Department ruling, he said:

> Does not reflect any new scientific or medical evidence on AIDS transmission * * * employees, employers and others can be assured that the AIDS virus is not transmitted by casual contact whether in the workplace or schools.

Mr. Speaker, this decision—if permitted by the Courts to stand—will have a direct and devastating effect on thousands of American citizens. It will deprive persons who are perfectly capable of working of their right to work. It will rob those who actually have AIDS of their right to live a normal life for as long as the disease permits. It will steal from those who have only been exposed to the virus—and who may never contract the disease—their ability to lead an economically productive life. In short, the Federal department charged with administering justice has issued a ruling that is, above all, unjust.

But the harmful effects of this ruling will not be confined solely to those directly affected by employer action. The Attorney General has given his blessing to a policy based not on facts, but on fear. And fear—far more than AIDS—is a contagious disease. The battle against AIDS is not furthered by bullying schoolchildren, firing employees, or shunning the victims. It can be dealt with only if we have the courage to face the facts; and as Mark Twain once said "courage is resistance to fear (and) mastery of fear, not the absence of fear."

AIDS is a terrible and terrifying disease. But like all diseases, it flourishes best in a climate of ignorance. And it can best be attacked by knowledge; knowledge gained through medical research, and through efforts to educate our population.

But in this administration, education is not a high priority; and research is important only if conducted in service to the Pentagon. Only 2 weeks ago, the Public Health Service proposed more than doubling the Federal budget for all activities related to AIDS, including both research and treatment programs. By contrast, President Reagan has proposed a $20-

million reduction in funding for AIDS programs next year. In making their recommendations, Public Health Service officials admitted that they did not know whether their plans would be supported by the administration. But they say they made the request anyhow, for the simple reason that "AIDS is a major problem and it needs resources."

It is particularly significant that the Public Health Service is requesting a three-fold increase in funding for "risk-reduction" programs. It is absolutely vital that this Nation embark on a major effort to educate those most likely to contract AIDS about the specific risks of the disease. This means education about sexual activity; it means education about drug abuse; above all, it means providing information in a manner that will be understood and accepted not simply by the public at large, but by those at whom it is particularly directed.

The art of communication is this administration's great talent. Whether the product is star wars or the military buildup or a war in Central America, the administration is superb at conveying its views to the American people. The time has come for it to use those talents constructively—to declare war not on the victims of AIDS, but on the deadly disease itself and on the climate of ignorance in which it thrives. And if they were to join this battle, the administration need look no further for its first and most important target than its own Department of Justice.

Mr. WEISS. Mr. Speaker, the June 23 Justice Department opinion allowing discrimination against the victims of AIDS is bad legal advice and is contrary to existing medical evidence.

The Justice Department has allowed the irrational fear of contracting AIDS in the workplace to be used as the sole legal basis for discriminating against persons with AIDS. The Public Health Service has repeatedly endorsed scientific evidence that AIDS is not transmitted by casual contact. By rejecting this scientific evidence, the Justice Department has thus pitted one Federal agency against another.

The Justice Department's statement that conclusions that AIDS cannot be transmitted through casual contact are too sweeping, is a total misrepresentation of current medical facts. A look at the evidence supporting Justice's opinion indicates that it was taken out of context. A Harvard scientist, Dr. William Haseltine, was quoted in the opinion as saying "anyone who tells you categorically that AIDS is not contracted by saliva is not telling you the truth * * *. There are sure to be cases of proved transmission through casual contact." Haseltine has stated repeatedly that this quotation misrepresented his opinion and that his view on AIDS transmission is similar to that endorsed by PHS.

Furthermore, a footnote quotes an article by John Parry in the Mental and Physical Disability Law Reporter as saying, "Those experts who have attempted to give the public the impression that the medical profession is certain how AIDS is transmitted * * * may have gone too far in attempting to quell the public's fears." The citation fails to include the sentence immediately following it in the article which says, "Those individuals who have asserted that there are reasonable dangers of exposure in public places have definitely gone too far in the other direction, needlessly stirring up public fears."

A second footnote quotes Harvard research scientist Dr. Myron Essex as saying, "The CDC * * * has been trying to inform the public without overly alarming them * * *. But we outside the Government are freer to speak. The fact is that the dire predictions of those who have cried doom ever since AIDS appeared haven't been far off the mark." However, the New York Times Magazine article from which this quote was drawn, was not addressing the issue of casual transmission, but rather Essex's belief that AIDS can be transmitted through heterosexual contact. But even if these quotes had been honestly used by the Justice Department attorneys, they do not even approach the overwhelming medical evidence endorsed by PHS that AIDS is not transmitted by casual contact.

On July 1, Dr. Walter Dowdle, the PHS AIDS coordinator, testified before the House Subcommittee on Intergovernmental Relations and Human Resources that he is not aware of any new medical evidence which would undermine previous HHS conclusions, and that he knows of no other instance where the Justice Department's interpretation differs so dramatically from the generally accepted medical findings on HHS.

In fact, on June 24, through Dr. Robert Windham, the Assistant Secretary for Health, HHS reaffirmed its previous position on the routes of transmission of AIDS and reinforced the CDC guidelines which state that "the kind of non-sexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of HTLV-III/LAV, the virus thought to cause AIDS." The validity of this statement is continuously being tested in careful studies conducted by CDC of who gets AIDS and who does not—including families of patients and health care workers. So far, there has not been one case where AIDS was clearly transmitted through the casual contacts of daily life. Until there is such a case, there can be no, absolutely no, justification for barring persons with AIDS from jobs, housing, or public places.

The Justice Department's position undermines the efforts Congress has undertaken these last few years to fund educational programs to inform the general public and communities at risk as to how the disease is transmitted, and how to protect against transmission. These programs have succeeded in quelling some of the hysteria that has been caused by lack of available information on a timely basis. Just at the point where we have idenfitied the problems and begun to coordinate our efforts, the Justice Department has now made it much more difficult for such efforts to be effective, because of its deliberate distortion, confusion, and rejection of medical facts and information.

There can be no question that persons with AIDS are disabled within the meaning of the Rehabilitation Act, and thus entitled to the same protection against discrimination afforded other handicapped individuals. Moreover, the opinion not only could allow discrimination against people suffering from AIDS, but could be used against anyone even suspected of having AIDS, and thus result in further discrimination against gay men. The Department's opinion should be seen for exactly what it is: legal advice based in fear rather than sound evidence, and an illogical, homophobic political statement under the guise of reasoned advice.

On August 6 the Intergovernmental Relations and Human Resources Subcommittee will hold hearings to investigate the Office of Civil Rights of the Department of Health and Human Services. As the Members are aware, the Justice Department opinion on the application of the Rehabilitation Act to persons with AIDS was a direct response to a request from OCR. As part of this hearing the subcommittee will examine OCR's request, the validity of the Justice Department's ruling, and its probable effect on the AIDS community. During the examination, the subcommittee hopes to shed some light on the many serious concerns surrounding this opinion.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, it is my intention not to consume the full hour that, through the generosity of unanimous-consent request and the procedures we call special orders, I have been granted.

I rise to point out that what I consider to be and have considered to be for 5½ years a catastrophic course of conduct of this Nation under the leadership of President Reagan with respect to the actions and activities that he has initiated, sponsored covertly and subvertly and directly in those areas south of the border.

Not necessarily restricted to Central America but including our most and nearest and adjacent neighbor, the Republic of Mexico, and clear down through the isthmus and down into South America. Our conduct has simply been one of serious moral lapses in international morality.

Never did I consider the possibility, as late as 6 years ago, that we would have in this country a leader that would advocate a return to the Calvin Coolidge era of 1929. Which, incidentally, was the last filibusterism on the part of our country, with the invasion

by the Marines of the nation of Nicaragua.

We occupied, with the Marines, that country on that occasion for about 13 years within which time we imposed, we trained, selected, and imposed the civil guard or the national guard and the first Somoza despot and with the resulting fact that we maintained and insisted on maintaining one of the most corrupt, despotic, cruel, inhumane regimes in the whole world, not barring Asiatic despotism.

Finally, in 1979, 40 years later, the inevitable. I think the main thing to point out is that President Reagan has turned the hands of the clock back in what I know to be—not conjecture, not guess, but know to be—a fatal error, and one that will be costly in blood and treasure to our country and this generation as well as succeeding generations into the future. Our children, our grandchildren will be having to pay the price and the toll of these mistakes and serious misperceptions grossly, egregiously in error that President Reagan, his advisers, and his administration so far reflect.

We must recall that had it not been for the happy intervention in the post-Coolidge era, of such truly great leaders as President Franklin Roosevelt, who had all of the requirements of a modern, latter 20th century President; that is, the first-ratability to attract and hold and surround himself with first-rate minds, and then orchestrate them in an attack on the common problems confronting our Nation, and to set forth and hold forth the traditional American traditions and virtues, basically revolutionary.

□ 1330

Instead, as historian Arnold Toynbee in vain tried to point out to us as late as 15 years ago and particularly 20 years ago, we in turn had become the Nation of status quo, the supporter of despotic and oppressive regimes, and we have allowed the Russian Socialist state to be the revolutionary of the 20th century.

We have given up our inheritance for what I am sure historians will write will be a mess, a potage.

The fact that President Reagan mistakenly thinks through his serious misconceptions of what this world we call Latin America in general really is, that he could turn the clock back is so profoundly in error that I just have been in utter amazement when I have seen the congressional lack of perception to forestall and at least offer some debate to what the President has unilaterally acted upon in most occasions.

There is no question in my mind, and history clearly reveals, that no President since Coolidge, no matter how conservative or whatever word we want to use, had ever resorted to these tactics of gunboat or dollar diplomacy until Ronald Reagan. Not once has President Reagan ever issued a diplomatic effort to resolve what he considers to be the serious problems that reflect threats to our national interests.

The fact is that the President has been conducting war. He has been conducting war while the Congress has not yet declared war. The fact that he has acted extra or unconstitutionally has not been evident other than in the isolated remarks of the few of us both on this side of the rotunda as well as on the other side, but which in vain these voices have risen to protest the very actions that our colleagues have taken in what we consider to be a repetition of the serious errors that some of us have been privileged to live through as Members of the Congress; to wit: the Vietnam experience and, prior to that, old enough and certainly in full flower of middle age, the Korean conflict.

I think what escapes the general population of our country, the general citizenry, is what exactly our role is considered to be throughout the world, not only in the outer external world across the seas but here in the New World, the countries that destiny and fate dictate will share the future evolvements with our country, Canada to the North, Mexico, and all of the countries to the south. There is not one country—other than a few out-and-out client-states which are absolutely dependent upon us for their handouts—they are hooked on, they are actual aid-junkies in the Caribbean—other than those, there is not one country that goes along with our policies.

Canada, for instance, is vigorously putting forth its critical position toward the United States. Mexico, one reason why this administration and particularly through covert action is doing its best to try to pressure the Mexican regime throughout the world is known as destablizing activities, in the hope that it can coerce the Mexican leaders to join the United States in its activities, in its actions against such countries as Nicaragua but not necessarily restricted to that country.

Mexico also, long the proclaimer of the policy of nonintervention, nonintervention, self-determination autodeterminatione, is hardly going to abandon those policies that were born with its revolution in 1910 under any pressure we can exert.

They have been pressured to do some abominable and inhumane things with respect to the thousands of refugees that have fled the genocidal tactics of the Guatemaltecan army that uses 100 percent—there are no Russian or Cuban or Czechoslovakian arms—they are all American bayonets that have been exterminating entire tribes of Indians in the mountains of some of the provinces of Guatemala, and who have in desperation sought haven across the line in the state of Chiapas; 20,000, 30,000 in the period of 1 week, sometimes chased by the Guatemaltecan armies into the Mexican territory.

And when the Mexican national government tried to set up some relief, our Ambassador and our American State Department immediately protested that, alleging that we had received a complaint from Guatemala that Mexico would be giving refuge to escaping Marxist-Leninists.

Who were the Marxist-Leninists there? In the words of the Archbishop of Chiapas who told me to my face that these were 6-months, 1-year-old babies, their bellies ripped open with American bayonets by Guatemalan soldiers, those are the Marxist-Leninists that our State Department was talking about. And the Mexican Government caved in because it has been desperately trying to renegotiate loans or, rather, to try to roll over the interest on the loans that will never be paid.

Now my observation today is this: that we have been found guilty of violating law. The World Court or the International Tribunal for International Justice has found us absolutely guilty of having acted in criminal violation of international law. It has adjudicated against us with a preliminary finding of over $300 million damage that we should give by way of reparations to Nicaragua for the destruction of its ports and facilities, the mining of its waters, in the words of the court, "without even having the decency to warn international traders and trading ships of the presence of such mines," grossly violative of the law in more than five counts.

Here we are, throughout the world proclaiming the rule and the doctrine of law and order and acting like a vigilante group, a lynching mob throughout the world.

At this point I am including in the RECORD a letter I have received from the Ambassador of Nicaragua, Carlos Tunnermann, plus a copy of the operative part of the International Court of Justice's judgment against the United States:

EMBAJADA DE NICARAGUA,
Washington, DC, July 3, 1986.

Hon. HENRY GONZALEZ,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GONZALEZ: The International Court of Justice at the Hague delivered its dictamen on the Government of Nicaragua's case against the United States this past Friday, June 27th. In its decision, the Court ruled by 12 votes to 3 that the United States of America has acted against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another State, by training, arming, equipping, financing and supplying the contra forces.

The Court rejected the United States argument of collective self-defense. Furthermore, the Court unanimously called upon both Governments to fulfill their obligation to seek a solution to their disputes by peaceful means in accordance with international law.

It is important to emphasize that alternatives to a military solution in Central America do exist and require the active support of all parts involved. It is my Government's fervent desire to reach a comprehensive regional agreement that guarantees the security of all the Central American states.

As the conflict in Central America continues to expand and the possibilities for Peace appear more and more distant, I invite you to review the legal and international aspects of this issue and an enclosing information that I hope will be of interest and assistance in your efforts to further explore and understand the complexities of the region.

If you or members of your staff should have any questions regarding either the recent ruling by the International Court of Justice or my Government's position on Contadora, please feel free to call us.

CARLOS TUNNERMANN,
Ambassador.

OPERATIVE PART OF THE COURT'S JUDGMENT

(1) By eleven votes to four,

Decides that in adjudicating the dispute brought before it by the Application filed by the Republic of Nicaragua on 9 April 1984, the Court is required to apply the "multilateral treaty reservation" contained in proviso (c) to the declaration of acceptance of jurisdiction made under Article 36, paragraphs 2, of the Statute of the Court by the Government of the United States of America deposited on 26 August 1946.

In favor: President Singh, Vice-President de Lacharriere; Judges Lachs, Oda, Ago, Schwebel, Sir Robert Jennings, Mbaye, Bedjaoui and Evensen; Judge ad hoc Colliard.

Against: Judges Ruda, Elias, Sette-Camara and Ni.

(2) By twelve votes to three,

Rejects the justification of collective self-defense maintained by the United States of America in connection with the military and paramilitary activities in and against Nicaragua the subject of this case;

In favor: President Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(3) By twelve votes to three,

Decides that the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international not to intervene in the affairs of another State;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge and ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(4) By twelve votes to three,

Decides that the United States of America, by certain attacks on Nicaraguan territory in 1983–1984, namely attacks on Puerto Sandino on 13 September and 14 October 1983; an attack on Corinto on 10 October 1983; an attack on Potosi Naval Base on 4/5 January 1984; an attack on San Juan del Sur on 7 March 1984; attacks on patrol boats at Puerto Sandino on 28 and 30 March 1984; and an attack on San Juan del Norte on 9 April 1984; and further by those acts of use of force, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to use force against another State;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(5) By twelve votes to three,

Decides that the United States of America, by directing or authorizing overflights of Nicaraguan territory, and by the acts imputable to the United States referred to in subparagraph (4) hereof, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to violate the sovereignty of another State;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(6) By twelve votes to three,

Decides that, by laying mines in the internal or territorial waters of the Republic of Nicaragua during the first months of 1984, the United States of America has acted, against the Republic of Nicaragua, in breach of its obligations under customary international law not to use force against another State, not to intervene in its affairs, not to violate its sovereignty and not to interrupt peaceful maritime commerce.

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(7) By fourteen votes to one,

Decides that, by the acts referred to in subparagraphs (6) hereof, the United States of America has acted, against the Republic of Nicaragua, in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the United States of America and Republic of Nicaragua signed at Managua on 21 January 1956;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni, Evensen, Oda and Sir Robert Jennings; Judge ad hoc Colliard.

Against: Judge Schwebel.

(8) By fourteen votes to one,

Decides that the United States of America, by failing to make known the existence and location of the mines laid by it, referred to in subparagraph (6) hereof, has acted in breach of its obligations under customary international law in this respect;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni, Evensen, Schwebel and Sir Robert Jennings; Judge ad hoc Colliard.

Against: Judge Oda.

(9) By fourteen votes to one,

Finds that the United States of America, by producing in 1983 a manual entitled "Operaciones sicologicas en guerra de guerrillas", and disseminating it to *contra* forces, has encouraged the commission by them of acts contrary to general principles of humanitarian law; but does not find a basis for concluding that any such acts which may have been committed are imputable to the United States of America as acts of the United States of America.

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni, Evensen, Schwebel and Sir Robert Jennings; Judge ad hoc Colliard.

Against: Judge Oda.

(10) By twelve votes to three,

Decides that the United States of America, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua on 1 May 1985, has committed acts calculated to deprive of its object and purpose the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(11) By twelve votes to three,

Decides that the United States, by the attacks on Nicaraguan territory referred to in subparagraph (4) hereof, and by declaring a general embargo on trade with Nicaragua under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956.

In favor: President, Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(12) By twelve votes to three,

Decides that the United States of America is under a duty immediately to cease and refrain from all such acts as may constitute breaches of the foregoing legal obligations;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(13) By twelve votes to three,

Decides that the United States of America is under an obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by the breaches of obligations under customary international law enumerated above;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni and Evensen, Judge ad hoc Colliard.

Against: Judges Oda, Schwebel and Sir Robert Jennings.

(14) By fourteen votes to one,

Decides that the United States of America is under an obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by the breaches of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye,

Bedjaoui, Ni, Evensen, Oda and Sir Robert Jennings; Judge ad hoc Colliard.

Against: Judge Schwebel.

(15) By fourteen votes to one,

Decides that the form and amount of such reparation, failing agreement between the Parties, will be settled by the Court, and reserves for this purpose the subsequent procedure in the case;

In favor: President Nagendra Singh; Vice President de Lacharriere; Judges Lachs, Ruda, Elias, Ago, Sette-Camara, Mbaye, Bedjaoui, Ni, Evensen, Oda and Sir Robert Jennings; Judge ad hoc Colliard.

Against: Judge Schwebel.

(16) Unanimously,

Recalls to both Parties their obligation to seek a solution to their disputes by peaceful means in accordance with international law.

I have not met nor have I been in the premise of the Embassy of Nicaragua, nor have I met its Ambassador, Mr. Tunnermann. I assume his letter to me is similar to many other letters he would have addressed to Members of the Congress.

The point is that at no time have our media in the United States ever reported the nature of the decision, much less even a minimal summary of the contents of that decision. I know of no journal, not even the New York Times, that has seen fit to give this kind of information if not to all, certainly a fragment of the American population.

I will read from his letter because I think it is very significant. He says:

The Court rejected the United States argument of collective self-defense. Furthermore, the Court unanimously called upon both Governments to fulfill their obligation to seek a solution to their disputes by peaceful means in accordance with international law.

It is important to emphasize that alternatives to a military solution in Central America do exist and require the active support of all parts involved. It is my Government's fervent desire to reach a comprehensive regional agreement that guarantees the security of all the Central American states.

As the conflict in Central America continues to expand and the possibilities for Peace appear more and more distant, I invite you to review the legal and international aspects of this issue and am enclosing information that I hope will be of interest and assistance in your efforts to further explore and understand the complexities of the region.

If you or members of your staff should have any questions regarding either the recent ruling by the International Court of Justice or my Government's position on Contadora, please feel free to call us.

Respectfully yours,

CARLOS TUNNERMANN,
Ambassador.

Now we also must understand the nature of President Reagan's mindset as revealed by his actions over a period of 5½ years.

For 5 years and since President Reagan's first Secretary of State, Gen. Alexander Haig, I have maintained that President Reagan is dead set on a war course in Central America. Since then two things have happened, plus one, three, that clearly have confirmed what I stated categorically 5 years ago. I spoke for 14 months, over the course of 14 months, in the well of this House warning my colleagues, appealing to the President with respect to his having dispatched in 1982 over 2,000 marines, combat ready, into Beirut. I happened to have had knowledge that the Joint Chiefs of Staff unanimously were advising against that kind of use of our warriors. It was to no avail.

As a matter of fact, it has been one of the most depressing periods of time for me personally because on the Thursday in October preceding the Sunday massacre of 240 marines, I rose as the Members were leaving for that week and warned that those marines were under the shadow of death. I addressed to the President my remarks to the effect that, while he was retiring to the safety and comfort and luxury of a feast at the supper table that night, that he give thought to those marines because they were under the shadow of death. Sure enough, that following Sunday they were.

What we must never forget is that, when public indignation was beginning to jell, the President ordered the invasion of Grenada, again violating three of the most serious and solemn treaties we have entered into, not only internationally throughout the world but particularly in our New World: in violation of the Rio Treaty, the understanding of Punta del Este, our understanding in the treaty that formed the Organization of American States. But our people as always will, in and out of the Congress, respond to the Commander in Chief when there appears to be an emergency. But I think the American people will go down the way of other cultures and societies who rose to great heights, some of them democracies like the original Roman republic, and then the one or two Greek republics, when the people became corrupted in their ways of freedom, in the practices of democracy and succumb to omnipotent leaders, and that is what Mr. Reagan is today.

□ 1345

He is omnipotent. He has bombed in order to seek personal vengeance from one individual who had antagonized him, to wit Qadhafi in Libya, and then cynically says we did not bomb with intentions of killing anybody.

I would like to submit for the RECORD at this point a report in the Nation magazine for July 5 through July 12, 1986, an article by a distinguished fellow Texan, the son of a great friend of mine, Justice Tom Clark, his son Ramsey Clark, the Attorney General under the regime of President Johnson, who was in Tripoli, who was in Libya, and reported in an article entitled "Libyan Epilogue." It appears to be to me a terrible condemnation and impeachment of President Reagan, and every one of us who may have remained silent.

The article follows:

LIBYAN EPILOGUE

Ronald Reagan understands the uses of terrorism. The air strike he ordered aginst Libya demonstrates that far more powerfully than press accounts available to Americans revealed. A short trip I made to Tripoli last month leaves no question about the purpose of the bombing.

There were three main targets in the Tripoli area. The first was Colonel Qaddafi. In the large compound where he lives while in the capital, and where he was the night of the bombing, two multition bombs shattered the wing of the building in which he had an office and often worked late at night. Two bombs struck the field where a tent in which he often slept was pitched, collapsing it. Two bombs gutted the large house in which his family lived. These were the three locations where Qaddafi could reasonably be expected to be at 2 A.M., the time the U.S. planes first struck. No other areas within the several-hundred-acre compound were hit by the big bombs. The bombs were intended to kill Qaddafi and show the Libyan people the omnipotence of the U.S. military.

The second target was a congested, densely populated, albeit well-to-do residential section of Tripoli. Big bombs destroyed homes in at least six places. An entire family of seven was killed instantly by a direct hit on their apartment. A 29-year-old father of three was killed when he went to a window to see what was happening. His wife and children were injured. A Greek citizen's home was destroyed and his family injured. An 18-year-old Lebanese woman, on a brief holiday from school in England, was killed. The home of a longtime employee of an American oil company was hit, causing one death in the family.

There are various estimates of the total number of dead and injured. Hospitals in Austria, Italy and Switzerland are treating scores of survivors who lost arms, legs and eyes, and sustained the other injuries modern conventional bombs are capable of inflicting; Libyan hospitals are overflowing. The French Embassy stands completely empty, its rear exterior wall demolished and its interior destroyed by a bomb which leveled the home immediately adjacent to it. The bombs were presumably intended to show Libyans with power that the United States will kill them, too—that no place is safe.

The third target was a naval training school about twenty-five miles west of Tripoli. There were casualties and extensive damage to buildings. Two West German professors who taught at the school have stated they knew of no secret naval weapons or military planning there. These bombs were intended to warn Libyan naval personnel to stay away from the Sixth Fleet—that the United States has the capacity to crush all enemies.

Panic in the aftermath of the bombings also took lives. One fiery crash of two automobiles crammed with people fleeing south to the desert killed seven, according to two horribly burned survivors I met at a hospital in Vienna. A man whose daughter was killed and who himself was apparently saved by a door that blew open and kept the ceiling from falling on him lost thirty-five pounds and is going to Europe for therapy. Parents talk of children who scream in the night; husbands, of wives who are unable to

sleep. No one I spoke with had expected the United States to bomb Libya.

The sudden and unexpected attack terrorized the people because they had not experienced anything like it since World War II. Their shock, grief and anger are profound. Many older people were stunned that the United States, of all countries, would bomb them. On walls and billboards are posters and signs condemning the United States. Many young people told me they hate America because of the bombing. A boy of 6 who saw his father die in his home said he would kill Reagan when he grew up. As I left Tripoli for the airport on June 18, the streets were jammed with automobiles, trucks, buses, motorcycles, bikes and pedestrians on their way to a rally Qaddafi was supposed to address.

The day before, I spoke with Qaddafi, who had just returned to Tripoli. A reception room on the far side of the building that contained his old office had been repaired since the bombing. Like his home, his office remained in ruins. The field where his tent had stood was empty. There were two large sandy spots where the bomb craters had been filled. He spoke calmly and quietly but with deep anger. He said he never believed a civilized nation, a superpower, would attack a foreign leader and his people as the United States had done. He expressed shock that such a bombing would have been directed at a residential area. His words for Reagan, as translated into English, were virtually the same words we have heard the President use when speaking of Qaddafi. He emphasized Reagan's violent nature, America's immature culture, its uncivilized, barbaric character. History will decide whose appraisal is more nearly right.

Reagan's raid, called a surgical strike, killed at least twice as many Libyans in one night as all Americans killed by terrorists worldwide in 1985. The President seems to be proud of what he ordered and of the "heroes" who carried it out. His one-liners are vintage Hollywood: "We didn't aim to kill anybody." He should tell that to a judge.

Unless it is lawful for the President to use military bombers in an attempt to assassinate a foreign leader and to kill and multilate scores of human beings sleeping innocently in their homes thousands of miles and many days from any claimed act of provocation, of which they probably were never aware, then Ronald Reagan must be impeached and tried for high crimes and misdemeanors. It will be interesting to see whether the elected representatives of the American people, all of whom will proclaim the virtues of our Constitution during its bicentennial year, will dare to do their duty.—RAMSEY CLARK.

(Ramsey Clark, former Attorney General of the United States, was in Libya for The Nation and at the request of families of victims of the bombing.)

I want to say that I certainly have not. After the invasion of Granada, I joined six Members and we introduced into the RECORD a bill of impeachment in which we set forth specifics.

After the bombing of Libya, I thought the matter over and came conclusively of the opinion that the President had violated, if not other international law, certainly the Wars Powers Limitation Act of 1974.

So I introduced exactly a week ago two resolutions, one of them directed to the fact that the President in effect was in gross violation of the War Powers Limitation Act. I for one was introducing a resolution, a House concurrent resolution, exactly a week ago last Monday.

The other accompanying resolution, also a House concurrent resolution, has to do with anticipatory prevention of the further violation by the President of the War Powers Limitation Act in Central America, specifically Nicaragua.

In 1983 and 1984 I introduced and reintroduced a resolution alleging that the President had violated the War Powers Limitation Act with respect to the actions he has taken in the state of El Salvador. He continues to. The American people simply do not know what is being done in the name of the American people that condemns them before the eyes of world opinion, in the minds and the hearts of hundreds of thousands of subjugated people who live south of the border.

But what I am saying today is, woe to the day of reckoning. What is happening now and has been, in my opinion, in extremist case is now not even 800 miles away. It is just next to the border of the Republic of Mexico. What is building up now is such a potential explosion with none of our leaders in this country taking cognizance other than in the other body, hearings in which rather libelous or slanderous statements have been made about individual leaders such as President de la Madrid of Mexico, as well as some in the Republic of Panama, and actually revealing what I have stated categorically. Our Government, through the CIA, there have been efforts to pressure the Republic of Mexico's Government through destabilization actions.

For instance, in the elections that were held in Mexico in early 1985, there was no question about it. In some of those states there were attempts made through United States money, through our CIA, to try to hotfoot, so to speak, the President of Mexico. Those efforts stupidly continue to this day under the mistaken notion that the right-wing element in Mexico that has drained Mexico of its financial resources by flight capital that has been leaving Mexico at the rate of billions of dollars a year since early 1982.

I will remind you that if you look at the RECORD, in 1982, I took the well of the House, took a special order and pointed out that there was for some unreason on the record a large volume of flight capital coming into south Texas and other ports and to secret accounts in Switzerland, and that the rumors I had from Mexico were that the rich elements in Mexico were expecting a devaluation of the Mexican peso.

Well, it did not happen by June and it did not happen by July, so there was a lot of complacency on this side of the border. But suddenly, with a big bang, we had the bottom drop out in September 1982.

What has our country done since then other than to have Chairman Volcker of the Federal Reserve Board, were it because of this tremendous overhang of debt, that the nine biggest banks in the United States foolishly, irresponsibly, negligently, almost criminally so have allowed to happen, not only with respect to Mexico, but a host of other developing countries? Mexico is not considered to be a developing country. It is supposed to be advanced. But that is all relative.

The truth of the matter is that there is a dire threat that our entire financial system is teetering on the brink if there should be an actual default, which is what the Mexican officials have threatened our top-flight officials on two occasions, the first in September 1982, and the second just about a month ago. In each case, what has happened is that our Treasury has found a way to let Mexico have a few billion dollars in order to pay the interest, roll over the interest. Not a penny has been paid on the principal. Let me predict that not one penny will ever be paid. These countries are incapable of meeting the payments unless we have an entire reconsideration of this debt structure.

But in the meanwhile, what is happening in these countries socially? You are beginning to develop in Mexico all of the same potential, except Mexico, as I say, relatively, happily is more advanced than some of the submerged economies such as El Salvador and Honduras and the others. Honduras, of course, is an invaded captive country. We have invaded and continued to hold in possession the Republic of Honduras. Let there be no mistake about it. I know that some of my colleagues cringe when I say this, but that is the truth. This is what everybody else perceives outside of the United States.

□ 1355

This is what everybody knows, and everything I have said here today is known throughout all Latin America. The only ones that do not seem to know about it are us, the American general public and the majority of the Congressmen.

I say to you that this time, my companeros, Mexico nor much less Nicaragua is going to be a Grenada. It is going to be something that is going to cost us very high in blood and treasure as I say. All of it entirely unnecessary.

Let me propound a question rhetorically: If our leaders in and out of the Congress, in and out of the White House, in the fifties and sixties, had had the correct perception of that world we call Southeast Asia, would

we have lost 58,000 Americans and untold billions of treasure and gold? I do not think so.

The same thing is happening now with all of this that is reflected in the case of Nicaragua. What is the fight all about? What is it that we are seeking? The President tells us at one time that all he wants to do is make those Sandinistas cry "uncle."

Second, that all he wants to do at other times is to exert constant pressure. Then at other times he solicits among private citizens to actually violate American law; title XVIII, section 956, that prohibits us, any American from aiding, alone or in conspiracy, in the destruction of property or personnel of a friendly government, one with whom we are at peace.

Nicaragua fully fits that definition. We have an Ambassador in Managua attesting to the world that we consider that the legitimate government. That we recognize it by having a duly empowered representative of the American people there whose credentials are in turn accepted by the Nicaraguan Government. All the time the President, off and on says, "We have got to do them in."

Now, he at times will say, "No, we do not intend to invade. We are not going to use American soldiers." But he was not even waiting until the action of the House last month in approving about $70-million plus in direct military help to the so-called Contras who are not in Nicaragua; they are hiding out in the neighboring country that we are occupying and controlling from stem to stern in Honduras.

What is our purpose? What was our purpose in Vietnam? What were the perceptions of our leaders? I remember because I agonized all during that period of time. I had a next door neighbor who happened to be President of the United States. It was excruciating to get on the floor at times and sound as if I was being critical and I tried to handle it as responsibly and as knowledgeably as I knew how under the circumstances. So I was advancing two basic premises that I thought would add light rather than shout.

One, I was the one that introduced the Senator Ernest Gruening resolution that he had introduced in the Senate. I introduced it in the House and obtained 72 cosponsors. All it said was, "Mr. President, withdraw unilaterally from Vietnam, and if you must, then proceed through the aegis of the United Nations."

For that I had several of President Johnson's aides very upset with me. The President had his feelings hurt for a while, but I did it and got on the record and stated why. Then the other one that I had to pursue alone, both in the House and the Senate, and it was a conviction I had long before I ever thought I would come to the Congress, and that was that it is against the precedents, that it is against the historical basis of American nationhood, that it is against the Constitution for a President to conscript an unwilling American and send him to fight in an undeclared war outside of territorial United States. I still maintain that.

I got up on two occassions in the sixties and in 1971. When the Draft Act was brought up for extension in 1967, I took the floor; I could not even get 13 Members to get up in order to get a vote on an amendment that I offered proclaiming that basic principle which I did not think needed proclaiming because it was an integral part of the first peacetime Draft Act in 1941.

In fact, in 1941 it carried by one vote only after that proviso had been inserted into the legislation. So all I thought I was doing was just reminding Presidents and Congresses that that is the law and that we ought to serve it.

Then, in 1971, to show you how moods can change as I know, inevitably, it will change but I am afraid by that time we will have lost lives unnecessarily in Central America, and we will have antogonized openly every single area in that region in which we will be fore-dooming our generations to come into a bitter and everlasting enmity toward our people and continual and sustained guerrilla war against those of our troops that will have to occupy Nicaragua. The Contras will never be able, and even if they were to knock out the Sandinista government, they never will be able to govern Nicaragua any more than the Cuban invaders in the Bay of Pigs in 1961 had they succeeded in subjugating the Castro forces would ever have been able to govern Cuba. The only way would be for the United States to go in, take over and sit in that country.

Let me say: It will not be like 1929, my companeros in the Congress. It is another game, another world and another set of minds down there. Never again will we be able to uphold the oppressors and the tyrants, in turn subjugating those 250, 300 million now, of oppressed people. They know that they do not have to, and they are not going to.

Look at the folly of what we have done in El Salvador and do even now as I am speaking. We talk about the Russians and their tactics in Afghanistan. Let me say, my colleagues: Morally and culpably we are no better. We are hypocritical pharisees. For we are exterminating entire families; grandfathers, grandmothers, grandchildren with our bombs, with our night vision equipped killer helicopters.

Let me say to you that we are no farther, we are no closer to a resolution in the small country, that is El Salvador, after $4 billion, about 17 of our armed services personnel who have died, some reported, some not, and 5½ years we are no closer to any resolution in that smallest country. Surely that is proof positive that something is wrong and that we are bankrupt in the Reaganomics of the policies the President has espoused, despite the World Court dictum.

Mr. Speaker, I offer for the RECORD at this point a Washington Post article for Friday, July 18, on page A24, entitled "Sandinastas Say U.S. Intelligence Overflights Are Frequent." There is a potential for danger.

SANDINISTAS SAY U.S. INTELLIGENCE OVERFLIGHTS ARE FREQUENT

(By Julia Preston)

MANAGUA, NICARAGUA, July 17.—The top Sandinista military intelligence officer charged today that the United States has flown 121 spy flights this year over Nicaragua to glean information "like a vacuum cleaner" for the counterrevolutionary rebels known as contras.

Capt. Ricardo Wheelock, intelligence chief of the Sandinista Popular Army, said the spy planes gather electronic and photographic information providing the United States with "a complete X-ray every day" of the positions of Sandinista troops.

[In Washington, a Pentagon spokesman declined to comment on the statements.]

A bill to provide $100 million in aid for the contras, approved by the House of Representatives in June, greatly expands the mandate for the CIA and other U.S. intelligence agencies to assist the contras with sophisticated communications as well as training and tactical advice. It is expected to pass the Senate easily.

Wheelock said the aerial data-gathering is "the most important element, from our point of view" in U.S. operational support for the contras.

Wheelock said an RC135 had made 47 flights this year, monitoring telephone, radio and telex communications inside Nicaragua and overseas. Another aircraft, which Wheelock called a "U2 or TR1," made 13 flights, he asserted, snapping photos and making other electronic maps of airports, harbors and military installations. He said a U2 flew over Nicaragua today.

[The U.S. Air Force maintains both RC135 and TR1 reconnaissance planes. The TR1 is a modernized version of the U2.]

The officer said some of the flights have come within shooting range of Sandinista artillery but have never been fired on.

"We know what it would mean for us if we respond to a provocation," Wheelock said.

Wheelock said the United States also maintains at least three, and at times as many as 11, ships off Nicaragua's Pacific Coast to watch movements at the country's ports and airports. Normally, he said, the vessels include a "rocket-mounted frigate," a "high-resistance Coast Guard cruiser" and an intelligence vessel, the ARL24, based in the Panama Canal Zone.

In addition, the Sandinista commander alleged that aircraft supporting the contras had flown 152 missions from neighboring Honduras over Nicaraguan war zones this year, dropping supplies and "making tactical explorations." He charged that some planes belonged to the Honduran Air Force.

Wheelock said that Sandinista intelligence had detected 161 flights originating in Costa Rica.

Meanwhile, President Daniel Ortega Saavedra today inaugurated a Soviet bloc earth station allowing Nicaragua to become part

of the Soviet system of satellite communications, known as Intersputnik.

Wheelock did not say how the Sandinista government obtained the information about the spy flights. In the past year, the government has rapidly been completing an advanced East Bloc radar system for nationwide military communications, western diplomats here have said.

In a departure from customary practice, Wheelock also said 116 Sandinista Army soldiers have been killed this year in combat with contra guerrillas. He asserted that the contras killed 123 unarmed civilians. Government forces, he said, have killed 2,919 contras since January. The government rarely specifies its losses.

Mr. Speaker, I close this out by saying that I am afraid that we are going to have too learn by bitter experience the truth of the words of this very popular Canadian singer from Ottawa, Bruce Cockburn, who has been there and been to the United States.

He says: "One day you are going to raise from your habitual feast to find yourself staring down the throat of the beast they call the revolution."

□ 1405

IT'S TIME FOR EUROPE TO ASSUME THE PRIMARY RESPONSIBILITY OF THE DEFENSE OF WESTERN EUROPE

The SPEAKER pro tempore [Mr. FASCELL]. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 60 minutes.

Mr. BEREUTER. Mr. Speaker, on June 20–23, 1986, Members of the U.S. House of Representatives met with members of the European Parliament at Santa Fe, NM, at their 27th semiannual interparliamentary meeting. In preparation for my presentation at that meeting this Member of Congress focused on relevant events that had occurred since the January 1986 meeting in Dublin, Ireland, where the most controversial subject was certainly American-European actions and views of political state-sponsored terrorism. Quite naturally then this Member's attention was riveted on the subsequent United States bomb raid on Libya and especially on the very different reactions of opposite sides of the Atlantic to that raid. Explaining those markedly different perceptions eventually led this Member to give renewed thought to the American-European relationship within the context of the North Atlantic alliance.

In examining these differing reactions two conclusions are apparent to me. First, despite the many ties which bind us, we often see things very differently, largely because of differing perspectives. Each side of the Atlantic would do well, I think, to keep the other's perspective and attitudes in mind as we determine policy. The risk of divisiveness, unfortunate fractures in the alliance, and rash action is enhanced if we do not.

A major explanation for these differing perceptions is our differing roles, the United States as a global power and the Europeans, as in matters of defense, concerned primarily with a regional defense in Europe. And this leads to the second conclusion, which is that allied relief of some of our defense burdens in Europe will leave the United States better positioned to meet other global challenges. Although the debate is usually framed in terms of "burden-sharing," I might prefer to use the term "burden-relief."

Let me make clear that there is as seen by this Member of Congress, absolutely no direct, causal relationship between the generally apparent unwillingness or our European allies to support our action in Libya and this call for a reduction of American financial support and troops for the defense of Western Europe. Such a reaction would not be justified. Rather, I think Europe's obligation to do more grows out of two basic facts. The first, and more important point, in my opinion, is that Europe undoubtedly has the financial ability to contribute more in its own defense. The second point is that, should unforeseen contingencies arise, the United States needs greater freedom to deploy its power where it will do the most good. Our ability to do this is currently constrained by the continued commitment of substantial numbers of our troops and amounts of our resources to the defense of Western Europe. I should perhaps interject at this point that I emphatically do not believe nor recommend, that we are about to embark on a new ERA of Third World interventionism. For starters, public support for such a policy is clearly lacking. I am simply making the case for maximum flexibility.

ALLIES GO THEIR OWN WAY

My original intention, at the Santa Fe session of our interparliamentary exchange had been to discuss terrorism, and specifically the means we might jointly employ to combat it. It does appear, following the American bomb raid on Libya and the Tokyo Summit, that we are making progress toward the goal of greater Western cooperation in combating terrorism. But in thinking about the raid on Libya immediately afterward, this Member of Congress was stuck by how differently we on opposite sides of the Atlantic viewed the operation. Americans everywhere had assumed that the leadership of the free world would be almost 100 percent supportive of our actions against the Libyan dictator. Yet, in the aftermath of the raid, it is clear that there not only was no consensus, there was sharp disagreement.

In remarks on the House floor shortly after the raid on Libya, I noted that few major foreign policy issues of recent times had been so lacking in controversy here. The large majority of the American people, it is certifiable, supported the President's actions—enthusiastically. The majority reaction in Europe, again with few exceptions, was just the opposite. The governmental leadership and people there appear to have generally and strongly expressed the sentiment that the action was unwise. Prime Minister Thatcher's support has been well documented and is much appreciated in the United States. According to polls I have seen, a majority of the French people supported the raid. Mostly among Europeans, however, we heard and saw strong reaction against the U.S. action

The reaction in this country to Europe's condemnation of our action against Libya was one of stunned disbelief, of being let down by our allies, and finally of anger and bitterness. What is the point, some Americans asked, of having allies if you cannot count on them when the chips are down? How is it that our oldest ally, France, could deny us permission of overflight? The technical response to those questions is that NATO is devoted to the defense of the North Atlantic region, an area which clearly excludes Libya. The more difficult question raised by this episode is: If we cannot agree on an appropriate response to such a clear-cut case of state-sponsored terrorism as that carried out by Libya, upon what can we agree?

One conclusion I reach is that given the circumstances of an economically prosperous Western Europe and the U.S. global security responsibilities, continued deployment of U.S. forces at current levels in Western Europe is probably not the most efficient use of our personnel, equipment, or financial resources. I believe that Europe can do more toward its own defense and that we can better handle our global responsibilities by positioning elsewhere—most likely in the United States—some of the troops now in Europe. Writing about this problem in a Los Angeles Times Syndicate article dated May 13, 1986, former Secretary of State Henry Kissinger observed that:

> A major portion of America's armed forces is tied up where governments will permit its use only against the least likely threat, an all-out Soviet attack on the central [European] front.

Even if one disagrees with Dr. Kissinger that the direct Soviet threat against Western Europe is the "least likely threat" and instead characterizes it as "merely unlikely," his logic is forceful.

I would emphasize that I do not raise questions about the NATO relationship out of a sense of grievance that the United States has somehow

been shortchanged. The alliance has served Europe very well, but it has also served us well. If it has been costly for us, and it has, by and large we have been able to afford it. I am not one of those who seeks to use our level of expenditures and troop commitments as leverage, threatening to withdraw them unless Europe devotes more of its resources to defense but keeping them there if they do. Europe should do more because it has an obligation to do so, and because that is in the interest of European countries individually and collectively. Greater European contributions to defense readiness should be seen in the context of permitting the development of U.S. forces where they are most needed, not as a quid pro quo for keeping the current level of American commitments in Europe. What has worked for the past nearly four decades may not be appropriate now and almost certainly will not be appropriate or possible over the next four decades, at least not without substantial modification.

FORTY YEARS IS LONG ENOUGH: EUROPE CAN AND SHOULD DO MORE

Whether it is expressed as Europe doing too little or America too much, this is the familiar burden-sharing argument or complaint which Europeans have grown accustomed to hearing from this side of the Atlantic. Recently some influential American policymakers have suggested the use of our level of commitment to NATO as a club over the heads of our European allies. Most recently I have even heard Americans threatening that the United States will bring home the troops if the European Community does not lessen its trade surplus with the United States.

From a European perspective, our complaints on occasion must at least appear unreasonable and perhaps even shortsighted. But a fairminded European would also have to agree that the American perspective on burdensharing is, in many respects, quite understandable.

In 1951, Dwight Eisenhower saw American aid for NATO as essential, but he said, "If in 10 years, all American troops stationed in Europe for national defense purposes have not been returned to the United States, then this whole project will have failed." Yet more than four decades after the Second World War, the United States maintains over 300,000 troops in Europe as a contribution to NATO's defense against the Warsaw Pact. These forces play a number of key roles in NATO's deterrence and defense posture. They make a substantial contribution to NATO's forces available to counter the initial stages of a Warsaw Pact attack. They also serve as the foundation on which additional U.S. forces would build in wartime as reinforcing U.S. units and weapons systems arrive in Europe. And perhaps most importantly, this substantial U.S. presence symbolizes the U.S. commitment to the defense of Europe, backed by the awesome potential of the U.S. strategic nuclear arsenal.

By almost any quantitative measure, the United States devotes far more resources to defense than do its allies. In fact, the United States spends more on defense than all the European allies combined. Viewed another way, the United States has been devoting in excess of 6.5 percent of its gross domestic product to defense, whereas the Europeans, on average, have been spending only around 3.8 percent of their gross domestic product [GDP] to defend themselves. In 1985, the United States spent over $266.6 billion on defense, of which at least half could be said to be NATO-related expenditures. The West European allies, as a group, spent just $83.5 billion.

Perhaps most frustrating to Americans is the fact that this situation shows little sign of changing soon. The Department of Defense has recently reported that the average real growth in defense spending for all other NATO nations in 1986 will likely be the lowest in 9 years, somewhere between zero and three-tenths of 1 percent growth above inflation. Granted, the dramatic surge in U.S. defense spending of the last several years is slowing down. But if European defense efforts are also cut back, the balance between United States and European efforts will remain static. In fact, an analysis last year by the Congressional Budget Office concluded that, "Over time, the United States share of the burden has been increasing, while the allies' share has decreased, relative to their ability to contribute."

I would be the first to agree with those who suggest that it is difficult, if not impossible, to calculate just how much of our defense spending could actually be said to be spent on NATO's behalf. While I said that half of our 1985 defense expenditures could be said to be NATO-related, I readily concede that I have seen much lower estimates as well. It depends on the definition of NATO's interests vis-a-vis those of the United States and how you separate them. Some would observe that they are inseparable. My point is, however, that even with the lower estimates, Europe does not appear to be doing its share.

On the question of Europe's contribution, Dr. Kissinger put it very well in the article to which I referred earlier. He said: "It is unnatural for a continent [actually one-half a continent] with a population larger than that of the Soviet Union and a combined gross national product 1½ times greater than it, to rely for so much of its defense on a distant ally." I agree. The conditions prevailing when NATO was formed—a United States vastly more powerful and more wealthy than any other nation and, on the other hand, an impoverished war-ravaged Europe—have long since changed.

Looked at from either-side of the Atlantic, the relationship is indeed unnatural. Yes, repeating it is an unnatural condition. It stretches the resources of the United States. It faces the United States with risks well beyond those inherent in the defense of the United States itself. The nuclear guarantee in particular exposes the United States to nuclear confrontation with the Soviet Union for the sake of Western Europe's security.

Europeans have grown comfortable with the American contribution to the alliance—perhaps too comfortable. I am concerned that, over time, the continued reliance of Western Europe on such a disproportionate American contribution will erode the political foundations of support for the alliance and for self-defense. We have offered the nuclear guarantee to Western Europe out of a conviction that our own security is inextricably bound to Europe's. If the feeling in America persists and grows that Europe is not pulling its own weight, that conviction will weaken.

GLOBAL VERSUS REGIONAL DEFENSE COMMITMENTS

Implicit in what I am proposing is the clear recognition that the United States cannot do everthing, that we run the risk of being unable to meet all of our global commitments unless we are at least partially relieved of some of them. We need to maximize the return on our defense investment. Here is where I think the debate is influenced most profoundly by the different status of the Atlantic partners. The United States is a global power, facing security challenges throughout the world. Our European allies, on the other hand, are largely concerned with regional defense. Moreover, as Europe's ability to influence global events by means of military power declined, European policies for power projection increasingly emphasized political and economic means.

In a complete reversal of policy in effect at the time of NATO's birth, when the United States was determined not to be dragged into lingering colonial disputes and insisted that Atlantic Treaty obligations were valid only in Europe, today it is Europe which increasingly refuses to undertake treaty obligations with the Third World. This moved Dr. Kissinger to observe that, "When Europe disassociates itself from the United States today, it challenges a concept of global defense, and therefore, indirectly, the psychological basis of America's commitment even to the defense of Europe."

DIFFERING PERCEPTIONS BETWEEN AMERICANS AND WEST EUROPEANS

It is not only the roles of Europe and America which are different. The Atlantic partners also have differing perspectives—sometimes sharply differing—of the threat to their security, of what to do about that threat, and differing perspectives about each other. Americans often accuse Europeans of not doing all that they could to ensure a proper defense against the Soviet threat—and here I hasten to interject that even if it can rationally be concluded that a direct, military attack on Western Europe by the Soviet Union is unlikely, it is nevertheless such an awesome threat that we cannot but take it seriously. Americans are unable to fathom that Europe, so much nearer the Soviet threat, seems at times almost oblivious to it.

Proximity to Soviet power appears to have led Europe in the other direction, of being less concerned with arms and more concerned with arms control. Perhaps this is because when we Americans speak in the abstract about the "European Theater," for Europeans that means home. As Flora Lewis of the New York Times noted, "Nobody in Europe, West or East, imagines that war means only fighting overseas. For all Europeans, the question of war means the question of survival, not just superiority." Europeans quite naturally have had their fill of war in this century and are determined to avoid another. Perhaps if there had been a war on American soil more recently than our Civil War, 120 years ago, such reasoning would be more in evidence here.

Perceptions of the U.S.S.R. differ. A great many Americans tend to view the Soviet Union as an implacable ideological foe bent on destroying the American way of life. If it is not the "evil empire," at least it is something rather close to it. Many Europeans, on the other hand, are able to view the U.S.S.R. in a Russian historical context—as a paranoid, insecure nation striving for equality and legitimacy. This perhaps does not reduce the Soviet threat in their eyes, but it makes them think twice about taking steps which will merely reinforce Soviet tendencies to see the worst in everyone.

A major consideration for Europe, often underrated on this side of the Atlantic, is the importance of East-West economic relations. With Warsaw Pact nations taking only 1.7 percent of American exports in 1982, and supplying a negligible 0.4 percent of our imports, trade with the Eastern bloc, except for grain sales to the Soviet Union, often is not even a factor we consider in weighing our actions or goals. For European members of NATO, on the other hand, imports from pact countries totaled from 4.1 to 4.5 percent during the period 1979–82, while exports to those countries, although falling, still constituted a 3.3-percent share. Those aren't large percentages, but, more importantly, while American's apparently still view Warsaw Pact trade as a marginal item on the national agenda, the Europeans see greater prospects and believe further development of trade with the East holds promise for future economic growth in the West. Additionally, at least one West European import from the East—natural gas—is currently viewed as a vital commodity. All this means that Europe would sacrifice much more than the United States if trade with the East were to be sharply curtailed. In a related area of differing perceptions, it should be mentioned that, despite the current low trade levels of Western Europe with the East, some Americans believe Western Europe is overly dependent on trade with the East. Many more Americans than Europeans believe that the purchase of goods or commodities vital to West European economies from Eastern Europe; for example, natural gas, places the West in a potential hostage position to Soviet political objectives.

Certainly it is clear to me that Europe generally does share the American view that the Soviet Union is the major threat to world peace. Yet the two sides of the Atlantic take substantially different approaches to dealing with this threat. Americans sometimes accuse Europe of being too accommodating toward Russia, of risking what is termed, if somewhat unfortunately, "self-Finlandization." In the eyes of not just a few Americans, some European governments, in seeking alternatives to the use of force, have defaulted on their most basic responsibility to their citizens, as well as to their alliances. They have also been too accommodating, Dr. Kissinger believes, to the radical peace organizations which mount anti-American demonstrations. They have, in his opinion, sought to purchase domestic tranquility by catering to the myth that they are restraining the "immature, bellicose Americans." He says, "In its appeal for restraint, the European Community seemed to put the United States and Libya on the same level." Europeans counter that the United States is fascinated with military power and tends to concentrate too narrowly on military responses. They are concerned by what they see as American adventurism and by an occasionally alleged willingness by the United States to contemplate limited nuclear war in Europe.

Then there is the clear difference in perception about détente. It is clear to me that Europe gained more than the United States did from détente, in the form of reduced tension, increased trade opportunities and improved human contacts. It is also clear that Europeans are much more reluctant to give up on the process embodied in détente. The United States pronounced détente "dead" after the Soviet invasion of Afghanistan, but Europe has never accepted this judgment; nor has Europe accepted the view that the alliance should stop trying to improve relations or reach arms control agreements. Europeans obviously take a dim view of this Soviet "adventurism" but they refuse to let it jeopardize the fruits of détente in Europe. In general, Europe is more reluctant to allow Soviet misbehavior in the Third World to sour East/West relations than the United States, which sees Soviet action outside of Europe as also providing cause for Western response within the European framework.

I have now dwelt at some length on these few of many varying perceptions, not simply to highlight differences, but to illustrate how even basically similar societies can legitimately arrive at different conclusions. We do appreciate that, even with the best of motives, there are going to be honest differences of opinion. But just as others will ultimately do what they consider to be in their national interest, so must the United States. Our record of contributing to the Defense of Europe is more than just adequate, it is outstanding. It gives us the right, I believe to be taken seriously when we launch an appeal to our European allies for actions which will permit us the flexibility to discharge our duties elsewhere. It is legitimate to ask those who would argue that the process of partial but substantial withdrawal of U.S. troops from Western Europe should not gradually begin in the fairly near future: "How long are they to remain?"

BURDEN-SHARING: CONSEQUENCES AND RECOMMENDATIONS

The sharing of burdens and responsibilities in the Atlantic Alliance continues to place excessive reliance on the resources and the leadership of the United States. This unnatural dependence of Western Europe on the United States needs to be adjusted to enhance Europe's political and economic potential in the alliance.

We cannot expect such change to take place overnight. The current apportionment of responsibilities has been with us for the last 30-plus years. Trying to replace these arrangements totally or at one stroke would pose many dangers, including the possibility that we could end up throwing the baby out with the bathwater—with the destruction of the alliance and the loss of basic freedoms for millions of persons. We therefore should admittedly be very wary of those who call for major "reassessments" of the alliance without offering coherent propositions for the new roads to be taken.

It is, however, not a time when America or Western Europe can responsibly tolerate complacency with the status quo. The alliance cannot afford to sit quietly while Americans increasingly question the excessive share of the burden borne by the United States and Europeans complain about an alliance security policy that is made in the U.S.A. We collectively cannot ignore strategic concerns elsewhere in this globe. Instead, both the United States and the European allies should work steadily toward shifting the relative burdens within the alliance framework. Current efforts at improving NATO's conventional defense forces will, if properly pursued, help reduce the risky reliance on the U.S. nuclear component of NATO's deterrent posture. As a consequence of this necessary shift, some reallocation of defense responsibilities may consciously be caused to occur between the United States and Europe as this program of defense improvements is implemented.

Beyond this, however, the NATO countries should agree that every allied force planning decision, every cooperative NATO program, every joint project, will in the future be shaped to the extent possible by the need to shift greater responsibility to the European members of the alliance. The alliance should make such a commitment clear and unequivocal, a political statement at the highest level that will be reflected in future national and alliance decisions and programs.

The same principle should be considered when the alliance prepares arms control proposals. Potential arms control agreements with the Warsaw Pact nations, for example in the negotiations on Mutual and Balanced Force Reductions, should at least be consistent with the desire to shift burdens and responsibilities within the alliance toward the European partners.

Such actions would help. But it must be recognized that a substantial shift of burdens will require the Europeans to develop a more coherent European contribution to the alliance. In the defense area, statistics demonstrating Western Europe's substantial resources are misleading. It is much easier to add up the various national statistics on defense commitments than it is to merge armed forces, combine national security decisionmaking arrangements, or rationalize weapons procurement and production capabilities.

Certainly, Americans must recognize that it may not always be easy for the United States to deal with a more energetic European role in the alliance. We will not always agree on the details, or on the approach to certain issues. But we in the United States cannot call for greater European defense efforts without expecting to hear a more dominate European voice on defense issues. We should be prepared to deal constructively with those changes, problems, or differences when they come along. I can envision a parallel between this new European defense effort and the European Community. Although we knew at the time of its creation that the EC would one day emerge as a powerful competitor, we nevertheless enthusiastically supported it. Today United States-Economic Community trade skirmishing is commonplace, occasionally bitter, but no one would seriously suggest that we dismantle the Community. A stable, prosperous Western Europe is clearly in our national interest. So is one that is basically well defended by a Western European effort.

If the changes I have outlined are implemented, there surely will be tensions within the alliance, but they will be tensions between more equal partners. Today there are irritants or tensions within the alliance, in some ways not unlike those between the benefactor and recipient of foreign aid. For example, developed countries sometimes resent the failure of developing countries to express more gratitude for the aid given.

Frankly, I believe it is true that the recipient countries often don't feel much gratitude. What they feel is resentment for having to come "hat-in-hand" to request aid. There is an element of that in the American-Western Europe relationship. We are seen as the guarantor and as expecting European fealty. When we don't get it, as in the Libyan case, we feel betrayed. Europeans, for their part, frequently question our leadership and openly wonder if our policies won't lead them into war. For the sake of the enduring relationship, the partners need to be more equal and that means a stronger European defense effort for Europe.

Coincidental to the development of the views and comments by this Member of Congress for the June 20-23, 1986, Santa Fe meeting with members of the European Parliament, the senior Senator from Colorado made similar comments about the importance of a greater equality between the United States and Western European nations in the defense efforts of the Atlantic alliance during his speech at Georgetown University on June 13, 1986. In his view also the "inherent fallibility of the alliance is the continued and corrosive notion of the United States as a dominant partner—even as the other partners have grown to positions of relative equality." He further appropriately opines that: "Notably, the one country which has experienced the least controversy in its defense policy is France * * * because France has taken a primary responsibility for its own defense."

There may be those Americans who would prefer that Europe remain dependent upon us. I am not one of them. If a militarily stronger Europe occasionally deviates from our preferred course, that is a small price to pay for a Europe better able to meet its security challenges and an America more able to meet American and free world global responsibilities. Speaking in Washington in November 1984, Belgian Foreign Minister Leo Tindemans said, "Our efforts to rebuild the Western European Union are in no way intended as a threat to existing modes of cooperation within NATO or as a snub to the Americans." I appreciate and accept that statement for its acceptance will enable us to change the basically troubling and unnatural condition in the Atlantic alliance. We, indeed, should not view such a process as a threat or a snub, but as a positive development.

First proposed in 1950, the "European Defense Community" was to have been an intergral part of the NATO undertaking. Failure to proceed with the EDC left a crucial gap in NATO which has persisted and become more glaringly evident with the passage of time. If this existed now, U.S. forces could, as orginally contemplated, serve in a supplementary fashion to what would be, first and foremost a European-led defense organization that is truly European in leadership, personnel, and resources.

In the near term, it seems that a "European Defense Community" remains beyond Westen Europe's political consensus. It deserves a full reconsideration now and certainly, in the absence of such a "European Defense Community," our allies must begin to aggressively work toward a more effective combination of their defense resources. To be successful, this process must have strong political foundations.

To build such foundations, Western European governments should intensify their joint consultations and cooperative efforts on security issues. Such consultations and cooperation are absolutely necessary to build up the process of a more complete collaboration among European governments in defense matters. They also are necessary to demonstrate to European publics that defense is not a responsibility to be left largely and begrudgingly to the Americans; it is a shared task requiring greater European efforts and inputs, political as well as military.

I sincerely hope that we can move in these directions, for I am convinced that ultimately the future of the alliance depends on our ability to do so.

□ 1440

ADMINISTRATION SUCCESSFULLY SETTLES TWO TRADE PRACTICE CASES WITH THE REPUBLIC OF KOREA

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I was delighted to hear that today the administration has signed agreements with the Republic of Korea to settle two outstanding 301 unfair trade practices cases.

The first case involved Korea's closed market to foreign insurance sales. The 301 agreement will open Korea's insurance market for interested United States insurance representatives.

The second case involved the lack of intellectual property protection in Korea. U.S. patents and copyrights were often ignored, and counterfeited items were causing an enormous problem for U.S. companies. An agreement was signed whereby Korea will provide both patent and copyright protection to United States patent and copyright holders.

These two settled 301 cases were self-initiated by the administration late in 1985. Today's settlements followed successful use of our 301 statute to settle cases against the EC and Taiwan.

The remaining business between the United States and Korea is the renegotiation of the United States-Korea bilateral textile agreement. Any agreement will be patterned after the Hong Kong and Taiwan agreements, which provide a good compromise between expansion and restriction of quota growth.

The administration has made excellent progress, both in expanding U.S. access abroad, and protecting U.S. markets at home.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BEREUTER, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. NELSON of Florida, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, on July 22.

Mr. GONZALEZ, for 60 minutes, on July 23.

Mr. GONZALEZ, for 60 minutes, on July 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STRANG) and to include extraneous matter:)

Mr. COUGHLIN.

Mr. BEREUTER.

Mr. KEMP.

Mr. COURTER.

Mr. KINDNESS.

Mr. CONTE.

Mr. GILMAN in two instances.

Mr. BROOMFIELD.

Mr. TAUKE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. FLORIO.

Mr. SIKORSKI.

Mr. MURTHA.

Mr. SOLARZ.

Mr. UDALL.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. EDWARDS of California.

Mr. RODINO.

Mr. HERTEL of Michigan.

Mr. MARKEY.

Mr. MONTGOMERY.

SENATE BILL AND CONCURRENT RESOLUTIONS REFERRED

A bill and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2129. An act to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes; to the Committee on Energy and Commerce.

S. Con. Res. 137. Concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a National STORM Program; to the Committee on Science and Technology.

S. Con. Res. 143. Concurrent resolution expressing the sense of the Congress on the resumption of the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 43 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 22, 1986, at 4 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3902. A letter from the Deputy Chief for Programs, Soil Conservation Service, Department of Agriculture, transmitting a watershed plan and environmental impact statement for Big Creek-Hurricane Creek watershed, Missouri, pursuant to 42 U.S.C. 4332(2)(c); to the Committee on Agriculture.

3903. A letter from the Deputy Chief for Programs, Soil Conservation Service, Department of Agriculture, transmitting a watershed plan and environmental impact statement for South Fork watershed, Kansas, pursuant to 42 U.S.C. 4332(2)(c); to the Committee on Agriculture.

3904. A letter from the Secretary of Education, transmitting final regulations in connection with final training priorities under the training program for special programs staff and leadership personnel, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3905. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the Department of the Navy's proposed lease of defense articles to Israel (Transmittal No. 38-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

3906. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by Princeton N. Lyman, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3907. A letter from the Assistant Secretary of State on Legislative and Intergovernmental Affairs, transmitting a report on political contributions by Carol B. Hallett, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3908. A letter from the Assistant Secretary of State on Legislative and Intergovernmental Affairs, transmitting a report on political contributions by Julian M. Niemczyk, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3909. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by John H. Kelly, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3910. A letter from the Secretary of Transportation, transmitting the National Airway System Annual Report—fiscal year 1985, pursuant to Public Law 97-248, section 504(b)(2); to the Committee on Public Works and Transportation.

3911. A letter from the Deputy Chief for Programs, Soil Conservation Service, Department of Agriculture, transmitting a wa-

tershed plan and environmental impact statement for North Deer Creek watershed, Pottawatomie, OK, and Cleveland Counties, OK, pursuant to Public Law 4332(2)(c); to the Committee on Public Works and Transportation.

3912. A letter from the Chairman, National Research Council, transmitting a report entitled "Twin Trailer Trucks: Effects on Highways and Highway Safety," pursuant to Public Law 97-424, section 144(b); to the Committee on Public Works and Transportation.

3913. A letter from the Chairman, Federal Reserve System, transmitting a monetary policy report, pursuant to 12 U.S.C. 225a; jointly to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 17, 1986, the following reports were filed on July 18, 1986]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2482. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; with an amendment (Rept. 99-695). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEHMAN of Florida: Committee on Appropriations. H.R. 5205. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-696). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 21, 1986]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3655. A bill to counter restrictive practices in the marine transportation of automobiles, and for other purposes; with amendments (Rept. 99-697, Pt. I). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 2518. A bill to discontinue or amend certain requirements for agency reports to Congress; with an amendment (Rept. 99-698). Referred to the Committee of the Whole House on the State of the Union.

Ms. OAKAR: Committee on Post Office and Civil Service. H.R. 4300. A bill to entitle employees to parental leave in cases involving the birth, adoption, or serious health condition of a son or daughter and temporary medical leave in cases involving inability to work because of a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; (Rept. 99-699, Pt. I). Order to be printed.

Mr. NICHOLS: Committee on Armed Services. H.R. 4370. A bill to amend title 10, United States Code, to reorganize the Department of Defense; with an amendment (Rept. 99-700). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN (for himself, Mr. LELAND, and Mr. GREEN):

H.R. 5206. A bill to amend part B of title XVIII of the Social Security Act to provide for payment for home oxygen services on a prospective basis; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. WYDEN (for himself and Mr. TAUKE):

H.R. 5207. A bill to amend title XVIII of the Social Security Act to modify the limitations of payment for home health services under the Medicare Program: jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BENNETT (for himself and Mr. HUGHES):

H.R. 5208. A bill to improve efforts to monitor, assess and reduce the adverse impacts of driftnets; to the Committee on Merchant Marine and Fisheries.

By Mr. CONTE:

H.R. 5209. A bill to amend the Internal Revenue Code of 1954 to allow employers a targeted jobs credit for employing certain older individuals, and to extend by 3 years the termination date of the targeted jobs credit; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 5210. A bill to eliminate an exception in section 313 of the Federal Election Campaign Act of 1971 that permits certain Members of Congress to use excess campaign funds for personal purposes; to the Committee on House Administration.

By Mr. HAWKINS:

H.R. 5211. A bill to authorize the appointment of certain additional Assistant Secretaries of Labor, and for other purposes; to the Committee on Education and Labor.

By Mr. JONES of Oklahoma (for himself, Mr. ENGLISH, Mr. EDWARDS of Oklahoma, Mr. WATKINS, and Mr. MCCURDY):

H.R. 5212. A bill to amend Part A of title IV of the Social Security Act to permit a State at its option, under the AFDC program, to require registration for WIN purposes in the case of parents and relatives of children under the age of 6; to the Committee on Ways and Means.

By Mr. LUKEN (for himself, Mr. BEILENSON, Mrs. BURTON of California, Mr. CROCKETT, Mr. DOWDY of Mississippi, Mr. DYMALLY, Mr. FAZIO, Mr. LIPINSKI, Mr. MINETA, Mr. MITCHELL, Mr. MORRISON of Connecticut, Ms. OAKAR, Mr. RITTER, Mrs. SCHROEDER, Mr. WEISS, Mr. WHITTAKER, Mr. WISE, and Mr. WORTLEY:

H.R. 5213. A bill to establish the Congressional Advisory Commission on Intercollegiate Athletics; jointly, to the Committees on Energy and Commerce and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1103: Mr. RIDGE.

H.R. 2663: Mr. MYERS of Indiana and Mr. HORTON.

H.R. 3024: Mrs. HOLT, Mr. SMITH of Florida, Mr. COELHO, Mr. BOEHLERT, Mr. COLEMAN of Missouri, Mr. WYLIE, and Mr. NOWAK.

H.R. 3894: Mr. DREIER of California, Mr. FOLEY, Mr. RANGEL, Mr. DIXON, Mr. HUNTER, Mr. MAVROULES, Mr. GUNDERSON, Mr. DARDEN, Mr. DUNCAN, Mr. MCGRATH, Mr. LIPINSKI, Mr. COELHO, Mr. GEPHARDT, Mrs. BYRON, Mr. LEHMAN of California, Mr. WEBER, Mr. STAGGERS, and Mr. PASHAYAN.

H.R. 4003: Mr. YATRON.

H.R. 4038: Mrs. BOGGS and Mr. VISCLOSKY.

H.R. 4039: Mr. CALLAHAN.

H.R. 4370: Mr. DICKINSON, Mr. EDGAR, Mr. BILIRAKIS, Mr. WILLIAMS, Mr. HAMILTON, Mr. VOLKMER, Mr. WATKINS, Mr. COELHO, Mrs. BYRON, Mr. DANIEL, Mrs. SCHROEDER, Mr. SUNIA, Mr. SCHEUER, Mr. HOYER, Mr. KOSTMAYER, and Mr. DAVIS.

H.R. 4567: Mr. FASCELL.

H.R. 4633: Mr. HUGHES, Mr. BOUCHER, Mr. MURPHY, Mr. GAYDOS, Mr. CHAPMAN, Mr. HENRY, Mr. SAXTON, Mr. FEIGHAN, Mr. MOLLOHAN, Mr. KILDEE, Mr. DELLUMS, Mr. KOLTER, Mr. SAVAGE, Mr. RODINO, Mr. BROOKS, Mr. JEFFORDS, Mr. TAUKE, and Mr. PASHAYAN.

H.R. 4660: Mr. NEAL.

H.R. 4766: Mr. BARTON of Texas.

H.R. 4820: Mr. MURTHA.

H.R. 4879: Mr. VALENTINE.

H.J. Res. 244: Mr. JEFFORDS and Mrs. LLOYD.

H.J. Res. 512: Mr. CONTE, Mr. HANSEN, Mr. HENRY, Mrs. HOLT, Mr. FRENZEL, Mr. BATEMAN, and Mr. MOORE.

H.J. Res. 514: Mrs. KENNELLY, Mr. SKELTON, Mr. LIGHTFOOT, Mr. BARNES, Mr. LEWIS of Florida, Ms. KAPTUR, Mr. VOLKMER, Mrs. MEYERS of Kansas, Mr. ANNUNZIO, Mr. SAXTON, Mr. MORRISON of Washington, Mr. SUNIA, Mr. WALGREN, Mr. TAUKE, Mr. LAFALCE, Mr. CARNEY, Mr. PACKARD, Mr. LEWIS of California, Mr. HUBBARD, Mr. WOLPE, Mr. FISH, Mr. MATSUI, Mr. TALLON, Mr. LEVINE of California, Mr. BONER of Tennessee, Mr. GORDON, Mr. EARLY, Mr. REGULA, Mr. DUNCAN, Mr. ROBERT F. SMITH, Mr. MOLLOHAN, Mr. DENNY SMITH, Mr. JONES of Tennessee, Mr. DEWINE, Mr. WOLF, Mr. MCKINNEY, Mr. HAMMERSCHMIDT, Mr. LOEFFLER, Mr. FOGLIETTA, and Mr. HERTEL of Michigan.

H.J. Res. 555: Mr. EVANS of Illinois, Mr. TORRICELLI, Mr. RALPH M. HALL, Mr. HENRY, Mr. KOLTER, Mr. HUNTER, Mr. HANSEN, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. KOSTMAYER, Mr. COELHO, Mr. LEACH of Iowa, Mr. JEFFORDS, Mr. LEHMAN of Florida, Mr. MCDADE, Mr. MOAKLEY, Mr. PORTER, Mr. KASTENMEIER, Mr. LAFALCE, Mr. MCHUGH, Mr. DEWINE, Ms. MIKULSKI, Mr. HEFNER, and Mr. VOLKMER.

H.J. Res. 594: Mr. TORRICELLI and Mr. WIRTH.

H.J. Res. 607: Mr. BARTON of Texas, Mr. COBEY, Mr. LUNDINE, Mr. REID, Mrs. SCHNEIDER, and Mr. TORRICELLI.

H.J. Res. 619: Mr. NIELSON of Utah, Mr. GEJDENSON, Mr. BROWN of California, Mr. MATSUI, Mr. BONER of Tennessee, Mr. LIPINSKI, and Mr. WEAVER.

H.J. Res. 645: Mr. DAVIS, Mr. HORTON, Mr. FAZIO, Mr. CONYERS, Mr. FOGLIETTA, Mr.

GARCIA, Mr. STANGELAND, Mr. GUNDERSON, Mr. KOSTMAYER, Mr. MCDADE, Mr. MURPHY, Mr. OWENS, and Mr. RINALDO.

H.J. Res. 670: Mr. LEHMAN of Florida, Mr. SABO, Mr. FAUNTROY, Mr. RAHALL, Mrs. BENTLEY, Mr. MINETA, Mr. MRAZEK, Mr. REID, Mr. HOWARD, Mr. HORTON, Mr. FAZIO, Mr. BRYANT, Mr. DANIEL, Mr. GRAY of Illinois, and Mr. SUNIA.

H. Con. Res. 307: Mr. CHANDLER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

428. The Speaker, presented a petition of Luis Gordoba, Tegucigalpa, Honduras, relative to political prisoners in Nicaragua; which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5162

By Mrs. SCHROEDER:

—Page 32, line 19, strike "$100,000,000" and insert, in lieu thereof, "$99,644,800".

SENATE—*Monday, July 21, 1986*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*O God, Thou art my God; early will I seek Thee: My soul thirsteth for Thee, my flesh longeth for Thee in a dry and thirsty land where no water is; To see Thy power and Thy glory * * *.*—Psalm 63: 1-2.

*My soul thirsteth for God, for the living God * * *.*—Psalm 42: 2.

O Lord, our God, we identify with the words of the psalmist—help us to see our need for Thee—for this fundamental reality in our lives. Help us to see how we deprive ourselves of the refreshing, the rest, the restoration that comes only from fellowship with Thee. Help us to see the futility we impose upon ourselves when we ignore Thee. Forgive our blindness—our deafness—our indifference. Return us to Thyself O Lord that we may be satisfied, fulfilled, and fruitful. Receive us and bless us and use us for Thy glory. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished able majority leader, Senator ROBERT DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator THURMOND.

As I have indicated hopefully by 1:30 we will be on S. 2245, the export administration bill. Following that, it will be our intention to begin consideration of S. 2247, the Export-Import Bank bill. It is my hope that we will finish the Export Administration bill today without a vote. Then the Export-Import Bank bill will go over until tomorrow.

There will be no votes after 6 o'clock this evening. Also, we could then turn to any executive items today.

Then by previous consent the hours from 10 a.m. to 12 noon tomorrow have been set aside to eulogize the late Senator John East. Following the eulogies there will be the weekly party caucuses until 2 p.m., when we get to the possibility that there might be a vote on the Manion nomination. But in any event I just urge and alert my colleagues that we are probably going to have some late nights in the next 2 to 3 weeks if we are going to be able to leave here on the 15th of August.

After we finish the Export-Import Bank bill it will be my intention to turn to the debt limit. I know that is going to be controversial. It always is. That is Senate Joint Resolution 668.

I would guess, if we could start on that Wednesday, it will probably be around all day Wednesday and into the evening, all day Thursday and into the evening, and hopefully we can conclude at a reasonable hour on Friday. But if not, we will be here all day Friday. That is, assuming we complete the other items I have mentioned.

In any event, it is going to be a busy week. Then the next 2 weeks will be very busy, and again I do not want to be perceived as threatening anyone with extending the time before we recess. Recess is set for the 15th of August. We hope to be able to do that. But we still, in addition to the debt ceiling, have aid to the freedom fighters, we have some appropriation bills, and we have reconciliation in addition to a number of other items. We have now worked out an agreement, I think, on the two Supreme Court nominees. Under the agreement they will both be reported out before August 15, and both will be taken up the first week after the recess. That seems reasonable to me. That will give those who oppose the nominees an opportunity to seek out support against the nominees during the recess. I believe that is what those on the other side wanted—to go out and try to find votes against Rehnquist or Scalia. That will give them 3 weeks to do that.

We can take them up the first week after we come back.

ARMS CONTROL

THE REAGAN STRATEGY

Mr. DOLE. Mr. President, for 5½ years, some people around this town have made a career of trying to attack Ronald Reagan on arms control issues.

When the President took office, and spoke the hard truth about the nature of the Soviet Union, and the military threat it represented, these critics cried out that Ronald Reagan could never negotiate with the Soviets because his rhetoric was too pointed—it would offend the poor souls in the Kremlin.

Then, when we began a long-overdue campaign to catch up with the Soviets in military capabilities—especially in the strategic weapons area—we were told that such a "military buildup" spelled doom for arms control.

Then the President announced his Strategic Defense Initiative—which the critics gleefully tagged "star wars"—and the naysayers labeled it the "death knell" for arms control.

And finally, just several months ago, the President decided the United States, in the face of massive Soviet violations, was abandoning its unilateral commitment to the unratified SALT II Treaty. And that decision became the latest "death sentence" for arms control.

THE SOVIETS UNDERSTAND

Well, some people might have bought those charges, and arguments, but unfortunately for us all, at least one group did not—the leaders of the Soviet Union! They understood what Ronald Reagan's strategy was really about. They understood that our President was going to do "whatever was necessary" to ensure our national defense. They understood that plans to achieve their goals through naked threats and bullying were not going to succeed during a Reagan Presidency. And they also understood—and last November's summit was probably the occasion when this message really got through—that Ronald Reagan was seriously interested in real arms control. The kind that could enhance, not endanger, our national security. The kind that could make the world truly safer and more secure.

And so, confounding the dire predictions of the critics, the Soviets returned to the Geneva talks they had earlier abandoned. They slowly but surely got around to negotiating, even as SDI research went forward. And, finally, they tabled what appears to be a serious proposal which may offer some hope for real progress in arms reductions.

WHITE HOUSE ANNOUNCEMENT

The White House announcement this morning that we have formulated the essentials of our response, and that we have begun consultations with our allies, demonstrates again that the President is not going to let this opportunity to make progress get away. The White House indicated we will probably have our reply to Gorbachev by the end of the month—that, hopefully, will open the door to a meeting between Secretary Shultz and Soviet Foreign Minister Shevarnadze which, in turn, would work out details for a summit this year.

These are only the initial steps. We do not yet know where this road will lead. Above all, we do not yet know whether the Soviets are really serious about wanting substantial, verifiable

arms reductions. But we do have some reason to hope.

We have this hope: Not in spite of, but because of Ronald Reagan. We have this hope, not in spite of, but because we had the sense to support the President's programs for the MX, SDI, and all the rest. We have this hope, not in spite of, but because we have wisely abandoned the phony constraints of SALT II, and said that, absent some new, real arms reduction agreement, we will do whatever is necessary to ensure our national defense.

Mr. President, despite what has happened, I do not really expect that the President's knee-jerk critics are going to admit they were wrong. They are going to continue to forget history, ignore the facts, and predict the worst. My hope is that, as they continue their mindless diatribes, the rest of us can move forward, with the President, to a future where our country will be strong and secure, and the world will not have to live under the constant threat of nuclear annihilation.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the distinguished minority leader is recognized.

SCHEDULE

Mr. BYRD. Mr. President, I listened to the distinguished majority leader with great interest as he outlined the program in a general way over the next few days.

He made some references, as he has on previous occasions, to a possible delay in the August recess. This will be quite all right with me. But I think, if I may respectfully say so, if we are going to delay that recess, we ought to say so now so that Members will know in plenty of time that we are not going to begin it on the date that was scheduled many weeks or months ago, and just be done with it.

If there is a need to stay and do the work of the Senate, I shall join with the distinguished majority leader in promoting that effort. But I should think that perhaps if he and I could get together, and as he would desire to do so, to determine whether or not we are really going to stick to that date, we ought to say so soon. I happen to believe that the work of the distinguished majority leader as outlined can be done in time to begin the recess as it has been previously scheduled. I do not anticipate any great delay. As I understood the distinguished majority leader a few days ago, he had indicated that the beginning of the August recess might be delayed in the event that the votes on the Rehnquist and Scalia nominations would not be had before the recess.

□ 1212

Now, as I understand, in reading the newspaper reports, at least, those nominations will be voted on in the Senate, if I am correct in what I have interpreted from reading the press, after the Labor Day recess. If that is the case, then it seems to me that that would remove one considerable obstacle from the agenda which the distinguished majority leader may have had in mind.

Does he care to react to that?

Mr. DOLE. Let me indicate that I think on last Thursday or Friday I was visited by Senators BIDEN, METZENBAUM, KENNEDY, and SIMON, and I believe THURMOND, with reference to the nominations. I believe they had spoken to the minority leader earlier. They offered some proposal that we would not do either nomination before the recess but that we would try to do them after the recess. It seems to me we would have finished them in September. But after discussions with the distinguished chairman of the Judiciary Committee, it is my understanding that there has been an agreement reached which would do preciely what the minority leader suggested, both would be reported prior to August 14 and both would be taken up the week we come back in September.

But there have been other indications by the Senator from California, who is on the floor, and others who have indicated they might filibuster aid to the freedom fighters, which is another thing we had not anticipated. I am not certain that will take place, but that could take some time.

I would be very pleased to sit down with the distinguished minority leader and go over what I believe to be the must list items. Some we are not going to get done, obviously, which is always the case. I share his view. I have discussed that before. The fact is, if we have to extend the departure, we should do so very quickly because many of us have schedules in place following the 15th.

Mr. BYRD. I thank the distinguished majority leader.

Reference to the possible filibuster on Contra aid brings me now to my next question.

There are several major issues that may remain unresolved before adjournment—at least two important ones, South Africa and the final scope of the 1987 defense budget.

I would like to ask the distinguished majority leader his intentions about bringing up the South Africa legislation and the defense authorization bill. In the military construction appropriations bill, the language is included by the House dealing with Contra aid. If the distinguished majority leader intends to precede the action on the military construction appropriations bill by the defense authorization bill, I do feel that that would be the proper way to go, because the authorization should go first.

I am hearing, however, that the Senate consideration of the defense bill may be delayed unduly, causing great concern among Senators on both sides of the aisle. That bill contains about $300 billion for military programs, many essential to the maintenance of our national security, and there are major issues surrounding that bill, not only Contra aid, in the event the bill should come before the Senate prior to the military construction appropriations bill, but also procurement, research and development, combat readiness, personnel issues, among which issues there would be SALT policy, SDI funding, treaty negotiating records access, how many bombers and what type we should buy, Midgetman missiles, pay and benefits, and Pentagon procurement reform.

These and other issues are complex, and the Senate should begin to debate them as soon as possible. The most appropriate vehicle for such a debate is the defense bill.

Can the distinguished majority leader inform us at this time as to his intentions about getting quick action on the defense authorization bill once it is reported to the floor by the committee?

Mr. DOLE. I would indicate first of all that the committee has further work to do on the bill. We know that we are told that it will take at least 3 to 4 more days. We get back to the same question of how we are going to do all of these things between now and the time we hope to adjourn on October 3. That is 1 week without South Africa, freedom fighter, and SALT amendments. If we have those three, we are talking about 2 weeks.

I realize these are issues that are going to be dealt with one way or the other in the Senate. Somebody is going to offer an amendment sometime. I am not trying to duck the issues. I think there should be some debate.

I would hope on South Africa, before we have a bill on the floor, at least we would have hearings. Hearings will start tomorrow. Secretary of State Shultz is to be before the committee on Wednesday. It may be, and I would hope this would be the case, there might be some agreement, some bipartisan agreement, on what we might take as the next step to send another signal to the South African Government that we do have concerns.

I am not yet prepared to say when we will bring up the authorization bill. I just do not know. I will try to find out.

Mr. BYRD. The reports are in the newspapers, at least what I have been able to pick up, that some of the people downtown do not want the de-

fense authorization bill brought to the floor because of these sticky matters. I would hope that the distinguished majority leader would bring the defense authorization bill up in the Senate so that the Senate can have an opportunity to debate these issues and work its will on them.

I believe that the defense authorization bill has been brought up in the Senate every year for the last 10, 15, or 20 years. I do not remember a year, going back, as to when a defense authorization bill has not been brought before the Senate.

I am not seeking to imply that the distinguished majority leader has no plans to bring up the defense authorization bill. I am concerned because I hear reports, rumors, that come from downtown that the White House does not want the defense authorization bill brought up because of these matters. I would simply want to express the hope that the distinguished majority leader can assure us that that bill be brought up in the Senate and will be debated soon after it is reported from the committee.

Mr. DOLE. As I recall last year, if the Senator will yield, we brought it up and had time on it but the House never took it up. I would hope to avoid that. We only have about 6 weeks left. There is no use to waste a week or more if it is not going anywhere. I know there are all these other issues that sooner or later will be coming up. It has been suggested by some that perhaps we ought to make an agreement, we ought to sit down and work out an agreement, on a package which has SALT, South Africa, and aid to the Contras, not a package necessarily but some agreement where we could all have our say and debate the bill at length. We have already passed aid to freedom fighters once in the Senate. We have already expressed our will. I would hope that would not be a big hurdle the next time.

I will also check those rumors because they are rumors I had not heard.

Mr. BYRD. I thank the distinguished majority leader.

Before the distinguished majority leader leaves the floor, if I could further impose on him briefly, the deteriorating situation in South Africa affects and concerns all of us. The Nation and the world await a clear statement of administration policy after months of drift and indecision. Constructive engagement is dead as a policy, and more effective alternatives should be offered.

The objective of U.S. policy must be to encourage peaceful change. If sanctions are unacceptable, what course is left to us? The administration is trying to fight something with nothing, trying to fight apartheid with no policy. One cannot fight something with nothing. It would seem that South Africa is hemorrhaging from self-inflicted wounds. That country is too important to U.S. interests without our trying to encourage peaceful change. The President is scheduled to address the issue tomorrow. I hope the Senate will move thereafter without delay to demonstrate its concern and judgment on South Africa.

My question is, there is the House bill on the calendar, put there by the operation of rule 14. Can the distinguished majority leader assure the Senate as to when or how soon or whether that House bill that has been put on the calendar will be called up in the Senate? If that cannot be done, what is the distinguished majority leader's plan with respect to dealing with the South African situation as soon as possible?

Mr. DOLE. I have indicated, as I have before, that, obviously, we have a very serious problem in South Africa. The President will be meeting with some of us this afternoon at 3 o'clock. He will be making a statement tomorrow. On Wednesday, Secretary Shultz will be testifying before the Senate Foreign Relations Committee. My colleague, Senator KASSEBAUM, has a bill which does impose sanctions. There are other ideas floating around.

Again, it would be my hope, as we were able to achieve last year, we would have sort of a bipartisan agreement. It did not please everybody, in particular, particularly on this side. We were able to work out an agreement which did take some initial steps. I would hope that there would be some order that we would at least have the administration's view presented before we take up anything. I think this week, unless it is offered, the debt ceiling will pretty much consume the time.

Mr. BYRD. I have one final question. The distinguished majority leader mentioned earlier in his outline of the program something about the Manion nomination coming up tomorrow.

Mr. DOLE. I said that was a possibility. But I will, in accordance with my agreement, give the leader 24 hours' notice.

Mr. BYRD. So the leader's statement earlier is not to be interpreted as the 24-hour notice?

Mr. DOLE. No; I will do that privately with the minority leader.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina [Mr. THURMOND] is recognized for not to exceed 5 minutes.

JUDICIAL NOMINATIONS

Mr. THURMOND. Mr. President, with regard to the colloquy concerning the judges, I wish to announce to the Senate that an agreement has been reached with Senator BIDEN and the Democrats for the time for these hearings.

The Rehnquist hearing will be held on July 29 and, if necessary, another hearing on July 30. The Scalia hearing will be held on August 5.

A vote on both nominations will occur in the Judiciary Committee on August 14. Then action by the Senate will not take place until after we return from the Labor Day recess.

□ 1220

Mr. President, I wanted to make that announcement because these dates have all been agreed to by the ranking member of the Judiciary Committee [Mr. BIDEN] and the Democrats on the committee and also by the civil rights groups and the Department of Justice. I think these are all nailed down and for the benefit of the distinguished Democratic leader, I wanted to make this announcement so he would know definitely about this situation.

If I could have his attention, I just announced the dates that have been agreed to for the Rehnquist hearings and the Scalia hearings: Rehnquist July 29 and Scalia August 5, and a vote in committee on August 14. Then no action will be taken in the Senate until after the Labor Day recess. That is agreeable as far as all are concerned.

Mr. BYRD. Mr. President, I thank the distinguished President pro tempore, the chairman of the Judiciary Committee [Mr. THURMOND], for his advice as to the schedule of hearings that will be conducted in the Judiciary Committee and the votes therein. It seems to me this is a very reasonable schedule. This would mean, then, that the action by the Senate on the nominations would occur following the Labor Day recess.

Mr. THURMOND. I might say that a great many people urged that they be expedited more, but we wanted to give every opportunity and be as reasonable as we could and we have leaned over backward in order to reach an agreement in this matter.

Mr. BYRD. I thank very much the chairman of the Judiciary Committee.

HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES

Mr. THURMOND. Mr. President, I rise today to discuss one of our most serious national health problems, the adverse consequences of alcohol use. Recently the American Medical Association released statistics which indicate that alcohol use costs the American economy nearly $120 billion per

year. These costs include increased medical expenses and decreased productivity. These monetary losses, however, do not take into account the severe psychological and social consequences for the used, for family members, and for society at large. For example, in 1984 there were 44,241 traffic fatalities in our Nation. Fifty-three percent—I repeat, 53 percent—of these deaths, or 23,500, were alcohol related. It boggles the mind to think that these people would probably be alive today were it not for the mixture of alcohol and driving.

A study in New York City found that the victims of 54 percent of all fire deaths and 68 percent of all drowning deaths had high blood alcohol concentrations. The adverse consequences of alcohol use have other violent results. Alcohol is involved in 80 percent of all homicides, 70 percent of all serious assaults, 50 percent of all forcible rapes, and 72 percent of all robberies in the United States each year.

The National Institute of Alcohol Abuse and Alcoholism [NIAAA] estimates that 18.3 million Americans are "heavy drinkers", which is defined as consuming more than 14 drinks per week. In 1985, over 12 million American adults had one or more symptoms of alcoholism. This represents an increase of 8.2 percent from 1980.

Among teenagers, alcohol abuse has reached epidemic proportions. The NIAAA found that in 1984 almost 3.3 million 14- to 17-year-olds experienced serious problems at home, in school, or with the law because of alcohol consumption.

The unborn are also affected by alcohol consumption. For several years, researchers have been studying infants born to women who drank during pregnancy. What they have found in a significant number of these infants is a disturbing pattern of physical, mental, and behavioral abnormalities collectively known as fetal alcohol syndrome. These studies and others conducted by the Surgeon General have resulted in an important health advisory. The U.S. Surgeon General has officially advised women to abstain from drinking during pregnancy or when considering pregnancy.

Despite this warning, fetal alcohol syndrome is the third leading cause of birth defects. It is the only preventable birth defect among the top three. Nearly 5,000 babies per year are born with birth defects related to fetal alcohol syndrome.

A recent National Center for Health Statistics study indicates that Americans know less about the adverse effects of alcohol on health than they do about the harmful effects of smoking. Only 1 in 3 of those individuals surveyed knew that alcohol was associated with cancers of the throat and mouth. A 1985 Government survey revealed that only 57 percent of Americans had even heard of fetal alcohol syndrome.

Mr. President, these recent statistics are horrifying. Furthermore, when problem drinking has increased in this Nation in the last 5 years, I believe it is time for a concerted national effort to educate the American people about some of the serious consequences of alcohol use. Health warning labels on alcoholic beverages would assist in this educational process.

For many years, I have firmly believed in the need for such labels on alcoholic beverages. Accordingly, I am proud to have been a coauthor of legislative language which is included in S. 2595, the NIAA Reauthorization Act, that would require rotating health warning labels on alcoholic beverages.

The principal sponsor of this bill, Senator PAULA HAWKINS, serves as chairman of the Subcommittee on Alcohol and Drug Abuse. I know of no Member of Congress who has been more effective legislatively or more devoted to the fight against the national health tragedies of alcohol and drug abuse than Senator HAWKINS. I am also pleased that the original cosponsors of this legislation illustrate its strong bipartisan support. Senator KENNEDY and Senator DODD have joined Senator HAWKINS, Senator HATCH and me in our efforts to achieve the passage of this important legislation.

Despite our efforts to pass this bill, all of the original cosponsors are fully aware of the special interest groups who will actively fight the enactment of this legislation. These groups assert that the public already knows of the potential hazards of alcohol use, and that these labels would serve no purpose. In other words, the argument is that the American people neither need nor want these health labels. The real facts are to the contrary.

A 1984 Roper survey of alcohol problems found that 64 percent of business, government, and military leaders endorse health warning labels, and 68 percent of the general public agrees. There is a long list of health and consumer organizations that have endorsed this legislation including the American Medical Association, the March of Dimes, the National PTA, the National Council on Alcoholism, American Council on Alcohol Problems and the National Association of State Alcohol and Drug Abuse Directors.

I note with some amusement the arguments of those who oppose this legislation on the grounds that the labels provided in this bill may "mislead" the public. A publication called "A Spirit of Responsibility," published by the Distilled Spirits Council of the United States, highlights public awareness campaigns sponsored by the liquor industry regarding some of the serious consequences of alcohol use. A full page in the publication is devoted to a Times Square electronic billboard ad sponsored by the Distilled Spirits Council on New Year's Eve 1985. The ad said "If you're drinking, whatever you're drinking . . . . let someone else drive tonight." The so-called "misleading" health label provided in our bill states: "Drinking this product, which contains alcohol, can impair your ability to drive a car or operate machinery." The proposed label on the subject of fetal alcohol syndrome merely restates what the Surgeon General has previously determined. In fact, all of the labels are based on solid scientific research. They do not mislead. They provide factual information for the benefit of the consumer.

□ 1235

It is my view that underlying reason for opposing this bill is not that Americans do not want it or that the labels are misleading. No, it is my view that opponents of alcohol warning labels fear that it will reduce alcohol consumption.

In support of these labels I have said on numerous occasions that if they deter a potential abuser of alcohol from taking a drink, or prevent a casual drinker from climbing behind the wheel of a car when he or she has had "one too many," or if they prevent a pregnant woman from potentially causing harm to her unborn child, then this legislation will be effective and worthwhile.

Mr. President, this legislation serves only to provide individuals with the knowledge necessary to make informed decisions about whether or not to consume alcoholic beverages. These labels do not create any legal restriction or penalty to those who do not heed the warnings. They merely provide cautionary notice that consumption of the product may entail serious consequences in certain situations.

Mr. President, in closing, I would ask unanimous consent that a copy of an editorial from the July 2, 1986, edition of the Washington Post, entitled "Should Liquor Have Warning Labels," be printed in the RECORD immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Finally, I strongly urge my colleagues to join Senator HAWKINS, Senator HATCH, Senator KENNEDY, Senator DODD, and me in cosponsoring this important legislation.

[From the Washington Post, July 2, 1986]

EXHIBIT 1

SHOULD LIQUOR HAVE WARNING LABELS?

(By Thomas V. Seessel)

The Senate Labor and Human Resources Committee has now agreed unanimously on an idea whose time has come: federal man-

datory health and safety warning labels on alcohol beverage containers.

If S. 2595 is enacted, alcohol would join cigarettes, smokeless tobacco, aspirin, saccharin and over-the-counter and prescription drugs on the list of products for which warning labels are required by federal law.

There is no justification to continue the exemption of alcohol beverages from this group. Alcohol is a factor in about 15 percent of all health-care expenditures and in 30 percent to 40 percent of hospital admissions. Dr. Louis Jolyon West of the UCLA School of Medicine and editor of "Alcoholism and Related Problems" summed it up when he wrote that "ethyl alcohol is the most widely abused chemical in the Western World, implicated in far more deaths than any other substance.

People at risk for alcohol-related problems, and especially children who have not begun to drink, need to know about the surprisingly large array of alcohol-related problems that result from its consumption. Even for light drinkers, according to a recent article in the Journal of the American Medical Association, the risk of hemorrhage stroke is more than double compared with abstainers. The estimated economic impact of alcoholism and other alcohol problems was $116 billion in 1983. One of three American adults says that alcohol has brought trouble to his or her family. Alcohol-related causes account for 100,000 to 200,000 deaths each year, and alcohol-related traffic accidents are the leading cause of death among 15- to 24-year-olds. Drinking during pregnancy, linked to infant mortality and low birth weight, is the third leading cause of birth defects with accompanying mental retardation and the only preventable one—preventable by not drinking.

S. 2595 would require warning labels "in a conspicious and prominent place on the container" of alcoholic beverages. Warnings, which would be rotated during the course of the year, would address the dangers of drinking during pregnancy, drinking and driving, the risks of drinking while taking other drugs, and the links between alcohol consumption and cancers, hypertension and liver disease.

Warning labels would serve a necessary educational purpose. A recent report from the National Center for Health Statistics pointed out that Americans are less knowledgeable about the adverse effects of alcohol on health (with the exception of cirrhosis of the liver) than they are about the harmful effects of smoking. One in three of those surveyed knew that alcohol was associated with cancers of the throat and mouth. A 1985 government survey found that only 57 percent of Americans of all ages had heard of Fetal Alcohol Syndrome. The 1980 Report to the President and Congress from the departments of Treasury and Health and Human Services on this subject concluded that a "heightened awareness of these specifics would contribute to a lessening of the health problems related to alcohol."

The American leadership and general public support a labeling requirement. A 1984 Roger survey of alcohol problems reported that 64 percent of business, government, military and other leaders endorsed mandatory health warning labels, and 68 percent of the general public agrees.

S. 2595 also advances the public interest by underscoring that beer and wine are alcoholic beverages, a fact often obscured in popular perceptions. The labeling provisions would apply equally to beer, wine and distilled spirits. A companion public health amendment in S. 2595 included by Sen. Orrin Hatch (R-Utah) would require that the alcohol content of beer and other malt beverages be declared on the label, a longstanding requirement for hard liquor and most wine. The public has a right to know when and how much alcohol it is drinking. This is especially important for young people, whose gateway alcoholic beverage is usually beer.

Despite unusual bipartisan support in the Senate and solid floor backing, S. 2595 faces an uncertain fate on the floor of the Senate and in the House because of strong opposition from the alcohol industries. The bill is opposed by the producers for one simple reason: warning labels tell the truth about health and safety risk of alcohol, in contrast to the glamorous life style cultivated by more than $1 billion a year in alcohol advertising.

But these public health measures are long overdue. Proposals for their enactment were first made in the late 1970s and sidetracked. Ten years later, Americans are waking up to the enormous human and economic toll of alcohol problems. S. 2595 reauthorizes federal alcohol and drug abuse research efforts and contains a budget-neutral public health measure that responds to public concerns.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

STATE VERSUS DEFENSE ON ARMS CONTROL—WHO REALLY WON?

Mr. PROXMIRE. Mr. President, it is now well known that the administration is sharply divided over arms control policy. Simply put: The State Department in the person of Secretary Shultz wants to negotiate an arms control agreement with the Soviet Union. It privately wants to preserve the Strategic Arms Control Treaty, SALT II. It privately favors some partial compromise with the Soviet Union on negotiation of a test ban treaty. It privately also favors agreeing with the Soviets to a commitment to confine SDI or star wars to laboratory research for some years to come. All of these are the general terms that the Soviet Union has specified as their conditions necessary to agree to a summit meeting.

The Defense Department, in the person of Secretary Weinberger, publicly and privately opposes the State Department on each of these points. It does not want to negotiate an arms control treaty on these terms. It recommends nullifying the SALT II Treaty. It flatly opposes negotiating a ban on nuclear weapons testing. It opposes any restrictions on star wars.

So the administration, including President Reagan himself, has been speaking with contradictory, confusing voices. One week the SALT Treaty is out. The next it is in. One day there is word of possible compromise in negotiation on a new test ban treaty. The next day compromise on nuclear weapons testing is declared dead. Today's news may report that the administration is considering an agreement for a temporary agreement to confine star wars to laboratory research. Tomorrow's news is that the President has once again reasserted his absolute determination to agree to no limits whatsoever on star wars. So who will win? The New York Times thinks it has an answer.

Today's New York Times carries an article headlined: "The Resurgent Shultz: How a Comeback Is Made." The article starts out with a declaration that Shultz and the State Department have won the fight. The article by Leslie Gelb even explains that Shultz has won by being a good soldier. When the President has declared Weinberger the winner, as on the SALT II Treaty last May, Shultz has gone along with the President, sled length. Most of the article declares George Shultz the winner. But wait a minute, listen to the last three short paragraphs of the article. Here they are:

> Many officials throughout the bureaucracy say Mr. Reagan's tilt is now clearly in Mr. Shultz's direction, a change from past patterns on arms control issues of either being slightly pro-Weinberger or splitting the difference between them.
>
> But as all concerned are quick to point out, Mr. Shultz's victories have been essentially procedural and rhetorical. He has got Mr. Reagan to make upbeat statements about the Soviet proposals and to agree to meetings.
>
> Those are all important steps, but the substance has yet to be resolved.

What does all this mean? It means the President wants a summit meeting. He wants it this year. The Soviets have been very enthusiastic about arms control. In fact, so enthusiastic that Secretary Gorbachev has declared that there will be no summit meeting unless both sides are committed to an arms control agreement that includes his minimum terms.

What are these terms? The first has been a consistent Gorbachev absolute. It is this: The agreement must include some willingness on the part of President Reagan to limit star wars or SDI to laboratory testing for several years. Such a limit is quintessential for the Soviets to agree to a mutual reduction of offensive missiles. There may be more. Soviet agreement for a summit may also require at least some movement toward limiting, if not ending, nuclear weapons tests and a willingness for the United States to keep something like the SALT II Treaty alive in some form.

So are the superpowers any closer to an arms control agreement now with the so-called Shultz and State Department victory? The answer depends on

how much President Reagan really wants that summit. So far he has made it clear that he wants the summit badly enough to soften his remarks about the Soviet Union. He has called the Soviets serious about arms control. He has given a positive and civil welcome to their arms control suggestions. He has backed a little off his earlier pronouncement of the death of SALT II. But he has not budgeed an inch on the test ban treaty. He has given nothing on the big sticking point between the two superpowers—the limits on SDI or star wars.

So what do we have? We have a President who clearly wants a summit meeting this year with Secretary Gorbachev. That summit meeting can only take place if the President makes concessions on star wars and probably on negotiating a nuclear weapons test ban treaty as well as SALT II. Will President Reagan, a lifetime foe of every arms control treaty since the dawn of the nuclear age, this all-out champion of star wars, agree to a reversal of his convictions of a lifetime to win Soviet agreement to a summit meeting? Until that decision comes we will not know who won this titantic struggle—Shultz at State or Weinberger at Defense.

Mr. President, I ask unanimous consent that the article by Leslie Gelb, to which I referred entitled "The Resurgent Shultz: How a Comeback Is Made," printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 21, 1986]

THE RESURGENT SHULTZ: HOW A COMEBACK IS MADE

(By Leslie H. Gelb)

WASHINGTON, July 20.—In May, Secretary of State George P. Shultz suffered what many of his aides felt was his worst policy defeat. Against Mr. Shultz's strong advice, President Reagan went ahead on the 27th of that month and announced that the United States would no longer be bound by the signed but unratified 1979 stategic arms limitation treaty.

The battle over the treaty had been fought and lost. The internal balance of power had moved to the Pentagon. It looked to many as if arms control prospects were finished for this Administration.

Mr. Shultz himself began to muse privately about leaving, according to some acquaintances.

Then, in a remarkable turnaround, Mr. Shultz started to win on arms control. The victories were not big and decisive. But they added up to a steady and unbroken streak that was capped off a few days ago by the White House announcement that there would be two meetings of arms experts with the Soviet Union, contrary to Pentagon arguments, and, to a lesser degree, by Mr. Reagan's draft response to recent Soviet arms proposals.

IN SUPPORT OF SUMMIT PROCESS

How did Mr. Shultz reverse his fortunes?

By most accounts, he did it by skillful personal maneuvering, with a lot of help from the White House, with some sophisticated assists from Moscow and, last but not least, because events broke his way.

Mr. Shultz's main goal in all this, Administration sources say, is to get the summit process back on track and insure a meeting later this year between Mr. Reagan and Mikhail S. Gorbachev, the Soviet leader. That will require movement on arms control, as far as the Russians are concerned, so Mr. Shultz is not in the clear yet.

"All Shultz has accomplished in the last few weeks is to convince the President to say some positive things about arms control and hold some experts' meetings," a State Department official said. "But the most important decisions, the decisions that will determine whether or not we have a chance of reaching agreement with Moscow on arms control, are being made right now."

Those decisions, this official and others say, involve how Mr. Reagan should respond to arms proposals in Mr. Gorbachev's letter of June 21 and to a range of new Soviet nuclear arms proposals made in Geneva earlier that month. Mr. Shultz is described as not displeased with Mr. Reagan's draft response to Mr. Gorbachev; he outdid the Pentagon in most of the draft letter.

The thrust of the Soviet offers was this: If Washington agreed to limit the development and deployment of defenses against missile attacks, Moscow would agree to deep cuts in offensive forces.

But this is getting ahead of the story of George Shultz and his comeback.

Mr. Shultz had been successful for two years in persuading Mr. Reagan not to abandon the 1979 treaty. The argument was made, and accepted, principally on symbolic grounds: To discontinue informal adherence to SALT II would send a signal of Administration uninterest in arms control.

In late May, however, the magic of this position no longer prevailed.

Perhaps the most critical factor to many participants was bureaucratic. In the previous meetings on this subject, Mr. Shultz was always opposed by Defense Secretary Caspar W. Weinberger. But he always had the backing of James A. Baker 3d in his capacity as White House chief of staff and of Robert C. McFarlane, the national security adviser.

Then the personalities change. Mr. McFarlane was replaced by Adm. John M. Poindexter, and Mr. Baker by Donald T. Regan. Both successors then sided with Mr. Weinberger, as did Mr. Baker, now Treasury Secretary. Mr. Baker's shift was reportedly to placate the Republican right wing.

They argued, and Mr. Reagan agreed, that the Administration had accused the Russians of cheating on arms treaties for six years without doing anything about it; it was time to act or be seen in Moscow as patsies.

Mr. Shultz countered that abandonment of the treaty would produce sharply negative reaction among European allies and in Congress. It would also risk, he said, derailing the next summit meeting.

In defeat, Mr. Shultz made what every bureaucratic black belt knows is the critical move. "He went out and supported the President's decision wholeheartedly," a White House official commented. To the allies and anyone else who cared to hear, he called the treaty "obsolete." No one could accuse the Secretary of being a bad soldier.

Then, several things happened quickly.

Mr. Shultz's dire predictions all came true: The Europeans complained bitterly. Congress moved to put into law the treaty's ceilings on nuclear forces, which the President said he intended to exceed. And Moscow came in with a package of near-irresistible carrots and sticks, all of which strengthened the Shultz hand.

Soviet proposals in Geneva were deemed to be new and forthcoming, except by key Pentagon civilian officials. Mr. Gorbachev's letter to Mr. Reagan stated that a summit meeting would not make sense without the prospect of "concrete results" on arms control. He also proposed meetings this summer on the treaty decision and on nuclear testing. "And who could turn down a proposal to talk?" lamented a Pentagon official.

Until the last few months, Administration officials without known exception felt that Soviet diplomacy had been clumsy and self-defeating.

"The last weeks are the first indication that Dobrynin is now beginning to run the show," said William G. Hyland, editor of Foreign Affairs quarterly and an expert on Soviet-American affairs. "This has forced Mr. Reagan to come back to the issues." Mr. Hyland and Administration officials generally believe Anatoly F. Dobrynin, the former Soviet Ambassador who now heads the International Department of the Communist Party staff, knew how to put proposals in a way that was difficult to turn down outright—without looking like the guilty party.

"We just couldn't go on saying 'no' to everything," a top State Department official added.

About the same time, Mr. Shultz was said by several sources to be having some soul-searching conversations with friends in Washington and New York. He told them that the President's policies seemed more or less set. He mused that there did not appear to be enough time to achieve an arms control pact before Mr. Reagan's power waned. He praised the President and talked as if perhaps this might be the right time to leave as Secretary.

According to the sources, some of these thoughts made their way back to the White House, as Mr. Shultz might well have expected.

Mr. Reagan, on issue after issue, began siding with Mr. Shultz. Most critically, the President started muddying the waters on his decision to abandon the 1979 treaty. The new White House line was that the treaty was certainly dead but that Mr. Reagan was prepared to revive it, depending on Soviet behavior and progress in the arms talks. Then, he termed the Soviet proposals "positive" and said they might represent a "turning point."

All of this was said against the advice of Mr. Weinberger and aides, who also opposed Mr. Reagan's agreeing to have Administration experts and their Soviet counterparts meet this summer on nuclear testing and the 1979 treaty. The Pentagon people argued that there was nothing new in the Soviet proposals and that the meetings would be slippery slopes.

Officials said Mr. Shultz had found a new ally in all these decisions: Admiral Poindexter, the national security adviser.

"Poindexter's backing was essential for Shultz, but I don't know why the admiral swung around so much on these issues," a White House official said.

ROLE OF PRESIDENT HIMSELF

This official and others speculate that perhaps Mr. Reagan was the silent supporter and partner. But most guess that it was the President himself who made clear he wanted the summit meeting, which meant

progress on arms control, which meant backing Mr. Shultz.

In any event, many officials throughout the bureaucracy say Mr. Reagan's tilt is now clearly in Mr. Shultz's direction, a change from past patterns on arms control issues of either being slightly pro-Weinberger or splitting the difference between them.

But as all concerned are quick to point out, Mr. Shultz's victories have been essentially procedural and rhetorical. He has got Mr. Reagan to make upbeat statements about the Soviet proposals and to agree to meetings.

"Those are all important steps, but the substance has yet to be resolved" a senior State Department official said.

MYTH OF THE DAY—THE REAGAN ADMINISTRATION ABHORS COMMUNISM

Mr. PROXMIRE. Mr. President, ask any person what the Reagan administration thinks about communism and Communist countries and you will receive back the commonsense answer that this is the most staunch anti-Communist administration in memory. Do the facts bear this out? No. It is a myth that needs exploring.

According to a study done by the organization Free the Eagle, the Reagan administration in fiscal year 1985 alone, provided "over $300 million in direct aid to Communist countries and assisted in the financing of an additional $6 billion through the auspices of the World Bank and IMF."

Here is the ultimate irony: An administration which uses the most strident rhetoric in its campaign to fund freedom fighters to overthrow pro-Communist regimes and at the same time is busy handing out direct and indirect loans and grants to a number of Communist countries including Yugoslavia, the PRC, Hungary, Romania, Ethiopia, Angola, Afghanistan, Mozambique, South Yemen, and other countries according to Free the Eagle.

Perhaps the most obvious example of helping a Communist country is that of Angola. It has been the coordinated policy of the U.S. Government under the Reagan administration to provide enormous amounts of loans to that Government through the Exim bank—with Chevron/Gulf Corp. the immediate recipient and the government the ultimate benefactor. These funds generate revenues for the Angolan regime which go to pay for the Cuban troops used to combat the UNITA organization which is supported by the White House.

Now, that is called having it both ways—playing both sides—supporting your friends and enemies—hedging your bets. And it is an absolutely flawed foreign policy decision. In effect, it pits the United States against itself.

So, Mr. President, when people speak up about the anti-Communist credentials of this administration and those it employs, someone needs to point to our foreign aid program supporting Communist nations and ask why?

Mr. President, I ask unanimous consent that a news release from Free the Eagle and a U.S. Foreign Aid Report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From: Free the Eagle, July 15, 1986]

CITIZEN'S LOBBY RELEASES REPORT ON U.S. AID TO COMMUNIST COUNTRIES

Free The Eagle Citizen's Lobby today announced the release of a Free The Eagle study on the amounts of United States funds given to Communist countries. The areas covered by the report include direct and indirect aid (through such heavily U.S.-funded organizations as the International Monetary Fund and the World Bank) given in fiscal year 1985, as well as total figures for EXIMBANK loans and guarantees.

"We are financially supporting recognized Communist nations with notable human rights violations and which consistently oppose the U.S. internationally, at home, and in the United Nations, to the tune of over 6 billion dollars," said Free The Eagle Vice—President John C. Houston. "Although this figure reflects World Bank and IMF funds as well as direct U.S. aid, it is clear that without U.S. participation and assistance, none of these funds would be available to Communist countries."

Congress has taken the first step towards more reasonable control of U.S. foreign aid practices," continued Houston, "by passing Congressman Crane's amendment cutting off EXIMBANK dollars to about a dozen communist countries. Thanks to his leadership, the U.S. will no longer fund Marxist regimes in Africa and in Eastern Europe with EXIMBANK money."

"Now the Soviets are going to have to pay for their own wars in nations like Angola," said Houston, "a country that has received over $261 million in EXIMBANK funding.

"The implications contained in this report are clear", concluded Houston. "1986 is a good time for the United States to stop funding its enemies."

U.S. FOREIGN AID REPORT

In fiscal year 1985, the United States, in the course of a foreign aid program, gave over 300 million dollars in direct aid to communist countries, and assisted in the financing of an additional six billion dollars through the auspices of the World Bank and IMF.

For the purpose of this report, aid to communist countries has been divided into two categories: direct and indirect aid. Aid from the World Bank (including IBRD and IDA) and the IMF is considered indirect. Aid from EXIM and AID is considered direct. These figure do not include subsidies to these countries through Most Favored Nation status and funds received from the United Nations.

All of the figures contained in this report are those concerned with financial transactions in the 1985 fiscal year. However, due to the fact that the 1985 Annual Report for EXIM bank was unpublished at the time of this research, the numbers reflecting EXIM transactions in this report are of the 1984 EXIM financial period.

The row listed as "1981–1984 EXIM Total" shows the total amount of loans, guarantees, and insurance each nation has received from 1981 to 1984 from EXIM bank. The row listed as "EXIM Debt Remaining" indicates the total amount of money each nation owes to EXIM and private banks guaranteed by EXIM.

ABBREVIATIONS (WITH FISCAL YEAR)

IBRD—International Bank for Reconstruction and Development (July 1, 1984 to June 30, 1985).

IDA—International Development Association (July 1, 1984 to June 30, 1985).

IMF—International Monetary Fund (May 1, 1984 to April 30, 1985).

EXIM—Export-Import Bank of the United States (October 1, 1983 to September 30, 1984).

AID—Agency for International Development (September 30, 1985 to September 30, 1986).

The following page constitutes a summary of the 1985 debt as well as the total previous EXIM debt remaining.

Communist Debt

1. Yugoslavia [1]	2,652,540,052
2. China—Mainland [1]	2,280,375,184
3. Hungary [2]	1,146,504,171
4. Romania [3]	987,602,939
5. Ethiopia	380,100,589
6. Angola	377,622,575
7. U.S.S.R.	358,400,694
8. Zimbabwe [4]	334,411,182
9. Poland	241,961,827
10. Tanzania	131,168,639
11. Mozambique	126,152,770
12. Vietnam	110,805,000
13. Burkina Faso	86,181,704
14. South Yemen [5]	69,391,000
15. Afghanistan	67,727,855
16. Nicaragua	56,780,193
17. Cuba	32,266,581
18. Laos [6]	19,130,000
19. Seychelles	10,297,502
Total	9,473,420,457

[1] Over $2 billion.
[2] Over $1 billion.
[3] $500 to $999 million.
[4] $100 to $499 million.
[5] $50 to $99 million.
[6] $10 to $49 million.

Note.—This constitutes a summary of the combined total of direct and indirect loans listed in U.S. dollars.

United States Aid to Communist Nations

[In United States dollars]

1. Afghanistan:	
World Bank:	
IBRD	0
IDA	0
IMF	44,218,000
Indirect aid total	44,218,000
Exim	0
AID	543,000
Direct aid total	543,000
Combined total	44,761,000
1981–84 EXIM total	0
Exim debt remaining	22,966,855
2. Albania:	
World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0

AID	0
Direct aid total	0
Combined Total	0
1981-84 EXIM total	0
Exim debt remaining	0

3. Angola:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	116,225,945
AID	0
Direct aid total	116,225,945
Combined total	116,225,945
1981-84 Exim total	235,846,717
Exim debt remaining	261,396,630

4. Bulgaria:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	0

5. Burkina Faso:

World Bank:	
IBRD	0
IDA	61,900,000
IMF	12,996,000
Indirect aid total	74,896,000
Exim	0
AID	10,855,000
Direct aid total	10,855,000
Combined total	85,751,000
1981-84 Exim total	0
Exim debt remaining	430,704

6. Cambodia:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	0

7. China, Mainland:

World Bank:	
IBRD	659,000,000
IDA	442,300,000
IMF	1,127,684,000
Indirect aid total	2,228,984,000
Exim	0
AID	0
Direct aid total	0
Combined total	2,228,984,000
1981-84 Exim total	125,920,000
Exim debt remaining	51,391,184

8. Cuba:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	36,266,581

9. Czechoslovakia:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	0

10. Ethiopia:

World Bank:	
IBRD	0
IDA	166,000,000
IMF	75,921,000
Indirect aid total	241,921,000
Exim	53,850,000
AID	3,909,000
Direct aid total	57,759,000
Combined total	299,680,000
1981-84 Exim total	63,375,000
Exim debt remaining	80,420,589

11. Germany, East:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	0

12. Hungary:

World Bank:	
IBRD	324,700,000
IDA	0
IMF	811,461,000
Indirect aid total	1,136,161,000
Exim	1,836,000
AID	0
Direct aid total	1,836,000
Combined total	1,137,997,000
1981-84 Exim total	131,784,000
Exim debt remaining	8,507,171

13. Korea, North:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	0

14. Laos:

World Bank:	
IBRD	0
IDA	0
IMF	19,130,000
Indirect aid total	19,130,000
Exim	0
AID	0
Direct aid total	0
Combined total	19,130,000
1981-84 Exim total	0
Exim debt remaining	0

15. Mozambique:

World Bank:	
IBRD	0
IDA	45,000,000
IMF	32,940,000
Indirect aid total	77,940,000
Exim	0
AID	30,000,000
Direct aid total	30,000,000
Combined total	107,940,000
Exim total	2,074,000
Exim debt remaining	18,212,770

16. Nicaragua:

World Bank:	
IBRD	0
IDA	0
IMF	36,837,000
Indirect aid total	36,837,000
Exim	0
AID	0
Direct aid total	0
Combined total	36,837,000
1981-84 Exim total	11,514
Exim debt remaining	19,943,193

17. Poland:

World Bank:	
IBRD	0
IDA	0

IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	4,000,000
Exim debt remaining	241,961,827

18. Romania:

World Bank:	
IBRD	0
IDA	0
IMF	768,314,000
Indirect aid total	768,314,000
Exim	0
AID	0
Direct aid total	0
Combined total	768,314,000
1981-84 Exim total	121,082,500
Exim debt remaining	219,288,939

19. Seychelles:

World Bank:	
IBRD	6,200,000
IDA	0
IMF	1,618,000
Indirect aid total	7,818,000
Exim	0
AID	2,472,000
Direct aid total	2,472,000
Combined total	10,290,000
1981-84 Exim total	0
Exim debt remaining	7,502

20. Tanzania:

World Bank:	
IBRD	0
IDA	45,000,000
IMF	69,167,000
Indirect aid total	114,167,000
Exim	0
AID	3,278,000
Direct aid total	3,278,000
Combined total	117,445,000
1981-84 Exim total	1,738,639
Exim debt remaining	13,723,639

21. U.S.S.R.:

World Bank:	
IBRD	0
IDA	0
IMF	0
Indirect aid total	0
Exim	0
AID	0
Direct aid total	0
Combined total	0
1981-84 Exim total	0
Exim debt remaining	358,400,694

22. Vietnam:

World Bank:	
IBRD	0
IDA	0
IMF	110,805,000
Indirect aid total	110,805,000
Exim	0
AID	0
Direct aid total	0
Combined total	110,805,000
1981-84 Exim total	0
Exim debt remaining	0

23. Yemen, South:

World Bank:	
IBRD	0
IDA	19,400,000
IMF	49,991,000
Indirect aid total	69,391,000
Exim	0
AID	0
Direct aid total	0
Combined total	69,391,000
1981-84 Exim total	0
Exim debt remaining	0

24. Yugoslavia:

World Bank:	
IBRD	292,500,000
IDA	0
IMF	1,360,853,000
Indirect aid total	1,653,353,000
Exim	82,465,251
AID	96,000
Direct aid total	82,561,251
Combined total	1,735,914,251
1981-84 Exim total	227,249,430
Exim debt remaining	916,625,801

25. Zimbabwe:

World Bank:	
IBRD	10,000,000
IDA	0
IMF	238,040,000
Indirect aid total	248,040,000
Exim	9,380,000
AID	36,214,000
Direct aid total	45,594,000
Complete total	293,634,000
1981-84 Exim total	52,361,711
Exim debt remaining	40,777,182

Complete Totals:

World Bank:	
IBRD	1,292,400,000
IDA	779,600,000
IMF	4,759,975,000
Total indirect aid	6,831,975,000
Exim	263,757,196
AID	87,367,000
Total direct aid	351,124,196
Total combined	7,183,099,196

Sources:
1. The World Bank Annual Report 1985.
2. Annual Report 1985, International Monetary Fund.
3. 1984, 1983, 1982, 1981 Annual Reports, Export-Import Bank of the United States.
4. Agency for International Development, Congressional Presentation Fiscal Year 1987.

EXIM BANK AND ANGOLA

BACKGROUND

The United States Export-Import Bank, with Chevron/Gulf Oil Company acting as intermediary, is financing the continued foreign military presence in Angola of the Cuban and Soviet governments, and preventing the occurrence of free elections for the Angolan people.

The Marxist MPLA regime relies heavily upon oil revenues derived chiefly from Chevron/Gulf investments in the Angolan Cabinda oil fields for economic survival. These investments in turn rely upon loans from the United States Export-Import Bank, which have thus far amounted to over $225 million.

According to the Washington Post, Chevron/Gulf oil revenues account for upwards of 82 percent of the MPLA's hard currency earnings. Western intelligence and media sources claim these earnings pay for the 35,000 Cuban, 2,100 North Korean, 3,000 East German, and 1,500 Soviet troops responsible for propping up the unpopular regime.

SOLUTION

"Since the Administration's policy toward Angola is in chaos, I think we in Congress must help to clear up the confusion."—Senator William Proxmire.

Passage of Senate Bill 2049 will end U.S. taxpayer support for the Cuban and Soviet bloc military presence in Angola by prohibiting Exim Bank from guaranteeing, insuring or extending credit "until the President certifies to Congress that no Cuban, Russian, or other Soviet bloc military personnel remain in Angola."

"Chevron can choose to contribute to financing the Marxist government of Angola, but the United States taxpayer does not have to. The United States Export Import Bank should not guarantee or provide any loan to any business in Angola. We should not be contributing to Angola's hard currency reserves which pay for Cuban troops and Soviet military hardware."—Senator Mitch McConnell.

The Proxmire bill does not advocate U.S. aid to UNITA. Nor does it take sides on the issue. The Proxmire bill does ensure that no U.S. tax dollars fund the foreign military presence in Angola.

RECOGNITION OF SENATOR HEFLIN

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama [Mr. HEFLIN] is recognized for not to exceed 5 minutes.

JOHN L. SLATTON, ALABAMA BROADCASTER OF THE YEAR

Mr. HEFLIN. Mr. President, I am delighted to rise today to congratulate John L. Slatton, of Haleyville, AL,

who was recently chosen as the Alabama Broadcaster of the Year by the Alabama Broadcasters Association.

Throughout his career in broadcasting, which has spanned some 45 years, John Slatton has labored above all else to better his community, his State, and his Nation. He has always served the public interest with the greatest integrity, and he is regarded by his colleagues and associates with the highest esteem. He has helped to establish the high standard of excellence which exists in the broadcasting community. Furthermore, he has provided an indispensable and important service to the citizens of our State and Nation by helping to keep them informed and knowledgeable of the important issues and matters which we constantly face as a country. This service is often taken for granted, but John's outstanding concern and professionalism should not go unnoticed.

John Slatton began his career in broadcasting in the years before World War II, working in stations in Muscle Shoals, Huntsville, and Decatur, AL. After the war, he worked in Fayetteville, NC, in Bessemer, AL, and then he worked for ABC in New York. After the Korean conflict, he worked in Columbus, GA, and then later became the owner of his own stations in my State. In 1962, he served as president of the Alabama Broadcasters Association, and is currently serving on the ABA Board. As one can see, he has a tremendous amount of experience which is a primary reason for his excellence.

In addition to his many great contributions as a broadcaster, John has provided great and distinguished service to his country in two wars. During World War II, serving with the 41st Cavalry, he took part in the liberation of a Nazi concentration camp. Then, in the Korean war, he served as a division ammunition officer with the 45th Infantry Division and was decorated with a Bronze Star.

John Slatton also serves his community in many other ways. He has displayed both a natural leadership ability and a strong sense of civic duty. He is active in the leadership of his church and teaches Sunday School. He has twice served as president of the Haleyville Chamber of Commerce; he has served as president of the Jaycees, the Lions Club, the PTA, and he served three terms as president of the Northwest Alabama Mental Health Association. Additionally, he was instrumental in developing the Haleyville Airport, and still serves as secretary of the airport authority.

Throughout his life, John Slatton has worked to improve and enrich the lives of the citizens of my State. For his many great contributions to his community, to his Nation, and to broadcasting in general, John Slatton is an outstanding recipient of the Alabama Broadcaster of the Year Award. Such an award is a great responsibility, and I am sure that he will continue serving the public with the excellence he has demonstrated for so many years now. John Slatton should be commended for his tremendous efforts and accomplishments, for which we are, indeed, thankful.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

THE THIRD STRIKE

Mr. MELCHER. Mr. President, the wheat harvest in Montana is just starting and, after 3 years of drought, our wheat farmers are quite optimistic about one phase of their operation; that is, having a bountiful harvest. Looking back over those 3 years of drought, our farmers can be very sympathetic and very understanding about the hurts and the traumas of the farmers in the Southeast who are suffering a devastating drought this year.

Mr. President, the farmers in my State or in the South or in any part of the country are all tied to their land hoping to eke out an economic return under adverse conditions. They have to watch, first of all, for Mother Nature and what the circumstances are in terms of bountiful moisture, great enough to permit them to produce a crop.

Second, they have to watch with worrisome fears about the declining prices of commodities in the United States. So they have two strikes against them. I do not know whether the average farmer in America knows that the third strike is also there, and unless something is done to change that third strike I am afraid a great number of our agricultural producers will be simply out.

That third strike involves the policy of the U.S. Government, involves the policy of having abundant agricultural production, much of which is destined to go overseas, and then to thwart that policy, developed within the various bureaucracies of our Government, by reducing the amounts of commodities from the United States actually shipped overseas. Our export policy, in a word, stinks. It does not match the true needs of this country. We produce all this food, much more than we are going to use in the United States, and yet with this abundance we simply do not have a sensible policy on what we do with it.

Now, the farmers on the land, they may not have been to any of the ghettoes in this country where there is actual hunger and malnourishment.

□ 1250

If they had the opportunity to visit those ghettoes of the poor, they would say, "Turn loose of the food. Use what we have already in Federal ownership, in Federal storage, and permit the poor, the malnourished of this country to have it."

We have all sorts of programs that are supposed to expedite that and make sure that is done, and we find now that in many circumstances where there is a food bank run by a church, a charitable organization, a charitable food bank operator, or the Salvation Army, or the senior citizens centers, there is simply a holdback, a holdback by the Department of Agriculture permitting sufficient supplies of our surplus commodities to be in these locations where the poor and the hungry might utilize them.

Of course, farmers are not thinking about a trip abroad and as they harvest their crops little do they know or little do they contemplate at that time that the very grain they are harvesting within 80 days after it leaves their fields, after it is combined and out of the spigot of the combine into trucks going into elevators, little do they know that in 80 days much of that grain will find its way around the world, and of the almost 100 countries that we ship grain to there is very few of those countries around the world that could not utilize much more of our grain commodities. Yet we have policy in the State Department and the Agriculture Department that holds back; rather than giving proper attention to how much the need is we have policy that says we are holding back.

What does all of this cost us? One of the costs is storage of the Federal surplus commodity. While we used to think that it is "only" costing about $200 million, and I put "only" in quotes, "only" $200 million, we are advised now that this year it is going to be much higher and in the coming fiscal year we should expect something in excess of $1 billion just to pay the Federal storage cost. Indeed some of the people in the Department of Agriculture would tell us privately that it will probably reach $2 billion to pay the storage costs of the Federal surplus commodities during the coming fiscal year.

The cost of the rest of the program will exceed $29 billion or $30 billion. We do not know exactly how much. But the irony of all of this is that by holding back on the exports, by holding back on adequate nutrition for the poor of this country, all that means is that in Federal storage of these commodities will cost us more in two ways. I have already mentioned the storage costs. But second, it cost the Treasury much more because the deficiency payment to farmers is made up of the

difference of what the commodity price is on the open market and what the peg price is that sets the top, the desirable price for what we would hope the market would be. That is called the target price. So the difference between the actual commodity price on the open market and the target price which is viewed as some sort of a fair price for farmers, that difference constitutes a deficiency payment to each of the farm operators and those checks from the Treasury are based on that amount.

So the farmers lose out in two ways: they lose out because there are not enough exports and the market price continues to fall. They lose out because we have tagged them now with a very high-priced farm program cost.

Mr. President, they are not the only ones who are losing out. The United States is losing out because as we allow those market prices to sag by holding back on the exports, we also cause the Treasury to have to pay out more in deficiency checks to the farm producers themselves.

Mr. President, there should be no doubt that when you have abundance of crops, it is a blessing. There should be no doubt that the policies that we have in this country that we allow to continue are an abhorrent to that blessing and those policies are ones that refuse to recognize that through Public Laws 480, 416, and other programs, where we provide food to friendly countries, that that is exactly what is needed now, needed quickly, and needed to be used effectively to halt the decline in exports of those surplus commodities from the United States and to hold the continuing lower prices for those commodities.

In all candor, Mr. President, common sense should rule that we follow correct policy, utilize export opportunities that are provided to us and utilize the various programs that we now have available to us, whether it is Food for Peace, section 416, Food for Progress, or whether it is providing right here in our own country to the Salvation Army, the senior citizen centers and the charitable food organizations that are called charitable food banks the surplus commodities to the extent that they can use them for our own hungry here in the United States.

The farmers, citizens, all of the country deserves this kind of common sense application.

Thank you, Mr. President, and I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business not to extend beyond the hour of 1:30 p.m., with statements therein limited to 5 minutes each.

Mr. CRANSTON. Mr. President, first I ask unanimous consent that I be permitted to speak on morning business for more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE'S RESPONSIBILITY IN JUDICIAL CONFIRMATION PROCEEDINGS

Mr. CRANSTON. Mr. President, let me say as prelude to the remarks I am going to make that the distinguished Senator from Maryland [Mr. MATHIAS], who is the ranking Republican on the Judiciary Committee, ranking next to the chairman of that committee on the Republican side, joined me in a conversation last November or December about responsibilities of the Senate in judicial nominations.

We agreed to prepare speeches at that time on that subject and hoped to give them at the same time in the Senate on the same day. We finally completed that work after a lot of exhaustive research. It did not work out for us to speak on the same day. But he will speak sometime soon on this subject that I am going to address at this time.

I rise to speak of the responsibility the Constitution places upon each of us as U.S. Senators in judicial confirmation proceedings.

The Founding Fathers understood from hard experience the principles which underlie our liberty. And they embodied those principles in the Constitution.

They also understood the temptations to which people entrusted with great power will, from time to time, yield.

So they created a system of ordered liberty, with checks and balances designed to preserve that liberty despite swings in the tide of popular emotion and despite efforts by anyone controlling one particular branch of our Government to disturb that delicate balance.

For nearly 200 years, and in the face of the most serious challenges, this constitutional system has endured.

There have been lapses. But no other system has ever been more effective than ours in protecting human freedom and individual rights.

The bedrock on which our Government rests and which is essential to our constitutional ideal is the supremacy of law.

The supremacy of law in turn rests on the existence of an independent judiciary, free from dominance by either of the other branches of Government.

History taught the framers of our Constitution—and it should teach us—that the judiciary must be coequal with the other branches. It should be subservient only to the Constitution itself—which judges are sworn to uphold.

As are we.

The independent judiciary is essential to guard the rights of individuals.

If either the executive—or the legislative branch—can encroach arbitrarily on the judiciary, the capacity of the law to protect the people will soon be in jeopardy.

In the words of Alexander Hamilton:

> Though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislative and the executive. For I agree that "there is no liberty if the power of judging be not separated from the legislative and executive powers."

Judicial independence is also essential to the faithful performance of judicial duties.

Because they saw all this very clearly, the framers gave Federal judges lifetime tenure "during good behavior" and prohibited reduction of their compensation during the tenure.

They gave to the Congress—not to the President—the authority to create new courts.

And they insisted that the Senate provide "advice and consent" to Presidential appointments to the bench. Indeed, they first considered giving the Senate alone the power to appoint judges.

As Walter Dellinger, professor of law at Duke University, recounts in a "New Republic" article,

> The original Virginia Plan, introduced at the Convention on May 29, 1787 provided that all judges would be appointed by the national legislature. By June 19, the Convention had decided that the whole legislature was too numerous for the appointment of judges, and lodged that power in the Senate acting alone. Attempts to confer the power on the President to the exclusion of the Senate were solidly defeated. George Mason stated that he "considered the appointment by the Executive as a dangerous prerogative. It might even give him an influence over the Judiciary Department itself." Only near the end of the Convention was it agreed to give the President any role in the selection of judges; even then the President's power to nominate was carefully balanced by requiring the concurrence of the Senate. That final language was not seen to dislodge the Senate from a critical role in the process. Gouverneur Morris paraphrased the final provision as one leaving to the Senate the power "to appoint judges nominated to them by the President."

Alexander Hamilton in the Federalist Papers confirms that dividing the appointment responsibility between the President and the Senate was deliberate and would have a salutary effect on the quality of appointments. Granting the President the entire power of appointment, Hamilton argued, would,

> Enable him much more effectually to establish a dangerous empire over that body [the Senate] than a mere power of nomination subject to their control.

In other words, Hamilton feared that the President, if given an exclusive appointment power, might select judges whom particular Senators desired as additional leverage to influence the votes of those Senators on other issues.

Hamilton believed that a President, faced with the possibility of a Senate rejection, would choose his nominees with greater care. But, obviously this check on Presidential power will be effective only if the President has reason to believe that the Senate is prepared to exercise its power of rejection.

The framers clearly intended to give the Senate the power and the obligation to make its own, independent judgment of whether confirmation of a judicial nomination would be in the best interest of the nation.

"By these provisions," Senator LeBaron Bradford Colt (R.,R.I.), himself a former Federal trial and appellate judge, said on the Senate floor in 1916,

> The Framers of the Constitution believed they would secure judges of high character, free from partisanship and from every form of corrupting influence, and who would devote their lives to an impartial administration of law.

Some Presidents—frustrated by court decisions with which they disagreed—have tried, in one way or another, to compromise judicial independence by "packing" the courts.

The Senate, as the framers intended, has always risen to repulse those attacks on our constitutional system.

For example, to create vacancies so as to be able to make new appointments, the Wilson administration tried to give the President discretion to force into retirement any judge over 70 years old who had served at least 10 years. This move failed because of the opposition of Senator Colt and others.

Franklin Roosevelt's attempt to expand the Supreme Court to 15 justices in hopes of securing a Court more responsive to the New Deal also died in the Senate.

And when Richard Nixon attempted to pack the Supreme Court with those he called strict constructionists, the Senate turned down two of his nominees.

Now we are faced with what appears to be a new court-packing effort.

The number of judicial appointments President Reagan will be able to make in his two terms gives him a remarkable opportunity to affect our courts for decades to come.

The Federal judiciary has been expanded from 399 to 575 district judges, and from 96 to 168 circuit judges. These vacancies, coupled with the potential for Supreme Court vacancies, mean that by the end of his Presidency, Ronald Reagan will have had the chance to appoint more than half of the entire Federal judiciary.

President Reagan will, in fact, appoint more judges than any President in history.

These judges, granted lifetime tenure, will continue to serve long after a succession of new Presidents, with new claims to a political mandate, have been elected.

I have become increasingly concerned about the quality of this administration's judicial nominees, about the criteria for their selection, and about the perfunctory way in which we in the Senate have for the most part exercised our advice and consent responsibilities under the Constitution.

The President and his Attorney General have become increasingly blunt about their selection standards and their intentions for the future. They claim they are selecting only highly qualified individuals. They proclaim their devotion to the ideal of judicial independence from political interference. But the fact is—and they have made this very plain—that they have used, and they firmly intend to continue to use, narrow, ideological litmus tests to screen judicial nominees.

His nominees, the President says, must "adhere to a restrained and truly judicious view" of the role of the courts under our Constitution.

On the surface, that does not sound threatening.

But I believe that, like his characterization of the "truly needy", his view of the "truly judicious" is far narrower than most people's.

The President says he intends to continue appointing "highly qualified" individuals "who understand the danger of short-circuiting the electoral process and disenfranchising the people through judicial activism."

What does Ronald Reagan mean by "highly qualified"? There are some ominous signs. James McClellan, director of the Center for Judicial Studies, a new-right think-tank whose board of directors includes two of Attorney General Meese's principal assistants, has boasted in a John Birch Society publication that he is conducting interviews "to try to find those best qualified to serve on the Supreme Court" for this administration. Mr. McClellan has expressed the startling notion that compelling States to uphold the Bill of Rights is bad constitutional law, because "civil rights", he says, "has nothing to do with liberty, but is in fact part of the Marxist agenda."

Is an individual who holds such an extreme view really one of those helping the administration determine who is "highly qualified" to be a Federal judge?

What does the President mean by "short-circuiting the electoral process?"

Is President Reagan implying that those he selects for Federal judgeships must be willing to base their judgments on the latest election returns?

If so, his views are in direct conflict with those of Chief Justice Warren Burger—whom Richard Nixon nominated as a "strict constructionist". Chief Justice Burger recently criticized the idea that judges should somehow strive to be representative of society or that they should be selected on that basis.

Justice Burger told the students at the University of San Diego School of Law that the only thing judges should represent is "integrity."

What does the President mean by "judicial activism"? Attorney General Edwin Messe, who has become the administration's major voice on judicial appointments, has said that the policy of the administration is to cleanse the judicial system of the fruits of "judicial activism" and to resurrect the "original meaning" of constitutional provisions as "the only reliable guide to judgment" in pressing for what Meese called a Jurisprudence of Original Intention.

The Chicago Tribune easily distinguished this "fundamentalist" notion of constitutional interpretation—which the paper likened to a "search for revealed truth"—from mainstream conservatism.

"It is possible to be conservative about the Federal judiciary's role without succumbing to Mr. Meese's legal fundamentalism," the tribune editorialized:

□ 1312

> The Constitution, revered as it has been by Americans, does not offer the blinding light of revealed truth. It presents supple, ambiguous advice written by some very wise people who apparently understood that only if the constitutional order adapted and maintained could it survive.

Mr. Meese's theory is a radical one.

It assumes that the intent of a disparate group of individuals 200 years ago can always be accurately ascertained. And it would apply that intent dogmatically to problems the framers could not and did not foresee. What they did know was that there were problems, waiting in the recesses of unfolding history, which were beyond their vision—and so they gave us a document which, by its very nature as a set of principles, not specific programs, would not wither with the press of events or the passage of time.

The difficulty with applying the Meese theory becomes plain when we look beyond superficial simplicities.

For example, serious constitutional scholars still debate so basic a proposition as whether the framers intended to embody English common law tradition in the first amendment's protection of free expression, or, conversely, intended to depart from it.

As Professor Dellinger points out, appointing judges "who assert that they will confine themselves simply to 'enforcing the Constitution as the framers wrote it' may seem an appealing way to avoid social and political considerations in the appointment process—but only to those who have never read the Constitution." Dellinger reminds us that:

> The Framers left us no list of what is included in the "privileges and immunities" of citizens, or of the content of the "liberty" that the states may not, without "due process," infringe; they left us no definition of the concept of equality that would provide a detailed guide for determining what does and does not constitute "Equal Protection of the Laws."

Nearly all constitutional scholars—including two sitting Supreme Court Justices—have openly challenged Mr. Meese's theory.

I submit that it is a fringe notion, not a serious constitutional construct. The Attorney General, as his critics suggest, tends to draw selectively from often conflicting or ambiguous historical evidence only that which bolsters his preconceived, radical-right view of certain constitutional provisions.

Worse, his theory would make the Constitution a rigid document, denying it the very flexibility the framers clearly intended to ensure its survival as a framework for governance far into the future.

Yet Mr. Meese apparently wants to select for the Federal judiciary only those who share his far-out theory.

He denies he uses ideological litmus tests. But he admits he is seeking, for starters, nominees who believe in "the sanctity of human life"—code words for judicial applicants who share his opposition to Roe against Wade, the Supreme Court's ruling upholding a woman's right to choose an abortion under certain circumstances. Those code words conform with the court-packing plank of the 1984 Republic platform, which called for "the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life."

Mr. Meese also says that the judicial view that the first amendment requires "strict [government] neutrality between religion and irreligion [is] bizarre."

Thomas Jefferson would have considered the Meese view bizarre. It is hardly consistent with the Meese appeal to the intent of the Founding Fathers—which appears to point decidedly in the opposite direction.

Jefferson, according to Dumas Malone, his Pulitzer-Prize winning biographer, believed that:

> "The state should neither support nor oppose any particular form of church, but should leave all of them strictly alone."

Thomas Jefferson wrote: "It is error alone which needs the support of government. Truth can stand by itself."

Author of the Virginia Bill for Establishing Religious Freedom, Jefferson was the "grandfather" of the first amendment's pledges of free religious exercise and no establishment of religion. James Madison, who had steered Jefferson's earlier statute through the Virginia Legislature, apparently used it to craft the actual language of the first amendment.

Madison was the principal author of the Constitution itself and he vigorously maintained Jefferson's view. Both men believed that it is wrong for government to offer support to any religion in particular or to religion in general.

The Meese effort to erode constitutional guarantees does not end with this assault on the first amendment. He seems to have the entire Bill of Rights in his ideological sights.

Whether influenced by James McClellan or conjouring up the theory on his own, Mr. Meese has attacked the Supreme Court's "incorporation doctrine," which holds that the 14th amendment makes the Bill of Rights largely applicable to the States. "Nowhere else has the principle of federalism been dealt so politically violent and constitutionally suspect a blow as by the theory of incorporation," Meese has said.

Section 1 of the 14th amendment provides that:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

It is one thing to argue, as many did until the incorporation doctrine became settled law at least a quarter century ago, that the phrases of the 14th amendment are susceptible of more than one meaning and do not clearly determine the extent to which the drafters of the amendment intended to apply the Bill of Rights to the States.

It is quite another to argue, as Mr. Meese has, that we should ignore all the developments in our history and law—including constitutional amendments—and consult only the intent of the original Framers for constitutional guidance.

Justice John Paul Stevens, one of seven present Supreme Court Justices appointed by Republican Presidents, drily responded that no Justice of the Court in the last 60 years has questioned the proposition that the 14th amendment made the first amendment applicable to the States.

Benno C. Schmidt, Jr., former dean of Columbia Law School and now president of Yale University, believes that the Meese program is not so much designed to curb judicial excess, as to advance the agenda of the radical right, whose stereotype of the Supreme Court is best summed up by the Reverend Jerry Falwell, who predicts that:

> One day Jesus is going to come and strike down all the Supreme Court rulings in one fell swoop.

The Reverend Pat Robertson, the television evangelist, apparently an aspirant to succeed President Reagan, does not want to wait for Jesus to deal with the Court:

> All that is needed today to change it is a simple majority and sign [sic] into law by the President. And we would have eleven Supreme Court Justices instead of nine and possibly with a 6-5 majority of people who cared for the original intent of the Framers, we could change the whole thing! It's simple.

Meanwhile, as Mr. Meese interprets the President's policy instructions on judicial nominations and applies his own extreminst view of the Constitution, well-qualified potential nominees are being passed over. The inevitable consequence is the selection of more and more judicial nominees who lack the detachment, impartiality, and judicial temperament the framers envisioned for lifetime service on the Federal bench.

Ideological zeal and biased prejudgment of issues are the very antithesis of acceptable qualifications for the Federal bench.

The agenda of an ideological extremist—whether of the right or the left—can create a doctrinal conflict of interest fully as inappropriate as a financial conflict of interest. To be locked into an extreme and inflexible ideology is fundamentally inconsistent with the judicial responsibility to be fair and just, to be open minded and free of prejudice, and to decide cases solely on the evidence and arguments before the court and the applicable law.

We Senators must make sure that the Federal judiciary is not infected by judicial nominees carrying the virus of ideological conflict of interest, a malady ultimately fatal to our constitutional rights. Its main symptom is the inability to separate strongly held personal or political beliefs from the responsibilities of judicial decision-making.

During a previous period of Senate soul-searching over dubious judicial appointments, some excellent advice was offered by our distinguished former colleague, Clifford Case (R, NJ). "The tragedy," he said, "is that the appointment of narrow men of limited capacity will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed. The Su-

preme Court today needs more reason, more understanding, more wisdom."

These are qualities that will improve almost any court in any day. And just as the President has the duty to find and nominate those who possess these qualities, Senators have an equal obligation to reject the nomination of those who lack these qualities and to keep extremists from attaining lifetime tenure on the Federal bench.

What the radical right and its agents within the administration cannot win in the court of public opinion, what they cannot enact through the legislative process, they seek to impose by judicial fiat by subverting the courts of justice.

The attempt to pack our judicial system with extremists represents a dangerous, direct attack on our system and the Constitution each of us has sworn to uphold.

Is it proper for the Senate to examine a nominee's philosophy? And, if so, how, and for what purpose?

The overwhelming weight of reasoned opinion argues that it is proper, for a variety of reasons.

Felix Frankfurter, while still a Harvard law professor, thought it odd that any nominee would expect or even desire immunity from public inspection of his views.

"Surely," he said, "the men who wield the power of life and death over political decisions of legislatures should be subjected to the most vigorous scrutiny before being given that power."

A Senator may want to seek a nominee's views to determine whether they are within a range of reasonableness, whether the nominee is willing to follow controlling law and seems fairminded and sufficiently sensitive to the temper of the times.

None of this challenges judicial independence.

On the other hand, for a Senator to make his or her vote contingent—or for a President to make nomination contingent—on how an aspirant says he will vote on future cases that may come before the courts would be a fundamental subversion of judicial independence. As our colleague, Senator JOE BIDEN, the ranking Democrat on the Judiciary Committee, points out, no nominee who would give the President a pledge of a vote on a future case is fit to sit on the Federal bench. The nominee would have already mortgaged his intellectual and moral integrity.

U.S. Circuit Judge Robert H. Bork, whom President Reagan appointed in 1982, before Edwin Meese became Attorney General, was asked, "To what extent do you think that, when judges are being selected, the President and the Senate know how they will approach specific constitutional issues?" He replied:

> It's unfortunate if the selection process focuses in that much detail upon specific cases or issues, for two reasons. One is that you don't want to turn the process of becoming a judge into a campaign in which you make campaign promises about what you will do. It should not be a political position. And * * * as Justice Rehnquist pointed out, you may choose a judge for his views on a particular issue, and five years hence that issue will be unimportant and there will be a whole new range of issues that nobody anticipated would become important * * *. For that reason I think it's more important, when you are considering someone to become a judge, to focus upon that person's general legal philosophy and general approach to legal questions, rather than upon the outcome of the particular cases.

Judge Bork went on to point out that when a Federal appellate judge is faced with a Supreme Court precedent he regards as very wrong, his duty is to follow the precedent but to give reasons why it should be overturned, thereby creating a dialog within the judicial community.

"But it's essential," he says, "that you follow the precedent, whether you like it or not."

That is how our judicial system works.

The notion of adherence to established precedent is absolutely inconsistent with Mr. Meese's determination to pick judicial nominees committed to following him and his doctrines—not the Supreme Court—on important issues.

The plan by the President and/or his Attorney General for an ideological coup on the courts is a direct challenge to the Senate.

If the Senate fails to exercise its responsibility to curb executive excess, it becomes party to a fundamental assault on our constitutional system, a threat to our basic liberty. The Senate will be contributing to a process which Harvard constitutional scholar, Laurence Tribe of Harvard, describes as "amending the Constitution by default."

I know that many of my colleagues share my view of what is happening. But some are disinclined to interfere with executive nominations.

Some are predisposed to "give the President his nominee."

Accordingly, I decided to examine the history and scope of the Senate's obligation to advise and consent to judicial nominations through the years. I found surprisingly wide agreement.

Most Senators who have expressed themselves thoughtfully agree that federal judicial appointees are not, and should never be viewed as, part of the President's "team."

Whatever the "advice and consent" test is for administration nominees for positions in the executive branch—who serve at the President's pleasure and can be removed by the next administration—most scholars and most Senators agree that stricter standards should be applied to lifetime judicial appointments.

Senator Robert Griffin, as Republican whip, made the distinction well during debate on the Haynsworth nomination:

> Traditionally, the Senate has applied a different test with respect to nominees to the Supreme Court than . . . to those nominated by Presidents to serve in the cabinet or in the executive branch * * *. Particularly with respect to nominations for the Supreme Court, however, I do not believe * * * that the Senate is limited to accepting every nomination merely because it can't be proved that the nominee has beaten his wife, or has done this or that. I think the responsibility of the Senate is much higher than that. Under the Constitution, the President is vested with only half of the appointing power. He nominates and the Senate confirms. Accordingly, the Senate's advise and consent responsibility is at least equal to the President's responsibility in nominating. If the judiciary is to be an independent branch * * *, it is essential that its members owe no greater indebtedness for an appointment to one particular branch of government.

Throughout our history, the Senate often has blocked judicial nominees who were deemed qualified in the narrow sense, but unwise in the broader context. The Senate has refused to confirm nearly 25 percent of Presidential Supreme Court nominations—nearly 1 in every 4. Senators have given a variety of reasons for refusing to confirm, including negative judgments on the nominee's ability, temperament, political record or philosophy.

President Theodore Roosevelt, who consistently sought highly qualified judicial nominees, recognized the wide latitude the Constitution gives to Senators. In a letter to one Senator whose recommendation for appointment to a lower Federal court Roosevelt was rejecting, he said:

> It is, I trust, needless to say that I fully appreciate the right and duty of the Senate to reject or to confirm any appointment according to what its members conscientiously deem their duty to be; just as it is my business to make an appointment which I conscientiously think is a good one.

All of Theodore Roosevelt's three nominees to the High Court were confirmed.

In contrast, President Richard Nixon attempted to assert a different view of the appointment power in a letter to a Senator during consideration of the Carswell nomination:

> What is centrally at issue * * * is the constitutional responsibility of the president to appoint members of the Court—and whether this responsibility can be frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of the one person entrusted by the Constitution with the power of appointment.

The Senate demonstrated its own view of its responsibility by rejecting the nomination, 45-51. Thirteen Re-

publican Senators joined thirty-eight Democrats in the vote. It was the second of Nixon's High Court nominations to be defeated.

Theodore Roosevelt's view—not Nixon's—is consistent with the intent of the framers, with the language of the Constitution, and with historical precedents.

As early as George Washington's second term, the nomination of Associate Justice John Rutledge to be Chief Justice was rejected by the Senate.

President James Madison's nomination of Alexander Wolcott to be Associate Justice was rejected by the Senate, when a majority decided he lacked the requisite legal qualifications for service on the Court.

For a variety of reasons, five of President Tyler's High Court nominees were not confirmed, and Presidents Fillmore and Grant lost three each.

In 1930, a Republican Senate rejected President Hoover's nomination of Judge John Parker to the Supreme Court because his discredited racial and economic views were not believed sufficiently sensitive to the temper of the times.

Although from 1931-69, all Supreme Court nominations of four consecutive Presidents were confirmed, the Senate's responsibility remained the same. The period can be seen as a time when the Senate believed that each of the Presidents had submitted well-qualified nominations not likely to create a one-sided Supreme Court.

A look at the list of nominees during this period confirms this analysis.

SUPREME COURT NOMINATIONS, 1931-68

Franklin D Roosevelt: Harlan F. Stone, C.J. (N.Y.), Benjamin Cardoza (N.Y.), Hugo Black (Ala.), Stanley Reed (Ky), Felix Frankfurter (Mass.), William O. Douglas (Conn.), Frank Murphy (Mich.), James Byrnes (S.C.), Robert Jackson (N.Y.), Wiley Rutledge (Iowa).

Harry S. Truman: Harold Burton (Ohio), Tom Clark (Tex.), Sherman Minton (Ind.), Fred Vinson, C.J. (Ky.).

Dwight D. Eisenhower: Earl Warren, C.J. (Calif.), John Harlan (N.Y.), William Brennan (N.J.), Charles Whittaker (Mo.), Potter Stewart (Ohio).

John F. Kennedy: Byron White (Col.), Arthur Goldberg (Ill.).

This period ended with the forced withdrawal of President Lyndon Johnson's nomination of Abe Fortas to be Chief Justice.

What is the obligation to advise and consent? The Constitution spells out no standards against which a Senator should weigh the qualifications of a potential judge. Unlike constitutionally prescribed standards for service in the House, the Senate, or the Presidency, no minimum age is specified. And, as often has been noted, a judicial nominee does not even need to be a lawyer, though no President has yet nominated a nonlawyer.

Because the Constitution gives the President the power to initiate nominations, it is inappropriate for a Senator to reject a nominee because the Senator believes a better choice may be available. Nor would the Founding Fathers approve of rejection of a judicial nominee merely because the nominee's philosophy, partisan politics, or regional origin differs from a Senator's own.

Still, the Constitution leaves each Senator free to develop his or her own criteria, and several tests have regularly recurred.

Generally, I believe that the Senate, through much of its history, has exercised its advice and consent power responsibly, more so with respect to Supreme Court nominations than with nominations to lower courts.

The broad power to consent, carrying with it the equally broad power to withhold consent, works far better than would a constitutional list of minimum qualifications. Because each Senator is free to exercise his or her own judgment on the merits of a nomination at the time it is made, Senators typically have exercised greatest scrutiny when scrutiny is most needed: that is, when the Supreme Court has become one-sided, or far out of step with the legislative or executive branches, or controversial, or when the President has tried in one way or another to pack the courts.

Each Senator—guided by conscience and judgment—must decide whether a nominee is qualified under whatever criteria that Senator chooses to apply.

But that discretion should be exercised with diligence.

As Hamilton's argument, which I alluded to earlier, suggests, the lower the standards each Senator sets, the lower is likely to be the quality of the Federal bench.

The Federal judiciary cannot achieve the judicial excellence sought by the framers if a majority of Senators vote to confirm judicial nominees who are only minimally qualified.

Many commentators have noted that a vote to confirm a Supreme Court Justice may have more lasting consequences for the Nation than any other single vote a Senator is likely to cast during the Senator's tenure.

Historically, Senators have agreed that judicial nominees to the High Court should measure up to criteria well beyond threshhold competence. They agree that the mere fact that a nominee has never been found guilty of an indictable offense or ethical violation is not sufficient to warrant confirmation.

The most widely accepted confirmation criteria Senators have used are: Intellect, wisdom, reason, understanding, distinction, or at least professional excellence, impartiality, fairness, freedom from serious prejudice. Temperance. Sensitivity. And other qualities contributing to what is generally known as judicial temperament. For nominees with prior judicial or quasi-judicial service, that includes a record of wise dispensation of justice.

The same criteria should apply to nominations to the lower Federal courts. Confirmation of any nominee for lifetime tenure of the Federal bench may turn out to be a historically significant vote; yet, the Senate, while it has often focused a great deal of its attention on Supreme Court nominations, has usually deferred to the Judiciary Committee and sometimes to home State Senators the task of passing on the fitness and qualifications of other judicial nominees.

The Senate's constitutional responsibility, however, is the same in both instances. Yet, the Senate confirmed all of President Reagan's lower court nominations—269 in a row—until Mr. Sessions was rejected by the Judiciary Committee.

That is no tribute to the quality of the administration's judicial appointments, however. Since 1932, the Senate had approved, prior to the Reagan administration, 1,357 Presidential lower Federal court nominations, rejecting only 4. The statistic is very misleading, however, since it omits nominations held indefinitely in committee, withdrawals, and cases where senatorial advice dissuaded the President from a nomination prior to its formal submission.

The Constitution provides no lesser standards for nominees to the lower courts than to the Supreme Court. And the high degree of deference given to the decisions of trial court judges by appellate courts is reason enough to scrutinize all judicial appointments with a great sense of responsibility.

Although a Federal trial judge's decisions do not have the same pervasive effect as those of appellate judges or Justices of the Supreme Court, a trial judge's decisions during lifetime tensure have far more direct consequences for individual litigants.

The Judiciary Committee, however, according to a recent study by Common Cause:

> Has typically engaged in only a perfunctory review of [judicial] nominees. It has devoted little energy and few resources to the task of judicial screening. The Committee has relied heavily on the American Bar Association's simple categorical rating of a nominee, although ABA usually provides no indication of the scope of its investigation or the basis for its evaluation. The Committee's hearings on judicial nominees have been brief, poorly attended and frequently scheduled soon after the nomination, with little information available. They are, as one Committee staffer said, "As pro forma as pro forma can be."

The problem of inadequate committee effort is compounded when a politicized Justice Department asks for

and the FBI performs only perfunctory investigations of the nominee.

To make matters worse, while members of the bench and bar readily comment when they feel positive about a nominee, they are inclined to remain silent when their observations about the nominee are negative. This is unfortunate but understandable, since the nominee already is, or soon may be, in a position to exercise very real power in very real cases.

Finally, most Senators hesitate to challenge the fitness of any individual for judicial office. This is especially true when no basis of challenge is specifically established in committee.

But to carry out the responsibility the Founding Fathers gave us, we must consider all judicial nominations with great care.

All of us—not just Senators who serve on the Judiciary Committee but all of us—bear a heavy responsibility.

There is a vast potential for abuse if we confirm as Federal judges people who lack appropriate qualifications.

When the President uses considered and balanced judgment in his selections for the bench, a lack of serious advice and consent by the Senate may not cause particular harm, though the perilous precedent of inattention is set.

But when an administration openly sets out to use its appointive power for political—or worse still—ideological patronage, the danger is great.

Lasting damage may be done to the judiciary.

In my judgment, until the Judiciary Committee rejected the Sessions nomination, the Senate had not in recent years been carrying out its advice and consent responsibility with sufficient care. That disserves the Nation.

Given the evidence that Mr. Meese is causing the selection of more and more judicial nominees for their extreme ideological views, we face a real threat to the very delicately balanced structure that preserves our liberty.

We in the Senate must carry out our duty much more thoroughly and much more thoughtfully.

Senator BOB DOLE, now our majority leader, said way back in 1970, as a member of the Judiciary Committee:

> It is time, perhaps, that new standards be established and that the Judiciary Committee have extensive hearings with respect to all Court, nominations * * *. If we intend to improve the Judiciary, it will take additional effort by the Judiciary Committee.

That effort is only just beginning.

It is high time.

Specifically, I suggest:

First. The committee's investigative staff should be increased. It should function on a cooperative, bipartisan basis, to assure thorough examination of the credentials of each nominee.

Second. The committee should request from the American Bar Association, and from each State bar by which the nominee is licensed, their recommendations on the nomination, summaries of the bases for their recommendations, and summaries of any dissents to the recommendations.

Third. The Senate should require from the committee a written report on all judicial nominations setting forth, with respect to any contested nominee, (a) the transcript of committee proceedings, (b) submissions from outside organizations, (c) the recommendation of the majority of the committee, and (d) any dissenting views.

Fourth. The Judiciary Committee should get reports on each judicial nominee from legal scholars and teachers of law. The committee could implement this through the Society of American Law Teachers or the Association of American Law Schools.

Fifth. Senators should establish bipartisan Federal Judicial Selection Commissions in their States to screen potential judicial candidates from their States. That's what we once did in California, and some Senators still do.

Sixth. Senators should agree to submit to the White House only recommendations based on these screenings.

Seventh. These judicial selection commissions should have the right to offer comments to the Judiciary Committee on all Federal judicial nominations from their areas.

Recently the committee agreed to slow slightly the pace of consideration of judicial nominations. While this is a step in the right direction, it is only the beginning of the more far-reaching changes we need.

In closing, let me affirm my belief that this is not a partisan issue.

Fifty years ago, a Democratic President, Franklin Roosevelt, threatened our constitutional structure with a court-packing scheme.

But any President of any party may succumb to this temptation.

Today, it is a Republican President whose judicial nominations raise the threat.

A Senate dominated by Democrats refused to yield to Roosevelt by a margin of 3 to 1.

Now, in a very real sense, it is the turn of my colleagues on the other side of the aisle.

Will more than a handful of you join in saying "no" to Attorney General Meese and President Reagan when they seek to recreate the judiciary in the image and likeness of narrow ideological preconceptions?

For our part, on our side of the aisle, we must avoid the dangers of opposition for its own sake, although I submit that that has hardly been a recent problem in the area of judicial nominees.

All of us here have a common obligation. On some issues, we are not and should not be partisans, whether Republicans or Democrats. On the issue of judicial selection we should be, we must be, first of all Senators—Senators whose central obligation is not to serve our party, but to protect the Constitution we are sworn to uphold.

Here, as much or more than anywhere, we must heed the warning of Justice Frankfurter that "history, too, has its claims."

□ 1335

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SIMPSON). The Clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1350

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection it is so ordered.

□ 1400

HONOLULU'S ELECTRIC LIGHT CENTENNIAL

Mr. MATSUNAGA. Mr. President, it is well-established that Hawaii is the Nation's renewable energy laboratory of the Pacific—by virtue of the range of alternative energy sources under development or in use there. What may not be as well known, however, is that in assuming such a role for our country, Hawaii is observing a tradition whose origins date back to its days as a monarchy under the reign of King David Kalakaua. These thoughts come to mind today because this day, July 21, 1986, marks the centennial of the first electric light turned on in Honolulu, the capital city of Hawaii.

This milestone will be celebrated this evening at Iolani Palace, where 100 years ago King Kalakaua turned on the switch at the first public demonstration of electric light in Honolulu. The significance of this feat, undertaken in a small island kingdom situated in the middle of the world's vastest ocean, can be appreciated when one considers that it occurred only 7 years after Thomas Edison first introduced to the world the incandescent lightbulb in 1879. Two years thereafter in 1881, Claus Spreckels, the great American sugar baron, employed Edison's invention at his Maui sugar mill, but it remained for King Kalakaua to demonstrate the new technology to his subjects for the first time in Honolulu.

So impressive was the king's demonstration at his recently constructed royal palace that within 4 short years local capital had been raised, a royal charter granted, machinery obtained, facilities constructed, and Hawaiian Electric Co., Hawaii's first electric utility, was in business. Today this organi-

zation continues to serve the power needs of the island of Oahu, while its subsidiaries afford similar service on the islands of Maui and Hawaii, the "Big Island."

Mr. President, nationally the electric power industry, subject as it is to State utility regulation, is widely considered, rightly or not, as a conservative business lacking in innovation and foresight. This stereotype hardly applies to the 96-year-old Hawaiian Electric organization under the dynamic leadership of Chairman C. Dudley Pratt, Jr., and President Harwood D. Williamson. In order to assume the risks inherent in pioneering new energy technologies, this public utility organized a parent holding company with a renewable systems subsidiary separate and apart from its original utility subsidiary. In this manner, Hawaiian Electric is able to explore new energy options for the future outside of the constraints of its utility rate base. Hawaiian Electric Renewable Systems, Inc., now taps the wind regimes of Kahuku point with a windfarm of 15 turbines, each with a generating capacity of 600 kilowatts. Soon to come on line will be a 3,200 kilowatt wind turbine with five times this generating capacity. The MOD-5B Boeing wind turbine, a demonstration project of the Department of Energy, is expected to set new standards in wind energy conversion by generating 15 million kilowatt hours of electricity a year, at a savings of 25,000 barrels of fuel oil.

The oil crises of the 1970's dramatized Hawaii's dependence on fuel oil for the State's electric power needs and brought a new urgency to the quest for renewable sources of energy. Today Hawaiian Electric's Big Island subsidiary receives the benefits of geothermal power as well as cogenerated sugar mill power fueled by biomass residue from the milling process. On Maui its utility, in addition to this biomass power, receives cogenerated wind power from "windfarmers" operating under the cogeneration provision of PURPA, the Public Utilities Regulatory Policy Act of 1978, and Federal energy tax incentives. Under exploration is the prospect of undersea cable transmission of Big Island geothermal power to other islands of the chain—Maui and eventually Oahu—thus bringing to the Aloha State for the first time the advantages of a statewide electric power grid.

This prospect lies in the future, Mr. President. Tonight the pioneering of the past will be recalled at the Iolani Palace Coronation Pavilion, where the Royal Hawaiian Band, which performed at Kalakaua's electric light inaugural a century ago, will salute Edison's invention once again in a musical extravaganza which will also feature the Hawaiian Electric Employees' Glee Club, musician-composer Palani Vaughan and The King's Own players, and the dance artistry of Frank Kawaikapu Hewett, Hawaii's premier male interpreter of the hula. It will be a night of nostalgia—made all the more enjoyable by the promise for tomorrow being engineered by Hawaii's present-day energy pioneers.

THE DEATH OF ADMIRAL HYMAN G. RICKOVER U.S.N. (RETIRED)

Mr. THURMOND. Mr. President, I rise to pay tribute to the father of the nuclear Navy, Adm. Hyman G. Rickover, who died recently at the age of 86. A few lines in the history books will never be enough to measure the contribution that Admiral Rickover made to the security of the United States. His career, which spanned 63 years of military service, was marked by devotion to his Nation and a commitment to excellence.

I had the pleasure of working with Admiral Rickover for more than three decades on issues ranging from the Navy's nuclear reactor program to efforts to improve the educational standards in our public schools. Admiral Rickover was a man of vision, but unlike many men throughout history who had great vision, he was able through sheer tenacity and willpower to bring about great change. He saw early on the revolutionary change that nuclear power could make in our national security. On August 6, 1945, in the skies over Hiroshima, one of his Annapolis classmates spent a few moments arming an atomic bomb that would help end a war. Shortly thereafter, Admiral Rickover would begin what can only be called a second naval career lasting more than three decades in which he would help harness that same energy for peaceful purposes. His tour of duty at the helm of the nuclear reactors program brought him under the service of seven Presidents. One of those Presidents, Jimmy Carter, had once served under Admiral Rickover while in the Navy. Admiral Rickover not only designed the nuclear Navy, he built it. Because of the force of his leadership, the quality of our nuclear ships and submarines is unmatched.

The accomplishment of Admiral Rickover and the decorations he received are legion. He was a distinguished author, a professional naval officer and a patriot whose devotion to his country have earned him a unique place in our history.

Mr. President, it is ironic that Admiral Rickover's death should come so soon after the Fourth of July celebration reopening the Statue of Liberty because he personified what Miss Liberty has come to mean for millions of immigrants who have come to our country seeking a better life. At the age of 6, Admiral Rickover and his parents came to the United States from what was then czarist Russia. They settled in Chicago, and it was there that the future admiral won an appointment to the U.S. Naval Academy. An immigrant tailor's son went on to become one of the most influential naval officers of this century. In no other nation on Earth would this have been possible.

Mr. President, as we all go to sleep tonight, it is fitting that we remember one of our immigrant sons who has entered his eternal rest. The peace that we enjoy is protected to a large degree by the invulnerable leg of our nuclear triad, the ballistic missile submarines that patrol the oceans of the world. The quality and safety of these submarines is a measure of his commitment to excellence and his devotion to duty.

I, as well as all of my colleagues who knew Admiral Rickover, will miss his wise counsel and are forever grateful for his contributions to our Nation. I ask unanimous consent that two newspaper articles concerning Admiral Rickover's life and death and the text of the eulogy delivered by Adm. James D. Watkins at the memorial service for Admiral Rickover be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 9, 1986]

ADM. HYMAN RICKOVER WAS TENACIOUS VISIONARY

(By Bart Barnes)

Adm. Hyman C. Rickover, who died yesterday at the age of 86, became one of the most influential military figures of the post-World War II era not only because he conceived and engineered the submarine nuclear technology that revolutionized the Navy, but because of a seemingly inexhaustible energy and flamboyance that mobilized broad public and congressional support for his programs.

Both his technological vision, and the way he often bulldozed his way through bureaucratic roadblocks to pursue it, were recalled by his colleagues and admirers yesterday.

President Reagan issued a statement in which he said Adm. Rickover's "commitment to excellence and uncompromising devotion to duty were an integral part of American life for a generation. . . . He was also a revered teacher who instilled in his pupils a desire to strive for the highest achievements. Countless thousands of sailors benefited from the skill and expertise of this talented public servant. Though he worked on tools of defense, he was a man of peace."

Navy Secretary John F. Lehman Jr. said yesterday, "Adm. Rickover took the concept of nuclear power from an idea to the present reality of more than 150 U.S. naval ships under nuclear power, with a record of 3,000 ship years of accident-free operations. All Americans owe him a debt of gratitude."

Not only did Adm. Rickover preside over the building of the nuclear Navy, but beginning with the first of its ships, the submarine Nautilus, which was launched in January of 1954, he also personally selected the

officers and enlisted men who would serve in it, and he supervised their training.

An engineer and administrator rather than a sailor, Adm. Rickover was a naval officer who spent almost all of his career in offices and laboratories and almost none of it at sea. A taskmaster who was as hard on himself as he was on his subordinates, he could be harsh and vindictive in private and he could behave the same way on national television. He held high positions both in the old Atomic Energy Commission and the Navy's Bureau of Ships.

Yet he became a symbol of excellence. This gave him a level of popular acclaim and celebrity that was rarely equaled even by the swashbucklers among his military contemporaries. And he was capable of expressions of tenderness and caring. When the nuclear submarine Thresher sank 220 miles east of Cape Cod on April 10, 1963, he sent handwritten notes of sympathy to the wives and parents of all 129 men who died.

Former president Jimmy Carter, who served under him, said in his campaign biography "Why Not the Best?" that next to his parents, Adm. Rickover had influenced his life more than anyone else. In a statement issued yesterday in Chicago, where he was doing volunteer construction work at a low-income housing project, Carter said, "As president I realize anew his great contributions to our nation's preparedness and to world peace."

Lyndon Johnson, when he was majority leader of the Senate, called Adm. Rickover "the symbol of the Can Do Man."

As a scientist, the admiral became a critic of U.S. education in general, and scientific training in particular. In July 1959, he accompanied Richard M. Nixon, then the vice president, to Russia. He later used the trip as a springboard to campaign for more rigorous schooling. In testimony before Congress, in books and in speeches, he assailed education in this country as soft, dominated by "progressives," wasteful, and inferior to education in Europe, including Russia.

As a high school student, Adm. Rickover worked part time delivering telegrams for Western Union, and one of the offices he visited regularly was that of Adolph Joachim Sabath, a Democratic congressman from Chicago who, like the future admiral, was a Jewish immigrant from Europe. It was Sabath who recommended the youth for appointment to the Naval Academy at Annapolis in 1918. The two kept in touch during the remainder of Sabath's congressional service, which ended with his death in 1952.

Adm. Rickover was one of only a handful of Jewish midshipmen at the Naval Academy, some of whom were the targets of an uncommonly fierce brand of anti-Semitism. More than 60 years later, Adm. Rickover would recall on CBS television's "60 Minutes" that he received more than his share of hazing "because I was Jewish."

In a class of 538, Adm. Rickover graduated 106th, and he entered a peacetime Navy that was cutting back to such a degree that about one-third of his classmates failed to receive commissions.

Abrasive though Adm. Rickover was, many, like Carter, were proud to say they had worked for him. And his abilities were such that he was greatly admired on Capitol Hill. In 1953, when he was passed over for promotion to admiral and faced with retirement, Congress intervened and the Navy gave him flag rank.

In his later years, Adm. Rickover fought a series of protracted battles with defense contractors, whom he accused of failing to keep contractual obligations and trying to cheat the government.

However, in 1985, three years after he retired, he was censured by the Navy for having accepted more than $68,000 in gifts over the years from defense contractors, the bulk of it from General Dynamics Corp. Adm. Rickover defended his actions, saying he gave most of the gifts to supporters of the nuclear Navy—including presidents and members of Congress—and insisting that no gift ever affected any of his decisions.

Hyman George Rickover was born Jan. 27, 1900, the son of a tailor, in the village of Makow, about 50 miles north of Warsaw, in what was then a part of Czarist Russia. He came to the United States when he was 6, and he was reared in Chicago.

During a 63-year career that ended with his forced retirement in 1982, Adm. Rickover regularly flouted Navy tradition. He rarely wore his uniform, he called the U.S. Naval Academy at Annapolis a "lousy boys' school", and, for the most part, he shunned social contact with his fellow officers. He once said that the greatest "single contribution to improved military efficiency" would be "eliminating 40 percent of the jobs at the Pentagon."

His interviews with officers who sought to serve under him were legendary. He called Adm. Elmo R. Zumwalt Jr., who later would become chief of naval operations, a "stupid jerk" when Zumwalt was under consideration for a nuclear assignment. Other candidates were sometimes forced to sit during the interviews in chairs with six inches sawed off the front legs.

In 1927, Adm. Rickover returned to Annapolis for a year of advanced study in electrical engineering and then spent another year of postgraduate study at Columbia University. While there, he met Ruth Masters, a native Washingtonian who was doing graduate study in international law. They were married in 1931.

Adm. Rickover's only sea command came in 1937, after assignments aboard the battleships California and New Mexico, when he was named captain of the Finch, a 188-foot mine sweeper on the China station. Japan and China were already at war and during the four months of Adm. Rickover's command the Finch spent most of its time at anchor in the harbor at Shanghai or in ferrying U.S. marines up and down the Yangtze River.

He asked for engineering duty after that, and during most of World War II he was ashore directing the electrical section of the Navy's Bureau of Ships. In the final months of the conflict he was posted to Okinawa to manage a ship repair base.

When the war ended, Adm. Rickover was assigned to supervise the mothballing of ships on the West Coast. With the Navy once again cutting back to adjust to peacetime conditions the prospects for further advancement appeared dim.

But the Navy was just beginning to investigate the possibility of nuclear-powered submarines and other ships. A team of naval officers and civilians was being assembled for assignment to Oak Ridge Tenn., to observe the work being done on nuclear reactors there. In 1946, Adm. Rickover received orders to join them.

Two years later, he was named to head a joint Navy-Atomic Energy Commission program to develop the first Naval nuclear propulsion system. He became head of the Naval Reactors Branch at the AEC and assistant chief for nuclear propulsion at the Navy's Bureau of Ships, and over the years he achieved immense power at each agency.

Under Adm. Rickover the group developed a land-based prototype of a nuclear submarine propulsion system, and in 1953 it ran at full power continuously for 66 days, enough to have carried a ship twice around the world without refueling. The Nautilus was launched in 1954 and put to sea a year after that.

It traveled 62,500 miles on its first nuclear core before refueling for the first time in 1957. The Nautilus became the first submarine to pass under the North Pole's icecap in 1958, and in 1960 another nuclear submarine, the Triton, became the first boat to circumnavigate the globe under water.

It was during this period that Congress saved then-Capt. Rickover from retirement. When it became known in 1953 that he had been passed over a second time for promotion to rear admiral, Rep. Sidney Yates (D-Ill.) demanded a congressional investigation. He charged that failure to grant the promotion reflected a patten of discrimination against naval engineers that was hurting morale "to a most disturbing extent."

The Senate Armed Services Committee delayed action on the promotions of 39 other captains to rear admiral until the Navy, at the direction of Navy Secretary Robert B. Anderson, convened a special selection board specifically to promote a captain with a background in engineering and nuclear propulsion. There was only one officer who fit that description.

Adm. Rickover was promoted to vice admiral in 1958 and to admiral in 1973. His influence in Congress only increased after the 1953 promotion controversy. He was awarded the Congressional Gold Medal.

That award was made not only for Adm. Rickover's work in the nuclear Navy. It also praised him for directing the scientific, technical and industrial team that developed the pressurized water reactor at Shippingport, Pa., which supplied electricity to the city of Pittsburgh and also served as a laboratory for much of the technology that went into other nuclear power plants.

Within the Navy, the principle of nuclear propulsion was not long confined to submarines. Three nuclear powered surface ships, the aircraft carrier Enterprise, the guided missile cruiser Long Beach and the destroyer Bainbridge, all cruised around the world without refueling in a demonstration aimed at promoting the applicability of nuclear power to the surface fleet—and at the same time further expanding Adm. Rickover's sphere of influence.

It was during the process of selecting the men who would serve aboard the nuclear ships that Adm. Rickover came to the conclusion that many had been poorly educated. He wrote three books critical of American education and, to the dismay of the corps of professional educators, held himself out to the media as an expert on the subject.

In a 1958 interview with Edward R. Murrow on CBS television, Adm. Rickover castigated Murrow for asking "stupid questions" about education in America. "The trouble with you is that you want easy answers, but you don't know the proper questions," said Adm. Rickover.

Despite the fact that he trained thousands of officers for service aboard nuclear-powered ships, Adm. Rickover never made peace with the Navy establishment. He thought its rules were silly and its traditions a waste of time. "We never had a book of Navy regulations in my office," he said on "60 Minutes" in December of 1984. "One

time some guy brought it in and I told him to get the hell out and burn it."

The Navy reciprocated. In 1958, it left his name off a guest list for a White House reception after the Nautilius' voyage under the polar icecap. There was such a public outcry that the secretary of the Navy apologized personally. In 1982, Navy Secretary Lehman ordered him into restirement, citing "actuarial realities" as the reason.

In his farewell appearance before Congress, Adm. Rickover warned that the arms race had become so out of control that the human race was likely to destroy itself in a nuclear war. "I'm not proud of the part I played in it," he said, adding that he considered his nuclear fleet a "necessary evil." Three former presidents, Gerald Ford, Richard Nixon and Carter, attended his retirement testimonial dinner.

Adm. Rickover's first wife died in 1972.

In 1974 he married Eleanor Ann Bednowicz, a Navy nurse, who survives him. He also is survived by a son by his first marriage, Robert Masters Rickover.

[From the New York Times, July 9, 1986]

RICKOVER, FATHER OF NUCLEAR NAVY, DIES AT 86

(By John W. Finney)

WASHINGTON, July 8—Adm. Hyman G. Rickover, the crusty and outspoken naval officer who became the father of the nuclear Navy, died this morning at his home in Arlington, Va. He was 86 years old.

The admiral served as an officer for 63 years, longer than any other naval officer in American history.

In his career Admiral Rickover generated controversy on all sides. He attacked Naval bureaucracy, ignored red tape, lacerated those he considered stupid, bullied subordinates and assailed the country's educational system. And he achieved, in the production of the nuclear-powered submarine in the early 1950's what a former Secretary of the Navy, Dan Kimball, called "the most important piece of development work in the history of the Navy."

HE WAS INTENT ON DOING HIS JOB

Hyman George Rickover cared little for protocol, tradition or what other people thought of him, so long as he could do his job. He was cordially detested by his ememies, and even his friends admitted that his abrasive personality made him far from a lovable old sea dog.

Admiral Rickover was not considered "Navy" by other admirals. Despite his achievement, despite the support of people in high civilian places, the Navy nearly succeeded in forcing his retirement as a captain by passing him over for promotion to rear admiral.

Even after his promotion he was pointedly snubbed on a number of occasions. Admiral Rickover always insisted that his difficulties with the Navy arose from fighting "stuffed shirts" who were against anyone with new ideas.

He was rarely awed. Once a Congressman asked him if he had prepared for hearings. "Yes," Admiral Rickover said. "I shaved and put on a clean shirt."

In later years, however, Admiral Rickover came to be accepted by his fellow admirals, particularly since nuclear power gave a new global reach to aircraft carriers. Aside from the nuclear ships now sailing the seas, one of the lasting legacies will be a new generation of naval officers trained with the Rickover emphasis on details and quality control.

President Reagan said in a statement that Admiral Rickover's "commitment to excellence and uncompromising devotion to duty were an integral part of American life for a generation." Calling the admiral "a revered teacher" and "a talented public servant," Mr. Reagan said, "Though he worked on tools of defense, he was a man of peace."

"It is particularly poignant that his death should occur immediately following a weekend in which we celebrated the achievements of those Americans who came to our shores as immigrants," Mr. Reagan said. "Few among them have had as distinguished a career as Admiral Rickover or contributed more to the maintenance of our freedom."

TRIBUTE FROM CARTER

Former President Jimmy Carter, who served under Admiral Rickover as a naval officer, issued a tribute in Chicago where he was doing voluntary carpentry. Admiral Rickover "deplored nuclear power's use for destruction and, as a pioneer, was responsible for its use for peaceful purposes," Mr. Carter said. "A superb engineer, his record for careful design, installation and operation of nuclear power plants in ships and on shore has set an example of safety which can never be surpassed."

The Secretary of the Navy, John F. Lehman, Jr., who ordered Admiral Rickover retired against his wishes in 1982, said at a news conference that Admiral Rickover "made a contribution in bringing the concept of nuclear power from a mere idea to the reality of more than 150 naval ships today steaming under nuclear power."

Mr. Lehman, who censured Admiral Rickover in 1985 for accepting gratuities from General Dynamics, the submarine builder with which admiral had quarrelled for years, said he had "had some very sporty exchanges with Admiral Rickover." But he added, "He was a formidable intellectual adversary on any issue."

The idea of the nuclear-powered submarine did not originate with Admiral Rickover, who was an engineer and not a scientist. But he was responsible for the design and production of the world's first nuclear-powered engines and the development of the Nautilus, the world's first nuclear-propelled submarine.

He was also responsible for the establishment of the first large-scale all-civilian atomic power plant, at Shippingport, Pa. The plant supplies power for residents of Pittsburgh.

IDEAS ABOUT NUCLEAR POWER

It was in the years just after World War II that Admiral Rickover, than a captain with a master's degree in electrical engineering, became convinced that the Navy had to have nuclear-powered ships and had to begin with submarines.

He began formulating these ideas after he was assigned in 1946 to study atomic energy in Oak Ridge, Tenn., a site of the Manhattan Project to develop the atomic bomb in World War II.

The Navy was not enthusiastic about the captain's ideas about atomic submarines. Captain Rickover was called back to Washington and given an atomic energy advisory post. His office was a former women's lounge.

Characteristically, he bypassed channels and went directly to Adm. Chester W. Nimitz, the Chief of Naval Operations, to enlist his support for the atomic submarine. Admiral Nimitz, a former submariner, approved the idea, and Captain Rickover became head of the new Nuclear Power Division of the Bureau of Ships.

In 1949 he accomplished what became a classic example of maneuvering against red tape. The Atomic Energy Commission was persuaded to create a Reactor Development Division and within it a Naval Reactors Branch. To head the branch it came up with Captain Rickover.

Wearing both hats, the captain sometimes wrote letters to himself asking for certain things; he would then answer the letters in the affirmative. Thus there was virtually always agreement between the Navy and the Atomic Energy Commission.

CAREER IS THREATENED

In July 1951, Captain Rickover was passed over for promotion to admiral by a Navy selection board. The next year he was passed over again, despite appeals from the Secretary of the Navy, the Atomic Energy Commission and some admirals.

In Navy practice, an officer who has been passed over twice is generally forced to retire, and it seemed that his career was over. But newspapers, the Senate Armed Services Committee and others raised such a furor that another board was convened with tacit orders to promote Captain Rickover.

The Navy's official explanation for its reluctance was that he was too much of a specialist to meet the qualifications of a general flag officer. Underneath, however, was the fact that he was "not Navy" by reason of his unorthodox methods and his tongue.

Stories of Admiral Rickover's propensity for stepping on other people's toes and of his caustic tongue are legion. On Okinawa in World War II, he placed a Navy lieutenant under the command of an enlisted man for a certain job because he thought the enlisted man could do it better. Eventually, the admiral had to reverse the chain of command to placate his superiors.

When reporters asked him questions he thought were stupid, he would not equivocate. "That's a stupid question," he would say.

He would horrify other Navy officers by appearing in civilian clothes to testify at Congressional hearings.

Even after his promotion, Admiral Rickover received a number of snubs. For instance, when the commanding officer of the Nautilus was decorated by President Eisenhower in 1958, Admiral Rickover was not invited.

His military philosophy was, "The more you sweat in peace, the less you bleed in war."

The future admiral was born in Russian Poland on Jan. 27, 1900. When he was 4 years old, his parents joined the wave of Jewish refugees emigrating to the United States. They settled in Chicago, where the father was a tailor.

The youth was a delivery boy, a Western Union messenger and an intense student. He got an appointment to the United States Naval Academy not so much because he loved the sea as because the education was free and his family could not afford tuition.

He graduated in 1922 in the top quarter of his class after four years of grind and little or no social life. He returned to the academy five years later to study electrical engineering and subsequently received a master's degree in electrical engineering at Columbia University.

He served aboard submarines from late 1929 to mid-1933. After duty on the battleship New Mexico he had his only seagoing

command, in Asian waters, as skipper of the minesweeper Finch from June 1937 to May 1939. In World War II he served as head of the electrical section of the Bureau of Ships.

IDEAS ABOUT EDUCATION

In later years Admiral Rickover was to develop a reputation for strong opinions, not only about nuclear submarines but also about education.

He was an enemy of progressive schooling in civilian life, and he once called for the abolition of the service academies if steps were not taken to improve their teaching of engineering.

Admiral Rickover repeatedly warned that the country needed a committee of influential people to propose standards and goals for education.

He called for overhauling the American educational system, with increased emphasis on technological and science courses and special training for gifted students. "We waste the best years of our children in the name of democracy and of the sacred comprehensive school," he once said.

MEDAL FROM PRESIDENT

In 1980, President Carter presented the Medal of Freedom to Admiral Rickover. On that occasion the President said, "With the exception of my father, no other person has had such a profound impact on my life."

The next year was to be a turning point for the four-star admiral. At 81 years of age, he made it clear that he had no intention of retiring. As a result of a special act of Congress, he had remained on active duty two decades beyond the time when most senior admiral retire. Under President Carter he would have had little trouble obtaining another waiver to remain on active duty. But when the Reagan Administration took office, battle lines were drawn.

"A LIFETIME COMMITMENT TO TEACHING US EXCELLENCE"

(Eulogy by James D. Watkins)

It was a simple statement of Voltaire's which he used to capture the essence of a purpose of life—"not to be occupied, and not to exist, are one and the same thing."

And, I can think of no man who better epitomized that tough standard, for Admiral Rickover was occupied. He was a unique individual who accomplished great deeds through hard work and struggle, and thereby gained respect of a nation and the world. He was an original thinker who dared to peer beyond boundaries set by others, and therefore accomplish that, about which, others only dreamed. This is the special American, naval professional, visionary, intellectual, scientist, iconoclast and most importantly, teacher—Hyman George Rickover—whose life and accomplishments we celebrate today.

The Admiral explained that a purpose in life was "to work, to create, to excel and to be concerned about the world and its affairs." He practiced what he preached—and so he excelled beyond expectations. He accomplished within a lifetime what others would declare impossible.

How does one, in a few minutes, sum up such a unique naval career, spanning six decades? It would be so easy to miss the mark, for example, to just point out that Admiral Rickover was father of peaceful use of nuclear energy in the submarine; or that the fleet of nuclear vessels he first imagined, and then put to sea, are currently underway in every ocean and sea on the planet. It would, likewise, be easy to simply note that more than 150 U.S. naval combatant ships are nuclear-powered today, and that they have achieved an amazing safety record of more than 3,000 ship-years of accident-free operations.

Yet, while these biographical bits and pieces are surely part of the record of a special man whose career is legend, they hardly explain the true essence of his character. In fact, to the uninformed, the outsider, the too-frequent superficial critic, it was often easy to fail to grasp the significance of what this man did for Navy and Nation; it was easy to miss the compassion of a man who cared so much for his people, that he penned personal notes to each and every family who lost a loved one aboard *Thresher* after she was lost. It was easy to misconstrue his management techniques, a style seldom criticized by those intimately familiar with the admiral, his programs, and his teaching philosophy.

Of course, I speak from personal experience. For I was lucky enough to have been an apprentice under this master. Here, I am hardly alone—the genius of Admiral Rickover touched military and civilian; active duty and retired. His admirers and students come from ranks of the former Atomic Energy Commission and naval reactors directorate; from White House and both Houses of Congress; from the Nation's scientific and engineering communities; from foundations dedicated to the proper education and development of our Nation's youth.

What made this man so special? A good place to start would be to explain his broad span of talents and skills; for he was truly a modern renaissance man. From engineer to educator; patriot to teacher, his range of interests and skills ranged from an intense personal dedication to conservation of our natural resources, to the study of ethics and morality.

Again, in Voltaire's words, he was occupied. And, through his work, he reached out, long before others, to create when he envisioned the potential of nuclear power for peaceful use. This story of Rickover success did not start with the words, "underway on nuclear power," flashed to a watching world from *Nautilus* 31 years ago. It began in the 1940's, when few were enthusiastic about non-military use of nuclear power and many thought it outright impossible. Against all odds, while many watched and even hoped he would fail, he proved that nuclear power could be safely used, both at sea and in civilian power-generation applications.

No, he did not succeed purely on brash and brillance—he succeeded through exhausting, detailed, hard work. Admiral Rickover had a deep conviction that early downpayments in proper design, quality control in manufacturing, and excellence in education and training of his people would reap dividends in safety, protection of the environment, and successful long-term operational success, with avoidance of unnecessary loss of life and prohibitive remedial costs.

While others looked for short cuts, Admiral Rickover always insisted upon estabishing rigorous standards of performance that matched technology to human potential. Sure, this required more effort, checks and balances, concern for quality, and extra care, but these are now the hallmarks of not only our Navy's nuclear power program, but of our entire Navy's combatant readiness as well—the admiral's legacy to a grateful nation. In 1962, the admiral, in an unusually pleasant mood following a successful sea trial aboard a submarine, philosophied with me on the need for his naval reactors organization to remain nearly autonomous within the then Atomic Energy Commission. He told me there would be a serious accident in the civilian nuclear power industry within 20 years because of their failure to set and hold to standards. His pragmatic vision later proved a reality.

Yes, he returned to society every gram of the incredible potential God had given him. This was his insatiable objective in life.

One cannot sum up years of genius in a few moments. In fact, the admiral would surely chide us all today for even bothering to attend this service, and ask us why we weren't back at work doing something more constructive. But, one thing is certain: we will never forget the way he pushed each of us to our own human elastic limit, chastening us to make full use of God's gifts and return them to others.

Several years ago, Admiral Rickover wrote, "no occupation can be conducted properly unless it has standards."

That was always true for the tasks he undertook . . . he set the standards. They were tough. That is the legacy—and the challenge—he left to all who study his great contributions. Now, he would want us not just to dream, but to create; not just to create, but to excel and to be concerned . . . to be ever occupied, for that is the essence of existence—a credo he well lived up to, challenging those who served beside him to do no less.

Eleonore, we grieve with you, for your loss is also this Nation's loss. Yet, even in this difficult passing, it is hard not to give thanks for what we had—the brilliance of an H.G. Rickover, and the many gifts of wisdom and foresight; counsel and advice he passed on to thousands of us over the past 86 years. Beneficiaries of these priceless gifts are not only here today and underway in Navy ships around the world, but are to be found in generations yet unborn. Admiral Rickover's commitment to excellence—to finding a better way—are an ageless gift to all mankind.

For an address to be delivered at St. John the Divine in New York, the Admiral and Eleonore together wrote this final paragraph, which put into perspective the admiral's beliefs about life:

"The man who knows his purpose in life accepts praise humbly. He knows that whatsoever talents he has were given him by the lord. And, that these talents must be developed and used, and that learning never ends. In this way, man renders thanks for the lord's gift—and finds meaning in his life."

Admiral Rickover well used the many gifts given to him by the lord, and found full meaning in his life, while sharing this meaning with those around him. I know we are all thankful—and blessed—that the Lord shared this gifted and talented man with us.

HUNGER IN A LAND OF PLENTY

Mr. SASSER. Mr. President, in this confusing age, we are forced to live with many disturbing paradoxes, not the least of which is the continuing tragedy of human want amidst material plenty.

We have heard again and again in recent years of the cycles of poverty and despair among our citizens, sometimes beginning two and three genera-

tions back. We know that those unbroken cycles of suffering keep turning, even while the stores of surplus farm commodities keep growing.

We all recognize this fundamental contradiction. It is a contradiction that is at the heart of poverty in America. But we cannot expect to rectify the contradiction of hunger in this land of plenty with a contradictory set of hunger policies.

Just last month, President Reagan said the following: "The problem of the hungry people is not due to the fact that they don't have food and the ability to get food. It's that they don't know where to get it."

Let me say that all of us hope the President is correct in his assessment. All of us want to believe that no one in this country is compelled to go without food.

But even if you accept the President's assumption that there is a meal out there for every hungry mouth and accept the dubious proposition that no one in this Nation has to go hungry, we still face a fundamental policy issue.

This administration consistently strives to eliminate the very outreach programs that are the only lines of communication between our nutrition programs and the poor people who so desperately need them.

Mr. President, I have strongly supported the Human Services Reauthorization Act Amendments of 1986 which funds our vital nutrition and hunger programs. I think we all know what projects like Head Start have done for the children of low-income families who are trying to breakaway from the desperate cycle of poverty and dependency.

It is this kind of program that allows many in the current administration to feel satisfied that hunger is not a desperate problem in the United States. But, as the President has so forcefully pointed out, the programs simply do not work if people do not know they are there.

For that reason, it is imperative that we continue to fund—despite the administration's opposition—the Community Food and Nutrition Program [CFNP] within the community services block grant. CFNP is a program that tells needy people where the assistance is, and I am extremely pleased that this program is reauthorized in S. 2444.

CFNP does not cost a lot of money. But if the safety net truly exists, this kind of outreach program is the frail strand that sustains it. If we cut communication funding, then I fear we make a mockery of our claim that we are winning the war against hunger in this country.

Mr. President, I think my colleagues will be interested to know that, during field hearings I held earlier this year in Knoxville, TN, I heard from an elderly woman who is living from day to day wholly on beans; from a young Appalachian woman who must feed her children a daily diet of potatoes and a little gravy. I must say that, judging from her appearance, she must give the children all the potatoes and gravy, because she looked terribly undernourished, this mother.

□ 1730

I heard from a young innercity couple who had no idea where their next meal was coming from at all.

I cannot say for sure how far we are down the road to solving the problem of hunger in America. But I have seen clear evidence that there are hungry people in my State and across the Nation who are doing without food because they do not know how or where to get it.

I believe these people have suffered unnecessarily since the termination of the CFNP program in 1981. I know for certain that my constituents in Tennessee need to know about hunger initiatives. They need information about women, infants, and children—WIC—about what School Lunch Programs might be available. And, yes, they need to know about the Food Stamp Program, particularly the older people living in the rural hill areas of my State.

In Tennessee, approximately half of the people eligible for the Food Stamp Program do not receive food stamps and, tragically, among the State's elderly who would qualify for the Food Stamp Program otherwise, the participation rate in the Food Stamp Program is only 25 percent. These people need directions as to how to find what could be the lifeline for some. Now is precisely the wrong time to tune them out.

Mr. President, I urge my colleagues on the Appropriations Committee to work with me now in securing adequate funding for the programs authorized by S. 2444.

Most important, I urge all of my colleagues to maintain the most basic consistency of our hunger initiatives. We must fund the Community Food and Nutrition Program, and make people aware of the help that is available to them, because if they do not know it is there, then they are going to continue to go hungry. The President's statement that people are hungrey because they do not know where to get the food will be given even more credence.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. WARNER). Morning business is closed.

The Senator from Pennsylvania.

EXPORT ADMINISTRATION ACT AUTHORIZATION

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 590, S. 2245, the Export Administration Act, and further, that upon the completion of the consideration of that item the Senate then turn to the Calendar Order No. 592, S. 2247, the Export-Import Bank bill.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BYRD. Mr. President, there is no objection on this side to going to either or both of these measures. They have been cleared by all Members. Therefore, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read as follows:

A bill, (S. 2245) to authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities.

There being no objection, the Senate proceeded to consider the bill.

Mr. HEINZ. Mr. President, today the Senate is taking up the Export-Import Bank Act Amendments of 1986.

I do not have to elaborate on the need to improve the Nation's trade performance, but before we turn to the Export-Import Bank Act, I want to proceed to the consideration of S. 2245, to which, to my knowledge, there are a few, perhaps no, amendments. As I said when I asked unanimous consent, S. 2245 is a bill to authorize funds for export administration and export promotion activities of the Commerce Department. What this bill does, in brief, is to authorize levels of funding requested by the administration at administration levels to carry out the export administration and export promotion activities of the Commerce Department.

Frankly, Mr. President, it is a very straightforward funding bill. It was reported without objection by the Banking Committee, and I believe it to be completely noncontroversial. I would only observe that the bill authorizes appropriations of $35.9 million for the export administration operation of the Commerce Department. That is an amount sufficient to implement the improved export control procedures mandated by the Export Administration Act amendments which were passed last year.

The bill also authorizes $123.9 million for Commerce's export promotion activities. These activities will permit the Department of Commerce to mount an aggressive export promotion effort to address our record U.S. trade deficits.

Mr. President, that really concludes my comments on the first item, Calendar 590, S. 2245. I have talked this bill over at some length with the ranking minority member, Senator PROXMIRE.

It is my understanding that he joins me in asking our colleagues to enact this bill.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the Senator from Pennsylvania, Senator HEINZ.

I rise in support of the bill. It is a necessary bill. I think we should not kid ourselves however. No amount of export promotion can make up for the gross fiscal irresponsibility that has been practiced over the last 5 years. That has been one of the reasons why we have a very adverse balance of trade, and until we remedy that—we are not going to remedy it for a considerable amount of time I should say—we are not going to be able to do much about this adverse balance although this is not necessarily the bill that does the most good, but the good it does is relatively modest in comparison to the harm we do in running these enormous deficits.

Mr. President, I rise to speak on behalf of S. 2245 a bill to authorize appropriations for the Export Administration and export promotion activities of the Department of Commerce for fiscal years 1987 and 1988.

Section 1 of the bill authorizes appropriations for the Export Administration operations of the Department of Commerce in the amount of $35,935,000 as requested by the President. I believe we must have an effective export control program in order to save our taxpayers money in our defense budget. If we prevent the Soviets from obtaining our expensively developed militarily critical technologies it saves money and keeps down defense costs. That is why I am such a strong advocate of effective export controls. The adoption of adequate funding for our export control program, as requested by the President, shows that Congress endorses that program.

Section 2 of the bill authorizes appropriations for the export promotion activities of the Department of Commerce in the amount of $123,922,000 as requested by the President. I support that request.

It is my belief, however, that the massive trade deficits our country has run up during this administration are caused by its irresponsible fiscal policy and no amount of export promotion will reverse that. Still I support this bill because our committee has emphasized the need to promote exports with particular emphasis on assisting small and medium sized firms to develop their export potential by providing them with information and advice to help them begin exporting, or if already exporting to enter new markets.

I urge my colleagues to support this bill.

Mr. President, I yield the floor.

Mr. BRADLEY. Mr. President, I rise today in support of S. 2245 which authorizes appropriations needed to carry out the Export Administration Act of 1979. I also would like to convey to my colleagues some of the problems a New Jersey based firm had when it attempted to follow the export licensing procedures outlined in the Export Administration Act of 1979.

Nearly 2 years ago, the Silicon Technology Corp. [STC] of Oakland, NJ, a manufacturer of silicon slicing equipment, contacted my office to seek assistance in obtaining an export administration report entitled "A Foreign Availability Assessment on Automatic Wafering Saws." In order to compete with a Swiss competitor who had begun to corner the narrow silicon slicing equipment market, STC had sought redress under the foreign availability guidelines and procedures set forth in last year's amendments to the 1979 act. In enacting the foreign availability provisions, Congress realized that U.S. firms should be able to export their product to Eastern bloc nations or nations not subject to Cocom controls when comparable products or technical data are available in sufficient quantities from foreign sources, and the export of that item would not have a detrimental effect on our national security. Congress felt that where a product is easily available from other sources, denying an export license would clearly not prevent critical technologies from reaching Soviet bloc countries; it would only penalize U.S. companies for little purpose.

STC has been pursuing this issue for nearly 4 years. After the Department of Commerce issued the long awaited regulations on foreign availability in 1985, STC officials presented evidence to the Department of Commerce indicating that their Swiss and Japanese competitors had sold equipment of similar quality to the Soviet Union, the Eastern bloc nations, and the People's Republic of China. In early October of 1985, the Director of the Office of Export Administration informed STC officials that an assessment had been completed by the Department of Commerce [DOC], but that the results were not for public disclosure. The results were being reviewed in the Department of Defense ([DOD] for a determination of the assessment's impact on national security. During the time that STC was waiting for this foreign availability assessment, increased competition from its foreign competitors forced it to reduce its workforce by nearly 50 percent.

STC's request of a foreign availability assessment was substantiated by the Department of Commerce's Office of Foreign Availability [OFA] and Technical Advisory Committee [TAC]. Both the OFA and the TAC concluded that STC's silicon slicing equipment was readily available from foreign sources. This finding was submitted to the Secretary of Commerce on December 13, 1985. Under the provisions of the act, the Secretary has 90 days to issue a report stating that (a) the requirement of a validated license has been removed; (b) he will recommend to the President that negotiations be conducted to eliminate the foreign availability; (c) he has determined that foreign availability does not exist. I am particularly disturbed that the Department failed to meet this 90-day deadline, and just recently responded to my inquiry of March 10, 1986. In fact, notification of the decontrol of this equipment—to destinations other than controlled countries—did not occur until late this June.

Mr. President, I agree that any decision to partially or completely decontrol a restricted item must take into account the effects this action may have on our national security. However, I question whether the DOC is effectively carrying out the foreign availability assessment procedures. I believe the prolonged delay in obtaining a final foreign availability assessment was due to the DOC's exhaustive consultations with the Department of Defense. In fact, the DOD's opposition resulted in STC's request being reviewed by the National Security Council. What is significant is that this delay occurred after the Commerce Department found substantial evidence that the product was available from foreign producers.

STC's problems may have been an isolated case. And where serious national security problems will result, no one questions the restrictions on sales. However, when one considers the findings of President Reagan's Commission on Industrial Competitiveness which indicated that export controls results in lost sales of $12 billion annually, STC's case may reflect a more significant problem in the administration and promotion of American exports where national security is not in question. Certainly, by delaying and possibly preventing the export of these goods, we are impairing our ability to trade. American firms must not be hampered by a process that takes years for a final go ahead to occur. Initiatives like the Department's recently proposed plan to streamline the export licensing process should be applauded. I urge the Department to continue to develop more efficient, less time consuming means of helping American businesses export their products.

□ 1410

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is

on the engrossment and third reading of the bill.

The bill (S. 2245) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18(b) of the Export Administration Act of 1979 (50 U.S.C. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $35,935,000 for each of the fiscal years 1987 and 1988, of which $12,746,000 shall be available for each such year only for enforcement; and

"(2) such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 2. Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended by striking out "$113,273,000 for each of the fiscal years 1985 and 1986" and inserting in lieu thereof "$123,922,000 for each of the fiscal years 1987 and 1988".

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the consideration of S. 2247, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2247) to amend and extend the Export-Import Bank Act of 1945, and to eliminate foreign predatory trade practices.

The Senate proceeded to consider the bill.

Mr. HEINZ. Mr. President, I said a moment ago that I do not have to elaborate on the need of this country to improve our Nation's export performance. We all know that the misalignment of the dollar, the less-developed countries' debt problems, and slow economic growth with our trading partners have contributed to recent massive U.S. trade deficits. These deficits totaled nearly $150 billion in 1985, and this year the trade deficit exceeds the 1985 pace through the first half of 1986.

Even as we hope and expect world economic conditions will stabilize and improve, nonetheless we are still faced with an unfair, predatory export financing regime of competition that wrongfully and unfairly steals U.S. exports.

The fact is, Mr. President, that governments around the world continue to offer subsidized financing packages to the foreign buyers, and these tactics are winning sales away from U.S. manufacturers as a result of export credit subsidies and, in my judgment, the even more pernicious mixed or as some call it, tied aid credit. Both of these distort purchase decisions in the international marketplace.

The most effective way to correct these distortions is to counter them with fully competitive U.S. financing. With a strong U.S. response that neutralizes the impact of foreign credit and subsidies, the success of U.S. exports will be determined by market forces such as price, quality, service, and not by the size of the foreign government subsidies. But without such an effort the United States is putting its fate and that of our economy into the hands of foreign competitors and their governments.

I hope we all will remember what sectors of our economy are affected most by this kind of predatory financing. It is the high technology and the capital goods sectors that are targeted by our foreign competitors. These industries are the backbone of our economy and they are also essential to our national defense. So it is not exaggerating to say that our future economic growth and, indeed, our national prosperity are tied closely to the health of these two vital economic sectors.

The bill we take up today has two parts. The first part, title I, extends the life of the Export-Import Bank for 10 years and it makes a number of revisions to its charter to position the Bank for aggressive support of U.S. exports over the next decade.

The second part, title II, provides the U.S. Government with the tools necessary to eliminate so-called mixed or tied aid credit in which foreign aid funds are mixed with export credit funds. Such credits have a very significant grant element—typically, 20- to 30-year repayment terms at interest rates as low as 3 or 4 percent.

These so-called tied aid credits channel aid funds away from essential infrastructure and basic human needs projects in the country receiving them, but, furthermore, because we lack the means to mount an aggressive U.S. effort to bring the use of these tied aid credits to an end, they cost the United States literally billions of dollars a year in export sales and, as a result, we lose tens of thousands of jobs and frequently we do so at the cost of undermining the long-term viability of an entire industry.

Turning to the specific provisions of the bill, title I reauthorizes the Eximbank for 10 years rather than the 5-year extension requested by the administration. I believe it is imperative that the Bank be given a sufficiently long life to provide the U.S. exporting community the stability and continuity necessary to allow the development of long-range overseas marketing plans. It is also essential to permit long-term strategic planning by the Bank. Finally, we must be willing to make a long-term commitment to Eximbank to preserve the United States' negotiating credibility within the OECD—an important step toward continued reduction in the level of export credit subsidies by all OECD member countries.

In addition to a reasonable charter extension, the most critical issue facing us is to assure adequate budget resources for Eximbank over the long term. Unfortunately, the budget treatment—a better characterization would be mistreatment—that has been given the Bank in the past would preclude this. The administration has again tried to address this problem by replacing Eximbank's direct lending program with an interest-rate subsidy payment scheme, the so-called I-Match Program. This bill contains no authority for the Bank to establish an I-Match Program. Such a program is undesirable for several reasons.

First, using private lenders rather than Treasury to finance export credits results in a program that ultimately costs more to the Government, especially over the long term, since private lenders are a higher cost source of funds than is the Treasury Department.

Second, the I-Match proposal requires that the Export-Import Bank adopt significantly more complex procedures to accommodate the loan administration and documentary procedures that private lenders require.

Third, I-Match is an untested mechanism; it is unclear that private lenders will be able to replace direct lending efficiently and competitively in all cases requiring Eximbank support.

Finally, the Congressional Budget Office and other observers agree that, from the standpoint of the whole economy, I-Match has the same capital allocation effect as does direct lending by the Government and should therefore receive the same budgetary treatment as would direct loans.

So you would be creating a complex program. It would be far more costly than the existing program. You have no guarantee that it would work, let alone work as well as the existing program. And it would achieve none of the desired paper budgetary savings.

I do not think it is too strong to say, Mr. President, that the I-Match Program, however inventive it may be, does not solve the problems of our exporters and does not solve our budgetary problems.

There is one thing I would agree upon with the administration, and that is that there does need to be,

indeed I think there must be, a change in the method of accounting for Eximbank direct lending in the budget. That is because the current budgetary treatment of Eximbank direct lending overstates the true cost of the program and, as a result, unintentionally penalizes the bank and the U.S. exporting community.

This penalty is not only real, but it is particularly damaging during a time of record U.S. trade deficits and increased competition from foreign suppliers. Those foreign suppliers are the ones who are employing subsidized export financing support from their governments in order to capture increased shares of international markets.

Under the current existing procedures of the Appropriations and Budget Committees, gross new direct loan authority, as set in annual program limitation, is scored as budget authority for budget allocation purposes. That treatment grossly overstates the claim on the U.S. budget since it ignores the rather obvious and simple that the Eximbank loans are in fact income-earning assets which not only earn interest but are repaid in full to the U.S. Government. Yet we treat those commitments as if they were outlays that we were never going to see again. For this reason, this kind of budgetary treatment of Eximbank direct loans puts the Eximbank at a distinct disadvantage as compared with grant or concessional loan programs.

Under current practices literally a dollar-for-dollar relationship is assumed for both new Eximbank loans and expenditures from grant programs, crazy as that may sound, even though budget authority scored for Eximbank credits represents money that will be repaid, with interest, while budget authority for grant programs is expended with no expectation of return.

Another problem with current budgetary treatment is that the subsidy cost of Eximbank loans—that is to say the true cost of the economy—really is not in any way captured in our budget, despite the fact that the Congressional Budget Office, the Office of Management and Budget, and the General Accounting Office—all their analysts agree that this is the most representative measure of such a Government lending program. The advantage of the budget treatment inherent in the bill's funding authorization, where we do move to score in the subsidy, is that it is an explicit pay-as-you-go approach, an approach endorsed in the first congressional budget resolution.

I might add that if we put all our programs on a pay-as-you-go basis as we are proposing, we might not have the kind of large deficits that we face today.

The bill changes the calculation and authorization amount in the following way:

The bill authorizes annual appropriations to cover the estimated net present value of the subsidy implicit in new Eximbank loans, based upon the level of new lending to be provided under the program limitations for that year as established in appropriations legislation. This subsidy amount in effect represents the differential in interest rates between Eximbank lending on the one hand, and commercial lending, which can be higher, on the other.

So you get what I submit is a more representative figure, the difference between those two rates, which is the cost of the subsidy to our direct lending program. By using that as a figure to control expenditures rather than a limitation on new direct loan authority, what we can then do is have a budget authority figure that is meaningful, that relates to the cost of the program, and which can be intelligently and accurately scored by the Appropriations and Budget Committees.

I might add that the approach that I have just described does not require any change in the calculation of the budget deficit. Outlay calculations would remain unchanged. Eximbank's direct lending programs would continue to be subject to full congressional control through the appropriations process. However, in sharp contrast to the current situation, a more accurate measure of the true cost is provided by means of a clear, upfront declaration of the subsidy cost of the program to the economy, as presented in authorization and appropriations legislation.

The administration's I-Match proposal did contain one attractive feature that other Government credit programs benefit from and that is long overdue at Eximbank. This is the ability to transfer Exim's guarantee from one lender or investor to another, thereby increasing the liquidity of Exim-guaranteed paper. With this kind of enhancement, and transferability of Exim obligations, a greater number of capital market participants, such as institutional investors and a wider range of commercial banks, will be able to participate in Exim's guarantee and insurance programs. Not only will transferability attract additional lenders to the export credit arena, but it will also permit lenders to make funds available at the lowest possible cost of the foreign borrowers as the pool of funds available to finance U.S. exports is expanded. This feature will also make smaller export transactions more attractive to lenders, as a secondary market in Exim guaranteed paper develops.

A major congressional concern at the time the Bank's charter was last reviewed was the extent to which Eximbank was providing support fully competitive with that offered by foreign governments. As a result of the 1983 amendments to its charter, Eximbank has become more responsive to these competitive concerns. Since 1983, Eximbank has aligned its interest rates with the minimums allowable under the OECD arrangement and increased the percent of export value supported to a level consistent with that of other foreign export credit agencies.

However, as the trade environment becomes increasingly competitive and foreign export credit agencies seek to improve their country's competitive edge, terms and conditions other than the basic ones of interest rate, cover, and repayment term become more critical. Thus, in standing ready to neutralize fully the effect of foreign official export credits, Eximbank must be fully competitive on the total finance package when compared to foreign competitors. The bill makes clear that the overall Eximbank package of rates, terms, and other conditions should be designed to neutralize the effect of foreign official export credits on sales competition.

In addition to amending the competitiveness language in the Bank's charter, this bill contains several features which will enhance Eximbank's competitiveness in specific areas.

First, Eximbank is required to adjust its credit application fee to ensure that the fee is competitive, in terms of its level and payment structure, with fees charged by foreign export credit agencies.

Second, Eximbank is directed to open up its programs to all legitimate and responsible parties willing to finance U.S. exports, whether these entities are U.S. banks, foreign banks, nonbank lenders, or U.S. exporters. Currently, and strangely, I suppose to some, the Bank permits some of these entities access to some of its programs but not all types of lenders can access all programs.

Third, the bill directs Eximbank to improve its medium-term credit program to ensure that exporters selling products financed on medium terms have access to the same competitive support that exporters selling the larger project-related goods and services obtain from the Bank.

Fourth, this bill addresses the competitiveness of Eximbank in terms of its risk-taking activities. In the development of Eximbank's legislative authority, congressional intent has clearly and, I might add, consistently been that the Bank should assume risks that private lenders will not. This requires the Bank to take a strategic, long-term view when deciding on the creditworthiness of a country or project, particularly projects backed by the obligation or guarantee of the host government. Eximbank must take

into account the impact of credit availability on long-term U.S. export market share, a country's long-term economic strength and ongoing efforts at economic adjustment, and Eximbank's role of providing a credit bridge when temporary economic disruptions cause private lenders to cease new lending.

□ 1430

Given this range of considerations, it is essential that Eximbank's financing decisions be consistent with the overall economic policies of the U.S. Government. To ensure this consistency, the bill stipulates that decisions by Eximbank to withdraw financing support to a country or to deny support for sovereign risk transactions are subject to review by the National Advisory Council on International Monetary and Financial Policies, referred to as the NAC. With members from agencies on the NAC such as Treasury, the U.S. Trade Representative, the State Department, and the Federal Reserve Board, the NAC is well suited to determine whether Eximbank denials are in fact consistent with overall U.S. economic policy.

In addition, the bill before us improves section 1912 of the Export-Import Bank Act Amendments of 1978. Section 1912, Mr. President, permits the Eximbank to offer financing support to U.S. suppliers who would otherwise lose sales in their own market, that is to say, here in the United States, as a result of credit subsidies from other governments to U.S. purchasers. Congress intended to have a very strong and effective deterrent to foreign producers seeking to penetrate the U.S. market through export credit subsidies aimed at doing business here in the United States.

Several experiences of U.S. producers seeking assistance under section 1912 raised concerns with us at the committee that these provisions were not being implemented as we intended in two ways. First, Treasury has been, I suppose reluctant is the right word, to apply the law in instances where the competition comes from countries that are not participants in the EOCD Arrangement on Export Credits, all this despite the fact that the law is intended to apply to these cases and frankly is written that way. The bill serves to reemphasize the intent of Congress that section 1912 is not, and I repeat not, limited in application to exports only from EOCD countries.

A second weakness has been Treasury's reluctance to authorize Eximbank to provide financing irrespective of whether or not the financing offer comes from an arrangement member country. This bill would give Eximbank the responsibility for making the decision to provide matching financing support once the Teasury Department confirmed the uncompetitive financing was offered and negotiations had been unsuccessful in rectifying the problem. Eximbank is best qualified to judge the importance of the financing component in such an overall purchase decision.

Finally, title I requires that Eximbank shall consider the possible adverse impact of its loans or guarantees on persons or parties who may be substantially adversely affected by them prior to approving the extension of Eximbank credit. The Bank is required to consider and address in writing the views of any such parties. This requirement will ensure that while the Bank continues to support aggressively U.S. exporters, it also guards against potential negative impact on other parties affected by the credit sale.

Title II of the bill will provide the U.S. Government with the tools necessary to negotiate an end to the use of mixed credits on commercial projects. We have, if I may say so, made as a government repeated, sincere attempts to resolve our differences over mixed credits through negotiations with our major trade competitors. But Mr. President, negotiations, talking, words, simply have not been enough, and we have gotten to the point where we are going to have to back up our rhetoric with action. The negotiations are currently in stalemate because of the Japanese. That is right, Mr. President, because of the Japanese. They have blocked a compromise on the mixed credit issue at the last meeting of the EOCD Finance Ministers, and the only course of action left for us is to demonstrate that we can and we will use mixed credits to protect our exporters as long as the Japanese remain totally intransigent. As of this moment, I am sorry to report that they are.

It is this Senator's view that the United States will never get the full attention of its foreign competitors until we effectively compete with these countries and with the Japanese by taking away business from them with our own mixed credit program. So this title amends the Export-Import Bank Act of 1945 by establishing a $300 million tied-aid war chest assigned to the Treasury Department for a 2-year period. The Treasury Department leads our negotiating efforts on mixed credits, and with the responsibility for administering this fund being with the Secretary, although no financing may be extended without the concurrence of the NAC, we believe it will be an effective mechanism. And I might add that in addition the U.S. Trade Representative and the Secretary of Commerce are directed to furnish the Treasury Department and the NAC with guidance on the major sectors and markets where the U.S. war chest funds might be effectively used. It is my belief, and I think the committee believes, that this process will ensure no one agency will dominate the use of the fund and that broad U.S. negotiating objectives will be given adequate consideration and effective coordination.

Mr. President, I state for the RECORD really once again that the ultimate objective of the war chest fund is to promote progress in the negotiation of a comprehensive international arrangement restricting the use of tied-aid credits for commercial purposes. Within this broad objective, the bill maximizes flexibility in using the fund. In some cases the Treasury may choose to match tied-aid offers by other countries. In other instances, Treasury may initiate tied-aid offers. Thus, the bill authorizes both defensive and offensive use of war chest funds to bring our competitors to the negotiating table more quickly.

The $300 million in grant money authorized to be appropriated by this bill may be combined with Eximbank loans, Eximbank guaranteed loans, or with loans extended by private lenders without Eximbank support. This title, as I mentioned, authorizes funding for 2 years. If successful negotiations are completed before that time, the war chest may be terminated. If not, if we have not succeeded in our negotiating objectives 2 years hence, Congress may authorize additional war chest funds at that time or take other appropriate action.

During these 2 years the Secretary of the Treasury is to report to the Congress semiannually on the uses of this fund and negotiating progress made to restrict the use of mixed credits. So during the 2 years it is our judgment Congress will have adequate up-to-date information with which to judge the effectiveness of the fund and to determine what kind of fund, if any, we will need thereafter.

Mr. President, in conclusion, I believe the time has come to recognize that talking about the injustices of foreign export credit subsidies is just no longer sufficient. We have had plenty of time to talk. We have had more than enough time to negotiate. Now is the time for us to do something, and we are proposing to act and to act now to create a revitalized and more effective Eximbank, a bank with, among other goals, that of eliminating mixed credits from the international marketplace.

Many people would like to pretend that foreign predatory financing has no impact on the United States. That is the ivory tower, Mr. President, with plenty of people in it.

□ 1440

Those people in that tower seem to say, "Well, if other governments want to subsidize their exports, that is fine, but we are not going to distort our market with such subsidies.

Those people are just like the proverbial ostrich sticking its head in the sand, Mr. President, because those people fail to see the long-term distortions caused to the U.S. economy. If we fail to counter these kind of foreign subsidies, our exporters will go out of business or, if they do not do that, they will do what an awful lot of them have done already and that is to move their production overseas, abroad, not because they have second-rate products or because the United States is an unfavorable place to locate factories. That will not be the reason. The reason will simply be that our industrial base will have eroded simply because we fail to support mechanisms such as the Eximbank and to take steps to eliminate mixed credits to neutralize unfair foreign competition in the form of subsidies and mixed credits and because we have failed to adequately defend the workings of what we would like to see as a free international marketplace.

I certainly do not want to allow foreign governments to determine the level and the structure of U.S. exports and I know my colleagues share my concern that we, not foreign governments, should control our economic destiny.

Mr. President, at this point I urge my colleagues to carefully consider the legislation, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, it is always a pleasure to work with my good friend from Pennsylvania, Senator HEINZ, the chairman of the subcommittee. I am the ranking minority member of the subcommittee. I am very proud and happy to work with him.

We disagree a little bit on this legislation and other legislation but he is always fair and intelligent. I thought the statement that he made just now was an excellent statement.

TITLE I—RENEWAL AND AMENDMENT OF EXIMBANK CHARTER

The bill before us today, S. 2247, has two main titles. Title I renews and amends the charter of the Export-Import Bank. Although I continue to have severe reservations about the wisdom of giving foreign consumers subsidies to purchase goods from American corporations, I realize that Congress is not going to discontinue this program this year. So rather than working to kill the Bank, I have endeavored to make sure the program's costs are made explicit so that if Congress wants to keep the Bank alive, it will at least be aware of the annual cost of doing so. Title I of this bill goes a long way toward achieving my goal of putting the Bank on a "pay-as-you-go basis."

Here is why. The present principal role of the Export-Import Bank is to promote U.S. export sales in most parts of the world. How does it do this? It does this through financing programs that include direct loans, financial guarantees to private lenders and commercial and political risk insurance. The Bank began such operations over 40 years ago using $1 billion appropriated to it by Congress. Since then it has not received any appropriated funds. Instead it has borrowed from the Federal Financing Bank, an arm of the Treasury Department, to sustain its lending operations. It borrows at one rate and lends money to exporters at a lower rate.

Congress sets an overall ceiling on the total amount of loans, guarantees and insurance that the Bank may have outstanding at any one time. Within that ceiling Congress also determines for each fiscal year the total amount of new direct loans the Bank can authorize and the total dollar amount of new guarantees and insurance it can agree to. These limits are set in our annual appropriations bills. The Bank's net cash flow in any given year is the difference between its receipts and cash disbursements. Receipts include loan repayments, interest received on outstanding loans, fees, insurance premiums and claim recoveries. Cash disbursements include new loans made, losses on loans, claims paid on guarantees and insurance, interest paid on Eximbank borrowings, and administrative expenses.

During the first 32 years of its existence the Bank was a profitable operation as it was able to charge more interest on loans than it paid for its borrowings. Its losses on loans were also minimal. Since 1966, however, the Bank has generally had a negative spread between the average interest rate on its portfolio and the average rate of its outstanding debt. By 1975 the General Accounting Office [GAO], which annually audits the Bank's books, began expressing concerns about the Bank's financial soundness. In its 1980 report, the GAO said that because "the Bank's accumulated income is also its reserve against loan losses, it cannot use accumulated income to subsidize its lending rates and absorb such losses without jeopardizing the adequacy of its reserves." Since that warning 6 years ago, in 1980, the Bank's capital reserve has declined rapidly because of continued concessionary lending in the face of historically high interest rates. In 1981 the eximbank had a capital base of over $3 billion. What has happened? Well, reported net losses in its fiscal years 1982, 1983, and 1984 financial statements of $160, $247, and $343 million respectively. In fiscal year 1985 the Bank's estimated operating loss is expected to be $378 million. A record. These annual losses are eating up the Bank's capital base. In its most recent report on the eximbank, the GAO said the Bank's reserve for contingencies and default might already be depleted. If the GAO audit is right, it means the Bank is now consuming its original $1 billion in capital to fund its ongoing operations. When that money is gone, and it will not be long the way it is going, the Bank will be broke. Last year the President's budget projected the Bank would have losses from 1986 through 1990 that would reach $2 billion. It has already lost so much it is only a year or two away from going broke. These two projections make clear that the Bank will soon be without any capital to cover possible losses. It also means the Bank's bad loans will become the taxpayer's responsibility since obligations of the Bank are backed by the full faith and credit of the U.S. Government.

In 1984 I introduced a bill to remedy the Eximbank's dwindling capital position caused by interest subsidies and losses on loans. That bill simply required the Bank to maintain a minimum level of capital stock and retained earnings in an amount not less than $2 billion and authorized Congress to appropriate the funds needed by the Bank to comply with that requirement. This year I reintroduced that bill. My aim was to have Congress recognize annually the subsidy element inherent in the Bank's lending programs instead of perpetuating the myth that the Bank operates without cost to our taxpayers. Actually the Bank's programs have two costs. There is an interest rate differential cost—the Bank borrows at one rate from the Treasury and lends money at a cheaper rate—and a credit cost on loans and guarantees due to loan losses.

Title I of the bill before us reflects the essence of my pay-as-you-go proposal. Rather than requiring any fixed level of capital as I had originally proposed, the committee bill requires an annual appropriation to the Eximbank to reflect the net subsidy cost of the Bank's lending program for the current year. The net subsidy cost is measured by the difference between the interest rate charged by the Bank on its loans and the rate that would be charged by a private sector lender on loans of comparable risk and maturity.

For example, if the Bank made a 10-year loan at 8 percent while the going private market rate on such a loan was 11 percent, the subsidy would be calculated on the basis of the 3-percent differential. The Bank would calculate the present value of the future repayment of principle and interest on the loan discounted at 11 percent. The difference between this value and the amount of the loan would represent the value of the subsidy in dollars.

Under the pay-as-you-go procedure, the Bank will estimate the net subsidy cost of its proposed direct lending program for the forthcoming budget year

and request a direct appropriation to cover this cost. The bill before us, for example, authorizes the appropriation of $145,259,000 to the Bank for fiscal year 1987 to cover the net subsidy cost of new direct loans under a program limitation of $1.8 billion. This appropriation will become a part of the capital base of the Bank and will in effect compensate the Bank for the losses on its loan programs. It will help ensure that the Bank will maintain an adequate level of capital relative to the size of its loan progam and the degree of subsidy being extended.

I believe this new procedure will result in much better budgeting practices. The true subsidy cost of the Bank will be highlighted in the budget. It also gives Congress more control over the ultimate cost of the program. For example, should market interest rates increase substantially following an appropriation to the Bank, the Bank would have to constrain its lending program to live within its subsidy money. Such an approach will protect the Eximbank's capital and reserves from further, continued erosion.

□ 1450

This new procedure will not affect the way the Bank's outlays are recorded in the budget and will have no effect on the size of the budget deficit. An argument could be made that inasmuch as the Bank is receiving an appropriation for the subsidy element of its lending program, the entire value of the lending program need not be counted as budget authority as it is now under current score keeping practices. The Banking Committee, however, did not address this issue, and it remains a matter for the Budget Committees and the Congressional Budget Office to consider.

TITLE II—MIXED CREDIT WAR CHEST

Mr. President, I come to another part of the bill which is more controversial, the mixed credit war chest.

Title II S. 2247 amends the Export-Import Bank Act of 1945 by adding a new section 15 entitled "Tied Aid Credit Program," which establishes a $300-million tied aid war chest within the Treasury Department. I am opposed to the enactment of this so-called war chest legislation, as it will authorize spending $300 million of our taxpayers' money over the next 2 years in order to subsidize the sale of $1 billion of American goods to developing countries.

Let me repeat that. It will authorize $300 million of taxpayers' money for the next 2 years in order to subsidize the sale of $1 billion of American goods to developing countries.

The announced purpose of this new spending program is to combat the use of mixed credit by other nations and thus to help eliminate this pernicious practice. I am convinced that this legislation will not achieve that purpose. Instead, it will just start a new spending program which will be perpetuated and expanded by its beneficiaries.

Mixed credits, or tied aid credits, are Government financing packages for exports that include a foreign aid component. They combine official export credits with development assistance, thus providing loans with blended interest rates to developing countries for the purchase of commercial items. These blended rate loans have much lower interest rates than normal commercial rate loans. Countries offering them contend they are part of their foreign aid programs and should not be considered to be export subsidies subject to international agreements on limiting export subsidies. Well, they are not. The U.S. Government disagrees and contends that tied-aid credits should only be categorized as foreign aid if the grant element is at least 50 percent of the export value of the item sold.

For years, various U.S. companies have urged the U.S. Government to create a war chest to provide mixed credit subsidies for their exports as a means of combating such subsidies provided by other governments. Until September 1985, the Reagan administration consistently opposed such urgings on the basis that our use of mixed credit would only expand their use by others. I think the Reagan administration was absolutely right in that. However, in September 1985, the administration, acting to head off protectionist pressures caused by its own failed trade policies, abruptly reversed its position on tied-aid credits and called for a limited, one-time-only, 2-year, $300 million war chest under the control of the Treasury Department.

Proponents of the war chest have already eliminated the 2-year sunset provision originally proposed by the administration. So it is not a 2-year program. It seems to be a permanent program, unless we change it.

The alleged purpose of the war chest is to have our Government use mixed credit subsidies to help U.S. companies win sales away from exporters from countries, like France and Italy, which use mixed credits. The theory is that these foreign exporters will then go to their governments and lobby them to negotiate an end to the practice of mixed credit subsidies. Will that happen? I do not think so. A more likely outcome, in my view, is that foreign companies damaged by our war chest will prevail on their governments to increase their own subsidies. In that case, U.S. exporters will be demanding in 2 years that the $300 million war chest be continued and expanded in order to win an intensified mixed credit war.

I also want to note that the Congressional Research Service [CRS], in a November 1985 study on mixed credits, found that in 1984, mixed credits funded worldwide exports worth only $649 million and represented only a very small portion of world trade. How small? Let me see how small it was. Was it 10 percent? No. Was it 5 percent? No. Was it 1 percent? No. Only about three-tenths of one percent of total U.S. exports. That is worldwide, too. That study further noted that mixed credits used by other nations did not contribute significantly to our trade deficit.

This war chest is not needed and will in future years be expanded in order to win an intensified mixed credit war. I agree with my friend and colleague Senator ARMSTRONG, who claims that "if Congress adopts this legislation, it will not have created a war chest. It will have opened a Pandora's Box." Senator ARMSTRONG is right.

I think we should pass title I of the present bill, but drop title II for the reasons I have stated.

Mr. President, I have an amendment to this bill, and I say to my good friend from Pennsylvania that I intend to offer this amendment and ask for a rollcall vote on it. In view of the fact that many of our colleagues, both Republican and Democrat, are not here, we could have the rollcall anyway; but in their absence, I think it would not be fair to them or fair to the amendment, or maybe it would not be fair to the distinguished Senator from Pennsylvania if he would resist the amendment.

So what I will do is describe the amendment, and then see if we can agree to schedule a time for the vote on the amendment, with very little debate—maybe a half hour, 15 minutes to a side—on tomorrow.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HEINZ. Mr. President, I appreciate the Senator bringing that to my attention.

First, I commend him on his usual, well-reasoned statement. It was intelligent and articulate. There were parts of it with which I strongly agree, and there are one or two parts to which I take strong exception—only on the substance, not on anything else, particularly on his comments regarding the war chest.

I say to my friend and colleague that if the administration actually took such aggressive action that they started a trade war, that would be history-making for this administration.

I was in Pennsylvania this morning at the LTV Steel Co., at least what is left of it. The Senator may have had some steel plants once in Wisconsin. I do not know. One of the biggest problems in the steel industry is the lack of an effective, aggressive trade policy, policing foreign exports—dumping and subsidies.

I say to my colleague that if his concern is that the administration might take this authority and run with it and actually do something with it that shook up somebody a little, that is a good reason to keep it in the bill, not to strike it from the bill.

To respond to my colleague's comment and inquiry regarding his amendment: What I would like to do, if he is agreeable, is to offer two technical amendments to the bill. At that point, I would like to see what other amendments there are.

What I would resist at this point is entering into any unanimous consent agreement until we know what all the amendments that we are likely to get today are going to be. If we know what those are, then it might be possible to have a time agreement and vote at a time certain on tomorrow. But I cannot agree until I understand what other amendments might be in the wings.

Mr. President, I again thank my colleague, Mr. PROXMIRE, the ranking minority member. We often trade compliments here, and sometimes they become a bit pro forma. But I must say that it has been my experience with Senator PROXMIRE that, in addition to being a forceful advocate of whatever his point of view may be, he is also an intelligent and thoughtful advocate, and therefore it is always a pleasure to work with him. I anticipate being able to thank him at the conclusion of our efforts on this bill, whenever we do conclude this bill.

AMENDMENT NO. 2212

(Purpose: To conform with Budget Act requirements)

Mr. HEINZ. Mr. President, I have two technical amendments I want to offer. I send the first amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2212.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"CONFORMING AMENDMENT

"SEC. 116. The second sentence of section 7(a) of the Export-Import Bank Act of 1945 is amended by inserting "and credit" immediately after the words "All spending".".

□ 1500

Mr. HEINZ. Mr. President, as I mentioned, this is a technical amendment. Frankly, it is one that is required by changes in the budget resolution last year which brought all credit programs on budget. I was glad to see that we did bring all credit programs on budget. But the amendment simply recognizes that following the Gramm-Rudman-Hollings reforms all guarantees must be authorized in appropriating legislation. And since Exim guarantees are already provided under credit ceilings in appropriations bills that we have used this language change that I have sent to the desk has no effect on the current budgetary practices for Eximbank.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2212) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2213

(Purpose: To conform with Budget Act requirements)

Mr. HEINZ. Mr. President, I send my second technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HECHT). The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2213.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, lines 20 and 21, strike "considered to be new budget authority and shall be".

Mr. HEINZ. Mr. President, this is simply another technical amendment to conform the language in our bill with the requirements of the Congressional Budget Act. We strike a very small portion of the language. It does not change the meaning of what we have in the bill. Quite simply there is a small portion of the bill that provides some guidance that the authorizing amount be counted as new budgetary authority. There is some concern on the part of the Budget Committee because they view that as an instruction on interpretation of budget concepts in authorizing legislation. They have told us privately they do not disagree with what we are saying, but they just wish they would not say so because they do not want to have a precedent where authorizing committees start instructing them as to the way language should be interpreted.

So I do not have any problem in striking that language which gives them some mild concern out of the legislation. That is all this amendment does.

Mr. PROXMIRE. Mr. President, it is my understanding that there may be some objection on our side to that. I would appreciate it very much if the distinguished manager of the bill would defer action on that amendment for a while.

Mr. HEINZ. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HEINZ. Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, point of order. I understand that there is an amendment pending, a technical amendment offered by the manager of the bill. Is that amendment still pending or is it withdrawn?

The PRESIDING OFFICER. The amendment has been withdrawn.

STOP THE EXIMBANK FROM LENDING TO THE COMMUNIST GOVERNMENT OF ANGOLA

Mr. PROXMIRE. Mr. President, I rise to discuss an amendment adding a new provision to section 2(b) of the Export-Import Bank Act that will prohibit the Bank from making any more loans or loan guarantees or providing insurance in connection with exports to Angola until the President certifies to Congress that no Cuban, Russian or other Soviet bloc military personnel remain in Angola.

Let me explain why I think this amendment is needed to make sure the Eximbank carries out Congress' previously enacted policy decision forbidding the Bank from funding exports to Communist countries unless the President certifies it is in our national interest to do so.

In 1975 following a long struggle, Angola obtained its independence from Portugal. Immediately afterward a Marxist faction, equipped by the Soviets and supported by thousands of Cuban troops, seized power and established a Communist regime in Angola. Since 1975 that regime has continued to rely on Cuban troops and vast amounts of Soviet military hardware to hold onto power. Right now there are over 600 Russian and East German military advisers and over 30,000 Cuban troops in Angola. The U.S. Government has for over 10 years, under both Democratic and Republican administrations, refused to recognize the legitimacy of the present Communist regime and we do not have diplomatic relations with it.

After the Communist takeover, Gulf Oil Co. (now owned by Chevron) entered into a partnership with Sonangol, the Angolan State Oil Co., to develop Angola's oil fields. Oil revenues from these fields now provide the Marxist government with virtually all of its foreign exchange earnings and it uses this money (almost $1 billion annually) for what purpose? To pay for the presence of the Cuban troops who keep it in power. What is most aston-

ishing about this is that the Reagan administration, which wants to provide taxpayer money to Dr. Jonas Savimbi and Unita to overthrow the present regime, has encouraged Gulf to stay in Angola and has even authorized the Export-Import Bank to lend almost $250 million at subsidized rates to expand that country's oil production. So in effect the Export-Import Bank is subsidizing the presence of Cuban troops in Angola. How do you like that?

When I first learned of this incredible situation, I found it difficult to believe because section 2(B)(2) of the Bank's charter specifically forbids it to fund exports to Communist countries. I asked the president of the Export-Import Bank when he came before the Senate Banking Committee to testify, how he justified making loans to Communist Angola. Do you know what he said? He said he had no choice as Angola was a good credit risk and was not classified a Communist country by the State Department. I immediately wrote to the Secretary of State about the matter. The State Department said, in its reply, that in deciding whether to classify a country as Communist it considers factors "such as its identification with and commitment to Communist ideology on the Soviet model; the degree to which the Soviet Union exercises political control over the regime in power; and the nature of its economic system . . ." It said on balance Angola does not have a Communist government.

If that is true why is the President seeking money from Congress to overthrow that government? I am sure it would come as a surprise to the Government of Angola that it is not running a Communist regime. It follows Marxist dogma in organizing its one party political system and its state directed economic system. It has had no elections at all, does not permit any rival party and does not schedule any elections. It is a slavish supporter of the Soviet Union at the United Nations and is kept in power by Cuban and Russian troops.

The State Department will not recognize reality because it wants to continue to assist American corporations to make a profit there, and the Angolan Government will allow our companies to stay just as long as they help it earn the money it needs to stay in power. If the Department of State would carry out the responsibility given it by Congress, my amendment would not be needed. Angola would be classified as a Communist country and the Eximbank would not be lending to that country. But State wants to follow its own policy predilections, rather than those set forth by Congress. My amendment is needed to stop the war within this administration about our Angolan policy. It makes no sense to have the Bank lend hundreds of millions of dollars to the Government of Angola, while at the same time trying to overthrow that government by providing aid to Dr. Jonas Savimbi. Would Savimbi if he came to power honor those loans? I doubt it and this could result in a $230 million loss to American taxpayers. I am not in favor of helping Dr. Savimbi overthrow the present Angolan Government—but neither am I in favor of helping that government remain in power through subsidies paid for by our taxpayers.

Our colleagues in the House have already considered an amendment similar to mine during their own debate on the Export-Import Bank. That amendment was adopted on a voice vote without significant opposition.

Let me emphasize again that my amendment is designed only to force the State Department to adhere to Congress' previous adopted policy prohibiting Eximbank lending to Communist countries. It will not force American companies out of Angola, but it will stop the administration from using money from our taxpayers to fund the economic development of the Communist regime in Angola. If the Angolan Government wants loans subsidized by our taxpayers to developed its economy, then let it ask Cuban and Soviet troops to go home. That is the message of my amendment. I hope my colleagues will support it.

Let me point out, Mr. President, that I have introduced a bill that does exactly what this amendment does. On that bill I have a whole series of cosponsors. They include Senator JAKE GARN who is chairman of the Banking Committee. I happen to be the ranking minority member of the Banking Committee.

□ 1510

So you have on this amendment supporting the principles of the amendment on a very similar bill, which is exactly like this amendment, the chairman and the ranking member of the Banking Committee. You also have the chairman of the Intelligence Committee, Senator DURENBERGER, and the ranking member of the Intelligence Committee, Senator LEAHY. These people also recognize how absolutely insane it is for the United States to require its taxpayers to subsidize a Communist government which the administration wants to overthrow with bullets.

In addition to those distinguished cosponsors, my bill has as cosponsor Senator ARMSTRONG, also a member of the Banking Committee and one of the most brilliant Members of the Senate; Senator BUMPERS, Senator DENTON, Senator MCCONNELL, and Senator D'AMATO.

I submit that is about as broad a group or representation as you can ever get on any amendment in the Senate. I think it is very representative of people who are concerned and who have thought deeply about the threat of communism and who have recognized that we have a very clear mission to do our best to prevent the spread of communism in the world, and we do not do it by subsidizing a Communist government.

Mr. President, I expect to call up this amendment tomorrow. Therefore, I will reserve offering the amendment until later.

Mr. HEINZ. Mr. President, we may actually go to third reading tonight, but I am going to make sure that the Senator from Wisconsin has ample opportunity to offer his amendment.

Mr. PROXMIRE. If the Senator wants to go to third reading tonight, he is going to have to do it on Hawaiian time because I expect to talk on this at least until 3 or 4 o'clock in the morning and probably later than that, if the Senator wants to persist until he gets a vote. We will have a few quorum calls during that time. We will see how many Senators come to the floor at 9 or 10 tonight. There is no way we will vote on this tonight.

Mr. HEINZ. Is the Senator intent on filibustering on his own amendment?

Mr. PROXMIRE. The Senator is intent on getting enough Senators to vote on this amendment. The Senator knows that we will have 20 or 30 absentees if we have a vote this afternoon. I intend to get a rollcall vote. There is no practical way I can do that if we have a rollcall vote today.

Mr. HEINZ. The Senator does not think he has the votes to win on his amendment? Is that the problem?

Mr. PROXMIRE. I am convinced I have the votes to win on my amendment. But I am sure that everybody who desires to vote on this, and I am sure many Senators are dying to vote on something of this kind, wants to have a chance to be here to vote.

Mr. HEINZ. We may have many votes between now and midnight because it is the intention of the Senator from Pennsylvania not to delay the business of the Senate. The Senator from Wisconsin is entitled to a vote and maybe two votes on his amendment, if somebody moves to reconsider the loss of his amendment. But I suggest to my friend, the ranking minority member of the committee, that it is not in his own interest to filibuster his own amendment nor to bring about a situation where we are repeatedly requiring the Sergeant at Arms to go out and compel the attendance of absentee Senators. Nonetheless, we may be forced to do that.

Mr. PROXMIRE. I cannot believe my good friend is serious. I spoke to him about this amendment. I told him we would be voting on this amendment, as far as I was concerned, tomorrow. I do not know when we last

had a vote on Monday. It was sometime ago, I am sure.

Mr. HEINZ. Let us start doing it.

Mr. PROXMIRE. I would favor that. I am here. I am always here on Monday. But many other Senators could not be. They have been told that there would not be a vote on a highly controversial and important amendment. I think to accommodate our colleagues, my good friend, the Senator from Pennsylvania, the manager of the bill, would agree that we could put this off.

Mr. HEINZ. I say to my good friend, I am not in a position to agree to anything right now. I certainly would like to get an indication for my colleagues what amendments there are, in addition to his. As the Senator from Wisconsin knows, I want to make sure that he has all the time he needs to discuss his amendment, to debate it, to get whatever kind of vote he wants on his amendment. But at the same time, the Senator from Pennsylvania has an obligation to the committee and to the Senate to move the Senate's business ahead. I am perfectly willing to work as hard as necessary to accommodate Senators. I am not seeking a precipitous vote. On the other hand, it seems to me that there may be a way the Senator from Wisconsin can get his vote without delaying the work of the Senate.

Mr. PROXMIRE. I think there is. The way to do it would be to agree to a very brief debate on the amendment tomorrow and a vote at a specific time. I am happy to do that.

Mr. DIXON. Would the Senator from Wisconsin yield for a moment?

Mr. HEINZ. A parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER. The Senator from Wisconsin was recognized.

Mr. PROXMIRE. I am happy to yield.

Mr. DIXON. May I say to my good friend from Wisconsin and the manager of the bill as well that my colleague from Illinois and I have a serious commitment tomorrow in that a distinguished senior member of our Illinois congressional delegation, Congressman GEORGE O'BRIEN, in Joliet, who I served with in the Illinois House, passed away a few days ago. His funeral is tomorrow. A delegation from Congress is flying out there. Senator SIMON and I are committed to going out there with our wives. Congressman O'BRIEN was an old and dear friend and a valuable member of our delegation. We are leaving from the steps on the House side at 8:15 and will not return from Illinois until about 4:30 in the afternoon.

I wonder whether, in view of that, and I talked to the minority leader about it and was going to discuss it with both managers—the majority leader is at the White House—we would greatly appreciate your indulgence in view of the fact that we do want to attend that funeral.

Mr. PROXMIRE. That is a reasonable request as far as I am concerned. I do not think it would detain the Senate at all if we simply have our debate and so forth and schedule votes. I think there is concern about other votes, too, as there would be about this one. Therefore, we will do our best to work with the leadership. Of course, it is up to the leadership, not to this Senator. I would favor having votes starting tomorrow, say, at 5 o'clock, or something of that kind.

I understand that does complicate the situation a little, but I do not see how that necessarily delays the Senate. We can do our other business and simply stack the votes.

Mr. DIXON. May I say to my friend from Wisconsin and the distinguished manager that I know I speak for my colleague and myself when I say we would both appreciate the indulgence because of the situation which has occurred and which could occur to any of us in our State delegations. We have another Member who is seriously ill right now. I would appreciate any courtesy which could accommodate us, I say to my friend and the manager of the bill.

Other Senators may be intending to go as well. When I talked to the majority leader a couple of days ago, he expressed an interest in attending as well.

Mr. HEINZ addressed the Chair.

Mr. PROXMIRE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my friend and colleague for bringing Representative O'Brien's funeral to our attention. I served in the House with GEORGE O'BRIEN. He was a fine Member, one we all really, genuinely loved. He will be sadly missed, not just by his many friends but, of course, by his family and close relatives as well.

I have not spoken with the majority leader to determine to what extent he plans to permit the Senate to travel to Representative O'BRIEN's funeral. I shall certainly urge him to do his very best to do so, not just because of the relationship I was privileged to have over the years with GEORGE O'BRIEN, but because I think Representative O'BRIEN was a Congressman whom we all respected and admired. I know the Senator from Illinois was among those people who truly respected and appreciated the fine work he did. In practical terms, until we are able to consult with the majority leader on his plans, what I think we might, at this point, most productively do, is perhaps have some debate on the amendment of my friend from Wisconsin, on his Angola amendment.

As a matter of fact, there are some thoughts and perhaps a few questions I would like to share with the Senator from Wisconsin on his amendment.

I would be the first to agree with him that the Angolan regime is a repressive regime. It is one which we should not be a party to supporting. So I have a predisposition to any approach that, as a realistic matter, is going meaningfully to separate ourselves from that regime.

By the same token, I also have a predisposition against supporting what some people have called the country-of-the-week legislation—that is w-e-e-k, not w-e-a-k. It is very fashionable to pick on Syria or Iran or Iraq or Angola or North Vietnam or Cambodia or a lot of other countries that we do not like, whose policies are inimical to human rights, whose policies are repressive. There are many of our colleagues who feel the same way about the Peoples Republic of China, who feel that way about the Soviet Union, who feel that way about South Africa, about Chile, and other countries where the regimes are alleged to be quite repressive and in some cases, as in the case of South Africa, truly are extraordinarily repugnant in the repression that they visit on their fellow human beings.

But I worry about politicizing the Eximbank. The reason I worry about it is that we have gone to great lengths, in fact, to outlaw the taking into consideration of foreign policy questions by the Bank. We have on the books before us, that we have passed in this body time and again, a prohibition on the Eximbank's taking foreign policy questions into account. In fact, if the Secretary of State or even the President should call up the President of the Eximbank and say, "We do not want you to make a loan, extend an Eximbank credit to Algeria or Argentina or the Philippines or Korea"—name a country—the President of the Export-Import Bank is, by law, required to say to the Secretary or to the President, "I am sorry, Mr. Secretary" or "I am sorry, Mr. President, but I cannot take your wishes or even your directive into account because, under the law as President or Chairman of the Eximbank, I cannot."

That does not mean the President of the United States is powerless to do anything. The President of the United States, after the Eximbank has acted, can override, veto, overrule a decision by the Eximbank. But the law clearly says that the Eximbank cannot make decisions based on foreign policy questions; they must make their decisions, therefore, based only on financial considerations.

Now, I am not saying that Congress cannot do that, Congress can do that. There is nothing immoral, illegal, or wrong with what the Senator from

Wisconsin proposes. Somebody elese might think that, but I do not agree with that characterization.

Now, my question to my friend and colleague from Wisconsin. There is one exception that we currently make in the way we treat countries. That is with respect to Communist countries, we say that Eximbank lending is allowable only under the condition where the President finds the loan would be in the national interest. As I understand the Senator's amendment—and he will correct me if I am wrong—I do not happen to have a copy of his amendment handy. I do not have a copy of what he proposes to offer, but my understanding, based on what I have seen before, is that he does not give the President any discretion in this matter. Is that correct?

Mr. PROXMIRE. What we do in our amendment is simply call on the Congress to pursue its own policy. What we do in my amendment is simply say, in effect, that Angola is what it is, a Communist country. What the law provides under present circumstances, I read from section (2)(b)(2):

> The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—
> (A) in connection with the purchase or lease of any product by a Communist country • • •

If the Senator from Pennsylvania believes that Angola is not a Communist country, I think he is wrong. I think there is no question that it is.

Mr. HEINZ. It is a Communist country.

Mr. PROXMIRE. Certainly it is a Communist country.

Mr. HEINZ. I do not know that we are disagreeing.

Mr. PROXMIRE. Since it is a Communist country, the Bank is violating the law, that says:

> The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—
> (A) in connection with the purchase or lease of any product by a Communist country • • •

It has been doing that. That is exactly what it has been doing.

What I am saying here is that they are violating the law that we have passed. The Department of State says it is not a Communist country. They deny it. The Senator from Pennsylvania has just said accurately, honestly, that it is a Communist country. Of course it is. We know it is. It is a Communist country.

Mr. HEINZ. Since the Senator from Wisconsin and I agree on the philosophy, is the Senator from Wisconsin prepared to join with me in amending that portion of the law to treat them just like a Communist country simply by adding to the definition of Communist country the words, "and Angola?"

Mr. PROXMIRE. Mr. President, that is almost exactly in substance what I do, because I support that the argument of the Department of State is that they would prefer to have general language rather than specific language. Perhaps we ought to go into this law and specify which countries are Communist and which are not. Which means, of course, we would have to change the language as countries might change their forms of government. That happens once in awhile. What I do here is simply explicitly recognize what the Department of State refuses to recognize and what the Senator from Pennsylvania and I recognize, that Angola is in fact a Communist country. That is all I want to do.

The PRESIDING OFFICER. Is their further discussion?

Mr. FORD. Will the distinguished floor manager yield for a question, not specifically on the Angola amendment?

Mr. HEINZ. I would be pleased to yield for a question, Mr. President.

Mr. FORD. What would be the procedure on the amendmens to this bill? I have a very significant amendment I would like to submit. Would that be tomorrow that we are going to get to amendments? Would that be tomorrow, then, Mr. President?

Mr. HEINZ. Mr. President, I advised our colleagues earlier if they have amendments, they should offer them today. It is my hope that the Senator from Wisconsin and I shall shortly conclude this colloquy. If the Senator from Kentucky has an amendment, be should be prepared to offer it.

□ 1550

Mr. FORD. There has just been a colloquy, no amendments have been submitted?

Mr. HEINZ. There is no amendment pending at this time.

Mr. FORD. I think I will just use the procedure that is now being followed and alert the distinguished floor manager that I do have an amendment. It is significant to the coal industry, of which he is very much interested, coming from the great Commonwealth of Pennsylvania, and so I will just wait and follow the procedure. But I did want to alert the floor managers of the bill that I do have an amendment and I think it is significant.

Mr. HEINZ. I thank my friend and colleague from Kentucky.

Mr. PROXMIRE. May I say to my friend from Pennsylvania that the problem is that the President can permit a loan to a Communist country if he says it is in our national interest, but the President has not made such a finding. What I specify in my amendment is, "Until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b) of the Export Administration Act, which means a Communist country, like Cuba, remain in Angola." So the purpose of the amendment is really to put pressure on Angola to expel or remove the Cuban troops, which of course represent our principal problem in Angola.

Mr. HEINZ. Will the Senator yield further?

Mr. PROXMIRE. Yes, indeed.

Mr. HEINZ. My concern about that formulation, I will be frank with my friend from Wisconsin, is that as I understand it on the one hand the Senator from Wisconsin maintains that Angola is a Marxist or Communist country, and on that I do not disagree with him. On the other hand, he says that we should treat it like other Communist countries and were we to treat Angola like other Communist countries, the only instance which the Eximbank might finance an export to that country is if the President affirmatively made a finding that it was in the national interest to do so. As I understand the Senator's amendment, what he says is, notwithstanding the fact that Angola is a Communist country, if they will just get the Cubans out, even if they bring Bulgarians in to replace the Cubans, that is all right with the Senator from Wisconsin, and we could still have Eximbank supported exports to Angola.

Mr. PROXMIRE. Let me read what my amendment says:

> Until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b) of the Export Administration Act of 1979, remain in Angola."

So that they would not only have to get Cuban troops out and the Russian troops out, but they could not permit any other troops from a Communist country or controlled country as defined here which means a Communist country substituting for the Cuban troops.

Mr. HEINZ. Is Libya a controlled country?

Mr. PROXMIRE. I understand not. I do not think the Libyan troops would be anything like the problem the Cuban troops are but no, they are not.

Mr. HEINZ. Is Iran a controlled country?

Mr. PROXMIRE. No.

Mr. HEINZ. The Senator has answered my questions. Neither Libya nor Iran are controlled countries and yet I am sure the Senator from Wisconsin would agree that the presence of Iranian troops, while only hypothetical—it is hard to imagine they are going to pull them out of the waterway where they are fighting Iraq—or Libyan troops; that is a little less hypothetical. Libyans have invaded other African countries, notably among them Chad. What I am concerned

about is the way his amendment is drafted he might end up with a situation where you actually have some other kind of hostile foreign troops in Angola causing instability in the region for whatever reasons. Angola would still be a Communist country and the Senator's amendment would have no meaning.

Now, maybe that is what the Senator wants.

Mr. PROXMIRE. No. May I say to my good friend, I think he is reaching pretty far. The fact is, as the Senator has admitted, Angola is a Communist country. Any troops are very likely to be overwhelmingly—the only troops they could get in there for clear reasons are Communist troops. Iran, Libya, Mexico, Canada, nobody else is going to send troops in there, and certainly not Iraq. If the Senator can come up with a good example, then he might have a point. But I think all of us recognize it is the Cuban troops and the Russian troops also that constitute the real problem in Angola and the real threat.

Mr. HEINZ. Let me just say to my friend from Wisconsin that there is a considerable amount of troop lending that goes on in Southern Africa. Zimbabwe has sent and lent troops to Mozambique. It is my understanding that Zambia has done the same thing. Angola is on the other side of Zimbabwe.

Mr. PROXMIRE. May I say no matter what troops are in there, if they come from any other country, the President can on foreign policy grounds stop the Export-Import Bank from making loans. He would not have to rely on this legislation to do so.

Mr. HEINZ. I want to thank my friend from Wisconsin for the colloquy. I wanted to understand his amendment better. He has given me some considerable assistance on that. I now know what it says. Would the Senator be agreeable to putting the text in the RECORD at this point?

Mr. PROXMIRE. Yes, by all means. Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following:

LOANS TO ANGOLA

SEC. . Section 2(b) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(11) The Bank may not guarantee, insure, or extend credit in connection with any export of goods or services to Angola until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b) of the Export Administration Act of 1979, remain in Angola.".

Mr. HEINZ. Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, what is the order of business?

The PRESIDING OFFICER. The bill is pending and open for amendment.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1600

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

AMENDMENT NO. 2213

(Purpose: To conform with Budget Act requirements)

Mr. HEINZ. Mr. President, earlier today I offered a technical amendment. I was advised at that time that there was some objection to it on the minority side. I am advised that the issue has been clarified. The amendment has been carefully studied. In this case, it had nothing to do with the minority on the Banking Committee. There were some concerns raised by the minority on the Senate Budget Committee.

□ 1610

I am happy to report that those concerns have been addressed. I am now in a position to send to the desk the same amendment which I earlier withdrew.

Mr. HEINZ. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2213.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I explained this amendment earlier. It is exactly the same amendment, word for word, as the one I offered an hour or so ago. It simply removes about a half-dozen words that were of some concern to the Senate Budget Committee when they believed that we were making an interpretation of the Budget Act that they did not want an authorizing committee to make. I have no problem with accommodating their concern.

Mr. President, I urge adoption of the amendment.

Mr. PROXMIRE. Mr. President, we have no objection on the minority side. I support the amendment also.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2213) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. MCCONNELL. Mr. President, 6 years ago the Senate was engaged in a difficult debate over the repeal of a Congressional ban on aid to UNITA freedom fighters. At that time, my distinguished colleague, Senator HELMS, identified a critical problem troubling U.S. policy toward Angola—inconsistency. In a compelling argument, Senator HELMS pointed out that the Arms Export Control Act of 1975 made clear that Congress did not approve Soviet intervention in Angola nor did it condone the presence of Cuban troops. Senator HELMS went on to say, "There is a great irony here, Mr. President. In one breath, Congress deplores the presence of Soviet influence and Cuban troops in Angola. In the other, we hamstring our nation's ability to deal with it effectively."

I commend my colleague's insight and effort to reconcile U.S. policy with U.S. actions. While the Congress has finally repealed the ban on aid to UNITA, U.S. policy still suffers inconsistencies. In 1980, the United States could not fund UNITA. Today, we can. At the same time, we are actively engaged in the support of UNITA's Marxist enemy. Let me make my point clear. U.S. policy allows the Export-Import Bank, at taxpayers' expense, to guarantee and support loans to companies engaged in business with the Marxist occupation government in Angola. In fact, in the last several years, the Bank has extended over $225 million in loans to U.S. oil companies, it has guaranteed an $18.5 million deal for the export of aircraft, and it has approved $6.5 million for acquisition of locomotive parts. Additionally, according to the State Department, the Bank has under consideration $36 million in insurance for yet another deal in Angola.

Mr. President, I find it shocking that U.S. taxpayers are funding over $250 million in loans to the MPLA, a Marxist government which we do not recognize. I find the loans all the more surprising because the President has so clearly declared his support for the goals of Jonas Savimbi and UNITA. Jonas Savimbi and his forces are the only thing standing between freedom for all Angolans and consolidation of a totalitarian Marxist state under the

MPLA. I simply can not understand nor can I accept a policy which supports both the advocates and the enemies of freedom. It doesn't make sense.

At least count, the MPLA was pressing its war against UNITA with the help of 35,000 Cuban troops, advisors from Communist bloc nations and $2 billion in military assistance from the Soviet Union. This Soviet-Cuban commitment assures the MPLA's survival, and, in return, the MPLA pays dearly for it, in cash. In fact, there are estimates that United States Export-Import Bank loans financing United States business enterprises in Angola provided $1 billion in hard currency to the MPLA in 1984. I might remind my colleagues that 1984 was the year we saw an enormous surge in the military equipment the Soviets sold Angola, and I emphasize the word sold. Indirectly, Export-Import loans have provided the hard currency the MPLA needs to buy Cuban protection and Soviet weapons.

In February, I was an original cosponsor along with Senators GARN and PROXMIRE of a bill that is identical to this amendment. I said at the time that I saw no purpose served by subsidizing the MPLA as we embraced the goals of Jonas Savimbi and the UNITA freedom fighters. This legislation will not sever the ties between the MPLA and the Soviets and Cubans, but the United States taxpayer will no longer sustain or contribute to financing that relationship. I urge my colleagues' favorable consideration of this amendment.●

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor to the amendment offered by my distinguished colleague from Wisconsin because it prohibits the Export-Import Bank from making any more loans or loan guarantees to finance exports to Angola until the President certifies to Congress that no Cuban, Russian, or other Soviet bloc military personnel remain in Angola.

Why must we pass an amendment such as this? Simply, because we are compelled to force the State Department to quit bumbling around in fantasyland and face the political realities in Angola. This amendment must not be construed as an attack on the people of Angola or those who export to that country. It does not manifest a desire to alter significantly the Export-Import Bank Act of 1945. This amendment requires the recognition of Angola as a Communist regime, a regime that cannot benefit from the Bank's loans and loan guarantees.

Despite the State Department's assertions to the contrary, Angola is a Communist country. The government is virtually a Communist dictatorship. Cuban and Soviet bloc troops patrol the street and countryside attempting to eliminate the freedom fighters that the administration urges us to support. In fact, our Government doesn't recognize the legitimacy of the current regime. So how can the State Department persist in its failure to acknowledge Angola as a Communist regime?

The Bank's charter specifically forbids it to fund exports to Communist countries; upon this basis the Export-Import Bank should no longer fund exports to Angola. I find it absolutely preposterous that this administration urges us to finance a campaign against the very government that benefits from the presence of companies whose operations are financed in part by Exim Bank loans.

The amendment does not require United States companies to pull out of Angola. Rather, it requires Cuban, Russian, and Soviet bloc troops to pull out of Angola. If the Angolan Government wants Exim loans to develop its economy, then the Angola Government must demand the departure of Cuban, Soviet, and Soviet bloc troops.●

Mr. HEINZ. I thank all Senators.

Mr. President, we are waiting for an amendment to be offered, which may be offered by Senator GORTON or it may be offered by Senator BYRD, which has to do with the commodity coal. I am advised that it is simply a question of working out language that is amenable to all proponents of the amendment. I am advised that is necessary because there were several Senators wishing to offer what was substantially the same amendment or an amendment with substantially the same goal, namely, one to prohibit the Export-Import Bank from adding to the capacity to produce commodities which were already in oversupply or were likely to be in oversupply at some future time, if additional capacity, thanks to export financing, were built.

At this moment, the amendment is not before us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1640

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, it is a quiet Monday afternoon and here we are spending money. Much of the Senate is still traveling but those of us who have come back are here to witness the reauthorization of the Export-Import Bank.

One might suppose since the calendar for this week also includes another vote on the increase of the national debt ceiling, on efforts to repair the damage done by the Supreme Court to the Gramm-Rudman-Hollings budget control restraint, and other legislation, which implies that we are in some kind of a state of fiscal emergency, especially in view of the fact that the Director of the Office of Management and Budget has recently said that even with our quiet pessimistic estimates of the current year and projected year the national financial deficits are going to be even greater than we expected.

Somebody might think somewhere around the country there might be some poor uniformed soul who would imagine that this would be a moment when we would take a look at a program like the Eximbank and say let us kick this thing in the creek. If there was ever a program we can do without, in my judgment it is the Export-Import Bank.

I say that recognizing full well that this week we are going to be treated to a whole series of such measures. In due course I understand we are going to be debating a housing subsidy program that asks the question should people who make $15,000 a year pay taxes in order to subsidize the housing costs of people who make $40,000 a year. That is another program that maybe we could do without and in due course we will be getting around to that, and I hope the Senate will turn it down.

Mr. President, it seems to me that the real issue which is addressed in this piece of legislation, the reauthorization of the Export-Import Bank, is this: Will President Reagan have courage enough to veto it? I do not think there is any doubt that it is going to pass.

The question is, Will the White House draw the line and say here is a bill that deserves to be vetoed? I know it is popular. Anytime you give money away, it is going to be popular with the people who are getting it, and, at the slightest suggestion that the Eximbank Program might be in serious jeopardy, I would fully expect those countries and those regions which are the beneficiaries of this Federal giveaway program to come trampling down to the Senate to explain how desirable and beneficial it is; how the economic stimulus involved has been helpful to people who have gotten the money.

So I do not delude myself about the desirability of it from their standpoint, but I hope before we rush to the passage of this legislation that maybe we could at least stop and think how the world would look if Congress would just say, or the President say, We can do without the Eximbank Program.

What do you suppose would happen? Do you think that our economy would be damaged? I do not believe there is

one Senator who could show with any degree of persuasiveness that the national economy would be damaged.

Is there a widespread belief that somehow we could not be able to survive in competition with the export trade around the world? I do not think that could be shown either.

As a matter of fact, the record is that the Eximbank Program has not been very successful. It has not been profitable. It has not been the motivating force in getting us increased exports except on a very small scale. In fact, I believe that the total value attributed to the Eximbank financing is much less than 1 percent of our total exports even if you take the most optimistic projection by its proponents.

As early as 1975, the General Accounting Office expressed concerns about the financial soundness of the Eximbank. During the 1970's, the Bank rapidly expanded its subsidy program in response to increased foreign competition. These subsidies resulted in a loss of $1.1 billion between 1982 and 1985. In addition, the Bank's retained earnings dropped from $2 billion to $1.4 billion, clearly a trend that we could not sustain for a prolonged period of time.

In 1985, the General Accounting Office registered additional concern when it reported the Bank's financial statements were misleading, in that they did not reflect losses likely to result from the uncollectability of its loans.

As anybody knows who is reading the newspapers, there are a number of countries out there who are receiving U.S. assistance which are in deep financial difficulty and there is serious doubt about their ability to repay these outstanding loans or any others.

Given this undisputable fact, the question I would like to ask Senators to think about is, What in the world are we thinking about—reauthorizing this program and particularly doing so in a way which not only does not address the underlying problem but is calculated to actually make the situation worse?

I refer to the so-called middle-term direct lending program which is a new feature of this authorizing legislation. Granted, it has a sort of a noble sound to it, basically, to allow smaller firms to get a piece of the Exim action by lowering the loan request cap from $10 million to $50,000, so that instead of having only large companies getting in on this Federal program, presumably some small ones can do so. The practical effect of this, my friends, is going to be to encourage a lot of companies all over the country to participate.

I cannot criticize them if they do. In fact, I happen to be one of those who believe that the only sure cure for an unjust law is its rigid enforcement.

I also happen to think that, since we all have to comply with a lot of Federal laws to our disadvantage, there is nothing wrong with people taking advantage of a law, even a law with which I might not agree, if it is to their advantage to so do.

But that is not the issue here today. The question is, Why would Congress want to authorize this? Why would we want to encourage dozens or hundreds or even thousands of firms to apply for a subsidy so they can get into the export business? This is not the only questionable part of the Exim reauthorization. Of particular note is the so-called war chest program which would receive $300 million for the stated purpose of allowing U.S. exporters to receive tied aid credit assistance to force other countries not to use tied aid credit. This is a sort of a Band-Aid approach, an expensive Band-Aid approach. I would agree in reality, this so-called temporary war chest program has the sound and the general feel and heft of a personal new entitlement program.

The request is for $300 million. When it becomes clear that this $300 million has not resulted in ending tied aid credit programs by other countries, I assume that somebody will be down here asking for more money, maybe $500 million, maybe $800 million, maybe $1 billion, maybe $2 billion, or $10 billion. Who knows where it could end?

In my opinion the whole thing is a case of overkill. To put it in perspective, I call my colleagues' attention to a study by the Congressional Research Service that points out the total value of foreign mixed credits. In 1984–85 it amounted to only three-tenths of 1 percent of total exports.

□ 1650

In other words, what we are doing, at most, results in three-tenths of 1 percent of the exports of this country. Nor are we sure, even if we accept this as the value of the program, that it has all been on the plus side, and I would like to call attention to a specific case involving the airline industry.

In 1983, the Bank sought to provide $254 million in direct credit and $426 million in financial guarantees to Singapore Airlines for the purchase of four new Boeing 757's and six new Boeing 747's, plus the spare parts.

It should be noted, by the way, that Singapore Airlines is owned 98.2 percent by the Government of Singapore, which gives it some advantage, as you might imagine, over its direct competitors, particularly American-based Pan Am.

I bring this up because one element for reform contained in this bill, primarily at the leadership of the Senator from Wisconsin [Mr. PROXMIRE], is contained, I think, in section 112 of this bill, or it is one of the sections, which literally will now require the Eximbank to take into consideration not only the positive effect of its action but also potential damage to the U.S. economy.

If this data catches on, if the Eximbank really begins to look seriously at the adverse effects of its actions as well as its positive effects, I think, first of all, that many of us who have been critical of Eximbank financing in the past will be greatly appreciative. Second, it is my guess that there will be a lot less loans made.

If we really seriously consider, under the terms of section 112, the economic impact analysis of what is going to happen, I think that many of these loans will be seen as, if not counterproductive, at least only marginally productive, when you take into account the downside as well as the benefits.

Let me call the attention of my colleagues to that section, which is on page 6 of the bill:

> In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee.

Mr. PROXMIRE. Mr. President, will the Senator from Colorado yield on that point?

Mr. ARMSTRONG. Before I do so, I should like to say once again how much I appreciate the leadership of the Senator from Wisconsin in getting this in the bill, because I think that is really a critical reform, even though I have doubts about the underlying legislation.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. ARMSTRONG. First I will yield to the Senator from Wisconsin and then to the Senator from Pennsylvania.

Mr. HEINZ, I just want to associate myself with the remarks of the Senator from Colorado concerning the leadership of the Senator from Wisconsin, I think his contribution, as just cited by the Senator from Colorado, in terms of getting the Eximbank to make a careful impact analysis, is extremely well taken.

Mr. ARMSTRONG. I thank the Senator for saying so. I think we all applaud Senator PROXMIRE's participation.

Mr. PROXMIRE. I say to the Senator from Colorado that he is 100-percent right. I am delighted and flattered that he did pick out that section.

I emphasize for the record that it is not simply a matter of addressing in writing the views of parties who may be adversely affected, as the Senator quoted. I hope the administration will take this very seriously and positively seek out and give a day in court to those adversely affected and make it a big issue. There are people adversely affected.

I am delighted to hear the Senator from Pennsylvania join so warmly in this particular section. It is important that we see that people who are adversely affected be protected, and that is the purpose of this. As I say, it will take not simply a passive willingness to consider petitions but a matter of seeking out people.

Mr. ARMSTRONG. I appreciate the further explanation.

I suppose there are many examples of why it is necessary. I mentioned the Singapore Airlines deal. I also could have mentioned the 1983 loan to South Korea for the purpose of increasing steel production. It is hard for me to imagine why the U.S. Government, through the Eximbank, would want to lend anybody money to increase steel production when the domestic steel industry is reeling under the hammer blows of foreign competition. A lot of people wonder if the United States can even remain competitive in basic industries like steel. For us to encourage a further increase in the glut of foreign steel, particularly in this case, is hard to understand; because it is quite clear that the steel which will be manufactured as a result of this loan is targeted primarily at the U.S. market, which is already suffering from excess domestic, let alone foreign, capacity.

Mr. President, I think that the underlying issue really is brought into perspective by the Proxmire amendment that appears in section 112.

Frankly, what I think will happen is that, in the long run, either Congress will amend out of the law this provision, which I warmly endorse and which is endorsed by the Senator from Pennsylvania and the Senator from Wisconsin, or we will ultimately scuttle the whole idea.

Once we begin to look seriously at the adverse consequences of lending of this sort, I think it is going to become very clear that, by and large, it is not to the advantage of our country to promote this kind of lending.

I think it is almost analogous to the emergence of environment impact statements in the construction of many public works projects. Superficially, the idea seemed perfectly plausible, and it did not sound as though it would have a big effect on projects. The practical effect has been to paralyze the construction of many kinds of otherwise approvable public works projects. I do not know whether that is going to happen with Eximbank loans, but I expect it will in many cases; that as the board looks before it leaps, it will decline to make loans of this kind.

Mr. HEINZ. Mr. President, will the Seantor yield?

Mr. PROXMIRE. I yield.

Mr. HEINZ. Once again, I want to state my agreement with the Senator, that it is important that the Eximbank take this mandate seriously, but I also want to clarify something the Senator from Colorado said, to see if I agree or disagree with him.

It is his notion that if the Eximbank looked carefully at the adverse impact of everything it did, there would not be an Eximbank. I think that is what he said. I am not sure. I want to clarify that.

I think it is very important for the Bank to look at the adverse impact on U.S. persons, U.S. business people, doing business; and the Senator from Colorado cited the example of a public works project. Clearly, a public works project, in the balance of the United States, is virtually certain to be something constructive by U.S. persons in the United States, and we do not usually import labor to build public works projects. Maybe there are some isolated instances of it, but, for the most part, we do not do that.

So I have no quarrel with the Senator's basic argument that public works projects that seek to create jobs can sometimes disadvantage one region of the country versus another. But, as I am sure the Senator from Colorado knows, the Eximbank is not the only game in town, and it is helping American businesses compete for projects throughout the world, and we have competitors. My only question to the Senator from Colorado is this: Did he mean to imply that the Eximbank—or Congress, for that matter—should not look at the adverse impact of the Eximbank not extending a guarantee or a credit to the United States and whoever may win that competition from the United States?

Mr. ARMSTRONG. I think the Senator from Colorado probably said more than was really necessary or desirable, and I am not sure what the answer to the question is.

Mr. HEINZ. I am not trying to trap the Senator from Colorado. I was unclear as to what he meant to say. I assume he meant to say that there are not circumstances—and he and I can argue over whether it is one or many or zillions or in between—but there are not circumstances where the Eximbank is providing an important adjunct that business and banks cannot provide, which is to meet foreign competition of foreign government export credit financing facilities.

Absent that, it could have an adverse effect on business in the United States.

I assume that the Senator from Colorado is not for adverse impact on American businesses.

□ 1700

Mr. ARMSTRONG. Mr. President, occasionally, we may be guilty of rambling in this Chamber, and I think I stand guilty of that this afternoon. I may have introduced a line of thought which really is not too significant. So let me just be more direct. I think if we look at the pros and cons of all these loans, we are going to find out that a lot of them are not very worthy and a lot less such loans will be made. And that is really my desire.

Mr. HEINZ. I thank the Senator from Colorado for clarifying his earlier remarks. I will not quarrel with what he said.

Mr. ARMSTRONG. You know, I have to say, though, to the Senator from Pennsylvania, the temptation to go charging down an intellectual culde-sac is absolutely so enticing that occasionally I simply cannot resist the impulse to do so. And I apologize in this case.

Mr. HEINZ. Mr. President, let me just say, the Senator from Colorado has absolutely nothing to apologize for. He does us great service by harnessing his considerable intellect to so many questions.

Mr. ARMSTRONG. I thank the Senator.

But, before I change the subject and leave it at that, I think if we look at the disadvantages of these loans as well as the advantages there would be not be nearly as many of them made, and that is what I am hoping the outcome will be.

Mr. President, even though I remain quite critical of the underlying legislation, I am also pleased to learn that the managers are seriously considering a proposal by the Senator from Wisconsin to limit loans to an additional list of Communist countries. As Senators know, at the present time, it is not within the purpose and charter ordinarily of the Eximbank to offer loans to the People's Republic of China, Hungary, Poland, Rumania, Yugoslavia, and so on.

The amendment which I understand will be considered, conceptually similar to a proposal offered and accepted in the other body, would add to this a list of additional countries, among them, I think Afghanistan, Angola, Congo, Ethiopia, Kampuchea, Laos, Mozambique, South Yemen, Surinam, and one or two others which also are Marxist-Leninist countries which should not, in my opinion, be beneficiaries of the Eximbank's financing.

I congratulate the Senator from Pennsylvania and the Senator from Wisconsin for their willingness to consider this amendment. I hope it will be speedily adopted. It is understood, of course, that the amendment does not flatly prohibit such loans, but permits an opportunity for the President to waive this particualr restriction if he should deem it in the national interest to do so.

I would judge that the occasion when he would think it was a good idea for U.S. taxpayers to fund a project or fund purchases by Mozambique or Angola would be quite rare.

And if he does so, I should be prepared to comment on them on a case-by-case basis.

But, in the meantime, we should draw a line saying that if we are going to have this kind of financing—an awful thought—at least we ought to limit it to those who are on our side of the free-enterprise line.

Mr. President, with that word of explanation, I am going to yield the floor, but saying again that, in the unlikely event that there is a recorded vote on this—or whether there is or not—I intend to vote "No." I hope that down at OMB they are looking at this, because this is a place they could save a billion dollars, and they ought to recommend that the President veto this thing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1720

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, section 109 of S. 2247 provides that the Eximbank shall authorize the transfer of medium- and long-term obligations insured or guaranteed by the Bank by the originating lenders or their transferees to other lenders without affecting the guarantee or insurance provided by the Bank.

This is a significant provision that will, as the committee intended, help create a new secondary market in Eximbank guarantee—which, in turn, will increase the amount of capital available for export financing and reduce interest rates for such financing.

Clearly, we want to be able to ensure that the widest number of responsible and sound financial institutions as possible can enter this secondary market and acquire the loan guarantees under the transferability provision in section 109. I understand that the term "lender" as used in section 109 refers to a wide range of financial institutions, including investment banks. I would like to ask the subcommittee chairman if this understanding is correct.

Mr. HEINZ. As the Senator indicated, we have incorporated the transferability provision into this legislation to increase the amount of capital that will be available to finance U.S. exports. By making the Eximbank guarantee on an export loan fully transferable, and thus making the loan highly liquid, the interest rate on those loans will drop. At lower rates these loans will be more attractive to foreign borrowers who are buying U.S. exports and thus be more competitive with the guaranteed loans offered by other countries.

The Senator is correct in that we want to make sure that the widest number of responsible and sound financial institutions are able to acquire Eximbank loan guarantees—with the guarantee being fully transferable. Consistent with this objective, we do intend that the term "lender" include investment banks, as well as other financial institutions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished minority leader is recognized.

AMENDENT NO. 2215

Purpose: To prohibit certain transactions

Mr. BYRD. Mr. President, I send an amendent to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendent will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself, Mr. ROCKEFELLER, Mr. FORD, Mr. ARMSTRONG, Mr. GLENN, and Mr. WARNER proposes an amendent numbered 2215.

Mr. BYRD. I ask unanimous consent that further reading of the amendent be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendent is as follows:

At the appropriate place, insert the following:

PROHIBITION AGAINST CERTAIN TRANSACTIONS

SEC. . Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(e) The Bank may not make any loan, any assistance, or any other financial commitment for establishing or expanding production of any commodity for export by any country other than the United States, if—

"(1)(A) the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative, or (B) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

"(2) the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Such prohibition shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short and long term benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.".

Mr. BYRD. Mr. President, I offer this amendment on behalf of Senators ROCKEFELLER, FORD, ARMSTRONG, GLENN, and myself.

Mr. President, the Export-Import Bank has supported an estimated $160 billion in exports since its inception in 1945. In a year in which our trade deficit could exceed $160 billion, American exporters need and deserve help in competing with foreign subsidies and loans—especially through programs such as Eximbank which do not cost taxpayer dollars. Japan supports about 35 percent of its exports with government financing—Great Britain assists more than 40 percent of its exports with government loans.

Exim has helped one of America's best export commodities—coal—to compete in a world market where American workers and companies increasingly find themselves in competition with foreign governments. From October 1, 1985 to July 3, 1986, Exim has assisted more than $12 million in West Virginia coal exports through its credit insurance program. I am pleased that Exim has begun to be more aggressive in its support of coal sales overseas. Manufactured goods are vital to our export economy, but we are shortsighted if we do not promote all our competitive exports—including coal—to the fullest extent possible.

However, my satisfaction with increased coal export financing is tempered by what has been happening on the import side. In January 1985, I wrote to the chairman of the Natural Resources Subcommittee of the Energy Committee, Senator JOHN WARNER, to urge that he hold hearings on the problem of coal imports into the United States. I know some of my colleagues will find it hard to believe that the United States would ever import coal. Of course, we were all shocked when we learned that the United States imported more agricultural goods in May of this year than it exported, so maybe we should get accustomed to the idea that we are losing our comparative advantage in basic commodities. But I do not think any of us are prepared to do what the administration has done—sit back and watch as this country sells off piece by piece its world leadership in trade.

Following my letter to Senator WARNER, I testified before his subcommittee on the coal import problem.

While current levels of coal imports—about 1.3 million tons in 1984—are no cause for immediate alarm, they are an unsettling portent of the future. Perhaps most disturbing as the entry into the American market of Colombian coal.

□ 1740

In 1984, a new surface mine known as El Cerrejon began production in the South American nation of Colombia. The mine is one of the largest surface mining operations in the world, with estimated reserves of 1.6 billion tons and a productive capacity of 15 million

tons per year. Productive capacity is projected to reach 30 million tons per year in the not-too-distant future.

The El Cerrejon mine produces high quality, low-sulfur steam coal, which is very attractive to utilities in the east and gulf coast regions of the United States.

The mine is a $3.2 billion joint venture between Exxon Corp., and the Colombian Government through Carbocol, the state-owned coal company. Financing of the mine includes about $1 billion provided by government export banks in Canada, Japan, England, and France. In addition, the U.S. Export-Import Bank provided $200 million for mining equipment.

The total current productive capacity of the El Cerrejon mine is dedicated to the export market. According to a recent report from the International Energy Agency, the Colombian Government is pursuing a goal of exporting 50 million tons of coal per year by the year 2000.

Colombian coal has already penetrated the U.S. domestic market, primarily in Florida. Electric Fuels Corp., the coal-buying division of Florida Power, recently signed a 4½-year contract to purchase 500,000 tons per year of Colombian coal. The first shipment arrived at Florida Power at the end of February. Florida Power officials have indicated that they expect to be buying coal from Colombia well beyond the current contract.

The entry of Colombian coal into international coal markets will intensify the already fierce competition for markets in Western Europe and other countries. This has disturbing implications for U.S. coal exporters. Colombia is actively marketing its product in Western Europe, the Caribbean, Mexico, and Japan—which collectively accounted for about two-thirds, or 51 million tons, of the United States coal exports in 1983. Thus, Colombian coal may displace United States coal in foreign markets because of a price advantage resulting from lower mining costs and lower transportation costs. In fact, Colombia has recently negotiated contracts with several nations that currently are or have been consumers of United States coal, including Denmark, Israel, Mexico, Finland, Spain, Ireland, Jamaica, Puerto Rico, and the Dominican Republic.

I appreciate that the coal is to allow American equipment companies to get a piece of the Colombian market—a market that will otherwise go to Japanese equipment producers. But I am also convinced that the Bank needs to reexamine its priorities and assume a more balanced approach.

That is why I offer this amendment. This legislation amends the Export-Import Bank Act of 1945 by explicitly prohibiting the Bank from making loans when those loans will result in production capacity that is expected to compete with U.S. production of the same or similar commodity if such loans will cause substantial injury to a U.S. producer of that commodity. The law had prohibited such loans when the result was overproduction. My amendment keeps that prohibition, but adds the constraint on loans what will create competing production, and incorporates both provisions as part of the charter language in the original Bank legislation. In addition, it requires the Bank to look at the short and long-term employment consequences in deciding whether such loans do more harm than good to employment in the United States.

Let me be very clear about the intent here. This language prohibits any direct loans to projects that would, upon their completion, produce commodities that compete with American commodities, when such loans would injure U.S. producers and workers. I believe this amendment will erase any doubt that the management of Eximbank might have about the intent of Congress as regards loans to increase foreign coal production, copper production, or production of any commodity—including steel or chemicals—that will displace American commodities from their natural markets in this country, or abroad, and cause injury to American workers and industry.

The board should be assured that this Senator and many of his colleagues—including, I know, the distinguished chairman of the Banking Committee, Senator GARN and the distinguished ranking member of that committee, Senator PROXMIRE—are going to watch that process with the utmost care.

Mr. President, I have discussed this amendment with the two distinguished managers. I hope that they are prepared to accept the amendment.

Mr. HEINZ. Mr. President, I have examined the amendment of the Senator from West Virginia, my friend and colleagues, the Democratic leader. I think I understand what the intent and the effect of his amendment is, and if it is as I understand it, I think we can accept the amendment. But I would like to ask him one or two questions, if I might.

Mr. BYRD. Very well.

Mr. HEINZ. As the Senator says, the purpose of his amendment is to make sure that the Eximbank does not lend money for exports of equipment, machinery that would be employed in some third country, some foreign country, to add to the already great woes of commodity surplus categories, whether it be coal, steel, or copper, any number of commodities which we can name.

He further states that the only exception to such a prohibition would be if the Eximbank Board fund that the short- and long-term benefit of not making that loan was outweighed by the benefit of making that loan. And I suppose—and here is where I seek clarification—that the Senator was referring to—and this is to the best of my knowledge a hypothetical example, although there are parallel ones like it—where the Brazilian Government decides, because they are a state-controlled economy, that they are going to build a steel mill.

Now, the Senator from West Virginia and I know that there is already a worldwide overcapacity in steel. Indeed, my projections are that there are in excess of 200 million tons of excess capacity in the world today. And for anybody who follows this, U.S. steel-making capacity is in the neighborhood of around 100 million tons.

Our capacity utilization of that tonnage is currently about 60 percent. We are, therefore, only making about 60 million tons versus a world capacity situation of roughly 200 million tons, almost 3⅓ times the amount of steel we currently ship from U.S. mills in this country.

To return to the example, the Brazilians, notwithstanding the fact they know they have to subsidize the production of that steel, they are probably going to have to dump it on the world market; they have made that decision and they are entertaining bids for steel mills. One is from the United States, another is from the French, another is from the Germans, a fourth is from the Japanese. And, as I understand what the Senator's amendment does, is it says to the Eximbank, "You have a decision to make. You have to decide, with too much capacity, whether or not that steel mill is going to be built; we are simply not going to support United States suppliers who are in competition with French, German, Japanese, and others, or whether or not the decision not to do that would be balance be a mistake as that mill is going to be built anyway."

They have to make that judgment, one way or the other, and we do not know how they are going to decide, but that is the judgment, in effect, as I understand the Senator seeks to explicitly ask them to make. And I think, by the way, they should make it. But do I understand the Senator's amendment more or less correctly?

Mr. BYRD. Yes; the distinguished Senator does understand the intent of the amendment. It would be a tough decision but the board would have to make that decision, and it would have to make the decision on the basis of whether or not that particular loan—in the short and long term—benefits American workers or whether or not, overall, it is a detriment to the industry and the employees in that industry in this country. It would be a tough

decision, but that board would have to make that decision.

□ 1750

I think this language would give the board better guidance on which to make the decision and would assure—come nearer assuring—American industry and American workers that they are going to be protected in that decision.

Mr. HEINZ. Mr. President, I thank my friend and colleague, the Democratic leader, for clarifying his amendment.

I wanted to be assured that the Bank was going to have the appropriate role of making judgments on these matters. As the Senator from West Virginia has indicated, they are inherently difficult judgments, and the Bank is being asked, as I understand the amendment, to safeguard American economic interests first and foremost.

Sometimes that is going to cause the Bank to say "no" to somebody applying for a direct loan or a guarantee or insurance, and sometimes they are going to decide to say "yes" and they will have to justify those judgments.

Above all, I think what the amendment of the Senator from West Virginia does is to say to the Bank: "From here on out, we are going to hold you accountable for your judgments, because they are very important to the economic well-being of this country; and the time has to come to an end where you can make those judgments irrespective of any of the circumstances." That is what we are asking with the amendment of the Senator from West Virginia, that those judgments be made and that they consider those consequences.

On that basis, Mr. President, I am prepared to accept the amendment.

Mr. PROXMIRE. Mr. President, I support the Byrd amendment, and I congratulate the Democratic leader on offering the amendment. It is an excellent amendment. It supplements what is already in the bill, but it is a necessary amendment, because it makes it more explicit.

The bill provides on page 6, line 4, as follows—this was my amendment in committee:

> In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee.

The purpose of that was to serve the same purpose as the amendment by the Senator from West Virginia, but his amendment is very useful because it makes it explicit and particular, and I think it serves a very useful purpose, and I welcome it.

Mr. BYRD. Mr. President, I thank both managers.

The language in the bill does say, as the distinguished Senator from Wisconsin pointed out, that the banks shall "consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee."

I think this amendment adds teeth, by virtue of the fact that it does not just require the bank to consider and address in writing the views." It requires the Bank to determine whether or not injury will be caused to American workers.

It should erase, as I say, any questions or doubts the Eximbank may have as to what the intent of Congress is in the making of these loans. It forces the board to weigh the benefits. Do the benefits outweigh the damaging effects, or vice versa?

I thank both managers, and I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2215) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2216

(Purpose: To update the list of Communist countries needing a waiver to obtain Export-Import Bank loans, guarantees and insurance)

Mr. PROXMIRE. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. PROXMIRE], for himself and Mr. ARMSTRONG, proposes an amendment numbered 2216.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, insert the following new section:
>
> SEC. 12. Prohibition on Aid to Marxist-Leninist Countries.
>
> Section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)) is amended—
>
> (1) in subparagraph (A), by striking out "Communist country (as defined in section 620(f) of the Foreign Assistance Act of 1961)," and inserting in lieu thereof "Marxist-Leninist country";
>
> (2) in subparagraph (B), by striking out "Communist country (as defined)" and inserting in lieu thereof "Marxist-Leninist country";
>
> (3) by striking out "such Communist" each place such term appears and inserting in lieu thereof such "Marxist-Leninist"; and
>
> (4) by adding at the end thereof the following: "For the purposes of this paragraph, the term 'Marxist-Leninist country' means a country which—
>
> "(i) maintains a centrally planned economy based on the principles of Marxist-Leninism, or
>
> "(ii) is politically, economically, or military dependent on the Union of Soviet Socialist Republics or on any other Communist country, and includes specifically (but is not limited to) the following countries:
>
> "Cambodian People's Republic.
> "Cooperative Republic of Guyana.
> "Czechoslovak Socialist Republic.
> "Democratic People's Republic of Korea.
> "Democratic Republic of Afghanistan.
> "Estonia.
> "German Democratic Republic.
> "Hungarian People's Republic.
> "Lao People's Democratic Republic.
> "Latvia.
> "Lithuania.
> "Mongolian People's Republic.
> "People's Democratic Republic of Yemen.
> "People's Republic of Albania.
> "People's Republic of Angola.
> "People's Republic of Benin.
> "People's Republic of Bulgaria.
> "People's Republic of China.
> "People's Republic of the Congo.
> "People's Republic of Mozambique.
> "Polish People's Republic.
> "Republic of Cuba.
> "Republic of Nicaragua.
> "Socialist Ethiopia.
> "Socialist Federal Republic of Yugoslavia.
> "Socialist Republic of Romania.
> "Socialist Republic of Vietnam.
> "Surinam.
> "Tibet.
> "Union of Soviet Socialist Republics (including its captive constituent republics.".
>
> With the exception of Angola, the President may remove a country from the list if the President determines that the country neither (i) maintains a centrally planned economy based on the principles of Marxism-Leninism nor (2) is politically, economically or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country.
>
> In the case of Angola, in order to remove Angola from such list the President must make the declaration referred to in the previous sentence, and the Bank may not guarantee, insure, or extend credit in connection with any export of goods or services to Angola until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b)(1) of the Export Administration Act of 1979, remain in Angola.

Mr. PROXMIRE. Mr. President, the purpose of this amendment is to see that the Eximbank ceases assistance and loans to Communist countries. We have a list of Communist countries that are involved here.

I might say, incidentally, that this amendment is one which was drafted in large part by the distinguished Senator from Colorado [Mr. ARMSTRONG], and I have a specific part of the amendment; but Senator ARMSTRONG did a lot of work on it.

My amendment, which would bar Eximbank assistance to Angola particularly, is the same as S. 2049, a bill I introduced that is sponsored by Sena-

tors GARN, DURENBERGER, LEAHY, BUMPERS, MCCONNELL, ARMSTRONG, DENTON, and D'AMATO. All those Senators have contributed to making acceptance of the part of this amendment dealing with Angola possible.

The Armstrong amendment and the Proxmire amendment together—the amendment that is being offered now—provides that the Eximbank shall not lend to a country that maintains a centrally planned economy based on the principles of Marxism-Leninism or is politically, economically or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country.

A list of countries involved is specified, and that list includes Cambodia, Guyana, Czechoslovakia, North Korea, Angola, and so forth.

Then the following specific language is stated:

With the exception of Angola, the President, may remove a country from this list if the President determines that the country neither (1) maintains a centrally planned economy based on the principles of Marxism-Leninism nor (2) is politically, economically, or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country.

Then it adds this:

In the case of Angola, in order to remove Angola from such list the President must make the declaration referred to in the previous sentence, and the Bank may still not guarantee, insure, or extend credit in connection with any export of goods or services to Angola until the President further certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b)(1) of the Export Administration Act of 1979, remain in Angola.

The reason for the latter provision is that we have the appalling situation in Angola of having Cuban troops and Soviet troops in Angola, aiding a Communist regime which suppresses human liberties and human rights. The purpose of our amendment, of course, is to prevent the American taxpayer from subsidizing the Angolan Government as long as those troops are there.

Mr. HEINZ. Mr. President, this is an amendment that I have worked on with the Senator from Wisconsin and the Senator from Colorado to perfect.

I thank the Senator from Wisconsin for his cooperation in perfecting the amendment, and I include in that appreciation my thanks to the Senator from Colorado, who was quite helpful. The amendment is indeed in the form on which we agreed.

I have some reservations about the amendment. But I do not quarrel with the overall thrust, and the overall thrust is to better define what we mean by a Communist country. The definition of a Communist country in this bill is a modernized definition. It is that of a Marxist-Leninist, centrally planned economy, or an economy that is politically, economically, or militarily dependent on the Soviet Union or another Communist country. And the legislation goes on, as the Senator from Wisconsin has described, to indicate a list that is a fairly inclusive list, but it is not necessarily an all-inclusive list.

□ 1800

Further the amendment goes on to state that the President may not remove any country from that list, Angola being an exception to what I am about to say, unless the President determines that the country is neither a centrally planned economy based on the principles of Marxism-Leninism nor is politically, economically, or militarily dependent on the Soviet Union or another Communist country.

So the amendment gives the President the ability to take the country off the list if they should be off the list. That is a slight modification, an important modification of the original amendment.

At this point, I think that the amendment does a good job. I have some reservations about the special treatment accorded Angola, not so much on substance but as it relates to Congress attempting to micromanage foreign policy.

In the case of Angola, the legislation provides that Angola is on the list not only because it satisfies one or both of the two criteria but it further stipulates that no guarantee or loan or insurance or extension of credit may be made to Angola under any circumstance until the President certifies that the Cuban military personnel or military personnel from other controlled countries have left the country or are no longer present in that country.

That is not a bad policy. That indeed tracks closely the foreign policy of the United States, which is that we want the Cuban presence in Angola out.

So, I cannot quarrel with the objective of this part of the amendment. But I do believe that when we require the President every time there is a single application for an export of a good or a service—it could be erasers, it could be medical supplies, it could be humanitarian assistance, it could be tanks, it could be equipment to keep a refinery running—irrespective of what it is, the President would be required to certify that Cuban troops or other troops are no longer there.

To my mind that is an extremely tough, narrow congressional micromanagement of the issue.

Had the amendment said that we are going to keep Angola on the list of Communist countries and they cannot get off the list until the President certifies that Cuban or other military personnel have gone, I would not be making this argument. But by in effect prohibiting any kind of Eximbank support under any circumstance, I believe that we micromanage our foreign policy in a way that puts the executive branch in a straitjacket that may have consequences that neither the author intends nor that we can foresee.

It would be my hope that my colleagues would understand that it is fine to establish our policy objective; namely, that Angola is going to be on this list, this proscribed list, until the Cuban advisers and the other military personnel leave. That is fine. But to say that the President's authority, even to permit the Eximbank to ensure the credit under which humanitarian assistance might be extended to refugees in Angola, refugees from the civil war between the regime in Luanda and Mr. Savimbi, to my mind that is micromanagement, that is second guessing. That goes further than I am comfortable with.

Nonetheless, I am aware that notwithstanding my reservations, either the original Armstrong amendment or the original Proxmire amendment is certainly going to pass because often, while we really agree with the goal or principle, we do not always seek in this body to carefully define whether or not our particular implementation of policy to reach that goal is fully justified.

So, even though this second part of the amendment is more precise than I would like, than I think makes a justifiable case and is not what I would prefer to see as a part of this amendment, nonetheless, because the amendment overall is something I can agree with and because I do not really think that I have the votes to modify the second portion of the amendment and change the Angola portion to something that I think brings more thoughtful resolution of the issue, I am prepared to accept the amendment.

Mr. BUMPERS. Mr. President, I will just be very brief. I just want to say that I have been a cosponsor of this amendment since the Senator from Wisconsin first introduced it as legislation here.

It is the kind of thing that is so often here in the Senate for political purposes so it can be used pro or con in the next election. I think the Senator from Wisconsin has addressed this in a very sensible way and one that should have been addressed a long time ago and in a way in which the American people strongly applaud his action.

I personally thank him for having discovered what I consider to be a gross flaw in the law in that such loans were ever permitted in the first place. But I am happy to have been an early cosponsor, and I am happy to see the Senate dealing with it today, and I want to just state that I lend my

wholehearted support to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2216) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, to move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. WILSON). The Senator from Illinois is recognized.

DEATH OF GEORGE M. O'BRIEN, LATE A U.S. REPRESENTATIVE OF THE STATE OF ILLINOIS

Mr. DIXON. Mr. President, on behalf of my distinguished colleague from Illinois, Senator SIMON, and myself, I rise in profound sorrow to speak in behalf of the resolution concerning the death of a distinguished Member of the Illinois congressional delegation, the Honorable GEORGE M. O'BRIEN, of Joliet.

Mr. President, I understand that the Senate at the conclusion of its business today will recess as a further mark of respect to the memory of the late Representative GEORGE O'BRIEN of Joliet.

Tomorrow Members of the House, Senator SIMON, and myself, will attend the funeral mass at the Cathedral of St. Raymond in Joliet for Congressman GEORGE O'BRIEN.

Mr. President, my distinguished colleague, Senator SIMON, and I served in Illinois government with GEORGE O'BRIEN. GEORGE O'BRIEN came to the Illinois House in 1970. He served there with great distinction at the time that Senator SIMON was Lieutenant Governor of Illinois and I was treasurer of our State.

Congressman O'BRIEN was elected to the United States House of Representatives in 1972 and served there until his untimely death last week.

□ 1810

He was a very active member of the Illinois congressional delegation, Mr. President. Our delegation, 22 Members of the House and the two Senators, meet on a regular basis several times a month. So far as I can recall, Congressman GEORGE O'BRIEN, up until the very end of his life, regularly attended and participated in an ongoing way in the acitivities of the Illinois congressional delegation.

On a personal basis, my wife Jody and I were very close to Mary Lou and GEORGE O'BRIEN. They lived in our building. Mary Lou still lives in our building, Crystal Gateway Condominium in Arlington, and we were together with them on a social basis from time to time.

Those in this place who knew him know what a positively lovely and charming and decent and fine man GEORGE O'BRIEN was. He was an excellent public man and he was a very decent man, Mr. President, and a very fine and charming and wonderful man in his private life.

I would like to just say this to my colleagues, because they have some understanding of it, and, Mr. President, having come here to the Senate one time as, I recall, during an illness to cast a vote, you will understand this.

A couple of weeks ago they were having the Contra vote in the House. It was to be a very close vote. The Republican leader in the House is BOB MICHEL from Peoria, in my State. I had gone home about this time in the evening or so and driven into the garage in Crystal Gateway Condominium where I live and Congressman O'BRIEN was just coming out of the elevator in a walker, being helped by aides to get into his automobile.

I said, "GEORGE, where are you going?" He said:

Oh, ALAN, BOB MICHEL called me and said that they would need my vote tonight; that the issue was a close one and he did not know the result, what it would be. I am in a great deal of pain, a great deal of pain, but I am going to go there to vote.

And you could see that his face was full of pain, Mr. President. And I went up to my apartment and watched television of the House in session that evening and, in short order, Congressman O'BRIEN appeared on the floor of the House of Representatives and all of his colleagues stood out of affection for him and out of respect for him and gave him a standing ovation. And he just made some simple remark and said:

What a wonderful, marvelous thing it is to live in this country and to be able to come to this House in a divisive moment like this one and see everyone so friendly and so nice to one another.

Up until that moment that debate had been so bitter and vitriolic. And after GEORGE O'BRIEN said that, you could see the sweetness from that man flow through the House.

He cast his last vote, Mr. President, as a Congressman in support of his leader, in support of his President, in support of the position of his party and discharged in every way until the last moment of his life his responsibility as a great public man.

And I say on behalf of the people of my State, Mr. President, on behalf of my colleague Senator SIMON, on behalf of every Member of the U.S. House of Represenatives from the Illinois congressional delegation, all 21 still surviving, that we all loved him. He was a good and decent man. And the people of his district, Mr. President, are greatly fortunate that they had such a fine and wonderful man serving them for so many years in the Congress of the United States.

I yield the floor, Mr. President.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The Senate resumed consideration of the bill.

AMENDMENT NO. 2217

(Purpose: To provide for a replenishment of funds to finance price support programs of the Department of Agriculture)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], proposes an amendment numbered 2217.

Mr. FORD. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 13, line 10, after the period, add the following: "Notwithstanding any other provision of law, of the funds appropriated pursuant to this paragraph, 4.3 percent shall be available to the Department of Agriculture to carry out price support programs administered by the Department at the original levels provided for by law.".

Mr. FORD. Mr. President, I understand there may not be an opportunity to accept this amendment by the manager of the bill. The distinguished Senator from Arkansas has a piece of legislation he would like to introduce. I would be more than pleased to yield the floor to him, if it is appropriate at this time, and my amendment could be then discussed after his introduction of legislation which I am very much interested in.

(The remarks of Mr. BUMPERS will appear later in the RECORD under Introduced Bills and Joint Resolutions.)

Mr. FORD. Mr. President, I have submitted an amendment. Is that the order of business?

The PRESIDING OFFICER. That is the pending question.

Mr. FORD. Mr. President, the effect of this amendment, I think, is very simple. It would take 3.3 percent of all the funds appropriated to the Eximbank for obligation in fiscal 1986–87, and make that amount available to finance price support programs of the Department of Agriculture.

This is basically a Gramm-Rudman reduction of the amount of money appropriated to the Eximbank. The purpose of this amendment is to offset that Gramm-Rudman-Hollings cut in Federal price support programs. Our farmers are refused while we continue to send their money overseas.

Mr. President, as we all know—and as I think the distinguished Democratic leader said earlier—the Export-Import Bank was created to enhance the export of U.S.-made goods. To a certain degree it has been a successful mission. In recent years however, the Eximbank has been making loans to foreign countries which have the opposite result.

I want to reiterate the example given by the distinguished Democratic leader earlier. The Eximbank lent $615 million to Colombia to build a coal operation there, to build the railroad, to build the deep-water port, and to do what? To export coal. Coal is now in competition here in the United States. Americans and power companies are buying more and more Colombian coal from that mine. Those companies used to buy a lot more American coal. But since the Eximbank built a Colombian coal mine with United States tax dollars, those companies are now buying Colombian coal.

The company that is over-seeing and has a partnership in this coal mine in Colombia has leases on Federal lands for coal. And their excuse for not developing those leases on Federal land is there is no market for coal in this country. Therefore, they absorb the coal leases on Federal lands in this country, and yet they are importing from their operation in foreign countries that product into this country, and therefore our leases are not being developed.

I am not offering this amendment just because the Eximbank has strayed from its mission, as I see it, of promoting U.S. exports, although that is a pretty good reason, I think, Mr. President, in itself. What really prompted me to offer this amendment is the fact that price support payments to American farmers were cut in a time when our farmers need the help most.

You do not kick the man who has fed you all of his life when he is down. The funding transfer to the USDA's price support programs by this amendment will not be enough to make up for the funds lost under the Gramm-Rudman-Hollings sequester. But it will help. It is about time we helped ours instead of theirs. Our farmers could use a great deal more help. If that Eximbank does not begin to make some smarter loans, I suspect there will be a long, hard look in the future at what we do as relates to the Eximbank.

So, Mr. President, I urge my colleagues to support my amendment.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. FORD. Will the Senator withhold?

Mr. HEINZ. I withdraw my request.

Mr. FORD. Senator HELMS wishes to be a cosponsor of the amendment. I would like to ask unanimous consent to add his name for the RECORD, and then suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1850

Mr. HEINZ. Mr. President, I ask unanimous consent that further call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1900

Mr. HEINZ. Mr. President, I want to report to our colleagues that we have established that there are a maximum of six additional amendments that are going to be offered to this bill, S. 2247, the Export-Import Bank amendments, and I am about to propound a unanimous-consent request. To the best of my knowledge, Senators on both sides of the aisle have been fully consulted on this unanimous-consent request, but I do ask that all Senators attend to my statement of it.

The purpose of the unanimous-consent request is to make in order six amendments, and six amendments only—no more than those six; second, the request is intended to protect the Senators from Illinois, who are going to the funeral tomorrow of Representative GEORGE O'BRIEN, who passed away in the last few days. Therefore, to accommodate them, no votes will be ordered before 5 o'clock.

Finally, to ensure that the Senate does conclude expeditiously voting on this matter, votes will begin no later than 5 o'clock and proceed through to final passage. So let me propound the unanimous-consent request.

UNANIMOUS-CONSENT AGREEMENT

Mr. HEINZ. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 2247, the Export-Import Bank bill, at 2 p.m. tomorrow, the following amendments be the only amendments in order and that no motions to recommit with instructions be in order.

An amendment offered by Senator FORD dealing with agricultural price supports, amendment No. 2217. An amendment to be offered by Senator DECONCINI dealing with a sense of the Senate on Angola. An amendment to be offered by Senator SYMMS dealing with fertilizer.

An amendment to be offered by Senator NICKLES dealing with multilateral assistance for foreign surplus commodities, minerals, materials, and products.

An amendment to be offered by Senator NICKLES dealing with trade adjustment assistance for oil workers.

An amendment to be offered by Senator JOHNSTON related to trade adjustment assistance for oil and gas workers.

I further ask unanimous consent that following the disposition of the above-mentioned amendments, the bill be advanced to third reading, without any intervening action, and the Senate proceed immediately to the House companion bill, H.R. 4510; that the Senator from Pennsylvania be recognized to move to strike all after the enacting clause and to insert the text of S. 2247, as amended, if amended.

Further, I ask unanimous consent that following the motion of the Senator from Pennsylvania to strike, the bill be advanced to third reading and that final passage occur of H.R. 4510 without intervening action.

Further, I ask unanimous consent that final passage of H.R. 4510 occur no later than 5 p.m., with the proviso that rollcall votes ordered, if any, not occur before 5 p.m., and occur in the sequence in which the yeas and nays were ordered, and that paragraph 4 of rule XII be waived.

Mr. BYRD. Mr. President, reserving the right to object, it is understood that the references to the "Senator from Pennsylvania" in the request mean Mr. HEINZ.

Mr. HEINZ. The Senator is correct.

Mr. BYRD. Second, that the rollcall votes to which the distinguished Senator referred, mean rollcall votes ordered on any amendments or in relation to any amendments that have been enumerated by the distinguished Senator from Pennsylvania [Mr. HEINZ] in the request.

Finally, that no rollcall votes outside the purview of S. 2247 and H.R. 4510 would occur until following the votes on the amendments to S. 2247 and passage of H.R. 4510 as amended, if amended.

Mr. HEINZ. I think the Senator from West Virginia has clearly established the substance of the unanimous-consent request, with one proviso, which is that where the unanimous-consent request says "the Senator from Pennsylvania," I would only amend it to say "the Senator from Pennsylvania or his designee," in the two instances in which that definition occurs.

Mr. BYRD. Mr. President, further reserving the right to object, it is understood that there will be no rollcall votes tomorrow prior to 5 p.m.

Mr. HEINZ. The Senator is correct.

Mr. BYRD. That would be a part of the request.

Mr. HEINZ. Mr. President, I make that a part of the request, and I do know that it is the intention of the

majority leader not to have any rollcall votes before 5 p.m. tomorrow.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Pennsylvania [Mr. HEINZ], the distinguished majority leader, and Mr. PROXMIRE for their understanding with reference to the Senators from Illinois, who will have to attend the funeral services tomorrow of our late departed House colleague from Illinois.

I have no objection to the request.

Mr. FORD. Mr. President, reserving the right to object, there were two references as to time in the unanimous-consent request. One was 2 p.m. and the other was 5 p.m. Do we take up the bill and start considering the amendments at 2 p.m.?

Mr. HEINZ. That is correct.

Mr. FORD. My amendment will then be pending?

Mr. HEINZ. It is my understanding—and the Parliamentarian can confirm it—that the amendment of the Senator from Kentucky is the pending business.

Mr. FORD. Then, the vote on my amendment will occur sometime around 5 p.m. or not later than 5 p.m.?

Mr. HEINZ. If a vote is ordered on the Senator's amendment, a vote would occur at or about 5 p.m.

Mr. FORD. Do I correctly understand, then, that it does not necessarily mean an up and down vote? There could be a tabling motion? Or will there be an up and down vote on the amendment?

Mr. HEINZ. The unanimous-consent request stipulates that there will not be any amendments in order to his amendment. There will be no motion to recommit. But it does not preclude a tabling motion.

Mr. FORD. I was hoping we could get an up-and-down vote. But I will take my chances on that. I do not think the distinguished Senator from Pennsylvania would want to table such a meritorious amendment. So I hope that he will be generous in his action.

Mr. HEINZ. The Senator from Pennsylvania will say he has no plans at this time to offer a tabling motion but he has to be candid with the Senator from Kentucky. If the debate drags on for an extended period of time to the point where there are other Senators' amendments that are not going to be properly considered, I will have to reconsider that position.

Mr. FORD. Even the motion to table could not be taken up until 5 o'clock.

Mr. HEINZ. I think the Senator is correct, that there would be no actual rollcall vote ordered under any circumstances before the hour of 5 p.m.

Mr. FORD. It is the Senator's intention now there will not be a long, drawn-out debate of this amendment. Other amendments need to be taken up. He has no intention of moving to table.

Mr. HEINZ. At the present time I do not, but I do not want to preclude my responsibility or right to do so and the Senator understands that, I am sure.

Mr. FORD. I understand that, but if the Senator is not being pushed for time it is his opinion tonight that he will not move to table.

Mr. HEINZ. I stand on my statement.

Mr. FORD. OK. It is in part of the RECORD.

Thank you, Mr. President, I do not object.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I have two questions, one, with respect to the response of the distinguished Senator from Pennsylvania to the Senator from Kentucky in which response the Senator from Pennsylvania stated that there could be no amendment to the amendment offered by the Senator from Kentucky. The agreement as promulgated does not prevent one of the amendments that has been identified, from being offered as an amendment in the second degree to any other of the identified amendments. It just identifies amendments which may be offered. It does not say that they cannot be offered one to another.

Mr. HEINZ. The Senator is correct. The Senator from Pennsylvania would simply state that normally when amendments are enumerated in this order they tend to be offered one at a time, not as perfecting amendments or substitutes for other amendments, but the Senator from West Virginia is technically correct. One of those amendments could be offered either as a substitute or a perfecting amendment.

Mr. BYRD. I wonder if the distinguished Senator would also allow me to suggest that he place some kind of time limit on each amendment; otherwise, it would be possible for the entire 3 hours to be consumed on one amendment, two amendments, or three amendments, or whatever, with a Senator or with Senators at 5 o'clock finding that they will have no time for debate on their amendment or amendments and can only get a vote thereon.

Would the Senator be willing to say there be a limit on each amendment of, say, 30 minutes to be equally divided? There are six amendments and there are 180 minutes. So that would be 30 minutes for each amendment. Otherwise, I am afraid that some Senators are going to be caught without time for debate on their amendments.

□ 1910

Mr. HEINZ. I think the minority leader is quite correct. I did not make that a part of the unanimous-consent request because the Senator from Pennsylvania did not feel that he had information available that would allow him to propound such a unanimous-consent request.

I fear that propounding it would require that we consult the Senators and their staffs in each of these six instances. I would suggest that such a unanimous-consent request might be obtained at 2 o'clock tomorrow.

Mr. BYRD. Mr. President, it seems to me that a bit of caution here might prove to be well-advised.

Would the distinguished Senator feel that maybe we ought to contact the Senators now and see if there is a willingness on their part to divide this time so that every Senator will be assured of some time for debate on his amendment?

Mr. HEINZ. I am not sure that we need to stipulate that each amendment be allowed 30 minutes equally divided, which is the obvious mathematical solution to what the Senator from West Virginia propounds. What I might suggest is that each amendment be guaranteed a minimum of 10 minutes of discussion regardless of whether or not the hour of 5 p.m. has arrived. I would feel comfortable agreeing to that. That does not prejudice any Senator's rights. And if it will accommodate the Democratic leader, I will amend my unanimous consent request accordingly.

Mr. BYRD. Well, that at least assures each Senator then of 10 minutes to be equally divided, which would mean that it is possible that the 5 o'clock hour for the beginning of voting could slip a bit.

Mr. HEINZ. It could slip as far as 5:50, at the most.

Mr. BYRD. It could slip more than that.

Mr. HEINZ. Well, the Senator would say to his friend from West Virginia, there are six amendments. Under the most lengthy of circumstances, if the first amendment took all 3 hours between 2 o'clock and 5 o'clock, and the request of the Senator from Pennsylvania, amended request, had been incorporated in the unanimous-consent agreement, the first of the six amendments would have been disposed of by 5 o'clock and at 5 o'clock it would be in order to turn to the remaining five amendments. So 5 times 10 being 50, this Senator concluded we would probably get to the last amendment and conclude it on or about 5:50 tomorrow at the very latest.

Mr. BYRD. Very well. I think that is a satisfactory resolution of a problem which I hope will not present itself. I thank the Senator.

Mr. HEINZ. Very well.

Mr. President, I further, as part of my unanimous-consent request, ask unanimous consent that each amendment have a minimum of 10 minutes equally divided regardless of whether or not the hour of 5 p.m. has arrived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 2:00 p.m. on Tuesday, July 22, 1986, the Senate resume consideration of S. 2247, the Export-Import Bank Bill, and that the following amendments be the only amendments in order, and that no motions to recommit with instructions be in order:

An amendment, No. 2217, offered by Senator FORD, dealing with agricultural price supports;

An amendment to be offered by Senator DECONCINI, dealing with the sense of the Senate on Angola;

An amendment to be offered by Senator SYMMS, dealing with fertilizers;

An amendment to be offered by Senator NICKLES, dealing with multilateral assistance for foreign surplus commodities, minerals, materials, and products;

An amendment to be offered by Senator NICKLES, dealing with trade adjustment assistance for oil workers.

An amendment to be offered by Senator JOHNSTON, dealing with trade adjustment assistance for oil and gas workers;

Ordered further, That following the disposition of the above mentioned amendments, the bill be advanced to third reading, without any intervening action, and that the Senate proceed immediately to the House companion bill, H.R. 4510, and that the Senator from Pennsylvania (Mr. HEINZ), or his designee, be recognized to move to strike all after the enacting clause and to insert the text of S. 2247, as amended, if amended.

Ordered further, That following the Heinz motion to strike, the bill be advanced to third reading, and that final passage of H.R. 4510 occur at no later than 5:00 p.m., without any intervening action, unless there have been rollcall votes ordered prior to 5:00 p.m., in which case such votes which are in relation to S. 2247 will occur in the order in which the yeas and nays were ordered, and those rollcall votes not dealing with S. 2247 will occur following final passage.

Ordered further, That no rollcall votes occur prior to 5:00 p.m. on Tuesday, July 22, 1986, and that the amendments mentioned above have a minimum of 10 minutes each, to be equally divided and controlled, regardless of whether or not the hour of 5:00 p.m. has arrived. (July 21, 1986)

Mr. HEINZ. Mr. President, I thank all colleagues.

Mr. BYRD. Mr. President, I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. HEINZ. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 7:30 p.m. tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, under the order for morning business, is there a time order for Senators to speak?

The PRESIDING OFFICER. There is not.

Mr. BYRD. Mr. President, under morning business no Senator is permitted to speak except by unanimous consent. I am wondering if the distinguished Senator would include in his order that Senators may speak up to 3 minutes.

Mr. HEINZ. Mr. President, I ask unanimous consent that my request that the Senate proceed in morning business until 7:30 p.m. be amended to permit any Senator who seeks and gains recognition to speak for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

DEMOCRATIC DEBT INITIATIVE AND TRADE

Mr. BYRD. Mr. President, Senate Democrats have urged the administration to undertake a trade policy that is realistic and worthy of this country. The United States now is experiencing annual trade deficits which will run in excess of the $148.5 billion trade deficit of last year. We are losing jobs and Americans are losing confidence in the benefits of trade because the administration does not believe there is a problem.

An important part of the current crisis is the result of the deteriorating economic situation in developing countries—our most important market for the future. Last year, Senator BENTSEN released a Library of Congress report showing that our trade deficit with the developing world increased by more than $23 billion between 1981 and 1985. Hobart Rowen calls this the "debt/trade link." Developing countries, burdened by external debt obligations that now total more than $800 billion, accelerate and subsidize their exports in a desperate bid to earn foreign exchange to pay off their debts. So steelworkers, coal miners, and chemical workers in West Virginia, Pennsylvania and Kentucky and workers in all other States and in many other industries that are competing with imported products from debt-burdening nations face job loss as these products flood our market. At the same time, developing nations restrict their imports of American goods because they need every dime of foreign exchange to pay off their loans.

The administration, after ignoring the foreign debt crisis and its impact on American jobs for more than 5 years, came up with the "Baker plan." This proposal was well motivated but proved to be unworkable. It recognized that our policy on Third World debt must change so as to promote renewed growth in the debtor countries. However, its central recommendation—much more new lending by private banks and international lending agencies—cannot work. Piling even more debt onto the already crippling debt burdens of the Third World does not appeal to either those countries or the bankers. The net effect of this policy is that debtor nations borrow new money to pay the interest on their pre-existing loans—and only dig themselves deeper into debt. This is only a means of postponing the day of reckoning, and quite possibly making that even more traumatic than the present circumstance.

Senator BILL BRADLEY and Senator JOHN KERRY have different ideas. In their view, the debt burden of the Third World should be lightened, not made heavier. Noting that the debt-induced trade deficit with development countries may have cost our country 1 million jobs, Senator BRADLEY has put forward a bold proposal for reconciling the competing claims of our exporters and lenders that protects the safety and soundness of our financial system. He proposes a trade debt summit with leaders of industrial and developing countries. Lenders in industrial countries would accept a moderate schedule for reducing the principal on their outstanding loans to Third World countries. Debtor countries would, in turn, open their markets to more exports from the United States and other industrial countries. In short, Senator BRADLEY is proposing that the banks face the fact that they made some bad business judgments, and that American workers will not pay for those mistakes with lost jobs. And he is calling for firm commitments from the developing countries to open their markets to American goods.

Similarly, Senator KERRY is insisting that Third World countries open their markets and commit to buying more American products in exchange for debt reductions.

These initiatives differ from the administration's policy because they recognize that throwing more American dollars at the debt crisis will not change anything. Instead, the banks must take some loses, and the debtor governments must change their policies and play by the rules of international trade.

These are powerful initiatives, and they deserve the attention they are getting from the press and the Congress. They are very much a part of the Democratic call for a comprehensive trade policy that fosters growth in trade.

I commend Senator BRADLEY and Senator KERRY for their insight and the creativity. I hope my colleagues will give serious attention to their im-

portant initiatives, because American jobs are at stake.

I ask unanimous consent that an editorial by Hobart Rowan which appeared in the Washington Post of July 10, 1986, and a related article from the Washington Post of Sunday, July 6, appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 6, 1986]

BRADLEY CHALLENGES BAKER ON THIRD WORLD DEBT

(By Hobart Rowan)

Sen. Bill Bradley (D-N.J.), who launched a dramatic new plan last week calling for relieving Latin American debtor nations of two-thirds of their annual $30 billion debt burden, said he acted because the highly-touted Baker debt initiative is a failure.

In a speech in Zurich last Sunday, Bradley spelled out a scheme for cutting the interest rates of 15 Latin American debtors by about 3 percentage points for a three-year period, and for forgiving 3 percent of the loan principal a year over the same period, in exchange for internally generated debtor nation reforms.

That would provide $42 billion of debt relief from commercial banks, and another $15 billion from governments that had made bilateral loans to Third World governments, he calculated.

These deals would be struck at a "Trade Debt Summit" attended by representatives of major creditor countries and banks from the United States, Canada, Europe and Japan. The summit, held for three consecutive years in parallel with upcoming multilateral trade talks, would be chaired by World Bank President Barber Conable.

Bradley's high profile as one of the movers and shapers of tax reform has given new credibility to the idea of debt forgiveness. His use of specific numbers was a deliberate attempt to get attention, he conceded during an interview, and it has worked.

"We need a bold approach to solve the debt problem," Bradley said. "The incremental approach we have been following since the Mexican crisis first surfaced in 1982 hasn't solved the problem. And while the Baker plan was a positive change in attitude, there is no action-forcing mechanism, and it has the additional liability of being imposed by the United States."

He contended that the Baker plan will not correct the most "perverse" part of the debt problem, the net capital flow from the poorest to the richest countries, estimated by the World Bank to have been $22 billion last year.

The Baker plan, put forward by Treasury Secretary James A. Baker III in Seoul, last October, calls for $29 billion in extra commercial bank and multilateral development bank loans during the next three years, provided the borrowing nations are "willing to commit themselves" to market-oriented growth policies.

In recent weeks, it has been criticized here, and abroad, as insufficient to meet the problem, and because the extra loans envisioned have not been made.

Moreover, the problem of "capital flight" from the developed countries continues unabated. "What we hear," said a Bradley staff aide, "is that 50 cents out of every dollar [going to Latin America] winds up back in Miami. If that's true, the Latin American nations have to do something to generate the confidence that will keep that money at home."

Bradley said that the basic deficiency of the Baker initiative is that it calls for new loans, thus generating more debt, instead of calling for interest-rate relief and a write-down, in some cases, of the principal. Debt relief, Bradley said, offers the only real hope of restoring economic growth in the Third World.

Adding to the debt burden, Bradley said in his Zurich speech, will discourage new investment and increase capital flight.

"In other words, the Baker plan prolongs the policies that created the debt crisis in the first place," he said.

"Bradley has faced up to the reality of the situation," said Richard Feinberg, vice president of the Overseas Development Council (ODC) and an expert on the debt problem. "He recognizes in this plan the cost to our economy of continued recession in Latin America, and that there is a conflict between bankers, on the one hand, and American manufacturers and farmers who have lost their markets there, on the other hand."

Bradley said that shortly he will make one more major speech on his debt proposals, citing especially the need to maintain close political and economic ties with Latin America and the dangers to democratic institutions there if the economic crisis worsens.

He also will press ahead on the need for debt relief, as opposed to new loans, in the next few months on the Hill, at the World Bank, with other political leaders and in the banking community.

He plans to seek endorsement from other politicians on Capitol Hill, such as Rep. Charles Schumer (D-N.Y.), another Baker-plan critic who has called for partial debt forgiveness.

"The precise numbers aren't all that important, but the concept of debt relief is," Bradley said." He said he would maintain the principle of dealing specifically with each country: Some might get more or less than the 3 percent relief or forgiveness figure. And the numbers would be negotiated, not dictated, Bradley said.

In the interview, Bradley stressed the idea that genuine economic reform in Latin America will come about only if change is generated from within, and not imposed from the outside, which he said in the real message of the Baker plan. Although it is supposed to replace austerity with growth, Bradley said in Zurich in reality the Baker plan demands adherence "to the economic principles of President Reagan."

Meanwhile assistance coming from the International Monetary Fund, he said has served only to finance debt payments, not to stimulate growth, with the result being that living standards have sunk, and a debilitating capital flight continues.

"I guess I approach this with three principles," Bradley said in the interview. "First, we have to make clear to Latin America that our objective is a partnership of growth. The idea has to be to address the fundamental problems of poverty and malnutrition that exist there.

"Second, our proposal has to be seen as hold enough to be a cure, not a palliative, not a marginal assist.

"And third, we have to say to them, 'We will help, but what are you willing to do?' Instead of telling them, 'You must do the following before you get help.' A shift of emphasis like that makes all the difference in the world in Latin America."

Any of the 15 countries in the Baker plan would be eligible for debt relief on a country-by-country basis. But Bradley emphasized that the debt relief offered must be on a multilateral basis, involving the global banking community and all of the countries involved.

Bradley is not the first to espouse the principle of actual debt write-offs. For a long time, many academicians have contended that Latin American debt has been piled too high as a result of excesses on the part of both borrowers and lenders, and that some part of it ultimately will have to be written off. Comments favoring either debt relief or forgiveness were made recently by New York banker, Felix Rohatyn, former West German Chancellor Helmut Schmidt, and in an ODC report edited by Feinberg on the prospective new role of the World Bank.

Bradley's proposal comes at the precise time that the World Bank under its new president, Conable, has been asked to take the lead in managing the Third World crisis.

Holding debt management negotiations at the same time trade talks are going on under the aegis of the General Agreement on Tariffs and Trade would encourage Third World nations to abandon their own trade barriers, Bradley argued. Offering a carrot in place of the stick, he suggests, is the Baker-plan enforcer.

Bradley said the public doesn't yet appreciate the close connection between Third World debt and the trade deficit. "Debt is usually viewed as a bank problem," he said. "In fact, it is a political and national problem. The debt situation in Latin America has cost about one million jobs, 100,000 because, we've lost exports to them, and the rest because they have had to generate exports of their own so as to earn enough foreign exchange to pay interest on the debt."

The Trade Relief Summit, explicitly recognizing the links between trade, debt and job problems, would set as a goal:

Interest-rate relief for Latin American debtors of 3 points on all commercial and official bilateral loans for a three-year period.

A forgiveness or write-off of 3 percent a year of the principal of those loans.

Extra World Bank and other multilateral development loans of $3 billion a year (the same feature as in the Baker plan).

No new commercial bank loans.

In exchange, the participating nations would drop trade restrictions, and generate reforms—according to their own internal priorities—that would lead to economic growth.

Bradley said he does not ask, as does Baker, for $20 billion in added commercial bank loans because "the commercial banks will make loans again when they think they are sound. I don't make that a requirement. I don't envision that there will be no new money, but they will kick in new money—the way the market works—when it is appropriate."

Banks that worry that debt relief will weaken the creditworthiness of the borrowers should bear in mind that "a country receiving emergency bridge loans can be no more creditworthy than a country receiving debt relief," Bradley said. In fact, he argued that debt relief immediately improves the financial position of any debtor and avoids the prospect of unilateral debt repudiation.

He calculated that most U.S. banks would lose no more than 3 percent of capital because of the concessions.

But he said he recognizes the argument made by some American banks that even moderate debt relief, on a country-specific basis, will hurt them because of present reserve requirements and accounting stand-

ards. Therefore, his proposal includes a new Regulatory Review Board to consider changes in bank regulations and interpretations of accounting rules.

What is the realistic outlook for this new "Bradley initiative?" Will it replace the "Baker initiative?"

The honest answer, Bradley said, "is that only time will tell. I wanted to get people to feel a sense of urgency. Here, Mexico has burst onto the scene again. The trade deficit with Latin America has increased faster than our deficit with Japan.

"I don't think the banking community is hostile to some form of this idea. They shouldn't be telling Mexico and these other countries what they should be doing. That's got to come out of there."

There are no plans for legislation, although Bradley—once the tax reform conference is finished—expects to work through the Senate Finance Committee and public speeches to keep it alive. Legislation will be coming up in the Senate relating to bank regulation, to appropriations for the World Bank, and on trade. In each of these, Bradley said, he will make an effort to focus attention on the need for debt relief, and the urgency of reversing the "negative" flow of capital.

Bradley conceded in the interview that there could be some taxpayer costs associated with writing off some Latin America debt, but that such costs will be much less, than doing nothing about it, or simply going along with the Baker plan and hoping for the best.

He said a failure of the democratic process in Latin America would be a real cost to the United States, and that the risk of a timid approach is that the middle class in Latin America will be destroyed.

"If we fail to establish a partnership for growth with the present set of democratic leaders in Latin America," he said, "I can imagine repercussions that will put another set of people in power who share neither our commitment to the present international financial system or to the market system."

THE BAKER PLAN

Last fall, Treasury Secretary James A. Baker III proposed a three-part plan designed to renew growth in debt-ridden developing countries, most of them in Latin America. The three elements of the plan are:

1. Development institutions, like the World Bank and Inter-American Development Bank, would boost their lending to the nations by $9 billion during the next three years.

2. Commercial banks would increase their lending, most of it in conjunction with the development institutions, by $20 million over the next three years.

3. Debtor countries would take economic policy measures designed to encourage growth. Among the measures would be steps to encourage foreign investment, sale of inefficient public sector companies and reduction of import protection for inefficient domestic companies.

THE BRADLEY PLAN

In Zurich last Sunday, Sen. Bill Bradley (D-N.J.) proposed a new debt initiative to replace the Baker plan, contending that debt management today has stalled development in the Third World and destroyed jobs elsewhere. The main elements of his plan limited to Latin America, are:

1. As in the Baker plan, development banks would boost their lending to the participating nations by $3 billion a year over a three-year period.

2. In contrast to the Baker plan, there would be no new loans required from commercial banks.

3. At an annual trade debt summit chaired by the president of the World Bank, the debtor countries agreeing to economic reforms would get three points of interest-rate relief for a three-year period on all outstanding commercial and official bilateral loans, plus a 3 percent write-down of principal a year, over a three-year period.

4. To qualify for trade relief packages, debtors would make internally generated (not outside-dictated) policy changes to generate growth, liberalize trade, reverse capital flight and "keep debt management free from scandal."

[From the Washington Post, July 10, 1986]

WRITE OFF SOME THIRD WORLD DEBT

(By Hobart Rowen)

Until now, the idea of debt relief for the Third World—actual "write-offs" of some of the money they borrowed—has been a political no-no. But the urgency of the situation, highlighted by Mexico's problems, is changing perspectives.

Sen. Bill Bradley (D-N.J.) gave the possibility of debt relief significant new visibility last week by proposing to cut interest rates and forgive some of the outstanding capital owed by the big debtor nations in Latin America.

Sen. John Kerry (D-Mass.) has also put forward a debt-relief plan linked to a commitment by the borrowers to increase imports from the United States and other lenders. Both Bradley and Kerry are aiming directly at the debt/trade link. As Bradley notes, the United States may have lost the equivalent of 1 million jobs when its traditional trade surpluses with Latin America were wiped out and deficit arose in their place.

Cutting back high interest rates and canceling some of the debt, they argue is the right alternative to the "Baker plan." Treasury Secretary James Baker wants to provide new commercial and World Bank loans in exchange for policy reforms among the borrowers.

Such new loans would be used primarily to pay interest on old debt to the banks. Thus, new loans are a cover-up for the problems of both the lender and the borrower: for the banks, new loans avoid the need to show losses on the books; for the borrowers, the new money is a temporary fix, but one that merely adds to total debt.

"There is no conceivable hypothesis under which these countries are ever going to be able to repay these accumulated debts of interest and principal," Robert M. Lorenz, retired senior vice president of the Security Pacific Bank of Los Angeles, told the Joint Economic Community the other day.

But bankers and many politicians choke when debt cancellation is suggested. Baker is strongly against debt forgiveness. So is debt expert William R. Cline of the Institute of International Economics, who argues that nations owing half of the debt do not need the kind of help suggested by Bradley.

At his introductory press conference last week, Barber Conable, new president of the World Bank, also appeared to be negative about the notion of write-downs (although he really was trying to avoid substantive statements). Conable has said that he needs more time to think things through.

It seems plain that some relief from the burden of servicing the debt is needed. It's just gotten too big. Lorenz points out that against the bankers' rule of thumb that says a sound country will have a ratio of debt to its gross domestic product of no more than 20 to 25 percent, Mexico's ratio is 60, Argentina's is 70, and Chile's is 120. Even Brazil, said by Cline to be showing a good economic growth record, has a debt ratio of 40 percent to 45 percent.

A new report on the Latin American situation has been issued by a group of hemispheric leaders, including former U.S. Ambassador Sol Linowitz and former OAS head Galo Plaza. It points out that each year since 1982, interest payments alone have absorbed $35 billion of Latin American nations' $90 billion to $100 billion annual export earnings, stultifying their ability to expand their own economics.

Bradley would cut interest rates by three percentage points over three years and write off about 9 percent of the capital for Latin American nations that come up with economic-growth scenarios. In a three-year period, that could be worth about $57 billion in relief to 15 countries, compared with an extra $20 billion they'd get in commercial bank loans under the Baker plan.

"The Baker plan prolongs the policies that created the debt crisis in the first place," Bradley said.

A recent JEC study made the point that big American banks helped precipitate the debt crisis by openhanded lending policies, yet have been allowed under current policies to increase loan margins and fees.

But to squeeze out the money needed to pay off the banks, the JEC report shows, Latin American countries have been forced to cut off imports from the United States, thus "penalizing American farmers and other American exporters." Alfred J. Watkins of the Roosevelt Center for American Policy Studies adds: "Simply put, there is a serious tension between the interests of U.S. banks and the interests of nonfinancial sectors of the U.S. economy."

Debt-relief proposals are an explicit recognition that, under present policies, there is such a conflict between bankers, on the one hand, and American exporters who have lost Latin American markets, on the other—and that it may have to be resolved against the bankers.

Bradley now has put some of his political prestige, won during the successful fight for tax reform, into an examination of debt relief. He is not wedded to his 3 percent formula, or any other specifics. He told me that privately, bankers with whom he discussed his plan showed a surprising willingness to believe some kind of write-off relief is inevitable. The sooner that Baker and Conable arrive at the same pragmatic conclusion, the better.

Mr. BYRD. I also ask unanimous consent that my remarks may be revised and extended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

DEATH OF THE HONORABLE GEORGE M. O'BRIEN, A REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr. HEINZ. Mr. President, I send a resolution to the desk on behalf of myself, Mr. DIXON, and Mr. SIMON,

and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 449) relating to the death of the Honorable George M. O'Brien, a Representative from the State of Illinois.

S. RES. 449

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable George M. O'Brien, late a Representative from the State of Illinois.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 449) was agreed to.

Mr. HEINZ. Mr. President, I thank all of our colleagues.

EXECUTIVE SESSION

Mr. HEINZ. Mr. President, I have a unanimous consent request that I ask the Democratic leader to pay particular attention to which is as follows: I ask unanimous consent that the Senate go into executive session to consider the nomination of Robert Ortner of New Jersey to be Under Secretary of Commerce for Economic Affairs.

Mr. BYRD. Mr. President, this nomination has been cleared on this side of the aisle by all Members. There is no objection to proceeding to the confirmation thereof.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Robert Ortner, of New Jersey, to be Under Secretary of Commerce for Economic Affairs.

The PRESIDING OFFICER. The question is on the nomination. Without objection, the nomination is considered and confirmed.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination, and that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

PROPOSED LEGISLATION TO REVISE MEDICARE PAYMENTS TO PHYSICIANS

Mr. DOLE. Mr. President, in April, I was joined by my distinguished colleagues, the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Texas [Mr. BENTSEN] in introducing S. 2368, a bill that would begin the process of initiating needed reforms in the way the Medicare Program pays physicians. That bill has since received the benefit of the comments and suggestions from many who have assisted us in moving forward with this important effort. Specifically, I am referring to the excellent and ongoing discussions that have taken place with physicians, Medicare carriers, beneficiaries, the administration, as well as our colleagues here in Congress.

In anticipation of the Senate Finance Committee mark up of a reconciliation bill, I would like to take this opportunity to discuss with my distinguished cosponsors of S. 2368 some refinements that should be considered as the legislative process continues. We learned a great deal at a recent hearing on physician payment reform, we have received many letters from interested individuals and groups, and the researchers and analysts in this area have provided us with continued support. Thus, it makes sense for us to take some time now to reflect on the past few months and to move forward with these developments that strengthen our ability to achieve our goal—the construction of a resource based relative value scale that can be used to construct a physician fee schedule.

First on the list of proposed modifications is the expected date of availability of the resource based relative value scale [RVS] being constructed by Drs. Hsaio and Stasson at Harvard in conjunction with the American Medical Association. We now know that the results of that important study, will not be available until mid 1989. We should not therefore, expect the implementation of a resource base relative value scale to construct a fee schedule until December 31, 1989. All dates in S. 2368 and in the Consolidated Omnibus Budget Reconciliation Act that refer to the RVS availability date should coincide as well.

Second, my colleague from Minnesota has recently introduced S. 2576, the Medicare Timely Payment Amendments that would assure prompt payment to those who provide services to Medicare beneficiaries. It seems to me that timely payment by the Medicare carriers who pay physician bills should go hand in hand with physician payment reform. Would my colleague from Minnesota agree?

Mr. DURENBERGER. I do agree with the distinguished majority leader from Kansas, and I want to thank him for this opportunity to reflect on the progress we have made on our bill. While there can be no question that we still have a long way to go in physician payment reform, I am pleased to be part of this important first step.

With respect to S. 2368, I concur with the leader and I am glad to join him in specifying these provisions that require updating. At the April 25 Finance Health Subcommittee hearing on physician payment, which I chaired, I asked Dr. Hsaio whether he couldn't complete his work on the relative value scale earlier than mid-1989. But, at my request, Dr. Hsaio met with subcommittee staff following the hearing to provide a more detailed briefing on the nature of the work being done and I am satisfied now that an earlier completion date is, unfortunately, not possible.

I would also like to take this opportunity to call our colleagues' attention to the provision in the bill which requires the Secretary to develop an index or multiplier for converting the RVS into a fee schedule which would be sensitive to the current geographic maldistribution of physicians and the need to attract and retain physicians in medically underserved areas. This provision will see to it that any future physician payment mechanisms under Medicare do not perpetuate any unfair urban-rural differentials in payment to physicians that ultimately threaten Medicare beneficiaries' access to health care in rural areas.

Further, like the distinguished majority leader, I, too, would like to identify two areas of our bill that we have revised. At our Finance Committee Subcommittee on Health hearing on the bill, held in April of this year, we received a clear message. The factors that we have proposed to be taken into account when the Secretary of Health and Human Services applies "inherently reasonable" determinations concerning Medicare physician payment are essential. The current bill should contain unequivocal language that makes clear our conviction that these factors must be considered any time "inherent reasonableness" is applied. Specifically, the "may" contained in Sec. 1842(b)(8)(B)(i) of the Social Security Act (as added by Sec. 2 of S. 2368) should be changed to a "shall". This modification is consistent with much of the testimony we re-

ceived at our April hearing on physician payment reform.

Also, in Sec. 4(a), of the bill, we have directed the Secretary to "simplify" the payment method based on the Health Care Financing Administration Common Procedural Coding System (HCPCS). The word "simplify" should be substituted by the word "consolidate", which would more accurately describe the intention of this provision. Several carriers have already moved in this direction and their success with these rationalized payment methods should be disseminated throughout all carriers.

Mr. DOLE. I thank the Senator from Minnesota for his contribution to the area of physician payment reform. And I agree with the modifications he has recommended. Now I would like to turn to the distinguished Senator from Texas, our fellow cosponsor of S. 2368, and ask him if he would be willing to offer his comments at this time.

Mr. BENTSEN. I thank the distinguished majority leader and I want to begin by expressing my sincere appreciation to him, and to the chairman of the Senate Finance Subcommittee on Health for enabling us to take this opportunity to make explicit our progress to date. And I agree with my distinguished cosponsors on the revisions described above and I am pleased to have been a participant in the negotiations during which these modifications were developed. And I would like to offer one final addition.

Congress established the Medicare Program in order to provide access to needed medical services for our disabled and elderly citizens. The way we pay for these services can exert an effect on beneficiary access to those services in addition to liability in the area of copayments and billing beneficiaries beyond that which is paid for by Medicare, often referred to as "balance billing."

In our working with beneficiaries and the American Association of Retired Persons, it has become evident that any proposed use of the "inherent reasonableness" authority must include an evaluation of the impact of the change or methodology proposed to be established on changes in the accessibility of the service and changes in beneficiary liability for the service.

Mr. DOLE. I agree with the Senator from Texas and I thank him for his contributions and appreciate his as well as the Senator from Minnesota's commitment to the Medicare Program and to the beneficiaries of that program.

SALVADORAN DEPORTATION

Mr. SIMPSON. Mr. President, I wish to call to the attention of my colleagues a letter that I recently sent to the Most Reverend Arturo Rivera y Damas, the archbishop of the city of San Salvador in El Salvador, concerning legislation which would suspend the deportation of Salvadorans who are illegally in the United States.

Archbishop Rivera y Damas recently wrote a letter to all Members of Congress urging that the Senate and the House of Representatives pass legislation which would suspend the deportation of Salvadorans who are presently in our country in an illegal immigration status. Senator DENNIS DECONCINI and Congressman JOE MOAKLEY sent to every Member of Congress the archbishop's letter, in which he there stated his reasons for supporting such legislation.

In my letter of response to the archbishop, I have reviewed my reasons for deeply believing that a blanket immigration remedy such as this is a bad and treacherous course for U.S. immigration and refugee policy. I wish to make my letter a part of the RECORD on this debate.

I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 30, 1986.

Most Reverend ARTURO RIVERA Y DAMAS,
Archbishop of San Salvador,
El Salvador, C.A.

YOUR EXCELLENCY: I am writing with regard to your letter to all Members of Congress of the United States concerning the condition of Salvadorans in our country in an illegal immigration status, and legislation which would suspend their deportation.

All of us appreciate your humanitarian concern for the people of El Salvador who have been the innocent victims of six years of civil conflict in your country. I agree with you that special consideration should be given to your country and to its nationals, but I do not believe that this warrants the suspension of the deportation of every single Salvadoran who happens to be in the United States in an illegal immigration status. I would like to share with you my reasons for this position.

I have opposed the DeConcini-Moakley bill because it is quite simply untrue that all Salvadorans are incapable of safely returning to their homeland. Civilian deaths due to random violence have decreased dramatically in the past two years, and are not nearly as high as they were in the early 1980's. For example, in 1981, press reports listed over 9,000 civilian deaths due to the random violence. In 1984, similar reports found 800 civilian deaths due to random violence, and in 1985, the number of civilian deaths had declined to 335. By way of comparison, New York City experienced over 1,600 deaths due to homicide in 1983. While I assuredly agree with you that any number of civilian casualties is lamentable, this is not justification for the suspension of the deportation of over 500,000 who are presently in our country in an illegal immigration status. When human rights conditions improve as they have in El Salvador, we simply cannot deny that fact.

In addition, the respected Intergovernmental Committee on Migration (ICM) meets every returned or deported Salvadoran at the San Salvador airport and determines their need for food, clothing, shelter, travel documents, or referral to a displaced persons camp. ICM workers have distributed questionnaires to the returnees which inquire after their safety, and have followed up in the field on those people who did not return their questionnaires after going back to their hometowns. Since December of 1984, ICM has screened over 6,500 returnees at the San Salvador airport. It has encountered two cases of returnee deaths—one a victim of an armed robbery, the other a victim of an argument in a bar over a soccer match. There is simply no indication that Salvadorans being returned from the United States are being particularly exposed to harm, and until such evidence surfaces, I do not believe it appropriate to suspend United States immigration laws for the nationals of one particular country.

Finally, the United States sends over $20 million a year to displaced persons camps in El Salvador to attend to those Salvadorans who are unwilling to live in their home provinces because of the conflict. I believe this solution is much prefereble to a blanket suspension of deportation in the United States, and the United States' generosity in this instance should not be disregarded. To state, as you do, that "the authorities and members of the Government of the United States have closed their doors and their hearts against the suffering of my people," is inaccurate and offensive. No country receives more special attention for its returnees than El Salvador, and no country in this hemisphere receives such attention for the displaced people among its population. Until evidence arises of specific harm being likely to occur to Salvadorans returning today to their country, the U.S. Government's policy toward Salvadorans simply cannot be fairly criticized.

You state in your letter that "deportation is an act which is contrary to the law of our Father who asked that we 'clothe the naked, feed the hungry, give refuge to the persecuted . . .'" In fact, to suspend the deportation of every single Salvadoran who is present in the United States today—no matter his reasons for being here or his fears of returning—would be to jeopardize the most generous refugee policy in the world today. No country accepts for permanent resettlement more refugees than the United States. In fact, the United States accepts as many refugees for permanent resettlement as the rest of the world combined. Much of the generosity of this policy is based on the "Christian love" that you invoke in your letter. However, the wholesale acceptance of all Salvadorans presently in the U.S. would seriously jeopardize our ability to admit refugees from other corners of the world, particularly those who face a probability of persecution if they are returned. If the United States is to continue to play the leading role in refugee resettlement in the world today, it must be able to decide whom it shall and shall not admit, or else public support for such a program will lessen and dissipate.

Your letter asks us to support measures such as the DeConcini-Moakley bill "in the name of the international laws expressed in the Refugee Protocols of the United Nations and the Refugee Act of 1980." In fact, the DeConcini-Moakley bill is a specific expansion of the international commitments that the United States has under the U.N. Protocol Relating to the Status of Refugees. The Refugee Act of 1980 is the manner by which we conform to our international obli-

gations under the U.N. Protocol, and it creates a system called political asylum, which would grant refugee status to anyone who could prove he or she had a "well-founded fear of persecution, based on race, religion, nationality, membership in a particular social group, or political opinion." However, neither the U.N. Protocol nor the Refugee Act of 1980 requires that we grant temporary or permanent refuge to anyone who is escaping random violence due to a civil conflict in his or her country. It is simply inaccurate for you to refer to these legal instruments as justification for the suspension of the deportation of all Salvadorans who are in the United States in an illegal immigration status.

I will be most pleased to visit with you further on our mutual attempts to address the plight of Salvadorans who are fearful of the civil strife in their country. The United States already treats Salvadoran immigrants in a very special manner, and I do not object to this. I do, however, believe that it would seriously jeopardize overall U.S. refugee policy if we were to relax our immigration laws in a blanket manner toward all Salvadorans who have left their country—no matter what the reason.

Thank you for this opportunity of expression.

Most sincerely,

ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of July 17, 1986, the Secretary of the Senate, on July 18, 1986, during the adjournment of the Senate, received a message from the President of the United States transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on July 17, 1986 are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5161. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 371. A concurrent resolution to correct technical errors in the enrollment of the bill H.R. 3511.

The message further announced that the House has agreed to the following resolution:

H. Res. 500. A resolution relative to the death of the Honorable George M. O'Brien, a representative from the State of Illinois.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5161. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated;

EC-3473. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain excess payments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3474. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to July 14, 1986; to the Committee on Foreign Relations.

EC-3475. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-186 adopted by the Council on June 24, 1986; to the Committee on Governmental Affairs.

EC-3476. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-187 adopted by the Council on June 24, 1986; to the Committee on Governmental Affairs.

EC-3477. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-184 adopted by the Council on June 24, 1986; to the Committee on Governmental Affairs.

EC-3478. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-185 adopted by the Council on June 24, 1986; to the Committee on Governmental Affairs.

EC-3479. A communication from the Acting Special Counsel of the Merit Systems Protection Board, transmitting, pursuant to law, a report on the investigation of the Secretary of Defense into allegations of the overpricing of components being sold to the Defense Electronics Supply Center by Koehlke Components, Incorporated; to the Committee on Governmental Affairs.

EC-3480. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3481. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a decision of the Commission in a hearing on changes in collect on delivery service; to the Committee on Governmental Affairs.

EC-3482. A communication from the Board of Directors of the Seventh Farm Credit District Retirement Plan, transmitting, pursuant to law, the financial statements of the Plan for calendar years 1985 and 1984; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of July 17, 1986, the following reports of committees were submitted on July 18, 1986, during the adjournment of the Senate:

By Mr. PACKWOOD, from the Committee on Finance, with an amendment:

H.J. Res. 668. Joint resolution increasing the statutory limit in the public debt (Rept. No. 99-335).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 524. A bill to recognize the organization known as the "Retired Enlisted Association Incorporated" (Rept. No. 99-336).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 2656. A bill to permit the naturalization of certain Filipino war veterans; to the Committee on the Judiciary.

By Mr. HATCH:

S. 2657. A bill to amend Part C of title IV of the Social Security Act to provide for grants to States for programs to promote the training and employment of individuals receiving aid to families with dependent children; to the Committee on Finance.

S. 2658. A bill to authorize the establishment of demonstration programs to provide assistance to needy children deprived of parental support of care by reason of the unemployment of a principal wage-earning parent; to the Committee on Finance.

By Mr. GORE:

S. 2659. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to establish, monitor, and enforce efficacy standards for antimicrobial control agents used to control pest microorganisms that pose a threat to human health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BYRD (for Mr. BENTSEN (for himself, Mr. DANFORTH, Mr. BOREN, Mr. ROTH, Mr. DOMENICI, Mr. RIEGLE, Mr. HEINZ, and Mr. SYMMS)):

S. 2660. A bill to prevent burdens or restrictions upon the international trade of the United States by reason of the activities of state trading enterprises; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2661. A bill to improve the quality of teaching in American secondary schools and

enhance the competence of American secondary students and thereby strengthen the economic competitiveness of the United States, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STEVENS (for himself and Mr. INOUYE) (by request):

S. 2662. A bill to direct the Secretary of Transportation to enter into certain contracts and contract amendments to develop and deregulate the United States-flag liner fleet; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. BENTSEN, and Mr. LUGAR):

S. 2663. A bill to authorize trade negotiations on technology transfers and the protection of intellectual property rights, and for other purposes; to the Committee on Finance.

By Mr. GORTON:

S. 2664. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS (for himself, Mr. BURDICK, Mr. HECHT, Mr. ABDNOR, Mr. MELCHER, Mr. BENTSEN, Mr. COCHRAN, Mr. SIMPSON, Mr. DECONCINI, Mr. HATCH, Mr. BAUCUS, and Mr. DOMENICI):

S. 2665. A bill to amend the national maximum speed limit law; to the Committee on Commerce, Science, and Transportation.

By Mr. BUMPERS (for himself and Mr. FORD):

S. 2666. A bill to provide for a study by the Federal Communications Commission of the encryption of certain television programming, and ensure the availability of certain encrypted programming for private viewing under competitive market conditions; to the Committee on Commerce, Science, and Transportation.

By Mr. BYRD (for Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. CHILES, Mr. DURENBERGER, Mr. BAUCUS, Mr. GRASSLEY, and Mr. BRADLEY)):

S. 2667. A bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants and children under 6 years of age; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 448. A resolution expressing the sense of the Senate that the President should take immediate steps to increase U.S. agricultural exports; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ (for Mr. DIXON (for himself and Mr. SIMON)):

S. Res. 449. A resolution relative to the death of the Honorable George M. O'Brien, a Representative from the State of Illinois; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2656. A bill to permit the naturalization of certain Filipino war veterans; to the Committee on the Judiciary.

NATURALIZATION OF CERTAIN FILIPINO WAR VETERANS

● Mr. INOUYE. Mr. President, today I am introducing companion legislation to H.R. 1302, which would permit the naturalization of Filipino World War II veterans who are facing possible deportation from the United States.

In March 1942, Congress amended the Nationality Act of 1940 to allow for the naturalization of Filipino veterans who served honorably in our armed services during World War II. These veterans, however, were unable to take advantage of the naturalization process for 9 months as a result of a decision made by the Attorney General to remove the naturalization examiner from the Philippines.

In January 1984, the Supreme Court ruled that the Justice Department is not prohibited by a previous decision from challenging the citizenship applications of these Filipino veterans. While this decision remains on appeal, these 1,600 or so veterans who are at retirement age, and who have served their community as well as our country honorably, still face the possibility of being deported.

To fulfill an American promise and to prevent the possibility of them being deported, this legislation would then assist these veterans in being naturalized by extending the date which they should petition the Immigration and Naturalization Service for naturalization. It would also restrict this opportunity to those veterans currently residing in the United States.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 310(b) and 329(d) of the Immigration and Nationality Act (8 U.S.C. 1421(d), 1440(d)) and clause (3) of section 701 of the Nationality Act of 1940, the Attorney General shall provide, in accordance with the provisions of title III of the Nationality Act of 1940 (as in effect before December 24, 1952), for the naturalization of nationals of the Philippines who—

(1) are present in the United States (as defined in section 101(a)(38) of the Immigration and Nationality Act) both as of the date of the enactment of this Act and as of the date of their application for naturalization;

(2) would have been eligible for naturalization under such title as of December 31, 1946, but for the fact that they did not file a petition for naturalization under such title before January 1, 1947; and

(3) apply for such naturalization not later than 90 days after the date of the enactment of this Act.●

By Mr. HATCH:

S. 2657. A bill to amend part C of title IV of the Social Security Act to provide for grants to States for programs to promote the training and employment of individuals receiving aid to families with dependent children; to the Committee on Finance.

S. 2658. A bill to authorize the establishment of demonstration programs to provide assistance to needy children deprived of parental support or care by reason of the employment of principal wage-earning parent; to the Committee on Finance.

WELFARE REFORM LEGISLATION

Mr. HATCH. Mr. President, today I am introducing two bills entitled the "Work Incentive Block Grant Act" and the "Pro-Family Preservation Act." These two proposals I add to the fire of the debate—how can we win the war on poverty? As we see more families falling into poverty, we must search for innovative and flexible solutions—solutions that help families rise from welfare dependency to self-sufficiency. Today, I offer two proposals in an effort to spark the debate and continue discussions on welfare reform.

The first bill I am introducing today is the "Work Incentive Block Grant Act." The Work Incentive (WIN) Program was enacted in 1967 to assist recipients of Aid to Families with Dependent Children [AFDC] prepare for good jobs. However, this well-intentioned effort has not lived up to its expectations or its potential.

A 1982 report to the General Accounting Office found that only 14 percent of WIN participants were employed 6 to 18 months after completing their programs. Of those who found jobs, less than half attributed their success to WIN. Testimony we have received in the Labor and Human Resources Committee, during our recent hearing on re-entry women, pointed out the administrative difficulties of dealing with the WIN system and urged our reform of the program.

Mr. President, at nearly $8 billion annually, AFDC is one of the largest Federal entitlement programs. Clearly this fact indicates that the need for job training is too great to eliminate the small expenditure we are making for the WIN Program. I supported an amendment to the budget resolution earlier this year to restore funding for the WIN Program. However, we owe it to the taxpayers to make this program run more efficiently and effectively as well as to the participants who see WIN as a route to economic independence. We cannot put off examining this program any longer. The vote to restore funding was not a vote of confidence, it was a promise to act on substantive reform.

My proposal would steamline WIN, enabling us to concentrate resources on training, not on bureaucracy. The

Work Incentive Block Grant Act makes four basic reforms.

First, registration for WIN, JTPA, or Community Work Experience Programs would be required of all AFDC recipients except those in very special circumstances. Presently, only 40 percent are required to register for WIN and only half of those actually participated. However, even if an enrollment opportunity is not immediately available, AFDC recipients must recognize that public assistance is temporary while they qualify themselves for employment. Reliance on AFDC or other public assistance programs cannot be viewed as a way of life. The registration for training requirement is a minimal responsibility for the recipient.

Second, States would have more flexibility to adapt WIN to other training programs in the States. Specifically, the bill allows States the option of merging funds designated for the WIN Program with title II-A of JTPA for the purpose of serving AFDC clients. This would eliminate almost the entire WIN administrative apparatus, permitting higher allocation.

Third, the bill requires the involvement of JTPA's private industry councils whether the allocation is merged or not. Training programs must be developed locally, which more accurately reflect the types and levels of occupational skills most in demand by employers.

Finally, the bill clarifies Federal responsibilities under the program, vesting the administration of WIN with the Department of Health and Human Services, a set-up which lends itself to creating duplication, confusion and ineffectiveness.

These are fairly modest reforms. If enacted, however, they could go a long way toward upgrading this training program and achieving better results for the money we are expanding for it. We must keep faith with the taxpayers by dealing with the obvious problems in the program and with AFDC recipients who want a better way of life by improving the quality of their training and therefore the prospect of steady, productive employment.

The second bill I am introducing today is the "Pro-Family Preservation Act." This legislation is designed to complement the current AFDC-UP Program by allowing nonparticipating States to design programs help two-parent families who have few economic resources and who need short-term support to become self-sufficient.

The AFDC Program was initially developed in the early twentieth century to help impoverished families remain intact by providing them financial assistance. When enacted, Theodore Roosevelt described the law in this way:

> Children of parents . . . suffering from temporary misfortune, and children . . . who are without support of the normal breadwinner should be kept with their parents . . . given aid as may be necessary to maintain . . . homes for the rearing of children.

In including the AFDC Program in the Social Security system in 1935, the intent of Congress was described as follows:

> For the purpose of encouraging the care of dependent children in their own homes . . . to help maintain and strengthen family life and to help parents . . . attain or retain capability for the maximum self-support and personal independence.

Today our Federal AFDC Program has changed. Eligibility requirements for AFDC are not based primarily on need, but on certain other criteria. One that we in Congress need to reevaluate is the requirement that fathers be out-of-the-household before a family can get any help. The legislation I am introducing today will help AFDC families remain intact as they move out of welfare dependency.

We do have one program with this aim—the AFDC-UP Program. Congress created this option to discourage parents from separating as a way for the mother and children to qualify for aid. However, some States, including my home State of Utah, have been forced to withdraw from this well-intentioned program because of fiscal problems. The legislation I am introducing would encourage States not now offering AFDC-UP to provide some assistance to two-parent families, to allow States to apply tougher work requirements and incentives to these families, and to give financially strapped States that may be forced to drop it an alternative to doing so.

Specifically, this legislation is designed to allow States the flexibility to develop two parent programs, to develop work or training programs for either spouse, and to expand child care opportunities for families who are AFDC qualified. This demonstration program is not intended to supplant the existing AFDC-UP Program, merely provide incentives for those States currently not involved to develop flexible programs for intact families.

AFDC-UP is currently utilized in 23 States. Other States are reluctant to get involved in AFDC-UP because of fiscal and administrative restraints. The AFDC-UP Program presently requires that in order to be eligible, a family must establish that the principal earner meets an earnings history requirement. This requirement is extraordinarily complex. The test is so complicated that it is difficult to administer and may result in numbers of needy families being denied assistance—either because they do not meet the earnings history requirement or because they and welfare workers cannot navigate the intricacies of the system even if the family has a long-standing work history.

The State of Utah had to abandon AFDC-UP, but developed an alternative two-parent family program entitled "The Emergency Work Program." I ask unanimous consent that its summary and evaluation be included in the RECORD at the conclusion of my remarks. Utah has had great success in targeting programs to help families in need of assistance. The cost of the program has been one-tenth of the cost of the AFDC-UP Program while serving almost as many families. I hope other States without an AFDC-UP Program will be able to achieve the benefits of Utah's innovative program.

Mr. President, I hope all Senators will join me in a movement to enact these reforms.

I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills and summary were ordered to be printed in the RECORD, as follows:

S. 2657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Work Incentive Block Grant Act".

SEC. 2. STATE WORK INCENTIVE PROGRAMS FOR RECIPIENTS OF AFDC.

(a) IN GENERAL.—Part C of title IV of the Social Security Act is amended to read as follows:

"PART C—STATE WORK INCENTIVE PROGRAMS FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

"PURPOSE

"SEC. 430. The purpose of this part is to promote the establishment, by any State with a State plan approved under section 402, of a work incentive program (hereafter in this part referred to as a "State program") to furnish incentives, opportunities, and necessary services to individuals receiving aid under such plan in order to promote (1) the employment of such individuals in the regular economy, and (2) the training of such individuals for work in the regular economy, thus restoring such individuals and their families to independence and to useful roles in the community. It is expected that individuals participating in a State program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 431. (a) There is authorized to be appropriated to the Secretary of Health and Human Services (hereafter in this part referred to as the "Secretary") for the fiscal year 1987 and each succeeding fiscal year $250,000,000 to make grants to States in accordance with this part.

"(b)(1) Of the sums appropriated pursuant to subsection (a) to carry out the provisions of this part for any fiscal year—

"(A) an amount of not more than 15 per centum shall be expended by the Secretary to administer the program of grants established under this part for such fiscal year, and

"(B) an amount of not less than 85 per centum shall be allotted to States with a State program approved under this part for such fiscal year in accordance with the formula described in paragraph (2).

"(2) The total amount available for allotment to States under paragraph (1)(B) for a fiscal year shall be allotted in accordance with a formula under which each such State receives an amount that bears the same ratio to such total as the average number of individuals in such State who, during the month of January last preceding the beginning of such fiscal year, were registered pursuant to section 402(a)(19)(A) bears to the number of individuals in all such States who, during such month, were so registered.

"(c) The Secretary shall make payments to a State from its allotment under subsection (b)(2) in accordance with section 6503(a) of title 31, United States Code.

"(d) A State may transfer any portion of its allotment under this part for any fiscal year for use under part A of title II of the Job Training Partnership Act for such fiscal year. Amounts so transferred shall be used to provide training under such part to individuals registered pursuant to section 402(a)(19)(A) of this Act and shall not affect the computation of the State's allotment under such part but shall otherwise be treated as if they were paid to such State under such part. The State shall promptly inform the Secretary of any transfer made by such State under this subsection.

"(e) In carrying out the purposes of this part a State may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation).

"(f) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

"(g) No portion of any allotment made to a State under this part may be used to pay for the administrative costs incurred by a State in administering a program established under this part.

"USES OF GRANTS

"SEC. 432. (a) A State to which an allotment is made under this part shall use such allotment to maintain a State work incentive program for individuals who are required to register pursuant to section 402(a)(19)(A).

"(b)(1) A State program shall include—

"(A) a program placing as many such individuals as is possible in employment, which may include intensive job search services and participation in group job search activities,

"(B) a program utilizing on-the-job training positions,

"(C) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and

"(D) a program of testing, counseling, and referral that is designed to promote the participation by individuals in activities included in the State program that are most likely to lead to regular employment.

"(2) To the extent practicable and where necessary, State programs established under this part shall include program orientation, basic education, training in communications and employability skills, work experience, institutional training, on-the-job training, job development, and special job placement and followup services, required to assist participants in securing and retaining employment and securing possibilities for advancement.

"(c) Amounts allotted to a State under section 431(b)(2) may be used to pay, to any member of a family participating in employment training under a State program, allowances for transportation, child care, and other costs incurred by such family member, to the extent that such costs are specified in the employability plan developed for such member in accordance with section 433(a)(2)(F) and are necessary, and directly related, to the participation by such member in such training.

"(d) None of the funds made available under this part may be used to provide public service employment for any individual registered pursuant to section 402(a)(19)(A) for a State program established under this part or for the payment of wages to any such individual.

"APPLICATION

"SEC. 433. (a) Any State desiring to receive a work incentive block grant under this part for a fiscal year shall submit an application to the Secretary at such time as the Secretary prescribes. Such application shall—

"(1) designate an entity to administer the State program established by such State under this part; and

"(2) provide assurances that—

"(A) such program will operate in each political subdivision of the State in which there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children;

"(B) efforts will be made to—

"(i) operate such program in political subdivisions other than those described in subparagraph (A), or

"(ii) provide transportation for individuals residing in such political subdivisions to subdivisions of the State in which such program is in operation;

"(C) the present level of employment services available under the authority of State law to recipients of aid to families with dependent children will not be reduced as a result of the operation by such State of a State program approved under this part;

"(D) the entity designated to administer such program will utilize the services of each private industry council (as established under the Job Training Partnership Act) to identify and provide advice on the types of jobs available or likely to become available in the service delivery area of such council and will not conduct, in any area, institutional training which is not related to jobs of the type which are, or are likely to become, available in such area;

"(E) the chief executive officer of such State will make every effort to coordinate the State program established under this part with activities provided by private industry councils in the State under the Job Training Partnership Act;

"(F) there will be developed for each individual registered for the State program pursuant to section 402(a)(19)(A) an employability plan which—

"(i) describes the education, training, work experience, and orientation that such individual needs to complete in order to enable such individual to become self-supporting, and

"(ii) specifies the amount (if any) of the allowance payments authorized by section 433(c) that should be made to such individual in order to enable such individual to complete such program;

"(G) the entity designated to administer the State program will promptly report to the agency administering or supervising the administration of the State plan approved under section 402(b) any refusal without good cause to accept employment or to participate in an activity conducted under such program by an individual registered for such program pursuant to section 402(a)(19)(A);

"(H) any costs incurred by the State in administering the State program will be paid for with funds other than funds provided to the State by the Federal Government; and

"(I) no individual registered for the State program pursuant to section 402(a)(19)(A) will participate in activities conducted under any State program established under this part for periods totaling more than two years.

"(b) An application submitted pursuant to subsection (a) shall be accompanied by a statewide operational plan which shall prescribe how the State program will be operated at the local level, and shall indicate (1) for each area within the State, the number and type of positions which will be provided for training and for on-the-job training, (2) the manner in which information provided by the private industry council under the Job Training Partnership Act for any such area will be utilized in the operation of such program, and (3) the particular agency or organization which will be responsible for each of the various activities and functions to be performed under such program.

"(c) The Secretary shall approve or disapprove any State application made under this section within forty-five days after receipt of the application.

"STATE REPORTS AND AUDITS

"SEC. 434. (a) Each State shall prepare reports on its activities carried out with funds made available under this part. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every two years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the purposes of this part. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon request, to any interested public agency and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every two years, audit its expenditures from amounts received under this part. Such State audits shall be conducted by an entity independent of any entity administering activities funded under this part, in accordance with generally accepted auditing principles. Within thirty days following the completion of each audit, the State shall submit a copy of the audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this part, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this part.

"(c) The provisions of section 6503(b) of title 31, United States Code, shall apply to grants made to States under this part.

"REPORT BY SECRETARY

"SEC. 435. The Secretary shall report annually to the Congress on work incentive programs established under this part. Each

report shall include an evaluation of the effectiveness of such programs in achieving the purposes of this part and their impact on and relationship to related programs.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1)(A) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by striking out all beginning with "(but" and ending with "and (3))".

(B)(i) Section 402(a)(19)(A) of such Act is amended to read as follows:

"(A) that every individual (other than an individual determined by the State agency to fall within any reasonable category established by the State with respect to individuals to whom the requirements of this subparagraph shall not apply) shall be referred by such agency to, and as a condition of eligibility for aid under this part, shall register for a community work experience program established under section 409, a work incentive program established under part C of this title, or a program established under part A of title II of the Job Training Partnership Act, and for employment search (not to exceed eight weeks in total in each year);".

(ii)(I) Section 407(b)(2)(C)(i) of such Act is amended by striking out "he is exempt under such section by reason of clause (iii) thereof or".

(II) Paragraph (2) of section 409(b) of such Act is repealed.

(C) Section 402(a)(19)(C) of such Act is repealed.

(D) Section 402(a)(19)(D) of such Act is amended by striking out "by section 432(b)(2) or (3)" and inserting in lieu thereof "in accordance with section 432(b)(1)(C)".

(E) Section 402(a)(19)(F) of such Act is amended in the matter preceding clause (i)—

(i) by striking out "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor)";

(ii) by striking out "Secretary of Labor under section 433(g)" and inserting in lieu thereof "State agency administering or supervising the administration of the State plan, pursuant to a report made to such agency in accordance with section 433(a)(2)(G)";

(iii) by striking out "under a" and inserting in lieu thereof "in the"; and

(iv) by striking out "by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C" and inserting in lieu thereof "in such State under part C".

(F) Section 402(a)(19)(G) of such Act is amended—

(i) by striking out "section 432(b)(1), (2), or (3)" each place it appears and inserting in lieu thereof "section 432(b)(1)";

(ii) by striking out "in accordance with the order of priority listed in section 433(a),";

(iii) by striking out "certify to the Secretary of Labor" and inserting in lieu thereof "refer to the entity designated to administer the work incentive program of such State";

(iv) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "such entity"; and

(v) by striking out "section 433(b)" and inserting in lieu thereof "section 433(b) and section 433(a)(2)(F)".

(G) Section 402(a)(19)(H) of such Act is amended by striking out "section 432(b)(1), (2), or (3)" and inserting in lieu thereof "section 432(b)(1)".

(2) Section 403(c) of such Act is amended by striking out "section 432(b)(1), (2), or (3)" and inserting in lieu thereof "section 432(b)(1)".

(3)(A) Section 407(b)(2)(A) of such Act is amended by striking out "be certified to the Secretary of Labor" and inserting in lieu thereof "register".

(B) Section 407(b)(2)(C)(i) of such Act is amended by striking out "he is exempt under such section by reason of clause (iii) thereof or".

(C) Section 407(c) of such Act is amended by striking out all beginning with "no action is taken" through "pursuant" and inserting in lieu thereof "the parent is not registered (after the 30 thirty-day period referred to in subparagraph (A) of subsection (b)(2)) in accordance with the requirements of".

(D) Section 407(d)(1) of such Act is amended by striking out "the" the second place it appears and inserting in lieu thereof "a".

(E) Section 407(e)(1) of such Act is amended by striking out "the work incentive program established by part C" and inserting in lieu thereof "a work incentive program established under part C".

(4) Section 409(b)(2) of such Act is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1986.

S. 2658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Pro-Family Preservation and Demonstration Program Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to authorize payments under part A of title IV of the Social Security Act with respect to State demonstration programs for the provision of assistance to families in which there is a needy dependent child and such child has been deprived of parental care or support by reason of the unemployment of a parent who is the principal earner, in order to maintain and strengthen family life and to help the parents of such child to attain or retain the capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection of such child.

SEC. 3. AFDC UNEMPLOYED PARENT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Notwithstanding any provision of part A of title IV of the Social Security Act, any State that has a plan approved under section 402 of such Act may elect, as an alternative to the program of aid to dependent children of unemployed parents authorized by section 407 of such Act, to operate a demonstration program for the purpose of providing assistance with respect to a dependent child (within the meaning of subsection (a) of such section) with a parent who is a principal earner (within the meaning of subsection (d)(4) of such section) and who meets the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1) of such section.

(b) STATE APPLICATION.—

(1) CONTENTS.—The Governor of a State that desires to operate a demonstration program under this Act shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must—

(A) specify the agency that will conduct the demonstration program within the State;

(B) provide a statement of the objectives that the State expects to meet through operation of the demonstration program;

(C) describe the techniques to be used to achieve the objectives of the demonstration program, which may include—

(i) providing assistance to dependent children described in subsection (a) for a limited period of time, rather than on a continuing basis;

(ii) imposing stricter work requirements by conditioning eligibility upon participation by the principal earner of a family to participate in a job-training, community work experience, work supplementation, or work incentive program;

(iii) (providing child-care benefits for parents actively seeking employment;

(iv) providing that assistance be paid for services rendered by the principal earner of such family in a program described in clause (ii);

(v) providing training and employment services for parents through cooperative arrangements with the private sector; and

(vi) any other techniques that the Secretary determines will promote the purposes of this Act; and

(D) set forth the format and frequency of reporting of information regarding operation of the demonstration program.

(2) APPROVAL.—A State's application to establish a demonstration program under this Act shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in section 407 of the Social Security Act.

(c) STATE FLEXIBILITY.—Subject to the statement of objectives and description of techniques to be used in implementing a demonstration program under this Act, as set forth in its program plan, a State shall be free to design a program that best addresses its individual needs, makes best use of its available resources, and recognizes local conditions.

(d) PERIOD OF OPERATION.—A demonstration program approved under this Act shall be in force for an initial three-year period, and may be extended for such additional periods as the Secretary deems appropriate. During the initial period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A of title IV of the Social Security Act shall remain in full force and effect.

(e) EVALUATIONS.—The Secretary of Health and Human Services shall conduct two evaluations of a State's demonstration program. The first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted three years from the date of the Secretary's approval of the demonstration program.

(f) PAYMENTS TO STATES.—Costs of a demonstration program established under this Act that would not otherwise be included as expenditures under section 403 of the Social Security Act shall, to the extent and for the period prescribed by the Secretary, be re-

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garded as expenditures under the State plan approved under section 402 of such Act or for the administration of such plan, as may be appropriate.

(g) EFFECTIVE DATE.—This Act shall apply with respect to expenditures made in quarters beginning after the date of the enactment of this Act.

UTAH EMERGENCY WORK PROGRAM FOR UNEMPLOYED HOUSEHOLDS

BACKGROUND

In July 1981, Utah abolished the optional Federal/State AFDC-UP program for unemployed, two-parent households with dependent children. This assistance program was abolished because of sharply escalating enrollment and cost together with a state revenue shortfall. In 1983, community groups reported a critical situation. No assistance was available to many needy, unemployed two-parent households with dependent children. Families were breaking up to obtain assistance. In December 1983, the Utah State Legislature initiated the Emergency Work Program for unemployed households. In 1984, Federal demonstration matching funds were secured for the assistance provided to two-parent households with dependent children.

Initial eligibility requirements for assistance under the Emergency Work Program are identical to the National AFDC-UP Program. However, the performance requirements are different.

Requirements which are different:

1. A household member must participate 40 hours a week in a combination of job activities (job search, skill training, adult education, community work).
2. The spouse must search for a job unless excused for a good cause.
3. Payment is made bi-weekly after the household has met the performance requirement.
4. Participation is limited to six months in a 12 month period.
5. The benefit levels are designed to ensure that a household has an incentive to take a minimum wage job.

	Biweekly benefits
Household size:	
1	$100
2	140
3 or 4	200
5 or more	220

The program serves unemployed two-parent families year round and unemployed single persons and couples during the winter months.

PRELIMINARY FINDINGS

The following compares the results of the Emergency Work Program with the AFDC-UP Program and a "no program" group. The "no program" group represents those terminated from the AFDC-UP program due to the program ending July, 1981.

Characteristic	AFDC-UP 1980–81	No program 1981–82	EWP 1984–85
Benefit expenditures	$10,500,000	[1] N/A	$450,000
Administrative expenditures	950,000	N/A	70,000
Job assistance expenditures	1,000,000	N/A	80,000
Average length of stay on program	10 months	N/A	9 weeks
Job placement rate (percent)	[3] N/A	[2] 52	70–78
Average wage earned upon job placement	5.12	N/A	5.80
Divorce/separation and receipt of AFDC (percent)	7.4	13.6	3.6 est.

[1] The absence of any program resulted in significant benefit expenditures because of separation and receipt of AFDC as a single parent household.
[2] Based on survey of 56 families who were terminated from AFDC–AP when the program ended on June 30, 1981.
[3] Not available.

TABLE 2.1.—COMPARISON OF PROGRAM CHARACTERISTICS: AFDC–UP, NO PROGRAM, AND EWP

Program characteristics	AFDC–UP 1980–81	No program 1981	EWP 1984–85
Fathers average:			
Age in years	29.51	31.70	[1] 29.3
Years of education	11.46	10.70	11.20
Barrier to work	Physical	Unknown	Physical
Mother's average:			
Age in years	26.71	29.20	26.80
Years of education	11.01	11.22	11.20
Barrier to work	Child care	Unknown	Child care
Number in household	4.47	4.80	4.4
Separation rate (percent)	Unknown	23.2	7.0
Separation and receipt of AFDC (percent) [2]	7.4	13.4	N/A
Length of stay w/o 30 day interruption	10 months	N/A	11 weeks
Average case load	1,935	N/A	138
Unemployment rates (percent) [3]	[4] 6.8	[5] 6.7	[6] 6.5
Participation requirement	Sometimes WIN)	N/A	Always
Job search requirement	Sometimes	N/A	Always
Employment placement (percent)	Unknown	51.8	69.0
Mean wage	$5.12	N/A	$6.36
Maximum grant (family of 4)	$415	N/A	$433
Average monthly grant [7]	$422	N/A	$294
Grant cost per household	[8] 4,220	N/A	$810
Annual grant cost	$9,469,202	N/A	[9] $496,492

[1] Defined as program participant for the EWP.
[2] Receipt of AFDC as a separated or divorced household 6 months later for AFDC–UP, and 5 or 6 months later for the No program group. Data are incomplete and not available at this time for the EWP group.
[3] Labor market information services, Utah Department of Employment Security, nonseasonally adjusted state averages.
[4] January 1980 to June 1981.
[5] July 1981 to November 1981.
[6] June 1984 to June 1985 (January '85 forecast.)
[7] Monthly grant expenditures divided by the number of cases served monthly.
[8] Average monthly grant times the average length of stay of 10 months.
[9] Adjusted annual grant cost.

LESSONS LEARNED FROM UTAH WORK PROGRAM

1. Community work programs need to be combined with job search, adult education, skill training, and job placement. Community work programs are not effective unless combined with other employment activities directed toward employment.
2. Staff and recipients respond to expectations. If expected to get a job and supported in that effort, recipients secure employment. The expectation and goal of employment must be continually emphasized to staff and recipients. Activities, such as community work, must be only a means to the employment end.
3. Involvement in employment related activities increases job placement.
4. Clients can be successfully involved in employment activities on a voluntary basis. Utah's self sufficiency effort is focused on AFDC families with children under age 6 who are WIN exempt. Every AFDC applicant is encouraged to become self sufficient and referred to self sufficiency teams for information and employment assistance.
5. While payment after performance would be difficult to apply to food stamp only cases, the procedure works with selected groups, such as two-parent families receiving financial assistance. Payment after performance sharply increases involvement in employment activities and makes assistance similar to an educational grant or a job.
6. Assistance programs need to utilize and hold accountable programs with employment expertise and services such as JTPA.
7. Employment programs enhance the image of both the assistance program and the clients.
8. Work fare programs which establish the level of participation by dividing the assistance amount by the minimum wage do not work. This procedure is an administrative nightmare and detracts from the essential purpose of permanent employment.
9. Adequate federal funds must be available to states to operate quality work programs. Employment programs for Food Stamp recipients will save the federal government funds by reducing coupon issuance. The federal government should provide at least 75 percent federal matching.
10. Any federal employment effort for food stamp recipients must provide state flexibility and be goal (job) oriented.

By Mr. GORE:

S. 2659. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to establish, monitor, and enforce efficacy standards for antimicrobial control agents used to control pest microorganisms that pose a threat to human health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

HOSPITAL DISINFECTANT AMENDMENT

● Mr. GORE. Mr. President, over the past 4 years, the Federal Government has let a potential disaster develop in America's hospitals, and most doctors, patients, and administrators don't even know about it. The fact is, going into the hospital these days could be enough to make you sick. Many hospital disinfectants do not work, and some actually carry the bacteria they are meant to kill. Yet the administration stopped testing these chemicals in 1982 and has no plans to resume it.

Hospitals use disinfectants to clean floors, beds, some medical instruments, and other areas where germs can spread. But studies show that chemicals fail at least 20 percent of the time, leaving bacteria and viruses to infect other patients. According to the Public Health Service, 2 million Americans become infected in hospitals each year. These secondary infections cause 20,000 deaths annually and cost the Nation an estimated $2.5 billion.

Manufacturers can get away with selling ineffective disinfectants because the administration lets companies test the products themselves. In the past, a Federal laboratory checked disinfectants to make sure they worked. But administration officials shut down the lab in 1982, even though failure rates were running as high as 72 percent. The Government refuses to open it again despite several studies confirming the extent of the problem.

The results are shocking and tragic. Two years ago, for example, doctors at the Mayo Clinic used a bronchoscope to examine the lungs of a tuberculosis victim. They disinfected the instrument and used it on a patient who did not have the disease. After treating a third patient, the doctors discovered that the disinfectant had failed. The bronchoscope still carried tubercular germs—and in the meantime two patients had been exposed to TB. The

clinic had to treat the two for several months to keep them from developing the disease.

A State testing laboratory found samples that contained large amounts of the microorganisms they were designed to fight. Using a contaminated disinfectant to kill germs is like trying to put out a fire with gasoline.

Our society cannot afford to ignore this problem any longer. We spend more than $450 billion a year on health care, yet the administration refuses to spend the $500,000 it would take to make sure our hospitals are clean and safe.

Mr. President, this afternoon I am introducing an amendment to the Federal Insecticide, Fungicide, and Rodenticide Act to require the Environmental Protection Agency to monitor disinfectants at hospitals, nursing homes, and other health care facilities once again. The amendment simply requires the EPA to resume the testing and enforce the efficacy standards that worked so well for decades.

Many hospitals are just becoming aware of this problem and will need our help to solve it. Government has a duty to protect people against threats they can neither see nor control. We must not let the agencies that should be looking out for the public fall asleep at the wheel.

Mr. President, we place tremendous faith in our hospitals and public health officials. Americans will not stand for products that don't work—or Government that fails to do its job.●

By Mr. BYRD (for Mr. BENTSEN, for himself, Mr. BOREN, Mr. ROTH, Mr. DOMENICI, Mr. RIEGLE, Mr. HEINZ, and Mr. SYMMS):

S. 2660. A bill to prevent burdens or restrictions upon the international trade of the United States by reason of the activities of State trading enterprises; to the Committee on Finance.

ANTI-MERCANTILISM TRADE ACT

● Mr. BENTSEN. Mr. President, it is often said that even if we could abolish all the unfair trade practices in the world, it would not affect our trade deficit by more than a few percentage points. However, such statements fail to take account of the extent of the unfair trade practices in the world today. Unfair trade practices are not limited to the traditional areas of heavy legal interest; they reflect a much broader process of creeping mercantilism, which is undermining the open multilateral trading system.

A year ago, the Senate Democratic Working Group on Trade Policy—of which I am pleased to be the chairman—warned of the devastating importance of mercantilism. I urge Senators to study the report we issued on that subject. I will only give Senator Webster's definition of mercantilism here:

> Mer-can-til-ism . . . an economic system . . . intended primarily to unify and increase the power and especially the monetary wealth of a nation by a strict governmental regulation of the entire national economy usually through policies designed to secure an accumulation of bullion, a favorable balance of trade, the development of agriculture and manufactures, and the establishment of foreign trading monopolies.—Webster's Third New International Dictionary.

The Economist magazine recently printed a chart showing state ownership of 11 industries in 18 major countries. No other country owns so few of the major industries in its economy as the Government of the United States.

In the United States, the Government owns one, the postal system; the chart also shows that the United States and State governments in the United States own 25 percent of electric power generation and 25 percent of the railroad system. Public ownership of these businesses is small, and they are not directly related to our traded sectors, so public ownership probably does not have much impact on international trade.

Compare the other 18 major countries. The Government of West Germany owns all of its telecommunications industry, its railways, and its airlines. It owns substantial chunks of electricity, gas, coal, and even of its motor industry and shipbuilding. Of the 11 categories, only one—steel—is entirely in private hands in West Germany. Only one of the 11 categories is in private hands in France. In Austria, Great Britain, Italy, and Mexico, none of these 11 industries are in private hands, where they exist.

Consider the impact of state ownership on one American industry, telecommunications. The United States is a world-class competitor in the telecommunications industry. Yet the telecommunications industry is in private hands in only one country on this list: the United States. In Canada, government owns 25 percent of the industry; in Spain, government owns half. In the rest, government owns it all. Frequently, those governments do not let those companies buy American products to prevent putting people out of work in that country. Imagine the impact on our exports.

In fact, virtually every industry is the subject of mercantilism somewhere in the world. In agricultural products, natural resources such as petroleum and copper, chemicals, steel, shipbuilding, aircraft, and dozens of others, national governments either run the enterprise as a government agency or own a controlling interest.

Does that mean we should try to abolish national ownership of industries? No, Mr. President, it does not.

For one thing, we cannot abolish government ownership of trading enterprises. The decision of a foreign country to undertake a business as a state enterprise is so common that America is the exception in favoring private ownership, not the rule. IRI, the Italian state holding company, is said to be the largest single employer in the European Common Market.

However, we should insist that nations which engage in trading by national enterprise obey the international rules. These rules are set out in the General Agreement on Tariffs and Trade [GATT].

First, the GATT defines "state trading," broadly. The definition includes enterprises that are granted "exclusive or special privileges," as well as any enterprise owned by government.

Second, the GATT sets out a simple rule: Such enterprises shall make purchases or sales in accordance with commerical considerations. The GATT even defines commercial considerations. It includes considerations of price, quality, availability, marketability, transportation, and other conditions of purchase or sale.

Third, the GATT requires that governments which run trading enterprises give other firms the benefits of most-favored-nation treatment, that they afford foreign enterprises the opportunity to compete for participation in purchases and sales, and that they may not prevent any enterprises under their jurisdiction from operating in accordance with these rules.

National enterprise trading that fails to meet the GATT commercial considerations test is probably a more harmful unfair trading practice than even dumping or subsidization, but so far, our Government is doing nothing to control its harmful effects. Many GATT rules have been implemented in U.S. law, but the United States has never implemented the GATT rules on state trading. The bill that we are introducing today implements these international rules.

First, it provides that national enterprise trading that does not measure up to the international standard—commercial considerations—may be in the subject of a section 301 investigation. Section 301 is that part of our trade laws which allows the President to relate for foreign unfair trade barriers. State trading that is not conducting in accordance with the GATT's commercial considerations rule is mercantilism, and it is, by definition, an unfair trade practice. We have the right to proceed in GATT against it. This bill makes that explicit.

Second, this bill authorizes the U.S. International Trade Commission [ITC] to prevent national enterprises that do not adhere to the GATT commercial considerations rule from having free access to the U.S. market. Under the bill, following an investigation, the ITC can place a quota on imports sold in violation of the GATT rules at the level imports would have

reached if the GATT rules had been obeyed, or the ITC can order the violation of the GATT to cease and desist, which will be useful in those cases where a foreign government agrees to come into compliance with the GATT rules. A special provision allows the President to veto any such order.

This bill also authorizes international agreements to eliminate mercantilism. This would include making mercantilism an important item on the agenda of the new round of multilateral trade negotiations, as well as the agenda of any bilateral negotiations.

We also call for special attention to applications to join the GATT. Costa Rica, Mexico, China, and Morocco have applied for GATT membership. Each of these countries have some national enterprises; in Mexico, there are 850 national enterprises, and China, or course, has no private enterprise.

This bill requires the President to assure these countries will abide by the GATT rules on national enterprise trading or, failing that, requires him to get congressional approval of the rules under which these countries will be allowed to join the GATT. The procedure for such approval would be the same procedure now prescribed in the Trade Act for approval of trade agreements. Such a special bilateral agreement with China was approved by Congress in 1982 before China applied to join the GATT.

I ask unanimous consent that a copy of this bill and a section-by-section analysis be printed in the RECORD, and I urge Senators to support this bill as a way of continuing to press the administration to live up to its promise of last fall. At that time, President Reagan said, "Above all else, free trade is, by definition, fair trade."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Mercantilism Trade Act of 1986".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States trade policy is based upon the assumption that the benefits of trade agreements will be reflected in exchanges between private agents on terms negotiated between the private agents, but enterprises in the United States are facing competition which is owned or controlled by, or may even be a part of, a foreign government;

(2) such state enterprises exist in market as well as nonmarket economies and developed as well as developing economies and their activities affect a significant portion of world trade;

(3) such state enterprises may, and often do, purchase and sell goods and services in competition with United States firms on a noncommercial basis which burdens and restricts United States commerce and injures United States workers and communities;

(4) foreign countries increasingly exercise their authority, power, and influence in order to consummate sales or purchases by such state enterprises, often through inducements and disincentives that are uniquely within the power of foreign countries;

(5) it is contrary to existing United States trade agreements for state enterprises to compete in international trade on a noncommercial basis, but the Executive Branch has not taken action to eliminate the harmful effects of mercantilist trading, and the provisions of these agreements have not been implemented in United States law;

(6) to the extent such state enterprises sell goods and services on a noncommercial basis, the United States is denied trade benefits, and the willingness of nations to abide by the rules of the international trading system is greatly diminished; and

(7) enterprises of major foreign countries that have not signed trade agreements with the United States and that employ mercantilist trading have become, or are about to become, major competitors with United States firms.

SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) implement international trade agreements controlling harmful mercantilist trading activities;

(2) prevent the establishment of burdens or restrictions upon the international trade of the United States by reason of mercantilist trading activities conducted by state trading enterprises;

(3) authorize trade negotiations to improve international trade agreements relating to mercantilist trading; and

(4) improve remedies available under the laws of the United States for injury to United States persons resulting from mercantilist trading activities conducted by state trading enterprises.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) The term "state trading enterprise" means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade, or

(B) any business firm—

(i) which is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit of a foreign country,

(ii) which is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) which—

(I) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or

(II) sells goods or services in international trade.

(2) The term "Commission" means the United States International Trade Commission.

(3) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(4) The term "customs territory of the United States" has the meaning given to such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States.

(5) Any foreign instrumentality and any territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

SEC. 5. MERCANTILIST PRACTICES AFFECTING FOREIGN TRADE.

Section 301(e)(4) of the Trade Act of 1974 (19 U.S.C. 2411(e)(4)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) CERTAIN ACTIONS INCLUDED.—Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A)—

"(i) which denies—

"(I) national or most-favored-nation treatment,

"(II) the right of establishment of intellectual property rights, or

"(III) protection of intellectual property rights,

"(ii) which requires a state trading enterprise (within the meaning of section 4 of the Anti-Mercantilism Trade Act of 1986) to—

"(I) compete in international trade with United States firms, or

"(II) make purchases or sales in international trade,

on any basis that is not dependent on commercial considerations (including price, quality, availability, marketability, and transportation),

"(iii) through which a foreign country exercises its authority, influence, or power for the purpose of assisting a state trading enterprise in—

"(I) competing in international trade with United States firms, or

"(II) making purchases or sales in international trade,

on any basis that is not dependent on commercial considerations (including price, quantity, availability, marketability, and transportation), or

"(iv) which fails to afford United States firms adequate opportunity, in accordance with customary business practice, to compete for participation in purchases from, or sales to, state trading enterprises.

"(C) COMMERCIAL CONSIDERATIONS.—The determination of whether purchases and sales have been based on commercial considerations shall be made on the basis of—

"(i) similar arm's-length commercial purchases and sales, or

"(ii) if evidence of arm's-length commercial purchases and sales is insufficient, the constructed value of the merchandise purchased and sold, determined in accordance with section 773(e) of the Tariff Act of 1930.".

SEC. 6. MERCANTILIST PRACTICES INVOLVING IMPORTS.

(a) INITIATION OF INVESTIGATION.—

(1) A petition requesting the Commission to take action under this section may be filed with the Commission by any person.

(2) Any petition filed under paragraph (1) shall allege that—

(A) sales by a state trading enterprise are conducted on any basis that is not dependent on commercial considerations (including price, quality, availability, marketability, and transportation),

(B) a foreign country has exercised its authority, influence, or power for the purpose

of promoting or consummating such sales, and

(C) the effect or tendency of such sales is to—

(i) substantially injure an industry in the United States which is being operated efficiently and economically,

(ii) prevent the establishment in the United States of an industry which could be efficiently and economically operated in the United States, or

(iii) restrain or monopolize trade and commerce in the United States.

(3)(A) By no later than the date that is 25 days after the date on which the petition is filed under paragraph (1), the Commission shall determine whether the petition alleges all the elements necessary for relief under this section.

(B) If the determination of the Commission under subparagraph (A) is affirmative—

(i) the Commission shall initiate an investigation for the purpose of making a determination under subsection (b), and

(ii) the Commission shall publish in the Federal Register notice of the initiation of such investigation.

(4)(A) Upon request of the President, the United States Trade Representative, or upon its own initiative, the Commission shall initiate an investigation for the purpose of making a determination under subsection (b).

(B) The Commission shall publish in the Federal Register notice of any investigation initiated under this paragraph and of the allegations described in paragraph (2) that are the subject of such investigation.

(b) DETERMINATIONS BY THE COMMISSION.—

(1) By no later than the date that is 1 year after the date on which an investigation is initiated under subsection (a), the Commission shall determine—

(A) whether the sales alleged in the petition or in the notice published under subsection (a)(4)(B) have been conducted by a state trading enterprise on a basis that is not dependent on commercial considerations (including price, quality, availability, marketability, and transportation),

(B) if the determination made under subparagraph (A) is affirmative, whether the foreign country identified in the petition or in such notice has exercised its authority, influence, or power for the purpose of promoting or consummating such sales, and

(C) if the determinations made under subparagraphs (A) and (B) are both affirmative, whether the effect or tendency of such sales is to—

(i) substantially injure an industry in the United States which is being operated efficiently and economically,

(ii) prevent the establishment in the United States of an industry which could be efficiently and economically operated in the United States, or

(iii) restrain or monopolize trade and commerce in the United States.

(2) The determination under paragraph (1)(A) of whether sales have been based on commercial considerations shall be made on the basis of—

(A) similar arm's-length commercial sales, or

(B) if evidence of arm's-length commercial sales is insufficient, the constructed value of the merchandise sold, determined in accordance with section 773(e) of the Tariff Act of 1930.

(3) The determinations made under paragraph (1) shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5, United States Code.

(4) The Commission shall publish in the Federal Register any determinations made under paragraph (1).

(c) RELIEF.—

(1) If all of the determinations made under subsection (b)(1) with respect to an investigation are affirmative, the Commission shall—

(A) identify and determine the quantity of each article produced or manufactured by the state trading enterprise involved in such determinations that would be imported into the United States if the sales which are the subject of such affirmative determinations were conducted on the basis of commercial considerations, and

(B) issue an order which directs the Secretary of the Treasury to limit the quantity of each article identified under subparagraph (A) that may be entered to the quantity determined under subparagraph (A).

(2)(A) In lieu of issuing an order under paragraph (1)(B), the Commission may issue an order directing the state trading enterprise involved in the affirmative determinations made under subsection (b)(1) to cease and desist from conducting sales on bases that are not dependent on commercial considerations.

(B) The Commission may modify or revoke any order issued under subparagraph (A) at any time and, upon such revocation, issue the order authorized under paragraph (1)(B).

(C) Any person who violates an order issued by the Commission under subparagraph (A) after the order has become final shall forfeit and pay to the United States a civil penalty for each day on which such person is in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.

(3) The Commission shall not be required to include in any order issued under paragraph (1)(B) any limitation on the quantity of an article that may be entered if the Commission determines that imposition of such limitation would have a substantial adverse effect on the public health or safety of people in the United States.

(4)(A) If the Commission issues an order under this subsection, the Commission shall submit to the President—

(i) a copy of such order, and

(ii) a report on the determinations made by the Commission under this subsection and subsection (b) in connection with such order.

(B) The Commission shall transmit to the Secretary of the Treasury any order described in paragraph (1)(B) that is issued by the Commission under this subsection.

(C) The Commission shall publish in the Federal Register notice of any order issued under this subsection.

(5) The Commission may modify any order issued under paragraph (1)(B) in order to take into account changes in the rate of exchange for foreign currency that occur after the date such order is issued by the Commission.

(d) PERIOD IN WHICH RELIEF IS IN EFFECT.—

(1) Except as otherwise provided in this subsection, any order issued under subsection (c) shall become final and shall take effect on the earlier of—

(A) the date on which the President submits to the Commission and the Secretary of the Treasury, and publishes in the Federal Register, notice that the President approves such order, or

(B) the date that is 60 days after the date on which such order is submitted to the President under subsection (c)(4)(A).

(2) No order issued by the Commission under subsection (c) shall take effect if the President submits to the Commission and the Secretary of the Treasury, and publishes in the Federal Register, before the close of the 60-day period beginning on the day on which such order is submitted to the President under subsection (c)(4)(A), notice that the President, for policy reasons, disapproves of such order.

(3)(A) Any order issued under subsection (c)(1)(B) which takes effect shall remain in effect until the Commission determines that the state trading enterprise with respect to which such order was issued has ceased to conduct sales on any basis that is not dependent on commercial considerations.

(B) The Commission shall submit to the Secretary of the Treasury, and publish in the Federal Register, any determination made under subparagraph (A).

(e) JUDICIAL REVIEW.—

(1) Any person adversely affected by a determination of the Commission made under subsection (b) or (c)(1)(A) may appeal such determination, within 60 days after the date on which such determination is made, to the United States Court of Appeals for the Federal Circuit for review in accordance with chapter 7 of title 5, United States Code. Such court may vacate any order issued by the Commission under subsection (c).

(2) Notwithstanding paragraph (1), Commission determinations made under subsection (c)(3) shall be reviewable in accordance with section 706 of title 5, United States Code.

(f) AUCTIONED QUOTAS.—

(1) Notwithstanding any other provision of law, the Secretary of the Treasury shall issue and use import licenses in administering any limitation imposed by any order issued under subsection (c) on the quantity of any article that may be entered.

(2) All import licenses that the Secretary of the Treasury is required to issue under paragraph (1) shall be auctioned by the Secretary of the Treasury to the highest bidder at a public auction held no earlier than 15 days after the date on which notice of such auction is published in the Federal Register.

SEC. 7. AGREEMENTS TO ELIMINATE HARM CAUSED BY STATE TRADING ENTERPRISES.

(a) FUTURE AGREEMENTS.—Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Before entering into the negotiation of an agreement with a foreign country or instrumentality under paragraph (1), the President shall determine—

"(i) whether state trading enterprises account for a significant share of—

"(I) the exports of such foreign country or instrumentality, or

"(II) the goods of such foreign country or instrumentality that are subject to competition from goods imported into such foreign country or instrumentality, and

"(ii) whether such state trading enterprises—

"(I) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

"(II) are likely to result in such a burden, restriction, or effect.

"(B) If both of the determinations made under clauses (i) and (ii) of subparagraph (A) with respect to a foreign country or instrumentality are affirmative, the President may enter into an agreement with such foreign country or instrumentality under paragraph (1) only if such agreement provides that the state trading enterprises of such foreign country or instrumentality—

"(i) will make—

"(I) purchases which are not for the use of such foreign country or instrumentality, and

"(II) sales in international trade,

in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

"(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales.

"(C) The President shall publish in the Federal Register each determination made under subparagraph (A).

"(D) For purposes of this paragraph, the term 'state trading enterprise' has the meaning given to such term by section 4 of the Anti-Mercantile Trade Act of 1986.".

(b) EXTENSION OF EXISTING MULTILATERAL TRADE AGREEMENTS TO OTHER FOREIGN COUNTRIES.—

(1) Before any foreign country accedes, after the date of enactment of this Act, to any multinational trade agreement to which the United States is a party, the President shall determine—

(A) whether state trading enterprises account for a significant share of—

(i) the exports of such foreign country, or

(ii) the goods of such foreign country that are subject to competition from goods imported into such foreign country, and

(B) whether such state trading enterprises—

(i) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(ii) are likely to result in such a burden, restriction, or effect.

(2) If both of the determinations made under subparagraphs (A) and (B) of paragraph (1) with respect to a foreign country are affirmative—

(A) the President shall reserve the right of the United States to withhold extension, between the United States and such foreign country, of any multilateral trade agreement to which such foreign country accedes after the date of enactment of this Act, and

(B) such trade agreement shall not apply between the United States and such foreign country until—

(i) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(I) will make purchases which are not for the use of such foreign country, and make sales in international trade, in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(II) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales, or

(ii) a bill submitted under paragraph (3) which approves of the extension of such agreement between the United States and such foreign country is enacted into law.

(3)(A) The President may submit to the Congress any draft of a bill which approves of the extension of any multilateral trade agreement between the United States and a foreign country.

(B) Any draft of a bill described in subparagraph (A) that is submitted by the President to the Congress shall—

(i) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress, and

(ii) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974.

(4) The President shall publish in the Federal Register each determination made under paragraph (1).

SECTION-BY-SECTION DESCRIPTION OF THE ANTI-MERCANTILISM ACT

July 21, 1986

Mer-can-til-ism * * * an economic system * * * intended primarily to unify and increase the power and especially the monetary wealth of a nation by a strict governmental regulation of the entire national economy usually through policies designed to secure an accumulation of bullion, a favorable balance of trade, the development of agriculture and manufacturers, and the establishment of foreign trading monopolies.—Webster' Third New International Dictionary.

Section 1 of the bill establishes the title of the bill, "The Anti-Mercantilism Act of 1986."

Section 2. contains findings that mercantilism is contrary to U.S. trade agreements, hurts American workers and firms, is not controlled by Executive action or current statutes, and is growing in all countries, from industrialized capitalist countries to developing non-Communist countries.

Section 3 sets out the purpose of the bill, which is mainly, to implement Article XVII of the General Agreement on Tariffs and Trade (the GATT), which requires national enterprises (known as "state trading" enterprises) to make purchases or sales in international trade "in accordance with commercial considerations." The purposes also include improved remedies for injury caused to U.S. trade by the activities of state trading enterprises that do not follow this rule.

Section 4 defines a national (state trading) enterprise. The definition includes both agencies of foreign governments that engage in trade (except those that buy for government use) and companies owned or controlled by governments. The definition tracks the definition of "state trading" in the GATT.

Section 5 enlarges on an existing U.S. trade remedy, to include relief from injury to American firms caused by mercantilism, *i.e.*, national (or state) trading that does not meet the GATT "commercial considerations" test.

Specifically, this section provides that the President can use section 301 of the Trade Act of 1974 to retaliate against mercantilism. Section 301 now authorizes the President to retaliate against foreign trade practices that burden or restrict American commerce through barriers to U.S. exports or competition in third markets that is unreasonable or unjustifiable, which includes practices in violation of the GATT, such as mercantilism. Therefore, this section makes current U.S. law explicit on the point. (There has never been a "mercantilism" investigation under section 301, even though the practice is widespread.)

Section 6 provides relief to efficiently and economically operated domestic industries that are injured by mercantilism in imports. The action requires the U.S. International Trade Commission (ITC) to establish quotas on mercantilist imports equal to what imports would have been if the GATT rule had been followed, or to order the GATT-inconsistent practice to cease and desist (with a civil penalty for actions inconsistent with such orders) when the ITC has found substantial injury to an efficiently and economically operated domestic industry. Under the bill, no such ITC order could be issued if it would have a substantial adverse affect on public health or safety in the United States; the order could be modified by the ITC at any time; and the President could veto such an order, rendering it null and void, within 60 days after the order issues.

Section 7 authorizes negotiation of agreements to eliminate mercantilism. It first authorizes the President to require other countries to meet the GATT standards for fair national enterprise (or "state") trading in cases where he finds that such trading unduly burdens or restricts U.S. commerce or adversely affects the U.S. economy. This provision is intended to modify whatever authority for a "new round" of multilateral trade negotiations is eventually enacted. This section also requires that if countries that employ national enterprises want to accede to U.S. trade agreements, such as the GATT, then they should either agree to meet the GATT standards on "state trading" or the United States should refuse to apply the GATT to them. As an alternative, the President can get Congress to approve these countries' entry into the GATT on another basis proposed by the President.●

● Mr. DANFORTH. I am pleased to join Senator BENTSEN and my other colleagues in cosponsoring the Anti-Mercantile Trade Act of 1986.

The involvement of Government-owned or controlled enterprises in foreign commerce is inconsistent with a free and open international trading system. The General Agreement on Tariffs and Trade [GATT] envisions an open system of exchange between private parties on commercial terms. The benefits of world trade can easily be lost where the State takes a direct role in arranging the terms, volume, and conditions of international exchange.

State trading may involve a variety of disruptive practices, such as barter and countertrade, exclusive dealing arrangements, or the use of special political concessions to obtain sales. A prominent example of the problem are the special benefits that France, West Germany, and Britain are providing to Airbus, their aircraft manufacturing consortium. In addition to providing generous manufacturing subsidies, the participating governments are actively promoting Airbus sales through a wide range of state inducements—landing rights, below-market financing, improved cultural and political ties, and

in the case of prospective Australian purchasers, French concessions to open their market to Australian sheep.

Although our objective should be to get governments out of the business of trade altogether, that objective is not realistic in the short term. As the Airbus example demonstrates, state trading has become a fact of life in market and nonmarket economies alike. What we can do, however, is insist upon the full measure of our rights under the GATT. Article XVII of the GATT explicitly requires that "state trading enterprises" operate in accordance with commercial considerations. The bill we are introducing today provides a means for implementing this requirement under U.S. law. It would amend section 301 to permit retaliation against noncommercial state trading, create a new right of action permitting an industry to seek relief against imports sold by a state trading enterprise on noncommercial terms, and require the President to negotiate new international disciplines over the activities of state trading enterprises.

The variety and complexity of state trading practices make the job of drafting a legislative response a difficult undertaking. Nevertheless, state trading is an issue that must be addressed, and this legislation represents an important beginning.●

By Mr. GRASSLEY:

S. 2661. A bill to improve the quality of teaching in American secondary schools and enhance the competence of American secondary students and thereby strengthen the economic competitiveness of the United States, and for other purposes; to the Committee on Labor and Human Resources.

TEACHER TRAINING AND IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, today I rise to introduce a bill to support the improvement of teaching and administration in our elementary and secondary schools.

In the many school reform reports that have received such wide public attention in recent years, problems with the quality and adequacy of our teaching force have been repeatedly emphasized. There are a number of reasons for this concern.

Many of our current teachers will retire in the coming decade, and there is a smaller number of teacher college graduates that are emerging to replace them. Of the Nation's over 2 million elementary and secondary teachers, the National Education Association has indicated that one-half will have to be replaced within the next decade because of retirement and attrition. Based on the projected number of graduates in teacher education programs, we can anticipate an annual shortage of 40,000 teachers.

Additionally, the education field has not been able to provide the rewards and recognition to encourage teachers and administrators to remain in education. Nor has the education profession been able to attract talented potential teachers from other fields. Various studies have reported that the best and the brightest college students are not entering teaching, but rather our teachers are emerging from the bottom quarter of their college classes. Individuals that once made up the ranks of our teachers now have alternative opportunities, as they have gained access to jobs that are more prestigious and financially rewarding.

Finally, teachers seldom have the opportunity to receive quality in-service education to stay current in their subject matter areas.

Yet the Congress has not been totally insensitive to teacher quality and shortage problems. In the 98th Congress, the Education for Economic Security Act was passed to improve instruction in science and mathematics. The Carl Perkins scholarships for college students preparing to be teachers were created, and leadership in educational administration development [LEAD] grants were enacted to improve the skills of practicing school administrators.

These categorical programs, however, are too narrow in focus. My proposal provides for a more general single program that would allow additional funding and increase flexibility for program choices for State and local school officials. The bill is a major improvement over the existing math and science program because it would broaden the authority to serve teachers in all academic disciplines and would not carry over the burdensome requirements and funding set-asides that hamper current program operations.

This bill, the Teacher Training and Improvement Act, would authorize $75 million for fiscal year 1987 and such sums as are necessary for succeeding fiscal years through 1991. Up to 20 percent of the amount would be available for national research and training projects at the discretion of the Secretary of Education. The remaining funds would provide support for activities to: First, provide inservice training for teachers and administrators to improve their subject matter competence; second, provide recognition for excellent performance by teachers and administrators; third, provide training for teachers to maintain orderly classrooms conducive to learning; fourth, attract qualified persons from other professions into teaching; fifth, encourage outstanding teachers to remain in the profession and sixth, improve preservice education of teachers and administrators.

The Teacher Training and Improvement Act is superior to current Federal efforts to meet the challenges of teacher quality and supply in our schools. This legislative proposal was developed by the administration and has the full support of the Secretary of Education. The administration's budget for fiscal year 1987 recommended funding for this teacher training initiative which indicates its strong support for increased Federal efforts in this area of education reform. It is my hope that my colleagues will join me in cosponsoring this important legislation and that we will see positive action on this bill.

Mr. President, I ask unanimous consent that a summary of this bill, the text of the legislation, and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Amendments of 1986".

SEC. 2. Title II of the Education for Economic Security Act (20 U.S.C. 3901 et seq.) is amended to read as follows:

"TITLE II—TEACHER TRAINING AND IMPROVEMENT PROGRAM

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Teacher Training and Improvement Act'.

"STATEMENT OF PURPOSE

"SEC. 202. The purposes of this title are to improve the effectiveness of public and private nonprofit elementary and secondary education in the United States and thereby strengthen our economic security by—

"(1) providing opportunities for inservice education of teachers in order to enhance their mastery of the subjects they teach as well as their teaching skills, including those skills to maintain an orderly classroom environment conducive to learning,

"(2) providing opportunities for inservice education of school administrators in order to enhance their capacity for leadership, including those skills needed to maintain an orderly school environment conducive to learning,

"(3) recognizing teachers and school administrators for their excellent performance,

"(4) encouraging outstanding teachers and school administrators to remain in their profession,

"(5) attracting qualified persons in other professions to careers as teachers or school administrators, and

"(6) improving the preservice education of teachers and school administrators.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 203. For the purpose of carrying out this title, there are authorized to be appropriated $75 million for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"DEFINITIONS

"SEC. 204. For the purpose of this title—

"(1) The term 'eligible recipient' means a local educational agency, institution of higher education, cultural institution, professional association, or other public or private agency, organization, or institution capable of carrying out a local project under this title.

"(2) The term 'nonprofit' has the same meaning given that term under section 1201(c) of the Higher Education Act of 1965.

"(3) The term 'preservice education' means the education or preparation of a person who has not received a bachelor's degree to become a teacher or school administrator.

"(4) The term 'secondary school' means a school which provides secondary education as determined under State law.

"RESERVATION AND ALLOTMENT OF FUNDS

"SEC. 205. (a) From the funds appropriated under section 203 for any fiscal year, the Secretary may reserve up to 20 per centum for national programs under section 210.

"(b)(1) From the remainder of the amount appropriated to carry out this title for each fiscal year after the application of subsection (a), the Secretary shall reserve—

"(A) one-half of one per centum for projects and activities authorized by this title in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands; and

"(B) one-half of one per centum for projects and activities authorized by section 206 to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of the Interior.

"(2) The Secretary shall allot the funds reserved under subsection (b)(1)(A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for assistance under this title as determined by the Secretary.

"(c)(1) From the remainder of the amount appropriated to carry out this title for each fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to that remaining amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to the Secretary.

"(2)(A) The Secretary may reallot all or a portion of a State's allotment for any fiscal year if the State does not submit a State application under Section 207, or otherwise indicates to the Secretary that it does not need or cannot use the full amount of its allotment for that fiscal year. The Secretary may fix one or more dates during a fiscal year upon which to make reallotments.

"(B) The Secretary may reallot funds on a competitive basis to one or more States that demonstrate a current need for additional funds under this title. Any funds reallotted to another State shall be deemed to be part of its allotment for the fiscal year in which the funds are reallotted.

"(d) For the purpose of this section, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"PROGRAMS FOR INDIAN CHILDREN

"SEC. 206. (a) The Secretary shall allot the funds reserved under section 205(b)(1)(B) to the Department of the Interior to support activities described in subsection (b) to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of the Interior.

"(b) Funds allotted under paragraph (a) shall be used to—

"(1) support inservice education for teachers and administrators in such schools, including participation in inservice training programs supported under section 208;

"(2) provide scholarships for teachers and administrators in such schools for additional training in their respective fields;

"(3) establish cooperative exchange programs between such schools and public and private employers which are designed to enhance the effectiveness of teachers and administrators in those schools; or

"(4) other activities that are consistent with the purposes of this title.

"(c) The Secretary of the Interior shall consult with the Secretary regarding the administration of activities under this section and shall provide whatever information is reasonably required to carry out the Secretary's responsibilities under this title.

"STATE APPLICATION

"SEC. 207. (a)(1) Any State desiring to receive a grant from funds allotted under section 205(c) for any fiscal year shall submit to the Secretary a State application which meets the requirements of this section.

"(b) Each State application shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at the time and in the manner specified by the Secretary; and

"(3) contain whatever information the Secretary may reasonably require including—

"(A) assurance that—

"(i) the State educational agency will be responsible for the administration, including supervision, of all State and local projects supported by the State's grant and shall maintain whatever fiscal control and fund accounting procedures are necessary to ensure the proper disbursement of, and accounting for, Federal funds paid to the State under this title;

"(ii) the State education agency will provide for continuing administrative direction and control by a public agency over funds under this title used to benefit teachers or school administrators in private nonprofit elementary and secondary schools;

"(iii) the State educational agency will distribute at least 90 per centum of its allotment to eligible recipients to carry out local projects under section 208(a);

"(iv) no more than 5 per centum of the State's allotment will be used for State administration; and

"(v) no portion of the funds under this title will be used to improve the preservice education of teachers or school administrators unless the State, with less than its full allotment, has met its needs for—

"(I) inservice education for teachers and school administrators to enhance their mastery of the subjects they teach, their teaching skills, and their administrative skills;

"(II) retraining teachers who wish to teach different subjects; and

"(III) programs to attract persons in other professions to become teachers or school administrators; and

"(B) descriptions of—

"(i) the priorities and goals the State has selected for the use of funds under this title during the period of the State application and the relationship of those priorities and goals to the State's needs for improved education of teachers and school administrators in public and private nonprofit elementary and secondary schools in the State;

"(ii) how, in establishing its priorities and goals under the State plan, the State has taken into account the needs of those public and private nonprofit elementary and secondary schools which desire to have their teachers and school administrators participate in projects under this title;

"(iii) the procedures the State will use to ensure the participation of a variety of eligible recipients under this title, including procedures to ensure that eligible recipients are informed of the availability of funds under this title;

"(iv) the procedures and criteria the State will use to select local projects to be supported under this title from among the applications received;

"(v) how local educational agencies, private schools, institutions of higher education, the State agency for higher education, cultural institutions, professional associations, private industry, and other interested public and private agencies, organizations, or institutions have been involved in the development of the State's priorities and goals under the State application;

"(vi) any projects the State will carry out with the portion of its allotment not distributed to eligible recipients; and

"(vii) the procedures the State will adopt to ensure compliance with section 209.

"(c) Each State application after the first must contain information on the State and local projects carried out under the preceding State application, including data on the number and characteristics of persons who participated, and an assessment of the degree to which those projects accomplished the goals described in that State application.

"STATE AND LOCAL PROJECTS

"Sec. 208. (a) An eligible recipient shall submit an application to the State educational agency to carry out a local project under this section.

"(b) The State educational agency shall use that portion of its allotment that is not distributed to eligible recipients or used for State administration for State projects under this section.

"(c) Funds under this section shall be used to—

"(1) support inservice education for teachers in order to enhance their mastery of the subjects they teach as well as their teaching skills, including those skills needed to maintain an orderly classroom environment conducive to learning;

"(2) support inservice education for school administrators in order to enhance their capacity for leadership, including those skills needed to maintain an orderly school environment conducive to learning;

"(3) retrain teachers who wish to teach different subjects;

"(4) support programs, including scholarships and internships, for qualified persons in other professions who wish to become teachers or school administrators but lack coursework in education;

"(5) improve the preservice education of teachers and school administrators, particularly by assisting prospective teachers to master the subjects they will teach;

"(6) improve teacher education programs in order to attract the most academically capable secondary and postsecondary students to careers as teachers or school administrators;

"(7) recognize practicing teachers and school administrators for their excellent performance by awarding fellowships for further study or supporting opportunities

for such persons to write or conduct research in their respective fields;

"(8) develop programs for the exchange of professional personnel between education and other fields; or

"(9) support other activities that are consistent with the purposes of this title.

"(d)(1) A State or eligible recipient may not use funds under this section to support activities under subsection (b)(5) or (b)(6) unless the State educational agency determines that the State's need for activities under subsections (b)(1) through (b)(4) has been met with less than the State's full allotment.

"(2) In making awards to eligible recipients, the State educational agency shall give priority to improving teaching in English, mathematics, the natural and physical sciences, the social sciences, the humanities (including foreign languages), and other academic subjects.

"(3) Local projects under this section shall, to the extent feasible, be developed cooperatively with, and involve the combined efforts of, local educational agencies, private schools, institutions of higher education, cultural institutions, professional associations, private industry, and other interested public and private agencies, organizations, or institutions.

"PARTICIPATION OF PRIVATE SCHOOL TEACHERS AND ADMINISTRATORS

"SEC. 209. (a) To the extent consistent with the number of children who are enrolled in participating private nonprofit elementary and secondary schools in the area to be served by a local project, an eligible recipient shall ensure equitable participation in the purposes and benefits of local projects under this title for teachers and school administrators in such schools.

"(b) To the extent consistent with the number of children who are enrolled in participating private nonprofit elementary and secondary schools in the State, the State educational agency shall ensure equitable participation in the purposes and benefits of State projects under this title for teachers and school administrators in such schools.

"(c) To satisfy the requirements of subsection (a) or subsection (b), an eligible recipient or a State educational agency shall—

"(1) consult with appropriate private nonprofit school representatives during the design and development of the project to determine which schools desire to participate in the project and what the needs of the teachers and school administrators in those participating schools are, and

"(2) then provide, as appropriate, benefits authorized by this title for teachers and school administrators in such schools.

"(d) No funds under this title may be used—

"(1) for any religious worship, proselytization, or activity of a school or department of divinity,

"(2) to provide or improve any program of religious instruction, or

"(3) to provide benefits to teachers or school administrators in a private school which is denied a tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1954.

"NATIONAL PROGRAMS

"SEC. 210. (a) From the amount reserved under section 205(a), the Secretary may carry out research, development, evaluation, demonstration, dissemination, and data collection activities which are of national significance and are consistent with the purposes of this title. The Secretary may carry out such activities directly or through grants, cooperative agreements, or contracts.

"(b) Activities which the Secretary may carry out under this section include—

"(1) developing centers and summer institutes for teachers and school administrators to enhance their knowledge and skills;

"(2) awarding scholarships or fellowships to pay the expenses of teachers and school administrators attending an institution of higher education for additional education in their instructional area or related fields;

"(3) developing exchange programs in which outstanding teachers or school administrators from one school district or State are temporarily assigned to another school district or State to act as consultants or mentors;

"(4) developing model programs for the exchange of personnel between education and private industry;

"(5) making awards to institutions of higher education, professional associations, and private industry for the development and testing of teacher education programs;

"(6) recognizing practicing teachers and school administrators for their excellent performance by supporting opportunities for such persons for further study or to write or conduct research in their respective fields;

"(7) awarding Presidential teacher internships to persons in other professions and recent college graduates with excellent academic records who wish to become teachers, but lack coursework in education;

"(8) making awards to teachers for individual research projects that would enhance their mastery of the subjects they teach;

"(9) collecting and disseminating information about exemplary inservice teacher education programs, teacher shortages and surpluses, and the qualifications of teachers in elementary and secondary education;

"(10) supporting research on teaching and on improving preservice and inservice education for teachers and school administrators;

"(11) developing model programs for preservice and inservice training designed to provide teachers with the skills needed to maintain an orderly classroom environment conducive to learning; and

"(12) supporting other activities that are consistent with the purposes of this Act.

"USE OF FUNDS

"SEC. 211. (a) Federal funds made available to a State or local educational agency under this title shall be used to supplement and, to the extent practicable, increase the amount of non-Federal funds that would, in the absence of such Federal funds, be made available for the purposes of this title, and in no case to supplant such non-Federal funds.

"(b) No Federal funds under this title may be used to benefit teachers or school administrators in private, for-profit schools.".

REPEALS

SEC. 3. The following are repealed—

(1) section 1525 of the Education Amendments of 1978, and

(2) title IX of the Human Services Reauthorization Act.

EFFECTIVE DATE

SEC. 4. The provisions of this Act shall take effect October 1, 1986.

SUMMARY—TEACHER TRAINING AND IMPROVEMENT ACT

PROGRAM PURPOSE

To provide opportunities for inservice education of teachers and administrators in order to improve their subject matter competence and professional skills.

To provide recognition for outstanding teachers and administrators, to give them opportunities for further education, and to encourage them to stay in the profession.

To attract qualified persons for other fields into teaching.

To provide opportunities for training of teachers in the skills needed to maintain an orderly classroom environment conducive to learning.

To improve the preservice education of teachers and school administrators.

ALLOCATION OF FUNDS

Up to 20 percent could be retained for the Secretary's Discretionary Fund.

Of the remainder, one-half percent would go to the BIA Indian schools, one-half percent to the Territories, and 99 percent to the States, D.C., and Puerto Rico on the basis of population aged 5–17.

States would be required to pass through at least 90 percent of their funds to eligible recipients (local educational agencies, colleges and universities, etc.). Up to 5 percent could be used for State administration. Any remaining funds retained at the State level would be used for State-initiated projects.

ELIGIBLE ACTIVITIES

At the State and local levels, funds would be used for:

Inservice education for teachers and administrators.

Retraining of teachers who wish to move into new subject areas.

Programs to bring qualified persons from other professions into teaching or school administration.

If State needs in these areas have been met, funds could then be used to improve preservice teacher education programs so as to improve the subject matter competence of prospective teachers and to attract the most academically capable high school and college students into careers as teachers or school administrators.

Other authorized activities would include:

Recognition of outstanding teachers and administrators through the award of fellowships for further study, research, and writing.

Programs for exchange of personnel between education and private industry.

Priority would be given to projects to improve teaching in academic subjects. Projects that utilize the combined efforts of more than one educational or nonprofit institution would also be encouraged.

PARTICIPATION OF PRIVATE SCHOOL TEACHERS

State and eligible recipients would be required to assure equitable participation of private school teachers and administrators in programs carried out under the Act.

No funds could be provided for religious worships or proselytization, to improve a program of religious instruction, or to a private school that practices racially discriminatory policies.

SECRETARY'S DISCRETIONARY FUND

At the national level, funds would be used to support nationally significant projects or research, development, demonstration, data collection, and dissemination. Such activities could include:

Centers and summer institutes for teachers and administrators to enhance their knowledge and skills.

Exchange programs in which outstanding teachers or administrators from one school district are temporarily assigned to another district.

Collection and dissemination of information about exemplary teacher education programs, teacher shortages and surpluses, and the qualifications of teachers in elementary and secondary education.

Demonstration training programs in the skills needed to maintain an orderly classroom environment.

ANTECEDENT PROGRAMS

The Teacher Training and Improvement Act is proposed as an amendment to the existing Science and Mathematics Education program (Title II of the Education for Economic Security Act). The new Act would broaden the Science and Math authority to serve teachers in all academic disciplines and would not carry over the many administrative requirements and funding set-asides that hamper current program operations.

The bill would also repeal two other programs: Territorial Teacher Training and Leadership in Educational Administration (LEAD). Passage of the more comprehensive Teacher Training and Improvement Act would make these narrow categorical authorities redundant and unnecessary.

Funding levels

Teacher Training and Improvement Act (fiscal year 1987 budget proposal):	*Millions*
State grants	$60
Secretary's Discretionary Fund	15
Total	75
Antecedent programs (fiscal year 1986 Post-sequestration level):	
Science and Math State grants	39.2
Science and Math Discretionary Fund	3.9
Territorial Teacher Training	1.9
Leadership in Educational Administration (LEAD)	7.2
Total	52.2

Budget proposal for the Teacher Training and Improvement Act is a $22.8 million (44 percent) increase over the funding level for the antecedent programs.

TEACHER TRAINING AND IMPROVEMENT ACT—SECTION-BY-SECTION ANALYSIS

The bill, the Education for Economic Security Amendments of 1986, would comprehensively amend the existing Title II of the Education for Economic Security Act, Public Law 98-377, recently reauthorized through fiscal year 1988 by Public Law 99-159. The basic purpose of the bill is to strengthen the economic security of the United States by improving the quality of instruction in our Nation's elementary and secondary classrooms. As amended, Title II of the Education for Economic Security Act, known as the Teacher Training and Improvement Act, would make funds available to the States to improve the effectiveness of public and private nonprofit elementary and secondary education under a broad and flexible grant, rather than through a series of narrow categorical authorities.

The Act would be a major improvement over the existing Science and Math Program, under the current Title II, because it would broaden the authority to serve teachers in all academic disciplines and would eliminate many burdensome requirements and funding set-asides that hamper current program operations. The bill, which would take effect October 1, 1986, would also repeal unneeded and duplicative program authority under section 1525 of the Education Amendments of 1978 (Territorial Teacher Training program) and Title IX of the Human Services Reauthorization Act (Leadership in Educational Administration program).

The major provisions of the Teacher Training and Improvement Act ("Act") are explained in the following section-by-section analysis.

Section 202. Section 202 of the Act would state the purpose of the Act as strengthening the economic security of our Nation by improving the effectiveness of public and private nonprofit elementary and secondary education in the United States. To accomplish these basic purposes the Act would authorize programs of inservice education for teachers and school administrators in elementary and secondary schools, recognizing outstanding teachers and school administrators and encouraging them to remain in their profession, attracting qualified persons in other professions to careers as teachers and school administrators, as well as improving the preservice education of teachers and school administrators.

Section 203. Section 203 of the Act would authorize the appropriation of $75 million for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the Act.

Section 204. Section 204 of the Act would define a number of terms used in the Act. The term "eligible recipient" would be defined as a local educational agency, institution of higher education, cultural institution, professional association, or other public or private agency, organization, or institution capable of carrying out a local project under this title. In addition, the term "preservice education" would be defined as the education or preparation of a person who has not received a bachelor's degree to become a teacher or school administrator.

Section 205. Section 205 of the Act would prescribe how funds appropriated under the Act would be allotted. First, the Secretary would be authorized to reserve up to 20 percent of the amount appropriated for each fiscal year for national programs. From the remainder, the Secretary would be required to reserve one-half of one percent for programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and a like amount for programs to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of the Interior. Finally, the Secretary would be required to allot to each State an amount which bears the same ratio to the remainder of the funds as the number of children aged five to seventeen, inclusive, in a State bears to the number of such children in all the States. Under certain circumstances, section 205 of the Act would also authorize the Secretary to make appropriate reallotments of funds among the States.

Section 206. Section 206 of the Act would require the Secretary to allot the funds reserved under section 205 to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of Interior to that Department. Activities that could be supported with such funds would include inservice education for teachers and administrators in such schools, as well as scholarships for additional training and cooperative exchange programs with public and private employers. The Secretary of Interior would be required to consult with the Secretary of Education regarding the administration of funds under section 206 and to provide whatever information the Secretary reasonably requires.

Section 207. Section 207 of the Act describes the three-year State application a State would be required to submit to the Secretary in order to participate in this program. Among other things, the State would be required to assure the Secretary that the State educational agency will be responsible for the administration of the State's program; that at least 90 percent of the State's allotment will be distributed to eligible recipients to carry out local projects, and that no more than 5 percent of its allotment will be retained for State administration, thereby leaving between 5 and 10 percent of the State's allotment available for State projects; and that no funds may be used to improve the preservice education of teachers and school administrators unless the State, with less than its full allotment, has met its needs to provide teachers and school administrators with inservice education or retraining, or to attract persons in other professions to become teachers or school administrators. The State would also be required to include in its State plan a description of its priorities and goals and how they relate to the State's needs for improved education of teachers and school administrators at the elementary and secondary level; how the State has taken into account the needs of public and private nonprofit elementary and secondary schools which desire to have their staffs participate in the program; how the State will ensure the participation of a variety of eligible recipients and the criteria the State will use to select local projects; how a broad variety of public and private educational, cultural, professional, and other interested agencies, organizations, and institutions have been involved in the development of the State's priorities and goals; and any State projects the State will carry out. Each State application after the first would contain information on the State and local projects carried out under the preceding application, including data on the number and characteristics of the participants and an assessment of the extent to which those projects accomplished their goals.

Section 208. Section 208 of the Act would require eligible recipients to submit an application to the State educational agency to carry out a local project. Section 208 would also authorize the State to support, at either the State or local level, activities which include the following: inservice education for teachers and school administrators; retraining teachers who wish to teach different subjects; scholarships and internships for qualified persons in other professions who wish to become teachers or school administrators but lack coursework in education; recognizing practicing teachers and school administrators for excellent performance by supporting opportunities for further study, research, and writing in their respective fields; professional exchange programs; improving preservice education of teachers and school administrators; and improving teacher education programs in order to attract the most academically capable students to careers as teachers or school administrators. A State could not use funds under the Act to support either of the last two activities unless it determined that it had met its needs for the first three activities with less than the State's full allotment. In making awards for local projects the State would be required to give priority to improving teaching in English, mathematics, the natural and physical sciences,

the social sciences, the humanities (including foreign languages), and other academic subjects. Finally, local projects would, to the extent feasible, be developed cooperatively with, and involve the combined efforts of, a wide variety of public and private educational, cultural, professional, and other interested agencies, organizations, or institutions.

Section 209. Section 209 of the Act would require eligible recipients and State educational agencies to ensure equitable participation in the purposes and benefits of their respective projects for teachers and school administrators in participating private nonprofit elementary and secondary schools, consistent with the enrollments in such schools. Eligible recipients and State education agencies would be required to consult with appropriate nonprofit school representatives during the design and development of projects under the Act to determine which schools desire to participate and the needs of their teachers and school administrators. Funds under the Act could not be used for religious worship, to provide or improve any program of religious instruction, or to provide benefits to teachers or school administrators in a private school which is denied a tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

Section 210. Section 210 of the Act would authorize the Secretary to use funds reserved under section 205 to carry out research, development, evaluation, demonstration, dissemination, and data collection activities which are of national significance and are consistent with the purposes of the Act. The Secretary would be authorized to carry out these activities directly, or through grants, cooperative agreements, or contracts. Among the activities that would be specifically authorized are: developing centers and summer institutes for teachers and school administrators to enhance their skills; awarding scholarships and fellowships for additional study in the recipients' respective fields; developing personnel exchange programs between school districts and between education and private industry; developing and testing teacher education programs; awarding Presidential teacher internships to persons in other professions and recent college graduates with excellent academic records who wish to become teachers; collecting and disseminating information about teacher education programs, the supply of teachers, and their qualifications; supporting research on teaching and improving preservice and inservice education for teachers and school administrators; and developing model programs designed to provide teachers with the skills needed to maintain classroom discipline.

Section 211. Section 211 of the Act would require that State and local educational agencies use funds under the Act to supplement and, to the extent practicable, increase the amount of non-Federal funds that would in the absence of Federal funds be made available for the purposes of the Act, and not to supplant such non-Federal funds. Section 211 would also clarify that no funds under the Act could be used to benefit teachers or school administrators in private, for-profit schools.

By Mr. CHAFEE (for himself, Mr. BENTSEN, and Mr. LUGAR):

S. 2663. A bill to authorize trade negotiations on technology transfers and the protection of intellectual property rights, and for other purposes; to the Committee on Finance.

TECHNOLOGY TRANSFER AND INTELLECTUAL PROPERTY PROTECTION ACT

● Mr. CHAFEE. Mr. President, today Senators BENTSEN, LUGAR, and I are introducing the "Technology Transfer and Intellectual Property Protection Act." This bill is designed to be a comprehensive approach to the problems of inequitable technology transfer and the lack of protection of intellectual property in foreign countries.

Market access and the deepening of the trade deficit are the dominant trade issues today, but I am convinced that technology access will be the dominant trade and competitiveness issue of tomorrow. The severity of our current trade shock should not blind us to the longer term issue of the competitiveness of U.S. industry. Basic research and technology are themselves becoming important and valuable commodities in our information-based global economy and are fundamental to our future competitiveness.

Many of our trading partners fully recognize that technology and knowledge are the keys to economic success in the future, and they are now directing more and more of their resources toward developing new processes—in computer technology, robotics, biotechnology, and other areas—as well as new products. R&D spending in these countries has risen faster than our own, and important innovations are being made first overseas. These same countries have relatively unlimited access to American origin technology.

While the United States is still preeminent in terms of intellectual innovation and technical know-how, our technological leadership is being challenged by this increasing commitment to research and development overseas. Other countries are catching up in productivity and product technology.

Foreigners have practically unlimited access to our Government-owned, Government-operated laboratories. We are the only country in the world operating this kind of open-door policy in our Government laboratories. The goal of this bill is not to change existing access to our technology, but to ensure that the United States has greater access to basic research and technology developed in other countries as well as their improvements on our original technology.

The influence of international technology flows on U.S. global competitiveness should receive greater emphasis by administration trade negotiators. Accordingly, our bill gives the U.S. Trade Representatives authority to negotiate both bilateral and multilateral agreements with countries which do not permit us access to their technology.

There are a number of reasons for this imbalance in technology flows. One reason is that much of the research done in foreign countries is carried out in Government laboratories and private companies, whose laboratories are closed to Americans. Furthermore, U.S. companies cannot participate in R&D projects involving Government funding and do not have access to Government held patents.

European countries restrict American access to their government funded laboratories. In fact, the EEC, which is starting up several new advanced technology research and development programs, has been engaged in a tremendous debate about whether or not to permit U.S. firms to take part in these programs. The present participation of one or two European subsidiaries of American companies in the EEC's ESPRIT project hardly constitutes reciprocal access.

Many newly industrialized countries have established national laboratories to perform basic research and technology. American firms have no access to these laboratories either. Yet the current level of economic development of many of these countries is due largely to American technology transferred through U.S. direct investment or joint venture arrangements. We want to encourage newly industrialized countries to perform their own basic research, come up with their own innovations, and, most importantly, to reciprocate the vast amount of technology they receive through joint ventures with American firms.

Japan is the country, of all our trading partners, which has benefited the most from United States innovation. Indeed recent studies indicate that in the past the Japanese have enjoyed a 5 to 1 advantage over the United States in electronics technology exchange and a 7 to 1 advantage in machine tools technology. In other words, the United States has transferred five times as much electronics technology and seven times as much machine tools technology to Japan as it has acquired from Japan.

This same low-cost American technology has flowed to Japan only to be returned to us in the form of low-priced electronic and machine tool products. The Japanese use American technology and perfect our manufacturing processes in order to compete with manufactured goods in our own backyard. But the Japanese are also great innovators. Yet we do not have access to these innovations. One cannot help but conclude that technology acquisition lies at the very heart of Japan's international trade strategy.

This huge asymmetry in technology exchange is not due solely to lack of access to foreign government laboratories. The problem also stems from the transfer of privately developed technology. In order to gain access to many foreign markets, American firms

have no choice but to share their technology.

In South Korea, for example, the importation of personal computers is entirely dependent on the importer's willingness to transfer technology, produce computer parts locally, and provide the know-how for producing such items as printers, terminals, discs, and tape devices. Some 200,000 American jobs in small, innovative computer companies are put at risk by such computer trade barriers.

China's Foreign Investment Bureau has made it quite explicit that the importation of electronics and computer products must be coupled with the transfer of technology. Unless American computer vendors are prepared to enter joint ventures and transfer technology, their business will suffer, or entry to the Chinese market will be blocked.

The decision to share technology should be a private business decision, not a government requirement. U.S. exports should not be burdened in this way, especially since all too often American technology is used, our intellectual property pirated, and eventually we are eased out of the market altogether.

Time and again technology sent elsewhere has been eventually turned against us, costing us markets abroad and jobs at home. The Romanians are building computers, Mexicans are making aircraft parts, Venezuelans are producing steel, and Korea is building ships, all with United States technology in competition with United States products.

When a country imposes these requirements in order for an American product to gain access to that country's markets, the requirement will be considered an unreasonable practice, under our proposal, and therefore actionable within the meaning of section 301. Furthermore when a country requires that a firm divulge technical data about a product in order to receive marketing approval from foreign regulatory agencies, that country will likewise be subject to 301 action, if U.S. exports are burdened. Too frequently this practice is merely a way to obtain proprietary information, putting at risk the intellectual property rights of chemical, pharmaceutical, and even some high technology products.

Our bill also contains other proposals designed to further protect U.S. patents and copyrights overseas. U.S. policy to deal with intellectual property rights protection must be comprehensive. Our policy must provide for aggressive action using statutes like section 301 and the cutoff of GSP benefits as a lever when necessary. But the policy must also include positive advice to developing countries which infringe our patents, trademarks, and copyrights.

Accordingly, this bill provides for technical assistance to developing countries which have inadequate laws in this area. Assistance will help them design legal, regulatory, and enforcement systems for protection of intellectual property, and thereby create a climate more conducive to foreign investment and to the development of indigenous technology.

Mr. President, our bill concerns but one factor affecting our future competitiveness—intellectual property—but it is a very crucial factor to which more of our attention should be focussed. Senators BENTSEN, LUGAR, and I studied the noteworthy recommendations of the President's Commission on Industrial Competitiveness and the U.S. Trade Representative's Private Sector Advisory Committee on Trade Negotiations in formulating this bill. The work of these groups has been outstanding. We are pleased and obliged to use their guidance in developing this aspect of U.S. trade policy.

I ask that the text of the bill, as well as a section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer and Intellectual Property Protection Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) international protection of intellectual property rights is vital to the international competitiveness of the United States and the lack of such protection and enforcement leads to trade distortions and loss of export markets;

(2) United States firms that rely on intellectual property protection are among the most advanced and competitive in the world;

(3) foreign barriers, including restrictions and conditions on investment, licensing, and various other regulatory restrictions on business operations, seriously impede the ability of United States firms that rely on intellectual property protection to operate overseas thereby harming the economic interests of the United States;

(4) improvement in intellectual property rights protection will come about through a combination of negotiation, vigorous enforcement of United States trade laws, and training of developing country officials in the enactment and enforcement of trademark, copyright, and patent laws;

(5) an overall strategy is needed to eliminate the broad variety of unfair and discriminatory trade practices now imposed on United States firms that rely on intellectual property protection;

(6) foreign government requirements to transfer technology or divulge technical data as a condition to importation are unreasonable burdens on United States commerce, result in inequitable flows of technology, and further risk inadequate protection of intellectual property;

(7) the enormous disparity in technology flows is a major factor in the trade gap between the United States and several of its trading partners;

(8) access to basic research and technology developed in foreign countries, including government-owned or government-sponsored research, is essential to achieve reciprocity in international competition; and

(9) equitable technology exchange should be both a bilateral and multilateral negotiating objective.

SEC. 3. AUTHORIZATION OF NEGOTIATIONS.

(a) IN GENERAL.—

(1) The President is authorized to enter into multilateral and bilateral trade agreements with foreign countries for the purpose of achieving the objectives described in paragraph (2).

(2) The objectives of any agreement entered into under paragraph (1) shall be to obtain the elimination or reduction of foreign barriers to, and foreign government acts, policies, or practices which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(A) restricting the participation of United States persons in government-supported research and development projects,

(B) denying equitable access by United States persons to government-held patents,

(C) requiring the approval or agreement of government entities, or other forms of government intervention, as a condition for the granting of licenses to Untied States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology), and

(D) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(3) In pursuing the objectives described in paragraph (2), the United States shall take into account the policies of the United States Government in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(4) No agreement may be entered into under paragraph (1) which provides for any reduction or elimination of—

(A) any duty,

(B) any limitation imposed on the quantity of any article that may be entered for consumption in the customs territory of the United States, or

(C) any other import restriction,

that is imposed under the laws of the United States on the day before the date on which such agreement is entered into by the President.

(5) For purposes of this subsection, the term "foreign country" includes foreign instrumentalities.

(b) NEGOTIATION OF AGREEMENTS UNDER SECTION 102 OF THE TRADE ACT OF 1974.—Section 104A of the Trade Act of 1974 (19 U.S.C. 2114b) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following new subsection:

"(d) ACCESS TO HIGH TECHNOLOGY.—

"(1) IN GENERAL.—Principal United States negotiating objectives for any agreement entered into under section 102(b)(1) shall be to obtain the elimination or reduction of

foreign barriers to, and foreign government acts, policies, or practices which limit, equitable access by United States persons to foreign-development technology, including barriers, acts, policies, or practices which have the effect of—

"(A) restricting the participation of United States persons in government-supported research and development projects,

"(B) denying equitable access by United States persons to government-held patents,

"(C) requiring the approval or agreement of government entities, or other forms of government intervention, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology), and

"(D) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

"(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), the United States shall take into account the policies of the United States Government in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.".

SEC. 4. MONITORING OF TECHNOLOGY TRANSFERS.

(a) IN GENERAL.—The United States Trade Representative, in conjunction with the National Science Foundation, shall continually monitor the transfer of technology between the United States and foreign countries.

(b) REPORT.—The United States Trade Representative, in conjunction with the National Science Foundation, shall prepare an annual report on the transfer of technology between the United States and foreign countries and include such report in the report submitted to Congressional committees under section 181(b)(1) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)).

SEC. 5. RESPONSE TO UNREASONABLE FOREIGN TRADE POLICIES.

Paragraph (3) of section 301(e) of the Trade Act of 1974 (19 U.S.C. 2411(e)(3)) is amended to read as follows:

"(3) UNREASONABLE.—

"(A) IN GENERAL.—An act, policy, or practice is unreasonable if such act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"(B) INCLUSIONS.—Acts, policies, and practices which are unreasonable include, but are not limited to—

"(i) any act, policy, or practice which denies fair and equitable—

"(I) market opportunities,

"(II) opportunities for the establishment of an enterprise, or

"(III) provision of adequate and effective protection of intellectual property rights, and

"(ii) any act, policy, or practice of a foreign government or instrumentality which, as a practical matter, constitutes a requirement that—

"(I) intellectual property be licensed to such foreign country or instrumentality or to any firm of such foreign country or instrumentality, or

"(II) technical information regarding any product or service be submitted to such foreign country or instrumentality,

as a condition for the importation into such foreign country or instrumentality of any product or service of the United States or for the marketing or sale in such foreign country or instrumentality of any product or service of the United States.

SEC. 6. MONITORING FOREIGN INTELLECTUAL PROPERTY SYSTEMS.

The Secretary of Commerce shall designate a Foreign Commercial Service Officer in a foreign country to be responsible for monitoring and reporting on the status of the intellectual property system in such country, including responsibility for—

(1) the maintenance of current files on intellectual property protection afforded on a sector-by-sector basis by such country;

(2) the filing of an annual report with the Secretary of Commerce on changes to such laws in each sector; and

(3) upon request, informing potential United States exporters and foreign direct investors of protection afforded intellectual property rights in such country.

SEC. 7. FOREIGN ASSISTANCE FOR DEVELOPMENT OF PROGRAMS TO PROTECT INTELLECTUAL PROPERTY RIGHTS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 129. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—(a) The Congress finds that the adequate protection of intellectual property rights should be an important element to the commercial, market, and economic development of developing countries encouraged by this chapter.

"(b)(1) The President is authorized to furnish assistance, after consultation with the Secretary of Commerce, on such terms and conditions as he may determine, for programs to aid less developed countries in developing and implementing adequate intellectual property laws and in developing their own indigenous technology.

"(2) The Secretary of Commerce, acting through the Patent and Trademark Office and the United States Copyright Office, shall identify the technical assistance needs of less developed countries under this section.

"(c) The assistance described in subsection (b) shall—

"(1) help provide less developed countries with the resources necessary for the design, development, administration, implementation, and enforcement of a system of intellectual property laws;

"(2) emphasize the creation of a capability within the developing countries to engage in indigenous research and development and to generate the technologies necessary for their economic and social development;

"(3) help build intellectual property systems necessary for a domestic environment capable of supporting research and development;

"(4) expand current programs to aid the development of the research and development capability itself, in exchange for adequate protection of all forms of intellectual property, for foreign as well as domestic innovators; and

"(5) coordinate bilateral scientific exchange programs with the public and private sector to help stimulate local research and development.

"(d) Notwithstanding any other provision of this chapter, funds appropriated pursuant to this chapter shall be available to carry out the provisions of this section.".

SEC. 8. UNITED STATES INTELLECTUAL PROPERTY TRAINING INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce, in cooperation with the representatives described in subsection (b), shall establish the United States Intellectual Property Training Institute (hereinafter in this section referred to as the "Institute").

(b) BOARD OF INSTITUTE.—The Institute shall be directed by a Board including representatives of—

(1) the Department of Commerce;

(2) the Patent and Trademark Office;

(3) the Copyright Office;

(4) the United States Trade Representative;

(5) the United States Agency for International Development; and

(6) executives of United States corporations which need protection of intellectual property rights in domestic and foreign operations, who shall be designated by the Secretary after consultation with relevant industry sector advisory committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(c) PURPOSES OF THE INSTITUTE.—

(1) The purpose of the Institute is to train individuals of developing nations in both management and technical skills regarding the protection of intellectual property. Such training shall include individuals who are involved in patent and copyright protections through any government agencies dealing with such protections.

(2) The Institute shall provide training which may include—

(A) recommendations for enforcement of intellectual property laws;

(B) guidelines for the adoption of such an intellectual property law, provisions of a model law, or suggestions for amendments to any such existing law; and

(C) instruction regarding the philosophy of such a law and policy considerations involved in the adoption or amendment, and enforcement of such law.

(d)(1) The Institute shall be established, supported, and maintained by nongovernmental funds and financing. No Federal funds are authorized by this section to be appropriated to establish, support, or maintain the Institute.

(2) Nothing in this subsection may be construed to preclude the Agency for International Development, or any other Federal agency or department, from participating in the activities of the Institute or from making loans or grants to the Institute that are authorized under any provision of law other than this section.

SECTION-BY-SECTION ANALYSIS OF THE TECHNOLOGY TRANSFER AND INTELLECTUAL PROPERTY PROTECTION ACT

SECTION 1. TITLE

This Act may be cited as the "Technology Transfer and Intellectual Property Protection Act."

SECTION 2. FINDINGS

The findings emphasize the link between the protection of U.S. intellectual property rights and our international competitiveness. Conditions in investment, licensing, and market access threaten our intellectual property rights. The enormous disparity in technology flows is a major factor in the trade gap between the U.S. and several of its trading partners. Access to basic research and technology is essential to achieve reciprocity in international competition.

SECTION 3. AUTHORIZATION OF NEGOTIATIONS

Section 3 gives the US Trade Representative (USTR) authority to negotiate both bilateral and multilateral agreements with countries which do not permit us access to

their technology. The goal is to ensure that the United States has the same access to basic research and technology developed in other countries as our overseas competitors have to technology developed in this country. To accomplish this the bill makes reciprocal access to technology a bilateral and multilateral negotiating objective of our trade negotiators. The bill also makes this a specific objective of the new GATT round.

SECTION 4. MONITORING OF TECHNOLOGY TRANSFERS

Section 4 requires USTR, in conjunction with the National Science Foundation, to monitor technology flows between the U.S. and other countries, and to report annually on such flows to the Congress. USTR will incorporate the report on technology flows in its annual report on the National Trade Estimates, as required by Section 181 of the Trade Act of 1974. Most of our current information about outward flows of technology come from the Japanese and others, but not, in any organized fashion, from the U.S. government. The NSF has more information than any federal agencies about the various ways in which we share technology with other countries (e.g. through licensing agreements, university research and fellowships).

SECTION 5. RESPONSE TO UNREASONABLE FOREIGN TRADE POLICIES

Section 5 of this bill amends Section 301 of the Trade Act of 1974 to make two practices actionable under this statute. The first practice is the requirement of that American firms transfer technology as a condition for importing. The second practice is the requirement that a firm divulge technical data about a product in order to receive marketing approval from foreign government regulatory agencies, analogous to the U.S. Food and Drug Administration, the FCC, or the U.S. EPA. This letter practice affects chemical, pharmaceutical, and even some high technology products which U.S. firms wish to sell in foreign countries.

In both cases the practices would be classified as unreasonable within the meaning of the statute.

SECTION 6. MONITORING FOREIGN INTELLECTUAL PROPERTY SYSTEMS

Section 6 contains some proposals designed to further protect U.S. intellectual property rights overseas. The bill assigns to the Department of Commerce responsibility for monitoring and reporting on intellectual property systems worldwide to the U.S. Foreign and Commercial Service.

U.S. commercial officers abroad, with appropriate training, would assume responsibility for maintaining current files on intellectual property protection afforded on a sector-by-sector basis in their host countries, filing annual reports with the Department of Commerce on changes to such laws in each sector; and apprising, upon request, potential U.S. exporters and foreign direct investors of protection afforded intellectual property rights in the "host countries."

SECTION 7. FOREIGN ASSISTANCE FOR DEVELOPMENT PROGRAMS TO PROTECT INTELLECTUAL PROPERTY RIGHTS

This bill provides for technical assistance to developing countries which have inadequate laws in this area. This assistance will help them design systems for protection of intellectual property. In Section 7, the bill requires the Commerce Department, working with the Patent and Trademark Office and the U.S. Copyright Office, to identify the technical assistance needs of less developed countries in this regard.

The bill instructs U.S. agencies, responsible for development assistance, to use their existing economic assistance programs to promote the adequate protection of intellectual property rights in developing countries. Our economic assistance programs, which stress market oriented development, should also promote indigenous R&D in those countries, in order to reduce the need to pirate foreign technology.

SECTION 8. UNITED STATES INTELLECTUAL PROPERTY TRAINING INSTITUTE

In this same vein, Section 8 of the bill instructs the Commerce Department and the relevant industry sector advisory committees to design and establish a U.S. Intellectual Property Training Institute. Modeled after the privately funded U.S. Telecommunications Training Institute, the Intellectual Property Institute is to be a joint venture between the U.S. government and major American firms which produce patented or copyrighted products.

The purpose would be to train management and technical staff from developing country governments in the enactment and enforcement of appropriate patent and copyright laws, as well as to provide an overall policy orientation in favor of respect for intellectual property and development of indigenous technology. While U.S. government agencies will have a small number of seats on the Board of the Institute, the major costs for such a joint venture are to be borne by the private company participants.●

● Mr. BENTSEN. Mr. President, I am pleased to join today with my friend, Senator CHAFEE, in introducing the Technology Transfer and Intellectual Property Protection Act.

As I have said on many occasions, the billions of dollars spent on research and development in this country is a major source of our international competitiveness. If we cannot protect our intellectual property, our ability to compete internationally is seriously hampered. For this reason, I am a principal cosponsor of S. 2435 with Senator WILSON, which improves remedies for U.S. companies trying to protect their intellectual property abroad and prevent the infringement of their intellectual property in the United States.

But it is also important for us to improve the access of our U.S. companies to foreign technological developments. In many areas, there is no need for the U.S. manufacturer to exhaust his capital going up a learning curve when foreign firms or governments have already done so. This is the principal subject of the bill Senator CHAFEE and I are introducing today.

The main provision of the bill authorizes negotiations for equitable access by U.S. persons to foreign developed technology. This can be important to our high technology companies.

For example, in Japan, according to one of the most knowledgeable commentators on the subject, Prof. Ezra F. Vogel, the Government supports research in individual firms through matching grants. Usually, the Japanese companies are allowed to keep most patents.

For example, in developing the very large scale integrated circuit in 1979, the Government in Japan contributed about 40 percent of the cost of a project to produce semiconductors that would compete with the most advanced semiconductors IBM could produce. It was understood this technology would not be licensed outside Japan.

In contrast, much of America's research and development is done in small innovative companies that sell their technology to others, including foreigners, and U.S. Government-developed technology is often freely available to foreigners.

This bill authorizes the administration to negotiate to reduce barriers to access to such information.

This bill also makes technology transfer issues a link in our national trade strategy. It requires the National Science Foundation to monitor transfer of technology between the United States and foreign countries and prepare a section of the National Trade Estimate on the subject. As the original designer of the National Trade Estimate, I strongly support this provision, because technology transfer is an important aspect of our national trade strategy, that should be reflected in the National Trade Estimate.

The bill also authorizes the President to retaliate against foreign countries which use unfair trade concessions requirements to limit U.S. exports unless U.S. companies are willing to give away their intellectual property or other technology information. This has been going on for years, but our Government has done nothing about it.

In 1960, the Japanese Ministry of International Trade and Industry permitted IBM to establish a wholly owned subsidiary in Japan, but in return IBM had to agree that it patents available for licensing to companies in the United States under a 1956 American court decree would be available for licensing on the same basis to interested Japanese manufacturers.

Under the unfair trade concessions provision of this bill, if this type of requirement hurt U.S. exports, the President would be authorized to retaliate. I am pleased to see that today Senator CHAFEE is joining me on S. 2226, the unfair trade concessions requirements bill, which served as the basis for section 5 of the bill we are introducing today.

In addition, this bill makes important contributions to strengthening intellectual property protection worldwide, which will help U.S. exporters. It requires the Foreign Commercial Service to maintain current files on intellectual property protection afforded

abroad on a sector-by-sector basis; it requires our foreign aid programs to include an element of assistance in helping developing countries conceive adequate intellectual property protection systems; and it requires the Secretary of Commerce to establish an Intellectual Property Training Institute, to train individuals of developing nations in the technical skills needed to run an effective intellectual property protection program.

Mr. President, in introducing this bill, Senator CHAFEE and I have taken account of the recommendations of the private sector task force on intellectual property giving advice to the Advisory Committee on Trade Negotiations, which is the main advisory committee created by the Trade Act of 1974 to advise the President on trade policy. We are listening to the private sector, trying to put their policies into effect. We hope this will encourage the administration to do the same, and that through this process we can develop a coordinated trade policy for the United States in all areas, including, but not limited to, intellectual property.●

By Mr. GORTON:

S. 2664. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT, FISCAL YEAR 1987

● Mr. GORTON. Mr. President, today I am introducing legislation to authorize fiscal year 1987 appropriations for the National Bureau of Standards [NBS], the Office of Productivity, Technology, and Innovation [OPTI], and the National Technical Information Service [NTIS] of the Department of Commerce. The following table compares the authorization levels in the bill with fiscal year 1986 levels (after the Gramm-Rudman-Hollings sequester), the levels requested by the President, and the levels assumed in the budget resolution:

	1986 level	1987 request	Budget resolution	Proposed 1987 authorization
NBS	118.7	124.0	125.0	124.7
OPTI	1.7	1.5	1.7	1.7
NTIS	.5	.4	.5	.5

As the table shows, the authorization levels are within the targets prescribed by the budget resolution.

Mr. President, I would like to describe briefly for my colleagues some of the activities of these agencies, the budgetary issues, and the provisions of my bill.

NATIONAL BUREAU OF STANDARDS

The National Bureau of Standards is the only Federal laboratory directed specifically to work with United States. The Bureau was created in 1901 to develop national standards of measurement for use in industrial manufacturing, engineering, and scientific research. In recent years, the Bureau's measurement standards and materials research have contributed to productivity and safety in emerging high-technology industries, such as biotechnology, robotics, and advanced ceramics.

The Congress has a difficult task in funding the Bureau because the evolution of technology requires the Bureau to move continuously into new areas. At the same time, many of the Bureau's current programs continue to be of significant and widespread value and, if abandoned, could not be efficiently assumed by private or governmental entities. This situation causes the Congress either to increase the Bureau's budget or to pick and choose among programs which we all agree are of great value to U.S. industry.

This situation is exemplified by the administration's request for a $10 million appropriation to begin building a cold neutron research facility. This facility would provide precise measurement of the properties of chemicals and materials, and would be valuable for industrial and materials research.

The funding increase for the Cold Neutron Research Facility in the administration's budget is offset by the proposed elimination of the Bureau's Center for Fire Research [CFR] and Center for Building Technology [CBT]. CFR studies the physical properties of fire and the dynamics of fire within structures. Research performed at CFR is important to the development of fire safety technologies and regulations. CBT provides technical support for building standards, performs research in structural engineering and building materials, and investigates major structural failures.

Mr. President, these very same proposals—elimination of CFR and CBT and construction of a Cold Neutron Research Facility—were transmitted to the Congress last year. The Congress responded by restoring funding for CFR and CBT and by not funding Cold Neutron. The bill I am introducing today specifically authorizes CFR and CBT at their 1987 base levels and does not fund the Cold Neutron Research Facility.

As I mentioned, we cannot, within our budgetary targets, afford to increase the Bureau's budget. Although the Cold Neutron Research Facility would be valuable, I cannot accept it at the cost of eliminating CBT and CFR. The administration, although acknowledging the importance of the two centers, argues that the centers' work could be assumed by the private sector or by State and local governments. I know of no evidence that this is the case; in fact, my requests to the administration to present such evidence have not been addressed. Private companies and local governments cannot afford to construct the facilities necessary to do the valuable research which is done at CFR and CBT.

My bill includes sufficient funding to restore proposed reductions in the Bureau's Institute for Computer Science and Technology. The administration has requested to cut funding for the Institute by nearly half to discontinue the Institute's work in networking. The administration argues that this function has been assumed by the private sector. Although the private sector has become active in this area, testimony before the Commerce Committee indicates that the private networking efforts still depend on the Bureau, and that termination of the Bureau's role is not appropriate. My bill restores funding for the Institute to its 1986 post Gramm-Rudman-Hollings level of $9.242 million.

The bill also assumes the restoration of proposed reductions to the Bureau's competence fund and postdoctoral research program. The competence fund finances small, pilot research projects and is a major means by which the Bureau evaluates the potential value of larger projects in given areas. The postdoctoral fund is used to bring scientists and engineers to work temporarily at the Bureau.

Finally the authorization level in the bill for the Bureau is sufficient to fund modest increases for advanced ceramics research ($783,000), scientific computing support ($550,000), and fiber optics research ($950,000). These increases have been requested by the administration.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

Mr. President, OPTI coordinates Federal technology transfer programs and Federal patent policy, and works with businesses and State and local governments on productivity improvement and technological development. OPTI houses the Office of Metric Programs, the Office of Strategic Resources, and the National Technical Information Service.

The President has requested an appropriation of $1,510,000 to phase out OPTI. My bill authorizes $1,727,000 for OPTI, which is the 1986 post Gramm-Rudman-Hollings level. The bill rejects the proposal to phase out OPTI. Although small, OPTI provides valuable services in areas of growing interest to State and local governments. These services exist nowhere else in the Federal Government.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS is the source of Federal technical and scientific documents, and licenses patents for some Federal agen-

cies. NTIS is self-sustaining except for its patent-licensing function.

The administration requested a budget of $443,000 for NTIS and asked NTIS to study the administration proposal to transfer the functions of NTIS to the private sector. My bill authorizes $500,000 for NTIS.

Mr. President, I ask unanimous consent that the text of the bill be inserted into the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1987".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated for fiscal year 1987 to the Secretary of Commerce to carry out activities performed by the National Bureau of Standards the sums set forth in the following line items:

(1) Measurement Research and Standards, $37,718,000.

(2) Materials Science and Engineering, $21,882,000.

(3) Engineering Measurements and Standards, $35,858,000.

(4) Computer Science and Technology, $9,242,000.

(5) Research Support Activities, $19,961,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amount authorized under subsection (a)(3) of this section, $3,100,000 is authorized to be appropriated only for the Center for Building Technology and $5,141,000 is authorized to be appropriated only for the Center for Fire Research; and

(2) none of the funds authorized to be appropriated under subsection (a)(5) of this section may be used for the design and construction of a Cold Neutron Research Facility.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 3. In addition to the sums authorized to be appropriated by section 2 of this Act, there are authorized to be appropriated to the Secretary of Commerce $1,727,000 for fiscal year 1987 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized to be appropriated by sections 2 and 3 of this Act, there are authorized to be appropriated to the Secretary of Commerce $500,000 for fiscal year 1987 for the patent licensing activities of the National Technical Information Service.●

By Mr. SYMMS (for himself, Mr. BURDICK, Mr. HECHT, Mr. ABDNOR, Mr. MELCHER, Mr. BENTSEN, Mr. COCHRAN, Mr. SIMPSON, Mr. DECONCINI, Mr. HATCH, Mr. BAUCUS, and Mr. DOMENICI):

S. 2665. A bill to amend the national maximum speed limit law; to the Committee on Commerce, Science, and Transportation.

NATIONAL SPEED LIMIT LEGISLATION

● Mr. SYMMS. Mr. President, I would like to say a few words in support of the bill which I, and 11 of my colleagues have just introduced.

Briefly, this legislation would allow States to raise the speed limit up to 65 miles per hour on rural interstate highways. For purposes of this legislation, rural interstates are defined as interstate highways located outside an urbanized area with a population of 50,000 or more.

This is a modest, sensible modification of our national maximum speed-limit law. The benefits of modifying our speed-limit law in this way are manifold. This bill will enhance the motoring public's respect for all laws relating to highway travel and safety. It will allow States to take into consideration variety of terrain, highway quality, and usage when determining a highway's speed limit. It will lead to speed-limit laws which enhance, rather than inhibit, the interstate transport of goods. And, most significantly, the modification I propose will not compromise the safety of highway users.

The imposition of speed limits should be a responsibility and a power vested in State and local authorities. Except during World War II, this responsibility has always rested with State and local governments. We should return it to their hands now. The States are in a far better position than the Federal Government to set safe and reasonable speed limits in their jurisdictions.

There is no rational reason why a driver on the long, straight, and barren desert freeways of Nevada, Idaho, and Montana should be federally constrained to travel at the same speed as a commuter on the D.C. Beltway.

By allowing the States to again make these regulations, we will gain productivity, time, money—and at the same time continue to maintain a safe highway system.

Law enforcement would also benefit by regaining the cost in employee hours and funds expended to enforce the 55-MPH-speed limit. Attempting to maintain speed limit compliance and, thereby, protect themselves against the loss of highway funds, many States have increased enforcement efforts on 55-MPH roadways to the detriment of other important highway safety programs.

In recent testimony before a committee of State highway officials, Deputy Chief J.M. Barnett of the California Highway Patrol noted that his department deploys "approximately 85 percent of our officers on 55-MPH roadways, an average of one on-duty officer for every 27 miles of 55 highway." "In California," he continued, "our current special program involves three fixed-wing aircraft devoted exclusively to 55 enforcement working with designated teams of supplementary ground units. This effort is costing some $3 million annually."

He also observed that "the 55-MPH-speed limit requires a substantial commitment of law enforcement resources at the expense of other programs—(drunk driving was cited earlier in the testimony as a more hazardous violation); yet our speed enforcement efforts do not have—and without public support, cannot have—a widespread and long-lasting impact."

This bill addresses the core of the speed-limit compliance problem without presenting a threat to highway safety. It would allow State officials to raise the speed limit to a reasonable level on highways that comprise, with the exception of urban interstates, the safest highway system in the country.

There are a total of 33,910 miles of interstate highway located outside urban areas. Every State except Delaware has some segments of rural interstate on which this bill would allow State officials to raise the speed limit up to 65 MPH.

Rural interstates comprise only 6 percent of all highways posted at 55 MPH, and carry about 19 percent of all traffic on those highways. Yet, the fatality rate on rural interstates is lower than that of any other highway system except urban interstates. In 1984, fatalities on rural interstates accounted for less than 5 percent of all highway fatalities. In addition, those highways affected by this bill, the rural interstates, are capable of safely handling high speed traffic. These roads were designed to safely accommodate vehicles traveling at speeds far greater than 55 MPH. This is demonstrated by the impressive safety record of these roads, despite the fact that motorists currently travel these roads at more than 55 MPH.

Actual driving speeds on rural interstates are now well above the 55-MPH limit. In 1985, the average speed on rural interstates was 59.5 MPH, and 23 States reported average speeds in excess of 60 MPH on those highways; 85 percent of the vehicles on rural interstates in 1985 were traveling at 66 MPH.

Based on this data, one could expect only slight increases in actual driving speeds if States choose to raise the speed limit to 65 MPH on rural interstates. Setting a higher speed limit on rural interstates should allow a majority of motorists to comply with the law while driving at speeds which are reasonable and comfortable, given the conditions and traffic volumes on those rural interstates.

This bill, then, represents a reasonable, modest, and cautious approach to dealing with a widespread problem on America's highways. I hope that the Members of this body will see that on

this issue it is in all of our best interests to respect the wishes—as expressed in their actions—of the overwhelming majority of American motorists and return the authority over speed limits to those in the States who are most qualified to make rational policy in this area.●

By Mr. BUMPERS (for himself and Mr. FORD):

S. 2666. A bill to provide for a study by the Federal Communications Commission of the encryption of certain television programming, and ensure the availability of certain encrypted programming for private viewing under competitive market conditions; to the Committee on Commerce, Science, and Transportation.

COMPREHENSIVE SATELLITE DISH OWNERS FAIRNESS ACT

Mr. BUMPERS. Mr. President, Today I am introducing with my distinguished colleague from Kentucky, Senator FORD, a comprehensive bill on the knotty issue of scrambled satellite television signals, the Comprehensive Satellite Dish Owners Fairness Act of 1986. There continues to be widespread confusion about this issue, and I hope with this bill to clear the air.

This bill is carefully designed to resolve the question of full access under competitive conditions to satellite cable programming to dish owners and to ensure that the terms of this access are fair, particularly to those in rural areas. At present, it is evident that rural dish owners are not getting a fair deal. In fact, our present situation is downright antirural.

I have previously made my case for rural dish owners on the Senate floor, and those arguments stand today. Dish owners do not want and never asked for a free ride. None I have talked to have suggested that they should get free programming that others in the city must pay for. Nor do they think that scrambling is an improper way for program providers to protect their signals. Nor do they wish to discriminating against or bar existing cable companies from their right to compete for their business.

All they ask is that they be treated equally with those on cable systems, their city cousins only in the last 6 years have dishes brought the video revolution to the country, and with that the information and entertainment that city dwellers have long taken for granted.

The costs for premium programming—such as HBO, Cinemax, Showtime, et cetera—to dish owners beyond a cable system remain far above those in the city, and for no good reason. For a rural citizen of this country to receive fee television, he must pay $2,000 to $5,000 for a dish, then $395 area decoder and then la carte monthly charges for each scrambled program which is far above the national cable average for those same programs.

If one computed these costs on a monthly basis, the equation would yield a monthly cost of around $95 for a dish owner. The dish owner's city cousin, who may only live 1 mile down the road, can get the same service for $25 to $30 per month. Mr. President, this is outrageous and must be stopped. Clearly, a competitive market would not yield such a disparity.

I intend to more fully outline my arguments on behalf of dish owners as a witness before Senate Commerce Committee hearing on scrambling on July 31. I intend to talk about this bill at the hearing, and I hope that the committee will give this legislation very serious consideration. This legislation will be an important step in putting the controversy surrounding scrambling behind us.

This bill represents a compromise of the views of all parties to this controversy. I know many were concerned that the FCC would have to regulate prices for either decoders or programming, and we are not calling for that with this bill. We believe a fully competitive market will yield the best prices for consumers. First and foremost, it seeks to protect the rural television program consumers and ensure that they are treated fairly. It broadens a more limited bill (S. 2290) that Senator FORD and I introduced earlier this year. We need to act on this measure before Congress adjourns this fall.

The bill has three major provisions. The first requires the Federal Communications Commission to initiate a notice of inquiry to address several of the most thorny issues regarding scrambling. The bill is very clear on the matters to be evaluated by the FCC, and I refer my colleagues to the bill for specific points. In sum, it requires the FCC to evaluate and solicit public comments on the independent distribution of programming to rural dish owners, and other issues relating to implementing a fully competitive market. It further requires the FCC to report to Congress on its findings. Finally, it requires the FCC to take charge of monitoring this market, which they should have been doing all along.

The bill's second provision contains two subsections that are straight from our previously introduced bill, S. 2290. We require the FCC to set uniform standards for decoder equipment with a view toward ensuring that dish owners will need only one decoder for all scrambled programming, and scrambling becomes unlawful if decoding equipment is not available within 60 days of requests for sale or lease of such equipment. These provisions will give assurances to dishowners that their substantial investment is a sound one, and that the costs of receiving programming will not continue to rise every time a programmer decides to scramble.

The third provision requires the Justice Department to report to Congress within 6 weeks of enactment, on its work investigating possible antitrust violations in the present noncompetitive marketplace for scrambled programming. We simply want to know if our antitrust laws are being violated and if so, is anything being done about it.

Let me again state that I will go into greater detail at the upcoming hearings on my arguments in favor to this essential legislation. I urge my colleagues to carefully consider the importance of this issue to rural America. After doing so, I hope they will agree that the legislation Senator FORD and I offer today is essential to rural America, and will lend their support.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Satellite Dish Owners Fairness Act of 1986".

FEDERAL COMMUNICATIONS COMMISSION STUDY OF SATELLITE TRANSMITTED ENCRYPTED PROGRAMMING

SEC. 2. (a) Within seven days after the date of enactment of this Act the Federal Communications Commission (hereinafter in this Act referred to as the "Commission") shall initiate a notice of inquiry to address issues concerning assured access to certain encrypted programming by satellite earth station owners in a competitive market. The Commission shall monitor, evaluate, and solicit comments on—

(1) the availability of satellite cable television programming at competitive prices for private viewing, including a consideration of the geographically diverse areas beyond the reach of franchised cable areas existing on the date of enactment of this Act;

(2) the extent of competition among the distributors of satellite cable programming beyond the bounds of franchised cable areas and the price variations as a result of such competition, both between retail sellers within a certain distribution system and alternative distribution systems;

(3) the practices of the program suppliers with regard to making satellite cable programming available to distributors;

(4) the extent to which independent distributors (including rural electric cooperatives or satellite dish dealer cooperatives) unaffiliated with franchised cable systems are engaged in the marketing of satellite carried programming and the appropriateness of the entry of such persons in the satellite cable programming market;

(5) the extent to which packaged programming is made available to satellite earth station owners;

(6) the price and availability of programming to any person beyond a franchised cable system in comparison to similar pro-

gramming within a cable system in geographically diverse regions;

(7) the availability of broacast programming to all areas of the United States to properly identify areas unserved by network affiliate stations where signal strength is two-hundred microvolts or less;

(8) ways to aid the extension of the network or affiliate signal to unserved areas, either through satellite carried signals or translator services; and

(9) the determination of ways to allow program providers protection of back haul feeds and unedited programming other than making the viewing of unencrypted signals illegal.

(b) For purposes of subsection (a)—

(1) the term "back haul feed" means any transmission intended solely for the internal use of a television network which is not part of the finished network product or as part of the network feed to affiliate stations;

(2) the term "independent distributor" means a distributor of cable programming who is not a cable operator or program provider; and

(3) the term "network feed" means any transmission from a network for distribution to affiliate stations for broadcast.

REPORT TO CONGRESS AND REFERENCE TO OTHER AGENCIES OF THE UNITED STATES

SEC. 3. (a) No later than six months after the date of enactment of this Act, the Commission shall report to the Congress on findings and recommendations resulting from the inquiry conducted pursuant to section 2.

(b) The Commission shall refer to the Federal Trade Commission, the Department of Justice, or State law officials any act or practice which may constitute a violation of Federal or State law which the Commission finds in the inquiry conducted pursuant to section 2.

AMENDMENT TO THE COMMUNICATIONS ACT OF 1934

SEC. 4. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) No person may encrypt any satellite cable programming for private viewing after six months after the date of enactment of the Comprehensive Satellite Dish Owners Fairness Act of 1986 unless—

"(A) such encryption is conducted in accordance with uniform standards for encryption of such programming approved by the Commission;

"(B) devices for decryption of such programming are available for sale or lease to any interested person within sixty days after submission of a request for such sale or lease.

"(2) The Commission shall promulgate regulations to—

"(A) provide for uniform standards for encryption and the sale or lease of devices under paragraph (1); and

"(B) ensure, to the greatest extent possible, that earth station owners shall need only one such device to decrypt any such programming.

"(3) Any person aggrieved by any violation of paragraph (1) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain such violations; and

"(B) direct the recovery of full costs, including awarding reasonable attorney fees, to a prevailing plaintiff.".

DEPARTMENT OF JUSTICE REPORT TO CONGRESS

SEC. 5. Within six weeks after the date of enactment of this Act, the Department of Justice shall complete an investigation and report to the Congress on the antitrust implications of the development of the marketing structure of the cable communications industry pursuant to the Cable Communications Policy Act of 1984, with respect to satellite earth station owners.

Mr. FORD. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Arkansas. I used one of those tactics that is not very palatable to me—holding up the passage of a piece of legislation until there was an agreement that we could even get a hearing on this very emotional issue. I am very pleased as a result of that now we do have a hearing in the Commerce Committee on July 31 to begin to unscramble, if I can use the term, the problems that are being faced by rural America as it relates to the dish.

By Mr. BYRD (for Mr. BENTSEN, for himself, Mr. CHAFEE, Mr. CHILES, Mr. DURENBERGER, Mr. BAUCUS, Mr. GRASSLEY, and Mr. BRADLEY):

S. 2667. A bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants and children under 6 years of age; to the Committee on Finance.

INFANT MORTALITY REDUCTION AND CHILD HEALTH ACT

● Mr. BENTSEN. Mr. President, today with my colleagues Senators CHAFEE, CHILES, DURENBERGER, BAUCUS, GRASSLEY, and BRADLEY, I am introducing the Infant Mortality Reduction and Child Health Act of 1986. The purpose of our legislation is to amend title XIX of the Social Security Act, Medicaid, to permit States the option of providing prenatal, delivery, and postpartum care to low-income mothers, and of providing medical assistance to low-income infants and children through the age of 5.

Under the provisions of our bill, States are permitted to restructure their Medicaid programs by extending health care coverage to mothers and infants from families whose income falls between the Federal poverty level—or $10,990 for a family of four—and the State Medicaid eligibility standard. During the first year, mothers and infants up to the age of 1 would be eligible for services. Thereafter, care could be offered older children through the age of 5. While we would have preferred to extend coverage to 2-year-olds and beyond immediately, budget considerations require that the toddler and older child population be phased in, a year at a time to 1991 when all eligible preschoolers may be provided care.

At the request of interested State officials, we have included a provision giving States the option of applying an assets test when determining eligibility for coverage. Numerous Medicaid Program directors indicated their hope that with enactment of these program changes, Congress and the administration would agree to allow the use of an assets test as a way of ensuring consistency between health care coverage for the categorically needy and the newly eligible population of mothers and children.

Mr. President, the provisions incorporated in this bill grew out of a series of recommendations developed by the Southern Governors Task Force on Infant Mortality, chaired by the able chief executive of South Carolina, Gov. Richard Riley. Endorsed by the Southern Gov. Association and by the National Governors Association, enactment of these reforms in the Medicaid Program should generate significant savings by promoting cost-effective preventive health care.

Many of our colleagues in the Senate are familiar with earlier versions of this initiative introduced by Senators CHILES and DURENBERGER. S. 2288 and S. 2333, of which I am a cosponsor, are similar to our bill, but do not extend coverage to children beyond the age of 1. Moreover, at the time S. 2288 was introduced, the Congressional Budget Office had not finalized cost estimates and we therefore incorporated some phase in and assets test provisions that—in light of lower CBO estimates—can now be eliminated. Senators CHILES and DURENBERGER should be commended for their earlier work, and I am pleased that they have agreed to join as original cosponsors of S. 2667.

Mr. President, regrettably 10 of the 11 States with the worst infant and prenatal mortality rates are in the southern region of our country. Ironically, this is the same geographic area that has found expansion of eligibility under the Medicaid Program most difficult to achieve. Progress is being made in States like Texas, South Carolina, and Florida, but much remains to be done. By permitting States greater flexibility in fashioning a special program targeted to women and children whose family incomes place them slightly above current eligibility thresholds, but well below the national poverty threshold, we hope to make greater strides toward reducing the incidence of infant death, retardation and lifelong handicapping conditions.

As most of our colleagues know, prematurity and low birth weight are the most significant factors associated

with infant mortality. Prenatal care and early intervention when a problem is identified can mean the difference between normal delivery of a healthy baby and death or a lifetime of coping with needless physical or mental disabilities. Moreover, the cost of caring for one low birth weight baby approaches $15,000—while a full complement of prenatal services can be provided for less than $500. At a time when the Institute of Medicine reports a conservative projection of $3 in savings during the first year of life for every $1 spent on prenatal care, we would be foolish to overlook an opportunity to improve the health of our Nation's children.

Currently, nearly 3½ million women of child bearing age live in families whose incomes fall below the Federal poverty level, but above the eligibility threshold for Medicaid coverage. In many cases, prenatal care is simply not accessible to these individuals. Furthermore, of the growing number of Americans without health insurance coverage—35 million according to recent estimates—approximately one-quarter are young children. Again, access to needed care is difficult, particularly for the children whose family incomes disqualify them from the Medicaid Program. In fact, less than one-half of the children whose incomes are below the poverty level are eligible for Medicaid.

Mr. President, the case developed by Governor Riley and his task force is compelling. I hope our colleagues will lend their support to State efforts to reduce infant mortality and the incidence of preventable handicaps by joining us as cosponsors of S. 2667.

Mr. President, I ask unanimous consent that the full text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Infant Mortality Reduction and Child Health Act of 1986".

SEC. 2. PERMITTING POOR PREGNANT WOMEN AND INFANTS TO BE TREATED AS OPTIONAL CATEGORICALLY NEEDY INDIVIDUALS.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii) is amended—

(1) by striking "or" at the end of subclause (VII) and inserting a semicolon,

(2) by inserting "or" at the end of subclause (VIII), and

(3) by adding at the end the following new subclause:

"(IX) subject to subsection (h)(4), who are described in subsection (h)(1);".

(b) DESCRIPTION OF GROUP.—Section 1902 of such Act is amended by inserting after subsection (g) the following new subsection:

"(h)(1) Individuals described in this paragraph are—

"(A) women during pregnancy (and during the 60-day period following pregnancy),

"(B) infants under one year of age or, in the case described in subsection (e)(6), older,

"(C) children who have attained one year of age but have not attained two years of age,

"(D) children who have attained two years of age but have not attained three years of age,

"(E) children who have attained three years of age but have not attained four years of age,

"(F) children who have attained four years of age but have not yet attained five years of age, and

"(G) children who have attained five years of age but have not yet attained six years of age,

who are not described in subsection (a)(10)(A)(i), whose family income does not exceed the maximum income level established by the State under paragraph (2) for a family size equal to the size of the family.

"(2) For purposes of paragraph (1), the State shall establish a maximum income level which is not more than 100 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IX)—

"(A) application of a resource standard shall be at the option of the State,

"(B) the resource standards and methodology (if any) to be applied shall be—

"(i) the resource standard and methodology that is applied under the State plan under part A of title IV,

"(ii) the resource standard and methodology that is applied under title XIV or under subsection (f), or

"(iii) the resource standard and methodology that is applied under subsection (a)(10)(C)(i)(III);

"(C) the income standard to be applied is the income standard established under paragraph (2), and

"(D) family income shall be determined in accordance with the methodology employed under the State plan under part A or E of title IV, and costs incurred for medical care or for any other type of remedial care shall not be taken into account.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

"(4)(A) A State plan may not elect the option of furnishing medical assistance to individuals described in subsection (a)(10)(A)(ii)(IX) unless the State has in effect, under its plan established under part A of title IV, payment levels that are not less than the payment levels in effect under its plan on the date of the enactment of this subsection.

"(B)(i) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover only individuals described in paragraph (1)(A) or to cover only individuals described in paragraph (1)(B).

"(ii) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover only individuals described in paragraph (1) unless the State has elected, under such subsection, to cover individuals described in the preceding subparagraphs of such paragraph.".

(c) CONFORMING AMENDMENTS.—(1) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by inserting "except as provided in subsection (h)(2)," after "(17)".

(2) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(a)(10(A)(ii)(IX) or" after "as medical assistance".

SEC. 3. BENEFITS.

(a) LIMITED FOR NEW PREGNANT WOMEN.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D)—

(1) by striking "and" before "(VI)", and

(2) by inserting before the semicolon at the end the following: ", and (VII) the medical assistance made available to individuals described in subsection (h)(1)(A) who are eligible for medical assistance only because of subparagraph (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, and post partum services) and to other conditions which may complicate pregnancy".

(b) CONTINUATION OF MEDICAL ASSISTANCE FOR INFANTS RECEIVING INPATIENT SERVICES AT ONE YEAR OF AGE.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(6) If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in the case of an infant described in subsection (h)((1)(B)—

"(A) who is receiving inpatient services for which medical assistance is provided on the date the infant becomes one year of age, and

"(B) who, but for becoming one year of age, would remain eligible for medical assistance as under such subsection,

the infant shall continue to be treated as an individual described in subsection (h)(1)(B) until the end of the stay for which the inpatient services are furnished.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1986.

(b) TRANSITION TO FULL IMPLEMENTATION.—(1) Subparagraph (C) of section 1902(g)(1) of the Social Security Act, as added by section 2(b) of this Act, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(2) Subparagraph (D) of section 1902(g)(1) of the Social Security Act, as added by section 2(b) of this Act, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(3) Subparagraph (E) of section 1902(g)(1) of the Social Security Act, as added by section 2(b) of this Act, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(4) Subparagraph (F) of section 1902(g)(1) of the Social Security Act, as added by section 2(b) of this Act, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(5) Subparagraph (G) of section 1902(g)(1) of the Social Security Act, as added by section 2(b) of this Act, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1991.●

● Mr. CHAFEE. Mr. President, infant mortality and low birthweight among

babies are two of the most distressing problems facing our Nation. Today, I am pleased to join Senator BENTSEN in sponsoring legislation to address these problems.

Eleven babies die out of every 1,000 infants born in this country. Few events could be as tragic as the death of a baby or the birth of a baby with birth defects. Many such heartbreaking outcomes could be prevented with proper prenatal care. The future of our Nation depends on our children and they deserve a better chance to be born healthy.

It has been estimated that half the birth defects which occur in this country could be prevented through proper prenatal care. Prenatal services can drastically reduce the frequency of low-birth-weight babies who are 40 times more likely than other infants to die within the first year and who tend to suffer a wide range of long-term health problems.

The legislation we are introducing today will improve the delivery of prenatal care and health services to low-income women and their children. Our bill will permit the States to furnish prenatal, delivery, and post partum care through the Medicaid Program to low-income pregnant women and medical assistance to their children under 6 years of age.

Think of the incalculable human cost which can be avoided if we improve the delivery of prenatal services. In purely economic terms, an average investment of $600 for routine prenatal services and counseling could save as much as $120,000 to $200,000 for extended neonatal intensive care and an average of $40,000 per year for 50 years for a disabled person in an institution.

The United States has one of the world's best programs for the treatment of low-birth-weight babies. Yet, we have a poor prevention program and our rate of low-birth-weight babies is higher than 11 other countries. According to the National Academy of Sciences, the rate could be cut by better than a tenth through improved prenatal care. The Academy estimates a cost-benefit ration of $3.38 saved in the first year of a child's life for $1 spent in prenatal care.

Under current law, States that want to provide essential health care under Medicaid to poor women and infants, only provide services to those who are eligible for cash welfare. Therefore, health care services offered through the Medicaid Program reach fewer than one-half of all infants living in poverty. The legislation we are introducing today will begin to close this gap. It extends to States the option of providing prenatal, delivery, and post partum care to low-income pregnant women. In addition, medical assistance can be provided for low-income infants and children under 6 years of age in families living at the poverty level without requiring that they also meet the eligibility standards for Aid to Families with Dependent Children.

When infant mortality trends deteriorate as they have in the United States, we must step back and ask—are our health delivery services adequate and effective? When the United States has poorer pregnancy outcomes than 11 other developed countries, we must ask why. When low birthweight is excessive among the poor, the poorly educated and those that do not receive proper prenatal care, we must take action. Our bill is necessary in order to insure that the poor who do not currently receive proper health care services have access to them. It is estimated that this bill will allow States to furnish services to an additional 40,000 low-income women who currently receive no services or at best limited services.

Even during a time of fiscal restraint it is sound economic policy to invest in the health of our poor mothers and children. Investment in improved pregnancy outcomes has enormous future returns in both human and fiscal terms.●

● Mr. BRADLEY. Mr. President, I rise today to join my colleagues, Senator BENTSEN and Senator CHAFEE, in introducing the Infant Mortality Reduction and Child Health Act of 1986.

One of the ways that we judge progress in a society is the health of its people—particularly through such indicators as life expectancy and infant and maternal mortality. In our Nation, where health care is one of the fastest growing industries, it is appalling that the United States ranks only 12th in the world, behind most other industrialized nations, with an infant mortality rate of 11.2 per 1,000 live births. At our current rate of progress, the United States has little chance of meeting the Surgeon General's goal of reducing the infant mortality rate to 9 per 1,000 live births by 1990.

In my home State of New Jersey, the infant mortality rate is 11.5 per 1,000 live births, slightly above the national average. An infant born in Newark has no better chance of survival past the first year of life than an infant born in Costa Rica. The preventable death of an infant or young child is tragic anywhere. In a country with our advanced level of medical technology, we should be making use of our resources to do better.

Even more appalling than the high rates of infant mortality in our Nation is the shocking discrepancy among different segments of our population. The infant mortality rate for whites is 9.7 per 1,000 live births, but 16.8 for nonwhites. In New Jersey, the discrepancy between whites and nonwhites is even worse than this national average with an infant mortality rate for nonwhites—18.3 per 1,000 live births—nearly double that for whites—9.5 per 1,000 births.

Mr. President, prenatal and preventive health care is extremely cost effective. For every $1 spent on prenatal care, $3 for potential neonatal intensive care and $11 in potential lifetime costs for infants born at low-birth weight are avoided. It costs approximately $350 a year for a child to have full preventive health care services. However, 1 day in the hospital for an untreated illness costs $600. Children who participate in the Early Periodic Screening Diagnosis and Treatment [EPSDT] Program have annual health care costs that are 10 to 15 percent lower than children who do not receive this care. These are dollar savings. We must also consider the savings in human suffering that is within our power to prevent.

Mr. President, this bill will make important strides toward remedying these serious problems for our society. It will allow States to increase their Medicaid coverage for children and pregnant women up to 100 percent of the poverty level. Women and children who are currently living below the Federal poverty level, but whose family income is too high for AFDC eligibility will be able to obtain the medical care that can make all the difference in their lives. States will have flexibility in assets tests to determine eligibility and may use the SSI, AFDC, or medically needy tests. Importantly, the bill will begin the incremental inclusion of children under the age of 6 for health services.

Mr. President, we frequently talk about the chain of problems facing our poor. This bill affords an entry point. Inadequate prenatal care contributes to the incidence of low-birth-weight infants. These low-birth-weight infants experience a range of health problems. If these health problems go unresolved, they contribute to school difficulties and failure. Children who do poorly in school are more likely to become dropouts and join the ranks of the unemployed. And, in turn, these unemployed, undereducated, and welfare-dependent individuals are more likely to become pregnant as teenagers and fail to secure prenatal care. Thus the cycle continues unabated.

Mr. President, if ever there was a place to intervene, this is it. We can impact on our citizens, giving them the chance to be the best that they can be from the very beginning. We can no longer afford, in dollar costs or in human costs, not to extend prenatal care and health services to pregnant women, infants and young children. I strongly urge my colleagues to support this bill.●

● Mr. CHILES. Mr. President, I am pleased to cosponsor with Senator BENTSEN and Senator CHAFEE and

others members of the Senate Finance Committee the Infant Mortality Reduction and Child Health Act of 1986. This bill builds on the concepts of S. 2288, the Infant Mortality Prevention Act of 1986 [IMPACT 1986], which I introduced on April 11, 1986.

Both of these bills would establish an important precedent for maternal and child health. They would allow States to expand Medicaid eligibility to cover prenatal care for pregnant women with family incomes up to 100 percent of the Federal poverty level without having to increase the statewide income eligibility level for all recipients of Aid To Families With Dependent Children [AFDC]. In addition, comprehensive health care coverage under Medicaid would be available for infants and children. Under the terms of my original bill, coverage would have been available for infants up to 1 year of age. Under this new bill we are introducing today, coverage for children would initially be available up to 1 year of age, but beginning next year expanded coverage would be phased in on a year-by-year basis until coverage for children through age 5 would be available in fiscal year 1992.

Mr. President, this initiative to encourage States to target their Medicaid resources on a very vulnerable population was first proposed by the Southern Governor's Task Force on Infant Mortality and has been endorsed by the National Governors Association. It has already received tremendous support here in the Senate. Forty-three Senators have cosponsored either my earlier bill or a similar version introduced by Senator DURENBERGER.

Official CBO cost estimates of this Medicaid coverage have been made available since these earlier bills were introduced, and I am very gratified to see that we can now expand the concept by phasing in coverage for older children while still staying well within our own initial cost estimates. The original budget resolution passed by the Senate allocated an additional $100 million per year over the next 3 years for expanded coverage for pregnant women and chidren. This bill would stay well within that range, with an estimated 3-year cost of $195 million. Even with this modest initial cost, however, it is clear that there will be long-range savings to both Federal and State governments from reduced expenditures for the much more costly neonatal intensive care and treatment of childhood disease and disability which can result from an absence of early preventive health care.

Mr. President, I encourage the rest of my colleagues to join with us and I look forward to quick action by the Senate Finance Committee and full Senate approval of this measure.●

ADDITIONAL COSPONSORS

S. 1569

At the request of Mr. BINGAMAN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1569, a bill to amend title XVIII of the Public Health Service Act to encourage health promotion and disease prevention through the implementation of a coordinated national nutrition monitoring system.

S. 1806

At the request of Mr. BOREN, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1806, a bill to amend the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections and to amend the Communications Act of 1934 regarding the broadcasting of certain material regarding candidates for Federal elective office, and for other purposes.

S. 1869

At the request of Mr. LAUTENBERG, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1869, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 2099

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 2099, a bill to amend section 201 of the Trade Act of 1974.

S. 2271

At the request of Mr. DENTON, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2271, a bill for the relief of Jens-Peter Berndt.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes.

S. 2370

At the request of Mr. MURKOWSKI, the names of the Senator from New York, [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Arizona [Mr. DECONCINI], the Senator from Arizona [Mr. GOLDWATER], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 2370, a bill to allow the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2370, supra.

S. 2411

At the request of Mr. D'AMATO, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2411, a bill to prohibit possession, manufacture, sale, importation, and mailing of ballistic knives.

S. 2417

At the request of Mr. BYRD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2417, a bill to establish the Aviation Safety Commission, and for other purposes.

S. 2450

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2450, a bill to amend title II of the Social Security Act to remove permanently the 3-percent threshold requirement for cost-of-living increases.

S. 2492

At the request of Mr. HEINZ, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2492, a bill to amend title XIX of the Social Security Act to permit States, at their option, to provide Medicaid coverage for poor elderly or disabled individuals and to provide Medical assistance for poor, Medicare beneficiaries in meeting Medicare cost-sharing requirements.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2539

At the request of Mr. WARNER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. GORE], the Senator from Utah [Mr. GARN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Georgia [Mr. NUNN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2539, a bill to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and citizens of the United States who reside overseas.

S. 2576

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 2576, a bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims.

S. 2589

At the request of Mr. ABDNOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cospon-

sor of S. 2589, a bill to create a secondary market for sound mortgages secured by farm real estate and guaranteed by the Farmers Home Administration, and for other purposes.

S. 2611

At the request of Mr. STEVENS, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2611, a bill to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets.

S. 2646

At the request of Mr. HEINZ, the name of the Senator from Kentucky [Mr. FORD], was added as a cosponsor of S. 2646, a bill to provide that no change may be made in the prospective payment rates established under section 1881(b)(7) of the Social Security Act with respect to outpatient maintenance dialysis services until certain requirements are satisfied.

SENATE JOINT RESOLUTION 196

At the request of Mrs. HAWKINS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 196, a joint resolution designating September 22, 1986, as "American Business Women's Day."

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 371

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to designate August 1, 1986 as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HART, the name of the Senator from Michigan [Mr. RIEGLE] was added as cosponsor of Senate Concurrent Resolution 131, a concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman.

SENATE RESOLUTION 385

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of Senate Resolution 385, a resolution to express the sense of the Senate that certain action be taken to end hunger in the United States by 1990.

SENATE RESOLUTION 431

At the request of Mr. BUMPERS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Resolution 431, a resolution supporting the numerical sublimits of existing strategic offensive arms agreements.

SENATE RESOLUTION 446

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Resolution 446, a resolution condemning the Government of Chile for the death of Rodrigo Rojas de Negri.

SENATE RESOLUTION 448—URGING MEASURES TO INCREASE AGRICULTURAL EXPORTS

Mr. DIXON submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 448

Whereas a continued high volume of agricultural exports is essential to prosperity in the nation's economy;

Whereas exports of United States agricultural products have declined drastically, both in value and volume, around 10 percent in the past year, and more than one-third since 1981;

Whereas declining agricultural exports of farm products resulted in an agricultural trade deficit of $348.7 million in May, 1986, the first in more than 27 years;

Whereas U.S. grain exports to the Soviet Union have declined 50 percent since 1985;

Whereas U.S. agricultural exports to the Republic of China declined more than 65 percent from 1984 to 1985;

Whereas the Food Security Act of 1985 requires that the Secretary of Agriculture use agricultural commodities and products owned by the Commodity Credit Corporation, of between $1 billion and $1.5 billion in value, to carry out activities under the Export Enhancement Program; and

Whereas the Republic of China and the Soviet Union are not presently eligible to receive bonus commodities under the Export Enhancement Program. Therefore be it Resolved, That it is the Sense of the Senate that the President is encouraged to direct the Secretary of Agriculture to make available from stocks of agricultural commodities, owned by the Commodity Credit Corporation, bonuses for commercial export sales of agricultural commodities under the Export Enhancement Program, with such bonuses equal to an appropriate percentage of the volume of the commodity shipped, irrespective of the destination of the goods; and to further direct the Secretary of Agriculture, the United States Trade Representative, and the Secretary of State to aggressively pursue negotiations with U.S. trading partners aimed at increasing the amount of U.S. agricultural products sold under the Export Enhancement Program.

Mr. DIXON. Mr. President, last week I spoke on the floor of the U.S. Senate about the depressed state of our Nation's agricultural sector. I rise today to focus again on the issues of sagging exports and bulging surpluses.

U.S. agricultural exports have declined by more than 12 percent since last year and more than 37 percent since 1981. In May, the United States faced a deficit in agricultural trade. Agricultural imports exceeded agricultural exports by more than $348.7 million for the first time in 27 years. We must take action. We cannot stand by and watch our export markets go to our competitors.

Last month, the National Commission on Agricultural Trade and Export Policy submitted its report to Congress. Among the Commission's recommendations was to use "all existing tools to expand markets for U.S. agricultural commodities and products." Well, Mr. President, in the 1985 farm bill, Congress gave the Secretary of Agriculture strong export tools. I regret to inform my colleagues that the Department of Agriculture has not used these programs to their full advantage. One of the programs to which I refer is the export enhancement program, which was designed to offer Government-owned commodities as bonuses to U.S. exporters to expand sales of agricultural products in targeted markets. However, to date, the Department has used only about $270 million of the $1 billion authorized for this fiscal year.

Presently, two of our major trading partners, the Republic of China and the Soviet Union, are not eligible to purchase agricultural products under the Export Enhancement Program. I believe this is a mistake, Mr. President.

Over the past several years, our agricultural trade with the Soviet Union has been plagued by a series of embargoes. Because of the serious repercussions these embargoes have had on the Nation's reputation as a reliable supplier, I sponsored an antiembargo amendment to the Export Administration Act which was accepted by Congress, aimed at preventing damaging agricultural embargoes for foreign policy reasons.

Mr. President, the distinguished manager of the Export-Import Bank bill was involved in managing the Export Administration Act on a prior occasion when my amendment was adopted to that act and ultimately adopted by the House of Representatives as well.

According to statistics provided by the Economic Research Service, Soviet purchases of U.S. grain exports have dropped 50 percent in the last year. In light of this dramatic reduction in Soviet imports of U.S. grain, and the possible effect of the Chernobyl incident on the availability of Soviet grain, I believe we need to reassess our past policies under the Export Enhancement Program.

Trade with the Repubic of China has also changed drastically over the

past several years. In 1 year, from 1984 to 1985, United States agricultural exports to China declined 65 percent.

Here in the United States, our farmers will soon face a widespread shortage of storage space for grain. During the Fourth of July recess, I spent a great deal of time traveling throughout my home State of Illinois. I can report, Mr. President, that my State is due to have a record harvest this fall. In fact, this spring, the farmers in my State planted their crops at a record pace. I remind my colleagues that once this grain is harvested, there will be no place to store it.

The combination of expiring loan contracts and a record harvest particularly complicate the storage situation. While the Commodity Credit Corporation and the Department of Agriculture have taken some steps to address this basic problem—including the recent announcement that 1,000 barges will be used for emergency grain storage—much more remains to be done. I believe that one solution is to move this grain onto the export market under the Export Enhancement Program.

For these compelling reasons, Mr. President, I rise today to introduce a resolution which expresses the sense of the Senate that the President is encouraged to direct the Secretary of Agriculture to make available, from CCC stocks of agricultural commodities, bonuses for commercial export sales under the Export Enhancement Program, with such bonuses equal to an appropriate percentage of the volume of the commodity shipped, irrespective of the destination of the goods. It states further that the President should direct the Secretary of Agriculture, that U.S. Trade Representative, and the Secretary of State to aggressively pursue negotiations with U.S. trading partners to increase the amount of exports sold under the Export Enhancement Program.

We have a greater number of countries now competing for a smaller export market, and we must do all we can to ensure that U.S. agricultural products retain a share of that market.

Mr. President, I believe that the American farmer has suffered greatly over the past several years. It is time that we pull together and do something which will be beneficial for our family farmer.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 449—RELATIVE TO THE DEATH OF THE HONORABLE GEORGE M. O'BRIEN, A REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr. HEINZ (for Mr. DIXON, for himself, and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 449

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable George M. O'Brien, late a Representative from the State of Illinois.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED

EXPORT-IMPORT BANK ACT AMENDMENTS

HEINZ AMENDMENT NOS. 2212 AND 2213

Mr. HEINZ proposed two amendments to the bill (S. 2247) to amend and extend the Export-Import Bank Act of 1945, and to eliminate foreign predatory export practices; as follows:

AMENDMENT NO. 2212

"CONFORMING AMENDMENT

"SEC. 116. The second sentence of section 7(a) of the Export-Import Bank Act of 1945 is amended by inserting "and credit" immediately after the words "All spending".".

AMENDMENT NO. 2213

On page 5, lines 20 and 21, strike "considered to be new budget authority and shall be".

HIGHWAY CONSTRUCTION AUTHORIZATION

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2214

(Ordered referred to the Committee on Environment and Public Works.)

Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. HEINZ, and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill (S. 2405) to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; as follows:

On page 69, between lines 12 and 13, insert the following:

SEC. —. DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION.

(a) OBLIGATION TO REPAY FEDERAL FUNDS INVESTED ON I-80.—

(1) The Delaware River Joint Toll Bridge Commission (hereinafter in this section referred to as the "Commission"), in conjunction with the State highway agencies of the Commonwealth of Pennsylvania and of the State of New Jersey, shall enter into an agreement with the Secretary of Transportation to repay to the Treasury of the United States any Federal funds which previously have been obligated or otherwise expended by the Federal Government with respect to the Delaware Water Gap Bridge on I-80. Such repayment shall be credited to the Highway Trust Fund.

(2) Upon such repayment, such States and the Commission shall be free of all restrictions contained in title 23, United States Code, and any regulation or agreement thereunder, with respect to the collection or imposition of tolls or other charges for such bridge or the use thereof.

(b) AGREEMENT TO CONSTRUCT I-78 BRIDGE AS A TOLL BRIDGE.—If the Commonwealth of Pennsylvania, the State of New Jersey, and the Commission determine to operate the uncompleted bridge under construction in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, on I-78 as a toll bridge, such States, the Commission, and the Secretary of Transportation shall enter into an agreement with respect to such I-78 bridge project as provided in section 129 of title 23, United States Code, notwithstanding the requirements of section 301 of such title or any existing agreement.

(c) COMMISSION'S AUTHORITY TO CHARGE TOLLS; RIGHT OF REVIEW BY FEDERAL AGENCIES PRESERVED.—The Commission's authority to fix, charge, or collect any fees, rentals, tolls, or other charges shall be as provided in its Compact, supplements thereto and the supplemental agreement described and consented to in subsection (f), but paragraph (c) of the supplemental agreement described and consented to in subsection (f) shall not be construed to eliminate the necessity for review and approval by any Federal agency, as may be required under applicable Federal law, to determine that the tolls charged by the Commission are reasonable and just consistent with the Commission's responsibilities under its Compact, supplements thereto and the supplemental agreement described and consented to in subsection (f).

(d) CONGRESSIONAL CONSENT NOT GRANTED TO TOLLS ON EXISTING NONTOLL BRIDGES.—Nothing in this section shall be construed to grant congressional consent to the imposition of tolls by the Commission on any existing and operating bridge under the Commission's jurisdiction on which tolls were not charged and collected on January 1, 1986.

(e) CONGRESSIONAL APPROVAL NOT APPLICABLE TO I-895 CORRIDOR.—Nothing in this section shall constitute congressional approval to construct any additional toll bridge in the previously designated I-895 corridor.

(f) CONSENT OF CONGRESS TO SUPPLEMENTAL AGREEMENT CONCERNING AUTHORITY OF COMMISSION.—

(1) The consent of the Congress is hereby given to the supplemental agreement, described in paragraph (2), concerning the Delaware River Joint Toll Bridge Commission, which agreement has been enacted by the Commonwealth of Pennsylvania on December 18, 1984, as Act 206, laws of 1984, and by the State of New Jersey on October 21, 1985, as Public Law 1985, chapter 342.

(2) The agreement referred to in paragraph (1) reads substantially as follows:

"SUPPLEMENTAL AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY

"Supplementing the Compact or Agreement 'Entitled Agreement between the Commonwealth of Pennsylvania and the State of New Jersey Creating the Delaware River Joint Toll Bridge Commission as a Body Corporate and Politic and Defining its Powers and Duties, as Heretofore Amended and Supplemented, to Establish the Purposes for Which the Commission May Fix,

Charge, and Collect Tolls, Rates, Rents, and Other Charges for the use of Commission Facilities and Properties' ".

"The Commonwealth of Pennsylvania and the State of New Jersey do solemnly covenant and agree, each with the other, as follows:

"(a)(1) Notwithstanding any other provision of the compact hereby supplemented, or any provision of law, State or Federal to the contrary, as soon as the existing outstanding bonded indebtedness of the commission shall be refunded, defeased, retired, or otherwise satisfied and thereafter, the commission may fix, charge, and collect tolls, rates, rents, and other charges for the use of any commission facility or property and in addition to any purpose now or heretofore or hereafter authorized for which the revenues from such tolls, rates, rents, or other charges may be applied, the commission is authorized to apply or expend any such revenue for the management, operation, maintenance, betterment, reconstruction, or replacement (a) of the existing nontoll bridges, formerly toll or otherwise, over the Delware River between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of the act of the State of New Jersey approved April 1, 1912 (Chapter 297), and all supplements and amendments thereto, and the act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto and (b) of all other bridges within the commission's jurisdiction and control. Betterment shall include but not be limited to parking areas for public transportation services and all facilities appurtenant to approved projects.

"(2) The commission may borrow money or otherwise incur indebtedness and provide from time to time for the issuance of its bonds or other obligations for one or more of the purposes authorized in this supplemental agreement. The commission is authorized to pledge its tolls, rates, rents, and other revenues, or any part thereof, as security for the repayment, with interest, of any moneys borrowed by it or advanced to it for any of its authorized purposes, and as security for the satisfaction of any other obligation assumed by it in connection with such loan or advances.

"(3) The authority of the commission to fix, charge, and collect fees, rentals, tolls or any other charges on the bridges within its jurisdiction, including the bridge at the Delaware Water gap, is confirmed.

"(4) The covenants of the State of New Jersey and the Commonwealth of Pennsylvania as set forth in Article VI of the compact to which this is a supplemental agreement shall be fully applicable to any bonds or other obligations issued or undertaken by the commission. Notwithstanding Article VI or any other provision of the compact, the State of New Jersey and the Commonwealth of Pennsylvania may construct a bridge across the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, within 10 miles of the existing toll bridge at that location. All the rest and remainder of the compact, as amended or supplemented, shall be in full force and effect except to the extent it is inconsistent with this supplemental agreement.

"(b) The commission is authorized to fix, charge, or collect fees, rentals, tolls, or any other charges on the proposed bridge to be constructed in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, in the same manner and to the same extent that it can do so for other toll bridges under its jurisdiction and control provided that the United States Government has approved the bridge to be a part of the National System of Interstate and Defense Highways with 90 percent of the cost of construction to be contributed by the United States Government, and provided further, that the non-Federal share of such bridge project is contributed by the commission. The commission is further authorized in the same manner and to the same extent that it can do so for all other toll bridges under its jursidiction and control to fix, charge, and collect fees, rentals, tolls or any other charges on any other bridge within its jurisdiction and control if such bridge has been constructed in part with Federal funds.

"(c) The consent of Congress to this compact shall constitute Federal approval of the powers herein vested in the commission and shall also constitute authority to the United States Department of Transportation or any successor agency and the intent of Congress to grant any Federal approvals required hereunder to permit the commission to fix, charge, and collect fees, rentals, tolls, or any other charges on the bridges within its jurisdiction to the extent provided in subsections (a) and (b) and this subsection and the compact.

"(d) Notwithstanding the above provisions, the commission shall not fix, charge, or collect fees, rentals, tolls, or any other charges on any of the various bridges formerly toll or otherwise over the Delaware River between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of the Act of the State of New Jersey approved April 1, 1912 (chapter 297), and all supplements and amendments thereto, and the Act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto.

"(e) At any time that the commission shall be free of all outstanding indebtedness, the State of New Jersey and the Commonwealth of Pennsylvania may, by the enactment of substantially similar acts, require the elimination of all tolls, rates, rents, and other charges on all bridges within the commission's jursidiction and control and, thereafter, all costs and charges in connection with the construciton, management, operation, maintenance, and betterment of bridges within the jurisdiction and control of the commission shall be the financial responsibility of the States as provided by law.".

● Mr. LAUTENBERG. Mr. President, I rise to submit an amendment which would amend the interstate compact between New Jersey and Pennsylvania which created and governs the activities of the Delaware River Joint Toll Bridge Commission. I am pleased to be joined in introducing this legislation by my colleague from New Jersey, Senator BRADLEY, and my colleagues from Pennsylvania, Senators HEINZ, and SPECTER.

This amendment will place the Joint Toll Bridge Commission on a solid financial footing, allowing it to fulfill its mandate to operate and maintain bridges which span the Delaware River between New Jersey and Pennsylvania. Currently, the commission operates and maintains 19 bridges, 6 of which are toll bridges. The remaining 13 are supported by the taxpayers of New Jersey and Pennsylvania. Each year, the legislatures of the two States appropriate approximately $2.6 million to the commission to assist it in fulfilling its mandate.

The Governors and State legislatures of New Jersey and Pennsylvania are seeking Federal legislation to amend the interstate compact which created the Delaware River Joint Toll Bridge Commission. The intent of this legislation, like bills passed by both State legislatures, is to make the commission self-sustaining and to free the States from appropriating millions of dollars on an annual basis.

Mr. President, the amendment we are submitting will allow for the imposition of a reasonable toll to be placed on the I-78 crossing of the Delaware River now under construction by the States and the Federal Highway Administration. The legislation specifically disallows the imposition of new tolls on existing bridges within the jurisdiction of the Joint Toll Bridge Commission.

This legislation preserves the present review of tolls by Federal agencies. It should be noted that any tolls imposed by the Joint Toll Bridge Commission can be vetoed by the respective Governors who appoint the commissioners.

The Governor of New Jersey has written to me urging introduction of this measure.

Mr. President, a change in an interstate compact such as that which created the Delaware River Joint Toll Bridge Commission requires an act of Congress. As Senators from the States affected, recognizing the consensus within our States for this legislation, we are pleased to initiate the necessary Federal action.

Mr. President, I ask unanimous consent that a letter from New Jersey Governor Thomas H. Kean be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY,
Trenton, NJ, May 13, 1986.

Hon. FRANK R. LAUTENBERG,
United States Senator,
Washington, DC.

DEAR FRANK: The State of New Jersey, in cooperation with the Commonwealth of Pennsylvania, has adopted changes in the Compact on the Delaware River Joint Toll Bridge Commission.

The Compact revision has been under development for nearly four years, has been fully supported by both States, and is of great importance to New Jersey. I urge your full support for the Federal legislation that is being proposed by the Commission and will serve to ratify the Compact changes adopted by New Jersey and Pennsylvania.

If you have any questions or suggestions, please contact staff members in my Washington Office.

Warm regards.

Sincerely,

THOMAS H. KEAN,
Governor.●

● Mr. BRADLEY. Mr. President, today I join with my colleagues from Pennsylvania and New Jersey to introduce legislation of critical importance to the transportation network of New Jersey and Pennsylvania. The Delaware Bridge Commission currently operates and maintains six small toll bridges over the Delaware River north of Trenton. This legislation amends the commission compact to transfer the responsibility for 13 other small bridges over the Delaware River to the commission. It also makes the commission responsible for the non-Federal financial share of the I-78 bridge to be built near Phillipsburg, NJ, and designates that bridge as a toll bridge.

The small bridges affected by the legislation are in poor shape and in danger of being forced to close if improvements are not made. While such closings might not generate great headlines in the national news media, the local impact would be devastating. Towns in Pennsylvania and New Jersey have grown up together on opposite banks of the river. These towns are tied together socially and commercially by the lifeline provided by these small bridges. To sever any part of this lifeline is to undermine the vitality of these interstate communities.

This legislation permits a local solution to a local problem. The commission has done an excellent job of maintaining the six bridges now under its control. The commission is willing and able to expand its role in the region, and the compact modifications represented in this legislation have the strong support of both State Governors and legislatures.

I urge the Senate to consider this legislation expeditiously and I urge its approval.●

EXPORT-IMPORT BANK ACT AMENDMENTS

BYRD (AND OTHERS) AMENDMENT NO. 2215

Mr. BYRD (for himself, Mr. ROCKEFELLER, Mr. FORD, Mr. ARMSTRONG, Mr. GLENN, and Mr. WARNER) proposed an amendment to the bill S. 2247, supra; as follows:

At the appropriate place, insert the following:

PROHIBITION AGAINST CERTAIN TRANSACTIONS

SEC. . Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(e) The Bank may not make any loan, any assistance, or any other financial commitment for establishing or expanding production of any commodity for export by any country other than the United States, if—

"(1)(A) the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative, or (B) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

"(2) the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Such prohibition shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short and long term benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.".

PROXMIRE (AND ARMSTRONG) AMENDMENT NO. 2216

Mr. PROXMIRE (for himself and Mr. ARMSTRONG) proposed an amendment to the bill S. 2247, supra; as follows:

At the appropriate place, insert the following new section:

SEC. 12. PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.

Section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)) is amended—

(1) in subparagraph (A), by striking out "Communist country (as defined in section 620(f) of the Foreign Assistance Act of 1961)," and inserting in lieu thereof "Marxist-Leninist country";

(2) in subparagraph (B), by striking out "Communist country (as defined)" and inserting in lieu thereof "Marxist-Leninist country";

(3) by striking out "such Communist" each place such term appears and inserting in lieu thereof such "Marxist-Leninist"; and

(4) by adding at the end thereof the following: "For the purposes of this paragraph, the term 'Marxist-Leninist country' means a country which—

"(i) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(ii) is politically, economically, or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country,

and includes specifically (but is not limited to) the following countries:

"Cambodian People's Republic.
"Cooperative Republic of Guyana.
"Czechoslovak Socialist Republic.
"Democratic People's Republic of Korea.
"Democratic Republic of Afghanistan.
"Estonia.
"German Democratic Republic.
"Hungarian People's Republic.
"Lao People's Democratic Republic.
"Latvia.
"Lithuania.
"Mongolian People's Republic.
"People's Democratic Republic of Yemen.
"People's Republic of Albania.
"People's Republic of Angola.
"People's Republic of Benin.
"People's Republic of Bulgaria.
"People's Republic of China.
"People's Republic of the Congo.
"People's Republic of Mozambique.
"Polish People's Republic.
"Republic of Cuba.
"Republic of Nicaragua.
"Socialist Ethiopia.
"Socialist Federal Republic of Yugoslavia.
"Socialist Republic of Romania.
"Socialist Republic of Vietnam.
"Surinam.
"Tibet.
"Union of Soviet Socialist Republics (including its captive constituent republics).".

With the exception of Angola, the President may remove a country from this list if the President determines that the country neither (1) maintains a centrally planned economy base in the principles of Marxism-Leninism nor (2) is politically, economically or militarily dependent on the Union of Soviet Socialist Republics or on any other communist country.

In the case of Angola, in order to remove Angola from such list the President must make the declaration referred to in the previous sentence, and

The Bank may not guarantee, insure, or extend credit in connection with any export of goods or services to Angola until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b) of the Export Administration Act of 1979, remaining in Angola.

FORD (AND HELMS) AMENDMENT NO. 2217

Mr. FORD (for himself and Mr. HELMS) proposed an amendment to the bill S. 2247, supra; as follows:

On page 13, line 10, after the period, add the following: "Notwithstanding any other provision of law, of the funds appropriated pursuant to this paragraph, 4.3 percent shall be available to the Department of Agriculture to carry out price support programs administered by the Department at the original levels provided for by law.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 24, 1986, at 2 p.m. to conduct a business meeting.

On its legislative agenda, the committee will be considering the following items: an original bill to authorize appropriations for the Federal Election Commission for fiscal year 1987; an original bill that would amend section 58a of title 2, United States Code, in order to authorize the Senate Sergeant at Arms to pay for State long distance telephone charges based on the amount of time the service is used; Senate Resolution 429, increasing the limitation on expenditures by the Select Committee on Intelligence for the procurement of consultants; two printing resolutions for the House of Representatives (H. Con. Res. 288 and H. Con. Res. 301); an original resolution to amend rule XXXV of the Standing Rules of the Senate so that the chairman of the Ethics Committee can give notice in the CONGRESSIONAL RECORD of approval of foreign travel by a Member, officer, or employee

after the foreign travel has concluded; an original resolution to authorize the purchase of U.S. Capitol Historical Society wall calendars for the use of the Senate; Senate Resolution 438, directing the Senate Committee on Rules and Administration to study the Senate rules and precedents applicable to impeachment trials; Senate Resolution 439, to authorize the reprinting of a Senate document from the 93rd Congress entitled "Procedures and Guidelines for Impeachment Trials in the United States Senate"; and several original resolutions to pay gratuities to survivors of deceased Senate employees.

The following administrative business items are also scheduled to be considered: Additional funds for the pilot project test of legislative information systems and services; the electronic dissemination of legislative branch documents; the continuation of the comments and recommendations on the broadcast coverage of Senate floor proceedings during the test period; and the results of the test period of the Dole proposal for subway service to the Hart Building during rollcall votes.

For further information concerning this meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, July 30, 1986, at 9 a.m., to conduct an oversight hearing on the Office of the Sergeant at Arms.

The committee will be receiving testimony from Mr. Ernest E. Garcia, the Sergeant at Arms of the Senate, on the various operations and functions of his office, including the computer center and the service department. Budgets, staffing, personnel practices, and responsiveness to Senate users' needs are topics that will also be addressed.

For further information regarding this hearing, please contact John Rixey of the Rules Committee staff on extension 46351.

Mr. President, I wish to announce that on Tuesday, August 5, 1986, at 9:30 a.m., the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, to hold hearings on a number of items currently pending in the committee.

The committee will be receiving testimony on the nomination of Mr. Thomas John Josefiak, of Virginia, to be a member of the Federal Election Commission for a term expiring on April 30, 1991. Representatives from the Library of Congress will speak in support of a reauthorization bill for its American Folklife Center. Finally, officials from the Smithsonian Institution will present testimony in support of Senate Joint Resolution 268 and 269, providing for the reappointments of Murray Gell-Mann and David C. Acheson as citizen regents of the Smithsonian Board of Regents, and will provide information on S. 1311, a bill which would authorize the Smithsonian to plan, design, and construct facilities for the National Air and Space Museum at Dulles Airport.

For further information regarding these hearings, please contact Carole Blessington of the Rules Committee staff on extension 40278.

ADDITIONAL STATEMENTS

HARLEY-DAVIDSON IS BACK ON THE ROAD AGAIN

● Mr. KASTEN. Mr. President, I rise today to bring a recent article that appeared in Business Week magazine to my colleagues' attention. The story describes Harley-Davidson's successful struggle to regain an active position in the competition of heavyweight motorcycles.

Harley-Davidson's comeback best exemplifies the importance of striving for fair ground for American industries. As the sole remaining American producer of motorcycles, Harley-Davidson has faced the all too common problem of competing with less expensive, subsidized Japanese products.

The company experienced many difficulties in maintaining its share of the motorcycle market, which forced them to institute salary freezes, production cutbacks, and losses of jobs totaling 40 percent of its work force. This employee reduction was a devastating blow to Wisconsin with Harley-Davidson is located; 800 employees at its Milwaukee plant lost their jobs. Also, despite the fact that the demand for heavyweight bikes had declined, the Japanese made no attempt to reduce production. Instead, they shipped their surplus of bikes to the United States and slashed prices to reduce their inventory, which is turn increased the unfair competition.

Finally, in 1983, after years of troubles which only brought in meager profits, Harley-Davidson turned to President Reagan and the International Trade Commission for assistance in obtaining temporary relief from foreign competition, specifically from the Japanese. The President recognized the problem. This is the only section 201 case where the President fully implemented the ITC's relief recommendations, and it resulted in a success story. As evidenced in this case, section 201 will work if used.

Despite the fact that the Japanese have gotten around the tariff on some occasions by assembling some bikes in their American plants, as well as by redesigning some of their engines, Harley-Davidson has gone back in the black and is on sound footing thanks to the temporary relief.

Mr. President, Harley-Davidson's comeback is a shining example of what an American industry can do with the help of the Government in the effort to fight unfair foreign competition in trade. I ask that the article which appeared in the July 21 issue of Business Week be included in the RECORD.

The article follows:

[From Business Weekly, July 21, 1986]

HARLEY-DAVIDSON: READY TO HIT THE ROAD AGAIN

Harley-Davidson Inc., the Milwaukee-based maker of big, heavy motorcycles called "hogs" by their fans, was almost wrecked by Japanese imports five years ago. But since Chairman Vaughn L. Beals Jr. and his management team bought the company from AMF Inc. in 1981 with borrowed money, they have scratched and scraped to turn heavy losses into modest profits.

When the stock market took its historic 62-point dive the day before Harley was to go public, it seemed as if the company's hard luck hadn't ended. But Harley and its investment banker, Dean Witter Reynolds Inc., not only went ahead with the offering, they boosted it from 1.43 million common shares to 2 million at $11 each. They also hiked a debt offering from $50 million worth of notes to $70 million. The result: The issues sold out in a day. Shrugs Steven F. Deli of Dean Witter: "We had a strong group of customers lined up."

JUST IN TIME

With the $87.2 million in net proceeds, Beals will be able to refinance the debt that has hobbled growth and left Harley still vulnerable to the Japanese. That debt—$25 million in term loans and a $45 million revolving credit line secured by company assets—is left over from the leveraged buyout of Harley by Beals and 12 other executives. The offering dilutes the stake of management, which sold no shares, to about 54%, from 83%. At $11 a share, Beals's 16% stake alone is worth $9.9 million.

Most observers say the management team has earned its keep. After taking over an operation AMF couldn't sell to anyone else—including the Japanese—it has worked hard to bury a reputation for poor quality and little innovation. Beals's team adopted such Japanese techniques as "just-in-time" inventory control and quality circles. It slashed Harley's breakeven point to 35,000 units a year from 53,000 and saved $22 million in inventory costs. The company lost almost $30 million in its first 18 months of independence from AMF but came back in 1983 with a slim profit of $973,000 before special credits.

A big break came in 1983, when Harley convinced President Reagan and the U.S. International Trade Commission that the Japanese were dumping excess inventory in the U.S. Reagan responded with a special five-year tariff on heavy motorcycles that has diminished gradually each year from 45% and will stop at 10% in the year ending in April, 1988. Harley insists that the Japanese found ways around the tariff—Honda Motor Co. and Kawasaki Heavy Industries Ltd. avoided it by assembling heavy bikes in U.S. plants, for example—but the protection did ease competitive pressure.

Harley was able to post a profit of $9.9 million, including $7.3 million in extraordinary credits on revenues of $287.5 million last year. And despite a general downturn in

the heavyweight motorcycle market—wholesale shipments are off 16% so far this year—the company also regained some of its lost market share.

HELL'S ANGELS

The public financing lets Harley get out of loan covenants that restricted capital spending and specified levels of net worth and working capital. Says Richard F. Teerlink, Harley's chief financial officer: "The company has been constrained each year since going private in the amount it has wanted to spend." Long-term debt is still high, however, at 80% of total capital.

Teerlink says the new spending flexibility will allow Harley to continue boosting manufacturing efficiencies and cutting costs. Industry experts, however, say Harley should spend more on developing new products. The company has survived over the past few years largely because of dedicated dealers and a die-hard clientele, ranging from the Hell's Angels to the California Highway Patrol. More recently, the strong yen has also helped by forcing Japanese makers to raise prices.

But Harley's flagship twin-cylinder "V" engine is widely termed an antique. And a batch of motorcycles that Beals is developing, the Nova series, has been gathering dust for years while Harley sought $15 million in additional financing. Teerlink says the company has yet to determine if Nova is to be financed, but it now may be too late. "Nova would have been a big seller four years ago, but the Japanese have come out with so many bikes like it now, it's passé," says Ronald D. Lawson, managing editor of Cycle World magazine.

Harley, however, may surprise the experts. Many are amazed that the company, the last of more than 150 U.S. motorcycle makers, is still around. Says Don J. Brown, president of Hancock-Brown Corp., motorcycle industry consultants: "A lot of people never thought they'd get this far."●

CAPTIVE NATIONS WEEK

● Mr. ZORINSKY. Mr. President, this is Captive Nations Week, a week when we pay special homage to those men and women of many nations who do not enjoy the independence, liberty, and human rights accorded those in democratic lands. Since 1959, this week has been set aside as a reminder to Americans of repression in Eastern Europe and elsewhere around the globe.

Privileged as we are to live in a democracy, we often take for granted the freedom of speech, thought, and worship that we enjoy. Captive Nations Week reminds us that many others still are struggling to gain access to the freedoms we accept as a given right.

It is important that we express our continuing concern for those struggling to gain these rights. Likewise, it is crucial that they know we are sympathetic to their plight and that we will use our influence in their behalf.

Mr. President, John Kennedy once described the most powerful force in the world as "man's eternal desire to be free." As we observe Captive Nations Week, 1986, it is my hope that this powerful force eventually will prevail and that freedom will someday come to people of all nations.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report for this week, prepared by the Congressional Budget Office in response section 308(B) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC., July 21, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through July 18, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report Congress has completed action on the Panama Canal Commission Authorizing Act, H.R. 4409, changing estimated budget authority and outlays.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE 99TH CONGRESS, 2ND SESSION AS OF JULY 18, 1986

[Fiscal year 1986, in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,053.0	980.0	778.5	2,070.9
Budget resolution, S. Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by		12.4		
Under Resolution by	16.7		17.2	7.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlements or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT U.S. SENATE 99TH CONGRESS, 2ND SESSION AS OF JULY 18, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT U.S. SENATE 99TH CONGRESS, 2ND SESSION AS OF JULY 18, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted in previous sessions	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation Urgent Supplemental Appropriation, 1986 (Pub. L. 99–243)			
Federal Employees Benefits Improvement Act of 1986 (Pub. L. 99–251)		4	
VA Home Loan Guarantee Amendments (Pub. L. 99–255)		−51	
Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272)	−4,259	−6,001	765
Department of Agriculture Urgent Supplemental, 1986 (Pub. L. 99–263)			
Advance to Hazardous Substance Response Trust Fund (Pub. L. 99–270)			
FHA and GNMA Credit Commitment Assistance Act (Pub. L. 99–289)		−380	
Federal Employees Retirement Act of 1986 (Pub. L. 99–335)			−90
Temporary Extension of Certain Housing Programs (Pub. L. 99–345)		−304	
Military Retirement Reform Act (Pub. L. 99–348)	−25		
Urgent Supplemental Appropriations, 1986 (Pub. L. 99–349)	−3,508	475	
Total	−7,792	−6,256	675
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses: Panama Canal Commission Authorizing Act (H.R. 4409)	18	16	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association	3	3	
Special benefits (federal employees)	14	14	
Family social services	100	75	
Payment to civil service retirement [1]	(37)	(37)	
Total entitlements	118	93	
Total current level as of July 18, 1986	1,053,024	980,012	778,469
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		12,412	
Under budget resolution	16,676		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.

CAPTIVE NATIONS WEEK

● Mr. RIEGLE. Mr. President, yesterday, I was honored to join citizens in Warren, MI, in commemorating the 27th anniversary of Captive Nations Week. All around this country, Americans took time to demonstrate their solidarity with the people of the 31 captive nations which are no longer free and independent.

At the close of World War II, Soviet occupation in Eastern Europe snuffed out freedom in those countries. For the people of the Baltic States, it happened on June 14, 1941, when, during the night, Soviet secret police went from house to house, arresting entire families and herding them into railroad cattle cars bound for Soviet slave labor camps in Siberia. In the end, 50,000 innocent men, women, and chil-

dren were the victims of extermination and deportation.

The stories of brutality suffered by the other captive peoples are just as chilling. In Ukraine, there was the manmade famine of 1933, in which 7 million Ukrainians died. In Czechoslovakia, there was the suppression of the Prague Spring in 1968. In Poland, there was the 1981 imposition of martial law and the smothering of the independent trade union solidarity. In Romania, the people continue to suffer under a government with one of the worst human rights records in all of Eastern Europe. In Albania, there is no religious freedom, and in Croatia, the Communist regime has stifled the creativity of the people.

The ongoing suffering endured by the captive peoples is compounded by the fact that the perpetrators of these inhumane acts have never been brought to justice.

And now, there are new threats to the homeland.

The Chernobyl incident 3 months ago, transported us into the world of censored news and incomplete information—a world which the people of the captive nations know only too well.

The citizens living in the affected areas did not even know of the radioactive cloud which passed over them, and of the damage it inflicted. In this country, Americans struggled to piece together information from sketchy Soviet newspaper stories, Western radio broadcasts and word of mouth.

For the victims, and for those who care about them in the West, the nightmare is still going on. The casualties, the estimates of future victims, the contamination of land, crops and livestock are piling up. Two hundred fifty thousand children have been evacuated from Kiev. The death toll in the Ukraine has climbed to 28, with over 300 in serious condition—and that number is increasing daily.

The Kremlin's secretive manner of dealing with this crisis is particularly distressing in light of the fact that what will become the world's largest nuclear power station is currently operating the northeast part of Lithuania.

Just as Ukrainians actively fought the construction of the Chernobyl nuclear plant when it was proposed in the 1970's, Lithuanian and Soviet scientists protested the building of the Ignalina plant in Lithuania, because it lacks proper facilities to cool and contain contaminated water from the reactor core. Unless significant new safety precautions are taken, another nuclear disaster, of even greater magnitude than that at the Chernobyl plant, could easily occur.

Chernobyl is only the most recent manifestation of the cloud of darkness under which the captive nations have been living for decades. The Soviet policy of russification threatens the survival of their cultures, languages and traditions. Repression continues, particularly against those who have a strong national consciousness and dare to express it. Throughout the Soviet system, cruel and inhumane treatment of political prisoners is common, both during interrogation and confinement to labor camps, prisons, or psychiatric hospitals. The ongoing repression of the Catholic Church in the Ukraine, in Romania, in the Baltic States and elsewhere has nearly eliminated every trace of religious freedom in those countries. And Soviet restrictions on travel, communications, and emigration have worsened the already deteriorating human rights situation in the captive nations.

But, instead of dampening the spirit of the captive peoples, the Kremlin's repressive policies have fostered in them an even greater desire for independence. Ignoring the dangers, national and human rights groups remain active.

This year, in special tribute to the people of the captive nations, who, at great personal risk and sacrifice, continue to pursue civil rights in Eastern Europe, we mark the 11th anniversary of the signing of the Helsinki accords.

In 1975, 33 West and East European states, along with Canada and the United States, signed the Helsinki Final Act which provided for:

First, equal rights and self-determination of people, and guarantees of fundamental freedoms of thought, conscience, religion, or belief;

Second, improving economic, scientific, and environmental cooperation; and

Third, improving cooperation in humanitarian fields like supporting freer movement of people, ideas an information between signatory states.

Almost immediately after the accords were signed, private groups were organized in the Eastern bloc to monitor Soviet and East European compliance with the provisions of the agreement. The Helsinki Committee in Poland, charter 77 in Czechoslovakia, and monitoring groups in Armenia, Lithuania, Ukraine and Georgia, placed great faith in the Helsinki accords. Many of their members were subsequently punished with harsh prison terms in Siberia and elsewhere, simply for exercising the civil rights guaranteed in the accords. Oleksy Tykhy, Yuri Lytvyn, Vasyl Stus, Reverend Bronius Laurinavicius and others, have paid with their lives for their involvement in the monitoring process in their lives for their involvement in the monitoring process in the Soviet Union.

The Ukrainian Helsinki Monitoring Group, the largest of its kind, provided impetus for human rights activists to demand not only that the Soviet Government uphold the human rights guaranteed by the Soviet constitution, the Helsinki Final Act, and other international human rights declarations, but also to assert that the Western democracies have a responsibility to support the struggle for achievement of human rights of those living under Soviet domination.

And so we must live up to that obligation by helping the oppressed in their struggle.

Through a strengthened Voice of America, we must get the truth and vital information across international borders to the captive peoples.

The imminent opening of the United States consulate in the Ukraine will provide a vital pipeline for communication between citizens in the Ukraine and those in the free world.

We must ensure that human rights remains a central element in our overall policy toward the Soviet Union. The pledge made by signatories to the Helsinki Final Act to "promote and encourage the exercise of human rights and fundamental freedoms" must be more than a hollow promise. The question of human rights must be a key issue in all of our Government's dealings with Soviet officials at all levels and in all forums.

American support for the return of freedom to the captive nations is an important demonstration of our belief in the right of self-determination for all people, in all nations of the world. We must be no less attentive to the plight of the people of the captive nations of Eastern Europe than we are to the plight of the oppressed in South Africa.

Although we do not know when the citizens of the captive nations will again be free to determine their own destinies, history has shown us that, over the centuries, these courageous people have maintained their unity and national identities under successive occupations, only to emerge again as proud, independent nations.

All of us who love freedom and justice must support them in their struggle to do so again.

And so, in once again honoring Captive Nations Week, we reaffirm our conviction that, as long as the struggle from within the captive nations continues, and as long as we who are free remain firm in our support, the light of freedom will continue to burn. Together with the people of the captive nations, we will fight against political oppression and the denial of human rights.●

WHAT ABOUT THE OTHERS?

● Mr. KENNEDY. Mr. President, I would like to take this time to place in the RECORD the text of a college graduation speech that was given at the commencement ceremonies of Bowdoin College by Kurt Bentley Mack.

As the first of 11 brothers and sisters to graduate from college, this young man represents a spirit and commitment to excellence and hard work that is an example to us all. I am proud to say that Kurt is a constituent of my home State of Massachusetts.

I urge all my colleagues to take a few minutes to read Kurt's speech. It is not often that this distinguished body as a whole has an opportunity to hear from individual graduates and I believe that Kurt's message must be heard by every Member of the Senate. I suggest that we take note of this young man's name for I am sure that we will be hearing from Kurt Mack again in the future.

Mr. President, I commend Kurt's statement to you and I request that the complete text be printed in the RECORD.

The address follows:

BUT WHAT ABOUT THE OTHERS?

(Kurt Bentley Mack)

President Greason, Governor Brennen, Members of the College, and Guests . . . I stand before you today, an example of this country's War on Poverty, a beneficiary of America's belief in the importance of the power of education as a social equalizer.

The years following the passage of the Civil Rights Act of 1964 have seen our government advocate and promote policies which have provided economic, educational, and social opportunities for black Americans. Prior to the implementation of these policies black people, in general, were economically marginal and politically impotent. To most Americans they were the invisible people, uninvited to put their dreams into action.

The legacy which black children inherited both sustained and worsened the cycle of poverty. Black children reflected the low status of black people in the United States. The obstacles which the black child had to overcome to attain even the most rudimentary education were often insurmountable. Only the few who had fantastic talent or luck were able successfully to pursue goals comparable to those of their white peers.

Through Bowdoin's history there have been many black men and women who have triumphed in the face of racism. Their drive for academic and later professional success has been inspired by the discrimination they experienced. In 1981 a black student who transferred from a black college to Bowdoin saw his Bowdoin experience as valuable because "the doors that would have been closed to us later had been opened for four years." This black student may represent—like so many other collegians—the aspirations of a black community whose children's dreams of education would not have exceeded elementary school.

By way of a historical background we can better understand the great significance and incredible impact which the social policies of both Presidents John F. Kennedy and Lyndon B. Johnson had upon strengthening the weak economic fibers that held the black community together.

During the Kennedy and Johnson years expenditure on the poor—both black and white—doubled. Many poor blacks benefited from the opportunities which this increase allowed. Numerous social programs were designed to rectify the factors which intensified black poverty. The Job Corps and The Supported Works Project were two programs which prepared blacks for easier acceptance into the American society. The poverty rates dropped during the formative years on the War on Poverty campaign. In 1966, 42% of blacks were living below the poverty line compared to 11% for whites. Seven years later the percentage of blacks living in poverty dropped to a mark of 32%, while the white poverty rate fell to 8%. Yet, one-third of all black Americans were living below subsistence levels.

Coinciding with these economic self-help programs was a dramatic reassessment of the educational policy of our nation. The public school was cited as impeding the educational abilities of black students. Numerous reports and research projects supported and demanded equal and unsegregated education. Many white schools systems promoted the integration of their schools with the assumption that the results would open the same educational opportunities for both black and white students.

I participated in an educational program modeled from such an idea. Since age five, I was voluntarily bussed from my Boston neighborhood to a small affluent town outside the city. I was one of a few hundred black children who escaped the failing Boston Public Schools. My suburban educational experience ignited my intellectual curiosity and ultimately helped to motivate me to seek a college education at Bowdoin. Entering in 1982 I finally didn't have to take a bus to get to school.

So here I am, the first of eleven brothers and sisters to graduate from college. This degree is not mine alone; I share it with my family and community. It is they who made the sacrifices: They marched in the streets, They faced the mace fired at them by the police, and They won the court cases which enabled me to acquire my precious drop of education. Life for my mother 'aint been no crystal staircase'. That truth has stood at the forefront of my mind for all my days at Bowdoin.

Right now I feel in many ways as that Southern black student felt in the thirties. I have gained entry into an environment the great majority of black youth will never enter. Close to 15% of black youth will drop out of high school this school year. Black enrollment in college has decreased significantly in the last ten years. Today less than 10% of students in institutions of higher learning are Afro-American. I am a member of a small fraternity of blacks who have been able to see their dream of a college education become a reality.

The question I pose to all of you, is what has happened to our national will to remedy the problem of poverty in America? Where did all those successful programs go? Why has poverty risen? Why do blacks still make up the largest portion of the impoverished in this country? We Americans are unanimously against poverty, but our moral obligation is not strong enough for us to act politically—why?

Answers to the poverty issue in this nation have yet to be found. There are those who argue the point that social programs which help the poor are too costly, that blacks have been helped enough, and that the issue is one of class and not race. I think these beliefs are wrong. First, social programs will not put an end to poverty, but they are part of the process in solving the problem, and they are necessary for many people's basic human survival. Social programs which are well designed, well targeted, and supported with substantial funds, are cost effective in the long run because society—all of us—benefits. Second, class and race have and always will be intertwined in this country. It is a heritage of racism which has contributed to keeping blacks in the lower class. The black poverty rate has steadily risen since President Reagan took office. Currently one out of three black individuals living in Reagan's society is hungry, unemployed, and living in substandard housing.

While blacks are making inroads in the economic sector, the black worker still earns less than half of that of his white coworker. Close to one-half of black males are unemployed while black teen unemployment has skyrocketed up to 60% and in some areas close to 90%. Inequality for blacks and whites is increasing. The boundaries separating the worlds are clearly marked, and life for the majority of black people in 1986 is tragically disheartening.

Senator Daniel Patrick Moynihan has said that the difference between the Poor and the Non-Poor person is that the Poor Person has less money. This is still the case today. For the most part President Reagan has given black America two choices: live or die. I chose to live. We are experiencing the most radically anti-black backlash since Woodrow Wilson.

President Reagan has cut every necessary social program in this country in order to build up a trillion dollar national defense. What risk are we Americans taking in sacrificing our socially meaningful programs? Perhaps you feel poverty and racism don't speak to your condition. Well, to claim ignorance or a lack of interest does not eradicate the problem. Poverty is an issue that involves all of us. The majority of poor are not receiving any help at all, the poor are more white than black, and the greatest percentage of the poor do not necessarily live in urban centers, but outside the cities and in the rural areas. We can remedy the dire situation for many innocent people if we begin to look toward the long term success of costly and efficient programs. Solutions to the proverty problem can no longer wait.

We need to design and refine all of our social programs so that they don't benefit the few. For blacks, affirmative action policies have been successful tactics for the upwardly mobile, but we now must look toward the creation of training and self-help programs which would prepare and allow black workers to enter more easily into a high-tech service economy. We need to be more generous in the amount given to individuals on Aid to Families with Dependent Children. We need to make inroads into establishing job opportunities or work requirements for welfare recipients. Contrary to popular belief, people on welfare do want to work. An issue which we should address in where our tax priority lies in the U.S. Well spent tax dollars and a social agenda does not stifle incentive, it only uplifts necessary social programs such as health care and education, job opportunities for youth, and improving our public schools to name a few. All of which in the long run benefit our American society.

Remedying proverty is a difficult task, but if all of us—in both the private and public sector—make it our personal responsibility, we can make incredible strides toward solving this life threatening problem. Fellow graduates . . . we are young, intelligent, and have the resources at our hands. I don't give in to those who identify us as 'The Nothing Generation'. Let's come together—

morally and politically—to halt the spread of proverty in this country. Let's create responsible social programs, so that in the future we'll see more beneficiaries and fewer casualties on the War on Poverty.

TWELVE YEARS LATER: TURKISH OCCUPATION OF CYPRUS CONTINUES

● Mr. RIEGLE. Mr. President, July 20 marked the 12th anniversary of the Turkish invasion of Cyprus. I rise today to once again condemn the Turkish occupation of that nation and the repression which the Turkish forces brought with them to Cyprus more than a decade ago.

On July 20, 1974, the military dictatorship in Turkey used political unrest in neighboring Greece as an excuse to annex and divide the island of Cyprus. Since that time, over 2,000 Greek Cypriots have disappeared, and those left in the Turkish occupied lands have had to endure abject economic hardship, political repression, and the extinction of their separate culture. Despite the fact that less than 20 percent of the Cypriot population is ethnically Turkish, the Turks stubbornly hold on to 40 percent of the land. Half of the population of the island, almost 200,000 people, have been forced into perpetual exile by the occupation.

The height of insult to the memory of those exiled and missing was the establishment of the Turkish Republic of Northern Cyprus in 1983 by Turkish Cypriot dictator Rauf Denktash. Only Turkey has recognized this illegal entity. The international community has forcefully condemned this move by refusing to recognize this illegal and provocative act.

Only last month, Turkish Prime Minister Turgut Ozal went so far as to travel to the northern zone during an official state visit. Denktash was so emboldened by this show of support that he sealed off the Green Line between the occupation zone and the Republic of Cyprus. For thousands of Greek Cypriots, the closing of the Green Line cut off the humanitarian contacts with their occupied homeland in the north. With the passage of time, we have seen the walls of partition grow higher, as the injustices inflicted on the Greek Cypriots by their Turkish occupiers increase.

The continued occupation of northern Cyprus by Turkey, the declaration of an independent state, and the moves by Rauf Denktash and other Turkish Cypriot officials to postpone a U.N.-negotiated agreement, are an affront to humanity and the civilized world. No agreement in Cyprus' future is possible as long as the sham government in the north receives support from Turkey, and as long as the Turkish Cyriots obstruct a constructive search for a lasting peace on the island.

Today, we also deplore the resettlement of the vacated northern territories by Turks from the mainland. The immigration of mainland Turks to the economic chaos of occupied Cyprus is a practice condemned even by the Turkish Cypriots. Turkey's involvement in the illegal resettlement is clear, and we must make the Turkish Government know of our dissatisfaction.

The effect of the forced division of the island is to prevent the peaceful coexistence of Greek and Turkish Cypriots. The present environment breeds hatred, prejudice, and intolerance and makes the continuing efforts of the United Nations and its Secretary General, Peres de Cuellar, all the more difficult.

All too often, with the passage of time, unjustified actions of this kind are accepted by the international community. We must remind the world that the injustices visited by Turkey on the innocent people of Cyprus a dozen years ago will never be accepted or forgotten.

The United States must use its considerable influence to bring about a solution to this conflict. As a NATO ally, Turkey must be made aware of the substantial costs of its uncooperative attitude toward multilateral negotiations on Cyprus. Pursuit of an accord not only pays tribute to the memory of those who died and to those who continue to suffer from the 12 years of conflict, it is also in keeping with the principles of human rights, justice and international law to which the United States has always been committed.

PUERTO RICAN DAY PARADE

● Mr. LAUTENBERG. Mr. President, I would like to call attention to the 24th annual New Jersey Puerto Rican Day Parade which will take place this Sunday, July 27. This parade caps more than a week of events that testify to the many and varied achievements of the Puerto Rican community of New Jersey. And, it celebrates the 34th anniversary of the establishment of the Commonwealth of Puerto Rico.

Over the past 24 years, this parade has grown from a small local event in Newark, NJ, to one of the most significant Puerto Rican statewide events. It is estimated that this year's parade will attract more than 25,000 onlookers along the parade route of Broad Street in Newark.

As in the past, the majority of the parade participants will be from the Puerto Rican community. However, many other ethnic groups will be represented as participants and spectators. Diverse ethnic cooperation is what makes New Jersey and our Nation a living witness to the spirit of the Statue of Liberty.

The parade will be led by Miss Zoraida Lorenzo of Dover, NJ, who is Miss Puerto Rico of New Jersey as well as the queen of the festivities. Also participating in the parade will be Mayor Sharpe James of Newark, Mayor Frank Graves of Paterson, and Mayor Anthony Cucci of Jersey City. Many dignitaries from the island of Puerto Rico will round out the guest list of this affair.

Traditionally, this parade is the culmination of a year of activities for its sponsor, the Puerto Rican Statewide Parade of New Jersey, Inc. One of this nonprofit organization's major functions is the granting of numerous scholarships to needy Puerto Rican students throughout our State. Most of the financial resources for the parade and the scholarships are the result of the Miss Puerto Rico of New Jersey pageant.

Mr. President, those responsible for organizing and conducting these cultural events deserve our congratulations. While their names are too numerous to cite, each one knows that their efforts are what made this event possible.

Once again, my sincerest congratulations to my many friends in the New Jersey Puerto Rican community during their days of celebration.●

EDWARD L. BLUE: A TRUE PUBLIC SERVANT

● Mr. CHAFEE. Mr. President, I rise today to pay tribute to Edward L. Blue, former chief of the Rhode Island Banking Division, upon his retirement after 32 years of service to the State of Rhode Island.

Ed Blue's illustrious career in State banking began in 1954, when he became an accountant with the Bureau of Auditors. In 1962, Ed joined the banking division as a senior banking examiner. He was promoted to chief banking examiner in 1968; and was then named to head the banking division in 1981. Throughout his career, Ed distinguished himself by tackling each new assignment with integrity, enthusiasm, and professionalism, qualities which became his hallmarks.

In addition to his outstanding service to the State of Rhode Island in banking posts, Ed Blue has brought his dedication and drive to numerous community projects. He has served on the board of directors of the United Way, the Urban League, and the Opportunities Industrialization Center of Rhode Island.

On May 22, 1986, a testimonial dinner was held in Cranston, RI, to honor Ed for his innumerable personal and professional accomplishments. Today, I join his many friends and colleagues in saluting Ed Blue and in wishing him good health and happiness in the years to come.●

THE "AFGHANISTAN TODAY" PHOTO EXHIBIT

● Mr. HUMPHREY. Mr. President, in October 1984, the Soviet Ambassador to Pakistan gave two French journalists this blunt warning: "I warn you and through you, all your journalist colleagues, stop trying to penetrate Afghanistan with the so-called guerrillas. From now on, the bandits and so-called journalists accompanying them will be killed." Despite the enormous risk, a few Western journalists have courageously traveled inside Afghanistan to document the suffering of the Afghans. This week we are fortunate to have on display in the Rotunda of the Russell Building an excellent exhibit of work by a few Western photographers.

This display, entitled "Afghanistan Today," poignantly illustrates the brave struggle of the Afghans. The statistics of the suffering in Afghanistan are well known: Over 1 million casualties; the largest refugee population in the world; widespread violations of human rights; rampant disease and famine. This exhibit, however, reinforces the fact that behind these cold statistics are human beings whose lives have been shattered by over 6 years of continued bloodshed. The exhibit introduces us to the side of the war that we do not see every day on the nightly news. We see the children who have lost limbs and eyes to bombs disguised as toys. We see doctors performing delicate operations in makeshift hospitals, villages gutted by the continued strafing of helicopters, and convoys of unarmed civilians uprooted by the violence. These photos clearly document an entire nation transformed into a battlefield.

Mr. President, the story of "Afghanistan Today" cannot be told often enough. It is a shocking story because as each day passes, the suffering intensifies and the casualties increase. Last month, the leaders of the Afghan resistance alliance traveled to Washington to give U.S. Government officials firsthand reports on the war in Afghanistan. Prof. Burhanuddin Rabbani, spokesman for the alliance, personally told President Reagan, "the Soviets have turned our country into a bloodbath, but they will never break the will of our people." I had the opportunity to meet Dr. Rabbani and the delegation on several occasions during their visit to Washington, as did many of our colleagues. We were all moved by their determination to continue the struggle regardless of the sacrifices.

The photographs on display in the Russell Rotunda tell the Afghan story better than any words. I sincerely hope that everyone will take a few moments this week to stop by the Russell Rotunda to view this important exhibit.

MEMORIAL TO FRANCIS SCOTT KEY

● Mr. D'AMATO. Mr. President, on September 14, 1814, as the morning dawned on Fort McHenry on Chesapeake Bay, Francis Scott Key was being held captive aboard a British frigate for fear that he would have alerted Americans on shore of their impending doom prior to the engagement. From that ship, Key had witnessed a night of violence and assault as British guns fired pointblank on the Americans.

But that morning, when the sun illuminated the battered shoreline, he saw a wonderous sight: The American flag was still waving in the breeze. His emotions swelled as he realized that the American flag was, and is still, there for all to see.

His emotions, set down on paper, were brought to the attention of a Baltimore printer the very day after the poem was written who ran it off on handbills, entitled, "Defense of Fort McHenry." The name was later changed to "The Star Spangled Banner" and, on March 3, 1933, the Senate agreed to a measure designating the "Star Spangled Banner" as our national anthem. It was signed into law the same day by President Herbert Hoover.

Mr. President, I recount the story of how it was that Francis Scott Key came to write our national anthem because it is important that this legacy be preserved for all time. This story has been retold for 172 years, but to ensure that it is never forgotten, it is only fitting that a memorial be constructed in Key's honor.

Legislation, S. 2370, introduced by my good friend and colleague, Senator MURKOWSKI, would authorize the construction of a memorial in honor of Francis Scott Key in the Nation's Capital. This would be accomplished through the Francis Scott Key Foundation, at no expense to the taxpayers.

The Francis Scott Key Foundation was established in 1983 to build a park in honor of the father of our Nation's anthem. The foundation has already received donations from individuals, corporations, and other foundations in excess of $130,000. S. 2370 will authorize the construction of this long overdue memorial.

It is my understanding that the National Capital Memorial Advisory Committee of the Interior Department has given full support to this project. I urge my colleagues to do the same. Swift and favorable consideration of this measure would reflect our united affirmation, not only of our respect and admiration of Francis Scott Key, but also of the beliefs and tenents of basic human rights and individual freedoms upon which this great Nation is based.●

MAY I PLACE A ROSE OVER THERE?

● Mr. BUMPERS. Mr. President, this is an age in which there is a revitalization of the American spirit, a new confidence in our ability and integrity as a nation. This is especially true among our youth, the lifeblood of our blessed Nation's future. To survive and prosper as a nation, we must continually ensure that the values that we hold dear are taught and appreciated by our children. It is important that they know the sacrifice of their predecessors in the pursuit of these values. Our children should know that many men and women have given their lives in defense of liberty and justice in a democratic order.

Oliver Cox, an attorney in Corning, AR, has written a short, touching story which appeared in the New Age, a Freemasonry publication, on this very subject. I was moved by this story, and I believe my colleagues will be as well. Hence, I ask that the article as it appeared in the New Age appear in the RECORD.

The article follows:

[From the New Age, May 1986]

MAY I PLACE A ROSE OVER THERE?

(By Oliver E. Cox, 32°)

The small girl was holding her father's hand as they walked over the well-kept grounds. There was a quiet aura of solemnity, dignity and peace. You could feel its presence just like you could feel the balmy breeze that wafted across the wandering path of their journey.

They were among white crosses that covered the entire area. The regimen of their rows was overshadowed with a sense of reverence that shrouded the hallowed ground upon which they walked. The girl asked: "What are all of these crosses for?"

Her father replied: "They are markers for the graves of soldiers who served our Country."

"Is that why we're going to see where my uncle is at?" she said.

"That's one of the reasons," her father replied.

"Why are the crosses white?" she asked.

"They symbolize the purity of their sacrifice," he replied.

"What do you mean by sacrifice?" she asked.

"That means we have a Country where everyone can have life, liberty, peace, own property and try to acquire and enjoy good health and a good state of mind. It means you can travel all over our land; associate with individuals, groups, civic clubs, fraternal orders, varied churches and schools—without interference—for your own well-being and to promote a better world. The sacrifice was made to protect those things which are valuable to us and not enjoyed by all peoples of the world. Sometimes that sacrifice involves giving up your life to protect and preserve those things for others that you care about, like yourself," he told her.

"Why do some of the markers not have a name on them?" she asked.

He replied: "They don't know who they are. They are some of our unknown heroes, who gave their lives in order that we could

continue to live in our great Country, with all of its privileges and rights as a citizen."

They approached a particular marker and he said: "This is where my brother, your uncle, is buried."

As he placed a spray of roses on the grave, his daughter looked at him and softly said: "May I place a rose over there, on one of those markers without a name?"

"Of course, my dear, I'm glad that you care enough to make that gesture of tribute. A lot of us often forget what our Country is all about and what is takes to keep it that way," he said.

As they walked back to their car on the parking lot, there was a soft exchange of expression on their faces when they looked at each other and a stronger grip in their hands, because a meaningful message of understanding had occurred between them on their visit to a United States National Cemetery.●

DEATH OF RODRIGO ROJAS

● Mr. KERRY. Mr. President, like many Americans I was deeply shocked by the brutal murder of Rodrigo Rojas, an American resident, in Santiago, Chile, on July 2. The fact that Mr. Rojas was a resident of Washington, DC, and a student at Woodrow Wilson High School here, only adds to our sense of outrage.

The manner of death of Mr. Rojas was particularly horrific. By all accounts, he and his companion, Carmen Quintana, were badly beaten by Chilean soldiers, and their bodies were then sprayed with an inflammable liquid and set on fire. To make matters worse, Chilean authorities refused to allow Rodrigo Rojas to be treated at a burn unit at the Hospital del Trabajador in Santiago, where his life might have been saved. Rodrigo Rojas died of severe burns, and Ms. Quintana is still in grave condition.

Ariel Dorfman, himself a Chilean exile and a friend of Mr. Rojas, has written a moving account of this tragic event in the current issue of the Village Voice. His article is entitled "A Death in Chile—The Burning of Rodrigo Rojas". I ask that this article be printed in the RECORD following my statement. As Mr. Dorfman states, in concluding his article, "To remain in power, General Pinochet will have to burn the whole country down."

Several months ago, my distinguished colleague from Massachusetts, Senator KENNEDY, traveled to Chile. At great risk to his own personal safety, he braved crowds of demonstrators organized by the Pinochet regime, in order to express his solidarity with those in Chile who are struggling to bring democracy to that country. Senator KENNEDY's visit to Chile was an act of courage. But there are others who have traveled to Chile more recently to act as defenders of the Pinochet regime, and apologists for the murderers of Rodrigo Rojas. Those actions are reprehensible. They can only be condemned by all of us who care about democracy, and who value human dignity, both in Chile and in the United States.

I have joined with a number of my colleagues in the Senate in sending a letter to the Minister of the Interior in Chile, expressing our outrage over the brutal slaying of Rodrigo Rojas, and urgently requesting that the Government of Chile conduct a full and impartial investigation into this case. I have also joined in a Senate resolution condemning the Government of Chile for the death of Rodrigo Rojas.

While I welcome the news that the Government of Chile has arrested a number of its own soldiers in connection with this incident, I am mindful that this action only came about as a result of international attention focused on this case.

Because Rodrigo Rojas was an American resident, this case has caused a special abhorrence and revulsion in this country. But the reality is that there are many cases like that of Rodrigo Rojas occurring on a daily basis in Chile. We must condemn all of them. And we must make the death of Rodrigo Rojas an occasion for renewed efforts to bring an end to the dictatorship in Chile.

General Pinochet has recently expressed his intention to remain in power until 1997. If we in this country are apathetic, he may succeed in that effort. But if we truly care about democracy, then we can help bring about peaceful change in Chile, and a return to democracy. As a first step in that process, the time has come to consider cutting off all U.S. loans to Chile, until they improve their human rights record, and begin to move toward democracy.

Earlier this year, I visited the Philippines as a member of the congressional observer team during the elections there. I witnessed an inspiring and historic example of the democratic process at work. With our support, the same process that took place in the Philippines can be repeated in Chile. Let us ally ourselves in Chile with the forces of democracy, and against the forces of repression. If we do, then Rodrigo Rojas will not have died in vain.

The article follows:

A DEATH IN CHILE: THE BURNING OF RODRIGO ROJAS

(By Ariel Dorfman)

When Chilean radio announced early in the afternoon of July 2 that a couple of kids had been found that morning burned half to death in Quilicura, a small town on the northern fringe of Santiago, I did not immediately register their names. Horror has become almost normal in Chile. Chileans like myself hear somebody has died from police brutality, or been arrested, or been wounded, and we add one more name to the endless list in our heads—paying attention because we wonder if we know the person, trying not to pay attention because we don't have room inside for another death or pang of pain. Three people had already been killed by soldiers just that morning—one of them a 13-year-old girl who had gone to the corner to buy bread. Along with the indignation, you are swamped by the impotence.

At home that day in Santiago, the name simply did not ring a bell: I heard the news, thought to myself; a new technique in terror, now they're burning adolescents, and went back to sorting out some papers I needed for my return trip to the U.S. This is how you live under a dictator—so much life is being extinguished around you that, unless the madness touches you directly, you have to find a way of blotting it out, of building enough insulation to carry out the small and yet so significant acts of buying milk or planting a flower or getting your child from school.

But it is not easy to make believe life is normal when you inhabit a land where the government is at war with you and every other civilian. A few hours later someone called and informed me that one of the victims was a friend, Rodrigo Rojas De Negri, the 19-year-old son of Verónica De Negri, who was an exile, like myself, in Washington, D.C. Sixty-two percent of his body was burnt and the doctors hardly gave him a chance to survive.

Rodrigo had just come back after nine years of exile. His mother had been forced to abandon the country in 1977, after having been kept for months in a detention center where she was savagely tortured and raped by the secret police. In spite of that experience, she wanted to return to Chile. I can remember, in April or perhaps May of 1983, going with her and another exile, Sergio Bitar, a former minister of Salvador Allende, to the Chilean Chancery on Massachusetts Avenue in D.C. to hand the ambassador a letter to the head of the Chilean Supreme Court asking him to pressure the government to allow us to return. We were accompanied by Isabel Letelier, whose husband Orlando, a former ambassador to the U.S. and Allende's defense minister, had been assassinated by a Chilean death squad not five blocks from where we were sitting. She had just been given permission to go back.

When we told the ambassador, Enrique Valenzuela Blanquier, that Isabel would be traveling to Chile soon and we were worried about her safety, he became furious: "What is there to work about? What could possibly happen to any of you in Chile?"

I was allowed to return to Chile in September of that year, Sergio Bitar a few months later, but Verónica's permission never came—for reasons that still remain mysterious. Presumably her sin was to work with Amnesty International in campaigns against torture. Rodrigo waited restlessly for the government to let his mother go home. A troubled, gentle, bright kid, he had begun to carve a place for himself as a computer wiz and a budding photographer—in fact, he went back to Chile to take pictures.

But above all, Rodrigo hoped to find, in the labyrinth that was his country, some clue to his own identity. It was a rite of passage: he could not leave his childhood behind until he had discovered the reasons for the suffering of that fatherless boy he had been: why such punishment had been brought upon him and his family, what he shared with those faraway people who were ready to die for their beliefs. Until he found out where he'd come from, how could he know where he was going? Was he American? Was he Chilean? Was he both?

He was never given the chance to find out.

Santiago is surrounded by slums and shantytowns—areas that have been repeatedly invaded by soldiers on search and

arrest missions—breaking into houses, teargassing churches, detaining all males between the ages of 12 and 65. To show their solidarity, university students organize soup kitchens, and Rodrigo had gone to one in the barrio of General Velásquez on the evening of July 1 to take pictures. When his Aunt Amanda told him not to stay over for the night he answered that there seemed to be no danger. He had said something similar to me just a few days before, the last time I had seen him, when he came on a brief visit to our home in Santiago. "I'm fine," he said. "What could happen to me?"

Was it his youth that made him so unapprehensive or was there an American ingredient to it: a nonchalant innocence and imperviousness to danger that Chilean adolescents no longer can allow themselves? Because to be young in Chile is a crime. It is miraculous that the kids who grew up under Pinochet should be so transparent and fearless as they fight the police and troops in the streets. The regime has answered by escalating the savagery. Youngsters forced to stamp out flaming barricades with their bare feet, girls whose breasts are marked with knives, thousands of arrests and beatings, tanks erupting onto university grounds, soldiers shooting into crowds of adolescents—anything to spread fear. But the soldiers had not yet burnt someone alive.

The next day was the first of two days of national strike. Since the bus drivers were also protesting, the only way of leaving the slum that morning was on foot. According to numerous eyewitnesses who have come foreward, some of whose statements I heard on tape before I left, Rodrigo was walking, two cameras hanging from his neck, with some friends, when a blue pickup truck full of soldiers, their faces painted over with camouflage grease, roared into view. The soldiers were shooting, and the kids dispersed. When 18-year-old Carmen Quintana stumbled, Rodrigo went back to help her. More soldirs descended from a second truck. They began to beat the two kids until they were half-conscious and then sprayed them with an inflammable liquid. Then they set them on fire.

The soldiers wrapped both kids in a blanket and went to dump them four miles away on the other side of Santiago. Rodrigo and Carmen managed to crawl out of the ditch and, with their charred flesh falling from their bodies, they began to walk. Workmen on the government's Minimum Employment Plan—$25 a month for beautifying highways—saw and heard them, but were too scared to come to their aid. Don't intervene, the government keeps on pounding into people—"*no te metas.*" Mind your own business.

When horror strikes, the only salvation for a survivor is to become active—otherwise anguish and guilt will twist the soul. I was fortunate—I could turn the rage and the sorrow into usefulness. With Sergio Bitar, and some other friends who knew Rodrigo, we set about two tasks. The first, thanks to the Catholic Church and the U.S. Embassy, we accomplished—getting Verónica permission to return. Her eldest son had to be burnt alive before Pinochet would allow her even a temporary visit to the land where she had been born. The second task, however, turned out to be impossible—we tried, and failed, to get Rodrigo moved to a better hospital.

The Posta Central, an emergency ward in Santiago, used to be the best place to be for an accident victim—in the days when money was spent in Chile on public health and not for raising military salaries. Now, like all of Chile's health system, like everything public that has fallen under the Milton Friedman-inspired axe, it is in shambles. The burn unit at the Posta has excellent doctors but no resources. There were no diapers for burn patients, no protein, not even a test tube for a blood test. When Rodrigo needed a respirator he had to be carried on a stretcher up three flights of stairs to another room.

The Hospital del Trabajador, on the other hand, a private institution for insured workers, has one of the best burn facilities in Latin America. To get Rodrigo admitted, Bitar finally came up with the name of the president of the hospital's board of directors, Eugenio Heiremans, and entrepreneur and philanthropist. A few hours passed before Harry Barnes, Jr., the U.S. ambassador to Chile, managed to find Heiremans and receive his cautious approval.

It took an eternity to sort things out. To give an example: Heiremans relayed to the ambassador, who relayed to an embassy representative, who relayed to me the suggestion that Rodrigo's Aunt Amanda, his nearest relative, ask a doctor friend to tell the hospital's director that Heiremans had agreed to Rodrigo's being admitted—if there was available space. Each of the actors had to be convinced and coordinated by an intricate network of phone calls.

By nine or 10 o'clock that evening we had gotten all the hospital arrangements ironed out—but when Amanda went to transfer Rodrigo, she was informed by a police officer that the boy was under arrest and could not be moved. We started all over again—first trying to find out if it were true, then getting someone to countermand the order.

It was the worst night of the year for good Samaritans. I was calling and feverishly writing down names by candlelight; Santiago was blacked out by bombings of the electrical lines, whether by left-wing guerrillas or governmental agents, it is hard to say. The sound in the neighborhood was deafening. People were banging pots and pans, kicking trash cans, blowing whistles to indicate their protest—and nearby I could hear machine-gun fire as soldiers invaded a shantytown, flares and bombs exploding in the air, the flicker of hundreds of barricades in the horizon, the streets lit up with the candles to commemorate the dead. With the devoted help of a U.S. embassy representative, who has asked to remain anonymous, we struggled for many hours to save Rodrigo's life. The precint which supposedly had him under arrest did not answer the phone. Finally, the embassy representative was able to speak to the duty officer of the Interior Ministry, Denis Bickes, who informed her, after lengthy consultations with somebody or other, that the boy who was not under arrest. But Bickes never let the police know this fact. Was it deliberate? The best that can be said for the man is that he was callous and negligent. As the military had already issued a statement denying its involvement—and would later claim that Rodrigo had set himself on fire—he may have thought it was none of his business. *"No te metas."*

The embassy representative kept on trying—several calls to high-ranking police generals were to no avail. I weighed whether to go myself to the Posta to see if I could straighten things out. The streets were strewn with spikes and barricades, bullets were being fired randomly by rampaging troops, identity papers were being checked at every corner. I already had dozens of friends jailed that very day for having defied the police, going to sing the National Anthem at Santiago's Central Plaza. Fear in Chile is not something that happens to you once in awhile—it is a permanent state of mind. I was scared, I was needed to man the telephones, I was leaving for the U.S. in 36 hours: I stayed home. By two o'clock in the morning—Santiago was under curfew—Amanda couldn't even venture into the street, nobody answered phone calls. We had run out of things to do.

Finally, I wearily told the embassy representative to get some sleep. "What if these hours are the hours when we could save him?" she asked me. An American, she couldn't believe we were still unable to get the boy moved. A Chilean, I could believe it all to well.

The next morning, the police officially said the boy was not under arrest. But by then the transfer had turned into an infinitely complex, red-tape affair, fraught with medical and bureaucratic rivalries. One doctor said he should be removed, another doctor said it was dangerous; the director of the hospital was at odds with the head of the burn unit; the director of the Posta agreed with the director of the hospital; the director of the hospital declared that Rodrigo's aunt didn't want him transferred; she had to go and tell him personally that she did; and so on and so forth, for hours and hours, while Rodrigo slowly died.

The next afternoon we were flying out of Santiago—and as the plane left Chile, after a seven-month period in which we had finally settled down in our own land, I thought of Veronica who had just arrived back home that morning. The one promise exiles make to each other, obsessively, is that they will meet and hug someday in their native land. Instead of that joyful homecoming, she was at that very moment stroking the soles of the feet of her boy, stroking the only unscorched part of him, to communicate to him that they were both back, that she had finally breathed the air of her own country, that all misunderstanding between them were a thing of the past, a reconciliation through touch because she was too moved to speak and he was too burnt to answer.

Two days later we arrived at the house of Isabel Letelier in Washington. It was enough to see the look on her face to know that Rodrigo had just died in Santiago.

He was, of course, still at the Posta Central. The next day Carmen Quintana, still struggling for her life, was transferred to the Hospital Trabajador.

General Pinochet is no stranger to fire. He inaugurated his reign of terror with an act of fire 13 years ago when he overthrew Chile's constitutional government: the bombing of La Moneda, Chile's Presidential Palace. That building, occupied for most of its history by freely elected authorities, was the symbol of a society that functioned, for the most part, without fear—I can remember having gone through the palace many times, often to simply enjoy its inner flowered patios, at times to use it as a shortcut when I was in a hurry. To see La Moneda go up in flames on September 11, 1973, was like watching a preview of what would happen to anyone who dared resist the military.

Thirteen years later, that fire, which had grown and enveloped so many victims since then, reached the body of Rodrigo Rojas. I doubt that the soldiers who burnt him were searching for him in particular. But that does not mean there was anything accidental about his death. His body was young and

it was available—and its burning is implacably logical in a land where the government treats teenagers as if they were the enemy.

Did some general give a casual order to burn a couple of kids so that parents would keep their young from participating in the strike that day? Or was there an even more subtle message?

Just three days before Rodrigo and Carmen were burnt, I had visited the barrio where they were assaulted. A Catholic priest by the name of José Aldunate lives there. He is the founder of the Movimiento Contra la Tortura Sebastián Acevedo. A few years back Sebastián Acevedo burned himself alive, bonze-style, in Concepción, Chile's third largest city, in order to force the secret police to free his son and daughter who were being tortured. A group of advocates of non-violence later founded a movement under his name, staging protests which have driven the police crazy: arms locked together, praying or singing, they await the water cannon, the tear gas, the nightsticks. Is my mind sick—or is it too much of a coincidence that two teenagers were torched a few blocks from the house of José Aldunate? Was this a way of saying to him and the other protesters: You want to end up like Sebastián Acevedo? You want to play with fire?

Even if that scenario is not true, the burning of Rodrigo Rojas was no mere aberration.

As opposition to General Pinochet mounts, he has no alternative but to escalate his terror—or be overthrown.

His tactic thus far has been successful. Millions of Chileans are extremely discontented but basically still bystanders. There are, however, many thousands of dissidents who have not been intimidated and will not back down.

To remain in power, General Pinochet will have to burn the whole country down.

□ 1925

ORDERS FOR TUESDAY, JULY 22, 1986

Mr. HEINZ. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Tuesday, July 22, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. HEINZ. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, Senator PROXMIRE, and Senator MELCHER.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. HEINZ. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR EULOGIZING SENATOR JOHN P. EAST

Mr. HEINZ. Mr. President, at 10 a.m., under the previous unanimous-consent agreement, 2 hours are set aside for Senators to eulogize the late Senator John P. East.

RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. HEINZ. Mr. President, at 12 noon, I ask unanimous consent that the Senate stand in recess until 2 p.m. in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF S. 2247

Mr. HEINZ. Mr. President, at 2 p.m., it will be the majority leader's intention to resume consideration of S. 2247, the Export-Import Bank bill.

Also, the Senate could turn to S. 2507, the housing bill, if time permits.

Mr. President, votes are expected on Tuesday but will not occur prior to the hour of 5 p.m.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. HEINZ. Mr. President, I move in accordance with the previous order, and pursuant to the provisions of Senate Resolution 449, as a further mark of respect to the memory of the deceased Honorable George M. O'Brien, late a Representative of the State of Illinois, that the Senate stand in recess until 9:30 a.m., Tuesday, July 22, 1986.

The motion was agreed to, and the Senate, at 7:26 p.m., recessed until Tuesday, July 22, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 18, 1986, under authority of the order of the Senate of January 3, 1985:

DEPARTMENT OF STATE

Carol Boyd Hallett, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

Julian Martin Niemczyk, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

John Hubert Kelly, of Georgia, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Princeton Nathan Lyman, of Maryland, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

U.S. INFORMATION AGENCY

Richard W. Carlson, of California, to be an Associate Director of the U.S. Information Agency, vice Ernest Eugene Pell.

NATIONAL LABOR RELATIONS BOARD

Mary Cracraft, of Kansas, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27 1986, vice Patricia Diaz Dennis, resigned.

Mary Cracraft, of Kansas, to be a Member of the National Labor Relations Board for the term of 5 years expiring August 27, 1991. (Reappointment.)

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Emmett H. Walker, Jr., xxx-xx-xx... xxx-... (age 62), Army National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 3015, for appointment as chief, National Guard Bureau, and further under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Herbert R. Temple, Jr., xxx-xx-x... xxx-x... Army National Guard of the United States.

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code:

ARMY

To be major

Abbott, Verlin L., xxx-xx-xxxx
Abe, Gary K., xxx-xx-xxxx
Abernathy, Lee C., xxx-xx-xxxx
Ables, Ruth T., xxx-xx-xxxx
Abney, Marvin L., xxx-xx-xxxx
Abreu, Michael H., xxx-xx-xxxx
Acevedo, Cruz, xxx-xx-xxxx
Acosta, Salvador V., Jr., xxx-xx-xxxx
Adair, Rodney D., xxx-xx-xxxx
Adame, Pedro C., xxx-xx-xxxx
Adams, James C., Jr., xxx-xx-xxxx
Adams, Thomas H., xxx-xx-xxxx
Adams, Thomas K., xxx-xx-xxxx
Adeogba, Saint G., xxx-xx-xxxx
Adolph, Robert B., Jr., xxx-xx-xxxx
Albright, Joseph W., xxx-xx-xxxx
Aldridge, Kenneth D., xxx-xx-xxxx
Alexander, J.W., Jr., xxx-xx-xxxx
Alexander, Marcus A., xxx-xx-xxxx
Alexander, Ronald H., xxx-xx-xxxx
Alexander, Samuel W., xxx-xx-xxxx
Alexander, Steven M., xxx-xx-xxxx
Alford, Robert L., xxx-xx-xxxx
Alfsen, Thomas G., xxx-xx-xxxx
Allen, Harold L., xxx-xx-xxxx
Allen, William V., xxx-xx-xxxx
Allison, Charles R., xxx-xx-xxxx
Almond, Robert L., III, xxx-xx-xxxx
Alsdurf, Donald L., xxx-xx-xxxx
Alvarado, Gilbert, xxx-xx-xxxx
Alvarado, Manuel, xxx-xx-xxxx
Alvarez, Ephrain, xxx-xx-xxxx
Anastas, Kevin P., xxx-xx-xxxx
Anderson, James D., xxx-xx-xxxx
Anderson, James M., xxx-xx-xxxx
Anderson, Robert B., Jr., xxx-xx-xxxx
Andrade, Joseph E., xxx-xx-xxxx
Andraschko, Steven L., xxx-xx-xxxx
Andrews, John C., Jr., xxx-xx-xxxx
Andre, Nicholas E., xxx-xx-xxxx
Angell, John J., xxx-xx-xxxx
Antee, Terry G., xxx-xx-xxxx
Anton, Henry G., xxx-xx-xxxx
Aponte, Felix, xxx-xx-xxxx
Apple, Dale A., xxx-xx-xxxx

Apt, David R., xxx-xx-xxxx
Araneo, Gerald P., xxx-xx-xxxx
Archer, James P., xxx-xx-xxxx
Ard, Chester J., xxx-xx-xxxx
Arenz, Mary B., xxx-xx-xxxx
Argo, Reamer W., III, xxx-xx-xxxx
Armstrong, Jesse O., xxx-xx-xxxx
Arneson, Charles W., Jr., xxx-xx-xxxx
Arneson, Jeffrey A., xxx-xx-xxxx
Arnold, Joyce, xxx-xx-xxxx
Arnone, Robert F., xxx-xx-xxxx
Arnston, Richard G., xxx-xx-xxxx
Arny, Jan W., xxx-xx-xxxx
Arrington, Herman J., Jr., xxx-xx-xxxx
Asada, Michael K., xxx-xx-xxxx
Askins, Thomas R., xxx-xx-xxxx
Ausustine, Daniel A., xxx-xx-xxxx
Aull, Angus S., xxx-xx-xxxx
Austin, Maynard A., Jr., xxx-xx-xxxx
Averett, Robert L., xxx-xx-xxxx
Ayala, Arturo A., xxx-xx-xxxx
Aylward, Stephen R., xxx-xx-xxxx
Babb, Michale A., xxx-xx-xxxx
Babbitt, James F., xxx-xx-xxxx
Baggott, John E., Jr., xxx-xx-xxxx
Bailey, Albert E., Jr., xxx-xx-xxxx
Bailey, Linda E., xxx-xx-xxxx
Bailin, Michael M., xxx-xx-xxxx
Baker, Thomas H., xxx-xx-xxxx
Balcazar, Patrick J., xxx-xx-xxxx
Baldwin, Melvin C., Jr., xxx-xx-xxxx
Baldwin, Stephen G., xxx-xx-xxxx
Balint, Stephen P., xxx-xx-xxxx
Balko, Sherrie L., xxx-xx-xxxx
Ball, Charles R., xxx-xx-xxxx
Ball, David A., xxx-xx-xxxx
Balliet, Norman L., Jr., xxx-xx-xxxx
Balzer, Craig J., xxx-xx-xxxx
Banks, Carl, Jr., xxx-xx-xxxx
Banks, Richard G., xxx-xx-xxxx
Barba, Dennis L., xxx-xx-xxxx
Barbero, Michael D., xxx-xx-xxxx
Barclay, Russell C., xxx-xx-xxxx
Bardsley, Lance W., xxx-xx-xxxx
Barletta, Dennis M., xxx-xx-xxxx
Barlow, Wellsford V., Jr., xxx-xx-xxxx
Barnes, John R., xxx-xx-xxxx
Barnes, Mabra C., xxx-xx-xxxx
Barr, Harley C., II, xxx-xx-xxxx
Barrack, Randi F., xxx-xx-xxxx
Barrett, Shirley A., xxx-xx-xxxx
Barron, Charles R., xxx-xx-xxxx
Bartley, John R., xxx-xx-xxxx
Barton, Christine M., xxx-xx-xxxx
Bast, Edward O., xxx-xx-xxxx
Bateman, Bruce W., xxx-xx-xxxx
Bates, Robert H., xxx-xx-xxxx
Bates, William L., xxx-xx-xxxx
Batts, Eddie J., xxx-xx-xxxx
Bauereis, David L., xxx-xx-xxxx
Baumert, Molly A., xxx-xx-xxxx
Bavis, Lawrence T., xxx-xx-xxxx
Beale, Michael D., xxx-xx-xxxx
Beard, Glenn P., xxx-xx-xxxx
Beard, Lois C., xxx-xx-xxxx
Bearup, Wylie K., xxx-xx-xxxx
Beauchamp, Robert R., xxx-xx-xxxx
Beauchamp, Steven E., xxx-xx-xxxx
Bedwell, Richard E., xxx-xx-xxxx
Beecher, Robert G., xxx-xx-xxxx
Beer, Ronald K., xxx-xx-xxxx
Beghtol, Michael D., xxx-xx-xxxx
Beimler, Robert R., xxx-xx-xxxx
Beley, Douglas G., xxx-xx-xxxx
Belin, Phillip F., xxx-xx-xxxx
Belknap, Gerald P., Jr., xxx-xx-xxxx
Bell, James C., xxx-xx-xxxx
Bell, Michael L., xxx-xx-xxxx
Bell, Richard T., xxx-xx-xxxx
Belletti, Charles J., xxx-xx-xxxx
Bembenista, Marcus A., xxx-xx-xxxx
Benedict, Craig F., xxx-xx-xxxx
Bennett, Richard P., xxx-xx-xxxx
Bennett, William O., xxx-xx-xxxx
Bennion, Kelly P., xxx-xx-xxxx
Benton, John P., xxx-xx-xxxx
Bergeron, Noel B., xxx-xx-xxxx
Bergholt, Max D., II, xxx-xx-xxxx
Bergman, Michael P., xxx-xx-xxxx
Berkowitz, David, xxx-xx-xxxx
Berkstresser, Robert L., xxx-xx-xxxx
Berry, Fairbanks A., Jr., xxx-xx-xxxx
Berry, Gary W., xxx-xx-xxxx
Bertolino, Thomas S., xxx-xx-xxxx
Best, Steven P., xxx-xx-xxxx
Beyer, Jeffrey M., xxx-xx-xxxx
Bhatta, William K., xxx-xx-xxxx
Biedermann, John K., xxx-xx-xxxx
Bielefeldt, Kurt O., xxx-xx-xxxx
Biersack, Catherine J., xxx-xx-xxxx
Binns, Barbara J., xxx-xx-xxxx
Birdsell, Marietta H., xxx-xx-xxxx
Birdseye, Donald K., xxx-xx-xxxx
Bissell, David R., xxx-xx-xxxx
Bissell, Rodney C., xxx-xx-xxxx
Bivens, Nolen V., xxx-xx-xxxx
Black, David L., xxx-xx-xxxx
Black, Robert C., xxx-xx-xxxx
Blackburn, Michael J., xxx-xx-xxxx
Blanchard, Levell, xxx-xx-xxxx
Blinkinsop, David J.L., xxx-xx-xxxx
Bloodworth, Donald W., xxx-xx-xxxx
Blose, Todd E., xxx-xx-xxxx
Blowe, Wilford C., xxx-xx-xxxx
Blue, Rayford O., Jr., xxx-xx-xxxx
Boardman, Michael W., xxx-xx-xxxx
Boatman, Randy L., xxx-xx-xxxx
Bobbitt, James D., xxx-xx-xxxx
Bodenhamer, Beverly R., xxx-xx-xxxx
Bogusky, Richard L., xxx-xx-xxxx
Bohle, Franklin C., Sr., xxx-xx-xxxx
Boland, James A., Jr., xxx-xx-xxxx
Boldt, Glenn M., xxx-xx-xxxx
Boles, Vincent E., xxx-xx-xxxx
Boll, Kenneth H., Jr., xxx-xx-xxxx
Boltz, Steven J., xxx-xx-xxxx
Bombaugh, Karl D., xxx-xx-xxxx
Booth, Donald V., xxx-xx-xxxx
Bordwell, John H., Jr., xxx-xx-xxxx
Bornhoft, Gregory R., xxx-xx-xxxx
Borowicz, Ernest C., xxx-xx-xxxx
Boruch, Christopher P., xxx-xx-xxxx
Bostick, George K., xxx-xx-xxxx
Bothe, Edward R., xxx-xx-xxxx
Bourgeois, Steven A., xxx-xx-xxxx
Bourgoine, Daniel J., xxx-xx-xxxx
Bowers, Christine M., xxx-xx-xxxx
Bowidowicz, Peter M., xxx-xx-xxxx
Bowles, Floyd E., xxx-xx-xxxx
Bowles, Keith W., xxx-xx-xxxx
Bowling, Patrick G., xxx-xx-xxxx
Bowman, Richard B., xxx-xx-xxxx
Boyd, Herchell A., xxx-xx-xxxx
Boyter, Brian A., xxx-xx-xxxx
Bozeman, Michael R., xxx-xx-xxxx
Brace, Jackie H., xxx-xx-xxxx
Bracht, Gary A., xxx-xx-xxxx
Braddick, Merton L., xxx-xx-xxxx
Bradley, Brenda A., xxx-xx-xxxx
Bradshaw, Susan K., xxx-xx-xxxx
Bradstock, Alden S., III, xxx-xx-xxxx
Bragg, Frank B., Jr., xxx-xx-xxxx
Bramblett, Howard T., xxx-xx-xxxx
Brame, William L., Jr., xxx-xx-xxxx
Brandt, Peter V., xxx-xx-xxxx
Brege, James M., xxx-xx-xxxx
Breithaupt, Arthur L., xxx-xx-xxxx
Brennan, Edward J., xxx-xx-xxxx
Bridges, Mary A., xxx-xx-xxxx
Brinn, Rufus, T., Jr., xxx-xx-xxxx
Brinson, Wade H., xxx-xx-xxxx
Briscoe, William F., xxx-xx-xxxx
Brisson, Richard A., xxx-xx-xxxx
Brito, Pamela A., xxx-xx-xxxx
Brockman, Robert J., xxx-xx-xxxx
Brodowski, Jerrold J., xxx-xx-xxxx
Brogden, Theodore E., xxx-xx-xxxx
Brooke, James L., xxx-xx-xxxx
Brooks, Carl T., xxx-xx-xxxx
Brooks, Jeffrey C., xxx-xx-xxxx
Brooks, Steven G., xxx-xx-xxxx
Broome, Doyle D., Jr., xxx-xx-xxxx
Brower, Dwight C., xxx-xx-xxxx
Brower, John R., xxx-xx-xxxx
Brown, James R., xxx-xx-xxxx
Brown, John C., xxx-xx-xxxx
Brown, Louis H., xxx-xx-xxxx
Brown, Mark L., xxx-xx-xxxx
Brown, Melvin, Jr., xxx-xx-xxxx
Brown, Michael C., xxx-xx-xxxx
Brown, Michael T., xxx-xx-xxxx
Brown, Michael, xxx-xx-xxxx
Brown, Ransom S., xxx-xx-xxxx
Brown, Ronald E., xxx-xx-xxxx
Brown, William F., xxx-xx-xxxx
Browne, James M., xxx-xx-xxxx
Bruckner, Jeffrey M., xxx-xx-xxxx
Bryant, Bradford J., xxx-xx-xxxx
Bryant, Dennis A., xxx-xx-xxxx
Bryant, Louis A., Jr., xxx-xx-xxxx
Bryant, Stephen D., xxx-xx-xxxx
Buchanan, Joe A., xxx-xx-xxxx
Buchanan, Robert W., xxx-xx-xxxx
Buchieri, Michael C., xxx-xx-xxxx
Buck, Arthur J., xxx-xx-xxxx
Buckner, Boyce K., xxx-xx-xxxx
Buckowsky, Victor D., xxx-xx-xxxx
Buckstad, Robert D., xxx-xx-xxxx
Buechler, Nicholas J., xxx-xx-xxxx
Bulger, James D., xxx-xx-xxxx
Bullington, Charles E., xxx-xx-xxxx
Bulloch, Drennen H., xxx-xx-xxxx
Bullock, John H., Jr., xxx-xx-xxxx
Bunch, Parker R., xxx-xx-xxxx
Buono, Neil F., xxx-xx-xxxx
Burdette, Randall P., xxx-xx-xxxx
Burgess, Louis G., xxx-xx-xxxx
Burke, Kerry L., xxx-xx-xxxx
Burke, Michael J., xxx-xx-xxxx
Burkett, Franklin J., xxx-xx-xxxx
Burks, Della P., xxx-xx-xxxx
Burks, Larry, xxx-xx-xxxx
Burnett, Ronald K., xxx-xx-xxxx
Burns, Sharon L., xxx-xx-xxxx
Bursley, John C., xxx-xx-xxxx
Bush, Gregory E., xxx-xx-xxxx
Busick, Robert P., xxx-xx-xxxx
Bustos, Joseph M., Jr., xxx-xx-xxxx
Buterbauch, Roger W., xxx-xx-xxxx
Butler, Danny L., xxx-xx-xxxx
Butler, Randall J., xxx-xx-xxxx
Butler, Samuel J., xxx-xx-xxxx
Butts, Steven J., xxx-xx-xxxx
Buzzard, James E., xxx-xx-xxxx
Byde, Edward L., xxx-xx-xxxx
Bynum, William R., xxx-xx-xxxx
Byrne, Jay P., xxx-xx-xxxx
Byrne, Michael W., xxx-xx-xxxx
Byrne, Patrick E., xxx-xx-xxxx
Byrne, Timothy M., xxx-xx-xxxx
Caine, James T., Jr., xxx-xx-xxxx
Cal, John M., xxx-xx-xxxx
Caldwell, Michael P., xxx-xx-xxxx
Cambria, Salvatore F., xxx-xx-xxxx
Cambron, Carey V., II, xxx-xx-xxxx
Camp, Glenn G., xxx-xx-xxxx
Campbell, Michael A., xxx-xx-xxxx
Camposespinoza, Yuler A., xxx-xx-xxxx
Cannady, John W., xxx-xx-xxxx
Cannon, David J., xxx-xx-xxxx
Cannon, Peter R., xxx-xx-xxxx
Cannon, Thomas R., xxx-xx-xxxx
Capka, Theodore J., Jr., xxx-xx-xxxx
Capps, Steve G., xxx-xx-xxxx
Carden, Randal B., xxx-xx-xxxx
Cardenas, Eduardo, xxx-xx-xxxx
Carlile, Gale P., II, xxx-xx-xxxx
Carlin, Richard A., xxx-xx-xxxx
Carlson, Loren E., xxx-xx-xxxx
Carlton, William B., xxx-xx-xxxx
Carmichael, John M., xxx-xx-xxxx
Caron, Paul J., xxx-xx-xxxx

Carroll, John P., xxx-xx-xxxx
Cartagena, Pedro N., xxx-xx-xxxx
Carter, James T., xxx-xx-xxxx
Carter, John H., Jr., xxx-xx-xxxx
Carter, Phillip E., xxx-xx-xxxx
Carter, Robert D., xxx-xx-xxxx
Cary, Steven H., xxx-xx-xxxx
Casby, Melvin E., xxx-xx-xxxx
Casey, James M., xxx-xx-xxxx
Casmus, David M., xxx-xx-xxxx
Cass, Mary A., xxx-xx-xxxx
Catten, Lorenzo L., xxx-xx-xxxx
Catten, Mary O., xxx-xx-xxxx
Centric, James H., xxx-xx-xxxx
Chamales, Constantine G., xxx-xx-xxxx
Champion, Herbert W., xxx-xx-xxxx
Chandler, Daniel K., xxx-xx-xxxx
Chaney, Anthony W., xxx-xx-xxxx
Chapman, Anthony, xxx-xx-xxxx
Chapman, Steven T., xxx-xx-xxxx
Chappell, George W., xxx-xx-xxxx
Chastain, Kenneth W., xxx-xx-xxxx
Cheatom, Jerry W., xxx-xx-xxxx
Childress, Bruce A., xxx-xx-xxxx
Chism, Robert J., xxx-xx-xxxx
Chmar, Andrew T., xxx-xx-xxxx
Chorak, Carolyn S., xxx-xx-xxxx
Christ, Linda D., xxx-xx-xxxx
Christensen, Duane G., xxx-xx-xxxx
Christensen, Eric R., xxx-xx-xxxx
Christiansen, Harry W., xxx-xx-xxxx
Chudoba, James B., xxx-xx-xxxx
Chung, Randolph, xxx-xx-xxxx
Citizen, Gregory D., xxx-xx-xxxx
Clark, Christopher G., xxx-xx-xxxx
Clark, Eugene H.V., xxx-xx-xxxx
Clark, Michael J., xxx-xx-xxxx
Clark, Timothy P., xxx-xx-xxxx
Clearman, Brian C., xxx-xx-xxxx
Cleghorn, Allen E., xxx-xx-xxxx
Clemen, Gerald T., xxx-xx-xxxx
Clemence, Neil J., xxx-xx-xxxx
Cleve, Christie F., xxx-xx-xxxx
Cline, Robert A., xxx-xx-xxxx
Clingempeel, William D., xxx-xx-xxxx
Cobb, James L., Jr., xxx-xx-xxxx
Cochrane, Clay E., xxx-xx-xxxx
Cockle, James H., xxx-xx-xxxx
Coffman, Donna L., xxx-xx-xxxx
Cogliandro, Antonio M., xxx-xx-xxxx
Cole, Edward P., xxx-xx-xxxx
Coleman, Michael J., xxx-xx-xxxx
Colie, Robert W., xxx-xx-xxxx
Colinet, Louis J., xxx-xx-xxxx
Collier, Kenneth S., xxx-xx-xxxx
Collins, Burkitt D., xxx-xx-xxxx
Collins, John D., xxx-xx-xxxx
Collins, Ray D., xxx-xx-xxxx
Collins, Sharon L.G., xxx-xx-xxxx
Colon, Monserrate, Jr., xxx-xx-xxxx
Coman, Rodger E., xxx-xx-xxxx
Commerford, Daniel F., xxx-xx-xxxx
Conn, Roger M., Jr., xxx-xx-xxxx
Connor, Franklin M., xxx-xx-xxxx
Conte, Richard L., xxx-xx-xxxx
Conway, Dennis L., xxx-xx-xxxx
Cook, Charles R., xxx-xx-xxxx
Cook, Hugh T., xxx-xx-xxxx
Cook, Terry P., xxx-xx-xxxx
Cooksey, Otis E., xxx-xx-xxxx
Coomer, Mark C., xxx-xx-xxxx
Cooper, Joseph P., xxx-xx-xxxx
Corpac, Peter S., xxx-xx-xxxx
Cortescolon, William, xxx-xx-xxxx
Cortner, Scott C., xxx-xx-xxxx
Couch, Windall M., xxx-xx-xxxx
Coulter, Eric J., xxx-xx-xxxx
Coulter, John A., II, xxx-xx-xxxx
Courduff, Randall L., xxx-xx-xxxx
Covert, James E., xxx-xx-xxxx
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IN THE NAVY

The following-named chief warrant officer, W-2 of the Navy for promotion to the permanent grade of chief warrant officer, W-3, as indicated, pursuant to title 10, United States Code, sections 628 and 555, subject to qualifications therefor as provided by law:

Maryus O. Saunders

CONFIRMATION

Executive nomination confirmed by the Senate July 21, 1986:

DEPARTMENT OF COMMERCE

Robert Ortner, of New Jersey, to be Under Secretary of Commerce for Economic Affairs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

UNITED STATES RELATIONS WITH CHINA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. SOLARZ. Mr. Speaker, 15 years ago last week, President Richard Nixon opened the door to the People's Republic of China. Since that time, the United States-China relationship has developed in political, economic, and geopolitical significance. Because of our ties with China, Asia is a safer place.

One of the individuals who was "present at the creation" of the United States-China relationship is Winston Lord, who served as a special assistant to Dr. Henry Kissinger. Mr. Lord is now our ambassador to China, and he recently gave a speech on the topic "Sino-American Relations: No Time for Complacency." His talk is a comprehensive assessment of this important foreign-policy relationship, one well worth the attention of our colleagues.

SINO-AMERICAN RELATIONS: NO TIME FOR COMPLACENCY—SPEECH TO THE NATIONAL COUNCIL ON UNITED STATES-CHINA TRADE, MAY 28, 1986

I. INTRODUCTION

Kipling argued that between East and West the twain shall never meet. But—as his ballad itself depicts—they do meet sometimes when people with courage seize fate. Fifteen years ago I was privileged to be present at the creation, when far-sighted leaders in Beijing and Washington began opening doors and tearing down walls, indeed even walking on them. As one who has worked ever since for better relations I can speak with the candor of commitment.

We have made great strides since that opening. But I come here today not so much to celebrate achievement as to censure complacency. Success is a process, not a fixed condition. Many problems remain. Many opportunities beckon. And just as bad relations—indeed no relations—were not immutable in the past, so good relations are not inevitable in the future.

My basic message is this: Let us—China and America—use this relatively quite phase of sound relations not to cheer ourselves on what we have done, but to chart a course on where we should go.

I will first address the bilateral dimension, the gains and the pains. Then the international context, the sweet and the sour. In both areas I will suggest what each country can do to strengthen our bounds.

II. THE BILATERAL RELATIONSHIP

Whereas geopolitics brought us together in the 1970s, economics is now a major force driving us forward. The growth of our bilateral links is one of the astounding success stories in international relations. But this very progress has spawned new problems, even as it holds out vast potential.

This is hardly surprising. Time and space divide us. We have totally different histories and cultures. For a generation we peered across an ocean of antagonism. There are sharp contrasts in our politics, societies and values. China is gradually shedding a long period of estrangement from Western countries. We are still learning about the real China, trying to steer between our historical poles of romance and hostility.

Since China emerged from the holocaust of the Cultural Revolution, its national preoccupation has been modernization. Under Chairman Deng Xiaoping the Chinese have opened up to the rest of the world, and have unleashed a titanic wave of change.

They have successfully boosted agricultural production. China now feeds its one billion people, with some left over for export.

They have restructured their economy to lift living standards even as they tackle severe bottlenecks in transportation and communications and shortfalls in energy and management.

They have created Special Economic and Development Zones along the Chinese coast to drive economic development and relay foreign technology to the less developed interior.

They have begun enacting legislation to provide a framework for foreign trade investment.

They have taken a more active role in global economic institutions, including the IMF, the World Bank and the Asian Development Bank, and they eye the GATT.

Finally, and most ambitiously, they have embarked on an unprecedented course in urban reform. The goal effectively is to transform the industrial system which China modeled on the Soviet Union in the 1950's. They seek to replace it with one more flexible, more responsive to the market, more efficient in production and distribution—although, as they say, basically socialist in character.

China's new direction is one of the boldest domestic ventures in modern history. No wonder serious problems arise. It has not been clear sailing since 1978. Last year initial moves to abandon the cumbersome, irrational system of regulated prices helped fuel the highest rate of inflation in 30 years. Decentralization spurred excessive growth in the supply of money and credit.

There were massive outflows of hard currency in late 1984 and early 1985, as lower level organizations stocked up on consumer goods, mostly from Japan. Grain production dipped, due to bad weather and incentives to grow other crops.

Concern has mounted over what the Chinese call "unhealthy tendencies," and what we would describe as conflicts of interest and white collar crime.

As a result, the Chinese are consolidating. They are slowing urban reforms, holding down prices, conserving foreign exchange, lifting grain production, and fighting corruption. The leaders stress that the reforms and the openings are irreversible, that the momentum will resume in 1987.

Where does the United States fit into China's modernization? Here again, the progress has been remarkable. Fifteen years ago trade was negligible. There was no investment. No science and technology cooperation. No military ties. No students or teachers at each other's universities. No tourism. No cultural relations. In short, the two societies had been sealed off from each other for over twenty years. Indeed, China had been isolated from most of the globe.

Contrast that landsacape with today. Our bilateral trade exceeded eight billion dollars in 1985, up 25 percent in one year. American business has invested roughly 1.4 billion dollars in China, second only to Hong Kong. About 250 US companies now have offices in China. We have the largest bilateral science and technology exchange program in the world—two weeks ago we signed our twenty-seventh protocol. Our military relations are being pursued on three fronts—high-level visits, working-level exchanges, and limited defensive arms sales.

In a historic development, American campuses have become home to over 15,000 Chinese students, almost half of all those abroad. More than 100 American universities have shaped over 200 exchange agreements with Chinese counterparts. Hundreds of Chinese and American cultural and professional groups criss-cross the Pacific each month. Over 200,000 American tourists and throngs of businessmen flock annually to China. Almost one thousand Americans now teach there.

The Chinese people have growing access to Western books, periodicals, movies, radio and television programs. China is now receiving a much more balanced view of the outside world. This is in China's interest, for a major nation in today's complex world must have accurate knowledge of global trends to make rational decisions.

The merit of certain advances depends on your point of view. Some Chinese are trading in baggy blues and traditional opera for skin tight jeans and disco. Others can sample *Rambo* and *Amadeus*, Kentucky Fried Chicken and Elizabeth Arden, even the barbarian Super Bowl. There will be a Holiday Inn in Tibet.

In any event, the general flow of goods, people and ideas promotes China's modernization. It yields opportunities for American business. It enriches the cultural life of both nations. And it builds American and Chinese constituencies for the overall relationship. In times of future stress, more people on both sides will work to preserve ties. By helping China to help itself, we make it less vulnerable to outside pressures, and more integrated with the world economy.

In today's international environment China has many potential foreign partners. If it can maintain political stability, China will become stronger with or without U.S. assistance. It is more apt to be receptive to American ideas if we have thickened our cooperation. It is more apt to be responsible in the region and the world if it is an active participant in the global economy.

Today China's doors are open again, voluntarily and wider than at any time in our memory. If they remain open, the viewpoints of the leadership and people over the coming decades will undergo important changes. We should be part of this process.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In sum, it is in America's hard-headed self-interest to help China modernize and relate to the world.

The course will not be easy. Two completely different societies are interacting after a long period of mutual isolation. For Americans, many practices in China clash with our concepts of human rights. For Chinese, the growing web of foreign contacts resurrects a riddle faced by earlier reformers: how to capture the magic of Western technology without forfeiting China's essence.

There are, moreover, many misperceptions on both sides. In my experience, even educated Chinese still do not comprehend the American system. As for Americans, our understanding of China is still cramped by the formal, restricted nature of our access, whether it be our journalists, academics or government officials.

Beyond politics and culture, disputes and just plain tough bargaining are inevitable, especially in economics. Some cases in point:

Sino-American trade has grown. But we disagree about the balance and we both face domestic, protectionist pressures. It is difficult to identify potential exports for China beyond sensitive light consumer items. Looming ahead are possible further US limits on textiles and anti-dumping cases. Prices for petroleum and other Chinese commodity exports have plummeted.

China has wisely decided to borrow foreign funds to spur its development. But it is wary about foreign exchange and a growing trade gap. It remains conservative about incurring foreign debt.

American investment continues. But many business people are frustrated by high costs, price gouging, tight foreign exchange controls, limited access to the Chinese market, bureaucratic foot-dragging, lack of qualified local personnel, and unpredictability. And we are still far apart on a bilateral investment treaty.

We and our allies have substantially liberalized export controls. But the pace of technology and the volume of cases will always cause delays and frustrations.

We strove to bring the nuclear agreement into force, and we have explored participation in the gigantic Three Gorges project. But it now appears that Chinese resource constraints and other factors may delay large undertakings for many years.

The flow of goods and people increases. But it has been difficult to make progress on civil aviation and maritime issues.

None of this detracts from the positive momentum in our ties. The process is exciting, diverse, and far beyond what was predicted just a few years ago. But hard work lies ahead both to solve prickly issues and to insulate them from the overall relationship.

Let me suggest how Americans and Chinese might address some of these issues.

First on our side.

Protectionism must be resisted. Access to foreign markets and technology is crucial to China's development and reform. The President devotes enormous effort to blunting domestic pressures. As a late entrant, especially in textiles, China is clearly at a disadvantage, which we have sought to recognize. The Administration, Congressional leaders, and American business must lead public opinion. If China cannot sell to America, America will not sell to China.

We must continuously monitor our performance on technology transfer. In recent years, the Administration has worked hard to ease exports in the US and in COCOM. There are limits set by national security concerns, and some sensitive technology even we and our allies do not share. Within this context, we must ensure that what we said would happen happens. This, too, boosts American exports as well as overall relations.

American business should carefully prepare for China. Neither US interests nor US-China ties are served by encouraging ill-prepared firms to jump into the Chinese market. It takes a great deal of knowledge, skill, patience, and—lets face it—money to be able to compete effectively there. And it takes precise written agreements to prevent subsequent disputes. We should encourage American investment in China. But both government and private consultants should tell prospective entrants about the pitfalls as well as the promise.

In turn, there is much China can do.

The Chinese have pushed hard to attract foreign business. But they are hobbled by inexperience, misunderstanding of foreign needs, and the tension between foreign and domestic regulations. Thanks to the efforts of both the US Government and business, there is a growing awareness among concerned Chinese officials that they have a long way to go. They are beginning to recognize that China must compete with scores of countries to entice foreign investment.

The Chinese often ask what they can do to improve the commercial environment. It reminds me of the visit Alexander the Great made to Diogenes, who lived in a barrel. Standing before the entrance the young king boomed: "I am Alexander, conqueror of the largest empire on earth. Name your gift and it shall be yours." The philosopher replied simply: "Get out of the light." Getting out of the light would be a good first step. While the choices are for the Chinese to make, they will have to improve the overall climate. Several areas need priority attention.

China must bridle those bureaucratic elements who seek to get rich quickly by charging foreigners exorbitant prices for housing, services and office space. It must resist the urge to tax heavily the imported equipment needed by foreign businessmen.

China needs greater clarity in the design and implementation of its economic legislation.

China should improve its statistics, a maze that even the initiated have trouble deciphering. The Chinese operate with several different trade statistics, all of them "authoritative" to their various bureaucracies, none of them matching ours.

China needs to diversify its exports to the United States. Now they are concentrated heavily in a few narrow categories, several of which, such as textiles, generate protectionist pressures.

China must open its domestic market more for both goods and services. This is essential for mutual trade. It is also important if China wants to join the GATT and become integrated in the world economy.

In many areas both sides need to make efforts. Two of the most important are in the negotiations for a bilateral investment treaty and for a maritime accord.

That progress can be made was shown earlier this month when a breakthrough during Secretary Baker's visit to China greatly brightened hopes for Senate ratification this year of the US-China Tax Treaty. This would be of immense benefit to both American businessmen and the Chinese economy.

The National Council can have a major, constructive impact on such issues. I urge you to keep them on the agenda. With mutual effort and skill, most of them can be managed. But there are still far too many which must be treated at high levels because they are not resolved at lower ones. A truly normal relationship should mean truly normal problem solving.

One problem between us which is not easily managed, even with good intentions, is Taiwan. You are aware of the background of this and the need to handle it sensitively.

The United States is not at the center of differences between the PRC and Taiwan. The core of the problem is historic mistrust between Chinese on both sides of the Straits. We are determined to make new friends, but we cannot abandon old ones. We will adhere fully to the three communiques signed with the People's Republic of China while meeting our obligations under the Taiwan Relations Act. We will seek neither to mediate nor to obstruct reconciliation between China and Taiwan. The United States believes this question should be solved by the parties themselves. We have only one interest—that the process be peaceful.

III. THE INTERNATIONAL CONTEXT

Fifteen years ago the international scene first drove our two countries together. Now the global elements of our relationship are more muted, but no less important. They need nurturing, because our relationship cannot thrive on economics alone.

In the early 1970's China broke out of the isolation of the Cultural Revolution to counter the threat of Soviet encroachment. We in turn sought a new flexibility in our diplomacy, to help achieve global balance and Asian stability. Economic and cultural benefits were long-term aims rather than immediate prospects.

After a dramatic start, our relationship with China leveled off in the mid-1970's. We were frozen in the post-Vietnam and Watergate environment. The Chinese were buffeted by the winds of dynastic change and a succession struggle.

In the late 1970's Soviet and proxy advances spurred the process of normalization between Beijing and Washington.

Since then, with some pauses, the bilateral results have been truly impressive on many fronts—visits and agreements, trade and investments, science and technology, culture and education.

Meanwhile, the Asian region has shown dramatic progress, thanks in large part to the easing, then growth, of Sino-American relations. As we carved out a new relationship with Beijing, we removed the elements of instability inherent in United States-Chinese antagonism. The fall of Vietnam in 1975 had sowed major doubts in the United States, and even more in Southeast Asia, about America's staying power. Yet now, eleven years later, the Asian scene is generally one of achievement and hope. With the tragic exception of Indochina, the dominos did not drop. Asia boasts the world's most dynamic economies. It is America's largest regional trading partner. Our influence and stakes have never been greater. Our interests and those of our ASEAN, Japanese and Chinese friends are more clearly than ever on track, as evidenced by the President's recent trip to Tokyo and Bali.

Today, therefore, the base for our relations with China is much broader than parallel concerns about security. This is healthy.

The Asian context has developed positively as we and China have moved from con-

frontation to convergence. This is encouraging.

At the same time, however, the overall global consensus between our nations has narrowed. This needs to be addressed.

As one moves away from China's periphery, our positions often diverge. The Chinese have largely taken the initiative in this regard. China now follows—particularly outside Asia—an "independent foreign policy," aligning itself with no one, attuning itself to the third world. It states that the root cause of world tensions is the rivalry between the two superpowers for international domination. This rhetoric sometimes suggests that the United States and the Soviet Union are a morally equivalent, comparable threat to world peace. This is a far cry from the late 1970's when the Chinese were urging us to take firm action against the "Polar Bear."

Indeed, Beijing has sought to improve relations with its northern neighbor. There are several reasons, and a certain logic, for this. Whatever their long-term calculations, the Chinese feel less threatened by the Russians in the near term. The Soviet Union—with its severe economic squeeze, technological lag, border problems, and internal contradictions—looks decidedly less formidable to Beijing. Conversely, the United States in the 1980's has strengthened its defenses, its economy and its morale, thereby providing a sturdier global balance. China, with its emphasis on modernization, does not have the resources to bolster its own defenses in the short run—so it seeks to lower tensions with Moscow while playing for time. The Russians have their own incentives to make progress with the Chinese.

The results have been more high level visits, trade and exchanges, and less name-calling between Beijing and Moscow.

What does this mean for the so-called "strategic triangle"?

This is a catchy phrase, but not particularly illuminating. All large powers, including China, must keep an eye on what other ones are doing, and how their interests are affected. In this sense, the Sino-Soviet-American strategic triangle is but one of many intersecting patterns that comprise a complex balance of power. Other significant actors include Western Europe, Japan, ASEAN, India, and Pakistan.

No more useful is the phrase "China card"—or any other card. To be sure, there is some inherent geopolitical leverage and balancing in the play of relations between major powers. To be sure, the fact we no longer need to target our forces on China makes much easier our task of containing the Soviet Union. But we do not seek an alliance with China any more than China seeks one with us. We wish neither to provoke Moscow nor perturb our friends. Nor do we wish to block the improvement of relations between Moscow and Beijing. Conflict between the two giants would be dangerous. Cooperation between them will be limited because of profound historical, geographical, cultural, and strategic barriers. China needs no coaching on how to define its security concerns.

For our part we would like to ease relations with the Soviet Union. We cannot do so without Soviet reciprocity. We will not do so at the expense of allies or friends. But if we do so, it would serve not only global stability but our dealings. with China itself.

So let us be clear on this point: we are strengthening the relationship with China for its own sake, not to play triangles or to play cards. Our policies toward Beijing and Moscow clearly are interrelated, but they are pursued on different tracks.

What, then, is the state of our international dialogue with the Chinese? I believe there are grounds neither for alarm nor complacency.

There remain many factors which suggest that we can have close, expanding, friendly—but also non-allied—relations.

First, China depends on a stable balance of power. The Chinese realize that a strong United States is essential for its own security.

Second, China knows we pose no threat to it. We, in turn, have demonstrated in both word and deed that we are willing to contribute to its historic drive to modernize.

Third, we and China converge on many specific issues:

We agree that Vietnam should get out of Cambodia.

We agree that the Soviet Union should get out of Afghanistan.

We agree that there must be global limits on intermediate range missiles in Europe and Asia.

We agree that conflict on the Korean Peninsula would be a disaster and that peace should be maintained.

We agree that good relations with Japan are beneficial all around.

We agree—quietly—that a substantial US presence in Asia serves the cause of regional peace.

These elements for good relations are strong. But let us not assume that over the long run they are sufficient. There is potential for selective strengthening of our ties. Both sides need to make further efforts to enrich our dialogue on international issues so as to erase misperceptions, lessen tensions, and enlarge areas of cooperation.

Here is what America should bring to this dialogue:

We should not expect China to line up solidly with us across the board on international questions. Not even our treaty partners do that. Different histories, cultures, geography and national interests will produce some divergence.

China is a friend, not an ally. At times, it serves both our purposes to have daylight between us. China needs to show some independence. So do we.

Not every rhetorical jab by Beijing is gratuitous. On some issues China genuinely disagrees with our tactics, even where we share common geopolitical purposes. We should listen with respect when there are since re-disagreements, as opposed to cheap shots.

We should distinguish between words and actions. On Asian issues where we largely agree, China devotes concrete resources. Elsewhere their moves are largely rhetorical. Sticks and stones hurt more than names.

To my Chinese friends I offer the following:

Friends should treat each other as such. Public diplomacy is an important foreign policy tool. China's principal audience may often be the third world, but the American people and Congress listen carefully. It undermines domestic support for the relationship when we say China is a friendly country, while China says that "the source of the world's ills is the fierce contention of the two superpowers for hegemonism." We do not appreciate being confused with the Soviet Union.

Just as China has security interests, so does the United States. Attacks on issues of major importance or emotion for us undercut the base of the relationship. When friendly countries sign onto outrageous resolutions in the United Nations, we notice.

China needs to appreciate more the link between global balance and Asian balance. It is not in its interest that American resources be diverted away from Asia by other security threats, for example in Central America.

There is bound to be some correlation between China's sharing of geopolitical perspectives and our sharing of advanced technology, especially military.

To avoid complacency about the context of our relations with China, therefore, we must broaden and deepen our discussions on international questions. We agree on much. But there is inadequate consensus to bind us together. And we must not allow our disputes to pull us apart.

The quality—and results—of our dialogue will depend largely on the attitudes we each bring to it. Let us understand each other's perspectives and purposes. Where we disagree, let us debate each other's methods, not motives. Let us strengthen cooperation where it already exists. And let us seek fresh areas of collaboration.

In this way we can, over time, shore up the international foundations for our growing bilateral links.

IV. CONCLUSION

An American lawyer now teaching at Beijing University was sharing some Western publications with one of his prize students. First he showed him a recent cover of the *New York Times Magazine* which read: "China on the Move."

"Is it true?" asked the American.

"Yes," agreed the Chinese student.

The lawyer then pulled out a *Newsweek* cover headlined: 'Putting on the Brakes—China Slows Its Rush To Reform."

"How about this one?" he asked.

"Yes," the student answered, "also true."

"But" the American lawyer persisted, "the headlines contradict one another."

The Chinese student thought for a moment. "That is also correct," he concluded.

I would agree with that Chinese student. Both headlines are correct. As so often in China, contradictions reflect reality.

China *is* on the move. But the very speed of its pace and rigors of its course will require it to apply the brakes often.

Also on the move is our bilateral relationship. But we should not be lulled by relatively smooth stretches. We should keep both hands on the wheel, for there will be twists and turns. Indeed, we need to widen the road. The general direction, however, is clear. Abiding mutual interests drive us ahead. I believe that together we can and we will go forward toward new horizons of hope.

Thank you.

SAY HELLO TO "SKILLETS"

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. MURTHA. Mr. Speaker, one of the fascinating parts of representing an area in Congress is the many very special and unique people that you meet along the way.

Near the close of office hours I recently held in Boswell, a man came up and introduced himself as "Skillets." A few years ago he retired from teaching and started a post-

card collection when he and his wife took a trip to the New England States and he sent postcards addressed to "Skillets," 15531 to test the ZIP Code System and see if he would receive the cards. He did. That started him on further collecting, and he has received between 20,000 to 30,000 postcards from all over the country and most of the world addressed simply to "Skillets" 15531.

"Skillets" is Mr. Homer Warnick. He's a Navy veteran and was a Boswell High School teacher for 42 years as well as serving Boswell Borough for 25 years as secretary, treasurer, and mayor.

He's particularly anxious to receive postcards from the following countries from which he has never received any: East Germany, Bulgaria, Iraq, Nepal, Yemen, Tibet, Laos, Vietnam, Madagascar, Surinam, Guiana, and Guyana. But as a true collector, "Skillets" is glad to hear from everyone.

It's a pleasure for me to recognize his efforts and attach the following article.

ZIP CODE REALLY WORKS, "SKILLETS" WILL ATTEST

(By Clifton F. Crosbie)

BOSWELL.—Homer Warnick: retired educator, craftsman and artist. Public servant, hobbyist and maker of wine.

He paints on stone, refinishes old furniture, collects duck decoys and old beer bottles and whatever else captures his imagination.

At 75, however, he is enjoying fame for a hobby that began 15 years ago as a lark. Postcards find their way to this small community and Homer Warnick from every niche of the world with only the briefest of directions—a nickname and a zip code.

Cards bearing the designation "Skillets 15531" arrive here by the hundreds every week. They originate from the most unlikely areas—Gabon, Zimbabwe, Antarctica, Central Siberia, Belize, New Guinea—and from every state in the union.

TESTING ZIP CODE

It all began in 1969, when Mr. Warnick decided to test the zip code concept by having a friend mail to him a card bearing only the nickname that he had shared with his father and the zip code for Boswell. It worked and word spread about "Skillets 15531" and the newspaper Grit eventually carried a story about Mr. Warnick's hobby. With that, he was nearly inundated by approximately 4,000 responses, which swelled his collection to an estimated 10,000 cards.

There are postcards from friends, missionaries and other travelers; from individuals he had taught during his 42-year career as an elementary instructor in the North Star School District; from exchange students; and from children who love the idea of trying something new.

For the most part, however, the cards are mailed by strangers who just happened upon the story of "Skillets 15531."

Big-city newspapers found Mr. Warnick's hobby to be the stuff of which feature stories are made, and more cards pour in each day.

But there is much more to this dignified, old gentleman's day-to-day agenda than just waiting for the mailman.

GOVERNMENT CAREER

He began a career in municipal government in 1947 after seeing action in the Pacific aboard the heavy cruiser San Francisco. He has been secretary and treasurer of Boswell Borough Council and mayor of the community over a 25-year span and only now is stepping down as chairman of the police pension fund.

"I'm not a rocking-chair retiree," he asserts, somewhat unnecessarily.

He has served as a member of the mental health-mental retardation board, chairman of the sewer authority and secretary of the water authority. He has taught Sunday school and delivered "Meals-on-Wheels." He hunts out neighbors who harbor grapes, begs their surplus and shares the wine that ferments in his cellar. When visited recently, he had 70 gallons a-bubbling.

Throughout the home that he shares with his wife of nearly 55 years, the former Florence Kaufman, are found chest, desks and chairs that he has salvaged and restored. Wormy chestnut, oak and maple, the collection would command considerable attention if made available to those with an eye for such treasurers.

There is more.

LANDSCAPES ON STONES

He paints. Not just anything, of course. Flat stones collected on the shores of Lake Erie are converted into landscapes, winter scenes, whimsical bits and whatever else pleases the artist.

Again, while a market for this beauty exists, it is given to friends, family and special causes—and prized by the recipients. Homer Warnick turns plain rocks into poems.

But to return to the postcards that threaten to dominate the story of Homer Warnick, there are cards of leather, copper and wood. There are cards rare, religious and ribald. They come from Sierra Leone, Swaziland and Switzerland. One is a reproduced picture of a class he once taught and another, mailed by a member of his 1959 Grade 6 class, came from Jeddah, Saudi Arabia.

Cards from Russia and China are commonplace, although he still needs Uruguay, Albania and a few other places.

Somehow there is even time left over to fish and plant tomatoes, but Homer Warnick admits there really are not enough hours in the day for all he wants to do.

There is irony, too.

The cards bring the world to him, in that a sensitive stomach rules out extensive travel. Instead, the postman brings him Fiji, Finland and France, Ecuador, Egypt and Ethiopia . . . and "Skillets 15531" loves it.

DONALD LAMBRO ON THE LESSONS OF THE PACKARD COMMISSION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COURTER. Mr. Speaker, many observers have still not grasped one of the fundamental lessons of the final Packard Commission report: That the defense procurement system itself is responsible for many of the procurement outrages that generated so much public concern. In his recent essay in the Washington Times, syndicated columnist Donald Lambro performs a valuable service by explaining in simple language the true message of the Packard Commission report.

Briefly explained, in Mr. Packard's own words, spare parts costs "weren't always the result of fraud or mischief." In those cases where fraud is involved, we already have in place stern measures for punishing wrongdoers. But what should be done about the rampant bad management and inefficient purchasing procedures that take their toll in taxpayers' dollars?

The Packard Commission has recommended fewer multipage fruitcake recipes, greater use of commercially available products—like Radio Shack diodes, fewer layers of oversight bureaucracy and less congressional micromanagement of the whole process. Too many cooks stirring the broth has only produced unappetizing results. I recommend Mr. Lambro's column to my colleagues who have not had the opportunity to read the Packard Commission's final report.

[From the Washington Times, July 17, 1986]

SPARE-PARTS PROGRESS REPORT

(By Donald Lambro)

The procurement problems that permeate the Pentagon were "worse than I thought," confessed a weary David Packard, chairman of the Blue Ribbon Commission on Defense Management, just before he delivered his report to President Reagan.

Mr. Packard's blunt comment carries more weight than might be indicated by his chairmanship of the 16-member commission, which recently completed a top-to-bottom investigation of the Defense Department's $164-billion-a-year purchasing practices. Mr. Packard, the 73-year-old business tycoon who heads the Hewlett-Packard Corp., not only knows a thing or two about good management, but also served for three years as a deputy secretary of defense.

The panel rose out of the spare-parts scandal that exploded in the midst of Defense Secretary Caspar Weinberger's military buildup: among other things, auditors discovered $640 airplane toilet-seat covers, $435 hammers, $437 tape measures, $748 pliers, $265 screwdrivers, and a $2,228 monkey wrench. President Reagan formed the commission to find out not only what was wrong, but how to fix it.

Now, more than a year later, Mr. Packard says the spare-parts costs "weren't always the result of fraud or mischief," but of bad management and inefficient purchasing procedures. In some cases, the per-item prices were sky-high because minuscule quantities were ordered. In others, military rules forbade the purchase of cheaper off-the-shelf items, while thousands of regulations and specifications needlessly jacked up contract prices.

Thus, for example, two diodes needed by Navy technicians in Orlando, Fla., for flight simulators ended up costing $110 apiece, when they could have bought 10 for $1.97 from a local Radio Shack.

However, Mr. Packard discovered that these and other wildly excessive costs were almost penny-ante stuff in comparison to the Pentagon's larger procurement problems.

"The horror stories generated a lot of attention and were very damaging," he said during an interview, "but that's not really where the major waste was. The major waste was in the management area."

The spare-parts problems wasted "maybe tens of millions of dollars," he added, but poor overall defense planning and budgeting is wasting "tens of billions of dollars." And he says that the Pentagon and Congress

share the blame for the mess that the commission uncovered.

Contrary to popular belief, Mr. Packard's commission found that defense programs "lose far more to inefficient procedures than to fraud and dishonesty. The truly costly problems are those of overcomplicated organization and rigid procedure, not avarice or connivance."

The panel found that costly contract delays stemmed largely from a ponderous bureaucracy, awash in a sea of auditors, with little accountability built into the chain of command. It used to take a defense agency 90 days to award a contract; it now takes 225 days.

During the 1950s, Mr. Packard says, "strong centralized policies implemented by a decentralized management structure" resulted in the then-revolutionary Polaris submarine-launched missile system being developed in one-third of the time it would take now.

The bureaucracy that gives rise to $110 diodes is worsened by a Byzantine congressional system: it forces the complex Pentagon budget through a meat grinder every 12 months, micro-managing hundreds of programs, and inefficiently delaying some procurement decisions for years.

Programs must be "hastily and repeatedly accommodated to shifting overall budgets, irrespective of military strategy and planning," Mr. Packard told the president. "The net effect of this living day-to-day is less defense and more cost."

The commission's recommendations include shifting to two-year defense budgets; establishing a new under secretary of defense to implement better acquisition policies (this already has been enacted); and broadening the authority of the chairman of the Joint Chiefs of Staff to streamline the system (this is nearing congressional approval).

Other recommendations already have been put in place by Mr. Weinberger, who says the commission's remaining proposals will be implemented, as well. Messrs. Packard and Weinberger will give a progress report to the president in six months.

But Mr. Packard didn't get where he is by accepting anything on blind faith. "It remains to be seen how they are implemented in a way that will really make any difference," he says. "It's a big bureaucracy, and they can find ways to drag their feet and not change a thing."

Footnote: Mr. Packard has been down the reform road before, but with little result. He recalls the 1970 Fitzhugh Commission, when he was in the department: "We implemented half of the recommendations that were made, but we didn't put into effect any of the major recommendations. So nothing happened."

LEGISLATION TO ASSESS AND CONTROL THE DETRIMENTAL EFFECTS OF DRIFTNET FISHING ON MARINE RESOURCES

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. BENNETT. Mr. Speaker, today I am introducing the Driftnet Impact Monitoring, Assessment, and Control Act of 1986 as a companion bill to S. 2611. This bill is the beginning of a solution to one of the greatest environmental problems facing our planet's oceans. The fact that this problem is happening out on the ocean, where it is less noticeable, does not lessen the seriousness of the impact which driftnets are having on the marine resources off the coasts of the United States. Millions of seabirds, thousands of marine mammals, and countless other fish and marine creatures have already become entangled and died in actively fished driftnets and in netting that is lost or discarded.

Pelagic driftnets, that is high seas driftnets, consist of a panel of plastic webbing suspended in the water like a curtain and may be up to 20 miles in length. These nets being plastic do not rot out, are invisible to fish and other animals and are virtually unbreakable. Pelagic driftnets are used principally in the salmon, squid, sailfish, and marlin fisheries of the North Pacific. Currently a total of nearly 1,700 vessels from Japan, Taiwan, and the Republic of Korea set approximately 20,000 miles of such nets each night during the fishing season. A significant portion of this netting is lost or discarded, resulting in ghost nets which continue to indiscriminately kill marine life. The limited data that has been collected from a small fraction of these vessels indicates that the total impact of these nets is staggering.

I would like to congratulate Senator TED STEVENS and his staff for their efforts in producing this needed piece of legislation. The oversight hearing which Senator STEVENS chaired last year clearly established that foreign pelagic driftnet fleets are having a very detrimental impact on seabird, marine mammal, and fish populations. How big this impact is cannot be known without more detailed and reliable information. Section 4 of the proposed legislation would require the State Department to instigate monitoring programs with the foreign governments involved to assess the adverse impacts of driftnets. If these nations do not join in monitoring programs then they would be denied access to U.S. fishing grounds. Section 5 requires that the Secretary of Commerce report to Congress yearly on these monitoring efforts and the impact of driftnets on living marine resources. With this information Congress will be able to determine how better to control the impacts of the driftnet fisheries.

This legislation goes further than gathering information. Several positive steps are implemented. Section 9 establishes a "Seabird Protection Zone" surrounding the Aleutian Islands. The Aleutians are a major breeding ground for seabirds. The danger to these seabirds arises when they attempt to feed on creatures caught in driftnets. The birds then become entangled in the netting and drown. Numerous concerned organizations have emphasized the need for the creation of such a protection zone.

The Coast Guard is required to enforce Federal fishery regulations such as the proposed prohibition of driftnet fishing in the "Seabird Protection Zone." Section 6 requires that the cost of an effective enforcement program for the North Pacific fisheries be reflected in and fully recovered through foreign fishing permit fees.

In sections 7 and 8, the Secretary of Commerce is required to develop recommendations on a net marking and identification system, and to create a bounty system for the retrieval of ghost driftnets. The retrieval of these nets and the identification of their source will help in the resolution of this problem.

The indiscriminate killing of target and nontarget fish, marine mammals, seabirds, and other marine creatures has gone on too long. This bill is perhaps not the perfect ultimate solution to the problems created by driftnets. Some changes may later be made in it, but we have waited too long to act on this threat to the environment. I urge my colleagues to support the bill I have introduced today.

ON THE BORDER OF HYPOCRISY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. MARKEY. Mr. Speaker, on the anniversary of our Nation's independence, we all reveled in the spirit of Lady Liberty and what she has come to symbolize to so many generations of American citizens. We recalled the basic human desire for freedom and peace which has drawn millions of immigrants—our ancestors—to this continent to pursue their dreams.

However, even as we bask in the welcoming spirit of Ellis Island, Mexicans and Central Americans find no such welcoming oasis on the Rio Grande. As this Congress deliberates over immigration policy, a new generation of immigrants wonders why Lady Liberty does not open her arms to them.

Columnist Joanne Jacobs reminds us that the new immigrants are no different from our ancestors who came to Ellis Island and other ports. I strongly recommend her editorial to my colleagues.

[From the Washington Post, July 5, 1986]

(By Joanne Jacobs)

On the eastern border, there will be fireworks and tall ships, 1,000 tap dancers and 1,000 fiddlers, Mary Lou Retton and Mikhail Baryshnikov, Frank Sinatra and Elizabeth Taylor. The refurbished Statue of Liberty will lift her lamp beside the golden door once again, as politicians extol the huddled masses and tourists strew wretched refuse on the shore.

"Give me your tired, your poor . . ."

At the southern rim of the land of the free, Mexicans and Central Americans will walk across the border in the dark. No tap dancers, no fiddlers, no Sinatra.

Like 40 percent of all Americans, I'm descended from immigrants who entered America through Ellis Island, and I'm proud of their courage and grateful for their dreams. I'll get misty-eyed when the statue lights up and civics-book pieties are repeated.

But the glittering celebration planned in New York illuminates the dazzling hypocrisy of U.S. immigration policy. As we revel in the achievements of the old new Americans, who came from Europe, we worry about the "problem" of the new new Americans, who come from Mexico and Asia.

Our immigrant ancestors came with nothing, we brag, but they worked hard for low wages and changed America. The new immi-

grants, we complain, come with nothing, and are willing to work hard for low wages. We're afraid they'll change America.

We employ the illegals, building whole industries around their low-cost labor. We grant them the right to be educated (badly) at public schools and treated at public hospitals, but not the right to exist.

Congress has been wrestling with "immigration reform" for three years now (the bill has just been pushed back on the calendar) on the premise that illegals are taking "our" jobs and driving up social spending. The illegals are "threatening our economic existence," warns Harold W. Ezell, Immigration and Naturalization Service western regional commissioner.

I'm still reeling from an interview with Mike Antonovich, Los Angeles County supervisor and would-be (but won't be) U.S. senator, who charges that illegals are causing unemployment—by taking jobs as directors and cameramen in Hollywood. This is a big problem, Antonovich says. He claims illegal aliens cost America $35 billion a year.

In his xenophobia, Antonovich forgets that illegal aliens pay taxes but are less likely to use tax-paid social services, except for schools, than the rest of us. Aliens also buy goods and services. And their energetic, low-cost labor allows certain industries—such as the garment industry in Antonovich's town—to remain in the United States instead of moving overseas.

In fact, it's not at all clear to economists that immigrants take more jobs than they create. The president's Council of Economic Advisers concluded in its 1986 report that immigrant workers, legal and illegal, helped the economy expand, creating lower prices, new jobs for everyone and higher per-capita incomes for native-born Americans.

It would cost employers $1.6 billion to $2.6 billion a year to screen out undocumented workers, the study estimated.

As long as Mexico is poor and the United States is rich, aliens will come across the long border to work here.

We could beef up the Border Patrol, which has the advantage of limiting drug traffic, and impose employer sanctions, which has the disadvantage of eroding all our liberties, but no option, however Draconian, can keep them all out, and it would be an economic disaster if it did.

The United States has survived for many years, despite all the "crisis" talk, with a porous border that makes life difficult, but not impossible, for illegal aliens.

However, this hypocrisy imposes a cost on our society, as The New Republic pointed out on April 1, 1985: "The real problem with illegals is that they may become a permanent servant class, latter-day indentured servants whom we depend on for their labor, but who live as fearful, second-class citizens on the margins of our society. This may not be bad for the economy, but it corrodes the policy."

It could be both more sensible and more American to raise legal immigration quotas to levels that approximate the demand. Immigrants are going to come anyway. Let's offer them the same promise that was given to our ancestors.

About 7 million legal immigrants will come to America in the '80s, say federal officials. Perhaps 5 million more will come without papers. The newcomers crowd into poorer neighborhoods, compete for less desirable jobs and burden the schools.

It's a problem, yes, but it's the same problem caused by the Irish and the Italians and by my Russian-born grandparents. America knows how to solve it: assimilation, education, tolerance and time.

Native-born Americans didn't think much of the Ellis Island immigrants at the time either, by the way. Our ancestors were thought to be mentally and morally deficient, dirty and criminal, irremediably foreign. "Wretched refuse" is about right. To prove it, the old Americans had scientific studies and the criminal records of immigrant slum kids. They were wrong.

Like our Ellis Island ancestors, the new immigrants will enrich American character, which is constantly recreated by the people who've been enterprising and determined enough to make their way here. They'll remind us that the status quo isn't sacred, that America is a strong, vital, growing, changing nation. They'll be good Americans.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. KINDNESS. Mr. Speaker, as House chairman of the 1986 Congressional Call to Conscience Vigil for Soviet Jews, I want to encourage the participation of my colleagues in the vigil for the remainder of this session of the Congress.

The Congressional Call to Conscience Vigil, which began in 1976, uses statements by Members of Congress to focus attention on the plight of Soviet Jews. Our objective is to have at least one statement, whether spoken or submitted as an extension of remarks, appear in the CONGRESSIONAL RECORD each legislative day.

Response to the vigil has been good so far. We need additional commitments in order to ensure that the vigil continues.

I ask my colleagues to please let us know if you need additional information or wish to participate in the vigil. Members who have participated already are welcome to submit an additional statement.

Your statement and efforts will make a difference in the ongoing struggle for freedom and self-determination.

TRADE, INVESTING IN THE UNITED STATES, AND THE PIRELLI CO.

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. MURTHA. Mr. Speaker, one of the aspects of the trade problem which must be more vigorously pursued is working with foreign companies to increase their investment in the United States, and to work with those companies that have already shown a willingness to join the U.S. economy.

Along those lines, I wanted to bring to my colleagues' attention an article from the Wall Street Journal concerning the Pirelli Co. and its chairman, Filiberto Pittini.

The article deals with the management style for the future of high-technology businesses, which has been a hallmark of the Pirelli Co.'s success.

Very importantly, unlike so many businesses that try to drain American technology from this country, Pirelli continues to make major investments in the United States, where it employs more than 1,100 individuals and where it is in the process of building a new state-of-the-art R&D center. In addition, Pirelli is considering placing the world's largest, most modern submarine cable manufacturing facility in the United States.

Following is the article from the Wall Street Journal.

[The Wall Street Journal, June 27, 1986]

AN INTERVIEW WITH FILIBERTO PITTINI

A range of products which spans from tyres to cables, from industrial components to rubber consumer goods; 62 thousand employees and 110 factories distributed throughout 16 countries; a turnover of almost 3.7 thousand million dollars in 1985, 70 percent of which is produced outside Italy.

These are the features which make Pirelli the most international of the Italian companies.

A company which in recent times is achieving exceptional performances. After having raised about 600 million dollars of new funds on the international capital markets through a series of brilliant financial operations coordinated by the parent companies in Milan (Italy) and Basle (Switzerland), the Pirelli Group went on to realize one of the most important acquisitions abroad which has ever been made by an Italian company taking over from Bayer 100% of Metzeler Kautschuk, a leading German company in the motor vehicle rubber components sector. The net profits of the Group have increased by approximately 40 per cent and Filiberto Pittini, Chairman and Managing Director of the Pirelli Société Générale, is confident about the future growth prospects.

Q. Mr. Pittini, in the last few years Pirelli has developed more rapidly than many of its competitors, increasing its market shares; you are the leading producers of cables in the world and in fifth position as manufacturers of tyres. What is the "secret" of your competitiveness?

A. We are only trying to stand up to competition by operating through a global strategy approach. When I say "global", I mean in terms of production sources distributed in the main geographical areas but strongly integrated, with a centralized management of the financial, technological and organizational resources. This is the key factor in our strategy, together with a continuous effort in product and process innovation. With 2,000 specialists working in six research centres, the Group is today investing more than 100 million dollars yearly in R&D.

Q. With what results?

A. In the tyres sector, which represents around 45 per cent of the Pirelli turnover, we have a prominent position in high performance tyres, which is to say in the most dynamic and profitable market segment. It is this innovative capacity which in the last two years has allowed us an increase in sales volumes which is more than five times that shown by the market.

Q. And in the cables sector, how do you feel you can face the enormous changes

which are affecting the telecommunications and power transmission sectors?

A. Here again technology plays a key role. In order to maintain and reinforce our leadership, we shall continue to invest in R&D and in innovative sectors, such as optronics. As manufacturers of optical fibres and optical cables, it seemed only natural to us to deal with their applications into electronic systems. This move ahead is characterized by the acquisition of shareholdings in system companies such as Litel—USA (construction and management of data transmission networks), David—USA and Focom—UK (data communication products), Velec—France (image and data communication systems), ITP Automazione—Italy (factory automation) and Boselli Sistemi, a joint venture with IBM Italy (building management).

Q. But the most important acquisition was that of Metzeler, in January 1986. What were the aims?

A. Even if the Pirelli brand image is mainly associated with tyres and cables, our Group is highly diversified in the rubber sector. Diversification has always been a strategic objective of our Group and also one of our major strengths. With the acquisition of 100 per cent of Metzeler we are reinforcing our position on the German market as well as in Europe as a whole and in Brazil, particularly in the motor vehicle components market. The Pirelli Group is thus taking a sensible step forward in its strategy of consolidation and development in sectors and geographical areas of particular interest.

Q. Apart from technology, what is in your opinion the main challenge Pirelli will have to cope with in the forthcoming future?

A. To be able to compete in a worldwide global scenario. This requires, bearing in mind the high spread of our productions worldwide, capability to manage a vast network of international relations with suppliers, clients, shareholders and competitors.

THE PIRELLI GROUP

These are the main figures of the "aggregated accounts" of the Pirelli Group in 1985.

Turnover: U.S. $3,650 million.

Net profit: U.S. $101 million.

Factories: 110 in 16 countries.

Personnel: 61,419.

R&D expenditure: U.S. $100 million, in six R&D Centres operating in: Italy, U.K., W. Germany, France, Brazil, United States.

Investments in fixed assets: U.S. $250 million.

Distribution of sales: by sectors: cables 43%, tyres 46%, diversified products 11%; by geographical areas: Europe 64%, North America 10%, South America 24%, Australia and Africa 2%.

NEW YORK TIMES ON RENEWAL OF BREZHNEV DOCTRINE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COURTER. Mr. Speaker, one of the most significant things about the Solidarity crisis in Poland was that the Soviet invasion which many expected never came. The reason it did not come was that it proved unnecessary. The several Soviet divisions which were already garrisoned in Poland apparently never even moved from their usual stations; Polish security forces and army personnel handled the demonstrations and strikes. Soviet General Secretary Gorbachev made reference to this at a recent summit meeting with one of Poland's Red Army veterans, General Jaruzelski, who during the Solidarity crisis willingly did for the Soviets what they preferred not to do themselves. He lauded the Polish dictator for suppressing the Poles, and made it clear that the Soviet Union considers inviolable all communism's territorial conquests. Thus did the new Soviet chief make clear his allegience to the old Brezhnev doctrine.

The New York Times published a fine editorial on the Gorbachev visit to Warsaw, an editorial very worthy of a wide readership in the Congress. I insert it in today's RECORD.

The article follows:

[From the New York Times, July 4, 1986]

THE "PRISON OF NATIONS" TO MR. GORBACHEV

Whatever changes may be afoot in Soviet foreign policy, the notorious "Brezhnev Doctrine" has just been reaffirmed. Appropriately enough, Mikhail Gorbachev chose Poland as the site and the Communists who crushed the Solidarity rebellion as the audience for reiterating the Soviet declaration of Eastern Europe's non-independence.

First, Mr. Gorbachev gratefully toasted General Jaruzelski. In an act of putative Polish patriotism, the general spared Kremlin leaders the dirty work of smashing Solidarity directly. How fortunate that Poland could muster its "own resources."

But Mr. Gorbachev did not stop at that modesty. Should some future Eastern regime falter, he proclaimed, the Soviet Union understands its responsibility as leader of "the socialist community." Soviet-style socialism now "manifests itself as an alliance of countries closely linked by political, economic, cultural and defense interests." Any attempt to "wrench a country away from the socialist community means to encroach not only on the will of the people, but also on the entire postwar arrangement, and, in the last analysis, on peace."

Mr. Brezhnev's originality lay in giving this doctrine the name of socialism, but he was not the first Russian leader to practice it. The 19th-century czars were notorious for their forcible suppressions of all nationalist stirrings in Eastern Europe. Lenin called their empire a "prison of nations."

Now that Lenin's heirs run the prison, the name is "socialist community." But the claim of a great power's sphere of domination is the same. Under Kremlin direction, Eastern Europe displays the rigidities of the Soviet model combined with the inertia of colonial dependency.

Only East Germany enjoys consistent economic growth, but it is denied any real independence in foreign policy. Rumania has managed to pursue a cautiously aloof foreign policy but its people suffer under Stalinist political controls and severe economic privation. Hungary has come furthest toward accommodating dissent, but its once-rebellious people risk their jobs if too outspoken. And in Hungary, Czechoslovakia and Bulgaria, aged leaders hang on in the absence of a regular mechanism of political renewal.

A meaningful program for change in these conditions would require confidence and innovation in Soviet policies. On this vital front, Mr. Gorbachev sounds old hat.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. UDALL. Mr. Speaker, this is the fifth in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the south.

Alfred Stepan, a professor of political science and dean of the School of International and Public Affairs at Columbia University, suggests that out administration officials are worrying about Mexico's symptoms, drugs, and migration, but are not worrying about the underlying disease. The economic, political, and social perils facing the Mexicans are grave for them and for us. He feels this is a serious mistake, and that the United States simply cannot afford to stand idly by and watch Mexico take a political turn for the worse.

The article follows:

[From the New York Times, June 17, 1986]

MEXICO DESERVES FULL U.S. ATTENTION

(By Alfred Stepan)

Events last week—the peso fell precipitously and Washington stepped in to try to help negotiate an emergency loan of some $5 billion—once again brought home the urgency of Mexico's economic crisis. The United States ought to be relieved that the crisis has as yet had almost no political repercussions, but this is no time to hide our heads in the sand.

For some weeks now, official Washington has been berating Mexico for the symptoms of its economic crisis—increases in drug traffic and illegal immigration. This is no help at all: Administration officials may have recognized this, for last week they spoke much less harshly than in the past. The emergency package will also be helpful in the short run, but it is not enough. We must begin to think more seriously about what we can do to help the Mexicans find new ways to shore up their faltering economic and political system.

From 1935 to 1981, the Mexican economy grew by some 6 percent a year. For the period from 1982 through 1986, Mexicans project zero growth—and they expect the minimum wage to fall to half of what it was before the crisis hit. The country's foreign debt is nearly $100 billion, and the Government is finding it impossible even to maintain interest payments. Oil revenues, which once generated 50 percent of the Government's revenue and 75 percent of its foreign exchange, have fallen by $6 billion, and political leaders are bracing for further economic deterioration.

So far, the political system has weathered the storm fairly well. The Institutional Revolutionary Party known as the PRI, remains in control. Strikes, historically low by Latin American standards, are infrequent and largely nonviolent. There has been virtually no urban revolt—no food store sacking or bus burning—of the kind often seen in such crises.

How has the system held up? The PRI's political apparatus—for 60 years, the party has dominated Mexican politics through a

combination of myths left over from the revolution and patronage politics—is working hard at damage control. Poor families receive a wide variety of subsidies equal to just about half the minimum wage per person. The exchange rate is now more than 600 pesos to the dollar, but the subway fare is only one peso. Beans, tortillas, domestic cooking fuel and other staples are heavily subsidized and widely available at state stores.

Yet even these mainstays of the political system are showing signs of increasing wear and tear. The subsidies are politically effective but extremely costly. The shrinkage of the Government's revenue base means that the PRI must either cut back further on patronage and subsidies or violate its agreements with the International Monetary Fund.

The economic, political and social perils facing the Mexicans are grave for them and grave for us. Yet few Administration officials seem to have any idea of just how serious. They worry about symptoms—drugs and migration—but not about the underlying disease. When they respond at all, it is with short-term emergency bailouts. Nor do they seem to understand why Mexico's crisis should matter to us: many see Mexico as merely a sideshow to the Central American conflict.

This is a serious mistake. Certainly—because of our capacity for mutual destruction—the Soviet Union is the No. 1 country in the world for us to pay attention to. But Mexico should be No. 2.

The fall in oil prices now makes Mexico the most imperiled of the large debtors. Five of the largest banks in the United States may have put as much as half of their primary capital at risk in loans to Mexico. This would be reason enough to worry, but the United States and Mexico have even deeper ties of geography and common destiny.

The United States-Mexican border is the most important frontier in the world between a rich market economy and a poor one. No other developed country is as intimately linked to the poor as we are. England and Japan are islands; Scandinavia has historically been a world apart; France, West Germany and the Benelux nations are not islands, but they are well insulated from the third world.

The United States is not insulated, but we have been lucky—and Mexico's long-term stability has been an extremely important part of this. Mexico and the United States are bound by intricate financial ties; Mexican-Americans are the second largest minority in the United States; and we share a virtually uncontrollable 2,000-mile border. Imagine then, what it would mean if Mexico erupted in turmoil of the kind we have seen in El Salvador, Guatemala and Nicaragua. Imagine that chaos and violence, magnified a dozen times, on our very border.

The United States simply cannot afford to stand idly by and watch Mexico take a political turn for the worse. There are things that we could be doing now that we might not be able to do later.

Militarizing the border is not the answer: that would be wildly irresponsible even if it were possible. But there is no shortage of constructive policies. In the short run, we could increase our purchases of Mexican oil—we might contract for a set amount at a fixed price to be delivered over the next year—and use it to replenish our strategic oil reserves. This would immediately relieve much of the threat of a Mexican default. In the medium run, we could lead rather than resist the voices in the developed world who urge an augmentation of World Bank and I.M.F. lending to countries like Mexico.

Finally, in the longer run, Mexico and the United States must sit down together and identify an extensive package of development projects that we could implement together to stave off the crisis that threatens us both. These should include shared water development and private sector investment projects. The United States might, for example, make a special point of promoting the Mexican cement industry. Our sharply different economic circumstances—the different mix of factors of production—would make such joint actions beneficial for both countries. Our shared destiny makes them imperative and extremely urgent.

A new generation of Mexican economists and politicians is exploring such projects more seriously than ever before. We should do likewise. Whether we like it or not, we too are living under the shadow of the Mexican crisis. With a modicum of imagination and will on both sides, a solution should be within our common reach.

PROPOSED SENATE BUDGET CUTS IN VETERANS PROGRAMS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. WOLPE. Mr. Speaker, I rise today to call my colleagues' attention to a letter I recently received from a constituent of mine in Battle Creek, MI. Some weeks ago, I asked a number of veterans in my district to publicly express their concern about proposed Senate budget cuts in veterans' programs. I would like to share with you one particularly eloquent and moving letter to Senator DOMENICI that resulted from that request:

JUNE 21, 1986.

Senator PETER DOMENICI,
Chairman, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: As a disabled veteran of WWII, I am highly disturbed by the Senate's decision to stick with the Reagan Administration's 1987 budget allocation for veterans. The House of Representatives, on May 15, 1986, passed a budget resolution which protected veterans from cuts contained in the Administration's budget.

Forty-four years ago, as a young man, I was proud to fight and risk my life for the freedom and democracy America stands for. When my country called for my service, I did not run away and shirk my responsibilities. I stood proud to wear the uniform and bear the flag of freedom. I fought hard during this war, witnessing many of my comrades lying wounded or dead on the battlefield. We protected the rights, freedom and democracy of this country as a legacy for future generations. I believed in my country and believed in the promises it made to all of us men and women who fought valiantly to protect it.

Forty-four years ago I would have never thought any proposals would be made reducing the services provided veterans. America promised to provide adequate care for its veterans in our times of need, just as we fought for America in her time of need.

I am 100% disabled as a result of fighting in WWII. Any cuts in budget such as a reduction in VA medical staffs and elimination of other vital programs, would directly harm thousands of loyal citizens. I understand the need to reduce the federal deficit, but let's reduce it without critically harming one group of citizens. The medical services provided by the VA hospitals are my only option in receiving adequate medical care. Since I am disabled and cannot work, the VA pension is my source of income. The cost of living grows each year, in order for me to exist, a full cost-of-living adjustment should be included for veterans drawing compensation and pensions.

Senator Domenici, please consider the needs of the veterans who have served their country, in your support of the House of Representatives' resolution for higher funding levels in veterans' programs. The Senate resolution will harm the services currently provided veterans.

Thank you for taking the time to read and consider this letter.

INTRODUCTION OF PEDESTRIAN SAFETY WEEK

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. HERTEL of Michigan. Mr. Speaker, today I have introduced House Joint Resolution 670, a measure to declare the week beginning August 31, 1986 as "National Pedestrian Safety Week."

Each year as school children return to the classroom the number of pedestrian injuries and fatalities increase dramatically. In an attempt to increase awareness and improve education regarding pedestrian safety, I have introduced House Joint Resolution 670.

In 1984 there were 8,200 pedestrian fatalities in the United States and approximately 7,600 annually during the last decade, accounting for 16 percent of all motor vehicle deaths during that period. Furthermore, preschool children between the ages of 2 and 6 are estimated to be involved in 11 to 14 percent of all pedestrian fatalities. However, that age group only represents 6 percent of the total population. Pedestrians under the age of 15 and over the age of 65 account for 41 percent of all pedestrian fatalities.

I appeal to my colleagues to act now to protect the most innocent and vulnerable members of our society. With the proper support we can make this coming school year a safer one for students and the general public, alike.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

SPEECH OF

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to a former colleague, Jonathan Bingham, who passed from this life on July 3 at the age of 72.

Jonathan Bingham, friend, colleague, and dedicated representative of the people of New York served nine terms in the U.S House of Representatives. During nearly two decades of service he won respect on both sides of the aisle while fighting for congressional reform, tighter regulation of the nuclear industry, and human rights throughout the world.

Jonathan's entrance to the national political scene was one of widespread interest. Never one to back down from a tough fight, Jonathan won his first bid to the House in a primary battle that pitted him against a well entrenched incumbent of 30 years who firmly believed he could not be beaten and openly taunted the challenger. The national media compared the campaign to the battle between David and Goliath.

Jonathan surprised a lot of people with his tenacity, clear thinking, and dedication, and he used those skills for the benefit of his constituents from 1965 until 1983.

Those of us who worked with Jonathan remember his role in securing passage of the War Powers Act of 1973. This historic legislation limited Presidential powers with regard to troop commitment on foreign soil and changed, in many ways, the direction of the Presidency.

An advocate of congressional reform, he was instrumental in bringing secret ballot voting for committee chairmen and he fought successfully in 1977 to abolish the Joint Atomic Energy Committee which he felt unfairly supported nuclear interests. He carried his fight to passage of the Nuclear Non-Proliferation Act of 1978 which instituted new controls on exporting nuclear materials.

Jonathan, a native of New Haven, CT, fought for what he believed was just. He never forgot the best interest of his constituency but fought, at the same time, for what he saw as the greater good of all Americans.

In addition to his public duties, Jonathan Bingham was also a devoted family man who, with his wife June, raised three daughters and one son. He attended Yale and Yale Law before embarking on a distinguished career that included positions as deputy administrator of the Technical Cooperation Administration and U.S. Representative on the Economic and Social Council of the United Nations.

He also proved his literary skills as author of a book entitled, "Shirt Sleeve Diplomacy: Point 4 in Action" and found time to concentrate on music as an accomplished pianist. He played several other instruments, as well, and performed regularly with his family.

Friend, family man, and respected colleague, Jonathan Bingham lived a courageous and distinguished life of service to this great Nation. He will be sorely missed.

BEN WATTENBERG ON DEMOCRACY'S UNIVERSALITY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COURTER. Mr. Speaker, the founders of our country often declared the principles of this Government to be universal, applicable at any time and anywhere. Today the Earth's surface is dotted with many democracies, from the expanse of the richly populous India to the small Central American State of Costa Rica. The diversity of their locations and their peoples proves the wisdom of our founders to be completely true.

Ben Wattenberg, a scholar with the American Enterprise Institute and vice chairman of the Board of International Broadcasting, address this theme in a fine article published just prior to the Fourth of July. "Remember," he writes, "the Statue of Liberty faces outward to the world." I would like to include the column in today's RECORD.

[From the New York Post, July 3, 1986]

OUR LESSON IN DEMOCRACY FOR THE WORLD

(By Ben Wattenberg)

Amid the glitz, television, fireworks and celebrities, it may be hard to discern why the Liberty Lady is so important these days.

Let's go back a bit. At about the time the Statue of Liberty was unveiled 100 years ago, the patterns of American immigration were changing rather dramatically—just as they are changing dramatically now.

Prior to the 1880's, it would have been fair to characterize the American population in roughly this way: white people who originally came from the countries of northwestern Europe and black people who originally came from Africa as slaves.

The white people, be it further noted, came from countries that typically had had at least some democratic experience.

Then, suddenly—at about the time the statue arrived—new kinds of immigrants began pouring into America; Italians, Jews from eastern Europe, Poles, Ukrainians and other Slavs. They were people from countries with little or no democratic tradition.

There was great consternation in the U.S. Wise men worried whether these swarthy, unwashed primitives could ever learn to be Americans in the way WASPs were.

Well, of course, they and their children, and their grandchildren, managed all right: Lee Iacocca, George Gershwin and Edmund Muskie come immediately to mind.

And so, a message was sent from these new-style, ethnic immigrants who arrived in America sailing beneath the shadow of the Statue of Liberty. The message was this: Democracy in American could work for people other than just northwestern Europeans with democratic backgrounds.

Most new immigrants today are from Latin America, and from Asia, and some from the Moslem lands. From everywhere.

How many times have you seen on television the story of the little Vietnamese girl who came here speaking no English and became the high school class valedictorian?

So now a new message is going out. Democracy in America can work not just for all kinds of Europeans—even those without democratic traditions—but for everyone.

Well—democracy can work for everyone who comes to America. That is an interesting, indeed heart-rending domestic story. But it has become transmuted into a foreign policy story as well perhaps the most important one in the world today.

For once you say democracy works for everyone in America—Europeans, Africans, Latins and Asians—there is a corollary question that begins to form. Might democracy work for everyone, everywhere?

Remember, the Statue of Liberty faces outward to the world. Its message may be universal. If Filipinos can be democrats in America, why not in the Philippines? If Nicaraguans can be democrats in the U.S., why not in Nicaragua? How about Cuba? Haiti? Poland? South Korea? Hungary? Russia?

This is the nature of the global struggle today. Is the symbolism of the Statue of Liberty ours, or everyone's?

THE NATIONAL BICENTENNIAL COMPETITION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. EDWARDS of California. Mr. Speaker, celebration and days of remembrance are important occasions in the life of any people. We must always keep in mind why it is that we celebrate and remember, for each act of remembrance renews our will to remain a free and united people. Of special significance is the celebration that will take place from 1987 to 1991 commemorating the bicentennials of the Constitution and the Bill of Rights.

We should take the opportunity of this extended period of time to improve civic education in this country by teaching young people especially the meaning of these two momentous documents, the Constitution and its first 10 amendments, framed by Thomas Jefferson and known to all of us as the "Bill of Rights."

To support this endeavor, Congress has already authorized $5 million to be appropriated annually to the Commission on the Bicentennial of the Constitution. Of particular importance for the civic education of young people is that a portion of these funds has been set aside for a national competition on the Constition and Bill of Rights. This model program will be conducted by the Center for Civic Education.

The competition is presently being field tested in a number of congressional districts, including my own. The Santa Clara County School District has at the helm of its program a polished, creative and capable professional, Ms. Norma Wright. Norma has told me that what makes this competition unique is that it teaches students the "why" of celebrations. In the sometimes bewildering events of the present, this model points to the firm ground of the historical past, to other events of two centuries ago that have such meaning for us today and which may serve as anchors in a sea of troubles. I urge my colleagues to support the National Bicentennial Competition.

A TRIBUTE TO MR. WALTER W. THOMPSON

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to focus our attention on a lifetime of achievement and public service which merits our highest accolades and commands our deepest respect.

Mr. Walter W. Thompson has served the housing authority of the county of Stanislaus

for over 35 years. He has been executive director of the program for the past 31 years. During his tenure, the housing authority has developed nearly 1,200 low-rent dwellings in Stanislaus County. Furthermore, Mr. Thompson has overseen the development of four day care centers to accommodate the children of farm laborers and migrant workers.

In addition to these achievements, Mr. Thompson's guidance has lead the housing authority to assist nearly 2,000 elderly families through the implementation of rental assistance programs. He is also responsible for aiding over 100 families by taking advantage of rehabilitation and after care programs.

Representatives from the Department of Housing and Urban Development and the Farmers' Home Administration have called the housing authority of the county of Stanislaus one of the finest departments, in terms of design and administration, under their jurisdiction—and Walter Thompson has made it all possible.

Walter Thompson's commitment to his community does not end with his fine work at the housing authority, however. He served his country as a master sergeant in the Marine Corps during World War II in the Pacific.

As a member of the Veterans of Foreign Wars, he served as State commander in 1963–64, national council member from 1967–69, and national chief of staff in 1974–75.

He is a member of the American Legion and of the Kiwanis Club of Greater Modesto, where he has a record of 28 years of perfect attendance. In 1982, he was awarded the Legion of Honor Award.

For 17 years, Mr. Thompson has been chairman of the youth service committee, serving as president in 1968. Currently, he is the lieutenant governor for division 46 of the committee.

Mr. Thompson was instrumental in establishing the Senior Opportunity Program of Stanislaus County. He has served as the president of the program since 1972.

As a member of the Emmanuel Lutheran Church, he has served on the church council and also as chairman of the church's board of directors.

Mr. Thompson is a member and past president of the Visiting Nurses Association and the Stanislaus Coordinating Council, as well as a member of the Sportsmen of Stanislaus and Community Hospice.

He is the founder and presently sits on the board of directors of the Stanislaus County Child and Infant Care Association. He is also a member of the National Association of Housing and Redevelopment Officials, where he served as president in 1968. He currently sits on the national board of directors.

As Walter Thompson retires from the housing authority of the county of Stanislaus this July, I believe this Congress should salute him as a truly great American. The County of Stanislaus will forever be indebted to him for all that he has given of himself.

Walter W. Thompson represents the epitome of what we, as Americans, should aspire to be—a loving parent and grandparent, a leader in his community, a servant of the poor, and a shining example to all our youth.

EPA LAB VIOLATES AGENCY'S OWN RULES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. FLORIO. Mr. Speaker, lax enforcement of our Nation's environmental laws has become a major concern over the past few years. Many of us fear that diminished resources and lack of will to enforce the law at the Environmental Protection Agency [EPA] have produced an atmosphere in which some of the less responsible members of the business community feel they can pollute with impunity.

This dangerous attitude is compounded when we find that the Federal Government itself is violating the law. A recent article from the Philadelphia Inquirer discloses that an EPA research laboratory in Edison, NJ, is itself located on top of a former Army dump site laced with toxic chemicals and radioactive substances. EPA has as yet done nothing to clean up this imminent hazard.

We must insist that the Federal Government abide by the same standards as it is supposed to apply to private industry, or our legal system becomes a mockery. I commend this article to my colleagues' attention:

SITE OF EPA TOXICS LAB IS ITSELF CONTAMINATED

(By Matthew Purdy)

WASHINGTON.—The federal Environmental Protection Agency laboratory in Edison, NJ., which helps direct responses to toxic emergencies around the nation, is itself located on a former Army site that has been found to be contaminated with toxic chemicals and radiation, according to federal officials.

The chemical contamination at the former Raritan Arsenal munitions center, where mustard-gas canisters and chemicals used in explosives were buried underground, was noted briefly in studies in the 1960s before the laboratory was established. But new information on the contamination is being found as the EPA seeks to expand its operation on the Middlesex County site, according to Dan Travis, a project manager with the Army Corps of Engineers.

The radiation was discovered by chance during a training session in toxic emergencies late last year. EPA technicians were demonstrating a Geiger counter, which measures radiation, when the meter suddenly began beeping, indicating the presence of radioactivity, Travis said.

The technicians found that roofing tiles made of gypsum on the warehouse where the session was being conducted were emitting "natural radiation" at two to three times the background level, or the level found in a normal environment, Travis said. The discovery of the radiation was a coincidence, said one EPA official, who noted that it was found in buildings that were used only occasionally.

"Although the levels are higher than background, they are below the level that would require immediate remedial action," according to a December study of the site by the Army. A more conclusive test of the radiation levels is due soon.

Travis said the persistence of contamination on a site where the EPA has operated a toxics laboratory for more than 15 years was proving a minor embarrassment for the agency. "That's been one of the criticisms the EPA has gotten," Travis said. "They've been sitting on top of this time bomb."

Jim Marshall, the chief of external programs for EPA Region II, which has headquarters in New York, said the levels of contamination found at the site did not warrant "alarm." However, Marshall said, "given the history of what the site has been used for, there are some questions you want to lay to rest."

The 3,188-acre Raritan Arsenal site was used as a storage and shipping point for ammunition, explosives, mustard gas and other military materials from 1917 until 1964. In 1964, ownership of the site was assumed by the General Services Administration, which sold all but about 240 acres to private businesses that operate offices warehouses and a hotel in an area renamed the Raritan Center Industrial Park.

For about 10 years during the 1960s and 1970s, according to federal officials, the GSA used its part of the old arsenal site as a giant storage area for paints and solvents, and officials suspect that some of the site was contaminated with those substances as well.

About 150 people work in the laboratory, which is set up to test contaminants not unlike the ones that have been found at the Raritan site. The EPA operation also contains a unit of the National Response Center, whose staff responds to environmental emergencies, such as spills of toxic substances. The environmental laboratory was established before the EPA was formed in 1970 and is on a site off Exit 10 of the New Jersey Turnpike.

Although there is no absolute information on the levels of contamination either in close proximity to the EPA laboratory or on the rest of the Raritan site, the federal government had taken steps to keep people off certain areas of the old arsenal grounds. When the GSA sold the land, it designated parts of some parcels as restricted or for nonuse because of contamination. However, EPA officials were unaware of the extent of the contamination until recently.

On a 1.7 acre nonuse area, for example, "liquid mustard gas from 55-gallon drums, 100-pound bombs and 100-pound containers were reportedly dumped into open pits containing decontamination solution, and the empty drums were also thrown in on top," according to the 1985 Army study. "Also, potassium cyanide and neutralized red foaming nitric acid were reportedly dumped in this area."

However, the extent of the current contamination from mustard gas and the other chemicals noted in the report is unclear. Travis said that a test in the 1960s showed a presence of mustard gas and that a 1979s test found no evidence of the gas. But Travis said no study had tried to locate buried canisters.

Although the EPA does not consider the contamination on the site of its laboratory to be a matter for alarm, Travis said the U.S. Defense Department was giving it top priority. Of the 7,000 former Defense Department sites identified nationwide as potential environmental hazards the Edison site ranks in the top three in priority, he said.

The site is considered a priority both because of the indications of contamination and because more than 1,000 people work on the old arsenal grounds, including government and private-business employees.

Travis said the Army Corps of Engineers hoped to secure up to $2 million for a comprehensive study of the site to begin later this year. He said that if significant contamination was found, it could take five to six years to clean up the site.

"We don't own the property anymore, but we may have been responsible for some of the contamination," Travis said.

Barbara Pastalove, EPA's regional environmental-impact branch chief for the area covering New Jersey, said the EPA conducted surface tests of the soil in the area of the agency's laboratory last year and found some solvent contamination.

"There were some spots that indicated that there was some solvent contamination and other things. It wasn't in-depth," she said of the test. "It was a surface analysis."

She said that follow-up tests were not done, but that more in-depth tests would be carried out in the forthcoming Army Corps study. She said the EPA was interested in the outcome of those tests for potential health effects and also to assess EPA's potential liability if the site was found to be more contaminated than was currently believed.

But based on the current information, she said, "I think we feel confident that anyone working out there is safe."

IN OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. BROOMFIELD. Mr. Speaker, since 1959, we have set aside 1 week annually as a period of remembrance of the plight of the peoples of independent nations that came under Soviet control following the Second World War. In this, the 28th annual observance of Captive Nations Week, we express our continuing concern for—and solidarity with—the millions of human beings who continue to suffer repression in the pervasive grip of international communism.

Less than 3 weeks ago, the people of the United States celebrated the 210th anniversary of our Nation's birth as a free and independent state. As Americans, we have continued to enjoy the freedom to govern ourselves since 1776 when a few brave men representing their countrymen declared this Nation's independence.

Other nations have not been so fortunate. Soviet hegemony and expansionism have extinguished the flame of freedom from Eastern Europe to Afghanistan, from Vietnam, Laos, and Cambodia to Nicaragua. The Soviet appetite for the domination of people across the globe knows no bounds or limits.

As we devote our attention today to the many captive nations around the world, let us pause and consider the effects of our actions here in the Congress on the aspirations of people seeking freedom in those societies.

During the Fourth of July celebrations surrounding the reopening of the Statue of Liberty, Americans were reminded of the power of this symbol of our Nation's commitment to those who seek personal freedom and liberty. In our consideration of issues relating to foreign affairs here in the Congress, let us not lose sight of that splendid lady in New York Harbor. She symbolizes a commitment that we in this body must continue to stand behind, by our actions as well as by our words.

CONGRATULATIONS TO THE VOICE OF AMERICA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. KEMP. Mr. Speaker, I would like to share with you some thoughts about the Voice of America. What I am about to share with you, the VOA daily shares in over 42 different languages with millions of people all over the world. I hope my colleagues will join me in reflecting on the importance of the broadcasting of free and unrestricted thought, and congratulate the Voice on a job well done.

In America, we have been doing a lot of celebrating this July, but for those who work at the Voice of America, there's one more special occasion to mark. On Saturday July 12, the VOA celebrated the 10th anniversary of its charter.

A decade ago, just after the Nation celebrated the bicentennial of the Declaration of Independence, President Gerald Ford signed the VOA Charter into law. The charter was written years before, and the ideals expressed in it have guided the Voice of America since its very first broadcast in 1942. But on July 12, 1976, VOA's charter was given the force of law—approved by the U.S. Congress and signed by the President.

For more than 40 years, the Voice of America has been bringing the world the news, whether good or bad. In many parts of the world, objective information is in short supply—and great demand. Many governments devote their attention to controlling the news, not transmitting it. Instead of using the tools of the technological revolution to open lines of communication around the globe, they spend millions jamming radio signals to keep their people in the dark. VOA's responsibility is clear: It must be a reliable source of news—accurate, objective, and comprehensive.

The Voice must also make America understood—the practices and pastimes of its people, their institutions, ideas and opinions. VOA broadcasts cultural programs, music and features of life in the United States. Its interview shows give America's many voices a chance to speak to the world. VOA also brings listeners commentary on current affairs from the broad spectrum of American opinion. This diversity is itself the hallmark of freedom of thought.

The charter also requires the Voice of America to present the policies of the U.S. Government. Many of its listeners are schooled in skepticism, because their own governments tailor the truth to their own interests. VOA editorials are meant not simply to tell listeners what our Government does, but why. We'll make our case—but the audience is free to make up its mind.

On July 12, VOA's Charter was 10 years old. But the ideals it embodies can be traced back much farther, to America's charter—the Declaration of Independence. The reasons for asserting our independence were offered—as Thomas Jefferson put it—as facts "submitted to a candid world" out of "a decent respect for the opinions of mankind." That respect is the very heart of free government. Opinions form the basis of decisions that belong by right to every individual—how to govern themselves, and their Nation.

The charter that binds the Voice of America forms a bond between us and the Voice's listeners. It is a promise to the people that the VOA speaks to every day—wherever they are—that a decent respect for their opinions will always be the Voice of America's guide.

A BILL TO ALLOW CERTAIN OLDER INDIVIDUALS TARGETED JOBS CREDIT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. CONTE. Mr. Speaker, I rise today to introduce legislation amending the Internal Revenue Code of 1954. This bill will allow employers to take the targeted jobs tax credit for employing certain older individuals, and extend by 3 years the termination date of the targeted jobs credit.

Currently, there are 10 classes of employees which enjoy the privileges of targeted groups. These include economically disadvantaged youth, vocational rehabilitation referrals, eligible work incentive employees, and supplemental security income recipients. Just as these groups benefit from the employer tax credit, so too should the elderly benefit. The elderly provide a valuable pool of experience and knowledge to society, yet encouragement is needed to push sometimes reluctant employers to tap this large reservoir of resources. I have therefore introduced this bill, which would allow older employees meeting certain requirements to be entitled to the status of a targeted group.

In order to be eligible, an employee:

First, must have attained the age of 55 by the hiring date;

Second, must be certified as having earned a gross income of not more than $20,000 in the taxable year preceding the hiring date;

Third, must not earn more than $20,000 during any taxable year for which credit is determined; and

Fourth, must not receive wages subsidized under the Older American Community Service Employment Act during any taxable year for which credit is provided.

The legislation goes on to outline more specific rules to prevent abuses of the targeted group privilege.

My bill would also provide for an extension to 3 years of the targeted jobs credit, which may be cut to 2 years after the conference on the tax bill. The extra year would provide further incentives to hire any person falling into one of the targeted groups.

I urge my colleagues to carefully consider this legislation. It would help bring more older people back into the work force, thereby utiliz-

ing the qualifications they have from years of working experience.

BULGARIAN REPRESSION OF TURKISH MINORITY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COURTER. Mr. Speaker, I was pleased to become a cosponsor of House Joint Resolution 262, Mr. SILJANDER's resolution—now before the full Foreign Affairs Committee—which condemns the brutal treatment of, and blatant discrimination against the Turkish minority within the Communist state of Bulgaria. Quiet news of the campaign to remove even the Turkish names of that ethnic population has been slipping out of Bulgaria for several years now. The breadth and insidiousness of that campagin should be made more public. I therefore welcome, and wish to introduce into today's RECORD, the Jack Anderson column of this morning which details some of the features of the Bulgarian Government's program.

[From the Washington Post, July 21, 1986]

BULGARIA SUPPRESSES TURKISH MINORITY

(By Jack Anderson and Dale Van Atta)

Cultural genocide is being systematically practiced against Bulgaria's Turkish minority by the communist regime. Those who resist the government's attempts to stamp out all traces of Turkish language and customs, and the minority's adherence to the Moslem religion, are either imprisoned or shot.

The plight of Bulgaria's ethnic Turks, who number about 1 million, or nearly 10 percent of the population, is described in cables to the State Department from the U.S. Embassy in Sofia. Our associate Lucette Lagnado has seen the cables and interviewed experts on the subject. Here's what she learned about this little-publicized tragedy:

The communist regime does not acknowledge that there are Turks in Bulgaria. One embassy cable noted that the government "eliminated from statistical existence more than 1 million persons previously identified as [Turks]." This official creation of "unpersons" is "a socio-political feat of truly Orwellian proportions," the cable commented.

In the past two years, the embassy reported, there have been "well-documented . . . police terror tactics used to isolate remote villages and force inhabitants to change their full names from Islamic to Slavic/Christian Bulgarian names."

The embassy reported violence when ethnic Turks resisted attempts to eradicate their cultural identity. The militia, backed by the army, entered Turkish communities and used "deadly force to reduce resistance," an embassy cable stated, adding: "There were several reported cases of mass civil violence, which resulted in hundreds of deaths and many more injuries."

While some resisters were imprisoned on political charges, this relatively mild treatment was reserved for the "Turkish minority elite—party officials, teachers, etc.," the embassy reported. Most of the recalcitrant ethnic Turks were subjected to naked force. "Refusal to agree quickly to a name change was met by documented cases of summary executions. . . . Individual killings seem to have been more widespread."

As the poorest, least assimilated and worst-treated of any minority in Bulgaria, ethnic Turks are considered easy targets for Khomeini-style Moslem fundamentalism—a possibility that frightens the communist rulers. The embassy has received "reports of razed mosques and . . . pressure against fundamental Islamic religious practices such as circumcision and funerals."

Turkish-language publications were once numerous and widely read by the ethnic minority. But last year the government stepped in and the publications were "abruptly published only in Bulgarian," the embassy reported. At the same time, Turkish-language radio broadcasts were eliminated.

The communist regime prudently applies its anti-Turkish discrimination to military service. As the embassy has explained: "The Bulgarian constitution's alleged 'equal treatment' of . . . citizens does not apply to the Turks when it comes to military duty. The Turks are placed into uniformed labor battalions and are not entrusted with weapons."

MILITARY ASSISTANCE TO BOLIVIA

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. COUGHLIN. Mr. Speaker, I would like to congratulate the bold leadership of President Reagan and Vice President BUSH in the war against drug trafficking. In the last few days we have learned of the United States military's involvement in a planned, massive drug raid in Bolivia at the desperate summons of Bolivian President Victor Paz Estenssoro. United States officials have persisently pressured Bolivian authorities to crack down on the country's native drug trade and Bolivia's new determination to do so is indeed a long awaited development.

As a member of the Select Committee on Narcotics Abuse and Control, several other members and I visited seven South American countries in August 1985 where we reviewed the status of illicit narcotics production and trafficking. We met with President Victor Paz Estenssoro who called attention to the limited resources Bolivia possesses for combating illicit cocaine production in his country. Bolivia, a poor nation of 6.4 million people, is estimated to supply one-third to one-half of the world's coca paste, the extract from the coca leaf that is refined into cocaine crystals. Illegal cultivation has spread in Bolivia along with the expansion in the wealth and influence of Bolivian traffickers despite a signed commitment in 1983 by Bolivian authorities to eradicate thousands of acres of coca leaves. Crop substitution efforts have proven to be very expensive and basically futile, because so much of the coca leaf can be produced in such small areas. Unfortunately, it is difficult to outbid drug trafficking to find a comparable, profitable substitute crop to produce.

Our Coast Guard efforts at drug interdiction in the waters around our borders have proven costly and not nearly effective enough to make a dent in the surge of drugs pouring into our country. Cocaine is shipped in such concentrated forms that it is often difficult to detect.

I have consistently and firmly believed that the choke point in stemming the interdiction of cocaine trade are the illicit labs situated in isolated areas of the Latin American countries. Although often hidden deep in the jungle, these labs are fairly readily identifiable because they emit such intense and identifiable infrared heat which is necessary to process coca paste into cocaine. In addition, these labs often have some form of clandestine airstrip. United States Drug Enforcement Administration officials have known the location of many of the hidden labs for months, but Bolivia's United States-trained antinarcotics police units has been unable to attack because it has no aircraft. For more than a year, I have been recommending the use of reconnaissance aircraft and helicopters equipped with infrared detection equipment, as well as additional DEA agents to lead local Bolivian officials to the illicit labs in order to eliminate them.

I laud the President and Vice President for their initiative. I support the use of U.S. military assistance in helping other nations fight narcotics trafficking, as well as the expanded use of American intelligence, in light of the explosive flow of drugs into this country, which has decidedly posed a threat to our national security.

A military initiative, however, does not negate the need for a major effort to attack the demand side of the narcotics trafficking crisis in this country. Educating this country's population, especially our youth, about the dangers of cocaine is a measure that cannot be ignored. We were made painfully aware of the reality that cocaine kills, by the recent, untimely deaths of Len Bias and Don Rogers, two physically fit young athletes in the prime of their lives. We must address the frightening contradiction that cocaine, often thought of as the provider of a purely recreational high, is addicting and it kills.

A BILL MAKING HOME OXYGEN THERAPY MORE COST EFFECTIVE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. WYDEN. Mr. Speaker, today I am introducing a bill that will insure that elderly home care patients receive needed oxygen services while saving the taxpayers money by making those services more efficient.

Under current law, as incredible as it seems, the Federal taxpayer is being billed under Medicare for oxygen the patients are not using. Under the present system, home oxygen suppliers can choose whatever delivery system they wish—regardless of efficiency and expense. These delivery systems often pump oxygen that individuals are not inhaling. Our reimbursement system—which is still based on costs incurred—simply doesn't encourage cost effectiveness.

My bill would change this situation by establishing a single monthly payment rate based on the patient's individual prescription, the amount of oxygen used and the average reasonable cost. The supplier would be encouraged to deliver oxygen in the manner that most efficiently meets the needs of the patient.

Medicare beneficiaries, however, would be assured of getting the right amount of treatment. The payment rate is based on the physician's prescription, so patients will always have access to necessary oxygen. There is a minimum monthly floor for oxygen reimbursement, to ensure that patients with smaller prescriptions are not denied oxygen. Moreover, my bill insures prompt payment for suppliers.

Medicare already pays more than $400 million a year for home oxygen therapy. With increasing numbers of patients needing treatment for chronic obstructive lung disease, this number will hit $1 billion within 5 years.

The staff of the Congressional Budget Office, in an unofficial estimate to my office dated June 16, said my bill will save $310 million in 5 years. As a result, Medicare spending will be kept down and it will be able to continue serving the elderly.

Medicare has already instituted prospective payment for hospital services. It is time we extended this commonsense, cost-saving approach to suppliers as well.

In developing this legislation, I've worked closely with the American Association of Retired Persons, an excellent organization working for the needs of our elderly. As the attached letter demonstrates, the AARP supports my efforts to make home oxygen therapy more cost effective.

AARP,
Washington, DC, July 14, 1986.

Representative RON WYDEN,
House Office Building,
Washington, DC

DEAR REPRESENTATIVE WYDEN: I am writing to state the American Association of Retired Persons' (AARP) support for your efforts to rationalize the payment mechanism for home oxygen therapy services under Medicare and the intended effect of reducing waste and beneficiary out-of-pocket costs are appreciated.

The incentives driving Medicare's prospective pricing system (PPS) under diagnosis related groups (DRGs) are forcing beneficiaries out of the hospital quicker than in the past. As a result, many of these patients are still in need of a variety of services, including oxygen therapy services. Under current law, Medicare beneficiaries must pay a 20 percent out-of-pocket copayment for the rental of home oxygen equipment and a 20 percent copayment on the overall monthly cost of home oxygen therapy.

Your proposal to reduce Medicare's oxygen costs through a system of prospectively determined fee schedules for home oxygen services could help to reduce beneficiary out-of-pocket expense by reducing costs associated with waste and oversupply, and thereby reduce the amount subject to copayment by the Medicare beneficiary.

AARP is pleased to see that your proposal would require a study to determine the effect prospective pricing will have on the availability of the variety of oxygen therapy services, effect of this proposal on beneficiaries, and the decision to rent or purchase related equipment.

The Medicare prospective payment system is rapidly changing the location mix of services and costs of services to beneficiaries. Your intent to reduce out-of-pocket costs by rationalizing and reducing the cost of home oxygen services is an important step in assisting beneficiaries in containing health care costs.

Sincerely,

JOHN ROTHER,
Director, Division of Legislation, Research and Public Policy.

Mr. Speaker, Mr.LELAND and Mr. GREEN have already joined me in sponsoring this important legislation. I urge others of my colleagues to join me also.

67,000 CASES OF CHILD ABUSE—NEW FINDINGS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 21, 1986

Mr. SIKORSKI. Mr. Speaker, at the annual meeting of the Academy of Behavioral Medicine Research this month, Dr. Gene Abel of Emory University described his 10 years of research on child abusers. Among his important findings, Abel discovered that the typical offender molests an average of 117 youngsters, most of whom do not report the offense.

Abel's in-depth study of 571 sex offenders who committed 67,000 cases of child-sexual abuse underscores the urgent need to devise a more effective method of attacking this crime.

About half of the States have set up State registries, some assisted by Federal funds that Congress made available for development of screening systems to give employers of child care providers one way to avoid hiring known child abusers.

The problem with screening by means of arrest records is, as Abel points out, "arrests for sex offenders have very little to do with what crimes they have committed."

As a father, a member of the Select Committee on Children, Youth and Families and a former chairman of the Health, Welfare and Corrections Subcommittee of the Minnesota Senate, I am aware of the need for better reporting and recordkeeping systems. Federal policy decisions are based on data collected from the States, many of which define child abuse only as intrafamilial acts.

Data flowing into the Parents League of the United States, on whose board of trustees I sit, confirm what each of us knows from reading the newspapers—namely, that child abusers strike outside of the family as well as inside. In reporting his recent findings, Abel commented "Everyone is so surprised that a priest is a child molester, or that a school teacher is a child molester. I am flabbergasted that anyone would be surprised. Child molesters select out jobs to access kids."

A pattern has been established in this country of repeat offenders who go undetected. To better understand the phenomenon, I commend to you the following article from the Washington Post health section of June 18, 1986:

WHO WOULD SEXUALLY ABUSE A CHILD?

(By Sally Squires)

WILLIAMSBURG, Va—The largest and most extensive review of child sex abuse cases ever undertaken has revealed this surprising portrait of the typical offender:

Almost always, the sex offender is a male.

He typically begins molesting by age 15 but often starts even younger.

He molests an average of 117 youngsters, most of whom do not report the offense.

He engages in a variety of deviant behaviors that may include everything from window peeping to rape.

His victim is likely to be a boy he knows.

These are conclusions reached by Dr. Gene Abel of Emory University in Atlanta, after studying 571 sex offensers who had committed 67,000 cases of child sex abuse. The study was funded by the National Institute of Mental Health and conducted with psychologist Judith Becker, director of the sexual behavior clinic at the New York State Psychiatric Institute and Clinic. Results will be published in an upcoming issue of the journal Archives of General Psychiatry and in the Journal of Interpersonal Violence.

"Everyone is so surprised that a priest is a child molester, or that a school teacher is a child molester," said Abel. "I am flabbergasted that anyone would be surprised. Child molesters select out jobs to access kids. That's why they become pediatricians, child psychiatrists and they work in boys camps in the summer."

Abel presented the findings of his 10 years of research at the annual meeting of the Academy of Behavioral Medicine Research, held here earlier this month.

A psychiatrist specializing in the treatment of sexual behavior, Abel says his work is different from most studies of sex offenders because other studies have usually focused on people in prison. While offenders in prison are often promised that their statements would not be used against them, Abel said that few jailed sex offenders are willing to speak freely about what other crimes they may have committed.

"I believe that most of the information that is in the [scientific] literature is irrelevant because of the confidentiality issue," he said. "Quite frankly, arrests for sex offenders have very little to do with what crimes they have committed."

As evidence, Abel pointed to the difference between what convicted child molesters said in a probation office and what they said in his clinic.

Sex offenders in probation officers were asked, "How many sex crimes have you committed?" The men usually reported committing one to four sex crimes—figures that agreed with their arrest records.

Later, these same men were asked the same question at Abel's sexual behavior clinic. This time federal authorities guaranteed in writing that the researchers would never be required to testify in any U.S. court about the interviews, and the sex offenders were identified only by number, not by name. Under these conditions, they confessed to committing an average of 75 sex crimes each.

"There is a vast difference in the information one collects dependent upon the confidentiality," Abel said.

Abel's research has also dispelled several other myths about sex offenders.

Myth No. 1: Sex offenders commit only one type of crime.

Sex researchers and police have long believed that men who expose themselves or peep into windows are unlikely to rape a woman or attack a child. Other widely held opinions are that obscene phone callers rarely, if ever, carry out their lewd suggestions, and that the man who fondles a neighbor's child would never do the same with one of his own children.

What Abel finds, however, is that when sex offenders target their victims, they "cross gender, they cross age, they cross familial relationships.

"They are doing all sorts of things."

In his study, 208 men confessed to molesting young girls from outside their families. "Out of those," Abel said, "37 percent also had histories or were currently molesting boys outside the home, 30 percent were molesting girls inside the home, 10 percent were molesting boys in the home, 20 percent were rapists, 28 percent were exhibitionists, 14 percent were voyeurs, 10 percent were frotteurs [they touched women in crowds], 4 percent were sadists and 20 percent were doing other things."

The study also revealed new information about exhibitionists. "Exhibitionists are just supposed to be nice friendly folk who just flash, right?" he said. "That's not the case."

Abel found that almost half the exhibitionists in his study were also molesting children. One in five of these men were victimizing children in their own homes. Slightly more than 20 percent were raping women, and close to 30 percent were peeping in windows.

"What does this tell us?" Abel asked. Sex offenders "do everything."

Myth No. 2: Girls more often than boys are the victims of child sexual abuse.

Abel's study suggests that boys are far more likely to be victims of sex abuse than previously believed. It is estimated that two thirds of all victims molested outside the home are boys.

While girls are more frequently the victims of hands-off crimes, such as exhibitionism and window peeping, Abel said, boys are more likely victims of hands-on attacks, which involve some form of physical sexual abuse.

Hands-off crimes occurred less frequently than hands-on and involved about 40 percent of the children in the study. Six in 10 of these youngsters were age 14 or older, and girls constituted "99 percent of all the hands-off behavior targets," Abel said. This is why he believes that girls are considered the most likely victims of sex abuse.

In hands-on crimes, the majority of victims studied—some 62 percent—were boys.

"The big sex crime of child molestation is against boys," Abel said. "And those who molest boys molest in big numbers."

For the 153 offenders studied who had sexually attacked young boys, the average number of molestations was 281. Those who molested girls had committed an average of 23 molestations. By comparison, 126 rapists studied had raped an average of seven times.

Myth No. 3: Sex offenders of children don't begin their crimes until later in life.

"We asked all of these individuals how old they were when they started to do whatever they did," Abel said. Approximately half reported beginning to attack children or engage in window peeping or exhibitionism by age 15. Some said that their deviant behavior began as early as age 8.

"What does that mean?" Abel said. "These problems begin at a very early age." Yet most current efforts at curbing child sexual abuse focus on treating victims—a method which is "irrelevant in terms of prevention," he said.

Other reasons Abel advocates early detection of child sex abusers are these statistics: Sex offenders 18 and younger reported an average of seven child or teenage victims. Sex offenders older than 18 reported an average of 380 young victims.

"That's a 50-fold increase in the number of victims," Abel said. "That's another reason why we need to do something about sex offenders at an early age."

Myth No. 4: No good treatment exists for sex offenders. They must be put in jail.

"The treatments are already available," Abel said. "They've been [tested]. They're rather inexpensive. We can treat 10 outpatients for every one incarcerated patient."

In a companion study, Abel and Becker found that behavior therapy, designed to change how sex offenders think and act, can be successful in treating men with these problems. "The success rate is running between 85 and 87 percent," Becker said. A new study of 110 teen-age offenders, 13 to 18 years old, being conducted at the New York State Psychiatric Institute, suggests that the behavior program can also help the very young offender, Becker said.

But the real difficulty, Abel said, is how to get the public to accept the fact that the majority of sex offenders do not go to jail. One out of 80 crimes actually leads to an arrest. Even those who are convicted spend an average of only three years in prison. "Then they are right back out on the street," Abel said.

"The people who molest your children are your neighbors," he said. "They didn't fly in from out of state." When sex offenders are caught, they are typically jailed, he said, because "quite frankly, everyone kind of wants an eye for an eye.

"But we have to stop getting so emotionally involved in the situation and get concerned about preventing these crimes by helping these individuals control their behavior."

The current system of treating children after they have been molested is "a meager attempt," he said that does nothing to prevent the attack from occurring in the first place.

"There will never be enough money, there will never be enough therapists to do that," he said. "It's not going to work."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 22, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 23

9:30 a.m.

Armed Services
Task Force on Inventory Management, to review inventory management control in the Department of Defense.
SR-232A

Banking, Housing, and Urban Affairs
To hold oversight hearings on the Federal Reserve's second monetary policy report for 1986.
SD-538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Finance
To hold hearings on S. 1865 and S. 1837, bills providing for a new round of multilateral trade negotiations to reduce or eliminate trade barriers and distortions, and to revise U.S. trade and financial agreements to meet specified objectives (S. 1865 incorporated in S. 1860 as Title IV).
SD-215

Governmental Affairs
To hold hearings to review the recent U.S. Supreme Court decision on the constitutionality of the Gramm-Rudman Balanced Budget Act.
SD-342

Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.

Energy and Natural Resources
Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program, and to begin consideration of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989, and other pending calendar business.
SD-366

Environment and Public Works
Business meeting, to continue consideration of S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

Foreign Relations
To continue hearings on the situation in South Africa.
SD-419

Select on Indian Affairs
To hold hearings on S. 2105, S. 2106, S. 2107, bills to provide for the settlement of certain water rights claims of the Papago Indian Tribe of Arizona, and S. 2564, to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses.
SR-385

1:30 p.m.
Finance
Business meeting, to continue consideration of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989.
SD-215

2:00 p.m.
* Armed Services
Business meeting, to hear and consider the nomination of George Woloshyn, of Virginia, to be an Associate Director of the Federal Emergency Management Agency, and routine military nominations, to be followed by a closed business meeting, to further discuss the provisions of S. 2638, authorizing funds for fiscal year 1987 for the Department of Defense, authorizing funds for fiscal year 1987 and 1988 for national security programs of the Department of Energy, and authorizing funds for fiscal year 1987 for military construction programs (pending on Senate calendar).
SR-222

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366

3:30 p.m.
Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
SD-G50

JULY 24

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to discuss the legal drinking age in the District of Columbia.
SD-138

Governmental Affairs
To hold hearings on the nomination of John H. Suda, to be an Associate Judge of the Superior Court of the District of Columbia.
SR-301

Joint Economic
Economic Resources, Competitiveness, and Security Economics Subcommittee
To hold hearings on long-term economic consequences of recent demographic trends.
2359 Rayburn Building

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on operating differential subsidy programs reform.
SR-253

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.
SD-366

Foreign Relations
To continue hearings on the situation in South Africa.
SD-419

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on S. 2037, to improve the targeting of Federal aid for the General Revenue Sharing program, and other related proposals.
SD-342

Judiciary
Business meeting, to resume consideration of S. 1140, to preserve and promote wholesale and retail competition in the retail gasoline market and to protect the motoring safety of the American public, and other pending calendar business.
SD-226

Small Business
Business meeting, to consider proposed legislation authorizing the sale of certain Small Business Administration loans in order to meet reconciliation instructions as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989.
SR-428A

Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

2:00 p.m.
Apropriations
To meet to consider subcommittee allocations of budget outlays and new budget authority allocated to the committee as contained in S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989, under the provisions of 302(b)(1) of the Congressional Budget Act of 1974.
S-128, Capitol

Rules and Administration
Business meeting, to consider proposed legislation authorizing funds for fiscal year 1987 for the Federal Election Commission, H. Con. Res. 288, authorizing printing of additional copies of a committee print, H. Con. Res. 301, authorizing printing of additional copies of a message from the President, S. Res. 438, directing the Senate Committee on Rules and Administration to study the Senate rules and precedents applicable to impeachment trials, S. Res. 439, to authorize the reprinting of Senate Document 93-102, 93rd Congress, 2nd session, entitled "Procedure and Guidelines for Impeachment Trials in the United States Senate", and other pending legislative and administrative business.
SR-301

3:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH-219

Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
2322 Rayburn Building

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253

10:00 a.m.
Energy and Natural Resources
Business meeting, to resume consideration of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by S. Con. Res. 120, setting forth the Congressional budget for the United States Government for fiscal years 1987, 1988, and 1989, and other pending calendar business.
SD-366

Environment and Public Works
To hold hearings on the nominations of Thomas L. Adams, Jr., of Kentucky, to be Assistant Administrator for Enforcement and Compliance Monitoring of the Environmental Protection Agency, and Kenneth M. Carr, of California, to be a Member of the Nuclear Regulatory Commission.
SD-406

Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

2:00 p.m.
Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
2123 Rayburn Building

JULY 26

10:00 a.m.
Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

JULY 27

10:00 a.m.
Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

JULY 29

9:00 a.m.
Office of Technology Assessment
The Board, to meet in open and closed sessions, to discuss pending business matters.
S-407, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact

of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

Finance
International Trade Subcommittee
To hold hearings on S. 2614, to establish customs regulations allowing parallel importation of genuine, trademarked articles in the case where related parties own the trademarks in the United States and abroad.
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

*Judiciary
To hold hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

3:00 a.m.
Select on Ethics
Closed business meeting, to discuss pending committee business.
S-128, Capitol

JULY 30

9:30 a.m.
Rules and Administration
To hold oversight hearings to review the activities of the Office of the Senate Sergeant at Arms.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Finance
To hold hearings on S. 1871, relating to imports which threaten to impair the national security (incorporated in S. 1860 as Title X).
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to examine energy innovation and the patent process.
SD-342

*Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income program to receive benefits while working.
SD-215

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of section 404 of the Clean Water Act, relating to the wetlands dredge and fill permit program.
SD-406

10:00 a.m.
Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

4:00 p.m.
Select on Intelligence
Closed business meeting, to be followed by a closed briefing on intelligence matters.
SH-219

AUGUST 1

9:30 a.m.
Finance
*International Trade Subcommittee
To hold hearings on S. 1817, to temporarily suspend Most Favored Nation status for Romania for six months, and S. 1492, to permanently withdraw Most Favored Nation status for Romania.
SD-215

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

Rules and Administration
To hold hearings on the nomination of Thomas J. Josefiak, of Virginia, to be a Member of the Federal Election Commission, proposed legislation authorizing funds for the American Folklife Center of the Library of Congress, S.J. Res. 268, to provide for the reappointment of Murry Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, S.J. Res. 269, to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution, and S. 1311, to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.
SR-301

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

Judiciary
To hold hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to mark up S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Aging Subcommittee
To hold hearings to review certain reauthorization provisions of the Older Americans Act.
SD-430

AUGUST 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on H.J. Res. 17, to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Home Commission Act, 1920.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Business meeting, to consider the nominations of William H. Rehnquist, of Virginia, to be Chief Justice of the United States, Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States, and other pending calendar business.
SD-226

SEPTEMBER 9

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review graduate medical education in ambulatory settings.
SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JULY 22

9:30 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 2592, to strengthen Federal deposit insurance programs and to enhance competition in the financial services sector.
SD-538

Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

SENATE—*Tuesday, July 22, 1986*

Legislative day of Monday, July 21, 1986

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable MARK ANDREWS, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

A good name is rather to be chosen than great riches, and loving favor rather than silver and gold.—Proverbs 22:1.

Gracious God, our loving Father in Heaven, this morning, colleagues of Senator JOHN EAST will pay their tributes as they express their admiration, affection, and appreciation for a great servant of the people. Passing of time does not diminish our sense of loss, nor dim the profound gratitude we feel for this uncommon man of such immense wisdom and courage, whose life has touched so many with such significant influence. Thank You for Senator EAST and precious memories of a good man.

As we remember Senator EAST, dear Father God, we are not unmindful of his loyal and faithful staff in their traumatic loss. Suddenly, without warning, they find themselves not only suffering the loss of a beloved mentor but unemployed as well. We pray for them, thanking You for those who have found work, and praying with loving concern for those who still search. Be with them, bless them, and lead them. In His name Whose love is unconditional, universal, and eternal. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 22, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK ANDREWS, a Senator from the State of North Dakota, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ANDREWS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished majority leader is recognized.

THE 1986 MID-YEAR REPORT

Mr. DOLE. Mr. President, the mailing and filing date for the 1986 Mid-Year Report required by the Federal Election Campaign Act, as amended, is Thursday, July 31, 1986. Principal campaign committees supporting Senate candidates in an election year other than 1986 file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 9 a.m. until 9 p.m. on the filing date for the purpose of accepting these filings. In general, reports will be available to the public 24 hours after receipt. For further information, please contact the Public Records Office on (202) 224-0322.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by special orders in favor of Senators HAWKINS, PROXMIRE, and MELCHER for not to exceed 5 minutes each.

At 10 a.m., there will be a 2-hour period set aside for Senators to eulogize our late colleague Senator JOHN EAST. I thank our Chaplain for his words.

At noon, we shall stand in recess for the weekly party caucuses until 2 p.m.

At 2 p.m., we shall resume consideration of S. 2247, the Export-Import Bank bill, under a previous consent agreement which allows for six amendments to be in order. Any votes which may be ordered will not occur prior to 5 p.m.

Then we could also turn to S. 2507, the housing bill. I doubt, however, that will happen.

It may be that we will want to bring up the IRS Commissioner's nomination. That should have been done some time ago. It is my hope that Senator HUMPHREY will release his hold on this nomination. If not, we shall move to that nomination, if not today, perhaps tomorrow.

It will be my intention tomorrow to move to the debt ceiling extension. It is my understanding there are amendments to the debt ceiling extension. Hopefully, we can complete action on that rather quickly. I had a phone conversation this morning with the Treasury Secretary and it seems to me that it is urgent. We do need to increase the ceiling before the August 15 recess. Since it is available, I think we may as well start it now, since there are some other matters that we need to complete before the August 15 recess but are not yet available.

HAPPY BIRTHDAYS

Mr. DOLE. Mr. President, I want to salute two outstanding Americans who are celebrating birthdays today: Dr. Karl Menninger, one of the great names in American medicine; and Rose Kennedy, the matriarch of one of this Nation's great political families.

DR. KARL MENNINGER

Dr. Menninger, I am proud to say, is a fellow Kansan. As he celebrates his 93d birthday today, I am reminded of the tremendous contributions he has made to the science of psychiatry. His breakthroughs in research paved the way for thousands of patients to return to normal life when they might previously have been locked away according to the old beliefs Dr. Menninger helped prove obsolete.

His world-famous Menninger Institute in Topeka is a symbol of his lifelong commitment to research, rehabilitation, and education.

During the 60-year history of the Menninger family's Kansas clinic, more than 130,000 patients and their families have received the best care modern medicine can provide. His seminal studies on mental illness continue to serve as a bedrock for American psychiatry; that is why doctors and students the world over travel to Topeka to study at the Menninger Institute.

"Dr. Karl," as he is affectionately called, remains a hard working, outspoken champion for his science. His life is an inspiration to all of us. Mr. President, I ask unanimous consent that the following associated press article detailing Dr. Menninger's life be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, July 20, 1986]

PIONEERING PSYCHIATRIST REMAINS TRUE TO BELIEFS

TOPEKA.—Dr. Karl Menninger observes his 93rd birthday Tuesday, still worried that

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

man may soon blow himself off the planet, and still fiercely dedicated to a variety of social causes—ranging from salvaging troubled youth to improving prison conditions.

His activity has not diminished appreciably in recent years. He receives a steady stream of callers seeking advice, interviews and wisdom at his office on the campus of the Menninger Foundation on the northwestern outskirts of Topeka.

He devoted his energies last winter to lobbying with the governor and the Legislature for an increase funding for state social services programs. He went to Cambridge, Mass., in early June so he could receive an honorary degree at the 335th commencement of Harvard University, where he graduated from medical school in 1917.

Dr. Menninger's name "looms in our century like a commanding and compassionate overspirit," the Harvard Gazette declared.

It was, Dr. Menninger said in an annual birthday interview, one of the most impressive honors he's received in his long eventful life.

"It was extraordinary what they did for me," he said. "The enthusiasm and spirit of the 25,000 people jammed into Harvard Yard truly impressed me."

It is a special characteristic of the psychiatrist that he remains impressed with events and is stimulated by the people who come calling.

He was similarly moved last month when the Mental Health Association in Kansas invited his old friend, writer Norman Cousins, from Los Angeles for a tribute to Dr. Menninger and his wife Jean.

"I don't know of anyone who can move me like Norman can," Dr. Menninger said. "Of course we think so much alike on so many things."

One cause Dr. Menninger and Mr. Cousins share in their deep concern that the U.S.-Soviet arms race will lead to the world's demise if it isn't checked.

Dr. Menninger confesses to thinking about his own mortality and relates it to the nuclear threat.

"I never expected to be 93, but I feel pretty good. I don't deserve to," he added. "I don't expect to be 100. But I might be."

He knows some people relate his criticism of the inability of the United States and the Soviet Union to agree on arms control and his own fear of dying. He denied that is his motivation.

"Of course I will die. But I think what I'm afraid of is everyone will die if nothing is done," Dr. Menninger said.

But he added: "I feel a little hope, and I don't know why. The country is so apathetic. . . . Are there any fewer weapons today than there were yesterday? No, there are more. When are we going to wake up? When there's a big shootout?

"I don't hear a conclusive determination that there's going to be peace."

As founder of The Villages, a residential program for troubled children with homes in Topeka and Lawrence in Kansas and Indianapolis, Bedford, Evansville and Greencastle in Indiana, Dr. Menninger also remains deeply concerned over wayward and unwanted children.

"We're going in a better direction," the psychiatrist said. "But there is so much to be done. They put children last on every agenda. It's always men, women and children, in that order, isn't it?"

Dr. Menninger has been able to celebrate a personal triumph in watching construction of a new Shawnee County jail in Topeka—ordered by a state judge to alleviate crowding.

"Imagine, a new jail that's going to be one of the best in the country," he said. "We're setting the pace.

"I'm proud of the people who had the intelligence to put up such a civilized improvement. We've always got a few people we've got to keep locked up. But let's do it in a humane manner."

Dr. Menninger said he doesn't want people making over him on his birthday. They will anyway.

James Rivers, artist-in-residence at Washburn University, will speak on the future of the arts in Kansas in delivering a Menninger Lecture at the university Tuesday evening. Afterward, the audience is invited to share a birthday cake with Dr. Menninger.

"Just say I've had a great life so far," Dr. Menninger said.

MRS. ROSE KENNEDY

Mr. DOLE. Mr. President, today is also the birthday of Rose Kennedy. She is a legend whose story is well-known here in Washington. She instilled in her children a commitment to public service that has enhanced American life and is still visible today here in the Senate.

Her strength, her faith and courage during times of monumental tragedy have been an inspiration to countless individuals. And today as Rose Kennedy and her family have a joyous occasion to celebrate, we all wish her continued good health and many, many more years to spend with her loved ones.

THE NATION'S ECONOMIC GROWTH

Mr. DOLE. Mr. President, the Commerce Department released preliminary second quarter GNP growth figures this morning, and the news is distressing: Economic growth at an annual rate of 1.1 percent, the most stagnant rate since the end of the 1981–82 recession.

In fairness, there was also some good news: The preliminary estimate of first quarter growth, which had been estimated to be 2.9 percent, was revised upward to 3.8 percent. That is good news. In other words, it turns out that economic growth at the beginning of this year was quite vigorous. The growth rate for the entire year of 1985 was also revised upward substantially.

Similarly, it is possible—it is certainly to be hoped—that in several months, we will learn that economic growth for the second quarter was in fact much better than reported today.

But we can only work with what we know now and based on preliminary estimates, we need to be concerned.

On June 12, I called on the Federal Reserve Board to recognize the prospects for, and dangers of, a slumping economy and urged a significant reduction in the discount rate.

Subsequently, the Fed lowered that rate a half percent. I applauded that, as did the financial markets.

But I thought then, and I continue to think now, that we can go another half percentage point lower.

Bringing the budget deficit down requires healthy flows of revenues. They will be impaired if the economy turns sluggish.

Avoiding protectionist trade legislation means continuing to preserve and create jobs in our economy. Declining economic growth will thwart the noblest efforts.

Achieving tax reform, continued deregulation, capital formation, privatization, improvements in productivity—all of these things depend on a congenial economic environment. That means one free from the burdens of low growth.

I urge Chairman Volcker and the Fed to take appropriate action.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Democratic leader is recognized.

HAPPY BIRTHDAY, MRS. ROSE KENNEDY

Mr. BYRD. Mr. President, the distinguished majority leader has mentioned some happy birthdays today. I would like to add my comments with reference to Mrs. Rose Kennedy.

Mrs. Kennedy has certainly undergone the heaviest of trials and burdens of sorrow that anyone, I suppose, could bear. She has had an illustrious family, as that family has had a very illustrious mother. She had one son who became President of the United States and who met his untimely death at the hands of an assassin. She had another son who became a U.S. Senator after having been Attorney General of the United States, and who likewise met his untimely end at the hands of an assassin.

A third son is now a U.S. Senator and is a good and powerful U.S. Senator. He has for years exercised a very deciding influence on legislation in the Senate and he will do so in the future. He is respected by all his colleagues on both sides of the aisle, and he will continue, I am sure, to be a leader with respect to the great issues that face this Nation.

Mrs. Rose Kennedy's first son was killed in World War II. She has seen tragedy visit her grandchildren. She is truly a remarkable woman, one who is honored and is to be honored.

My wife, Erma, and I join in wishing her a pleasant 96th birthday, and we join with others in sharing respect for her and for her outstanding family.

This has been a great American family, a great American story, and Rose Kennedy is truly a great American woman. May she and her family rejoice and enjoy this day.

BIRTHDAY GREETINGS TO SENATOR DOLE

Mr. BYRD. Mr. President, there is another birthday today on which I wish to comment briefly, and that is the birthday of our distinguished majority leader. He failed to mention that one. We can understand his not doing so.

He, too, has distinguished himself among us. He is not only a leader of his party and the majority leader of the Senate. He is also a leader in his own right among the leaders of the Nation.

There is much in his life of which he can be proud. There is much in his life which the rest of us can hope to emulate.

I am sure that I share with all my colleagues the fond affection which would cause us to want to say to BOB DOLE today, "Happy birthday."

On a more personal note, I say to BOB DOLE, in the lines of a poet whose name I have long since forgotten:

Count your garden by the flowers, never by the leaves that fall;
Count your days by the sunny hours, not remembering clouds at all;
Count your nights by stars, not shadows;
Count your life by smiles, not tears; and on this beautiful July morning, count your age by friends, not years.

So, BOB, while, according to the rules, we are not supposed to address one another in the second person, today I will transgress and avoid, at least for the moment, addressing the majority leader in the third person by saying, "Happy birthday to you, BOB," I and all our colleagues join in these good wishes.

Mr. DOLE. Mr. President, if the distinguished minority leader will yield, I had hoped that he might forget me. When we get our age, birthdays are not as exciting as they were 20 or 30 years ago.

I do appreciate very much your kind remarks. Thank you.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The minority leader has 4 minutes remaining.

THE REAGAN/REPUBLICAN RECOVERY: THE "BEST" OR THE WORST?

Mr. BYRD. Mr. President, this morning the Commerce Department estimated that the Nation's output grew at only a 1.1-percent annual rate during the April to June quarter of 1986. That is only the latest of recent disheartening economic news.

This report, as well as other data emerging in the last several weeks, refutes the common belief that we are enjoying a strong recovery.

For example, if the current so-called "recovery" is compared with the past three recoveries, it is evident that this recovery has been worse than the other three in terms of gross national product growth, industrial production, productivity, and improvement of real disposable income.

This recovery did begin with a strong rebound out of the deepest recession since the Great Depression of the 1930's. But after a year and a half of rebound, the economy has spent the last 2 years in the doldrums, with barely a 2-percent growth rate.

Industrial output and capacity utilization have been falling all this year. In fact, capacity utilization has dropped below the level of 2½ years ago.

The trade deficit for the first 5 months of 1986 is running 10 percent above the record-breaking $148.5 billion rate of last year. The promised relief from the decline in the dollar has not occurred. Indeed, the value of the dollar has not declined against the currencies of many of our most important trade competitors.

The Nation has lost 1.4 million jobs in the factories and mines since January 1981, and almost 300,000 jobs this year alone.

These employment declines are widespread; between 1980 and 1985, 34 States suffered a net decrease in manufacturing jobs and 35 States lost mining jobs, with my own State of West Virginia leading the list in loss of mining jobs.

The administration often boasts of creating 9 million jobs. Yet, the 1.8 million jobs created annually during this administration pale when compared to the 2.5 million jobs created on an annual basis during the Carter administration.

Even in the service sector, which accounts for all new jobs in the last 5½ years, the performance has been weak. During the Carter administration, 2.1 million service jobs were created annually, as compared to the 1.8 million service jobs a year created since 1981.

Not surprisingly, under the circumstances, investment has been sinking this year. Industries dependent on investment and trade, such as steel, are suffering badly.

Steel companies, in particular, face severe pressure. LTV, the third largest steel company, late last week announced that it has been forced to file for reorganization under the bankruptcy laws; other steel companies continue to operate in the red. We cannot continue to allow such basic industries to close up shop.

Our once prosperous agricultural sector has suffered under the current policies as much as any other sector. In the years 1981 through 1985, farmers had an average income of only $16 billion a year. Since the land and equipment values were plummeting $76 billion a year, farmers' overall financial position was sinking by $60 billion a year.

Agriculture—our most successful exporting sector when this administration took office—had its most recent humiliation when we ran a deficit in agriculture in May.

In summary, Mr. President, this recovery—or, perhaps more aptly, what used to be a recovery and now is stagnation—comes up short on all the important indicators of prosperity: Jobs, income, output, and productivity. This is unacceptable to the people of this Nation, and should be unacceptable to the administration. We can and we must do better.

Mr. President, I ask unanimous consent that two separate documents containing the data to which I have referred be placed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE REAGAN/REPUBLICAN RECOVERY: THE "BEST" OR THE WORST?

Commerce Department data released today confirm that the current recovery is the weakest in recent times. The anemic 1.1 percent rate of real Gross National Product (GNP) growth for the second quarter of 1986 tops off two years of sluggish growth.

The current recovery has had two distinct periods, a 1½-year rebound and two years of slow growth. Following the 1981-82 recession—the deepest since the Great Depression of the 1930's—the economy rebounded at a bracing 6.9 percent pace of GNP growth from the end of 1982 through mid-1984. However, the momentum of the recovery then disappeared, and, for the last two years, the economy has muddled along at a 2.4 percent pace.

Never before in the absence of a recession has the United States suffered through such an extended period of economic stagnation or slow growth. Recent economic reports fail to suggest that any significant pickup in the economy is on the way:

The industrial production index declined a steep 2.1 percent in the period January through June of this year—this erases more than 80 percent of the production gains achieved in the preceding 12 months.

The capacity utilization rate fell to a level of only 78.3 percent in June—this leaves more of our Nation's industrial capacity standing idle than at any time in the last 2½ years.

The civilian unemployment rate remains at a historically high level of 7.1 percent (June)—and has risen from 6.7 percent in January of this year.

The trade deficit has been running at a monthly rate of $13.3 billion—this far exceeds the record-breaking $12.1 billion monthly pace set last year.

The Federal budget deficit is breaking all records—last year's deficit was $212 billion and this year's is projected to be as high as $220 billion.

FDIC-insured banks are failing at an all-time record high rate—they are failing faster than last year when a record 121 banks closed.

These recent economic reports raise serious doubts about the strength of the American economy. The basic measures of economic growth reveal that, far from being the "best economic expansion . . . in a quarter of a century," [see top quote] the present economic recovery is the worst during that period. When measured against the first 3½ years (14 quarters) of the recoveries from the other three serious recessions during the past 25 years, the recovery under this Administration:

Has the lowest growth rate of real GNP;

Has the lowest growth rate of industrial production;

Has the lowest growth rate of real after-tax income;

Has the lowest growth rate of productivity; and

Has the second lowest growth rate of employment.[1]

HOW GROWTH RATES DURING THIS RECOVERY STACK UP

[In percent]

	1961–69	1970–73[1]	1975–80	1982–present
Real GNP	5.0	4.6	5.1	4.3
Industrial production	8.0	7.5	7.6	6.3
Real after-tax income	4.9	4.9	4.5	3.6
Productivity	3.8	2.2	2.3	1.3
Employment	1.6	3.1	3.5	2.8

[1] This recovery lasted only 12 quarters.

"Let me make clear our goal in the program is very clear: jobs, jobs, jobs and more jobs. I see the creation of 3 million more jobs by 1986, in addition to the 10 million already expected."—President Ronald Reagan's Labor Day Message, September 4, 1981.

"The iron and steel industry . . . they are in the forefront of the ones that were optimistic about what our policy is going to do and [they] are announcing this great expansion, which after some temporary pain and suffering . . . should result in an increase and in the return of those idle workers to their jobs."—President Ronald Reagan's Question-and-Answer Session with Out-of-Town Editors, October 5, 1981.

BROKEN PROMISES, RUSTED DREAMS: AMERICA'S VANISHING INDUSTRIAL JOBS

Time and again, the Reagan Administration has boasted of the millions of jobs that have been created as a result of its economic policies. And it is true that over nine million jobs have been created since the Administration took office in January 1981. Repeatedly, however, the Reagan Administration has ignored the more significant facts that:

The 9.7 million new jobs created during the five and one-half years the Reagan Administration has been in office pale in comparison to the ten million new jobs created in only four years of the Carter Administration. In fact, the 2.5 million jobs created annually during the Carter Administration is 40 percent more than the 1.8 million jobs a year created under the Reagan Administration.

[1] The 1961-69 recovery created jobs at a lower rate than the current recovery only because the labor force expanded more slowly during that period. Indeed, during the first 14 quarters of that recovery, jobs were created fast enough to reduce the unemployment rate to 5.0 percent.

The 9.7 million jobs fall far short of the thirteen million new jobs promised by President Reagan in his Labor Day Message in 1981, and in fact, fail to equal the ten million new jobs expected prior to enactment of the Reagan/Republican economic policies.

The 9.7 million new jobs include nearly 2.5 million jobs that provide only part-time employment, with most of these new part-time positions held by persons who would prefer to work full-time but cannot find full-time jobs.

The 9.7 million new jobs provide no relief to the 8.4 million currently unemployed Americans—this is nearly a half million more jobless Americans than when this Administration took office in January, 1981.

Furthermore, the Administration has ignored the fact that during the past five and one-half years, America's industrial base has been seriously eroded, and continues to deteriorate today. This is exemplified by past and current declines in employment in the industrial sector: 287,000 manufacturing and mining jobs disappeared during the first six months of 1986; 313,000 manufacturing and mining jobs were lost between June, 1985 and June, 1986; and 1,365,000 manufacturing and mining jobs were lost between January, 1981 and June, 1986.

While the service sector is growing, thereby accounting for the net increase in jobs, hundreds of thousands of manufacturing and mining jobs have disappeared. It is a sad irony that, while the Administration likes to take so much pride in the number of jobs it has created, it may well be remembered as the Administration that presided over the collapse of America's industrial base.

MANUFACTURING

During the 20th century, manufacturing has been the base of the American economy. American industries were the pride of the nation, and the envy of the world. Steel workers, auto workers, and other factory workers were seen as the backbone of America. Now, like the American farmer, their numbers are receding with perilous speed. Despite the Administration's rosy pronouncements about a healthy, robust economy, manufacturing jobs continue to vanish.

Nationwide, more than one million manufacturing jobs have been lost during the last five and one-half years under the Reagan Administration. In comparison, 902,000 new manufacturing jobs were created during the Carter Administration.

34 States suffered a net decrease in manufacturing employment between 1980 and 1985, the first five years of the Reagan Administration. The States which have suffered the most are:

Number of manufacturing jobs lost 1980–85

1. Pennsylvania	−238,700
2. Illinois	−227,100
3. New York	−149,900
4. Ohio	−141,200
5. New Jersey	−61,900
6. Texas	−52,300
7. Indiana	−46,700
8. Wisconsin	−43,200
9. Iowa	−39,900
10. Louisiana	−35,900

Percentage of manufacturing jobs lost 1980–85

1. West Virginia	−23.5
2. Illinois	−18.8
3. Pennsylvania	−18.0
4. Wyoming	−17.7
5. Louisiana	−16.8
6. Iowa	−16.3
7. Alaska	−11.9
8. Ohio	−11.2
9. New York	−10.4
10. Montana	−10.3

Of the 34 States that suffered a loss of manufacturing jobs between 1980 and 1985, 28 States enjoyed a net increase in manufacturing employment during the Carter Administration.

Of the 16 States that experienced an increase in manufacturing employment during both the Reagan and Carter Administrations, three States have suffered a higher rate of job loss during the Reagan Administration.

Of the six States that experienced a decrease in manufacturing employment during both the Reagan and Carter Administrations, three States have suffered a higher rate of job loss during the Reagan Administration.

While the 1981-82 recession exacted a high toll in terms of manufacturing jobs, the overall decline in manufacturing employment during the Reagan Administration cannot be blamed simply on that economic downturn. The current low level of employment in the manufacturing sector reflects not only the lingering effect of jobs lost during the recession, but also dramatic declines in manufacturing employment in recent months.

Since reaching a post-recession peak of just over 19.5 million in August 1984, manufacturing employment has declined by 367,000 during the last one and one-half years despite continued economic "recovery."

31 States suffered a net loss in manufacturing jobs between April 1985 and April 1986, the latest 12-month period for which figures are available.

It should also be pointed out that since October 5, 1981, when President Reagan declared that an expansion in the iron and steel industry, which he said was based on his Administration's economic policies, "should result in an increase" in the number of steelworkers, the number of employed American steelworkers has dropped from 510,000 to 294,000 (June 1986).

MINING

Along with manufacturing jobs, jobs in mining have continued to decrease despite the Administration's claims of a thriving economy from which everyone is benefitting. Coal and metal miners, along with oil and gas workers, are seeing their jobs wiped out.

Nationwide, 331,000 mining jobs have been lost during the last five and one-half years under the Reagan Administration. In comparison, 299,000 new mining jobs were created during the four years of the Carter Administration.

35 States suffered a net decrease in mining employment between 1980 and 1985, the first five years of the Reagan Administration. The States which have suffered the most are:

Number of mining jobs lost 1980–85

1. West Virginia	−21,200
2. Pennsylvania	−12,700
3. Wyoming	−9,600
4. Kentucky	−9,200
5. Arizona	−9,000
6. New Mexico	−8,800
7. Utah	−8,800
8. Oklahoma	−8,600
9. Louisiana	−7,900
10. Minnesota	−7,300

Percentage of mining jobs lost 1980–85

1. Arizona	−42.9
2. Utah	−47.6
3. Minnesota	−46.8
4. West Virginia	−32.3
5. Oregon	−30.4
6. New Mexico	−29.9
7. Vermont	−28.6
8. Wyoming	−27.0
9. Pennsylvania	−25.9
10. Tennessee	−25.7

Of the 35 States that suffered a loss of mining jobs between 1980 and 1985, 28 States enjoyed a net increase in mining employment during the Carter Administration.

Of the six States that experienced an increase in mining employment during both the Reagan and Carter Administrations, all six States enjoyed a faster rate of job growth during the Carter Administration.

Of the six States that experienced a decrease in mining employment during both the Reagan and Carter Administrations, all but one suffered a higher rate of job loss during the Reagan Administration.

As with manufacturing, while the 1981–82 recession exacted a high toll in terms of mining jobs, the overall decline in mining employment during the Reagan Administration cannot be blamed simply on that recession. Even more so than in the manufacturing sector, the current low level of employment in the mining sector is more a result of recent sharp declines in mining employment, rather than simply the lingering effect of jobs lost during the recession.

Since reaching a post-recession peak in August 1984, mining employment has fallen by 207,000. As a result, the level of employment in the mining sector is currently almost 170,000 below the cyclical low it reached as a result of the 1981–82 recession.

Thirty-one States suffered a net loss in mining jobs between April 1985 and April 1986, the latest 12-month period for which figures are available.

WHERE THE JOBS ARE BEING CREATED

The service-producing sector accounts for the entire increase in jobs during the Reagan Administration. But even in the creation of service jobs, the performance has been weak.

It is true that 1.8 million service jobs a year have been created during the Reagan term. But that is not particularly remarkable. In comparison, 2.1 million service jobs were created annually during the Carter term.

Despite its attempts to make its job creation record look grand, the Reagan Administration's performance in this field has been unacceptably substandard. Even its creation of service jobs has been poor in comparison to the record of previous Administrations, and insufficient to take up the slack of unemployment. Further, and more distressing because of its broader economic implications, the erosion of industrial and mining jobs since 1981 has been stunning—and the Administration has not even proposed a feasible remedy, much less begun to implement such a proposal.

A healthy and stable American economy and the well-being of millions of American industrial workers and their families demand that American industries be revitalized and made competitive again. That is the only answer to the troubling employment and unemployment statistics which can be ultimately acceptable—for our economy, for our industries, and for our workers.

TABLE 1.—MANUFACTURING EMPLOYMENT, STATE BY STATE, 1976 TO 1985

	1976	1980	1985	Change 1976–80 (number)	Change 1980–85 (number)	Change 1976–80 (percent)	Change 1980–85 (percent)
1. Alabama	340,200	363,100	356,500	+22,900	−6,600	+6.7	−1.8
2. Alaska	10,300	13,400	11,800	+3,100	−1,600	+30.1	−11.9
3. Arizona	105,600	154,400	180,700	+48,800	+26,300	+46.2	+17.0
4. Arkansas	195,100	209,100	210,200	+14,000	+1,100	+7.2	+.5
5. California	1,659,800	2,018,200	2,089,500	+358,000	+71,300	+21.6	+3.5
6. Colorado	144,500	180,400	193,300	+35,900	+12,900	+24.8	+7.2
7. Connecticut	397,000	440,800	410,600	+43,800	−30,200	+11.0	−6.9
8. Delaware	68,200	70,900	72,100	+2,700	+1,200	+4.0	+1.7
9. Florida	354,000	456,400	515,200	+102,400	+58,800	+28.9	+12.9
10. Georgia	476,300	519,200	554,300	+42,900	+35,100	+9.0	+6.8
11. Hawaii	23,400	24,000	21,800	+600	−2,200	+2.6	−9.2
12. Idaho	52,000	53,300	55,200	+1,300	+1,900	+2.5	+3.6
13. Illinois	1,215,200	1,208,200	981,100	−7,000	−227,100	−.6	−18.8
14. Indiana	685,100	657,000	610,300	−28,000	−46,700	−4.1	−7.1
15. Iowa	234,000	244,800	204,900	+10,800	−39,900	+4.6	−16.3
16. Kansas	166,000	190,500	174,300	+23,900	−16,200	+14.3	−8.5
17. Kentucky	273,300	276,200	255,500	+2,900	−20,700	+1.1	−7.5
18. Louisiana	195,400	214,200	178,300	+18,800	−35,900	+9.6	−16.8
19. Maine	132,500	113,200	106,200	+10,700	−7,000	+10.4	−6.2
20. Maryland	232,400	236,700	217,100	+4,300	−19,600	+1.9	−8.3
21. Massachusetts	593,600	676,800	661,100	+83,200	−15,700	+14.0	−2.3
22. Michigan	1,061,000	998,900	984,100	−62,800	−14,800	−5.9	−1.5
23. Minnesota	321,700	371,200	374,900	+49,500	+3,700	+15.4	+1.0
24. Mississippi	218,900	221,800	221,200	+2,900	−600	+1.3	−.3
25. Missouri	424,900	437,000	429,300	+12,100	−7,700	+2.8	−1.8
26. Montana	23,700	24,200	21,700	+500	−2,500	+2.1	−10.3
27. Nebraska	87,900	96,400	88,900	+8,500	−7,500	+9.7	−7.8
28. Nevada	13,000	19,200	21,900	+6,200	+2,700	+42.7	+14.1
29. New Hampshire	94,500	116,600	123,100	+22,100	+6,500	+23.4	+5.6
30. New Jersey	756,200	781,000	719,100	+24,800	−61,900	+3.3	−7.9
31. New Mexico	30,300	34,400	37,300	+4,100	+2,900	+13.5	+8.4
32. New York	1,438,900	1,445,100	1,295,200	+6,200	−149,900	+.4	+10.4
33. North Carolina	756,300	820,000	827,500	+63,700	+7,400	+8.4	−.9
34. North Dakota	16,200	15,600	15,400	−600	−200	−3.7	−1.3
35. Ohio	1,295,300	1,264,300	1,123,100	−31,000	−141,200	−23.9	−11.2
36. Oklahoma	156,100	191,300	172,400	+35,200	−18,900	+22.5	−9.9
37. Oregon	193,700	215,100	199,900	+21,400	−15,200	+11.0	−7.1
38. Pennsylvania	1,335,200	1,328,200	1,089,500	−7,000	−238,700	−.5	−18.0
39. Rhode Island	122,900	128,200	119,500	+5,300	−8,700	+4.3	−6.8
40. South Carolina	371,000	391,900	365,100	+20,900	−26,800	+5.6	−6.8
41. South Dakota	22,000	26,100	27,400	+3,900	+1,300	+17.6	+5.0
42. Tennessee	486,100	502,100	489,300	+16,000	−12,800	+3.3	−2.5
43. Texas	862,300	1,056,900	1,004,600	+194,600	−52,300	+22.6	−4.9
44. Utah	70,700	87,700	93,900	+17,000	+6,200	+24.0	+7.1
45. Vermont	41,000	50,900	49,400	+9,900	−1,400	+24.1	−2.8
46. Virginia	387,700	413,800	423,300	+26,100	+9,500	+6.7	+2.3
47. Washington	247,400	308,700	294,100	+61,300	−14,600	+24.8	−4.7
48. West Virginia	124,400	117,200	89,600	−7,200	−27,600	−5.8	−23.5
49. Wisconsin	519,400	558,000	514,800	+38,600	−43,200	+7.4	−7.7
50. Wyoming	8,400	9,600	7,900	+1,200	−1,700	+14.3	−17.7

Source: U.S. Bureau of Labor Statistics.

TABLE II.—MANUFACTURING EMPLOYMENT, AVERAGE ANNUAL GROWTH, REAGAN VERSUS CARTER

	Total jobs 1976	Total jobs 1980	Total jobs 1985	Average annual job growth: Carter administration	Average annual job growth: Reagan administration	Average annual job growth: Carter advantage
1. Alabama	340,200	363,100	356,500	5,725	−1,320	7,045
2. Alaska	10,300	13,400	11,800	775	−320	1,095
3. Arizona	105,600	154,400	180,700	12,200	5,260	6,940

TABLE II.—MANUFACTURING EMPLOYMENT, AVERAGE ANNUAL GROWTH, REAGAN VERSUS CARTER—Continued

	Total jobs			Average annual job growth		
	1976	1980	1985	Carter administration	Reagan administration	Carter advantage
4. Arkansas	195,100	209,100	219,200	3,500	2,020	1,480
5. California	1,659,800	2,018,200	2,089,500	89,600	14,260	75,340
6. Colorado	144,500	180,400	193,300	8,975	2,580	6,395
7. Connecticut	397,000	440,800	410,600	10,950	−6,040	16,990
8. Delaware	68,200	70,900	72,100	675	240	435
9. D.C.	15,300	15,400	14,900	25	−100	125
10. Florida	354,000	456,400	515,200	25,600	11,760	13,840
11. Georgia	476,300	519,200	554,300	10,725	7,020	3,705
12. Hawaii	23,400	24,000	21,800	150	−440	590
13. Idaho	52,000	53,300	55,200	325	380	−55
14. Illinois	1,215,200	1,208,200	981,100	−1,750	−45,420	43,670
15. Indiana	685,100	657,000	610,300	−7,025	−9,340	2,315
16. Iowa	234,000	244,800	204,900	2,700	−7,980	10,680
17. Kansas	166,000	190,500	174,300	6,125	−3,240	9,365
18. Kentucky	273,300	276,200	255,500	725	−4,140	4,865
19. Louisiana	195,400	214,200	178,300	4,700	−7,180	11,880
20. Maine	132,500	113,200	106,200	−4,825	−1,400	−3,425
21. Maryland	232,400	236,700	217,100	1,075	−3,920	4,995
22. Massachusetts	593,600	676,800	661,100	20,800	−3,140	23,940
23. Michigan	1,061,000	998,900	984,100	−15,525	−2,960	−12,565
24. Minnesota	321,700	371,200	374,900	12,375	740	11,635
25. Mississippi	218,900	221,800	221,200	725	−120	845
26. Missouri	424,900	437,000	429,300	3,025	−1,540	4,565
27. Montana	23,700	24,200	21,700	125	−500	625
28. Nebraska	87,900	96,400	88,900	2,125	−1,500	3,625
29. Nevada	13,000	19,200	21,900	1,550	540	1,010
30. New Hampshire	94,500	116,600	123,100	5,525	1,300	4,225
31. New Jersey	756,200	781,000	719,100	6,200	−12,380	18,580
32. New Mexico	30,300	34,400	37,300	1,025	580	445
33. New York	1,438,900	1,445,100	1,295,200	1,550	−29,980	31,530
34. North Carolina	756,300	820,000	827,500	15,925	1,500	14,425
35. North Dakota	16,200	15,600	15,400	−150	−40	−110
36. Ohio	1,295,300	1,264,300	1,123,100	−7,750	−28,240	20,490
37. Oklahoma	156,100	191,300	172,400	8,800	−3,780	12,580
38. Oregon	193,700	215,100	199,900	5,350	−3,040	8,390
39. Pennsylvania	1,335,200	1,328,200	1,089,500	−1,750	−47,740	45,900
40. Rhode Island	122,900	128,200	119,500	1,325	−1,704	3,056
41. South Carolina	371,000	391,900	365,100	5,225	−5,360	10,585
42. South Dakota	22,000	26,100	27,400	1,025	260	765
43. Tennessee	486,100	502,100	489,300	4,000	−2,560	6,560
44. Texas	862,300	1,056,900	1,004,600	48,650	−10,460	59,110
45. Utah	70,700	87,700	93,900	4,250	1,240	3,010
46. Vermont	41,000	50,900	49,500	2,475	−280	2,755
47. Virginia	387,700	413,800	423,300	6,525	1,900	4,625
48. Washington	427,400	308,700	294,100	15,325	−2,920	18,245
49. West Virginia	124,400	117,200	89,600	−1,800	−5,520	3,720
50. Wisconsin	519,400	558,000	514,800	9,650	−8,640	18,290
51. Wyoming	8,400	9,600	7,900	300	−340	640

Source: U.S. Bureau of Labor Statistics.

TABLE III.—MANUFACTURING JOB LOSSES, STATE BY STATE, APRIL 1985 TO APRIL 1986

	April 1985	April 1986	Change
1. Alabama	358,500	355,800	−2,700
2. Colorado	192,100	189,300	−2,800
3. Connecticut	415,500	406,800	−8,700
4. Delaware	72,800	66,800	−6,000
5. Idaho	53,400	50,900	−2,500
6. Illinois	981,000	965,900	−15,100
7. Indiana	611,500	599,500	−12,000
8. Iowa	205,100	202,300	−2,800
9. Kentucky	255,500	252,100	−3,400
10. Louisiana	178,900	168,600	−10,300
11. Maine	105,800	103,300	−2,500
12. Maryland	218,900	209,000	−9,900
13. Massachusetts	666,200	644,100	−22,100
14. Minnesota	373,500	365,100	−8,400
15. Missouri	429,400	425,800	−3,600
16. Montana	20,900	20,500	−400
17. Nebraska	89,200	87,400	−1,800
18. New Hampshire	123,200	121,300	−1,900
19. New Jersey	718,900	715,900	−3,000
20. New York	1,293,200	1,264,000	−29,200
21. North Carolina	828,200	822,300	−5,900
22. Ohio	1,123,800	1,112,100	−11,700
23. Oklahoma	172,500	163,800	−8,700
24. Pennsylvania	1,097,300	1,053,200	−44,100
25. South Carolina	367,600	361,000	−6,600
26. South Dakota	28,200	27,500	−700
27. Tennessee	491,500	486,400	−5,100
28. Texas	1,004,100	981,900	−22,200
29. Utah	93,600	92,300	−1,300
30. Vermont	49,800	49,200	−600
31. West Virginia	89,600	87,500	−2,100

Source: U.S. Bureau of Labor Statistics.

TABLE IV.—MINING EMPLOYMENT, STATE BY STATE,[1] 1976 TO 1985

				Change			
	1976	1980	1985	1976–80 (number)	1980–85 (number)	1976–80 (percent	1980–85 (percent)
1. Alabama	13,300	17,000	14,500	+3,700	−2,500	+27.8	−14.7
2. Alaska	4,000	6,500	9,400	+2,500	+2,900	+62.5	+44.6
3. Arizona	24,000	21,000	12,000	−3,000	−9,000	−12.5	−42.9

TABLE IV.—MINING EMPLOYMENT, STATE BY STATE,[1] 1976 TO 1985—Continued

	1976	1980	1985	Change 1976–80 (number)	Change 1980–85 (number)	Change 1976–80 (percent)	Change 1980–85 (percent)
4. Arkansas	4,600	5,200	5,400	+600	+200	+13.0	+3.8
5. California	34,700	43,500	50,600	+8,800	+7,100	+25.4	+16.3
6. Colorado	21,100	36,200	32,900	+15,100	−3,300	+71.6	−9.1
7. Florida	8,800	11,000	10,100	+2,200	−900	+25.0	−8.2
8. Georgia	7,000	7,800	8,000	+800	+200	+11.4	+2.6
9. Idaho	3,300	4,700	3,900	+1,400	−800	+42.4	−17.0
10. Illinois	27,900	31,300	28,600	+3,400	−2,700	+12.2	−8.6
11. Indiana	8,200	10,400	10,200	+2,200	−200	+26.8	−1.9
12. Iowa	2,500	2,200	2,100	−300	−100	−12.0	−4.5
13. Kansas	10,900	16,100	16,700	+5,200	+600	+47.7	+3.7
14. Kentucky	46,800	52,800	43,600	+6,000	−9,200	+12.8	−17.4
15. Louisiana	62,500	89,400	81,500	+26,900	−7,900	+43.0	−8.8
16. Michigan	13,200	12,500	10,300	−700	−2,200	−5.3	−17.6
17. Minnesota	15,000	15,600	8,300	+600	−7,300	+4.0	−46.8
18. Mississippi	6,900	10,800	8,900	+3,900	−1,900	+56.5	−17.6
19. Missouri	8,600	7,600	6,400	−1,000	−1,200	−11.6	−15.8
20. Montana	6,100	8,800	6,800	+2,700	−2,000	+44.3	−22.7
21. Nebraska	1,700	1,900	1,800	+200	−100	+11.8	−5.3
22. Nevada	3,700	6,200	6,100	+2,500	−100	+67.6	−1.6
23. New Hampshire	400	400	400	0	0	0	0
24. New Jersey	2,700	2,400	2,000	−300	−200	−11.1	−16.7
25. New Mexico	21,500	29,400	20,600	+7,900	−8,800	+36.7	−29.9
26. New York	7,100	6,100	6,700	−1,000	+600	−14.1	+9.8
27. North Carolina	4,600	5,200	4,800	+600	−400	+13.0	−7.7
28. North Dakota	2,500	7,800	6,900	+5,300	−900	+112.0	−11.5
29. Ohio	28,200	30,700	26,400	+2,500	−4,300	+8.9	−14.0
30. Oklahoma	44,400	74,900	66,300	+30,500	−8,600	+68.7	−11.5
31. Oregon	1,500	2,300	1,600	+800	−700	+53.3	−30.4
32. Pennsylvania	48,300	49,000	36,300	+700	−12,700	+1.4	−25.9
33. South Carolina	1,800	1,900	1,800	+100	−100	+5.6	−5.3
34. South Dakota	3,500	2,800	2,400	+300	−400	+1.2	−14.3
35. Tennessee	9,400	10,100	7,500	+700	−2,600	+7.4	−25.7
36. Texas	139,900	241,700	259,900	+101,800	+18,200	+72.8	+7.5
37. Utah	14,000	18,500	9,700	+4,500	−8,800	+32.1	−47.6
38. Vermont	700	700	500	0	−200	0	−28.6
39. Virginia	21,800	22,700	17,300	+900	−5,400	+4.1	−23.8
40. Washington	2,100	3,200	2,700	+1,100	−500	+52.4	−15.6
41. West Virginia	68,600	65,700	44,500	−2,900	−21,200	−4.2	−32.3
42. Wisconin	2,500	2,600	2,200	+100	−400	+4.0	−15.4
43. Wyoming	20,700	35,500	25,900	+14,800	−9,600	+71.5	−27.0

[1] Figures not available for Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts or Rhode Island.

Source: U.S. Bureau of Labor Statistics.

TABLE V.—MINING EMPLOYMENT, AVERAGE ANNUAL GROWTH, REAGAN VERSUS CARTER [1]

	Total jobs 1976	Total jobs 1980	Total jobs 1985	Average annual job growth: Carter administration	Average annual job growth: Reagan administration	Average annual job growth: Carter advantage
1. Alabama	13,300	17,000	14,500	925	−500	1,425
2. Alaska	4,000	6,500	9,400	625	580	45
3. Arizona	24,000	21,000	12,000	−750	−1,800	1,050
4. Arkansas	4,600	5,200	5,400	150	40	110
5. California	34,700	43,500	50,600	2,200	1,420	780
6. Colorado	21,100	36,200	32,900	3,775	−660	4,435
7. Florida	8,800	11,000	10,100	550	−180	730
8. Georgia	7,000	7,800	8,000	200	40	160
9. Idaho	3,300	4,700	3,900	350	−160	510
10. Illinois	27,900	31,300	28,600	850	−540	1,390
11. Indiana	8,200	10,400	10,200	550	−40	590
12. Iowa	2,500	2,200	2,100	−75	−20	−55
13. Kansas	10,900	16,100	19,700	1,300	720	580
14. Kentucky	46,800	52,800	43,600	1,500	−1,840	3,340
15. Louisiana	62,500	89,400	81,500	6,725	−1,580	8,305
16. Michigan	13,200	12,500	10,300	−175	−440	265
17. Minnesota	15,000	15,600	8,300	150	−1,460	1,610
18. Mississippi	6,900	10,800	8,900	975	−380	1,355
19. Missouri	8,600	1,900	1,800	−1,675	−20	−1,655
20. Montana	6,100	8,800	6,800	675	−400	1,075
21. Nebraska	1,700	1,900	1,800	50	−20	70
22. Nevada	3,700	6,200	6,100	625	−20	645
23. New Hampshire	400	400	400	0	0	0
24. New Jersey	2,700	2,400	2,000	−75	−80	5
25. New Mexico	21,500	29,400	20,600	1,975	−1,760	3,735
26. New York	7,100	6,100	6,700	−250	120	−370
27. North Carolina	4,600	5,200	4,800	150	−80	230
28. North Dakota	2,500	7,800	6,900	1,325	−180	1,505
29. Ohio	28,200	30,700	26,400	625	−860	1,485
30. Oklahoma	44,400	74,900	66,300	7,625	−1,720	9,345
31. Oregon	1,500	2,300	1,600	200	−140	340
32. Pennsylvania	48,300	49,000	36,300	175	−2,540	2,715
33. South Carolina	1,800	1,900	1,800	25	−20	45
34. South Dakota	2,500	2,800	2,400	75	−80	155
35. Tennessee	9,400	10,100	7,500	175	−520	695
36. Texas	139,900	241,700	259,900	25,450	3,640	21,810
37. Utah	14,000	18,500	9,700	1,125	−1,760	2,885
38. Vermont	700	700	500	0	−40	40
39. Virginia	21,800	22,700	17,300	225	−1,080	1,305
40. Washington	2,100	3,200	2,700	275	−100	375
41. West Virginia	68,600	65,700	44,500	−725	−4,240	3,515
42. Wisconsin	2,500	2,600	2,200	25	−80	105
43. Wyoming	20,700	35,500	25,900	3,700	−1,920	5,620

[1] Figures not available for Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts or Rhode Island.

Source: U.S. Bureau of Labor Statistics.

TABLE VI.—MINING JOB LOSSES, STATE BY STATE, APRIL 1985 TO 1986

	April 1985	April 1986	Change
1. Alabama	14,300	12,600	−1,700
2. Alaska	9,600	9,000	−600
3. Arizona	12,100	10,700	−1,400
4. Arkansas	5,400	4,600	−800
5. California	50,700	46,200	−4,500
6. Colorado	33,600	30,100	−3,500
7. Florida	10,200	9,500	−700
8. Idaho	3,800	3,200	−600
9. Illinois	28,100	26,300	−1,800
10. Indiana	10,300	9,400	−900
11. Kansas	16,700	12,600	−4,100
12. Louisiana	81,400	65,900	−15,500
13. Minnesota	9,500	7,900	−1,600
14. Mississippi	9,000	7,600	−1,400
15. Missouri	6,500	6,200	−300
16. Montana	6,600	6,500	−100
17. New Mexico	21,200	15,300	−5,900
18. New York	6,700	5,500	−100
19. North Carolina	4,700	4,600	−100
20. North Dakota	6,600	4,900	−1,700
21. Ohio	26,200	24,900	−1,300
22. Oklahoma	68,500	56,200	−12,300
23. Pennsylvania	37,300	34,100	−3,200
24. South Carolina	1,800	1,700	−100
25. South Dakota	2,400	2,300	−100
26. Tennessee	7,600	6,700	−900
27. Texas	262,000	221,200	−40,800
28. Utah	9,800	8,600	−1,200
29. Virginia	17,100	17,000	−100
30. West Virginia	45,100	41,800	−3,300
31. Wyoming	24,500	22,600	−1,900

Source: U.S. Bureau of Labor Statistics.

RECOGNITION OF SENATOR HAWKINS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

INCREASED POTENCY OF ILLEGAL DRUGS

Mrs. HAWKINS. Mr. President, the threat we face from illegal drugs is serious and it is getting worse. Illegal drugs threaten our society not simply because so many of them are flooding across our borders, but also because the potency of these deadly drugs is increasing.

Over the last several months, there has been increasing attention to the new cocaine derivative known as crack. Doctors, policemen, the media, and now politicans have all begun to confront this new and frightening drug. A recent edition of Newsweek with its extensive story on the link between crack and crime is only the latest sign of this increased awareness.

Make no mistake—crack deserves this attention. As I have said before, crack represents a whole new level of addicting power. Some psychopharmacologists have said that crack can be addicting after just one use. This hyper-addicting power combined with its bargain basement prices on the street—sometimes going for as little as $5 to $10 per dose—gives crack the potential for infiltrating into every corner of our society and enslaving its users to a deadly master, chemical addiction.

There is no question that crack warrants this attention, especially if, by educating the public as to the dangers of this drug, we can dissuade anyone from using it. But crack is only one of a group of high potency drugs that have begun to saturate our society.

Another of these deadly powerful drugs is sinsemilla. Sinsemilla is a high-quality form of marijuana that is up to three times as intoxicating as ordinary grass. It is estimated that sinsemilla has taken about 10 percent of the market even though 30 percent of the domestically cultivated marijuana seized by the Government last year was this form of the drug.

Most of the studies on the health effects of marijuana have been based on the lower potency varieties of marijuana. According to a 1982 study, the known or suspected chronic health effects of marijuana use include: Impaired short-term learning and slowed learning, impaired lung function, impaired immune response to disease and infection, and on and on and on. The lungs are a particularly likely target for harmful effects of marijuana because the drug is most often smoked, usually without a filter.

According to a study by the National Institute on Drug Abuse [NIDA], marijuana users who smoke 3 to 5 marijuana cigarettes per week suffer lung function impairment similar to the damage that would result from smoking 112 tobacco cigarettes per week or 16 tobacco cigarettes per day. If these are the health effects of the low potency of marijuana, there is clearly reason to suspect that the more potent forms of the drug would be harmful as well.

In addition to crack and sinsemilla, a new form of heroin known as black tar has entered the market. The older forms of heroin were only 2 to 6 percent pure. Black tar is 60 to 70 percent pure and can be produced for about one-tenth the price. What makes black tar heroin unique is that it has a single foreign source—you guessed it—Mexico. Mexico is not the single largest supplier of heroin to the United States. This new potent form of heroin is attracting new users as the numbers of heroin users has increased for the first time in several years.

Mr. President, crack, sinsemilla, and black tar constitute a deadly troika of dangerous drugs. We, who have chosen long ago to fight these insidious substances must realize that the enemy does not stand still while we try to put him out of business. We need to remain vigilant and prepared to react quickly to the emergency of both new dangerous drugs and insidious new techniques of trafficking.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

HOW ARMS CONTROL COULD DAMAGE THE SOVIET ECONOMY AND MILITARY

Mr. PROXMIRE. Mr. President, it has been an article of faith that the Soviet Union, as well as the United States, would gain highly welcome economic relief from almost any arms control agreement that stopped or even slowed the arms race. This has always seemed so obvious. Doesn't the Soviet Union have a far less productive economy than we have? Doesn't that smaller Soviet economy suffer a shortage of manpower, a shortage of industrial capacity, a shortage of many materials necessary for building these ships, planes, tanks, missiles, and missile launchers their military requires? So wouldn't the right kind of arms control agreement serve their purpose? Dimitri Simes is a senior associate of the Carnegie Endowment for International Peace. Simes wrote an article that appeared in the July 10 issue of the New York Times. In that article Simes disputes the conventional wisdom that the Soviet economic interests would be well served by "sweeping strategic arms cuts." Here's why: Suppose the superpowers agree to shift away from heavy land-based missiles. In that event the argument as to what follows is familiar. Heavy, stationary, multiwar head, land-based missiles are destabilizing. Why? Because they are vulnerable to a preemptive attack. So they are the prime target for any opposition attack. No matter how firmly handled, these stationary land-based missile launchers may be, super accurate, penetrating missiles can knock them out. So in a crisis there is now a simple and terrible decision for the Soviet leaders. Use them or lost them. That makes these missiles which now dominate the Soviet nuclear arsenal ripe candidates for reductions and elimination. Wouldn't an arms control treaty that substitutes a smaller number of relatively invulnerable mobile missiles, especially those deployed in submarines or bombers, provide far greater stability and would not such a treaty reduce the catastrophic prospect of nuclear war? Sure, it would? Doesn't the Soviet Union want to reduce the terrible prospect of nuclear war? Of course, it does.

Then why can we not expect Secretary Gorbachev to agree to a mutual sharp reduction in nuclear arsenals on both sides? Simes' answer: "It (such a reduction) would require a shift away from destabilizing heavy, Soviet land-based missiles with multiple warheads to smaller, mobile intercontinental missiles with only one warhead and to sea launched missiles." As Sims says—

such a shift would cost the Russians "dearly." Why? Because the Soviet's painfully constructed stationary, land-based arsenal now constitutes about three-quarters of its nuclear deterrent—measured in megatonage. Furthermore, it offers a relatively cheap, swift way for the Soviets to increase their nuclear warheads that would give them a decisive numerical advantage over the United States in the number and also in the megatonnage they could deliver on the adversary's targets.

Now, what happens to this advantage in this agreement that not only limits but actually reduces offensive missiles on both sides? Then the Soviets to preserve enough survivable warheads to remain a competitive superpower must make the very costly shift to mobile, single warhead launchers and especially to strategic nuclear warhead deployment in submarines and bombers.

So the arms control that seems most logical, the most stabilizing, the most likely to prevent a nuclear catastrophe would not save economic resources in the Soviet Union. It would impose a very high economic cost, perhaps a cost the Soviets could not meet without seriously retarding this industrial growth in the long run. In the short run, this Soviet conversion to a mobile sea and air based nuclear deterrent could directly and promptly reduce resources for this conventional military effort in support of political coercion, their aggression in Afghanistan, and their export of arms to Angola, Cuba, Nicaragua and elsewhere.

For these reasons, it may well be that Secretary Gorbachev is not really refusing to reduce his offensive nuclear arsenal for the reason he gives. The reason he gives, is because of his fear of a successful star wars deployment by the United States. But he may very possibly believe that star wars will never work. Is it not more likely that he is refusing to agree to the 50 percent reduction in warheads because it will cost the Soviets dearly economically and in their position as an international superpower?

□ 1000

MYTH OF THE DAY: AFDC BENEFIT LEVELS HAVE LED TO LARGER AND LARGER WELFARE FAMILIES

Mr. PROXMIRE. Mr. President, the myth of the day is that the Nation's major welfare program, Aid to Families with Dependent Children, often called by its initials—A.F.D.C.—provides a strong incentive for mothers to have larger families in an effort to increase their welfare benefits.

In fact, this has not been the case and let me cite three key points.

First, as AFDC benefits have increased over time, the size of AFDC families has shown a consistent trend to smaller and smaller families. That's right. Smaller families. Not larger families.

This chart demonstrates that trend dramatically. This chart shows the percentage of AFDC families broken out by the number of children in the family for 3 separate years—1969, 1975 and 1982.

What it demonstrates quite clearly in the large family categories to the right of the chart is a continuing—and dramatic—decline in the number of AFDC families with four or more children. In 1969, one-third of AFDC families had four or more children; by 1982, only 10 percent of AFDC families had four or more children.

By contrast, in 1969 only half of AFDC families had only one or two children; by 1982, three-quarters of AFDC families nationally fit into this small family category. A trend, I might note, that precisely parallels Wisconsin's experience.

Thus, AFDC families have followed the same pattern as non-welfare families over the same period. The American family has been getting smaller. The same pattern we see with AFDC families.

Second, data collected by the Center for Social Welfare Policy and Law demonstrates that for the overwhelming number of States the increase in the monthly payment for an additional child is only $40 to $60 and, in many States the increase is significantly less than $40.

Third, even in States with higher payment levels, where the increase in the monthly payment would exceed $60 for an additional child, the evidence does not substantiate the myth that welfare mothers have larger families for higher benefits. A study by David Ellwood and Mary Jo Bane in the Journal of Labor Research comparing the rates of illegitimacy with AFDC benefit levels found no evidence of correlation between high benefit levels and increased levels of illegitimacy.

Mr. President, there are many aspects of our AFDC system that I have criticized in the past. But it is important that criticism of the AFDC program be directed appropriately and that those of us who have criticized welfare policy in the past take great pains to see that the record is set straight on myths such as this.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business with statements not to exceed 5 minutes each to extend not beyond the hour of 10 a.m.

LETTERS SUPPORTING CONFIRMATION OF DANIEL MANION

Mr. DOLE. Mr. President, much has been made about a letter signed by a number of law school deans who urged Senators to reject the nomination of Daniel Manion. But little has been written about the scores of people who have written in support of Mr. Manion's nomination to the Federal Court of Appeals.

So, in an effort to balance the record, Mr. President, I would like to insert in the CONGRESSIONAL RECORD a fairly lengthy list of names, including names of faculty on several prestigious law schools—Notre Dame, the University of California, Catholic University—as well as practicing attorneys from all over the country. These individuals have written me and other Senators asking that Mr. Manion be confirmed.

Some of the letters refute the charges made by Mr. Manion's opponents, and allude to what the writers believe is the political nature of his opposition. Most of them conclude with the same thought. I will quote from just one letter, "Daniel Manion is well-qualified by reason of his character and competence to serve on the U.S. Court of Appeals for the Seventh Circuit."

Mr. President, I couldn't have said it better myself.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LIST

UNIVERSITY OF OREGON

Dean Maurice J. Holland.

NOTRE DAME LAW SCHOOL

Dean Frank E. Booker; Charles Rice; Edward J. Murphy.

CATHOLIC UNIVERSITY LAW SCHOOL

Evan Kemp.

UNIVERSITY OF CALIFORNIA

Thomas A. Smith.

WASHINGTON, DC

John W. Cummiskey; Richard M. Fairbanks III; Judith Richards Hope; Robert J. Horn; Robert E. Freer, Jr.; Henery C. Cashen II; Myles J. Ambrose; Patrick E. O'Donnell; William P. Barr; Robert C. Odle, Jr.; Jerry J. Gibbs; Michael R. Gardner; William B. Ball; William C. Cramer; Ted Olson; Paul Kamenar; Donald Popeo; Rex Lee; Michael Horowitz; Joel C. Mardelman.

CHICAGO, ILLINOIS

Morris I. Leibman; J. Robert Barr; J. Douglas Donenfeld; John C. Vryhof; William F. Conlon; Samuel Skinner; Wilbur C. Delp; Richard Ogilvie; Richard Williamson.

MICHIGAN

Robert S. Krause; James A. Mitchel.

MASSACHUSETTS

Roger Allan Moore.

NEW JERSEY

Conrad N. Koch.

SEPARATE LETTERS

INDIANA UNIVERSITY—SCHOOL OF LAW

Dean William F. Harvey; Henry C. Karlson; David A. Funk.

UNIVERSITY OF NEBRASKA

Richard F. Duncan; John P. Lenich.

UNIVERSITY OF CHICAGO

Michael W. McConnell.

WASHINGTON, DC

John A. Macleod; Daniel W. Coon; H. Richard Mayberry; Alan Swendiman; Patricia Latham; Harvey G. Koch; Nancy Nord; Robert D'Agostino; John A. Nevins; William Olson; Vince Pepper; Thomas D. Carroccio; James J. Featherstone; Peter Furrara; Donald Whitehead; Edmund Pendleton; James F. Schoener; Clarence V. McKee; Michael M. Vhlmann; Robert H. Koehler; Frank M. Salinger; Eric Fox; Peter S. Latram.

CHICAGO

David G. Grumbaugh; William C. Nordlund; R. Lawrence Storms; Terry M. Grimm; George B. Christenen; John D. Gottlick; John C. Hirscfeld.

NEW YORK

Erwin Millimet.

FLORIDA

John F. Wendel; Charles P. Chritton.

MISSOURI

Michael J. Pohlmeyer.

NEW JERSEY

Neil G. Duffy; Luke T. Nitti; Charles J. Catrillo; Janice Montena; John Carbone.

OHIO

Frank G. Julian.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EULOGIES TO THE LATE SENATOR JOHN P. EAST

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now have until the hour of 12 noon for eulogies to the late Senator JOHN EAST.

The PRESIDING OFFICER (Mr. HATFIELD). The Chair recognizes the Senator from Florida.

TRIBUTE TO SENATOR JOHN EAST

Mrs. HAWKINS. Mr. President, I would like to express my sympathy to Mrs. East and her daughters, the family, friends, and to everyone who worked with and knew Senator JOHN EAST. Senator EAST led an extraordinary life and his accomplishments stand as an example to all Americans.

I remember when Senator EAST and I were on the Republican National Committee together. He was a very quiet man, but a man of tremendous courage and strength, a man of unusual resolve and courage. Senator EAST was a man who worked to overcome great odds. Paralyzed by polio at the age of 24, JOHN EAST did not let this hinder his future. JOHN EAST trained himself as a lawyer, political scientist, and a scholar. He used his talents to educate young people and to bring enlightenment to hundreds of Americans. JOHN EAST unselfishly worked as a public servant to give his best to the country that he loved so much. Ailments such as polio and hypothyroidism plagued JOHN EAST but he never complained about his disabilities. Instead of letting these hardships rule his life, he conquered his physical burdens of illness and showed the world that the human spirit at its best can overcome even the greatest of obstacles.

President Reagan called Senator EAST a "true patriot" and said that he "loved his country and was motivated by a sense of duty to his fellow man." Idealism was the great motivator of JOHN EAST.

He came to the Senate in my class. He came to contribute to the progress of our country. He fought for principles he believed in. He did not back down under heavy opposition. He battled eloquently for his beliefs. JOHN was a gentleman and a scholar. He rarely resorted to flaming rhetoric but articulated his views and defended them even when he was subjected to the harshest criticism.

JOHN EAST was a lieutenant in the U.S. Marines when he suffered a setback by contracting polio. He then went on to earn a law degree, a master's degree, and a Ph.D. in political science. He was a professor at East Carolina University for many years and earned a reputation as a great author and educator.

I knew many of his students. In fact the week before he died one of his students came to see me and asked could he be introduced again to Senator EAST. The young man had gone on to become a political reporter for a paper in Florida and said that Senator EAST had inspired him to pursue that vocation.

In 1980 JOHN EAST was elected to serve his country in the U.S. Senate. He joined me in pushing for tough drug enforcement. He sponsored legislation to promote economy in Government and sought to improve our judicial system. Among many other things he was also a strong advocate for free enterprise and strove to continue to keep our military strong.

The loss of JOHN EAST as a friend is a terrible tragedy. This Congress will be less due to the loss of Senator EAST. I have great respect for his courage, great example, and achievements. The work that JOHN EAST accomplished in his lifetime will not be undone, and his great example of human spirit conquering adversity cannot and will not be forgotten.

Mr. BROYHILL. Mr. President, will the Senator yield?

Mrs. HAWKINS. I yield.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BROYHILL. Mr. President, I never forgot the first time that I met JOHN EAST. It was in 1965. At that time he was a candidate for the U.S. House of Representatives in North Carolina's First Congressional District.

I was immediately impressed with JOHN's very keen intellect and his ability to articulate the issues. He was a man of very firm convictions and, of course, was devoted to his country.

The Senator from Florida has already pointed out his academic achievements and the fact that he was an attorney as well as a Ph.D. in political science, and, of course, it was of great interest to me, a student of political science, that he chose as his profession to be a professor of political science to teach young people about the political affairs of our country and to tell them about his deep feelings, about how he felt. He was consistent in his attitudes and in his beliefs in all the years that I knew him.

I started working with JOHN back in those days as we were both working to advance the political causes in our State of North Carolina. It is interesting to note that in our State there have only been three Republican national committeemen from our State since 1928, the father of former Congressman Charles R. Jonas and my father, and then JOHN EAST succeeded my father in 1976.

I can recall that when my father retired as Republican national committeeman from North Carolina, his first recommendation for replacement was JOHN EAST.

The last time that I had a prolonged conversation with JOHN was at a campaign luncheon that was sponsored in my behalf down in Greensboro, NC, on June 4. That was an exciting moment when we had our Governor, Governor Martin; Senator HELMS; and our President Ronald Reagan; and Senator EAST all sharing the head table. At that time JOHN had not only expressed his hope and desire that I be elected to the Senate, but he offered his personal testimony, without notes and from the heart and in my support, and I will always be grateful for that.

Mr. President, JOHN was well loved by young people and his former students at East Carolina University who had gone to class under him always remembered him affectionately wherever I met them across the State.

He had every year young people intern in his office and I remember reading a letter to the editor which appeared in the Winston-Salem Journal a few months back. The writer of that letter was a gentleman from out of State whose granddaughter had participated in the student intern pro-

gram in JOHN EAST's Washington office.

At the end of her experience, she had told her grandfather that many of the legislators, in her impression, have been abrupt or demanding or maybe perhaps had had little time to speak and devote to the intern. Her grandfather asked which Senator seemed to be the favorite among the students and after thinking a moment, she said, "Senator EAST."

She continued that the North Carolina Senator always took time to explain the legislative process to young people and seemed eager to ensure that they had an enjoyable learning experience.

That is the kind of man JOHN EAST was. That is the kind of man that we knew and he was our friend. He will be sorely missed.

Our prayers and our love and our hearts go out to his family, his wife Sis in this their time of sorrow.

Mr. SIMPSON. Mr. President, today for a few moments we all will share in paying tribute to Senator JOHN EAST. That is a sad mission. It is a time of remembrance of this man, a very special person; and his wife, Sis, a very courageous and very special lady, herself—strong, protective, resilient; I watched her with administration in their relationship together.

I think of the JOHN EAST who was so very excited when he came here to this place, full of life and full of enthusiasm. Bright-eyed, ready for the test, and the testing came early and he proved himself a very tough competitor, and very fair. Indeed, he "hit the ground running" when he came to this place. And he loved it.

His death leaves a great emptiness in all of us who came to know him. He had a deep commitment to public service, despite the obvious hardships he faced. He had, in essence, a very gentle disposition in the face of those same hardships, and that was an inspiration to all of us in the Senate. He wanted to be here.

And so too we are all moved by the knowledge of that long battle that he waged against the polio that afflicted him, long afflicted him, as a young adult and in later life. And we stood in awe of the fierce determination that enabled him to become, first, a respected teacher and then a U.S. Senator.

When you sort out the life of JOHN EAST, you are awed by what he did for himself, principally, and then for his family, and then for his State, and then for his country. And even in the Senate he remained always a teacher. JOHN EAST was a teacher. He taught us often in the usual and the traditional way of teachers; through a very well-reasoned, well-prepared exposition of an idea presented with clarity and always with a touch of good humor.

I do not know how many saw that in him. I certainly did. A man of good humor.

As he taught us in his way as a teacher, he was always very careful to explain how he arrived at his conclusions. Some of those conclusions I assure you I did not agree with, and we used to talk about that and argue about that—but always with great civility. Whether you agreed with him or not, you always knew that he had given a great deal of thought and effort to presenting his position.

But JOHN EAST also taught us in another and very effective way, and that was by example, because his integrity, his dogged persistence, his very presence and spirit among us, despite those physical limitations, was an example to all of us. And we are the better for having known him and we have learned much from him.

I think of how he would come up that ramp, up to that chair, into the subway, all with an effort that many of us could not possibly recognize at all. And he did that, often smiling and with great good humor.

So we learned from him how to overcome the things that really are real while we often dabble along in things in a legislative body that we think we are "real" and yet are often very ephemeral and really do not really mark much up on the great score card of life.

And so we watched him. And we are now saddened and a bit dulled by his death, and we seek understanding of such an event and yet that is an understanding which will be denied to us—assuredly it will be denied to us.

I spoke on the day of the swearing in of his fine successor JIM BROYHILL about the "why's" of the situation. And we will never know "why"? That will escape us, too. We will have no understanding of that. We will not know how he became overwhelmed or overcome and why that happened and why his spirit and courage that had carried him so far no longer served to do that. Why? We will not know that—never.

But I do remember once, as he acknowledged to me the dual effect of the burden of polio and the disease of hypothyroidism. He said, with that great spirit shining through, "You know, I can beat one or the other of them but put them both together and boy, that is tough; really tough." And it was tough, obviously tough.

I remember a particular time, about 18 months ago, when my dear friend RUDY BOSCHWITZ and I were visiting with JOHN. He wanted to visit. He wanted to ask us some things. We were then "old heads" for we had been here 2 years before he had come! And he wanted to talk. He was tired, he said; he was wondering, he said; and he was questioning, he said.

And he said, "Do you still like it? Do you still get frustrated? Do your colleagues drive you crazy sometimes?" And we said, "Oh, assuredly so, we can tell you; you bet." And we allowed that was all true. Indeed, it was and is, but that is part of the unique and marvelous experience of this place.

And so we shared much that day—we all did—not about the Senate and public life and all the trappings of this experience, but we talked about feelings; the real feelings about triumph and disappointment and the good, the bad, and the ugly, and how you prevail in this fascinating arena, which is perceived as a very romantic and kind of dazzling experience, and it is that, but it is also a very personal place where we get to know each other and share our anxieties and our problems and our usual commentaries about questionable legislation and the power of staff and other things of that nature that are so real to us on a daily basis.

□ 1020

On that special day—it was back in the President's Room where Senator BOSCHWITZ, Senator EAST and I visited—we talked about those things, about family, the job and health, and healing, and so much.

It is not good for us to dwell too darkly upon the fact of his death, but let us try to remember with very glad and full hearts the blessing of his life because he did and will always serve as an inspiration to us all.

JOHN EAST accomplished so much good in his life and now he has found his peace with his God. Let us rejoice, certainly, and be heartened in the knowledge of that truth.

We pray also that the remarkable lady, Sis, who was at his side for so many years, and his dear daughters, Kathryn and Martha, and all the others who loved him, and all of us, may be granted God's sweeping comfort at this time of his loss—because we are the losers.

God rest the soul of this dear and kindly man and let grief wane and God sustain.

I thank the Chair.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

TRIBUTE TO SENATOR JOHN P. EAST

Mr. HEFLIN. Mr. President, I am filled with sadness as I rise today to pay tribute to our colleague, Senator JOHN P. EAST. His death leaves a void in this Chamber which will not be easily filled. A strong, respected voice is now hushed, and in this silence we are the less fortunate. He was also a great friend and I will miss him in the years to come.

The example which Senator EAST left is one of courage, perseverance, character, and accomplishment. It was with tremendous courage that he faced life in 1955 at the age of 24 after the ravages of polio had savagely

taken from him the use of his legs. It was with perseverance that he overcame his individual handicaps and earned a law degree at the University of Illinois and a doctoral degree in political science from the University of Florida. It was with character that JOHN EAST recognized no personal bounds and ran for the U.S. Senate to provide his country with his valuable services and his strong, clear voice. And, it was with accomplishment that he performed his duties as a Member of this body and represented the people of North Carolina.

Throughout his life, JOHN EAST possessed a tenacious resolve that enabled him to triumph. He forever embraced the strong moral convictions and high personal standards that distinguished him as a gentleman of great integrity. His intellectual prowess and faculties were remarkable, and his power of reasoning was outstanding. In any matter or on any issue his counsel was wise and studied, and his participation vital.

Above all else, Senator EAST labored throughout his life to benefit the people of this Nation. For 16 years he devoted his astonishing intellect to the unselfish profession of teaching as a political science professor at East Carolina University. Thousands of students benefited from his guidance as he taught them about our government and about the American way. When he was elected to the Senate, he brought with him this unselfish desire to teach. I believe that this is one reason behind the outstanding representation which he provided to his constituents. Not only did he struggle to serve them to the best of his ability, but he also worked to give them a better understanding of the workings of government. This is one of the most important gifts which can be given, for it helps to further both democracy and freedom. An informed public means a stronger, more viable democracy. Such a contribution is, indeed, outstanding.

At all times and in every situation JOHN EAST possessed a delightful, easy manner which touched everyone. He always had a smile on his face and a cheerful word for everyone.

I hold a tremendous respect for our departed colleague, Senator JOHN P. EAST, as a statesman and as a legislator. He served the people of North Carolina, and of the United States of America well. His life of achievement is inspiring. He will be missed, and he will be long remembered. I believe that we should go forth from here, today, holding in our minds and in our hearts the example which our friend and colleague, JOHN EAST, set throughout his life. Indeed, he showed the way which we should follow in our duty to our States and to our Nation.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, as we reflect upon great human tragedy, we stop and recognize that as human beings, we share great joys and great sorrows. For all of us, it is not if we will have great sorrows, but rather when, because we all share in great human losses.

We do not stand here today as Republicans or Democrats; as conservatives, liberals, or moderates. We stand here today to reflect upon our own mortality.

JOHN EAST was one of us. I sat with JOHN in committee meetings. We did not always agree—very few of us always agree. But you never had to wonder how JOHN EAST stood on an issue. JOHN EAST never pussyfooted around. You knew exactly where he stood and we all respected that characteristic. We can all learn much from the depth of his convictions.

JOHN'S passing from us at such an early age seems so unfair, but life itself is not fair. While we cannot do away with life's uncertainties, we can resolve to be kinder to each other, a little less selfish and more compassionate to those whose lives we touch.

□ 1030

Mr. President, I for one will miss JOHN EAST very much, not only his dedication but his cheerful smile, his cheerful greeting; when you talked to JOHN EAST, you knew he was a friend.

To JOHN'S wife, Sis, and his family, we offer our deepest condolences and prayers during these difficult times. JOHN EAST touched all of our lives. We are all better human beings for having been privileged to know him.

Mr. WARNER. Mr. President, the passing of Senator JOHN EAST represents an enormous loss to the U.S. Senate and to the country he loved so dearly. As one who is privileged to represent Virginia, a bordering State, the loss of Senator EAST is particularly sorrowful; for the bonds that tie the Commonwealth of Virginia and North Carolina run long and deep.

The life of JOHN EAST, much of which he bravely endured with a handicap, was a profile in modern courage. The physical and intellectual challenges open to Members of this body can be extraordinarily high, and JOHN EAST was an extraordinary man who met each and every one of those challenges. He never sought sympathy or any special consideration from his colleagues. Instead, until a recent illness temporarily forced him to reduce his workload, JOHN EAST'S career in the Senate was marked by the same vigor that propels the rest of us.

JOHN EAST leaves behind a lifetime of accomplishments. After playing college football and serving in the U.S. Marines, JOHN EAST went on to law school, graduate school, and a distinguished career in teaching. It was during this time that his keen mind—a mind that was envied by all in this body—finely honed the conservative principles he believed in so passionately. He became an articulate spokesman for conservative causes, and his vision and determination will be greatly missed.

Although some of Senator EAST'S convictions were highly unpopular, nothing deterred him in his work for change. In doing so, his tools for change were a brilliant intellect, personal integrity, and tenaciousness, and a voice that commanded respect by all.

Sadly, we have lost a colleague who had not yet achieved the full measure of success he most certainly would have achieved if tragedy had not befallen him.

My deep, heartfelt sympathies are extended to his lovely and beautiful wife and to his family by all of us who loved him so dearly. He was a fine man, a fine Senator, a great patriot, and a Southern gentleman in the true spirit of that tradition.

It was my privilege to go to North Carolina during his campaign and to campaign beside him and beside his wife. I shall miss him greatly, as will this body.

Mr. STEVENS. Mr. President, JOHN EAST brought many things to this Chamber. What he really brought was his views. He remained loyal to his ideals; and even when his views put him in a very small minority, he was heard.

Much has been said, as the Senator from Virginia has said, about the hurdles which JOHN overcame throughout his life. I am not here to dwell on those difficulties, except to note that in overcoming those difficulties, he achieved far more than most Americans can dream to achieve.

I think he set an example for disabled Americans. He also set an example for those who are fortunate enough to be here without a disability, because few can claim to have left the mark that JOHN EAST left in so short a time.

He came here with both a law degree and a doctorate in political science, and he was a successful professor as well as being a successful Senator.

He really did accomplish many things during his life. I am sure that one of the things he is most proud of was raising his two daughters, Kathryn and Martha. They, along with our good friend Sis East now have a new challenge. As one who has faced that challenge, I know that they will find comfort in the words of JOHN'S colleagues in the Senate and know that our thoughts are with them.

Earlier this week, Senator HELMS was kind enough to share with us articles from several newspapers which

memorialized Senator JOHN EAST's life. In looking over those articles, the image I have of JOHN EAST came back. It is not the same image that many people would have. It is the image of JOHN EAST in the Senate Chamber.

Although he was disabled, I met JOHN very often in the Senate gym, because he was dedicated to trying to maintain his vitality, and we had many conversations there. I got to know the real JOHN EAST, I think, in those conversations in the quiet of the Senate gym, where we were not pursuing our philosophy but were getting to know one another. I found him to be an intelligent and fiercely dedicated man, dedicated to the principles on which this country was founded.

We had many disagreements, some in the gym and some here on the floor; but there is no question that North Carolina sent a brilliant public servant to the Senate when they sent us JOHN EAST. We will all miss him very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1100

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the news of the death of Senator EAST came as a great shock to me, as I am sure it did for all my colleagues. Whenever a family member, friend or colleague dies there is a profound sense of loss. With Senator EAST it was the loss of a friend and colleague who brought unique talents, experiences and character to the Senate. His strong spirit, raw courage and deep conviction added to the distinctive character of this institution.

Mr. President, I recall the first time I heard of JOHN EAST, was long before he ran for the Senate. As a matter of fact, it was before I came to the Senate. One of the members of my Governor's staff in Oregon, Conrad Joyner, had been Senator EAST's debate partner at Earlman College in Indiana. It was through my relationship with Conrad and the stories he related to me about his debating partner that I first was introduced to JOHN EAST the man. When I later learned of his successful election to the U.S. Senate, I looked forward to meeting and working with this individual of whom I had heard but had never met.

While our different committee assignments and responsibilities precluded us from working closely together during the Senator's tenure in the Senate, I quickly developed a respect for his dedication and zeal for his work. I remember during my own days teaching political science at Willamette University and challenging my students to develop and cultivate a philosophy of government.

I shared with Senator EAST on occasion our mutual backgrounds in that teaching profession and our wonderful experiences of working with students.

Senator EAST had a philosophy, one which he was deeply committed to. No one had to wonder where the Senator stood on an issue. His position was always clear and he was always an able advocate and defender of it.

Mr. President, the death of a colleague also causes one to reflect on how fragile life is and the value of friends and relationships. In modern day political life we have become so preoccupied with maintaining the proper external image that I fear we lose touch with the real person behind the image. The death of our friend JOHN EAST is a reminder that behind the images we project as Senators are people with deep feelings. Sometimes they are feelings of rejoicing and of victory and other times feelings of pain, frustration, and defeat. Senator EAST's death is a testimony to the ease at which we can work closely with a colleague and yet not know of their struggle.

Mr. President, my thoughts and prayers for grace and strength during these difficult days go out to Mrs. East, the family and the family's friends.

□ 1110

(Mr. HATFIELD assumed the chair.)

Mr. HELMS. Mr. President, 8 days ago, when I had the sad duty of formally advising the Senate of the death of my dear friend and colleague, Senator EAST, I paid my respects to a dear and cherished friend. I will not today repeat those remarks, other than to say that no Senator ever had a finer colleague than JOHN EAST. So many vignettes come to mind at a time like this, when one reflects upon the personal relationship that we have with our colleagues in the Senate.

Mr. President, I have never known a man with more compassion than Senator EAST, nor have I known another statesman who was more dedicated to his country and its principles. I have been gratified that throughout the tapestry of editorial comment and statements by people who knew and admired and respected JOHN EAST that this dedication was foremost in their minds. So it has been helpful at this difficult time that so many have spoken out about the Senator.

Mr. GOLDWATER. Mr. President, having served very closely with Senator JOHN EAST on the Armed Services Committee, I got to know him a little better probably than most Senators who did not have that privilege. He was, indeed, a remarkable person, because I know that his days were filled with pain and his movements were not easily accomplished. He had a brilliant brain, a wonderful way of expressing himself, and he was a very, very fine, decent gentleman.

What, I think, will stay in my memory about JOHN, are his everlasting efforts to be kind and good and understanding. These attributes are not found every day in everyone so we can say to him, thank you JOHN, you've been an example for all of us.

DEATH OF SENATOR JOHN EAST

Mr. NICKLES. Mr. President, today we are pausing to recognize the life of our colleague and very good personal friend, Senator JOHN EAST. On June 29 of this year, we were all shocked and I believe saddened to learn of Senator EAST's death.

JOHN EAST was, by any definition, a very exceptional man. From his youth, he was a person who had to overcome many obstacles and many challenges, any one of which could have defeated or impaired most people. At the age of 24, he contracted polio while serving his country in the military. He went on, confined to a wheelchair, to earn his law degree, master's, and doctorate degrees in political science. He was an inspiring mentor to the students of East Carolina University.

Senator EAST and I were elected together in 1980 and it did not take long to begin serving with him to learn that he had a very exceptional mind, very keen intellect.

I really respected him because he had a commitment. He had a commitment on a lot of issues. He fought hard. He believed in what he said. He brought a lot of things to the floor of the Senate, I think, that we need to have brought to the floor of the Senate, that we need brought to public service, and that was a commitment to freedom, a commitment to personal freedom, a commitment to economic freedom, religious freedom.

He was a committed servant for the people of North Carolina and I think the people of this country. He certainly will be missed on the floor of the Senate. Very tragic in his death, but I think it reminds us that we are all frail and that we are all human. We will certainly miss the person, the man, the friend, the colleague, the Senator, JOHN EAST, and the commitment that he has brought to the U.S. Senate.

To the EAST family, to Sis and her daughters, we extend our sympathy, our compassion, our love, and our prayers. We pray that God will give them the comfort and the strength that they need in this most difficult of times.

I yield the floor.

(Mr. GOLDWATER assumed the Chair.)

Mr. DENTON. Without fanfare and without adequate public recognition, JOHN EAST forged a monument of achievement amid handicap and adversity. That monument of example is finally receiving reverent acknowledgment today.

Most men can but owe much of their lifetime's success to their wives. JOHN was married to a lady of beauty and inner strength, who was his constant companion, whom my wife and I came to know as "Sis." I am grateful that she is here this morning.

As the former Priscilla Shierk, she met JOHN while they were both at Earlham College where JOHN pursued a B.A. in political science. While an undergraduate at Earlham College, JOHN played tackle on the football team and was a member of the debating team. JOHN then joined the U.S. Marines where he served as a lieutenant.

Twenty-two days after being discharged from the Marine Corps at Camp Lejeune, JOHN EAST contracted polio. But polio failed to stop him from leading a remarkably fruitful life. It seemed to accelerate him. He earned a law degree from the University of Illinois, practicing law in Florida for 1 year. He then earned his master's degree and doctorate in political science from the University of Florida before joining the faculty of East Carolina University in July 1984.

At East Carolina University, JOHN was a very popular professor where he taught political science with such enthusiasm that thousands of his students would go away with a new appreciation of American Government and that Government's priceless principles. He was a very, very popular professor. The great legacy of his teaching lies in the ideals that he instilled in so many young minds and hearts. Many of his students are now involved in government and politics in Washington and elsewhere and tell stories of how JOHN cared as a professor and practiced with great zeal, taking the pains, the time, the personal attention with them to have lunch with them in his office, often to explain some point that they, as young students, had overlooked in their studies. The consistent message that JOHN EAST brought to classroom was the same that he brought to the Senate: Serve, and in serving, apply moral courage reinforced by imagination and intellectual power.

I think not one of us in this body has taught moral courage by example more than JOHN EAST. No one has been more involved in politics. He was active in politics as a youth. He served as the State Republican Party's national committeeman, was a delegate to the 1976 Republican National Convention, where he served on the platform committee and then was reelected national committeeman in 1980 and 1984.

□ 1120

He twice received East Carolina's "Excellence in Teaching Award." He was also an excellent political author. His doctoral dissertation, "Council Manager Government: The Political Thought of Its Founder, Richard S. Childs," was published as a book by the University of North Carolina Press at Chapel Hill. JOHN also wrote a book that he finished just before his death that will be published this summer entitled, "The American Conservative Movement: The Philosophy Founders." Its chapters, written with much care, were published over the years in the Quarterly Journal Modern Age.

As I mentioned, JOHN, in the Senate, again demonstrated his moral courage as a member of the Senate Judiciary Committee. I observed him in our meetings there. He was always a man you could count on to apply his judgment with integrity, expressed with eloquence and extraordinary courage. He did not bend with the winds of perceived popularity. He stood with what he believed to be right.

I also served with JOHN EAST on the Armed Services Committee, chaired by the most distinguished chairman of that committee, who is now in the chair as presiding officer, Senator GOLDWATER. The chairman and I know that he was one of the strongest voices for providing a sound and effective defense for our country. JOHN could always be relied upon to resist the popular trend, the temptation to "bash the Pentagon," of trying to balance the budget on the back of defense. He stood and voted for what he believed to be right, even when it was unpopular.

Mr. President, I cannot relate the deep levels of confiding which JOHN blessed me with in private conversation, but I can say I was inspired and I am grateful.

Mr. President, I shall miss JOHN EAST in the Senate. His colleagues will miss him. His State will miss him and the country will miss him. I am not sure that any of those who will miss him realize how much at this point in time.

Mr. President, it is always sad when this body suffers the untimely loss of one of its Members. This case is no exception. But I am confident that JOHN and his family would prefer that rather than mourning his absence, we remember him with pride and friendship. That is what I shall do, and I am sure that my colleagues on both sides of the aisle will do so.

SENATOR JOHN EAST

Mr. DODD. Mr. President, our normally happy return to Washington is marred by the knowledge that one of our colleagues, JOHN P. EAST of North Carolina, will not return with us. JOHN EAST was a scholar, a family man, and a dedicated public servant. His accomplishments seem all the more remarkable when we consider the disability he endured and overcame. We in the Senate are saddened by his passing, and I would like to extend my sympathy and condolences to his family and friends on this painful occasion.

In the 5½ short years that I had the privilege of serving with JOHN EAST in the Senate, I knew him to be a hard worker, a generous and compassionate man, and a unfailing advocate of his ideals. JOHN EAST demanded so much from himself on a day-to-day basis in his dedication and commitment to public service.

JOHN EAST was a model of tirelessness and selflessness. By his example, he taught us that a person who is physically challenged, as he was by polio, can rise to that challenge by virtue of personal courage and fortitude. He also taught us about personal sacrifice for public service. Although I disagreed with him on many issues, I admired the Senator from North Carolina for his forthrightness and his persistence, and I only hope that I am as forceful an advocate for my ideals as he was for his. We will miss our colleague, the Honorable JOHN P. EAST of North Carolina.

THE DEATH OF SENATOR JOHN P. EAST

Mr. DECONCINI. Mr. President, the death of Senator JOHN EAST has saddened me and left a void that will not be easily filled in this Chamber. JOHN EAST was a man of great integrity and scholarship. He was a man of keen intellect who was equally at ease with a discussion of philosophy, trade policy, or agriculture. Many were the time when Senator EAST and I were at meetings of the Judiciary Committee when he would undertake an explanation of his position; these explanations, always given off the cuff and without notes, were always erudite, thorough, and an exquisite explication of the point of view he was advocating. I may or may not have agreed with the point being made, but I was always in awe of Senator EAST for the elegance and precision with which he addressed an issue.

In addition to his obvious intellectual powers, JOHN was a man of compassion and courage. We all are familiar with the health problems that plagued him. He never complained; he did his best to overcome these difficulties. His kindness and decency were never questioned. He devoted a great deal of his Senate career to championing the cause of the unborn and the pro-life movement. This was an issue of enormous controversy, but Senator EAST never waivered in his quest to do what he thought was right.

This body will miss the voice of the philosopher Senator and I will miss him personally. I extend my deepest

sympathy to his wife, Priscilla, and other members of his family.

Mr. PACKWOOD. Mr. President, I join my colleagues at this moment to honor and remember the Honorable JOHN P. EAST. Senator EAST overcame physical handicaps to become a scholar, teacher, and a respected statesman.

After contracting polio in 1955, he went on to earn three degrees. In 1959 he received his law degree, and within the following 5 years he had earned both his master's degree and his doctorate degree. After a long and successful teaching career Senator EAST began his term in the Senate.

During our time together in the Senate, JOHN EAST never ceased to be a gentleman, even when we were on opposite sides of an issue. He presented a scholarly, well-organized approach to his arguments. For this reason he was respected in the Senate, and we will all miss him.

I wish to extend my sympathy to the family of Senator EAST, especially to his wife and two daughters; and to assure them that he will be remembered for the man he was: Pleasant, dedicated, and courageous.

Mr. ROTH. Mr. President, today I wish to join my many distinguished colleagues in paying tribute to Senator JOHN PORTER EAST, a man whose strength of conviction and inner resolve complemented this honorable body and served as an example to each of us.

The great English statesman, Benjamin Disraeli, once wrote that life is too short to be little, and today I would like to take this thought one step further and add that the majesty of a life is measured not by its length but by its accomplishment. In this regard, Senator EAST lived a life fulfilled.

From the time he came to the floor of the Senate in 1981, to his death only 3 weeks ago, Senator EAST represented the people of North Carolina, never waivering from their best interests and common well-being, and he proudly carried the philosophy and banner of his political party.

His education and professional background as a professor, attorney, and writer, prepared him well for the service he rendered in this Chamber. His optimism and friendly disposition marked his personality and made him a pleasure to work with.

At this time, as we pay tribute to Senator EAST, I would like to express my appreciation for the opportunity I've had to work with him, and I would like to express my condolence and support for his fine family who supported him as he supported us.

IN MEMORY OF SENATOR JOHN PORTER EAST

Mr. McCONNELL. Mr. President, I rise at this time to join my Senate colleagues in memory of our distinguished friend and colleague from North Carolina, JOHN PORTER EAST. During my brief time as a Member of this body, I had not only the opportunity to work with Senator EAST, but also the pleasure of knowing and learning from one of the most dedicated men I have encountered in my life.

As a member of the Senate Judiciary Committee, I worked closely with Senator EAST, and there discovered a depth of commitment which made me proud to be a Member of this body. Certainly, as many of my colleagues have remarked, Senator EAST demonstrated a combination of strength, dedication, partiotism, and intellect that is matched by few and admired by many. Despite his health, he maintained an unflinching commitment to his fellow human beings. An extremely hard worker, he placed his own well being below service to his job, his constituents, and his country. His genuine care for the unborn child, his concern over the security of our Nation, and his devotion to education should serve as examples to us all.

Whether on the floor of the Senate, in committee, or in the classroom, Senator EAST presented a model of character and a source of inspiration for us all. There is no doubt that we will miss the tireless efforts of our colleague, but even more, we will mourn the absence of his company and the loss of a trusted friend.

Mr. President, it is sad that people often fail to see the worth of life until confronted with death. Yet at this time I think it is appropriate that we take a moment to reflect on our Nation's quality of life, its sense of democracy, and its foundations of freedom. For it is to each of these that Senator EAST offered the very most of his capabilities—often through periods that others would lack the strength and dedication to endure.

Because JOHN PORTER EAST gave his all for his colleagues, his constituents, and indeed every citizen of our United States, we will all be diminished by his passing away. However, in the light of his example and the memory of his work in this body, we can and should continue to advance the principles for which he so honorably stood.

Mr. President, I close by expressing my deep regrets and remorse over the loss of a friend and colleague, and by extending my heartfelt condolences to his family.

TRIBUTE TO SENATOR EAST

Mr. D'AMATO. Mr. President, it is no easy task to accept the death of a close friend. In the case of JOHN EAST, it was tragically unexpected. Our sadness is deep. He was an inspiration to us all.

Following a bout with polio, after having played college football and serving in the Marines, JOHN EAST learned that he would never walk again. Facing a tragedy that would have broken most men, JOHN EAST climbed into a wheelchair and pressed on with his life. He earned both a doctor of laws degree from the University of Illinois and a doctor of philosophy in political science from the University of Florida. He bravely began a career educating America's youth in political science and in the conservative principles which he so deeply believed. This comeback from adversity culminated in his election to the Senate, where for 5 years he put his words into action.

JOHN EAST and I arrived in the Senate at the same time, and I feel privileged to have known him and to have shared his vision for America. He supported prudent measures to restore this Nation's economic health, and to restore this Nation's defense capacity. He worked also for the Nation to regain a sense of purpose, an overall concept of itself. JOHN EAST loved America and he loved his community. He served both with great distinction.

History will record the official legislative action of Senator EAST, and the CONGRESSIONAL RECORD will transcribe his words. But we, his colleagues, became intimately familiar with a man whose presence in the Senate had an enormous effect upon us all. It would have been impossible to measure JOHN'S patience. It would have been equally impossible to gauge his determination, the strength to maintain a purpose in spite of difficulty or obstacles.

We miss JOHN very much. The Senate will miss his wisdom. America will miss his example.

Mr. MATTINGLY. Mr. President, I doubt if any of the Members of the Senate have yet been able to fully absorb the shock of the death of our colleague, Senator JOHN EAST.

JOHN and I came to the Senate together as members of the class of 1980 but my friendship with him predated our service in this body. We had first become acquainted as a result of our Republican Party activities in North Carolina and Georgia. We shared a distrust of big government and a faith in the virtue of individual responsibility and initiative.

JOHN EAST was a man of impressive intellect, graduating Phi Beta Kappa from college and later earning a law degree as well as a master's degree and doctorate in political science.

His physical courage, though, was as great as his intellectual gifts. JOHN always comported himself with dignity, rarely using his time or yours to dwell on the difficulties imposed by his physical condition.

JOHN EAST was first and foremost a teacher. In fact, he had wanted to return to academe upon completion of his term in the Senate. Those that learned from him in the classroom, however, were not the only ones to benefit from his teaching. He challenged us to think and to question. He

challenged each of us to formulate our positions based on sound judgment and to stand by our convictions. He was a friend and will be missed.

My wife, Carolyn, and I extend to JOHN'S wife, Sis, to his children and to all members of his family our truly sorrowful condolences. We thank them for his service to the U.S. Senate, to the people of his State, and to our Nation.

Mr. STAFFORD. Mr. President, I rise to pay my respect to the late U.S. Senator JOHN P. EAST of North Carolina—a colleague, a fellow Republican, but most of all in this Senator's mind, a human being who showed the way in courage and tenacity.

We who served with Senator EAST here in the Senate are not likely to forget quickly the determination he exhibited to overcome grave physical disabilities, and the success that he demonstrated in accomplishing this. My closest association with JOHN EAST came not here on the Senate floor or in committee rooms, but in witnessing him in the Senate gymnasium where each of us attempted in an almost daily ritual "to stay in shape."

JOHN EAST never gave up. It was a learning experience for this Senator to witness his determination and plain "grit." I often wondered how many others of us would face the world each day and go about our jobs so forcefully if we too had to work so hard just to exercise our bodies.

Each of us, I suppose, hopes to leave some marks by our service here in the Senate. JOHN EAST, at least as far as this Senator is concerned, left such a mark—a constant reminder not to feel sorry for oneself, a constant reminder that courage is exemplified in many different ways. And very often it is exemplified best by those who outwardly, at least, would seem to have the greatest reason to feel sorry for themselves.

JOHN EAST was a courageous human being.

A TRIBUTE TO SENATOR JOHN EAST

Mr. SYMMS. Mr. President, our late colleague and my close friend Senator JOHN P. EAST, was a great American and a great Senator. He always held a firm vision of a morally great and powerful America.

After his election in 1980, JOHN EAST came to this body full of intellectual and moral vigor. He was always able to participate tellingly in our Senate debates on any subject, at any time. He was one of our finest, most articulate, and most persuasive speakers. I remember the times that JOHN'S presence and voice on the floor made a difference on the outcome, especially on defense and foreign policy issues, which he was most interested in.

As chairman of the Judiciary Committee's Separation of Powers Subcommittee, JOHN held several important meetings. I remember well his hearings in July 1982 on Senate Joint Resolution 212, an effort to legislate compliance with the unratified SALT II Treaty. I participated in this hearing. It established the important facts, which the Reagan administration supported then and still supports, that it is an unconstitutional exercise of power for Congress to try to legislate U.S. compliance with an unratified SALT II Treaty. This hearing was one of JOHN EAST'S most important contributions to our deliberations on arms control.

I regret that we will no longer have the benefit of Senator EAST'S wisdom, learning, articulate persuasion, and congenial presence in our Chamber. JOHN was a great Senator, a great patriot, a great marine, a great American, a great teacher, and a great personal friend. I salute him and all the noble ideas he stood for and exemplified in his life.

Mr. BINGAMAN. Mr. President, I wish to join my colleagues in paying tribute to Senator JOHN EAST, both for the contribution which he made to this country and for his courage and decency in the work he did here in the Senate.

I had the privilege of serving with Senator EAST on the Armed Services Committee for the last 3½ years and during that time I had many occasions to admire his strong commitment to his own political views. JOHN was not one to let his physical handicap interfere with his forceful advocacy of what he considered to be right. In all my dealings with him, I found him to be a credit to the Senate and a person considerate of the welfare of those he dealt with.

Mr. President, JOHN EAST will be missed here in the Senate and I'm sure none of us will quickly forget the courage and conviction with which he approached his duties in this body.

TRIBUTE TO THE LATE SENATOR FROM NORTH CAROLINA, JOHN EAST

Mr. THURMOND. Mr. President, the death of JOHN EAST has saddened each of us and left a great personal and professional void in the U.S. Senate. During the 6 years he served in this body, we grew to respect and admire him. To his lovely wife, Sis, and daughters, Martha and Kathryn, Nancy and I extend our deepest sympathy.

A native of Springfield, IL, Senator EAST graduated from Earlham College in Richmond, IN, and received his law degree at the University of Illinois. He went on to receive his doctorate in political science from the University of Florida.

He was an educator and scholar, a man of extraordinary intellect and imagination, who chose for most of his professional life to impact America by teaching and touching the minds of his students. Throughout his career, he was a voice for the restoration of family values and traditional ideals, which are the foundation which has made America great.

It was his conviction to such high ideals that motivated him to seek the U.S. Senate seat for North Carolina in 1980. He came to the Nation's Capital with a fresh dedication to public service and a confidence in the basic goodness and integrity of our citizens and America's great heritage. Throughout all the time I have known him, he never wavered from his commitment to the basic values he believed formed the heart of this Nation.

In the Senate, he was an able legislator; a courageous and dedicated public servant; and a true patriot. To those who knew him, he was a devoted husband and father and a person of absolute integrity and principle. His life was a shining example of the qualities which have made America great: love of God and country, and devotion to family. His death is a great personal loss to all of us, and especially to me, because JOHN EAST was more than an outstanding Senator—he was my devoted and valued friend.

Although polio confined him to a wheelchair in his early twenties, Senator EAST refused to let his physical limitations keep him from his call to duty, his responsibilities, or his pursuit of excellence. I often admired his tenacity and courage in overcoming hardship and handicap. He was truly an inspiration to all of us and especially to the thousands of Americans who have disabilities.

As chairman of the Senate Judiciary Committee, I had the opportunity to work very closely with Senator JOHN EAST. The entire Judiciary Committee benefited from his outstanding knowledge of jurisprudence and his many tireless contributions.

As chairman of the Subcommittee on Courts, he gave his support to legislation to streamline the judicial system and ensure its efficacy in providing justice for all. Out of a sense of fairness, he allowed some measures he personally did not support to pass out of his subcommittee to receive full committee consideration.

Many will remember JOHN EAST for the social issues around which he rallied. He advocated voluntary prayer in the public schools and believed that life begins at conception. He opposed the jurisdiction of the Federal courts in areas such as school busing and abortion.

Those of us in the Senate, regardless of our political views, will always remember JOHN EAST as a quite man who measured the worth of every word before he spoke, a brilliant legislator who was both thoughtful and compassionate, and a dedicated American who loved his country and was willing to pay the price of freedom.

Mr. President, I ask unanimous consent that the following excerpts from articles written about Senator JOHN EAST be entered in the RECORD, and I ask my colleagues to join me in paying tribute to this great American leader and our devoted friend.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From the Charlotte (NC) Observer, June 30, 1986]

SENATOR JOHN EAST

Senator East was a serious senator but not a flamboyant one. His politics—like those of his political mentor, Senator Jesse Helms—were of the far right. He worked, for the most part, outside the spotlight and bolstered his arguments with quotations from Plato and St. Thomas Aquinas.

To know Senator East was to admire his dedication and courage. He was undeterred by his physical disabilities. He developed a solid academic career and, spurred by his passion for public issues, undertook the grueling life of a politician. His Senate colleagues noted that quiet determination in the last months of his life.

[From the Washington (DC) Times, June 30, 1986]

SENATE CONSERVATIVES LOSE A LEADER AS JOHN EAST DIES

Mr. East led the fight to return prayer to public schools. He also conducted hearings on an anti-abortion bill that would declare a fetus a human being at the moment of conception, a move widely regarded in anti-abortion circles as a political turning point in the abortion debate.

Although he filibustered against extending the Voting Rights Act in 1982, Mr. East generally adopted a low profile, concentrating his efforts on the restoration of traditional family values.

Last week, Mr. East voted to confirm conservative lawyer Daniel Manion to a federal judgeship—a nomination with somewhat dimmer prospects without Mr. East's vote.

Mr. East himself was under consideration for one of two vacancies on the U.S. Court of Appeals in the District of Columbia, according to knowledgeable sources.

In 1981, Mr. East was named chairman of the Senate Judiciary subcommittee on separation of powers. He most recently served as chairman of the panel's courts subcommittee. He also served on the Senate Armed Services Committee.

Mr. Reagan, in a statement from his California ranch, said Mr. East was a "true patriot" who was "never flamboyant or interested in personal acclaim."

"He was a quiet and effective legislator, who never wavered in his belief in principle and in his determination to keep our country strong," Mr. Reagan said. "He cared about the people of North Carolina in a special way and was immensely proud of being choosen to represent them in Washington. Even in the face of adversity, John East put his duty and his constituents ahead of his personal comfort, earning him the respect of his colleagues on both sides of the aisle."

His political mentor, Mr. Helms, "is in a state of shock," said the senators' wife Dorothy.

In a statement, Mr. Helms said the loss of Mr. East was "a tragedy of monumental proportions. The Senate has lost a brilliant and effective voice for freedom, and those of us who were privileged to know him and serve with him have lost a dear friend and a constant source of inspiration."

"John was a unique man who combined the temperament and balance of a scholar with the commitment and dedication of a political activist," said conservative leader Paul Weyrich, president of the Free Congress Research and Education Foundation.

Added Dan Casey, executive director of the American Conservative Union: "America has lost a great conservative, a great senator and a great American and I know that all of us in the conservative movement take this very hard."

Mr. Broyhill said Mr. East was "a patriot and a leader for North Carolina and our country—a man of keen intellect and courageous stature."

[From the Washington (DC) Post, June 30, 1986]

CONSERVATIVE SENATOR JOHN EAST DIES

Sen. East, a political protege of North Carolina's arch conservative Republican senator, Jesse Helms, was a former political science professor at East Carolina University. He never had held elective office before winning his Senate seat in 1980 with the help of Helms' political organization.

In Congress, he fought extension of the Voting Rights Act, opposed amnesty for illegal aliens already living in the United States and introduced legislation aimed at forcing federal courts to rescind busing orders for purposes of school desegregation.

He served on the Senate Judiciary Committee and on its subcommittee on security and terrorism and chaired its subcommittee on courts. He also was a member of the Armed Services Committee.

A former marine who was stricken with infantile paralysis in 1955 while on active duty, Sen. East was confined to a wheelchair for most of his adult life, although on occasion he was able to walk with the aid of leg braces.

He announced Sept. 17 he would retire rather than seek a second term in 1986 for reasons of health. In addition to polio, he had hypothyroidism, which forced him into the hospital in early 1985. He also was hospitalized for treatment of a low white blood cell count and a urinary track blockage, and missed much of the Senate's work last year.

He was born in Springfield, Ill., earned a bachelor's degree at Earlham College, a law degree at the University of Illinois, and a doctorate in political science at the University of Florida. For 15 years he had been on the faculty at East Carolina University in Greenville before he ran for the Senate, and his scholarly background was often reflected in his public statements.

Sen. East was fond of quoting the likes of Plato, Thomas Aquinas and Edmund Burke in support of his argument that a restoration of "family values" was essential if western civilization was to be rescued from what he considered the evils of secular humanism.

He ran unsuccessfully for the House of Representatives in 1966 and unsuccessfully for North Carolina's secretary of state in 1968. In 1968 and 1976, he was a delegate to the Republican National Convention and a Republican national committeeman.

In 1980, Sen. East defeated North Carolina's incumbent Democratic Sen. Robert Morgan with the help of a television advertisement campaign that accused Morgan of voting to give away the Panama Canal, supporting aid to leftists in Nicaragua, voting to bail out New York City with federal loans and helping to kill the B1 bomber.

[From the Los Angeles (CA) Times, Feb, 28, 1986]

JOHN EAST, SENATE'S ONE-MAN BRAIN TRUST

WASHINGTON.—The single most amazing thing about John East, freshman senator from North Carolina, is not that he is the first person to arrive in Congress confined to a wheelchair.

Nor is it the fact that he never held public office before, or that he chaired a subcommittee that concluded, by a 3-2 vote, that life begins at conception, thereby defining a fetus as a person.

What distinguishes him is his brainpower.

Senators, both foe and friend, are beginning to describe the former college professor as the brightest in that puffed-up body.

Often hurling his intellect like a medicine ball in the gut, knocking opponents senseless, East has earned the unofficial title of philosopher of the so-called New Right, a spokesman increasingly called upon for the conservative point of view against abortion, the equal rights amendment, busing and the Voting Rights Extension Act.

Soon the Human Life Bill, which probably would outlaw all state-funded abortions except to save the life of the mother, will be brought up before the Senate again, either in the full Judiciary Committee or on the Senate floor.

Then East, who barely mentioned abortion during his campaign, will be thrust in the public eye again, playing first lieutenant (with North Carolina ally Jesse Helms as four-star general) in the battle to undo the 1973 Supreme Court decision, Roe vs. Wade, which legalized abortion on demand in the first three months and allowed the states to legalize abortion after three months in ways that are reasonably related to maternal health.

(In California, a little more than half the abortions performed, about 99,500 a year, are performed by the state through Medi-Cal. The estimated abortion budget for Medi-Cal this fiscal year is $36 million for an expected 100,000 abortions, according to a Medi-Cal spokeswoman.)

During a series of interviews with The Times, East spun his professorial argument against abortion around the question of viability.

Many pro-choice advocates express the opinion that abortion is not the taking of a human life because a fetus is not viable, not able to survive on its own, not a separate, distinguishable entity. In short, not a person.

In subcommittee hearings and in private, East argues in a methodical, calm, unending monologue, a style perfected long ago as a national collegiate debating champion.

But this time, his placid delivery started to perk, offering a glimpse of the man obscured under a veil of verbiage.

"When I was in the Marine Corps and contracted polio, I don't know that I would say I was viable," says East, who was stricken in 1955, one year before the Salk vaccine became available.

"It's a little presumptuous, downright egotistical, to say 'I am viable, I go it alone.' The devil you do! You think you do, but you're very dependent on other people in this life and you are from the time of being an unborn child until you die.

"Yet, the concept that the whole Roe vs. Wade mentality turns on is, quote, viability . . . . young man! . . . Marine Corps! . . . macho! . . . the whole thing . . . you're at the peak of your physical capacity, struck down like THAT (he snapped his fingers), totally

dependent on little nurses coming in that weigh half as much or a third as much as you do. All of a sudden, you're no longer viable. Now, if viability is the test of livability, of the right to live, should I have been just left to die?"

East, 50, usually is a man of little expression. Occasionally he will smile, or his left eye will flutter. He is immaculately dressed, and not an ounce overweight. He lifts his reed-thin legs on a footrest for long conversations.

He rarely talks about his disability; so seldom, in fact, that Reese Robrahan, executive director of the American Coalition of Citizens with Disabilities, laments, "In no way has he been supportive of the interests and the issues of disabled people. His political philosophy is so conservative I guess it's too much to hope he would support civil rights for the handicapped."

East had brought himself into the abortion argument on the point of his disability before, wondering aloud during a subcommittee hearing on the Human Life Bill if his mother would have aborted him if she had known he would be disabled by polio. But that was a calm, perhaps calculated offering from East. The trademark of John East is that all questions lead inevitably to theory—to loopholes and the Constitution and court decisions and even the writings of Plato.

East has a whole team of philosophers he admires. Plato ("as fundamental as you can get"), Cicero ("the great figure in Roman political thought"), St. Augustine ("the biblical conception of man and the political implications of it"), St. Thomas Aquinas ("critical in trying to reconcile the biblical view plus the classical"), and Edmund Burke ("the best of modern conservative thought"). And there are others he devours for understanding of all points of view, Jean-Jacques Rousseau, John Locke, Jeremy Bentham, Karl Marz.

Occasionally, one feels he has brought all of them to the Senate with him. Through East, Plato will give America his opinion about abortion, Cicero his views on busing, St Augustine on tobacco subsidies.

With the self-bestowed carte blanche to rally long-dead philosophers to his side, East can be intimidating if somewhat esoteric. It's often not a fair game. He's sent too many players on the field. He knows that few senators or witnesses at hearings care to match wits with him.

One has to dig for hours, ask the same questions again and again, before uncovering the personal side of John East.

Along the way, one discovers that East is not as extreme a character as he appears. On the contrary, he is a man of apparent paradox, with many shades of gray.

Mr. ABDNOR. Mr. President, all of us in the Senate are lessened by the loss of our friend and colleague, JOHN EAST.

While illness deprived him of the use of his legs and more recently of his physical strength, JOHN EAST was, in all other respects, one of the strongest people I have ever known.

JOHN EAST was strong in determination.

JOHN EAST was strong in intellect and intellectual honesty.

JOHN EAST was strong in convictions—social and political.

JOHN EAST was strong in personal integrity.

JOHN EAST was strong in personal charm.

JOHN EAST was strong in personal discipline.

JOHN EAST was strong in personal commitment.

JOHN EAST was strong in scholarship.

JOHN EAST was strong in articulating his philosophy.

JOHN EAST was, above all, a person of tremendous courage.

While you might not always agree with JOHN, you could not help but admire the tenacity he brought to bear in overcoming his physical handicaps and advocating his conservative philosophy. He was rarely angry and he was rarely deterred by criticism. When he was angry it was mainly with himself and the fact that recently his physical strength deterred him from being the kind of Senator he wanted to be.

Compromise with adversity or philosophy was not part of his nature. Yet, throughout all he was a gentle gentleman, seeking to convince through intellectual persuasion and thoughtful response to challenges to views.

When I was growing up in South Dakota my Lebanese-immigrant parents constantly reminded me: "This is a wonderful country. We must work to keep it that way."

That, too, was JOHN EAST's philosophy. He believed in the goodness of America and that its goodness was founded in the efforts of the individual—that one man could make a difference.

JOHN EAST gave it all he had—and he did make a difference.

We have lost a great statesman—a valued colleague—a good friend.

May he rest in peace.

Mr. STENNIS. Mr. President, JOHN EAST of North Carolina contributed much during his service in the Senate, not only through the work he did here, but through his character and courage which was demonstrated in so many ways. I remember him for his commitment to doing his work, regardless of the personal difficulty and added burdens he had to carry. His honor and integrity was always evident as he went about his duties with true dignity.

I believe I am correct in saying that I have served with more Senators than any other current Member of the Senate. I am told that the number now totals 388. Each of these individuals has contributed to this body in unique ways, and each one has encouraged and challenged me in special ways. Senator EAST truly served as a source of encouragement for me personally as he demonstrated strength and courage in the face of adversity. It would have been easy, I know, for him to develop a rather resentful attitude. But he always presented the positive to those of us who served with him. Through his example, I believe he brought out the best in those around him. He showed us all that personal hardships need not control, but that we too can persevere if we hold fast to our will and determination.

The people of North Carolina were well served by this quiet, scholarly man who always put their interests above his own. Though his service here was relatively brief, his influence will be lasting. Through his tragic death, we realize more fully how difficult life was for him, giving even deeper meaning and significance to the personal sacrifices he made in accomplishing all that he did here.

I join with my colleagues in feelings of gratitude for having known and served with JOHN EAST, and pay tribute to his memory which will always include recognition of his contributions to the Senate, to each of us individually, and to this country which he loved and served.

Mr. BOSCHWITZ. Mr. President, I rise to join scores of my colleagues who have spoken in remembrance of JOHN EAST. JOHN really is a loss to the Senate, and I rise to express that loss as a person, and as a Senator, for myself, and I believe, for the entirety of the Senate.

I also express my compassion and condolences to Sis, his wife, who has been such a valued member of our Senate community.

I did not serve on any committees with Senator EAST, Mr. President, but I often ran into him because our offices were so near to one another on the fifth floor of the Hart Building. So we would often go to and from the votes and we would have a chance to discuss matters in that way. Often at the termination of a vote I would go with him to his office or we would speak in the halls of the Hart Building and talk about the issues of the day.

Some time ago when JOHN seemed to be down, my friend, ALAN SIMPSON and I decided we would have a nice, long chat with him and see what JOHN was about and see why he was not feeling so well. In the President's Room here we spoke for about an hour and a half. We spoke about life in the Senate and, despite what it may appear sometimes in the press, it is not an easy life, not an easy life for the families, not an easy life for the individuals. On the other hand, it is a rich and rewarding life and, if one wants to have an impact on his time, it is certainly a life that can afford that.

We talked with JOHN about the special problems that he had because of his disabilities in this rather rushed and hectic life that we lead here in the Senate.

We stayed and we talked at some length, as I mentioned, and JOHN, indeed, was somewhat depressed and was not sure whether or not he

wanted to continue to serve in the Senate, whether or not he would run again for office, and we tried to give him such encouragement as we could so that he would get more joy out of his service here than at least at that moment he seemed to be getting.

At other times, as I spoke with him in the halls and again on the way to and from the votes and again after the vote in the hall of the Hart Building, I thought that he had indeed recovered his enthusiasm. He was once again making a valuable and an expansive and extensive commitment and contribution to the U.S. Senate.

He is a great loss, Mr. President. In our Jewish tradition, we feel that a person's life is eternal if it has an impact on others and if it changes the lives of other people, that a person lives eternally through his children and through those with whom he has contacts during his life span or her life span. JOHN EAST had an impact on hundreds, perhaps thousands, of students in his years as a teacher. He had an impact on other Senators, on staff, on constituents while he was here. So certainly within the framework of that tradition, he will indeed live eternally and his service here to the Senate will be well remembered, well respected and he will be missed.

I yield the floor.

Mr. LAXALT. Mr. President, I rise today with a deep sense of sorrow over the tragic loss of our friend and colleague, JOHN EAST.

During the past 5½ years, I had the pleasure of knowing and working with JOHN in the Senate and, more particularly, on the Judiciary Committee.

JOHN went about his work in a quiet way and with a sense of commitment and devotion that truly set him apart. He was exceedingly bright and succeeded in accommodating the necessities of practical senatorial politics while strictly adhering to his firm-held philosophic beliefs.

JOHN'S background in political science provided this institution with a valuable asset. Indeed, he was unmatched in terms of his ability to understand and interpret political theories and philosophies. In addition, JOHN probably possessed the best working knowledge of American constitutional law in the Senate.

A testament to JOHN'S exceptional intellect will be the soon-to-be-released book he coauthored on leading conservative political thinkers in the country. I know my colleagues in the Senate would agree that JOHN EAST belongs among the outstanding people referred to in his book.

Aside from JOHN'S professional qualities, his personal traits were just as impressive. He was a trusted and respected friend. He shunned publicity, preferring the less glamorous route of enacting and supporting legislation he felt was in the best interests of this country.

I was fortunate to have the privilege of working with JOHN on the Subcommittee on Courts. His knowledge of the judiciary was extensive and deep. We relied heavily on JOHN'S wealth of knowledge in matters pertaining to the courts. I watched with admiration as his subcommittee addressed the question of establishing an intercircuit tribunal. Although JOHN was opposed to the establishment of a new court, he made sure that all sides were heard from.

JOHN'S remarkably successful career in both academics and politics is even more impressive when considering the tremendous obstacles he had to overcome. Stricken by polio at a young age, JOHN nevertheless pursued his goals with determination and courage. The acclaim he won as a professor at East Carolina University was such that his fellow conservatives felt he should run for the U.S. Senate in 1980. His election was a tribute to his intellectual and political strength and was a key to the conservative revolution that swept the country in that year.

None of us will ever know the true depth of JOHN'S pain in the recent years. All we can do is appreciate his many accomplishments under the most trying circumstances. And we can be thankful for knowing JOHN EAST and for being able to call him a friend.

Our prayers are with Priscilla and the rest of the East family in this time of sorrow. We've lost a great man, but our Nation is certainly better for his work.

TRIBUTE TO JOHN P. EAST

Mrs. KASSEBAUM. Mr. President, today I join with other Members of the Senate in mourning the loss of our friend and colleague, Senator JOHN EAST. All of us were saddened by the news of his death. We will miss the thoughtful determination and grace he demonstrated in this Chamber.

JOHN EAST was a man who knew his own mind and who was deeply committed to the principles he held dear. Whether one agreed or disagreed with his conclusions, he commanded respect as a courteous, thoughtful, and articulate spokesman for conservative values. His example helped force each of us to think more carefully and to speak more clearly on a wide range of issues. That was one of JOHN EAST'S unseen contributions to the work of the Senate.

A TRIBUTE TO MY FRIEND

Mr. WALLOP. Mr. President, JOHN EAST was my friend and I shall miss him sorely. JOHN was a philosopher. He loved to quote from Plato, St. Thomas Aquinas, and Edmund Burke. Now in his passing, the words of Burke come to mind that describe the courage and resolve of JOHN EAST as Burke once said:

> The only thing necessary for the triumph of evil is for good men to do nothing.

That challenge against apathy was what JOHN EAST stood for. Faced with the personal affliction that restricted him to a wheelchair, it would have been easy for JOHN to do nothing. But apathy wasn't a part of JOHN EAST'S soul. He just didn't have it in him to sit back and do nothing.

Even when he lost his first congressional race to Walter Jones in 1966 and 2 years later lost to Thad Eure for North Carolina's secretary of state, JOHN didn't stop trying. In 1976, JOHN became a delegate to the Republican Convention and 4 years later he defeated Robert Morgan to become a U.S. Senator.

JOHN EAST was also a scholar. He graduated phi beta kappa from Earlham College in 1953. He earned a law degree from the University of Illinois in 1959. JOHN then went on to receive a master degree and a Ph.D. from the University of Florida in 1964. This dedicated work as student led to a dedicated career as a professor of political science at East Carolina University in Greenville, NC.

While in the Senate, JOHN served on the Armed Services Committee which also put him on the subcommittees: Manpower and Personnel; Military Construction; and Preparedness. JOHN also served on the Judiciary Committee and was chairman of the Subcommittee on Courts. He also served on the Subcommittee on Security and Terrorism.

As a member of Armed Services, JOHN fought diligently to deploy the MX missile and to block a nuclear freeze. On Judiciary, JOHN labored to allow school prayers and limit abortions.

JOHN was always prepared to stand up for the things he believed, conforming his actions and thoughts to his conscience rather than to what often could have been the more popular and easier road. I remember in the lameduck session during December 1982 that JOHN stood fast and filibustered the Senate's effort to raise the Federal gasoline tax by a nickel a gallon. It was approaching Christmas and everyone was tired and wanting to go home for the holidays.

Alone, but resolute, JOHN faced an angry Senate. When Senator Hayakawa suggested that JOHN'S filibuster was contrary to the Democratic process, JOHN retorted:

> With all due respect to my distinguished colleagues in this body—I revere every one of them, all 99 of them—I will not be in any way intimidated with the idea that some way or other by utilizing the rules of this body that I am doing something out of character. No, I am not. It has been done before. It has been done and it will be done after I am gone and every Member of this Chamber is gone, because there is a feeling in this body whether it is consistent with democrat-

ic political theory; yes, it is. The Senate so thinks it is under its current rules in order to make sure what the majority does is not imprudent, is not ill-advised, is not done in a spirit of passion at a late hour.

The remarks of JOHN's pastor, Rev. J. Malloy Owen, reflect this independent courage as he said of JOHN at the memorial service for him:

John knew it didn't take many people to influence a nation. It just took some people who knew what they believed, were thoroughly convinced that they were right, and were willing to pay the price of being different.

I am going to miss Senator JOHN EAST. He was a friend, a colleague, and someone who when he gave his word, I knew I could count on it. From his influence and effort, all America became stronger and freer. I shall not forget JOHN and I am proud to know that for the rest of my life, I will be all the better for my friendship with him.

Mr. SPECTER. Mr. President, it is with great sadness and deep sorrow that I comment on the recent death of a dedicated statesman, attorney, educator, and dear colleague, the late Senator JOHN P. EAST of North Carolina.

I am priviledged to have had the honor of serving in the Senate with JOHN and to have personally witnessed his tireless commitment to his country and the American people. But many of us know that his public service did not begin following his election to the Senate in 1980. JOHN served in the U.S. Marine Corps as a young man and later joined the staff at East Carolina University in Greenville, NC, where for more than 16 years he cultivated young people's interest in politics. In addition, he faithfully served the Republican Party faithfully in various capacities, including national committeeman. I am well aware of how enlightening these experiences were for JOHN and how very dear they were to him.

The recipient of numerous awards and commendations as a result of his contributions, I think one of JOHN'S greatest distinctions was that of his selflessness in spite of personal illness. JOHN was a tenacious fighter and allowed no illness or handicap to deter him in representing the people of North Carolina. Through his important work on the Armed Services and Judiciary Committees, particularly his leadership as chairman of the Subcommittee on the Courts, his efforts and ideals will continue.

JOHN leaves behind a loving wife and companion, Priscilla "Sis" East, and two daughters, Kathryn and Martha, as well as other family members to whom I extend my personal condolences.

To quote Abraham Lincoln:

Let us have faith and right makes might, and in that faith let us to the end dare to do our duty as we understand it.

This quote is a fitting tribute to Senator JOHN P. EAST. He did his duty as he understood it, and those of us in the Senate will miss him.

Mr. DOMENICI. Mr. President, when Senator JOHN P. EAST decided to leave us, we lost a dear friend of freedom and one of its most articulate spokesman. Senator EAST was fond of quoting Plato who is attributed with saying that, "The penalty good men pay for indifference to public affairs is to be ruled by evil men." Senator EAST's life is a testimony to the constant effort needed to be ruled by good men.

JOHN was a U.S. Marine lieutenant who became a lawyer and earned his doctorate as well. He was a respected university professor who chose to enter the battle for freedom as many marines do. Senator EAST fought for freedom in the realm of ideas. It is this realm which ultimately runs the world. In this the world of ideas, Senator EAST will be remembered as one who revered life and helped to articulate its cause for the unborn.

He was no stranger to the struggle for achievement. Not many people would have displayed his unusual courage and perseverance after a bout with polio in his young adult life. I believe that his courage is continuing after his earthly life. John Ayscough told us that "Death is but a sharp corner near the beginning of life's procession down eternity." Senator EAST will most certainly be a leader in the procession down eternity, a conquest that should bring joy to our hearts. Or, as Mark Twain put it, "Why is it that we rejoice at a birth and grieve at a funeral? It is because we are not the person involved."

In memory of Senator JOHN P. EAST, I would ask my colleagues and all Americans to honor life in all its aspects and to help protect and defend our country as the example of freedom for all other countries to follow.

Mr. GRASSLEY. Mr. President, I do not believe I can honor JOHN EAST with words any better than those already spoken by my distinguished colleagues.

JOHN was an honorable man, and an effective Senator for North Carolina. It was my honor to serve with him on the Judiciary Committee, where he was an effective and eloquent advocate. He was soft-spoken by nature, yet steadfast in his commitment to the principles he believed in. His gentle manner only partially hid a strong will—which allowed him to carry on his duties in the face of an illness that would have overcome many of us.

I am comforted by the knowledge that JOHN rests with our Savior—at peace with himself—at peace with the world. JOHN would know as well as any of us that a moral life in this world is the best preparation for the next. Nevertheless, I mourn the loss of JOHN EAST—my colleague and friend.

Mr. ANDREWS. Mr. President, JOHN EAST and I were elected to the U.S. Senate in 1980. Although JOHN did not have any previous congressional experience, his legal background and scholarly expertise gave him an indepth understanding of the dynamics of both the political and legislative process. JOHN came to the Senate with a full agenda and a determination to see his goals achieved. But that was not to be. Members of the class of 1980 will miss him and especially miss his commitment to principles, his eloquence, and his humor. Though gone, he will not be forgotten.

Mr. BOREN. The Nation's wave of sympathy for JOHN EAST and his family after his tragic passing befits a man widely admired for supporting his convictions with courage.

But those of us who worked with him are particularly saddened. Every day, we benefited from the sincere kindness of a man who rose from great personal difficulty, without bitterness, to serve his fellow man.

This Senator will sorely miss JOHN EAST and his thoughtfulness to all those around him.

Mr. GARN. Mr. President, I join my colleagues today in paying tribute to Senator JOHN EAST. All of us feel deeply the loss of our good friend and, as always at time of tragedy, wonder why it had to be so.

None of us can answer those questions; only a greater intelligence than mankind possesses can do that. It is better for us, then, to celebrate the lives lived by those who are taken from us. And in JOHN'S case, there is much to celebrate.

He was a quiet, thoughtful man, not given to extremes of temperament, but thoroughly committed and dedicated to the ideals that he held. Though confined to a wheelchair since his early adulthood, he was not deterred by the hard work needed to continue his career and meet the demands of his teaching responsibilities and, eventually, his Senate duties.

All of us know of the diligence with which he approached his position as Member of this body. He made a careful study of the issues confronting the Senate; he chose the timing and content of his remarks in this Chamber with care and substance, and he remained a gentleman in the course of often heated debate; he had learned that important ability to disagree without being disagreeable; he bore the burden of his handicap with dignity and courage, and never placed that burden at the doorstep of others; he was a man who had a tremendous strength of character, and upon whose word you could rely with utmost confidence; he spoke his mind and you knew where you stood with him. I re-

spect that, and I respect JOHN EAST, and will always remember him as a man possessed of a superb intellect and a fine, upstanding and capable Member of this body.

Mr. MATHIAS. Mr. President, it is with great regret that we conduct Senate business today without one of our most courageous colleagues, JOHN EAST.

The important example of JOHN EAST's life was his courage in confronting a massive handicap. Most of us require more than average energy just to fulfill our duties in the U.S. Senate. JOHN EAST had to find in himself additional strength to conduct the routines of daily life with polio. He did so with patience and kindness toward all those with whom he came in contact.

It was his will and his patience which helped him defy polio, the disease that struck him at the early age of 24. These qualities became his self-prescribed medicines against new illnesses before his death. While he could not get out of a chair without help, he could preside over the U.S. Senate as an act of will. JOHN EAST left us this legacy of his brave spirit, which will inspire all of us in adversity.

Mr. MOYNIHAN. Mr. President, our colleague, JOHN P. EAST, was contemplating a return to the classroom at East Carolina University in Greenville when he died. He had only just finished reviewing proofs for a book to be published this coming fall. This was a man who understood the relationship between politics and the study of politics. My regard and fondness for JOHN EAST comes naturally enough, for my life, like his, has alternated between these two pursuits: Or, if you like, sanctuaries.

He was a professor of political science for 16 years before coming to this body, an outstanding lecturer, and prolific author.

When he died, I said:

> John was a teacher of government before he came to the Senate, and I for one learned a great deal from him during the years he was with us. He wore his learning gently, and was in every sense a gentle man whose kindness and thoughtfulness will be so much missed.

And it is.

And we are not alone in missing him. Six years after JOHN left East Carolina University's political science department to become a U.S. Senator, admiring students kept asking whether he would return to teach. Popular teachers are not always, or even often, recognized among their faculty peers as educators. JOHN EAST was—having twice received excellence in teaching awards by his university.

His scholarly work demonstrates breadth of subject matter, serious thought, and discipline generating a steady stream of articles ranging from foreign policy to philosophy to the conservative revival in American intellectual life. The forthcoming book is a reprisal of earlier essays of political theory.

He was uncomplaining, self-reliant, tough. His law degree, masters and Ph.D., and his success in academe were all earned after a bout with polio left him confined to a wheelchair.

When his February 3, 1981, maiden floor speech was not delivered in strict compliance with Senate rules, the freshman from Greenville was simple and matter of fact. He said, "Senator JOHN P. EAST did not stand while speaking because he was not physically able to do so."

To JOHN, his handicap was a fact of life, a fact without political significance and correctly so. Those of us who remember him can never appreciate the pain he endured. We just know it did not deter him from his duties here.

It was not always easy. Architecturally, we were not quite ready, and modifications to the Capitol were needed. But JOHN was ever patient, positive, helpful, constructive. "You cannot constantly be waiting for the world to be perfect for you," he said.

JOHN's life was a lesson to us all. A wonderful legacy for a man whose life's work was, after all, teaching.

Elizabeth and I join our colleagues in sending our love and deep sympathy to Sis and her two daughters, Kathryn and Martha. Our thoughts and prayers are with them.

Mr. President, JOHN EAST's numerous accomplishments are summarized in a curriculum vitae which includes a list of his publications. I ask that it be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRICULUM VITAE OF JOHN PORTER EAST

ACADEMIC BACKGROUND

B.A. (Political Science), Earlham College, 1953; LL.B. (Law), University of Illinois, 1959; M.A. (Political Science), University of Florida, 1962; Ph.D. (Political Science), University of Florida, 1964.

EMPLOYMENT

(1) Lieutenant, United States Marine Corps, 1953–1955.

(2) Professor of Political Science, East Carolina University, 1964–1980.

(3) United States Senator, 1980–1986. Committee Assignments: Committee on the Judiciary: Subcommittee on the Separation of Powers, Chairman; Subcommittee on Courts, Chairman; Subcommittee on Administrative Practice and Procedure; Subcommittee on Security and Terrorism. Committee on Armed Services: Subcommittee on Manpower and Personnel, Subcommittee on Military Construction, Subcommittee on Preparedness. Committee on Energy and Natural Resources: Subcommittee on Energy Conservation and Supply, Subcommittee on Energy Regulation, Subcommittee on Energy Research and Development. Committee on Labor and Human Resources: Subcommittee on Labor, Subcommittee on Education, Subcommittee on the Handicapped.

HONORS

(1) Membership in Phi Beta Kappa, Phi Kappa Phi, Pi Sigma Alpha.

(2) First place winner, law school Moot Court Competition (oral presentations and written briefs required).

(3) Recipient of a three year National Defense Fellowship for graduate study.

(4) Twice received "excellence-in-teaching" awards by East Carolina University.

(5) Among other directories, listed in: American Men of Science (Behavorial and Social Science Section); Who's Who in the South and Southwest; Who's Who.

(6) Member of the editorial boards of The Political Science Reviewer and Modern Age.

(7) Awarded a $4,700 Summer Fellowship Research Grant by the Earhart Foundation of Ann Arbor, Michigan.

PROFESSIONAL ORGANIZATIONS (CURRENT AND PREVIOUS)

(1) American Political Science Association.

(2) Florida Bar Association.

(3) North Carolina Political Science Association.

(4) Southern Political Science Association.

PUBLICATIONS

(1) Book Reviews: numerous reviews published.

(2) Books: Council-Manager Government: The Political Thought of Its Founder, Richard S. Childs. Chapel Hill: University of North Carolina Press, 1965. The American Conservative Movement: Its Philosophical Founders. Chicago: Regnery Gateway. (Forthcoming, currently in galley form).

(3) Articles:

"Pragmatism and Behavioralism," Western Political Quarterly, Vol. XXI, (December, 1968).

"Containment—The Military Imperative," The New Guard, Vol. IX, (February, 1969). Reprinted in Freedman Leonard (ed.) Issues of the Seventies. Belmont, California: Wadsworth Publishing Company, Inc., 1970.

"Conservatism and College Teaching," The New Guard, Vol. X, (May, 1970). Reprinted in the Wall Street Journal and elsewhere.

"Student Radicalism and Moral Authority," Politics 1970, Vol. 1, (May, 1970).

"Campus and the Vietnam War," The New Guard, Vol. X, (October, 1970).

"Intellectual Decline on the American Campus," Universitas, Vol. 11, No. 3, (November, 1971). Reprinted in Widening Horizons, Human Events, and elsewhere.

"The Political Relevance of St. Augustine," Modern Age, Vol. XVI, (Spring, 1972).

"A Lesson in the 'New Politics'," Human Events, Vol. XXXIII, No. 29, (July 15, 1972).

"The Professor and His Identity Crisis," Universitas, Vol. III, No. 2, (October, 1972).

"The Political Thought of Willmoore Kendall," The Political Science Reviewer, Vol. III, 1973.[1]

"The Conservation of Frank Straus Meyer," Modern Age, Vol. XVIII, (Summer, 1974).[1]

"Richard M. Weaver: The Conservation of Affirmation," Modern Age, Vol. XIX, (Fall, 1975).[1]

"Leo Strauss and American Conservatism," Modern Age, Vol. XXI, (Winter, 1977).[1]

"Eric Voegelin and American Conservative Thought," Modern Age, Vol. XXII, (Spring, 1978).[1]

"American Conservative Thought: The Impact of Ludwig von Mises," Modern Age, Vol. XXIII, (Fall, 1979).[1]

"The American Conservative Movement of the 1980's: Are Traditional and Libertarian Dimensions Compatible?" Modern Age, Vol. XXIV, (Winter, 1980).

"The Conservative Mission," Modern Age, Vol. XXV, (Fall, 1981).

"Political Theory and Ideology," The Intercollegiate Review, Vol. XVII, No. 2, (Spring/Summer, 1982).

"Russell Kirk as Political Theorist," Modern Age, Vol. XXVIII, (Winter, 1984).[1]

MARITAL STATUS

Wife, Priscilla; Children, Kathryn and Martha.

Mr. GRAMM. Mr. President, it is with great sadness that we mourn the passing of Senator JOHN EAST of North Carolina and recognize the magnitude of the loss the U.S. Congress has suffered.

It was my privilege to serve with Senator EAST on the Armed Services Committee, where he served with distinction and where his paramount concern with human liberty and a strong defense were ever visible. He understood the meaning and responsibilities of freedom and was a true advocate for the rights of the individual, fiscal discipline, and economic growth.

Senator EAST was a man whose adherence to great principles and permanent values elevated the Senate morally and whose extraordinary mind and scholarship enriched it intellectually.

As a university professor, JOHN EAST brought light and learning to his students, and as a U.S. Senator he brought light and learning to this body and to his colleagues. As a man who believed in the primacy of ideas, it was through his ideas that his influence was most greatly felt and through them that he shall endure. JOHN EAST has touched and enriched all of us who had the opportunity to know him, and he will not be forgotten.

Mr. LEVIN. Mr. President, it did not take a great deal of contact with JOHN EAST to sense the sincerity of his views or the depth of his convictions. He was a man who believed passionately in his vision of America. Some tend to denigrate that kind of commitment now—we talk in terms of the "relativity of values" and we use "the complexity of issues" as an excuse for delaying decisions. JOHN didn't do that. He respected and expected people to disagree with him—but he also respected and accepted his obligation to make a decision and seek to implement it. I find nothing dishonorable about that; indeed, I think we can find much that honors the man in the depth of his commitment.

I am sorry that JOHN was apparently unable to seek the support and assistance which so many of us would have been willing to give to him. But it was, perhaps, characteristic of him to believe that he was, as an individual, obligated to deal with the pain and pressure of his life as an individual. I wish it had been otherwise for I believe that JOHN made a contribution to the country and I am convinced that he would have continued to contribute to our national life when he returned to teaching after completing his service here.

As a teacher and as a colleague, JOHN forced the people he met to reexamine their own beliefs and reaffirm their own values. In life as well as in death he forced many people to think.

My family and I extend our sympathy to all those who knew and loved our friend and colleague JOHN EAST.

Mr. McCLURE. Mr. President, I rise to pay tribute to a friend and colleague who, for all his considerable accomplishments, will be remembered most because he was a compassionate, courageous human being.

JOHN EAST was the type of person who saw wrong and wanted to right it, who saw a splendid vision of America and wanted to help push the country to it, who embraced freedom and wanted desperately to see that those who live under oppression and tyranny could embrace it as well.

He was a man who, in the prime of his life, was struck down by polio just a year before discovery of the vaccine. Yet he was not bitter or sullen and refused to curl up with self-pity. He was a man who had things to do, and confinement to a wheelchair was not about to stop him. His outlook on life might be characterized best by a spirited comment he made several years ago, when he conceded he was no longer part of the so-called able-bodied class, but still an enthusiastic member of the able-bodied world.

JOHN EAST was a scholar of prolific achievement, earning bachelors, masters and law degrees by the time he was 31. Two years later, he was a Ph.D. and well on his way to a distinguished career of public service, as a university professor, party committeeman, convention delegate, and U.S. Senator.

JOHN was an intellect of the highest order, with an affinity for weaving Thomas Aquinas, Edmund Burke, Plato, and Cicero into our debates and discussions. That background as a scholar and professor served him—and this body—exceedingly well in his 5½ years on Capitol Hill. It tended to place him above the political fray and into a class all his own.

JOHN was a statesman in the truest sense of the word: Unsurpassed integrity, keen insight, intense loyalty to friends and party, and an unquenchable thirst for work. The latter, I think, was exemplified last year when, shortly after recovering from a long illness, he worked doggedly on a Courts Subcommittee measure to create a new court of appeals that would help relieve the Supreme Court of its workload.

Outside the Senate, he was perhaps most well known as an articulate, forthright standard bearer of the conservative cause that he helped usher into never before seen popularity.

But more than any one issue or piece of legislation, JOHN EAST's legacy in the Senate will be reflected in his contribution to what he termed the "national dialog." From communication, he said, "legislation will flow * * * and a better understanding of ideas and philosophy will come forth."

As we go about our business here, it is sometimes easy to become immersed in the more procedural aspects of legislating—the day to day, nuts and bolts issues, if you will. But JOHN EAST was a constant reminder to us that ideas do indeed matter, that they have consequences, and that we need to step back at times and examine the broader philosophical ramifications of our work. In doing this, he reinforced the tradition of the U.S. Senate as a truly deliberative body.

Sadly, the national dialog has lost one of its important voices. But we must not dwell on losses, just as JOHN never dwelled on losses. We must find solace in the fact we had the good fortune of knowing, and serving with, JOHN EAST for as long as we did.

I thank the majority leader for setting this time aside today to pay tribute to our friend from North Carolina.

Mr. COCHRAN. Mr. President, I join my colleagues in the Senate today in expressing respect and affection for our departed friend, JOHN EAST.

No other Senator, that I know of, brought to this job a greater sense of duty, responsibility or purpose than JOHN EAST did when he took the oath of office. He worked hard, and long, to uphold the tradition of excellence that the Senate enjoys as an institution.

Senator JOHN EAST loved and appreciated the Senate, and by his service in this body he added an extra dimension of respect to it.

His work here was in keeping with the exhortation of Edmund Burke, who said a representative of the people owes them more than just his industry, he also owes them his good judgment. JOHN EAST had strong convictions. He was a man of carefully constructed views and principles, and he based all he did here upon those firmly held beliefs.

He was not, therefore, merely a pleader for parochial interests. He spoke up for his State of North Carolina with effect, but his work had substance to it as well. He made that his hallmark here, in the Senate.

I was very impressed with JOHN EAST and his understanding of the tradi-

[1] Articles in revised form in forthcoming book.

tions and the role of the Senate. We miss him.

My sincerest best wishes go out to his wife, Sis, and his entire family. They all made sacrifices so that our country and the Senate could have the benefit of the excellent service of JOHN EAST.

Mr. CHAFEE. Mr. President, we mourn the passing of our friend JOHN EAST. The biography of him set forth that he is a man of 55, born in North Carolina. He had a distinguished career, Phi Beta Kappa from college. He was a college professor. Then he was elected to the U.S. Senate.

There are three characteristics that I particularly remember of JOHN EAST.

First of all, he was a man of strong beliefs. He was not a passive onlooker at the scene of life. He had beliefs and feelings on what took place, domestically and internationally, and he spoke out about those. So, first, it was his strong beliefs.

Second, I remember him for his courage, both his physical courage and his moral courage.

As we all know, JOHN EAST was physically afflicted and was, in a sense, confined to a wheelchair. But why do I say in a sense? Because, in fact, he was not bound by the limitations of his physical affliction. It did not limit him in any way.

His courage was demonstrated, furthermore, by the fashion in which he spoke out. He was not one to trim his sails to popular opinion. JOHN EAST called the shots as he saw them and spoke out vigorously for the beliefs and feelings that he had.

So, first it was his strong beliefs and second, was his courage.

Third, the warmth of his personality. JOHN EAST was a man who always had a cheerful and friendly smile and greeting. He was a person you were glad to see. Despite the problems, the physical difficulties that he might have had, it did not cause him to be a sad and glum person.

JOHN EAST was rightfully a hero to many.

The loss of JOHN EAST is so sad. It is sad for his family. It is sad for his friends. It is sad for the people of North Carolina, and the people of the United States likewise. And it is sad for all of us because, obviously, he was discouraged and upset. We can only ask ourselves, could we have reached out our hands and hearts to a greater degree than we did.

I think that is a feeling and question that every single one of us in the Senate have asked ourselves.

So we truly mourn the passing of JOHN EAST. We think of his strong beliefs. We think of his courage. We think of the warmth of his personality. We will miss him. From his loss, we receive new inspiration to be better Members of this body and of the fellowship of mankind.

Mr. HUMPHREY. Mr. President, JOHN EAST was here among us in the Senate Chamber just days ago. And now he is gone. We miss him.

JOHN EAST was a fine man and a great servant of his State and our country. He was not given to theatrics, he was a sincere man. He was calm and temperate, because he had a consistent set of principles and stuck by them. JOHN was not much affected by the passing fads of this worldly city on the Potomac. He knew his own mind, he knew his principles, and he was confident in both. He was more than confident, he was courageous.

Maybe JOHN EAST was too good for Washington. He was a man of logic, not emotion. He was a man of principle, not political pragmatism. Already burdened by a physical disability, he was, I suspect, further burdened and saddened at the intellectual dishonesty that too often passes for policymaking in this city.

JOHN was a bright man, an intellectual, a scholar. He spoke only when he had something important to say. Historians will find in his remarks clear analyses of the problems facing our Nation in this age.

JOHN was vigilant to see that our Government fulfilled its primary role, to secure the inalienable, God-given rights of life, liberty, and the pursuit of happiness. In that effort, he was an outspoken defender of the right to life of unborn children.

North Carolina and America were fortunate to have JOHN EAST in the Senate of the United States. Despite his affliction, he stood taller than most of us in this body. God rest his soul. I salute a fine man, a distinguished colleague, and a friend.

Mr. President, I extend my sympathies to Senator EAST's wife, Sis, and to his children and his family and friends.

Mr. DURENBERGER. Mr. President, I rise regretfully to add my few words to the collective expression of this body of our love and sadness over the passing of JOHN EAST. The only solace I can find is in believing that he is now at rest and that he taught us much while he was among us.

I first met JOHN EAST in 1978, when I was then a long-shot candidate for the Senate. JOHN had traveled to Minnesota as North Carolina's National Republican Committeeman. I gave a speech to a large group at the Governor's residence about the kind of Senator I hoped to be. JOHN came up to me afterwards and told me he was positive that I would win my election. He may have been the only convert that night. Imagine my surprise when 2 years later this wheelchair-bound professor from North Carolina followed me into the Senate and enabled me to serve in a Senate majority.

JOHN taught me, by his daily example, the capability of the human spirit to overcome and perservere. Afflicted as a young man with crippling polio, he had to cope with countless obstacles of daily life that the rest of us hardly think of. He did so admirably. Even a glimpse of JOHN moving through the Capitol in his wheelchair or exercising in the Russell gymnasium reminded me of how minor were the problems with which I was preoccupied on a given day and how fortunate I was. And I grieved with all Members when his hardship was compounded by the onset of hypothyriodism. It is indeed hard to imagine how a person could sustain himself under such a double blow.

It is fitting on this occasion to praise the courage and determination of JOHN EAST in living out his convictions and serving at great personal cost. It is equally appropriate, Mr. President, that we as a body pause a moment and examine our own lives against the example that JOHN set and learn from the life he lived.

Mr. HELMS. Mr. President, it means a great deal to me personally, and to JOHN EAST's family and to the fine staff that he assembled, to hear words from distinguished Americans such as the Presiding Officer of the Senate at the moment [Mr. GOLDWATER] and Senator DENTON, of Alabama, who will always be a foremost American hero to me.

In all of our tributes to our fallen friend, it ought not to be overlooked that Senator EAST possessed a remarkable sense of humor. I remember his rolling into this Chamber for a vote on one occasion about 3 o'clock in the morning. He motioned to me and I went over and he said, with a broad grin, "You did not tell me it was going to be like this."

Then I heard him say of the media on one occasion—and the media gave him a hard time, constantly—he said, "The nicest thing the media ever said about me is that I am balding."

JOHN, of course, was bald. He said, "Balding? I am not balding I am bald. HELMS is balding."

He was quick-witted and he was slow to take offense. As a matter of fact, I know of very few occasions when JOHN was offended by the harsh things that were said by the liberals about him and the principles in which he believed and for which he stood so gallently.

JOHN EAST's character, ability, and dedication, Mr. President, were not known merely in this body or in this city or in the State of North Carolina, but throughout the country. In my travels around America, inevitably people would say, "You are blessed with a fine colleague." I would say, "You are certainly right about that." Then statements would be made indicating an awareness of the courage

and principles of this remarkable American, JOHN EAST.

As an indication, and just one indication, I have in hand a resolution passed by the legislature of the State of Louisiana, which was received by the Vice President of the United States. I feel it is appropriate at this time to read this resolution into the RECORD because it is a measurement of the respect in which JOHN EAST was held. I shall read it in its entirety.

HOUSE CONCURRENT RESOLUTION No. 256

Whereas, Senator John P. East of North Carolina, born on May 5, 1931 in Springfield, Illinois, was an exemplary public servant, a man of patriotism, with a keen intellect; and

Whereas, Senator East was a man of academic distinction who graduated from Earlham College in Indiana, where he was selected as a member of the honorable and prestigious Phi Beta Kappa Honor Fraternity; the University of Illinois, where he received a law degree; and the University of Florida, where he received a master's degree and a doctorate in political science; and

Whereas, throughout his life Senator East exemplified an unyielding belief in principle and the determination to keep our country strong; and

Whereas, this dedication was exhibited through his service in the United States Marine Corps, as a college professor, as the junior United States Senator from North Carolina, and in two campaigns for the United States House of Representatives and for secretary of state for North Carolina; and

Whereas, Senator East bravely fought against serious health problems throughout much of his life and dealt with them with the same fortitude and strength that he demonstrated in public life; and

Whereas, Senator East was an able and thoughtful leader and modern day philosopher of Republican conservatism in the United States, whose views and positions have been important influences in our political system; and

Whereas, the contributions of Senator East and the principles he stood for shall long be remembered by the many persons who were influenced by the reasoning and logical thought of this man of quiet dignity and conviction.

Therefore, be it resolved that the Senate and the House of Representatives of the Legislature of Louisiana do hereby remember Senator John P. East for his years of dedication to the finer ideals of life and for his selfless and dedicated service to his community and nation.

Be it further resolved that the Legislature of Louisiana does hereby express to his family and his colleagues in the United States Senate its sincere condolences at the loss of this special man who gave so much.

Be it further resolved that a copy of this Resolution shall be forwarded to his wife, Priscilla "Sis" East; his two daughters, Kathryn East and Martha East; and to the President of the United States Senate.

This concurrent resolution is signed by the speaker of the house and the president of the senate.

Mr. President, that just about says it all. I thank the Chair.

Mr. President, I yield to the distinguished majority leader.

Mr. DOLE. Mr. President, on the day we returned from our Fourth of July recess, I expressed my profound sorrow over the death of our colleague JOHN EAST.

As I said then, JOHN was a very special individual who added much to this institution and the lives of all who work here.

So many things that we take for granted, things as simple as striding onto the Senate floor to vote, or rushing to catch a train back to our office, JOHN EAST could not do. Stricken by polio as a young adult, JOHN determined to make something of himself—to use his marvelous intellectual talents for the greater good.

And in his example, millions of disabled Americans can find not only the inspiration, but the proof that they too can lead productive lives.

For JOHN EAST studied, became a lawyer, a political scientist, and a college professor. But perhaps most importantly, for those of us who knew him here in Washington and back home in North Carolina, he became a dedicated and effective public servant.

As I have said earlier, during the 5 years he spent in the Senate I grew to admire and respect the way JOHN used his considerable knowledge to promote ideas that he believed were for the public good.

The Senate has had few Members as literate and eloquent as JOHN EAST. As a matter of fact, he was called the resident scholar of the class of 1980. At ease quoting Plato, or Edmund Burke, JOHN could be a daunting debater and fierce advocate—whether the issue involved the restoration of traditional family values—or the role the United States played in the family of nations.

JOHN EAST was a unique man, and made a unique contribution to American public life. His presence here in the Senate will be sorely missed.

Once again, I want to extend my sincere sympathy to Senator EAST's wife and two daughters, all his family, his friends, and the thousands of constituents he served so well in North Carolina.

Mr. President, I think it has been stated and restated a number of times by our colleagues, both on the Senate floor and privately, that JOHN was unique in many ways, whether it was his ability to articulate his point of view, whether it was his philosophy, whether it was his faith, whether it was his ability to deal with disagreement, or whether just his way of getting along with all of us in this Chamber.

□ 1130

As I indicated then, there is a highly charged political atmosphere in the Senate from time to time. We feel strongly about our views, whether we are Republicans or Democrats. There are times when I think somebody just watching the U.S. Senate might believe we really do not care much for one another. And, at times, they might be right. But I would guess that in the case of JOHN EAST, despite his firmly held views, there is no one in this Chamber who did not respect him, respect his point of view, and if they had the opportunity to come to know JOHN EAST, to respect him for the man he was.

So, Mr. President, as I said that day, some people make a difference in their lifetime. I guess most people make a difference some way. But some people make a difference that affects thousands, or hundreds of thousands, or maybe even millions of people. They may do it by what they say, they may do it by how they conduct themselves, they may do it and not even recognize it. I think JOHN EAST was in the latter category.

He never sought headlines, never sought publicity, never sought to do anything but conduct himself as he should in the U.S. Senate. Although I do not think JOHN considered it a struggle, anybody looking from the outside and seeing JOHN come in in his wheelchair and knowing that, in effect, he lived in that chair every day, I believe it was an example of courage. His courage meant a lot, not only to a lot of friends and colleagues, but to many people who may have just seen JOHN and met him, maybe on the political trail, maybe on the Senate floor, maybe from the gallery. I think his courage above all, is something that did make a difference.

I recall my last conversation with JOHN when he was about where he normally was, to the right of the table in front of us, waiting to vote in his proper turn. We had a rather close vote, one that I was interested in. I said, "JOHN, could you help me on this?"

He said, "Well, if you really need it," and he did.

I think maybe one other time, I asked JOHN EAST on a rather tough vote in 1982 on a tax bill, a tough vote for someone from North Carolina. The final vote was 50 to 47, and without the 2 votes from the Senators from North Carolina, it would have been the other way. It would have been 49 to 48, if I added it up right, and the tax bill of 1982 would have been defeated. That, to me, was certainly a courageous act by both Senators, Senator EAST and Senator HELMS.

So I would guess that more than JOHN knew, maybe even more than his family may know, he had a great impact on many of us. Because, like Senator HELMS, I have traveled around the country some and I have had an opportunity to see a lot of people. Many, many times, JOHN EAST's name was mentioned for his philosophy, for his courage, for his dedication, for his

support of President Reagan. He never veered from that, except in exceptional circumstances that affected his State.

Again, I join my colleagues in expressing our gratitude for having known JOHN EAST and also in expressing our sympathy to his family, his wife and daughters.

I think Senator DENTON probably said it better than I am able. What we want to remember about JOHN EAST is what we all want to be—to be tolerant of one another, to respect one another in this Chamber, respect each other's views, though we may have rather sharp disagreements; not to complain about our own situation, whatever it may be; and to look to the future—and there is a future for America. JOHN who made an enormous contribution as a teacher, never retreated from his optimism, his hope for America's young people.

Mr. COHEN. Mr. President, I rise to offer a few brief comments in memory of my colleague, JOHN EAST.

I recall that Oliver Wendell Holmes, Jr., once made the statement that life is action and passion and one must share in that action and passion at the risk of being judged not to have lived. I think perhaps more than any other person in this Chamber, JOHN EAST believed deeply in that particular statement and philosophy and lived it.

He was certainly a man of action. Anyone who is in this Chamber can recall the many nights that JOHN would be sitting at the rear of this Chamber in his wheelchair, not flinching from the hour or indeed, from the display of anger or irritation by some of the Members who wanted to end the turmoil of the evening and go home. But JOHN felt compelled to speak what was on his mind because he was not only a man of action but a man of great passion.

He believed passionately in his conviction about this country's national defense. I know the Senator from Arizona, presently sitting in the Chair, who chairs the Armed Services Committee, will attest to Senator EAST's strong commitment to national defense, he was always an aggressive, articulate voice on behalf of our armed services. At a time when it was not popular to be so, at a time when many were requesting deep and dramatic reductions in the defense budget, it was always Senator EAST who sat in the rear of this Chamber and was willing to speak up in his country's interest. So he believed in Oliver Wendell Holmes' philosophy.

Senator DOLE a moment ago mentioned courage. Again, I do not know of anyone I can point to who had more courage, if you define courage as facing adversity without losing faith. JOHN EAST faced a great deal of adversity. He had a serious physical handicap. Many of us would have, I think, given up to despair a long time ago just living with that particular handicap. Somehow, JOHN EAST always came into this Chamber, always came into the Senate hearings with a sense of courtesy, compassion, and a measure of levity, because he was willing to smile in spite of the pain that he might have been experiencing at the moment.

One of the last times I saw Senator EAST, I was in the Senate gymnasium, preparing to go through a vigorous workout. He was completing a number of laps in the pool, trying to get some exercise for his legs. Following that, he went into the weight room and started on a new weight lifting program. And it struck me as being curious at the time that someone in JOHN's state of being and his particular age would suddenly take up weight lifting. Hopefully several of us in this Chamber inspired him to do that.

□ 1140

But it showed me something about courage again, courage to start something new, to try and do something with himself, to improve himself even under the extraordinary circumstances with which he had to contend.

None of us are in a position to pass judgment on what pressures any individual must bear or fail to bear, to what depths of despair a person might sink in order to say that life is no longer worth living. But I do know this much about JOHN, that each of us, it has been said, stands upon the verge of crumbling time. We live, we love, we laugh, we pass away, and we mingle with the dust. But this much we know—that a good and noble life enriches all of us.

So I take this occasion to say to JOHN's family and his friends that he was a good and noble man, and his life has enriched all of us.

Thank you, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

THE PUBLIC SERVICE OF U.S. SENATOR JOHN P. EAST

Mr. GORTON. Mr. President, I speak today to join with my colleagues in mourning the loss of Senator JOHN EAST of North Carolina, but also to celebrate his service to this Nation.

A relatively young man when he died more than 3 weeks ago, Senator EAST had lived many years since his active youth with several physical ailments, the most difficult of which was polio.

Each day we saw JOHN EAST's courage as he came to the Senate floor or to committee work. Never—in my experience with him, nor to my knowledge in the experience of any other Senator—did JOHN EAST once complain of his afflictions nor ask for special consideration. That experience will always remain an example to me, as well as to millions of disabled Americans.

Senator EAST came to us from East Carolina University, where he had taught before beginning his Senate service and where he was returning upon completion of that service. I saw the professor in JOHN EAST in the sense of his ability to marshall his remarkable intellectual powers in the consideration of public policy. JOHN EAST may have been disabled physically—but he was most extraordinarily able intellectually.

Senator EAST also was a man of principle. I suspect that none of us ever had any difficulty in knowing where he stood on an issue. Those who would waiver and obfuscate on questions of public policy saw him as unreasonably obstructionist and hardheaded. Others of us saw him as a Senator willing to make difficult decisions—and stand by those decisions.

How ironic that he expressed concern in a 1983 interview about being seen as "contentious and shallow." JOHN EAST was fond of quoting Plato and Edmund Burke. I suspect that JOHN would be satisfied knowing that we would come to remember him by a statement of Edmund Burke about public servants. In 1769 in "Observations on a Publication, 'The present state of the Nation,'" Edmund Burke said, "It is a general popular error to imagine the loudest complainers for the public to be the most anxious for its welfare."

Mr. President, U.S. Senator JOHN EAST of North Carolina was neither loud nor a complainer. But he most certainly was anxious for the Nation's welfare. That is how I shall remember him as a Senator—and as a dutiful servant of his country.

Mr. HECHT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

TRIBUTE TO THE LATE SENATOR JOHN P. EAST

Mr. HECHT. Mr. President, when I first came to the U.S. Senate in 1983, I was impressed by the many great statesmen and leaders that comprised this Chamber. Yet among this group of distinguished politicians, one man instantly gained my respect. He generally adopted a low profile and concentrated his every effort on the restoration of traditional family values. In the words of President Reagan, he was a "true patriot" who was "never flamboyant or interested in personal acclaim." This man was my late colleague, and friend, Senator JOHN P. EAST.

Confined to a wheelchair in 1955 after contracting polio at the age of 24, JOHN never let his disability control his life. Unable to completely use his body, he channeled his energies into developing his mind. Following a year of recuperation and treatment for polio, he entered the University of

Illinois College of Law and received his degree in 1959. But his commitment to education continued as the Senator next earned his masters and doctorate degrees in political science at the University of Florida. Upon completion of these studies, he began a 16-year tenure at East Carolina in Greenville, NC. He held this job until he undertook his bid for the U.S. Senate in 1980.

Upon entering the Senate, JOHN established a record as one of the most loyal party members. He supported the efforts of the President, while articulating his own New Right views. As Senator EAST, he led the fight to return prayer to public schools. He also was a staunch opponent of abortion, supporting legislation that would declare a fetus a human being at the moment of conception. Always an eloquent speaker, JOHN would punctuate his arguments with the words of the great Western thinkers, such as Plato and St. Thomas Aquinas.

Mr. President, JOHN EAST served in this great body for almost 6 years through great personal trial. I applaud his courage, his dedication to office, and his commitment to restoring the traditional family values that he felt this Nation had abandoned. JOHN EAST was a good friend, Mr. President, and a good Senator. But most importantly, he was a great man. We are better off for having known him, and he will be missed by this institution and the Nation that he dearly loved.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

THE LATE U.S. SENATOR JOHN P. EAST OF NORTH CAROLINA

Mr. WILSON. Thank you, Mr. President.

Mr. President, along with the Senator from Washington, I was privileged to be JOHN EAST's seatmate on the floor of the Senate. I also had that privilege sitting one seat down from him on the Republican side of the table in the Senate Armed Services Committee. And because I was so fortunate as to have that good stroke, I also had the good fortune of getting to know well a man of rare eloquence, rare decency, a man that the eloquent tributes this morning have made plain was one of the most valued Members of this body.

I think one of the greatest compliments that has been paid me in my brief service in this body was on those occasions when—as he did once or twice—JOHN EAST turned thoughtfully to me and said "PETE, what do you think?" I valued his good opinion. I was complimented by the fact that he would ask for my view of a particular problem because it was a rare day when JOHN had not analyzed thoroughly every problem and come to a logical conclusion. But his conclusions were more than simply the fruit of logic. They were the fruit of deep compassion and conviction.

Mr. President, the death of any man diminishes every man. But when that man is a dear friend and a deeply respected colleague like JOHN EAST, the loss is especially painful. His departure leaves us all more than a little lonelier, more than a little impoverished in thought and thoughtfulness, and more than ever in need of his singular brand of courage. But in our pain and his loss, we are obliged to comprehend and celebrate his life.

A teacher before he came to the Senate, JOHN EAST—by his example, daily—became a teacher to those of us privileged to be his Senate colleagues: JOHN's whole life was a lesson in what one man, armed with passionate conviction and fortified by conscience, could achieve in the face of personal adversity and political indifference. Because he lived, the cause of freedom lives, too, in corners of the globe far removed from his native North Carolina, but right next door to his ample heart and rigorous intellect. Because of his ideas, the idea of liberty holds sway wherever men and women cling to a faith in God and a belief in His ultimate triumph.

As an advocate, he stood for decency, duty, and strength. And as a scholar, JOHN EAST reminded us that there are principles more enduring than any poll result. Today, as memories of my friend fill this Chamber, I think it only appropriate to turn, as JOHN so often did for perspective, to a classical historian. It was the ancient Greek chronicler Thucydides who said of Athens that "when you feel her greatness, remember that this greatness was won by men with courage, with knowledge of their duty, and with a sense of honor in their action * * *. The whole Earth is sepulcher of famous men," he continued, "and their story is not graven only on stone over their native Earth, but lives on far away, without visible symbol, woven into the stuff of other men's lives."

JOHN EAST was just such a man—of rare courage, with a clear knowledge of his duty, and a strong sense of honor. He was a man whose life enriched the lives of others.

Mr. President, today is a time not alone to recall our cherished colleague, but, as he should remind us, more important, to rededicate ourselves to the causes for which he lived—and through which he continues to live—woven into the stuff of other men's lives.

Mr. HATCH. Mr. President, it is with a sense of overwhelming sadness—but also a sense of profound gratitude—that I rise to pay tribute to a good friend, the late Senator JOHN EAST.

The untimeliness of his passing compounds the incredible sense of loss we feel as his colleagues. I know these feelings must be magnified many times over in the hearts of his family—and I want to take a moment to express my condolences once again to Priscilla East and their daughters, Kathryn and Martha.

Yet, these feelings of grief and loss are lightened somewhat by a sense of gratitude for the life of this great public servant—and stirring memories of who and what JOHN EAST WAS.

As I sift through these memories, one word comes to mind to describe JOHN EAST: Courage.

The courage to overcome a debilitating handicap—the courage to leave a safe and rewarding career in educating for the rough-and-tumble of Washington politics—the courage to plug on in the face of a withering illness that took a toll much more terrible than any of us could have imagined.

But even above all that, the courage to hold fast to principle in the face of bitter, venomous and sometimes almost hysterical opposition from the press, the liberal Washington establishment, and even some of his colleagues.

That kind of courage helped JOHN EAST stand out from his colleagues—not because he was a loner; he was anything but that. He was a warm and personable human being and a valued friend, and I am told that he was particularly popular as a professor because he always had time for his students despite a heavy lecture schedule. No, JOHN stood out because he was not afraid to be an intellectual in a body of politicians—even in a city where conservative intellectualism was once thought to be a contradiction in terms. He could bravely pursue the consequences of an idea no matter what political thicket it might lead him into.

His untimely death is especially cruel, because one of those ideas was that every life had value—even life inside the womb. I well remember the heady days when Senator EAST seized the attention of the Nation by daring to hold a set of hearings to examine that proposition publicly—when others would not touch the issue with a 10-foot pole.

He brandished other unconventional ideas with the same relish—for example, the idea that Congress could and should limit the jurisdiction of a judicial juggernaut, the idea that the concept of federalism had continued vitality, and the idea that traditional values still had something to offer America even in our day and age.

In mourning Senator EAST, I am reminded of the words written by Walter Lippman as he mourned another political figure who had shared JOHN's handicap, Franklin Roosevelt. "The final test of a leader," Lippman wrote, "is that he leaves behind him in other

men the conviction and the will to carry on."

Senator JOHN EAST was a leader in every sense of the word. And because of his courage, the force of his formidable intellect, and his adherence to moral principle, he has left a great legacy of conservative convictions behind him. He has left those convictions among his students and others he met through his active participation in the Intercollegiate Studies Institute and his promotion of the study of traditional American values. I know he has left that kind of conviction among his colleagues and his family and even among many who once opposed him.

But I hope that all of us will draw from his legacy of courage the will to carry on his unending search for truth and justice wherever that search may lead. I know that is the legacy he really would have wanted.

Let me close by saying that I have a lot of personal respect for JOHN EAST and his family. I sat with him on the Judiciary Committee for his entire tenure in the U.S. Senate.

I have seen him stand up on issues that were very difficult to stand up on. I have seen him set an example that was second to none. I have seen him here late at night, crippled as he was and worn out as he was, go through that debilitating physical problem he had, which probably should not have occurred. I have seen him do it with courage.

The Thursday before he died, I went up to him here in the well of the Senate and put my arm around him and asked how he was, and he said he was fine. He seemed upbeat and very happy. It was a late day, as I recall—at least, it was in the early evening—and it was not untypical for JOHN EAST to give of himself to the U.S. Senate and to the people he represented add served.

I had a brother-in-law who had a similar affliction, and my brother-in-law was in a wheelchair as well. I have to say that the greatest man I have ever met, outside of my father—maybe a few in this body—was that brother-in-law who, day in and day out, went through college, got his master's degree in engineering, and worked every day until the day of his death. He set such an example of courage to me that it has been an inspiration to me ever since. Every time I start to feel that things are tough or moan about how difficult life is or feel sorry for myself, I think of that brother-in-law. JOHN EAST reminded me more than any other person of this brother-in-law whom I deeply loved and still do love. I loved JOHN EAST too, and I feel badly because this has happened. There are not many people who could claim to have left the legacy that our friend has left to us.

I just want to pay my total respect to JOHN. I know he is up there, listening to us, and he is in a happy place. I am glad that he is in a happy place.

I miss him personally in this body, and I hope that his family is comforted by the thought that many of us feel deeply about him and the legacy he left, the teachings he left with us, the philosophy that he espoused, and of course the feelings he showed to each of us—the brotherhood and kindness and decency that we do not find too often in many of our fellow citizens.

Mr. QUAYLE. Mr. President, I rise this morning to join in paying tribute to the memory of our late distinguished colleague, Senator JOHN P. EAST of North Carolina. Senator EAST and I were fellow members of the Senate class of 1980, and I was privileged to serve with him on the Committee on Labor and Human Resources in the 97th and 98th Congresses and on the Committee on Armed Services in the 98th and 99th Congresses. I admired JOHN EAST as a man, valued him as a colleague, and mourn his loss as a friend.

When the senior Senator from North Carolina, Senator HELMS, took the floor upon the Senate's recent return from its Independence Day recess to report formally the tragic death of his beloved colleague, he praised Senator EAST as "a profile in courage."

Courage, indeed, is a common theme of so many of the newspaper editorials and public statements about JOHN EAST that were made in the wake of his death on June 29. And as I speak of JOHN EAST's life this morning, I am reminded of this stirring verse from the 1662 Prayer Book of the Church of England: "Sing praises lustily unto him with a good courage."

Mr. President, Marilyn and I traveled to Greenville, NC, on July 1 to attend the memorial service for JOHN EAST at Jarvis Memorial Methodist Church. There we heard JOHN'S pastor, the Reverend J. Malloy Owen III, deliver a stirring eulogy in which he sang the praises of JOHN EAST as a man who was "willing to pay the price of being different."

JOHN EAST evinced this strength of character when he attended Earlham College at Richmond in my home State of Indiana. Earlham is a Quaker school with an abiding tradition of political liberalism. But JOHN EAST was not afraid to be different. A political science major, JOHN was a champion debater, an outspoken exponent of conservatism who nonetheless counted many liberals among his closest friends. He believed in civil, temperate discourse, and he always could distinguish between a classmate and that classmate's ideology.

Earlham's faculty quickly recognized the extraordinary intellectual talent in their midst. Former Congressman David W. Dennis of Richmond has recalled that his father, William Cullen Dennis, who was president of Earlham, regarded JOHN EAST as the brightest student whom he had ever taught.

JOHN EAST's steller academic performance at Earlham earned him a full scholarship to the prestigious University of Chicago Law School. But first, his country needed him. A football player at Earlham, JOHN joined the branch of the military with perhaps the most rigorous physical demands—the U.S. Marine Corps. After 2 years as a lieutenant, JOHN left the service to begin law school.

Only 2 weeks after leaving the Marines, however, JOHN learned that he had contracted polio from a Marine camp swimming pool that was contaminated with the disease virus. JOHN EAST would never walk again. As Reverend Owen observed in his eulogy: "Most of us would have crawled into a corner and watched television for the rest of our lives. But not JOHN EAST.

JOHN had to forego his scholarship at the University of Chicago because that law school's facilities were not yet accessible to the handicapped. Instead, he attended the University of Illinois School of Law, where he distinguished himself in moot court competition. One of JOHN'S teachers at Earlham, the eminent Quaker philosopher Elton Trueblood, remembers visiting JOHN EAST at the University of Illinois and seeing him pull himself up the stairs of his home with a pulley. Dr. Trueblood regards that memory as symbolic of how JOHN EAST lived.

After graduating from law school in 1959, JOHN and his wife, Priscilla, whom he met at Earlham and married in 1953, moved to Florida. After passing that State's bar examination, JOHN practiced law for a year. But JOHN EAST, the intellectual, yearned for the life of the mind and for his first academic love, political science. So he enrolled in the graduate school of the University of Florida, earning his master's and doctoral degrees in that field by 1964. Soon thereafter, JOHN accepted a teaching post at East Carolina University in Greenville, NC, where he served as an unusually popular and respected professor until his election to the Senate in 1980.

And so, Mr. President, we know that JOHN EAST had the enormous courage to rise above the crippling blow of polio to earn law, master's, and doctoral degrees. But JOHN EAST was not content to rest even upon these laurels. He was not content to teach political science only as theory. He yearned also to put it into practice. And again JOHN had the courage not to be afraid to be different. In an eastern North Carolina congressional district with a better than 30 to 1 party registration

disadvantage, he ran in 1966 for the U.S. House of Representatives as a conservative Republican. Although he lost, JOHN EAST won a remarkable 40 percent of the vote and the lasting respect of North Carolina political observers.

After losing another political race, this one for North Carolina Secretary of State in 1968, JOHN found another way to serve. He led the forces of then former California Gov. Ronald Reagan on the platform committee of the 1976 Republican National Convention at Kansas City. And early in 1977, JOHN EAST was chosen to represent North Carolina of the Republican National Committee.

Already carrying a full load of teaching responsibilities at East Carolina, as well as serving on the Republican National Committee, in 1980 JOHN EAST undertook yet another strenuous political campaign, running for the U.S. Senate. This time, however, he won, upsetting the incumbent U.S. Senator, Robert Morgan.

In the Senate, JOHN EAST quickly demonstrated more of the courage that brought him here. In the face of fierce criticism by his philosophical adversaries, Senator EAST held an important series of hearings on the prolife legislation known as the human life bill. In doing so, Senator EAST helped give a clear focus to the fundamental, scientific question of the abortion debate—when does human life begin?

Although Senator EAST's hearings did not lead to the passage of the human life bill by Congress, they contributed mightily to the political and legal debate concerning the enduringly controversial 1973 abortion decision in the case of Roe versus Wade.

As a lawyer and a political scientist, Senator EAST devoted much of his energies and enthusiasm in the Senate to his work on the Judiciary Committee. He played an important role in the committee's hearings on the nominations of Sandra Day O'Conner to the Supreme Court and Edwin Meese to be Attorney General of the United States. From 1981 to 1985, he was the chairman of the Subcommittee on Separation of Powers, where he focused on the crisis in the constitutional separation of powers precipitated by an era of judicial activism in the Federal courts. In 1985, Senator EAST was chosen by his colleagues on the committee to serve as the chairman of the Subcommittee on Courts. In that capacity, he worked hard on numerous legislative proposals to improve the efficiency of our Federal court system.

Mr. President, none would argue with the proposition that JOHN EAST was among the several most conservative Members of the Senate. Some would say that he was the Senate's most conservative Member. If so, he wore that badge proudly. He did not waiver from this strength of political conviction even when he knew that the votes he cast in the Senate could cost him the reelection that he would have sought but for the illness—hypothyroidism—that ultimately killed him. For JOHN EAST believed as Edmund Burke, the eminent 18th century British philosopher-statesman whom he quoted so often, did when he said:

> Your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion.

Finally, Mr. President, those of us who attended JOHN EAST's memorial service in North Carolina learned how much our late colleague loved studying his Bible. So I want to close my remarks this morning by quoting from John 11:25-26:

Jesus said, I am the resurrection and I am life. If a man has faith in me, even though he die, he shall come to life.

As the Washington Times concluded its moving July 1 editorial tribute to Senator JOHN EAST:

> Those who knew the junior Senator from North Carolina and who knew of his battles and his sufferings in this world will have no fear for his condition in the next.

□ 1200

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the recess be extended from 12 noon under the previous order to 12:30 p.m. today so that this discussion may continue.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORIAM: JOHN PORTER EAST

Mr. ARMSTRONG. Mr. President, the Senate of the United States is a poorer place without JOHN EAST. Many of us have lost a friend; all of us have lost a dedicated colleague.

There are not many like him: A citizen-candidate who showed that merit and courage can elevate to national prominence a man who was far from being a professional politician. On the contrary, JOHN EAST was a scholar, a thinker, a philosopher, a writer, an academician, a theorist, as well as an attorney.

He was, most of all, a teacher, and not just during his tenure as professor at East Carolina University. He taught here in Washington as well, both through his speaking in this chamber and, what is always far more important, through his example. And like every outstanding teacher, he was always learning. He would always listen. He gave others their due. He understood disagreement and diversity.

But he also understood the difference between truth and error, between fact and falsehood; and he was not tolerant of the false or the phony. Indeed, it was his commitment to the truth that brought him to the Senate; for he understood that our country had been making some dangerous mistakes, and he was determined to help correct them.

He understood both the military danger of Communist regimes and the intellectual danger of Marxist ideology, and he was an able opponent of both.

He understood the folly of both statist economics and fiscal irresponsibility, twin roads to the dismal destination of national ruin; and he never failed in his commitment to completing America's economic recovery.

He understood that the greatness of a nation depends upon the character of its people, and that an ethical recovery was as essential in this land of ours as an economic one.

Technically, JOHN EAST was disabled, confined to a wheelchair by the polio contracted while a young man. But no one who worked with him could think of him as disabled. We saw only his abilities, in committee and in debate, in private counsel and in public discourse, and in the life of the mind, to which he devoted his adult life.

Many are more mobile than JOHN EAST was, but few are stronger. For his strength came from a rigor of thought and a clarity of will. It came from a sense of purpose that allowed him to overcome obstacles of all sorts, both physical and political. In that special strength, fortified by adversity, he was ever the young marine lieutenant so eager to serve his country. And serve he did, in ways he could not have foreseen more than 30 years ago when he wore his country's uniform.

His fellow Senators will not soon forget his appearance in this Chamber: The way he showed a gainly grace in awkward circumstances, the way he managed a welcome smile in painful circumstances, the many ways he found to stand tall among us. Even as we join in his family's sorrow, we thank them for sharing him with us these last several years. And we join them in entrusting him to the care of a merciful God, whose gifts to him JOHN nobly developed, whose blessings he freely shared, and those children Senator EAST sought to protect.

Let us wish him peace, but let us continue his work.

While, of course, this is a moment when all of us feel a great sense of loss and it is a moment when we wish to extend to Mrs. East and to the family and to all who loved and admired JOHN our deepest sympathy, I think it should not be a moment when we fail to celebrate his life as well as to mourn his passing.

In the death of JOHN EAST the people of North Carolina have lost a distinguished public servant and the people of this country have lost an ex-

traordinarly Senator, a man whose ideals and patriotism were an inspiration to all of us who had the privilege of serving with him and to many, many others who did not know him but who followed his career and who admired his work, character, intellect, and scholarship.

Mr. President, it is that thought which I will always remember about our friend JOHN EAST that he was in the highest and best sense a U.S. Senator, a man of broad vision who served the people of his State and spoke for their interests over and over again, but who saw beyond the borders of North Carolina to the whole country and whose patriotism, whose sense of purpose, calling, and duty were shown over and over again.

Mr. President, I shall always remember also that JOHN EAST was a fighter. Some might be surprised to hear me characterize him in that way because he was a man of gentle manner and disposition. He was not a loud talker. He was not a person who was pushy or who was putting himself forward but he cared deeply about the future of this country and over and over again carried forward the battle of ideas and did it with great distinction and with great fortitude and intellectual power.

Those of us who have been privileged to serve with him and know him will be forever grateful for what he brought to this body.

Mr. President, I do join with all Senators in extending sympathy and expressing my regret but also really in celebrating the great contribution which he has made to the life of this country and to the family of the Senate.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, JOHN EAST was a Senator who felt strongly about the great national issues of the day and he had the courage to take a stand on those issues and he took his stand on the basis of his convictions. Sometimes he almost stood alone in this Chamber. But his courage was undaunted.

He was liked by the pages. He was liked by his colleagues. He always took a moment to say hello to the pages, and I believe that that is a mark of humility which in turn is a mark of greatness when a very busy person takes time to spend with little people, our pages, and has a minute to give to them to inspire them and to make them feel that they, too, are being recognized for their services.

JOHN EAST and I had a talk one time about some of the difficulties in the lives of each that had to be overcome. Here was a man who had been an outstanding athlete, served as a U.S. marine, brought down by polio, not just in the prime of his life but at the beginning of the prime of his life, and he was still in that prime when he served here.

I know that it is impossible for one to put oneself into the person of another and truly understand the trials and the burdens and the heartaches that the other person carries.

So I cannot do that, but I can imagine what those trials and burdens may have been like.

JOHN EAST had great faith and he looked up, not down. We often see this in individuals who are not as fortunate as others. I have seen it when I have gone to Romney, WV, and visited the schools for the deaf and the blind, and as I have watched those little people, those young people, go about helping one other—a deaf student leading a blind student, sometimes a blind student leading a blind student.

The applause that a visitor receives in going to that school and meeting with those young people is really something that is inspiring, uplifting, and in a way, puzzling, because one wonders how those young people—most of whom probably have never been able to see the sunsets, the mountains, and the hills and the flowers, and all of the beauties of nature—how they can be so upbeat and so upward-looking in their faith.

So one has to wonder and yet, perhaps, one does not have to wonder, beause people like JOHN EAST have an inner faith upon which to draw, that provides the strength and succor and comfort for the trials, and sometimes I think they see above the rest of us.

We, of course, always are sorry when we lose a Member here. We differ in our viewpoints and sometimes we become somewhat partisan in our debates, but underneath it all, there is a kind of spirit that bonds us together.

We all try to remember that we are only mortals, and that "Man that is born of woman is of few days and full of trouble. He cometh forth like a flower and is cut down. He fleeth also as a shadow and continueth not."

So the time will come when each of us shall "join that innumerable caravan that moves to that mysterious realm," and we carry a sorrow with us, meanwhile, that is perhaps unlike the sorrow of the immediate family, the closest loved ones, but there is still that feeling that underneath we are all to some extent brothers.

□ 1210

To his family, words cannot mean very much at a time like this. And yet, they do mean much.

Having lost one so near and dear to us within our own families, I know that we all know how much a few words of sympathy and remembrance do really mean to the sorrowing heart.

I would simply close these random thoughts with a few lines that I did not compose, but which are meaningful in moments like these.

Let Fate do her worst, there are relics of joy,
Brights dreams of the past, which she cannot destroy;
Which come, in the night-time of sorrow and care,
And bring back the features that joy used to wear.
Long, long be my heart with such memories filled!
Like the vase in which roses have once been distilled,—
You may break, you may shatter the vase, if you will,
But the scent of the roses will hang round it still.

Mr. TRIBLE. Mr. President, I rise to join my colleagues in paying our respects to our departed friend and colleague, JOHN EAST. We will miss his smile and his warm and gentle spirit, his concern for our wellbeing, but we will always cherish his presence in our life and the contribution he made to this great institution and to this country.

JOHN was a rare man. A scholar and a statesman, his life combined the theory and practice of politics in unparalleled fashion. JOHN EAST understood with depth and clarity the principle of the American policy. And he dedicated his public life to the realization of those principles.

He brought to this body a reflectiveness rarely found in modern politics, and the life of the Senate was enriched by his presence.

JOHN EAST's accomplishments came at great cost. He overcame polio and went on to win a degree in law and a doctorate in political science. He sought to make his mark in public life and won a seat in the U.S. Senate.

In this body, the Senate of the United States, JOHN never shrunk from controversy nor were his positions derived from the politics of the moment. Rather, in pursuit of his principles, JOHN EAST was resolute and steadfast.

We mourn his loss, Mr. President, but we shall never forget his friendship and his example and his lasting contribution to our lives.

A GOOD NEIGHBOR

Mr. MATSUNAGA. Mr. President, I too rise to speak to the memory of our late colleague, Senator JOHN EAST. While our party affiliation and political outlook differed, Senator EAST and I struck off a very pleasant personal friendship from the time he was elected to this body. For 2 years we were office neighbors in the Dirksen Building and a more gracious, friendly and helpful neighbor one could not hope to have than JOHN EAST. Our staffs also enjoyed each others' company.

JOHN EAST represented North Carolina in this body with great distinction of both intellect and personal fortitude and his example of daily valor for all of us will long be remembered. While I fully realize that no word or act of any mortal can ease the inner

pain over the loss of their beloved one, to his wife, Priscilla, and their daughters, Kathryn and Martha, I extend my heartfelt condolences and God's aloha from the people of Hawaii.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now stand in recess until the hour of 2 p.m.

Thereupon, at 12:17 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HECHT).

□ 1400

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2247) to amend and extend the Export-Import Bank Act of 1945, and to eliminate foreign predatory trade practices.

The Senate resumed consideration of the bill.

Pending:

Ford Amendment No. 2217, to provide for a replenishment of funds to finance price support programs of the Department of Agriculture.

AMENDMENT NO. 2217

Mr. HEINZ. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. The pending business is the Ford amendment, No. 2217.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MANION NOMINATION

Mr. DOLE. Mr. President, last week I think it was I indicated to Senator BYRD at his request that if we were to take up the motion to reconsider pending on the Manion nomination he would like 24 hours' notice.

I concur in that because I think what we are both trying to do is make certain that all of our players are here. It is a very close vote. It is my intention to try to dispose of that matter tomorrow. I would hope that we could do it around 2 o'clock tomorrow. So the RECORD will reflect the statements made.

If someone disappears that could change but it is my present intention to dispose of it tomorrow.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The Senate continued with the consideration of the bill (S. 2247).

Mr. JOHNSTON. Mr. President, are we under control of time at the present time?

The PRESIDING OFFICER. We are not.

Mr. JOHNSTON. Mr. President, in a moment I propose to ask for unanimous consent to set aside the pending amendment so that we may take up an amendment which I had previously asked for a reservation on and which is part of the unanimous-consent agreement. It is an amendment which has been passed verbatim by this body once and in a more expanded form on another occasion relating to trade adjustment assistance for unemployed oil and gas workers.

As I told my colleagues at the time I brought it up on the fiscal year 1986 supplemental appropriation bill, we spent an extensive amount of time with OMB working out the language of the amendment to satisfy their objections.

□ 1410

Based on that, OMB was prepared not to object in the sense that they would not recommend a veto to the President on the supplemental appropriations bill. On that basis, it passed by voice vote in the Senate last time. The first time it passed, it was, of course, extensively debated and passed by a vote of 55 to 40, if I recall the numbers. In its scaled down version, Mr. President, the CBO says the amendment would cost some $7 million in fiscal year 1987.

Mr. President, at this time I ask unanimous consent that we set aside the pending amendment in order to take up the amendment just described.

Mr. HEINZ. Mr. President, reserving the right to object, speaking for the majority, we would like to continue and conclude the debate on the Ford amendment for a few more minutes before turning to any further amendment, and either Senator GARN or myself are prepared to debate the Ford amendment. So I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON. Mr. President, it would be a great accommodation to the Senator from Louisiana. I do not think it would take a great deal of debate to bring the matter up at this time. Is there any particular reason for objecting?

Mr. HEINZ. Yes, the manager of the bill wants to debate the pending business of the Senate, the Ford amendment, I intend to be very brief.

Mr. FORD. Mr. President, I have no reason to object to the distinguished Senator from Louisiana bringing his amendment up. I will be perfectly willing to set mine aside. We were able to discuss my amendment briefly last night. I do not think there would be a long debate on it today. So I would be perfectly willing to have my amendment set aside so that the distinguished Senator from Louisiana might be accommodated.

Mr. HEINZ. Mr. President, I want to say a few words about the Ford amendment as the manager of this legislation, and then I am going to yield to my distinguished committee chairman because I will have to temporarily absent myself from the floor to go to a Finance Committee reconciliation markup. I think we all probably have rather compressed schedules this afternoon and I appreciate the problems of the Senator from Louisiana.

The Ford amendment would shift 4.3 percent of the funds appropriated for the war chest to restore the Gramm-Rudman-Hollings sequestration cuts in USDA price support programs. In other words, we are taking money from the war chest and we are giving it to the Department of Agriculture for price supports in the United States.

Mr. President, that may or may not be good policy. Frankly, this is not the way we are supposed to debate those kind of policy changes. We are supposed to debate them in the Budget Committee and during consideration of the budget resolution on the Senate floor. I do not think I have to remind my colleagues that the Senate and the House have been through that process. We have a budget resolution, and this pays no attention to the budget resolution that both the House and the Senate, after great deliberation, passed.

It also has one other objective, which would be to overturn, in effect, any mandated sequestration cuts under Gramm-Rudman. I think it is fair to say that many of our colleagues would see this provision, and I think the administration would see this provision, as a serious problem. All of us here in this body should be equally concerned about undermining our resolve—and I think it is still a strong resolve—to control the Federal deficit.

Now, I think we all recognize the difficulties facing farmers, but the real question is whether we want to take from one program to give to another to make up for the reductions in that other program that are at the heart of the deficit control effort that we are making. And it is not hard to imagine that if we start raiding authorization bills or appropriation bills in order to try to exempt one program or another from Gramm-Rudman, well, then, we may just as well tear up any effort at fiscal responsibility, because we are serving notice that what we did before was just not a serious exercise; we are just trying to kid everybody; we will

vote for Gramm-Rudman one day and we will vote to undermine it the next.

Well, Mr. President, this Senator does not want to be a part of any such effort to undermine the integrity of the legislative process and the integrity of our commitment to reduce the Federal budget deficit and to play favorites after the fact. This Senator objects very strongly to that kind of game playing.

I have said that the appropriate place to decide tradeoffs between programs is the budget resolution. There is one other place, and that is in budget reconciliation. We are going to have a reconciliation bill coming to the Senate floor probably next week, certainly not much after that at the latest. Any effort that we make today to second-guess that process I think severely undercuts any commitment that we have made to deficit control.

Let me also say just a word on the merits of what the amendment proposes. I am opposed to the amendment substantively on the ground that it reduces the amount of money that would be set aside for the war chest fund. The fund is already minimal for the job it is required to do; namely, to show that the United States is serious about defending its economic interests against predatory export financing practices, and most particularly mixed credits or tied aid credits. The war chest is aimed to target, to discourage, so that we can negotiate, for all practical purposes, an end to tied aid and mixed credits that unfairly steal sales from American exporters and which cost Americans many, many thousands of jobs.

I might add that the administration very strongly supports the war chest. They do not want to see it undermined. They do not want to see this amendment adopted and they do not, above all, want to see this and a lot of other amendments that would have the effect of taking bite after bite out of the war chest until there was nothing left except maybe a little bit of skin and a few scraps of bone.

I do not think it makes any sense to cut into small but essential trade initiative like this in order to provide what I think even the sponsor of the amendment would probably say is, given the huge size of our price-support programs, symbolic to the farmers but major in impact to this program.

So, I would urge, Mr. President, that we defeat the Ford amendment.

Mr. FORD. Mr. President, just a couple of words as relates to my distinguished friend, but first I ask unanimous consent to add as cosponsors Senators EXON, GRASSLEY, and ZORINSKY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I resent just a little bit saying I am not fiscally responsible. I think it is in the best interests of all that we try to take care of our own, that if this is a twig, then the $300 million into a billion dollars could not be much more than a twig. I think it is symbolic. I think it does indicate that we are serious as it relates to the farmer.

Mr. President, I hope it is in order that I might ask for the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. FORD. I am glad to yield.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Utah has generously agreed to allow me to bring up this amendment at this time if it is suitable with the Senator from Kentucky.

Mr. FORD. It certainly is. I would just like to send to the desk, before we do that, a modification of my amendment. I believe I have the right to do that.

□ 1420

The PRESIDING OFFICER. Unanimous consent is required to modify the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that I may be allowed to modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

On page 13, line 10, after the period, add the following: "Notwithstanding any other provision of law, of the funds appropriated to this paragraph, 4.3 percent shall be made available to the Secretary of Agriculture to carry out price support programs administered by the Secretary at levels up to those provided for in the Food Security Act of 1985 (P.L. 99-198).".

(The name of Mr. BOREN was added as a cosponsor of the amendment (No. 2217), as modified.)

Mr. BOREN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Kentucky, Mr. FORD, and the distinguished chairman of the Agriculture Committee, Mr. HELMS.

The farmers of our Nation have taken a substantial cut in their income in order to reduce the budget deficit. There's been much talk about farmers having to take the 4.3 percent Gramm-Rudman cut this year. It is important to recognize that farmers have not merely taken a 4.3-percent cut from 1985; rather, the cut is much greater than that due to changes that were made in the Food Security Act of 1985. For example, the average wheat farmer's income, in my home State of Oklahoma, for the 1986 crop will be more than 10-percent lower than the income he received for his 1985 crop.

At the same time we have reduced farmers income, we are continuing to send more and more money overseas in the form of low-interest loans that are used to subsidize production of agricultural commodities that in turn compete with our own commodities. While we have denied our own farmers low interest loans, we are helping to make available low interest loans to farmers in other countries.

Mr. President, the amendment before us requires that we set priorities in the spending of money. Frankly, I believe the farmers of this country should be the priority.

The amount of money transferred by this amendment is not substantial. However, it will give the Department of Agriculture a chance to provide some much needed relief to our farmers.

I urge my colleagues to support this amendment.

Mr. GRASSLEY. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Kentucky. This amendment makes a 4.3-percent cut in the funds authorized for the Export-Import Bank "war chest" and uses this money to restore part of the Gramm-Rudman cuts in price support programs administered by the Department of Agriculture.

Farmers realize that no farm program, no matter how good, will counter the devastation brought by deficit spending, high interest rates, and a strong dollar.

That's why farmers recognized the importance of passing Gramm-Rudman to force Congress to use some budget restraint. As Senator KENNEDY stated, when there's a fire you don't argue over which fire extinguisher to use. That's why a majority of the House and Senate voted to affirm the March sequestering.

Some might argue, the Eximbank helps American companies fight the predatory trade practices of foreign countries. Why should we cut this budget to give a break to farmers? Why should farmers be exempt from the 1986 Gramm-Rudman budget cuts?

I'll explain why. I remember how the distinguished Senator from New York, Senator MOYNIHAN tenaciously pursued changes in Gramm-Rudman until he was absolutely certain that farmers took cuts too.

I remember Senator MOYNIHAN stating that the Defense Program was included and the Space Program was included and that therefore he was going to make certain that farmers were included too.

Thus price support programs were drawn into Gramm-Rudman. Compounding the mistake, the House insisted that Gramm-Rudman apply to

fiscal year 1986 as opposed to fiscal year 1987 as the Senate preferred.

By insisting on earlier cuts, the House gave Congress no realistic opportunity to pass new budget priorities to avoid the automatic cuts for fiscal year 1986.

That's what they wanted. They wanted this deficit restraint tool to look bad from square one. So in the name of politics, these automatic cuts were triggered.

The unfairness in all this is that American farmers were required to take a cut in income. Other groups had their benefits frozen and COLA's eliminated, but no one was required to take a cut but America's family farmers. This amendment offers us an opportunity to fix this without increasing the deficit.

The Ford amendment takes money from a program which hasn't always supported America's interests and gives it to America's family farmers. The Eximbank has at times helped our trading partners at the expense of American jobs. The Eximbank has indirectly aided Marxist governments. By voting for this amendment we can both right an injustice against our farmers and send a message to the Eximbank to clean up its act. I encourage my colleagues to support the amendment.

Mr. FORD. Mr. President, I yield to the distinguished Senator from Louisiana.

AMENDMENT NO. 2218

(Purpose: To amend the Trade Act of 1974 to make workers and firms that supply parts and services for the oil and gas industry eligible for trade adjustment assistance)

Mr. JOHNSTON. Mr. President, I send to the desk the previously described amendment on behalf of myself, Senator BENTSEN, Senator GORE, Senator LONG, Senator NICKLES, Senator BOREN, Senator BINGAMAN, Senator STEVENS, and Senator MURKOWSKI, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Ford amendment is set aside and the clerk will report the amendment offered by the Senator from Louisiana.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. BENTSEN, Mr. GORE, Mr. LONG, Mr. NICKLES, Mr. BOREN, Mr. BINGAMAN, Mr. STEVENS, and Mr. MURKOWSKI, proposes an amendment numbered 2218.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after line 21, add the following:

SEC. .(a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas,

shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated.

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas.

"(ii) produces or extracts oil or natural gas.

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(c)(1) The amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and (B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

Mr. JOHNSTON. Mr. President, in its original form, this amendment allowed trade adjustment assistance for unemployed oil and gas workers as well as secondary and tertiary oil and gas workers.

After discussions with the Office of Management and Budget, Mr. President, we agreed to four modifications of the amendment which brought the cost down considerably, and I believe removed all objections to it.

What we have done is to eliminate tertiary workers altogether, required that the workers be impacted by the importation of a product that is directly competitive with the product produced by the workers' firm, provided that secondary workers can be included only if involved in the oil and gas business, and, finally, we put a limitation that only those eligible through the next fiscal year will be included in the act. Let me say, Mr. President, by secondary suppliers, I mean to incuded anyone who provides essential parts and services to anyone in the oil and gas exploration and production chain, such as need supplies, drill bit suppliers, seismic companies, crew boat companies, board road suppliers, pipeline installation companies, helicopter operations and others.

Those modifications brought the cost down to $7 million in fiscal year 1987. I believe, Mr. President, it will remove the objection.

Mr. President, this matter was debated at some length on two occasions previously here on the floor of the Senate. The first time, by a vote of 55 to 40, it passed, and the second time, it was generally conceded that the issue was well understood here in the Senate and had previously been decided. Therefore, we had a voice vote the last time.

Rather than repeat all of those arguments, Mr. President, I would commend the record of those proceedings to my colleages and just say on behalf of all of us from oil- and gas-producing States that it is a very, very difficult situation. Imports of petroleum and petroleum products have increased by 26 percent over the comparable period last year and these imports have contributed importantly to the loss of over 100,000 jobs in the energy industry. This will be a small palliative to those longtime unemployed oil and gas workers and will be for them, at least, a great help.

I thank the distinguished Senator from Utah and ask for adoption of the amendment.

Mr. NICKLES. Mr. President, I rise to compliment my good friend and colleague, Senator JOHNSTON, from Louisiana for bringing up an amendment to provide assistance for oil and gas workers who are unemployed under the Trade Adjustment Act. As he stated, we fought this battle a couple of times on the floor of the Senate. We passed it. I am pleased that the leader and Senator GARN will accept this amendment. It is one that is needed. I was very disappointed that it was not accepted in conference when we had the supplemental appropriations bill before us. I am hopeful that we will be able to have it adopted on this vehicle. If it is not adopted on this vehicle, we will find another vehicle where it will be adopted.

As Senator JOHNSTON is aware, in the oil patch and oil-producing States, we have some very serious economic problems. This will help those individuals, who are so unfortunate as to be unemployed, with training and assistance. I think it is only fair and only right. I am pleased that we are going to pass it on the floor of the Senate today. I am also pleased to be a cosponsor with Senator JOHNSTON.

Mr. JOHNSTON. If the Senator will yield, I would like to say that my distinguished colleague from Oklahoma is not only a cosponsor but a strong cosponsor of this amendment who has spoken often and eloquently on this very difficult subject. I thank him for his help.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, although I am willing to accept this amendment, I should note that it is under the jurisdiction of the Finance Committee, although there are none of them here to oppose it on jurisdictional grounds today. It has passed the Senate before, and when it has reached the House, there has been a point of order made against it.

I would just advise my colleagues who are in support of it that although I am willing to accept it, there are some difficulties with jurisdiction on the House side.

With that statement, I know of no objection to the amendment, and I am willing to accept it.

EXPANSION OF TAA PROGRAM TO INCLUDE UNEMPLOYED OIL AND GAS INDUSTRY WORKERS

● Mr. BENTSEN. Mr. President, I join with Senator JOHNSTON in calling for extension of the current Trade Adjustment and Assistance Program to oil and gas industry workers. Members will recall that the same or a similar amendment by Senator JOHNSTON has been passed by the Senate four times since April 3. Most recently, it was approved on June 26 in the conference report of the urgent supplemental appropriation bill. The House knocked it out of that bill. But the merits of the provision have increased in the last month. Let me explain.

INTRODUCTION

Our domestic energy industry is so dominated by events abroad, that it catches a cold every time Saudi Arabia sneezes. The price of oil and gas is directly determined abroad. And the quantity our producers can sell here at home is determined completely by the handful of major producers in the Organization of Petroleum Exporting Countries or OPEC. Why? Because OPEC members like Saudi Arabia can produce oil at $1 or less per barrel while much of our domestic production is considerably more expensive, with an average lifting cost for stripper wells of $14.50 per barrel.

The vulnerability of domestic producers to foreign trade is being dramatically demonstrated now. Saudi Arabia has decided to reduce its price, and increase sales. It dropped prices by 60 percent and captured market share by guaranteeing to match any lower price by any other producer. The collapse in prices to below $10 per barrel from $27 per barrel last fall has hit our domestic oil and gas producers on the chin. They are reeling; cutting output, laying off workers, slashing exploration budgets and shutting down all drilling not under binding contracts.

NEW DATA SHOWS SECOND QUARTER GROWTH DOWN

These cutbacks have raged like a wildfire through the oil and gas industry. The dependence on oil and gas has reached far beyond the oil patch, however. Just this morning, the Bureau of Economic Analysis at Commerce released second quarter growth data. It showed that real GNP grew a scant 1.1 percent in the second quarter, barely one-fourth the rate predicted by the administration.

We are in a growth recession caused by declining capital spending and a trade balance that continues to worsen. Imports rose a sharp 20 percent in the second quarter while exports were virtually stagnant. Moreover, nonresidential fixed investment fell 2.6 percent as the ripples of declining energy investment widened to include real estate and other capital goods. Oil imports were up nearly 40 percent last month compared to 1985 as foreign oil gushed ashore to replace declining U.S. production.

The energy depression poses a real threat to push the entire economy into a recession.

THE OIL PATCH DEPRESSION

Nearly daily, papers across my State of Texas carry stories of budget cuts and layoffs. Nationally, the Bureau of Labor Statistics shows that 158,000 oil and gas industry jobs were lost between December and June 1986. That's a loss of 25 percent in barely 6 months. At that pace, there will be only one person working in the oil and gas business by Christmas for every two in that industry this last Christmas. Any industry facing job loss at a 50-percent annual pace is in trouble. There is blood all across the energy heartland of our Nation in the Southwest.

The number of rotary rigs have fallen 85 percent from their 1981 peak. Every week, the rig count now falls to a new low. Currently, there are fewer oil and gas rigs in operation than during the dark, early days of World War II when our Nation was diverting pipe and everything else to the war effort. That collapse in drilling translates directly into declining exploration and new oil discoveries. Only one well in 13 wildcats locates new deposits. Thus we could well see a bare three wildcats a week all across this Nation come in this year compared to 30 successful wildcats back in 1981.

That's bad news for the country. It means increased vulnerability to OPEC oil blackmail. And it means higher oil prices in the future.

In my State of Texas, the impact has been much more immediate. Since January, 240,000 jobs have been lost in Texas. Over 50,000 of them have come directly from the oil and gas industry. And for each job lost directly in that industry, four others have been lost in the ripple effect. For example, since December, 15,000 jobs in manufacturing in Texas have been lost. Some 39,000 jobs in retailing have been lost. And even 6,000 needed jobs in the motion picture and amusement sector have been lost. All together, unemployment in Texas has risen 50 percent since December to a record 846,000 men and women in June. And

unemployment claims in the oil patch have jumped many-fold.

EXPLANATION OF AMENDMENT

This amendment will ensure that oil and gas industry workers in refining, exploration, and production are eligible for TAA assistance. But it goes further than that. It recognizes that the ripple effects on other related industries is a real fact of life. Thus, laid off workers in industries which provided goods and services to the oil industry like drill bits and oil rigs, will be eligible, as well. Finally, it will provide eligibility for workers laid off since last fall, since October 1, 1985.

Last year, some 20,000 American working men and women received benefits under TAA, in industries all across this Nation and in both service and manufacturing sectors. Over one-third, or 7,424, of them received job training or job search assistance, as well. This amendment means that our unemployed oil and gas field workers or workers in firms supplying the energy industry will have the right to those same temporary benefits.

I am very pleased to support this amendment. It is a quick and necessary Federal response to the crisis gripping our energy industry. And I hope that the conferees and the House of Representatives will act favorably on it, as well.●

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. I simply wanted to thank my distinguished colleague from Utah. I am very hopeful that Members of the House will now see the merits of this amendment and will accept it.

The PRESIDING OFFICER. If there is not further debate, the question is on agreement to the amendment.

The amendment (No. 2218) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2217, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the Ford amendment.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, I talked to Senator FORD about his amendment yesterday and immediately and enthusiastically agreed to become a cosponsor of it. The amendment, as has been stated, would reprogram 4.3 percent of the moneys appropriated to carry out the Tied Aid Credit Program. These reprogram funds would be used to support agricultural programs.

Mr. President, this amendment would apply the same across-the-board percentage reduction to the Tied Aid Credit Program that was applied to the sequesterable nondefense programs, including agricultural price support programs, under the March 1, 1986, sequestration order. Certainly, this program should be subject to the same reduction that was applied to many of our domestic programs.

The moneys saved by cutting the $300 million "war chest" would be made available to the Secretary of Agriculture to carry out price support programs up to the levels provided in the Food Security Act of 1985. The effect would be to restore a portion of the Gramm-Rudman-Hollings reductions in the price support programs for the 1986 crops.

Two important points should be made with regard to this amendment. First, this amendment does not authorize new expenditures for the agricultural programs. Rather, it reprograms or shifts 4.3 percent of the moneys to be apropriated for the Tied Aid Credit war chest to the Department of Agriculture for its use in carrying out the price support programs.

Second, this amendment will only take the sharp edge off the disproportionate reduction that agriculture has been forced to bare under Gramm-Rudman-Hollings sequestration orders. Even if this amendment is enacted, agriculture will still suffer far more than its share of the budget deficit reduction achieved under the March 1 sequestration order.

Mr. President, only $105 billion of the $724 billion in Federal nondefense spendilng for fiscal year 1986 was subject to the Gramm-Rudman-Hollings reduction of 4.3 percent. Agriculture programs, which make up approximately 3 percent of nondefense spending, sustained about 22 percent of the sequestration cuts. This means that farmers sustained seven times their proportionate burden of the sequestration order.

Meanwhile, many programs such as Food Stamps, Child Nutrition, and dozens of others, were expanded and received cost-of-living increases. Unless this amendment is enacted, this disparity will be exacerbated, because this new Export-Import Bank program will be exempt from the budget reduction knife of Gramm-Rudman-Hollings.

I urge the Senate to adopt this amendment to broaden the budget-balancing base of Gramm-Rudman-Hollings to include this new program, and I also hope that the Senate will adopt additional revisions to the Budget Act in the future that will spread the burden of balancing the budget to all Federal programs.

In light of the disastrous circumstances that have occurred in the many farm States, including my own, this appears to me to be just plain common sense.

Mr. FORD. Mr. President, I am grateful to my distinguished friend from North Carolina for his support of this amendment.

Mr. President, in the past 24 hours, I have heard from a number of people, both inside and outside the Senate, who were wondering just what it is FORD has in mind. Let me try to give a short answer. The short answer is that I am trying to make up for the disproportionate cuts that agriculture has sustained this year. Although agriculture suffered the same size cut as the other departments that were hit with a sequester, farmers are in no position to absorb those cuts. These are cuts that the farmers are just not able to absorb.

While I realize that 4.3 percent of $300 million—which amounts to $12.9 million—would not have a great impact on the individual farmer, it is a beginning. With the funds provided by the terms of this amendment, the Secretary of Agriculture could apply them across-the-board at the Commodity Credit Corporation [CCC] to help offset projected cuts in deficiency payments to farmers. That, as I said, would not do a great deal for the individual farmer. What I have in mind, however, would be of much greater benefit to the American farmer. I would like to see the Secretary of Agriculture use the funds provided by this amendment to set up a special, interest-bearing account at the CCC for the purpose of offsetting cuts in deficiency payments mandated by Gramm-Rudman-Hollings. As Congress considers foreign-aid bills, and funding bills for development banks and the United Nations, we can look for areas where some savings could be made. When we find such an opportunity, we can direct that funds be transferred to the special CCC account in order to help out the American farmer.

The reason I chose to begin this effort on this bill is that I do not believe for a minute that this so-called "war chest" is going to improve American exports one bit. Not one trade analyst that I have heard from believes that it will do any good. Most say that it will take at least $2 to $3 billion—not $300 million—to make any difference. Others say it risks a devastating trade war no matter what the amount. The administration wants to use it as a bargaining chip. So if this is a so-called "war chest," it is not going to help my farmers in Kentucky export more of their goods or farmers anywhere else, for that matter. I am going to try to give them a little help, however, and help directly.

So, Mr. President, that is what I have in mind. I want to relieve some of the burden on our farmers by sending fewer American tax dollars overseas. As the Senate considers foreign-aid

bills and the like, I may offer amendments to transfer 4.3 percent of various appropriations to the CCC.

I assure you, Mr. President, that in my modification which I sent to the desk a few moments ago, there should be no misunderstanding. I want to make clear to my colleagues that the amendment deals with all commodity price support programs, not just tobacco, if they are saying that is what Ford is trying to do.

I am serious about this, Mr. President. I am interested in eliminating the deficit, but I have not created any additional deficit. I have done what we have the prerogative to do; that is, attempt to shift money from one area to another. Instead of sending it to other countries overseas, we are going to leave that small amount here to help our farmers.

I am hopeful that my colleagues will see that this is fiscally responsible and therefore, they will support my amendment.

Mr. President, I understand that we are going to be setting these amounts aside. I shall be more than happy to allow that to be done. However, if others wish to speak for or against my amendment, I shall be more than happy to yield the floor at this time.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

Mr. FORD. I shall be glad to.

Mr. NICKLES. I apologize to the Senator because I just caught the last part of his speech. Is the Senator from Kentucky taking the reductions that were made under the price support programs, a 4.3-percent reduction, putting that money back in and taking it from the $300 million fund that was going to be used to try to——

Mr. FORD. That we are now appropriating as a so-called war chest, which most analysts think will take about $3 billion instead of $300 million to make any kind of dent in the export problems. All I am doing is applying the Gramm-Rudman-Hollings figure to that and taking that money out, which would be a little over $12 million, which is less than a drop in the bucket. Three-hundred million dollars is a drop in the bucket. I am putting that over into the hands of the Secretary of Agriculture so he might restore some of the cuts to our farmers by use of the Gramm-Rudman-Hollings figure.

Mr. NICKLES. I appreciate the Senator's response.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator from Kentucky would answer a question for the Senator from New Mexico.

Mr. FORD. Mr. President, I am delighted to answer questions of the distinguished Senator from New Mexico, but his being chairman of the committee, I doubt seriously that I can answer any questions that he does not already have answered.

Mr. DOMENICI. I would like to be sure I understand correctly. If I do, I would like to take a few minutes of the Senator's time, then, to discuss it.

Does the Senator's amendment say notwithstanding any other provision of law, the funds appropriated through this paragraph, 4.3 percent, shall be available to the Department of Agriculture to carry out price support programs?

Mr. FORD. I have qualified the amendment, Mr. President. It should say "to the Secretary" instead of the Department of Agriculture. I have modified the amendment to take care, I think, of some of the questions my colleagues have asked me.

It is on line 3, if the Senator has the modification.

Mr. DOMENICI. I now have it. So it is 4.3 percent shall be made available to the Secretary of Agriculture to carry out support programs administered by the Secretary at levels up to those in the Food Security Act of 1985.

Mr. FORD. Yes, Mr. President.

Mr. DOMENICI. Then I have no further questions. I should like to make a few points to the Senate. Then perhaps the distinguished Senator could correct me if I am wrong. Let me see if I can tell the Senate what I see this to be.

First, the bill before us is not an appropriations bill, it is an authorization bill. The paragraph that the Senator amends authorizes the appropriators, if they see fit to appropriate up to $300 million for 1987 and subsequent years for the purpose intended by this bill. I think I am correct in my discussion thus far. So the Senate ought to understand that there is no appropriation in this bill. The bill we have before us is basically a future-year authorization.

What that means is that as we move through the appropriation process, the appropriators, on a year-by-year basis, will decide if they want to appropriate $300 million, $240 million, $150 million, so long as they do not exceed the authorized level in this bill. But unless and until they appropriate, there is no money available for this particular purpose and it is for 1987 and subsequent years.

I am looking at the amendment and it seems to me, without mentioning a specific year, that the distinguished Senator from Kentucky is reminding the Senate that the March 1986 across-the-board sequestrator of domestic programs, cut certain agricultural programs 4.3 percent. He proposes to instruct the appropriators of the U.S. Congress that if they appropriate money under this paragraph, they are automatically appropriating 4.3 percent of that money for agriculture, whatever the amount is, a maximum of $13 million. They are automatically appropriating that to make up for the prior year sequester in Agriculture.

I am exaggerating. I think that is right.

I do not see how that is going to work. Perhaps the Senator is suggesting it should not be appropriated backward for 1986. We are just adding the $13 million to the next year's cost of the big agricultural bill that we have styled here the Food Security Act of 1985. If that is the case, then I remind the Senate that fiscal year 1987 operates on its own.

□ 1440

The sequester that occurred in 1986 has no direct impact on the 1987 levels unless there is another sequester, an across-the-board cut, that occurs in October of this year. We do not know about that yet.

Frankly, if a point is trying to be made, and perhaps it is not, I will just speculate, it is that we are taking from an export fund in order to send a message out there to our farmers. This export fund would aid foreign buyers by subsidizing loans to finance purchases from an American supplier. With this amendment we demonstrate that the Senate really likes the farmers more than we like that export program. We are going to attempt to take a little bit of this export authorization bill and give it to the farmers. Let me submit it will not work.

As a matter of fact, if anybody wants to make a vote that is for the farmers here today, and they really think this transfer will work, vote "aye"; it will have no effect whatsoever in any event because the appropriators are going to decide for themselves whether they are going to give this money to the farmers or whether they are going to appropriate a level of money for Eximbank, or this Treasury fair trade export fund. I can almost guarantee you that the appropriators of the U.S. Congress are not going to appropriate some amount—I will give you any number you want, $100 million, $200 or $300 million—and let this authorization language govern how it is spent. They will either say when they appropriate, we want to spend more money in agriculture, and so we are going to spend it there, or they will do what they do all the time. They will say in appropriation bill language, "notwithstanding any other provision of law," we fund export financing for a specific amount of money. This amendment, which is supposed to help the farmers, will not help them at all.

I am not suggesting that there is any such intention. I wish we could find a way to rob Peter to pay Paul. And from my standpoint, I wish that we could take money out of foreign affairs and put it in agriculture.

I do not know how much more we can put in agriculture. We are spend-

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ing five times as much on agriculture on average in the last 5 years as we did the previous 4 years. For those who have some idea out there among the farmers that we have been just cutting their programs, well, the numbers just are not there. Agriculture needs all the help it can get.

If somebody has a solution, we ought to surely take hold of it and fix American agriculture. But it is not because we have cut spending. My numbers would be on average a 500-percent per year increase in agricultural subsidies in the years 1981, 1982, 1983, 1984, and 1985 over the previous 4 years. Do we want to add $13 million here today? Is that what we are doing? If we were, and if it was really going to happen, we ought to vote for it; say, $13 million more on top of the $20 billion that is already in the law. We ought to do it.

Let me suggest we take an authorizing bill and say you appropriators, as you move down the path in the future years, if you dare appropriate for Eximbank, we are going to punish you and take 4.3 percent of it and put it in agriculture. It just will not work. They will not do that. The appropriators can decide what they want to appropriate for agriculture. They are going to decide what to appropriate for Exim on this new export fund. They will put more in. If they want to cut Exim, they can cut it. This is not an appropriation. This is an outer limit to an authorization bill.

So I submit that if we want an expression here that we would like less for Exim and perhaps more for agriculture, let us vote. Let us say "aye." But if you really are trying to tell the American farmer this is a proposal to add maybe $13 million out of an export fund that somebody does not like, then do not do it this way. Wait until the Exim appropriation comes through here and cut the $13 million. Put it over on the agriculture bill with an amendment, and say "We want $13 million out of this; we want to put it in that."

I do not think I have misstated the case. I could not understand how in the midst of a new authorization for Eximbank we were in some way taking care of the farmers. I thought maybe this was a supplementary appropriation bill that I had never heard of and that we were going to take something out of the export fund appropriation and put it in agriculture. But I do not find that. I find this as a new authorization with new policies for Eximbank. It even suggests—very gently—new scorekeeping conventions for Eximbank which the Budget Committee must disregard out of fairness to other committees. Personally, I do not know if I am going to vote for the Eximbank bill if there is a record vote. I have not decided yet.

I really do not believe that this amendment is a useful expression of profarmer sentiment. We are putting together something that looks like a sense-of-the-Senate resolution saying we sure hope you appropriators will take something out of Eximbank and make up for something that was cut from the farmers.

I do not know how in the world we are going to make up in 1987 for an 1986 cut. I doubt there will be additional fiscal year 1986 supplementals. We have not figured that one out yet. Maybe that is not what is intended. It sort of looks like it because the 4.3 percent is precisely the 4.3-percent across-the-board sequester that already occurred. It is in place. This bill will not be funded until 1987.

So, frankly, I might vote for Senator FORD's amendment. It will be an expression that I do not want so much money spent in Eximbank. But I guarantee you I do not want my farmers thinking it means that I got them an actual extra $13 million, because I do not believe it does that.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I regret that I have to go up against my dear friend, the chairman of the Budget Committee, who spends almost all of his waking moments dealing with the budgetary process. But I agree with him. It is up to the Appropriations Committee. I remember when the Budget Committee had it all. Then the next year the Appropriations Committee would have it, and now the chairman of the Budget Committee is saying it is all up to the Appropriations Committee. That is all right. I am here. I will cast one vote. I will raise my voice as best I can.

But let us look at the bill that we are discussing here today. Let us just look at it.

On page 13, under "authorization," it says "Title II authorizes an appropriation of $300 million available to be obligated in fiscal years 1986 and 1987."

So I tracked the bill, 1986 or 1987. So I have tracked the bill and my amendment matches the bill that I guess no one has objected to yet here on the Senate floor.

Correct me if I am wrong, but as I read the bill and the committee authority, the funds that are authorized by this bill are available to be obligated in 1986 and in 1987.

The Senator is correct in saying that the Appropriations Committee will have the final say. That is not particularly right. We, on the Senate floor, will have the final say. It may not be $12 million. We may accept the House bill when we go to conference. That is $500 million. That will be $23 million that we will send to the Secretary of Agriculture to help in the commodities that we cut.

Yes, you say this: The farmers are going to get $20 billion. They get an increase if that is the agriculture budget. The majority of that is food stamps. The farmers are not getting that money. So, therefore, what we are talking about now is the ability of this body saying that we want the Appropriations Committee to give whatever amount it might be to the Gramm-Rudman-Hollings cut whether it is in 1986 or 1987 to the farmer—that farmer that has been cut.

We stand here and say, well, the agricultural budget is way up there. How much of that budget actually goes directly to the farmer?

Mr. President, I say to my distinguished colleagues that whatever we might argue we can always say by unanimous consent on this floor that you can do anything you want to do.

□ 1450

By majority vote, you can adopt an amendment. You can do these things. But when this amendment goes on this bill, with these funds appropriated at 4.3 percent, and we will go to the Secretary of Agriculture, I think that is a direction by the majority of the Members of the Senate. If I am wrong in that, then I am going to have to take another look at the way I vote.

I thought that when we voted here and it became law, that was what was supposed to happen. I understand that we may have another vote, but let that come when it may.

Now I want to use the language in the legislation, which says, "in 1986 and in 1987."

So if my colleagues think this is a symbolic vote, that is well and good. But if they will support this measure, I think we can, in a small measure, be able to say again to our rural community, to those people who feed us, that we want to help them.

Mr. President, one could argue on this almost any way. You could argue whether it is constitutional or not, but you have to wait until the Supreme Court rules on the constitutional question.

When they say that this does not apply to 1986, the committee said it did. That is the bill on which we are voting. If that is not correct, then we should amend the authorization portion of the bill. I am just tracking the language. If it is 1987, we are going to appropriate money in 1986 for fiscal 1987, if we are lucky.

For 5 of the last 6 years, we have not completed the appropriations bills for the next fiscal year. We will go by continuation resolution. But in 1986, the Appropriations Committee will send some language to the Senate floor. We will have an opportunity then to make a judgment.

If the Senate decides to adopt my amendment and it says, as to those funds appropriated, 4.3 percent will go to the Secretary of Agriculture, I hope that is what will happen.

Mr. President, I do not have much else to say. I see the Senator from New Mexico on his feet, and he wants to teach me another lesson in law, and I will be more than glad to learn here today, so I yield the floor to him.

Mr. DOMENICI. Mr. President, I think the Senator knows that I have no desire to teach him anything. I do not know that I could.

I am just reading the language before the Senate. I have tried to tell the Senate that this is not any big deal. Maybe that is why I am here. I thought this was a very critical vote and that somebody was going to try to undo the old sequester that already occurred. If we are going to do it on agriculture, where we have all these accounts, I thought maybe this would be the beginning of the unraveling of Gramm-Rudman-Hollings. Now that I read it, I am confident that it is not going to do that.

This amendment is not going to give anybody any authority that does not already exist to go back and reinstate any of the across-the-board cuts.

I am reading the bill that is before us, and I think I am right. One paragraph, which the distinguished Senator amended, says:

There are authorized to be appropriated to the Secretary for fiscal years 1987 and 1988, for purposes of this section, $300 million.

It proceeds on. There is no other date reference, except in the act of 1974, and then he amends it. So I think I am correct.

The Senator's amendment would say to the appropriators in years to come: "If you appropriate money under this export provision, this amendment attempts to set aside in advance, retroactively, the 4.3 that was taken off the commodity prices in the fiscal year 1986 across-the-board sequester."

I repeat: At best, it is a statement of what one would wish could happen, perhaps even a sense of the institution, but it will not do anything.

Having said that, I want to correct another matter. I indicated that $13 million would not do much to solve our critical farm problems. If we could find $13 million more for the farmers, I would vote for it. But I want to state for the record that it has not been money, it has not been appropriations, it has not been budgeting that has cut the farmers' income.

The distinguished Senator from Kentucky said, in response to the argument of the Senator from New Mexico, that agricultural support had gone up and up and up, and we still have the problem, that a big portion of that increase was food stamps.

Let me make sure—perhaps I do not know the precise numbers. But let me repeat. The commodity price support program, the average for the decade of the 1970's, was in the $4 billion range. Not food stamps. Now we are up to $24 billion a year for the commodity credit programs of this Nation. No food stamps, no rural housing. I am talking about apples and apples.

So if $13 million added to the $24 billion, which is my estimate for this year, is really going to solve the farm problems, I would be supporting the amendment. But it will not get done by this amendment, much less by having $13 million applied to a $14 billion account which has increased more than five times in the last decade.

I yield the floor.

Mr. FORD. Mr. President, I am going to yield the floor with respect to this amendment and ask that the amendment be set aside, but, first, one point—$12 million sounds pretty good to me—$22 million sounds pretty good to me.

Apparently, the Senator from New Mexico was not listening when I said that this is the first of many, when we begin to look at foreign aid, when we begin to look at other items, such as the United Nations, where we might have an opportunity to whittle away at some of that and help the farmer.

If we are increasing at such a rate, then Gramm-Rudman-Hollings was a cut for the farmers; and if Gramm-Rudman-Hollings was a cut for the farmers, I think we should cut them instead of us.

So what I am trying to do is for others outside this country to take their cut, and then have that 4.3 percent go to our farmers. The next 4.3 percent, or whatever it may be, once that fund has increased somewhat, maybe will be significant. But I think $12 million is significant. It is symbolic. I hope my colleagues will support my amendment.

Mr. President, I thank Senator HELMS for his cosponsorship of my amendment. I think the statement he made on the Senate floor indicates that we are making an effort, those of us who have many problems in the farming community today. There are many things over which they have no control, such as the heat and the drought in the Southeast, where they have even reverted to the military flying feed in to save the lives of the cattle and to save the livelihood of the farmers.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. FORD. I yield.

Mr. NICKLES. Mr. President, I wish to join the Senator as a cosponsor, and I compliment him on his amendment.

Mr. FORD. Mr. President, I am particularly pleased that the distinguished Senator from Oklahoma is joining me. I ask unanimous consent that his name be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, what is the parliamentary procedure at this time?

The PRESIDING OFFICER. If there is no further debate, the amendment will automatically be set aside until 5 p.m.

Mr. FORD. Is there any other Member who wishes to debate my amendment? If not, Mr. President, I ask that the amendment be set aside for a vote at 5 o'clock.

The PRESIDING OFFICER. The amendment will be set aside.

The Senator from Oklahoma.

AMENDMENT NO. 2219

(Purpose: To require U.S. representatives to international financial institutions to oppose assistance by such institutions for the production or extraction of commodities or minerals in competition with U.S.-produced commodities or minerals, and for other purposes)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] for himself and Mr. SYMMS, Mr. GRASSLEY, Mr. ABDNOR, Mr. DOMENICI, Mr. HELMS, Mr. MCCLURE, Mr. LAXALT, Mr. PRESSLER, Mr. BOREN, Mr. BENTSEN and Mr. SIMPSON, proposes an amendment numbered 2219.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

OPPOSITION TO MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS

SEC. . (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

(b)(1) The amount of payments which the United States may make to the paid-in capital of an international financial institution described in subsection (a) during any cap-

ital expansion or replenishment of such institution may not exceed the amount of funds which the United States agreed to pay for paid-in capital under such expansion or replenishment minus an amount which bears the same proportion to the aggregate amount of assistance described in paragraph (2) furnished by such institution as the United States share of the expansion or replenishment bears to the total amount of the expansion or replenishment.

(2)(A) The aggregate amount of assistance referred to in paragraph (1) is the amount of assistance furnished by an international financial institution to all countries during the period described in subparagraph (B)—

(1) to support the production or extraction of any commodity or mineral for export, if—

(I) such commodity or mineral, as the case may be, is in surplus on world markets; and

(II) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral; and

(ii) to subsidize (other than under clause (i)) the exports of commodities and minerals from such countries.

(B) The period referred to in subparagraph (A) is the same number of years as the capital expansion or replenishment period, which immediately preceded the first year of the expansion or replenishment period.

(3) For purposes of paragraph (2)(A)(ii), the term "subsidize" is used within the meaning of the Agreement on Interpretation and Application of Articles V, XVI, and XXIII of the General Agreement on Tariffs and Trade and the annex relating thereto, done at Geneva on April 12, 1979.

(4) Any funds withheld from payment to an international financial institution pursuant to this section shall be used to reduce the public debt in the manner specified in section 3113 of title 31, United States Code.

□ 1500

Mr. NICKLES. Mr. President, on behalf of Senator SYMMS and myself the amendment that I am offering, which is also cosponsored by Senator GRASSLEY, Senator ABDNOR, Senator DOMENICI, Senator HELMS, Senator MCCLURE, Senator LAXALT, and Senator PRESSLER, is an amendment I think that basically calls for fairness is dealing with other countries and tries to basically state that we do not want our international banks to be making low-interest loans to provide for the production of agricultural commodities and/or minerals in competition with American producers when those commodities are already in surplus.

This is not only for our Nation's farmers and ranchers but also for the Nation's copper, coal and other mining industries.

I am offering this and I believe it is a very needed amendment called the Foreign Agriculture Investment Reform Act, also known as the FAIR Act.

I also wish to compliment my good friend and colleague, Senator SYMMS, for his leadership. We worked together on this piece of legislation. We actually passed it on the farm bill last year.

I might point out to my colleagues that the original FAIR Act passed the Senate last fall on a 65 to 13 vote. The legislation is designed to stop U.S. tax dollars from being used to subsidize the competition of American farmers and ranchers. The amendment we offer today, a modified version of our original bill, would also stop our tax dollars from being used against U.S. commodity and mineral producers. The legislation in no way hinders the ability of foreign nations to compete and sell in export markets. It does say that the United States is not going to use its tax dollars to the detriment of American industry and workers.

Specifically, it states that U.S. tax dollars funneled through international financial institutions shall not be used to promote foreign exports of commodities or minerals when such items are in surplus and the export of such items will result in injury to U.S. producers of the commodities or minerals.

We have seen the reports of low-interest million dollar loans to our foreign agriculture competitors. Many of you may have read or heard from constituents about a recent $350-million World Bank loan to Argentina. This loan, made in April of this year, was at a rate of 8.5 percent for 15 years with a 3-year grace period. It was structured to boost Argentina's exports of soybeans, corn, wheat, sorghum and sunflowers. This is just one example of how billions of dollars, many our own, are being used unfairly against American agriculture.

The World Bank, the International Monetary Fund, the Inter-American Development Bank and the Asian Development Bank are among several international lending institutions. Our tax dollars are being funded through these huge lenders to provide subsidized loans to foreign countries.

Here at home, we are working to increase our exports, reduce the trade deficit and secure American jobs. But when our farmers, whether it be Oklahoma farmers or Idaho farmers or Alabama farmers, who are trying to produce wheat, cotton, corn or soybeans finds out that they are facing competitors receiving low-interest loans, a lot lower than the rates they have to pay, that actually our tax dollars are being used to subsidized their competition, I think they have a very good reason to be upset. That is not fair treatment. This is not an equitable deal. That is basically our tax dollars used to subsidize the competition.

I will give you another example. In 1984, China received a $50 million credit from the International Development Agency for livestock and citrus production. The terms were at less than 1 percent interest over a 50-year period with a 10-year grace period. U.S. imports of some Chinese meat products have grown by 30 percent since then. In 1983, Brazil received a $400-million loan for agricultural sector development. The terms were 11 percent over 18 years. Since then, our imports of selected Brazilian farm products have increased 67 percent.

Compare this increase in subsidized imports to the downward slide of our farmers' world market share. Our farm exports have dropped from over $44 billion in 1981 to around $28 billion. That is a drop in export sales of more than one-third.

It is an appalling policy situation when foreign farmers and miners are being subsidized by incredible low-interest easy-term loans using our tax dollars while our agriculture and mineral industries are under extreme financial duress.

Without this amendment, American industry and workers will continue to be abused by international lenders. The amendment we offer today can end this foreign policy fiasco. Because we contribute about 20 percent of the funding to the World Bank and others, we do have a say in how our money is spent. Our influence over individual loans hinges on taking a tough stance, including the possibility of funding withdrawal.

Under our amendment, if the World Bank wants to subsidize our foreign competition through cheap loans, they will not do it with our money. As the loan moves through the approval process, our representatives would be required to vote against the loan. If the loan is approved despite our opposition, U.S. funding is withheld and used to reduce the public debt.

This amendment is basically about fairness—something American industry, farmers and workers have been unable to find in international markets. I urge my colleagues to join Senator SYMMS and I in support of this very much needed legislation.

Mr. President, I also ask unanimous consent to add the Senator from New York [Mr. D'AMATO] as a cosponsor.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I yield the floor.

I am aware that Senator SYMMS is on his way to the floor and I think he wishes to speak on this legislation as well.

Mr. D'AMATO. Mr. President, I commend my colleague from Oklahoma, Senator NICKLES, for submitting this legislation. I believe we have a difficult time explaining to the farmers of America, to the other companies who are affected, in areas of minerals, et cetera, how we can loan significant dollars to help erode our own situation in the marketplace when we already have an oversupply and overabundance. This certainly is not the objec-

tive, for these funds to produce excess in the way of world supplies, particularly as it relates adversely to the interest of our people here or making these moneys available.

So I commend my colleague for his thoughtful proposal and I am sure that it will have an impact.

Speaking for the manager of the bill, Senator HEINZ, we have no objection to this legislative initiative, and I understand we are waiting for Senator SYMMS.

So in his absence, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1510

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I have discussed this with the manager of the bill, whose ranking member I could not find, but I want to ask unanimous consent that the pending amendment be set aside so that I may offer my amendment, which is part of the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona? Is it the Senator's request that he be permitted to offer an amendment other than those specified in the unanimous-consent agreement?

Mr. DECONCINI. It is not. My amendment is part of the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing none, it is so ordered.

Mr. DECONCINI. I thank the Chair.

AMENDMENT NO. 2220

(Purpose: To express the sense of the Congress with respect to United States corporations doing business in Angola)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2220.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 16, after line 21, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA

SEC. 301. (a) The Congress finds that—

(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975;

(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

(3) the Cubans and Soviets have channeled more than $4 billion in assistance and military aid in furtherance of this intervention in Africa;

(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil Company;

(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia;

(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of Untied States support; and

(8) imposition of severe economic sanctions will encourage the MPLA to promote a fair political solution and negotiate with the United States toward a peaceful settlement.

(b)(i) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

(2) The Congress hereby requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with United States security interests in Agnola.

Mr. DECONCINI. Mr. President, I see that the Senator from Idaho has come in. We were waiting for him to make a statement on the previous amendment. I will be glad to attempt to accommodate him.

In the meantime, Mr. President, this amendment deals with the tragic situation we find in Angola.

In Angola, civil war has been waging since 1975 when Portugal abandoned the colony. For the last 11 years the Soviet Union has poured more than $2 billion worth of war material into Angola's Marxist government. This is a government that has not held free and fair elections since it came to power in 1975.

This is a government that has violated the accord it signed promising a more open, free, and democratic society. This is a government that has only one party on every ballot. And, Mr. President, this is a government that has supported the United States in the United Nations less than any other government in the world.

Since 1975, the Soviets have supplied the MPLA government with machineguns, bazookas, mortars, rifles, heavy artillery, tanks, rocket launchers, helicopter gunships, and Mig-21 aircraft. The last year and a half has seen a massive escalation of Soviet and Cuban military intervention in Angola. Today 35,000 Cuban, 2,100 North Korean, 3,000 East German, and 1,500 Soviet troops occupy Angola and assist MPLA control.

Waging a guerrila war against the Marxist government is the Angolan rebel army of Jonas Savimbi of UNITA. It is reported that the American Government is imvolved in this operation of Mr. Savimbi.

In a very real sense there are Americans on the Marxist MPLA's side too. Near the waters off Cabinda Province; American companies—principally Chevron-Gulf Oil—work a large oilfield. Together these American companies account for over 80 percent of Angola's oil. Chevron-Gulf alone has an estimated $600 million investment in this Marxist government. The MPLA relies heavily on these oil revenues for its economic survival. Oil is by far Angola's biggest export. It provides the Marxist MPLA government with 90 percent of its hard currency earnings. It is reported that these earnings finance the import of arms and Cuban troops.

Mr. President, the implications are clear. U.S. business should not fund its enemies. The Soviet Union should have to shoulder the burden and pay the price of its own wars.

Here is a situation in which U.S. business interests are in blatant conflict with America's foreign policy objectives. Here is a situation which is in blatant conflict with United States security interests in Angola.

Imagine if you will, Americans giving hundreds of millions of dollars to Cuba to help raise her sugar crop. This money would go to buy Soviet weapons and missiles positioned dangerously close to America's coast. This is an absurd situation and it is exactly what we are doing in Angola.

Last April, I introduced Senate Resolution 381 requesting the President to use his special authority under the International Emergency Economic Powers Act to pull out of Angola United States businesses drilling for oil. This is a law President Carter utilized during the Iranian hostage crisis. This is a law President Reagan utilized with Nicaragua and Libya. Like Iran, like Nicaragua, like Libya, Angola is a situation in which we are trading with the enemy. Therefore, this is a law President Reagan should invoke to address the foreign policy crisis in Angola.

This instance in Angola warrants the President to utilize this act. Angola is even more flagrant than Iran, Libya, or Nicaragua. If ever there was a time to implement this law, it is now.

We should not contribute, either directly or indirectly, to Angola's hard currency reserves which pay for Cuban troops and Soviet military

hardware. We should not contribute, either directly or indirectly, to financing the Marxist government of Angola, which has denied to the people of Angola free elections for 11 years. A bipartisan coalition of Senators agree with me. Among the cosponsors of Senate Resolution 381 are Senators LEAHY, INOUYE, HOLLINGS, CHILES, BOREN, GORE, SYMMS, THURMOND, TRIBLE, RUDMAN, GRASSLEY, HAWKINS, QUAYLE, and D'AMATO. I thank these Senators for their same commitment that I have and feelings regarding this particular subject matter.

□ 1520

These economic sanctions are severe, but I believe they will encourage the MPLA to seek a political solution in Angola. These economic sanctions are severe, but I believe they will encourage the MPLA to seek some other solution than the military solution they are now encountering. These economic sanctions are severe, but I believe they will encourage the MPLA to negotiate with the United States, Namibia, and South Africa for a peaceful settlement to the regional conflict and for a withdrawal of all outside forces.

It is obvious, Mr. President, that United States objectives are decidedly not served by an Angola which is the scene of a bloody conflict and Soviet and Cuban intervention. Therefore, we need the continuing relevance of a political framework—a framework with political, economic, and military pressures all at the same time to be played out. This economic pressure will hopefully drive the MPLA, currently suffering from poor economic conditions, toward a political compromise.

The United States, with $1.1 billion in 1984, was Angola's largest trading partner. This is not merely trading with the enemy, but supporting and bolstering the enemy. We must impose economic sanctions against the Angolan economy, which provides resources to support Cuban and Soviet presence.

Mr. President, this amendment is a sense-of-the-Senate amendment, so on the argument that sometimes is raised, what are we doing meddling in foreign affairs, first of all, I think we have a responsibility as Members of this body to not only meddle in foreign affairs but attempt to persuade them one way or the other.

In this area, this is an attempt to send a sense-of-the-Senate message that it is the belief of this body that the President should use his authority under this act so that we can see an end to the financial support which is given to the MPLA by American businesses.

Mr. President, I have two charts in the back of the Chamber which I would like to point out to illustrate what I think is very important evidence regarding Angola. The one on the right gives a number of nations and their voting records in the United Nations with the United States. You will see Angola is at the top, which has a 3.5-percent voting record with the United States. It demonstrates where they lean on democratic principles.

Israel, underneath, is 91.5; Britain, 86.6; West Germany, 84.4; France, 82.7; Italy, 81.9; Saudi Arabia, 13.6; Yugoslavia, a Communist country, 11.9; Mozambique, 5.9; and Algeria, another Communist country, 5.1.

In anybody's calculations, Angola is certainly not committed by any imagination with the United States toward democratic principles.

The chart on the left, Mr. President, points out what the economic situation is with the investment proceeds from the over $600 million that is invested in Angola by American oil companies.

You will see that 80 percent of Angola's hard currency is derived from these American investors. This is oil. These are U.S. dollars put in that are pumping out oil and exchanging it on the world market with the income to the Angolan Government having 80 percent of it come from this effort. Angolan oil directly is estimated to be 10 percent and other income is another 10 percent.

The circle indicates what these funds are used for.

As you can see, well over a third is for Cuban, Soviet, and North Korean troop support, which is trying to stamp out any possibility of a free society, of a democratic front by UNITA or anyone else. Another one-third of it is used for arms and weapons for these troops from foreign countries. The balance of the 80 percent is for other defense requirements.

So we have a clear case, Mr. President, that, in my judgment, calls for the Senate to adopt this particular sense-of-the-Senate resolution.

Mr. President, I want to thank the members of the committee for their patience. I know there was a real effort yesterday to try to pass this legislation. I appreciate the opportunity to offer this amendment today.

I also want to commend Senator PROXMIRE, for I understand that his legislation on Angola was accepted yesterday. I agree with and support his amendment. This puts Angola on a list of Communist nations and prohibits lending from the Eximbank, as well it should.

Mr. President, I believe here that it is important that we urge the President to do what really is correct. That is to do what he has done on a number of other occasions, as I pointed out in my opening statement. He has that power under the International Emergency Economic Power Act. This amendment merely says, Mr. President, that we think for the reasons stated here he should take that action.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, what is the parliamentary situation at the present time?

The PRESIDING OFFICER. The pending business is the DeConcini amendment.

Mr. SYMMS. Will it be all right if we can dispose of the Nickles-Symms amendment and then go on with this? I ask unanimous consent to temporarily set aside the DeConcini amendment so we can make disposition of the Nickles-Symms amendment.

Mr. HEINZ. Reserving the right to object and I do not think I will, is it this Senator's understanding that the Senator from Idaho was referring to the FAIR amendment or to another amendment?

Mr. SYMMS. The FAIR amendment.

Mr. HEINZ. It is this Senator's understanding that that amendment was pending earlier. Is that correct?

Mr. SYMMS. That is correct.

Mr. HEINZ. I would hope we might conclude debate on that amendment.

Mr. DECONCINI. Mr. President, I would certainly not object. I ask that the DeConcini amendment be temporarily laid aside so that we can proceed with the Symms amendment.

Mr. SYMMS. I thank my colleagues, Mr. President, if I have the floor.

The PRESIDING OFFICER. Without objection, the DeConcini amendment is laid aside and the Senator from Idaho is recognized.

AMENDMENT NO. 2219

Mr. SYMMS. I thank my colleague for their consideration.

I might say we are in a reconciliation process in the Finance Committee which is why I was not on the floor.

I do want to speak very briefly, Mr. President, on the FAIR amendment offered by Senator NICKLES and myself.

Mr. President, I am very concerned about three areas of current multilateral investment policies: their effect on U.S. producers—primarily farmers—their burden on taxpayers, and their role in the development of foreign countries.

Foreign investment policies have a tremendous impact on my own State of Idaho. Idaho is a farm State. Of the resource industries that make up the bulk of Idaho's economy, agriculture is responsible for $2 of every $3 generated. When farmers in Idaho suffer financially, the economy of the entire State suffers.

And right now, those farmers are suffering. The problem is simple—in economic terms, production exceeds demand, which lowers both prices and

net farm income. Congress was recently faced with a decision on how best to solve this problem. During debate on the 1985 farm bill, two options were presented: First, limit production through mandatory controls, or, second, increase demand by expanding U.S. exports. We chose to increase exports.

Expanding U.S. export markets, however, was certainly not the easy choice. A successful export policy totally depends on the competitiveness of U.S. producers. We can no longer be the supplier of last resort; in a highly competitive world market, that is a losing position. The 1985 farm bill expresses Congress' optimism and faith in the inventiveness and productivity of American farmers; we are facing world competition with the challenge, "May the best man win."

□ 1530

But what if the world market is so contorted that the best man doesn't win? The Achilles heel of an export-oriented policy is international investment that does not adhere to market principles. Supposedly, shrewd financiers will not invest in farm production already in surplus, such investments rarely being profitable. Unfortunately, multilateral banks today do not follow this logic, and the result is a world market where everyone loses.

As American farmers struggle to hold their families and businesses together in a market bulging with oversupply and taxpayers scrape to pay more-than-ample taxes, international banks are using American tax dollars to manipulate the world's agricultural market against our farmers.

This was the obvious conclusion at the end of hearings in the Joint Economic Committee's Subcommittee on Monetary and Fiscal Policy, which I chaired in May. In those hearings, the need for the foreign agriculture investment reform—FAIR—bill was evident.

Testimony I heard confirmed that international lending institutions are forcing their Third World debtors to subsidize export commodities that generate quick hard cash on the world market—cash to pay interest on enormous debt—when sold at below market prices.

These subsidized exports not only have priced our farmers out of the market, but they have added to the existing oversupply of many agricultural products, pushing the market price to even greater lows. Developing countries can generate quick revenue this way, but because the price falls as they increase their exports, they must subsidize production even more. This creates the need for more loans, more debt, and the banks continue to increase their interest-generated profit. The debtor nations must then increase exports to make greater interest payments, and the cycle begins again.

The problem has reached such proportions that, in many cases, virtually all revenue from these exports must be returned immediately to the banks as interest payments.

While Argentina's share of world wheat exports rose 100 percent in 4 years, the United States share declined 38 percent. While Brazilian beef gained 9 percent of the world market, United States beef gained a mere 1 percent.

What we are doing with this policy of financing our own competition is trade suicide, financing our own demise. It is one thing to ask a farmer to compete, but to finance his own competition, I think, asks far more than we should be asking of any farmer.

During this year's economic summit in Japan, world leaders announced that domestic farm policies of developed countries must be reformed. I commend them for their sense of the obvious. Making those reforms work in a distorted world economy, however, is a much different story. How can I defend a policy to turn Idaho farmers loose on world markets, when their own tax dollars are being used to create subsidized export competition which would not exist in a truly free market?

These international lending policies are destroying the livelihoods of our farmers. We have created a new competitor for world agriculture markets—"kamikaze" competitors who, indebted to international banks, must return their export revenues to their creditors. The worst part of it is, that our very own farmers are subsidizing their competition through low-interest loans that our Government makes to international banks for their Third-World financing.

It is time to stop. Our farmers cannot be expected to subsidize their competitors and survive.

As Representative LARRY CRAIG said in his testimony before my subcommittee, for our farmers to subsidize foreign competition while trying to salvage their very subsistence is like trying to "fight a flood by turning on a fire hose to hold back the water."

I am for free trade as long as that trade is fair. And for helping Third-World countries become a stable part of the world marketplace, but financing your own competition is not fair trade.

Farmers in the Upper Snake River Valley in my State today, and other places in the State, feel as poor and underdeveloped and in as difficult, trying times as they have ever faced. Their equity being lost because of a difficult situation. They have been paying taxes up until the last year or two. For their competition to relieve foreign subsidies at their expense—this is anything but free trade or fair trade. This is just pure foolishness at best. It is something we must avoid.

The developing nations, Mr. President, do not need this kind of help. As the big banks force them to subsidize certain exports, these countries must divert money from education, health care and housing. Is this any way to help the world develop? That is no way, in my view, to help the world develop. They take money from one part of their economy and funnel it into exports so they can get the hard dollars to make interest payments on their growing debts.

I am not calling into question all loans or forms of international aid. Some investments do help struggling nations; but farm exports in surplus markets is not one of them. Under such practices, the developing countries are hurt; our farmers are hurt; the banks profit; and the American taxpayer picks up the tab.

The FAIR bill will help remedy this problem. It will require the Federal Government to withhold the portion of contributions to international banks that fund subsidized foreign exports. When it becomes law, our farmers will not subsidize their competition, our taxpayers will not finance a trade recession, and developing countries will be able to do just that—develop.

Mr. President, in closing, I thank the distinguished manager of the bill for his indulgence. I just want to say in addition that the same principle applies for minerals developed for export or for any other product or commodity for export. I spoke mostly to the farm issue, but it is true of mining, too.

See what has happened in the Silver Valley in my State, where we have lost thousands of jobs of men working underground. We have only a few hundred left where we once had 5,000 a few short years ago. To find some of the minerals that compete against them came from mines financed through international lending banks and the taxpayers of the State of Idaho, is exactly the same principle. It has to be stopped.

I thank the distinguished manager of the bill, and I thank my colleague from Oklahoma [Mr. NICKLES] for his great support in this effort.

I am grateful also for the help of others in this body and Representatives KRAMER, CRAIG, BOULTER, and others who made it possible to move this legislation on both sides of Capitol Hill. I think it is urgently needed to bring fairness in the trade and financing picture to the producers of farm products, of mineral products, of agricultural commodities and other products in the United States of America.

I yield the floor.

Mr. HEINZ. Mr. President, the amendment offered by the Senator from Idaho is admittedly only tangen-

tial to the operation of the Export-Import Bank. His amendment is, under the rules of the Senate, entirely proper. We do not have a germaneness requirement on this bill. We do not have a unanimous-consent agreement. Indeed, we have an agreement that makes this amendment in order.

The Senator yesterday asked the manager of the bill—myself—to ensure that he would have the opportunity to offer this amendment. I agreed to that notwithstanding the fact that the amendment addresses the multilateral development banks which are funded by many countries and are not unilateral export-oriented facilities, as is the Export-Import Bank.

With that understanding, I just want to say that I have examined the amendment. As has been, I think, quite eloquently explained by the Senator from Idaho, there are two parts to the amendment. The first is that the U.S. directors at the multilateral development banks—the Asian Development Bank and others—must oppose loans for any commodity in world oversupply the export of which would substantially injure U.S. producers.

That part of the amendment, I think, frankly is something the Senate has voted on repeatedly. We have a fairly clear track record of going on record in support of that principle. It is a valid principle.

□ 1540

And I am certain we will adopt it again. The second part of the amendment of the Senator from Idaho goes to the second step; that, if one of the multilateral development banks, notwithstanding the objections of its U.S. Director, approves a project which would bring into oversupply or further exacerbate oversupply of the kind of export we described a moment ago, U.S. payments to such banks would be reduced by an amount proportional to the share bjectionable loans approved in the total bank lending.

That issue was debated also as a part of the agriculture bill which we considered several months ago. I might add that it passed the Senate by a vote of some 65 to 13. It was passed over administration opposition, and it is my understanding that members from the Foreign Relations Committee also had some opposition to that. But I think the track record of the Senate is clear on this.

I think the Senator from Idaho has made for our colleagues a clear and convincing argument, and I am prepared for the majority to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 2219) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2220

Mr. HEINZ. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the unanimous-consent agreement the pending business is now the DeConcini amendment which was temporarily laid aside for the consideration of the Nickles-Symms amendment.

Mr. HEINZ. Mr. President, I would like to be recognized on the DeConcini amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania may proceed.

Mr. HEINZ. Mr. President, I rise to express some very strong reservations about the DeConcini amendment, and I do so for several reasons.

First, and foremost, if the Senator from Arizona is trying to send a message to the administration, or the Soviet Union, or the Cubans, or the Angolans who are host to the Cuban troops and the Soviet advisers, he is 24 hours too late. We did that last night when we adopted the Proxmire-Armstrong amendment which went out of its way to single out Angola for strong and special treatment. So in the rush to really point out to the administration, the Soviet Union, the Cubans, the Angolans, anybody else that is tempted to be another Angola, I think the Senate spoke thoroughly, comprehensively, and eloquently when we adopted the Proxmire-Armstrong amendment last night.

I think everybody will recollect that the amendment that singled out Angola was at least in substance if not in detail unanimously agreed to. In spite of some reservations about the wording and the way it would prevent the Export-Import Bank from supporting even humanitarian assistance in a particular situation in Angola where most of us would probably agree it was necessary, I agreed with the basic notion that we should have singled out Angola, where the presence of Soviet and Cuban troops in that country is a severe and destabilizing factor in southern Africa.

So that is one reason that I cannot support the DeConcini amendment.

I suppose I should also state quite clearly that this amendment has no effect on the Export-Import Bank. That is because the amendment that we adopted last night fully forecloses any activities by the Export-Import Bank with respect to any loan, any grant of credit, any insurance, any guarantee of any export until both of two requirements are met: one, until the Cubans and the other advisers go home and, second, upon the President finding that Angola is no longer a centrally-planned Marxist-Leninist economy. I might add that neither of those are likely to be certified and testified to by the President very soon.

So in terms of the effect on the legislation before us; namely, the Export-Import Bank authorization, this amendment by the Senator from Arizona is frankly not meaningful in any way, shape, or form.

Of course, the amendment is, as the author intended, not drafted to apply to the Export-Import Bank. What the author has said is to propose to us a sense of the Senate resolution that the President should invoke his powers under IEEPA, the International Emergency Economic Powers Act, that the President should invoke his sweeping powers under that very special and I say extraordinary authority to impose a comprehensive embargo on Angola.

We can argue whether or not we want to put a sweeping embargo on Angola. On substance, while I have some difficulty with the notion that we should treat Angola more harshly than we are willing to treat the country that is financing the Cuban and Soviet presence in Angola, namely, the Soviet Union, I must say that I do not want to get into a debate on the merits of whether we think it is a good idea or a bad idea. Personally, I have reservations about starting a parade of countries of the week or month where we are going to try to impose trade embargoes because they are Soviet-supported clients, or satellites of the Soviet Union. Maybe we should do all of that. But I do not think we should just do it on a piecemeal basis. To do it one at a time like this troubles me severely.

But to my mind all Senators should be troubled by the way in which this amendment uses the International Economic Powers Act to invoke for foreign policy purposes a series of actions which can legally be invoked under the International Economic Powers Act but whose invocation basically undercuts the reason for that act.

What I am really saying, Mr. President, is that the International Economic Powers Act is supposed to be used for extraordinary circumstances. It was used, to the best of my recollection, when the President decided to impose economic sanctions on Iran. They took our hostages. We decided we had to have a sweeping, comprehensive and pointed response to Iran when they seized our Embassy and took our Embassy employees hostage. And we all agreed that there was a very grevious act directly aimed at the United States and U.S. persons, and that the President should—and indeed

that President did—take dramatic and comprehensive action against Iran.

□ 1550

I do not believe Angola is Iran, but whether it is or not, I am somewhat puzzled and troubled. Indeed, I cannot see why we want to tell the President to invoke section 202(b) of the International Economic Powers Act for what is supposed to be a very serious threat.

I should like to ask the Senator from Arizona, the sponsor of the amendment, whether he is in any way concerned that by invoking the International Emergency Economic Powers Act—whether he intends to or not—he is basically lowering the threshold at which the President may invoke this act.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. DECONCINI. I appreciate the concern of the Senator from Pennsylvania.

No, I am not lowering the threshold, and I should like to respond as to why.

It is this Senator's belief that if there is any truth to the fact that covert assistance is going to the UNITA Front there and that Mr. Savimbi has visited this country and received a very good welcome—that he should, and I believe we should be giving support to him—we are here asking the President to do exactly what the Senator suggests under section 202 of this act, and that is for the President to invoke his power, only as a sense of the Senate, to restrict American business and ask them to pull out. That is exactly what the President did in Libya, which I supported, and I suspect that the Senator from Pennsylvania did.

To me, this is the exact step; because, as pointed out by the chart on the left, 80 percent of the hard currency earned by the Angolan Government comes from this oil exported by American business. What do they do with it? If we had some great information here that they used it for something other than buying Soviet arms and supplying billeting and weapons and food and transportation for Cuban soldiers, well and good. But, in fact, there has been 2 billion dollars' worth of arms conveyed to the Angolans, and the Russians do not give them away; they charge money for them. The Angolans have to have some hard currency to pay for them. How do they get it? They get it from the United States investment there.

So it seems to me that the threshold is not lowered. It is right where it should be. When you have this kind of situation, that we are on one side of a group of fighters working for free elections and democratic principles against a Communist country, this is the best way to go.

I assure the Senator that it is not my intent to tell the President that he must act in this area. It is only my suggestion, along with other Senators, that we urge that this is the time to invoke this International Emergency Economic Powers Act.

Mr. HEINZ. If the Senator will respond further—and I appreciate his response to my first question—in the first place, when the President invoked IEEPA in Libya, the circumstances were that the Libyans were imposing a rather clear and present threat, first, through their advocacy of terrorism. We learned through our intelligence intercepts that they had ordered as many as 20 or 30 or 40 American installations to be targeted by terrorist acts; and there were also severe threats posed not just in the Gulf of Sidra but, beyond that, to international shipping. The President had called upon other nations to try to help him isolate Libya, for the most part without much success.

Mr. DECONCINI. Mr. President, will the Senator yield for one question on that policy?

Mr. HEINZ. I should like to finish my question.

As a result of that, the President did, quite properly, I think, use this act to impose rather stringent economic conditions on Libya. To my mind, that satisfies the test implicit in section 202(b), which reads as follows:

> The authority granted to the President by section 203 may be only exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title, and may not be exercised for any other purpose.

Is it the intent of the Senator that the President do declare a national emergency? If so, could the Senator specify the rationale for that national emergency?

From the point of view of this Senator, it is not apparent to most of our colleagues, either in the Chamber or in their committees or in their offices, or to the American people, exactly what the national emergency is.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. DECONCINI. The national emergency is very clear. There are 35,000 Cuban troops in Angola. There is a government that is a Communist government that has promised free elections when it came in and has refused to meet that promise. There is $2 billion worth of Soviet arms in that country. That, to me, is an emergency that affects our national interests.

If we are assisting the UNITA organization there, and in view of the good wishes that the President gave to Mr. Savimbi when he was in Washington about 2 weeks ago, encouraging him to continue the fight against this Communist dictatorship, I think the threshold—as the Senator used that word in his first question—is met, and it is an emergency.

To me, it is just as great an emergency as the terrorism acts that Libya has perpetrated on the United States and other nations, because what is happening here is that we are seeing a Communist government supported by American revenues. American investment is being turned into hard currency, so that this Communist government can buy weapons to defeat the people who are trying to rebel and trying to get where they were 11 years ago, and that is to a promise to have a pluralistic political system and have free elections.

Mr. HEINZ. If the Senator will respond further, he correctly points out that there are a large number of Soviet supported troops, Cuban troops, in Angola. How long has that Cuban presence been a reality in Angola? Is that new, or has that been continuing for quite some time?

Mr. DECONCINI. The best information I have which is not of a classified nature is that the Cuban troops have been there over 6 years; that there has been an increase in the numbers, which I am told is classified information. But it has been published that there are 35,000 now, that there are roughly 2,100 Soviet troops there, several thousand East German troops, and about 2,000 Korean troops. Combined, there are over 40,000 troops, and they have been increasing. I cannot tell the Senator what the numbers were 5 years ago, but I am told that they were less than they are today.

Mr. HEINZ. To the best of my recollection, there were estimates, generally speaking, going back 5 years, and I believe there were even troops in Angola going back to 1978, nearly 8 years ago. Those estimates were around 20,000, more or less, and some were as high as 30,000.

So I gather that what the Senator is saying—and perhaps he is right in this regard—is that there has been a dramatic escalation in the number or activities of those troops. I would like to understand his argument.

Mr. DECONCINI. My argument is that I am advised that the troops have increased, and the Senator would have to go to the Intelligence Committee to find out. I know that number, and I cannot disclose it here.

Mr. HEINZ. Is it a quite significant increase?

Mr. DECONCINI. It depends on what the Senator would term significant. It is several thousand.

Mr. HEINZ. Would it be over 20,000?

Mr. DECONCINI. I cannot say that it is over 20,000. But I can say to the Senator that the United States, over the past 5 years, has attempted, through the United Nations, to reach

a negotiated settlement to withdraw foreign troops from Angola.

□ 1600

The Angolan Government has now declared publicly that the United States has no credibility and will not negotiate.

So it seems to me, regardless of the number of troops, and I do not think the Senator will dispute the fact that they are increasing, and the number we could attempt to find out here from classified and unclassified information, but I do not think the Senator will dispute they increased over the last 2 years and that negotiations have failed. This to me is a very prominent reason why this International Emergency Economic Powers Act ought to be invoked and gives the exact necessity for the President to do so as cited under 202(b).

Mr. HEINZ. I thank the Senator for his response.

I have one last inquiry I would like to make of him. The Senator has said that it is not his intention to lower the standard under IEEPA, and I think we all understand that when we deal with words that say IEEPA should only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared, we are talking about something out of the ordinary.

Maybe what the Senator has described fits that definition; maybe it does not.

I do not think I am in a position to debate. I have not studied the classified information. I gather the Senator from Arizona has. And I am not in a position to really debate that proposition knowledgeably with him. I apologize to him that I cannot.

But as I look at his amendment, the resolving clause is that it is the sense of the Congress—and I quote his amendment:

It is the sense of the Congress that the interests of the United States are best served when the business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

As a practical matter, I do not disagree with what the Senator's language says there. It is a statement I think most Americans could agree with, and I would agree with it. But as language, I find that the words "the interests of the United States are best served" is a rewrite of the standard or, if you will, the threshold at which the International Emergency Economic Powers Act would be invoked. In other words, I fear that the Senator in proposing this resolution, were it to be adopted, is really saying that instead of an unusual and extraordinary threat with respect to which a national emergency has been declared, he is simply saying, strike that and we are going to invoke IEEPA whenever the interests of the United States are best served.

If that is what he is going to insist on doing I reluctantly but very, very forcefully have to oppose him because I think that is a dangerous precedent. I think it has the effect, whether the Senator intends it or not, of lowering the threshold and I think it has a practical consequence that I know the Senator does not intend, which is this: we all remember when thinking of the application of various kinds of economic powers the misapplication that resulted in the grain embargo. I do not think there is a Senator on the floor of this body who at one time or another has not decried the counterproductive effects of the Soviet grain embargo. It was imposed using, to the best of my recollection, a different authority, sections 5 and 6 of the Export Administration Act. Subsequently, the foreign policy control section was toughened up, I think with the support of the Senator from Arizona, indeed most Senators, because we did not want that kind of meddling with the reputation of the United States as being a reliable supplier.

My practical specific concern regarding what the Senator proposes here is that in effect we say to the President, "You have a problem with the Soviet Union. You can use IEEPA to impose another grain embargo as long as you find that the interests of the United States are best served by doing that."

We do not like the policies of Japan and many of us have real reservations about the policies of Japan. We can impose an embargo on Japan because the interests of the United States are best served by doing that.

We have difficulties with Mexico, perhaps, and we do not like the fact that the Mexicans are subsidizing downstream exports via their natural resource subsidies. Some President comes along and invokes IEEPA and says, "The interests of the United States are best served by having an embargo against Mexico." And so on.

That kind of precedent is deeply troubling to the Senator from Pennsylvania.

I want to give the Senator from Arizona a chance to respond to my concerns.

Mr. DECONCINI. Mr. President, I thank the Senator, and I assume he yields so I may respond.

The Senator certainly does not owe me any apologies regarding the information we cannot discuss here. I understand the time restraints on all of us here.

It just appears to me, Mr. President, that my distinguished Senator and friend from Pennsylvania here is talking about (b)(1) on page 2 of my amendment at the desk.

Let me read it to the body once again.

It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

That is not the language that is in the International Emergency Economic Powers Act as the Senator knows, but this is expressing the sense of the Senate that what you see on this chart on your left is not good for this country and it is expressing the sense of the Senate the President ought to consider and he ought to act under the Emergency Powers Act.

Let me further respond to the Senator that as he knows so well, being an authority on this act, under 204 the President in every possible instance shall consult with the Congress before exercising any of the authority granted from this title, and I am quoting from section 204(a).

So if the President did elect to follow the sense of the Senate, concluded that maybe it is time that we cut off the American hard currency that is going to support a Communist government that is trying to quell and stop any resurrection of freedom fighters in the ability to have free elections there, it just appears to me that he is going to abide by this act.

Furthermore, the Senator earlier pointed out that there is no need for this amendment because of the fact that the Proxmire amendment of last night—I believe it was yesterday—which prohibits the Eximbank from making loans to certain countries and now Angola is listed on this country list, this amendment, let me make it very clear to my colleagues, and I am sure the Senator from Pennsylvania understands, does not deal with loans. Furthermore, the loans that Senator PROXMIRE was addressing in his amendment deal with something in the neighborhood of $240 million. Here we are talking about well over $1 billion annually. That is dollars that are exported, most of that generated by U.S. investment. Here we are talking about a foreign policy issue as well, that in my opinion and in this Senator's opinion, and I hope the body would concur as we vote on this later this evening, is indeed of gravest concern and of national importance to national security and foreign policy of the United States that we do not continue to promote, foster, and encourage American business to end up being the source of hard currency for a Communist government. These are sweeping powers, no question about it, if they are exercised.

I believe the present President would look at this and maybe if he has not had a chance to focus on it would come to the conclusion that the sense of the Senate is right, that it is not in the best interest of the United States when the U.S. business transactions

conducted in Angola do directly or indirectly support Cuban troops or Soviet advisers.

So let me assure the Senator from Pennsylvania that it is my hope and desire to resolve this matter by having this sense of the Senate adopted.

Quite frankly, I feel so strongly about this that I thought about attempting to force the President to do that. I think he has his basket full with South Africa, Contra aid, and many others, on the foreign policy matter and I do not want to delve into his executive judgment area.

□ 1610

But what I would like to do is call to attention what some Senators here believe, and hopefully a majority believe, that for us to continue to permit this type of business transaction, permit this hard currency to be involved for supporting and paying to the Soviet Union—these are dollars that are being transferred to the Soviet Union—and to support Cuban troops is indeed a national emergency and one that directly affects our security for many reasons, one, and most important, because of our support and our interest in the UNITA front succeeding in its guerrilla activities against the present government.

Mr. HEINZ. Mr. President, as I think I have made clear, I am going to have to strongly oppose, very strongly oppose, this amendment in its current form. Ironically, I could support it if the Senator from Arizona made a modification that I think he could find quite consistent with what he is attempting to accomplish, but I cannot put words in his mouth and I am not attempting to do so.

As you know, I think we should use IEEPA for this purpose. But I have no problem with using section 5 of the Export Administration Act, that is, the national security section of the Export Administration Act, for this purpose. And if the Senator would consider modifying his amendment utilizing specifically 5(b) of the Export Administration Act, it would not cause the rather serious problems that I have addressed earlier. I would hope he would consider that option. Otherwise, I am going to have to oppose his amendment.

Mr. DECONCINI. If the Senator will yield, I wonder if the Senator could tell me how much of this curtailment could be brought about under section 5 of the Export Administration Act.

Mr. HEINZ. I think it is fair to say that all of the curtailment the Senator seeks can be achieved just as easily, just as thoroughly, and in every respect under section 5. And if it would accommodate the Senator, we might put in a brief quorum call so I might discuss that with him and his staff in some detail.

Mr. DECONCINI. Before we do that, I might suggest to the Senator, I take no great pride that my authorship has to be paragraph, semicolon, and period, and word for word as presented here. The Senator has certainly been around here long enough, as I have, to realize that perhaps someone could improve on anyone's drafting. And while the Senator is in that quorum call, I would suggest that he think about different wording that would be more acceptable to him under this act because I am not satisfied—and maybe the Senator can satisfy me; I am more than open to consider it—that under section 5 of the Export Act that this could be accomplished. That is why I chose this in the first place.

Mr. HEINZ. Mr. President, I thank the Senator for this comment. I think a brief consultation during a quorum call would be in order and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EVANS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1620

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent to temporarily lay aside the DeConcini amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2215

Mr. HEINZ. Mr. President, I ask unanimous consent that Amendment No. 2215, which we adopted last night, and which contained a clerical error, be corrected to reflect the amended text I sent to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as corrected, is as follows:

At the appropriate place, insert the following:

PROHIBITION AGAINST CERTAIN TRANSACTIONS

SEC. ——. Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(e) The Bank may not extend any direct credit or financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

"(1)(A) the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative, or (B) the resulting production capacity is expected to compete with United States production of the same, similar or competing commodity; and

"(2) the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Such prohibition shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short and long term benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.".

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S NONPOLICY ON SOUTH AFRICA

Mr. BYRD. Mr. President, the President's statement on South Africa marks a sad turn for American policy in that important region. It is an abdication of American responsibility for political and moral leadership.

The President's analysis of the situation in South Africa was—in large part—correct. He noted that Americans are frustrated by our inability to promote change, and he recognized that the current mood in Congress reflects that frustration. He pointed out that America's moral and strategic interests come together in southern Africa. He said that the policy of apartheid threatens our vital interests in South Africa, and that the Soviet Union would be the main beneficiary of chaos in the region. He acknowledged that America cannot write off South Africa. And, he recognized that a solution in South Africa must come from South Africans—black and white—working together to build a multiracial society.

But, having offered that description of the state of affairs—in a speech that was billed as the unveiling of the new administration policy—the President merely gave us the bad news, but never told us what we, as a country, were prepared to do in response. Secretary Shultz is supposed to talk to regional leaders, and the State Department is to study the situation. But is that all? Can that be all that we can do? It has been clear that the administration's policy to date is not working, but the President's statement—in laying that policy end to end—reveals why it has failed. The administration knows what it is against, but seems to have no idea what it is for. It is trying to fight something—apartheid—with nothing.

If—despite the willingness of most of our allies to cooperate—the whole spectrum of economic sanctions are repugnant to this administration, then what do we have left? How do we prod the South African Government to do what is in its own interests if we deny ourselves any leverage? Everyone acknowledges that sanctions are an im-

perfect tool of foreign policy, but what is the alternative?

We cannot idly sit by while the violence in South Africa increases. We cannot stand aside—unconcerned—as that nation hemorrhages from self-inflicted wounds.

The American people and the Congress will not support a policy of indifference to the tragedy unfolding in South Africa. I am convinced that the Senate must act, and I am convinced the Senate will act—and it will act soon—since it is unmistakably clear that the administration's policy is completely inadequate to meet the challenge.

Mr. President, I yield the floor.

EXPORT-IMPORT BANK ACT AMENDMENT OF 1986

The Senate continued with the consideration of the bill.

Mr. PROXMIRE. Mr. President, is the DeConcini amendment pending?

The PRESIDING OFFICER. The DeConcini amendment has been temporarily laid aside.

Mr. SYMMS. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, did I understand the Chair to say the DeConcini amendment was temporarily laid aside?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2221

(Purpose: To prohibit the Export-Import Bank of the United States from granting financial assistance to or on behalf of fertilizer industries owned or controlled by foreign governments)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 2221.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

FERTILIZER PRODUCTION

Sec. Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(H) The Bank may not approve any request for financial assistance that would benefit any foreign fertilizer entity that is state controlled or state owned.".

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. SYMMS. Certainly.

Mr. DECONCINI. Will the Senator from Idaho indulge the Senator from Wisconsin? He came to the Chamber to present a statement on the DeConcini amendment which has been temporarily laid aside.

Mr. HEINZ. If the Senator from Arizona would permit, I think we can dispose of this rather simple amendment in a matter of a very, very short period of time.

Mr. SYMMS. I did not mean to infringe upon the time of my colleague from Wisconsin.

Mr. PROXMIRE. That is all right.

Mr. SYMMS. Mr. President, this amendment would restrict the use of Export-Import Bank aid to encourage Government-owned fertilizer industries which compete directly with our own.

It embodies the substance of legislation introduced by my colleague from North Carolina, Senator HELMS, in the form of Senate Resolution No. 99. To quote my distinguished colleague:

The primary objective of the Export-Import Bank is to assist in the financing of exports and imports of the United States . . . in fulfilling its responsibility as a source of assistance for U.S. international trade, the Bank is directed to take into account the increasing severity of problems U.S. industry is facing from governmentally owned or controlled industries abroad. Such industries increasingly are competing with U.S. industries without regard to principles of the competitive marketplace or to fair trade.

Assistance to Government-owned fertilizer industries by the Eximbank has serious repercussions for their competitors in the United States that operate under market forces in free world trade. The Senator from North Carolina has pointed out that such aid seriously harms companies such as Texas Gulf, Agrico Chemicals, and W.R. Grace in his State. In my own State of Idaho, the J.R. Simplot Co. and Becker Industries are seriously hurt in the same manner.

□ 1630

Mr. President, if I understand correctly and I hope I can have the attention of my good friend and colleague from Pennsylvania, the minority leader yesterday added to this particular piece of legislation an amendment to "prohibit any direct loan to projects that would, upon their completion, produce commodities that compete with American commodities, when such loans would injure U.S. producers and workers."

Our domestic fertilizer industry should be protected if I read that correctly under the terms of this legislation or the amendment adopted by the Senate.

Is that correct, I ask my colleague?

Mr. HEINZ. The Senator from Idaho, I think, asked the appropriate and telling question. That is whether or not the Byrd amendment, which speaks to commodities and products that are in oversupply, such as fertilizer, would indeed be covered by the Byrd amendment. I can unreservedly answer in the affirmative, yes, to the Senator from Idaho.

Mr. SYMMS. In other words, Mr. President, the amendment the Senator from Idaho has prepared to offer on this bill and now has pending is not necessary. It has already been taken care of by adoption of the Byrd amendment yesterday, is that correct?

Mr. HEINZ. I say to my good friend from Idaho, as I understand the amendment, and I think I understand it correctly, he has what I would call a domestic impact amendment. That is, he would endeavor to protect the domestic fertilizer industry from the adverse impact of U.S. subsidies to competing firms abroad. As I understand the language adopted in the amendment yesterday, although it is in the general case and the Senator's amendment is in the specific case, the amendment of last night would certainly cover the fertilizer industry.

Mr. SYMMS. Then if it is not essential to have it in the bill and it is covered and the RECORD clearly shows that, would the Senator wish that I withdraw the amendment?

Mr. HEINZ. I would first agree with his characterization that it is adequately covered in the bill thanks to the amendment adopted last night. I would certainly agree to his withdrawing the amendment. It would speed enactment of the legislation.

Mr. PROXMIRE. Mr. President, it is also covered in an amendment I was able to get in in committee. Section 112, page 6, lines 2 to 11, addresses in general precisely the problem that the Senator from Idaho has raised. It is kind of double coverage, and I think he is in a very safe position.

Mr. SYMMS. I thank both the Senator from Wisconsin and the Senator from Pennsylvania. I appreciate the indulgence of the Senator from Arizona.

I withdraw the amendment.

Mr. HEINZ. Mr. President, I want to say to the Senator his bringing this to the attention of the Senate serves a useful purpose. That purpose is to put the Eximbank and anybody else who is in a position to influence decisions made under the authorities before us on notice that the fertilizer industry is an industry that is subject to this kind of subsidized foreign competition. So I do not view the Senator's efforts here as any less significant simply because he has withdrawn his amendment. I think he has performed a service to the Senate and to the country.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment (No. 2221) was withdrawn.

Mr. PROXMIRE. Mr. President, is the DeConcini amendment automatically restored?

The PRESIDING OFFICER. It is, and the DeConcini amendment is before us.

AMENDMENT NO. 2220

Mr. PROXMIRE. Mr. President, I rise in support of the resolution offered by my good friend and colleague, the junior Senator from Arizona, Senator DENNIS DECONCINI.

On January 30 of this year I spoke on this floor about the assistance given by our old companies to the Communist Government of Angola. I told my colleagues that the Reagan administration not only encouraged our oil companies to remain in that country, but even authorized the Export-Import Bank to lend almost $250 million to help them expand Angola's oil production. Most of the revenues derived from that oil production are used by the Marxist Government of Angola to pay for the presence of the Cuban troops who keep it in power.

Yesterday, we adopted my amendment forbidding the Export-Import Bank from making any more loans to Angola until the President certifies Cuban and Russian troops are out of that country. Today we should adopt the DeConcini resolution which calls on the President to use the powers we have given him in the International Emergency Economic Power Act [IEEPA] to force our oil companies to stop aiding the Communist regime in Angola.

The President has asked the Congress to provide taxpayer money to Dr. Jonas Savimbi and UNITA to overthrow the present Marxist Government of Angola. If we want to act effectively to overthrow that Marxist government we can do it without spending millions and millions of dollars on military aid to Savimbi, who is himself a Marxist, and, of course, increase the sad level of violence and death and destruction in Angola in the process. Rather, the President can just disconnect that country's economic support system by forcing American oil companies out of that country.

Mr. President, the fact is that hundreds of millions of dollars annually are paid by the Chevron Oil Co., which is a United States corporation, to the Government of Angola, and a great deal of that, a very substantial proportion of that, goes to support the Cuban troops. In fact, this is the main source of funds for the Cuban troops.

How ironic can you get? Here is an American corporation whose royalties and taxes are paid to the Government of Angola to go to pay for Cuban troops in that Communist country, whose Government the President would like to have us spend money to overthrow. Rather than do that, the President should just disconnect that country's economic support system. He has done that in Libya. He can do it in Angola and the DeConcini resolution calls on him to do so. I support that resolution and commend Senator DECONCINI for offering it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I thank the Senator from Wisconsin for coming to the floor to support this resolution. He brought this up as early as January this year. Perhaps I am offering something that the Senator from Wisconsin meant to offer. Perhaps he did. But I greatly appreciate the Senator's taking the time to come and support this particular amendment at this time.

Mr. HATCH. Mr. President, I rise today in strong support of the DeConcini amendment, and to commend my colleague from Arizona for his outstanding leadership on this issue.

This amendment requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with vital United States national security interests in Angola.

This legislation is indeed long overdue. The Congress complicated United States policy toward Angola in the mid-1970's when it passed the so-called Clark amendment, which prohibited United States assistance to the freedom fighters of UNITA. Congress then turned a blind eye to United States business dealings with the Marxist MPLA regime in Luanda, allowing American oil companies to extract and produce an overwhelming percentage of Angolan oil.

This sad state of affairs was continued until last summer when, in a bold break from the past, the Congress repealed the Clark amendment. Now that time has come to prohibit U.S. oil companies from aiding the Luanda regime further.

This, of course, is the purpose of the DeConcini amendment. The Senator from Arizona has done a fine job detailing the extraordinarily poor record of the Marxist-Leninist MPLA regime in votes of importance to the United States in the United Nations, in its repressive and reprehensive human rights practices, in its refusal to conduct free and fair elections as called for in the Alvor accords, in its almost total reliance on approximately 30,000 Cuban and Soviet troops for protection against the Angolan people, and more.

Simply stated, there is absolutely no reason for this body to continue turning a blind eye to the counterproductive and, some would say, immoral activities of United States oil companies in Angola. Contrary to their repeated claims, these oil companies are directly financing the occupation of Angola by foreign, Communist troops, and are operating in contrast to the overall policy objectives of the United States in southern Africa.

I applaud the Senator from Arizona for offering this important amendment today, Mr. President, and urge its adoption.

Furthermore, let me state that I was pleased by the Senate's action last night, when it passed the Proxmire amendment prohibiting the Eximbank from guaranteeing, insuring, or extending credit to the Marxist-Leninist MPLA regime in Angola "until the President certifies to Congress that no Cuban, Russian, or other Soviet bloc military personnel remain in Angola." This action sends a strong signal to the Angolan regime, one that I hope will not go altogether unheeded.

Mr. DECONCINI. Mr. President, I thank the Senator from Pennsylvania. We have attempted to look at some alternatives here. The Senator's suggestion of the Export Administration Act of 1979 certainly does have some merit. I think what should be done eventually is that Angola should be put on that list as it is on the Eximbank list, that was put on by Senator PROXMIRE yesterday. It does not get to the point that I think is necessary here.

The Senator from Wisconsin so well pointed out that we have a situation here that probably is unique, at least in the minds of the American public, that we are committed to an ally, the UNITA Front, and Mr. Savimbi, we are committed to help and support that effort to bring about a democratic process, free elections, and to overthrow, quite frankly, the present Communist government in Angola. And we are seeing a vicious battle, particularly in this period of time, launched by the Angola Government with 35,000 combat troops, with 21,000 Soviet troops, East German and Korean troops. So the problem is, certainly in this Senator's mind, a national emergency.

□ 1640

The President just spoke about South Africa, of the importance of this particular problem, and of the vital interests of the United States in South Africa. Though that is a different issue than Angola, certainly this is of vital national interest, and of national security for the United States.

I ask my colleagues why should this body not go on record encouraging the President of the United States to use

IEEPA to stop the American investment to be turned and turned and converted into hard currency that purchases the weapons that are being used against our ally and our own support.

Realizing the Senator from Pennsylvania is an authority in this area in comparison with this Senator, he has worked with it, and I know he has great concern about the over-expansion and the jurisdiction that could and perhaps has been used in IEEPA, but I have to say to my good friend from Pennsylvania that we are talking about, as he knows, a sense of the Senate. It is nonbinding. But it does state a principle, and a very important principle; that is, that this body believes that it is not in our national best interest and the foreign policy of this country to have American business involved indirectly or directly in what amounts to what is support of Cuban and Soviet troops in Angola.

Mr. President, again I thank the Senator from Pennsylvania for attempting to find another resolution, and I am prepared to go to a vote at the proper time.

I ask for the yeas and nays on the amendment.

Mr. HEINZ. Mr. President, will the Senator withhold that for a moment?

Mr. DECONCINI. I am glad to withhold.

Mr. HEINZ. I think we may be able to come to an agreement in a second. I want to say that the Senator from Arizona and I tried to reconcile our differences on the amendment. I do not think we are too far away. It was a question of whether he wanted to proceed under IEEPA.

I proposed language which I think would accomplish perhaps 90 to 95 percent of what we could have accomplished under his approach using section 5, the national security section of the Export Administration Act. But I do not quarrel with the Senator's decision. He has a perfect right to make that decision.

I still maintain my reservations about his amendment.

I am ready to vote on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

● Mr. LEAHY. Mr. President, I support Senator DECONCINI's amendment. I do so for the same reasons that I cosponsored Senator PROXMIRE's amendment which the Senate adopted yesterday, to prohibit the Eximbank from making any more loans to Angola as long as Cuban troops or Soviet advisers remain in that country.

Southern Africa today is at a crossroads. The country of South Africa is sliding toward civil war. Thirty-five thousand Soviet-backed Cuban troops have been battling UNITA, the guerrilla insurgency in Angola, for more than a decade. The United States needs a coherent policy toward southern Africa that is consistent with our ideals as a nation and which protects our security interests in the region.

Earlier this year, Jonas Savimbi, leader of UNITA, came to Washington seeking United States support for his guerrilla war in Angola. The administration decided that Mr. Savimbi's losing fight should be our own, even though he is a self-styled Marxist who depends on the racist Government of South Africa for the majority of his military supplies. I strongly opposed that decision, because by aligning ourselves with Savimbi we become a military partner with South Africa in the eyes of black Africa and the rest of the world. We undermine our ability to mediate a settlement leading to the independence of Namibia, the peaceful removal of Cuban troops and Soviet advisers in Angola, and an end to apartheid in South Africa. As in Central America, the administration has adopted a policy in southern Africa of military force, rather than diplomacy and economic pressure, as the way to solve a complex foreign policy problem.

Just as I have opposed military aid to Savimbi, I oppose American support for the Soviet- and Cuban-backed Government of Angola. As Senator DECONCINI has pointed out, Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil. The majority of this oil is extracted by American oil companies, who are indirectly subsidizing the purchase of Soviet military equipment and supplies for the Cuban troops in Angola.

The Soviet and Cuban presence in southern Africa directly threatens our own security interests. By funding Savimbi, and by encouraging United States oil companies to subsidize the Angolan economy, we have set the stage for an escalation of that presence. By adopting this amendment, the Congress will send a strong message to the Luanda government that the United States is deeply concerned by the continued involvement of the Soviet Union and Cuba in southern Africa.

Our policy in Angola should be part of an integrated whole, consistent with our opposition to apartheid and to South Africa's illegal occupation of Namibia. Our objective should be to encourage the peaceful resolution of these conflicts, by political action and a combination of economic incentives and sanctions. Just as I support an end to United States business investments in South Africa as a means of pressurizing that country to dismantle apartheid, I support diplomatic and economic pressure on Luanda to negotiate a withdrawal of Soviet-backed Cuban troops. By stopping United States business support for those troops, we let the Soviet Union, Cuba, and Angola know that we are serious about our policy in the whole of southern Africa.●

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I think we are ready to vote on this.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arizona.

The amendment (No. 2220) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Pennsylvania, the Senator from Wisconsin, and the staff from each side. I realize the strong professional feeling that the Senator from Pennsylvania has on this issue. I thank him for permitting it to come to a vote without any extended long debate.

I want to explain for the Senator and the RECORD that my problem, which I did not state before, with this approach of the Export Administration Act is I am fearful that it would take a long period of time to implement it though I do not want to get back into that debate, but also that American companies there could easily substitute many of the restricted imports and exports that our administration might put under the Export Administration Act if we adopted that.

But I sincerely thank the Senator from Pennsylvania for addressing this matter in the spirit that he always does, in fairness, and though we have some disagreements here I think we have moved ahead in sending a very clear message by the Senate accepting this amendment which indicates that it is not in our best interests for American businesses to continue to support the Communist government in Angola fighting the freedom fighters there that are trying to overthrow that government and haying a democratic process.

Mr. HEINZ. Mr. President, I believe we have disposed of all six amendments that were listed last night under the unanimous-consent request. I do not know of any further comments or statements that Members wish to make.

There is one vote that has been ordered. That is on the Ford amendment. It is my understanding that vote will occur at no later than 5 p.m. and at this point, I do not know of any Senator requesting a rollcall vote on final passage.

It is not this Senator's intention as manager of the bill to request a recorded vote on final passage. I do not

know of anybody who in fact will object to final passage although there might be some Senators who have reservations about the Export-Import Bank who may nonetheless wish to be recorded in the negative without the necessity of a rollcall vote.

But I think we would have a very substantial vote if we had to have one.

It is this Senator's expectation that there will be only one vote on this, and that is in relation to the Ford amendment, at roughly 5 o'clock.

Seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1650

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED DOLE AMENDMENT

Mr. DOLE. Mr. President, it will be my intention, after the vote on the amendment by the distinguished Senator from Kentucky [Mr. FORD], to ask unanimous consent that I may be permitted to offer an amendment, even though it is not included in the agreement. Let me indicate what that amendment is.

Mr. President, the amendment I intend to offer—which I hope will be considered noncontroversial—would simply require the administration to apply the Export Enhancement Program in a nondiscriminatory way to all our traditional trading partners.

Technically, section 1127(B)(2) of the Food Security Act of 1985 would be amended to direct the Secretary of Agriculture to "permit the participation" of those countries which have been traditional purchasers of U.S. agricultural commodities. Under present law, the Secretary is required only to "consider the participation" of such countries.

Mr. President, such an amendment is necessary because the Department has not administered the language of the act in the manner in which many of us believe it was intended. I am not suggesting that the administration has acted in bad faith. The language contained some ambiguity and permitted some latitude in its application. This amendment seeks to reiterate and clarify congressional intent.

It is no secret that one country whose market we are concerned about is that of the Soviet Union. The administration appears to believe the Soviet Union is not an appropriate beneficiary of the Export Enhancement Program since that program involves American subsidies.

But it seems to me that either we should accept the Soviet Union as a trading partner—in which case it should be accorded those benefits under the Export Enhancement Program that are enjoyed by our other trading partners—or we should determine, as a matter of foreign policy, that it is not a fit trading partner, and suspend all trade relations.

The Export Enhancement Program is intended to facilitate aggressive and effective competition on our part in the world marketplace. If we are not prepared to use it in that manner, it should be repealed.

Mr. President, foreign policy considerations often must be paramount in the actions we take as a nation. But putting the Export Enhancement Program off limits to the Soviet Union does not penalize Moscow, for they will buy elsewhere—and even with the Export Enhancement Program there is no assurance they will buy from the United States. It does penalize our farmers. It is all too reminiscent of the short-sighted logic, and disastrous consequences, of the grain embargo imposed by President Carter against the Soviet Union.

If in fact we are seeking better relations, and if in fact there is to be a second summit, trade seems to be a logical step.

In the 1985 farm bill, we have a provision called the export enhancement program. The only purpose of that program is to improve exports, to improve farm income, and, in effect, to reduce the cost to the taxpayers of farm programs, which are advertised in the New York Times as being as high as $85 billion.

The problem is, how do you apply the export enhancement program? To whom is it available? The administration has taken the position that even though we trade with Russia, even though we want to increase trade, particularly grain trade and other nonstrategic items, with the Soviet Union, we are not going to apply the export enhancement program. In other words, they cannot participate in it.

This means, for example, that United States wheat, for the Russians, is about $14 or $15 higher than for anybody who participates in the program.

All this amendment would do would indicate that if, in fact, we have had trade with the Soviet Union, which we have—and that is not the issue—and if, in fact, they have been traditional customers, which they have been, then they would be permitted to participate in the export enhancement program.

It is a very narrowly drawn amendment. It affects only section 1127(B)(2) of the Food Security Act; and it would direct the Secretary of Agriculture to permit the participation of those countries which have been traditional purchasers of U.S. commodities under present law. Under current law, the Secretary is only required to "consider the participation."

Let me yield to one of my cosponsors, the distinguished Senator from North Dakota [Mr. ANDREWS], who has had a long-time interest in this problem and who has met with the Department. I do not criticize the Department. I just suggest that we want to help the Department.

Mr. ANDREWS. Mr. President, I appreciate the distinguished majority leader yielding.

Over a year ago, we put this package together for export enhancement, a bipartisan package. We voted it in on the floor, and it has been administered in the wrong way, because it has excluded our best customers from our efforts to make our grain sales more competitive.

In the 1984-85 marketing year, the Soviets were the best customer of the American wheat farmer. They bought 6.3 million tons of our wheat. This year, because they have been discriminated against in favor of customers that were hardly in the ball game, they have dropped from 1st to 29th. They pay in cash or in gold or whatever. This is no slip, slide, and duck around, with low interest rates or long terms or anything else. They pay up front. Instead of buying 6.3 million tons, they are down to buying only 152,600 tons.

Similarly, the Chinese, who in the 1984-85 marketing year were our No. 4 customer, are down to being our 13th ranking customer.

Mr. President, we are producing three times the amount of wheat in this country than we consume. We need to market it. You market it where the mouths are, and the mouths are in the Soviet Union and the People's Republic of China and in a number of under-developed countries in the world where we can do a job with food for peace.

□ 1700

But we are talking about commercial customers. That is why the amendment my colleague from Kansas offers is so important if we are going to get back those export markets and we are going to save money to the American taxpayer if we do it.

I support strongly the Senator's amendment and I hope the Senate will adopt it.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. DOLE. Let me make one other point, and then I will be happy to yield.

I know what the State Department is going to say and I know what the National Security Council is going to say, and some people are going to say that what we are doing is in effect subsidizing the Soviet Union. I do not believe that is a question. We already

agreed we want to have trade with the Soviet Union. We agreed we want to meet with Mr. Gorbachev. We agreed with a lot of other things in the last summit President Reagan had.

What we want to do now is be competitive. If we are not competitive, there is no way the Soviets are going to buy from us. Even with this export enhancement program, they are not about to do the United States any favors. We are not trying to do them any favors. We have a lot of products. We have $8 billion worth of grain stored up around the country. It is a big, big surplus. It cost about $700 million a year to store it. We are trying to dispose of some of it by selling it to customers who have been our traditional customers over the years.

So I would be happy to yield to the distinguished Senator from Montana if we have time.

Mr. MELCHER. I thank the Senator for yielding.

What is being proposed could probably be done under existing law.

Mr. DOLE. The Senator is right.

Mr. MELCHER. This would be in the form of directing that it be done?

Mr. DOLE. Correct.

Mr. MELCHER. Would the majority leader also be in favor of a unanimous consent to attach an amendment——

The PRESIDING OFFICER. If the Senator will hold for a moment, the hour of 5 p.m. has arrived. The vote has been ordered at this time.

Mr. DOLE. Mr. President, I ask unanimous consent that we have 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Would the majority leader also be willing to contemplate my offering or asking for unanimous consent to offer an amendment to direct that the African famine relief of $225 million be held and utilized for that purpose over not necessarily—you cannot spend it all in this fiscal year, which ends October 1, but to be used just for that purpose and also the Public Law 480 money that is still there and unobligated, which I think amounts to about $60 million, be obligated this fiscal year? The famine relief money would not be wisely and prudently used all just during this fiscal year, but would be held over for that purpose in the next fiscal year, and the $60 million remaining in Public Law 480 food for peace be obligated before the end of the fiscal year.

Mr. DOLE. I would be happy to look at that during the vote. It would not be up to me, I must say. We have managers on the floor, Senator HEINZ on this side and Senator PROXMIRE on the other side.

But I do believe that we need to urge USDA to take appropriate steps in both areas the Senator from Montana mentioned.

It was my hope we might be able to get consent to do this today and then bring up the Philippine amendment. We could take care of the Public Law 480 problem.

Mr. MELCHER. We will talk about it during the interim.

Mr. DOLE. If I have a second left I yield to the Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator for offering the amendment.

I ask him a question now. What we are talking about doing is trying to treat all grain customers equally.

Mr. DOLE. That is correct.

Mr. SYMMS. There is no credit involved in this?

Mr. DOLE. No credit.

Mr. SYMMS. It is the old Eisenhower doctrine. You sell them food and they cannot shoot back at you; they cannot use the money to buy ammunition with.

Mr. DOLE. That is correct.

Mr. SYMMS. Would this also affect countries like Korea, Japan, and Taiwan and any other countries that have been our standard customers?

Mr. DOLE. That is correct.

Mr. SYMMS. So we will then in fact have a program that we treat all of our customers alike so there is no hidden embargo in our current policy.

Mr. DOLE. That is what we have now. That is a good point. In effect, we have an embargo. We say you are a customer but you cannot participate in this program, and I do not believe that was the intent when we passed this legislation, but I know we are going to be out of time so maybe we can discuss it after the vote.

Mr. SYMMS. I support the majority leader's effort on this, and thank him for bringing this up.

Mr. BOSCHWITZ. Mr. President, if the majority leader will yield, I say I, too, support it. I thought a Minnesotan, Hubert Humphrey, said, "Take their money and they can't shoot it back at you."

Mr. DOLE. He said it after General Eisenhower said it.

Mr. BOSCHWITZ. That is what it is.

Mr. DOLE. They both said it.

Mr. BOSCHWITZ. I think the majority leader is correct.

The PRESIDING OFFICER. The time has come for a vote on the Ford amendment.

The question is on agreeing to the amendment of the Senator from Kentucky. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. QUAYLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—47

Abdnor	Glenn	Melcher
Andrews	Gore	Metzenbaum
Baucus	Grassley	Nickles
Boren	Harkin	Nunn
Broyhill	Hart	Pressler
Bumpers	Heflin	Proxmire
Burdick	Helms	Pryor
Byrd	Hollings	Riegle
Cochran	Kasten	Rockefeller
DeConcini	Kennedy	Sasser
Denton	Leahy	Simon
Dixon	Levin	Stennis
Dodd	Matsunaga	Symms
Eagleton	Mattingly	Thurmond
Exon	McClure	Zorinsky
Ford	McConnell	

NAYS—53

Armstrong	Gorton	Moynihan
Bentsen	Gramm	Murkowski
Biden	Hatch	Packwood
Bingaman	Hatfield	Pell
Boschwitz	Hawkins	Quayle
Bradley	Hecht	Roth
Chafee	Heinz	Rudman
Chiles	Humphrey	Sarbanes
Cohen	Inouye	Simpson
Cranston	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kerry	Stevens
Dole	Lautenberg	Trible
Domenici	Laxalt	Wallop
Durenberger	Long	Warner
Evans	Lugar	Weicker
Garn	Mathias	Wilson
Goldwater	Mitchell	

So the amendment (No. 2217), as modified, was rejected.

□ 1720

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. DOLE. Mr. President, in a moment I am going to ask unanimous consent to add one amendment. Let me first explain what the amendment does. I did it earlier.

When we passed the farm bill last December, we had a provision—and I will have the number of that provision before me in a minute—which said, in effect, that we wanted to have an aggressive export program to try to reduce surpluses and to try to benefit the American farmer.

In that provision, it gave the Secretary of Agriculture discretion to consider countries which I did not quarrel with at the time because we felt the emphasis was there and we would do whatever is necessary to market the grain, to become competitive.

Then, I think very understandably, a question arose within the administration about making this program available to the Soviet Union and perhaps China. They are Communist countries and we have very strong differences with Communist countries.

I have been discussing with the USDA whether or not they were going to permit the Soviet Union, for exam-

ple, to be beneficiaries of the Export Enhancement Program.

The argument will be made that we do not want to subsidize communism, and this Senator does not want to subsidize communism either. But we have about $8 billion worth of surplus commodities. We are paying about $700 million a year in storage on those commodities. We have a farm depression or recession, or call it what you want, and we are still not out of that difficulty in the Farm Belt.

□ 1730

The Soviet Union has been our largest consumer, and as President Eisenhower said, as was mentioned a while ago by the distinguished Senator from Minnesota (Mr. BOSCHWITZ), you should sell the Soviets things they cannot shoot back at you and use up their resources in the process.

Now, there is an ongoing debate within the administration. The National Security Council and the State Department in any administration will say, "Well, you shouldn't do anything like this." Let me make it clear, we are talking about only one provision. We are not talking about most favored nation. We are not talking about Jackson-Vanik. We are not talking about a lot of other provisions that apply to the Soviet Union. We are not talking about high technology. We are talking about grain, which is covering up a lot of people in this country. And all I will seek to do when I ask consent—if there is an objection, so be it, but this has bipartisan support. I would guess there will be a number of Senators on each side in the Farm Belt—and I know the distinguished Senator from Illinois (Mr. DIXON) introduced a similar resolution just yesterday or the day before. My response to the State Department is either we are going to trade with the Soviets or we are not. If we are not going to trade, we ought to have a vote in this body. Just vote we are not going to trade with the Soviet Union period. I am not certain how the vote would come out. We are trading with the Soviet Union now. But if we are going to trade, then we ought to be competitive. We cannot be competitive if they cannot benefit from this particular program and they are not about to buy from us when they pay $14 or $15 more per ton than some other country must pay when they buy from us under the program.

So far as I am concerned, this is not a subsidy, this is competition. It is whether or not we are going to be competitive. And, believe me, we need to be competitive. We have piles and piles, millions of bushels of carryover in corn, soybeans, and wheat. It is a program that would also apply to rice or cotton. So I suggest unless somebody has strong objection, we are modifying the amendment to take care of one concern. We are not trying to make it permanent. We will make it effective only this fiscal year, which expires September 30, 1986. So to those who will quarrel we are trying to make a deal with the Communists so we can say, oh, no, this is going to end this fiscal year and if for some reason there is some problem, then it will not be extended, I would also suggest this. I believe there is going to be another summit meeting this year. It is going to involve the President of the United States and Mr. Gorbachev. They are going to talk about warming relations between the Soviet Union and the United States. They are going to talk about arms control. They are going to talk about trade. They are going to talk about exchange of students and other things between our two countries. It seems to me this might be a step in the direction of getting back on the right track as far as that meeting is concerned.

Now, I agree with the distinguished Senator from Montana. The administration has the authority right now. They do not need any direction. It is discretionary. But they will not use the discretion. I hope that we can resolve this problem and then maybe address the problems of the distinguished Senator from Montana at a later time. I will certainly be willing to work with him. I think one has already been resolved. But we are making that one change in the amendment. In the meantime I yield to the distinguished Senator from Illinois.

Mr. DIXON. Will the majority leader yield?

Mr. DOLE. I will be happy to yield the floor.

Mr. DIXON. I want to say to the majority leader that I appreciate very much the statement he has just made. Yesterday afternoon I introduced a resolution a little longer than the majority leader's but similar in scope. At the time, the majority leader was at the White House. I had hoped to visit with him about my concerns about the Export Enhancement Program. As the majority leader and others know, I have been in Illinois all day at a funeral for Congressman George O'Brien. My colleague, Senator SIMON, and I just returned at 5 o'clock. So I did not have an opportunity to speak to the majority leader.

I hope everyone will support his unanimous consent request. The resolution I submitted yesterday cites some statistics I would hope all Members know about. Grain exports to the Soviet Union have declined 50 percent since 1985. Exports to the Republic of China have declined 65 percent since 1984. What the majority leader did not mention is that in the Export Enhancement Program we provide a billion dollars for the purpose of providing these bonuses for commercial sales. Of that billion dollars, only $270 million has been used to date. Again, I hope that we will support the majority leader's request.

I see the distinguished chairman of the Agriculture Committee on the floor and many members of the committee. We spent a great deal of time—many, many hundreds of man-hours in the committee—talking about how we could help the American farmer by expanding our exports to other countries.

The majority leader is asking us, as I understand, to encourage the administration—and the Senator from Montana is absolutely correct—to use the authority already provided in the 1985 farm bill. All of the legislative support for that increasing our agricultural exports is already on the books. The money has already been provided in the last session.

We are going to have a fantastically large crop in Illinois this fall. The evidence now indicates that there will be 113 million bushels of grain in my State for which there will be no storage, Mr. President. This proposal would not only help the American farmer and permit us to sell some of our products overseas but would also reduce the storage needs in this country.

I certainly support the concept. If I may have the majority leader's attention, as I indicated to the Senator previously, I would be honored to be a cosponsor on the resolution. I thank the Chair. I yield the floor.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I take a moment to compliment the majority leader for his attempt—I hope that it would be agreed to on the floor of the Senate—to move forward with this amendment. The BICEP program also known as the Export Enhancement Program, for those of you who have not really followed it, has not worked nearly as well as we intended, primarily because it discriminates. It is used selectively. We have used it to help increase our exports to a few small countries, and that may have helped us with those small countries but a lot of our bigger customers have said, "Well, you are going to give them a better deal on exports but are not giving it to us when there are ample supplies." What they have done is to start buying their wheat from Argentina, Australia, Canada, and other countries. So the net effect is, we have some big customers offended by the fact that other countries are getting the break that they do not receive and so they are not purchasing from the United States.

We have also seen, somewhat as a result and not entirely because of this, that agricultural exports have substantially declined. We now have in

hard red winter wheat a 1.9-billion-bushel carryover. That is enormous. This country uses a little less than 1 billion bushels of wheat per year. So we have an enormous carryover. I think we are going to have to work hard and as aggressively as we possibly can to increase our exports, and I hope the amendment of the majority leader will be considered and adopted by the Senate today.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, on July 10, we held a meeting over at the Dirksen Building where 39 representatives of export organizations—some of them are in private business, some of them are in co-ops, some of them are export groups—concluded unanimously that the administration should use to its utmost the export enhancement provision of the farm bill. Practically, there are $7.8 billion already obligated, already waiting to be used in the next 6 to 8 months to enhance our exports abroad.

□ 1740

Also appropriated to assist us in disposal of our surplus commodities remains about $65 million in Public Law 480. It is appropriated for this fiscal year. There are needs out there, there are countries that are asking us for food assistance. Congress has appropriated the money to carry it out. In addition, there is $225 million for African famine relief. The Food and Agriculture Organization has provided us with a list of countries' needs in sub-Saharan Africa. Those needs are unmet. Yet the money stays right there and is not utilized, even though it was appropriated by Congress and is available to be used for food needs in Africa.

May I ask the majority leader again, as I did before the last vote, whether or not he would like to incorporate in his unanimous-consent request direction to utilize these appropriated funds—namely, African famine relief funds and the remaining Public Law 480 funds?

Mr. DOLE. Mr. President, let me say I think I am going to have difficulty as it is getting unanimous consent. But I would say this to the distinguished Senator from Montana: I have been working with him, though he may not know it, on the Public Law 480 matter. I have taken this up with Senator KASTEN and others on the committee. He has probably already won that battle.

The other is $60 million, as I understand it. I am not familiar with that but I assure the distinguished Senator from Montana that if he will not object to this amendment, I shall be happy to assist him at the earliest time in locking that number in, also.

Mr. MELCHER. Mr. President, may I further ask the majority leader if we could conceivably have an opportunity in the next 2 weeks to address these two matters?

Mr. DOLE. He will have an opportunity, I assume, later this week when the debt ceiling is up.

I am also willing to bring up the Philippines relief—I cannot remember the exact title of that bill, but I think the Senator is familiar with it.

Mr. MELCHER. The Philippines assistance bill.

Mr. DOLE. We are prepared to bring it up at any time. I understand the Senator from Montana is now ready.

Mr. MELCHER. I am ready, Mr. President.

Mr. DOLE. Maybe we can do it on that.

Mr. MELCHER. I thank the majority leader.

Mr. President, I ask the majority leader, if I can get his attention, I would like to be a cosponsor to the amendment the majority leader is proposing.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. DOLE. Yes, I yield.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MELCHER. I yield the floor.

Mr. PRESSLER. Mr. President, I rise in support of this proposal. Might I say we are dealing with something here that has a deeper trade policy effect than just the sale of grain because other countries and other blocs of countries are dealing unfairly in export practices. That is, using a two-price policy, such as the Common Market and Canada and other countries to increase agricultural exports.

This amendment, in addition to providing some increase in our exports, may well force other countries to agree to fairer trade practices, to putting more agricultural trade under the GATT. If we do not do something like this, we are not responding to competition and we are letting other countries and other blocs of countries, especially the Common Market, engage in very unfair trade practices with no retaliation.

I, too, am troubled with essentially giving assistance to countries that are Communist, but in this country, we are shooting ourselves in the foot if we do not treat all of our trading partners equally.

I do have a question for the author of the amendment or someone else who knows: Will this also apply to the countries of Eastern Europe? I am very interested that it should apply to them because I feel the better we treat them, the further away from the Soviet Union they can be.

Would the Soviet Union be able to recycle grain to the Eastern European countries on their own terms? Does this also include the countries of Eastern Europe such as Czechoslovakia, Hungary, Romania?

Mr. DOLE. If they have been traditional friendly countries, which many of them have been. I do not know which particular countries the Senator is talking about, but we have had a lot of Public Law 480 in addition going into many of these Eastern European countries. We have not had aid to the Soviet Union. I am not suggesting that the answer is yes.

Mr. PRESSLER. What about the Soviet Union?

Mr. DOLE. If in fact they have been traditional countries not seeking credit, if they are in our market, they would be entitled to benefit.

Mr. PRESSLER. It is not just the countries that have most favored nation status.

Mr. DOLE. No, the Soviet Union does not have most favored nation status.

Mr. PRESSLER. Could the staff get for us which countries of Eastern Europe?

Mr. DOLE. Mr. President, I must say we have tried to avoid naming countries for that very reason. As far as I am concerned, we would not want trade with a country like Libya, for example, and we leave some discretion there.

Mr. PRESSLER. This amendment does not mention trade with the countries of Eastern Europe. I am concerned because I think our policies have forced many of those countries back into the Soviet orbit. I think Czechoslovakia, Romania, and Hungary, in my opinion, want to be free. It would be a problem if the Soviet Union bought the grain and resold it to the countries of Eastern Europe.

Mr. DOLE. I think most of that comes out of Public Law 480.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I hope there will not be any objection to the unanimous-consent request. I have talked very briefly on this matter. It is tremendously important to a particularly depressed sector of our economy today, namely, agriculture. Things are bleeding out there and we provided in the farm bill something that we called export PIK. I would certainly say that most of us would agree that at least the administration is dragging its feet, if you will, on providing this assistance that is vitally necessary to move grain. We have grain coming out of our ears and I do not care whether it is the Soviet Union or who it is, it is time to move some of this grain and move it now.

The Soviet Union and the People's Republic of China have been very much upset and have been buying less and less of our grain because we have

pick—we have decided on a pick-and-choose system of using export PIK. This program is there to be used to move our grain. I say let us move it.

Having said that, I simply want to add, Mr. President, that I have asked to be a cosponsor of the amendment offered by the majority leader. I would simply say at this time once again that we had better come to our senses sooner or later and understand that we are not going to sell our way out of the farm depression that we have today.

At some other appropriate time, I shall outline for my colleagues the fact that the administration is basing its means of getting out of the agricultural depression today on the aberration that we had in the late 1970's when, for example, in 1975, we exported, of our corn and wheat production, some 36 percent. It went up to 42 percent in 1980, has gone back to 18 percent in 1985.

This is not the answer to our agricultural problems. But it is a significant step in the right direction.

I hope that the unanimous-consent request will be granted.

□ 1750

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I am very pleased that the majority leader took this opportunity to make this request. I join the other speakers in saying that I sincerely hope no one will object. I think we all recognize the need.

The majority leader and I talked about this matter the other day, and I was hoping that this opportunity would come about so that he could offer it.

We expressed ourselves on this issue earlier. We passed the Export Enhancement Act. We all, for the most part, thought it was great legislation. But obviously it has not been working, for reasons we have heard on the floor the last few minutes.

I do not know whether it is the State Department calling the shots or who, but I know that it can be improved on, and it behooves us to take the necessary steps to see that we do improve the legislation so that it is working.

I can well understand the feeling of countries which are traditional buyers of American grain, who buy year after year and have been good customers of ours, and are not recognized as eligible to receive this reduced price under the Export Enhancement Act. It probably has cost us bushels instead of gaining us sales of grain to other countries. We have already hurt our relationship with those countries back in the Carter days with the Embargo Act, and it carried over for a while in this administration before we finally prevailed.

I think the State Department as much as others is calling the shots. I do not know if they are involved in this or not, but I have a feeling that they are. I think it is about time Congress expresses itself on what it really meant when it passed the Export Enhancement Act.

I hope that everyone in this body will agree with that statement and will give the majority leader the opportunity to bring up his amendment.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I thank the Chair for recognizing me.

Mr. President, I ask unanimous consent that my name be added as an original cosponsor of Senator DOLE's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I also compliment the distinguished majority leader for offering this amendment. I hope our colleagues in the Senate will support him in his unanimous-consent request.

Also, I should like to tell my colleagues that at this time there is a leader's conference going on in Arkansas between 10 Soviets and 12 Americans. These are people in the 25- to 40-age group.

I can say without reservation that those Soviets I have talked to, without question and without exception, will recognize this vote as a major turning point in the policy of our country regarding our very bounteous food supply. I think they will recognize by this vote that we are using this particular vehicle, once again, to restate our purpose in our food policy, not to use our food policy as a weapon but as a tool for peace and a bridge for understanding.

Once again, I compliment the majority leader for this. I hope the Senate will concur in his unanimous-consent request and that it will be adopted.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I do not intend to object, although I feel passionately like doing so.

The statement was made that we ought to sell to the Soviet Union whatever they cannot shoot back at us, and in a vacuum that is a perfectly plausible concept. But, whatever they do not spend of their hard currency in feeding and caring for their own people, they spend of their hard currency threatening us and the rest of the free world. I do not know whether it is something about which the average American taxpayer feels too sanguine.

All of us who have a large farm constituency are anxious about the state of the economy in the Farm Belt. My home State has people going bankrupt, as do the home States of others who have already expressed themselves. But we are going to spend over $50 billion supporting that very farm economy, and it is going to go primarily to the biggest and most powerful of the growers of these commodities.

So we are asking the American taxpayer to support the growth of a commodity for which there is no market, and then to support the sale of it to a market to make it competitive. So the taxpayer gets to pay to grow it and to sell it and, on top of that, to transport it. We have to ask whether that is really what the American taxpayer thinks he works day and night for. It is not a fair thing to do.

I do not intend to object to the request of the majority leader, but I think the Senate should have a vote on it. As badly as my farm folks hurt, I do not think they want me subsidizing the Soviet Union so that it can put into practice yet another year's violations of arms control treaties, yet another year's aggression against the Afghans, and other things.

This, make no mistake about it, relieves them of the obligation to spend greater amounts of their hard currency to take care of their own people. To the extent we say that we do it for peace, God would that we could do it for peace. But they do not use their savings in peaceful ways. They use their savings to threaten the Afghans, to occupy Angola, to support, to the tune of $1 billion, Nicaragua and all those other places where we have people who also suffer.

So I am going to stand aside to let the majority leader's request go through, but I intend to vote against it.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I hate to rain on anybody's parade, but there are some other amendments still pending there; and as we are in the process of putting some arrangement together, I have to respectfully object at this time to the majority leader's request.

The PRESIDING OFFICER. Third reading.

Mr. HEINZ. Mr. President, I think the majority leader wants to propose his unanimous-consent request. This would be an appropriate time for him to do so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

Mr. HELMS. Mr. President, no one in this body has worked harder for the farmers than the distinguished majority leader. All of us know his intent. We all admire his efforts; certainly, I do.

On the other hand, the distinguished majority leader has agreed to modify his amendment somewhat, and that takes a little of the heartburn out of this, so far as this Senator is concerned.

However, the distinguished Senator from Wyoming put it in perspective.

This is a matter of foreign policy. The amendment would direct the Secretary of Agriculture to offer subsidies to those nations, including the Soviet Union, whose very existence is dedicated to the destruction of our Republic.

Mr. President, experts report that one of the effects of the recent decline in oil prices has been to reduce sharply the export earnings of the Soviet economy. Reports suggest that Soviet hard-currency earnings from exports are depressed. Obviously this amendment would tend to ease any hard-currency strain that currently faces the Soviets and other Eastern bloc nations.

Mr. President, as Senator WALLOP has said, two of the nations that would benefit are the Soviet Union and Communist China. Both have violated bilateral agricultural trade agreements with the United States. An article in today's Wall Street Journal discusses the Soviet Union's egregious violations of the existing long-term agreement, including the failure to meet the 4-million-ton purchase minimum for wheat during the 1984-85 marketing year. Observers feel that the Soviets will fail to meet the minimum purchase this year.

The Australian Ambassador to the United States has expressed extreme concern, and has suggested that expansion of the Export Enhancement Program to the Soviets and the Chinese could "genuinely damage the relationship between the United States and Australia."

In great appreciation for the efforts of the distinguished majority leader, I would not even think about objecting to his unanimous consent request. I know his motivation, and I certainly know the need of the American farmer.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Wall Street Journal of July 22, 1986.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEEDS OF SUSPICION OVER THE WHEAT DEAL

(By Dennis D. Miller)

The Soviet Union is about to violate, for the second straight year, a long-term agricultural purchasing agreement with the U.S. In effect, the Soviet Union has imposed a partial grain boycott against U.S. wheat farmers. This development will embarrass the U.S. Agriculture Department, hurt the American farmer, diminish the Soviets' credibility and make arms-control agreements less likely.

The Reagan administration has so far let the Soviets off scot-free, and may soon be compounding the injury, Senate Majority Leader Robert Dole (R., Kan.) told reporters last Wednesday that the administration had "under active consideration" a plan to boost U.S. farm exports by giving the Soviet Union subsidies on U.S. grains in the form of "bonus" crops. Giving free grain to the Soviets might be the only way the U.S. could get them to live up to their grain agreements.

In fiscal 1985, the Soviets for the first time failed to buy the minimum amount of wheat according to the Second Long Term Grain Purchase Agreement (LTGPA) signed in 1983. By this agreement, the Soviets obligated themselves to purchase from the U.S. for each of the next five years a minimum of four million metric tons (mmt) of corn and the same quantity of wheat, plus one million metric tons of either corn or wheat, or 500,000 metric tons of soybean and soybean products. The Soviets purchased no soybeans, 15.9 mmt of corn (the result of particularly poor Soviet corn production), but only 2.9 mmt of wheat. This put them 1.1 mmt short of the agreement with respect to wheat. So, while the Soviets did purchase more corn from the U.S. than was required—partly because it is one of the few major suppliers—the shortage in wheat purchases meant that wheat farmers were shortchanged by at least $100 million.

The U.S. in effect did nothing.

LIKE PEANUTS

Getting away so easily has emboldened the Soviets to violate the agreement again. Last month, at an agricultural meeting in Moscow, the Soviets refused to offer assurances that they would not violate the grain agreement for a second straight year.

As of yesterday, the Soviets this fiscal year had purchased 6.8 mmt of corn, 1.5 mmt of soybeans, but only 153,000 tons of wheat. With a little more than two months left in the grain-agreement year, the Soviets must buy 96% of their wheat obligation (some 3.85 mmt) to fulfill the terms of the agreement. The value of this unbought wheat is approximately $500 million, an amount that makes the $9.5 million that Willie Nelson's Farm Aid I and II concerts have earned for the American farmer look like peanuts.

This Soviet "boycott" of U.S. wheat farmers takes place in a considerably different context from the U.S. grain "embargo" against the U.S.S.R. in 1980.

At that time the U.S. was responding to the Soviet invasion of Afghanistan. Now, the U.S.S.R. is probably responding to a hard-currency shortage. Soviet hard-currency earnings may fall as much as $12 billion from 1984 to 1986, a sum that is 38% of their total hard-currency earnings in 1984 and 43% more than the Soviets have ever spent on grain imports in any one year.

The Soviet's hard-currency problem is especially relevant to the grain markets since the Soviets have in six of the past eight years spent a nearly constant proportion—37%—of their hard-currency earnings from the sales of petroleum and natural gas on grain imports. Since grain production in the Soviet Union is at nearly the same level it was in 1970, hard-currency earnings have allowed the Soviets to augment grain supplies from imports from under three mmt a year in 1970 to roughly 45 mmt in 1984.

Low international oil prices and oil-production problems now threaten the Soviets' ability to sustain not just the levels of agricultural imports but all allowed imports from the West. But, as yet, there is no evidence that the Soviets have had problems borrowing hard currency in the international financial markets to make up for their shortage.

Instead of admitting that a hard-currency shortage may affect their grain purchases, the Soviets have chosen to shift the blame for their violations onto their suppliers. They are now justifying a breach of a purchase agreement with Argentina because of its alleged high grain prices, its negligence in correcting a trade imbalance and its failure to improve port facilities. The Soviets have also accused the U.S. of sending impure grains, charging excessive prices and not offering preferred credit arrangements.

During the U.S. embargo, the U.S. allowed the Soviets to buy the minimum eight mmt of grains specified in the first LTGPA, but disallowed an additional 17 mmt that the Soviets had obtained permission to buy. This concession was made because President Carter's advisers considered the agreement to be as important as a treaty. Moscow is not showing similar scruples in observing the present grain agreement.

The Agriculture Department is appropriately concerned about maintaining the good will of U.S. grain customers. That's part of its job. But with the U.S.S.R. it has perhaps gone too far. Since the U.S. grain embargo, the U.S. has watched its share of the Soviet grain-import market shrink. In 1979, the U.S. supplied 87% of Soviet corn and 56% of wheat imports. By 1985, these shares had shrunk to an estimated 69% in corn and 5.3% in wheat. The U.S. stands to lose even more of its wheat market share as the Soviets seem set to ignore the agreement for a second year running.

But the Soviet's violation of the second grain agreement is just part of the story. The Soviets have also refused to comply with the U.S.-U.S.S.R. Agriculture Cooperation Agreement renewed in 1985, particularly the information-exchange portion.

Here they enjoy a unilateral information advantage, but thwart the Agriculture Department's efforts to obtain the most basic information at the national level on Soviet grain yield, production, and import volume. Soviet statistics on grain yields and production have been a "state secret" since 1980 and on import volume since 1976. This information is important for farmers, researchers, exporters and agricultural policy makers. All such information about the U.S. is publicly available to the Soviets.

Yet while the Soviets hide much of the information the U.S. freely provides, they're eager to cooperate in areas where the U.S. leads, such as agricultural science and technology, remote sensing and genetic engineering. In this way, the Soviets profit greatly from the agreement and the U.S. very little. The longer the U.S. tolerates the imbalance, the more negotiating leverage it loses.

Agricultural trade makes up the largest proportion of U.S. exports to the U.S.S.R., averaging more than 70% of the total export value from 1975 to 1984, and reaching 86% in 1984. Soviet noncompliance has now raised doubts about the reliability of

this huge—$1.9 billion in U.S. agricultural exports in 1985—trade link.

FREEDOM IS FEARED

International trade has always been and continues to be a promising method of maintaining peace. For the first time in modern history, the thought of war among the nations that make up the European Economic Community is gone. This is partly because of the tightly knit web of commercial relations. The EC's example recalls Alexander Hamilton's remark: "The spirit of commerce has a tendency to soften the manner of men, and to extinguish those inflammable humours which so often have kindled into wars." Certainly the trust gained from trade is one foundation for peace among nations.

And as trade fosters trust, trust requires a certain openness. But clogged societies are shut because of mistrust; their governments fear freedom. The mistrust that characterizes closed societies limits the peaceful potential of trade in nudging a closed society toward openness. Witness China.

Breaches of trade and exchange agreements obviously stunt the growth of trust. The Soviets realize this. Their violations of and noncompliance with agricultural agreements are also certain to weaken their credibility in arms control. So if, at the faintest whiff of advantage, they show an unwillingness to respect less vital agreements, then what are they likely to do when more is at stake?

Clearly, if the Soviets are sincere about the U.S. taking them at their word, they can show it by sticking to their agricultural agreements. The Agriculture Department, the U.S. farmer and all advocates of peace would surely appreciate it.

□ 1800

Mr. HEINZ. Mr. President, I think we are within a few minutes of resolving this issue, and there are some remarks I would like to make on a related subject.

Mr. PROXMIRE. Before the Senator does that would he permit me to ask the majority leader just one question with respect to the bill.

Mr. HEINZ. I am pleased to yield to the Senator from Wisconsin.

Mr. PROXMIRE. May I ask the majority leader the amendment specifies in describing its purpose that it would permit all foreign purchasers who have traditionally purchased U.S. agricultural commodities and products and maintained trade relations with the U.S. to participate in the agricultural export enhancement program.

The majority leader is very familiar, of course, with the whole herd buyout program and with the expressed intention of foreign corporations to buy large dairy farms in this country and to establish very large herds, and this Senator has introduced legislation that would prevent them from benefiting from some of our programs in that respect.

My question for the majority leader is: Would this amendment affect in any way that kind of operation?

Mr. DOLE. I do not believe this amendment would, if the distinguished Senator would yield. We do have a provision in the tax bill that we hope to deny certain tax benefits to the Irish companies and others who have gone into Georgia. We are trying to address it in that direction.

Mr. PROXMIRE. Is the intention at least and the understanding of the majority leader that his amendment would not permit or advance the interest of a foreign firm that was trying to establish a dairy farm or some other farm?

Mr. DOLE. No, I do not. I think it is good we make the record. There is no intent to do that. The intent is only for grain purchases, rice, cotton, and only those with trading relations. A country like Libya would be out. It is only those that now trade with the United States.

We have tried to address the specific concern the Senator raises. They are bringing in some cases more cows than you can take out in the whole herd buyout program.

Mr. PROXMIRE. Right.

I thank the leader.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S ADDRESS ON AMERICAN POLICY TOWARD SOUTH AFRICA

Mr. HEINZ. Mr. President, earlier today the President of the United States, President Reagan, made a statement regarding American policy toward South Africa. I would have to say that the President's statement on our policy is eloquent in its denunciation of apartheid but inadequate in its prescription for American action.

The President is right when he says America must not cut and run, must not abandon the people of South Africa. He is wrong when he says that talk, and only talk, is our only option.

It is unfortunate that the President's statement fails to go far enough, because it is fine as far as it goes. The President's list of vital changes in South Africa is on the mark—a timetable for an end to apartheid. That is right on. He calls for the release of all political prisoners, including Nelson Mandela. He calls for a dialog with black political movements. I think all of us can support those specific objectives. Consultations with our allies, stepped up American diplomatic involvement to promote dialog, and more economic development in southern Africa, as the President proposes, are also all welcome. But I think that many of us and I think Congress feels that these are not enough.

The President opposes all economic sanctions as extreme and selfdefeating. But there are approaches short of a total cut-off of all economic ties with South Africa that we can take to show our rejection of the South African Government's repression. There are sanctions we can impose that preserve American influence while sending a clear signal to the South African Government.

The President is right when he says Americans must stay involved in South Africa. But our involvement means nothing if we do no more than denounce the evil of apartheid evil as it may be. Strong actions not just strong words are. Needed to show South Africans, both blacks and white, that we are serious about supporting change in South Africa.

There is action that is responsible, that preserves our influence, that maintains our involvement, and which makes a significant impact in helping to bring about peaceful change in that troubled country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent to proceed out of order for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ROLE OF THE SENATE IN THE JUDICIAL SELECTION PROCESS

Mr. MATHIAS. Mr. President, on Sunday, June 22 on national television, my friend and neighbor, George Will, asked the question "What is the role of the Senate?" in the process of appointing members of the Federal judiciary. It is both an interesting and a timely question in light of the pendency of the nomination of Justice Rehnquist to be Chief Justice and Judge Scalia to be an Associate Justice of the Supreme Court. It deserves a thoughtful response. The Senator from California [Mr. CRANSTON] has spoken recently on this subject and each of us should be considering it.

One way to define the proper role of the Senate in considering the confirmation phase of a judicial appointment is to look at the record. You will find that since the inauguration of George Washington, there have been 138 nominations by Presidents for appointment to the Supreme Court. Of those nominations 113 were confirmed, and on 25 occasions, through rejection, postponement, refusal to consider, or Presidential withdrawal, the Senate has not consented to the President's nomination.

The record shows that the Senate has assumed wide discretion in the exercise of its power of confirmation, as 18 percent of all nominees to the highest court in the land did not receive the Senate's consent. And while each of those cases must have presented its own difficulties and pains, it would seem that the Senate has taken a wide range of action in the past and may continue to do so in the future.

Among all the responsibilities of a U.S. Senator, none is more important than the duty to participate in the process of appointing judges and justices to serve on the U.S. courts, from the trial bench to the Supreme Court of the United States. Usually this responsibility is discharged routinely and in some degree of obscurity. But in recent months, the Senate's deliberations on the President's nominations to the Federal bench have attracted an extraordinary degree of public scrutiny. The question before the Senate in these deliberations in never simply whether or not to confirm a nomination. As George Will points out, the question is: What is the role of the Senate in the crucial but little-understood process that we refer to by the constitutional shorthand of the "advise and consent."

The American people have reposed no more significant trust in the Senate than this duty to pass upon the President's choices of the men and women who will wield the powers of the judicial branch of Government. Most other decisions we make are subject to revision, either by Congress itself or by the executive branch. Statutes can be amended, budgets rewritten, appropriations deferred or rescinded. Most of the legislative sins we commit in haste we may repent at leisure. But a judicial confirmation is different. Once the Senate concurs in a judicial nomination, we seal a book that we can never reopen.

One of the most profound insights of the framers of the Constitution is embodied in their decision that Federal judges "shall hold their offices during good behaviour," and may be removed only by the extraordinary step of impeachment and conviction. Thus, the Senate's vote to confirm a judicial nominee should express the confidence of the Senate in the nominee's ability to decide not only the burning legal controversies of today, but of future decades as well. We cannot know what those issues will be; they may bear little resemblance to those that animate us today. All we know is that the judges we confirm today will sit in judgment upon them.

What is the Senate's role in this process of choosing the Federal judiciary for the 21st century?

We may start our investigation by going to the source. The Senate's duty to "advise and consent" derives from article II, section 2 of the Constitution, which provides:

> [The President] * * * shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * Judges of the Supreme Court, and all other Officers of the United States, whose appointment are not herein otherwise provided for, and which shall be established by law. * * *

That is all the Constitution says. It does not tell us how to assess a nominee to the Federal bench. It imposes no job qualifications—of age, citizenship, or membership in the bar. It tells us nothing of the intellectual or temperamental qualities we should demand in a judge. It offers no guidelines for when the Senate should grant or withhold its consent to the nomination. It tells us only this: that the appointment of Federal judges is too important to be reposed in the hands of one branch alone, and that, therefore, the Senate has the power to advise the President in his selection process and to consent to—or, by implication, to reject—the President's choice.

To illuminate the policy behind the terse words of the Constitution, we may turn to the Federalist Papers. In The Federalist No. 76, Alexander Hamilton argues the case for dividing the appointment power between the President and the Senate. The President should have the power to nominate, Hamilton reasons, because "one man of discernment is better fitted to analyse and estimate the peculiar qualities adapted to particular offices, than a body of men of equal, or perhaps even of superior discernment." But Hamilton also predicted that "the necessity of concurrence [by the Senate] would have a powerful, though in general a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." Although Hamilton recognized that Senate rejection of a nomination would probably be a rate occurrence, he concluded that senatorial participation was an essential part of the constitutional plan "to produce a judicious choice of men for filling the offices of the Union."

Hamilton's words underscore the Senate's continuing responsibility to take an active part in the appointive process. No principle is more fundamental to our system of government than the balance of powers of the separate branches of Government. Fidelity to that principle requires that Senators be more than mere bystanders to the appointment process.

A Senate that automatically consents to a President's nominations abdicates its constitutional responsibility. Its members fail to measure up to the demands embodied in their oath of office. The Constitution gives the Senate the power to consent to—or to reject—a nomination, not as a ministerial formality, but as an integral part of the mechanism of government. If we do not take that power seriously, it will lose its effectiveness as, in Hamilton's words, "a considerable and salutary restraint upon the conduct" of the President. And if, as the result of a breakdown in the advice-and-consent process, an unwise appointment is made, the people, who have the most at stake, will know whom to blame. As Hamilton wrote in The Federalist No. 77, "the executive for nominating, and the Senate for approving, would participate, though in different degrees, in the opprobrium and disgrace."

Hamilton's discussion of the appointment power is informed by an acute psychological insight that remains valid today. More than any other business of the Senate, the consideration of nominations turns on personalities as much as on policies. Hamilton gives several reasons why the Senate would be unlikely to reject a nominee. The first is a policy reason: the President would simply make another nomination, with which the Senate might be equally—or even more—unhappy. But Hamilton gives another reason: "as their dissent might case a kind of stigma upon the individual rejected; and might have the appearance of reflection upon the judgment of the chief magistrate; it is not likely that their sanction would often be refused, were there were not special and strong reasons for the refusal."

As Hamilton recognizes, the Senate's action upon a nomination is strongly colored by how Senators feel about two people. The first, of course, is the nominee. Even a Senator who is convinced that a nominee is unsuited for the bench must think twice about the stigma which rejection of the nomination may cast upon a man or woman who, in almost every case, is intelligent, hard-working, honest, and well-intentioned.

But looming large in the appointment process is the President of the United States. The choice he has made in nominating a man or woman to the Federal bench is imbued with the incomparable prestige of the Presidency. A Senator who has misgivings about a legislative initiative of the President may propose amendments, offer alternatives, or work for a compromise of policy differences. But for a nomination there can be no amendment, no substitute, no compromise: only a vote for or against the choice of the President.

The fact that this question admits of only a yes or no answer does not mean that it is a ministerial function. If the Senate were expected merely to certi-

fy that the nominee was neither a convicted felon nor an adjudicated lunatic, the Constitution would clearly be written differently. Both the breadth of the constitutional language and the observations of Alexander Hamilton make it clear that the Senate must apply a subjective judgment.

We do well to remind ourselves that it is not the President or the President's qualifications to which the Senate gives advice and consent. A Senator is only one of a hundred million voters when that choice is made. When it comes to judicial appointments, a Senator must confine his review to the qualifications of the President's nominee. An independent judiciary demands that a nominee present no platform, expound no particular ideology, represent no constituency, and submit to no political litmus test. A judge must take his seat on the bench confident that he is not expected to decide cases in any particular way because of the views of leaders of the other two branches. Instead, he must emerge from the nomination process knowing that the President and Senate have confidence that the judge will preside with only one unalterable loyalty, to the Constitution, and with only one purpose, to assure the individual standing before him a judgment based upon the law of the land.

Of course, a Senate vote to reject a nomination may, in Hamilton's words, "have the appearance of reflection upon the judgment" of the President. This fact counsels that a nomination should be rejected only if there are "special and strong reasons" for doing so. As Hamilton observed elsewhere in the Federalist Papers, if the Senate rejects a good nomination for trivial or improper reasons, the public censure of its action would be "aggravated by the consideration of their having counteracted the good intentions of the executive." These considerations are, if anything, more compelling today than Hamilton could have foreseen. But they cannot be determinative.

When we carry out our advice and consent function, as our predecessors first did nearly 200 years ago, our first loyalty, like theirs, must be not to the party, nor to the President, but to the people, and to the Constitution they have established. If we cannot recognize and act upon that higher loyalty when we confirm judges, we cannot demand it of the judges we confirm. And if Federal judges cannot place the Constitution above personal and partisan loyalties, and even above the prestige of the highest office in the land, then the Republic is in peril.

The paramount constitutional duty of the Senate in the advice-and-consent process is to satisfy itself that the nominee before it is fully qualified, by virtue of education, experience, integrity, and character, to be granted a lifetime commission to sit in judgment upon the liberties and the legal rights of the American people. In the case of nominations to the Supreme Court, which has the ultimate authority to interpret and apply the Constitution, our scrutiny must be exacting in every respect. Nominations to the Circuit Courts of Appeals, which in effect sit as the court of last resort in the vast majority of Federal cases, must also be judged by stringent standards. Only in this way can the Senate carry out the role envisioned for it by the Framers of the Constitution—to provide a "salutary restraint" upon executive power, by preventing the appointment to the Federal bench of those men and women who are not fully qualified to serve there.

I have rarely voted against a judicial nominee. But I learned during my first year in the Senate how difficult were the decisions thrust upon a Senator by the advice and consent process. As a freshman Member of the Senate, I was called upon to consider the nomination made by the President—the leader of my party—for the Supreme Court of the United States. The controversy that raged over the nomination of Clement Haynsworth in 1969 should remind us that the public spotlight now focused on the nominations process, while unusual, is far from unprecedented.

My position was uncomfortable. There were suggestions that any hesitation on my part evinced a disrespect for the nominating authority and for the solemnity of his recommendation. I sensed that active debate over the nomination might violate an unwritten rule or somehow seem unbecoming a Senator. My discomfort caused me to admit on the Senate floor to my envy for Saul as he traveled the road to Damascus. I told my colleagues that I was jealous of the way in which his decision was made—in a single, brilliant flash of light.

After a detailed, intensive personal study of Judge Haynsworth's record, I decided to vote against that nomination. But I did so without the benefit of a single, brilliant flash of light. Throughout my career in the Senate, I have served as a member of the Committee on the Judiciary. In 18 years, I have reviewed nominations to the Federal bench made by four Presidents. 690 nominations to the district courts, 193 nominations to the courts of appeals, and 8 nominations to the Supreme Court of the United States have been considered during that time. I can report that in all these cases, almost a 1,000 in total, I have never once enjoyed the certainty for which I longed in the case of Clement Haynsworth 17 years ago.

Some of the intensity surrounding these nominations flowed from personal considerations: The personal sincerity of the nominee, the personal exhortations of our fellow Senators, the personal intervention of the President of the United States. Alexander Hamilton would not have been surprised. That extraordinary student of human nature, as well as of republican government, observed in The Federalist No. 76 that "there is nothing so apt to agitate the passions of mankind as personal considerations, whether they relate to ourselves or to others, who are to be the objects of our choice or preference." At the same time, Hamilton, in advocating the merits of the Constitution to the citizens of the infant Republic, tried "to view human nature as it is, without either flattering its virtues or exaggerating its vices." We must do the same.

I believe, with Hamilton, that we can put those personal considerations in perspective. I believe that the responsibilities assigned by the Constitution to the U.S. Senate can inspire its members to exercise the power of confirmation evenhandedly and judiciously. Our task is to decide whether the men and women nominated by the President have the character, intellect and commitment to lead our system of justice into the 21st century. To do less would be to fail in the role our Constitution prescribes for us.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. MATHIAS. I am happy to yield to the minority leader.

Mr. BYRD. Mr. President, I compliment the Senator on a very cogent, highly principled, thoughtful, reflective speech with respect to the responsibilities of Senators in carrying out their roles under the Constitution in the confirmation of nominees, and particularly with reference to nominees to the Federal courts. I hope that all Senators will read this speech. I have listened to it with great interest, and I intend to read it again as it appears in the RECORD on tomorrow morning.

Shortly, the Senate will probably proceed to vote on the motion to reconsider the vote on the nomination of Mr. Manion to be a member of the Seventh Circuit Court of Appeals. That vote, although it may be technically procedural, is, nevertheless, in this instance a substantive vote. This matter has been made so highly visible throughout the country. There is so much at stake here in this nomination. The rights of people, the rights of property, civil liberties, the interpretation of the Constitution of the United States, and the interpretation of the statutes in cases that come before the seventh circuit are involved. All of such interpretations by that court will be involved. Its decisions will be far-reaching, and they will impact upon the lives, properties, and rights of

more than 20 million people in that circuit.

So the principles enunciated in the able Senator's speech which he has just delivered, and which go to the duties of all Senators as we carry out our responsibilities under the Constitution which we have sworn before entering upon our duties to protect and defend, will be just the same in casting our votes on the motion to reconsider the earlier vote as they were binding upon us and incumbent upon us when we first cast our votes several days ago on that nomination itself, for and against.

There may be those who will say that we have already voted on the nomination, and that therefore, there is no point in reconsidering that vote. Nevertheless, let the people out there who are watching and who are listening now understand carefully and clearly that the vote on the motion to reconsider is just as important, and it carries with it the same heavy burden of responsibility as did the original vote on the nomination. It is a substantive vote no matter how one may wish to camouflage it.

So I hope that all Senators, as they consider this vote on the motion to reconsider, will carefully read this speech by the able Senator from Maryland.

Mr. MATHIAS. The minority leader is generous, as he always is. I appreciate his thoughtful remarks. I think what he has done is to make abundantly clear what is sometimes lost in the hurly-burly of the Senate debate; that is, we are not dealing with one man or one woman in a job. We are dealing with the rights, property, and life itself of thousands of Americans who may come into the courtroom and stand before that judge. That is the reality of the serious responsibility which is embodied in this process of confirmation.

Mr. BYRD. I thank the distinguished Senator for his statement. Again, I expect to read it in the RECORD in the morning before we proceed to the vote on the motion to reconsider.

Mr. CRANSTON. Will the Senator from Maryland yield?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CRANSTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. BYRD. Mr. President, who has the floor?

Mr. HEINZ. I do not wish to interrupt the discussion, but I do think in fairness to the majority leader, he needs to set some parameters for discussion.

Mr. MATHIAS. Mr. President, my agreement was to yield such time until the Senator from Pennsylvania was ready to move forward.

The PRESIDING OFFICER. The Senator from Pennsylvania has been recognized. No debate is in order at this time.

Mr. HEINZ. The Senator from Pennsylvania is seeking the majority leader to propound his unanimous-consent request. It is my understanding that that request is going to be accommodated, as far as this Senator knows. But we seem to be playing a wonderful game of musical chairs. Every time the majority leader is here, somebody is talking. Every time someone stops talking, he escapes.

Mr. MATHIAS. Whenever he comes back and wants to talk, we will let him talk, as far as I am concerned.

□ 1830

Mr. BYRD. Mr. President, has the Senator from Maryland yielded the floor?

The PRESIDING OFFICER. Does the Senator from Maryland yield the floor?

Mr. HEINZ. Mr. President, the Senator from Pennsylvania sought recognition and received recognition.

Mr. MATHIAS. Mr. President, it was my understanding that I would yield when the manager of the bill was prepared to go forward.

EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 2222

(Purpose: To require the Secretary of Agriculture to permit all foreign purchasers who have traditionally purchased United States agricultural commodities and products, and who maintain trade relations with the United States, to participate in the agricultural export enhancement program)

Mr. DOLE. Mr. President, I understand there will be no objection to the amendment that I intend to offer. I ask that the cosponsors, Senators ABDNOR, DIXON, ANDREWS, GRASSLEY, NICKLES, PACKWOOD, ZORINSKY, DANFORTH, DURENBERGER, BOSCHWITZ, EXON, PRESSLER, MELCHER, PRYOR, BOREN, BURDICK, and BENTSEN, be shown in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that it may be in order for me to send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], (for himself, Mr. ABDNOR, Mr. DIXON, Mr. ANDREWS, Mr. GRASSLEY, Mr. NICKLES, Mr. PACKWOOD, Mr. ZORINSKY, Mr. DANFORTH, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. EXON, Mr. PRESSLER, Mr. MELCHER, Mr. PRYOR, Mr. BOREN, Mr. BURDICK, and Mr. BENTSEN) proposes an amendment numbered 2222.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

SEC. —. Section 1127(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)(2)) is amended, effective for the fiscal year ending September 30, 1986, only, by inserting after "interested foreign purchasers" the following: "and permit the participation of all foreign purchasers who have traditionally purchased United States agricultural commodities and the products thereof and who maintain trade relations with the United States".

Mr. DOLE. Mr. President, let me make one additional comment. I thank the managers of the bill for their cooperation and all Senators on both sides for their cooperation. We have made this effective only until the end of this fiscal year. I think that suggestion of Senator HELMS was a good one. I know there are concerns that we may be making some permanent program here. There may be some who are concerned about what may be referred to as subsidizing. I refer to it as being competitive.

I believe the amendment does make some sense. It clarifies a provision in the farm bill passed on this floor with a bipartisan vote last December 1985.

I have nothing else to say on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2222) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. SASSER. Mr. President, the bill before us today, S. 2247, represents important progress in our efforts to promote U.S. exports and to establish a fair and equitable world trading system. The Export-Import Bank is a crucial element in U.S. competitiveness in the world marketplace. It serves two primary purposes: First, to insure that American exporters can compete against predatory financing supported by foreign governments, and second, to induce serious negotiations for removing export subsidies worldwide.

These amendments to the Export-Import Bank Act of 1945 improve existing Exim financing programs and add a new element to U.S. export capabilities; the new element is the so-called Warchest plan, or Tied Aid Credit Program.

The Warchest, to be funded at $300 million, is primarily a deterrent, designed in response to anticompetitive practices engaged in by foreign governments. These practices involve tying export sales to development aid and other types of concessional loans and grants—somewhat of a benefits package for the buyer. These foreign tied-aid credits distort world markets. They force American business to compete, not simply against foreign companies, but against the full resources of foreign governments.

U.S. negotiators have worked for years within the organization for economic cooperation and development to reach multilateral agreement to abolish these subsidy practices, with only limited success. If we are to be successful in the long run in bringing fair competition into the world marketplace, we are going to have to fight fire with fire. The simple fact of the matter is that, as long as these tied-aid packages are provided by foreign governments, U.S. business, without a similar commitment from the U.S. Government, is severely disadvantaged in the competition.

We cannot afford to abandon this country's exporters—and the millions of Americans they employ—to a system that puts them 50 yards behind the starting line in the race for foreign contracts. American companies and American workers can compete with any industries in the world if the rules are the same for all.

The Warchest, or Tied Aid Credit Program, is an important step toward putting American exporters on equal footing with their competitors in the world marketplace. It is my hope that the very existence of the Warchest will encourage other OECD nations to negotiate in good faith to remove these subsidies altogether. In the meantime, however, the fund should be available.

The Export-Import Bank's existing programs—guarantees, insurance and direct credits—also perform this procompetitive function. In the last 5 years alone, the availability of Exim financing has meant over $66 million in export sales from my home State of Tennessee. The national economic benefits or export sales in general have been well documented in our trade debate in the Senate. I think we would be shortsighted in the extreme to presume that last year's $150 billion trade deficit was simply the result of an excessively high dollar valuation. We are going to have to rededicate our efforts to enhance U.S. competitiveness in world markets. The bill before us today is an important part of that agenda.●

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order the clerk will report H.R. 4510.

The assistant legislative clerk read as follows:

A bill (H.R. 4510) to amend the Export-Import Bank Act of 1945, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. HEINZ. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2247, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4510), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4510) entitled "An Act to amend the Export-Import Bank Act of 1945, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—EXPORT-IMPORT BANK ACT EXTENSION

SHORT TITLE

SEC. 101. This title may be cited as the "Export-Import Bank Act Amendments of 1986".

FEES

SEC. 102. Section 2(a)(1) of the Export-Import Bank Act of 1945 is amended by inserting after the fifth sentence thereof the following: "The Bank may impose and collect reasonable fees to cover the marginal costs of conferences and seminars sponsored by it and publications provided by it. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities.".

MEDIUM-TERM DIRECT CREDIT PROGRAM

SEC. 103. Section 2(a)(2) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "and" at the end of clause (ii) of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (E); and

(3) by inserting before subparagraph (E), as redesignated, the following:

"(B) is available in the form of direct credits provided by the Bank to the foreign borrower to finance exports having a value of not less than $50,000;

"(C) imposes minimal administrative, procedural, and documentary burdens on program users;

"(D) does not require the payment of fees unless such fees are equivalent in proportion to those charged by the Bank for transactions under its long-term loan program and are in accordance with the requirements of section 2(b)(1)(B) of this Act; and".

COMPETITIVENESS MANDATE

SEC. 104. The second sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out "need not be equivalent to those offered by foreign countries, but".

CREDIT APPLICATION FEES

SEC. 105. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting after the third sentence the following: "The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors and is related to the risk of the transaction, and (ii) the borrower or the United States exporter is given the option of paying the fee over the lifetime of the loan, rather than at the outset of the loan.".

REASONABLE ASSURANCE OF REPAYMENT

SEC. 106. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting before the last sentence thereof the following: "No Bank determination to withdraw all new financing to a country or to deny financing for a transaction backed by a sovereign obligor or guarantor on the basis that there is not reasonable assurance of repayment shall be effective if the National Advisory Council on International Monetary and Financial Policies makes a contrary determination.".

MULTIPLE-EXPORTER RISK PROTECTION

SEC. 107. Section 2(b)(1)(E) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(ix) The Bank- shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients.".

PROGRAM ACCESS

SEC. 108. Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(G) Long-, medium-, and short-term financing, guarantees, and insurance support of exports under this Act shall be made available to creditworthy United States exporters directly or to United States banks, non-United States banks, or nonbank lenders financing United States exports with such support.".

PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES

SEC. 109. Section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)) is amended—

(1) in subparagraph (A), by striking out "Communist country (as defined in section 620(f) of the Foreign Assistance Act of

1961)," and inserting in lieu thereof "Marxist-Leninist country";

(2) in subparagraph (B), by striking out "Communist country (as defined)" and inserting in lieu thereof "Marxist-Leninist country";

(3) by striking out "such Communist" each place such term appears and inserting in lieu thereof "such Marxist-Leninist"; and

(4) by adding at the end thereof the following: "For the purposes of this paragraph, the term 'Marxist-Leninist country' means a country which—

"(i) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(ii) is politically, economically, or militarily dependent on the Union of Soviet Socialist Republics or on any other Communist country, and includes specifically (but is not limited to) the following countries:

"Cambodian People's Republic.
"Cooperative Republic of Guyana.
"Czechoslovak Socialist Republic.
"Democratic People's Republic of Korea.
"Democratic Republic of Afghanistan.
"Estonia.
"German Democratic Republic.
"Hungarian People's Republic.
"Lao People's Democratic Republic.
"Latvia.
"Lithuania.
"Mongolian People's Republic.
"People's Democratic Republic of Yemen.
"People's Republic of Albania.
"People's Republic of Angola.
"People's Republic of Benin.
"People's Republic of Bulgaria.
"People's Republic of China.
"People's Republic of the Congo.
"People's Republic of Mozambique.
"Polish People's Republic.
"Republic of Cuba.
"Republic of Nicaragua.
"Socialist Ethiopia.
"Socialist Federal Republic of Yugoslavia.
"Socialist Republic of Romania.
"Socialist Republic of Vietnam.
"Surinam.
"Tibet.
"Union of Soviet Socialist Republics (including its captive constituent republics).".

With the exception of Angola, the President may remove a country from this list if the President determines that the country neither (1) maintains a centrally planned economy based on the principles of Marxism-Leninism nor (2) is politically, economically or militarily dependent on the Union of Soviet Socialist Republics or on any other communist country. In the case of Angola, in order to remove Angola from such list the President must make the declaration referred to in the previous sentence, and the Bank may not guarantee, insure, or extend credit in connection with any export of goods or services to Angola until the President certifies to Congress that no Cuban military personnel or military personnel from any other controlled country, as defined in section 5(b) of the Export Administration Act of 1979, remain in Angola.

TRANSFERABILITY OF GUARANTEES

SEC. 110. Section 2(c) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(3) The Bank shall authorize the transfer of medium-and long-term obligations insured or guaranteed by the Bank by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance by the Bank.".

PROHIBITION AGAINST CERTAIN TRANSACTIONS

SEC. 111. Section 2 of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(e) The Bank may not extend and direct credit or financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

"(1)(A) the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative, or (B) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

"(2) the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

such prohibition shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.".

AUTHORIZATION

SEC. 112. Section 7(a) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(3) There are authorized to be appropriated $145,259,000 for fiscal year 1987, to cover the net subsidy cost of new direct loans under program limitations of $1,800,000,000 for fiscal year 1987. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank.".

EXTENSION OF CHARTER

SEC. 113. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1996".

IMPACT ANALYSIS

SEC. 114. Section 1911 of the Export-Import Bank Act Amendments of 1978 is amended by adding at the end thereof the following: "In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee. This requirement does not subject the Bank to the provisions of subchapter II of chapter 5 of title 5, United States Code.".

MATCHING FOREIGN OFFICIAL EXPORT CREDITS IN THE UNITED STATES

SEC. 115. Section 1912 of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635a-3) is amended—

(1) in subsection (a)(1), by inserting "irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices," after "major export countries have agreed,";

(2) in subsection (a)(3), by striking out "may" and inserting in lieu thereof "shall"; and

(3) in subsection (b), by striking out all that follows "determines that" through "(2)".

REPORT ON MEDIUM-TERM PROGRAMS

SEC. 116. In order to ascertain the extent to which the Export-Import Bank of the United States is offering medium-term export support in a manner which maximizes competitiveness and minimizes the administrative burdens imposed on program users, the Bank shall transmit a detailed report analyzing its medium-term support to the Congress not later than April 15, 1987. The Bank shall include in such report an analysis of—

(1) the competitiveness of the Bank's medium-term financing and risk protection programs compared to those of the Bank's major foreign competitors;

(2) the burden imposed on program users by the Bank's administrative and documentation procedures; and

(3) the potential duplication between medium-term Foreign Credit Insurance Association insurance and the Bank's medium-term guarantee program. The Bank shall also include in such report any comments provided by representative exporters and lenders who use the Bank's support facilities and any comments of the Bank's Advisory Committee.

REPORT ON ROLE OF PRIVATE INSURANCE

SEC. 117. Not later than October 1, 1987, the Export-Import Bank of the United States and the Office of Management and Budget shall jointly prepare and transmit to the Congress and the General Accounting Office shall prepare and transmit to the Congress reports analyzing—

(1) the need for United States Government involvement in export credit insurance, considering the current activities of private insurance companies in this area, private insurance industry trends over the longer term, and ways in which private insurance companies can be encouraged by the Bank to maximize export credit insurance activities;

(2) the need to employ an agent in administering government-supported insurance programs which are determined to be necessary; and

(3) the efficiency and effectiveness of continuing to utilize the Foreign Credit Insurance Association as the Bank's agent (including an analysis of the administrative and economic cost to the government and the Bank of maintaining the Foreign Credit Insurance Association).

CONFORMING AMENDMENT

SEC. 118. The second sentence of section 7(a) of the Export-Import Bank Act of 1945 is amended by inserting "and credit" immediately after the words "All spending".

TITLE II—ELIMINATION OF FOREIGN PREDATORY EXPORT CREDIT PRACTICES

SHORT TITLE

SEC. 201. This title may be cited as the "Fair Export Financing Act of 1986".

TIED AID CREDIT PROGRAM

SEC. 202. The Export Import-Bank Act of 1945 is amended by adding at the end thereof the following new section:

"TIED AID CREDIT PROGRAM

"SEC. 15. (a) CONGRESSIONAL FINDINGS.—The Congress finds that—

"(1) tied aid and partially untied aid credits offered by other countries are a predatory method of financing exports because of their market-distorting effects;

"(2) these distortions have caused the United States to lose export sales, with resulting losses in economic growth and employment;

"(3) these practices undermine market mechanisms that would otherwise result in export purchase decisions made on the basis of price, quality, delivery, and other factors directly related to the export, where official financing is not subsidized and would be a neutral factor in the transaction;

"(4) support of commercial exports by donor countries with tied aid and partially untied aid credits impedes the growth of developing countries because it diverts development assistance funds from essential developmental purposes; and

"(5) there should be established in the Department of the Treasury a temporary tied aid facility to target the export markets of those countries which make extensive use of tied aid or partially untied aid credits for commercial advantage for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, and such facility should be aggressively utilized until such an arrangement is established.

"(b) ESTABLISHMENT OF A TIED AID CREDIT PROGRAM IN THE DEPARTMENT OF THE TREASURY.—

"(1)(A) The Secretary of the Treasury shall establish within the Department of the Treasury a program of tied aid credits for United States exports for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes.

"(B) In order to achieve the purpose stated in subparagraph (A), such tied aid credit facility may be used to respond to tied aid or partially untied aid credits in such situations as where there is a reasonable expectation of a predatory financing activity by other supplier countries in a given export order, to initiate aggressively a tied aid credit offer, or in other appropriate manners as may be determined pursuant to this subsection.

"(2)(A) The tied aid credit program shall be carried out by the Secretary, in cooperation with the Bank or with private financial institutions or entities, as appropriate, with the concurrence of the National Advisory Council on International Monetary and Financial Policies. No financing may be approved under programs authorized by this section without the concurrence of the National Advisory Council on International Monetary and Financial Policies.

"(B) The United States Trade Representative and the Secretary of Commerce may provide to the Secretary and the National Advisory Council on International Monetary and Financial Policies information on principal sectors and key markets of interest of those countries which block progress toward a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes.

"(3) The program may include—

"(A) the combined use of guarantees, insurance, or extensions of credit offered by the Bank with grants offered by the Department of the Treasury, by methods including blending of financings or parallel financing; and

"(B) the combined use of grants offered by the Department of the Treasury with financing offered by private financial institutions or entities, by methods including blending of financings or parallel financing.

"(4) Funds appropriated under this section may be combined with financing by the Bank or private commercial financing in order to offer, or arrange for, financing which—

"(A) supports the exportation of United States goods and services to countries or in sectors which are present or likely future export markets for any country which the Secretary with the concurrence of the National Advisory Council on International Monetary and Financial Policies determines engages in predatory export financing through the use of tied aid or partially untied aid credits, and

"(B) in the judgment of the Secretary with the concurrence of the National Advisory Council on International Monetary and Financial Policies would promote progress toward achieving the purpose referred to in paragraph (1)(A).

"(c) AUTHORIZATION.—

"(1) There are authorized to be appropriated to the Secretary, for fiscal years 1987 and 1988, for purposes of this section $300,000,000. If the President determines that any portion of such funds is not required to achieve the purpose referred to in subsection (b)(1)(A), he shall, in accordance with section 1012 of the Impoundment Control Act of 1974, transmit to both Houses of the Congress a special message proposing the rescission of the portion which he has determined is not required.

"(2) The Secretary is authorized, in accordance with the provisions of this section, and in addition to the other uses of the Fund specified herein, to reimburse the Bank, in whole or in part, for the cost of tied aid credits authorized by the Bank during fiscal year 1986.

"(d) CONSISTENCY WITH ARRANGEMENT.—Each financing made pursuant to the tied aid credit program authorized by this section shall be consistent with the procedures established by the Arrangement, as in effect at the time such financing is approved.

"(e) REGULATIONS.—The Secretary may issue regulations and take such other actions as may be necessary to implement this section.

"(f) NONREVIEWABILITY.—Actions by the National Advisory Council on International Monetary and Financial Policies, the Secretary, and the Chairman of the Bank pursuant to this section shall not be reviewable by any court, except for abuse of discretion.

"(g) REPORT.—The Secretary shall transmit a report to the President of the Senate and the Speaker of the House of Representatives upon the expiration of six months after the date of enactment of this section and every six months thereafter. The report shall contain descriptions of (1) the principal offers of predatory financing by foreign countries during the course of the previous six months, (2) steps taken by the United States to combat specific predatory financing practices of foreign countries, (3) use of the fund by the United States to match specific predatory financing practices of foreign countries and to initiate tied aid credit offers, (4) the additional steps the United States will take to discourage use of predatory financing practices, and (5) progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes. Portions of this report may be submitted on a confidential basis or provided orally, rather than in written form, to the Chairmen and ranking minority Members of the Committees of jurisdiction of the Senate and the House of Representatives.

"(h) DEFINITIONS.—For the purpose of this section—

"(1) the term 'tied aid credit' means credit—

"(A) which involves a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

"(B) which is tied, in fact or in effect, to procurement of goods and services from the donor country; and

"(C) which is financed either exclusively from public funds or partly from public and partly from private funds;

"(2) the term 'partially untied aid credit' means credit—

"(A) which involves a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

"(B) which is tied, in fact or in effect, to procurement of goods and services from the donor country and from a restricted number of countries; and

"(C) which is financed either exclusively from public funds or partly from public and partly from private funds;

"(3) the term 'Secretary' means the Secretary of the Treasury;

"(4) the term 'Arrangement' means the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development;

"(5) the term 'blending of financings' means the use of various combinations of official development assistance, official export credit, and private commercial credit integrated into a single package with a single set of financial terms, to finance exports; and

"(6) the term 'parallel financing' means the related use of various combinations of separate lines of official development assistance, official export credits, and private commercial credit, not combined into a single package with a single set of financial terms, to finance export.".

EFFECTIVE DATE

SEC. 203. The amendment made by section 202 shall become effective upon the expiration of 10 days after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA

SEC. 301. (a) The Congress finds that—

(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975;

(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

(3) the Cubans and Soviets have channeled more than $4,000,000,000 in assistance and military aid in furtherance of this intervention in Africa;

(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil Company;

(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia;

(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of United States support; and

(8) imposition of severe economic sanctions will encourage the MPLA to promote a fair political solution and negotiate with the United States toward a peaceful settlement.

(b)(1) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

(2) The Congress hereby requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with United States security interests in Angola.

GROUP ELIGIBILITY REQUIREMENTS

SEC. 302. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C.l 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas,

"(ii) produces or extracts oil or natural gas,

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(c)(1) The amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and

(B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

OPPOSITION OF MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS

SEC. 303. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriate or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

(b)(1) The amount of payments which the United States may make to the paid-in capital of an international financial institution described in subsection (a) during any capital expansion or replenishment of such institution may not exceed the amount of funds which such expansion or replenishment minus an amount which bears the same proportion to the aggregate amount of assistance described in paragraph (2) furnished by such institution as the United States share of the expansion or replenishment bears to the total amount of the expansion or replenishment.

(2)(A) The aggregate amount of assistance referred to in paragraph (1) is the amount of assitance furnished by an international financial institution to all countries during the period described in subparagraph (B)—

(1) to support the production or extraction of any commodity or mineral for export, if—

(I) such commodity or mineral as the case may be, is in surplus on world markets; and

(III) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral; and

(ii) to subsidize (other than under clause (1)) the exports of commodities and minerals from such countries.

(B) The period referred to in subparagraph (A) is the same number of years as the capital expansion or replenishment period, which immediately preceded the first year of the expansion or replenishment period.

(3) For purposes of paragraph (2)(A)(ii), the term "subsidize" is used within the meaning of the Agreement on Interpretation and Application of Articles V, XVI, and XXIII of the General Agreement on Tariffs and Trade and the annex relating thereto, done at Geneva on April 12, 1979.

(4) Any funds withheld from payments to an international financial institution pursuant to this section shall be used to reduce the public debt in the manner specified in section 3113 of title 31, United States Code.

AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

SEC. 304. Section 1127(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)(2)) is amended, effective for the fiscal year ending September 30, 1986, only, by inserting after "interested foreign purchasers" the following: "and permit the participation of all foreign purchasers who have traditionally purchased United States agricultural commodities and the products thereof and who maintain trade relations with the United States".

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the Senator from Wisconsin and, indeed, all Senators for their cooperation in moving ahead on the Export-Import Bank reauthorization. I am particularly greatful, as I said, to my friend from Wisconsin, who has been so able, persuasive, and effective in helping to manage this bill. I think what we have done is going to serve us

in good stead. We adopted some amendments and we rejected some amendments. I think the Senate can be proud of its work product. I thank all Senators who heldped and cooperated in that regard. I include specifically the ranking minority member.

I alsc want to recognize the efforts of Senator GARN and Senator D'AMATO who helped floor manage this bill while I was detained in the Finance Committee with the markup on the reconciliation bill.

Mr. PROXMIRE. Mr. President, I want to thank my good friend, the chairman of the subcommittee. As usual, he managed this bill masterfully. He has done an outstanding job on the bill. I think it is a good bill. It could not be nearly as good if it did not have the expert and competent leadership and management of my good friend from Pennsylvania, Senator HEINZ.

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Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. GARN. Mr. President, I ask unanimous consent that there be a period for routine morning business until the hour of 7:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator make the request that Senators be permitted to speak therein?

Mr. GARN. Yes, I was about to do that, Mr. President. I do make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 2247

Mr. GARN. Mr. President, I ask unanimous consent that S. 2247, the Senate Export-Import Bank bill, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, reserving the right to object, was that request put by the Chair?

The PRESIDING OFFICER. It was.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL REFERRED TO COMMITTEE

Mr. GARN. Mr. President, I ask unanimous consent that when the Indian Affairs Committee reports the bill introduced today by Senators CRANSTON and WILSON regarding the water rights of several Indian tribes, the bill then be referred to the Committee on Energy and Natural Resources for a period not to exceed 15 calendar days.

Mr. BYRD. Mr. President, this having been cleared on this side, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER

Mr. GARN. Mr. President, on behalf of the Majority Leader, Mr. DOLE, and pursuant to provisions of Senate Resolution 352, I appoint the following Senators as members of the Commission on the Bicentennial of the United States Senate: The Honorable MARK O. HATFIELD, of Oregon, and the Honorable NANCY LANDON KASSEBAUM, of Kansas.

In addition, the President pro tempore, Senator STROM THURMOND, will serve as chairman of the Commission.

TO CORRECT TECHNICAL ERRORS IN THE ENROLLMENT OF THE BILL H.R. 3511

Mr. GARN. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Concurrent Resolution 371, correcting the enrollment of the bank bribery bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 371) to correct technical errors in the enrollment of the bill H.R. 3511.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 371) was agreed to.

Mr. GARN. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FARM ECONOMY

Mr. COCHRAN. Mr. President, during the discussion of the amendment suggested by the distinguished majority leader, there was some conversation about the difficulties of moving our farm products in international commerce. I think everyone knows how serious are the problems which face rural America today. But all the news is no longer bad news.

Recent articles in the Christian Science Monitor and the Wall Street Journal indicate that there is evidence of stability and a bright future on many farms. These articles express optimism about the outlook for the agriculture industry. In my own State of Mississippi, a recent article in the Delta Farm Press, was entitled "Opportunities for Beginning Farmers Are Better."

I ask unanimous consent, Mr. President, that copies of these articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 9, 1986]

FARM ECONOMY SLUMP MAY BE NEAR END

(By Wendy L. Wall)

CHICAGO—Optimism is sprouting in the farm belt amid scattered signs that the sagging U.S. agricultural economy may soon hit bottom.

Any recovery from the ravaging five-year U.S. farm recession is certain to be slow, uneven and all but invisible to the most troubled, debt-laden farmers and rural communities, economists caution.

Nevertheless, plunging oil prices and declining interest rates have slashed farm expenses in the past six months, brightening profit prospects for financially healthy farmers. Land rents and other costs are falling, too. Meanwhile, the government is showing record amounts of money into farmers' pockets, easing what had become a chronic cash shortage.

INCOME FORECASTS INCREASED

As a result, a growing number of economists are revising their farm-income forecasts upward as signs of improvement emerge.

In eastern Iowa, used farm machinery is selling for 20% more than it did last spring. In western Kansas, non-farm investors are beginning to show an interest in farm land. And Robert Steffes, a North Dakota auctioneer, says he isn't seeing the "epidemic" of forced farm auctions he saw in the spring and summer of 1985.

Economists, rural bankers and farmers are sounding more hopeful than they have in years. A recent Norwest Corp. survey of 800 bankers in the upper Midwest showed that two-thirds didn't expect the farm economy to deteriorate further.

"We believe the worst is behind us," says Buck Moore, chairman of Norwest Banks, South Dakota, a unit of Norwest Corp.

ELUSIVE RECOVERY

A broad recovery is likely to remain elusive, economists caution. Surpluses continue to mount, and crop prices are scraping along at eight-year lows. Land prices in most areas probably will continue to fall at least through next year.

Moreover, any upturn will be as uneven as the agricultural slump itself. Some regions will benefit more than others, and many small-town businessmen and farm suppliers probably will continue to suffer as farmers embrace a more austere way of life.

Billions of dollars in farm debt remain to be worked out or written down, a time bomb that will plague farmers and farm lenders for years and prolong the farm shakeout. "The overwhelming debt is like a cancerous disease," says Steven Knutson, a farm lender in Marion, Iowa.

And forecasters have been wrong before about the farm economy. Many farmers and bankers hailed a phantom recovery in 1983, after the government passed out millions of bushels of grain to keep farm land out of production. Overproduction and falling exports torpedoed that hoped-for revival.

"You never know for sure it's hit the bottom until it rises," says Mr. Steffes, the auctioneer.

Nevertheless, for farmers such as Ronald Gray of Claremont, Ill., things are looking up. The 34-year-old Mr. Gray has seen his fuel costs tumble 32% since January, his seed and fertilizer prices edge downward and the interest rate on his operating loan drop.

He and his brother recently renegotiated most of their land-lease agreements, cutting cash rent payments 30% to 50%. Because of such savings, the brothers expect to turn a small profit this year, after losing money for two of the past three years. "We have a sense that we're stabilizing," Mr. Gray says.

The recent declines in oil prices and interest rates already have prompted some economists to revise their farm forecasts upward. The Agriculture Department has raised its estimate of farmers' 1986 net cash income—which excludes inventories—13% since December, reflecting falling costs. Raymond Daniel of Chase Econometrics says the farm economy might hit bottom this year, a year earlier than he previously expected.

Economists at the University of Missouri and Iowa State University are predicting farm profits will rise 14% to about $30 billion next year and remain near that level through the end of the decade. As recently as March, these same economists were predicting a 17% decline in net farm income to $19.4 billion by 1988. The new estimate assumes oil prices and interest rates remain close to current levels.

And while farm land prices are expected to continue falling nationwide at least through 1987, the decline appears to be slowing. A survey of lenders in five states by the Federal Reserve Bank of Chicago showed that farm land values fell only 2.9% during the first quarter, about half the rate of the previous six quarters. Moreover, about 60% of the bankers expected farm land prices to stabilize this spring.

In some areas, that's already happening. Near Utica, Kan., farm land prices plunged 50% in the past four years. "It was going down so fast, it was hard to appraise because you couldn't get anyone to buy anything," says Jerry Hanzlick, president of Citizens State Bank in Utica. But six months ago, land prices leveled off, as investor interest picked up. "You can appraise it now," Mr. Hanzlick says with obvious relief.

BELT-TIGHTENING HELPS

Many farmers who have survived agriculture's long slump are beginning to reap the benefits of tightening their belts. The Grays, for instance, reduced their debt last year by auctioning off farm equipment, and gave up some of their poorer land when landlords demanded rents they deemed too high. Lonnie Doan, the brothers' banker, says similar steps should allow 70% to 80% of his farm borrowers to operate in the black this year, compared with less than 50% over the past three years.

The growing optimism in the Farm Belt this spring partly reflects the fact that many of the weakest farmers are already gone. "The ones sitting on the edge of the ice fell through," says James Whiteley, executive vice president of the National Bank of Boyceville, Wis.

But many farmers still face trouble. Some are handicapped by their growing dependence on Washington in recent years. Abner Womack, a University of Missouri economist, notes that more than half of projected farm income over the next four years will come directly from Uncle Sam.

Thus, Charles Humpal, a debt-strapped dairy farmer from Boyceville, Wis., says falling milk price supports under the new federal farm program will more than wipe out the benefits of lower energy prices and cheaper credit. Because Mr. Humpal grows most of his own grain, he won't benefit from the lower feed prices expected this year. Mr. Humpal expects a loss for the fifth consecutive year.

SHAKEOUT SEEN CONTINUING

And stabilizing land prices won't help debt-swamped farmers who have seen much of their equity washed away. Agricultural bankers and economists agree that the farm shakeout is likely to continue for at least another 18 months, as bankers, individuals and the federal government write off billions of dollars in troubled loans.

Mr. Womack estimates that $25 billion in bad farm debt must still be worked out or written off, and the worst is still ahead. He expects lenders to bite the bullet on the heaviest concentration of that debt—$12 billion to $16 billion—in 1987.

Any upturn in the farm economy may widen the gap between agriculture's haves and its remaining have nots. "For the 50% of farmers who have no debt, these will be very profitable times," says Mr. Daniel of Chase Econometrics. For the rest, the uneven prosperity will bring troubles into sharper relief.

And on Main Street in rural America, the recovery may long seem the figment of an economist's imagination. Many smalltown businesses and agricultural suppliers face continuing troubles. Farmers buffeted by deflation are likely to adopt austere habits similar to those of the 1950s, lean times on the farm, predicts Mr. Hanzlick, the Utica banker, "Nobody out here wants to buy anything or spend anything unless they absolutely have to,' he says.

That's certainly the way Mr. Gray feels. "The 1970s are gone and we're hoping the 1990s will be better," he says. In the meantime, "We're all ready to embrace poverty and enjoy it."

[From the Christian Science Monitor, July 9, 1986]

WORST MAY BE OVER FOR U.S. FARMERS, AGRICULTURE OFFICIAL SAYS

The crunch on United States farm exports may be winding down and an era of long-term growth could be at hand, if the signals are correct, an Agriculture Department economist says.

Clark Edwards of USDA's Economic Research Service says the forecasts indicate "the worst may soon be over" for exports, which have become vital to the financial well-being of so many of the nation's farmers.

During the 1970s, a time of escalating farmland prices and inflation, the volume of U.S. farm exports increased an average of 8 percent a year. So far in the 1980s, including this year, the amount shipped has declined annually.

"The foreign-exchange value of the dollar has been dropping against many major currencies and our commodity prices are closer to market-clearing levels," Mr. Edwards wrote in a news agency report released Monday. "Farmers' production costs are stabilizing and rates of return on investment in agriculture are recovering from reduced levels for many farm enterprises."

Perhaps the most important development for American agriculture—assuming decades ahead without major wars—will be the steady increase in global population, which, according to the Population Institute, has now reached 5 billion people, double what it was in 1950.

"The long-run trend in export growth over the past three decades averaged about 3 percent per year," Edwards said. "If we can manage to get back on that track—and it appears that we can—agriculture's recovery wil be hastened."

Although Edwards says farmers will continue to see "temporary strains" in the future as they have in the past, he said those need not lead to prolonged periods of either surplus of shortage.

The recovery of lost export markets, however, will make American farmers more dependent on foreign buyers—and more vulnerable to future price swings of foreign origin.

"By the year 2000, around half of U.S. harvested cropland could be producing for export markets, up from an average of 36 percent in the last five years," Edwards said. "The livestock sector could also become more involved in exports, reducing its insulation from foreign market swings."

Why, with such risks apparent, should the United States push so hard for a greater share of the world agricultural export market? Perhaps, he said, because the alternatives are less appealing.

One alternative would be to pare back agriculture, limiting it to the domestic markets, which grow about 1 percent a year.

Meanwhile, productivity has been growing about 1.9 percent a year. Thus, each year, less land, less labor, less capital, and fewer farms would be needed to supply domestic demand growth.

"The potential for demand growth outside the United States is much greater," Edwards said. "World population is expected to double before the middle of the next century, and the food will have to come from somewhere."

Edwards said American farmers have the capacity to supply a share of future world needs. An increase in exports at the rate of 3 percent a year would double total U.S. exports in less than three decades "and provide a basis for growth sufficient to absorb the likely increases in agricultural capacity," he said.

[From the Delta Farm Press, July 11, 1986]

OPPORTUNITIES FOR BEGINNING FARMERS ARE MUCH BETTER

[By Hembree Brandon]

Can one man's disaster be another's opportunity?

While disasters have been numerous in agriculture in recent years, there probably haven't been all that many farmers or would-be farmers who've seen opportunity beckoning.

But the situation may be changing, say agricultural economists Fred Benson and Michael Boehlje. The opportunities for beginning farmers, or those re-entering the field, to find success have "improved significantly," they say.

The change is the result of lower prices for capital assets, slightly reduced costs for purchased inputs, lower interest rates and capital costs, lower costs for land rental/purchase options, and price/yield protection through government programs.

LOW DOWNSIDE RISK

A study by Benson and Boehlje shows a very low downside risk of not being able to service machinery/operating debt when using a crop share rental arrangement. By contrast, they note, a land ownership scenario still shows "significantly lower" cash income after debt service and "substantially more" downside risk.

In fact, purchased land gave a negative cash income after debt service at all productivity levels used in their study.

"Most of the news in agriculture centers around low crop prices, falling land values, farm foreclosures, huge surpluses, and stress on family farmers," the economists note.

"But there is another dimension of the changes and adjustments in agriculture, which may provide an opportunity for new or displaced farmers to get started or reenter farming. In some cases, the opportunity may come at the expense of those in financial stress—a younger generation may have a chance to start, while their elders are forced to exit."

NO NEW SITUATION

But the phenomenon is not new in agriculture or business, Benson and Boehlje note. A business/farm that can't produce the income needed to cover overhead costs will be refinanced at a lower level with a new operator.

"Sometimes, three to four refinancings may be necessary before the investment cost can be covered by cash flow. Reasons for failure may include reduced demand for a product, low productivity, poor management, excessive leverage, or overhead costs that are too high.

"Thus, entry or re-entry into agriculture must be evaluated carefully, and the risk associated with borrowed money or the potential for low commodity prices/productivity, must be assessed and minimized through proper management techniques."

RESULT OF CHANGES

The improved chances for survival and success of beginning or reentering farmers today, compared to the last 10 years, are the result of several changes, the economists note:

The purchase price of capital assets, such as machinery and equipment, has declined significantly, allowing a beginning or re-entering farmer to obtain the necessary asset base for operations at a significantly lower capital outlay.

Prices of purchased inputs such as seed, fertilizer, chemicals, and energy have stablilzed and in some cases are declining, thus reducing operating costs, as well as the amount of operating capital needed to farm.

Government programs in the new farm bill, and the multi-peril crop insurance program through the Federal Crop Insurance Corp. provides mechanisms for downside risk protection with respect to both commodity prices and crop yields.

Land rental options and rental rates are becoming increasingly favorable for tenants. Interest rates are at lower levels, and will be less burdensome if they remain at present levels, or continue to fall.

POTENTIAL FOR SUCCESS

Although the situation would vary from region to region around the country, analysis of several farm enterprise arrangements showed the potential for achieving success. The analyses were based on buying adequate used machinery to farm 400 acres at a cost of $60,000 with a beginning capital of $20,000 and borrowing $40,000 at 12.5 percent. Land studies were based on (1) cash rent at $85 per acre, (2) a 50-50 crop share rent, and (3) purchase of land at $1,000 per acre and 13 percent interest on a 25-year loan. Operating fund loans were calculated at 13 percent.

The importance of productivity was borne out in all examples, both in determining income level and risks.

"Managers with low and even average productivity may find the income levels generated not adequate to compensate for the risk of deficient cash flow. Managers with high productivity, on the other hand, can generate significantly higher income levels."

In all cases, Benson and Boehlje noted, crop share rental agreements generated higher levels of cash income after debt servicing than cash rent or ownership.

"Even in the case of low productivity, cash income was positive under the crop share rent arrangement, compared to negative cash incomes for cash rent and ownership. Consequently, the risk is lower and return higher for beginning or re-entering farmers if they use the crop share rent option."

KANSAS CITY ROYALS MANAGER DICK HOWSER

Mr. DOLE. Mr. President, later today the manager of the Kansas City Royals, Dick Howser, is scheduled to undergo surgery to remove a brain tumor. Our thoughts are with Dick and his family, and we pray for some good news from Kansas City's St. Luke's Hospital.

Word of his illness came as a shock to all of us who have long admired his considerable achievements on the baseball diamond. Last year, Dick was on top of the world as his team won the World Series. The Royals' gutty comebacks in the American League playoffs and the World Series—both times being down three games to one—were symbolic of the determination of their fine leader.

In baseball parlance, Dick Howser is a "gamer"—he comes to play everyday, gives 100 percent and never gives up. He is a class act, a fact many in this body recall from meeting Dick last year during the Royals' victory visit to the White House and to Capitol Hill. No one could have been a more gracious and humble winner than Dick. We were pleased he could share his triumph with us.

And so today Mr. President, we want to share our hopes and good wishes with him. I know that the Members of the Senate join me in sending our prayers to Dick Howser and his family today.

SENATOR ROBERT C. BYRD'S CONTRIBUTIONS TO HUMAN RIGHTS

Mr. MOYNIHAN. Mr. President, the distinguished minority leader has long been a champion of human rights. And he has devoted particular energy to the struggle against abuses of those rights in the Soviet Union. Over the years, Senator BYRD has diligently sought to gain Soviet compliance with international rights agreements the U.S.S.R. has signed, but all too often violates. Senator BYRD has also played a leading role in calling Soviet attention to individual human rights cases, and in working to resolve them.

He recently gained a fresh victory in this regard. In September 1985, Senator BYRD led a bipartisan delegation of eight of our colleagues to the Soviet Union. They were the first Senators to meet with Mikhail Gorbachev after he became General Secretary of the Communist Party. In that meeting, Senator BYRD personally presented a letter to Secretary Gorbachev concerning human rights abuses in the Soviet Union. Among the specific cases Senator BYRD raised was that of Mr. Anatoly Ponomaryov, a prisoner of conscience who had been confined for 7 years.

Mr. Ponomaryov has just been released. Mr. President, I ask unanimous consent that a letter from officials of Amnesty International, commending and thanking Senator BYRD for his influential role in this case, be entered into the RECORD. I also ask that the letter Senator BYRD presented to Secretary Gorbachev on this and other human rights cases be entered into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

7 A EDWARD PLACE,
Medford, MA, July 2, 1986.

Mr. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: During your trip to the Soviet Union in September of 1985, you and your delegation brought the case of Mr. Anatoly Ponomaryov, a prisoner of conscience, to the attention of Soviet officials. Mr. Ponomaryov's name was included with other victims of human rights abuse and presented in a letter to Mr. Mikhail Gorbachev.

I am writing to let you know that Mr. Ponomaryov has been recently released. We are overjoyed with this news since it ends Mr. Ponomaryov's seven year confinement. We can only hope that his release is permanent and that he will not be confined again.

Although it is difficult to determine with certainty the reason the Soviets chose to release him, we feel that your work on Mr. Ponomaryov's behalf was influential in bringing about his freedom. We thank you wholeheartedly for your help in this particular case and we are grateful for your commitment to human rights issues.

Sincerely,

MARY LEMIRE-CAMPION,
JOHN CAMPION.

On behalf of Amnesty International Group 69, Cambridge, Massachusetts.

DELEGATION OF THE U.S. SENATE,
September 3, 1985.

His Excellency MIKHAIL GORBACHEV,
General Secretary, Communist Party of the Soviet Union, The Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: We appreciate the opportunity you have afforded us to meet with you for a free exchange of concerns important to both our nations. We believe our meeting is a positive sign for the improvement of relations between our governments and our peoples.

The peace of the world depends on better relations between our two nations, and that peace is an important factor in the ability of our two countries to devote much of their energy towards improving the quality of life of their respective citizens. Thus, both the Soviet Union and the United States have a common interest in improving their relations.

In recognition of this area of common interest, we believe every opportunity should be taken to resolve differences between our nations. In that spirit, we would like to discuss, in this letter, one of the issues which has a profound and continuing effect on our relations, and on the prospects for improving those relations.

That issue is "human rights." We have no desire to interfere with the internal affairs of the Soviet Union. However, the Soviet Union and the United States both have signed a number of international "human rights" agreements—including the Universal Declaration of Human Rights and the Helsinki Final Act, the tenth anniversary of which occurred recently. These agreements have made human rights a legitimate international concern.

As a nation of immigrants which was created and nourished by those seeking to exercise freely their human rights, the United States, and its citizens, take very seriously the international commitments nations have made in this area.

The American people attach great importance to Soviet fulfillment of its "human rights" commitments under the international agreements both nations have signed.

Americans want a lessening of the tensions—on a broad range of issues—between our countries, and we are confident that this feeling is held by the Soviet people and their new leadership. The Soviet Union did take a step forward in the human rights area, recently, by releasing Isaak Shkolnik, and your nation deserves positive recognition for that decision. We earnestly urge you to take further, positive steps.

The outcome of such a policy will be to the mutual benefit of both our nations.

There is particular compassion in our country for those of Jewish ancestry and various religious faiths who wish to emigrate from the Soviet Union and are precluded from doing so. We further express concern for other individuals and groups in the Soviet Union seeking to exercise their basic "human rights" including Pentacostals, Baptists, Estonians, Latvians, Lithuanians, and Ukrainians.

Americans have great concern for the welfare of individuals such as Anatoly Shcharansky, Andrei Sakharov, Raoul Wallenberg, and Yuri Orlov, who have been imprisoned, placed under house arrest, or whose fate is unknown.

These concerns create an objective, political fact-of-life that the Soviet Union's adherence to its freely-accepted human rights commitments will be a factor in future Senate consideration of other matters affecting the U.S.-Soviet relationship.

Although protestations have been made that all those people who wish to leave the Soviet Union have been permitted to do so, we must take issue with these contentions. Some members of this delegation have met personally with individuals who have applied for permission to emigrate and have had that permission denied repeatedly; in some instances, for more than ten years.

Soviet citizens who have attempted to monitor their own government's adherence to the Helsinki Final Act have been imprisoned and exiled. Individuals who have attempted to practice their religious faith have been harassed by the authorities and tried for anti-Soviet behavior, even though the international agreements referred to earlier, and signed by the U.S.S.R., explicitly grant minorities the right to practice their religious beliefs free of official harassment.

With these points in mind, we wish to leave you with the attached list of specific individuals each with a unique case which we believe deserves your sympathetic consideration. We respectfully urge positive action by the Soviet Union in each case. Under your new leadership, the Soviet government has a unique opportunity not only relieve human suffering but to send a strong message to the entire world about its concern for human rights.

Sincerely yours,

Strom Thurmond, Vice Chairman, Robert C. Byrd, Chairman, Sam Nunn, Claiborne Pell, Paul S. Sarbanes, Dennis DeConcini, George J. Mitchell, John W. Warner.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:18 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Land Act Amendments of 1978.

The message also announced that the Speaker appoints Mr. LENT as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 410) entitled "An Act to repeal the Commercial and Apartment Conservation Service, and for other purposes," vice Mr. BROYHILL, resigned.

The message further announced that the Speaker appoints Mr. LENT as a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 426) entitled "An Act to amend the Federal Power Act to provide for more protection to electric consumers," vice Mr. BROYHILL, resigned.

The message also announced that the Speaker appoints Mr. TAUKE as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1078) entitled "An Act to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes", vice Mr. BROYHILL, resigned.

The message further announced that the Speaker appoints Mr. TAUKE as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2005) entitled "An Act to amend title II of the Social Security Act and related provisions of law to make minor improvements and necessary technical changes", vice Mr. BROYHILL, resigned.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 7:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978;

S. 1874. An act to authorize quality educational programs for the deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes;

H.R. 4409. An act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March";

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend";

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month"; and

H.J. Res. 672. Joint resolution to ratify the February 1, 1986 sequestration order of the President for fiscal year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3483. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, a report of the obligation of funds before an appropriation, constituting a violation of law; to the Committee on Appropriations.

EC-3484. A communication from the President of the United States transmitting, pursuant to law, a request for supplemental appropriations for the District of Columbia for fiscal year 1986; to the Committee on Appropriations.

EC-3485. A communication from the Secretary of Defense transmitting, pursuant to law, a report on two violations of law involving obligation of funds before an appropriation is made; to the Committee on Appropriations.

EC-3486. A communication from the Deputy Secretary of the Air Force transmitting, pursuant to law, a report on a decision to convert the audiovisual services function at Chanute Air Force Base, IL, to performance under contract; to the Committee on Armed Services.

EC-3487. A communication from the Acting Secretary of Commerce transmitting, pursuant to law, notice of the President's intent to extend existing foreign policy export controls on South Africa through July 12, 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-3488. A communication from the Secretary of Transportation transmitting, pursuant to law, the quarterly report of the Urban Mass Transportation Administration; to the Committee on Banking, Housing, and Urban Affairs.

EC-3489. A communication from the Secretary of the Interior transmitting, pursuant to law, a report certifying that adequate soil survey and land classification studies have been accomplished on lands served by the Tehama-Colusa Canal, Central Valley Project, CA, and they are susceptible to the production of agricultural crops by means of irrigation; to the Committee on Energy and Natural Resources.

EC-3490. A communication from the Comptroller General of the United States entitled "Timber Sale Accounting—Analysis of Kootenai National Forest"; to the Committee on Environment and Public Works.

EC-3491. A communication from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation to provide for posthumous naturalization of aliens killed while on active duty service with the U.S. Armed Forces in Vietnam; to the Committee on the Judiciary.

EC-3492. A communication from the Secretary of Education transmitting, pursuant to law, final amendments for the State Vocational Education Program and the Secretary's Discretionary Programs of Vocational Education; to the Committee on Labor and Human Resources.

EC-3493. A communication from the Assistant Administrator of the Environmental Protection Agency transmitting, pursuant to law, a final rule under the Insecticide, Fungicide, and Rodenticide Act relative to child-resistant packaging of pesticides; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3494. A communication from the Clerk of the U.S. Claims Court transmitting, pursuant to law, a copy of the Court's judgment order for the plaintiffs in Sioux Tribe of Indians of the Crow Creek Reservation South Dakota versus the United States; to the Committee on Appropriations.

EC-3495. A communication from the Clerk of the U.S. Claims Court transmitting, pursuant to law, a copy of the Court's judgment order for the plaintiffs in Sioux Tribe of Indians of the Lower Brule Reservation South Dakota versus the United States; to the Committee on Appropriations.

EC-3496. A communication from the Assistant Comptroller (Insurance) of the Headquarters Army and Air Force Exchange Service, transmitting, pursuant to law, the annual report on the Retirement Annuity Plan for Employees of the Army and Air Force Exchange Service for the year ended December 31, 1985; to the Committee on Armed Services.

EC-3497. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit—Federal Home Loan Bank Board's Financial Statements for 1985 and 1984"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3498. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report required under section 9(b) of the Federal Cigarette Labeling and Advertising Act for fiscal year 1984; to the Committee on Commerce, Science, and Transportation.

EC-3499. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of royalties on offshore oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3500. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior transmitting, pursuant to law, a report on the refund of certain overpayments of royalties on offshore oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3501. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Medicare—Issues Raised by Florida Health Maintenance Organization Demonstrations"; to the Committee on Finance.

EC-3502. A communication from the Chief of Staff of the Department of Health and Human Services, transmitting, pursuant to law, a report on efforts to alleviate the backlog of overdue reports of the Department and a list of such overdue reports; to the Committee on Finance.

EC-3503. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Medicare—Issues Raised by Florida Health Maintenance Organizations"; to the Committee on Finance.

EC-3504. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Manchester Point Arena Band of Pomo Indians judgment funds; to the Select Committee on Indian Affairs.

EC-3505. A communication from certain independent auditors, transmitting, pursuant to law, the audit report of the National Council on Radiation Protection and Measurements for calendar year 1985; to the Committee on the Judiciary.

EC-3506. A communication from the Counsel to the Pacific Tropical Botanical Garden, transmitting, pursuant to law, its audit report for 1985; to the Committee on the Judiciary.

EC-3507. A communication from the Chief of Staff, Department of Health and Human Services, transmitting, pursuant to law, a report on a new system of management of reports to Congress; to the Committee on Labor and Human Resources.

EC-3508. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the ASHAA Annual Report for calendar 1985; to the Committee on Labor and Human Resources.

EC-3509. A communication from the Executive Director of the Neighborhood Reinvestment Corporation transmitting, pursuant to law, the 1985 report of the Corporation's activities and fiscal status; to the Committee on Banking, Housing, and Urban Affairs.

EC-3510. A communication from the Secretary of Transportation and the Director of FEMA transmitting, pursuant to law, a joint report evaluating hazardous materials training and planning programs; to the Committee on Commerce, Science, and Transportation.

EC-3511. A communication from the Secretary of Transportation transmitting, pursuant to law, the 1985 National Airway System Annual Report; to the Committee on Commerce, Science, and Transportation.

EC-3512. A communication from the Chairman of the Equal Employment Opportunity Commission transmitting, pursuant to law, a report on the Commission's interagency cooperation activities for October 1984-September 1985; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-810. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE CONCURRENT RESOLUTION NO. 156

"Whereas, the state of Louisiana is currently faced with severe financial problems; and

"Whereas, due to the current economic conditions and the fiscal crisis of the state, local governments are also experiencing severe financial problems; and

"Whereas, state and local sales taxes are a major source of revenue; and

"Whereas, the Food Security Act of 1985 prohibits participation in the food stamp program by states who impose either a state or local sales tax on purchases made with United States Department of Agriculture food coupons; and

"Whereas, Louisiana in addition to its financial situation has the highest unemployment rate in the nation; and

"Whereas, it is crucial that Louisiana keep the food stamp program in place and available as a benefit to needy recipients.

"*Therefore, be it resolved,* That the Legislature of Louisiana does hereby memorialize the Congress of the United States to repeal that portion of the Food Security Act of 1985 that prohibits participation in the food stamp program by states who impose either

a state or local sales tax on purchases made with United States Department of Agriculture food coupons.

"Be it further resolved That a duly attested copy of this Resolution be immediately transmitted to the President of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to each presiding officer of each house of each state legislature in the United States."

POM-811. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

"ASSEMBLY JOINT RESOLUTION No. 88

"Whereas, Under the existing federal Section 8 housing program (42 U.S.C. 1437f), rental assistance is provided with federal funds to low-income persons throughout the nation; and

"Whereas, Over 140,000 low-income households in California received benefits from this program; and

"Whereas, While this program is federally funded, it is administered primarily by local housing authorities; and

"Whereas, Since the inception of the existing Section 8 program, local housing authorities have been paid a set fee to administer this important program; and

"Whereas, Effective July 1, 1985, the federal Department of Housing and Urban Development cut the fees for administering the program by 10 percent so that now those fees amount to 7.65 percent of the permissible rent for a two bedroom unit; and

"Whereas, Without waiting to see the effects of the 1985 reduction on the ability of local housing authorities to administer the program efficiently, the President, in his 1987 budget message, has announced that HUD will further reduce the fee effective in June 1986, to 6.5 percent and, starting October 1, 1986, HUD will reduce its contribution to 3.2 percent and request state and local governments to assume the remainder of those fees; and

"Whereas, This action constitutes a serious breach of the original understanding between local housing authorities and HUD; and

"Whereas, Local housing authorities do not have the funds necessary to subsidize the responsibility of the federal government to pay for the administration of this federal program; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation to provide the funds necessary to enable local housing authorities to administer this federal program in an efficient and effective manner; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-812. A resolution adopted by the Placer County, California Board of Supervisors relative to proposed changes in the disaster declaration process, public assistance eligibility, public assistance program administration, and hazard mitigation; to the Committee on Environment and Public Works.

POM-813. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION No. 54

"Whereas, in 1967, the United States Supreme Court, in the case of "National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois", ruled that only under certain conditions could states require nonresident dealers to collect sales tax on items to be brought into the state; and

"Whereas, the current fiscal condition of many states demand that all means of collecting revenue to which they are entitled be explored; and

"Whereas, sales made outside Louisiana's borders are subject to use tax, but collection of the tax from the purchaser is virtually impossible and therefore results in a significant revenue loss to the state; and

"Whereas, the American Council on Intergovernmental Relations has estimated that the approximate loss in sales tax collections by the state from such sales will approximate twenty-three million dollars during fiscal year 1986-1987, and the volume of sale to Louisiana residents by nonresident dealers is increasing each year; and

"Whereas, there is currently legislation before the Congress which would require collection of a state's sales tax by nonresident dealers.

Therefore, be it resolved, That the Legislature of Louisiana hereby memorializes the congress of the United States to enact legislation to allow states to require all nonresident dealers to collect sales tax from the purchaser on items that are to be brought into the state.

Be it further resolved, That a copy of this Resolution shall be transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to each presiding officer of each house of each state legislature in the United States."

POM-814. A resolution adopted by the City Council of West Saint Paul, Minnesota favoring efforts to halt the persecution of the BAHA'I minority in Iran; to the Committee on Foreign Relations.

POM-815. Resolutions adopted by the Governor's Commission on the United Nations relating to funding for the United Nations and the establishment of a United States Commission on Improving the Effectiveness of the United Nations; to the Committee on Foreign Relations.

POM-816. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"ASSEMBLY JOINT RESOLUTION No. 80

"Whereas, Affirmative action goals for ethnic minorities and women for the California state civil service are established utilizing state labor force statistics published in the United States Census; and

"Whereas, Affirmative action goals for disabled workers in state civil service for all types of disabilities should similarly reflect their representation in the labor force; and

"Whereas, The United States Census does not uniformly collect or publish labor force statistics on disabled workers; and

"Whereas, There is a need for an accurate accounting of the number of potential workers who are disabled in order to establish meaningful affirmative action goals as is done for ethnic minorities and women; now, therefore, be it

"Resolved, By the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the Congress and the President of the United States to require the collection of information on all forms of disabilities in the 1990 census; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-817. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Veterans' Affairs:

"HOUSE RESOLUTION No. 24

"Whereas, Vietnam was the longest military conflict in the history of the United States of America; and

"Whereas, over three million Americans fought valiantly to repel the communist insurgence from the northern region of Vietnam; and

"Whereas, these valiant soldiers maintained those high standards that have been handed down from generations of American military veterans; and

"Whereas, these honorable veterans upheld these high standards throughout the unrelenting combat, thousands of miles from their native land; and

"Whereas, the Armed Forces in Vietnam never surrendered their flag nor did they ever lay down their arms in the field of battle.

"Therefore, be it resolved that the House of Representatives of the Legislature of Louisiana does hereby praise and express its heartfelt appreciation to the American military veterans of the conflict in Vietnam who fought to preserve democratic freedom for the citizens of the Republic of South Vietnam.

"Be it further resolved that a certified copy of this Resolution shall be transmitted to the Speaker of the House of Representatives and to the President of the Senate of the United States Congress, to each member of the Louisiana congressional delegation, and to the Vietnam Veterans of America, Chapter 178 of Monroe, Louisiana."

POM-817. A concurrent resolution adopted by the Legislature of the State of Louisiana expressing praise and appreciation for members of the American armed forces who fought in Vietnam; to the Committee on Veterans' Affairs.

POM-818. A resolution adopted by the American Association for the Advancement of Science relative to the Emergency Deficit Reduction Act of 1985 (Gramm-Rudman-Hollings); ordered to lie on the table.

POM-819. A petition from citizens of Havre, Montana relative to changes to the Montana constitution enacted in 1972; ordered to lie on the table.

POM-820. A concurrent resolution adopted by the Legislature of the State of Louisiana; ordered to lie on the table.

"HOUSE CONCURRENT RESOLUTION No. 256

"Whereas, Senator John P. East of North Carolina, born on May 5, 1931 in Springfield, Illinois, was an exemplary public servant, a man of patriotism, with a keen intellect; and

"Whereas, Senator East was a man of academic distinction who graduated from Earl-

ham College in Indiana, where he was selected as a member of the honorable and prestigious Phi Beta Kappa Honor Fraternity; the University of Illinois, where he received a law degree; and the University of Florida, where he received a master's degree and a doctorate in political science; and

"Whereas, throughout his life Senator East exemplified an unyielding belief in principle and the determination to keep our country strong; and

"Whereas, this dedication was exhibited through his service in the United States Marine Corps, as a college professor, as the junior United States Senator from North Carolina, and in two campaigns for the United States House of Representatives and for secretary of state for North Carolina; and

"Whereas, Senator East bravely fought against serious health problems throughout much of his life and dealt with them with the same fortitude and strength that he demonstrated in public life; and

"Whereas, Senator East was an able and thoughtful leader and modern day philosopher of Republican conservatism in the United States, whose views and positions have been important influence on our political system; and

"Whereas, the contributions of Senator East and the principles he stood for shall long be remembered by the many persons who were influenced by the reasoning and logical thought of this man of quiet dignity and conviction.

"Therefore, be it resolved that the Senate and the House of Representatives of the Legislature of Louisiana do hereby remember Senator John P. East for his years of dedication to the finer ideals of life and for his selfless and dedicated service to his community and nation.

"Be it further resolved that the Legislature of Louisiana does hereby express to his family and his colleagues in the United States Senate its sincere condolences at the loss of this special man who gave so much.

"Be it further resolved that a copy of this Resolution shall be forwarded to his wife, Priscilla "Sis" East; his two daughters, Kathryn East and Martha East; and to the President of the United States Senate."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

William F. Nelson, of Georgia, to be an Assistant General Counsel on the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

(The above nomination was reported from the Committee on Finance with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY:

S. 2668. A bill to amend the Tariff Schedules of the United States to temporarily suspend the duties on jacquard cards; to the Committee on Finance.

S. 2669. A bill to amend the Tariff Schedules of the United States to temporarily suspend the duties on certain weaving machinery; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. HEINZ and Mr. HATCH):

S. 2670. A bill to amend title XVIII of the Social Security Act to promote high-quality graduate medical education in ambulatory care settings, and for other purposes; to the Committee on Finance.

By Mr. GORE (for himself and Mr. SASSER):

S. 2671. A bill to promote air safety and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE:

S. 2672. A bill to establish a National Educational Software Corporation to promote the development and distribution of high-quality, interactive, and educationally useful computer software, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS (for himself, Mr. HATFIELD, Mr. WARNER, Mr. INOUYE, and Mr. PELL):

S. 2673. A bill to reauthorize appropriations for the American Folklife Center for fiscal years 1987, 1988, and 1989; to the Committee on Rules and Administration.

By Mr. MATSUNAGA:

S. 2674. A bill for the relief of Ellison S. Onizuka; to the Committee on Armed Services.

By Mr. BOSCHWITZ (for himself, Mr. HELMS, Mr. ZORINSKY, Mr. DOLE, Mr. MELCHER, Mr. LUGAR, Mr. LEAHY, Mr. COCHRAN, Mr. HARKIN, Mr. WILSON, Mr. HEFLIN, Mr. MCCONNELL, Mr. PRYOR, and Mr. DIXON):

S. 2675. A bill to amend the Federal Meat Inspection Act to authorize the Secretary of Agriculture to determine the manner and frequency of inspection of meat food products under such act and to improve enforcement of such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2676. A bill to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Puama, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; to the Select Committee on Indian Affairs, by unanimous consent, with instructions that when reported, the bill be referred to the Committee on Energy and Natural Resources for a period not to exceed 15 calendar days.

By Mr. GORE:

S. 2677. A bill to encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BIDEN (for himself, Mr. LEAHY, Mr. DECONCINI, Mr. CHILES, Mr. NUNN, and Mr. MOYNIHAN):

S.J. Res. 376. A joint resolution providing for a White House Conference on Narcotics Abuse and control; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GORE:

S. Res. 450. A bill authorizing and directing the Committee on Governmental Affairs, or any authorized subcommittee thereof, to study the advisability and feasibility of establishing an independent air safety enforcement agency; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. HEINZ, and Mr. HATCH):

S. 2670. A bill to amend title XVIII of the Social Security Act to promote high-quality graduate medical education in ambulatory care settings, and for other purposes; to the Committee on Finance.

AMBULATORY CARE TRAINING ACT

● Mr. KENNEDY. Mr. President, I rise to introduce the Ambulatory Training Act of 1986. I am pleased to say that I am joined by my distinguished colleague Senator HEINZ. Over the past decade, we have experienced a dramatic shift in the provision of health care from the hospital setting to the outpatient or ambulatory setting. With the advent of the DRG prospective payment system under Medicare, and with the rapidly increasing prevalence of other forms of prospective payment, this trend has been greatly accelerated. Though the outcome of the changing reimbursement policy has been most gratifying in controlling costs, it has also produced some unforeseen problems which require correction.

The legislation which we are introducing today addresses one of these problem areas, graduate medical education (GME). Graduate medical education has been particularly affected by changing reimbursement policies. Though the hospital has always served as the principal learning environment for graduate physicians, abbreviated lengths of hospital stay have moved the locus of patient care to outpatient settings. GME must now respond to this new reality.

In the past, most GME has been conducted in an inpatient setting. Because patients have remained in the hospital for relatively long stays, residents have had ample opportunity to perform detailed histories and physical examinations, to participate in the key decisions about diagnosis and treatment, and to follow each patient's progress day by day until completion of therapy. Now, due to the effect of prospective payment upon our hospitals, conditions for teaching our residents have changed remarkably. Fewer patients are being admitted to

hospitals and the average length of stay is dramatically shortened. Residents frequently find that key decisions have been made by the patient's private physician before admission or they will be made after discharge. Surgical residents now frequently encounter their patients for the first time either on the operating table or when the patient is admitted to the hospital on the day of surgery.

As an increasing share of patient care is delivered in ambulatory settings, more teaching must be carried out at these sites. At present, residents in traditional training programs such as those in general surgery, medicine, and pediatrics devote substantially less than 25 percent of their time to training in outpatient sites. We must greatly increase their percentage of training time in these ambulatory sites. However, this presents special problems.

Ambulatory training typically involves more faculty teaching time and the generation of lower faculty practice income because of provision of lower cost medical services. Thus, the net expense for ambulatory training is greater than for inpatient training. This is particularly true if high-quality education and patient care associated with adequate faculty supervision are to be maintained.

Mr. President, in spite of these increased teaching costs, and the increased need for teaching in the ambulatory setting, direct GME costs for ambulatory training are reimbursed by Medicare at only 80 percent of the reimbursement for inpatient training. Furthermore, Medicare provides no reimbursement whatsoever of direct GME costs for that portion of residents' time spent in ambulatory sites not defined as hospital cost centers. Residents in some areas such as geriatric medicine, geriatric psychiatry, and family practice presently are assigned to such sites for a substantial percentage of their training. Some of these nonreimbursed sites, such as home care programs, ambulatory surgery centers and health maintenance organizations, represent ambulatory settings which are highly effective in reducing health care costs and thus are particularly important sites for resident training.

The first provision of our bill is designed to correct this insufficient level of Medicare funding in the ambulatory setting by establishing full reimbursement for the Medicare share of GME in the ambulatory setting, regardless of location. Until the new Council on Graduate Medicare Education can carry out appropriate studies on the recommended extent and the added cost of ambulatory training, I am also proposing—as an interim measure—a provision which will provide a modest but progressive increase in reimbursement for direct GME costs. Those residency positions were the trainee devotes greater than 25 percent of curriculum time to education in the ambulatory setting will get extra support. This support will provide training programs undergoing the necessary transition to ambulatory training the means to maintain supervising faculty necessary for high quality teaching and patient care. Furthermore, it will help stabilize funding for family practice and geriatric programs, which already provide their trainees with greater than 25 percent of training time in the ambulatory setting, but which face extreme financial vulnerability at this time due to loss of other government support revenues and high net cost of training.

Mr. President, the cost of these provisions is modest considering the increase in quality of care for Medicare patients and efficiencies of practice which will accrue from increasing the quality of outpatient training. Nevertheless, I recognize that the Medicare trust fund will be under continued pressure in coming years. In recognition of the necessity to conserve Medicare funds, I have proposed the other major part of this legislation. This allows a substantial saving of Medicare funds which will more than offset the cost of the ambulatory training initiative. It will also elevate the quality of residency training and the care of Medicare patients. I refer to the provisions that modify the criteria which qualify residents for Medicare reimbursement of direct and indirect GME costs.

At the present time, Medicare funds support the cost of more than 12,000 residency positions in excess of the number required by graduates from U.S. allopathic and osteopathic schools of medicine. These positions are filled by recently graduated foreign medical graduates—FMG's—who have passed their foreign medical graduate examination in the medical sciences—FMGEMS—as required by Public Law 99-272, and by a large reservoir of previously graduated FMG's who have passed a less rigorous exam prior to July 1984 when the FMGEMS were first administered. The latter group have been granted continued eligibility for residency training, even though they may have passed their qualifying examination many years ago.

Current concerns about excessive physician supply have led to plans for decreasing the class size of many American medical schools. Yet we continue to provide Medicare support for the training of U.S. citizens who have graduated from foreign schools of dubious quality and have not passed the FMGEMS, and for the training of alien foreign medical graduates, most of whom will remain in this country rather than return to their country of origin where their services are in most cases currently needed.

At present, 17 percent of all residents and 21 percent of all fellows who are training in our GME system are FMG's. In fiscal year 1985, direct Medicare reimbursement in excess of $200 million was spent on support of these foreign medical graduates, in addition to an even larger expenditure for the indirect medical education adjustment. It is widely acknowledged that many foreign medical graduates have not achieved the same level of proficiency as U.S. graduates. In January 1986, only 4 percent of U.S. citizen FMG's and 13 percent of alien FMG candidates passed the FMGEMS, an exam which is similar to that required of American graduates.

Mr. President, this legislation establishes that as of July 1987, FMG's will be required to have passed the FMGEMS prior to initiating residency or fellowship training in order for their employing institution to receive Medicare support for their direct costs of graduate medical education and the indirect medical education adjustment. Residents who have not passed the FMGEMS, who were in training prior to October 1, 1986, will be allowed to complete the training requirements for first board certification. In addition, this legislation limits the percentage of FMG's supported by Medicare in each teaching hospital to 20 percent of first-year residents. Medicare will support no more than one foreign medical graduate resident for each four U.S. medical school graduate full-time equivalent residency positions. The same limitation will be placed upon second, and then third-year residency positions in the subsequent 2 years. This provision is intended to avoid an educational setting where the majority of residents are FMG's—an environment not conducive to optimal training or patient care. The result of these more stringent criteria for Medicare support of FMG's will be a phased reduction in the number of excess residency and fellowship positions supported by Medicare over a period of 3 years, with a goal of reducing the number of excess positions to 7,000 by July 1, 1990.

Mr. President, we must recognize that there are institutions which provide services to indigent patients via FMG residents, which would experience serious difficulties under these provisions. Thus, this legislation provides a waiver for a renewable period of 3 years to those hospitals which can demonstrate that nonqualifying residents provide services to indigent patients, that are not available through other alternatives. Current estimates indicate that support of a maximum of 4,000 positions should be sufficient to meet this need. Furthermore, in an attempt to help those institutions elimi-

nate their dependency on nonqualifying residents, and thereby improve the quality of care for indigent Medicare patients, the Secretary is instructed to carry out demonstration projects. These would provide an opportunity for hospitals with approved residency programs, who would otherwise qualify for the foregoing waiver, to utilize Medicare GME funds to employ practicing physicians and other health professionals, to provide care to these patients.

Thus, this legislation provides an opportunity to reduce the number of excess residency positions supported by Medicare without disrupting vital care to indigent patients. Also, an adequate number of Medicare supported residency positions would continue to be supported by Medicare for the training of highly qualified U.S. citizen graduates of foreign medical schools and highly qualified alien foreign medical graduates, who would hopefully desire to return to their country of origin.

Mr. President, this opportunity for a reduction in the number of residency positions supported by Medicare provides us with the resources which will more than cover the expense of instituting the vitally needed provisions of this legislation for improving the quantity and quality of ambulatory training. Elimination of Medicare support for just 2,500 excess residency positions during fiscal year 1988 would more than cover the expense of the ambulatory training provisions proposed by this legislation. As more positions are phased out in the subsequent 2 years, additional Medicare dollars will be saved which will more than cover the modest further increment in support for ambulatory training which is proposed.

The legislation which I am introducing today allows us to modify the manner in which Medicare supports GME so that we may adapt to the present realities of medical practice. Recent legislation has been effective in controlling the growth of Medicare expenditures, but not without attendant problems. Now, we must meet the challenge of recognizing the problems and adopting the modifications needed to preserve quality within our graduate medical education training programs. This, in turn, will insure quality care for Medicare patients. I urge my colleagues to support prompt passage of this legislation as an important step in the reshaping of graduate medical education. These programs must be modified now in order to respond to the continued dramatic changes in health care which we will face in future years.●

● Mr. HEINZ. Mr. President, there can be no doubt that health care in America is experiencing dramatic changes. Medicare prospective payment is one of many factors which have served to change the delivery of medical care. Nevertheless, I am deeply concerned that the sweeping changes that have taken place in the recent past threaten a fundamental component of the American health care system: quality care.

A critical element of quality medical care is the experience, education, and skill of physicians. Today, I join Senator KENNEDY in introducing legislation that would alter Medicare reimbursement for medical education to better prepare new doctors for the practice of medicine in our aging society.

Mr. President, if we are to maintain quality of care we must adapt training of physicians to the needs of patients in this era of cost containment and payment reforms. The Ambulatory Training Act of 1986 redirects the current pool of Medicare funds for medical education toward residency training in our Nation's nursing homes, home health agencies, community health centers, and other sites of care. Under this bill, physicians' training programs will be encouraged to broaden the backgrounds of their trainees to include the experiences in the array of settings where care is actually delivered to older Americans. Under current law this is not allowed.

The training period following medical school is a critical phase in doctors' educations. It is at this point in their careers that they become immersed in the practice of medicine and learn the norms and values of the profession. Until now, the hospital has served as the primary classroom for training doctors. The combined changes in demographics, medical technology, and reimbursement policy, however, have moved health care delivery beyond the hospital arena. This legislation, in line with that trend, establishes a new focus for medical training by bringing the ambulatory setting into grand rounds.

This bill grants a modest increase in funding to those residency and fellowship programs which spend greater than 25 percent of the resident's time in an ambulatory setting, regardless of location. This increase in funding is made available until a study of funding mechanisms for ambulatory training is completed by the Council on Graduate Medical Education in 1990.

The Ambulatory Training Act also addresses the need for health care personnel with geriatric expertise by increasing the amount of payment available for geriatric fellowship programs through Medicare. Experience in out-of-hospital settings is a critical part of training doctors to care for the most frail and sick members of the older population. Without adequate Medicare funding for such geriatric fellowship programs, quality care is threatened.

At least 8,000 geriatricians are needed nationally over the next 4 years, according to a National Institute on Aging in 1984. Data from the American Medical Association, however, show that of the 520,000 doctors in the United States there are only 922 with any background in geriatrics. I believe that the Medicare program has a responsibility to its beneficiaries to ensure that skilled medical care is available to meet the special needs of older persons.

We propose to fund the increased costs of ambulatory training by limiting Medicare reimbursement for nonqualifying graduates of foreign medical schools. Such a limit will not only redistribute funds where they are needed, but also will serve to improve the quality of all medical residency programs.

Each year the Medicare Program supports more than 12,000 foreign-trained residents. Many of these men and women are highly qualified doctors, whose skills compete fairly and equally with U.S. trained residents. However, a substantial number of foreign medical graduates have been allowed to retain their eligibility for training in Medicare-funded Programs, even though they would fail to meet today's more rigorous eligibility standards.

It is important to differentiate between the skilled foreign-trained doctors that seek graduate training in the United States, and the nonqualifying graduates that populate some of our Nation's teaching programs. In 1985, more than $200 million Medicare dollars were spent to support the direct costs of training foreign medical graduates. Although many foreign residents are skilled, it is widely acknowledged that a significant number have not achieved that same level of expertise as U.S. graduates. Results from the Foreign Medical Graduate Examination in Medical Sciences [FMGEMS] confirm this belief. In the most recent exam, only 4 percent of U.S. citizens graduating from foreign schools, and 17 percent of foreign-born graduates, passed the FMGEMS.

The Ambulatory Training Act would reshape the role of foreign graduates in medical training programs through two methods. First, all graduates of foreign medical schools will be required to pass the FMGEMS to be supported by the Medicare Program after July 1, 1987. Second, hospital training programs will be required to meet a ratio of four U.S. graduates, for each foreign resident and a ratio of six U.S. graduates, for each foreign fellow who receives funds through Medicare payments for direct medical education.

This is not a proposal to eliminate the ability of skilled foreign physicians to train in American residency programs. This proposal will prevent hospitals from endangering the quality of patient care through exclusive

dependence on foreign graduates in their training programs. There is compelling evidence that hospitals which rely on house staff comprised of large proportions of foreign graduates are not providing an appropriate learning experience to their students and are placing the quality of care provided to patients at risk.

Mr. President, the legislation I introduce today will serve to redirect the current stream of Medicare funds for graduate medical education to better serve the needs of older Americans through incentives for appropriate, high-quality training of future physicians. For this reason, I urge my colleagues to support the Ambulatory Training Act of 1986.●

By Mr. MATHIAS (for himself, Mr. HATFIELD, Mr. WARNER, Mr. INOUYE, and Mr. PELL):

S. 2673. A bill to reauthorize appropriations for the American Folklife Center for fiscal years 1987, 1988, and 1989; to the Committee on Rules and Administration.

AMERICAN FOLKLIFE PRESERVATION ACT REAUTHORIZATION

● Mr. MATHIAS. Mr. President, I introduce today a bill that would reauthorize appropriations for the purposes of the American Folklife Preservation Act of 1976.

On January 2, 1976, President Gerald R. Ford initiated the Nation's Bicentennial year by signing into law the American Folklife Preservation Act (Public Law 94-201), which created the American Folklife Center in the Library of Congress. The Center's mandate is "to preserve and present American folklife" through research, scholarship, archiving, training, live presentations, workshops, exhibits, and publications in all media. The Center includes the Library's Archive of Folk Culture which for 58 years has served as national archival resource for materials documenting American folk music and folklore.

In its first 10 years, the Center has been vigorously engaged in the investigating and recording of the traditional life of contemporary America. Field research projects in Chicago, south-central Georgia, Nevada, New Jersey, and other parts of the country have documented the cultural traditions of such diverse groups as folk artists, boat builders, cowboys, factory workers, farmers, and schoolchildren. Special studies have produced research publications and resource compendia such as "Cultural Conservation: The Protection of Cultural Heritage in the United States" and "Folklife Sourcebook."

Center-sponsored workshops, exhibits, concerts, and conferences have celebrated and reflected on specific aspects of the Nation's rich cultural heritage. The Center publishes the quarterly newsletter Folklife Center News, along with a wide range of bibliographies, directories, essay collections, catalogs, technical manuals, project reports, and brochures. In 1985 it launched the highly acclaimed yearly publication Folklife Annual.

In the third week of May of this year, a series of events were planned to highlight the Center's first decade. On Wednesday, May 21, a public symposium on folklife and public education was held at the Library's James Madison Memorial Building. The symposium featured speakers from both the public-sector and academic folklore communities. On the following day, Thursday, May 22, the center held a birthday party celebration, featuring folk music and craft demonstrations on the Neptune Plaza in front of the Jefferson Building. The Folklife Center's Board of Trustees conducted its spring meeting on Thursday and Friday, May 22 and 23.

The Congress is proud of the American Folklife Center as it continues to serve as a national center for the study and celebration of the traditional cultural heritage of the United States of America.

Mr. President, I am further pleased to be joined in the sponsorship of this measure by the four distinguished Members of the Senate with whom I serve on the Joint Congressional Committee on the Library: Senator HATFIELD, Senator WARNER, Senator INOUYE, and Senator PELL.

In conclusion, Mr. President, I ask unanimous consent to have printed in today's issue of the CONGRESSIONAL RECORD, at the same point as these remarks appear, a letter from the distinguished Librarian of Congress, Daniel J. Boorstin, summarizing the activities of the American Folklife Center.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LIBRARIAN OF CONGRESS,
Washington, DC, February 13, 1986.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR SENATOR MATHIAS: The American Folklife Center was, as you know, established in the Library of Congress by an Act of Congress in 1976. The original authorization was for three years and it was reauthorized on three occasions. The current authorizations extends through fiscal 1986. We are therefore requesting new authorization for the Center. Enclosed is draft legislation for your consideration. The draft provides for a three-year reauthorization with a very modest increase in sums authorized.

I am enclosing a detailed summary of the Center's activities to date. I believe the American Folklife Center has had a substantial impact on the preservation of American folklife during the past nine years and that the Center has more than fulfilled Congress' expectations of it.

My colleagues and I will be happy to provide any additional information you may need.

Sincerely,

DANIEL J. BOORSTIN,
The Librarian of Congress.

AMERICAN FOLKLIFE CENTER, THE LIBRARY OF CONGRESS

MISSION

The American Folklife Center was created in 1976 at the Library of Congress with a broad mandate to "preserve and present American folklife." The Center both incorporates and expands the historic mission of the Library's Archive of Folk Culture, which since 1928 has provided national leadership in documenting and preserving American folk music and folklore.

The Center serves both the Congress and the public, and its work with a national network of folklorists and other cultural specialists helps give focus, coordination, and leadership to local and regional efforts to preserve and nurture America's folk cultural traditions. As a national coordinative center the Folklife Center provides information to the general public and offers consultant assistant to a national network of activities and undertakings. It also experiments with projects and approaches that can serve as models for others in the field, and undertakes inquires into areas of governmental policy that have an effect upon America's folk cultural traditions. Its Archive of Folk Culture continues both to grow and to provide important services for researchers and the general public, and materials from the Archive continue to have a national impact through publications, radio, and television.

The Center has developed a varied program of projects and activities, from public events at the Library of Congress to documentary field projects in locales around the United States, and from exhibitions and conferences to an equipment loan program and consultant visits to assist activities at the local and regional level. All these endeavors can be seen as fulfilling five broad goals:

(1) Assistant to the field, in which the Center provides direct assistance and coordination to folklife efforts at the local, state, and regional level;

(2) Archival service, in which, through its Archive of Folk Culture, the Center documents and preserves archivally the folk cultural traditions of the United States, makes those materials accessible to the public, and assists the network of regional archives dedicated to the same goal;

(3) Model programs and public events, in which the Center designs and carries out special initiatives that serve as models for the national field of folklore and folklive activities;

(4) Research, through which the Center sponsors and fosters the documentation, study, and understanding of folklife and its role in American civilization; and

(5) Publications, through which the Center's work and the contributions of its constituency are disseminated to the professional world and the general public.

With these broad goals in mind the Center's efforts have consistently included both research and public education, both preservation and dissemination, thus fulfilling the twin mandate of its enabling legislation.

ACTIVITIES

Field projects

The Folklife Center has undertaken documentary field research in several different regions of the United States—notably Chicago, South-Central Georgia, Northern Nevada, the Blue Ridge Mountains along the Virginia-North Carolina border, Rhode Island, Montana, the Pinelands region of New Jersey, and northwestern Utah. Such field projects have many benefits: (1) professional documentation of the folk cultural traditions of a region for posterity, with copies of the documentation available in the region itself; (2) the development of regional and state programs featuring folklife with the assistance of the Center; (3) exhibitions; (4) publications; (5) public dissemination through non-print media; and (6) development of approaches and models for field research which can be replicated in the efforts of others.

Library research projects

In addition to field projects, the Center has developed library-based research projects on subjects of special concern in the field of folklife. In the Federal Cylinder Project, for example, the Center has made a comprehensive effort to preserve, catalog, and disseminate folk cultural materials on early cylinder recordings in the Library of Congress and other Federal agencies. The dissemination phase of the project is just getting under way this year.

Conferences

The Center has sponsored a variety of conferences dealing with subjects of special relevance or concern, both in Washington, D.C. and at other sites around the United States. Its early conference on "Ethnic Recordings in America" has led to a book publication and greatly stimulated an entire area of research in the private sector. Other conference topics have ranged from "American Folk Custom" to "Folk Art." Smaller, less formal conferences have also proved effective tools in assisting development of the professional field and in bringing together disparate groups with common interests in folk culture.

Public events

In addition to its successful series of outdoor concerts featuring folk music, the Center has experimented with winter programs, workshops, symposia, and occasional lectures dealing with various aspects of folklife.

Exhibitions

The Center has undertaken several exhibitions, major and minor, and they have proved excellent stimulants to public discussion and understanding of folklife subjects. Its exhibition The American Cowboy, done with significant assistance from the private sector, was enormously successful, touring several major cities after six months at the Library of Congress. Other smaller exhibitions developed by the Center have also been useful tools in public education, both in Washington and around the country.

Publications

Publishing has become an important Center activity for disseminating information and ideas about folklife to a wider public. Eleven numbers have already appeared in its series "Publications of the American Folklife Center," and three more are in process. Three major works have appeared in the "Studies in American Folklife" series. The Center also manages a long-standing series of LP recordings of folk music and folklore published by the Library, now numbering 86 recordings. The newsletter Folklife Center News, appearing four times a year, has become nationally important in the field of folklife for disseminating Center news and idea. These publication series are joined by a wide variety of printed reports, brochures, guides, bibliographies, and other useful publications, as well as experimental publications in such media as videodisc. The first volume of a handsome yearly publication, Folklife Annual, has recently appeared. The Center would like to increase its publishing efforts in future years, relying on alliances with the private sector to expand its impact efficiently and economically.

Daily activities

In addition to special projects and public programs, the staff of the Folklife Center works on a daily basis to be of assistance to the Congress, Federal, state, and regional agencies, the academic community, and a wide variety of organizations dealing with the subject of folklife. The professional staff regularly provide consultant assistance on various folklife subjects as well as responding to individual inquiries by mail and telephone and in person. The Center also collaborates regularly with other offices of the Library of Congress on subjects related to folklife, and the Center's Archive of Folk Culture continues its 58-year tradition of reader service, research assistance, and development of collections dealing with folklore and folk music. Requests to the Center and Archive for assistance continue to rise, and the Center must find ways in coming years to expand its capacity to service the public on a daily basis.●

By Mr. BOSCHWITZ (for himself, Mr. HELMS, Mr. ZORINSKY, Mr. DOLE, Mr. MELCHER, Mr. LUGAR, Mr. LEAHY, Mr. COCHRAN, Mr. HARKIN, Mr. WILSON, Mr. HEFLIN, Mr. MCCONNELL, Mr. PRYOR, and Mr. DIXON):

S. 2675. A bill to amend the Federal Meat Inspection Act to authorize the Secretary of Agriculture to determine the manner and frequency of inspection of meat food products under such act and to improve enforcement of such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PROCESSED PRODUCTS INSPECTION IMPROVEMENT ACT

● Mr. BOSCHWITZ. Mr. President, today I along with Senators HELMS, ZORINSKY, DOLE, MELCHER, LUGAR, LEAHY, COCHRAN, HARKIN, WILSON, HEFLIN, MCCONNELL, PRYOR, and DIXON are introducing the Processed Products Inspection Improvement Act of 1986. Most of the bill is identical to H.R. 4683 which was introduced in the House by Congressman STENHOLM with numerous cosponsors. However, this bill is somewhat broader than H.R. 4683 because it includes provisions to strengthen USDA's enforcement powers over processors who violate the meat inspection laws. This bill will provide substantial benefits to the consuming and taxpaying public by making the Federal Meat Inspection Program more effective, efficient, and better equipped to protect the public health.

There is a real need for legislation to modernize USDA's meat inspection procedures. For several years a variety of experts, both inside and outside of the Government, have recognized the maintenance of this traditional inspection system in today's environment is outmoded, inefficient, and unnecessarily expensive. In 1977 the consulting firm of Booz, Allen & Hamilton conducted a review of the program for the Department and recommended passage of this type of legislation. Similar sentiments were expressed in a 1977 report issued by the General Accounting Office, and reiterated in 1981.

USDA began seeking this authority in 1982, advising the Congress at the time the passage of such legislation would enable the Department to deal more efficiently and effectively with the many different kinds of inspection situations it faced. In 1983 the Grace Commission came to a similar conclusion, recommending that the Secretary be given authority to provide more flexible inspection consistent with the legislative criteria specified in today's bill.

Finally, the National Academy of Sciences, as part of its comprehensive review of the Meat and Poultry Inspection Program published in 1985, recognized that processing plants with the capability or proven practice of instituting their own effective quality control programs reasonably might not require the ongoing physical presence of an inspector. Today's legislation is also supported by the American Meat Institute and other industry groups. In short, the jury is in on this issue, and there is clear consensus for change.

This legislation would allow the Secretary of Agriculture greater flexibility in allocating inspection resources to meat processing—as opposed to slaughter—establishments. My bill would make no changes in the way slaughtering facilities are inspected.

In determining the appropriate level of inspection for processing plants, the Secretary would be directed to consider factors including first, the nature and frequency of the processing operations in question; second, the adequacy and reliability of an establishment's processing control and sanitary procedures; and third, the operator's history of compliance with the law.

The Secretary enjoys no such latitude under current law. To the contrary, he must provide what is known as continuous inspection at all Federal establishments. As a result, the daily physical presence of a USDA inspector is maintained regardless of the size, sophistication or reliability of a given facility.

This is simply not good use of manpower since more and more companies

are adopting highly sophisticated quality control systems. These systems are designed to assure continuing compliance with both regulatory requirements and company specifications. Frequent samples are taken of the product to guarantee that its composition does not deviate beyond stringent tolerance levels.

This bill will bring greater uniformity to our Government's broad scope of food inspection activities. In other segments of food processing, the Food and Drug Administration successfully maintains a system of random, periodic inspections. This leaves us with radically different inspection systems for vegetable soup versus vegetable beef soup; for pepperoni pizza versus mushroom pizza. Even in the area of poultry product processing, a parallel program maintained by USDA, the Secretary enjoys substantially more discretion in reaching his determinations about the allocation of inspection resources.

It is important to point out what this legislation will not do. It will not affect slaughtering operations, where the continuing presence of a Federal inspector will be maintained. It will not mandate adoption of any particular type of quality control system as a prerequisite to inspection. Establishments will remain free to employ whatever systems fit their own needs, so long as regulatory compliance is maintained. The bill will also not automatically reduce the amount of time spent by an inspector at each and every establishment. Should the Secretary determine that it is necessary, the number of inspectors in some establishments could actually be increased. One of the key benefits of the bill will, in fact, be the way in which it will serve to increase the public health protection by enabling the Secretary to utilize his resources where they will do the most good.

Another major factor which recommends the bill is the fact that it will save money. USDA has estimated that passage of this legislation will generate some $68 million in savings during its 5-year phase in period. The Department than anticipates yearly savings of approximately $27 million.

Although USDA likes the changes made by the bill in inspection procedures, the Department has argued in addition for greater enforcement authority. Negotiations have continued for several weeks on this issue and finally we are prepared to introduce the enforcement language.

The portion of my bill which addresses inspection enforcement would amend USDA's authority to withdraw inspection under section 401 of the Meat Inspection Act. Several provisions are included which will alter the previous process and grant the Secretary of Agriculture the authority to refuse to provide or withdraw inspection service.

First, a new provision would be added to suspend a convicted felon from the industry after conviction—but prior to an administrative hearing. There is also a provision to accelerate judicial review of the Secretary's determination of unfitness. Previously the appeal was to U.S. district court, but now it will go to U.S. court of appeals. Furthermore a "chronic violater" provision was established to withdraw inspection or suspend responsible individuals for repeated failure to comply with the act. Another provision would authorize the removal of inspection based upon assaults or threats of assaults. The fifth provision provides the Secretary with guidance on the decision to institute written warnings or institute criminal prosecutions. The final provision would provide for notice of alleged violations prior to criminal prosecution.

These changes, as I have already indicated, will simply make the Federal Meat Inspection Program more effective and efficient and further ensure that consumers will be receiving a quality product. I urge my colleagues to join me as cosponsors.●

● Mr. WILSON. Mr. President, I rise today in support of the Processed Meat Inspection Act of 1986, which my distinguished colleague from Minnesota, Senator BOSCHWITZ, is introducing. In my opinion this legislation will improve the ability of the Secretary of Agriculture to inspect and assure the quality of processed meat products. This bill does not in any way alter the manner in which inspection will be carried out in slaughtering operations. It will only apply to the further processing of meat products.

Both consumers and taxpayers will benefit from this bill which makes the Meat Inspection Program more efficient, cost effective, and better equipped to protect the public health. While this legislation would reduce Government spending by $27 million annually, it would allow the USDA to focus its inspection resources on areas of greatest concern and would expand the enforcement authority of the Department. For these reasons, I am cosponsoring this legislation.

By way of background, the current method of inspecting processed meat requires the continual, physical presence of a USDA inspector at every facility on every day during every hour of operation, regardless of the facility's technological sophistication, or history of compliance with Federal meat standards. This inspection system costs the American taxpayer $1 million a day, every day of the year. Eighty years ago, Congress enacted the first meat inspection law, implementing the system of continual physical inspection, it made good sense then.

Today, however, recent innovations in the meat industry have produced sophisticated systems to insure more effective and accurate quality control standards, than the presence of a human inspector. Last year, according to the USDA's Food Safety and Inspection Service [FSIS], 1,724 meat processing plants representing 34 percent of the industry had instituted at least partial quality control programs to ensure the reliability of their products. According to the FSIS, many of these systems provide more information about the wholesomeness and composition of a particular meat product than is available to the inplant inspector physically viewing the product as it moves along the production line. Meat inspection has been required by law since 1906, however, the procedure for inspection must be continually updated if it is to be efficient and cost effective.

I believe that this legislation is consistent with the goal of the Federal Meat Inspection Program: to provide consumers with a healthy and safe product. It would provide the Secretary with the authority to allocate inspection resources to facilities where they are most needed, in a manner equivalent to the Poultry Products Inspection Act. When determining the appropriate level of inspection, the Secretary would consider the following factors: First, the nature and frequency of the processing operations in question; second, the adequacy and reliability of an establishment's processing controls and sanitary procedures; and third, the operator's history of compliance with the law. Under the existing law the Secretary does not possess such discretion.

In addition to providing the Secretary with the authority to prioritize USDA's inspection resources, the legislation significantly increases his authority to enforce the Federal Meat Inspection Act and to close operations which pose a threat to the health of the American consumer.

Specifically, the bill contains provisions to suspend Federal inspection from facilities owned or operated by individuals convicted of a felony involving either intentional adulteration, bribery, or extortion. The suspension or withdrawal of inspection, without which a meat processing facility cannot operate, must be based on a determination of either a direct and substantial threat to the public health and safety, or a clear likelihood of economic harm to consumers.

Also the bill contains a "chronic violator" provision allowing the Secretary to withdraw inspection from a facility or suspend responsible individuals for repeated failures to comply with the act. In addition, there is a new provision to authorize the Secretary to remove Federal inspectors from a fa-

cility, thereby shutting it down, if they are assaulted or threatened by assaults. Finally, the bill would accelerate judicial review of the Secretary's determination to withdraw Federal inspection and close a facility—previous appeal was to the U.S. district court, now it would go to the U.S. Court of Appeals.

Meat processing plants are an integral part of our country's meat industry. Currently there are 7,257 Federally inspected meat plants in the United States, 5,005 of which are actually meat processing plants, which would be effected by this legislation. Nationally, over 53.5 billion pounds of meat are processed in these plants annually. In my State alone, there are over 5 billion pounds of beef, poultry, swine, and lamb processed annually, representing a multi-billion dollar industry.

With the size and importance of the processed meat industry to our economy, it is equally important to ensure people with confidence about the products they consume. For several years a variety of experts, both inside and outside of the government, have recognized that the continuation of the current out-dated system is inefficient and unnecessarily expensive. For example in 1977 the consulting firm of Booz, Allen & Hamilton conducted a review of the program for the USDA and recommended legislative changes, such as the ones contained in the bill, that would modernize our meat inspection programs. Similar sentiments were expressed in 1977 and 1981 by reports issued by the General Accounting Office.

In 1982, USDA advised Congress that modification of the 1906 inspection law, would enable the Department to deal more efficiently and effectively with the many different kinds of inspection situations that it faced. In 1983, the Grace Commission came to a similar conclusion and recommended that the Secretary be given authority to provide more flexible inspection consistent with the legislative criteria specified in today's bill. Last year, the National Academy of Sciences, as a part of its comprehensive review of the Meat and Poultry Inspection Program, recognized that processing plants with the capability or proven practice of instituting their own effective quality control programs, including nutritional labeling, disclosure of percentage of water, control of fat and net weight, reasonably might not require the ongoing physical presence of an inspector.

It is evident to me that today's legislation has been developed with these recommendations in mind. For that reason, it has received the support of both the regulator and the regulated: the Food Safety and Inspection Service at USDA and the meat processing industry, respectively.

Mr. President, I am pleased to cosponsor the Processed Products Inspection Improvement Act of 1986 and I would like to commend my colleague from Minnesota for introducing it.●

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2676. A bill to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; to the Select Committee on Indian Affairs; provided that if and when reported by said committee, it then be referred to the Committee on Energy and Natural Resources for not to exceed 15 calendar days.

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. WILSON. Mr. President, today I am introducing legislation designed to settle a long-standing Indian water rights dispute on the San Luis River in northern San Diego County. This bill is the product of long and careful negotiations between representatives of five Indian bands located on or near the San Luis Rey River and the nearby communities of Escondido and Vista.

Central to this dispute is the classic Western problem of too little water for too many needs. Early this century, the cities of Escondido and Vista constructed waterwork facilities—with the necessary Federal permits and licenses—that allowed them to divert nearly 90 percent of the San Luis Rey River for their needs. The operation of these waterworks went uncontested until 1969 when the Indian bands along the river became convinced that they were wrongly being denied San Luis Rey River water and filed suit in the Federal district court seeking to recover damages.

For the last 17 years, the city of Escondido, the Escondido Mutual Water Co., and the Vista Irrigation District have jointly disputed the Indians' claims. These entities contend, however, that if the court were to find in the Indians' favor, it should be the Federal Government that should be found liable for money damages because these entities relied upon the actions of the Federal Government when they invested millions of dollars in constructing and maintaining the waterworks projects that divert most of the river.

Instead of going to trial on this case with the promise of at least another 10 years in court, the parties have reached a settlement that is embodied in the bill I am introducing today.

At the heart of this settlement is the decision to import 22,700 acre feet of water from the Federal central valley project in northern California south through the State aqueduct system to supplement San Luis Rey River supplies. With this extra water, it appears that the needs of both the Indians and the cities of Escondido and Vista will be satisfied.

I have been assured that the use of the CVP water for this purpose will not create a precedent for any similar future claim on project water. After extensive research on this issue, it appears that there are no other Indian water rights disputes that could potentially take advantage of the CVP project yield.

Notwithstanding these assurances, however, central valley project water users have raised objections about the prospect of using what they consider to be their water to solve a problem that is outside of the central valley project service area. The CVP water users suggest that instead of using northern California water to solve a southern California Indian water rights problem, the possibility of using Colorado River water should be explored more thoroughly.

Pursuant to this suggestion, I have recently written the Department of the Interior asking them to comment on the feasibility of using Colorado River water in this context. If the Department responds favorably, I may choose to sponsor amendments to the bill I am introducing today to reflect any proposal that the Department may suggest in this regard.

In view of the short time remaining to this Congress, I have chosen to proceed with this legislation even though I do not have an opinion from the Department of the Interior on the advisability of using Colorado River water for settlement purposes. I am certain that this issue will be resolved in time for committee hearings, and urge my colleagues to work with me in giving this bill the speedy consideration that it deserves.

I ask unanimous consent that the text of the bill be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective Reservations in San Diego County, California.

(2) CENTRAL VALLEY PROJECT.—The term "Central Valley Project" means the Federal reclamation project located in California which was reauthorized by section 2 of the Rivers and Harbors Act of August 26, 1937 (50 Stat. 850) and the Rivers and Harbors

Act of October 17, 1940 (54 Stat. 1199) as amended and supplemented.

(3) FIRM PROJECT WATER.—The term "firm project water" means water developed by the Central Valley Project, the availability of which is subject to proportionately shared shortages.

(4) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an inter-tribal Indian entity established by the Bands.

(5) LOCAL ENTITIES.—The term "local entities" means the City of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(6) PROJECT USE POWER.—The term "project use power" means Central Valley Project hydroelectric power and power from other sources used in the operation of the Central Valley Project irrigation facilities and for other purposes specifically authorized by Congress.

(7) SAN DIEGO AQUEDUCT.—The term "San Diego Aqueduct" means the water conveyance facilities operated and maintained by the San Diego County Water Authority and used to convey imported water into San Diego County.

(8) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

SEC. 3. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective Reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many more years,

(B) the economy of the region and the development of the Reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The Bands and the local entities have agreed that the settlement agreement shall include the following provisions:

(A) The waters of the San Luis Rey River Basin which originate above the intake to the Escondido Canal and are developed by the Bands and the local entities shall be shared equally between them.

(B) The local entities shall guarantee that a minimum of 7,000 acre-feet of such developed water shall be available to the Bands annually to the extent needed for use on their Reservations.

(C) In satisfying the provisions of subparagraphs (A) and (B)—

(i) the local entities shall contribute the water development, conveyance, and storage benefits made possible by the following facilities, all of which they have developed, financed, and constructed and shall maintain and, if necessary, replace—

(I) the Henshaw Dam and Reservoir,

(II) the Escondido Canal, and

(III) the Wohlford Dam and Reservoir;

(ii) the local entities shall also contribute the water development benefits of the existing Warner Ranch wellfield and related facilities, which are wholly owned and have been developed, financed, and constructed by the local entities; and

(iii) the Bands and the local entities shall share the costs of operating, maintaining, and, if necessary, replacing and further developing the Warner Ranch wellfield and related facilities.

(D) The local entities shall be obligated to purchase the Bands' share of the local water that is surplus to the Bands' needs at a cost of 90 percent of the local entities' cost of obtaining water from their alternative source for the first 7,000 acre-feet per year and 80 percent of such cost for the remainder.

(E) The Bands shall be responsible for providing the funding for covering the Escondido Canal where it traverses portions of the San Pasqual Indian Reservation or placing such Canal underground.

(b) PURPOSE.—It is the purpose of this Act to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) will provide the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 4. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 5, 6, 7, and 8 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties;

(2) the Secretary of the Interior determines that all legal requirements necessary to implement or fulfill the provisions of the settlement agreement have been satisfied, including—

(A) the enactment of any legislation which is required in order for any party to fulfill its obligations under the settlement agreement or this Act, and

(B) the execution of any contracts necessary to fulfill the provisions of the settlement agreement or this Act; and

(3) stipulated judgments or other appropriate final dispositions have been entered in all pending proceedings by all parties.

SEC. 5. DUTIES OF THE UNITED STATES AND THE INDIAN WATER AUTHORITY WITH RESPECT TO DELIVERY OF WATER.

(a) DELIVERY OF WATER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior shall deliver, through Federal and non-Federal facilities, annually and in perpetuity, 22,700 acre-feet of firm project water to the Indian Water Authority at a point in the San Diego Aqueduct in the vicinity of the Bands' Reservations and on a schedule to be agreed upon by the Secretary of the Interior and the Indian Water Authority.

(2) OBLIGATIONS OF THE INDIAN WATER AUTHORITY.—

(A) OPERATION AND MAINTENANCE.—The Indian Water Authority shall reimburse the United States for the operation and maintenance costs, but not for construction costs, incurred in the delivery of water pursuant to paragraph (1) at the rate charged for Central Valley Project irrigation water. The construction costs associated with providing such water shall be nonreimbursable.

(B) CONVEYANCE.—The Indian Water Authority shall pay all costs associated with conveying the water described in paragraph (1) through non-Federal facilities, and all costs, including construction costs, associated with conveying the water from the point of delivery to the Bands' Reservations.

(3) LIMITATIONS ON WATER DELIVERY OBLIGATION.—The Secretary of the Interior shall not be obligated to deliver the water described in paragraph (1) if—

(A) such delivery would require the construction of new Federal facilities,

(B) consent to the use of non-Federal facilities cannot be obtained from the owners and operators of such facilities, or

(C) necessary contracts and permits have not been executed or amended.

(4) LIMITATION ON ADDITIONAL WATER COSTS.—The Secretary of the Interior shall take such steps as may be necessary to ensure that the provision of water under subsection (a)(1) will not result in any added water costs for any Central Valley Project customers.

(b) USE OF PROJECT USE POWER FOR PUMPING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior shall use project use power from the Central Valley Project to deliver the water referred to in subsection (a)(1) from the Sacramento-San Joaquin Delta to the Indian Water Authority. If the Central Valley Project hydroelectric resources are inadequate to meet this obligation, the Secretary of Energy is authorized to obtain or acquire such additional power as may be needed to accomplish the delivery of the water referred to in subsection (a)(1) until

such time as adequate amounts of project use power can be made available from the Central Valley Project.

(2) OBLIGATIONS OF THE INDIAN WATER AUTHORITY.—The Indian Water Authority shall reimburse the United States at the project use rate for irrigation water for the operation and maintenance costs, but not for construction costs, incurred in providing the power referred to in paragraph (1). The construction costs associated with providing such power shall be nonreimbursable.

(3) LIMITATION ON USE OF CERTAIN POWER.—In fulfilling the requirement of paragraph (1), the Secretary of Energy shall not utilize any power that is needed—

(A) for other project use purposes, or

(B) until after December 31, 2004, for Central Valley Project firm power customers to the extent of any contract or obligation in existence on the date of the enactment of this Act.

(4) LIMITATION ON ADDITIONAL POWER COSTS.—The Secretary of the Interior and the Secretary of Energy shall take such steps as may be necessary to ensure that the provision of power under paragraph (1) will not result in any added power costs—

(A) for project use purposes, or

(B) until after December 31, 2004, to Central Valley Project firm power customers to the extent of any contract or obligation in existence on the date of the enactment of this Act.

(c) DELEGATION OF AUTHORITY.—The Secretary of the Interior and the Secretary of Energy are authorized to enter into such agreements and to take such measures as each such Secretary may deem to be necessary and appropriate to fulfill any obligation of such Secretary under this Act.

SEC. 6. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO REPEAL OR REVOKE ORDINANCES.—The ordinances referred to in paragraph (1) may not be revoked or repealed, and the power described in such paragraph may not be surrendered, except by Act of Congress.

(3) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification of any ordinance referred to in paragraph (1) must be approved by the Secretary of the Interior and no such approval may be granted unless the Secretary finds that the proposed modification will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this Act and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this Act, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' Reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1954.

SEC. 7. POWERS OF INDIAN WATER AUTHORITY AND BANDS OVER WATER AND POWER RESOURCES.

(a) USE OF WATER.—In addition to any right, power, or authority the Indian Water Authority or the Bands may have under any other provision of this Act or any other law or rule of law, such Authority shall have the right to devote—

(1) any water resources obtained pursuant to this Act or the settlement agreement, and

(2) any other water resources that they may have or acquire,

to any beneficial use, including any agricultural, municipal, industrial, commercial, mining, or recreational use.

(b) DISPOSITION OF WATER.—

(1) IN GENERAL.—The Indian Water Authority may lease, sell, exchange, control, and manage any water resource described in paragraph (1) or (2) of subsection (a) on or off the Reservations of the Bands.

(2) RESTRICTION ON ALIENATION OF WATER RIGHTS.—The Indian Water Authority may not permanently alienate any right to any water resource described in paragraph (1) or (2) of subsection (a), except to the local entities as part of the settlement agreement.

(3) APPROVAL OF WATER CONTRACTS BY SECRETARY.—Any sale, lease, or exchange of any water resource shall be made pursuant to a contract entered into by the Indian Water Authority and approved by the Secretary of the Interior as trustee for such Authority.

(c) CONTRACTS RELATING TO POWER.—Subject to the approval of the Secretary of the Interior, the Indian Water Authority may enter into such contracts relating to the power described in section 5(b)(1) only as are necessary to provide for the pumping and delivery of 22,700 acre-feet of firm project water described in section 5(a)(1).

SEC. 8. SECRETARY OF THE INTERIOR'S EXCLUSIVE AUTHORITY OVER GOVERNMENT AND INDIAN LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior is exclusively authorized, subject to subsection (b), to lease, grant rights-of-way across, or transfer title to any Indian tribal or allotted land or any land subject to the authority of such Secretary which is used, or may be useful, in connection with the operation, maintenance, repair, and replacement of the system used to divert, convey, and store the waters of the San Luis Rey River for the local entities, together with all appurtenant facilities, including the Rincon and Bear Valley powerplants.

(b) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary of the Interior under subsection (a) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary of the Interior under subsection (a) shall be entitled to receive just compensation from the Indian Water Authority or the local entities.

SEC. 9. RULES OF CONSTRUCTION.

(a) RESERVED WATER RIGHTS.—No provision of this Act shall be construed as altering or affecting the determination of the following questions of law:

(1) Whether reserved water may be put to use, or sold for use, off of any Reservation to which reserved water rights may attach other than the Reservations established for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians.

(2) Whether reserved water may be put to use, or sold for use, off the La Jolla, Rincon, San Pasqual, Pauma, and Pala Indian Reservations in the absence of this Act.

(b) LIMITATION ON SALES OR DISPOSITIONS OF POWER.—No provision of this Act shall be construed as authorizing the Indian Water Authority to sell electric power to any retail customer or to dispose of any electric power provided pursuant to this Act separately from the water described in section 5(a)(1).

(c) EMINENT DOMAIN.—No provision of this Act shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(d) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this Act shall be construed as creating any implication with respect to the status or authority the Indian Water Authority would have under any other law or rule of law in the absence of this Act or if section 6 does not take effect.

SEC. 10. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this Act provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Mr. CRANSTON. Mr. President, I am pleased to join my colleague from California [Mr. WILSON], in sponsoring legislation to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County. The bill is a companion to H.R. 4468 introduced in the House by Congressman RON PACKARD and others.

By way of background, around the turn of the century the United States set aside Indian reservations in the San Luis Rey River Valley for five bands of Mission Indians—the La Jolla, Rincon, San Pasqual, Pauma, and Pala. At the same time, the predecessor of Escondido was busy appropriating water in the area under State law and building the Escondido Canal to convey the water to Lake Wohlford for storage.

Thirty years later, in the 1920's, Vista's predecessor purchased the 42,000-acre Warner Ranch and built a

dam on its western boundary, thereby controlling the headwaters of the San Luis Rey River. Then Escondido and Vista combined their resources and since 1922 have controlled and diverted nearly 90 percent of the San Luis Rey River water which originates above the intake to the Escondido Canal, which is located on the La Jolla Indian Reservation upsteam from the four other Indian reservations.

The Federal Government was directly involved in these developments. Acting for the United States on behalf of the Indians, the Secretary of the Interior between 1892 and 1924 granted Federal licenses and permits and entered into a series of contracts with the predecessors of Escondido and Vista to protect their water rights and the rights-of-way for the Escondido Canal.

All parties abided by these various licenses, permits, and contracts until 1969 when the Indians filed suit in Federal District Court seeking to have all the contracts and permits declared void, to have their water rights adjudicated, and to recover substantial damages from Escondido and Vista. Escondido and Vista dispute the Indians' claims and also contend that the Federal Government should be held responsibile for any losses they may sustain in the litigation because they relied upon the actions of the Federal Government when they invested millions of dollars in constructing and maintaining water systems.

After 17 years, the water rights suit still has not gone to trial. The trial, scheduled to begin in November 1985, was postponed to enable the parties to the litigation to concentrate their efforts on enactment of this legislation which they all support.

The legislation is premised on the belief that the Indian water rights dispute should be resolved in manner that is least disruptive to existing non-Indian uses of the San Luis Rey River water and that the settlement should enable the Indians to develop viable economically self-sufficient communities.

The settlement consists of two basic parts: First, division of the local water and the costs associated with its development and distribution among the Indians, Escondido, and Vista; and second, purchase by the Indians and delivery to their reservations of Central Valley project [CVP] water.

In detail, the settlement provides that instead of the historical 90-10 split between Escondido and Vista on the one hand and the bands on the other, the parties will divide the local water 50-50. To accomplish this end, Escondido and Vista have agreed to share with the bands use of the existing facilities. They also have agreed to purchase from the bands any water the bands do not use on reservation for 90 percent of the cost of obtaining water from their alternative source—MWD and SDCWA—for the first 7,000 acre-feet per year and 80 percent of that cost for the remainder. To assure the bands a reliable supply of water even in the most severe drought conditions, Escondido and Vista have agreed to guarantee the Indians a minimum of 7,000 acre-feet of local water for on reservation use. Escondido and Vista would continue to bear all costs of operating, maintaining, or replacing Henshaw Dam, the Escondido Canal, Wohlford Dam, and Vista would continue to be solely responsible for repaying the $7 million indebtedness it incurred in 1980 in connection with a flow retardation structure in front of Henshaw Dam. The bands would pay all costs of covering or undergrounding Escondido Canal. Finally, the bands, Escondido, and Vista would share the costs of operating, maintaining, replacing and further developing the Warner well field facilities.

Since the 18,000 acre-feet of water produced by the San Luis Rey River system per year is not enough to meet the needs of all five bands and provide sufficient water to justify Escondido and Vista's continued involvement and investment in the river, the settlement provides the bands 22,700 acre-feet of CVP water at a cost of approximately $100 an acre-foot. The water would be delivered through existing State, MWD, and SDCWA facilities and the Indians would pay all of the cost of using these facilities.

In addition, the Federal Government would sell the Indians approximately 72.6 million kWh of electricity required to deliver the water to the reservations, less than 1 percent of the power generated by the CVP, and would be taken at times when generation exceeds the amount needed to satisfy the Federal Government's contract obligations. The bands would pay the operation and maintenance costs, but not the capital costs of the CVP. The Indians could use the CVP water or sell it to others, but the revenues would have to be used for economic development of the reservations and could not be distributed to individuals. The bands agree to sell 6,000 acre-feet per year of the CVP water to Escondido and Vista.

We have included in the bill a provision to ensure that provision of water to the Mission Indians will not result in any added water costs for any CVP customers.

Nonetheless, I am very much aware of and appreciate the concerns about the sale of water outside CVP service area.

There is presently 1.1 million acre-feet of uncontracted Central Valley project yield, but an even greater demand for water within the CVP service area. For example, with a 1.5 million acre-feet average annual ground water overdraft in five San Joaquin Valley counties, the Bureau of Reclamation is studying the feasibility of and the Mid Valley Water Authority is seeking authorization for the Mid Valley Canal to correct the overdraft problem and provide some 500,000 acre-feet of water to the area. This is a critical project, one I support. And there are other legitimate water needs within the CVP service area.

As a possible solution, I'm prepared to offer an amendment to the San Luis Rey Indian water rights settlement bill to provide for the conservation of 23,000 acre-feet of water in the CVP service area over the next 20 years to compensate for the 23,000 acre-feet provided the Mission Indians. Such a water conservation effort paid for by the Federal Government should help mitigate any impact the bill might have on potential CVP water contractors.

Of course none of these San Joaquin Valley needs can be met—or the proposed settlement of the San Luis Rey Indian water rights dispute implemented—until Congress gives final approval to legislation to authorize the coordinated operation agreement [COA] between the Secretary of the Interior and the State of California which allows each to use the other's facilities. Enactment of the COA bill, H.R. 3113, is my first, and top priority.

Nonetheless, I am joining with Senator WILSON today in introducing this legislation so that Congress can consider the San Luis Rey River water rights settlement proposal this year. I believe that hearings should be held on the bill so that all interested parties will have the opportunity to air their concerns and the parties to the settlement will know whether the proposal is viable.

A negotiated settlement is far preferable to the litigation that is likely to continue for years otherwise. Under this proposed settlement, the dispute can be resolved sooner, in a manner that fulfills the Federal Government's trust responsibility to the bands, and at a small cost to the Federal Government, both in absolute terms and in comparison to the costs of other recent Indian water rights settlements.

Mr. President, I want to stress that the parties to the San Luis Rey water rights dispute—Escondido, Vista, and the five bands of Mission Indians—support this proposed settlement. Additionally, the settlement concept has been developed in close consultation with Department of the Interior officials.

By Mr. GORE:

S. 2677. A bill to encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of in-

formation concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE QUALITY IMPROVEMENT ACT

● Mr. GORE. Mr. President, today I am introducing legislation to address the vast problem of medical malpractice in this country.

Medical malpractice poses a serious threat to America's health care system. Too many malpractice suits are filed, malpractice premiums are too expensive, and too much malpractice goes on, placing too many lives in danger. Unless we act quickly to defuse the crisis, our right to affordable, high quality health care will suffer.

The malpractice crisis has escalated throughout this past decade. The average award in a malpractice suit has reached $100,000 and often exceeds $1 million. Meanwhile, the skyrocketing cost of malpractice insurance has led many doctors to quit the business, and made health care more expensive for everybody.

Each side tries to blame the problem on somebody else, but little has been done about it. My bill gives Congress an opportunity to bring the crisis under control.

In the long run, doctors themselves are in the best position to put an end to malpractice. As some of the most highly trained individuals in our society, physicians are ideally qualified to hold their profession to the highest standard.

But doctors and other health care personnel will never be able to police their own ranks until Federal laws are changed to protect peer review. Under current law, a doctor who testifies against a colleague can be sued for slander or restraint of trade. Physicians at a clinic in Oregon were ordered to pay $2 million in damages for revoking the privileges of a colleague they deemed incompetent.

In health care, as in every aspect of our society, the only way to assure quality is to reward whistleblowers, not punish them. The Health Care Quality Improvement Act would encourage and protect peer review done on a reasonable basis. Doctors and hospitals would be encouraged to take part in conscientious peer review without the fear of retribution.

My bill would also help out consumers by setting up a data bank to store doctors' malpractice records. The data bank would give hospitals information on a confidential basis about doctors who apply to practice on their staffs. In the past, some incompetent doctors have been able to hide a history of malpractice by moving from one State to the next. The quality improvement bill would rein in these renegades, and protect hospitals from potential liability for hiring them.

The medical profession is as eager to get rid of bad doctors as we are. Malpractice costs our society too much—in premiums, in the price of health care, and above all, in the needless harm to human life.

Mr. President, I want to make absolutely clear that this bill alone will not solve the problem. But, it does deal with one small piece of the problem that needs to be solved. And I believe it is an important step that will prove invaluable as we continue to tackle the tougher tort issues that remain. It's one way for Congress to make sure all Americans have access to quality health care at a price they can afford.

A similar bill has been introduced in the House by Congressman WYDEN, WAXMAN, MADIGAN, and TAUKE. It has been endorsed by numerous groups including: the American Academy of Opthamology, the American Association of Retired Persons, the American College of Physicians, the American College of Obstetricians and Gynecologists, the American Hospital Association, the Washington Business Group on Health, and the inspector general of the Department of Health and Human Services.

This bill differs from the House bill only slightly. The changes have been made in an effort to respond to concerns expressed by the American Nurses Association and several consumer advocacy groups. Some additional fine tuning may still be required. But I am confident these concerns can be worked out and that this much needed bill can be enacted this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Quality Improvement Act of 1986".

TITLE I—PROMOTION OF GOOD FAITH PROFESSIONAL REVIEW ACTIVITIES

SEC. 101. GOOD FAITH PROFESSIONAL REVIEW ACTIVITIES.

(a) IN GENERAL.—If a professional review action (as defined in section 301(10)) of a professional review body meets the standards specified in section 102(a), except as provided in subsection (b)—

(1) the professional review body,

(2) any person acting as a member or staff to the body,

(3) any person under a contract or other formal agreement with the body,

(4) any person who participates with or assists the body with respect to the action, and

(5) any person who, without knowledge of the falsity of the information provided, provides information to the body with respect to the action,

shall not be liable for damages.

(b) EXCEPTION.—If the Secretary has reason to believe that a health care entity has failed to report information in accordance with section 203(a), the Secretary shall conduct an investigation. If, after providing notice of noncompliance, an opportunity to correct the noncompliance, and an opportunity for a hearing, the Secretary determines that a health care entity has failed substantially to report information in accordance with section 203(a), the Secretary shall suspend or disqualify the entity from the protections provided under subsection (a). Such suspension or disqualification shall be effective with respect to actions commenced on or after the date of such suspension or disqualification for a period of not longer than 3 years.

(c) TREATMENT UNDER STATE LAWS.—

(1) PROFESSIONAL REVIEW ACTIONS TAKEN ON OR AFTER JULY 1, 1989.—Except as provided in paragraph (2), subsection (a) shall apply to State laws in a State only for professional review actions occurring on or after July 1, 1989.

(2) EXCEPTIONS.—

(A) STATE EARLY OPT-IN.—Subsection (a) shall apply to State laws in a State for actions occurring before July 1, 1989, if the State by legislation elects such treatment.

(B) STATE OPT-OUT.—Subsection (a) shall not apply to State laws in a State for actions occurring on or after July 1, 1989, if the State by legislation elects such treatment.

(C) EFFECTIVE DATE OF ELECTION.—An election under State law is not effective, for purposes of subparagraphs (A) and (B), for actions occurring before the effective date of the law, which may not be earlier than the date of the enactment of that law.

SEC. 102. STANDARDS FOR A PROFESSIONAL REVIEW BODY.

(a) IN GENERAL.—The standards of this subsection, with respect to a professional review action, are that the action is taken—

(1) in reasonable belief in the furtherance of quality health care,

(2) after a reasonable effort to obtain the facts of the matter,

(3) after adequate due process to the physician or other licensed health care practitioner involved, and

(4) in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after the due process described in paragraph (3).

A professional review action is presumed to have been taken in reasonable belief in the furtherance of quality health care unless it is shown, by clear and convincing evidence, to the contrary.

(b) ADEQUATE DUE PROCESS PROCEDURES.—A health care entity is deemed to have met the requirement of subsection (a)(3) with respect to a physician or practitioner if the following conditions are met (or are waived voluntarily by the physician or practitioner).

(1) NOTICE OF PROPOSED ACTION.—The physician or practitioner has been given notice stating—

(A)(i) that a professional review action has been proposed to be considered against the physician or practitioner,

(ii) reasons for the proposed action,

(B)(i) that the physician or practitioner has the right to request a hearing on the proposed action,

(ii) any time limit (of not less than 10 days) within which to request such a hearing, and

(C) a summary of the rights in the hearing under paragraph (3).

(2) NOTICE OF HEARING.—If a hearing is requested on a timely basis under paragraph (1)(B), the physician or practitioner involved must be given notice stating—

(A) the place, time, and date, of the hearing, which date shall not be less than 10 days after the date of the notice, and

(B) a list of the witnesses (if any) expected to testify at the hearing on behalf of the professional review body.

(3) CONDUCT OF HEARING.—If a hearing is requested on a timely basis under paragraph (1)(B)—

(A) subject to subparagraph (B), the hearing shall be held (as determined by the health care entity)—

(i) before an arbitrator mutually acceptable to the physician or practitioner and the health care entity,

(ii) before a hearing officer who is appointed by the entity and who is not in direct economic competition with the physician or practitioner involved, or

(iii) before a panel of individuals who are appointed by the entity and are not in direct economic competition with the physician or practitioner involved;

(B) the right to the hearing may be forfeited if the physician or practitioner fails, without good cause, to appear; and

(C) in the hearing the physician or practitioner involved has the right—

(i) to representation by an attorney or other person of the physician's or practitioner's choice,

(ii) to have a record made of the proceedings, copies of which may be obtained by the physician or practitioner upon payment of any reasonable charges associated with the preparation thereof,

(iii) to call, examine, and cross-examine witnesses,

(iv) to present relevant evidence regardless of its admissibility in a court of law,

(v) to submit a written statement at the close of the hearing,

(vi) to receive the written recommendation of the arbitrator, officer, or panel, including a statement of the basis for the recommendations, and

(vii) to receive a written decision of the health care entity, including a statement of the basis for the decision.

(c) DUE PROCESS IN INVESTIGATIONS OR HEALTH EMERGENCIES.—Nothing in this section shall be construed as—

(1) requiring the due process procedures described in subsection (b) in the case of a suspension or restriction of clinical privileges, for a period of not longer than 14 days, during which an investigation is being conducted to determine the need for a professional review action or

(2) precluding an immediate suspension or restriction of clinical privileges, subject to subsequent due process procedures, where the failure to take such an action may result in an imminent danger to the health of any individual.

SEC. 103. PAYMENT OF REASONABLE ATTORNEYS' FEES AND COSTS IN DEFENSE OF SUIT.

In any suit brought against a defendant, to the extent that section 101 applies with respect to the defendant and the defendant substantially prevails, the defendant shall be entitled to recover from the plaintiff reasonable attorneys' fees plus costs in defense of the suit.

SEC. 104. GUIDELINES OF THE SECRETARY.

The Secretary may establish, after notice and opportunity for comment, such voluntary guidelines as may assist the professional review bodies in meeting the standards described in section 102(a).

SEC. 105. SCOPE OF CLINICAL PRIVILEGES.

Nothing in this title shall be construed as requiring health care entities to provide clinical privileges to any or all classes or types of physicians or other licensed health care practitioners.

TITLE II—REPORTING OF INFORMATION

SEC. 201. REQUIRING REPORTS ON MEDICAL MALPRACTICE PAYMENTS.

(a) IN GENERAL.—Each entity (including an insurance company) which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report, in accordance with section 204, information respecting the payment and circumstances thereof. Such information shall include—

(1) the name of any physician or other health care provider for whose benefit the payment is made,

(2) the amount of the payment,

(3) the name (if known) of any hospital with which the physician or other health care provider is affiliated or associated,

(4) a description of the acts or omissions and injuries or illnesses upon which the action or claim was based, and

(5) such other information as the Secretary determines is required for appropriate interpretation of information reported under this section.

(b) SANCTIONS FOR FAILURE TO REPORT.—Any entity that fails to report information on a payment required to be reported under this section shall be subject to a civil money penalty of not more than $10,000 for each such payment involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected under that section.

(c) REPORT ON TREATMENT OF SMALL PAYMENTS.—The Secretary shall study and report to Congress, not later than two years after the date of the enactment of this Act, on whether information respecting small payments should continue to be required to be reported under subsection (a).

SEC. 202. REPORTING OF SANCTIONS TAKEN BY BOARDS OF MEDICAL EXAMINERS.

(a) IN GENERAL.—Each Board of Medical Examiners which revokes or suspends (or otherwise restricts) a physician's license for reasons relating to the physician's professional competence or professional conduct shall report, in accordance with section 204—

(1) the name of the physician involved,

(2) a description of the acts or omissions or other reasons for the revocation or suspension, and

(3) such other information respecting the circumstances of the action as the Secretary deems appropriate.

(b) FAILURE TO REPORT.—If, after notice of noncompliance and providing opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (a), the Secretary shall designate another qualified entity for the reporting of information under section 203.

SEC. 203. REPORTING OF CERTAIN PROFESSIONAL REVIEW ACTIONS TAKEN BY HEALTH CARE ENTITIES.

(a) REPORTING BY HEALTH CARE ENTITIES.—Each health care entity which takes a professional review action that restricts the clinical privileges of a physician or other licensed health care practitioner for a period longer than 30 days shall report to the Board of Medical Examiners, in accordance with section 204(a)—

(1) the name of the physician or practitioner involved,

(2) a description of the acts or omissions or other reasons for the action, and

(3) such other information respecting the circumstances of the action as the Secretary deems appropriate.

(b) REPORTING BY BOARD OF MEDICAL EXAMINERS.—Each Board of Medical Examiners shall report, in accordance with section 204, the information reported to it under subsection (a) and known instances of a health care entity's failure to report information under subsection (a).

(c) SANCTIONS.—

(1) HEALTH CARE ENTITIES.—A health care entity that fails substantially to meet the requirement of subsection (a) shall be suspended, pursuant to section 101(b), from the protections of section 101(a).

(2) BOARD OF MEDICAL EXAMINERS.—If, after notice of noncompliance and providing an opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (b), the Secretary shall designate another qualified entity for the reporting of information under section 203.

(d) REFERENCES TO BOARD OF MEDICAL EXAMINERS.—Any reference in this title to a Board of Medical Examiners includes, in the case of a Board in a State that fails to meet the reporting requirements of section 202(a) or subsection (b), a reference to such other qualified entity as the Secretary designates.

SEC. 204. FORM OF REPORTING.

(a) TIMING AND FORM.—The information required to be reported under sections 201, 202(a), and 203 shall be reported regularly (but not less often than semiannually) and in such form and manner as the Secretary prescribes.

(b) TO WHOM REPORTED.—The information required to be reported under sections 201, 202(a), and 203(b) shall be reported to the Secretary, or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of the information under this title.

(c) REPORTING TO STATE LICENSING BOARDS.—(1) Information required to be reported under section 201 shall also be reported to the appropriate State licensing board (or boards) in the State in which the medical malpractice claim arose.

(2) Information required to be reported under section 203(b) shall also be reported to the appropriate State licensing board in the State in which the health care entity is located if it is not otherwise reported to such board under sub-section (b).

SEC. 205. DUTY OF HOSPITALS TO OBTAIN INFORMATION.

(a) IN GENERAL.—It is the duty of each hospital to request from the Secretary (or the agency designated under section 204(b))—

(1) at the time a physician or licensed health care practitioner applies to be on the medical staff (courtesy or otherwise) of, or for clinical privileges at, the hospital, information reported under this title concerning the physician or practitioner, and

(2) once each year information reported under this title concerning any physician or such practitioner who is on the medical staff (courtesy or otherwise) of the hospital.

(b) FAILURE TO OBTAIN INFORMATION.—With respect to a medical malpractice action, a hospital which does not request information respecting a physician or practitioner under subsection (a) is presumed to have knowledge of any information reported under this title to the Secretary with respect to the physician or practitioner.

(c) RELIANCE ON INFORMATION PROVIDED.—Each hospital may rely upon information provided to the hospital under this section and shall not be held liable for such reliance in the absence of evidence that the information provided was false.

SEC. 206. DISCLOSURE AND CORRECTION OF INFORMATION.

With respect to the information reported to the Secretary (or the agency designated under section 204(b)) under this title respecting a physician or other licensed health care practitioner, the Secretary shall, by regulation, provide for—

(1) disclosure of the information, upon request, to the physician or practitioner, and

(2) procedures in the case of disputed accuracy of the information.

SEC. 207. MISCELLANEOUS PROVISIONS.

(a) PROVIDING LICENSING BOARDS AND OTHER HEALTH CARE ENTITIES WITH ACCESS TO INFORMATION.—The Secretary (or the agency designated under section 204(b)) shall, upon request, provide information reported under this title with respect to a physician or other licensed health care practitioner to State licensing boards, to hospitals under section 205, and to other health care entities (including health maintenance organizations) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.

(b) CONFIDENTIALITY OF INFORMATION.—(1) Information reported under this title is considered confidential and shall not be disclosed (other than to the physician or practitioner involved) except with respect to professional review activity, with respect to medical malpractice actions, or in accordance with regulations of the Secretary and subsection (a).

(2) Any person who violates paragraph (1) shall be subject to a civil money penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected under that section.

(3) Information provided under section 205 and subsection (a) is intended to be used solely with respect to activities in the furtherance of the quality of health care.

(c) RELIEF FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made under this title without knowledge of the falsity of the information contained in the report.

(d) INTERPRETATION OF INFORMATION.—In interpreting information reported under this title, a payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice occurred.

TITLE III—DEFINITIONS

SEC. 301. DEFINITIONS.

In this Act:

(1) The term "adversely affecting" includes reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges or membership in a health care entity.

(2) The term "Board of Medical Examiners" includes a body comparable to such a Board (as determined by the State) with responsibility for the licensing of physicians and also includes a subdivision of such a Board or body.

(3) The term "clinical privileges" includes privileges and the other circumstances pertaining to the furnishing of medical care under which a physician or other licensed health care practitioner is permitted to furnish such care by a health care entity.

(4) The term "health care entity" means—

(A) a hospital that is licensed to provide health care services by the State in which it is located,

(B) an entity (including a health maintenance organization or group medical practice) that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care (as determined by the Secretary), and

(C) national medical specialty groups (or committee thereof) of physicians or other licensed health care practitioners that follows a formal peer review process for the purpose of furthering quality health care (as determined by the Secretary).

(5) The term "health care provider" means a provider of services (as defined in section 1861(u) of the Social Security Act), a physician, or other provider of health care services licensed as such by a State.

(6) The term "hospital" means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

(7) The terms "licensed health care practitioner" and "practitioner" mean, with respect to a State, an individual who is licensed by the State as a doctor of dental surgery or of dental medicine, a doctor of podiatric medicine, a nurse midwife, a physician assistant, or a nurse practitioner.

(8) The term "medical malpractice action or claim" means a written claim or demand for payment based on a health care provider's furnishing (or failure to furnish) health care services, and includes the filing of a cause of action, based on the law of tort, brought in any court of any State or the United States seeking monetary damages.

(9) The term "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by a State.

(10) The term "professional review action" means an action or recommendation of a professional review body which is based on the competence or professional conduct of an individual physician or practitioner and which affects (or may affect) adversely the clinical privileges, or membership in a professional society, of the physician or practitioner.

(11) The term "professional review activity" means an activity of a health care entity with respect to an individual physician or practitioner—

(A) to determine whether the physician or practitioner may have clinical privileges with respect to, or membership in, the entity,

(B) to determine the scope and conditions of such privileges or membership, or

(C) to change or modify such privileges or membership.

(12) The term "professional review body" means a health care entity and the governing body or any committee of a health care entity when conducting professional review activity, and includes any committee of the medical staff of such an entity when assisting the governing body in a professional review activity.

(13) The term "Secretary" means the Secretary of Health and Human Services.

(14) The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(15) The term "State licensing board" means, with respect to a physician or health care provider in a State, the agency of the State which is primarily responsible for the licensing of the physician or provider to furnish health care services.●

By Mr. BIDEN (for himself, Mr. LEAHY, Mr. DECONCINI, Mr. CHILES, Mr. NUNN, and Mr. MOYNIHAN):

S.J. Res. 376. Joint resolution providing for a White House Conference on Narcotics Abuse and Control; to the Committee on the Judiciary.

WHITE HOUSE CONFERENCE ON NARCOTICS ABUSE AND CONTROL

● Mr. BIDEN. Mr. President, today I am introducing a joint resolution calling on the President of the United States to convene a White House Conference on Narcotics Abuse and Control. This joint resolution was introduced in the House of Representatives by House Judiciary Committee Chairman PETER RODINO, and is cosponsored by the House Select Committee on Narcotics Chairman CHARLES RANGEL and Congressmen GUARINI, HUGHES, and GILMAN. This proposal has considerable merit and has the potential of making a significant contribution to this country's drug control efforts.

This joint resolution calls on the President to convene the Conference because only the President can focus national attention on this issue, and, in turn, to commit the resources necessary to reduce drug abuse in America. Moreover, this resolution requires the Conference to be composed of experts and officials from all levels of government and academia, including the Governors of States, the mayors of major cities, Members of Congress, and individuals distinguished in medicine, law, sociology, education, and law enforcement. Such representation is essential if we are to develop a coordinated and comprehensive drug control strategy for our Nation.

Additionally, this legislation calls on the President to convene the Conference within 6 months of its enactment into law, with a final report to be submitted to Congress and the President 6 months thereafter. This legislation also recognizes that any solution to the drug problem must be long term. Accordingly, the joint resolution calls on the President to issue a report 3 years from the date of enactment, to assess the implementation of the Conference's recommendations.

Drug abuse in the United States has reached epidemic proportions. Unfortunately, the figures are all too well known to my colleagues. The President's Commission on Organized Crime has estimated that there are 500,000 heroin addicts, 4 million regular cocaine users, and 20 million regular users of marijuana in this country. Moreover, the existing efforts to stem the flow of drugs into this country have largely failed. The price of cocaine has actually fallen in the last 2 years, while purity and supply have increased. Drug trafficking is also inextricably linked with crime in America, and the $110 billion generated each year from narcotics trafficking flows directly to the very criminals who prey on society's demand for illicit drugs.

The price that society pays, however, cannot be measured in terms of dollars alone. Rather, the price that this Nation pays for our insatiable demand for drugs must be measured in terms of unrealized dreams, broken families, and lives lost.

Solutions to the drug epidemic require a well-coordinated, long-term strategy that emphasize national and international control efforts, supply and demand reduction, rigorous law enforcement, treatment and prevention programs, cooperation between the Federal and State and local governments, and a committed response from both the public and private sectors.

In closing, I would like to commend House Judiciary Chairman RODINO for originally developing and introducing this resolution in the House of Representatives. The White House Conference on Narcotics Abuse and Control could be the essential first step in a long-term, comprehensive strategy that this Nation must pursue if we are to rid our society of the scourge of drug abuse. I urge my colleagues to support this joint resolution.●

ADDITIONAL COSPONSORS

S. 673

At the request of Mr. HEFLIN, the names of the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 673, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

S. 945

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 945, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 1026

At the request of Mr. BENTSEN, his name was added as a cosponsor of S. 1026 a bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 1736

At the request of Mr. PRESSLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1736, a bill to amend the Public Health Service Act to provide assistance for education, research, and treatment programs for Alzheimer's disease and related disorders, and for other purposes.

S. 1810

At the request of Mr. SYMMS, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1810, a bill to require U.S. representatives to international financial institutions to oppose assistance by such institutions for the production of agricultural commodities in competition with U.S. produced agricultural commodities, and for other purposes.

S. 2190

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2190, a bill to provide that the full cost-of-living adjustment in benefits payable under certain Federal programs shall be made for 1987.

S. 2209

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2301

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2301, a bill to reform procedures for collateral review of criminal judgments, and for other purposes.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and post-hospital services furnished under the Medicare Program, and for other purposes.

S. 2332

At the request of Mr. BOREN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2332, a bill to provide credit assistance to borrowers of loans made by commercial lending institutions, Farm Credit System institutions, and the Farmers Home Administration, and for other purposes.

S. 2359

At the request of Mr. PRESSLER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2359, a bill to amend title 38, United States Code, to establish a Veterans' Administration Readjustment Counseling Professional Fellowship Program.

S. 2453

At the request of Mr. COHEN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Nebraska [Mr. EXON], the Senator from Missouri [Mr. DANFORTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2453, a bill to enhance the capabilities of the United States to combat terrorism and other forms of unconventional warfare.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2479

At the request of Mr. TRIBLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2496

At the request of Mr. WALLOP, the names of the Senator from Kansas [Mr. DOLE], the Senator from Alabama [Mr. HEFLIN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 2496, a bill to authorize the President to award congressional gold medals to Dr. Andrei Sakharov and Dr. Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace.

S. 2498

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2498, a bill to prohibit loans to, other investments in, and certain other activities with respect to South Africa, and for other purposes.

S. 2539

At the request of Mr. WARNER, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. GORTON], and the Senator from Pennsylvania [Mr. HEINZ] was added as cosponsors of S. 2539, a bill to consolidate and improve

provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and citizens of the United States who reside overseas.

S. 2570

At the request of Mr. KENNEDY, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 2570, a bill entitled the Anti-Apartheid Action Act of 1986.

S. 2654

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2654, a bill to permit States and political subdivisions of States to enforce State or local antiapartheid laws with respect to contracts funded in whole or in part by funds provided by the Federal Government.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 367

At the request of Mr. HEINZ, the names of the Senator from Kansas [Mr. DOLE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Arkansas [Mr. PRYOR], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 367, a joint resolution to designate July 31, 1986, as "National Kidney Program Day."

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. CRANSTON, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from Maine [Mr. MITCHELL], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Concurrent Resolution 147, a concurrent resolution to express the sense of the Congress that the monkeys known as the Silver Spring monkeys should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., animal sanctuary in San Antonio, TX.

SENATE RESOLUTION 420

At the request of Mr. CHILES, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Resolution 420, a resolution to express the sense of the Senate regarding prompt payment of Medicare claims.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Wisconsin [Mr. KASTEN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Resolution 424, a resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 1823

At the request of Mrs. KASSEBAUM, the names of the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of Amendment No. 1823 intended to be proposed to S. 100, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

AMENDMENT NO. 2217

At the request of Mr. FORD, the names of the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Amendment No. 2217 proposed to S. 2247, a bill to amend and extend the Export-Import Bank Act of 1945, and to eliminate foreign predatory export practices.

SENATE RESOLUTION 450—AUTHORIZING A STUDY ON THE ESTABLISHMENT OF AN INDEPENDENT AIR SAFETY ENFORCEMENT AGENCY

Mr. GORE submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 450

Resolved, That the Committee on Governmental Affairs, or any authorized subcommittee thereof, is authorized and directed to study the advisability and feasibility of establishing, as an independent agency of the United States, an agency charged with the responsibility for enforcement of air safety in the field of aviation.

Sec. 2. The Committee shall report to the Senate at the earliest practicable date the results of its study, together with such recommendations as it considers appropriate.

AMENDMENTS SUBMITTED

EXPORT-IMPORT BANK ACT AMENDMENTS

FORD (AND OTHERS) AMENDMENT NO. 2217

Mr. FORD (for himself, Mr. EXON, Mr. GRASSLEY, Mr. ZORINSKY, Mr. NICKLES, and Mr. BOREN) proposed an amendment, which was subsequently modified, to the bill (S. 2247) to amend and extend the Export-Import Bank Act of 1945, and to eliminate foreign predatory export practices; as follows:

On page 13, line 10, after the period, add the following: "Notwithstanding any other provision of law, of the funds appropriated pursuant to this paragraph, 4.3 percent shall be made available to the Secretary of Agriculture to carry out price support programs administered by the Secretary at levels up to those provided for in the Ford Security Act of 1985 (P.L. 99-198).".

JOHNSTON (AND OTHERS) AMENDMENT NO. 2218

Mr. JOHNSTON (for himself, Mr. BENTSEN, Mr. GORE, Mr. LONG, Mr. NICKLES, Mr. BINGAMAN, Mr. STEVENS, Mr. MURKOWSKI, and Mr. BOREN) proposed an amendment to the bill S. 2247, supra; as follows:

On page 16, after line 21, add the following:

SEC. . (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm of subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed for refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration of oil or natural gas,

"(ii) produces or extracts oil or natural gas.

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(c)(1) The amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and

(B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

NICKLES (AND OTHERS) AMENDMENT NO. 2219

Mr. NICKLES (for himself, Mr. SYMMS, Mr. GRASSLEY, Mr. ABDNOR, Mr. DOMENICI, Mr. HELMS, Mr. MCCLURE, Mr. LAXALT, Mr. PRESSLER, Mr. D'AMATO, Mr. BOREN, Mr. BENTSEN, and Mr. SIMPSON) proposed an amendment to the bill S. 2247, supra; as follows:

At the appropriate place in the bill, insert the following new section:

OPPOSITION TO MULTILATERAL ASSISTANCE FOR FOREIGN SURPLUS COMMODITIES AND MINERALS

SEC. . (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

(b)(1) The amount of payments which the United States may make to the paid-in capital of an international financial institution described in subsection (b) during any capital expansion or replenishment of such institution may not exceed the amount of funds which the United States agreed to pay for paid-in capital under such expansion or replenishment minus an amount which bears the same proportion to the aggregate amount of assistance described in paragraph (2) furnished by such institution as the United States share of the expansion or replenishment bears to the total amount of the expansion or replenishment.

(2)(A) The aggregate amount of assistance referred to in paragraph (1) is the amount of assistance furnished by an international financial institution to all countries during the period described in subparagraph (B)—

(i) to support the production or extraction of any commodity or mineral for export, if—

(I) such commodity or mineral as the case may be, is in surplus or world markets; and

(II) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral; and

(ii) to subsidize (other than under clause (i)) the exports of commodities and minerals from such countries.

(B) The period referred to in subparagraph (A) is the same number of years as the capital expansion or replenishment period, which immediately preceded the first year of the expansion or replenishment period.

(3) For purposes of paragraph (2)(A)(ii), the term "subsidize" is used within the meaning of the Agreement on Interpretation and Application of Articles V, XVI, and XXIII of the General Agreement on Tariffs and Trade and the annex relating thereto, done at Geneva on April 12, 1979.

(4) Any funds withheld from payment to an international financial institution pursuant to this section shall be used to reduce the public debt in the manner specified in section 3113 of title 31, United States Code.

DECONCINI AMENDMENT NO. 2220

Mr. DECONCINI proposed an amendment to the bill S. 2247, supra; as follows:

On page 16, after line 21, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

POLICY TOWARD UNITED STATES BUSINESS TRANSACTIONS IN ANGOLA

SEC. 301. (a) The Congress finds that—

(1) the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") has failed to hold fair and free elections since assuming power in Angola in 1975;

(2) Angola currently harbors more than 35,000 Soviet and Cuban troops and advisers;

(3) the Cubans and Soviets have channeled more than $4 billion in assistance and military aid in furtherance of this intervention in Africa;

(4) the MPLA government of Angola obtains more than 90 percent of its foreign exchange from the extraction and production of oil;

(5) most of Angola's oil is extracted in Cabinda Province, where 75 percent of it is extracted by the Chevron-Gulf Oil Company;

(6) the MPLA has refused to take meaningful steps to end its dependency on Soviet and Cuban forces, engage in national reconciliation efforts within Angola, or encourage the independence of Namibia;

(7) United States business interests are in direct conflict with United States foreign policy objectives in aiding the MPLA government of Angola, which directly opposes Jonas Savimbi and UNITA, recipients of United States support; and

(8) imposition of severe economic sanctions will encourage the MPLA to promote a fair political solution and negotiate with the United States toward a peaceful settlement.

(b)(1) It is the sense of the Congress that the interests of the United States are best served when United States business transactions conducted in Angola do not directly or indirectly support Cuban troops and Soviet advisers.

(2) The Congress hereby requests that the President use his special authorities under the International Emergency Economic Powers Act to block United States business transactions which conflict with United States security interests in Angola.

SYMMS (AND OTHERS) AMENDMENT NO. 2221

Mr. SYMMS (for himself, Mr. HELMS, and Mr. SIMPSON) proposed an amendment to the bill S. 2247, supra; as follows:

At the appropriate place, insert the following:

FERTILIZER PRODUCTION

SEC. . Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(H) The Bank may not approve any request for financial assistance that would benefit any foreign fertilizer entity that is State controlled or State owned.".

DOLE (AND OTHERS) AMENDMENT NO. 2222

Mr. DOLE (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. GRASSLEY, Mr. NICKLES, Mr. PACKWOOD, Mr. ZORINSKY, Mr. DANFORTH, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. DIXON, Mr. PRESSLER, Mr. EXON, Mr. MELCHER, Mr. PRYOR, Mr. BOREN, Mr. BURDICK, and Mr. BENTSEN) proposed an amendment to the bill S. 2247, supra; as follows:

At the end of the bill, add the following new section:

AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

SEC. . Section 1127(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)(2)) is amended, effective for the fiscal year ending September 30, 1986, only, by inserting after "interested foreign purchasers" the following: "and permit the participation of all foreign purchasers who have traditionally purchased United States agricultural commodities and the products thereof and who maintain trade relations with the United States".

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on Wednesday, July 23, at 9:30 a.m., in SD-342 on legislative responses to Bowsher versus Synar.

For further information, please contact Bob Gilmour at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on Thursday, July 24, at 9:30 a.m., in SR-301 on the nomination of John Suda to be an Associate Judge of the D.C. Superior Court.

For further information, please contact Eileen Mayer at 224-4161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. GARN. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Tuesday, July 22, 1986, in order to hold a markup, in executive session on the reconciliation instructions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

Mr. GARN. Mr. President. I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation, and Government Processes, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 22, 1986, in order to conduct a hearing on International Atomic Energy Agency, and Nuclear Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 22, to hold a hearing on medical malpractice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. GARN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 22, to hold a hearing on S. 230, for the relief of the city of Dickinson, ND; S. 252, to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota; and S. 1704, to authorize an increase in the appropriation ceiling for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska; and H.R. 5028, the "Lower Colorado Water Supply Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, July 22, 1986, in order to mark up S. 2405, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, July 22, to conduct a hearing on the nomination of James Burnett, to be Chairman of the National Transportation Safety Board; to be followed immediately with a hearing on the reauthorization of the National Transportation Safety Board, to be held at the Aviation Subcommittee level.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. GARN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, July 22, to conduct a hearing on the report of the National Commission on Space.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. GARN. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Agricultural Policy, of the Committee on Agriculture, be authorized to meet during the session of the Senate on Tuesday, July 22, 1986, in order to conduct a hearing on preparing for the GATT, a review of agriculture trade issues, focusing on agriculture trade barriers around the world.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ROSE SANDERS HONORED BY THE NATIONAL COALITION OF 100 BLACK WOMEN

● Mr. HEFLIN. Mr. President, on June 19, 1986, the National Coalition of 100 Black Women honored a very prominent Selma, AL, attorney in New York City as one of America's outstanding black women. I ask that a copy of a news article which appeared in the Birmingham Post-Herald about Attorney Rose Sanders appear in full in the CONGRESSIONAL RECORD at this time.

The article follows:

ATTORNEY TO RECEIVE AWARD AS OUTSTANDING BLACK WOMAN

[By Tabby Slawson]

Selma attorney Rose Sanders will be honored today in New York City as one of the country's oustanding black women by the National Coalition of 100 Black Women.

Mrs. Sanders, 41, with the law practice of Chestnut, Sanders, Sanders, Turner and Williams, won a Candace Award from the coalition for her achievements in law. The firm has offices in Selma, Birmingham and Marion.

She is among 15 women who will be honored at The Metropolitan Museum of Art's Temple of Dendur today beginning at 8:30 p.m.

Debi Thomas, the first black world champion figure skater and Leah Tutu, wife of Archbishop Desmond Tutu and director of the Domestic Workers and Employees Project in Johannesburg, also will be honored. Mrs. Tutu's daughter, Mpho, will accept the award.

"I do appreciate the recognition, but I don't do things for recognition," Mrs. Sanders said. "If you wait around to be recognized, you don't get anything done."

The coalition described Mrs. Sanders as an attorney, educator, civil rights activist and playwright.

A 1969 graduate of Harvard Law School, she received a Ford Foundation Fellowship to spend a year in Africa in 1970.

She was the first black woman to serve as a judge in Alabama in Uniontown in the early '70s. She also has worked for the NAACP Legal Defense Fund, served as vice president of the board with the Legal Services Corporation of Alabama and is president-elect of the Alabama Lawyers Association.

One of her plays, "Babycakes," was performed in Birmingham in March. She said

she wrote the play out of frustration about the alarming teen pregnancy rates in Alabama. On July 26, "Babycakes II" will debut in Selma, performed by members of the Black Belt Arts and Cultural Center.

"I've always combined my community work with my work with law," said Mrs. Sanders, who handles primarily sex discrimination, property, domestic and personal injury cases. "I believe you have to empower people to know their rights in order for them to complement the legal system, in order to get justice in this country."

She is president of the Selma Chapter of the Coalition of 100 Black Women and the wife of state Sen. Henry Sanders. She has three children and is the daughter of the Rev. and Mrs. D.A. Gaines of Birmingham.

The coalition, begun in 1981, is an active volunteer corps devoted to helping black women in America attain economic and political power. There are 5,000 members in 37 chapters in 16 states.

Baileys Original Irish Cream sponsors the Candace Awards. This is the fourth year for the awards.

Mr. HEFLIN. Mr. President, although this news clipping cites a few articles about the brilliance and multitalents of Attorney Rose Sanders, I wish to add a few more.

Rose and her husband, Hank, are both graduates of Harvard Law School. While at Harvard they teamed up as part of a study group to help them endure the rigorous demands of law school. After her graduation, Rose was about to move to California when Hank proposed marriage to her. He convinced her to return to Alabama and practice law in the black belt—so called because of its rich, black soil—with Attorney J.L. Chestnut and himself.

Rose and Hank are very proud parents of three children—Malika (age 12), Kendaka (age 11), and Anika (age 7). Because of her genuine profound love for her own children and all children, especially culturally and educationally deprived children, Rose has devoted and continues to devote at least one-third of her roughly 120-hour week to black children in Selma, AL. The other 80 hours are divided between practicing law and being actively involved in politics.

Paraphrasing the late Linda Creed in the "The Greatest Love of All," Rose believes that children are our future. Therefore, she believes in teaching them well and letting them lead the way. She instills in them a deep sense of pride and teaches them the joy and beauty of developing a high self-esteem.

Rose has excelled and distinguished herself as a playwright, poet, pianist, and musical composer. She has written, directed, and produced numerous plays which were performed by many young children of Selma. In fact, her latest production, "Babycakes II," will debut in Selma on July 26. During the weekend of August 22, she will bring her cast of children here to Washington, DC, to perform her original play, "Babycakes I," a musicial play about teenage pregnancy.

The State of Alabama just recently contracted with Rose to show "Babycakes II" in 10 designated cities with high teenage pregnancy rates.

Additionally, Rose has just signed a contract with a record company in Cambridge, MA, to produce what is believed to be the first black children's album in the South. In their song, the "Children of Selma," a group which Rose founded, will reflect on their southern sociocultural conditions.

All of the children with whom Rose works so patiently and diligently, are members of the Black Belt Arts and Cultural Center, which Rose founded in 1972—the same year that she was admitted to practice law in Alabama.

Mr. President, but for firsthand knowledge of Attorney Rose Sanders' legal powers, her keen trial advocacy skills, and her willingness to "ride the circuit," in Alabama, traveling all over the State to try cases, I would be very hard put to believe that this one woman could accomplish each and every one of these inspirational feats and more at such a brilliant level. What is even more amazing is that she keeps getting better.

Mr. President, I have not even touched upon how much time and energy that Rose spends with the mothers of these culturally and educationally deprived children or in the area of politics. She is cofounder of MOM's, Mothers of Many, an organization devoted to improving the quality of life for children. She is cofounder of MOM's Restaurant, a profitmaking business established to generate funds for programs designed to help improve the quality of life for youth, women and families in general. She is cofounder and organizer of Family Day in Selma which is officially recognized by the city government.

Mr. President, this tribute to Rose would be incomplete if I did not mention her political acumen and savvy. She has twice orchestrated and coordinated her husband's successful campaign for the State senate. She has not only organized the black belt politically, but has been very instrumental in establishing a second black statewide political organization called the New South Coalition. She is currently president of the New South Coalition.

Neither time nor space will permit me to elaborate further about the stellar achievements of this 41-year-old versatile female attorney. Her parents, Rev. and Mrs. D.A. Gaines of Birmingham, AL, are extremely proud of her. So are her husband, her children and all of us who know her well.●

CENTENNIAL CELEBRATION OF DORA, AL

● Mr. HEFLIN. Mr. President, during the month of August 1986, the city of Dora, AL, will celebrate its centennial anniversary. I am proud to rise today to congratulate the citizens of Dora for their outstanding achievements and accomplishments, and I wish them the greatest success and happiness throughout their centennial celebration.

Dora is located in north-central Alabama, in Walker County. The earliest settlers on the present site of Dora were reportedly James Davis, Ezekiel Morgan, and his son Reuben Morgan. They were attracted by the pretty valley through which runs Horse Creek. They, and others who soon followed, settled for a life of farming. But, ripples from the rising industrial revolution soon changed Dora from a farm town to a thriving center for coal mining. In the early 1840's, James Davis, William Robertson, Reuben Morgan, James Hancock, John Sullivan, and others were busily engaged in digging coal from the banks and bottons of Horse Creek and the Warrior River, which they would boat to the cities of Demopolis, Tuscaloosa, Mobile, and later Birmingham. No real community was built up, however, until after the Kansas City, Memphis, and Birmingham Railroad was built in 1886. It was then that the town was established under the name of Sharon. Spurred by the great spirit and drive of her citizens, the lovely town grew rapidly. The railroad and mining operations brought many people to Dora. In 1889 R.H. Palmer opened one of the largest department stores in the county, and in 1890, the First Methodist Church was organized. In 1902 the first permanent post office was established and W.E. Webb served as postmaster. During the years between 1900 and 1910 the town almost tripled in size, from a population of 385 to 916. Sometime during the 1890's the name of the town was changed from Sharon to Horse Creek, and then in 1906 the name of Dora was adopted.

According to the census of 1980, Dora now has a population of over 2,300 people. It is a most pleasant city to visit or in which to live. I always enjoy traveling there very much. Indeed, one of my prize possessions is from Dora. I have in my office a trophy of a bulldog, which is the mascot of Dora High School, that was presented to me by the students of Dora High School. It occupies a place on the center shelf of my showcase.

To celebrate their centennial, the citizens of Dora plan to go "old fashioned." They will dress in the garb of the 1880's, and will reprint many city ordinances which, for fun, they must follow. Men without beards or mustaches will be fined some nominal

sum, and women cannot ride a horse or a bicycle on Sundays. On August 1, the city will hold a beauty contest for women dressed in costumes of the 1880's, and throughout August bands will play all types of music so that the people of Dora can celebrate their centennial together.

Throughout her history, Dora has played an important role in the State of Alabama. The citizens of Dora have always been active in community, civic, and State events. Their energy and input have distinguished Dora as a great city. They hold a great patriotism for their State and Nation, and their service has been outstanding.

This centennial anniversary is not merely a birthday celebration. Rather, it offers the citizens of Dora an opportunity to look into their past and to realize all that they have accomplished. Those successes and rewards which are reaching fruition today were actually initiated by the many great citizens who labored in the past to make Dora a better place. Now is the time to remember those whose efforts have culminated in all that Dora has to offer.

Now also is the time to think of the future. The children of today will be planning for Dora's sesquicentennial celebration in just 50 short years. The dreams of today will grow, take shape, and mature in time to benefit them. In the years to come, I am certain that Dora will make even greater advances—that it will offer even more to its citizens, its State, and its country.

I am pleased to congratulate the people of Dora on their centennial. I am certain that their celebration will be a happy occasion that will be remembered for many years to come. I feel very honored to represent the people of Dora, and am pleased to serve them in every way I can.

Thank you Mr. President.●

GRAMM-RUDMAN-HOLLINGS II

● Mr. MOYNIHAN. Mr. President, I commend to the Senate a fine piece on "Gramm-Rudman-Hollings II" written by my friend and distinguished colleague, Senator HART, which appeared in today's New York Times.

On December 11, when Congress approved Gramm-Rudman-Hollings I, it voted to abdicate its constitutional responsibility to set priorities and make difficult budget choices. Congress attempted to substitute mindless, across-the-board cuts for its judgment. Now, in response to the Supreme Court's recent ruling, the authors of the legislation would like to make the Office of Management and Budget responsible for deficit reduction. This is no solution.

Gramm-Rudman-Hollings ought to be repealed, and Senator HART and I introduced legislation on February 4 to accomplish that end. We will again make our case when the Senate considers legislation to raise the debt ceiling.

I ask that Senator HART's thoughtful Op-Ed, "Get Rid of the 'Monster,'" be printed in the RECORD.

The Op-Ed follows:

[From the New York Times, July 22, 1986]

GET RID OF THE "MONSTER"

(By Gary Hart)

WASHINGTON.—There is a genre of cheap horror film in which the monster does not die. Unfazed by bullets that would stop mere mortals, the behemoth charges forward, laying waste to everything. The ugliest, most formidable monsters even get resurrected after the last reel. So it is with Gramm-Rudman-Hollings.

Before Congress adopted this deficit-reduction process, Senate foes issued a warning. We said it would harm essential building blocks of national security—for example, training soldiers, and spare parts for conventional arms—and it has. We said it would prevent investment in national priorities such as education and training—and it has. We said the Supreme Court would pull the plug on its computerized budget cutting—and it did. We said that if Congress truly wanted to cut the deficit, it should vote to do so in order to benefit America's economy; the Court agrees.

Gramm-Rudman's authors sought to insulate Congress from the politically unpalatable task of making hard choices. When the deficit exceeded an arbitrary amount, the Comptroller General of the General Accounting Office was designated to cut the budget across the board. The Supreme Court held that this improperly assigned executive branch decisions to an officer whom Congress could fire. No matter how important deficit reduction may be, the Court said, such political expedience offended the Constitution: Congress must vote the cuts.

Now, the folks who created the monster are writing a sequel: The Return of Gramm-Rudman. It promises to be even more destructive than the original. Gramm-Rudman II gives the President's Office of Management and Budget final power to make across the board cuts. This "fix" may satisfy Congressmen seeking to avoid responsibility for such cuts, but it raises profound questions about dramatically expanding the power of an agency known as a rogue elephant in this Administration.

The last six years have seen a steady and startling aggrandizing of O.M.B.'s power. O.M.B. exerts strict control over executive agency budgets, over personnel strength and can edit or block testimony before Congress by Cabinet and agency heads. It can classify budget information as top secret. It once forced delays in a regulation mandated by Congress to protect the purity of baby formula, allowing a substantial amount of defective products to enter the market.

O.M.B. is no neutral accounting firm. Besides repeatedly altering the economic forecasts on which the Administration's budgets are based, thereby grossly underestimating the size of the deficit, it illegally impounded funds for housing and refugee assistance programs. This record of mischief recently moved the Republican-controlled Senate Governmental Affairs Committee to say that "budgeting at O.M.B. has become a partisan political process."

Recognizing O.M.B.'s penchant for cooking numbers, Gramm-Rudman II empowers the G.A.O. to file suit if the O.M.B. violates the spirit or intent of the deficit reduction law. In disregard of the Constitution, which vests Congress with pre-eminent powers over the Federal purse, Gramm-Rudman II not only expands the executive branch's budgeting role but subjects the settling of the nation's accounts to litigation and endless delays.

Gramm-Rudman should not be saved. It should be repealed. Congress should face the deficit squarely without gimmicks or extra-constitutional props. Gramm-Rudman's authors believe Congress lacks the courage to make such difficult decisions. But experts said that about the prospects for a comprehensive tax reform bill until a steamroller called Bradley-Packwood cleared the Senate, 97-3.

Presidential leadership, notably absent from budget debates, would be required. The Administration's dogmatic unwillingness to accept a tax increase would have to be surrendered to the adoption of an oil import fee or a gasoline tax. The Pentagon would be put on a predictable budget that allowed increases for inflation, but no more. A proportionate amount of domestic savings would become part of the mix. As with tax reform, where individuals and industries subordinate special interests to the national interest, full contributions from defense, revenues and domestic programs would be the glue holding serious deficit reduction together.

Under Reaganomics, the national debt doubled. Under Gramm-Rudman I, the deficit climbed higher. Gramm-Rudman II promises more debate, more delay and the injection of the Federal courts into the budget process. A real horror show.●

GROUND WATER PROTECTION ACT OF 1985

● Mr. KERRY. Mr. President, I rise today to express my support for S. 1836, the Ground Water Protection Act of 1985. I am pleased to serve as a cosponsor of this important piece of legislation.

Over half of our Nation's population is dependent on ground water as its primary source of drinking water and contamination of this fragile resource has now emerged as a major environmental concern. This issue demands our immediate attention.

Ground water accumulates when various forms of precipitation move slowly down through the soil and eventually collect in underground reservoirs or aquifers which are usually within a half mile of the surface. It is one of our Nation's largest natural resources and represents more than 96 percent of our total supply of fresh water. Of the approximately 100 quadrillion gallons of available ground water, almost 100 billion gallons are withdrawn each day for drinking water, irrigation, and industrial use.

Until recently, it was generally thought that the process of water percolating through the various soil layers resulted in "purification." Thus ground water was assumed to be a safe and reliable source of drinking water. It is now evident, however, that the capacity of natural soil processes to convert or filter out contaminants before

they reach aquifers is very limited. To date, more than 200 organic and inorganic chemicals have been identified in ground water supplies resulting in the closing of thousands of wells across the United States.

In Massachusetts, approximately one-third of our population is served by ground water. Seventy-eight percent, or 275 or the Commonwealth's 351 communities, rely either partially or totally on ground water for their drinking water. According to the Massachusetts Division of Water Supply, ground water contamination has been detected throughout the State and has forced the closure of 104 public water supply wells.

Major sources of contamination in Massachusetts include: waste disposal from landfills, septic systems, wastewater treatment facilities, and industrial and commercial sites; spills and leaks, especially from leaking underground storage tanks; pesticides and fertilizers from agricultural runoff; and other sources such as acid rain and sea and road salts.

The problems associated with ground water contamination and subsequent protection are complex. Several Federal laws, including the Safe Drinking Water Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), address ground water issues. However, no single piece of Federal legislation deals with gound water comprehensively and the result is both omission and overlap.

S. 1836, the Ground Water Protection Act of 1985, represents a first step at truly addressing ground water issues. It sets forth a clear national declaration of policy to protect the quality of ground water resources for drinking and other uses. It calls for the establishment of criteria for ground water contaminants, State ground water protection standards, resource assessments, a management strategy, monitoring, protection programs, and grants to States for assessments, planning, and program management.

S. 1836 calls for Federal moneys to assist States in protecting ground water. I am convinced that this investment is worthwhile and cost effective.●

SENATE TELEVISION: ITS IMPACT ON SENATE FLOOR PROCEEDINGS

● Mr. GORE. Mr. President, on July 29, the Senate will make a final decision on televising Senate proceedings.

Over the last decade, the chief obstacles to televising Senate proceedings were the fears that television would change the nature of the institution and that Senators would make long-winded speeches and waste Senate time. Many Senators felt that significant rules changes would be needed for the Senate to make the adjustment to television.

In an effort to pursue these potential concerns, I asked the Library of Congress to do a comprehensive study of Senate proceedings during the test period and to compare it to similar periods in previous Congresses.

The Congressional Research Service report concludes that "television coverage has changed the patterns of Senate floor activity very little."

Of the 20 categories of floor activities, CRS found only one category, special orders, whose increase could be attributable to television. In 1986 there was a 250-percent increase in the number of special orders over the same time in 1984. But because of a rules change limiting the time of each special order, the time spent on special orders increased by an average of only 17 minutes per day.

Special orders have become a means for Senators to make short topical speeches in areas of special concern. This is precisely what happened with the 1 minute speeches in the House when the cameras were introduced.

The report also found that the Senate is "spending a higher proportion of its session time on legislative business." During the test period the Senate spent 61 percent of its time debating pending measures—a third more than it spent on legislative matters in 1982. Television has forced us to focus on the job we're here to do.

Other highlights of the report include:

Session time increased over the periods studied, but this was a trend started in 1984, and is probably due to the extensive debate on the tax bill.

The time spent by the Senate on quorum calls declined sharply during the test period.

During the test period there has been a significant decline in the number of unanimous-consent requests, although CRS does not attribute it solely to television.

The CRS report provides the analytical proof that most Senators have felt intuitively over the test period. Television has not disrupted this institution. If anything television has helped the Senate keep on its toes.

A recent Harris poll found an overwhelming majority of the American people favor the opening up of Senate proceedings. They see it as a chance to watch Government and take a part in it. The Senate has nothing to fear and everything to gain from this step forward. As Daniel Webster observed, "A democracy must always rely on its people seeking out their wisdom, listening to their ideas. * * *"

Television represents a dramatic advance in participatory democracy. This report is the strongest evidence yet that on July 29, the Senate should make television a permanent fixture. I commend this report to your attention, and ask that the report be printed in the RECORD.

The report follows:

SENATE TELEVISION: ITS IMPACT ON SENATE FLOOR PROCEEDINGS

(By Paul S. Rundquist, specialist in American National Government and Ilona B. Nickles, analyst in American National Government, Government Division, July 21, 1986)

ABSTRACT*

This study assesses the effect of television coverage on Senate floor proceedings. It does so by comparing the time the Senate spent on selected categories of floor activity during the television test period between June 1-July 15, 1986 with the time spent on the same categories during the same period of days in 1984 and 1982. The study also provides a survey of impressionistic commentary from Senators and media observers on the impact of television coverage on the Senate. The study finds only one significant change which can be directly attributed to live television coverage. The number of special order speeches in the 1986 period increased by nearly 250 percent over the earlier periods studied. The total time spent on those special order speeches doubled. In all other categories of floor activity studied, the authors conclude that there are procedural variables other than television coverage which may explain the changes discovered.

INTRODUCTION

This study was designed to determine whether live television coverage of the Senate had any effect on Senate floor activity. In order to do so, it was necessary to collect and analyze data on how the Senate spent its time during floor sessions. On occasion, various Senators have included material in the Congressional Record on time spent in debate on a specific bill, total time spent in session, or time spent in post-cloture debate periods. However, there has been no previous comprehensive compilation of both the aggregate time spent on the Senate floor and the time spent in specific categories of floor activity. This study presents that data.

Overall, the study found only one significant change attributable to live television coverage. The number of special order speeches in the 1986 period increased by nearly 250% over the earlier periods studied. The total time spent in those special order speeches doubled. In all the other categories of floor activity studied, the authors conclude that there are procedural variables other than television coverage which may explain the changes discovered.

The first section of the study provides recent historical background on the Senate decision to authorize a test of live television coverage of its floor proceedings.

The second section of the study describes the methodology used in selecting, compil-

*The authors wish to express their thanks to the Office of the Secretary of the Senate, especially to Jim Thorndike, the Senate Journal Clerk, and to Jim Timberlake, the Senate Daily Digest Editor, without whom this study would not have been possible. Special thanks go to Mark Taylor of the Office of Automated Information Systems/CRS, who designed the computer program we used to compile and calculate the data for this study.

ing, and calculating the procedural criteria studied.

The third section of the study compares both the average and aggregate time spent in 20 selected categories of Senate floor activity during the television test period, June 1–July 15, 1986, with the time spent in the same categories of floor activity during the same period of days in 1984 and 1982. The significance of each floor activity is described in this section, as are any variables unrelated to television which might have influenced changes in the data among the years studied. A summary table of all the comparative data is included.

The fourth section reviews commentary and by media observers on their impression of the Senate television test period.

The final section analyses the patterns which emerged from the data gathered and discusses the relationship, if any, these have to live television coverage.

BACKGROUND

On February 27, 1986, the Senate voted to authorize live gavel-to-gavel radio and television broadcast of its floor proceedings when it adopted S. Res. 28. Radio broadcasting began on March 12. Television broadcasting began May 1 on a closed circuit in-house basis and became available to the public on June 2. Additionally, the Senate agreed to consider on July 29 the question of whether or not to make radio and television broadcasting of its floor proceedings permanent. According to the original provisions of S. Res. 28, television broadcast was to be conducted on a trial basis ending July 15. Live television coverage ceased at the end of the Senate session on July 15, 1986. Television cameras were to have remained off until the Senate voted on the question of permanence on July 29.

However, on July 15, the Senate agreed to S. Res. 444, submitted by Majority Leader Robert Dole and Democratic Leader Robert Byrd. S. Res. 444 permits live television coverage of Senate floor proceedings to resume on July 21, again on a trial basis, until and unless the Senate votes to either end coverage on July 29 or votes to make television coverage permanent.

S. Res. 28 allowed live radio coverage to continue, which it has, until and unless the Senate votes specifically to end it.

The Committee on Rules and Administration began hearings on July 16 to evaluate the broadcasting experience to date and to receive the recommendations of the two ad hoc party task forces appointed separately by the Majority and Democratic Leader to assess the television experiment and recommend any changes in Senate procedures to accommodate television coverage. During the debate on S. Res. 28, some Senators expressed the concern that television coverage might lengthen legislative debate unnecessarily and promote more frequent floor speeches. Related concerns were expressed about television's impact on the Senate leadership's ability to bring the Senate to a vote on motions to proceed without extended debate, about the public reaction to the length and frequency of rescinded quorum calls, a possible proliferation of non-germane amendments, and an increase in the need to invoke cloture and/or to fully utilize the post-cloture debate period.

In the end, the Senate authorized only five procedural changes when it adopted S. Res. 28. Most notably, S. Res. 28 reduced the debate time permitted in the post-cloture period from 100 hours to 30 hours. Other rules changes provided for in S. Res. 28 included (2) a reduction in the required time that committee reports be available to Senators before floor consideration is in order, from 3 days to 2 days; (3) the elimination of the Committee of the Whole procedure for the consideration of treaties in executive session; (4) a requirement that copies of conference reports be available on each Senator's desk before floor consideration is in order; and (5) the establishment of a non-debatable motion to waive the reading of the Journal.

During its consideration of S. Res. 28, the Senate defeated a proposal to establish a motion to invoke, by a ⅗ vote, a germaneness reqirement on the matter under consideration. Another proposal, which sought to impose a two-hour debate limitation on the motion to proceed, was withdrawn by its proponents.[1]

According to the provisions of S. Res. 28, the procedural changes that were adopted are in effect now and remain in effect unless the Senate votes to end television coverage on a permanent basis.

In an additional procedural change, Majority Leader Robert Dole announced on March 1, 1986 that, in anticipation of live radio and television coverage, the time for special order speeches, which had been 15 minutes in length, would be reduced to 5 minutes effective on March 12, the day the Senate commenced live radio coverage of its proceedings. Unlike the procedural changes in S. Res. 28, the special order speech time limitation is governed by a daily unanimous consent request.

SELECTED CATEGORIES OF FLOOR ACTIVITY: SUMMARY TABLE

[All times shown in hours:minutes]

Event	1982: June 1 to July 15			1984: June 1 to July 15			1986: June 1 to July 15		
	No.	Time spent	Average time	No.	Time spent	Average time	No.	Time spent	Average time
Adjournments	1			5			4		
Amendments	67			219			203		
Cloture petitions filed	1						1		
Cloture votes	1								
Debate time on measures	29	50:48	1:48	17	89:05	5:14	22	122:03	5:33
Morning business	40	4:31	0:07	27	4:34	0:10	35	5:54	0:10
Motions to appeal	1	0:01	0:01	1	0:01	0:01	3	0:12	0:04
Motions to proceed	1	13:30	13:30	1	0:48	0:48	1	1:15	1:15
Motions to table	8			25			25		
Points of order	1			4			17		
Quorum calls, live	2	1:03	0:31	2	0:45	0:22	1	0:21	0:21
Quorum calls, rescinded	134	32:44	0:15	154	34:06	0:13	160	27:24	0:10
Recesses, day-ending	19			14			17		
Recesses, same day	9	12:30	1:23	8	11:07	1:23	8	9:12	1:09
Rollcall votes	50	17:33	0:21	63	24:37	0:23	49	19:08	0:23
Session time	20	139:15	6:58	19	176:31	9:17	21	203:45	9:42
Special order speeches	39	7:31	0:12	35	6:46	0:12	123	12:37	0:06
Time agreements	26			8			17		
Unanimous consent to consider	65			85			57		
Unanimous disposition of measures	83			121			57		

METHODOLOGY OF THE STUDY

With the assistance of staff in the Office of the Secretary of the Senate, data were compiled on selected floor activities, their incidence and the time spent by the Senate on them.

It was necessary to compare Senate activity during the television test period against other periods. The test period data was compared against the same period of days (the first session day in June through the last session day on or before July 15) in 1982, and 1984. Several reasons went into the choice for these specific years. The study compares three second session periods. Using only two periods would have increased the chances that unusual or idiosyncratic events would substantially change the amount and average time spent by the Senate on various types of activity. By including a third period, a range of data is established against which to compare the current test period.

Additionally, Congressional floor activity within each year tends to follow certain predictable patterns. The earliest months of any session feature shorter and fewer daily floor sessions, as the committees ready legislation for chamber consideration. Floor activity generally increases once committees report new authorizing measures. Floor action typically intensifies as the Congress approaches a recess period, especially one of signficant duration. Thus, using comparable periods in June and July makes it more

[1] For further information on the consideration of S. Res. 28 and its legislative history, see CRS Issue Brief #85028, "Senate Procedure, Rules, and Organization: Proposals for Change in the 99th Congress" by Ilona B. Nickels.

For further information on the procedural changes authorized by S. Res. 28, see the CRS Report, "Senate Rules of Procedure: Changes Made by S. Res. 28" by Ilona B. Nickels, March 12, 1986.

likely that the Senate will be at a similar place in its annual legislative agenda during the periods used for the study.

The pace of legislative activity tends to differ from the First Session of a Congress to the Second. During the First Session, more activity is focused on earlier stages (introduction, referral, subcommittee and committee activity) of the legislative process. During a Second Session, vastly fewer measures are introduced since there is less likelihood of a new measure making its way through both the House and Senate in the remaining months of the Congress. Instead, more time is devoted to the latter stages of the process, to floor action and conference committee action on measures which have built up in the legislative pipeline.

It was thought that a Second Session in a presidential election year might not exhibit the same activity pattern as a Second Session in an off-year congressional election. This possibility re-inforced the decision to compare the current test period with data from both 1982, and 1984. The only major difference in the pattern of session days in the three periods is the length of the Fourth of July recess. In 1982, the Senate was not in session from July 2 through July 12. In the 1984 comparison period, because of the combined July 4th-Democratic convention recess, the Senate was not in session after June 29th. During the test period, the Senate recessed from June 26 through July 14. The three years provide a range of post-July 4th session days: 4 in 1982, none in 1984, and 2 in 1986. the study covers a comparable number of session days in each year: 20 in 1982; 19 in 1984; and 21 in 1986.

Including a fourth Second Session period would have added significantly to the time spent in gathering data, transferring it to a computer data base, and analyzing the results in time for the July 29 mandatory Senate action on future television coverage. Adding a fourth period would also have brought data from 1980 into the data base. Several factors make it inadvisable to include data before 1981 in this study. The 1980 elections brought a Republican majority to the Senate for the first time in 28 years; additionally, thirty-three current Senators began their service after the 1980 elections. Changed party control and the substantially changed Senate membership make it inadvisable to compare current Senate chamber action and practices with those before the 97th Congress.

A computer data base was developed by which each daily occurrence in one of the 20 selected categories of floor activity and, where appropriate, the time each began and ended, could be entered. Computer programs were developed to combine and array the data in both daily and yearly aggregates. The data in yearly summary form is presented in the Summary Table. The data was further analyzed through specialized statistical packages to provide additional information on the frequency and time spent on specific activity categories.[2]

The time spent on all Senate floor activity could not be determined, however. For example, if a quorum call were rescinded so that a Senator could speak on a non-germane subject, and another quorum call began thereafter, the data available for this study would not uniformly reflect the non-germane debate. Neither could the precise amount of time used by the majority and minority leaders under the daily standing order for "leader time" be routinely determined. The precise time spent by the Senate in processing unanimous consent requests (for example, for committees to sit during the Senate's session, to process unobjected to measures in legislative or executive session, or to propound a time agreement) could not be determined. Data on the elapsed time spent in the daily prayer was not available. Finally, on occasion official session time elapsed with no activity taking place on the Senate floor.

These items, however, comprise only a small portion of overall Senate session time. Unavailable floor time data in the study amounts to only 11 hours, 34 minutes of Senate session time in the 1982 period (or 35 minutes per day, on average); 15 hours, 49 minutes (or 50 minutes per day) in 1984; and 5 hours, 39 minutes in 1986 (or 16 minutes per day).

REVIEW OF THE DATA

Adjournments

There has been no discernible change in the pattern whereby the Senate prefers to recess at the end of its daily session, rather than to adjourn. In both 1984 and 1986, the Senate adjourned at the end of approximately 25 percent of the session days in the survey period.

When the Senate convenes following an adjournment, it is required to approve the Journal kept since its most recent prior adjournment. When convening after an adjournment, the Senate's next daily session also includes a two-hour block of time called the "morning hour." During the latter part of the morning hour, a non-debatable motion to proceed to consider any item on the legislative calendar is in order. In addition, resolutions against which objection to immediate consideration was previously raised, "come over under the rule" and are automatically laid before the Senate. By recessing, the two-hour "morning hour" can be reduced substantially by permitting only a period for "routine morning business" for a specified lesser amount of time. The Senate prefers most often to recess at the end of a session day rather than to adjourn: recessing does not require the approval of the Journal. The reading, amending, and debating of the Journal could, under regular Senate Rules, cause substantial delay. Provisions in S. Res. 28 permit the approval of the Journal by non-debatable motion.

During the test period, the traditional practices of the Senate regarding adjournments and recesses do not appear to have changed significantly. The leadership has not yet utilized the non-debatable motion to gain approval of the Journal. Furthermore, the leadership has not offered a greater number of motions to proceed which the Journal approval rule change could have invited. In each of the years surveyed, one debatable motion to proceed was offered. During the test period, no non-debatable motions to proceed were offered during the morning hour.

In fact, the leadership appears to have taken steps to assure Senators that the Journal approval rule change would not be used indirectly to limit debate possibilities. When the Senate has adjourned, a leadership spokesman has normally asked unanimous consent that, following the adjournment "no resolutions come over under the rule" and that the "morning hour be deemed to have expired," both of which are stipulations to prevent measures from coming before the Senate without debate. In short, during the television test period, there appears to have been no change in the Senate's traditional adjournment-recess practices.

Amendments

The number of amendments offered during the test period declined by nearly ten percent from the 1984 level, but both years show roughly a threefold increase from 1982. An increase in the number of amendments offered during the test period might have indicated a greater interest by Senators in changing bills on the floor when one's actions could be viewed by the public. But the higher number of amendments offered in both 1984 and 1986 indicate that factors other than television coverage were influential.

In 1983, the Senate ended a long-standing practice of printing amendments submitted in advance; this may indirectly have encouraged Senators in 1984 and 1986 to offer amendments more spontaneously. Time agreements also frequently limit the number and type of amendments permitted to a bill; the lower number of time agreements in both 1984 and 1986 over 1982, may have made it easier to offer amendments. Finally, the number of floor amendments may be affected by the level of interest and controversy surrounding a particular measure.

The data in this category includes all amendments offered by individual Senators, but excludes committee-reported amendments. Amendments offered but withdrawn prior to disposition are also included. The data excludes procedural amendments offered to enable the House and Senate to go to conference on differing versions of the same bill, but includes Senate amendment to House amendments to Senate passed-measures.

Cloture

A significant increase in the number of cloture petitions filed and in cloture votes might indicate that opponents, during the test period, felt obliged to object more strenously and longer than in the past, or alternatively, that the leadership sought to place more constraints on normally unlimted debate during the television test period. But, in none of the three periods examined in this survey did cloture play a significant part. Only in 1982, was there a successful attempt to invoke cloture on a pending measure. During the current test period, only one cloture petition was filed (on the Manion nomination), but a cloture vote was not taken, having been vitiated by a unanimous consent agreement to vote at a time certain on the nomination. The Senate has yet to experience under live television coverage the impact of the reduced post-cloture debate period set in S.Res. 28.

Debate time on measures

Twenty-two measures (this includes time spent on both the Manion and Scanlon nominations) were debated on the Senate floor during the television test period. The Senate spent over 122 hours debating these measures, for an average of five hours and 33 minutes per bill. This is slightly more time per measure than in the 1984 period when 17 measures were debated for about 89 hours, or approximately 5 hours and 14 minutes per bill. However, the 1984 figure represents an increase of over 3 hours in the average debate time per bill in 1982.

Television coverage alone, however, cannot explain the 1986 increase in debate

[2] Daniel Melnick of the Government Division, CRS, converted the initial computer data into a form compatible with the Statistical Package for the Social Sciences (SPSS), and assisted in the evaluation of the SPSS-generated tables.

time over the previous two years. In all three years, the impact of debate time on key measures inflates the average time spent per bill. In 1982, the Senate debated S. 1992, the Voting Rights Extension Act, for over 36 hours (including a 13 hour filibuster on the motion to proceed). In 1984, the Senate debated S. 2723, the DOD authorization bill, for nearly 60 hours; the 1986 tax bill, H.R. 3838, consumed nearly 79 debate hours. When the debate time on these major bills is excluded from the calculation, the average time spent on debate on remaining bills during the 1986 period falls to about 2 hours per bill. During the 1984 period, time falls to about 1 hour 45 minutes per bill, and during 1982 the average time amounts to 59 minutes per bill. Why the 1982 average debate time is so much lower than the more comparable 1984 and 1986 figures is unclear. Contention over the voting rights extension act may have prevented the Senate from turning to other measures by unanimous consent. In any case, given the comparable average debate times in 1984 and 1986, when one accounts for the variation attributable to a single bill, television does not appear to have significantly changed the overall debate time on measures.

A majority of the bills actually subject to floor debate during each of the three years were debated for less than one hour each. Other actions, such as rescinded quorum calls during floor consideration or numerous roll-call votes obviously can expand the total amount of time spent by the Senate on a single bill.

Morning business

In 1986, the overall time spent on morning business increased by about 30 percent from the total time spent in 1982, and 1984. The number of morning business periods held by the Senate increased 30 percent over 1984, but declined by more than 20 percent over the 1982 level. The average time spent in morning business during each period has not changed significantly: ten minutes for each morning business period in 1984 and 1986, up from a 7 minute average in 1982. Television coverage has not appeared to alter the average time spent in morning business.

However, a closer examination of the data suggests that some changes are occurring in morning business usage. There is substantial variation among the longest morning business period recorded in each year. The longest in 1986 was 38 minutes; the longest in 1982 was 18 minutes; and the longest in 1984 was 2 hours, 6 minutes. When this above-average block is excluded, the average time spent on the remaining 1984 morning business periods declines to 6 minutes, about par with the 7 minute average time in 1982.

Thus, the 10 minute average time the Senate spent in 1986 shows it is spending more time in routine morning business periods. The extra 3 minutes in the average time sepnt in morning business could be attributable to more use by Senators of nongermane speaking opportunities—a factor potentially related to television coverage.

However, it could also be attributable to more time taken up in processing unanimous consent requests. Morning business encompasses several different actions. Formally, morning business occurs during the morning hour, held only following an adjournment. But, by unanimous consent, the Senate usually establishes a "period for the transaction of routine morning business" each day following the prayer, the routine approval of the Journal, and leader time. The following activities are, by Rule VII, included within morning business: presentation of messages from the President; communications from department heads and others; and bills, joint resolutions, and other messages from the House of Representatives. The next items are called only upon demand by a Senator: presentation of petitions and memorials, reports from committees, introduction of bills and joint resolutions, and submission of other resolutions. Since most messages from the executive and from the House are disposed of routinely upon their receipt, and because a standing order permits Senators to introduce measures and committees to file reports any time the Senate is in session, morning business is rarely used for the purposes established in the standing Rule. Instead, morning business now appears to serve two primary purposes: to process measures pending on the Senate calendar to which there is no objection, to process simple unanimous consent requests, and to permit Senators (by unanimous consent) to speak non-germanely for a limited amount of time, usually for no more than five minutes.

This category includes only the actual time spent in morning business. If a morning business period was announced, but a quorum call immediately followed, no morning business time was counted. Rescinded quorum calls initiated and held during a morning business period are counted in their own category, not not charged to that morning business period.

Motions to appeal

The data over the three periods shows only a small increase in the number of appeals taken from the ruling of the Chair, but, compared with the increase in the number of points of order, this is statistically insignificant. Television coverage has not, seemingly, caused Senators to challenge the force of the rules in order to gain consideration of amendments they favor. Factors contributing to the rise in the number of points of order during the test period are discussed below.

Motions to proceed

The leadership offered debatable motions to proceed at the same low rate in the 1986 period as in both 1984 and 1982. Television coverage has not made this motion either more or less attractive as a means of gaining floor consideration.

In the 1986 period, the Senate considered over seventy measures and two controversial nominations while resorting to a debatable motion to proceed only once. Debate on that motion consumed 75 minutes. In each of the other two periods, there was only one debatable motion to proceed offered; although the Senate spent less time in the 1984 period on that motion, the 1982 motion consumed more than 13 hours. Clearly, during the test period there has been no great change in the use of this motion.

Motions to table

An identical number of motions to table were offered during the current test period and the 1984 period. However, these levels are more than three times higher than the level established during the 1982 period. Although the offering of such a motion ends further debate and obtains an immediate vote to dispose of an amendment, the motion was not used any more frequently than in 1984. The data exclude motions to table agreed to by unanimous consent, such as those normally offered to complete action on a routine motion to reconsider a vote.

However, the continuing higher levels may signal other changes unrelated to television coverage. In earlier years, the motion to table was offered rarely, apparently from the conviction that Senators deserved to have a vote directly on their amendments. The 1984 and 1986 data may signal a change in this attitude as Senate floor managers seek to remove contentious or inappropriate (non-germane) amendments from floor consideration without directly voting on the merits of the particular amendment. It appears as well that motions to table occur most often on amendments or appeals of points of order during the consideration of bills subject to already lengthy debate. In 1986, 21 of the 25 tabling motions were offered during debate on two bills, H.R. 3838, the tax bill, and H.R. 4515, the supplemental appropriations bill. In 1984, 17 of the 25 tabling motions were offered during debate on S. 2723, the defense authorization bill. Those three bills were debated for far longer periods than any other measures during their respective years. It may be that without the increased use of the tabling motion, the time spent on those few measures debated at length would have been noticeably greater.

Points of order

The number of points of order more than quadrupled in 1986 over the 1984 level. Such an increase could signal a greater concern that the Senate's rules be more strictly enforced during the television test period. Points of order, however, must be examined in the context of the legislation under consideration. It is more likely that the number of points of order were related to the procedural context of the legislation under consideration (some types of legislation provide more basis for points of order) than to any desire to see that the Senate's rules be more strictly followed and enforced during the television test period.

For example, legislation subject to the Congressional Budget Act could provide more opportunities for points of order to be lodged against violations of that Act. Appropriations bills could be subject to numerous points of order arising out of the rules governing the authorization/appropriations process. In the 1986 period, the major bills debated during the television test period were H.R. 4515, the supplemental appropriations bill, amendments to which attracted points of order against legislative language in an appropriations bill, and H.R. 3838, the tax bill, amendments to which attracted points of order against Congressional Budget Act violations.

All points of order made on the floor were counted, regardless of their disposition or any subsequent motions (such as motions to appeal or motions to waive the Budget Act) which may have followed. Debate time on motions to waive provisions of the Congressional Budget Act to overcome a point of order and to therefore permit consideration of an amendment was counted as debate time on the pending bill.

Quorum calls, live

The number of live quorum calls decreased from 2 each in 1982, and 1984 to 1 in 1986. The 1986 quorum call was mandated by cloture procedures and was necessary prior to the cloture vote which had been scheduled on the Manion nomination (a vote later vitiated by unanimous consent). The low frequency of live quorum calls makes it difficult to correlate any change

with television. It is more likely that live quorum calls arise out of procedural need—either as required precursors to a scheduled vote or as a method of increasing attendance at a particularly significant point in legislative proceedings.

Each quorum call which resulted in a roll-call vote to establish the presence of a quorum was counted. The total elapsed time was derived from the moment at which the quorum call was initiated until the completion of a vote on a motion for the Sergeant at Arms to request the attendance of absent Senators. Quorum calls which were rescinded prior to completion were counted in the next category.

Quorum calls, rescinded

The number of rescinded quorum calls in 1986 remained about even with the number held in 1984. Both the 1984 and 1986 periods, however, showed an increase over 1982 levels: 15 percent in 1984, and 20 percent in 1986. The average rescinded quorum call was shorter in 1986—10 minutes—a reduction over both the 13 minute average length in 1984 and the 15 minute average length in 1982.

It does not appear that television influenced the Senate's practice of engaging in rescinded quorum calls for purposes of constructive delay. A significant change in the number and duration of such quorum calls might indicate that the Senate was becoming less tolerant and ad hoc interruptions to the legislative agenda during live television coverage. The decrease in their average length from 1984 by three minutes in 1986 is so marginal, however, that it would be difficult to defend their shorter duration as attributable to television coverage.

The time the absence of a quorum was suggested and the time the quorum call was rescinded were noted and the difference calculated to compile the data in this category.

Recesses, day-ending

The number of recesses (as opposed to adjournments) at the end of a calendar day of Senate floor activity did not change appreciably from 1984 to 1986. Television coverage has not appeared to influence the practice of recessing more often than adjourning. S. Res. 28 provided for a new nondebatable motion to waive the reading of the journal. The motion has not yet been offered because the Senate has either recessed or adjourned with a unanimous consent agreement incorporating automatic approval of the Journal.

Recesses, same day

The number of recesses within the same day did not fluctuate among the three years studied. Television has had little impact to date on the customary practice of recessing for short periods to welcome foreign delegations to the Senate chamber or for recessing for the two-hour party caucus luncheons every Tuesday.

Roll-call votes

Roll-call votes decreased about 22 percent in the 1986 period from the number held in 1984. It was about even with 1982 figure. The change in the number of roll-call votes probably has more to do with the type of legislation being considered than with the advent of television. For example, on more controversial or partisan issues, Senators might wish to get their positions or those of their colleagues on record.

About the same number of amendments were offered in both the 1984 and 1986 periods. Therefore, the same opportunities for roll-call votes theoretically existed. Since the number of roll-call votes in fact decreased, Senators may have been more willing in 1986 to accept unanimous consent/voice vote disposition of their proposals. Alternatively, Senators may not have been as readily able to get the required one-fifth of a quorum to support the demand for a roll-call vote as in previous years. This could either mean that the level of contention during debate was higher in the 1986 period or that the requirement for a sufficient number to support demands for roll-call votes was being more consistently enforced.

Session time

During the test period, the amount of Senate session time increased by roughly 15 percent over the comparable period in 1984. Additionally, the average daily session time has increased from 9 hours, 17 minutes per day in 1984 to 9 hours, 42 minutes per day in 1986. However, the average session time is misleading; many days during the period are significantly longer and some significantly shorter.

On closer examination of the data the trend toward longer sessions appears to have begun at least in 1984. The longer sessions during both 1984 and 1986 may reflect strong senatorial interest in the major bills considered during those years. In fact, the bill debate time in 1984 nearly doubled over the amount in 1982, and the 1986 figure is nearly 30 percent higher than 1984. While overall session time and bill debate times have increased, debate time has grown faster so that bill debate time now accounts for more than half of all Senate session time compared with less than 35 percent of all session time during the 1982 period.

The standing order which specifies that the daily session shall begin at noon now has only symbolic effect upon the Senate. Only twice during the 21 session days in the television test period, did the Senate convene at noon. On the first day of the test, it convened at 2 p.m.; on 13 other session days, it convened at 10 a.m. or earlier. In 1984, the Senate convened at noon only once, and 12 other daily sessions began at 10 a.m. or earlier.

The Senate also routinely meets later into the day. During the test period, the Senate finished its daily business between 6:00 and 8:00 p.m. on four days, after 8:00 on an additional 10 days. On four of those days, the Senate sat until after midnight. Senate sessions are getting longer; but the trend toward longer session days seems well advanced at least as early as 1984. In the 1984 period, the Senate daily session ended between 6:00 p.m. and 8:00 p.m. on six days. On eight other days, the Senate session continued past 8:00 p.m., with four of those ending after past midnight.

Considering the small number of session days in each period, any percentage change in early or late sessions between years may not be particularly significant. However, it does seem that the Senate began convening earlier and meeting later in the day before the test period started.

Special order speeches

The number of special order speeches increased by about nearly 250% in 1986 over the previous two years studied. In the 1986 period, 123 such speeches were made, whereas the number had remained fairly constant in the two previous years studied: 35 in 1984 and 39 in 1982. During the television test period, more Senators availed themselves of the opportunity to make these speeches, which may be on any subject they wish to address.

The total amount of Senate floor time devoted to special order speeches almost doubled in 1986 to 12 hours and 37 minutes. The total amount of time in 1984 and 1982, was relatively constant: 6 hours and 46 minutes in 1984 and seven hours and 31 minutes in 1982.

The average time for a special order speech in 1986 was 6 minutes, a reduction from the average 12 minute length in both 1984 and 1982. This is attributable to the new 1986 practice of limiting such speeches to 5 minutes. The average length of each speech in the 1986 period—6 minutes—is above the 5 minute limitation because Senators frequently request and receive unanimous consent to extend their time when the 5 minutes has expired.

Time agreements

The number of time agreements in 1986 was twice the number agreed to in 1984, but about a third fewer than in 1982. Thus, no clear or consistent trend can be discerned in this category. Because television brought with it heightened sensitivity to the length of debate on measures, it could be argued that in the 1986 period Senators were more willing than in 1984 to enter into unanimous consent agreements to limit debate. However, the fact that there were a third fewer agreements in 1986 than in 1982, may indicate that the nature of the legislation, its complexity, and the level of willingness of Senators to limit their rights to debate or to offer amendments may be the variables which explain the fluctuating number of agreements.

Time agreements that were formally propounded and entered on the Senate Legislative Calendar was counted, as were the ad hoc agreements that were offered during the course of debate on a bill or on an amendment apportioning the remaining debate time. Therefore, a controversial piece of legislation which attracted more amendments might also explain a greater number of ad hoc time agreements to limit debate on many of those amendments. Simple unanimous consent agreements scheduling or postponing a vote to a time certain were not included in this category unless they also apportioned remaining debate time.

Unanimous consent to consider

There were about 33 percent fewer unanimous consent requests to consider legislation offered in 1986 than in 1984 and over 12 percent fewer than in 1982. This downward trend may not necessarily be television-related. Instead, it may reflect greater contention and lesser consensus, having more to do with policy-related reasons. This theory could be confirmed by noting whether or not there was an increase in the number of "holds" on a measure noted by the Majority Leader, data not available for this study.

Additionally, fewer attempts to call up measures by unanimous consent might be commensurate with fewer bills available for floor consideration. For example, during the first session of this Congress, roughly 20 percent fewer measures had been passed by the House or reported by Senate committees compared with the first session of the previous Congress, according to data derived from the Daily Digest of the Congressional Record. On the other hand, this factor could be partially off-set by the frequent practice of the Majority Leader to ask unanimous consent to simultaneously discharge a bill from committee and turn to its consideration.

One request to consider an "en bloc" calendar call of legislation was counted as one occurrence, regardless of the number of bills on that calendar call. Requests to consider individual pieces of legislation—some of which occasioned debate and others of which received unanimous consent passage—were counted as individual occurrences.

Unanimous consent disposition of measures

The number of measures passed by unanimous consent (those measures on which there was no recorded debate) fell sharply in 1986 from the previous two years studied: there were 83 such occurrences in 1982, 121 in 1984, and only 57 in 1986, a drop of over 50 percent between 1986 and 1984. It is difficult to assess whether this phenomenon is television-related. It may instead again indicate a higher level of contention and a lower level of consensus. There may have been more "holds" on legislation, making the Leadership reluctant or unable to bring the legislation up under unanimous consent practices. Alternatively, there may have been less legislation on the calendars available for floor consideration.

Each measure included in an "en bloc" calendar call and considered by unanimous consent was counted in this category, as well as those which received individual unanimous consent disposition.

COMMENTARY ON THE SENATE TELEVISION TEST PERIOD

This section of the study examines commentary by Senators and by media observers on the Senate television test period. It should be noted that most of the commentary in the press on the Senate television experiment appeared only a few days after it began. The same is true for the statements quoted from the Congressional Record. Longer exposure and experience with television in the Senate may result in a greater volume of more extensive and more detailed commentary than is now available.

The commentary surveyed focused on three major areas: (1) concern over the visual appearance of Senators and of the Senate chamber, which dominated most of the commentary, (2) opinions about the effect of television coverage on the style and substance of Senate debate, and (3) the need or lack thereof for procedural changes to accommodate live television.

Visual elements

Many observers noted the unflattering camera angles, which focused more on the heads of Senators than on their faces: "'Those cameras show what's really happening around here, which is that members are losing their hair,' said Senator Frank H. Murkowski, an Alaska Republican . . ." [3] Some Senators took to using small lecterns on their desks when reading a statement to mitigate the problem: "Dole had already arranged for lecterns for himself and Minority Leader Robert C. Byrd (D-W.Va.) to help them keep a level eye on their audience rather than down at their desks." [4]

Ralph Griffith, the Director of the Senate Radio-Television Recording Studio, commented on how the Senate chamber had changed physically for TV: "We've already changed [the chamber] just a little—we've shortened the flagpole in there six inches. We've also put a new curtain in behind the presiding officer. The old curtain was a dark blue, and it was so blue that it was black [on TV]. It just absorbed all the light and the flesh tones weren't really natural. But I think our job is to produce a daily documentary as opposed to a soap opera or a news show." [5]

Senators with desks at the rear of the chamber complained about the mustard yellow color of the back wall: "Some Democrats, including John Kerry of Massachusetts, John D. Rockefeller of West Virginia and Albert Gore, Jr. of Tennessee, are said to be disturbed by the color of the wall behind them when they speak, saying it looks like a bus terminal." [6]

However, others noted the attractive image the historic Senate chamber presented: "Even we who oppose the intrusion of cameras into a deliberative body must admit that the place looks splendid on the closed-circuit coverage already begun. For reasons relating to the size, color and lighting of the Senate chamber, it looks markedly better on television than the House does. It is an elegant sound stage for presidential campaigning." [7]

The increased lighting levels bothered some Senators. When the cameras went off on July 15, Senator Proxmire commented on the difference the following day: "Mr. President, I want to call the attention of my colleagues to the fact that the lighting in here is different than it has been for a long time, and it is much better. It is more relaxing." [8]

Finally, most observers noted the same change in Senators' wardrobes—an increase in blue shirt/red tie combinations: "The other night I came on the floor of the Senate and I noticed about 30 of my Republican colleagues—all but two of whom had on "TV" blue shirts, red ties, and dark suits." [9]

Impact on debate style

Most observers noted either no change or favorable change in the debate style of Senators during the television test period. Negative comments were held to issues such as body language and the increased use of charts and props during debate. Excerpted quotes to illustrate these perspectives follow:

"When I did watch it, it didn't look to me like we talked any different or said anything different." (Senator Robert Packwood).[10]

"Changes? Only blue shirts and red ties." (Senator Wendell Ford).[11]

"They are making better speeches. They are using more gestures and more oratorical flourishes, and it seems to me that, overall, the debate has improved from a substantive standpoint." (Senator Robert Byrd).[12]

"I notice people don't look at each other when they debate. They look at the camera." (Senator Christopher Dodd).[13]

"The cameras also tended to exaggerate the motion of Senators who sway from side to side while speaking. 'My staff reports they're getting seasick,' said Senator William S. Cohen, Republican of Maine." [14]

"There are certainly some things we should change as far as bringing products on to the floor from our home States, and things of that kind. Perhaps we have to tighten up the rules on things like the size of charts that I see popping up on both sides in our debates." [15]

". . . I also have the feeling that television has brought a compulsion for completion of the work of the Senate that is artificial. Although I have been one who supported television from the beginning in terms of having television here, I have seen now in the period that it has been on, occasions when Members would say, 'Let's get this over with [today]; we can start something else tomorrow and you know the people out there looking at this proceeding ought to know what our final decision is.'" [16]

Procedural changes to accommodate television

Very few specific procedural changes have been advocated by either Senators or media observers in order to accommodate television. Undoubtedly, many Senators are waiting for the findings of the ad hoc groups of Senators organized by the Majority and Democratic Leaders to evaluate the broadcast test period, as well as the hearings being held by the Committee on Rules and Administration, before making specific suggestions. On the other hand, others specifically hoped no changes would be made due to television coverage:

"Limiting quorum calls is changing the Senate for TV. I just want TV to be part of the Senate." (Senator Wendell Ford).[17]

"The Senators, anticipating the new television audience, wanted to streamline their new procedures, and thereby make themselves more appealing. One wishes they hadn't. They altered their rules in deference to a technology." (TV Critic John Corry).[18]

"I fear the TV will replace substance. . . . The TV tail will wag the legislative dog." (Senator J. Bennett Johnston).[19]

Most of the comments Senators did make concerning possible procedural changes focused on the number and length of special order speeches. These had already been limited to five minutes in length from the customary 15 minutes, effective March 12, 1986, the day live radio broadcast of Senate floor proceedings began. At that time, Senator William Proxmire said, "This is the first time in about 15 years when we have not been able to get a special order for more than 5 minutes. That means that if you want to make a statement of any substance, you have to confine it to 5 minutes. That is one limitation that I think is serious.[20]

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[3] Greenhouse, Linda. TV: The Senate Grins and Bravely Tries to Bear It. New York Times, May 2, 1986: p. A20.

[4] Dewar, Helen. The Video Senate's Peer Preview. Washington Post, May 2, 1986: p. A17.

[5] Sayenga, Kurt. Is TV Changing the Senate? C-Span Update, June 23, 1986: p. 2.

[6] Fuerbringer, Jonathan. Of Red Ties, Cheese, the Senate and Live TV. New York Times, June 2, 1986: p. A14.

[7] Will, George. Prime Time for Bob Dole. Washington Post, May 18, 1986: p. F7.

[8] Proxmire, Senator William. Lights in the Senate Chamber. Congressional Record, v. 132, July 16, 1986: S9099.

[9] Heflin, Senator Howell. TV in the Senate. Congressional Record, v. 132, June 2, 1986: S6455.

[10] Kiley, Peter. Senate TV and the Tax Reform Debate. C-Span Update, June 9, 1986: p. 5.

[11] Fuerbringer, ibid, p. A1.

[12] Byrd, Senator Robert. Special Orders. Congressional Record, v. 132, June 4, 1986: S6744.

[13] Swardson, Anne and Russakoff, Dale. Senate Rejects Efforts to Keep IRA Benefits. Washington Post, June 12, 1986: p. A16.

[14] Greenhouse, p. A20.

[15] Dole, Senator Robert. TV in the Senate. Congressional Record, v. 132, June 25, 1986: p. S8391.

[16] Stevens, Senator Ted. Continued Television Coverage of Senate.

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[20] Proxmire, Senator William. Radio Broadcast of Senate Proceedings. Congressional Record, V. 132, March 12, 1986: p S2468.

With the start of televised proceedings, the number of special order speeches increased sharply, causing Senator Mark Hatfield to suggest that, ". . . We put those special orders at the end of the working day, so that when we begin our sessions on the morning, . . . we will get to the [legislative] calendar a little earlier."[21] In fact, this suggestion was informally implemented on June 25, 1986 when Senator Alan Simpson requested and received unanimous consent to allow the next day's special order speeches to be held during the day so that the Senate might proceed directly to consideration of the Manion nomination when it convened in the morning.[22]

However, Democratic Leader Robert Byrd responded to the suggestion that a permanent change be made in the placement of special order speeches by pointing out that while such speeches had increased in number, they had decreased in length: "I hope we would not become too mesmerized with concern because the Senate is on television. Heretofore, special orders were usually 15 minutes each; and while there may have been only 4 orders on a given morning, with 15 minutes each, that amounted to an hour." [23]

One proposal was made to curtail the amount of live television coverage overall. Senator William Proxmire suggested: ". . . that the Rule Committee give very careful consideration to not having television in the Senate after 7 o'clock at night. That would be one way of curtailing evening sessions and it would also be a constructive and positive way of putting the Senate on the basis where all of us could have a little more healthy lifestyle." [24]

Finally, one change in Senate practice has already been established as a result of live television broadcast. Time blocks, at approximately 10-minute intervals, now appear in the Senate section of the Congressional Record. House proceedings printed in the Congressional Record have contained time blocks since the House instituted television coverage in 1979.

The overall public reaction to Senate television was measured in a recent Harris poll, which found a majority of the American people approved televising sessions of Congress by 76-15 percent. According to pollster Louis Harris: "There is little doubt that a big majority is convinced that opening up the proceedings of the House and the Senate to mass exposure is an idea whose time has come." [25]

CONCLUSION

Television coverage of the Senate certainly has influenced the substantial increase in the number of an overall time spent on special order speeches. The leadership's decision to reduce the time per speech to five minutes may have limited somewhat the impact of special order speech growth. On the other hand, the reduced time limitation itself may have encouraged more speeches. Some Senators have suggested setting a maximum amount of special order time per day, convening the Senate earlier in the day to accommodate the speeches, placing them prior to leader time to start the day, or placing them at the end of all legislative business to reduce their effect on the Senate's formal legislative agenda. The data suggest that the time devoted to special orders could be somewhat reduced if the 5-minute limit were adhered to.

Although Senate session time has increased in each of the three periods studied, there is no clear link to television coverage. Average daily session time increased most significantly between the 1982, and 1984 periods, with the test period showing only a slight rise over 1984—an increase generally attributable to the intense interest in and lengthy consideration of the tax bill. There is no clear indication that television coverage encouraged longer debate on the tax bill.

The data suggest, however, that the Senate may be spending a higher proportion of its session time on legislative business. In the 1982 period, 46 percent of its session time was spent in debate on measures or motions to proceed; in 1984, the percentage increased to 51 percent of session time, and in 1986, this figure rose to nearly 61 percent. Television coverage may have contributed to the higher proportion of session time devoted to debate. However, a trend in this direction was already evident in 1984.

The time spent by the Senate in rescinded quorum calls declined sharply during the test period. Overall, the Senate spent 7 fewer hours in quorum calls in 1986 than in 1984, and the average length of a quorum call declined by nearly one-third. These quorum calls usually serve two purposes: to permit informal negotiations among Senators, or to stop action while awaiting the arrival of a particular Senator. Such quorum calls also occur during what would otherwise be morning business time. Since more morning business time is actually being used, this could partially account for the decline in the length of quorum calls.

During the test period, there has been a significant decline in the number of unanimous consent requests to consider measures and in the number of measures disposed of by the Senate without debate. Senators may have been less willing to permit measures to be taken up and processed without at least some debate—a change possibly influenced by television coverage. On the other hand, other variables may have been influenced this decline: more policy contention, more "holds" on bills, or fewer measures available for floor consideration.

In the other activity categories studied, Senate actions during the test period fall within the same range of occurrence and time displayed in 1982, and 1984. In most instances, the type of legislation being considered by the Senate or its saliency appears to influence Senate floor activity more than does the presence or absence of television cameras.

In any study, the constraints of the methodology, the available data, and the time period under review influence the findings. A six-week public test period is relatively short. The three periods under consideration may not sufficiently reflect the range of business the Senate is called upon to address at various times during a session or a Congress.

However, to date, television coverage has changed the patterns of Senate floor activity very little. The results of this study show the Senate to be a selectively deliberative body rather than a generally deliberative one. Most of the Senate's floor time was, and continues to be spent, considering only a few measures at great length.●

[21] Hatfield, Senator Mark. Special Orders. Congressional Record, v. 132, June 4, 1986: p. S6743.

[22] Simpson, Senator Al. Orders for Thursday, June 26, 1986. Congressional Record, v. 132, June 25, 1986: p. S8536.

[23] Byrd, p. S6744.

[24] Proxmire, Senator William. TV in the Senate. Congressional Record, v. 132, July 17, 1986: S9219.

[25] Harris, Louis. Congress in Action Should Stay on Live TV. The Harris Survey, July 7, 1986: p. 1.

CONTAINMENT OF NUCLEAR ACCIDENTS

● Mr. BIDEN. Mr. President, the Wall Street Journal reported today that the Nuclear Regulatory Commission [NRC] will release a report in September questioning the ability of certain reactor containment vessels to handle expected pressures during a nuclear accident. In fact, the report projects a failure rate of 90 percent during severe core melt accidents for containment structures used by almost one-quarter of the Nation's nuclear reactors.

The analysis by the NRC runs contrary to what we have been hearing from the nuclear industry during the past few weeks in response to the Chernobyl accident. Spokesmen for the nuclear industry have repeated time and time again that a release of radioactive material like that which occurred in the Soviet Union would be impossible in this country because of extra safety provided by our containment standards.

Now we are told that the containment structures of two dozen of our Nation's commercial nuclear reactors cannot deliver what has been promised. And this is not the first time that the ability of the General Electric Mark 1 containment structure has been brought under scrutiny. Over a decade ago, a study of reactor safety by the NRC found that the Mark 1 was vulnerable to containment failure. The report described in the Wall Street Journal article reconfirms that initial analysis.

The debate within the NRC and the industry should move away from analyses of the probability of severe accidents—the operating experience of American utilities shows that they can and will occur. The focus of attention should center on the best way to improve the integrity of the Mark 1 containment, either through changes in the structure itself, or related improvements in other safety features to measurably reduce the risk of a core meltdown.

Mr. President, the NRC is to be commended for making this analysis. The staff working on it could not help but recognize the implications of its findings. Now the NRC must take steps to solve the problem raised in the report.

On this point, I note that other countries with a strong investment in nuclear power have seen the need for improvements in their containment structures, and have already taken corrective action. Reactors in France and Sweden faced risks similar to those ascribed to the Mark 1, and both countries have made modifications to reduce the risk of containment failure. So the American industry already has

a growing source of experience with modifications on which it can draw in making its own decisions. Clearly, we no longer have reason to delay in removing this threat.

Mr. President, despite the findings of the NRC report and the experience of Sweden and France, I cannot be optimistic that changes will come about quickly. There have been too many examples of a problem being recognized, only to see corrections delayed by debate over the best solution, or the associated cost-benefit analysis for those solutions. The Mark 1 issue already fits into this pattern. As I mentioned earlier, its shortfalls have been recognized for more than a decade but reforms have yet to be required.

Congress must not continue to allow this type of situation to develop time after time. That is why I support the establishment of an independent safety board for the NRC. Although most of the discussion of this proposal has centered on the board's role in the aftermath of accidents, I have always believed that the board's most important function would be to undertake long-term studies of outstanding safety issues, to reduce the threat of accidents in the first place.

I ask unanimous consent that two articles be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. The first is today's Wall Street Journal article. The second is an op-ed piece written by Victor Singer, an authority on pressure vessels, which appeared in the Wilmington News Journal earlier this year. Mr. Singer details the weaknesses of containment structures and describes the mechanics involved in containment failure. He raises several issues beyond the Mark 1 containment structure that the NRC has recognized but not yet corrected. It is time for Congress to reform the NRC so significant concerns are no longer simply put aside, but are instead addressed in a timely manner.

The articles follow:

[From the Wall Street Journal, July 22, 1986]

NRC TO REPORT GE CONTAINMENT SYSTEM ON CERTAIN NUCLEAR REACTORS IS FLAWED

(By Bill Paul)

The Nuclear Regulatory Commission will report in September that the containment shell on certain nuclear reactors designed by General Electric Co. would fail in nine out of 10 types of severe accidents, an NRC official said.

There are about two dozen such commercial reactors in the U.S., of which about 18 are currently operating.

Wayne Houston, deputy director of the NRC's Boiling Water Reactor Division, said the agency has urged utilities with GE's Mark I containments to make modifications that could cost several million dollars per reactor. But he said that for now, the NRC isn't ordering any safety changes, nor does it intend to shut down any reactors. Moreover, he said it would be "economically unfeasible" to make "really major changes" that would upgrade the safety of the shell.

"It is perhaps a little scary for the public" to learn that GE's Mark I containment system has such a high probability of failure, Mr. Houston said in an interview. But, he added, the chances of an accident occurring that would test the containment system "still are quite low."

The NRC's Mark I conclusions are part of a "risk reassessment" study that the commission has been conducting on about half a dozen types of nuclear reactors. The reassessment comes in the wake of new and sometimes conflicting scientific data on how much and how fast radioactive material might be released into the atmosphere during a major accident.

The study, which Mr. Houston said was more detailed than a similar study that reached the same conclusion 11 years ago, is sure to cause disputes. In the wake of the recent Chernobyl disaster, which involved a Soviet-designed reactor that didn't have any such containment shell and thus quickly released radioactive material into the atmosphere, anti-nuclear groups called for a shutdown of U.S. reactors that have GE Mark I containments. They also want Congress to investigate.

A spokesman for GE, of Fairfield, Conn., declined to comment, maintaining that this is a matter between the NRC and the utilities.

Meanwhile, utilities with GE reactors have charged that the NRC's assessment is scientifically flawed and that the projected failure rate is "way, way less" than 90%, according to Cordell Reed, vice president, nuclear operations, of Commonwealth Edison Co. in Chicago, which has four GE reactors.

Other utilities that have reactors with Mark I containments include Carolina Power & Light Co, Southern Co's, Georgia Power Co. unit, Philadelphia Electric Co., Northeast Utilities and the Tennessee Valley Authority.

Nuclear industry officials say the problem with the Mark I appears to be that it is too small and wasn't designed to withstand the high pressures it is supposed to resist. In the past, GE has maintained that its containment is adequately designed.

In general, in a "serious" accident the fuel core of the reactor, which normally is surrounded by water, would be at least partly exposed because of a steam-pipe rupture or other breakdown, with the radioactive elements taking a gaseous form. The pressure of the steam inside the reactor would build to a point where the concrete shell would crack, allowing radioactive gases to escape into the atmosphere. Containment shells are supposed to prevent radioactivity from escaping, but the Mark I shell may not be able to do so, the report is expected to contend.

Harold Denton, director, of the NRC's Office of Nuclear Regulation, recently fueld the Mark I controversy when he told a group of utilities that the NRC will be paying "a lot of attention" to utilities efforts to deal with the issue.

Mr. Reed maintains that the real problem lies in the testing procedures of Sandia National Laboratories, the federal testing facility in Albuquerque, N.M., which the NRC is using for its Mark I investigation. Mr. Reed said Sandia hasn't sufficiently considered what an operator would do to mitigate the effects of a severe accident in the first critical hours. He said an operator generally would be able to prevent a release of radioactive material by venting and filtering before the pressure inside the reactor built to a point at which the containment shell was imperiled.

[From the News (Wilmington, DE) Journal, May 31, 1986]

THE CONTAINMENT IS INADEQUATE

(By Victor Singer)

"Individual well-being, fundamentally important under the Stars and Stripes, is only incidental under the Hammer and Sickle."

That subliminal message pervaded American print and electronic news media coverage of the Chernobyl accident of April 26. Our media exaggerated the accident's severity when the truth was bad enough, and asserted that our containment structures prevent similar accidents here when the truth isn't that good.

From the beginning, the "Defense in Depth" approach by the Atomic Energy Commission, and now the same approach by the Nuclear Regulatory Commission, required commercial nuclear reactors to have backup systems that defend against malfunctions of important plant systems, however reliable they might be, to prevent individual malfunctions from escalating into major accidents.

These defenses must be independent of one another, so that when any single system misbehaves, a redundant system unaffected by the misbehavior limits the consequences. Defense in Depth applies to accidents of equal or lesser severity than the "Design Basis Accident," the postulated accident the facility must be designed to withstand without exceeding mandated off-site exposure limits.

The design basis accident for the containment that surrounds each commercial nuclear power reactor in the United States is rupture of primary coolant piping connecting high on the reactor vessel, where normal operating pressure is 2,000 pounds per square inch at 550 degree Fahrenheit in pressurized water reactors (PWRs).

Such a rupture would immediately drop the pressure to the current level within the containment, which rises during the event.

Primary coolant water in the reactor that boils away is replaced by auxiliary systems that keep the surface above the top of the core to avoid more serious developments including core merit.

In such an accident, the stress formerly imposed on the reactor vessel by operating pressure is replaced by stress imposed by rapid cooling of the interor when cold coolant is introduced.

Design to withstand accident scenarios with simultaneous pressure and severe thermal stresses was early regarded as unnecessary; pressurized thermal shock (PTS) accidents were judged as either incredible or beyond the design basis accident. Experience has taught otherwise.

In the extreme, a PTS event ruptures the reactor vessel. Keeping the core immersed would require filling the bottom of the containment. Reactor vessel rupture is unlikely as long as fracture resistance of the vessel material remains high. Neutron radiation at normal intensities in PWRs gradually decreases fracture resistance.

In 350 reactor-years of U.S. experience, there have been at least eight PTS events in PWRs. Two were in the Rancho Seco plant near Sacramento, Calif., in March of 1978 and December of 1985. NRC staff concluded that had the earlier one occurred after 10 effective fullpower years of service, the reactor vessel probably would have ruptured. NRC staff also has indicated that in a PTS event resulting in rupture of the reactor vessel most existing PWRs would have insufficient pumping capacity to keep the

core covered, core melt and excessive containment pressures would probably occur and containment integrity could not be assured.

NRC has responded with endorsement of Defense in Depth to show good intentions, and paper studies to mask its abandonment of redundant safeguards such as stronger containments, when fracture resistance of the reactor vessel seems good enough. Because effective containment is expensive, Chernobyl didn't have it, and NRC hides behind paper studies. NRC has brought us wool parachutes without mothballs. Our media, exhausted from their orgy of Chernobyl hype and exaggeration, stumble once again on the truth, and once again pass it by.●

PUBLIC DEMANDS TORT REFORM

● Mr. KASTEN. Mr. President, a recent article in Business Insurance calls attention to the public demand for liability reform. California voters, by their support of proposition 51, have clearly voiced their opposition to our runaway liability laws. They are only one group out of many which has expressed the desire for a more rational tort system. It is time to respond in an attempt to alleviate the distressing situation facing the American people.

I ask that the text of this article be printed in the RECORD. I am hopeful that my colleagues will take note of the urgent need to bring some sense back to our liability laws through tort reform.

The article follows:

[From Business Insurance, June 9, 1986]

THE VOICE OF THE PEOPLE

What a victory!

The California public, offered the opportunity, reformed one aspect of liability law in California by passing Proposition 51 by more than a 2-to-1 margin.

More important, the passage of Proposition 51 in California—a state not known as a bastion of conservatism—signals that the public does want some tort reform.

Granted, the voter turnout in what was a primary election was low and predominantly Republican. And Proposition 51 addressed a very limited issue: repealing the application of joint and several liability to non-economic damage awards.

Nonetheless, the vote to repeal the theory's application to pain and suffering awards in California is a significant statement by the voters.

The California voters—those that cared to cast their ballots—said they wanted change. They rejected the current system that permits judges and juries to assess non-economic damages against defendants out of proportion to the defendant's responsibility for the plaintiff's damages.

The California Tort Assn., therefore, accomplished what it set out to do by putting Proposition 51 on the ballot. It not only reformed what it considered an injustice in the tort system, but it also proved to the state Assembly, which has consistently stalled tort reform efforts, that the public really wants tort reform.

Now, we hope the Assembly heeds the voters' statement and begins serious consideration of other tort reform proposals, such as caps on pain and suffering awards, limitations on attorneys' contingent fees and an exemption from the collateral source rule, which now leaves juries in the dark about other sources of financial recovery received by the plaintiff.

Furthermore, we think there's a message in the California vote for Congress, and particularly the Senate Commerce Committee, which is now haggling over a federal product liability bill.

The senators—and all of Congress—should see the California vote as indicative of the growing sentiment around the country that our civil justice system needs to be reformed to restore balance between the rights of defendants and the rights of plaintiffs.●

SPECIAL SESSION OF THE U.S.-SOVIET STANDING CONSULTATIVE COMMISSION

● Mr. DOMENICI. Mr. President, today U.S. and Soviet representatives are meeting in Geneva to convene a special session of the United States-Soviet Standing Consultative Commission—SCC. The Commission is responsible for promoting the implementation of arms control agreements between the United States and the Soviet Union.

In light of the President's recent decision with respect to the SALT II Treaty, I think this special session of the SCC comes at just the right time. Later this year, it is expected that the United States will proceed with plans to equip its 131st strategic bomber with cruise missiles, this going over the SALT II limit of 1,320 multiple-warhead delivery systems. Before this happens, I believe it is important for us to sit down with the Soviets and dicusss the reasons for our change of policy.

I do not hesitate to say that I have my concerns about the President's announcement that our country will no longer be bound by SALT II. Of course I do. No one can be completely certain what effect this change in policy will have on the arms race between the United States and the Soviet Union. However, I do feel that adherence to a treaty must be mutual if it is to work and have any meaning. The Soviets, unfortunately, continue to violate various major provisions of SALT II while the United States remains in compliance, and this makes no sense to me at all. Unilateral compliance with any bilateral agreement is inherently destabilizing.

The special session of the SCC offers an opportunity to address U.S. concerns about Soviet noncompliance, and thereby focus on the heart of this entire issue. It is my hope that something productive will come out of this session and that the Soviets will join us in reaching an arms control framework based on significant, equitable, and verifiable reductions in the size of our nuclear arsenals.●

NATIONAL SECURITY STRATEGIES

● Mr. DURENBERGER. Mr. President, I am submitting for the RECORD an article that appeared in the Washington Times of June 24. This article cites the recommendation of the Packard Commission for the President to develop a 5-year strategy for the national defense.

Mr. President, I support the recommendation and call the attention of the Senate to a bill submitted by our colleague from Virginia, Senator WARNER, which would require the President to develop just such a strategy. I support Senator WARNER's bill and urge other Members to do likewise.

The reason why I can endorse Senator WARNER's proposal so strongly is that we have started a similar initiative for the Intelligence Community in the Select Committee on Intelligence.

Last year at about this time, the Select Committee directed the Director of Central Intelligence to develop a National Intelligence Strategy—a statement of the missions the Intelligence Community was required to meet and the DCI's plan for meeting them.

The Director of Central Intelligence, William Casey, presented his first National Intelligence Strategy to the Select Committee last February. Since then, we have found that the Strategy has had three effects.

First, the Members of the Select Committee understand U.S. intelligence capability more clearly than ever before. We also have a better appreciation of our intelligence gaps. With the Strategy, we can see how each program meets the requirements of U.S. officials.

Second, the Select Committee's review of the Intelligence Budget has been strengthened. Instead of just asking how much the country should spend on Program X or Program Y, the Select Committee can see what these programs do and what their priorities should be.

Third, the National Intelligence Strategy has given the DCI a tool for managing the Intelligence Community better. The Strategy presents the DCI's vision for U.S. intelligence. It also allows him to match requirements head-to-head and show what his priorities are. Bill Casey needs this to make tough choices in an age of tight budgets.

I think Senator WARNER's proposal would produce exactly the same benefits for defense planning.

I must point out, however, that an Intelligence Strategy or a Defense Strategy cannot be a one-time effort. To be relevant, a strategy must be current. It must be reviewed each year and, if necessary, adjusted.

This is why the Select Committee, in its report for the fiscal year 1987 Intelligence Authorization, has directed the DCI to continue to produce a National Intelligence Strategy each year and to submit it to the Senate with his budget requests. We would suggest a Defense Strategy adopt a similar approach.

Senator WARNER is to be commended for his proposal and deserves the support of the Members in his effort.

The article follows:

REAGAN URGED TO BE AGGRESSIVE ON NATIONAL SECURITY STRATEGIES

(By Walter Andrews)

President Reagan must take the initiative and challenge the nation's military leaders to come up with a national defense strategy that will provide for America's protection into the next century, a presidential commission said in a report released yesterday.

The President's Blue Ribbon Commission on Defense Management also said Congress must streamline its budget review process and reduce the overlap and duplication of its many committees and subcommittees. The current one-year budget should be replaced by a two-year defense budget, the commission said.

"The president must initiate the effort. He must challenge the secretary of defense, the chairman of the Joint Chiefs of Staff and the nation's key military leaders to engage in creating a national military strategy that can become the basis of America's protection into the next century," the report said.

Headed by David Packard, industrialist and former deputy defense secretary in the Nixon administration, the commission said that "only the president can define the terms and boundaries necessary to set such an effort in motion."

The president would then be able to give Congress a five-year national security blueprint that included military goals and financial limits, the report said.

In an "interim report" in February, the commission emphasized the need for more and better long-range planning that tied the military budget more directly with the country's national security needs. A separate April report dealt with the weapons acquisition process.

In yesterday's final report, the commission said the planning of overall military strategy cannot be carried out in isolation from larger questions of foreign policy as well as domestic economic objectives.

"For this reason, the commission sees a need for improving the extensive process for defense planning and budgeting within the executive branch by establishing a mechanism for early, firm presidential guidance," the report said.

Historically, the current system in which the White House issues Nation Security Decision Directives has provided the Pentagon with "unclear guidance" because the directives state no limit on the amount of money available for defense, according to the report.

"Because of the lack of early presidential guidance on fiscal limits, defense resource plans are subject to debate and change within the administration up to the moment the president makes final decisions before sending his annual budget to Congress," the report said.

Congress also does not normally complete work on the current year's budget until shortly before the next year's military budget is submitted to Congress in January, the report said. Congressional changes must then be added to the new budget.

The process does "not allow the secretary of defense sufficient time to conduct a careful review" of the effects that presidential and congressional changes would have on the five-year defense program and advise the president, the report said.

After selecting an appropriate national defense strategy, the president "would approve a national defense program and its associate budget level," the report said. "The five-year defense budget level would be binding on all elements of the administration."

The report also said that Congress should reduce the overlap and duplication among its many committees and subcommittees that currently review the defense budget each year.●

NAUM AND INNA MEIMAN

● Mr. SIMON. Mr. President, my friends, Naum and Inna Meiman, live in the Soviet Union. They have endured harrassment and fear for years since applying to emigrate from the Soviet Union to Israel.

Naum was an original member of the Moscow Human Rights Monitoring Group, formed after the Soviets signed the Helsinki accords. He is a mathematician by profession but has been barred from any institute for years. He is not allowed to interact with other professionals and cannot contribute to the world of mathematics.

Inna is a wonderful, courageous woman battling cancer of the spine. She was able to obtain limited treatment in Moscow, but would most likely benefit greatly from experiment treatment available to her only in the West. Unfortunately, the Soviets will not grant her or Naum permission to come to the West.

I strongly encourage the Soviets to live up to the documents which bear their signature and guarantee human rights to all citizens. Let Naum and Inna Meiman go to Israel.●

INDIAN AFFAIRS HEARINGS

● Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, August 6, 1986, in Senate Russell 485, at 10 a.m., on the following bills:

S. 2564. A bill to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico; and

H.R. 3214. A bill to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Indians in United States Claims Court docket numbered 53-81L, and for other purposes.

Those wishing additional information should contact the committee at 224-2251.●

THE BUFFALO PUBLIC SCHOOL SYSTEM

● Mr. MOYNIHAN. Mr. President, the Buffalo Public School System recently received a great honor. Secretary of Education William Bennett recognized 270 elementary schools for excellence nationwide, and 4 of them are in Buffalo. The Buffalo School System has the distinction of having the greatest number of schools selected for recognition of any district in the country. The schools are Futures Academy, Houghton Academy, School 54, and West Hertel Academy. Futures Academy is a magnet school.

The Department of Education reviewed the schools on the basis of how well they met their students' needs and how well they used their resources in the 1985-86 school year. Growth in reading and math skills received special emphasis. I am pleased that the young people of Buffalo have such fine schools in which to learn and grow. The Buffalo Public School System greatly deserves the recognition it has received. Its accomplishments are vital to the future of many thousands of children.●

LEGACY OF MORE THAN 50 YEARS OF REPORTING IN RHODE ISLAND

● Mr. PELL. Mr. President, I would like to call my colleagues attention to the retirement of a couple who have helped to shape journalism during more than half a century of reporting in Rhode Island.

Zelmore "Zel" and Esther C. Levin retired simultaneously recently. Together they founded and ran their own newspaper, the Woonsocket Sunday Star, in 1950 and published it for 5 years.

Zel began his journalistic career in 1928 as a 14-year-old junior high school student, writing as the school correspondent for the Call in Woonsocket, RI. When he graduated from high school he went to work full time as a reporter.

He remained at the Call, with the exception of 5 years of military service, for the next 22 years. He became the newspaper's news editor and then its executive city editor. He left to found his own newspaper with his wife.

After selling the Woonsocket Sunday Star, Zel worked briefly in public relations and advertising before returning to the Call to manage its radio station, WWON, for 13 years. He left that post to become a reporter at the Evening Times in Pawtucket, RI.

He was promoted to assistant managing editor at the Evening Times after 6 months and held that position for 9 years until his first retirement. Then he resumed his formal educa-

tion, earning his bachelor's degree and master's degree in 5 years.

During that time he also edited two weekly papers, the East Providence Post and the Seekonk Star. He retired again in 1981, but returned to journalism the next year working at the Federation Voice, published by the Jewish Federation of Rhode Island.

Now that he has retired for the third time and his wife has retired from her job as a psychiatric social worker at Butler Hospital, Zel plans to complete a novel he began 20 years ago.

If Zel can translate even a fraction of his wealth of knowledge, spirit, and experience into that book—it should be a remarkable novel. The story, by the way, is about an idealistic journalist and his search for peace. I, for one, look forward to reading it.

Mr. President, I ask that an article from the Call of Sunday, July 20, 1986, be reprinted in the RECORD.

THE LEVINS RETIRE, AT LAST, FROM JOBS AND CITY

(By Cyndi S. Surowiec)

A well-known Woonsocket professional couple, both former members of the Call news staff, have said goodbye to their jobs and to their native Woonsocket.

Zelmore "Zel" and Esther C. Levin, of 645 Prospect St., retired simultaneously June 27, although a series of retirement parties kept them in town temporarily.

For Zel, his retirement means the conclusion of a productive career in communications that has made a tremendous impact on journalism for the past half-century. For Esther, it is the end of her second career, a working life that began as a reporter and ended as a therapist at Butler Hospital where she was a psychiatric social worker.

In a recent interview, Levin looked back on highlights of various positions he has held in the communications field. "It's axiomatic that things change with the years," he said, "but few persons ever envisioned the progress newspapers have made in the last half-century.

"One almost needs a scorecard to keep track of the changes in his own life and changes in the communications industry," Levin said.

Levin started his writing career in 1928 as a 14-year-old junior at Woonsocket High School, when the Call named him school correspondent. He recalls the very first story he wrote. "It was a story about the football team. I bravely predicted a state championship. I was overly optimistic, I'm afraid."

Upon graduation, he became a full-time reporter with the Call and his position continued to grow to news editor and eventually to executive city editor. Levin remained at the Call for 22 years, interrupted by a five-year military stint.

Levin entered the military service two months before World War II's Pearl Harbor, and as promotions came rapidly in his professional life, so too did the advancement in the military.

He received his basic training at Fort Riley, Kansas, in the cavalry, and he served there and in India as buck private. Later he was transferred to the Signal Corps where he was promoted to corporal, and 24 hours later, to sergeant. Two years later, he became Signal Corps captain.

He left *The Call* in 1950 when he and his wife founded and ran their own paper for five years, *The Woonsocket Sunday Star.*

After selling the *Sunday Star,* he enjoyed a brief career in public relations and advertising. He worked with the Industrial Development Foundation of Greater Woonsocket in its formative days, and with the L.C. FitzGerald Agency in Providence. He promoted the 1955 Mardi Gras that attracted the biggest crowd ever to the city, and helped promote the Warwick Musical Theatre, now one of the largest outdoor theaters-in-the-round in the east.

In 1956 Levin returned to *The Call* to manage its radio station, WWON, where he continued for the next 13 years.

Upon leaving WWON, he returned to work again as a reporter at the *Evening Times* in Pawtucket, where he worked for six months before he was promoted to assistant managing editor. He held this position for nine years. During this time, he also hosted "Questions to the Editor," a live television program on Channel 36.

Levin's first retirement came in 1978 when at 65 years old, he was put out "to pasture" by the *Pawtucket Times.* "The paper did me a favor, although I didn't think so at the time," the veteran newsman noted. "I had become a fulltime reporter for *The Call* after graduating from high school, so I never had gone to college. Faced with the prospect of idle time and looking for an intellectual challenge, I enrolled at Rhode Island College.

"Two months after I started, I became editor of two weekly papers, the *East Providence Post* and the *Seekonk Star,* but I continued my schooling nights and picked up a bachelor's degree and master's degree in five years. Going to school after being away from studies and classes for 49 years was interesting, to say the least, but also fun."

He left his position as editor of the weeklies, to once again retire in 1981.

But in 1962 Levin returned to work for the *Federation* and the *Federation Voice,* where he attempted to give readers valuable Jewish news and further the cause of the Jewish Federation of Rhode Island.

The *Federation* provided Levin with new insights, he said, he no longer viewed the organization simply as a fundraising tool. With his new understanding, he committed a lot of time and energy in working for the *Federation* and the *Federation Voice.* In doing so, he was able to merge Judaism, his way of life, with journalism, his career.

Reminiscing over his more than half-century in the profession, Levin said, "Obviously, the most dramatic innovation has been the introduction of the computer. I doubt there are many active new men in the state who remember the cumbersome linotype machines and the hot lead in the composing room.

But the changes have been more than mechanical. This is the day of specialists. Even the style of writing has changed.

"I suppose all the old timers look back nostalgically on the 'good old days.' I don't know if 'good' is the precise adjective, but things surely were different. I know it will be hard for you to believe—television was unheard of and many homes didn't even have radios in the early 30's. Politics, too, was a different ball game. I don't know if candidates were any better or worse than today's hopefuls, but they were a different breed," says Levin.

"Excitement? Sure, but that's enough reminiscing. I'll save the rest for my book," Levin said. Currently he is revising a novel he began 20 years ago of a young idealist journalist in search of peace.

The Levins have two daughters. Following in her mother's footsteps, Mrs. Taylor (Jessie) Birckhead of Bethlehem, Pa., has a master's degree in social work and is mother of two daughters. And Mrs. David (Elise) Ward of Easton, Mass, is following in her dad's footsteps, as public relations director for the Vernon Corp. of Norwood, Mass.

Several retirement parties have been held in honor of the Levins, and still another party will be held Friday, at the Brown University Faculty Club, sponsored by the Social Service Department of Butler Hospital.

The Levins have put their Woonsocket home on the market and are relocating permanently to their summer home in Wellfleet, Mass.●

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1930

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. KERRY. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. The period of morning business was to expire at 7:15 p.m. It would take unanimous consent to move us into morning business.

Mr. KERRY. Mr. President, I ask unanimous consent that we continue in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

MRS. ROSE KENNEDY'S 96TH BIRTHDAY

Mr. KERRY. Mr. President, I rise to congratulate Mrs. Rose Kennedy on the occasion of her 96th birthday.

Mrs. Kennedy—to all who know her in Massachusetts and to those who have watched her and her family throughout this country all understand—has given much to this country. Her devotion to her family, her courage, her grace, her dignity, and her humane and compassionate commitment to those less fortunate are an inspiration to all Americans.

In an ara when family values are sometimes questioned, Rose Kennedy has inspired us to her devotion to her family as well as by the values and tradition which she has imparted to that family. She has given this Nation one

of our truly great Presidents, John F. Kennedy. She has given us a great Attorney General and Senator from New York, and Presidential candidate, Robert F. Kennedy. She has given us one of the great statesmen of the Senate, Presidential candidate, and my colleague, our colleague, Senator EDWARD M. KENNEDY, and she has given us a family which is unmatched in American history for its devotion to public service and its contributions to this country. Those who know Rose Kennedy know that that record of public service is due in great part to the values and to the influence which she has had on her own family.

President Kennedy defined courage as "grace under pressure." By that standard and by any standard Rose Kennedy is a woman of great courage. She has known tragedies which few of us are capable of knowing. She has lost three of her sons in service to their country, a loss which no mother should have to bear. But she has borne those losses publicly and those tragedies publicly with great courage, with the grace, and the dignity which I think serve as an inspiration to all of us.

Mr. President, all Americans are richer for having shared in the contributions made to this Nation by Rose Kennedy. And Mrs. Kennedy can take great pride, and I hope and know she does, in what she has given us.

On this, her 96th birthday, I would like simply to say "Thank you" to Rose Kennedy and to wish her many more years of health and happiness.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1940

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I apologize to the Presiding Officer, the distinguished minority leader, and the staff for the delay. We have been trying to work out a time problem in an effort to accommodate some Senators who cannot vote at 2 o'clock. I think we have it worked out.

Mr. BYRD. Mr. President, the distinguished majority leader is gracious in that respect. He owes me no apology. I know something about the burden carried by him.

Mr. DOLE. I thank the minority leader.

ORDERS FOR WEDNESDAY, JULY 23, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 11:15 a.m. on Wednesday, July 23, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, further, I ask unanimous consent that following the recognition of the two leaders under the standing order there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, PRESSLER, and SIMON.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I also ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONSIDERATION OF THE VOTE ON THE MANION NOMINATION

Mr. DOLE. Mr. President, following morning business, it will be the majority leader's intention to renew the minority leader's motion to reconsider the vote by which the Daniel Manion nomination was confirmed 48 to 46 in executive session

As in executive session, I ask that the time between 12 noon and 2 p.m. be divided in the usual form for discussion of the Manion nomination.

I further ask unanimous consent that following the conclusion or yielding back of the time the Senate proceed to vote on the motion.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, that motion to reconsider is a debatable motion in this situation because an order to set a time and date for a vote on the nomination was never entered.

I asked that it be entered. It was not done. The Chair did not put any such request. A unanimous-consent request was not made. The Senate did vote shortly after the yeas and nays were entered. But for the purposes of the RECORD, that no precedent be set here on the basis of what might have appeared to be an understanding but which was not in reality an order of the Senate, I want the record to show that I maintain that that motion to reconsider is debatable.

If the underlying matter were not debatable, then that motion would not be debatable, but the underlying matter—in this instance, the nomination—was debatable.

The motion to invoke cloture was vitiated. There was no order ever entered to vote at a certain time and date. Therefore, I maintain that, under the precedents, the motion to reconsider is debatable.

The distinguished majority leader and I, however, have agreed that there be 2 hours of debate on the motion to reconsider, which is very agreeable to me.

I think this is a very fair resolution of the matter. I have no unwillingness at all to enter upon a time agreement of 2 hours. The distinguished majority leader stated that he would give the minority leader 24 hours notice. He has lived up to that commitment, and I honor him for that. But for the sake of the record in the future, I feel constrained to make this statement, and I have done so.

Mr. President, how did the distinguished majority leader phrase his request, once again?

Mr. DOLE. As in executive session, I ask unanimous consent that the time between 12 and 2 p.m. be equally divided in the usual form for discussion of the Manion nomination.

I further ask unanimous consent that following the conclusion of or yielding back of the time, the Senate proceed to vote on the motion, I think no later than 2 p.m.

Mr. BYRD. That is the motion to reconsider, Mr. President?

Mr. DOLE. That is correct, Mr. President.

Mr. BYRD. The distinguished majority leader having phrased the request that he has, he intends, therefore, for the vote to occur on the motion to reconsider and not on a motion to table that motion.

Mr. DOLE. That is correct.

Mr. BYRD. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, the request of the majority leader is agreed to.

Mr. DOLE. Mr. President, I did not comment on the distinguished minority leader's explanation of his understanding of the rules. I guess the record is made that it is his understanding. I am not certain whether that would be the Chair's understanding and maybe perhaps, just for the sake of the record, it was my understanding that the motion to reconsider would not have been debatable. I therefore make a parliamentary inquiry if that is the case.

The PRESIDING OFFICER. A motion to reconsider a nondebatable question is not debatable. Since the agreement to vitiate the cloture vote was predicated on an agreement to vote immediately on the nomination, the motion is not debatable.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. BYRD. The distinguished majority leader has the floor.

Mr. DOLE. I am happy to yield. I just wanted to make the RECORD.

Mr. BYRD. Mr. President, the reason that I stated earlier that the

71-059 O-87-28 (Pt. 12)

motion to reconsider in this instance is debatable is that I had inquired of the Parliamentarian earlier today as to that very matter. The Parliamentarian was of the opinion that the motion to reconsider in this instance is not debatable. I challenge that position. I did so with the Parliamentarian. The Parliamentarian, of course, cannot speak here, and I say what I say with respect toward the able Parliamentarian.

□ 1955

But the Parliamentarian is basing his opinion on a mere understanding that existed here in the Senate on that occasion some days ago when the vote on the Manion nomination took place. There was a kind of an understanding that the Senate would vote immediately, that the motion to invoke cloture would be vitiated and that the rollcall vote would not extend beyond 20 minutes. The distinguished majority leader put the request on the motion to vitiate the cloture motion and the Senate ordered that the cloture vote be vitiated.

But the distinguished majority leader did not put the question as to an immediate vote. I have searched the RECORD. I have searched the Journal of the proceedings and there is no request by the distinguished majority leader or any other Senator to that effect appearing in either the RECORD or the Journal. And there was no order by the Senate. I say here and now that when this Senate proceeds on the basis of a precedent that might have been set here—the Chair has just responded to a parliamentary inquiry. That is not a ruling by the Chair and does not constitute a precedent. But I want to say here and now that I challenge this opinion by the Parliamentarian, and I challenge the Chair's response to the parliamentary inquiry by the distinguished majority leader.

If the underlying matter indeed were not debatable, then the motion to reconsider would not be debatable. But in this instance, the underlying matter was still debatable.

The Senate did proceed to vote very shortly on the Manion nomination but there was no order, I say with the utmost respect to the Chair and to the Parliamentarian—there was no order of the Senate; the Journal does not show it; the RECORD does not show it—there was no order to the effect that debate would end and a vote would occur at a certain time and on a certain date and that rule XII, paragraph 4 would be waived. No such agreement by unanimous consent was propounded, agreed to, or ever entered. And so I must say that I am concerned when this kind of advice is given to the Chair by the Parliamentarian as we have just heard. I am concerned about it and I think that all Senators ought to be concerned about it.

For the sake of the RECORD, I will let it stand as it is, and I am willing to go along with the 2-hour debate that has been ordered on the basis of the request made by the distinguished majority leader. The record is clear, however, that this Senator challenges the response to the distinguished majority leader's parliamentary inquiry, and in challenging the response, of course, I challenge the advice that was given to the Chair.

I do not say this with any animus toward the present occupant of the chair. I do not say it with any animus to the Parliamentarian. But this Senate operates on the basis of rules and procedents, and when it goes beyond that, then, as I told the Parliamentarian today, we are operating on rather thin ice.

I thank the majority leader.

Mr. DOLE. Mr. President, I thank the distinguished minority leader, who certainly is the expert on the rules. I was just standing here thinking about what would happen if it was debatable. We probably would not have voted on the nomination for some time. But I would repeat the majority leader did make the inquiry immediately following the vote, what happens next, in effect, and I was told that the motion to reconsider would not be debatable, obviously the motion to table was not debatable.

□ 2000

If the distinguished minority leader prevailed on his motion to reconsider, then we would move immediately to a vote on the nomination, which would not be debatable unless the majority leader moved to some other matter on the Executive Calendar or the Senate went into legislative session.

I guess the record has been made, and we have agreed on a 2-hour time limit.

Mr. BYRD. I say to the distinguished majority leader, if he will yield, that if the motion to reconsider were carried, there would be a question again as to whether or not the consideration of the nomination, as having been reconsidered, would be debatable. I maintain that it would be debatable. Cloture was not invoked. The motion to invoke cloture was vitiated, and at that point the nomination remained debatable. There was never an order entered into by the Senate to shut off debate. The Senate simply proceeded to vote. For that matter, the 20 minutes that was agreed to, extended to 22 minutes.

It was then, within those additional 2 minutes, that one of the pairs was given. I am not interested in reciting the events further.

I simply want the record to show that I maintain that the motion to reconsider is debatable in such a situation. I need not go over the reasons why again.

Mr. DOLE. Mr. President, after disposition of the vote, it will be the intention of the majority leader to begin consideration of House Joint Resolution 668, the debt limit extension. I assume that there will be rollcall votes.

In accordance with my pledge to the distinguished Senator from Colorado [Mr. HART], I have delivered to him a copy of the so-called Gramm-Rudman-Hollings amendment. I delivered it last evening. I indicated to him today that there may be some technical changes—there are several pages—which I know Senator DOMENICI and others are reviewing.

I am not certain that will be the first amendment, but I hope that will satisfy what I consider to be a reasonable request from the distinguished Senator from Colorado.

So I would guess that sometime in mid-afternoon we will be on the debt limit extension.

Following that, it is my hope that Senators GARN and PROXMIRE can work out some time agreement on the housing bill and we can take that up.

Then, in accordance with the discussion had earlier today with the distinguished minority leader, we hope to start tomorrow working with Members on each side on three matters—aid to the Contras, South Africa, and the SALT II resolution—to see if there is some way to put together not a package but some agreement that would cover all three of those matters.

RECESS UNTIL TOMORROW AT 11:15 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 11:15 a.m. on Wednesday, July 23, 1986.

The motion was agreed to, and the Senate at 8:03 p.m., recessed until Wednesday, July 23, 1986, at 11:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1986:

DEPARTMENT OF STATE

James Edward Nolan, Jr., of Maryland, to be Director of the Office of Foreign Missions, with the rank of Ambassador, new position.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas R. Blank, of Delaware, to be an Assistant Administrator of the Agency for International Development, vice Cathryn C. Semerad, resigned.

FEDERAL RESERVE SYSTEM

H. Robert Heller, of California, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1982, vice Preston Martin, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert Hollander, of New Jersey, to be a member of the National Council on the Humanities for a term expiring January 26, 1992, vice Roland Paul Dille, term expired.

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Brian R. Aldrich
Kevin P. McCarthy
Amir Abdussabour
Steven L. O'Harra
Colin M. Hurley
Jeffrey J. Burton
Stephen M. Berniche
Steven R. Godfrey
Douglas B. Dillon
Denise L. Matthews
Timothy J. Atkin
Dean C. Bruckner
Paul E. DeVeau
Edgar B. Wendlandt
Marc E. Gage
Paul F. Thomas
Charles D. Michel
Michael J. Lodge
John A. Furman
David S. Klipp
Peter J. Brown
Mary K. Morrissey
Frederick J. Sommer
Sean F. Byrnes
Brian R. Pierce
Robert P. Wagner
Stephan P. Giondomenica
Douglas J. Henke
Peter J. Coxon
Joseph M. Vojvodich
Chris P. Reilly
James L. McCauley
Todd A. Sokalzuk
Michael A. Walz
David J. Martin
Christopher J. Lutat
Joseph D. Schruender
Carl B. Frank
Paul J. Brabham
Peter G. Basil
Michael J. Haycock
Daniel C. Burbank
Donald P. Coffelt, Jr.
Robert C. Patton III
John E. Rosen
David G. Throop
Jerald S. Rainey
John F. Prince
Bradley D. Nelson
Gerald W. Wilson
Edward R. Fontaine
Michael J. Scully
Thomas P. Wyman
Timothy J. Quiram
Steven J. Andersen
Michael P. McKenna
Thomas A. Stanek
David W. Newton
John M. Knox
Pamela A. Mencel
Michelle M. Lauzon
Daniel B. Owens
Valerie C. Poysky
William J. Martin
John J. Hickey
Lisa M. Festa
Charles W. Mello
James G. Kolbe
James Adase
Michael W. Stanley
Mary A. Stolarski
James M. Montgomery
Robert S. Schuda
Roch E. Garand
Mark E. Mooney
William D. Gittler
Michael J. Roer
Stephen J. Schreiber
Eric R. Engvall
Terry W. Brandsma
Edward N. Eng
Wayne A. Muilenburg
Nicholas F. Russo
William S. Krewsky
Vincent D. DeLaurentis
Mark J. Huebschman
Todd P. Seaman
Robert J. Paulison
Cameron J. Lewis
Jerry C. Torok
Aldo Noto
Dawna H. Irwin
Gary S. Spenik
John P. Sifling
Paul E. Perlt
Karen M. Roberts
Kelly A. Barnes
Bobby M. Lam
Kelly L. Hatfield
James F. Higgins
John R. Pasch
Jeffrey C. Robertson
Christopher D. Alexander
Will O. Stevenson, Jr.
John D. Sweeney
Christopher A. Martino
Craig A. Meyer
Gregory T. Nelson
Joseph M. Re
Jeffrey R. Brandt
Linda L. Keene
Louis L. Vinciguerra
Jeffrey D. Loftus
Timothy Aguirre
Bryan C. Litscher
Richard T. Leitner
James B. Donovan
Bryan R. Emond
Dale M. Jones, Jr.
Christopher P. Scraba
Kevin L. Conroy
Michael G. Dorchak
James J. Lynch
Stephen C. Rothchild
Byron H. Romine
Michael W. Shomin
Meredith L. Austin
John E. Evensen
Gary D. Lakin
Christopher K. Donahoe
William C. Keppler
Stephen M. Goddard
Neal F. Reardon
Scott P. Ehrhorn
Mark A. Devore
Stephen S. Scardefield
Gregory S. McLellan
Tom E. Flanagan
Joseph D. Phillips
Brian G. Benson
Carlyle A. Blomme
Dana Tubbs
Christopher A. Buckridge
Kelly S. Strong
Ronald J. Magoon
Willard S. Ellis
Thomas J. Hughes
Darwin L. Blakemore
Wayne D. Cawthorn
David N. Edelson
Richard P. Girard II
Andrew W. Connor
Robert R. McKenna
Arlyn R. Madsen
Richard S. Groseclose, Jr.
Kevin M. Pratt
Joseph C. McGuiness
Stephen F. King
John M. Mitchell
Frank H. Kingett
Daniel J. Christovich
Robin E. Kane
Mark F. McCabe
Robert B. Watts
Robert W. Shene
Keith J. Turro
Lawrence E. Smith
Lori A. Dowd
Glen E. Magrane
Davis L. Kong
Edward J. Gibbons
Manuel R. Raras III
Edwardo Gagarin
Matthew E. Miller
David M. Singer
Douglas H. Olson
Bryan W. Beard
Chris J. Thornton
Mark G. Maser
Charles S. Wengenroth
Lincoln H. Benedict
Damian R. Schmitt
Scott A. Fleming
Paul W. Krynick
Brian F. Poskaitis
Alynn K. Fullaway
Robert T. Newton
Krisa A. Sloma
F. D. Hoffman, Jr.
Kevin P. Crawley
John T. Broadway
Terry L. Hoover
William L. Majors
Gerald A. Green
Duane F. Rumpca
Daniel S. Rotermund
Joseph P. Stafford
Adolph L. Keyes

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Edgar A. Chavarrie, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Robert E. Kelley, xxx-xx-xxxx FR, U.S. Air Force.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Bernard M. Kauderer, xxx-xx-x... xxx-.../1120, U.S. Navy.

IN THE AIR FORCE

The following persons for Reserve of the Air Force appointment, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

You Chan Lee, xxx-xx-xxxx
Rafael Porres, xxx-xx-xxxx
Ned J. Whitcomb, xxx-xx-xxxx

The following officer for Reserve of the Air Force (non-Ead) promotion in the grade indicated, under the provisions of sections 1552 and 8371, title 10, United States, Code:

To be colonel

Theodore K. Loyd, xxx-xx-xxxx

IN THE ARMY

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3353:

MEDICAL CORPS

To be colonels

Nicoll F. Galbraith, Jr., xxx-xx-xxxx
Paul G. Meyer, xxx-xx-xxxx

To be lieutenant colonels

Merlin G. Anderson, xxx-xx-xxxx
Robert C. Bickel, Jr., xxx-xx-xxxx
David E. Brougher, xxx-xx-xxxx
David B. Gifford, xxx-xx-xxxx
Harold M. Ginzburg, xxx-xx-xxxx
William F. Hayden, xxx-xx-xxxx
Wayne E. Janda, xxx-xx-xxxx
Hector J. Leblanc, xxx-xx-xxxx
Ansel R. Marks, xxx-xx-xxxx
Jaime J. Mosquera, xxx-xx-xxxx
Rosario A. Musella, xxx-xx-xxxx
Arthur J. O'Connor III, xxx-xx-xxxx
Havner H. Parish, Jr., xxx-xx-xxxx
Kenneth Pfaff, xxx-xx-xxxx
Teresa Pietruk, xxx-xx-xxxx
Ashley S. Ross, xxx-xx-xxxx
John J. Salchert, xxx-xx-xxxx
Robert S. Stevenson, xxx-xx-xxxx
Madisetti N. Swamy, xxx-xx-xxxx
Jorg C. Winterer, xxx-xx-xxxx
Choong J. Whang, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Mark W. Blackburn, xxx-xx-xxxx
Edward T. Salvato, Jr., xxx-xx-xxxx

IN THE NAVY

The following-named Naval Reserve Officers' Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Scott G. Chatlin
David W. Clark
Cynthia D. Grant
Kenneth S. Karpel
Young S. Kwon
Barry W. Payne
Thomas L. Peck

The following-Navy Enlisted Commissioning Program Candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Monte S. Beverly
Peter J. Dipaolo
Jude T. Donato
Anthony T. Gody, Jr.
David W. Hamby
Julie M. Johnson
Michael J. Larkin
William G. Ley
Joseph J. Logie
Scott B. Miserendino
Edward Olsen
Catherine J. Pinion
Kenneth J. Rassler
Philip A. Rigney
Daniel L. Stueckemann

The following-named Naval Reserve officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Gary G. Bicking
August H. Carrillo
Jon G. Hum
Terry W. Johnson
Derek S. Martin
Manny J. Travers
Edwin R. Kohn II
Gerard G. Vagt

The following-named Navy enlisted candidates to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Ronald A. Gearns
Craig S. Smith

The following-named ex-Naval Reserve officer to be appointed permanent captain in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Robert M. Byers

The following-named medical college graduate to be appointed permanent captain in the Medical Corps of the U.S. Naval

Reserve, pursuant to title 10, United States Code, section 593:
Theodore S. Roberts

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Edward W. Brown
James J. Curran
Benjamin F. Withers

The following-named U.S. Navy officer to be appointed permanent commander in the line of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:
John W. Alexander

HOUSE OF REPRESENTATIVES—*Tuesday, July 22, 1986*

The House met at 4 p.m. and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *July 17, 1986.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, July 22, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Dr. Ronald F. Christian, assistant to the bishop, American Lutheran Church, Fairfax, VA, offered the following prayer:

It is well, O God, that we pause to remember the death and give thanks for the life of a friend, colleague, and Member of the House of Representatives, George M. O'Brien. So, teach us all, Gracious God, to number our days and apply our hearts unto wisdom. Bless, we pray, those who sorrow and mourn whoever they may be and wherever they may live.

Heavenly Father, we humbly ask Your benediction on this day.

Bless us and keep us;

Shine Your face upon us and be gracious to us;

Allow us to see the beauty of Your countenance; and

Give us all Your peace.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 449

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable George M. O'Brien, late a Representative from the State of Illinois.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2245. An act to authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT ON WEDNESDAY, JULY 23, 1986, AND THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. MONTGOMERY. Mr. Speaker, I ask leave of the House that the Committee on Armed Services be permitted to sit during the 5-minute rule on Wednesday, July 23, 1986, and the balance of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE GEORGE M. O'BRIEN

The SPEAKER pro tempore. The Chair desires to announce that pursuant to House Resolution 500 and the order of the House of July 17, 1986, empowering the Speaker to appoint commissions, boards, and committees authorized by law or by the House, the Speaker did on Monday, July 21, 1986, appoint the following Members to attend the funeral of the late Honorable George M. O'Brien:

Mr. PRICE of Illinois;
Mr. MICHEL of Illinois;
Mr. ROSTENKOWSKI of Illinois;
Mr. YATES of Illinois;
Mr. ANNUNZIO of Illinois;
Mr. CRANE of Illinois;
Mr. MADIGAN of Illinois;
Mrs. COLLINS of Illinois;
Mr. HYDE of Illinois;
Mr. RUSSO of Illinois;
Mr. PORTER of Illinois;
Mrs. MARTIN of Illinois;
Mr. SAVAGE of Illinois;
Mr. DURBIN of Illinois;
Mr. EVANS of Illinois;
Mr. LIPINSKI of Illinois;
Mr. HAYES of Illinois;
Mr. GRAY of Illinois;
Mr. BRUCE of Illinois;
Mr. FAWELL of Illinois;
Mr. GROTBERG of Illinois;
Mr. CONTE of Massachusetts;
Mr. STRATTON of New York;
Mr. MCDADE of Pennsylvania;
Mr. ROYBAL of California;
Mr. MYERS of Indiana;
Mr. CHAPPELL of Florida;
Mr. STOKES of Ohio;
Mr. HILLIS of Indiana;
Mr. GILMAN of New York;
Mr. MOORHEAD of California;
Mr. REGULA of Ohio;
Mr. LAGOMARSINO of California;
Mr. SCHEUER of New York;
Mr. EARLY of Massachusetts;
Mr. JEFFORDS of Vermont;
Mr. MINETA of California;
Mr. SOLARZ of New York;
Mr. PURSELL of Michigan;
Mr. RUDD of Arizona;
Mr. CLINGER of Pennsylvania;
Mr. DANNEMEYER of California;
Mr. SENSENBRENNER of Wisconsin;
Mr. PETRI of Wisconsin;
Mr. DWYER of New Jersey;
Mr. GUNDERSON of Wisconsin;
Mr. LOWERY of California;
Mr. ROGERS of Kentucky;
Mr. CARR of Michigan;
Mr. DORNAN of California; and
Mr. DE LUGO of the Virgin Islands.

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

THE FINANCIAL SERVICES COMPETITIVE ENHANCEMENT ACT OF 1986

Mr. BARNARD. Mr. Speaker, today I am introducing the Financial Services Competitive Enhancement Act of 1986 to authorize depository institution holding companies to engage in certain financial, securities, real estate, and insurance activities and to provide for a safe and sound modernization of the financial system.

I wish to acknowledge the assistance of the American Bankers Association in the preparation of this legislation. I also wish to emphasize that, like most legislation, it cannot be considered perfect. In many ways, one of its chief benefits will be to spark discussion.

Since the passage of the Garn-St Germain Act in 1982, which partially modernized the Nation's financial system, that system has continued to evolve without the benefit of further, broad Federal Statues. Rather, the legal foundations of these changes have been: New action by the Federal regulators; court decisions; and State legislation. On the bases of these foundations, banks and savings and loans

are now sanctioned as purveyors of discount brokerage services, operators of interstate automated teller machines, expanded investment advisory services, tax preparation, consumer counseling, and many other novel products.

However, these changes have come about in a haphazard way in exactly one of the areas of business endeavor where soundness and clarity are needed by the Nation, as technology and altered markets sweep over past procedures.

Furthermore, more often than not, these changes have involved protracted litigation. Indeed, numerous additional changes are pending at various levels of the legal process, clouding Federal financial policy and thereby impairing modernization of our financial system.

The bill I am introducing today is forward-looking and removes the destabilizing effect of the haphazard approach. It is especially addressed to modernization of the commercial banking system and bank holding companies so that they may offer the broader array of services which are appropriate for an evermore integrated world financial structure. For only one instance, commercial paper looms ever larger as a substitute for banks' traditional loans, but banking cannot clearly participate in this market—a matter of billions of dollars in lost opportunities for the institutions which are central to our monetary system. For this reason, perhaps no other innovative power is more sought by the Federal Reserve for banks than is the power for underwriting commercial paper.

Mr. Speaker, this is complex legislation. For those many Members who expressed concern over the course of our financial institutions, a section-by-section analysis of the bill is available from my office. I would urge the Members, especially my colleagues on the Banking Committee, to carefully review the approach of the legislation to the establishment of a workable, comprehensive modernization of the financial system.

PRESIDENT'S OPPOSING SANCTIONS AGAINST SOUTH AFRICA TAKES HIM OUT OF LEGISLATIVE PROCESS

(Mr. SOLARZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLARZ. Mr. Speaker, the speech the President gave earlier today on South Africa sounded like it was drafted by the Ministry of Information in Pretoria. It was a shameful apologia for repression and a pathetic excuse for inaction. In parts of his address, he made a nation that is like a prison seem like a country which is a paradise.

To the extent that he indicated any regret over the conditions under which the black majority in South Africa must live, his expressions of concern made crocodile tears seem like Perier water by comparison.

I would have been far more impressed with his argument against sanctions if the people he wants to help agreed with him; but the truth is that virtually all of the major black leaders in South Africa: Nelson Mandella, Oliver Tambou, Bishop Tutu, and the Reverend Bosak as are the leaders of all of the black African states in the region, are pleading with him to impose sanctions.

In view of the fact that the very people he says he wants to help are in favor of sanctions, it constitutes an act of moral arrogance and political cynicism for the President to take the position that he knows better than they do what is in their own best interests.

The debate in the Congress over South Africa is not over whether to impose, but what kind of sanctions to impose against South Africa. By opposing all sanctions against that country, the President has rendered himself irrelevant to the legislative process on this issue.

PRESIDENT'S REMARKS ON SOUTH AFRICA REAFFIRMS ADMINISTRATION'S BANKRUPT POLICY

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, first of all, I would like to associate myself with the eloquent and pointed remarks of the gentleman that preceded me in the well, the gentleman from New York [Mr. SOLARZ].

The speech that the President gave with respect to United States policy toward southern Africa, in my humble opinion, is a reaffirmation of a bankrupt policy laden with redundancy, misinformation, and contradictions. I believe the President's statement to have been hypocritical and insensitive and a reactionary statement.

Finally, Mr. Speaker, I would point out that his assertion that the United States should not interfere in the "internal affairs" of a sovereign nation is contradicted by his advocacy of covert and overt war against Nicaragua, Angola, and Grenada, to mention only three Third World countries.

CONGRESSIONAL INTERCOLLEGIATE ATHLETICS ADVISORY COMMISSION

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, I am convinced that it is time to decommercialize college sports and put educators back in control of the entire university. Yesterday, I introduced a bill that creates a panel designed to reform intercollegiate athletics.

There is a built-in conflict in running a major sports program and being an educator at the same time. In the quest for the sports dollar, college athletic programs often seek not to produce educated, well-rounded students, but to turn a profit. Such programs often enroll athletes who cannot be considered students in any sense. These athletes do not attend class and live like campus royalty with no pretense of attaining passing grades or graduating. Too many of these youngsters leave the university upon completion of their eligibility, unprepared for life and vulnerable in many ways.

College athletic programs should be integrated into the university and student athletes should be personally integrated. Unfortunately, some educators wash their hands of athletics, consigning it to a separate, independent category, believing that they are insulating their academic programs from the commercialism of sports.

Though the National Collegiate Athletic Association has attempted some halfhearted reforms in recent years, it has failed to reform the system. It's time for a national and rational plan to control collegiate athletic abuses. My bill will draw together experts in education and will require them to produce a blueprint for deemphasizing the role of sports on college campuses.

□ 1610

THE ECONOMIC DRIFT

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, today's report on the state of the economy is very disturbing. With a growth rate barely over 1 percent, the American economy is adrift. Our national economy has been thrown off course by a persistent trade deficit, a lagging farm economy, and an abrupt decline in employment and investment in the energy sector.

Recent figures indicate that industrial production is down, capacity utilization is down, and retail sales are down throughout the United States. The evidence is overwhelming that the administration's forecast of 4-percent economic growth for 1986 is pitifully off the mark, forecasting dire prospects for the budget deficit.

Today's numbers make clear how seriously the trade deficit is restraining our economy. Last month, for the first time, we actually bought more farm

products from abroad then we sold on world markets.

Between April and June, imports grew seven times as fast as exports. As a result, American business is not investing enough or selling enough abroad to sustain economic growth.

A month ago, the House passed a comprehensive trade bill which, if it becomes law, will turn the tide on trade deficits. The time has come for this administration to recognize the threat that the trade deficit poses to American jobs, farms, and industry.

The administration must cast aside its implacable opposition to a national trade policy and embrace, instead, a fair tough program that will restore robust economic growth and enhance America's competitiveness in world markets.

LTV: THE DECLINE OF OUR STEEL INDUSTRY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is time, literally, for the President of the United States to act. Last week, LTV, the Nation's No. 2 steelmaker, filed for protection under chapter 11 due to financial hardships. Anyone in this country knows that in the late 1960's and early 1970's, steel imports started to total over 25 percent. And yet the American Government and the Congress were negligent and failed to act while our national security is threatened.

God forbid if war would break out. What would we defend ourselves with—people? Styrofoam?

Now let us take a look at the record today. Let us look at autos, which are even more frightening. In October 1985, auto imports totaled 30.4 percent for every new car made.

In November 1985, it escalated to almost 35-percent foreign penetration.

My God, we yet do not have a national industrial policy and our major industry is threatened to the point where our national security is now in question, and this President is failing to act. He is exporting jobs overseas. He is leaving areas like mine, which lost 55,000 jobs since 1977, at the mercy of an international marketplace that is not fair.

This President must act—put his foot down. If the people of this country are concerned about the future of America, they will demand that of him; no more, no less.

THE UKRAINIAN NATION

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we are now in the midst of celebrating the 28th anniversary of Captive Nations Week and at the same time remembering the 45th anniversary of the restoration of the Ukrainian state.

It seems that in the intervening years, we have forgotten that there is a whole host of nations outside the Soviet Union which are, in truth, captives of this ever expanding empire.

But there are more captives than those nations swallowed by the great bear. We in the West have been slow to grasp that even within the borders of the Soviet Union as we tend to define them, there are whole nations, equally captive, equally yearning to be free, and equally deserving of our concern. Not the least of these is the Ukraine.

It is appropriate that we remember both the captive nations and the Ukraine at the same time. The occasion should remind us that the people of the Soviet Union should always be carefully distinguished from the leadership of that force. Slavs and Balts, Tartars and Mongols, Ukrainians and, yes, even Russians, are as much captive as Poles, Hungarians, and Czechs.

Even as we in the West are targets of this ideology which masquerades as a nation, they, the captive peoples, are its victims, suffering under an unparalleled slavery. The captive Nations are enslaved because we understood too late the nature of the new empire working to capture the world. They look to us for deliverance. Let us pray God that we are strong enough and resolute enough to deserve their confidence.

HALT THE FLOOD OF IMPORTED STEEL

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, the disturbing action taken by the LTV corporation last week demonstrates that something further must be done, to halt the flood of imported steel, entering this country.

The parent of the Nation's second largest steel producer, filed for protection under chapter 11 of the bankruptcy code. While steel imports were not the singular reason for that action, the failure of the administration's steel import restraint program, to limit steel imports to 18 percent, of the domestic steel market, can not be discounted.

For months LTV steel, and other domestic steel producers, warned, that stronger action must be taken in order for the domestic steel industry, to remain as we know it today. There is still time to act, so that other financially troubled steel makers, are not forced into bankruptcy, but that time is short.

Mr. Speaker, too many employees, pensioners and communities, rely upon a healthy domestic steel industry. Let's work to reduce steel imports, before additional steel makers are compelled to follow LTV into the bankruptcy courts.

AN INDEPENDENT SOCIAL SECURITY SYSTEM

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, when Social Security began 50 years ago, it was an independent system that stood on its own. For reasons that had as much to do with domestic politics as with sound public policy, Social Security was incorporated into the unified Federal budget during the Vietnam war.

On balance, the consequences of that action have not been altogether satisfactory. When Social Security's cash flow is positive and strong, Federal budget deficits appear to be reduced. Conversely, when that cash flow is weak and negative, the opposite is true. Moreover, for several years, too many of our Nation's senior citizens have worried that their Social Security cost-of-living-adjustments will either be frozen or reduced to help reduce the Federal budget deficit. If H.R. 5050, the Social Security Administrative and Investment Reform Act, is adopted today, those concerns will be laid to rest.

The issue of deficit reduction should not continue to drive congressional decisionmaking on Social Security COLA's. Future Social Security COLA decisions should be based on the health and condition of the Old Age and Survivors' Trust Fund.

By again returning Social Security to the independent status it enjoyed for over 30 years, we strike one blow for fiscal responsibility and another blow against the fears of many elderly Americans.

F.D.R. and the Congress had it right the first time. This day will provide us with an opportunity to acknowledge that truth by adopting H.R. 5050. I urge us to do just that.

LET US TAKE POLITICS OUT OF THE SOCIAL SECURITY SYSTEM

(Mr. VENTO asked and was given permission to address the House and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, Social Security has been one of the most successful social programs this Congress or this Nation has ever enacted. For 50 years the Social Security Program, the old age, survivors and more recently

the disability insurance program has been a pay-as-you-go system. It has paid its own way stood on its own and is providing social security today to some 37,000,000 Americans.

Mr. Speaker, today too often there are those in our society who would divide those who receive these benefits from those who pay them. Indeed maintenance and support for the Social Security System is a significant responsibility. I think it is important that we try to remove and leave politics outside this program because of the importance that it has for so many of our people in our society. That is why I am proud today to be supporting H.R. 5050. This is a culmination of almost 6 years' work and 6 years' experience in which the Reagan administration has sought, not through changing laws or modifying laws to change the policies that affect people in the Social Security Program by reinterpret the law or misadminister the law.

Finally, last fall the Reagan administration actually removed money from the trust funds of Social Security to keep the Government financed, in spite of the fact that the law clearly stated the illegality of such a financing act.

I am proud that we have a champion in JIM JONES, the gentleman from Oklahoma, the chairman of the Subcommittee on Social Security, who has brought forth this bill to take the politics out of Social Security, to renew the trust that people need in the administration of Social Security and prevent and reaffirm the law that bar borrowing from the Social Security trust fund as occurred last fall.

PRESIDENT REAGAN, AN APOLOGIST FOR APARTHEID

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, When I heard that the President was speaking on our policy toward South Africa. I hoped it signaled a step toward leadership. Instead, we heard an apologist for apartheid. The President demonstrated his absolute failure to understand the gravity of the issue. Our Nation's growing opposition to apartheid and the fundamental inhumaneness of his policy.

Sadly, President Reagan had nothing new to offer. At a time when moral leadership is desperately needed.

Even though Republican leaders in the other body told the President that his policy was so bankrupt he shouldn't even use the phrase "constructive engagement," even as new converts, such as Governor Deukmejian, have embraced economic actions against South Africa. The administration refuses to admit the failure of its policy.

If imposing sanctions only drives a nation toward communism why, then, have we imposed sanctions on Nicaragua? Such a foreign policy is about as logical as comparing a nation's torments to a zebra.

The President speaks to the inhumanity of the current policies in South Africa. Failing to recognize that our own policies contribute to the status quo.

□ 1625

SOUTH AFRICA

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, it is with great disappointment that I watched the President's policy address on South Africa today. Unfortunately, it contained nothing new, simply a repeat of rhetoric that we have heard again and again.

The President is not even listening to members of his own party, from the Senate to the Governor of California to concerned citizens all over the country, who have emphasized the need to do something specific to demonstrate our abhorrence of the policies of the South African Government.

What has to happen before the President decides that it is time to act?

How many children have to die? How many funeral mourners have to die? How much bloodshed will be spent before the President decides that words are no longer enough—that "constructive engagement" has done nothing to prevent 2,000 deaths, since late 1984.

MR. PRESIDENT, WE NEED A FAIR TRADE POLICY NOW

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, it is a sad day indeed that last week LTV Corp. announced that petitions were filed for itself and all of its principal subsidiaries, including LTV Steel and Aerospace and Defense and Energy products, under reorganization under chapter XI of the Federal Bankruptcy Code.

This decision does affect thousands of employees and retirees. The death knell is not there yet, but it is a signal that there are really problems in these industries.

Let me quote from the news release that the corporate leaders put out:

> This weakness in the steel and energy sectors is due in large part to an unprecedented and sustained level of imports over the past several years, which continues virtually unabated.

Mr. Speaker, the Reagan administration has absolutely no policy for unfair trade practices. They have threatened to veto a bill that will allow for trade equity that has passed in the House overwhelmingly.

It is a sad day indeed that the President of the United States, who purports to be so supportive of a strong defense, does not show a ripple of concern about the major product for our defense, our steel industry. We need a fair policy and, Mr. President, we need it now.

THE UNITED STATES AND GREAT BRITAIN—THE WORLD'S TWO REMAINING CO-GUARANTORS OF APARTHEID

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, today the President proposed virtually no change in his discredited policies toward South Africa's racist government. The President's decision to avoid meaningful action against the government in Pretoria leaves the United States and Great Britain as the world's two remaining coguarantors of apartheid.

The President justifies his lack of action by saying that economic sanctions would jeopardize the well-being of the black majority in southern Africa. This excuse is as old as slavery itself. The President should understand that there is no economic equivalent of human liberty; there is no true economic well-being for anyone in a nation where there is a fundamental denial of civil rights and human dignity; and there is no excuse for the United States to sustain that government.

Apartheid is morally wrong. It is not the way of the American people. It does not represent the values on which this country has grown and prospered. If leaders in Moscow are indeed watching, let them see that this is a nation committed to freedom and justice for all people. Mr. Speaker, to compromise with evil, as the President proposes, is to do nothing less than surrender the heart-and-soul of that which has made America the greatest nation on Earth.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FRANK). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules if a recorded vote or the yeas and nays are ordered, or if the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken after other legislative business today.

SOCIAL SECURITY ADMINISTRATIVE AND INVESTMENT REFORM ACT OF 1986

Mr. JONES of Oklahoma. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5050) to establish the Social Security Administration as an independent agency, which will be headed by a Social Security Board, and which shall be responsible for administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, to provide for more prudent and effective management of the title II trust funds and for other purposes as amended.

The Clerk read as follows:

H.R. 5050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Social Security Administrative and Investment Reform Act of 1986".

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SEC. 2. DECLARATION OF PURPOSE.

The purposes of this Act are as follows:

(1) to establish the Social Security Administration as an independent agency, separate from the Department of Health and Human Services;

(2) to charge the Social Security Administration with administration of the old-age, survivors, and disability insurance program and supplemental security income program;

(3) to establish a Social Security Board as head of the Social Security Administration and define the powers and duties of such Board;

(4) to establish a Commissioner of Social Security and define the powers and duties of the Commissioner;

(5) to provide for delegating major management authorities to the Board and the Commissioner;

(6) to provide for more prudent and effective management of the Federal Old-Age and Survivors Insurance Trust Fund the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund; and

(7) to make certain additional improvements to the programs administered by the Social Security Administration.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY; RESPONSIBILITIES OF THE AGENCY.

Section 701 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration. It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.".

SEC. 102. SOCIAL SECURITY BOARD; COMMISSIONER; DEPUTY COMMISSIONER; BENEFICIARY OMBUDSMAN; OTHER OFFICERS.

(a) IN GENERAL.—Section 702 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY BOARD; COMMISSIONER; OTHER OFFICERS

"Social Security Board

"SEC. 702. (a)(1)(A) The Administration shall be governed by a Social Security Board. The Board shall be composed of three members appointed by the President, by and with the advice and consent of the Senate. The members shall be chosen, on the basis of their integrity, impartiality, and good judgment, from among individuals who, by reason of their education, experience, and attainments, are exceptionally qualified to perform the duties of members of the Board.

"(B)(i) Except as provided in clauses (ii) and (iii), members of the Board shall be appointed for terms of six years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(ii) Of the members first appointed—

"(I) one shall be appointed for a term ending January 31, 1989,

"(II) one shall be appointed for a term ending January 31, 1991, and

"(III) one shall be appointed for a term ending January 31, 1993,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the chairman of the Committee on Finance of the Senate.

"(iii) The President may not nominate an individual for appointment to a term of office as member of the Board before the commencement of the President's term of office in which the member's term of office commences. Any member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. A member may, at the request of the President, serve for not more than one year after the expiration of his or her term until his or her successor has taken office. A member of the Board may be appointed for additional terms.

"(C) Not more than two members of the Board shall be of the same political party.

"(D) A member of the Board may not, during his or her term as member, otherwise serve as an officer or employee of any government. If any member of the Board becomes an officer or employee of any government, such member may continue as a member of the Board for not longer than the 30-day period beginning on the date such member becomes such an officer or employee.

"(E) Two members of the Board shall constitute a quorum, except that one member may hold hearings.

"(F) A member of the Board shall be designated from time to time by the President to serve as Chairperson of the Board.

"(G) The Board shall meet at the call of the Chairperson or two members of the Board.

"(2) Each member of the Board shall be compensated at the rate provided for level II of the Executive Schedule.

"(3) The Board shall—

"(A) govern by regulation the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) appoint a Commissioner of Social Security, as described in subsection (b), to act as the chief operating officer of the Administration responsible for administering the programs referred to in subparagraph (A),

"(C) constitute three of the members the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, with the Chairperson of the Social Security Board serving as Chairperson of such Board of Trustees,

"(D) make annual budgetary recommendations relating to the Administration, including program costs of the supplemental security income program under title XVI, and defend such recommendations before the appropriate committees of each House of the Congress,

"(E) make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance and supplemental security income and as to legislation and matters of administrative policy concerning the programs referred to in subparagraph (A),

"(F) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Administration with respect to the programs referred to in subparagraph (A) and any other information relating to such programs, and

"(G) conduct policy analysis and research relating to the programs referred to in subparagraph (A).

"(4)(A) The Board may prescribe such rules and regulations as the Board determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Board shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(B) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Board considers necessary or appropriate to carry out its functions, except that this subparagraph shall not apply with respect to any unit, component, or position provided for by this Act.

"(C) The Board may, with respect to the administration of the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI, assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Board may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"Commissioner of Social Security

"(b)(1) There shall be in the Administration a Commissioner of Social Security who shall be appointed by the Social Security Board.

"(2)(A) The Commissioner shall be appointed for a term of five years, except that the individual first appointed to the office of Commissioner shall be appointed for a term ending September 30, 1991. An individual appointed to a term of office as Commissioner after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Commissioner after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Commissioner for additional terms.

"(B) An individual may be removed from the office of Commissioner before completion of his or her term only for cause found by the Board.

"(3) The Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Commissioner shall—

"(A) constitute the chief operating officer of the Administration, responsible for administering, in accordance with applicable statutes and regulations, the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) establish and maintain an efficient and effective operational structure for the Administration,

"(C) devise and implement long-term plans to promote and maintain the effective implementation of such programs,

"(D) make annual budgetary recommendations of the Administration for the ongoing administrative costs of the Administration and the program costs of the supplemental security income program under title XVI and defend such recommendations before the Board and before the appropriate Committees of each House of the Congress,

"(E) advise the Board and the Congress on the effect on the administration of such programs of proposed legislative changes in such programs,

"(F) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and

"(G) report in December of each year to the Board for transmittal to the Congress concerning the administrative endeavors and accomplishments of the Administration.

Any reference to the Board in this Act or any other provision of law in connection with the exercise of a function of the Board which is delegated to the Commissioner pursuant to this section shall be considered a reference to the Commissioner.

"Deputy Commissioner of Social Security

"(c)(1) There shall be in the Office of the Commissioner a Deputy Commissioner, who shall be appointed by the Board. The Deputy Commissioner shall be appointed for a term coextensive with the term of the Commissioner. An individual may be removed from the office of Deputy Commissioner before completion of his or her term only for cause found by the Board.

"(2) The Deputy Commissioner shall be compensated at the rate provided for level III of the Executive Schedule.

"(3) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of Social Security during the absence or disability of the Commissioner and, unless the Board designates another officer of the Government, in the event of a vacancy in the office of Commissioner.

"General Counsel

"(d)(1) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Board. The General Counsel shall be the principal legal officer in the Administration.

"(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule.

"Inspector General

"(e)(1) There shall be in the Administration an Office of the Inspector General. Such Office shall be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(2) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

"Beneficiary Ombudsman

"(f)(1) There shall be in the Administration an Office of the Beneficiary Ombudsman, to be headed by a Beneficiary Ombudsman appointed by the Board.

"(2)(A) The Beneficiary Ombudsman shall be appointed for a term of five years, except that the individual first appointed to the office of Beneficiary Ombudsman shall be appointed for a term ending September 30, 1991. An individual appointed to a term of office as Beneficiary Ombudsman after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Beneficiary Ombudsman after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Beneficiary Ombudsman for additional terms.

"(B) An individual may be removed from the office of Beneficiary Ombudsman before completion of his or her term only for cause found by the Board.

"(3) The Beneficiary Ombudsman shall be compensated at the rate provided for level V of the Executive Schedule.

"(4) The duties of the Beneficiary Ombudsman are as follows:

"(A) to represent within the Administration's decisionmaking process the interests and concerns of beneficiaries under the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI;

"(B) to review the Administration's policies and procedures for possible adverse effects on such beneficiaries;

"(C) to recommend within the Administration's decisionmaking process changes in policies which have caused problems for such beneficiaries;

"(D) to help resolve the problems under such programs of individual beneficiaries in unusual or difficult circumstances as determined by the Commissioner; and

"(E) to represent within the Administration's decisionmaking process the views of beneficiaries in the design of forms and the issuance of instructions.

"(5) The Board shall assure that the Office of the Beneficiary Ombudsman has staff sufficient to enable the Beneficiary Ombudsman to efficiently carry out his or her duties. Such staff shall be located in the regional offices, program centers, and central office of the Administration.

"(6) The annual report of the Board under section 704 shall include a description of the activities of the Beneficiary Ombudsman.".

(b) INTERIM AUTHORITY OF THE COMMISSIONER.—The President shall nominate for appointment the initial members of the Social Security Board not later than one year after the date of the enactment of this Act. In the event that, as of the effective date of the amendment made by this Act to section 702 of the Social Security Act, all members of the Social Security Board have not been appointed, until all members of the Board have been appointed, the officer serving on the date of the enactment of this Act as Commissioner of Social Security in the Department of Health and Human Services (or Acting Commissioner, if applicable),

or such officer's successor, shall, while continuing to serve as Commissioner of Social Security (or Acting Commissioner) in such Department, serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and shall assume the powers and duties of such Board and of the Commissioner of Social Security under such Act (as amended by this Act).

SEC. 103. PERSONNEL; BUDGETARY MATTERS; FACILITIES AND PROCUREMENT; SEAL OF OFFICE.

(a) IN GENERAL.—Section 703 of the Social Security Act is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE SOCIAL SECURITY BOARD

"Personnel

"SEC. 703. (a)(1) The Social Security Board shall appoint such additional officers and employees as it considers necessary to carry out its functions. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Administrative and Investment Reform Act of 1986, to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Board under subsection (b)(1). The total number of such positions authorized for the Administration pursuant to such section 3133 shall not at any time be less than the number of such authorized positions as of immediately before such date.

"(4) In addition to the positions of the Administration in the Executive Schedule specified in section 702, the Administration is authorized six additional positions at level IV of the Executive Schedule and six additional positions at level V of the Executive Schedule.

"(5) All authority and functions of the Office of Personnel Management under section 4703 of title 5, United States Code (relating to demonstration projects), to the extent such section relates to personnel or positions in the Administration, shall be exercised exclusively by the Board. The Board shall report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the demonstration projects undertaken by the Board pursuant to this paragraph.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Board. The entire amount of appropriations provided for the administrative costs of the Administration shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this subsection.

"(2) The report submitted pursuant to section 704 shall include a section reflecting the use of budget authority provided to the Administration by quarters.

"(3)(A) Authority of the Administration for automated data processing procurement and facilities construction shall be provided in the form of contract authority covering the total costs of such acquisitions, to be available until expended.

"(B) Amounts necessary for the liquidation of contract authority provided pursuant to this paragraph are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to the extent that the Board, with the concurrence of the Secretary of the Treasury, determines that such amounts are not necessary to meet the current obligations for benefit payments from the Trust Funds.

"(C) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Board and reported to each House of the Congress.

"Seal of Office

"(c) The Board shall cause a seal of office to be made for the Administration of such design as the Board shall approve. Judicial notice shall be taken of such seal.".

(b) DEMONSTRATION PROJECTS RELATING TO PERSONNEL MATTERS.—As soon as practicable after the effective date of this subsection, the Social Security Board and the Director of the Office of Personnel Management shall, in consultation with the Comptroller General, jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration—

(1) the Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical and professional employees as the Board considers appropriate whose compensation may be fixed by the Board without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that such employees may not be paid at a rate in excess of the rate payable for level IV of the Executive Schedule, and

(2) the Director shall delegate to the Board (pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section) functions relating to—

(A) recruitment and examination programs for entry level employees, and

(B) classification and standards development systems and pay ranges for those job categories identified by the Board in assuming such delegation.

The Comptroller General shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than 540 days after the effective date of this subsection. Such report shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1) and (2).

(c) DEMONSTRATION PROJECTS RELATING TO DELEGATIONS FROM ADMINISTRATOR OF GENERAL SERVICES.—As soon as practicable after the effective date of this subsection, the Social Security Board and the Administrator of General Services shall, in consultation with the Comptroller General, jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration, the Board shall have—

(1) all authorities permitted to be delegated under the provisions of Federal law codified under title 40 of the United States Code, relating to the acquisition, operation, and maintenance of the facilities needed for the administration of programs for which the Board is given responsibility under the Social Security Act,

(2) all authorities permitted to be delegated under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to the lease, purchase, or maintenance of automated data processing equipment, and

(3) the authority to contract for any automated data processing equipment or services which the Board considers necessary for the efficient and effective operation of such programs.

The Comptroller General shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than 540 days after the effective date of this subsection. Such report shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1), (2), and (3).

SEC. 104. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this Act and the amendments made thereby. The Social Security Board shall allocate such functions in accordance with sections 701, 702, and 703 of the Social Security Act (as amended by this Act).

(b) PERSONNEL, ASSETS, ETC.—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Social Security Board in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this Act and the amendments made thereby, as considered appropriate by the Board in consultation with the Secretary of Health and Human Services, and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) The Secretary of Health and Human Services shall terminate—

(A) six positions in the Department of Health and Human Services placed in level IV of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5315 of title 5, United States Code, or any other provision of law, and

(B) six positions in such Department placed in level V of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5316 of such title or any other provision of law.

(c) ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective upon the appointment of all initial members of the Social Security Board pursuant to section 702 of the Social Security Act (as amended by this Act), the position of Commissioner of Social Security in the Department of Health and Human Services is abolished.

SEC. 105. TRANSITIONAL RULES.

(a) INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.—At any time after the date of the enactment of this Act—

(1) any of the officers provided for in section 702 of the Social Security Act (as amended by this Act) may be nominated and appointed, as provided in such section, and

(2) the Social Security Board, upon nomination and appointment of all of the members thereof, may prescribe regulations providing for the orderly transfer of proceedings before the Secretary of Health and Human Services to the Social Security Board.

Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Social Security Board or the Social Security Administration by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this section until such time as funds for that purpose are otherwise available.

(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or his delegate), and (B) which relate to functions which, by reason of this Act, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board, and

(2) which are in effect immediately before the effective date specified in section 106(a) shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Board.

(c) CONTINUATION OF PROCEEDINGS.—The provisions of this Act (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before the effective date specified in section 106(a) with respect to functions vested (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board, except that such proceedings, to the extent that they relate to such functions, shall continue before such Board. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board, by a court of competent jurisdiction, or by operation of law.

(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date specified in section 106(a); and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before the effective date specified in section 106(a), the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board.

(f) JUDICIAL REVIEW.—Orders and actions of the Social Security Board in the exercise of functions vested in such Board under this Act (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before the effective date specified in section 106(a). Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board shall continue to apply to the exercise of such function by such Board.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Social Security Board under this Act, the amendments made thereby, and regulations prescribed thereunder, such Board shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Board, and actions of such Board shall have the same force and effect as when exercised by such Secretary.

(h) OPERATION OF TRANSITIONAL RULES IN THE EVENT OF INTERIM AUTHORITY IN THE COMMISSIONER.—For purposes of this section, in any case in which the powers and duties to be transferred to the Social Security Board are transferred to the Commissioner of Social Security (or acting Commissioner) in the Department of Health and Human Services for an interim period pursuant to section 102(b), the preceding provisions of this section shall apply with respect to the transfer of such powers and duties to and from such Commissioner (or acting Commissioner) pursuant to such section in the same manner and to the same extent as they would have applied to a direct transfer from the Secretary of Health and Human Services to the Social Security Board if all initial appointments to such Board had been made.

SEC. 106. EFFECTIVE DATES.

(a) IN GENERAL.—Sections 101, 102(a), 103, and 104 of this Act shall take effect one year after the date of the enactment of this Act.

(b) EXCEPTIONS.—Sections 102(b) and 105 of this Act shall take effect on the date of the enactment of this Act.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—CONFORMING AMENDMENTS AND RULES OF CONSTRUCTION

SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) Title II (other than section 201, section 205(b)(3)(A) (as added by section 403 of this Act), subsections (d), (e), and (t) of section 218, section 231(c), section 226, and section 226A) and title XVI (other than section 1631(c)(1)(B)(i) (as added by section 403 of this Act)) of the Social Security Act are each amended—

(1) by striking out, wherever it appears therein, "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board";

(2) by striking out, wherever it appears therein, "Department of Health and Human Services" and inserting in lieu thereof "Social Security Administration";

(3) by striking out, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting in lieu thereof "Administration"; and

(4) by striking out, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", and "he", and inserting in lieu thereof (in the case of the word "Secretary") "Social Security Board", (in the case of the word "Secretary's") "Board's", (in the case of the word "his") "the Board's", (in the case of the word "him") "the Board", and (in the case of the word "he") "the Board".

(b)(1) Section 201(a)(3) of such Act is amended by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(2) Section 201(c) of such Act is amended—

(A) in the first sentence, by striking out "shall be composed of" and all that follows down through "ex officio" and inserting in lieu thereof the following: "shall be composed of the members of the Social Security Board, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio"; and

(B) by inserting after the first sentence the following new sentence: "The Chairperson of the Social Security Board shall be the Chairperson of the Board of Trustees.".

(3) Section 201(g)(1)(A) of such Act is amended—

(A) in clause (i), by striking out "by him and the Secretary of Health and Human Services" and inserting in lieu thereof "by him, the Social Security Board, and the Secretary of Health and Human Services", and by striking out "by the Department of Health and Human Services and the Treasury Department" and inserting in lieu thereof "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury";

(B) in clause (ii), by striking out "method prescribed by the Board of Trustees under paragraph (4)" and inserting in lieu thereof "applicable method prescribed under paragraph (4)", by striking out "the Secretary of Health and Human Services" and inserting in lieu thereof "the Social Security Board and the Secretary of Health and Human Services", and by striking out "the Department of Health and Human Services" and inserting in lieu thereof "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking out the last sentence and inserting in lieu thereof the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Social Security Board is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.".

(4) Section 201(g)(1) of such Act is further amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Social Security Board shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund,

except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Social Security Board and the Secretary of Health and Human Services shall each certify to the Managing Trustee the amounts which should be transferred from each of the Trust Funds to the general fund in the Treasury and from the general fund in the Treasury to each of the Trust Funds, in order to ensure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Social Security Board is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made.".

(5) Section 201(g)(2) of such Act is amended, in the second sentence, by striking out "established and maintained by the Secretary of Health and Human Services" and inserting in lieu thereof "maintained by the Social Security Board", and by striking out "Secretary shall furnish" and inserting in lieu thereof "Social Security Board shall furnish".

(6) Section 201(g)(4) of such Act is amended to read as follows:

"(4) The Social Security Board shall utilize the method prescribed pursuant to this paragraph, as of immediately before the date of the enactment of the Social Security Administrative and Investment Reform Act of 1986, for determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Board, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Board considers such action advisable, it may modify the method of determining such costs.".

(7) Section 201(i)(1) of such Act is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.".

(8) Subsections (j) and (k) of section 201 of such Act are each amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Social Security Board".

(9) Section 201(l)(3)(B)(iii)(II) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Social Security Board".

(10) Section 201(m)(3) of such Act is amended by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(c) Section 205(b)(3)(A) of such Act (as added by section 403 of this Act) is amended by striking out "the Department of Health and Human Services, the Social Security Administration, any other agency of such Department," and inserting in lieu thereof "the Social Security Administration, any agency of such Administration,".

(d) Section 218 of such Act is amended—

(1) in subsection (d), by striking out "Secretary" each place it appears in paragraphs (3) and (7) and inserting in lieu thereof "Social Security Board";

(2) in subsection (e), by striking out "Secretary of Health, Education, and Welfare" in paragraph (1)(B) and inserting in lieu thereof "Social Security Board", by striking out "Secretary" the first place it appears in paragraph (2) and inserting in lieu thereof "Social Security Board", and by inserting "or the Social Security Board (as appropriate at the time of mailing or delivery)" after "Secretary" the third place it appears; and

(3) in subsection (t), by striking out "Secretary" the first three places it appears in paragraph (1) and inserting in lieu thereof "Social Security Board", by striking out "person occupying the office of Secretary or any vacancy in such office" in paragraph (1) and inserting in lieu thereof "membership of the Social Security Board or any vacancy on the Board", and by striking out "Secretary" in paragraph (3) and inserting in lieu thereof "Social Security Board".

(e) Section 231(c) of such Act is amended by striking out "Secretary determines" and inserting in lieu thereof "Social Security Board and the Secretary jointly determine".

(f) Section 1631(c)(1)(B)(i) of such Act (as added by section 403 of this Act) is amended by striking out "the Department of Health and Human Services, the Social Security Administration, any other agency of such Department," and inserting in lieu thereof "the Social Security Administration, any agency of such Administration,".

SEC. 202. OTHER AMENDMENTS.

(a)(1) Section 704 of the Social Security Act is amended to read as follows:

"REPORTS

"SEC. 704. The Secretary and the Social Security Board shall make full reports to Congress, within 120 days after the beginning of each regular session, of the administration of the functions with which they are charged under this Act. In addition to the number of copies of such reports authorized by other law to be printed, there is hereby authorized to be printed not more than 5,000 copies of each such report for use by the Secretary and Social Security Board for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the programs provided for in this Act.".

(2) Section 709(b)(2) of such Act is amended by striking out "(as estimated by the Secretary)" and inserting in lieu thereof ", as estimated by the Social Security Board or the Secretary (whichever administers the program involved),".

(3) Title VII of such Act (as amended by paragraph (1)) is further amended by adding at the end thereof the following new section:

"DUTIES OF SECRETARY

"SEC. 712. The Secretary shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security and as to legislation and matters of administrative policy concerning the programs

administered by the Secretary and related subjects; except that nothing in this section shall be construed to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Administration.".

(4)(A) Title VII of such Act (as amended by paragraph (3)) is further amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

"SEC. 713. (a) During 1989 (but not before February 1, 1989) and every fourth year thereafter (but not before February 1 of such fourth year), the Social Security Board shall appoint an Advisory Council on the Old-Age, Survivors, and Disability Insurance Program for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program, and of reviewing the scope of coverage and the adequacy of benefits under, and all other aspects of, such program, including its impact on the public assistance programs under this Act.

"(b) Each such Council shall consist of a Chairman and 12 other persons, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers and represent self-employed persons and the public.

"(c)(1) Any Council appointed hereunder is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Board shall, in addition, make available to such Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Administration as it may require to carry out such functions.

"(2) Appointed members of any such Council, while serving on business of the Council (inclusive of travel time) shall receive compensation at rates fixed by the Board, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(d) Each such Council shall submit reports (including any interim reports such Council may have issued) of its findings and recommendations to the Board not later than January 1 of the second year after the year in which it is appointed, and such reports and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of each of the Trust Funds. The reports required by this subsection shall include a report with respect to the old-age, survivors, and disability insurance program under title II, of the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, and of the taxes imposed under section 86 of such Code on social security benefits (within the meaning of section 86(d)(1)(A) of such Code). After the date of the transmittal to the Congress of the reports required by this subsection, the Council shall cease to exist.".

(B) Section 706 of such Act is amended—

(i) by striking out the heading and inserting in lieu thereof "ADVISORY COUNCIL ON HEALTH AND SUPPLEMENTARY MEDICAL INSURANCE";

(ii) in subsection (a), by striking out "1969" each place it appears and inserting in lieu thereof "1989", by striking out "Social Security" and inserting in lieu thereof "Health and Supplementary Medical Insurance", by striking out "the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund,", by striking out "Fund, and" and inserting in lieu thereof "Fund and", and by striking out "the old-age, survivors, and disability insurance program and"; and

(iii) in subsection (d), by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b)(1) Section 1101(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration.".

(2) Section 1106(a) of such Act is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out "Department of Health and Human Services" and inserting in lieu thereof "applicable agency";

(C) by striking out "Secretary" and inserting in lieu thereof "head of the applicable agency"; and

(D) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.".

(3) Section 1106(b) of such Act is amended—

(A) by striking out "Secretary" and inserting in lieu thereof "head of the applicable agency"; and

(B) by striking out "Department of Health and Human Services" and inserting in lieu thereof "applicable agency".

(4) Section 1106(c) of such Act is amended—

(A) by striking out "the Secretary" the first place it appears and inserting in lieu thereof "the Social Security Board or the Secretary"; and

(B) by striking out "the Secretary" each subsequent place it appears and inserting in lieu thereof "such Board or Secretary".

(5) Section 1107(b) of such Act is amended by striking out "the Secretary of Health and Human Services" and inserting in lieu thereof "the Social Security Board or the Secretary".

(6) Section 1110 of such Act is amended—

(A) by striking out "Secretary" each place it appears and inserting in lieu thereof "Social Security Board"; and

(B) by striking out "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting in lieu thereof "the Board", "the Board's", "the Board", and "itself", respectively.

(7) Section 1127 of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Social Security Board".

(8) Section 1128(e) of such Act is amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections, any reference therein to the Social Security Board shall be considered a reference to the Secretary".

(9) Section 1131 of such Act is amended—

(A) by striking out "Secretary" each place it appears and inserting in lieu thereof "Social Security Board";

(B) in subsection (a)(1)(A), by adding "or" at the end thereof;

(C) in subsection (a)(1)(B), by striking out "or" at the end thereof;

(D) by striking out subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or";

and

(G) by striking out "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting in lieu thereof "the Social Security Board".

(10) Section 1155 of such Act is amended by striking out "(to the same extent as is provided in section 205(b))" and inserting in lieu thereof "(to the same extent as beneficiaries under title II are entitled to a hearing by the Social Security Board under section 205(b))".

(c)(1) Subsections (a) and (f) of section 1817 of such Act are amended by striking out "Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "Social Security Board".

(2) Section 1840(a) of such Act is amended—

(A) in paragraph (1), by striking out "Secretary" and inserting in lieu thereof "Social Security Board", and by adding at the end thereof the following new sentence: "Such regulations shall be prescribed only after consultation with the Secretary."; and

(B) in paragraph (2), by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(3) Section 1872 of such Act is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Social Security Board shall be considered a reference to the Secretary".

(4) Sections 1862(d)(3), 1869(b)(1), and 1869(c) of such Act and the last sentence of section 1876(c)(5)(B) of such Act are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections, any reference therein to the Social Security Board shall be considered a reference to the Secretary".

(d) Section 1910(c)(2) of such Act is amended, in the first sentence, by inserting after "section 205(g)" the following: ", except that, in so applying such sections, any reference therein to the Social Security Board shall be considered a reference to the Secretary".

(e) Title 5, United States Code, is amended—

(1) by adding at the end of section 5313 the following new items:

"Members, Social Security Board (3).

"Commissioner of Social Security.";

(2) by adding at the end of section 5314 the following new item:

"Deputy Commissioner of Social Security.";

(3) by adding at the end of section 5315 the following new items:

"General Counsel, Social Security Administration.

"Inspector General, Social Security Administration.

"Additional officers, Social Security Administration (6).";

(4) by adding at the end of section 5316 the following new items:

"Beneficiary Ombudsman, Social Security Administration.

"Additional officers, Social Security Administration (6).''; and

(5) by striking out "Secretary of Health, Education, and Welfare" each place it appears in section 8141 and inserting in lieu thereof "Social Security Board".

(f) Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(g) Section 707 of title 14, United States Code, is amended by striking out "Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "Social Security Board".

(h)(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(3)(A), and (g)(3)(B) of section 1402 of the Internal Revenue Code of 1954 are amended by striking out "Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "Social Security Board".

(2) Section 3121(b)(10)(B) of such Code is amended by striking out each place it appears "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(3) Subsections (d) and (f) of section 6057 of such Code are amended by striking out "Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "Social Security Board".

(4) Section 6103(l)(5) of such Code is amended—

(A) by striking out "Department of Health and Human Services" and inserting in lieu thereof "Social Security Administration"; and

(B) by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(5) Section 6511(d)(5) of such Code is amended by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Social Security Board".

(i) Section 3005 of title 38, United States Code, is amended by striking out "Secretary of Health and Human Services" and "Secretary" each place they appear and inserting in lieu thereof "Social Security Board".

(j) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 2(1), by striking out "and the Department of State" and inserting in lieu thereof "the Department of State, and the Social Security Administration";

(2) in section 9(a)(1), by striking out "and" at the end of subparagraph (N), and by adding at the end thereof the following new subparagraph:

"(O) of the Social Security Administration (to the extent provided in the Social Security Administrative and Investment Reform Act of 1986), the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(3) in section 11(1), by striking out "or" after "Transportation" and inserting in lieu thereof a comma, and by inserting after "Affairs," the following: "or the Social Security Board,"; and

(4) in section 11(2), by striking out "or" after "Transportation", and by inserting after "Veterans' Administration," the following: "or the Social Security Administration,".

SEC. 203. RULES OF CONSTRUCTION.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to the Department of Health and Human Services with respect such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to the Social Security Board.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 204. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the preceding provisions of this title shall take effect one year after the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsections (e)(1), (e)(2), (e)(3), (e)(4), and (j) of section 202 shall take effect on the date of the enactment of this Act.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE III—MANAGEMENT OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND, THE FEDERAL DISABILITY INSURANCE TRUST FUND, AND THE FEDERAL HOSPITAL INSURANCE TRUST FUND

SEC. 301. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF THE TRUST FUNDS.

(a) FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.—

(1) IN GENERAL.—Section 201(d) of the Social Security Act is amended, in the first sentence—

(A) by inserting "immediately" after "to invest"; and

(B) by striking ", in his judgment,".

(2) INVESTMENTS MADE PURSUANT TO POLICIES OF THE SOCIAL SECURITY BOARD.—Section 201(d) of such Act is further amended by inserting after the first sentence the following: "The investments made by the Managing Trustee pursuant to the preceding sentence shall be made in accordance with the policies established in regulations of the Social Security Board pursuant to section 702(a)(3)(H), subject to the requirements of this subsection.".

(b) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(c) of such Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

SEC. 302. SALES AND REDEMPTIONS BY THE TRUST FUNDS.

(a) FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" and "(e)"; and

(2) by adding at the end the following:

"(2) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized and directed by this title.

"(3) The Managing Trustee may not sell or redeem any assets of either Trust Fund—

"(A) if such Trust Fund holds uninvested monies other than as required for the normal operation of such Trust Fund, or

"(B) in advance of the date of which such assets are scheduled to be sold or redeemed under procedures developed in accordance with section 153 of the Social Security Amendments of 1983 and under other normal operating procedures.".

(b) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(d) of such Act is amended—

(1) by inserting "(1)" and "(d)"; and

(2) by adding at the end the following:

"(2) The Managing Trustee may effect any such sale or redemption with respect to the Trust Fund only for the purpose of enabling the Trust Fund to make payments authorized and directed by this title.

"(3) The Managing Trustee may not sell or redeem any assets of the Trust Fund—

"(A) if the Trust Fund holds uninvested monies other than as required for the normal operation of the Trust Fund, or

"(B) in advance of the date on which such assets are scheduled to be sold or redeemed under normal operating procedures.".

SEC. 303. EXCLUSIVE DEDICATION OF AMOUNTS IN THE TRUST FUNDS.

(a) FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(a) of the Social Security Act is amended by adding at the end the following: "All amounts deposited in or appropriated to either Trust Fund shall be immediately available exclusively for the purposes for which amounts in the Trust Fund are specifically made available under this title.".

(b) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(a) of such Act is amended by adding at the end the following: "All amounts deposited in or appropriated to the Trust Fund shall be immediately available exclusively for the purposes for which amounts in the Trust Fund are specifically made available under this part.".

SEC. 304. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF THE TRUST FUND.

(a) FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of

Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

(b) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(b) of such Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees) including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.".

SEC. 305. PRIORITY OF INVESTMENT OF FUNDS AND ACCOUNTS FOR WHICH SECRETARY OF THE TREASURY HAS INVESTMENT AUTHORITY.

Section 3101 of title 31, United States Code, is amended by adding at the end the following:

"(d) If, as of any date, the face amount requirement of subsection (b) of this section has not been exceeded and any fund or account of the United States Government for which the Secretary of the Treasury has investment authority holds amounts which, under any provision of law governing investment of amounts held by such fund or account, must be invested on such date, then such Secretary shall issue obligations described in subsection (b) of this section which are necessary for investment of such amounts before issuing obligations described in subsection (b) of this section for any other purpose.".

SEC. 306. ELIMINATION OF AUTHORITY FOR NORMALIZED TAX TRANSFERS TO THE OASDI TRUST FUNDS.

(a) IN GENERAL.—Section 201(a) of the Social Security Act is amended, in the first sentence following clause (4)—

(1) by striking "monthly on the first day of each calendar month" each place it appears;

(2) by striking "such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes," and inserting "immediately upon receipt by the general fund of the taxes";

(3) by striking ", to be paid to or deposited into the Treasury during such month"; and

(4) by striking "to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection" and inserting "to the extent necessary to account for incorrect amounts of prior tax receipts".

(b) CONFORMING AMENDMENT.—Section 201(a) of such Act is further amended by striking the second sentence following clause (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes received after June 30, 1990.

SEC. 307. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

(a) FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.—Section 201(c) of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) (as redesignated) the following:

"(C) Report to the Congress not later than the first day of November of each year on the operation and status of the Trust Fund during the six-month period ending the preceding September 30;";

(3) by striking "The report provided for in paragraph (2)" and inserting "The reports provided for in subparagraphs (B) and (C)"; and

(4) by inserting "(1)" after "(c)" and by adding at the end the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Fund and shall report to the Congress and the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit under section 3101(b) of title 31, United States Code, the Managing Trustee expects to be unable fully to comply with the provisions of subsection (a) or (d), and shall include in such report an estimate of the expected consequences to the Trust Fund of such inability.".

(b) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(b) of such Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, by redesignating paragraphs (3) and (4) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) (as redesignated) the following:

"(C) Report to the Congress not later than the first day of November of each year on the operation and status of the Trust Funds during the six-month period ending the preceding September 30;";

(3) by striking "The report provided for in paragraph (2)" and inserting "The reports provided for in subparagraphs (B) and (C)"; and

(4) by inserting "(1)" after "(b)" and by adding at the end the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to the Congress and the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit under section 3101(b) of title 31, United States Code, the Managing Trustee expects to be unable fully to comply with the provisions of subsection (a) or (c), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 308. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect August 15, 1986.

TITLE IV—ADDITIONAL MATTERS

SEC. 401. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) IN GENERAL.—Section 202(n)(1) of the Social Security Act is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) TIME OF DEPORTATION.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only with respect to benefits for months beginning (and deaths occurring) on or after such date.

SEC. 402. INTERIM DISABILITY BENEFITS IN CASES OF DELAYED FINAL DECISIONS.

(a) DISABILITY BENEFITS UNDER TITLE II.—Section 223 of the Social Security Act is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"INTERIM BENEFITS IN CASES OF DELAYED FINAL DECISIONS

"(h)(1) In any case in which an administrative law judge has determined after a hearing as provided under section 205(d) that an individual is entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability and the Secretary has not issued the Secretary's final decision in such case within 90 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month preceding the month in which such 90-day period expires and ending with the month preceding the month in which such final decision is issued.

"(2) Any benefits currently paid under this title pursuant to this subsection (for the months described in paragraph (1)) shall not be considered overpayments for any purpose of this title (unless payment of such benefits was fraudulently obtained), and such benefits shall not be treated as past-due benefits for purposes of section 206(b)(1).".

(b) BENEFITS UNDER TITLE XVI.—Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) In any case in which an administrative law judge has determined after a hearing that an individual is entitled to benefits based on disability or blindness under this title and the Secretary has not issued the Secretary's final decision in such case within 90 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month preceding the month in which such 90-day period expires and ending with the month preceding the month in which such final decision is issued.

"(B) Any benefits currently paid under this title pursuant to this paragraph (for the months described in subparagraph (A)) shall not be considered overpayments for any purpose of this title, unless payment of such benefits was fraudulently obtained.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations by administrative law judges of entitlement to benefits made after 180 days after the date of the enactment of this Act.

SEC. 403. PROHIBITION OF ADVERSARIAL INVOLVEMENT OF FEDERAL AND STATE REPRESENTATIVES IN HEARINGS RELATING TO BENEFITS UNDER TITLES II AND XVI.

(a) HEARINGS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS.—Section 205(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), with respect to any hearing required under this subsection, no person (other than the presiding officer at such hearing and members of the presiding officer's staff) who is a representative of the Department of Health and Human Services, the Social Security Administration, any other agency of such Department, or any State agency responsible for making determinations under this title may—

"(i) appear as a party at such hearing, or

"(ii) participate in the development of the record for such hearing.

"(B) Subparagraph (A) shall not be construed to prohibit in any individual case the participation of any representative referred to in subparagraph (A) in the development of the record for a hearing required under this subsection to the extent that the presiding officer at such hearing specifically requests in such case such participation.".

(b) HEARINGS RELATING TO SUPPLEMENTAL SECURITY INCOME.—Section 1631(c)(1) of such Act is amended—

(1) by inserting "(A)" after "(c)(1)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Except as provided in clause (ii), with respect to any hearing required under this paragraph, no person (other than the presiding officer at such hearing or members of the presiding officer's staff) who is a representative of the Department of Health and Human Services, the Social Security Administration, any other agency of such Department, or any State agency responsible for making determinations under this title may—

"(I) appear as a party at such hearing, or

"(II) participate in the development of the record for such hearing.

"(ii) Clause (i) shall not be construed to prohibit in any individual case the participation of any representative referred to in clause (i) in the development of the record for a hearing required under this paragraph to the extent that the presiding officer at such hearing specifically requests in such case such participation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hearings upon which the Secretary of Health and Human Services issues a final determination on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma [Mr. JONES] will be recognized for 20 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5050, legislation designed to restore financial and administrative stability to the management of Social Security. This legislation was reported by the Committee on Ways and Means unanimously, and has more than 190 cosponsors. The bill enjoys broad bipartisan support, with members of both parties and all political persuasions calling for its passage.

The legislation has two central purposes. No. 1, it establishes the Social Security Administration as an independent agency and takes it off the political football field entirely. No. 2, it prohibits the Secretary of the Treasury from disinvesting Social Security Trust Fund reserves to keep the Government operating, as was done in 1984 and 1985.

As many of my colleagues know from the complaints of their own constituents, the quality of service provided by SSA has been declining in the past decade. SSA's long tradition of outstanding public administration has deteriorated, and the day-to-day management of Social Security has been subjected to needless political intervention. The mismanagement of the continuing disability reviews and the debt collection initiative are just two examples of this development.

To counter this administrative deterioration, H.R. 5050 creates a new, independent Social Security agency, free from redundant layers of bureaucratic redtape created by the Department of Health and Human Services. The new agency would be headed by a bipartisan, three-member Social Security Board appointed by the President to staggered, 6-year terms. The Board would have broad legislative, regulatory, and administrative authority, and would generally serve as the policymaking arm of the agency. To manage day-to-day administration, the Board would appoint a Commissioner to a 5-year term to serve as Chief Operating Officer. The agency would be granted demonstration authority to manage its own facilities, personnel, and computer equipment.

It is our hope and expectation that a more stable, less political administrative structure will help restore Social Security's ability to meet the real needs of beneficiaries who depend on Social Security offices in their communities all across the country. This bill represents a firm commitment by Congress to shield the Social Security Administration from constant administration turn over and political manipulation. By enacting H.R. 5050, we will reassure American workers and retirees that this Agency deserves their trust because it will do the job.

H.R. 5050 would also specifically prohibit the Treasury from tapping into the long-term assets of the Social Security Trust Funds to keep the Government running when the debt limit has been reached. This bill would guarantee that the disinvestment of the trust funds that took place in 1984 and 1985, will never be repeated. These provisions reaffirm the fact that the debt limit is a real limit, and cannot be avoided by unlawful financial maneuvers.

The disinvestment provisions underscore the intent of the Congress the the Social Security trust fund bonds count against the debt ceiling in just the same way that debt issued to private investors does, and that the trust fund reserves cannot be violated as a way of avoiding the debt limit. The trust funds are not a convenient case box to be used for general purposes when the debt ceiling is reached. Social Security surpluses are there to be drawn upon ony when internal Social Security financing needs warrant their use. I would point out that this bill simply returns the Secretary of the Treasury to the position most Members of Congress and the public already thought he was in; that is, that the debt limit is absolute and cannot be avoided by manipulating trust fund reserves.

Additionally, H.R. 5050 contains three miscellaneous changes: First, it will suspend benefits for deported Nazi war criminals; Second, it will provide interim benefits to disability claimants who have received a favorable decision by an administrative law judge, but whose claims have been delayed by more than 90 days by the Appeals Council; and third, it will terminate the Government representative project, which has provoked widespread criticism, and which was recently ruled unconstitutional by the Federal judge.

I urge my colleagues to support this important legislation, which is strongly supported by AARP, SOS, and all major retirement groups. Passage of H.R. 5050 will send a message to workers and the elderly that the Congress will not allow either continued deterioration of beneficiary services, or manipulation of trust fund financing to avoid the debt ceiling.

□ 1635

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill which grew out of legislation I developed several years ago. So I confess to some pride of authorship here.

The bill has had bipartisan support at both subcommittee and full committee levels. I want especially to thank the chairman of our Social Security Subcommittee, the Gentleman from Oklahoma, for listening so attentively to my concerns, and for working so patiently with the Treasury to polish the disinvestment language which originated in H.R. 3688, offered by me and my colleague from Nebraska [Mr. DAUB].

H.R. 5050 has two major provisions. The first would establish the Social Security Administration as an agency

independent of the Department of Health and Human Services. The second would prohibit disinvestment of the Social Security Trust Funds, and of the Hospital Insurance Trust Fund, as a way to circumvent the debt ceiling.

H.R. 5050 also contains three unrelated elements, one of which I first introduced in H.R. 4419, the Procedural Improvement Act of 1986. This provision would permit the payment of interim disability benefits in certain cases, pending own motion reviews at the Appeals Council level. Briefly, these are claims approved by administrative law judges and selected for preview by the Secretary of Health and Human Services. Our subcommittee has heard complaints about significant delays. My provision permits interim payments after 90 days. If the final decision of the Secretary is favorable, retroactive benefits are paid; if unfavorable, the interim payments are terminated, but are not recoverable as overpayment. The estimated added costs for this provision are modest, because the universe is a small one. I am confident that interim payments will serve to expedite the review process, and that should save money in the long run.

Mr. Speaker, for years, I have been deeply concerned about management of the Social Security Administration [SSA], at both national and local levels. I have not been alone.

The subject was discussed at length in 1982 and 1983 during meetings with fellow members of the National Commission on Social Security Reform. Ultimately, we recommended to the Congress that a feasibility study be made. An independent, nonpartisan panel completed that study and reported to the Social Security Subcommittee in June 1984.

I believe that panel put the problems into perspective, and I quote from its report:

> Prior to the mid-1970's, SSA was considered one of the premier Federal administrative agencies for operating efficiency and quality of public service. Since then, for a number of reasons, SSA has lost its public reputation for administrative excellence.
>
> SSA experienced serious problems, starting in 1974, in implementing the major welfare reform provisions of the Supplemental Security Income [SSI] Program. The agency was unable for a prolonged period to take decisive and sustained action to upgrade its deteriorating computer systems, which threatened its ability to carry out its mission. it took corrective action to reduce erroneous benefit payments, and to decrease delays in processing backlogs of earnings reports, but only after such administrative failings had received widespread public attention and adverse criticism. It became inundated with appeals and mired in conflicts with the States and Federal courts over the administration of congressionally mandated reviews to determine continuing eligibility of disabled beneficiaries, large numbers of whom successfully appealed the loss of benefits.
>
> Many of these problems, in my opinion, stemmed from leadership turnovers. SSA has had nine commissioners in the past dozen years. The 10th was swornin just this week. Four of them have served only in an acting capacity. During this same period, the average tenure of the Secretary of Health and Human Services has been about 2 years.
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> Most incumbents—both Secretaries and Commissioners—have been capable, well-intentioned administrators. But they have had broadly differing management styles, priorities, and organizational concepts. The turnovers have disrupted program management, weakened public confidence in the programs, and devastated employee morale.

Early in 1985, my colleague from Texas, Mr. PICKLE, and I jointly introduced H.R. 825, a bill to establish the Social Security Administration as an independent agency responsible for administering the Old-Age, Survivors, and Disability Insurance Program and the Supplemental Security Income Program. Essentially, H.R. 825 has been incorporated into the current H.R. 5050.

While I do not believe that making SSA independent of the Department of Health and Human Services will automatically resolve its problems, and while I understand the administration's concerns about the proliferation of independent agencies, I do believe that H.R. 5050 is designed to provide the kind of management continuity, stability, and leadership so badly needed.

The bill would delegate directly to SSA the authority to determine personnel needs, to develop its own recruitment program, and in short, to manage and budget its own resources rather than to pool them with other HHS programs. This should enable agency management to carry out more efficiently its responsibility for making monthly payments to 37 million beneficiaries and maintaining earnings records on behalf of 125 million workers each year.

Finally, I support H.R. 5050 with the hope that it will help defuse the politically charged atmosphere surrounding Social Security in recent years. The system enjoys broad bipartisan support in both Houses of Congress. No social programs—election year rhetoric notwithstanding—are more secure. SSA's independence should distance it—in the public eye—from both executive and legislative tugs of war that will continue to plague us as we try to reduce the Federal deficit.

The Social Security trust funds are in good health today—thanks to a resurgent economy and the fixes in the Social Security Amendments of 1983. But this doesn't preclude the need to consider further refinements and improvements to reflect changing demographic patterns and economic projections. By establishing an independently administered SSA, perhaps we can move the focus on debate on any proposed changes away from purely partisan considerations.

The bill's second major provision, to prohibit trust fund disinvestment, was developed after public confidence was shaken last fall when the Treasury Department—faced with a debt ceiling crisis—cashed long-term securities to pay monthly benefits.

I remain convinced that the so-called normalized tax transfer, a dubious funding technique which was enacted in the Social Security Amendments of 1983, contributed to the problem. This stop-gap funding measure permitted the Social Security trust funds to borrow from general revenues at the first of a month in anticipation of that month's payroll tax receipts. Facing the debt ceiling, the Treasury Department couldn't issue bonds to raise that loan and instead cashed in long-term securities. The Treasury then issued a non-interest-bearing IOU to the Social Security Trust Funds for the payroll taxes subsequently received, a bookkeeping device that satisfied no one, certainly not the beneficiaries.

This bill will eliminate the normalized tax transfer, not as quickly as the original provision in H.R. 3688 would have done so, but rather in 1990, when everyone is satisfied that trust fund reserves will have such a generous safety margin that loans from general revenues won't be needed.

I want to emphasize that one of the goals of the prohibition on disinvestment is to ensure that Congress extends the debt ceiling in a timely and responsible manner. Congress has never defaulted on a Social Security payment in the 46 years that monthly benefits have been payable, and I am confident that, with or without this legislation, checks will continue to be issued. This bill simply assures that the Treasury Department cannot make an end run around the debt ceiling while awaiting congressional action. It places responsibility on the shoulders of Congress, where it belongs.

A second, and equally important, goal is to aid in reinforcing public confidence in the management of the trust funds. While Congress acted promptly in November and December 1985 to restore the long-term securities and the interest lost in the disinvestment transactions, we need to enact H.R. 5050 to prevent a repetition of that cycle.

H.R. 5050 should be passed here today. The changes it would make in the structure of the Social Security Administration and the management of the Social Security Trust Funds, should provide the added measure of confidence that is needed in a system that, directly or indirectly, affects the lives of all Americans.

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Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I rise in support of this legislation. The bill, H.R. 5050, was crafted carefully by the Ways and Means Committee. It prevents any further incursions into the Social Security Trust Fund. In a broader sense, in a very profound and real sense, this legislation reconfirms the solemn commitment the U.S. Government made to Social Security recipients.

PROTECT THE SOCIAL SECURITY FUND

On several occasions, both in 1984 and 1985, the administration, acting through the Treasury Department, cashed in bonds held by the Social Security Trust Fund and used the money to circumvent the limit on the public debt.

When it took these actions, the administration knew full well that disinvesting Social Security Trust Fund bonds for any purpose other than to make Social Security payments violates the original intent of Congress. It most surely violates the explicit and solemn promise we've made to beneficiaries that the Social Security Trust Fund, made up of taxes withheld over the years from their paychecks, will not be depleted or diverted to meet other unrelated Government needs.

After the administration raided the Social Security Trust Fund in 1984 and again in 1985, Congress passed legislation to make sure these actions did not result in any loss of principal or interest to the trust fund. Without this remedial step by the Congress, the trust fund could have lost some $440 million over 5 years stemming from the administration's actions in 1984, and between $1 billion and $2 billion because of the raid on Social Security in 1985.

These are significant amounts of money. The bill we are considering today will guarantee that this kind of backdoor incursion into Social Security never happens again. It never should have happened in the first place. Once this bill becomes law, Social Security recipients may rest assured that neither this administration nor any future administration can ever again invade the Social Security Trust Fund.

The abuse of Social Security that this legislation corrects is, regrettably, only a recent example of the administration's insensitivity to the concerns of Social Security beneficiaries and other elderly Americans.

Since the beginning of the administration in 1981, senior citizens have been beseiged by proposal after proposal to cut income security programs, to cut health care programs, to cut housing and energy assistance programs that benefit seniors.

In 1981, President Reagan proposed a $70 billion cut in Social Security. The administration-backed Gramm-Latta bill did away with student benefits to dependent survivors and with death benefits.

In 1982, the President and Senate Republicans proposed a 3-year, $40 billion reduction in Social Security. And despite adoption of the 1983 Social Security compromise that guarantees the solvency of the trust fund for the next 75 years, pressure to "revamp" or "revisit" Social Security has continued to come from this administration and its allies in Congress.

When administration raids on Social Security threatened to become an issue in the 1984 Presidential campaign, Mr. Reagan declared in the October debate with Walter Mondale that he would "never" reduce the benefits of anyone then receiving Social Security. In the face of this explicit, solemn promise, a plan was hatched among a group of Senators in 1985 and tacitly endorsed by the President to freeze Social Security COLA's, forcing a $6 billion reduction in 1 year and $22 billion over 3 years in the amounts otherwise owed to elderly Americans. The House firmly resisted, and that plan never went into effect.

The assault on the elderly has not been limited to Social Security. This administration has proposed, year in and year out, to place a cap on Medicaid payments to the States. It has proposed sharp increases in out-of-pocket expenses for elderly patients through stepped up "copayment" schedules and "deductibles."

Just this year alone, the administrations budget proposal would have imposed a 33-percent increase in patient expenses for part B Medicare benefits. Instead of paying current $75 deductible, patients would have been forced under the administration's proposal to pay $100. In addition, premiums would have increased by 2 percent each year.

In this year's budget resolution, the House has acted once again to protect Social Security and retirement programs. We assume a full cost-of-living increase for Social Security recipients and for all Federal civilian and military retirees. The budget resolution as passed by the Congress does not incorporate any of the administration's damaging proposals for increased out-of-pocket payments for Medicare and Medicaid beneficiaries.

We have steadfastly held the line against an administration that has relentlessly, continuously, and insidiously sought to impose a heavy burden upon those in our society who are least able to carry that extra burden. In addition to trying to reduce payments, the administration has tried to shift the burden of caring for the elderly to the States. This so-called New Federalism approach has been no more than a euphemism for the Federal Government to say to State and local governments: "It's not our problem anymore. You deal with it."

In Texas, the administration's plan for Medicaid in fiscal year 1987 would have been nothing short of a disaster. The proposed cap on Medicaid payments would have resulted in $179 million fewer Federal dollars coming into Texas. The plan to alter the Federal reimbursement schedule for administrative costs of Medicaid would have cost Texas another $14 million. All told, the administration's disastrous Medicaid proposals for fiscal year 1987 would have resulted in sending Texas a bill for $222 million! That surely would have added insult to a State already suffering enough injury from the drop in oil prices and the drought in oil-generated revenues.

And so, Mr. Speaker, the House should pass H.R. 5050. Doing so will send another message to the President that his administration must keep its hands off Social Security, which is not contributing to the deficit, and work with Congress to find other workable and compassionate ways to deal with the deficit. Retirees deserve our respect and our continued commitment. They have kept their part of the bargain. They've paid faithfully into this trust fund over their lifetimes. They should not now be forced to choose between maintaining a decent diet and getting needed medical care.

America is too great a country, too caring a country, for us to leave as a legacy to our children anything that even hints of unfair and insensitive treatment or our own elders. Here, in America, we must renew once again the social compact between generations. H.R. 5050 is part of that agreement. So, too, are COLA's for retirees, Social Security, Medicare, and Medicaid Programs—the whole commitment we have sworn, to make the sunset years of all Americans not a time of financial dread and insecurity but a time of happy reflection, of contentment and of joy.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I want to commend the chairman of our subcommittee and the members of the Committee on Ways and Means for expeditiously bringing forth this legislation, H.R. 5050, to prevent the disin-

vestment of the Social Security trust funds and to create an independent Social Security agency.

The bipartisan efforts that we are proceeding with today, along with the removal of Social Security from the unified budget as mandated by Gramm-Rudman, will give Americans of all ages renewed confidence that the Congress will not jeopardize the sanctity of Social Security through partisan battles.

As a part of these efforts, I want my colleagues to know of the hard work that the distinguished ranking Republican member, the gentleman from Texas [Mr. ARCHER], has put forth in authoring the disinvestment provisions of H.R. 5050. I am proud to have had the opportunity to work with the gentleman from Texas in the drafting of this preventive legislation.

The major provisions dealing with disinvestment in H.R. 5050, if you lay them side by side, are identical to the bill, H.R. 3688, that the gentleman from Texas [Mr. ARCHER] and I introduced during the debt ceiling crisis last November. Both H.R. 5050 and H.R. 3688 prevent the option of disinvestment as a means of financing Government by preventing the redemption of Social Security reserves to pay monthly benefits in the face of a debt ceiling crisis. Moreover, each measure requires that the managing trustee of the trust funds, the Secretary of the Treasury, provide 15 days advance notice to Congress when debt ceiling constrains will preclude the payment of monthly benefits.

Along with preventing disinvestment in the future, the bill that the gentleman from Texas [Mr. ARCHER] and I introduced last November mandated that interest lost to the trust funds as a result of disinvestment be paid back in full. Fortunately, the Gramm-Rudman legislation enacted last December accomplished this latter provision and made the trust funds whole with respect to both principal and interest.

Mr. Speaker, Social Security is certainly supported on a strong bipartisan basis, and it is unfortunate that the debt ceiling crisis last fall caused the trust funds to be held hostage by a political football and ultimately disinvested. In this regard, it is important to recognize that the action taken by the Treasury Department during the crisis was necessitated by congressional inaction to raise the debt ceiling.

Since the Treasury was thus out of money and since the normalized tax transfer process by which the general fund advances to Social Security the amount of expected monthly benefits was thus impossible, it was necessary to redeem Social Security reserves in order to pay benefits for the month of November 1985. Nonetheless, the perception of the general public was that the administration was solely to blame for the action of disinvestment, while in fact it was Congress that forced that action.

The provision in the bill we are considering today to prohibit the option of disinvestment will eliminate the opportunity to spread blame and will assist in forcing Congress to get its work done on time. More importantly, however, the disinvestment provision will work in conjuction with the removal of the trust fund from the unified budget and the independent agency approach to preclude the use of Social Security as a political issue.

In this regard the gentleman from Texas [Mr. PICKLE], for his authorship with the gentleman from Texas [Mr. ARCHER] of the independent agency approach, should be commended. Indeed, in both cases, the gentleman from Texas [Mr. ARCHER] does deserve credit where credit is due for his foresight, planning, and persistence over several years to bring these matters to our attention.

It goes without saying that the realization of depoliticizing Social Security can let our older Americans enjoy their retirement without wondering whether or not they will get their next check. I know how badly I felt last fall when a Social Security recipient's daughter called my district office to inquire if her father would continue to receive his monthly check as a result of the debt crisis. This woman told me that her father was far too nervous about the situation to inquire for himself.

We certainly cannot allow this to happen again. I want to commend the gentleman from Texas [Mr. ARCHER], the members of the committee, and particularly the chairman for his bipartisan spirit and cooperation and for his contribution to the legislation and for the process that brought the bill to the full committee and to the floor today. Without his work, this would not have been possible. by this action, he has brought not only the idea of a separate agency but the idea of a solution to the disinvestment problem to us today so we might vote on it and move the matter along. This will allow it to go into affect on August 15, 1986, and that, I think, is an important contribution to this legislation.

Mr. Speaker, if the full Congress takes expedited action on this disinvestment legislation, as I expect it will, this effective date will not allow a repeat performance of last fall when the debt ceiling limit is reached in the next few weeks.

Mr. Speaker, I thank my colleagues for their time and patience.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong support of H.R. 5050, the Social Security Administrative and Investment Reform Act. This legislation will free the Social Security Administration from unwarranted intervention and help reassure recipients that their much deserved benefits will not improperly be tampered with as happened in late 1985 when the Reagan administration disinvested improperly Social Security Trust Funds.

I am quite pleased to see this legislation reach the floor. As a member of the Select Committee on the Aging, I have maintained a strong and longstanding interest in this issue and am well aware of the problems facing Social Security beneficiaries. Unfortunately, one of the gravest problems facing them has been the Reagan administration's insistence on using Social Security as a political football. I sponsored similar legislation for the past 5 years and am an original cosponsor of this bill because I don't think Social Security recipients should have to worry from year to year about whether their benefits will be cut at the whim of this or any administration. We need to take politics out of Social Security.

During the past few years, constant turnover in high level policy positions, repeated internal reorganizations, and unwarranted political intervention by the Reagan administration in daily decisions have led to a deterioration in the quality of public service provided by the Social Security Administration.

Under the Reagan administration we have witnessed a veritable onslaught against Social Security. Time and time again, we successfully had to fight off administration attempts to make substantial cuts in Social Security programs affecting millions of retired and soon-to-be retired Americans. We have also had to block repeated administration efforts to delay or reduce modest Social Security cost-of-living increases.

H.R. 5050 would depoliticize the SSA by reestablishing it as an independent agency to be governed by a bipartisan board. The board would appoint a professional administrator to oversee day-to-day operations.

This bill recognizes the unique structure of the SSA. Social Security is the only Federal program which is funded on a pay-as-you-go basis. Social Security is independently funded from employee and employer payroll taxes. Social Security represents a contract between the generations. Today's workers support today's retirees. America's workers and Social Security recipients should feel assured that promised benefits will, in fact, be paid and will remain stable and adequate, despite changes in the Presidency and Congress. The reestablishment of the SSA as an independent agency governed by a bipartisan board and under the supervision of a nonpartisan professional administrator will help stabilize and protect those benefits. Social Security is the most successful and the most important social program conceived in our Nation's history—37 million beneficiaries depend on this program today and over 100 million wage earners with their employers fund the payroll taxes to sustain these programs.

This legislation strongly restates original congressional intent and ensures the American public that the administration will not tamper with the Social Security Trust Funds. This provision of the bill is necessary to make certain that the administration does not violate

the law as it did in late 1985. I am sure most Members are well aware that after President Reagan vetoed an extension of the debt limit, Federal borrowing from Social Security Trust Funds was improperly initiated. By borrowing from Social Security Trust Funds when general revenue funds ran short, the administration violated the Social Security Act of 1935. This should never have been allowed to happen. The law which established the SSA clearly states that the funds should never be used for any purpose other than paying benefits. By passing this legislation today, we can restate the original intent of the law with absolute clarity and send a message to the administration that we will not tolerate any further tampering with Social Security.

I urge my colleagues to support this legislation. Let's take the politics out of Social Security and restore sagging public confidence in the SSA.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. PICKLE], the former chairman of the Subcommittee on Social Security.

Mr. PICKLE. Mr. Speaker, first I want to congratulate my colleague, the gentleman from Oklahoma [Mr. JONES], the distinguished chairman of the Social Security Subcommittee, for diligently pursuing the issue of protecting one of our Nation's greatest assets, the Social Security system.

Two years ago, when I chaired the Social Security Subcommittee, I introduced, along with the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the gentleman from Texas [Mr. ARCHER], legislation to establish Social Security as an independent agency. That legislation was the result of hearings we had at that time. And again at the first of the year, in 1985, I introduced legislation, along with the gentleman from Texas [Mr. ARCHER], and we had nearly 100 Members sign on to that bill, which indicated even then very strong support of this bill.

So I compliment the gentleman from Oklahoma [Mr. JONES] not only for moving the bill through the subcommittee and the full committee but also for adding a very important provision to protect the Social Security Trust Fund from the kind of harmful disinvestment action which occurred last fall.

I pay my respects to the gentleman from Oklahoma [Mr. JONES] and to the gentleman from Texas [Mr. ARCHER] for the leadership they have given.

I also note, Mr. Speaker, parenthetically the presence on the floor today of a member of the minority staff, Mr. Bob Myers. Mr. Myers is a former actuary of the Social Security system, and he, along with Mr. Robert Ball have probably made as great a contribution to assuring the stability of our Social Security system as any two people in America. So it is good to see you here, Mr. Myers, and we are reassured that your are still active and participating and contributing. We are glad to have you here.

Mr. Speaker, I hope the House will approve this bill with a very strong vote that will say loud and clear to our citizens that we are guaranteeing them a stable Social Security system. The bedrock of the system is the public's confidence that the system is stable, and that promised benefits will be paid. Despite the progress in the system that we assured Americans when we passed the bill in 1983, we still have further assurances now and we must continue to give further assurances to our young people that the funds will be there when their time comes, as it surely will.

This legislation removes two lingering doubts about the system. First, it makes it difficult to any administration, Democrat or Republican, to tamper politically with the Social Security system. That is a needed thing. Second, the bill would prohibit the Treasury Department from disinvesting assets held by the trust fund to circumvent the public debt celing.

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So I hope, Mr. Speaker, we give this bill a strong vote of support. Personally, it is a pleasure to be here to see so many people exuding confidence and cooperation and bipartisanship on this vitally important piece of legislation that speaks well for the program as a whole.

Mr. Speaker, I congratulate my colleague, the gentleman from Oklahoma [Mr. JONES], chairman of the Social Security Subcommittee, for diligently pursuing the issue of protecting one of our Nation's greatest assets, the Social Security System.

Two years ago, when I chaired the Social Security Subcommittee, I introduced, along with Chairman ROSTENKOWSKI, and Congressman ARCHER, legislation to establish the Social Security Administration as an independent agency. That legislation was the result of hearings held in the summer of 1984 which made it clear that creating an independent agency was the best way to reduce political interference with the management of the Social Security System. Again in early 1985 I introduced a similar bill which gained over 84 coauthors, indicating strong congressional support.

I compliment Chairman JONES, not only for moving this bill through the subcommittee and the full Ways and Means Committee, but also for adding a very important provision to protect the Social Security Trust Funds from the kind of harmful disinvestment actions that occurred last fall. Similarly I compliment my colleague, BILL ARCHER, for joining in this bipartisan effort from the beginning.

Mr. Speaker, I hope the House will approve this bill today on a very strong vote that will say loud and clear to our citizens that we are guaranteeing a stable Social Security System.

The bedrock of the system is the public's confidence that the system is stable and that promised benefits will be paid.

Despite our progress in restoring the financial solvency of the trust funds by passing the Social Security Amendments of 1983, our workers, particularly the young, still have doubts that the system will work.

This legislation will remove two lingering doubts about the stability of the Social Security System.

First, it will make it difficult for any administration, Democrat or Republican, to tamper with the administration of the system by putting it in the hands of a bipartisan, three-member board that would appoint a commissioner to serve as chief operating officer. Currently, the Social Security Administration is a division of the Department of Health and Human Services with a commissioner appointed by the President and the commissioner reports to the Secretary of HHS.

Second, the bill would prohibit the Treasury Department from disinvesting assets held by the trust funds to circumvent the public debt ceiling. This is absolutely necessary to ensure that the trust funds are managed exclusively for the benefit of the Social Security System.

I urge my colleagues to give their full support to these changes to prevent political and financial tinkering with a system that more than 36 million Americans depend on for benefits each month.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, today I rise in support of H.R. 5050, legislation to establish an independent Social Security agency and prohibit the disinvestment of the Social Security Fund.

I commend the ranking member of the subcommittee, the gentleman from Texas [Mr. ARCHER], and the distinguished chairman of the subcommittee, the gentleman from Oklahoma [Mr. JONES] for their leadership in bringing this issue to the floor of the House in a prompt manner.

Mr. Speaker, it was not so long ago that a lot of political battles swirled around the Social Security system. Five times in the last 5 years we have had disinvestment of the Social Security system. It was not too long ago that the disability program was plagued with unwarranted and arbitrary dismissal of people from the disability rolls.

It has been this politicization of the Social Security system that I think prompted Members of Congress to push for legislation like that which we are considering today.

This legislation establishes the Social Security Program as an independent agency that has to help insure that we will have stability in the Social Security system.

During the last 12 years, we have had 10 Commissioners of the Social Security system. When you have that kind of turnover in the mangement of the Social Security system, it is very difficult to have any kind of long-range plans or improvement or modernization of the system.

With this kind of stability in the Social Security Program that is brought by the establishment of it as an independent agency, I think we can have good long-range planning and improvement in the administration of it.

In addition, by making this an independent agency, we will reduce the chances of tampering with the Social Security system for political purposes.

The disinvestment provisions of this measure will insure that we maintain the confidence of individuals in the Social Security system; but just as important as maintaining the confidence of people in the system, it will save Federal dollars in the long term. Every one of these disinvestments in the last 5 years has cost the Treasury money and that is not good for anyone. The Social Security system should be outside the political system and this bill will insure that.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. OAKAR], who, as the distinguished subcommittee chairman, has contributed so much to Federal and civil service retirees.

Ms. OAKAR. Mr. Speaker, I thank the chairman, the gentleman from Oklahoma [Mr. JONES], for yielding.

I want to say to the distinguished chairman, the gentleman from Oklahoma [Mr. JONES], that every senior citizen in America owes the gentleman a debt of gratitude for this bill and all people who have played a role in it, including certainly the chairman of the Ways and Means Committee.

I recall that during the Gramm-Rudman negotiations, the gentleman from Oklahoma [Mr. JONES], the chairman, and I were both conferees. It was Chairman JONES' amendment that restored part of that $17 billion that was so-called borrowed from the civil service and Social Security, military and railroad retirement trust funds. I added the complementary amendment.

So what the gentleman has done is to insure that that never happens again.

I do not buy the argument that we are responsible for this unprecedented borrowing by the Secretary of the Treasury, because I remember the news releases before that took place telling us that they were going to do this and in fact when it came to civil service retirement, they did it before the expiration date, so that is simply not true that we were the ones that envisioned this idea.

Mr. Speaker, Franklin Roosevelt, President Roosevelt and other framers of the original Social Security Act, did envision an independent financially secure program. It is a program that should have our trust. That is why in many ways it is called a trust fund.

We do not have any right, and certainly the Secretary of the Treasury by building up a kind of notion that you can borrow money with no plan to pay it back from the trust fund. The trust fund of Social Security should be independent and that is what in part this bill today does.

I think the news of this action will quickly relieve Social Security recipients and future recipients that Congress will never again be able to tamper with that trust fund.

I do want to point out that there are two other things that we really should do. We should take Social Security out of the budget once and for all. We should make it truly independent. I know Chairman JONES favors that notion and I know the gentleman has in fact marked up a bill similar to the one I have introduced to assure that the second thing that we still need to do is we have to protect the trust funds of the military retirees, the civil service retirees, and indeed the railroad retirees of this country as well.

I, for one, am going to be attempting in my committee in which I have some jurisdiction to protect the civil service retirement funds, because we do not want to see those trust funds, any retirement funds, be manipulated in the way they have.

Mr. Speaker, I want to congratulate the chairman and I want to say to my colleagues that we all owe a debt of gratitude to the chairman.

Mr. DAUB. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I will not yield at this time, but I will be happy to talk to the gentleman privately about the comments the gentleman made that were inaccurate.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I yield to the gentleman from Nebraska [Mr. DAUB.]

Mr. DAUB. Mr. Speaker, I am not going to quibble with the statement made by my friend, with whom I had the privilege of serving on the Committee on Health and Long-Term Care in the Aging Committee for 4 years, but simply to ask a rhetorical question, and that is simply to ask whether or not there would have been a problem had the Congress discharged its responsibility with respect to the debt ceiling.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I rise in support of H.R. 5050. I think it is a good thing for the trust fund. It is a good thing for the beneficiaries. It is a good thing for the employers who must pay into the fund and it is a good thing for the Republic, because it tends to shore up what is the most important social contract between the governed and their representatives. It will give assurances that the money will be there.

Like the gentleman from Nebraska, I feel that the disinvestment of the fund was at least as much the fault of Congress. There has been a hole. We have allowed it to exist. We have now seen our duty. The committee is to be congratulated for allowing us to close it.

I hope this bill will be speedily passed.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to congratulate our colleagues, the gentleman from Oklahoma [Mr. JONES], the chairman of the subcommittee, and our colleagues on the Ways and Means Committee for reporting H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986. I strongly support this legislation.

H.R. 5050 would, as you know, mandate that the Social Security Administration be established as an independent agency, governed by a bipartisan Social Security Board. This provision is a response to the deterioration of the quality of service delivered by the SSA resulting from constant upheaval at its highest administrative levels, largely owing to the politicization of its agenda. Consequently, H.R. 5050 would remove Social Security, a national resource, from the vicissitudes of the political arena, and insure beneficiaries the highest level of service.

I'm also heartened to see that the Social Security fund will now be preserved from disinvestment by the Treasury Department. This guarantees that the fund will be sustained and will continue to grow at healthy levels. The Treasury Department's support of this prohibition of disinvestment reflects the consensus that disinvestment is unsound fiscal policy, and assures our Nation's elderly that we have a system in place on which they can depend.

Social Security is too important to be tossed about in the winds of political fashion. H.R. 5050, which enjoys large bipartisan support, addresses responsibly the politicization of Social Security in recent years. I strongly encourage my colleagues to lend their support to this legislation.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, with 70 percent of those over 65 depending on Social Security for their entire income, this action will reassure the elderly of our Nation that previous actions taken by the Secretary of the Treasury to

borrow from the Social Security Fund would be prohibited and that they can be sure that the Congress is restoring our national commitment to the Social Security System by preventing such actions from occurring again.

Mr. Speaker, today I rise in the strongest possible support of H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986.

This vital legislation will strengthen the administrative and financial integrity of Social Security. The bill removes the Social Security Administration from the Department of Health and Human Services and makes it truly independent.

Additionally, the Social Security and Medicare Hospital Insurance Trust Funds will be protected from raids such as the one conducted last year by the Secretary of the Treasury when the Nation was nearing its debt ceiling.

Last year we removed Social Security from the unified budget except for purposes of calculating the overall deficit. This was our way of saying that Social Security was such a crucial priority that it should be completely removed from the political chess board.

The bill before us today is the next logical step in the insulation of Social Security from political pressures.

As a part of the Department of Health and Human Services, SSA is now vulnerable to tampering by the top brass at HHS—top brass who are politically appointed. In other words, there now exists the possibility that those administering Social Security must base their actions on the philosophy of whichever party is in the White House rather than the best interests of people on Social Security.

By making SSA Independent, H.R. 5050 would protect the Social Security System from pressure from above.

Even more importantly, H.R. 5050 provides a permanent safeguard for the Social Security Trust Funds.

Last year, the Secretary of the Treasury, acting in his role as managing trustee of the funds, cashed in Treasury securities held by the funds in order to keep the rest of the Government under the debt ceiling. Subsequent investigation revealed that the Secretary and his predecessor had taken similar action on three previous occasions.

Had Congress not acted to nullify those actions, the disinvestments would have resulted in interest income losses to the trust funds totaling billions of dollars by the year 2000. Clearly, the raids on Social Security were a breach of faith with millions of American workers now on the job who will depend on that interest income to pay their Social Security checks into the next century.

There is every indication that we will soon be in the throes of another debt ceiling crisis. Swift enactment of H.R. 5050 is necessary to ensure that no one tampers with the retirement security of the American worker this time around, or at any time in the future.

Mr. Speaker, Social Security is much more than just another Federal program. It is our covenant with every American who works. It insures that those who helped build this Nation will not be forgotten in their old age. H.R. 5050 provides badly needed safeguards for the continued survival of Social Security. I am proud to be a cosponsor of the bill, and I urge its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, in 1983, the Congress passed and the President signed a landmark piece of legislation to solve the financing crisis that confronted Social Security. At that time, we left unfinished the task of solving the administrative crisis that has plagued the program in recent years. H.R. 5050 would complete this agenda by restoring integrity to the management of Social Security through the creation of an independent Social Security Administration.

The new agency would be governed by a three-member, bipartisan Social Security Board, appointed by the President to staggered, 6-year terms. For routine administration of Social Security, the Board would appoint a Commissioner to a fixed 5-year term. This arrangement will restore stability and continuity to both policymaking and administration, qualities that have been sorely absent in the past decade.

H.R. 5050 also includes a provision to prevent the Secretary of the Treasury from disinvesting assets held by the Social Security Trust Funds as a way of avoiding the debt limit. This provision highlights the longstanding intent of the Congress that bonds held by the Social Security Trust Funds count against the debt limit, and cannot be liquidated just to keep the Government running when the debt ceiling has been reached.

Preventing disinvestment, and establishing an independent agency for Social Security, will go a long way toward restoring public trust in Social Security.

I urge all our colleagues to vote for this bill.

Mr. McCAIN. Mr. Speaker, I am pleased to rise today in strong support of H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986, and I would like to commend my colleagues on the Social Security Subcommittee for their hard work on this much-needed piece of legislation.

Like many of my fellow Arizonans, I too was alarmed by the reports that the Department of the Treasury "raided" the Social Security Trust Funds last fall. Although, in 1983, the Congress was finally able to put Social Security back on a sound financial footing, the Treasury Department has repeatedly used the Social Security Trust Funds to avoid the debt limit.

Of course, the ultimate blame for this unfortunate situation lies with the Congress, and our inability to agree, on time, to a plan to provide financing for the U.S. Government. Although the trust funds were restored and repayment of the loss of interest was provided for in the debt limit bill passed just before the end of the first session of the 99th Congress, I believe we must ensure that this scenario never recurs.

H.R. 5050 guarantees that disinvestment will never be repeated. It contains provisions which reaffirm the definition of the debt limit, and emphasizes that it cannot be circumvented by financial maneuvering. In addition, it creates an independent agency, with a three-member, bipartisan, policymaking board to administer Social Security. This board would appoint a commissioner for the day-to-day administrative duties.

Social Security should not be used as a political football, nor should it be blamed for the deficit problems faced by the rest of the Federal Government. Those workers who have paid into the system deserve their earned benefits, and I believe that this bill will help to guarantee that they receive them.

Mr. SMITH of Florida. Mr. Speaker, I rise in support of H.R. 5050, the Social Security Administrative and Investment Reform Act, which would establish the Social Security Administration as an independent agency.

I believe that we must do all we can to uphold our commitment to provide strong, responsive, fiscally-sound Social Security programs for older Americans of today and the future.

I was shocked and outraged to learn last fall that Social Security Trust Funds were used to keep the Federal Government operating after the debt limit had expired. Therefore, I have cosponsored this bill which would establish the Social Security Administration as an independent agency and prohibit the Treasury Secretary from disinvesting the Social Security Trust Funds to circumvent the Federal debt limit.

H.R. 5050 is a valuable piece of legislation because it specifically prohibits the Treasury Department from tapping into long-term assets of the Social Security Funds to keep the Government operating and guarantees that the disinvestment that took place never will be repeated. Furthermore, this bill creates a new independent agency to administer Social Security headed by a bipartisan three-member Social Security Board.

By passing this bill, we will demonstrate to millions of elderly citizens our commitment to restore continuity, integrity, and administrative excellence to the Social Security Administration.

Mr. TAUKE. Mr. Speaker, today we have a rare opportunity to once and for all demonstrate to our constituents that we are committed to protecting the largest entitlement program in the world by voting for H.R. 5050, legislation to establish an independent Social Security agency. As we have seen in the past, Social Security almost annually becomes a political ping-pong. Recently, the Social Security battles have centered around annual cost-of-living adjustments [COLA's] and the Treasury Department's disinvestment of Social Security assets. Last year, we watched budgetary forces threaten to close local Social Security offices and the services those offices provide beneficiaries on a daily basis.

A freestanding Social Security Administration, separate from the Department of Health and Human Services, is long overdue. An independent agency will not only codify the policy of the program through the appointment of a bipartisan board, but will also more narrowly focus the management of the Social Security and Disability Program. Management of the new SSA will be able to establish long-term policies and goals. A bipartisan board of directors, consisting of three members who will serve staggered 6-year terms, appointed by the President and approved by the Senate, will be charged with oversight management of the independent agency. In addition, the board will recommend a commissioner who

will directly manage the Social Security and Disability programs. A permanent commissioner, with a public ombudsman to represent beneficiaries' concerns, will ensure the consistency of Social Security policy and the public's confidence in the system.

Not only will this legislation remove SSA from the Department of Health and Human Services, but it will also protect the trust fund from future budgetary constraints. The balanced budget law, Gramm-Rudman-Hollings, took the first step toward protecting the trust fund by taking Social Security's assets off-budget. We certainly remember the events of last fall when the Federal Government ran out of borrowing power, reached the debt ceiling limit, and disinvested some of the long-term interest-bearing bonds held by the trust fund. I heard from hundreds of my constituents who were outraged and fearful of the impact disinvestment would have on the system's ability to pay monthly benefits. Social Security and Disability are funded through payroll taxes that are credited directly to the trust fund and do not affect the balance of the General Revenue Fund. A vote for this legislation will ensure present and future Social Security beneficiaries that debt-ceiling crises will not jeopardize the Trust Fund.

The Social Security Administration is a unique and vital program that touches nearly every American. And simply because of the program's magnitude, Social Security can be politicized. To demonstrate our permanent and sincere commitment to our constituents, to guarantee that Social Security will not be subjected to partisan or political whims, to provide consistency and stability to the most important broad-based programs in this country, and to ensure that the payment Social Security benefits will never be influenced by outside forces, we must pass H.R. 5050. Social Security belongs outside of the political realm and today we can confirm our commitment for the longevity of the Social Security Administration by establishing an independent and insulated agency.

Mr. DOWNEY of New York. Mr. Speaker, today the House will consider H.R. 5050, legislation that will prohibit the Treasury Secretary from disinvesting the Social Security Trust Funds as a means of circumventing the limit on the public debt. This legislation will also establish the Social Security Administration as an independent agency, governed by a bipartisan, three-member Social Security Board.

As an original cosponsor of this legislation, I urge my colleagues to give it their full support. We all know too well what has happened in the past to the Social Security Trust Funds, which are meant to be inviolate. In September, October, and November of 1985, to prevent the Government from running out of borrowing authority, the Treasury Secretary authorized "raiding" the Social Security Trust Funds. The Treasury did the same thing in September and October of 1984. This legislation would make it illegal for this to happen again.

Millions of our senior citizens count on the Social Security System as their primary means of support. This legislation will ensure that the confidence our seniors have placed in this system is not misplaced. Frankly, Treasury's actions represent shabby treatment of the workers who pay into the Social Security System. Those workers expect those funds to be there when they retire just as much as the current beneficiaries expect them right now.

I urge my colleagues to support this legislation and I look forward to the Senate considering this bill in a timely fashion. We must not allow this shabby treatment of American workers and retirees to continue.

Mr. LEWIS of Florida. Mr. Speaker, today the House of Representatives is considering HR 5050, the Social Security Administrative and Investment Reform Act of 1986. As the representative of many thousands of senior citizens in Florida, I extend my full support to this measure.

On paper, this bill creates an independent agency for administration of the social security program and extends guidelines for proper investment of funds used to supplement the income of our Nation's elderly population. In reality, this legislation does much more than just set up rules for administration. It truly bears out its name; it returns a feeling of security to those who depend on the prudent management of Social Security funds.

In response to reports of the disinvestment of the trust funds in late 1985, my office has been flooded with letters and calls from senior citizens in Florida who are concerned about the economic stability of their futures. Through the creation of an independent agency, our Nation's elderly need not fear that the benefits for which they worked so hard will be jeopardized due to budgetary constraints of the government as whole. This legislation will help restore confidence in the Social Security program to America's senior citizens.

Mr. McMILLAN. Mr. Speaker, restoring Social Security to its independent status is long overdue. For too many years, our senior citizens have been subjected to emotional turmoil as Congress plays a political football game with their Social Security.

The surpluses generated by Social Security only serve to mask the deficits created in other functions of the budget. Social Security was created as an independent agency, out of the regular budget process, and should have remained that way. Social Security funds cannot, and should not, ever be used for any other purpose.

H.R. 5050 will return the Social Security Administration to its original, independent status. I was a sponsor of the original legislation to accomplish this goal, but am not listed on this new version only because of a clerical error. I encourage all Members to support this urgently needed legislation so our senior citizens never need to worry about their Social Security again.

Mr. BORSKI. Mr. Speaker, I rise in strong support of H.R. 5050, legislation to establish Social Security as an independent agency and to prohibit the disinvestment of the Social Security and Medicare Trust Fund. The time to "depoliticize" and put a stop to tampering with this vital program is long overdue.

Year after year, older Americans are faced with the threat of reduced, delayed, or eliminated benefits. Social Security cuts are proposed even though the program is paying its own way and is not contributing to the Federal deficit.

Under this legislation, Social Security would be removed from the Department of Health and Human Services and established as an independent agency. As a separate agency governed by a three-member Board, Social Security would be insulated from the budgetary pressures and political interference that undermine public confidence in the program.

The Social Security Administrative and Investment Reform Act would also prevent future raids on the trust fund such as those which occurred in 1984 and 1985. This provision will ensure that assets in the trust fund are used only for Social Security benefits and not to pay for other Government programs when the debt limit has been reached.

For too long, opponents have used Social Security as a scapegoat for budget problems in other Federal programs. This practice must stop. As a cosponsor of H.R. 5050, I believe that passage of this legislation will safeguard the financial integrity of the Social Security System and reassure the American people that they can count on receiving their hard-earned benefits when they retire.

Last year, we celebrated the 50th anniversary of Social Security, the most successful antipoverty program ever established. Today, we have an opportunity to reaffirm our commitment to this landmark program by approving the Social Security Administrative and Investment Reform Act. I urge my colleagues to join me in supporting this important legislation.

Mr. BROOKS. Mr. Speaker, I support the substantive purpose of H.R. 5050 to make Social Security an independent agency to be governed by a bipartisan three-member Social Security Board. Equally important is the bill's prohibition against the Secretary of the Treasury disinvesting the Social Security Trust Funds.

At the same time, as chairman of the Government Operations Committee, I must state my concern over the procedural and jurisdictional aspects of H.R. 5050. Under rule X of the Rules of the House, the Committee on Government Operations is specifically assigned jurisdiction over "reorganizations in the executive branch of the Government." Pursuant to this grant of jurisdiction, it is the Government Operations Committee that is responsible for legislation which creates departments and agencies. It is clear that, just as the Government Operations Committee has jurisdiction over legislation combining administrative units into one executive branch agency, it also is responsible for legislation under which such agencies would be broken into independent units. Consideration by the Ways and Means Committee of this legislation should not be taken as a precedent for the establishment of independent agencies without consideration by the Committee on Government Operations.

Mr. ROTH. Mr. Speaker, as a cosponsor of H.R. 5050, I rise in strong support of this important legislation.

We as Members of Congress have many obligations. No obligation is more important that the one we have to the older citizens of this country who have paid in good faith to the Social Security System. H.R. 5050 ensures that we will be better able to meet those obligations.

Few things have been made shameful than the recent use of older Americans as pawns in a political chess match. Charges have flown back and forth that this party or that, that this branch of Government or that, cares more about the well-being of Social Security recipients than the other does.

Here is an opportunity for this body to take a great step toward depoliticizing Social Security. But at the same time we will be taking an even greater step toward providing for the long-term protection of the Social Security System.

This legislation is important in two ways. First, it establishes Social Security as an independent Federal agency. Hopefully this will make Social Security more immune to frequent changes in personnel and policy, more accountable for its own actions, and more independent of politics.

We must restore confidence in the ability of the Social Security System to meet the needs of more than 36 million current beneficiaries and tens of millions more who are potential beneficiaries. Removing Social Security from the HHS umbrella is one way to achieve that goal.

Second, this legislation guarantees that Social Security Trust Fund will not be disinvested in order to meet some other public policy goal. The failure of Congress to approve a debt limit increase must never be an excuse for using Social Security Trust Fund moneys for purposes other than those for which they were originally intended.

Our obligation to act in good faith where Social Security recipients is, in my opinion, almost sacred. It must not be subject to political or budgetary whim. H.R. 5050 goes a long way toward ensuring that we fulfill that obligation.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in strong support of H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986.

Social Security was created to provide support for the aged and disabled. I believe that it is time for Congress to take the necessary measures to ensure that disinvestment cannot happen again. Although Social Security does not contribute to the deficit, the administration's budget-cutting knife continually looks to this program for major reductions in spending.

Social Security remains a vital part of the "safety net" that helps keep older Americans from falling back into proverty in which previous generations of elderly Americans lived. Despite various promises made by the present administration, numerous proposals have been made by the administration to cut Social Security and the Department of the Treasury has invaded the Social Security Trust Fund to pay back the Government's debt. This ill-advised action by the Treasury has far-reaching ramifications not only because of the monetary loss to the trust fund, but more importantly, because of the loss of trust it has caused in the American people.

Mr. Speaker, Social Security should not be at the top of the administration's hit list, nor should the Treasury ever have the opportunity to disinvest from this American tradition. It is time that we restore and uphold the trust placed by the American people, particularly those who will rely on Social Security, and take the steps necessary to prevent this administration from future raids on the Social Security Trust Fund. H.R. 5050 is a bill that will establish Social Security as an independent agency, far away from the administration's attacks on the economic well-being of our country's needy.

Mr. ROYBAL. Mr. Speaker, I rise in strong support of H.R. 5050, a bill to reestablish Social Security as an independent agency, governed by a bipartisan board and a tenured professional Commissioner. I wish to commend the chairman of the Subcommittee on Social Security, JIM JONES, and the bipartisan leadership of the Ways and Means Committee for their efforts in bringing this important legislation to the floor. In the 98th Congress, I introduced H.R. 5904, the first comprehensive bill to reestablish an independent Social Security agency with a bipartisan Board of Directors and a professional Commissioner. The bill we are debating today includes the major provisions of my legislation.

Most of the mistakes made in Social Security legislation, the notch, and the maladministration of the programs, disability, could have been prevented by removing the Social Security Administration from the Department of Health and Human Services. Pressures placed upon the Social Security Administration by the Office of Management and Budget to cut staff by 21 percent over the next 5 years might not have occurred with a Board of Directors who would be free from political manipulation. The legislation we have before us today will give SSA the ability to say no to such pressures, and to implement proposals based on sound policy, not on pressures from an administration intent on reducing services and cutting benefits.

Witnesses at a Select Committee on Aging hearing, including representatives from the Social Security Manager's Association, SSA's employee union, and aging organizations, endorsed a board-governed agency structure for Social Security.

This legislation also prohibits the disinvestment of Social Security Trust Funds, but we need to go further in taking Social Security out of the politics of the budget process. Congress removed Social Security from the unified budget last year, but the surpluses are still used in the deficit projections. Under current law, the projected fiscal year 1991 Social Security surplus of $67 billion will be used to show a balanced budget for the entire Federal Government. Social Security is "off budget but on target" in reaching the necessary goals to create a balanced budget. We should work toward removing Social Security from all budgetary considerations.

I am also pleased that the bill abolishes the Government representative project. I congratulate my colleague, RICK BOUCHER, for his efforts in bringing this issue before the Congress. I am an original cosponsor of his bill, H.R. 3854, abolishing the project. Witnesses at an Aging Committee hearing in March 1985, chaired by Congressman BARNEY FRANK, testified that Government representatives at an ALJ hearing changed the nature of this nonadversarial process to an adversarial one. The Social Security Administration took the bold step of publishing a notice of continuance of the project in the Federal Register on the same day that the Subcommittee on Social Security unanimously voted to abolish the project. A district court in Virginia has now ordered the SSA to stop the use of this project since it is unconstitutional and violates the Social Security Act. Passage of this legislation will put the Congress on record in opposition to a 4-year-old project which it never authorized.

The legislation, H.R. 5050, will help to restore public confidence in the Social Security System. The legislation has the endorsement of beneficiaries and individuals who run the day-to-day operations of the agency. We must insulate Social Security from the arbitrary pressures too often seen over the last decade. I urge my colleagues to support this legislation.

Mr. GILLMAN. Mr. Speaker, I am pleased to join my colleagues in strong support of H.R. 5050, legislation prohibiting the disinvestment of the Social Security Trust Fund. I would like to thank the gentleman from Oklahoma, chairman of the Subcommittee on Social Security, Mr. JONES, and members of the Committee on Ways and Means, for fashioning a measure protecting the benefits of millions of Social Security recipients and improving the overall administration of the Social Security Administration [SSA].

Prompt adoption of this legislation is crucial if we are to ensure both the continued viability and integrity of Social Security. As we all recall, Congress had difficulty agreeing on legislation raising the public debt limit this past November. These lengthy deliberations were necessary because of actions in the other body attaching the Gramm-Rudman-Hollings balanced budget law to the debt ceiling measure. Regardless of how justified or noble the fight to keep Gramm-Rudman-Hollings from becoming law, the ultimate disinvestment of the Social Security Trust Fund to meet our obligations should have never occurred. Indeed, the House voted, 357 to 61, on November 1, 1986, to temporarily extend the debt ceiling so that the Social Security Trust Fund would remain intact. Unfortunately, the other body was unable to reach an agreement on that measure and as we know, Treasury "disinvested" a substantial number of long-term securities held by Social Security in order to raise the money necessary to pay their monthly checks.

H.R. 5050 prohibits any future disinvestment and requires the managing trustee of the old age, survivors, disability, and hospital insurance [OASDHI] trust funds to invest immediately in interest-bearing obligations any surplus revenue not required to meet current withdrawl needs under law. Under H.R. 5050, the managing trustee may redeem trust fund assets only to enable the trust fund to make payments authorized under the Social Security Act. The trustee is forbidden to sell or redeem any assets if the trust funds hold uninvested

money or before the date on which those assets are scheduled to be sold or redeemed. The bill furthermore requires that, if the debt ceiling prevents investment of trust fund moneys, any new U.S. obligations must be issued first to achieve the full investment of the fund or account.

I am also pleased to note that the architects of H.R. 5050 have acted to accomplish the recognized need to improve the management and efficiency of the Social Security Administration [SSA]. Under current law, SSA operates within the Department of Health and Human Services [HHS] and has jurisdiction over OASDI and SSI as well as black lung benefits. Recent reports indicate that services provided by SSA have severely deteriorated, due in part, to the lack of continuity in the organization. These problems, coupled with a lack of public confidence in Social Security, require that Congress act to correct these shortcomings and restore the public faith and trust in Social Security.

Accordingly, H.R. 5050 establishes the SSA as an independent agency, separate from HHS, with administrative responsibility only for OASDI and SSI. This measure transfers all functions, personnel, and assets used in OASDI and SSI program administration to the new agency. A three-member Social Security Board to be appointed by the President and approved by the Senate will govern the agency. This measure specifically requires that no more than two Board members may be of the same political party and that they will serve staggered 6-year terms. H.R. 5050 also provides for the suspension of benefits to an individual ordered deposited as a Nazi war criminal and that interim benefits be paid for an individual determined eligible for disability benefits by an administrative law judge [ALJ] if HHS has not issued a final decision within 90 days of the determinations. Both of these provisions are necessary to insure that those who deserve to receive benefits receive them, and those who do not, will not.

As a cosponsor of this legislation's predecessor, H.R. 3070, and similar measures to protect the military retirement, civil service, and other retirement trust funds, I cannot state strongly enough how important it is that we adopt this reform legislation. As keepers of the public's trust and confidence, we cannot allow that thrust to be further eroded. We must be able to say with all confidence, to the millions of Social Security beneficiaries, that these Social Security moneys are safe and secure.

Mr. FAWELL. Mr. Speaker, the House is debating one of the most important pieces of legislation affecting senior citizens today. This bill is H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986.

H.R. 5050 is designed to establish the Social Security Administration [SSA] as an independent agency and to prohibit the Secretary of the Treasury from disinvesting the Social Security Trust Funds to circumvent the debt limit.

In the past decade, constant turnover in high-level policy positions, repeated internal reorganizations, and political intervention in day-to-day administrative decisions have led to a deterioration in the quality of public service provided by SSA. To counter this trend, H.R. 5050 creates a new, independent agency to administer Social Security, free from redundant layers of bureaucratic redtape created by the Department of Health and Human Services and free from the political bickering which, unfortunately, have all too often created undue tension among senior citizens.

H.R. 5050 would also specifically prohibit the Treasury from tapping into the long-term assets of the Social Security Trust Funds to keep the Government running when Congress fails to reach a consensus on the debt limit.

Mr. Speaker, I strongly support enactment of H.R. 5050 and urge my colleagues to lend their full support to a bill which, at long last, will aid senior citizens throughout their retirement.

Mrs. BYRON. Mr. Speaker, I rise in support of H.R. 5050. This is the opportunity to create stability for an agency with a long and distinguished record of serving the needs of our Nation's elderly, disabled, and disadvantaged.

Additionally, we have purpose and motivation to insulate the Social Security Trust Funds from the political arena. This bill will accomplish most of those goals. It is long overdue.

My one regret is that we have not reunited the Medicare Program with the old age, survivors, and disability insurance programs. It, too, serves our Nation's elderly and disabled and would be more appropriately administered by a less-politically oriented Federal bureaucracy.

Mr. Speaker, this legislation has my full support. I commend your committee and the members of the Social Security Subcommittee for their efforts in promoting this bill.

Mr. LIGHTFOOT. I am glad that the House is considering H.R. 5050, the Social Security Administrative and Investment Reform Act of 1986. As an original cosponsor of this bill, I urge my colleagues to vote for it today. This legislation would make two important changes in the Social Security System. First, it would establish the Social Security Administration as an independent agency, and second, it would prohibit the Secretary of the Treasury from disinvesting the Social Security Trust Funds to keep the Government operating.

These two changes would reassure the American people—both current and future retirees—that Social Security will be insulated from politics. Passage of this legislation would also ensure that changes made in Social Security would be based upon the system's financial picture, rather than to reduce the large Federal debt.

Under this bill, the Social Security Administration would be removed from the Department of Health and Human Services and would be allowed to operate on its own. This new independent agency would have responsibility for the Social Security and Supplemental Security Income Programs. It would be governed by a bipartisan three-member Social Security Board appointed by the President to staggered, 6-year terms. A commissioner, appointed by the Board, would have responsibility for the day-to-day management of the Social Security System.

During the past several years, the Social Security Administration has been in a state of great flux. Since 1973, this administration has been headed by 10 different commissioners, four of whom have served in only an acting capacity. In addition, several major reorganizations have occurred within the Social Security Administration since 1975, which has caused many personnel changes. These and other factors have lead to a general decline in the quality of services offered to the public.

Establishing the Social Security Administration as an independent agency would improve this situation by restoring integrity and continuity within this agency. It would also go a long way toward ensuring a sound and stable financial future for this important retirement system. Finally, as an indepenent agency, the Social Security System would be insulated from political budgetary pressures.

The second part of this legislative would prevent the Treasury Department from using the Social Security Trust Funds for purposes other than the payment of benefits. As you may recall, in 1984 and 1985, the Treasury Department used the Social Security Trust Funds to meet its debt obligations to prevent the Federal Government from going broke. Although the funds and lost interest were later restored by Congress, this practice must be prevented. The provisions contained in this bill, similar to those I cosponsored last year, would guarantee that the tampering of the trust funds would not occur again.

In conclusion, I commend my colleagues on the Ways and Means Committee for bringing this bill forward today. Passage of this legislation would ensure the long-term stability of the Social Security System. It would also reassure the American people that the Social Security System is here to stay and would renew confidence in the system. Finally, it would remove the Social Security System from partisan politics. I urge my colleagues to support this worthwhile legislation.

Mr. ROGERS. Mr. Speaker, for too many years our Nation's elderly have been forced to endure undue strain over the fate of their Social Security benefits. Instead of enjoying their twilight years, they worry constantly about how they can pay their medical bills, electric bills, grocery bill, and housing costs. They have seen how inflation can reduce their incomes to a mere pittance. They look to their Social Security checks for help, and we exacerbate their fears jeopardizing their benefits by using Social Security Funds to pay for other programs.

At a time when Social Security revenues exceed expenditures significantly, and are expected to continue to do for several years, it is outrageous that Social Security beneficiaries feel the need to worry about their benefits. That they do is a direct result of irresponsible budgetary politics, and this situation must cease. It is time that we relieve the senior citizens of this country of unnecessary stress, and take the politics out of Social Security.

H.R. 5050 is aimed at doing just that. Most importantly, it removes Social Security from the unified budget. Thus Social Security Funds may not be used for other programs, or benefits be cut to offset the deficit under this legislation. Surplus funds may be safely invested to earn maximum interest against the day when our increasingly aged population begins to strain the resources of the Social Security Administration.

In addition, H.R. 5050 established the Social Security Administration as an indepedent agency, to be governed by a bi-partisan board with three members. The Social Security Administration has been plagued by organizational upheaval over the past decade, and the board will be charged with stabilizing the Social Security Administration so that long-term planning will be possible. As each board member will serve a 6-year term, they will each have a chance to thoroughly investigate problem areas and evaluate solutions, unlike past commissioners who served for much shorter periods.

In short, H.R. 5050 will put Social Security in a position to meet future needs. It will reduce the stress of our senior citizens, and will facilitate long-term financial planning.

I urge my colleagues to support this bill, which will ease the way of many Americans as they reach age 65. They deserve our support in stablizing the Social Security Administration and they deserve to be rid of unnecessary Social Security politics.

Mr. CLINGER. Mr. Speaker, I can't think of a better time for Congress to pass legislation taking Social Security out of the political arena and to prevent it, once and for all, from being tampered with by the Treasury Department. As we all know, the debt ceiling crisis last year prompted the Secretary of the Treasury to disinvest the Social Security Trust Funds to obtain enough cash to meet Government obligations. This was done without informing Congress or the American people and in a manner suggesting that the Treasury Department regards these trust funds as a cash reserve available for its exclusive use. In fact, the General Accounting Office also concluded that the Government's failure to make a transfer of funds invested and available to pay benefits was a violation of the Social Security Act. Consequently, senior citizens were in danger of not receiving their benefit checks on time and suffered undue anxiety from this crisis atmosphere.

Earlier this year, I introduced legislation called the Social Security Trust Funds Safeguard Act which takes a somewhat different approach than H.R. 5050 in preventing disinvestment but with the same goal: to make sure the Social Security Trust Funds are used exclusively to pay benefits and administrative costs and to prevent Treasury from dipping into those funds to pay the Government's bills. I am particularly pleased that H.R. 5050 requires the Social Security Board of Trustees to report to Congress on the financial status of the trust funds twice a year, and ensures that the trust fund assets are used only to enable payments authorized under the Social Security Act. However, I think that a provision protecting benefit payments in the event the Federal Government defaults on its obligations should be included given the precarious nature of the debt ceiling issue in Congress.

Mr. Speaker, our senior citizens deserve nothing less than the assurance that they will always be able to cash their benefit checks. H.R. 5050 guarantees this by removing any opportunity for the Federal Government to use Social Security as a slush fund to pay its bills.

Mr. HORTON. Mr. Speaker, I rise in strong support of the provisions of this bill, which would prohibit the Treasury Department from disinvesting the old age, survivors, disability and hospital insurance trust funds. Our constituents who contribute to this fund expect that money to remain until needed for insurance payments. The prohibition against disinvestment contained in this legislation will preserve that security.

Mr. Speaker, title 1 of H.R. 5050 would remove the Social Security Administration, from the Department of Health and Human Services, making it an independent agency in the executive branch of the Government. While this is a laudable goal, I believe that measures that seek to reorganize the Government by transferring agencies from one departmernt to another, or by creating new agencies, must be considered as within the jurisdiction of the Government Operations Committee. As the ranking minority member of that committee, I support the comments made by Chairman BROOKS regarding the bill's referral to the Ways and Means Committee only. The failure of the leadership to refer this matter to the Government Operations Committee was inappropriate, and should not be repeated.

Because of my great interest in preventing disinvestment of Social Security trust funds, I support passage of H.R. 5050. I do not believe, however, that passage of this bill should serve as a precedent for the consideration of other reorganization measures that have not been reviewed by the Government Operations Committee.

Mr. ANDREWS. Mr. Speaker, I rise in strong support of H.R. 5050, the Social Security Administrative and Investment Reform Act.

This important bill, of which I am proud to be an original cosponsor, includes a number of new safeguards and improvements for America's Social Security Program. Two, however, are of special note.

First, H.R. 5050 will establish the Social Security Administration as an independent agency, governed by a bipartisan, three-member Social Security Board. Further, this legislation prohibits the Secretary of the Treasury from disinvesting the Social Security trust fund in order to circumvent the limit on the public debt.

There is little doubt that Social Security is America's most important domestic program. Every year, the Social Security System provides support for 36 million children, widowed adults, senior citizens, and disabled Americans. In fact, there are very few households in America that do not have a family member or relative receiving Social Security benefits.

Social Security is particularly important to senior citizens. Almost 95 percent of Americans 65 or older receive Social Security benefits. For more than half of these older Americans, Social Security is their primary means of support.

The key to the success of the Social Security program is the fact that it is financed through a separate trust fund and does not depend on general revenues. Instead, every working American contributes to a Social Security account which entitles him or her to retirement benefits in later years.

In order to strengthen this crucial independence of the Social Security trust fund, the House Social Security Subcommittee and the full Ways and Means Committee approved the new legislation before us today. By ensuring that decisions about Social Security taxes and benefits are made on a sound, nonpartisan basis, H.R. 5050 makes Social Security benefits more secure for all of us. I applaud the committee's excellent work.

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of the committee's efforts to protect the Social Security trust funds from being disinvested in the future to make up for shortfalls in the Treasury's general fund.

The Social Security System was established more than 50 years ago as an autonomous, self-supported program funded by employee and employer contributions. These contributions are used solely to pay for retirement benefits of workers who paid into the Social Security System throughout their years of employment. When contributions to the trust funds exceed benefits paid, the surplus is invested in long-term Treasury bonds for use in paying future Social Security benefits. These surpluses, no matter how large, cannot be used to fund national defense, agriculture, or education programs. They cannot be used to build roads or bridges or even pay for the interest on our national debt.

Last year, however, when Congress once again failed to meet its fiscal responsibilities, the Secretary of the Treasury was forced to cash some of these long-term bonds held by the trust funds to make good on financial obligations of our Federal Government. During hearings of the Appropriations Committee, which I serve on, the Secretary of the Treasury and the Commissioner of Social Security assured me that the trust funds have been reimbursed for the disinvestment procedures that took place last year and that there will be no short-term or long-term effects on the Social Security System as a result of these financial maneuvers.

The legislation we consider today, H.R. 5050, would prohibit the Secretary of the Treasury from using Social Security trust fund reserves for any reason other than to pay out Social Security benefits. This legislation prohibits the future use of the Social Security trust funds to bail out Congress when we are unable to meet our budget deadlines in a timely manner. This legislation will also reassure the millions of current and future Social Security recipients that their years of contributions to the system will ensure that benefits are available to them throughout their retirement years.

Through the adoption of legislation to prohibit the future disinvestment of the Social Security trust funds, we can reassure the American people that we will continue to act in good faith as the overseers of a financially sound Social Security System.

Mr. BIAGGI. Mr. Speaker, I am proud to be an original cosponsor of H.R. 5050, which would establish the Social Security Administration as an independent agency and take other steps aimed at ensuring the integrity of the trust funds.

In my judgment, the key provision is identical to legislation I authored earlier this year to prohibit disinvesting assets held by the Social Security trust funds for any purposes. This provision was made necessary as a result of the reckless raid made by the Secretary of the Treasury on the Social Security trust funds

just before Christmas last year. Under this raid, some $13 billion in Government securities held by the Social Security trust funds were disinvested in order for the Government to meet its obligations caused by the temporary failure of Congress to raise the public debt.

It was a dangerous and unwarranted action. It showed a fundamental disregard of the fiduciary responsibility which the Treasury Secretary has over Social Security.

This raid caused great apprehension and anger among millions of seniors who felt that Social Security trust funds were for one thing and one thing only—to pay benefits.

H.R. 5050 is necessary legislation because it removes Social Security administratively and fiscally from the world of politics. Social Security should be an independent agency—and the trust funds which provide income for 36 million seniors—should be free from mishandling and diversion by anyone.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of America's senior citizens and their right to have their investment in the Social Security trust fund returned to the authority of an independent agency. For far too many years Social Security funds have been held captive to the political whims of this Congress, and our senior citizens have lived with the constant threat of Government meddling with their retirement income.

As recently as last November, the Treasury Department was using funds reserved for the Social Security trust fund to pay the Government's debts, and forcing the sale of the trust fund's long-term investments. Although these funds have been restored by the Congress, I do not feel that we should be allowed to evade our responsibility to provide this Nation with a sound fiscal plan by borrowing money from our Nation's senior citizens.

The bill before us today will reestablish Social Security as an independent agency outside of the unified budget process and protect its funds from future raids by the Treasury Department. It will also remove Social Security from the political arena and reestablish it as an actuarially sound trust fund for both present and future retirees. Americans who have contributed and who continue to contribute to the fund deserve no less from this distinguished body.

I urge my colleagues to support this measure and vote today for its passage.

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 5050, legislation to establish the Social Security Administration as an independent agency and to prevent any further disinvestment of the Social Security trust funds. As a member of the Social Security Subcommittee and an original cosponsor of the legislation to establish this independent agency, I am greatly encouraged by the seemingly unanimous support of this body to depoliticize and place on secure managerial foundations the Social Security agency. H.R. 5050 goes even further and places on an even sounder financial base the Social Security trust funds by preventing the Secretary of the Treasury from again ignoring the responsibility of Congress to raise the debt ceiling, as he did last fall, by disinvesting the trust funds in order to raise the debt ceiling without congressional approval.

The idea to separate the Social Security Administration out from the gargantuan Department of Health and Human Services is an idea which Congress should have acted upon long ago. The Social Security Program, plagued by the politicization of its principal function, made inefficient by the unfathomable and burdensome bureaucratic maze caused by incorporation into HHS, approaching managerial nightmare due to sheer size of the program—all evidenced by the revolving door in the Office of the Commissioner which has witnessed no less than 10 commissioners in the last 13 years—is in great need of the immeasurable benefits which status as an independent agency has to offer.

My chairman and ranking member of the Social Security Subcommittee, Mr. JONES and Mr. ARCHER, have explained in detail what these benefits are, but allow me to make a few points. First, by appointing a Social Security Board of three members, with staggered 6-year terms, which appoints a Commissioner for a 5-year term, stable authority will be preserved. By separating the Social Security Administration from the Department of Health and Human Services, the program's efficiency will increase and the SSA's position as an object of political bickering over deficit reduction will be greatly reduced. In addition, the separation will clarify the Social Security Administration's independence in terms of being a program that pays for itself and in no circumstance borrows funds from other Federal programs. Most important, it will bring a level of certainty about the program to those millions of honest American retirees who depend upon the monthly Social Security checks which their years of hard work have earned.

In regards to the portion of the bill which prevents disinvestment of the Social Security trust funds, I rise in strong support. My colleagues might recall the actions taken by the Secretary of the Treasury, James A. Baker III in September, October, and November of 1985. Faced by a debt ceiling which was reached by a Congress which had spent more money than it had budgeted Secretary Baker disinvested the Social Security trust funds by ordering the cancellation of 28 billion dollars' worth of long-term bonds held by the trust funds. He took this action so that Congress' failure to pass a debt limit extension would not prevent the U.S. Treasury from honoring Social Security benefit checks. Secretary Baker justified his failure of not ensuring that the Social Security trust funds were not fully invested by arguing that his duty to ensure that Social Security beneficiaries received their monthly checks superceded his duty to fully invest the Social Security trust funds.

While Secretary Baker's actions may have been well intended, I question the Secretary's decision to try to work around the failure of Congress to pass an extension of the debt limit, and thus stretch out the activities of the Federal Government beyond that which Congress had allowed for when it limited the public debt to $1.82 trillion. His actions did not allow Congress to take the blame for its exceeding its own debt limit by spending far beyond what the citizens are willing to pay for through already overburdensome taxes. Instead, Secretary Baker took the extraordinary action ot disinvesting the Social Security trust funds and thus focused criticism on the actions of the U.S. Treasury, instead of where it should belong: On the unwillingness of Congress to deal responsibly with the deficit. More important than allowing Congress to escape blame for its fiscal irresponsibility, the tinkering with the trust funds greatly deteriorated the thin confidence which retirees have in the program. For those retirees who depend upon their monthly Social Security check to pay for the most basic amenities of food, clothing, and shelter, the disinvestment nightmare of last fall was totally unnecessary if this legislation was in place and thus caused Congress to face its responsibility in light of the ever-nearing debt ceiling. No trust fund must be used to circumvent the debt ceiling.

H.R. 5050 deserves strong support from this body. H.R. 5050 will safeguard the Social Security Administration and its trust fund from the type of political tinkering which only threatens its financial stability. Let us bring a level of confidence back to the system and pass this important piece of legislation.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 5050, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PRIVILEGES OF THE HOUSE—IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

Mr. RODINO. Mr. Speaker, I rise to a question of the privileges of the House, and I call up a privileged resolution (H. Res. 461) impeaching Harry E. Claiborne, judge of the U.S. District Court for the District of Nevada, of high crimes and misdemeanors.

The Clerk read the resolution, as follows:

H. RES. 461

Resolved, That Harry E. Claiborne, Judge of the United States District Court for the District of Nevada, is impeached of high crimes and misdemeanors.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore [Mr. NATCHER]. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following:

That Harry E. Claiborne, a judge of the United States District Court for the District of Nevada, be impeached for misbehavior, and for high crimes and misdemeanors; that the evidence heretofore taken by a subcommittee of the Committee on the Judiciary of the House of Representatives sustains articles of impeachment, which are hereinafter set out; and that the articles be adopted by the House of Representatives and exhibited to the Senate:

Articles of Impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Judge Harry E. Claiborne, a judge of the United States District Court for the District of Nevada, in maintenance and support of its impeachment against him for misbehavior and for high crimes and misdemeanors.

ARTICLE I

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1980, Judge Harry E. Claiborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1979, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of $80,227.04 whereas, as he then and there well knew and believed, he received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor and, by such conduct, warrants impeachment and trial and removal from office.

ARTICLE II

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States Court for the District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1981, Judge Harry E. Clairborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1980, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of $54,251 whereas, as he then and there well knew and believed, be received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdeameanor and, by such conduct, warrants impeachment and trial and removal from office.

ARTICLE III

That Judge Harry E. Claiborne having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes in office in a manner and form as follows:

On August 10, 1984, in the United States District Court for the District of Nevada, Judge Harry E. Claiborne was found guilty by a twelve-person jury of making and subscribing a false income tax return for the calendar years 1979 and 1980 in violation of section 7206(1) of title 26, United States Code.

Thereafter, a judgement of conviction was entered against Judge Harry E. Claiborne for each of the violations of section 7206(1) of title 26, United States Code, and a sentence of two years imprisonment for each violation was imposed, to be served concurrently, together with a fine of $5000 for each violation.

Wherefore, Judge Harry F. Claiborne was and is guilty of misbehavior and was and is guilty of high crimes.

ARTICLE IV

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of misdemeanors in office in a manner and form as follows:

Judge Harry E. Claiborne took the oath for the office of judge of the United States and is required to discharge and perform all the duties incumbent on him and to uphold and obey the Constitution and laws of the United States.

Judge Harry E. Claiborne, by virtue of his office, is required to uphold the integrity of the judiciary and to perform the duties of his office impartially.

Judge Harry E. Claiborne, by willfully and knowingly falisfying his income on his Federal tax returns for 1979 and 1980, has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute on the Federal courts and the administration of justice by the courts.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of misdemenors and, by such conduct, warrants impeachment and trial and removal from office.

□ 1710

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] is recognized for 1 hour.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today this House must decide whether to exercise its constitutional power to impeach Judge Harry E. Claiborne. In carrying out this duty, our decision must be guided by both the clear purpose of the constitutional impeachment provision as well as by the history of its application over 200 years of the Republic.

Impeachment is always a serious and solemn matter for Members of this body—as it must be. For, this unique constitutional remedy is expressly reserved for those serious offenses by public officials that subvert the structure of government and undermine the integrity of high office by a betrayal of the public trust.

Unlike some passages of the Constitution that charted entirely new directions in government practice and procedure for the infant Nation, impeachment was a familiar subject upon which the framers could project almost 500 years of English experience. The English experience, at a minimum, had taught two things: first, that criminal conduct by a high official could never be tolerated in government; and second, that conduct not specifically criminal, but nonetheless harmful, to the integrity of high office must also be brought within the reach of the remedy.

With the formal ratification of the articles, the new Republic was soon faced with applying the remedy in the concrete. In February of 1803, President Thomas Jefferson sent to the House of Representatives a message offering evidence of the misconduct of a U.S. district judge. Over the next 180 years, 10 of the 13 impeachments voted by the House have involved members of the Federal judiciary, 4 of which progressed to a Senate trial and conviction and removal from office. In this century, all five impeachments, including the most recent in 1936, have been directed at Federal judges.

But while the power of impeachment has been exercised infrequently, it has, as the Founding Fathers intended, played a special and essential role in maintaining the integrity of the Federal judiciary. As Members of this body have recognized in prior judicial impeachments, the judges of our Federal courts of law occupy a unique position of trust and responsibility in our system of government: They are the only members of any branch that hold their office for life; they are purposely insulated from the immediate

pressures and shifting currents of the body politic. But with the special prerogative of judicial independence comes the most exacting standard of public and private conduct. As Congressman Norris noted during the impeachment trial of Judge Robert W. Archbald in 1913—

When public officials disregard their duty and violate the common standards of propriety with impunity, the standard of our citizenship is lowered and the very foundation of our Government is threatened. Of all the Departments of Government, the judiciary is, and ought to be, held in the highest regard. Our Government cannot reform its full destiny unless the courts are above reproach and the judges above suspicion.

The high standard of behavior for judges is inscribed in article III of the Constitution, which provides that judges "shall hold their Offices during good behavior * * *." Addressing this constitutional standard during the impeacement of Judge Ritter in 1936, Senator William Gibbs McAdoo explained:

Good behavior, as it is used in the Constitution, exacts of a judge the highest standards of public and private rectitude. No judge can besmirch the robes he wears by relaxing these standards, by compromising them through conduct which brings reproach upon himself personally, or upon the great office he holds. No more sacred trust is committed to the bench of the United States than to keep shining with undimmed effulgence the brightest jewel in crown of democracy—justice.

This description places in sharp focus the essence of the impeachment inquiry: whether the public trust vested in high office has been violated as to bring that office in disrepute to the detriment of the public confidence in the institutions of Government. For, both English practice and the American experience make clear that while criminality is certainly grounds for impeacement, the emphasis in most impeachment inquiries has been on conduct, that while not technically indictable, has nonetheless had the adverse and unacceptable effect of undermining the integrity of office. The judicial process is ill-equipped to remedy this problem except through the impeachment process initiated by the House. This stark constitutional fact only adds to the seriousness of our undertaking today.

The Constitution specifically reserves any punishment to separate criminal proceedings; and Judge Claiborne is already being punished for his misconduct as a result of criminal proceedings in the courts. The issue before us is thus not punishment, but whether the judge should remain in office. Under the Constitution, the Congress may invoke the impeachment process to expel an official from office and bar his reappointment.

While the vote we take today is therefore consistent with past actions of this House in protecting the integrity of the Federal judiciary, one aspect surrounding today's action is unique.

We are, for the first time in history, deciding whether to impeach an official who has been convicted of a Federal crime, who has exhausted all of his direct appeals, and who is serving time in a Federal prison. Judge Claiborne stands indicted and convicted of a criminal offense by a jury of his peers who have applied the strictest standard of evidentiary proof—beyond a reasonable doubt—in reaching their verdict. It is a case where all direct appeals have been exhausted, where the Federal judge has been sentenced and is serving time in a penal institution, all the while retaining many of the incidents and emoluments of the office which he has disgraced. In brief, due process—as guaranteed by the same Constitution that gives this body its sole power of impeachment—has been fully accorded to Judge Claiborne by a forum of competent jurisdiction. As a consequence, the Committee on the Judiciary relied heavily upon the jury verdict in sustaining the four articles of impeachment since the facts surrounding Judge Claiborne's conduct have already been adduced under the prescribed judicial procedure afforded individuals in our system of justice.

In sustaining the four articles of impeachment, the Committee on the Judiciary nonetheless through the hearing process and subsequent deliberations, examined the facts and circumstances supporting the jury verdict and conviction of Judge Claiborne. The committee's record included complete copies of the trial proceedings, all exhibits admitted into evidence, appellate submissions, as well as the direct testimony of Judge Claiborne and his legal representative. After completing its factual examination, the committee concluded that in the instant circumstances, where a complete and final record of adjudicated proceedings leading to a guilty jury verdict was before it, the Committee was justified in taking legislative notice of the factual finding already determined beyond a reasonable doubt by a jury of Judge Claiborne's peers and sustained at all levels of direct appeal.

In introducing a resolution to impeach Judge Claiborne and ensuring investigatory hearings and full and fair debate on the articles of impeachment, I have been ever cognizant of the high responsibility given to us as legislators under the Constitution to safeguard the Federal courts from any taint of judicial misconduct and breach of the public trust. The desire of the American people to assure independence of the judiciary and to emphasize the important position given those who administer our system of justice has resulted in constitutional and statutory safeguards not enjoyed by any other group of public officials. Accordingly, when the Congress and public are confronted with allegations of gross judicial misconduct, the impact on the system of government and the public trust in that system is severe. The Constitution places upon this body the duty to restore the equilibrium of public trust and sound government through the powers of impeachment.

Today, the House must exercise that constitutional responsibility to maintain its historical record of vigilance in safeguarding our Federal judicial system. If we fail to act, the confidence of the people in that system will be gravely jeopardized.

In calling up House Resolution 461, I note the expeditious, yet careful, treatment that the resolution has received to date. On June 3, 1986, I introduced House Resolution 461, a resolution to impeach Judge Harry E. Claiborne for "high crimes and misdemeanors." The resolution was referred to the Committee on the Judiciary, and an investigatory hearing into the conduct of Judge Claiborne was held on June 19, 1986, by the Subcommittee on Courts, Civil Liberties and the Administration of Justice. Representatives of the Department of Justice and the Federal judiciary, as well as Judge Claiborne and his legal representative, were invited to testify at that hearing. On June 24, 1986 the subcommittee passed House Resolugion 461 by a 15-to-0 vote. On June 24, 1986, the full committee ordered the resolution, as amended, favorably reported to the House by a recorded vote of 35 to 0.

I might add that thereafter on June 30, 1986, the House of Representatives was notified by the Judicial Conference of the United States that it had made its own determination that Judge Claiborne's conduct in violating section 7206(1) of the Internal Revenue Code could "constitute grounds for impeachment under Article I of the Constitution."

I urge this body, under the compelling circumstances of this case, to exercise its constitutional power to impeach Harry E. Claiborne, judge of the U.S. District Court for the District of Nevada.

□ 1730

Mr. Speaker, for the balance of my time, I defer to the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of the subcommittee, who will yield to other Members, for purposes of debate only.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] has consumed 13 minutes.

The Chair now recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield 7 minutes to the gentleman from

New York [Mr. FISH], for purposes of debate only.

Mr. FISH. Mr. Speaker, today, the House of Representatives is confronted with the choice of whether or not to adopt articles of impeachment with respect to Judge Harry E. Claiborne of Nevada.

This is not a pleasant duty but, nevertheless, it is an important responsibility of each Member of this House. Impeachment is a unique constitutional prerogative of the legislative branch. Presidents, Members of Congress, Federal judges and others holding high public trust are held to a higher standard of conduct—and have a higher obligation to the citizens they are sworn to serve. Conduct which serves to denigrate the integrity of high office or serves to undermine the institutions of our Government is impeachable, whether or not such conduct has been or will be the subject of a criminal prosecution. The decision to inpeach, clearly does not necessitate a prior criminal conviction.

But, having said that, it is also self-evident that criminal conduct is a justifiable basis for a decison to impeach. Unlike all previous impeachments, what we have here is the fact of a prior criminal conviction. That is, a properly empaneled and impartial jury listened to the facts, evaluated those facts, and reached a unanimous verdict that those facts justified a conviction beyond a reasonable doubt in two counts of the indictment. Given this graphic situation, the House of Representatives has an obvious duty and responsibility to take action.

The unseemly spectacle of a Federal judge, serving a sentence in a Federal penitentiary for a felony conviction has been much publicized and much commented upon. It is outrageous that, while serving his jail sentence, Judge Claiborne continues to receive his full salary. Further, if Congress does not act conclusively he will continue to enjoy the prospect of lifetime judicial tenure. Thus, he currently can look forward to the possibility of resuming his seat on the Federal bench. As of September 1, 1988, Judge Claiborne will have completed 10 years of judicial service—prison time counting—and, at that time, will be 71 years of age. Under the judicial retirement provisions, he would then be eligible to retire on the full salary of that office (28 U.S.C. 371-372). The impeachment process is the only way to remove a civil officer of the United States appointed for life.

My overriding concern, given these facts, is public confidence in the integrity of the judicial branch and the individual Federal judges that exercise the most important responsibilities of that branch under our constitutional system. Judge Claiborne's actions raise fundamental questions about public confidence in, and the public's perception of, the Federal court system. They serve to undermine the confidence of the American people in our judicial system and do a disservice to those in the judicial branch who serve with integrity and honor. Judge Claiborne is more than a mere embarrassment. He is a disgrace—an affront—to the judicial office and the judicial branch he was appointed to serve.

As my colleagues well know, Federal judges are appointed for life. Our Founding Fathers wanted to insure the independence of our judicial system from outside interference and political pressure. But, in article II, section 4, of the Constitution, they also recognized that judges and other high officers of the United States were not to be above the law. The impeachment process provided the citizenry with the final protection against wrongdoing by those serving in high office.

Impeachable conduct does not have to occur in the course of the performance of an officer's official duties. Evidence of misconduct, misbehavior, high crimes, and misdemeanors can be justified upon one's private dealings as well as one's exercise of public office. That, of course, is the situation in this case.

All four of these articles are intentionally drafted in a fact-specific manner. The proposed article I is based upon the fact that, in 1979, Judge Harry E. Claiborne knowingly signed a personal tax return he knew to be false, and a unanimous jury verdict was returned to that effect. Article II states the fact that Judge Claiborne did the same with respect to his 1980 tax return, and, again, a jury verdict confirms that fact. Article III is a recognition of the fact that Judge Claiborne was convicted of two Federal felonies—both of the above counts—on August 10, 1984. There can be no doubt that conviction of a Fedeal crime falls within the definition of a "high crime" in article II, section 4 of the Constitution.

Finally, article IV states, that by failing to obey the laws of the United States, Judge Claiborne has failed to properly discharge his duties and in doing so, has harmed the integrity of, and public confidence in, the judicial branch. Judge Claiborne's conduct falls below the minimum standards, required of a Federal judge for continuance in office. His refusal to resign, in the face of these facts and events, further demonstrates a disregard of his judicial responsibilities.

I do not believe that, in this case, the House of Representatives needs to make an independent finding of fact. Rather, our action is analogous to the legal principle of taking judicial notice, but in a legislative setting. The Judiciary Committee has reviewed the trial transcript, all the exhibits admitted into evidence and the various appeals that have been taken. They are a matter of public record. We have examined the evidence that a jury listened to, evaluated, and found beyond a reasonable doubt that it justified a conviction.

Admittedly, impeachment is a cumbersome process. But, given Judge Claiborne's adamant refusal to resign, he gives this House no other alternative. In an impeachment situation, Congress becomes the conscience and protector of the State. We, ultimately, are the final safety net in our system of government. When a high official betrays his obligation to the people of the United States in such a fundamental way—we must exercise our prerogatives under this ultimate constitutional protection. Judicial integrity and trust are essentials for our system of justice to work and be respected.

Almost exactly 12 years ago, on July 24, 1974, I participated in another debate on yet another set of proposed articles of impeachment. At that time, I made the following observations:

> The Constitution and the laws must be applied fairly, justly and impartially * * * the [American] people must know that the rule of law applies equally to those who govern as well as to the governed * * *. If the evidence is clear, then our constitutional duty is no less clear.

Mr. Speaker, those statements of 12 years ago are still a timely reflection of my thoughts. Today, we are faced with plain, indisputable facts. They justify the impeachment of Judge Claiborne.

Mr. KASTENMEIER. Mr. Speaker, I yield 7½ minutes to the gentleman from California [Mr. MOORHEAD], for purposes of debate only.

Mr. MOORHEAD. Mr. Speaker, I rise in support of the resolution.

I would like to commend the chairman of our subcommittee, the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of our full committee, the gentleman from New Jersey [Mr. RODINO], and the ranking minority member from New York [Mr. FISH] for their leadership in this unpleasant task, and also commend them for their swiftness and fairness in considering this impeachment resolution (H. Res. 461). No one takes pleasure in bringing before this body an impeachment resolution but the House has a constitutional obligation to act and in this case we should act quickly.

We bring before you today a clear and lengthy record of a Federal judge found guilty beyond a reasonable doubt of violating the Internal Revenue Code. Judge Harry Claiborne was convicted in 1984 of willfully and unlawfully failing to pay income tax on $106,652.89. He has exhausted his court appeals and he continues to refuse to resign his position as he sits in a Federal jail in Montgomery, AL, and draws his monthly Federal paycheck.

Mr. Speaker, I would like to spend the next few minutes reviewing for the House the extensive due process that this man has already been afforded and discuss briefly the events that led up to the introduction of House Resolution 461 and the extensive considerations provided the judge by the Judiciary Committee.

The legal process involving Judge Claiborne began with a grand jury inquiry after which a seven-count indictment was returned in December 1983, 5 years after he became a Federal judge. The indictment was followed by two complete trials each before a 12-person jury. The first trial—in March and April 1984—ended in a mistrial when the jury was unable to render a decision. The second trial—in July 1984—resulted in a unanimous guilty verdict on two counts of falsifying Federal income tax forms for the years 1979 and 1980. On October 3, 1984, Judge Claiborne was sentenced to a term of 2 years on each count to run concurrently and was fined $5,000 on each count.

In addition to his trial, there have been two reported opinions on this case. In one, the Ninth Circuit Court of Appeals denied Judge Claiborne's motion to quash the indictment and then affirmed his conviction in the second trial. He had his direct appeal heard by a special ninth circuit judicial panel. On April 21, 1986, his petition for issuance of a writ of certiorari by the Supreme Court was denied. Also in May of this year, Judge Claiborne filed several collateral motions with the Ninth Circuit, some of which are still pending. Those collateral motions do not relate to Judge Claiborne's conduct, which has led to the consideration of House Resolution 461.

Since February 1983, there have been 43 court proceedings involving motions and matters relating to Judge Claiborne. On May 16, 1986, he reported to the Federal prison camp at Maxwell Air Force Base, in Montgomery, AL. As we speak, Judge Claiborne continues to receive his annual judicial salary of $78,700. Impeachment and conviction is the only way to remove Judge Claiborne from his Federal position as chief judge of the Nevada district court.

Three weeks after Judge Claiborne surrendered to Federal authorities to begin serving his prison sentence a resolution to impeach him was introduced by eight Members of the House—on June 3, 1986—House Resolution 461 was referred to the Judiciary Committee's Subcommittee on Courts, Civil Liberties, and the Administration of Justice. In less than 3 weeks the subcommittee held a day of hearings on the resolution. This hearing was closed to the public and sworn testimony was received from the Department of Justice, Judge Charles Wiggins from the Ninth Circuit Court of Appeals and from Judge Claiborne's lawyer. Judge Claiborne and his attorney were present while other witnesses testified.

Judge Claiborne, who had been offered the opportunity to appear on his own behalf, elected to travel to Washington, DC, in the custody of the U.S. Marshals Service. After sitting through part of the morning's session, he chose to return to his site of incarceration—Maxwell Air Force Base, Montgomery, AL—without being sworn or without making any formal statement to the subcommittee. His decision not to testify was made that day after full and fair opportunity to discuss the matter with legal counsel. The judge, through his counsel, formally waived the opportunity to testify before the subcommittee.

Judge Wiggins, as a former member of the committee and as a sitting judge, set forth a conceptual approach about the impeachment of convicted judges. He testified that it is unnecessary for the subcommittee to engage in an independent finding of the facts, the facts having already been found under a judicial procedure which afforded Judge Claiborne full due process rights. The facts, in Judge Wiggin's opinion, had been found beyond a reasonable doubt by a jury of 12 citizens without dissent. Judge Wiggins also set forth the proposition to the subcommittee that a lifetime-tenured Federal judge who is convicted of a felony is, by definition, guilty of misbehavior.

Oscar Goodman, Judge Claiborne's attorney, indicated to the subcommittee that he would not present a defense unless he was allowed to make statements concerning matters outside the scope of the inquiry previously defined in the letter of invitation sent to the witness. The subcommittee agreed to allow Mr. Goodman to present arguments outside the scope. But we made it very clear that this would have no affect on the fact that our inquiry was and is limited to Judge Claiborne's conviction and the disrepute he has brought on the Federal judiciary.

Mr. Goodman ultimately discussed the entire chain of events that preceded Judge Claiborne's first trial. He used some of his time to explain Judge Claiborne's conduct which resulted in the jury rendering a verdict of guilty on two counts.

On June 24, 1986, the subcommittee conducted general debate and markup of House Resolution 461 in open session. The subcommittee voted unanimously to favorably report to the full Judiciary Committee four articles of impeachment against Judge Claiborne. Two days later, the full Judiciary Committee by a record vote of 35-0 ordered favorably reported to the House, House Resolution 461, to impeach Judge Harry Claiborne.

In conclusion Mr. Speaker, the decision to impeach was carefully considered by this committee. It was very carefully considered by our system of justice. Judge Claiborne has been afforded every element of due process, several times over. His conviction and his refusal to resign does more than tarnish his personal reputation. His conduct has brought scandal and disrepute to the Federal courts and to the particular prejudice of his court and to the prejudice of public respect for and trust in the administration of justice. And for such, Judge Harry Claiborne should be impeached, tried in the other body and promptly removed from office.

□ 1740

Mr. KASTENMEIER. Mr. Speaker, I yield myself 8½ minutes.

Mr. Speaker, impeachment is a constitutional remedy addressed at serious offenses committed by high-ranking public officials against this Nation's system of government.

The House of Representatives has the sole power of impeachment. Although rarely exercised, there is no question that the power is alive and well. The fact that not a single Member of this body was present during the last floor consideration of an impeachment resolution—directed against Judge Halsted Ritter in 1936—does not dilute the curative potency of impeachment.

The purpose of impeachment—as envisioned by the constitutional framers and unchanged today—is starkly indicated by the nature of the remedy, removal from office and possible disqualification from future office, and by the stated grounds for impeachment, treason, bribery, and other high crimes and misdemeanors.

As we approach the 200th anniversary of our cherished Constitution, the House of Representatives is facing a question that it has never seen before: a convicted and incarcerated Federal judge is the subject of an impeachment resolution. There is substantial evidence that Judge Claiborne's conduct warrants impeachment. I therefore join the previous respected speakers—the chairman of the full committee, Mr. RODINO, the ranking minority member, Mr. FISH, and the ranking minority member of my subcommittee, Mr. MOORHEAD—in supporting the resolution to impeach Judge Harry E. Claiborne of high crimes and misdemeanors.

The House of Representatives—having acted through the Committee on the Judiciary—is assigned the responsibility of exercising inquisitorial power with the zeal of a prosecuting attorney. We accumulate evidence and formulate articles of impeachment so as to present the strongest case on behalf of the public. We prepare the

prosecution's case for the ultimate Senate trial.

The role of the Judiciary Committee is to report to the House whether impeachable activity has occurred. In making our conclusions, we must be fair, impartial, and dispassionate. We must give full consideration to the respondent and we must carefully analyze the key facts relating to his conduct. As regards Judge Claiborne, we report that impeachable activity has occurred and we present to the House four distinct articles of impeachment.

Last week, on July 16, 1986, the House report No. 99-688, was filed. It was expeditiously printed and all Members have had time to read it. The report starts with an extensive explanation of committee consideration. It follows with a statement of information, including an analysis of issues presented to the jury in Judge Claiborne's second trial. The report also discusses constitutional provisions, judicial process, and the four articles of impeachment. The report is an integral part of our consideration and I commend it to all Members.

Mr. Speaker, let me now devote the rest of my statement to explaining the four articles and the resolving clause to House Resolution No. 461.

The resolving clause to the articles states that the evidence taken by my subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration of Justice—is sufficient to sustain the articles of impeachment. The articles themselves are exhibited by the House of Representatives itself and all of the people of the United States of America against Judge Harry E. Claiborne.

Each article charges commission of an impeachable high crime or misdemeanor.

Article I is a fact count, alleging that Judge Harry E. Claiborne willingly and knowingly falsified his Federal income tax return for the calendar year 1979. Article I basically tracks count V of the indictment, for which Judge Claiborne was found guilty beyond a reasonable doubt by a unanimous jury.

Article II—also a factual charge—states that Judge Claiborne did willfully and knowingly file a Federal income tax return that he knew to be false. Article II sets forth the facts underlying count VI of the indictment, for which Judge Claiborne also was found guilty beyond a reasonable doubt by a jury of his peers.

These two parallel articles—one for the 1979 falsified income tax return and the other for the 1980 return—both provide in their respective "wherefore" clauses, that Judge Claiborne was guilty of high crimes and misdemeanors in the constitutional sense.

Article III is a conviction count, alleging that on August 10, 1984, Judge Claiborne was found guilty by a 12-person jury of his peers of making and filing false Federal income tax forms for the calendar years 1979 and 1980, in violation of title 26, United States Code, section 7206(1). Thereafter, a judgment of conviction was entered against Judge Claiborne for each violation of section 7206(1) and a sentence of 2 years imprisonment for each violation was imposed, to be served concurrently together with a fine of $5,000 for each violation. The "wherefore" clause of article III concludes that Judge Claiborne is guilty of a high crime in the constitutional sense.

Article IV, the final article, states that Judge Claiborne's actions have brought disrepute on the Federal courts and the administration of justice by the courts. It alleges that Judge Claiborne—having taken an oath of office and being required to discharge and perform all the duties incumbent on him and to uphold and obey the Constitution and the laws of the United States—betrayed the trust of the people of the United States when he engaged in misconduct in his capacity as judge. This misconduct occurred when he willfully falsified his income on both his 1979 and 1980 Federal income tax returns. The "wherefore" clause of article IV states that Judge Claiborne is guilty of misdemeanors in the constitutional sense.

It is very clear from English and American precedents in past impeachment proceedings that the articles need not, and indeed normally do not, pursue the form and accuracy of an indictment. They can be quite general in the form of the charges, but should always contain so much certainty as to enable the respondent to prepare a proper defense in the Senate. In addition, the articles should not be duplicatious. The four articles presently before us are concise and clear, and they charge separate impeachable high crimes and misdeameanors.

The articles are tightly interwoven, and they are limited in scope. It is my view—and that view is expressed in both the articles and the House report—that the jury verdict of guilty, rendered on August 10, 1984, beyond a reasonable doubt on two counts and the judgment of conviction are adequate to support and sustain the four articles of impeachment. In spite of the fact that my subcommittee conducted a hearing, and examined the facts and circumstances supporting the jury verdict and conviction of Judge Claiborne, there really was no need for an independent finding of facts about Judge Claiborne's conduct. The facts have already been found under a judicial procedure—a full-fledged trial before a jury of 12 citizens—which afforded full due process rights to the respondent. The House, and soon to be the Senate, are totally justified in taking action analogous to the concept of "judicial notice," but in a legislative setting, of the facts.

As draftsman of the articles and the House report, I have done my best to give a fair, honest and impartial presentation of the evidence and law. I have handled my assignment to the best of my ability, gaining little personal satisfaction from the task we are assigned by the Constitution: namely to impeach a sitting Federal judge.

But we do have a responsibility to the public. The purpose of impeachment is not to punish the individual but to protect the people and to protect the institution. I have no qualms about how best we can satisfy our responsibility to the public. Vote affirmatively on House Resolution 461, as amended, and let a trial commence in the U.S. Senate. Judge Claiborne should be impeached and removed from office.

□ 1755

Mr. Speaker, I yield, for purposes of debate only, 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, Judge Harry E. Claiborne was convicted by a jury of his peers on two counts of tax evasion—one for 1979 and one for 1980. The evidence presented at trial convinced the jury beyond a reasonable doubt that he cheated on his taxes in both years by knowingly underreporting his income.

Judge Claiborne was represented at all times by competent counsel of his own choosing. His conviction has been affirmed by a special panel of the circuit court of appeals. His request for a rehearing before the circuit court has been considered and denied. The Supreme Court of the United States has reviewed and denied his petition for certiorari.

For more than 30 years, Harry Claiborne was a prominent attorney practicing in Las Vegas, NV, and specializing in the defense of criminal cases. He became a Federal judge on September 1, 1978. As of that date, Judge Claiborne still had outstanding legal fees due him which he ultimately received after taking the bench. It was the legal fees received in 1979 and 1980 that Judge Claiborne knowingly did not fully disclose on his 1979 and 1980 tax returns.

In 1979, Judge Claiborne received legal fee income of $41,074. But he reported only $22,333 of this income on his taxes.

For 30 years prior to 1979, Judge Claiborne deposited all of his fee checks in the bank, and had his bank forward his monthly bank statements directly to his accountant and tax preparer, Jay Wright.

In 1979, Judge Claiborne suddenly changed this 30-year practice. He no longer deposited all of his fee checks

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in the bank. He began cashing them at casinos. He had received 14 checks totaling $41,074 from his former law partners. But he deposited only six in the bank; eight were cashed at casinos. He also stopped having his bank send monthly statements directly to Wright.

In 1980, Judge Claiborne failed to report even more income than in 1979. His actual gross income for the year was $145,163, including legal fee income of $87,912. But on his 1980 tax return, he reported none of these fees, thus failing to disclose over 60 percent of his true income.

To prepare his 1980 tax return, Judge Claiborne hired a new accountant. He dropped Jay Wright after 30 years of service and hired Jerry Watson, who ran a firm called "Creative Tax Planning." Despite the name of his firm, Mr. Watson was not an accountant—his background was primarily in insurance.

In April 1981, Judge Claiborne estimated his 1980 tax liability to be $45,359 in a filing with the IRS. To meet this liability, he sent the IRS a check for $20,817.

But when he filed his final return in June, Judge Claiborne reduced his tax liability to only $1,103—a drop of 93 percent from the liability he had estimated only 2 months earlier.

At his trial, Judge Claiborne conceded that he lawfully should have reported the $87,912 in fee income. His defense to the criminal charge was that he did not know what was on his 1980 tax return when it was sent in and so he did not intentionally file a false income tax return. He maintained this defense even though he received and cashed a $44,256 refund check a month after filing the return. Moreover, Watson had testified earlier before a grand jury that he spent 15 to 20 minutes going over the completed tax return with Judge Claiborne before the judge signed it.

Mr. Speaker, in signing his 1040 tax forms in 1979 and 1980, Judge Claiborne, like every other taxpayer, attested to the correctness of each return under oath and under penalties of perjury. He signed each return knowing it was false.

Judge Claiborne did not cheat just once. He cheated 2 years in a row. He changed accountants to facilitate this cheating. He wanted to ensure that Wright, while gathering information for 1980 taxes, would not discover that Judge Claiborne had cheated in 1979. He also knew that if he kept Wright, he would not be able to hide his 1980 fee income since Wright already knew about $41,000 of the 1980 fee income.

For both years, Judge Claiborne tried to blame his two different accountants. He claimed he made full disclosure of his income to them and relied upon them to prepare honest tax returns. But the jury saw through Claiborne's story.

The evidence was overwhelming and the Government's arguments compelling. The articles of impeachment are fully supported by the facts. Accordingly, your vote should be in favor of impeachment.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], for purposes of debate only.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding. My remarks will be brief.

The previous statements, by my colleagues on the Judiciary Committee, have appropriately stressed the historical nature of an impeachment action and the constitutional obligations of the Members of this House, when confronted with a fact situation warranting impeachment. Furthermore, the chairman and ranking member of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, have effectively documented the deliberations of, and the decisions by, the Judiciary Committee in this case.

While each decision to impeach must ultimately rely on the facts in the particular case, we should also be mindful of the broader implications involved in such a decision. Impeachment is an important first step in a remedial process—aimed at removing a high public officer from a position of trust, where that officer has demonstrated that he/she no longer deserves to retain that public trust. It is a constitutional remedy, the principal function of which is to maintain and reinforce the legitimacy of our governmental institutions.

It is not a "punishment" in a technical criminal law sense. In fact, impeachment is not a criminal proceeding, although it may be based upon conduct which is otherwise criminal in nature. That happens to be the fact situation with respect to Judge Harry E. Claiborne.

But impeachment carries with it important implications beyond the individual in question. The impeachment remedy was viewed by the Founding Fathers as a process to ensure the integrity of our constitutional system. Today, we are as much conerned with deterrence as we are with the ultimate and deserved removal of Judge Claiborne from office. By that I mean that the decision to impeach and convict, should the other body decide to convict, stands as an admonition to others in public life. It is an opportunity for Congress to restate and reemphasize the standards of both personal and professional conduct expected of those holding high Federal office.

This deterrence factor is an important aspect of our decision that ought not be overlooked. The impeachment sanction, when appropriately exercised, is a warning signal to others similarly situated—should they also fail to uphold their constitutional obligations—that they are also subject to this serious constitutional sanction.

Judge Claiborne's conduct, in my estimation, clearly warrants the adoption of House Resolution 461 by this House. But our decision in this instance carries with it a message with ramifications far beyond his case alone. It can and should have a positive, prospective impact on our institutions of Government.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN], for purposes of debate only.

Mr. GLICKMAN. Mr. Speaker, today, for the first time since 1936, the Members of this House will vote on articles of impeachment for an official of the U.S. Government. It is a responsibility not to be taken lightly—the House has voted impeachment on only 13 occasions over the past 200 years. Impeachment is, however, an essential constitutional remedy for maintaining the integrity of our Republic.

When the trust imposed in high officers of our Government is abused, the impeachment mechanism can remove those unwilling or unable to live up to their constitutional responsibilities. In so doing, impeachment can restore and maintain public confidence in the fairness and principled exercise of power in our constitutional system.

As we vote today, we should bear in mind that the Constitution has limited to this House, and this House alone, the power to initiate an impeachment. No other way exists to remove a Federal judge from office, even if he is found guilty of criminal conduct.

The Constitution provides that Federal judges be appointed for life subject to "good behavior." They do not stand for election. They cannot be dismissed by the President. If they are guilty of misconduct, they can be punished under the criminal laws. But they cannot be removed from office against their will unless impeachment remedy is invoked.

On five previous occasions in this century, the House has voted articles of impeachment against a Federal judge. On two of these occasions, the judge was convicted and removed from office. In 1913, Judge Robert W. Archbald was convicted on 5 of 13 articles of impeachment that alleged judicial misconduct in obtaining concessions from litigants that benefited the judge and his friends. Although the conduct in question did not clearly violate criminal statutes, the judge was convicted in the other body by the required two-thirds vote on five separate articles, in one article by a margin of 68 to 5.

In 1936, the most recent impeachment of this House resulted in the conviction and removal from office of

Judge Halsted Ritter. Among the charges against him was that he had unlawfully evaded Federal income tax. No criminal proceeding had been initiated against Judge Ritter at the time of his impeachment or trial.

The case before us today, I submit, is far more compelling than either the Archbald or Ribber impeachments. We are dealing with a judge, granted a position of the highest trust in our Government, who has been convicted of Federal income tax evasion. He has exhausted all direct appeals. Today, he is serving time in a Federal prison.

All due process of law has been accorded Judge Claiborne. Every other Federal judge convicted of a crime has voluntarily relinquished his position. Judge Claiborne has refused to do so. Unless he is impeached and convicted, he will continue to receive his full judicial salary and, when his prison term expires, could resume his office.

There are, in short, compelling reasons for this House to act promptly and decisively in initiating the impeachment process. We should act today to restore the confidence of the American people in a judicial system that has served with integrity and excellence throughout the 200-year history of our Republic.

□ 1805

Mr. KASTENMEIER. Mr. Speaker, I yield 3½ minutes to the gentleman from Ohio [Mr. KINDNESS].

Mr. KINDNESS. I thank the gentleman for yielding me this time.

Mr. Speaker, I fully support House Resolution 461. I would like to express for clarification and emphasis the importance of recognizing that the impeachment process is neither criminal in nature nor civil in nature. It is not the lawyers' usual "playpen," so to speak, in court. Rather, it is a procedure of a different sort rooted in the Constitution, and in fact, for those who would like to see it most clearly, there are only three places in the Constitution where impeachment is mentioned.

It is outlined in clause 5 of section 2 of Article I where it says. "That the House of Representatives shall choose their Speaker and other officers and shall have the power of impeachment."

It is mentioned also in section 3 of that same article at clauses 6 and 7 where it points out that the Senate has the power to try impeachments and goes on to explain a little bit of detail there.

Then in article II at section 4 at the very end where there is reference to the President, Vice President, and all civil officers of the United States, "Who shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors."

It is, Mr. Speaker, with respect to that particular point of high crimes and misdemeanors that I would like to address just a couple of remarks.

Incidentally, the exact parameters of impeachment as to trial are developed by the Senate over time and are not in the Constitution and are not subject to appeal to the Federal courts.

I would like to focus on the meaning of misdemeanor in the constitutional sense. In particular, it is important to point out that we are not talking about the ordinary misdemeanor that most lawyers associate with something constituting a minor offense. Rather, we are talking about a constitutional misdemeanor. High crimes and misdemeanors has traditionally been considered a term of art like other constitutional phrases such as "due process; equal protection," the terms "to regulate commerce," and "levying war."

The Supreme Court has held that such phrases must be construed not according to modern usage but according to what the framers of the Constitution meant when they adopted them. I wish to cite, Mr. Speaker, three cases where the Supreme Court has held that that is the case.

They are: *Murr* v. *Hoboken Land Co.*, 52 U.S. 272; *Davidson* v. *New Orleans*, 96 U.S. 97; and *Smith* v. *Alabama*, 124 U.S. 465.

The word misdemeanor is rooted in the word "demeanor" which refers to one's manner of conduct or behavior, and in Old English Common Law, comprised all sorts of conduct.

In the commission of a high misdemeanor under the Constitution, our managers on the part of the House are not going be limited to in any way to what is generally thought of as a statutory misdemeanor under title 18 of the United States Code, and rather that we have the constitutional misdemeanor term to deal with based on the history of our Constitution and the Old English Common Law, as has been pointed out by the gentleman from New Jersey.

Mr. Speaker, I urge the support of my colleagues for House Resolution 461.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding me this time.

Mr. Speaker, I wish to applaud the gentleman from Wisconsin [Mr. KASTENMEIER] for his work from the start in handling this very difficult case.

I rise in support of House Resolution 461, the articles of impeachment of Judge Harry E. Claiborne. I urge my colleagues to join me in exercising this important constitutional safeguard to protect the integrity of the Federal judiciary.

In drawing upon the English experience, the founders of our Nation concluded that the impeachment process was a necessary and essential constitutional remedy to ensure the proper functioning of government.

The English cases demonstrated that impeachment was more than a parliamentary tool for the punishment of indictable offenses. It also reached corruption, maladministration, gross neglect of duties and other public and private improprieties committed by judges and high Government officials which rendered them unfit to continue in office.

Altogether, the House in its history has investigated possible misconduct involving only some 55 Federal judges. Seventeen of these judges resigned during the investigative phase.

The first impeachment of a sitting Federal judge occurred in 1804 when Judge John Pickering was convicted of four articles of impeachment. Since Judge Pickering's conviction, three other judges have been convicted and removed from office. The last such case came before the House in 1936.

Most of the charges brought against these judges were not criminal charges. They were actions of misconduct and misbehavior felt to be inconsistent with the "good behavior" standard which is required of a judge, under the Constitution, to continue to hold office.

By stark contrast, today we have felonious conduct, today we have a case in which a U.S. district judge was tried by a jury of his peers, was found guilty of felonies, was convicted, appealed his convictions all the way to the U.S. Supreme Court, had all his appeals rejected and dismissed, was sentenced and is now serving a 2-year term in a Federal penal institution in Alabama.

Judge Claiborne—unless removed from office by impeachment by this House and conviction by the other body—will retain his office as Federal district judge and will continue receiving his full judicial salary even while in the Federal prison camp in Alabama.

He could, unless removed from office, resume his seat on the Federal bench of the Federal judiciary when released from prison.

In short, this is appalling and unacceptable. It is an absolutely compelling case for impeachment.

If we were to fail to act today, the confidence of the people in our Government of laws, fairly administered by judges of high character and integrity, would be seriously undermined.

In these circumstances, I urge unqualified support of my colleagues for the articles of impeachment set forth in House Resolution 461.

At heart, this is really a very simple case. When all is said and done, here is a Federal judge, an officer of the court, a public official who has been indicted for a felonious charge; tried

by a jury of his peers, and convicted. His appeals were rejected in the Ninth Circuit Court of Appeals as well as in the U.S. Supreme Court. He was sentenced and is currently serving time, as I have said before, in the slammer, the Federal slammer in Alabama, at which time he is currently drawing his $78,000-plus as a Federal judge.

It seems to me that this kind of action, in and of itself, despite all of the other very appropriate arguments that my colleagues have summoned today, this action, in and of itself, constitutes misbehavior in the very grossest sense as well as in the constitutional sense. It is unacceptable judicial conduct; a public scandal; betrayal of the public trust; and, it seems to me, high crimes and misdemeanors in the constitutional sense which warrants impeachment by this House today and, I hope at some point in the future, trial and removal from office by the other body.

Furthermore, and I must comment on this, I think the judge's refusal to do the seemly and appropriate and decorous thing now, which is to retire and resign from office, is also in evidence of arrogant behavior, brazenness on his part, contemptuous attitude toward the country, toward the bench, toward public service.

All in all, Mr. Speaker, it seems to me that Judge Claiborne has richly earned a vote today by this House on House Resolution 461. A vote of impeachment and then later a trial in the other body and removal from office. He does not deserve to be a Federal judge, and he deserves in fact to be taken out of office because of his gross misbehavior and his high crimes and misdemeanors.

The following commentary by James J. Kilpatrick is of interest:

IMPRISONED JUDGE WON'T QUIT, SO HE SHOULD BE IMPEACHED

(By James J. Kilpatrick)

WASHINGTON.—Fifty years have passed since the House of Representatives impeached federal Judge Halsted L. Ritter and the Senate convicted him of misbehavior, high crimes and misdemeanors. The time has come for Congress to impeach another federal judge and to throw him out of office.

The miscreant judge is Harry Claiborne of Nevada. Appointed by Jimmy Carter in 1978, he has brought a new distinction to the federal bench: He is the only federal judge ever sent to prison. Claiborne was convicted in 1984 of failing to report $106,000 in income from his law practice in filing his tax returns for 1978 and 1979. The U.S. Court of Appeals for the 9th Circuit affirmed his conviction and the U.S. Supreme Court refused to review the case.

Claiborne now is serving a two-year prison term at the Federal Prison Camp at Maxwell Air Force Base in Alabama. He has adamantly refused to resign. He continues to draw his salary of $78,000 a year.

The situation is preposterous, incredible, outrageous. If this eminent felon had one ounce of respect for the bench that he has disgraced by his criminal conduct, he would step down. Because he refused that honorable course, but one alternative remains: The House should move immediately for his impeachment, and the Senate should set aside a couple of days for his trial.

Under the Constitution, federal judges hold their offices "during good behavior." That section must be read in conjunction with the further provision that civil officers of the United States "shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." It takes two-thirds of the Senate to convict.

In this century, five federal judges have been impeached by the House. In 1903 Judge Charles Swayne of Florida was impeached for padding his expense accounts and using property in receivership for his personal gain. He was acquitted. In 1912 Judge Robert W. Archbald of Pennsylvania, a circuit judge serving on the old Commerce Court, was charged with conspiring with railroad interests. He was convicted. In 1926 Judge George W. English of East St. Louis was accused of accepting an interest-free loan from a bank in which he was a director. He resigned before he could be brought to trial.

The fourth judge in this century, Harold Louderback of California, was impeached for "tyranny, oppression and favoritism" in the appointment of receivers. The charges were weak, and Louderback was acquitted. Then came Florida's Judge Ritter in 1936. He was charged with secretly taking a $4,500 fee from his former law partner—$2,500 of it in cash on Christmas Eve of 1930—and with evading income tax. Ritter was acquitted on six counts but convicted on a catchall seventh charge and thus removed from office.

In all of the five cases, much was heard about a definition of "high crimes" and especially of "misdemeanors." Senators pondered whether they had power to remove a federal judge on their own notions of bad behavior as distinguished from "good behavior." Much was said about English law in 1701 and about the intention of the framers in 1787.

None of these questions arises in the matter of Judge Claiborne. The facts are not in dispute. He was indicted, convicted and sentenced to prison for income tax evasion. In heaven's name, isn't that enough?

Rep. Jim Sensenbrenner, R-Wis., had intended to introduce a resolution of impeachment last week. In deference to Peter Rodino, chairman of House Judiciary, Sensenbrenner agreed to wait until the end of this month. Rodino wants to wait for a report from the 9th Circuit and the U.S. Judicial Conference, but what is the sense of that? Such ponderous wheel-spinning could take months, and meanwhile Claiborne would continue to draw his salary.

Federal judges occupy a unique place in our system of government. Members of Congress may be expelled by their colleagues. Presidents may fail of re-election. Only judges hold their offices "during good behavior," which is to say, for life. On the cold black record, Harry Claiborne has behaved badly. Throw the bum out!

Mr. KASTENMEIER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Wisconsin has 8½ minutes remaining.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER] recognizing that he was one of the earliest to raise the issue before us today.

Mr. SENSENBRENNER. I thank the gentleman for yielding me this time.

Mr. Speaker, Donald Dale Jackson in his book, "Judges," noted that "a Federal judge tried and convicted of a criminal charge "* * * is one of the rarest spectacles in American law." By this standard, the Claiborne case is the rarest—and most egregious—spectacle in American law. One need only look at the number of dubious distinctions that Harry E. Claiborne has achieved:

First, on May 16, 1986, he became the first sitting Federal judge in U.S. history to go to prison.

Second, he is only the third Federal judge in U.S. history tried and convicted for a criminal offense.

Third, he is only the second Federal judge in U.S. history to be imprisoned for offenses committed while serving on the bench.

Fourth, his is only the second Federal judge in U.S. history to refuse to resign after being charged with criminal activities.

Fifth, he is only the second Federal judge in U.S. history to refuse to resign following his conviction.

Sixth, he is the first Federal judge in U.S. history to refuse to resign before going to prison.

Seventh, he is the first Federal judge in U.S. history convicted of a felony who defied a Congressman's request to resign.

Eighth, he is only the second Federal judge in U.S. history to be drawing full salary since his indictment.

Ninth, he is only the second Federal judge in U.S. history to be drawing full salary after his conviction and during his appeals.

Tenth, he is only the second Federal judge in U.S. history to be on a leave of absence for well over 2 years.

The extent of Claiborne's disgraceful conduct is fully realized when one understands that no one ever expected a Federal judge convicted of a felony crime would remain in his position. Except for Otto Kerner (who resigned just before he went to prison in 1974), in previous cases when Federal judges were accused, they had all resigned immediately after the indictment and before conviction. C. Ashman, "The Finest Judges Money Can Buy" 202 (1973). Indeed, in the other case besides Kerner where a Federal judge went to prison, Judge Martin Manton of the Second Circuit Court of Appeals resigned the following day after he was charged with corrupt activities. Manton contended that his resignation was motivated solely by his desire to avoid becoming the central figure in a controversy that would weaken public confidence in the administration of justice. Thus, there may have

been greater criminals than Harry Claiborne that sat on the Federal bench, but they all had the sense of decency and sense of decorum to step down.

At this point, it should be clear to everyone that the facts warrant Judge Harry Claiborne's impeachment. It was clear to the House Judiciary Subcommittee on Courts and the House Judiciary Committee when it unanimously voted articles of impeachment against Judge Claiborne. It was clear to the many Members who cosponsored the impeachment resolution I considered bringing on the floor. It was clear to the many Americans who have expressed their outrage. It was clear to the American Judicature Society, a 73-year-old legal organization whose board includes Associate Justice William J. Brennan, Jr., when it said lifetime appointment of Federal judges "was never intended to protect convicted felons" but to protect judicial independence. It was clear to the Washington Post, the Milwaukee Journal, columnist James J. Kilpatrick, and many others who have urged the quick ouster of Claiborne. There is little question that Harry E. Claiborne will be the first Federal officer in over 50 years to be impeached.

There is an urgency for us to impeach Claiborne today. Every day that passes by, law-abiding and hard-working taxpayers pay nearly $217 of Claiborne's salary. Every day that passes by with a convicted felon on the bench, the Federal judiciary is further disgraced.

Harry Claiborne has thrown the gauntlet at the feet of Congress to impeach and remove him. At this point, there is no reason he should not be impeached today. The facts, which are not in dispute, have been developed and tested in 6 years of litigation and found sufficient beyond a reasonable doubt to convict by a jury of Claiborne's peers. Claiborne has been represented by top-rate defense counsel and has had his arguments considered not only by a Federal judge but also by the Ninth Circuit Court of Appeals and the U.S. Supreme Court. Claiborne has even been afforded a hearing before the Courts Subcommittee even though impeachment precedents did not require it. Indeed, Claiborne has been afforded vastly more process than a fellow Member of Congress we expelled in 1980. Even Claiborne's counsel has appreciated the fair opportunity he got to present his side of the story. Now it is our turn to make our judgment.

Justice must not only be fair but also swift. We have spent nearly 2 months considering the most clearcut case for impeachment in American history. This is longer than the 1 month it took the House to impeach Secretary of War Belknap in 1876 even though the facts in that case were not based on a criminal adjudication.

Justice need not be deferred. We can impeach. We should impeach.

□ 1815

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], for the purpose of debate only.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding these 2 minutes to me.

Obviously, I am here as is everyone else to encourage Members to vote for this impeachment. And since it is very hard to even order a cheese sandwich in 2 minutes, I wonder, what does one say about something that is this profound?

I think one of the faults we, who deal in the legal profession, have is that we talk in legalese and use lots of words that people do not really understand. So what does this mean?

Well, we all understand that this is a judge and he did some things that were wrong, and he is in jail and he really should have resigned and it is an outrage that he did not. But really what does all this mean?

It means that when many people come to this great city and walk around and see all these words that are chiseled on these buildings saying that we are a government of laws and not of men, what we are doing is enforcing what that means.

It means that no one is above the law, not the President of the United States, not a judge, not a Congressman, not a Senator. No one is above the law. There is a law and there is a legal way of dealing within the law, but no one can say that, because of their power, they can avoid the law.

I think that is one of the great things that we celebrated this year as we just finished celebrating the Fourth of July. That is what has made this country so incredibly unique, because in so many other countries, they have dual legal systems, a legal system for the powerful and a legal system for the nonpowerful.

Today we are saying that even though you are a judge, the image that we have in this great country is going to prevail and that is that you sit there blindfolded and you weigh both sides. You are not supposed to do anything to impugn the law; you are supposed to enforce the law and enforce it fairly.

So when we put it in its context, this is the proper thing we should be doing, and I certainly hope that Members vote aye on this resolution and that we get on with it. I also hope that in the future the judges will police their own much more. They really should have done this before, because this matter should not have come before this body.

Mr. KASTENMEIER. Mr. Speaker, may I inquire, how much time do I now have remaining?

The SPEAKER. pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] has 4½ minutes remaining.

Mr. KASTENMEIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GEKAS] for the purpose of debate only.

Mr. GEKAS. Mr Speaker, I thank the gentleman very much.

To judge a judge or not to judge a judge, that is the question. If we should not judge a judge, who will? If we cannot judge that judge, who can?

The issue is simple, the resolution is simple. Let us impeach. The judge mocks us. The judge is laughing at us. The judge disgraces himself and disgraces the public which was responsible in the legal system that we have for making him a judge in the first place. He mocks the entire system. Let us impeach.

Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield 1½ minutes, for purposes of debate only, to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman from Wisconsin for yielding this time to me, and I commend him on the leadership he has shown in moving this matter forward through his subcommittee and through the full committee to the floor.

This matter can be talked about at great length, but it is really quite simple. We have a Federal judge who has been convicted of a felony. He insists that he will not resign, and he should be impeached. This House must take the vital step of impeaching him and send the clear message to the American people that we will not tolerate felons on the Federal bench, that they will be removed. Those who think they can get some kind of special new trial or new proceeding or new review of their case here in this House or in the other body are to be disappointed.

It is a disgrace that this judge has not seen fit to resign, but it is to the credit of our institutions of government, in particular this House, that we have moved forward expeditiously. And we will today, I hope uniformly, together, impeach this judge and tell his colleagues that should they be convicted of a crime, they should leave office forthwith and not disgrace themselves nor inconvenience or burden this body or the other body with the necessity of going through this appeal proceeding.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I rise in support of House Resolution 461, a privileged resolution providing for the impeachment of U.S. District Court Judge Harry E. Claiborne.

The facts in this matter are as clear as they are regrettable. Judge Claiborne was convicted in August 1984 by a jury in the U.S. district court in Nevada of filing false income tax returns in 1979 and 1980 and for failing to report more than $106,000 of income which he derived from legal work he had performed prior to being appointed to the Federal bench. Judge Claiborne was subsequently sentenced to a 2-year prison term and a $10,000 fine. The Ninth U.S. Circuit Court of Appeals in San Francisco reviewed Judge Claiborne's conviction and upheld the verdict. The U.S. Supreme Court denied certiorari. In short, Judge Claiborne has been found guilty of a felony and he has exhausted all of his judicial appeals.

It is regrettable that under these circumstances Judge Claiborne has refused to voluntarily resign his office and has continued to draw his salary. In this instance, the House has no choice but to impeach Judge Claiborne pursuant to the process set forth in article I of the Constitution.

Appointment to the Federal bench represents perhaps the highest honor which can come to any lawyer. It is all the more tragic when that trust and confidence is betrayed. I am hopeful that the House will pass this resolution and that the Senate will act promptly to dispose of this matter.

Mr. KASTENMEIER. Mr. Speaker, I yield 1½ minutes, for the purposes of debate only, to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Speaker, the issue before the House today is very simple. What in the world do we do with a Federal judge who has been convicted of two major felonies, who has had the best lawyers he could have—three at the trial—who has gone through a very lengthy and exhaustive trial, and who has gone through exhaustive direct appeals and whose conviction has been upheld?

We have no choice. What we do with that Federal judge is what we are going to do in a moment, and that is vote articles of impeachment.

It is a public scandal. What do we think the American people would say if they knew that a Federal judge was still a Federal judge after he had been indicted and convicted of two major felonies, and that he was sitting in the penitentiary drawing his pay, your tax dollars and their tax dollars?

This is the very type case that our Founding Fathers envisioned as crying out for impeachment.

There is no other remedy. The buck stops here. There is no other way to remove him from office. There is no other way to stop him from drawing taxpayers' dollars.

The evidence is very clear. I have read a great portion of the transcript, as have a number of my colleagues. The evidence is overwhelming. A jury of 12 found beyond a reasonable doubt that this judge was guilty, and, frankly, to do that they had to find that he lied on the witness stand. They had to find that he had no credibility. They had to find that what he told that jury was a falsehood, an out-and-out lie, and that he was guilty beyond a reasonable doubt of two major felonies.

Mr. Speaker, our duty today is very clear, and I am sure we are going to do that and file the articles of impeachment.

The SPEAKER pro tempore. The Chair will inform the gentleman from Wisconsin [Mr. KASTENMEIER] that he has 30 seconds remaining.

Mr. KASTENMEIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, on July 16, 1986, the Committee on the Judiciary filed a report, House Report 99-688, on the impeachment of Judge Harry E. Claiborne. Unfortunately, the report contains some typographical and other printing errors. Rather than subjecting the taxpayers to the expense of seeking another print for this report, I am submitting a list of corrections to that report. Hopefully these clarifications—none of them which are of critical importance—will be useful:

a. Page 7, the fifth line of the ninth full paragraph should read "thirty-four" instead of thirty-two".

b. Page 10, on the last line (before the footnote), "Tr." should appear before "475-489".

c. Page 18, the fourth line of the fourth full paragraph should read "return" instead of "returns".

d. Page 18, the ninth line of the last paragraph should read "1979" instead of "1977".

e. Page 20, on the second line of Count V, delete "the".

f. Page 24, the first line of the third full paragraph should read "Article I" instead of "Article 1."

g. Page 30, after item 43(h), insert "i. Transcript of Jury Instructions, Aug. 9, 1984, pp. 1-22." and redesignate the original "i." to be "j.".

h. Page 31, Government's exhibit 34 should read "9/29/78" instead of "9/29/70".

i. Page 31, second line from the last, "2-A" should read "1-A".

j. Page 31, the pages listed for Government's exhibit 47 and Defendant's exhibits 47, 3, 41, 1-A, and 4 should be under "Admitted", not "identified".

k. Page 32, the pages listed for Defense and Government's exhibits should be under "Admitted", not "identified".

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, the Constitution of the United States provides this body with a most serious responsibility, a responsibility to ensure public confidence in Government officials and the very integrity of government itself. Article I, section 2 of the Constitution provides the House of Representatives with "the sole power of impeachment".

Regrettably, we are today faced with a situation that calls on us to exercise that grave responsibility.

U.S. District Court Judge Harry E. Claiborne has been convicted by a jury of failing to report some $106,000 in income on his Federal tax returns. The Ninth U.S. Circuit Court of Appeals upheld that verdict, and the Supreme Court has subsequently refused to hear the case. He is the first Federal judge to have been convicted of an offense committed while on the bench. On May 16, Judge Claiborne became the first sitting Federal judge to go to prison. He was sentenced to 2 years in prison and fined $10,000.

Incredibly, and despite his conviction, Judge Claiborne refuses to resign his office. Not only does he expect to return to the Federal bench when he gets out of prison, but he continues to draw a fat check from the Federal Government—amounting to $78,200 a year—while he is serving his prison term.

Mr. Speaker, this situation makes a mockery of our judicial system. It is an insult to the hard-working men and women of the Nation whose tax dollars will pay for his incarceration as well as his $78,200 annual salary.

Public confidence in our judicial system will surely suffer unless we take action to rid the judiciary of Judge Claiborne.

He must be removed. Since he will not resign, we must exercise our constitutional responsibilities and vote this impeachment resolution.

Law-abiding, tax-paying Americans demand it.

Mrs. VUCANOVICH. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, today is one of those rare and not so glorious moments in the history of the House of Representatives—today we must cast a vote for or against the impeachment of a convicted Federal judge. Quite honestly, I never anticipated having to cast such a vote while serving in this Chamber. But truth—and the incontrovertible facts make my decision quite simple to make.

Harry Claiborne, a sitting Federal judge, was convicted and began serving his prison sentence in May while continuing to receive his $78,700 annual salary. He has been asked to resign, but has consistently refused to do so. This is the most contemptible form of dishonesty by anyone who has taken an oath of public office.

The framers of our Constitution sought to protect the independence of our judicial system by appointing for life and a judge remains a judge until death, resignation, or impeachment. For this very reason, impeachment is never taken lightly.

Judge Claiborne has elected to lock horns with our Constitution and force justice aside. His arrogant insistance on burdening the House and the Senate, and in fact the American people, is a callous disregard of our system of government, and seriously undermines the integrity of our judiciary. We must not let one man play havoc with the intent

and spirit of the hallmark of human rights—our Constitution.

What is at issue is not whether or not Judge Claiborne is guilty of falsifying his tax returns—a jury has already ruled that the charges are true—what is to be deciced is whether or not he should be impeached because he was convicted by a jury.

Judge Claiborne had his day in court and has exhausted his direct appeals of the tax conviction. He has benefited from all the protections afforded anyone else so charged, and was found guilty.

Judge Claiborne's refusal to resign after being convicted mocks our system of justice and violates the public trust. The American people deserve the highest standards of integrity from judges. It is clear that the Constitution was never intended to protect convicted felons.

And now, after being convicted, refusing to resign so he can continue receiving a paycheck while in prison, Judge Claiborne left Congress with no alternative.

I will vote for restoration of faith in our system—I will vote my conscience—I will vote to stop paying a convicted felon a salary of our tax dollars—in short, I will vote to impeach. I urge my colleagues to join me and vote for the impeachment of Judge Harry Claiborne.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Nevada.

[Mr. REID addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. TALLON. Mr. Speaker, I rise today in strong support of House Resolution 461, to impeach Harry Claiborne, judge of the U.S. District Court for the District of Nevada. The facts are not in dispute. Harry Claiborne, a Federal district judge for the District of Nevada, was convicted of two felony counts of making and filing false statements on his 1979 and 1980 Federal income tax returns. He was found guilty beyond a reasonable doubt by jury of his peers. All of his direct appeals have been exhausted, and he is currently serving a 2-year sentence in a Federal penitentiary.

We are not here to discuss Judge Claiborne's guilt or innocence, for that has been determined. What is at hand here today, is his fitness as an arbitrator of our judicial system. Although he has not acted in an official capacity since 1983, Judge Claiborne has consistently and adamantly refused to resign his position and continues to collect a $78,100 per year salary. Every day Judge Claiborne sits in jail the taxpayers are fleeced another $215. This is an outrage. No public official should draw taxpayers' dollars while being incarcerated. The idea that a Federal judge could betray such a public trust makes a mockery of our system of justice. I believe we should proceed as quickly as possible to get this felon off the bench.

Democracy is about the people who determine and make up its institutions. Conversely, the strength and integrity of its institutions is drawn from the people. A convicted felon who continues to hold public office degrades our democratic institutions and reflects poorly on those of us who allow it to occur.

Mr. FRENZEL. Mr. Speaker, I rise in strong support of House Resolution 461, a resolution to impeach Judge Harry Claiborne. I do so with great regret that such a resolution is needed.

Judge Claiborne has done a disservice to himself and to the Federal judiciary. By refusing to resign despite his conviction and prison sentence for tax evasion, he has turned the constitutional protection of judicial tenure into a personal license for outrageous behavior. Because he cannot summon the dignity to resign from his post, Mr Claiborne has left Congress with no other recourse than to take the distasteful step of impeachment.

Mr. Speaker, I join my colleagues in condemning Judge Claiborne's actions, and in supporting his impeachment.

Mr. REID. Mr. Speaker, the House of Representatives has initiated the historic impeachment process of Federal Judge Harry Claiborne. The Claiborne impeachment, like the 13 previous impeachments of Federal officials, unequivocally demonstrates one fact: After 200 years, through numerous wars, civil turmoil, and technological advancement, the processes outlined in the Constitution still function smoothly.

The case of a Federal judge is unique. While any other official can be dismissed from office, Federal judges are appointed for life and can only be removed from office by impeachment. Eleven of the 14 House impeachments have involved Federal judges.

Impeachment can be a time-consuming and involved process, but it is the necessary complement to the appointment for life of Federal judges. Federal judges are appointed for life to protect them from public and political pressures when presiding on crucial legal questions. This lifetime appointment has only one caveat: Judges are appointed for lifetime "during good behavior." Under our system, Federal judges have the protection they deserve, but are denied carte blanche to do as they please.

Our Founding Fathers knew how important the process of impeachment would be. Although they did not outline every last detail, they went out of their way to include provisions in the Constitution creating a general structure for the impeachment process. According to the Constitution, the House of Representatives has "the sole power of impeachment," the equivalent of an indictment. The Senate is granted "the sole power to try all Impeachments," the power to acquit or convict. The Constitution stipulates that a Federal official can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." A person who is impeached is subject to the laws of the land just like any other citizen.

With every passing year, Americans become increasingly aware of the finesse of our Founding Fathers in drafting the Constitution. Countries throughout the world draft several new constitutions every century, often looking to ours as a model of success. They look to ours because our forefathers carefully crafted a Constitution that was flexible enough so that it would work as well in 1986 as it did in 1787.

Mr. KASTENMEIER. Mr. Speaker, I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KASTENMEIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 24, as follows:

[Roll No. 234]

YEAS—406

Ackerman	Combest	Gaydos
Alexander	Conte	Gejdenson
Anderson	Cooper	Gekas
Andrews	Coughlin	Gephardt
Annunzio	Courter	Gibbons
Anthony	Coyne	Gilman
Applegate	Craig	Gingrich
Archer	Crane	Glickman
Armey	Crockett	Gonzalez
Aspin	Daniel	Gordon
Atkins	Dannemeyer	Gradison
AuCoin	Darden	Gray (IL)
Badham	Daschle	Green
Barnard	Daub	Gregg
Bartlett	Davis	Guarini
Barton	de la Garza	Gunderson
Bateman	DeLay	Hall (OH)
Bates	Dellums	Hall, Ralph
Bedell	Derrick	Hamilton
Beilenson	DeWine	Hammerschmidt
Bennett	Dickinson	Hansen
Bentley	Dicks	Hatcher
Bereuter	Dingell	Hawkins
Berman	DioGuardi	Hayes
Bevill	Dixon	Hefner
Biaggi	Donnelly	Hendon
Bilirakis	Dorgan (ND)	Henry
Bliley	Dornan (CA)	Hertel
Boehlert	Dowdy	Hiler
Boggs	Downey	Hillis
Boland	Dreier	Hopkins
Bonior (MI)	Duncan	Horton
Bonker	Durbin	Howard
Borski	Dwyer	Hoyer
Bosco	Dymally	Hubbard
Boucher	Dyson	Hughes
Boulter	Early	Hunter
Boxer	Eckart (OH)	Hutto
Brooks	Eckert (NY)	Hyde
Broomfield	Edwards (CA)	Ireland
Brown (CA)	Edwards (OK)	Jacobs
Brown (CO)	Emerson	Jeffords
Bruce	English	Jenkins
Bryant	Erdreich	Johnson
Burton (CA)	Evans (IA)	Jones (NC)
Burton (IN)	Evans (IL)	Jones (OK)
Bustamante	Fascell	Kanjorski
Byron	Fawell	Kaptur
Callahan	Fazio	Kasich
Campbell	Feighan	Kastenmeier
Carper	Fiedler	Kennelly
Carr	Fields	Kildee
Chandler	Fish	Kindness
Chapman	Flippo	Kleczka
Chappell	Florio	Kolbe
Chappie	Foglietta	Kolter
Cheney	Foley	Kostmayer
Clay	Ford (MI)	Kramer
Clinger	Frank	LaFalce
Coats	Franklin	Lagomarsino
Cobey	Frenzel	Lantos
Coble	Frost	Latta
Coelho	Fuqua	Leach (IA)
Coleman (TX)	Gallo	Leath (TX)
Collins	Garcia	Lehman (FL)

Leland	Olin	Smith, Robert (OR)
Levin (MI)	Ortiz	Snowe
Levine (CA)	Owens	Snyder
Lewis (CA)	Oxley	Solarz
Lewis (FL)	Packard	Solomon
Lightfoot	Panetta	Spence
Lipinski	Parris	Spratt
Livingston	Pashayan	St Germain
Lloyd	Pease	Staggers
Loeffler	Penny	Stallings
Lott	Pepper	Stark
Lowery (CA)	Perkins	Stenholm
Lowry (WA)	Petri	Stokes
Lujan	Pickle	Strang
Luken	Porter	Stratton
Lungren	Price	Studds
Mack	Pursell	Stump
MacKay	Quillen	Sundquist
Madigan	Rahall	Sweeney
Manton	Rangel	Swift
Markey	Ray	Swindall
Marlenee	Regula	Synar
Martin (IL)	Reid	Tallon
Martin (NY)	Ridge	Tauke
Martinez	Rinaldo	Tauzin
Matsui	Ritter	Taylor
Mavroules	Roberts	Thomas (CA)
Mazzoli	Robinson	Thomas (GA)
McCain	Rodino	Torres
McCandless	Roe	Torricelli
McCloskey	Roemer	Towns
McCollum	Rogers	Traficant
McCurdy	Rose	Traxler
McDade	Rostenkowski	Udall
McEwen	Roth	Valentine
McGrath	Roukema	Vander Jagt
McHugh	Rowland (CT)	Vento
McKernan	Rowland (GA)	Visclosky
McKinney	Roybal	Volkmer
McMillan	Rudd	Vucanovich
Meyers	Russo	Walgren
Mica	Sabo	Walker
Michel	Savage	Watkins
Mikulski	Saxton	Waxman
Miller (CA)	Schaefer	Weaver
Miller (OH)	Scheuer	Weber
Miller (WA)	Schneider	Weiss
Mineta	Schroeder	Wheat
Mitchell	Schuette	Whitehurst
Moakley	Schulze	Whitley
Molinari	Schumer	Whittaker
Mollohan	Seiberling	Whitten
Monson	Sensenbrenner	Williams
Montgomery	Sharp	Wilson
Moody	Shaw	Wirth
Moore	Shelby	Wise
Moorhead	Shumway	Wolf
Morrison (CT)	Shuster	Wolpe
Morrison (WA)	Sikorski	Wortley
Mrazek	Siljander	Wright
Murphy	Sisisky	Wyden
Murtha	Skeen	Wylie
Myers	Skelton	Yates
Natcher	Slattery	Yatron
Neal	Slaughter	Young (AK)
Nelson	Smith (FL)	Young (FL)
Nichols	Smith (IA)	Young (MO)
Nielson	Smith (NE)	Zschau
Nowak	Smith (NJ)	
Oakar	Smith, Denny (OR)	
Oberstar		
Obey	Smith, Robert (NH)	

NOT VOTING—24

Akaka	Ford (TN)	Jones (TN)
Barnes	Fowler	Kemp
Boner (TN)	Goodling	Lehman (CA)
Breaux	Gray (PA)	Lent
Carney	Grotberg	Long
Coleman (MO)	Hartnett	Lundine
Conyers	Holt	Richardson
Edgar	Huckaby	Stangeland

□ 1840

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROVIDING CERTAIN AUTHORITIES AND PROCEDURES RELATING TO THE IMPEACHMENT OF HARRY E. CLAIBORNE

Mr. RODINO. Mr. Speaker, I offer three privileged resolutions (H. Res. 501, H. Res. 502, and H. Res. 503), and ask unanimous consent that they be considered en bloc.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read the resolutions, as follows:

H. RES. 501.

Resolved, That Peter W. Rodino, Jr., Robert W. Kastenmeier, William J. Hughes, Romano L. Mazzoli, Dan Glickman, Hamilton Fish, Jr., Henry J. Hyde, Thomas N. Kindness, Michael DeWine, Members of the House of Representatives, are hereby appointed managers to conduct the impeachment trial against Harry E. Claiborne, judge of the United States District Court for the District of Nevada. These managers are hereby instructed to appear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to try the impeachment of Harry E. Claiborne of high crimes and misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against the judge which have been agreed upon by the House of Representatives. These managers shall demand that the Senate take order for the appearance of Harry E. Claiborne to answer such impeachment, and demand his conviction and appropriate judgment thereon.

H. RES. 502.

Resolved, That a message be sent to the Senate to inform the Senate that—

(1) the House of Representatives has impeached for high crimes and misdemeanors Harry E. Claiborne, judge of the United States District Court for the District of Nevada;

(2) the House of Representatives adopted articles of impeachment against Harry E. Claiborne, which the managers on the part of the House of Representatives have been directed to carry to the Senate; and

(3) Peter W. Rodino, Jr., Robert W. Kastenmeier, William J. Hughes, Romano L. Mazzoli, Dan Glickman, Hamilton Fish, Jr., Henry J. Hyde, Thomas N. Kindness, Michael DeWine, Members of the House of Representatives, have been appointed such managers.

H. RES. 503

Resolved, That the managers on the part of the House of Representatives in the matter of the impeachment of Harry E. Claiborne, judge of the United States District Court for the District of Nevada, are hereby authorized to do the following in the preparation and conduct of the impeachment trial:

(1) To employ legal, clerical, and other necessary assistants and to incur such expenses as may be necessary. Expenses under this paragraph shall be paid out of the contingent fund of the House of Representatives on vouchers approved by the managers.

(2) To send for persons and papers, and to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

The total expenditures under this resolution shall not exceed $50,000.

□ 1850

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object.

Mr. Speaker I am not going to explain these resolutions. I only wish to bring to the attention the fact that the last resolution just read provides for a direct dip into the contingency funds of the House for $50,000 for the Committee on the Judiciary for the costs on conducting this trial from start to finish.

Mr. Speaker, there is precedence for this kind of resolution. It is also true that the committee has incurred expenses for which it could not plan. There have been extra costs. The committee has been put through some extra detail.

Nevertheless, I believe that to bring to the floor of the House a $50,000 extra shot for this committee dishonors the process by which we allocate funds between our committees for their use and, indeed, butchers the process under which we normally perform that allocation.

Further, I believe that each committee has responsibility to accept for itself extra costs when it incurs them, however unforseen they may be.

Against this, of course, there was the perhaps not fully expected GRAMM-RUDMAN cut early in the year. Be that as it may, I strongly disapprove of the continuing precedent of using a resolution under a privileged status that follows a resolution for impeachment to give money to a committee which did not have to prove up the use of those funds in the normal way.

I have used this reservation to express my disapproval because I believe it is unnecessary for the House to spend more time voting, and at this moment, I think it is unnecessary for the House to spend more time listening.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to point out that the resolutions are the customary resolutions which the House adopts subsequent to voting to impeach a Federal civil officer. One provides for the appointment of managers; the other one notifies the other body of the adoption of the Articles of Impeachment and the appointment of managers; and the last one grants the managers the necessary powers for funding and otherwise.

With that, Mr. Speaker, I move the previous question on the resolutions.

The previous question was ordered.

The SPEAKER. The question is on the resolutons.

The resolutions were agreed to.

A motion to reconsider was laid on the table.

SOCIAL SECURITY ADMINISTRATIVE AND INVESTMENT REFORM ACT OF 1986

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the pending business is the question of suspending the rules and passing the bill, H.R. 5050, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Oklahoma [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 5050, as amended, on which further proceedings were postponed earlier in the day, and on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 401, nays 0, not voting 29, as follows:

[Roll No. 235]

YEAS—401

Ackerman	Borski	Combest
Alexander	Bosco	Conte
Anderson	Boucher	Cooper
Andrews	Boulter	Coughlin
Annunzio	Boxer	Courter
Anthony	Brooks	Coyne
Applegate	Broomfield	Craig
Archer	Brown (CA)	Crane
Armey	Brown (CO)	Crockett
Aspin	Bruce	Daniel
Atkins	Bryant	Dannemeyer
AuCoin	Burton (CA)	Darden
Badham	Burton (IN)	Daschle
Bartlett	Bustamante	Daub
Barton	Byron	Davis
Bateman	Callahan	de la Garza
Bates	Campbell	DeLay
Bedell	Carper	Dellums
Beilenson	Carr	Derrick
Bennett	Chandler	DeWine
Bentley	Chapman	Dickinson
Bereuter	Chappell	Dicks
Berman	Chappie	Dingell
Bevill	Cheney	DioGuardi
Biaggi	Clay	Dixon
Bilirakis	Clinger	Donnelly
Bliley	Coats	Dorgan (ND)
Boehlert	Cobey	Dornan (CA)
Boggs	Coble	Dowdy
Boland	Coelho	Downey
Bonior (MI)	Coleman (TX)	Dreier
Bonker	Collins	Duncan
Durbin	Leland	Rinaldo
Dwyer	Lent	Ritter
Dymally	Levin (MI)	Roberts
Dyson	Levine (CA)	Robinson
Early	Lewis (CA)	Rodino
Eckart (OH)	Lewis (FL)	Roe
Eckert (NY)	Lightfoot	Roemer
Edwards (CA)	Lipinski	Rogers
Edwards (OK)	Livingston	Rose
Emerson	Lloyd	Rostenkowski
English	Loeffler	Roth
Erdreich	Lott	Roukema
Evans (IA)	Lowery (CA)	Rowland (CT)
Evans (IL)	Lowry (WA)	Rowland (GA)
Fascell	Lujan	Roybal
Fawell	Luken	Rudd
Fazio	Lungren	Russo
Feighan	Mack	Sabo
Fiedler	MacKay	Savage
Fields	Madigan	Saxton
Fish	Manton	Schaefer
Flippo	Markey	Scheuer
Florio	Marlenee	Schneider
Foglietta	Martin (IL)	Schroeder
Foley	Martin (NY)	Schuette
Ford (MI)	Martinez	Schulze
Frank	Matsui	Schumer
Franklin	Mavroules	Seiberling
Frenzel	Mazzoli	Sensenbrenner
Fuqua	McCain	Sharp
Gallo	McCandless	Shaw
Garcia	McCloskey	Shelby
Gaydos	McCollum	Shumway
Gejdenson	McCurdy	Shuster
Gekas	McDade	Sikorski
Gephardt	McEwen	Siljander
Gibbons	McGrath	Sisisky
Gilman	McHugh	Skeen
Gingrich	McKernan	Skelton
Glickman	McMillan	Slattery
Gonzalez	Meyers	Slaughter
Gordon	Mica	Smith (FL)
Gradison	Michel	Smith (IA)
Gray (IL)	Mikulski	Smith (NE)
Gray (PA)	Miller (CA)	Smith (NJ)
Green	Miller (OH)	Smith, Denny (OR)
Guarini	Miller (WA)	Smith, Robert (NH)
Gunderson	Mineta	Smith, Robert (OR)
Hall (OH)	Mitchell	Snowe
Hall, Ralph	Moakley	Snyder
Hamilton	Molinari	Solarz
Hammerschmidt	Mollohan	Solomon
Hansen	Monson	Spence
Hatcher	Montgomery	Spratt
Hawkins	Moody	St Germain
Hayes	Moore	Staggers
Hefner	Moorhead	Stallings
Hendon	Morrison (CT)	Stark
Henry	Morrison (WA)	Stenholm
Hertel	Mrazek	Stokes
Hiler	Murphy	Strang
Hopkins	Murtha	Stratton
Horton	Myers	Studds
Howard	Natcher	Stump
Hoyer	Neal	Sundquist
Hubbard	Nelson	Sweeney
Hughes	Nichols	Swift
Hunter	Nielson	Swindall
Hutto	Nowak	Synar
Hyde	Oakar	Tallon
Ireland	Oberstar	Tauke
Jacobs	Obey	Tauzin
Jeffords	Olin	Taylor
Jenkins	Ortiz	Thomas (CA)
Johnson	Owens	Thomas (GA)
Jones (NC)	Oxley	Torres
Jones (OK)	Packard	Torricelli
Kanjorski	Panetta	Traficant
Kaptur	Parris	Traxler
Kasich	Pashayan	Valentine
Kastenmeier	Pease	Vander Jagt
Kennelly	Penny	Vento
Kildee	Pepper	Visclosky
Kindness	Perkins	Volkmer
Kleczka	Petri	Vucanovich
Kolbe	Pickle	Walgren
Kolter	Porter	Walker
Kostmayer	Price	Watkins
Kramer	Pursell	Waxman
LaFalce	Quillen	Weaver
Lagomarsino	Rahall	Weber
Lantos	Rangel	Weiss
Latta	Ray	Wheat
Leach (IA)	Regula	Whitehurst
Leath (TX)	Reid	Whitley
Lehman (FL)	Ridge	Whittaker
Whitten	Wise	Yates
Williams	Wolf	Yatron
Wilson	Wolpe	Young (AK)
Wirth	Wortley	Young (FL)
	Wright	Young (MO)
	Wyden	Zschau
	Wylie	

NOT VOTING—29

Akaka	Fowler	Kemp
Barnard	Frost	Lehman (CA)
Barnes	Goodling	Long
Boner (TN)	Gregg	Lundine
Breaux	Grotberg	McKinney
Carney	Hartnett	Richardson
Coleman (MO)	Hillis	Stangeland
Conyers	Holt	Towns
Edgar	Huckaby	Udall
Ford (TN)	Jones (TN)	

□ 1910

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUPPLEMENTAL REPORT TO HOUSE REPORT 99-661

Mr. BROOKS. Mr. Speaker, I ask unanimous consent for the Committee on Government Operations to file a supplemental report to House Report No. 99-661, an oversight report entitled "Counting All the Jobless: Problems With the Official Unemployment Rate."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5177 AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-701) on the resolution (H. Res. 504) waiving certain points of order against consideration of the bill (H.R. 5177) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 415 HANDICAPPED CHILDREN'S PROTECTION ACT OF 1985

Mr. PEPPER, from the Committee on Rules, submitted a privileged

report (Rept. No. 99-702) on the resolution (H. Res. 505) waiving certain points of order against the conference report on the Senate bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorney's fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under the other laws relating to the prohibition of discrimination, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1309, HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-703) on the resolution (H. Res. 506) providing for the consideration of the bill (H.R. 1309) to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R 5205, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-704) on the resolution (H. Res. 507) waiving certain points of order against consideration of the bill (H.R. 5205) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. SMITH of Florida. Mr. Speaker, on July 17, I inadvertently hit the wrong button and, therefore, cast an incorrect vote on rollcall No. 228. I meant to vote "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4886

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4886.

The SPEAKER pro tempore (Mr. LIPINSKI). Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE HONORABLE ROBERT H. MICHEL, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable ROBERT H. MICHEL:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 18, 1986.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a deposition subpoena issued by the United States District Court for the Central District of Illinois. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

OFF WITH HIS HEAD

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. FRANK. Mr. Speaker, Secretary of the Navy Lehman seems to have himself confused with Henry II, with the gentleman, Lawrence Korb, playing the unfortunate role of Becket.

Mr. Korb, who used to be an official of the Defense Department, apparently thought the first amendment applied in the defense contracting industry but King John Lehman certainty cured him of that misapprehension by expressing outrage directly through subordinates to Raytheon that they would allow an American citizen to express opinions on the defense budget which were different than those of the Pentagon. As a result, Mr. Korb was fired.

Mr. Lehman is quoted in the Washington Post as saying, "Gentleman don't do that." I did not realize that first amendment rights on important public matters were considered to be ungentlemanly.

Mr. Lehman went on to say, "I had every hope Raytheon would tell him to shut up and stop testifying against its principal customer."

Mr. Lehman is not simply a commercial customer with a commercial relationship; he is an official of the American Government, and when a former official of the Government wants to express a perfectly legitimate public policy view, to have him fired from his job is a very grave error.

Mr. Lehman says he did not ask that he be fired, but he seemed to be somewhat satified that he was.

At least when Henry II brought about Becket's execution by not entirely meaning it, he was a little bit abashed. From Mr. Lehman having executed the first amendment in this case we do not even get repentance.

WHAT GENTLEMEN DON'T DO

Well thank God we now know more about the criteria for judging the worth of defense products. Here was Raytheon Co., holder of billions in defense contracts, bidding for two more. It had a vice president, Lawrence Korb, former assistant secretary of defense, who had endorsed a report on ways to cut the defense budget. Two assistant Navy secretaries complained to the company, which let Mr. Korb go.

The secretary seeks now to wash his hand of the result of this sordid affair. "Nobody asked for or expected Korb would be fired," he says. "I had every hope Raytheon would tell him to shut up and stop testifying against its principal customer," But, Mr. Lehman goes on, "I applaud the fact that my two secretaries and others complained." He regarded it as a "personal affront" that "a so-called team player would join forces with the opposition. Gentemen don't do that." And though he says he didn't ask his assistants to complain, he remembers saying "How the hell can Raytheon get away with going up, speaking out against the president's bill like that?

Secretary Lehman is better than this. He knows the town, knows the rules, knows what people remember. He has shown in the past that he knows when *not* to reverse course or give in. This is not such a time. He is wrong.

Consider what it is that Mr. Lehman is saying "gentlemen don't do"—that they don't say what they think is the truth. Mr. Korb says that when the report was released, he didn't say anything he hadn't said when he was a member of the administration. Mr. Lehman says darkly that Mr. Korb had joined the "forces of the opposition." Nonsense.

Mr. Korb challenged the Pentagon's budget request. Since when did that come down on a stone tablet?

LEHMAN CALLS KORB'S STAND "PERSONAL AFFRONT"—SECRETARY BACKS AIDES WHOSE COMPLAINTS LED TO EXECUTIVE'S FIRING

(By Molly Moore)

Navy Secretary John F. Lehman Jr. said yesterday that he considered statements by an executive of a major defense contractor who supported cuts in President Reagan's arms program "a personal affront." The secretary said he supported his deputies for complaining to the executive's superiors, which led the company to dismiss Lawrence J. Korb.

Lehman said neither he nor his deputies asked the Raytheon Co. to fire Korb, a vice president of the firm and a former assistant secretary of defense. Raytheon is the nation's third-ranking arms maker and was competing for two major missile contracts at the time Korb was dismissed as vice president.

"Nobody asked for or expected Korb would be fired," Lehman said yesterday in a breakfast meeting with reporters. "I had every hope Raytheon would tell him to shut up and stop testifying against its principal customer."

The controversy was prompted by Korb's support in February of a report urging the military to reorder its priorities and accept a defense budget smaller than Reagan requested.

Lehman said Defense Department officials considered it "a personal affront . . . a

so-called team member would join forces of the opposition. Gentlemen don't do that."

Although Lehman said he never ordered his deputies, Everett Pyatt and Melvyn R. Paisley, to contact Raytheon officials about Korb, "I certainly said things like, 'How the hell can Raytheon get away with going up, speaking out against the president's bill like that?'

Lehman added, "I applaud the fact that my two secretaries and others complained to Raytheon about that kind of behavior."

Korb, who will soon become a dean at the University of Pittsburgh, said yesterday, "I didn't say anything in that [February] press conference that I had not said when I was a member of the administration. I said we ought not to take the easy way out."

Raytheon executives told Korb earlier that he would have to be replaced because of Navy objections, but that he could stay on until September, Korb said last week. Raytheon subsequently announced that Korb was a "special adviser" rather than a vice president.

Lehman stopped short of saying that his deputies threatened to take direct action against Raytheon because of Korb's comments, but said, "You don't have to get specific. It's understood you're unhappy."

TO PROVIDE REIMBURSEMENT TO HEALTH CARE FACILITIES THAT SERVE UNDOCUMENTED ALIEN PATIENTS

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to introduce legislation that would provide for full Federal reimbursement to health care facilities and health care providers that treat undocumented aliens in an emergency situation.

Because the indigent health care problem is so broad and complex, it is necessary to narrow our vision and focus on aspects that we can address at this time. Federal aid to the Southern borderlands is sparse, fragmented, and uncoordinated. Meanwhile, these very same areas suffer from unique and taxing health care access and delivery problems that have their roots in the tricultural environment and geographic isolation in which they exist.

Incidences of death from curable diseases such as polio, diptheria, and tuberculosis coupled with environmental and agricultural pollution, and a general lack of knowledge in terms of proper preventive health care have led to an exacerbation of an already great problem—indigent health care.

Our proximity to the border and the differences in health care perspectives have caused health care facilities along the border to carry a burden which must be addressed by the Federal Government. The indigent health care problem is further complicated by the problem presented in the treatment of undocumented aliens.

Mr. Speaker, my bill is not the solution to the array of problems that plague our borderlands. It is, however, a partial solution to a taxing and urgent problem that is currently hampering the quality of health care access and delivery that both facilities and providers are facing. Every day thousands of indigent undocumented patients enter emergency rooms requiring immediate medical attention. Questions of immigration and financial capabilities should take a back seat when life or death situations present themselves, and it is the duty of each health care provider, facility or physician, to care for the patient. This determination to provide the best health care possible is seriously diluted when remuneration is slow, inadequate, or nonexistent.

My bill provides for 100-percent remuneration for the health care facility and the attending physician that provides care to the indigent, undocumented alien patient in an emergency situation and charges a reasonable fee.

This stopgap measure will help ease the financial burden that many health care providers are facing and allow them to continue to treat those individuals that are in need of emergency care, be they undocumented aliens or citizens in desperate need of help. A measure such as this is beneficial to all parties concerned because it provides the necessary financial backing that health care providers need to continue their services, and it relieves the State and local governments from carrying a burden that should have been carried by the Federal Government.

Undocumented aliens reside in our country as a result of the Federal Government's failure to enforce its laws, the troublesome economic and social atmosphere that emigrating countries are experiencing and the demand for labor by American industry. These people should receive medical care when emergency situations arise, but it is unfair to make the State and local governments bear the costs of these uncontrollable variables. The Federal Government must begin to accept the responsibility.

State and local governments, and the health care providers along the border feel neglected and ignored when the Federal Government makes attempts to enact new health care legislation. Oftentimes, new initatives fail to address indigent health care needs even though this problem exists in an important and growing region of the country.

My bill brings to the forefront the needs of the people of this region and compels the Federal Government to assume its role in the growing national problem of indigent health care when the complicating factor of undocumented aliens and their health care needs are added. The Federal Government needs to address rising health care costs that make it impossible for people to pay for medical care and preventive medicine.

Mr. Speaker, this country has nearly 30 million medically indigent persons that are the direct responsibility of the Federal Government. The financial burden that they place on the State and local governments is becoming incalculable. This amendment is the first step in a long path toward assumption of responsibility for the medically indigent of our country and is necessary in order to support the border health care providers who are facing a crisis in access and delivery because of the excessive indigent and undocumented health care burden.

PRACTICES AND OPERATIONS OF THE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, the Committee on Ways and Means' Subcommittee on Oversight, which I chair, has been reviewing aggressively the practices and operations of the Internal Revenue Service over the past several years. In particular, I have been concerned about the quality and efficiency of the IRS's taxpayer services. I believe that IRS has a basic responsibility to provide meaningful taxpayer assistance to those attempting to voluntarily comply with our tax laws. With an entire new set of tax laws on the horizon next year, it is particularly important that the IRS's Taxpayer Service Division operate as an informed and top-notch operation.

The toll-free Telephone Assistance Program is probably the program a majority of taxpayers depend on, particularly during tax filing season. In order to determine if taxpayers should have confidence in this program, I asked the U.S. General Accounting Office to monitor the timeliness and accuracy of IRS's toll-free telephone assistance during the 1986 filing season. I am today releasing GAO's findings contained in a fact sheet entitled "Tax Administration: Timeliness and Accuracy of IRS Telephone Assistance on Tax Questions."

Clearly, IRS has made significant efforts to improve responsiveness to taxpayers. GAO found that for the majority of calls, taxpayers could expect to be successful in contacting IRS and obtaining accurate answers to their questions. However, there is both good news and bad news. In GAO's findings, the good news is that from January through April 19, 1986, IRS answered over 18.3 million toll-free telephone calls from taxpayers. The bad news is that this amount was fewer than the 19.7 million calls answered during a comparable period in 1985. Again, the good news is that in 1986, taxpayers could reach IRS on the first try in 68

percent of the time. This is more than double the 31-percent rate in a similar GAO survey in 1985.

More good news is that taxpayers received accurate answers 83 percent of the time in 1986. This is higher than in 1985. The bad news is that this accuracy level in 1986 is no better than it was in 1978 and 1982, and actually drops to 63 percent if one discounts "generalized answers" and "referrals to publications."

IRS is on the right track. Improvements have been made. The commitment to accessible, accurate telephone assistance appears firm. The IRS must continue these efforts. Let me state emphatically that the Subcommittee on Oversight will continue to monitor IRS and provide whatever support possible to assure meaningful taxpayer assistance.

Mr. Speaker, I'd like now to speak on a related matter—the overall status of IRS operations and IRS funding levels. A full year has passed since the problem-ridden filing season of 1985. This year's filing season appears to be a success, for which we are all thankful. This year we have not received weekly or daily reports of snafus or total breakdowns in the IRS's computer system. I am encouraged. Taxpayers in this country deserve—and I am committed to ensuring—an efficient, fair, and respectable Internal Revenue Service. This year, IRS has processed more tax returns and issued more refunds, faster and more efficiently, than in prior years. The American public is back in control of their tax returns and refunds due them. Similarly, as I mentioned earlier, I am encouraged about the progress IRS has made in the area of taxpayer telephone assistance.

On the other hand, I think it is shameful that the IRS's inventories of correspondence and adjustments, unpostables, and accounts receivable remain at unmanageable levels. While the returns processing inventory is a vast improvement over last year, problems continue to exist in other fundamental areas of the IRS which affect millions of taxpayers nationwide.

Let me give you some of those numbers. The correspondence and adjustment branch still has an inventory of over 1 million. That means that over a million taxpayers or tax accounts need to be addressed. Today's inventory level is no better than it was several months ago or even last year when I held hearings on this very subject. Something must be done.

The same is true with accounts receivable. I am told that the IRS's accounts receivable is still over $45 billion. This is $45 billion in taxes due and owing the Federal Government that just plainly needs to be collected. There are no appeals or litigation pending on this enormous amount of money. In light of our deficit plight, this is utterly appalling.

This Congress must recognize that the current situation cannot continue, but must be solved. Until the IRS has the resources it needs—staff, computers, telephones, and people to answer them—the IRS is going to continue to solve one problem and create others. Yes; the IRS has done an admirable job in processing returns this year. But what about the rest of the system? What about examinations and collections and training and computers and on and on and on?

On this note, I want to applaud the chairman of the Treasury Appropriations Subcommittee—Congressman ROYBAL—for his outstanding leadership in understanding and doing something about the IRS's funding. His subcommittee, without the support of this administration, took a big step forward in solving the IRS's problem. Last week his subcommittee reported out legislation to provide the IRS with $150 million above the President's fiscal year 1987 budget request. We think this translates to about 3,000 in new staff. In doing so, the Treasury Appropriations Subcommittee has ensured that taxpayers are treated fairly, that taxes due the Government are collected, and that the IRS comes closer to being run like a top-notch business.

While the IRS continues to be funded at a level which is far below its maximum absorption level of $558 million in additional funding—plus 12,490 staff—the Appropriations Subcommittee has stood tall and moved in the right direction. Some day soon, the OMB will wake up and realize that a properly funded IRS is to all taxpayers' advantage, and that $1 spent yields $5—or much more in other areas—in return to the U.S. Treasury. Let's all hope OMB wakes up before irreparable damage is done.

□ 1925

TRIBUTE TO JONATHAN BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was deeply saddened to learn of the recent passing of Jonathan Bingham, one of our distinguished and beloved colleagues a while ago in this House. Jonathan Bingham was an exceptional man of keen intellect and of noble and sensitive appreciation for the problems of his fellowman. In his heart were deep sentiments of compassion for those who suffered. Jonathan Bingham tried to help as much as he could those who needed help. He was a wise counselor in the affairs of his country, a man of discriminating judgment and a sharp sense of how to get things done. He left a legacy of outstanding service to his country and to the Congress. A myriad of great and good causes was a concern of Jonathan Bingham. The last time I saw him was at the Franklin D. Roosevelt Home at Hyde Park during a seminar there. It was related to the Four Freedoms Award which was bestowed upon four others and me about the same time. He was instrumental in the selection of the recipients of that coveted award for dedication to the four freedoms enunciated by President Franklin D. Roosevelt. As usual, he was mentally alert and physically active in all the events related to this meaningful bestowal.

I long cherished a deep and warm friendship with Jonathan Bingham. He was a great American, an eminent scholar, a noble gentleman. Jonathan Bingham made the world better for having been a part of it. He has left memories which we all shall cherish and a record of good deeds which will long live in the history of the Nation and in the hearts of all who knew him.

SECTION 504 OF THE REHABILITATION ACT AND DISCRIMINATION AGAINST PEOPLE WITH DISEASE IN THE WORKPLACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, through an error in the usually reliable office which puts this RECORD together, the documents which I had submitted for insertion in the RECORD along with my special order yesterday on AIDS and discrimination were not, for the most part, included, and some of those which were included were done so in a confusing fashion. The following articles and letters which are relevant to my special order yesterday follow. These are a selection of editorials on the Justice Department's shockingly unfair memorandum; newspaper articles reporting the unhappiness at the Justice Department's position in the medical community; and material from Dr. William Haseltine documenting the Justice Department's carelessness in misquoting him to support one of the most outrageous misstatements in that memorandum.

[From the Washington Post, July 13, 1986]

AIDS AND DISCRIMINATION

Suppose that you are an employer, and you learn that one of your employees is carrying the AIDS virus. Should you fire him to protect other employees' health? The answer to that one is no. No one has ever caught the disease through normal contact in the office, shop or school. But suppose that his presence bothers you and, medical risk or not, you want to get rid of him. There's a federal law prohibiting discrimination against handicapped people. Does it prevent you from firing him? In a memorandum last month the Justice Department argued that it does not.

That memorandum has been met with a great deal of sharp rebuttal, including a column by Charles Krauthammer in this newspaper. On the op-ed page today we publish the department's response to Mr. Krauthammer. Earlier, when the memorandum appeared, we commented on the law and the balance it needs to strike. But the Justice Department is asserting a policy that has deeply troubling implications, especially the status that it would provide for ir-

rational fears of the disease and of the people who are infected. That is the point made by Mr. Krauthammer and, on Friday, by the American Medical Association in a suit now before the Supreme Court.

The Justice Department holds that, when Congress enacted protection for handicapped people, it did not intend to include those who carry communicable diseases. The law forbids discrimination on a long list of grounds—race, gender, age, handicap and so forth—but, Justice says, infection with AIDS or any other disease is not on the list. Since carriers aren't protected, Justice argues, it doesn't make any difference whether people's fears of contracting the disease by casual contact are rational or irrational. And if it's not illegal to discriminate against genuine carriers, then it's not illegal to discriminate against people only suspected of being carriers.

The courts will be asked sooner or later whether the department's reading of the law is correct. Sooner would be better.

In effect, the memorandum provides a rather explicit set of directions for discriminating against not only AIDS victims but anyone who might be suspected of carrying the disease—homosexuals in general. And perhaps, in addition, people afflicted by diseases other than AIDS. The case now before the Supreme Court involves tuberculosis. How about cancer? Until now, the discrimination statute has protected people suffering from it. The Justice Department thinks that it can distinguish between AIDS and cancer, but its logic is not compelling. An employer could claim that he feared catching an employee's cancer. Remember, Justice says that fear of the disease need not be rational.

The memorandum makes the further mistake of suggesting heavily that the danger of infection through casual contact is an open question. The same administration's Department of Health and Human Services quickly pointed out, uneasily, that Justice was not making a medical judgment and was offering no new medical findings. There are only three known ways to get the disease; sexual intercourse, direct introduction of infected blood into a person's bloodstream, and birth from an infected mother. More than 22,000 cases have been diagnosed so far, and not one of them has been shown to have been contracted any other way.

[From the Wichita Eagle-Beacon, June 25, 1986]

AIDS RULING MAKES NO SENSE

The Justice Department memorandum on employer treatment of victims of Acquired Immunity Deficiency Syndrome (AIDS) is based, at best, on ignorance; at worst, on a blatant desire to subvert U.S. civil rights law. Charles J. Cooper, assistant attorney general, used that law in ruling federally funded employers may fire workers with AIDS if the employers fear the syndrome will spread to other workers.

This is ridiculous, as anyone with a modicum of knowledge about this deadly condition well knows. While it's true much remains to be learned about AIDS, the most authoritative medical source available to the federal government, the federal Centers for Disease Control, had this to say in November: "(T)he kind of non-sexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for (AIDS) transmission."

The Public Health Service has said from the beginning the syndrome was transmitted through intimate sexual contact or the sharing of unsterilized needles by drug abusers. There's no evidence it may be spread through casual contact. Understandably, officials of another Cabinet-level department, Health and Human Services, are as baffled as anybody at Mr. Cooper's off-the-wall memorandum.

The ruling tries to differentiate between discrimination against AIDS victims based on the syndrome's "disabling effects" (which would be prohibited under the Rehabilitation Act of 1973) and "an individual's (real or perceived) ability to transmit the disease to others" (which would not be prohibited). We've heard of splitting hairs before, but this tops everything. Worse, the "splitting" would be left to the individual employer, based on whether he thought the condition could be spread—regardless of what the body of medical evidence says.

AIDS victims suffer enough, just coping with a normally fatal disability. To add to that suffering by allowing them to be fired for no defensible reason is the height of official cruelty.

[From the New York Times, June 26, 1986]

A LICENSE TO HOUND AIDS VICTIMS

Error and meanness suffuse the opinion on AIDS issued last week by Chairles J. Cooper, head of the Justice Department's Office of Legal Counsel. His ruling, based on a mistaken reading of medical opinion about transmissibility of the disease, invites employers to dismiss people who have it, or who carry the AIDS virus, simply by invoking their fear of the disease being spread.

What humane behavior that is going to provoke. Besides its needless cruelty to victims, the ruling will actually foster spread of the disease by discouraging people in risk groups from taking the AIDS antibody test, as recommended by the Public Health Service.

Mr. Cooper's panicky ruling applies to the executive branch and to any employer receiving Federal funds—though many state laws protecting the handicapped will still protect AIDS victims. But there is no medical reason for any employer to dismiss those who have the disease or who have been exposed to the virus. Because the AIDS virus is transmitted in blood or semen, the disease is spread by needles or intimate contact, not by the casual contact of the workplace.

Even so, AIDS victims often become "social pariahs, irrationally ostracized by their communities because of medically baseless fears of contagion." So said a draft opinion prepared in April by Stewart Oneglia of the Justice Department's Civil Rights Division. That's why the department has been inclined to view AIDS victims as handicapped individuals entitled, under the 1973 Rehabilitation Act, to protection against arbitrary dismissal.

Enter Mr. Cooper, undoing the draft opinion. He concedes that AIDS victims are handicapped but contrives a loophole for baseless fears and ostracism. It's not a handicap, he argues, to be capable of spreading a disease. So employers can dismiss anyone whom they believe, rightly, wrongly or irrationally, to be spreading AIDS. The Rehabilitation Act, he says, is "certainly not a general prohibition against irrational decision making by employers."

In truth, Mr. Cooper doesn't think dismissing an AIDS victim is so irrational. The statute, he notes, "does not restrict measures taken to prevent the spread of the disease." Yet according to all evidence, AIDS is not spread casually. Mr. Cooper cites only a single medical opinion to the contrary, a statement attributed to William Haseltine of Harvard that AIDS could be transmitted through saliva and that "there are sure to be cases . . . of proved transmission through casual contact." But that statement, quoted in an article on The Times's Op-Ed page last March by Alan Dershowitz, misrepresented Mr. Haseltine's views, as Mr. Dershowitz later explained in a published letter.

No one should want to curb the powers of public health officials to control a disease as deadly as AIDS. But to throw AIDS victims out of their jobs is a capitulation to unwarranted fear that protects no one. By his muddled insinuations and prejudiced reading of the medical evidence, Mr. Cooper is inciting fear. Worse, he provides a powerful incentive for those in the known risk groups not to take the AIDS antibody test. A positive result could, under his ruling, cost them their jobs.

So far some 20,000 cases of AIDS have occurred in the United States. None are known to have been spread by casual contact. Until there is one, there's no justification for Mr. Cooper's opinion.

[From the Seattle Post-Intelligencer, June 30, 1986]

RIGHTS AND AIDS

The Justice Department's decision last week to narrow the rights of AIDS victims against discrimination from employers is a grievous reversal of the federal government's longstanding role as protector of individual civil rights.

Attorney General Edwin Meese's staff produced a cleverly-worded decision which declares that persons with AIDS may indeed be discriminated against by employers or public health officials if such discriminatory acts are taken to prevent the spread of the fatal disease. Firing an employee would be illegal if it was done only under a "pretext" of halting the spread of AIDS, the Justice Department insists.

That's a lawyer's smokescreen. What the administration decision does is to shift the burden of proof from employer to AIDS sufferer. Last September, a federal appeals court ruled that persons with AIDS could take refuge under the federal civil-rights law provisions protecting handicapped persons from discrimination. Legal fine print notwithstanding, the Justice Department is trying to overturn that judicial decision by executive fiat, and seems intent on throwing AIDS victims to the wolves, despite credible medical evidence that AIDS cannot be contracted by casual contact.

If this decision is not reversed within the administration or tossed out by the federal judiciary, the Meese decision will fan the flames of anti-AIDS hysteria that would impede any effective educational campaign to control the disease.

And the Meese decision would also have an unintended consequence totally opposite to the public-health goal of controlling AIDS: Faced with the threat of administration-sanctioned employment loss (and termination of health-insurance benefits), what potential AIDS patient would be so foolish as to expose himself to such legalized discrimination by stepping forward for screening tests and other visible activity to determine whether or not he did, or did not, face the threat of AIDS?

Fortunately, the state Human Rights Commission is following the judicial interpretation of AIDS rather than the Meese revision: At a hearing in Spokane the com-

mission staff presented draft AIDS policies that will provide firm protection for AIDS victims from discrimination in employment, insurance, real estate, public accommodations and credit applications. The rights commission is expected to enact this policy in September.

Unlike the U.S. Justice Department, state human rights officials have a clear idea of the transcendent issue—protecting those suffering a ruthless illness from hysteria.

[From the New Republic, July 14 and 21, 1986]

The Justice Department, making a vicious little distinction, has held that federal rules forbidding discrimination against the handicapped don't apply to AIDS victims, provided that employers are motivated by concern about the spread of the disease rather than by prejudice. The department is unmoved by the fact that there is absolutely no evidence that AIDS can be spread by casual contact in the workplace. "Consider an employer who has the bizarre belief that persons with curly hair make better employees than persons with straight hair," opines Assistant Attorney General Charles Cooper." [The law] does not prohibit the employer from making hiring decisions based on this wholly unreasonable basis." Maybe so. But if straight-haired people were being widely persecuted for no rational reason—at a time when they were also dying of a fatal disease, no less—a reasonable government might be expected to do more than merely point out that this persecution is not illegal. But, far from attempting to calm needless fears, the Reagan administration seems to take pleasure in encouraging AIDS paranoia. President Reagan himself, on June 23, urged citizens to store their own blood to avoid catching AIDS from a blood transfusion. This is absurd. Out of 18 million pints of blood used in transfusions since March 1985, when AIDS testing began, only one person has been exposed to the AIDS virus.

[From the Washington Post, June 25, 1986]

JUSTICE AND AIDS

In response to a request from the Department of Health and Human Services, the Justice Department has issued a thoughtful memorandum on the question of disability rights and AIDS. HHS had received complaints from workers employed in hospitals and clinics alleging discrimination because they have AIDS or AIDS-related complex or because they test positive for AIDS antibodies. The question posed to the Justice Department was this: how does Section 504 of the Rehabilitation Act of 1973, which prohibits, in federally funded programs, discrimination based solely on handicap, relate to AIDS?

This question requires that two deeply held values be balanced against each other. AIDS patients deserve compassionate care and protection against discrimination based solely on their affliction. At the same time, the public justifiably relies on the government, as in the case of all contagious diseases, to take steps to contain its spread. The Justice Department memorandum reconciles this apparent conflict by advising that while an AIDS victim cannot be discriminated against solely because of his handicap, the law does not prohibit discrimination on grounds that his disease might be transmitted to others.

Is it reasonable for an employer or coworker to be afraid of an AIDS victim when it is so difficult to contract the disease? There are no certainties with AIDS, only probabilities. As recently as last November, for example, the Centers for Disease Control reported evidence of transmission only by blood or semen. Now scientists speculate that breast milk, saliva and other body fluids may be implicated. Estimates of the time the virus remains active outside the body have been revised upward. And researchers are still not certain how the disease is transmitted in such places as Africa and Haiti, where it is far more widespread than here.

The probabilities of contracting AIDS through casual contact remain minuscule but, as the Justice Department memorandum notes, "the extent of the harm that would be caused by a contagious disease bears an inverse relationship to the degree of risk of transmission that a normal person . . . can be required, to assume." A cold is easily transmitted, but its symptoms are temporary and relatively mild, so most people would not go to extraordinary lengths to avoid getting one. AIDS, though, is incurable, painful and invariably fatal. Medical knowledge about the disease and its transmission is incomplete. In this situation most people will go to extraordinary lengths to avoid risk of infection.

The Justice Department's interpretation of the law will surely be tested in court. But the memorandum is a good faith analysis of an extremely difficult legal and human problem. Now efforts must be accelerated to find other ways to help those who may not be able to rely on the 1973 law for protection.

[From the New York Times, July 12, 1986]

A.M.A. ASSAILS DECISION OF JUSTICE DEPARTMENT ON AIDS

(By Robert Pear)

WASHINGTON, July 11.—The American Medical Association charged today that a Justice Department decision permitting certain types of job discrimination against people with AIDS was legally incorrect and unjustified.

In a legal brief filed with the Supreme Court, the association said that the department's analysis of the civil rights of AIDS victims was "incorrect as a matter of law." The brief was filed in a case that did not involve AIDS, but the medical association said the Court's decision could set a precedent that would affect people with acquired immune deficiency syndrome.

The Justice Department's ruling had already drawn criticism from some health officials and homosexual rights organizations.

The dispute involves conflicting interpretations of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any program or activity that receives Federal financial assistance.

Assistant Attorney General Charles J. Cooper ruled last month that the "disabling effects' of AIDS were a handicap and that employers could not discriminate against victims of the fatal immune disorder merely because they suffered from these effects. But he said that a person's "ability to transmit the disease to others is not a handicap within the meaning of the statute."

He said the law did not prohibit the dismissal of AIDS victims based on "fear of contagion," even if the fear is irrational.

The American Medical Association rejected this view, saying: "Employment decisions about AIDS victims, like decisions about anyone handicapped by a communicable disease, should be based on reasonable medical judgments about their handicap and their risk to others, and not, as the Justice Department opinion would allow, on irrational fear of the handicapped individual's ability to communicate the disease."

The United States Public Health Service has repeatedly said that the virus that causes AIDS, a deadly disease that cripples the body's defense against infection, is not spread through casual contact in the workplace, schools or similar settings.

The medical association has more than 280,000 physicians and medical students as members. The legal brief, prepared by Benjamin W. Heineman Jr. and Carter G. Phillips, was filed in a case involving a teacher who was dismissed from her job in Nassau County, Fla., after suffering three relapses of tuberculosis.

The United States Court of Appeals for the 11th Circuit concluded in September that tuberculosis constituted a handicap under the 1973 law because Congress had given no indication that it meant to exclude contagious diseases from coverage. The county school board appealed to the Supreme Court.

[From the Harvard Crimson, Feb. 24, 1986]

To the Editors of The Crimson:

The coverage of The Crimson on the presentation to the Cambridge Forum "AIDS—The Battle Ahead" (Feb. 20) contains errors and misrepresents the central argument by citation out of context.

Regarding the number of AIDS cases: The estimate appeared in the New England Journal of Medicine (Nov. 1985) that about 1,750,000 people are infested with the AIDS virus. This was reported as 2,000,000 people have AIDS.

On the issue of contamination by casual content: The lecture emphasized that transmission by means other than sexual, maternal, blood transfusion, organ donation or intravenous drug abuse was so low as not to be measureable. However, in the lecture it was argued that to assure the public that there would be transmission by any other route was to invite future trouble as the attendant press coverage of such an event would be damaging. The argument made was that even if documented such cases would not alter the overwhemling fact that infection is not casually transmitted. The photo caption "AIDS can probably be contracted through casual contract" may provide a sensational effect, but is a dangerous distortion of the presentation—excactly the type of misprecception warned against!

On the issue of transmission of body fluids: A case was made that laboratory studies of the virus, such as which fluids contain virus or which cells can be infected, do not permit extrapolation to predict transmission under natural circumstances. The finding that tears sometimes contain virus does not mean that the virus is transmitted by tears. Knowledge regarding transmission can only be acquired using the terms of epidemology—the observation is that several millions days of contact between AIDS patients and health care providers have not resulted in infection other than by needle stick.

Regarding the issue of how many people may be infected: The question was asked "Is it conceivable that 50 million Americans may be infected in the next five to ten years?" The answer was that it is conceivable but that at present there are too many uncertainties to chart the future course of infection.

The article accurately cites my plea for education about the disease. Such education is needed so that well reasoned decisions based on accurate infomation may be reached. This task will require a thouguhful effort, for as the description of the Cambridge Forum presentation illustrates, a call for reason may be easily mistranslated by over-eager and sensation-seeking press.

WILLIAM HASELTINE.

The Crimson acknowledge and regrets the errors.

[From the New York Times, April 5, 1986]

ON TRANSMISSION

CAMBRIDGE, MA,
April 1, 1986.

TO THE EDITOR: Dr. William Haseltine, whose comments I quoted in my Op-Ed article (March 18), has asked me to clarify his current views on the transmissibility of AIDS.

Although laboratory research establishes that it is theoretically possible, as Dr. Haseltine said, for AIDS to be transmitted by saliva and casual contact, epidemiological data strongly suggest that infection has very rarely, if ever, been casually transmitted in this country. Dr. Haseltine urges continued education about the disease.

ALAN M. DERSHOWITZ.

The writer is a professor at Harvard Law School.

DANA-FARBER CANCER INSTITUTE,
Boston, MA, June 20, 1986.

U.S. DEPARTMENT OF JUSTICE,
Office of Legal Counsel, Office of the Assistant Attorney General, Washington, DC.

SIRS: Regarding your memorandum re: "Application of Section 504 of the Rehabilitation Act to Persons with AIDS, AIDS-Related Complex, or Infection with the AIDS Virus".

Remarks attributed to me are cited (see page 13 of the above) in summation of arguments relating to the possibility that the AIDS virus may be transmitted by means other than intimate contact. The remarks as cited misrepresent my views. To my knowledge there is no evidence that transmission of the AIDS virus other than by intimate sexual contact or exchange of body fluids and/or organs has resulted in infection. In my view what is called casual transmission such as is likely to occur in workplace settings will never pose a significant risk to uninfected co-workers. The evidence that such transmission does not occur is drawn from studies of families in which one member is infected and studies of health care workers who treat AIDS patients. These studies demonstrate that "casual transmission" has not and will not occur to any significant extent.

In this regard I also bring to your attention that both Mr. Dershowitz (who cited these remarks in a New York Times "Op-Ed") and I am on record as stating that the remarks quoted in the New York Times and originally in the Harvard Crimson represent a distortion of my views. A letter to this effect from Mr. Dershowitz appeared in the New York Times (April 5, 1986) and a letter from me appeared in the Harvard Crimson (February 24, 1986) (See appended). The Harvard Crimson letter was followed by an editorial note. The Harvard Crimson acknowledges and regrets these errors.

I request that you correct this error.

Sincerely,

WILLIAM A. HASELTIME, Ph.D.,
Chief, Laboratory of Biochemical Pharmacology.

[From the Washington Post, July 13, 1986]

JUSTICE: THE AIDS MEMO

(By Charles J. Cooper)

Criticism of the Justice Department's June 20 legal opinion concerning the applicability of the federal handicap discrimination laws to victims or carriers of AIDS has rested primarily on the misconception that our opinion rendered a medical judgment concerning the risk of casual transmission of the AIDS virus. Charles Krauthammer, to his credit, entirely avoids this ubiquitous error in his June 27 op-ed article, "Fear Him and Fire Him." Krauthammer's article, however, reflects not only a misunderstanding of our legal analysis, but, more important, a misconception of the nature and purpose of our nation's antidiscrimination laws.

Our opinion examined section 504 of the 1973 Rehabilitation Act, which protects qualified handicapped persons from discrimination in federally funded programs "solely by reason of * * * handicap." As Krauthammer correctly notes, we concluded that section 504 prohibits distinctions based upon the disabling effects of AIDS on its victims, but does not restrict measures taken to prevent the spread of AIDS—whether or not concern about its spread is medically justified.

According to Krauthammer, an employee infected with AIDS is harmless, and concern about the spread of the disease in the work place in therefore irrational. Predicting "AIDS firings left and right," Krauthammer argues that the "general effect" of our legal opinion "is to debase the idea underlying the antidiscrimination laws," the point of which, according to Krauthammer, is to require us to "mix with others whom [we] irrationally dislike or fear."

The federal antidiscrimination laws, however, simply cannot carry the load that Krauthammer heaps upon them. Insofar as these laws are concerned, an employer is free to hire and fire whomever he pleases, so long as his decisions are not based on certain prohibited criteria, such as race, religion, sex or (if he receives federal funding) handicap. The federal antidiscrimination laws are indifferent to all other employment decisions, whether they be good or bad, noble or ignoble, wise or foolish, well-reasoned or irrational. In free societies, that which is not by law forbidden is permitted.

Accordingly, the question posed under section 504 and addressed in our opinion is not whether measures taken to prevent the spread of AIDS in federally funded programs are justified—medically or otherwise—but whether such measures are handicap-based within the meaning of the statute. Close examination of section 504's language and legislative history convinces us that they are not.

Section 504 defines a "handicapped person" as a person who has "a physical or mental impairment which substantially limits one or more * * * major life activities." A key premise of our opinion, which Krauthammer nowhere contests, is that asymptomatic carriers—persons who carry the AIDS virus (and are therefore able to transmit it) but suffer none of the disease's disabling physical effects—do not have a physical impairment and are therefore not handicapped under the act. The vast majority of persons infected with the AIDS virus are in this class. Because they are not handicapped, they plainly do not come within the protection of a statute that protects only the handicapped. Section 504 therefore simply does not reach an asymptomatic carrier's claim that he was discriminated against on the basis of a fear of contagion, whether medically justified or not.

Once this quite unremarkable point is understood, it follows that section 504 likewise does not reach such a claim by a person who is physically impaired (i.e., handicapped) by AIDS. Consider again the asymptomatic AIDS carrier and assume that he has an unrelated handicap—blindness, for example. Assume also that he, like all other asymptomatic carriers, is excluded from a federally funded program because of concern about the possible spread of the disease. Although he is handicapped, he clearly was not discriminated against by reason of his handicap; had he not been blind, he nonetheless would have been excluded from the program. Because his exclusion was not based upon his handicap, it plainly does not violate section 504.

The analysis and result are the same when the carrier's handicap is caused by the disabling effects of AIDS. Like blindness, the physical impairments caused by AIDS are entirely irrelevant to a decision to exclude the AIDS victim based on concern that the disease will spread. Had the carrier of the virus not been disabled by the disease (i.e., had he been asymptomatic), he nonetheless would have been excluded.

Though Mr. Krauthammer characterizes as "nonsense" and "casuistry" our conclusion that section 504 does not reach measures taken to prevent the spread of AIDS, he doesn't even disclose, let alone answer, the reasoning behind it. And his contrary conclusion appears to rest entirely on the following logic; concerns about the spread of AIDS in the work place are irrational ergo, employment decisions based upon such concerns are handicap-based and, hence, unlawful under section 504. The unspoken major premise of this syllogism is that all irrational employment decisions violate the antidiscrimination laws. But, again, the federal antidiscrimination laws simply do not prohibit all decisions that some find irrational or otherwise objectionable. And the surest way to debase them is to interpret them as if they did, for, to borrow Krauthammer's phrase: "the line of litigants invoking such claims would be endless," and the judges would make all the decisions.

IN TRIBUTE TO MAJOR GENERAL CLIFFORD H. REES, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. WRIGHT] is recognized for 5 minutes.

Mr. WRIGHT. Mr. Speaker, I take time today to publicly acknowledge the distinguished service rendered to this body by Maj. Gen. Clifford H. Rees, Jr. General Rees has served for the last 4 years as Director of Air Force Legislative Liaison and is soon to leave us to take command of the Air Defense Weapons Center at Tyndall AFB, Fl. He has been instrumental in providing complete and accurate information on the crucial defense issues we must consider in the Congress. As never before, we must have all the facts available to make informed decisions in constructing a balanced defense that ensures both quality people and quality forces to provide a credible deterrent. The accelerated responsiveness that General Rees instilled in Legislative Liaison has benefited

both we in the Congress and the people of our Nation.

Though the focus of much of the work General Rees has directed necessarily is concerned with the larger issues of national security, weapons systems, and technology, he has never lost sight of the individual serviceman. People are the foundation of our Nation's fighting force. Without highly qualified, dedicated men and women, even the most sophisticated weaponry would not provide the deterrent force necessary for this Nation to remain at peace. General Rees has performed an invaluable service in ensuring the most current and accurate information is available on the quality of life issues that affect our fighting men and women. His concern is mirrored in the fair and prompt handling of the thousands of inquiries we send him each year concerning our constituents. The comprehensive replies we receive greatly increase our understanding of Air Force policies.

We have indeed been fortunate to have Ted Rees as our liaison to the Air Force. He has served with distinctiion in a demanding and highly visible position. He has earned our gratitude for the contributions he has made to the defense of our country. I know my colleagues join me in wishing Ted continued success in his new assignment and in thanking him for a job well done.

AMERICAN PLANTS ARE CLOSING THEIR DOORS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 30 minutes.

Mrs. BENTLEY. Mr. Speaker, this morning I had what is becoming an unusual opportunity to speak at the dedication of a new plant building of an American corporation.

It is a sad commentary that this is becoming a unique experience in my district, as well as across the United States, daily because daily American plants in this country are closing their doors rather than opening them.

I would like to share with you some of the remarks that I made on this grand day, this unusual day, in the Second District of Maryland.

I pointed out that in a time of great stress on the old line basic industries of the country, it is a hopeful thing to see Martin Marietta's commitment to the future of this community and this Nation in the construction of a new facility.

At one point during World War II, that company employed 53,000 persons in the district. In the post-war years it dropped all the way down to 800, and now it is approaching the 5,000-person mark. Quite a difference.

It would have to be a scrappy organization to function, to take the ups and downs as it has, scrappy from the date you started, October 1929, to the standoff of a takeover bid, when most American companies capitulated to rising "merger mania" it fought, trimmed sails when the wind began to blow, adjusted and survived through some very turbulent times in our history.

I congratulate you on your long record of success. Increasingly in the Congress, I am being made aware, almost every day, of the demands and the brains, and yes, the courage it takes to run an American business successfully in these times.

Charles Dickens opens his wonderful book on the French Revolution—"A Tale of Two Cities" with the statement—"It was the best of times, it was the worst of times."

October 1929 was one of those times in our history. The stock market crash signalled a major restructuring of the basic American system. As the economic institutions of the country came tumbling down, everything was in confusion and up for grabs—economic and political power could be seized by the certain and the strong.

And it was!

It is this opportunity which occurs at a time of great change and dislocation in society that Dickens was referring to in his opening line. To paraphrase—what is the worst of times, for some, can be made the best of times for those with vision and daring.

The Glenn L. Martin Co. obviously seized the moment to build a great company. And continued on through the demands of the War years and the postwar years of disarmament into the years of our Nation's high tech future.

I am so heartened by your history and your performance, because I feel that we are again at a time of severe economic dislocation in our Nation. The great economic institutions of the postwar years are going down. Major banking houses are in danger. Smokestack industries, the base of the industrial revolution which made this Nation rich and great, are faltering.

Change is not only in the wind, it is also appearing in the statistics of many corporate reports, in the debt figures of the Government, in the balance of payment numbers—American dollars flowing abroad.

The current economic situation demands the best of all of us.

We must be inventive as this company has been. There are a host of new technologies which need to be researched which—need to be applied. The economic problems of this Nation, of any nation, will respond to new, innovative products.

The invention of the gasoline engine built the industries which made this country the wealthiest the world has ever seen. We now have the possibility of another engine which could revolutionize the energy and agriculture industries. Great work is being done on the ceramic engine which can run on peanut oil with almost 100 percent fuel efficiency.

Steel mills, which incidentally are a major market for ceramics, should be tooling up to extend their business into the ceramics field. The coating of steel with a thin layer of ceramics would guarantee a product totally free of any of the corrosive action of water, impervious to temperatures which would melt the base product.

Ceramics, like steel, is poured and molded. It can also be bonded to many products other than steel. It truly is a product for the 21st century. And, we developed it.

But, we are not leading the world in the research of applications for it. Japan is. Germany and France are.

At a time when our Government, this Congress, cut $8 million out of the budget of the National Bureau of Standards for R&D on high tech ceramics, the Japanese were allocating $135 million for the same research and Germany and France jointly were developing a $137 million research venture at Grenoble, France.

The commitment to the future of this country must be seized by the bold and the dedicated. The American people must be convinced that investment in business R&D is an investment not only in future job security for their children and the grandchildren, but—also—in the security of this Nation's defense.

A deindustrialized America cannot be the leader of the free world in the year 2000. It is good that we are armed with missiles and supersonic planes against the Russian threat to world peace. But, if we must travel to Southeast Asia—right into the Bear's backyard for our steel and our nuts and bolts and ballbearings to make the big hardware—how safe are we?

Right now, this morning, our dependence upon the Pacific Rim countries for strategic components of the products which are manufactured makes it more likely than ever that we will have to use what we have on hand, to fight any attack, because our supply lines are going to be so vulnerable to a growing Russian fleet.

□ 1935

The Russians, now being supplied out of Vietnam and the Kurils, coming at Japan's oil being shipped from the Middle East—developing airfields and missile sites within 2 air hours of Japan and Korea.

Foreign scourcing of strategic supplies is cheaper only on the original bill of sale. Dollars sent out of this country to buy "cheaper" manufactured goods are dollars and jobs taken away from our communities and our

country. A Defense dollar—the taxpayers' dollar—spent inside the country returns 46 cents in taxes and benefits to the State where it is spent—which doesn't count in the multiplier effect on the local economy of greater purchasing of goods and services.

Think about how many McDonald hamburger stands it takes to replace one producing manufacturing plant on the tax rolls of Baltimore County? How many law offices or brokerage offices?

In like manner, at an average of $7.60 an hour for service jobs (which average includes such professionals as doctors and lawyers) versus an average of $9.35 per hour for manufacturing jobs—how many service jobs will a family have to hold down to have the purchasing power, or the taxable income, that one wage earner in the manufacturing sector had in the mid 1970's?

Even some economists are now agreeing. There is no possible way in the world that a service economy can suffice to create the wealth or the well paying jobs necessary to sustain the demands of our society or our needed taxing base.

A sound defense is not only superior weaponry, its purpose is to maintain the sovereignty of the country—the freedom of the country. If we are at the mercy of foreign pricing or foreign quality control of component parts are we not losing the freedom that we are supposedly defending?

The recent, and growing concern, over counterfeit bolts flooding the country is but one clear cut case which illustrates the risk of dependence on foreign sources. Big bolts—necessary for missiles and airplanes—nuclear plants and bridges—are coming into this country with wrong markings. Codes, which by U.S. law signify content for safe uses, have been falsified. The only recourse we have against these frauds is—to begin to rebuild supply sources inside our own country.

It is time to think about a Marshall Plan for America. The New York Times in a lead story on July 14 says that the Federal Reserve, the administration, and most economists "were caught unaware by the rising power of foreign economies over the American economy."

I'm tempted to say something very rude about this statement. For over 3 years, from every stage and stump I have spoken out loudly against the impact of imports upon our national security.

The big war cannot be won if foreign nations have power over our economy.

Wars have always been fought to get the wealth of another nation or nations. We are shipping our wealth off—in some cases to former enemies—in exchange for counterfeit bolts, bolts of cloth, radios, televisions, cameras—pottage?

How different are we from the Biblical Esau who sold his birthright to his brother for a pottage of lentils?

Our birthright, our power was given to us by the industrial revolution and we are selling it off at great risk to our national freedom.

I am committed to a program which will recognize this clear and present danger. To prioritizing the resources of this country for melding old line industries to the high tech future. For contributing to the kind of leadership which will take us into the year 2000 as the continuing economic giant of the West.

It will be an effort which must involve the best of our minds—the most innovative of our thinkers working with a will to keep our place in the sun for future generations.

I believe such management can contribute to the knowledge necessary to bring the old world into the new and we need to be working toward that rebirth. As a Congresswoman, I want everyone's help. I am enlisting all of you for America, today.

Martin Marietta has proved its ability to face a changing world, a changed world with the skills necessary to adapt and grow into new roles, new ways. Martin Marietta has done it and this dedication today is celebration of how well it has been done.

Thanks for inviting me! It is my pleasure and Godspeed to your future for with it lies America's future.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of Florida) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. PICKLE, for 5 minutes, today.
Mr. FRANK, for 5 minutes, today.
Mr. WRIGHT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SLAUGHTER) and to include extraneous matter:)

Mr. COUGHLIN.
Mrs. SMITH of Nebraska.
Mr. GILMAN in three instances.
Mr. BROOMFIELD in three instances.
Mr. MICHEL in two instances.
Mr. CONTE.
Mrs. ROUKEMA.
Mr. GEKAS.
Mr. LAGOMARSINO in two instances.
Mr. COBEY.
Mr. ROGERS.
Mr. COATS in two instances.
Mr. CLINGER.
Mr. SOLOMON.
Mr. SCHAEFER.

(The following Members (at the request of Mr. SMITH of Florida) and to include extraneous matter:)

Mr. GARCIA.
Mr. MONTGOMERY.
Mr. SOLARZ.
Mr. TALLON in three instances.
Mr. LEATH of Texas.
Mr. UDALL.
Mr. FLORIO in two instances.
Mr. HOYER.
Mrs. LONG.
Mr. SOLARZ in two instances.
Mr. JACOBS.
Mr. RANGEL.
Mr. MOODY.
Mrs. SCHROEDER.
Mr. LIPINSKI.
Mr. HERTEL of Michigan in two instances.
Mr. BRYANT.
Mr. COLEMAN of Texas.
Mr. RODINO.
Mr. BORSKI.
Mr. RICHARDSON in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2245. An act to authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4409. An Act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March"; and

H.J. Res. 672. Joint resolution to ratify the February 1, 1986, sequestration order of the President for fiscal year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601

and 606 of the Outer Continental Shelf Lands Act Amendments of 1978;

S. 1874. An act to authorize quality educational programs for the deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes;

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; and

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month".

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 23, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3914. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act; to the Committee on Agriculture.

3915. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-188, "Dr. Cleveland Williams Medical Professional Building Project Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3916. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-189, "United House of Prayer for All People Equitable Tax Relief Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3917. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-190, "Hadley Memorial Hospital Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3918. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-200, "Shaw/Manhattan Facility Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3919. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-191, "LCI, Ltd., Project Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3920. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-201, "Self-Inspection of Heating and Hot Water Systems Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3921. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-192, "Francis Anderson Gregory Regional Branch Library Designation Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3922. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-204, "Low-Level Radioactive Waste Policy Amendments Act of 1985 Regional Compact Compliance Temporary Act of 1986," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3923. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-193, "Home Purchase Assistance Fund Act Amendments Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3924. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-194, "Delinquent Home Mortgage Payments Fund Act of 1984 Amendments of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3925. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-205, "District of Columbia Retirement Reform Administrative Exemptions Amendment Temporary Act of 1986," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3926. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-195, "Real Property Tax Rates for Tax Year 1987 Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3927. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-196, "Maurice Limited Partnership Project Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3928. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-198, "Free Clinic Assistance Program Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3929. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-206, "Air Conditioning Maintenance Amendment Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3930. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-199, "The Howard University Revenue Bond Act of 1986," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3931. A letter from the Secretary, Federal Trade Commission, transmitting an undate to the report on current practices and methods of cigarette advertising and promotion which was originally submitted June 18, 1985 (EC1531), pursuant to 15 U.S.C. 1337(b); to the Committee on Energy and Commerce.

3932. A letter from the Acting Chairman, Federal Energy Regulatory Commission, transmitting a report on compliance with the laws relating to open meetings of agencies of the Government [Government in the Sunshine Act], pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3933. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notification of a proposed new records systems for the Health Care Financing Administration [HCFA] Employee Building Pass Files, System No. 09-70-3002, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3934. A letter from the Secretary of the Interior, transmitting notification regarding leasing systems for the Western Gulf of Mexico, sale 105, scheduled to be held in August 1986, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

3935. A letter from the Deputy Assistant Secretary of Defense, transmitting a draft of proposed legislation to amend Public Law 94-423 relating to the Oroville-Tonasket Unit, Chief Joseph Dam Project, and for other purposes; to the Committee on Interior and Insular Affairs.

3936. A letter from the Acting Special Counsel, Merit System Protection Board, transmitting the findings and conclusion of the Secretary of Defense's investigation into allegations of the overpricing of components being sold to the Defense Electronics Supply Center by Koehlke Components, Inc. pursuant to 5 U.S.C. 1206(b)(5)(A) (92 Stat. 1125); to the Committee on Post Office and Civil Service.

3937. A letter from the Acting Deputy Assistant Secretary (Logistics and Communications), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the grounds maintenance function at Beale Air Force Base, CA, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Armed Services and Appropriations.

3938. A letter from the Acting Deputy Assistant Secretary (Logistics and Communications), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the grounds maintenance function at MacDill Air Force Base, FL, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Armed Services and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. H. Res. 504. A resolution waiving certain points of order against consideration of H.R. 5177, a bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes; (Rept. 99-701). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 505. A resolution waiving certain points of order against consideration of the conference report on S. 415, to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws, relating to the prohibition of discrimination (Rept. 99-702). Referred to the House Calendar.

Mr. FROST: Committee on Rules. H. Res. 506. A resolution providing for the consideration of H.R. 1309, a bill to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes (Rept. 99-703). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. H. Res. 507. A resolution waiving certain points of order against H.R. 5205, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-704). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MATSUI (for himself, Mrs. ROUKEMA, Mr. FOWLER, Mr. DAUB, Mr. ROYBAL, Mr. WYDEN, Mrs. JOHNSON, Mr. ROWLAND of Georgia, Mr. FROST, Mr. RINALDO, Mrs. KENNELLY, and Mr. JONES of Oklahoma):

H.R. 5214. A bill to amend title XVIII of the Social Security Act to modify the limitations of payment for home health services under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BROWN of California (for himself, Mr. LEWIS of California, and Mr. MCCANDLESS):

H.R. 5215. A bill to authorize the construction by the Secretary of Agriculture of a salinity laboratory at Riverside, CA; to the Committee on Agriculture.

By Mr. COLEMAN of Texas:

H.R. 5216. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to reimburse physicians and medical facilities which give emergency treatment to certain undocumented aliens and alien commuter workers; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself, Mr. MCCOLLUM, Mr. RODINO, Mr. MAZZOLI, Mr. MORRISON of Connecticut, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. STAGGERS, Mr. FISH, Mr. LUNGREN, Mr. SHAW, and Mr. GEKAS):

H.R. 5217. A bill to amend title 18 of the United States Code to prohibit certain methods of concealing the proceeds of crime, and for other purposes; to the Committee on the Judiciary.

By Mrs. LONG (for herself, Mr. DYMALLY, Mr. TAYLOR, Mr. HORTON, Mr. ACKERMAN, Ms. OAKAR, Mr. DE LUGO, Mr. YOUNG of Alaska, Mr. CLAY, Mr. GARCIA, Mr. GILMAN, Mrs. SCHROEDER, Mr. UDALL, Mr. MCCLOSKEY, and Mr. HOYER):

H.R. 5218. A bill to amend title 5, United States Code, to provide that certain individuals be accorded competitive status for purposes of transferring to the competitive service; to the Committee on Post Office and Civil Service.

By Mr. MOODY:

H.R. 5219. A bill to amend provisions of title 49, United States Code, to provide for a more competitive interstate household goods transport sector; to the Committee on Public Works and Transportation.

By Mr. BARNARD:

H.R. 5220. A bill to authorize depository institution holding companies to engage in certain financial, securities, real estate and insurance activities, to provide for the safe and sound operation of depository institutions and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. RODINO (by request):

H.R. 5221. A bill to amend the Immigration and Nationality Act to provide that aliens who were killed while serving in the Armed Forces of the United States during military operations of the Vietnam conflict may be considered to have been citizens of the United States at the time of such aliens' death; to the Committee on the Judiciary.

By Mr. UDALL (for himself, and Mr. WAXMAN):

H.R. 5222. A bill to authorize and amend the Indian Health Care Improvement Act, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. GARCIA (for himself, Mr. HANSEN, Mr. SCHEUER, Mr. YOUNG of Alaska, Mr. CLAY, Mr. PARRIS, and Mr. ACKERMAN):

H.J. Res. 678. Joint resolution to designate October 1986 as "Crack/Cocaine Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. HOYER (for himself, Mr. BARNES, Mrs. BENTLEY, Mrs. BYRON, Mr. DYSON, Mrs. HOLT, Ms. MIKULSKI, and Mr. MITCHELL):

H.J. Res. 679. Joint resolution to designate the week of September 8 through September 14, 1986, as "National Annapolis Convention Week"; to the Committee on Post Office and Civil Service.

By Mr. BADHAM:

H. Con. Res. 372. Concurrent resolution commending King Hassan of Morocco and Prime Minister Peres of Israel for their sincere commitment to peace, and for other purposes; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Res. 501. Resolution appointing managers on the part of the House of Representatives to conduct the impeachment trial against Harry E. Clairborne; considered and agreed to.

H. Res. 502. Resolution providing that a message be sent to the Senate relating to the impeachment of Harry E. Clairborne; considered and agreed to.

H. Res. 503. Resolution granting certain authorities to the managers on the part of the House of Representatives in the matter of the impeachment of Harry E. Clairborne; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

431. The Speaker presented a memorial of the Legislature of the State of Louisiana, relative to the collection of sales tax; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DASCHLE:

H.R. 5223. A bill to permit the removal of certain material from the Mount Rushmore National Memorial; to the Committee on Interior and Insular Affairs.

By Mr. LEWIS of Florida:

H.R. 5224. A bill to permit the vessel *Patience* to be employed in the coastwise trade and the fisheries; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 479: Mr. TORRICELLI.
H.R. 620: Mr. MARLENEE.
H.R. 621: Mr. MARLENEE.
H.R. 1156: Mr. HAYES.
H.R. 1402: Mr. BORSKI.
H.R. 1453: Mr. FEIGHAN.
H.R. 2815: Mrs. SMITH of Nebraska, Mrs. BENTLEY, and Mr. MONSON.
H.R. 2952: Mr. MCKINNEY, Mr. MINETA, and Mr. LIPINSKI.
H.R. 3042: Mr. HERTEL of Michigan, Mr. ROSTENKOWSKI, and Mr. BARNARD.
H.R. 3408: Mr. WEISS and Mr. FOWLER.
H.R. 3508: Mr. CHANDLER and Mr. MCCANDLESS.
H.R. 3663: Mr. MOORHEAD, Mr. FAZIO, and Mr. BEVILL.
H.R. 3894: Mr. GORDON, Mr. WYLIE, Mr. MURTHA, Mr. NOWAK, Mr. LUJAN, and Mr. VOLKMER.
H.R. 4003: Mr. FISH.
H.R. 4089: Mrs. BOXER and Mrs. BURTON of California.
H.R. 4194: Mr. GRAY of Pennsylvania and Mr. BARNES.
H.R. 4197: Mr. WEISS, Mr. OWENS, and Mr. FOWLER.
H.R. 4430: Mr. ZSCHAU.
H.R. 4633: Mr. EVANS of Illinois, Mr. PRICE, Mrs. VUCANOVICH, and Mr. MCMILLAN.
H.R. 4682: Mr. WHEAT.
H.R. 4814: Mr. LEHMAN of California.
H.R. 4825: Mr. CROCKETT.
H.R. 4849: Mr. ARMEY, Mr. BATEMAN, Mrs. BENTLEY, Mr. BEREUTER, Mr. BONIOR of Michigan, Mr. CHAPPELL, Mr. DE LA GARZA, Mr. DYMALLY, Mr. FEIGHAN, Mr. FISH, Mr. JONES of North Carolina, Mr. LIPINSKI, Mrs. LLOYD, Mr. KCKINNEY, Mr. MINETA, Mr. MRAZEK, Mr. MURPHY, Mr. PARRIS, Mr. PRICE, Mr. ROBINSON, Mr. ROSE, Mr. SCHULZE, Mr. SMITH of New Jersey, Mr. ROBERT F. SMITH, Mr. SPENCE, Mr. SWINDALL, Mr. THOMAS of Georgia, Mr. TRAXLER, Mr. WHITTAKER, Mr. WILLIAMS, Mr. YOUNG of Florida, Mr. ZSCHAU, Mr. BARNARD, Mr. HOPKINS, and Mr. EDWARDS of Oklahoma.
H.R. 4876: Mr. FEIGHAN, Mr. TALLON, and Mr. YOUNG of Missouri.
H.R. 4877: Mr. MORRISON of Connecticut, Mr. VALENTINE, Mr. FEIGHAN, and Mr. SEIBERLING.
H.R. 4908: Mr. HUGHES, Mr. SMITH of New Hampshire, Mr. WEISS, Mr. OWENS, Mr. BARNARD, Mr. BATES, Mr. PENNY, Mr. JEFFORDS, Mr. HOWARD, and Mr. SEIBERLING.
H.R. 4922: Mr. FORD of Tennessee, Mr. RANGEL, and Mr. BUSTAMANTE.
H.R. 5000: Ms. KAPTUR, Mr. ECKART of Ohio, Mr. MYERS of Indiana, Mr. FRANKLIN, and Mr. IRELAND.
H.R. 5043: Mr. PICKLE, Mr. AKAKA, Mr. LEVINE of California, Mr. RANGEL, Mr. CLAY, Mr. EDWARDS of California, Mr. LEHMAN of Florida, Mr. WEAVER, Mr. KILDEE, Mr. STUDDS, and Mr. MCCAIN.
H.R. 5053: Mr. WATKINS, Mr. FIELDS, Mr. TRAFICANT, Ms. OAKAR, Mr. LEHMAN of California, Mr. STANGELAND, Mr. THOMAS of

Georgia, Ms. SNOWE, Mr. IRELAND, Mr. STRANG, and Mr. SEIBERLING.

H.R. 5061: Mr. LEWIS of Florida, Mr. NELSON of Florida, and Mr. MURTHA.

H.R. 5066: Mr. KOSTMAYER, Mr. UDALL, Mr. BEVILL, Mr. MRAZEK, Mr. ACKERMAN, Mr. BOEHLERT, Mr. WEAVER, and Mr. WORTLEY.

H.R. 5076: Mr. SCHEUER.

H.R. 5121: Mr. LEVINE of California, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. FAUNTROY, Mr. FRANK, Ms. KAPTUR, Mr. STARK, Mr. RANGEL, Mr. FISH, Mr. WEISS, Mrs. BURTON of California, Mr. SEIBERLING, Mr. BARNES, Mr. WOLPE, and Mr. MORRISON of Connecticut.

H.R. 5154: Mr. KILDEE, Mr. JACOBS, Mr. HENRY, Mr. KASTENMEIER, Mr. LIVINGSTON, Mr. BEDELL, and Mr. TORRICELLI.

H.R. 5157: Mr. LAGOMARSINO and Mr. OXLEY.

H.R. 5178: Mr. MONSON, Mr. WORTLEY, Mr. NEAL, Mr. FISH, and Mr. FEIGHAN.

H.R. 5202: Mr. GALLO, Mr. COUGHLIN, Mr. SHUSTER, Mr. GAYDOS, Mr. RIDGE, Mr. ROE, Mr. WOLF, Mr. WORTLEY, Mr. BIAGGI, and Mr. TORRICELLI.

H.J. Res. 381: Mr. WYDEN, Mrs. BURTON of California, Mr. DARDEN, Mr. DYMALLY, Mr. SUNIA, and Mr. WHITLEY.

H.J. Res. 438: Ms. OAKAR, Mr. DEWINE, Mr. MOORE, Mr. STRANG, Mr. LEWIS of Florida, Mrs. BYRON, Mr. SAVAGE, Mr. ORTIZ, Mr. PACKARD, and Mr. KASICH.

H.J. Res. 591: Mr. BENNETT, Mr. KOSTMAYER, Mr. BLILEY, Mr. ACKERMAN, Mr. PACKARD, Mr. HUTTO, and Mr. BRYANT.

H.J. Res. 639: Mr. TORRICELLI, Mr. ACKERMAN, Mr. LAGOMARSINO, Mr. FUQUA, Mr. SMITH of Florida, Mr. TRAFICANT, Mr. RANGEL, Mr. GILMAN, Mr. MRAZEK, Mr. GONZALEZ, Mr. BARNARD, Mr. BOSCO, Mr. BROWN of California, Mr. CARPER, Mr. DONNELLY, Mr. EDGAR, Mrs. BENTLEY, Mr. FORD of Tennessee, Mr. HUTTO, Mr. MARTINEZ, Mr. MINETA, Mr. MOAKLEY, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. NEAL, Ms. OAKAR, Mr. EARLY, Mr. ROE, Mr. HORTON, Mr. LIPINSKI, Mr. LAFALCE, Mr. REID, Mrs. BOXER, Mr. FISH, Mr. PERKINS, Mr. OWENS, Mr. PRICE, Mr. RICHARDSON, Mr. ROSE, Mr. RODINO, Mr. LENT, Mr. KOSTMAYER, Mr. JONES of North Carolina, Mr. HUGHES, Mr. FOGLIETTA, Mr. HOYER, Mr. SKELTON, Mr. SNYDER, Mr. SHUMWAY, Mrs. JOHNSON, Mr. TALLON, Mr. STOKES, Mr. TAUKE, Mr. MYERS of Indiana, Mr. YOUNG of Alaska, Mrs. MEYERS of Kansas, Mr. ARCHER, Mr. SAVAGE, Mr. MATSUI, Mr. MARKEY, Mr. BERMAN, Mr. MONSON, Mr. DOWDY of Mississippi, Mr. DIOGUARDI, Mr. FAZIO, Mr. MCHUGH, Mr. KANJORSKI, Mr. SYNAR, Mr. YOUNG of Missouri, Mr. WYLIE, Mr. WAXMAN, Mr. SCHUMER, Mr. TOWNS, Mr. SHELBY, Mrs. COLLINS, Mr. GEJDENSON, Mr. DAUB, Mr. HOWARD, Mr. HEFNER, Mr. SPENCE, Mr. VALENTINE, Mr. SOLOMON, Mr. HATCHER, Mr. BOUCHER, Mr. MILLER of Ohio, Mr. ERDREICH, Mr. BIAGGI, Mr. DEWINE, Mr. CONTE, Mr. NATCHER, Mr. CAMPBELL, Mr. WORTLEY, Mr. DYSON, Mr. BEVILL, Mr. DYMALLY, Mr. SMITH of New Jersey, Mr. MOLLOHAN, Mr. PORTER, Mr. COELHO, Mr. MACK, Mr. MORRISON of Washington, Mr. CALLAHAN, Mrs. HOLT, Mr. HAMMERSCHMIDT, Mr. BORSKI, Mr. FEIGHAN, Mr. KASICH, and Mr. DE LA GARZA.

H.J. Res. 655: Mr. ANDREWS, Mr. BEDELL, Mrs. BOXER, Mr. BROOKS, Mr. BRYANT, Mr. CARNEY, Mr. CROCKETT, Mr. DASCHLE, Mr. DEWINE, Mr. DIXON, Mr. FLIPPO, Mr. FRENZEL, Mr. FUQUA, Mr. HENRY, Mr. HOWARD, Mr. HUTTO, Mr. JACOBS, Mrs. JOHNSON, Mr. KASICH, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. MCDADE, Mr. MARTINEZ, Mr. MINETA, Mr. MORRISON of Connecticut, Mr. NEAL, Ms. OAKAR, Mr. OWENS, Mr. RANGEL, Mr. REID, Mr. RINALDO, Mr. ROE, Mr. ROGERS, Mr. RUSSO, Mr. SABO, Mr. SAVAGE, Mr. SCHUMER, Mr. DENNY SMITH, Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. FISH, Mr. LAFALCE, Mr. LEVIN of Michigan, Mr. LUNGREN, Mr. ROSE, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. STOKES, Mr. VALENTINE, Mrs. VUCANOVICH, Mr. WOLF, Mr. WORTLEY, and Mr. YATES.

H. Con. Res. 225: Mr. GEKAS, Mr. SAXTON, and Mr. DYMALLY.

H. Con. Res. 308: Mr. MCEWEN, Mr. PETRI, Mr. DURBIN, Mr. LUJAN, Mr. BURTON of Indiana, Mr. STRANG, Mr. LIPINSKI, Mr. EDWARDS of Oklahoma, Mr. BOULTER, and Mr. VANDER JAGT.

H. Con. Res. 354: Mr. ROBERT F. SMITH.

H. Res. 373: Mr. WYDEN and Mr. GEPHARDT.

H. Res. 404: Mr. BADHAM.

H. Res. 488: Mr. BEVILL, Mr. CHAPPELL, Mr. ANDERSON, Mr. WEBER, Mr. ARMEY, Mr. HORTON, Mr. WORTLEY, Mr. SPENCE, Mr. DOWDY of Mississippi, Mr. BROWN of Colorado, Mr. MONSON, Mr. FEIGHAN, and Mr. APPLEGATE.

H.R. 4886: Mr. SMITH of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

PETITIONS, ETC.

Under clause 1 of rule XXI, petitions and papers were laid on the Clerk's desk and referred as follows:

429. By the SPEAKER: Petition of Vogel Siefried et al, Hamburg, Germany, relative to American Indians; to the Committee on Interior and Insular Affairs.

430. Also, petition of the Board of Supervisors of the County of Kings, CA, relative to disaster assistance; to the Committee on Public Works and Transportation.

431. Also, petition of the Board of Supervisors, Mono, CA, relative to disaster assistance; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5162

By Mr. FRENZEL:

—At the end of title V, insert the following new section:

"Section 509. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available by previously enacted law shall be reduced by 5.09 percent."

H.R. 5162

By Mr. WEAVER:

—At page 22, line 16, strike the appropriation of $677,649,000 and replace it with $386,449,000.

H.R. 5177

By Mr. DASCHLE:

—Page 27, line 25, after the semicolon insert "storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000;".

EXTENSIONS OF REMARKS

INDOOR RADON RESEARCH AND ASSISTANCE ACT OF 1986

HON. GUS YATRON
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. YATRON. Mr. Speaker, on Thursday, July 17, 1986, I introduced, H.R. 5202, the "Indoor Radon Research and Assistance Act of 1986." The purpose of the legislation is to clarify the Federal role and responsibility in addressing indoor radon contamination. Thirty colleagues joined as original cosponsors. As of today, six more Members have added their names in support.

Radon is a colorless, odorless gas which produces radioactive products that can be inhaled into the lungs and can eventually cause lung cancer. High levels of radon have been found in thousands of homes in Pennsylvania and New Jersey and recent evidence compiled by a private firm indicates that high levels may also be found in homes throughout the Nation. The source of this radon gas is the soil and rocks beneath and around a home.

Currently, EPA, the Department of Energy, and several other Federal agencies are involved in various efforts to address the problem of indoor radon contamination. However, all of these activities are being conducted at the discretion of the agencies and the efforts are fragmented and inconsistent. These are findings of the General Accounting Office in a study requested by the Pennsylvania congressional delegation and completed this month. GAO confirms that the main reason we do not have an overall national strategy is because no Federal statutory authority exists to explicitly mandate or require that radon research, technical assistance, guidance, or other assistance be provided.

The "Indoor Radon Research and Assistance Act of 1986" seeks to codify authority to address indoor radon contamination and to define the scope of the Federal Government's role and responsibility. Further, the bill specifies that EPA should be the lead Federal agency responsible for overseeing Federal radon efforts. The bill outlines what activities EPA should conduct. They include a national survey, research relating to the causes, effects, extent, prevention, and abatement of indoor radon, technical assistance to States, dissemination of information to the public, and development of reliable and inexpensive mitigation techniques. The measure does not give EPA any authority to regulate indoor air quality.

Mr. Speaker, I encourage all Members to find out whether their States, their constituents may be endangered by radon. The chances are fairly high that many States and many American homes are affected. I urge all Members to join me and our concerned colleagues in supporting a concerted Federal effort to address indoor radon contamination. Please cosponsor H.R. 5202, the text of which follows.

H.R. 5202

A bill to address the problem of human exposure to radon through indoor accumulation by directing the Environmental Protection Agency to establish and coordinate a nationwide program of research and development, technical assistance to States, and dissemination of information to the public

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indoor Radon Research and Assistance Act of 1986".

SEC. 2. FINDINGS

The Congress finds that—

(1) radon may accumulate indoors in such a way as to increase the risk of developing lung cancer in humans;

(2) evidence indicates that high levels of radon have been found indoors throughout the United States;

(3) an adequate information base on indoor radon problems does not exist and such an information base should be developed by the Federal Government;

(4) reliable and inexpensive technologies and methods to detect, prevent, and abate human exposure to radon through indoor accumulation do not exist and such technologies and methods should be developed by the Federal Government;

(5) at the time of the introduction of this Act, Federal indoor radon research programs are fragmented and underfunded;

(6) the Environmental Protection Agency's efforts to conduct research, provide technical assistance, and disseminate information to the public concerning exposure to radon through indoor accumulation has been hindered by a lack of clear statutory authority; and

(7) the General Accounting Office has recommended that the Environmental Protection Agency be assigned the overall responsibility of directing and coordinating Federal activities addressing indoor air quality problems, especially exposure to radon through indoor accumulation.

SEC. 3. ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY TO ESTABLISH, CONDUCT, AND COORDINATE NATIONWIDE STUDY OF HUMAN EXPOSURE TO RADON THROUGH INDOOR ACCUMULATION.

(a) ESTABLISHMENT OF PROGRAM; ASSESSMENT WITHIN 1 YEAR.—The Administrator of the Environmental Protection Agency shall—

(1) establish a research and development program with respect to human exposure to radon through indoor accumulation; and

(2) complete a nationwide statistical survey of the sources and levels of radon within 1 year after funds are appropriated to carry out this Act.

(b) PROGRAM REQUIREMENTS.—In carrying out the program described in subsection (a), the Administrator of the Environmental Protection Agency shall do at least the following:

(1) CONDUCT AND COORDINATE FEDERAL RESEARCH EFFORTS.—Conduct and coordinate Federal research efforts relating to the causes, effects, extent, prevention, and abatement of indoor accumulation of radon.

(2) TECHNICAL ASSISTANCE TO STATES.—Encourage, cooperate with, and render technical assistance, training, and guidance to relevant State agencies and other appropriate public or private agencies, institutions, organizations, and individuals to help such entities gain expertise and the capacity to effectively respond to the problems posed by human exposure to radon through indoor accumulation.

(3) COLLECTION AND DISSEMINATION OF INFORMATION.—In cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities—

(A) collect information on—

(i) the short- and long-term health effects of varying degrees of human exposure to radon,

(ii) the sources and levels of radon, and

(iii) ways to prevent or abate the indoor accumulation of radon, or avoid exposure to radon; and

(B) disseminate such information to the public.

(4) DEVELOP RELIABLE AND INEXPENSIVE MITIGATION TECHNIQUES.—Develop reliable, inexpensive, and easy to implement processes, methods, and devices to detect, prevent, control, and reduce the indoor accumulation of radon.

(5) DEVELOP MODEL CERTIFICATION PROGRAMS.—In consultation with State governments, develop model certification programs for contractors engaged in radon detection and abatement.

(6) DEVELOP MODEL BUILDING CODES.—In consultation with the Department of Housing and Urban Development, develop model building codes designed to prevent the accumulation of radon in housing.

(c) RADON DEFINED.—As used in this Act, the term "radon" means radon gas and its decay products.

(d) REPORTS.—The Administrator of the Environmental Protection Agency shall annually submit to the Congress a report on the activities carried out under this section.

(e) CONSTRUCTION OF SECTION.—This section shall not be construed to authorize or required any regulatory program or activity other than the activities specified in this section. This section shall not be construed to affect the regulatory authority of any other agency or instrumentality of the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act not to exceed $5,000,000 for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ASAT TEST BAN GAINS NEW IMPORTANCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. BROWN of California. Mr. Speaker, when Congress enacted a mutual United States-Soviet moratorium on antisatellite [ASAT] weapons tests last December, nobody anticipated that the United States space program would be shut down as a result of a string of space launch disasters. But in the aftermath of these setbacks, the ASAT test ban has gained new importance: It is helping safeguard American military satellites that have become, literally, irreplaceable.

Before the ASAT moratorium was passed into law, the United States was planning to conduct up to six ASAT tests during 1986. These six tests could well have provoked six Soviet ASAT tests, which, during this period of crisis in the U.S. space launch system, could have generated major national security concerns.

The recent launch disasters have grounded all three U.S. launch systems—the shuttle, the Titan, and the Delta. This has left us with essentially no means of boosting satellites into orbit. Of additional concern, the launch failures have reportedly left the United States with only one operational spy satellite. A second such satellite was destroyed when a Titan booster blew up last August, and its replacement may not be launched until well into 1987.

Given the vulnerable position we have found ourselves in, we are fortunate that the Soviets do not possess an effective ASAT and that the moratorium is in place helping restrict Soviet ASAT development.

The Soviets have a crude ASAT capability which involves launching and maneuvering a satellite to destroy another satellite. One of its major weaknesses is the use of 1960's radar technology as the mechanism for homing in on its target. Radar signals provide advance warning of attack and can be "jammed," thus confusing the system. The Soviets tried to develop a more sophisticated "heat seeking" guidance sensor for their ASAT, but all six attempts failed. The last Soviet ASAT test occurred in 1982, 4 years ago, and they have since abided by a test moratorium.

If the ASAT moratorium were lifted, as the Reagan administration wants, the Soviets would be free to resume tests aimed at improving their ASAT. The more sophisticated sensors which failed during earlier tests could probably be perfected. Yet the United States, without a working space shuttle, would be incapable of retrofitting orbiting satellites to contend with such a threat. And launching next generation satellites designed to evade or confuse a "new and improved" Soviet ASAT would be problematic. Concern about the viability of our satellites in low-earth orbit, which is the maximum range of the Soviet system, would reach new heights.

The administration argues for repeal of the moratorium, claiming that a United States ASAT is necessary to deter Soviet ASAT attack. But this rationale makes no sense. Since the United States is more dependent on satellites than is the Soviet Union, the balance of mutual interests essential for deterrence to work is not in place. The Soviets would gain a relative advantage as the result of any "tit-for-tat" ASAT battle. This especially would be the case given the present impotence in the U.S. space program. We would face a difficult time replenishing any satellites destroyed during an attack.

The prospect of ASAT warfare is a serious matter. Satellites serve as the vital eyes and ears of our Nation's nuclear deterrent. They must be safeguarded against potential attack. While there exist a number of protective measures that can and should be taken to make our satellites more survivable, no such actions can be implemented until the Nation's space launch system is up and running again. Moreover, the effecivenes of any such measures would be greatly enhanced through complementary arms control restraints on Soviet ASAT's.

It takes but a sliver of foresight to realize that Soviet ASAT testing, during this period of crisis in the United States space launch system, would make us feel less secure. The moratorium should be preserved.

When the fiscal year 1987 Defense Authorization bill is considered on the House floor, Mr. COUGHLIN and I will offer an amendment to maintain the ASAT moratorium. I urge my colleagues to give this measure their full support.

UNITED STATES-SOVIET LEGAL COOPERATION DEPENDS ON HUMAN RIGHTS CONCERNS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. FLORIO. Mr. Speaker, having recently returned from a visit to the Soviet Union where I came into direct contact with individuals that are denied the right to emigrate and live as they choose, I am firmly convinced that it is necessary that we continue to raise the issue of human rights at every opportunity and every contact with Soviet officials. In meeting with Soviet refuseniks, I was distressed to learn of the various inequities and injustices they are subjected to simply because they have declared their wish to leave the Soviet Union for countries where they can worship freely and speak without fear of persecution and harassment.

My meetings with individuals ranged from refuseniks who are in desperate need of medical assistance because they suffer from cancers that canot be properly treated in the Soviet Union to spouses that have married American citizens but cannot join them to live as a family. In all of these cases, these individuals and their families had been forced to undergo numerous forms of harassment including the loss of jobs and status in the Soviet society and constant surveillance of their every move. I returned strengthened in my belief that this situation merits continued attention on the part of our Government.

The possibility for renewed contact with the Soviet Government and people in areas such as trade, education, sports, and cultural exchange is a reality. However, it is vital that in every such opportunity for contact, we emphasize, and underscore our concerns about the treatment of Soviet Jews and other ethnic groups in the Soviet Union and our commitment to progress in this area. Upon my return from the Soviet Union, I was interested to see an editorial in the Wall Street Journal which proposed that this very premise be upheld in meetings between the American Bar Association and the Association of Soviet Lawyers [ASL].

Although I am rarely in agreement with editorials in this newspaper, in this case, I agree with the belief that lawyers especially should be sensitive to the violations of legal rights perpetrated by Soviet authorities. Contact and cooperation between the ABA and the Association of Soviet Lawyers cannot be constructive without the understanding that the legal system of which the ASL is a part of is a flawed system that needs to be corrected and that the price for cooperation must be improvement in the flow of emigration and the preservation of fundamental rights. The Wall Street Journal editorial follows:

U.S. LAWYERS IN MOSCOW

The American Bar Association sponsors a lot of joint activities with lawyers in other countries, and by and large this is good clean fun. It gets the participants nice, tax-deductible trips abroad. Once in a while somebody even picks up a new idea. But when the ABA holds its annual convention in New york City soon, even non-lawyers will be looking on to see if the group has the intelligence to extricate itself from the inappropriately friendly relationship it has developed with the Soviet Union.

A little more than a year ago, the ABA signed an agreement pledging professional cooperation with an organization called the Association of Soviet Lawyers. "Guided by mutual respect," the agreement said, the two groups would trade visits, sponsor joint meetings, share literature, and "consider possibilities to establish electronic information exchange."

This spring the ABA sent its top officers to the Soviet Union. The ABA's president came back and said, "We were able to speak frankly, specifically and at great length" with high officials about the subject of human rights. "Nothing in the agreement implies an endorsement" of the Soviet justice system.

The ABA president, the Soviet government publication Izvestia reported, "said he wished to increase cooperation with the ASL." Andrei Gromyko, meeting with the group, said the lawyers could "bring the weight of their influence to bear in favor of internaitonal safety and peaceful cooperation." Down near the end Izvestia added briefly, "At the request of the American delegation, the Soviets explained some matters of U.S.S.R. foreign policy."

The agreement has run into some trouble. The ASL, some critics are pointing out, represents the Soviet government, not the independent profession of the law. More embarrassing, the ASL has helped write some very ugly anti-Semitic propaganda. Resolutions will come before the convention this August calling for the pact's termination.

The pro-agreement forces say dialogue with the Soviets is the path to peace, understanding and more human rights in the U.S.S.R. An ABA press release claimed the Soviets had relaxed their emigration policy after this spring's ABA visit.

It is hard to convey adequately the depth of this naivete, but something worse than mush-headedness is going on here. It may be news to the solons of the ABA, but we do not give lawyers all the authority they enjoy in our society because they are smarter than the rest of us. We rely on lawyers and defer to them because of our respect for law, and our recognition that it is the absolute bedrock of our liberty and well-being. The ABA is supposed to defend the idea of law as fiercely as its members defend their individual clients. How can they even begin to think of associating professionally with people from whom the idea of a bar independent of the government does not exist? How can they talk shop with people whose idea of law includes the gulag and the Soviet "psychiatric" hospital?

The issue here is not just whether dialogue with the Soviets will "work." The more important problem is that by treating the Soviet represenatives as professional colleagues, the ABA degrades the idea it is supposed to be defending. Moreover, its officers grant the Soviet system unearned legitimacy when they make their "professional" visits to Moscow.

The ABA should rescind the pact. Better, it should be abrogated before it comes to a huge open debate at the August Convention. The organization should spare all of us the embarrassment of having to listen to the kinds of arguments our legal leaders would make in the agreement's favor.

CAPTIVE NATIONS WEEK

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. BROOMFIELD. Mr. Speaker, on the occasion of Captive Nations Week, all of us in the free world recommit ourselves to honoring the many people around the globe who continue to labor under the heavy yoke of Communist tyranny. The Soviet Union with each new military offensive seeks to murder or enslave those in Afghanistan who only wish to determine their future for themselves. In Poland, Czechoslovakia, Bulgaria, East Germany, and the Baltic States—to name but a few of the victims—Soviet puppets enslave entire societies of human beings who have not the freedom to utter even the mildest criticism of their government without facing the very real prospect of harsh reprisal.

It is our responsibility on this occasion to remember for ourselves, and to remind others, that these and many other unspeakable offenses against humanity have been committed by the Soviet Union and its minions. President Reagan recently made a stirring speech to observe Captive Nations Week and I would like to share his remarks with my colleagues.

REMARKS BY THE PRESIDENT DURING CAPTIVE NATIONS WEEK SIGNING CEREMONY, JULY 21, 1986

The PRESIDENT. Thank you all very much. Well, thank you, and I welcome you to the White House. A special—it's kind of important, too, that we're in this particular room—the Roosevelt Room.

You know, once upon a time the President and all his offices—when he's welcomed you to the White House, you were in the White House. And then it was told to me, and history has it, that Mrs. Roosevelt said to President Roosevelt one day, "If I'm going to raise six kids, you're going to get your people out of the White House." [Laughter.] So, here we are in the West Wing.

Well, a special thanks to those members of Congress who are with us here and demonstrating their continued support of Captive Nations Week. A couple of weeks ago, we had a celebration up in New York, and you probably heard about it—and throughout the width and breadth of our country we had that celebration. It was quite a party. But there was more to that joyous occasion than dazzling fireworks, spectacular entertainment, and flag-waving pageantry.

As we emphasized over the Liberty Weekend, our country's made up of people who came here from nearly every corner of the earth to better themselves and to be made free. And thus, there's a spiritual bond between the citizens of our country and all people everywhere who yearn for freedom.

When we approach our dealings with communist governments and the governments of other countries where freedom is under assault, we do so knowing that we have a special responsibility. We must not only be mindful to our own interests, but we must also keep faith with those millions of souls who live under oppression.

And I'm proud that, during these last five and a half years, we've kept faith with the people of the Captive Nations. To be true to ourselves, we must remain true to them. So many who live under communism see us as their only hope. This is the case even though there are governments that portray the United States as a horrible place. There's a story of a dissident who when he was sentenced to a labor camp in one of those countries complained to the judge that his sentence was to light. He said, "If the United States is as bad as you say it is, send me there." (Laughter.)

Seriously though, I've received letters from desperate people pleading for us to be firm in our resolve. I had a special quest, Anatoly Shcharansky, who was here and he'd been a prisoner, as you know, of the Gulag. And he told me how word of things that we say here in America spread from prisoner to prisoner. I wish that it would be possible to relate to all our people everything that he told in the line of stories.

I can tell you one little story here. Sometime ago, I received a letter. It was smuggled out of the Soviet Union—10 women incarcerated in a labor camp there—and they managed to get this letter out and it was delivered to me in a kind of a presentation so I couldn't bring the original letter in here. But I was very carefully—that, I cut as a pattern, is the size of the entire letter, written and signed by ten women prisoners—so tiny that you know that nothing but a strong magnifying glass could allow someone to interpret the Russian writing into English. But it was teling me that we are still the only hope of people like themselves. And then it was accompanied by a little larger piece of paper, about the same width but about that high, which contained the record of the hunger strikes that all ten had been on in that labor camp as measures of protest.

Well, I don't suggest that it's impossible to improve relations with the Soviet Union or the other communist regimes. Progress was made that we can build on when I met General Secretary Gorbachev in Geneva. But, however, wishful thinking is not the way to a better world. Meaningful progress can be realized by facing our differences, not glossing them over. Human rights and humanitarian issues cannot be ignored or trivialized. We care about those people, those separated families, who are now brutally cut off from contact with wives or husbands and relatives. We share their suffering and we will not forget them or ignore their plight.

I believe the Soviet Union wants better relations. Well, let's begin then by loosening restrictions on travel and personal contacts between our peoples. And in Geneva, we talked about that. It's time to see the follow-through, to see deeds now, not words. Opening up immigration and travel would be demonstrable progress with little cost and little risk. Our goal is not just to live in peace with the Soviet Union, but that all mankind live in freedom. And peace is an outgrowth of freedom.

Until all peoples are free to travel and speak with each other, it behooves us to keep Radio Free Europe, Radio Liberty, Radio Marti, and Voice of America broadcasting the truth to those who are denied it.

Until freedom is no longer threatened by a massive military build-up, as has been happening in the Soviet Union since the early 1970's, we must remain vigilant and prepared. Until the Soviets stop trying, through force of arms, to turn Afghanistan, Nicaragua, Angola, and other Third World countries into colonies of their empire, we'll continue to support freedom fighters who are struggling for their independence. Until the people of the Baltic States and Eastern Europe are free to choose their own system of government, we will continue to speak up for their rights and champion their cause. That's what Captive Nations Week is all about.

During the last decade, nations like Vietnam and Cambodia were added to the list of Captive Nations, which included Romania, Poland, and the Ukraine. One of the accomplishments of which I'm most proud is that, during our term here, there have been no new Captive Nations. (Applause.) Thank you. In fact, we brought one small country, Grenada, back into the family of free people. There aren't any signs down there about "Yankee, go home." I've been there and seen.

But in July of 1959, the United States Congress, by joint resolution, authorized the President and future presidents to declare this, the third week in July, as Captive Nations Week.

And we have with us today the individual who conceived the idea, then spearheaded the drive to make Captive Nations Week a reality. He's been a distinguished professor at Georgetown; he's done a tremendous job as our Ambassador to the Bahamas for the past three years; and last, but not least, he's the father of my National Security Adviser on Eastern Europe. Now, that's what I call service above and beyond the call of duty. (Laughter.)

But I'm going to ask him to join me here as I sign this year's proclamation here, and will Ambassador Zimmerman and will the members of the Congress kind of gather around here because everybody had a part in this. (Applause.)

(The proclamation is signed.)

This is now Captive Nations Week. (Applause.)

* * * * *

Q. Mr. President, are you committed to appointing a black to be our Ambassador to South Africa?

The PRESIDENT. The man that I will name will be the best one available for the job and I'm not going to look at what color— (Applause.)

PRESERVING DIVERSITY ON OUR AIRWAVES: A VIGOROUS EFFORT TO PROTECT FOREIGN-LANGUAGE RADIO BROADCASTING

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. SOLARZ. Mr. Speaker, I rise today, on behalf of 14 of my colleagues who represent districts in the New York, New Jersey, and Connecticut tristate area, to commend the Committee to Preserve Multi-Ethnic and Multi-Lingual Programming on their effort to maintain foreign-language radio broadcast programs on WNWK for members of our communities.

The Federal Communications Commission is considering applications for a permanent license for this station and has not required as a condition continued programming of the present format nor for any of the applicants to state their program intentions. What this could mean is an end to this vital foreign-language broadcast service in your community.

WNWK is the only radio station in our region that devotes 90 percent of its programming to foreign-language broadcasts. In fact, only one other station broadcasts as much as 20 hours a week of foreign-language programming. Collectively, only eight stations in the entire area broadcast any foreign-language programming, and, together, these other stations offer only 78 hours of such programming each week.

Furthermore, for the past 15 years, WNWK and its predecessor station WHBI have programmed approximately 4 dozen languages, of which in excess of 30 are heard solely and exclusively on WNWK.

Fearful that foreign-language speaking residents may be deprived of this diverse and indispensable service, community leaders and program producers, led by Yash Paul Soi, organized the Committee to Preserve Multi-Ethnic and Multi-Lingual Programming. Neither the committee nor its members have any interest in any applicant seeking the permanent license for WNWK. In fact, until recently the committee was unaware that any applicant obtaining the permanent license would have the discretion to abandon the present foreign-language format. This group merely wants to insure the preservation of the current format.

I would like to share with my colleagues the letter that this bipartisan coalition of Representatives from the New York, New Jersey, and Connecticut tristate area recently sent to Mr. Soi in which we extend our endorsement of the Committee to Preserve Multi-Ethnic and Multi-Lingual Programming:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1986.

Mr. YASH PAUL SOI,
Chairman, Committee To Preserve Multi-Ethnic and Multi-Lingual Programming, New York, NY.

DEAR CHAIRMAN SOI: As members of the Congressional Delegation which encompasses the portions of New York, New Jersey, Pennsylvania, and Connecticut which enjoy WNWK broadcast programs, we support and applaud your efforts to preserve the indispensable service WNWK radio station provides to our region. On the eve of consideration of a permanent licensee for the station, we feel it is imperative that the new owner maintain the present program format.

As you well know, foreign-language programming provides a vital service to a significant portion of our region's population. According to the 1980 Census, the New York SCSA includes 1,946,800 foreign born persons and 2,667,027 people who speak a language other than English at home.

Currently, WNWK is the only radio station in the region which devotes 90 percent of its programming to foreign-language programs. In fact, only one other station broadcasts as much as 20 hours a week of foreign-language programming. Collectively, only eight radio stations in the entire New York Metropolitan Area broadcast any foreign-language programming, and, together, these other stations offer only 78 hours of such programming each week. Furthermore, for the past fifteen years, WNWK and its predecessor station WHBI have programmed approximately four dozen languages, of which in excess of thirty are heard solely and exclusively on WNWK. We have learned through communications with our constituents that this service is highly regarded as unique and invaluable.

Fortunately, community leaders and program producers, such as those involved in your community, are determined that foreign-language speaking residents not be deprived of this vital service. We understand that the Committee To Preserve Multi-Ethnic and Multi-Lingual Programming is solely committed to maintaining the present foreign-language format. Neither the committee nor its members have any interest in any applicant seeking the permanent license for Radio Station WNWK. In fact, we understand that until recently the committee was unaware that any applicant obtaining the permanent license would have the discretion to abandon the present foreign-language format. The FCC has not required as a condition to the permanent licensee continued programming of the present format nor has it required any of the applicants to state their intention to program this format. Consequently, the diverse foreign-language program format remains jeopardized.

You may be certain that you and the Committee To Preserve Multi-Ethnic and Multi-Lingual Programming have our full endorsement.

Sincerely,

James H. Scheuer, Major R. Owens, Matthew J. Rinaldo, Ted Weiss, Edolphus Towns, Stephen J. Solarz, Bruce A. Morrison, Benjamin A. Gilman, Mario Biaggi, Hamilton Fish, Jr., Thomas J. Manton, Robert Garcia, Robert J. Mrazek, Robert A. Roe, Sam Gejdenson, *Members of Congress.*

KEMP AND TAX REFORM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. LAGOMARSINO. Mr. Speaker, the Congress is on the verge of enacting a sweeping reform of the Nation's Tax Code. I firmly support this proposal to prune the needless complexities of the tax system and bring relief to millions of the Nation's most unfortunate citizens.

Mr. Speaker, credit for guiding this worthy idea through the Senate legislative process has been given, and rightly so, to my colleagues Senator PACKWOOD and Senator BRADLEY. I would bring to the attention of the Nation the ground-breaking work done by my colleague from New York, Representative JACK KEMP. His efforts in bringing tax reform to the Nation have been, I believe, unjustly overlooked.

Mr. Speaker, JACK KEMP introduced in 1984 a measure that included many of the provisions that are likely to be a part of the final bill we shall soon consider and, I hope, send to the President for his signature. Like Senator PACKWOOD'S bill, my colleague from New York's bill would have indexed tax brackets and allowed for full deduction of home mortgage payments. The lower income limit, where a family begins to pay income tax, is also quite similar. And while Senator PACKWOOD proposes a 27-percent top rate, the Kemp proposal called for a 28-percent top rate.

In addition, Congressman KEMP was instrumental in having tax reform included in the 1984 Republican National Party platform.

Mr. Speaker, I would urge my colleagues to review the following article by Gregory Fossedal from the Washington Times of Friday, June 27, 1986:

INSTANT REPLAY ON TAX REFORM

(By Gregory Fossedal)

With the Senate now having slam-dunked a popular tax-reform measure, political play-by-play announcers are crediting the basket to Republican Sen. Bob Packwood of oregon, with an assist by new Jersey Democrat Bill Bradley. But an instant replay reveals there was a third player who deserves a point, too: Upstate New York Republican Rep. Jack Kemp.

True, it was Mr. Packwood, with supply-side stimulus from Mr. Bradley, who actually drafted the plan that saved tax reform. They deserve a hand. Yet as the accompanying chart, adapted from The American Spectator, suggests, Mr. Packwood's approach already existed—in a bill drawn up for Mr. Kemp back in 1984. To use a football metaphor, Mr. Bradley handed off and Mr. Packwood ran the ball, but it was Mr. Kemp's play.

The result—shifting to baseball argot now, tax-reform fans—is a Packwood-to-Bradley-to-Kemp bill that may reach the Oval Office by Labor Day.

So how is it that Mr. Kemp's name seems to go virtually unmentioned in press accounts? The Wall Street Journal recently ran a huge feature outlining Mr. Bradley's impact on tax reform, barely mentioning Mr. Kemp in the box score.

Throughout 1985 and 1986, though, the Journal's new section repeatedly announced that the tax reform game was rained out for lack of interest. Part of Mr. Kemp's invisibility, then, has to do with sheer intellectual bitterness.

It's also true, however, that Mr. Kemp has done little to push his own ideas in Congress. "Jack would just polarize things if he got too involved," says a longtime adviser. "It would make it hard for people like Bush, Dole, and all the Democrats to be supportive."

Maybe. Others, though, say Mr. Kemp simply took himself out of the game, spending too much time flying all over early primary and caucus states—Mr. Kemp is an unannounced presidential candidate—like the 1988 edition of Jimmy Carter or Walter Mondale. "While Jack was up shaking the hand of every voter in Iowa and Michigan," one Kemp adviser said, "Bill Bradley was in Washington promoting his ideas. Who do you think looks more presidential at this point?"

Despite the low tax-reform profile, Mr. Kemp in effect wrote key provisions of the Packwood plan. Mr. Packwood went for a generous $2,000 standard exemption—a provision important to poor families economically and new-right groups politically—on the advice of John Mueller, who drafted Mr. Kemp's original bill. And when Mr. Packwood decided to scrap his committee's bill and craft a more radical substitute, he went to the congressional Joint Tax Committee for help. His bill was thus shaped by staffers like Greg Cook—who wrote key provisions of Mr. Kemp's 1984 bill, too.

Reform still faces at least one obstacle: changing the Senate bill sufficiently, in a coming House-Senate conference, so that House Ways and Means Chairman Dan Rostenkowski, the Chicago Democrat who shaped the House reform bill, can pretend he made some contribution. The House bill, like the Packwood committee proposals, left many loopholes intact and kept tax rates up at 30 to 35 percent and more. In recent weeks, unfortunately, Mr. Rostenkowski has hinted he will use the conference to jack tax rates back up—to the concern or jittery financial markets.

It will be up to Treasury Secretary James Baker, President Reagan's tax-reform lobbyist, to keep things on track. Here's hoping Mr. Baker has studied well the lesson of our chart: the more tax reform resembles Mr. Kemp's bill, the better it does.

As long as Mr. Baker holds that truth in his mind, tax reform—Packwood to Bradley to Kemp—is going to happen.

THE EVOLUTION OF TAX REFORM: A COMPARISON

Top rate:
Kemp bill, 28 percent.
Bradley bill, 30 percent.
Packwood bill, 27 percent.
Packwood most resembles: Kemp.
Index tax brackets vs. inflation?
Kemp bill, yes.
Bradley bill, no.
Packwood bill, yes.
Packwood most resembles: Kemp.
Index tax on capital gains?
Kemp bill, yes.
Bradley bill, no.
Packwood bill, no.
Packwood most resembles: Bradley.
Home mortgage fully deductible?
Kemp bill, yes.
Bradley bill, no.
Packwood bill, yes.
Packwood most resembles: Kemp.
Poor tax: Income at which family of 4 starts paying income tax:
Kemp bill, $14,400.
Bradley bill, $11,600.
Packwood bill, $13,500.
Packwood most resembles: Kemp.
Poor tax: Estimated tax liability for family of 4 earning $14,000 per year:
Kemp bill, none.
Bradley bill, $300.
Packwood bill, none.
Packwood most resembles: Kemp.
State and local income taxes deductible?
Kemp bill, no.
Bradley bill, yes.
Packwood bill, yes.
Packwood most resembles: Bradley.

350TH ANNIVERSARY OF BIRTH OF FATHER MARQUETTE

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. HERTEL of Michigan. Mr. Speaker, one of the premier figures in the history of the State of Michigan is the Reverend Jacques Marquette, a French-born Jesuit priest and missionary in the new world. Father Marquette helped explore the frontier and establish cities in the territory now known as the State of Michigan. As Michigan prepares celebrations for its sesquicentennial next year, I would like to remind citizens that 1987 also marks the 350th anniversary of the birth of Father Marquette. The following article "Father Marquette's 350th Year," by Steve Spilos appeared recently in the Northeast Detroiter-Harper Woods Herald newspaper. I would like to share this article with my colleagues.

WOULD YOU BELIEVE IT . . . FATHER MARQUETTE'S 350TH YEAR

(By Steve Spilos)

Next year—in 1987, while Michigan observes its 150th year of statehood—we should also be celebrating the 350th birthday of Fr. Jacques Marquette, Michigan's founding father.

What a great coincidence that both these important dates fall in the same year.

Lest we forget his birthday, as we almost did this year, here's a review of Fr. Marquette's life and times:

When Marquette arrived in Quebec on Sept. 20, 1666, New France was a vast wilderness extending deep in the heart of America. In many places in the Great Lakes region the sound of his footsteps and the swish of his paddle can still be heard.

From Quebec he was sent to Troix Riviere to learn the Indian languages. He died on May 18, 1675, when he was only 38 years old, near the mouth of the Michigan river that bears his name.

During his brief life in New France, his deeds reached legendary proportions and had a tremendous effect upon the development of North America.

Fr. Marquette was a Jesuit priest, a member of the Society of Jesus. He wore a "black robe," a sign of distinction among the Indians. However, they did torture and kill eight of his predecessors.

Born in Laon, France, on June 1, 1637, he became a Jesuit novice at Nancy. Knowing that his missionary work in New France could lead to his death, he nevertheless pleaded with his supervisors to send him on his mission.

At Sault Ste. Marie, which he founded in 1668, he baptized hundreds of Indian children. It was here that he first heard from friendly Illinois tribesmen that a great river lay deep in the forest beyond the Great Lakes and flowed southward to a great gulf.

In 1669 he was appointed to the mission at La Pointe de St. Esprit at Chequamegon Bay on the south shore of Lake Superior. This mission was a refuge for the Hurons and Algonquins who had been driven west by the savage Iroquois.

For two years Fr. Marquette ministered to their needs. They lived in constant fear of Iroquois raids and fierce attacks from the Sioux.

When the Sioux went on the warpath in 1671, Marquette followed his frightened flock to the safety of the Straights of Mackinac where he established the mission of St. Ignace, which remained his home until his death.

Marquette was obsessed with the dream of exploring the Father of Waters. The Indians at La Pointe said it was located in the west. In a letter to his superiors, he wrote: "We shall go there next year . . . this discovery will give us full knowledge of the Southern or Western Sea."

History records that Marquette and Joliet, his friend from seminary days, set out to explore our continent's greatest river—the Mississippi—on May 17, 1673. They left St. Ignace with two bark canoes, five French guides, and a little smoked meat and Indian corn.

To reach the Mississippi, they crossed Lake Michigan to Green Bay and stayed at the Mission of St. Francis Xavier. With gifts they secured a group of Chippewa Indian guides and negotiated the Fox River, visited the Maskoutens, Miamis and Kickapoos and crossed a nine-mile portage to the Wisconsin River.

During the portage, Marquette noted in his diary: "We left the water flowing toward Quebec to float on those that would take us to strange lands."

On June 17, one month to the day since leaving St. Ignace, the group entered the water of the Great River. Ardently devoted to Virgin Mary, Fr. Marquette called it the River of the Conception.

With the help of visiting Indians along the banks, they descended the Mississippi to the mouth of the Arkansas, satisfied themselves that the river emptied into the Gulf of Mexico, and returned to St. Ignace—a journey of 3,000 miles.

On their way back to St. Ignace, they entered the Illinois River, crossed over present day Chicago and stopped again at the Mission of St. Francis in Green Bay.

Joliet returned to Quebec to report the discovery. Worn out by the hardship of his four-month journey, Fr. Marquette stayed at St. Ignace and recovered from the ill effects of dysentery.

The following year, Marquette and two companions set out for the country of the Illinois, where his words of salvation were well received the summer before. His illness returned. He got no further than Chicago and spent the winter in a rude bark hut, suffering unmentionable hardships.

When the ice thawed, Fr. Marquette and his two companions sailed down to the Indian village of Kaskaskia, arriving during the holy week. He christened the village, Mission of the Conception, and on Easter Sunday preached to a vast group.

"The audience," Marquette's superior wrote, "was elders, seated in a circle around the Father."

The Indians begged him to remain, but Marquette knew his end was approaching. He wished to die in St. Ignace and promised to send them other Blackrobes to teach them and to live with them.

Marquette took the shortest route back to the Michigan shores, but his wish was not fulfilled. Near present-day Ludington, he asked his two companions to take him ashore.

Here, near the river that bears his name, he returned to the God he served. His last words were, "Mother of God, remember me."

Two years after his death Fr. Marquette's bones were removed by Indians and taken to St. Ignace, where he is now buried.

As a result of his explorations, discoveries and heroic deeds, Marquette has earned his niche in history.

The City of Marquette, Mich., as well as the river, a railroad line, an island in the Les Cheneux group, a leading midwestern university, a mountain range and county in the Upper Peninsula, a street in Detroit, and a national park in St. Ignace, overlooking the Straits of Mackinac, are an everlasting tribute to his great work, achievements and memory—and a constant reminder that he is, indeed, Michigan's founding father.

THE ANNAPOLIS CONVENTION AND THE U.S. CONSTITUTION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. HOYER. Mr. Speaker, one of the most significant unsuccessful meetings in the history of the United States occurred in Annapolis, MD, between September 11–14, 1786. During discussions at the "Annapolis Convention," 12 delegates from 5 States failed to develop measures to improve the commercial and trade relations between the States.

However, these delegates unanimously adopted a resolution, drafted by Alexander Hamilton of New York, calling for a meeting to be held in Philadelphia in May 1787. This meeting, which the delegates to the Annapolis Convention hoped would address the weaknesses of the Articles of Confederation—the report of the commissioners to the Annapolis Convention reads, "That there are important defects in the system of the Federal [sic] Government, is acknowledged by the acts of all those States which have concurred in the present meeting"—produced the Constitution of the United States.

In March 1785, representatives from Maryland and Virginia, meeting at General George Washington's plantation overlooking the Potomac River, had developed an agreement on trade and navigation on the Potomac River and the Chesapeake Bay, the Mount Vernon Compact. Ratifying that agreement, the Maryland legislature proposed that Pennsylvania and Delaware, States also involved in trade on the Chesapeake, be included in future commercial negotiations. Virginia agreed, but widened the application of the Mount Vernon Compact and invited all States to a convention to consider a uniform system of trade and commerce. The Virginia legislature suggested that the meeting be held in the capital of Maryland in September 1786.

Answering that call, 9 of the 13 States appointed commissioners to the Annapolis Convention. Eventually, however, only 12 delegates participated. These negotiators were: George Read, John Dickinson, and Richard Bassett, Delaware; Egbert Benson and Alexander Hamilton, New York; Abraham Clark, William C. Houston, and James Schureman, New Jersey; Tench Coxe, Pennsylvania; and Edmund Randolph, James Madison, and St. George Tucker, Virginia.

Though it was the host State, no delegates from the State of Maryland officially participated in the Annapolis Convention. The Senate had hesitated because of a fear that such a meeting might undermine the Articles of Confederation.

However, other pressures and influences were already motivating men such as Hamilton of New York and Madison of Virginia to seek a stronger national government. Noting that the instructions to the New Jersey delegation had included the vague language to consider "other important matters," the Annapolis delegates dispensed with considerations of trade and commerce. Instead, they adopted language that highlighted the weaknesses in the Articles of Confederation leading to "* * * the embarrassments which characterise [sic] the present State of our national affairs, foreign and domestic. * * *"

To commemorate the bicentennial of the Annapolis Convention, the entire Maryland congressional delegation has joined in introducing a joint resolution. Now, 200 years later, as our country prepares to mark the bicentennial of the Constitution, it is highly appropriate that Maryland's representatives sponsor a resolution to commemorate the bicentennial of the Annapolis Convention.

The Maryland delegation hopes that our colleagues in the House of Representatives will join us in this commemoration. This modest start, with a call for a revision in the Government under the Articles of Confederation to make it "adequate to the exigencies of the Union," led directly to the Constitution of the United States. Dr. Gregory A. Stiverson, the director of the Maryland Office for the Bicentennial of the Constitution of the United States and the assistant State archivist, has noted, "The Annapolis Convention failed miserably at its assigned task, but it succeeded beyond measure in influencing the course of American history. Its members had the courage to announce publicly that the plight of the Nation required decisive action, and they had the wisdom to propose a remedy."

Whereas, In September 1786, delegates from several of the States met in Annapolis, Maryland, to discuss issues with respect to interstate trade;

Whereas the meeting is commonly known as the Annapolis Convention;

Whereas the delegates to the Annapolis Convention discussed problems with respect to weaknesses of the Articles of Confederation;

Whereas the Articles of Confederation was the document that established the original system of government for the United States;

Whereas the delegates to the Annapolis Convention unanimously approved a resolution, drafted by Alexander Hamilton, requesting the States to send delegates to Philadelphia for a meeting at which proposed solutions to problems with respect to the Articles of Confederation would be discussed;

Whereas the meeting began in Philadelphia in May 1787 and is commonly known as the Constitutional Convention;

Whereas a proposed Constitution of the United States was agreed to at the Constitutional Convention and subsequently ratified by the States;

Whereas the Annapolis Convention was instrumental in the process of making the decision to hold the Constitutional Convention;

Whereas the Commission on the Bicentennial of the United States Constitution will hold a meeting in Annapolis, Maryland, in September 1986;

Whereas September 11, 1986, is the bicentennial of the Annapolis Convention; and

Whereas the week of September 8 through September 14, 1986, is an appropriate week in which to commemorate the bicentennial of the Annapolis Convention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 8 through September 14, 1986, is designated "National Annapolis Convention Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

REVIVE THE FAMILY UNIT IN AMERICA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. LIPINSKI. Mr. Speaker, over the past 25 years there has been a disheartening trend sweeping this Nation—that being an abandonment of traditional values which are essential to the family makeup.

The current direction that programs such as welfare take have contributed to our own cultural and national breakdown thereby necessitating a complete review of the entire system.

The issue of welfare goes to the heart and soul of the American family. The essential components of family stability, cohesiveness and economic independence have been abandoned in favor of governmental dependency programs.

As national correspondent Nicholas Lemann recently pointed out in a study of America's underclass "the whole idea of welfare and compensatory programs for minorities does exactly the opposite of what they are supposed to: they make minorities worse off by encouraging them to become dependent on Government checks and favors . . ."

This view is magnified in Charles Murray's 1984 book "Losing Ground," which presents poor minorities becoming poorer and crime rising, and efforts to find work declining, and educational achievements dropping.

The welfare programs of the 1960's and 1970's are simply not in tune with the needs of today's society and in fact have created a

system of dependency along with incentives that weaken the entire family unit structure.

Although eligibility requirements were tightened and benefits somewhat restricted to the truly needy, those changes were instituted as cost-saving measures not as welfare reforms designed to liberate families from the perils of the poverty culture. The fact of the matter is that these changes have created work disincentives and have eroded family bonds.

This country seems to be gearing up for some heated discussions over welfare reform. A new series of Government solutions will certainly follow—solutions aimed at either dismantling the entire welfare system or further expanding it, all of which will be contingent on which side wins the debate.

A task force assigned to review this Nation's welfare system is already reviewing some interesting proposals which merit consideration:

First, deny Federal assistance to fathers who do not support their children;

Second, full benefits under the Aid for Families with Dependent Children Program for intact families;

Third, ending direct welfare payments to minor mothers—some members of the task force believe that teenagers would be less likely to see a baby as a ticket to financial independence if their child support went to an adult guardian; and

Fourth, denying welfare aid to States with no-fault divorce laws, which some see as an open invitation for destroying the family unit across this country.

In addition there are three other ideas for improving the welfare system and the fabric of the family unit which have gained a considerable momentum recently; workfare, self-help, and a new WPA Program.

Workfare is a relatively old concept which simply ties welfare benefits to work by the recipients. Many justify this idea by saying that no one should be subsidized by the Government without working for it. A national workfare program where all welfare recipients, except mothers with children under school age, will be required to work or enter some job training program in order to receive benefits, may very well be the trend of the future. Although, each State may dictate their own welfare policy within their jurisdictional realm the administration could offer an incentive where Federal welfare grants will be allocated to those States who advocate or pursue the workfare philosophy.

The self-help movement or proposition is one that espouses the principles of self-reliance and entrepreneurship. Proponents of self-help believe that many welfare recipients have become stagnated and paralyzed in the quagmire of Federal subsidy programs that has inhabited the qualities of self-reliance and the work ethic. Programs that would create enterprise zones, special job-training or public service opportunities in depressed areas may in part create a feeling of self-worth and community esteem that would provide reasonable alternatives to Government dependency, crime, out of wedlock pregnancies, and divorce.

The third proposal and probably the most viable is the resurrection of the Work Projects Administration [WPA]. A new Federal program like the WPA would create jobs for many of those who are on the rolls of unemployment and welfare. Major highway repair projects and Government research initiatives that require basic secretarial or computer skills could be directed toward the welfare recipient. Those who are currently on welfare would be required to participate in the Government jobs program in either a full-time or part-time basis depending on their parental obligations.

There are of course many advantages to a program of this nature. The most apparent of which is to develop a conduit to private industry while establishing a work ethic philosophy in the welfare recipient. This program would hopefully take people out of the dependency culture and place them into the national mainstream.

Besides focusing on the welfare families we should also consider new tax benefits for the middle-class family. Areas of concern for middle-class America include: raising the personal income tax exemption; the exemption for dependents, a childrens allowance built into the Tax Code, has risen from $600 in 1948 to only $1,040 in 1985 and to maintain the value on the personal exemption based upon a inflation index over 27 years would mean that the exemption today should be valued at approximately $5,000, establishing some type of tax deductible savings accounts for childrens' education; and provide the first time homebuyer family financing incentives, such as drawing on established IRA accounts without financial penalties to purchase a home; and place spousal IRA's on equal footing with earner IRA's.

As a former Deputy Director of the White House Office of Legislative Affairs, William Gribbin once stated:

There is no instrument of economic growth, savings and investment, job creation and job training as effective as the middle-class family. There is no cultural institution as nobling as family life. There is no better way to rear the young, protect the weak, or attend the elderly.

Consequently the survival of the family order will continue to precariously hang in the balance until we as a Nation begin to foster a new awareness of the intrinsic values that the family unit possesses in our society.

We must institute a new trend in Federal, fiscal, and social policy where legislative initiatives are centered around the goal of preserving and enhancing the family bond. The criteria for future policy deliberations must be based on whether they advance or hinder the interests of the family: and whether they justify an exaction from the family income.

Another area of the pro-family agenda which has fared no better in current policy deliberations is education, which in the past has been the cornerstone for family development and progress. Unfortunately the breakdown of the system is even more evident here where public education continues to produce many high school graduates who can neither read, write or do basic mathematics. College and university students seldom receive a real education in courses which are essential to society's workforce but instead are trained in routine techniques which tend to be nonapplicable outside the classroom. The drop-out rates for high school students also continues to escalate forming an underclass whose only goals and gratification are based through drugs and crime. We must turn away from the philosophy of academic leniency in our schools and again bear down on the basics and promote hard work, dedication and academic excellence. It is therefore imperative that we bring about a resurgence in the educational process, for the foundation of family order and advancement begins with the education of our children.

These proposals are essential if we are to once again revive the spirit of the American family. The plight of the family in America can be directly linked to the abandonment of values that we as a society held in the past. To reverse this trend we must define new priorities and restructure this Nation's character. This can be accomplished at the grassroots level by instilling within our children the traditional values of patriotism, hard work, and religion. The social and moral fabric of this Nation is interwoven with our own ideals and goals which begin at the family level.

If we are to effectively combat the decay of the social structure we must devise as a nation a sensitive but yet meaningful agenda that will both quell the current cultural trends and bring about a renaissance of thought where we once again articulate and convert the vision of family values into reality.

BUSINESS AND THE SHORT-TERM SYNDROME

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Ms. KAPTUR. Mr. Speaker, I wish to call attention to a fundamental problem facing our economy, the shortsightedness of private investment. As control of America's corporations shifted from individual investors to institutional investors—pension funds, insurance companies, foundations, investment companies, trust funds, and so forth—the emphasis on returns shifted from long term performance to immediate returns. Now, as America faces increasing challenges to bettering our competitive position, we must examine the dire need for long term investment in our economy. I commend this article to my colleagues.

Thank you.

[From the Washington Post, June 15, 1986]

BUSINESS AND THE SHORT-TERM SYNDROME

(By Pat Choate and J.K. Linger)

Fast results and short-term earnings have become the obsessive goal of most American companies. The pursuit of these objectives diverts resources from investment in modern plant and equipment research, technology and training to clever financial manipulations. It sacrifices market share to high quarterly earnings. And it discourages workers from making long-term commitments to companies.

Almost two decades ago, the French writer Jean-Jacques Servan-Schreiber predicted in The American Challenge that the United States would be so economically advanced by 1980 that it would "stand alone in its futuristic world . . . holding a monopoly of power," dominating Western Europe in

every basic area where power matters; culture, politics, the military, and economics.

But the American challenge failed to materialize. In the years following publication of Servan-Schreiber's book in 1968, it was American industry that lost position in the world marketplace. This decline occurred in industries where U.S. firms were long considered invulnerable; advanced computers, semiconductors, aircraft, machine tools, telecommunications, pharmaceuticals, scientific instruments, industrial chemicals, engines, turbines, plastics, steel, automobiles, synthetics, insurance, engineering services, banking and many others.

America's startling and humbling losses are an insidious form of economic decay. Much like dry rot, they are only partially visible—masked by inflation, unproductive mergers, profitless growth, and clever financial manipulations. And like dry rot, the economic decay—evident in diminishing profits, lagging reinvestment, and waning technological supremacy—is spreading, undermining the foundations of one industry after another.

We can take action now to reverse the trend by implementing new regulations and using tax policy to get at the root causes.

By ceding the future to the present, American firms have greatly reduced their capability to cope with foreign competitors whose actions are shaped by long-term, perspectives. It is the short view of American business, more than anything else, that threatens the long-term vitality of our economy.

Among the more popular excuses for this myopia is that American business schools are equipping managers with a sophisticated array of analytical tools that favor the short term over the long term. But blaming business schools for the short-term focus of American companies is akin to blaming West Point for involvement in wars; the business schools merely equip managers with the tools the economic evironment demands. If business is to take a longer-term focus, it requires an economic environment that permits and encourages long-term action.

The creation of such an environment hinges on a reduction in the two principal pressures for short-term performance: the demands of investors for immediate returns, regardless of longer-term consequences; and the inability of small business to secure long-term money.

Control of America's major corporations has steadily shifted from individual investors to financial institutions—pension funds, insurance companies, foundations, investment companies, education endowments, trust funds, banks. This shift has far-reaching consequences, because individuals and institutions invest in the stock market for sharply different reasons: Individuals are primarily investors looking for long-term performance; institutions are pursuing short-term profits. Thus, just when U.S. business needs to be making long-term investments to meet global competition, the new owners—the institutions—are pressing for quick results.

Institutions now hold so much equity and are such a powerful presence in stock markets that corporate executives often are at the mercy of their demands. The raw economic power of institutional investors can be measured in two ways: their stock holdings and their willingness to get rid of stocks that fail to produce quick earnings.

Institutional stock holdings have risen rapidly over the past three decades. By the mid-1980s, institutions held more than 35 percent of all equities listed on the New York Stock Exchange (NYSE), double their share in 1960. By 1990 they are expected to own half. Already, institutions have half to two-thirds of the stock of the nation's 200 largest corporations.

Yet their biggest impact comes not through mere ownership but through the growing pace of their transactions. In 1953, when institutions controlled about 15 percent of the equities listed on the NYSE, their trades constituted a quarter of stock market transactions. Today, institutional trades constitute almost 90 percent of transactions.

As a result of such hyperactive trading, the fundamental focus of the stock market has been transformed from long-term investing to short-term speculation. This shift can be gauged by both the rising volume of large-block stock transactions (10,000 shares or more) by institutions, and the quickening pace at which the entire value of stocks listed on the NYSE is traded.

The exchange reports a two decade trend of steady increases of large-block transactions, and they are overwhelmingly by institutions. In 1965 there were, on average, only nine large-block transactions a day, constituting 3 percent of the daily volume of the market. By 1985 the average number of such trades had soared to more than 2,100 a day, constituting more than 51 percent of volume.

Because institutions own such a large share of all stock, and trade that stock so zealously, there has been a sharp increase in the turnover rate of the entire NYSE (the pace at which the total value of stocks listed on the exchange is traded). In 1965, when individual investors dominated market transactions, the turnover rate was roughly 16 percent a year. By 1985 it was 54 percent. At the 1965 rate, it would take six years for the entire value of the stock market to turn over, but today it takes a little less than two years.

In the speculative, short-term-oriented equity markets that now exist, only a few American firms, such as General Electric, IBM, General Motors and Exxon have sufficient profits and assets to make the commitments that long-term global competitiveness requires without sacrificing shorter-term earnings. Most companies are obliged to focus their efforts and resources on results that can bolster the price of their stock. Corporate executives know what happened to Gulf Oil when a financial group saw an undervalued stock and attempted a takeover; Gulf's recourse was to surrender its independence to SOCAL. Most managers also realize that even if they can fend off an unwanted takeover, as Martin Marietta and Phillips Petroleum did, the company can be seriously harmed in the process, as both of them were.

Active trading, speculation and relentless demands for short-term results are undermining the performance and imperiling the survival of U.S. companies by fostering several harmful phenomena:

The "paper entrepreneurship" that Robert Reich describes—the speculative mergers and takeovers, "greenmail," and inflation of corporate earnings through accounting transactions. In 1985, the value of these mergers exceeded $125 billion, more than 300 percent greater than in 1980. Pension funds provide much of the financing for this speculation.

The increased use of firms' capital for buybacks of their own stock to make it less attractive to raiders. In both 1984 and 1985, firms spent more than $100 billion in stock buybacks versus $29 billion in 1983. If these funds had been used to modernize plant and equipment, total capital investment would have been 25 percent higher.

Corrosion of the venture capital market. Pension funds and institutions now provide more than a third of all venture capital. Because of their insistence on short-term results, venture capital funds are being transformed from providers of long-term money and technical support to speculators demanding quick results.

The shift of research and development from long-term efforts that can produce major breakthroughs to short-term "safe" projects that can produce quick results. The National Science Foundation reports that a growing number of businesses are directing their research toward minor refinements of existing technologies, rather than major technological breakthroughs. Yet it is the real breakthroughs such as microelectronics, computers, and xerography that have created entire new industries and significant improvements in older ones, as well as major bursts of productivity and competitiveness.

The preoccupation of corporate executives with the short term is heightened by the way they are compensated. Most companies respond to, and thereby reinforce, the unrelenting pressures for short-term performance by basing pay and promotion decisions primarily on immediate financial results, such as quarterly earnings and sales. Research at the University of Rochester's Graduate School of Management indicates that in any given year, firms whose stock performance ranked in the top 10 percent will increase executive pay by a real 5.5 percent, while firms whose stock performance ranks in the bottom 10 percent will cut executive pay by 4 percent. Not surprisingly, when corporate leaders were asked in a 1985 survey about their single overriding objective as chief executives, 51 percent said, "creating shareholder value." Only 18 percent responded that their top priority was to become the market or industry leader.

Institutional investors adhere to a short-term trading focus because they are expected to get quick results. Fund managers are judged on the basis of quarterly, even on monthly, earnings. A 1985 survey of 308 of the nation's largest institutional investors found that when selecting stocks, only 4 percent considered the quality of the company's products—normally a sound gauge of a firm's long-term competitiveness.

The growing volume of pension holdings makes the short-term focus of the funds extremely influential. The value of corporate equities held by these funds, less than $85 billion in 1970, exceeded $325 billion in 1983, stands at around $500 billion today, and is projected to reach $1 trillion by 1990. The frenzied movement of this much money shapes the priorities and performance of the entire stock market.

When the trend toward greater institutional ownership got underway three decades ago, it was viewed as a stabilizing influence: Most observers assumed that institutions would eschew short-term speculation in favor of longer-term investment. That potential still exists. Indeed, the institutions' vast pool of capital does represent a major national asset, but only if their managers take a more patient view of investments and returns.

Capturing this potential will require a change in the economic rules so that long-

term investment becomes more attractive to financial institutions. This means, first, that federal regulations should be modified so that managers will be compensated not on the basis of transaction costs or management fees, but according to some measure of the long-term performance of the fund.

A second and perhaps more effective way to establish an environment for long-term investment would be to impose a tax on short-term gains of pension funds' stock trades. As a short-term speculation becomes less profitable, participation in corporate raids and greenmail will also become much less attractive to pension fund managers.

Not least of all, creating an economic environment that favored long-term investment over speculation would be likely to boost the returns of institutional funds. Even though institutional money managers annually collect more than $6 billion in management fees and commissions, they are inept speculators. In the bullish stock market of 1984, 74 percent of the managers specializing in equities performed worse than the Standard & Poor's 500 stock index, and 71 percent of the fixed-income managers underperformed the Shearson Lehman government/corporate bond index. These figures, moreover, hide the fact that speculation by money managers produced a loss of capital for many funds.

Had most workers and their firms invested their pension funds in government or corporate bonds or a stock portfolio based on the S&P's 500, they would have done better than their money managers did and paid fewer commissions in the process. If the speculative spirits of money managers can be dampened, then the flexibility fund returns improved.

The American economy still has all the ingredients for strong competitive growth. Yet mounting pressures by financial institutions for quick results and short-term earnings are shackling the flexibility of business to improve its global competitiveness. As a result, America's remaining economic advantages, and thus our economic future, are quickly slipping away.

CAPTURE OF "CAPTAIN MIDNIGHT"

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. COATS. Mr. Speaker, I was pleased to hear this afternoon that the Federal Communications Commission had identified and apprehended the individual responsible for the "Captain Midnight" incident last April 27, 1986. Many had speculated at the time that, because of the difficulties of tracing the jamming involved in that incident, the person responsible would never be caught. I want to commend the Commission for its fine law enforcement work.

Although the incident was a bold and unusual protest that received considerable public attention, it presented serious ramifications regarding the security not only of video programming but of telephone calls, data transmissions and even national security communications.

As our Nation's communications systems rely more and more on satellite transmissions, it is imperative that the security and reliability of those systems be maintained. In section 6 of H.R. 5058, the Satellite Television Programming Access Act, a bill introduced by myself and Congressmen SWIFT, NIELSON, and ECKERT, additional penalties and enforcement tools are provided to deter future incidents and to aid in the apprehension of those responsible for any future incidents that might occur.

Mr. Speaker, I include in the RECORD at this point a copy of the Commission's release containing details of the "Captain Midnight" incident and the Commission's apprehension of the person responsible.

The release follows:

CAPTAIN MIDNIGHT UNMASKED

Richard M. Smith, Chief of the Field Operations Bureau of the Federal Communications Commission (FCC) and Robert Merkle, United States Attorney for the Middle District of Florida announced this afternoon that John R. MacDougall of Ocala, Florida has been charged with illegally operating a satellite uplink transmitter to intentionally cause interference to the satellite cable television programming of Home Box Office, Inc. (HBO).

On April 27, 1986, at approximately 12:32 a.m. EST, a video transmission overrode the HBO transmissions from Hauppague, Long Island, New York to the Galaxy I satellite. The interfering signal consisted of a color bar pattern upon which was superimposed the following message: Goodevening HBO from Captain Midnight, $12.95/month? No way! (Showtime/Movie Channel beware!)

The interference prevented reception of the start of the HBO movie "The Falcon and the Snowman", which was intended for the cable television systems and other viewers in the eastern two-thirds of the United States. After approximately four and a half minutes, the interfering transmission ceased.

The Field Operations Bureau of the FCC, which has responsibility for investigating communications interference, started its investigation based upon information provided by HBO and Hughes Communications, the operators of the Galaxy I satellite. In addition, several videotape recordings of the interference were obtained. After careful analysis by the FCC, it was concluded that the interfering signal was transmitted from a professional satellite uplink facility having an antenna at least seven meters in diameter and that the message had been generated using a specific make and model of character generator. In addition, it was learned that almost precisely a week earlier, on April 20, 1986 from approximately 12:49 a.m. to 12:52 a.m. EST, a transmission consisting of a color bar pattern only also overrode HBO's programming.

The Commission surveyed 580 licensed satellite uplink facilities within the U.S. which met the antenna size requirements. Less than a dozen facilities were found which also had sufficient transmitter power capability and the correct character generator. FCC field investigators then visited and inspected each of these facilities.

The Central Florida Teleport at Ocala, Florida, was the only surveyed facility with the proper combination of equipment and availability for use at the time and date of the interference. Further, scheduled programming at this facility had ended just prior to both the April 20th and April 27th incidents. The operator on duty both nights was John R. MacDougall.

The Commission's investigation was further aided by information obtained from a confidential source. A person overheard a telephone conversation at a phone booth concering Captain Midnight. They obtained a description of the individual making the phone call and the license number of the vehicle used to leave the area. The information was telephoned to the FCC Headquarters in Washington, DC. Although the individual overheard on the phone was not MacDoughall, the information proved extremely beneficial in narrowing the investigation to the Ocala area.

The combination of the FCC's independent investigative efforts and further interviews and inquiries by both the FCC's Tampa, Florida office, headed by Engineer-in-Charge Ralph Barlow, and by Larry Gentile, Assistant U.S. Attorney in Jacksonville, Florida, revealed that the interfering transmissions were, in fact, made by MacDougall using the facilities of the Central Florida Teleport.

MacDougall, on an occasional "as needed" basis, worked as a contract satellite uplink operator for Central Florida Teleport. At the times of the interference to HBO, MacDougall was alone and in control of the uplink facility. MacDougall's actions constituted unlicensed operation in that he did not possess a license from the FCC nor have the authority or permission of Central Florida Teleport to operate the facility after the schedule programming was complete.

MacDougall is owner and president of MacDougall Electronics, a retail satellite television receive-only (TVRO) earth station dealership. His business provides sales, service, and consultation for private and commercial satellite antenna systems used for the reception of satellite programming.

MacDougall's illegal transmissions constituted a violation of Title 47, United States Code, Section 301 as made punishable by Title 47, U.S. Code, Section 501, in that he knowingly, willfully and unlawfully transmitted the interfering signal without a license having been granted authorizing such operation. Maximum penalties include one year imprisonment and $100,000 in fines. Sentencing in this case will occur at a later date.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. UDALL. Mr. Speaker, this is the sixth in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the South.

Today's article, which appeared prior to the recent state elections in Mexico, observes that almost everything in Mexico is going wrong at the same time, and it credits the fury of recent calamities in pushing Mexico to the brink of defaulting on its foreign debts. The more Mexico tries to placate its creditors, the more it unsettles its people. It seems that as the domestic and international pressures mount, both the poor and the middle class

have grown increasingly disgruntled with the ruling Institutional Revolutionary Party. In the present climate of unease, this could, as the article points out, prove enormously disruptive.

The article follows:

[From Time magazine, June 23, 1986]

DEAD MEN DON'T PAY UP

(Reported by Andrea Dabrowski and Harry Kelly)

"For my country and my people," Mexican President Miguel de la Madrid Hurtado wrote in an advertising supplement, "[the World Cup] will give us a chance of showing the world the reality of Mexico." So, alas, it has. When the President stepped forward before 300 million TV viewers around the globe to open the quadrennial soccer tournament three weeks ago, his speech was drowned out by an almost unprecedented chorus of boos. A few days later, Mexico City's huge Aztec Stadium, unfilled even during a major game, ran out of water. At one point its official clock broke down; at another, the sound system went dead just before the playing of the Mexican national anthem. Even the host nation's 2-1 victory over Belgium in its opening match ended in chaos as tens of thousands of celebrators rampaged through the center of the capital, commandeering public buses and tearing pieces off the national monument of independence. By the time the revelry died down, 134 people had been arrested, at least 250 had been hospitalized, and a woman had been gang-raped beside the city's main thoroughfare. To top things off, the "eternal flame" representing the country's independence was stolen.

The symbolism was all too perfect. In Mexico of late, almost everything that could go wrong has gone wrong. A devastating earthquake last September killed perhaps 20,000 and left tens of thousands in tents and tar-paper shacks around a capital that is already the world's largest metropolis. American officials appearing before a U.S. Senate subcommittee last month publicly condemned Mexican officials for corruption and complicity in drug smuggling. The recent decline in the price of oil, the country's major export, stripped in a single month the already debilitated economy of one-third of its projected foreign exchange. And earlier this month the peso, which was worth 26 to the dollar in 1982, fell in only a week from around 530 to 750. By now, this fury of calamities has pushed Mexico to the brink of defaulting on its foreign debt of $98.6 billion. As De la Madrid recently warned, "Dead men don't pay debts."

Last week the country scrambled to avoid a financial collapse. The Central Bank intervened in currency markets to push the peso back to 660. De la Madrid appeared on TV, stronger and more simpatico than usual, to allay doubts about his wavering government. Paul Volcker, chairman of the U.S. Federal Reserve Board, made a secret trip to Mexico to try to expedite a loan package for the roughly $6 billion that the country needs to continue servicing its foreign debt. Though a rescue loan now seems likely, the conditions set by financiers will probably be tough. Commercial banks have refused to bail Mexico out until it has reached an agreement with the International Monetary Fund. And the IMF will not help until the country has slashed its domestic budget and reduced an inflation rate that may exceed 90% this year.

The more Mexico tries to placate its creditors, however, the more it unsettles its people. Earlier this month the price of tortillas quadrupled overnight. Next month the cost of a Mexico City subway ride is likely to increase from one peso to 50. Such developments are not easy on a typical worker, whose real wages have sunk by one estimate, to their 1967 level. Yet many Mexican officials feel that their diligence in making sacrifices, and in honoring every debt payment so far, has been insufficiently recognized by creditors abroad. "Mexico requires special treatment," said Angel Gurria, head of foreign credit at the Finance Ministry. "But bankers balk at setting a precedent."

Many of those balkers come from Mexico's potential backers to the north. Former U.S. Ambassador John Gavin reportedly urged American bankers to withhold loans from Mexico until the country began to show signs of serious economic reform. The Administration firmly maintains that Mexico cannot simply make domestic cuts, as it did during its debt crisis in 1982, but must swallow its pride and open itself up to more free trade and foreign investment. Said Senator Phil Gramm, chairman of the U.S.-Mexico Inter-Parliamentary Committee, last week: "If they do what needs to be done, they won't need our help. If they don't, there isn't enough money to help them."

According to one American official, the U.S. might provide financial assistance more readily if Mexico provides increased assistance in the war against drugs. As it is, the country now accounts for roughly one-third of all the heroin and marijuana imported into the U.S. Many in Washington believe local Mexican authorities not only assist in the traffic but also appear to have protected those who carried out the brutal murder last year of Enrique Camarena Salazar, an American Drug Enforcement Administration agent. U.S. concern was hardly soothed when Mexican Foreign Secretary Bernardo Sepúlveda Amor shrugged off the incident as "only a police case." Last week Sepúlveda reiterated that the battle against drugs would subside only when U.S. consumption slackens.

As domestic and international pressures mount, both the poor and the middle class have grown increasingly disgruntled with the Institutional Revolutionary Party. During the 57 years it has ruled the country as a one-party democracy, the P.R.I. has never lost a presidential or gubernatorial election. That could soon change. The conservative, probusiness National Action Party has shown considerable strength in Chihuahua, the country's largest state, where elections will be held early next month. Many Mexicans suspect that the P.R.I. may lose the gubernatorial race—or win only by tampering with the results. In the present climate of unease, either outcome could prove incendiary. Small wonder that some P.R.I. officials are now reciting a gloomy slogan: "We may win Chihuahua but still lose the country."

INCREASED EMPHASIS NEEDED ON SALINITY RESEARCH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. BROWN of California. Mr. Speaker, today I am introducing, along with Mr. LEWIS of California and Mr. MCCANDLESS, a bill to authorize the planning and construction of a new Department of Agriculture [USDA] Salinity Research Laboratory at Riverside, CA. This new research facility is needed to replace the existing United States Salinity Laboratory [USSL] facility which is old and needs refurbishing to meet modern research standards. We feel that the problems of soil and water salinity are one of the major long-term threats to western agriculture and demand a greater research effort than we have seen in the past. A new research laboratory would provide the core of that effort.

In our home State of California, there are many examples of the magnitude of the salinity problem. Of the 55.6 million acres of non-Federal land in California, salinity affects over 4 million acres. Of greater importance to agriculture is the fact that of the 10.1 million acres of irrigated farmland in our State, salinity is a problem on nearly 3 million acres. Estimates are that this figure will increase by 600,000 acres before the end of the century if corrective actions are not taken. When you add to this figure the number of acres affected by salinity throughout the Western States, you begin to comprehend the magnitude of the problem.

At the same time, we are seeing other problems such as the buildup of selenium at the Kesterson National Wildlife Refuge in California. The processes of transporting and concentrating selenium are the same as for other salts and a long-term solution to the Kesterson problem will require better soil and water salinity management technologies. And Kesterson is not the only site where we will find toxic materials building up in irrigation ponds. The natural process of evaporation concentrates dissolved materials in these tailwater ponds and means that we will find these situations throughout the Southwest.

Western agriculture is also under great pressure to use less water and increase irrigation efficiences. However, the need to conserve water causes problems for salinity management since one solution to soil salinity is the practice of flushing the salinity out of the root zone. With the prospect of decreasing water available to agriculture in the Southwest, we will have to find new approaches to salinity management.

In summary, we are facing increased pressure to solve our salinity problems at a time when other irrigated agriculture needs are limiting our options. What is required is an integrated approach to this problem using the best and the physical, chemical, and biological sciences. The USDA recognizes the importance of this need and gives salinity research high priority in its planning documents. Unfortunately, USDA's ability to request new research facilities is limited and it is up to Congress to seek the funding for the USSL.

The existing research facility was established in 1937 as the United States Regional Salinity Laboratory, "to conduct research on problems connected with the success and permanence of agriculture on saline and alkali soils." The laboratory was set up in Riverside, CA, adjacent to the existing USDA Bureau of Plant Industry Laboratory which was established in 1928 to conduct research on water quality problems. These two laboratories were combined in 1948 as the USSL.

The USSL facility was recently studied by the USDA to determine whether to renovate the existing laboratory or to build a new facility. The feasibility study pointed out numerous advantages to a new facility, advantages which we feel justify the additional cost of the new construction option. For example, the study pointed out that the best building in the existing facility was one which was constructed in 1938, hardly a glowing endorsement of the physical state of the existing lab.

The argument for a new facility is strengthened by cooperative efforts being planned at the University of California at Riverside [UCR]. UCR is the location of one of the agricultural experiment stations operated by the University of California. It has an excellent research base in agriculture and in related disciplines. It is the site of the California Center for Environmental Toxicology, a new statewide research effort to examine toxics in surface and groundwater.

The University is examining a number of cooperative options for the relocation of the USSL, the most important one being the possibility of locating the new USSL on university property. They are also looking into the possibility of joint faculty appointments, cooperative building maintenance agreements, and a number of other options which would significantly reduce the Federal cost associated with a new facility.

We will examine these efforts during hearings on this bill which we hope to have held in September. It is our hope that the Agriculture Committee, the House, and eventually the Senate will recognize the need for this facility and that we can begin this fiscal year to start the detailed planning for the new USSL. Western agriculture cannot afford any further delays in finding solutions to the problems of soil and water salinity in agriculture.

THE SANDINISTAS TIGHTEN THE NOOSE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. BROOMFIELD. Mr. Speaker, recent events provide proof positive that the Sandinistas are creating a totalitarian state in Central America. It is clear to all of us that another Cuba, with all the trappings of a Marxist-Leninist state, is being established in nearby Central America. In recent days, the Sandinista junta has targeted a young Catholic priest.

As the Sandinistas celebrate the seventh anniversary of their shabby revolution, the Nicaraguan people have little to celebrate. That poor country has become an armed camp with Russian and Cuban advisers and billions of dollars of Soviet-made equipment. Political groups and others who even mildly oppose the Sandinista junta are systematically repressed. Thanks to the socialist economics of the commandantes, the economy of that country is near collapse. Scarce resources are being used to export that revolution to nearby countries.

A recent victim of Comandante Ortega's intolerance of criticism was La Prensa, the last so-called free newspaper in Nicaragua. After expelling Bishop Pablo Antonio Vega, who dared to tell the truth about that Marxist-Leninist government, the comandante turned his ire against another innocent priest.

As the following article explains, Reverend Bismarck Carballo, the spokesman for the Nicaraguan Roman Catholic Church, was recently barred from returning home to his native land. Although he has not violated any Nicaraguan law, Father Carballo is being denied permission to return home. The Sandinistas have succeeded in trying to silence an innocent priest who, like other Catholic clergymen, have called for internal reconciliation in Nicaragua. The Catholic Church in that country has offered to sponsor talks which would focus on a peaceful solution to the Nicaraguan problem. True to form, the Sandinistas rejected the church's offer.

After they silence the church in that country, the Sandinistas will try to crush the last vestige of opposition to their regime—the Contras. I wish the democratic freedom fighters in Nicaragua good luck in their struggle to bring democracy back to Nicaragua.

With these concerns in mind, I commend the following Washington Post article concerning the most recent Sandinista attack against the church in Nicaragua.

[From the Washington Post, July 16, 1986]

EXILED PRIEST ASSAILS SANDINISTAS—CARBALLO SAYS CATHOLIC CHURCH IS PERSECUTED IN NICARAGUA

(By Charlie Gofen)

The Rev. Bismarck Carballo, the Nicaraguan Roman Catholic Church spokesman, who was barred by Sandinista authorities from returning home late last month, yesterday denounced the government in Managua and defended his own actions that led to his exile.

Carballo, speaking at his first press conference since he was prevented from boarding a plane to Nicaragua June 28, said the Nicaraguan government has persecuted the church, whose role, he said, is "over and above" politics but often is misconstrued as anti-Sandinista.

The ban on Carballo was part of a crackdown by the ruling Sandinistas following the June 25 vote by the U.S. House of Representatives to provide $100 million in military and humanitarian aid to antigovernment guerrillas, known as counterrevolutionaries or contras. On June 26, the government indefinitely closed La Prensa, the country's only opposition newspaper. On July 4, it expelled Bishop Pablo Antonio Vega, considered the most conservative and outspoken member of the country's hierarchy, accusing him and Carballo of sympathizing with the Reagan administration.

Speaking through an interpreter at a press conference here yesterday, Carballo said that the church supports neither side in the battle between the government and the rebels, and he called for a reconciliation among all parties in his strife-torn homeland.

In response to questions about the situation in Nicaragua, however, Carballo said the government has lost sight of the original tenets of the revolution that brought the Sandinistas to power in 1979 and which the church had supported. There was nearly universal backing for the overthrow of the late Anastasio Somoza, for a revolution that would usher in freedom and democracy, he said. The government's new leaders, however, had "another project in mind."

Now, the populace largely supports the church in its struggle against the government, he said. "Ninety percent of Nicaraguans are Catholic. I am sure that this 90 percent is supporting its cardinal and its hierarchy."

Asked whether he favored U.S. aid to the contras and supported their efforts against the Sandinistas in Nicaragua, Carballo said that the church's goal is to disarm everyone and promote a dialogue of reconciliation, but that disarming only one side would not solve the country's problems.

He said that although he has been accused of "calumny against the revolution," he has spoken out only against the government's antagonism toward the church. "I don't consider that I am collaborating with any enemy," he said.

Carballo, 36, directed the Catholic Radio, which the government shut down Jan. 1, and has spoken for the generally conservative Roman Catholic bishops on many issues on which they are at odds with the Sandinistas.

A spokeswoman for the Nicaraguan Embassy here countered Carballo's assertions that the government has treated the church unfairly, accusing both Carballo and Vega of campaigning for the contras in the United States.

"The government of Nicaragua has not engaged in religious persecution," said Sarali Porta, the spokeswoman. "There is not a problem with religion. The problem is with the hierarchy of the church that have been advocating the contras."

At yesterday's press conference, held at the office of the U.S. Catholic Conference, Carballo said the government had acted against him and Vega "to take away the prestige of Cardinal [Miguel] Obando [y Bravo]," Nicargua's top Roman Catholic prelate.

Porta said in a telephone interview that "there is no campaign to discredit the cardinal" but added that Obando has "never, never" spoken out against the contra attacks in Nicaragua.

Carballo said he has used several diplomatic channels in seeking to return to Nicaragua, first by soliciting the adivce of Obando, then by speaking with the National Conference of Catholic Bishops and the Vatican mission here. He said he hoped "publicity and world pressure" would cause the Nicaraguan government to readmit him.

In other criticism of the Sandinistas, a report released recently by the International League for Human Rights, a New York-based organization, charged the Nicaraguan government with systematic repression of human rights. The government frequently harasses, arrests and detains its opponents, dissident labor activists, religious leaders, independent journalists and human rights defenders, the study said.

Porta said the Nicaraguan Embassy has not yet received a copy of the report.

THE INTERNATIONAL LEGAL CONFERENCE ON ANTI-SEMITISM, ANTI-ZIONISM AND THE UNITED NATIONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues in the House, the findings of the International Legal Conference on Anti-Semitism, Anti-Zionism and the United Nations, held on April 13–15, 1986, at New York University's School of Law. The conference was held in cooperation with the American Jewish Committee's Jacob Blaustein Institute for the Advancement of Human Rights. The American Jewish Committee has a distinguished history in fighting to maintain basic human rights. I urge my colleagues to consider carefully the findings of this important conference.

CONCLUDING STATEMENT OF INTERNATIONAL LEGAL CONFERENCE ON ANTI-SEMITISM, ANTI-ZIONISM AND THE UNITED NATIONS, NEW YORK UNIVERSITY SCHOOL OF LAW, APRIL 13–15, 1986

On the initiative of the Center for International Studies of the School of Law of New York University and The Jacob Blaustein Institute for the Advancement of Human Rights, an international legal conference was held on April 13–15, 1986, to discuss the question of Anti-Semitism, Anti-Zionism and the United Nations. The Conference, attended by 43 international law scholars and practitioners from 11 countries, examined and found in the records of United Nations organs and related bodies statements containing anti-Semitic imagery and language manifesting hostility to Judaism, the Jewish people and Jews as such.

The Conference reached the conclusion that such anti-Semitic expressions and assertions by representatives of United Nations Members States violate the general principles of international law as reflected in the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The Conference also examined statements made in United Nations organs and related bodies, which advocate, expressly or by implication, the destruction of the State of Israel, a Member State of the United Nations. It held that such statements threaten international order, impugn the integrity of the United Nations and damage its credibility.

The Conference concluded as follows:

1. United Nations, organs representatives of Member States, accredited observers and other participants in United Nations proceedings must respect the international legal principle proscribing incitement to national, racial, ethnic or religious hatred.

2. Member States should instruct their representatives in every United Nations forum to place on record their condemnation of violations of the aforementioned principle.

3. The United Nations Secretariat should counsel presiding officers of United Nations organs and related bodies to rule out of order such defamatory statements and try to assure that they are not incorporated in materials distributed by the United Nations.

4. An equation of Zionism with racism must be rejected.

5. Implementation of these principles and recommendations will enhance cooperation by States in promoting the fundamental purposes of the United Nations Charter.

TRIBUTE TO DR. WILLIAM FLEMING

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. HERTEL of Michigan. Mr. Speaker, today I would like to honor Dr. William Fleming, an associate professor of humanities at Nazareth College who has just completed 20 years of teaching.

Dr. Fleming started teaching at the University of Notre Dame in 1964. In 1966, he was invited to join the faculty at Nazareth College and has been instrumental in developing the curriculum ever since. His innovations have included a social work task force, an academic policy board, and a cross-cultural studies in behavioral science program.

Dedicated to teaching, Dr. Fleming has been honored with both grants and awards, including the Nazareth College Outstanding Teacher Award in 1985. Over the years he was able to secure several grants, one Federal grant awarded to the sociology department and two Kellogg grants, one establishing environmental study courses and projects, and another for cross-cultural studies.

Striving for excellence in teaching, Dr. Fleming takes his job far beyond the classroom to bring the most to his students and colleagues. He has enhanced the teaching profession with his research, publications, and presentations. Visiting native American cultural sites and conducting library research are only a few of his outreach research projects. He participated in "Humanities Through the Arts" sponsored by the Michigan Council for the Humanities, he presented a paper, "Intimacy, Dependence and Becoming" at the Association for Humanistic Psychology. He has continued to attend workshops and seminars to update his skills as an educator.

In addition to the many projects Dr. Fleming has completed, he has sponsored and directed monthly presentations by faculty members, and has directed and codirected numerous workshops. These efforts make him not only a teacher of students, but also a teacher of teachers.

In 1958, Dr. Fleming received his B.S. in sociology at Central Michigan University, and subsequently received his masters and Ph.D. from the University of Notre Dame.

Mr. Speaker, I rise today to salute William Fleming's career; his outstanding achievements as a professor, faculty member, and volunteer are a tribute to his college and his community.

SOUTH AFRICA'S FUTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. RANGEL. Mr. Speaker, the situation in South Africa worsens daily. The present state of emergency only adds to the repression and violence which is tearing the country apart. Something must be done. Members of the world religious community universally condemn apartheid as an evil and morally reprehensible system and recognize the need for immediate and dramatic change in South Africa.

As citizens of a country whose laws and political beliefs are based on universal moral premises, we must join religious leaders in demanding an end to apartheid. However, condemnation of the Botha government is not enough. Economic sanctions and increased diplomatic pressure are necessary if the United States is to send a firm message to Pretoria. Further, it is important for us to remember that we need to look not only to the end of the current, repugnant system, but must plan for the future of South Africa.

South Africa cannot and will not remain a state based on a system of apartheid. The United States should not tolerate promises of meaningless reforms from the Botha government. However, we must also avoid a bloody revolution and escalation of violence at all costs. Democracy is the goal, and one that the United States must work toward in every way possible. Any long-term American policy toward South Africa must incorporate promises of economic aid for a majority ruled government. We have in south Africa, a chance to build and shape a democratic nation which can serve as a model for all of black Africa.

To that end, I would like to introduce into the CONGRESSIONAL RECORD an article which appeared in the Washington Post written by John Walker, Episcopal bishop of Washington. His views, I believe are particularly thoughtful and may help us in formulating a cohesive and farsighted social and economic policy toward South Africa.

[From the Washington Post, June 15, 1986]

A FORCE FOR CHANGE

(By John T. Walker)

The religious community has condemned apartheid as evil and morally reprehensible. A significant number of church leaders have called for economic sanctions against South Africa, including a withdrawal of all investment by foreign multinational corporations.

However, in our desire to do something, we have failed to connect actions with outcome. Our agony over the plight of the blacks in South Africa has often trapped us into taking actions that may be more pronounced in their symbolism than in their capacity to bring about substantive changes.

The world religious community should use all its moral resources to mobilize world public opinion against apartheid and to bring pressure to bear on the South African regime. But more important, it must become a force of positive change rather than negative exhortations.

One of the difficulties in a transition to a post-apartheid South Africa will be the im-

mense economic costs of improving the physical and social infrastructure if black people are to have any hope of a better well-being. The short-run costs would have to be borne by the productive sector—that is, the private sector and the white population. This would clearly impose an extraordinary burden and probably retard if not demolish any chance of recovery and growth. It would also have the effect of raising the resistance of the white population, thereby creating the potential for further bloodshed.

What is needed is an aid program that would increase the chances that the existing economic structure would not be destroyed but that its productive energies would be harnessed for the benefit of all South Africans. The world religious community must seek to influence the governments of the Western democracies to create such a major aid effort, along the lines of the Marshall Plan.

On its part, the U.S. government should make an initial and immediate commitment of $200 million in foreign aid to a new South Africa. This aid should be allocated primarily for the well-being of South African black people and should be directed toward housing, education and economic development. It should be managed without the involvement of the present South African government. Instead, it should combine elements of private enterprise in the United States with initiative and commitment on the part of the black people in South Africa.

The U.S. government should also make a declaration of its intent to increase the level of this aid in predetermined amounts in response to specific actions to be taken by the South African government in negotiations toward reaching a political solution. This promise of aid should be linked with a pledge to impose economic sanctions if progress toward preagreed goals were deliberately slow or not forthcoming.

All we seek is a willingness to think about the positive things that can be done to bring about change in South Africa. The anniversary of the Soweto Massacre on June 16 offers an opportunity to create a gigantic worldwide movement against apartheid. Its force would shake the conscience of humanity from its lethargy.

ADDRESS BY HON. MEL LEVINE FOLLOWING ROLLOUT OF LAVI

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. TORRICELLI. Mr. Speaker, last night, in Israel, my distinguished colleague from California, [Mr. LEVINE], the author of the legislation that allows Israel to use FMS dollars to develop the Lavi fighter aircraft, was asked, along with Israel's Minister Moshe Arens—the "father of the Lavi," to speak at a ceremony following the rollout of the Lavi fighter plane.

Congressman LEVINE's remarks were brief but eloquent, and captured the reasons that my colleague from Florida, Mr. SMITH, and I coauthored the Lavi amendment and why the concept enjoys such overwhelming bipartisan support in the U.S. Congress.

I commend Mr. LEVINE's remarks to my colleagues and ask that they be included in the RECORD:

REMARKS OF CONGRESSMAN MEL LEVINE AT THE RECEPTION FOLLOWING THE ROLLOUT OF THE LAVI

President Keret, Minister Arens, distinguished friends. Those of us here from the United States Congress are also filled with pride and admiration and are honored to share in your celebration.

Our delegation includes some of the strongest supporters of a close United States-Israel relationship and of the development of the Lavi jet fighter. It is a bipartisan delegation and one which jointly salutes your accomplishment. I am honored to be joined by my colleague LARRY SMITH from Florida, BOB TORRICELLI from New Jersey, CHARLIE WILSON from Texas, GARY ACKERMAN from New York and JACK KEMP from New York.

The use of American FMS funds for the development of the Lavi has faced one test on the Floor of the House of Representatives. In that test, which amounted to an effort to remove the Levine-Smith-Torricelli amendment from the foreign aid authorization bill, the Lavi was supported by an overwhelming bipartisan vote of 379-40. That tells you something about the Congressional support for the concepts of the Lavi.

This concept, and this historic evening, is what United States foreign assistance is all about at its best—helping a staunch and reliable friend to help herself.

As you know, the United States provides assistance to Israel not as charity but because your security is vital to the U.S.

And you have proved time and again, from the moment Israel earned her independence through this historic evening, that a courageous, determined and ingenious nation—even a small one—can not only survive but can transcend its small size by bringing to the world innovation and wisdom applied in the cause of peace.

You have decided to keep Israel in the forefront of technology—and have made the Lavi the centerpiece of that effort.

You have asked us for help in that effort as in others and we have wisely, I believe, provided it.

But the accomplishments have been yours. And this is the latest. Israel's very existence is witness to your ability to overcome obstacles and to maximize your extraordinary skills.

So, tonight again, my colleagues and I salute your accomplishment, share your pride, and are honored to share in this magnificent celebration. As Director General Ivri concluded earlier, Hag Sameach. And Mazel Tov on this historic event.

CAPTIVE NATIONS WEEK

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. MICHEL. Mr. Speaker, once again we commemorate Captive Nations Week. Once again we set aside one week to remember those who suffer and who have suffered and often died under Communist domination all over the world since 1917.

It might be said that words of support for the Captive Nations aren't enough. It might even be said that setting aside only 1 week a year is a way of formally paying tribute but of effectively consigning the Captive Nations to the oblivion their Communist rulers have forced upon them.

But we should not become cynical. So long as free nations officially and formally recognize that there are such things as Captive Nations—even if that recognition has become a ritual—there is hope, not only for the dominated nations, but for the West itself.

Words aren't enough—but words that remind free human beings of the fact that communism, through force and violence and deceit, dominates hundreds of millions of fellow human beings all over the world—such words can be useful. Such words, if they awaken the conscience of one man or woman, or create a curiosity to know the facts of what communism has done, or simply remind us of what has happened to once-free nations who weren't strong enough to keep their freedom—such words can be weapons.

In his Jefferson lecture in Washington, DC, 1986, scholar and philosopher Leszek Kolakowski had this to say about the struggle between the West and communism:

However distasteful our civilization might be in some of its vulgar aspects, however enfeebled by hedonistic indifference, greed, and the decline of civic virtues, however torn by struggles and teeming with social ills, the most powerful reason for its unconditional defense (and I am ready to emphasize this adjective) is provided by its alternative. It faces the totalitarian civilization of Sovietism, and what is at stake is not only the destiny of one particular cultural form, but of humanity as we have known it—not because this new civilization is militaristic, imperialistic, and aggressive, but because of its educational goals, because it promises to convert human persons into perfectly replaceable parts of the impersonal state machine, each of them having no more reality than this machine is ready to confer on it, with no will, no ability to revolt, no critical thought of its own.

Those educational goals have been pursued by Communist dictators in Latvia and Lithuania and Estonia, in Ukraine, in Czechoslovakia, in Hungary, in East Germany, in Romania, in Bulgaria, in Albania, in Yugoslavia, in the Soviet Union itself, behind the Iron Curtain, and behind the various "Bamboo curtains," pursued by terror and guile, pursued without mercy, and, always, with the unquestionable right of the Communist vanguard parties to remake society.

Once again we turn to Leszek Kolakowski to put things in perspective. In his "Main Currents of Marxism" he writes:

The extinguishing of civil liberties in order to maintain and strengthen the regime does not amount to totalitarianism unless accompanied by the principle that every activity—economic, cultural, etc.—must be completely subordinated to the aims of the state; that not only are acts against the regime forbidden and ruthlessly punished, but no political actions are "neutral" and the individual citizen has no right to do anything that is not part of the state's purpose; that he is the state's property and is treated by it as such. The Soviet system, which took over these principles from Tsarist Russia and brought them to a far greater degree of perfection, is in this respect also the work of Lenin . . . Lenin never believed in the possibility of impartiality or neutrality in any sphere of life, including philoso-

phy. Anyone who claimed to belong to no party, or declared himself neutral, was secret enemy.

It is this dimension of communism—or, to give it the technical, philosophical name, Marxism-Leninism—that is so misunderstood by so many in our civilization. Communism isn't simply another form of dictatorship—it is different in kind, not just in degree, from the various kinds of dictatorial governments run by despots, military adventurers or just plain gangsters. Marxism-Leninism is a secular religion. It demands and will settle for nothing less than total domination of every important aspect of life, not just control of the economy or the schools or the Government institutions, but of the very processes of thought and language that constitute the most basic means of communication and understanding.

This total and unrelieved interference and control over not only the public but the private lives of individuals is what faces hundreds and millions of fellow human beings all over the world every day of their lives.

I am glad to join with our colleagues in reminding ourselves of these facts. But ritual denunciations of communism aren't enough. There has to be the recognition of the unique nature of communism. If we understand that, even the intellectual laziness and moral flabbiness of the West can be forgiven. If we don't understand that, no amount of fiery rhetoric or saber rattling is going to matter.

We owe the captive nations at least the public recognition of exactly what it is they have suffered. Today we take a little time to do just that. It is not enough—but it is something.

IMMIGRATION—A WORLDWIDE PHENOMENON

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mrs. SCHROEDER. Mr. Speaker, anti-immigration alarmists sometimes allege that the United States takes in more immigrants than the rest of the world and that every other country in the world, except the United States, has tightly sealed borders.

Silence the alarms. Such is hardly the case.

Worldwide immigration statistics are difficult to obtain, in part because not every country collects them and in part because legal and illegal immigrants, refugees, guestworkers, and other immigrant categories are not defined nor counted in every country in the same way.

Nonetheless, foreign-born as a percentage of total population, collected largely from census data, give us a rough picture of worldwide immigration patterns.

It is obvious that immigration is a worldwide phenomenon and that the United States is hardly being overwhelmed by immigration. Indeed, the countries with reason to be alarmed are those with little or no immigration.

60 to 69 percent: United Arab Emirates, Monaco.

50 to 59 percent: NA.

40 to 49 percent: Hong Kong, Kuwait.

30 to 39 percent: Brunei, Gibraltar, Israel, Bahrain, American Samoa, New Caldonia.

20 to 29 percent: Singapore, Bermuda, Australia.

15 to 19 percent: New Zealand, Switzerland, Canada, Greenland.

10 to 14 percent: French Guiana, France.

5 to 9 percent: Swaziland, Malawi, United States, Argentina, Uruguay, Venezuela, United Kingdom (England and Wales), Scotland, Sweden, Federal Republic of Germany.

1 to 5 percent: Cameroon, Mali, Kenya, Panama, Ecuador, Brazil, South Korea, Nepal, Sri Lanka, Bangladesh, Fiji, Tonga, Netherlands.

0 to .99 percent: Finland, Thailand, Egypt, Rwanda, Peru, Indonesia, Iran, Samoa.

CYPRUS MARKS 12TH ANNIVERSARY OF OCCUPATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. FLORIO. Mr. Speaker, it is with a sense of sadness that I address my colleagues today to commemorate the 12th anniversary of the illegal invasion of Cyprus by Turkish troops. The people of Cyprus have not forgotten in those 12 long years the division and strife that were produced and continue to be propounded through the presence of Turkish troops on Cyprus.

This past January, I visited Cyprus where I was able to meet with high-ranking Cypriot officials to discuss the plight of the Cypriots and the prospects for a solution to the current partition of the island. One of the more moving aspects of my visit was the meeting I had with the Greek Cypriot mayor of Nicosia who brought me to the wall that has divided the island into two separate entities barring passage to the north. The devastation of the 1974 invasion still exists around this area, despite the efforts of the Greek Cypriot Government to build up their economy in the South.

In my meetings with Greek Cypriot officials and people, great courage and perseverance was tempered with a bitter acceptance of the status quo and a pessimism about hopes for change in the situation. Although I have always held that Turkish troops should be removed from Cyprus as a part of any settlement, the importance of this development was brought home to me on my visit to Cyprus as I witnessed the tangible fear of invasion and further encroachment that exists. Evidence of the instability that currently exists is the recent closing of the dividing line by Turkish Cypriot authorities. By blocking passage, the Turkish Cypriots not only prevented members of the international peacekeeping force from conducting necessary travel between the two sides but also underscored the uncertainty of such a situation.

The attention given this problem by U.N. Secretary Perez de Cuellar is significant. However, the most recent solution that has been proposed and has not been accepted by the Greek Cypriots does not contain one of the vital provisions that should be a part of any settlement—the removal of foreign troops. The continued presence of foreign troops and colonists denies the Cypriot people their fundamental right to self-determination. Cyprus will never again enjoy peace and stability as long as foreign troops continue to form an unwanted presence on Cyprus.

The situation that currently exists on Cyprus is simply not acceptable. We have the ultimate responsibility for sending a clear signal to the Turkish authorities that we are convinced that the illegal partition of Cyprus is not only contrary to the interests of the Cypriot people but also to those of the United States. Our country's reputation has been built on our traditional support for justice and political and religious freedoms throughout the world. In keeping with this traditional support for liberty and freedom, it is our responsibility to actively speak out against this continued injustice and facilitate a solution to this conflict.

CAMBODIAN AMERICANS CELEBRATE THEIR FREEDOM: URGE UNITED STATES NOT TO FORGET THE PLIGHT OF THE CAMBODIAN PEOPLE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. SOLARZ. Mr. Speaker, by Presidential proclamation, July 11, 1986, was declared "Cambodia Day." Ceremonies held at the White House that day commemorated the plight of the over 2 million victims of Pol Pot and the hundreds of thousands of other Cambodians who fled to escape the Vietnamese invasion and occupation of their country.

One of the organizers of this commemoration was Chhang Song, the president of Save Cambodia, a private voluntary organization committed to publicizing the plight of Cambodia and aiding refugees who have resettled in the United States. Chhang Song, who served as the Minister of Information in the Lon Nol government, has been a tireless advocate of the Cambodian cause. He has worked long and hard to obtain humanitarian assistance to refugees and to hasten the return of a free and nonaligned government in Phnom Penh.

In 1978, Senator DOLE and I passed an amendment calling for the United States to admit 15,000 Cambodian refugees who had escaped to Thailand from the living concentration camp that Cambodia had become under Pol Pot. Chhang Song played an important role in that effort, spending hundreds of hours talking with Members of Congress and their staffs about Cambodia and the plight of Cambodian refugees.

When famine gripped Cambodia and threatened the survival of millions, Chhang Song again walked the Halls of Congress urging prompt food assistance and medical aid to the Cambodian people. President Carter and the Congress responded quickly and one of the international community's most successful relief efforts was undertaken.

When it became clear that the Cambodian refugees who had taken temporary asylum in Thailand could not return to their homeland, Chhang Song again argued for their resettlement in the United States and other Western nations.

Today, Chhang Song and the many friends and supporters of Save Cambodia continue to press for the reunification of separated Cambodian families, for better educational programs for the 250,000 displaced Khmer along the Thai-Cambodian border, and for greater diplomatic efforts to end the Vietnamese occupation of Cambodia and to provide for the establishment of a free and independent Cambodia.

Mr. Speaker, Cambodia Day was also a celebration of the accomplishment of the over 100,000 Cambodian refugees now living in the United States. Because of the role that Chhang Song has played in that remarkable story, I include his speech in today's CONGRESSIONAL RECORD. While he and I have not agreed on every aspect of this issue over the years, I am pleased to have had the opportunity to work with him in the important effort to save the people and culture of Cambodia.

REMARKS BY MR. CHHANG SONG, CHAIRMAN OF SAVE CAMBODIA, INC.—CAMBODIA DAY, JULY 11, 1986

Distinguished Guests, Ladies and Gentlemen, on behalf of the Cambodian community in America, I want to express our very special thanks to the President and Mrs. Reagan for bestowing their blessing upon this commemoration of "Cambodia Day" and for their continued support of the Cambodian people.

I would like to thank Mr. Linas Kojelis and his associates for their efforts which have made this event possible. Moreover, I would like to express my appreciation to numerous other senior officials in the American Government for their concern. Through their commitment to humanitarian ideals, the lives of countless thousands of beleaguered Cambodians have been saved during what was unquestionably the most traumatic chapter in Cambodian history. And, finally, I also want to thank all of you present today for responding to our invitation and for your dedication to salvaging the lives of the Cambodians.

There are now approximately 140,000 Cambodians living and working in this wonderful land of ours. This, when compared to only 23 Cambodians who were here in 1960, constitutes a dramatic change indeed, a living testimony to your concerted humanitarian and laudable efforts and of course an undeniable proof of the survivability of the Cambodians despite all the worst predictions that they as a people would be wiped off the face of the earth.

THE U.S. REFUGEE PROGRAM

It is a remarkable achievement of the Reagan Administration that since the President's inauguration in January 1981, an average of 20,000 Cambodians per year have been welcomed to these shores as compared to an average of only about 5,000 per year during the previous six years that began with the tragic fall of Phnom Penh. Does this accomplishment not correspond well with the spirit of liberty which we have so recently celebrated throughout our land?

The rescue mission shall not fatigue our compassion. It must continue in this same spirit of liberty. We urge that the American Government keep its refugee program open for the Cambodians. We urge that the American Government admit all Cambodians who fit the definition of "refugee" laid out in the 1980 Refugee Act, and that it reexamine the cases which have been previously rejected for admission. We also urge that the U.S. speed up admission through the immigration channel for the "border population" and accord a special humanitarian parole to those "displaced persons" who have either close relatives residing in this country or have interested parties in the U.S. willing to assist them.

We likewise urge that this Administration, which has so consistently come to the aid of the Cambodian refugees in the recent past, deal favorably with those Cambodians who will remain in the Cambodian-Thai border area. The Administration must take the lead in the international community to initiate a long-term program designed to feed, educate, protect and care for these people until the propitious moment when they shall be able to return safely to their homeland. After so many years of suffering, they must be re-educated in the ways of freedom and human rights, that is to say to prepare them for self-government. In addition, the inhabitants of the camps must be trained for jobs and taught skills, so that they can return to being productive members of society. Finally, we urge that the American Government ask the Thais to keep the Khao-I-Dang camp open as a viable shelter for those who continue to seek freedom. This camp has always been entirely supported by the international community, at no expense to the Thai Government.

THE QUEST FOR A SOLUTION

After the Pol Pot years, and contrary to certain claims made that the continuation of the U.S. refugee admission program would deplete Cambodia of Cambodians, we instead are witnessing the strengthening of the Cambodian spirit that seeks to maintain and perpetuate Khmer identity.

For example, in Cambodia, in spite of the Vietnamese occupation, Cambodians have restored their cultural heritage to their daily lives to a remarkable degree. As a further example of the resiliency of the Cambodian people, Cambodians in the U.S. have already begun to contribute actively to the American way of life and, I believe, they will repay American generosity with fine, productive young citizens of tomorrow. We at Save Cambodia are grateful that we have played a role in helping the newly arrived Cambodians. While seeking to preserve our culture and to share it with the American public, we are enabling the new refugees to attain economic self-sufficiency and overcome other problems of resettlement, such as finding suitable employment. Today, we are in the process of organizing other Cambodian groups across the country to encourage volunteerism and to mobilize the resources within our own refugee community to solve the daily problems inherent in the process of resettlement.

I have no doubt that many of these same Cambodians—when circumstances permit—will respond to the manifest needs of their homelands and people. So that far from weakening the Cambodian identity, the dispersion of the Cambodians out of their country, similar to the Jewish Diaspora, will ultimately ensure the very survival of Cambodia.

U.S. POLICY IN THE FUTURE

The quest for a solution to the restoration of freedom and independence to Cambodia should be based on *this* premise—however remote its realization may appear, however, painful or stressful it may be, however much and however long it takes.

I respectfully submit that the American Government, independent of all outstanding questions revolving around the relationship between the United States and Vietnam, reinvigorate its policy in Southeast Asia, as follows:

(1) it must bring pressure to bear on Vietnam to withdraw her occupation forces from Camodia;

(2) it must resolve the Pol Pot question *once and for all.* It must first bring this murderous clique to justice, so that any other future crime of such magnitude shall not go unchallenged. The ambivalent attitude of the world vis-a-vis this question continues to jeopardize the legitimate efforts of those of us Cambodians who want to free our land and rebuild our nation on the noble themes of peace, freedom and cultural integrity; and

(3) finally, I respectfully submit that the American Government actively help the Cambodians develop their national leadership both from within and from without—an authentic leadership that is sufficiently equipped to withstand the assault of the Communists, and to pick up the challenge of restoring freedom to Cambodia.

In a year when the United States is commemorating its newly refurbished "Colossus of Libarty," this beacon of hope in a land of unparalleled freedom will guide the new generation of Cambodians in their quest to restore peace and freedom to the land of their ancestors.

Thank you!

I would also like to urge our friends to work for the implementation of the report of the Indochinese Refugee Panel of April 1986, which Gov. Robert D. Ray, Chaired.

The panel recommended:

First, the United States should assist the U.N. Border Relief Operation, [UNBRO] the International Committee of the Red Cross, and the Thai authorities to ensure the safety of all border camps as much as possible from Vietnamese attack. Diplomatic efforts to discourage Vietnamese attacks on civilian camps should be continued.

Second, security measures within the present sites should be enhanced through additional guards and patrols, increased training, and better communications. The protection system operated by the International Committee of the Red Cross should be monitored and strengthened.

Third, in coordination with other concerned countries, the United States should expedite admissions processing for Khmer on the Thai-Cambodian border for those eligible for immigrant visas and Visas 93—spouses and minor children of refugees in the United States Humanitarian parole should be used generously for especially compelling cases not otherwise qualifying.

Fourth, the United States should support efforts to improve and expand education programs on the border, with financial support from governments as well as private sources. The Thai authorities should be urged to agree to such programs. Health care and family planning services in the border camps should be expanded.

Fifth, the United States should assure that the remaining denied Khmer are reviewed and, in cooperation with UNHCR, should renew its requests for resettlement processing of the "family card holders," those who entered the camp between 1980 and 1984.

Sixth, the Thai authorities should be pressed to keep the Khao-I-Dang camp open for Cambodian refugees until solutions other than United States resettlement can be developed for this group. Return to the border should be carried out only on a voluntary basis.

TABLE 2.—SOUTHEAST ASIAN REFUGEE AND IMMIGRANT ARRIVALS, 1975–84

	Refugee arrivals by country of nationality [1]				New arrival immigrants admitted by country of birth [2]			
	Cambodia	Laos	Vietnam	Total refugees	Cambodia	Laos	Vietnam	Total immigrants
Federal fiscal year:								
1984	19,900	7,200	24,900	52,000	170	161	4,878	5,209
1983	13,200	2,900	23,000	39,100	123	108	2,790	3,021
1982	20,100	9,400	42,600	72,100	69	80	2,452	2,601
1981	27,100	19,300	86,100	132,500	73	41	1,714	1,828
1980	16,000	55,500	95,200	166,700	120	114	4,104	4,338
1979	6,000	30,200	44,500	80,700	162	124	6,365	6,651
1978	1,300	8,000	11,100	20,400	71	123	1,890	2,084
1977	300	400	1,900	2,600	126	237	4,629	4,992
1976 [3]	1,100	10,200	3,200	14,500	126	163	4,230	4,519
1975	4,600	800	125,000	130,400	98	96	3,039	2,233
Total	109,600	[4] 143,900	457,500	711,000	1,138	1,247	36,091	38,476

[1] These refugee arrival figures were compiled from mostly unpublished records maintained by the State Department, the Immigration and Naturalization Service, the Office of Refugee Resettlement and its predecessor, the Indochina Refugee Assistance Program. Exact monthly flow figures have been compiled since 1978 for the refugees as a group and since 1982 by nationality; earlier figures are estimates. All figures are rounded to the nearest hundred.
[2] For 1975–77, total immigrants admitted. For 1978–84, calculated by subtracting persons adjusting status from total immigrants admitted to avoid double counting, since 1978 was the 1st year in which the refugees were eligible to adjust status. Source: Immigration and Naturalization Service.
[3] Includes transition quarter.
[4] The State Department reports that 54,740 of the refugees from Laos were Hmong or other highland peoples.

IRMA HAMILTON RETIRES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. LAGOMARSINO. Mr. Speaker, I bring to the attention of my colleagues the retirement of Irma Hamilton from the city of Santa Paula, CA.

Mrs. Hamilton was born in Santa Paula and attended schools there, graduating from Santa Paula High School in 1944. She worked at the Port Hueneme Naval Base until 1950 when she married and started her family, which grew to four children.

On July 1, 1960, Irma was hired by the chief of police of Santa Paula and at the death of her husband in 1968 became the sole support of her family.

During 7 years as a records dispatch supervisor, Irma's duties included supervision of all dispatchers and cadets assigned to the records division, records security and management.

For the next 20 years as a records dispatch clerk working rotating shifts for 10 years and being responsible for radio and telephone calls, assisting with bookings of female offenders and responsible for monthly and yearly reports for the department.

Mrs. Hamilton is or has been a member of Santa Paula Police Officers Association, charter member of Police Officers Association of Ventura County, Police Officers Research Association of California, California Law Enforcement Association of Records Supervisors, Santa Paula City Employees Association, Boys and Girls Club of Santa Paula, Soroptimist International, Business and Professional Women's Club, serving as president for 3 years, Native Daughters of the Golden West, and the First Southern Baptist Church.

She has received many awards during her long term of service and will be greatly missed in the city and police department.

Please join with me in wishing a long, happy retirement to Irma Hamilton.

PERSONAL EXPLANATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. RICHARDSON. Mr. Speaker, I was unavoidably absent for the vote on House Resolution 461, impeachment of Judge Claiborne. If I had been present I would have voted "yea."

RETIREMENT OF BEN COLE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. JACOBS. Mr. Speaker, Ben Cole, veteran Washington correspondent for the Indianapolis Star is retiring. His colleagues and those of us who work on Capitol Hill will sorely miss him.

Ben Cole is truly one of God's noblemen, a gentle reporter with a blazing talent.

I insert in the RECORD the fine tribute written about Ben by his publisher, Eugene S. Pulliam.

Also inserted is a recent newspaper article about the naming of Ben Cole as Alumnus of the Year at Arsenal Technical High School in Indianpolis. Ben is so boyish that I suspect it only dawned on them this year that he has become an alumnus.

BEN COLE

Benjamin R. Cole—Ben to his legion of friends—was back home again in Indiana this weekend.

He's getting ready to retire after 48 years as a newspaperman and nearly 40 years as Washington correspondent for the Star.

It was a happy homecoming for all concerned, his colleagues at the Star and his many friends in Indiana.

He and they recalled his days as Statehouse reporter, assistant city editor and editor, and of course, his reporting and writing from the nation's capital.

He's done just about everything, reporting, columns, book reviews, editorials and editing and training. He's covered presidents from Truman to Mr. Reagan and a host of congressmen. And he's been honored by his fellow newspapermen. A longtime member of the prestigious Gridiron Club, he was elected its president for 1982.

He plans to retire at the end of this month, but he's being urged by everyone involved to continue writing. He will be working on a book and a variety of other endeavors, but all of us hope you'll keep seeing his byline. Not as often, of course, but often enough to continue to brighten these pages as he has for many years. E.S.P.

[From The Indianapolis (IN) Star, June 3, 1986]

BEN COLE NAMED ALUMNUS OF YEAR AT ARSENAL TECH

Benjamin R. Cole, Washington correspondent for The Indianapolis Star more than 35 years, has been named Alumnus of the Year by Arsenal Technical High School.

Cole, a 1934 Tech graduate, was selected from more than 40,000 Tech alumni.

He has covered presidents and political conventions during a reporting career that has spanned almost 50 years. His column, Washington Ripples, has been a fixture on these pages since he left Indiana to cover the nation's capital for Hoosiers in 1949.

Cole attended Butler University and Indiana State Teachers College (now Indiana State University) and began his journalism career as a reporter at Terre Haute. He joined The Indianapolis Star staff in 1944.

Within five years he had been promoted to state government reporter and city editor and then was sent to Washington.

Cole, a father of three, lives with his wife in Arlington, VA. Among his many professional honors was his selection as Hoosier Man of the Year by the Indiana Society of Washington in 1979.

He will be recognized by Tech on June 7 at a program in Anderson Auditorium on the school's campus. A luncheon will precede the program.

For reservations, call 266-3904.

SHIRLEY DENNIS GOOD CHOICE AT LABOR DEPARTMENT POST

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. COUGHLIN. Mr. Speaker, I am pleased to announce that a constituent and good friend has been appointed Director of the Women's Bureau at the U.S. Department of Labor, a position for which she should be quickly confirmed by the U.S. Senate.

Shirley M. Dennis, who currently serves as secretary of the Pennsylvania Department of Community Affairs, is well qualified to lead the Labor Department Bureau responsible for promoting the welfare of working women in the United States.

Already, she has won the acclaim of the press. What follows is the text of a July 17, 1986, editorial in Pennsylvania's largest newspaper, the Philadelphia Inquirer:

SHIRLEY DENNIS A GOOD CHOICE

President Reagan has chosen well in nominating Shirley M. Dennis to be director of the women's bureau in the U.S. Department of Labor. Senate confirmation should be bipartisan and enthusiastic.

She has served ably as Pennsylvania secretary of community affairs in the Thornburgh administration for six years—earning high regard from public officials and private citizens in cities and towns across the commonwealth. Her work in behalf of enterprise zones and other programs to create jobs and revitalize neighborhoods has been marked by on-the-scene attention to problems. She is equally at home in a city helping people cope with economic blight or in a town where plant closings have left unemployed striving to rebuild their lives.

In earlier service she was effective as managing director of the Housing Association of the Delaware Valley, housing director for the Urban League of Philadelphia and an equal opportunity specialist for the Philadelphia Redevelopment Authority.

The U.S. Labor Department post would offer her an opportunity to give leadership in a number of programs to assist working women and provide child-care services, among other responsibilities. She would be a persuasive advocate as well as experienced administrator in dealing with the needs and opportunities of women in the work force.

TIME FOR HIGHER AWARENESS ABOUT CRACK/COCAINE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. GARCIA. Mr. Speaker, recently we have seen an increased awareness among the press and Government about the dangers of the drug cocaine and its smokeable form, known as crack or rock. I feel that it is most important to make our citizens aware of the dangers of crack and cocaine, and to inform them of what help is available. In this regard, I have introduced a joint resolution designating October as "Crack/Cocaine Awareness Month" in the hope that we can focus all our various efforts, hearings testimony, media information, and educational initiatives, to make all of us aware of the dangers and damage being done by crack and cocaine use.

We are currently experiencing a drug epidemic, particularly a cocaine epidemic in this country. The influx of cocaine has increased 500 percent in the last year, exploding the drug crisis and threatening our society. It is the use of "smokeable cocaine," known as crack, that has intensified the epidemic and forced everyone to take notice. Crack probably poses the greatest drug threat to users and society to date, because it is extremely addictive, with addiction taking hold even after a single use.

Furthermore, this form of cocaine has the unfortunate property of being 5 to 10 times more potent than powdered cocaine, which is snorted, while being both easier to use and much less expensive. Unlike cocaine, which has been perceived as a drug for the rich, crack is so inexpensive that it is proving to be an "equal-opportunity narcotic," available to everyone in every walk of life. In the short time that crack has been available, only a couple of years, drug treatment centers report that about half of the cases involving cocaine use are crack cases. They also report an increasing number of teenagers calling in for help, and even kids of the ages from 8 to 13 are not uncommon. This drug has spread quickly into our public schools and colleges. A recent survey found that one-half of all college students have easy access to, or have tried crack and cocaine. Crack has allowed the drug epidemic to take a strong hold in our society and must be countered in every way.

Never before has a drug so popular been so harmful to those who use it, and to society at large. Crack has been associated with extreme lung damage, seizures, strokes, heart attacks, and death. This point was so vividly illustrated by the recent cocaine related deaths of star athletes Len Bias and Don Rogers

It is also attributed to the sudden rise in violent crimes as users are forced to obtain the drug by any means necessary. All of this intensifies the great emotional trauma among families and friends of users in addition to the users themselves. Moreover, crack, because it is produced almost anywhere and in small quantities, has created detection and logistical difficulties for law enforcement authorities.

Clearly, with crack and cocaine permeating all walks of life, a move to educate society to hasten the downfall of its popularity and speed recovery of current addicts should be an integral part of our offensive against crack and cocaine. We encourage parents, civic organizations, and local, State and national drug prevention agencies to educate themselves, other citizens and especially children about the dangers involved with crack. We also encourage all organizations and parents to be aware of the help available to drug users, especially the local, State and national treatment centers and helplines available in just about every city and town in the Nation.

I encourage all of my colleagues to join in making October a month to do whatever possible to further people's awareness to the great dangers of this drug.

ANNUAL OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. GILMAN. Mr. Speaker, on Monday of this week I was privileged to witness President Reagan issue the annual proclamation observing "Captive Nations Week," marked every year since 1959. Unfortunately, however, the number of captive nations, and particularly those under Soviet domination, continues to grow. Of the 167 nations assessed by Freedom House, 55 were characterized as free, 56 as partially free, and 55 as not free. Clearly, the leading nation on Earth whose population is not free is the Soviet Union, but with its forced annexation and occupation of the Baltic States as well as the Ukraine, Byelorussia, Armenia, and Georgia, among others, one cannot be especially surprised. It is tragic, but to be expected of the Soviet regime. The most recent incursions are Poland and Afghanistan, whose peoples continue to fight valiantly for their national and cultural survival.

The Baltic States and other Soviet-dominated republics continue to be the object of intense Russification. The subordination of local languages and traditional cultures continues unabated, and any attempt at protest is cruelly silenced. Witness the prolonged incarceration of Lithuanian prisoner of conscience, Balys Gajauskas, who has spent almost 35 of his 60 years in the Soviet gulag for purported "anti-Soviet activities." If truth be told, Balys is a religious and cultural activist whose commitment extended to membership in a Lithuanian Helsinki group while in a labor camp. Aging and in frail health, he will not be released until 1993.

Mart Niklus, an Estonian nationalist, was originally arrested in 1958 when Soviet authorities charged him with sending certain photographs to the West. Released from prison in 1966, he was ceaselessly harassed and rearrested in 1980 for "anti-Soviet agitation and propaganda." For this unfounded allegation, Mart received a 15-year sentence—10 in a labor camp followed by 5 years of internal exile. In all reality, Mart Niklus is guilty of nothing save love of his country—Estonia. It is that patriotism which the Soviet Union seeks to destroy.

There are thousands, and perhaps, tens of thousands of political prisoners throughout the Soviet Union. While we do our utmost to bring to light the plight of as many as there are, we certainly do not know every story. The insidiousness of the Soviet system is such that I wonder whether we will ever know.

We are well aware, however, of the arrest and imprisonment of Catholic Ukraninian activist Yosyp Terelia. Soviet attempts to discredit the Ukrainian Catholic Church continue daily, and Yosyp's 12-year sentence is clear proof of the harshness of Soviet authority.

Mr. Speaker, the captive nations try valiantly to speak for themselves, often with serious and dire consequences. The provisions of the Helsinki accords grant them freedom of thought, word, and deed. The reality, however,

is that any attempt at free expression is cruelly suppressed by Soviet authorities. As we attempt to reiterate, at every international meeting, including the Budapest Cultural Forum and the Bern Human Contacts Meeting, the citizens of signatory nations are to be granted the rights accorded them by the provisions of the Helsinki Final Act and Madrid Concluding Document. Yet, the Soviet Union, a signatory nation that maintains illegal control over Estonia, Latvia, and Lithuania, as well as several other so-called Soviet republics, refuses to abide by these international agreements. Accordingly, it is important and appropriate that we take advantage of the opportunity in the observance of Captive Nations Week to proclaim the right to these rights that are routinely denied those under occupation, so that we speak out when others cannot.

PERSONAL EXPLANATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. RICHARDSON. Mr. Speaker, I was unavoidably absent during the vote on H.R. 5050, Social Security Administrative and Investment Reform Act. If I had been present I would have voted "yea."

SAFETY STANDARDS IN THE TRUCKING INDUSTRY

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. MOODY. Mr. Speaker, I strongly favor steps to improve economic productivity and competition in the trucking industry. Last year, I introduced H.R. 3222 with Representative TOM DELAY to reduce anticompetitive regulations, increase efficiency and strengthen safety standards in the trucking industry.

But despite the gains of the Motor Carrier Act of 1980, many burdensome and anticompetitive regulations remain. I am particularly concerned with the unfair restraints and restrictions placed on carrier agents of van lines in the household goods shipment market. Today, I have introduced the Household Goods Transport Competition Improvement Act of 1986 to address this problem.

My bill gives the Interstate Commerce Commission and the courts clear directive to develop more competitive conditions in the interstate transportation of household goods.

The long-haul interstate transport market for household goods is dominated by six large van lines. Together, they control over 80 percent of the market—an obligopoly in the classic sense. These van lines have agreements with smaller regional firms known as carrier agents which generate business for the van lines. The carrier agents also pay the van lines a large fee for the informational and networking services that are provided.

Despite some mutual benefit from the relationship, there are serious problems. They stem from programs initiated by the van lines designed to limit competition with them. Certain van lines have forbidden their carrier agents from using their own local commercial identities in independent interstate operations and have imposed territorial limits and exclusive dealing contracts on them as well.

A 1983 General Accounting Office study noted that competition in the household goods market is thwarted, in part, by "restrictions of principal van lines on their agents." The study also indicated that major van line policies have discouraged the acquisition and use of new interstate operating authority by smaller local and regional moving firms.

Economic deregulation of the trucking industry benefits consumers and shippers. But deregulation must be thorough. I ask my colleagues to support increased competition, productivity and efficiency in the household goods shipment market.

DEMOCRACY CAPTIVE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. SOLOMON. Mr. Speaker, on Monday, July 21, President Reagan signed the proclamation designating this week as "Captive Nations Week," for the purpose of remembering and uplifting those living in lands subjected to Communist imperialism. But it is not just these nations that are captive. It is the process of world democratization that is itself captive in the chains of Marxist subversion and repression.

I believe that Americans are right in their conviction that if all the world could experience the freedoms we do, freedoms protected under law and under a Constitution filled with the insights of our country's Founding Fathers, then democracy would soon be dominant throughout the world. American democratic values, in fact, have for two centuries been a model the world's oppressed peoples have looked to with admiration.

But it is the very knowledge of these freedoms that the Marxists wish to blot out of their people's minds. We have seen the spectacle of Marxist governments building walls to keep their people from fleeing. We have observed the electronic jamming of free world broadcasts to keep out dangerous words. We have seen Marxists so fearful of their people's dissatisfaction that they dare not tell them of catastrophic nuclear accidents without first sanitizing their story.

All this would be merely a subject of scorn but for the fact that people are suffering and dying throughout the world every day under this insane system. It is an obscenity that such a system should exist and it is an insult to the democratic aspirations of all the peoples of the world. But more than that, Marxism is a concrete obstacle in the path of democracy. Marxist radicals throughout the world, convinced that their party is above not just man, but above even God, will spare no tactic, however treacherous or violent, to undermine the orderly transfer of nations to truly democratic systems. Most often the peoples of the Third World, and even some in the free world, are misled by these radicals, who espouse their undying allegiance to human liberties only long enough to gain total power.

At this time each year, we set aside a few days to ponder the fate of those nations who have fallen under the whip of Marxism. We do this not just for the sake of these captive nations, but for our own sake and the sake, indeed, of the future of mankind. We observe this captivity and its brutal lessons to remind ourselves of the threat democracy faces every day throughout the world. As long as any nation and its people remain captive to this system, democracy throughout the world will be captive. Let us continue to support the cause of democracy. Let us remember the captive nations.

A TRIBUTE TO CLYDE C. COOK

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. MONTGOMERY. Mr. Speaker, in 1946, a fellow named Clyde Cook became an employee of the Veterans' Administration. In the 40 years since, he has established a reputation as a dedicated public servant and a loyal friend to those he serves and to those with whom he works.

Clyde has held many responsible positions within the VA during the last four decades and has been Director of Procurement and Supply since 1975. He served with Army military intelligence during World War II and the Korean conflict.

On March 25 of last year, I called to the attention of my colleagues that Clyde had received the first Distinguished Service Award of the National Industries for the Severely Handicapped for his achievements in employment of the severely disabled as Chairman of the President's Committee for Purchase From the Blind and Other Severely Handicapped. This achievement is typical of his exemplary service and the manner in which he has fervently carried it beyond the walls of the VA into the community.

Mr. Speaker, it is Clyde Cook and those like him who consistently prove that one individual can make a difference and who keep alive our faith in each other and mankind.

He is a gentleman—good and honest and kind; he has been a hard worker and a man concerned for details. I believe that is the best and most sincere statement that can be said of any man.

On May 30, Clyde retired from the VA. Rarely does an individual come along who is willing to give 40 years of his life to Federal service and who can carry out his duties so exceptionally well. Therefore, I believe Clyde Cook is highly deserving of the accolades of this body and our best wishes for a happy, productive retirement.

VOTING FOR THE UNTHINKABLE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. SCHAEFER. Mr. Speaker, I have voted on a wide array of issues in my tenure in the House, but last week was truly a unique experience. Never before had I been asked to vote for or against the unthinkable. Even more surprising, the unthinkable was overwhelmingly approved.

The threat of sequestration under Gramm-Rudman was designed to inspire such fear in the minds of Members that they would be forced to do what they have refused to in the past—enact prioritized budget cuts and significantly reduce the Federal deficit. It was unconscionable that Congress would so completely ignore its responsibility that it would allow a formulated mechanism to do the job for which its Members were elected. When the House legitimized the March 1 sequestration order last Thursday, we in effect stated that we would rather have a computer make the difficult decisions for us. So much for representation.

I voted against upholding sequestration because the people of Colorado's Sixth District elected me to make decisions based on the priorities of my constitutency. Their input was effectively removed by the unwillingness of the House to make even the smallest effort to prevent the automatic cuts of March 1. As a cosponsor of Congressman BOULTER's resolution to replace the sequestration order with responsible budget reductions, I felt the frustration of having only 56 of my colleagues join me in this effort. The American people were led to believe that sequestration—the supposedly unacceptable option—was inevitable.

The truth is sequestration was never necessary and therefore should not have been upheld. I supported Gramm-Rudman as a way to force Congress to reduce the Federal deficit responsibly and avoid enactment of the automatic cuts. Unfortunately, many other Members saw it as an opportunity to bring down Federal spending without having their names attached to unpopular fiscal decisions. Those Members, not all of whom voted for Gramm-Rudman, are responsible for sequestration taking effect.

It is my sincere hope, since the automatic cutting procedure has been eliminated, that Congress will finally reduce the deficit without resorting to an escape mechanism. My constituents have seen my name on many unpopular deficit reduction measures before, and I urge my colleagues to join me in these difficult decisions. You might be surprised at the reaction.

AMERICANS ARE PROUD TO SHARE FREEDOMS WITH NEIGHBORING NATIONS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. GEKAS. Mr. Speaker, if you were to ask the typical American to list the things that distinguish our Nation from all others you would get a list of answers such as freedom of choice, freedom to speak our minds and to hold and share our own beliefs and all other great liberties that we all cherish. If you asked a foreign visitor the same question you would probably get similar answers; however, if the question were pursued you would find that the everyday things in our lives are exactly those things that dazzle our foreign friends. Our enthusiasm for shopping malls, baseball and football games, our unending pursuit of the weekend and all its relaxing yet exhausting activities, as well as our ability to shout our objection to the crime and poverty in the streets while bending to lend a helping hand to relieve someone else's suffering or our pitch-in attitude that can get just about any job accomplished—these are just some of the things which make our Nation so unique. These are the things that we, as Americans are proud to spotlight and share with our neighboring nations.

The people of the 17th Congressional Distict of Pennsylvania are always happy to welcome visitors from around the Nation and around the world to the banks of the Susquehanna River and its surrounding area. The Sherman's Dale Lionness Club has recently taken on a very special group of visitors, exchange students from Canada and Europe. This group of 14 youths have come to stay with the families of Lion and Lionness Club members for approximately 2 weeks during which time they are experiencing American life in its best and truest form, through the American family. At the end of their stay here in the United States they will return to their homes, some accompanied by American students who will observe their cultures for 2 weeks.

This is a wonderful opportunity for both the foreign visitors and our own young people to gain an understanding of other nations and cultures. I would like to extend my best wishes to both groups of travelers and would also commend the families who welcomed these visitors for their hospitality and generosity in bringing these youngsters into their homes.

IN MEMORY OF SENATOR JOHN P. EAST

HON. WILLIAM W. COBEY, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. COBEY. Mr. Speaker, on June 29 of this year, my State of North Carolina and the entire country lost a great patriot, Senator JOHN P. EAST.

Senator EAST was born in Illinois 55 years ago. He played football while studying at Earlham College and then joined the U.S. Marine Corps. At the age of 24, he contracted polio and lost the use of his legs.

But that handicap did not stop JOHN EAST. He went on to earn a law degree at the University of Illinois and a doctorate in political science from the University of Florida. He and his wife, Sis, also raised two lovely daughters.

As an active citizen and eventually as a Member of the U.S. Senate, JOHN EAST reminded us of something very important. He reminded us that, regardless of our handicaps, God has a purpose for every life.

Senator EAST stood up for principles that make America strong. He was well-known as a modern day philosopher. He often quoted great Western thinkers, such as Plato and St. Thomas Aquinas. One of his favorite philosophers offered an oft-mentioned quote that exemplifies the principles of JOHN EAST. That philosopher, Edmund Burke, stated that, "The only thing necessary for the triumph of evil is for good men to do nothing."

Those of us who knew JOHN EAST know that he did do something to preserve what is good about America. He spoke out for the right to life of innocent unborn children, for a strong America, and for a deterrent to the tyranny of communism. His articulate, well-thought-out arguments enhanced the debate in Congress.

As a lawyer, Senator EAST took a special interest in the judiciary of our country. He served on the Senate Judiciary Committee and was chairman of the Subcommittee on Courts. He believed strongly in judicial restraint. I recall him asking frequently, when pointing out the mistakes of the judiciary, "Who judges the judges?"

While I greatly respect JOHN EAST for his intellect and his great spirit, I will remember him most as someone who was always enjoyable to be around. He was a warm, caring person and he had a fine sense of humor.

JOHN EAST also loved God and sought God's wisdom. He read his Bible often, underlining key passages and making notes in the margin. Although we cannot understand fully why he left us, we can look back and be thankful we knew this special man. His remarkable success, achieved despite many political and personal obstacles, serves as a lesson to all who knew him.

I shared many moments with JOHN EAST, and I learned a great deal from him. I and many others around the country will miss him very much.

EXTENSION OF THE COMPETITIVE CIVIL SERVICE

HON. CATHY (MRS. GILLIS) LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mrs. LONG. Mr. Speaker, the National Guard technician force exists to assure that during a state of emergency, the National Guard will be able to send manned, effectively-trained military units to active duty in the shortest possible time. The full-time technicians are the backbone of the National Guard.

Ninety-five percent of the National Guard technicians have dual status, meaning they must be members of the part-time National Guard as a condition of their Federal employment. Due to their mandatory membership in the Guard, the technicians are categorized as "excepted" rather than "competitive" Federal civil service employees. In order to obtain employment in the competitive service, an excepted employee must apply to OPM, be certified and be placed on a register. The technician then must compete with applicants from outside the Federal service for a position. Federal employees in the competitive service, by contrast, need only compete against other Federal employees for a position.

One problem with the technician program which was brought to my attention by technicians in my district and the National Federation of Federal Employees is that employees are forced to leave their technician jobs if they lose their military positions. Since the law currently requires automatic separation through adverse action, reduction-in-force, disability, or failure to attain promotion, it is possible for technicians to lose their civilian jobs for reasons unrelated to performance on their civilian jobs. For example, technicians may lose their military status because of medical disability, failure to meet weight requirements, loss of flight status or drivers' license.

I am introducing legislation today that would grant National Guard technicians with 3 years of service the right to transfer into the competitive civil service if they leave voluntarily or when military status is lost for reasons other than misconduct or delinquency. This change would enable the technicians to compete only with other Federal employees for positions in the civil service.

Because the National Guard technicians' civilian employment depends on maintaining military status, the technicians are in an unusual position. Overall, they give much more than the ordinary Federal employee. They work their normal 40-hour week, but they also spend one weekend a month and several weeks in the summer performing their part-time National Guard duties. Further, they maintain the physical and technical abilities necessary for immediate immersion into full-time active duty in wartime. In return for this extraordinary commitment and their Federal experience, it seems equitable and wise to grant them special consideration for transfer into the competitive civil service. Experience on the job and a satisfactory record of performance are valuable assets to the Government, and should be accorded great weight in hiring for the competitive civil service.

THE 225TH ANNIVERSARY OF COLRAIN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. CONTE. Mr. Speaker, I rise today to recognize and commend an important event in Massachusetts' long and distinguished history: the 225th anniversary of the founding of the town of Colrain.

On July 20, 1761, 15 years before the American Revolution and 26 years before the Constitution was approved, the town of Colrain was founded by a few brave colonists. On Sunday, July 20, 1986, Colrain celebrated two and a quarter centuries of community, mutual trust, and pride.

Over the years, Colrain has blossomed into a vibrant community boasting tremendous natural beauty and hard working residents. Colrain's population is small but its spirit is high and its location on the northern border of western Massachusetts has helped it remain untouched by the heavy and sometimes destructive hand of industrialization.

Two hundred and twenty-five years ago, the ancestors of this town struggled through the forests of New England and established a small village they called Colrain. These early pioneers later fought for independence and paved the way for America to become the world's greatest Nation. I am proud to know that such patriotic and dedicated pioneers founded Colrain and that they remain strong in this beautiful community today. They truly exemplify the American spirit and I am honored to serve as their Representative in the U.S. Congress.

I commend the citizens of Colrain on this 225th anniversary for their many contributions to Massachusetts and the United States of America. They have continued in the brave traditions of their founding fathers and insured that Colrain will continue to flourish in centuries to come.

CAPTIVE NATIONS WEEK

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. MANTON. Mr. Speaker, today I am pleased to join in the 28th commemoration of Captive Nations Week. We in the United States are fortunate to live in a land of freedom, and we have an obligation to be the strong voice of liberty for those who are allowed no voice.

Captive Nations Week has been observed in the United States since 1959. And I know that we will continue to observe Captive Nations Week as long as there are nations who are enslaved by Communist imperialism and whose national independence is subjected, whether directly or indirectly, by the Soviet Union.

Recently the international community was subjected to a new form of Soviet domination and irresponsibility. The world was horrified to learn of the disastrous fire at the Chernobyl nuclear powerplant near Kiev in the Soviet Union. I was deeply concerned by the lack of notification from Soviet authorities about the hazardous situation, as well as their continued refusal to provide important information concerning the circumstances of the accident.

The Soviet Union is one of the world's five largest users of nuclear-generated electricity. As such, they have an obligation to share the details of any nuclear accident which affects the health and well-beiing of the citizens of other nations. This information is also important to Americans who are concerned about the well being of relatives living in the Ukraine. It is ironic that the Ukrainian people, who have survived a forced famine and have lived under Soviet domination for over 65 years, are now the unwilling victims of the worst nuclear disaster in history.

This week we are also reaffirming our support for the decades-long quest of Lithuania, Latvia, Estonia and Ukraine to regain independence from the Soviet Union and have the opportunity to practice self-determination. Under Communist domination, these brave people have been subjected to cultural and religious persecution and forced russification, Yet, in spite of this pressure, they have continued their struggle for freedom and national sovereignty. Let me clearly state that, without a doubt, we in the United States support their struggle for liberty.

Mr. Speaker, as we remember the 31 captive nations this week, we must remind the Soviet Union that the world will not forget the fundamental illegitimacy of its policies. As the leader of the free world, the United States must remember all victims of tyranny and injustice. This week's commemoration reaffirms America's dedication to the principles of personal and religious freedom and our commitment to promoting peace and liberty throughout the world. I pledge my commitment to those goals and will continue my efforts to ensure that the people of the captive nations are never forgotten.

TRIBUTE TO DIETRICH KRAMER OF KILLEEN, TX

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 22, 1986

Mr. LEATH of Texas. Mr. Speaker, I rise today in honor and in memory of Dietrich Kramer, who recently passed away. Mr. Kramer was a friend and one of my constituents who had a long and positive record of public service and friendship toward all people.

Mr. Kramer entered the U.S. Army in 1941 and served in World War II on the European front. He was called back into service in 1950 to assist in the training of our troops to fight in Korea.

Mr. Kramer retired from the U.S. Army in 1961 with the rank of sergeant major. Since that time, he served on his city's planning commission, block grant advisory committee, and was a Bell County election judge. he was a member of the Retired Sergeant Majors Association, First Baptist Church, Masonic Lodge, Disabled American Veterans, Veterans of Foreign Wars, American Legion, and the Pan American Golf Association.

Mr. Kramer's involvement in the community was just an indiction of the high value he placed on personal friendships. He was most truly an outstanding individual. I ask that my colleagues join me in saluting this extraordinary American.

SENATE—*Wednesday, July 23, 1986*

(Legislative day of Monday, July 21, 1986)

The Senate met at 11:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father of love, as the pressures increase with August 15 drawing near, grant special grace to the Senators in their personal relationships. Emotional issues are fermenting beneath the surface. May final hours not allow them to explode and boil over. Controversy is implicit in our political system and we thank You for a process which provides for its expression and resolution. The imminence of election and the sheer necessity of campaigns, for the people as well as the candidates, compound the pressure. May the words enshrined on the west side of the Dirksen Building find relevance in these critical hours:

"The Senate is the living symbol of our union of states."

Unite the Senate in strength, Lord, increase the Senators' patience and goodwill. Give them wisdom in compromise. Help them to love and serve one another. We pray in the name of Jesus Christ who is love incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator THURMOND, the President pro tempore.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by special orders in favor of Senators HAWKINS, PROXMIRE, PRESSLER, and SIMON for not to exceed 5 minutes each, followed by routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will go into executive session to begin 2 hours of debate, to be equally divided, on the nomination of Daniel Manion, and I hope that will be followed by a vote at 2 o'clock.

I must say, in all candor, as I said as recently as Sunday, if somebody broke a leg on the way to the vote, we might not have it. Well, no one broke a leg, but we have one Member in the hospital. Senator GOLDWATER was hospitalized at 4:30 this morning, not seriously, fortunately, but he requires some attention.

I must say that, as soon as I have the information, I will go to the distinguished minority leader and plead my case and see if we can work out some alternative. If not, I guess there is one other thing that could be done.

But, in any event, I would like to dispose of the Manion nomination. That is my present intent. If it happens that Senator GOLDWATER is not able to be here, that would be something I had not anticipated.

In any event, we will see how it works out. And if we do complete that today, then we would get on the debt limit extension.

□ 1120

I would also like to dispose of the nomination of Lawrence Gibbs to be IRS Commissioner. If we have to take it up, we will have to take it up. I hope Senator HUMPHREY will let us proceed with that nomination. A letter has been written by Senator HUMPHREY. I do not have a copy of it with me. But he asked certain questions, and my own view is that until that man is confirmed, it is fairly difficult for him to respond to what the IRS view might be. But in any event, I would like to complete that nomination today.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I am pleased to yield.

Mr. BYRD. The distinguished majority leader has indicated that Senator GOLDWATER is in the hospital. I am sure all of us on this side of the aisle—and I am certain on this side of the question that is involved here today—wish for Senator GOLDWATER's tenure in the hospital to be short. Of course, no one can foresee what may happen in an instance of this kind. Any Senator may have to go to the hospital or be called elsewhere for an emergency. The distinguished majority leader has said, he might resort to some other way, I take it, of delaying this vote. I am wondering what he has in mind. Does he have in mind a motion to recess the Senate?

Mr. DOLE. A recess.

Mr. BYRD. Well, I would hope he would not do that.

Mr. DOLE. I hope that is not necessary, I say to the distinguished minority leader.

Mr. BYRD. If the same situation existed on this side of the aisle and one of the Senators whose votes are critical on this nomination were to go to the hospital, I do not think I would be in a position to move to recess the Senate. I would not have the votes. We have put all Senators on notice that a vote will occur at 2 o'clock p.m. I would certainly be glad to discuss with the majority leader what he has in mind at the time he wishes to discuss it.

Mr. DOLE. I thank the distinguished minority leader. I hope we can vote at 2 o'clock. That is my first priority. I would like to have this matter behind us. But in fairness to the nominee, since this is a very close—"close" may not be even the right word—vote, I am not certain that any nominee should be penalized because someone is stricken and taken to the hospital at 4:30 in the morning. But I will discuss it with the minority leader.

He is doing well. He will be released tomorrow. They are taking blood tests and so forth. So far it has been very positive.

Mr. CRANSTON. Mr. President, will the Senator yield before he starts? I would like to ask a question about the schedule.

Mr. DOLE. Certainly.

Mr. CRANSTON. Are we going on the debt ceiling after the Manion vote is dealt with?

Mr. DOLE. This is my present intention. I do not want to be bogged down on this. I can see seeds there of spending a long time on it. But, yes, that is my intention. I did deliver to Senator HART, who requested a copy, a draft of the so-called Gramm-Rudman-Hollings II amendment. I understand it may be technically modified. That is my present intention.

Mr. CRANSTON. Does the leader know if there are a lot of amendments on that measure or something we can dispose of fairly quickly?

Mr. DOLE. I know there will be one major amendment, and whether or not there should be sort of the Gramm-Rudman-Hollings fix is a question we will have to resolve. Some do not believe we should. Some believe we should. I do not think that, as far as I know, will take a long time, but I would guess a couple of days. It is a

very important matter. There will be a lot of people involved in the debate.

I am not certain we can finish it by Friday, at say 3 or 4 o'clock. I do not want to stay in late on Friday.

Mr. ARMSTRONG. What would come after the debt ceiling?

Mr. DOLE. I said I hoped we could follow that with a bill that both Senator GARN and Senator PROXMIRE have on housing. We suggested last night that maybe if we can get a time agreement on housing, that would follow the debt ceiling. We are in the process of doing that. That hopefully will take 1 day.

Mr. CRANSTON. I thank the majority leader very much.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I ask unanimous consent that 5 minutes of my time may be allotted to the distinguished majority leader inasmuch as our questions have taken 5 minutes of his time.

I further ask unanimous consent that, if the majority leader will yield, the order for Mr. PROXMIRE precede the remainder of my standing order time.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

Mr. DOLE. I thank the distinguished minority leader.

THE PRESIDENT'S SPEECH ON SOUTH AFRICA

Mr. DOLE. Mr. President, in his speech on South Africa yesterday, the President made clear that the United States could no longer maintain normal relations with a regime based on racism. The President laid out some minimum steps the South African Government must begin to implement now, to dismantle apartheid and democratize its political system—the release of all political prisoners, including Nelson Mandela; the unbanning of black political organizations; and, most fundamental of all, the beginning of a real dialog between whites and blacks on the political future of the country.

A WORKABLE STRATEGY

The President's guidelines for the actions we need from the South African regime are right on the mark. But yesterday's speech leaves unresolved the decision on how we can pressure Pretoria to take the steps it must take.

At the moment, Secretary Shultz is testifying before the Foreign Relations Committee, in followup to the President's speech. I would expect that he would address the question of strategy—how we get the South African Government from where they are to where they ought to be—in the course of his prepared statement, or in response to committee questions, and I assume that is still going on.

OUR MESSAGE MUST BE CLEAR

I want to share a few, very brief thoughts on this subject with the Senate. First, I believe that nothing we do is going to have any effect if the Pretoria regime fails to understand that all of us—the President, the Congress, the people of the United States—are unanimous in our demand for immediate action. If we end up with a piece of legislation subject to extended and divisive debate; tinged with partisanship; and generating a Presidential veto, then we are not going to send the kind of clear, strong message that will do any good.

Second, I believe the President is right in rejecting a cut-and-run approach—a termination of all dialog with Pretoria, total disinvestment. That would harm blacks far more than whites; would lead to more violence, not less; and would not speed the end of apartheid.

SOME ACTION NEEDED

Third, I also agree that we must do something to demonstrate that we are serious. Saying we abhor apartheid is not enough. We have to demonstrate our aversion to that indefensible system in a concrete way.

Senators LUGAR and KASSEBAUM—respectively the chairmen of the Foreign Relations Committee, and its African Subcommittee—have suggested some useful approaches, which I believe will form part of the core of the legislation which the Foreign Relations Committee will be working on over the next several days.

SPECIAL ENVOY

I would particularly endorse one idea which Senator KASSEBAUM first raised, that of appointing a special envoy to South Africa. A special envoy with the full trust of the President, and the strong backing of the Congress, would be in a unique position to convince the Pretoria authorities that we mean business. He, or she, would also have the credibility to open communications with all elements of the South African political scene, and to help bring them together in the kind of serious dialog which is the only hope for averting a cataclysmic outcome.

EFFECT ON OTHER NATIONS OF SOUTHERN AFRICA

It is also incumbent upon us, if we are to act responsibly, that we take into account the effect of any actions we contemplate on the other nations of southern Africa. If we do go the route of sanctions against Pretoria, we have to be prepared to accept all the consequences—outside South Africa, as well as inside that country.

The Pretoria regime is not without cards to play. They have a virtual stranglehold on the economies of neighboring states. They have already threatened to play some of these cards, and I, for one, do not think they are bluffing.

I would hope, therefore, that we will tailor any legislation we do pass to take this factor into account, and to deal with the economic fallout from our actions throughout southern Africa.

UNANIMITY OF GOALS AND APPROACH

Mr. President, we are united in our goals in South Africa. If we can achieve a similar unanimity in our approach, we can have some hope of achieving those goals. I would suggest that we put aside partisanship; let us act quickly; let us act as one; let us do what is right, for us and for all the people of South Africa.

□ 1130

THE ROYAL WEDDING

Mr. DOLE. Mr. President, this morning millions of American television viewers awakened a few hours earlier than usual to tune in to a real-life fairy tale—the royal wedding of Britain's Prince Andrew and Sarah Ferguson. I will confess I did not set my alarm to catch the first minutes of news coverage, but Elizabeth—not Queen Elizabeth—told me she had the videotape machine rolling and recording.

Mr. President, it was a grand spectacle, the kind of pomp and circumstance that only the British can fashion. And let us face it, for a few hours this morning millions of people around the world were able to forget—for a few moments at least—some of the troubles and worries of everyday life.

Mr. President, as Senate majority leader I know my colleagues will want to join me in sending our best wishes to the newest royal couple—the Duke and Duchess of York. They are indeed an attractive couple, and we wish them a long and happy life together.

In the meantime, we can take heart in knowing that sometimes fairy tales do come true—let us hope that dream carries over to Capitol Hill in our drive to balance the Federal budget.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

ABANDONING SALT BLINDS THE UNITED STATES

Mr. PROXMIRE. Mr. President, what is the crux, the quintessence of the motivation that drives our $300 billion a year military spending? Answer: the challenge of Soviet military power. Front and center in that threat is the Soviet development of even more threatening nuclear weapons. This is the nightmare that haunts

the administration, the Congress, and the American people. How do we meet this Soviet threat? First and foremost we meet it by using the best possible intelligence to learn the truth about this threat to our existence. We urgently need to know, as fully as possible, what nuclear weapons the Soviets are developing and deploying. Only in that knowledge can we continue to maintain the deterrent necessary to assure our security. So how do we develop that knowledge? This may shock and surprise many Members of Congress. On the basis of his decisions to date it may even shock and surprise the President. Here it is: we have gotten much of our intelligence about the changing Soviet nuclear arsenal and the threat it represents from provisions of the second strategic arms limitation treaty—SALT II. This is the treaty the Reagan administration has decided to kill. By doing so they destroy a source of absolutely crucial intelligence for our Government. Do you doubt it? Then consider the words of William Colby, the former Director of the Central Intelligence Agency. On July 2 an article by Colby appeared in the New York Times, headlined "To Abandon SALT Is To Blind the U.S." Here is what Colby writes:

> Central to SALT * * * is a carefully crafted framework of verification provisions that help each side keep track of the other's nuclear weapons. For the most part, both have observed those rules * * *. One provision is the non-concealment, non-interference rule. The Soviet Union may not hide its silos and mobile missiles, for example. Neither may it interfere with our reconnaissance satellites. Second, are "cooperative measures". One says that a cruise-missile carrying bomber must have observable differences between it and other bombers that cannot carry such missiles . . . . Third, there are the weapons limits of the treaty itself that channel future Soviet forces in relatively predictable directions. This helps our intelligence gathering and eases fears about sudden "breakouts". On the whole the verification framework has helped stabilize the strategic balance. When we know what the Russians are up to, we can tailor our forces accordingly * * *. When we don't know * * * priorities are not observed, money wasted and the strategic balance destabilized.

Mr. President, this Senator hopes and prays that the President and Secretary Weinberger will read these words of former CIA Director William Colby. Few if any Americans have as strong an understanding of this country's intelligence needs with respect to the Soviet Union than Mr. Colby.

Now let us briefly review what this country loses by walking out on the SALT II arms control treaty. Until they were muzzled by the administration when the President—their Commander in Chief—announced his decision to end this country's compliance with the treaty, four of the five Joint Chiefs favored U.S. adherence to the treaty. They did so not on grounds of arms control. Their support of U.S. compliance with SALT II was fully based on this country's military security. Mr. President, there has not been one word of rebuttal by the administration and its supporters of the contention that compliance with the SALT II benefits the United States and restrains the Soviet Union. Indeed, this Senator put in the RECORD on the floor of this body a couple of months ago an expert analysis that showed that until recently the United States could not have secured any military advantage at all even if it violated the treaty. That analysis showed that the Soviet Union on the other hand, has been directly restrained by SALT II from using the far greater throw-weight of its launchers to increase, and I mean swiftly and cheaply increase, its deployed nuclear warheads. SALT II not only restrained the arms race. It gave the United States a clear-cut military advantage without spending $1 of the taxpayers money to achieve it. On top of that, former CIA Director Colby now spells out precisely how SALT II has provided us with the crucial intelligence we need to meet changing Soviet nuclear arms deployment in the most effective and economical way.

Mr. President, I ask unanimous consent that the article to which I have referred by William Colby in the July 2 New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO ABANDON SALT IS TO BLIND THE UNITED STATES

(By William E. Colby and Robert D. English)

WASHINGTON.—So far, most critics of President Reagan's decision to abandon SALT II have focused on the near-term prospect of a renewed arms race. Nearly as troubling is the possibility that our ability to gather intelligence about the Soviet Union's strategic forces will be severely handicapped. This could prove to be as dangerous to national security as the arms race itself.

Central to SALT and other arms control treaties is a carefully crafted framework of verification provisions that help each side keep track of the other's nuclear weapons. For the most part, both have observed these rules. This is an unheralded triumph of the arms control process.

One provision is the nonconcealment, noninterference rule. The Soviet Union may not hide its silos and mobile missiles, for example. Neither may it interfere with our reconnaissance satellites. Second are "cooperative measures." One says that a cruise-missile-carrying bomber must have observable differences between it and a similar bomber that cannot carry such missiles. Another requires prior notification of missile-test flights and confines them to a few agreed sites. When a missile or a submarine is retired, its silo or launch tubes must sit open for our satellites to inspect.

Third, there are the weapons limits of the treaty itself that channel future Soviet forces in relatively predictable directions. This helps our intelligence gathering and eases fears about sudden "breakouts."

On the whole, the verification framework has helped stabilize the strategic balance. When we know what the Russians are up to, we can tailor our forces accordingly and be confident that our deterrent is robust. When we don't know, we worry. Without reliable information, the most dire predictions can be taken as fact. Priorities are skewed, money wasted and the strategic balance destabilized. The bomber and missile "gaps" of the 1950's and early 1960's are two examples of this syndrome.

Consider what could happen without SALT. The Soviet Union might decide that, with an arms race starting, it would prefer for us to know as little as possible about its strategic weapons programs. Silos would be covered, mobile missiles camouflaged. The Russians might also choose to interfere with our spy satellites; short of direct attack, this could be done by jamming or temporarily "blinding" them. Unannounced missile tests might be conducted over unfamiliar ranges, further hampering our ability to gather important data. And these data might be even more heavily coded—"encrypted"—than they already are.

Our Strategic Defense Initiative almost certainly will prompt Moscow to expand its inventory of strategic warheads. This could be done quickly by loading the huge SS-18 with 20 warheads or more. More deviously, the Kremlin could simply test launch an SS-18 and simulate the release of 20 warheads. This might force us to conclude that all SS-18's carry 20 warheads, whether they really do or not. And should Moscow conclude that we are preparing for protracted nuclear war, it might decide to secretly stockpile numerous spare missiles near silos or mobile launchers. Such stockpiling is illegal under SALT II because the arms would be impossible to monitor.

These are only some of the steps Moscow might take. It is not difficult to imagine others. The worry is not that we will find ourselves in the dark overnight. Our intelligence is good and we know a great deal about Soviet nuclear forces. But as these forces change over time, we will know less and less. New missile "gaps" will suddenly appear and our deterrent will be twisted to counter inflated or nonexistent threats.

The SALT process has seen the Soviet Union take reluctant steps toward a slight opening of its tightly closed society. A Soviet officer commented in Vienna in 1978, as he delivered the SALT II-required listing of nuclear forces, that his step reversed 400 years of Russian history. That small step in the right direction might now be replaced by a run in the other, toward secrecy.

MYTH OF THE DAY: WE HAVE A STRONG, RESPONSIVE SYSTEM FOR DEALING WITH HAZARDOUS MATERIALS TRANSPORTATION ACCIDENTS

Mr. PROXMIRE. Mr. President, it is a myth that America has an effective coordinated system for responding to hazardous transportation accidents.

Despite protestations from DOT, nothing could be further from the truth. As a recent Congressional Office of Technology Assessment report points out, "Federal data on transportation patterns and accidents

is fragmented, incomplete, and not helpful to State and local officials who need information on hazardous materials production and transportation for planning and preparing for emergencies."

According to the report, many accidents are not reported because of faulty recordkeeping. In fact, damages from these accidents "appear to be at least 10 times higher than that reported by the Department of Transportation."

But the Transportation Department gutted the already weak Federal Transportation Safety Program, reducing the number of inspectors and funding for this important Government function. For example, from 1979-84 DOT man-years devoted to hazardous materials inspections fell from 237 to 111.

At the same time, the Department favors preemption of those State and local safety requirements which sprang up to fill the vacuum caused by an almost nonexistent Federal regulatory program.

The recent Miamisburg, OH, train derailment, with its cargo of deadly phosphorus, gives graphic evidence of inadequate training for public officials who responded to hazardous materials transportation accidents.

In that case, emergency response personnel did not even know if they could safely use water on the fire until a rainstorm produced no ill effects.

Even worse, 17,000 people living in the accident area were first evacuated, returned to their homes, and then reevacuated the next day when fires thought to be out reignited.

Mr. President, obviously the current system provides only the illusion of safety. The reality is something else.

Mr. President, I thank my good friend, the minority leader, Senator BYRD. He has been most generous in letting me go ahead. I deeply appreciate it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

SOUTH AFRICA

Mr. BYRD. Mr. President, as I indicated on the Senate floor yesterday afternoon, the President's speech on South Africa was a very big disappointment. After many days of building up expectations for a major policy pronouncement, what we saw was not a policy splash but a nonpolicy whimper.

The most critical missing ingredient was any device for pushing the intransigent South African Government to take the essential steps it must take to save itself and the South African people of all races and colors.

A number of the steps advocated by the President for action by Pretoria were worthwhile. I join the President in hoping that the Government there will take all the steps the President suggested.

The problem is that all the President did was suggest some steps that should be taken. Both history and the explicit statements of the Pretoria government tell us that we would be foolish, indeed, to rely on that government for the vision or courage necessary to take these steps. All our admonitions, and those of dozens of other nations around the world—not to mention individual leaders and others in all quarters of the globe—have yielded so little thus far.

And so, Mr. President, what the President's statement yesterday amounted to was a wish list.

I know I am not the first to tell the President that this is the case, and that this case is plainly unacceptable to the Senate. As recently as Monday of this week, I know the majority leader, and other Senators from the President's own party, went to the White House to deliver this very message.

Mr. President, I learned a long time ago that the beauty of believing in a tooth fairy stops when one outgrows childhood—when real lives and real problems are affected. One must come down to Earth and make tough decisions.

Saying the right things, hoping the right hopes, wishing the right wishes, urging the right steps—these kinds of responses to what we have watched in South Africa may have been the proper initial response. But the actions and inactions of the Pretoria government, the violence of the situation, have proceeded long past the point where that response is sufficient.

The United States has some leverage, limited though it is. We must use that leverage—responsibly, and with due restraint—but we must use that leverage to try to get the South African Government to do what it must to save itself from destruction and to rectify the untenable situation there.

I agree with the President that the United States sees that "in southern Africa, our national ideals and strategic interests come together," but I disagree that such an observation leads us to do nothing but think happy thoughts and wish happy wishes.

The Senate will act, and will act responsibly, Mr. President. We will determine, sadly in yet another vacuum of Presidential leadership, what the correct mix of exhortation and leverage will be. Hopefully, that mix will place real pressure on the Pretoria government to come to terms with the tragedy of that nation's current situation, and to address that situation acceptably.

Our concern for South Africa and our concern for our own self-interest demand that this Nation act.

□ 1140

It has a responsibility to act. I believe that the Senate must meet and will meet that responsibility in the very near future.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for not to exceed 5 minutes.

SPACE BASING—THE NEW DRUG MADNESS

Mrs. HAWKINS. Mr. President, drugs are a trendy business. There is an endless quest on the part of drug users to see what kind of a thrill, what variety of sensation, they can come up with next. The latest fad is called space basing and it strikes me that the practice is adequately named. Practitioners of this dangerous new sport achieve their goal by dousing crack cocaine with PCP and smoking the end product. The base substance, crack or rock as it is sometimes called, can result in paranoia along with euphoria. PCP generally causes out-of-control behavior, all kinds of outrageous conduct.

"The effects are really devastating," according to Bob Kajdan of New Beginnings, a drug rehabilitation program at Century Hospital in Los Angeles. The drug counselor says people who space base become absolutely crazed.

Space basing apparently had its beginnings in New York last year and quickly found its way to the west coast. It showed up on the streets of Los Angeles toward the end of 1985 and the beginning of 1986 and spread to the beach communities of southern California.

One of the two ingredients, PCP, known on the streets as angel dust, has a long track record among drug users as a mixer. PCP frequently is added to marijuana. Now PCP, LSD, or heroin is being added to crack—it prolongs the rush.

Space basers suffer under several illusions. They consider it safer and cheaper than free basing. There is danger from fire and explosion in free basing. In space basing, you dip the crack in PCP and smoke the mixture in a pipe, comparatively safe, from the standpoint of fire. The general effect is the same as free basing; you get a quicker rush and it lasts longer, an hour or more compared with a 15-minute duration from free basing.

Drug counselor Bob Kajdan says, "it appears to be safe, but that's deceiving. The effects of space basing are more difficult to threat and a user has to spend a longer period in the hospital for treatment." Kajdan goes on to say that the medical effects from space basing are "absolutely devastating. A person can space base two or three times and wind up with the same symptoms as a free baser acquires in 1 to 2 years. It is that powerful."

One of the dangers of letting oneself circulate in the world of drug pushers and drug users is that you can innocently be drawn into space basing. It is very difficult to detect when cocaine has been treated. Crack bought on the streets can be laced with PCP without the purchaser's knowledge. The buyer can be space basing and not know it. All he knows is that he is getting a real bang for his buck.

Crack cocaine, minus PCP, is fast becoming a major national menace. In city after city across the country, statistics are piling up. At one drug treatment center in Los Angeles, there were no crack addicts a year ago. Now they make up 80 percent of the center's clients. At a New York City residential program, crack users now make up 40 percent of the patients.

Crack is so new, and so deadly, specialists are still learning about it. For one thing, crack addicts face an uphill battle. The rate of recidivism—returning to square 1 in chess language—is high. Some drug treatment experts place the rate of crack recidivism at 90 percent. Some addicts have to repeat the treatment cycle two or three or more times. This is from crack addiction. What the statistics from space basing will be is anybody's guess, but they can only be more ruinous.

The experts have this bit of advice for those tempted to experiment with crack cocaine—don't do it. For those tempted to toy with space basing, the advice is—don't even think about it.

RECOGNITION OF SENATOR PRESSLER

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized for not to exceed 5 minutes.

EXPORT ENHANCEMENT: THE AMERICAN FARMER CANNOT AFFORD TO WAIT

Mr. PRESSLER. Mr. President, yesterday, the Senate passed an amendment which should do a great deal to help American farmers and provide many other positive benefits. However, I am concerned that a potential delay might occur in the House/Senate conference committee. The amendment we passed makes the Export Enhancement Program available to the Soviet Union, Eastern Europe, and other major trading partners only until September 30, 1986. If a final agreement on the Export-Import Bank reauthorization is not reached until after the Labor Day recess, it may be too late to produce increased agricultural export sales. With this in mind, I urge the administration to take immediately the action prescribed by the amendment. I think the administration should act now. USDA has the authority to do this and the Senate has expressed its support for this action. If this step were taken immediately by the administration, our trading partners would have 2 months to make purchases of U.S. farm products.

The expansion of this program to include the Soviet Union and other nations should significantly increase export sales. The Soviet have not made any major grain purchases from the United States this year. In fact, they have fallen from our first or second largest export market to our 29th largest market. This decline is due largely to the discriminatory treatment of the Soviet Union under the current Export Enhancement Program. If we end this discriminatory treatment, the Soviets may well purchase several million metric tons of grain over the next couple of months. This would be a boost for domestic farm prices and also help to alleviate the major grain storage problem the Commodity Credit Corporation is facing. With record grain surpluses and another huge crop this year, we are running out of storage space.

Expansion of the Export Enhancement Program will also send a strong signal to other agricultural exporting nations, in particular, the European Economic Community. This action would indicate that the United States no longer will allow them to use export subsidies and other unfair trade practices to steal our export markets. This should help get them to the negotiating table and an agreement to bring agricultural trade into the General Agreement on Trade and Tariffs. The lowering of our loan rates has had an impact on other nations' agricultural policies. This trade action should have a similar impact on their trade policies.

A final point I would like to make is the possible foreign policy benefits of this action. We want improved relations with the Soviet Union and Eastern Europe, but it is hard to do this when we discriminate against them in our trade policies. Under this program, we are not providing credits or special loan deals. The Soviet Union will still be required to pay cash for their grain purchases. It is in our own best interest to treat all of our major trading partners equally.

In conclusion, I once again urge the administration to adopt the action taken by the Senate yesterday and use its current authority to expand the Export Enhancement Program immediately. The American farmer cannot afford to wait.

Mr. President, let me add that there are some who say we should not be selling grain to the Soviet Union or to Eastern Europe because they are Communist nations. But the fact of the matter is that we do trade with the Soviet Union. The fact of the matter is that we live in the same world. The fact of the matter is that it costs us more to store the grain in our Commodity Credit Corporation program than it does to sell it abroad.

I am of the opinion that in the next 5 or 10 years, ranchers' and farmers' prices will depend more on trade than on the domestic situation. I feel we could be exporting more beef to Japan and we should take very strong steps to force the Japanese to open up those markets. I also feel very strongly that if we have industrial trade with another country such as the Soviet Union, we should also have agricultural trade.

The amendment we passed last night should help farm and ranch prices. It should help the U.S. trade balance. Last month, for the first time in recent history, we actually imported more farm products than we exported. So the Dole amendment, which I was happy to cosponsor, is a very important step. But rather than wait until that becomes law, I urge that the administration take the necessary administrative steps to expand the program. They could take those steps immediately. We only have until October 1, when this bill will be in effect.

Also, I think this piece of legislation that we passed last night is significant because it will force the other grain and agricultural trading countries to negotiate with us. It shows that we will retaliate against unfair trade practices even regarding sales to the Soviet Union. If we can take a similar step to open up the markets of Japan, it would be very helpful because we could sell a lot of beef and dairy products there. But this action by the Senate last night and the ensuing followup action by the administration is very important, in my judgment, because it could force a whole new set of agricultural and industrial trade negotiations. For the first time, the United States is saying to the Common Market, we will engage in the same kind of practices you are using. To those countries that have two prices, one domestic price and one export price, we are saying the United States will play the game also. Even if it involves Communist countries.

□ 1150

So what we did has a far greater impact than just the sale of agricul-

tural products to the Soviet Union and Eastern Europe, including Czechoslovakia, Hungary, Romania, Yugoslavia, Poland, and some of those countries where we have Public Law 480 programs. This action will be controversial to some but very positive to our balance of trade, which affects every American. It will be a very positive thing for future trade negotiations where the U.S. trade negotiator is sitting without any tools. This action by the Senate serves notice that the United States will retaliate and will use the same practices of subsidized sales, if we have to call them that, but we will use the same practices that the Common Market and several other countries in the world are using, and Japan is using in the industrial sector. It is a major step forward regarding our trade relations with other countries.

ABUSE OF HUMAN RIGHTS IN CZECHOSLOVAKIA

Mr. PRESSLER. Mr. President, during the July recess I was able to visit four Eastern European nations—Czechoslovakia, Hungary, Yugoslavia, and Romania. This trip was sponsored by the foundation which organizes the national prayer breakfast. A comprehensive report on this trip will be finished soon, but one matter is of such importance that it should be brought to our colleagues' attention without further delay.

During my visit to Prague, Czechoslovakia, I attempted to meet with members of a Czechoslovakian human rights group known as the Charter 77 group. This group was formed in 1977 to monitor Czechoslovak compliance with human rights provisions of the Helsinki Final Act. The Czechoslovak police prevented representatives of the group from meeting with me.

At this point, Mr. President, I ask unanimous consent that a July 5, 1986 United Press International report by Patricia Koza appear in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. EMBASSY PROTESTS BARRING A SENATOR FROM VISITING DISSIDENT

(By Patricia Koza)

PRAGUE, CZECHOSLOVAKIA (UPI).—The U.S. Embassy formally protested to the government police action that prevented a U.S. Senator from visiting a dissident in Prague, Western diplomatic sources say.

The sources said Friday that Senator Larry Pressler, R-S.D. and chairman of the European Affairs Subcommittee of the Senate Foreign Relations Committee, and sought contact with Charter 77 signatories during a trip this week to Czechoslovakia.

A dinner was arranged Wednesday with Czechoslovak human rights activists but one Charter 77 signatory was prevented from attenting by police who surrounded his apartment, the sources said.

The next evening, Pressler was twice prevented from entering the dissident's apartment building, they said. When the unidentified dissident attempted to come down to meet with Pressler, he [the dissident] was threatened with arrest.

It was the first time in recent memory a U.S. official was prevented from meeting with dissident sources in Czechoslovakia, the sources said.

No physical force was used.

The sources said the incident was formally protested to the Czechoslovak government.

Pressler was also visiting Hungary and Romania.

In another indication of a toughening stance against dissidents, one Charter 77 signatory, Anna Shabatova, was detained Friday while standing in a reception line waiting to get into the U.S. Ambassador's residence in Prague for the July 4 party.

The homes of at least a dozen others were surrounded and their occupants were prevented from attending the reception, friends of the dissidents reported.

Diplomatic sources said about 60 dissidents had been invited to the reception but only about two dozen attended because of the crackdown. Several of those who stayed away reported being interrogated by police.

Charter 77 is a group of Czechoslovak citizens who formed an organization in 1977 to monitor compliance with the Helsinki Final Act provisions on human rights in Czechoslovakia.

Mr. PRESSLER. Mr. President, this is an accurate analysis of what transpired in Prague. In Hungary, Yugoslavia, and Romania, which I also visited, respect for human rights seemed to be stronger. I have been told that our Embassy in Prague and the State Department have made three formal verbal protests to the Czechoslovak Foreign Ministry over these incidents. I have requested a written copy of these protests.

These actions should be publicized and protested. This is the best method we have to discourage abuse of human rights and to encourage adherence to the highest possible standards of liberty and justice everywhere. In this instance, Czechoslovak Americans will be interested to know what is happening on this front in Czechoslovakia. As Americans, they share our Nation's determination to keep alive the spirit of freedom. Quite clearly, the Czechoslovakian government's actions in preventing human rights monitors from meeting with a Member of Congress are in themselves a violation of the spirit of Helsinki and a step backward from effective observance of human rights.

Mr. President, I ask unanimous consent that my letter to Secretary Shultz requesting written confirmation of the State Department's protests be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 23, 1986.

Hon. GEORGE SHULTZ,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: As you are probably aware, during my recent visit to Czechoslovakia I attempted to meet with Charter 77 group members. Unfortunately, Czechoslovak police prevented these people from meeting with me on two occasions.

I have been told that verbal protests were made by the American Embassy to the Czechoslovak Foreign Ministry and by the State Department to the Czechoslovakian Embassy here. I would appreciate receiving written confirmation that such protests indeed were made, as well as a description of the substance of such protests.

Needless to say, it was a shocking experience to personally witness this violation of the spirit and principles of the Helsinki Final Act.

Thank you for your assistance in this matter.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 12 noon with statements therein limited to 5 minutes each. The Senator from South Carolina.

THE DROUGHT IN THE SOUTHEAST

Mr. THURMOND. I rise today to address a real present threat to the survival of the farmers of the Southeast. The drought has been devastating to crops and has threatened the survival of livestock. Meteorologists do not predict any relief in the near future.

Mr. President, yesterday I traveled to my home State of South Carolina to survey the effects of this devastation. It was worse than I expected. This is the worst drought in the South since weather recordkeeping began over 100 years ago. Rainfall in South Carolina is more than 15 inches below normal and we have not yet entered the normally dry month of August. Already, crop damage has been estimated at nearly $700 million.

The lack of rain has been compounded by the record heat which has scorched the region. Columbia, SC, has suffered over 15 straight days of temperatures in excess of 100 degrees. Thus far, 39 deaths in the Southeast have been attributed to the heat. Restrictions on water use have been imposed in many areas.

Mr. President, we can only pray for rain. However, we can and must exert every possible effort to assist the farmers of the region.

Much appreciated assistance has already arrived from fellow farmers in other parts of the country. Farmers in Illinois, Indiana, Iowa, Missouri, Oklahoma, Kansas, and other States are in the process of donating hay to feed our starving cattle. Those who are exerting efforts to bring this feed to South Carolina are to be highly commended. Offers of similar assistance are coming in from other parts of the

country. In another week, more grain will be transported by rail to the South. Later today, I will be introducing legislation which is designated to give these generous farmers equitable tax treatment as a result of their charity.

I commend Secretary of Agriculture Lyng for sending a team of experts to the region to view this disaster. I toured the area with these USDA representatives yesterday. The Governor of South Carolina will soon request disaster assistance from the U.S. Department of Agriculture, and I have urged the Secretary to expedite this process and get assistance to the farmers as soon as humanly possible.

Mr. President, I ask unanimous consent that the July 17, 1986, New York Times article entitled "Even the Fish Die in Streams as the Dust-Dry South Bakes" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 17, 1986]

EVEN THE FISH DIE IN STREAMS AS THE DUST-DRY SOUTH BAKES

(By Dudley Clendinen)

ATLANTA, July 16.—For a week and a half, it has been so hot across the South that chickens in their sheds, fish in their ponds, cattle in their fields, ancient oaks in their woods and people in their homes have died of heat.

The drought, now the worst in the region's history has left the earth so dry and hard that cemetery crews have had to soak the ground with increasingly precious water to dig a grave.

It has been a complex phenomenon: 10 days of record heat, on top of four months of droughts, on top of a farm crisis that is now almost a decade old in the South, dating from the drought of 1977.

In terms of major crops, it has most hurt cotton, peanuts, soybeans, corn and pecans. If steady rains do not come, the consumer may notice smaller peaches and nuts in the markets and smaller chickens in the grocery cooler. But with the harvest season for most crops still months away, rainfall in the next week or so could yet rescue the region from much of the misery that now blankets it.

From the air, the red clay and sandy loam of central Georgia stretch away in fields of hot pinks and mustards and shimmering greens, under a sky whose horizon is lost in a baking haze.

In a general way, Albany, Ga., marks the southern boundary of the devastating hot and dry zone. In the countryside outside town, Bob Hayes, who farms 1,700 acres, climbed from his tractor seat Tuesday afternoon to stand in the shade of his equipment shed. "This year," he said, "I have had rain on the east side of the place, but on this side, practically none." His watermelons in one field grew enough to take to market, he said, but 500 feet down the road, his beans and peas burned up.

As Mr. Hayes spoke, clouds began to mass behind him, and an hour later, a storm front blew in four torrential inches of rain and winds that washed powder-dry earth off the fields.

The storms drenched Savannah, to the east, and Wilmington, N.C., to the north, and for the first day in a week, no record temperatures were set across the Southeast. The rains brought hope to some areas. "They'll help in the short term," said Bill Barlow of the National Severe Storms Forecast Center in Kansas City, Mo. But because the rains were scattered, he said, "it is not going to make that much difference." He predicted that the respite would be short, and that temperatures would rise to the 100's on Thursday or Friday.

12 HAVE DIED IN THE REGION

The immediate effect of the heat has been staggering. The death Tuesday of an elderly Georgian whose body temperature had risen to 112 degrees brought the number of human fatalities attributed to the heat to seven in this state and a total of 12 in the region. In Georgia alone, the university Extension Service said today, 750,000 chickens died in a week. Small farmers bury dead chickens, but the big growers make feed out of their losses to feed the chickens that remain.

Federal Agriculture Department officials said that for consumers, the greatest immediate impact of the drought could be expected in broiler chickens and turkeys. The area produces 39 percent of the broilers in the United States and about 20 percent of the turkeys. No other shortages appear likely because of surpluses on hand.

In metropolitan New York, Neil Conklin of the Agriculture Department said, the prices of vegetables and fruit are not affected because most are grown in California and Florida and in coastal regions of North Carolina, South Carolina and Georgia, which have been unaffected.

SPIRIT OF THE SOUTH SAGS

For the farmers, the long-term burden, hard to measure, may lie on the spirit of the rural South. In five to eight years in Washington County in northeast Georgia, said Chris Irvin, president of the George D. Warthen Bank, when there has been enough rain for good crops, the crop prices would not bring a profit. Now, he said, the value of farmland has declined, the majority of the county's farmers have a negative net worth, and they have no crops to sell, no market for their farmland and none for their equipment.

"Agriculture is dead in this county," Mr. Irvin sail. "One day it may come back, but it will take 20 years."

In South Carolina, the Department of Agriculture said that the heat and drought had devastated the major oat, wheat and corn crops. Tobacco, normally the state's most important crop, thus far seems unaffected, but Gov. Richard W. Riley has indicated that he will seek a Federal declaration certifying parts of the state as disaster areas. Because pasture across South Carolina has either failed to grow or been burned, state agriculture officials were trying to find some way to ship hay from the Middle West for the cattle.

"TAKES UP A LOT OF SPACE"

"The freight is going to be the worst part about it," said Marshall Foster, executive assistant to the South Carolina Commissioner of Agriculture. "Hay is light, but it takes up a lot of space."

Herds in Georgia and other states were under similar stress. "What we've found is that a large number of our farmers are without water," said Tommy Irvin, the Georgia Commissioner of Agriculture. "Their ponds have been exhausted and their streams have dried up. And they have no feed for their cattle." His department has been advising beef cattle farmers to sell their herds, Mr. Irvin said.

Because the Middle West has grass, there is a market, he said, but the livestock auctions have been so jammed that hundreds of cattle have been turned away at each site, and in the stress of being herded and loaded in the heat and drought, he said, some have died.

Like South Carolina, Georgia is also exploring the possibility of importing hay. And while these two states seem the most severely affected, Mr. Irvin the incoming president of the National Association of State Departments of Agriculture, said his surveys indicated that the belt of heat and drought damage spread through Alabama, North Carolina, eastern Tennessee and Virginia as well.

FISH DIE IN HATCHERIES

In Tennessee, low water in lakes is producing a bloom of algae and weeds that officials fear could taint water supplies. And in some states, the effects have reached underwater, killing fish in streams and fish hatcheries. "Fish are swimming upstream to find cooler water," said Mike Jennings, chief of fisheries for the Georgia Department of Natural Resources, but in small streams here and there, they are dying.

It is becoming hard to keep the fish alive in the state hatchery in Lake Burton, he said, and "if the drought continues to worsen, our hatcheries will be in trouble for future generations."

Even disaster planning has worked against the fish, he said. Permits are issued by the department to allow a certain amount of waste water to enter streams and rivers, and the amount is based on calculations of what the least natural flow of rainwater could be. But the drought, the worst in a century, has so reduced the flow of rainwater that there is not enough now to dilute the effluents, Mr. Jennings said, and in spotty fashion, the polluted water is increasing the fish kill.

The drought began seriously four months ago, in the planting season. Now, across the rural South, it is time for the cotton to fruit up, or form bolls, time for the corn to be silking and tasseling, time for the peanut plants to be pegging, making the little nubs just under the soil that will grow to be peanuts good for the market. And it is getting to to be time for the nuts on the pecan trees to "harden up," to form their final shell, beyond which they can no longer grow.

It is a critical time in crop maturity, said Clayton McDuffie, spokesman for the Alabama Agricultural Statistical Service. "If we had a normal rainfall with this excessive heat, it would be a problem," he said. "But now, after the drought, it is awful."

In South Carolina, for instance, only 23 percent of the cotton crop and only 25 percent of the soybean crop is now rated "good," according to the State Agricultural Statistical Service. Around Albany, Ga., in Dougherty County, the heart of the pecan belt, the nuts have been hardening prematurely and dropping off.

Century-old oak trees and even hickory trees around Albany are dying, and all last week, the 635 acres of pecan trees that S.V. Reaves manages there rained nuts on the ground. "They've about finally quit now," Mr. Reaves said, after a tour of his groves through slashes of cool shade and hot sun that felt to him like a radiator. "But there's not many left."

EULOGY FOR SENATOR JOHN P. EAST

Mr. KASTEN. Mr. President, I rise today to honor the memory of Senator John East. He was a friend, he was a leader, and he was a role model for many. He will truly be missed.

John and I were both Members of the class of 1980. We came here to the Senate together as freshman. I remember well those heady first days, and the great hopes we both had for turning this country around, and for making a difference here.

John certainly met those goals—he made a real difference. He was a true intellectual and a real conservative leader. His thoughtful approach to crucial issues of the day was always valued. And he offered a well-reasoned, academic dimension that is often missing in Senate floor debate.

He was also a role model for many. The personal courage he demonstrated just by making it through each week of Senate session was an inspiration. And he never complained—he was always simply thankful for the opportunity to be here in the Senate and serve.

Our thoughts are with his family. We share in their great feelings of loss. No one can ever replace John East. We were simply fortunate to have had the opportunity to serve alongside him.

NOMINATION OF DANIEL A. MANION

Mr. MITCHELL. Mr. President, the Senate will today vote on a procedural motion on the nomination of Daniel A. Manion to the Seventh Circuit Court of Appeals which could have the effect of conferring a lifetime judicial appointment to the second highest court in our Nation.

This is a bad precedent, not only because the close division in the Senate reveals there are strong and substantive doubts about the nominee, but because the use of a procedural vote in this particular instance clouds the confirmation process.

In an earlier vote, this nomination was confirmed because three Members present withheld their votes in order to pair with absent Senators. Had those present simply voted, as is the normal course, the nomination would have been rejected, notwithstanding the presence of the Vice President in the chair.

The Senate is closely divided on this nomination. Indeed, had the full Senate been present and voting, we might have seen a nominee to the Seventh Appellate Court approved by the razor-thin margin of a tie-breaking Vice Presidential vote.

Now, on a largely party line procedural vote, the outcome of that earlier vote is to be perpetuated, notwithstanding the fact that the Manion supporters did not have a majority, and notwithstanding the fact that the opponents did not have an absolute majority of 51 Senators.

By any standard, this is an extremely thin basis on which to rest a lifetime judicial nomination.

Judges should be nominated and their nominations should be confirmed when the individuals involved are qualified. That is what I believe. I do not believe that qualified individuals should be rejected because of political or ideological differences and neither does the majority of the Senate.

In the last 5 years, almost 270 of the President's nominees to the Federal judiciary have been approved by the Senate. Many of them were as politically conservative as Mr. Manion is said to be.

Nonetheless, all of these individuals were confirmed because they were qualified for the positions to which they were nominated. Nominees with well-articulated conservative philosophies have been nominated and confirmed by this Senate unanimously.

The problems with Mr. Manion do not concern his philosophy. They concern his qualifications.

For, despite what was said earlier in the debate, we are not voting on the future of a 44-year-old individual. We are voting on the future operation of the second highest tribunal in the land. Our constitutional responsibility to the integrity of that institution should take precedence over any individual's personal interest in obtaining a seat on the Federal bench.

For a nation under law, it is essential that the legitimacy of our courts be beyond debate. That is especially true of the appellate courts, which are the final courts of appeal for the overwhelming majority of cases that come before them.

In 1985, over 31,000 cases were decided by the circuit courts. The Seventh Circuit alone ruled on 2,259 cases. The Supreme Court rules on between 100 and 150 cases each term. For all but the most minute proportion of defendants and plaintiffs, the circuit courts are the final courts of appeal.

So the responsibilities of circuit court judges are no less grave than of Supreme Court Justices. They are the final arbiters of law for the majority of controversies at law in our Nation.

The confirmation of those who sit on the circuit should not, therefore, rest on procedural motions.

Supporters of the nominee claim opposition to his nomination is ideological. But that is not the case. Opposition to this nominee stems primarily from the lack of qualifications he brings to the position.

I oppose the nomination on the grounds that Mr. Manion lacks the minimal qualifications necessary to sit on the Federal appellate bench.

On the face of it, Mr. Manion's legal experience simply does not qualify him for a seat on the appeals court.

The question of basic competency has arisen because of the quality of Mr. Manion's legal work. Mr. Manion submitted his five best briefs at the committee's request, in order to provide some written record against which his nomination could be judged.

These are the work product submitted to the court in support of various clients. It has been claimed that misspellings and syntactical errors and confused organization in these briefs reflect the fact that Mr. Manion's is a smalltown legal firm and cannot employ "armies of proofreaders," as the Wall Street Journal editorialized.

I have had some personal experience in a relatively smalltown law firm myself, so I find the Journal's argument ridiculous and unpersuasive.

Similarly, the claim that the smallness of his firm or the city in which it is located is a cause of opposition to his nomination is one I find somewhat difficult to accept for the obvious reason.

It is demeaning to the Senate to have such arguments seriously advanced. The confirmation of Mr. Manion or any other judicial nominee does not and never has rested on flimsy issues of this nature.

The question of Mr. Manion's basic competence has been raised, not because the Senate is grading nominees, but because this nominee presents no record on which a reasoned judgment can be made.

Mr. Manion's competence for the practice of law is not in question. But on the evidence of his submitted work, he is not competent to sit on the appeals court.

Mr. Manion has been cocounsel or assisted in the defense of a dozen cases in Federal district court. He has been involved in some capacity in 20 such cases. None of them have been appellate court cases. Mr. Manion himself acknowledged that his direct litigation experience was confined to the earlier years of his private practice, and the bulk of it occurred in State courts on matters of personal injury, commercial cases, and land condemnation matters.

In listing his 10 most significant cases, Mr. Manion listed 2 land condemnation cases involving a dispute over the value of damage done by the erection of a fence, the defense of a claim of a driver's liability for cargo damage caused by a dip in the road, an auto collision case and a suit against an auto repair shop which allegedly impaired the performance of his client's automobile.

Many lawyers throughout the country have respectable and thriving practices of this kind, but that does not qualify them to sit on the appellate court.

Mr. Manion's experience alone, in my judgment, fails to qualify him for this nomination.

Mr. Manion is being judged by his work, because the Judiciary Committee and the Senate have nothing else on which to judge Mr. Manion's fitness for the appeals court. He has published no legal articles, taken part in no significant litigation, written no texts for the 400 or 500 speeches he says he has delivered.

As a practical matter, we are being asked to confirm an individual to the second highest judicial post in the land on the basis of a 13-year law practice limited largely to questions of State law and the hearing record, which consists of verbal assurances by the nominee of his fitness to serve.

That is simply an insufficient basis for lifetime appointment to the second highest court in the land.

The Senate has approved 205 district court nominees and 59 appellate court nominees submitted by President Reagan. I have opposed three of these nominees, and none of them on the broad grounds of "ideology" or "partisanship."

I recognize that every President will nominate individuals with a compatible judicial philosophy. So I have supported the vast majority of this President's nominees to the courts and I am prepared to continue to support nominees whose qualifications, experience, and judicial temperament fit them for lifetime appointment to the judiciary.

But I am unwilling to support any nominee, of whatever ideological persuasion, whose basic experience is so limited, whose abilities are so marginal, and whose own actions have raised serious questions about his temperament.

The premise that a nominee is entitled to a seat on the court by virtue of his integrity is not one I share.

Nomination to a position does not constitute entitlement to that position. The only entitlements our system permits are the entitlements of the ballot. Only the public, through its vote, entitles anyone to any official role in our Nation. All other functions are either disposed at the pleasure of an elected official or on pain of good behavior through the impeachment process.

So Mr. Manion's nomination does not entitle him to take a seat on the Federal bench. It entitles him to a fair hearing and a fair debate by the Senate on his record and his qualifications.

No President is entitled to have "his" judgeship nominees confirmed for the simple reason that under our system, no President has any judges. Judges form a third and completely independent branch of our Government. They do not serve at the President's pleasure and they do not constitute an auxiliary arm of the Justice Department.

The premise that the fact of nomination entitles the President to his choice and the nominee to his seat is fundamentally at odds with the most basic premise on which our Government operates.

The confirmation of judicial nominees is unlike the confirmation of Cabinet members, Ambassadors, or any other executive branch nominee for two reasons.

First, the judiciary is the third of our three separate arms of Government. It is not an arm of the executive branch. Nor is it subordinate to the executive branch. Judges do not serve at the President's pleasure. They do not function to fulfill his policy goals.

Judges hold the unique position in our system of Government of interpreting the law. And in our Nation both legislators and Chief Executives are bound to conform to law.

That fact underlies the second unique aspect of judicial nominations, which is that they are lifetime appointments.

The Founders determined that only lifetime appointment could sufficiently insulate the judiciary from political pressures. They determined that only a completely independent judiciary could function without looking apprehensively either to Congress or the President whenever an unpopular freedom had to be preserved or an unpopular person's rights had to be protected.

Popular liberties and traditions do not need the protection of the judiciary or the Constitution. Their popularity preserves them.

It is the minority position and the less popular view which needs protection. If a temporarily unpopular freedom is curtailed by majority vote, no freedom is entirely secure from a different majority at some future time. If a temporarily unpopular dissent is stifled, nothing protects a future dissenter against a change of heart in the future.

Our judiciary is insulated from popular demands and popular passions because without that insulation, it would be no more than a third political branch of Government.

The function of the Senate is to ensure that the men and women who are confirmed to these lifetime positions of enormous and far-reaching influence have both the temperament and the basic abilities to discharge the duties of the judiciary.

But in this instance, the Senate is being asked to accept the premise that a nominee whose experience in the law is limited, whose record shows no evidence of legal scholarship should be approved on the basis of assurances that he will learn the business of the appeals court.

Mr. Manion simply lacks an adequate background for an appointment of this importance.

NOMINATION OF DANIEL MANION

Mr. LAXALT. Mr. President, I am here to speak in support of the nomination of Dan Manion to the U.S. Court of Appeals for the Seventh Circuit.

Mr. Manion is an attorney of broad experience both in public service and in private practice. He has served as the director of industrial development for the Indiana Department of Commerce and as a deputy attorney general for the State of Indiana. In 1978 he was elected to the Indiana State Senate, where he was a member of the Judiciary Committee and, 2 years later, the chairman of the Energy and Environment Committee.

As an attorney, he practiced both criminal and civil law in the Indiana attorney general's office. Presently, as a partner in a South Bend, IN, law firm, he specializes in civil cases.

Dan Manion is an excellent attorney. He is a successful attorney. And, in the words of my colleague from Delaware, he is "a decent and honorable man."

Dan Manion is also a conservative Republican, a strong supporter of President Reagan, and therein lies his problem. What we have been witnessing these past few weeks is an attempt by some to block his nomination without telling us the real reason, the political reason, for doing so.

One gets the impression that the political opponents of Dan Manion have been casting about, fishing for an acceptable, nonpolitical reason on which to hang their opposition. Their unwillingness to frame their argument in political terms is understandable, because they know that the overwhelming majority of Americans support President Reagan's assessment of the Federal judiciary and support the excellent nominees that the President has been sending to the Senate throughout the past 5 years.

If we review the statements of opposition to Dan Manion over the past few weeks, the shift in rationale is quite clear.

In the hearing on April 30, the principal target of the Democratic opponents was Mr. Manion's statements on various points of constitutional law. These statements, I might add, were taken exclusively from the transcripts of radio and television shows on which he appeared as a young man with his father, the late Clarence Manion, dean of the Notre Dame Law School. On those programs, Dan's usual role was to interview his father and other guests, asking them prearranged leading questions or participating in script-

ed dialogs. Yet, these scripts are portrayed by Dan's political opponents as the definitive statements of his legal philosophy.

In attacking his statements, the opponents seemed to be relying on the idea that Supreme Court decisions are the equivalent of the Constitution as the supreme law of the land. Implicit in this idea is the notion that the Supreme Court can do no wrong. Once the Court's decisions on constitutional questions are accorded the same dignity as the Constitution itself, the Constitution can no longer be used as the standard of evaluating the Court. If the Court rules a statute or a practice unconstitutional, then, according to this view, that is the end of the matter: the Constitution has spoken.

But we know that this simplistic view is not correct. The Court often changes its mind. It overrules old decisions and, on occasion, has characterized its old rulings as unconstitutional. Under our frame of government the Court is indeed the supreme expositer of the Constitution and of all Federal statutes, but the Constitution itself binds the Court as it binds all three branches of the Federal Government, the State governments, and the American people. We are a nation under law, and that supreme law permits each of us—indeed, it obligates us—to evaluate our Government and our courts accordingly. Dan Manion understands that, and he made his understanding clear at his hearing.

Evidently Mr. Manion's opponents realized that their first strategy was not going to do the job, because their Dear Colleague letter of May 5 referred to both his lack of qualifications as well as his views on the Constitution as reasons to oppose his nomination. The discussion at the Judiciary Committee meeting a few days later focused principally upon his alleged lack of qualifications to be a judge.

Now the critics pointed to the grammatical and typographical errors that appeared in briefs that Dan submitted to the minority members of the committee. These briefs had been given to members of a liberal Chicago lawyers' association for comment. The evaluators were not identified.

Their critiques focused upon misspelled words and allegedly poor writing style. The critiques did not dwell on—nor, I believe, did they even mention—the fact that Dan won three out of four of the cases that had been decided in reliance on those briefs. Unfortunately, Manion's opponents distributed neither the critiques nor the briefs to the rest of the Judiciary Committee members before the meeting on May 8.

According to the transcript of the April hearing, one or more of the critiques was apparently available by April 30. One Democratic member of the committee referred to them at that time, but he did not question Dan about them at the hearing.

Yet at the May 8 meeting, these anonymous critiques were heavily relied upon to make the new case against Dan Manion—that Dan lacked the qualifications to be a Federal judge. Never mind that the American Bar Association found him qualified—the opponents argued that the ABA should have found him more qualified. Never mind that the Chicago Council of Lawyers conceded that Manion's fellow lawyers found him a competent and even outstanding lawyer—the council felt that he should be more competent.

I frankly suspect that few, if any, lawyers in the United States would be able to meet the qualifications being demanded of Dan Manion today. I suspect, too, that if the opposition were not resting upon this specious ground, Dan's opponents would have found another basis to oppose him. I do not condemn political opposition to judicial nominees, but let's be honest about it and call it what it is.

In my opinion Daniel Manion is an excellent nominee. He will make an excellent appellate judge. I wholeheartedly support his nomination, and I urge my Senate colleagues to do the same.

NOMINATION OF DANIEL MANION TO THE SEVENTH CIRCUIT COURT OF APPEALS

Mr. BINGAMAN. Mr. President, I oppose the nomination of Daniel A. Manion to be the Seventh Circuit Court of Appeals and favor the motion to reconsider the nomination.

During the past few week I have listened with great interest to the debate on the qualifications of the President's nominee. I have concluded that the central issue is the lack of Mr. Manion's legal qualification to be a Federal appellate court judge, and not his political ideology. The position of a Federal appeals judge is a lifelong appointment, therefore the Senate's responsibility must not be taken lightly.

I fully recognize the great latitude owed the President to appoint men and women of his choice. But our system also provices a check on that appointment power by requiring the Senate to confirm or not confirm. I believe we shirk our responsibility in this body if we do not exercise independent judgment based upon review of the case. Personally, I have reservations about Mr. Manion's suitability.

The facts as presented portray a gentleman whose legal experience consists primarily of representing clients in small personal and commercial claims in State court. Any Federal experience was limited to a handful of diversity jurisdiction cases involving issues of State law. Certainly one should not be rejected solely on the basis of their legal practice. But when I weigh his almost nonexistent Federal practice with his legal competence I cannot conclude otherwise than the Senate must withhold its consent.

My distinguished colleague from the State of Missouri, Mr. EAGLETON, spoke eloquently and at length recently, on this nomination, addressing the competency issue in detail. What caught my attention was my colleague's remarks about the quality of the briefs submitted to the Senate Judiciary Committee by Mr. Manion. Mr. EAGLETON stated, "A legal brief reflects how a lawyer thinks. It reflects how he analyzes. It reflects how he approaches the law. It reflects how he fits the facts with the law. It reflects how he reasons. It reflects how he writes." My colleague then described the responses he received from imminent legal scholars and practitioners on the quality of those briefs. Not one of those individuals, including among others, Cyrus Vance, Lawrence Tribe, Archibold Cox, and Irwin Griswold, found that Mr. Manion possessed the legal scholarship and analytical reasoning to be a Federal appellate court judge.

Mr. President, I could continue reviewing what the record bears out on this nomination, but I will not. I strongly believe we can do better and I must vote against this confirmation.

□ 1200

CONCLUSION OF MORNING BUSINESS

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that suggestion?

Mr. President, what is the order?

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will proceed to executive session.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

The PRESIDING OFFICER. The clerk will report the motion to reconsider the vote by which the Senate advised and consented to the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The time is equally divided between the majority leader and the minority leader or their designees.

The minority leader is recognized.

Mr. BYRD. Mr. President, that was my purpose only. I will designate Mr. BIDEN to control 50 minutes of the time on this side, and I will retain control over the last 10 minutes.

I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1250

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. THURMOND. Mr. President, I ask unanimous consent that all time between now and 1:30 be under the control of Senator BIDEN or his designee.

I further ask unanimous consent that the time between 1:30 and 2 be under the same terms as previously ordered, with the proponents having the last 10 minutes, and that the Democratic leader have 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

If the distinguished acting Republican leader would wish the proponents to have the last 15 minutes, it is OK with me. That would only mean that the first 15 minutes of that last half hour would be controlled by Senator BIDEN with the condition that I would have the 10 final minutes of that 15 minutes.

Mr. BIDEN. Reserving the right to object, Mr. President, if we would allow the opportunity for there to be 1 minute within that time to respond to something that may or may not come up, if that is possible.

There will be 15 and 15—the Senator says 10.

Mr. THURMOND. We will have the last 10 minutes.

Mr. BYRD. Twenty and ten with my having the last 10 of our 20.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The time is now under the control of the Senator from Delaware. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield myself such time as I may need.

Here we are again, Mr. President, back on the Manion nomination. I have been in the U.S. Senate for about 14 years now and I suspect this has not only been one of the most controversial nominees, but the process by which we are ultimately arriving at the disposition of his nomination has been one of the most confusing and it is one of the nominations that has caused, I suspect, the greatest concern and some recrimination. I would like to take a few minutes not to speak of how we got to this point, not to spend any time arguing about whether or not Senators who were voted in their absence one way or another in fact, intended to vote that way. I thought about it when I got home after that last time we voted and I thought, I wonder what the public must think. Not only are we debating the future of the judiciary, the second most important part of that judiciary, the circuit court of appeals, but we are doing it with the American public listening to us use the language and parlance of the Senate. I got home and I was stunned by one of my family members, not my immediate family, but my extended family, saying to me, "What did you mean when you turned to Senator DOLE and said, "Well, I will give you two pair?" I mean it must have sounded to some people listening like we were playing poker or some card game, rather than the very serious business which we are about.

I want to make it clear that this is very serious business that we are talking about. We are talking about the independence and the caliber of the third coequal branch of the Federal Government. We have found ourselves in a position here on the floor, those of us who have the responsibility, as I do and Senator THURMOND and others, because of our role in the Judiciary Committee, we have found ourselves succumbing to a very nice sounding formula for how the Senate should respond to Presidential suggestions as to who should be on the Federal bench. There is this notion afoot that the Senate's obligation is to ratify the choices of the President of the United States, whomever he or she is, because obviously, as the argument goes, it is the President's right to determine who will be on the bench.

□ 1300

I would like to suggest to my colleagues that that notion is erroneous. It is erroneous from a constitutional standpoint. It is erroneous from a commonsense standpoint.

Let me suggest to my colleagues and anyone who may be listening that I cannot say to any of my constituents or any of my colleagues that the choice of the membership of the U.S. Senate or the U.S. House of Representatives should be one that was basically automatic, or that the burden, so the second-party argument goes, should be on the Senate to prove that the nominee is not qualified. I cannot come forward and say to my constituents, "I have just announced for the U.S. Senate and the burden is on you, my constituents, to prove that I should not be a U.S. Senator." The burden is on me to go to my constituents and say, "I wish to be a Senator and here are the reasons why I think I qualify to be a Member of one of the three coequal branches of the Government, the U.S. Congress." I have an obligation as a candidate to make the case why I should be one of the Members of one of the three coequal branches of the Government.

Now, if we just applied common sense and logic to this, we would say obviously a Presidential nominee has the same burden. Merely because his or her party chose them to be the nominee does not end the debate. We do not turn around and say, "Well, the Republican Party says So and So should be President. Therefore, the burden is to prove that they should not be." We all know the President, who heads one of the three coequal branches of the Government, has the burden, as does the nominee, to prove that he or she is qualified.

Now we come down to the court, a branch of the Government that equally impacts upon the lives of Americans, and some would suggest over the period of our over 200-year history has had more impact on the lives and property of American citizens than either the President or the Congress, and we are being told that the burden is on the only people who under the Constitution have to vote on whether or not someone is confirmed. The Constitution says the Senate shall consent. We have to vote, just like our constituents have to vote for or against Senator DOLE or Senator BIDEN. We, we, the U.S. Senate, are charged with the constitutional responsibility of voting for or against a nominee to the third coequal branch of the Government.

Now, is it not preposterous—forget whether or not someone is a constitutional law scholar. Just use common sense. It is not preposterous to suggest that given the responsibility and obligation to vote yes or no, that that vote must in fact follow the dictates of a President merely because the President, no matter how wonderful he or she might be, suggested that name? Of course not. The burden is on the proponents, the President of the United States, and the nominee himself, Mr. Manion, to prove that he is qualified to serve for the rest of his natural life on the third coequal branch of the Government.

(Mr. DENTON assumed the chair.)

Mr. BIDEN. On the court, as we all know—sometimes we forget—the Fed-

eral bench, you are there for life. We are going through a process now where there is a Federal judge in jail, convicted, serving time, and still collecting his pension. We have to go through the process of affirmatively impeaching that judge to cut off his pension. This is for life, forever. And we are being told that somehow those of us who oppose this man, because he is not qualified in our view, have the burden beyond a reasonable doubt of proving he is not qualified. Clearly the burden constitutionally and from a commonsense standpoint is upon the proponents.

Now, what have we heard from the proponents in terms of how they have met that burden? Have they come forward and told us about his phenomenal academic excellence? Have they told us about his superiority in the law? Have they told us about his vast experience in dealing with constitutional issues which circuit court of appeals judges deal with? Have they come forward and suggested that there is anything in his background beyond his pleasing personality and his generally, I would argue minimally, accepted competence as a lawyer to practice law? Have they suggested anything beyond that? Have they said anything beyond the fact he is a fine man? Have they produced for us any documentation of his superior reasoning ability? Have they produced for us any verification that would shed some light on what insight into the Constitution, stare decisis, he has? Have they even been able to eradicate the notion raised by some, myself included, that he has a mildly bizarre understanding of the Constitution, when he is quoted as saying that Larry McDonald's book on the Constitution which is a—how shall I characterize it?—it is ridiculous. He offers that as evidence of a blueprint for American constitutional history.

□ 1310

So, where has the burden been met? What have we been told? I accept that he is a fine man. I accept that he is decent and honorable. I accept that people in South Bend like him. I accept that he is a decent lawyer. I accept that he is a member in good standing of the Indiana Bar Association. I accept that he is qualified to practice law. But I do not accept the fact, and I would argue that there have been no facts put forward that sustain the burden.

What is the burden? What is the burden someone should have to come before this great body to prove that they are competent to serve on the second highest position in one of our coequal branches of Government for the rest of their natural life? I argue that the burden is one of excellence—not mediocrity, not bare minimum, not scraping by. Excellence.

The fact that someone is not a felon, the fact that someone is a decent family man, the fact that someone is a credit to their community does not suggest that they have met the burden and the standard we should have for women and men who serve on the circuit court of appeals of the United States of America.

We all say that we want excellence. We want excellence in education. We want excellence in our aircraft carriers. We want excellence in our Space Program. We want excellence in everything.

The President cannot guarantee excellence in our Defense Program. He can try. But that will not keep shoddy contractors from stealing. That will not keep the defense industry from cheating the American people and the military men and women who man that machinery. He can insist on excellence in education, but he cannot create it in the State of California, in the State of Delaware, or in the State of Missouri. The one place that he can not only demand excellence but can, in fact, guarantee that he gets it, is on the Federal bench, because no one but he chooses who the nominee will be. He can guarantee excellence. He cannot guarantee our vote. He can guarantee that the product that we are considering is an excellent one.

I suggest that the burden has not been met by those upon whom the burden rests. It rests with the President and the proponents to demonstrate that this man is something beyond what he in fact is—a decent, honorable man.

Mr. President, I yield 5 minutes to my colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I commend our ranking minority member, the Senator from Delaware, for an excellent summation with respect to this particular nominee.

This nomination poses in the clearest possible terms the responsibility of the Senate to assure that lifetime appointments to our Federal courts meet at least minimal standards of competence and integrity. If Mr. Manion is confirmed by the Senate today, the American people will witness a deplorable episode in the rule of law—the selling of the Federal judiciary.

The confirmation of Federal judges is one of the most solemn responsibilities of Members of the Senate. Unlike legislation, which can be changed or repealed at any time by a majority vote, the confirmation of a nominee to a lifetime appointment to the Federal bench is irrevocable. When the Senate is asked to approve a nominee who so clearly falls short of the mark of excellence and distinction required of Federal judges, our duty to the Constitution requires that we should reject the nominee.

Mr. Manion's nomination is notable only for its utter lack of qualifications. He has had almost no experience in Federal courts; his briefs in State courts border on the illiterate, he insulted the Supreme Court by defying one of its key decisions interpreting the Constitution; and he is opposed by the deans of a long list of major law schools throughout the country. Compounding all of his other demerits, he refused to come clean in his Senate confirmation hearing, and doctored the hearing transcript to disguise his own damaging testimony.

The nominee's minimal record and the blatant deal that accompanied the previous Senate vote demonstrate that Mr. Manion cannot be confirmed on his own merits. At best, log-rolling on legislation is a traditional, if dubious practice in the Senate, but judge-rolling is completely unacceptable.

The Senate has the opportunity today to redeem itself from the embarrassment and the disgraceful tactics that marred the earlier vote. The issue is integrity not ideology. Mr. Manion is the least qualified appellate nominee submitted to the U.S. Senate by any President of either party since I have been in the Senate. The administration has abused both the Senate and the Federal courts by this unseemly effort to force Mr. Manion onto the bench, and I urge the Senate to reject him.

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Illinois.

Mr. SIMON. Mr. President, first, I want to thank my colleague from Delaware for his leadership in this matter.

The Senator from Massachusetts has said that this nominee is the least qualified nominee for the court of appeals since he has been in the Senate. I do not recall how many years the Senator has been here.

Mr. KENNEDY. 24 years.

Mr. SIMON. 24 years in the U.S. Senate.

Let me read a letter that I have received from a judge of the U.S. court of appeals. It was written to me personally. I asked him if I could quote from his letter, without using his name, and I have his permission to do that. He says:

> I have never publicly expressed my opposition to a judicial nomination regardless of his or her political background. Mr. Manion is an exception. In my opinion, he is unqualified for the position. He lacks both the intellectual competence and the experience that a circuit judge should bring to a court of appeals.
>
> It would be a great disservice to the Seventh Circuit and to our entire judicial system to have a person with Mr. Manion's mediocre writing skills and analytical abilities become a member of the bench. His work as a lawyer indicates that he has an extremely limited intellectual capacity, as well as little knowledge of federal or state jurisprudence.
>
> Even one ill-equipped member of a multi-judge court may have a significant adverse

effect on the work product of the entire court.

□ 1320

That is pretty powerful stuff.

There are in this country 650,000 lawyers. You can argue that we may not pay some of the judges enough, and it is true that we do not. But it is hard to believe that we cannot come up with people who are above average, who are stellar members of the bar.

I caught one of the television interviews of a reporter who covers the courts for the South Bend Tribune, I think it was, and the interviewer asked the reporter how he would rank Mr. Manion. He said he would not be among the top 10 members of the bar of South Bend.

I asked a friend who practices law in South Bend how he would rate Mr. Manion on a scale of 1 to 100, 1 being the best, 100 being the worst. He said he would rate him 65 on a scale of 1 to 100.

I say to my friends, we should not be naming to the Federal bench a fellow who is nice—I would be happy to have him as a neighbor—a fellow who if you want to give him a political reward, let us name him Assistant Secretary of Transportation or something else. Do not give him a lifetime appointment on the second highest court of the land.

Clearly we ought to be demanding quality in these appointments and just as clearly here is an appointment that does not meet that standard.

So I urge my colleagues of both political parties, we are not just naming someone who is going to serve for the remainder of the life of this administration. We are talking about someone who is going to be on there for his lifetime, probably well into the next century.

Let us act with care; let us act with caution.

I remember the words, in closing, of our minority leader when the first debate was held on Mr. Manion. He said, "Remember that when the constitutional fathers said 'advise and consent,' they did not say 'rubber stamp.' "

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON. I thank the Chair and I thank my colleague from Delaware.

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Ohio.

Mr. METZENBAUM. Mr. President, I think we have to consider this matter in its proper context.

Circumstances under which we meet here today are that the first vote with respect to Mr. Manion was tainted. Some Senators were not here and their votes were not cast in accordance with their own wishes. Two Senators agreed to pair their votes with those of absent Senators when they were told the absent Senators would probably vote for Mr. Manion's confirmation. Another Senator voted for Mr. Manion but later switched her vote when she was told that an absent Senator would have opposed Mr. Manion's confirmation.

We all know that the vote in the first instance was tainted. It has also been tainted by the open trading of judges. About 2 days before the vote, the Justice Department through a spokesperson said they would not trade votes, they would not buy votes. And then they went ahead and they bought votes. The whole country knows that.

Judges should not be traded like pork bellies or common stock. These judges are a part of our constitutional system. They are appointed for life. The American people rely upon them and they expect justice.

They cannot be appointed like this and have the American people expect to give them much respect. There is more at stake here today than just the confirmation of Mr. Manion. I hear stories about how the President called someone and agreed to do a fundraiser in consideraion of a vote. I do not know if those stories are true or not. But those are the stories that I hear on the public media.

What is at stake here is more than Mr. Manion. What is at stake here is the integrity of the U.S. Senate. It is a question of whether this body is going to play games, it is going to deal in judges, and if on the basis of those deals a man is going to be confirmed to the circuit court of appeals.

What is at stake here today is far more than the qualifications or lack of qualifications of Mr. Manion. What is at stake here today is the integrity of the process which we follow in the U.S. Senate when a judge is up for confirmation.

People of this country have a right to expect more of us than that which will transpire here this afternoon. This is a pressure mechanism that will bring about Mr. Manion's confirmation, if indeed he is confirmed. No stone has been left unturned in the effort to obtain his confirmation.

I believe if for no other reason that the integrity of this body demands Mr. Manion's confirmation be rejected.

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Massachusetts, Senator KERRY.

Mr. KERRY. Mr. President, I thank the Senator from Delaware not only for the time, but I thank him also for his leadership on this issue and his effort to try to hold the Senate to the standard which we should adhere to with respect to the advice and consent of judges, particularly to the second highest court in this country.

Mr. President, I do not serve on the Judiciary Committee, but I am an attorney. I have served as a prosecutor. I have practiced law privately. And above all, like other people who have become lawyers, I went to law school where we all believed that those who are appointed to the highest courts of our country should be qualified.

Mr. Manion has written no law review articles or other works of legal scholarship. He has handled no major cases. Indeed, he has never handled any Federal appellate cases and he has never been the lead attorney in any Federal case. He has never taught nor lectured at a law school. In sum, he is lacking in any of those criteria by which one would make a judgment about legal distinctions.

The New York Times editorialized "his only relevant work record, legal briefs to State courts, would embarrass a first-year law student and the reader who slogs on finds no redeeming spark of originality or insight."

The bottom line, Mr. President, is that Mr. Manion can claim no serious legal credentials.

In addition, I think all of us know from the record that legal skills are not the only part of his dossier which is lacking. He has shown a lack of regard for the U.S. Constitution. He has a history which raises serious questions about his respect for or understanding of the Constitution.

We all know the story as to how as a State legislator he filed a bill to authorize the posting of the Ten Commandments in classrooms. His defenders now say that bill differed from the Kentucky bill which was ruled unconstitutional.

But Mr. Manion, himself, before the committee, could not draw those distinctions for himself and was unable in answer to the questions of my colleagues to be able to describe what it was that differed one bill from another.

It seems to me difficult to understand how someone who will have to draw those very distinctions on a daily basis about complex constitutional issues can do so if he cannot do so in a case in which he was deeply involved when being asked questions about certification for his job.

Clearly the basis for nomination for this gentleman is not the record of his legal qualifications, nor his knowledge of the U.S. Constitution, and the President and the Senator from Utah now claim that he has been opposed on the basis of political ideology. The opposite is in fact true. He is being opposed on the basis of his lack of qualifications. He has been nominated on the basis of his political ideology.

I am deeply disturbed, Mr. President, by the fact that during the course of inquiry by members of the Senate Judiciary Committee, Mr. Manion has been found to be less than candid with the members of that committee. I am disturbed by the revelation that he tampered with the tran-

script of hearings of the Senate Judiciary Committee, altering the meaning of his own testimony, and as a former prosecutor, I am deeply troubled by Mr. Manion's frequent use of phrases, in answer to questions, when he would say, "I don't remember," or "I don't recall; I can't remember the answer to that, Senator."

I have heard those kinds of phrases used many times in courtrooms, and I came to understand them as code words for evasion or for lack of candor and when that person happens to be a nominee for a Federal judgeship I think it is appropriate that we take a long hard look at whether or not that person should be certified.

Mr. President, we have given President Reagan countless nominees who are nominees of conservative ideology. It seems to me that more than anything the fact that this nominee has divided the U.S. Senate almost evenly is in and of itself testimony enough to his lack of qualifications. The fact that the Senate cannot automatically, by lack of rollcall vote, as we have for hundreds of other nominees, allow him to go onto the court, is in and of itself, I think, testimony to the fact that this body is divided enough to call into question his nomination and his ability to sit.

□ 1330

I do not believe that Mr. Manion's views are the views of a true conservative. They are the views of a man who does not understand the Constitution and who does not understand or really value the purpose for which that Constitution has been set up and what it seeks to protect. They are the views of a man who does not respect the judicial system.

I have no objection, as I have said, to nominees who have conservative views, but I object to people who by every act they have taken whether political or legal have shown the lack of judgment necessary to sit on the second highest court in our land.

I yield whatever time I have remaining to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I yield 3 minutes to the distinguished Senator from California.

Mr. CRANSTON. I thank the Senator from Delaware.

Mr. President, the Senate is apparently about to vote—though we will not really know until the rollcall begins—on whether or not to reconsider the nomination of Daniel A. Manion, to be a judge of the Seventh Circuit Court of Appeals, the second highest judicial level in our Nation.

In my judgment, and in the apparent judgment of almost precisely half of the Senate—maybe exactly half—Mr. Manion lacks the qualifications for the high judicial office for which he has been nominated.

If reconsideration is denied, Mr. Manion will begin a lifetime judicial career as the first Federal judge in American history, as far as I am able to determine, whose nomination was brought before the Senate, yet received less than a majority of the Senate's support.

The vote by which this nomination was approved, 48 to 46, was tainted. The minority leader voted for it merely to be in a position to make this motion to reconsider. Three present Senators withheld their negative votes—two of them based on representations that turned out to be inaccurate. One Senator switched from what he had indicated would be a negative vote and cast a positive vote apparently in exchange for a Presidential agreement to nominate another judge sought by the Senator—exactly the kind of vote-swapping the Founding Fathers sought to avoid by dividing the appointment power and insisting on Senate advice and consent to judicial nominations.

An understanding that the rollcall would be limited to 20 minutes was broken. And it was in the 22d minute that a vote against Manion was withdrawn on what later proved to be, at best, a misunderstanding and, at worst, a misrepresentation of an absent Senator's position.

In view of this sorry record, the Senate should be allowed to reconsider that vote. But, perhaps worst of all, the majority leader has made it plain that the Senate would get a chance to work its will only if the majority leader believed he had the votes to prevail.

Mr. President, the Republican majority may well prevail today by the narrowest of margins, but the Nation will lose and the Founding Fathers will be turning over in their graves at this shameful abuse of the constitutional process.

I know that if I were Mr. Manion, I would be ashamed to take a lifetime appointment under these circumstances. I would ask the President to withdraw my nomination, and wait a little longer in my career, perhaps achieving some degree of distinction which would inspire the confidence of more Senators, rather than assuming office permanently tainted by the connivance necessary to assure my appointment.

This week, the distinguished Senator from Maryland [Mr. MATHIAS] and I made separate speeches detailing the standards and expectations the Founding Fathers had of Senators in the judicial confirmation process. We will be circulating those speeches jointly to all Senators. I hope my colleagues will read them and reflect on them.

The Senate has a long memory, Mr. President. When the Senate fails to rise to its constitutional responsibilities, it has a way of coming back to haunt those who fail. There may be no new profiles in courage demonstrated today, and partisanship may temporarily prevail. But we owe the country so much better.

Mr. BIDEN. Mr. President, as I read the clock I have about 2 more minutes under my control.

The PRESIDING OFFICER. The Senator has 5 more minutes.

Mr. BIDEN. Mr. President, I would like to suggest three things before I yield our time to my distinguished colleague from Utah.

Mr. President, first of all, this is not in fact a vote to reconsider. That is what we call it under the Senate rules. This is a vote on the merits. It is a vote on whether or not Mr. Manion should or should not be a Federal circuit court of appeals judge.

So let my colleagues who are considering switching have no illusions about what they are voting on. They are voting on putting Mr. Manion on the bench or keeping him off the bench and no chicanery, no parliamentary maneuvers are going to change that.

The fact of the matter is the vote was—everybody says Mr. Manion won; Mr. Manion lost—the vote was 48 to 46, with 48 votes being against Mr. Manion. The time had run. The unanimous-consent agreement was over. He was defeated. The majority leader kept the clock running 2 more minutes, got one of the Senators to change his vote on the assertion that a Senator who was not here wanted to vote a certain way—I do not know how that all happened, but the bottom line was it became 47 to 47 and the Vice President in the chair would have been a vote to confirm Mr. Manion as a consequence of breaching the agreement, the Senate rule that we had agreed to by unanimous consent.

So this is a vote not to reconsider, this is a vote on the merits. Any Democrat or Republican who stands up and says, "I'm against Manion, but I am just voting on procedure," everyone should mark it well, it is not anything other than a switch. Everyone is entitled to switch, but let us call a switch a switch, No. 1.

No. 2, it is not about ideology. In fact, notwithstanding what my colleagues will say in the next 15 minutes they have on the Republican side, I personally have supported the 1 Supreme Court Justice, 61 circuit court of appeals judges, and 214 district court nominees this President has sent up here. Among them have been the foremost conservatives in the Nation—Richard Posner; Frank Esterbrooke; Antonin Scalia; Robert Bork; J. Daniel Mahoney, former chairman of the New York Conservative Party; John Noonan, the Nation's foremost theoretician for the National Right to Life.

This is not about ideology. It is about competence.

The last point I would like to make is that I ask unanimous consent that a series of editorials from Indiana newspapers, Fort Wayne and Evansville, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Journal-Gazette, June 3, 1986]

THE MANION TRANSCRIPT DESERVES ANOTHER READING

Sens. Richard Lugar and Dan Quayle have written a letter to their Senate colleagues to support the nomination of Daniel Manion, of South Bend, to the U.S. 7th Circuit Court of Appeals in Chicago. We appreciate the senators' eagerness to defend a fellow conservative and Hoosier whose appointment has come under attack. But the letter is a puzzling document. It makes a personal attack on Manion's critics, and claims as true what was contradicted in his testimony before the Senate Judiciary Committee in April.

"Part of the political case against Dan Manion can be reduced to this: guilt by association," the Lugar-Quayle letter says. The senators say that Manion is being condemned because of his father's notorious right-wing activities. Among his other conservative activities, Clarence Manion helped found the John Birch Society.

But it's Daniel Manion who aligned himself with his father's extreme views. In one 1971 broadcast of the Manion Forum, Clarence Manion argued that the Bill of Rights should not apply to state law. He contended that making such an application "is responsible for nine-tenths of the troubles which the states are now having with their redistricting . . . and with the various other interferences with state laws, the schools, prayer and obscenity and the regulation of school districts . . ."

The next words from Daniel Manion, who was moderating the discussion, were not those of an impartial questioner but of a partisan:

"Well, I think you've pretty well established how this prayer decision was precedented fallaciously. The original case was wrong. . . ."

If you read Daniel Manion's testimony before the Senate Judiciary Committee you'll not find him repudiating any of his father's views.

To the contrary, when Daniel Manion was given an opportunity to criticize the views of the John Birch Society, he fell to evasions or pleaded ignorance: ". . . I could not tell you what the policies of the John Birch Society are."

The Lugar-Quayle letter also claims Daniel Manion never endorsed Larry McDonald or his particular views. The late Congressman McDonald was a well-known Bircher. In a 1977 interview with McDonald on the Manion Forum, Daniel Manion extolled McDonald's book as ". . . one of the finest summaries of the history of our country—what has happened in the past, what has happened to us and what we have to do about it."

We urge Lugar, Quayle and their Senate colleagues to read the Manion transcript closely. It simply won't support the charge that Daniel Manion's critics have been unfair.

The real issue comes down to this. Daniel Manion is not qualified to sit on the U.S. 7th Circuit Court of Appeals. There's nothing in his record as an attorney, a state senator, an assistant state attorney general or in the transcript of the Senate Judiciary Committee proceedings to suggest otherwise.

[From the Journal-Gazette, July 11, 1986]

THE MANION VOTE

Daniel Manion, of South Bend, is certainly not the first federal court nominee of the Reagan administration to be unqualified. But he is the first that the Senate Judiciary Committee refused to recommend to the full Senate, and it's encouraging to see the committee finally asserting its proper role.

Manion was nominated to be a judge on the 7th Circuit Court of Appeals in Chicago. That's the panel that hears appeals from the northern Indiana district federal court, so people in Fort Wayne should have a strong interest in the nomination.

The Reagan administration has been putting up conservative nominees for court positions from the beginning, and about one-third of those have received only the minimum possible recommendation by the American Bar Association.

That in itself should have disqualified at least some of the Reagan nominees. But the Republicans have the majority in the Senate, and they have been giving the president what he wants.

It has been a disgraceful display of partisanship, dramatized by the fight in the committee over Manion. Even though Democrats repeatedly approved conservative candidates, they found themselves accused of opposing Manion only because he's conservative.

Plainly, Manion isn't qualified for the federal judiciary. He has no experience in federal court. He has never been a judge. Attorneys who have examined his briefs say he has only a passable legal mind.

And his views are a major problem. He has taken issue with such key doctrines as the Bill of Rights, saying it applies to the states as well as to the federal government. He has endorsed the extremist views of the John Birch Society.

We hope that the full Senate will do some honest soul-searching in the Manion case, and tell the president that in this instance his quest for conservative jurists has gone too far.

[From the Journal-Gazette, May 7, 1986]

THE 7TH CIRCUIT DESERVES BETTER THAN MANION

Thursday, the Senate Judiciary Committee is scheduled to vote on the nomination of Daniel Manion for judge on the U.S. 7th Circuit Court of Appeals in Chicago. Manion is a South Bend attorney and former Indiana state senator with a very conservative record.

He roomed with Sen. Dan Quayle in law school. He worked for Ronald Reagan's presidential nomination as early as 1972. From all accounts, he's a decent and honest man. But it would be a travesty to put him on the federal bench, and the Republican majority should put partisanship aside and admit he's unqualified.

Manion has never been a judge. He has virtually no experience arguing cases before federal court, certainly none involving a constitutional issue. He hasn't published one article, as far as anyone can tell, on the subject of the law.

Why would the Reagan administration nominate someone with such a conspicuous lack of credentials? There must be scores of qualified jurists from the region served by the 7th Circuit who would be conservative enough to suit the Reagan administration.

Manion's name may ring a bell with Hoosiers. His father was the law professor who operated the radio program, "The Manion Forum." He promoted extreme conservative views on everything from the Vietnam War to the Bill of Rights. His father also helped found the John Birch Society.

Of course, sons don't necessarily agree with their fathers. But one searches in vain to find Manion actually repudiating any of his father's extremist views. He didn't produce one document for the committee to that effect.

One odd notion of the elder Manion and of the Birchers is that the Bill of Rights wasn't supposed to apply to the states. They invoked this idea to attack court decisions that outlawed segregation, etc.

In his testimony before the committee, Manion made one lame effort to distance himself from this view of the Bill of Rights. He comes across in the transcript as equivocal. So does he believe the Bill of Rights applies to all Americans? We are left to guess.

Senate Democrats did produce quotations of Manion from the radio broadcasts and other sources in which he flatly endorsed the views of the John Birch Society. But there's more.

When he was a member of the Indiana senate, from 1978 to 1982, Manion advocated the teaching of creationism in public schools. He proposed a bill that would have censored textbooks.

He sponsored a bill that would have permitted posting the Ten Commandments in classrooms. Nothing outrageous here, except that Manion's bill came one year after the Supreme Court struck down a similar Kentucky law, declaring that posting would give support to religion, which the Constitution prohibits.

If he makes it to the 7th Circuit Court of Appeals, would Manion put aside his personal ideology and render strictly according to the Constitution and precedent? He says he would. But as a state legislator, he never was content with established precedent.

It's no surprise that the American Bar Association has given Manion its lowest possible rating for a federal court nominee. It's no surprise, either, that the Chicago Council of Lawyers found him unqualified.

We need people on the federal courts who believe in the rights of all Americans, not just the majority. We need people on the courts who have a firm grasp of constitutional law. Manion doesn't fit the bill in either respect.

But the distressing thing is that the Reagan administration would have such contempt for the federal appeals court that it would use it as a dumping ground for political ideologies and those to whom it owes some political debt.

[From the Evansville Courier, July 3, 1986]

REJECT MANION

President Reagan's nomination of conservative Daniel Manion to a federal appeals court judgeship is still alive in the U.S. Senate—but just barely. After a day of haggling and vote-trading the other day, the Senate postponed final action on the nomination until Congress returns from its July 4 recess. But the senators remain evenly split.

Regrettably, the Manion nomination has turned into a partisan battle. Democrats in the Senate argue that the Indiana lawyer is a conservative ideologue who is temperamentally unsuited to be a judge. Republicans support him because he is their presi-

dent's choice. And the president is fighting hard for Manion as a "matter of principle." He says the power of the presidency is at stake. He has made this nomination a test of his right to place his conservative stamp on the federal judiciary.

But the issue of judicial quality has been sidetracked by all the partisan breast-beating in the Senate. We think Manion is unqualified to be a federal judge—and not because of his arch-conservative political views. He is a small-claims lawyer with little experience in the federal courts. Five briefs he submitted as examples of his legal abilities were riddled with errors of spelling and grammar. The judicial screening panel of the American Bar Association found him to be only minimally qualified. The deans of 44 of the nations top law schools have urged his nomination be rejected. So have some 50 labor unions and other large organizations. Earlier this month, he was rebuffed by the Senate Judiciary Committee, although the committe agreed to send the nomination to the full Senate without a recommendation. If Manion is rejected, he would be the first Reagan nominee to be defeated on the Senate floor.

That would be no small thing because we, too, support the principle of a president's right to make judicial appointments. But there is a limit to a president's prerogative. At the very least, the individuals he appoints must be qualified. And the Senate, in scrutinizing a president's appointees, should be more concerned with quality than partisan loyalty.

Nominees with solid experience and proven legal ability should be confirmed, regardless of their politics. There is little doubt, for instance, that the Senate will confirm Reagan's choice of Supreme Court Justice William Rehnquist to succeed retiring Chief Justice Warren Burger and his naming of appellate Judge Antonin Scalia to succeed Rehnquist—even though both are conservatives. Indeed, the nomination of these two men shows that Reagan is able to find qualified individuals who share his judicial philosophy. His choice of Manion thus seems even more inexplicable.

We hope the congressional recess will give some Republican senators a chance to rethink their position on the Manion nomination.

Presidents come and go, but federal judges are appointed for life.

[From the Journal-Gazette, June 9, 1986]

COMMITTEE JUSTICE

Last week, the Senate Judiciary Committee wisely rejected President Reagan's nomination of Jeffrey Sessions III for a federal judgeship in Alabama.

Sessions, who had called the NAACP un-American and once said he thought Ku Klux Klan members "were OK until I found out they smoked pot," is not fit for a federal judgeship. The senators who voted against him did so not because they object to Reagan's nomination of conservatives to federal judgeships. They did so because they were not confident that minorities could receive equal justice under the law in Sessions' court. That clearly was reason enough for the rejection.

We hope the integrity the Judiciary Committee displayed in defeating the Sessions nomination will be duly noted by the full Senate, which is expected to act this week on President Reagan's nomination of Daniel Manion, a South Bend attorney, to the District Court of Appeals in Chicago.

Manion is perhaps even less qualified than Sessions. He never has been a judge. He has virtually no experience in federal court. His peers give him barely passing marks as a legal scholar. He questions whether the Bill of Rights applies to the states. He has no place on the federal bench. His nomination, like Sessions', should be flatly rejected.

"EVANS ON SPOT IN MANION VOTE"

One month ago, Washington senator Slade Gorton held the appointment of Daniel Manion in his grasp when President Reagan's controversial nominee for federal judge faced his first Senate confirmation vote. Today, that heavy responsibility shifts to this state's junior senator, Dan Evans.

Manion won Senate Approval after Gorton switched from no to yes in return for a White House promise to expedite the appointment of the Senator's choice for federal judgeship, Seattle's William Dwyer. However, a parliamentary maneuver calling for reconsideration postponed the final decision on Manion.

The Senate is scheduled to decide today whether to vote a second time on the nomination. Observers count 45 democrats and 4 republicans who are almost certain to favor reconsideration. Evans, who would be a key vote, still is listed as undecided.

The pressure on Evans is intense. As an old friend and party colleague of Gorton, he wants to stand with him and help minimize the political damage Gorton has suffered from his vote bartering. Still, Evans voted against Manion the first time around even with the excuse that Manion should not have to survive two votes—would look as if Evans were trading his integrity for political expediency.

Evans, who is an honorable man as well as an astute and honorable politician, has a way out of this dilemma. That is to base his decision solely on his and the Senate's constitutional duty to "advise and consent" on presidential nominations. In Evans opinion, is Manion fit to serve for the rest of his life as a federal judge—the highest judicial honor this nation can bestow?

23 members of the University of Washington law school faculty have joined the many other legal scholars who say no. In a letter to Evans and Gorton, they write:

"We believe that Mr. Manion is unqualified for a lifetime appointment as a federal judge. His background as a lawyer is at best indistinguished. He would bring to the bench little experience with federal law or federal litigation. Moreover, his writings demonstrate extremely deficient skills in the proper use of the English language.

"The nomination is especially distressing to those of us who train the future lawyers of this nation. The confirmation of Mr. Manion would set a poor example to law students. We urge you to exercise your constitutional mandate of advise and consent by voting against this nomination."

The faculty has stated the reason Senator Evans should vote yes to reconsider the Manion nomination and no on the final vote to confirm, and that is reason enough.

Mr. BIDEN. All of those editorials are from Indiana papers and they read "Reject Manion," "Manion Transcript Deserves Another Reading," "The Manion Vote," et cetera.

Mr. THURMOND. Mr. President, I believe the agreement was that there would be 15 minutes to each side for the last 30 minutes.

Mr. BIDEN. I am sorry. I thought I had 5 minutes. If that is not the case, I yield the floor. I want to keep the agreement, whatever it was.

Mr. THURMOND. Mr. President, we have 15 minutes on this side. I now yield 5 minutes of that to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the nomination of Daniel A. Manion of South Bend, IN, to be a U.S. judge for the Seventh Circuit Court of Appeals.

Mr. Manion is a distinguished lawyer, a former deputy attorney general, and Indiana State senator. He is eminently qualified to sit on the Federal bench and is the first veteran of the Vietnam war to be nominated to a circuit judgeship.

Mr. Manion received a B.A. degree at Notre Dame and was recognized for his "excellence in leadership, academic attainment, and participation in military affairs." He graduated in the top one-third of his class at the Indiana University School of Law at Indianapolis. This feat was accomplished while he was working full time for the Indiana Department of Commerce.

After graduation from law school in 1973, Dan served as the deputy attorney general for the State of Indiana. While working as a member of the criminal appellate section, he wrote nearly 20 briefs on various criminal appeals. He also argued cases before the Indiana Court of Appeals and the Indiana Supreme Court.

After serving in the attorney general's office for 2 years, Dan returned to South Bend in 1974 and began practicing with a firm there.

In 1978 Dan was elected to the Indiana State Senate. He was a member of the judiciary committee and chairman of the civil law subcommittee. He also served as chairman of the committee on energy and environmental matters.

Dan's record in public service and private practice has been praised by Democrats and Republicans alike. However, since a number of allegations have been made against Mr. Manion by opponents to his nomination, I would like to respond to them.

ALLEGATION NO. 1

His opponents have stated that he is not qualified and lacks the necessary legal skills to be a Federal appeals court judge.

Let us look at some of the statements which have been made about Mr. Manion and his legal expertise.

President Ronald Reagan has written that "Dan Manion is a capable attorney, with the high reputation for integrity and substantial litigation experience."

John R. Bolton, the Assistant Attorney General of the United States, has stated: "Those who have worked with Daniel Manion, whether they share his legal philosophy or not, find him

to be a lawyer of great competence, fairness, and integrity." He is "a trusted practicing lawyer in a relatively small rural/suburban community. Upon confirmation, Mr. Manion will bring substantial litigation experience in State law and important balance to the Seventh Circuit which has a high concentration of judges with either academic background or who practiced with large urban law firms."

Senators LUGAR and QUAYLE have written that Dan Manion is "a man of high moral integrity, broad legal experience, intelligence and the proper temperament to serve on the bench of the U.S. Circuit."

Rev. Theodore M. Hesburgh, president of the University of Notre Dame, has known Mr. Manion since his youth. This distinguished gentleman, who is known for his liberal positions on many issues, stated in endorsement of Mr. Manion:

Dan is a reflection of the strong morals and high values that have always been so much a part of his family. I strongly believe that he would serve this country and the Seventh Circuit extremely well if his nomination were approved.

I recommend the appointment of Daniel Manion as a Federal judge.

Reverend Hesburgh continues:

I believe that he will bring dedication, integrity, and a keen knowledge of the law to that position. His life has been one of service and commitment to justice. I believe that he will exhibit these same qualities sitting on the federal bench, and that his appointment will be a strong one.

Eugene I. Goldman, a life-long Democrat and attorney with the Washington law firm of Steptoe & Johnson, worked with Dan in defending a lawsuit in South Bend, IN. In a letter to Senator STROM THURMOND, chairman of the Judiciary Committee, he stated: "Mr. Manion is an excellent lawyer and would be a distinguished member of the Seventh Circuit."

David T. Ready, another Democrat, who was appointed as the U.S. Attorney for the Northern District of Indiana by President Carter has also endorsed the nomination of Mr. Manion. He has written:

I have known Mr. Manion for a number of years. I believe that he is eminently qualified to fulfill the position of the United States Circuit Court Judge. I firmly believe he posssesses the necessary intellect, integrity, and open-mindedness which practicing members of the Bar have a right to expect in our judicial appointments.

I would hasten to add that Mr. Manion enjoys an excellent reputation amongst his peers.

Mr. Ready also stated:

I firmly believe Mr. Manion possesses those qualities, temperament, legal intellect, experience, fair-mindedness, judicial integrity, and a plain, old-fashioned willingness to work long and hard. I have no doubt that Mr. Manion's appointment will reflect credit upon the Federal Judiciary."

Richard M. Given, the Chief Justice of the State of Indiana, also endorses Mr. Manion.

In a letter to Senator HEFLIN, he wrote:

I have known Dan quite well since he was a law student. It is my candid opinion that the citizens as well as the bench and bar of the Seventh Circuit will be well served by his appointment.

John J. Sullivan, a life-long Democrat and practicing attorney in Indiana, also endorsed Mr. Manion. In a letter to Senator ROBERT BYRD, the minority leader, he wrote:

Some have criticized Dan Manion for his failure to publish articles or for his lack of appellate experience before the 7th Circuit. Good trial attorneys, particularly those from medium and small size firms, do not always have the time nor the staff to author legal treatises.

In general practice, unless there is a matter of principle that will require higher court review, a good trial attorney will posture his case to avoid an appeal. Appeals are costly and are often the result of attorneys who do not fully brief their case for trial.

The appellate courts need good trial attorneys who understand the law and the every day practice thereof. Dan Manion is a good trial attorney who is qualified to be an appellate judge.

The Chicago Council of Lawyers, a group which has opposed Mr. Manion, admit that he "has a high reputation for integrity, conscientiousness, and fairness." Reports from South Bend, IN lawyers indicate that he has "excellent interpersonal skills, and that lawyers who worked both with and against him like and respect him." They determined that Dan would "be fair in ruling on cases which present issues on which he has strong political views."

The Chicago Council also stated that, "The majority of lawyers to whom we talked regarding Mr. Manion's legal experience thought that he was a competent lawyer. * * * All vouched for his forthrightness and his adherence to high ethical standards."

Eugene L. Goldman, in reviewing the Chicago Council of Lawyers' letter to Senator SIMON wrote:

I believe that the Chicago Council's findings, including its finding that Mr. Manion has been found to be a competent and outstanding lawyer, are inconsistent with the Council's ultimate, speculative conclusion that Mr. Manion will have difficulty with the legal issues routinely present to the Seventh Circuit.

In short, Mr. Manion is eminently qualified to sit on the Federal bench. This is the assessment of those who have known him for years and who have worked for and against him in the courtroom.

ALLEGATION NO. 2

Opponents of Mr. Manion have decried the fact that he only received a "qualified" rating from the American Bar Association. After all "qualified" means qualified.

What the opponents of Mr. Manion have not stated is that "qualified" is their usual rating. As the Justice Department pointed out, Presidents Johnson, Nixon, Ford, and Carter together appointed 555 Federal district court judges. Of those, 282, or 50.8 percent, were rated "qualified." Also, three district court judges appointed by President Carter and three district court judges appointed by President Johnson were rated "not qualified" by the American Bar Association, but were nevertheless confirmed by the Democrat-controlled Senate. Moreover, more than a quarter of all of President Carter's circuit court appointments approved by the Democrat-controlled Senate were rated "qualified."

ALLEGATION NO. 3

Mr. Manion has been assaulted for expressing doubts about the wisdom of the incorporation doctrine, whereby the Supreme Court has held that the 14th amendment mandates the application of the Bill of Rights to the States.

Over the years, many historians and legal scholars have debated this issue. A number of distinguished jurists, scholars, Government officials, and even Members of this body have expressed doubts about the propriety of this doctrine. Regardless of this debate, it should be pointed out that Mr. Manion stated before the Judiciary Committee that he will uphold this doctrine since it has become such an engrained part of our judicial system.

ALLEGATION NO. 4

Critics of Dan claim that his cosponsorship of a bill authorizing the posting of the Ten Commandments in Indiana public schools demonstrated a disrespect for the Constitution and Supreme Court decisions.

Nothing could be further from the truth. While Dan served in the Indiana Senate, he was acting as a legislator. There is not a legislator in this body that has not disagreed with a decision of the Supreme Court.

Dan cosponsored the bill authorizing the posting of the Ten Commandments after the Supreme Court ruled in Stone versus Graham that a State law requiring the posting of them in public schools violated the establishment clause. It should be noted that there is a difference between a statute requiring the posting of the Ten Commandments and one which merely authorizes their posting. Critics of Dan have failed to note this distinction and its constitutional importance.

In a letter to Senate Majority Leader ROBERT DOLE, John R. Bolton pointed out that, like the Gramm-Rudman-Hollings Act, the bill that Dan cosponsored explicitly deferred to the courts on the question of its constitutionality and specified what

should be done if it were found unconstitutional: "If this section is determined to be unconstitutional, all copies of the Ten Commandments displayed by authority of this section shall be immediately removed when the judgment becomes final."

It should also be pointed out that the Indiana bill had 17 other cosponsors, was supported by the Democratic senators and passed the legislative body 39 to 9.

ALLEGATION NO. 5

Opponents of Mr. Manion claim that he fails to understand the Constitution and the role of the Federal courts in enforcing it.

Mr. Manion has agreed that Supreme Court opinions are binding upon lower courts. That position is in keeping with article VI of the Constitution and with holdings of the Court as well. As Justice Marshall noted in Marbury, the courts, as well as other departments, are bound by the Constitution.

While a Supreme Court holding is binding upon lower courts if the facts and the legal issues of the case are substantially identical, an opinion construing the Constitution is not the Constitution itself. And the Court may even alter its interpretation of what the Constitution itself mandates, as it correctly did in Brown versus Board of Education.

Mr. Manion stated in his testimony before the Judiciary Committee that he adheres to the principle of stare decises whereby lower Federal courts are obligated to follow the holdings of the Supreme Court. He said: "If a judge is going to rule on a case and there is a Supreme Court precedent on that same set of facts and on that same issue, I am bound to follow that. Stare decises is the order of our legal practice, and anyone who tries to avoid that by initiating his or her own feelings or philosophy as a judge is violating that process. And I respect it too much to do that."

ALLEGATION NO. 6

Mr. Manion is criticized by opponents for an alleged lack of Federal experience.

He has participated in a number of Federal court cases and at the present he is lead counsel on three pending Federal cases, two involving securities and the Racketeer Influenced and Corrupt Organizations Act, and one diversity case. In addition, he is cocounsel on two patent infringement cases and another diversity case. It should be pointed out that a number of cases in which Mr. Manion was involved in State court could have been brought into Federal court under diversity jurisdiction, however, for various reasons, they were brought in State court.

ALLEGATION NO. 7

Mr. Manion has been criticized for not having tried a constitutional law case. To suggest that he is not qualified to sit on the Federal bench for this reason is spurious. A number of lawyers presently serving on the Federal bench have not tried constitutional law cases. Have we reached a time when only attorneys who have tried constitutional law cases in Federal courts are qualified to hold Federal judgeships? I think not.

ALLEGATION NO. 8

Mr. Manion has been assaulted unfairly for writing a condolence letter to the American Opinion Bookstore after the death of his father. He stated in the letter that the members of the John Birch Society were on the frontline of the battle for our freedoms.

Mr. Manion has stated that his remarks were merely conciliatory in nature and were designed only to express appreciation for the sympathy expressed by his father's admirers at his death. He has never been a member of the John Birch Society.

I might say that this appears like a desperate attempt to malign the character of a fine lawyer.

ALLEGATION NO. 9

Mr. Manion has been criticized for voicing support for a book by the late Congressman Larry McDonald entitled "We Hold These Truths," while on the Manion Forum. The forum has a program written and produced by his father, Clarence Manion, former dean of the Notre Dame Law School. Daniel Manion's role on this forum was that of an interviewer.

A general statement of support does not mean that he endorses every concept in the book. Such an inference should not be made in fact. However, opponents of Mr. Manion seem to be grasping at straws as they attempt to character assassinate through the use of the guilt by association tactic. Surely this body is above adherence to such nefarious practices.

ALLEGATION NO. 10

Mr. Manion has been criticized for several spelling and grammatical errors which were found in five legal briefs he submitted to the Justice Department.

Mr. Manion knew that the briefs contained several typographical errors and were not his best briefs. Yet, he was asked to respond immediately to the request, which he did.

The briefs were subsequently reviewed by the liberal Chicago Council of Lawyers. The critiques are relatively short and concentrate on mispelled words and alleged faulty English composition. The comments on legal content or effectiveness are rare.

What is missing from these criticisms is that Mr. Manion lost only one of the cases addressed by the briefs.

I pointed out recently that the Dear Colleague letters of Senator BIDEN and others, dated May 5, 1986, contain about the same number of errors.

I believe it is incredible that opponents of Mr. Manion would stoop to such tactics knowing that these briefs were not his best and were sent in great haste to accommodate the Justice Department.

ALLEGATION NO. 11

Opponents of Mr. Manion maintain that 44 deans of prominent law schools are opposed to his nomination, therefore, he should not be confirmed.

First of all, there are approximately 174 accredited law schools in America. Although 44 signed the letter attacking Mr. Manion, 130 deans did not.

Second, there is not a known conservative dean on the list.

Third, there are four major errors in the letter. First, the letter alleges that Mr. Manion was barely qualified. In fact, he received a qualified rating, the same rating as Judge Frank Easterbrook and Judge Posner. Second, the letter alleges that Mr. Manion lacks an understanding of the judicial system. His testimony before the Judiciary Committee demonstrates the fallacy of this argument. Third, the letter alleges that Mr. Manion conceded that the Indiana bill he cosponsored and the Kentucky statutes were identical. On this point it is clear that Mr. Manion was mislead during the hearing process. Fourth, Mr. Manion allegedly refuses to accept Supreme Court decisions. This is blatantly false as his testimony states.

I believe that the deans who signed this letter were not familiar with all the facts of this nominee. Otherwise, I do not believe they would have signed such an outrageous letter.

In responding to the deans' letter, John Boldon stated:

A review of a draft of the letter purportedly signed by Deans of various law schools reveals that it is part of a highly orchestrated political effort to defeat the Manion nomination. It was distributed by activists affiliated with People for the American Way, a lobbying group which has consistently distorted the record on Manion.

What the Dean's letter is really saying is that the Senate should block nominations of individuals who oppose the courts' imposition on the American people of an unpopular political agenda on issues such as criminal rights, religious freedom, abortion, and bussing. President Reagan has appointed some of the finest legal minds to the bench such as Justice Sandra Day O'Connor, Justice Rehnquist, and Judge Scalia, who also oppose this form of judicial supremacy. If the liberal establishment can defeat Dan Manion, they will use this to attempt to stop these other appointments and preserve their undemocratic agenda in the courts.

The letter is the product of a liberal elite which is attempting to block appointments of lawyers who come from small cities in rural America. If this liberal elite is successful, only professors from the top law schools

and lawyers from large Wall Street firms would be made judges.

ALLEGATION NO. 12

Mr. Manion is charged with altering the transcripts of his hearings.

Nothing could be further from the truth. The instructions to witnesses from the Senate printer state that, "only changes in diction, expression, clarity, brevity, accuracy, or to correct any errors in transcribing are permitted."

Mr. Manion's changes were minor, indeed, and were intended only to clarify his response to a hypothetical question. I believe the opponents of Mr. Manion are splitting hairs on this issue. It demonstrates that they really have no substantive reasons for rejecting Mr. Manion's nomination adding the word "probably" and changing "probably" to "may" is not substantive but clarifying in nature.

All of the above allegations demonstrate that the central opposition to Daniel Manion are ideological. They were best summarized by Senator BIDEN when he said:

I think you are a decent and honorable man, but I do not think I can vote for you because of your political views.

In other words, the opponents of Mr. Manion openly admit that the attacks upon him are clearly ideological in nature.

All pretense of objectivity have been dropped by Mr. Manion's opponents in their assault upon this distinguished lawyer. Even the Washington Post conceded the lack of impartial assessments of his qualifications in a May 7, 1986, article. The Post stated:

The Democrats have refrained from challenging any nominee explicitly on grounds of being too conservative, focusing instead on questions of temperament and personal conduct. But the Manion nomination is a flat-out fight over ideology.

Mr. Manion is an admitted conservative. President Reagan has stated that:

Dan Manion's "political views" are close to my political views. Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical natures upon society, is my belief. That is the real reason this nomination is encountering such hostility.

Nearly everyone familiar with Dan's legal expertise have found him suited to serve on the Federal bench. Since he possesses those qualities essential for service as a circuit court judge, I urge my colleagues to rise above partisan ideology and support Mr. Manion's nomination.

Mr. President, I have enjoyed the debate throughout the process, but I have to tell you it comes down to just a few things. No. 1, Mr. Manion is qualified. The American Bar Association said that he is, and that is not an easy thing to get. As a former deputy attorney general of Indiana and as a former State senator, he is a competent lawyer. More than one person has said that. And his associates, including the former U.S. attorney in that area, appointed by Jimmy Carter, a Democrat, and a liberal Democrat at that, say he is a fine man, would make a great judge, would be fair and impartial and has the intelligence to do a good job.

So this business about competency has been knocked into a cocked hat.

Father Hesburgh, of Notre Dame University, said he has a keen knowledge of the law and backs him. Fifty-one percent of all the judges appointed by Johnson, Carter, Nixon, Ford, and Reagan have gotten an ABA rating of "qualified," including judge-to-be-Justice, Scalia.

This is an ideological attack. There is no question about it, and I am not going to go further into it. But I would cite the Post editorial, where it says: "The Manion nomination is a flat out fight over ideology."

I might say the parliamentary tactics should not taint the confirmation process. Mr. Manion was approved 48 to 46. Had Senator BYRD not crossed over for the purpose of requesting reconsideration, it would have been 47 to 47 and the Vice President would have broken the tie.

□ 1340

Now I would like to spend more time talking about the substance but I am outraged by the letter cited by the distinguished Senator from Illinois. As I understand it he claimed that he agreed to use it only if it does not disclose the identity of the judge from the Seventh Circuit Court of Appeals. In the first place, we need to recognize the motive of this letter. The seventh circuit has been equally divided on many important issues, and President Reagan's next appointment—that is Mr. Manion—will break that deadlock. So that letter may very well have been written and probably was written by a judge who disagrees with President Reagan and, of course, with Mr. Manion. Undoubtedly a number of other judges on the seventh circuit would write to favor Manion, but they have not done so. Why is that so?

There appears to be some important legal and ethical reason why other judges have not presumed to indicate their wishes in this legislative process. What is the law? The first reason the many judges have not written favoring Manion is found in 18 U.S.C. 1913.

The PRESIDING OFFICER. The Senator's 5 minutes have expired. By previous agreement the Democratic leader will control the time from 1:40 until 1:50.

Mr. HATCH. Mr. President, may I ask the distinguished minority leader? Could we just add another 2½ minutes?

Mr. BYRD. This is fine with me.

Mr. HATCH. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I want to thank my colleague because this is an important part of this debate. It will not be raised unless I raise it.

In 18 U.S.C. 1913, this section precludes lobbying with appropriated moneys. This would mean that any officers of the United States, including judges, would be subject to a $500 fine and imprisonment for up to 1 year if they used Federal secretarial services, typing machines, stationery, or postage to intervene in a legislative matter. For this reason many judges have been cautious about openly supporting the Manion nomination and getting involved in any judgeship nomination.

What about ethics? The canons of judicial ethics may also suggest a reason why no other judge has written on this matter. Canon 7 prohibits judges from participating in political activity. Several canons also suggest judges should avoid the appearance of impropriety. Surely a potential violation of Federal law suggests an appearance of impropriety. Moreover, two opinions of the Advisory Council on Official Conduct also are related to this matter. Opinion 54 prohibits a judge in initiating any contact with an appointing authority, the President, or the Senate, on behalf of the candidate for judicial office.

Opinion 59 relaxes that standard to allow some recommendations from judges.

Neither of these suggest a judge may be appropriately involved in a partisan nominating stance or process.

These ethical bars on intervention in political processes suggest another reason why we have received no letters favoring Mr. Manion for judge.

I think the FBI may need to conduct an investigation to ascertain if 18 U.S.C. 1913 has been violated by the letter mentioned by my colleague from Illinois.

Regardless of the outcome of that investigation, separation of powers doctrine, it seems to me, has been trammeled by this letter.

As Members of Congress, we do not tell judges how to decide cases; and we do not want them telling us how to decide whether or not we should vote. It is pure and simple ideology. To have a judge have the temerity to try to get involved in this legislative process proves that above and beyond anything else. I know. I think it is a very good reason why these canons of ethics and this legal rule of law today prevent this type of activity from ever occurring again. I would be remiss if I did not raise it at this time.

The PRESIDING OFFICER. The time between now, 1:43, and 2:03, by the last agreement reached shall be equally divided and controlled by the

majority and minority leaders or their designees.

The minority leader.

Mr. BYRD. Mr. President, do I have by unanimous consent 10 minutes of that time?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the allocation of the appointment power was a subject of very keen debate at the Constitutional Convention in 1787. Initially the draft proposed that the appointment be left entirely to the Senate. But there was a compromise entered into. It is evident that the framers of that compromise intended that the Senate's role not be a purely perfunctory one. Let us read what the Constitution says, article II, section 2:

. . . he [the President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court, and all other Officers of the United States.

So it is clear that the Constitution entrusted the power to appoint members of the third branch of the National Government—not just to the executive branch, not just to the legislative branch, but to both political branches together.

Providing advice and consent, Mr. President, is not merely a senatorial courtesy or a formality. It is a duty of fundamental importance to the maintenance of our tripartite system of Government.

Federal judges are not like the President's Cabinet who carry out the will and who serve at the will of the Chief Executive. Federal judges are appointed for life to an independent branch of our Federal Government. If such an appointment proves ultimately that a justice is unsuited for the role or unequal to the task, he cannot be dismissed as can a Cabinet officer.

The only constitutionally authorized process to remove such an individual from the Federal bench is that process by which the House impeaches and the Senate tries the individual, and if found guilty, he then is removed. But this is a difficult process, and it is usable only in situations of most outrageous conduct.

So the only practical opportunity to observe, to judge, and to pass upon the merits of a judicial nominee is before that nomination is confirmed. It is not only appropriate, therefore, but also obligatory upon the Senate to exert closer scrutiny of nominees to the Federal courts than of those Presidential subordinates who can be removed at the Chief Executive's will and who serve at his will.

U.S. Senators have a duty to the Constitution, and to the Nation's citizens, businesses, and public and private institutions to ensure that judicial nominees have the experience, talent, the judicial temperment, the intellectual acumen, and the fairness of mind to perform their functions properly; and, particularly with reference to the appellate courts, to be able to contribute to a body of legal precedents that will enlighten and guide the trial courts, the litigants, and all others who must attempt to anticipate what the courts will do.

So it is here in this body that the nominee's entire record has to be examined. The whole man, not only his character and integrity—in respect to which I find nothing that would be adverse to my approval of his confirmation—but also one must review carefully the nominee's professional achievements, his public career, his academic credentials, his scholarly and other writings, his appellate briefs, and so on.

□ 1350

So the Senate has a duty to look at all these and at the whole man in order to screen out the simply mediocre. Appointment to a Federal judgeship should meet a standard of excellence. Mediocrity is not good enough. And in this instance, when we look at this nominee, what does he have to show that he meets the high standard of excellence? Federal judges should be held to a higher standard of excellence, to a higher standard than in the case of other nominees who can be removed, as I have already indicated, at the will of the President.

This nominee does not meet this litmus test of excellence.

Mr. President, much has occurred already in connection with this nomination that has brought discredit to the confirmation process. The constitutional role of the Senate in its advise and consent responsibility has been demeaned by misleading representations. The linen is still being washed, and I fear that it will take a long time to dry.

In the light of all of the measures, the extreme measures, that have been resorted to to secure the confirmation, in this instance, will this nominee, if approved to sit on the Federal bench, receive in his court the respect and the reverence which the seventh circuit bench deserves?

The court of appeals is, in many instances, the last court to which an individual has resort, a court of last resort for thousands of citizens who, after being heard, will have no other recourse.

Oh, yes, a few of those cases may go on to the Supreme Court, but in the main the Federal court of appeals will be the last recourse.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for an additional 2 minutes, 1 minute to be given to the majority side.

The PRESIDING OFFICER. Without objection, it is so ordered. That will mean that there will be 1 more minute to the minority leader and 1 minute to the majority side.

Mr. THURMOND. As I understand, that will mean 11 minutes on our side after the minority leader finishes.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, recalling Antony's oration over Caesar's body,

I am no orator, as Brutus is;
But, as you know me all, a plain blunt man.
For I have neither wit, nor words, nor worth,
Action, nor utterance, nor the power of speech,
To stir men's blood: I only speak right on;
I tell you that which you yourselves do know;

Mr. President, this is the vote on the Manion nomination. There will be some who may say that this is a mere technical, procedural vote. Let us not camouflage the meaning of this vote. It is the last vote on the Manion nomination. The train is leaving the station. Let those who vote, therefore, be judged in accordance with that fact. I urge Senators to vote to reconsider this nomination that the Senate may again have an up and down vote on the nomination that will reflect the true will of the Senate, which true will, up to this point, has not yet been expressed.

Mr. THURMOND. Mr. President, as I understand it, we now have 11 minutes. I yield 2 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. I thank the Chair.

Today we have basically before us the reconfirmation of Daniel Manion. The Senate has confirmed him once and I hope they reconfirm him today.

As in the first vote and as the debate has wandered on now for a number of months, there are two issues that the Senate should consider in its role of advise and consent. Those two issues are, one, the character of the nominee, and, two, the competence.

There is no doubt, and I do not believe this is even disputed now, though it was initially, on the character of Dan Manion, his integrity, his ethics, morality, his capability as a hardworking, intelligent individual.

I do not believe that that is an issue now but it was certainly raised at the beginning. So on the character issue there is no dispute.

Where the dispute has come down to is the qualification. Even though the American Bar Association has given him a qualified rating, there are still those who say he is not qualified. The American Bar Association has given him a qualified rating, the same rating that about half of the Judiciary has received by the American Bar Association, but it is not good enough for some. It is certainly good enough for

me and I hope for the majority because he is qualified.

I think the best testimony to his qualifications are those people who have practiced law with him, those people who have known him, those people who have heard Dan Manion who give him strong, high marks in his legal credentials, his personal credibilities, and as a potential jurist, the type of individual he would be.

I have no doubt that Dan Manion will be a good judge and I believe he has the potential of being a great judge.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. THURMOND. Mr. President, I yield myself 4 minutes.

The VICE PRESIDENT. The Senator is recognized.

Mr. THURMOND. Mr. President, I strongly recommend Dan Manion for the court of appeals. After graduating from college he served 4 years as a State senator in Indiana, 2 years in the U.S. Army, including a tour in Vietnam. He is the first Vietnam veteran to be recommended to the court of appeals.

He has not only been recommended by the President but investigated by the FBI and investigated by the Judiciary Committee, and he has been approved in every respect by everybody who has investigated him, including the American Bar Association.

His legal background is diversified, including civil and criminal law, with both State and Federal practice, as well as trial and appellate experience.

Mr. Manion has tried to a court judgment or verdict approximately 100 cases. Thirty-five cases have been before juries. He has participated to date in various degrees in approximately 20 cases in Federal court and has served as lead counsel in a number of cases.

Most of the objections to this nomination focus on ideological issues. In fact, there are Senators who have stated that this is their primary reason for objecting to him.

Mr. President, I especially call your attention to a statement made by David T. Ready, a Democrat and a former U.S. attorney appointed by President Carter.

When they went to him to try to get him to say something against Mr. Manion, he said:

> I must say that the overall tone of their inquiry was not one where they were seeking my opinion on Mr. Manion's qualifications, but rather looking for something negative concerning Mr. Manion. When it became apparent I was not going to accommodate them, simply because I do not know anything negative about Mr. Manion, their interest in talking to me waned.

Mr. President, I want to say a strong endorsement comes from Father Hesburgh, the president of Notre Dame University, who knows Mr. Manion personally. Here is what he says:

> I recommend the appointment of Daniel Manion as a Federal judge. I believe that he will bring a keen knowledge of the law to that position.

The Chief Justice of Indiana said about Mr. Manion:

> Dan not only has the high academic qualifications to serve as a Federal judge, but also has impeccable personal integrity.

His county bar association recommended him, the lawyers who know him best. Mr. President, it seems to me that all of these recommendations by people who know him best should stand in his stead.

President Reagan has said that he feels he has a right to appoint these judges.

> It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative and I will not surrender it.

Mr. President, Mr. Manion is well qualified. The American Bar Association says he is; the President says he is; the Judiciary Committee says he is; and now I hope the Senate will say he is qualified to serve. We think he is.

I yield the remainder of my time to the distinguished majority leader [Mr. DOLE].

The VICE PRESIDENT. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senate will shortly proceed perhaps to a final vote, on the nomination of Daniel Manion to be an appeals court judge for the seventh circuit. It has been a long, laborious, and sometimes tortuous process. We have faced extended hearings, which included strenuous objections being raised to efforts to "scrub" the transcript of the hearing record. We have seen a thorough inquiry into his spelling and syntax in the writing of legal briefs. We have heard from law school deans and all manner of interested parties. But what does the record show in the final analysis? Daniel Manion was found to be qualified by his peers in the American Bar Association. He comes highly recommended by those in his own community who have known him and worked with him, and this includes a number of prominent local lawyers and others not of the same political party.

After all that has transpired, this Senator rises in support of Daniel Manion. And I do so for the following reasons. First, he has survived the most searching inquiries that can be directed toward any nominee. His background and qualifications were investigated in great depth by the Federal Bureau of Investigation. This included field interviews of family, friends, neighbors, colleagues, clients, classmates, and critics. He was personally interviewed by officials of the Justice Department. The White House staff did a full review of his financial and tax records as well as any potential conflict of interest. His qualifications were screened by a review committee at the White House consisting of very senior officials. He was found qualified after an in-depth review by his peers from the legal profession in the American Bar Association. In addition, he was scrutinized by investigative staff on the Committee on the Judiciary.

Second, Mr. President, I support Mr. Manion because there is a long-standing vacancy in the Federal judiciary that needs to be filled. In the midst of the partisanship that is swirling around this nominee, it is easy to overlook the needs of the judiciary. The position to be filled has been vacant since July 1984. And the nomination has been pending in the Senate since February of this year. The seventh circuit court of appeals is a busy court. It can ill afford to have to conduct its business and deal with its crowded dockets for such an extended period of time at less than full strength. It seems to me that it is simply irresponsible for the Senate to further delay this nomination under such circumstances.

Third, I support this nomination because he is the President's choice. President Reagan was elected and reelected by overwhelming majorities of the electorate in 1980 and 1984. During both campaigns, he repeatedly stressed the need to restore balance in the Federal judiciary. After all, Mr. Carter, in his single term, was responsible for the appointment of 258 judges, or more than 40 percent of the entire active Federal judiciary at that time. By a survey of the Judicature magazine, it was determined that even though there was to have been "merit" selection of these judges, 95 percent called themselves moderate or liberal Democrats and another 2 percent identified as independents. It has taken President Reagan more than 6 years to balance out the 4 years of Carter appointees.

Mr. President, the President recently wrote me concerning Mr. Manion. I had this letter printed in the RECORD, so I will not enter it again. Suffice it to say that the President supports this nominee in the strongest possible terms.

Finally, I remind the Senate that judging a nominee for judicial office traditionally has been in large measure a matter of reliance on the recommendations of the Senators who represent the State of the nominee. Here we are advised in the strongest possible terms by the two Senators who represent and know him. Their endorsement goes a long way with me.

Mr. President, I urge my colleagues to give their advice and consent to this nominee.

Mr. President, I recall on June 26, when we were at about this same stage on this same nomination, I assume the outcome may be pretty much the same. I would guess if we were to go back and do it all over again on June 26, there might be a number of changes.

I assumed we would just vote on cloture and go off on the Fourth of July recess. That was not the case. We did vote. The vote was 48 to 46. The distinguished minority leader knew the vote because he made a motion to reconsider, which he certainly had the right to do. Now we are back again to try to resolve the Manion nomination.

Again, I call my colleagues' attention—it is a little late, because it is a fairly long article—to an article that appeared in the Los Angeles Times July 13, by Mr. Paul Houston. So far as I know, he is no relation to Mr. Manion, just a good reporter. He decided, instead of listening to all the speeches by political activists, to go out to Indiana. That is not unheard of in reporting—to interview some people—Democrats, Republicans, people who knew Mr. Manion. He asked questions: Was he a good lawyer? Was he a good citizen?

I have no doubt that if people read the article carefully, they would agree this man is qualified.

It seems to me that in the final analysis, we have to make a judgment. This is going to be close, very close, very, very close. In order for the motion to reconsider to prevail, the distinguished minority leader will need a majority.

I just hope that we shall focus for one 30-second period on the nominee.

What has Manion done? Misspelled some words? What is wrong with Mr. Manion? Is it that he is a smalltown lawyer, a country lawyer, a conservative, a Republican?

Despite all the personal questions that were raised, this man was deemed to be qualified by the American Bar Association.

I hope we can get this nomination behind us. I think that is the wish on both sides of the aisle, and we are prepared to vote.

The VICE PRESIDENT. The question is on agreeing to the motion to reconsider the vote on the nomination of Mr. Manion to be U.S. circuit judge for the Seventh Circuit Court of Appeals. The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the clerk state the vote after each Senator responds.

The VICE PRESIDENT. Without objection, it is so ordered.

The assistant legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Mr. President, my distinguished colleague from Arizona [Mr. GOLDWATER] is absent today, but if he were here, present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 162 Ex.]

YEAS—49

Baucus	Gore	Moynihan
Bentsen	Harkin	Nunn
Biden	Hart	Packwood
Bingaman	Hollings	Pell
Boren	Inouye	Proxmire
Bradley	Johnston	Pryor
Bumpers	Kassebaum	Riegle
Burdick	Kennedy	Rockefeller
Byrd	Kerry	Sarbanes
Chiles	Lautenberg	Sasser
Cranston	Leahy	Simon
Dixon	Levin	Specter
Dodd	Mathias	Stennis
Eagleton	Matsunaga	Weicker
Exon	Melcher	Zorinsky
Ford	Metzenbaum	
Glenn	Mitchell	

NAYS—49

Abdnor	Gramm	Murkowski
Andrews	Grassley	Nickles
Armstrong	Hatch	Pressler
Boschwitz	Hatfield	Quayle
Broyhill	Hawkins	Roth
Chafee	Hecht	Rudman
Cochran	Heflin	Simpson
Cohen	Heinz	Stafford
D'Amato	Helms	Stevens
Danforth	Humphrey	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Trible
Domenici	Long	Wallop
Durenberger	Lugar	Warner
Evans	Mattingly	Wilson
Garn	McClure	
Gorton	McConnell	

PRESENT AND GIVING A LIVE PAIR—1

DeConcini, for.

NOT VOTING—1

Goldwater

The VICE PRESIDENT. The Senate being equally divided, the Vice President votes "nay," and the motion to reconsider is not agreed to.

□ 1420

Mr. THURMOND. Mr. President, I move that the President be notified of the confirmation of the nomination by the Senate.

The motion was agreed to.

The VICE PRESIDENT. The majority leader is recognized.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. BYRD. Mr. President, may we have order in the Senate?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll, and the Senate will be in order.

The bill clerk proceeded to call the roll.

□ 1430

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

□ 1440

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to speak out of order as in morning business and that I may speak in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOROCCO-ISRAEL TALKS MAY BE GLIMMER OF HOPE TOWARD MIDDLE EAST PEACE: OTHER MODERATE ARAB STATES SHOULD SUPPORT THIS EFFORT

Mr. BYRD. Mr. President, it was disclosed yesterday that Morocco and Israel took a positive step along the difficult road which all reasonable nations hope will lead to a comprehensive and fair peace settlement in the Middle East. That step was the trip Israeli Prime Minister Shimon Peres made Monday to Morocco to meet with that Arab nation's monarch, King Hassan II.

The discussions between Prime Minister Peres and King Hassan represent the first publicly acknowledged meeting between the heads of State of Israel and an Arab nation for many years—certainly since the late President Sadat of Egypt met with Israeli Prime Minister Begin regarding the Camp David peace accords.

If one believes, as I do, that direct dialog and negotiations between Israel and its Arab neighbors are the most effective ways to reach a comprehensive, regional peace settlement in the Middle East, as well as bilateral peace agreements between Israel and Arab States, then this development is a welcome effort which should be encouraged to continue.

King Hassan's willingness to meet with Prime Minister Peres should be supported by the major allies of the United States—and I am confident it will be—as well as by the moderate Arab nations in the region who have the most to gain by the return of peace and stability to this troubled, violence-prone area.

Egypt reportedly already has praised the Morocco-Israel effort, and it now is time for other Arab moderates who profess to support peace in the Middle East—particularly Jordan and Saudi

Arabia—to lend their public support to the Hassan-Peres dialog. Such public support would demonstrate the genuineness of their claims, which are easy to make but require courage to fulfill. It is time for Jordan, Saudi Arabia, and other moderate Arab States to demonstrate this kind of courage in the reaching out and in the search for peace.

To foster such public support, I urge Vice President Bush to expand the itinerary of his trip to the region next week to include discussions with the leaders of several more Arab nations, such as Tunisia, Oman, and the northern Persian Gulf States. Recently, the administration has failed to provide the high-level, consistent American diplomatic leadership needed to make progress toward peace in the Middle East. The administration now should abandon this courage of high-level inaction, and provide this needed leadership.

The time is ready, the time is now, and the administration should seize this opportunity.

Hasty condemnation of this dialog by those Arab nations who only want peace in the Middle East on their terms is predictable and unfortunate. All those nations who truly want a fair and comprehensive end to the bloody strife in the region will refrain from such judgments. Instead, they will lend their support to efforts to encourage continued, expanded, direct contacts between Morocco and Israel, and initiation of similar direct dialog between Israel and other Arab nations.

I commend Prime Minister Peres and King Hassan on the courage and the vision and the dedication which they have demonstrated. It is a dedication to achieve peace and stability in that area.

Let us hope that the meeting between Prime Minister Peres and King Hassan will lead to further steps now toward a true and more lasting peace in the Middle East.

Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 668, the debt limit extension.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The legislative clerk read as follows:

Calendar No. 731, House Joint Resolution 668, increasing the statutory limit on the public debt.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Finance with an amendment.

On page 1, after line 6, insert the following:

TITLE II—SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Social Security Trust Funds Management Act of 1986".

SEC. 202. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

SEC. 203. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized and directed by this title and related provisions of law.

"(3) The Managing Trustee may not sell or redeem any assets of either Trust Fund—

"(A) if such Trust Fund holds uninvested monies other than as required for the normal operation of such Trust Fund, or

"(B) in advance of the date on which such assets are scheduled to be sold or redeemed under procedures developed in accordance with section 153 of the Social Security Amendments of 1983 and under other normal operating procedures.".

SEC. 204. EXCLUSIVE DEDICATION OF AMOUNTS IN TRUST FUNDS.

Section 201(a) of the Social Security Act is amended by adding at the end the following: "All amounts deposited in or appropriated to either Trust Fund shall be immediately available exclusively for the purposes for which amounts in the Trust Fund are specifically made available under this title and related provisions of law.".

SEC. 205. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. 206. PRIORITY OF INVESTMENT OF TRUST FUNDS.

Section 3101 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) If on any day the face amount requirement of subsection (b) of this section has not been exceeded and any fund or government account for which the Secretary has investment authority has funds that must, under the statute governing investment of such fund or account, be invested during such day, then investment of such fund or account balance shall occur before obligations described in subsection (b) of this section are issued for any other purpose.".

SEC. 207. ELIMINATION OF AUTHORITY FOR NORMALIZED TAX TRANSFERS TO TRUST FUNDS.

(a) IN GENERAL.—Section 201(a) of the Social Security Act is amended, in the first sentence following clause (4)—

(1) by striking "monthly on the first day of each calendar month" each place it appears;

(2) by striking "such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes," and inserting "immediately upon receipt by the general fund of the taxes";

(3) by striking ", to be paid to or deposited into the Treasury during such month"; and

(4) by striking "to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection" and inserting "to the extent necessary to account for incorrect amounts of prior tax receipts".

(b) CONFORMING AMENDMENT.—Section 201(a) of such Act is further amended by striking the second sentence following clause (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes received after June 30, 1990.

SEC. 208. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) (as redesignated) the following:

"(C) report to the Congress not later than the first day of November of each year on the operation and status of the Trust Funds during the six-month period ending the preceding September 30;";

(3) by striking "The report provided for in paragraph (2)" and inserting "The reports provided for in subparagraphs (B) and (C)"; and

(4) by inserting "(1)" after "(c)" and by adding at the end the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit under section 3101(b) of title 31, United States Code, the Managing Trustee expects to be unable fully to comply with the provisions of subsection (a) or (d), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect August 15, 1986.

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$2,322,800,000,000".

TITLE II—SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Social Security Trust Funds Management Act of 1986".

SEC. 202. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

SEC. 203. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized and directed by this title and related provisions of law.

"(3) The Managing Trustee may not sell or redeem any assets of either Trust Fund—

"(A) if such Trust Fund holds uninvested monies other than as required for the normal operation of such Trust Fund, or

"(B) in advance of the date on which such assets are scheduled to be sold or redeemed under procedures developed in accordance with section 153 of the Social Security Amendments of 1983 and under other normal operating procedures.".

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Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. 206. PRIORITY OF INVESTMENT OF TRUST FUNDS.

Section 3101 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) If on any day the face amount requirement of subsection (b) of this section has not been exceeded and any fund or government account for which the Secretary has investment authority has funds that must, under the statute governing investment of such fund or account, be invested during such day, then investment of such fund or account balance shall occur before obligations described in subsection (b) of this section are issued for any other purpose.".

SEC. 207. ELIMINATION OF AUTHORITY FOR NORMALIZED TAX TRANSFERS TO TRUST FUNDS.

(a) IN GENERAL.—Section 201(a) of the Soviet Union Act is amended, in the first sentence following clause (4)—

(1) by striking "monthly on the first day of each calendar month" each place it appears;

(2) by striking "such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes," and inserting "immediately upon receipt by the general fund of the taxes";

(3) by striking ", to be paid to or deposited into the Treasury during such month"; and

(4) by striking "to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection" and inserting "to the extent necessary to account for incorrect amounts of prior tax receipts".

(b) CONFORMING AMENDMENT.—Section 201(a) of such Act is further amended by striking the second sentence following clause (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes received after June 30, 1990.

SEC. 208. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E) and (F), respectively, and by inserting after subparagraph (B) (as redesignated) the following:

"(C) report to the Congress not later than the first day of November of each year on the operation and status of the Trust Funds during the six-month period ending the preceding September 30;";

(3) by striking "The report provided for in paragraph (2)" and inserting "The reports provided for in subparagraphs (B) and (C)"; and

(4) by inserting "(1)" after "(c)" and by adding at the end the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit under section 3101(b) of title 31, United States Code, the Managing Trustee expects to be unable fully to comply with the provisions of subsection (a) or (d), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect August 15, 1986.

COMMITTEE AMENDMENT SET ASIDE

Mr. DOLE. Mr. President, it is my understanding that there is one committee amendment that deals with disinvestment of Social Security Trust Funds. As I recall, in our committee meeting on yesterday, there was an indication by Senator MOYNIHAN, the sponsor of the amendment, and the chairman of the committee, that they were going to modify the committee amendment.

In addition, Senator MOYNIHAN offered the same amendment to reconciliation which now is pending in the Finance Committee. On that basis, without prejudicing their right, I ask unanimous consent that the committee amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as I understand the first amendment, the opening statement I guess will be presented by the distinguished Senators GRAMM, RUDMAN, and HOLLINGS. That is on a first-degree amendment.

Mr. GRAMM. Mr. President, it is not clear to me. It would have been a second-degree amendment the way the pending amendment stood. It is not clear to me what the unanimous-consent request did to that.

Mr. DOLE. Mr. President, it sets aside the committee amendment because I think, as I recall, Senator MOYNIHAN and Senator PACKWOOD asked that it be modifed. We may want to check that.

□ 1500

Mr. HEINZ. Mr. President, the majority leader has called up House Joint Resolution 668.

House Joint Resolution 668 contains two titles. In title I, the permanent public debt limit is raised to $2,322.8 billion, an increase of $244.1 billion over the present limit of $2,078.7 billion.

Title II provides rules relating to the investment of surplus moneys in the Social Security Trust Fund, and the normalized tax transfers at the beginning of each month from the general funds in the Treasury Department to the Social Security Trust Fund is repealed after June 30, 1990.

PUBLIC DEBT LIMIT

The current permanent debt limit of $2,078.7 billion was enacted on December 12, 1985. That level of the debt limit was established in the budget resolution for fiscal year 1986 and would have been satisfactory for all of fiscal year 1986 had the estimates made in 1985 of budget receipts and expenditures been realized. An amendment to the bill was the Gramm-Rudman-Hollings Act which established a path for reduction of annual budget deficits and achievement of a balanced budget in 1991.

The increased public debt limit specified in the bill (H.J. Res. 668) was determined as the appropriate limit through fiscal year 1987 in the budget resolution for next fiscal year that was approved by Congress last month. The

budget totals and estimated budget deficit are consistent with the mandatory path toward a balanced budget set forth in the Gramm-Rudman-Hollings Act.

There is again this year a note of urgency associated with passing the debt limit bill. The Treasury Department informed the Committee on Finance that the bill must be passed before August 15, 1986, in order to avert a highly probable default by the U.S. Government on its obligations.

Financing the deficit becomes a tightrope walk on August 1, when $14.6 billion will be transferred to the Social Security Trust Funds in anticipation of Social Security tax receipts during August. At that time, however, the outstanding debt will be close to the legal limit, and Treasury will use the $15 billion borrowing authority of the Federal Financing Bank which is outside of the debt limit. FFB debt will be issued to the Civil Service Retirement and Disability Trust Fund in exchange for Treasury debt, which will be retired and will make available enough unused debt authority to invest the Social Security Trust Funds in full.

The Treasury's operating cash balance is expected to be large enough to meet Treasury's obligations until August 15 when approximately $15 billion in interest payments must be paid to holders of Treasury. These payments are expected to exhaust the operating cash balance.

In addition, Treasury will not be able to carry out plans for the auction of regular mid-quarter financing scheduled for August 5, 6, and 7, if it does not appear that the debt limit will be increased by August 15 when the securities must be delivered to the successful bidders.

This scenario is based on the best estimates now available. It is typical that these estimates will prove to be inaccurate, but we do not know whether the inaccuracies will be small or large or the debt requirements will be overstated or understated. It would be imprudent to anticipate that the estimates will overstate in some way, shape, or form, the seriousness of the situation.

SOCIAL SECURITY INVESTMENT

In the fall of 1985 when passing the debt limit bill was delayed until completion of negotiations on the Gramm-Rudman-Hollings, Treasury met its financial obligations by disinvesting U.S. securities held by several trust funds, including Social Security. Those actions, however, stimulated the provisions in title II of House Joint Resolution 668 which are designed to protect the integrity of the trust funds and also reduce the demands on the debt limit by repealing, in 1990, the requirement that Treasury at the beginning of each month lend the Social Security Trust Fund an amount equal to estimated monthly trust fund receipts.

The Social Security amendments in title II, which make changes regarding trust fund investments and the debt limit, can be described briefly.

First, the managing trustee will be required specifically to invest immediately all surplus trust funds within the currently applicable debt limit.

Second, instructions are provided to guide the managing trustee in making sales and redemptions.

Third, amounts deposited in or appropriated to the Social Security Trust Fund are available immediately and exclusively for trust fund purposes.

Fourth, the need for the trustees to faithfully execute their duties is restated emphatically, even though, as under present law, they are not formally designated as fiduciaries and have no personal liability. The usual fiduciary rules were not imposed on the trustees in view of the massive size of the funds and statutory requirements that differ from general trust requirements which are more appropriate for private funds.

Fifth, on any day when there are abnormal uninvested balances in funds or accounts, any debt limit capacity must be used first to issue obligations to those funds or accounts. Since no priority structure is set among the funds, a fair and equitable proration system will be instituted for use when there is insufficient debt capacity for investment of all available trust funds.

Sixth, normalized transfers of estimated trust fund receipts at the beginning of each month will be repealed after June 30, 1990.

Seventh, trustees will be required to meet twice a year and issue two reports, the second report a supplement in November to the annual report issued in April. The managing trustee is required to report monthly on the operation and status of the trust funds and to report to the Board of Trustees and Congress at least 15 days before he expects to be unable to comply with the investment provisions of the Social Security Act because of currently insufficient debt limit authority.

Mr. President, the majority leader set aside consideration of the committee amendment. There will be a substitute amendment for title II that I have just described to perfect it. I will not take the time of this body to describe that at this time.

I do want to say that in this Senator's opinion, the Senate is wise to turn to consideration of the debt limit ceiling at this time. It is this Senator's view that a prolonged, protracted debate on the debt ceiling could cause the United States to come close to fuel speculation that it will be unable to meet its obligations, and to force the Treasury to have to cancel its plans for refundings and financings would be a very serious, indeed quite counterproductive, set of circumstances.

□ 1510

We are here on a day after the flash estimates for the economic growth of the second quarter. They are relatively disappointing: 1.1 percent GNP growth. We hope it will be revised upward; however, if it is accurate, it is unsatisfactory, mediocre to poor. Given the amount of uncertainty which is absolutely unavoidable that surrounds the investment community as the Senate tries to come, with the cooperation of the House, to a conclusion on the tax bill conference; given all those uncertainties that exist in the economy at this time; given the poor performance and difficult circumstances of the energy and agricultural and other sectors of the economy, it is this Senator's hope, and I think I speak for most members of the Finance Committee, when I say that we would gain not just nothing but less than nothing; we would really jeopardize a lot of what we have been seeking to accomplish in terms of returning economic certainty and economic security to this country were the debate on the debt ceiling—I know many Senators have amendments—were we to face a prolonged period of consideration.

I do not think it is the intention of any Senator to filibuster the debt ceiling. I am certain that there is a wide understanding of the necessity for our moving ahead.

I might add I am very pleased to be able to share the management responsibilities for this bill with the ranking minority member of the Finance Committee, a man who has served in the Senate with great distinction for so many years, who chaired the Finance Committee. I am referring, of course, to the senior Senator from Louisiana [Mr. LONG], who is here and to whom I shall yield the floor in a minute.

I might add, Mr. President, that normally, the chairman of the Senate Finance Committee would handle the debt ceiling bill or the chairman of the Debt and General Taxation Subcommittee, who is Senator CHAFEE. As I think most of our colleagues know, the committee is rather overwhelmed by its schedule of activities. Right now, the committee is meeting to meet its requirements under the Budget Act and as directed by the Budget Committee to finalize and report its reconciliation bill to meet the savings and generate the revenues that we were instructed by the Congress and by the Budget Committees and the conference report to do. Immediately upon conclusion of that, the conference on the tax bill will be resuming deliberations with the House to make as much progress as possible this week and in the coming weeks on the tax bill. That

is why there are only a few members of the Committee on Finance present on the floor.

Mr. President, I want again to indicate that it is my hope that we can move rapidly on this legislation. I yield to my friend and colleague, the Senator from Louisiana [Mr. LONG] for any remarks he has to make.

Mr. LONG. Mr. President, I shall have some remarks to make later on but I would just as soon not make them at this point if it is all the same to the Senator. I suggest that those who seek to offer amendments go ahead and offer them.

Mr. HEINZ. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRESSLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, I shall in a few moments be submitting an amendment on behalf of myself, Mr. RUDMAN, and Mr. HOLLINGS which attempts to correct a problem created by the Supreme Court decision as it related to the Gramm-Rudman-Hollings bill. I should like to begin this afternoon by talking about the Supreme Court decision, about what the Court did and did not do, about the backup provision in the bill, about the corrective action that we propose today and how it would work. I would like to respond to what I believe will be questions and criticisms related to this approach. I would like, in so doing, to take the first action to reaffirm the commitment we made to the American people in the original Gramm-Rudman-Hollings bill to bring the deficit under control and to move to a balanced budget in calendar year 1990, fiscal year 1991.

The Supreme Court ruled in the Gramm-Rudman-Hollings case that Congress had set up a procedure committed to balance the budget, delegated authority, and it found no objection to any portion of the bill as it related to those functions.

What the Supreme Court did object to, however, was a challenge raised by the Department of Justice that argued, based on the Budget and Accounting Act of 1921 and a provision of that law that gave Congress the power to remove the Comptroller General, that that removal provision made the Comptroller General an entity of the legislative branch of Government and that the function conferred on the Comptroller General by the Gramm-Rudman-Hollings bill was inherently an executive function.

The Court did not rule that we could not set into place automatic cuts if Congress refused to do the job. It ruled simply that the entity we identified to certify the deficit represented an improper delegation under the Constitution.

There is a backup provision in the law and that backup provision works as follows: The Director of the Congressional Budget Office and the Director of the Office of Management and Budget would meet jointly and issue jointly a report on the deficit, on the amount by which the deficit exceeded the targets of Gramm-Rudman if it exceeds those amounts, and report as to whether it exceeded those amounts by $10 billion or more.

If it exceeded the target deficit amount by $10 billion or more, it would calculate the percentage of those programs subject to the sequester order that would be required to be reduced in order to achieve the target of the bill. Those findings of CBO and OMB are strictly guided by the provisions of the Gramm-Rudman-Hollings law that required that 50 percent of the cuts be out of defense, 50 percent out of nondefense, and that reductions be proportional by program, project, and activity.

Under the original law prior to the Supreme Court ruling, that joint finding by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget went to the Comptroller General of the United States who, in essence, audited that finding and certified that finding with regard to the deficit. If a sequester order were called for based on those findings, the President, in a specified period of time, was required to issue the sequester order. Then Congress had 45 days to come up with savings to eliminate the deficit overage. If it failed to do that, then the sequester order would go into effect. The Supreme Court struck down the involvement of the Comptroller General as the final certifier of the deficit.

The backup provision has the Director of the CBO and the Director of the Office of Management and Budget report directly to a joint Budget Committee of the Congress. Then, under highly privileged, highly expedited procedures, that finding with regard to the deficit number, the amount by which it exceeds the target, and the proportion that represents of sequestrable items comes to the floor of the House and Senate with 2 hours of debate, with no motion to table, will no filibuster, and with no substitute, where we have an up-or-down vote on certifying the deficit number in a joint resolution. This joint resolution is then signed into law by the President.

□ 1520

Since the Supreme Court ruling, Mr. President, there has been a great deal of uncertainty as to what that ruling means. In fact, there are great differences of opinion even within this body. The distinguished chairman of the Budget Committee, Senator DOMENICI, said in testimony this morning before the Government Affairs Committee that he was concerned as to whether the backup mechanism would work. My own opinion is that it probably would work. Given a joint finding by the budgeting arm of the Congress and the budgeting arm of the White House that a deficit existed, given the commitment that Members of both Houses of Congress and both political parties by overwhelming majorities made to the original Gramm-Rudman-Hollings process, it is my view that when such a finding has been made Congress would not find it tenable in terms of the political realities that exist today to simply deny the existence of a deficit.

But, Mr. President, I will argue here today in the presentation of this amendment that we should not go forward with a backup trigger, and the reason is quite simple. That backup triggering mechanism entails a tremendous amount of uncertainty, uncertainty that will, in my opinion, immobilize the legislative process, induce the Congress to wait to see whether or not the deficit will be certified, induce the White House to wait and see if Congress will do its duty, induce the Congress to wait and see if the President will sign the joint resolution, all the while the deficit problem getting worse, all the while inviting a train wreck in September in legislative matters as we attempt to deal with the problem. What we need, Mr. President, in my opinion, is certainty, certainty that the targets will be enforced, certainty that if we do not stay with the appropriations process and meet the targets of the budget, certainty that if we do not adopt reconciliation there will be an across-the-board cut. Only such certainty can induce the discipline that is going to be required to take the very difficult, long and bumpy road of meeting the targets of $144 billion.

I believe that the debate on Gramm-Rudman-Hollings II, which we are here today to present, is going to be different than Gramm-Rudman-Hollings I. I am not saying there is not going to be opposition from people who do not want to deal with the problem, but I do believe that one thing has changed and that is what the process, imperfect though it clearly is, is working. No. 1, we put it into place. We made $11.7 billion worth of across-the-board reductions. We came back after the Supreme Court ruling and affirmed those cuts and we did so

by overwhelming margins. We have adopted a budget that, quite frankly, I did not think a lot of; it did not represent my priorities, but nevertheless at least on its face it met the targets of Gramm-Rudman-Hollings. It was a step in the right direction. It was insufficient and timid in my opinion, but nevertheless even the harshest critic of the process, even the distinguished Speaker of the House has said that while he does not like the Gramm-Rudman-Hollings process, he has to admit that it is working.

Now, our situation, Mr. President, is basically this: We can allow the uncertainty caused by the Supreme Court decision to disrupt the legislative process, to induce inaction, to produce a legislative train wreck, to generate economic chaos and disaster, or we can go back, in light of the Supreme Court ruling, fix the problem raised by the Supreme Court, and move ahead in reaffirming our commitment to the American people that we are serious about controlling the deficit, that we are going to bring the deficit under control, and that we are going to balance the Federal budget.

In discussing this problem, we have come up with many expressions. I think probably the most accurate was an expression by our distinguished colleague from South Carolina when he said, "On the way to the Supreme Court we got a flat tire." I prefer to express it that on the way out of the desert as we passed by the Supreme Court we got a flat tire.

Now, you are going to hear today, or whenever this debate continues, tomorrow or the next day or however long it takes, some people say, "You got a flat tire; let's blow up the car." You are going to hear apparently one of our colleagues say, "You got a flat tire in the desert on the road out; blow up the car, repeal Gramm-Rudman." And you will hear from the other extreme in this debate, "Why don't we, since we have a flat tire here in the desert, the sun beating down, the buzzards circling, if not for us politically, for the country and the economy. Why don't we redesign this car, why don't we build a little steel mill here and build tracks for the car or why don't we reengineer it and make it a jet aircraft or maybe an 18-wheeler."

We do not propose either blowing up the car or redesigning the car.

What we will have before us here today is a simple effort to put a new wheel on the car. It is not a perfect wheel, but it is a good four-ply steel-belted radial that should with a lot of effort on our part get us out of the desert, get us back into a commitment we made to the American people to balance the Federal budget.

I submit, Mr. President, in repairing this wheel and moving ahead that we will keep faith with the American people, we will affirm our commitment to control the deficit, to make the hard decisions; let no one be deceived. In committing to Gramm-Rudman-Hollings we have not sought to avoid responsibility. We have sought to force Congress and the President to face responsibility and to make the hard choices.

Our provision is not a perfect provision. You will hear those today who will say that to institute this change is to institute a change that is not perfect. And they are right. But I submit to my colleagues that simply to say a provision is not perfect is not an excuse not to do anything.

What we are proposing today is to take the original triggering mechanism, which involved a joint finding by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget, and to have that joint finding go to the Comptroller General of the United States to be audited, and then to have that final go back to the Director of the Office of Management and Budget, an officer of the executive branch of Government, to certify the deficit on which a sequester order would go into effect ordered by the President, if the deficit target was missed on the short side by more than $10 billion.

Now, you are going to hear people argue, Mr. President, that this is giving power to the executive branch of Government. Let us make it clear that the Court has said in very clear terms that the final certifier of the deficit has to be an officer of the executive branch of Government. We have set up the procedure so that CBO and OMB report jointly on the deficit. That is the procedure that existed in the original bill. The Comptroller General is still involved in the process in auditing the accounts of the Federal Government and certifying the number.

□ 1530

Those findings then come back to the Director of OMB, who makes the final certification.

How much discretionary authority is involved in this process? Basically, little that was not involved before. But what we are looking at here is a green-eyeshade function. That is not to say that clerical and green-eyeshade functions are unimportant. They are very important. In fact, those of us who have lived under a government run by bureaucrats and regulations know that little else governs the world than the decisions made by clerks. That is not to say that those decisions are not vitally important. That is not to say that the decisions made here by OMB, in conjunction with CBO and the General Accounting Office, will not be vitally important. They will be. But they are functions that are related to technical estimates.

This is a green-eyeshade function. It involves estimating what economic growth is going to be, what the revenues of the Federal Government will be, what the state of the economy will be, and therefore what the deficit will be.

To the extent that flexibility concerning technical estimates exists, it is in estimating the deficit. It is not in carrying out the cuts. I remind my colleagues that this delicate political balance which put the General Accounting Office as the final certifier of the deficit was focused not about our concern in certifying the deficit but was focused in our concern about carrying out the cuts.

I submit to my colleagues—and I ask them to remember as we debate this issue—that to the extent that discretion is involved, it is involved in certifying the deficit. It is not involved to any real or significant extent in carrying out the cuts in terms of specifying where reductions are to occur. That has been done in the law: Fifty percent for defense, 50 percent for nondefense. Reductions across the board, proportionally, by program project and activity. In terms of defense spending, rates are based on historical experience. There is no real discretion there. That function is a green-eyeshade technical function.

I submit to my colleagues that we have an opportunity here to go back and affirm to the American people our commitment to control the deficit and to balance the budget.

I do not believe, Mr. President, that it is an accident that the day the Supreme Court struck down the involvement of the Comptroller, virtually every newspaper and wire service in America ran headlines saying, "Gramm-Rudman Struck Down By the Supreme Court;" that the stock market fell by 62 points, the largest 1-day drop in American history. I do not think it is an accident, also, that we have seen stagnation in the market as our best, real world accounting of what people think is going to happen in the future since.

I think we have an opportunity here, by going back and reaffirming and reconstituting Gramm-Rudman-Hollings in light of the Supreme Court decision, to reaffirm our commitment to the American people to reestablish certainty in the budget policy of the Federal Government and, in doing so, work to bring down interest rates and to strengthen and sustain the recovery.

AMENDMENT NO. 2223

Mr. GRAMM. Mr. President, on that basis, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2223:

On page 1, line 6 strike "'$2,322,800,000,000'." and insert in lieu thereof the following: "$2,322,800,000,000".

TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

That this title be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986"."

AMENDMENT NO. 2224

Mr. RUDMAN. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration. The amendment is submitted on behalf of myself and Senators GRAMM, HOLLINGS, COHEN, and HELMS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], on behalf of himself and Senators GRAMM, HOLLINGS, COHEN, and HELMS, proposes an amendment numbered 2224 to amendment No. 2223.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment strike "1986"." and insert in lieu thereof the following: "1986".

SEC. 201. REVISION OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) REVISION OF REPORTING RESPONSIBILITIES.—(1) Section 251(b) is amended—

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subsections (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1991), by account, for nondefense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under paragraph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any differences between the contents of such report and the report of the Comptroller General under paragraph (1).".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof "Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(1)(2) is amended by striking out ", in accordance with section 251(d)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "Section 251(b) or (c)(2)" and inserting in lieu thereof "section 251(b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251(b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. RUDMAN. Mr. President, what we now have pending before the Senate in the second-degree amendment is essentially the amendment

that Senator GRAMM referred to in his opening remarks, the amendment we submitted this morning to the Committee on Governmental Affairs, and the amendment which will be pending in the Senate for not too long, we hope, but time enough so that all the views of Members of this body can be expressed and that the American people can be informed.

My colleague from Texas, as usual, has done a very complete and extraordinary job of setting forth the history and the background. I intend to be relatively brief here today. I know that my friend from South Carolina, Senator HOLLINGS, is here, and I am sure he wishes to be heard this afternoon as well. I want to address my remarks to two or three areas.

The first thing I want to point out is that it is worthy of note that the U.S. Supreme Court decision directed itself to one very narrow area. The decision essentially left Gramm-Rudman-Hollings intact. What it said was that the entire procedure we have outlined is constitutional. The delegation argument that was raised by the principal plaintiffs in Synar against Bowsher was rejected. Only two members of the Court even gave it passing reference in their opinions.

However, the Court said that the person we had chosen to do the job at the final cut, if one was necessary, was not the proper person. That is all the Court said.

Some may find it surprising that there is nothing in this Court opinion which would reject the possibility of Congress placing restrictions or placing parameters or doing anything we wish to do in terms of the economic forecasts by OMB and CBO; and, certainly, Congress, under the Constitution, has the statutory power to pass a statute, signed into law by the President, which in fact puts very strict controls on how the sequester would be implemented. I say that because we are going to hear on this floor, over the next day or day and a half, if I am not mistaken, arguments that we have given some new power to the President—or, in this case, to his appointee, the Director of OMB.

One might wish to go back and read the original law, which is still a law, and one would note in reading it that, in fact, it already has placed within it a number of restrictions on how that sequester can be written. So, for those who may charge later during the day or tomorrow that, somehow, some brandnew power is being given to the President, that is not so. It is not what the original law said. It is not what the Supreme Court decision said.

There has been a great deal of misunderstanding about this bill since the day it was passed. Many talk about cutting programs. I point out to anyone within earshot that what Gramm-Rudman-Hollings is really all about is less of more, not more of less. This year's budget resolution is higher than last year's, as is true for each of the last 5 years. All this bill is attempting to do is to change the rate of growth of this Government to meet those deficit targets.

Senator GRAMM has talked at length about what happened after this bill was passed and what happened when the Supreme Court, in fact, ruled a part of it unconstitutional. Let me outline some of the history he may not have outlined.

From the day this bill was passed until the Supreme Court ruled, the stock market went up nearly 400 points. There was not a major banker or major economist in this country who spoke against this bill, because this bill promises declining deficits. The prime interest rate dropped dramatically between the time this bill became law and the time the Supreme Court ruled. Yet, after all that, and after the sequester of 1985, where do we find ourselves today?

□ 1540

We find ourselves with a fiscal year 1986 deficit we are told that may be as high as $215 billion. I am talking about 1986, not 1987.

What does that mean for the American people? Let me put it in a couple of ways that maybe will make it very understandable.

This year this Government will borrow 25 cents for every dollar it spends, 25 cents for every dollar it spends.

Every morning, the Senator from South Carolina pointed out—and I think his number is low—the Treasurer of the United States has to borrow, he says, $500 million—my figures are as much as $700 million a day—to pay our bills.

What are we doing here today? We are doing what we did a year ago. We are being asked to raise the debt ceiling once again to well over $2 trillion. What are we telling the young people of America? What are we telling our children and our grandchildren? What we seem to be saying to them is, "We are spending your money, and the interest you will have to pay on this debt will probably make your standard of living in your generation far different than ours."

Why are we in the situation we are in? We are in the situation because there has not been the discipline in the budget process to force Congress and Presidents to act responsibly. That is the only reason we are here.

For those who want to argue let us do it the old way, the old way has brought us the $2 trillion plus. The old way has brought us to an interest payment that is close to $200 million a year now, about the third most expensive item in the Federal budget, and if it continues it will be the most expensive item in the Federal budget, and make no mistake, you can cut a lot of things but you cannot cut interest.

If we borrow money, the American people must pay the interest. And, by the way, where does that money go? Does it go to the middle class of America? Does it go to the poor people of America? Hardly. It is the greatest income transfer program from the poor and the middle class to the rich in history, and 40 percent of it for the last 5 years has been bought by people overseas.

Figures from last month or from the last quarter are discouraging. They show a 1.1 percent growth rate. They are very disturbing. Listen to what the economists are saying. Listen to what the business analysts are saying. They are ascribing America's failing growth to one major item. They say it is mainly the trade deficit which has been brought on by the fiscal deficit.

There is not a major economist in this country who has not said publicly that if you bring down the fiscal deficit, then you attack the trade deficit.

So here we are, almost a year later after passing the initial law, faced with a very simple proposition.

Shall we allow the future of the American economy to chance? Shall we allow future generations to have their standard of living and their life jeopardized by what we do or do not do? Oh, we will hear arguments that maybe the Director of OMB could fudge the number and he could fudge it $5 billion up or $5 billion down, but compared to a $215 billion fiscal deficit this year that quite frankly is not even worth talking about.

What is worth talking about is to give the power to someone to say to this Congress and to the President that unless you do your job, we are not going to meet these targets. Let Congress pass all of its appropriations bills or, if we wish, one joint continuing resolution. Let us work in the revenue area in any way we wish. But when it is all done, what we are saying is, thou shalt not exceed a deficit of $144 billion.

And, I might add, we have allowed a $10 billion error factor which someone once said it was close enough for Government work, and I guess that is probably true.

So here we are trying to fix this legislation. What are the alternatives? The alternatives in my view based on what I have seen—and the Senator from South Carolina has been here for 20 years and I am sure he will talk about what he has seen—if we do not have this action-forcing mechanism, we will continue to pile on this deficit, and at some point, be it 1988 or 1989 or 1990, the bottom will drop out of this economy and then we will wonder about all those interest groups that opposed this bill as to how they like

what happens to America when interest rates go into double digits, inflation takes off again, and unemployment goes back in double digits again because that is exactly what we are playing with. We are playing with the future of the American economy.

So I hope that those on this floor who would like to make improvements to this legislation will come to the floor and do so over the next day or two.

As Senator GRAMM said, this bill is not perfect. This amendment is not perfect. As a matter of fact, there are those who might like to see more tightening of the various constrictions that exist in terms of how the sequester is ordered, although I think the present ones are adequate, and they might even like to see some criteria concerning the statute as to how the OMB shall make its forecast.

Let me make it clear. It is perfectly constitutional so long as Congress passes it and the President signs it. That is the bottom line.

So we shall debate this for the next day or day and a half. But there is a bottom line here. When you get through all the legal arguments, all of the numbers, all of the constitutional arguments, when you get through all of them, I hope that someone who opposes this will stand up on the floor and say to the American people, "I have a better way" because I would like to hear it and if it is better I will vote for it. But I will say this: The bottom line we are talking about here today is are we going to do something about preserving the integrity of America's economy and thus our freedom?

I think this Senate will because this bill has worked. It has proven over the last year that it will work, it can work, and it must work if we are to preserve this economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished leader, and my good friend from Louisiana, Senator LONG who has been the expert for the years I have been in the U.S. Senate on financial matters. I will be delighted to yield to him momentarily after I make a few comments. If he has some changes to our proposal I am sure that we will work hard to accommodate them.

The Senator from New Hampshire and the Senator from Texas, have both made very eloquent statements, easily understandable and have focused on the predicament in which we find ourselves.

We did get a flat tire on the way to the Supreme Court and we have minimized the repair job. We started up the path of the Comptroller General and said perhaps since he has been found to be a member of the legislative branch, let us transfer him to a route that meets constitutional requirements. He has a 15-year term. He has his precedents. If the President is allowed instead of the Congress to displace him or to fire him, he cannot do that very easily. Congress and the American public, would not go along unless it was for a just cause. So we said he could be displaced for cause—but only after hearing and notice.

But that bothered many experts in Government, including the Comptroller General himself.

He thought it could in some way ameliorate his abilities or integrity to criticize the executive branch. His principal function is to make critiques of the executive branch and its functions as to whether or not, the intent of Congress is being carried out. Or, whether a program is working, or, if costs are reasonable or there is no waste and the like.

The Comptroller was very much alarmed about that approach. So we than discussed around the Congress—both the Senate and the House—what would be better ways to approach the fix. The more we discussed it, the more we realized that the precedents set for the 1986 cuts must be continued. We overwhelmingly approved $11.7 billion in cuts last Thursday. The discipline employed in making these cuts must be maintained—the methodologies, the due regard to the various data, and to the economic assumptions that we normally use in the budget work.

With that particular precedent, the Comptroller General did not look as tricky as our friends in OMB. You can never tell where they are going to come out on an issue. I have been a trial lawyer. I have been a criminal lawyer. I know tricky witnesses when I am listening to them. Now we have a book about it by the witness himself.

□ 1550

I do not want to belabor that point, but we have always had a regard for the Directors of the Office of Management and Budget, be they Republican or Democrat. They are experts in the field of Federal governmental finance. And I think we have that with the present occupant, Mr. Jim Miller.

He just testified before the Government Operations Committee. In response to a question about how he would treat the Comptroller General's audit of the estimates made by himself, and the Director of CBO, he said he would give judicial notice to that and try to follow it as closely as he possibly could. And I think he is genuine in that intent.

I think that we ought to understand here and now the politics of the entire situation, because in reality the American people are demanding that we do something about these deficits.

Last year, when everyone was ready to go home, we passed the budget in August. We came back after Labor Day and we were ready to pass a few appropriations bills, a continuing resolution, and by no stretch of the imagination would we be here beyond Thanksgiving. We were shooting to adjourn by November 1.

The President of the United States was headlining tax reform. The news media were headlining arms control, pending the Geneva or Gorbachev-Reagan summit.

When we went back home, practically this same time last year, for the Labor Day break, the people said, "Look you ought to be ashamed of yourselves running these outrageous deficits and passing all of this debt on to the next generation." It has been a game of Roman bread and circuses. We have been buying everybody's votes for the last 5 years. They said, "You ought to be ashamed or yourselves. Get back up there and start acting responsibly and let's pay the bills and let's get rid of these deficits."

And so when we came back, it was not the persuasive powers of any individual Senator that finally persuaded the Congress into adopting the particular discipline of Gramm-Rudman-Hollings. Rather it was the pressure of an alarmed people of the United States as to what was going on. And we had the parliamentary device of a debt limit and we knew at that particular moment that we could not once again increase the debt limit to the $2 trillion mark without having done something about the deficits.

Gramm-Rudman-Hollings gave them an alternative and gave them a discipline to do something about that deficit. That is why it passed by an overwhelming majority of both parties, in the Senate and in the House. That is why we adopted it.

In looking at the politics and completing that thought, the politics still are there. They somewhat diminish when you go back home and you have the Fourth of July break and everything else of that kind. But I can tell you here and now—and I have just traveled my entire State for those 2 weeks—questions on tax reform, about 1 out of 10; questions on the deficit, about 8 out of 10. They are more interested in their jobs, in the economy, the trade deficit, and the financial deficit that causes, in part, the trade deficit. Yes, the people are still vitally interested.

But you return to Washington and everyone again starts anew. There is a good strategy, you know, in politics that when in doubt, do nothing, and stay in doubt all the time. So there will be many that will say, "Well, but maybe all I want is a fallback provision." They really do not want a fallback provision. They do not want

Gramm-Rudman-Hollings. They do not want to do anything.

They come in here and fool us about they like that fallback provision, because they cannot give the power away; give our power to the Executive, not at all.

The overriding politics, I wish to emphasize, is upon us all. It is just as much on the executive branch as it is here in the national Congress. I am confident the Director of the Office of Management and Budget and certainly President Reagan himself wants to act responsibly. That is why he endorsed this particular initiative. He has been loyal to it. They have not played games over there. On the contrary, they have gone right on down a consistent point with it.

I should say at this time, there has been a discipline that had developed between the executive branch and the Congress on the matter of deficits over the past 7 to 8 months going back to December of last year we adopted Gramm-Rudman-Hollings then and went home for Christmas. We heard all the rhubarb about this was going to end the Pentagon and we are going to have to cut so many from the armed services, and there would be no more food stamps, and we destroyed school lunches, education, veterans benefits were gone, and everything else. But the discipline, Mr. President, adhered. It came and stayed in February when we had an entire month for the Congress to put in an amendment and walk from the 1986 sequester. When some said here is what we should do instead. There was not any "instead." There was not any alternative. There was not any amendment from the 435 House Members and the 100 Senators. We were here the entire month of February and the March 1 sequester took effect.

Then, we passed the reconciliation bill, that we had difficulty with all last fall, saving some $18 billion. One evening here on the floor of the Senate, we had a very important farm bill. However, proponents had sneaked in another billion bucks, that was not in the House version. And we all know the critical needs of America's agriculture at this particular point. Anyone with any awareness knows this is a urgent stage that the American farmer is in and he deserves our full support. Yet, with that $1 billion add on, we were put to the task of making the point of order and the colleagues sustained it. The discipline was fixed.

Thereafter, with respect to the 1987 budget resolution it contains a $38 billion cut of the deficit—complying, as it would, with Gramm-Rudman-Hollings.

The tax reform bill, under our particular initiative, followed the procedure whereby the amendments had to be revenue neutral. Senator PACKWOOD, Senator DOLE, Senator LONG, and the others who led that particular measure, will tell you that the neutrality aspect definitely facilitated one of the most responsible tax reform measures ever to pass the U.S. Senate.

□ 1600

Yesterday the Finance Committee, responding to the budget under Gramm-Rudman-Hollings, has made what we call the reconciliation cuts.

So the President and the Congress have both been responding. We have had returned to us as a result of the constitutional question the 1986 sequester, and less than a week ago reaffirmed those cuts. I hope the Members will appreciate that, and also their staffs who are following the consideration of the Gramm-Rudman-Hollings II fix. The reaffirmation of the cuts is of tremendous value to the stability of the financial markets and the confidence of the people that the Congress is acting responsibly.

(Mr. EVANS assumed the chair.)

Mr. HOLLINGS. They very much worry about it, quite frankly. And I think when we get a chance to compromise a little, it should be repeated here in a comprehensive fashion of where we are.

In that regard, then, the discipline is still there. I am not worried about the Director of the Office of Management and Budget, or the President of the United States. There are various guidelines in the law itself to restrain their action. We are not changing those whatever. We just say that this particular ministerial task is to be carried out by the Director of the Office of Management and Budget. Let us consider it in the extreme. Suppose the Director of the Office of Management and Budget said, "I project next year 6 percent real growth." All the economists in the financial world are telling us at the moment that we are likely to have 1 percent. But let us say OMB said we are going to have 6 percent. And he gave that original estimate and along with CBO they considered what should be sequestered, and they sent it on to the Comptroller General, he audited it and reported it back, as Gramm-Rudman-Hollings II requires, to the Director of OMB.

And the Director could will still say, "Look, I know what the GAO has said about 1 percent economic growth. I know that the Congressional Budget Office has said 1 percent. But I told you when I first submitted it I thought it would be 6 percent, and I am going to give it to the President at 6 percent."

What does that mean? It means on the one hand I think we will all agree that would be irresponsible, and I am only doing this hypothetically. I am confident the Director would think that irresponsible. But in any event it means that then there has been a rather liberal or extravagant estimate of growth factor for the next fiscal year avoiding by any chance any kind of sequester or triggering of Gramm-Rudman-Hollings.

And when the snapshots are really taken next year and there is this outrageous deficit, then the responsibility is fixed. You see there has been a very interesting charade that has gone on for quite some time. Both the leader of the Republican Party, the President of the United States, and TIP O'NEILL, the Democratic leader in the House, have both employed these efforts for different reasons. The President of the United States has not resisted very strongly the deficit because he figures that is what is keeping the lid on the size of Government. That is why we are not running up here with all kinds of new programs, that we have been cutting back on all the social programs—not defense of course, but we have been cutting back on the others.

In contrast, the distinguished Speaker believes very strongly in the needs. I think he would be willing to pay for it, and go along with the revenues. But as long as the President says over my dead body, he says, well, so what? If these deficits continue to grow and grow, the economy will hit a devastating recession. It will come tumbling down into ashes. We as Democrats like a phoenix will rise and be crowned king. We will all be put back in the White House, become the majority again here in the U.S. Senate.

That is what has been happening, and there is no better picture for those who are just beginning to learn about our national economy. Last year at this particular time we tried to enforce the discipline and we agreed in general that we would hold up on Social Security like other entitlement programs. We met in the Budget Committee back and forth. We put out a budget freeze at the beginning of the year. It finally culminated into the Gorton-Chiles provision within the Budget Committee of just holding the line, freezing, including a freeze of Social Security, and the other entitlements. Just take this year's budget for next year, save some $40 billion, and the Republican leadership had already taken that position publicly, and obviously the political wrath of some who did not believe that should be done.

Having gotten the approval of the White House it was taken away and the White House reversed that particular position. The distinguished Speaker went over to the White House right after Labor Day, and as the President described it to us—he said, "You know, your Speaker came over last evening, and we had a little toddy. And we went outside underneath the oak tree. And the Speaker turned to me and said, 'Mr. President, I will take your increase in defense if you take my increase in Social Security.'" And the President said, "Well, that is fine

business with me. And we will not pay for it. There will not be any revenues. I am against it."

Of course, Speaker O'NEILL said, "Yes, I am against taxes, too." They cut the ground out from under us. That is what got us into the critical stage that set the scene for the introduction of Gramm-Rudman-Hollings last September.

Mr. President, there has been a stop put to that. I think we have all sobered up somewhat. The President has supported us. The Speaker, while he said he did not favor the particular initiative, had to agree it was working. It helped definitely that the Speaker and others over on the House side agreed with the reaffirmation of the 1986 cuts. I hope we can continue on that path.

I do hear about different fixes. I do not hear a better suggestion. We have talked, for example, in Government Operations earlier this morning perhaps about a special commission with the Comptroller as part of it. He would wear a dual hat. We considered that. But you are running right into the matter again of constitutionality. You would be diminishing the Comptroller's authority and his zeal to criticize the executive branch and to make these important findings for us which have been most valuable.

So I think we are on course. We should understand that all we are trying to do is fix that tire. We know we have a spare in the trunk. There is no need to wait until September 1 and then wait until October 1 for what we all had heard characterized as the train wreck. There is no reason to put the American people and the Congress through that. And then we could well get into a dogfight as we have done before and come up with an even worse kind of solution.

This Gramm-Rudman-Hollings is nothing more, Mr. President, than what we have operative in 43 States in America. It is a great frustration that I suffer from because I know at the local government and State government level people act responsibly. They have to. City hall cannot print money like we do in Washington. When he has financial problems a mayor will say look, let us freeze. Let us take this year's budget and use it next year. Similarly, State governments know that they could not just spend as if there is no tomorrow. They would lose their financial accreditation from unbalanced budgets. That would cost again millions that they could not afford. So as a result, 43 States have the ability to sequester. In January of this year, the Governor of South Carolina received a certificate from the State comptroller. Mr. Earle Morris, that he had overestimated last year's revenues. We have been suffering from the export of textile jobs and other industrial jobs, high technology and everything now is moving out.

□ 1610

Commings Engine is moving to Mexico; Pratt & Reid is moving to Mexico. When I was Governor we had nothing but industries coming in. Now we are in a heck of a fix trying to hold on to what we have. We have lost those jobs and we have lost the income and sales, the tax revenues, from those particular industrial jobs. We have lost from the devastation of the family farm in the State of South Carolina. The Federal deficit is a major reason why.

When Governor Riley got the certification, he had to direct the State treasurer to sequester or have a set-aside of 2 percent across the board of all the budgets in an evenhanded fashion. Thereupon, at the end of June—our fiscal year begins on July 1—we had the money to pay our bills. We had the money to balance our budget, and we had the money to maintain our AAA credit rating.

This procedure was the basis of Gramm-Rudman-Hollings. I have seen it work. It works in 43 States. None of the Governors get into this kind of thing of being given too much power. It is ludicrous. The Governor does not want that power because when he makes the cuts they are referred to as cuts in his particular name. They do not say the general assembly made the cuts. They will call them cuts after the particular Governor and he has to explain why he did it.

You know how people like to assess blame. They said, "Well, I was for you but those are Governor Riley cuts."

In that particular exercise over the years amongst these 43 States, I can tell you that they do not like to identify the executive with those cuts, but they do because the executive must and does act responsibly.

That is the frustration I have at the Federal level. We literally have to cover ourselves with a rather complex Gramm-Rudman-Hollings initiative to put us all into a box to make us do our jobs.

We are doing it, as I said. I do not want to disparage that in any sense. But having done that, to maintain the discipline now, all we are trying to do is to have the tire fixed. We are not trying to disturb the authority of the Comptroller General. We are not trying to appoint a new commission. We are not trying to change any of the substantive part—the 95 percent of Gramm-Rudman-Hollings found constitutional by the Supreme Court. We are only trying to fix that one thing in a restrictive fashion.

After talking to the leadership on the House side and the leadership on the Senate side, we hope we can get everyone's support.

I was here in 1968 when we last balanced the Federal budget. I harken back by memory, why is it we could balance the budget at that time and cannot do it today? It was because there was a fixed responsibility with respect to the party in power. President Johnson was very sensitive about the charge that he put in his Great Society and he was not paying for it and that we would run a deficit. It could be as much as $10 billion, not $220 billion that we have this year. It could be $10 billion. That threatened him and all of us in our minds and conscience.

We met as late as December. I remember when Marvin Watson from President Johnson's staff called over and agreed to cut another $5 billion. Thereupon, we were late in the fiscal year doing it but we cut that budget and we gave to President Richard Milhous Nixon for the fiscal year 1968–69 a balanced budget. It was a $2.3-billion surplus.

When President Nixon came along, we got into the idea again of sending the Government back to the local people. President Nixon came along with all of his block grants and everything else of that kind and in the Congress the authority was split between a Republican President and a Democratic Congress. We, in the Democratic Congress, kept passing the regular programs, and he kept insisting on trying to create these block grant programs thereby creating the first federalism initiative, before even President Reagan.

The compromise at that time again was made by the leadership, that we would just pass both of them. In any event, they were signed into law, President Nixon knowing all along that he was going to impound, that he was going to rescind, that he was going to defer. So he took all the programs that he was against and he impounded and he rescinded and he deferred.

We in the Congress then took it before the court and the court found his impoundments, rescissions, and deferrals unconstitutional.

So then we had both programs and we had a double dose of government.

You see from President Johnson's balanced budget that the deficit had jumped by 1975 to $45 billion. That is where we started this.

Then when President Carter came in he had the task of trying to lower the deficit. At one time he got the deficit down as low as $28 billion.

I was chairman of the Budget Committee in the year 1980. After President Carter's defeat in November I went to him and said, "Mr. President, you are going to leave office with the largest deficit we have ever had in our history."

He said, "How much is that?"

I said, "They are now estimating it to be as much as $75 billion and I have heard the figure of $80 billion."

He said, "That will be unforgivable. What should we do?"

I said, "There is a little thing in this act which is called reconciliation. If you will leave me alone, I will get the votes. I will go back over there and get these things cut. You inherited a $66 billion deficit from President Ford and you certainly do not want to go forward with an even larger deficit for the Carter history of 4 years, when we worked hard on trying to bring these deficits down."

I came back. I do not say this disparagingly, but if I were conservative, I would say Warren Magnuson was liberal. I went to Senator McGovern, I went to Senator Church, to Senator Nelson, and all the others and said, "Look, we Democrats will be in the soup. We will set a national record of a $75 billion deficit if we do not do something about it. I need your votes."

They gave me the votes and we passed the first reconciliation bill in December 1980 when I was chairman of the Budget Committee, cutting it back to a $58.7 billion deficit. We had brought in, finally, a lower deficit for President Carter when he left office than what he had inherited from President Ford. That is because you did not have the split authority where both sides can point to each other and no one being responsible.

That is the particular game that has been going on to our devastation, particularly the devastation of future generations. We are suffering now, let me emphasize, from the running of these deficits.

Everyone is saying, "Is it not grand? Everybody is happy. A new morning in America."

I can tell you here and now that it is costing you $200 billion in interest costs for that morning in America.

Let us break down this Federal budget so we will all get a grasp of it. It is not very difficult. If there is a trillion-dollar budget here in Washington for the Federal Government, $300 billion is for defense and $300 billion for entitlement costs—for health care, Medicare, Medicaid, and Social Security. That is $600 billion. Then you have $200 billion for interest costs. That leaves $200 billion for the rest of the Government, law enforcement, NASA, highways and the like. You could abolish the rest of Government and you would still end up with a deficit. That is how bad off we are.

However, nobody wants to cut health care or Social Security. Nobody wants to cut defense. Many say, "Oh, we will find savings. We will sell some assets." Man, that is child's talk.

Look at the page in the budget book the President submitted in January and you can find the cuts that he could think up. He could find a grand total of $22.4 billion in cuts out of the entire trillion dollar budget. It brings into sharp focus our dilemma. If the best, let us say, of budget cutters at the Federal level, the President himself, can only find $22 billion and we are looking at a $22 billion deficit, we are in bad shape on our path to put us back in the black.

Gramm-Rudman-Hollings is not traumatic. We are not eliminating the deficit this afternoon or this year or next year. In fact, if we are successful in carrying out this 5-year program, we will be adding another one-half trillion dollars to the national debt. So instead of a $2 trillion debt, we will have a $2.5 trillion debt.

So those who speak deliberately and loosely and everything else about ruining programs, I can tell you what is ruining the farmer: the deficit. I can tell you what is ruining the businessman: the deficit. I can tell you what is ruining the industrial worker: the deficit. I can tell you what is ruining the social programs, health care and education, feeding and nutrition programs: the deficit.

This deficit is eating into all of us. And now is the hour to get on with the job and let us maintain the discipline. If you have a better offer to make here—and be blessed if you have—I will join it.

Let us understand that we have a job to do now. We want to pass this debt limit. I do not know that we can get the vote for the debt limit unless we have a fix for Gramm-Rudman-Hollings and an understanding that something will continue to be done about the deficit and not just throw it back to the enactment of legislation.

That is not my desire. It is not the desire of the other authors. We had to take what we could get when we passed the balanced budget bill in December. We had to accept, Mr. President, certain exemptions from this particular initative. I am confident if we had our way, our intent was to be absolutely impartial toward all programs, just taking the particular budget that the Congress and the President together had passed and, in an equal amount, get the sequester straight across the board in the smallest percentage possible.

That was not politically attainable last fall. We had to settle the argument between domestic programs and defense and we did it with the 50-50 split. We realize that Social Security had such political power that we were running into the brick wall that I had run into for 5 years running with a budget freeze. So we had to exempt Social Security. We exempted these other programs in order to get a good consensus, a strong majority in the House and a strong majority in the Senate, to go along with this particular discipline.

I do hope, Mr. President, that my colleagues will study it and see that again, we have acted in good faith. We are not trying to prejudice anyone. We are not trying, if you please, Mr. President, to fix every little thing that we have come across while working on the Budget Committee. Incidentally, my colleagues on the Budget Committee have some changes I would like to accept. There are some inequities, I say to the Senator from Nebraska, that I would like to fix. But let us not, in our zeal to fix every little thing, lose overall. Let us not drop Gramm-Rudman-Hollings in our zeal to pick up everything and end up with nothing. We need more than the hope that we will pass three readings in the House and three readings in the Senate and the hope that it will meet with the President's approval. That is the backup proposal you have in the present act.

I think if we give the task to the Director of the Office of Management and Budget, it is a fair way, an understandable, deliberate kind of approach. I am confident that the Director of the Office of Management and Budget and the President will act responsibly.

AMENDMENT NO. 2225

(Purpose: To express the sense of the Senate that the "fallback" provisions of the Gramm-Rudman-Hollings law be utilized if necessary and that the Congress vote on specific measures to reduce the deficit)

Mr. EXON. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 2225.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows

At the end of the matter proposed to be stricken add the following:

SEC. . (a) the Senate finds and declares that:

(1) annual deficits which exceed $200 billion and an accumulated national debt which exceeds $2 trillion threaten the economic health of the nation;

(2) The Constitution provides that "The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States . . .;"

(3) The Congressional Budget and Impoundment Act of 1974 was intended to establish effective Congressional Control over the budget process;

(4) The Emergency Deficit Control Act of 1985, popularly referred to as the Gramm-Rudman-Hollings law, attempted to implement an automatic spending reduction

mechanism which could be activated without a Congressional vote;

(5) the United States Supreme Court invalidated the automatic sequester mechanism of the Emergency Deficit Control Act of 1985;

(6) other provisions of the Emergency Deficit Control Act of 1985 remain in effect, including the declining deficit targets and the requirement that legislation be consistent with the declining deficit targets;

(7) the Emergency Deficit Control Act of 1985 further provided for alternative procedures, popularly known as "fallback" provisions, which became effective upon the invalidation of the automatic sequester mechanism by the United States Supreme Court;

(7) the Congress successfully used the alternative procedures on Thursday July 17, 1986 to implement $11.7 billion in spending reduction for fiscal year 1986;

(8) the American people expect their Representatives in Congress to set budgetary priorities and make difficult decisions necessary to reduce the federal deficit;

(b) it is therefore the sense of the Senate that the Congress utilize the existing "fallback" provisions of the Emergency Deficit Control Act to require a Congressional vote on specific measures to reduce the federal budget deficit.

Mr. EXON. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HEINZ. Mr. President, will the Senator explain the amendment?

Mr. EXON. I shall be glad to explain the amendment. This is basically an amendment that I would like to talk about which merely says that we have a fallback position in the Gramm-Rudman bill that, in the opinion of this Senator, should be the mechanism to force Congress to proceed with its duties.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Senators GRAMM, RUDMAN, and HOLLINGS offered in effect one amendment in the first degree, another in the second degree. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HEINZ. What is the situation with respect to the amendment of the Senator from Nebraska?

The PRESIDING OFFICER. The amendment of the Senator from Nebraska proposes to amend the language intended to be stricken by the amendment of the Senator from Texas.

Mr. HEINZ. Is that amendment in order?

The PRESIDING OFFICER. That is correct, it is in order.

Mr. HEINZ. I thank the Chair.

Mr. EXON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. EXON. Mr. President, the matter before the U.S. Senate is a tremendously important one that I hope will be given the consideration that is due it. I know that there is a full-speed-ahead effort to move with the new amendment called Gramm-Rudman-Hollings II. It seemed to me, Mr. President, that something is in order for a thorough discussion in the Senate as to whether we need any further perfecting of the Gramm-Rudman-Hollings amendment.

Mr. President, the amendment that I am offering, that the Gramm-Rudman-Hollings supporters have not seen fit to allow a second to, is a simple amendment which expresses the sense of the Senate that, if necessary, Congress will utilize the existing fallback procedures of the Gramm-Rudman law; that the Congress vote a specific measure to reduce the budget.

□ 1630

Being a Member of Congress is not an easy task. We were elected to make many hard choices between competing interests. However, no one was forced to take this job, each one of us sought it. Each one of us sought the opportunity of expressing our wishes on the floor of the Senate as to what we should and should not do in correcting legislation that came before us previously. If you followed the debate on the original Gramm-Rudman amendment, you might think that the key duties of a Member of Congress have shifted from representing their constituents and governing the Nation to finding new ways to avoid making responsible decisions.

There is a mania that Congress cannot do its job. While I do not want to question the motives of any particular Member of Congress, I fear that as a body Congress may have simply lost its courage.

There has been a disturbing trend in recent years. The Congress has become increasingly unwilling to deal with big controversial issues. When faced with the impending bankruptcy of the Social Security System, the Congress was paralyzed, and had to turn to a bipartisan commission to find a workable solution; when faced with the need to balance the Federal budget through reducing spending or raising taxes, the Congress repeatedly borrowed more money and last year when faced with the need to raise the debt ceiling above $2 trillion, the Congress designed a contraption known as the Gramm-Rudman amendment to hide its vote and tell the American people that by raising the debt ceiling, Congress was reducing the deficit.

Now, with the President's request to raise the debt ceiling further, the same people are employing the identical technique to achieve their goals and cover up the new record of the debt ceiling that is likely to pass.

When the Senate debated the Gramm-Rudman amendment to the debt ceiling, I expressed concern that it was merely an effort to delay action on the deficit and push serious decisions into 1987, after the election. Although the Gramm-Rudman law promised a 1986 deficit of $179 billion, it produced a 1986 deficit likely to exceed $210 billion. Although the Gramm-Rudman law was promoted as "truth in budgeting," the President submitted a 1986 budget which underestimated the deficit by at least $16 billion and we now hear that the Office of Management and Budget, OMB, has a bag full of accounting tricks ready to jimmy the 1987 deficit estimates to paint a rosy preelection picture of the economy and deficit.

It is a reasonable proposition that if Congress wants the spending cuts yielded by what I consider the unfair Gramm-Rudman formula, Congress should vote on those cuts. We do not need to build another mindless mechanism. The majority of the Gramm-Rudman law survives, the discipline of no net effect on the deficit survives, and a "fallback" mechanism is already in place which could be utilized to trigger formula cuts.

I would simply remind this body that the authors of the fallback position that was written very specifically into the Gramm-Rudman law are the same authors who are here today saying we need to fix it up again. If that were their true feelings, why did they write the fallback position into the original bill?

The latest plan from my good friends from Texas, New Hampshire and South Carolina gives the OMB authority to implement automatic spending reductions. I guess the theory is that if enacted, Members of Congress can feel that they did something about the deficit and merrily vote to increase the debt ceiling again.

Then if the sequester ax falls, Members of Congress can borrow RUSSELL LONG's famous poem and say, "Don't blame you, don't blame me, blame the man at OMB."

Mr. President, the solution to the deficit crisis is simple; we need to declare a bipartisan truce, sharpen our pencils and go to work. In many respects the Senate Budget Committee did just that. We produced a balanced, fair and prudent budget based upon the facts then at hand. We should not underestimate our ability to act in the best interests of the Nation.

There are only certain things that we can do in Congress, and one of those things, it seems to me, Mr. President, is to have the right to stand up, to take the heat, and make the deci-

sions and not pass them off to some unelected official.

As supposedly must pass legislation, a debt ceiling bill can be used as a catalyst to prompt additional efforts to reduce the deficit. Last year, that opportunity was lost and the debt ceiling bill was used as a vehicle for the Gramm-Rudman amendment. Now here we are considering another increase in the debt ceiling. Rather than reviewing spending and revenue provisions to reduce the deficit, we are examining more procedural gimmicks to avoid a vote on difficult spending decisions.

I am also especially concerned that the Congress has abandoned the committee system on several important pieces of legislation. There were no committee hearings or reports prior to the consideration of the original Gramm-Rudman amendment. Now we are told that the Senate will again be asked to take another leap into the darkness and accept the son of Gramm-Rudman without the benefit of serious committee consideration.

If the Congress does not need committees to consider important legislation, we should immediately turn our cost cutting efforts toward drastic reductions in committee staffs and budgets.

The proponents of the son of Gramm-Rudman seem to want to construct another automatic device which does everything but require Congress to vote on the hard choices necessary to reduce the deficit.

There are only three ways to reduce the deficit; reduce spending, increase revenues, or through an appropriate balance of both. I have come to this floor many times to offer or support alternative budgets—frequently with my friend from South Carolina—which balance on the Federal budget in 5 years. These proposals met the schedule of the Gramm-Rudman law. In each budget, we set priorities and made some hard choices. Although we have taken some tough political knocks for some of those decisions, I am proud of our efforts to find a solution to the deficit crisis and keep those decisions in the hands of elected officials rather than shuffling them off to some faceless, nonelected bureaucrat in some other branch of the Government.

Mr. President, I realize that there are 100 Members of this body, each with an individual prescription to balance the Federal budget. However, I am confident that, as men and women of good will, we can find common ground. I am simply saying that the U.S. Senate does not need to run away from the problem of the deficit. We only need to get to work.

The sooner we stop kidding ourselves that the deficit will disappear through growth, through supply-side miracles, or through procedural gimmicks, the sooner we can start to plan for the Nation's future.

I hope that the Senate will support this resolution which essentially says, that the Congress should exercise its responsibility and vote for the measures necessary to reduce the deficit.

□ 1640

I would be glad to have the clerk continue to read the amendment in its entirety.

To answer questions that have been directed my way by my colleagues, this is an amendment that simply says, and directly says, let us use the fallback provision that you wrote into Gramm, in the original instance. I think it is safe to say that the reason why that fallback provision was in the original Gramm-Rudman measure was to simply realize that you had some possible constitutional problems, and you did, and the Supreme Court has acted. At that time you felt that if that provision was eliminated by court action, you should have a fallback provision, which I think was wise in that instance.

All I am saying now is, why do not the authors of that measure accept the fact that they have a fallback position? It essentially has been recognized as there and operating by the Supreme Court.

All I am saying is, let us get on with the fallback provision that you authored, that you lined up, and that you provided for. That, along with the other parts of the Gramm-Rudman proposal, is still operating. I, for one, will not vote at this time to eliminate Gramm-Rudman, as I heard some talk in the Halls of Congress.

I just want to put the responsibility where it belongs—with us in the U.S. Senate and with our colleagues in the House of Representatives. Let us put us all on the spot and make the decisions that your fallback provision provided for when this bill passed.

I think the action that has been suggested, the transfer of the responsibility for the sequester or meat-ax order to a nonelected bureaucrat in the executive branch of Government is unwise. I think it makes for a process of our ducking a responsibility which is ours.

I am willing to join with my colleagues in making those hard choices; and if we shuffle off that sequestering duty to another bureaucrat this time, under the control of the executive branch, we are not deciding our duties, and I think that is wrong.

Mr. President, I request the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The yeas and nays were not ordered.

Mr. EXON. Mr. President, since there is not a sufficient second and since the usual procedures of the U.S. Senate are not being observed here this afternoon, I will make an attempt to offer the amendment at another time, when there will be a sufficient number of Senators on the floor.

The PRESIDING OFFICER. The Senator has that right.

Mr. RUDMAN. Mr. President, I call for regular order.

The PRESIDING OFFICER. Regular order has been called for.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The clerk will report the committee amendment.

Mr. RUDMAN. Mr. President, without losing my right to the floor, I yield to the floor manager, if he wishes to comment.

The PRESIDING OFFICER. Is the Senator at this point calling for regular order?

Mr. RUDMAN. I am.

The PRESIDING OFFICER. The clerk will report the committee amendment.

The assistant legislative clerk read as follows:

On page 2, insert new language, beginning on line 1, to page 6, line 17.

Mr. HEINZ. Mr. President, as the floor manager of the bill, I modify the committee amendment, in accordance with the instructions of the committee.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator has a right to modify the committee amendment on behalf of the committee, and the committee amendment will be so modified.

The modified committee amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Social Security Trust Funds Management Act of 1986".

SEC. 202. INVESTMENT AND RESTORATION OF TRUST FUNDS.

(a) Subsection (d) of section 201 of the Social Security Act (42 U.S.C. 401(d)) is amended—

(1) by striking out "(1) on original issue" and inserting in lieu thereof "(A) on original issue",

(2) by striking out "(2) by purchase" and inserting in lieu thereof "(B) by purchase";

(3) by striking out "It shall be" and inserting in lieu thereof "(1) It shall be", and

(4) by adding at the end thereof the following new paragraphs:

"(2) If—

"(A) any amounts in the Trust Funds have not been invested solely by reason of the public debt limit, and

"(B) the taxes described in clause (3) or (4) of subsection (a) with respect to which such amounts were appropriated to the Trust Funds have actually been received into the general fund of the Treasury of the United States,

such amounts shall be invested by the Managing Trustee as soon as such investments

can be made without exceeding the public debt limit.

"(3)(A) Upon expiration of the debt issuance suspension period, the Managing Trustee shall immediately reissue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations held by such Trust Fund that—

"(i) were redeemed during the debt issuance suspension period, and

"(ii) as determined by the Managing Trustee on the basis of standard investment procedures for such Trust Fund in effect on the day before the date on which the debt issuance suspension period began, would not have been redeemed if the debt issuance suspension period had not occurred.

Such obligations shall be substituted for obligations that are held by such Trust Fund, and for amounts in such Trust Fund that have not been invested, on the data on which the debt issuance suspension period ends in a manner that will ensure that, after such substitution, the holdings of such Trust Fund will replicate to the maximum extent practicable the obligations that would be held by such Trust Fund if the debt issuance suspension period had not occurred.

"(B) In determining, for purposes of subparagraph (A), the obligations that would be held by a Trust Fund if the debt issuance suspension period had not occurred, any amounts in the Trust Fund which have not been invested, and any amounts required to be invested under paragraph (2), shall be treated as amounts which were required to be invested upon transfer to the Trust Fund.

"(4) The Managing Trustee shall pay, on the first normal interest payment date which is at least after the expiration of any debt issuance suspension period, to each of the Trust Funds, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Managing Trustee to be equal to the excess of—

"(A) the net amount of interest that would have been earned by such Trust Fund during the debt issuance suspension period if all noninvestments, redemptions, and disinvestments with respect to such Trust Fund that—

"(i) occurred during such debt issuance suspension period, and

"(ii) would not have occurred if such debt issuance suspension period had not occurred, over

"(B) the net amount of interest actually earned by such Trust Fund during such debt issuance suspension period.".

"(5) For purposes of this section—

"(A) The term 'public debt limit' means the limitation imposed by subsection (b) of section 3101 of title 31, United States Code.

"(B) The term 'debt issuance suspension period' means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to orderly conduct the financial operations of the United States may not be made without exceeding the public debt limit.".

SEC. 203. REPEAL OF NORMALIZED TAX TRANSFER.

(a) Subsection (a) of section 201 of the Social Security Act is amended by striking out the matter following clause (4) and inserting in lieu thereof the following: "The amounts appropriated by clauses (3) and (4) shall be transferred from the general fund of the Treasury of the United States to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, upon receipt by the general fund of taxes specified in clauses (3) and (4) of this subsection (as estimated by the Secretary). Proper adjustments shall be made in amounts subsequently transferred to the extent amounts previously transferred were in excess of, or were less than, the taxes specified in such clauses (3) and (4). All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under other provisions of law directly related to the programs established by this title.

(b) The amendment made by subsection (a) shall take effect on July 1, 1990.

SEC. 204. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. 205. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Subsection (c) of section 201 of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice",

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(3) by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E) and (F), respectively,

(4) by inserting after subparagraph (B) (as redesignated by paragraph (2) of this section) the following:

"(C) Report to the Congress as soon as possible, but not later than the date that is 30 days after the first normal interest payment date occurring * * * after the expiration of any debt issuance suspension period for which the Managing Trustee is required to take action under paragraph (3) or (4) of subsection (d), on the operation and status of the Trust Funds during each of such debt issuance suspension periods;",

(5) by striking out "in paragraph (2) above" and inserting in lieu thereof "in subparagraph (B) above",

(6) by inserting "(1)" after "(c)", and

(7) by adding at the end thereof the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit, the Managing Trustee expects to be unable to fully comply with the provisions of subsection (a) or (d)(1), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 206. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

(a) Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

(b)(1) Paragraph (2) of section 201(d) of the Social Security Act, as added by section 202 of this Act, is amended to read as follows:

"(2) If any amount in either of the Trust Funds is not invested solely by reason of the public debt limit, such amount shall be invested as soon as such investment can be made without exceeding the public debt limit."

(2) The amendment made by paragraph (1) shall take effect on July 1, 1990.

SEC. 207. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" and "(e)"; and

(2) by adding at the end the following:

"(2)(A) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized by this title or under any other provisions of law directly related to the programs established by this title. If either of the Trust Funds holds any amounts which are not invested by reason of the public debt limit, the Managing Trustee is nevertheless directed to make such sales and redemptions if, and only to the extent, necessary to assure timely payment of benefits and other payments authorized by this title or by any other provisions of law directly related to the programs established by this title, but the principal amount of obligations sold or redeemed pursuant to this sentence shall not exceed the principal amount of obligations that would have been sold or redeemed under normal operating procedures in order to make such payments.".

SEC. 208. EFFECTIVE DATE.

Except as otherwise provided by this title, the amendments made by this title shall take effect on the date of enactment of this Act.

Mr. HEINZ. Mr. President, on behalf of the Finance Committee, I am offering a substitute amendment for title II of House Joint Resolution 668 as reported by the committee, which increases the statutory debt limit. Title II addresses the treatment of Social Security Trust Funds when the debt ceiling is reached.

The intent of title II was to protect the trust funds—both from the loss of interest which is caused by disinvestment of the trust funds—and from the public perception that the funds were used to bail out the Federal Government.

Originally, title II would have prevented disinvestment even for the payment of Social Security benefits. This, restriction concerned many Members of this body, including myself. Social Security Trust Funds have reserves to fund benefits while Congress engages in a responsible debate on the debt ceiling. Therefore, it seems unfair to generate fears among the elderly by threatening to hold their checks hostage in our debates.

Consequently, on July 22 the Finance Committee approved a substi-

tute amendment in lieu of the original title II. This amendment fully protects the trust funds, and assures benefit payments. Basically, the amendment provides that when the debt ceiling is reached:

First. Disinvestment is permitted solely for the purpose of paying Social Security benefits;

Second. Social Security payroll tax receipts which are received subsequently to the disinvestment will be invested as soon as Treasury has room under the debt ceiling.

This is important. It means that the Federal Government cannot tap those payroll taxes for a loan to pay any other operating expenses.

Third. Finally, when the debt ceiling is increased, the trust funds will be restored in full so that no interest will be lost because of these actions.

Mr. President, this amendment improves on the original committee bill by assuring timely benefit payments for today's beneficiaries as well as protecting the integrity of the trust funds for today's workers.

Mr. President, I ask unanimous consent that language describing the amendment I am offering be printed in the RECORD and be treated as legislative history as if in the original report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

B. TITLE II—AMENDMENTS RELATING TO INVESTMENT OF SOCIAL SECURITY TRUST FUNDS

REASONS FOR CHANGE

Title II of the bill responds to questions raised in 1984 and 1985 about management of the Old Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund (together, "the Social Security Trust Funds") in a debt limit crisis. During the fall of 1984 and 1985, substantial delays in increasing the debt limit prevented the Secretary of the Treasury from fully and timely investing all funds transferred to the Social Security Trust Funds. In addition, in order to make certain that benefits were paid notwithstanding the inability of the government to issue new debt to raise cash, the Secretary redeemed some long-term securities held by the Trust Funds earlier than would normally have been done. Moreover, some assets of the Trust Funds were maintained as uninvested balances even after the general fund had received FICA taxes that were the basis for the uninvested balances.

The potential losses to the Trust Funds were avoided, and the Trust Funds fully restored, only by legislation enacted as part of the 1985 debt limit increase. Thus, the Committee believes that legislation is appropriate to give the Secretary clear guidance as to how the Trust Funds should be managed when the debt limit prevents normal investment and redemption operations. Moreover, the Committee believes that there should be permanent legislation to assure that the Trust Funds will be protected from interest losses caused by the debt limit.

EXPLANATION OF AMENDMENT

Summary

The bill amends the Social Security Act to take into account, and protect both beneficiaries and the Trust Funds from, the impact of periodic debt limit crises. The Secretary's authority to redeem securities held by the Trust Funds during a debt limit crisis, solely in order to pay benefits, notwithstanding the presence of uninvested balances, is clarified and strengthened. Redemptions may not be made in excess of the needs of the social security programs or simply to prevent general governmental default. Any interest losses will be repaid to the Trust Funds when the debt limit is raised, and the portfolio of the funds will be appropriately reconstructed. If a debt limit prevents the normal investment of the funds, the uninvested balances (to the extent of estimated actual tax receipts) must be invested as soon as possible consistent with the debt limit. Under the bill, the Secretary of the Treasury is required to report monthly to the Board of Trustees of the Social Security Trust Funds on the status of the funds, and is required to notify both the Board and the Congress 15 days prior to the date on which he expects, because of the debt limit, to be unable fully to comply with the transfer or investment requirements of the Social Security Act.

Title II also clarifies existing law requiring that funds appropriated to or deposited in the Social Security Trust Funds be available immediately and exclusively for Trust Fund purposes. Under the bill, the Board of Trustees will be required to meet twice, rather than once, each year, and will make a special report after any situation in which the debt limit disrupts normal procedures. The duty of the trustees faithfully to execute the responsibilities imposed on them by the Social Security Act is explicitly stated. The normalized tax transfer, enacted in 1983 when there was concern that the funds might not have sufficient assets to pay monthly benefits, is no longer needed for that purpose and is repealed with respect to taxes received after June 30, 1990.

Short title

Section 201 designated Title II of the bill as the "Social Security Trust Funds Management Act of 1986."

Investment and designation of trust funds

Section 202 has three major purposes: (i) to clarify existing law with respect to dedication of Trust Fund revenues; (ii) to provide the Secretary of the Treasury, as Managing Trustee, with further guidance on investments to be made during periods of debt limit constraint; and (iii) to restore the Trust Funds after a debt limit impasse distorts normal operations, to the condition in which they would have been had the debt limit been increased before normal operations were constrained. The restoration covers both prematurely redeemed securities and lost interest, and will prevent any actions taken to assure payment of benefits during a debt limit crisis from having any permanent negative impact on the Trust Funds.

Section 202 clarifies existing law by providing that amounts deposited in or appropriated to either Trust Fund immediately are available exclusively for Trust Fund purposes. This is meant to emphasize the special dedication of the Trust Funds. The Committee recognizes, however, that transfers to the Trust Funds must of necessity be based on estimates and that, furthermore, if failure to increase the debt limit results in the government as a whole running out of cash, it would give rise to a situation in which Trust Fund assets would not be available to make benefit payments until the debt limit is increased.

Section 202 directs the Secretary of the Treasury, as Managing Trustee, to invest any amounts in the Trust Funds that are uninvested because of the debt limit, as soon as possible without breaching the limit. This provides investment of the Social Security Trust Funds with priority over other uses of available debt limit authority, including priority over investment of other funds and accounts. However, in recognition of the fact that under the normalized tax transfer system, a portion of the uninvested balances usually represents monies not yet received by Treasury, the directive is limited to investment of amounts equal to the Secretary's estimates of actual Social Security tax receipts. Because section 203 repeals the normalized tax transfer effective July 1, 1990, and thereafter all funds transferred to the Trust Funds will represent actual tax receipts, the limitation on the direction to invest would be eliminated at that time. (Section 206(b) contains the post-July 1, 1990 direction to invest uninvested balances as soon as possible consistent with the debt limit.) Of course, once a sufficient debt limit increase is enacted, all monies in the Trust Funds are required to be invested.

Following the pattern of section 272 of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, "Gramm-Rudman-Hollings"), section 202 requires the Secretary of the Treasury to (i) restore to the Trust Funds obligations that were redeemed during the debt limit impasse that ordinarily would not have been redeemed at the time or in the order redeemed; and (ii) pay to the Trust Funds the excess of net interest they would have earned over net interest actually earned. (For these purposes, the delayed investment procedures discussed above are disregarded.)

The provision becomes operative when a debt limit increase is enacted that is sufficient to allow orderly government financial operations; limited or temporary increases enacted to allow continued debate on a debt limit increase would not trigger the restoration provisions unless so specified in that enactment. Although the language of the restoration provision is complex, the goal is simple—to place the Trust Funds in the condition in which they would have been had there been no debt limit problem, and to do it by the first normal interest payment date following enactment of a debt limit increase.

Elimination of authority for normalized tax transfers to Trust Funds

Section 141 of the Social Security Amendments of 1983 altered the system under which tax receipts were transferred to the Social Security Trust Funds by providing that projected receipts for a month be transferred at the beginning of the month rather than as received. This was intended to assure payment of benefits when the Trust Funds were scheduled to receive sufficient assets during a month to pay the month's benefits, but because benefits are paid at the beginning of the month, would not have sufficient assets to make the payments when due. This procedure, although meant to be neutral between the Trust Funds and the general fund, in operation can result in modest subsidies to the Trust Funds, and has also created artificial bulges in debt outstanding at the beginning of each

month. The other provisions of the 1983 amendments will, by 1990, have resulted in Trust Fund surpluses that make the procedure provision unnecessary.

Section 203 repeals the normalized tax transfer effective with respect to taxes received after June 30, 1990 and would return to a daily transfer system. The Committee recognizes that the transfers must of necessity be based on estimates of tax receipts, and the statute provides for such estimates and adjustment of fund balances to account for actual receipts.

Faithful execution of duties by members of Board of Trustees of Trust Fund

Section 201(c) of the Social Security Act now states that trustees of the Social Security Trust Funds are not to be considered fiduciaries and shall not be personally liable for actions taken as trustees with respect to the Trust Funds. Given the massive size of the funds, and statutory requirements that differ from general trust requirements which are more appropriate for private funds, this degree of protection for the trustees as individuals is essential.

Section 204 amends section 201(c) to emphasize the need for the trustees to faithfully execute their duties, even though they are not formally designated as fiduciaries and have no personal liability. The Committee expects that the Board of Trustees, and in particular the Managing Trustee, will, within the confines of the statute, recognize the special trust placed in them in executing their responsibilities.

Reports regarding the operation and status of the Trust Funds

Under current law, the Social Security Board of Trustees is required to meet only once each year and to provide one annual report. However, the by-laws of the Board of Trustees provide for the two meetings each year. Given recent concern about the operation of the Trust Funds and the addition of two public trustees to the Board as a result of the 1983 amendments, the Committee believes that requiring by statute a second meeting and a limited second report when there has been a debt limit problem would be beneficial. The Committee also believes that, although the current Managing Trustee has agreed to keep the other Trustees and Congress informed about Trust Fund problems arising because of the debt limit, requiring such notice by statute for future Managing Trustees would encourage confidence in the system.

Section 205 amends section 201(c) of the Social Security Act to require two meetings annually of the Board of Trustees. It also requires a report to Congress not later than 30 days following the last date on which Trust Fund restoration actions as provided in section 202 are taken, which will usually be the December 31 or June 30 next following an increase in the debt limit. The report would be required only in years in which a debt limit impasse had actually distorted normal Trust Fund operations, and would be limited to a report of the actual operations and status of the Trust Funds during the period from the first date of constrained operations through the final restoration date. It is not intended to include projections or actuarial analyses of future experience.

Section 205 also requires the Managing Trustee to report monthly to the Board of Trustees concerning the operation and status of the Trust Funds, and to report to both the Board and Congress not less than 15 days prior to the date on which he expects, because of the debt limit, to be unable fully to comply with the transfer or investment provisions of the Social Security Act, including an estimate of the expected consequences to the Trust Funds of such inability.

Elimination of undue discretion in the investment of Trust Funds

Section 201(d) of the Social Security Act requires the Managing Trustee of the Social Security Trust Funds to invest the portion of the funds not required to meet current withdrawals in specified obligations issued or guaranteed by the United States. Section 206 of the bill clarifies the intent of current law by specifically requiring the Managing Trustee immediately to invest all such surplus funds. Because the investments specified in the Social Security Act are by statute subject to the debt limit, there may be times when the debt limit prohibits immediate investment. The Committee does not intend that the requirement for immediate investment of the funds supersede the debt limit in such a situation, but does intend to emphasize the importance of timely investment. Section 206(b) provides that, after July 1, 1990, when the normalized tax transfer will no longer be in effect, the Secretary will be required to invest balances uninvested because of the debt limit as soon as possible without breaching the debt limit.

Sales and redemptions by Trust Funds

Because funds transferred to the Trust Funds are immediately invested in short-term securities, virtually all payments from the Trust Funds require redemption of securities. Section 201(e) of the Social Security Act provides that the Managing Trustee may sell at the market price or redeem at par, as appropriate, obligations held by the Trust Funds. Section 201(d) states a preference for investment in specially issued public debt obligations redeemable at par. Both Trust Funds are currently fully invested in such "par value specials," except for a small amount invested in market securities.

For many years, the Managing Trustee has used an essentially mechanical redemption order designed to result in long-term parity between the Trust Funds and the general funds. The shortest term securities are redeemed first, starting with the securities with the lowest interest rate. When all securities of a given maturity have been redeemed, securities on the subsequent maturity category are redeemed, again starting with those with the lowest interest rate. The net effect of this procedure, during a period of normal Trust Fund operation, is that long term securities are redeemed only when monthly expenditures of the funds exceed monthly receipts. However, in 1984 and 1985, when the debt limit prevented investment in new short-term securities, longer term securities were redeemed to pay benefits, resulting in potential losses to the Trust Fund that required legislative action.

Section 207 of the bill provides further guidance and limitations on sales and redemptions. First, it clarifies existing law that the Managing Trustee may redeem Trust Fund assets only to make payments authorized and directed by Title II of the Social Security Act and other laws which are directly related to the programs established by Title II (such as freestanding provisions of law which are sometimes incorporated in acts amending Title II).

Section 207 of the bill also clarifies the responsibility of the Managing Trustee in a situation where the Social Security Trust Funds hold uninvested balances solely because the constraints of the debt limit have prevented him from carrying out the normal investment procedures. In such a circumstance, he is directed to redeem investments held by the Trust Fund, but such redemption can be carried out only to the extent necessary to assure timely payment of benefits and other payments required by the social security statutes. If necessary to assure timely payments, he could under this authority depart from the normal redemption schedule, but he could not in any case redeem Trust Fund obligations in a principal amount greater than the principal amount of the obligations which would have been sold or redeemed under normal operating procedures.

This section will make it clear that the invested assets of the Social Security Trust Funds will be available to meet Trust Fund payment responsibilities when needed for that purpose but can never be sued to fund other governmental operations—even to prevent general governmental default. The Committee recognizes, however, that in the event that the general government cash balance were insufficient to meet general government needs, no government checks could be honored. The Committee would not expect there to be any redemption under these circumstances.

EFFECTIVE DATE

Except for the repeal of the normalized tax transfer, Title II will be effective on enactment.

● Mr. RIEGLE. Mr. President, I am pleased that the Finance Committee has reported an amendment that would eliminate the Secretary of the Treasury's discretion to use Social Security Trust Funds to pay for the operation of general Government during a debt-limit crisis. This amendment represents the culmination of efforts throughout this session by myself, Senator MOYNIHAN, and other colleagues to prevent the Secretary from raiding the Trust Funds as he did during the last debt-limit crisis—and in previous year—without informing the Congress or Social Security's Board of Trustees. I believe that the language finally worked out in the Finance Committee this week will protect the Trust Funds from this kind of misuse and will keep the reserves maximally invested for future beneficiaries, while guaranteeing that current beneficiaries' needs are met.

As you know, Mr. President, incoming Social Security contributions from current workers go to pay beneficiaries, and the surplus is invested in a Trust Fund that can either be used to pay beneficiaries in months when receipts are less than current needs, or remain invested to draw interest for future beneficiaries. But when the debt ceiling was reached last fall, the Secretary disinvested long-term securities held in the Social Security Trust Fund so that incoming contributions could be used to pay for other operations of the general Government. This is not an acceptable way to manage the Trust Funds for the benefit of future generations.

Mr. President, Congress acted quickly to require Treasury to restore the interest that was lost in last fall's disinvestment episode, but it should never have happened in the first place. The amendment that was worked out in the Finance Committee ensures this by permitting disinvestment only in the event that it is required to issue current beneficiaries' checks. Ordinarily, workers' contributions are received by the Treasury Department throughout the month, and Treasury makes a "normalized tax transfer" to the Social Security System in one lump sum to cover the checks for the month, with any residual contributions invested in the Trust Funds. The provision worked out in committee ensures that in the event the debt ceiling is reached and Treasury fails to appropriately credit Social Security with the normalized tax transfer, securities could be disinvested to pay beneficiaries that month, but contributions received thereafter could not be used by Treasury for other purposes—as they were last fall. As workers' contributions were received throughout the month they would be directly credited to the Social Security System, rather than allowing the Treasury to use the funds for general Government and induce further disinvestment of the Trust Funds to cover the next month's benefit checks. The amendment further requires that Treasury repay the interest lost from the otherwise unncessary disinvestment and the failure to invest the surplus as soon as the debt limit had been raised.

Mr. President, I believe that this measure represents a much-needed modification of our present Social Security laws, in which the conflicting responsibilities of the Treasury Secretary permit decisions that are not in the best interest of the Social Security System. I strongly urge my colleagues to concur in the amendment that the Finance Committee has reported.●

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, a parliamentary inquiry.

It is my understanding that the pending business is now the committee amendment, as modified by the floor manager, the Senator from Pennsylvania. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2226

(Purpose: To modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985)

Mr. RUDMAN. Mr. President, I send to the desk an amendment in the nature of a second-degree amendment to the committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], on behalf of himself and Mr. GRAMM, Mr. HOLLINGS, Mr. COHEN, and Mr. EVANS, proposes an amendment numbered 2226.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 17, strike out "August 15, 1986." and insert in lieu thereof the following:

August 15, 1986.

TITLE III—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

That this title be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986."

SEC. 301. REVISION OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) REVISION OF REPORTING RESPONSIBILITIES.—(1) Section 251(b) is amended—

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT OF THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1991), by account, for nondefense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under paragraph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any differences between the contents of such report and the report of the Comptroller General under paragraph (1).".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof "Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(l)(2) is amended by striking out ", in accordance with section 251(d)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251 (b) or (c)(2)" and inserting in lieu thereof "section 251 (b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251 (b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251 (b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. RUDMAN and Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. RUDMAN. Mr. President, let me first say to my friend from Nebraska that I believe that the amendment he offered in the nature of a perfecting amendment, which is still pending, certainly ought to be voted on, and I intend to vote on it and to ask that the Senate vote on it.

The reason for this amendment is quite simple, and I want the Senator from Nebraska to understand exactly what the Senator from New Hampshire is doing, because we want to be totally open with each other. It is the opinion of Senator HOLLINGS, Senator GRAMM, and myself that because of the nature of the debate on this issue, the first vote on this matter should come on this amendment.

This amendment is identical to the amendment that was offered heretofore, both in the first and second degree, to what I would call the left half of the amendment tree. It is therefore now pending. I believe I am correct in stating that it is not amendable in any way, form, or manner.

I am now delighted to yield the floor, and certainly would be willing to discuss this matter with the Senator from Nebraska. That is the only reason for this. It was pending, and we have made it clear from the beginning that we wanted an up-and-down vote on this matter first on the floor of the Senate, and then I think any other matter which Senators ought to be debating should be debated and voted on.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1650

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I thank the Senator from Nebraska for his courtesy. This is purely a technical change. I now send to the desk a modification of page 1 of our amendment. It was made necessary by the nature of the language change in the modification of the committee amendment offered by the Senator from Pennsylvania. This is a modification on page 1 of my second-degree amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

The modified amendment is as follows:

On page 9, line 18, strike out "this Act." and insert in lieu thereof the following: "this Act."

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1700

Mr. THURMOND. Mr. President, I ask unimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

(Mr. COCHRAN assumed the Chair.)

COMMENDING THE COMPASSIONATE ASSISTANCE EXTENDED TO SOUTHEAST FARMERS BY OTHER AMERICANS

Mr. THURMOND. Mr. President, earlier today I informed the Senate of the extent of the drought which the southeast region is experiencing. I commended the farmers who have contributed hay to feed the starving livestock in South Carolina and in other States in the region.

These farmers epitomize the American spirit of lending a helping hand to your neighbor in times of trouble. I know that I speak for the citizens of South Carolina when I say that we are truly appreciative of the generosity of these farmers, and the efforts of the various Government leaders who continue to work on arrangements to provide hay and feed grains to this devastated region.

Today farmers throughout the Nation are experiencing a crisis of their own. It seems that every day we read news accounts of decreased farm income and increased farm foreclosures in our country. The generosity of these particular farmers is further underscored when we consider that these contributions come in the midst of this national crisis. Instead of receiving desperately needed income for this hay, these farmers have contributed the source of their livelihood to others in need.

Because of these circumstances, I inquired of the Internal Revenue Service as to whether current law would allow these farmers equitable tax treatment for their contributions. I am sorry to report that even under emergency circumstances such as the worst drought in over 100 years, current law does not allow these public-spirited farmers to obtain fair tax benefits for their generosity.

Under curent law, a taxpayer gets a deduction, in the year paid, for the amount of money he contributes to a charitable organization or a State. However, there are special rules under section 170 of the Internal Revenue Code which apply to gifts of property.

The charitable deduction for contributions of ordinary income property is limited to the donor's adjusted basis which is usually his or her cost in the property. For example, if a painter donates one of his works to a museum, he would only be able to deduct his basis in the painting. This would

amount to the actual cost of producing the painting. I can understand that the policy behind such a provision is based on the prevention of fraud. For instance, many people might overvalue a product which they produce themselves. Such values would be subjective and difficult to prove or disprove.

Despite the reasons which might be advanced to justify this policy, emergency circumstances require different remedies that are more equitable.

Accordingly, I am introducing legislation which fairly considers the circumstances and offers a limited exception to the general rule in emergency situations.

This legislation would allow equitable charitable contributions to farmers who donate agricultural products for the ultimate benefit of individuals who have been adversely affected by drought, flood, or any other natural disaster. The donee of the agricultural product, for instance the State Agriculture Department, would certify that all reasonable efforts would be made to distribute the product to farmers truly in need. In order to obtain the more favorable deduction, the donor must contribute the product within a 6-month period from the time of the natural disaster. The recipient of the product must also certify that the contribution has been made during this time period.

In order to assure certainty in the value of the product, the charitable contribution would be limited to the wholesale market price for the product based upon the lowest wholesale market price for such product in the regional market nearest the farmer during the month in which the contribution is made. Furthermore, this exception is limited to agricultural products, which are specifically defined in the bill.

This legislation has been carefully drafted with the policy of the current law in mind. It provides certainty in determining the value of a product. It applies only to agricultural products. It is only applicable to a limited period of time following a natural disaster. It provides necessary assurances that the products will benefit only those people who desperately need them.

As a matter of law, it is tailored to avoid abuse. As a matter of general fairness, it allows farmers to have the benefit of their hard work when they contribute products to States devastated by natural disaster. It is by no means a windfall to farmers. It is a fair deduction necessitated by emergency conditions.

Mr. President, I am also submitting a resolution which commends the Government officials who have assisted in providing the desperately needed hay to my State and other States in the drought-stricken Southeast, and to commend the farmers who unselfishly contributed their products to prevent the starvation of livestock.

Mr. President, I am sending both measures to the desk and ask unanimous consent that immediate consideration be given to the resolution.

Mr. President, this has been cleared with the distinguished Democratic leader.

Mr. President, I further ask unanimous consent that the text of these measures be printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from South Carolina? Without objection, it is so ordered.

The texts of the resolution and the bill follows:

S. RES. 451

Whereas the drought in the Southeast has been the worst in over one hundred years;

Whereas the Southeast is suffering from record heat;

Whereas damage to crops in the Southeast has been estimated at nearly $700,000,000;

Whereas the livestock are starving due to a lack of feed;

Whereas farmers in other areas of the Nation have offered assistance in the form of feed grains and hay for the livestock;

Whereas leaders across the Nation have worked together to transport the goods to the Southeast; and

Whereas these goods are helping to alleviate the suffering of the farmers in the Southeast: Now, therefore, be it

Resolved, That it is the sense of the Senate that the farmers and government leaders that have been a part of this effort are to be commended for their public-spirited actions in helping to alleviate the suffering of the farmers in the Southeast.

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRIBUTIONS OF AGRICULTURAL PROPERTY FOR VICTIMS OF NATURAL DISASTERS.

Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) CONTRIBUTIONS OF AGRICULTURAL PRODUCTS FOR VICTIMS OF NATURAL DISASTERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the amount allowable as a deduction under subsection (a) for any charitable contribution of an agricultural product by a taxpayer who produced such agricultural product shall be an amount equal to the wholesale market value of such agricultural product if the State, State agency, or other organization described in subsection (c) to which such agricultural product is donated submits to the taxpayer a written statement certifying that reasonable efforts will be made to assure that the ultimate beneficiary of such agricultural product will be individuals who have been adversely affected by a drought, flood, or other natural disaster that occurred during the 6-month period ending on the date on which such contribution is made.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) WHOLESALE MARKET VALUE.—The term 'wholesale market value' means, with respect to any agricultural product, the lowest wholesale market price for such product in the regional market nearest the taxpayer during the month in which the contribution is made.

"(ii) AGRICULTURAL PRODUCT.—The term 'agricultural product' means any hay, feed, crop, livestock, poultry, or product thereof.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to contributions made after June 30, 1986, in taxable years ending after June 30, 1986.

Mr. THURMOND. Mr. President, I might say that cosponsors of the resolution are Senators HOLLINGS, HELMS, TRIBLE, DANFORTH, KASSEBAUM, GRAMM, BOSCHWITZ, BROYHILL, NUNN, FORD, LEVIN, ABDNOR, COHEN, DURENBERGER, BOREN, BIDEN, DENTON, LONG, KASTEN, HAWKINS, HARKIN, COCHRAN, SARBANES, STAFFORD, DIXON, CHILES, METZENBAUM, QUAYLE, ROCKEFELLER, EXON, and MCCLURE.

The cosponsors of the bill that I am introducing are Senators HOLLINGS, GRASSLEY, ZORINSKY, BOREN, ABDNOR, DENTON, and COCHRAN.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 451) to express the sense of the Senate commending the compassionate assistance extended to Southeast farmers by other Americans.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there further debate?

Mr. HOLLINGS. Mr. President, I wish to commend my senior colleague for his leadership on this score. We have been recipients of an outpouring of help from the Governor of Illinois. I wish to thank him and Senator SIMON and Senator DIXON. They have already made deliveries of some hay to the stricken farmers in my State.

The Senator from Massachusetts, Senator JOHN KERRY, has another 30 tons. We are having a little bit of problem there about the delivery. But, aside from the problem, I do not want to confuse it with this particular initiative.

We ought to have that kind of deduction made. Certainly there is no greater thing than when farmers found in these desperate circumstances receive this kind of charity and help and assistance, that if there is any kind of deduction or exemption within the Internal Revenue Code for any particular initiative, it should be for this one.

We have also heard from the Senator from Nebraska. I want to thank Senator EXON and others and join my senior Senator in asking for the enactment of this resolution.

Mr. KASTEN. Mr. President, I rise in support of Senate Resolution 451, expressing the sense of the Senate

commending the compassionate assistance extended to Southeast farmers by other Americans.

Over the last 2 days, I have been involved in organizing an emergency airlift of hay from Wisconsin to the Southeast. This airlift will begin tomorrow and will be supplemented by other hay transported south by road and rail.

Clearly, the hardship that the great drought of 1986 has inflicted on farmers in the Southeastern United States has struck a chord among Wisconsin farmers, many of whom have been going through some very difficult times themselves in recent years. In Wisconsin, also, we know something about livestock, and Wisconsin farmers cannot but sympathize with the plight of the cattle forced by the heat and lack of rain to suffer without adequate forage.

Helping neighbors in trouble is an American tradition that is especially strong in Wisconsin; and I think it is well worth the Senate's time to draw public attention to this admirable gesture of sympathy extended by farmers in one part of the country to their suffering brethren in another part of the country.

I commend the Senator from South Carolina for offering this resolution, and urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on the resolution?

If not, the question is on agreeing to the resolution.

The resolution (S. Res. 451) was agreed to.

The preamble was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that the RECORD be kept open so statements may be made by others.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1710

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The Senate continued with the consideration of the joint resolution (H.J. Res. 668).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I do not seek recognition. I think we can go about the regular business of the Senate.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New Hampshire to the committee amendment.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, the distinguished Senator from New Hampshire is on the floor. Am I correct that this Xerox copy is the amendment to the Budget Act that we are going to act on today? It says "to committee, as modified." Has this gone to the Finance Committee?

Mr. RUDMAN. I believe I understand the question of the Senator from New York. The modification refers to the modification offered by the Senator from Pennsylvania to an amendment which I think bears the name of a Senator from New York which was the committee amendment pending. This is offered as a second-degree amendment to that amendment as modified.

Mr. MOYNIHAN. Am I to take it that this could end up as the Moynihan-Gramm-Rudman-Hollings amendment?

Mr. RUDMAN. We certainly hope so. [Laughter.]

Mr. MOYNIHAN. Mr. President, I urgently suggest the absence of a quorum. [Laughter.]

The PRESIDING OFFICER. The clerk will urgently call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, momentarily I would like to propound some questions to one of the sponsors of the measure presently before us. But I call the attention of our colleagues to a very valid point made and suggested by our distinguished colleague from the State of New York [Mr. MOYNIHAN]. I would ask him if my perception is not accurate on the matter; that the amendment before us, although it has been suggested that it has been referred to the Finance Committee is yet to have hearings held on it. Is that correct?

Mr. MOYNIHAN. May I say to my friend from Colorado that I am reminded in this piece of paper of Karl Marx's remark about Emperor Louis Napoleon who was the grandson once removed, a relative in some way, of the Emperor Napoleon Bonaparte, and he used the phrase "first time tragedy, second time farce."

It was tragic to be on this floor last October as the Senator and I were day after day saying can someone tell us what we are about to vote on, an epic event, that was so advertised, I think, we thought it was unconstitutional, but it is not every day we pass something that is unconstitutional. We would ask for copies, and occasionally a single page would be passed over, and then it would be asked to be given back because there were changes being written in the Cloakroom.

There had been no hearings. There was no report. It had never been near the Finance Committee. The Budget Committee had held no hearings on the matter. And this measure has never been near the Finance Committee. We do not know a thing about it. If there is one member of the Committee on Finance who can explain to me what this says, I wish he would come to the floor. This is our committee. The debt limit is within your jurisdiction. There is no report. There is no comprehensible language. It could mean any of nine things, and will be found to have done so if by some great mischance it is enacted.

I have consulted one of the most distinguished, learned, and able members of the committee staff that I have had the privilege of working with for almost a decade. I have asked him what does the amendment say. I said, "Show me in the amendment where it says what it does." He said, "I have to say there is not any place in the amendment where it says what it does. But this is what we hear it does."

I am sorry I cannot be of any help to the Senator from Colorado.

Mr. HART. If the Senator from New York would respond further, does the Senator from New York recall when the Supreme Court, as predicted, rendered its decision that the procedures under the so-called Gramm-Rudman-Hollings No. 1 were declared unconstitutional? That was, as I recall a month or 6 weeks ago, something like that.

Mr. MOYNIHAN. It was about a month ago. It was in the first week of July.

Mr. HART. In any case, the point is: Has there been, in the judgment of the Senator from New York, sufficient time elapsed for a measure to be presented to the Finance Committee, hearings to be held upon that measure from constitutional scholars, and those who are expert in the workings of our Federal Government, and for the Committee on Finance to have rendered some judgment on that measure as the so-called fix to the Supreme Court's decision? Has sufficient time elapsed for that?

Mr. MOYNIHAN. There has been all together enough time. Any time the committee was not doing something else, there was time enough to take up a matter of this consequence, a matter of profound constitutional and procedural consequence, and a matter of the most extraordinary impact on the committee's own responsibility. The committee has been in existence since 1915. Not a minute, not a moment was

used to discuss why the U.S. Senate, by a vote, if I recall of 75 to 24, how did we come to do something so manifestly unconstitutional such that the Senator from Colorado could stand on this floor and say day after day it is not constitutional?

□ 1720

Why do we do that? It may be that the court has erred. That is possible, in my judgment. I am not prepared to agree with the court, but we have to obey it. We have to. But, no, there was no hearing, there was no discussion. There was no discussion of discussion. It has to stand as a desire by that three-quarters majority not to discuss.

Mr. HART. Will the Senator from New York agree with the Senator from Colorado that what we are seeing here is perhaps a rerun of a fairly well-known phenomenon which might best be described as legislate in haste and repent in leisure? Is that what we are about to do once again?

Mr. MOYNIHAN. Once again. First time tragedy, second time farce.

I cannot help but to suggest would it not be within reason for the sponsors, who are responsible men and serious men, to have come to the floor with a two-page explanation of what they propose to do? Is there something in the press gallery that we do not know about? How is the press to know or anybody to know?

We have talked about the abdication of responsibility. The Senator from Colorado and I over and again on this floor have cited President John F. Kennedy, when Kennedy said "to govern is to choose."

What we are abdicating in this whole method is the need to choose. We are going to let a machine make the choices that Congressmen and elected officials do under the Constitution.

We are asking today not simply to abdicate the choice of specific measure with respect to the budget of the United States of America, but we are even abdicating the choice of deciding what legislation we should enact because we do not know what this says. We are just told to vote for it. That is not choice. That resembles the procedures for which this body was established in the Constitution two centuries ago to put an end to.

I find it baffling.

I say to the members of the Finance Committee we have never seen this proposal. We should have 4 weeks at least to have it debated, have it printed, and have a report saying something about what it does, something about the views of the authors about why their proposal turned out to be judged unconstitutional, as was forecast by the Senator from Colorado.

That has not happened.

I do not think the American public will find this a procedure that redounds to the reputation of this body. No, I do not.

Mr. HART. I thank the Senator from New York for his observation.

Mr. President, the Senator from Colorado, as a student of military history, is reminded of the Civil War by the debate on Gramm-Rudman, Part II. At that time, young men of wealth could purchase an indulgence and send a substitute soldier to do the fighting.

In conscriptions of this era, we have tried to eliminate that practice. The obligations of citizenship should not be sold or transferred in the name of convenience.

I am sorry to say that in the battle of the deficit, one of the great economic challenges of our time, Gramm-Rudman-Hollings substitutes political convenience for civic virtue. We have courage enough, they say, to cut the people's taxes. But when it comes to make hard choices about their programs, we are to cede the power to cut the budget to someone else.

The question is, who should it be? The Supreme Court has now said it cannot be the Comptroller. We are presently in search for some other responsible official, or perhaps an irresponsible official, to fill that role.

In the elegant phrase of the senior Senator from Maryland, it is cutting the budget by "anonymous consent." Buy an indulgence. Hire a substitute.

The substitute proposed to be hired is the Director of the Office of Management and Budget.

The events of the last year force us to conclude this course is folly. When Gramm-Rudman-Hollings was debated on this floor, opponents of the measure made assertions that history has proven correct.

The senior Senator from New York rightly called this bill an assault on the building blocks of national security—operations and maintenance, readiness and personnel. He was right. The Armed Services Committees are stalled in writing an authorization bill due to the mischief this law has caused.

We said it would prevent needed national investments in students, workers, and technology. When Democrats offered an alternative budget to provide those investments, it was turned down. The country cannot afford to invest in our economic security, we were told.

We said the Supreme Court would pull the plug on computerized budget-cutting. And it did.

We said Gramm-Rudman-Hollings would not work, that you cannot conform the dynamic nature of the economy to the static vision of sequestration. We cannot. The deficit has gone up, not down.

We warned colleagues on both sides of the aisle: Do not believe the sponsors who suggest that the threat of across-the-board cuts will force the administration to negotiate on revenues. "You are wrong," said the sponsors. "Make my day," the President replied.

Ignoring this history, we return to the scene of the crime—as recidivists, not as the reformed.

In reply to the Supreme Court, the sponsors restore the sequester by placing in the hands of the President's Budget Office the final power to make across-the-board cuts. This proposal is dangerous: It further aggrandizes an agency which has become a rogue elephant, and it corrupts the budget process.

Gramm-Rudman granted GAO this authority out of respect for its neutrality. The supporters of the law recognized the perils of giving the automatic cuts to OMB, an agency sharing office space with the President. We created the Congressional Budget Office to review the estimates of the OMB. In 8 of the last 9 years, it has revised the President's projected deficit upward, by an average of 16 percent. OMB, in the 1987 budget, underestimated the size of the defense budget by $130 billion. In Gramm-Rudman-Hollings II, OMB has enormous discretion: To manipulate the size of the base, to manipulate the size of the sequester, to manipulate defense program spend-out rates, and the ratio of budget authority to outlays.

As a recent Government Affairs Committee report stated: "Congress has come to understand OMB as an agent with a point of view * * * once a ministerial chore performed by career bureaucrats, budgeting at OMB has become a policysetting and sometimes partisan political process."

Politics knocks on every door at OMB. The agency has illegally impounded housing and refugee assistance funds, in pursuit of the President's agenda. OMB has improperly blocked the promulgation of asbestos regulations, in pursuit of the President's agenda. OMB defied a congressional mandate, blocking the promulgation of an FDA rule to assure the purity of baby formula * * * in pursuit of the President's agenda. We are tempting the fates to assume that somehow, someway, OMB will wear an honest, nonpolitical green-eyeshade if we expand its power over the budget.

The sponsors argue that without their amendment, deficit reduction will falter, the "miracle" of 1.1 percent economic growth will slip away, and the sky will fall. We all know that is nonsense.

For those of our colleagues who support the concept of Gramm-Rudman, the Supreme Court left much of it intact: Deficit targets, the requirement that amendments be deficit neutral, spending ceilings which bind on sub-

committees, and the so-called fallback procedure.

But the Supreme Court left us with something no one can take away—commonplace courage.

□ 1730

It is the courage which enabled a steamroller named Bradley-Packwood to pass the Senate by 97-to-3 vote; the courage to subordinate national interests over special interests.

It is the courage to tell the President that revenues and defense must play a central role in deficit reduction.

It is the courage to let farmers control their own destiny with a supply management program that will save the Federal Treasury billions of dollars.

It is the courage to ask citizens—in the name of deficit reduction and energy security—to accept a fee on imported oil or a tax on gasoline.

It is the courage to say to beneficiaries of social programs or federally sponsored economic development programs, they, too, must contribute to deficit reduction.

It is also the commonsense to recognize that courage—as any other strength or human virtue—wastes away when we ask others to do our fighting for us.

It is, in my judgment, the courage to say that we made a mistake—that Gramm-Rudman must be repealed—that courage cannot be legislated—that expedience is no substitute for Congress shouldering this burden.

Mr. President, it has been said, and I expect it will be said further, that there is no alternative to Gramm-Rudman, that those who oppose Gramm-Rudman as this Senator did when it first appeared weeks or months ago are in favor of continued deficit spending and profligate spending by the Government, that we do not have the courage to make cuts or impose the revenues necessary to balance the budget. I can only say on behalf of the Senator from Colorado that that is not true. As late as this year, the Senator from Colorado put forward specific proposals with specific numbers that included new revenues, that included, in specific terms, reductions in domestic spending, and that included targeted cuts in defense spending that did not harm our conventional deterrent. So to posit the strawman that there is no alternative to Gramm-Rudman is just not true.

There are those of us—in my case it goes back well over 10 years—who have moved each year in Congress, whether the deficit was $40 billion under Jimmy Carter or over $200 billion under Ronald Reagan, each year put forward programs and policies and specific measures that balanced the Federal budget. What we do not need to do is badly misconstrue the relative balance of power in our Government to achieve that objective under some sense that there is no alternative.

Mr. President, there is always an alternative, and those alternatives are available to the Senate today and tomorrow, rather than to accept this very unwise proposal.

Mr. KENNEDY and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, let me say to the Senator from New York that I do not want to interfere with the flow of debate, but the Senator from Connecticut and I shall be only a few minutes. Then I ask unanimous consent that my comments and perhaps the comments of the Senator from Connecticut appear at a appropriate place in the RECORD not to interfere with the exchange.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. KENNEDY, Mr. WEICKER, and Mr. CRANSTON, delivered at this point are printed later in today's RECORD.)

Mr. MOYNIHAN. My friend from Colorado is on the floor, as he was almost continuously during the debate last December on this Gramm-Rudman-Hollings legislation. He was kind enought to ask me some questions earlier, and I referred to the comparison between the First Empire and the Second Empire as between Nepoleon Bonaparte and Louis Napoleon as made by Karl Marx. In find curious residence in a passage from the memoirs of David Stockman. He is talking about the early months of the present administration, which in all truth the Senator from New Hampshire is trying to do something about. The Senator from New Hampshire did not create this crisis. He is trying to do something about it. It is the kind of thing that he is trying to do that concerns us.

The administration realized full well that their tax reductions and so forth would lead to a tremendous deficit, and they had a question: Would they tell this to the American people or would they commence what was in effect an enormous conspiracy to change the nature of the American Government, which the American people had not proposed but which they would end up having no choice but to do. He says,

> The prospect of needing well over $100 billion in domestic spending cuts to keep the Republican budget in equilibrium appeared more as an opportunity than as a roadblock. Once Governor Reagan got an electoral mandate for Kemp-Roth and 10-5-3, we would then have the Second Republic's craven hands pinned to the wall.

We are the Second Republic. There was a more virtuous earlier Republic.

> They would have to dismantle its bloated, wasteful and unjust spending enterprises or risk national ruin.

He then went on to say in a key passage, "The success of the Reagan resolution depended upon the willingness of the politicians to turn against their own handiwork—the bloated budget of the American welfare state. Why would they do this? Because they had to. In the final analysis I"—Stockman—"had made fiscal necessity the mother of political invention."

That is the Director of the Office of Management and Budget to whom we are to turn over the judgments about what the U.S. Government will spend.

We have just seen such a conspiracy in place to dismantle domestic enterprises but without this power, and that is why Mr. Stockman calls his book "The Triumph of Politics," because elected people stepped in and said, "No, you can't do that; we want the Social Security System, we want the farm program and we want a couple more farm programs as a matter of fact." An unelected man contrived to force us. I would like to ask the Senator from Colorado: Suppose an unelected head of OMB contrives another process? We have seen a person wanting to dismantle the domestic side of Government. Suppose someone came to office, and it could happen, whose idea was to put an end to "bloated American militarism," as he might describe it—some caricature of a leftist—sometimes these people are caricatures of genuinely conservative thinking—some caricature on the left could arise; and the idea was to disable the Armed Forces of the United States, and that Director of OMB, with this proposed new power, with the President's knowledge—perhaps contrivance, perhaps not—said: "Mr. President, you have no choice but to take $200 billion out of this budget and close down, in effect, the armed services of the United States."

Would he not have the power to do that?

□ 1750

Mr. HART. I say to my distinguished colleague from New York, not understanding completely what the so-called fix that is before us contemplates, since we have had somewhat limited debate—no debate, I guess, up to this point—that I do not know what the answer to that could be. But it is certainly within the realm of reason that if one imposes one set of ideological values on the budget of the United States——

Mr. MOYNIHAN. Which we have seen happen.

Mr. HART. Which we have seen happen—that under this law there is no reason to believe that we could not impose a set of ideological values—namely, one which, as the Senator suggests, strongly works against the largest bureaucracy and agency of Government, the Pentagon, and works

in favor of all those horrible domestic programs.

I must say that if that were to transpire under Gramm-Rudman II, it would be mightily helped by a President who refused to consider one cent of revenues, including an oil import fee, and talked, in terms of a kind of Eastwood-esque rhetoric,, "Make my day," as if that were some sort of meaningful policy declaration, and at the same time said: "There will not be 1 cent of cuts in any of these domestic programs, whether housing, education, health, or anything else. Every cent of cuts must come from that one agency, since it is, after all, close to one-third of all Federal spending, and we are not going to raise any revenues because I do not believe in it."

If we had that situation, as I believe we have today, that ideological value system from the other direction could prevail.

Mr. MOYNIHAN. It is a possibility. We have seen it happen in one of these extremes. We can see it happen in the other.

There is an article that just appeared in Commentary magazine by the distinguished political scientist James Q. Wilson, whom I know the Senator from Colorado admires. I do not always agree with him, and vice versa. In reviewing Mr. Stockman's memoirs, Wilson writes of the early months of the administration:

> It was during these months of difficult and painful economic adjustment that David Stockman and a handful of apparently like-minded ideologues decided to remake domestic public policy.

The head of OMB, to whom Congress is delegating these powers to a degree unprecedented on the assumption that a rational man is there. What if the man is not rational? What if he is profoundly rational but conspiratorial?

Professor Wilson went on, recalling the remarks of one Senator who voted for the bill and said it was a bad idea whose time had come. He said that we mean nothing personal about this. We are talking about this and our Constitution.

He said:

> The Gramm-Rudman-Hollings reduction is not a viable idea.
>
> Reducing the budget by making deep, indiscriminate, across-the-board cuts in everything from the FBI and the Coast Guard to agricultural subsidies and military spending is madness, a fiscal guillotine that reflects no conception whatsoever of what is and what is not in the public interest.

I say, from more than half a lifetime of friendship with Professor Wilson, that he is not given to using such language casually. It is not his view that the U.S. Congress tends toward madness, but he has used the word "madness"—"reflecting no conception whatsoever of what is and what is not in the public interest."

I ask the Senator from Colorado, would he not agree that perhaps the oldest constitutional question that has engaged the executive and the legislative branches has been the degree to which the President has been required to spend moneys Congress had appropriated, or whether he had some discretion?

Always, it was a question of the President choosing not to spend money. President Jefferson refused to spend some moneys when appropriated for gunboats on the lower Mississippi. President Nixon made some similar decision. We enacted an Impoundment Act. We rose constitutionally and said: "No, sir. You must do as instructed by the budget."

It is not a dozen years since the Impoundment Act was enacted. Are we not giving the President an unprecedented delegation of power to reduce spending as he likes?

Mr. HART. The Senator is correct to the 10th degree.

The point here is that we are going far beyond, it seems to me, the position our Government was in before the Impoundment Act was passed. But instead of giving the President the power and the responsibility which goes with that power, we are giving it to a functionary of the President. We are not even empowering the President. We are empowering a subordinate of the President who has demonstrated, particularly in recent years, a profound willingness to be political and to pursue the same kind of ideological agenda that the Senator was talking about earlier. So I think it works in both directions.

Mr. MOYNIHAN. Does this not raise the question of whether, in the face of a challenge, the court would say that this was an unconstitutional delegation of power? It might.

Mr. HART. As much as the Senator from Colorado came to love the study of constitutional law and, in a secular sense, to worship the Constitution itself, the Senator from Colorado would not elevate himself to the level of a constitutional scholar.

The opinion of the Senator from Colorado is that this proposal, this so-called fix, is probably fraught with equal constitutional peril as the measure which it seeks to replace.

Mr. MOYNIHAN. I think that is a restrained and careful statement from a restrained and careful Senator. Constitutional peril. We acted in response to almost trivial sums that President Nixon chose not to spend openly. There was no question about what he was proposing.

□ 1800

We now make it possible for someone to do this deliberately, or suppose someone just was wildly wrong. We are acting under a proposition that presumes a 4-percent real economic growth rate for this fiscal year and we learned the last quarter was just 1.1 percent.

Suppose a perfectly respectable man with no conspiratorial purpose in mind says, "My lord, we are heading for a massive recession, depression; we are going to have a tremendous shortfall. I am obliged as an honest man to tell the President to get rid of $150 billion fast."

He would have the power and no one would naysay him. It is his judgment. There may be people in this world who know how to predict the gross national product. If there are, they do not tell anyone. If you have that power of prophecy of 6 months, you need never work again.

But it is an utterly imperfect effort. It is a responsible one, but always wrong, and always wrong usually in an unspecified direction.

Does the Senate know what we are delegating to the President? Is this the same Senate that passed the Budget Impoundment Act? The Senator from Colorado was here at that time, was he not?

Mr. HART. It was just before I came to the Senate.

Mr. MOYNIHAN. Just before. Then he does not have to account for his position in that regard. The Senator from New York was not, and the Senator from South Carolina was.

Mr. President, I can only say that any measure James Q. Wilson describes as madness should be looked at very carefully in this body and I hope we do that.

Before I sit down, as I see my distinguished friend from New Hampshire is on the floor, I ask unanimous consent to have printed in the RECORD a very carefully reasoned article by the Senator from Colorado [Mr. HART] on this subject, entitled, "Get Rid of the 'Monster'," which appeared in the New York Times on Monday and which has as its central proposition the fact it says right here, "Congress ought to vote budget cuts."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 21, 1986]

GET RID OF THE "MONSTER"

(By Gary Hart)

WASHINGTON.—There is a genre of cheap horror film in which the monster does not die. Unfazed by bullets that would stop mere mortals, the behemoth charges forward, laying waste to everything. The ugliest, most formidable monsters even get resurrected after the last reel. So it is with Gramm-Rudman-Hollings.

Before Congress adopted this deficit-reduction process, Senate foes issued a warning. We said it would harm essential building blocks of national security—for example, training soldiers and spare parts for conventional arms—and it has. We said it would prevent investment in national priorities such as education and training—and it has. We said the Supreme Court would pull the

plug on its computerized budget cutting—and it did. We said that if Congress truly wanted to cut the deficit, it should vote to do so in order to benefit America's economy; the Court agrees.

Gramm-Rudman's authors sought to insulate Congress from the politically unpalatable task of making hard choices. When the deficit exceeded an arbitrary amount, the Comptroller General of the General Accounting Office was designated to cut the budget across the board. The Supreme Court held that this improperly assigned executive branch decisions to an officer whom Congress could fire. No matter how important deficit reduction may be, the Court said, such political expedience offended the Constitution: Congress must vote the cuts.

Now, the folks who created the monster are writing a sequel: The Return of Gramm-Rudman. It promises to be even more destructive than the original. Gramm-Rudman II gives the President's Office of Management and Budget final power to make across the board cuts. This "fix" may satisfy Congressmen seeking to avoid responsibility for such cuts, but it raises profound questions about dramatically expanding the power of an agency known as a rogue elephant in this Administration.

The last six years have seen a steady and startling aggrandizing of O.M.B.'s power. O.M.B. exerts strict control over executive agency budgets, over personnel strength and can edit or block testimony before Congress by Cabinet and agency heads. It can classify budget information as top secret. It once forced delays in a regulation mandated by Congress to protect the purity of baby formula, allowing a substantial amount of defective products to enter the market.

O.M.B. is no neutral accounting firm. Besides repeatedly altering the economic forecasts on which the Administration's budgets are based, thereby grossly underestimating the size of the deficit, it illegally impounded funds for housing and refugee assistance programs. This record of mischief recently moved the Republican-controlled Senate Governmental Affairs Committee to say that "budgeting at O.M.B. has become a partisan political process."

Recognizing O.M.B.'s penchant for cooking numbers, Gramm-Rudman II empowers the G.A.O. to file suit, if the O.M.B. violates the spirit or intent of the deficit reduction law. In disregard of the Constitution, which vests Congress with pre-eminent powers over the Federal purse, Gramm-Rudman II not only expands the executive branch's budgeting role but subjects the setting of the nation's accounts to litigation and endless delays.

Gramm-Rudman should not be saved. It should be repealed. Congress should face the deficit squarely without gimmicks or extra-constitutional props. Gramm-Rudman's authors believe Congress lacks the courage to make such difficult decisions. But experts said that about the prospects for a comprehensive tax reform bill until a steamroller called Bradley-Packwood cleared the Senate, 97-3.

Presidential leadership, notably absent from budget debates, would be required. The Administration's dogmatic unwillingness to accept a tax increase would have to be surrendered to the adoption of an oil import fee or a gasoline tax. The Pentagon would be put on a predictable budget that allowed increases for inflation, but no more. A proportionate amount of domestic savings would become part of the mix. As with tax reform, where individuals and industries subordinate special interests to the national interest, full contributions from defense, revenues and domestic programs would be the glue holding serious deficit reduction together.

Under Reaganomics, the national debt doubled. Under Gramm-Rudman I, the deficit climbed higher. Gramm-Rudman II promises more debate, more delay and the injection of the Federal courts into the budget process. A real horror show.

Mr. MOYNIHAN. The Government is to decide. If the President wanted a balanced budget, he could send us one. If we want one, we simply have to enact one.

I thank the Chair. I see my friend from New Hampshire is on the floor.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from New Hampshire.

Mr. RUDMAN. Thank you, Mr. President.

Mr. President, I have enjoyed sitting here listening to my friend from New York and my friend from Colorado.

I would point out that I do not expect we will get into a long involved debate this evening but I would like to deal with some facts with which there can be no disagreement. If these facts are in error, I would be pleased to have the Senator from New York or the Senator from Colorado correct me. I believe these facts are correct.

First, as to the legislation itself, it is not under the jurisdiction of the Finance Committee. Rather, it is under the jurisdiction of the Governmental Affairs Committee.

This morning at 9:30, the Governmental Affairs Committee had an extensive hearing involving the sponsors, the Comptroller General, the Director of OMB, an eminent constitutional law professor, and several others. There was conducted a complete hearing and a complete record.

I would agree it would have been nice to have this hearing 2 weeks ago, nevertheless the hearing was held today.

The hearing record will certainly be available. It was an excellent hearing. Many questions raised here were raised at that hearing by committee members on both sides.

Mr. HART. Mr. President, will the Senator yield?

Mr. RUDMAN. If I may, I will yield for questions, as is my habit, but I would very much like to complete just two other statements which I believe were honestly contradicted by my friends from Colorado and New York, who are two of the most respected and learned men in this body.

I wish to correct a couple of facts which I am sure are simply errors.

First, a copy of this legislation and a copy of the explanation of the legislation, including a timetable which showed any deviations from the original Gramm-Rudman-Hollings law, was delivered to every Senator's office yesterday.

Second, in the Gramm-Rudman-Hollings II proposal now before the Senate there are no changes to certain controls which were previously placed upon the GAO and OMB by the original G-R-H law. I wanted to point this out because I agree with the Senator from New York that without a great many controls I too would have honest problems as he does with the role of the Director of OMB in this process.

I have read the book that the Senator refers to. There is much in it that is discouraging. But I would just like to read into the RECORD at this point, so that it is available when we debate this issue further tomorrow, the controls presently placed upon the Director of OMB and GAO by Gramm-Rudman-Hollings.

No. 1, the budget base line is defined by law.

No. 2, distribution of the cuts specified is in detail according to the law.

No. 3, the budget authority to outlay spending ratios in defense are specifically defined.

Those are the three major facts.

Let me simply finish up by saying that the views of the Congressional Budget Office and the General Accounting Office will be made public and available. OMB will be forced to justify any differences which occur under this law. Congress will have 30 days to act upon those differences.

And finally, I want to make one last point: the courts of this country have a very detailed plan contained within this bill. We retain within this legislation the rights of Congress or certainly any plaintiff to bring suit against the Director of OMB, should any of the sequestrations not be made in accordance with the strict controls of this law. That is in the law.

So I would say to my friend from New York that I share his suspicion about a lot of people in Government. I would not want to give the Director of OMB carte blanche to move in and make indiscriminate cuts and unrealistic estimates.

But if the Senator from New York and the Senator from Colorado have suggestions they wish to make which would further restrict and define the role of the Director of OMB, let me point out and this is undisputed by anyone, that Congress may in fact do so as long as we pass a law signed by the President. This is clearly constitutional by everybody's reading of the law.

So I would say to my friends from New York and Colorado if you want to help strengthen this law in terms of making the Director of OMB more accountable, more responsible, that is fine. The only thing the U.S. Supreme Court said was that the officer who makes the final determinations must be appointed and removable by the President. That is what they said and

that is what we have done, no more, no less.

I would submit to you that this two-page Dear Colleague letter, which is really one page and an attachment, is short because the changes contained in this legislation are essentially simple, easily explainable, and we would be pleased to answer any questions you have.

Mr. MOYNIHAN. Fine.

Mr. HART. Mr. President, I wonder if the Senator from New Hampshire will yield the floor for one question.

Mr. RUDMAN. I will, but I want to first correct something I said earlier.

I am told the amendment was not delivered but has been available upon request since Monday. The Dear Colleague was delivered.

Mr. MOYNIHAN. Our letter did not arrive.

Mr. RUDMAN. It was delivered to your office by hand.

Mr. MOYNIHAN. A commonplace error.

Mr. RUDMAN. A commonplace error—the mails.

Mr. HART. I wonder if the Senator from New Hampshire will tell us when the record of the hearing this morning will be made available to the Senate?

Mr. RUDMAN. I will certainly inquire about that from Senator ROTH, the chairman of the Governmental Affairs Committee. I would like the hearing record to be available because the testimony of the current Director of OMB and the testimony of the Comptroller General and particularly the testimony as to how well this bill has worked, Professor Wilson notwithstanding, I think would be worth while reading for all Members of the Senate.

Mr. HART. I think it would be more worthy reading if we could read it before we vote.

Mr. RUDMAN. I think that is a good suggestion, and we will try to do that if we can.

Mr. MOYNIHAN. Mr. President, the parliamentary situation is complicated, but I ask the Chair, would a sense-of-the-Senate resolution be in order which said that before we vote on Gramm-Rudman-Hollings II we have available to us a copy of the transcript of the hearings that were held this morning in order that we make judgments that obviously are important to us?

The PRESIDING OFFICER. In order for a resolution to be considered at this point, unanimous consent would be required to set aside the pending business.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that we set aside the matter before us in order that there be considered a sense-of-the-Senate resolution that we do not vote on Gramm-Rudman-Hollings II until the record of the hearing held this morning to explain the matter to the Committee on Governmental Affairs is available to the Senate.

□ 1810

Mr. RUDMAN. Reserving the right to object, and I will object, I am the very temporary occupant of this position, which is the leadership position. Only the majority leader of the U.S. Senate, in my view, could agree with the Senator from New York as to whether or not we ought to do that. So I would object. Of course, the Senator can renew that again if he wishes.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN. Mr. President, the Senator from New Hampshire is characteristically courteous and characteristically accurate and characteristically attentive to his duties in the leader's post here. I would not expect it would be possible for such a unanimous-consent request to be considered tonight, but that does not preclude one being made tomorrow.

May I say that the Senator is correct that the Parliamentarian has ruled that the matter of this bill belongs properly in Governmental Operations, but the Senate Finance Committee, really, in my view, ought to have been visited. It did not happen. And there is pressure. We are up against a deadline of the debt ceiling—not for the first time. It is no accident that we are once again on the debt ceiling.

I am sorry that the letter that he sent out did not make its way through.

Mr. RUDMAN. Hand-delivered.

Mr. MOYNIHAN. I happily accept this hand-delivered, Dear Colleague letter which is obviously an important one. I would happily accept the offer of the Senator from New Hampshire to see if there is some way we can ensure that this procedure is less susceptible to the conspiratorial events of late 1980 and early 1981, which had been revealed to us.

Mr. RUDMAN. Will the Senator yield for one moment?

Mr. MOYNIHAN. I am happy to yield.

Mr. RUDMAN. I would say to the Senator, Senators HOLLINGS and GRAMM and myself are as concerned about possible mischief making for the very reason the Senator from Colorado so accurately stated in his colloquy with the Senator from New York.

This bill is going to be in effect, with or without this provision, for a 5-year provision; hopefully with. We do not know who the President might be in 1989, what his bias might be towards anything. We believe the Congress has the absolute right, under the Constitution, not only to appropriate funds but to determine how those funds will be either limited or exceeded. That is precisely what Gramm-Rudman-Hollings was all about in the first place. And to the extent we draw rigid specifications, which we have already done, but if we can be more rigid, we certainly want to hear them.

Nobody in this Chamber, it seems to me, wants to give the OMB Director any more discretion than we have in this bill right now, and less, if that is possible. That is my view.

Mr. MOYNIHAN. May I say—and I do not want to continue the debate; I see the Senator from South Carolina is on the floor—I would put this to my friend from New Hampshire. In Gramm-Rudman-Hollings I, the judgment about the fateful reductions in the budget of the United States was delegated by us to the least political, most professional, most trusted officer of the Congress, of the American Government that one could hope to find. Apart from the Director of the Bureau of Standards, I do not know that there is another office which has the reputation for integrity and professionalism of the Comptroller General. It is not surprising that that was the office chosen in your first option, and the court told you you could not do it.

But we go from the Comptroller General, who, for 65 years, I believe, has earned and deserved the confidence of the Congress for professionalism and absolute nonpartisan judgment; we go from that office to the most politicized office in the executive branch of Government.

I have known every Director of the Bureau of the Budget, and later the Office of Management and Budget, since Kermit Gordon served under John F. Kennedy, and I have seen progressive politicization of that role.

I had occasion to speak on this several weeks ago—the Senator from Colorado might be interested to hear, and I think he would agree—talking about an episode that took place in the White House in 1981 in which it was recognized that the economic forecasts were all wrong, things were going to be much worse, the onset of the depression, small depression, of 1982 was already clear, and the decision was made not to tell the Congress and not to tell the public; to go, in effect, and tell the Congress other than the facts, as understood, facts as best understood.

I said not long ago, Could you imagine George Shultz agreeing in a meeting at the White House, "Fine, I will go up to Capitol Hill and lie"? No; no. The thought was beyond belief—that was not something which the Director would have to do. He might say, "I can get pneumonia and go away for 2 weeks and not say anything, perhaps, but I certainly would never misrepresent facts as understood." What happened, happened.

So we go from the august position in the Comptroller General making these judgments, without any concern for party or politics, simply following the mechanism, the very mechanism, too rigid in my judgment, but in our haste

that was the only way you could do it, but with the Comptroller General doing it.

We turn from that least political to the most political. Is that prudent? Is that a course of events that we want to set in motion? I find this difficult to understand.

But I thank the Senator from New Hampshire for correcting me with respect to the matter of hearings. A hearing was held. But I happen to know it was held this morning. I happen to know the record was not available, although Senators were present to know what was said.

I am happy that a "Dear Colleague" letter has come around and I regret that—it is in the mail somewhere, as this happens regularly.

I look forward to continuing this debate tomorrow. I would put the Senate on notice that I will ask unanimous consent that we not vote on this matter until the record of the hearing is available, but the Senator from New Hampshire quite properly objects that the majority leader is not on the floor and is not at this moment available, and that would be inappropriate to pursue at this time. Tomorrow is another day.

I thank the Chair.

Mr. HOLLINGS. Mr. President, I will try to cooperate and see if we cannot get copies of today's hearings for the Senator from New York so that his request for unanimous consent will not be necessary.

I rise because of the comments made by the Senator from Colorado and the Senator from New York. Unfortunately, we are making a permanent record and I just could not sit by and listen to the arguments of the Senator from New York and the Senator from Colorado and act like there was any real substance to it. When they talk about monsters and madness, manipulation, rogue elephants, scene of the crime, cutting by anonymous consent, believe me, they really know better than that.

What you are seeing now is confusion and avoidance. "Rogue elephant," "scene of the crime," "master madness," and all the other cute phrases are very nice.

I ran for President myself. I know if you can get these clever phrases in, and some journalist picks it up it will make a colorful story. It will be quoted.

Therein is the general substance of what the Senator from Colorado said in his statement. He says, for example, the deficits have gone up. That is absolutely false. He knows differently. He was here last week when we reaffirmed the $11.7 billion sequester of March 1 and saved $16 billion in 1987 and $18 billion in 1988 for a total of $45.7 billion in savings. That is a fact. The Senator from Colorado knows deficits have not gone up. They are going down.

I have been here for 20 years and we have never made cuts like that before.

With respect to the strategy of the distinguished Senator from New York about David Stockman, I only remind the distinguished Senator from New York that Stockman was his student, not mine. I never did believe him.

Mr. MOYNIHAN. Will the Senator yield for a comment on a point of personal privilege?

Mr. HOLLINGS. Yes.

Mr. MOYNIHAN. Mr. Stockman was my babysitter, not my student.

Mr. HOLLINGS. The Senator from New York told us he was his student. If he was his babysitter, I would not trust him with the baby.

Mr. MOYNIHAN. On a personal point of privilege, I did not say anything of the kind one way or the other.

Mr. HOLLINGS. There is no need to make a personal privilege about it. The Senator is the one who told me about his relationship with Mr. Stockman. I am not making it up.

Mr. MOYNIHAN. On a point of personal privilege, does the Senator suggest that I ever said Mr. Stockman was a student? A student is someone who comes to classes.

Mr. HOLLINGS. I misunderstood. I thought the Senator said he was a student under the Senator. He was a babysitter. The Senator told me that.

Mr. MOYNIHAN. Yes. He lived with us. I was very happy to have him. In return for living quarters, his principal responsibilities were to do babysitting occasionally.

Mr. HOLLINGS. But in any event, I would not trust him with the baby. [Laughter.] There is no question in my mind that Mr. Stockman is the biggest charlatan I have ever seen since I have been in Washington. He doubletalked everything. He was quick. He was clever. He was brilliant in his activity. But do not use David Stockman as a reason against this particular measure because I do not believe you will ever find that kind of artful dodger activity in the Office of Management and Budget ever again.

We have set the discipline. We have seen the track record of the present Director of the Office of Management and Budget, Mr. Miller. He has responded well with respect to the 1986 cuts. I do not intend to listen to these talks about courage and the abdication of choice when they are the ones who are trying to avoid the choice, avoid the courage, and play politics in the U.S. Senate.

I was not the one who put in an amendment for a 5-percent increase for Social Security on the floor of the Senate. I came in here late one afternoon, and it was the Senator from New York requesting a 5-percent increase for Social Security. I was one of three Senators that voted against it.

It is not popular to freeze Social Security or vote for Social Security cuts. But these Senators are the ones that have been recommending the spending, and now they are forced to make a choice. They say we are abdicating choice, giving us this philosophical professorial about madness, and monsters, and all the other nonsense they talk about.

The truth of the matter is the Senator from New York is too persuasive. He is the one in the Budget Committee that recommended the sale of assets. Now he has the President talking about it. I did not come in here to sell off the assets of the Government. The Senator from New York has been recommending it for several years. I do not go that route. I want to pay the bills. I want to get these deficits down. I do not intend to sit by and listen to how we need courage, and how we are abdicating choice, and using David Stockman as a reason for not voting for this particular amendment.

If that is the reason, I would vote with the Senator from New York. I think we will have time for further debate tomorrow, and maybe on Friday. There is no rush. They said last September and October that we were rushing, and it took us 3 months. We did not rush the argument. No one is rushing now. I do not think we are going to pass this debt limit because we have the Contras, the matter of SALT, and many other items that might be brought up. So there is no particular rush.

We told everyone about this particular amendment last week at the Democratic caucus. It has been discussed in the press for the last 10 days. The Speaker of the House of Representatives, Speaker O'Neill, has commented that this might be a feasible solution. Similarly, other leaders on the House side have discussed it. So this should not come as a surprise and there is no truth that we are rushing it through.

I understand the strategy of those who oppose it. They continue to oppose it. But I do not want to sit by and allow these descriptions, if you please, rogue elephants, scene of the crime, and all of the colorful language to go unchallenged, because this is serious business.

We have a deficit to reduce. At the present time, the discipline has been set. I hope we can maintain it. It is working in 43 States. None of the Governors are running around talking about madness, monsters, and scene of the crime. It worked on March 1, and it worked again last week when we reaffirmed $11.7 billion sequester.

Their objection is that it is working. And it is identifying the choice, not abdicating the choice. We described it early on as putting the Federal Government on a diet. We are saying, "Mr. Federal Government, we are putting

you on a diet. You are going to have to lose 36 pounds each year for the next 5 years. How you lose it, what budget you write, what choice you make is your choice."

As students of government, the Senator from New York and the Senator from Colorado know that it is totally impossible to take away the choice. We cannot do that. No Congress can bind ensuing Congresses. We can pass a bill today, and pass another one tomorrow. We are not taking away any choices. We are saying, "Give it all to defense if that is your disposition, and eliminate all social programs." As long as you pay for it and not increase the deficit there is no Gramm-Rudman-Hollings trigger.

Or, in contrast, give it all to social programs and eliminate the Pentagon, as long as you pay for it. That is your budget. That is your diet, there is no trigger. But if you do not live by a diet, if you do not have truth in budgeting, then on October 1, we are going to wire your jaws and you will not get anything to eat until you lose that 36 pounds or in this instance the $36 billion.

□ 1830

We are reducing the deficit.

I would not like to rush through a vote. I would like this to go on for about a week. Maybe if we had a good discussion for a week the message would get out to the people.

Let us not confuse all of this colorful language with what we are actually doing here.

We have set a discipline. The Senator from Colorado calls it a discipline. He calls it "substantial disciplinary measures." I agree with him. But do not call it substantial disciplinary measures on the front page and say on the second page that you want to repeal it.

You talk of substantial existing disciplinary measures on page 1. But then you say, "Now that I have made that argument, let us repeal the whole thing."

I say, let us maintain the discipline.

Mr. MOYNIHAN. Mr. President, I do not want to detain the Senate on personal matters, but I would like the RECORD to show that any comments I made about Mr. Stockman were with respect to his status as a guest in our home and not as a pupil. He is a personal friend and remains such. I hope he will continue to be.

Mr. President, I send a resolution to the desk and ask unanimous consent that it be held at the desk.

Mr. RUDMAN. Reserving the right to object, and I probably will not object, will the Senator from New York explain what is in that resolution and what he is doing?

Mr. MOYNIHAN. I am happy to do that for my learned friend from New Hampshire.

This is the resolution I suggested earlier that would provide that we not vote on the amendment pending until such time as the transcript of the hearings of the Governmental Operations Committee is available.

Mr. RUDMAN. The majority leader not being here, would the Senator from New York agree to modify his request to say that that be held at the desk for not more than 1 day and then he could discuss it with the leader tomorrow? Is that satisfactory?

Mr. MOYNIHAN. Entirely so. I so amend my request.

Mr. RUDMAN. I do not object.

The PRESIDING OFFICER. Without objection, the request is agreed to.

Mr. MOYNIHAN. If I could say a final word, Mr. President, we will have perhaps a lengthy debate; we are certainly going to have an intense debate. I would like to express the particular appreciation of the Senator from New York for his friend from New Hampshire who has shown restraint and good cheer and interest in the matter. He has responded to us. He has corrected us. I think he would recognize that any mistakes we have made were done innocently. The mail does not always work in the Senate either.

We appreciate his remarks. I hope we can continue this debate in that manner.

Mr. President, I yield the floor.

Mr. RUDMAN. Mr. President, it is my understanding that, unless someone wishes to continue, and if someone wishes to continue, certainly I will be willing to continue, and Senator HOLLINGS is still here and Senator GRAMM is still here—if nobody wishes to continue, the majority leader has asked me to consult with the Democratic leader and do what is referred to as the wrap-up, and then let the Senate go home. I do not want to move to that if the Senator from Colorado wishes more time today. Evidently he does not.

The Senator from New Mexico is here and does wish to say something. We will proceed to that before we do the wrap-up. I yield the floor.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. HART. Mr. President, to me so far the discussion of this matter has proceeded along generally agreeable lines. I believe given the good faith of all those participants involved on all sides, it is that it will continue to do so. However, off the floor, it has come to my attention that one of our colleagues made some reference to the fact of having sought the Presidency of the United States. And I think this may have been the Senator from South Carolina. I wanted to make sure that the Senator from Colorado understood the context of the remarks, the direction in which it was meant, for his own sake.

Mr. HOLLINGS. I would be glad to repeat exactly what I said.

I was listening to the distinguished Senator from Colorado discuss pulling the plug, the rogue elephant, manipulate, scene of the crime, and all of these other colorful expressions. I said that I knew how to write a statement with colorful expressions because I had run for President myself.

Mr. HART. Mr. President, I am not sure I got the clarification. I am still unclear as to what the reference of having run for President has to do with anything. Certainly, the Senator from South Carolina is no stranger to colorful language.

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. KENNEDY. Mr. President, Senator WEICKER and I intend to offer South Africa sanctions legislation as an amendment to the debt ceiling bill. Time has run out for the administration's policy, and it is now time for the Senate to act.

Yesterday, the President announced the disappointing results of his review of current policy toward South Africa. The world was watching—and all friends of freedom and justice were appalled to find the United States of America by its inaction, siding with apartheid.

I had hoped that President Reagan would bow to reality and modify his position. Instead, his speech was a reaffirmation of the flawed and failed policy of the past, and it is now up to the Senate to write a new antiapartheid policy for the future.

The testimony by Secretary of State Shultz to the Senate Foreign Relations Committee this morning was even more disturbing. Rather than moving forward—vigorously and visibly—to increase pressure on the South African Government, the administration now appears intent on relieving the minimal pressure that already exists.

According to Secretary Shultz, the administration is undecided on whether to renew the modest sanctions imposed by the President's Executive order of last September. The Secretary even endorsed the incredible view that it is desirable for United States firms to increase their investments in South Africa.

America's best values and traditions—and any hope we have that our country may yet play a positive role in achieving a peaceful end to apartheid

in South Africa—depend on effective action by Congress to establish a new policy that takes tough action against apartheid and offers hope for a free South Africa.

The amendment we propose contains a series of economic and diplomatic sanctions that we believe have broad support in Congress and the country and the international community. In essence, they are the proposals endorsed by the Eminent Persons Group of the Commonwealth of Nations.

They fall short of the full divestment and total trade embargo adopted by the House of Representatives that we prefer. But these are still far-reaching and effective sanctions. With the endorsement of the Eminent Persons Group, there is a reasonable prospect that if the United States takes the lead in adopting them, the Commonwealth of Nations, including Great Britain, the European Community, and other free nations will adopt them as well—and soon the entire free world will at last be saying, with one eloquent, powerful, effective voice, "Apartheid must end, and end now."

Mr. WEICKER. Mr. President, I recall the words of James Russell Lowell, specifically:

Then it is the brave man chooses, while the coward stands aside,
Doubting in his abject spirit, till his Lord is crucified,
And the multitude make virtue of the faith they had denied.

Very clearly in the context of events of the past years, days, and now hours, the time has come for this Nation to choose.

More specifically, a message went out from the United States of America yesterday that would indicate to some that we are going to waffle on the matter of the previousness of human life, on the matter of human dignity. I do not think that message can be left hanging out there without at least the opportunity for the Nation to speak with another voice.

It certainly is the intention of the distinguished Senator from Massachusetts and myself to work with our colleagues, Republican and Democrat and those on the Foreign Relations Committee, to come forth with a response to the Presidents of South Africa and the United States. But that is not something for future months and future Congresses. That is a matter to be addressed today and by the Senate. So it is in the nature of courtesy to the leadership, majority and minority, and to our colleagues, that the distinguished Senator from Massachusetts and I are alerting this body that the time to choose is hours away, not months. I hope that the message that goes out when the choice is made will give hope to all the blacks of South Africa and, indeed, the entire continent.

I yield the floor.

Mr. KENNEDY. Mr. President, I would like to take just another 2 or 3 minutes to read the provisions to be included or incorporated in the amendment which we are fashioning now and hope we will have other broad support on.

We tend to codify the President's executive order of September 9, 1985, which bans the importation of krugerands, bans United States loans to the South African Government and its agencies, except for education, housing, or health facilities available on a nondiscriminatory basis, bans the sale of computers, computer software, and computer services to the South African military, the police, and prisons and other agencies involved in the implementation or enforcement of apartheid, bans the United States exports of nuclear equipment and technology to South Africa, bans the importation from South Africa of arms, ammunition, and military equipment, makes the Sullivan Code mandatory for United States firms in South Africa.

Those were incorporated in the executive order, most of which was lifted from the legislation which we passed overwhelmingly last year. It also provides $25 million in United States aid for the victims of apartheid, $30 million in United States aid for the Beira Corridor Project to improve the transportation infrastructure of the Front Line States; bans United States bank loans to the private sector in South Africa; bans new United States private investment in South Africa; prohibits South African banks from operating in the United States; bans the importation of uranium, coal, and steel from South Africa; prohibits South African aircraft from landing in the United States and United States aircraft from landing in South Africa; bans all United States computer exports to South Africa; prohibits all United States consular facilities in South Africa from offering services to South African citizens; prohibits United States citizens from holding bank deposits or bank accounts on behalf of any South African entity; bans the importation of food and agricultural products from South Africa; terminates all United States Government assistance to investment in and trade with South Africa; bans all United States Government procurement from South Africa; bans all United States Government contracts with South African companies; bans United States assistance for exploration, research, development, production, or expansion of energy sources in South Africa; bans the promotion of United States tourism to South Africa, and lifts all the sanctions that have been mentioned here in points 4 through 17 above, all of the sanctions above with the exception of the Executive order, if the South African Government frees Nelson Mandela.

This is a very clear indication, Mr. President, that our intention is not to be punitive. All of these provisions with the exception of the banning of the krugerrand and the nuclear equipment, certain loans to the Government would all be lifted, lifted immediately, with the release of Nelson Mandela. I believe, if that happens, they should be lifted and we will have an opportunity in the future to consider U.S. policy.

Finally, Mr. President, I ask unanimous consent to include in the RECORD a statement of President Kaunda of Zambia who has spoken in the last several hours about current United States policy.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PRESIDENT KENNETH KAUNDA OF ZAMBIA

Zambia had been anxiously awaiting the much-advertised policy statement on South Africa from the President of the United States.

We had hoped that, commensurate with the gravity of the situation in South Africa, the statement would represent a significant shift from the present policy of the United States Administration to a more positive and realistic posture which would allow that great country to contribute meaningfully to the realization inside South Africa of the ideals of liberty, freedom, justice and human dignity and democracy which we know the American people cherish greatly, not only for themselves but also for humanity as a whole.

The statement by the President disappointed us greatly. We fear that its emphasis on East-West rivalries and its negative characterization of the role of the liberation movements of South Africa can only embolden the Pretoria regime in its intransigence.

Equally, we regret the refusal * * * to recognize the urgent need for the imposition of economic sanctions against South Africa in order to bring peaceful change inside that country.

In fact, we cannot escape the conclusion that the statement by the President was calculated to forestall the moves in the United States Congress to impose effective economic sanctions.

Issued July 23, 1986.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I rise very briefly to join my colleagues and collaborators, Senators KENNEDY and WEICKER, in regard to apartheid. I am proud to be a sponsor of the Kennedy-Weicker-Cranston measure. I am proud to be the principal sponsor of the Cranston-Kennedy-Weicker measure which is the strongest pending proposal. It is the exact measure that has passed the House of Representatives.

It is unfortunate that the White House has folded its hands on apartheid. Constructive engagement has

been an embarrassment. Many Americans are ashamed of constructive engagement. It is dead. Only the White House fails to recognize and accept that fact. The United States refused to do business with Nazi Germany. The United States must now refuse to do business with apartheid South Africa.

What the administration incredibly fails to understand is that there is more to life than a paycheck. Moderate black leaders in South Africa will risk not only their jobs but their lives for freedom. America, the land of "give me liberty or give me death," should of all nations understand this. The liberation of American slaves caused unemployment but blacks were glad to trade their jobs in slavery for freedom and to accept joblessness for a while.

To protect United States interests, to put us on the right side of history, Congress must now act. Congress must act on strong sanctions, not on token slaps, not on trivial pursuits.

I predict we will act soon and, if need be, we will pass a strong bill over the President's veto. Time is running out. The time for action has come. We have delayed for 6 years. We delayed another year, really, in effect last year. If we delay a bit longer, the clock will run out on this session of Congress and there will not be time to pass a measure and to cope with an anticipated veto. I am, therefore, delighted to join with my colleagues in preparing for the action that our country now expects of us.

□ 1840

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wish to ask the acting Republican leader if he can tell us if there will be any more rollcall votes today.

Mr. RUDMAN. Mr. President, although that is usually reserved to the leader, I think I can say, without invoking his anger of intruding on his privilege, that there will be no more rollcall votes tonight.

Mr. BYRD. I thank the distinguished Senator.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The President pro tempore (Mr. THURMOND) reported that on today, July 23, 1986, he had signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978;

S. 1874. An act to authorize quality educational programs for the deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes;

H.R. 4409. An act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March";

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend";

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month"; and

H.J. Res. 672. Joint resolution to ratify the February 1, 1986 sequestration order of the President for fiscal year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, July 23, 1986, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1068. An act to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978;

S. 1874. An act to authorize quality educational programs for the deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes;

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; and

S.J. Res. 279. Joint resolution to designate the month of October 1986, as "Lupus Awareness Month"

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2345: A bill to improve counseling, education, and services relating to acquired immune deficiency syndrome (Rept. No. 99-337).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2184: A bill to authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes (Rept. No. 99-338).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Rear Admiral Francis D, Moran, National Oceanic and Atmospheric Administration, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. DANFORTH Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard which was printed in its entirety in the CONGRESSIONAL RECORD of July 14, 1986, and ask, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

By Mr. THURMOND, from the Committee on Armed Services:

George Woloshyn, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

(The above nomination was reported from the Committee on Armed Services with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached nominations.

These nominations are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 14, July 15, and July 16, 1986, at the end of the Senate proceedings.)

1. In the Army Reserve there are 60 promotions to the grade of colonel and below (list begins with Thomas N. Bolton) (Ref. 1222).

2. In the Navy there are 901 promotions to the grade of lieutenant commander (list begins with John P. Abenstein) (Ref. 1227).

3. In the Air Force there are 3 appointments to a grade no higher than lieutenant colonel (list begins with Benjamin P. Graham (Ref. 1230).

4. In the Air Force there are 6 promotions to the grade of colonel and below (list begins with Kenneth Klint) (Ref. 1231).

5. In the Air Force there are 123 promotions to the grade of colonel (list begins with Lewis J. Abrahams) (Ref. 1232).

6. In the Air Force there are 183 promotions to the grade of lieutenant colonel (list begins with Gary A. Anderson) (Ref. 1233).

7. In the Air Force there are 475 promotions to the grade of major (list begins with Steven W. Abbott) (Ref. 1234).

8. In the Air Force there are 482 appointments to the grade of second lieutenant (list begins with Michael F. Adames) (Ref. 1235).

9. In the Army Reserve there are 149 promotions to the grade of colonel and below (list begins with William R. Anderson) (Ref. 1236).

Total: 2,382.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. WALLOP):

S. 2678. A bill to provide a comprehensive national oil security policy; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. MATHIAS, Mr. BIDEN, and Mr. SARBANES):

S. 2679. A bill to grant the consent of Congress to the Appalachian States Low-Level Radioactive Waste Compact; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. GRASSLEY, Mr. ZORINSKY, Mr. BOREN, Mr. ABDNOR, Mr. DENTON, Mr. COCHRAN, Mr. ROCKEFELLER, and Mr. HELMS):

S. 2680. A bill to amend the Internal Revenue Code of 1954 to allow a charitable contribution deduction to farmers who donate agricultural products to assist victims of natural disasters; to the Committee on Finance.

By Mr. ABDNOR:

S. 2681. A bill to amend the Small Business Act to increase the authorized level of surety bond guarantees; to the Committee on Small Business.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. HOLLINGS, Mr. HELMS, Mr. TRIBLE, Mr. DANFORTH, Mrs. KASSEBAUM, Mr. GRAMM, Mr. BOSCHWITZ, Mr. BROYHILL, Mr. NUNN, Mr. FORD, Mr. LEVIN, Mr. ABDNOR, Mr. COHEN, Mr. DURENBERGER, Mr. BOREN, Mr. DENTON, Mr. LONG, Mr. KASTEN, Mrs. HAWKINS, Mr. HARKIN, Mr. COCHRAN, Mr. SARBANES, Mr. NICKLES, Mr. METZENBAUM, Mr. QUAYLE, Mr. ROCKEFELLER, Mr. EXON, Mr. MCCLURE, Mr. STAFFORD, Mr. DIXON, and Mr. CHILES):

S. Res. 451. Resolution to express the sense of the Senate commending the compassionate assistance extended to Southeast farmers by other Americans; considered and agreed to.

By Mr. MOYNIHAN:

S. Res. 452. Resolution expressing the sense of the Senate with regard to a vote on any amendment to the Balanced Budget and Emergency Deficit Control Act; ordered held at the desk, by unanimous consent, until the close of business on July 24, 1986.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself and Mr. Wallop):

S. 2678. A bill to provide a comprehensive national oil security policy; to the Committee on Finance.

NATIONAL ENERGY POLICY AND SECURITY ACT

● Mr. BENTSEN. Mr. President, I am introducing legislation today, accompanied by Mr. WALLOP, to do what this body and the administration should have done long ago: establish a national energy policy designed to ensure United States energy security. My legislation, entitled the Energy Policy and Security Act of 1986, will establish a national energy policy designed to minimize the risks of disruption from oil embargoes by members of the Organization of Petroleum Exporting Countries or OPEC.

Twice in the past 15 years, OPEC members have arbitrarily hiked the price of oil on world markets. Each time, this Nation wrung her hands, but had few effective actions it could take to counter OPEC. We were forced to pay considerably higher prices each time and once we had to resort to consumption restrictions and gas lines because we had an ineffective energy policy.

I would like to say that we learned our lesson—that this great Nation has a long enough memory to establish policies designed to prevent oil blackmail again. Sadly, that has not occurred. Briefly in the late seventies, we moved vigorously toward an oil policy which would minimize our exposure to OPEC blackmail. Conservation steps were instituted, including the very effective vehicle fuel economy standards. Renewable energy sources were explored. And even a strategic petroleum reserve was put in place to carry this Nation over brief periods of oil supply disruption from abroad. These steps took years to have an impact.

ENERGY POLICIES CAN WORK

But they did alter the way we use oil in this Nation. Building designs were made more energy efficient. Home insulation became a forethought rather than an afterthought. Fuel economy became a marketing plus for American auto companies. And fuel efficiency in autos rose dramatically. Back in 1973, for example, the typical car went 13.1 miles per gallon. Today, they average over 17 miles per gallon. More broadly, our economy in 1973 used 27,000 Btu's per dollar of GNP. Last year, that figure had improved nearly 30 percent to 20,000 Btu's per dollar of real GNP.

Government policies were not always consistent. Some steps like the windfall profits tax were counterproductive, discouraging domestic energy production in favor of imports. But the important lesson to my mind is that a national energy policy is possible—a vast reservoir of actions exist which can be used to reduce our Nation's reliance on imported oil. Back in 1977, for example, we imported a very high 47 percent of domestic oil consumption. The steps we took in conjunction with higher prices had reduced that level of dependence to 27 percent by last year.

That dramatic reduction in import dependence resulted from increased domestic production of oil as well as energy conservation. Back in 1976, we produced a bare 8.1 million barrels of crude oil daily. Last year, production was 10 percent higher at 8.90 million barrels per day. Not only can an energy policy work, but it works best if it focuses on both the demand and supply side of the oil equation.

THE THIRD OPEC CRISIS

OPEC has precipitated a third oil crisis. Oil prices have plunged over 60 percent to around $10 per barrel since last fall because Saudi Arabia has glutted world oil markets. Their objective is straightforward: drive competitors like American oil producers out of business to increase world dependence on OPEC oil. More narrowly, the Saudi's are also seeking to discipline overproducers within OPEC, as well. The message in both cases is clear: OPEC benefits from reduced production, especially from producers in the United States. And it will keep prices down until production here and elsewhere shrinks, enabling OPEC to once again drive world oil prices up.

In light of that background, the price drop over the last 6 months in oil prices poses a dramatic threat to U.S. oil security. American oil producers are directly in the gunsights of OPEC. And American consumers are perched on the OPEC bullseye.

But that is only part of the story. Falling oil prices have hobbled our economy as well as jeopardized energy security. Many analysts confidently predicted that the decline in oil prices would benefit our economy. That tune has changed in recent weeks. The regional impact in Texas and other oil producing States has not been offset by stronger growth elsewhere. Indeed, the slumping economy in Texas is dragging our entire economy into the economic doldrums. That is why the conference board concluded on June 30 that the impact of falling oil prices has generally been negative. That is especially true in manufacturing where capital spending plans have been sharply curtailed. Earlier this year, the 1,000 largest U.S. manufacturers hoped to expand spending by 8 percent this year on capital projects. But the most recent survey found that the spending increase would be only a bare 1 percent. Lower gasoline prices do very little good when jobs are being lost or incomes frozen as a result.

THE OIL INDUSTRY COLLAPSE

The OPEC-engineered collapse of world oil prices was aimed at U.S. producers. And it has hit the target. Energy firms are reeling from reduced prices and shrinking cash-flows. They have reacted as any industry would, by pulling in their horns and tightening down on budgets.

The hardest hit is exploration. Company after company in the oil patch is cutting exploration to the bone. According to Solomon Bros., the majors have cut exploration by half, and independents—who drill 90 percent of exploratory wells—have cut budgets by 48 percent. The number of crews engaged in seismic activity has fallen to 205 in April from 681 during 1981. And just since January, seismic crew activity has declined nearly one-third. As a result, exploratory and wildcat drilling have plunged. It costs $230,000 to drill wildcat wells onshore and $2.7 million offshore. Oil firms simply cannot afford to gamble with that amount of money when oil prices are soft and may grow even softer at the whim of OPEC. Back in the peak year of 1981, nearly 4,000 drilling rigs were in operation. That number has slipped steadily this year. And in the past 3 weeks, the drilling rig count prepared by Hughes Tool Co. has set successive new record lows. On Monday, July 14, it slumped to a bare 663 rigs.

At that pace, perhaps a scant 4,000 exploratory wells will be drilled this year. And one-third of those will be wildcat wells in unexplored fields. Only 13 percent of wildcat wells are successful historically. Thus, as few as 165 successful wildcats will be brought in this year in the United States, or fewer than 1 every 2 days. For comparison purposes, that means the number of wildcat wells brought in this year will slump to barely 10 percent of the number successfully brought in during 1981. Indeed, we could well see only one successful wildcat this year for every three brought in as recently as last year.

The collapse in exploration and drilling is easily the most dramatic in the history of the American oil industry. The domestic industry can drill 112,500 wells a year. This year, drilling is running at an anemic rate of 25,000 wells. Capacity utilization in the oil industry has plunged to a bare 20 percent, compared to 78 percent for other industries. In March 1986 alone, 24,000 jobs were lost in oil and gas. And over the past year, a staggering 1 job in 4 in oil and gas or 150,000 jobs nationally have been lost. This calamity has cut through the Texas economy and other oil producing States from Alaska to Louisiana and Oklahoma like wildfire. Its ripple effects have pushed real estate bankruptcies in Dallas to record levels. And unemployment across the Southwest is at double digit levels. The statewide rate in Texas, for example, in June was a record 10.5 percent, up sharply from 6.7 percent in January. Other indicators of economic distress like plunging office vacancy rates and falling home prices are abundant in the oil producing States, as well. House prices in most of Houston are down an amazing 20 to 40 percent this year. And Houston has more vacant office space than Pheonix has offices.

The tragic trauma to families facing economic loss from collapsing oil prices is not restricted to those from the oil industry. Each oil industry worker supports four or five others in the oil service as well as unrelated businesses like the corner barbershop or grocery store. These ripple effects are still working their way through my State and the Nation. I noted earlier that capital spending plans have been nearly cut to zero across the Nation as a consequence of the oil industry collapse. That means the oil industry weakness is reaching into every nook and cranny of our Nation, holding unemployment up at levels which have persisted since 1984. For example, Amoco cut 400 jobs recently from its headquarters staff in Chicago.

My State of Texas and the entire Nation has confronted economic troubles before. We will bounce back. And we will weather the current economic weakness in the oil patch, as well.

A SLOW REBOUND IN THE ENERGY INDUSTRY

There are new hopeful signs yet of a rebound in the oil industry. The Saudi strategy of driving prices down until production cutbacks occur is still being pursued. And oil prices have continued heading south. Last Tuesday, oil prices for west Texas crude dropped to $10.42 per barrel and foreign oil is selling below that. North Sea Brent crude sold at $8.65 per barrel, for example, the lowest prices ever for those fields. And Middle East oil from Dubai traded on July 14 at $6.75 per barrel for August delivery.

Continuing weakness in oil prices translates into a slow recovery for Texas and the oil industry across the country. And it translates into a slow rebuilding of the national economy, as well. The United States may not show much strength until what the Christian Science Monitor terms "an open price war" in world oil markets comes to an end. There were signs in April that OPEC had agreed to limit production to 16.3 million barrels per day beginning this month. Yet, the OPEC meeting to set oil production quotas fell apart at Brioni, Yugoslavia 3 weeks ago. And OPEC production is up to 19 million barrels now, with no end to price weakness in sight. That means that the layoffs, dismantling of companies, panic mergers, and bankruptcies in the energy business will continue.

NATIONAL ENERGY INSECURITY

That's bad news for Texas and the national economy. But it is even worse news for our Nation's security. Falling oil prices in the past has meant declining domestic oil production and rising consumption. The widening gap has been filled with imports. And evidence overwhelmingly shows that the same thing is happening now.

Low oil prices are both cutting current production and hobbling anticipated growth in future U.S. production. According to the Oil and Gas Journal, oil production during the first half of 1986 was down 140,000 barrels per day compared to the same period in 1985. And we are seeing an acceleration in production loss as the depression-era oil price collapse continues. Indeed, Chevron Corp. predicted last week that U.S. production will be down a staggering 500,000 barrels this year. Hardest hit are small stripper wells, producing an average 2.9 barrels daily. Strippers account for 73 percent of all U.S. oil wells. They are typically expensive, relying extensively on high cost tertiary recovery techniques, costing an average $14.59 per barrel. Consequently, they are the most price sensitive and the first to be closed down. Phillips Petroleum, for example, is closing its strippers in the Permian Basin as maintenance becomes necessary. And Texaco is now predicting that we will lose 640,000 barrels per day of stripper production in the near future due to the collapse in oil prices. Many of these wells will be plugged with concrete for environmental reasons, never to be reopened. Promising new oil fields on the North Slope and offshore are not being explored or developed either because high production costs cannot be recovered at current prices.

At the same time that oil production is dwindling across the country, demand is rising. Some substitution of oil for coal and natural gas is underway. And Americans have taken to the road in unprecedented numbers to exploit lower gasoline prices. As a result, U.S. oil demand is up a sharp 515,000 barrels per day thus far this year over the same period last year.

Falling production and rising demand means higher oil imports. Since January, foreign crude and product oil imports are running an enormous 750,000 barrels per day above 1985. And, our dependence on foreign oil has jumped to 34 percent now from 27 percent during 1985. The trend is toward even more import reliance. In June, for example, imports jumped to 6.5 million barrels per day, up nearly 40 percent from June a year ago. And our import dependence hit 39 percent.

Our rising oil dependence has been exhaustively studied in recent months by a number of experts. As presented in the attached table, their conclusions are unequivocal: oil imports will exceed the danger level of 50 percent of U.S consumption sometime during

the next 3 to 5 years. As a result of the OPEC price strategy, U.S. production will no longer be able to keep up with demand; oil imports will continue rising dramatically. And we will shortly be relying on foreign oil for one-half of all domestic oil consumption.

The Department of Energy agrees with that gloomy assessment. Deputy Secretary of Energy Danny Boggs testified in early March before the Finance Committee that U.S. oil dependence will pass 50 percent by 1990 or 1991 at the latest. All these experts indicate that foreign oil dependence as early as 1988 could equal or surpass the post-war high of 47 percent set in 1977.

Even more alarming, most of the increase in imported oil will come from the Middle East. Alternative non-OPEC oil resources are producing flat out now, and cannot be increased to supply surging U.S. oil demand. North Sea production and Alaskan North Slope will peak next year, for example. Canadian production will peak this year. Latin American production in countries like Mexico and Venezuela has plateaued. The only major oil reserves available to meet rising U.S. demand are in the Middle East under OPEC control.

Indeed, rising U.S. oil demand has already created rising dependence here on OPEC; OPEC has increasingly come to dominate U.S. oil imports at current prices. Saudi Arabia, for example, was only the 15th largest source of oil imports last year before the oil price plunge. The swing in United States oil consumption since then toward Saudi Arabia has been dramatic. Last June, for example, United States imports of Saudi oil were a bare 26,000 barrels per day. By January, they had soared to 664,000. In February, Saudi Arabia jumped to second place, and has not joined Mexico, Canada, and Venezuela as major suppliers of United States oil imports. This thirty-fold surge in Saudi oil sales has paced the dramatic jump in United States oil imports since January from OPEC. OPEC now accounts for 43 percent of total U.S. imports compared to 36 percent in 1985. At present trends, OPEC will be supplying over one-half of all U.S. oil imports by 1988.

I share with a number of colleagues here a great deal of concern for that day. We are the leader of the free world, the world's major free-market economy. We are the shining beacon of individual freedom held aloft by example and by national policy as a guide for other nations around the world. There are a number of authoritarian nations who are threatened by the principles of free speech and free open elections that we espouse. And we have a responsibility to remain vigilant and forceful in defending the freedoms we and our allies enjoy. We cannot meet that responsibility hobbled by the dangers of energy blackmail. We already know that some nations are willing to use that weapon to influence foreign policy. The only way we can remain able to pursue foreign policies that are in our interests free of undue influence from OPEC is to limit our dependence on foreign oil.

A NATIONAL ENERGY POLICY

That will not be easy. As oil expert Theodore R. Eck, chief economist with Amoco observed recently, in noting that U.S. production will fall by 50 percent over the next decade as demand climbs, "Imports are going to be horrendous. Canada faces the prospects of becoming a net importer of energy, while North Sea exploration and production expenditures are off by more than a third and continuing downward."

It will especially not be easy because of the administration's wooly-headed energy policies. It has proposed to roll back auto fuel efficiency standards implemented in the seventies. It has abandoned energy reduction steps involving Federal office buildings. It has even frozen the strategic petroleum reserve at barely one-half its initial planned level and at 250 million barrels shy of the congressional target—even as it overproduces from the naval petroleum reserve to sell at bargain-basement prices ranging as much as $4.40 below market prices.

Its tax policy has targeted the oil industry despite its 43-percent effective rate, nearly double the 23-percent rate paid by all other industries. It has endorsed the windfall profits tax. It has proposed to sharply reduce tax incentives needed to ensure that our oil industry remains robust and able to aggressively explore for new oil reserves. The oil industry bears extraordinary risks. Only one exploratory well in four is brought in, and barely one in seven wildcat wells hit oil or gas. The tax increases proposed by the administration last year, and those in the House tax bill will dramatically cut U.S. oil exploration and send us careening even faster toward the day when OPEC blackmail will occur.

In short, the administration has a short-sighted, nonsensical energy policy. It lacks understanding of the energy future we face. It has not pursued consistent and realistic policies. And it has not acted to minimize our sharply rising dependence on foreign oil. The administration has no oil policy worthy of the name.

EXPLANATION OF LEGISLATION

The Energy Policy and Security Act is straightforward.

First, it declares that U.S. energy security requires a national energy policy in which foreign oil dependence will not exceed 50 percent of consumption. That dependence was 27 percent last year. And, it has already risen to 39 percent in June.

Second, the President is required to annually submit projections to Congress on anticipated U.S. oil production, demand, and imports for the subsequent 3 years. He must certify whether imports of crude oil and oil products will exceed domestic production.

Third, the Congress has 10 session days to review oil demand, supply, and imports and to modify the Presidential certification if appropriate by joint resolution.

Fourth, for any year in which foreign oil imports are projected to exceed 50 percent, the President must submit an energy plan to Congress within 90 days containing steps sufficient to prevent oil dependence exceeding 50 percent. My legislation notes a number of steps which the President may include in that energy plan, including an oil import fee and energy conservation. And he may certainly include other steps as well.

Fifth, Congress may modify the President's energy plan within 90 days, and it must be approved by joint resolution.

I ask unanimous consent, Mr. President, that the Energy Policy and Security Act of 1986 be printed in the RECORD along with a table labeled, "United States Oil Position."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTON 1. SHORT TITLE.

This Act may be cited as the "National Energy Policy and Security Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States is the leader of the free world and has world wide responsibilities to promote economic and political security;

(2) the exercise of traditional responsibilities here and abroad in foreign policy requires that the United States be free of the risk of energy blackmail in times of shortages;

(3) the level of the United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas;

(4) a national energy policy should be developed which ensure that adequate supplies of oil shall be available at all times free of the threat of embargo or other foreign hostile acts; and

(5) the ability of the United States to exercise its free will and to carry out its responsibilities as leader of the free world could be jeopardized by an excessive dependence on foreign oil imports.

(b) PURPOSE.—The purpose of this Act is to establish a national energy security policy designed to limit United States dependence on foreign oil supplies.

SEC. 3. DUTIES OF THE PRESIDENT.

(a) ESTABLISHMENT OF CEILING.—The President shall establish a National Oil Import Ceiling (referred to in this Act as the "ceiling level") which shall represent a ceiling

level beyond which foreign crude and oil product imports as a share of United States oil consumption shall not rise.

(b) LEVEL OF CEILING.—The ceiling level established under subsection (a) shall not exceed 50 percent of United States crude and oil product consumption for any annual period.

(c) REPORT.—(1) The President shall prepare and submit an annual report to Congress containing a national oil security projection (in this Act referred to as the "projection"), which shall contain a forecast of domestic oil and NGL demand and production, and imports of crude and oil product for the subsequent three years. The projection shall contain appropriate adjustments for expected price and production changes.

(2) The projection prepared pursuant to paragraph (1) shall be presented to Congress with the Budget. The President shall certify whether foreign crude and oil product imports will exceed the ceiling level during the next three years.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress shall have 10 continous session days after submission of each projection to review the projection and make a determination whether the ceiling level will be violated within three years. Unless disapproved or modified by joint resolution, the Presidential certification shall be binding 10 session days after submitted to Congress.

SEC. 5. ENERGY PRODUCTION AND OIL SECURITY ACTIONS.

(a) ENERGY PRODUCTION AND OIL SECURITY POLICY.—(1) Upon certification that the ceiling level will be exceeded, the President is required within 90 days to submit an Energy Production and Oil Security Policy (in this Act referred to as the "policy") to Congress. The policy shall prevent crude and product imports exceeding the National Oil Import Ceiling. Unless disapproved or modified by joint resolution, the policy shall be effective 90 session days after submitted to Congress.

(2) The Energy Production and Oil Security Policy may include—

(A) oil import fee;

(B) energy conservation actions including improved fuel efficiency for automobiles;

(C) expansion of the Strategic Petroleum Reserves to maintain a 90-day cushion against projected oil import blockages; and

(D) production incentives for domestic oil and gas including tax and other incentives for stripper well production, offshore, frontier, and other oil produced with tertiary recovery techniques.

TABLE I.—U.S. OIL POSITION [1] 1986–88

[In million of barrels/day]

Year	Domestic oil demand	Domestic oil production	Imports	Foreign oil dependence (percent)
1986:				
DRI [2]	16.1	10.5	5.6	35
Library of Congress [3]	16.8	9.8	7.0	41
1987:				
Congressional Budget Office [4]	17.9	10.6	7.3	41
Library of Congress	17.5	9.4	8.0	45
1988: Library of Congress	18.1	9.0	9.0	50

[1] Projections.

Sources:

[2] Data Resources, Inc.

[3] "Oil Price Decreases: Illustrative Effects on U.S. Oil Use, Production and Imports," Library of Congress, Congressional Research Service, March 24, 1986.

[4] "The Budgetary and Economic Effects of Oil Taxes," Congressional Budget Office, April, 1986.●

By Mr. ROTH (for himself, Mr. MATHIAS, Mr. BIDEN, and Mr. SARBANES):

S. 2679. A bill to grant the consent of Congress to the Appalachian States low-level radioactive waste compact; to the Committee on the Judiciary.

CONSENT OF THE CONGRESS TO THE APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

● Mr. ROTH. Mr. President, it is with great pleasure that I send the following bill to the desk on behalf of myself and the distinguished Senators from Delaware and Maryland. The purpose of the legislation is to allow the formation of an Appalachian interstate low-level radioactive waste management compact.

Mr. President, the Low-Level Radioactive Waste Policy Act of 1980 required States to establish regional compacts for the disposal of low-level radioactive waste produced by States within the compact. This act takes the responsibility for the disposal of this waste from sites in the States of South Carolina, Nevada, and Washington and places it with the States that produce it. Earlier this year the Low-Level Radioactive Waste Policy Act amendments were passed into law. Title I of these amendments set forth the means by which the 1980 act could be enacted by defining responsibilities for the disposal of low-level radioactive waste, providing incentives for States to move forward in developing regional disposal sites, and setting policies that will govern the transition to the regional disposal sites. Title II of the amendments established the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act. This gave consent to the Northwest, Central, Southeast, Central Midwest, Midwest, Rocky Mountain, and Northeast interstate low-level radioactive waste management compacts.

Mr. President, as you are well aware, issues which deal with nuclear and radioactive material, especially their disposal, are not easy issues. The problems are complex, the solutions are usually equally complex and always controversial. Timely and proper disposal of low-level radioactive waste is not always possible. Moreover, the activities that produce them play vital roles in the economy, as a source of employment and in making contributions to our quality of life. Producers include hospitals, research facilities, and industry. The wastes produced include rags, protective clothing, radiopharmaceuticals, and lab equipment. Although these wastes do not pose the same threat to health and safety as high-level radioactive waste produced by nuclear powerplants, we must dispose of them in a responsible and timely manner.

Mr. President, the Appalachian compact legislation I am introducing today establishes an organization and describes the procedures under which Delaware, Pennsylvania, Maryland, and West Virginia can, in a responsible and timely manner, develop new disposal capacity for low-level radioactive waste generated within the region. The compact has been ratified in an identical form by the State legislatures of Delaware, Pennsylvania and Maryland; West Virginia is also expected to act soon. It is imperative that we act quickly so that we can begin to meet the goals established by the Congress for low-level radioactive waste disposal, and meet the safety and health needs of the people in this region.●

By Mr. ABDNOR:

S. 2681. A bill to amend the Small Business Act to increase the authorized level of surety bond guarantees; to the Committee on Small Business.

SURETY BOND GUARANTEE PROGRAM

● Mr. ABDNOR. Mr. President, today I rise to address a crisis which has arisen in my State of South Dakota and which will soon be a problem for many Members of this body. The problem has to do with the SBA Surety Bond Guarantee Program. SBA has already run up against its statutory limit on guarantee authority.

Mr. President, through its Surety Bond Guarantee Program, the SBA assists qualified small business contractors by extending a guarantee to a surety of up to 90 percent against loss in order to make bonding more easily obtainable. Bid bonds, as well as payment and performance bonds, may be guaranteed on contracts of up to $1 million.

Since its inception in 1971, this program has guaranteed over 166,000 surety bonds, permitting the award of over $12 billion in contracts to small businesses. Prior to its enactment small and minority small business contractors, with limited track records and resources, found it difficult, if not impossible, to bid on construction contracts requiring surety bonds. With the assistance of the SBA Surety Bond Program, small businesses are now able to obtain the surety bonding required to bid on almost all federally funded and private construction contracts.

A crisis has arisen for many small contractors who are bidding on projects. With SBA's guarantee authority near expiration, these contractors will not be able to secure a bond and hence will be precluded from participating in the bidding on projects for which they are qualified.

My legislation calls for a $150 million increase in guarantee authority for fiscal year 1986. I'm told an increase of this amount will allow continuation of the program through the end of the fiscal year. I encourage my

colleagues to address this problem before the guarantee authority is completely exhausted and many small businesses are left with no alternative but to forego viable business opportunities.●

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. BURDICK, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 230, a bill for the relief of the city of Dickinson, ND.

S. 1479

At the request of Mr. SASSER, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1479, a bill to amend the Public Safety Officer's Death Benefits Act.

S. 1900

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1900, a bill to amend the Foreign Agents Registration Act of 1938 by providing for the 5-year suspension of exemptions provided to an agent of a foreign principal convicted of espionage offenses.

S. 1901

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. HATCH], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 1901, a bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes.

S. 2325

At the request of Mr. EXON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2325, a bill to permit a maximum speed limit of 70 miles per hour on any route within the National System of Interstate and Defense Highways.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and post-hospital services furnished under the Medicare Program, and for other purposes.

S. 2333

At the request of Mr. DURENBERGER, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2479

At the request of Mr. TRIBLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2498

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2498, a bill to prohibit loans to, other investments in, and certain activities with respect to, South Africa, and for other purposes.

S. 2528

At the request of Mr. SPECTER, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2528, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killing, and for other purposes.

S. 2570

At the request of Mr. CRANSTON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2570, a bill entitled the Anti-Apartheid Action Act of 1986.

S. 2611

At the request of Mr. STEVENS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2611, a bill to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets.

S. 2660

At the request of Mr. BENTSEN, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2660, a bill to prevent burdens or restrictions upon the international trade of the United States by reason of the activities of State trading enterprises.

S. 2665

At the request of Mr. SYMMS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2665, a bill to amend the national maximum speed limit law.

SENATE JOINT RESOLUTION 64

At the request of Mr. RIEGLE, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from Georgia [Mr. NUNN], the Senator from Nebraska [Mr. ZORINSKY], the Senator from South Carolina [Mr. THURMOND], the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. LONG], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 64, joint resolution to designate the week beginning May 5, 1985, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 338

At the request of Mr. RIEGLE, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Nebraska [Mr. EXON], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 338, joint resolution to designate November 18, 1986, as "National Community Education Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 343, joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 367

At the request of Mr. HEINZ, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of Senate Joint Resolution 367, joint resolution to designate July 31, 1986, as "National Kidney Program Day."

SENATE RESOLUTION 451—RELATING TO ASSISTANCE EXTENDED TO SOUTHEAST FARMERS BY OTHER AMERICANS

Mr. THURMOND (for himself, Mr. BIDEN, Mr. HOLLINGS, Mr. HELMS, Mr. TRIBLE, Mr. DANFORTH, Mrs. KASSEBAUM, Mr. GRAMM, Mr. BOSCHWITZ, Mr. BROYHILL, Mr. NUNN, Mr. FORD, Mr. LEVIN, Mr. ABDNOR, Mr. COHEN, Mr. DURENBERGER, Mr. BOREN, Mr. BIDEN, Mr. DENTON, Mr. LONG, Mr. KASTEN, Mrs. HAWKINS, Mr. HARKIN, Mr. COCHRAN, Mr. SARBANES, Mr. NICKLES, Mr. METZENBAUM, Mr. QUAYLE, Mr. ROCKEFELLER, Mr. EXON, Mr. MCCLURE, Mr. STAFFORD, Mr. DIXON, and Mr. CHILES) submitted the following resolution; which was considered and agreed to:

S. RES. 451

Whereas the drought in the Southeast has been the worst in over one hundred years;

Whereas the Southeast is suffering from record heat;

Whereas damage to crops in the Southeast has been estimated at nearly $700,000,000;

Whereas the livestock are starving due to a lack of feed;

Whereas farmers in other areas of the Nation have offered assistance in the form of feed grains and hay for the livestock;

Whereas leaders across the Nation have worked together to transport the goods to the Southeast; and

Whereas these goods are helping to alleviate the suffering of the farmers in the Southeast: Now, therefore, be it

Resolved, That it is the sense of the Senate that the farmers and government leaders that have been a part of this effort are to be commended for their public-spirited actions in helping to alleviate the suffering of the farmers in the Southeast.

SENATE RESOLUTION 452—RELATIVE TO VOTES ON AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

Mr. MOYNIHAN submitted the following resolution; which was ordered held at the desk by unanimous consent until the close of business on July 24, 1986:

S. RES. 452

Resolved, It is the sense of the Senate that no vote occur on any amendment to the balanced budget and emergency deficit control act of 1985 until there has been made available to the membership of the Senate a transcript of the hearings on that topic which were held on July 23, 1986 by the Committee on Governmental Affairs.

AMENDMENT SUBMITTED

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

GRAMM (AND HOLLINGS) AMENDMENT NO. 2223

Mr. GRAMM (for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt; as follows:

On page 1, line 6 strike "'$2,322,800,000,000'." and insert in lieu thereof the following: "$2,322,800,000,000".

TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

That this title be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986".

RUDMAN (AND OTHERS) AMENDMENT NO. 2224

Mr. RUDMAN (for himself, Mr. GRAMM, Mr. HOLLINGS, and Mr. COHEN) proposed an amendment to amendment No. 2223 proposed by Mr. GRAMM (and Mr. HOLLINGS) to the joint resolution (H.J. Res. 668), supra; as follows:

At the end of the amendment strike "1986"." and insert in lieu thereof the following:

"1986".

SEC. 201. REVISION OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) REVISION OF REPORTING RESPONSIBILITIES.—(1) Section 251(b) is amended—

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

"(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1991), by account, for non-defense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under pararaph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any differences between the contents of such report and the report of the Comptroller General under paragraph (1).".

"(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President, and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof "Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(1)(2) is amended by striking out ", in accordance with section 251(d)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251(b) or (c)(2)" and inserting in lieu thereof "section 251(b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251(b) or (c)(2)" and inserting in lieu thereof "Director of the Office of

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Management and Budget under section 251(b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

EXON AMENDMENT NO. 2225

Mr. EXON proposed an amendment to the language proposed to be stricken by the committee amendment to the joint resolution (H.J. Res. 668), supra; as follows:

At the end of the matter proposed to be stricken add the following:

SEC. (a) the Senate finds and declares that:

(1) annual deficits which exceed $200 billion and an accumulated national debt which exceeds $2 Trillion threaten the economic health of the nation;

(2) The Constitution provides that "The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States . . .;"

(3) The Congressional Budget and Impoundment Act of 1974 was intended to establish effective Congressional Control over the budget process;

(4) The Emergency Deficit Control Act of 1985, popularly referred to as the Gramm-Rudman-Hollings law, attempted to implement an automatic spending reduction mechanism which could be activated without a Congressional vote;

(5) the United States Supreme Court invalidated the automatic sequester mechanism of the Emergency Deficit Control Act of 1985;

(6) other provisions of the Emergency Deficit Control Act of 1985 remain in effect, including the declining deficit targets and the requirement that legislation be consistent with the declining deficit targets;

(7) the Emergency Deficit Control Act of 1985 further provided for alternative procedures, popularly known as "fallback" provisions, which became effective upon the invalidation of the automatic sequester mechanism by the United States Supreme Court;

(7) the Congress successfully used the alternative procedures on Thursday, July 17, 1986 to implement $11.7 billion in spending reduction for fiscal year 1986;

(8) the American people expect their Representatives in Congress to set budgetary priorities and make difficult decisions necessary to reduce the federal deficit;

(b) it is therefore the sense of the Senate that the Congress utilize the existing "fallback" provisions of the Emergency Deficit Control Act to require a Congressional vote on specific measures to reduce the federal budget deficit.

RUDMAN (AND OTHERS) AMENDMENT NO. 2226

Mr. RUDMAN (for himself, Mr. GRAMM, Mr. HOLLINGS, Mr. COHEN, and Mr. EVANS) proposed an amendment which was subsequently modified, to the committee amendment, as modified, to the joint resolution (H.J. Res. 668), supra; as follows:

On page 9, line 18, strike out "this Act." and insert in lieu thereof the following: "this Act."

TITLE III—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

That this title be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986."

SEC. 301. REVISION OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) REVISION OF REPORTING RESPONSIBILITIES.—(1) Section 251(b) is amended—

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1991), by account, for nondefense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under paragraph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any differences between the contents of such report and the report of the Comptroller General under paragraph (1).".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof "Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(1)(2) is amended by striking out ", in accordance with section 251(d)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251(b) or (c)(2)" and inserting in lieu thereof "section 251(b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251(b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced and Emergency Deficit Control Act of 1985.

D'AMATO (AND OTHERS) AMENDMENT NO. 2227

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. DECONCINI, Mrs. HAWKINS, and Mr. CHILES) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 668), supra; as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. . DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country to which this subsection applies, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

"(iv) which the Secretary of State has, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, designated as a foreign country which repeatedly provides support for acts of international terrorism.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) PART-YEAR RULE.—If this subsection applies to any foreign country for any period less than an entire taxable year, paragraph (1) shall be applied by taking into account only that proportion of the taxes and income described in paragraph (1) for the taxable year as the portion of the taxable year which includes such period bears to the entire taxable year."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) (defining subpart F income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 904(i) applies to such foreign country."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 (defining subpart F income) is amended by adding at the end thereof the following new subsection:

"(e) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 904(i) applies if such income was, without regard to such entities, derived from such country."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy, of the Committee on Agriculture, Nutrition, and Forestry, has scheduled its fourth in a series of hearings entitled: "Preparing for the GATT: A Review of Agricultural Trade Issues."

The subcommittee, chaired by Senator BOSCHWITZ, will focus on the impact of the Food Security Act of 1985 on agricultural trade.

The hearing will take place on Tuesday, July 29, 1986, at 9:30 a.m., in room 332 Russell Senate Office Building.

For futher information, please contact the committee staff at 224-2035.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's full committee markup, scheduled to be held on Thursday, July 24, 1986 at 10 a.m. has been rescheduled for 4 p.m. In addition, the location has been changed from room 428A of the Russell Senate Office Building to S-146 in the Capitol. This markup is being held to consider legislation authorizing the sale of certain Small Business Administration loans in order to meet the reconciliation instruction as imposed by Senate Concurrent Resolution 120, the concurrent resolution of the budget for fiscal year 1987.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 23, 1986, in closed executive session in order to hold a briefing on intelligence matters, and to conduct a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Wednesday, July 23, 1986, in order to hold a markup, in executive session, on the reconciliation instructions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, July 23, 1986, in order to conduct a hearing on the legal responses to Bowsher against Synar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the Commit-

tee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, July 23, to mark up S. 2405, the Federal Aid Highway Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 23, in open, later to become closed session, in order to discuss possible committee modifications to S. 2638, National Defense Authorization Act of Fiscal Year 1987; and to consider the nomination of George Woloshyn, to be Associate Director of FEMA for emergency operations; and other routine military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

TASK FORCE ON INVENTORY MANAGEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Task Force on Inventory Management of the Committee on Armed Services, be authorized to meet during the session of the Senate on Wednesday, July 23, in order to receive testimony on Inventory Management Control, in the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BOYS NATION, GIRLS NATION: EXCELLENCE IN CITIZENSHIP

● Mr. KASTEN. Mr. President, last week, Washington played host to 100 high school girls from throughout America who came to our Nation's Capitol to participate in a unique citizenship program. This week, 100 high school boys are here for the same program.

The programs are Girls Nation and Boys Nation, an exercise in citizenship designed and implemented by the American Legion and the Legion Auxiliary.

Mr. President, I wish to take a moment to thank the legion for this stellar annual program. I also applaud the achievements of Wisconsin's participants in this year's Girls Nation—Thayer Reed of Milwaukee, and Angie Wilson of Delavan; and Boys Nation—James Vyvyan of Union Grove and Randall Wickman of Ripon.

Thayer, a student at Shorewood High School, is the daughter of David and Kate Reed of 2717 East Belleview in Milwaukee. Angie, a student at Delavan-Darien High School, is the daughter of Ron and Betty Wilson of 401 South Third Street in Delavan.

James is the son of Karen and James Vyvyan, 17214 Old Yorkville Road in Union Grove. He will be a senior at Union High School. Randall, the son of Dean Wickman and Susan Plueddeman, lives at Route 2, Ripon. He will be a senior at Ripon High School.

These four young people were selected to represent Wisconsin at Girls Nation and Boys Nation because of their superb leadership qualities. The program in which they participate brings together the brightest of America's youth in an atmosphere that encourages their development as informed citizens.

Boys and Girls Nation is an outgrowth of a State citizenship program developed by the American Legion in the depression years of the 1930's. Designed to focus the attention of America's youth on the unique strengths of our local and State government systems, Boys State and Girls State brings together students who have just completed their junior year in high school to form their own local and State governments according to the laws of the States in which they live.

During the "State" program, which in Wisconsin had more than 2,000 boys and girls participating, local, county, and State governments are formed, officials are elected—just as voting-age adults select town councilmen, State auditors, county commissioners, and political chairmen—and these young people "run" their towns and State.

Part of the governing exercise is to elect two "senators" to represent the State at the "Nation" program, held annually in July in Washington, DC.

During the "Nation" program, the 100 senators organize Nationalist and Federalist political parties, hold national conventions for the nomination of candidates and then stage a national election.

These young people then perform a dual role, as a senate, which enacts legislation, and as a Federal Government, which administers the laws. They create budgets, appropriate moneys to the myriad Federal agencies that serve the American people. They run for higher office.

In essence, for a week they "become" the Federal Government.

And during this week they learn about the realities of the Federal Government by meeting with elected representatives and by witnessing sessions of the House and Senate.

Mr. President, a well informed public is the source of the strength of our democracy. Through this program, American youth gain an insight into the workings of our Government that will enable them to exercise the rights and responsibilities of citizenship with enhanced understanding.

The American Legion and the Legion Auxiliary deserve the highest praise for their continued dedication to this program. I personally applaud Thayer and Angie, James and Randall for their individual talent and initiative that has brought them to Washington to be part of this fine program.

Thousands of young Americans have been prepared for responsible citizenship through this program, Mr. President. And that preparation has made our 50 States and our Nation strong, vital, and productive.●

MANAGER DICK HOWSER OF THE KANSAS CITY ROYALS

● Mr. DANFORTH. Mr. President, last year, Kansas City Royals Manager Dick Howser led his team to a spectacular come-from-behind victory in the World Series. Today, Dick is in the middle of a much more serious battle. Less than a week after leading the American League to its second All-Star Game win in 15 years, Dick Howser was hospitalized for treatment of a brain tumor. My prayers and those of baseball fans across the country are with Dick and his family. We wish him a speedy and complete recovery.

I ask the following articles from the Kansas City Star, Kansas City Times, New York Times, and the Washington Post be included in the RECORD.

The material follows:

HOWSER'S TUMOR MALIGNANT; SURGEONS REMOVE PART OF IT

(By Sean Hillen)

Doctors removed part of a tumor from the brain of Dick Howser, manager of the Kansas City Royals, during a three-hour operation Tuesday at St. Luke's Hospital. Tests on the tumor showed it to be malignant.

The operation began at noon and was completed at 3 p.m. Dr. Charles Clough, the neurosurgeon who performed the operation, appeared briefly at a news conference afterward to make a prepared statement, saying in part that his previous diagnosis was confirmed.

Dr. Clough, who was assisted by Dr. Ed MacGee, another neurosurgeon at St. Luke's, said the operation was "standard," with no complications and "went well from the start." He would not comment on the chances for Mr. Howser's recovery.

Dr. Paul Meyer, physician for the Royals, said the surgeons were not able to remove all of the tumor because part of it lay in the area of the brain that controls speech.

Surgeons "removed all (of the tumor) they could remove," he said, adding that Mr. Howser, 50, was "in serious condition but stable and will most likely undergo radiation therapy."

Surgeons reached the tumor by cutting out flaps in Mr. Howser's scalp and skull through a procedure known as a craniotomy. Part of tumor was immediately tested for malignancy. More comprehensive tests will be conducted on the tumor over the next few days to help surgeons establish levels of radiation therapy.

In an interview Tuesday night, Dr. Clough said that he was able to see all of the tumor without the use of ultrasound imaging devices often used to detect the exact location of tumors.

"I removed all I could, using a suction and cauterizing device," Dr. Clough said. "The operation went well."

Doctors found the tumor in the brain's left frontal lobe, which controls thought, reasoning, behavior and memory.

Dr. Clough said that the tumor is known as an astrocytoma, a subgroup of tumors called gliomas.

Gliomas are the most common type of brain tumor, accounting for 43 percent of all brain cancers. They affect glial cells, special cells that help support the neurons, or main cells, of the brain.

Gliomas can be separated into five main categories depending on the type of glial cell they contain. The most common malignant tumor is a glioma known as the glioblastoma multiforme.

Astrocytomas consist of star-shaped cells called astrocytes. Such tumors, which can be benign or malignant, are graded for malignancy according to their cellular content.

With today's tools and techniques, benign astrocytomas are often completely removed surgically. But a grade four malignant astrocytoma, for example, grows aggressively and is usually fatal in a year or so, according to the National Institute of Neurological and Communicative Disorders and Stroke.

Dr. Clough said he would not know the grade of the astrocytoma in Mr. Howser's brain until pathology tests are complete. He said a second opinion may be requested from Dr. John Kepes, a neuropathologist at the University of Kansas Medical Center.

Within two hours of the operation, Mr. Howser was awake and alert in the recovery room and speaking with his wife, Nancy, according to hospital authorities. He was also able to move his arms and legs.

Joe Burke, president of the Royals, said Mr. Howser talked with his wife, describing her as a "real trooper."

Mr. Clough added, "We will be watching closely over the next two or three days to see if everything went well."

Usually, brain tumor patients receive radiation treatment for about six weeks, beginning one week after surgery. Special drugs are sometimes used to make tumor tissue more sensitive to radioactive bombardment. More powerful rays or charged particles that can be sharply focused on the tumor can also be used.

PLACID MANNER MASKS FIGHTER INSIDE ROYALS' MANAGER—BATTLING HIS ILLNESS WILL COME NATURALLY TO DICK HOWSER

At this moment about all we can do is offer Dick Howser our hearts, thoughts and prayers.

This we gladly do.

Otherwise, as the days pass before Howser's surgery this week for brain tumor, no one can say what will happen next in the life of the Royals' manager.

Except for one thing.

Howser will fight this illness.

For more than anything else, that is what Howser is.

A fighter.

Granted, he doesn't look like much of one. You see him standing there so tranquilly in the dugout during Royals games, arms folded, face barely betraying emotion, it is not pugnacity, but placidness which comes to mind. Howser never has been much for chair throwing in the clubhouse or singeing umpires' ears with invective. Like most good fighters, Howser rarely talks much about fighting. He just fights when he has to.

Nor does Howser have a fighter's physique. In some old ballplayers you still can see—in the gnarled oak of the forearms or the thickness of chest, however much it may sag beneath the weight of years—the power which once generated home runs or tackle-busting runs. Howser's frame is still compact, athletic, but unimposing. At 5 feet, 9 inches, 155 pounds, he is more mindful of the skinny guy from the accounting office who does surprisingly well in the office softball game, than a former big-leaguer.

The thing is, that's just the outer Howser.

It's the guy inside who always has been the fighter.

That's where you find the best kind of strength, anyway, that quiet, inner toughness that needs no boasting to bolster it. Needs no preening of power to fuel its existence. It just is. And it isn't going to be shaken by too much. And you know it and don't need to tell the other guy about it too often.

Look in Howser's eyes and you see the scrawny, pint-sized kid who fought Golden Gloves growing up in West Palm Beach, Fla., with a look that said, "I don't care how big you are, I'll take you on."

Look in Howser's heart and you see the guy who couldn't be bullied by a world class bully, George Steinbrenner. When Howser led the Yankees to a 103-59 record in 1980 but lost to the Royals 3-0 in the American League Championship Series, Steinbrenner went into one of his favorite routines. The one where he lets the employee twist slowly in the wind while pompously announcing he will decide the poor fellow's fate. Howser, seeing through the bluster, just kind of shouldered past Steinbrenner like one of those showdown scenes in the Old West, more or less said, "Shoot me in the back if you're going to," and walked calmly out of town. Howser went back to Florida, where his phone soon began ringing off the wall with other clubs wanting his services.

I've always thought perhaps the best tipoff to Howser's toughness was that Billy Martin never messed with him. Martin is the kind of guy who specializes in picking on vulnerable people. He has an extra sense, like hyenas, which tells him if he can intimidate you or not. If he can, he'll do his whole I-am-the-gunslinger, Billy the Kid number on you.

With Howser, uh-uh. There were a couple of moments which Martin was the Yankee manager and Howser was the third-base coach, when, as with everybody, Martin tried. But he took a good look into Howser's eyes, the kind that tell what a guy really has inside there and decided, nope, the man can't be buffaloed. Better steer clear.

I remember people talking about the game in 1962 when Howser was with the A's and Luis Aparicio slid hard into second base, which Little Looie was especially good at doing, and kicked Howser in the glove hand. It broke Howser's thumb so badly they later had to put a pin in it, but he took the strap off the back of his glove to make room for the swelling and finished the game, going two for two the rest of the way and helping to win a ballgame. When Nellie Fox made fun of Howser for bunting for one of the base hits, Howser went after Fox, broken hand and all, before Fox backed down. Howser always was a tough little guy.

It's the kind of thing that made Howser an All-Star shortstop for Kansas City in 1961. It had something to do with his swiftness afoot, his fielding and his clutch hitting. But it had more to do with his ability to battle.

Occasionally, since Howser became the Royals' manager in 1981, his fighting spirit went public. If, after endless patience, it took a physical confrontation to put a player in his place, Howser did it, such as the time he took on a bellyaching Don Hood on the team bus. Or, after interminable times of swallowing umpires calls with a stiff upper lip it was a nose-to-nose job on the crew of Joe Brinkman. Then there was the day Howser and his coach and buddy, Rocky Colavito, were involved in a traffic accident outside Royals Stadium and, after some words with police, to Howser's horror, suddenly several officers were wrestling Colavito to the ground. It was an unjust situation in Howser's mind, so he leaped on the back of one of the several officers whom he felt unfairly had ganged up on his friend.

In each instance, Howser was not a guy trying to impress anybody with being a big man. "I don't look for trouble, because if you do, you'll find it," Howser once said. "But I don't think anyone should ever back me in a corner and think I won't come out fighting because I will."

Maybe it's no accident that when the Royals came from behind 3-1 against Toronto and St. Louis last year in the AL Championship Series and World Series, the manager was Dick Howser. People talked about Howser's patience and his faculty for not panicking. Maybe as big a factor was Howser's scrappiness. As usual, it wasn't the showy kind. It was just a look that said, "We won't quit."

Throughout the 1985 season, Howser spoke of his team facing extinction with "the eye of fighter pilots." To me, he saw his own face mirrored in their eyes. It helps when your head pilot is a born fighter.

The medical people say that it matters a lot, this fight, when you take on any disease. How willing are you to take on the illness, to stay positive, to know you can win?

If this is so, we can view the coming days with hope.

He will need our prayers.

He will need his fighting spirit.

God willing, he will have a good chance to lick this thing.

HOWSER'S SURGERY

(By Dave Anderson)

At the time, they seemed to be slips of the tongue. Nothing more, nothing less. Nothing to be alarmed about. Up at the microphone at the All-Star Game news conference in Houston last week, Dick Howser was announcing his American League batting order. One by one, the manager of the World Series champion Kansas City Royals was naming each player and his position. And now he said, "Lou Whitaker, left field." Slip of the tongue. Lou Whitaker is the Detroit Tigers' second baseman.

Minutes later, Howser talked about how "we needed extra bats off the bench" in explaining why he hadn't chosen Dennis (Oil Can) Boyd, the Boston Red Sox right-hander with an 11-6 record, for the All-Star staff.

"I do feel sorry," Howser said, "for Bob Boyd."

Slip of the tongue. Bob Boyd, a first baseman-outfielder mostly with the Baltimore Orioles and the Chicago White Sox three decades ago, had briefly been on the 1961 Kansas City Athletics when Howser was a rookie shortstop.

But now, as Dick Howser, one of baseball's gracious gentlemen awaits brain-tumor surgery, it's obvious that his memory had slipped, not his tongue.

"I can look back four or five weeks and I can remember little things like that," Mike Ferraro, the Royals' interim manager, was saying. "But Dick's wife, Nancy, can look

back four or five months to the day Dick left his baggage at the airport."

"It's so clear now to understand how a brain tumor affects somebody.

"Before our Saturday night game before the All-Star break," Ferraro recalled, "Dick told our batting coach, Lee May, to tell the players that we wouldn't be taking batting practice before our Sunday afternoon game. But after the Saturday night game Dick told the players that anybody who was taking batting practice had to be in uniform at 11:30 and everybody else had to be in uniform at noon. Lee didn't know what to think.

Usually peppy and personable, Howser occasionally had retreated into a shell in recent weeks.

"I thought it was because of our 11-game losing streak," Ferraro said. "No matter how early I get to the ball park, Dick's always there before I am, sitting in his office with the door open. But the last few weeks his door was closed. I have to think he was resting. Looking back, I think he knew he had a problem. But he kept it inside him like he does everything else."

The bond between Dick Howser and Mike Ferraro goes back to when they were Yankee coaches for two seasons together, before Howser took over as manager in 1980 with Ferraro as his third-base coach.

The Yankees won the American League East with 103 victories that season, but then were swept by the Royals in the championship series. In the second game, Willie Randolph, representing the tying run, was thrown out at the plate in the eighth inning of a 3-2 loss after Ferraro had waved him in. George Steinbrenner, the Yankees' principal owner, loudly blamed Ferraro, but Howser didn't.

"George never said anything to me in the clubhouse that night," Ferraro once said. "He just stared at me."

Steinbrenner also stared at Howser, demanding that Ferraro be released as a coach. Howser refused to dismiss his friend. Instead, he was dismissed as manager, although Steinbrenner tried to camouflage the dismissal by pretending that Howser had a Florida "real-estate opportunity" too good to ignore.

Midway through the 1981 season the Royals hired Howser as manager, and in 1984 he hired Ferraro as his third-base coach. Two weeks ago Howser named Ferraro his third-base coach for the All-Star Game.

"After the workout on Monday, all the coaches sat around telling stories, but Dick just sat there listening," Ferraro recalled. "That wasn't like him. He loved to bust chops. And that's when he told us, 'I've got this kink in my neck, I've had it for two weeks.' I told him, 'I get those kinks sometimes when I pitch batting practice, but they only last three or four days. If you've had yours for two weeks, you better get it checked out.'"

With the National League threatening the American League's 3-2 lead in the ninth inning last Tuesday night, Howser emerged from the dugout to remove Dave Righetti.

"Dick had Don Aase, a right-hander, and Willie Hernández, a left-hander, warming up," Ferraro said. "He wanted Aase, but he waved his left arm. The umpire thought he wanted Hernández, so he had to get that straightened out."

Aase preserved the American League victory, and Howser later moved around the American League clubhouse, shaking hands with each player. Wednesday he sat with John Schuerholz, the Royals' general manager, on their flight to Kansas City.

"Frank White had hit the home run that won the game for us," Ferraro said. "But when Dick was talking to John, he kept referring to Willie Wilson as the guy who hit it."

On the flight, Howser complained of his stiff neck. Schuerholz suggested that he go home rather than attend the Royals' workout. When the 50-year-old manager felt worse Thursday, he was hospitalized.

"One of the doctors pointed to John Schuerholz and asked Dick who it was, but Dick didn't know," Ferraro said, "He was asked about the All-Star Game and he knew we won, but he didn't know the score."

By Friday morning, tests had confirmed a tumor in the frontal area of the brain where, according to Dr. Paul Meyer, "emotions and personality" are centered.

Until surgery is performed, the doctors won't know if the tumor is malignant or benign. If it's benign, it can be removed. If it's malignant, it will be treated with radiation or chemotherapy. Ferraro understands all that. Not long after he was hired as the Cleveland Indians' manager for what turned out to be half of the 1983 season, he was discovered to have a malignant tumor in his left kidney.

"But the tumor was confined to a small area," he said after his surgery. "The doctors think they got it all out."

Mike Ferraro hasn't had a recurrence. And now he's praying that his friend Dick Howser will be that fortunate.

BASEBALL MAKES A WISH: A HEALTHY DICK HOWSER

(By Thomas Boswell)

BALTIMORE.—Last Tuesday, by the batting cage at the all-star game, I felt somebody poke me in the ribs with a bat handle.

"Sorry, Dick, am I in your way?" I asked all-star manager Dick Howser.

"Just wanna talk for a second."

I thought, "What's he mad about? Have I criticized his team?"

"What's the problem?" I asked.

"No problem," Howser said, "Just wanted to say hello. How's it going'?"

We talked a couple of minutes about the pitchers on his World Series champion Kansas City Royals who had gone sour, and his team's recent 11-game losing streak, which had given him what he thought were weeks of tension headaches.

"See ya next week in Baltimore," said Howser.

Howser has always been full of surprises. Nobody thought a little .248-hitting utility man who looked like a cheerful mouse could be a major league manager, a leader of hard men. But Howser won 103 games his first year.

Nobody thought a rookie manager would ever stand up to George Steinbrenner and throw away a job he had worked toward for 22 years just so he could do the right thing by a friend. But Howser did. When Steinbrenner wanted to fire coach Mike Ferraro as a scapegoat, Howser said, "If he goes, we both go." They both went. But with their dignity.

Nobody thought Howser could win a division flag with a team as bad as the '84 Royals, or a world title with a club as full of holes as the '85 Royals—but he did both. What manager ever did more with less in consecutive seasons?

Nobody ever thought the quiet, modest, serious, inconspicuous Howser would become one of the most popular and respected men within the game—although he still ducked the public spotlight almost completely.

And, most of all, nobody ever thought that Howser would wake up one day at age 49 with a brain tumor as big as a golf ball.

On the evening of the all-star game, people started noticing that Howser was forgetting the name of players and seemed confused.

"Guys were asking me, 'What's wrong with your manager? He looks awful,'" said George Brett. "I'd say, 'The way we're playing, with that 11-game losing streak, I think he's holding up pretty well.'"

By Thursday, Howser was in the hospital. Friday the diagnosis was in.

Dick Howser didn't make the trip to Baltimore this week.

On Tuesday in Kansas City at 11 a.m., he will begin four hours of surgery to remove a five-centimeter tumor from the left front of his brain. Doctors say he has a 90 percent chance of surviving the surgery. They will not know for another day whether the tumor is benign or malignant.

Seldom has the sport been more saddened or more united in one emotion than it has been the last four days. One of our worst habits is that we often take the best for granted while seldom overlooking the worst. Suddenly, it's as if everbody has realized how special and unique Hoswer is.

"It's going to be a long 24 hours for a lot of us tomorrow," said Brett on Monday night. "Dick wasn't popular because he tried to be. He didn't try. He was popular because he was a nice guy. He always laid all his cards on the table. . . . Everybody knows he'll accept this battle. He needs more courage now than he's ever had before."

As irony would have it, the coach whom Hawser defended against Steinbrenner in 1980—Mike Ferraro—is the interim Royals manager. As a further twist, Ferraro is not only one of Howser's closest friends, but almost the only man in the game who might understand what Howser is enduring. Ferraro overcame kidney cancer in 1983.

"Dick has always been a great inspiration to me. We were utility men sitting on the end of the Yankee bench in 1968. Throughout the '70s, he helped me when I was managing in the minors. He was my example of how it should be done," said Ferraro Monday. "Now I hope I can be an inspiration to him when he thinks about how I licked cancer."

As a team, the Royals have had an almost uniform reaction to Howser's misfortune. First, of course, they are rooting and praying for him.

"Here I thought I had a problem with being out of the lineup [with a shoulder injury]. How trivial does that sound right now?" Brett asked. "All the little problems that you let eat at you in this game or in your life are back in perspective for a while now.

"Here we have a man who's a friend to all of us and nobody knows his fate. It makes me think about the ridiculous things that I let upset me sometimes. You're so mad and frustrated if you go one for 20, you can feel suicidal. Or I can. You ask yourself, 'Am I washed up? Am I too old to play this game?'

"At a time like this, you say, 'What does all that mean?'

"We just want Dick to come back so that when people look at him they think nothing ever happened. Just so he has a normal life. Whether he comes back to managing, that's another slice of cake. We hope so, but that's not what we're thinking about now."

General Manager John Schuerholz, who insisted that Howser go to the hospital after the manager couldn't remember familiar names, is fiercely optimistic.

"We've gotten so many calls from people who have had brain tumors removed and resumed normal life," he said. "A Kansas City doctor who's back practicing medicine. A Seattle Seahawk assistant coach who's back coaching. Even the official scorer here in Baltimore, Neal Eskridge, who just went through the same thing and may be back out here this week at the park for the first time . . .

"This is another very stark, straightforward reminder that life is precious. The things we take for granted we should enjoy and appreciate."

Since 1958, baseball has always tended to take Dick Howser a bit for granted. That won't happen again. For now, as a long and worrisome couple of days begin, let's just leave it with what people all around the game are thinking and hoping.

Dick, see you next trip in.●

SUPPLEMENTARY EXTRADITION TREATY WITH THE UNITED KINGDOM

● Mr. LAUTENBERG. Mr. President, it is with great reluctance that I support the Supplementary Extradition Treaty.

This was an extremely difficult decision for me. Many who live in Northern Ireland have age old grievances that explode periodically into violence. I am well aware that some who oppose this treaty believe it would affirm the status quo in Northern Ireland. That is not the intent of those who negotiated the treaty, nor was it my intent in supporting it.

The treaty, as revised in the Senate Foreign Relations Committee, is a way of making sure that terrorists who commit violent acts cannot escape prosecution by seeking refuge in the United States.

I had serious concerns about the original Supplementary Treaty as submitted to the Senate for ratification, and would have opposed it if it had come before the Senate. However, most of my reservations were taken care of by the revisions made in the Senate Foreign Relations Committee. This compromise is an attempt to reconcile two important factors—our steadfast opposition to terrorism, and the long-cherished political exception to extradition.

Article 1 of the treaty as revised, sets forth a list of violent crimes, including murder, voluntary manslaughter, kidnaping, abduction, and hostage-taking for which the political offense exception can no longer be claimed. People who commit any of those crimes in Great Britain or Northern Ireland and then seek safe haven in the United States would be subject to extradition.

However, notwithstanding article 1 of the treaty, article 3(a) provides that a U.S. court may deny extradition based on a persuasive factual showing that the country seeking extradition has trumped-up charges against a dissident in order to obtain his extradition for trial or punishment.

The court may also deny extradition if the person sought shows by a preponderance of the evidence that he could not get a fair trial because of his race, religion, nationality or political opinions. This provision establishes an affirmative right of inquiry into the justice system of Northern Ireland. And, as the Senate Foreign Relations Committee report makes clear, extradition can be denied if it is found that the court system does not permit the accused to receive a fair trial.

Article 3(a) resolves one of my major concerns—that people extradited back to Northern Ireland to stand trial would not be afforded a fair trial in the "Diplock" courts. Created in 1973, those courts do not provide a defendant with the right to a jury trial. They place the burden of proof on the accused. And they permit the use of coerced confessions in the investigatory process and the detention of defendants without trial or bail.

I also have concerns about article 5 of the treaty, which provides that the treaty will apply to offenses committed before the treaty becomes effective. This makes the treaty's effect retroactive. I voted for an amendment to modify that provision to except individuals whose extradition was sought prior to the entry into force of this supplementary treaty. Providing that individuals who have already been found by our courts to be exempt from extradition can be retried and extradited under the revised terms of this treaty is unfair. It would let us overrule the carefully considered judgments of our courts, judgments which have already been made. Unfortunately, that amendment was defeated in the Senate.

Despite my reservations on this score, Mr. President, I supported the treaty because it affirms that the United States is against terrorism, no matter where it occurs. If we condemn the brutal killing of Robert Stethem on TWA flight 784, if we speak out against the murder of an American soldier in a West Berlin discotheque, we must speak out against murders, whenever they occur. These are facts of terror we cannot condone.

To refuse to extradite even a few terrorists undermines U.S. antiterrorism policy. If we are to truly wage serious war against terrorists, the terrorists of one country or nationality can no more be exempt than those from another.●

S. 2576: THE MEDICARE TIMELY PAYMENT AMENDMENTS OF 1986

● Mr. BINGAMAN. Mr. President, I am pleased to join with Senator DURENBERGER and the bipartisan group of my distinguished colleagues in cosponsoring S. 2576, the Medicare Timely Payment Amendments of 1986, which would require Medicare bills to be paid in a timely fashion. I also support the efforts of Senator DURENBERGER as chairman of the Senate Finance Subcommittee on Health to incorporate the substance of this bill into the committee's reconciliation package. This issue of prompt Medicare payments requires prompt attention from the Senate. Earlier I joined Senator CHILES in cosponsoring Senate Resolution 420, which put Health Care Financing Administration [HCFA] on notice of the Senate's concern for this issue. I feel it's necessary now to address this matter with legislation.

In part, in an effort to respond to funding cutbacks, HCFA has instructed Medicare carriers and intermediaries to slow down their claims processing. The administration has admitted that the longer a Medicare claim is held before it is processed, the longer the money stays in the Medicare trust fund. The interest earned as a result of this slowdown is estimated by the administration to be about $130 million this year. That is not a legitimate reason to deny people prompt action on benefits that are rightfully theirs.

In 1983 it took an average of 9.3 days to process part A hospital bills and 12.6 days to process a part B claim for physician's services. Currently, the average turnaround time for Medicare claims is 19.1 days for hospitals claims and 25.9 days for doctors claims. Most recently, HCFA has told the carriers and intermediaries that the standard processing time for claims will be 27 days.

In my State, according to HCFA, the average processing time for a part B claim was 26.2 days as of May 1986. While this figure is under HCFA's proposed 27-day standard, it is still over twice as long as it took to process a claim in 1983. And the situation does not look like it will improve. Most recently New Mexico changed its part B carrier which has only further delayed the processing of claims. Part A claims are processed in 16.3 days—a week longer than they were in 1983. And this does not include the extra 4 to 9 days it takes for a check to be written and mailed. Nor does it include those cases that have been "lost" and have to be resubmitted two and three times.

To understand the hardship this inefficient system creates just take the case of one elderly New Mexican who filed a claim in April 1985. After not hearing whether the claim had been approved or denied, he called the contractor in September and was told the claim had been lost. So he resubmitted it. In December, 3 months later, he still had not heard whether his claim had been approved or disapproved. Again he called the contractor and

again he was told the claim had never been received. That is when he came to me for assistance. The only way my State staff has been able to handle these "lost" claims has been to write a cover letter from my office for each questionable claim in order for it to receive the attention it deserves. This is a typical example, and many more come to mind, especially after the town meetings I held during the July recess.

This legislation I am cosponsoring today requires that proper claims be issued and mailed within 22 calendar days or interest must be paid by the Government in addition to the payment for service. For those claims with inadequate information, the carrier or intermediary must notify the provider within 22 calendar days or suffer an interest penalty. At this point I feel that this bill reaches a compromise that balances the rights of beneficiaries and reinforces accountability from our carriers.

I look forward to working with my colleagues in a cooperative effort with the administration to correct this problem of delayed reimbursement to Medicare beneficiaries, and restoring the confidence of beneficiaries and providers in the Medicare Program.●

THE 50TH BIRTHDAY OF CIRCUS MODEL BUILDERS INTERNATIONAL

● Mr. DIXON. Mr. President, I am pleased to call to the attention of my colleagues the 50th birthday of Circus Model Builders International, born in Illinois in 1936, and now encompassing the entire world.

On July 23, 1986 Circus Model Builders International will observe its 50th anniversary.

The organization is devoted to the perpetuation of the art forms of the circus world, principally the elaborately carved wagons which served as the TV commericals of the turn of the century to encourage the local gentry to attend the "big show."

In Decatur, IL, in the spring of 1936 four men—George Graf of Peru, IN, Charles Bennett, Sr., of Norridge, IL, Bert Backstein of Decatur, IL, and Ralph Miller of Memphis, TN, met and decided to form an organization whose members would reproduce, in various miniature scales, famous circus wagons of the past.

From this basic program the organization grew. Although miniature in size, the wagons, drawn by teams of finely carved draft horses, are accurately reproduced down to the last screw and bolt, intricately carved and containing carved animals. They have been judged by art critics as invaluable works of Americana.

The membership presents a continuous series of exhibits in galleries, malls, nursing, and retirement homes and orphanages, which enable the children of our Nation to have a glimpse of a part of the American way of life which is rapidly disappearing and which recall fond memories to those who remember the circus parades and performances of their youth.

The last great circus parade is history. Due, in part, to the members of Circus Model Builders, much of this beautiful art form of the early days of our Nation has been preserved for generations who will never experience the thrill of the colorful pageantry of a circus parade, or have an opportunity of carrying water to the elephants in exchange for a pass to the fascinating world called the circus.●

ADMIRAL WATKINS' RETIREMENT SPEECH

● Mr. WARNER. Mr. President, it was my privilege to be present at the U.S. Naval Academy in Annapolis, MD, when, on June 30, Adm. James D. Watkins closed a brilliant naval career of more than 40 years and retired as the Chief of Naval Operations.

Few men have done more credit to that post than Admiral Watkins who, during his tenure, not only presided over the resurgence of the American Navy, but saw it deployed in harm's way—to the waters of the Persian Gulf, to the beaches of Grenada, and, most recently, to the shores of Tripoli. It is entirely typical of the dedication of this great sailor and patriot that his last public act should have been a moving tribute to the naval service which he led with so much distinction.

I commend his remarks to the attention of the Senate, and, for that reason, Mr. President, I request Admiral Watkins' speech, "I Served in the United States Navy," to be printed in the RECORD.

The remarks follow:

REMARKS BY ADMIRAL JAMES D. WATKINS

I SERVED IN THE UNITED STATES NAVY

In 1896, a naval historian wrote: "it is not astonishing that some admirals, after long experience of the powers of command, become insufferable when, as private individuals, they settle down ashore."

While I've sworn this will never be said of me, it is difficult—after so many years in the Navy not to look back before I "settle down ashore," and recall bits and pieces of a career that has spanned the full post-World War II period.

Forty-one years ago—that sounds so terribly long, but feels so amazingly short—I embarked upon a "life-voyage" that has taken me and my loved ones to exciting places where we discovered new things, met fascinating people and enjoyed incredible experiences. But, of all the places people and experiences, a notable few stand out, which I feel should be mentioned here today . . . before I go off and become insufferable.

About people and places . . . as the war was ending in 1945, I stood here on one of those uniquely Annapolis sun-soaked, hot and muggy July days . . . head shaven; perspiring a great deal in my ill-fitting new sailor's uniform; apprehensive about the future; certainly not yet completely sure of myself; but dead-set on the belief that I wanted to be a naval officer like my brother.

So, on that day, along with my classmates, I took an oath to support and defend the Constitution of the United States against all enemies, and to follow orders given by the President and all officers appointed over us.

At that time, we joined a very special fraternity of navy professionals. Yes, we had even given up some of the freedoms we were now sworn to protect. Over 400 classmates who were with me in Tecumseh Court in 1945, and their wives, are here today again with me. So, I would ask them all to rise and be recognized . . . the Class of 1949!

About experiences . . . traditionally in the Navy, we have taken pride in being diplomats for freedom around an always troubled world. And, as this world continues to shrink in time and space, good communications between all nations become even more critical to global stability. In this connection, our ships and sailors visited 108 different foreign nations last year to extend the hand of American friendship. Because some of these nations do not share our ideological beliefs, grass-roots communications with them are made all the more important to the elimination of unwanted and unfounded fear and apprehension. Today, we have with U.S. naval attaches from many of these special nations. They too are diplomats, working with us to build a better world. I would ask the naval attaches and their wives to stand now and be recognized.

Just a handful of days ago, when we dedicated the new Chief of Naval Operations corridor at the Pentagon, I stood with eight, *special* men. Each of them had made a difference in the profession I had now, too, just about completed. These men—all former Chiefs of Naval Operations—represented a continuum of more than three decades of navy's top uniformed leadership.

When I reflected upon their deeds and their courageous leadership which guided our Navy—in times of peace and conflict, in periods of defense buildup as well as defense neglect—I thought of an unbroken line of naval professionalism, a long-blue line that links our heritage from earliest sail and frigate to super nuclear-powered carriers and magnificent flying machines.

And, I thought of more, for the Navy never was just about guns or ships or planes . . . No, for while the tools of the profession have changed remarkably in two-hundred plus years, there is one facet of the Navy which has remained unchanged . . . our sailors—great Americans all—who have faithfully put to sea in selfless defense of cherished ideals of liberty and freedom.

Unfettered by the shorebound calendar of workday and holiday, it is pride and professionalism that keeps sailors at sea for months on end . . . no matter whether in the steamy world of forward fire room or on star-washed bridges of warships . . . this pride and professionalism is what lands fragile flying machines on steel-hard tossing decks in the black pitch of night. Professionalism is what takes many to the depths of the oceans, and allows them to operate with the freedom others know ashore . . . professionalism unites all who serve in Navy blue.

These warriors, which they truly are, have gone through the tempering flames. They stood tall by Nation while Nation turned her back on them in those difficult confusing, post Vietnam years. But, *never* did they

falter or stumble. These professional sailors stood true to their oath.

And, at the beginning of this decade, thank God the Nation showed its support once again for those who served in uniform. And, that's all it took to ignite the spark which has since lighted the way to a "golden age" of naval development . . . a modern naval renaissance . . . and, all in only six short years.

The personal excellence of sailors, living the challenge to be the best, caught fire. Sailors inspired the Nation when *they* beat drug abuse; when *they* conducted flawless operations in Grenada, the Persian Gulf, and more recently near the shores of Tripoli. Yes, the heart and spirit are back. Self-confidence and pride abound. We're number one again. Deterrence is healthy. I only hope we have learned another lesson about the terrible threat to freedom engendered by defense neglect. Alas, however, the storm clouds now over our legislators appear ominous.

In this short forty-one year voyage, I never ceased to marvel at the dedication, self-sacrifice, and quality of sailors who served beside me. So, I thought it fitting today: to ask our fleet and shore commanders to send us a cross-section of super sailors to represent the finest navy in the world. Will the master chief petty officer of the Navy, his fleet and force master chiefs, and all representative fleet and shore sailors with us today please stand now and be recognized. . .

Finally I would be remiss were I not to express my deepest gratitude to others here today who have played such an important part in our lives over the years—Cabinet members, defense-conscious members of Congress and their staffs, Ambassadors from so many nations; American and foreign friends who have come from as far as Japan in the West to Pakistan in the East; my faithful colleagues in arms; and finally my own dear family who have *always* encouraged me over the years in times of both hardship and joy.

So, now I have completed the turnover of this wonderful Navy command to a sailor uniquely qualified to face the journey ahead, Admiral Carl Trost. I know, with Carl at the helm, Nation and Navy will be well and faithfully served. Carl, this Navy will never let you or Nation down. Take good care of her. Protect her sailors with all your strength. Sheila and I wish all the best to you and Pauline.

As my forty-one years in this great Navy draw to a close, I take some pride in seeing how superb, ready and capable our Navy is today. *No man* has spoken more succinctly and eloquently about our wonderful Navy professionals than John Kennedy, when he said, right here at the Naval Academy some three decades ago . . . "Any man who may be asked what he did to make his life worthwhile, I think he can respond with a good deal of pride and satisfaction, 'I served in the United States Navy.' "

Thank you all for coming; may God bless and keep you.

NATIONAL KIDNEY PROGRAM DAY

● Mr. D'AMATO. Mr. President, I rise today in support of legislation, Senate Joint Resolution 367, recently introduced by my distinguished colleague, Senator HEINZ, designating July 30, 1986, as "National Kidney Program Day." This resolution seeks to recognize the invaluable lifesaving contributions of Medicare's End Stage Renal Disease (ESRD) Program.

This program serves people suffering from kidney failure or "end-stage renal disease"—ESRD. There are only two ways to treat this disease: transplant the kidney or go through dialysis using an artificial kidney machine three to four times every week. Most patients are unable to undergo a transplant and, therefore, must rely on dialysis.

However, before the ESRD Program was established in 1972, many individuals with irreversible kidney disease lacked the financial ability to afford an artificial kidney machine. As a result, more than 8,000 Americans individuals needlessly died each year.

In 1972, Congress responded. Medicare coverage of the disabled was expanded to include all patients suffering from chronic kidney failure. Because of Medicare's End Stage Renal Disease Program, every American suffering from this otherwise fatal disease is guaranteeed lifesaving treatment.

Today, over 80,000 Americans are receiving treatment under this program, a program hailed in 1978 by the then-private citizen, Ronald Reagan, as "* * * probably the only example of cost containment in Government-financed health care." Compared to many other health care programs we have today, the cost per dialysis treatment is less than it was in 1973.

In light of the many successes of the ESRD Program, I urge my colleagues to help us set aside a single day this month as "National Kidney Program Day." I note, Mr. President, that time is short; July 30 is next week. Therefore, I urge, swift and favorable consideration of this legislation.●

BOB LEE RETIRES

● Mr. ABDNOR. Mr. President, one of South Dakota's premier journalists is changing careers.

Bob Lee is retiring from active newspapering—a vocation he has pursued for some 47 years, to devote full time to a career as historian, an avocation he has followed for nearly as long.

With both vocation an avocation he has been a leader—and a teacher. And in both he has achieved and maintained the highest standards of excellence.

I first came to know Bob Lee when he was a reporter with the Rapid City Journal and became better acquainted when he was press secretary and administrative assistant to South Dakota Gov. Joe Foss when I was a fledgling State senator.

His avocation has placed him at the helm of the South Dakota Historical Society and as a mainstay for the Westerners.

It is a pleasure to salute the change of careers of this good friend—to thank him for being a fine reporter through the years, and I commend to the attention of my colleagues the appreciation of his work as expressed in both the Rapid City Journal and the Guide, and ask these articles be printed in the RECORD.

The articles follow:

JOURNALIST BOB LEE RETIRES TO WRITE HIS BOOKS

(By Ann Connery Frantz)

As a soldier-journalist during World War II, Bob Lee saw the assassinated Itialian leader Benito Mussolini's body hanged in Milan.

As a reporter at the Rapid City Jounal, he was adopted by the Sioux at Pine Ridge and given an Indian name meaning "Writer with a Straight Pen." Dewey Beard, a survivor of both the Wounded Knee Massacre and the Battle of Little Big Horn gave him his peace pipe, which Lee mounted among other memorabilia in his study.

As a historian specializing in Western and Indian occurrences, Lee views emerging theories over who did what to whom on the Custer battlefield as too much conjecture. Indian participants long ago told the tale, he said: "Simply, there were too many Indians."

And last week, as the just-retired editor of the Tri-State Livestock News, a trade newspaper published in Sturgis, Lee said, "I was tired of reporting on the scrotal circumfence of high bred bulls. It isn't very challenging.

He ended a 47-year career in newspapers this month, writing a farewell column on June 28 and attending a July 7 reception for him at the Tri-State office on Main Street.

At home now, he fights The Battle of Fort Lee—shoveling a cup or two of sunflower seeds at a time onto feeding platforms for two pesky squirrels, who otherwise cascade gnawed-up pine cones onto Lee's deck when they get hungry. Last year, he trapped them and released them over a mile away. "They came back. They drive me nuts," he said. It may be to his regret that he built the spacious deck around six or eight pine trees the Lees did not want to cut down.

Bob and his wife, Dode (who still works at the Tri-State Livestock News), share a red log home in Boulder Canyon. A Norwegian flag sails at the entry to the enclosed deck. "He is a rabid Son of Norway," said former Rapid City Guide editor David Super, one of Lee's former proteges.

Closets throughout the house are filled with file cabinets containing many years' collections of notes he will use now in the books he has planned. He has not revealed most of his topics, though, because he wants to get at them first.

Lee's study is filled by a desk, more file cabinets shelves of books, a stereo and cassettes (Lee likes musical backgrounds), a new word processor and a woodstove. There, Lee will concentrate on projects he has put off since working all day and writing at night became too much to handle.

Two heart attacks have changed Lee's approach to work and living, he said.

At 66 he decided to get on with other interests. "I thought, if I'm ever going to do this writing that I want to do, I'd better get to it."

He has been writing all along, however.

His play, "The Court Marshall of Major Reno," was produced for the Sturgis Cen-

tennial in 1978. In the 1960s, he co-wrote with R.B. Williams "The Last Grass Frontier." One of his peers said the book stands as "the definitive blow-by-blow history of how the livestock industry developed in South Dakota." He also had written several Indian and Western-oriented histories.

Starting off his retirement, Lee will produce an 80-page brochure on Fort Meade, promised to the museum there as a revenue producing publication. After that, he said he will put together a more comprehensive book on the fort, using notes and clippings saved from his long career. "I'll miss those exchange papers," he said, referring to the magazines and newspapers which flow into newspaper offices daily.

Clipping is a long-standing practice with researchers and Lee has benefited from it more than once.

He recalled the time, as a military journalist, when he received a one line newsflash from the Stars and Stripes' Rome office as he was going to press with the paper's duplicated front lines edition in Leghorn, Italy.

"One day the linotype starts out, Hitler has committed suicide . . . and then breaks down," Lee said. Despite attempts to repair the machine, the day got later and later, with no hope in sight.

So, said Lee, "I rummaged around town and got ahold of an encyclopedia. I copied from it verbatim on the rise of Hitler and the German Reich. I had the lead, that he was dead. The rest was plagiarism," he said.

He said that the experience was unforgettably frightening for a young reporter intent on maintaining his transfer to the softer life of a journalist from one of digging foxholes, eating bad food and dodging bullets in the 30th Infantry, Third Division.

It also was with the Stars and Stripes that Lee drove into Milan accompanying the first Allied troops into that city. Hearing cries of "EL Duce!" Lee and other soldiers followed the crowd's pointing gestures to the town's center, where Italian partisans had hanged several of Mussolini's followers, Mussolini and his mistress upside down ("They pinned her skirt to her stockings so that it wouldn't hang over her head," Lee said, "after having shot her through with a machine gun.")

He said he never forgot that scene, with an old lady kicking Mussolini's body repeatedly, words of blame for her son's death streaming from her mouth.

"So I wrote the story for the Stars and Stripes and the photographer took the pictures," he said.

Lee has kept a cartoon of himself by illustrator Bill Mauldin, then a 19-year-old 'star" for his wartime cartoons. The two returned to the U.S. together after the war and knew each other from passing Stars and Stripes assignments.

Originally a Minneapolis resident, Lee worked at the Minneapolis Tribune early in his career. After the war, he left his sports slot at the Tribune, no longer interested in sports after his war work.

He worked at the Rapid City Journal, then the Rocky Mountain News in Denver, then returned to the Journal as Sunday editor when the paper started a Sunday edition in 1949. He was press secretary and administrative assistant to South Dakota Governor Joe Foss during Foss' 1955 to 1959 term. He met Morris Hallock while working with Foss and it was Hallock who coaxed Lee to remain in the Hills when the big city beckoned.

At the time, publisher Leland Case (brother to Sen. Francis Case) had offered Lee a job with a Methodist Church magazine in Chicago. "I was a Lutheran, but I figured it'd be all right," said Lee. He changed his mind, however, in the taxi cab from the Chicago airport to his meeting with Case. "You couldn't pay me enough to live in that environment," he said.

He came to Sturgis as editor of the Sturgis Tribune and six months later became editor also of Hallock's second Sturgis newspaper, the Black Hills Press. It was not until 1979 that he and Hallock discovered that the Tri-State Livestock News, begun in 1964, produced 75 percent of their revenue. The other publications were sold and Lee spent the next seven years as editor of the Tri-State. He also is a part owner now of the Tri-State and Hallock's other publication, The Rapid City Guide.

In recent years, Lee has been caught up in geneological research. He is, he said, stymied in his attempts to research both his grandmothers. However, through his research, he has met 54 members of his family in Norway so far. He won't quit, he said, until he figures out those grandmothers and he has joined geneological societies in Rapid City and Minneapolis to help him in his research.

Lee is active in several historical groups, including the Black Hills Society of Pioneers, the Black Hills Corral of the Westerners, which he co-founded, and the Crazy Horse Commission.

Crazy Horse sculptor Korczak Ziolkowski, he said, was the most fascinating character he ever met. Initially, Ziolkowski greeted Lee, then a Journal reporter, with a tirade. He had read a Journal editorial which opposed his plan to carve the mountain.

"He was stripped to the waist, cutting down trees," said Lee. "He really blew up at me." The two ended up close friends, however, a friendship which Lee said he maintained by only seeing him twice a year.

"He was really dedicated. He had such singleness of purpose. His family and everything else came second. His philosophy, he told me, was 'If I do it, I can go down in history as another Michaelangelo. If I don't, I won't be remembered.' He was betting his whole life he could do it but the physical abuse of carving the mountain in those early days was too much for him."

Lee continues to support Ziolkowski's project after his death. "I heard all those complaints (from doubters) but I discovered early on that a guy with his talent didn't have to come out here and do this. He could have made a good living in Boston.

"He had his faults. He couldn't get along with people. If they couldn't envision his dream, he just didn't like them. He alienated a lot of good people that way."

He said Ziolkowski also alienated the Borglum family, carvers of Mount Rushmore—but with his fists.

Ziolkowski assisted Gutzon Borglum some years before he returned to the Hills for the Crazy Horse project. During Borglum's absence, there was a fight between Ziolkowski and Gutzon's son, Lincoln, according to what the Borglum family housekeeper later told Lee.

"There was some jealousy there," said Lee, "apparently, Lincoln had told Korczak he received a wire from his father saying that he didn't want Korczak working on the mountain anymore. Korczak double checked and found out that wasn't so. He called him a liar. They started to fight and they took Lincoln to the hospital in Hot Springs.

"When Gutzon came back, he dismissed Korczak." Lee said Ziolkowski kept the dismissal notice. "He was very pround of it. He had it framed. So there was this angle. The invitation to come out and do Crazy Horse was an opportunity for him to do a bigger mountain.

"I always figured he'd get killed on that mountain," said Lee. "He was fearless.

"It probably won't be finished in our lifetime but someday it'll be done."

Lee wrote in his last newspaper column that he left with mixed emotions. But, he added, "I've been fortunate. I've never been out of work in those 46 years. And most of the time I liked what I was doing."

LONG-TIME LOCAL EDITOR, WRITER BOB LEE RETIRES

STURGIS.—Well known journalist and author Bob Lee this week announced his retirement as editor of the Tri-State Livestock News. Lee's association with Black Hills Publishers, Inc. (publishers of the regional livestock newspaper and the Guide) spans 27 years.

An Open House is scheduled for Monday, July 7, 2-6 p.m. at the Sturgis, S.D. offices, 1022 Main St., to mark the event.

History in the making might best describe Lee's journalistic career. From the death of Mussolini in World War II to the issues facing ranchers and agriculture today, Lee has written more stories than many journalists only dream about.

Beginning as a sports writer for the Southtowner, a weekly newspaper in South Minneapolis, in addition to serving as its circulation manager, Lee's 46-year journalistic career includes service with the Minneapolis Tribune, the Stars and Stripes during World War II (where he witnessed the hanging of Mussolini), the Rocky Mountain News in Denver, the Rapid City, S.D., Daily Journal and the editorship of the Sturgis Tribune-Black Hills Press in addition to the Tri-State Livestock News.

Also, from 1954-59, Lee was press secretary and administrative assistant to South Dakota Governor Joe Foss.

Born and raised in Minneapolis, Minn., Lee found his niche in the rural setting of the Black Hills of South Dakota.

"I was raised in the city but I'm a small town boy at heart," says Lee. With a smile he adds, "I adhere to Badger Clark's philosophy, I like my fellow man best when they're scattered some', and we're scattered some in these parts."

After coming to this area, Lee's interest in Black Hills history took hold. His historical writings, such as "Last Grass Frontier", the story of the South Dakota cattle industry; "Tragedy Ends an Empire", the life story of Sitting Bull and "Gold Gals, Guns and Guts", the centennial history of Deadwood, S.D., have brought him to the forefront as a well-versed authority on events that shaped this region's western character.

"Talking to people brought history alive for me," Lee comments. "I started studying it, researching it and writing it. It's 40 years later and I still love it."

In 1964, the concept of a regional livestock publication began to form. Lee credits the inspiration and initial support of the publication to the late Jim Madden, Black Hills area rancher who is well remembered for his many years of dedicated service in the marketing field.

"At that time, they wasn't a publication that served as a direct source to the rural areas in our region with such information as market reports, livestock events, rural activities in general," says Lee. "So we began with a free circulation paper in three states

that eventually grew to a paid publication that serves ranchers in five states."

The principles applied to community journalism were applied on a regional basis and to a specific industry—agriculture. It's this concept, acording to Lee, that has made the Tri-State a successful publication.

"We personalize," he notes. "It's the people who shape the news and we've never forgotten that. It's made us distinctive."

His life-long affiliation with the agricultural industry has formed a bond that Lee says is important to him.

"The best part is the people I've come to know; people who are self-reliant and independent."

He also noted that his long association with Tri-State Livestock News publisher Morris Hallock has been a mutually beneficial one.

"We've gotten along by keeping to our own areas of expertise," says Lee. "A mutual respect and understanding has come from that."

Lee plans to continue working, a book on the history of Ft. Meade is currently underway. His professional memberships include Sigma Delta Chi, Society of Professional Journalists, past president of the South Dakota State Historical Society, a member of Western Writers of America, (Lee is one of only two writers in South Dakota in this prestigious organization), field historian for Leland D. Case Library of Western Historical Studies, past president and current director of the Society of Black Hills Pioneers, co-founder of the Black Hills Corral of The Westerners, author of numerous articles in western historic journals, president of Sturgis Sons of Norway Lodge, retired captain of the S.D. National Guard, a member of the Minnesota and Rapid City geneology societies, a member of the Crazy Horse Commission and a VFW member.

He and his wife, Dode have three children, Mrs. Dennis (Barbara) Talich, Pine Bluffs, Wyo.; Chris Lee, Sturgis, S.D., and Mark Lee, Sioux City, Ia., and five grandchildren.

Over the years, Lee hasn't regretted his decision to live the rural life rather than the big city pace.

"You know," he muses, "I function best when I can call my own shots and you can do that in this part of the country. It's not that I'm not a team player . . . but I like doing it my way."

His way has brought him the respect and admiration of friends, business associates and professional journalists. His way is truly the Old West way.

GUIDE EDITOR RECALLS VALUABLE LESSONS LEARNED FROM LEE

(By Darrell Shoemaker)

The journalism profession bids a fond farewell this week to a man who wrote the book on integrity and ethics in this business. He has written thousands upon thousands of stories, headlines and cutlines in a 46-year career that has been blessed with much happiness and success.

On July 1, Bob Lee called it quits as the only editor of the Tri-State Livestock News in Sturgis, culminating a career that included such publications as the Minneapolis Tribune, the Stars and Stripes, the Rocky Mountain News and the Rapid City Journal. He has covered everything from the death of Mussolini in World War II and the agricultural world to Korczak Ziolkowski, the famed sculptor of Crazy Horse Monument.

The dictionary defines 'mentor' as a trusted guide or counselor; a tutor, a coach. For years, people have looked up to Bob Lee, for his expertise and knowledge as a Black Hills and South Dakota historian and for his dedication to the news business. That dedication and commitment has spanned 46 years and he has served an appreciative readership that covers all ages and backgrounds.

I have looked upon Bob Lee as a mentor for several years. In that fall of 1977, it was Lee and Morris Hallock who gave me my start in journalism. I can only imagine how Bob reacted as I penned my first few sports stories for the Sturgis Tribune and Black Hills Press. Gradually, under his guiding hand I was able to put my knowledge of sports on paper in a style adequate for readers to comprehend. Thanks to Bob Lee, my journalism career was off and running.

I'll never forget the day I walked into Bob's office and showed him some photographs of bulls and cows he was to use in an upcoming edition of the Tri-State Livestock News. I remember telling him, "Here's the pictures of the cows you wanted, Bob." He calmly looked up from his typewriter, took a gander at the proof sheet and pictures and promptly told me to sit down. For the next five minutes, I was lectured on the differences between a cow and a bull. Needless to say, the pictures I gave him were those he wanted, but they were of bulls, not cows. To this day, I can't look at a cow (I mean bull) and not recall fondly upon that moment.

Then there was the day I handed in a mess of sports stories. Everything was going well—the stories flowed well, the deadlines were met, etc. Suddenly I received a call to meet Bob in his office. I would learn over the process of the next 10 minutes that "alot" is two words and not one word. Needless to say, I've learned quite a lot from Bob Lee over these nine years.

Nothing, however, could compare to the valuable lesson I learned from Bob Lee following a tragic Memorial Day drowning incident in 1979. Two of my classmates and another young adult drowned while boating on a stock pond near Sturgis. One of my classmates survived and pulled another young adult to safety.

The deaths saddened an entire community and an entire class, which one week before had graduated from high school and had the world by the tail.

As a reporter for the community newspaper, I was accustomed to covering two or three pages of sports each week, a few community news events and an occasional city council meeting. I'll never forget the moment when Bob told me to call my classmate, who had survived the terrible tragedy, and interview him on the happenings of that infamous day.

I didn't know how to react. I was saddened by the entire incident. Two of the victims and one of the survivors were close friends of mine. I, like an entire community was in shock. Yet, Bob, who too was saddened, wanted me to get the story.

I didn't realize then, what an important lesson Bob Lee had taught me. He told me that journalism and life are full of good and bad stories and, as a journalist, one must be willing to cover the bitter with the sweet. I would learn the fine art of objectivity in a story. I would learn that every story, even those that hit close to home, must be reported without personal bias or opinion.

Many lives have been touched by Bob Lee over the years. His style of writing will be sorely missed, as well as his standards of ethics and professionalism. His dedication and commitment to himself, to his readers and his profession must be saluted.

I have hundreds more memories and stories of Bob Lee. Over the years I have looked to him for guidance and counseling. He might not know it, but just his very presence—hunting and pecking at the typewriter all those years—have been a great inspiration to me and to so many others.

To study under Bob Lee has been a true privilege and honor. To be half the journalist as Bob Lee has been over the past 46 years would be a true undertaking. Bob, you have established a foundation of journalistic excellence and ethics that many of your colleagues can only envy, but would do well to follow.

Good luck, Bob, in your retirement years. We look forward to reading your books and seeing you often. Your guidance and teachings over the years have been deeply appreciated. As a pupil to his mentor, I say thank you from the bottom of my heart.

SAVINGS OF AMERICA

● Mr. D'AMATO. Mr. President, the world witnessed a spectacular sight in 1886 as freedom-loving people from the world over gathered in New York Harbor to celebrate the dedication of the Statue of Liberty. Her torch was lit as a beacon of hope and as an expression of friendship to all people. Shortly thereafter the doors of Ellis Island were opened to millions of immigrants who passed by the Statue of Liberty on their way to settle in America.

The United States is sometimes called the nation of immigrants because it has received more immigrants than any other country in history. They have helped make the United States the huge, powerful, and wealthy Nation that it is today. They have helped build the rich heritage of our cities and communities.

Mr. President, in recognition of the immigrants who came and settled in America, especially of those who have made Long Island their home, Savings of America has launched an effort to preserve their legacy. So much of Long Island's wealth is the rich history of its residents, many of whom arrived there from distant lands and whose characters and commitment helped build the fine communities in which they live. Savings of America wishes to capture their dreams and accomplishments in the publication of the Long Island Heritage Scrapbook.

Contained in this book are precious accounts of many individuals who struggled to make a new life in America. I commend Savings of America for giving themselves to this effort. More importantly, I salute the many immigrants who made it all possible.●

HIGHER TEACHING STANDARDS

● Mr. SIMON. Mr. President, recently the Carnegie Forum on Education and the Economy issued its report "A Nation Prepared: Teachers for the Twenty-first Century" which contained several recommendations for

improving the teaching profession. Teachers, all too often, bear the brunt of criticism of what is wrong with the Nation's public schools and with education in general in America. Although I am a sincere and strong supporter of improvements in public school education in particular, and American education in general, I have been cautious in assessing blame, and extremely reluctant to simply blame teachers.

I do want to indicate my strong support for two recommendations in the Carnegie Forum report (which has received the qualified support of the two major teacher organizations—the National Education Association [NEA] and the American Federation of Teachers [AFT]). Both organizations, during their recent conventions, have indicated support for ". . . the concept of a voluntary national certification process. . . ." [NEA] or have adopted their own version of the Carnegie Forum's school reform proposals [AFT]. The real importance of their actions is that the NEA and AFT have seized the initiative and have adopted positive stances in support of these needed reforms. As AFT President Al Shanker said, "Whatever difficulties the recommendation creates don't outweigh the fact that it provides a legitimacy to teacher education it never had before. * * * The reports tell people that we are willing to make changes, that we are willng to take risks."

I hope that my colleagues will meet America's teachers at least half way! If teachers will support some form of national teacher certification and stronger course content requirements for secondary school teachers, then the Congress should help by improving teacher training programs, inservice learning opportunities, and continuing the scholarship and study programs first authorized under the Talented Teacher Act.

We have the opportunity to do this in the reauthorization of the Higher Education Act. While the Senate-passed bill, S. 1965, the Higher Education Act Amendments of 1986, continues the Carl D. Perkins Scholarships and the new Christa McAuliffe Fellowships, it is slim on support for teachers in the classroom. The Secretary of Education has made some excellent recommendations in the area of strengthening inservice and summer learning opportunities for teachers and the House has come up with a proposal which enjoys wide support among the teacher organizations and teachers colleges. We would do well to look carefully at these ideas.

Mr. President, both the Washington Post and the Los Angeles Times have done excellent editorials on the need to strengthen national standards for teachers. I ask that the July 9, 1986 Post editorial "Higher Teaching Standards" and the July 20, 1986 editorial "Teachers: True or False" from the Los Angeles Times be printed in the RECORD.

I hope the House and Senate conferees on the Higher Education Act will keep up their end of the bargain and their commitment to better teaching and better education. It's the least we can do for the leaders of the 21st century.

The editorials follow:

[From The Washington Post, July 9, 1986]

HIGHER TEACHING STANDARDS

When the State of Texas tested the reading and writing abilities of its 210,000 public school teachers last March, many instructors thought the exercise was demeaning and unnecessary. Some took the exam wearing T-shirts that said "I Are A Teacher." Both the National Education Association and its Arkansas chapter strongly opposed a similar test in that state. In the District, the Washington Teachers Union supported a board of education plan to test new teachers largely because the board agreed not to pressure teachers already aboard.

Given the country's current consensus on the need for education reform—that is, for higher standards of performance on the part of both teachers and students—these reactions of a particular group of instructors and the unions that represent them were especially shortsighted. Developing sound and fair methods to remove incompetent teachers from the classroom and to ensure that they don't get there in the first place is a difficult business. Basic skills tests alone, for example, might not assess the energy and zest some instructors bring to their classes. This is an example of why it is very important for teachers and their unions to take a more active role in determining new standards of teacher performance. The nation's two largest teachers unions and their members are now ready to do just that. It is a welcome turn.

The American Federation of Teachers last Sunday endorsed proposals to establish a national board to set standards and administer the equivalent of a "bar exam" for teachers. Another proposal is to set up a new training system intended to produce stronger beginning teachers by abolishing undergraduate education majors and requiring a master of teaching degree, along with higher pay for teachers with advanced degrees. The same ideas were part of an overhaul of the teaching profession proposed earlier by the private Carnegie Forum on Education and the Economy. On Saturday, the NEA made a much less comprehensive shift, voting to support the concept of a national teacher certification board.

Students who are expected to improve their performance can hardly do so without competent teachers to lead them. Weeding out bad teachers and strengthening those who show promise can best be done when the teachers take an active role in setting standards. The AFT is setting a responsible example by its support of this approach.

[From The Los Angeles Times, July 20, 1986]

TEACHERS: TRUE OR FALSE?

True or false: Teachers' unions favor classroom reform.

True, tardily and tentatively. It is important that in recent weeks both major teacher organizations have endorsed reforms to improve their profession. But the real test will come when state legislatures start drafting laws to improve teacher training and certification. Nobody can help those drafting sessions better than teachers who know what classrooms are really like, especially if they are willing to stop protecting weak teachers and argue for changes that will help students.

At their national meetings both the National Education Assn. and the American Federation of Teachers supported key recommendations in the recent Carnegie Forum report on teaching. Specifically, after long resistance, NEA finally accepted the idea of a teacher-certification system. NEA does, however, want it run by state boards, where its members have the most influence. The Carnegie report calls for a national board to set professional teaching standards and issue certificates to teachers who volunteer to be measured against those standards.

The American Federation of Teachers backed more of the report, agreeing especially with its call for dropping undergraduate degrees in education. Schools must attract bright graduates from a wide range of disciplines and then teach them how to teach, rather than having undergraduates focus narrowly on education methodology as a major.

Schools will need not only better-educated graduates but also a lot of them. Teachers who were hired in the 1950s to educate the baby-boom generation are retiring. Others have simply grown weary of the classroom and have left. Estimates are that over the next seven years nearly half the nation's 2.1 million teachers will retire or quit. An NEA survey of the nation's 100 largest school districts says that they will be short at least 32,300 teachers for the coming school year alone.

Turnover in the public schools in the next decade, then, will be enormous. School districts face great challenges to recruit, pay and retain new teachers, but they will have a great opportunity as well. Many new teachers will enter classrooms with no vested interest in the status quo, no resistence to the basic changes that must occur in order to improve teacher training and maintain high standards.

Blueprints for reform are crucial, as are endorsements by teachers and their unions, but they will mean nothing if state governors do not crusade for them and state legislatures do not turn them into law. Without uncompromising support from teachers, legislatures may be tempted to water down certification rules when they are written into legislation. That's when teachers and their unions must work with state and local leaders. That's when the true-or-false test will come.●

HON. GEORGE O'BRIEN

● Mr. ABDNOR. Mr. President, the Congress of the United States has lost two of its finest in recent weeks.

Yesterday, while the Senate was eulogizing the late Honorable John East, the funeral was being held at the Cathedral of St. Raymond in Joliet, IL, for my good friend, the Honorable George O'Brien, who represented the Fourth District of Illinois since 1973.

George and I came to the House of Representatives the same year. Not only were we members of the same class in the Congress; we found we

were brothers in Sigma Chi and soon became close friends.

His genial Irish charm, his legislative skills, his unquestioned personal integrity, his willingness to listen and consider, his loyalty, his sense of responsibility and his determination to carry out his responsibility regardless of personal cost endeared him to all of us, and commanded our respect.

Indeed, this sense of responsibility brought him to Capitol Hill for the last time on June 25 for his final vote and his final brief comments to his colleagues.

The vote was cast in loyalty to his President, his leader and most importantly, his personal conviction of what is right for the United States to do in Nicaragua.

His comments that evening, responding to the standing ovation from his colleagues as he entered the Chamber, bespeaks what most of us feel about this institution:

It is such an honor to be one of you. You are wonderful people, and I note that there is a certain sense of fraternity irrespective of views, irrespective of party, that transcends all the other differences we may have.

This "sense of fraternity" is possible because of people like George O'Brien.

Our love and sympathy goes to Mary Lou and their family as we share their great loss.

May he rest in peace.●

NAUM & INNA MEIMAN: CONDITION DETERIORATING

● Mr. SIMON. Mr. President, my adopted refusenik family, Naum and Inna Meiman, simply wish to seek medical treatment in the West for Inna, who is seriously ill with cancer.

Inna's condition is worsening. Doctors have said that she probably has less than a year to live. She is in constant pain. Cancer institutes in Israel, the United States, Sweden, and France have invited Inna to receive experimental treatment. All that is requested of the Soviet authorities is to grant her at least a temporary exit visa. The Soviets have repeatedly refused.

Like Inna, the condition of Soviet Jewry has continued to deteriorate. Harassment, arrests, and imprisonment of Jews seeking to emigrate or study their people's language and heritage have become increasingly frequent. This cannot be tolerated.

Soviet denial of the Meimans' request to emigrate is completely unjustified. The theory is that the Meimans are not permitted to leave because of the scientific work Naum once did. That scientific work ended in 1955, and any graduate student in that field today has much more current knowledge than he has. Surely the Soviets must realize that this is not a political matter. By allowing the Meimans permission to emigrate, the Soviet authorities can make a wonderful humanitarian gesture of saving an innocent life.

I implore the Soviet authorities to allow the Meimans to live their remaining days in freedom before it is too late.●

SECOND ANNUAL WATERMELON FEAST ON CAPITOL HILL

● Mr. DENTON. Mr. President, the National Watermelon Association will hold its Second Annual Watermelon Feast on Thursday, July 24, 1986, in the courtyard of the Russell Senate Office Building from 11:30 a.m. until 1:30 p.m.

Now many of you might like to know what a watermelon feast is. The watermelon industry brings in a huge semitrailer truck of watermelons and their members cut slices for everyone to eat. Now considering all the effort that has gone toward trying to balance the budget, here's an event in the day's schedule that will give my colleagues a chance to vent their frustrations: A watermelon seedspitting contest! Afterward, there will be an opportunity for pictures to be taken with the State watermelon queens.

To help celebrate this occasion, the Secretary of Agriculture, Dick Lyng; chairman of the Agriculture Committee, Senator JESSE HELMS, and Assistant Secretary of Agriculture, Vinegar Bend Mizell, will be on hand. State watermelon queens from Alabama, South Carolina, North Carolina, Georgia, Mississippi, Missouri, Florida, Maryland, Delaware, Texas, and Oklahoma will attend as well to help cut watermelon.

The watermelon feast is a nice way for us to honor the men and women who grow and harvest the popular summertime fruit that we buy. Over 1,953,972 watermelons were grown last year and they are currently selling for about 6 cents per pound nationwide. I might add that the largest recorded watermelon ever grown was 255 pounds at Conrad Farms in Bixby, OK.

Scientists believe the watermelon originated in tropical Africa, although it was found cultivated in Italy, India, and southern Asia. Europeans introduced the watermelon into America and it is now cultivated from Chile to the United States.

Watermelon comes in many sizes, shapes, and colors. Some are red inside; others are yellow. Some have seeds; others do not. The watermelon is the fruit of a large vine which grows flat on the ground. The watermelon, with vines which grow from 12 to 15 feet, is part of the same family as pumpkins, cantaloups, and squash, although the watermelon fruit is larger than any of these plants.

The stem or vine of the watermelon plant branches in many directions, with leaves that are large and numerous, developing several inches apart on alternate sides along the stem. The watermelon flower is not very showy and must be pollinated, generally by honey bees, to produce fruit.

Watermelon varies in size from the 5-pound Sugar Baby to the Jubilee which can weigh as much as 540 pounds. The fruit is round, oblong, or elliptical, with the outside color varying from solid dark green to mottled or striped green, to generally white. The color pattern is inherited and typical of a particular kind of watermelon. Different kinds of watermelon have different colored seeds—ranging from white, brown, or black—and different colored pulp.

Watermelon fruit is about 90 percent water and the pulp is sweet. There are many varieties of watermelon, and when growing watermelon, it is best to choose a variety adaptable to your particular area, although some varieties grow well in all areas. Watermelons require good soil, with well-fertilized sand or sandy loam being the best. Watermelon requires a warm soil for growth and is planted 10 to 12 feet apart in rows 10 to 12 feet apart. They also need to be planted in beds raised 6 to 12 inches to allow for drainage from rains and irrigation, which should be done by soaking, not sprinkling, which damages the leaves. It takes watermelon 80 to 95 days to become fully grown and they are ready for harvest when the part of the rind touching the ground changes from white to pale yellow.

The National Watermelon Feast on Capitol Hill began last year to bolster watermelon sales nationwide. The event was so popular and the Association of Independent Small Business Watermelon Growers received such good publicity that it was decided to make the event an annual affair.

After the welcoming ceremony at 11:30, everyone is invited to participate in the Festival Seed-Spitting Contest and sample some of the delicious watermelon. The growers have donated a semitrailer truck full of watermelons for this occasion so there will be more than enough for all Members of Congress and their staff, as well as members of the press.●

THE CALENDAR

Mr. RUDMAN. Mr. President, I wish to inquire of the Democratic leader if he is ready to proceed to certain calendar items which I shall outline at this point to see if we may proceed with them.

I inquire if he is in a position to pass or indefinitely postpone any of the following calendar items: Calendar No. 722, House Joint Resolution 623; Calendar No. 726, Senate Joint Resolution 355; Calendar No. 727, Senate

Joint Resolution 356; Calendar No. 728, Senate Joint Resolution 371; and Calendar No. 729, H.R. 2991.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader. All of the items identified by the Senator have been cleared by all Members on this side and we are ready to proceed thereon.

Mr. RUDMAN. I thank the Democratic leader.

NATIONAL INFECTION CONTROL WEEK

The joint resolution (H.J. Res. 623) to authorize the designation of a calendar week in 1986 and 1987 as "National Infection Control Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CAJUN MUSIC MONTH

The joint resolution (S.J. Res. 355) to designate August 1986 as "Cajun Music Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 355

Whereas the French-speaking people of south Louisiana, also known as Cajuns, have a unique and colorful heritage;

Whereas an integral part of such heritage is a distinctive musical style which expresses the personality and lifestyle of the Cajun people; and

Whereas Cajun music should be recognized for its role in the lives of this special group of people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 1986 is designated as "Cajun Music Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTABLISHMENT OF A MEMORIAL TO THE BATTLE OF NORMANDY

The joint resolution (S.J. Res. 356) to recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in the development of a memorial to the Battle of Normandy, was considered, ordered to be engrossed for a third reading, the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 356

Whereas the battle fought in Normandy, France, in the summer months of 1944 was the largest land battle in history and considered by many to be the turning point of World War II in Europe;

Whereas the Battle of Normandy is one of the first examples of successful Allied military efforts to defend liberty and perpetuate freedom;

Whereas the people of France are creating a memorial museum and study center in Normandy to commemorate the Allied effort and provide future generations of students and others an opportunity to study and understand the causes of the European conflict and the role played by the Allied Governments and military forces in the successful resolution of that conflict; and

Whereas a United States Committee for the Battle of Normandy Museum has been created to inform Americans and encourage support of the museum and study center: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Congress recognizes and supports the historic and educational purposes to be served by the museum and study center in Normandy, France, and of the United States Committee for the Battle of Normandy Museum to encourage understanding of and support among Americans for such an important memorial.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HELSINKI HUMAN RIGHTS DAY

The joint resolution (S.J. Res. 371) to designate August 1, 1986, as "Helsinki Human Rights Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 371

Whereas August 1, 1986, will be the eleventh anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki Accords");

Whereas on August 1, 1975, the Helsinki Accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki Accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki Accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki Accords also express the commitment of the participating States in whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki Accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the Untied Nations, to promote universal and effective respect for them";

Whereas the Helsinki Accords also express the commitment of the participating States to "confirm the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki Accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki Accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki Accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki Accords also express the commitment of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki Accords, have acknowledged an adherence to the principles of human rights and fundamental freedoms as embodied in the Helsinki Accords;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by denying individuals their inherent rights to freedom of religion, thought, conscience, and belief;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by restricting the freer movement of people, ideas, and information;

Whereas the concluding document of the Madrid Review Conference of September 9, 1983, called for the Ottawa Human Rights Experts Meeting, the Budapest Cultural Forum, and the Bern Human Contacts Experts Meeting to discuss questions concerning respect for human rights and cooperation in humanitarian fields as embodied in the Helsinki Accords;

Whereas these meetings, which were attended by representatives from all the signatory States, presented important opportunities to address issues of compliance with the human rights and humanitarian provisions of the Helsinki Accords; and

Whereas in November 1986 representatives from the signatory States will be meeting in Vienna to review implementation of the Helsinki Accords, including the human rights and humanitarian provisions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1986, the eleventh anniversary of the signing of the Helsinki Accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory nations to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights provisions of the Helsinki Accords by raising the issue of noncompliance with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is the most effective means to promote the full implementation of the human rights and humanitarian provisions of the Helsinki Accords.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF BETSY L. RANDALL

The bill (H.R. 2991) for the relief of Betsy L. Randall, was considered, ordered to a third reading, read the third time, and passed.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION—S. RES. 429

Mr. RUDMAN. I ask the Democratic leader if he is prepared to proceed to the consideration of Senate Resolution 429.

Mr. BYRD. I thank the distinguished acting Republican leader. There is no objection on this side.

Mr. RUDMAN. I thank the Democratic leader. I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Resolution 429 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING THE LIMITATION ON EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE FOR THE PROCUREMENT OF CONSULTANTS

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 429) increasing the limitation on expenditures by the Select Committee on Intelligence for the procurement of consultants.

The Senate proceeded to consider the resolution.

Mr. MATHIAS. Mr. President, Senate Resolution 429 would amend Senate Resolution 353, the committee funding resolution agreed to March 13, 1986, and authorize the Select Committee on Intelligence to increase its expenditures for consultants from $5,000 to $31,000 during this committee funding period. The increase would be accomplished by a transfer of funds from other parts of the committee budget. No additional spending would be authorized by passage of Senate Resolution 429.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 429) was agreed to, as follows:

Resolved, That section 20 of Senate Resolution 353, Ninety-ninth Congress, agreed to March 13, 1986, is amended by striking "$5,000" and inserting in lieu thereof "$31,000".

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. RUDMAN. Mr. President, I would like to inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations:

Calendar No. 911, Lawrence B. Gibbs;

Calendar No. 923, Saundra Brown Armstrong;

Calendar No. 924, Harry W. Shlaudeman;

Calendar No. 925, Jonathan Moore;

Calendar No. 926, Robie Marcus Hooker Palmer;

Calendar No. 927, Mary Kate Bush;

Calendar No. 928, Kenneth A. Gilles;

Calendar No. 929, Kenneth A. Gilles;

Calendar No. 932, Kalo A. Hineman;

Calendar No. 933, Arnold I. Burns;

Calendar No. 934, John W. Roberts;

Calendar No. 935, Robert Clifton Duncan;

Calendar No. 936, Under the Army;

Calendar No. 937, William F. Nelson;

And all nominations placed on the Secretary's desk, with the exception of Edwin G. Corr.

Mr. BYRD. Mr. President, with the exception of the following calendar orders: No. 928, 929, and 932, the nominations have been cleared by all Members on this side of the aisle. We are ready to proceed with the confirmation thereof with those three exceptions.

Mr. RUDMAN. If I understand the Democratic leader then, I would strike from the request I am about to make

Calendar 928, Calendar 929, and Calendar 932.

Mr. BYRD. Mr. President, those nominees identified earlier by the distinguished acting Republican leader, all have been cleared on this side with the exception of the exceptions just enumerated by the distinguished acting Republican leader.

Mr. RUDMAN. I thank the minority leader.

EXECUTIVE SESSION

Mr. RUDMAN. Mr. President, I ask unanimous consent the Senate now go into executive session in order to consider the nominations just identified; that they be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Lawrence B. Gibbs, of Texas, to be Commissioner of Internal Revenue.

DEPARTMENT OF JUSTICE

Saundra Brown Armstrong, of Virginia, to be a Commissioner of the U.S. Parole Commission for a term of 6 years.

DEPARTMENT OF STATE

Harry W. Shlaudeman, of California, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Jonathan Moore, of Massachusetts, to be U.S. Coordinator for Refugee Affairs and Ambassador at Large while serving in this position.

Robie Marcus Hooker Palmer, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

INTERNATIONAL MONETARY FUND

Mary Kate Bush, of the District of Columbia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years. (Reappointment)

DEPARTMENT OF JUSTICE

Arnold I. Burns, of New York, to be Deputy Attorney General.

John W. Roberts, of Arizona, to be U.S. Marshal for the District of Arizona for the term of 4 years. (Reappointment)

DEPARTMENT OF DEFENSE

Robert Clifton Duncan, of Massachusetts, to be an Assistant Secretary of Defense.

IN THE ARMY

The U.S. Army National Guard officer named herein for appointment as a National Guard Commissioned Officer of the Army, under the provisions of Title 10, United States Code, section 1521:

To be major general

Brig. Gen. Fred M. Carter, [redacted].

[NEW REPORTS]

DEPARTMENT OF THE TREASURY

William F. Nelson, of Georgia, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ARMY, NAVY, SENIOR FOREIGN SERVICE

Army nominations beginning Col. Frank R. Giordano, and ending Lt. Col. Raymond J. Winkel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Army nominations beginning John D. Black, and ending Edmund L. Davis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Army nominations beginning Alan D. Sodergren, and ending Patrick T. Mcdevitt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1986.

Navy nominations beginning Peter L. Andrus, and ending Joan Cummins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD June 20, 1986.

Navy nominations beginning Robert Fredric Aarstad, and ending Linda M. Yonts, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD June 20, 1986.

Navy nominations beginning Jon Christian Abeles, and ending Richard Alan Paulus, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD June 20, 1986.

Navy nominations beginning Bruce Allen Abbott, and ending David A. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD June 20, 1986.

Navy nominations beginning Leo G. Patten, and ending Dave Wesley Davis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD June 26, 1986.

Navy nominations beginning Gerald P. Garrett, and ending Michael J. Kelley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD July 14, 1986.

Senior Foreign Service nominations beginning John W. Bligh, Jr., and ending Melvin W. Searls, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

Senior Foreign Service nominations beginning Charles L. Gladson, and ending Edward Ayers, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

Mr. RUDMAN. I would then move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JONATHAN MOORE

Mr. KENNEDY. Mr. President, I express my strong support for the nomination of Jonathan Moore to be U.S. Coordinator for Refugees Affairs and Ambassador at Large. I commend the administration for making an outstanding choice for an extraordinarily important post.

Although Jonathan is a Republican, I have come to know him well in recent years, ever since he became director of the John F. Kennedy Institute of Politics at Harvard University. He has played a key role in the bipartisan development and growth of the institute, which is one of the most important memorials to President Kennedy, and which has contributed in many important ways to an understanding of politics in our society. Jonathan Moore deserves great credit for his role in making the institute a forum for the study and discussion of major public policy issues.

Mr. Moore will also bring to his new duties in the administration a background that uniquely qualifies him for this position. As a former Deputy Assistant Secretary of State for East Asian and Pacific Affairs, he dealt with complex administrative and policy issues. He has extensive experience and a thorough understanding of the demands of diplomacy and the challenges facing the Department of State.

He has also been involved in some of the difficult refugee issues confronting the United States and the international community in dealing with the continuing worldwide crisis of refugees, including his recent service on Secretary Shultz's Indochinese Refugee Panel. As the ranking member of the Judiciary Subcommittee on Immigration and Refugee Policy, I look forward to working with Jonathan Moore in his new role as U.S. Coordinator for Refugee Affairs, and I warmly welcome his nomination.

Mr. KERRY. Mr. President, I am delighted that today the Senate confirmed Jonathan Moore, a long time Massachusetts resident, to be the U.S. Coordinator for Refugee Affairs. In nominating Jonathan Moore, the administration has shown uncommon wisdom and foresight and in confirming him today we are joining them in demonstrating our commitment to a strong U.S. role in the protection and are of the world's refugee population.

Mr. Moore will bring to this position the personal strengths and convictions which he has demonstrated in a career of distinguished public service. Over the last 30 years, Mr. Moore's work has led him from locales as far as Asia and Africa on behalf of USIA and as close as this Chamber where he labored as a legislative assistant for one of my predecessors, Senator Leverett Saltonstall. He has ably served in both Republican and Democratic administrations and for the last several years he has assisted Federal projects on an ad hoc basis while he has been director of the Institute of Politics at Harvard University.

The plight of refugees escaping political and religious persecution is one of the most profoundly troubling phenomena this Nation faces in its role as a world leader. In the past, this Government has played an important role in developing strategies to assist some of the world's most vulnerable populations. I am pleased that Jonathan Moore will be leading our future efforts in this area.

LEGISLATIVE SESSION

Mr. RUDMAN. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JULY 24, 1986

Mr. RUDMAN. I would like to present a series of unanimous consent requests for consideration of the Senate. I ask unanimous consent that once the Senate completes its business today it stand in recess until 10 a.m. on Thursday, July 24, 1986.

Following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each for special orders: Senators KASTEN, PROXIMIRE, WARNER, and HARKIN.

Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. RUDMAN. Mr. President, at the conclusion of morning business tomorrow, the Senate will resume consideration of House Joint Resolution 668, the debt limit extension.

Rollcall votes can be expected throughout the day Thursday, and the Senate could be asked to stay late into Thursday evening.

I ask the Democratic leader if there is any other business he wishes to transact.

Mr. BYRD. Yes. I have a request for a special order for 5 minutes to be entered for Mr. BAUCUS.

Mr. RUDMAN. I join in that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished acting Republican leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. RUDMAN. Mr. President, if the Democratic leader has no other business, I ask unanimous consent that, under the previous order, the Senate stand in recess until 10 a.m. on Thursday.

There being no objection, at 6:49 p.m., the Senate recessed until tomorrow, Thursday, July 24, 1986, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 23, 1986:

DEPARTMENT OF THE TREASURY

Lawrence B. Gibbs, of Texas, to be Commissioner of Internal Revenue.

DEPARTMENT OF STATE

Harry W. Shlaudeman, of California, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Jonathan Moore, of Massachusetts, to be U.S. Coordinator for Refugee Affairs and Ambassador at Large while serving in this position.

Robie Marcus Hooker Palmer, of Vermont, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

INTERNATIONAL MONETARY FUND

Mary Kate Bush, of the District of Columbia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years.

DEPARTMENT OF DEFENSE

Robert Clifton Duncan, of Massachusetts, to be an Assistant Secretary of Defense.

DEPARTMENT OF THE TREASURY

William F. Nelson, of Georgia, to be an Assistant General Counsel in the Department of the Treasury, chief counsel for the Internal Revenue Service.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Saundra Brown Armstrong, of Virginia, to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Arnold I. Burns, of New York, to be Deputy Attorney General.

John W. Roberts, of Arizona, to be U.S. Marshal for the District of Arizona for the term of 4 years.

IN THE ARMY

The U.S. Army National Guard officer named herein for appointment as a National Guard Commissioned Officer of the Army, under the provisions of title 10, United States Code, section 1521:

To be major general

Brig. Gen. Fred M. Carter, [redacted].

IN THE ARMY

Army nominations beginning Col. Frank R. Giordano, and ending Lt. Col. Raymond J. Winkel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Army nominations beginning John D. Black, and ending Edmund L. Davis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Army nominations beginning Alan D. Sodergren, and ending Patrick T. Mcdevitt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1986.

IN THE NAVY

Navy nominations beginning Peter L. Andrus, and ending Joan Cummins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Navy nominations beginning Robert Fredric Aarstad, and ending Linda M. Yonts, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Navy nominations beginning Jon Christian Abeles, and ending Richard Alan Paulus, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Navy nominations beginning Bruce Allen Abbott, and ending David A. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 20, 1986.

Navy nominations beginning Leo G. Patten, and ending Dave Wesley Davis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 26, 1986.

Navy nominations beginning Gerald P. Garrett, and ending Michael J. Kelley, which nominations were received by the Senate on July 2, 1986, and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

IN THE FOREIGN SERVICE

Senior Foreign Service nominations beginning John W. Bligh, Jr., and ending Melvin W. Searls, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

Senior Foreign Service nominations beginning Charles L. Gladson, and ending Edward Ayers, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

HOUSE OF REPRESENTATIVES—*Wednesday, July 23, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we offer to You our prayers of praise and thanksgiving. We praise You for the love that You have shown to us and to all Your people and for Your grace which You freely bestow. We are thankful for the freedom that is our heritage and for many opportunities for service and good works to others.

With praise and thanksgiving we bless You, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be allowed to sit today while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

IN REMEMBRANCE OF CONGRESSMAN ED GARMATZ

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, it is my sad duty to report the death last night of Edward A. Garmatz, who served as chairman of the House Merchant Marine and Fisheries Committee for 7 years.

Mr. Garmatz, for whom the Federal courthouse in Baltimore is named, served in the House of Representatives from 1947 through 1972 and was chairman of the Merchant Marine and Fisheries Committee when he chose not to run for a 14th term.

A staunch friend of shipping and labor—Mr. Garmatz proudly retained his membership in the International Brotherhood of Electrical Workers (AFL-CIO)—he fought in the House and in the Merchant Marine Committee on behalf of that constituency and these ideals: Maryland shipbuilding first, American shipbuilding second, and foreign shipbuilding never.

He was the driving force behind the Merchant Marine Act of 1970, which was aimed at reviving the American fleet.

Always a humble person, Ed Garmatz never forgot his friends or his constituents. I had the privilege of considering him one of my best friends for many years.

Our sympathy is extended to his wife, Ruth, who survives.

CONGRESS MUST ACT QUICKLY TO COMPLETE THE APPROPRIATIONS PROCESS

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, this week's schedule included consideration of a number of appropriation bills for fiscal year 1987—the District of Columbia, Agriculture, Energy and Public Works, and Transportation—and more are to follow in the coming weeks.

I would like to use this minute to simply urge my colleagues to work as quickly as possible to complete the appropriations process.

Under the accelerated timetable established by Gramm-Rudman, Congress faces a rapidly approaching deadline to finish work on all 13 appropriations bills.

While it is important that Congress lives up to its responsibility of meeting the budget timetable, it is equally important that the funding in these spending bills be maintained at levels necessary to meet the deficit reduction targets of Gramm-Rudman.

Mr. Speaker, if Congress is going to meet its obligation to reduce the deficit, it must act now and it must act with fiscal responsibility. And that includes enacting a reconciliation bill that achieves significant savings in a reasonable manner.

COMMENDING KING HASSAN AND PRIME MINISTER PERES ON THEIR MISSION OF PEACE

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, this week a historic event is occurring: Prime Minister Shimon Peres of Israel has traveled to Morocco to confer with King Hassan. I believe that this mission of peace can improve the opportunities for peace in the Middle East.

Prime Minister Peres' trip is a strong indication of Israel's desire to negotiate peacefully with the Arab States. It has been Israel's misfortune to be seen as an enemy of the Arab world, a world with which it shares many historical, cultural, and human ties. In 1977, Egypt and Israel followed the path to peaceful coexistence, and while their relations may on occasion be rocky, they are able to resolve their disputes peaceably. Such a result is amazing in a region which has been shaken by five wars in fewer than 40 years. The United States has been Israel's guarantor in war for those 40 years; we must also work to ensure that Israel's efforts for peace are given an equally good chance at success.

The Arab nation to which Prime Minister Peres has traveled, the Kingdom of Morocco, is an old and close friend of the United States, indeed, Morocco was the first nation to recognize American independence. King Hassan has nurtured that friendship and has worked hard to maintain his nation's staunchly pro-Western orientation. Nevertheless, by extending an invitation to visit Morocco to the Israeli Prime Minister, King Hassan has taken the risk of becoming an outcast in the Arab world, a fate which did befall President Sadat of Egypt. Indeed, while Egypt has given its backing to the meeting, Syria has already broken diplomatic relations with Morocco. It is vital then that we, the Congress of the United States, move decisively to endorse the Hassan-Peres meeting.

Thus, I have introduced House Concurrent Resolution 372 commending King Hassan and Prime Minister Peres for their courage, dedication, and sincere commitment to peace. I strongly urge my colleagues to support this resolution.

CONSTRUCTIVE ENGAGEMENT HAS NOT WORKED: IT'S TIME FOR THE ADMINISTRATION TO REVIEW ITS POLICY

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I, like many Members of the House, read the President's address yesterday on South Africa with some disappointment. The truth is, it seems to me, as one relatively small observer of the world scene, that our policy of so-called constructive engagement has not worked; will not work.

I would ask the President again and this administration again to review the situation from the shoes of those affected by our policies or lack of them.

For example, if you were black and lived in South Africa, after listening to the President of the United States yesterday, I wonder what you would think that America stood for. We're for freedom fighters I guess everywhere but in South Africa.

I hope we can change our policy. I hope we can work for change in South Africa. We do not have to cut off our nose to spite our face; but America needs to do more than issue platitudes on an occasional basis.

VOTE TO OVERRIDE THE PRESIDENT'S VETO OF THE TRADE BILL

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, yesterday the Levi Strauss Co., announced that it would close its slack sewing plant at Wynne, AR, in October, and its pants pressing plant in Little Rock in November. They will lay off 483 workers in Arkansas.

It is rumored that the Levi Strauss Co., now will cut its apparel goods manufacturing in the United States, ship them overseas to have them sewn there, and then returned to the American market for sale.

Mr. Speaker, if this is so, it is but another tragic chapter in the failed trade policies of this administration. Rising unemployment from these trade policies plus falling farm prices equals depression in Arkansas.

□ 1010

Recently the House passed a trade bill that would begin to remedy this prescription for disaster. Unfortunately, it has been vetoed by the President. However, we will have an opportunity to override that veto on August 6, and I call upon my colleagues to join with me in voting to restore a realistic trade policy to America.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5162, ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1987

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 494 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 494

Resolved, That during the consideration of the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived: beginning on page 2, line 22 through page 5, line 13; beginning on page 5, line 20 through page 6, line 15; beginning on page 8, line 18 through page 9, line 7; beginning on page 9, line 16 through page 13, line 19; beginning on page 15, line 15 through page 16, line 2; beginning on page 19, line 20 through page 30, line 2; beginning on page 31, lines 1 through 24; beginning on page 32, line 11 through page 33, line 9; beginning on page 33, line 18 though line 22; and beginning on page 34, line 9 through page 36, line 2.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes for the purpose of debate only to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 494 waives points of order against certain provisions of H.R. 5162, the energy and water development appropriations bill for fiscal year 1987. This rule does not provide for the bill's consideration since general appropriation bills are privileged under the rules of the House. This rule, therefore, also does not contain any provisions relating to time for general debate. Customarily, general debate will be limited by a unanimous-consent request by the floor manager when the bill is considered.

House Resolution 494 does waive provisions of clause 2 of rule XXI which prohibits unauthorized appropriations and legislative provisions in general appropriation bills, against specified provisions in the bill. This rule also waives provisions of another clause of rule XXI, clause 6, which prohibits reappropriations or transfers in general appropriations bills, against specified provisions in the bill.

The precise provisions of H.R. 5162 for which these waivers are provided are detailed in the rule by reference to page and line in the energy and water development appropriations bill. Generally, titles I and II of H.R. 5162, which contain new budget authority for the Army Corps of Engineers and the Bureau of Reclamation, respectively, contain certain provisions that constitute legislation in an appropriation bill. In addition, many of the programs contained in these titles are not authorized.

Title III, the title providing new budget authority for the Department of Energy, also contains provisions for which an authorization has not been approved, as well as transfers of prior year funding which constitute reappropriations. Authorizing bills for this spending, such as the Department of Defense authorization bill, are in various stages of consideration in Congress.

Title IV contains new budget authority for the Appalachian Regional Commission and the Nuclear Regulatory Commission. The legislation authorizing programs of the Appalachian Regional Commission has not been enacted.

Finally, certain provisions of title V, the title containing general provisions, also constitute legislation in an appropriation bill.

Mr. Speaker, H.R. 5162 is an important measure providing new budget authority for a wide variety of programs and agencies, including the atomic energy defense activities of the Department of Energy which account for almost one-half of the appropriations contained in the bill.

I believe this rule will allow for expeditious consideration of this measure, and will allow the House to continue to move forward with the important process of considering general appropriation bills for fiscal year 1987. I urge adoption of this rule.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this rule has been ably explained by the gentleman from South Carolina, and I will not repeat what he said.

Mr. Speaker, this rule waives certain points of order under the rules of the House that would lie against the bill in a number of instances. Members should understand that this is not unusual with appropriations bills. The energy and water development appropriation bill is one of the most important appropriations bills the House considers each year. It could not be brought to the floor without these waivers.

Here is the reason. No annual authorizing bills have been enacted into law for many of the Department of Energy programs, or for the Appalachian Regional Commission, or for the Nuclear Regulatory Commission. And in regard to the Corps of Engineers and Bureau of Reclamation projects, the committee adopted a number of provisions that are necessary for timely action in connection with these agencies' responsibilities for water resources.

So, I want to emphasize that there are realities and responsibilities the Committee on Appropriations and the Committee on Rules must deal with despite the fact that there may be no

authorization in place in some cases. The Subcommittee on Energy and Water Development, under the leadership of the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], has acted in a responsible manner and should not be subjected to criticism for doing so.

In any case, this rule does not prevent Members from offering amendments to reduce the funding levels in this bill, which is the main focus of contention.

This bill appropriates $15.548 billion. This is $319.6 million less than the amount rcommended by the President and $792 million more than the current fiscal year appropriations enacted to date.

Mr. Speaker, this is an important appropriations bill funding many vital Federal programs and activities. I ask for a "yes" vote on the rule so that we may begin working on the bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. I thank my friend from South Carolina for yielding me this time.

Mr. Speaker, the two amendments that I intend to offer to this appropriations bill today are reductions in funding amendments and will come within the main body of the bill. Therefore, I have no argument with the rule.

Of the two amendments that I intend to offer, the first is a reduction of $291 million from the funds designated for the site characterization of nuclear waste repository sites. I want to emphasize to my colleagues that this is a nationwide problem; it is not a regional problem.

We are going to argue today against the process that the Department of Energy has used in determining site selection of nuclear waste sites.

We have just discovered that there has been a stop order for all research documentation and collation in many phases of site characterization because they are in disarray.

The Department of Energy has sent stop orders to a number of the contractors because their research collation documentation was in utter disarray and they did not feel it was good enough to present eventually to the Nuclear Regulatory Commission as required.

The whole process has been politicized by the Department of Energy throughout the Nation. So therefore I ask all my colleagues from every region of the House to join with us in telling the Department of Energy "get your act in order before you continue the process, this critical process of finding a proper site for the nuclear waste repositories."

It is a nationwide fight, it is not between regions, and so I ask consideration of Members from all regions of the amendment cutting $291 million from this appropriations bill.

The second amendment has to do with the N reactor at Hanford. It is a totally different amendment, completely unrelated. It just simply says that until studies are made making sure that this N reactor that is considerably similar to the Chernobyl reactor, can be operated safely that we should not be subject to the dangers it presents to us today.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 46, not voting 19, as follows:

[Roll No. 236]

YEAS—365

Ackerman	Byron	Downey
Alexander	Callahan	Duncan
Anderson	Campbell	Durbin
Andrews	Carper	Dwyer
Annunzio	Carr	Dymally
Anthony	Chandler	Dyson
Applegate	Chapman	Early
Aspin	Chappell	Eckart (OH)
Atkins	Chappie	Edgar
AuCoin	Cheney	Edwards (CA)
Badham	Clay	Edwards (OK)
Barnard	Clinger	Emerson
Barnes	Coats	English
Barton	Cobey	Erdreich
Bateman	Coble	Evans (IL)
Bates	Coelho	Fascell
Bedell	Coleman (MO)	Fazio
Beilenson	Coleman (TX)	Feighan
Bennett	Collins	Fiedler
Bentley	Conte	Fish
Bereuter	Conyers	Flippo
Berman	Cooper	Florio
Bevill	Coughlin	Foglietta
Biaggi	Courter	Foley
Bliley	Coyne	Ford (MI)
Boehlert	Crockett	Ford (TN)
Boggs	Daniel	Fowler
Boland	Darden	Frank
Boner (TN)	Daschle	Franklin
Bonior (MI)	Daub	Frost
Bonker	Davis	Fuqua
Bosco	de la Garza	Gallo
Boucher	Dellums	Garcia
Boulter	Derrick	Gaydos
Boxer	DeWine	Gejdenson
Brooks	Dickinson	Gekas
Broomfield	Dicks	Gephardt
Brown (CA)	Dingell	Gibbons
Bruce	DioGuardi	Gilman
Bryant	Donnelly	Glickman
Burton (CA)	Dorgan (ND)	Gonzalez
Burton (IN)	Dornan (CA)	Gordon
Bustamante	Dowdy	Gradison
Gray (IL)	McDade	Schulze
Gray (PA)	McEwen	Schumer
Green	McHugh	Sharp
Guarini	McKinney	Shaw
Gunderson	McMillan	Shelby
Hall (OH)	Meyers	Shuster
Hall, Ralph	Mica	Sikorski
Hamilton	Michel	Siljander
Hammerschmidt	Mikulski	Sisisky
Hansen	Miller (CA)	Skeen
Hatcher	Miller (OH)	Skelton
Hawkins	Miller (WA)	Slaughter
Hayes	Mineta	Smith (FL)
Hefner	Mitchell	Smith (IA)
Hendon	Moakley	Smith (NE)
Henry	Molinari	Smith (NJ)
Hertel	Mollohan	Smith, Robert (OR)
Hiler	Montgomery	Snowe
Hillis	Moody	Snyder
Hopkins	Moorhead	Solarz
Horton	Morrison (CT)	Spence
Howard	Morrison (WA)	Spratt
Hoyer	Mrazek	St Germain
Hubbard	Murphy	Staggers
Huckaby	Murtha	Stallings
Hughes	Myers	Stangeland
Hunter	Natcher	Stark
Hutto	Neal	Stokes
Jacobs	Nelson	Strang
Jeffords	Nichols	Stratton
Jenkins	Nielson	Studds
Johnson	Nowak	Stump
Jones (NC)	Oakar	Sundquist
Jones (OK)	Oberstar	Sweeney
Kanjorski	Obey	Swift
Kaptur	Olin	Synar
Kasich	Ortiz	Tallon
Kastenmeier	Oxley	Tauke
Kemp	Packard	Tauzin
Kennelly	Panetta	Taylor
Kildee	Parris	Thomas (CA)
Kindness	Pashayan	Thomas (GA)
Kleczka	Pease	Torres
Kolbe	Penny	Torricelli
Kolter	Pepper	Towns
Kostmayer	Perkins	Traficant
Kramer	Pickle	Traxler
LaFalce	Porter	Udall
Lagomarsino	Price	Valentine
Lantos	Pursell	Vander Jagt
Latta	Quillen	Vento
Leach (IA)	Rahall	Visclosky
Leath (TX)	Rangel	Volkmer
Lehman (CA)	Ray	Walgren
Lehman (FL)	Regula	Watkins
Leland	Reid	Waxman
Lent	Richardson	Weaver
Levin (MI)	Ridge	Weiss
Levine (CA)	Rinaldo	Wheat
Lewis (FL)	Robinson	Whitehurst
Lightfoot	Rodino	Whitley
Lipinski	Roe	Whitten
Livingston	Roemer	Williams
Lloyd	Rogers	Wilson
Lott	Rose	Wirth
Lowery (CA)	Rostenkowski	Wise
Lujan	Roukema	Wolf
Luken	Rowland (CT)	Wolpe
MacKay	Rowland (GA)	Wortley
Madigan	Roybal	Wright
Markey	Rudd	Wyden
Martin (NY)	Russo	Wylie
Martinez	Sabo	Yates
Matsui	Savage	Yatron
Mavroules	Saxton	Young (AK)
Mazzoli	Schaefer	Young (FL)
McCain	Scheuer	Young (MO)
McCloskey	Schneider	Zschau
McCurdy	Schuette	

NAYS—46

Archer	Goodling	Roberts
Armey	Gregg	Schroeder
Bartlett	Holt	Sensenbrenner
Bilirakis	Hyde	Shumway
Brown (CO)	Ireland	Slattery
Combest	Lewis (CA)	Smith, Denny (OR)
Craig	Loeffler	Smith, Robert (NH)
Crane	Lowry (WA)	Solomon
Dannemeyer	Lungren	Stenholm
DeLay	Mack	Swindall
Dreier	Marlenee	Vucanovich
Eckert (NY)	Martin (IL)	Walker
Fawell	McCollum	Weber
Fields	McKernan	Whittaker
Frenzel	Monson	
Gingrich	Petri	

NOT VOTING—19

Akaka	Hartnett	Moore
Borski	Jones (TN)	Owens
Breaux	Long	Ritter
Carney	Lundine	Roth
Dixon	Manton	Seiberling
Evans (IA)	McCandless	
Grotberg	McGrath	

□ 1035

Messrs. GREGG, WEBER, and WHITTAKER changed their votes from "yea" to "nay."

Ms. FIEDLER, Mr. BOULTER, and Mr. THOMAS of California changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. McCANDLESS. Mr. Speaker, I regret that the electronic voting device failed to register my support for rollcall 236 this morning. I would like the record to show my support for the rule on the energy and water appropriations bill.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT ON TODAY, AND TOMORROW DURING THE 5-MINUTE RULE

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to sit today, July 23, 1986, and tomorrow, July 24, 1986, to continue hearings on the *Challenger* accident.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1045

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON TODAY DURING THE 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be permitted to sit on today, Wednesday, July 23, 1986, while the House is reading for amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1987

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited, not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Indiana [Mr. MYERS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

□ 1046

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5162, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to you today for your favorable consideration the energy and water development appropriation bill for 1987. I am joined in this effort by my colleagues on the Energy and Water Development Subcommittee who have worked long and hard to bring this legislation to the floor. Let me express my special appreciation to our ranking minority member, the gentleman from Indiana [Mr. MYERS]. As in years past, he and I have worked together with the subcommittee without any trace of partisanship of fashion a bill that meets the present and future needs of our entire country. I also want to express my appreciation and thanks to the members of the subcommittee, the gentlewoman from Louisiana [Mrs. BOGGS], the gentleman from Florida [Mr. CHAPPELL], the gentleman from California [Mr. FAZIO], the gentleman from Oklahoma [Mr. WATKINS], the gentleman from Tennessee [Mr. BONER], the gentlewoman from Nebraska [Mrs. SMITH], and the gentleman from Arizona [Mr. RUDD]. I would be remiss if I did not express particular appreciation for the effort of Mr. RUDD who has announced that he will not seek reelection. The subcommittee will sorely miss his expertise.

Mr. Chairman, the bill before the committee today would provide $15,548 million in new budget authority to the Army Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and six independent agencies and commissions. This is $792,083,000 more than was provided in last year's appropriation and it is $319,643,000 less than the amounts requested in the President's 1987 budget. The bill is consistent with the approved budget resolution for fiscal year 1987 and is equal to the assumed allocation pursuant to section 302 of the Budget Act. We believe the outlays associated with this bill also are consistent with the outlay targets established by CBO for the programs funded in the bill.

TITLES I AND II—WATER RESOURCE DEVELOPMENT

Mr. Chairman, the committee is committed to a policy of development of the vital water supply, navigation, flood control, irrigation, and hydroelectric projects that are necessary to the well-being and economic growth of the entire Nation. No part of this country is immune from the problems of water—too little or too much—and all States of the Union must join together to cooperatively foster a truly national water policy which responds to the unique needs of each State and region.

Title I includes $3,226,052,000 for the Corps of Engineers which provides for 223 water resource projects in the planning or construction phases. This title includes 19 new construction starts requested by the administration and 11 new starts recommended by the committee for a total of 30 new starts.

Title II includes $863,930,000 for the Bureau of Reclamation which provides for 92 water resources projects in the planning or construction phases. This title contains one new construction start.

Titles I and II also provide for continuation of ongoing construction projects and operation and maintenance programs. Within the available funds, the subcommittee has attempted to accommodate the most critical needs identified through the extensive hearings conducted with administra-

tion witnesses, the public, State and local officials and Members of Congress.

TITLE III—DEPARTMENT OF ENERGY

In title III, for the Department of Energy, the recommendation provides a total of $10,847,046,000, an increase of $153,774,000 over the fiscal 1986 appropriation and $636,055,000 below the President's budget. We are recommending $7,693,900,000 for the national security programs and $3,153,146,000 for all other energy programs. The amount recommended for energy research programs is lower than the current appropriations, but the important consideration is that we have maintained a balanced energy research program and a healthy scientific research effort. The recommendations include numerous changes in the request which are summarized in the report. I will mention a few.

In the energy programs of the Department of Energy, several changes are worth mentioning:

For solar and renewable energy programs, we are recommending $131,325,000 compared to the request of $90,222,000. The committee believed the administration's proposed reductions in the level of effort on solar and renewable energy were too drastic.

For magnetic fusion, the recommendation provides $358 million, an increase of $25 million above the requested level of $333 million.

Progress is continuing in developing and demonstrating the technological basis for the safe disposal of nuclear waste. The committee continues to strongly support the program activities included in the nuclear waste disposal fund and is of the view that management of the program to date has been satisfactory. However, the recommendation includes deletion of funding requested for the monitored retrievable storage facility because no site has been approved for that and siting funds requested for the second permanant repository have been deleted because of the Department's decision to not proceed with that facility at this time.

For general science and research, the committee recommendation provides a total of $738,400,000 which is $35 million less than the administration's request. There continue to be exciting and important discoveries on the frontiers of basic knowledge concerning the structure and nature of matter from this program. The application of nuclear science for medical purposes also has provided some important new discoveries and potential breakthroughs in the treatment of cancer and other medical disabilities. The committee recommendation continues our strong support for this program.

The recommendations for defense programs of $7,793,900,000 is $462,236,000 above the current appropriations and $536,100,000 below the budget request. The recommendation accommodates an approximate 6-percent increase over fiscal year 1986 and the funding provided for the strategic defense initiative is limited to the amount and in the manner provided for in a fiscal year 1987 defense authorization.

The committee recommendation provides $99,079,000 for the Federal Energy Regulatory Commission as requested. In addition, the bill includes language which would permit FERC to use up to $78,754,000 in revenues from licensing and other activities to offset part of the appropriations. It is the committee's view that statutory authority exists for FERC to collect additional revenues, but the appropriation language does not require FERC to collect the entire $78,754,000 in estimated revenues.

TITLE IV—INDEPENDENT AGENCIES

Title IV of the bill includes $610,972,000 for six independent agencies. This is $6,406,000 below last year's level.

We have provided $105 million for the Appalachian Regional Commission; $405 million for the Nuclear Regulatory Commission; $100 million for the Tennessee Valley Authority and $972,000 for three river basin commissions.

GENERAL PROVISIONS

The bill contains the customary general provisions carried in prior years to permit the agencies funded in this bill certain flexibility and to limit other activities.

COMMITTEE REPORT

The report accompanying the bill provides a good explanation of the recommendations reflected in the bill. I would encourage the members to look through it.

This is a good bill and report. It is under the President's budget. I recommend its adoption by the Committee.

Mr. Chairman, I would like to call the Members' attention to several printing and typographical errors in the report (H. Rept. 99-670) accompanying the committee bill (H.R. 5162).

On page 105, construction project No. 87-R-403 should read 87-R-203.

□ 1055

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join my chairman, the gentleman from Alabama [Mr. BEVILL], in commending a great many people who have been able to bring this bill to the floor and contribute significantly the members of the subcommittee, the Members of Congress, and especially the staff that has worked so hard and so diligently and so effectively and efficiently to bring this bill to the floor.

We have 13 subcommittees on the Appropriations Committee. I must say, having served on several of those subcommittees, I am presently on three of them, that this particular subcommittee works closely together, more closely than any other committee I have ever served on in the years I have served in the Congress in a bipartisan—maybe I should say a nonpartisan way, both for the staff and for the Members of Congress. Partisan politics never entered into our decisionmaking on what should be in our bill. That is not always the case in some committees that we have all seen.

So we bring a bill to the floor today that I hope all can support. Many years ago we had a subcommittee chairman of this committee who used to refer to this particular bill as the all-American bill. Once again, this is the all-American bill, because the content, the provisions provided for in this bill touch every congressional district in our country directly. Not that we have something for every congressional district in the country, but the effects, the impact of what we provide in this bill, do affect every congressional district in the United States.

First, there are a great many things that we all take for granted; electric energy, we all sit here and see the light. We expect in the morning to get up and plug the toaster in and turn on the electric stove and use our electric razors or the curling irons for the ladies. We expect that electric energy to be there, but it is not just a happenso that the electric power is there daily. It is there because someone in the past has seen fit to provide and to make sure that we have the electric energy we all take for granted today.

The water that we drew this morning for our showers, that we use daily in our consumption not only in our homes, but also in industry, is not just a happen-so. Someone had to provide that and the contents and the things of this bill provide the necessary water that we daily expect to be there when we turn that tap on in our homes or in our industries. That is done in this bill.

The bill is a fine bill. It is a bill that is not as much as the need is there for our country, but because of spending constraints that we had to impose this year, we necessarily have curbed some back.

We will have some amendments today that will ask to increase the spending. It just cannot be done.

As Chairman BEVILL has told us, we are right up to the 203(b) allocations allocated by the Congress itself.

We are $320 million under the President's request.

The one criticism you are going to hear today is the fact that we are over in the outlays. But what constitutes the outlays? Something the House of

Representatives never in the past in my 20 years has concerned itself with is the outlays, because we in the Congress do not control the outlays. Those are controlled by the Executive; but we are told that an assumption has been made that the outlays will be greater in the outyears because of the consequences of what we have in this bill; but again that is controlled by the Executive, not by the Congress; so the outlays are something over which we have little control.

We have appropriated less in this bill than the President has requested. We are right up to the point of where the 302(b) allocations that we in Congress have taken the budget resolution and allocated to the subcommittees.

So we have done all in our power to meet the necessities here of keeping our expenditures down.

We maintain all the vital necessary programs, such as research for energy, nuclear safety, and reactor safety. We have done all these things that are absolutely necessary. We have kept them to a minimum, but we have provided adequately for these necessary programs.

We have no major new initiatives in this bill. The bill brought to you today by the Energy and Water Subcommittee of the Appropriations Committee is a good bill. I think it cannot stand any amendment. I hope we will resist all amendments. I hope our colleagues will resist all amendments and I hope you will vote to support it.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to our friend and colleague, the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Chairman, I thank the distinguished chairman for yielding.

Mr. Chairman, I simply want to emphasize that the amendment that I will offer to this bill on page 22 of the bill will reduce spending in this bill by $291 million. It is a fund reduction; not an increase. It is designed to cut funds for the site characterization studies for nuclear waste repository sites.

We do this, not as a regional proposal, but because the Department of Energy is in complete disarray on the studies. They have issued a stop-work order for all collection and documentation of research now in many phases of the present studies on nuclear waste repository sites, because this data is insufficiently collected and documented. The process has been politicized. Political decisions have been made right and left.

We feel that the Department of Energy should be told by the Congress that they simply must get their act in order before they go on to make such momentous decisions as where we will store high-level nuclear wastes for the next thousands of years.

So I say to my colleagues, we in the West are not making this a regional fight. If we wanted to do that, we might point to Mount St. Helens, our great cannon in the West, but we do not want to do this. We want everyone to join together in this effort.

Mr. MYERS of Indiana. Mr. Chairman, our colleague, the gentleman from Arizona [Mr. RUDD], has announced that he will not be back in the 100th Congress. He is a very valued member of this subcommittee, a very contributing member, and one we will miss very much. We regret his decision very much not to run again. We will miss the next speaker who has been a member of the subcommittee for a number of years and has been a very hardworking member.

Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. Mr. Chairman, I want to thank my friend and colleague, the gentleman from Indiana, for those kind remarks and for yielding to me.

Mr. Chairman, it is a rare privilege to be a member of this committee, to work with the great people who make up the committee, the distinguished chairman who has exercised great wisdom in operating the committee, the ranking member, the gentleman from Indiana [Mr. MYERS], who has also displayed great wisdom in the operation of the committee, putting together things that are needed for all the people of America. That is what water is all about. That is what energy is all about.

The staff is a very, very professional staff. The committee and the staff worked exceedingly well together to provide for America and the people of America.

Mr. Chairman, this 1987 energy and water development appropriations bill represents a sound investment in our Nation's future. It is $319.6 million below the administration's request. It is a very responsible bill and it deserves the support of our colleagues and this House.

Our Nation's ability to develop water resources where needed or to provide flood protection where needed provides benefits to Americans well beyond those in the immediate area or the site of the particular projects. All Americans stand to gain from efficient and economical water development. In this bill, we are providing the infrastructure to help the Nation to work and to prosper.

The West would still be a vast wilderness and our Western States which have provided trillions of dollars to the economy because of water would not have been able to do so without the wisdom that has been exercised by the Congress with regard to water development and energy development.

The West could not have been developed without the foresight and commitment to develop water resources and ensure the availability of water. Our most precious resource is water for the region's rapidly expanding population.

Even now, in my own home State of Arizona, it is expected to double its population by the year 2000. That is less than 14 years away. Can you imagine an entire State developing and doubling its population over a 14-year span? That is what is happening in Arizona and many other States in the West.

So let me emphasize just how important it is to plan for this expanding population. If Arizona, for example, experiences a 5- or a 7-year drought—and our droughts have lasted longer than that in the past in the central valley in Arizona and on the Colorado River—there will not be enough water to meet central Arizona's expanding water needs. The projects included in this energy and water bill, projects planned with foresight and prudence, represent steps that we can use and take to insure the additional water storage capacity to meet those needs and our responsibilities to the people.

So this legislation includes essential funding for programs across the Nation. I support the bill and I urge all colleagues to support the bill.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to my collegue and friend, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I yield to my colleague, the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I rise in support of this appropriation bill and I would like to thank the committee and its distinguished chairman for the fine legislation that they have presented for our consideration. I know that the committee has spent much time and effort in formulating this extremely important piece of legislation.

Mr. Chairman, I wish to thank the committee for their initiative on the Ocean City, Maryland Shore protection study. This will provide $500,000 for the Army Corps of Engineers to continue its planning to protect the Atlantic coast of Maryland—Ocean City—from hurricanes and severe storms. Last year, Hurricane Gloria threatened to wreak extreme damage upon the unprotected shores of Maryland's coast. Fortunately, the hurricane passed quickly and moved further offshore. Even with this luck, due to the loss of beach from previous storms, there was still $5 million in damage as a direct result of Gloria. Fortunately, no lives were lost and the $2 billion worth of developed property located along the coast of Ocean City was spared from the potential devastation of one of the most powerful hurri-

canes in decades. However, a crucial 4-foot strip of beachfront was lost and this coast has been left vulnerable to severe storms or hurricanes which, in the future, may cause heavy structural damage to the hotels, houses, condos, and businesses located here.

The State of Maryland and local governments are committed to spending millions of dollars to complement, and maintain, this important Federal project. This is a vital part of the long-range goal of the State and the Federal Government to protect the coast and I strongly endorse this partnership.

In addition to addressing the need for hurricane protection, the committee has also appropriated $450,000 to investigate the excessive shoreline erosion which continues to plague the Chesapeake Bay. Controlling sediment deposits into the bay is a critical part of our effort to restore the bay and its marine life. I thank the committee and all my colleagues for their continuing support and commitment to restoring America's largest estuary. Our efforts in this direction will permit future generations to continue to reap the harvests of crabs, fish, and oysters from the bay while protecting the natural beauty and fragile ecosystem of this historic estuary.

Of further importance are several projects requiring Federal assistance for operation and maintenance. These projects will assist navigation in the Baltimore Harbor and important river and lakes for many years to come. These projects will directly contribute to the safety of those who sail the waters and allow our harbors and ports to better compete with foreign ports.

In addition, money has been allocated for flood control. As you will recall, flooding ravaged much of Maryland and West Virginia late last year, resulting in the loss of human lives and causing millions of dollars in damage. We must prevent future losses from flooding, not only in Maryland, but in all areas of our country where nature threatens the lives and property of our citizens.

Again, Mr. Chairman, I congratulate and thank the committee, not only for the fine work they have done to benefit Maryland, but for the outstanding job they have done to craft national appropriations legislation during times of severe budgetary restraints. I urge all my colleagues to join me in support of this extremely important legislation.

Mr. RICHARDSON. Mr. Chairman, I would like to ask about the recommended appropriation for the Army Corps of Engineers. In its budget request, the corps asks for $1.273 million for general operation and maintenance of the Cochiti Lake Dam and Reservoir in New Mexico. It explains that one of the reasons for the increase over the fiscal year 1986 estimate is that additional studies are required to correct the seepage problem at Cochiti Lake. I am pleased that the Energy and Water Development Subcommittee and the full committee have approved this request. Over many years, seepage from the Cochiti facility has damaged considerable farmland in the area, including lands of the Cochiti pueblo and the pueblo of Santo Domingo. Many citizens in my district who have suffered the effects of this seepage will be grateful for this support.

I would like clarification on one point, Mr. Chairman. Am I correct that in view of the committee's acceptance of the budget justification submitted by the corps, the committee expects the corps to undertake, in fiscal year 1987, the needed design studies? From discussions with involved parties, I have the impression that the corps may not undertake these studies even if Congress gives them the money to do so. The corps cites as their rationale a suit filed by the pueblo of Cochiti because the corps has not yet moved to correct the problem. Mr. Chairman, I feel that this is an unacceptable approach for an agency of the United States to assume, particularly in light of the Federal trust relationship which entails a responsibility by the United States for preservation of reservation land.

Mr. BEVILL. If the gentleman will yield, the gentleman from New Mexico is correct. The committee approved the corps request as submitted, and expects that these design studies for seepage abatement will be done in fiscal year 1987.

Mr. RICHARDSON. Mr. Chairman, I also note that there is a $550,000 appropriation for the corps' general investigations of the Rio Grande and tributaries, New Mexico and Colorado. I understand that the corps intends to use part of this appropriation to complete their study of increasing the storage capacity at Abiquiu Dam in New Mexico. Mr. Chairman, many of the people in my district are concerned about this potential increase; they have not had their serious questions about safety, environmental impact, and the necessity of increased storage addressed to their satisfaction. Am I correct in my understanding that this appropriation is to be used only for the purposes of studying the proposal, and that no fiscal year 1987 Federal funds will be used to initiate work on increasing the storage capacity at Abiquiu Dam?

Mr. BEVILL. Yes; the gentleman is correct. Until the members of this committee are satisfied that the communities' concerns are met, we will look with extreme skepticism at appropriations requests to increase the storage capacity at Abiquiu Dam.

Mr. RICHARDSON. I thank my colleague from Alabama for this information, and also for the assistance he has always offered me in meeting the needs of the people of the Third District of New Mexico.

□ 1110

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, first, I would like to say that I had hoped during the course of debate on this bill to raise a point of order against the Buy America provision. Unfortunately, the rule protects this provision this year. I feel compelled to comment again on the unsettling trend here of the Committee on Appropriations going to the Committee on Rules to protect legislation in appropriations, and to protect unauthorized appropriations.

Sooner or later, I think that this sort of thing has got to stop, or the rest of the Congress may as well close down. Then we can let the Committee on Appropriations do all our work for us. Maybe that would be a good thing.

Mr. Chairman, I had hoped to raise a point of order against a Buy America provision on extra high voltage power equipment, which is not germane to this bill, but I understand that the language is protected by the rule.

This year, the Buy America differential was increased to 30 percent by the committee. Last year, we had a 25 percent differential. This means that U.S. equipment of extra high voltage power equipment will be favored over its foreign competition, unless the price of the U.S. equipment is 30 percent over the lowest foreign bidder. In other words, the Federal Government, already facing tough spending decision due to budget cuts, will have to pay 30 percent over the best available price for its high voltage power equipment—some pretty big-ticket items. The normal Buy America differential is 10 percent.

The rationale for this kind of industry protection is that there may be foreign subsidy, dumping or market access problems for similar U.S. equipment abroad. There is also the usual cry for the need to save U.S. industry and to protect our national security.

We are all for saving U.S. industry and protecting our national security, but we have trade remedy laws to address those situations, particularly with respect to counteracting unfair trade practices, including subsidies and dumping. It may be easier to circumvent the law and find a friendly Congressman to offer Buy America language, but I believe that the industry involved must make an effort to use the laws we have rather than to seek special treatment from the Appropriations Committee.

This is a nongermane amendment; it subverts the entire committee process, our efforts to cut the budget deficit, and encourages other industries to similarly circumvent the law. There has been an effort to narrow the effect of the bill by eliminating from coverage those countries which provide access to U.S. power equipment. Major competition will still be covered under the Buy America, however, largely protecting this market for the one U.S. company protected under this language.

Mr. Chairman, I was informed by an interested party that this Buy America should not have to be extended beyond next fiscal year. That will certainly be my expectation.

The second point that I would like to make, Mr. Chairman, is to give the Members some indication of what I intend to do on the next round of appropriations bills.

On this bill, I have an amendment for a cut of approximately 4.62 percent across the board. The fraction was calculated to take us back to the budget authority of the post-sequester appropriations for 1986. That is, it's a freeze.

On the District of Columbia appropriation, I have an amendment to cut $10 million. It seeks to enforce a freeze, too. On the Agriculture appropriation, I will probably not have an amendment because it seems to be well under last year in budget authority. On the transportation appropriations bill, since the outlay figure looks to be very close to last year, I probably will not have an amendment at all.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to our distinguished committee chairman, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I take this time to commend the members of this subcommittee for the fine job that they have done, not only this year but through the years. I think I have been on the Public Works Subcommittee far longer than anyone here, and I have been proud of the work that we have done through the years, and I call attention to several things that I think should be considered at this time, particularly in view of the Budget Committee and in view of the Gramm-Rudman and many other provisions which attempt to limit the total expenditures.

I have voted for those measures with tongue in cheek, you might say, or fingers crossed, or whatever it is. We all want to hold down expenditures, but there is some questions as to whether they do.

One of the mistakes that we make in Congress, as I see it, we do not differentiate between investment spending and those things that are current or for the time being.

I call attention at this time to the fact that we have a rich country because of this committee and others. From 1781 to 1788 we operated under the Articles of Confederation, where each State in the Union had to look after its own territory. It did not work. It is only when we created the United States, and notice the word "United" in our name, that we started looking after national problems with national projects. Only in about 1934 did we begin to have national projects to look after our whole country.

Mr. Chairman, I wish Members would listen to this. Recent figures show that since 1934, when we started meeting our national problems with national projects, our wealth has increased 41 times. Since 1940, when we increased national projects to take care of all the country, realizing that floods and droughts and other things do not know State lines, county lines, or anything else, it has increased some 36 times.

We have serious financial problems today, but, thank goodness, due to the Congress and others who have made national issues out of these problems and helped to solve them, we still have a rich country. It is estimated by the Library of Congress that the real value of our country is something like $16 trillion.

I want to point out that anytime in 5 years you increase the debt a trillion-and-some-odd dollars, we have serious financial problems, but we must distinguish between money and wealth. Our real wealth is at a great level, but I deplore to see that some at the budget level and some of our colleagues fail to realize that our wealth is something separate from our monetary system, which is a medium of exchange and is seriously endangered. We need to balance the budget but not at the expense of our country.

I had a lady from my area who visited me recently say, "JAMIE, everything seems to be fine, activity, everybody's got cars in their drive, and they seem to be prosperous."

I said, "A trillion and a quarter dollars have been dumped into the economy, and we have activity, but what we need is productivity." We must cease to be a ready market for the world, buying more on credit than we export, even food and clothing.

I want to commend this subcommittee, every member of it, and our colleagues in Congress who do differentiate between wealth and money, who realize that if we are going to meet our problems, we had better take care of our own country. If we do that we could set up a new financial system and which would be rough but it could be done.

However, if we let our real wealth go down, our country, we would end up like China and India and the other worn out areas of the world. Again, Mr. Chairman, I commend the gentleman from Indiana [Mr. MYERS] on his side, the gentleman from Alabama [Mr. BEVILL] on our side, and each member of this subcommittee. They truly prove that they are all-American. I am proud of them and proud to serve with them on this subcommittee.

Mr. MYERS of Indiana. Mr. Chairman, I yield 5 minutes to a very valued member of the Committee on Appropriations, one who has contributed significantly to our bill, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong support of H.R. 5162, the Energy and Water Development Appropriations Act for Fiscal Year 1987.

I would like to begin by commending the leadership of the subcommittee for their work on this bill. Chairman BEVILL and ranking minority member JOHN MYERS and the members of the subcommittee have accomplished a truly Herculean feat. They have funded a broad range of extremely important programs and have still managed to stay within the 302(b) limits for budget authority pursuant to the budget resolution.

The bill includes $7.7 billion for vitally important research through the atomic energy defense activity programs. It includes $105 million to continue funding for the Appalachian Regional Commission, an agency which has helped channel an essential source of funding into the Appalachian region. It includes $100 million for the Tennessee Valley Authority, which will provide funding for many TVA economic and community development programs and natural resource activities. And finally, the bill provides nearly $4 billion for water projects through the Corps of Engineers and Bureau of Reclamation.

In addition, I would like to voice my particular support for the provisions in this bill relating to the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River flood control project, which is under construction pursuant to section 202 of Public Law 96-367.

In view of the repeated delays in the construction of this project, I would like to explain these provisions so that there is no delay about the congressional intent in these matters.

First, it states in title I of the bill that construction in Barbourville, KY, and in Harlan County, KY, is to be at the standard project flood level of protection. For several years, the corps has attempted to reduce the scope of protection offered under this flood control project—seeking to limit the number of communities protected and the actual level of protection. While the committee has met each of these attempted actions with clear instructions in various appropriation bills and reports, directing the corps to proceed

with SPF protection, the corps has continued to search for loopholes which would allow it to reduce the scope of protection. It is the clear intention of the language included in title I of this bill for the corps to proceed with construction in both Barbourville and Harlan County, KY, at the standard project flood level of protection.

Second, the bill includes a total of $27.9 million for the 202 project. This amount is $5.4 million above the requested level. Of the additional funds included in the bill, $1.1 million is earmarked for Barbourville, and is to be used to begin construction of phase II of this flood control project, which includes raising the levees to the SPF level of protection. It also includes $3.6 million earmarked for Harlan County, which is to be used for detailed design and initial construction work.

This region has suffered severely from flooding in the past. During the last major flood, which occurred in 1977, there was over 100 million dollars' worth of damages centered in the Pineville, Barbourville, and Harlan areas. Pineville suffered 27 million dollars' worth of damages. Barbourville averted damage solely as the result of heroic efforts by the townspeople who piled sandbags on top of the levees to stave off disaster. And Harlan suffered the worst damages, with 31 million dollars' worth of damage, 4 lost lives, and 2,000 people left homeless. And since Harlan is located right at the headwaters, it can expect recurrence of such flooding with little or no warning time and devastating results. And this region has paid the price of flooding not just in terms of lost lives and homes. But many families and business were forced into debts that they're still repaying. They simply couldn't afford the results of future flooding.

It is my strong hope that the instructions and the funding levels included in this bill will free these communities from the constant threat of flooding and give them the protection they so greatly need and deserve.

I urge support of the bill.

□ 1120

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to my good friend and distinguished colleague, the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I have asked for this time to ask a question of the chairman for clarification purposes.

In the committee's report to accompany H.R. 2959 making appropriations for energy and water development for the fiscal year ending September 30, 1986, the committee directed the Department of Energy to allocate $2 million to a project in Austin, TX, for a cooperatively funded effort to develop and demonstrate a concentrating fresnel lens photovoltaic system. Was it the intent of the committee specifically to fund the project involving the city of Austin, 3M Co. and ENTECH and using ENTECH's fresnel lens concentrating photovoltaic collector?

Mr. BEVILL. If the gentleman will yield, yes, it was the intent of the committee to direct the Department of Energy to allocate funds specifically for the project involving ENTECH's fresnel lens concentrating photovoltaic collector.

Mr. PICKLE. Mr. Chairman, I thank the gentleman very much.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from Indiana for yielding me the time.

At a time appropriate in this bill, I intend to offer an amendment that would strike $69.7 million of Department of Energy basic research funds for construction funds at eight universities.

Let me explain why I am doing this. Just within the last month, Common Cause magazine has come out with a fairly revealing article about something that they call hog heaven. I am sorry that I do not have the hog mask of the gentleman from Massachusetts to bring to the floor because it certainly applies here. All we have are the hogs that are on the front of the Common Cause magazine.

But the fact is that you have a number of projects that are now being added into budgets that are neither authorized by the appropriate authorization committee, nor have they been subjected to any peer review by the scientific community.

Both the academic and the scientific communities are really upset about the idea that peer review is being totally abandoned as we go down the route of more and more of these projects that have not been authorized or peer reviewed.

It seems to me that in a time of reduced resources in Government, we ought to, at the very least, be assuring ourselves that only the projects of the highest merit get funded. That is not what is happening here.

In fact, we have an increasing trend. In fiscal 1984, this committee brought to us a bill that had about $10 million in it of these hog-heaven projects. Just 3 fiscal years later, we are at $69.7 millon of hog-heaven projects.

I submit that that is not a record that we can afford to continue to support. It is high time that what we do is go after hog heaven and cut it out of this bill.

Common Cause magazine raises these questions. They say, "The money may or may not be wisely spent; there is really no way of knowing. But why should the test of merit be the strength or a State's politcial delegation or a university's ability to hire well-paid lobbyists? Is this really a fair way to give away Government money?"

The answer to those questions, is clearly no. It is not fair; it is not right.

What my amendment will do is cut out those projects. It will leave intact those projects that have been appropriately authorized, but we are going to cut out hog heaven.

I would ask for the support of my colleagues at the appropriate time in the bill for the amendment to eliminate hog heaven.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I want to take just a moment to clarify our intent with regard to the appropriation for corrective work on the dam located on the east fork of the 102 River near Bedford, IA. As the gentleman from Alabama, the distinguished chairman of the subcommittee will recall, I addressed this matter when I testified before his subcommittee earlier this year.

I appreciate the committee's allocation of funds for the corps to get started on this project. The city of Bedford stands to lose its water reservoir dam and along with it their water treatment plant and a county bridge if corrective action isn't taken immediately.

However, I'm still concerned about whether the citizens of Bedford are going to be forced to help pay for damage to their dam that was caused by the corps. The corps acknowledged to the subcommittee that their work may have caused the damage, and the mayor of the city says the dam was in perfect condition from 1922, when it was built, up until the corps performed their river-straightening work in 1967. The corps has been cooperative up to this point, but the city of Bedford still feels the corps has a responsibility that they have yet to uphold.

At this time I want to ask the gentleman from Alabama, the chairman of the subcommittee, if it is the committee's position that if it were determined that the corps contributed to the damage to the city of Bedford's dam then the corps has a responsibility to mitigate that damage.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the gentleman is correct and I agree with the gentleman.

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for making that clarification.

Mr. BEVILL. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Alabama [Mr. BEVILL] has 11½ minutes remaining and the gentleman from Indiana [Mr. MYERS] has 12 minutes remaining.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in strong support of H.R. 5162, the fiscal year 1987 energy and water development appropriations bill. At the outset, I want to congratulate subcommittee chairman TOM BEVILL and ranking minority member JOHN MYERS on drafting another fine bill.

Of special interest to me are those provisions in title I of the bill relating to the development of Los Angeles and Long Beach Harbors.

Specifically, under the Corps of Engineers' general operation and maintenance budget, $1,300,000 is earmarked for the Los Angeles-Long Beach Harbor hydraulic model, located at the U.S. Army Waterways Experiment Station in Vicksburg, MS. Since 1982, the corps has been in the process of compiling needed data on tidal circulation, wave energy and ship motion in the San Pedro Bay Area. These funds will simply continue this valuable study.

Also provided in title I is $1,457,000 for the corps to continue the so-called 2020 study and its accompanying feasibility report. The 2020 study is a long-range master plan for San Pedro Bay and will promote the efficient, economic, and logical development of the port area. Already, this study has demonstrated the need for new navigational channels and 2,600 acres of new landfill development at the ports of Los Angeles and Long Beach.

Mr. Chairman, both of these Corps of Engineers projects will enable us to better plan for our future maritime needs in southern California. These studies will not only help us meet our future needs at the ports of Los Angeles and Long Beach, but it will allow us to make needed improvements in a manner which will protect our fragile marine environment.

It is also important to note that in the upcoming fiscal year alone, the ports of Los Angeles and Long Beach will collect over $2 billion in U.S. Customs Service fees which will be deposited directly into the Treasury and help bring down the deficit. Thus, the corps studies for San Pedro Bay is an investment in our future.

I urge all my colleagues to support this measure.

The CHAIRMAN. The Chair must indicate to the gentleman from Alabama [Mr. BEVILL] in response to his earlier question that there had been a misallocation in the time of the gentleman from Iowa [Mr. LIGHTFOOT].

Therefore, the situation presently is that the gentleman from Alabama has 7½ minutes remaining and the gentleman from Indiana has 14 minutes remaining.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

□ 1130

Mr. FAWELL. Mr. Chairman, I thank the gentleman from Indiana [Mr. MYERS].

Mr. Chairman, I rise for purposes of a very brief colloquy with the distinguished chairman from Alabama, if I may.

Mr. Chairman, it is my understanding that it is the intent of the Subcommittee on Energy and Water Development to fund the photovoltaic program at the University of Illinois at Chicago campus with $60,000 for fiscal year 1987 for research being done in the Department of Civil Engineering, Mechanics and Metallurgy on Surface Property Modification of Semiconductors by Fluid Absorption.

Mr. BEVILL. Yes, that is correct.

Mr. FAWELL. I thank the chairman.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in strong support of this legislation, both in terms of its funding for Department of Energy civilian and defense programs and the activities of the Appalachian Regional Commission.

In the case of the DOE programs, the subcommittee bill strikes a middle ground in defense programs funding between the fiscal year 1986 level and the significant growth requested in the administration's budget. I have a keen interest in the role these DOE nuclear weapons activities play in national security and hope that the final fiscal year 1987 appropriation level will allow a strengthening of our deterrent capability. I also believe that the bill provides critical funding for continued handling of the environmental problems in weapons facilities such as Y-12 in Oak Ridge, TN, as well as enhanced safeguards and security at such facilities. From my perspective as a member of the House Armed Services Committee, I have come to appreciate the need for environmental improvements and beefing up of safeguards at weapons complexes.

As regards the energy supply R&D accounts, as chairman of the Energy Research and Production Subcommittee, I am pleased with the add-on for the magnetic fusion program. I also hope that the appropriations conference will allow for some additional funding to support nuclear fission R&D where the subcommittee chairman and I share many priorities. I welcome the fact that the committee has recommended additional funds for the Modular High Temperature Gas Reactor Program and AVLIS technology. I also expect to see an overall enhancement for nuclear fission research in the conference report.

I compliment the committee for striking a balance between deficit reduction pressures and the need to continue Federal programs that are regional in nature and reflect a proper Federal role. One such program is the Appalachian Regional Commission where the committee has demonstrated the foresight to continue its critical activities at a funding level just slightly reduced from fiscal year 1986. The Appalachian Regional Program has changed as suits the dynamics of the region. My colleagues should note that the present cost-shared arrangement is particularly striking in view of the fact there is a limited tax base in the region.

I strongly support the committee's recommendations on the ARC and the DOE defense and civilian R&D programs. I am distressed that an across-the-board reduction on this bill will cause significant problems in nuclear weapons activities, civilian energy R&D, and the regional programs funded through the ARC.

Mr. Chairman, I would like to engage in a colloquy with the distinguished subcommittee chairman, my good friend from Alabama.

As I understand it, the $80 million which the subcommittee has recommended for the AVLIS program includes $8 million for Martin-Marietta energy systems in support of the program, chiefly at the Oak Ridge national complex.

Mr. BEVILL. If the gentlewoman will yield, the gentlewoman is correct.

Mrs. LLOYD. I also understand that the $8 million would fund a significant level of activity at Oak Ridge, including an advanced materials program so that the AVLIS separator can operate for long periods to achieve desirable process economics. Also, the Oak Ridge team would accelerate work associated with uranium processing in terms of both transforming feed into the desirable form and converting enrichment product into a suitable form for fuel fabrication. This is also an important area for reduction of AVLIS enrichment costs.

Mr. BEVILL. The gentlewoman has described the program as we understand it.

Mrs. LLOYD. I appreciate the subcommittee chairman's support and I hope that this enhanced activity which was not anticipated in the DOE's fiscal year 1987 request will serve to speed up AVLIS demonstration and development while at the same time keeping the best people at Oak Ridge in the enrichment program.

Mr. BEVILL. I share the gentlewoman's goals for the AVLIS program.

Mrs. LLOYD. I would hope also that my good friend recognizes that I share

his skeptcism about the potential for privatizing AVLIS technology and the overall enrichment enterprise. I would hope however, that the gentleman recognizes there is certain potential for private-sector involvement using centrifuge technology for other applications, as well as contracting to do specific enrichment services. Implementing such involvement requires good faith negotiation on the part of the DOE. I would hope that the gentleman would join me in encouraging the DOE in this direction since these activities are vital to the economic future of Oak Ridge.

Mr. BEVILL. I share the gentlewoman's concern.

Mrs. LLOYD. I thank my good friend for his unfailing support in this area.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, today's consideration of H.R. 5162, the energy and water appropriations bill for fiscal year 1987, has a special significance for the residents of western Wisconsin and the upper Mississippi River Basin. After years of study, planning, litigation, hearings, negotiations, and waiting, these residents are finally seeing in both the energy and water appropriations before us today and in the water resources bill now pending in conference committee the final confirmation of the upper Mississippi River as one of the Nation's premiere, multipurpose river resources.

Congress made a clear commitment to the balanced management of the upper Mississippi River when, in 1978, it passed the Inland Waterways Authorization Act (Public Law 95-502). This legislation authorized the replacement of Lock and Dam 26, but most importantly, directed the Upper Mississippi River Basin Commission to prepare comprehensive master plan for the management of the upper Mississippi River system in cooperation with appropriate Federal, State, and local officials.

The basin took up the challenge and coordinated the many agencies and interest groups to prepare the massive technical research document commonly know as the Master Plan, submitting it to Congress in January 1982.

Since then, the House has passed the basic components of this plan on two separate occasions.

The 1985 Supplemental Appropriations Act (Public Law 99-88) included authorization and appropriations for, "Locks and Dam 26, Illinois and Missouri (second lock), including environmental management along the Upper Mississippi River Basin * * *." As evidenced by the report language, it was the intention of Congress that navigation and environmental improvements be undertaken simultaneously on equal fiscal footing, to the extent practical and feasible.

Earlier this year, I testified before the Appropriations Subcommittee on Energy and Water Development in support of adequate funding for the Upper Mississippi River System Environmental Management Program. I am thus especially pleased that the bill before us today is actually $1 million above the funding level in the Army Corps of Engineers budget request. Above all else, in appropriating $2 million for the UMRS-EMP in fiscal year 1987 the members of the committee and subcommittee have demonstrated their belief in the importance of the program and in the need for sufficient funding in the early years.

It should be noted, however, that while the corps submitted a request of $1 million for EMP, the request occurred before the Army Corps of Engineers General Plan for the Environmental Management Program was received or approved by the regional and Washington offices. The general plan calls for a fiscal year 1987 funding level of $3.95 million.

In the general plan, Brig. Gen. Joseph Pratt wrote:

> Implementation of the UMRS-EMP is essential to the continued viability of the Upper Mississippi River System as we know it, and important to the long-term public acceptance and support of the navigation project.

Mr. Chairman, I could not summarize better the balanced commitment to the multiuse concept and preservation of our beloved river.

Make no mistake. I strongly believe that the bill we will be voting on today succeeds in reflecting the basic sense of balance and fairness that is imperative to the success of both the navigation and evironmental initiatives.

The Upper Mississippi River system historically has had two congressional mandates. As a nationally significant ecosystem, it has been designated as a national wildlife refuge. As a nationally significant commercial transportation system, it is managed as a commercial navigation project. The viability of this system requires a commitment to maintain and enhance all aspects.

I certainly recognize and respect the budget constraints we all face. It is essential that we continue our efforts to reduce the deficit and work to achieve a balanced Federal budget. In urging a balanced approach to the river, I accept the fact that we cannot necessarily achieve an exact dollar-for-dollar appropriation in each year, nor over the 10-year period, as the authorizing language allows navigation to receive $30 to $50 million more just for the second lock and dam alone.

But it is essential to maintain, as closely as possible, the proposed timetables for each project. As we near the major appropriations which will occur in fiscal years 1988 and 1989 for that second lock and dam, it is essential that the commitment to balance have been already made by the Congress.

The States bordering the Upper Mississippi are well aware of our budget constraints and have already indicated their willingness and ability to share the costs of the projects. I am convinced that through the passage of H.R. 5162, the House will once again demonstrate its support for this unique cooperative venture and its belief in the spirit of true partnership.

I want to express my appreciation to those members of the Appropriations Committee who have supported the funding of the Upper Mississippi River system environmental management plan. Through your efforts and the efforts of your staff, the upper Mississippi River faces a brighter and healthier future as a national resource of which all Americans may be proud.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this subcommittee has been concerned about the increase in foreign travel by the Corps of Engineers, which has dramatically increased in the last few years.

On pages 54 and 55 of the report, the committee identifies how the foreign travel has been increasing. In the last paragraph, on page 55, the committee states that:

> No funds are included in the bill for cooperative efforts with foreign governments pertaining to river and harbor, and flood control improvement—

Indicating that we are not doing that business anymore.

Are any funds available in this bill, as the chairman understands it, for foreign travel?

Mr. Chairman, I yield to the gentleman from Alabama [Mr. BEVILL] for his response.

Mr. BEVILL. I am glad that the gentleman from Indiana [Mr. MYERS] has asked that question, so that I may clarify the report. The committee is deeply concerned about the expenditures that have occurred in recent years in overseas travel by Corps of Engineers personnel, and has directed the corps to remedy this situation.

The committee expects the corps to reduce foreign civil works travel expenditures for the coming fiscal year to their fiscal year 1983 level and report to the committee on controls developed to achieve this level of spending.

Moreover, no funds are included in this bill for cooperative efforts with foreign governments for river and harbor and flood control improvements unless such efforts will result in significant benefits to domestic corps civil works programs.

Mr. MYERS of Indiana. I thank the chairman for his comments, and join in the concern that foreign travel sometimes is necessary if it is beneficial to the taxpayers of this country; but as the Appropriations Committee and this subcommittee particularly seek to squeeze the maximum out of the tax dollars to get the most for our country, as Chairman WHITTEN has ably said, this is a bill to build America; it is of concern to this committee, and I think it is very necessary, what the committee has put in here. I thank the chairman for his comments.

In closing, Mr. Chairman, I urge all Members to support the committee and to resist some of the efforts that may be made here to change the bill. The committee has spent hours, days, and months in developing this bill. We have 12,000 pages of testimony from thousands of witnesses. We have nine volumes of report here, so the bill was not put together without serious consideration by all those who testified and all concerned for the country.

I hope Members will support the committee, and I know there are a great many inclinations and desires here to change it. I hope it will not be changed because I think we have a fine bill; the best that can be brought to the floor; and we do thank all our colleagues here who expressed their appreciation for our efforts. We thank you for that.

Mr. Chairman, I reserve the balance of my time.

Mr. BEVILL. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I take this time today to bring to the attention of my colleagues in the Congress a problem which is arising in connection with the Corps of Engineers' management of reservoirs, lakes, parks, and reaches of rivers under its jurisdiction, especially in Arkansas where the Corps of Engineers is the largest recreation provider for our State.

Mr. Chairman, I rise in support of H.R. 5162, the energy and water development appropriations bill, 1987. This is a good bill. The chairman and members of the subcommittee and the staff have worked hard to bring to the House a bill which responds to issues vital to our Nation and to do so within the severe budget constraints under which the committee must work to do its part in helping bring the Federal deficit under control.

I want to bring to the attention of my colleagues a problem which is arising in connection with the Corps of Engineers management of reservoirs, lakes and reaches of river under its jurisdiction. When our Committee on Appropriations considered this bill and its accompanying report, House Report No. 99-670, I included, as additional views to the report, information on this problem which I urge my colleagues to study.

The remedy for the problem to which I refer, probably, lies more properly within the jurisdiction of the Committee on Public Works and Transportation, than our committee. But, the Committee on Appropriations is involved as a result of its responsibilities for recommendations on the corps civil works budget.

It appears that the corps has underway a program for leasing, privatizing, to private entrepreneurs some or all of the recreational resources it currently manages at lakes, reservoirs and reaches of river it controls. In the First District of Arkansas this program has generated intense opposition from local officials, community leaders, and business operators.

Their concerns are multiple. They are worried about the impact the program will have on the opportunities for members of the public to use these recreation resources for which the taxpayers have paid and which they are currently paying to maintain. Our people are concerned about the impact such a leasing program will have on the environment.

And, our people, particularly our business operators whose businesses are located in the region of, but not on, the lakes, reservoirs, and rivers and were established to respond to the needs of recreational users of these areas are especially concerned about the damage which the corps actions may do to private enterprise.

In April, when Arkansans brought their concerns about the corps' leasing program to me, I wrote to Lt. Gen. E.R. Heiberg III, Chief of Engineers, requesting information on the guidelines, policies, rules, and regulations the corps has established for managing this leasing program. I raised more than 20 questions relating to the interpretation of Federal law governing the uses of resources at the lakes, reservoirs, and rivers.

My questions also addressed issues of environmental impact, economic impact, availability of recreational resources to the public and when and how the lessors of the resources would pay the Government for use.

On July 10, I received an interim response from General Heiberg in which he said:

> The Corps of Engineers has no general policy providing for leasing of our Federal recreation areas to the private sector for operation and maintenance. However, such leasing may be desirable and appropriate in certain instances. Consequently, the Corps is currently evaluating some proposals.

General Heiberg's letter went on to say:

> Your letter and attached questions raise several complicated issues which will require coordination between various elements of the Corps of Engineers. Our Division offices have been directed to report on any transfers of management of existing Corps-managed public park and recreation areas * * *.

In a handwritten note attached to his letter, General Heiberg said:

> I'll provide you with a final response after I review that information more fully.

In reference to the questions I have raised.

Now, I am very concerned about this issue. It appears to me that the corps is flying by the seat of its collective pants on leasing out taxpayer-financed public parks and recreation areas. It seems clear from the general's letter that the corps has no clear idea of either how the program will work nationwide, or even with regard to facilities located within the same State or on the same lake, reservoir, or river.

Because of the seriousness of the issues involved, particularly the public's right to know and the right of existing private businesses to protection from damage which could result from the corps' action, I believe the Congress must demand that the corps put its leasing program on hold until specific policy, rules, regulations and guidelines are established so all parties concerned know what the rules of the leasing game are and play by the same rules.

When we go back into the House, I will request that my additional views to House Report No. 99-670 and General Heiberg's letter to me be made a part of today's RECORD following this speech.

ADDITIONAL VIEWS OF CONGRESSMAN BILL ALEXANDER

Outdoor recreation and tourism is a major segment of the economy of Arkansas. This is particularly true in north central Arkansas where the Corps of Engineers operates a number of lake and river projects.

Local governments and the private business community in these areas have been strongly supportive of Corps operations. They have encouraged and developed many private businesses serving the needs of visitors to these reservoirs.

In recent months, intense and increasing concern has arisen over reports that the Corps intends to lease, "privatize", its publicly-owned recreational resources to private entrepreneurs. There appears to be a clear danger that the Corps may operate its leasing program in a way that could cause environmental damage, harm existing private businesses adjacent to the reservoirs and reduce the opportunities for public use of the recreational resources at the lake and river projects.

As a part of my effort to assist our people in Arkansas in obtaining information on the Corps leasing program, I sought copies of Corps policy, guidelines, rules and/or regulations. No such documents were forthcoming.

Therefore, on April 30, 1986, I wrote Lt. Gen. E.R. Heiberg III, Chief of the Corps of Engineers about this matter. I requested information, setting out a series of interrogatories, on interpretation of law, on economic and environmental policy, on the right of the public to have input in the leasing program decisions, and on ways and means the Corps would employ to protect the public's

continued right to use lake and river recreational resources under Corps jurisdiction and to protect the interests of existing private businesses located adjacent to Corps reservoirs. While I have been assured that a response to my request for information will be provided, none has been received.

I believe that the questions which I have raised with the Chief of Engineers in connection with this issue of leasing publicly-owned recreational resources are of vital importance to the people of north central Arkansas and other concerned Americans. It is my intention to continue to pursue this matter. Because of the national importance of the questions which have arisen, I am making my letter to the Chief of Engineers a part of this report by including as a part of these additional views.

CONGRESS OF THE UNITED STATES,
Washington, DC, April 30, 1986.

LTG E.R. HEIBERG III,
Chief of Engineers, Department of the Army, Washington, DC.

DEAR GENERAL HEIBERG: Arkansans, particularly those in First Congressional District, believe in private enterprise, are concerned about the environment and about the quality of life. So when they warn the Corps that actions the Corps says will help private enterprise and the taxpayers will actually hurt both, it is time to pay attention. It is time to stop, look and listen to what our people are saying.

Recent reports of Corps efforts to carry-out a leasing, or "privatization", program at lakes, reservoirs and river projects under Corps jurisdiction, particularly at Greers Ferry Lake and on the Little Red River, have sparked intense opposition among community leaders, including operators of private businesses.

For instance, in an April 12 meeting, members of the Greers Ferry Lake and Little Red River Association unanimously adopted a resolution in opposition to such a leasing, "privatization", program. The resolution, which is attached to this letter, states in part:

"* * * The Greers Ferry Lake and Little Red River Association, which is a State chartered, non-profit regional tourist promotion organization, voted unanimously to oppose the proposed leasing to private enterprise of Parks and Campgrounds presently operated on Greers Ferry Lake and The Little Red River and nationally by the Corps of Engineers.

"* * * our intent (is) to actively oppose said proposed leasing by the Federal Government of Parks built with tax-payers funds, as said leasing will cause increased charges to the public, eliminate free day use, cause pollution of the Lakes and Rivers and drastically affect the quality of life. (Attachment I.)"

I join these concerned Arkansans in opposing leasing, or "privatization", actions by the Corps which could reduce currently available opportunities for the public to use publicly-owned parks and campgrounds and other facilities, increase pollution, and adversely affect the quality of life in the region. And, I request that the Corps ensure that the concerned citizens of the Greers Ferry Lake and Little Red River region be given an opportunity, at a public hearing to be conducted in a location central to this specific region, to be fully briefed and to fully express their views on this matter.

Additionally, I urge the Corps of Engineers to ensure that the legitimate and lawful interests of existing private business operators in the region of Greers Ferry Lake and the Little Red River are fully and completely protected from damage which could result from Corps leasing activities.

Since beginning my investigation of this matter, I have become increasingly concerned about how the Corps is going about its proposal to lease these lands and facilities. I found more questions than answers. Thus, I urge that the Corps cease and desist from actions to lease public lands and facilities under its jurisdiction at least until all these questions, and any other questions which may arise during the course of re-examining this leasing, or "privatization", issue are fully, completely and satisfactorily answered.

Attached to this letter, and herewith incorporated as a part of this letter, is a set of questions, in the form of interrogatories, on the leasing, or "privatization" issue for which I request responses from the Corps. (Attachment II.)

Thank you for your consideration of the views of concerned Arkansans and my requests for cooperation from the Corps on this matter.

Sincerely,

BILL ALEXANDER,
Member of Congress.

ATTACHMENT I

GREERS FERRY LAKE AND LITTLE RED RIVER ASSOCIATION

Clinton, Fairfield Bay, Heber Springs, Greers Ferry

RESOLUTION

The Greers Ferry Lake and Little Red River Association, at a special called meeting on Saturday, April 12, 1986 adopted the following Resolution.

Be it resolved that The Greers Ferry Lake and Little Red River Association which is a State Chartered non-profit regional tourist promotion organization, voted unanimously to oppose the proposed leasing to private enterprise of Parks and Campgrounds presently operated on Greers Ferry Lake and The Little Red River and nationally by the Corps of Engineers.

It is further resolved to inform the public and the news media of our intention to actively oppose said proposed leasing by the Federal Government of Parks built with tax-payers funds, as said leasing will cause increased charges to the public, eliminate free day use, cause pollution of the Lakes and Rivers and drastically affect the quality of life.

Signed this 12th day of April, 1986.

Greers Ferry Lake and Little Red River Association:

President: Lou Evans.

Executive Director: Bette Vogel.

[April 30, 1986]

ATTACHMENT II

Memorandum to: LTG E.R. Heiberg III, Chief of Engineers, Corps of Engineers, U.S. Department of the Army.

From: Bill Alexander, Member of Congress, First Congressional District Arkansas.

In re: Corps Proposals to Lease, "Private", Public Property at Lakes, Reservoirs and on Reaches of Rivers under Its Jurisdiction.

Intense opposition has been expressed by Arkansans to recent reports of proposals for leasing public lands, facilities and, possibly, waters under the Corps jurisdiction. I have initiated an investigation of applicable laws, regulations and procedures under which the Corps proposes to operate such a program as cited above. Many questions have arisen, but few clear answers appear to be available.

Therefore, I, hereby, am requesting answers to the questions set out in the following sections of this memorandum.

SEC. 210, P.L. 90-483

Sec. 210 of Public Law 90-483 sets clear limits on the facilities for which the Corps may and may not charge user fees. A principle of law is that the owner of property may not lease that property to another entity under a lease which permits the leasee to conduct activities which the property owner is prohibited by law from conducting. Specifically, with regard to lakes and reservoirs under the jursidiction of Corps. Sec. 210 state that:

"User fees at these lakes and reservoirs shall be collected by officers and employees of the United States only from users of highly developed facilities requiring continuous presence of personnel for maintenance and supervison, and shall not be collected for access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided."

At Greers Ferry Lake, for instance, there are 15 parks. Access to many campsites, water areas, undeveloped or lightly developed shoreland, picnic grounds, and boat launching ramps which do not have mechanical or hydraulic equipment is within the boundaries of these parks. Entry is achieved via one access road per park. These parks are not "highly developed facilities". They do not have "continuous presence of personnel for maintenance and supervision." In fact, at 13 of these parks, the only personnel assigned are summer seasonal personnel staffing an entry gate and having as their only duties the collection of user fees from persons intending to use a camping site located inside the park. All non-campsite users have fee access to these publicly owned areas.

1. A. If the Corps decided it would lease parks such as those located at Greers Ferry Lake or similar facilities it controls on the Little Red River, would it be the Corps' interpretation that the language of Sec. 210, requires that the lease prohibit the lessee from making any user fee charge for any existing facilities other than these facilities for which the Corps currently charges a user fee?

B. If not, why not?

2. A. If the Corps decided to lease parks such as those located at Greers Ferry Lake and the Little Red River, would the Corps' interpretation of Sec. 210 be that the lessee would have to permit the public free access to all currently existing facilities or elements within the park other than those for which the Corps currently charges user fees?

B. If not, why not?

3. A. If the Corps issued a lease for parks such as those located at Greers Ferry Lake and on the Little Red River, would the Corps require that the lessee continue to make available to the public, facilities such as those which are currently available, at similar fees if user fees are currently charged by the Corps, or free if no user fees are currently charged, even if the lessee used other property in the park for creating "highly developed facilities"?

B. If not, why not?

4. A. Has the Corps issued a legal interpretation of Sec. 210 as that section relates to the Corps' leasing, or "privatization", pro-

gram as it applies to existing parks, campgrounds, and other lands, waters, or facilities at lakes, reservoirs, or river projects under Corps jurisdiction?

B. If not, why not?

C. If so, is this interpretation document available to the public?

D. If it is not available to the public, why not?

PUBLIC NOTICE, BRIEFINGS, HEARINGS, COMMENT

Even the possibility of the Corps carrying out a leasing, or "privatization", program in connection with parks, campgrounds and other facilities at Greers Ferry Lake and on Little Red River has stimulated sufficient concern among regional leaders, including private business operators, to make "privatization" at these locations very controversial.

1. A. Does the Corps have in place regulations and/or guidelines which mandate the Corps to give local residents, community leaders, private business operators and state and local governments notice of its intent or interest in carrying out a "privatization" program at its lakes, reservoirs, and river projects?

B. If not, why not?

2. A. If the Corps does not have in place regulations and/or guidelines which require the Corps to give to local residents, community leaders, private business operators, and state and local governments notice and its intent to or interest in "privatizing" lake, reservoir and river lands and facilities under its jurisdiction, and to give interested parties opportunity, at a location central to the specifically affected region, to comment, does it plan to issue such regulations and/or guidelines before further pursuing "privatization" at lakes, reservoirs and river projects its jurisdiction in Arkansas?

B. If so, when?

C. If not, why not?

REGULATIONS, GUIDELINES FOR CORPS' "PRIVATIZATION" PROGRAM

1. A. Has the Corps issued any regulations and/or guidelines specifically and distinctly governing leasing, or "privatization", of parks, campgrounds and other similar facilities existing or which might be built with public funds at Corps lakes and reservoirs and on rivers under Corps jurisdiction?

B. If not, why not?

C. If so, please provide me a copy of these regulations and/or guidelines and a chronology of their development and issuance, including the public meetings and public comment periods observed.

2. If the Corps has not issued such regulations and/or guidelines, but has plans to do so, what is the schedule for doing this?

3. It is my understanding that at the Corps' Percy Priest Lake at Nashville, Tennessee, the Corps has permitted the establishment, on public lands, of a park/club development which restricts use to only those persons who are able to obtain memberships in the park/club development.

B. If it is correct, under what federal statute does the Corps have authority to permit such a private activity, thereby limiting access to public lands and waters to the privileged few who may obtain such a park/club membership?

C. Within its "privatization" program, does the Corps anticipate such developments at other lakes, reservoirs or river projects under its jurisdiction?

Master plan

It is my understanding that at the time a Corps lake, reservoir, or multi-purpose river project was constructed, or came into the jurisdiction of the Corps, or at a later date, the Corps developed a Master Plan setting out the uses to which the land and waters would be put and the level of development to be achieved. It is further my understanding that under Corps rules and regulations, public hearings had to be held in connection with the Master Plan and must be held in connection with any amendment or modification of such Master Plan.

1. A. In connection with its "privatization" program, does the Corps anticipate that amendments or modifications will have to be made to the Master Plans for any, some, or most of its lakes, reservoirs or multi-purpose river projects?

B. Specifically, Greers Ferry Lake and/or the Little Red River?

2. A. If the Corps pursues "privatization" of its existing facilities at Greers Ferry Lake, or on Little Red River, does the current Master Plan(s) permit any higher degree of "development" of facilities than currently exist at these locations?

B. If not, and the Corps receives a proposal from a potential leasee which proposal calls for the leasee to be granted the right to construct "highly developed facilities", at what point would the Corps begin work to modify the Master Plan for Greers Ferry Lake and/or Little Red River, and how early in that modification or amendment process would the public be given notice of the intent to change the Master Plan and be given an opportunity to participate in public hearings and in public comment on such proposed changes?

3. What would be the maximum development a "privatization" program leasee could do at Greers Ferry Lake or on Little Red River under the existing Master Plan(s) without any modification of the existing Master Plan(s)?

Economic impact assessment

In response to private enterprise opportunities and to meet needs of the millions of persons visiting lakes, reservoirs and river facilities under Corps jurisdiction in north central Arkansas, a private enterprise infrastructure has developed. It is primarily located on private lands. Because the resources available for economic development in this region, other than recreation and tourism-based economic development, are limited, recreation and tourism private enterprises are the lynch-pins of the region's economy. Such private enterprises are highly sensitive to changes in the costs of recreation and tourism activities, including user costs associated with public facilities.

Based on some discussions of proposals to lease, or "privatize", existing facilities and lands at lake, reservoir, and river projects under the Corps jurisdiction, it appears that such a program holds substantial potential for significant increases in costs to potential visitors to such facilities, visitors whose spending is the life-blood of the private businesses serving the region.

In view of the relationship between the number and kinds of visitors using the lakes, reservoirs and rivers under Corps jurisdiction and the adjacent private businesses, it appears that reason and fairness would require the Corps to make full and thorough studies of the potential economic impact of "privatization" on existing private businesses before pursuing a "privatization" program at a specific location.

1. Does the Corps require that an economic impact study be made of "privatization" impact on existing private businesses prior to proceeding with the leasing of property at its lake, reservoir and river projects?

2. If the Corps does not make such studies, why not, since the Corps essentially could be setting up new, privileged businesses to compete with existing private businesses?

ENVIRONMENTAL IMPACT ASSESSMENT, STATEMENT

Under the National Environmental Policy Act (NEPA) of 1969, as amended, federal departments, agencies and other entities, taking or permitting actions affecting the environment are required to make an environmental assessment and, if such actions have a significant impact on the environment, are required to issue an environmental impact statement.

1. A. In the instance of private enterprise proposals to lease lands, waters and/or facilities at lakes, reservoirs and/or river projects, made in connection with the Corps "privatization" program, is it the rule that an environmental assessment must be made on all such lease proposals?

B. If so, who makes the assessment and what is the highest level within the Corps at which the assessment is approved?

C. If not, why not?

D. If so, is it, or will it be, the Corps practice to give notice to interested persons and organizations in the area most directly affected and afford those persons and organizations an opportunity to make public comment?

E. If not, why not?

2. A. If a potential leasee proposes a lease for an activity the Corps determines falls within the terms of the Master Plan for the lake, reservoir, or river project, does the Corps take the position that the environmental assessment or environmental statement associated with the Master Plan when it was adopted and/or amended, and/or otherwise modified, is sufficient and no further assessment or EIS is required?

B. If so, why?

C. If the response to "A" above is affirmative, does that affirmative response apply regardless of the level of development which has occurred on lands and/or waters adjacent to, but not a part of, the affected project since the last environmental assessment or EIS was made in connection with the Master Plan?

D. If so, why?

3. Who makes the final determination on whether a potential leasee's proposal falls within the terms and provisions of the Master Plan?

4. In the case of Greers Ferry Lake, and at least in some areas of the Little Red River, the geology is such that granite or stone of similar high density is either surface exposed or found at a shallow depth in most of the Corps controlled lands and much adjacent acreage.

A. In these circumstances, what would be the maximum development, in terms of types and kinds, that a leasee would be permitted to carry out on Greers Ferry lands or waters, or Little Red River lands or waters before the Corps would determine that such development requires an environmental assessment?

B. Given the geological factors cited in "A" above, what would be the maximum development, in terms of types and kinds, that a leasee would be permitted to carry out on Greers Ferry lands or waters, or Little Red River lands or waters, before the Corps would determine that such development requires an environmental impact statement?

Payments of lease holders

Discussions of possible methods of "privatization" of lands and facilities at Corps lake, reservoir and river projects have indicated that such leasing programs could (a) lease existing facilities to private operators with restrictions against additional development; and/or (b) lease lands and/or waters to private operators for the purpose of increasing the level of development at such locations.

1. A. If the Corps leases currently existing facilities to a private operator will the Corps require the leasee to pay a fair market value rental or lease payment and to do so from the beginning date of the lease?

B. If so, how will the fair market value be established?

C. If not, why would the Corps give the private operator such an advantage over existing private businesses not located on publicly-owned lands and in advantageous proximity to publicly-owned waters?

2. A. If the Corps leases currently existing facilities to a private operator, under terms prohibiting further development, will the Corps require the leasee to pay a fair market value rental or lease payment and to do so from the beginning date of the lease?

B. If so, how will the fair market value be established?

C. If not, why would the Corps give the private operator such an advantage over existing private businesses not located on publicly-owned lands and in advantageous proximity to publicly-owned waters?

3. A. If the Corps leases currently existing facilities, lands and/or waters with rights to increase the level of development, to a private operator, will the Corps require the leasee to pay, from the beginning date of the lease, a fair market value price for the public lands, waters and/or pre-existing public facilities covered by the leases and to do so from the beginning date of the lease?

B. If not, why not?

4. A. Does the Corps intend that any, some or all of leases granted under its "privatization" program associated with recreational facilities at its lake, reservoir and river projects will require the leasee to maintain, to at least the standard existing at the beginning of the lease, those publicly-owned facilities existing at the time the lease is initiated?

B. If not, why not?

BILL ALEXANDER.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, DC.

Hon. BILL ALEXANDER,
House of Representatives,
Washington, DC.

DEAR MR. ALEXANDER: This is in response to your letter dated April 30, 1986, regarding recent reports of "privatization" programs at lake, reservoir, and river projects under Army Corps of Engineers jurisdiction, particularly Greers Ferry Lake and Little Red River.

The Corps of Engineers has no general policy providing for leasing of our Federal recreation areas to the private sector for operation and maintenance. However, such leasing may be desirable and appropriate in certain instances. Consequently, the Corps is currently evaluating some proposals.

I recently visited selected projects in Missouri and Arkansas to get a feel for the concerns. I find the situations vary considerably. I further believe that our field people have an excellent grasp of the varied needs and opportunities at our projects.

Your letter and attached questions raise several complicated issues which will require coordination between various elements of the Corps of Engineers.* Our Division offices have been directed to report on any transfers of management of existing Corps-managed public park and recreation areas. I would be happy to have Major General Hilmes or Colonel Whitehead meet with you on the status of our efforts in this area. The Corps will continue to keep you informed of conclusions before changes are executed.

Thank you for bringing your concerns to my attention.

Sincerely,

E.R. HEIBERG III,
Lieutenant General, U.S. Army,
Chief of Engineers.

*I will provide you with a final response after I review that information more fully.

□ 1140

Mr. BEVILL. Yes, Mr. Chairman, I appreciate the gentleman calling our attention to this. We are sympathetic to his position, and we are certainly going to continue to review and oversee this.

Mr. ALEXANDER. I appreciate that, Mr. Chairman.

At the proper time during the further proceedings of the Committee, possibly on the continuing resolution down the line, I may propose an amendment which would deal more directly with this problem.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Washington State [Mr. MORRISON] who has contributed significantly to helping us prepare this bill.

Mr. MORRISON of Washington. I thank the gentleman for yielding time to me.

Mr. Chairman, I would seek to participate in a colloquy both with the chairman of the Subcommittee on Energy and Water, the gentleman from Alabama [Mr. BEVILL], and the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL].

Mr. Chairman, the Nuclear Waste Policy Act of 1982 requires the Department of Energy to select sites for two nuclear waste repositories. Despite this clear requirement, the Secretary of Energy has suspended indefinitely all site-specific work on the second repository.

It is my understanding that even though the bill reduces funding for the second repository by $45.7 million, this reduction is not intended to indicate the Congress's approval of the Secretary of Energy's decision to indefinitely suspend site-specific work on a second repository. Is my understanding correct?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Washington. I yield to the chairman of the subcommittee, the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. The committee reduced funds by this amount solely for budgetary reasons; it did not intend this reduction to affirm the Secretary's decision to suspend work on a second repository.

As a matter of fact, when the second repository is scheduled, then of course the funding will be made available.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Washington. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, the bill appropriates a total sum for all nuclear waste activities. It is my understanding that although the Appropriations Committee contemplates that only $33 million of the total appropriation will be spent on the second repository activities other than siting, the bill does not bar the Department from spending a greater part of the total appropriation on second repository siting if necessary to comply with the requirements of the Nuclear Waste Policy Act. The Department of Energy would need to submit to the appropriate committees a reprogramming request to allocate a greater part of the total appropriation to second repository siting. Is that correct?

Mr. BEVILL. Mr. Chairman, will the gentleman from Washington yield?

Mr. MORRISON of Washington. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Arizona is correct.

Mr. UDALL. I thank the gentleman.

Mr. MORRISON of Washington. I thank both chairmen for their participation in this colloquy.

Mr. BEVILL. Mr. Chairman, might I inquire as to the time remaining?

The CHAIRMAN. The gentleman from Alabama [Mr. BEVILL] has 2½ minutes remaining and the gentleman from Indiana [Mr. MYERS] has 6 minutes remaining.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, let me preface my remarks by pointing out that I have the highest regard and respect for the members of the Committee on Appropriations and, quite frankly, I do appreciate the number of hours of hard work and dedication with which they approached their task. Last week, we saw the Appropriations Subcommittee endure quite an assault of amendments to their hard work, and I am sure it must have been somewhat discouraging after all the care and hard work that went into that.

This week, we will see the same. I think it is only fair that we understand, at least I offer an explanation: It is not mean-spiritedness on the part of those of us who are going to be offering our cost-cutting amendments, but out of recognition of the emergency that we face. We did in this body vote for the Gramm-Rudman limits. We lived with the precarious situation where it will not be clear but it seems almost certainly clear now that our borrowing requirements will come in beyond those limits and we must make those cuts.

The fact is, if we do not make the cuts now as we move along, we will face a meaner circumstance later, sequestering. We have already seen the hardship that sequestering imposed on such people as Federal retirees and military retirees.

I have seen so many people who suffered in that first round of sequestering say, "I will accept, grudgingly of course, the cuts imposed upon me, but I want to see that burden shared."

We are trying with these amendments to add to the hard work that has been done by the Committee on Appropriations, realizing that these limits will come down to face us, and ask for additional cuts based on the selective process where we think there is room for improvement by diminishing certain programs.

As you may recall, last week, most of the specific line-item cuts that we offered were defeated on the floor. In the final analysis, we had to resort to a capstone amendment that took an across-the-board cut.

Across-the-board cuts are bad legislation. We ought to try to avoid them with particular cuts.

That is what we are trying to do here. We are serious about that. We understand that cuts hurt, and we feel that we are trying to impose this headache at this time to save on a worse one later.

I thank the gentleman for yielding.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to our good friend and colleague, the gentleman from the State of Washington [Mr. BONKER].

Mr. BONKER. The distinguished chairman and ranking member a few weeks ago took time to visit the Northwest and to tour Mount St. Helens to look at the extensive damage caused by the eruption of the volcano 6 years ago. Over the years since, the committee, working with OMB and with the Corps of Engineers, has sought to provide a permanent solution to the sediment problem there. I appreciate the efforts of the gentleman to go out there and examine that more carefully.

In any case, we have agreed that a sediment structure is necessary that will halt the downstream flow of volcanic sediment, and dredging of the Cowlitz River will remove sediment that has already washed downstream into developed areas. Congress authorized this project last year and, because of your assistance, sediment will begin to be halted with the construction of a coffer dam for the SRS during the summer and fall of 1987.

Timing of the dredging part of the project, however, is of great concern. The threat of flooding and other problems associated with high water levels could be reduced if the dredging were done during the summer of 1987, rather than in 1988 as presently planned. It may be possible to dredge the Cowlitz in 1987 with a reasonable assurance that there would not be appreciable sediment movement past the construction site that would require redredging. Although the coffer dam would not be effective until the fall of 1987, there is little chance of any sediment movement during the dry summer months.

Mr. Chairman, I understand that you would support reprogramming of funds to permit dredging of the Cowlitz River during the summer of 1987 if the following conditions are met:

The Corps of Engineers provides a reasonable assurance that there would be no appreciable sediment movement past the SRS construction site after the dredging operation so that redredging would not be needed in the near future, and

Funds are available for such dredging in fiscal year 1987.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct.

Mr. BONKER. I thank the chairman of the subcommittee.

Mr. BADHAM. Mr. Chairman, as the House considers H.R. 5162, the energy and water development appropriations bill for fiscal 1987, I would like to express my strong support for the $6 million provided for continued engineering and planning studies for flood control along the Santa Ana River.

It is well recognized that the Santa Ana River poses the worst potential flood threat in the Western United States. Without further flood control improvements along the Santa Ana River, future floods could have a devastating impact on this area in terms of a serious threat to life and billions of dollars in property damage. With about 1 million people who could be affected directly, there is a potential for catastrophic losses.

It has been nearly 10 years since an omnibus water resource bill has been authorized by Congress. This year, however, both the House and Senate have approved authorizing legislation in the forms of H.R. 6 and S. 1567, respectively. Since the Santa Ana River project has been included in both these bills, it is likely that the Corps of Engineers will be able to keep the project on schedule for completion of the phase II general design memorandum in 1988 and begin construction in 1989, provided that the $6 million funding level be approved. It is also important to note that the questions about the upper river portion have been satisfactorily resolved so that the entire project can proceed with the full support of all of the local communities.

Again, this project is vitally necessary in order to prevent loss of life and property. Furthermore, it has the support of the administration and the Members who represent the surrounding communities. Thus, I urge my fellow colleagues to support it as well.

Mrs. BENTLEY. Mr. Chairman, as we consider today the Energy and Water Development appropriation bill for fiscal year 1987, let us keep in mind that this Congress voted and passed the omnibus water authorization bill, H.R. 6, and S. 1567, which included long overdue cost sharing agreements acceptable with the Reagan administration and Congress.

These cost sharing agreements open the way for needed improvements in our Nation's harbors and inland waterways. Under the energy and water appropriation bill, H.R. 5162, appropriations are made to the U.S. Army Corps of Engineers for fiscal year 1987 to meet the needs of developing our Nation's vital water projects.

It has been more than 16 years since legislation has been enacted to establish a Federal response to maintaining and developing America's water projects. Mr. Chairman, developing a strong infrastructure will help in our ability to compete with foreign imports. It will also undoubtedly assist in a Nation's ability to maintain a strong military defense through economic gains.

When Congress passes this legislation, it will be voting to provide necessary funding for developing a better means through maintaining and constructing our harbors so that we will be in a position to export more American grown and manufactured products for the world market. The Baltimore Harbor, as well as many other American ports, have suffered economic setbacks because of an absence of proper funding necessary to maintain our harbors.

Indeed an investment in our domestic water projects will put both the industrial base and agriculture community at a far better position to compete and contribute to this Nation's economic prosperity.

Mr. Chairman, I urge my colleagues to join me supporting passage of H.R. 5162. Passage of this legislation will continue to promote development of water projects which is acceptable to cost-sharing agreements designed to stay within our spending limitations.

Mr. SHELBY. Mr. Chairman, I rise today in support of H.R. 5162, the energy and water appropriations for fiscal year 1987. Under the leadership of my good friend and colleague Mr. BEVILL, the committee has presented to the House a bill which improves our infrastructure, strengthens our national defense, and encourages economic development. At the same time, H.R. 5162 reflects the fiscal restraint which is absolutely crucial as we work to reduce the deficit.

I want to highlight several portions of the bill which make particularly good sense to me. First, H.R. 5162 funds worthwhile projects to

enhance this Nation's infrastructure and provide for flood control—both long time and appropriate responsibilities for the Federal Government. Under the bill and pursuant to the administration's request, funding for defense-related energy activities, including the strategic defense initiative, has been bolstered. Research and development of alternative energy sources and the practical application of this research are included.

I am particularly pleased that the committee rejected the administration's proposed cuts in TVA funding. The Tennessee Valley Authority has a 50-year record of excellence in many areas including agricultural research, water and air quality, and economic development. People throughout the Tennessee Valley, including my constituents in Alabama, will attest to the benefits they have received through this agency.

I am concerned, though, that TVA's successful programs will suffer unfairly because of the agency's current and severe difficulties with its nuclear power program. I agree wholeheartedly with TVA Director John Water's statement when he was testifying before a congressional panel just last month. Mr. Waters said that we should keep in mind that TVA is much more than a power company and that we should not make misjudgments about the whole of TVA because of the operations of one of its many parts. I know that there has been a sincere concern raised over certain contracts TVA has entered in order to get its nuclear program back on line. However, an effort to reduce the TVA appropriation by the amount of the contract is misguided—because the contract is not paid out of this appropriations bill, it is paid out of TVA power operating funds. We should not sacrifice well run and useful TVA programs, like the Fertilizer Center, just to make a point. We would inflict a doubly heavy burden on the people of the Tennessee Valley.

This bill contains other projects important to Alabama which our delegation has worked on together for a long time. The Oliver Lock and Dam, the deepening of Mobile Harbor, erosion control for Fort Toulouse and Moundville are serveral examples. In addition, I am pleased to see help for a nuclear imaging research center to enhance health care through technological advances. I note that the administration supports the development of this technology whose application to heart disease is of exceptional promise.

Mr. Chairman, let me again commend Mr. BEVILL and other members of the committee for presenting us with a balanced bill which will benefit this Nation in many ways. I urge my colleagues to approve H.R. 5162.

Thank you, Mr. Chairman.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5162, the energy and water appropriations for fiscal year 1987. I commend the distinguished chairman, the gentleman from Alabama [Mr. BEVILL], and our distinguished ranking minority member, the gentleman from Indiana [Mr. MYERS], for sheparding this legislation through the Subcommittee on Energy and Water Development, and for bringing it before us here today. I am pleased to note that the subcommittee has crafted legislation that falls within the budget guidelines set by Congress in Senate Concurrent Resolution 120, the fiscal year 1987 budget resolution, and is $319.6 million below the President's original request.

One of the primary considerations of the Subcommittee on Energy and Water Development has been the civil works projects of the Army Corps of Engineers. As most Members in this Chamber know, the flood control projects engaged in by the Army Corps, has in many cases, meant the difference between making towns, villages, and cities throughout our Nation, habitable and safe for hundreds of thousands of families. The case can not be more graphically illustrated than in my own district, the 22d Congressional District of New York.

The Saw Mill River Basin, a portion of which falls within my district in Westchester County, NY, has experienced extensive flooding over the past several years. Currently, there are five flood control projects along the Saw Mill River, in various stages of planning and construction. I am pleased to note that this legislation contains funding for two of the Saw Mill River projects for the village of Ardsley and the village of Elmsford and part of the unincorporated town of Greenburgh, both of which fall within my congressional district. Last year, the Ardsley project received the much coveted new start. These initial funds enabled the Corps of Engineers to execute the local cooperation agreement with the village last month. I was pleased to officially witness this long-awaited event. With the $2 million earmarked in this appropriations bill, I am hopeful we will see the beginning of construction prior to the end of fiscal year 1987.

I am also pleased to note the inclusion of funding for Ardsley's neighbor to the north, the village Elmsford in their efforts to procure protection from the vagaries of nature. For the Elmsford project there has been appropriated $50,000 for the continuation of planning. We look forward to the initiation of construction in the near future.

Our village of Suffern, NY, residents will be pleased to learn of the inclusion of $170,000 for the continuation of planning and engineering. While the project still lacks authorization, the passage of H.R. 6 and its Senate companion along with the funding under consideration today, offers hope for speedy approval of the Suffern/Mahwah flood project.

In closing, Mr. Chairman, I urge my colleagues not to be pennywise and pound foolish. While we must maintain vigilance on our ballooning Federal deficit, we must not shirk our responsibility to alleviate the plight of so many Americans affected by the ravages of flooding every year. We must realize that every resident and every businessman who is impacted by this dreaded natural calamity—is one less taxpayer—one more applicant for Federal disaster assistance. Let us support preventive measures, so our assistance in floodings' wake is not needed. Accordingly, I urge favorable consideration by my colleagues of this most important measure.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5162, the energy and water appropriations bill for fiscal year 1987. This is a reasonable bill that has been crafted to balance tough budget constraints along with pressing needs for funding for energy and water development projects across this Nation. I appreciate the committee's support for projects located in my congressional district and for their support for projects in my area in the past. For projects in my area, the Committee on Appropriations approved fiscal year 1987 appropriations for the San Felipe Division of the Central Valley project and the San Benito County Water Conservation and Flood Control project which provides for a water distribution system to water-short areas for agricultural, municipal, and industrial uses; a reconnaissance-level study of the configuration of the breakwaters at the entrance to Morro Bay Harbor to address the hazardous conditions at this harbor entrance; and a study of the Santa Cruz Harbor to determine long-term solutions to the shoaling problems in this harbor.

I recognize the difficulties that the committee faced in determining which projects would receive funds in fiscal year 1987. However, I regret that projects approved by the House in H.R. 6, the omnibus water resources authorization bill, are not funded in this appropriations bill due to delays in the other body.

I would urge expedited action on H.R. 6 so that funding for these needed water resource projects may be appropriated in fiscal year 1988. I want to take this opportunity to describe water and harbor projects in this authorization bill that affect my constituents in the 16th Congressional District of California. The 16th District includes all of Monterey and San Benito Counties, and portions of Santa Cruz and San Luis Obispo Counties.

GOLD GULCH LEVEE

The omnibus water resources bill pending in Conference Committee authorizes the construction of a project for the control of destructive floodwaters in the Gold Gulch community in Santa Cruz County. The severe storms this year have once again caused extensive flood damage in the Gold Gulch vicinity. This area has suffered significant flood damage year after year, causing a direct threat to homes immediately adjacent to the river bank and necessitating the evacuation of area residents.

The Corps of Engineers has worked closely with county officials and local residents in seeking to minimize flood damage. But, a permanent flood control project is vitally needed. Accordingly, the water resources legislation authorizes construction of a project for the prevention of flood damage in the Gold Gulch community at an estimated cost of $6 million. I urge the Subcommittee on Energy and Water Development to appropriate $250,000 in fiscal year 1988 for the Army Corps of Engineers to conduct a preliminary study and design of project options. The sooner a permanent solution can be put in place, the less the danger to the lives and property of area residents.

SAN LORENZO FLOOD CONTROL

The omnibus water resources bill also authorizes $3.5 million to prepare engineering plans and initiate action to improve the San

Lorenzo River flood control project. The existing project was constructed by the Army Corps of Engineers in 1959 following the large-scale flooding in the downtown area during the winter of 1955. The project was designed with 2 miles of river levees and the river bottom was dredged to 7 feet below sea level. As originally designed, it was anticipated that only a minimum amount of annual dredging would be required to maintain the river bed at its new level. Unfortunately, nature did not cooperate, and the river bed shortly refilled to its original level.

To respond to this problem, the corps commissioned a study in 1981. However, severe flooding in 1982 raised severe questions about the validity of the study results. The flood indicated that during high flows the water tends to scour the river bottom and increase its capacities. To answer the question raised by the 1982 floods, Congress authorized the corps to initiate another study which addressed the scour issue and other changes which have occurred over the last 20 years.

In a letter to me of February 14, 1986, the corps concluded that "under present conditions, should a flood of a frequency larger than a 35-year event occur, the city would sustain serious damage, with possible loss of life".

The 1955 flood—which is considered a 35-year event—resulted in the death of 5 individuals, displaced 2,400 persons, and caused over 39 million dollars' worth of damage in today's dollars. If a flood of this magnitude were to hit the city today, damage estimates have been approximated at $70–$90 million.

In addition, flood plain restrictions now in effect in downtown Santa Cruz severely limit future development and require the payment of substantial flood insurance premiums by local residents.

The omnibus water resources bill authorizes funds to allow the corps to correct the problems that the original project did not resolve to provide the city with needed flood protection. Current conditions along this river pose a serious public safety hazard and are stressing the economic vitality of Santa Cruz. I would therefore urge the subcommittee to include $3.5 million for flood protection measures along the San Lorenzo River in fiscal year 1988.

MORRO BAY HARBOR PORT OFFICE

The omnibus water resources bill also authorizes the construction of a new harbor office at Morro Bay, at an estimated cost of $250,000.

Morro Bay Harbor entrance has a long history of accidents and fatalities. Since 1970 there have been approximately nine deaths in Morro Bay Harbor related to the entrance. Reports of fatalities only tell part of the story. For example, on February 8, 1986, 10 vessels required city harbor patrol assistance at the entrance. In 1983, the charter vessel *San Mateo*, with 32 schoolchildren aboard, overturned at the entrance of Morro Bay Harbor. All 32 children were rescued, but the skipper of the vessel was fatally injured in the accident.

Morro Bay Harbor's safety problem is compounded by the fact that although it is the only port of refuge on California's central coast, the view of the harbor entrance from its harbor office is obstructed, and the harbor patrol officers have only a 2- to 3-minute timespan in which vessels approaching the harbor entrance can be seen. The new office would provide an obstructed view of the harbor mouth, much of the inner basin, and the sandpit where most survivors of boating accidents wash ashore. The U.S. Coast Guard, California Department of Fish and Game have expressed an interest in sharing space at the new facility. I urge the subcommittee to include $250,000 for construction of the new harbor office in its fiscal year 1988 budget.

Again, I recognize the budget constraints faced by all agencies as we work to reduce the Federal deficit. But, there is a pressing need for these projects in our communities and I would therefore urge the Subcommittee on Energy and Water Development to pursue consideration of funds for these projects in fiscal year 1988.

Mr. Chairman, this is a carefully crafted bill which has been accomplished within the art of the possible and I urge adoption of this important bill.

Mr. MYERS of Indiana. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BEVILL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $148,641,000, to remain available until expended, and in addition, $250,000, to remain available until expended, for the Bolsa Chica/Sunset Harbor, California, study; and in addition, $520,000 to remain available until expended, for the Red River Waterway, Shreveport, Louisiana, to Index, Arkansas, project for continuation of preconstruction planning.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,138,234,000, of which $26,000,000 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and in addition, to remain available until expended, $2,300,000 for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, of which $1,300,000 shall be made available for the Sea Bright to Ocean Township reach and of which $1,000,000 for the Asbury Park to Manasquan reach; and in addition, $6,800,000 to remain available until expended for the construction of the Yatesville, Kentucky, construction project; and in addition, $1,600,000, to remain available until expended for construction of the Sturgeon Point Marina, New York, project authorized by section 107 of the Rivers and Harbors Act of 1960, as amended; and in addition, $1,600,000 to remain available until expended, for construction of recreation facilities at New Melones Lake, California; and in addition, $1,200,000 to remain available until expended to be equally divided between the Crossett Harbor Public Access/Recreation Site and the Grand Marais Lake Public Access/Recreation Site at the Felsenthal National Wildlife Refuge, Arkansas (Ouachita and Black Rivers, Arkansas and Louisiana); and in addition, $1,300,000 to remain available until expended for construction of recreation facilities at Clarence Cannon Dam, Missouri; and in addition, $1,100,000 to remain available until expended, for construction, at a standard project level of protection, for the Barbourville, Kentucky, project as authorized by section 202 of Public Law 96-367; and in addition, $3,600,000, to remain available until expended, for construction at a standard project flood level of protection, for the Harlan, Kentucky, project as authorized by section 202 of Public Law 96-367 (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky); and in addition $30,000,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project. Within these funds the Secretary of the Army is directed, as a minimum, to initiate continuing contracts in fiscal year 1987 for construction of each of the following features of the Red River Waterway: Lock and Dam No. 3 Phase III (consisting of the main lock and dam and connecting channels), realignment and bank stabilization measures in Pools 3, 4, and 5, including but not limited to Saint Maurice, Kadesh, Socot, Powhattan, Ile Au Vaches, Campti, Smith Island, Carroll, and Wilkerson Point Realignments, and Cognac and Lumbra Revetments. The Secretary is further directed to initiate and complete both the Lock and Dam No. 3 Phase IIB (consisting of the initial excavation for the lock and dam, the north cofferdam, the reservation mound and disposal area) and Phase IIC (consisting of the remaining access roads) contracts in fiscal year 1987. None of these contracts are to be considered fully funded. Contracts are to be initiated, or initiated and completed, with funds herein provided: *Provided further,* That the Secretary shall initiate construction of water resource projects funded in this paragraph only after appropriate non-Federal interests have executed binding agreements containing terms and conditions

acceptable to the Secretary, or under the terms of H.R. 6, or similar legislation, when enacted into law.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $25,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $319,460,000, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to repair the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas, authorized by the Flood Control Act of August 18, 1941, as amended by the Flood Control Act of July 24, 1946, at an estimated cost of $250,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,417,447,000, to remain available until expended, of which $12,500,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), and of which $7,400,000 shall be for construction of recreation facilities (including a recreation lake) at Sepulveda Dam, California.

REVOLVING FUND

For construction of a dustpan dredge and for the Corps of Engineers Automation Plan, $12,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 250 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 102. The authority to acquire new buildings and facilities, including necessary real estate, for the U.S. Army Corps of Engineers District, Walla Walla, Washington, as provided for in Public Law 99-88 (99 Stat. 293, 316), may be implemented by lease purchase contract or by any other appropriate means.

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct flood control structures in accordance with the plan contained in the reevaluation report of the Chief of Engineers for Papillion Creek and Tributaries Lakes, Nebraska, dated March 1985 (revised October 1985). Features of such project authorized by the Flood Control Act of 1968 but eliminated by or otherwise not in accordance with the reevaluation report are not authorized after the date of the enactment of this Act.

Mr. BEVILL (during the reading). Mr. Chairman, we know of only one amendment, and I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any points of order against the provisions of title I?

The Chair hears none.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 9, after line 7 add the following new section:

"SEC. 104. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering, construction and the operation and maintenance of the Des Moines Recreational River and Greenbelt project as described in Conference Report 99-236 using funds heretofore, herein and hereafter appropriated. Notwithstanding the language contained in the 1985 Supplemental Appropriations Act, Public Law 99-88, the Corps of Engineers shall continue their work on the General Design Memorandum, which shall be completed by October 1987 to serve as a master plan for the overall project. The design memorandum must address all enhancements contained in the list prepared by the Des Moines Recreational River and Greenbelt Advisory Committee. The project after construction will be operated and maintained at full Federal expense."

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I have talked this over with both sides, and actually it is an amendment to clarify an existing program that is underway and to set a time schedule. I do not believe it is controversial.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the chairman.

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Chairman, we have no objection. The committee is familiar with this amendment, and we have no objection, and we accept it.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Chairman, likewise the gentleman has discussed this amendment, it is a clarifying amendment, and we have no objection to it from this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title I?

The Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $32,320,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*,

That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $592,359,000, of which $110,929,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $145,596,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be non-reimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further*, That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further*, That none of the funds made available by this or any other appropriations Act shall be expended for construction of the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska, after August 1, 1987, unless the Congress has enacted legislation to increase the authorized appropriations ceiling for the project to a level adequate to allow completion of the project as authorized: *Provided further*, That this restriction shall not apply to the obligation and expenditure of funds pursuant to contracts that have been awarded prior to January 1, 1987.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered by Mr. PETRI: On page 10, line 15, strike "$592,359,000", and insert in lieu thereof "$508,659,000", and strike "$110,929,000" and insert in lieu thereof "$27,229,000".

On page 11, line 1, insert the following immediately after the colon: *"Provided further*, That none of the funds made available by the act shall be expended for construction of the Bonneville Unit of the Central Utah Project:".

Mr. BEVILL. Mr. Chairman, I reserve a point of order against the amendment.

Mr. PETRI. Mr. Chairman, this amendment provides for a straight cut of $83 million for the Bonneville unit of the central Utah project. The Bonneville unit is a multi-billion-dollar water supply project now under construction.

Enactment of this amendment would save both money and natural resources. Last year, this body outlined a few conditions under which construction could proceed. We agreed that spending for the unit would be prohibited until a supplemental repayment contract was executed which would guarantee full repayment of all project costs, plus interest, allocated to the municipal and industrial water supply features of the project.

Unfortunately, we still do not have assurances that full repayment of these costs will be made.

Although a supplemental repayment contract was executed last fall, the General Accounting Office has determined that this new contract does not satisfy the cost recovery requirement included in the 1986 appropriations act.

According to the General Accounting Office, the current repayment contracts could result in the Federal Government losing up to $97 million in interest revenues because of an illegal use of the Water Supply Act of 1958.

In testimony before the Subcommittee on Water and Power Resources in March a GAO spokesman said:

Because the Department of the Interior intends to allow the district a 10-year interest-free deferment of repayment pursuant to the provisions of the 1958 Water Supply Act, and because we believe the use of such an Act in this case was illegal, the supplemental repayment contract does not satisfy the recovery requirements of the 1986 Act.

We cannot afford to appropriate more money for this project until proper repayment arrangements are in place. Our amendment would strike funding for the Bonneville unit until the unsecured costs—up to $97 million—are properly covered by contract. My colleagues should note that this amendment is the one on which you have received numerous letters from the National Wildlife Federation, the National Taxpayers' Union, the Environmental Policy Institute, and other organizations.

I urge the adoption of the amendment.

□ 1155

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Alabama [Mr. BEVILL] insist on his point of order?

Mr. BEVILL. Mr. Chairman, I make a point of order against the limitation amendment. The amendment is a nonlegislative limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part:

Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

Mr. Chairman, the gentleman's amendment is not specifically contained or authorized in existing law and therefore is in violation of rule XXI, clause 2(c).

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. PETRI] wish to be heard on the point of order?

Mr. PETRI. Mr. Chairman, this is an appropriation bill, and we are simply striking an appropriation. It seems to me well within the spirit of the legislation.

Mr. BEVILL. Mr. Chairman, it is striking the money, and also imposing limitations.

The CHAIRMAN (Mr. SHARP). The Chair is prepared to rule on the point of order.

The gentleman from Alabama [Mr. BEVILL] is correct. The second portion of the amendment does add a limitation, which under clause 2(d), rule XXI, is not in order, except in the event that the motion to rise and report at the end of the bill is rejected.

Therefore, the point of order must be sustained.

PARLIAMENTARY INQUIRY

Mr. PETRI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PETRI. Mr. Chairman, may I divide the amendment and offer the

first paragraph striking the amount and not the second?

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI: On page 10, line 15, strike "$592,359,000", and insert in lieu thereof "$508,659,000", and strike "$110,929,000" and insert in lieu thereof "$27,229,000".

Mr. PETRI. Mr. Chairman, I will not take the 5 minutes, except to say that the arguments made previously apply to this amendment, except that this amendment just provides for the $83 million cut and does not contain the language on which a point of order was held to lie.

Mr. Chairman, I would urge adoption of the amendment.

Mr. SOLOMON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in rising in support of this amendment, I would like to say that the purpose of the amendment is to ensure that an adequate repayment agreement will be at least arranged between the Bureau of Reclamation and the municipal users of this water project.

For 6 years, the Bureau of Reclamation has promised such an agreement, and for 6 years the taxpayers of this country have waited for an equitable cost-sharing arrangement that would require the beneficiaries to pay their fair share for the benefits they receive.

I offered a similar amendment last year. My distinguished colleague, the gentleman from California and chairman of the Subcommittee on Water and Power Resources, Mr. MILLER, then offered a substitute to that amendment. The gentleman's substitute required that none of the funds made available by this appropriation for the Bonneville unit of the central Utah project could be obligated or spent until a repayment contract had been submitted to Congress and reviewed for 100 days. The gentleman sincerely believed, and I was convinced by his sincerity, that we should give the Bureau one more chance.

Now we feel that our good faith has been abused. According to the Government Accounting Office in testimony before the Subcommittee on Water and Power Resources in March of this year, the current repayment contracts could result in the Federal Government losing, as my colleague has said, the gentleman from Wisconsin [Mr. PETRI], $97 million in interest revenues because of an illegal use of the Water Supply Act of 1958.

We cannot afford to appropriate any more money in the name of the Bonneville unit of the central Utah water project until the unsecured cost of up to $97 million or repayment is guaranteed by means of a contract. Otherwise, we are going to be stalemated for another 6 years.

Now proposals the Bureau has submitted have had a number of provisions that were of highly questionable legality. The proposed contract must also meet the approval of the local electric, and this vote will not take place until after the November elections.

As a result of these problems, an entire year has passed without a repayment guarantee established, and we are going to be doing it again for another 6 years.

The Bureau of Reclamation has displayed an abysmal track record, and I for one can no longer trust the Bureau to persevere and to protect the interests of the taxpayers of this country. This situation is not tolerable. My first obligation is to protect the interest of the taxpayers, and the only way to accomplish that is to withhold any further funding for this project.

I want to urge my colleagues to carefully consider this problem and support the amendment of Mr. PETRI to protect the taxpayers, and to give the Bureau of Reclamation incentive to get back on the track.

This Congress, after many years of having irresponsible water policy, finally several years ago adopted a policy that says beneficiaries will pay a fair share of the cost for benefits received.

I represent a farm area. We need water, and my farmers have to pay for their water. They pay a fair share, sometimes high. That is all we are asking for other people throughout this country. Let us get on a pay-as-you-go basis.

This is a fair amendment. It is an amendment that would not be necessary if the effected parties had gotten their act together and solved this problem, which they did not do. That is unfortunate, and I feel very sorry for the Representatives from Utah because I do not think it is entirely their fault.

The Bureau of Reclamation ought to sit down and work out this problem so that we can solve it once and for all and stick to the water policy that this Congress established in law several years ago.

Mr. NIELSON of Utah. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from New York [Mr. SOLOMON] stated, the gentleman had a similar amendment last year but a substitute amendment by the gentleman from California [Mr. MILLER] was approved. That amendment said we had to come up with a satisfactory repayment contract, we had to have Utah voters approve it and we had to then submit it to Congress. If, after 100 days, Congress did not disapprove, the repayment contract was to be effective.

All of this was done. Utah voters passed the bond issue by 73 percent on a repayment contract adding over $350 million to our contribution. We have been working closely with the staff of the gentleman from California [Mr. MILLER], and we have come to an agreement on that. The gentleman from California has an amendment which I will later support.

It appears to me we have fully met the requirements required by the Congress in the amendment of last year.

I should like to indicate also that the meeting of the Subcommittee on Water and Power Resources, to which the gentleman from New York [Mr. Solomon] referred, did not go as the gentleman indicated. I was at that meeting, as was Congressman STRANG who will speak in a moment, and GAO was questioned very carefully. We found that they finally backed off from their report. They could not substantiate their report after close questioning from Congressman STRANG and Congressman HANSEN and others on that subcommittee.

We have done everything we could do. We have done everything Congress has asked us to do. I believe this would be a very unfair thing to remove the funds after we have had a special election with a 73-percent positive vote.

We have agreed that if we do not get the program finished in 10 years, we will pay back additional money. We have also put this project on a 10-year timetable, if the funding comes through as scheduled.

As for paying for water which has been received in this project, no water as yet has been received from this project. We are still under construction, and there will not be any benefit to the Salt Lake area until the mid-1990's. So we have not failed to pay for any water or any benefit of this project. There have been no benefits, and there will be no benefits unless the project is allowed to be completed.

Mr. Chairman, I would urge the Congress to reject this amendment as being unfair, as going back on an agreement that was made last year in violation of the Miller amendment and our adherence thereto. I recommend that we defeat the amendment soundly.

□ 1205

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had hoped that the gentleman would withhold his amendment because I will be offering an amendment later that I think will embody many of the concerns that Members of the House have expressed to this committee and to my committee which is responsible for the au-

thorizing of the Bonneville unit of the central Utah project, and that is to cure the problem that Mr. SOLOMON had raised by the fact that the Bonneville project had misused their authority and had forgiven, rather, the Bureau of Reclamation had apparently forgiven the payment of some $97 million that we believe was owed in the payment of this project, and would in fact have been picked up by the taxpayers and not the water users in this case, come forth with that money.

We have spent the time since this bill was on the floor before negotiating with the people responsible for the project to make sure that they understood that it was unacceptable to Congress, that they simply lay off $97 million on the taxpayers. Those negotiations were concluded last night, and what we have done is required that they pay back, upon the completion of this project, when they will have to start paying back as other water users and beneficiaries of the project do, pay back to the Federal Government that $97 million that has been identified by the General Accounting Office to be improperly used under the scheme of this project.

The one provision that we do have is to try to prevent the delays, the delays that have made this project so terribly costly, is that they would be relieved of $2 million in repayment up to a period for 5 years in order to put a penalty on the Bureau to keep this project from being any further delayed.

I think this addresses the issues that the gentleman is concerned about. Let me also say that it is very clear that this project must come back to the authorizing committee so that the ceiling, if necessary, can be raised, and I think there are a number of issues that I plan to take up with this project and I think other members of our committee do, about whether or not we want to go forward with every component of this project where there are some very, very expensive features. The repayment for those features is in question, as the gentleman from New York has pointed out now, over the last couple of years.

I happen to believe that the proper place to settle those is in the authorizing committee when we will be confronted with the challenge of whether or not we want to raise the ceiling so that additional moneys can be appropriated for all features of this, or in fact if this project may undergo some redesign to better equip it with the needs of the central Utah area as opposed to its original configuration.

I would hope that the committee would turn down this amendment, allow us to vote on the Miller amendment to recapture the vast bulk of the 90 percent of the $97 million which the taxpayers are rightfully owed, and then let the authorizing committee go forward and to raise those questions, and if required, necessary to put additional restraints or changes onto this project as the evidence bears out.

I would hope that the committee would reject this amendment.

Mr. STRANG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment with some reluctance because I share with my colleagues, the sponsors of this amendment, the concern that they have for seeing that the taxpayer is not taken for a ride in the support of Bureau of Reclamation projects, recognizing that charges of pork barrel and so forth have been levied in this area with some accuracy over the years.

I also share with them their deep interest in western water projects and experience and hope that I can share with them some of the things that happened in committee this year when the GAO appeared with these numbers. I would urge my colleagues at some point to go back and read the transcript of that hearing in which, when under serious questioning, the GAO could not support the $97-million figure because they simply did not know what they had used for the cost of money.

One percent change in their figure would have turned the $97 million from a negative to a positive. One percent error. They admitted that. In fact, they scurried out of that committee room with their tail between their legs and I was ashamed of their performance.

I commend the chairman of the subcommittee, Mr. MILLER, for his work to be sure that the taxpayer is not going to take a licking here, even though it is my belief, based on the decline in the cost of money, that this is going to turn out to be a benefit for the taxpayer.

I would also like to point out to my colleagues that the people in Utah have come out with about a 35- or 36-percent cost sharing in this project at the request of this Congress, and I think that shows that they are not trying to escape their obligations.

I would urge my colleagues to back away from this amendment and to support the Miller amendment because the more we delay this project, the more trouble we are going to be in. I would urge defeat of this amendment.

Mr. MONSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment also. I think the case has been presented very adequately by my colleague from Utah, Mr. NIELSON, and also by the gentleman from Colorado, Mr. STRANG.

I think it is important to reinforce some of the points that have been made. First of all, the facts are that the citizens of Utah, when confronted with the necessity of approving a repayment contract, overwhelmingly gave approval to that. A new repayment contract that added some $360 million in obligations by the water users to repay. I think that Utah has demonstrated very much, by 73 percent of the people that voted in that election, that they are willing to pick up their obligations.

Now, some questions have been raised as to whether or not that covered some interest payments that have been raised by GAO. There are arguments on both sides of this case, I am sure, but I think the fact that there are arguments on both sides raises serious doubts as to whether or not the information that has been presented in favor of this motion is adequate and is substantial to cause this motion to be supported.

Therefore, I would suggest that we all review this thoroughly; that we reject this amendment because there will be an amendment presented that will cover this in the event that there are additional costs that have not been covered that the citizens of Utah should rightfully pay. I am in support of that amendment. I think we should pay them if we rightly should, but it is in question, and it perhaps will result in us having to pay more but we are willing to do that if we can allow the process to go forward.

The only way we are ever going to get this money repaid in the first place is if the project is complete. Otherwise, a lot of money is going to be wasted as it is anyway. This water is vitally needed. We are already running into shortages in the Salt Lake County area. We need it now and we are going to need it more in future years. There is nothing we can do to stop this need. It is going to have to take place through this process. To stop this process now would not only hurt the citizens of the State of Utah, but it would make the citizens of this whole country by the fact that they would not be able to receive the repayment that will be paid once water begins to be delivered.

Mr. Chairman, I ask the Members to reject this amendment.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to pose a few questions to some of the participants in this debate. I think I have made my interest in this matter of deficit reduction and spending cutting clear. The fact of the matter is by September 1 we are either going to have met the Gramm-Rudman budget requirements or borrowing requirements, or we will have to face the re-

quirement to meet them at the time plus suffering an $11 billion surcharge of additional cuts to get to the absolute mandatory figure when we face the full constraint of the Gramm-Rudman backup provisions.

□ 1215

Furthermore, when we look at that $11 billion surcharge, I think we ought to recognize that amount is approximately the same amount of cutting that we experienced very, very painfully in the March sequestering that we allowed to happen precisely because we did not make line-item cuts before the fact and allowed that sequestering to take place.

Mr. Chairman, we are facing here a very serious dose of heartburn. We know already how much heartburn has been experienced across this Nation, how much unrest and how much discomfort, and it is precisely because we did not meet that earlier test.

So I look at this discussion and I see good people, people for whom I have an enormous amount of respect, on both sides of the issue, but I really have to ask some questions. In my mind, the basic question is: Is spending $83 million now at this time on this project a better alternative than risking further sequestering under Gramm-Rudman and further reductions in the cost of living to our Federal retirees and our military retirees and further across-the-board cuts for all programs of Federal spending with a few exceptions? That is not clear to me.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am pleased that the gentleman from Utah did rise. I guess I have to confess that I was not aware that the area in question was suffering any critical or serious water emergency at this time. It was my understanding that perhaps this project would not indeed be beneficial to the area until 1990 or later. Is that correct?

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. Yes, I yield to the gentleman from Utah.

Mr. MONSON. Mr. Chairman, while it is true that we are not going to receive the benefits of this until that time, we are already suffering water shortages despite this publicity that we are concerning the Great Salt Lake and its current levels.

The reason we suffer from these problems is because we are not channeling the water in the right directions right now. While this will not eliminate that problem completely, it will help in that respect.

So while to many it would appear we are having an overabundance of water because we cannot get it to where we need it, we are suffering shortages in terms of having the water that we need.

Mr. Chairman, if the gentleman will yield further, I would like to ask him a question if that would be all right.

Mr. ARMEY. I yield to the gentleman from Utah.

Mr. MONSON. Is the gentleman aware that this project has been under construction for some 20 years now, and that most of the reasons that the repayment contract was needed to be increased anyway were due to delays in the project that caused the costs to increase, and most of those delays have been due to the fact that Congress has not supported this project the way it should have been supported as it has gone along in an effort to get it done in a timely fashion? If we had had the support that we needed all along, we would have been able to complete this probably without needing a repayment contract, and we would have done it so that we would not have to worry about whether or not it impacted the budget deficit each year.

Mr. ARMEY. Mr. Chairman, if the gentleman will allow me to reclaim my time, let me make the speculative assumption that perhaps the Congress is not wrong all the time, and perhaps we could interpret the failure of the Congress to support this project consistently and enthusiastically to an early and complete termination as indeed reason why we must speculate that the urgency and the need for this project at this time is not as great as the urgency of avoiding Gramm-Rudman.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. Mr. Chairman, I really believe the question we are going to have to ask ourselves is: Do we want reductions for Federal retirees, do we want reductions for military retirees, and do we want other important programs to suffer across-the-board reductions in order to preserve a program here that apparently has not a unified consensus of support?

I want to make one final statement, and I say to the gentleman from Utah that I am sorry but I will not have time to yield further unless he obtains additional time. As much as I admire the gentleman from Utah and the gentleman from Colorado and others who have spoken on behalf of this, it seems clear to me that this is a tradeoff that we must have the discipline to make. We have put $2 billion into this program. We are now up here asking for $83 million. I have a very serious and grave concern that we can afford to make the tradeoff. If we are not willing to stand and make this tough and painful cut and others that will be offered, we are going to have a terrible, terrible dose of heartburn in September, and I think we need to face that right now.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman is under the impression that this is an increase in the budget and it is, therefore, busting the budget. This is a decrease from last year. It is the second decrease in a row on this project.

One project, the Upalco project, has already been eliminated from the central of Utah project. We have made some reductions, and we are trying to live with them. This is actually a reduction this year, and last year there were also reductions. This is not one of the projects that is pushing the budget up. This is one that is contributing to reducing the deficit.

The gentleman knows how I have usually voted. I vote consistently. What I oppose is large increases in old projects and new programs that have not been authorized. This has been authorized for 20 years. It is under a new payment plan to be finished in 10 years.

Mr. Chairman, if the Miller amendment is allowed to stand it will take care of all the problems that the gentleman is concerned about.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has again expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 1 additional minute.)

Mr. ARMEY. Mr. Chairman, I do need to address the gentleman's point, and I do not want to prolong the debate.

This point will come up again. We cannot console ourselves with the observation that appropriation bills are within the budget. We have stayed within the budget before and seen the deficit grow. We have to be very, very careful that we do not repeat the mistakes we have made in the past.

I respect and admire the gentleman from Utah. He is a disciplined Member of Congress; he is not a free spender. Neither of the two gentlemen is. I have nothing but admiration for both of them. However, I must say at this point that I must reluctantly ask the Members to support the amendment.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield one further time?

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(On request of Mr. NIELSON of Utah, and by unanimous consent, Mr. ARMEY

was allowed to proceed for 1 additional minute.)

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Chairman, in addition to the fact that this is a decrease from last year, that there was a decrease the year before, and that we now have a repayment contract by a 73-percent vote, we would do the same if required to vote further, because we are interested in getting this project done and paying our fair share.

Let me add also that we think we met the requirements of the Miller amendment last year. We had a repayment contract. The gentleman from California [Mr. MILLER] is satisfied with it. He is the one that put the amendment on the hill last year. The committee is satisfied with it. I am sorry that the gentleman from Wisconsin [Mr. PETRI] and the gentleman from New York [Mr. SOLOMON] are not, but if they would confer with their colleague, the gentleman from California [Mr. MILLER], I think they would find that we will satisfy everything that Congress requires, plus the fact that they had 100 days to disapprove this and they did not disapprove it. I think 100 days later is an inappropriate time to change the rules.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ARMEY. Mr. Chairman, my final statement is that I think the gentleman has made his case well. I respect the gentleman for his case, but I am afraid I must still encourage the House to vote "yes."

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I thank my colleague, the gentleman from Pennsylvania, for yielding.

I just wanted to make several comments about certain points that have been raised in this debate. The amendment I have introduced is certainly essentially the same as the original Solomon and Miller amendment. The gentleman from California [Mr. MILLER] no longer supports that amendment but instead is planning on offering a different amendment. A point of order will lie to the second Miller amendment, and in fact I would raise that point of order as legislating on an appropriation bill should the gentleman offer it.

Why would I do that? Because it ends up costing the Federal Government money rather than implementing cost sharing in Federal water projects.

How does it end up costing the Federal Government money? The gentleman's amendment would obligate the Congress to provide sufficient funding to substantially complete the Bonneville unit of the central Utah project by the end of fiscal year 1995. According to the Bureau of Reclamation estimates, the cost to complete after fiscal year 1987 will be $899 million. The total Federal cost for the project is $1.6 billion, with a benefit cost ratio of $1.7 billion calculated at 3¼-percent interest.

Under the Miller amendment, if the project is not completed by 1995, the project sponsors will be exempted from repaying $2 million per year for each year the project remains unfinished, up to a maximum of $10 million. In other words, if for any reason Congress does not provide funding to complete the project, according to this artificial deadline, it will cost the Federal Government up to $10 million in penalties.

□ 1225

The other portion of the amendment of the gentleman from California [Mr. MILLER] obligates the project's sponsors to pay interest on 60,000 acre feet of municipal and industrial water for which the Bureau of Reclamation had previously agreed to defer interest, but last March the GAO determined that the Bureau had violated the Water Supply Act of 1958 in granting such deferral; so the amendment of the gentleman from California [Mr. MILLER] simply obligates the project's sponsors to pay what the GAO determined they already have to pay under existing law.

Finally, I would just like to say that no one will be thrown out of work by the enactment of the amendment that I have offered. The Bureau awards multiyear contracts for large projects such as this, so the effect of a funding cutoff will not begin to be felt until sometime later next year. That provides plenty of time, if the amendment is adopted, for the Bureau and local interests to act promptly to comply with the GAO's recommendation.

By the time the Senate acts on this bill or the conference report is filed, the GAO findings have been complied with, the money can go back in with no harm done to the project. Even if they cannot comply before the bill is enacted, funds could easily be included in the fiscal year 1987 supplemental early next year.

We are not trying to eliminate this project or strike it out. We are just trying to implement sensible Federal and local cost sharing on water projects.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Utah to allow the gentleman to reply.

Mr. NIELSON of Utah. Mr. Chairman, in regard to the points the gentleman raised about forgiving the interest if it is not complete in 1995, that was taken out of the agreement. That is not part of the amendment at the present time.

As far as the other part is concerned, let me indicate that we have about $1 billion investment so far. If we stop the project either through this or other means, that is that much that will not be repaid to the country. We are much better off if we finish the project and get the repayment contract now. We will get back more for the Government. It would be a savings, rather than an expenditure if we allow the project to be completed.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding.

Let me at the outset just say that I have the greatest respect for Congressman NIELSON, for the gentleman from Utah, Mr. MONSON, and Senator JAKE GARN. Let me tell you, they are tough, tough fighters and they do a job for their constituents. But let's set the record straight.

We are not trying to kill this water project. What we are trying to do is to continue the reestablishment of water policy in this country whereby beneficiaries of these projects pay their fair share for the benefits they receive.

Now, the National Wildlife Federation, the conservationist group, and the National Taxpayers' Union, both strongly support this amendment.

Now, if a point of order did not lie against the Miller amendment, it might be a different ballgame in this House; but the fact is there is not going to be any Miller amendment. Therefore, the only ballgame in town is the Petri-Solomon amendment. We should enact that amendment now.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, I continue to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, it is absolutely imperative that we send a message to the bureaucrats at the Bureau of Reclamation that we tried to give them guidance last year, along with funding, and they bypassed the intent of the Congress.

The GAO presented their recommendations and the Bureau of Reclamation scoffed at the GAO.

I say, enough is enough. Let us send them a message that they cannot fail to understand and let us not cloud this issue any further.

We have to get back to a pay-as-you-go basis. That is only fair for every part of the country. I would urge support for the Petri amendment.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Utah.

Mr. MONSON. Mr. Chairman, I appreciate the gentleman from Pennsylvania yielding.

Mr. Chairman, I get troubled when I come here day after day and see us doing things in a procedural way to stop what we say we are trying to do from going forward. The objections that have been raised may be legitimate. I say may be, because the GAO before the hearing was through in the subcommittee on the Interior——

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. MONSON, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I continue to yield to the gentleman from Utah.

Mr. MONSON. Mr. Chairman, I thank the gentleman for yielding.

When pressed, the GAO backed off from that recommendation. They could not support what this would actually cost; but given a little bit of time and without any procedural impediments put in front of us, we can solve that problem. If in fact it is going to cost additional money that the citizens of Utah should rightfully pay, we will do that if we will allow the Miller amendment to go forward.

All that we are asking with the additional portion of the Miller amendment is that if this project continues to be delayed unnecessarily, that we be relieved from any interest payments that would accrue as a result of those additional delays. That is all the additional $2 million per year reimbursement figure is intended to accomplish.

I think we ought to allow this to go forward. It will solve the problems that the gentleman has been raising and it will allow this project to go forward in a timely fashion.

Mr. Chairman, I urge rejection of the amendment.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, we all recognize that we certainly have a funding problem this year. This issue of the central Utah project is nothing new to Congress and certainly not to this subcommittee. We have been concerned about it for a number of years. As long as the chairman and I have been on the committee, we have been working on this project.

Last year particularly this same issue came up by the same authors. We told the sponsors of the central Utah project that if you will do this, if you will have new contracts assuring that the taxpayers of the country shall not lose any money, then we can move forward.

In good faith, the sponsors in Utah, as has already been stated by our two colleagues from Utah, they had a referendum where a large percentage of the deficit would be made up by ad valorem taxes. They have already agreed to do this. New contracts are being made now and have been made in most instances for M&I water to be provided by this contract, as well as the irrigation water.

Utah and the sponsors have done what this Congress last year told them they must do in order for us to continue to proceed after years of investment.

They have done what they were told to do. We have now appropriated $606 million for this project, most of which has already been obligated. To stop the project now, first, would be wrong for the investment. We would get nothing back for the investment and we would only further delay the recovery that the American taxpayers are entitled to have. The payers who will be paying for this will be delayed at least a year, maybe longer, in order to be able to pay back part of the investment.

But most importantly, we would be reneging on what we have told the people of Utah and the sponsors that they must do. Congress last year told them to do it. In good faith, they did that. It would be wrong to support this amendment and be reneging on the people who acted in good faith upon our request last year.

Mr. Chairman, I urge a "no" vote on this amendment.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words and I yield to my colleague, the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Chairman, I thank my colleague for yielding. I do not intend to take the full 5 minutes.

Mr. Chairman, we have spent a lot of time on this. This amendment, this hoary amendment, has been disinterred by people who are infatuated suddenly with the same GAO which presented us with the devastating arguments on Nicaragua some time ago. The GAO that came before our committee and could not support its arithmetic in the claims of the $95 million change because they could not support before our committee the figures they used for the cost of present and future money, so we have the National Wildlife Federation, an organization for whom I have some regard, using well-intentioned, thrifty Congressmen, to beat up on a project which needs to move forward, a 20-year-old project.

I respectfully ask that we move forward on this thing now. The damage that this can do to this project is absolutely incalculable in cost to the taxpayer. This is a hoary amendment. It needs to be reconsidered and I urge a "no" vote.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

As Members will recall, last year's bill contained language restricting the availability of funds for the project pending the execution of a supplemental repayment contract. The voters in the local water conservancy district overwhelmingly approved the new contract. All of the criteria mandated in last year's bill have been met. The project is about one-third complete and has a benefit-cost ratio of 1.7 to 1. That is $1.70 to each dollar invested. The project is supported by the entire Utah delegation. The project should be allowed to proceed.

I hope that the Members will vote "no" and support the committee and the Utah delegation on this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PETRI. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announced that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 237]

Ackerman	Bentley	Burton (CA)
Akaka	Bereuter	Burton (IN)
Alexander	Berman	Bustamante
Anderson	Bevill	Byron
Andrews	Biaggi	Callahan
Annunzio	Bilirakis	Campbell
Anthony	Billey	Carper
Applegate	Boehlert	Carr
Archer	Boggs	Chandler
Armey	Boland	Chapman
Atkins	Boner (TN)	Chappell
AuCoin	Bonior (MI)	Chappie
Badham	Bonker	Cheney
Barnard	Bosco	Clay
Barnes	Boucher	Clinger
Bartlett	Boulter	Coats
Barton	Boxer	Cobey
Bateman	Broomfield	Coble
Bates	Brown (CA)	Coelho
Bedell	Brown (CO)	Coleman (MO)
Beilenson	Bruce	Coleman (TX)
Bennett	Bryant	Collins

Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)

□ 1250

The CHAIRMAN. Four hundred five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin [Mr. PETRI] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 262, not voting 19, as follows:

[Roll No. 238]

AYES—149

Ackerman
Andrews
Archer
Armey
Atkins
Barnes
Bartlett
Barton
Bates
Bedell
Beilenson
Berman
Boehlert
Bonior (MI)
Bosco
Boxer
Broomfield
Bruce
Bryant
Burton (IN)
Carper
Carr
Coats
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Crane
Daniel
Dannemeyer
Daschle
Dellums
DeWine
Donnelly
Downey
Dreier
Durbin
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Evans (IL)
Fawell
Feighan
Fish
Florio
Foglietta
Ford (MI)
Frank
Frenzel
Gejdenson
Gilman
Gingrich
Glickman
Green
Gregg
Gunderson
Hall (OH)
Hamilton
Henry
Hertel
Hiler
Hillis
Hyde
Jacobs
Jeffords
Jones (OK)
Kanjorski
Kasich
Kastenmeier
Kildee
Kindness
Kostmayer
Latta
Leach (IA)
Levin (MI)
Levine (CA)
Lowry (WA)
Mack
MacKay
Markey
McCloskey
McCollum
McGrath
Mikulski
Miller (WA)
Moakley
Moody
Morrison (CT)
Mrazek
Murphy
Neal
Olin
Owens
Oxley
Panetta
Penny
Petri
Porter
Regula
Reid
Richardson
Ridge
Ritter
Robinson
Roth
Roukema
Rowland (CT)
Russo
Schneider
Schroeder
Schuette
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Sikorski
Siljander
Sisisky
Skeen
Slattery
Smith (FL)
Smith, Robert (NH)
Solomon
Spratt
Staggers
Stark
Stokes
Stratton
Studds
Vander Jagt
Vento
Visclosky
Walgren
Walker
Waxman
Weaver
Weber
Weiss
Wheat
Wise
Wolpe
Wortley
Wylie
Yates
Yatron
Young (FL)

NOES—262

Alexander
Anderson
Annunzio
Anthony
Applegate
AuCoin
Badham
Barnard
Bateman
Bennett
Bentley
Bereuter
Bevill
Biaggi
Billirakis
Bliley
Boggs
Boland
Boner (TN)
Bonker
Boucher
Boulter
Brown (CA)
Brown (CO)
Burton (CA)
Bustamante
Byron
Callahan
Campbell
Chandler
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Cobey
Coble
Coelho
Coleman (MO)
Combest
Cooper
Courter
Coyne
Craig
Crockett
Darden
Daub
Davis
DeLay
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Duncan
Dwyer
Dymally
Dyson
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Fascell
Fazio
Fiedler
Fields
Flippo
Foley
Ford (TN)
Fowler
Franklin
Frost
Fuqua
Gallo
Garcia
Gaydos
Gekas
Gephardt
Gibbons
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Guarini
Hall, Ralph
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes
Hefner
Hendon
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jenkins
Johnson
Kaptur
Kemp
Kennelly
Kleczka
Kolbe
Kolter
Kramer
LaFalce
Lagomarsino
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lungren
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McMillan
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Mitchell
Molinari
Mollohan
Monson
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Packard
Parris
Pashayan
Pease
Pepper
Perkins
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ray
Rinaldo
Roberts
Rodino
Roe
Roemer
Rogers
Rose
Rowland (GA)
Roybal
Rudd
Sabo
Savage
Saxton
Schaefer
Scheuer
Schulze
Shumway
Shuster
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Spence
St Germain
Stallings
Stangeland
Stenholm
Strang
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Volkmer
Vucanovich
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wolf
Wright
Wyden
Young (AK)
Young (MO)

NOT VOTING—19

Akaka
Aspin
Borski
Breaux
Brooks
Carney
de la Garza
Grotberg
Hartnett
Jones (NC)
Jones (TN)
Lent
Long
Lundine
Meyers
Moore
Rostenkowski
Shelby
Zschau

□ 1300

Messrs. BOUCHER, ORTIZ, and SKELTON changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 12, line 18, after the period insert the following: "Of the amount appropriated under this paragraph, $500,000 shall be available to enable the Secretary of the Interior to continue work on rehabilitating acequias in New Mexico."

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. WALKER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman reserves the right to object.

Mr. WALKER. Mr. Chairman, I shall not object.

The CHAIRMAN. The gentleman will state his reservation.

Mr. WALKER. I reserve the right to object, Mr. Chairman, in order to figure out the procedure. The amendment that I heard read sounded to me like a funding imitation amendment, which is a language amendment that would typically only be available to be offered after a motion of the Committee to rise.

Are we deviating from that procedure?

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, it is simply an earmark. It is an earmark. It is not what the gentleman refers to. It is not a limitation.

Mr. WALKER. It is not a limitation amendment?

Mr. RICHARDSON. That is right.

Mr. WALKER. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, my amendment is a simple one. It makes available $500,000 from the Bureau of Reclamation's Construction Fund for work to be done on rehabilitating the acequias of northern New Mexico. The acequias, or community ditches, are an irrigation and flood control system dating back several centuries. They are essential to the well-being of many of the individuals and communities in my district—the acequias are in a very real sense, the life-lines of local communities. They have strong economic, cultural and historical significance. They have also reached a critical state of disrepair and are in urgent need of rehabilitation. At my recent town meetings in northern New Mexico, my constituents repeatedly stressed their despair over the condition of their acequias, their fears of the dangers inherent in such a state of disrepair, and their critical need to have the Bureau of Reclamation take steps which would result in the rehabilitation of the community ditch systems. They overwhelmingly told me that they want and need the Bureau of Reclamation, not the Corps of Engineers to do this work.

The Bureau of Reclamation has an excellent relationship with the acequias and the acequia associations. This relationship can be fostered and encouraged, particularly if the Bureau of Reclamation employs local people to do the work—this action would address two serious problems in northern New Mexico—the acequias would be repaired by those people who understand their importance best and would see that the work is done with care—it would also provide needed employment opportunities in a region with severe unemployment problems. I would like the Bureau of Reclamation to utilize local contractors and local employees for at least 80 percent of the acequia repair work. I cannot overemphasize the urgent nature of these repairs or the significance they would have for my constituents.

I would like to emphasize that my amendment would not require the use of any additional funds for fiscal year 1987. Like other Members of this esteemed body, I am very aware of the funding constraints created by the Federal deficit. I am only offering this amendment due to the critical and urgent nature of the problems being experienced by the acequia users in my district.

The $500,000 would be allocated in the following way:

	Amount
Preliminary work on the Rio Chama Acequias	$50,000
OJO Caliente Acequias	50,000
Santa Cruz Acequias	45,000
Costilla Acequias	70,000
El Rito Acequias	45,000
Questa Acequias	45,000
Mora Acequias	20,000
Chimayo Acequias	25,000
For initiating construction on the rehabilitation of the Taos Acequias	150,000
Total	500,000

This funding for initiating rehabilitation work on the acequias in northern New Mexico is a major step toward ensuring the safety and well-being of local communities. I urge all my colleagues to support this amendment.

Mr. BEVILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have no objections to this amendment. The committee is familiar with it. It is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman. I rise in support of this bill making appropriations for energy and water development for fiscal year 1987.

The fact that we have been able to keep this bill some $319 million below the budget request, and under our committee's budget resolution allocation for budget authority, is a tribute to the hard work and leadership of the subcommittee chairman, the distinguished gentleman from Alabama [Mr. BEVILL], and the subcommittee's ranking minority member, the gentleman from Indiana [Mr. MYERS].

These two gentlemen, along with the other members of the subcommittee, have worked long and hard to bring forth a bill that is both fiscally responsible and yet responsive to the national need for energy and water development.

The chairman and ranking minority member have already outlined the provisions of the bill, and so I will not repeat that exercise. I would like to point out a few items, however, that are worthy of special attention.

The committee is to be commended for its continuing support of solar and other renewable resource research and development.

The bill provides $113.4 million for solar programs, which will permit the continuation of important research and the initiation of several new projects.

Included in that amount is $800,000 for the support of the renewable energy program at the University of Massachusetts at Amherst, which has long been a leader in wind energy research and engineering.

For the nuclear waste disposal fund, the committee has deleted funding requested for the monitored retrievable storage facility and the second permanent nuclear waste repository.

There is no justification for appropriating funds for a second facility that will not be needed within the current planning, design, and construction timeframe.

In that regard, I will oppose any efforts to delay work on the first repository, and urge my colleagues to do the same.

Certainly the need for a first repository is clear, and we should make every effort to move forward with that project at this time.

There is no justification for holding that facility hostage to the selection of a second repository site.

I would also like to mention an area that has been a particular concern of mine, which is the procurement of extra-high voltage electrical equipment by the Federal power marketing agencies.

The American EHV manufacturing industry has been under severe pressure from foreign competition for a number of years, particularly

from competitors who have engaged periodically in various unfair trading practices.

As a consequence, the number of American manufacturers of such equipment has steadily dwindled, to the point where we are in serious danger of becoming totally dependent upon foreign manufacturers in many critical electrical equipment lines.

This is a very dangerous situation, given the strategic, military, and economic dependency of our industrial economy on a reliable extra-high voltage electrical network.

In response to this problem, the committee, at my request, has included narrowly crafted language that would assess a penalty upon EHV equipment from countries that do not offer fair treatment to U.S. manufacturers.

Accordingly, the committee has provided language that would increase the so-called Buy American differential to 30 percent for purchases of EHV electrical equipment by Federal power authorities, including the Bonneville Power Administration and the Tennessee Valley Authority. This provision would only apply to purchases of equipment manufactured in countries that do not offer fair competitive opportunities to U.S. manufacturers of such equipment.

It is the intent of the committee that, in administering this provision, the Secretary of Energy, in consultation with the U.S. Trade Representative, shall determine whether nondomestic end product EHV power equipment sought to be sold to an agency subject to this provision is manufactured in a country that offers fair competitive opportunities to U.S. manufacturers of EHV power equipment.

Although the Department will have to establish its own procedures, it would be my expectation that this determination would be done at the time of the first procurement in fiscal year 1987 on which foreign companies sought to bid.

For subsequent procurements, it should only be necessary to ensure that no subsequent action by the country in question provided some reason to revise the original determination.

Mr. Chairman, this provision should be relatively easy to administer, and should, I believe, provide an important incentive for our trading partners to make their markets as open to American manufacturers as our markets are to them.

Mr. Chairman, I urge the adoption of this bill.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the energy and water development appropriations bill for fiscal year 1987, H.R. 5162. The Energy and Water Development Subcommittee, under the leadership of Mr. TOM BEVILL, is to be commended for reporting out an impressive bill.

I would like to clarify, however, the intent of the report language of title III, Department of Energy appropriations. In the geothermal section of this bill, it is stated that:

An additional $2 million is provided for continuation of the deep-well research project.

Mr. Chairman, for the sake of clarification, is it correct that the deep-well research project refers to the Salton Sea scientific drilling project within the Geothermal Technology Division of the Conservation and Renewables Program?

Mr. BEVILL. If the gentleman will yield. Yes; that is correct.

Mr. BROWN of California. Is it also correct, Mr. Chairman, that the $2 million referred to in this bill is in addition to the $1.3 million already earmarked for the Salton Sea project in the President's request; that the $1.3 million is to be applied to conducting extended flow tests at a depth of approximately 10,580 feet; that the $2 million is to be applied to deepening the geothermal well to a depth of 13,000 to 14,000 feet; and that the total for the Salton Sea scientific drilling program for fiscal year 1987 will be $3.3 million?

Mr. BEVILL. Yes; that is correct.

Mr. BROWN of California. I thank the gentleman for his clarification.

Mr. Chairman, the energy and water appropriations bill is fiscally responsible in that the bill is below the President's request by $319.6 million. This represents a sincere effort to stay within the bounds set by the Gramm-Rudman-Hollings deficit reduction law.

H.R. 5162 corrects an imbalance imposed by the administration. The President had originally requested a disproportionate increase in nuclear activities for the Defense Department. While I do not object to the Department of Energy conducting research in the name of national security, the levels requested by OMB were excessive. I am certain that the atomic energy defense activities of DOE can withstand a $536.1 million budget reduction, which still leaves their overall program at a healthy $7.7 billion.

I am pleased that domestic programs were strengthened, including adequate funds for the Santa Ana River flood control project in California. The bill earmarks $4.1 billion for Army Corps of Engineers and Bureau of Reclamation water projects, including funding for 31 new projects. I urge my colleagues to support H.R. 5162 as reported.

Mr. Chairman, I would like to focus my attention at this time on a small, but significant provision of the energy and water appropriations bill. Within the Energy Department's Energy Supply Research and Development section of H.R. 5162, the committee has wisely included language instructing DOE to continue an important program in geothermal science and technology, the Salton Sea Scientific Drilling Project [SSSDP].

SSSDP began with a $5.9 million appropriation in fiscal year 1984. The geothermal well was drilled from October 1985, through April 1986. The Salton Sea well is the hottest and deepest research well in the United States today. The commercial potential of deep geothermal resources in the region has been proven. At a current depth of approximately 2 miles, the program has already been designated a success. The objective in the SSSDP was to probe the roots of a very hot geothermal system—a unique, hostile, high temperature/pressure environment never before adequately investigated.

To quote directly from testimony prepared by Dr. Elders, chief scientist for SSSDP:

Highlights of the SSSDP include:

A depth of 10,564 feet and temperatures of 665° F were reached;

The commercial potential of deep geothermal resources, with extremely high flow rates of up to 790,000 lbs/hour, was proved;

734 feet of rock cores were obtained, demonstrating transition from lake sediments to highly metamorphosed rocks with abundant ore mineral;

Igneous rocks intruding the sediments were penetrated, which may be related to the heat source;

Sample of steam and of brine containing up to 25 percent of metal-rich salts were obtained from two different levels;

An extremely comprehensive and technologically sophisticated series of downhole experiments and measurements was successfully concluded, and state of the art systems for logging and sampling hot, saline, environments were tested;

Several hundred different scientists and engineers from more than 30 different laboratories in the U.S.A. and abroad participated;

After initial inter-institutional problems, an excellent collaboration of government, industry, and university agencies was forged in the fire of overcoming the challenging organizational, technical and scientific problems involved.

Although the SSSDP has accomplished much, the work goes on. In fiscal year 1987 scientists at Salton Sea will be conducting extended flow tests at a depth of 10,580 feet, with a temperature of 665° F. There also exists a unique opportunity to extend the Salton Sea well to a depth of 13,000 feet to 14,000 feet. H.R. 5162 report language provides for deepening the geothermal well. The Salton Sea project is at a critical point.

There are compelling reasons to give high priority to the deepening of the Salton Sea well. For example, the occurence of a previously unknown lost circulation zone at 10,460 feet suggests the presence of even deeper goethermal resources never before explored or described. If the extended flow tests of the 10,580 feet zone proves the hypothesis that lower salinity zones may exist in deeper reservoirs, the size and potential usability of the Salton Sea goethermal resource could be significantly increased. The exploration of these deeper regimes would offer information necessary to further under-

stand and explain the roots of the region's hydrothermal system.

SSSDP would face significant consequences if drilling did not continue in the near term. If drilling does not take place in the next 12 months, access to the drilling site may not be possible. Also, the casing and liner now in the well may corrode excessively, requiring costly replacement or conditioning. Indeed, if corrosion is excessive, scientists may never be able to return to the Salton Sea site. The project team, which has been so successful on the first stage, would be dispersed, requiring a new group to start up the learning curve. The cost of drilling and drilling support services is presently at an all time low.

For the above reasons, I feel it is critical that we move forward with the Salton Sea project, and again, I commend the Energy and Water Appropriations Subcommittee for their wisdom by including funds for the continuation of SSSDP in H.R. 5162.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: On page 12, line 18, before the period, insert the following: ": *Provided further,* That the Secretary of the Interior is authorized and directed to expend up to $6,705,000 for the San Joaquin Valley Drainage Program provided that no monies appropriated hereby may be expended after May 1, 1987, unless the amount of such expenditures is within the sums then authorized to be appropriated."

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I offer this amendment in order to provide for orderly funding of the San Joaquin Valley Drainage Program which is seeking to find solutions to the salinity and selenium problems in California.

The drainage problems in the San Joaquin Valley are very familiar to any one concerned with water resources in California and the West. The discovery of selenium at Kesterson Reservoir and the continued salinity problems in the valley threaten the future of irrigated agriculture in California. In addition, these problems could be duplicated elsewhere in the West.

It is an understatement to say that I have been disappointed in the performance of the Bureau of Reclamation on these issues. The Bureau has mismanaged the entire effort and has been roundly criticized by Members of Congress, the water community, the National Academy of Sciences, local officials and others.

The current state of funding for their drainage program is just one example of the Bureau's confusion.

The President's budget requested $11.5 million in the distribution and drainage account of the San Luis unit, Central Valley project even though there is no authorization for that account. Approximately $4 million was to be used to fund planning activities for cleanup of Kesterson Reservoir and $7.5 million for the San Joaquin Valley Drainage Program.

Despite my repeated requests, the administration has refused to send up legislation to authorize the expenditure of these funds. Thus, as we approach the beginning of fiscal year 1987, we find ourselves in the position of terminating funding for the activities which are seeking solutions to these important problems.

The amendment I'm offering would authorize the Secretary to spend $6,705,000 on the Valley Drainage research program through May 1, 1987. This will insure that the research program continues uninterrupted, but it will also insure that the administration sends up the necessary legislation to put this program on a stable funding basis. If no authorizing legislation is enacted by May 1, 1987, expenditures for this program will cease.

It is important that I note that the amendment does not authorize any funds for planning activities for the cleanup of Kesterson Reservoir. It is my view that the administration's current plans to solve this problem are in such disarray that it would be improper to spend any funds until we know how much needs to be spent on which activities and when.

Mr. Chairman, I want to thank the chairman of the Energy and Water Appropriations Subcommittee, Mr. BEVILL, and the ranking Republican, Mr. MYERS, for their willingness to accept this unusual amendment. However, given the administration's confusion in this program and their unwillingness to submit appropriate legislation, I see little choice but to offer this amendment.

Mr. Chairman, I would urge my colleagues to support the amendment.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the committee accepts this amendment. There is no problem with it.

Mr. COELHO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Congressman MILLER's amendment to provide for orderly funding of the San Joaquin Valley Drainage Program. I worked with Mr. MILLER and his staff during the formulation of this amendment, and believe that it addresses each of our concerns. As the Congressman who represents the district which is most severely and directly impacted by these drainage study appropriations, I believe that it is important that we continue these studies, while at the same time recognizing that we cannot study this problem forever, and our efforts must be focused on a solution.

I share Mr. MILLER's concerns about the Bureau's direction and performance on providing a solution and immediately resolving the drainage problem. I have continued to emphasize to the Department of Interior, that we cannot study this problem to death, because while they continue to study there are farmers, farm families, agricultural-related businesses, and small farm communities which are rapidly approaching bankruptcy and a complete dissemination of lifestyle for these individuals. I cannot stress enough that the Bureau needs to immediately find a solution and I feel that we need to continue these studies in order to find that solution.

The purpose of this amendment is to assure the continuation of funding of the San Joaquin Valley Drainage Program. It is necessary as there is currently no authority for this investigation, and it will allow the appropriate studies to move forward. I anticipate that the administration will keep this May 1, 1987, date in mind and will provide us with the appropriate authority to permit this program to move forward and enable the balance of the appropriation recommended by the committee to be utilized. I am sure that the Department recognizes the seriousness of addressing this problem immediately, and not delaying in resolving the authority question prior to the May 1 deadline.

I would like to extend my personal appreciation to the chairman of the committee, Mr. BEVILL, the ranking minority member, Mr. MYERS, and the chairman of the authorizing subcommittee, Mr. MILLER for their assistance in resolving this problem, and working to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $140,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of

Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $40,651,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,000,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,200,000, of which $2,000,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of the Bureau's computer aided design and drafting system, $6,400,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571), the total amount to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 12 passenger motor vehicles of which 10 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

The costs of the Seedskadee Project may be reallocated in order to reflect revised project beneficial purposes.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Mr. BEVILL (during the reading). Mr. Chairman, we know of only one more amendment, and I ask unanimous consent that the remainder of title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there points of order against the section just read?

The Chair hears none.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: On page 19, after line 19, insert the following new sections:

"SEC. 205. Of the appropriations provided for the Central Utah Project, in this or any other Act, not more than 20 percent of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the

Bureau of Reclamation to determine compliance with this section: *Provided further,* That the Bureau of Reclamation's General Administrative Expenses appropriation shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of the project.

"SEC. 206. The Central Utah Water Conservancy District shall pay interest on those features of the Central Utah Project which develop 60,000 acre feet of municipal and industrial water supply for which deferral was invoked in 1981, without the benefit of the ten-year interest free period provided by section 301(b) of the Water Supply Act of 1958, 43 U.S.C. 390(b)(2): *Provided,* That in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will be credited with $2 million to be applied to its repayment obligation for the Bonneville Unit each year that the project is not substantially complete, as determined by the Secretary, but in no case beyond fiscal year 2000.".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PETRI. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MILLER of California. Mr. Chairman, will the gentleman withhold for 1 minute so I may enter into a colloquy with him?

Mr. PETRI. Mr. Chairman, I reserve my point of order.

Mr. MILLER of California. Mr Chairman, this amendment represents a compromise regarding repayment of approximately $97 million by local sponsors of the Bonneville unit of the central Utah project.

During consideration of last year's energy and water appropriations bill, serious questions were raised regarding repayment of the costs of the unit.

The House agreed to a compromise amendment I offered to prohibit spending for the unit until a supplement repayment contract was executed which would guarantee full repayment of all project costs, plus interest, allocated to the municipal and industrial [M&I] water supplies.

A supplemental repayment contract was executed and approved by the Secretary of the Interior and the voters in the project area last fall. Unfortunately, that contract did not cover all the costs of the project allocated to supplying M&I water.

At a hearing before my Subcommittee on Water and Power Resources on March 11, 1986, the General Accounting Office [GAO] testified that this new contract did not satisfy the cost recovery requirements of the 1986 appropriation act.

According to GAO, the repayment contract could result in the Federal Government losing up to $97 million in interest revenues because of an illegal use of the Water Supply Act of 1958.

It was my view that we could not afford to appropriate more money for this project until proper repayment arrangements were in place.

The amendment I now offer will provide the assurances we need.

The amendment adds two general provisions which will be applicable to the Bonneville unit.

The first provision stipulates that no more than 20 percent of the funds made available for the project may be spent for administrative overhead. This requirement will be enforced by yearly audits of project expenditures by the inspector general. These audits will be paid for out of general administrative expense appropriations and not from funds appropriated for project construction. The Bureau of Reclamation will not be able to delay or halt construction on the project just because they have reached the 20-percent limitation.

This provision is important because it will force the Bureau to reduce current excessive overhead costs. It will also mean that the taxpayers will not be wasting funds on overhead when those funds could be spent on legitimate construction costs.

The second provision requires the local project sponsor to pay the $97 million identified by GAO. However, if the project is delayed beyond its current anticipated completion date of 1995, the district will be relieved of $2 million in repayment expenditures per year for up to 5 years. This provision insures that the Treasury receives payment of at least 90 percent of the funds GAO has determined should be paid.

Mr. Chairman, my concern with the Bonneville unit has been the district's use in 1981 of the Water Supply Act of 1958 to defer repayment of certain costs. I oppose that action and I'm pleased to see that the district has agreed to pay the costs. However, I recognize that this compromise does not carry with it any implication that the Central Utah Water Conservancy District agrees with the conclusions of the GAO audit as to the legality of the application of the Water Supply Act.

With this issue now behind us, I want to affirm my support for prompt consideration of legislation to reauthorize the Colorado River Project Storage Act of 1956 to increase the authorization ceiling for expenditures to complete the central Utah project by fiscal year 1995.

I recognize that some organizations may not be satisfied with this compromise. However, I believe these provisions will force the local district to pay funds that are due the Federal Government, lead to early completion of the project, and cut excessive overhead expenses.

I want to extend my appreciation to the gentleman from New York [Mr. SOLOMON], who has worked diligently to protect the taxpayers and lower the costs of this project.

In addition, I want to thank the members of the Utah congressional delegation, and especially my friend, Mr. NIELSON, for his untiring efforts to seek a compromise to this difficult matter.

Mr. Chairman, I would urge my colleagues to support this amendment.

□ 1310

This has been under negotiations for some period of time, and we have reached agreement with the proponents of the central Utah project and with the Utah delegation for a recovery of that $97 million from the users of the project.

The second thing is that this project has been plagued by delays and I think to some extent mismanagement of the Bureau. Proponents of the project within the State of Utah have asked that we try to provide some means so it is not subjected to further delays that have driven up the cost of the project.

In that regard what we have tried to do is to provide a forgiveness of 2 percent of this per year up to a limit of 5 years if the project is not completed by 1995, which is the target date of it. Should it be completed by 1995 or prior to that, all $97 million would have to be paid. If it was not, it is conceivable there would be a forgiveness up to the limit of 10 percent.

I would hope that I would be able to offer this amendment because it is the means by which we will be able to recapture that $97 million.

I will say to the gentleman who offered the other amendment unsuccessfully this does not end the debate on the central Utah project. This project must come back for reauthorization because it is up against the ceiling. I think my credibility on allowing Members of Congress to raise these issues in that committee will extend again as those issues are discussed around the raising of that authorized ceiling. But I think that it is important that we get a commitment.

The Senate delegation has agreed to this, that we get a commitment to get back this $97 million for the taxpayers.

In saying that, I would hope the gentleman would withdraw his point of order because I think this is clearly beneficial, and it does not prejudice the gentleman or anyone else who needs to raise issues or is concerned

about the configuration of this project or how this water is going to be used or how much liability the Federal Government is going to have.

Those issues can be reviewed from the bottom to the top in the authorizing committee. I have told the Utah delegation that we expect to expedite and push forward with this consideration because this is a project that has controversy and we are not going to rush it through or try to shut off anybody's rights to raise these issues.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Chairman, I rise in support of the Miller amendment. Mr. MILLER and the Utah delegation have worked closely in coming up with an agreement that satisfies the concerns of all parties. I think this amendment will assure that the State of Utah lives up to its repayment obligations and at the same time attempts to assure the State of Utah that the central Utah project will be built as quickly and efficiently as possible.

As many of you may recall, last year Mr. MILLER offered an amendment to the Energy and Water Development Appropriations Act of 1986 (Public Law 99-141) which prohibited the expenditure of further funds for the construction of the Bonneville Unit of the central Utah project until:

A supplemental repayment contract from Municipal and Industrial Water Supply, sufficient to recover all allocable reimbursable costs plus interest has been executed . . . and such contract has been submitted to the Congress and 100 days have elapsed.

The requirements of this law have been met as follows:

On November 19, 1985, a new Supplemental Repayment Contract was approved by 73 percent of the voters in the 12-county Central Utah Water Conservancy District.

The contract was signed by the district and the Bureau of Reclamation on November 25, 1985, and submitted to the Congress for the requisite 100-day review period on December 12, 1985. That review period expired on March 21, 1986.

The new supplemental repayment contract increased the repayment obligation of the Central Utah Water Conservancy District by $368 million.

The new supplemental repayment contract clearly reflects the mandate of the Congress in that it provides complete coverage for the district's M&I repayment obligation. Specifically, the supplemental repayment contract obligates the district to repay to the Federal Government "the reimbursable costs, properly allocated under Federal Reclamation Law to Municipal and Industrial Water Use for construction of the project."

The time has come to end the debate and move ahead with construction of the Bonneville unit. As you know, this project has been in the works for over 40 years and hundreds of millions of dollars have been invested in it. The citizens of Utah consider the CUP to be vital. As a result, they have committed to pay $514 million for the building of this project. Further, working with the Department of the Interior, the Central Utah Water Conservancy District has developed a plan which will see the project completed by 1995 assuming adequate funding is provided by the Congress. It is absolutely essential that we stick to this plan as every year of delay will add another $20 million to the project's cost.

In view of the fact that a repayment contract has been approved and that the Utah delegation has agreed with Mr. MILLER not to defer payment of interest under the water supply, we look forward to the continuation of funding for the central Utah project. I urge support for the Miller amendment.

In closing, I want to thank Mr. BEVILL, chairman of the Appropriation Subcommittee on Energy and Water Development. He has been a great friend and a strong supporter of the CUP for a long time. I want the gentleman from Alabama to know how much I appreciate his work and the work of his staff. I also want to compliment Mr. MILLER and his staff for their hard work. I am pleased that Mr. MILLER has committed to support the completion of this project and that he will work with the Utah delegation to achieve this goal. I look forward to working with Mr. MILLER. I am committed to working toward completion of this project as quickly as possible.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for his comments.

POINT OF ORDER

Mr. PETRI. Mr. Chairman, I renew my point of order.

Mr. Chairman, the amendment is legislative in nature; it violates rule XXI, clause 2, which prohibits legislation on an appropriations bill. The amendment is legislative in that it purports to change the conditions under which section 301(b) of the Water Supply Act of 1958 is to be applied to the central Utah project.

The CHAIRMAN. Does the gentleman from California [Mr. MILLER] wish to respond to the point of order?

The CHAIRMAN (Mr. SHARP). The Chair is prepared to rule.

The amendment clearly is legislation on an appropriation, in violation of clause 2 of rule XXI. Therefore, the amendment is not in order.

Mr. MILLER of California. Mr. Chairman, I would like to commend my colleague, Mr. BEVILL, for his efforts in guiding H.R. 5162, the fiscal year 1987. Energy and Water Development Appropriations bill, through the House Appropriations Committee's Subcommittee on Energy and Water Development, and in encouraging the full committee's action in reporting the bill on July 15.

I wish to speak to that portion of the legislation which allows the Western Area Power Administration [WAPA] to extend new electrical transmission lines to Department of Energy Laboratories in Livermore, CA.

The subcommittee report directed WAPA to use available funds to build and operate transmission interite lines to provide electric power to DOE laboratories. DOE contended the line would provide it with more flexibility to optimize the allocation of low-cost power to three San Francisco Bay area labs—the Stanford Linear Accelerator Center, the Lawrence Berkeley Laboratory, and the Lawrence Livermore National Laboratory. At first review, this approach represents a worthy goal. Closer analysis, however, raises a number of questions and concerns regarding this concept and future action of this nature.

I have been informed that this proposed line would duplicate existing transmission facilities. At present the local utility, Pacific Gas & Electric Co., has three different lines serving Lawrence Livermore Laboratory. It is unclear how one WAPA line could replace three lines and yet be more reliable. In 1985, PG&E spent $1 million to upgrade these existing lines to the Laboratory as a result of forecasts by the laboratory which predicted increasing power needs. To date, the laboratory has not utilized the increased capacity made available by this costly upgrade.

Mr. Chairman, DOE claims a new line "will provide more flexibility to DOE to optimize the allocation of low-cost power to all three bay area labs." Stanford's Linear Accelerator Center and the Berkeley Laboratory are over 50 miles from the Lawrence Livermore Laboratory. It is unclear how DOE proposes to supply power from the new line to all three laboratories. Does DOE also propose to build additional lines from Lawrence Livermore to the other two laboratories?

By granting WAPA sole authority to construct and operate these new lines, Congress would miss an opportunity to assure that power will be supplied to the laboratory at the lowest possible cost. I question the assumption that this line would pay for itself within 1 year and that estimated savings between 1990 and 2001 would range from $40 to $300 million. This level of savings is illusory considering existing rates for DOE laboratories. In addition, the serving utility is currently involved in rate reduction negotiations with Lawrence Livermore Laboratory and they are reevaluating their entire

transmission rate design with a view toward increasing the competitive nature of these rates.

In addition, DOE apparently assumes that construction of the new line would give the laboratory increased access to Pacific Northwest power at rates similar to current low levels. This assumption would also seem unsound: in that the Bonneville Power Administration consistently has been increasing retail rates due to higher costs. I thank Chairman BEVILL for adding to the report, language that would assure that no facilities be constructed by the Federal Government if other less costly options exist.

As a result of uncertainties, questions, and concerns this action has raised, particularly regarding the long range impact and implications this type of action might have on our Nation's transmission grids, I intend to hold hearings in the Interior and Insular Committee's Subcommittee on Water and Power Resources, which I chair, to address the subject of electrical service to Federal laboratories. The hearing will allow for an open forum so that all parties will be given the opportunity to express their views before additional Federal transmission lines are proposed to service governmental facilities.

Mr. Chairman, in closing, I want to reiterate my appreciation of Mr. BEVILL's efforts and cooperation concerning this issue.

The CHAIRMAN. Are there other amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—DEPARTMENT OF ENERGY

Mr. ROE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Alabama, the chairman of the subcommittee, Mr. BEVILL.

Mr. Chairman, the committee report includes funding for a research center in New Jersey but delineated it for nuclear medicine research activity in the supporting research and technical analysis. In order to reconcile the committee action with the action of the Science and Technology Authorizing Committee, I hope the gentleman would be agreeable to the use of these funds within the DOE R&D programs. The Science and Technology Committee has provided $3 million to initiate design and planning of a research center for the type of nuclear medicine activity supported in the appropriations report language. The funding is exactly the same, $3 million, as the Science Committee authorized and this would permit a start on the new center which is strongly supported by the chairman of the Environmental R&D Subcommittee on Science and Technology. I would ask the gentleman if funds could be transferred to the Environmental R&D budget for these purposes.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding.

Yes, Mr. Chairman, I support the use of these funds for these purposes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 18 for replacement only), $1,316,326,000, to remain available until expended; in addition $684,158,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $53,200,000 which shall be available only for the Center for New Industrial Materials; the Center for Nuclear Imaging Research; the Energy Research Complex; Saint Christopher's Hospital for Children—Energy Demonstration Project; Center for Excellence in Education—Energy Utilization Performance Project; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Planning and Economic Development; Iowa State University; Oklahoma, Red-Ark Development Authority; Washington, Port of Pasco.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 20, line 9, strike "$1,316,326,000" and insert in lieu thereof "$1,246,626,000".

And, on page 20, line 12, strike all after the word "; and" through line 17 and the word "Project" on line 18.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. I thank the Chairman.

Mr. Chairman, this amendment is the hog-heaven amendment that I discussed earlier. We have a group of projects that have been put into this bill that are both unauthorized through the Committee on Science and Technology and also have never been submitted for peer review by the appropriate academic officials who would typically look at this kind of project.

That kind of process has been labeled by Common Cause as hog heaven. They point out how universities have begun to use public relations firms and political clout in order to set aside money that comes out of the hide, then, of other research projects across the country. That is the disturbing trend here we are talking about. These are not only projects that have been set aside in a political kind of way; they come out of the hide of other deserving projects all across this country. Political determinations are made about science rather than good academic scientific decisions.

I submit that there have been problems with the peer review process, but they are not nearly as serious as the process that begins to have our science decided by politicians rather than by people who know something about the projects that are being brought before them seeking money.

The Committee on Appropriations has earmarked $69.7 million of Department of Energy basic research funds for construction projects at eight institutions, none of which has been authorized or subjected to the peer review process. This amendment would prevent the Department of Energy from using any funds appropriated for these or any other such projects until they have been authorized.

The amendment that I am offering then would make certain that we go through an authorization procedure which then also ensures that we have a peer review procedure.

We have had a disturbing trend with this kind of project since 1984.

In 1984, if you take a look at the Committee on Appropriations action, you will find that this kind of pork-barrel science began at a $10 million level. In 1985 it moved to a $30 million level; in 1986 pork-barrel science moved up to a $48 million level, and by 1987 in this bill we are at a $69, almost $70 million level of pork-barrel projects in the scientific realm.

The issue is whether energy research money should be earmarked by the Committee on Appropriations for university construction projects or whether that money should be spent according to a competitive process whereby scientists on a review committee make that decision on the basis of merit—on the basis of merit.

We ought not have political logrolling. The expenditure of research dollars should be based on merit, not on political logrolling.

These projects were never submitted, the projects that are in this bill and also covered in the committee report were never submitted to the

Department of Energy for any type of peer review or evaluation.

They were never authorized by the Committee on Science and Technology. In fact, last week, the Committee on Science and Technology, the authorization committee responsible for these projects, the Committee on Science and Technology voted to defund all eight projects.

There was a specific vote in the Committee on Science and Technology as to whether or not these eight projects should be allowed to go forward in this authorization bill, and the committee voted, full committee vote, to defund all eight projects.

So, then, in fact, the bill being brought to you today by the Committee on Appropriations is being brought in violation of what the committee on authorization has said it wants done.

So that you have here a determination by the Committee on Appropriations to go forward with something that the authorization committee is specifically on record as voting against.

The process of earmarking research money in an appropriations bill is strongly opposed by the academic and scientific communities. In fact, if you look at the language from Dr. Johnson, the acting science adviser to the President, he recently wrote one of our colleagues and said, "I urge you and all of your fellow-Congressmen to support our system of expert review by eliminating all congressional set-asides for specific research conduct and facilities from the budgets of Department of Defense, Department of Energy, and other agencies."

In addition to the White House, the earmarking of research funds is opposed by the Association of American Universities and the National Association of State Universities and Land Grant Colleges. A joint statement by Dr. Robert Rosenweig, president of AAU, and Dr. Robert Clodius, president of the National Association of State Universities and Land Grant Colleges, submitted to the gentleman from Florida [Mr. FUQUA], the chairman of the Committee on Science and Technology, noted that their organizations, which include over 150 public and private universities, "stand firmly behind both the principle and the practice of competitive merit-based scientific review in the allocation of Federal funds for research and research facilities."

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. The academic and scientific communities are fully in back of this kind of amendment, which seeks to cut out hog-heaven, pork-barrel science. These projects that we are talking about here may very well have a great deal of merit, but we have not been given any opportunity to determine that. The academic community has not been given any opportunity to determine it, neither has the Committee on Science and Technology. When research money is designated on the basis of political influence instead of competition, it is wasteful spending of limited resources.

Basic energy research and development has been growing rapidly, and many universities and scientists have turned their attention to the Department of Energy as a source of vitally needed funds. Unfortunately, some institutions have been bypassed, and others have bypassed the normal process of competition and peer review. Increasingly, the pork barrel for science has become larger and larger. When Common Cause wrote this article on hog heaven, they posed these questions. They said, "The money may or may not be wisely spent; there is really no way of knowing. But why should the test of merit be the strength of a State's political delegation or a university's ability to hire well-paid lobbyists? Is this really a fair way to give away Government money?"

I submit that the answer to that question is no, it is not fair. It is not a proper way to proceed.

The question that this amendment addresses is, do we want good science or do we want pork-barrel science? I would ask my colleagues to support this amendment and take hog heaven out of this appropriations bill.

AMENDMENT OFFERED BY MR. FUQUA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WALKER

Mr. FUQUA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA as a substitute for the amendment offered by Mr. WALKER: On page 20, line 18, after the word "Project", insert: ", but prior to the obligation of funds provided for the above mentioned projects the Department of Energy shall require a detailed project plan and conduct a project validation review".

Mr. WALKER. Mr. Chairman, I reserve a point of order against the substitute amendment.

Mr. FUQUA. Mr. Chairman, we are faced with a very serious dilemma of projects that originate in congressional procedures and those that come through the scientific review process of those agencies which have those. It might be helpful if we review the procedure that projects go through.

There are several agencies such as the National Science Foundation, National Institutes of Health, which have a peer review process where projects are submitted, members with expertise in those fields, from other parts which have no interest, are empanelled and review those projects on a very careful basis, make their recommendations to the various agency heads, those which they feel have merit.

□ 1325

There are other agencies, such as the Department of Defense, Department of Energy, NASA, and some others, that do not have what we generally know as a peer review process. They have an in-house scientific review.

I might add that generally they do a very good job, and they attempt to be objective in the projects that are submitted to them. But also, because of the fact that they are within the department, it is not necessarily an arm's-length review of the various projects.

Here we are presented with a dilemma that has gone on for some time. Our Committee on Science and Technology has a task force that, for 2 years, we have been looking at science policy in the United States, and we hope to have our report ready sometime later this year. One of the things that has come before us repeatedly has been the process of peer review and how do we have some type of scientific review made for projects prior to their approval.

We have limited resources. In recent years, the Federal Government has not had any funds available for any types of facility construction at colleges and universities. We had a program of that type, and that expired in the early sixties. Many of the facilities at colleges and universities are now beginning to get 30, 40, and 50 years old, and some older than that. They need replacing and modernizing so that students graduating from those institutions have the opportunity of having a quality education offered to them. We must address that issue, and so far it has not been addressed, of trying to correct facilities and instrumentation at colleges and universities. There have been several pieces of legislation, some introduced by myself, to address that issue. But, thus far, we have not been able to move that because a concensus has not been developed.

It then puts pressure on the congressional system as the only other system to do that. While there is debate, and it can be legitimate criticism of this approach, it is somewhat like the seniority system that we have in Congress. It is not perfect, but I do not know what you would replace it with. The peer review system is not perfect. Neither is the congressional appropriation process or congressional specific authorization process.

How then, like the seniority system, do we try to make that a better system? We have tried to improve the seniority system in Congress. We have not abandoned it, but we have tried to

improve on it and make it more responsible, make it more reflective of the needs of the country. I think that in our peer review and the other processes of approving scientific projects that we then have to resort to then how can we improve on what we have before us.

What the gentleman from Pennsylvania has is an amendment that strikes some projects that are already in existence, and some that are awaiting approval.

The substitute that I offer tries to address both of those issues. We try to say that before these projects are approved, they must have a detailed project plan, we must understand what the project is about, the detailed cost schedules, what scientific achievements will be rendered from those projects and a project validation review. This tries to combine two things together so that we have an in-house peer review process at those agencies.

The CHAIRMAN pro tempore (Mr. SWIFT). The time of the gentleman from Florida [Mr. FUQUA] has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 3 additional minutes.)

Mr. FUQUA. Mr. Chairman, what we are attempting to do is a marriage between these two, trying to recognize the pressures because we do not have adequate facilities and instrumentation mechanisms in the country, and the crying need in American education, particularly higher education, that many of these facilities and projects demand some sort of relief.

I would hope that we have a chance to do this so that we would require scientific review and project validation, and make sure that we are getting the best science that we possibly can out of these proposals that will be before the Department of Energy.

It is a very serious situation. I wish that we had a simple answer. I know there are many things that could improve it. Unfortunately, under the circumstances that exist today, we do not have that. We are trying to find out an updated scope and cost and schedule, the adequacy of planning, including the site and manpower requirements, and also the labor contract reviews that are all part of this process that the substitute amendment that I am offering would mandate by these institutions prior to approval by the Department of Energy.

Mr. Chairman, I think it is worthy, in lieu of the very difficult situation that we find ourselves in in the environment of today, and it tries to address both sides of the issue.

Mrs. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentlewoman from Rhode Island, who is a member of our committee.

Mrs. SCHNEIDER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support of the substitute of the chairman, because I find that it addresses a very unique problem that the Fortune 500 companies across the United States, small businesses and also major universities throughout the United States are constantly pressuring Congress to take action on.

There is no question that our international competitiveness is dependent upon a sincere and cost-competitive investment in our facilities instrumentation and in college science and technology research.

Mr. Chairman, I commend the gentleman for his substitute. I rise in strong support of it, and I urge my colleagues to recognize that we cannot afford crises management when it comes to research and technology. The time is not for such an investment, and to make sure that we choose the best science that is available to keep America in the forefront.

Mr. FUQUA. Mr. Chairman, I appreciate the comments of the gentlewoman from Rhode Island.

I might point out that we do have many of these projects where university commitments have been made, where industrial commitments have been made, and this is a form of matching funds. This is only one-fourth of the total funds involved, so it is not the Federal Government just supporting the entire project. There is a lot of other non-Federal support supporting these.

The CHAIRMAN pro tempore. The time of the gentleman from Florida [Mr. FUQUA] has again expired.

(On request of Mr. DERRICK, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. DERRICK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support of the gentleman's substitute.

The way to look at a problem like this is not to do away with the golden egg, it is to invest further in the future of this country. There is an item in this bill that is in South Carolina and I can speak for that item. There have been years that have gone into the planning of it. It includes Federal money, hopefully. It includes State money and it includes private funds from various sources.

These are some of the things that have made our country great, that we are willing to invest in the future of our young people and the future of our scientific research and our technical research.

I certainly welcome the gentleman's substitute that would give further review to these projects. I ask my colleagues as well to support it.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I insist on my point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, I think the amendment of the gentleman from Florida is out of order. It is a violation of rule XXI of the House rules. It consists of legislation on an appropriation bill in that it is designating duties for the Department of Energy which, in fact, would be new duties and, therefore, would constitute legislating in an appropriation bill. Therefore, it is out of order.

The CHAIRMAN pro tempore. Does the gentleman from Florida [Mr. FUQUA] wish to be heard on the point of order?

Mr. FUQUA. Mr. Chairman, I would like to say that what we are trying to do I do not take as legislation on an appropriation bill. We are trying to say that prior to the obligation of funds, the Department goes through certain procedures. These are procedures that normally they go through already. We are not having them set up a new department, hire new people, or do anything that they should not be doing now. We are just saying in the legislation that the Congress feels it is important that they provide these functions prior to approval. It should be done anyhow, and I do not see that it is adding any further duties to the Department.

□ 1335

Mr. WALKER. Mr. Chairman, there is no doubt from the amendment that it requires a detailed project plan and conducts the project validation review. Those are not now a matter of current law. Under section 2(c) of rule XXI, such an amendment would not be in order.

The CHAIRMAN pro tempore (Mr. SWIFT). Does any other Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

Notwithstanding the fact that the House adopted a Rules Committee waiver for these particular projects as unauthorized in an appropriation bill, the substitute offered by the gentleman from Florida [Mr. FUQUA] does require a detailed project plan and the conducting of a project validation review which are additional responsibilities and is therefore additional legislation on an appropriation bill.

The point of order is sustained.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with regard to this business of peer review that we hear about, nobody ever knows where the

peers come from. We are being asked for Congress to delegate its responsibility to these peers to handle most of the research money in this country. Out of 1,000 colleges in this country, only 20 are selected to be qualified because that is the decision of these peers.

I think it is ridiculous for us to sit up here and let the administration tell the Congress where the money has to go and how it has to be spent. This subcommittee spent 3 months in hearings; we have heard from experts from all over the country that know anything about these subjects. We have listened to them. We have heard from over 200 Members of Congress. We have heard from many Governors. We have heard from many of the Senators and the man on the street has also testified.

I think we are capable of deciding what money should be placed in these various universities that are specialized and have outstanding records and have a tremendous record on research. Actually, the work of these universities could save billions of dollars when it is actually applied throughout the Nation.

The peers are handling most of the money. Let us let the Congress handle a little of the money and make this decision.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to ask the gentleman in lieu of the fact of a technicality that the amendment was knocked out, that would it be the intent of the gentleman and the subcommittee that those projects be subjected to validation reviews and ensure that the project maximizes the benefit to the Department and that they go through some type of review prior to their approval?

Mr. BEVILL. Certainly. I agree with the gentleman completely. This would be the logical procedure. This is what we intend. We want these projects checked, and I support the gentleman's amendment. I am sorry it was knocked out on a technical point.

Mr. FUQUA. If the gentleman will yield further, in that regard then the amendment is not necessary now with the gentleman's assurance.

Mr. BEVILL. It is not necessary but I think it would have made it clear to the gentleman from Pennsylvania that this is the committee's intent. This will be accomplished in this bill.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I do not quite understand, I guess, as a member of the Science and Technology Committee, why we should be spending all of our time then holding hearings about energy projects and trying to give our best judgment if, in fact, the Energy Subcommittee of the Appropirations Committee does all of this work for us.

It seems to me that we, in fact, have some responsibility in this whole thing, and you are bringing here eight unauthorized projects. Why should we not, as a Science and Technology Committee, also have some right to make judgments of our own? The Science and Technology Committee, I would tell the distinguished subcommittee chairman, voted the other day overwhelmingly to reject and defund these projects because we did not have any say in the process.

I think that this is a major end run around the authorizing committees, and I question how much longer we ought to allow that process to go forward.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman.

Mr. MYERS of Indiana. The entire title, title III, had to be waived under the rule because none of it is authorized. Not because the Appropriations Committee wished to do this but because, if we are to bring the bills to the floor, we had to do this, but we held those new starts, if we call them that, to a very minimum.

We were very careful. We worked very closely with the chairman and ranking member on this committee. I think everyone understood what we had to do. It was not something the Appropriations Committee likes to do but this is not a new experience. The whole title is not today authorized yet by law.

Mr. BEVILL. The gentleman is correct. We have always worked very close with Chairman FUQUA and the committee. The committee, I am sure, is working out an authorization bill on this. I know the chairman would like your active support on it. The committee has had to get a waiver each year on the Department of Energy's projects. I am sure the gentleman from Pennsylvania knows that Chairman FUQUA and all of us have worked very close together and we will continue to work together, and I support his position.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, the reason why we never get appropriations bills passed is because the Appropriations Committee takes on and does the work. The fact is that everybody knows that if you are in a favored position around here, the fact is that you can get your bill put into an appropriations bill and you do not have to bother with the authorization process. That is part of the problem.

Mr. BEVILL. I would say to the gentleman that we have been waiting 8 years.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and I want to reemphasize something the gentleman from Florida said but in a little different way.

These research awards are not just freebees; it is not just a grant. In the case of the one that I know something about, the grantee has a big investment. They have acquired some of the experts of the country who have been working on this research for years. It is a cooperative project.

As a matter of fact, the non-Federal money may be more than the Federal money involved by the time it is over. I am talking about the research for new materials. Right now, we are dependent—and the administration brought this out a week ago—we are dependent on South Africa and on the Soviet Union for four very critical materials in this country. A lot of our factories could not operate without those materials. It happens those two countries do not get along, but if either one of them were to shut off their exports to the United States, the other one would have a monopoly. We should do something about finding new materials to take the place of those that are so critical and scarce in this country. That is what some of this research is.

It is not the fault of the House Science and Technology Committee, because they have passed authorization bills, but they go to the Senate, and they do not come back. If they do not come back, it is up to the Appropriations Committee to do something about it.

So the Appropriations Committee includes the money for some of these most critical projects. This is the only way we can go ahead. Otherwise, we would give the Senate a veto over all of these research projects. Peer review or nonpeer review. Even if we appropriated money, they could not have peer review if there is no authorization unless it is done in this bill.

So it is very critical that we go ahead at this time with these projects. I urge a vote against the amendment.

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am convinced that the actions that the chairman of the Appropriations Committee has taken and the ranking member of the Appropriations Committee have determined in advance through a variety of different hearings and through great investments of time and energy into the

value of those very few projects that have been delineated for appropriations.

It seems to me that this is definitely the direction in which we ought to be moving based on the discussion that has already gone on during this debate. I rise in strong support of the committee position.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

If the House approves this amendment, it will be telling the universities and hospitals of this country that it does not want to hear about their needs, that it is not interested in the merits of any projects they might propose to Congress. Now, I ask: Is that the message we want to send? I for one don't think so.

Among the worthwhile projects being attacked by this amendment is a hospital for children in the Pennsylvania, New Jersey, and Delaware tristate region. St. Christopher's Hospital for Children has a long history of providing quality health care for low-income children. However, deteriorating and aging facilities have severely hampered the hospital's ability to meet the increasing medical needs of the children in this region. Through the use of innovative energy technologies, St. Christopher's will construct a low-cost medical facility to provide optimum medical treatment to its patients. At the same time, it will offer its patients reduced hospital bills because the innovative energy technologies provided for in this bill will allow St. Christopher's to keep its operating budget low. The successes of the energy conservation technologies utilized in its construction design, as well as those used to maximize the hospital's energy efficiency in its day-to-day operations, will be shared with other institutions across the country. At the same time, our participation with St. Christopher's Hospital for Children will give to the tristate region a provider of health care, a mainstay of economic development, and a model facility for new and emerging energy utility designs. It has already received generous support from the local business and corporate community, as well as the Pennsylvania State Legislature.

Are we willing to say that the indigent children of the tristate region do not deserve a hospital, do not deserve quality health care, do not deserve an opportunity to receive low-cost medical treatment? That is what we will be saying if this amendment is adopted.

I urge my colleagues to defeat this amendment and endorse the university research and hospital facilities projects contained in this bill.

□ 1368

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman's argument is very interesting. There is nothing in this amendment that would do any damage at all to the provision of health care for the children at that hospital. I am a little confused. We are talking about an energy demonstration project here, and the question of this gentleman only is whether or not it is totally innovative and whether or not, if it is truly of a character that it is the most important project in the country, it should not be so judged by the scientific community that can make those judgments, or whether or not, because of political muscle in the House of Representatives, we are going to designate certain projects based upon arguments of the kind the gentleman just gave.

The gentleman's argument is a very emotional argument dealing with the health care of children. That would make a very good point if we were dealing with the medical care of the children. What we are dealing with here is energy research, and I would say to the gentleman that it seems to me that if the project is as worthy as the gentleman says it is, it would have no trouble in peer review. So why do they not go to peer review? Why use political muscle? Why use lobbyists?

Mr. FOGLIETTA. Because, I am saying to the gentleman from Pennsylvania, No. 1, this energy-producing facility will eventually produce lower cost medical services. Those lower cost medical services are provided for indigent children, low-income children, throughout this entire region. That is in my district, and I am fully aware of what is happening there.

I appreciate the gentleman's agreeing that this is an emotional request on behalf of those children. There is no question about that. When you are asking for medical care for children, it is emotional. If we are going to reach the Members in this Congress, we have to be emotional when we are concerned about providing medical care for poor children. And let me just say that I do not believe those children should be allowed to suffer waiting for low-cost medical care while this Congress argues about technicalities as to the whys or wherefores of the procedures involved in providing that low cost hospital care.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman is serving the children of his area. But what about the children in New York or the children in Lancaster, PA, rather than Philadelphia, PA? And what about the children in Maryland or the children in Florida, and so on? The gentleman is saying that the children in his area are more important than those children because he is taking the money for use in this one particular project.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. FOGLIETTA] has expired.

(By unanimous consent, Mr. FOGLIETTA was allowed to proceed for 1 additional minute.)

Mr. FOGLIETTA. Mr. Chairman, I would like the gentleman from Pennsylvania to know that I am concerned about health care for children throughout the Nation. I am concerned about poor children especially in Lancaster and New York and every other city and State in the United States of America. Right now we are concerned——

Mr. WALKER. If the gentleman will yield, right now he only covers one group of children in this bill.

Mr. FOGLIETTA. Mr. Chairman, the gentleman interrupted me. Let me continue.

Right now we are concerned with this particular amendment which will block these projects, one of which is the St. Christopher's Hospital in Philadelphia, which we are in dire need of for the poor people of that city.

Mr. WALKER. Mr. Chairman, if the gentleman will yield, the problem, however, is that by designating those eight particular projects he is freezing out other projects that may be just as deserving. We are making a political determination that some are more equal than others. The gentleman is contributing to that process, saying that political clout and lobbyists ought to be the determining factor on good science, and I am saying to the gentleman that no one in the academic or scientific community agrees with him.

Mr. FOGLIETTA. Mr. Chairman, may I just answer that by saying that the gentleman saw me running into this room quite out of breath. I just came back from a hearing before the Committee on Armed Services of this body, and I can assure the gentleman that there are sufficient funds in this Nation to provide good health care for all the children in this Nation, especially the poor children of this Nation.

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, during the past two decades, national investment in research facilities has declined drastically. As a consequence, academic research facilities have reached a state of obsolescence and deterioration that threatens the quality, and the international standing, of American science

and engineering. The Appropriations Committee is to be congratulated for recognizing this national problem, and providing some of these sorely needed moneys in this bill.

While I support, in principle, what the gentleman from Pennsylvania is trying to accomplish with his amendment, I cannot agree that only scientific merit review of facilities proposals is the total answer. To a large extent, we have been operating on such a system since the end of World War II, and we have seen more and more of the Federal research dollars go to fewer and fewer universities. Data compiled by the National Science Foundation in January of this year shows that in fiscal year 1984, the last full year of available data, over 26 percent of all Federal obligations for R&D went to only 10 universities, 41 percent went to only 20 universities, and 51 percent went to only 30 universities.

The geographical distribution of Federal R&D moneys is even more askew. Three of the top 10 funded universities, and 6 of the top 20 funded universities are located in California; 5 of the top 10 funded universities are located in just 2 States, California and Massachusetts; and 10 of the top 20 funded universities are located in just 3 States, California, Massachusetts, and Illinois. None of the top 20 funded universities are located in the Southeast and the Southwest regions of the Nation—the regions which are growing the fastest.

Clearly, Congress has a role to play in redressing this imbalance. Modernization of national research facilities requires taking factors other than scientific merit into account—including broadening the base of research institutions, developing research potential throughout the Nation, contributions to local and regional economic development, and the willingness of the institution, the State, or the region to share costs. Congress is the unique institution which can consider these additional factors.

Congress also has the responsibility to see that the taxpayers' hard-earned dollars are spent in the wisest and most efficient manner. It is for this reason that I oppose this amendment.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr Chairman, I would like to focus attention on this issue again. We have to understand that a few short months ago, 7 months ago, this body voted a pledge to the American people to reduce the deficit. I think it must be understood by this body and no doubt it is understood in the country at large by our citizen constituents that the most insidious influence over the economic life of Americans today, whether we are talking of trade or domestic economics, is these persistent deficits.

The people have insisted that we resolve these deficits without increasing taxes, and they are demanding spending cuts. I have said before, and I will say again, that I respect and admire the work of the members of the Appropriations Committee. I know it is a fearful task, and I know they have worked hard.

□ 1355

But, before, we have managed to bring appropriations bills under the budget and have seen the deficit grow right before our eyes. By September 1, we must have the deficit down to a $154 billion limit. If we do not, if we have not achieved that, we will suffer an $11 billion surcharge. That means at that time we are going to have to face a terrible constraint in the form of across-the-board, nondiscriminating cuts, of an enormous magnitude that affects all progams of Government spending uniformally.

How can we then at that time say that we were not able to take line item cut recommendations brought to this floor by way of amendments, in this case $69,700,000 of Federal funds in deficit, to build capital resources for State and private institutions? We are really going to have to deal with this problem.

I am not going to get into the merits of the research. I am not going to say it is good research or bad research. I am not going to argue that it is pork-barrel politics, but I can tell you that those arguments will be made.

We have a Member from the other body who has become quite famous for his special awards for foolish Government spending. Can you imagine this gentleman saying that the House appropriated $16,000 to prove that children have energy? I do not know what the research is.

Can you imagine the difficulty, we have an energy crisis in America, yes. Our primary source of energy, petroleum, is in a state of declining price to the point that we are taking wells out of production. How are we to justify in the face of these deficits favored treatment for energy research, when we are not using the energy reserves we have?

We must face this test today and take our little lumps today and along the line parcel these spending cuts out fairly and equitably, focusing attention on spending that is not necessary, that is not needed, that may be counterproductive, or we are going to face a stiffer requirement of larger cuts placed across the board on all program spending, whether it is good or bad, productive or counterproductive to the American people.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Pennsylvania, and then I will yield to the gentleman from Oregon.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I just wanted to emphasize the gentleman's point. He has articulated on a number of occasions the need to do something about the deficits, and I appreciate his rising on my amendment to do the same.

I think it is important to point out that every time we have done this, we have had people come to the floor suggesting, well, the real need is for Congress to set priorities. What we need to do is to take out the wasteful spending and keep the good spending.

Well, again I tell my colleagues, this is the part of this budget that has been labeled by at least one major national organization, Common Cause, as the hog heaven projects. If you are ever going to do something to begin to reduce lower priority spending, we ought to at least start in hog heaven. We ought to at least start in the kind of pork-barrel areas that have been identified across this Nation as being hog heaven. That is what this amendment does.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 1 additional minute.)

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding.

The gentleman has stated that because of the magnitude of these deficits and the poisonous effect that they have on the economy, and that is a conclusion that I certainly cannot dispute, I agree with the gentleman, they do have a poisonous effect on the economy, but that this body has to look at all spending requests, including research requests with a very sharp eye and is going to have to start saying no to certain kinds of research.

My question to the gentleman would be, is the gentleman willing to bring that same zeal to the SDI Research Program when it comes before the floor and support some of us who want to freeze that particular pork-barrel research project.

Will the gentleman join me in that?

Mr. ARMEY. Well, if the gentleman will allow me to reclaim my time, I would consider the SDI to be an imperative investment in the security of this Nation.

Mr. AUCOIN. Oh, I see. Well, I thank the gentleman for his explanation.

Mr. ARMEY. I appreciate the gentleman's point. I thought it was very well put, but I would not isolate that research for spending cuts.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 30 additional seconds.)

Mr. ARMEY. If we fail to make the line-item cuts selective and discriminating and then must resort to an across-the-board cut, I will not vote against the across-the-board cut because SDI is in there. It would be unfortunate, but I would do it because we did vote our pledge to the American people that we would deal with the deficits. I am saying that we will meet that pledge either today or later.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. ARMEY was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I think it needs to be made as a point that it is always amazing to me that we get the left out here on the floor defending hog-heaven projects, but then they always suggest that the place they want to take it out of the hide is national security. That is a question that some of us really have a concern about, the future long-term prospects for defending this country.

I thank the gentleman.

Mr. ARMEY. Mr. Chairman, I thank the gentleman.

I think it is fair to point out that there is a large contingency of Americans who believe, No. 1, the requisite function of a government is to provide for the common defense and to promote the general welfare.

Mr. SLAUGHTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Pennsylvania.

In the first place, as has been extensively discussed, the authorizing committee, the Science and Technology Committee, has not authorized these projects. It certainly has not been reluctant to authorize research in the energy field in past years and this year, too, as a matter of fact; but one thing we should consider is what we are going to get for the money. If we are going to change the system of allocating Federal grants for scientific research, it needs more thought than is being given to it here, coming up and sticking in several projects in the appropriation bill, without going through the authorization committee, without the benefit of a study of what is likely to be the impact of this kind of change in allocating scientific research grants.

Now, if we are going to make the changes, there is a study already underway, as the gentleman from Florida [Mr. FUQUA] has referred to, the Science Policy Task Force of the Science and Technology Committee, that will be making a report on this subject in a very few months.

Many arguments can be made for the changes that ought to be made for the results that we ought to get, but we should consider that before junking the present system just by sticking in projects that the members of the Appropriations Committee decide are the best, that the kind of review and scrutiny for the validity of the research to be undertaken should be emphasized, and in the present system it is emphasized by the peer review system. Maybe that system is wrong and maybe it should be changed. Certainly there are changes that I know that I would support; but for the past 40 years this country has been far ahead of any other country in the world in scientific research and development, which means so much to our society, to our economic progress, and to our national security.

So without that kind of review and that kind of consideration, I would say that the spending that this amendment would delete is very much in order. If we let the provision stand and defeat the amendment, spending on these items would indeed have been irresponsible.

I trust my colleagues will support the amendment of the gentleman from Pennsylvania.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Today your Committee on Appropriations has included a few items here in this appropriation bill that were requested, a few of the many that were requested. It was not the intent of our Appropriations Committee to usurp the responsibility of the authorizing committee, not for a moment. We worked very closely with the members of the authorizing committee and only included those which we felt were absolutely essential and could not wait another year.

Now, to the gentleman from Pennsylvania, for whom I have a high regard, we disagree quite often, but usually procedurally and this is one of the procedures where we do disagree. It is not the intent of the Appropriations Committee to include items so that we will never get an authorization committee bill passed. Quite to the contrary, if we included every item, even in this area that was requested, we would have a larger amount of money than this. We would have a great many. We only included those we felt were absolutely essential.

It does interest me when I look at the list that was included here, that Florida State was left out of the amendment of the gentleman from Pennsylvania. The University of California, Princeton, Kansas State University, there were a number of universities that were left out, left out entirely.

It is not the intent of the Appropriations Committee to change the peer process, whatever it is. We are studying that and that is the rightful place in the authorizing committee to make that decision as to what the peer process should be.

I must honestly say, and I think the chairman certainly agrees, I have questioned the peer process when just a handful of universities in our country have qualified in recent years for the eligibility requirements to receive grants for research.

Are we to assume that these great smaller universities because they do not have an input into the so-called peer process cannot contribute and make the fine significant contributions?

It certainly was not the intent of the Appropriations Committee to balance it, to make sure that just the smaller universities were in it. Our only wish was to see that the universities get these projects that were absolutely necessary this year that have not yet been authorized.

But I do note again that a number of projects were left out by the gentleman, that also were not authorized, but we funded them and they will continue to be funded.

So I wonder what process was used here.

My last remark is on the peer process. Accept it or not accept it, but today there is no peer process to decide on Federal facilities, none in existence today. This is what this money is for, for Federal facilities.

So I ask you to vote "no" on the amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for pointing out to this gentleman, I just learned that they buried a number of other projects down here that this gentleman was not aware of.

I had struck out the items that the gentleman named in his bill, and he also names them in the committee report, so I took the money for those things that the gentleman named.

I am fascinated to learn now that they buried a few more down here.

I would like to have it specified to me just exactly where some of those are, because it sounds to me as though the problem is more far-reaching than even this gentleman imagined.

Mr. MYERS of Indiana. Well, the gentleman is usually very good at finding things and reading the committee reports. I pressume the gentleman read pages 91 and 92 supporting research and technical analysis.

Mr. WALKER. That is precisely what this gentleman read.

Mr. MYERS of Indiana. The next to the last item was applied mathematical science, and $11,400,000 for Florida State. Why did the gentleman miss that?

Mr. WALKER. I did not miss those that are included there. I have $69.7 in my amendment. That includes all of the items that are in the committee report that were on pages 91 and 92.

I would hope that we have covered all of those. That was the intent of the amendment, and if there are some more buried down in the bill, gee, I would sure like to know those, because maybe what we need is a committee out here.

Mr. MYERS of Indiana. Well, reclaiming my time, the committee is not burying anything, or I would not be here on the floor right now telling you where they are. Page 92, the gentleman missed one, right there in the pages the gentleman just identified. Why were they left out?

Mr. WALKER. Mr. Chairman, if the gentleman will yield, the only thing that is covered in my amendment is that the amendment cuts $69.7 million and then cuts the things that are named in the gentleman's bill.

It is my understanding that the $69.7 million includes all of the items that were specified in the committee report and in the language of the committee bill. That is the intent of the amendment and is certainly what this gentleman was attempting to do.

Mr. MYERS of Indiana. I have a two-page printout here, "House Appropriation's Committees, Department of Energy Pork Barrel Projects." Is this the gentleman's work or someone else's?

Mr. WALKER. This was work that was done at the Science and Technology Committee.

Mr. MYERS of Indiana. And those items I have identified are not on this list which the gentleman has identified as $69,700,000.

□ 1410

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should just like to reinforce what the distinguished ranking minority member of the subcommittee has said. This amendment really is quite discriminatory: It picks out some projects in some Members' districts and ignores other very similar projects in other Members' districts. These projects that we funded are not all buried. Instead, they are very clearly identified in the report of the Committee on Appropriations.

There does not seem to be any rhyme or reason to the amendment. There is one hospital project included in the midst of university projects.

I gather that the reason for this amendment is that there is an argument that somehow these projects bypassed a peer review process. It should be willing to agree with the gentleman from Pennsylvania [Mr. WALKER] that we ought to have some sort of peer review process set up and institutionalized for dealing with these construction grants to universities by the Energy Department. But the fact of the matter is that nothing is has been bypassed, because no such process exists for the facilities that are involved here.

Unless we are to bring this effort to a dead halt in the absence of such a process, it is necessary that we proceed as the bill provides. That fact of the matter is that existing law authorizes the appropriation of Department of Energy funds to this kind of institution for the goals that these particular projects are designed to meet. Further, I am told that at least three of the projects were authorizee by name by the Committee on Science and Technology in its consideration of Department of Energy authorization bills, but unfortunately they have not yet made their way into law. I do not think that the gentleman would want these useful facilities, which his committee itself approved, stopped in their tracks because of the fact that the other body has proved an obstacle in this case.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I just heard from the committee why it is that some of the projects were not included in my amendment. Those are in fact the projects that were authorized by the Committee on Science and Technology. The ones that were authorized are the ones that were left out of my amendment where the committee has specifically taken action in order to try to authorize the projects. It is only unauthorized projects that were included in my amendment where the Committee on Science and Technology had taken no action.

Mr. GREEN. Mr. Chairman, if I may reclaim my time, I must respectfully disagree with the gentleman, in the sense that every bit of this is authorized under existing law, which authorizes appropriations of DOE funds for such institutions for such purposes. It is also my understanding that some of the projects that the gentleman has picked out were specifically authorized in a House-passed bill, although they have not passed the Senate.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. GREEN. I am happy to yield to the gentleman.

Mr. WALKER. Mr. Chairman, what I am doing is, all of the projects that are included in my amendment are projects that were not ever authorized by the Committee on Science and Technology. The ones that were left out are the ones where the Committee on Science and Technology acted to authorize.

Mr. GREEN. Well, I can only say, if I may reclaim my time, that at least one of the projects that the gentleman attaches here in his amendment, the Columbia University project, was authorized by the House. We had a vote here on the floor on that particular issue a couple of years ago.

Mr. WALKER. If the gentleman will yield further, yes, that is exactly the kind of thing that happens. That project was totally unauthorized by the Committee on Science and Technology, and was put on out here on the floor.

Mr. GREEN. If I may reclaim my time, I think that if the gentleman is saying that when this House has decided something, and the Energy and Water Subcommittee then follows the vote of the House, the Energy and Water Subcommittee is doing something wrong, that rather shocks me. That is something that the House approved. We had a vote on it. We debated the issue. The project was authorized, and the Energy and Water Subcommittee followed the authorization. Is the gentleman now saying to the House, because the House disagreed with the Science and Technology Committee, that the House must stand back and cannot appropriate funds for a project it authorized? I have never heard of anything like that.

Mr. WALKER. If the gentleman will yield further, what this gentleman is arguing is that virtually every academic and scientific community in this country took a look at what we did on the Columbia vote that day and said that it was a horrendous piece of action, that it helped destroy scientific peer review in this country. So if the gentleman is proud of the House's action in that regard, then I would say to the gentleman that he does not have much of an argument with the academic and scientific community. They do not have much pride in what we did.

Mr. GREEN. If I may reclaim my time, again I think that the Members should understand very clearly that that project is a House-authorized project. We debated the issue of that project on the floor of the House. We had a vote, and the House approved that project. I think that it is rather shocking for a Member now to come

here and criticize the Energy and Water Subcommittee and the Committee on Appropriations for including in its appropriations bill money for a project that this House authorized, and that is what we are talking about here.

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the Walker amendment to the energy and water appropriations bill. I believe that this amendment is misguided and ignores the scientific research merits of many of the projects that it targets for extinction.

I am particularly familiar with one of these projects and the merits that justify its inclusion in the bill. The Center for Nuclear Imaging Research, to be located at the University of Alabama at Birmingham, is a fine example of a cooperative program involving Federal, State, and local support.

UAB is nationally known as an outstanding medical research university, and this new center will be dedicated to the advancement of nuclear magnetic resonance and positron emission tomography, two very important technologies for medical research and patient care.

This one-time commitment of Federal funds for construction and equipment will allow this exciting research program to move forward by utilizing existing capabilities and working closely with other university and Federal laboratories with expertise in NMR and PET.

One of these existing centers of expertise is the Lawrence Berkeley Laboratory in Berkeley, CA. A multiprogram Department of Energy national laboratory [LBL] has been in the forefront of technological advances in both NMR and PET development.

Working with universities and corporations, LBL has been responsible for advances that allow more precise imaging of structures in the brain and other vital organs than ever before. The facility proposed for the University of Alabama at Birmingham presents the opportunity to expand further the achievements of these technologies.

I am confident that UAB, by working with organizations like LBL, will develop a highly respected and very productive center for nuclear imaging research, and for this reason I strongly urge the defeat of the Walker amendment.

Mr. GRAY of Pennsylvania. Mr. Chairman, I rise in support of the energy appropriations bill as reported by the Appropriations Committee, and in opposition to the amendment that would strip from the bill funds for certain energy research projects. I think it is a mischievous amendment, and I urge the House to reject it.

I would like to commend Chairman BEVILL and the other members of his subcommittee for the fine job they have done on this bill. I'm not surprised, of course. They do a fine job every year. They deserve the thanks of the House, and I can think of no better way for the House to show its appreciation than to soundly defeat the amendment that seeks to undo so much of the hard work that Chairman BEVILL, the other members of his subcommittee, and the subcommittee's able staff have done.

Mr. SHELBY. Mr. Chairman, I rise to oppose the Walker amendment.

First, funding for the center for Nuclear Imaging Research would enhance health care applications through technology development. The center would develop two new approaches to medical diagnosis—nuclear magnetic resonance [NMR] and positron emission tomography [PET]. NMR and PET would increase our ability to diagnose a variety of human diseases and to make accurate evaluations of the effectiveness of therapies in the treatment of such diseases. Specifically, PET would have immediate medical applications for patients suffering from stroke, Alzheimer's, Parkinson's, and Huntington's diseases. NMR would have particular value in combating cardiovascular disease.

Second, the University of Alabama at Birmingham is uniquely qualified to maximize Federal investment in this center. In its 40-year history, the UAB Medical Center has emerged as one of the Nation's leading centers for health care and biomedical research. The university has proven particularly effective in organizing major research programs which span many academic disciplines, which development of these technologies will require. The center's director, Dr. Gerald M. Pohost, is one of the leading figures worldwide in the development of NMR and its application to cardiology.

Third, the Federal appropriation is a one-time expenditure for a project which has already attracted widespread support and financial commitment. UAB has an established medical imaging research program supported by institution funds, the State of Alabama, corporate financial commitments. With this one-time Federal contribution for construction and instrumentation development, the university will carry the ball in attracting other sources of funding. Efforts are underway to attract other academic participants in the center. The Administration supports the development of this technology.

Mr. ERDREICH. Mr. Chairman, I rise in opposition to the amendment, and want to tell you about a project that would suffer if the amendment was agreed to.

In the Department of Energy budget request for fiscal year 1987, the Department stated that there was an urgent need for development of certain currently unavailable medical technologies, such as whole-body positron emission tomography and nuclear magnetic resonance. The civilian portion of this appropriations bill contains such a project, and it has enormous medical and economic potential.

This bill establishes a Center for Nuclear Imaging Research at the University of Alabama in Birmingham. The purpose of this center will be to develop and house a high-powered whole-body scanner that uses the noninvasive imaging technique of nuclear magnetic resonance. This technique can aid the diagnosis and treatment of many cardiovascular diseases, and can reveal more than is currently known about the physiology of the heart.

The CNIR is cooperating with private industries and other universities, including the prestigious University of California at Berkeley, to develop research and medical applications for these emerging medical technologies. Colleagues, there is no funding for projects like this other than the civilian nuclear program, and the tremendous potential of projects like this will be lost if the gentleman's amendment is agreed to.

The gentleman from Pennsylvania is concerned that this project was not peer reviewed. Let me emphasize that there are no Federal funds available for which the University of Alabama at Birmingham could have applied for support of the CNIR. The great majority of Federal university research support is allocated by some kind of competitive review; for many reasons, not all by any means related to objective merit, most of these funds go to a few institutions in a few States. The Congress serves legitimate national purposes when it determines that a very small portion of these funds be allocated directly to special facility projects of its choosing, such as CNIR.

Such projects broaden the base of university research in the United States; they represent a highly leveraged investment of Federal research funds; and they are usually in areas of great importance, scientifically and economically. These university projects did not come out of thin air, Mr. Chairman. Certainly the proposed Center for Nuclear Imaging Research is founded both in the Department of Energy budget request and the current need for emerging medical technology support that Congress feels is worthy. I urge my colleagues to oppose the amendment to delete these university projects.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 315, not voting 9, as follows:

[Roll No. 239]

AYES—106

Archer	Fields	McCain
Armey	Frenzel	McCollum
Badham	Gallo	Meyers
Bartlett	Gekas	Miller (CA)
Barton	Gingrich	Miller (WA)
Bates	Goodling	Monson
Bellenson	Gradison	Montgomery
Bentley	Gregg	Moorhead
Bereuter	Hall (OH)	Olin
Bilirakis	Hansen	Oxley
Boulter	Henry	Parris
Brown (CO)	Hertel	Petri
Carper	Hopkins	Porter
Chandler	Hubbard	Rinaldo
Chappie	Hunter	Ritter
Combest	Hyde	Roth
Courter	Ireland	Rowland (CT)
Craig	Jacobs	Saxton
Crane	Kasich	Schaefer
Daniel	Kindness	Schulze
Dannemeyer	Kolbe	Seiberling
Daub	Kramer	Sensenbrenner
DeLay	LaFalce	Shumway
DeWine	Lagomarsino	Shuster
Dickinson	Latta	Sikorski
DioGuardi	Lewis (CA)	Siljander
Dorgan (ND)	Lott	Slaughter
Dornan (CA)	Lungren	Smith, Denny (OR)
Dreier	Mack	Smith, Robert (NH)
Eckert (NY)	MacKay	Solomon
Fawell	Marlenee	
Fiedler	Martin (IL)	

Staggers	Vander Jagt	Weber
Stump	Vucanovich	Whitehurst
Sweeney	Walker	Wolpe
Taylor	Weaver	Zschau

NOES—315

Ackerman	Feighan	McGrath
Akaka	Fish	McHugh
Alexander	Flippo	McKernan
Anderson	Florio	McKinney
Andrews	Foglietta	McMillan
Annunzio	Foley	Mica
Anthony	Ford (MI)	Michel
Applegate	Ford (TN)	Mikulski
Aspin	Frank	Miller (OH)
Atkins	Franklin	Mineta
AuCoin	Frost	Mitchell
Barnard	Fuqua	Moakley
Barnes	Garcia	Molinari
Bateman	Gaydos	Mollohan
Bedell	Gejdenson	Moody
Bennett	Gephardt	Morrison (CT)
Berman	Gibbons	Morrison (WA)
Bevill	Gilman	Mrazek
Biaggi	Glickman	Murphy
Bliley	Gonzalez	Murtha
Boehlert	Gordon	Myers
Boggs	Gray (IL)	Natcher
Boland	Gray (PA)	Neal
Boner (TN)	Green	Nelson
Bonior (MI)	Guarini	Nichols
Bonker	Gunderson	Nielson
Bosco	Hall, Ralph	Nowak
Boucher	Hamilton	Oakar
Boxer	Hammerschmidt	Oberstar
Breaux	Hatcher	Obey
Broomfield	Hawkins	Ortiz
Brown (CA)	Hayes	Owens
Bruce	Hefner	Packard
Bryant	Hendon	Panetta
Burton (CA)	Hiler	Pashayan
Burton (IN)	Hillis	Pease
Bustamante	Holt	Penny
Byron	Horton	Pepper
Callahan	Howard	Perkins
Campbell	Hoyer	Pickle
Carney	Huckaby	Price
Carr	Hughes	Pursell
Chapman	Hutto	Quillen
Chappell	Jeffords	Rahall
Cheney	Jenkins	Rangel
Clay	Johnson	Ray
Clinger	Jones (NC)	Regula
Coats	Jones (OK)	Reid
Cobey	Kanjorski	Richardson
Coble	Kaptur	Ridge
Coelho	Kastenmeier	Roberts
Coleman (MO)	Kemp	Robinson
Coleman (TX)	Kennelly	Rodino
Collins	Kildee	Roe
Conte	Kleczka	Roemer
Conyers	Kolter	Rogers
Cooper	Kostmayer	Rose
Coughlin	Lantos	Rostenkowski
Coyne	Leach (IA)	Roukema
Crockett	Leath (TX)	Rowland (GA)
Darden	Lehman (CA)	Roybal
Daschle	Lehman (FL)	Rudd
Davis	Leland	Russo
de la Garza	Lent	Sabo
Dellums	Levin (MI)	Savage
Derrick	Levine (CA)	Scheuer
Dicks	Lewis (FL)	Schneider
Dingell	Lightfoot	Schroeder
Dixon	Lipinski	Schuette
Donnelly	Livingston	Schumer
Dowdy	Lloyd	Sharp
Downey	Loeffler	Shaw
Duncan	Lowery (CA)	Shelby
Durbin	Lowry (WA)	Sisisky
Dwyer	Lujan	Skeen
Dymally	Luken	Skelton
Dyson	Madigan	Slattery
Early	Manton	Smith (FL)
Eckart (OH)	Markey	Smith (IA)
Edgar	Martin (NY)	Smith (NE)
Edwards (CA)	Martinez	Smith (NJ)
Edwards (OK)	Matsui	Smith, Robert (OR)
Emerson	Mavroules	
English	Mazzoli	Snowe
Erdreich	McCandless	Snyder
Evans (IA)	McCloskey	Solarz
Evans (IL)	McCurdy	Spence
Fascell	McDade	Spratt
Fazio	McEwen	St Germain
Stallings	Torres	Whitten
Stangeland	Torricelli	Williams
Stark	Towns	Wilson
Stenholm	Traficant	Wirth
Stokes	Traxler	Wise
Strang	Udall	Wolf
Stratton	Valentine	Wortley
Studds	Vento	Wright
Sundquist	Visclosky	Wyden
Swift	Volkmer	Wylie
Swindall	Walgren	Yates
Synar	Watkins	Yatron
Tallon	Waxman	Young (AK)
Tauke	Weiss	Young (FL)
Tauzin	Wheat	Young (MO)
Thomas (CA)	Whitley	
Thomas (GA)	Whittaker	

NOT VOTING—9

Borski	Grotberg	Long
Brooks	Hartnett	Lundine
Fowler	Jones (TN)	Moore

□ 1430

The Clerk announced the following pair:

On this vote:

Mr. Hartnett for, with Mr. Borski, against.

Messrs. CONTE, BURTON of Indiana, LIVINGSTON, COBEY, and SWINDALL changed their votes from "aye" to "no."

Mr. McCOLLUM and Mrs. MEYERS of Kansas changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 20, line 12, strike all after the word "; and" through line 17 and the word "Project" on line 18.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I hope that this will not take very long. What this amendment does is essentially says that the House has just determined you do not want to cut $69.7 million. What this amendment does is say that the five new projects that are started in the bill, to the tune of $53 million of set-asides, that that set-aside by the committee should be eliminated.

Mr. BEVILL. Mr. Chairman, I would like to reserve a point of order.

The CHAIRMAN. The Chair must advise the gentleman from Alabama that the time has passed for reserving the point of order on the amendment.

Mr. BEVILL. We could not hear the gentleman.

The CHAIRMAN. The Chair had recognized the gentleman from Pennsylvania for 5 minutes.

Mr. WALKER. I assure the gentleman that there is no point of order that rests against the amendment. It is simply the second part of the original amendment that I offered.

Mr. BEVILL. Mr. Chairman, we have not seen the amendment; we do not know what the gentleman is talking about; we cannot hear the gentleman.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. WALKER. Let me say to the gentleman from Alabama [Mr. BEVILL] that the amendment at the desk is simply the second part of the amendment that was just defeated. In having the second part of the amendment, what I am attempting to do is at least stop the set-asides being done by the committee.

The committee has gone the route of determining that it is going to be both the authorizing committee and the appropriating committee. I preserve all of the money. There is no money cutback whatsoever in this amendment, so that all the money for energy research is preserved, but we do get rid of, in the bill, the specific set-asides for particular projects.

The reason for that is that because these specific projects tend to get more expensive over the years. If you take a look at the Columbia University project that was put in by this House a couple of years back, it started with a $5 million authorization. Then we did $3 million more the next year, and then another $7.6 million the next year, and now another $4 million this year.

What I am suggesting is, that at the very least let us keep all of the money, but let us not set aside particular projects.

Mr. Chairman, if we are going to keep all of the money, at least let us have the authorizing process of the Congress work. At least let us have the peer review process of the academic community work. Let us not have the Appropriations Committee making determinations that are rightfully the authorizing committee's decisions to make.

This is simply an attempt to stop five new starts in favor of going to the traditional process of allowing any new starts to come out of either the authorizing process or out of the peer review process at the Department of Energy.

I ask for support of the amendment.

□ 1440

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is the same issue that we just voted on. We just spent over an hour on this item. Let us go ahead and vote again without further debate.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, in the previous colloquy with the gentleman from Alabama on the amendment, I had offered a substitute to Mr. WALKER's amendment, which was ruled out of order by the Chair. But the gentleman agreed that all these projects would be subject to a detailed project plan and a project validation and review. So they will be reviewed for their scientific merit.

Mr. BEVILL. The gentleman is correct.

Mr. FUQUA. Also for their money, the scientific benefit and all the other things in the interest of science.

Mr. BEVILL. The gentleman is correct.

Mr. FUQUA. So that would apply to the projects that are in here, the new ones.

Mr. BEVILL. The gentleman is correct.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, that is after the fact. We will have appropriated the money to them, and then, after the fact, we are going to take a look and find out, having appropriated the money, that they are good projects. It strikes me that is a total reversal of everything we believe in in the authorizing process in this country.

Mr. BEVILL. The gentleman has covered that very thoroughly. I think we all understand it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 33 for replacement only); $1,256,400,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,286,400,000 in fiscal year 1987, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1987 so as to result in a final fiscal year 1987 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only); $738,400,000 to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, including the acquisition of real property or facility construction or expansion, $677,649,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered by Mr. WEAVER: At page 22, line 16, strike the appropriation of $677,649,000 and replace it with $386,449,000.

Mr. WEAVER. Mr. Chairman, this amendment is a selective funding cut. It cuts $291 million from a $677 million appropriation for the studying of nuclear waste repository sites.

What the amendment actually is intended to do, the specific cuts, are shown as follows:

EXPLANATION OF NUCLEAR WASTE REPOSITORIES FUNDING CUT

The amendment removes from the FY 1987 budget request, approved by the Appropriations Committee report, $291.2 million, consisting of First Repository Siting, Exploratory Shafts, and Land acquisition, as explained below.

This will leave $386.449 million for Systems, Waste Package, Repository Development, Regulatory and Institutional, Test Facilities, and Project Management, also explained below. The dividing lines between all of these different categories are not very clear or abrupt, leaving DOE with flexibility to allocate the remaining funds to perform activities not related solely to site characterization at the 3 sites. If anything, the amendment leaves DOE with an abundance of funds for general research and development that is not site-specific. If the amendment is adopted, DOE could return to Congress with a reprogramming request, if necessary for efficient application of the remaining funds.

1. *First Repository Siting:* $150.1 million. This is for "site characterization activities at each of the 3 candidate sites. A significant effort will be focused on analysis of geotechnical data to assist in the preparation of input for the Site Recommendation Report and Draft EIS." It includes borehole drilling, well drilling, groundwater monitoring, geological mapping, geophysical surveys, hydrologic studies, seismic monitoring, tectonic modeling, etc.

2. *Exploratory Shafts:* $133.5 million. This is for drilling of shafts in basalt, tuff, and salt, along with construction of related surface facilities and procurement of instruments for use in shaft monitoring and testing.

3. *Land Acquisition:* $7.6 million. This is for acquisition of land access for non-government owned land in the salt media.

The amendment does not remove these other categories of first repository funding:

1. *Systems:* $22.7 million for data base management system and systems engineering analyses for each of the 3 projects, including computer code benchmarking, validation, documentation, and verification and incorporation of additional laboratory and field data compiled in FY 1986 and FY 1987.

2. *Waste Package:* $41.1 million for waste package design and develpment for each of the 3 sites, including prototype testing, heated model testing, geochemical modeling of interactions with groundwater and brine.

3. *Repository Development:* $87.8 million for "repository advanced conceptual design reports," in including development of repository equipment and testing of repository seals.

4. *Regulatory and Insitutional:* 49.6 million for preparation of license applications, semiannual progress reports, consultation with affected states and Indian tribes, public information programs, and payments in lieu of taxes.

5. *Test Facilities:* $5.2 million for "domestic test facilities" and "cooperative international programs," including analysis of WIPP data and brine migration tests with the West Germany as its Asse Mine.

6. *Project Management:* $44.2 million for project management and support functions, including planning document updates, cost and schedule control systems, financial management and budgeting, procurement and management of subcontractors, legal services, records management, and operation of quality assurance program.

There is still about $386 million left to keep the process going, the nuclear wastes repository site studies. I want to emphasize that this is not a regional fight. The reason for offering this amendment is that the Department of Energy has stumbled badly in the scientific and engineering bases of site selection. In many instances political decisions were made, not scientific and engineering decisions. This amendment is a slap at the Department of Energy saying, "On an issue of this momentous importance, we want you to base it entirely on scientific and engineering data."

I want to point out that such is the disarray that I have here a copy of a work order stoppage issued by the Department of Energy, stopping over 700 activities on research documentation and collation, because they were being improperly done. Over half of the activities of the nuclear waste repository study have been stopped by the De-

partment of Energy because they were being improperly done.

We called the Department of Energy yesterday. They say they do not even know when they will reinstitute work by the various contractors. A stop order issued to Rockwell on May 1, 1986, stopped 700 activities. There have been several other stop orders.

In selecting the sites that they did, the Department of Energy failed to follow either the criteria or the procedures established by the Nuclear Waste Policy Act of 1982. We believe the Department of Energy should be sent back to redo its studies and bring forth recommendations based on solid scientific and engineering conclusions. This was a political decision not based upon science and engineering. If DOE is allowed to make one political decision, it may make others. Your State may be next.

I say a vote for this amendment is a vote against the process now being followed by the Department of Energy in selecting the waste repository sites. Wherever you live in whatever region of this country, if you disapprove of the process in which the Department of Energy is undertaking to select sites, this amendment is a vote for you. It is not a regional fight. If it were a regional fight, we in the West, particularly in the Northwest, could crank up Mount St. Helens, aim it at some other region of the country, and let go. But we do not want to do that. We want to say, let us join together to give the Department of Energy a warning by withholding waste repository study funds, or a part of them, for 1 year.

DOE is already 3 years behind schedule. This nuclear waste will be dangerous for thousands of years. The DOE should get it straight from the start.

On May 28, the Department of Energy [DOE] chose three sites for detailed study prior to selection of one as the Nation's first repository for commercial high-level radioactive waste—the spent fuel emerging from the 100 nuclear powerplants now operating and the additional plants that will begin operating during the next few years.

In selecting these sites, DOE failed to follow either the criteria or the procedures established by the Nuclear Waste Policy Act of 1982. We believe DOE should be sent back to redo its studies and bring forth recommendations based on solid scientific and engineering conclusions.

This was a political decision, not based upon science and engineering. If DOE is allowed to make one political decision, it may try to make others.

Your State may be next.

Let us give a warning to DOE by withholding waste repository study funds for 1 year. DOE is already 3 years behind schedule for recommending a final site. This nuclear waste will be dangerous for thousands of years. The DOE should get it straight from the start.

DOE's rush to arrive at this political decision has also compromised the technical validity of the work done to date at the 3 sites. In May, DOE had to issue stop work orders at the Basalt project—Hanford site, Washington—and the Nevada project—Yucca Mountain site—because the necessary quality level of scientific work was not being met. DOE stated last week:

Work stopped at the Basalt and Nevada Projects has been due to a lack of implementation of an adequate Quality Assurance program by their contractors. The lack of written procedures and the lack of management support for implementation of a formal QA program has led to stop work orders.

At these projects, all field activity has been stopped. There is no drilling of holes, no extraction of cores, no studying of seismic faults. At Hanford, work on 700 activities has been stopped; in Nevada, stop work orders were issued to the U.S. Geological Survey; Los Alamos, Livermore, and Lawrence Berkeley National Laboratories; and other contractors.

In selecting these sites, DOE also ignored concerned citizens, State governments, and Indian tribes in order to arrive at predetermined choices. A recent draft General Accounting Office [GAO] report noted that even officials in the States not singled out as first repository sites believed that "DOE's efforts at consultation and cooperation have not produced credibility in repository siting or promoted confidence in the safety of high-level nuclear waste disposal." A few examples:

First, in December 1984, DOE issued its site ranking methodology without prior input from the States or tribes, despite their requests for consultation starting in early 1983.

Second, in December 1985, DOE rejected the efforts of States and tribes to participate in seven or nine coordinating groups within the Office of Geologic Repositories because the groups covered technical issues.

DOE has refused to provide requested funds to States and tribes for independent data gathering activities. In December 1985, the Ninth Circuit Court of Appeals ruled against DOE, concluding that DOE's internal guidelines on nuclear waste repository funding grants were an unlawful attempt to "undermine the independent oversight role that the Congress envisioned for the States."

All three of the selected sites are highly questionable. Yucca Mountain, NV, is located in a known seismic zone, with both historic and recent activity, including three earthquakes during July along the California-Nevada border, two north and one south of the site. An earthquake could cause substantial environmental damage by collapsing repository tunnels and rupturing the waste casks. No survey of mineral resources has been conducted in the area, even though a primary criterion of the Nuclear Waste Policy Act is that areas with potentially valuable minerals be avoided to reduce the likelihood of accidental future human intrusion into the waste.

At the Deaf Smith site—Texas—repository shafts would penetrate two aquifers, if that proves physically possible to accomplish without uncontrollabe water flows into the repository, including the giant Ogallala aquifer, which provides water for people and farms in seven States with large agricultural economies. DOE also has no plan for storing the huge volume of salt that would be piled on the surface, to be blown across the land by west Texas winds and damage land used for farming and grazing.

The site at Hanford, WA, is located 5 miles from the Columbia River; downstream is Oregon's major population center. Located in a basalt layer, the waste would be saturated with ground water traveling—at unknown speed—toward the Columbia. The National Academy of Sciences Panel on Radioactive Waste Isolation System stated:

A major reason for considering basalt for repositories is its abundance in federal land near Hanford, Washington, not its overall favorable characteristics.

Selection of these three sites was not the outcome of DOE's elaborate methodology. For example, DOE's documented methodology ranked one site as second and another one last in the field of five nominated sites. DOE then put the last-place site in the top three and dropped out the second-place site altogether.

DOE did not follow the criteria set forth in the Nuclear Waste Policy Act for choosing potential repository sites: hydrology, geophysics, seismicity, presence of valuable minerals, distance from water supplies and populations, proximity to sites where the waste is generated, and transportation hazards and cost. DOE has been unable to defend its selection of these sites in hearings in both the House of Representatives and Senate. Nor has DOE cooperated with attempts by Mr. MARKEY to find out exactly how and why DOE jettisoned its own documented methodology. DOE officials claim that all of their deliberations on this important subject were oral and never committed to writing.

Please join with us to end DOE's violations of the Nuclear Waste Policy Act. Our amendment would cut fiscal year 1987 funding for DOE's first repository site characterization activities by $291.2 million—for siting, exploratory shafts, and land acquisition—effectively halting all physical work on characterization of the three recommended sites but not affecting the ongoing nuclear waste repository research and technology development effort. DOE could request restoration of the funds, after announcing its intend to apply a documented methodology for the recommendation of first repository finalist sites, in accordance with the Nuclear Waste Policy Act of 1982.

This amendment is endorsed by numerous public interest and citizen groups, including the Natural Resources Defense Council, the Environmental Policy Institute, the Sierra Club, and the Health & Energy Institute, and essentially all concerned citizen groups in the Pacific Northwest. A letter from NRDC agrees that "All available information indicates that the sites were chosen by DOE in an arbitrary fashion." The Environmental Policy Institute believes that the selection process was unquestionably flawed and that it failed to follow the DOE selection methodology reviewed by the Nation-

al Academy of Sciences. I include these letters in the RECORD at this point.

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, July 23, 1986.

Hon. JAMES H. WEAVER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN WEAVER: The Natural Resources Defense Council (NRDC) strongly supports two amendments you have offered to the Energy and Water Appropriations Bill. First, we support the cut-off of funds for operation of the N-Reactor at Hanford, Washington until safety studies undertaken in the aftermath of Chernobyl are completed. The N-Reactor is strikingly similar to the crippled reactor at Chernobyl. Until the public has been assured by outside, independent experts that a Chernobyl-like accident will not occur at the N-Reactor the facility should not operate. As we understand it, the production of weapons-grade plutonium would not be affected by a shutdown of the N-Reactor during the period in which the safety studies will be completed.

Second, the NRDC supports the cut-off of 93% of funds for characterization of the three sites identified as candidates for the first high-level nuclear waste repository. All available information indicates that the sites were chosen by DOE in an arbitrary fashion. Until DOE provides an adequate and reasonable explanation of its decision-making process, site characterization should not go forward.

If there is anything we can do to aid you further in your work on these important issues, please do not hesitate to contact us.

Sincerely,

DAN W. REICHER,
Attorney, Nuclear Project.

ENVIRONMENTAL POLICY INSTITUTE,
July 22, 1986.

Hon. JAMES WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power, and Forest Management Committee on Interior & Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: The Environmental Policy Institute endorses both of your pending amendments to FY '87 Energy & Water Appropriations Bill concerning the elimination of funds for characterization activities for high-level nuclear waste repositories and the suspension of funds for operation of the N-Reactor at the Department of Energy's (DOE) Hanford Reservation.

(1) We support the elimination of $291.2 million in funding requested by the DOE to begin characterization and land acquisition activities at three potential high-level waste repository sites in Washington, Nevada, and Texas, as you propose.

DOE's selection of these three sites, which was announced in May of this year, was based on inadequate information and upon an unquestionably flawed selection process. DOE has informed the Nuclear Regulatory Commission that it does not even have enough information concerning these sites, to date, to complete plan for site characterization. The DOE site selection guidelines used by DOE are inconsistent with the requirements of the Nuclear Waste Policy Act and are being challenged in court by a large number of first repository, second repository and transportation corridor States (NV, UT, TX, WA, WI, MN, CO, NB, MS) as well as the Environmental Policy Institute, National Parks and Conservation Association, Sierra Club, Environmental Defense Fund, Friends of the Earth and other public interest and citizen groups. Although part of the DOE selection methodology was reviewed by the National Academy of Science (NAS). DOE rejected the ranking of sites based on this NAS reviewed approach.

The House Appropriations Committee has responded to similar flaws in the DOE rationale and site selection procedures for potential repository sites in crystalline rock and for the location of a Monitored Retrievable Storage facility by eliminating funding to conduct site specific activities for those two programs. We believe that in light of the irregularities in DOE's selection of the Texas, Nevada, and Washington sites a similar suspension is fully appropriate for the repository site characterization. We come to this conclusion reluctantly because of our longstanding support for the geologic repository concept. But it is now abundantly clear that the DOE program is fatally flawed and that a reassessment of site selection policies for all high-level waste facilities is in order.

(2) The Environmental Policy Institute also supports the suspension of funds to operate the "N-Reactor" at DOE's Hanford facility pending an independent safety review as required by your second amendment. There are several compelling reasons for this. First, the "N-Reactor" is a graphite-moderated, water cooled design, similar to that which experienced a catastrophic accident in the Soviet Union at Chernobyl. The Hanford "N-Reactor" has even less capability to withstand an explosion involving hydrogen gas than the Chernobyl reactor design.

The "N-Reactor" was started-up in 1963 and even DOE, in its FY 1987 budget request, indicates that this facility may become too dangerous to be operated in the 1990's unless major improvements are made. Moreover, prior to the start-up of the "N-Reactor," the Atomic Safety and Licensing Board of the Atomic Energy Commission expressed serious concerns over the absence of an adequate concrete containment structure which were ignored. We believe that the completion of the National Academy of Science and the National Academy of Engineering reports on the safety of the "N-Reactor" are necessary before resumption of the reactor's operation as provided in your amendment.

Finally, the suspension of "N-Reactor" operation will not jeopardize the DOE's ability to obtain warhead-grade plutonium since there is a substantial backlog of plutonium generated by the "N-Reactor" in previous years. This backlog, as with all "N-Reactor" generated weapons materials, will require chemical separation; a process which itself will take far longer than the completion of the safety reviews. Your amendment provides the Congress with an important opportunity to exercise a responsible and conservative public health and safety policy relative to the "N-Reactor" without harming our national security interests.

Sincerely,

BOB ALVAREZ,
Director, Nuclear Power and Weapons Project.
DAVE BERICK,
Director, Nuclear Waste and Safety Project.

SIERRA CLUB,
Washington, DC, July 22, 1986.

Hon. JIM WEAVER,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE WEAVER: The Sierra Club supports your effort to impose a one year suspension on the high-level waste repository site characterization activities of the Department of Energy. Your amendment to strike $261 million from the waste fund appropriations in the FY '87 Energy and Water Appropriations bill will allow the Department time for a badly-needed reassessment of the repository siting program.

It has become unfortunately clear that recent key decisions in the siting program have been governed by political, rather than technical requirements. Primary among these is the decision to suspend siting activities in the so-called "second round" states, which leaves DOE with all its eggs in the single basket of the three first round sites. However, even these sites seem to have been selected largely as a result of political considerations, with the consequence that the repository selection process is now without any real technical rationale whatsoever.

Simply put, this emperor no longer has any clothes. The public credibility of the program is at an all-time low. The last shreds of a methodical national survey for adequate repository sites have been eliminated. The Department which has allowed the basic direction of the siting program to be overtaken by perceived political necessities is no longer in a position to restore it to a sound technical footing. The time has come for a complete reassessment of the siting program, and for a Congressional reconsideration of the national high-level waste management program.

Sincerely,

BROOKS B. YEAGER,
Washington Representative.

HEALTH & ENERGY INSTITUTE,
Washington, DC, July 16, 1986.

Congressman JAMES WEAVER,
Attn: Mike Phillips, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WEAVER: The Health and Energy Institute supports your efforts to delete the funds appropriated for the Department of Energy's nuclear waste repository characterization, pending reinstatement of site characterization for a second repository. DOE's process for choosing a high-level waste repository has been fraught with scientific, technical, and political problems. No taxpayers' funds should be spent on site characterization until these problems have been corrected. Therefore, the Health and Energy Institute supports your efforts to delete funds for the waste site characterizations at the Hanford Reservation, since Hanford's geology and high water flow make it unsuitable for a high-level nuclear waste dump. DOE's arbitrary decision in May, 1986 to drop the search for a second site was in violation of the Nuclear Waste Policy Act, which mandates that DOE develop site characterizations for two nuclear waste repositories. Therefore, we wish you success in your efforts to prevent money from being wasted on further site characterizations until DOE complies with the Nuclear Waste Policy Act.

Cordially,

KATHLEEN M. TUCKER, ESQ.,
President.

STATUS OF OGR STOP WORK ACTIONS
(July 15, 1986)

BASALT PROJECT—RICHLAND, WASHINGTON

DOE-RL Stop Work Letter issued to Rockwell on 5/1/86.

Of the 1,300 Work Activities examined to date, work on approximately 700 has been stopped.

Exempted Activities:

Data gathering for which interruption could cause serious loss;

Upgrades of QA, management, & operating systems;

Safety/maintenance Activities;

Administrative Activities;

SCP preparation;

Activities that are essential or imprudent to stop.

Stop Work Recovery Plan being evaluated now; Readiness Reviews to be used to permit recovery.

Stop Work orders for other Contractors are currently under evaluation (RKE/PB, et al.).

NEVADA PROJECT—LAS VEGAS, NEVADA

DOE/NV Stop Work Letters issued to:

USGS;

Sandia Laboratories;

Los Alamos National Laboratory;

Lawrence Livermore National Laboratory;

Lawrence Berkley Laboratory;

Science Applications International;

Reynolds Electrical & Engineering Company Inc.;

Exemptions similar to Basalt Project (above).

Lifting of suspension of Stop Work Orders:

Approval of proposed corrective action and schedule;

Approval of QA plan and procedures;

Completion of indoctrination and training.

SALT PROJECT—COLUMBUS, OHIO

No Stop Work Orders issued or expected at this time.

Causes

Work stopped at the Basalt and Nevada Project has been due to a lack of implementation of an adequate Quality Assurance program by their contractors. The lack of written procedures and the lack of management support for implementation of a formal QA program has led to the stop work orders.

Future action

The projects will permit work to be restarted only after corrective action has been taken by the contractor and a verification of the corrective action by QA audits or surveillances, has been performed by the projects. HQ-OGR personnel will participate in the verification activities. NRC observers will also be invited to observe the surveillances and audits.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 5 additional minutes.)

Mr. WYDEN. Mr. Chairman, will the gentleman continue to yield?

Mr. WEAVER. I yield to my friend from Oregon.

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for an excellent amendment. There is no question that the Department of Energy has ignored the dictates of the Nuclear Waste Policy Act; it has ignored the interests of the States, and it has ignored the protests of the Congress.

In my view the repository program has become like some kind of Radioactive Godzilla which rampages through the States, and tosses aside guidelines and laws like they were match sticks.

What Mr. WEAVER's amendment does is to correct this abuse of power. It is one where we can bring some objectivity back to this process.

I think the last point I want to make in behalf of the amendment of the gentleman is about why Members from other than the three affected areas ought to be concerned. No matter what the Department of Energy says today, the figures show that sooner or later the Department of Energy is going to come looking for a place to put a second repository. When that day comes, and it may be soon, every State in the Union is going to be at risk. If the Department of Energy thinks it can break the law and violate the dictates of the Nuclear Waste Policy Act, every single State will be at risk. I think it is time to change this monster, this Radioactive Godzilla.

Mr. WEAVER's amendment is one way to go about doing it. I urge all Members to support the amendment before the Department of Energy does something to affect their State.

Mr. WEAVER. I want to commend and congratulate my friend from Oregon, Mr. WYDEN, for his excellent leadership on this issue. He has dug in on his own committee and got out material few other people have seen and brought it to the light of the public. He has been on the spot at all times and works diligently, and we owe him a lot.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to my friend, the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

Mr. Chairman, I think one of the things that we have to recognize here is that a lot of Members from other parts of the country in which there is no likelihood of there ever being a waste repository have quite understandably not been following this with care. They might view the amendment of the gentleman from Oregon as being somewhat extreme.

Let me assure my colleagues there is nothing whatever extreme about this amendment at all. Those of us who sit on the subcommittees with oversight responsibilities of DOE and who have been following this specific issue with some care for a long time have been appalled at how unresponsive DOE has been to the States in question, and here I would recommend to my colleagues a review of the hearing record of the Energy and Commerce—Energy Subcommittee when we had the eastern States in, and they were concerned about the second repository. Every State told the same story about an absolute unwillingness on the part of DOE to give even a modicum of cooperation to the States who were potential candidates for the second repository.

That has been the experience in the West with the States that are candidates for the repositories there. The irony is that each State thinks it is the Lone Ranger. New Hampshire thought it was the only State that had this kind of a problem. Other States that came before us thought they were the only State that had the problem.

The fact is that the track record of the DOE with regard to the entire process of siting the nuclear waste facilities has been one of ignoring the interests of every single State that they have been in contact with. That does not mean that anyone can have any confidence that this decision has been made on a rational and scientific and objective basis. In addition to which the decisions made by DOE on this issue just a few weeks ago are inherently inconsistent. Let me make the point so that people who have not been tracking this issue will understand what it is we are talking about.

There were five sites being studied in the West. They picked one that had a salt base, one that had a different base and then skipped over two and went to a more expensive, less safe alternative that was No. 5, it came in five. But they chose it. Their argument was that "we had to do it because we needed an alternative medium." They wanted the basalt. OK, the law permits them to do that. They then said we will not have a second repository, which meant that is no way that they will ever get to a granite medium for study. The decision is inherently inconsistent. If you fail to follow your own procedure, because you say you have to get to basalt and then say we are not going to follow the rest of the procedure which is required by law, so we can get to granite and study it as a potential repository, you will have, on the face of it, an inherently inconsistent decision which the Department of Energy in no way can seriously say was objective, was scientific or in any way meets the kind of rigid requirement that every State should expect if it is going to end up being a repository of nuclear waste.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. WEAVER] has again expired.

(On request of Mr. SWIFT and by unanimous consent, Mr. WEAVER was allowed to proceed for 5 additional minutes.)

Mr. SWIFT. Mr. Chairman, will the gentleman continue to yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. SWIFT. I have never taken the position that there are no circumstances under which nuclear waste would come to my State. I do not think that is responsible.

What I have said is that any State that gets it ought to be able to be presented with convincing evidence that that is the best place in the Nation for that waste to go.

And the process is already so flawed by DOE, so incredibly political, so nonobjective, so hidden that there is no way that they are going to be able to demonstrate that to Texas or Nevada or Washington or any of the States that may end up as the site of the second repository.

The proposal of the gentleman from Oregon is a responsible and restrained response to outrageous irresponsibility on the part of the Department of Energy. And what it will say is: start over again and do it right.

We have no objection to it being done right. We have no objection to our States being part of what is examined and analyzed. But we do have serious objections to the procedures that have been followed by DOE, which are irresponsible, nonobjective, unscientific and will lead to having a nuclear waste repository for this Nation placed somewhere for all the wrong reasons, essentially bureaucratic momentum, rather than on a scientific basis.

□ 1455

I commend the gentleman for his amendment, and I thank the gentleman very much for the generosity of yielding his time.

Mr. WEAVER. Mr. Chairman, I would like to say to the gentleman from Washington that the gentleman goes to the very heart of it. The gentleman has elaborated decisively and conclusively what the problem is.

I think the gentleman would agree that a vote on this amendment is a vote on whether or not you feel waste repository studies have been done properly, not on any particular site.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, I thank the gentleman for yielding to me, and I would like to thank him for offering this amendment. I also associate myself with the remarks of my colleague, the gentleman from Washington [Mr. SWIFT].

I would like to ask the gentleman, the sponsor of the amendment, about his amendment. As I understand it, the gentleman intends to strike the money in the bill from the $677 million that would be expended for the acquisition of real property or facilities construction or expansion for a waste disposal site. Is that the intent of the gentleman's amendment, to merely strike the money?

Mr. WEAVER. That is correct. It strikes $291 million out of a $677 million appropriation in the bill. We have listed and presented for the RECORD exactly what the $291 million covers, and the majority of it is in the category the gentleman from Washington has mentioned.

Mr. BONKER. Mr. Chairman, if the gentleman will yield, I would like to inquire further.

The process is still underway, as I understand it, for the Department of Energy to conduct its study for the determination of a final site. Am I led to believe that if the money offered in the gentleman's amendment is stricken that it really would not disrupt the ongoing process for making an ultimate determination?

Mr. WEAVER. Absolutely not.

Over $386 million is left in for the ongoing, underlying studies, the computer systems, and all kinds of studies that are underlying the whole process. As a matter of fact, that is exactly what we want them to do, to use that time and money to get their act in order.

Mr. BONKER. I think it is a very reasonable amendment.

As the gentleman has noted, as well as my colleague from Washington and others in the Northwest, there are outstanding questions that need to be resolved before we take this process a step further. At the same time, there are still sufficient funds here for the Department of Energy to conduct its work pursuant to Public Law 97-425.

I think it is a responsible amendment. It will help us deal with some of these related questions and, at the same time, we can save a few million dollars in this session of Congress. I support the gentleman's amendment.

Mr. WEAVER. I thank the gentleman.

Mr. BONKER. Mr. Chairman, as I stated earlier, I support the amendment offered by the gentleman from Oregon [Mr. WEAVER] to cut $291.2 million from the Department of Energy's budget for selecting the Nation's first nuclear waste repository.

The Department of Energy [DOE] has ignored the mandate of the Nuclear Waste Policy Act of 1982 and so politicized the search for a final burial site of the Nation's high-level radioactive waste that it has lost all credibility. The process must be halted and put back on the right track to ensure that decisions relating to nuclear waste, which will remain deadly for millenia, are based on the best scientific and technical information, not on political expediency. This amendment would effectively halt all physical work in the site selection process without affecting nuclear waste repository research and technology development.

Let me make clear that I believe it is important that we proceed quickly, but carefully, with plans for the means to store or permanently dispose of the Nation's growing stockpile of nuclear waste. With some 15,000 metric tons of high-level civilian reactor wastes already being stored at reactor sites, there is an urgent need for a safe disposal plan. But because this waste will remain deadly for hundreds of thousands of years, we owe it to future generations to base our decisions relating to nuclear waste disposal on technical merit, not politics.

In response to the growing problem of nuclear waste, Congress enacted the Nuclear Waste Policy Act, which called for an eastern and a western repository and established a methodology of selection intended to result in the selection of the safest and best sites in the nation. DOE ignored this mandate by "indefinately postponing" the search for the second, eastern repository. In addition, the selection of the three western sites that will be studied intensively, or "characterized," was not based on the elaborate methodology required by the act. Hanford, which was rated last among the five sites on DOE's short list was moved up to No. 3 and Richton Dome was dropped despite the fact that DOE's own methodology ranked it the second best site.

Confidence in the process has been so badly damaged by DOE that strong corrective steps are needed to get it back on track. I support the recommendation of Washington State's Governor, Booth Gardner, that we temporarily halt the selection process, extend the deadlines in the act, ensure that outside experts oversee the selection process, reinitiate the characterization selection, and review the need for a second repository. Early construction of a monitored retrievable storage [MRS] facility is essential for safe storage of nuclear wastes until a final solution is in place. In addition, research into such promising alternatives to deep geologic disposal as subseabed disposal should be stepped up, rather than cut back.

Mr. REID. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Nevada.

Mr. REID. Mr. Chairman, I want to thank the gentleman and applaud the gentleman for his amendment. I rise in support of the amendment the gentleman has offered.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. WEAVER] has again expired.

(On request of Mr. REID, and by unanimous consent, Mr. WEAVER was allowed to proceed for 5 additional minutes.)

Mr. REID. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Nevada.

Mr. REID. The future placement and storage of high-level nuclear waste is one of the most serious and challenging problems that we face in our country today. The health and safety implications of any decision concerning transportation and storage of nuclear waste are grave and far-reaching. As for the State of Nevada, my record is clear. I will not accept a dump in my State under any circum-

stance. However, today we are focused on the flawed methodology that DOE has used to select the sites, and all States should be concerned about a process that has been predetermined and politicized.

The site selection process for the first repository was pursued and three sites selected without the benefit of geologic and hydrologic characterization studies. The DOE has continually used the criteria that Congress set forth in the Nuclear Waste Policy Act to suit its own agenda. For example, the act considered geological diversity a minor criterion for site selection, yet DOE, on its own and in clear defiance of the law, has decided that geological diversity is a major consideration, and thus we now have three sites selected in the West. Then, DOE went further by "indefinitely postponing" the site selection process for the second repository. Another willful attempt to sidestep the law. The DOE now has arrogantly avoided Chairman ED MARKEY's inquiries into the site selection process, and worse, the DOE has gone so far as to destroy vital evidence that would have shed light on how these decisions were made.

Because of DOE's incompetence and clear desire to politicize the entire site-selection process, I am forced to wonder whether we can ever build a safe repository in this country at all. However, today we can do something about the DOE's refusal to comply with the act. We can vote for this amendment which would cut funding for the first repository site characterization activities by 90 percent. This action would effectively halt all physical work on the sites until such time DOE can document methodology for the recommendation of first repository finalist sites in the way Congress intended and set forth in the Nuclear Waste Policy Act of 1982.

I would like to again congratulate the gentleman on his wisdom and foresight in offering this amendment.

Mr. WEAVER. Mr. Chairman, I thank the gentleman from Nevada, who has been a strong leader in this and who has made an astute statement.

If we are successful, it will heavily rest on the good work the gentleman has done.

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am delighted to yield to my other dear friend, the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment. Mr. Chairman, the disposal of nuclear waste could very well be the most important issue facing us today.

In 1982 this body passed the Nuclear Waste Policy Act to provide a schedule for the disposal of high-level nuclear waste. The act also provided criteria to be used for the selection of the sites. The Department of Energy has elected not to follow this carefully constructed schedule. On May 28, 1986, DOE announced the three site recommendations for the first repository and also announced selection for the second repository has been indefinitely postponed.

I believe this is a blatant violation of the spirit and intent of the act.

The site selection process is the single most important aspect of the act, and the single most important aspect of the process should be safety. I believe the DOE manipulated the criteria to achieve the results it wanted. I am not at all convinced that safety was of primary importance to DOE when the selection were made.

This amendment would halt all physical work on the characterization of the three recommended sites, but will not affect the on-going repository research and development efforts. At the time that the DOE decides to strictly comply with the Nuclear Waste Policy Act of 1982, by applying a documented methodology to the recommendation of the first repository finalist sites, it can then request restoration of the funds.

The selection should not be based on economics, expediency and, most of all, politics. We are affecting thousands of future generations of Americans. We owe it to them to put nuclear waste in the safest place possible.

I urge Congress to adopt this amendment. Thank you.

Mr. WEAVER. Mr. Chairman, I want to thank the gentlewoman from Nevada for her very good work on this issue. I appreciate very much the gentlewoman's very fine remarks.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. WEAVER] has again expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 1 additional minute.)

Mr. WEAVER. Mr. Chairman, the DOE's rush to arrive at this critical decision has compromised the technical validity of the work done today at three sites.

Here is what the DOE itself said:

> Work stopped at the Basalt and Nevada projects has been due to a lack of implementation of an adequate quality assurance program by their contractors.

That is DOE's statement in announcing a work stoppage that continues to this day.

So I tell my friends that all field activity has been stopped now by the DOE. There is no drilling of holes, no extraction of cores and no study of seismic faults because of this DOE work stoppage.

A vote on the waste repository amendment that I offer today not only saves $291 million, but it is a vote for you to say they are not doing a good job.

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to tell my colleagues that this is a good amendment. I am very pleased to rise in support of the amendment offered by the gentleman from Oregon [Mr. WEAVER].

□ 1505

I stand in support of this amendment because the Department of Energy simply must be called to account by this Congress for its arrogance in the process it has followed in selecting a site for storing this Nation's high-level radioactive wastes.

DOE is implementing an irresponsible, reckless policy for the disposition of these wastes. The Pacific Northwest is only one of the potential victims because of the way the Department is dealing—or double-dealing—with this question. I refer, in the Northwest, to the Hanford Reservation which I think has been given the most irresponsible treatment of all.

Mr. Chairman, Congress explicitly took politics out of the siting process when we passed the Nuclear Waste Policy Act of 1982. Two key elements are fundamental to that delicately balanced law. One is that the selection must be based on merit; and two, that there be two sites nationally selected.

Well, I want to tell my colleagues that it took the Department of Energy 3 years to totally unravel that law. This law first ignores the facts in selecting the three finalists for the initial repository, and second, it unravels the law by dropping altogether the process for selecting a second national site.

In short, I think this Congress and the American people have been betrayed by the Department of Energy and by the administration. Congress took the politics out and the Department of Energy put it back in. It is pure and as simple as that. All you have to do is look at the Hanford Reservation in Washington to see the truth of this.

In the Department's own evaluation, as Mr. WEAVER and others have mentioned, of the five sites it considered for initial repository, Hanford, WA, came in dead last, in both short-term and long-term suitability, as a repository site. The Department's own report which I have read and I commend to my colleagues says this, it says, "The Hanford site is, in all cases, ranked fifth." My friends, that means fifth out of five, regardless of the relative weight assigned to the preclosure and postclosure utilities.

The Department goes on in its report: "This is so because it is ranked fifth for all sets of assumptions in both the preclosure and postclosure analyses."

In effect, Mr. Chairman, the Department of Energy has invited the last-place team into the World Series. This is only one example of the problems that have gone on in this process DOE has followed.

Now, one can say, "How have we arrived at this state? How did the Department bring us to this point?" I have got to tell you, I do not know the answer to that question, Mr. Chairman. In fact, there is not a Member of this body who can tell us. I will tell you why that is so: It is because DOE has no written records. Imagine that. No written documents, records available to Congress to inspect to see what their decisionmaking was.

In fact, they have told the Congress and the committees that have jurisdiction over their decisionmaking that they did all their work verbally! That they dealt with one of the most important environmental questions facing this Nation all on a verbal basis! I can just see them kicking up their feet on the coffee table, sitting around one afternoon and deciding how this selection process should go forth! Who believes that?

My point is simply this: If that is the process, if you really believe there is no written record, that is one thing. If there is written record the agency's covering up, that is yet another. My point is on the basis of either of those scenarios, is that any basis on which to put our trust in DOE?

The answer is clearly no. The Congress wrote a law and the DOE did not follow it. We ought to rebuke the DOE by adopting the amendment of the gentleman from Oregon.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Washington.

Mr. DICKS. I was just wondering, this reminds me a lot of other situations, and I wonder if we have asked the shredder if all these documents were actually never in place and that all these arguments were simply oral.

I find it very hard to believe. I think the gentleman from Oregon has given an outstanding presentation. All of these documents, all of this justification that went into this very complicated decision all of a sudden is vanished.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AuCoin] has expired.

(By unanimous consent, Mr. AuCoin was allowed to proceed for 1 additional minute.)

Mr. AuCOIN. Mr. Chairman, I continue to yield to the gentleman from Washington [Mr. Dicks].

Mr. DICKS. I appreciate the gentleman yielding.

Mr. Chairman, I just think that there has got to be more to this than meets the eye.

Mr. AuCOIN. The gentleman is right. The gentleman knows that what we are talking about here is volumes of radioactive wastes that would be the equivalent of 70 truckloads a day for 20 years, moving from their current sites to the final repository.

Are the Members willing to believe that the Department of Energy just simply, verbally kicked around this question one afternoon and arrived at a decision and that there are no written records to document how they arrived at these decisions? You know that is not true; you know that DOE is not playing truthful with the U. S. Congress which wrote the law. You know the process is flawed and on the strength of that, I hope that my colleagues will adopt the amendment of the gentleman from Oregon.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

No one is particularly happy with the possibility of having a nuclear waste dump located in their State. However, the residents of Washington have a long history of association with nuclear facilities, and we recognize the necessity of providing a safe disposal site for the Nation.

It is becoming crystal clear to us, however, that the siting decision was not on the basis of safety or geology, but on the basis of politics, and that makes it entirely unfair and unacceptable.

In the preliminary stages of site analysis, DOE ranked the five sites under consideration for the first repository in a number of different categories. Whether you look at preclosure or postclosure categories, you find some very distressing evaluations.

In the preclosure area, in looking through the rankings, you can see that in the area of public safety, whether they are comparing repository worker fatalities, transportation fatalities, or public fatalities, Hanford consistently ranked last out of the five sites. It ranked well in esthetics, because no one actually lives on the reservation to see the repository, and in short-term environmental impacts, again because of the isolation of the area, but came in dead last when considering transportation safety, costs, or any other important category.

The postclosure evaluation is even more distressing. Postclosure is important because it refers to the 10,000 years the repository is expected to hold the waste. In this area, DOE looked at both expected conditions and probability of significant disruptive events, such as earthquakes, and again Hanford came in last in the evaluation.

Finally, DOE did a composite analysis, where they combined pre- and postclosure rankings, weighed the criteria, and ranked the sites again. This composite analysis also resulted in a ranking of last for Hanford.

Despite this evaluation DOE itself did, Hanford has somehow made the list of top three candidates for characterization, and frankly, we are baffled at how that could have happened. DOE cannot explain it, and neither can anyone else. When asked to produce drafts of earlier stages of the evaluation, or memos explaining the decision, the Department has stated that none are available, that all working materials leading up to the ranking decision have been destroyed. To me and to many of my constituents, destroying important documents such as these sends a pretty strong signal that they contained information the Department did not want us to see, such as the real, political basis upon which the rankings were based.

Then, adding insult to injury, DOE casually announces they have "indefinitely postponed" the search for a second repository. Now, I understand the relief that was felt by my colleagues from the States that were under consideration for the second repository at no longer facing the prospect of becoming the Nation's second nuclear waste dump, particularly if the second evaluation proceeds like the first has. However, the fact of the matter is that there were very good reasons for including the second round of selections in the Nuclear Waste Policy Act.

One of these is the transportation question. The overwhelming majority of nuclear waste in this country is being produced in the eastern part of the country, yet we are planning to now ship every bit of that waste to the west coast for disposal. This route could potentially touch every city in the country, and I am sure they have serious concerns about the safety of thousands of truckloads of waste going through their downtown areas.

A second reason for beginning the search for a second repository was to provide a backup for the search for the first. Each of the three first sites has significant problems associated with it that could easily preclude it from final selection. Hanford is located right next to the Columbia River, a major source of water for the entire region; Yucca Mountain in Nevada is near our underground nuclear test facilities and could be subject to penetration; and the Deaf Smith site in Texas is located right in the middle of the largest argicultural acquifer in the region. If these potential problems prove insurmountable, the time and money we spend to characterize these sites could easily go down the drain. And if we have no other sites available as backups, we face the serious possibility of reaching full capacity at our

onsite holding ponds with no place to transfer the waste.

The Nuclear Waste Policy Act was originally a carefully drafted compromise between all regions of the country which attempted to ensure that everyone's rights would be protected, and that we would develop a repository site that was the safest possible. If we are now faced with a different set of facts that require us to change our minds about a second repository, we should do it with the same care and attention that went into the original act. Congress has barely had time to hold any hearings on the question of postponing the second site, and the hearings that have been held have raised some serious questions about DOE's methods and justifications.

The Governor of Washington has made a series of suggestions for revising the act to ensure that it does what it originally was intended to do, and that is bring the decisionmaking process out of the realm of politics and back into the scientific arena. Until this legislation can be considered by Congress, it does not make any sense to continue spending money on a flawed selection process.

For this reason, I would urge my colleagues to support the Weaver amendment and return the repository selection process to the impartial evaluation that was intended when the act was originally passed, and ensure that we select the safest site in the Nation to deposit our nuclear waste, not mere the most politically expedient.

□ 1515

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 3 additional minutes.)

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my colleague, the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I think the important point to be made with regard to the eastern States is this: They appeared before our committee in testimony, and we found DOE to be absolutely unresponsive to the legitimate concerns they raised. That is the same experience we found in the West.

I share with the people from the eastern part of the country a concern that they are going to enter into a process with an agency that is not going to give them the time of day as States. They will not talk to the Governors, they will not talk to the Governors' head energy people in any of the States. When I say they will not talk to them, I mean that all they do is talk, but they will not provide information or they will not consult in any kind of rational fashion.

So I think we need to be clear here and understand that every State in the country is in the same boat, and that if we do not do something to get a strong signal to the Department of Energy, every single State in this Nation, with the possible exception of Hawaii, is in a position to be at the mercy of this agency when it starts scanning around for where it is going to put nuclear waste.

Mr. DICKS. Mr. Chairman, the gentleman has made a very important point, and that is that the States in the East and the States in the West are faced with an administration that is deciding this issue purely on politics, and the thing that we need to do is to go back and revisit this legislation. I think the gentleman from Washington [Mr. SWIFT] has provided some very important legislative suggestions about how we can restore fairness and scientific integrity to this entire process.

Mr. SWIFT. Mr. Chairman, if the gentleman will yield further, it is not just politics. I think what we have is a triumph of technologists over the political process. Whether you are Republican or Democrat, this particular agency is refusing to deal with people because they do not think anyone but they are capable of understanding what is at issue. So I think, yes, there were some politics in the decision, I think that is clear, but it is not just that. The agency is out of control, and it is out of control across regional lines and out of control across party lines.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my colleague, the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, to follow up again on this point about the issue as it relates to States, none of us are free unless all of us are free, and the arbitrariness and the capricious way in which the Department of Energy is going about making this decision is going to come back and hurt every State.

I just want to say again that no matter what the Department of Energy says today, all the figures, absolutely all of them, indicate that at some point, the Department of Energy is going to go looking for a place to put a second repository. So when that day comes—and I think it may come fairly soon—the arbitrariness and the capriciousness that is being used today by the Department of Energy is going to hurt every State in this country, and I think the point really must be that none of us are free unless all of us are free as far as having a scientific process in this area.

Mr. DICKS. Mr. Chairman, I thank my colleague, and I appreciate his comment.

Mr. Chairman, I do not want to take too much further time, but I would only say that we should remember that as far as Hanford, WA, is concerned, we have already accepted millions of gallons of military waste. We think we have done our part. We have serious problems in dealing with that military waste in a responsible way.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(On request of Mr. WEAVER, and by unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, on the point that the gentleman just made, I just got an article in today's Portland Oregonian, a news article that comments on what is going on now at Hanford, and this is what it says:

> In dealing with 149 single-walled tanks containing the highly radioactive remnants of 40 years of military work at the Hanford Nuclear Reservation, one of the biggest questions is the danger of explosion.
>
> Some say small explosions already have occurred. • • •
>
> Scientists argue about the danger of an explosion that could send a deadly radioactive cloud high into the air. • • •
>
> Department officials cite a study last year by Battelle Pacific Northwest Laboratories that concluded that there was a "remote" chance of explosion.
>
> "I am not aware of any explosions in the tanks. We have had some things we call 'burps,'" says the local operations waste manager, Jerry White.
>
> He described burps as small gas bubbles formed when steam is released inside the tanks.
>
> "His 'burp' is a small explosion," counters Don Provost, technical director of the state's Office of Nuclear Waste Management. • • •

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. DICKS. Mr. Chairman, I just want to respond to the point made by my colleague, the gentleman from Oregon.

Mr. Chairman, I have served on this subcommittee, and we have had great cooperation from the chairman and the staff, which has done a great job, and from our ranking Republican, the gentleman from Indiana [Mr. MYERS], but one issue we have not been able to deal with squarely is the proper handling and solidification of that waste.

We are talking about a multibillion dollar proposition. They are out there right now coming across with all kinds of proposals about how to deal with it. It should have been dealt with a long time ago. We should pay as we go as it relates to the disposal of nuclear waste.

The point I am making to my colleagues is that Washington State and the Pacific Northwest have already

paid a big price. As far as the Columbia River is concerned, there have been incursions of that radioactive waste already into the Columbia River. So when we talk about the geology, when we talk about the environmental record, we know what we are talking about because we have dealt with this waste for the last 40 years.

Mr. Chairman, I urge my colleagues to support the Weaver amendment. We are in solidarity. I think it is a good amendment. I hope we can have a vigorus debate on this issue and send a message to the Department of Energy that we do not appreciate the way we have been treated.

Mr. BOULTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am in support of this amendment, and I think it is important to recognize a few things.

First of all, my support for this amendment does not indicate any disagreement with the Nuclear Waste Policy Act. A vote for this amendment is not a position against the Nuclear Waste Policy Act of 1982. And it is not an antinuclear statement to be for this amendment.

To support this amendment, Mr. Chairman, is to vote against a process that thus far has been characterized by incompetence, by highhandedness, by condescension, and by disdain for the 1982 Nuclear Waste Policy Act itself, and as a result of that process the whole thing has blown up in the face of the Department of Energy.

I think that is a shame in a way because if there is any project that we need to do right, it is this project, it is to decide the question of what we are going to do with high level nuclear waste. But it has blown up in the face of DOE because people do not have faith in the process, and it is right that they do not have faith in the process because the DOE process has not merited that faith.

Why do I say that? Because of the decision announced on May 28 to postpone indefinitely the second site selection. It has been said here today that this is not a regional fight. Well, it is not, but if you want to see it turn into a regional fight, just wait until all the Western States understand that this stuff is going to be transported from where it is produced through their States. So far it is not a regional fight, but this indefinite postponement, Mr. Chairman, indicates that the process has not been followed based on scientific principles. It is not based on geology, it is not based on safety, and when we are talking about generations for the next 10,000 years, Mr. Chairman, the American people, and especially those in the States involved, are entitled to believe that their location is the best in terms of the Nation's interests.

A second thing that makes me not have faith in this process is the fact that by using DOE's own methodology as approved by the National Academy of Sciences, a site in Richton Dome, MS, should have been among the three finalists chosen for site characterization. But it was not. Why not?

Third, why is it that when the subcommittee chaired by the gentleman from Massachusetts [Mr. MARKEY] requested documentation from the Department of Energy to demonstrate its decisionmaking process, the Department responded that it did not retain those documents, that it does not have any of the documents? What is the deal there, Mr. Chairman? I would ask my colleagues to seriously consider that question.

I am not making a backyard argument. I have never said that under no circumstances should this thing go into the Panhandle of Texas, but I tell you what: when DOE is talking about drilling two 12-foot-diameter shafts through the Ogallala aquifer that supplies about nine States, when so far they do not even have the technology to do a 1-foot diameter shaft successfully, although they say it is right around the corner, we have to raise some serious questions.

□ 1525

My farmers are no better off than any other farmers in the Nation. I am not saying under no circumstances, but I am saying that if we put it there, please let us understand that it was in the Nation's best interests and that that was the most safe place to put it, and that has not been demonstrated.

So a lot of us want to restrain the process. We want to restrain the Department of Energy because it is that Department's responsibility and it is our responsibility to see to it that that Department does not cut corners or deals in making decisions that affect our descendants for thousands of years to come.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. BOULTER. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, my support for the Weaver amendment to reduce funding for the characterization of first round high level nuclear waste sites is an attempt to gain leverage to reinstate funding for second round siting and monitored retrievable storage. The delicate balance of the Nuclear Waste Policy Act was destroyed with the Department of Energy's decision to indefinitely postpone second round site work. This is particularly unfair to first round States, like Washington. The monitored retrievable storage is a vital element of nuclear waste handling, and provides the opportunity to offset losses in the beginning years of the nuclear waste timetable. It is vitally important that site characterization, the key site-specific research upon which repository decisions will be based, is not unrealistically pressured by an adequate amount of time for thorough, scientific evaluation.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield?

Mr. BOULTER. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise in support of the amendment offered by my Oregon colleague, Mr. WEAVER.

By eliminating the money which DOE would be using to begin its physical studies for locating a nuclear waste repository, I hope we can force this agency to abandon its arbitrary approach to one of this Nation's most serious problems.

I openly admit that I think the Department was all wrong in its selection of Hanford, WA, as one of the three sites for location of this repository.

I have joined nine of my Northwest colleagues on a bill to stop the funding of any repository siting at Hanford.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. ROBERT F. SMITH, and by unanimous consent, Mr. BOULTER was allowed to proceed for 5 additional minutes.)

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield further?

Mr. BOULTER. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I will not take that long. I thank the gentleman from Texas for yielding.

The facts of this case are simply that we have no facts.

After years of conversations, ranking or proposed nuclear waste sites, restudying and deliberation, the Department of Energy on May 28 of this year announced three possible waste repository locations.

One is in an earthquake zone. One is in the center of this Nation's largest aquifers, serving seven Midwest and Southwest States. And one is within view of the most important waterway west of the Mississippi.

Then, they "lost" all of the last generation's documentation, leaving only questions to a doubting public and Congress.

Next, they've asked for millions to complete site selection and make the understandably difficult decision between these three sites.

What is this Congress to do?

I suppose we might be gentlemanly about it and simply accept their excuse that the dog ate their homework, and by the way, I do not think they were shredded, the dog ate the homework; but when it comes to transportation of this very sensitive material and burying the high level waste

from 100 or so nuclear reactors across the country, then I think it is time for us to say that we cannot trust them. I admit in this case I am not going to be much of a gentleman, nor will I wager that any of you are going to be.

So I urge you to join me and the rest of these people in the Northwest in supporting this amendment, which I think is a good idea.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this country has a problem. Forty years into the nuclear age, it is going to take some vision and some statesmanship to solve that problem and I have not seen much of either around in these last few months, particularly on the part of the administration and the Department of Energy.

I remember standing at the White House in December in 1982. We had pulled off a miracle. We had actually gotten the waste policy bill through. I stood there with the Sierra Club and the Audubon Society and some of the good conservation organizations and with the nuclear industry people, we all had our arms around each other. We were going to solve this problem. We did a pretty good job, I thought.

Sometimes in legislation it is impossible to pass a bill that solves the problem, but you can set up a structure and a procedure by which the decision will be reached on schedule and at an appropriate time. What we did was to set up a schedule for two repositories. We provided, and it was certainly my intention and I have been pretty hardnosed about it, but we were not going to run over the States. We are going to invite them in. States rights were going to be protected. The States were going to be considered at every stage of the process. If they did not have the money to hire the engineers, the geologists, and experts, the Federals would find the money to do that.

It seemed they were a little slow getting geared up and seemed a little slow getting off the starting blocks. I was concerned, but they were just beginning to roll. They finally got a good executive who needs all the backing he can get. We were just getting under way.

For what I consider some very unfortunate political reasons, the second repository was suddenly dumped; but that second repository had been the key to a number of the compromises we had to make.

Nuclear waste is being generated in the Eastern States. We thought that might change if nuclear were to go to 1,000 reactors instead of 100 in the way we were contemplating just 15 years ago.

The Western States said, and this was part of the backlog that prevented us from moving forward for a long time, the Western States said, "You are not going to do this to us. You are not going to generate all the waste in Maine, in Connecticut, in Massachusetts, and Pennsylvania and then ship it out here."

We do have the problem of satisfying our communities that the shipping can be done safely. We are going to hold hearings. We have already held hearings on this in the past. I had some hearings scheduled on waste disposal previously.

But this problem is not going to go away. We are going to have a waste dump and it is going to go into one of the 50 States. I do not know which one now.

The Department has postponed for 10 years any further action on the second repository.

If you shoot this one down today, if you pass this amendment, it will knock out all the money that is supposed to go to begin to drill in and find what is there and to characterize the sites so that the President and the Congress can make the final decision.

We give the States a veto on this legislation. We say to the States, "If you are finally picked, we are going to have a scientific process and get the best people we can and when we finally get down and the President of the United States says about 10 years from now is the timetable that this is the best of all the sites, the Governor of the State can veto that decision by the President and the Congress, both Houses would have to vote to override the decision."

So the States are going to get due process. It is going in one of them. My friends in the East, if you are seduced by these arguments in this amendment, this is designed to end for at least a year any progress toward construction of this facility. Having put the gun to the head of the second repository in the political action just a few weeks ago, we are in real bad shape.

Let me emphasize again, this waste is here. You can dump all the nuclear weapons in the ocean tomorrow, put all the waste from nuclear electric plants on rockets and shoot them out to the Sun the next day, but you still have got a problem. You have 40 years accumulation of this junk sitting in tanks in West Valley, NY, and all over in places like Hanford and places in Nevada and South Carolina.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. So, Mr. Chairman, let me understand what we are doing. A vote for this amendment to cut out the $300 million will bring to a grinding halt both tracks that we were on for nuclear waste. If you take it out of Oregon, Washington, and Nevada, if you go along with them that they should have no part in this, it just multiplies the possibility of it going to your State. I do not think there are many people who want to volunteer for it. That is why we had to have this compromise in this decisionmaking process.

Mr. WEAVER. Mr. Chairman, will the gentleman yield for just a brief question?

Mr. UDALL. I yield to the gentleman for Oregon.

Mr. WEAVER. The chairman agrees and has made an excellent statement that the Department of Energy has not followed the law that the chairman is the father of and the author of; is that not correct?

Mr. UDALL. That is right.

Mr. WEAVER. I submit to the chairman that we are not trying to halt the process. The money is still in there for the underlying process. We are trying to tell the Department of Energy, which has already issued a stop order for much of the work that is going on now, that they have not done a good job. That is really the impact of this amendment; DOE should get their act in order and start doing a good job. Is that not correct?

Mr. UDALL. But we overreact. It is a tough problem to build one of these repositories. You have to start with the drilling and you have to get the engineers. You have got to get the hydrologists.

I do not defend the DOE. I think they have had a poor performance.

We have oversight in our committee. We have hearings scheduled on this. I promised to go out and look at some of the transportation problems in places like Colorado where they have mountain tunnels and they would have real difficulty with an accident inside one of these tunnels, but by cutting off all the money, you say it is just for 1 year, but you do not put together a team at the DOE or a team out in the field to carry out a project of this kind in 6 months or 1 year so you can stop and start.

For all practical purposes, if you take away the money, the DOE is going to have to go back to the drawing board and maybe come to us for additional authority.

We really ought to be responsible. Choices have got to be made. If anybody has a better idea how to make this choice, I would welcome it; but the whole idea of setting up a timetable, pick nine, cut it down to three and in a certain number of months do this and that, provide for court review, provide money for the local people so they can keep up their experts with yours.

We had a good system. I hate to see it destroyed. My judgment is that the passage of this amendment will either destroy it or very heavily damage it.

Mr. ROEMER. Mr. Chairman, will the gentleman yield for a question?

Mr. UDALL. I am glad to yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding.

As a representative of a state that for a time was considered on the list as a potential repository site, I come to the discussion with some trepidation.

I wonder if the chairman would give us an assessment of the effect of this amendment, if passed.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(At the request of Mr. ROEMER, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, would the gentleman give us his best estimate as to the practical effect of this amendment on those States that have been considered in times past, but are now off the list? One of the dangers of the amendment, as I see it, Mr. Chairman, is that we might have to start the process all over again from scratch. Does the gentleman agree, or do I overreact?

Mr. UDALL. I agree. I think if I were from one of the States not directly affected, I would have concern, if you let them off the hook, the three States that were picked.

We have gone a pretty good way down the road in this process. The President had picked the one in Texas, the one Nevada, and the one in Washington, and God knows in Washington these good folks in Washington have done more than their share over the years.

Mr. ROEMER. Well, Mr. Chairman, if the gentleman will yield further, I am not knocking any State. I do not want to get into that, because I do not feel that way. It would not be fair nor honest of me. I know every State has concerns, and I respect that; but part of my job is to represent Louisiana and we have our concerns, too. I wanted the gentleman to assess the practical effect of the amendment.

Mr. UDALL. Well, let me hit that directly. If this amendment passes, it is my judgment that probably they will go to court or the Energy Secretary has got to reverse himself. If the court says the procedure was flawed, they are going to say to go back to square one and we are back where we started.

Mr. ROEMER. Mr. Chairman, I thank the gentleman.

Mr. UDALL. And there will be risk to Louisiana and Arizona. We had one of these turkeys ourselves.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, the gentleman discussed the second repository. I believe it is a fact, is it not, that there is more waste predicted to be generated than one waste depository is going to be able to contain. Is that not correct?

Mr. UDALL. Well, we do not know really. One may be enough. That is why I could not understand the hysteria in New England. They were I thought going to run everybody out of town on this.

Mr. SWIFT. Well, the chairman knows all the reports indicate that that is not the case. The DOE leaned very heavily on that thin reed.

The CHAIRMAN. The time of the gentleman from Arizona has again expired.

(At the request of Mr. SWIFT, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

□ 1540

Mr. SWIFT. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. I yield to the gentleman from Oregon.

Mr. SWIFT. Mr. Chairman, the fact is that the estimates that were made originally have not changed that much. The idea that there is not going to be a second repository is pretty much pie in the sky, and I think that the chairman has to agree with that. And the idea that the action today is going to cause people that now think that they are off the hook to go back on the hook I think is a little fallacious, because when the second repository finally comes, when that need becomes apparent and they can no longer hide behind a political rationale, then all of those States are back in jeopardy, if you will.

All that will happen if the Weaver amendment today is passed is that we are going to send a signal to DOE that they have to be more responsible in how they go through their site-selection process. I do not know what the experience is in the gentleman's committee, but on our committee it is very difficult to suggest that DOE has even begun to be responsible.

Mr. UDALL. I suspect that we are never going to have a second repository, because we were talking about 1,000 nuclear plants by the end of the century. We are going to have 100, and new plants are not being ordered. We were going to have reprocessing. So you have less waste produced when you reprocess the old way.

My judgment is that given the present situation, we probably will not even go down this second track eventually, but Congress should make that decision, and not the administration on some political basis.

Mr. WEAVER. Mr. Chairman, will the gentleman yield briefly?

Mr. UDALL. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, speaking of the second repository, and the third, and the fourth, there are 120,000 tons of military waste right now. The first respository will only hold 70,000 tons. We are talking about now in the military waste alone 120,000 tons. That would fill up almost two respositories. The faster this process goes, and the more helter-skelter it goes—and as the chairman has agreed, it is going helter-skelter—the faster you are going to get a second respository, a third, and a fourth.

The CHAIRMAN. The time of the gentleman from Arizona [Mr. UDALL] has again expired.

(By unanimous consent, Mr. UDALL was allowed to proceed for 1 additional minute.)

Mr. UDALL. Mr. Chairman, we set up a system that we thought would last for thousands of years and take care of thousands of years of deterioration of these wastes. They have very long half-lives.

I was very pleased, and I still think that the system will work if we will shake up DOE. I think that we were on the right track. But it now looks like it is not going to last 1,000 days, this great compromise and agreement that we reached.

I think Members make a drastic mistake if they take the action to pass this amendment. I think that we run real risks not only for the prospects of finding a solution, finding a repository, but for dealing with what I think is one of the most severe environmental problems that we will ever have.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, at the outset I want to congratulate the gentleman in the well, my good friend the gentleman from Arizona [Mr. UDALL], for his fine statement, and not only that, but for all the hard work that he has done on this issue and so many other issues affecting this great Nation of ours. He is one of the finest men, that I have ever met, and one of the most talented Members that I have ever met in the Congress.

Mr. Chairman, I strongly oppose this amendment. As one of the earliest supports of congressional efforts to resolve the problems associated with nuclear waste disposal, I think that this amendment would do serious damage to our efforts to solve that waste disposal problem.

Mr. Chairman, the Department of Energy has concluded, after significant study and consideration, that a second nuclear waste repository is not required at this time. The projected demand for disposal capacity is running significantly below what had

been anticipated at the time the Nuclear Waste Policy Act was enacted. Under those circumstances, it would be inappropriate, and furthermore, wasteful, to continue to appropriate money and direct activity on an enterprise that will not be needed in the forseeable future. For that reason, the committee deleted funding for the second repository—an action that was certainly sound in light of present budgetary difficulties.

While the second repository is clearly not needed at this time, there can be little question that the need for the first repository is immediate and critical. The amount of spent nuclear fuel continues to grow, although at a lower rate than had been previously anticipated, in temporary storage facilities. The capacity to provide such temporary storage, in a safe and economical manner, is extremely limited. It is essential that we proceed as quickly as possible to complete the site selection and characterization process for the first repository and get on with the business of addressing this serious need.

Perhaps most important, I think that we should realize that the issues of the first versus the second repository are not related. There is no question that the first one is needed, and that work should proceed. Given that fact, there is no justification—and in fact it would be irresponsible—to hold up work on the first repository pending a resolution of the controversy over the second one.

I urge the defeat of the amendment.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Oregon.

Mr. WEAVER. I thank my friend, the gentleman from Massachusetts, for yielding.

Mr. Chairman, the gentleman says that there is no need for the second repository. Is the gentleman aware that the President made a decision last year that military waste will go into this nuclear repository, and that military waste presently is 120,000 tons, and the repository only holds 70,000 tons? Is the gentleman aware that the President made this determination?

Mr. CONTE. Mr. Chairman, I am aware of that, but it is my understanding that the waste has not been reprocessed as yet, and that is way down the road.

Mr. WEAVER. The President made the determination that military waste will go into this repository. It is 120,000 tons now, and the first repository will only hold 70,000 tons. So you are already, under the President's determination, way over. The requirement for a second repository should be announced imminently, perhaps right after the election.

Mr. CONTE. I doubt that very much. I think that those estimates are very high.

Mr. WEAVER. That is the actual Department of Defense figures.

Mr. CONTE. As I said, it has not been reprocessed. After it is reprocessed, it could be minimal compared to your figures.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Oregon [Mr. WEAVER]. I do so with some hesitation, but I do believe that it is a necessary step that we take at this time, a dramatic step, because the program at the Department of Energy has degenerated to such an extent that we have to turn off the spigot and force DOE to rethink and completely rehabilitate this entire program.

Is this a dramatic action that we are about to take here and to decide upon? Yes, without question. But this is just 1 year out of the next 10,000 years. Because this site for 10,000 years will have the nuclear waste of the United States of America. So let us put it in the perspective of the decision and the impact upon the people of whatever State is finally designated, and the States through which these materials will be transported, over generations that are almost uncountable.

In looking for this country's first nuclear waste repository, the Department of Energy has failed miserably. They have destroyed key documents. They have selected the top three finalist sites in deep secrecy. They have continually frustrated efforts by Congress and the States to oversee and participate in the waste program. They have taken a decision which was to be based solely on technical and geological considerations and mired it instead in political controversy.

As chairman of the Subcommittee on Energy Conservation and Power, I have conducted five hearings on the Department's High-Level Radioactive Waste Program and am all too familiar with the Department's inept handling of this program. At each hearing, I have become increasingly appalled at the performance of the Department, my doubts only deepening with each new revelation.

At one of the very first hearings held by my subcommittee, on August 1, 1985, the Director of the Office of Civilian Radioactive Waste Management, Mr. Ben Rusche, informed the subcommittee that documents relating to the methodology used to select sites for the purpose of the draft environmental assessments had not been retained. In other words, key documents were destroyed. It appeared to be the first time, but it would not be the last. The destruction of documents has become a recurring theme at the Department. This lack of documentation was especially troubling because the methodologies chosen to select tentatively the Nation's first nuclear waste repository were severely flawed. The National Academy of Sciences, an agency not prone to overstatement, had reviewed the methodologies and found them "unsatisfactory, inadequate, undocumented, and biased."

So the Department of Energy, at the urging of the subcommittee and the States, went back to the drawing board. A new selection methodology was devised, this time with the help of the Academy. After a few stumbles, the Department looked at the five top contenders once more and applied the new methodology. The new methodology ranked the sites in a different order: Nevada, first; Mississippi, second; Texas, third; Utah, fourth; and Washington, fifth. Let me quote from the Department's final document:

> The overall ranking of sites is Yucca Mountain, [Nevada], Richton Lome [Mississippi], Deaf Smith [Texas], Davis Canyon [Utah] and Hanford [Washington] * * *. Certain patterns are clear and stable under a wide range of assumptions. The Hanford site is in all cases ranked fifth . . . regardless of the relative weight assigned to the preclosure and the postclosure utilities.

The old flawed methodology used in the draft environmental assessments had ranked the Nevada, Texas, and Washington sites as the winning top three sites, with the Mississippi and Utah sites ranked as fourth and fifth. So there was one remarkable difference between the old and the new improved methodology, Washington had dropped from the top three to last position when the new methodology was used.

But a very funny thing happened to the Washington site on its way to the final decision at DOE headquarters. Despite the fact that Washington had come in last, the DOE picked Washington to be one of the three sites for characterization. It appears that the Department went through the motions of applying a new methodology but decided to stick to the very same results they came to under the old flawed methodology.

What's more, the Department insisted on keeping its deliberations on the application and choice of the final three sites wrapped in secrecy. The States tried to get in, and couldn't. Congress tried to get in, and couldn't. I think we now know why no one at the DOE wanted anyone looking over their shoulders. They are having a very difficult time explaining why they picked the Hanford, WA site.

In fact, as incredible as it seems, Mr. Ben Rusche, the director of the program, could not even recall the final rankings of the sites when asked at the Department's press conference announcing the decision. When asked why the Hanford, WA, site was picked

since it came in last, Mr. Rusche merely responded that that information was incorrect. One day later at a briefing for congressional staff, Mr. Rusche responded that he could not remember the ranking of the sites.

Most disturbing are the concerted actions of the Department to wipe out any trace of their decisionmaking process. The gentleman from Washington [Mr. SWIFT] and I recently asked the Department to supply the subcommittee with all memoranda relating to the decision to recommend the top three sites. And do you know how many memoranda the subcommittee received as a result of that request? Not one memorandum. What's more, the Department admitted that they threw away all drafts leading up to the final recommendation report.

It's simply outrageous that the Department is embarking on a project that could ultimately cost the taxpayers $60 billion, a project that will put a nuclear waste dump in someone's backyard for 10,000 years, and there is not one internal memorandum to back up how this decision was made.

I am left with only two possible conclusions: Either the Department is engaging in a coverup or incompetence has become the hallmark of this program. Either way, it is well past time to put the breaks on this program, and take a second sober look at the site selection process.

The American public cannot continue to tolerate the Department's antics. Nuclear waste is a serious issue and it must be dealt with in a manner which assures the public and Congress that the safest possible site will be chosen. Congress never intended for this decision to take place behind closed doors in smoke-filled rooms. But that is exactly what has happened.

In 1982, when the Nuclear Waste Policy Act was passed, I believed that the search for a permanent solution to disposing of nuclear waste was critical and of paramount importance to the Nation. But I refused to support a bill which included a proposal to build a monitored retrievable storage facility. I believed that the option of choosing a MRS would thwart efforts to site a permanent repository. I also believed that if the Department's program was not a success that the pressure would mount for constructing a monitored retrievable storage facility, and to scuttle the permanent repository program. I would hate, having to tell you, "I told you so."

So I would urge my colleagues to join together on this issue, to realize that discharging our national responsibilities to find a site to dispose of our waste, should not be accomplished by opting for a MRS. Setting aside our political problems by settling for a MRS is the easy way out for our generation, but not for our future generations. We have to make the tough decisions today and stand by them. And we should be united rather than divided in our opposition to a program that is riddled with incompetence and failure. There is probably nothing more appealing to the Department than to generate a battle which pits the first round States against the second and all parties against the State of Tennessee. "Not in my backyard," is a battle cry I will not take up. I ask you to stand together, and to stand firm, in demanding that we find the best site for disposing of nuclear waste and not the politically easiest. Finally, I ask you to put the national interest above your parochial interests when it comes to assuring the safe and lasting disposal of our nuclear wastes.

On one other matter, the report accompanying this bill expresses support for the Nuclear Regulatory Commission's actions to limit the openness of its meetings pursuant to the Sunshine Act. This Commission action has been roundly criticized in over 50 editorials across the Nation. Our Subcommittee on Energy Conservation and Power held hearings on this issue, and many members of the subcommittee as well as public witnesses, and even one Commissioner, criticized the Commission's proposal. Therefore, the legislative history of this bill should reflect the fact that the attempt by the Commission to close their deliberations is not endorsed by the Commission's authorizing committee.

□ 1550

The CHAIRMAN pro tempore (Mr. HALL of Ohio). The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 4 additional minutes.)

Mr. WEAVER. Mr. Chairman, the gentleman is supporting the amendment, is he not?

Mr. MARKEY. I am supporting, and I do so reluctantly because it, in fact, makes clear that the process thus far has been flawed. We have to perfect it and then go forward and let the chips fall where they may.

Mr. COMBEST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure that my taking the opportunity to speak in support of the amendment of the gentleman from Oregon [Mr. WEAVER] does not come as a surprise to anybody in this body because I am one of the three Members of Congress who has a potential repository site, at least one of the three characterizations, in my congressional district.

I intentionally waited until a number of others have spoken, only one of whom has a site, the gentlewoman from Nevada, in her congressional district, in order to, again, prove some of the points that were made earlier. That is, it is not strictly a regional and not strictly a not-in-my-backyard fight which we are today supporting the amendment of the gentleman from Oregon.

Rather, it is one in which, in my opinion, and to those who have asked of me if I am going to support this amendment and why, that I have indicated yes, that I would like to address for just 1 moment because it is the only alternative we have.

□ 1600

There have been a number of very, very good arguments; arguments I think we should take to heart as to the process and why the process is flawed, and why the process has to be changed.

The gentleman from Texas who joins my district on the north, Mr. BOULTER and I went to the Rules Committee to ask for a rule in which we could delay funding to a project until certain criteria were met. That rule was not granted; therefore, this is the only option we have left. I would have preferred it the other way; however, it is not, we do not have that option.

I want to emphasize the fact that I am not antinuclear repository; I am not antinuclear. I am, rather, prosafety and I feel that in fact with the conditions, with the concerns of the individuals who will be living above this repository, wherever it may be located, that if it takes us 1 additional year or 2 years to return some credibility, to return some confidence into the process and to exactly what it is that we are trying to do, that it is well worth the delay.

We have waited for years and years while the nuclear waste was building up; I think we can wait a few more to make in fact for sure that for 10,000 years into the future it is safe whenever it is planted.

It is not a regional fight; it is not one that one should consider only in terms of, "Well, if it does not go to one of those three sites, then my State potentially is going to get it."

If in fact in the end one of the sites that has been chosen for characterization is the site, then I think that if it is done so with confidence, then we will accept that. However, I think there are a number of areas that have been overlooked, and I think that there has got to be the confidence to the American people, that that final site is one which is the best regardless of how long it takes for us to get to that point.

I urge my colleagues, in an effort to return some credibility, in an effort to return some confidence to the system and to the process, that they strongly support the amendment of the gentleman from Oregon, and I rise in support of his amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strongly support the Weaver amendment. I compliment the gentleman from Oregon in offering this amendment, and I think, as the gentleman from Massachusetts [Mr. MARKEY] has stated very well, this process has been flawed; it has been poorly administered by the Department of Energy, and it is in the interests of every State in the Union that this process, an important process, go forward under the terms and conditions envisaged by the Congress and the landmark legislation which the gentleman from Arizona [Mr. UDALL] sponsored.

The action of the Department of Energy has not been correct on this issue; and this amendment will send a strong signal that we intend, that the intention and the proper administration of the act be carried forward by the Department of Energy.

I strongly urge my colleagues to support the amendment of the gentleman from Oregon [Mr. WEAVER].

Mr. SIKORSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Oregon [Mr. WEAVER] is a distinguished and capable Member of this body, and it is with great reluctance that I speak in opposition to his amendment.

I am reluctant because I fully sympathize and agree with his reasons for offering it. The Department of Energy's nuclear waste program has been fraught with error and characterized by incompetence. It has been noted for its imperviousness to citizen participation, its callousness towards local governments, its scientific studies have been widely criticized by qualified geologists and engineers; and all along its secretive demeanor has reminded us more of the Soviets at Chernoble than an executive agency in the world's greatest free nation.

All around the country, the nuclear waste program has generated massive citizen opposition. Not just because no one wants a nuclear dump in their backyard, but because the Department failed to talk to them, work with them, and convince them of the scientific basis of their decision.

It simply descended on a multitude of American towns and cities, virtually at random, and told the citizens of those places that their futures were in jeopardy, their communities under fire, and the hostility to this invasion can be largely attributed to DOE's failure to let them know exactly what was going on before the troops arrived.

I sympathize with the gentleman from Oregon [Mr. WEAVER] and others who have spoken because of their problems in dealing with the DOE, are much like the ones we had. In fact, they are identical in the second round States.

Just recently the gentleman from Massachusetts [Mr. MARKEY], as he pointed out, the chairman of the Subcommittee on Energy Conservation and Power on which I serve, and the gentleman from Washington [Mr. SWIFT], a distinguished member of the subcommittee, requested documents from DOE relating to its selection of the first round sites. They also requested documents related to the suspension of the second round sites.

In an incredible response, the Department claimed that it destroyed all of these important, decisional documents; and as the chairman has said, that is either a coverup or a terminal case of incompetence; and with this program, either possibility is likely and probably both.

Now while DOE stonewalls, those of us in second round States are left with a strange mixture of relief and anxiety. We are relieved that DOE has opted to save the taxpayers billions of dollars by suspending the second site search for the indefinite future; but we are anxious that DOE could renege on its decision at any time, and their failure to release documents related to the second site suspension indicates that they want to continue holding the cards.

While they hold the cards, our communities are left in doubt and fear about their ultimate future. If we cut funding for the first site, as this amendment proposes, then we could give DOE the perfect excuse to play those cards it holds.

Last October at a hearing in Minnesota our subcommittee was told by the Department of Energy that if the first site process is aborted, the second sites are in the ball game alone.

They looked at crystalline rock deposits, the second site. The kind of medium being studied by DOE for the second nuclear dump; and they are found throughout the country. Such granite formations stretch up the Appalachian spine; from Alabama, Georgia, Tennessee, South Carolina, North Carolina, Virginia, Pennsylvania, New York, Vermont, New Hampshire, Maine. They stretch into Michigan, Wisconsin, Minnesota. They are found at the core of the Wyoming and Idaho Rockies, and the center of Arizona; there are also deposits located in South Dakota, Texas, and Oklahoma.

Preventing the Department of Energy from proceeding with the first site characterization, as this amendment would do, will make vast regions of the Nation subject to the uncertainty and fear associated with this search.

I support the efforts of the first round States to hold DOE accountable for its actions. I believe that their response to the Department's Nuclear Waste Program is grounded in the mistakes DOE has made in pursuing the search for a permanent nuclear waste storage facility, second or first round; but I do not want to pay for that concern by putting the citizens of virtually every other State under the radioactive spotlight once again.

The science, not politics, as everyone agrees, has to be the basis of this process. East and West, North and South are together that the process be technically sound, fair, open, and above board, and it is not now. The amendment will not spare the citizens of Western States from a nuclear dump. It will simply spread their fears and the defiance to the country at large.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Congress very wisely, back in 1982, decided that we had to establish a procedure, guidelines and law, to provide for the future repository for our growing nuclear waste.

Under the leadership of our able chairman who spoke earlier, Chairman UDALL, it was anticipated we might have an argument just like this. For that reason the guidelines, the criteria for establishing this were made into law.

Accusations this afternoon have been, I think, somewhat recklessly thrown around. Such things as: "arbitrary, capricious, incompetence, high-handedness, betrayal, coverup, deceit, sock in the face, politicizing"—the list goes on—at best, the process was "flawed."

Yet, no specifics, nothing specific where the law was violated, has been stated this afternoon; I have examined the act of 1982, the Nuclear Waste Policy Act. The act provides that five sites shall be nominated, and from an examination then the Secretary shall recommend to the President by January 1, 1985, three sites for site characterization. Exactly what was done.

The suggestion was that these sites were ranked; but my examination of what has been released by the Department of Energy in our discussions with them, in our hearings, there was not a ranking, but the sites were given a numerical evaluation.

The top five sites received a numerical rating of more than 99 on a scale of 0 to 100. Those top sites all had over 99. Generally with statistics you cannot really get that close, so they had to make some final decision and the final decision was, again pursuant to law, to narrow it down, as required by law, for three for site characterization.

□ 1610

And the law is very clear on this. Section 113 of Mr. UDALL's bill, I read from the act, "The Secretary shall

carry out in accordance with the provisions of this section appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media."

Now, of the five sites under consideration that were nominated three were in salt. One was in tuff. A fifth site was in basalt. That is the one that seems to get most of the attention.

Your subcommittee, anticipating the problem, visited the Hanford site about 10 days ago and looked at the site. We did not go down any holes because they do not have a hole deep enough. But the test borings—now, this is basalt—indicating—the one that seems to be most in issue today. It is a very tough material, a rock material that is, under my examination, very tough, very hard. But again the three sites had to be selected, according to what the law said, from various geologic media. They had only three geologic media, salt, tuff, and basalt. So three of them were salt. So the Department of Energy has done exactly what the letter of the law requires that it do, prescribes that it do. Now, I can understand, we can all understand the emotion today which rests here. I suppose any of us, because of the unknown, might be concerned about the site that is going to be selected. But no selection has been made yet. We have not decided the final site for the first repository.

Now the issue of the second repository, again the statute says that we shall select, nominate a site, a possible site, nominate the five by January 15, 1989. And because of the restraints on spending this year, we have not appropriated money for consideration of the second repository. But that does not mean we will not have a second repository, that in the future Congress and this committee will not consider a second site. But the work that is being done now is site characterization. What is there? What is needed? What must we have to make a safe respository?

All of us believe in safety. I hope we do. We want a safe respository. But that is what this examination, what this money will be spent for. It would be wrong; if you are concerned about nuclear waste, getting rid of it, you had better not vote for this amendment, as well as it is intended. We all understand.

Mr. COMBEST. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Texas.

Mr. COMBEST. I thank the gentleman for yielding.

Mr. Chairman, the gentleman knows how much respect I have for him. One of the concerns that I would bring up to the gentleman from Indiana is simply what he has stated.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has expired.

(On request of Mr. COMBEST and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. COMBEST. Mr. Chairman, will the gentleman continue to yield?

Mr. MYERS of Indiana. I yield to the gentleman from Texas.

Mr. COMBEST. I thank the gentleman.

The characterization process itself, obviously we are all looking at it from the areas which we know best, which happen to be our homes. But we have tremendous questions that the technology is not even available to drill a shaft, two 12-foot shafts through a water formation that up to this point they have not even been able to drill a single 1-foot shaft through there successfully.

Additionally, is the salt which is going to come out from under there; if in fact at some point in the future that site in Deaf Smith County is no longer on the list, what is going to become of that? What is going to happen to the land around it? It is not just the repository itself, it is simply that they do not have the technology to characterize that site.

Mr. MYERS of Indiana. Well, the gentleman makes the point that you do not know. Neither does the Department of Energy. That is what this site characterization is all about, to make the evaluation, so we can make a sound, right determination.

What letter of the law has not been carried out? That is what we have to go by, not what we might like for the time. We have to follow the law. That is the reason Congress back in 1980 passed this act, because we envisioned this might happen. As far as I know, no one on the committee has specified or has cited a specific violation of the law.

Mr. COMBEST. Mr. Chairman, will the gentleman yield further?

Mr. MYERS of Indiana. I yield to the gentleman from Texas.

Mr. COMBEST. That is a question which we are looking closely into which has arisen. If in fact the letter of the law was followed or in fact if there has been a violation? We think those determinations have to be made prior to site characterization. We think those sites have been chosen and are all ready for work. We think those questions need to be answered first. I appreciate the gentleman yielding.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman asks what violations of law? There are a number of specific deadlines contained in the law that have not been met. That is a violation of law. That has happened several times. I will point another one out to you. Another point that I want to make clear is that those of us who have had repeated oversight hearings with the Department of Energy on this specific issue have found that the Department of Energy is totally unresponsive, will not even share with the Congress information that we have absolutely every right to have. And they have done it on repeated occasions. In addition to which we have had close to 1½ dozen States that have come before—both first- and second-round States—that have come before our committee.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana [Mr. MYERS] has again expired.

(On request of Mr. SWIFT and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 3 additional minutes.)

Mr. MYERS of Indiana. Mr. Chairman, I am going to object after the second one if no one else does.

Mr. SWIFT. Mr. Chairman, will the gentleman continue to yield?

Mr. MYERS of Indiana. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, everyone of those States has shared with us the fact that they get no cooperation, no consultation, cannot get the kind of thing that was envisioned in the law and was the clear intent of Congress.

The final point is this: if you want one clearcut, absolute violation of law, it is that the law says there shall be a second repository and the administration said, "We won't have one," clearcut, unequivocal violation of the law.

Mr. MYERS of Indiana. Section b: "Subsequent to such nomination, the Secretary shall recommend to the President three of the nominated sites on January 1, 1985."

Now, the second repository: "Not later than July 1, 1989, the Secretary shall nominate five sites for the second repository." That is 1989, 3 years from now. So there is a lot of time. I cannot speak—there will probably be another administration by that time.

Mr. SWIFT. The administration said they simply will not do that.

Mr. MYERS of Indiana. Well, there may be another administration by that time.

Mr. NEAL. Mr. Chairman, will the gentleman from Indiana yield?

Mr. MYERS of Indiana. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman said he had visited one of the sites.

Mr. MYERS of Indiana. And we will visit the other two between now and——

Mr. NEAL. Has the committee visited them before?

Mr. MYERS of Indiana. The staff has, but the members have not.

The chairman and I visited Hanford about 10 days ago. He will visit the other sites, I assure the gentleman.

Mr. NEAL. I thought the gentleman had been there.

Mr. MYERS of Indiana. The staff has.

Mr. NEAL. It seems to me I'm not sitting on the right committees to know in detail about this, but it seems to me that the ideal site might very well be that one in Nevada next to an area that had been contaminated and will have to be watched for a long, long time anyway.

I hope to have some response on that, but let me ask another question: was not the decision made——

Mr. MYERS of Indiana. You can give me a chance to answer the first one, if you like.

Mr. NEAL. Please, yes.

Mr. MYERS of Indiana. Well, I do not think Congress can make that decision. I hope we will not have to, unless under the procedure, the Governor and the legislature were to object, Congress would have to be injected into that point.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana [Mr. MYERS] has again expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 1 additional minute.)

Mr. NEAL. Mr. Chairman, will the gentleman continue to yield?

Mr. MYERS of Indiana. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman.

My second question had to do with the way the decision was made originally to require a second site. As I understand it, once the first site would contain more than 70,000 metric tons, then there is a requirement that there be a second site. Seventy thousand metric tons is about a football field about 8 or 10 feet deep. Was that not a political decision as opposed to a decision based on good scientific data?

Mr. MYERS of Indiana. I guess you would have to ask the chairman of the Committee on Interior and Insular Affairs when they wrote the bill. I was on the floor at the time. I do not recall exactly what went into it, but you must remember the waste that we have now is in liquid. When it is reprocessed, and this provides for vitrification, when it is reprocessed much of that will be extracted, the liquid will be extracted, and the weight is going to be reduced. So 70,000 tons is a lot of tonnage. I do not think people realize you are not just going to dump the liquid that is now in tanks in Hanford and elsewhere and stored often on the sites throughout the country. We have rods now stored outside. France stores their waste in vitrified form outside in a concrete block building.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I yield to my good friend and colleague from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the chairman for yielding. I thank Chairman BEVILL. I want to go over very briefly this question of why the second repository is going to be needed and why it is so important that we have fair procedures.

Last year the President decided not to create a separate respository for military high-level waste. So the Waste Policy Act therefore requires that the military waste go into the commercial repository. Right now military high-level waste at Hanford, even if solidified, exceeds 50,000 tons of solid high-level radioactive waste. According to the draft environmental impact statement, by 1995 Hanford will produce another 71,000 tons of high-level radioactive waste. That is a total of 121,000 tons of high-level radioactive waste. That makes the case crystal clear that we are going to need a second repository. Those are from documents, from the draft environmental impact statement and from the act.

Mr. BEVILL. Mr. Chairman, I will make my remarks very brief. We have spent a lot of time on this amendment. Of course, I think everybody who has spoken has made quite a contribution here for the Members, and everybody knows what they feel about it and how they want to vote. But I do just want to take 1 minute here to point out that the man, in my judgment, that is the most outstanding chairman in the U.S. Congress, Congressman "Mo" UDALL of Arizona, whose committee, a very outstanding committee, the Committee on Interior and Insular Affairs of the House, worked 8 years putting a bill together here that sets up the procedure to handle this matter, and here in just a few minutes we are faced with the possibility of destroying that act and starting all over. And, I am quoting Chairman UDALL again on this because he is the author of the bill, and actually dismantling and destroying this act that took 8 years to put together and then go out to the 48 States again and start all over again, considering what States this high-level waste material, which could be more than 3 square miles underground of waste. This is a very serious question. I do not think anybody wants to do away and dismantle probably one of the most important pieces of legislation passed by this Congress this century. That is what the chairman says this amendment would do; the Weaver amendment would destroy that act.

So I urge everybody to vote "no" on the Weaver amendment because we do not have the time, considering the waste that is accumulating now, high-level radioactive nuclear waste in this country, to start all over again. It would be a disaster.

So I urge everyone to vote against this amendment.

Mr. WEAVER. Mr. Chairman, I ask unanimous consent for 1 minute in order to sum up.

The CHAIRMAN pro tempore. Without objection, the gentleman from Oregon is recognized for 1 minute.

There was no objection.

Mr. WEAVER. Mr. Chairman, everyone is agreed the Department of Energy has been incompetent, has covered up, they have severely flawed the process. They have violated the law, and it is time now for the Congress to speak, to say we will not tolerate this.

Now, every State in the Union is at risk. We know that the amount of radioactive waste out there is more than enough for one repository. A political decision was made, "You are next." Get on the record now as saying, "We don't like the process, the incompetence, the coverup by the Department of Energy."

Vote for this amendment and tell the Department of Energy that.

I thank the Chairman.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with Mr. WEAVER and Mr. UDALL, I am one of the people that helped put together the legislation for setting up nuclear waste repositories. My initial reaction was that, even though the administration has not fully complied with that act, that we ought not do the deletion of the funds because at least it would give them the ability to go ahead and do part of the job that they were mandated to do. But I think a very persuasive case has been made that they have so completely strayed from the process that the act mandated that we ought to do this amendment and send them a message to go back to square one and start over again and do the job right the first time. So I am going to support Mr. WEAVER.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon [Mr. WEAVER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 68, noes 351, not voting 11, as follows:

[Roll No. 240]

AYES—68

Andrews	Dymally	Pickle
Archer	English	Reid
Armey	Fields	Schaefer
AuCoin	Florio	Seiberling
Bartlett	Foley	Smith, Denny (OR)
Bates	Gonzalez	Smith, Robert (OR)
Bedell	Hall (OH)	Solarz
Bonker	Hall, Ralph	Stallings
Boulter	Jones (OK)	Stenholm
Boxer	Kramer	Sweeney
Bryant	Leath (TX)	Swift
Chandler	Leland	Traficant
Chapman	Levine (CA)	Vucanovich
Chappie	Loeffler	Waxman
Clay	Lowry (WA)	Weaver
Coleman (TX)	Luken	Weiss
Combest	Markey	Williams
Conyers	Mikulski	Wilson
Craig	Miller (CA)	Wright
Crockett	Miller (WA)	Wyden
de la Garza	Mitchell	
DeLay	Morrison (WA)	
Dellums	Ortiz	
Dicks	Owens	

NOES—351

Ackerman	Dickinson	Hiler
Akaka	Dingell	Hillis
Alexander	DioGuardi	Holt
Anderson	Dixon	Hopkins
Annunzio	Donnelly	Horton
Anthony	Dorgan (ND)	Howard
Applegate	Dornan (CA)	Hoyer
Aspin	Dowdy	Hubbard
Atkins	Downey	Huckaby
Badham	Dreier	Hughes
Barnard	Duncan	Hunter
Barton	Durbin	Hutto
Bateman	Dwyer	Hyde
Beilenson	Dyson	Ireland
Bennett	Early	Jacobs
Bentley	Eckart (OH)	Jeffords
Bereuter	Eckert (NY)	Jenkins
Berman	Edwards (CA)	Johnson
Bevill	Edwards (OK)	Jones (NC)
Biaggi	Emerson	Kanjorski
Bilirakis	Erdreich	Kaptur
Billey	Evans (IA)	Kasich
Boehlert	Evans (IL)	Kastenmeier
Boggs	Fascell	Kemp
Boland	Fawell	Kennelly
Boner (TN)	Fazio	Kildee
Bonior (MI)	Feighan	Kindness
Bosco	Fiedler	Kleczka
Boucher	Fish	Kolbe
Breaux	Flippo	Kolter
Broomfield	Foglietta	Kostmayer
Brown (CA)	Ford (MI)	LaFalce
Brown (CO)	Ford (TN)	Lagomarsino
Bruce	Fowler	Lantos
Burton (CA)	Frank	Latta
Burton (IN)	Franklin	Leach (IA)
Bustamante	Frenzel	Lehman (CA)
Byron	Fuqua	Lehman (FL)
Callahan	Gallo	Lent
Campbell	Garcia	Levin (MI)
Carney	Gaydos	Lewis (CA)
Carper	Gejdenson	Lewis (FL)
Carr	Gekas	Lightfoot
Chappell	Gephardt	Lipinski
Cheney	Gibbons	Livingston
Clinger	Gilman	Lloyd
Coats	Gingrich	Long
Cobey	Glickman	Lott
Coble	Goodling	Lowery (CA)
Coelho	Gordon	Lujan
Coleman (MO)	Gradison	Lungren
Collins	Gray (IL)	Mack
Conte	Green	MacKay
Cooper	Gregg	Madigan
Coughlin	Guarini	Manton
Courter	Gunderson	Marlenee
Coyne	Hamilton	Martin (IL)
Crane	Hammerschmidt	Martin (NY)
Daniel	Hansen	Martinez
Dannemeyer	Hatcher	Matsui
Darden	Hawkins	Mavroules
Daschle	Hayes	Mazzoli
Daub	Hefner	McCain
Davis	Hendon	McCandless
Derrick	Henry	McCloskey
DeWine	Hertel	McCollum
McCurdy	Regula	Spratt
McDade	Richardson	St Germain
McEwen	Ridge	Staggers
McGrath	Rinaldo	Stangeland
McHugh	Ritter	Stark
McKernan	Roberts	Stokes
McKinney	Robinson	Strang
McMillan	Rodino	Stratton
Meyers	Roe	Studds
Mica	Roemer	Stump
Michel	Rogers	Sundquist
Miller (OH)	Rose	Swindall
Mineta	Rostenkowski	Synar
Moakley	Roth	Tallon
Molinari	Roukema	Tauke
Mollohan	Rowland (CT)	Tauzin
Monson	Rowland (GA)	Taylor
Montgomery	Roybal	Thomas (CA)
Moody	Rudd	Thomas (GA)
Moorhead	Russo	Torres
Morrison (CT)	Sabo	Torricelli
Mrazek	Savage	Towns
Murphy	Saxton	Traxler
Murtha	Scheuer	Udall
Myers	Schneider	Valentine
Natcher	Schroeder	Vander Jagt
Neal	Schuette	Vento
Nelson	Schulze	Visclosky
Nichols	Schumer	Volkmer
Nielson	Sensenbrenner	Walgren
Nowak	Sharp	Walker
Oakar	Shaw	Watkins
Oberstar	Shelby	Weber
Obey	Shumway	Wheat
Olin	Shuster	Whitehurst
Oxley	Sikorski	Whitley
Packard	Siljander	Whittaker
Panetta	Sisisky	Whitten
Parris	Skeen	Wirth
Pashayan	Skelton	Wise
Pease	Slattery	Wolf
Penny	Slaughter	Wolpe
Pepper	Smith (FL)	Wortley
Perkins	Smith (IA)	Wylie
Petri	Smith (NE)	Yates
Porter	Smith (NJ)	Yatron
Price	Smith, Robert (NH)	Young (AK)
Pursell	Snowe	Young (FL)
Quillen	Snyder	Young (MO)
Rahall	Solomon	Zschau
Rangel	Spence	
Ray		

NOT VOTING—11

Barnes	Frost	Jones (TN)
Borski	Gray (PA)	Lundine
Brooks	Grotberg	Moore
Edgar	Hartnett	

□ 1645

Messrs. HAWKINS, STRANG, MONSON, WHEAT, SLATTERY, and KASTENMEIER, and Mrs. COLLINS changed their votes from "aye" to "no."

Mr. ORTIZ and Mr. LELAND changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I rise today to commend Chairman BEVILL and my other colleagues on the subcommittee for their fine work on H.R. 5162, the energy and water approrpriations bill for fiscal 1987. I especially want to show my appreciation to my colleagues for their inclusion of funding for flood control efforts in Mahwah, NJ.

H.R. 5162 contains $170,000 to continue an ongoing engineering study by the Army Corps of Engineers for flood control measures along the Ramapo River in Mahwah, NJ, and Suffern, NY. This provision is an important step in our efforts to keep the Ramapo River basin free from the periodic flooding which has caused millions of dollars in damage. In addition to protecting the health and safety of residents in northern New Jersey, an adequate flood control program is vital to preserving northwestern Bergen's economy; 220 homes in the Ramapo River basin near Mahwah can be protected from periodic flooding through a program of channel modifications and retaining wall construction.

I wish to, once again, congratulate my colleagues on their efforts, and express my expectation that the other body will swiftly approve similar legislation which includes this important provision for Mahwah, NJ.

Mr. LAGOMARSINO. Mr. Chairman, I want to thank the chairman of the subcommittee and the gentleman from Indiana, along with the rest of the committee and its fine staff people, for the very diligent consideration they have given in this bill to projects proposed in my district. Each of these projects is very deserving and critical to the people of the 19th Congressional District, and in their behalf, I want to express my heartfelt appreciation for the work of the committee. If I may, Mr. Chairman, I would like to inquire about one project which was not included in the committee bill this year, involving a small reclamation project loan to the United Water Conservation District for its Freeman diversion project.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the subcommittee chairman.

Mr. BEVILL. Certainly, the gentleman is most welcome for his kind words. The reason that no funds were included by the committee for the United Water Conservation District project is because the Secretary of the Interior has not yet approved the application.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman. May I inquire further, if the Secretary does sign the loan application, would the subcommittee chairman consider accepting the project in conference, assuming that the Senate has accepted it?

Mr. BEVILL. If the Senate puts the project in its bill, and the application has been signed, I certainly would consider accepting the project in conference, and I appreciate the gentleman's interest in this project, which I understand will help repel seawater intrusion in the Oxnard plain.

Mr. LAGOMARSINO. Mr. Chairman, I thank the subcommittee chairman again for his consideration.

AMENDMENT OFFERED BY MR. AU COIN

Mr. AuCOIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AuCoin: Page 22, at the end of line 21, add: "*Provided*, That, of the funds available, $2,500,000 shall be provided to the State of Oregon for the purpose of researching, with respect to nuclear activities carried out at the Hanford Federal Reservation in Richland, Washington, the effects of such nuclear activities on the health of the people of Oregon and on the environment of Oregon;".

Mr. AuCOIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. CARPER). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AuCOIN. Mr. Chairman, I offer this amendment to ensure that the State of Oregon, whose borders lie just a few miles from the Hanford Reservation in Richland, WA can join with the State of Washington in participating in the review and evaluation of the Department of Energy's civilian nuclear activities at Hanford.

The relative proximity of Oregon to the Hanford site makes Oregon a State affected by the activities at Hanford, in fact if not in law. This small sum—$500,000 per year for 5 years—will help the State of Oregon monitor activities at Hanford and assess their impacts on the lives, health, and safety of Oregonians. The Department of Energy and the State of Oregon have been working toward an agreement to provide these funds. I would hope that this body would give its seal of approval to this effort.

Mr. Chairman, I believe this amendment is acceptable to the chairman of the subcommittee and to the ranking minority member.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I am pleased to yield to my friend, the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, we are familiar with this amendment. We agree with the gentleman that it is a good amendment, and we have no objection to it.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the ranking minority member.

Mr. MYERS of Indiana. Mr. Chairman, the minority accepts the amendment.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I just want to compliment my colleague, the gentleman from Oregon [Mr. AuCOIN], for his great leadership on this issue. This is something that is badly needed, and I appreciate the gentleman's work.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon [Mr. AuCOIN].

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 344 of which 320 are for replacement only) including 36 police-type vehicles; and purchase of five aircraft, three of which are for replacement only, $7,693,900,000, to remain available until expended: *Provided*, That funds provided in this paragraph for the Strategic Defense Initiative may be used only in the amount and in the manner provided for in fiscal year 1987 authorizing legislation.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 23, line 9, strike the appropriation of $7,693,900,000 and replace it with $7,673,900,000.

Mr. WEAVER. Mr. Chairman, what this amendment does is cut $20 million from the appropriation for the purpose of stopping core irradiation at the N-Reactor at Hanford.

Like the destroyed Soviet nuclear plant at Chernobyl, the Department of Energy's aged, graphite-moderated N-Reactor at the Hanford Reservation in the State of Washington, on the banks of the Columbia River upstream from most of the people of Oregon, is an accident waiting to happen.

The blast and core meltdown at Chernobyl caused thousands of immediate injuries and unknown future casualties and contamination of vast areas of city and farmland. Like Chernobyl, and unlike commercial nuclear powerplants in the United States, the N-Reactor has no containment dome to withstand explosions or hold in radioactivity.

Mr. Chairman, as I say, it has no containment dome. It is defenseless, it is open. The N-Reactor is potentially dangerous to the Pacific Northwest and the Nation and the world. Furthermore, it is not needed. It is not needed to produce power, although it does. We have a surplus of power in the Northwest.

Mr. Chairman, the N-Reactor is potentially extremely dangerous to us all. It produces power, but the power from the steam is in surplus in the Northwest.

Before my Subcommittee on General Oversight, Northwest Power, and Forest Management, the Bonneville Power Administration testified that they do not need the energy. As a matter of fact, it only contributes to the surplus, and the surplus contributes to the difficulty of selling energy in markets that have dried up. It would actually facilitate power sales out of the Northwest, if we did not have this excess power.

But the most important thing the N-Reactor does, of course, is to produce plutonium to make atomic weapons. It adds to our huge stockpile of 100 tons of plutonium that is now beyond any immediate use that is needed today. Consequently, we should remove funds for maintaining core criticality at the N-Reactor, until Congress has had the time to consider the results of safety studies now underway by the National Academy of Sciences and the General Accounting Office.

□ 1655

Now, we have held several hearings on the N-Reactor in the subcommittee I chair. Witness after witness, scientists from all over the country have testified that it is more dangerous than the graphite-moderated reactor at Chernobyl.

The graphite in this 23-year-old plant has already swelled up and warped to the point where the rods that go in have had to bend by as much as 9 inches. DOE has admitted that the metal in these rods after 23 years has become very brittle. If a seam burst and this radioactivity exploded out of it, the fuel, which is metallic uranium, far more dangerous than the uranium oxide at Chernobyl, could easily cause an eventual hydrogen explosion which would blow the core. Without a dome, without any containment, radioactivity could spread far beyond what Chernobyl did.

Now, they say, certainly we have boron balls ready to drop in a shield around any such seam burst, but I tell you, we have no idea whether that curtain could work. One rupture of one pipe could knock out 70 of the 1,003 rods.

The CHAIRMAN pro tempore. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 1 additional minute.)

Mr. WEAVER. That one pipe bursting, and this is beyond the emergency core cooling systems, so there could be

no emergency core cooling, that one pipe could destroy 70 of the rods out of the 1,003 and send us into a potential meltdown.

Emergency core cooling water will have to be pumped in case of such an accident into the ponds that are already full.

The Columbia River lies only a few yards away. Down river, not many miles away, lies the largest population center in Oregon, the Portland metropolitan area, making the Columbia River a radioactive sewer.

I would not sleep at night knowing that N-Reactor was now operating. It is an accident waiting to happen. Its products, both energy and plutonium, are not needed. We should shut it down until safety studies show that it is safe. I do not believe any study could possibly prove that this dangerous graphite moderated reactor, like Chernobyl, could possibly be safe.

The N-Reactor is potentially dangerous to the Pacific Northwest and elsewhere and is not needed to produce power or to add to our existing huge stockpile of 100 tons of plutonium for nuclear weapons. Consequently, we should remove funds for maintaining core criticality at the N-Reactor until Congress has had time to consider the results of safety studies now underway by the National Academy of Sciences and the General Accounting Office.

According to recently disclosed Atomic Energy Commission reports, General Electric Co. decided to build the N-Reactor with an unusual "confinement" system, instead of a full containment dome to capture radioactivity resulting from an accident, "because of its lower cost." The AEC's Advisory Committee on Reactor Safeguards concluded: "Several of its features raise questions as to the possibility of larger releases from a severe accident than are believed credible for commercial power reactors."

N-Reactor safety systems are questionable. In November 1985, workers discovered that bolts and valve parts had detached into the primary cooling system, slamming into and damaging the steam generators. Fuel failures at the N-Reactor have become more frequent, including holes in fuel elements. The tubes running through the reactor are bending, as the graphite block swells from long exposure to radioactivity. A DOE official at Hanford stated in May 1986: "The tubes are getting distorted. It is getting more and more difficult to push fuel into them. Some tubes are becoming more and more embrittled."

Recent inspections show deterioration of value discs, needed to assure coolant flow and avoid fuel damage. DOE's own fiscal year 1987 budget request stated:

The raw water supply system to the Graphite Shield Cooling System cannot now withstand seismic forces postulated for such an accident. Should such an accident occur, water may not be supplied to the system, increasing the potential for core meltdown.

Studies on the safety of this old and potentially dangerous reactor, operating since 1963, are now underway by the National Academy of Sciences and the General Accounting Office. We seek to remove funding for resuming or maintaining core criticality at the N-Reactor, so Congress will have the results of these ongoing safety studies in hand before allowing operation to resume.

At my subcommittee's May 19 hearing, independent experts on graphite reactors testified that an N-Reactor accident on the scale of the Chernobyl disaster, causing thousands of injuries, was distinctly possible. The experts identified several unresolved safety problems, including:

First, reaction of the uranium metal fuel with water to produce hydrogen and the potential for explosion. The N-Reactor has no system for monitoring the presence of explosive gases.

Second, the possibility of single pipe failures that could disable both the primary and emergency core cooling system and lead to melting of 70 fuel rods per failure.

Third, ignition of a self-sustaining graphite fire by the heat of melting fuel. DOE's Technical Safety Appraisal of the N-Reactor, released July 1986, stated that N-Reactor supervisors had inadequate knowledge that graphite can burn or that the accident at Britain's Windscale reactor in 1957 involved burning graphite, as did the recent disaster at Chernobyl.

Fourth, contamination of the Columbia River by operation of the once-through emergency core cooling system.

Fifth, multiple pressure spikes rendering the filtered confinement system ineffective and resulting in unfiltered releases of radioactivity.

Sixth, absence of seismic support appropriate for the region.

Seventh, possible core overheating due to release of Wigner energy stored in the cooler portions of the graphite core and reflector.

Eighth, the absence of tested emergency planning for serious accidents releasing radioactivity beyond the Hanford Reservation, including no secondary control panel capable of shutting down the reactor.

Ninth, the lack of control room habitability during an accident, where operators may face toxic chlorine gas and have to communicate while wearing face masks and pressurized air tanks.

Tenth, other problems, such as redundant cables routed through the same spreading room, broken valve parts caught in the cooling system, and lack of adequate neutron monitoring equipment.

DOE's recent Technical Safety Appraisal pointed out additional problems, including these:

First, inadequate emergency planning system, with insufficient training, "lack of fundamental knowledge" on the part of emergency directors, alarms which cannot be heard in all parts of the plant, malfunctioning equipment, and lack of effective internal or external review of the plans.

Second, no monitoring of combustible gas in the confinement area, even though it was probably combustible gas (hydrogen) that caused the explosion at Chernobyl.

Third, reduction of quality control inspections and verifications.

Fourth, an operator training simulator that cannot simulate an accident involving loss of cooling to a single process tube, although the N-Reactor has 1,003 such tubes.

Fifth, a general "mind-set" against reducing radiation exposures to workers to a level as low as reasonable achievable.

The administration is pursuing an unprecedented expansion in the production and stockpiling of plutonium for weapons, including operation of the N-Reactor to produce 600 kilograms of weapon-grade plutonium per year. Prior to 1981, the N-Reactor was used primarily to produce power for the Bonneville Power Administration (BPA). We completely disagree with the administration that the United States needs to expand its nuclear arsenal. But we can still shut down the N-Reactor and still get an equal amount of plutonium in other ways, such as:

First, recycling plutonium in retired warheads. We already have 100,000 kilograms of plutonium in existing weapons—160 times the annual production of the N-Reactor. Plutonium has a half-life of 24,000 years. It does not wear out.

Second, more efficiently using plutonium scrap. The existing scrap may be equal to as much as 10 years of N-Reactor production.

Third, expanding plutonium production at the Savannah River reactors in South Carolina, which already produce about 1,500 kilograms of plutonium annually and are less vulnerable than the N-Reactor to catastrophic accident.

Fourth, reprocessing the existing stockpile of fuel-grade plutonium at Hanford. This alone could fully occupy Hanford's Purex fuel reprocessing plant for several years.

Nor do we need the N-Reactor for power. BPA has testified that:

First, its power surplus is expected to last for at least another 10 years and that, in the meantime, BPA probably won't be able to sell the surplus power for a price appreciably higher than it must pay DOE for the power (presently 16–18 mills per kilowatthour, escalated for inflation).

Second, continued operation of the N-Reactor may cause BPA either a net revenue gain or a net revenue loss, depending upon load growth and the price of oil and natural gas.

Third, neither BPA nor the Northwest Power Planning Council includes the N-Reactor in its long-term regional power plan.

Fourth, Pacific Power & Light Co. stated in a letter to me that it had no objection to halting operation of the N-Reactor while safety studies are done. PP&L gets 14 percent of the power produced by the N-Reactor. Operating since 1963, the N-Reactor is now in the 23d year of its expected 25-year life. It cannot operate beyond the mid-1990's, because expansion of the graphite core due to irradiation cannot be accommodated by the existing structure. Extending its life by 10 years by replacing the graphite core would cost billions of dollars and leave the people of the Pacific Northwest exposed to catastrophic accidents.

This amendment is endorsed by the Federation of American Scientists, the Natural Resources Defense Council, the Environmental Policy Institute, the Union of Concerned Scientists, Committee to Bridge the Gap, Physicians for Social Responsibility, Environmental Action, Public Citizen, the Health and Energy

Institute, and numerous other groups. I ask consent to include these letters of support in the RECORD. In the Pacific Northwest, this amendment has been endorsed by the Affiliated Tribes of NW Indians, the Coalition for Safe Power, the Hanford Education Action League, the Oregon League of Women Voters, the Washington League of Women Voters, Forelaws on Board, Greenpeace, SANE, the Oregon Wildlife Federation, the Hanford Clearinghouse, the Oregon Hanford Oversight Committee, and the Fellowship of Reconciliation.

Don't wait for an American Chernobyl. Let's examine the N-Reactor first. We have nothing to lose, while we protect the people of the Pacific Northwest and the Nation.

Mr. Chairman, I include the following correspondence:

PRINCETON UNIVERSITY,
SCHOOL OF ENGINEERING/
APPLIED SCIENCE,
Princeton, July 7, 1986.

Chairman JIM WEAVER,
Subcommittee on General Oversight, Northwest Power, and Forest Management, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN WEAVER: We would like to offer our support for your amendment to the FY 1987 Energy and Water Development Appropriations bill to prohibit any expenditure of funds on the operation of the N Reactor at the Hanford Reservation until the Department of Energy and the National Academy of Sciences have completed their safety reviews and Congress has had 120 days to consider their results.

Even if the N Reactor was shut down for one year, we estimate that this action would result in the loss of only about 600 kilograms of weapon-grade plutonium, approximately 0.6 percent of the 100,000 kilograms of plutonium available for U.S. nuclear weapons.

Although most of this 100,000 kilograms is in the tens of thousands of U.S. nuclear weapons already in the nuclear stockpile, as old weapons are retired, the plutonium contained in them becomes available for recycle into new weapons. Also, there is currently an estimated 1,500 to 2,000 kilograms of new weapon-grade plutonium produced each year in addition to the amount produced annually by the N Reactor. The lost plutonium production from the N-reactor therefore would only slightly reduce the plutonium available for new weapons.

In any case, since less than 10 percent of the number of weapons currently in the U.S. nuclear arsenal would be sufficient to assure the U.S. a devastating second strike capability, we see no potential hazard to the nation's security from the proposed shutdown.

An alternative to a temporary shutdown of the N-reactor is a permanent shutdown. This could be done as part of an agreement in which the Soviet Union would shut down one of its military production reactors in addition to the potential dual-purpose reactor that they recently retired (Chernobyl Unit #4). This could be a first step toward a verifiable bilateral cutoff in the production of fissile material for nuclear weapons. Such a cutoff was a U.S. arms control objective during the Eisenhower, Kennedy and Johnson Administrations, and is an arms control measure in which the Soviets have recently expressed interest.

Sincerely yours,
David Albright, Staff Specialist, Federation of American Scientists; Harold A. Feiveson, Research Policy Analyst, Princeton University; Theodore B. Taylor, Independent Consultant; Frank von Hippel, Professor, Princeton University.

NATURAL RESOURCES
DEFENSE COUNCIL,
Washington, DC, July 23, 1986.

Hon. JAMES H. WEAVER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN WEAVER: The Natural Resources Defense Council (NRDC) strongly supports two amendments you have offered to the Energy and Water Appropriations Bill. First, we support the cut-off of funds for operation of the N-Reactor at Hanford, Washington until safety studies undertaken in the aftermath of Chernobyl are completed. The N-Reactor is strikingly similar to the crippled reactor at Chernobyl. Until the public has been assured by outside, independent experts that a Chernobyl-like accident will not occur at the N-Reactor the facility should not operate. As we understand it, the production of weapons-grade plutonium would not be affected by a shutdown of the N-Reactor during the period in which the safety studies will be completed.

Second, the NRDC supports ther cut-off of 90% of funds for characterization of the three sites identified as candidates for the first high-level nuclear waste repository. All available information indicates that the sites were chosen by DOE in an arbitrary fashion. Until DOE provides an adequate and reasonable explanation of its decision-making process, site characterization should not go forward.

If there is anything we can do to aid you further in your work on these important issues, please do not hesitate to contact us.

Sincerely,
DAN W. REICHER,
Attorney, Nuclear Project.

ENVIRONMENTAL POLICY INSTITUTE,
July 22, 1986.

Hon. JAMES WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power and Forest Management, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: The Environmental Policy Institute endorses both of your pending amendments to FY'87 Energy & Water Appropriations Bill concerning the elimination of funds for characterization activities for high-level nuclear waste repositories and the suspension of funds for operation of the N-Reactor at the Department of Energy's (DOE) Hanford Reservation.

(1) We support the elimination of $291.2 million in funding requested by the DOE to begin characterization and land acquisition activities at three potential high-level waste repository sites in Washington, Nevada, and Texas, as you propose.

DOE's selection of these three sites, which was announced in May of this year, was based on inadequate information and upon an unquestionably flawed selection process. DOE has informed the Nuclear Regulatory Commission that it does not even have enough information concerning these sites, to date, to complete plans for site characterization. The DOE site selection guidelines used by DOE are inconsistent with the requirements of the Nuclear Waste Policy Act and are being challenged in court by a large number of first repository, second repository and transportation corridor states (NV, UT, TX, WA, WI, MN, CO, NB, MS) as well as the Environmental Policy Institute, National Parks and Conservation Association, Sierra Club, Environmental Defense Fund, Friends of the Earth, and other public interest and citizen groups. Although part of the DOE selection methodology was reviewed by the National Academy of Science (NAS), DOE rejected the ranking of sites based on this NAS reviewed approach.

The House Appropriations Committee has responded to similar flaws in the DOE rationale and site selection procedures for potential repository sites in crystalline rock and for the location of a Monitored Retrievable Storage facility by eliminating funding to conduct site specific activities for those two programs. We believe that in light of the irregularities in DOE's selection of the Texas, Nevada, and Washington sites a similar suspension is fully appropriate for the repository site characterization. We come to this conclusion reluctantly because of our longstanding support for the geologic repository concept, but it is now abundantly clear that the DOE program is fatally flawed and that a reassessment of site selection policies for all high-level waste facilities is in order.

(2) The Environmental Policy Institute also supports the suspension of funds to operate the "N-Reactor" at DOE's Hanford facility pending an independent safety review as required by your second amendment. There are several compelling reasons for this. First, the "N-Reactor" is a graphite-moderated, water cooled design, similar to that which experienced a catastrophic accident in the Soviet Union at Chernobyl. The Hanford "N-Reactor" has even less capability to withstand an explosion involving hydrogen gas than the Chernobyl reactor design.

The "N-Reactor" was started-up in 1963 and even DOE, in its FY 1987 budget request, indicates that this facility may become too dangerous to be operated in the 1990's unless major improvements are made. Moreover, prior to the start-up of the "N-Reactor," the Atomic Safety and Licensing Board of the Atomic Energy Commission expressed serious concerns over the absence of an adequate concrete containment structure which were ignored. We believe that the completion of the National Academy of Science and the National Academy of Engineering reports on the safety of the "N-Reactor" are necessary before resumption of the reactor's operation as provided in your amendment.

Finally, the suspension of "N-Reactor" operation will not jeopardize the DOE's ability to obtain warhead-grade plutonium since there is a substantial backlog of plutonium generated by the "N-Reactor" in previous years. This backlog, as with all "N-Reactor" generated weapons materials, will require chemical separation; a process which itself will take far longer than the completion of the safety reviews. Your amendment provides the Congress with an important opportunity to exercise a responsible and conservative public health and safety policy relative to the "N-Reactor" without harming our national security interests.

Sincerely,
BOB ALVAREZ, *Director,*
Nuclear Power and Weapons Project.
DAVE BERICK, *Director,*
Nuclear Waste and Safety Project.

COMMITTEE TO BRIDGE THE GAP,
Los Angeles, CA, July 8, 1986.

Hon. JIM WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power, and Forest Management, Committee on Interior and Insular Affairs. House of Representatives, Washington, DC.

DEAR CHAIRMAN WEAVER: I am writing to urge that operation of the N reactor at the Hanford Reservation be suspended, pending the outcome of the several safety studies which are now being performed.

The Committee to Bridge the Gap is a public interest group concerned with nuclear reactor safety. We have focused on the hazards of graphite reactors, including the majority of the sixty or so NRC-licensed research reactors, the commercial nuclear power plant at Fort St. Vrain, and the dual purpose N reactor.

One of the major revelations of the Chernobyl accident is that reactor fires, and graphite fires in particular, are credible accidents. While this would seem to be obvious enough, especially in light of the 1957 Windscale reactor fire, it is a fact which has been ignored by those responsible for nuclear reactor regulation. Thus none of the U.S. reactor facilities which use graphite has prepared a response plan for dealing with a graphite fire. This alone is sufficient grounds, we believe, to suspend operations. Just as the Soviets learned from Three Mile Island that it is prudent to provide containments for their reactors, we should learn from Chernobyl that plans for fighting a graphite fire are best developed before the event occurs.,

But the graphite problem is only one of several significant safety questions associated with the N reactor. In view of the potential dangers involved, we urge you to act to prohibit further operation of that reactor until the new safety studies have been completed, and the public and the Congress have had the opportunity to review them.

Yours sincerely,

STEVEN AFTERGOOD,
Executive Director.

UNION OF CONCERNED SCIENTISTS,
Washington, DC, July 16, 1986.

Congressman JIM WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.
Attn: Mike Phillips.

DEAR CONGRESSMAN WEAVER, thank you very much for informing us of your intention to submit an amendment to the FY 1981 Energy and Water Appropriation bill to prohibit expenditure of funds on operation of the N-Reactor until Congress has had time to consider the results of DOE, and GAO and NAS studies on the safety of the plant. The Union of Concerned Scientists agrees that attention to the safety problems of the N-Reactor is long overdue and, in view of Chernobyl, can no longer be prudently delayed. We therefore endorse the approach you outline.

Very truly yours,

ELLYN R. WEISS,
General Counsel,
Union of Concerned Scientists.

PUBLIC CITIZEN,
July 15, 1986.

Congressman JAMES WEAVER,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE WEAVER: I am writing on behalf of Public Citizen to express our support for your proposed amendment to the FY 1987 Energy & Water Development Appropriations bill. Your amendment would prohibit—at least temporarily—the expenditure of funds for the operation of the N-Reactor at the Hanford Reservation in Washington state.

As you probably know, Public Citizen is a national consumer and environmental organization founded by Ralph Nader in 1971. Its Critical Mass Energy Project works to promote safe alternatives to nuclear power.

Following the accident at the Soviet nuclear reactor in Chernobyl, Public Citizen joined more than a dozen safe energy groups in calling for the Department of Energy to close its nuclear reactor at the Hanford Reservation. As you know, the N-Reactor bears a striking resemblance to the Chernobyl reactor. More important, the N-reactor lacks any type of containment to prevent radiation releases into the environment during a serious accident.

Further, inasmuch as the facility is regulated by the Department of Energy, it falls far short of the minimal safety requirements imposed by the Nuclear Regulatory Commission on commercial nuclear reactors. In addition, this plant is notorious for frequent and excessive releases of radiation into the surrounding environment. The plant thus poses a present danger to thousands of citizens and should be closed at least until appropriate changes have been made to prevent both an accident—if that is actually possible.

We commend the approach you propose as being measured and reasonable under the circumstances. It would risk neither a disruption of local electricity supply nor the production of materials which might arguably be necessary for weapons manufacture. Moreover, it would insure public safety while the responsible agencies conduct their studies, and Congress subsequently reviews their findings.

We appreciate your efforts on behalf of public safety and would be happy to support your amendment in any way we can.

Sincerely,

KEN BOSSONG,
Director, Critical Mass Energy,
Project of Public Citizen.

ENVIRONMENTAL ACTION,
Washington, DC, July 16, 1986.

Hon. JAMES WEAVER,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE WEAVER: Environmental Action strongly supports your amendment to prohibit the expenditure of funds on the operation of the Hanford N-Reactor until pending safety studies are reviewed by Congress.

The Department of Energy repeatedly tells us that a Chernobyl-type disaster "could not happen here." Such claims were also asserted by U.S. nuclear regulators before Three Mile Island and by Soviet authorities immediately before Chernobyl.

Prudent public policy should require that the N-Reactor operation be halted until the safety of area residents is assured. The lack of an on-going, independent safety oversight by a separate body, such as the Nuclear Regulatory Commission, is a serious flaw in the manner in which the federal nuclear program is regulated. That lack of independent review should require operations be halted while the current claims of safety standards are substantiated by impartial investigations.

Sincerely,

RUTH CAPLAN,
Executive Director.

HEALTH & ENERGY INSTITUTE,
Washington, DC, July 16, 1986.

Congressman JAMES WEAVER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WEAVER: The nuclear reactor disaster at Chernobyl in the Soviet Union has demonstrated that a major nuclear meltdown is possible. Consequently, the Health and Energy Institute supports your efforts to delete funding for the operation of the Hanford N-Reactor until safety studies are performed in order to determine that it could be safe to operate the N-Reactor. We support a shutdown of the N-Reactor for the following reasons:

1. The N-Reactor is similar in design to the Chernobyl reactor, for it uses graphite as the neutron moderator.

2. The N-Reactor is not subject to independent licensing and review by an outside agency. The Department of Energy is responsible both for the operation and regulation of nuclear weapons production facilities. The Nuclear Regulatory Commission has admitted that the N-Reactor could not meet NRC reactor licensing.

3. The NRC has admitted that there is a 50 percent probability of a nuclear meltdown occurring by the year 2000 at a commercial nuclear power plant. Since the N-Reactor lacks many of the safety devices required for commercial nuclear reactor operation, most notably the lack of any "containment" structure, the probability of a serious accident at the N-Reactor will undoubtably be higher.

The Health and Energy Institute has been circulating a letter to President Reagan urging the closure of the N-Reactor, and 4 weapons productions reactors at the Savannah River Plant, until safety studies have been performed to demonstrate that these reactors can be operated without endangering the health and safety of the surrounding communities. We should not needlessly put American citizens at risk by operating old and dangerous reactors such as the N-Reactor, and consequently wish you success in your efforts to delete funding for its operation until it can be proven safe to operate the N-Reactor.

Cordially,

KATHLEEN M. TUCKER, ESQ.,
President.

HANFORD EDUCATION ACTION LEAGUE,
Spokane, WA, June 23, 1986.

Representative JIM WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power, and Forest Management, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN WEAVER: HEAL heartily endorses the amendment you will propose in July to the FY 1987 Energy & Water Development Appropriations bill to prohibit the expenditure of funds on operation of the Hanford N-Reactor until Congress has had at least 120 days to consider the results of safety studies to be conducted by the Department of Energy and by the National Academy of Sciences.

On May 2nd, HEAL called for the shutdown of the N-Reactor until an independent investigation could be conducted to address the similarities between the Hanford reactor and Chernobyl #4 as well as other fac-

tors that weigh on the safety of the plant. On June 9th, HEAL formally asked of Washington Governor Booth Gardner, U.S. Senators Slade Gorton and Daniel Evans, and Rep. Thomas Foley that they appeal to the Secretary of Energy to comply with the Federal Advisory Committee Act in conducting the proceedings of the group appointed by the Secretary to review N-Reactor. Unfortunately, the group continues to meet in closed sessions. This not a good thing.

HEAL continues to stress many of the points you have emphasized about N-Reactor's questionable safety and questionable need to operate. We will continue to take these arguments wherever we can. Any further information your staff can provide to help us make our case will be greatly appreciated. A preliminary report we've published and distributed about N-Reactor will soon be updated and reissued. It would be valuable for us to have copies of the memoranda you've uncovered revealing the discussions of the Advisory Committee on Reactor Safeguards with regard to the design of N-Reactor. Would you please send them and any other additional material which bears on the issue?

HEAL greatly appreciates your attention to this vitally important issue.

Sincerely,

TIM CONNOR,
Staff Researcher.

CITY OF PORTLAND, OR,
OFFICE OF PUBLIC AFFAIRS,
Portland, OR, July 2, 1986.

Hon. JIM WEAVER,
Chairman, Subcommittee on General Oversight, Northwest Power, and Forest Management, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN WEAVER: I want to thank you for providing the opportunity for me and other Portland citizens concerned about the N-Reactor to testify before your subcommittee on May 19, 1986. We appreciate your courtesy in holding the hearings in Portland, the major city that could be vitally affected by a Chernobyl-type disaster at the N-Reactor or by the leaking into the Columbia River of Hanford's radioactive waste.

An increasing number of Portlanders are critical of the U.S. Department of Energy's operation of Hanford's N-Reactor, worried about the storage of existing defense radioactive wastes, and adamantly opposed to the proposal to designate Hanford as the nation's only civilian radioactive waste repository. The week of June 16–25th was "Hanford Awareness Week" in Porland and included, among many civic events, a City Club address on radioactive waste storage by the U.S. Department of Energy.

Rearding the N-Reactor, that citizen concern is reflected in a Portland City Council resolution of May 4, 1986. The City Council unanimously approved a resolution supporting Senator Mark Hatfield's request for an independent and expedited U.S. General Accounting Office investigation of the N-Reactor.

In addition, on May 19, 1986, I requested that scientists and engineers concerned about nuclear safety be put on the National Academy of Sciences panel examining the safety of the N-Reactor. In that letter I named a number of such professionals.

Therefore, I strongly support your amendment to prohibit the expenditure of funds on operation of the N-Reactor at the Hanford Reservation until Congress has had at least 120 days to consider the results of safety studies to be conducted by the Department of Energy and the National Academy of Sciences. That is the least, in terms of attention to their regional economy and their public health and safety, that Pacific Northwest citizens have a right to expect from their leaders and their government.

Thank you again for your hard work in assuring that Oregon remains an excellent place in which to live and do business.

Sincerely,

MIKE LINDBERG,
Commissioner.

Mr. MORRISON of Washington. Mr. Chairman, I move to strike the requisite number of words. I rise to oppose the amendment. I do speak in opposition of the amendment offered by the gentleman from Oregon.

The N-Reactor is a proud part of our defense production facilities in the United States. It is a star performer. In fact, just ask some of the people who work there.

It does sell byproduct steam. It is America's only dual purpose reactor, 860 megawatts, contributing $55 million a year to lower the costs of its defense production. It is a significant contribution. It makes a great buy for American taxpayers, as well as a good buy, we admit, for ratepayers in the West.

It has been operating since 1963, a proud record of performance and safety.

Admittedly, like any complicated one of its kind machines, it has had its problems, but I am proud to report on behalf of the Department of Energy that their attitude has been that if there is a problem, find it, turn the machine off, repair it and get on with its productive record.

In fact, there are over 2,000 different automatic systems that will shut that reactor down in just a matter of a few seconds.

One of the issues, of course, is the containment. If you look at this system, you will find that the vented containment which it incorporates is ideal for this particular type of reactor, so there is confinment, a confinement system that if there was any sort of a radioactive buildup inside the reactor, it would be filtered out, rather than exposing anyone in the area to it; very obviously dramatically different than the Chernobyl reactor which brings this issue to us.

I personally live in the shadow of the N-Reactor, the issue of this amendment. The gentleman from Washington [Mr. FOLEY] and I represent the people who work there and the people who live there, the ones who are obviously most concerned with the safety of this reactor.

I agree that we should not operate the N-Reactor if it is found to pose a health or safety risk to the public. If that is the conclusion of the studies that are under way, obviously we would quickly agree with that.

I would like to mention a letter from the Secretary of Energy, dated today, which we just have, which I will submit for the record later on when we are in the full House, that letter indicating that the intent is to continue to operate the N-Reactor as in the past, and if they find anything wrong from the studies, which indicates a problem, that they will immediately shut down the reactor, but do not do it now.

The gentleman from Oregon [Mr. WEAVER] in his amendment would close down the reactor immediately because the Soviets made a tragic mistake. He disregards completely the fact that, first, the basic design of the N-Reactor is dramatically different than the Soviets, and second, that we have made major safety investments through the 23 years of operation. In fact, this year's budget includes a full 25 percent of the N-Reactor appropriations, $50 million for maintenance and upgrade.

You will find that America can be very proud of the fact that we have made that investment virtually each year through the years of life of this facility.

So it has operated safely for a number of years. There have been no nuclear accidents with any significant consequence or offsite impacts.

So why turn it off now? There is no justifiable reason.

The N-Reactor also is very important to America from a defense material production point of view. I trust that some members of the armed services will report on that.

The N-Reactor also meets all applicable regulations, design and operations meet all Department of Energy and Environmental Agency and other applicable regulations.

It is not licensed by the Nuclear Regulatory Commission, does not have to be, but we have asked them through the years for various oversights.

The confinement system meets by a wide margin the Nuclear Regulatory Commission requirement for protection of the public in the event of a severe accident.

There are a number of safety reviews ongoing, three of them by the Department of Energy have been completed. The General Accounting Office has just completed its work. None of them recommend shutdown of this reactor.

Yes, they have some positive suggestions for improvements and those will be followed through as we maintain this magnificent machine. The N-Reactor should continue to operate.

THE SECRETARY OF ENERGY,
Washington, DC, July 23, 1986.

Hon. SID MORRISON,
House of Representatives, Washington, DC.

DEAR MR. MORRISON: We at the Department of Energy are very cognizant of the

fact that the recent accident at Chernobyl in the Soviet Union has raised public concerns about the safety of the Department's N-Reactor at Hanford, Washington. As you know, I accelerated scheduled safety studies and asked for additional ones in order to address these concerns.

I wish to reiterate to you that in the event any of these studies reveal a deficiency in the N-Reactor that warrants a shutdown, I will not hesitate to order such an action. This is in keeping with DOE's policy over the last 23 years at Hanford. When problems have arisen, we have suspended operation until the problems were fixed.

I firmly believe that we can provide for the national security requirements of the nation without endangering the health of our citizens. The Department, under my direction, will continue to abide by this approach to our weapons production complex.

Yours truly,

JOHN S. HERRINGTON.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Washington. I yield to my colleague, the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I just want to underline the point that the distinguished gentleman from Washington just made, and it is that a GAO report requestsed by a Member of the other body and by the distinguished gentleman from Oregon [Mr. WEAVER] has come up with the conclusion that the N-Reactor need not be shut down; is that not correct?

Mr. MORRISON of Washington. That is my understanding, that they did not recommend a shutdown.

Mr. DICKS. I was briefed today by the GAO over the phone because of the graciousness of the chairman and the GAO said that they are not recommending that the N-Reactor be shut down.

Mr. MORRISON of Washington. That is the same report that I got.

The CHAIRMAN pro tempore. The time of the gentleman from Washington has expired.

(At the request of Mr. DICKS, and by unanimous consent, Mr. MORRISON of Washington was allowed to proceed for 3 additional minutes.)

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for raising that particular point. We got the same report from the General Accounting Office by phone, and quick to report that a list of deficiencies which have been circulated have been the findings of the Department of Energy itself and we are proud that a number of those are included in the budget for improvements. They are not the sort of thing that are threatening, but in fact are justifiable improvements that we should approve.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Washington. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding.

I simply would like to say that I, too, am very concerned about this connection that is being made to that tragic Chernobyl accident. I was wondering if the gentleman might be able to give us a couple of examples as to the kind of safety requirements that are imposed in the Soviet Union, juxtaposed to the litany that he has just gone through of all the different agencies that have been involved in this instance.

Mr. MORRISON of Washington. Well, I certainly cannot pretend to be a technician.

We do know that the Soviets have now indicated that this was an unauthorized experimentation that caused their problem.

We get the impression that the Soviet approach is if the state declares that it is safe, then it is in fact safe from their point of view.

Mr. DREIER of California. So there is no independent operation that the gentleman is aware of that will be monitoring, as there has been in the United States?

Mr. MORRISON of Washington. Certainly not in the case of my constituents who operate this reactor; they are very quick to tell me and the Department of Energy when they feel there is a problem, they work there, they live there, and we can be very proud of the massive improvements that have been made as the state of the art improves in operating defense production reactors.

Mr. DREIER of California. Mr. Chairman, I thank the gentleman.

Mr. LOWRY of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Weaver amendment. The disaster at Chernobyl was serious. I mean, it was serious. The contamination was serious.

There are about 6 million people in the Northwest living within an area of which that contamination could be extended to.

I find it ludicrous that we would argue that today, in light of the Chernobyl disaster, we should not take this amendment that the gentleman from Oregon has made to give us time to be on the side of safety rather than on the side of hoping that we are right.

I have been to two hearings that have been called under the leadership of Congressman WEAVER. I have listened to people testify on the safety at the N-Reactor at Hanford.

I want to read who some of those people are who testified and what they said.

Daniel Hirsh, is the director of program on nuclear policy at the University of California at Santa Cruz.

James Warf is professor emeritus of chemistry, University of Southern California, former group leader of the analytic and inorganic chemistry sections of the Manhattan project.

W. Jackson Davis is professor of biology and environmental studies at University of California at Santa Cruz.

Boyd Norton, a reactor physicist.

Jim Lewis is a research chemist associate with our nuclear policy program at the University of California at Santa Cruz.

Roland Finston is chief of health physics and radiation safety at Stanford University.

On May 18, the first three of these gentlemen that I mentioned took a tour of Hanford and came back and made a review and made a report, together with the second three gentlemen I mentioned. The six of them in their review testified before the Weaver hearing in Portland the following:

The similarities between Chernobyl and Hanford are substantial and make a Chernobyl-type accident at Hanford a distinct possibility.

Now, I ask the Members of this body, will you review the credentials of the six gentlemen I just named and say that when they testify that a Chernobyl-type accident at Hanford is a distinct possibility, that this body does not have an extreme responsibility to take that very seriously?

Support the Weaver amendment, be on the side of safety until we have the answers.

Now, the independent National Academy of Sciences and National Academy of Engineering are conducting the study asked for by the Secretary of Energy. That report will be in this coming spring.

There is absolutely no need for the N-Reactor at Hanford to be operating today. To say that it is for plutonium production has got to be a bad joke. I mean, 1 year's production at Hanford is about one-half of 1 percent of our existing stockpile. I cannot believe anybody thinks that we need more than that now.

Second, for the energy production, the Bonneville Power Administration testified at the Weaver hearing that there is a surplus now and they do not need it over the next year.

So we have a situation in which there is no argument at all for the N-Reactor at Hanford operating now. We have eminent scientists who have raised the serious question about the safety at Hanford now. They have shown the relationship to Chernobyl.

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Let me tell you what they say about Chernobyl, and again remember the credentials of the men I just read:

The Chernobyl reactor was not the crude device some have tried to make it out to be. It had the principal safety features found at the N-Reactor, including two emergency core cooling systems, an inert atmosphere

within the reactor, and the presence of backup diesel generators, for example.

This is a direct quote from the review team of the eminent scientists that I have previously mentioned.

Chernobyl also had a number of safety features not found at Hanford, among them: two sets of pressure suppression pools, a substantially lower power level, and, something that has not been well covered in the West, two sets of containments for key areas of the plant. Furthermore, all of Chernobyl's components were 20 years younger than the aging N-Reactor. While none of these features prevented the Soviet catastrophe, the absense of some of them at the Hanford reactor and its greater age cannot be said to make the likelihood or consequences of such an accident less here.

It is 150 miles from Portland.

The CHAIRMAN pro tempore. The time the gentleman from Washington [Mr. LOWRY] has expired.

(On request of Mr. WEAVER and by unanimous consent, Mr. LOWRY of Washington was allowed to proceed for 1 additional minute.)

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I want to ask my distinguished colleague, who has been courageous and perservant in this fight to safeguard his constituents and the rest of the people of this country on issue such as this—and this is to my mind the most dangerous single nuclear issue that we face today—I want to ask him, why should the people of the Northwest take this risk every day that this plant is operated in order to produce more bomb-grade plutonium?

Mr. LOWRY of Washington. There is absolutely no reason at all. The amount of weapons-grade plutonium that would be produced is less than one-half of 1 percent of our existing stock over the next year, plus there is a power surplus. So we are operating before we should be operating for no reason at all. It is extremely irresponsible. The Weaver amendment is the responsible thing for this Congress to adopt, and I plead with Members to do that. Think about our 6 million people who live out in the Northwest.

Mr. WEAVER. One more question, if the gentleman will yield. Does this plant have any containment at all? If there were an explosion, would it just send radioactivity throughout the Northwest and the country?

Mr. LOWRY of Washington. Well, I of course have no more qualification to answer that than any other Member of this body, except that the six scientists whose names I just read, like the head of the nuclear program at UCSC, said no, it does not, it is very dangerous.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Weaver amendment. I have been listening very closely to this. Let me briefly summarize where we are.

The distinguished Congressman in whose districts this project is located and has been successfully operated for 23 years, has told you that the project is safe. Would he advocate this if there was any danger involved to his constituents? There is not a Member of this Congress that is more familiar with that project. No Member has been there and visited the project and actually seeing what is going on more than the distinguished gentleman from the State of Washington whose district this project is located.

When the Chernobyl event happened, this subcommittee immediately called hearings and had everyone in our Federal Government who is connected with nuclear energy come before the subcommittee to give us the benefit of their expertise on the danger involved. That grouping consisted of the leaders of the U.S. Department of Energy, and we spent about a day with them, and a day with the five Nuclear Regulatory Commission members. Not one person would say that the reactor was unsafe.

As a matter of fact, they said that they were making an immediate investigation which subsequently showed no problems. There were a number of additional studies conducted and two more are going on now.

What this amendment asks us to do is to close the plant down. It could be closed down in a matter of seconds. We know of no problem there. Everybody that has knowledge of the situation, including the Congressman from that area, has pointed out that the reactor is not unsafe. The five-member Nuclear Regulatory Commission has made this point.

I do not think that we should jeopardize our defense program, and it would jeopardize the defense program to close this plant. The plant has been operating safely for 23 years, and there is no reason to think that it will not operate safely for another 23 years, if that is necessary. So I ask the Members to vote no on this amendment.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this subcommittee certainly was concerned about the issues brought up by the author of this amendment and others who have spoken about the safety of the operation of the N-Reactor and all of our reactors, for that matter.

As Chairman BEVILL has said, under his leadership, immediately, within a week after the Chernobyl incidents, we had 1 day of classified hearings, and then the second day of public hearings on what could happen to our reactors. We were completely satisfied with the testimony given, and we had invited all people.

First, the comparisons made here today of the Chernobyl and the N-Reactor operating now at Hanford, WA, show that they are similar in the fact that both of them are graphite-moderated. That is about the end of it right there, because there is a tremendous difference from that point forward.

The purpose of the N-Reactor is not to produce electric power as the purpose of Chernobyl was. The purpose of the N-Reactor is to produce the nuclear material for our weapons, and a by-product is the sale of electricity from the excess steam that does come off. The purpose is entirely different.

The fuels have already been identified as being different. The Chernobyl reactor operates on an oxide fuel, and at the N-Reactor we use a metallic fuel. The metallic fuel is much safer. The ability to accept the heat and to transport the heat is much different and much better, much more safe in the metallic fuels.

Another difference is that to operate for the generation of electricity, you have to operate with a different type of fuel. It is enriched at 2 percent or more. The Chernobyl fuel was enriched at 2 percent or more. Generally the fuel used at the N-Reactor is less than 1 percent.

They sometimes, for effect, do spike, temporarily, up to maybe 1.25 the fuel used at the N-Reactor, but that is only temporary.

Mr. WEAVER. Mr. Chairman, will the gentleman yield on the fuel question.

Mr. MYERS of Indiana. Yes, certainly, I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, is it not true that they use metallic uranium at N-Reactor, and uranium oxide at Chernobyl, and scientists say that metallic uranium could be much more dangerous and much more likely to cause——

Mr. MYERS of Indiana. I do not know which scientists you are using. We have been recently and are still conducting some investigation in Idaho where we have shut down the cooling completely on metal fuel, metallic fuel, safely have cut the water off entirely and operated safely. So the metallic fuel has already been proven by those who know to be much safer.

On the safety systems, since the gentleman brings up the safety systems, we do not know exactly what safety systems were used at Chernobyl, but we know that whatever was used was not safe. The safety systems at N-Reactor are tripled. We first have the primary cooling that goes through the core, goes through the graphite. We also have the cooling for the elements

themselves that can bring the steam out—that is the primary cooling system. We have a secondary cooling system. If that should fail, we have an emergency cooling system that floods the whole thing. So it is completely, much different from the Chernobyl.

Now the issue was brought up that the shutdowns required, of course, they are horizontal, the tubes are horizontal at N-Reactor. Each tube where there is a nuclear rod going through is monitored by computer, and if there is a slight deviation in the temperature in any one of those tubes, it is shut down immediately, and the water systems begin to work and the fuel is inserted, stopping a nuclear reaction.

The argument is made about containment versus confinement. We do not have containment as you would have at a regular commercial site for a nuclear reactor at N-Reactor, but we do have confinement, about 3 to 4 feet of concrete on each side of the building containing N-Reactor. In the roof there are a series of vents, steam vents, in case there should be a change of pressure; they are filtered vents letting the pressure escape quickly, they are filtered so there would be no nuclear escape, but it would not be an explosion in that effect, so you do not need containment, but you do have confinement, which works out to much more.

In closing, there is little similarity between Chernobyl and the N-Reactor. The N-Reactor is needed. It is a valuable asset to our system. If we should close it down, we have been told by the Department of Energy that we would have to add another $64 million to this appropriation, because that is what is realized now coming in from the sale of electricity from this N-Reactor.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would like to add my opposition to the Weaver amendment.

Mr. Chairman, long before the nuclear disaster at Chernobyl, Members of the Congressional delegations representing the States of Washington and Oregon became very concerned about operations under way at the Hanford Nuclear Reservation, not only at N-Reactor, but with all nuclear processes that have an adverse impact on the environment. N-Reactor is the United States' only light water graphite reactor within a confinement building. It is a dual purpose reactor which has been operating safely for 23 years. Its primary mission is the production of plutonium for national defense, and it also provides the steam to produce 860,000 kilowatts of electricity.

While I understand the need for materials production for weapons systems, I do not believe this production should come at the expense of the environment in the area. This is particularly true in the case of Hanford, where proximity to the Columbia River ensures that contamination will not only impact the immediate area but could spread far from the original source and place many miles of both Washington and Oregon at risk.

It is for this reason that, as a member of the Appropriations Committee that works very closely with the Energy and Water Subcommittee, I have personally supported every possible appropriation for environmental programs at Hanford. There is still a great deal of work that needs to be done in this area, but I think we are making progress in elevating Hanford to the high-priority status it deserves for environmental funding.

This is the reason I find it particularly difficult to oppose my colleague Mr. WEAVER in the amendment he is offering to cut off funds for N-Reactor operations. I can certainly understand the concerns that prompted his amendment. The disaster at Chernobyl has served to highlight concerns about all nuclear power operations around the world, and the similarities between the N-Reactor and the Soviet reactor have made it especially subject to review. There are two areas where N-Reactor is most similar to the reactor at Chernobyl, the use of graphite to control the nuclear reaction within the core and the lack of a containment dome. At the same time, however, there are numerous substantive differences between the two systems, differences which are designed to provide the same type of multiple backup capabilities other American reactors contain and prevent a Chernobyl-type disaster.

While both reactors use graphite to control the reaction in the core, N-Reactor's fuel is loaded horizontally into the core when the reactor is shut down, while fuel at Chernobyl was loaded from the top while the reactor was running. The fuel itself at N-Reactor is a 1-percent enriched metallic uranium that is only irradiated for 1,000 megawatts days per metric ton before it is unloaded. Cooling water within the core is kept at a higher internal pressure and therefore does not produce steam inside the reactor.

At Chernobyl, the fuel was a 2-percent enriched uranium oxide fuel that was irradiated for 18,500 megawatt days per metric ton before it was unloaded. This means the fuel was irradiated for as long as 3 years before unloading, compared to about 3 months at N-Reactor, creating much more radioactive fission product that could be released in case of an accident. Steam was produced inside the core during operation.

While neither reactor has a containment dome around the entire facility, N-Reactor has a containment system around the core of several feet of reinforced concrete, and a cylindrically shaped confinement system of vents and filters designed to control and minimize a radioactive release. At Chernobyl, the reactor was designed in squares and rectangles, which do not handle pressure well, and had no containment structure.

The cooling system at N-Reactor is made up of multiple independent systems with both oil-fired boilers and electric motors to drive the pumps. All reactor and primary cooling areas are equipped with a water spray system that would automatically activate to provide a dense cooling water fog steam to reduce pressure buildup. There is enough water in basins outside the plant to cool the reactor for 2 hours, and after that water can be pumped directly from the Columbia River.

And finally, N-Reactor has three independent systems for shutting down the reactor itself. Two separate sets of boron rods can be driven mechanically into the sides of the reactor core while a third system dumps boron balls into the top of the reactor by force of gravity. The reaction can be shut down in 1.5 seconds, while the Chernobyl plant required as long as 20 seconds to shut down.

I mention these points because I believe it is important to take both similarities and differences between the two systems into consideration when attempting a comparison intended to measure risk of operations. Upon learning of the Soviet disaster, at least five special safety reviews of N-Reactor were initiated to review both the operations of the reactor and the safety of the systems themselves, so that we could intelligently evaluate the risk of continued operations and decide, on a reasoned basis, whether the potential for disaster exists. These include both internal reviews conducted by DOE scientists because of their knowledge of system operations and ability to move quickly, and outside, independent reviews intended to be more thorough and therefore expected to take longer to complete.

The first evaluation, a safety review of the graphite, the containment system and the potential for explosive hydrogen buildup was conducted in May and did not uncover any reason for concern with continued operation of the reactor. A second, 3-week review of N-Reactor operations themselves provided a detailed evaluation of the plant operators and their procedures, and this review also found no problem with the N-Reactor that would necessitate even a curtailment of operations. Two additional reports are expected to be completed later this month. One is a design review of N-Reactor and the other is a report being prepared by the Roddis group, a collection of independent experts conducting a safety assessment at the direction of the Secretary. While these last two are still in the process of collecting data, we have no indication that either might have uncovered any substantial risk to the public from continued operations.

Finally, the GAO conducted a safety survey of N-Reactor in June, and the National Academies of Sciences and Engineering will be conducting a safety analysis of all DOE reactors greater than 20 megawatts during the course of the next year. The GAO report is not yet completed, but I have spoken directly to the investigators preparing the review and have been assured that the report will not include any recommendation to close or curtail N-Reactor operations, but only suggestions to improve the long-term upgrade of the reactor that DOE is considering for the next decade.

The panels which will be conducting the review undertaken by the Academies of Sciences and Engineering are being selected and the scope of work being developed by the Academies at the present time. I was one of the key members that called for the review by the Academies, because of my belief that such an unbiased scientific review was essential if the public was to have any confidence in the findings. I can assure my colleagues, that

if this or any other review brings to light evidence of substantial risk to the public from continued operation of the N-Reactor, I would be one of the first to call for its shutdown. But I cannot justify calling for this same shutdown while all of the evidence we do have before us confirms the reactor's safety and the remaining evidence is not yet in. If we are going to have an independent review, let's not prejudge its findings without some basis for doing so.

For this reason, I would urge my colleagues to defeat the Weaver amendment, thus maintaining the integrity of the process by allowing the reviews to proceed without prejudice, and without final judgment until there is some indication that a shutdown is warranted.

□ 1720

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon [Mr. WEAVER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. MARKEY: Page 23, line 9, strike out "$7,693,900,000" and insert in lieu thereof "$7,693,899,999".

Mr. MARKEY. Mr. Chairman, the amendment I am offering would restore a total of $16.25 million to the Department of Energy's budget for verification and control technology and nuclear safeguards and security.

During its markup of the energy and water bill, the committee cut $18 million from the budget for these programs—$7 million from nuclear safeguards and $11 million from verification and control technologies. My amendment would restore the $7 million cut from the nuclear safeguards budget, and provide nearly $9.3 million in funding for four high priority nuclear test ban research programs that were either unfunded or underfunded in the original budget request.

We often talk about the need for verifiable arms agreements and safeguards against nuclear proliferation. But are we willing to do more than just talk? Are we willing to actually maintain a level of funding that will support programs that would assure the verifiability of nuclear testing agreements and help safeguard us against nuclear terrorism and nuclear proliferation? When we are faced with a budget crunch—as we are today—will we sacrifice these programs first or last?

My amendment proposes to transfer $16.25 million out of the $3.4 billion weapons activities operating expenses account and into nuclear safeguards and nuclear test ban verification research programs. Transferring these funds out of the nuclear weapons R&D and production accounts will have a minimal impact on U.S. strategic and tactical weapons programs, but will greatly enhance our efforts to assure the verifiability of arms agreements and protect us against nuclear terrorism and nuclear proliferation.

In many ways, these programs will do much more to insure our national security than providing additional funds for a nuclear weapons buildup that has already exceeded the requirements for deterrence.

Since parliamentary restrictions prevent me from spelling out precisely where the additional funds would go in the amendment text itself, I would like to take this opportunity to detail for the legislative history what programs would be funded if my amendment is adopted.

Seven million dollars of the total would go toward restoring the cuts made in the nuclear safeguards and security budget up to the level of the request. These funds are used to support efforts to assure that our nuclear weapons, nuclear materials, and nuclear facilities are secure against theft, sabotage, and terrorist activity. They also support the development of technical safeguards against the proliferation of nuclear weapons.

I believe that if this program is of sufficient importance that it merits full funding by the Congress, then we can understand, in fact, the nature of the threat to this country.

Preventing nuclear weapons and nuclear materials from getting into the hands of terrorists, and preventing the spread of nuclear weapons to other countries is of sufficient importance to our national security that they should not be sacrificed on the altar of Gramm-Rudman.

The most difficult problem in assembling a nuclear weapon is obtaining the requisite amount of plutonium or highly enriched uranium. We need a vigorous safeguards program to prevent the diversion of these special nuclear materials into unauthorized hands, and to support international efforts to prevent the spread of nuclear arms.

Pakistan's recent moves toward a nuclear capability highlight the importance of maintaining and improving our safeguards capabilities.

The remaining $9.25 million would be used to increase for four priority nuclear test ban verification research programs that are either underfunded or unfunded in the FY87 DOE budget request.

Two million dollars should be earmaked for the continued operation of the Regional Seismic Test Network [RSTN]. This network consists of 5 specially designed seismic stations in the United States and Canada that have been operating since 1981.

Under current plans, this network would either be shut down and warehoused or sold off at the end of this fiscal year due to a lack of funding. I believe that this would be a tragic mistake. As Deputy Assistant Secretary of Energy for Security Affairs Edward V. Badolato testified earlier this year, this network has a "proven value for both treaty verification and nontreaty purposes."

The Regional Seismic Test Network has provided a wealth of data that has enabled researchers to better understand the difference between the underground signals produced by nuclear explosions and those generated by earthquakes, or mine excavation activities.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(On request of Mr. MCCURDY and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. Mr. Chairman, it has helped the U.S. gain experience on the performance and reliability of unmanned high technology seismic detection equipment operating under field conditions with minimum maintenance. I have found in discussions with the scientific community that continued operation of this system has support across the spectrum, from weapons scientists who have deep reservations about a CTB, to outside experts who strongly endorse such an agreement, there is a broad consensus that shutting down this test monitoring system is a bad idea, from both a scientific and national security standpoint.

In general, the money that we are taking and putting into this particularly small but highly important account is for the purpose of ensuring that nuclear materials are not diverted from civilian purposes into military purposes around the world; and second, that in the event that it is possible for us to verify a comprehensive test ban treaty with the Soviet Union, that we have the technologies in place that assure that it is verified and that the Soviets are not cheating.

For those of you who support a comprehensive test ban treaty, support this because it gives us the chance to ensure that we have the state-of-the-art technology to verify what the Soviet activity is.

If you oppose a comprehensive test ban treaty in the off chance that, in fact, some arms control regime is put in place, let us at least have the state-of-the-art technology to give the American Government the proper degree of knowledge.

If you have traditionally opposed arms control because you are unsure of the verification capacity of the United States, this is your chance to vote to enhance our capability to be able to understand the technologies that will be needed in order to put that regime in place.

□ 1730

Mr. McCURDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment by my colleague from Massachusetts to restore the funding for Nuclear Safeguards and Verification Research.

As Chairman of the Oversight and Evaluation Subcommittee of the Intelligence Committee, I have just completed a year-long series of hearings on intelligence support to arms control with a special focus on our ability to monitor present and future arms control agreements.

While the committee has not yet issued its findings, the hearings made clear to me that if we are to maintain and improve our capability to monitor arms control agreements with high confidence in the face of changing Soviet offensive nuclear capabilities, we must continue a strong, vigorous and inventive research and development program in monitoring technologies.

If you believe, that verifiable arms control agreements contribute to our national security, then you need to support this amendment. Because this amendment will make a substantial contribution to this end by restoring the funding necessary to continue the development by our national nuclear laboratorys of several very promising monitoring technologies.

In this age of terrorism and growing danger of nuclear proliferation, we must insure that congressional funding is adequate to continue to make our nuclear weapons safe from terrorists and sabotage as well as to improve our technical safeguards against the proliferation of nuclear weapons. This amendment will also restore the funds necessary for these supports.

I urge my colleagues to support the adoption of the Markey amendment.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as you know, this is just putting some legislative history in the record. The amendment actually strikes $1 and puts some history in the record and actually is inconsistent with what the Congress has done. The Armed Services Subcommittee, for example, has recommended an authorization that is lower than the amendment would provide.

It recommended increasing the funding for safeguards and security and the verification and control program. Our subcommittee has consistently supported these programs. As a matter of fact, we have increased verification and control by nearly 20 percent in the last 2 years. We have increased actual safeguards and security from approximately $400 million to approximately $800 million since 1983.

I think there is actually such a thing as too much; particularly with Gramm-Rudman and the effort we are making to cut the deficit. I urge Members to vote against this amendment.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman.

Mr. MYERS of Indiana. I certainly concur in what the chairman has said. The committee is very much concerned about this, and we have examined the verification and control programs, and we feel confident—we have, as the chairman said, increased it substantially in the last 2 to 3 years.

So, Mr. Chairman, I completely concur and I do not think this amendment would accomplish what the gentleman's intention ultimately was.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, the point that I am trying to make with this amendment is that in these four high-priority program areas, that in fact the money that is needed is just not sufficient; and in general; yes, there may be large amounts of money in a whole array of progams, but in these programs, this narrow range of programs dealing with the specialized technologies needed in order to verify an arms control agreement, the money is still woefully inadequate.

Especially when compared with the fact that the committee is going to fully fund the x ray laser and other nuclear-driven technologies, to $570 million; $75 million for the special isotope separation facility; $10 million for a new artillery shell; $10 million for a new high-yield Trident II warhead.

What we are saying is that in that whole scheme of things, that if we could just find $16 million in order to try to build in a better verification regime in the off chance that we might be able to get a treaty between us and the Soviet Union, that it would be the best, most cost-effective expenditure of money that we could make in this entire day.

Mr. BEVILL. The committee feels that increasing safeguard and security from approximately $400 million in 1983 to approximately $800 million in 1987—doubling the money, is enough.

Mr. Chairman, I ask for a "no" vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 263, not voting 15, as follows:

[Roll No. 241]

AYES—152

Ackerman	Gonzalez	Oberstar
Annunzio	Goodling	Obey
Aspin	Green	Owens
Atkins	Guarini	Panetta
AuCoin	Hall (OH)	Pease
Bates	Hamilton	Penny
Bedell	Hawkins	Petri
Beilenson	Hayes	Rahall
Berman	Henry	Rangel
Biaggi	Hertel	Ridge
Boland	Howard	Rodino
Bonior (MI)	Jacobs	Roemer
Borski	Jeffords	Russo
Bosco	Johnson	Sabo
Boxer	Kastenmeier	Savage
Brown (CA)	Kennelly	Scheuer
Brown (CO)	Kildee	Schneider
Bruce	Kleczka	Schroeder
Burton (CA)	Kolter	Schumer
Carper	Kostmayer	Seiberling
Clay	LaFalce	Sharp
Collins	Lantos	Sikorski
Conte	Latta	Snowe
Conyers	Leach (IA)	Solarz
Coughlin	Lehman (CA)	Spratt
Coyne	Leland	St Germain
Crockett	Levin (MI)	Staggers
Daschle	Levine (CA)	Stark
Daub	Long	Stokes
Dellums	Lowry (WA)	Studds
Donnelly	Luken	Swift
Dorgan (ND)	MacKay	Synar
Downey	Markey	Torres
Durbin	Matsui	Torricelli
Dwyer	Mavroules	Towns
Dymally	McCloskey	Traficant
Early	McCurdy	Udall
Eckart (OH)	McKinney	Vento
Edwards (CA)	Meyers	Visclosky
Evans (IL)	Mikulski	Walgren
Fascell	Miller (CA)	Waxman
Fawell	Miller (WA)	Weaver
Feighan	Mineta	Weiss
Florio	Moakley	Wheat
Foglietta	Monson	Williams
Ford (MI)	Moody	Wirth
Ford (TN)	Morrison (CT)	Wise
Frank	Mrazek	Wolpe
Garcia	Neal	Wyden
Gejdenson	Nowak	Yates
Glickman	Oakar	

NOES—263

Akaka	Chandler	Eckert (NY)
Alexander	Chapman	Edwards (OK)
Anderson	Chappell	Emerson
Andrews	Chappie	English
Anthony	Cheney	Erdreich
Applegate	Clinger	Evans (IA)
Archer	Coats	Fazio
Armey	Cobey	Fiedler
Badham	Coble	Fields
Barnard	Coelho	Fish
Bartlett	Coleman (MO)	Flippo
Barton	Coleman (TX)	Foley
Bateman	Combest	Franklin
Bennett	Cooper	Frenzel
Bentley	Courter	Fuqua
Bereuter	Craig	Gallo
Bevill	Crane	Gaydos
Bilirakis	Daniel	Gekas
Billey	Dannemeyer	Gephardt
Boehlert	Darden	Gibbons
Boggs	Davis	Gilman
Boner (TN)	de la Garza	Gingrich
Bonker	DeLay	Gordon
Boulter	Derrick	Gradison
Breaux	DeWine	Gray (IL)
Broomfield	Dickinson	Gregg
Bryant	Dicks	Gunderson
Burton (IN)	DioGuardi	Hall, Ralph
Bustamante	Dixon	Hammerschmidt
Byron	Dornan (CA)	Hansen
Callahan	Dowdy	Hatcher
Campbell	Dreier	Hefner
Carney	Duncan	Hendon
Carr	Dyson	Hiler

Hillis	Miller (OH)	Skeen
Holt	Molinari	Skelton
Hopkins	Mollohan	Slattery
Horton	Montgomery	Slaughter
Hoyer	Moorhead	Smith (FL)
Hubbard	Morrison (WA)	Smith (IA)
Huckaby	Murphy	Smith (NE)
Hughes	Murtha	Smith (NJ)
Hunter	Myers	Smith, Denny (OR)
Hutto	Natcher	
Hyde	Nelson	Smith, Robert (NH)
Ireland	Nichols	
Jenkins	Nielson	Smith, Robert (OR)
Jones (NC)	Olin	
Jones (OK)	Ortiz	Snyder
Kanjorski	Oxley	Solomon
Kaptur	Packard	Spence
Kasich	Parris	Stallings
Kemp	Pashayan	Stangeland
Kindness	Pepper	Stenholm
Kolbe	Perkins	Strang
Kramer	Pickle	Stratton
Lagomarsino	Porter	Stump
Leath (TX)	Price	Sundquist
Lehman (FL)	Pursell	Sweeney
Lent	Quillen	Swindall
Lewis (CA)	Ray	Tallon
Lewis (FL)	Regula	Tauke
Lightfoot	Reid	Tauzin
Lipinski	Richardson	Taylor
Livingston	Rinaldo	Thomas (CA)
Lloyd	Ritter	Thomas (GA)
Loeffler	Roberts	Traxler
Lott	Robinson	Valentine
Lowery (CA)	Roe	Vander Jagt
Lujan	Rogers	Volkmer
Lungren	Rose	Vucanovich
Mack	Rostenkowski	Walker
Madigan	Roth	Watkins
Manton	Roukema	Weber
Martin (IL)	Rowland (CT)	Whitehurst
Martin (NY)	Rowland (GA)	Whitley
Martinez	Roybal	Whittaker
Mazzoli	Rudd	Whitten
McCain	Saxton	Wilson
McCandless	Schaefer	Wolf
McCollum	Schuette	Wortley
McDade	Schulze	Wright
McEwen	Sensenbrenner	Wylie
McGrath	Shaw	Yatron
McHugh	Shelby	Young (AK)
McKernan	Shumway	Young (FL)
McMillan	Shuster	Young (MO)
Mica	Siljander	Zschau
Michel	Sisisky	

NOT VOTING—15

Barnes	Fowler	Jones (TN)
Boucher	Frost	Lundine
Brooks	Gray (PA)	Marlenee
Dingell	Grotberg	Mitchell
Edgar	Hartnett	Moore

□ 1755

Mr. WEBER changed his vote from "aye" to "no."

Messrs. BROWN of California, FAWELL, SPRATT, ASPIN, ANNUNZIO, STAGGERS, and MATSUI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the bill.

Mr. Chairman, I rise in support of H.R. 5162, the energy and water appropriations bill for fiscal year 1987 as reported by the Appropriations Committee. The chairman of the subcommittee, Mr. BEVILL, and the ranking minority member on the subcommittee, Mr. MYERS, have, once again, done an excellent job in crafting a bill the House should accept overwhelmingly. I thank those two gentlemen for their efforts.

This bill is within the committee's 302 allocations as set by the budget resolution and $319 million under the President's request. It funds water projects necessary to economic development and to the protection of life and property. It also funds the atomic energy defense activities which are essential to a strong defense. It is also a good bill for what it does not fund—namely, the second nuclear waste repository.

There is no need to continue to waste money studying a second repository which will, in all likelihood, never be necessary. that is an incredible waste of taxpayers dollars. I was glad to be a part of a bipartisan coalition of members who sought to strike funding for the site of the second repository and I am glad the committee agrees with us.

I am a fiscal conservative who believes the investment in water projects is vital to economic development in many communities and $1.2 billion seems a reasonable and responsible price to pay for the benefits the whole country will enjoy. A move to cut funds from this section of the bill would be counterproductive.

I am strong on defense and support the atomic energy defense activities in this bill. I wish this bill could go farther in this area but I understand the constraints put on the committee by the spirit of Gramm-Rudman which I am happy to say is alive and well. Cutting back is tough but huge deficits demand it. And this section certainly take cuts leaving room for no more.

I plan to support the bill as is. I congratulate members of the committee for keeping H.R. 5162 in line with the budget. I urge all Members to support the committee's bill.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $17,500), $397,610,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $251,947,000 in fiscal year 1987 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1987 so as to result in a final year 1987 appropriation estimated at not more than $145,663,000.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $2,881,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for Enloe Dam Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1987, and within the resources and authority available, gross obligations for the principle amount of direct loans shall not exceed $10,000,000.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,647,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,337,000, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 4 for replacement only), $236,846,000, to remain available until expended, of which $214,835,000, shall be derived from the Department of the Interior Reclamation fund: *Provided*, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,463,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by section 3109 of title 5, United States Code, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $1,500); $99,079,000, of which

$78,754,000 may be derived from revenues from licensing fees, inspection services and other services and collections which may be retained and used for necessary expenses in this account through September 30, 1988.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriations made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Mr. BEVILL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to title III?

If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $105,000,000: *Provided*, That up to $200,000 may be transferred to the Appalachian Foundation, Incorporated, for job preparation/dropout reduction projects.

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: Page 29, line 25, strike "$105,000,000" and insert in lieu thereof "$52,500,000".

Mr. ARMEY. Mr. Chairman, I hope the Members of this body have been watching and listening to this debate, not only on this appropriation bill, but on every other appropriation bill of last week, and I hope they will be listening to those that will come.

The fact is that 7 months ago 271 Members of this body, 153 Republicans and 118 Democrats, voted to put a guarantee behind our promise to reduce deficits. We passed the Gramm-Rudman bill at that time and, as we did that, we accepted limits on deficit spending.

Mr. Chairman, we hear many comments about appropriation bills being within the budget. That has happened before and the deficit is still growing. We hear promises that in reconciliation, we will keep the figures within the budget. That has happened before, Mr. Chairman, and the deficits have grown.

We have to face some very real problems with this continued deficit spending. For those of you who do not like income transfers, think in terms of nearly $200 million being spent on the interest on the national debt. Think of the spending programs that will be crowded out in the future.

The time has come for us now to meet our obligation, to fulfill the promise we made, the guarantee that we voted, and to make smart cuts in the spending. We have to remember that it is not in the budget process, not in the reconciliation process, but when we appropriate money that we spend the taxpayers' dollars. We have to be willing to take these appropriations bills one by one and make smart cuts in them. Smart cuts are selective. Cutting across the board, whether it be an across-the-board cut at the end of an appropriations bill or Gramm-Rudman sequestering, is bad politics, is bad policy, and it causes enormous pain and hardship to the Nation. We will cut those programs that are counterproductive and unnecessary with the same knife that we will cut those that are necessary and productive to the well-being of the American people. We have got to do more.

Again, I would like to remind the Members of this body I applaud the Committee on Appropriations and its membership. They worked hard on this. I think we should indeed remember to give them credit. But we must do more. For that reason, several of us have offered line item cuts and, one after one, they have been voted down. Mr. Chairman, when the line item votes get voted down, as they did last week, that is special interest politics winning fights on this floor. When you come back and vote for across-the-board cuts, as we did last week, in even greater magnitudes, that is special interest politics winning on this floor, ducking the hard decisions, failing to face up to the requirements of our job, and passing the buck to general cuts.

The American people are not going to accept this from us. It is not acceptable. We have just gone through an $11 billion Gramm-Rudman sequestering. It was unfair, and we have been told so. If we cannot make line item cuts, we will again be imposing cuts on our veterans, on our retired people, without having caused others to meet that test.

In this case, I offer an amendment to cut the Appalachian Regional Commission by half. This is a 21-year-old program that was established 21 years as an incentive in the short run for a distressed region.

Today we still have the program, despite the fact that three Presidents have disclaimed it. Presidents Nixon and Reagan have asked to foreclose this program. President Carter called it a waste of time and money. And we continue to fund it.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. I can cite you a litany of this. Yes, there has been success in this region. Yes, indeed, we have done enormous things by building infrastructure and attending to the health of children. We have reversed the outmigration in the area. To a large extent, let us understand it is the people of this region who have done it for themselves.

Yes, we have reduced the percentage of population living under poverty conditions in this region to the point today it is below the national average.

Now somebody will say, "That's not true in my part of the area." And that may not be true. So if you come from the Appalachian region where the poverty level is very low, recognize there are parts in the region where it is very high. And if they are high here and low here, we ought to be more selective in allocating within this program. The way you get more selective is to have a tighter budget.

Let us cut out, not the entire program, but let us cut it by half.

□ 1805

Let us make a step toward meeting our Gramm-Rudman requirements, and as we do that, Mr. Chairman, I ask this body to give consideration to those portions of the regions that truly are still distressed and in need and cut out the pork for those areas of the region that no longer need it, that have fulfilled the original intent of the law, have risen to the occasion, and deserve the respect of this Congress by our saying, "We are ready now to let you do it for yourselves."

I ask the Members of this body to vote for this bill. Vote for fiscal integrity; show our willingness to make the hard cuts. Avoid the copout of sequestering in across-the-board cuts, and let us get down to the business that the people hired us to do.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, 5 years ago, as chairman of the Subcommittee on Economic Development, when the present administration first submitted its proposal, one of several successive proposals, to abolish the Appalachian Regional Commission, our subcommittee held hearings here in Washington and in the Appalachian region. We heard from dozens of witnesses. One of the statements in the course of that testimony sticks out in my mind. It was the mayor of a small town in West Virginia who said:

Before the Appalachian Commission came along, we was so far down, we had to look up to see bottom. Nobody would come and look at us; we was so poor. But the ARC gave us hope and we have begun to rebuild.

Rebuild they have done throughout the 13 States. In the course of the 20 years of the Appalachian Regional Commission, $1.5 billion of Federal funds has been invested. Leveraging more than $5 billion in non-Federal funds, creating over 1 million jobs that each year are returning more to the Federal Government, more in tax dollars than we invested in the whole 20 years of that program.

Throughout the region roads have been built, a backbone highway system has been initiated. Health clinics started, vocational education systems, training programs. Permanent jobs created as a result of the Federal dollars invested in the region. I shall always remember a witness from Tennessee, the director of a child educational center through which some 6,000 children have passed, and Tilda Kemplin said to the members of the committee:

Gentlemen, when you go back to Washington, I ask you to look over the top of the dollar and see a child. See a child whose life has been rebuilt by this program, and do not ignore the children but continue to help us.

Those were her words, and help we have done.

In 1981, the Committee on Public Works and Transportation did its part in deficit reduction with the Appalachian Regional Commission, cutting it then by 60 percent and in successive years for a total, this year, of an 80-percent reduction. Of what little is left, the gentleman from Texas now would cut the balance making it an ineffective program. Totally useless.

That would break faith with the people throughout Appalachia. They have cut back, they have scaled down the Backbone Highway Program, they have scaled down the Vocational Education Program, they have scaled back industrial park development, they have scaled the water and sewer development systems. Even in those areas in the hollers, I will say to the gentleman, where people were literally drinking their own sewage and had generations of intestinal disease, they are willing to scale it back to do their part, to cut the budget.

This is not deficit reduction; this is destruction visited upon the people of the region. Good people, proud people who are helping themselves, with a little bit of a helping hand from the Federal Government.

There is a story told by one of our witnesses about a young man who, from southwestern Virginia, a young high school lad who arrived at school with a shoe under his arm. The teacher said, "Johnny, did you lose a shoe along the way to school?" He said, "No, ma'am, I found this good one."

I think that describes the poverty of the region and the care and the pride the people have that they want to lift themselves up even if they have to find a shoe. The people have been looking for a good program, a good means of helping themselves out of generations of poverty and distress. They have gone under the aegis of the Appalachian Regional Commission Program from 45 percent of national income throughout the region in 1965 to 75 percent of national per capita income. That is a big move forward, but they are still way behind the rest of the Nation.

The CHAIRMAN pro tempore. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. They have found this good program like that one shoe. Let us help them wear it, let us help them carry it forward, let us continue with commitment to building a whole nation that is strong, not just part of a nation in which there is weakness.

I urge the Members' vote against the amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I shall not take the full 5 minutes because I do not think the body is in a mood to adopt this amendment. But let me take just a few moments to reflect on the work of the Appalachian Regional Commission.

Of course, my district is in that region, all but one county. I have seen over the years, as a conservative Republican, I have seen the good work that this Commission has done to help us help ourselves. Most of these programs are unlike many of the so-called welfare programs in that these are not handouts. These grants and these aids that the ARC has been able to place into that region have been used to allow us to help ourselves above the poverty level.

I would point out at this moment this is not the right time to do more whittling on the ARC. In this bill, it has cut the ARC's funding level already. To cut it more at this particular time would be especially onerous because of the economic times.

A story the other day in the newspapers point out that we really have a bicoastal economy at this moment. California is booming; the east coast is booming, and in the middle, things are not so good. But if things are not so good in the Midwest, they are terrible in Appalachia. They are.

In the coal fields in Appalachia, the backbone of the economy, coal is in a terrible slump. Millions of people have no way to earn a living at this moment, and there is no other work in many of those counties, in those regions, other than coal mining. It is now in such a slump that they are laid off from work.

Now is not the time, especially now, to cut off really one of the only hopes that many of those communities have, and that is for aid from the Appalachian Regional Commission.

How does the ARC work? I will give you one little microcosm of it. In my district now we have just started, by virtue of the ARC helping us, a stay-in-school program. It is modest in cost; $50,000 for 27 counties. But it is an effort we hope to gain the partnership

of individual businesses to join and adopt a school to encourage those youngsters to stay in school and to stay at home then and graduate from school and work there in the home community.

Please do not cut this program which has meant so much for the hope of people who are grasping for hope where there is little hope out there to see.

□ 1815

Mr. Chairman, this is one of those programs that offers that chance, and I would urge our colleagues to defeat this amendment. If they would like to whittle on ARC, let us talk about it some other time, but please, not at this time. Things are not good in Appalachia.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment, and I hope that my colleagues will defeat it. To me, this is the most unconscionable amendment that we have had offered to this legislation.

Unfortunately, in the area that I represented, which is Appalachia, we do not have the open terrain that my colleague, the gentleman from Texas, has. We do not have open areas that are conducive to economic expansion, and we cannot provide for major contractors' needs in our area. It is poor terrain, where people are struggling to pull themselves up and to have advantages. We have an area which is, as my colleague, the gentleman from Kentucky, mentioned, a large coal mining district.

Mr. Chairman, most of our coal mining operations are very depressed. They have been for many years, and our coal miners are really the backbone of the communities. They are the prime contributors to our economic base. We have other people who work in other industries, but our coal mines are really the major sources of employment.

Certainly it is crucial to the development of this region to continue what little we have left of the ARC program. We have begun, we are making progress, we are building roads, and we now have better schools.

I would like to add also that many of the programs that are funded through ARC provide for Federal and local, as well as private sector, participation. We have not lost a dime on ARC. Let us not cut it out now. Let us continue the programs that are building our economy in this very poor and distressed region of our Nation.

Mr. Chairman, this administration has called for help for distressed countries around this world. Can we do less for the poor Appalachian region of this country? I think not. I urge the defeat of this amendment.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, I urge a "no" vote on the amendment. This program, as the Members have heard, has accomplished much, and there is much more that is yet to be accomplished. Actually I do not think we need to spend a lot of time on this amendment.

Let us do what the Budget Committee recommended. Let us fund it at $105 million. That is what the committee recommended after hearing considerable testimony. They recommended $105 million.

So let us not adopt this amendment. Follow what the subcommittee has recommended and what the Budget Committee has approved—$105 million.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

I guess perhaps the word "unconscionable," sort of rings in one's ears for a moment, and I certainly would not want anybody to think that I have no conscience in this matter.

I understand the situation. We have seen the record of what has happened in Appalachia, but let us look back. In 1965 peeople were moving out. Perhaps because the conditions there were difficult they were inclined to move someplace else. We offered a program to give them a start back. It is now 21 years later. This is a program that was temporary but is now permanent. It is temporary programs that become permanent that give us a chronic deficit.

Mr. WHITTEN. Mr. Chairman, I cannot yield further because the gentleman is encroaching on my time.

Mr. ARMEY. Mr. Chairman, if I might just complete my statement, I promise to be finished quickly.

We also have to remember that we have a more current problem, and we must keep faith with the people whom we promised to retire these deficits.

Mr. Chairman, I thank my colleague for yielding.

Mr. WHITTEN. Mr. Chairman, I thank the gentleman from Texas.

I appreciate the statement about the Appropriations Committee since I have the honor to be chairman of that committee. I was the senior cochairman that recommended this to the Budget Committee because 46 percent of our spending was going around the annual review program. We are holding down the appropriations. Under the rules we have to call the members together. So as chairman I called the members together and we voted to approve a 302(b) allocation and stay within that budget.

Sometimes it is difficult. We agreed on our budget after we had our hearings this year. They agreed to go along with our colleagues across here that when the money was saved, it was added to carry-over funds in other areas.

Last year we agreed that $10 billion was added on the other side that would not be spent just so we could say that we had an agreement on the budget.

May I say this: They call this the United States. This is a big country, and it was united because we got together after the Articles of Confederation.

I pointed out today that since 1934, when we started putting Federal efforts behind equalizing opportunity and developing our country, we have increased our wealth 41 times. Since 1940 we have increased 36 times. Unfortunately, all areas did not inherit the same broad resources that others did. The job is not complete.

May I say that your committee has gone along with reducing this from $350 million a year down to $105 million. We think, having lived with it and gone through this, that we have tried to be fair to all regions, including the gentleman's State, as well we should.

So, Mr. Chairman, I hope we will vote this amendment down and back our committee because I believe we have done a hard job and a good job.

Mr. NOWAK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not take all my time. I just want to rise, after hearing the debate this evening and listening to the testimony as presented to my subcommittee on this matter and appearing before the Appropriations Committee, to request a continuation of this program.

We are looking at a program that, as has been pointed out, is 21 years old. I believe this appropriation really is a third of what it has been in the past, but more than that, it is really aimed, from all the testimony we have heard, toward being a finish-up program. This would allow the highways to connect the essential links that were not connected in this area before, and this would allow us to finish the jobs that other people have talked about. I think when we look at the types of programs that are being funded now, we are looking at a much narrower program, a cleaner program. The priorities in this program, unlike many others, are set really by the local officials working through the whole

system, with the Commission, through the Governors, and then with the kinds of requests that come to the funding mechanism.

So, Mr. Chairman, I urge that we at least finish up these programs, and I urge a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 309, not voting 19, as follows:

[Roll No. 242]

AYES—102

Archer	Gunderson	Petri
Armey	Hansen	Porter
Badham	Henry	Roberts
Bartlett	Hiler	Roemer
Barton	Hopkins	Roth
Bereuter	Hunter	Rowland (CT)
Bilirakis	Hyde	Schaefer
Boulter	Ireland	Schuette
Broomfield	Kemp	Schulze
Brown (CO)	Kolbe	Sensenbrenner
Burton (IN)	Kramer	Sharp
Carper	Lagomarsino	Shaw
Carr	Latta	Shumway
Chappie	Leach (IA)	Slattery
Cheney	Lewis (FL)	Smith, Denny (OR)
Coats	Livingston	
Cobey	Loeffler	Smith, Robert (NH)
Combest	Lungren	
Craig	Mack	Snyder
Crane	Madigan	Solomon
Dannemeyer	Marlenee	Stallings
Daub	Martin (IL)	Stump
DeLay	McCain	Sundquist
DioGuardi	McCollum	Sweeney
Dornan (CA)	McGrath	Swindall
Dreier	Meyers	Tauke
Eckert (NY)	Michel	Taylor
Fawell	Miller (WA)	Vander Jagt
Fiedler	Monson	Walker
Fields	Moorhead	Weber
Frenzel	Morrison (WA)	Whittaker
Gingrich	Nielson	Wolf
Glickman	Oxley	Young (FL)
Gradison	Packard	Zschau
Gregg	Pashayan	

NOES—309

Ackerman	Bosco	Darden
Akaka	Boucher	Daschle
Alexander	Boxer	Davis
Anderson	Breaux	de la Garza
Andrews	Brown (CA)	Dellums
Annunzio	Bruce	Derrick
Anthony	Bryant	DeWine
Applegate	Burton (CA)	Dickinson
Aspin	Bustamante	Dicks
Atkins	Byron	Dingell
AuCoin	Callahan	Dixon
Barnard	Campbell	Donnelly
Bateman	Carney	Dorgan (ND)
Bates	Chandler	Dowdy
Bedell	Chapman	Downey
Beilenson	Chappell	Duncan
Bennett	Clay	Durbin
Bentley	Clinger	Dwyer
Berman	Coble	Dymally
Bevill	Coelho	Dyson
Biaggi	Coleman (TX)	Early
Bliley	Collins	Eckart (OH)
Boehlert	Conte	Edwards (CA)
Boggs	Cooper	Edwards (OK)
Boland	Coughlin	Emerson
Boner (TN)	Courter	English
Bonior (MI)	Coyne	Erdreich
Bonker	Crockett	Evans (IA)
Borski	Daniel	Evans (IL)
Fascell	Lott	Russo
Fazio	Lowery (CA)	Sabo
Feighan	Lowry (WA)	Savage
Fish	Lujan	Saxton
Flippo	Luken	Scheuer
Florio	MacKay	Schneider
Foglietta	Manton	Schroeder
Foley	Markey	Schumer
Ford (MI)	Martin (NY)	Seiberling
Ford (TN)	Martinez	Shelby
Frank	Matsui	Shuster
Franklin	Mavroules	Sikorski
Fuqua	Mazzoli	Sisisky
Gallo	McCandless	Skeen
Garcia	McCloskey	Skelton
Gaydos	McCurdy	Slaughter
Gejdenson	McDade	Smith (FL)
Gekas	McEwen	Smith (IA)
Gephardt	McHugh	Smith (NE)
Gibbons	McKernan	Smith (NJ)
Gilman	McKinney	Smith, Robert (OR)
Gonzalez	McMillan	
Goodling	Mica	Snowe
Gordon	Miller (CA)	Solarz
Gray (IL)	Miller (OH)	Spratt
Green	Mineta	St Germain
Guarini	Moakley	Staggers
Hall (OH)	Molinari	Stangeland
Hall, Ralph	Mollohan	Stark
Hamilton	Montgomery	Stenholm
Hammerschmidt	Moody	Stokes
Hatcher	Morrison (CT)	Strang
Hawkins	Mrazek	Stratton
Hayes	Murphy	Studds
Hefner	Murtha	Swift
Hendon	Myers	Synar
Hertel	Natcher	Tallon
Hillis	Neal	Tauzin
Holt	Nelson	Thomas (CA)
Horton	Nichols	Thomas (GA)
Howard	Nowak	Torres
Hoyer	Oakar	Torricelli
Hubbard	Oberstar	Towns
Huckaby	Obey	Traficant
Hughes	Olin	Traxler
Hutto	Ortiz	Udall
Jacobs	Owens	Valentine
Jeffords	Panetta	Vento
Jenkins	Parris	Visclosky
Johnson	Pease	Volkmer
Jones (NC)	Penny	Vucanovich
Jones (OK)	Perkins	Walgren
Kanjorski	Pickle	Watkins
Kaptur	Price	Waxman
Kasich	Pursell	Weaver
Kastenmeier	Quillen	Weiss
Kennelly	Rahall	Wheat
Kildee	Rangel	Whitehurst
Kindness	Ray	Whitley
Kleczka	Regula	Whitten
Kolter	Reid	Williams
Kostmayer	Richardson	Wilson
LaFalce	Ridge	Wirth
Lantos	Rinaldo	Wise
Leath (TX)	Ritter	Wolpe
Lehman (CA)	Robinson	Wortley
Lehman (FL)	Rodino	Wright
Leland	Roe	Wyden
Lent	Rogers	Wylie
Levin (MI)	Rose	Yates
Levine (CA)	Rostenkowski	Yatron
Lightfoot	Roukema	Young (AK)
Lipinski	Rowland (GA)	Young (MO)
Lloyd	Roybal	
Long	Rudd	

NOT VOTING—19

Barnes	Gray (PA)	Mitchell
Brooks	Grotberg	Moore
Coleman (MO)	Hartnett	Pepper
Conyers	Jones (TN)	Siljander
Edgar	Lewis (CA)	Spence
Fowler	Lundine	
Frost	Mikulski	

□ 1840

Mr. DYMALLY and Mr. PENNY changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $185,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $289,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $79,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $405,000,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program and the material access authorization program may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), $179,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $240,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act

of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $100,000,000 to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948A of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1987, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

Mr. BEVILL (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title IV be considered as read, printed in the RECORD, and open to amendment at any point. We know of one more amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against the portion of the bill considered as read?

If not, are there amendments?

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Schroeder: Page 32, line 19, strike "$100,000,000" and insert, in lieu thereof, "$99,644,800".

Mr. BEVILL. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I thank the gentlewoman for yielding. She and I have discussed this, and we are in agreement.

Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 20 minutes, the time to be divided between the proponents and opponents.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 10 minutes.

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I chair the Civil Service Subcommittee of the Committee on Post Office and Civil Service, and that is why I offer this amendment.

My amendment is a simple amendment. If you believe that Federal agencies should obey the law, you should vote for my amendment. It really is that simple. The General Accounting Office [GAO] told us that the Tennessee Valley Authority [TVA] entered into an illegal contract. TVA refuses to void the contract. We must decide today whether TVA should be allowed to thumb its nose at the law of the land.

The Tennessee Valley Authority is one of the most tangible continuing New Deal programs. It is the grandest example of public power in the country. TVA operates 29 hydroelectric dams and 12 coal-fired plants to produce power for the Tennessee Valley.

A number of years ago, however, TVA made the decision to move aggressively into nuclear power production. The Board decided to build 17 reactors. To date, only five have been completed. Since last August, not 1 watt of power has been produced by these plants. They have been closed down because of safety concerns. Indeed, one of these plants, Browns Ferry, makes everybody's short list of the worst designed and worst constructed nuclear power plants in the country.

So, TVA has a multibillion-dollar commitment to nuclear power plants which are shut down. The TVA Board panicked last December. Under congressional pressure, they hired a nuclear czar, retired Adm. Steven A. White. Mr. White had been around government long enough to know about pay caps and the like. So, he and the TVA Board cooked up a personal services contract under which Mr. White would be paid $355,200 a year and would have complete control over the TVA nuclear program. This $355,200 salary would be on top of the $53,700 Mr. White receives in military retirement. Additionally, Mr. White's company, STEMAR, would receive fees for other individuals hired by Mr. White. In short, Mr. White took TVA to the cleaners.

I hope, Mr. White proves himself to be as adept at managing a civilian nuclear program as he is at negotiating contracts. Daily, in Tennessee papers, there are stories about Mr. White clashing with the TVA general counsel, about Mr. White hiring a part-time congressional correspondence manager for $50,000, about Mr. White's contract posing conflict of interest problems. But, the issue here is not Mr. White's ability or lack of it.

The issue is whether a Government agency can circumvent the Federal pay, circumvent the rules on double dippers, and violate the fundamental premise of Government enterprises: that Government programs must be run by Government people. Upon learning of the TVA contract with Mr. White, I wrote to the General Accounting Office, on March 14, saying that I smelled a rat. I posed a number of questions for GAO, including the following:

Can TVA avoid the Federal pay cap by hiring Mr. White by contract?

Can TVA avoid the Dual Compensation Act, limiting double dipping, by hiring Mr. White by contract?

Can a contractor supervise Federal employees?

Can an agency contract out the management of a Federal program?

Was it legal for TVA to pay a large relocation allowance and make a $33,500 contribution to the retirement fund on behalf of the new TVA inspector general?

On June 2, the General Accounting Office [GAO] wrote back to answer these questions. Let me tell you what the GAO said. In answer to the question about the Federal pay cap, GAO said,

We conclude that the retention of Mr. White by TVA under these contractual arrangements constitutes the improper use of a personal services contract and represents a circumvention of the statutory ceiling on salary payments to TVA employees.

In answer to the question about the Dual Compensation Act, GAO said,

This contractual relationship also appears to be a circumvention of the Dual Compensation Act.

In answer to the questions about supervising employees and exercising a Federal function, GAO said,

TVA has not entered into a proper contract for filing these management positions.

In answer to the question about the recruitment bonuses for the inspector general, GAO said,

We know of no legal basis for TVA to pay Mr. Zigrossi a "management staffing incentive" payment or a "merit incentive supplemental retirement" payment which, when combined with his annual salary, would exceed the $72,300 statutory limitation of salaries for regular TVA officers and employees.

So, GAO identified five different ways in which TVA was violating the law. And these were not minor, technical violations. They were violations of fundamental laws about Government employment which cost the ratepayers and the taxpayers large sums of money.

I expected that once responsible officials at TVA read the GAO opinion, TVA would act promptly to cure the legal problems that GAO uncovered. So, I was shocked to receive a letter from TVA Board Chairman C.H. Dean on June 10, saying that for TVA to follow the GAO opinion.

Would inevitably prevent TVA on any reasonable timeframe from solving the nuclear

management crisis that threatens to overwhelm us.

Essentially, Mr. Dean's argument was that the ends justify the means.

A GAO opinion on the legality of a contract is binding on most Federal agencies. However, due to a 1941 law, GAO cannot order TVA to stop illegal expenditures. That is up to us. And, that is what my amendment is intended to do.

I am well aware of the imperfection of my amendment. Mr. White is almost surely paid out of power funds, not the funds appropriated by this bill. Moreover, cutting $355,200 from the appropriation does not guarantee that the contract will be voided. Yet, because of the restrictions on amending appropriations bills, I believe this amendment is the best available means for Congress to speak on this issue.

I urge my colleagues to vote to tell TVA to obey the law.

□ 1850

Mr. SIKORSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Chairman. I would just like to get this straight. TVA went out and hired, for $355,200 a year, a retired admiral, is that correct, to head up its nuclear program?

Mrs. SCHROEDER. Mr. Chairman, the gentleman is absolutely correct.

Mr. SIKORSKI. This retired admiral has had no experience, none, zip, zilch, in the area of commercial nuclear industry. Is that correct?

Mrs. SCHROEDER. That is correct, in running a civilian sector.

Mr. SIKORSKI. He is already making a $53,700 a year military retirement, receiving that for compensation. Is that correct?

Mrs. SCHROEDER. That is correct, and I point out that that is an awful lot more than either the President of the United States or the Secretary of Energy makes by a very, very significant amount.

Mr. SIKORSKI. When we are done here adding things up, he is making twice what the President of the United States is making. The company he owns receives fees for other individuals that he hires, is that correct?

Mrs. SCHROEDER. That is right. He had done a very good job of cutting a contract for himself.

Mr. SIKORSKI. He tried hiring a part-time congressional correspondent for $50,000.

Mrs. SCHROEDER. That is also correct. That is very important.

It is also important to point out that I hope the gentlewoman from Illinois, LYNN MARTIN, gets here because she offered an amendment to the budget this year and it says this type of thing must be stopped, that we should stop funding for agencies that are doing this.

It is in violation of that, too.

Mr. SIKORSKI. The GAO found that the TVA had entered into improper contracts for filling management positions, that they had these recruitment bonuses, relocation fees, management staffing incentive payments, merit incentive supplemental retirement payment, all exceeding the dual-compensation requirements, exceeding the pay cap and the rest of it.

I must compliment the gentlewoman for heading this up. If people go to town meetings or see people at church bazaars or at various events, at parades and picnics, who stand up and say they are tired of double- and triple-dipping, if their constituents are concerned about compensation for ex-Presidents, if they have people back home in their Districts who complain about huge salaries, and if they have people who are concerned about double standards for judges, judges who take pay when they should not be taking pay, then they should vote for the Schroeder amendment because we have at least five violations found by the GAO and put some fairness back into the process.

Mrs. SCHROEDER. I thank the gentleman from Minnesota.

If I could put it into congressional terms where we also feel the pay pinch, it would be like we hired the gentleman's spouse to put the gentleman to work and she delivered the gentleman's body and got the money and the gentleman could also get all the things and so forth and so on.

We just cannot allow that to go on in Government and I just think this is very important. It has nothing to do with the TVA moving forward.

I want it to go forward more than anyone, but this will kill it, doing this type of thing. I believe that the board can get out of this without this kind of shenanigans and I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] has 1 minute remaining.

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment, and I yield 1 minute to the gentleman from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. Chairman, we should reject Congresswoman SCHROEDER's amendment solely because it would have no impact on the situation she seeks to correct. Congresswoman SCHROEDER is understandably concerned about the civil service implications of TVA's contract with Adm. Steve White and would like to see that contract invalidated. However, Admiral White's contract is paid out of TVA power operating funds—not out of this appropriations bill. Adopting this amendment would not lead to Admiral White's departure from TVA.

We should not penalize well-run TVA programs because of difficulties with its nuclear plants. TVA has a 50-year record of excellence in many areas including agricultural research, water, and air quality, and economic development. It is grossly unfair to hurt good TVA programs just to make a point about its current nuclear dilemma.

The issue raised by Congresswoman SCHROEDER is a valid one for discussion under more appropriate circumstances. Faced with an extraordinary problem, TVA undertook an extraordinary solution in its short-term contract with Admiral White and others. I would welcome the opportunity to work with members of the TVA caucus and with Mrs. SCHROEDER to effectively address her concern.

Mr. BEVILL. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I serve on two subcommittees that have oversight responsibility on TVA, and I am convinced that TVA is on sound legal footing in their contract with Admiral White. But even if the comments of the gentlewoman from Colorado were valid, even if there were, and they are not, I believe the amendment would be pennywise and pound foolish.

I come here not as someone who has defended TVA, but as someone who has been very critical of TVA in recent months in the past 2 years. It is a fact that all five nuclear plants have been shut down and I think there are some management problems there that need correcting.

But it is obvious that the current nuclear plant crisis could not be solved with the existing management. You do not go to town meetings and your social events and solve a nuclear problem. You have to have nuclear experts.

There was bipartisan support, Mr. Chairman, in our delegation that extraordinary steps had to be taken. We had to find a tough, independent nuclear manager to take over the program. TVA had no choice but to pay this cost to a contract for an outside firm, not to an individual, and that is important. This is not an individual who is receiving this; this is a contract and that is done in other parts of the Federal Government. They are paying a consulting firm.

Admiral White was hired on a temporary basis. He has been on board for a few months. He is tough; he is independent; he is experienced; and he is able. I do not know of any better training ground than our nuclear Navy under Admiral Rickover to train nuclear experts. That is the answer, I think, to the comment that the gentleman from Minnesota made.

This is interesting. The cost per day, under my computations, of the five plants being shut down, is $4.8 million, $4.8 million.

We have a safety problem and I would hope the gentlewoman from Colorado [Mrs. SCHROEDER] would be interested in the potential safety problem and how much that would cost.

Tennessee Valley consumers are paying more in 1 hour for the problem of the shutdown than the entire annual sum of Admiral White's contract. One hour for one day out of an entire year is the cost of Admiral White's consulting fee to the ratepayers of TVA; not the taxpayers, the ratepayers.

We have to find the very best to get this back on stream.

The gentlewoman is concerned about the technicalities of a $355,000 contract. My concern is concern for a nuclear safety crisis that may cost billions and could hold dire, unspeakable consequences in the absence of a strong leader like Admiral White.

I urge a "no" vote on this amendment.

Mr. Chairman, I include with my statement the other side of the legality of Admiral White's contract in its detail and other agencies who do not see it the same way as GAO:

MEMORANDUM TO THE BOARD OF DIRECTORS ON THE JUNE 2, 1986, LETTER FROM THE GENERAL ACCOUNTING OFFICE TO REPRESENTATIVE SCHROEDER ON CERTAIN QUESTIONS RELATING TO TVA'S CONTRACT WITH STEVEN A. WHITE AND ITS PAYMENTS OF RELOCATION AND INCENTIVE PAYMENTS TO NORMAN A. ZIGROSSI

The June 2 letter from the General Accounting Office (GAO) to Representative Schroeder discusses six questions relating to TVA's contract with Mr. White and its payments to Mr. Zigrossi. The letter specifically recognizes that the conclusions it expresses are "advisory only" and in no way binding on TVA if it considers them wrong in view of the specific provisions of Section 9(b) of the TVA Act, 16 U.S.C. § 831h(b) (1982 & Supp. II 1984), conferring on TVA rather than GAO final authority over all claims and expenditures. As discussed later in this memorandum, these provisions are not mere technicalities but were added to the TVA Act in 1941 after disagreements between GAO and TVA on a number of legal questions as to which not only TVA but (as to those questions they respectively addressed) one of GAO's own counsel, a Joint Congressional Investigating Committee specifically created by statute, the General Counsel of the Treasury Department, and the Attorney General all concluded that GAO was wrong.

It is my opinion that GAO is equally wrong as to the two key legal questions (as well as one that is less fundamental) which are involved here. On several more or less peripheral questions, numbered III, IV, and VI in GAO's letter. GAO has expressed agreement with TVA's position as set out in my April 15 memorandum to the Board. The two basic issues as to which we think the GAO's conclusions are patently in error are numbered I and V, and the third less basic issue, as to which we think it is also in error, is numbered II. We accordingly turn to a discussion of those three issues, which are numbered as in the GAO letter.

I

The GAO letter (at 3) concludes that TVA's contractual arrangement for Mr. White's services "constitutes the improper use of a personal services contract and represents a circumvention of the statutory ceiling on salary payments to TVA employees." GAO observes in this connection that Mr. White is to act for the term of the contract as Manager of Nuclear Power and goes on to state:

"The functions vested in this position are those normally performed by Government employees, thus raising a question whether the contract constitutes an improper personal services contract. Our decisions have held that personal services for the Government must be performed by Federal employees under Government supervision. See 43 Comp. Gen. 390 (1963) and decisions cited therein. Any contract for services to the Government must be on a basis that does not establish an employer-employee relationship. *Consultant Services-T.C. Associates*, B-193035, April 12, 1979; and B-183487, April 25, 1977 [at 4]."

This statement seems to us remarkable in light of the fact that the very GAO opinion first cited in its letter—43 Comp. Gen. 390 (1963)—makes it clear that the "rule" implied by GAO's use of the word "must" is one created by the GAO itself and—even as to agencies which do not have the kind of authority contained in the TVA Act—is not based on any statute or any other rule of law but on GAO's notions of policy. The cited GAO opinion states expressly in this connection:

"The general rule is that purely personal services for the Government are required to be performed by Federal personnel under Government supervision. See for example, 6 Comp. Gen. 140; 24 *id.* 924; and 32 *id.* 427, which is cited in the letter. *However, the requirement of this rule is one of policy rather than positive law* and when it is administratively determined that it would be substantially more economical, feasible, or necessary by reason of unusual circumstances to have the work performed by non-Government parties, and that is clearly demonstrable, we would not object to the procurement of such work through proper contract arrangement. 31 Comp. Gen. 372 [43 Comp. Gen. at 392]."

See also to similar effect 31 Comp. Gen. 372, 373 (1952):

"The general rule *established by decisions of the accounting officers* is that purely personal services may not be obtained on a contractual basis but are required to be performed by *regular* employees who are responsible to the Government and subject to its supervision. 18 Comp. Gen. 539; 19 *id.* 594. *Exceptions* to such rule *have been recognized* in a few cases *where employees were not available or qualified to perform the work involved and where unusual conditions encountered in the accomplishment of an object for which a particular appropriation was made so necessitated.* In this connection, *it may be observed that the requirement is one of policy rather than positive law* and, where it is administratively determined that it would be substantially more economical, feasible, or necessary by reason of unusual circumstances, to have the work involving personal services performed by non-Government parties, and that is clearly demonstrable, this Office will not object to procurement of such work through proper contract arrangement."

In short, the "rule" relied on by GAO is in actuality one of its own creation, is not based on any law, simply reflects GAO's own ideas of what is desirable policy, and may be applied (in the case of agencies over which it has settlement authority) or waived in a particular situation as GAO's view of what represents desirable policy may indicate.

For GAO to attempt, as it does in the excerpt from its June 2 letter quoted above, to transform its own policy creation into a rule of law that "must" be complied with by TVA represents a bootstrapping operation which is in our experience without parallel, and which is obviously sterile. Whatever may be GAO's authority to impose its policy notions on other agencies, it has no authority to impose such notions on TVA in view of the express provisions of the TVA Act, including, among other provisions, Sections 3, 4(g), and 9(b).

The GAO letter proceeds as though TVA's express authority did not exist. Instead, GAO, while recognizing that "TVA has specific statutory authorization to appoint, fix the compensation, and define the duties of its employees without regard to the Federal civil service laws," goes on to state:

"However, the courts have recognized that employees of the TVA, a corporate agency and instrumentality of the United States, are employees of the United States. See *Posey v. Tennessee Valley Authority*, 93 F.2d 726 (5th Cir. 1937); *Tennessee Valley Authority v. Kinzer*, 142 F.2d 833 (5th [*sic*—should be 6th] Cir. 1944)".

GAO then contends that the contract between TVA and Mr. White is improper because, as already noted, GAO's "rule" is that "personal services *for the Government* must be performed by Federal employees under Government supervision" and "[a]ny contract for services *to the Government* must be on a basis that does not establish an employer-employee relationship"; and that the contract between TVA and Mr. White is "improper" because it involves an employer-employee relationship, and because it involves payments to Mr. White greater than the annual salaries of TVA Board members and therefore, according to GAO, violates Section 3 of the TVA Act, 16 U.S.C. § 831b (1982).

These GAO contentions are without basis or merit on every count. In the first place, TVA though a wholly-owned Government corporation performing governmental functions is not "the Government." That distinction has been recognized ever since the Supreme Court's express holding with regard to another wholly-owned Government corporation in *United States ex rel. Skinner & Eddy Corp.* v. *McCarl*, 275 U.S. 1, 11 (1927):

"For the [United States Emergency] Fleet Corporation is an entity distinct from the United States and from any of its departments or boards. . . ."

Accord United States & TVA v. *General Elec. Co.*, 209 F. Supp. 197 (E.D. Pa. 1962); *In re Uranium Antitrust Litigation*, 458 F. Supp. 1223 (Jud. Pan. Mult. Lit. 1978). Both of these cases held that although the antitrust laws expressly limit recoveries by the United States in civil antitrust suits to actual damages, the limitation is not applicable to TVA, which, like private plaintiffs, may recover treble damages.

Further, Section 15d of the TVA Act, 16 U.S.C. § 831n-4 (1982), underscores this distinction by providing, in Subsection (b), that:

"(b) Bonds issued by the Corporation hereunder shall not be obligations of, nor

shall payment of the principle thereof or interest thereon be guaranteed by, the United States."

Similarly, TVA employees are not, as stated by GAO, "employees of the United States." *Posey* v. *Tennessee Valley Authority*, 93 F.2d 726 (5th Cir. 1937), the first of the two cases cited by GAO on this point, referred to TVA employees as being "*substantially* employed by the United States" (at 727) in holding them entitled only to benefits under the Federal Employees' Compensation Act as specifically provided by the last sentence of Section 3 of the TVA Act, 16 U.S.C. § 831b (1982), and not to Workers' Compensation or other remedies under State laws. The other case cited by GAO, *Tennessee Valley Authority* v. *Kinzer*, 142 F.2d 833 (6th Cir. 1944), noted, similarly, that employees of TVA were "*substantially* employees of the Government" (at 837) in holding that benefits under the TVA Retirement System, the rules and regulations for which had been approved by Congress, were not subject to State law relating to spendthrift trusts so as to make them bankruptcy assets in contravention of the System's rules and regulations. That the qualifying word "substantially" employed by the Fifth and Sixth Circuits in these two cases was not a meaningless superfluity is made clear by *Pierce* v. *United States*, 314 U.S. 306 (1941). In that case, defendant was convicted of having fraudulently represented himself to be "an officer or employee acting under the authority of the United States, or any Department, or any officer of the Government therof" (at 306) by falsely representing himself to be an officer or employee of TVA. The Supreme Court, in reversing the conviction, stated:

"So closely entwined were the TVA and the Government (the United States) in the instructions and the evidence on the various counts that any jury might well have thought a pretense that Pierce was an employee or officer of the TVA violated the statute, and have voted for conviction for that reason. This, however, in our view, is incorrect, and constitutes prejudical error [at 310]."

In short, TVA employees are not, as stated by GAO, "employees of the United States" (although, as employees of a Federal corporate agency, they may have certain rights or obligations, depending on particular statutory provisions or factual context, defferent from those of employees of strictly private organizations).

Section 3 of the TVA Act provides in part "[no] *regular* officer or employer of the Corportation shall receive a salary in excess of that received by the members of the board." In contending that TVA's contract with Mr. White violates this provision, GAO simply ignores the existence and meaning of the word "regular" which immediately precedes and qualifies the term "employee."

Some legislative history makes clear the significance of this term. The enactment of the TVA Act in 1933 culminated a period of 12 years during which numerous versions of what was to become the TVA Act were considered by Congress. Although the basic purpose of these bills was similar, the details varied. Congress considered several approaches on salary limitations. For example, a bill passed by Congress and pocket vetoed by President Coolidge in 1928 limited the salaries of only three TVA employees, using the following language:

"Sec. 3(c) The combined salaries of the general manager and the [2] assistant managers shall not exceed the sum of $50,000 per annum, to be apportioned and fixed by the board [S. Rep. No. 1095, 70th Cong., 1st Sess. 12 (1928)]."

The same language was included in a bill vetoed by President Hoover in 1931. An earlier version of the bill contained a much broader salary limitation. It authorized the TVA Board

"[t]o appoint and fix the compensation of such employees, attorneys, and agents as are necessary for the transaction of the business of the corporation, to define their duties, require bonds of them, and fix the penalties thereof; but in no case shall *any such employee* receive a salary in excess of $10,000 per annum [the specified salary of a Board member] [S. 2147, 69th Cong., 1st Sess. 4 (1926)]."

In the 73d Congress, during which the TVA Act was enacted into law, section 3 of the bill as passed by the House limited the General Manager's salary to $10,000 per year (the salary also specified for Board members) and the salaries of two Assistant General Managers to $9,000 per year. The Senate version contained no salary limitation. The bill which was reported out of conference and which ultimately became law contained a salary limitation which reverted back to earlier versions of the bill like the one quoted above, but with an important difference. Rather than limiting the salary of "*any* such employee," Congress made clear that the salary limitation applied only to "regular" employees.

GAO's failure to recognize or even consider the effect of "regular," like its failure to recognize or consider the effect of TVA's contracting authority in Section 9(b) and of TVA's authority under Section 4(g) to exercise powers necessary or appropriate to those specifically conferred, flies in the face of one of the most basic of all rules of statutory construction. As stated in 2A N. Singer, *Sutherland Statutory Construction* § 46.06 (Sands 4th ed. 1984), the leading legal treatise on the subject:

"§ 46.06. Each word gives effect.

"'It is an *elementary* rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute.' A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error [footnotes omitted]."

The Supreme Court has laid down the same rule. As stated in *United States* v. *Menasche*, 348 U.S. 528, 538-39 (1955):

"'The *cardinal* principle of statutory construction is to save and not to destroy.' *Labor Board* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 30. It is *our duty* "to give effect, if possible, to *every* clause and word of a statute." *Montclair* v. *Ramsdell*, 107 U.S. 147, 152. . . ."

See also National Ass'n of Recycling Indus. v. *I.C.C.*, 660 F.2d 795, 799 (D.C. Cir. 1981); *In re Surface Mining Regulation Litigation*, 627 F.2d 1346, 1362 (D.C. Cir. 1980); *Skovgaard* v. *M/V Tungus*, 252 F.2d 14, 17 (3d Cir. 1957) ("It is presumed that the legislature did not employ useless verbiage and that each word has independent meaning.").

The application of this rule requires that the language of Section 3 of the TVA Act be accorded its plain meaning—*i.e.*, that the TVA Board shall appoint such managers, assistant managers, officers, employees, attorneys, and agents as it deems necessary; that those of them who are "regular" officers and employees cannot receive a salary in excess of that received by Board members; and that the Board shall "provide a system of organization to fix responsibility and promote efficiency" with regard to all personnel through whom it acts, whether "regular" or non-regular officers and employees.

Moreover, this accords with GAO's own reading of the statutory language of the TVA Act, as reflected in GAO's 1936 and 1937 audit reports. As pointed out in our April 15 memorandum (at 22-23), both reports found that TVA had contracted for the services of a number of consultants for fees in excess of the amounts paid to Board members and stated, without raising any question about the propriety of TVA's action in so doing, that:

"Inasmuch as many of the consultants' fees reflected by the foregoing summary were at rates in excess of this limitation, it is obvious that consultants receiving compensation at such rates could not be engaged as *regular* employees [1936 GAO Rep. at 13, 1937 GAO Rep. at 257, with "such" substituted for "this" before "limitation"; emphasis in original]."

Thus, GAO recognized as clearly as anyone could that the salary limitation in the last sentence of Section 3 applies only to "regular" employees and that TVA could by contract arrange for the services on non-regular employees. Having thus expressly accepted the distinction in 1936 and 1937, shortly after the TVA Act was enacted, the GAO now seeks to read it out of existence by simply ignoring the word "regular" in the statute! Under the cases cited above, the word cannot be so ignored.

Here, Mr. White is certainly not a regular TVA employee. Regular employees are appointed to TVA positions and sign an affidavit and acceptance of appointment. Mr. White's services were obtained under contract with Stone & Webster Engineering Corporation (SWEC) from his primary employer and he has signed no such affidavit. The contract for his services has a specific term of two years; a regular employee's appointment to a management position is generally indefinite with no established end date. Regularly employed senior TVA managers in positions classified comparably to the Manager of Nuclear Power serve at the will of the TVA Board and, with certain limitations, *see Bush* v. *Lucas*, 462 U.S. 367 (1983), can be terminated at any time. The contract for Mr. White's services provides that it may be terminated only on 60 days' notice. Conversely, Mr. White must give 60 days' notice to terminate his TVA services, whereas a regular employee can resign at any time. In a reduction in force, certain regular employees would have a right to be selected for reduction in accordance with specified procedures and to appeal the reduction to the Merit Systems Protection Board. Mr. White has no such rights. In addition, regular white collar employees reduced in force receive severance pay under certain conditions. Mr. White's services may be terminated as provided in the contract, and he is not eligible for severance pay.

Mr. White's duties, responsibilities, and authorities are set out in detail in a separate Memorandum of Understanding between Mr. White and the TVA Board, which was the subject of negotiation between them. A regular employee's duties and authority are established by a standard job description published by TVA for the position.

A regular employee in a TVA management position receives an annual salary paid biweekly by TVA. In contrast, TVA pays SWEC a fixed monthly amount for Mr.

White's services. SWEC in turn has a subcontract with another corporation, STEMAR, and pays that monthly amount to STEMAR for Mr. White's services. Any salary Mr. White receives is received as an owner or employee of STEMAR. TVA does not withhold Federal or State income tax from amounts paid SWEC for Mr. White's services, although it withholds such taxes from the salaries of regular employees. Since Mr. White is not a regular employee and is not paid by TVA, Mr. White does not have the opportunity to buy United States Savings Bonds through TVA payroll deductions or to participate through payroll deductions in the Combined Federal Campaign or other payroll deduction programs.

Mr. White does not receive the employee fringe benefits—for example, annual leave and sick leave—to which regular TVA employees are entitled. He is not a member of the TVA Retirement System, TVA makes no retirement contribution on his behalf, and he cannot participate in the Retirement System's Voluntary Retirement Savings and Investment Plan. A regular white-collar employee must generally become a member of the System as a condition of employment unless he is already a member of the Civil Service Retirement System, in which case TVA makes contributions for him to that system.

Mr. White is not covered by the Medical Insurance Plan for regular TVA managers, nor by the Dental Insurance Plan, and cannot participate in the Accident Insurance Plan that TVA makes available to its employees. Mr. White is not eligible to participate in the Merit Incentive Supplemental Retirement Income Plan under which regular employee managers at his level can earn retirement credits for meritorious service or credits can be granted by TVA for recruitment or retention purposes.

Thus, Mr. White is clearly not a "regular employee" and the last sentence of Section 3 establishing the salary cap on regular officers and employees is, by its own terms, inapplicable.

Finally with respect to this question, GAO points (at 5) to Congress' inclusion in TVA appropriations of language prohibiting use of appropriations to implement a program of retention contracts for senior employees. GAO then seemingly suggests that such action somehow has relevance to TVA's contractual arrangements for Mr. White's services. This seems to us absurd. The appropriation language relates to regular TVA employees, not to contract arrangements for services such as those involving Mr. White. The appropriation language applies only to appropriated funds, whereas payments by TVA under the contract for Mr. White's services will, in view of the nature of those services, be paid from nonappropriated funds made available by TVA's ratepayers. In view of these differences, GAO's contention is baseless.

II

GAO states (at 6) that:

"While the [Dual Compensation] Act does not affect persons serving under a proper contract with Federal agencies, it is our view, stated previously, that Mr. White's contract is not proper. Thus, this contractual relationship also appears to be a circumvention of the Dual Compensation Act."

For the reasons already stated, the contract providing for Mr. White's services is perfectly proper. Under GAO's own reasoning, therefore, the Dual Compensation Act would not affect him.

Mr. White is not a regular employee but serves pursuant to a contract, not an appointment, to a TVA position. The Dual Compensation Act defines "position" at 5 U.S.C. § 5531(2) as "a civilian office or position . . ., appointive or elective." Mr. White's position is neither. In *Costner* v. *United States*, 665 F.2d 1016 (Ct. Cl. 1981), the court of claims, which is recognized as having especial expertise in such areas, *Carter* v. *Seamans*, 411 F.2d 767 (5th Cir. 1969), held that an individual serving the Government without an appointment pursuant to a contract, could not be considered an "employee" where the applicable statutory definition required an appointment.

"There is no dispute that plaintiff performed a federal function or that he was supervised by a federal officer or employee; defendant has never challenged this. The narrow issue, then, is whether plaintiff was *appointed*. . . .

". . . An abundance of federal function and supervision will not make up for the lack of an appointment. Plaintiff's efforts to show that he was doing tasks that would otherwise be performed by a federal employee do demonstrate that he performed a federal function, but that is all. Likewise, plaintiff's heavy reliance on the opinions of the Civil Service Commission, of Secretary of Defense Robert McNamara, and of the Comptroller General that the Contract Technical Service Personnel program was not legally authorized is of no help. . . . In any case, there is no implication that the proper remedy is retroactively to make them employees, and, absent appointment, there is no statutory authority for such an action. At most the opinions show that the jobs were in all respects, except appointment, the same as employment, but we have already stated that that is not sufficient [665 F.2d at 1020]."

V

The GAO states (at 9) that TVA's relocation payments to Mr. Zigrossi, its Inspector General, appear to be statutorily authorized. It contends, however, that other incentive payments are or would be improper because, when added to Mr. Zigrossi's salary, they would cause his total "salary" to exceed that of Board members.

In so contending, GAO concedes that in its own opinion B-205284 in 1981, it adopted TVA's own longstanding interpretation that "salary" was distinguishable from "basic compensation" or "annual rate of compensation" and that "salary" did not include "occasional bonuses based on . . . special circumstances, retirement fund contributions, and miscellaneous fringe benefits."

It contends, however, that this does not extend to the incentive payments here involved, which, it says "far exceed any reasonable interpretation of our 1981 opinion."

Here again, GAO's contentions seem to us remarkable since the payments involved represent a continuation of payments under plans which existed, were provided to GAO, and were fully discussed by TVA with GAO prior to GAO's 1981 opinion. Thus, in an October 18, 1981 letter responding to specific GAO requests for information, TVA provided a complete copy of the Incentive Plan. That plan expressly stated that one of the factors on which credits under it could be based was "the need to use pension credits for recruitment purposes to attract managers both from within and outside TVA" (section 2.C.4). GAO was also given a copy of a December 11, 1979 memorandum from TVA's Director of Personnel specifying that recruitment of outside candidates was one of the purposes for which Incentive Plan credits could be used. The Incentive Plan guidelines provided to GAO further explained that specific guidelines for recruitment and other purposes would be revised as necessary to reflect labor market and other conditions, but that initially credits of up to $10,000 could be used to recruit top level managers. GAO was also informed that almost $1 million in credits had been made under the Incentive Plan as of September 30, 1981.

With respect to relocation bonuses, similary, GAO was given a copy of the plan, which had been approved by the TVA Board in February 1980, a copy of guidelines providing for payments of up to $5,000 to recruit mid and upper level managers, and information showing that over a half million dollars in payments had been made under the plan between March 1980 and August 31, 1981.

In light of these circumstances, for GAO now to contend that it did not know about these plans or have them in mind when it issued its 1981 opinion seems to us incredible.

In any event, however, the payments are proper, not because GAO in 1981 conceded they were, but because legally such retirement contribution and bonuses do not constitute salary and hence in no way affect application of the salary cap in Section 3 of the TVA Act. Section 3, as already noted, empowers the TVA Board broadly to fix employees' "compensation," while limiting any regular employee's "salary" to that received by Board members. The use of these two different terms in the same paragraph of the same Section of the Act can hardly have been accidental; and, in any event, such terms, particularly when used in a corporate charter provision, must be given their accepted legal meaning. As stated in *Henry* v. *United States*, 251 U.S. 393, 395 (1920), "[t]he law uses familiar legal expressions in their familiar legal sense . . . ." *Accord Bradley* v. *United States*, 410 U.S. 605, 609 (1973). The legal distinction between "salary" and "compensation" was clearly noted in *Benedict* v. *United States*, 176, U.S. 357, 360 (1900). The Supreme Court there held that, where a district judge retired under a statute permitting him to receive "the same salary" which had been paid to him before retirement, such "salary" did not include extra compensation which had been paid to him for holding court from time to time outside his own district. The Supreme Court stated, in so holding, that:

"This *compensation* was . . . something entirely distinct from the *salary* paid to him as Judge of the District Court for the Eastern District of New York, but was in fact, as was held by the Court of Claims, extra pay for extra work performed—for particular as distinguished from continuous services [176 U.S. at 361]."

In short, while "salary" is "a fixed annual or periodical payment for services" (*id.* at 360), "compensation" is much broader and may include "extra pay for extra work," fringe benefits, and the like. *See also Twohy* v. *Harris*, 72 S.E.2d 329 (Va. 1952); *Morrissey* v. *Curran*, 302 F. Supp. 32 (S.D.N.Y. 1969), *aff'd in relevant part*, 423 F.2d 393 (2d Cir.), *cert. denied*, 399 U.S. 928, 400 U.S. 826 (1970); *Boyle* v. *United States*, 309 F.2d 399 (Ct. Cl. 1962); *United States* v. *Shea*, 55 F.2d 382 (D.N.D. 1932); *St. Louis Fire Fighters Ass'n, Local No. 73, AFL-CIO* v. *City of St. Louis*, 637 S.W.2d 128 (Mo. Ct. App. 1982); *Kolcum* v. *Board of Educ. of Woodbridge School Dist.*, 335 A.2d 618 (Del. Super. Ct.

1975); *Taylor* v. *McGuire*, 420 N.Y.S.2d 248 (N.Y. Sup. Ct. 1979); and *State* v. *Farmer*, 196 S.W. 1106 (Mo. 1917).

Accordingly, while Section 3 of the TVA Act limits regular employee salaries to those paid to Board members, it does not require that total employee compensation be so limited. One of my predecessors as TVA General Counsel formally advised the Board, for example, that the Section 3 limitation on employee salaries did not legally prohibit payment of overtime to certain employees otherwise entitled to overtime even though such payment might result in their receiving dollar amounts in excess of those received by Board members. Payments to the TVA Retirement System represent another example. TVA Board members have been excluded from membership in the System from its inception, at which time they also were not members of any other Federal retirement system. TVA contributions to the System on behalf of some higher-paid TVA managerial employees brought their compensation above that of Board members. Two other former TVA General Counsels concluded that:

"[T]he power to establish a retirement system was to be implied in the express powers given the Board of Directors by section 3 of the Tennessee Valley Authority Act to 'fix . . . compensation . . . and provide a system of organization, to fix responsibility and promote efficiency' [Memorandum from William C. Fitts, Jr., to Gordon R. Clapp (Aug. 9, 1939)]."

As pointed out in *Tennessee Valley Authority* v. *Kinzer*, 142 F.2d 833 (6th Cir. 1944), Congress later amended the Civil Service Retirement Act to bring Board members and others under that Act, except where they were already "subject to another retirement system for Government employees." 5 U.S.C. § 8331(1)(ii) (1982). As the court also pointed out, Congress had through appropriations approved the Retirement System rules and regulations. Thus Congress expressly recognized that TVA had acted within its statutory authority in establishing the TVA Retirement System which provided for total compensation to some employees in excess of Board members' salaries. Since 1956 the TVA Retirement System has been integrated with Social Security. The TVA Retirement System is a fully funded system, unlike the Civil Service system which involves lower contribution rates but billions of dollars of unfunded liabilities. The percentage of an employee's salary paid annually by TVA in contributions to the TVA Retirement System and Social Security taxes therefore exceeds the percentage of salary paid as contributions to the Civil Service Retirement System. Thus, the total compensation of a number of TVA employees, including such payments, has for years exceeded both the salaries and the total compensation, including contributions to the Civil Service Retirement System, of TVA Board members.

The principles applicable in connection with the above-described payments are equally applicable to the payments involved here.

* * * * *

The GAO's June 2 letter, apart from its specific infirmities noted above, is also a consummate example of deja vu. During the first several years of TVA's existence, the GAO contended—in its 1934 audit report on TVA and elsewhere—that TVA was subject to various restrictive statutes applicable in terms to the United States or its departments, and to related "rules" enunciated in GAO opinions; and refused to recognize, or interpreted narrowly, the special authority and responsibility placed in TVA by various Sections of the TVA Act (*see* S. Doc. No. 56, 76th Cong., 1st Sess. 109-133 (1939)). One of GAO's own counsel (O.R. McGuire, who was Chairman of the American Bar Association's section on Administrative Law) concluded and advised GAO that it was wrong. *Id.* at 119-20. The Special Joint Congressional Committee created by statute to investigate all aspects of TVA's operations, 52 Stat. 154 (1938), concluded, in a report reflecting the advice of its General Counsel, Francis Biddle (a leading member of the Philadelphia Bar who later served as a Judge on the United States Court of Appeals for the Third Circuit, Solicitor General, Attorney General, and the American Judge on the Nuremberg War Crimes Tribunal following Word War II), that GAO was wrong. *Id.* at 113-19, 125-30. The question then arose whether GAO could, as it threatened to do, force TVA to accept its views by refusing to countersign accountable warrants under which TVA was obtaining from the Treasury funds which had been appropriated. Both the General Counsel of the Treasury Department (E.H. Foley, Jr.) and the Attorney General (and later Supreme Court Justice) Robert H. Jackson, concluded that GAO was wrong and that appropriated funds could be made available to TVA by settlement warrants. *Hearings Before the House Committee on Military Affairs on H.R. 4961*, 77th Cong., 1st Sess. 71-95 (1941).

It was against this background that the 1941 amendment to Section 9(b) of the TVA Act was enacted. As noted in my April 15 memorandum, that amendment, which TVA and GAO jointly recommended as a means of settling the dispute between them, added the last two current paragraphs of Section 9(b). The penultimate paragraph begins by making clear that TVA's accounts are subject to the settlement and adjustment procedures established under the Budget and Accounting Act, and then continues with the following proviso:

"*Provided.* That, *subject only to the provisions of the Tennessee Valley Authority Act of 1933, as amended*, the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary . . . and . . . the General Accounting Office . . . shall not disallow credit for, not withhold funds because of, any expenditure which the board shall determine to have been necessary to carry out the provisions of (the TVA] Act."

The final paragraph goes on to state that:

"The Corporation shall determine . . . the forms and contents of its contracts and other business documents except as otherwise provided in the Tennessee Valley Authority Act of 1933, as amended."

Now, GAO, although recognizing as it must that under Section 9(b) its views are in no way binding, is contending once again that "rules" of its own concoction, and developed in relation to agencies whose statutes do not contain provisions of the kind included in the TVA Act, are somehow applicable to TVA. It is also advancing an opinion which ignores two vital sections of the TVA Act (Sections 4(g) and 9(b)), and which seeks to read the word "regular" out of Section 3 and ignores the difference between "salary" and "compensation" in the same section, in the teeth of the basic judicially established principle that a statute must be read as a whole with every section and word in it given effect.

We think that in so doing, GAO is just as wrong now as the Joint Congressional Committee and others concluded it was in the 1930s and early 1940s.

Finally, GAO concedes in its June 2 letter the serious crisis faced by TVA in seeking to rehabilitate its nuclear plants, yet in the face of those difficulties GAO undertakes an incredibly restrictive reading of the TVA Act. Given TVA's difficulties, GAO's approach seems even more incomprehensible. In *Good Roads Machinery Co.* v. *United States*, 19 F. Supp. 652 (D. Mass. 1937), the court reviewed a similarly narrow GAO reading of statutory authority during the depression. The court commented on (and overturned) GAO's refusal to authorize payment for services rendered, saying:

"I am of the opinion that the construction placed upon the words "public exigency" by the Comptroller General is much too narrow. Where all of the other branches of the Government recognized that a sudden and unexpected occasion for action had arisen, and were directing their best efforts to solving the complicated and perplexing problem of unemployment, it comes with little grace from the accounting and bookkeeping department of the Government to refuse to pay this claim because of an unreasonable and narrow construction which it places on the statute involved [at 654]."

While refusal to pay a claim is not here involved, we believe the court's language applies with equal force to the current situation.

HERBERT S. SANGER, JR.,
General Counsel.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to our good friend and colleague, the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in opposition to this amendment.

I am approaching this issue, not only as a ratepayer in the Tennessee Valley, but I am also concerned that I am the representative of the ratepayers.

This is a consumer issue. Half of the utility bills very month of the ratepayers in my district go to pay for nuclear plants that are not on line. I say that we are straining at gnats and we are swallowing a camel.

Certainly Admiral White's salary is minimal compared to the costs of our nuclear plants that are not on line. They are costing us $5 million a day.

□ 1900

Admiral White is the best choice we could have. I am fully convinced that his salary, his contract is legal; We are concerned. We do want our plants back on line safely; we want them back on line soon.

We do have problems in the Tennessee Valley. We are trying to correct our problems, and right now Admiral White is the best choice we have. We have him; we want to go on to correct the problems; have our safe nuclear plants on line, and ease the burden of the ratepayers, the people on fixed incomes, the people that are paying half

of their utility bills every month to go for nuclear plants that are not on line.

On behalf of the ratepayers in the Tennessee Valley, I urge defeat of this amendment.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I rise in strong opposition to this amendment. I feel it would be very, very destructive to a very important agency for the Tennessee Valley.

There are a couple of reasons to be against this amendment. It is important that all the Members of this House know that not one penny of taxpayer money is involved. The money that is involved is paid for by the ratepayers of the Tennessee Valley.

As far as I know, every single Member of Congress from the valley, whether Democrat or Republican, is against this amendment. A fundamental issue, to me, is involved. There are questions about the contract; they do need to be looked into and they are being looked into by a group that has jurisdiction.

The GAO is irrelevant to this process; it has no jurisdiction. The person who does is the inspector general. We need to support the inspector general; we need to make sure he does a full and timely report, and a vote no on this amendment would ensure that that occurs.

Mr. BEVILL. Mr. Chairman, I rise in opposition to this amendment.

I think our good friend and colleague, the gentlewoman from Colorado [Mrs. SCHROEDER] has been very fair. She has pointed out in her letter that what she wants to do is to send a message; but I want to point out that this is going to be a very expensive message because the cuts that she is advocating in the TVA program are not going to have anything to do with the Admiral's contract, they are not going to touch the admiral's contract. By the way, he has been commander of the submarine force of the U.S. Atlantic Fleet. He has been responsible for 90 nuclear powered submarines for over 3 years. He was highly regarded by Admiral Rickover.

So the man is knowledgeable about nuclear power, but that is neither here nor there. The point is, this amendment is nothing but a vehicle to send a message.

The gentlewoman has been very frank and honest about it, as she always is, and we appreciate that, but it will not accomplish anything. If the amendment passes, it could create problems.

There are five nuclear powerplants. There is over $12 billion invested that the ratepayers of TVA have invested, not the Congress, but the ratepayers in the TVA area; and they have been sitting there for about a year now costing $5 million every day.

This is a burden to the nuclear industry; it is a burden to the ratepayers of the TVA area, and I do not think we need to add to their problems. They are scheduling these plants with the NRC, the admiral has scheduled these plants to get them back on line, and in spite of what the GAO says they do not have any oversight authority over TVA whatsoever under the TVA Act. They have no authority whatsoever.

The lawyers of the TVA who have been handling their legal business for 50 years for TVA and they say it is legal; it is a contract; it is a temporary contract; and therefore he is not a full-time employee and he is not under civil service; and the subcommittee has nothing to do with it. They have not held any hearings, they have not reported any legislation.

If they want to really send a message, I think the subcommittee chaired by Mrs. SCHROEDER ought to hold a hearing, give us some legislation to deal with, if that is what the gentlewoman wants.

I urge a "no" vote on this amendment.

Mrs. SCHROEDER. Mr. Chairman, I want to summarize saying I know this is not the best way; I am trying to do this the easy way. I want to send a message to the TVA that we do not want this kind of giveaway program. This is what drives taxpayers absolutely looney.

Yes, of course, the nuclear powerplants are very expensive, but so is the Federal budget. The President of the United States does not make an inordinate amount depending on how much the Federal budget is.

So, Mr. Chairman, I do not think those arguments hold up.

Mr. TRAFICANT. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I am of the impression the GAO says this is an illegal contract. Is that correct?

Mrs. SCHROEDER. Absolutely. In five ways.

Mr. TRAFICANT. $355,000? And does he get full military retirement?

Mrs. SCHROEDER. Absolutely.

Mr. TRAFICANT. I believe that Congress should not allow this. I think we should support the young lady in her particular amendment, and I think evidently, as far as dealing with the nuclear business, you move from the military into the nuclear affairs business of Congress.

Someone said earlier that these special interests are overrunning the Congress. The greatest special interest in America is our defense industry. I think we had better look at that, and I think we should send a clear signal to TVA.

Mrs. SCHROEDER. And vote "aye."

Mr. FLIPPO. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Colorado [Mrs. SCHROEDER].

RECORDED VOTE

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 273, not voting 26, as follows:

[Roll No. 243]

AYES—131

Ackerman	Gonzalez	Ritter
Aspin	Gregg	Roberts
Atkins	Guarini	Roemer
AuCoin	Hall (OH)	Roth
Bates	Hamilton	Roybal
Bedell	Hawkins	Savage
Bennett	Hayes	Schroeder
Berman	Hertel	Schumer
Bonior (MI)	Hoyer	Seiberling
Borski	Hughes	Sensenbrenner
Boxer	Jacobs	Sharp
Brown (CO)	Kasich	Sikorski
Bruce	Kastenmeier	Sisisky
Bryant	Kennelly	Skelton
Burton (CA)	Kildee	Slattery
Chappie	Kleczka	Smith (FL)
Clay	Kostmayer	Smith, Robert (NH)
Collins	Kramer	Snowe
Conte	LaFalce	Stark
Conyers	Leach (IA)	Stenholm
Coyne	Lehman (CA)	Studds
Crane	Lehman (FL)	Tallon
Crockett	Leland	Torres
Dannemeyer	Lowry (WA)	Torricelli
de la Garza	Lungren	Towns
Dellums	Markey	Traficant
Dingell	Martin (IL)	Udall
Donnelly	Mavroules	Vento
Downey	McCloskey	Visclosky
Durbin	McKernan	Volkmer
Dymally	Meyers	Walgren
Eckart (OH)	Miller (CA)	Walker
Edwards (CA)	Moakley	Waxman
Evans (IL)	Morrison (CT)	Weaver
Fascell	Mrazek	Weiss
Fazio	Murphy	Wheat
Feighan	Nielson	Whittaker
Florio	Nowak	Wirth
Foglietta	Owens	Wolpe
Ford (MI)	Parris	Wyden
Frank	Petri	Yates
Garcia	Porter	Yatron
Gejdenson	Rangel	Zschau
Glickman	Ray	

NOES—273

Akaka	Bosco	Courter
Alexander	Boucher	Craig
Anderson	Boulter	Daniel
Andrews	Broomfield	Darden
Annunzio	Brown (CA)	Daschle
Anthony	Burton (IN)	Daub
Applegate	Bustamante	Davis
Archer	Byron	DeLay
Armey	Callahan	Derrick
Barnard	Carney	DeWine
Bartlett	Carper	Dickinson
Barton	Carr	Dicks
Bateman	Chandler	DioGuardi
Beilenson	Chapman	Dixon
Bentley	Chappell	Dorgan (ND)
Bereuter	Cheney	Dornan (CA)
Bevill	Clinger	Dowdy
Biaggi	Coats	Dreier
Billirakis	Cobey	Duncan
Bliley	Coble	Dwyer
Boehlert	Coelho	Dyson
Boggs	Coleman (TX)	Early
Boland	Combest	Eckert (NY)
Boner (TN)	Cooper	Edwards (OK)
Bonker	Coughlin	Emerson

English	Lott	Rostenkowski
Erdreich	Lowery (CA)	Roukema
Evans (IA)	Lujan	Rowland (CT)
Fawell	Luken	Rowland (GA)
Fields	MacKay	Rudd
Fish	Madigan	Russo
Flippo	Manton	Sabo
Foley	Marlenee	Saxton
Ford (TN)	Martin (NY)	Schaefer
Franklin	Martinez	Scheuer
Frenzel	Matsui	Schneider
Fuqua	Mazzoli	Schuette
Gallo	McCain	Schulze
Gaydos	McCandless	Shaw
Gekas	McCollum	Shelby
Gephardt	McCurdy	Shumway
Gibbons	McEwen	Shuster
Gilman	McGrath	Siljander
Goodling	McHugh	Skeen
Gordon	McKinney	Slaughter
Gradison	McMillan	Smith (IA)
Gray (IL)	Mica	Smith (NE)
Green	Michel	Smith (NJ)
Gunderson	Miller (OH)	Smith, Denny (OR)
Hall, Ralph	Miller (WA)	Smith, Robert (OR)
Hammerschmidt	Mineta	Snyder
Hansen	Molinari	Solarz
Hatcher	Mollohan	Solomon
Hefner	Monson	Spratt
Hendon	Montgomery	St Germain
Henry	Moody	Staggers
Hiler	Moorhead	Stallings
Hillis	Morrison (WA)	Stangeland
Holt	Murtha	Stokes
Hopkins	Myers	Strang
Horton	Natcher	Stratton
Howard	Neal	Stump
Hubbard	Nelson	Sundquist
Huckaby	Nichols	Sweeney
Hunter	Oakar	Swift
Hutto	Oberstar	Swindall
Hyde	Obey	Synar
Ireland	Olin	Tauke
Jeffords	Ortiz	Tauzin
Jenkins	Oxley	Taylor
Johnson	Packard	Thomas (CA)
Jones (NC)	Panetta	Thomas (GA)
Jones (OK)	Pashayan	Traxler
Kanjorski	Pease	Valentine
Kaptur	Penny	Vander Jagt
Kemp	Pepper	Vucanovich
Kolbe	Perkins	Watkins
Kolter	Pickle	Weber
Lagomarsino	Price	Whitehurst
Lantos	Pursell	Whitley
Latta	Quillen	Whitten
Leath (TX)	Rahall	Wilson
Lent	Regula	Wise
Levin (MI)	Reid	Wolf
Levine (CA)	Richardson	Wortley
Lewis (FL)	Ridge	Wylie
Lightfoot	Rinaldo	Young (AK)
Lipinski	Robinson	Young (FL)
Livingston	Rodino	Young (MO)
Lloyd	Roe	
Loeffler	Rogers	
Long	Rose	

NOT VOTING—26

Badham	Frost	Mack
Barnes	Gingrich	McDade
Breaux	Gray (PA)	Mikulski
Brooks	Grotberg	Mitchell
Campbell	Hartnett	Moore
Coleman (MO)	Jones (TN)	Spence
Edgar	Kindness	Williams
Fiedler	Lewis (CA)	Wright
Fowler	Lundine	

□ 1925

Mr. LEVINE of California and Mr. MOODY changed their votes from "aye" to "no."

Messrs. FRANK, ATKINS, PORTER, HUGHES, and WHITTAKER, Mrs. COLLINS, Mr. GUARINI, and Mr. TORRICELLI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DAUB. Mr. Chairman, I move to strike the last word, and I rise in strong support of the bill.

Mr. Chairman, I appreciate this opportunity to rise in support of the fiscal year 1987 energy and water appropriations bill (H.R. 5162). This measure contains important language that will address the flood control problems in the Papillion Basin, which is located in and around Omaha, NE.

Specifically, H.R. 5162 directs the Corps of Engineers to proceed in accordance with the plan contained in the Corps of Engineers' reevaluation report for Papillion Creek and tributaries lakes, Nebraska, and provides $300,000 for this effort in fiscal year 1987. The bill also authorizes construction as contemplated in the reevaluation report and deauthorizes features eliminated from the original authorization adopted in 1968.

Furthermore, Mr. Speaker, the appropriations measure we are considering today would resolve a water quality problem that afflicts dam site 18, which is a part of the Papillion Creek and tributaries lakes project. To remedy the problem, H.R. 5162 directs the corps to provide funds for design and construction of a storage facility to keep effluent from two upstream sanitary improvement districts [SIDs] from flowing into Boxelder Creek, which feeds the new reservoir at site 18.

In the aggregate, these provisions in H.R. 5162 are a culmination in the effort to address the long-standing flood problems in the Papillion Creek Basin system and alleviate controversy that has developed over the original solution to these problems adopted in 1968. Most importantly, however, H.R. 5162 will potentially save lives and property damage.

The history of flooding in the Papio Basin reflects the severity of the problem and the need to proceed with the reevaluation report as mandated by the bill we are considering today. Floods or threats of floods in the area occur almost every year during the summer thunderstorm season. Within the last 27 years, floods occurred in 1959, 1960, 1964, and 1965. The 1964 flood, which was the basin's most damaging flood, caused the loss of seven lives and an estimated $5 million in damage. Moreover, the increasing urbanization of the Omaha area in recent years has increased the potential for damage.

As a result of the severity of the flooding in 1964 and 1965, the Omaha District Corps of Engineers, in conjunction with other Federal and local agencies, conducted studies to determine methods to control flooding in the Papillion Basin. These studies resulted in a plan—authorized by the Flood Control Act of 1968—consisting of 21 earthen dams for flood contol, recreation, fish and wildlife enhancement, and water quality control.

Since the original authorization in 1968, the Papio project has experienced considerable delays and size reduction because of significant changes in cost, regulations, and new legislation, as well as local opposition. As a result, only four of the authorized dams—dams 11, 16, 18, 20—have been or are being constructed by the Corps of Engineers. The remaining 17 dams—excepting dam site 17, which was complete by a private developer—have been deemed over the years as uneconomic or are highly controversial. Thus, the 17 dams are now classified in an inactive status.

Mr. Chairman, recognizing the continuing flood control problems in the Papio Basin and the need to resolve the controversy resulting over identified solutions, I brought together opponents and supporters of certain aspects of the 1968 plan and formed the Papio Watershed Coordinating Committee [PWCC] in March of 1981. The PWCC consisted of 11 members representing the cities of Omaha, Papillion, and Ralston; the villages of Bennington and Washington; the Washington County Board of Supervisors; the Douglas and Sarpy County Boards of Commissioners; the Papio Natural Resource District; the Papio Valley Preservation Association; and the Papio Flood Protection Association. This committee concept proved to be an outstanding forum for the exchange of ideas and grievances in the effort to gain a consensus and thus resolve the longstanding local controversy.

Together, the PWCC drew up a compromise resolution seeking development of a comprehensive plan for flood damage prevention in the Papio Basin that was presented in Washington before Congress. This resolution ultimately resulted in the 1982 Energy and Water Development Appropriations Act mandating funding for the continued construction of dams 18 and 20 and the initiation of a 3-year study of possible modifications to the 1968 authorized plan.

After several meetings and a lot of hard work, the PWCC was presented in 1984 with five differing plans that the Corps of Engineers developed. The plan that was unanimously adopted by the PWCC on April 26, 1985, was the 50-year channel proposal that consists of the following:

First, a 50-year channel improvement along the Big Papillion Creek generally extending from West Center Road to L Street in Omaha, NE.

Second, improvement of the Union Pacific Railroad bridge crossing Big Papillion Creek located upstream of F Street, including a connecting street from F Street north to the C-D Street frontage road to access the recreation facilities along the channel.

Third, a 2-mile recreation trail extending the length of the recommended channel improvement.

Fourth, an electronic flood warning system for the entire Papillion Creek Basin system.

Mr. Chairman, the bill we are considering today that authorizes this reevaluation plan and provides $300,000 in fiscal year 1987 for its implementation truly rewards the members of the PWCC and the Omaha Corps of Engineers for their hard work in resolving the flood control issue in the Papio Basin. Of particular importance, this plan—which was approved by the Chief of Engineers at the Washington level on June 12, 1986—will save the Federal Government a substantial financial commitment in that the reevaluation is estimated to cost $6,379,000, while the original solution authorized in 1968 would have cost $120 million in view of current prices. Of utmost importance, however, implementation will save lives and property damage.

I want to take this time to express my appreciation to members of the PWCC, the Corps of Engineers, and the countless others who participated in the efforts to come to a consensus on this flood control issue. The contributions of local interests have been essential to resolving the problem, and I am very pleased that we can finally go forth with the reevaluation plan and provide flood protection to my constituents in the Omaha area.

Mr. Chairman, with respect to the provisions of H.R. 5162 that pertain to dam site 18, I also want to commend the local interests who came to a consensus to resolve the water quality problem at the site. Even though the reservoir has been built at site 18, the water quality problem originating from the effluent from the two upstream SID's has precluded final action to fill the new lake.

The language contained in H.R. 5162 will resolve this problem by directing the corps to use already appropriated funds to proceed with the necessary design and construction work to implement the agreed to solution. The proposal consists of creating a storage facility—pond—in the vicinity of the Skyline Woods Golf Course. Treated effluent from SID 57 would flow by gravity to the pond and SID 303 treated effluent would be pumped up to the pond level. The pond would thus keep the effluent from reaching Boxelder Creek, which feeds the new reservior created at dam site 18.

Again, I want to commend all those individuals who contributed to the resolutions of the omnibus flood control problem in the Papio Basin and the water quality problem at dam site 18. Your hard work has resulted in today's legislation, and I look forward to working with all of you in the future to implement the solutions.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of Public Law 99-177.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any other Act from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided*, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further*, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further*, That this section shall not apply to procurements of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further*, That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

Mr. BEVILL (during the reading). Mr. Chairman, we know of only one more amendment, and I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order to the portion of the bill considered read?

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: At the end of title V, insert the following new section:

"SEC. 509. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available by previously enacted law shall be reduced by 4.62 percent."

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 20 minutes, 10 minutes of which would be controlled by myself and 10 minutes of which would be controlled by the distinguished gentleman from Alabama [Mr. BEVILL], the chairman of the subcommittee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 10 minutes and the gentleman from Alabama [Mr. BEVILL] is recognized for 10 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. FRENZEL. Mr. Chairman, this is another very simple amendment. Its intention is to make the 1987 appropriation that we are working on today equal in budget authority, or substantially equal, to the 1986 appropriation postsequester.

If you will look on page 161 of the committee report, I am trying to take $15,584 million down to $14,756 million more or less. The factor I have used is a reduction of 4.62.

That figure is applied across the board. The reason it is applied across the board is because I am trying to respect the committee's work. I am not trying to change any decision with respect to priority that the committee has made.

What I am trying to do is to cut every item in here by 4.62 percent. That will reduce the BA to last year's amount, and it will reduce the outlay amount, as estimated by the CBO, to within a couple of million of this year's budget resolution which will make this bill, in my judgment, should make it acceptable to nearly everybody if this passed.

There are complaints. The administration opposes my amendment because it would make tiny cuts in SDI research. As I compute all the cuts of mine that would apply to SDI, they would be about $25 million, which is almost unobservable against the more than $4 billion request. I have suggested again across the board. I know the SDI fight can be waged on the military authorization. I would prefer not to wage it here.

What I would say is every item in our budget can be cut if we cut them all. I do not believe in selective frugality. Everybody should be in it, the administration's strong feelings notwithstanding.

My amendment has been attacked by those who have water projects in here. I understand every Member's desire to have a project and to have it work for them. All I am saying is that sometime we have to decide whether we are going to have a deficit after 1999 or whether we are not.

I am only trying to administer frugality in small doses. I am not trying to make very large cuts, and I am not trying to spoil anyone's project. But a little tiny cut out of everyone, I believe, would help.

Again, Mr. Chairman, my amendment is intended to preserve the committee's choices and to freeze and to control our deficit. I hope somehow this committee can continue the good work of last week and try to maintain just a little fiscal sobriety.

Mr. BEVILL. Mr. Chairman, I yield 5 minutes to my good friend and colleague, the gentleman from Indiana [Mr. MYERS].

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO], a member of the subcommittee.

Mr. FAZIO. Mr. Chairman, I think we are getting to a point where we attempt to reinvent the wheel on every appropriation bill. We attempt to redefine the budget process and make cuts which, we are convinced will placate our constituencies, we are not really thinking through and understanding what the cuts are really all about.

I think it is important to point out that this appropriation bill is in conformance with the Budget Act. We are in conformance with the goals the Appropriations Committee had in the 302(b) allocation. We have met the formula and the test.

If you follow Mr. FRENZEL's direction and make this cut, you are going to be eliminating the discretion and the priorities established by this Congress.

We do not need a lot of time to talk about this. But if are going to reassert the priorities, not of the Appropriations Committee, but of the Congress itself, if we are going to be allowed to make changes in the submission of the Executive, then we have to vote against this amendment.

We are $300 million below the President's request. Nobody can say that we have not done our job to reduce domestic expenditures.

As one who wants to freeze SDI, I can say this is not the time to be debating this issue on a peripheral bill that is not at the center core of SDI.

I would simply urge my colleagues who want a balanced energy program, for those who think it is appropriate for us to be able to set priorities in water development, to stick with the committee and not be stampeded into making a cosmetic cut at the conclusion of a long and effective debate, on a variety of issues.

This is an opportunity for us to stand by our committee's priorities that really reflect all of our priorities. The committee has done its best to meet the test that we have imposed on it.

I urge you to defeat this amendment and to send forward a proper budgetarily constrained bill.

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Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding to me.

Mr. Chairman, I think that this Congress tonight on the second appropriations bill has to think about how we are going to break the "business-as-usual" cycle. No one wants to vote for an amendment that reduces spending anywhere, but it is time that we break the "business-as-usual" cycle that has gotten this country and this Congress, and has led this country and this Congress to the brink of financial disaster.

Let us think for a minute as to how we got here tonight. I suggest that everyone, before they vote on this amendment, recall the context, the background that led to Gramm-Rudman-Hollings, that imposed a discipline, a top level of spending for the entirety of the Federal Government and said that if we break that discipline, if we go over that deficit level, the result is the sequestration process.

We do not know yet whether that sequestration would occur automatically or by the order of OMB or CBO or GAO or by the Congress itself, but ultimately, ultimately if we begin to pass appropriations bills that are in excess of the budget that this Congress passed just a few weeks ago, then sequestration will occur.

This House voted for a budget, and this is the second appropriations bill in which we have the opportunity and the obligation to enforce that budget. We have 11 more appropriations bills to go. There are projects within this appropriations bill that we all like and that we all like on an individual basis. But I want to suggest that this is the test. Now, this is a sequestration vote, it is a budget vote, it is a deficit vote. If we vote tonight not to adopt the budget, not to enforce the budget that we had already adopted a few weeks ago then we are voting just as surely as anything for sequestration later this fall.

Sequestration is not the right way to budget. What we need to be doing is to consider these items, these appropriations and entitlements one at a time to force the appropriations bills to comply with the budget so that we can avoid sequestration.

Vote for the Frenzel amendment for some sanity.

Mr. MYERS of Indiana. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. I thank the gentleman for yielding to me.

Mr. Chairman, ordinarily I would empathize with my distinguished colleague from Minnesota, but there is something wrong with across-the-board cuts. We have to remember that last year at the urging of the committee, for example, the Bureau of Reclamation was urged to spend all of the moneys in their pipeline. They did a good job of that; we thank them for that. This year they came in with a bare-bones budget, needing every dime that they asked for just to complete or get the projects underway that were underway. We did not do that for them; we took off a little bit of that too, some $300 million.

This means that if we cut this, this item, then the contracts that have been let will have to be canceled meaning penalties to those contractors. People will have to be laid off meaning penalties and payments to those people being laid off. So this is really penny-wise and pound-foolish, and we should reject this amendment because it will cost the taxpayers more in the long run than it would save.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding me this time.

Mr. Chairman, I imagine that there are at least a few people in this body that are as tired of seeing me in this well as I am tired of being in this well,

but the point is, we must face the requirement to cut spending.

We are trying to make it on the basis of line item cuts that can be selective and can be creative. I want to avoid across-the-board cuts whether they be on individual appropriations bills or whether it be in sequestering. That is a bad way to legislate.

We have tried; we have offered many, many amendments today. They have been voted down. I understand the respect we hold for the committees. I understand our inclination to give deference to a committee that works as hard as the Appropriations Committee works, but when they do the best they can do, they need help from us here on this floor to do more. That is what we must do.

I am a big fan and supporter of SDI. I support SDI almost as much as I support cutting spending and avoiding deficits. Consequently, I am going to have to vote "yes" for this across-the-board cut. I am going to have to watch SDI take a cut it would not have had to take if we could make line item cuts in other areas where I do not see such great emergency and such great need and such great promise.

These are the things we are going to have to do. Each and every one of you that defended a program against cuts earlier today recognize your program is going to get a cut either today, across the board, or in September, across the board, when we go to sequestering.

We can make some selective choices or we can take across-the-board cuts. I am going to ask those of you who share by enthusiasm for SDI to join me today in doing what is, in fact, and truly the responsible thing. Let it take its cut along with other programs that should not be taking their cut because we did not cut those that should have been cut.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment to H.R. 5162 offered by my good friend, coworker, and ally, the gentleman from Minnesota [Mr. FRENZEL].

I oppose the gentleman's amendment with great reluctance because I have deep affection and respect for him personally and because I almost always vote with him on many, many other issues.

But I cannot accept his amendment, which would in effect sabotage my subcommittee's months and months of work and fly in the face of more than 2,000 witnesses who came in good faith to give us the benefit of their best thought and wisdom covering 12,469 pages of printed testimony.

From this enormous mass of material, I and my colleagues on this subcommittee have carefully crafted our bill. It meets every reasonable test of financial sanity.

It meets the requirements of the Balanced Budget and Deficit Control Act (Gramm-Rudman).

It is under the President's budget by $300 million.

And it matches the 302(b) allocation under the budget resolution.

So to the best of my knowledge and belief, we have done the right thing with this bill.

If the gentleman's amendment prevails, it would subject the bill to triple jeopardy from the Gramm-Rudman Balanced Budget and Deficit Control Act.

First, the bill meets, as I said, the reduced Gramm-Rudman targets for fiscal year 1987.

Second, the amendment would whack this already reduced budget by 4.62-percent across the board.

And third, if other appropriations and authorizing bills fail to meet these budget targets, our bill could again be subject to still a third percentage across-the-board reduction.

The amendment, well-intentioned by the gentleman, would reduce much of the initiatives to continue to develop the water resources of the country to current-year levels and reduce the funding for the development of our nuclear defense to approximately the levels of fiscal year 1985. This amounts to policy options put forward at this late hour that have already been considered and found to be not acceptable to the committee or to me personally.

Why go through the months and months of hearings and markups, only to be second-guessed by an amendment that offers what seems to be such an easy vote.

No, my friends. A vote for this amendment cripples the bill so severely that if passed with this amendent, the measure would send your House conferees to the other body with little to bargain with and facing the prospect of still further cuts, particularly in defense. We have reduced defense spending significantly in our bill. Enough is enough.

The amendment would cut into the muscle of our water-resource development programs. We have not had a major public works bill enacted by the Congress in at least 16 years. We do have one in House-Senate conference, but it is going to be a long, hard conference. Whether a conference report will emerge is not clear.

In the meantime, our committee is trying to keep water-planning and construction alive. This amendment goes against our most careful judgment as to what is necessary to keep this nationally vital program going. Otherwise, water-resource development soon will slide into insignificance.

Let us keep this matter in perspective, however. This is an investment in the future of America's water resources, in its future food-producing capacity. Every dollar invested in water development yields benefits far in excess of that investment.

With up to 3 million acres of farmland—and perhaps 1 million in prime farmland—disappearing every year under urban sprawl, highway building, airports, and other development—the United States cannot afford to stop developing our water resources.

We are today, now, even as we speak, spending vast sums of Federal dollars on far more controversial projects. For example, the Department of Defense is reactivating four old battleships, the *Iowa* class, at an average cost of an estimated $454.8 million each, or a total of about $1.8 billion. And that is just for the so-called Phase I modernization.

No one that I know of ever expects any battleship expense to be repaid to the U.S. Treasury even in part by any entity. No battleship will ever produce an ounce of food or water for an expanding population. No battleship will produce any tax revenues, recreation, or wealth of any kind. No battleship will ever become anything productive. All we can hope is that the *Iowa* class ships will help, maybe, to preserve the peace so that we can get on with building and rebuilding this country.

I could cite the Washington, DC, subway in the same light. Nobody knows it's total cost, but it could be as much as $15 billion, an amount about equal to what has been invested in the reclamation west over the past 80 years. The subway, however, already is approaching an annual operating loss of $300 million—and the system is far from finished.

Compared to the many water issues facing the Congress today, the amounts being invested in water projects is a drop in the bucket compared to our national needs.

Indeed, the issue today before the House is simply under what terms and conditions are we going to continue to develop and use the relatively scarce water available to us in the 17 reclamation States as well as in many other situations all over the country.

There are those who cannot understand why, in the midst of surpluses and Federal budget deficits, we should invent anything in any water project at this time.

Besides the huge annual loss of farmland to urban and nonfarm use, we have only to look at Ethiopia to document the folly of failing to develop water resources. Such failure contributed enormously to the hunger tragedy there. The major river in Ethiopa, the Blue Nile, has nearly three

times the annual flow of the Missouri River at Sioux City, IA. Yet there has not been a single irrigation project developed in the Blue Nile basin in Ethiopia.

While water-resource development is nearly at a standstill in the United States—such other lands as China, Brazil, Malaysia, Pakistan, Spain, Sudan, and others are aggressively continuing water resource development.

Yes, we have surpluses now. Yes, agricultural land is a glut on the market. Yes, we have a budget deficit.

But all of us know that the world is living hand-to-mouth. Surpluses of commodities have disappeared almost overnight before. It could stop raining in the incomparable breadbasket of the Midwest, just as it seems to have stopped raining in our stricken Southeastern States. And just as it stopped raining in the West at the turn of the century with a drought so severe that it led to the reclamation movement and the current programs in the 17 reclamation States.

Nevertheless, water projects often are reviled as wasteful, pork-barrel political payoffs to Members of Congress.

I ask you what Communist country would not gladly exchange its system's discredited, inefficient agricultural disasters for our incredible success? What sub-Sahara land, and Ethiopia, would not sacrifice its gross national product for our water resources development complex?

The people who toil year after year in the cause of wise and environmentally sound water-resource development know better than most of the latter-day preservationists and naturalists can ever know what water-resource development has meant to wildlife and to the enhancement of the environment.

They know that the no-growth preservationists embrace a sterile, joyless philosophy that holds that America's natural resources are about to run out and there will be less and less for more and more people to try to share.

We all know that that is a lie. In developing our water resources, we have seen our country come alive with joy, hope, and optimism that has led to a better and better life and times for us all.

Mr. Chairman, I am deeply grateful for the privilege of working with my committee chairman and my colleagues on the committee on this bill. I heartily recommend its passage as is.

I urge the House to reject this well-intentioned but unwise amendment.

The CHAIRMAN pro tempore. The Chair will announce that the gentleman from Minnesota [Mr. FRENZEL] has 4 minutes remaining; the gentleman from Alabama [Mr. BEVILL] has 3 minutes remaining; and the gentleman from Indiana [Mr. MYERS] has 2 minutes remaining.

Mr. BEVILL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Frenzel amendment and in strong support of this legislation.

The Frenzel amendment would reduce funds in this legislation by over 5 percent. Its effect would be to jeopardize many projects which are crucial to the Nation and to my own State of Maryland.

All of us know we need to reduce the deficit. One way to do this is to make specific budget cuts. And the chairman of the subcommittee and his colleagues have presented us with a bill that is within the President's budget.

Another approach to reducing the deficit, also taken in this legislation, is to make public investments which generate private sector jobs. That is why I have strongly supported funding to deepen our Nation's ports and waterways, particularly those for the Port of Baltimore.

When we make the kind of navigational improvements which this bill would do, we generate jobs along our waterfronts and in our Nation's coastal cities. More jobs means there will be more Americans paying taxes. More jobs means that local communities will have the revenues to provide the kind of goods and services which their residents deserve and have come to depend on. In addition, deeper harbors and better waterways means more commerce for family-run small businesses that are heavily dependent on international trade.

If we adopt the Frenzel amendment, we will be costing my State; and virtually every State in the Nation, jobs that would be generated from public sector investment.

What would it mean to Maryland?

It would mean that we will not be able to dredge our main channel in Baltimore to 50 feet as quickly as we need to which could cost us some of the 1,600 jobs this project will produce. It would also mean that the corps might not be able to deepen the Brewerton Channel to 35 feet or do advanced maintenance dredging for the C&D Canal. And that would mean lost containerized cargo traffic for the Port of Baltimore.

This amendment would also cut funds for shoreline erosion and hurricane protection in Ocean City, MD. The small amounts for these items in this bill will help protect both our environment and a local economy which generates over $2 billion a year. The kind of return to my State and other States with similar projects from these kind of investments far exceeds any benefit to deficit reduction which the Frenzel amendment might provide.

Finally, this amendment would cut funds for two important flood control projects in western Maryland. Had it not been for the corps' Bloomington Lake flood control project, Garrett and Alleghany Counties would have suffered tremendous damage in 1985.

So this amendment might result in communities being placed at greater risk from storms and Mother Nature. And that result will not only cost us more Federal funds if these communities are damaged, but it might place human lives in jeopardy.

Mr. Chairman, we need to continue our commitment to public investment that generates private sector jobs and private sector protection. The subcommittee's chairman, Mr. TOM BEVILL, has been a real leader in providing this investment and I commend him for the legislation on the floor today. The Frenzel amendment would strike at the very heart of this commitment, costing us jobs and increasing the need for other forms of public assistance.

I urge my colleagues to reject it.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

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Mrs. JOHNSON. Mr. Chairman, it is time to translate the rhetoric of tough decisions into the action or the reality of tough decisions. It is not easy to get up here and cut a budget that thoughtful Members have obviously put together with conviction. It is not easy, but it is necessary.

This proposal does retain the priorities that the committee worked hard to develop, but it does another very equally important thing, and that is it meets the targets of our own budget resolution. If we fail to meet the targets of our budget resolution, we will be forced to compound the mischief that we created in the 1986 budget by allowing a formula-driven sequester to go into place. If we fail to pass this amendment, I say to my colleagues, we will once again have to confront the irrationality of trying to explain to Head Start mothers why Head Start's locks have been cut, of trying to explain to our seniors and our senior citizen centers why Meals on Wheels have been cut, and at the same time having to absorb within our hearts agency personnel who come up and say, "I was able to manage the 5 percent. I simply worked more closely with some State agency."

There are cuts that can be made responsibly, and there are cuts that cannot be made responsibly. Our responsibility is to assure a rational budget. We did that in the budget resolution, and we must comply with our actions now.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. BEVILL] has 3 minutes remaining.

The Chair recognizes the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume up to 2 minutes.

Mr. Chairman, this is an inviting amendment. I think all of us would like to vote for it. Gee, I like to vote

for cuts and be the good guy on the block. In my career I have voted for my share of across-the-board cuts. Years ago I voted for the Bow amendments and, more recently, the Miller amendments. Those were years when we could do it. This committee has accepted cuts like this for several years when we had some excess in it.

But we are already down there now. Contrary to what Members may have heard, we are right on the House-passed budget. If you voted for the House budget, you have got to vote against this amendment because that is where it is.

The gentlewoman a moment ago said she would like to transfer the budget. The other body can do that; we cannot. I do not care how much we would like to spend on some other budget; if it is not in the budget, we cannot do it. We are under the President's request by $320 million.

Now, I say to my friends that the gentleman from Minnesota [Mr. FRENZEL], who is the author of this amendment, said he has tried to retain the priorities. Actually he has distorted the priorities. That is what the Appropriations Committee did. We allocated to each committee, and we saw fit in some of these areas, such as SDI and some others, that we should spend more money this year than we did last year. But this would not allow that.

Let me tell the Members that the proper way to do this is to vote no on this amendment. And let me assure the Members that when that snapshot is taken in 23 days that tells us a new picture, if that says we have got to cut more than we anticipate now, when we go to conference, we will do that. But we must use the judgment of the Appropriations Committee to cut it down. We have to live by the same thing the Members voted for when they voted for Gramm-Rudman. We have got to do that, but we do not know what it is today. This is shooting in the dark.

Mr. Chairman, I ask the Members to support the subcommittee, to vote no on this amendment. Then we will still be within Gramm-Rudman, and we will be doing the right thing for appropriations for our country. As exciting and inviting as this amendment is, vote no on the amendment.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, it is easy for any Member to vote for cuts in spending when that spending occurs in other Members' districts. That is a political reality. It is much more difficult to come to the conclusion that in order to bring down the deficit one must also suffer cuts in spending in one's own district.

At the risk of inviting political flak back in my district, I propose to vote in favor of this amendment, even though some very attractive programs benefit, under the present funding, elements in my district.

And there is another good reason, Mr. Chairman, for doing so, and that is to satisfy the overall demand by the American public to reduce spending.

The CHAIRMAN pro tempore. The Chair will state that the gentleman from Minnesota [Mr. Frenzel] has 1½ minutes remaining and the gentleman from Alabama [Mr. BEVILL] has 3 minutes remaining.

Mr. FRENZEL. Mr. Chairman, I yield myself my remaining time.

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. Frenzel] is recognized for 1½ minutes.

Mr. FRENZEL. Mr. Chairman, we have had a brief but spirited debate. I think it is quite clear what we are talking about.

My amendment is a freeze amendment. It so happens, however, to bring the outlay total back into conformity with the budget which this House passed, the committee's bill quite clearly is stated by CBO to be a half a billion dollars over the outlays approved in our budget resolution.

Now, if you want to be over, if you want to vote for a huge sequestration resolution, then turn my amendment down. I am giving the Members a chance to make little cuts along the way so that when sequestration comes, it is not going to be nearly as tough on all of us.

And for those of us who are worried about cuts in defense, we should remember that 50 percent of the cuts in defense come on sequestration, and we are going to get the heavy end of the stick on that particular item.

I would like to think that the House could vote twice in a row for a freeze on last year and could demonstrate some devotion to fiscal responsibility. I would like to think that we are trying to put our budget in order and admitting that, yes, we are in trouble on deficits and we are going to try to meet the Gramm-Rudman-Hollings target.

Mr. Chairman, I hope the amendment will be approved.

Mr. BEVILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not plan to use the 3 minutes I have remaining. I want to make the point here that we certainly appreciate the sincerity of the gentleman's efforts through the years to assure that we have appropriate and effective Federal spending. I am referring to our good friend and colleague, the gentleman from Minnesota [Mr. FRENZEL]

But let me make some points here that I think the Members will want to know about this amendment. To begin with, we do not need the amendment.

Let me tell the Members why we do not need the amendment. This Congress has already passed an act that provides for sequestration that is going to take place on October 1, and that is going to make a sensible and a more intelligent decision on the amount of outlays. Right now nobody knows what the outlays will be. By the time the President signs our bill and by October 1, this Congress will make the necessary cuts provided in the law.

Let me put it this way: We have some very sensitive weapons research in here. The President opposes this amendment, the Secretary of State opposes it, and the Secretary of Defense opposes this amendment. There is some very sensitive weapons research provided in this bill and the gentleman is asking us to reduce it. As the Members know, just a few days ago the White House announced that arms limitation negotiations were taking place and much in this bill are important to those negotiations. So I do not think that this is a good signal to send.

Let us not pull the rug out from under the Commander in Chief. Let us not take out these flood control projects. Let us not take out the most successful nuclear cancer research program in the world. That is what would be cut. I am not saying the gentleman wants to do that, but that would be the result of what he has offered.

As I said, these are items that do not need to be cut. This would cut $715 million out of this bill.

So. Mr. Chairman, I hope the Members will vote no on this amendment. This bill is more than half defense and this is a terrible time to be cutting and sending that signal to Geneva that we want to cut defense.

Mr. Chairman, I yield back the balance of my time.

□ 1955

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 241, not voting 22, as follows:

[Roll No. 244]

AYES—167

Andrews	Bruce	Dannemeyer
Archer	Bryant	Darden
Armey	Burton (IN)	Daub
Aspin	Chandler	DeWine
Badham	Chappie	Dickinson
Barnard	Cheney	DioGuardi
Bartlett	Coats	Dornan (CA)
Barton	Cobey	Dreier
Bates	Combest	Eckert (NY)
Bedell	Coughlin	Evans (IA)
Bereuter	Courter	Fawell
Bilirakis	Craig	Fiedler
Broomfield	Crane	Fields
Brown (CO)	Daniel	Fish

Franklin	Lujan	Schuette
Frenzel	Lungren	Schulze
Gallo	Mack	Schumer
Gejdenson	MacKay	Sensenbrenner
Gekas	Madigan	Sharp
Gibbons	Marlenee	Shumway
Gingrich	Martin (IL)	Shuster
Glickman	McCloskey	Sikorski
Goodling	McGrath	Siljander
Gradison	McKernan	Sisisky
Gregg	McKinney	Slattery
Hall (OH)	McMillan	Slaughter
Hall, Ralph	Meyers	Smith (NJ)
Hamilton	Michel	Smith, Denny (OR)
Hansen	Miller (OH)	Smith, Robert (NH)
Henry	Miller (WA)	Smith, Robert (OR)
Hertel	Molinari	Snowe
Hiler	Monson	Solomon
Hillis	Moorhead	Spratt
Hopkins	Morrison (CT)	Stallings
Hubbard	Neal	Stenholm
Hunter	Nielson	Stump
Hutto	Olin	Sweeney
Hyde	Oxley	Swindall
Ireland	Packard	Tauke
Jacobs	Panetta	Tauzin
Jeffords	Penny	Thomas (CA)
Johnson	Petri	Vento
Kanjorski	Porter	Visclosky
Kasich	Pursell	Walgren
Kennelly	Quillen	Walker
Kindness	Ray	Weaver
Kolbe	Rinaldo	Weber
Kostmayer	Ritter	Weiss
Kramer	Roberts	Whitehurst
LaFalce	Roemer	Wirth
Lagomarsino	Roth	Wolpe
Latta	Roukema	Wylie
Leach (IA)	Rowland (CT)	Yatron
Lent	Russo	Young (AK)
Levin (MI)	Saxton	Young (FL)
Lightfoot	Schneider	Young (MO)
Loeffler	Schroeder	Zschau

NOES—241

Ackerman	DeLay	Horton
Akaka	Dellums	Howard
Alexander	Derrick	Hoyer
Anderson	Dicks	Huckaby
Annunzio	Dingell	Hughes
Anthony	Dixon	Jenkins
Applegate	Donnelly	Jones (NC)
Atkins	Dorgan (ND)	Jones (OK)
AuCoin	Dowdy	Kaptur
Bateman	Downey	Kastenmeier
Beilenson	Duncan	Kemp
Bennett	Durbin	Kildee
Bentley	Dwyer	Kleczka
Berman	Dymally	Kolter
Bevill	Dyson	Lantos
Biaggi	Early	Leath (TX)
Bliley	Eckart (OH)	Lehman (CA)
Boehlert	Edwards (CA)	Lehman (FL)
Boggs	Edwards (OK)	Leland
Boland	Emerson	Levine (CA)
Boner (TN)	English	Lewis (CA)
Bonior (MI)	Erdreich	Lewis (FL)
Bonker	Evans (IL)	Lipinski
Borski	Fascell	Livingston
Bosco	Fazio	Lloyd
Boucher	Feighan	Long
Boulter	Flippo	Lott
Boxer	Florio	Lowery (CA)
Brown (CA)	Foglietta	Lowry (WA)
Burton (CA)	Foley	Luken
Bustamante	Ford (MI)	Manton
Byron	Ford (TN)	Markey
Callahan	Frank	Martin (NY)
Carney	Fuqua	Martinez
Carper	Gaydos	Matsui
Carr	Gephardt	Mavroules
Chapman	Gilman	Mazzoli
Chappell	Gonzalez	McCain
Clay	Gordon	McCandless
Clinger	Gray (IL)	McCollum
Coble	Green	McCurdy
Coelho	Guarini	McDade
Coleman (TX)	Gunderson	McEwen
Collins	Hammerschmidt	McHugh
Conte	Hatcher	Mica
Cooper	Hawkins	Mikulski
Coyne	Hayes	Mineta
Crockett	Hefner	Moakley
Daschle	Hendon	Mollohan
de la Garza	Holt	Montgomery
Moody	Rose	Taylor
Morrison (WA)	Rostenkowski	Thomas (GA)
Mrazek	Rowland (GA)	Torres
Murphy	Roybal	Torricelli
Murtha	Rudd	Towns
Myers	Sabo	Traficant
Natcher	Savage	Traxler
Nelson	Schaefer	Udall
Nichols	Scheuer	Valentine
Nowak	Seiberling	Vander Jagt
Oakar	Shaw	Volkmer
Oberstar	Shelby	Vucanovich
Ortiz	Skeen	Watkins
Owens	Skelton	Waxman
Parris	Smith (FL)	Wheat
Pashayan	Smith (IA)	Whitley
Pease	Smith (NE)	Whittaker
Pepper	Snyder	Whitten
Perkins	Solarz	Wilson
Pickle	St Germain	Wise
Price	Staggers	Wolf
Rahall	Stangeland	Wortley
Rangel	Stark	Wright
Regula	Stokes	Wyden
Reid	Strang	Yates
Richardson	Stratton	Yatron
Ridge	Studds	Young (AK)
Robinson	Sundquist	Young (FL)
Rodino	Swift	Young (MO)
Roe	Synar	
Rogers	Tallon	

NOT VOTING—22

Barnes	Fowler	Miller (CA)
Breaux	Frost	Mitchell
Brooks	Garcia	Moore
Campbell	Gray (PA)	Obey
Coleman (MO)	Grotberg	Spence
Conyers	Hartnett	Williams
Davis	Jones (TN)	
Edgar	Lundine	

□ 2010

Messrs. WHITTAKER, WYDEN, BOEHLERT, PASHAYAN, and McEWEN changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. AuCOIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to enter into a very brief colloquy with the chairman of the committee, the gentleman from Alabama [Mr. BEVILL]. I want to commend his committee and him for providing additional funds for the important testing of improved double-length fish passage screens at Little Goose Dam on the Columbia River.

Mr. Chairman, I ask the gentleman from Alabama if he agrees with me that the Corps of Engineers should expedite those tests to determine if extra-length fish passage screens would provide improved passage at that location.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the gentleman is correct. I want to assure the gentleman from Oregon that the committee understands the importance of the salmon and steelhead resources of the Pacific Northwest. We will continue to encourage the Corps of Engineers to proceed expeditiously with the design and construction of these needed facilities, and we concur that the testing of new fish screen technologies should proceed forthwith.

The CHAIRMAN pro tempore (Mr. CARPER). Are there further amendments to the bill?

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Energy and Water Development Appropriation Act, 1987".

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. CARPER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5162) making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 82, not voting 19, as follows:

[Roll No. 245]

AYES—329

Akaka	Barnard	Bilirakis
Alexander	Bateman	Bliley
Anderson	Bedell	Boehlert
Andrews	Beilenson	Boggs
Annunzio	Bennett	Boland
Anthony	Bentley	Boner (TN)
Applegate	Bereuter	Bonker
Aspin	Berman	Borski
Atkins	Bevill	Bosco
AuCoin	Biaggi	Boucher

Boulter	Hawkins	Obey
Boxer	Hefner	Ortiz
Broomfield	Hendon	Owens
Brown (CA)	Hillis	Packard
Bruce	Holt	Panetta
Bryant	Hopkins	Parris
Burton (CA)	Horton	Pashayan
Bustamante	Howard	Pease
Byron	Hoyer	Penny
Callahan	Hubbard	Pepper
Carney	Huckaby	Perkins
Carper	Hughes	Pickle
Carr	Hunter	Porter
Chapman	Hutto	Price
Chappell	Ireland	Quillen
Chappie	Jenkins	Rahall
Cheney	Johnson	Rangel
Clay	Jones (NC)	Regula
Clinger	Jones (OK)	Reid
Cobey	Kanjorski	Richardson
Coble	Kaptur	Ridge
Coelho	Kastenmeier	Rinaldo
Coleman (TX)	Kemp	Robinson
Collins	Kennelly	Rodino
Combest	Kildee	Roe
Conte	Kleczka	Roemer
Cooper	Kolbe	Rogers
Coughlin	Kolter	Rose
Courter	Kostmayer	Rostenkowski
Coyne	Kramer	Roukema
Daniel	LaFalce	Rowland (CT)
Dannemeyer	Lagomarsino	Rowland (GA)
Darden	Lantos	Roybal
Daschle	Leath (TX)	Rudd
Daub	Lehman (CA)	Russo
Davis	Lehman (FL)	Sabo
de la Garza	Leland	Saxton
DeLay	Lent	Scheuer
Dellums	Levin (MI)	Schneider
Derrick	Levine (CA)	Schuette
Dickinson	Lewis (CA)	Schumer
Dicks	Lewis (FL)	Seiberling
Dingell	Lightfoot	Shaw
DioGuardi	Lipinski	Shelby
Dixon	Livingston	Shuster
Donnelly	Lloyd	Sisisky
Dorgan (ND)	Loeffler	Skeen
Dornan (CA)	Long	Skelton
Dowdy	Lott	Smith (FL)
Downey	Lowery (CA)	Smith (IA)
Duncan	Lujan	Smith (NE)
Durbin	Luken	Smith (NJ)
Dwyer	Lungren	Smith, Robert (OR)
Dymally	Manton	Snowe
Dyson	Markey	Snyder
Early	Marlenee	Solarz
Eckart (OH)	Martin (NY)	Spratt
Edwards (CA)	Martinez	St Germain
Edwards (OK)	Matsui	Staggers
Emerson	Mavroules	Stallings
English	Mazzoli	Stangeland
Erdreich	McCain	Stark
Evans (IL)	McCandless	Stokes
Fascell	McCloskey	Strang
Fazio	McCollum	Stratton
Feighan	McCurdy	Stump
Fiedler	McDade	Sundquist
Fields	McEwen	Sweeney
Fish	McGrath	Swift
Flippo	McHugh	Synar
Florio	McKernan	Tallon
Foglietta	McKinney	Tauzin
Foley	McMillan	Taylor
Ford (MI)	Meyers	Thomas (CA)
Ford (TN)	Mica	Thomas (GA)
Frank	Mikulski	Torres
Franklin	Miller (OH)	Torricelli
Fuqua	Mineta	Towns
Gallo	Moakley	Traficant
Gaydos	Molinari	Traxler
Gejdenson	Mollohan	Valentine
Gekas	Monson	Vander Jagt
Gephardt	Montgomery	Visclosky
Gibbons	Morrison (WA)	Volkmer
Gilman	Mrazek	Vucanovich
Gonzalez	Murphy	Walgren
Gordon	Murtha	Watkins
Gray (IL)	Myers	Waxman
Green	Natcher	Wheat
Guarini	Neal	Whitehurst
Gunderson	Nelson	Whitley
Hall (OH)	Nichols	Whittaker
Hamilton	Nielson	Whitten
Hammerschmidt	Nowak	Williams
Hansen	Oakar	Wilson
Hatcher	Oberstar	Wirth
Wright	Young (AK)	
Wise	Wyden	Young (FL)
Wolf	Yates	Young (MO)
Wortley	Yatron	Zschau

NOES—82

Ackerman	Hayes	Roth
Archer	Henry	Savage
Armey	Hertel	Schaefer
Badham	Hiler	Schroeder
Bartlett	Hyde	Schulze
Barton	Jacobs	Sensenbrenner
Bates	Jeffords	Sharp
Bonior (MI)	Kasich	Shumway
Brown (CO)	Kindness	Sikorski
Burton (IN)	Latta	Siljander
Chandler	Leach (IA)	Slattery
Coats	Lowry (WA)	Slaughter
Conyers	Mack	Smith, Denny (OR)
Craig	MacKay	Smith, Robert (NH)
Crane	Madigan	Solomon
Crockett	Martin (IL)	Stenholm
DeWine	Michel	Studds
Dreier	Miller (WA)	Swindall
Eckert (NY)	Moody	Tauke
Evans (IA)	Moorhead	Vento
Fawell	Morrison (CT)	Walker
Frenzel	Olin	Weaver
Gingrich	Oxley	Weber
Glickman	Petri	Weiss
Goodling	Pursell	Wolpe
Gradison	Ray	Wylie
Gregg	Ritter	
Hall, Ralph	Roberts	

NOT VOTING—19

Barnes	Frost	Miller (CA)
Breaux	Garcia	Mitchell
Brooks	Gray (PA)	Moore
Campbell	Grotberg	Spence
Coleman (MO)	Hartnett	Udall
Edgar	Jones (TN)	
Fowler	Lundine	

□ 2030

Mr. GINGRICH changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION AS MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 508) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 508

Resolved, That Representative Robert H. Michel, of Illinois be and hereby is elected to the Committee on Appropriations; and That Representative Trent Lott, of Mississippi be and hereby is elected to the Committee on Energy and Commerce.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDMENT TO TITLE OF H.R. 5050, SOCIAL SECURITY ADMINISTRATIVE AND INVESTMENT REFORM ACT OF 1986

The SPEAKER pro tempore (Mr. KOSTMAYER). Without objection, the title of H.R. 5050 is amended.

The title amendment is as follows:

Amend the title so as to read: "A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, to provide for more prudent and effective management of the OASDI and Medicare trust funds, and for oher purposes.".

There was no objection.

PERSONAL EXPLANATION

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, on July 16, 1986, on rollcall vote No. 199, it was my intention and action to vote "aye." Due to a broken voting card, my "aye" vote was apparently not recorded.

GENERAL LEAVE

Mr. ROWLAND of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from New York [Mr. LENT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

H.R. 4929, WORK OPPORTUNITIES AND RETRAINING COMPACT OF 1986

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, one of the greatest challenges to modern society is to provide basic assistance to those in need without limiting individual opportunity or independence. Until now, we have had limited success in meeting this challenge and the result has been a growing number of welfare dependents. Clearly, providing basic goods such as food and shelter is often an insufficient and even wasteful response to human need. Just as important are the deeper more vulnerable needs of a sense of worth and dignity. Too often, our Government administers to the results of unemployment and poverty without addressing the causes.

I rise today in support of a measure which I believe will correct this problem by linking welfare assistance with job training. H.R. 4929, the Work Opportunities and Retraining Compact of 1986 [WORC] amends title IV of the Social Security Act to provide step-by-

step assistance for welfare recipients to find employment. This program will ultimately result in large savings to the taxpayer as those who are presently on the welfare rolls are transferred to payrolls.

All States would be required to develop a comprehensive employment, preparation, and training plan for welfare recipients in partnership with other State and local agencies. In order to receive funds, States would have to offer job assessment, counseling, and training opportunities to individual recipients. Out of the assessment and counseling process will come a job preparation plan for every individual. For persons exempted from work-related requirements, States would be encouraged to promote voluntary participation.

This bill requires that States offer education and training options to those who need such opportunities to become job ready. In addition, the bill would require that support services—especially child care—be provided. These services are essential if participants are to succeed in training, finding, and keeping a job.

H.R. 4929 would consolidate four separate welfare programs into the single WORC Program. Funding would be provided on a 70-percent Federal and a 30-percent State matching rate for all training and education costs. Administrative and support service costs such as child care and transportation would be funded at a 50-percent Federal and 50-percent State matching rate.

There would also be strict performance standards. We would manage and measure by outcomes not by head counts. States that met or exceeded performance standards would be rewarded by a 5-percent lower match rate. Standards would be developed by the Office of Technology Assessment in consultation with the Secretary of Health and Human Resources, the Secretary of Labor and with the advice of State officials and other experts. These standards will include such measures as job placement rates, job retention, reduction of welfare costs and caseloads, education improvements, and percent of jobs that provide employer financed health care benefits. Performance standards will give credit to programs that help those with the greatest barriers to employment and take into account the unemployment rate in each State.

We need welfare reform now. I believe we have the experience and knowledge to help those who are disadvantaged do more than just survive. We know that education and training are critical elements for a self-sufficient, productive life. One-half of all AFDC recipients are high school dropouts. Many are functionally illiterate, unable to even fill out a simple job application or read the want ads. Learning and job skills must be provided if these individuals are to successfully enter the job market.

We also know that female heads of households, aged 25 to 34, can earn enough to keep a family of three out of poverty in 80 percent of all traditionally male occupations but in only 45 percent of all traditionally female occupations. Poor women need more than simple job hunting skills; they need the training that will let them enter the job market primed to find and keep a good job in an expanding field.

What we are offering through this legislation is not just a check but a chance. Those most vulnerable in our society are the elderly, the disabled, the poorly educated, abandoned mothers, workers brushed aside by the nervous hand of the economy. They need the sort of assistance that can let them rebuild their lives as productive, fulfilled individuals. WORC can provide such a start. The time for reform is today. I urge your support of this critical measure.

SECTION 504 OF THE REHABILITATION ACT AND DISCRIMINATION AGAINST PEOPLE WITH DISEASE IN THE WORKPLACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, attached is one additional article omitted from the documents I asked to have printed in my special order on AIDS.

[From the Washington Post, July 12, 1986]

AMA OPPOSES JUSTICE DEPT. ON AIDS BIAS

(By Susan Okie)

The American Medical Association weighed in yesterday against the Justice Department in the evolving legal battle over whether employers may discriminate against workers who have AIDS because of fear of contagion.

In a Supreme Court brief, AMA lawyers argued—in contrast to a recent Justice Department opinion—that a federal law on the rights of the handicapped protects victims of acquired immune deficiency syndrome and other infectious diseases from discrimination based on irrational concerns that they might spread illnesses to coworkers.

The brief argues that employment decisions regarding the handicapped should be based on "reasonable, individualized medical judgments" about whether the handicap allows a person to perform a job and about "the nature, degree and duration of risk" to coworkers.

The AMA filed its friend-of-the-court brief in a case that the Supreme Court has agreed to hear next fall involving a Florida teacher who was fired because she had tuberculosis. From the day the case was submitted, lawyers on both sides said they knew that the impact of any decision would be primarily on those with AIDS, not TB.

"All the lawyers who have been following AIDS are very, very aware of this case," said Nan D. Hunter, a staff attorney with the American Civil Liberties Union.

The 280,000-member medical organization decided to take a stand on the case because it has broad health policy implications, according to Benjamin W. Heineman Jr., a lawyer representing the AMA, who wrote the brief.

"The court will be establishing a framework for dealing with communicable diseases that affect millions of Americans," he said, adding that it is "an important case because the shadow of AIDS falls over it."

The teacher, Gene H. Arline, sued the Nassau County, Fla., school board after she was fired because of "chronic susceptibility" to tuberculosis. She charged that the action violated the Rehabilitation Act of 1973, which forbids discrimination against the handicapped by agencies receiving federal funds. The 11th U.S. Circuit Court of Appeals held in her favor, saying that tuberculosis was a handicap covered by the act.

The AMA brief differs sharply from a Justice Department opinion last month that a "handicap" under the law is limited to the effects of a disease on the person who has it and does not extend to possible effects on others.

In a memorandum to the Department of Health and Human Services, the Justice Department said that ability to transmit the AIDS virus did not constitute a handicap and that the law therefore did not protect AIDS victims from being fired because of fear of contagion. A footnote said that the same argument applied in the Arline case.

The AMA brief says this position "is incorrect as a matter of law and sweeps far too broadly. Although one effect of a handicap may be that it poses a risk of harm to others, employers should not . . . be allowed to discriminate irrationally against a handicapped individual based on a fear of such risk."

Allowing such discrimination "does violence to the fundamental congressional purpose . . . of protecting handicapped individuals from decisions based on fear, prejudice or stereotype," the brief said.

Controversy over AIDS in the work place centers on how the disease is transmitted. AIDS is a life-threatening illness caused by a virus that is spread by sexual contact with an infected person, by exposure to contaminated blood or from mother to infant during pregnancy or childbirth.

No case has been found in which AIDS was transmitted through casual contact, and the Centers for Disease Control concluded in November 1985 that "the kind of nonsexual person-to-person contact that generally occurs . . . in the work place does not pose a risk."

However, the Justice Department memo suggested that "conclusions of this character are too sweeping," provoking angry reactions from Health and Human Services officials who said they felt the lawyers were second-guessing medical experts.

The CDC reported that as of July 7 there have been 22,356 cases of AIDS with 12,239 deaths.

THE HIGH COST OF FAILING TO CLOSE THE NONBANK BANK LOOPHOLE

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, there are critical financial issues pending before the

Congress. If they are not resolved in a timely fashion there is certain to be a sharp drop in the public's confidence in our financial system and an even greater loss to the Federal funds which insure the deposits of millions of citizens.

Mr. Speaker, special interest and regional interest groups have zeroed in on this legislation, attempting to cripple or block its passage.

The Congress must rise above these special interests or take the responsibility for potentially severe damage to our financial system and rising costs for Federal regulatory operations.

Especially I refer to:

H.R. 4701—Financial Institutions Emergency Acquisitions Amendments of 1986—which would give the Federal financial regulators greater power and flexibility to deal with failing and failed institutions.

H.R. 4970—Federal Savings and Loan Recapitalization Act—which would provide $15 billion in additional capital for a now-depleted FSLIC fund which provides insurance for individual depositors in savings and loans.

H.R. 20—the Bank Definition Act of 1985—which would close the nonbank loopholes and require that these twilight zone institutions come under regulation of the Bank Holding Company Act.

Mr. Speaker, H.R. 20 is the key to this three-sided solution to some of the most pressing problems that ever faced our financial system.

The nonbank bank loophole provides an easy, essentially unregulated means for institutions to move interstate and expand their activity. As a result, the mergers which the Federal regulators attempt to arrange for failed and failing institutions become much less attractive and much more expensive. So long as the nonbank bank loophole remains, the market for failed and failing institutions—sought by the regulators—is greatly diminished.

Thus, Mr. Speaker, the effectiveness of H.R. 4701 and H.R. 4907 is in question if we do not close the nonbank bank loophole.

Powerful interest groups—with absolutely no regard for the damage to the Federal insurance funds or the public's concern about the financial system—control many of these nonbank banks—or plan to control—and oppose enactment of H.R. 20.

H.R. 20 was reported by the Banking, Finance and Urban Affairs Committee on June 18, 1985—I repeat, 1985. Despite repeated requests by the Banking Committee, no rule has been granted for consideration of the bill on the floor.

Mr. Speaker, the Financial Institutions Subcommittee of the Banking Committee has reported both H.R. 4701 and H.R. 4907 and the full Committee is prepared to report both to the House.

However, Mr. Speaker, it makes little sense to move this legislation if there is to be no action on H.R. 20—the nonbank bank loophole closer. We would simply leave in place a system which would result in heavy drains on the very money and assistance we are attempting to provide in H.R. 4701 and H.R. 4907.

After all these months, I am convinced that the House is well aware of what is happening on H.R. 20, even if the press and the American public may have missed the issue.

The lack of action on closing a major regulatory loophole—the nonbank bank—reflects poorly on the House. Until the H.R. 20 issue is settled, the Banking Committee would only add to this year-long charade if it reported H.R. 4701 and H.R. 4907.

AMERICAN GOLD TO IMPOSE ITS OWN SANCTIONS ON SOUTH AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it appears that the administration is not willing to support sanctions against the Government of South Africa. However, beginning October 1, people throughout the world will be able to exercise their own sanctions against the South African Government.

On that date, the United States will begin selling its own gold bullion coins in direct competition with the South African Krugerrand. The American gold coin will give people throughout the world an opportunity to turn their back on the notorious South African gold coin.

South Africa generates much revenue from Krugerrand sales, and the United States coin will help reduce that revenue. In addition, the harsh conditions of South African miners and the brutal steps taken to break the miners' union make the coins made with South African gold a tangible product of the evil of apartheid.

The new American bullion coins are designed to the specifications of the Krugerrand so that there will be a direct competition between the two countries for the bullion coin market. The United States will sell four gold coins, a 1-ounce gold coin with a $50 face value; a one-half ounce coin with a $25 face value; a one-quarter ounce coin with a $10 face value; and a one-tenth ounce coin with a face value of $5.

The coins will go on sale at bullion and coin dealers around the world, and it is hoped that other outlets such as financial institutions will also join in the sales effort.

The selling price for the coins will be based on the daily price of gold, plus a very small markup for production and sales costs. Based on current projections, sales of the gold coins could reach as high as 2½ million ounces in the first year of the program.

While the sale of American gold coins will make a large dent in the sale of Krugerrands, the gold coin program is not designed solely as a sanction against South Africa, although that is an important side effect of the program.

The gold bullion program is also designed to give Americans an opportunity to purchase gold coins produced by their own country so that they do not have to purchase it from a foreign source. With only two exceptions, the commemorative gold program for the 1984 Olympics and the 1986 Statue of Liberty gold coins, there has not been a U.S. gold coin produced since 1933.

The first gold coin under the new program will be struck at the mint's West Point, NY, facility on September 8, and full scale production will begin on that date so that there will be an adequate supply when the coins go on sale on October 1.

Although the gold bullion coin has been the focus of much of the public's attention, there is also another American bullion coin making its debut on October 1. The United States will produce a $1 silver bullion coin containing an ounce of 99.9 percent silver. These coins will also be sold through a broad dealer network.

Not only will these silver coins allow Americans to invest in silver bullion, but it is my hope that the new silver program will revitalize the silver mining industry in this country. Because of low world silver prices and an overabundant supply of silver, most silver mines in this country are closed. If the new silver coin program is as successful as expected, it will mean a new outlet for silver and hopefully spur interest in the metal, perhaps even putting silver miners back to work.

Unlike limited commemorative coin programs, both the silver and gold coins will be produced annually in such quantities as to meet demand. However, the price of the new coins, unlike other programs, will fluctuate based on the price of gold and silver in the world market.

TRIBUTE TO RICH CHUBON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, at this time I would like to bring to the attention of my colleagues and the Nation the dedication and outstanding accomplishments of Rich Chubon in assisting low- and moderate-income families gain access to accordable housing.

Rich Chubon is to be commended for 13 years of dedicated service to the people of the city and county of San Luis Obispo while serving as executive director of the Housing Authority of the City of San Luis Obispo.

The shortage of decent housing for low and moderate income families across the country is acute. In San Luis Obispo County alone, the availability of affordable housing for low- and moderate-income families has been sharply constrained since budget cuts beginning in 1981. Rich Chubon responded to the urgent housing needs in San Luis Obispo County by raising the number of housing units from 200 to 1,000 to help those families most in need of affordable housing.

In addition to his accomplishments as executive director of San Luis Obispo Housing Authority, Rich has served our community as a member of the Rotary San Luis Obispo County Social Service Welfare Council, vice president of Housing for the Pacific Southwest Region of the United States for the National Association of Housing and Redevelopment Officials, chairman of the San Luis Obispo County Health Commission, and a Boy Scout master for 7 years.

On August 1, 1986, Rich Chubon will be leaving San Luis Obispo Housing Authority to accept a position as executive director of the Housing Authority of Stanislaus County. I want to express my gratitude to Rich Chubon for his invaluable contributions to our county. I want to extend my sincere wishes to Rich for continued success in his new position.

On behalf of the city and county of San Luis Obispo, I want to commend Rich Chubon for his outstanding service in our community and honor him as a friend and fellow citizen of my district.

□ 2040

THE COLONIZATION OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 30 minutes.

Mrs. BENTLEY. Mr. Speaker, I am speaking tonight with a great deal of concern and yes, out of a great deal of anger and fear over some of the things that are happening to our great country.

I bring this to the well of the House of Representatives, because—I feel the buck—in this country stops here. We are the conservators of America. Our oath—on the Constitution is to preserve and defend this country. Over the years we have sent our men and women onto the great and small battlefields of the world to defend this Nation. It is our duty as the respresentatives of all Americans to do this—to always be alert to dangers which threaten our sovereignty—and to act, when necessary to defend against that danger.

I believe that danger is here, now. I believe it is subtle and insidious and that it is draining away our national strength and our freedom of choice of actions. I believe that in some future time it may even threaten the political process.

I have learned this week that the Toyota Co. of Japan is being given a special tax exemption in the Senate tax law which will be worth $100 million to them to build a Toyota plant in the State of Kentucky.

The people of the State of Kentucky will be responsible for a figure in excess of $200 million in order that this plant come in.

It is not even a manufacturing plant. It is an assembly plant. Parts manufactured in Japan will be shipped in to be assembled. I am told by one of the unions involved that 600 Japanese workers will be brought in to work at the plant.

Mr. Speaker, what in the world are we thinking of?

With an incredible budget deficit, facing more cuts from our own operating budget in the House of Representatives, do we have $100,000,000 in forgiveness of taxes to give away to one of the wealthiest countries in the world, to one of the wealthiest corporations in the world?

There are 175 special exemptions in the tax bill giving relief to American corporations and businesses, but this one is targeted for a total Japanese operation and the people of Kentucky are being asked to accept a bond issue to pay for it.

Since it is assembly and not manufacturing, the coal fields of Kentucky will not be called upon to dig 1 ton of coal to make 1 ton of American steel up in Wheeling to make one part being put together in that plant.

Last week, the largest corporation in the history of this Nation to file bankruptcy went down, the LTV Corp., the second largest steel manufacturer in the country.

Running across the bottom of that page of the Wall Street Journal another headline reads Bank of America is said to face pressure. And you are all aware of the huge bank failure in Oklahoma last week.

Economic news from every sector of the Nation is coming in sour and pessimistic.

The New York Times headlines—July 14, 1986—read "Foreign Economies Curb U.S."—subheaded—"Experts Say Domestic Gains Flow Abroad." The story goes on to say that the experts were "caught unawares by the rising power of foreign economies over the American economy."

It continues: "About half the strength expected of the economy this year has been drained away by Japan, Taiwan, Canada, and other countries, as American consumers and businesses keep buying foreign rather than American."

We are giving up our national power through the outflow of money and jobs. The balance of payments deficit is a debt we owe to all of the nations which we buy from. And the purchase of those products puts the American manufacturers out of business.

I have been watching the deadly effect of imports on our economic base and now, the Toyota forgiveness on top of this is just the firebrand to my tinder box.

I have been outraged at our cavalier treatment of steel exporting countries which destroyed LTV and puts Bethlehem Steel and Armco at great risk.

I have been shocked at the treatment of our National Machine Tool Builders Association petition for relief from imports which languished at the White House for 27 months despite a positive finding that at least seven categories of machine tools needed protection for the National Defense.

I am dismayed at continued and growing purchases by the Defense Department and defense contractors of supplies from abroad.

But the insanity of this gift to Japan makes me wonder if we have forgotten which country we are pledged to support.

First, we let them preempt our markets with products being sold below the cost of producing them in this country. TV's, radios, cameras. American manufacturers close their doors before the onslaught. Single sourcing moves offshore and we are captive of their pricing, all the while losing the jobs in those industries to the unemployment lines.

And now we are paying them to come in here and take jobs from Americans. How can they bring Japanese workers and managers in here with our immigration laws in place? Are there no qualified, unemployed American autoworkers who can fill these jobs? If so, no Japanese workers can be allowed to come in under our present laws.

I told a friend of mine, at lunch today, that this whole issue of the deindustrialization of America is like some terrible nightmare to which the normal statement is: "I don't believe it!"

But, there it is day after day. Yet, another situation which makes me say, "I don't believe it . . . I don't want to believe it."

July 14, 1986, Jack Anderson's column reports on a flood of counterfeit bolts and large screws coming into the country. Fasteners with improper codes marked on the top putting every item in which they are set at risk. They have been responsible for helicopter crashes, radio towers falling, a host of accidents.

They are all coming in from Southeast Asia to be used in anything from a nuclear reactor or a missile to an airplane which any one of us may climb upon some morning. And under great pressure they just melt—disintegrate. If they are in a crucial part, the plane will crash, or the reactor melt down, or the missile misfire.

Under current law, there is no way to stop these flawed bolts from coming in nor is there any liability which can be collected from these foreign suppliers.

United States producers of scaffolding are facing the same situation. Scaffolding manufactured in this country

is subject to all kinds of standards and quality control, but Japan and Taiwan are sending in product which does not have to measure up to United States safety standards at one-third of the costs to United States manufacturers.

Defense News of July 2, 1986, reports that it is possible that Mitsubishi Heavy Industries will buy McDonnell Douglas' drawings and technical information of its F/A-18 Hornet fighter plane. It is projected that the body will be based on the Hornet, but it will be manufactured in Japan with Japanese composite materials and technology. It would also incorporate U.S. Stealth technology.

"I don't believe it!"

We, at one time, if anyone can remember, manufactured planes like this and sold them to foreign nations. We were concerned about America's technology—we didn't want to lose it, or to lose the proprietary information necessary to the production of a total machine.

This was recognized as intrinsic national wealth and protected as such. The techniques and patents, in this case paid for by U.S. taxpayers, were recognized as more than a one-shot development. There would be future production, future products, future jobs and security for our companies.

No more. We are giving away the goose and along with it the golden eggmaking machine.

But more than that, we are also losing the ability to defend ourselves. Strategic wartime materials such as the radios and cameras, steel and ball bearings are needed to be supplied across 7 to 8,000 miles of ocean—from the backyard of the Russians. And every mile exposed to Russian submarine "wolf packs."

We are also at the mercy of Southeast Asia supplier countries being compromised by Russian threats. Can a Southeast Asian country withstand threats from Russia with her Western allies being so far away?

I know I am raising many, many questions tonight. I am truly afraid that I know many of the answers. But, I cannot tell you why. I cannot explain—with any reason—why we are losing our way as a nation in an international thicket of nations who seem to see so clearly what is in their national interest—while we seem blind to our own.

But, if I do not know why—I am fearful that I know where this path is leading. If a nation has raw materials and is not mining them or smeltering them, but importing—if a nation has manufacturing capabilities and a work force, but is importing finished product made in other nations—it is approaching bankruptcy. If that turns and those resources begin to be exploited by other nations and its workers become employees of other nations, then that country is a colony of the nation which owns its internal resources and productivity.

Business Week, July 14 says that Japan's investment in the United States tripled from 1980 to 1985. Japan expects its investment in the United States to increase tenfold by the year 2000.

And this will not be the only foreign investments in this country. Other nations are coming in with joint ventures, coproduction and wholly owned plants.

Is this action really what we have been elected to come to Washington to preside over? The selling off of America?

Are we free if other nations own that much of our resources, our debt, and—eventually—our political power? Kevin Phillips is quoted in the Business Week article, "Japan has this tremendous leverage. That's going to be a big domestic political issue for the last 15 years of this century."

I have argued with some of my colleagues who have said that the Pacific Rim countries will be the power of the 21st century. I have told them that if they believe that, they should be doing everything possible to wrest that power back before it gets away from us forever.

I see it as our duty to keep America the leading power in the world. However, if the Pacific Rim keeps moving plants and manufacturing into this country we may be forced to share that power with Asia whether we want to or not.

Mr. Speaker, I think we are at a grave crossroads in our Nation's history. I hope as the tax bill is worked on in committee, the House and Senate Members will be aware that they are representing the future of America in that meetingroom.

□ 2055

THE LIABILITY RISK RETENTION ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LENT] is recognized for 60 minutes.

Mr. LENT. Mr. Speaker, today I am pleased to join the gentleman from Oregon [Mr. WYDEN] and 26 of our colleagues in introducing legislation that will provide needed relief for the liability insurance problem.

I do not need to spend much time describing this problem. Every Member of the House has been bombarded daily with letters bemoaning the plight of the liability insurance buyer. The Subcommittee on Commerce, Transportation, and Tourism of the Committee on Energy and Commerce has held eight hearings over the past 11 months on this issue. While the witnesses did not agree often, they did agree on one thing—that there has been a sudden, drastic change in the availability and affordability of liability insurance.

Unfortunately, there is no agreement on a single solution to the problem. There are now pending before Congress an unprecedented number and variety of bills designed to address the liability insurance problem. In my view, they fall into three categories. First, there are those designed to address the insurance industry directly. Second, there are those designed to address liability lawsuits, and finally, those designed to make it easier or more attractive for individuals to find new ways of spreading risk.

The passage of legislation in either of the first two categories will be a difficult, time consuming process. Time is something that our constituents do not have. There is something that we can do now to alleviate some of the burden of the present liability insurance crisis.

The legislation introduced today by Congressman WYDEN, myself and many others, will expand the Product Liability Risk Retention Act of 1981 to make it easier for business, professionals, associations, State and local governments, and other organizations to form collective purchasing and risk retention groups for general liability coverage. While this bill will not solve all of the problems presently faced by liability insurance buyers, it will provide a desperately needed alternative to the traditional methods of spreading risk.

This new bipartisan, compromise bill is the result of negotiations with the business groups that need this new mechanism for spreading risk and the State regulators charged with regulating insurance activities. The Senate passed a similar bill, S. 2129, last week by an overwhelming margin of 96 to 1. I call upon my colleagues in the House to join us in supporting our bill and working toward enactment of this important legislation before the end of the session. I, for one, want to be able to report back to my constituents that Congress was able to respond to our Nation's needs in this important area.

Mr. WYDEN. Mr. Speaker, I rise today to introduce the Liability Risk Retention Act of 1986. I am joined by our colleague from New York [Mr. LENT] in offering this bipartisan compromise legislation that will provide some immediate relief to those groups in our country that are faced wtih a treacherous insurance market where general commerical liability coverage is either unaffordable or unavailable.

The increasing cost and scarcity of liability insurance has become a matter of national concern. As my colleagues have found, when we visit our districts, this issue has mushroomed into one that touches virtually every sector of our society and economy. We've learned that liability coverage is not a business luxury, but a necessity.

That's why Mr. LENT and I are offering this legislation that would give these business owners and professionals an alternative to the conventional insurance market while allowing the State insurance regulatory authority over these groups.

This legislation is modeled after the Senate measure, S. 2129, which was passed by our Senate colleagues last week by a vote of 96 to 1. It retains the spirit and the substance of the compromise between the business and professional proponents and the insurance regulators and industry that was achieved in

the Senate. As such, this bill will amend the Product Liability Risk Retention Act of 1981 to make it easier for groups in need of general commercial liability coverage to form collective purchasing and self-insurance groups while strengthening the state insurance commissioners ability to regulate this new insurance option.

This compromise legislation includes provisions recommended by the National Association of Insurance Commissioners that would enable the commissioners to require that risk retention groups comply with several measures designed to ensure the honest operation and solvency of these groups. Under this legislation, commissioners would be able to require these groups to submit financial and loss reserve statements verified by outside accountants and acturaries. This provides even greater control and access to financial information than is required of conventional insurers in most States. In addition, commissioners would be able to require that a risk retention group submit to a more thorough financial investigation if there is a question of the group's financial condition. Furthermore, a risk retention group must comply with a State commissioner's orders issued in delinquency proceedings. This gives additional authority for the commissioners to act quickly to enjoin a group if there is an indication that a director, officer or operator of the group has a pattern of breeching the fiduciary responsibility. Also, this legislation enables commissioners to require that these groups comply with injunctions issued by a court if the group has been found to be in a financially hazardous condition.

These provisions give greater authority to the commissioners to protect the insurance consumers who will be using this insurance alternative and the claimants of those insured who need compensation. Again, these are the same provisions that were negotiated in the Senate bill, as suggested by the business proponents of this measure and the National Association of insurance Commissioners.

There is no cost to the Federal Government in this measure, but it will save people money in the marketplace, either through actual savings on general liability insurance costs, or through the reduced costs that are handed down to consumers.

Expanding the risk retention alternative is supported by the Risk Insurance Management Association, the College of Certified Nurse-Midwives, the National Association of Insurance Brokers, the Conference of Mayors, the National Association of Rural Electric Cooperatives, the National League of Cities, the U.S. Chamber of Commerce, Consumer Federation of America, U.S. PIRG, the American Trucking Association, the National Limousine Association, and several other professional, trade, and consumer organizations.

In addition, the administration has indicated its favorable reaction to expanding the risk retention option.

This proposal will not solve all the problems associated with the current liability insurance crisis. It would only increase the ability of those needing general liability coverage to obtain favorable rates by participating in a risk retention group or an insurance purchasing group. As such, this expansion of the Risk Retention Act should provide some immediate relief for those affected by the current liability insurance crisis. It is my hope that my colleagues in the House will follow the lead of our colleagues in the Senate to enact this legislation in this Congress.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROWLAND of Connecticut) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 60 minutes, July 30.
Mr. CRANE, for 60 minutes, July 30.
Mrs. BENTLEY, for 60 minutes, July 29.
Mr. LENT, for 60 minutes, July 23.
Mrs. BENTLEY, for 30 minutes, July 24.

(The following Members (at the request of Mr. ATKINS) to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ERDREICH, prior to the vote on the Walker amendment to H.R. 5162, in the Committee of the Whole, today.

Mrs. BENTLEY, during general debate on H.R. 5162 in the Committee of the Whole today.

Mr. MORRISON of Washington, and to include extraneous matter on the debate on the N-reactor amendment offered by the gentleman from Oregon [Mr. WEAVER] to H.R. 5162, in the Committee of the Whole today.

Mr. SUNDQUIST, and to include extraneous matter, following his remarks during debate on the amendment offered by the gentlewoman from Colorado [Mrs. SCHROEDER] to H.R. 5162, in the Committee of the Whole today.

(The following Members (at the request of Mr. ROWLAND of Connecticut) and to include extraneous matter:)

Mr. BOEHLERT.
Mr. GEKAS in two instances.
Mr. GOODLING.
Mr. HAMMERSCHMIDT.
Mr. SOLOMON.
Mr. HENRY.
Mr. BROOMFIELD.
Mr. DORNAN of California.
Mrs. ROUKEMA.
Mr. CAMPBELL.
Mr. MACK.
Mr. GILMAN.

(The following Members (at the request of Mr. ATKINS) and to include extraneous matter:)

Mr. ROSTENKOWSKI.
Mr. FAZIO.
Mr. TALLON.
Mr. DOWNEY of New York.
Mr. RANGEL.
Mr. SMITH of Florida.
Mr. DE LA GARZA.
Mr. FLORIO in two instances.
Mr. HAMILTON.
Mr. RODINO.
Mr. SKELTON.
Mr. ACKERMAN.
Mr. STOKES.
Ms. MIKULSKI.
Mr. YATRON.
Mr. LANTOS.
Mr. UDALL.
Mr. MATSUI in two instances.
Mr. ECKART of Ohio.
Mr. SHARP.
Mr. FRANK.
Mr. TORRES.
Mr. DELLUMS.
Mr. LELAND.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Thursday, July 24, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3939. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer to Thailand for defense articles and services, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3940. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of 55 modified F404-GE-100D engines and support equipment to Singapore, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3941. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for the production in Korea of the LW-33B Inertial Navigation/Attack System, pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3942. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled the "Civil RICO Reform Act of 1986; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. H.R. 3263. A bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes; with an amendment (Rept. No. 99-705). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 3042. A bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects; with amendments (Rept. No. 99-706). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. Report on subdivision of budget totals agreed to in the concurrent resolution on the budget (S. Con. Res. 120) for fiscal year 1987 (Rept. No. 99-707). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3684. A bill to designate the El Malpasi lava flow and adjacent public lands as a national monument to be managed by the Bureau of Land Management; with an amendment (Rept. No. 99-708). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4489. A bill to provide for ski areas on national forest lands, and for other purposes; with an amendment (Rept. No. 99-709 Pt. I). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 3810 extended for a period ending not later than August 5, 1986.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN (for himself, Mr. LENT, Mr. SIKORSKI, Mr. WHITTAKER, Mr. ECKART of Ohio, Mr. RITTER, Mr. TAUZIN, Mr. TAUKE, Mr. SLATTERY, Mr. COATS, Mr. DOWDY of Mississippi, Mr. FIELDS, Mr. RICHARDSON, Mr. SCHAEFER, Mr. BLILEY, Mr. LOWRY of Washington, Mr. WORTLEY, Mr. AKAKA, Mrs. SMITH of Nebraska, Mr. YATRON, Mr. HENRY, Mr. FEIGHAN, Mr. WILLIAMS, Mr. MARTINEZ, Mr. WEISS, Mr. MCCLOSKEY, Mr. GEJDENSON, and Mrs. BURTON of California):

H.R. 5225. A bill to amend the Product Liability Risk Retention Act of 1981 to include coverage of other lines of liability insurance, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DELLUMS:

H.R. 5226. A bill to amend the Social Security Act to ensure that reasonable efforts are taken to inform applicants for benefits under such act of the effect of failure to meet the 60-day limit for commencement of actions for court review of unfavorable final decisions or determinations pursuant to such applications; to the Committee on Ways and Means.

By Mr. DORNAN of California:

H.R. 5227. A bill to repeal certain provisions of law which violate the doctrine of separation of powers and to eliminate certain restrictions on the authority of the executive branch; jointly, to the Committees on Foreign Affairs, Armed Services, Banking, Finance and Urban Affairs, Veterans' Affairs, Interior and Insular Affairs, and Science and Technology.

By Mr. KANJORSKI:

H.R. 5228. A bill to extend the authority of the Secretary of the Treasury to enter into agreements with certain cities and countries for the withholding of city and county income and employment taxes from the pay of Federal employees who are residents of, or regularly employed in, such cities and counties; to the Committee on Post Office and Civil Service.

By Mr. NELSON of Florida:

H.R. 5229. A bill to amend the Land Remote-Sensing Commercialization Act of 1984; to the Committee on Science and Technology.

By Mr. WAXMAN:

H.R. 5230. A bill to amend the Public Health Service Act to extend the program of childhood vaccinations and to require the Secretary of Health and Human Services to maintain a 6-months stockpile of vaccines; to the Committee on Energy and Commerce.

By Mr. GALLO:

H.J. Res. 680. Joint resolution proposing an amendment to the Constitution of the United States relating to the salaries of judges convicted and imprisoned for felonies; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.J. Res. 681. Joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Res. 508. Resolution electing Representative MICHEL of Illinois to the Committee on Appropriations and Representative LOTT of Mississippi to the Committee on Energy and Commerce; considered and agreed to.

By Mr. BRYANT:

H. Res. 509. Resolution urging the Postmaster General to issue a commemorative stamp in honor of the 150th anniversary of the birth of Gen. Henry Martyn Robert; to the Committee on Post Office and Civil Service.

By Mr. PORTER:

H. Res. 510. Resolution for the promotion of fiscal responsibility; to the Committee on Government Operations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 442: Mr. GALLO, Mr. WEAVER, and Mr. WALGREN.

H.R. 616: Mr. RINALDO.

H.R. 988: Mr. DIOGUARDI, Mr. CARPER, Mr. TAUZIN, Mr. GLICKMAN, Mr. MILLER of Washington, Mr. MONSON, and Mr. WEAVER.

H.R. 1345: Mr. MOORHEAD.

H.R. 1625: Mr. GEJDENSON and Mr. CHANDLER.

H.R. 1809: Mr. HAYES and Mr. LIPINSKI.

H.R. 1816: Mr. HORTON, Mr. BOEHLERT, Mr. GILMAN, Mr. MOLINARI, Mr. DOWNEY of New York, and Mr. MANTON.

H.R. 1817: Mr. GILMAN.

H.R. 1946: Mr. BEDELL, Mr. HARTNETT, Mr. RINALDO, and Mr. WOLF.

H.R. 2761: Mr. FAZIO.

H.R. 3024: Mr. MINETA, Mr. MOAKLEY, Mr. PANETTA, Mr. REID, Mr. MCCURDY, Mr. CAMPBELL, Mr. WRIGHT, and Mr. HUTTO.

H.R. 3042: Mr. SABO.

H.R. 3415: Mr. GARCIA and Mr. YOUNG of Alaska.

H.R. 3549: Mr. SWINDALL.

H.R. 3643: Mr. RAHALL.

H.R. 3732: Mr. LEVIN of Michigan, Mr. GEKAS, Mr. STRANG, Mr. MARTINEZ, and Mr. COATS.

H.R. 3766: Mr. SWINDALL.

H.R. 3989: Mrs. BENTLEY, Mr. BEREUTER, Mr. DUNCAN, Mrs. LLOYD, Mr. SMITH of New Hampshire, and Mr. GALLO.

H.R. 4183: Mr. ALEXANDER, Mr. BROOMFIELD, Mr. HALL of Ohio, Mr. JONES of Oklahoma, Ms. KAPTUR, Mr. KOLBE, Mr. MICA, Mr. PARRIS, Mr. REID, Mr. SEIBERLING, Mr. SHELBY, Mr. SISISKY, Mr. SKELTON, and Mr. JONES of Tennessee.

H.R. 4204: Mr. LEVINE of California.

H.R. 4260: Mr. LANTOS.

H.R. 4269: Mr. BOUCHER, Mr. FOGLIETTA, Mr. GORDON, Mr. DOWNEY of New York, Mr. ANDERSON, Mr. SCHUMER, Mr. BRUCE, Mr. WEISS, Mr. MORRISON of Connecticut, Mr. PERKINS, Mr. CARPER, Mr. LEVIN of Michigan, Mr. GARCIA, Mr. WIRTH, and Mr. BEILENSON.

H.R. 4300: Mr. LEVINE of California, Mr. KOLTER, Mr. ALEXANDER, Mr. COELHO, Mr. DIXON, Mr. FOLEY, Mr. GAYDOS, Mr. GRAY of Pennsylvania, Mr. STOKES, Mr. ROWLAND of Connecticut, and Mr. FORD of Michigan.

H.R. 4365: Mr. SWINDALL.

H.R. 4567: Mr. JONES of North Carolina.

H.R. 4633: Mr. YATRON, Mr. FISH, Mr. HUBBARD, Mr. EDGAR, Ms. KAPTUR, Mr. FASCELL, Mr. BONIOR of Michigan, Mr. HEFNER, Mr. FOWLER, Mr. WEAVER, Mr. DUNCAN, Mr. DASCHLE, Mr. CLAY, Mr. LATTA, and Mr. REID.

H.R. 4637: Mr. BARNARD.

H.R. 4711: Mr. DIOGUARDI, Mr. SOLARZ, and Mr. BLILEY.

H.R. 4714: Mr. GLICKMAN and Mr. BEDELL.

H.R. 4722: Mr. SAVAGE, Mr. OWENS, Mr. WILLIAMS, Mrs. COLLINS, Mr. HAYES, Mr. ORTIZ, Mr. DIXON, Mr. ROSE, Mr. RICHARDSON, Mr. STOKES, and Mrs. BOXER.

H.R. 4756: Mr. FUSTER, Mr. PORTER, Mr. HALL of Ohio, Mr. WIRTH, Mr. CROCKETT, Mr. BERMAN, Mr. BRUCE, Mr. BEREUTER, Mr. MOAKLEY, Mr. EVANS of Illinois, Mr. FEIGHAN, Mr. GREEN, Mrs. BURTON of California, Mr. MILLER of California, Mr. MORRISON of Connecticut, Mr. DELLUMS, Mr. LELAND, Mr. FAZIO, Mr. MRAZEK, Mr. HOWARD, Mr. OBERSTAR, Mr. LEHMAN of Florida, Ms. OAKAR, Mr. HORTON, Mr. FRANK, Mr. CONTE, Mr. MCHUGH, Mr. LUNDINE, Mrs. SCHROEDER, Mr. LOWRY of Washington, Mr. PEASE, Mr. DURBIN, Mr. OWENS, Mr. CARPER, Mr. CHANDLER, and Mr. COELHO.

H.R. 4787: Mr. ROBERT F. SMITH and Mr. MICHEL.

H.R. 4838: Mr. BARNES and Mr. EDWARDS of California.

H.R. 4853: Mr. WEBER and Mr. STANGELAND.

H.R. 4891: Mr. RAHALL.

H.R. 4929: Mr. BARNES, Mr. BEDELL, Mr. BERMAN, Mr. CROCKETT, Mr. COELHO, Mr. FEIGHAN, Mr. FUSTER, Mr. GORDON, Mr. HAMILTON, Mr. HENRY, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KOLTER, Mr. LELAND, Mr. LOWRY of Washington, Mr. MANTON, Mr. MARTINEZ, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. NEAL, Mr. REID, Mr. RUSSO, Mr. SEIBERLING, Mr. TALLON, Mr. TOWNS, Mr. VISCLOSKY, Mr. WALGREN, Mr. WEISS, Mr. WILLIAMS, and Mr. WOLPE.

H.R. 4953: Mr. GLICKMAN, Mr. WISE, Mr. MILLER of Washington, Mrs. BENTLEY, and Mr. BARTON of Texas.

H.R. 4984: Mr. WEBER and Mr. STANGELAND.

H.R. 5020: Mr. JONES of North Carolina, Mr. DEWINE, Mr. WORTLEY, Mr. WILSON, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. EMERSON, Mr. BEREUTER, Mr. LEVIN of Michigan, and Mr. MOORHEAD.

H.R. 5103: Mr. RANGEL, Mr. MARTIN of New York, Mr. DAUB, and Mr. TORRICELLI.

H.R. 5146: Mr. NEAL.

H.R. 5183: Mr. LUNDINE, Mr. ACKERMAN, Mr. BOEHLERT, Mr. DE LUGO, Mr. FAUNTROY, Mr. DOWNEY of New York, Mrs. COLLINS, Mr. WHEAT, and Mr. WEAVER.

H.R. 5189: Mr. CLINGER, Mr. THOMAS of California, Mr. GOODLING, Mr. CRAIG, Mr. WHITTAKER, and Mr. RAHALL.

H.R. 5218: Mr. LELAND.

H.J. Res. 90: Mr. DWYER of New Jersey, Mr. LEVINE of California, Mr. KILDEE, Mr. SMITH of Florida, Mr. MAZZOLI, Mr. LEHMAN of California, and Mr. MONSON.

H.J. Res. 262: Mr. COURTER and Mr. HUBBARD.

H.J. Res. 435: Mr. FAUNTROY.

H.J. Res. 568: Mr. FLORIO, Mr. BOLAND, Mr. DEWINE, Mr. HERTEL of Michigan, Mr. MORRISON of Washington, Mr. MINETA, Mr. GRADISON, Ms. OAKAR, Mr. PORTER, Mr. SABO, Mr. WIRTH, Mr. STOKES, Mr. WYLIE, Mr. LELAND, Mr. IRELAND, Mrs. LLOYD, Mrs. JOHNSON, Mr. COBLE, Mr. MACK, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HEFNER, Mr. WOLPE, Mr. BLILEY, Mr. TRAFICANT, Mr. MILLER of Ohio, Mr. JENKINS, Mr. MILLER of California, Mr. TRAXLER, Mr. AKAKA, Mr. LUNGREN, Mr. WEISS, Mr. FUSTER, Mr. MCKINNEY, Mr. ROWLAND of Georgia, Mr. BARNARD, Mr. BROWN of California, Mr. CARR, Mr. COLEMAN of Texas, Mr. DONNELLY, Mr. EDGAR, Mr. FORD of Tennessee, Mr. GONZALEZ, Mr. HUTTO, Mr. OBERSTAR, Mrs. SCHROEDER, Mr. FASCELL, Mr. STRANG, Mr. REID, Mr. CAMPBELL, Mr. MARKEY, Mr. YOUNG of Missouri, Mr. MOAKLEY, Mr. KEMP, Mr. MAVROULES, Mr. YATRON, Mr. MACKAY, Mr. ENGLISH, Mr. WYDEN, Mr. HAMMERSCHMIDT, Mr. NIELSON of Utah, Mr. LEVINE of California, Mr. STUDDS, and Mr. PANETTA.

H.J. Res. 579: Mr. VENTO, Mr. MONSON, and Mr. FOLEY.

H.J. Res. 583: Mr. LEWIS of Florida, Mr. BONER of Tennessee, Mr. WISE, Mr. MOLLOHAN, Mr. NELSON of Florida, Mr. STAGGERS, Mr. DICKINSON, Mr. RALPH M. HALL, Mr. BLAZ, Mr. ACKERMAN, Mrs. BENTLEY, Mrs. BURTON of California, Mr. WOLPE, Mr. AKAKA, Mr. CLAY, Mr. LAGOMARSINO, Mr. SABO, Mr. LEHMAN of Florida, Mr. REID, and Mr. GALLO.

H.J. Res. 639: Mr. DWYER of New Jersey, Mr. COLEMAN of Texas, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. DORNAN of California, Mr. BONER of Tennessee, Mr. LEACH of Iowa, Mr. LEWIS of California, and Mr. THOMAS of California.

H. Con. Res. 225: Mr. KLECZKA.

H. Con. Res. 332: Mr. LUNGREN, Mr. PEASE, Mr. LOWRY of Washington, Mr. DINGELL, Mr. BEREUTER, Mrs. HOLT, and Mrs. COLLINS.

H. Res. 116: Mr. ERDREICH.

H. Res. 404: Mr. DENNY SMITH.

H. Res. 447: Mr. OBERSTAR, Mr. WOLF, Mr. RICHARDSON, Mr. MANTON, Mr. LEHMAN of Florida, Mr. HOYER, Mr. MRAZEK, Mr. PORTER, Mr. ROBINSON, Mr. DWYER of New Jersey, Mr. JEFFORDS, Mr. FISH, Mr. FAUNTROY, Mr. HORTON, Mrs. BOXER, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. DORNAN of California, Mr. TOWNS, Mr. MARTINEZ, Mr. MORRISON of Connecticut, Mr. BORSKI, and Mr. HALL of Ohio.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3129

By Mr. ROSTENKOWSKI:

—At the end of title IV of the bill insert the following new title:

TITLE VI—HIGHWAY REVENUE ACT OF 1986

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1986".

SEC. 502. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND TAXES AND RELATED EXEMPTIONS.

(a) EXTENTION OF TAXES.—The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1993":

(1) Section 4041(a)(3) (relating to special fuels tax).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(b) (relating to gasoline tax).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) EXTENSION OF EXEMPTIONS, ETC.—The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1983":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(f)(3) (relating to exemption for farm use).

(3) Section 4041(g) (relating to other exemptions).

(4) Section 4221(a) (relating to certain tax-free sales).

(5) Section 4483(f) (relating to exemption for highway use tax).

(6) Section 6420(h) (relating to gasoline used on farms).

(7) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(8) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(9) Section 6427(m) (relating to fuels not used for taxable purposes).

(c) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—

(1) Paragraph (3) of section 4041(k) of such Code (relating to fuels containing alcohol) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(2) Paragraph (4) of section 4081(c) of such Code (relating to gasoline mixed with alcohol) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(d) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Paragraph (1) of section 6412(a) of such Code (relating to floor stocks refunds) is amended—

(A) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(B) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Paragraph (2) of section 6156(e) of such Code (relating to installment payments of tax on use of highway motor vehicles) is amended by striking out "1988" and inserting in lieu thereof "1993".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsections (b), (c), and (e) of section 9503 of the Internal Revenue Code of 1954 (relating to Highway Trust Fund) are each amended—

(1) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of such Code (relating to expenditures from Highway Trust Fund) is amended by striking out "or" at the end of subparagraph (B) and by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) authorized to be paid out of the Highway Trust Fund under the Surface Transportation and Uniform Relocation Assistance Act of 1986, or

"(D) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund for any amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on December 31, 1986."

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1993", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

SEC. 504. REDUCTION IN EXCISE TAX EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUELS.

(a) IN GENERAL.—Subparagraph (A) of section 4041(b)(2) of the Internal Revenue Code of 1954 (relating to exemption for qualified ethanol and methanol fuels) is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel, subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents'."

(b) CONFORMING AMENDMENT.—The heading for section 4041(b) of such Code is amended by striking out "EXEMPTION" the second place it appears and inserting in lieu thereof "REDUCTION IN TAX".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 505. TECHNICAL CORRECTIONS.

(a) REFUND OF ENTIRE DIESEL FUEL TAX WITH RESPECT TO SCHOOL BUSES.—

(1) IN GENERAL.—Paragraph (2) of section 6427(b) of the Internal Revenue Code of 1954 (relating to intercity, local, or school buses) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after

subparagraph (A) the following new subparagraph:

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B)."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 6427(b)(2) of such Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(B) The heading for subparagraph (C) of section 6427 (b)(2) of such Code, as redesignated by paragraph (1), is amended by striking out "EXCEPTION" and inserting in lieu thereof "EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 915 of the Tax Reform Act of 1984.

(b) CERTAIN TRANSFERS FROM HIGHWAY TRUST FUND TO BE MADE PROPORTIONATELY FROM MASS TRANSIT ACCOUNT.—Subsection (e) of section 9503 of such Code (relating to establishment of Mass Transit Account) is amended by adding at the end thereof the following new paragraph:

"(5) PORTION OF CERTAIN TRANSFERS TO BE MADE FROM ACCOUNT.—

"(A) IN GENERAL.—Transfers under paragraphs (2), (3), and (4) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred to such Accounts under this section.

"(B) HIGHWAY ACCOUNT.—For purposes of subparagraph (A), the term 'Highway Account' means the portion of the Highway Trust Fund which is not the Mass Transit Account."

SEC. 506. STUDY OF COLLECTION OF GASOLINE AND OTHER FEDERAL EXCISE TAXES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall, after consultation with the Department of Justice, the Federal Highway Administration, State tax administrators, and industry representatives, prepare a report on the extent to which the Federal excise taxes on gasoline are being evaded. Such report shall include—

(1) an assessment of administrative options and proposals (including enhanced enforcement and examination efforts) and legislative changes which may be appropriate, and

(2) comprehensive information on the extent to which other Federal excise taxes (including other fuel taxes, taxes on tobacco products, and taxes on alcoholic beverages) are being evaded or not collected.

(b) SUBMISSION.—The report under subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than October 1, 1986, with respect to the portion of the report relating to Federal excise taxes on gasoline, and

(2) not later than December 31, 1986, with respect to the other portions of such report.

Amend the table of contents of the bill by adding the following after the items relating to title IV:

TITLE V—HIGHWAY REVENUE ACT OF 1986

Sec. 501. Short title.
Sec. 502. 5-year extension of Highway Trust Fund taxes and related exemptions.
Sec. 503. 5-year extension of Highway Trust Fund.
Sec. 504. Reduction in excise tax exemption for qualified methanol and ethanol fuels.
Sec. 505. Technical corrections.
Sec. 506. Study of collection of gasoline and other Federal excise taxes.

H.R. 5175

By Mr. FRENZEL:

—On Page 2, line 5, strike "$425,000,000" and insert in its place "$414,147,000".

EXTENSIONS OF REMARKS

MEDICARE END STAGE RENAL DISEASE PROGRAM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. RANGEL. Mr. Speaker, I am introducing today a bill designed to resolve the administrative problems that have plagued the Medicare End Stage Renal Disease Program in recent years.

As my colleagues know, the ESRD Program represents one of the most fruitful and rewarding collaborations ever entered into by medical science and Government. During the past 14 years, this program has provided the lifesaving medical technology to thousands of Americans suffering from irreversible kidney disease at a price that has saved thousands of families from financial desitution.

The ESRD Program has been a model of cost containment in Government-financed health care. The current cost of the program is attributable entirely to the program's success in preserving a constantly increasing number of lives. However, treatment costs are actually less today than when the program began 14 years ago. In short, we can all take pride in the ESRD Program.

The one dark cloud is the series of problems that have arisen in the administration of the program. The Health Care Financing Administration's failure to develop a viable national data system and its recurrent efforts to reduce funding for the ESRD networks which now serve as the only source of national patient data, has deprived us of the data needed for medical decisions, further research, and congressional oversight. In addition, certain ambiguities in present law about the responsibilities of networks for quality assurance and patient rehabilitation have impeded progress in these areas. Similarly, the absence of statutory mandate to formally assess network performance have resulted in undocumented criticisms of networks to the detriment of effective administration.

The administration has proposed changes through regulation, which presumably address some of these administrative problems. However, the proposed regulation does not and, in some respects, cannot adequately address the critical issues including, the implementation of the national data system, the clarification of network responsibilities and the development of standards for evaluating network performance. My bill does address and resolve these issues. I firmly believe that this bill will result in more cost-effective and efficient administration and thereby assure the continuing success of this vital health care program.

I ask your support for this bill, and I welcome cosponsors. I have included for the Members' information a description and discussion of the bill:

BILL TO IMPROVE ADMINISTRATION OF THE ESRD PROGRAM AND CLARIFY RESPONSIBILITIES OF NETWORKS

A. PURPOSE OF BILL

There is an urgent need for legislation to clarify and improve the administrative arrangements essential to the continuing operation of the ESRD program and to provide a more reliable basis for program evaluation and planning purposes.

In recent years, reductions in funding for the administration of the ESRD program have had the effect of reducing the capacity of HHS to develop and maintain the national ESRD data system required in the law. Thus, the program has not been able to make effective use of the accumulated medical experience and operational data absolutely essential for sound medical decisions, cost-effective program management and congressional oversight. As a consequence the program has experienced repeated administrative disruptions, alarming deficiencies in the data collection system, increased patient anxiety and uncertainty, and a failure to investigate and pursue potential cost-saving measures, such as efforts to rehabilitate a larger number of ESRD patients.

Additionally, problems in the administration of the program have arisen because of uncertainty about the congressional intent with respect to the precise responsibilities of the ESRD networks. Important functions such as the encouragement of vocational rehabilitation efforts among ESRD patients, the operation of a patient grievance system, and the collection and validation of patient care data have, in some cases, been assumed by default by networks and, in other cases, not assumed by anyone. It is now clear all of these functions are necessary to the sound administration of the program and need to be precisely assigned by the Congress to assure their performance. It is also apparent that program experience over the past decade, as well as changes in the size and distribution of the patient population and dialysis facilities, suggests the need for more flexibility in the designation of network areas and for the implementation of standards and criteria for evaluating the performance of network organizations in carrying out their responsibilities.

The purpose of the bill is to resolve each of these issues, and thereby assure more effective and efficient administration of the program, by directing the Secretary to proceed with the implementation of the national ESRD registry; assigning responsibility for the performance of program functions not specifically identified or assigned in present law; and directing the Secretary to develop and implement standards, criteria and procedures for evaluating the performance of network organizations.

B. DESCRIPTION OF BILL

The Secretary would be required to establish a national consolidated ESRD data system and to collect comprehensive demographic, medical and financial data on the ESRD patient population to permit: (1) the identification of the economic impact, cost-effectiveness and medical efficacy of alternative modalities of treatment; (2) evaluations as to the most appropriate allocation of resources for the treatment of ESRD; and (3) the preparation of special studies and periodic reports to the Congress for program planning purposes.

The Secretary would be directed to coordinate the data collection activities of the renal disease Networks, HCFA and NIH; provide for the maintenance of the ESRD registry in the National Institute of Health; appoint a professional advisory group to advise the Secretary on policies and procedures relevant to the maintenance of the national registry; and provide for the allocation of adequate resources to assure the effective performance of these activities. The Secretary would be required to report to the Congress on the implementation of the registry no later than October 1, 1986.

The bill would also clarify the responsibilities of the networks with respect to the collection and validation of patient data, the development of quality assurance standards, the encouragement of vocational rehabilitation and operation of a patient grievance system by: (1) clarifying the statutory description of network responsibilities to include the collection of data required to assure the maintenance of the national ESRD registry; (2) requiring the medical review boards of the networks to develop and implement quality standards; (3) directing the networks to take appropriate steps, as part of their continuing statutory responsibilities, to encourage the participation of patients and ESRD facilities in vocational rehabilitation programs; and (4) requiring networks to operate patient grievance systems. The Secretary would be directed to provide for the payment of the necessary and proper administrative costs incurred by networks in carrying out their responsibilities.

Further, the bill authorizes the Secretary to redesignate network areas (but to no fewer than 14) and to publish in the Federal Register the geographic areas to be included in each Network and the criteria on the basis of which such designations are made. Under the bill, the Secretary is required to develop standards and criteria for evaluating the performance of network organizations by December 31, 1986, and after that date, to enter into, continue or terminate agreements with network organizations only after the application of such standards and criteria. During the transition period between June 1, 1986, and December 31, 1986, the Secretary would be required to retain existing network administrative entities to administer the program in any newly designated network areas.

C. DISCUSSION OF BILL

1. Need for a national consolidated ESRD data system

Since 1973 Medicare has provided coverage for patients with end-stage renal disease (ESRD). As a result, more than 80,000 pa-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tients are on dialysis in the United States at this time, more than 7,000 kidney transplants are done annually, and more than $2 billion in federal funds is expended each year in support of this program. Despite these expenditures and despite accumulation of financial and some medical information by HCFA, there is no consolidated data system collecting information on patients in the Medicare ESRD Program or on the outcome and complications of treatment. The United States treats more ESRD patients per million population than any country in the world, and this lack of a unified data system contrasts strikingly with other countries. The European Dialysis and Transplant Association Registry, for example, maintains data from patients in 32 countries and provides information to governments as well as to physicians and others.

In this country an ESRD Medical Information System was developed in 1973 but has never functioned in an organized fashion. Now, in 1986, various elements of a data system exist but are not coordinated. These include data collection and validation by the ESRD Networks; data handling by HCFA; a National Institutes of Health-sponsored CAPD (continuous ambulatory peritoneal dialysis) Registry; a proposed NIH Contract-supported pediatric ESRD registry; and existing legislation for a transplant registry.

Recently the major professional organizations involved in the treatment of ESRD, HCFA, and NIH have been engaged in discussions about the need for and desirability of developing a comprehensive national ESRD registry. These discussions have led to the development of an NIH research initiative to develop such a registry using HCFA data. The bill would both validate such an effort and provide the necessary impetus and guidance to move the effort from the planning to the implementation stage. Under the bill, the Secretary would be directed to expedite the implementation of the current activities of all other ESRD data collection operations.

The advantages of a national consolidated ESRD data system would be the ability to provide accurate and timely data, not only for scientific purposes, but also for Medicare program planning and monitoring, the development and application of quality assurance standards and the enhanced ability of patients to make informed choices among the available treatment modalities.

2. Need for clarification of network responsibilities and enhanced efforts to further rehabilitation of ESRD patients

The ESRD Networks were established by the Congress to perform a variety of crucial progam functions: assist in the collection of program data, encouage the use of medically appropriate lower-cost modalities, establish quality assurance standards, and promote rehabilitation. However, present law does not provide sufficient direction on how some of these responsibilities, particulary data collection and the promotion of rehabilitation, are to be carried out. Because of this lack of clarity the data collection function has not been consistently supported and only sporadic efforts to encourage the vocational rehabilitation of ESRD patients have been undertaken.

Since data collection is crucial to the effective management and oversight of the program, and the Networks now collect national data on the incidence, prevalence and treatment of end stage renal disease, the importance of clarifying the Networks role in the maintenance of the proposed national registry is apparent.

Similarly, the promotion of vocational rehabilitation efforts has suffered because of the lack of statutory clarity. Yet, this is an area where program savings are attainable. Although renal failure is by definition life-threatening and chronic, there is no inherent reason why it should always be considered disabling from an employment standpoint. There is no reason why otherwise healthy dialysis (and transplant patients) whose treatments are properly synchronized to mesh with their work schedules cannot return to the work force. Yet the perception remains that dialysis patients are too disabled to work and the public policy envisioned by the Congress of encouraging rehabilitation needs explicit reinforcement.

Thus, the bill explicitly states the congressional intent that the vocational rehabilitation of suitable ESRD patients be made a high priority and provides direction to the Networks to take all necessary and appropriate steps to encourage ESRD patients and ESRD facilities to collaborate actively in vocational rehabilitation programs.

In addition, the bill adds to the statute the Networks responsibility for establishing and operating patient grievance systems. Although Networks have generally been performing this function, it is essential to assure that it will continue to be treated as a priority. The vulnerability of ESRD patients, as well as their total dependence upon ESRD professionals and facilities for life-sustaining services, requires the effective maintenance of a grievance system that would enable patients to obtain an impartial and responsible resolution of problems that cannot be satisfactorily resolved with the individual professional or facility.

3. Need for criteria to evaluate network performance and flexibility in designating network areas

The evolution of the ESRD delivery system, as well as the changes that have taken place in the size and distribution of the patient population, suggest the need for flexibility in the designation of network areas. However, redesignation, and particularly the consolidation of network areas, should not be carried beyond the point at which the network areas become too large or unwieldy for the network organizations to effectively carry out their responsibilities. Thus, while the bill reaffirms the Secretary's authority to consolidate networks, it sets the minimum limit at fourteen networks and requires the Secretary to publish in the Federal Register the criteria he has employed in making determinations of the geographic areas to be included in each network.

Although the question of network performance has been the subject of considerable debate, very little documentation has ever been presented to the Congress to sustain the criticisms that have been made. Such a question cannot be responsibly resolved in the absence of concrete evidence and documentation. Thus, the bill directs the Secretary to develop standards, criteria and procedures for evaluating network performance and requires him to apply them before taking any steps to continue or terminate an agreement with a network organization. To assure there will be no interruption in the performance of network responsibilities during the period prior to the promulgation of the standards and criteria, the bill directs the Secretary to retain the existing network administrative entities.

THE SANDINISTA COMANDANTES: FLEEING FORWARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. SKELTON. Mr. Speaker, I would like to add to the CONGRESSIONAL RECORD an article by Jean-Claude Buhrer, which appeared in the June 24, 1986, edition of the French newspaper, Le Monde. I commend this article for its disturbing account of the thinking of the Sandinista Comandantes. This alarming description of the tightening social and economic conditions reminds us well of the sad results of Communist influence, and of the threat that is all too close to home.

[From Le Monde, June 24, 1986]

THE SANDINISTA COMANDANTES: FLEEING FORWARD

(By Jean-Claude Buhrer)

"The Sandinistas are loners. What they want is for everyone to fall in line with the Front's policies without complaining. They are sectarians: They have such a haughty and condescending attitude toward democratic and anti-imperialist organizations that they run the risk of isolating themselves from people and ending up on the fringes."

Arguments like these would not come as a surprise if they were spoken by a representative of the opposition in Nicaragua. But they reveal real malaise when they turn out to be the words of the Secretary General of the (pro-Soviet) Socialist party, Mr. Gustavo Tablada. A militant communist for 25 years, Mr. Tablada studied medicine, then specialized in psychiatry at Patrice Lumumba University in Moscow. He recalls that he too was jailed by Somoza. His party continues to provide "critical support" to the revolution, but the criticism is not friendly.

"For the very sake of the revolution and as Marxists," Mr. Tablada notes, "we are not going to act like ostriches and ignore the spreading signs of popular discontent. Of course the imperialist aggression has long contributed to the situation, but it is wrong to blame imperialism for all our troubles."

Even more critical is Mr. Virgilio Godoy, head of the Liberal Independent Party (PLI), now firmly in the internal opposition. As part of the old PLI faction which fought the Somoza dictatorship, he reached the end of his rope with the Sandinistas, whom he served as Labor Minister as late as 1984. Like the 10 or so parties from the extreme left to the center who carry on under the rules set by the authorities, the PLI is harshly affected by the loss of fundamental freedoms resulting from the decree of October 1985. "In the beginning," said Mr. Godoy, "the state of emergency and the special measures were designed to combat the contras. But it hardly bothers them. The first to be affected are those operating in the legal framework. If the contras didn't exist the government would have to invent them to justify its policy which reduces civil society to silence."

Under the state of emergency the opposition's public meetings are prohibited. Its representatives have no access to communications media. The opposition's representatives in the National Assembly are embit-

tered. "The legislative assembly," says Mr. Godoy, "was made for export. In practice, it has no power; it's a fiction."

Imperialist aggression serves as an alibi for all kinds of repression. Recently 57 workers of the ENAVES textile firm were forcibly removed from the factory by the police because they were preventing others from working. Pointing out that strikes are illegal, the Ministry of Labor had them fired immediately. An official of the (communist) CGT labor federation denounced this violation of labor rights.

BLACK MARKET AND CORRUPTION

The military and security apparatus weighs heavily on all sectors of society. The security services intervene at the slightest hint of protest or whenever a group tries to organize itself. While Somoza targetted mid-level cadres, the majority of political prisoners today are not leaders but the grass roots of the opposition. While estimates of their total number vary, the National Assembly has received over 2000 appeals for clemency just for political prisoners who have already served half their three to six year sentences.

The population is strictly controlled by the Sandinista Defense Committees (CDS), which Interior Minister Borge calls "the eyes and the ears of the revolution." Organized in each neighborhood and designed on the Cuban model, the CDS serves as the regime's transmission belt.

The other parties reproach them for not operating on democratic lines and for acting as informers and political propagandists. Many Nicaraguans complain of the abuses committed by CDS block captains or officers, for example by requiring attendance at Sandinista demonstrations or in the distribution of ration cards for housing permits. "The CDS exercise a permanent blackmail on the population, especially in these times of scarcity," notes Mr. Julio Morales, a member of the Socialist party.

Discontent has spread as shortages have increased and economic stagnation has set in. "We're short on everything," one hears. Oil, sugar, rice and soap are rationed. Medical supplies and spare parts are scarce. But anything can be purchased, even gasoline, at prohibitive prices on the black market. The 1985 decree to combat speculation has solved nothing. To the contrary, it has caused dizzying inflation in the prices of basic products which had previously been subsidized.

At the Ciudad-Jardin supermarket, customers have to show a ration card to enter. Long lines form in front of the counters for detergent or Polish soap powder. The half empty shelves offer cans of Soviet sardines or Bulgarian canned meat.

The Sandinista comandantes themselves recognize that "the economic situation is becoming more dramatic every day." The lack of foreign exchange to import equipment and raw materials adds to a growing economic paralysis. Production of rice, beans and corn is greatly diminished. Cattle production is also in decline.

With the bloating of the state apparatus, another scourge has taken on worrisome proportions: corruption. A special commission was created a year ago to fight it. The government attributes corruption above all to the legacy of the Somoza dictatorship, but the opposition of the left and right disagree.

For "Avance," the organ of the Communist Party, independent of Moscow, "the fundamental cause of corruption lies in the Sandinista Front's conception of power." The magazine gives as an example the salaries "kept secret" of the members of the government and of high officials, as well as the material privileges these people enjoy. According to leaders of the Social Christian Party, this is due to the appearance of "a group of privileged people in the society, in particular those who reach high positions in the governing party."

The population resents the sacrifices imposed upon it even more because the governing minority neither sacrifices nor cares about those who do. While the majority fights to subsist, the representatives of the new "Nomenklatura" go shopping in special stores.

"Everything for the war, everything for the soldiers." More than ever, priority is given to the defense effort. By itself, military spending accounts for at least half of the national budget. To justify this policy, official propaganda whips up a veritable psychosis of aggression and encirclement. Under the pretext of assuring of the survival of the revolutionary process, the country has been declared in a "war economy." A government economic advisor says: "We must get used to getting by with very little—austerity is going to continue for several years."

A NEW VIETNAM

While the economy founders, the army and the security services function with greater efficiency. With more than a hundred thousand men in arms, Nicaragua has by far the most important army in Central America. Well equipped by the Soviet Union and organized by Cuban advisors, it has never been seriously worried by the fifteen thousand contras it faces.

One intellectual comments: "Slowly but surely, the Sandinistas are wasting the immense reservoir of good will that the revolution had at its beginnings and still had, to a certain extent, at the time of the 1984 elections. We made this revolution to become masters of our own destiny. But these conceited fanatics, never more than a minority, seized all the key posts in the government and are following their own agenda. Their obstinacy is leading us into an East-West confrontation and they want to engage us in an open war with the United States. Without taking into account either the Central American context or the burden an army of a hundred thousand men represents for a small country of barely three million, they are dreaming of a new Vietnam so they can experiment with their theories."

Without a worry about the reservations of a public opinion they control, the Sandinista comandantes seem to have deliberately chosen to flee full speed ahead.

A TRIBUTE TO MR. ROBERT M. ROWE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. GEKAS. Mr. Speaker, I would like to take this time to express my congratulations to Robert M. Rowe of Millmont, PA, who will receive the Boy Scout Eagle Award on July 27, 1986. Rob, a member of troop 536, began the Scouting Program as a Cub Scout and has worked his way through Webelos and Boy Scouts. During this time Rob earned 23 merit badges, was initiated into the Order of Arrow, and served as patrol leader, quartermaster, and assistant Scout master. The presentation of the Eagle Award is an opportunity to recognize this man's dedication to his community and country.

Rob was very active in high school as a member of the varsity football team, the varsity track and field team, and the varsity wrestling team. He was also involved with the German Club and served on the class float committee. This fall Rob will be attending Mansfield University pursuing a degree in architectural engineering. He will continue his football career playing for the Mansfield Mountaineers.

Robert Rowe has shown excellent service and leadership capabilities in his work with the Boy Scouts and should be congratulated for earning this very distinguished award. I wish him good luck and great success in his future endeavors.

SCRAPPING THE ASAT PROGRAM WOULD BE A WISE DECISION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. BROWN of California. Mr. Speaker, according to Monday's Washington Post, the Department of Defense is ready to abandon its troubled F-15-launched antisatellite [Asat] weapons program. This would be an eminently wise decision, for there could hardly be a defense program more deserving of the budgetary axe. The F-15 Asat is way over budget, far behind schedule, and simply unable to meet its mission requirements. Scrapping the program would save the American public billions of dollars that otherwise would be spent on a system that would be obsolete the day it was deployed.

SOARING COSTS

As the Pentagon has tried to make the F-15 Asat fly, the most obvious thing that has taken off has been the program's cost. The expected cost for the U.S. Asat has grown by a factor of 10 over the past 10 years. What was estimated in 1978 to be a $500 million program has jumped to $5.3 billion, with a revised cost estimate occurring nearly every year.

In 1980, Congress was told that the F-15 Asat would cost no more than $1.8 billion. By 1983, however, the program's projected cost had doubled to $3.5 billion. Then came price hikes to $3.9 billion in 1984, $4.1 billion in early 1985, and a hefty boost to $5.3 billion in the summer of 1985.

Concerned about these constant cost overruns, the Air Force earlier this year decided to restructure the program, scaling it back to one-third of its original size and to only one deployment site. This was done with the hope of keeping the program's cost to less than $4 billion. But by reducing the number of Asat missiles by two-thirds—from 112 to 35—the price per missile increases by a factor of three, to more than $100 million each. This may well be more than the Soviets spend on the satellites we'll be shooting at. And if more

than one Asat is needed to destroy each target, then it almost certainly would cost us more to kill each satellite than it costs the Soviets to build and launch them. This hardly amounts to a favorable cost exchange rate for the United States.

PLUMMETTING CAPABILITIES

As the cost of the Asat has soared, the projected capabilities for the system have taken a nosedive. This is due, in part, to the Air Force's recent restructuring of the program. More importantly, however, it is due to inherent design limitations that have been overlooked for years. When these factors are taken into account, it becomes clear that the F-15 Asat would be obsolete the day it was deployed.

By drastically scaling back the size of the program, the Air Force would substantially reduce the number of opportunities for the system to engage its intended targets. So even if the system were a technological masterpiece, it might fail militarily due to this reduction of intercept opportunities. But the F-15 Asat has not, by any stretch of the imagination, been an instrument of technical perfection. It suffers from major design limitations that have taken a heavy toll on its projected capabilities.

The miniature homing vehicle [MHV], which is the "warhead" of the F-15 Asat, has not been designed to deal with even minimal countermeasures. For example, a maneuverable satellite might easily defeat the system. The MHV is programmed hours in advance to reach a specific point in space at a precise time. It is positioned in the path of the Soviet satellite, which then runs into the MHV. Like two cars reaching an intersection at the same time, both are destroyed. But a Soviet satellite would have ample opportunity to frustrate this plan. Even a slight change of orbit might avoid the collision. The MHV itself can maneuver, but its small size—12 by 13 inches—places an imposing limit on fuel capacity. In comparison, a satellite can be equipped with substantial resources for maneuvering, and the next generation of Soviet satellites almost certainly will possess such capabilities. They may possess other countermeasures as well that could defeat the U.S. Asat.

In addition, the F-15 Asat has major limitations on its range. "The altitude it reaches is not all that great," one Air Force official recently admitted. This means that the Soviets could simply move their satellites to slightly higher orbits to evade the system. The United States could respond with a new booster for the MHV, but this would simply add further expenses to the program, and might require an entirely different launch method than use of F-15 aircraft. Apparently, the Pentagon is finally taking these limitations into account, and is realizing that the F-15 Asat is simply not worth its price.

CHRONIC TECHNICAL DIFFICULTIES

The Asat program has been plagued with technical difficulties since its inception 8 years ago. These problems have resulted in persistent schedule slippages and numerous design changes. In essence, the Air Force has found the program to be far more difficult to develop than originally envisioned.

Technical problems were already apparent in 1979—the program's first year of development—and additional problems have surfaced every year since. Rocket boosters have blown up during ground tests, the MHV has failed to separate from the booster during flight tests, exhaust gases have contaminated the inner workings of the system. One year ago, an Air Force review group found that the system was facing 30 "technical concerns" that needed to be addressed before the program proceeded any further. Addressing these problems has forced the program to fall further and further behind schedule. The date for full operational capability has slipped by 5 years from what the Air Force said it would be 3 years ago.

It now appears that a new engine may be required for the F-15 aircraft in order to provide the necessary velocity to launch the Asat missile. This will result in even higher costs, and further schedule slippages, for the program.

In sum, the Asat program is a turkey. It is beset with problems similar to those that afflicted the division air defense gun [DIVAD], which was finally canceled due to technical problems and cost overruns after the Pentagon had wasted $1.8 billion on the effort. The F-15 Asat program has cost more than $1.3 billion to date, yet at least another $2.7 billion would be required to carry it through to completion. This money would be wasted as well, for, as I have explained here, the resulting system would be obsolete. Moreover, as I have not explained on this occasion, but have stressed repeatedly in this Chamber: An Asat competition is not in this Nation's security interests, whereas mutual United States-Soviet restraint on Asat's is.

The Asat program's budget could be spent better elsewhere. The House Armed Services Committee realized this when it drastically reduced funding for the program during consideration of the fiscal year 1987 DOD authorization bill. And now the Pentagon seems to have reached the same conclusion, as evidenced by the story in Monday's paper titled, "Pentagon May Discard Asat System." Given this program's high costs and serious technical troubles, discarding the system would be most advisable. The Washington Post article follows:

[From The Washington Post, July 22, 1986]

PENTAGON MAY DISCARD ASAT SYSTEM

(By Walter Pincus)

The Defense Department is likely to scrap its controversial, F-15-launched antisatellite (ASAT) system if Congress votes to continue a ban on tests of the weapon against a target in space, Pentagon and congressional sources said yesterday.

Dubbed "the flying tomato can" and designed to be fired into space from a high-flying F-15 fighter, the Air Force ASAT missile has been plagued by technical problems during much of its eight-year history. The Pentagon already has cut the number of ASAT bases from two to one, and reduced the number of missiles it planned to buy by two-thirds.

Pentagon officials, who now describe the troubled system as only the "first phase" of a broader ASAT program, said they will focus more on promising antisatellite technologies that are being developed as part of President Reagan's Strategic Defense Initiative research.

The demise of the F-15-launched ASAT and a return by the United States to a program that is purely research would come as the Soviet Union is seeking a ban on all antisatellite systems as part of Moscow's latest offer on space weapons in the Geneva arms talks.

Until now, the Reagan administration has pushed the F-15-launched missile on grounds that the Soviets already have an operational ASAT and the United States does not. Washington also argued against negotiating a ban on all types of antisatellite systems because such an agreement could not be verified.

Last year, Congress adopted restrictions which prohibit the Air Force from testing the current ASAT against a target in space, unless the Soviets undertake such a test. Consequently, the next two tests of the system, now scheduled for August and September, will target the radiant energy from a star which is permitted by the congressional ban.

The congressional restrictions are expected to be renewed for the fiscal year beginning Oct. 1, and that would undercut Air Force plans for three tests against orbiting targets now scheduled for fiscal 1987. "Without those tests," a Pentagon official said, "there can be no confidence in proceeding with the system."

Last September, the Air Force ASAT successfully destroyed an obsolete satellite, but that is not considered sufficient by the Pentagon to persuade Congress to finance full production of the weapon, a military source said.

The House Armed Services Committee has deleted all procurement money sought by the Pentagon for fiscal 1987 and slashed the requested research funds. The full House is expected to add the testing restrictions. The Senate Armed Services Committee has agreed to the funds and to allow testing, but Rep. Les Aspin (D-Wis.), chairman of the House panel, is expected to hold firm when the testing issue reaches a conference committee since he is under fire from fellow Democrats for failing to support their persons on other issues.

Because of the restrictions now in force, the Air Force already dropped plans for two ASAT tests this year against an instrumented orbiting target launched last November. The $20 million space vehicle, which has two targets, is still in orbit.

Only one of the tests now planned against a star was part of the original test program. The other was added to gather additional data on the missile's infrared sensors, according to testimony given Congress earlier this year.

"Without targets," one Air Force official said recently, "there is only so much data of value that can be obtained.

In an April 26 letter, the Pentagon's undersecretary for research and engineering, Donald A. Hicks, described the F-15-launched weapon as "only the first phase of a broader [antisatellite] capability" being studied. He said the Pentagon had "restructured the [antisatellite] program in January 1986 into two phases in recognition of the evolutionary nature of the threat, previous congressional actions and potential complementary systems."

The president's SDI, the so-called "Star Wars" research program, includes study of several laser and "kenetic kill" systems that possibly could be used against Soviet satellites as well as ballistic missile warheads.

Hicks' letter was included as part of a General Accounting Office (GAO) investigation of the F-15-launched system that was sent to Congress June 11. The GAO criti-

cized the program's cost growth, testing program, schedule delays and limited capability.

After the January review, the Pentagon cut planned production of the antisatellite missile from 112 to 35. The restructured program would cost $3.9 billion, slightly less than the $4.1 billion projected little more than a year ago for three times as many missiles, according to Aspin and Rep. George E. Brown Jr. (D-Calif.), two leading congressional critics of the program.

Originally, the Pentagon planned to base F-15 antisatellite squadrons at McCord Air Force Base in Washington, and Langley Air Force Base, Va., in order to be able to attack Soviet satellites from two different points. With only one base, however, the area of coverage would be limited.

The GAO also said the testing program, as proposed by the Air Force, is not challenging enough. The instrumented targets and outdated U.S. satellites that the Air Force will use if congressional restrictions are lifted have different characteristics than Soviet satellites, according to the GAO. The Air Force Operational Test and Evaluation Center (AFOTEC), according to GAO, said the instrumented targets "may be of limited value in projecting the system's performance in an operational environment."

The GAO also said that AFOTEC believes a "minimum of 15 flight tests is necessary to establish the system's capability," whereas only 12 are planned. The system's Air Force program office, however, did not agree, the GAO said.

INDEPENDENCE DAY—JULY 4, 1986

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. DE LA GARZA. Mr. Speaker, although the Fourth of July is behind us, I would like to share with my distinguished colleagues the following comments made by my constituent Patrick H. Johnson, who is senior pastor of the Valley Christian Church in McAllen, TX:

INDEPENDENCE DAY—JULY 4, 1986

To the Honorable Kika de la Garza and people of South Texas:

At the risk of being tagged a "super-patriot", I feel I should say something more concerning our great land of America—Especially as we on this Independence Day celebrate our 210th birthday—and it will also mark the 100th birthday of that grand Lady of Freedom who lifts high her torch of freedom in N.Y. Harbor. In light of this, I feel compelled to give voice to my personal recognition and reverence toward this day of days in our great country's history.

It is a day that gives recognition to that time when our forefathers, with little food and meager clothing, and without adequate weapons, trudged through bloody tracks in the snows of Valley Forge in order to purchase the precious freedom we now take for granted. Though they had few necessities of life, they did possess a great faith and determination through blood, sweat and tears to win our independence and gives us a free nation "under God, indivisible, with liberty and justice for all."

I don't know how patriotic days appeal to the majority of people today, but to me these days are days of great reverence and solemn resolve which turns my mind back across the years to their original meaning and purpose. Independence Day compels me to remember with humble gratitude those brave, heroic and honorable men and women who gave their "full measure of devotion" that this noble experiment in democracy, "this nation of, by and for the common man would not perish from the earth".

Independence Day revives my memory to acknowledge that we here in America have a grand and glorious heritage. A heritage not purchased by glib-talking money-grasping politicians—not bought by sheckels of silver and gold in behind-the-scene payoffs—but a heritage purchased with the blood, sweat and tears of brave men of valor at Valley Forge and Bunker Hill. Thank God for those men of our early beginning (as well as those who have suffered and died in World War I, World War II, Korean War, Viet Nam War, Grenada and other far-flung Conflicts since our embrionic infancy) without whose courage and valor we could not be here today.

Friends, you may already guessed it by now, but I Love America! I love every star in her Flag and every stripe! I still get a feeling of tingling sensation inside me when I think of America and what she means to me. Surely every true American is proud and grateful to be an American. As the poet so appropriately expresses it, "Breathes there a man with soul so dead, who never to himself has said, 'This is my own, my native land'?"

Yes, I still love to hear the strains of "The Star Spangled Banner," and a lump still comes in my throat and tears well-up in my eyes when I hear the somber notes of Taps, which has such a note of solemnity and finality about it, and so greatly touches the tenderest chords of memory bringing back unforgettable schemes of comrades who paid the highest price for America.

I love all of God's great creation, but most of all, I'm crazy about America! I'm ashamed of her sins, and I don't like the way things are going in some areas at times, but I still believe in America! I agree with Decatur in his toast: "America, my country. In her intercourse with foreign nations may she always be right. But right or wrong, she is my country!"

Yes, friends, I love America! I'm proud of her Constitution. I'm proud of those great men of our history who wrote it, and those who have fought and died to preserve it. And I'm also proud of the women! I'm enthralled by America's purple mountain majesties—by her wide open spaces—her truck farms and her fields of grain—her industry—her beaches—her lakes, rivers and streams.

Say what you will, my friend, but I'm convinced that America's freedom and greatness is from God! I'm convinced that America's future is in God's hands, and if we hold on to Him, everything will be all right. If America ever abandons God, I believe she is through! America belongs to God! It is still one of the last bastions of freedom and hope in our embattled world where God is honored and revered; and may this ever be so!

Call me what you will, a "flag-waver, " a "super-patriot" or anything else, but I will still love America because She is my country! I belong to America and America belongs to me—and together we both belong to God! May she always be the "land of the free and the home of the brave!" Thank God for America!

DR. PAT JOHNSON,
Pastor of Valley Christian Church,
McAllen, Texas.

P.S. How can we possibly not fly "Old Glory" in front of our businesses and homes on this auspicious occasion? Do it! And don't forget "Texas Our Texas" on her 150th!

A TRIBUTE TO JEFFREY L. WHITNER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. GEKAS. Mr. Speaker, today I would like to recognize the achievement of Jeffrey L. Whitner, a constituent of mine from Selinsgrove, PA. On July 27, 1986, Jeff will receive the prestigious Boy Scout Eagle Award. Jeff is being recognized for his unselfish contributions to his community and country. To fulfill the requirements of this award, Jeff, a member of Scout Troop 401, organized a very successful road race for the benefit of the Port Trevorton Fire Department Quick Response Squad.

Jeff, a recent graduate of Selinsgrove Area High School, has also shown his enthusiasm in school activities. He was active in basketball, track, and cross country, and he was a member of the French Club, the Outdoor Club, a participant in the junior class play, and a member of the National Honor Society. He is also an active member of St. Pius X Church as an alter server and a member of the youth group. He will be attending Penn State University at State College this fall pursuing a degree in sport and exercise science.

Jeff has set an excellent example for the rest of us to follow. His achievements are monumental and he should be congratulated for earning this distinguished award. I am honored to have an individual like Jeff in my district and wish him luck in all that he undertakes.

AMTRAK DESERVES CONTINUED FEDERAL SUPPORT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. FLORIO. Mr. Speaker, the administration has proposed the elimination of all Federal funding for Amtrak. Fortunately, this proposal was rejected in the conference report on the budget resolution for fiscal year 1987, which was recently adopted.

I wanted to call my colleagues' attention to an excellent editorial in the June 16 issue of U.S. News & World Report. A copy of the editorial follows:

THOSE RAILROAD NICKELS

(By Harold Evans)

America is getting ready for a party. The restored Statue of Liberty will be unveiled on Liberty Island on July 4. Washington's big brass are set to steam in, whistles blow-

ing, aboard the "Liberty Limited," pulled by one of the last coal-fired locomotives built in this country (at Lima, Ohio, in 1948). What a sad irony it is that as we celebrate with such vivid symbols there should be moves afoot to unpick a living part of our history and damage our present.

It was some years before the original unveiling of the Statue of Liberty that the political unity of these United States was first afforded a terrestrial reality. It happened at Promontory, Utah. On May 10, 1869, the railway pioneers drove a golden spike into a laurel railroad tie there to mark the linking of the rail systems of the East and West. This binding together by iron and steel of 37 states was the foundation for the industrialization of the country. Now, somebody is trying to dig up the golden spike and effectively undo a railroad passenger system that today efficiently carries 21 million people a year coast to coast. The oddest part of the story is that central casting has assigned the destruct role to a man with deep affection for the traditions both of the West and the railroads, President Reagan. Can his heart be in it? Hardly. And his head ought not to be.

The story goes that the President's imagination was captured when David Stockman, then budget director, walked into the Oval Office with a trolley conductor's change dispenser. He clicked out a nickel and told the President that 700 such federal nickels (I make that $35, right?) are spent in subsidy every time a passenger boards an Amtrak train. So, the President pledged himself to end "this huge federal subsidy." Congress has resisted. The President has persisted. If the President prevails, the end of subsidy would permanently and irrevocably terminate all intercity passenger services (with billions wasted in labor compensation and unusable equipment). Some 83 communities would be isolated without train or bus—including towns nearest Promontory.

Now, I appreciate that subsidy is the dirtiest word in the vocabulary, but let's rerun the Stockman walk-on scene. Let's call him back to click out a federal nickel for the subsidy arguably provided every time a passenger gets on a plane. That's 780 nickels, Mr. President—$39 against Amtrak's $35. And try it for the bus. That's 1,000 nickels—$50, or $15 more than that for each train passenger. Yet there is no proposal to ax the air or highway subsidy. Why not?

The answer is that the costs of the rail system are an easily identified line item in the federal budget, but the larger costs of the other services are indirect and concealed. And the historic cost is ignored.

Air and bus lobbyists will argue with my nickel-dispensing calculation, and it is a complex affair, but the fact is that air gets free what rail has had to pay for itself in signaling and track. This year, more than $2 billion from general funds will be used to operate and maintain the air-traffic-control system. Amtrak has to pay for its own. Nearly $16 billion was doled out in federal support for airport and airway development before 1971—and not a nickel of it was charged to air carriers. As for the highways, the Coleman report showed that spending exceeded user payments by no less than $120 billion through 1975; in 1983, more than $13 billion was collected for highways from nonuser taxes. Dealing in billions like that puts a different gloss on the amount of Amtrak's federal subsidy for next year: $606 million.

The truth is that Amtrak is a success story that merits not the slings and arrows of outrageous accounting, but the warmth of a Reagan smile. Every year, its efficiency improves. In 1971, it generated only 52 cents of each operating dollar. In 1985, it covered 58 cents, and in 1986 it will cover 61 cents. It is carrying 4 million more people than in 1972. It is the sixth-largest passenger carrier. And its passengers get there more often on time than passengers on the congested air routes.

If subsidies are to end, let them end for air and road, too. If not—and the howls and chaos would be interesting to observe—let the President ride "Liberty Limited" July 4 and toot its whistle to mark the end of a campaign that merits derailment.

The editorial points out that Amtrak subsidies must be considered in the context of large indirect subsidies to other modes. Furthermore, the editorial correctly notes Amtrak's increasing efficiency.

I am hopeful that this continuing support for Amtrak, both in Congress and among the public, will convince the administration to end its campaign to eliminate Amtrak.

INTERESTING THINGS, WORDS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. DOWNEY of New York. Mr. Speaker, a celebration was held recently in Hollywood of the contribution women artists are making in the world of American film.

Songwriter Marilyn Bergman, three time Oscar winner with her husband Alan, for "Windmills of Your Mind," "The Way We Were," and the score of "Yentl," delivered a memorable keynote address which has received wide attention as an elegant analysis of the persuasive power of words, and especially of the social responsibility of working in mass media production.

As communicators themselves, the Members of the House would enjoy Ms. Bergman's observations, I believe, and request that the speech be printed below.

SPEECH BY MARILYN BERGMAN ON THE OCCASION OF THE 10TH ANNIVERSARY OF THE PRESENTATION OF THE CRYSTAL AWARDS FOR WOMEN IN FILM

This award is particularly meaningful to me as it comes from women in film—both very important in my life—women and film. Not girls in film. Not ladies in film. But women in film.

Interesting things, words.

Girl: non-threatening, unempowered, nonauthorative. According to Webster: "a female servant."

Lady: identifying class or social position. Not free. Belonging to. A mistress of a lord. Webster again: "Well-bred, or refined and gentle manner."

Woman: clearly and cleanly identifying gender. Independent, responsible, empowered. According to Webster: "An adult female person."

Interesting things, words.

I've had a love affair with them for as long as I can remember. As a writer, I spend my days in pursuit of the right word. Words can be used to express or repress, to release or restrain, to enlighten or obscure. Through words we can adore each other or abhor each other. Nations can offend or befriend one another. Words can enslave and keep people in their place. They're easy prey for those who would tamper with the integrity of their meaning. Like those who use the words "Peacekeeper" for an instrument of death and destruction—who refer to the contras of Nicaragua as "freedom fighters." And "moral majority." To my mind, neither moral nor the majority. Or those who call themselves "Pro-life," a word which makes it appear that those who oppose them are anti-life.

Interesting things, words.

How stealthily they can enter the vocabulary and lose their real identity in the crowd. "Fall-out" for example: a word that was born with the bomb. Meaning radioactive particles in the atmosphere as a result of nuclear explosion. How benign the word has become through usage. We use it now to mean, "the result of something" a meeting, a conversation—with no positive or negative implication, and certainly no danger. Meltdown—I dare say before too long it will wend its way into the vernacular, stripped of its malignant meaning.

Are we not creating a language with which to describe the indescribable? To make thinkable the unthinkable. And the sinister innocent, so that people are not outraged. So that these horrors are taken as a part of life, a fact of life. When in reality they are the facts of death and we should not accept them.

Interesting things, words.

Message movies: that invariably means that a movie is not commercial and is left of center. And yet, aren't "Rambo" and "Cobra" perfect message movies? Their message is loud and clear: "violent solutions are the only solutions." According to the New York Times review of "Cobra," its message is: in this case, the rules are the Constitution of the United States, the Courts, and the laws of due process. All drowned in blood—in orgies of murder and weapon worship, and all for the almighty buck. Aren't we selling our souls?

I remember the "Grapes of Wrath," about the hungry and homeless in America in the 1930's. "To Kill a Mockingbird," about racism. "Doctor Strangelove," which addressed the insanity of war, and "Tootsie," perhaps one of the most insightful movies about sexism ever made. Highly successful, all of them.

Sure we want to entertain and be entertained, and made to forget the fear, the violence, the wars, slums, the greed. The sounds of people devouring each other and the earth. But don't we have to make sure that there's always a place for films that reaffirm the best in us? That elevate, that illuminate. That call upon us to hold out a vision of ourselves in relationship to others—to all others. To not deny the problems of our times, but to raise questions in our work and perhaps even to help find some answers.

We are the communicators. We deal with words and images. We must remember that words need the resonance of ideas—or thought. Otherwise they wear out—become deprived of their levels, their richness. We live in an atmosphere of slogans where content is not questioned, and unless something can be reduced to a bumper sticker or a ten second news bite it is discarded.

We help provide the mirror into which America—if not the world—looks to see itself. That's power—and with it comes responsibility.

I remember when I first read Rachel Carson's "The Silent Spring" in which she

warned us of the consequences of destroying the balance of nature. I remember thinking: "But they won't allow that to happen. They know better. They won't allow the seas to die, the air to become polluted. They won't allow the food chain to be poisoned." I was wrong. Not only has all that happened, but who are they?

I've come to think that there is no "they." Trusting that there is, is a way of abdicating responsibility, of copping out, of leaving it to others. But we mustn't. For it's becoming more and more clear, that "we" are "they."

Thank you again for this wonderful award and for letting me get all these words off my chest.

IMMIGRATION REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 23, 1986, into the CONGRESSIONAL RECORD:

IMMIGRATION REFORM

Hoosiers have mixed views toward immigration. They show sympathy for immigrants individually, but think that our immigration policy is out of control. They have changed from asking what kind of immigrant should be admitted to how entry can be restricted. They think that the immigrants who came here 100 years ago were wonderful, but the current wave of immigration is less desirable. Similar feelings are evident in the Congress, as it again wrestles with immigration reform.

Although we are a nation of immigrants, immigration reform is overdue. Under the current system, we let in 270,000 immigrants annually under preference categories favoring relatives of US citizens and certain needed workers. Immediate relatives of US citizens are admitted without limits, last year adding 200,000. We also accepted some 70,000 refugees last year fleeing persecution. By historical standards, these levels of legal immigration are not high. The problem instead lies with illegal immigration. The total number of legal immigrants each year may be outstripped by the number entering illegally. Up to 3% of our population may now be illegal.

The main idea behind the immigration reform package now moving through Congress is that jobs are the magnet drawing illegals to the US. To make it more difficult for them to obtain US jobs, the bill provides stiff penalties for employers who knowingly hire illegals. It also provides for a limited program of amnesty for otherwise law-abiding illegals who have been here several years.

I support the bill's efforts to curb illegal immigration. My sense is that we have lost control of our borders, and something must be done. Illegal immigration is unfair to those seeking legal entry, undermines our efforts to strike a balance among admission categories, and boosts social program costs in certain localities. Although the bill is a step in the right direction, my expectations for it are modest. We must also reform our system of preference categories, beef up our border security, and, perhaps most importantly, put our immigration problems into a wider, international context. Unless steps are taken to help our neighbors improve their economies and job prospects, the flood of illegal entry into the US will only continue. For example, in Mexico, for every 1 new job that is created, there are 500 births.

Yet there is another side to our immigration policy. Our problems with illegal immigration should not lead us to sharply cut all immigration. Legal immigration has produced enormous benefits to America. For example, ⅓ of our Nobel Prize winners were born abroad. Recent legal immigrants have brought in new cultural traditions, started businesses, revitalized declining neighborhoods, and excelled academically. The goal of immigration reform should be to close the back door to illegal entry, and open slightly the front door to legal entry that is in the US interest. America will be a poorer place if legal immigration is cut back because we have failed to control illegal entry.

Patterns of immigration have changed markedly in recent years. While 80% of our immigrants came from Europe and Canada between 1930 and 1960, 95% now come from Asia and Latin America. We should also put the immigrant numbers into perspective. Even including illegal entries, annual immigration today is estimated to amount to only ⅓ of 1% of our total population. Some 7% of the US population is foreign-born, compared to France's 11% and Canada's 16%. Our new immigrants are being hit by critics on both sides. Many object that they are unskilled and swell our public welfare rolls, while others object that they are too-skilled and too-hardworking, taking jobs away from natives.

Evaluating the new immigrants is difficult because they are such a diverse group—from skilled neurosurgeons to illiterate refugees. Moreover, experts disagree over almost every key estimate in the debate. Yet various studies cast doubt on the charge that, overall, immigration puts an enormous strain on the US. On the one hand, legal immigrants receive fewer social security and medicare benefits than do natives, and most illegals pay social security taxes but do not get anything back. Immigrants also pay their share of income taxes. On the other hand, they increase our public education costs, and utilize our welfare services at the same rate natives do. In a time of tight budgets, concerns about spending our limited resources on immigrants while many Americans are needy cannot be ignored. Eligibility for various federal welfare programs has been tightened to try to keep US benefits from serving as a lure for the unproductive.

On the question of immigrants taking US jobs, some job displacement is certainly taking place. Yet many of the jobs that immigrants take are menial ones that many Americans shun. The availability of immigrant labor has in some cases kept US companies from relocating overseas, and has reduced prices to consumers. Moreover, as the "baby boom" has been replaced by the "baby bust", we may need more immigrants to fill a labor shortage in the next few decades, and to ensure a stable base of contributors to social security. Without immigration, the US will begin losing population in about 35 years. Immigrants also have created a large number of jobs—indirectly because of the purchases they make, directly because they frequently open small businesses. The President's Council of Economic Advisers recently concluded that, despite job displacement along the Mexican border, overall, and for most people, job opportunities, real wages, and economic welfare are increased by immigration. Even so, the question of job losses from illegal immigration is a sensitive one. The employer sanction provisions in the reform bill could help address the problem.

Immigration reform is difficult, as varied regional impact, conflicting estimates, and even prejudice cloud the debate. My sense is that the US can continue to absorb roughly the number of legal entrants it now accepts, but we must act resolutely to make illegal entry more difficult. We have limits; we cannot take in all who want to come. The pending bill is no panacea, but it should be enacted. Unless we get better control of our borders, a restrictionist backlash could let loose against all new immigrants. In a nation of immigrants, that would be unfortunate.

DAVID G. KNAUTH, ATLANTIC FLEET SAILOR OF THE YEAR

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. BOEHLERT. Mr. Speaker, I stand before the House today with justifiable pride, to recognize Aviation Electronics Mate First Class David G. Knauth, of Utica, NY and the 25th Congressional District, who has been selected as 1986 U.S. Navy Atlantic Fleet Sailor of the Year.

Begun in 1972, the Sailor of the Year Program singles out exceptional noncommissioned men and women of the Navy for their sustained superior performance, leadership abilities, educational enhancement, command or community involvement, and the demands of their particular type of assignment. Petty Officer Knauth was chosen this year from among 347,000 active-duty and inactive reserve-duty sailors—all of whom serve their Nation with pride and dedication in the pursuit of peace and freedom.

Petty Officer Knauth was born in Cooperstown, NY (which, by the way, is also in the 25th Congressional District). His family then moved to Utica. After graduation from Utica Free Academy, he enlisted in the Navy in September 1977.

The old recruiting slogan says, "Join the Navy and See the World": Petty Officer Knauth's career certainly reflects that. After basic training in Great Lakes, IL, and specialized training in Memphis, TN, he was assigned to active duty with the Atlantic Fleet in Norfolk, VA. He has seen two tours of duty in the Persian Gulf and the Arctic aboard the fast frigate U.S.S. *Thomas C. Hart*, and has also seen duty in the Mediterranean aboard the destroyer U.S.S. *Spruance*.

In his 9 years of outstanding dedicated and professional service in the Navy, Petty Officer Knauth has achieved recognition as Maintenance Professional, and as a three-time Sea Sailor of the Month. He has also earned two Navy Achievement Medals. The Sailor of the Year Award is yet another mark of distinction for this fine young man.

Mr. Speaker, there is an traditional English toast which reads:

"To the wind that blows,
to the ship that goes,

and the lass that loves a sailor . . ."

I would like to add my expressions of admiration—to Petty Officer Knauth; his wife, Sheryl Lynn; his family; his service; and his country. I invite my colleagues, the people of New York State, and all America to join with me in saluting Petty Officer David G. Knauth, the 1986 U.S. Navy Atlantic Fleet Sailor of the Year.

IN OPPOSITION TO THE SUPPLEMENTARY EXTRADITION TREATY WITH THE UNITED KINGDOM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan 114-member ad hoc Congressional Committee for Irish Affairs I have been strongly opposed to the Supplementary Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland. This treaty I should note was ratified last week by the Senate by a vote of 87–10.

I am critical of this treaty for several reasons. The most important of these is the fact that it eliminates the so-called political offense with respect to cases involving those the British seek to extradite back to Northern Ireland. This political offense exception is common to almost 100 other extradition agreements we are party to with other nations. It was also upheld by several recent U.S. court decisions.

One of the most eloquent criticisms I have yet to see about the treaty was contained in an article in the New York Post earlier this week by Beth Fallon entitled "Disgrace All Around on Ulster." I urge my colleagues to read this article and join with me later when I sponsor legislation to reinstate the political offense exception to our extradition policies with Great Britain and Northern Ireland.

DISGRACE ALL AROUND ON ULSTER

The "supplemental" extradition treaty voted by the U.S. Senate last week is a disgrace all round.

It is first and foremost a disgrace to the United States of America, which abandoned a principle going back to 1793 that those adjudged to be genuine political dissidents have a right to make revolutions, and a right to flee and be protected from kangaroo opposition courts.

It is an even further disgrace that it is an ex post facto agreement, endangering the safety of Irish Republicans already protected from extradition by the decisions of American judges.

It is a further disgrace in that it singles out the Irish opponents of British rule in Northern Ireland, while maintaining the original extradition standards in treaties with nearly 100 other countries.

As with all abandonments of principle, however, this will quickly lead to others. The Reagan administration is said to be seeking similar changes in our treaties with several Western European powers.

The treaty was effectively assured on the day that PLO terrorists threw Leon Klinghoffer and his wheelchair off the Achille Lauro, and locked up when British Prime Minister Margaret Thatcher permitted U.S. jets to take off from their British bases to pound the Libyans last April.

Americans are fed up with guerrilla warfare, having conveniently forgotten their own successful one two centuries ago—against the British, as it happened.

Had it not happened, we too could have all the fun of an Established Church, rancorous religious enmities and possibly the political and economic repression of a religious minority by the majority that is the chief distinguishing feature of Northern Ireland today.

We would not have Sen. Richard Lugar (R-Ind.) on the floor of the U.S. Senate, intoning:

"Violence should never be deemed part of the political process.

"You can bring about change by the ballot box. The bomb and the bullet have no place."

The senator here performed a dazzling feat of historical obtuseness, forgetting both George Washington and the successful bombing raid on Khadafy only three months ago.

He thus obliterated 210 years of American experience in only three sentences.

The British are also disgraced, not only by seeking the treaty but by the economic, political and moral decay they have fostered in the six counties of Northern Ireland.

They have repeatedly abandoned their own law to stop dissent there. They have tried people without juries on the word of paid informers.

They have watched as an independent English policeman, John Stalker—sent to investigate whether the Royal Ulster Constabulary did in fact shoot to kill unarmed civilians—was smeared, and then suspended, for finding evidence the RUC did not want found.

Disgraced as well are the governments of Ireland, both in the North and even more in the southern Republic.

The only pretense that the Northern, London-imposed government can make to equality is that its Constabulary is now shooting Loyalist demonstrators with plastic bullets, as well as Catholic dissidents.

Protestant unemployment continues at around 12 per cent, while Catholic unemployment is 40 per cent. This is the true breakdown of the 23 per cent Northern unemployment rate so beloved of American editorial writers.

And the Republic itself put the final signature on the treaty with its plebiscite vote three weeks ago rejecting the legalization of divorce in the last Western nation to forbid it.

The Irish have a right to do what they want. Others also have a right to condemn their narrowmindedness and receive once again the impression that here is a people incapable of making a deal for the sake of true peace.

The overriding impression is that any Irish person with even a modicum of political savvy got on a boat and left between 1720 and 1900, either in chains to Australia or in steerage to New York. To refuse the olive branch of civil tolerance at this delicate stage of the consultative role for the Republic in Northern Irish affairs is political insanity.

It demonstrates once again that the Catholic Irish cling just as desperately to the 17th century as their Protestant neighbors, and prefer not to make any accommodation that would make unity, or at least amity, possible.

If the Irish cannot make a deal, however, the governments of Margaret Thatcher and Ronald Reagan have no such problems.

One of the great laws of politics is that people who cannot make a deal will usually be outmaneuvered—and often outgunned—by people who can.

RULE ON H.R. 3129, THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1986

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. ROSTENKOWSKI. Mr. Speaker, I take this opportunity to inform my colleagues that the Committee on Ways and Means on Tuesday, July 22, 1986, approved an amendment which would provide for the extension of the highway trust fund. It is the committee's intention to offer this amendment as a separate title V to H.R. 3129, the Surface Transportation and Uniform Relocation Assistance Act of 1986. The Committee on Ways and Means amendment is necessary to continue the funding for this authorizing legislation.

I wish to serve notice, pursuant to the rules of the Democratic caucus, that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration of this committee amendment by the House of Representatives.

CONSIDERING THE SOURCE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to commend to the attention of my colleagues, an article that appeared in the Washington Times which traces the source of one particular statistic that has been interjected into the continued debate on the war in Nicaragua.

I urge my colleagues to take the time and read "Without First Considering the Source * * *" by John Lofton.

WITHOUT FIRST CONSIDERING THE SOURCE * * *

(By John Lofton)

In their Adolf Hitler-style Big Lie smear campaign against the Nicaraguan freedom fighters, two congressional opponents of the "contras"—Reps. Peter Kostmayer, Democrat of Pennsylvania, and Rep. Jim Bates, Democrat of California,—have unwittingly repeated as fact information from Nicaragua's Communist Sandinista government.

On June 26, 1986, Rep. Kostmayer, appearing on the CBS late-night *Nightwatch* program, declared that 42 percent of the people killed by the "contras" have been children. A legislative assistant to Rep. Kostmayer, Jay Heck, told me that his boss got this statistic from Rep. Bates on the House floor. Ed Swanson, a legislative assistant to Rep. Bates, told me his boss got this 42 percent figure from a copy of a fund-

raising letter a constituent sent their office, a letter signed by Dr. Benjamin Spock for the Nicaragua Network, a pro-Sandinista organization based in Washington. In this letter, Dr. Spock alleges in part, without citing a source:

"Especially shocking to me as a pediatrician is this heartrending fact: *Nearly half the "contras'" victims*—42 percent—*have been children*" (emphasis Dr. Spock's).

In this letter, Dr. Spock also says that what the Reagan administration is saying about the Communist Sandinistas is "a horrible lie" which is part of "a relentless campaign to distort the truth." He alleges, without citing any sources to back up his assertions that under Nicaragua's Communist government illiteracy has been reduced; health care is better; and the country's Communist government is "so popular" with a majority of its citizens that it has distributed arms to tens of thousands of civilians so they can better protect themselves against the "contras."

But who, really, is distorting the truth here?

When I called Dr. Spock's home in the Virgin Island, a furious Mrs. Spock, who calls herself Mary Morgan, angrily denounced the Nicaragua Network letter bearing her husband's signature. Complaining that this group mailed this fund-raising letter without first sending them even a draft, as they had requested, she blasted the Nicaragua Network people, observing that, "They did this whole damn thing without even calling me, without any consent or anything. And I've tried to clean up the mess afterward, and I don't like it at all."

Mary Morgan, noting that this fund-raising letter contained "many mistakes," said that when she was told this letter had to be sent without herself and her husband reviewing it, she said no, they couldn't do this. But they did. "So, they did it without his knowledge or consent. It wasn't done properly," she said. She said that the facts and figures in the fundraising letter signed by her husband were supplied by the Nicaragua Network.

When I called the Nicaragua Network to check out the source for the 42 percent statistic, Debbie Rubin, the national coordinator for this group, asked me what kind of story I was doing.

Me: I'm just trying to check out your allegation that 42 percent of the "contras'" victims have been children.

Her: But what's the story?

She complained that the last time *The Washington Times* did a story about her group, its purpose, obviously, was to decimate its fundraising program. So, she said, she was just curious why *The Times* had taken an interest in them again.

Me: Look, I'm just trying to check this 42 percent figure.

Her: But could you clarify what you're doing with your article?

Me: That's it. I'm just trying to find out the origin of your statistic because Dr. Spock and Reps. Kostmayer and Bates have repeated it.

When I noted that, regardless of which side of the Nicaragua debate one is on, the 42 percent charge is very serious, she interrupted me, saying: "So, you're writing an article in defense of the 'contras'?"

Me: I'm just trying to find out where your statistic came from. Do you know?

Her: "Yeah, I do, but I'm much more interested, frankly, in finding out from you what your article is about. Because it seems like a very strange thing for a paper to be investigating."

Once again, Ms. Rubin complained about our paper's previous article concerning the Nicaragua Network.

Me: So, where did your 42 percent statistic come from?

Her: "[It] comes from the Institute of Social Security and Social Welfare reports on victimization and the results of the 'contras' war."

Me: And where is this institute?

Her: "It's the equivalent of our Social Security Administration."

Me: But where is this institute?

Her: "It's the equivalent of our Social Security Administration."

Me: It's part of the Nicaraguan government?

Her: "That's right. It's the exact equivalent of our Social Security Administration and compiles statistics on the same basis."

Sensing that this revelation that the Communist government of Nicaragua isn't, perhaps, the most credible source for information about the "contras," Ms. Rubin was quick to try and assure me that her organization has treated the 42 percent statistic "as cautiously as possible." She said: "We're very, very careful about our statistics," and that's part of the reason she resented any implication that there's any looseness about the statistics—an implication which I had not expressed.

When I asked just exactly what she meant when she said her group has used this 42 percent statistic "as cautiously as possible," she said: "What I've heard reflected back is that somehow there's some sort of impression that that 42 percent figure is children who have been killed by the 'contras.' And we in no way, shape, or form have ever said that." This is, however, exactly what Rep. Kostmayer said on national television.

When I told an increasingly testy Ms. Rubin that Mary Morgan, Dr. Spock's wife, is outraged that the Nicaragua Network would send out a letter over her husband's name without first showing it to them as they had requested—and I asked why in the world they would do this to a friend who was trying to help them—she said: "We didn't."

Me: You mean Mary Morgan is a liar? I say I just talked with her and she is angry and upset.

Her: "That's okay."

Me: You mean you *did* send the letter to them first before you mailed it?

Her: "I'm not talking to you about this subject."

She hung up the phone.

In the Nicaragua Network's fundraising letter signed by Dr. Spock but, according to his wife, not seen before it was mailed, the goals of this group are said to be to build "people-to-people connections" between our two countries; to coordinate with other groups to bring "sanity" to U.S. policies in Central America; and to channel "material aid" to Nicaragua.

But the Nicaragua Network's claims are far too modest. Another goal, obviously—and in this case successfully—is to feed to "useful idiots" (Lenin's phrase) like Reps. Peter Kostmayer and Jim Bates Communist-supplied data which they swallow hook, line, and sinker and blissfully repeat without even caring about the source of this suspect information.

MAURICE RUSSELL—A DISTINGUISHED CAREER

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. SOLOMON. Mr. Speaker, I wish to take a few moments to recognize the career accomplishments of Mr. Maurice Russell, Assistant Director for Resource Management at the Selective Service System. Mr. Russell, who recently retired after a distinguished career as a U.S. Marine officer and an official with the Selective Service System.

For the past 15 years Mr. Russell distinguished himself with an unusually outstanding performance in positions of increasing responsibility at the Selective Service. Mr. Russell played a major role in the development of Selective Service mobilization plans and the field structure essential to military readiness. He served as manager of personnel for several years, responsible for all aspects of military and civilian personnel at the agency. This position also included the program which identifies, trains, and manages more than 11,000 volunteer local and appeal board members.

In the recent past, Mr. Russell served as Assistant Director for Resource Management, recognizing, officially, his many years of involvement in the financial and logistic aspects of the Selective Service national headquarters and field operations as well as continuing his role as senior manager in the fields of administration and personnel. Mr. Russell's exceptional ability to interact with the board spectrum of agencies and personalities, coupled with his management talent, has been a valuable asset to the Selective Service mission.

As an ex-marine myself, I am especially proud of Maurie's service to our country. At the age of 17 he joined the U.S. Marine Corps and was the youngest fighter pilot to serve in the Pacific during World War II. He continued military service in the U.S. Marine Corps during the Korean war and the Vietnam war, and was a full colonel in the Marines before beginning a new career with Selective Service.

Mr. Russell's career, or I should say service to our Nation, reflects great credit upon himself, the Marine Corps, the Selective Service System, and the United States of America.

MARYLANDER IS NAMED ATA'S 1986 DRIVER OF THE YEAR

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Ms. MIKULSKI. Mr. Speaker, I rise today to call attention to this year's American Trucking Association National Driver of the Year Award. I am very pleased to announce to my colleagues that this year a Marylander from the Third Congressional District, Davis C. Ulrich, won the award. I want all the Members to have the chance to read about Mr. Ulrich. He is a true American hero, an ordinary citizen

who by his actions does extraordinary things. I am very proud of Americans like Mr. Ulrich. They make America the great country it is today.

I submit for the RECORD the news release issued by the ATA:

MARYLANDER IS NAMED ATA'S 1986 DRIVER OF THE YEAR

WASHINGTON.—A 19-year veteran truck driver, who has logged more than 1.5 million miles of accident-free driving, has been named the 1986 National Driver of the Year, American Trucking Associations (ATA) President and CEO Thomas J. Donohue announced today.

Davis C. Ulrich, 39, who drives a flatbed rig for MacMillan Bloedel Building Materials Inc., Baltimore, Md., "is representative of the thousands of safety-conscious professional truck drivers on the nation's highways," said Donohue.

"Davis' accomplishments are a source of pride for the entire trucking industry. His performance and positive attitude reflect ATA's focus on highway safety," Donohue added.

Transportation Secretary Elizabeth H. Dole presented the ATA driver of the year trophy to Ulrich at ATA's Executive Committee meeting.

A winner of numerous company—and industry-sponsored awards, Ulrich was also recognized for the part he played in returning a lost child safety to his parents in 1984. While driving on Maryland's Route 301, Ulrich spotted a small boy standing near the highway's edge. The child, 3, was lost and frightened.

Upon sighting the child, Ulrich got out and rescued the boy. With the assistance of the Charles County (Md.) Sheriff's Department, the child's parents were notified and the boy was returned safely.

Ulrich has frequently competed in state and national driving championships, which concentrate on driving skills. He is a three-time Maryland State Champion, and he finished fourth in the national finals in both 1981 and 1983. He helped found the Professional Association of Champion Truckers, a group made up of former driving champions that actively promotes safe driving.

Other achievements include Ryder Truck Rental's Driver of the Month and Driver of the Year Awards, both presented in 1980. MacMillan Bloedel leases its equipment from Ryder.

The MacMillan Bloedel management has described Ulrich as "our top driver," and "a proven . . . leader, with a sense of urgency to accomplish."

On the job, Ulrich drives a Mack Super Liner with a 42-foot flatbed trailer, on which he hauls building supplies. From his base in Baltimore, he typically drives either to New York or North Carolina, racking up more than 65,000 miles per year.

Off the job, Ulrich is a member of the Moose Lodge and has coached little league baseball. He also served six years in the Army National Guard.

Ulrich lives in Baltimore with his wife, Mary, and their five children. He was nominated for recognition as the nation's top truck driver by the Maryland Motor Truck Association.

CONGRESSMAN DORNAN'S STATEMENTS TO THE NATIONAL LEAGUE OF FAMILIES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today to submit for the CONGRESSIONAL RECORD my recent statement to the National League of Families for Missing in Action. I bring this to the attention of my colleagues because I feel strongly that we must remain focused on our efforts to achieve a full accounting of our American soldiers in South East Asia.

The statement follows:

CONGRESSMAN DORNAN'S STATEMENT TO THE NATIONAL LEAGUE OF FAMILIES

Ladies and Gentlemen, I appreciate the opportunity to address this very, very special group of dedicated Americans. I am confident that all of us share a common hope that live American heroes some day be returned to their country and loved ones. Unfortunately, our hopes have led us on an endless emotional roller-coaster. I know that we will not rest until we know beyond any reasonable doubt that a full accounting has been accurately achieved.

The families of our MIA's are an inspiration to me because over the years you have not been paralyzed by emotion. The League has been the instrumental force in focusing national attention on this tragedy. With the death of what I call the "Vietnam Syndrome"—a self-inflicted, insular, and self-defeating attitude, crippling to American leadership—the days of inaction are mercifully behind us.

I have been a little encouraged by recent developments in the Pentagon, and more specifically the DIA. I have noted a favorable change in attitude, characterized by new efforts to ferret out any clues which might lead us to conclusions about live American captives. My office monitors very carefully the efforts of our government for a full accounting. Congressman Bill Hendon and eight others of us have taken a very aggressive stance. We have made it very clear that any government employee who is not investigating live-sightings as if the missing hero were his own flesh and blood brother, then that DIA employee must be rotated out to less demanding position which requires a less aggressive, or inquisitive approach. We need natural detectives working this American tragedy, nothing less.

An additional development which you fought to bring about involves the formation of the Tighe Commission. Essentially Eugene Tighe, ex-Director of the DIA—has been heading an oversight commission which will monitor and recommend changes aimed at overcoming past bureaucratic obstacles. Hopefully he will overhaul the entire DIA investigative process. This most definitely is a positive development although so horribly late in the process.

After all, our men went to Vietnam with the implicit commitment of the United States nation standing by them. I intend to see to it that our government honors that commitment 100%. Our men deserve more than periodic hand-wringing on Memorial Day and Veterans Day. You deserve that kind of commitment, and so do all of us. So let's continue to work together and make sure that all parties involved are working as hard as is humanly possible in a coordinated and resolute manner. We must also not forget, my friends, that another major player is involved here—the Communist government of conquered Vietnam. This government succeeded once before in bringing the United States to a pathetic lack of resolve by fostering internal divisions in our great land. Communists understand power and tough-mined, coherent, consistent policies. Let us also achieve toughminded consistency then and push this country into a position of strength so that we can resolve this issue with honor. God bless and watch over our long suffering heroes.

OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. YATRON. Mr. Speaker, I want to take this opportunity to pay tribute to a very important occasion. The week of July 20–26, 1986, represents the 28th commemoration of Captive Nations Week.

Captive nations are those which suffer under Communist domination. They consist of the Baltic States, various Republics in the Soviet Union, East Europe, and other nations such as Afghanistan, mainland China, Cuba, Vietnam, where communism is the prevailing political and economic ideology. Clearly, people residing in these nations, cannot, in general, exercise their full complement of fundamental individual freedoms and liberties as enumerated in the Universal Declaration of Human Rights and other international covenants.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have conducted extensive hearings and investigations into human rights abuses committed by Communist governments. Captive Nations are indeed deserving of the name, because freedom is suppressed and there is little regard for the individual or his basic rights as recognized under international law.

Thus, the week of July 20–26 is important because it serves as a beacon of hope to millions of oppressed people striving for liberty and the right to be free. It also serves as a reaffirmation of our commitment to the democratic principles on which this country was founded and under which we are governed.

I also want to commend the National Captive Nations Committee, Inc., for all their efforts in keeping the plight of people in Communist-dominated areas in the public consciousness and in the forefront of foreign policy. As the leader of the free world, the United States must continue to actively promote democracy and human rights throughout the world.

UNITED STATES-CAYMAN TREATY SHOULD IMPROVE LAW ENFORCEMENT

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. SMITH of Florida. Mr. Speaker, earlier this month, the United States concluded a wide-ranging Mutual Legal Assistance Treaty with the Governments of the United Kingdom and the Cayman Islands. The treaty was signed on July 3, in George Town, Grand Cayman, and will enter into force upon ratification by all parties.

The treaty calls for mutual cooperation between Cayman and American law enforcement officials in the investigation, prosecution, and supression of a wide range of criminal offenses including racketerring, foreign corrupt practices, fraudulent securities practices, unlawful insider trading, and crimes relating to narcotics trafficking and money laundering.

Under the treaty, Cayman and American law enforcement officials will cooperate in the investigation and prosecution of criminal offenses by among other things honoring each other's requests for financial records and other documentary or physical evidence, immobilizing criminally obtained property, and locating fugitives or witnesses. Each government will designate a central authority to review the other's requests and execute those requests that are sufficiently specific and pertain to crimes covered by the accord.

While the treaty does not cover pure tax matters—since there are no tax laws in the Cayman Islands—it will apply to tax crimes that arise from the profits of any criminal matter covered by the treaty.

Mr. Speaker, the treaty has its origins in a 1984 Narcotics Agreement between the same parties, under which the Department of Justice has obtained useful documentary evidence pertaining to narcotics matters.

Last year, as chairman of the House Foreign Affairs Committee's Task Force on International Narcotics Control, I hosted a meeting with a delegation from the Cayman Islands. I expressed my appreciation for their cooperation under the 1984 agreement and indicated my hope that a full fledged legal assistance treaty would be finalized. The Cayman delegation in turn expressed their resolve not to have their financial confidentiality laws serve to protect narcotics traffickers from justice.

I am very pleased that we now have a Mutual Legal Assistance Treaty with the Cayman Islands. This treaty represents another positive step in our continuing war against drug traffickers. I hope that the Department of Justice will avail itself of the opportunity this treaty presents and that we will make every effort to go after those people who have used the Cayman Islands to launder the receipts of drug trafficking.

I also urge the administration to hasten its negotiations for similar treaties with other nations that have strict financial secrecy laws.

SOUTH AFRICA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. ACKERMAN. Mr. Speaker, there he goes again. Another rhetorical speech lacking any substance. President Reagan believes that South Africa is an economic locomotive whose progress must not be derailed. But, he fails to understand that the black laborer is the energy which fuels the engine and apartheid represents the tracks which guarantee that the train only serves the white minority.

In closing his statement, the President remarked that, and I quote, "Now is a time for healing." Mr. President, whose wounds are to be healed? Certainly not the blacks. You have done nothing to help relieve their suffering or remove the shackles which bind them. And now it seems that the power of the Botha government extends to our shores. In the face of Pretoria's taskmaster, this administration has abrogated its responsibility to guide our Nation along the proper path.

Mr. President, if this country moves down the tracks on which you have placed us, the only wounds which will need mending will be our own. I trust this Congress can correct the errors of this administration and avert a devastating turn of events for the United States and the people of South Africa.

CALVARY CHURCH OF GRAND RAPIDS, MI, CELEBRATES 57TH YEAR OF MINISTRY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. HENRY. Mr. Speaker, the year was 1929. A medical doctor by the name of M.R. DeHaan was joined by several dedicated evangelical Christians in establishing an undenominational Protestant ministry in Grand Rapids, MI. Known as Calvary Church, its 57 years of service has reached well beyond the immediate western Michigan area and across the world.

Calvary Church first met in a theater building, then in the St. Cecilia Music Society Building—a historical landmark—and subsequently purchased an old school building on Michigan Avenue. As the congregation grew, Calvary Church built a large auditorium on the Michigan Avenue location which is a landmark to all Grand Rapids area residents.

Mr. Speaker, on August 3 of this year, Calvary Church will dedicate its new facility located at the crossroads of I-96 and East Beltline Road. The new auditorium will seat 2,300 persons—and separate provisions such as a nursery for 150 infants, a fellowship hall and banquet facilities for up to 800 individuals, and a new educational unit indicate the strength and vitality of this community of Christian believers.

From its very beginnings, Calvary Church has been committed to a program of missions and evangelization. The church presently raises $350,000 a year for the spread of the gospel around the world. Its media ministries such as the "Radio Bible Class" are known to millions of listeners.

Calvary Church is also known for its singing of "psalms, hymns, and spiritual songs with gratitude * * * to God." The renowned John W. Peterson was a former music director for this fellowship. Truly, "heaven has reached down and touched the souls" of scores of thousands of believers through the musical ministry of those who have shared in the life of this congregation.

Mr. Speaker, the people of Calvary Church would be the first to recognize that the vitality they have experienced throughout their history cannot be measured simply by the size of the church's budget or building facility. They would want me to remind you of the fact that a church is not just a building or human organization, but a body of individuals living lives in conformity with the Holy Scriptures and in obedience to Jesus Christ. I ask you, Mr. Speaker, and my colleagues in the House, to join with me in commending Calvary Church for its past years of service, and in wishing them God's richest blessing as they dedicate their new church facility.

PERSONAL EXPLANATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. GOODLING. Mr. Speaker, yesterday, I was unavoidably detained en route to Washington and did not arrive in time to vote on two important issues. Had I been present, I would have voted yea on both H.R. 5050, To Prohibit Social Security Trust Fund Disinvestment, and on House Joint Resolution 461, Impeachment of Judge Harry Claiborne.

CONGRESSIONAL SALUTE TO JOSEPH KARAN, SECRETARY-TREASURER OF LABORER'S LOCAL 185

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. MATSUI. Mr. Speaker, I would like to call to the attention of my colleagues the outstanding achievements of Joseph Karan as he approaches retirement from his post as Secretary-Treasurer of Laborer's Local 185 in Sacramento, CA.

Joseph Karan has an impressive history filled with hard work, dedication to ensuring constitutional rights for our Nation's citizens, and honest leadership. Upon graduation from Westinghouse High School in Pittsburgh, PA, Joseph joined the Army and served for 3 years. Following his duty in the armed services, Mr. Karan joined Laborers' Local 185 in 1948. It did not take long for Joseph's colleagues to recognize his leadership qualities and, in 1953, he was hired as a business agent for the laborers.

Twenty-one years later he was appointed financial secretary. Then in June of that same year, he was elected to that post and has held the position ever since.

Joseph Karan has been Local 185's driving force for voter registration. In addition, through, his positions of President of the Sacramento-Sierra Building Trades Council, member of the executive board of the Northern California District Council of Laborers and member of the board of Publishers of the Sacramento Valley Union Labor Bulletin, Joseph has proven to be an influential and dedicated leader of the labor movement.

Mr. Speaker, I would like to express my gratitude to Joseph Karan for his many contributions to the labor movement in California. I wish him a happy and satisfying retirement.

IN SUPPORT OF THE IMPOSITION OF SANCTIONS AGAINST THE SOUTH AFRICAN GOVERNMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. STOKES. Mr. Speaker, I rise today to express my deep disappointment with the Reagan administration's failure to develop a new and effective policy toward the eradication of apartheid in South Africa.

Mr. Speaker, the Congress and the people of the United States and most importantly, the black citizens of South Africa have been extremely patient with the Reagan administration. We have waited for Mr. Reagan's master plan of constructive engagement to bear fruit and improve conditions for blacks in South Africa.

But blacks continue to be killed, oppression continues, and the situation worsens with each passing day.

In his speech yesterday, the President essentially urged the Congress to "stay the course." It is, however futile and dangerous to stay on a course that will lead us to disaster.

It is time for the Reagan administration to admit that the policy of constructive engagement is a failure. It is time for the Reagan administration to concede that the imposition of economic sanctions are the only way that the United States can demonstrate that it is serious about ending apartheid.

It is evident that the United States Congress must assume leadership on this issue and therefore pass legislation to impose the strictest economic sanctions on the nation of South Africa.

We can wait no longer. The time to act is now.

GERALD J. LUONGO AT HELM OF VINELAND HIGH SCHOOL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. FLORIO. Mr. Speaker, I was pleased to learn of the recent appointment of Dr. Gerald J. Luongo as principal of Vineland High School in New Jersey. As chairman of the fine arts department at Vineland and one of my constituents from Turnersville, Gerry Luongo has exemplified a deep interest in broadening the learning horizons of his students as well as a firm commitment to excellence.

Gerry has dedicated his life to the teaching profession, helping his students excel in music and other fine arts. For the past 18 years, he has directed the fine arts department at Vineland and has been an inspiration to his students and his teachers. I wanted to share with my colleagues an article detailing Gerry Luongo's lifetime of experience in teaching and his many achievements. I extend to Gerry my heartfelt congratulations for his appointment and join the staff and students in looking forward to his leadership at Vineland High School. The article from the Italian Tribune News follows:

[From the Italian Tribune News, June 26, 1986]

LUONGO NAMED PRINCIPAL AT VINELAND HIGH SCHOOL

Dr. Gerald J. Luongo was appointed principal of Vineland High School in a 7-0 vote by the Board of Education.

During his 18 years as Fine Arts Department chairman at Vineland High School, Dr. Luongo and his students have earned numerous awards, including several gold medals in international choral competitions.

"We feel Dr. Luongo possesses the qualities and experience necessary to continue the leadership of Vineland High School," said Superintendent Carl Simmons after the appointment at a special board meeting. "He has a deep interest in the students at the high school and a commitment to excellence." The board has not yet come up with a replacement for Luongo.

Although the board interviewed nine candidates for the job, residents and nonresidents of Vineland, Simmons said Luongo was chosen for the $40,250 post because of his wealth of experience in teaching, supervision and as assistant administrator of the school.

Two board members, Rev. Joseph Donchez and Elizabeth Peters, were not present at the special noon meeting.

Luongo will replace Gerald Barry, a 34-year veteran of the local schools, when he retires in August. The two will work together throughout the summer.

"Jerry Barry has certainly put in a real career for the City of Vineland," said Simmons. "We've been fortunate to have him all these years."

Luongo, a resident of Turnersville, has chaired the Vineland High School Fine Arts Department since 1969. He began his teaching career in the Vineland Schools, and spent some time as a choral director for Mahwah and Hillsdale high schools before returning to Vineland.

"I feel elated, excited and very, very pleased that the board has enough confidence in me to give me the job," Luongo said. "I would have to say, after 25 years of making music, it will be difficult to walk out of this office."

Luongo earned an associate of arts degree in music composition from the Juilliard School of Music in New York; a bachelor of arts in music education (voice) and a master of arts degree in music education (conducting) from Trenton State College, and a Ph.D. in administration from Catholic University of America in Washington, D.C.

He is certified by the state of New Jersey as a music teacher K-12, Supervisor of Instruction, Supervisor Principal and School Business Administrator.

At Vineland High School, he has been supervisor of staff in Art, Music and Home Economics, preparing the yearly budget for the departments, and director of the internationally award-winning Select Choir and Madrigal Singers. Since 1981, he has been chairman of the Middle States Evaluation, Director of Student Activities and Supervisor of Faculty Advisors, Administrator in charge of Commencement, Field Trips and Fund Raising Activities, and a member of the district's curriculum committee.

In addition to winning myriad awards and honors for the Vineland High School music department, Luongo was assistant director of the South Street Seaport Dedication Ceremonies last year in New York City, and recipient of the Master Teacher Award and Governor's Award. He has directed all state, regional, district and county choruses in New Jersey, New York, Delaware and Massachusetts, and was choral judge in 1985 for the Mid-Atlantic Festival of Champions.

COSPONSOR BILL TO BLOCK UNILATERAL DISARMAMENT OF U.S. CHEMICAL WEAPONS FROM EUROPE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mrs. ROUKEMA. Mr. Speaker, together with Mr. FASCELL and Mr. PORTER, I have introduced a bill (H.R. 5142) that prohibits the production of binary chemical weapons. We intend to offer this measure as an amendment to the DOD authorization bill when it comes before the full House the week of August 4.

Last year, Congress fenced all funding for new chemical weapons until two main conditions were met: one, that the weapons proposed actually worked, and two, that our NATO allies approved their production. Neither condition has been met.

Since last year's action, several new developments have transpired which make it crucial for Congress to block all funding for new chemical weapons:

The United States agreed to withdraw the entire United States chemical deterrent force from Western Europe in return for West German acquiescence in NATO to the production of new chemical weapons. As a consequence, the United States will withdraw our chemical weapons 5,000 miles from Europe while the Soviet Union and its allies retain their stockpile of deadly chemical munitions only miles from NATO troops.

The GAO found that the Big Eye nerve gas bomb consistently fails to meet the Pentagon's own operational and safety standards. In their latest report, GAO concluded that the "Big Eye bomb is not ready for production" and that certain problems remain "intractable."

Last year Congress fenced all funding for chemical weapons until "a force goal of binary munitions has been formally adopted by the North Atlantic Council." Such a force goal has not been adopted by the Council, and yet the

Pentagon is prepared to go ahead with production.

Our bill would prevent the withdrawal of our chemical deterrent stockpile from Europe and block all funding for new chemical weapons. By blocking all funding for renewed production, we can save some $200 million this year and at least $2.6 billion over 5 years.

With our current deficit crisis, we should not fund weapons systems that the GAO has certified do not work, that our NATO allies state they will not deploy, and that we clearly cannot afford. I urge you to cosponsor H.R. 5142. For further background on this important issue, I encourage you to read the following July 19 National Journal article entitled "Chemical Weapons Rerun."

CHEMICAL WEAPONS RERUN

(By David C. Morrison)

When the request for funds to initiate production of new chemical weapons came up for debate last year, several Members of Congress used the same metaphor to express their frustration. It was time for "the annual nerve gas reruns," proclaimed Mark O. Hatfield, R-Ore., during the Senate's May 22 debate. "Here we are; back again." Chemical weapons colloquies "are like reruns of old TV series in which you can anticipate the dialogue," complained Marge Roukema, R-N.J., during the House's June 19 debate.

An attitude of weary déjà vu was understandable. Congress had been wrestling with the chemical warefare question since 1982, arriving at the same impasse every year. The Senate would approve production funds by a narrow margin twice because of tie-breaking votes cast by Vice President George Bush—only to see the proposal voted down by the House and die in conference.

It has been an uncomfortable controversy for most Members. "Chemical warfare is not a convenient political issue, and from the congressional viewpoint, the less said about it the better," Army Lt. Col. Hugh L. Stringer wrote in *Deterring Chemical Warfare: U.S. Policy Options for the 1990s* (Institute for Foreign Policy Analysis, 1986). "It is not surprising, therefore, that against a background of 20 years of embarrassment—testing accidents, stockpile management problems, the MK ULTRA CIA [covert drug experimentation] programs and human testing revelations—the Congress should be skeptical of chemical programs."

Last year, nonetheless, the chemical weapons ritual spun out to a different denoucement. After a complicated series of legislative maneuvers, conferees on an omnibus spending bill last December worked out a formula for the first new chemical munitions appropriation since President Nixon initiated a ban on their production in 1969. The agreement stipulated that funds for chemical weapons could be obligated only after the North Atlantic Treaty Organization (NATO) had approved production and the General Accounting Office (GAO) had certified the technical performance of the troubled "Bigeye" chemical bomb.

Seven months later, however, last year's patchwork chemical compromise is looking somewhat ragged. Some Members dispute whether the Regan Administration has satisified the NATO clause. Others are convinced that the Bigeye bomb is not, and may never be, ready for production, grounding their doubts on a devastating GAO report last May. Many also question the wisdom of a separate Administration agreement with Germany to remove all chemical weapons stockpiled in that country, which will not accept storage of the new binary weapons.

And so the stage is set for yet another rerun of the fractious legislative battle over chemical weapons. "We've inched towards the production decision each year, and last year we made a significant movement," said Rep. John M. Spratt Jr., D-S.C. "But there's still hesitation in going all the way."

POLITICAL CONTROVERSY

Notwithstanding political, military and technical disputes over the Administration's chemical weapons program, few Members of Congress and few defense experts question the need for some sort of deterrent response to possible Soviet use of chemical weapons. Likewise, notwithstanding disagreements between the CIA and the Pentagon over the likelihood of Soviet use of such weapons, it is generally agreed, as the Defense Intelligence agency reported last year, that the Soviets "have a wide range of chemical warfare agents and associated delivery/dissemination systems."

In contrast to its position on nuclear weapons, the United States has forsworn first use of chemical weapons because, Arms Control and Disarmament Agency chief Kenneth L. Adelman testified last September, "we do not rely on chemical weapons for the ultimate guarantee of our security as we do nuclear weapons." But as with nuclear weapons. Army Brig. Gen. Jerry C. Harrison told Congress last year, "only the President may authorize the employment of lethal chemical agents [in a procedure] very similar to our nuclear weapons release system."

The United States currently maintains a large stockpile of chemical weaponry produced before the 1969 production moratorium, estimated at 30,000–80,000 tons and stored at eight U.S. sites, one on Johnston Island in the Pacific and one in West Germany. Over the next decade, the Pentagon plans to spend $1.9 billion to destroy those munitions, $8 billion to buy defensive chemical gear and about $2.5 billion to produce a new class of binary weapons—in which two nonlethal chemicals are mixed to produce deadly nerve agents—in the form of 155-millimeter artillery shells, Bigeye bombs and warheads for the tactical Multiple Launch Rocket System.

There is nothing especially controversial about the roughly $800 million the Pentagon will spend annually on chemical protection. Nor do plans to "demilitarize" the existing stockpile of unitary chemical weapons arouse much opposition, save in those states where the deadly agents would be burned. The bone that sticks in Congress's craw, as always, is the binary component of the Pentagon's three-pronged chemical effort.

Earlier in the decade, opponents' arguments centered on their reluctance to cede the moral high ground by getting back into chemical weapons production after about 15 years of abstinence. Increasingly, however, the focus has shifted to questions about the technical feasibility of the new binary munitions and the fiscal wisdom and military necessity of replacing the existing weapons.

"It seems to me the opponents have come around to saying, 'Yes, we need a chemical retaliatory capability,'" said Thomas J. Welch, the deputy assistant Defense secretary for chemical matters, in an interview. "Once you say that, it seems to me the issues come down to safety. Either you're for safety or you're against it." Because the two components of binary munitions can be stored and transported separately, Welch said, they could be deployed both more quickly and with less fear of accident.

The safety issue played a leading role in last year's debate, especially in the floor speeches of Sen. John Glenn, D-Ohio, who contended that "all this argument is about" is a choice between "old and increasingly dangerous unitary canisters" and "new and safer binary shells."

Rep. John Edward Porter, R-Ill., a leading opponent of binary weapons who unsuccessfully attempted last year to eliminate all funds for the program, asserted in an interview that safety was a red herring. "Unitaries are not safe to move, but neither are high explosives, and we don't make those into binaries," Porter said. "Ammunition is dangerous, no doubt about it. But to say that the stockpile is in bad shape or unsafe is simply untrue."

The Chemical Warfare Review Commission, which President Reagan appointed last year, agreed, finding rumors of leaking unitary munitions to be "exaggerated and inaccurate." The number of leaking unitary artillery shells was "infinitesimal," the commission reported, only 6 per 10,000 rounds.

And, in an interview in the January 1986 issue of *NATO's 16 Nations*, Defense Secretary Caspar W. Weinberger stated that "the chemical-filled artillery rounds that are currently forward-deployed in Europe are in fact in excellent condition. They serve as our only deterrent capability until binary production has been completed."

Welch asserted that the condition of the unitary arsenal was irrelevant because the range and configuration of those older chemical weapons do not fit current requirements. "The way we fight in 1986 is different than the way we fought in Korea," he said. "We can't deter anybody with what we have left from the 1950s and 1960s."

ALLIED REACTION

Nevertheless, Weinberger's statement may come back to haunt him given the strongly negative reaction to an agreement Reagan reached with West German Chancellor Helmut Kohl during last May's economic summit meeting in Tokyo to withdraw the estimated 4,000 tons of chemical munitions stored in his country by 1992. Kohl has not, however, agreed to accept the new binary weapons.

"It's a one-sided agreement, as far as I'm concerned," complained House Foreign Affairs Committee chairman Dante B. Fascell, D-Fla., a binary weapons opponent. "Withdrawing the current unitary stockpile leaves us with a deterrent gap that's so obvious it's painful."

Even boosters of the binary program are dismayed by the prospect of pulling U.S. chemical stocks from their most important place of potential use. Retired Gen. Frederick J. Kroesen, former U.S. Army commander in Europe and head of a 1985 Pentagon-contracted chemical weapons study, said in an interview, "If you're going to have forces deployed, the armament that they need to be most effective should be with them."

Washington attorney John G. Kester, a former Army official who served on last year's Chemical Warfare Review Commission, also called it "a mistake to take the existing weapons out of Germany until we have something to replace them with." Somehow, he said, "the goods got sold; it was a political misjudgment."

The Pentagon's Welch argued that the removal agreement was driven by Congress's requirement last year that all unitary muni-

tions be destroyed by 1994. Congress allowed 10 per cent of the stockpile to be retained if sufficient binary weapons were not on hand. But, Welch said, "I hope we don't have to exercise that option."

He also said it made more sense to have a central stockpile of binary weapons in the United States than to build up a larger arsenal and store it globally for Third World conflicts. Because binary weapons offer fewer safety and security complications, he said, "it's easier in some cases to deploy [them] from the States to Europe than to get [unitary] munitions from their depots in Europe onto trucks and to the front."

As always, the devil is in the details. The U.S. reportedly plans to produce 410,000 155-millimeter binary shells, 608 of which could be moved to Europe in a single sortie by a C-141, airlifter, and 44,000 Bigeye bombs, 60 of which could be lifted in one sortie. At that rate, the entire U.S. fleet of 270 C-141s would have to make more than five sorties each to move the binary stockpile to Europe, at the very time when the need to transport thousands of reservists and thousands of tons of matériel—including neutron weapons, which the NATO nations have also refused to accept—would be making urgent demands on limited airlift capabilities. Deploying the binary weapons by sealift would probably take too long unless NATO approval could be secured very early in a burgeoning crisis.

In that event, politics might be even more crucial than logistics. Last June, Spratt successfully attached language to the House defense authorization bill stipulating that the NATO nations must agree to accept storage or deployment of the binary weapons. Porter warned at the time that the NATO clause was "smoke . . . it will simply not be in the conference report when it comes back." That turned out to be the case. "In all candor," Spratt conceded in an interview, "we relaxed the requirements that we originally imposed on NATO considerably in the process of the conference."

So when the House Appropriations Subcommittee on Defense walked into conference with its Senate counterpart last December, it carried with it the same language on binary weapons that the House had brought into the authorization conference. In their compromise, the conferees stipulated that a "force goal" stating the requirement for the weapons must be "formally adopted by the North Atlantic Council," NATO's highest political body.

"We were very insistent that the [council] be in there," said a House aide to a binary opponent, while the Pentagon "was very insistent on having the word 'force goal' in there." As it happened, that formulation created a curious diplomatic conundrum. Because the foreign ministers of France and Spain, which are not party to NATO's military planning, sit on the North Atlantic Council, that body does not pass on defense force goals. That task falls to the Defense Planning Committee, a regular gathering of NATO defense ministers, which last May "took note" of the binary force goal, the pro forma procedure by which it traditionally addresses such matters.

While the Administration's failure to take the issue to the North Atlantic Council elicited a protest from 10 members of the Senate Appropriations Committee, led by chairman Hatfield, that it was trying "to flout the congressional directive," Welch asserted that the congressional language was simply "technically incorrect." The Administration, he said, met its requirements "not only in spirit, but also the appropriate NATO body at the highest level has passed the force goals."

Porter objected, however, that "the language is very specific calling for formal approval by the North Atlantic Council. The [council] is a political body; if we'd wanted to designate military people in the law, we would have."

The fact that 6 of the 15 NATO nations represented at the May meeting expressed opposition to or reservations about the binary program has also generated some disquiet. Referring to caveats registered by the Netherlands, for instance, Spratt noted that the main transshipment point for chemical weapons would be Rotterdam. "If the Netherlands is saying they are opposed to the storage of chemical weapons there," he wondered, "are they also opposed to offloading them there?"

TECHNICAL DISPUTES

Along with the logistical and political questions, technical issues abound. In May, the GAO delivered yet another stinging report on Bigeye, citing flaws in the testing procedures. In 1982, for instance, a Bigeye bomb exploded during a test when high temperatures drove up internal pressures. This prompted the Pentagon to adopt a new delivery technique that prevents the binary chemicals from beginning to mix until after the bomb has been launched toward its target. But the GAO said that all mixing tests since 1982 have been unrealistically performed with a pressure valve on the bomb.

The GAO also contended that the nerve agent in Bigeye was subject to "flashing," or burning when released, and that there were serious problems with the nerve agent's purity and persistence (staying power). While further developmental tests may resolve some of Bigeye's problems, the GAO concluded, "other questions appear to be intractable and not likely to be solved." It recommended that other weapons be developed in its place.

Welch takes issue with the GAO's conclusions. "Over the last four years," he complained, "opponents of chemical weapons have sponsored more GAO manyears of efforts to criticize the [binary] program than we have expended" in running it. The GAO's charges all involve "nonproblems," he said. The pressure valve on the test bombs is set well above the pressure thresholds the weapon would encounter in actual use, flashing is not an issue because Bigeye contains no high-explosion burster to ignite the agent, and the levels of agent purity and persistence that the GAO demanded amount to little more than "gold-plating," Welch said.

He also complained that the GAO did not look at the results of operational tests concluded in February using nonlethal simulants. The Navy encountered 17 successes out of 20 bomb drops and the Air Force, 12 out of 15. The failures, which he attributed to faulty air turbines and nose fuses, should be ironed out in a second round of operational tests slated for this fall, he said.

Finally, Welch said, the Pentagon is aware that other nations are researching binaries. He could not discuss the details of the intelligence reports, he said, but "it is reassuring to note that they have successfully developed and tested binary munitions." The most likely suspects are France, which maintains a small chemical arsenal, and Great Britain, which has no declared arsenal but has long maintained a robust chemical research effort.

Porter retorted that "attacking the GAO is a very thin tactic." Its credibility, he said, "is far greater than either the House of Representatives or the Department of Defense [and it] said that the state in which they found this weapon system was absolutely disastrous."

The binary artillery shell also has its critics. Saul Hormats, who directed chemical weapons development at the Edgewood Arsenal in Maryland until his retirement in the mid-1970s, rapped the weapon's "Rube Goldberg" design. "My prediction," he said, "is that when a binary munition hits the target, it will be a 'whoosher.' The gas will go up above the heads of the [enemy] troops and will go off target and kill civilians."

Not so, Welch said. "We have fired hundreds of this 155 shell with simulant—liquids of the same viscosity—and there is simply nothing unacceptable about the way it functions." Hormats, he said, "may have experienced in earlier models some of these problems, but it's certainly not something now."

STRATEGIC FIT

Similarly contentious issues have also been raised about how binary munitions mesh with military doctrine. While the binary weapons are often presented as an alternative to nuclear retaliation against Soviet chemical use, some worry about the potential they afford for unintended nuclear escalation.

"Bigeye is delivered from 500 to 300 feet up, and 15 per cent or more of the VX [nerve agent] is in a very fine mist and will drift downwind," asserted Harvard University biochemist and chemical warfare expert Matthew S. Meselson. "That stuff, when inhaled by civilians, is incredibly lethal. A war gets to be perceived as antipopulation, and things get very out of control." Chemical warfare, he concluded, "is a kind of banana peel upon which you can slip into nuclear warfare."

Responded Welch: "Matt fails to say out front that the United States will not be the first to use chemical weapons, that when the Soviets lay down chemical weapons, there will be collateral damage." Since World War I, chemical agents have been used only against nations that cannot retaliate, he said, and so "the best way to eliminate civilian casualties is to have a credible chemical capability."

Meselson, who believes in retaining a chemical deterrent but thinks binary weapons are a needlessly complex and expensive expression of the "technological imperative," also contended that the VX agent dispersed by Bigeye is "very much overrated" because it is too viscous to penetrate clothing. "If you deposit 5 grams per square meter—which is a lot—on men protected only by gas masks and gloves, you'll get only a few per cent casualties," he said. "But Bigeye . . . puts down only 0.1 gram. If you're fighting against troops in short pants in Asia, it's very effective. But against Soviet troops in standard fatigues, it's not."

The issue is an important one. The major goal of chemical warfare, besides producing physical and psychological casualties and denying terrain, is to drive the enemy into encumbering protective gear. If the chemical agent is easily defended against, the point is lost.

Welch denied that VX will not soak through clothing. VX, according to Kester of the chemical warfare commission, "is some mean, nasty stuff. To say that you

could dump some on a Soviet airfield and they wouldn't be affected is difficult to accept."

Meselson's argument that using strike aircraft to deliver Bigeye munitions is a waste of scarce resources is more widely accepted, however. Last year's review commission said Bigeye was "not the optimal solution" for longer-range battlefield delivery and urged development of binary-armed missiles. According to Rep. Ike Skelton, D-Mo., who fought for acceptance of the binary program during last year's House floor debate, "We ought to keep the Bigeye and view it much as we view the B-1 bomber—as an interim weapon. We need modernized missile delivery systems."

The House Armed Services Committee's fiscal 1987 defense authorization bill would delete all but $10 million of $72.2 million requested for Bigeye, require further operational tests and direct the Defense Department to compare the bomb's efficacy with that of a missile system. Its Senate counterpart, however, declared itself "satisfied" with Bigeye's technical performance and approved its production.

The House panel's proposal is but one of the many chemical weapons matters that Congress will have to address this year as it goes for its fifth rerun on binary munitions. The NATO consultation and European deployment issues will receive their share of attention. "The interesting thing to me is whether the consensus that emerged last year about the desirability of engaging NATO in this process will reform this year," commented Brad Roberts, a chemical weapons expert at Georgetown University's Center for Strategic and International Studies.

"It made for some strange bedfellows; Different people wanted different things out of this process," Roberts said. "Some wanted [consultation] to torpedo U.S. plans. Some wanted it in the interest of NATO political health so [the binary issue would not] blindside the alliance the way nuclear modernization did."

Bigeye will again be a major focus in the debate this year. Last month, based on the GAO's negative findings, Sens. David Pryor, D-Ark., and Slade Gorton, R-Wash., secured 20 signatures on a letter to Weinberger urging withdrawal of funds requested for Bigeye.

"For anyone to think that the Russians are going to think the Bigeye is a suitable way to deliver binary gas," Pryor said, "they are not going to be fooled. This is not going to deter anything."

Gorton, who last year for the first time voted in favor of the program, has now changed his mind. "What tipped me over on this one," he explained, "was the GAO report that what we have produced so far was not adequately tested and may not be safe to the people who would use it." Also, he said, citing Weinberger's comments published in *NATO's Sixteen Nations*, "to a certain extent, Congress was misled as to the condition of the existing weapons."

Welch, for his part, is confident that this year's chemical rerun will end much like last year's, with a decision to proceed. "I think most in the Congress believe this is behind them and don't want to bring out the old arguments again, especially in an election year," he said. The GAO report, however, was "unfortunate," he added. "They have put the requirement back on us now to put the word out on the Hill that these are nonproblems."

GILMAN DISCUSSES DRUG TRAFFICKING WITH MEMBERS OF THE EUROPEAN PARLIAMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. LANTOS. Mr. Speaker, the problems of narcotics trafficking, production, and consumption are not confined to any one nation. This premise was hammered home last month when Members of the United States House of Representatives met with members of the European Parliament in Santa Fe, NM.

Narcotics abuse was an important item on our agenda. Our European friends who are recognizing the seriousness of the problem shared their ideas on how to combat this deadly menace. Their perspectives differ from ours in some respects and the interparliamentary exchange is an excellent medium for mutual enlightenment on this difficult subject.

On the American side, the principal contribution was made by the distinguished cochairman of our delegation, Representative BENJAMIN A. GILMAN, ranking minority member on both the Select Committee on Narcotics Abuse and Control and the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs.

In an effort to share with my colleagues the dangers that narcotics trafficking and drug abuse present to nations on both sides of the Atlantic Ocean, as chairman of the House delegation which met with our European counterparts, I am delighted to insert at this point in the RECORD the complete text of Representative GILMAN'S statement:

STATEMENT OF REPRESENTATIVE BENJAMIN A. GILMAN

The very survival of certain Latin American nations are threatened. In some countries, the central regimes are no longer able to control their own territory and their capitals are subject to armed attack by narcoterrorists. There are also reports that government officials are involved in illicit drug and arms trafficking and money laundering. In certain regions, cocaine and heroin have become an international currency . . . a means to conduct business and to run corrupt governmental institutions.

In the United States alone, drug trafficking is estimated to be at least a $110 billion per year illicit activity, and the worldwide figure, which no one really knows, is astronomical. During our fiscal year 1985, our Federal Drug Enforcement Administration (DEA), in cooperation with other Federal, State, and local law enforcement agencies, seized 446 kilograms of heroin, compared to 346 kilograms of heroin seized in FY 1984. The amount of cocaine seized during this period increased by 50 percent: from 11,742 kilograms of cocaine seized in FY 1984 to 17,742 kilos seized in FY 1985.

Europe has also felt the debilitating effects of the increased production of illicit drugs and the constantly shifting trafficking patterns of the drug dealers. The increasing volume of cocaine entering Western Europe, coupled with the abundant supplies of heroin, hashish, and other psychotropic substances, presents Europe with a grim picture. Cocaine seizures have grown from less than one kilogram 15 years ago to well over a ton at the present time, and heroin seizures continue to mount as well. Early this month, Dutch police announced the seizure of 220 kilograms of heroin which is believed to be one of the largest seizures of heroin in Europe.

The number of heroin addicts in Western Europe has been conservatively estimated in the 350,000 range, and in the United States, the number of addicts exceeds 500,000. There are an estimated 60,000 to 80,000 heroin addicts in Great Britain; Paris alone reports 20,000 addicts. Approximately 200,000 heroin addicts reside in New York City.

Furthermore, the drug traffickers have become ruthless in their operations. The Minister of Justice of Colombia was assassinated two years ago; the judge who was investigating this murder was gunned down; and last year, 12 members of Colombia's Supreme Court were murdered in the Palace of Justice. An American Drug Enforcement Administration agent was kidnapped and brutally murdered in Mexico, and 19 coca eradication workers were murdered last year in Peru. The list goes on and on.

The traffickers have also become more brazen in their actions. Recently, leading drug traffickers in Colombia attempted to negotiate a deal with the Government prior to the Presidential elections. In an open letter to the Colombian press, they offered to finance Colombia's $13.5 billion foreign debt, transfer funds from foreign banks to Colombia, and surrender their cocaine processing laboratories in that nation in return for a guarantee that they would be prosecuted in Colombia, where they expect to receive more lenient treatment. Last March a major drug trafficker and prime suspect in the murder of our DEA agent in Mexico recently bribed 18 Colombian prison guards with about $2 million and walked to freedom from a Bogata jail. He escaped to his native Honduras which does not extradite its nationals. The director of prisons in Colombia reportedly resigned.

We can and must put an end to these criminal dealings, and there are bright spots which give some hope that our efforts have not and will not be in vain. Traditional drug producing nations are now beginning to realize that their own populations are falling victim to drug abuse. Some nationa, including Colombia, Peru, Jamaica, Pakistan, Burma, and Thailand, have initiated strong anti-narcotics programs, but they desperately need our continued assistance.

One such mechanism for cooperative support is the United Nations Fund for Drug Abuse Control (UNFDAC). Since 1971, when the U.N. Drug Fund was created, UNFDAC, whose budget is derived from voluntary contributions from nations of the international community, has been working closely with drug producing nations to develop drug eradication and crop substitution programs. Financial support from member States of the United Nations to help underwrite these programs is crucial, and I am happy to say that the news is encouraging.

Although in 1984, only 39 of the 159 member nations of the United Nations contributed a mere $12 million to the U.N. Fund, contributions for 1985 more than doubled to $24.4 million, and participation increased to 53 nations, or one-third of the U.N. membership. In addition, it is important to note a first time contribution of $20,000 from the Peoples Republic of China. Finally, there is the strong support received in 1985 from some member nations of the European parliament: Denmark ($15,789), the Federal Republic of Germany

($1,615,384), France ($187,500), Greece ($7,000), Italy ($10,280,899), Portugal ($10,000), Spain ($61,728), and the United Kingdom ($5,289,876). While these figures are most encouraging, it still must be noted that only 10 nations have accounted for 96.3 percent of UNFDAC contributions since 1971. We must continue the upward surge in contributions, from the entire family of nations, and in this regard, I urge all of us to encourge our respective governments to contribute to UNFDAC and to support its drug-related projects.

Another key ingredient in the global war against narcotics trafficking and drug abuse is the formulation and implementation of comprehensive regional and global drug strategies to eradicate the illicit production of drugs at their sources, to interdict drug trafficking, to educate the public as to the dangers of drug abuse, and to treat and rehabilitate those indiviudals who are dependent upon drugs. In this regard, the Organization of American States (OAS) met for the first time at a special narcotics conference that was held in Rio de Janeiro last April and agreed to join with us in preparing a strategy to combat drug trafficking throughout the Americas and to formulate an Inter-American Commission for Drug Control.

Recently Law enforcement officials from the Andean Pact nations of Colombia, Venezuela, Ecuador, Peru, and Bolivia signed an agreement calling for better cooperation to halt the volume of narcotics trade in the region. The treaty calls for participating nations to coordinate drug raids along their borders, to develop extradition agreements for drug traffickers, and to legislate similar jail terms for convicted smugglers.

On another front, just three weeks ago, the Chairman of our House Narcotics Select Committee, Congressman Charles B. Rangel, and I participated in the 26th Mexico-United States Interparliamentary Conference that was held in Colorado Springs, Colorado and offered a resolution, which was adopted by the delegations from both nations, establishing a joint Mexico-United States Intergovernmental Commission on Narcotic and Psychotropic Drug Abuse and Control. The Commission, which would include members of the Mexican Parliament and members from our Congress along with members of the Executive Branch of both governments, would review the problems of narcotics production and trafficking in both countries as well as joint efforts to prevent drug abuse. The Commission would also make recommendations to improve the effectiveness of narcotics control.

With regard to reducing the demand for drugs, under the leadership of Chairman Rangel, our Narcotics Select Committee has sponsored legislaton that would provide $750 million a year for five years in grants to our State and local governments to develop drug law enforcent, treatement, rehabilitation, and education programs. Another legislative proposal, H.R. 4155, the Drug Abuse Education Act of 1986, would provide $100 million a year for five years in grants to local communities to help develop drug education programs in our schools.

We are also expanding the involvement of our military to assist civilian law enforcement authorities in combatting the drug traffickers, but it is clear that we need to do much more to interdict the vast quantities of heroin, marijuana, and cocaine that are penetrating our defenses and entering every city, town, and school district in our nation.

In an effort to increase the use of our military to combat the drug traffickers, President Reagan recently signed a secret national security directive that defines drug trafficking as a national security threat and permits our military personnel to help foreign governments plan operations against narcotics traffickers, to transport foreign police to attack sites, to support regional anti-drug operations, and to elevate narcotics trafficking to a higher priority on our defense agenda.

On a personal note, I recently had the opportunity to meet with the distinguished Chairman of the European Parliament's Committee of Inquiry on Narcotics, Dr. Marietta Grannakou-Koutiskou, and the distinguished Rapporteur of that Committee, Sir Jack Stewart-Clark, during their recent mission to the United States to discuss with us efforts to combat the illicit production, trafficking, and consumption of drugs. I understand that the Committee's report will be debated this October and I look forward to learning its recommendations.

I certainly do not want to intrude on the internal matters of another parliamentary body, but when the European Parliament's Drug Inquiry Committee completes its report, I hope that my distinguished colleagues from across the Atlantic will consider the idea of continuing the Drug Inquiry Committee, or in the alternative, to establish a narcotics committee to monitor the drug situation in Europe and to recommend initiatives to combat this deadly menace. Narcotics trafficking and drug abuse are too important to be relegated to the backburner of our agendas, and there is an urgent need, I believe, for the European Parliament to have an ongoing committee to help formulate a comprehensive, coordinated European drug strategy. Such a committee could also work with our House Narcotics Select Committee to exchange information and ideas, to help raise the consciousness of the public as to the dangers of narcotics trafficking and drug abuse, to help formulate legislative initiatives, and to prod our repsective national governments to elevate drug-related issues to a top priority on the agendas of the Executive Branch.

A comprehensive, coordinated transatlantic drug strategy is crucial if we are to win the war against the narco-terrorists. The threat is real, the challenge is difficult, and time is short. Let us use this opportunity to join together to combat narcotics trafficking and drug abuse. The health of citizens everywhere require it; the survivial of our institutions depend upon it.

Thank you, Mr. Chairman.

CONGRESSIONAL SALUTE TO BOB LENT: 1986 AGRIBUSINESS PERSON OF THE YEAR

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. MATSUI. Mr. Speaker, it is with extreme pleasure that I honor here today the Sacramento Metropolitan Chamber of Commerce 1986 Agribusiness Person of the Year, Mr. Bob Lent. He has served the Elk Grove community with the highest degree of dedication—not only to agricultural interests, but to civic and social interests as well.

Mr. Lent is a fourth generation California farmer. He has been involved in agriculture as a livelihood and a family tradition for all of his life. In 1939, his father began farming on 900 acres of unimproved land in Elk Grove, and since that time the Lent family business has grown and prospered.

Mr. Lent's service to the community has also been a lifelong activity. At the age of 18 years, he was elected chairman of the local California Farm Bureau Young Farmers and Ranchers. That was just the beginning of his distinguished career of service in State and local agricultural organizations. He is particularly enthusiastic in his work with young people. That work enables him to pass on his valuable agricultural expertise and to provide an exemplary role model for the young to follow.

Perhaps the simplest and highest tribute to Mr. Lent comes from a colleague with the Sacramento County Farm Bureau: "Bob is a very community-minded person and a very caring person. He just doesn't say no when someone needs him or asks for help."

Mr. Speaker, I congratulate Bob Lent on being named 1986 Agribusiness Person of the Year and commend him on his service and dedication to his community.

THE POLLEY FAMILY REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. STOKES. Mr. Speaker, on behalf of the residents of the 21st Congressional District, State of Ohio, I would like to take this opportunity to salute the Polley family on this, their third biannual family reunion in dedication to the late Dr. William E. Polley. I ask that we take a moment and reflect on the warmth of this beautiful family's tree of love, and the vitality of their devotion and unselfishness.

Mr. Speaker, I am extremely proud of the Polley family's endurance of many trials and tribulations. Through it all, they have been spared once again to commune in fellowship and love to celebrate the tradition of many generations.

I ask my colleagues to join with me in extending heartiest best wishes to the entire Polley family on this joyous occasion and dedicate this poem, entitled "Tribute," to this outstanding American family.

TRIBUTE

It's so nice to see all the folks you love together.
Sitting and talking about all the memorable yesteryears.
Family reunions are like a Golden Chain,
The links are relatives so close and dear.
And like rare and precious jewels,
Their love is measure more each year.
Family members' love is deep and true
And it's rich with happy, loving memories.
And fond recollections, too.
The Golden Chain of Family Love
Is a strong and blessed tie,
Binding kindred related hearts together
As the years go passing by.

GREECE IMPROVES TRAVELER SECURITY AND FIGHTS TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. BROOMFIELD. Mr. Speaker, I want to take this opportunity to commend the Greek Government for undertaking programs to improve traveler security. Recent Greek Government actions also indicate a greater concern about the threat of international terrorism.

In the aftermath of the hijacking of the TWA flight last summer, and the U.S. Government's travel advisory concerning that country, Greek airport authorities undertook a major security enhancement effort at Athens Airport.

According to a member of my staff on the House Foreign Affairs Committee, who is a member of a staff task force which recently returned from an inspection of security measures at Greek airports, the Port of Piraeus and our Embassy in Athens, Greek officials are providing excellent cooperation with United States carriers in conducting redundancy or secondary passenger and baggage screening efforts.

New x-ray and metal detector units were installed and additional airport security personnel were added. More thorough passenger and baggage checks were instituted. Guard towers are being constructed and a new airport perimeter fence is nearly completed. Police vehicles and armored cars can now be seen patrolling on the tarmac near parked airliners.

Greek officials recently decided to participate in the Department of State's antiterrorism assistance program which provides training and equipment to airport security personnel. Most importantly, Greek Government officials now have a far more positive attitude toward improving security at Athens Airport in light of the massive decline in tourism in the aftermath of the TWA hijacking and bombing incidents, and the general concerns about terrorism in the Middle East.

Following the hijacking of the Italian *Achille Lauro* cruise ship and the tragic murder of Leon Klinghoffer, the Greek cruise industry suffered a 70-percent decline in the number of passengers taking cruises. Now, however, cruise line security has been dramatically improved. Access to the cruise line area at the Port of Piraeus is controlled by Greek officials. Armed guards control the dock area. Passengers boarding cruise vessels are checked with metal detectors along with their luggage. In addition, passengers are required to wear identification badges and suspect passengers who fit a typical "terrorist" profile may be denied boarding.

Greek cruise ships now have emergency plans and security teams onboard to ensure that no incidents occur.

The Greek Government is interested in working with the United States in a joint initiative at the next International Maritime Organization meeting in order to present a plan for better port security. Andreas Potamianos, a Greek cruise line owner, is to be given much of the credit for quickly moving to upgrade the security onboard Greek cruise ships. The ship owners unilaterally imposed the security measures outlined in a draft International Maritime Organization [IMO] agreement to be considered at the upcoming IMO meeting. Shipboard security is basically the responsibility of the cruise lines.

The Greek-United States initiative would highlight the need for a commonality in port security and a mechanism for enforcing compliance with those port security standards.

In the aftermath of Libyan terrorist activity in Europe this year, the European Economic Community [EEC] agreed to take certain steps against the Libyan People's Bureaus in various European countries. In complying with its obligations as an EEC member to reduce the size of Libyan diplomatic missions, Greece recently announced that the Libyan People's Bureau in Athens would reduce its staff by 15 to 20 people.

In a recent speech, President Papandreau commented that his country would "confront terrorism decisively and effectively."

I also want to commend Greek security officials for their excellent support of the American Embassy in Athens. During the recent wave of terrorism in Europe, Greek officials provided timely and ample security support to the Embassy and related United States diplomatic offices.

The Greek Government is to be commended for the progress it has made in improving the security of travelers in that country. It is fair to say that United States travelers in Greece now travel in an environment that is far more secure than in previous years.

I am encouraging our Government and President Papandreau to continue to work together to improve traveler security in Greece and to work together in facing up to the threat of terrorism.

THE PLIGHT OF SOVIET JEWS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. FAZIO. Mr. Speaker, I rise today to comment on the present plight of the Jews in the Soviet Union and to protest the growing campaign of antisemitism in that country. Opportunities for Jews to advance in Soviet society have been radically circumscribed and Jewish emigration barely exists. Jews are being persecuted merely because they are Jewish. This is intolerable and deplorable.

In recent years, Soviet authorities have cut Jewish emigration to a trickle. The exodus rate has recently plunged to the lowest level in nearly a quarter of a century. In 1985, only 896 visas were granted versus the 51,000 granted in 1979. The predictions for 1986 appear to be even lower—331 people were granted visas for the first 5 months of 1986—25 percent below last year's figures.

Paralleling this decline has been a sharp increase in officially sanctioned antisemitic campaigns directed at Soviet Jewish refuseniks. Discrimination permeates the economic, social, and religious lives of the Jews in the Soviet Union. They suffer from restrictions in jobs, schooling, and all aspects of Soviet life. They are victims of state-sponsored, institutionalized racism. Innocent citizens are being persecuted for their very virtues: their curiosity to learn the Hebrew language, their courage to teach it, and their audacity to request emigration to Israel. They adhere to their beliefs in a society that suppresses Jewish consciousness and culture.

We must commend them on their determination, yet mere approbation is not enough to relieve them of their misery. We must do more than just acknowledge their efforts to shed the shackles of oppression; we must aid them in their cause. We cannot tolerate the fact that the Soviets are not adhering to international treaty obligations like the Universal Declaration on Human Rights of 1947 and the Helsinki Final Act of 1975. Refusing prospective emigration applicants the necessary forms is in direct violation of the spirit of these treaties.

We must convey to the Soviet Union that such behavior is intolerable. We have such power. We can make a difference. We must continue our support of the refusenik cause, because if we do not, the refusenik have no lives to continue.

In closing, I would like to leave you with Leopid Feldman's account of a fellow refusenik's plight: When Isai Goldshtein was released from prison, the guard took him to a room filled with letters addressed to him and said, "You'll never read these, but the moment they stop coming, you will die." It is for this reason that we must make clear to the Soviet authorities that we know, that we care, that we will not forget.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. UDALL. Mr. Speaker, this is the seventh in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but rather, our friend and valued neighbor to the South.

Yesterday, Mexico took a big step toward solving its huge debt crisis. Mexico signed a $1.6 billion rescue agreement with the International Monetary Fund, which triggered a promise of $2 billion in World Bank loans. Today's article by Stuart Auerbach, observes that the commercial banks are still somewhat reluctant to loan Mexico more money until the issue of capital flight has been addressed. The reaction of the banks is critical to the success of the IMF-Mexico accord.

The article follows:

[From the Washington Post, July 23, 1986]

MEXICO, IMF SIGN ACCORD

(By Stuart Auerbach)

Mexico signed a $1.6 billion rescue agreement with the International Monetary Fund yesterday that immediately triggered the promise of $2 billion in World Bank loans and intensified pressure on commer-

cial banks to provide more money to help the country through its current debt crisis.

"The effective implementation of Mexico's courageous efforts to deal with its problems will require the full cooperation of Mexico's commercial creditor banks in Europe, the U.S., Japan and elsewhere," said World Bank President Barber Conable.

His view was echoed at a signing ceremony at the Mexican Embassy by IMF Managing Director Jacques de Larosiere, who called for a "major cooperative effort" by the world financial community "to provide the necessary resources."

Major money-center banks remained noncommittal yesterday, saying they had not been informed about details of the latest rescue plan, which became necessary as Mexico's financial plight worsened because of the sharp drop in the price of oil, its major export. Representatives of the banks said they are unsure how much new money Mexico will want from them, although most sources believed it would be in the $5 billion to $6 billion range over the next two years.

The commercial banks, which hold a large part of Mexico's $98.7 billion debt, the second largest in the developing world, will learn details today in New York from Mexico Finance Minister Gustavo Petricioli, who signed the loan agreements with the IMF and World Bank yesterday.

"The banks are not going to do anything until they take a careful look at the agreement," said one banker. Others raised the question of capital flight, believed to be a major cause of Mexico's debt problems, and said the banks are not likely to pour new money into that country unless they are convinced that it will shape up its economy.

But Treasury Secretary James A. Baker III, who was a behind-the-scenes force, along with Federal Reserve Board Chairman Paul A. Volcker, in forging the agreement between Mexico and IMF, praised the Mexican government's growth-oriented" economic program.

The agreement appears to be the first successful application of Baker's debt initiative, unveiled in October, to provide for recovery for debt-strapped Third World nations without subjecting them to an IMF austerity program. Key elements of the Baker initiative are the increased participation of commercial lenders and a larger role in the debt crisis for the World Bank.

In a statement issued by the Treasury Department yesterday, Baker singled out "wide-ranging structural reforms" in Mexico's agreement with the IMF that he said were designed to increase the efficiency of the public sector, promote trade liberalization, reduce subsidies to make prices conform to the marketplace and allow more foreign investment.

De Larosiere said the objective of the new agreement "is to help Mexico deal with its economic imbalance, which has been intensified as a result of the oil price drop. We expect this program to lay the basis for a return to economic growth in Mexico."

The new agreement is precedent-setting in at least two ways: it provides for a contingency investment fund to boost the Mexican economy if growth falls below 3.5 percent next year, and allows for extra financing if the price of oil drops to a level between $5 and $9 a barrel.

The reaction of the banks is critical to the success of the plan.

While U.S. banks are under pressure from Baker and Volcker to join in, they are reluctant to become more vulnerable there than they already are. But without their participation, the banks are unlikely to recover the more than $75 billion that Mexico currently owes them, representatives of the banks said.

The most reluctant to loan Mexico more money are small- and medium-sized banks that joined in the syndicates in the late 1970s at the urging of the money-center institutions that are the major lenders.

Petricoli will present details of the IMF agreement to 150 major bankers at a dinner tonight a New York's Hotel Pierre. "It will be a long meeting," predicted one banker. "There will be a long presentation by Mexico and then there will be a lot of questions."

Among the banks invited are the 13 members of the steering committee representing about 700 private creditors. The cochairman of that group. Citibank Vice President William Rhodes, will meet with Mexican negotiators Thursday. The negotiations could take weeks, banking sources said.

Many questions bankers said they will be asking Petricioli, who will be making his first appearance before the world banking community as finance minister since Jesus Silva-Herzog was fired from the job last month, concern Mexico's plan to reform its economy.

"That will be a key question since we are being asked to spend more money," said one banker. "We don't want the money to flow out in capital flight. We want citizens to bring money back in. They will only do that if they think the economy is strong."

Bankers said they will also ask Petricioli if Mexico has tapped other sources of funds, including cash-rich Japan. In April, Silva-Herzog went to Tokyo seeking cash and investment, and there have been reports in the Japanese press that Japan will provide $1 billion.

NEW LIVES FROM TRANSPLANTS

HON. FRED J. ECKERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. ECKERT of New York. Mr. Speaker, organ transplants are the object of much public interest these days as the result of encouraging advancements, public appeals and controversy about donors and recipients and recommendations of a government task force on policies and practices. Transplants are on the frontier of medical progress and have given new life to many patients whose prognosis was otherwise bleak.

There are now more than 100 regional organ procurement agencies across the country, each serving people of their own areas and coordinating efforts to serve patients in need elsewhere. One of these is the University of Rochester Organ Procurement Program which serves a nine-county area in western New York that includes 30 hospitals. The university program works with hospital administrators to carry out organ procurement and transplants, conducts educational programs for the medical staffs and provides 24-hour service to evaluate donors and arrange for transplantations to suitable recipients.

The University of Rochester Transplantation Program of kidneys has been in existance since 1966 with transplantation of over 370 kidneys. The procurement program has also obtained hearts, livers and pancreases for both transplantation and research at the university and at other medical centers throughout the Nation.

These humane efforts are abetted by a number of community agencies: The Kidney Foundation of Upstate New York, the Rochester Chapter of the American Liver Foundation, the American Red Cross, and the Rochester Eye Bank. These organizations carry out a variety of public educational projects to illuminate the purposes and achievements of the organ procurement program.

This organizational structure is obviously important to the success of the organ transplant program, but the system still remains critically dependent upon the decisions of individual donors. No circumstances are more poignant or moving than those of one family participating in the Rochester Organ Program during the past year. On last Christmas Eve, a 16-year-old youth, Kenneth Daniel Reasoner of Victor, was critically injured in an auto accident. In the words of his parents, Ken and Sheila Reasoner, he was "a good student, competitive athlete, weekend sailor, Boy Scout, and religious participant." When it was determined that all brain function was lost, his parents asked the Rochester Organ Program "about the possibility of transplanting his organs in order to give us the ability to save someone else's life, now that we could not save his." As a result another 16-year-old boy and a 41-year-old man received young Kenny's kidneys, two other patients had sight restored with his corneas and his heart valves were to be used in subsequent heart surgery.

So impressed were the Reasoners by these rewarding results that they offered to the Rochester program a letter describing their experiences which the program might give to other families as encouragement to participate in the donor program.

"We have asked this hospital and the transplant team at the University of Rochester to allow us to be the first to ask you to save a life," read their letter. "Through all the mourning, anguish and pain we were consoled in knowing that we improved the quality of life of at least four who were in need.

"It is our hope to give comfort. If you are asked to consider donating your loved one's organs, you can trust the gift will be rewarded to you in return," the letter concluded.

Mr. Speaker, this is a life-saving medical practice about which we will hear more and more and on which we in Congress will have to make decisions. I believe this experience of one family in our Rochester regional organ agency can be helpful to all of us in assessing the role of organ transplantation in our medical system and in setting public policy. Kenny Reasoner's family made clear their assessment.

NARCOTICS TRAFFICKING AND THE MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. GILMAN. Mr. Speaker, I want to commend the distinguished gentleman from Texas [Mr. DE LA GARZA] for his leadership as chairman of the House delegation that attended the 26th Mexico-United States Interparliamentary Conference which was held in Colorado Springs, CO on May 30–June 1, 1986. My good friend and colleague, the distinguished gentleman from Pennsylvania [Mr. YATRON], served as vice chairman of our House delegation. The distinguished gentleman from Texas Senator GRAMM and the distinguished gentleman from Connecticut Senator DODD served as chairman and vice chairman respectively of the Senate delegation.

One of the major topics discussed at the bilateral conference was narcotics trafficking and drug abuse, which have reached epidemic proportions on both sides of our common border and indeed throughout the world. Mr. Speaker, we—Mexico and the United States—are losing the war against the narcoterrorists. Our 2,000 mile common border is hemorrhaging; it is out of control, and our two nations are reeling under the onslaught of narcodollars that are corrputing the political, economic, and social institutions of both nations.

Through the combined cooperative efforts of the distinguished gentlemen from Texas [Mr. DE LA GARZA and Senator GRAMM] and the distinguished chairman and vice chairman of the Mexican delegation, respectively, Senator Antonio Riva Palacio Lopez and Diputado Juan Jose Bremer Martino, the distinguished chairman of our Narcotics Select Committee Mr. RANGEL and I were able to formulate a resolution that was adopted by the delegations of both nations recommending that a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control be established to review the problems to prevent drug abuse. The joint intergovernmental commission would also make recommendations to improve the effectiveness of narcotics control, cooperation and mutual assistance between the two nations. With respect to membership, the Commission, which would meet semiannually, would be composed of members from Mexico's Senate and Chamber of Deputies and Members of the United States House of Representatives and Senate as well as representatives from the executive branches of both governments.

Narcotics trafficking and drug abuse are too important to be placed on the back burner of our agendas. By implementing the joint Intergovernmental Drug Commission, we have a unique opportunity to develop a comprehensive, coordinated program to help combat the illicit production, trafficking, and consumption of drugs as well as a mechanism to help iron out wrinkles that have occasionally strained the relationship between our two nations. By working together in a spirit of mutual respect, understanding, and trust, both nations can achieve the objectives of the resolution that was adopted at the 26th Bilateral Interparliamentary Conference.

Mr. Speaker, in an effort to better inform my colleagues of our efforts to combat narcotics trafficking and drug abuse, I am inserting at this point in the RECORD the complete text of my statement that I delivered at our 26th Interparliamentary Conference and the complete text of the resolution that would establish the Bilateral Intergovernmental Drug Commission. Accordingly, I urge my colleagues in the House, in the Senate, and in the executive branch to help us implement this resolution.

The information follows:

STATEMENT OF HON. BENJAMIN A. GILMAN

COOPERATION AGAINST DRUG TRAFFICKING

Mr. Chairman, distinguished legislators from Mexico and the United States, it is always a pleasure for me to participate in our annual Mexico-United States Interparliamentary Conference and, as the Ranking Minority Member of the House Select Committee on Narcotics Abuse and Control, I am delighted that the Chairman of our House of Representatives Narcotics Select Committee, Congressman Charles B. Rangel, is able to join us as we deliberate how bilaterally we can best combat the illicit production, trafficking, and consumption of drugs that is adversely impacting on both our nations. Chairman Rangel's tireless efforts to wage war against drugs has been an inspiration to our colleagues in the U.S. Congress.

Mr. Chairman, we . . . Mexico and the United States . . . are losing the war against the narcotics traffickers. The flow of heroin, marijuana, amphetamines, and cocaine from Mexico has again reached epidemic proportions. Our joint 2,000 mile border is hemorrhaging . . . it is out of control and our two nations are reeling under an onslaught of narco-dollars that are corrupting the political, economic, and social institutions of both our nations.

Narcotics trafficking and drug abuse constitute a clear and present danger to the very existence of our two societies. This is occurring despite intensified efforts and high-level exchanges between our respective Secretaries of State, and regularly scheduled working meetings between Attorneys General Edwin Meese III and Sergio Garcia Ramirez to review the progress that is being made on drug raids.

Under the leadership of Chairman Rangel, our House Narcotics Select Committee visited our joint border in January to study the critical situation existing there. As part of that mission, we met with President Miguel de la Madrid and Attorney General Garcia Ramirez, both of whom emphasized the strong commitment of the Government of Mexico to fight the illicit production and trafficking of drugs and to cooperate internationally in the war on drugs. They also pointed to Mexico's drug eradication program including the use of its armed forces, and to the more than 300 Mexicans officials who have been killed in the war against drugs since 1976.

We also flew over the rugged mountainous terrain in the Culiacan region to see at first hand the effective aerial spray operations and the extensiveness of the drug producing areas. We were impressed by the maneuvers despite reports we had received that in some drug eradiction operations the spraying canisters were filled with water or fertilizer, rather than herbicide.

We were encouraged by the meetings with your President and Attorney General. However, reports of the increased production of heroin and marijuana, the transshipment of large quantities of Colombian cocaine through Mexico, the unsuccessful prosecution and conviction of the traffickers who murdered our DEA agent Enrique Camarena Salazar and his Mexican colleague Alfredo Zavalar Avelar, and the widespread corruption among high Mexican Government officials (including the Federal Judicial Police) have resulted in severe criticism by our law enforcement officers who are frustrated by the impact of the drug traffickers in undermining the hitherto exemplary Mexican drug eradication and law enforcement efforts.

Opium production in Mexico has escalated from 21 tons produced in 1984 to 45 tons for 1985; marijuana production ranges from 2.5 million to 3 million metric tons; and approximately 49,000 pounds of cocaine have been transshipped from Mexico to the United States. As friends and neighbors, we must not tolerate a situation where 35 percent of the heroin, 18 percent of the cocaine, and 30 percent of the marijuana entering the United States comes across our joint border, thereby undermining the political stability and the economic viability of our two nations. Only through strong and sustained cooperative action can this situation be corrected.

It is frequently asserted that if there was no demand for drugs there would be no supply of these deadly substances. Mr. Chairman we all recognize that this is without any substance for, in reality, drug producing nations have become drug consuming nations and drug consuming nations (including the United States) have become drug producing nations. In the United States, we now have a problem of illicit production of marijuana and in this regard, we are beefing up our Federal and State drug law enforcement efforts to eradicate this deadly substance.

With regard to reducing the demand for drugs, under the leadership of Chairman Rangel, our Select Committee and other Members of our Congress have sponsored legislation that would provide $750 million a year for five years in grants to our State and local governments to develop drug law enforcement, treatment, rehabilitation, and education programs. Another legislative proposal, H.R. 4155, the Drug Abuse Education Act of 1986, would provide $100 million year a year for five years in grants to local communities to help develop drug education programs in our schools.

We are also expanding the involvement of our military to assist civilian law enforcement authorities in combatting the drug traffickers, but it is clear that we need to do much along our side of the border to interdict the vast quantities of heroin, marijuana, and cocaine that are penetrating our defenses and entering every city, town, and school district in our nation.

Mr. Chairman, it serves no useful purpose to find fault with each other as to who is to blame for the recent successes that the drug traffickers are having in both our nations. Rather, we must recognize that *both* our societies have been adversely impacted by the tremendously successful multibillion dollar ilicit activities of the drug traffickers.

Accordingly, we must work together in a cooperative manner in order to effectively conduct joint operations, to eradicate the illicit production of drugs, to interdict the drug trafficking operations, to incarcerate

corrupt officials and drug traffickers, to educate the citizens of both nations as to the dangers of drug abuse, and to treat and rehabilitate those who have become dependent on drugs. Only by working together and by pooling our resources, equipment, personnel, and funds will we be able to effectively combat the drug traffickers. Otherwise, it is clear that the drug traffickers, who have vast financial resources and who are well organized and possess highly sophisticated equipment, will succeed in totally corrupting our political institutions. They are already undermining our economies and they are turning the citizens of our two nations into a society of drug addicts.

We must formulate a comprehensive, coordinated drug strategy. In this regard, Mexico recently participated in the drug trafficking conference sponsored by the Organization of American States (OAS) that was held last month in Rio de Janeiro. Mexico joined the 21 other member States in establishing an Inter-American Drug Control Commission to develop and implement common strategies to control drug trafficking and drug abuse. The conference also recommended that the OAS Judicial Committee help member States create mechanisms for extraditing drug traffickers, for promoting cooperation among police, judicial and customs agencies, and for developing uniform national laws on drug trafficking. Mexico's participation in this conference and support for these recommendations are critical if the Americans are going to effectively win the war on drugs.

With regard to the United Nations Fund for Drug Abuse Control (UNFDAC), it is encouraging to note that the contributions to the Drug Fund doubled from $12 million contributed in 1984 to $24.4 million for 1985 and the number of contributing nations increased from 39 to 53, or one-third of the U.N. membership. We commend the Government of Mexico for its contributions to the Fund, under very trying economic conditions, and would urge Mexico to take the lead in encouraging other Latin American nations to participate in the vital U.N. effort. According to UNFDAC's 1985 report, only nine Latin American and Caribbean nations contributed to the U.N. Drug Fund in 1985: Argentina ($12,000); Barbados ($500); Bahamas ($1,000); Brazil ($5,000); Chile ($4,000); Ecuador ($2,500); Mexico ($292); Panama ($2,470); and Venezuela ($8,879). Mexico's leadership in encouraging other nations to contribute to UNFDAC is crucial if the war against drug trafficking and abuse is to be a global effort and if mankind is to win the war against this deadly menace.

Mr. Chairman, our bilateral interparliamentary conference no longer can afford the luxury of just passing well-intentional resolutions condemning drug trafficking and drug abuse. We are well beyond that point. We must act upon our words and resolutions, especially the Queretaro resolution, which our interparliamentary conference adopted last year, that calls for establishing a consultative body and more frequent meetings between our two legislative bodies.

For 26 years, we have met annually to discuss the problems confronting our two nations. As elected officials, we share similar problems that give us a special bond and respect for one another. We are also friends and neighbors sharing the same border and, for many of our citizens, sharing a similar culture, heritage, and language. We have always been able to speak freely and candidly to each other. We have worked together in a spirit of mutual respect, understanding, and trust to iron out troublesome issues that at times have strained the relationship between our two nations.

By highlighting these problems I do not seek to minimize the problems that Mexico faces in fighting the illicit production and trafficking of drugs, or to relieve my country from its mutual responsibilities in achieving the goals that we both seek.

As we start the second quarter century of our bilateral interparliamentary conferences, let us continue to work together as friends and neighbors to help wage war against our common enemy—the narcotics traffickers who are jeopardizing the health of the citizens of both of our nations and who are effectively undermining the political, economic, and social institutions of our two great societies.

Thank you, Mr. Chairman.

RESOLUTION

The twenty-sixth Mexico-United States Interparliamentary Conference, held at Colorado Springs, Colorado, May 30-June 2, 1986.

Whereas the production, traffic, financing, distribution, and consumption of narcotic and psychotropic drugs pose grave, increasing and potentially dangerous public health and security problems for the societies of both nations;

Whereas, the necessity for expanded programs of cooperation to eradicate the production of narcotic crops and to suppress the illicit manufacture and traffic of drugs is essential and indispensible to effectively eliminate supply and to combat the crime and corruption associated with drug trafficking in both countries;

Whereas, the need to intensify and expand the education programs for citizens of both countries, particularly our children and youth, of the dangers of experimenting with or using narcotic or psychotropic drugs is essential and indispensible to prevent and reduce the consumption and demand for drugs;

Whereas, the treatment and rehabilitation programs for victims of drug addiction and dependency are essential and indispensible in reducing consumption and demand for drugs: Now, therefore, be it

Resolved, That the 26th Mexico-United States Interparliamentary Conference recommends that to achieve the joint objective of the governments of Mexico and the United States in controlling drug trafficking and abuse, a Mexico-United States Intergovernmental Commission on Narcotic and Psychotropic Drug Abuse and Control be established that would meet semiannually and include members of the Mexican Senate and Chamber of Deputies and the United States and the House of Representatives and members of the Executive Departments of both governments with responsibility for drug abuse, education, prevention, treatment and enforcement of the pertinent laws; and be it further

Resolved That the Commission at its semiannual meeting would review the status of the problem of narcotics production and trafficking in both countries as well as joint efforts to prevent drug abuse through education, treatment and rehabilitation and would make recommendations for improving the effectiveness of narcotic control, cooperation, mutual assistance and support between Mexico and the United States.

H.R. 5042

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. TORRES. Mr. Speaker, in June I cosponsored a bill that attacks adult illiteracy. This legislation give people a chance to learn English and become full members of American society.

English is the undisputed language of the United States. The proceedings of our legislatures, our courts and our city councils are conducted in English. Proficiency in English continues to be a requirement for new citizens. But many citizens in this country prefer to communicate in a language other than English. That doesn't bother me. What bothers me is the prospect that we do not devote the resources we need to teach people English so they can become fully participating members of our society. This is why I have joined with Congressman MARTINEZ and other Members of Congress in introducing the English Proficiency Act (H.R. 5042)

The U.S. Census Bureau has found that one out of eight adults living in the United States is illiterate in English. In Los Angeles, English classes at community colleges and adult schools have long waiting lists. Existing resources are not sufficient to change this situation. As a result, thousands of adults from non-English backgrounds find themselves unable to learn and become literate in English.

The other body recently passed a resolution declaring that "it is the sense of the Congress that the English language is the official language of the United States." Passing resolutions and making declarations will not help teach anybody the English language. We need more instructors who can teach English and fewer resolutions that state the obvious. I believe that bringing all Americans into the mainstream of society is more appropriate and in the best traditions of our Nation. Full proficiency in English is fundamental to the future well-being of our citizens and our country.

The following article was written by Raul Yzaguirre of the National Council of La Raza for the Hispanic Link dangers of the English only movement:

THE PERILS OF PANDORA

Most of us are familiar with the Greek myth about Pandora's box, the story of a young woman whose curiosity got the better of her and led her to open a forbidden and tightly chained box. According to the myth, as soon as Pandora unlatched the container to peer inside, the lid burst wide open and all sorts of evil creatures were set free to roam among us, never to be captured again.

While most Americans have long understood this truth—that it's impossible to dabble with the devil and then casually walk away—some of the organizers of English-only efforts are just now realizing the ramifications of the deal they've struck. By playing on Americans' fears about immigrants and distorting the facts about Hispanic Americans, they have awakened, encouraged and provided a kind of surface legitimacy to racist and nativist sentiment. In fact, in a recent Education Week interview,

Gerda Bikales, Executive Director of U.S. English—the national organization dedicated to "protecting" the English language—admits, "the situation is somewhat out of control."

According to Bikales, "anybody can and does join U.S. English." The organization has a very diverse constituency. Its advisory board includes such luminaries as Walter Annenberg, Saul Bellow, Alistair Cooke, Norman Cousins, Walter Cronkite and Gore Vidal. Some local members are undoubtedly fine citizens, thinking that they are simply supporting symbolic measures to proclaim English as our common language and promote its use by all Americans.

However, U.S. English has opened Pandora's Box. The organization has appealed to the nativism and fear of foreigners which are among the less attractive latent beliefs of some Americans. Over the last few years, in response to the group's claim that English-only measure will repeal bilingual ballots and bilingual education, U.S. English has attracted increasing numbers of members who are clearly anti-Hispanic.

Although U.S. English is now attempting to distance itself from these sentiments, saying that there is no "company line that everybody who say's he's a member of U.S. English buys," the initial rhetoric which attracted these members was crafted by the organization. Spokespersons for U.S. English have raised money and recruited members by telling the public that the United States is "facing another Quebec" and that Hispanics are refusing to assimilate and learn English. They have consistently spread misinformation about bilingual education, bilingual voting materials and the use of non-English languages.

Now the group finds itself in a sticky situation of its own making. The radical right has captured this movement and made it its own. Perhaps inspired by U.S. English's rapid growth, these folks have discovered that nativism is a lucrative ground for fund raising.

Recently, Richard Viguerie, the ultra-conservative fund raiser, financed a mass mailing to 250,000 American homes for an organization he calls "Save Our Schools," asking for support to repeal bilingual education. Each letter includes a Mexico peso, and begins, "I know the peso is worthless in the U.S., but I enclosed it to make an important point about a billion-dollar U.S. government program that's worthless too. It's called the Bilingual Education Act." The letter goes on to accuse Hispanic immigrants of refusing to learn "our language, our customs—even our currency," and plays on stereotypes of immigrants as a welfare class: "Think of the billions of dollars it will cost us—and our children and grand children!"

The Council for Inter-American Security goes even further, claiming that public use of non-English languages promotes "cultural apartheid" and warning that "terrorist groups are now seeking to restore old Mexico, which they call Aztlan."

Our country's history demonstrates the dangers posed by demagogues who play on fear and intolerance to promote an anti-ethnic agenda. In the late 1800s, fears of a "yellow peril" resulted in a series of laws known as the Chinese Exclusion Acts, which denied Chinese and other Asians the opportunity to come to this country. During the same period, Italians, Southern and Eastern Europeans, and Jews were thought to be "inferior races" and immigration laws were designed to restrict the entry of these peoples. Xenophobia and anti-Japanese hysteria led us to incarcerate thousands of loyal Japanese Americans at the outbreak of World War II. Hispanics themselves have been the target of similar campaigns in which public bigotry and hysteria incited immoral and in some case illegal government "solutions." In the 1930s and again in the 1950s, fears of a "wetback menace" resulted in "repatriation" efforts, which included large numbers of native born Americans and legal immigrants of Hispanic descent.

Thus we can't afford to laugh at those who are drawn together by U.S. English demogogues. Nor can we dismiss them as part of some "lunatic fringe." What they are doing is dangerous, not just to ethnic minorities, but for our nation as a whole.

If we were to treat this nativist movement the way they treat our national concern over immigration policy, we would respond by warning that xenophobic hordes are taking over our nation. The truth is, they aren't. But they are a serious problem, large enough in power and influence to cause much of the nation's media to buy their line that Hispanics are "resisting assimilation." They pose an increasingly serious problem with their inflammatory rhetoric, distortion of reality, and use of fear and innuendo. Neither the press nor the Hispanic community itself has responded effectively to the xenophobes.

How should we respond? First and foremost, I believe that our response should be a positive one. It should affirm our community's desire to learn English, without surrendering our hard-won civil rights gains like bilingual education and language assistance under the Voting Rights Act.

I must admit, however, that it is becoming tiring to have to explain over and over that Hispanics do want to learn English and that a growing body of literature confirms that they lose their native language—perhaps unfortunately—at about the same ways and same number of generations as other immigrant groups—three. I am tired of explaining that the federal bilingual education progarm is transitional, designed to help students learn English without falling behind in other subjects.

Most importantly, I am tired of hearing Hispanics accused of not wanting to learn English when the fact is that there are insufficient opportunities for them to do so. It's a national disgrace that adult English as a Second Language (ESL) classes regularly turn people away; as many as 5,000 adults each month are turned away from adult education classes in states like California. That an ESL class at a community college in Texas—ostensibly designed to serve low-income persons—can cost $600 a semester. That most community "literacy" programs do not admit limited-English proficient individuals. That changes in federally-funded job training programs have made it almost impossible for local programs to teach English to non-English speakers. That at least half of limited-English proficient youngsters do not receive the language services to which they are entitled.

The solution to the problem of limited-English proficiency lies not in telling people that they must speak English—as the English-only movement advocates—but in teaching them to speak, read and write the language. The National Counci of La Raza, and a coalition of other national Hispanic organizations, believes that it is time for a national English Opportunities Program, a program that would provide affordable opportunities for limited-English proficient persons to learn English.

An English Opportunities Program is not only justified on the merits, it would be a powerful political response to the English-only movement. Instead of merely saying that Hispanics want to learn English, we can prove it.

It's time to examine our federal education and job-training programs, realign some, and perhaps create others to ensure that those who do not speak English have the opportunity to learn English. It's time to introduce a positive alternative to English-only efforts, which are inherently offensive and divisive. It's time for responsible Americans to push the knee-jerk, nativist rhetoric aside and address the problem of limited-English proficiency productively. It's time for a national English Opportunities Program.

SUPPORT THE WORK OF THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. SHARP. Mr. Speaker, during its session, Congress passed Public Law 99-194 which authorized $5 million a year to be appropriated to the Commission on the Bicentennial of the Constitution and Bill of Rights designed for use by elementary or secondary school students and, in particular, to implement an annual national bicentennial Constitution and Bill of Rights competition in those schools. I am pleased that the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies has recommended an appropriation of $13 million for the Commission on the Bicentennial of the Constitution and that they have also recommended earmarking $2.7 million of those funds for the nationwide implementation of a National Bicentennial Competition on the Constitution and the Bill of Rights. I support these recommendations.

Presently students and teachers in the New Castle school system in my congressional district in Indiana and several other areas in my State are field testing the National Bicentennial Competition on the Constitution and Bill of Rights. The Indiana project is being conducted under the supervision of William Baker, Esq., chairman of Indiana Governor's Task Force on Citizenship Education. Our experiences in Indiana have revealed the great potential of this program for developing among students a profound understanding and respect for the most basic principles and values of our system.

I am pleased to say that I serve on the National Advisory Committee to the project which is being supported in its development stages by the Department of Education and the Department of Justice. The project is being administered by the Center for Civic Education, a nationally prominent group with an exemplary record in conducting such programs. The outstanding quality of the project has recently led to its being granted official recognition by the Commission on the Bicentennial of the United States Constitution chaired by the Chief Justice.

We are rapidly approaching the 200th anniversary of the signing of the Constitution. What better way is there to commemorate this remarkable event than to promote, throughout this Nation, the implementation of an instructional program and competition in public and private schools that fosters among our youth that increased understanding of the fundamental principles and values of our Constitution and Bill of Rights that leads to a reasoned commitment to their preservation and the furthering of the ideals of our free society.

I commend this program, ask my colleagues to join me in supporting its national implementation during 1987.

U.S. APOLOGIZES TO AIDS RESEARCHER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. FRANK. Mr. Speaker, on Monday of this week I discussed in a special order speech, the very unfortunate Justice Department memorandum which distorted section 504 of the Rehabilitation Act and in particular, without any foundation, sought to cast doubt on the conclusion of the Center for Disease Control that AIDS cannot be casually transmitted. I pointed out at that time that the major sources cited by the Justice Department in this effort had repudiated the Justice Department's use of their quotations. I was therefore pleased to see in the New York Times for Wednesday, July 23, an article headlined "U.S. Apologizes to AIDS Researcher," in which the Times reported that Charles Cooper, author of that memorandum, acknowledged that he had inappropriately and inaccurately quoted Dr. William Haseltine.

I am including that article for the RECORD.

[From the New York Times, July 23, 1986]

U.S. APOLOGIZES TO AIDS RESEARCHER

(By Robert Pear)

WASHINGTON, July 22.—The Reagan Administration has apologized to a Harvard researcher who says the Justice Department misrepresented his views on the transmission of AIDS.

The department had quoted the researcher, Dr. William A. Haseltine, in an effort to show that there was disagreement in the medical community over how AIDS was spread. The Justice Department suggested that some scientists believed there was at least a theoretical possibility that the virus for acquired immune deficiency syndrome might be transmitted through "casual contact" or "proximity to infected persons."

The Public Health Service, a unit of the Department of Health and Human Services, has repeatedly said there is no evidence that the AIDS virus is spread through casual contact on the job, or in schools or similar settings.

IT WAS CITED IN AN OPINION

The quotation from Dr. Haseltine appeared in a 49-page Justice Department opinion issued last month. The opinion concluded that Federal law generally did not prohibit employers from discriminating against people with AIDS if the discrimination was based on a "fear of contagion."

After receiving a complaint from Dr. Haseltine, Assistant Attorney General Charles J. Cooper apologized, saying: "We did not intend to misrepresent your views, and I am sorry if you have been dragged into a controversy not of your own choosing, or of ours."

But Mr. Cooper said that discovery of the error would not lead to any change in the Justice Department's assessment of the issue, because the medical evidence was "fundamentally irrelevant to the question put to us with respect to the Federal handicap discrimination laws."

A 1973 law prohibits discrimination on the basis of handicap in any program receiving Federal financial assistance. The Justice Department opinion, signed by Mr. Cooper, concluded that the "disabling effects" of AIDS constituted a handicap, but that "an individual's real or perceived ability to transmit" the virus to others "is not a handicap."

HE REPEATS HIS VIEWS

In the opinion, Mr. Cooper declared that the 1973 law "simply does not reach decisions based on fear of contagion, whether reasonable or not," unless the fear was a pretext for discrimination on account of handicap. Similarly, in a letter to Dr. Haseltine last week, Mr. Cooper said it did not matter whether discrimination was "rational or irrational from a medical perspective," so long as it was not based on handicap.

Dr. Haseltine has carried out research on AIDS at the Dana-Farber Cancer Institute in Boston, where he is chief of the laboratory of biochemical pharmacology. He is also an associate professor of pathology at the Harvard Medical School.

In a letter to Mr. Cooper on June 30, Dr. Haseltine said: "To my knowledge, there is no evidence that transmission of the AIDS virus other than by intimate sexual contact or exchange of body fluids and/or organs has resulted in infection. What is called casual transmission such as is likely to occur in workplace settings will never pose a significant risk to uninfected co-workers.

"The evidence that such transmission does not occur is drawn from studies of families in which one member is infected and studies of health-care workers who treat AIDS patients. These studies demonstrate that 'casual transmission' has not and will not occur to any significant extent."

In his reply, Mr. Cooper said that "perhaps we are naive, but we are frankly surprised by the attention that has been focused upon the portion of our opinion" discussing the transmission of AIDS.

In that section of the opinion, Mr. Cooper noted assurances from the Public Health Service that "nonsexual person-to-person contact" in the workplace did not create a risk for transmission of the AIDS virus. But, he added, some scientists believe that "conclusions of this character are too sweeping." He then cited Dr. Haseltine as one of these scientists.

THE HOLLIDAY CREEK FLOOD CONTROL PROJECT

HON. BEAU BOULTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. BOULTER. Mr. Speaker, the fiscal year 1987 energy and water development appropriation bill, which we will address on the floor of the House today, provides for financial support and assistance to a project of vital concern to the citizens of Wichita Falls, TX, which I represent. Section 1 of this bill provides for $700,000 of funding, through the U.S. Corps of Engineers, to begin construction on the Holliday Creek flood control project. This project has been included in President Reagan's fiscal year 1986 and 1987 budget proposals, and is also included in both H.R. 6 and S. 1567, which were recently passed in each body of Congress to provide for the conservation and development of water resources through land improvement and the rehabilitation of water and flood control projects.

As I have stated before on the floor, the threat being faced by the residents and property of Wichita Falls is truly one that needs to be addressed and remedied. Last year, as has been the case so many times before, the citizens of Wichita Falls faced rains that caused millions of dollars of damage and cost the lives of two city residents, one of them a child. The sad and true fact is that such disastrous events can be prevented.

The Holliday Creek project is one that has been studied and approved by the Corps of Engineers, and unlike most other flood control projects, includes local cost-sharing provisions that have been voted upon and approved by the voting residents of the city. As a matter of fact, Mr. Speaker, 1 year ago this very day the people of Wichita Falls, with support from their city council, voted in favor of sharing the costs of this project by an 8-to-1 margin. Today they stand ready to dedicate more than $13 million to this effort. That is $13 million out of a total project cost of approximately $30 million. Past efforts to obtain funding for this project have not met with success, which is why I am so encouraged to see these worthy and needed funds allocated for in this piece of legislation.

Mr. Speaker, in closing I want to mention that not only is completion of this project a necessary expenditure, it is also the most cost efficient solution for the Federal Government. According to the U.S. Army Corps of Engineers' study, the average annual cost to the Federal Government attributable to the flooding of Holliday Creek has been $3.9 million per year. If the flood control project were to be completed, that annual Federal cost would fall to just $36,000. To me, the answer is clear—this project is needed and worthwhile, and it will pay for itself in less than 5 years.

THE GRAMM-RUDMAN-HOLLINGS DEFICIT REDUCTION LAW

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. MACK. Mr. Speaker, I recently had the opportunity to speak at the U.S. Chamber of Commerce on the need for reconstructing the Gramm-Rudman-Hollings deficit reduction law. I insert my remarks upon that occasion in the RECORD at this point:

STATEMENT OF REPRESENTATIVE CONNIE MACK
(U.S. Chamber of Commerce, July 22, 1986)

It is indeed a pleasure for me to join my colleagues from the Senate here today. It is seldom that so much fiscal sanity gathers in one room at the same time.

We are here today to reassure the American people. We are here today to hoist once again the flag of fiscal responsibility. Perhaps most importantly, we are here to say to the United States Congress that the window of opportunity for those who seek political asylum from the tough decisions of public service is about to slam shut.

Last December, the Congress finally admitted to its inability to perform its duties. The Gramm-Rudman-Hollings Deficit Reduction Law put us on a course to ending the annual federal deficit. Those of us who are here today are dedicated to keeping America on that course. The Supreme Court's decision provides us with an opportunity to strengthen this landmark legislation. We will make the most of this opportunity.

To those who argue that Congress should face up to its job, I would simply say, I agree. History argues, however, that Congress will not do that. The last Congress did not do it; this Congress is not doing it; and sadly, the next Congress can not be expected to do it.

To those on the other side who argue that Congress has learned its lesson, that Congress will act differently because of the political consensus manifest in Gramm-Rudman-Hollings, I must say that very recent history dashes those hopes.

Last week, the House of Representatives considered the fiscal year 1987 appropriations bill for State, Commerce, and Justice. An amendment to remove the $190 million for the Economic Development Administration was defeated; 302 members voted against it. An amendment to reduce EDA funding by $50 million was defeated; 256 members voted against it. An amendment to remove $305 million for the Legal Services Corporation was defeated; 278 members voted against it. An amendment to reduce Legal Services Corporation funding by $25 million was defeated; 204 members voted against it.

Ladies and gentleman, if ever there has been a clarion call for legislation, it was heard last Thursday on the floor of the House. Congress will not even make the easy decisions, let alone the difficult ones. So the imperativeness for Gramm-Rudman-Hollings II is unassailable. The American people want to get back on the road to fiscal sanity. The burden to act on their behalf falls to those of us in this room. And with your help, we shall succeed.

REMARKS ON HOUSE RESOLUTION 461, THE IMPEACHMENT OF FEDERAL JUDGE HARRY E. CLAIBORNE

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. REID. Mr. Speaker, the House of Representatives has initiated the historic impeachment process of Federal Judge Harry Claiborne. The Claiborne impeachment, like the 13 previous impeachments of Federal officials, unequivocally demonstrates one fact: After 200 years, through numerous wars, civil turmoil, and technological advancement, the processes outlined in the Constitution still function smoothly.

The case of a Federal judge is unique. While any other official can be dismissed from office, Federal judges are appointed for life and can only be removed from office by impeachment. Eleven of the 14 House impeachments have involved Federal judges.

Impeachment can be a time-consuming and involved process, but it is the necessary complement to the appointment for life of Federal judges. Federal judges are appointed for life to protect them from public and political pressures when presiding on crucial legal questions. This lifetime appointment has only one caveat: Judges are appointed for lifetime "during good behavior." Under our system, Federal judges have the protection they deserve, but are denied carte blanche to do as they please.

Our Founding Fathers knew how important the process of impeachment would be. Although they did not outline every last detail, they went out of their way to include provisions in the Constitution creating a general structure for the impeachment process. According to the Constitution, the House of Representatives has "the sole power of impeachment," the equivalent of an indictment. The Senate is granted "the sole power to try all Impeachments," the power to acquit or convict. The Constitution stipulates that a Federal official can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." A person who is impeached is subject to the laws of the land just like any other citizen.

With every passing year, Americans become increasingly aware of the finesse of our Founding Fathers in drafting the Constitution. Countries throughout the world draft several new constitutions every century, often looking to ours as a model of success. They look to ours because our forefathers carefully crafted a Constitution that was flexible enough so that it would work as well in 1986 as it did in 1987.

SOUTH CAROLINIANS SAY THANKS

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. CAMPBELL. Mr. Speaker, during the past few days the State of South Carolina has been the grateful recipient of an outpouring of generosity that has reaffirmed my belief in the American people.

As I am sure you know, South Carolina, like most of the Southeast, has been hard hit by high temperatures and drought. Crops have burned up in the fields. Cattle have no pastures for grazing and are literally starving. Many farmers are facing the loss of an entire season's hard labors.

In the face of all this adversity, a diverse group of individuals and organizations came together to provide help to the cattle farmers in South Carolina and save the lives of thousands of cattle. It is with deep gratitude that I recognize and thank those who played such an important role in supplying relief to farmers who had just about given up hope. Unselfish farmers in the Midwest from Illinois, Iowa, Missouri, Kansas, and Indiana have donated thousands of tons of hay to my State to maintain the cattle over this difficult period.

Governor Jim Thompson of Illinois deserves so much credit for helping to arrange the gathering of this hay. The White House, at my request and knowing the urgency of the situation, ordered a military airlift of the hay and the Air Force supplied transport planes and pilots. On extremely short notice, the Clemson University Extension Service, notably Dan Ezell and B.K. Webb and the Drought Control Office set up by South Carolina's Governor Richard Riley, set up the distribution plan and notified eligible farmers. The Donaldson Industrial Airpark provided landing facilities and Lockheed Aeromod the forklifts for unloading. Lastly, the South Carolinians themselves who unloaded and distributed the hay throughout the affected areas and contributed to their neighbors' well-being. All of these individuals and groups in the true spirit of working together to help each other have made it possible for farmers who might have lost everything to hang on a little longer.

And, the kindness and munificence of our Nation has not stopped. South Carolina has had offers of help from New York, Maine, Colorado, and others. The CSX Railroad has volunteered a train for transport and truckers are willing to drive long miles to deliver their cargo of much needed hay.

The crisis is still with us and a long-term response to the problems faced by southeastern farmers must be formulated. However, this demonstration of the generous spirit of our Nation has helped give us in the Southeast the heart to carry on. I join my fellow South Carolinians in saying once again thank you to everyone involved.

A CONGRESSIONAL SALUTE TO SPEAKER PRO TEMPORE FRANK VICENCIA ON HIS RETIREMENT FROM THE CALIFORNIA STATE ASSEMBLY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a very good friend of mine, Speaker pro tempore Frank Vicencia who is retiring this year from the California State Assembly.

Frank, who was first elected to the State legislature in 1974, has served his constituents well over the years. For 6 years he chaired the important Government Organization Committee. It was in this capacity that Frank was able to implement a comprehensive regulatory reform procedure which, in turn, opened up the bureaucratic process and gave private citizens a better chance to influence the decisionmaking process.

Frank has also served on the Agriculture, Policy Research and Transportation Committee. He is vice chairman of the Intergovern-

ment Relations Committee and chairman of the Select Committee on Child Abuse. It is important to note that although Frank has given priority to working on a number of important issues, such as education, public transportation and aid to the elderly and handicapped, he has contributed much to the prevention of child abuse.

Mr. Speaker, Frank Vicencia will be missed by his colleagues in the assembly. He has proven himself to be one of our State's most competent and respected public officials and I am confident that he will continue to be a positive force in our community.

My wife, Lee, joins me in commending and congratulating Frank Vicencia on a job well done. We wish him and his wife, Lil, their children, Steve, Michele, David, Michael and Laura, and their grandchildren, Kristen, Brian, Nicholas, Anthony and Christina, continued success and happiness in the years ahead.

CAROLYN BLAYDES: PROFESSIONAL PAREXCELLENCE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. DOWNEY of New York. Mr. Speaker, I would like to take this opportunity to commend a valued member of my staff, Ms. Carolyn Blaydes, who has served as my chief tax assistant for the past 6 years. Carolyn will be leaving this week to have a baby and has decided to end her 10-year career on Capitol Hill to devote time to her child.

Carolyn Blaydes epitomizes the model congressional staff person. She is a shinning example of dedication to good public policy. I will greatly miss her counsel, her efficiency, and her common sense. She has worked hard to help me in my responsibility to the people of New York's Second Congressional District and has served their needs with patience, understanding, and compassion.

Carolyn first came to Capitol Hill in 1975 to work on the staff of the Committee on Banking, Currency, and Housing, after having worked as a reporter for the Dallas Morning News. When Carolyn joined my staff in 1980, she took over staff responsibility for Ways and Means Committee work, energy, commerce, and constitutional issues.

This was and is a heavy workload, but in 1984, Carolyn took on the additional responsibility of legislative director. In this capacity she has provided leadership and guidance to the other members of my legislative staff. She has been patient in explaining the intricacies of the legislative process and has always been accessible to help other staff to get the job done.

More importantly, she has given a great deal of time to constituents. During the past year, as we all labored on tax reform legislation, she worked overtime to ensure that all who had questions about tax reform received attention and a careful answer.

Carolyn's work has always been inspired by a strong belief in the House of Representatives as an institution, as the people's house. She never forgets that it is the people back home who matter; that they're what it's all about. She is keenly aware that the strength of our political system lies in the fact that there are many people—church and community leaders, labor and business leaders, teachers, doctors and nurses—who play an active and vital role in national decisonmaking. She has always been sensitive to their contributions to the political process. I will miss her and so will the Congress.

Carolyn can be sure that her own contribution to public life is valued. I wish her good fortune as she and her husband embark on the great adventure of raising a child.

HOUSTON CITY COUNCIL JOINS FIGHT AGAINST APARTHEID

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. LELAND. Mr. Speaker, today, the Houston city council took a strong step in the fight against apartheid. The city council overwhelmingly approved an ordinance prohibiting all vendors, contractors, and professionals who presently, or within the past year, have had business dealings in South Africa from bidding on any city contract. In addition, this ordinance presents all Houston banks and financial institutions with a 2-year deadline to end their financial transactions in South Africa. This provision includes all loans, lines of credit, and portfolio holdings.

Despite President Reagan's apparent lack of understanding of the suffering of the South African people under apartheid, it is understood by millions of Americans across this country. I am proud to say that the citizens of my city of Houston and its leaders clearly understand and have compassion for these people. And maybe more importantly, they have acted in response to the immoral practice of apartheid. Houstonians have shown that they will no longer finance the racist, immoral Government of South Africa.

The American public has demanded an end to apartheid—the city of Houston has acted to end the suffering of millions in South Africa. I expect and hope that other cities will respond with similar compassion.

SOCIAL SECURITY DUE PROCESS AMENDMENTS OF 1986

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1986

Mr. DELLUMS. Mr. Speaker, it is with pleasure that I come before you today to offer the Social Security Due Process Amendments of 1986. I am concerned about a process that punishes applicants for Social Security benefits because of the mistakes or misleading information given by employees of the Secretary of Health and Human Services. Currently, applicants lose their standing in court if they file later than 60 days after the date of a decision by the Department of Health and Human Services. Many times, this descrepancy has led to applicants being ineligible for claims. The Social Security Due Process Amendments of 1986 will correct this travesty.

The Social Security Due Process Amendments of 1986 will, among other things, establish a mechanism for ensuring due process for applicants. It requires that each application include a separate statement, in such form as shall be prescribed in regulations of the Secretary and signed by the applicant (or the applicant's representative, as appropriate) which certifies that the applicant has been informed of the 60-day period (including any further time). The Secretary shall prescribe by regulation reasonable procedures to ensure that the applicant or representative signing the statement understands the statement and the effects of signing such statement.

I am hopeful that this legislation will correct an inadequacy that has caused great suffering. I call upon my colleagues to join me in this effort.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 24, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on the establishment of new short-line and regional railroads.

SR-253

10:00 a.m.

Energy and Natural Resources

Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program, and other pending calendar business.

SD-366

Judiciary
Courts Subcommittee
To hold hearings on S. 2529, to provide for retired magistrates to be recalled to service and to provide a retirement system for U.S. magistrates.
SD-225

Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

11:00 a.m.
*Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
SD-G50

JULY 26

10:00 a.m.
Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

JULY 27

10:00 a.m.
Conferees
On H.R. 3838, to reform the Internal Revenue laws of the United States.
1100 Longworth Building

JULY 28

2:00 p.m.
Environment and Public Works
To hold hearings on the nominations of Thomas L. Adams, Jr., of Kentucky, to be Assistant Administrator for Enforcement and Compliance Monitoring of the Environmental Protection Agency, and Kenneth M. Carr, of California, to be a Member of the Nuclear Regulatory Commission.
SD-406

JULY 29

9:00 a.m.
Office of Technology Assessment
The Board, to meet in open and closed sessions, to discuss pending business matters.
S-407, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

Finance
International Trade Subcommittee
To hold hearings on S. 2614, to establish customs regulations allowing parallel importation of genuine, trademarked articles in the case where related parties own the trademarks in the United States and abroad.
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
To hold hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

Joint Economic
Trade, Productivity, and Economic Growth Subcommittee
To hold hearings to review the costs of insurance premiums for business and the present insurance availability crisis.
2218 Rayburn Building

3:00 p.m.
Select on Ethics
Closed business meeting, to discuss pending committee business.
S-128, Capitol

JULY 30

9:00 a.m.
Rules and Administration
To hold oversight hearings to review the activities of the Office of the Senate Sergeant at Arms.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Finance
To hold hearings on S. 1871, relating to imports which threaten to impair the national security (incorporated in S. 1860 as Title X).
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to examine energy innovation and the patent process.
SD-342

Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income program to receive benefits while working.
SD-215

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of section 404 of the Clean Water Act, relating to the wetlands dredge and fill permit program.
SD-406

10:00 a.m.
Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

4:00 p.m.
Select on Intelligence
Closed business meeting, to be followed by a closed briefing on intelligence matters.
SH-219

AUGUST 1

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 1817, to temporarily suspend Most Favored Nation status for Romania for six months, and S. 1492, to permanently withdraw Most Favored Nation status for Romania.
SD-215

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

Rules and Administration
To hold hearings on the nomination of Thomas J. Josefiak, of Virginia, to be a Member of the Federal Election Commission, proposed legislation authorizing funds for the American Folklife Center of the Library of Congress, S.J. Res. 268, to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, S.J. Res. 269, to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution, and S. 1311, to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.
SR-301

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

Judiciary
To hold hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to mark up S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

Select on Indian Affairs
To hold hearings on S. 2504, to provide for the exchange of certain lands between the Pueblo of Santa Ana and the University of New Mexico, and H.R. 3214, to provide for the use and distribution of funds awarded to the Crow Creek Band of Umpqua Indians held in trust by the Secretary of the Interior.
SR-485

AUGUST 7

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Aging Subcommittee
To hold hearings to review certain reauthorization provisions of the Older Americans Act.
SD-430

AUGUST 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on H.J. Res. 17, to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Home Commission Act, 1920.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Business meeting, to consider the nominations of William H. Rehnquist, of Virginia, to be Chief Justice of the United States, Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States, and other pending calendar business.
SD-226

SEPTEMBER 9

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review graduate medical education in ambulatory settings.
SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JULY 24

3:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH-219

SENATE—*Thursday, July 24, 1986*

(Legislative day of Monday, July 21, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL LAXALT, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of all grace and comfort, in busy, stress-filled days, we are especially grateful for loyal, hard-working men and women who provide the Senate indispensable support without which it could not do business. Thank You for all who work in the offices of the Secretary of the Senate, the Sergeant at Arms, the Cloakrooms and the CONGRESSIONAL RECORD. Thank You for clerks and secretaries, for receptionists, security, pages, and all who follow Senate proceedings. Thank You for those in food service, maintenance, elevators and subways. Bless all these committed friends; grant them daily encouragement at their tasks.

In this large family, Heavenly Father, every day there are those who have special needs, and we pray for them. We are grateful for the good news that Senator GOLDWATER is well. Thank You for the success of David Joy's surgery. With profound concern we remember prayerfully Stan Kimmit, his family, and especially his son Tom. Give to them the peace that passes understanding and sustain their hope in hours of discouragement. Be with all who need You, Father.

Then, Lord, we identify with the deep concern of Governors of States suffering from terrible drought and join them in asking You, God of Mercy, for rain and help for the farmers, in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL LAXALT, a Senator from the State of Nevada, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. LAXALT thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order the majority leader is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator LAXALT.

SCHEDULE

Mr. DOLE. Mr. President, I indicate that under the standing order the leaders have 10 minutes each. Then we have five special orders for Senators KASTEN, PROXMIRE, WARNER, HAWKINS, and BAUCUS, for not to exceed 5 minutes each. Then we have routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will resume consideration of House Joint Resolution 668, the debt limit extension.

I indicate that we can expect rollcall votes throughout the day and tomorrow, and we can also expect to be in session late this evening. So I advise my colleagues who have plans for tomorrow to plan accordingly. It seems we are starting to load up the debt limit extension. If we delay this bill indefinitely we may get to the August 15 recess date with a lot of work that must still be completed.

So I urge my colleagues to take note of the fact that there could be votes, I would say, up until at least 3 or 4 o'clock tomorrow afternoon. There will be no Saturday session.

Mr. BYRD. Mr. President, will the distinguished majority leader yield at that point?

Mr. DOLE. Yes.

Mr. BYRD. Can we say to our colleagues that there definitely will be rollcall votes tomorrow?

Mr. DOLE. With the exception, of course, where someone stands up and says, "There are not going to be any votes today; I am going to talk on this amendment," yes, I would hope so.

As I understand there are a number of amendments. We hope to dispose of the Gramm-Rudman-Hollings amendment. If that can be done, I think Senator HART then has an amendment to repeal Gramm-Rudman-Hollings. I think what he wants to do is have a vote.

So I would say unless someone just says, "I am going to talk today and no votes," there will be votes and we will try to come in fairly early tomorrow so Senators can still make some of their engagements. I know there are a lot of people on both sides who have engagements tomorrow evening out of town. So we will try to accommodate them as much as we can.

Mr. BYRD. As the distinguished majority leader knows, there are Senators on both sides who will be here if there are definitely going to be rollcall votes. If there are not, they have engagements back in their respective States.

I wonder if at some point today we could say definitely yes or no, there are going to be rollcall votes or there will not be rollcall votes, so that they can be adequately informed.

Mr. DOLE. If that is possible. Again, as the minority leader knows sometimes when you think there may be votes someone decides you are not going to have any votes. Maybe we can make certain, find out what amendments are floating around and set a couple of those for tomorrow. We will try to do that.

Mr. BYRD. I thank the majority leader.

Mr. DOLE. Mr. President, as I understand, based on an announcement yesterday, there is a new South Africa bill floating around. It is sort of a grab bag approach. It takes everything that has been floating around and puts it in a bill and calls it legislation.

It is like a cannon going off. You do not know who it is going to hit. But if everybody's ideas are in it, you surely will hit someone.

That is what I understand the Cranston-Kennedy-Weicker bill to be. There is no explanation yet of why it makes any particular sense. But maybe parts of it will end up in legislation.

But I would hope the final product would be better tailored. We should know what each part of the package intended to accomplish and the whole package will send a coherent message.

I also indicated even while those Senators were talking about putting it on the debt limit, negotiations have been going on at the staff level. As I indicated previously, the minority leader and I discussed trying to work out some agreement about three

major items: South Africa, Contra aid, and a SALT resolution.

At least I received sort of a framework, not an agreement—it had not been brought to us yet—but at least some ideas that Mr. D'AMATO, Mr. Lehn, and Mr. Bannerman from the Foreign Relations Committee had gotten together and talked about yesterday.

We are trying to work that out. They are all serious questions. They deserve to be considered.

I have been advised that we have Angola amendments now coming up on the debt ceiling from this side. So far they have been bipartisan, nonpartisan. Everybody's getting into this turkey shoot on the debt ceiling.

But I do not think anybody will argue that any of these measures belong on the debt ceiling.

I am not certain what the reaction of the House of Representatives would be if we send them a debt ceiling which has Angola, South Africa, freedom fighters, SALT. Maybe we could figure out a package just to put everything we have remaining on the calendar on the debt ceiling and have an early adjournment.

□ 1010

That might be something that would be an incentive for a lot of us. But I hope my colleagues on each side will understand that the debt ceiling is used by both sides—I do not point fingers at anyone—but I hope, based on my conversation with the Treasury Secretary, that we would complete action on the debt ceiling because we will not have enough money—and I am always a little bit suspicious when I am told that by Treasury—but they say September 2 is the drop dead date.

There is the disinvestment of the Social Security trust fund. That is also an amendment pending on the debt ceiling which affects funds to pay Social Security benefits.

So I would urge my colleagues, if we insist on putting nongermane amendments on the debt ceiling, that at least we vote on them. I think I am joined by the minority leader in that I think we would like to complete action on these matters, would like to do it by August 15.

I still would urge the administration, with reference to South Africa, to come forth with some new credible initiative. I think there is a certain amount of frustration on the part of Senators, including the Senator from California and others, because they did not see what they had hoped to see or hear from the President. I still believe it would be in the interest of orderly procedure and objective legislation if the President did send his representative, or representatives, if more than one, as a special envoy to South Africa for a period of 10 days or so to meet with the various elements there and come back and report to Congress, much as was done when we had the problem in the Philippines. I felt that was very constructive.

In that area, I might suggest that the Presiding Officer, Senator LAXALT, play a leading role, as did Senator LUGAR, and other Republicans and Democrats.

I have again urged the White House to at least pursue the special envoy approach with credible members of that delegation or, if it is one person, someone who would have credibility on each side of the aisle so that we could really craft the right legislation at the right time.

Mr. CRANSTON. Will the Senator yield briefly?

Mr. DOLE. Yes.

Mr. CRANSTON. In regard to the apartheid matter that the leader referred to, an issue I am deeply involved in, first, the Foreign Relations Committee has a pending measure. We are seeking early hearings. The chairman indicated probably a week from Tuesday would be the earliest time there would be hearings. A number of Senators feel that would just not allow enough time to deal with the issue on the floor once we got the measure out. If we face a prospective veto, it might be that we would not have time to deal with that veto under the Senate's schedule.

I understand discussions are under way with the chairman of the Foreign Relations Committee and it may be possible to start hearings next Tuesday. In that case, I think the pressures to act on the debt ceiling might be relieved. So if the majority leader would help in bringing that about, it might get rid of it on the debt ceiling.

On the matter of the so-called Cranston-Kennedy-Weicker bill, let me say that is not really a blunderbuss. It is a bill that has passed the House.

Mr. DOLE. That was a blunderbuss.

Mr. CRANSTON. It passed the House of Representatives. There was no major battle over it. It is now before us. It is a very strong bill. What it does is ban all trade with South Africa and it calls for disinvestment. That is the strongest measure, and I think the strongest measure is the best measure, given all the circumstances that we see developing in South Africa.

Mr. DOLE. I do not totally agree with that, because the House bill was so bad they did not even have a vote on it. They had a voice vote, then everybody could say, "Well, I wasn't for it, but it passed on a voice vote."

I hope we would have a package that we would be proud of and we would vote for it. As the Senator knows, 6 or 8 months ago we helped to work out the last approach on this floor, a bipartisan approach, and the President followed that up with an Executive order. That Executive order expires on September 9. Whether or not it will be extended, I do not know. I know in your legislation the Executive order would be codified, and there are some other additions to it.

I know Senator LUGAR intends to contact you, Senator KENNEDY, and Senator WEICKER, to see if we can work out an agreement so this would not be on the debt ceiling.

Mr. CRANSTON. I hope we could do so. That would be great.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is now recognized.

UNITED STATES POLICY TOWARD LATIN AMERICA

Mr. BYRD. Mr. President, 2 days ago I and a number of my colleagues met with Ambassador Phillip Habib, our Special Envoy to Central America, to discuss the prospects for a negotiated settlement among the five Central American countries of Guatemala, Honduras, El Salvador, Costa Rica, and Nicaragua. Specifically, I am concerned about the future of the so-called Contadora process, which has just produced a fourth draft treaty for the consideration of those Central American countries. That draft is apparently unacceptable in various respects to most, if not all, of those five nations.

Mr. Habib indicated to me that he believed the negotiating process, pursuant to the Contadora framework, was not dead, but that the Central American countries themselves would be taking a more active role in revising and building upon the provisions of the drafts which have already been produced by the Contadora countries. As many of my colleagues are aware, Mexico has been the key factor in producing drafts for the consideration of the Central Americans.

I also questioned Mr. Habib about why he, as Special Envoy to Central America, felt he could do his job adequately, and studiously avoid, at the same time, even talking to the Nicaraguan Government. After all, that Government, despite its repressive character, is part of the Contadora negotiating process. It seems elementary to me that we ought to have a thorough understanding of what the Sandinistas say they will agree to in a negotiation and are willing to commit themselves to.

Third, Mr. President, I wanted to get an understanding of what effect Mr. Habib felt the passage of a $100 million aid program by the House of Representatives had had on the negotiating process.

Quite frankly, I am uncertain about the policy of the United States at this time. Mr. Habib indicated that we have a two-track strategy in operation—first, a negotiating track, which consists of the Contadora process, but not a United States-Nicaraguan dialog; second, a Contra aid policy of, supposedly, $100 million in support for the Nicaraguan rebels currently staging out of southern Honduras into Nicaragua. According to Mr. Habib, and also according to new reports of the position of the administration, the purpose of the military aid policy is to pressure the Sandinistas into serious negotiations. According to Mr. Elliott Abrams, the State Department official in charge of the Contra Program, which appeared in the Washington Post of July 21, 1986—

When it's recognized that the Contra pressure is going to be there . . . , we think that perhaps we might start to see a chance for negotiations that are meaningful.

The basic questions, are these: Is the United States wholeheartedly supporting the successful conclusion of the negotiating tract in Central America? Is the United States serious about exploring and exhausting diplomacy, and is military action truly a last resort? On what track is the American policy train really riding?

Is the United States supporting diplomatic efforts in that region, or are we merely sitting on the sidelines as passive observers, or are we, as some in the region are charging, actively attempting to throw obstacles in the way of diplomacy? Is the United States attempting to scuttle diplomacy, in order to free up the military track, to pull out all the stops, on the theory that there will be a Nicaraguan uprising from within as the Contras push from without? If that is the case, to what degree is the administration prepared to commit this Nation? What contingency plans will have to be exercised regarding support?

There are disturbing signs of a serious imbalance in American policy at this time in Central America. Just recently the American Ambassador to Honduras was publicly, and peremptorily fired from his post. His successor has not been nominated as yet.

□ 1020

Indications from knowledgeable individuals in Honduras are that the action upset the Honduran Government. The fear in Honduras, which is uneasy about the presence of a growing Contra army inside its southern border, and of a growing United States military advisory presence associated with that army, is that a new American Ambassador will not be sent to Honduras to be Ambassador to Honduras in the traditional diplomatic sense—but, instead, that we will be sending an American commandante, a field marshal whose job it is to direct a war from Honduran territory against Nicaragua. So far, Honduras' official position is that the Contra army simply does not exist in Honduras. That fiction will soon have to disappear if the American military aid program goes into effect, as the administration hopes, in September of this year.

The concerns of leading Honduran civilian and military officials about the role Honduras may be pushed into playing in the near future have been highlighted by public statements made 2 days ago by Mr. John Ferch, our Ambassador who has just been fired from his post in Honduras. As reported by the Baltimore Sun of July 22, 1986, Mr. Ferch indicated that the Reagan administration is seeking a military solution in Nicaragua. Despite public assertions that it wants a negotiated settlement. Mr. Ferch said that "I always thought we meant what we said: We wanted pressures so we could negotiate. I'm beginning to think I accepted something that wasn't true." He went on to say that he believed that the time was ripe for diplomacy, but that the circumstances surrounding his dismissal were such that America's "goal is something different. It's a military goal."

Mr. President, these are disturbing statements from a 27-year Foreign Service veteran who was on the front lines of United States policy in Central America until just a few days ago.

What is the depth of America's commitment to diplomacy in Central America? Indeed, I am also somewhat uncertain of the extent of military involvement being planned by the administration at this time. We have been told that the President wants $100 million, most of it in lethal military aid. But, the July 7, 1986, issue of Newsweek carried a story indicating a level of potential American involvement that the American people are not aware of, I have certainly not been apprised of, nor my colleagues, the story was as follows: "Newsweek learned the agency [CIA] is preparing to provide the rebel force with covert logistical support, training, communications and intelligence worth the equivalent of $400 million."

This information was verified by a responsible American Embassy official in Honduras on July 7, 1986. This official indicated that it was correct that the CIA intended to provide unappropriated aid that could reach that amount. This is in addition to the requested $100 million in appropriated aid. Asked how the CIA would actually provide this additional assistance, he said primarily by purchasing materials that would be turned over to the Contras but to which the CIA would retain legal title. This would appear to be a kind of capital investment program.

There are many, many unanswered questions that this information raises. The Senate owes it to the American people to completely investigate, thoroughly debate, and completely inform itself and the American people about this program. I fully expect such an effort in the days ahead before the Senate finally speaks its mind on Central America this year.

The American people desperately need to know the real strategy and the real goals of this administration in Central America.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the article from the Baltimore Sun to which I alluded, and also the article from U.S. Newsweek to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, July 22, 1986]

U.S. SHUNS TALKS, SAYS FIRED ENVOY

(By Roy Gutman)

WASHINGTON.—John Ferch, fired last month as U.S. ambassador to Honduras, says the Reagan administration is seeking a military solution in Nicaragua, despite public assertions that it wants a negotiated settlement.

The 27-year Foreign Service veteran, who was abruptly dismissed after less than a year in Honduras, said that the time was ripe for diplomacy, but that he gathered from the manner of his dismissal that "our goal is something different. It's a military goal."

Ferch said that his view, "until the time they canned me, was that you've got them [Nicaragua's Sandinista regime to the point where they've panicked so much they would negotiate some meaningful concessions."

Days before Ferch's dismissal, the House approved President Reagan's package of $100 million in support for the contra rebels who are fighting the Sandinistas from bases in Honduras.

Ferch said that if the administration failed to seize the psychological moment to push for negotiations, the $100 million "is going to go so fast, it's really just the first step. The logic of it all means that the next stage is an expanded military operation."

"I always thought we meant what we said: We wanted pressures so we could negotiate. I'm beginning to think I accepted something that wasn't true," Ferch said in a recent interview from Canada, where he is vacationing with his family.

Administration officials said that Ferch had demonstrated excellent political skills in Honduras, but that "significant" morale problems had arisen in the embassy due to his management.

He also was faulted for strained relations with the Honduran military and with the CIA station in Tegucigalpa, the Honduran capital. The State Department has insisted that policy differences had nothing to do with his firing.

"That's not true. It really isn't, because what they are saying is hogwash," said Ferch, who previously had served as head of the U.S. mission in Havana, Cuba, and as deputy chief of mission in Mexico City.

"They're going for something else. If it is not negotiations, it is really a push on the military side."

In the interview, Ferch also said:

Cuba and the Soviet Union are unlikely to interfere if the Sandinistas come under heavy military pressure. "I don't think they're going to fight down to the wire. The Cubans and Russians are not going to throw in troops like that. They are so concerned about a clash with us that they'll be very cautious."

Honduras has a much more comprehensive approach to Nicaragua than does the U.S. government. "They have been far better at negotiations than we have. . . . They really were ahead of us always."

The manner of his dismissal undercut the newly elected civilian leadership in Honduras. U.S. officials, he said, "have let out the word that my relations with the military down in Honduras were not good. That is not true." He said he always went first to Jose Azcona, the elected president, instead of the military.

"I did that very consciously. And the military were understanding, but not happy. They knew they were accepting a new role in life."

But U.S. officials, in saying he did not get along with the military, "set alight a sleeping fire," he said. "It doesn't help Honduran democracy. There's no question about that. It's not me personally. The combination of getting rid of me and saying, 'He didn't get along with the military' really does undercut" Azcona.

Ferch said he believed that he was fired because the administration wanted someone who would "go in and say, 'Baby, this is the way it's going to be.' " If that is the intention, Ferch said, "nothing is going to happen" because the Hondurans will not take orders.

[From Newsweek, July 7, 1986]

REKINDLING THE MAGIC

The cause was a matter of deep conviction, his own credibility was on the line—and Ronald Reagan, defying the widespread belief that he must sooner or later succumb to lame-duckery, pulled out all the stops. In a lobbying blitz targeted on 50 wavering congressmen, the president worked his septuagenarian magic to build a decisive victory on what may be the single most controversial foreign-policy issue of his administration: by 12 votes, the House of Representatives approved U.S. military aid to the contra rebels for the first time. "His optimism and his commitment are simply contagious, " a senior White House staffer marveled. "Not a bad week's work for an old lame duck," another aide chortled: "Maybe one of these days he'll fall apart, but I wouldn't start laying any bets just yet."

The real significance of the event was almost lost in the euphoria—for the House vote almost surely means more fighting in the Nicaraguan outback and a long-term wholly public U.S. commitment to oust the Marxist government in Managua. "A virtual declaration of war" was the way Sandinista leader Daniel Ortega put it. Reagan's men convinced the tide is now running their way in Central America, seemed not to care. Though they really conceded that the $100 million in U.S. aid approved by the House is not enough to defeat the well-equipped Sandinista army, they predicted that the vote will have far-reaching impact. For one thing, it will once again unleash the CIA, which has been barred from military involvement with the contras since 1984: Newsweek learned the agency is preparing to provide the rebel forces with covert logistical support, training, communications and intelligence worth the equivalent of $400 million. More broadly, administration officials argued that last week's demonstration of congressional support will trigger dissent within Nicaragua and rally other nations in the region to back the contras. "The most profound effects of the vote will be political, not military," one senior U.S. official said. "A lot of people have been sitting on the fence waiting to see which way the wind is blowing. Now that they know, they'll jump."

No one expected the Sandinistas to sue for peace. News of the House's action prompted Ortega to new heights of rhetorical defiance—he called Reagan "a new Hitler"—and set off an intensified crackdown against critics of the regime. The first target: La Prensa, the respected Managua newspaper that opposed the Somoza dictatorship before the revolution and, more recently, has criticized Sandinista repression as well. Within hours of the House vote, the government ordered La Prensa to shut down indefinitely—a decision that the paper's editors called "a black chapter" in Nicaraguan history. The government also warned the remnants of Nicaragua's moderate opposition, including the Roman Catholic church, to toe the line. "Some political groups and religious leaders have become instruments of the terrorist policy of the U.S. government," Ortega declared. "Let them go to Reagan. And if they are courageous enough, may they go to the mountains and to the contra camps. Here the people will await them in that terrain."

Ortega got new ammunition for his war of words when the World Court upheld the Sandinistas' claim that the United States is violating Nicaraguan sovereignty by supporting the contra insurgency. Ortega called it a "political and moral victory" and said it made the United States "an outlaw government." The Reagan administration, which rejected the court's jurisdiction in 1985, shrugged off the decision. State Department spokesman Charles Redman said the World Court "is simply not equipped to deal with a case of this nature, involving complex facts and intelligence information." Nicaragua, he said, "is engaged in a substantial, unprovoked and unlawful use of force against its neighbors."

MORE WEAPONS

The immediate question was how the U.S. aid would be spent. Administration sources said the contras need more weapons of all types, but particularly portable surface-to-air missiles to attack the Sandinistas' Soviet-made Mi-24 Hind helicopter gunships. Under the terms of the House bill, $30 million of the $100 million aid package will be spent on "humanitarian" assistance, including tents, clothing and medical supplies for the contra camps in Honduras. The remaining $70 million will buy assault rifles, machine guns, mortars, missiles and improved air transport to contra supply points. U.S. sources said the CIA has recruited more Spanish-speaking agents and rebuilt its intelligence network in Central America; it will also funnel money and supplies to the contras from supporters all over the world. Although they conceded the U.S. escalation is likely to lead to expanded Soviet and Cuban military aid to the Sandinistas, administration sources predicted the Soviets will not send fighter jets or other high-tech weapons into Nicaragua. "Gorbachev won't set himself up for a fall by increasing the Soviet profile," one official said.

The contras themselves are an even bigger gamble—and administration sources said the House vote had substantially raised the stakes for the rebel army. Congressional critics have repeatedly charged that the contra leadership is corrupt and that U.S. aid has been misspent or stolen; Nicaraguan exiles complain that the contras' political objectives are vaguely defined and that moderates have been excluded from the movement's leadership. "We've got to tighten up, there's no question about that," one State Department official said last week; other sources argued that it will now be easier for U.S. officials to monitor the contras' finances.

Most of all, administration officials said, the contra army must now achieve at least some measure of success in the field—a few "spectacular" guerrilla raids to attract world attention and shake the Sandinista government's resolve. "As they develop more effective logistics, the freedom fighters will be able to operate deeper inside Nicaragua and closer to the population centers," said one source. "That in turn will have a political impact." Another U.S. official took a more skeptical view. "Now the administration has to figure out some way to get these guys off their butts and doing something," he said. "You might say [the House] has given Reagan and the contras $100 million to hang themselves with." The bottom line on Reagan's legislative victory, in short, is the clear commitment of U.S. power and prestige to the contra cause—and no one, including the president himself, can be sure where that commitment will lead.

Mr. BYRD. Mr. President, I yield the floor.

RECOGNITION OF SENATOR KASTEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. KASTEN] is recognized for not to exceed 5 minutes.

HASSAN/PERES TALKS

Mr. KASTEN. Mr. President, King Hassan II of Morocco and Prime Minister Shimon Peres of Israel, are to be commended for the talks they held over the last few days in Morocco.

Not since Anwar Sadat's historic visit to Jerusalem in 1977 have the heads of state of Israel and an Arab country met openly to discuss Middle East peace initiatives.

Mr. President, I wish to especially commend King Hassan for his courageous willingness to meet with Prime Minister Peres, for he has been roundly condemned by many in the Arab world for his action.

While there has been a great deal of attention in this country on Morocco's relationship with Libya in fact, Morocco has consistently been open and friendly to United States and Western interests going back to the beginning for our Nation when Morocco became the first country to recognize the United States.

As is well known, King Hassan facilitated the preliminary meetings which led to the Camp David meetings and

on many occasions, whether it be VOA transmitting facilities base transit rights or a willingness to be utilized as a contingent landing site for our space shuttle program, Hassan has always demonstrated his friendliness toward America.

I know that all of us hoped that something concrete would result from these meetings but I think it is important to point out that the mere fact that the meeting has occurred is itself a concrete and significant occasion.

Mr. President, obviously there are many obstacles which need to be overcome in order to secure lasting peace in the Middle East. But in order to begin that process people must be at least willing to talk. Prime Minister Peres and King Hassan, therefore, deserve as much support as we can provide, both through the many offices of our Government, as well as continuing expressions of encouragement from all quarters who are interested in securing lasting peace in the region.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

WHY ARMS CONTROL WITHOUT STAR WARS IS THE BEST MILITARY ANSWER

Mr. PROXMIRE. Mr. President, can a missile defense advance arms control? Can it stabilize the nuclear deterrents of the superpowers? Above all can it slow down the arms race? Many of us have attacked star wars because—as proposed—it would almost certainly aggravate the arms race. After all, will the Soviets not do everything they possibly can to build the offensive arms to overcome an American star wars defense? Of course, they would. Can any realist possibly doubt it?

Think what would be at stake for the Soviets. A successful United States missile defense would absolutely and certainly destroy the credibility of the Soviet deterrent. Without their nuclear deterrent, could the U.S.S.R. continue as a superpower? No way. It would mean that the United States behind its impregnable star wars shield, with its own offensive nuclear capability unchallenged and unchallengeable would bestride the world like a nuclear colossus, able to destroy without retaliation.

For some Americans such a world would be a Soviet nightmare and an American happy dream. So what is wrong with that? What is wrong is that the Soviets would do everything in their power to keep it from happening. So what? So why would the greatly superior American economy and the clearly superior American technology not make it happen?

Independent scientists and military experts have been emphatic in expressing their conviction that it could not happen. Oh, yes, conceivably such a defense researched over the next 5 or 10 years, developed by the year 2000 and deployed by the year 2010 could conceivably stop the present Soviet offensive nuclear arsenal. I repeat, the present, that is the 1986 Soviet nuclear arsenal. Not assuredly, but conceivably. But could it stop a Soviet offense arsenal designed precisely to penetrate and destroy it 25 years from now in 2011? When it would be finally deployed, almost certainly it could not. And if somehow we achieved that defense perfection in 2011, could it provide any assurance that in years to come the star wars system could continue to defend this country against offensive nuclear innovations that the Soviets would certainly pursue and desperately pursue to restore the credibility of their deterrent? Of course, not. So what is wrong with this dream of decisive American nuclear superiority?

Mr. President, everything is wrong with that dream. First, the surest way we Americans can survive this nuclear confrontation with the Soviet Union is to negotiate a mutual comprehensive arms control treaty that will stabilize the arms race. I mean end it. I mean finish it. I mean stop it. I mean that henceforth any nuclear weapons research, development, or deployment of nuclear weapons must be in accordance with an agreement with the Soviet Union; that the change in nuclear weapons on both sides will contribute to greater assurance that neither side will initiate a nuclear attack. Neither side should strive for a nuclear advantage that would, if achieved, destroy the credibility of the other side's deterrent. And is not this precisely what star wars is designed to do? Of course, it is.

But there is a second more compelling reason why this American antimissile defense or star wars is so tragically mistaken. This is because the one and only sure way this Government can guarantee that the United States will lose its immense military advantage over the Soviet Union is to pour its resources—a trillion dollars or more of its resources—into this fiasco of a nuclear shield over our country. Why is this such a sure loser? Because the Soviet Union with a far lesser technological and economic effort can overwhelm it, spoof it, evade it, deceive it, underfly it. According to this country's National Academy of Science, if a bare 1 percent of the present Soviet nuclear arsenal should strike American cities, this country would be finished. While we Americans pour a trillion dollars or more in this defensive Edsel of star wars, the Soviets can build a devastating counteroffensive at a small fraction of the cost.

Just think of it. Here is the United States of America with every military advantage. Our economy is twice as productive as the Soviet economy. Our military technology is superior in virtually every respect. Our allies in the North Atlantic Treaty Organization have an even greater degree of superiority over the Warsaw Pact allies of the Soviet Union. The Soviets are confronted on their western border by first-class military powers including two nations, the United Kingdom and France that are each building arsenals of 2,000 nuclear warheads. By the mid-1990's either France or the United Kingdom will have the capacity to utterly destroy the U.S.S.R. and how about the Soviet's eastern front? On their eastern border they face a hostile China that is also a growing nuclear power. The United States is shielded by the Atlantic Ocean on the east, the gigantic Pacific on the west. Both are patrolled by the strongest navy on Earth—the American Navy. We have a friendly Mexico as an ally on the south and a friendly Canada as an ally on the north.

On every reasonable basis of comparison, the United States enjoys a massive military advantage over the Soviets. Both superpowers now know that the United States-Soviet nuclear war would be an absolutely sure and certain act of mutual suicide. How do we build on this situation? Should we rush into a trillion dollar effort to destroy the Soviet Union's nuclear deterrent with a star wars defense? Or should we negotiate from our position of enormous economic, technological, geographic, and alliance strength to establish a stable arms control agreement based on vigorous verification? This Senator cannot think of an easier question to answer.

□ 1030

MYTH OF THE DAY—NONBANK BANKS ARE GOOD FOR THE ECONOMY

Mr. PROXMIRE. Mr. President, the myth of the day is that nonbank banks are good for consumers and the economy. In fact, Mr. President, nonbank banks are the greatest threat to safe banking since Willie Sutton.

A nonbank bank is essentially a loophole discovered by clever attorneys. It allows any company to own and operate a bank in spite of a 200-year-old policy of keeping banking separate from commerce and industry.

How is this possible? It is possible because of a loophole in the Bank Holding Company Act. Under that act, a bank is defined as an institution that accepts demand deposits and makes commercial loans. If a bank does not do both, it is not a bank in the eyes of the Bank Holding Company Act. Hence the name, nonbank bank.

The practical significance of this loophole is that it allows any company to own a nonbank bank without being regulated as a bank holding company. In order to preserve the separation between banking and commerce, the Bank Holding Company Act requires that any company that owns a conventional bank can only engage in businesses that are closely related to banking. However, a large, diversified company can acquire a bank without being regulated as a bank holding company by simply stopping the bank from making commercial loans or accepting demand deposits.

There are those who think this loophole is just fine. In fact, they want to dress it up and make it legitimate by calling it a consumer bank or family bank. Who can be against consumers or families?

Others want to continue the nonbank bank as nonthrift thrifts. They would let any company into the banking business as long as the bank was run as a savings and loan association.

Mr. President, all of these proposals spell serious trouble for our financial system. I would like to discuss just two of these problems today.

First, nonbank banks by whatever name impose an intolerable burden on our system of bank regulation. Because the activities of the parent are unregulated, we will have more bank failures at great cost to our deposit insurance funds.

Second, nonbank banks expand and intensify competitive inequities in our financial system. The nonbank bank allows large conglomerate companies to offer a variety of packaged financial services under one roof while real banks are confined to a much narrower market sphere. If we wanted to deliberately weaken the strength of our banking system, I could not think of a better method.

I would now like to elaborate on these two points.

BANK SAFETY UNDERMINED

Because of the nonbank bank loophole, any company is now able to set up banking subsidiaries called nonbank banks. These subsidiaries are like regular banks in that they enjoy access to the Federal Reserve payment system and discount window. They also have their deposits federally insured. However, unlike their bank holding company counterparts, the owners of nonbank banks are not regulated by the Federal Reserve and are free to engage in any activity they choose, however risky.

Advocates on nonbank banks claim that these unregulated holding companies are not a threat to the Federal Reserve System. They say that the legal corporate walls that separate affiliates within a holding company can effectively insulate the bank from the misfortunes of the parent or its other subsidiaries.

Unfortunately, Mr. President, this theory does not hold water. Studies indicate that the financial health of any unit within a holding company structure directly affects the financial health of the other units. Consumers, encouraged by the joint marketing and sales techniques that make diversified business dealings so attractive in the first place, are unlikely to appreciate the legal separateness of the affiliated units. A scandal in Sears' securities division, for example, could easily rock consumer confidence in the banking unit and set off a run on deposits.

Investors, faced with poor earning reports of holding company affiliates, many react as if it is the bank that is ailing. Indeed, investors would be wise to look beyond the financial condition of the bank to the entire holding company, since management within holding companies tends to overlap. If one unit in the company is mismanaged, it may be reasonable to expect poor decisionmaking in the bank affiliate as well. Even if the bank is properly run, investors may not want to do business with an organization whose reputation has been tarnished.

Finally, holding company managers may use bank assets to aid the troubled affiliate and thereby cause the failure of the bank. Although current laws are designed to protect banks from such abuse, managers may feel inclined, and history is full of examples, where managers have violated these statutes in time of financial crisis. And the oft-cited reasons for violating these laws is the fear that the failure of one subsidiary could jeopardize the entire conglomerate.

Mr. President, now that we have debunked the myth that legal corporate walls protect banking subsidiaries, it becomes obvious that we have a potentially disastrous situation on our hands. The Federal Reserve Board is charged with providing for a safe and sound banking system. A likely catalyst of instability, the commercial owners of nonbank banks, are outside the reach of the Board's regulatory control. Thus, the nonbank banks loophole has rendered the Federal Reserve incapable of fulfilling its important mandate.

COMPETITIVE INEQUITIES

Another problem caused by commercial ownership of banks is that traditional bank holding companies are unable to compete with their unregulated, commercial counterparts. Companies like Sears want to own nonbank banks because checking accounts are the perfect bait with which to lure consumers into buying a wide variety of products and services as one neat package. Since traditional bank holding companies are restricted by Federal Reserve regulations, they cannot offer the same diversity of services. The obvious consequence is that banks will lose their customer base to the Sears-type supermarkets. Mr. President, by not closing the nonbank bank loophole, Congress has created an uneven playing field on which banks, and therefore, the public at large, are the inevitable losers.

To conclude, Mr. President, Congress must not abdicate its responsibility to shape the financial services marketplace. All holding companies that own banking subsidiaries of any type must be regulated by the Federal Reserve and subject to restrictions now imposed upon traditional bank holding companies. We must not allow an unintended loophole in the law to create a haphazard and eventually unsafe banking system.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR HARKIN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa [Mr. HARKIN] is recognized for not to exceed 5 minutes.

THE LETELIER-MOFFITT KILLINGS

Mr. HARKIN. Mr. President, by now, we are all familiar with the tragedy of Rodrigo Rojas, the 19-year-old resident of the United States who was brutally slain in Santiago, Chile. Unquestionably, this incident has brought to the attention of the American public the horror which Chileans have been forced to suffer under the repressive rule of Gen. Augusto Pinochet.

Rodrigo's untimely death reminds us of the assassination which occurred

nearly 10 years ago, not on the backroads of Santiago, but on the streets of Washington, DC.

I am referring to the car bomb which took the lives of former Chilean Ambassador to the United States, Orlando Letelier, and his American colleague, Ronnie Karpen Moffitt, on September 21, 1976.

Those responsible for this act of international terrorism—I might add, an act of state terrorism coordinated and directed by the Government of Chile—have yet to be brought to justice.

Well, it is about time that we remembered.

On September 21, 1976, Orlando Letelier's bomb-rigged car exploded on Massachusetts Avenue near Sheridan Circle. Letelier, a Chilean exile and U.S. resident, died on his way to the hospital, and Ronnie Moffitt, a young woman of only 25 years of age and a U.S. resident, died several hours later.

In the following months, our Government accumulated overwhelming evidence directly linking three members of the Chilean secret police—Gen. Manuel Contreras, Col. Pedro Espinoza, and Capt. Armando Fernandez—to the Letelier-Moffitt murders.

In September 1978, a U.S. Federal grand jury filed requests with the Government of Chile for the extradition of these assassins for their involvement in what has been called "one of the most monstrous international crimes in recent history."

Yet, on October 1, 1979, the Chilean Supreme Court issued its final refusal to extradite General Contreras and his DINA, Chilean secret police, coconspirators, terminated their criminal prosecution, and ordered them freed.

Just months after the 1976 assassination, President Carter sent an unmistakable message of U.S. disapproval to the Chilean Government for its participation in this act. The administration reduced the number of diplomatic military personnel and cut off guaranteed loans and credits. "Pipeline" military aid was halted, and the Chilean Navy was excluded from hemispheric naval exercises.

One month after assuming office, President Reagan, who has spoken so forcefully against terrorism and who has made the war against international terrorism a top priority for his administration, lifted those sanctions. Today, the United States still votes for loans to Chile and it continues to provide guaranteed loans and credits to the Chilean Government.

Yet, the Pinochet regime still refuses to extradite those three officials responsible for killing a U.S. citizen and Orlando Letelier with a car bomb on September 21, 1976.

The Letelier-Moffitt murders is an unequivocal case of international terrorism. Chilean secret police carefully orchestrated a hideous crime with the cooperation and complicity of shadowy elements of the international criminal underworld. The boldness and savagery of the terrorists who planned and ordered the bombing is only matched by the savagery and boldness of the Pinochet government which harbors and protects them. Yet the Reagan administration has chosen to overlook this act of terrorism, for which a U.S. court of law has held the Pinochet government legally responsible.

The Reagan administration has acquiesed to the Chilean Government's sponsorship, support, and protection for these international terrorists. The Government of Chile has steadfastly refused to punish or extradite those responsible. By abandoning efforts to secure justice in this case, our government has, in effect, rewarded the Chilean military junta.

Ten years later, Chilean officers on the outskirts of Santiago beat and burned to death another resident of the United States, Rodrigo Rojas, a young man of 19 years of age. The recent decision of a Chilean judge to try just a single officer, and to bring him before a military court, falls far short of any concept of justice, and is an affront to Rodrigo's mother Veronica, and to the U.S. Government.

We must not permit the memory of Rodrigo Rojas to fade into the past, as it seems we have let the memory of Letelier and Moffitt and their horrendous murders here on the streets of Washington fade into the past. Nor can we allow the killers of Ronnie Moffitt, Orlando Letelier, and Rodrigo Rojas to walk freely on the streets of Santiago. Harsh words are not enough. The Letelier-Moffitt case has proven that. Strong sanctions are now required against the repressive and terrorist Pinochet regime.

We must not remain silent again. We must take forceful and unequivocal action against the Pinochet government.

Mr. President, I make the point of order that a quorum is not present.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1040

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR BAUCUS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana is recognized.

Mr. BAUCUS. I thank the chair.

S. 2682—A BILL TO IMPROVE THE QUALITY OF EXPORTED GRAIN

Mr. BAUCUS. Mr. President, we have heard a lot this year about the crisis in American agriculture. The horror stories are all true.

The last one was told just a few weeks ago, when the Census Bureau announced that we recorded a $2.2 billion deficit in agricultural trade in May—the first such deficit since 1959.

Even if our agricultural exports pick up in the last half of the year, total exports will reach only about $26 billion, down sharply from their peak of $43 billion in 1981.

There are many reasons, why our agricultural crisis is so great, our agricultural surplus is declining, and our agricultural communities are facing acute problems. One is the great increase in foreign competition. Other countries are producing many more agricultural products than they were a few years ago. The high valve of the U.S. dollar has been a large part of the problem. There are a lot of reasons.

Mr. President, some of those reasons are not entirely within our control, but there is one factor which affects our adverse agricultural trade with other countries. That is the poor quality of American grain that we ship overseas. This is something we can control.

That being the case, today, along with Senators DURENBERGER and DIXON, I am introducing a bill to improve the quality of the grain we ship abroad.

Why is this so important? Consider this: Three months ago, a North Dakota grain grower told this alarming story to the Agriculture Subcommittee on Rural Development, Oversight and Investigations, chaired by Senator ANDREWS.

He said that during a sales mission to Japan two summers ago, he was shown samples of U.S. barley which were so dirty and infested with weed seed and oats that he wouldn't want to admit it was raised on his farm.

He said:

> It is a very humbling experience to have a customer tell you to your face that they don't want our grain; it is especially humbling when you are there to encourage him to buy more.

Another farmer at that same hearing put it point blank:

> We have lost our competitive edge to countries such as Canada, Australia, and Argentina who are intensely concerned with marketing a quality product.

These statements are especially disturbing at a time when U.S. agricultural exports continue to decline. Complaints from foreign buyers are on the rise. They come over here, see the grain, and they like it. It is good quality but when it is offloaded from ships in their own countries, it is very poor quality.

Mr. President, competition from other grain suppliers is intensifying. And the fact is that we are perfectly capable of producing high quality grain.

Our bill will improve our competitiveness in grain exports in three ways.

First, it will give foreign buyers a more accurate description of the quality of the grain they're buying.

It requires that the official shipment certificates provide more precise information on the dockage and protein content of wheat and on the foreign material content of corn shipments.

Second, the bill also proposes several changes in Federal Grain Inspection Service regulations to improve the overall quality of exported grain.

For example, it instructs FGIS to come up with a cargo loading scheme that will ensure that sublots of grain meet the quality standards of the entire lot.

It also includes incentives to reduce the amount of dockage and foreign material that we tolerate in our grain shipments.

Third, the bill calls on the U.S. Trade Representative and the Department of Agriculture to begin negotiations toward an international agreement which would establish common standards for measuring the quality of exported grain.

These are measures within our control. By themselves, they will not alone restore the competitiveness of American agriculture. But failure to take them will guarantee that we shall lose the battle in competition with foreign agricultural products.

Mr. President, the U.S. industry has begun to address this problem.

Over the past year, the North American Exporters Grain Association has set up workshops to grapple with the problem of grain quality.

Several of their recommendations are included in this bill.

The association is to be commended for taking the initiative in starting to find some solutions.

They have made some progress.

I am eager to work with the groups to find the solution that will best accommodate the interests of our farmers and our shippers and our grain elevator operators.

But our cushion of time disappeared right along with our trade surplus.

Let's start to get our house back in order by cleaning up our grain.

Mr. President, it is my hope that we will act very quickly on this bill, because I do think it will help restore our competitive position in American agriculture.

Mr. President, I yield the floor.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECIPROCAL TRADE AGREEMENT.

Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by adding at the end thereof the following new subsection:

"(h) As soon as practicable, the United States Trade Representative and the Secretary of Agriculture shall take action to initiate the negotiation of a reciprocal agreement on international trade, under the General Agreement on Tariffs and Trade (GATT) or through other appropriate means, in order to establish uniform standards for the measurement of the quality of exported grain.".

SEC. 2. STANDARDS AND PROCEDURES FOR SUBLOTS.

Section 4 of the United States Grain Standards Act is amended by adding at the end thereof the following new subsection:

"(d) In establishing standards and procedures under subsection (a), the Administrator shall require a sublot of grain to meet the standards and procedures established for a lot of grain.".

SEC. 3. MEASUREMENT AND DEDUCTION OF DOCKAGE AND FOREIGN MATERIAL.

Section 4 of the United States Grain Standards Act (as amended by section 2) is further amended by adding at the end thereof the following new subsection:

"(e) In establishing standards and procedures for weighing under subsection (a)(2), the Administrator shall require the separate measurement of the quantity of dockage and foreign material in grain shipped in interstate or foreign commerce and the deduction of the sum of the two quantities from the gross weight of the grain.".

SEC. 4. PROHIBITION ON EXPORT OF GRAIN RECOMBINED OR COMBINED WITH DOCKAGE OR FOREIGN MATERIAL.

Section 5(a) of the United States Grain Standards Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(4) no person shall ship from the United States to any place outside thereof any grain that has been recombined or combined with any dockage or foreign material.".

SEC. 5. CONTENTS OF OFFICIAL CERTIFICATES ISSUED FOR GRAIN.

(a) IN GENERAL.—Section 5 of the United States Grain Standards Act is amended by adding at the end thereof the following new subsection:

"(c) An official certificate issued for a lot of grain under subsection (a) shall include a statement of—

"(1) in the case of a lot of grain, the separate quantities of broken corn and foreign material in the lot; and

"(2) in the case of a lot of wheat—

"(A) the quantity of dockage in the lot, rounded to the nearest 0.1 percent; and

"(B) the protein content of the wheat, based on a constant moisture content of 12 percent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 90 days after the date of enactment of this Act.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business.

ANIMAL RESEARCH

Mr. HATCH. Mr. President, as chairman of the Labor and Human Resources Committee, I have had the opportunity to learn a great deal about the accomplishments of biomedical research. Each of us owe a great deal to the basic scientists and physician-researchers who devote their lives to discovering new information which can be translated into more productive, longer and healthier lives for people everywhere.

This pursuit of knowledge has recently been hampered by those concerned about inappropriate use of animals in biomedical research experiments. I wholeheartedly support efforts, even requirements, to ensure that research animals are treated with respect, care, and compassion, that is humanely possible. However, I do not and cannot support efforts to obstruct all animal research based on the false premise that it is not necessary to use laboratory animals for research purposes.

To help bring balance into the ongoing debate of appropriate use of animals in research, I would like to insert into the RECORD, an excellent article written by my friend Charlton Heston, which was published in the Washington Post on July 9, 1986. Mr. Heston's words bring into sharper focus the key elements of the debate, and emphasize why we cannot abandon our committment to biomedical research, including certain experiments which require sacrificing laboratory animals.

I urge my colleagues, and the public to look beyond the emotional demonstrations and rhetoric which obscure the facts related to animal research. I am convinced that the use of animals in biomedical research is absolutely essential and must continue for the time being. The proper care and use of these animals is no less essential both for the well-being of the animal and for the best outcome of the research.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROMISE OF ANIMAL RESEARCH IS TOO GREAT TO ABANDON

(By Charlton Heston)

My family and I are among the millions of Americans who enjoy the blessing of usual good health. We appreciate the benefits of modern scientific medical and surgical care when we need it.

We are grateful for the continuing presence of the lives of loved ones and friends who, without such care, would have been lost to us. Among these we include the many dogs and cats who have always shared our home, and for whom immunology, anti-

biotics and expert surgery have proved to be just as important as they are for the two-legged members of our family.

And we know that all these blessings and benefits have been made possible only through the use of animals in scientific research for the past 100 years. For these reasons, we give thanks to all the animals, from mice to monkeys, without which these blessings would have been impossible.

We'll add our voices to the many who insist that these animals must be properly housed and responsibly handled at the great universities and research centers where most biomedical and behavioral research is carried out.

At the same time we'll thank the dedicated men and women whose work, necessarily including animal studies, continues to bring forth new knowledge for the benefit of mankind.

Unfortunately, there are those who would curtail those studies. Some even say that no animal research should be done. From my contacts with knowledgeable members of the medical research community, it has become clear to me that this is unrealistic if we are to continue to make advances against the diseases still to be conquered.

Growing up in the Michigan woods, I learned as a boy to love and respect our fellow creatures of other species, both domesticated and wild. That's why I am trying to learn as much as I can about the use of laboratory animals by scientists. What I have found is very reassuring.

Everyone knows that infections that were devastating plagues in the past have been brought under control by laboratory research. Who would of thought that a disease like smallpox, which killed millions and scarred many millions more, would, in our lifetime, be completely eradicated from this planet? It is gone! Smallpox vaccine, made possible only by the use of experimental animals, has rid the world of this historical scourge; now smallpox vaccination is no longer needed.

Many other diseases that killed and maimed children of my generation—diphtheria, typhoid, measles, scarlet fever, whooping cough and polio—are now under control. My own children were protected from them. Other dread diseases like tuberculosis, leprosy, yellow fever and bubonic plague, once incurable, have through the marvels of research become greatly reduced as health problems.

None of this could have happened without animal research. And when new, baffling infections like Legionnaires' disease appear, medical science springs into action to protect us with astonishing speed. The best hope for defense against AIDS lies in this well-established scientific tradition, which has depended on the use of experiental animals since the time of Louis Pasteur. From his day to ours, life expectancy has virtually doubled in lands where the benefits of biomedical research are reaching the people.

Dramatic as this historical record may be, the present is even more startling. Information explosions in virology, molecular biology and genetics have brought laboratory scientists to the point where the worst of today's killing and crippling diseases are now under active attack. Cancer, stroke and various ailments of the heart, lungs and digestive organs are already beginning to yield.

There's also a sharp focus of research on degenerative disorders of the nervous system such as Alzheimer's disease and multiple sclerosis. Even mysterious mental illnesses like schizophrenia and manic-depressive disease are freshly illuminated by new laboratory techniques. Mental retardation and other developmental disabilities of many kinds, until recently considered hopeless, are now seen as potentially treatable and even preventable, if current research pays off.

All this would come to a halt without the use of animals. We can't let that happen. The simple fact of the matter is that we need the responsible and humane use of animals in biomedical research.

It turns out that most of the animals used for research are bred for that purpose. Animals obtained from pounds represent only a tiny fraction of those routinely exterminated in every major city every day. Instead of joining the thousands put to death without meaning or purpose at the pounds, these valued few become partners in the war against disease, giving their lives so that our children and grandchildren can live longer, healthier and happier lives.

Let's not forget those thousands of patients who lie seriously ill today. From newborn infants to octogenarians, they and their families desperately await the scientific breakthrough that may come in time to save them.

There has been a chorus of protests and emotional demonstrations against animal research. But I join a much larger constituency: those who quietly offer prayers of thanksgiving for the men and women and animals whose labor and sacrifice are contributing so much to the fact and quality of our lives.

A TRIBUTE TO A SMALL BAND OF PIONEERS

Mr. HATCH. Mr. President, 139 years ago today—on July 24, 1847—a small band of pioneers settled in an arid and barren desert location, parched with the Sun, swept by the winds.

Faces marred with sweat and dust, they had climbed angry mountains, plodded across hot plains, walked over unending hills, and crossed wild rivers—searching, searching—for a place in which to worship God in their own way.

Ten thousand dusty steps.

Ten thousand turns of the wagon wheel.

A weaker people would have turned back. But not this band of men and women and children.

They had an appointment with destiny. A new beginning lay just over the horizon. A better tomorrow lay just around the bend—if not, just over the next hill—if not, across the next mountain range.

In the end, fate led them to a valley that even the tarantulas and rattlesnakes didn't want. But in less than 30 years, they accomplished the almost impossible. With courage and foresight, energy and ability, they turned the desert into a great and livable paradise.

Today the community they built is considered one of the most beautiful in the world.

It is called Salt Lake City.

MORMON PIONEERS COMMEMORATED

Mr. SYMMS. Mr. President, on this, the 24th of July, we commemorate and celebrate the immigration of a small group of Mormon pioneers into Utah's Salt Lake Valley; 139 years ago, these pioneers traveled on foot, by cart and by horse from Illinois to Utah over a period of 3 months. Today we cover the same distance in less than 3 hours by airplane.

Fleeing persecution and carrying all their possessions in covered wagons or handcarts, these people sought refuge to live peacefully and worship God according to their own beliefs. They found such a haven in areas that later became Utah and Idaho.

Theirs was a philosophy of self-reliance—they had no one else on which to rely. The nearest railroad or major city was a thousand miles away. They had no Government support. Their tools were simple. They had little machinery to assist them. Patiently, they learned skills resulting in workmanship that is not excelled in our time. In many respects it is not even equaled.

With little more than bare hands, they planned and built, dug and cultivated until they had created a legacy. It is good for us to reflect upon the lives of those who worked so hard and materially had so little. It is from their early efforts that we benefit today.

In these times of abundance, we should refocus on the struggles of our ancestors to remind us of the necessity for labor if the Earth is to yield its fruits. We should also see from past experience that traditional values are worthy of present day application.

The people of the State of Idaho have continued in the manner of those early pioneers. Idahoans exemplify the qualities of industry, thrift, charity, and citizenship.

On the anniversary of this event, I salute those brave pioneer families and commend their dedication, devotion, and integrity to all.

THE DEATH OF SENATOR JOHN P. EAST

Mr. BAUCUS. Mr. President, all of us in the Senate are deeply saddened by the death of our colleague, John East. I, perhaps, had a special perspective on him and his work here in the Senate. I served for 2 years as the ranking member of John's Subcommittee on Separation of Powers when he first came to the Senate in 1981. It is from that perspective that I got to know him as a fine person.

John East was a very determined individual. That determination give him the ability to overcome great personal adversity in his own life. But it also gave him a special sensitivity to the

problems and the great potential of the handicapped.

Most importantly, John East had a very personable side. Those who worked in and around the Judiciary Committee, regardless of party or philosophy, found him to always have an amiable warm welcome. He always said hello and he always had time to chat.

John East had an extremely quick mind and a very quick wit. He was a skillful debator and relished political and philosophical analysis. While I never saw him in the classroom, he was reputed to have been one of the most popular professors on his college campus, and if one ever saw him thoroughly engrossed and engaged in a committee hearing process, one could well understand why.

John East came to Washington, DC to pursue a political agenda he felt very deeply and strongly about. He was dogged in his determination to see that agenda through. He clearly succeeded in raising the visibility of the issues and the perspective that he cared so much about. He will be remembered by those of us that worked with him for a very long time.

Mr. President, I want to take this opportunity to send my deepest regrets to John East's family and the people of North Carolina that he represented. His death is a loss to all of us.

SALT LAKE CITY

Mr. McCLURE. Mr. President, today is the 24th of July. For many people, that fact probably wouldn't elicit much of a response.

But it should. Because it marks the 139th anniversary of a milestone in the settling of this country's western frontier. July 24 is a day that symbolizes the American spirit of independence, adventure, risk, and faith—in God and man.

On this day in 1847, 144 men, together known as the Pioneer Company, ended a 17-month, 1,100-mile trek by settling what is now Salt Lake City, UT.

Led by Brigham Young, the man who would become the second president of the Church of Jesus Christ of Latter-day Saints, the company had no destination in mind when it left Nauvoo, IL, and set out on the Oregon Trail.

The Mormons, as the Latter-day Saints are popularly known, had established Nauvoo only 7 years earlier. But it had become a hotbed of anti-Mormon sentiment, resulting in the deaths of many church members, including church founder Joseph Smith, and the destruction of homes and fields.

The Mormons wanted to build their church in a place devoid of the hostility they had known in Nauvoo, and in previous settlements in Missouri and New York.

On July 24, 1847, their search ended when Brigham Young looked out over the marshy swampland of the valley and proclaimed, "This is the place."

During the next 20 years, Mormons from throughout the country—the preponderance from Illinois—flocked to the Salt Lake region. Many of these travelers came on foot, equipped only with handcarts.

Despite harsh winters, blazing hot summers and harassment from non-Mormons, they stayed. They sowed the land, built homes, schools and churches, and migrated to other parts of the region, including my home State of Idaho.

Their strength and fortitude tamed a foreboding wilderness that blossomed into a thriving metropolis. I think it is appropriate, on this day, to pay tribute to the fine people who blazed that trail.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1100

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm-Hollings Amendment No. 2223, to add a new title for balanced budget and emergency deficit control reaffirmation.

(2) Rudman Amendment No. 2224 (to Amendment No. 2223), to provide for revision of provisions of reporting responsibilities in the balanced budget and emergency deficit control process.

(3) Exon Amendment No. 2225, to express the sense of the Senate that the Congress utilize the existing "fallback" provisions of the Emergency Deficit Control Act, to require a congressional vote on specific measures to reduce the Federal budget deficit.

(4) Modified committee amendment, to provide a committee substitute on investment and restoration of Social Security funds during debt limit crisis.

(5) Rudman modified Amendment No. 2226, to modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. DOLE. Mr. President, I understand that the managers are on the way to the floor.

The pending amendment is the Gramm-Rudman-Hollings amendment. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. DOLE. Mr. President, let me indicate to my colleagues, as we did earlier in an exchange with the distinguished minority leader, Senator BYRD, that we will have a late evening this evening, and some concern has been expressed about Friday.

First, I indicate to my colleagues that if we want the 3-week recess which is scheduled to begin on August 15, we will have to put in some long, long nights and some long Fridays and Mondays. In any event, if we can complete action on this bill this evening, maybe late evening, we will not have any votes tomorrow. Otherwise, I assume that we will have votes.

We are going to be on the debt limit. There are a lot of amendments floating around. It is my hope that the so-called South Africa amendment will not be offered. As to other amendments dealing with foreign policy—I understand there may be an Angola amendment floating around—it is my hope that all those amendments can be tabled.

If there are amendments dealing with the debt ceiling—germane amendments or even some with respect to debt—then I would guess that the debt limit extension is fair game. It always has been. But I hope we will not launch into foreign policy amendments and other matters on extending the debt ceiling.

Again I indicate, based on the Treasury Secretary's comment to me last week, that the so-called drop dead day when we can no longer pay our bills would be on September 2. There is a provision in the bill, which is strongly supported by the Presiding Officer [Mr. NICKLES], which would indicate that there would be no disinvestment of Social Security trust funds for that purpose. That is an amendment to the debt ceiling.

So I hope we can complete action on the debt ceiling this evening. If that were the case, we would be in session tomorrow, dealing with nominations; and if any votes were required, they could be delayed until late Monday afternoon.

So I urge my colleagues who have amendments to be prepared. I know there are a number of Senators on each side who wish to speak on the pending amendment. If we could have a vote on this amendment by midafternoon, it could happen that we could wrap up this matter very quickly. That does not seem possible, but some-

times things that do not seem possible around here become possible in late evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1120

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2226

Mr. LEVIN. Mr. President, I would like to take a few minutes to comment on this amendment and on the criticisms that have been made during this debate on the entire Gramm-Rudman process.

I supported Gramm-Rudman-Hollings when it was enacted last year. I did so because I believe that reducing the Federal deficit simply must be our primary domestic goal. Clearly these $200 billion a year deficits constitute a clear and growing danger to our economic well being.

As I considered the Gramm-Rudman-Hollings response to those deficits, I decided that its value was to be found in the stark and inescapable choice it created. We would either develop budgetary and fiscal policies designed to achieve more rational deficit reduction or we would be forced to accept the inevitable imposition of across-the-board budget cuts.

Now, in the face of the Court's decision, the "inescapable choice" has been reduced to a pair of handcuffs—and we along with the President have been transformed into Houdini. The Court, by requiring congressional action to initiate the sequester order, created conditions which allow either the Congress or the President to escape the Gramm-Rudman-Hollings discipline with relative ease. The key resolution can be rejected—by either the President or the Congress—and that decision can be justified by suggesting that the consequences of the cuts in either domestic or defense areas are simply too great to accept. The point is that we are left with uncertainty.

Clearly we need to reestablish the certainty of the threat of across-the-board cuts for it to be credible. Hopefully, we will do more. Hopefully, we will concentrate some efforts on developing a budgetary plan which removes that threat through responsible action. The issue is not just how to guarantee that the Gramm-Rudman-Hollings magnum has bullets in it. The more important goal should be to prevent the trigger from being pulled by fashioning a budgetary and fiscal program which removes the need to impose a sequester order.

My point, then, is this: we need the discipline created by knowing that across-the-board cuts are automatic if we fail to meet our deficit targets. That is why I find the fallback position that remains following the Supreme Court decision so unsatisfactory. There are too many ways to escape it—and we will spend our time trying to find a way out of the requirements of the law rather than spending our time trying to fashion a program which meets the deficit targets and which will allow us to get out from under the crushing deficit burden we are now carrying.

The net result, Mr. President, is that, despite the removal of the best mechanism for determining the automatic cuts, we must look for a second-best mechanism, because we must make those cuts automatic if we are going to reduce the deficit. Only if we know that the trigger will be pulled—and only if we realize that the gun is aimed at our heads—will we work to fashion a viable and realistic deficit reduction program.

What we need is a legislative solution which restores the inevitability of the sequester order while reducing the ability of either the Congress or the executive branch to "cook the books" or alter the numbers in a way which meets their short-term political interests while ignoring the long-term economic needs of our Nation. I do not think that the Gramm-Rudman-Hollings II amendment in its current form meets that test. However, it provides the basis for a solution which can be improved through fine-tuning.

As for the broader questions which have been raised during this debate with respect to the value of the Gramm-Rudman-Hollings process, I note the consistent theme that "Congress ought to have the courage to make the hard choices itself and not rely on a jerry-rigged gimmick like Gramm-Rudman." The central flaw in that criticism is the word "ought." Sure, Congress "ought" to have the courage. But that misses the point that anyone interested in the practical governance of this Nation has to take into account. I wish I did not have to say it, but neither the President nor Congress has shown the necessary courage. We can say all that we want about "ought," but if there is no relationship between "ought" and "does," then there is no practical purpose in focusing on what we "ought" to do.

Some of us have worked over the past few years for balanced and significant deficit reduction which recognizes the need for spending restraint and increased revenues. We "ought" to have passed those plans, but year after year, we did not.

I have seen "ought" be "naught" for 6 years around here when it comes to significant deficit reduction. And it is to some degree understandable because, as long as the President boasts of how he will veto any bill which helps reduce the deficit based on revenues, even when those revenues come from loophole closing and from a minimum tax, and as long as the President stands ready to make political capital out of any such attempt by the Congress to add such revenues, then the natural, if not the admirable, reaction of the Congress is to defer doing what we have to do.

□ 1130

The Gramm-Rudman process recognizes that there are two players in the deficit reduction drama—the President and the Congress—and it seeks to exert much more pressure both to look for and reach productive conclusion.

We in the Congress have two choices. We could wring our hands in righteous indignation over the unvarnished pragmatism of the Gramm-Rudman process and ignore the legislative gridlock and the economic eruption that flows from inaction, or we can recognize reality and get on with solving the problem at hand. Wisdom lies not only in perceiving the proper goal, but also in recognizing our limitations and compensating for them as we set out to attain that goal.

I said before that Gramm-Rudman II is a basis for a solution but does not do the necessary job in its present form. Its error is in giving unnecessarily broad powers to the Office of Management and Budget. A number of us are looking for ways to restrict that power, consistent with the decision of the Supreme Court. I know that effort is going to continue in the hours ahead. And it is a critical effort. I hope and believe that it can succeed, that we can repair Gramm-Rudman so that it carries out its original intent which is so essential to the economic well-being of this country.

Mr. President, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, what is the order of business on which the Senate is engaged at this time?

The PRESIDING OFFICER. The question is on amendment No. 2226 to the debt limit bill.

Mr. DIXON. Mr. President, I ask unanimous consent that I may make some short remarks concerning an amendment I will offer at the appropriate time when we are finished with the pending amendment to the debt limit bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, at the appropriate time, after we have disposed of the pending business, I expect to offer an amendment which I am going to lay down in a moment at the desk that simply says as follows: With respect to Veterans' Administration determinations relating to a certain radiogenic disease, section 2.5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act is amended by striking out the word "female." The amendment made by subsection (a) shall take effect with respect to claims submitted to the Veterans' Administration before—and I underline "before"—on, or after the date of the enactment of this joint resolution.

Mr. President, the reason for this amendment is an article—which I will shortly ask be incorporated into the RECORD—from the Chicago Sun-Times of Wednesday, July 23, 1986: It is entitled "VA Denies His Breast Cancer Claim." "Law Excludes Veteran Exposed to Radiation." I would like to briefly read from that article, Mr. President, to explain why I am submitting it at this time, and I will refer to it again later in the debate on the amendment.

The article says as follows:

When his cancerous breast was removed six years ago, Don Parchem, a Marine veteran from Cicero, was sure that he'd have no problems receiving compensation from the Veterans Administration.

But he's overlooked one thing—he wasn't a woman.

Parchem, 54, was involved in 1962 atmospheric test conducted by the U.S. Government on Johnston Island, 825 miles west of Honolulu. He claims that during the testing he was exposed to dangerous levels of radiation. He developed breast cancer 18 years after that exposure.

In September, Congress passed a law concerning dioxin and radiation exposure of veterans that listed 15 radiogenic diseases, that is diseases caused by radioactivity. "Female breast cancer" was third on the list. Parchem promptly filed a second claim with the Veterans Administration. His first was in 1980, immediately after his operation.

"I was fully aware of what the legislation said," said Parchem, who works as a custodian with the Berwyn school system. "But I thought 'female breast cancer' was just a general term to mark the specific area."

The VA disagreed, choosing to interpret the law exactly as written. Parchem's claim was denied. Although he was insured by his employer, he paid approximately $2,000 in medical costs.

Although the operation was considered successful, Parchem complains of constant cramping and nerve damage in his hand. "I've suffered all the symptoms and gone through the same trauma as women in the same situation," said Parchem.

The article goes on to say:

In purely biological terms, it's entirely possible. Radiation exposure increases breast cancer risks in females, and there's no reason why the same shouldn't be true for males.

The article concludes:

Although Parchem is entitled to an appeal, he is wearying of the battle.

"It wears on you mentally. I'm just a working stiff, and this is expensive and time-consuming.

"This time, they've taken the law too far. I know I'm entitled to those benefits. As far as I'm concerned, this is as low as they can get."

I want to say, Mr. President, that it seems to me that was probably an oversight by those who drew up that legislation. But quite clearly, breast cancer is breast cancer, whether in the case of a female or a male. I do not pretend to have any particular knowledge on the subject matter but I am informed that there are cases of male breast cancer. It seems clear to me that if the male breast cancer was induced by radiation exposure on an individual serving in the service for this great country of ours who then files a claim with the Veterans' Administration, clearly that claim ought to be allowed.

I think Mr. Parchem has been crudely treated by the Veterans' Administration. I regret what has occurred. He is a citizen of my State. And at the appropriate time, Mr. President, when we have disposed of the Gramm-Rudman-Hollings triggering amendment now pending—and I understand that to be the pending business to the debt limit—I will ask that this amendment be taken up which I am going to file at this time. I wanted to give notice to my colleagues so the managers and others might be looking into this.

I think there are probably a very limited number of cases. It is minuscule. But I think for those few cases where it occurs, Mr. President, if a person was caused to be exposed to radiation and, as a consequence of that, develops cancer, I think that person ought to be compensated. I think this error in the law should be corrected so that the question of breast cancer is a generic one for males or females, whoever may have served and otherwise been exposed, and as a consequence developed cancer.

Mr. President, I yield the floor. I ask that the amendment be laid down, that the article be incorporated in the RECORD at this time, and should the President or the manager like me to suggest the absence of a quorum, I would be delighted to do that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, July 23, 1986]

VA DENIES HIS BREAST CANCER CLAIM

(By Patricia Smith)

When his cancerous breast was removed six years ago, Don Parchem, a Marine veteran from Cicero, was sure that he'd have no problems receiving compensation from the Veterans Administration.

But he'd overlooked one thing—he wasn't a woman.

Parchem, 54, was involved in 1962 atmospheric tests conducted by the U.S. government on Johnston Island, 825 miles west of Honolulu. He claims that during the testing he was exposed to dangerous levels of radiation. He developed breast cancer 18 years after that exposure.

In September, Congress passed a law concerning dioxin and radiation exposure of veterans that listed 15 radiogenic diseases, that is diseases caused by radioactivity. "Female breast cancer" was third on the list. Parchem promptly filed a second claim with the Veterans Administration. His first was in 1980, immediately after his operation.

"I was fully aware of what the legislation said," said Parchem, who works as a custodian with the Berwyn school system. "But I thought 'female breast cancer' was just a general term to mark the specific area."

The VA disagreed, choosing to interpret the law exactly as written. Parchem's claim was denied. Although he was insured by his employer, he paid approximately $2,000 in medical costs.

Although the operation was considered successful, Parchem complains of constant cramping and nerve damage in his hand. "I've suffered all the symptoms and gone through the same trauma as women in the same situation," said Parchem.

"MISSING INTENT"

"They're missing the whole intent of the law. During the time I was on Johnston, I never heard, saw or read about any women taking part in the experiments."

"We can't get involved in his personal feelings about the law," said Ken Smith, a spokesman for the VA. "Simply stated, male breast cancer is not consider a radiogenic disease."

"Our doctors believe that the law was written to distinguish between two types of cancer," said George Kavin, a VA veterans benefits counselor. "Breast cancer is very much dependent on hormones, and in the female it thrives on estrogen. A man, of course, has different hormones and the disease wouldn't affect him in the same way. And the bottom line is that the connection [between exposure to radiation and cancer] can't be proven."

"That there is a connection is theoretical at this point," said Dr. John Imarisio, VA chief of nuclear medicine.

"To take one specific case and prove that exposure that took place 24 years ago is directly related to a cancer diagnosed in 1980 is virtually impossible. We haven't definitely proven that radiation increases the possibility of cancer."

"ENTIRELY POSSIBLE"

Miles P. Cunningham, president of the Illinois division of the American Cancer Society and a surgical oncologist (cancer specialist) at St. Francis Hospital in Evanston, said:

"In purely biological terms, it's entirely possible. Radiation exposure increases breast cancer risks in females, and there's no reason why the same shouldn't be true for males. Some features suggest that this is a different kind of breast cancer and may well have been radiation exposed. However, this could be a very rare case of breast cancer developing at an atypical age for no reason whatsoever.

"There's no way of knowing."

Cunningham said that sex discrimination would seem to be Parchem's most legitimate complaint.

"Perhaps the rules and regulations are in error. One can make a good presumption in this case without any conclusive proof."

Although Parchem is entitled to an appeal, he is wearying of the battle.

"It wears on you mentally. I'm just a working stiff, and this is expensive and time-consuming.

"This time, they've taken the law too far. I know I'm entitled to those benefits. As far as I'm concerned, this is as low as they can get."

□ 1140

Mr. HEINZ. Mr. President, are there other Senators who wish to express themselves on the pending amendment?

Mr. HART. Mr. President, if the Senator will yield, it is the intention of the Senator from Colorado to make a statement in a few moments.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I notice that the Senator from Colorado is on the floor. Last evening in the course of our discussion of the pending amendment, the Senator from Colorado and the Senator from New York [Mr. MOYNIHAN] inquired of the status of the hearings which were held, which, of course, were only held yesterday.

They made the point that the hearing record would be of great interest to Members of the Senate as we are considering this. Senator MOYNIHAN had proposed and has at the desk a resolution or a request for unanimous consent that the Senate not vote until the hearing record is available.

I am pleased to advise my friend from Colorado and Senator MOYNIHAN, who is not on the floor at this moment, that, in fact, the hearing record is now complete. It is being copied. It will be in both cloakrooms probably within the hour. If anyone wishes their own copy, the Governmental Affairs Committee is prepared to make additional copies of the 150-page record for any of those who wish to read it.

I would hope that most Members would have a chance to read parts of it because, in particular, the testimony of the Comptroller General, Mr. Boucher, the testimony of the Director of OMB, Mr. Miller, and the testimony of an expert on constitutional law who discussed the court case and this amendment which is pending, certainly would be of interest to those who have an interest in delving further into the matter.

I just wanted to make that statement here so that everybody would know that the hearing record is available and the Governmental Affairs Committee expedited the printing of it. It will be available, as I said, within the hour.

□ 1150

Mr. President, if there is no one else seeking recognition—I yield the floor, Mr. President.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, on July 7 of this year, the Supreme Court of the United States struck down the role of the Comptroller General specified by the measure known as Gramm-Rudman-Hollings I. The Comptroller was given the power in that measure to cut spending above and beyond the arbitrary deficit reduction targets contained in the law.

A COMMENT ON THE PROCESS

Perhaps if the original bill had been subjected to Senate hearings before it was adopted, we could have learned whether there was a better set of figures than those arbitrary numbers. There were no hearings, at least on the Senate side.

The House Budget and Government Operations Committees and the Joint Economic Committee did have a chance to examine the legislation. They had that chance because a few Senators decided to step onto the railroad tracks last October and ask questions about that bill.

I do not know whether Senator MOYNIHAN or Senators SARBANES, BRADLEY, JOHNSTON, or the others who participated in that debate received the recognition they deserved, but they did ask questions and they bought us some time, which in the Senate is considered a valuable commodity.

The committees heard from a range of expert witnesses: James Tobin, Herbert Stein, Paul McCracken, the Nobel Laureate, Franco Modigliani, and Walter Heller—to name but a few. These are very respected economists. All evinced great concern about the deficit. Some also talked about the trade deficit, unemployment, and the need for revenues. None of them, to this Senator's knowledge, endorsed Gramm-Rudman-Hollings I. None endorsed the arbitrary selection of deficit targets.

We have hearings in the Senate to get information; to better educate the Members; to avoid making mistakes; to prevent the prospect, for example, of writing an unconstitutional law; to ensure we do not penalize people unfair—such as COLA recipients or veterans who enjoy the benefit of VA loans. We did not have the chance to avoid those mistakes. Indeed, we made them.

PROTECTING PROCEDURAL RIGHTS

Last week, we were told things would be different. The Senator from Colorado declined to use his procedural right to delay enactment of the joint resolution affirming the 1986 cuts. This Senator was told Members would see the amendment fixing Gramm-Rudman-Hollings. I was told there would be 48 hours grace. I assumed we might even have a hearing. But let us look at the record since that time.

There was a hearing. The hearing was not scheduled on Gramm-Rudman-Hollings II; it was about the General Accounting Office. The very same day, this legislation was brought before the Senate. It was the judgment of the Senator from Colorado that our colleague from New York, the distinguished Senator MOYNIHAN, made a good suggestion: Let us delay the vote until Senators can read the record. Let us vote on a resolution delaying consideration until Senators can read that record and understand what minimal record is being created on this measure. The Senator was at least prevented from offering that resolution and his suggestion, if not being outright rejected, was certainly not greeted with a great deal of enthusiasm.

The Senator from Colorado was treated somewhat better. Last Friday, the Senator from South Carolina [Mr. HOLLINGS] graciously provided my office with a copy of the proposed amendment.

On Monday, this Senator received another copy from Senator RUDMAN. The amendment had changed. Monday evening, the majority leader sent a copy of the amendment to my office. The amendment had changed again.

On Tuesday, the staff of the Senator from New Hampshire [Mr. RUDMAN] graciously offered to provide this Senator two copies of the amendment. They differed from each other. Gramm-Rudman-Hollings II was like eating in a Chinese restaurant. One can pick the same dish from columns A, B, C, and D—but you are never really sure what you are getting.

I do not think the Senate knows what we are voting on. That is why we have to ask questions and hope to create a record on the hope that might help some future legislators or policymakers, or perhaps even Supreme Court Justices, try to decide what it is we think we are doing here.

POWER OF OMB

Gramm-Rudman-Hollings II replaces the role of the Comptroller General with OMB. The President's Office of Management and Budget is vested with the authority to make the final across-the-board cuts if so required by the law. This is an agency,

as the Senate Government Affairs Committee reminds us, which is "an agent with a point of view, not a source of 'neutral competence.'"

Gramm-Rudman I purposely avoided giving OMB more power in this so-called sequester process. OMB and CBO were empowered to make deficit calculations. GAO was designated as neutral arbiter. We didn't want to place the final power to cut the budget in OMB's hands. And for good reason.

OMB is an agency of great power. It would be useful for the Senate to be reminded of the scope of that power and the political manner in which that power has been used.

All new rules promulgated by executive agencies, including the examination of any existing rules, are reviewed by OMB. The Budget Office can reject them, send them back to the agency for revsion. Once a proposed rule has been announced by an agency and opened to public comment, OMB has additional, off-the-record opportunities to influence the decisionmaking process.

Investigations by the Congress, and litigation in court, has revealed the extent to which OMB abuses this power. It blocked, for example, the promulgation of regulations by the Food and Drug Administration. Regulations had been mandated by the Congress in 1980 to deal with the problem of contaminated baby formula. OMB blocked the FDA rules, several years ago, and this permitted additional lots of contaminated formula to enter the market.

OMB has also been involved in litigation regarding its delay of asbestos regulations; again, regulations mandated by Congress.

OMB advises the President regarding impoundments as provided under the Budget Act. But this power, too, has been abused.

On September 26, 1985, the Comptroller General found that OMB had improperly impounded $11.5 million of the $89 million appropriated by Congress to aid countries with large numbers of refugees.

In fact, the OMB has scores of statutory powers and powers delegated by the President under Executive orders. And it has used those powers very, very politically.

The House Energy and Commerce Subcommittee on Investigations, chaired by the distinguished Congressman from Michigan, Mr. DINGELL, said this in a report about OMB:

> . . . Congressional investigations and court litigation have brought to light instances of arbitrary delays in the OMB review process forcing violations of statutorily prescribed or court ordered deadlines; the modification or complete displacement of technical, scientific and policy judgments of agency officials as a result of OMB pressure; OMB imposition of cost-benefit criteria in agency mandates; OMB substitution of political considerations economic analyses required by [The President's] Executive Order; secret meetings between OMB officials and affected industry representatives; OMB transmission of industry views to agency decisionmakers without identification; and failure to record OMB input in the public docket of an agency rulemaking.

Mr. President, this is a very political agency. The sponsors promise us, despite this record, the President's Budget Office will simply slip on a green eyeshade and handle these new responsibilities—to cut the budget across the board—apolitically. Mr. President, it just is not so.

TAKE OMB TO COURT

Yesterday in debate, the distinguished Senator from New Hampshire said there was no room for OMB mischief. But if mischief did occur, we could take OMB to court. That is a fascinating proposition.

In civil suits, there is a process called discovery. Litigation over the OMB sequester will be fact-intensive. Papers will have to be produced. While, under current law, GAO can get into court to challenge impoundments, this litigation could tie up the entire budget process. I question how realistic it is to subject the sequester order by OMB to litigation, including litigation that could go all the way.

First, under Gramm-Rudman II, section 274(h) of the Budget Act, is amended to read as follows:

> ECONOMIC DATA, ASSUMPTIONS AND METHODOLOGIES.—The economic data, assumptions and methodologies used by the Director of the Office of Management and Budget in computing the base levels of total revenues and total budget outlays . . . shall not be subject to review in any judicial or administrative proceeding.

□ 1200

That would make it tough for OMB to produce documents pursuant to a lawsuit perhaps brought by Members of Congress or interested members of the public to challenge whether the OMB did in fact operate apolitically or whether it put on its political hat.

Second, let us say there is an argument over the defense number in the budget. Executive Order 12356 authorizes the OMB Director to classify national security information. And, of course, there is always the issue of claims of executive privilege.

Mr. President, the question of the Senator from Colorado is this: If OMB cannot produce documents, or if OMB classifies or chooses not to provide documents, who is going to make headway in court? And more along the lines of a rhetorical question, why are we dregging the third branch of Government into a wide ranging budget issue, a budget issue which by its very definition has to do with political priorities? It is true that impoundments can be challenged under the Budget Act. But those are selective and narrow matters. This could tie up the entire budget. Why are we doing this?

I hope the sponsors have an answer. We have not seen the hearing record yet, although we have been promised that that will happen momentarily, so we really do not know the answer, at least to the degree it exists in that hearing record.

REPLY TO SENATOR HOLLINGS

Mr. President, I voted against the original Gramm-Rudman measure, and I intend to offer an amendment to repeal this law, if we have the procedural opportunity. I believe the budget process could be improved. Perhaps the sponsors and other opponents of this measure would share a common ground on how those improvements could be crafted.

If the Senator from Colorado had his druthers, we would examine closely the recommendations of the chairman of the Armed Services Committee to go to multiyear budgeting for defense.

The country would operate on a capital budget.

We would not amend the budget process every year during consideration of the debt limit bill.

We could have a tax expenditure budget.

We might even retain some of the procedural aspects of Gramm-Rudman-Hollings. I support shorter timetables for consideration of the budget. They have not been respected this year, but this Senator at least supports them.

Some of my colleagues support some aspects of Gramm-Rudman. Yesterday, in addressing those Members, this Senator suggested they could support what remains of Gramm-Rudman, in the wake of the Supreme Court decision, without voting for Gramm-Rudman-Hollings II. If we are opposed to giving OMB new powers, but one wants more control, we can have deficit neutral amendments. If one opposes Gramm-Rudman-Hollings II but wants more controls, we could have targets that are binding on subcommittees.

My purpose in offering the repeal amendment down the road is to show Members there are alternatives. We have committees for hearings to examine alternatives. We have the original budget process—a process which produced lower deficits, more economic growth, and less unemployment in prior administrations.

There are alternatives and some of those are numerically specific.

CONFIDENCE IN THE CONSTITUTION AND POLICIES, NOT PROCESS

The sponsors return to the Senate with Gramm-Rudman II out of a sincere sense of conviction. There is no question on that issue. They have confidence in OMB to cut the budget honestly, absent politics. They have confidence in their ability to write procedures into law to force the hand of

Congress. Mr. President, this Senator disagrees with them but is in deep respect of their views. It is hoped that they are equally respectful of this Senator's views.

The Senator from Colorado has confidence in the judgment of the people of this country. They sent us here to make choices, hard choices, about the budget, and other matters. This Senator is prepared to do that, as he has been throughout the previous 12 years.

The Senator from Colorado has confidence in the Constitution. Let me remind my colleagues what the Constitution says.

Article I, section 9 of the Constitution provides that Federal funds are to be expended only "in consequence of appropriations made by law." Article II, by contrast, designates the President as Chief Executive and otherwise describes the executive powers. But it does not refer directly to spending power.

This Senator believes the proposal before us, as the one before, will be found by the Supreme Court to violate the Constitution. I know this proposal violates the people's trust. They sent us here not only to revel in the good news but to squarely address the bad news. If the bad news is the deficit, we should face it, as we are elected to do, and not turn that final judgment over to the Office of Management and Budget. It is the sincere and considered judgment of the Senator from Colorado that Gramm-Rudman II does not face the bad news. It invites delay, debate, it injects the courts, again, into the budget process, and it should be defeated.

Mr. President, again there are those in support of this measure who say that if one opposes it, then one is giving over once again to the spend and spend and tax and tax inclination of the Congresses of the past, perhaps even the Democratic Parties of the past.

The Senator from Colorado strongly disagrees with that and believes the record is otherwise. But again as I have said it is not the intent of the Senator from Colorado to question the good faith or the sincerity of the sponsors of this amendment, or to suggest in any way either in the case of the original bill or this measure that they are seeking any dereliction of their own duties or seeking to pull an end run on the Congress or the American people. It is the sincere conviction of this Senator that the substitution of the Office of Management and Budget, a decision rejected in the first go-round and accepted apparently reluctantly now, is a bad judgment.

It is a bad measure. It is avoidance of what our obligations really are. It is the argument of those who support this measure that they are in fact facing our obligations. It is the judgment of those of us who oppose it that we are not.

Why are we here and why are we debating this? I think it is a very simple answer, Mr. President, and that is that the White House and the President particularly have abdicated responsibility in the budget process.

By his continued insistence against any kind of new revenues, an insistence rejected by the leadership of his own party in this Chamber, and by his insistence in unrealistic growth rates and spending by the Defense Department, the President has abdicated that responsibility and refuses to participate in the hard decision, the so-called bad news, of balancing the budget.

That is why we are here. If we had a President who was willing to do what Presidents should do in leading, to sit down with sincere and dedicated Members of both parties in both Houses and work out a budget for 1987, 1988, 1989, 1990, and 1991, there is no doubt in my mind that we would not need Gramm-Rudman-Hollings, that we would all be fulfilling our constitutional responsibilities, and that we would not be calling upon in a very dangerous precedent the Office of Management and Budget to fulfill a congressional role under the Constitution.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Colorado and myself agree on his latter remarks relative to the President of the United States. If we had faced up to the revenue problems for the budgets that we have enacted over the past 5 years, there is no question but what we would not need Gramm-Rudman-Hollings. The point is we did not and neither did the President. This point is to be emphasized with respect to the distinguished Senator saying why are we here? Why do we need this? What is the answer? The answer is exactly that. We have tried to reduce the deficits every way possible. We have tried on every budget. The President doesn't care about large deficits. We have consistently voted down his budgets, once by an overwhelming margin of about 420 to 1 in the House. We have repeatedly rejected his budgets in the Senate. So we have tried. We sent the message at the time the budget came over from the President this year. It was $16 billion above the deficit target of $144 billion. The CBO estimated that immediately. The President's outlay figures for the national defense budget was $16 billion underestimated. So therein has been our dilemma. And that is why we are here and the answer is we have tried all other alternatives. I resist the idea of a total freedom granted to the Director of the Office of Management and Budget. Just like anyone else, I know the track record over there.

□ 1210

I have watched it here in this particular instance. The Supreme Court has said if the Congress can't do it then it has to go to the Executive. Further, it has to go to the Executive not as a categorical, unalterable direction or order. There must be discretion.

The Court has said that you cannot, in the legislative branch, execute. You cannot execute laws in Congress. A lot of us think we are President and that we can execute everything and assume the responsibility for the execution. But the Court is correct. We cannot execute; we cannot order. So we leave it to them with discretion. If we give them 30 days, irrespective of the trigger order of Gramm-Rudman-Hollings, we have 30 days in Congress, to pass in both Houses, an entirely different alternative. There is an alternative that is provided for under Gramm-Rudman-Hollings.

Then they hope the President can veto the congressional action so nothing will occur. I do not intend by Gramm-Rudman-Hollings to get rid of the executive branch.

The Senator from Colorado, the Senator from New York, and others have yet to propose anything other than defeat of Gramm-Rudman-Hollings—which, as I will elaborate in a moment, is working. It is working. There is not all that chaos as proclaimed by opponents. Ninety-five percent was found constitutional.

We did the best we could to see if we could have the Comptroller General act as a member of both the executive branch, and the legislative branch. The Congress cannot give up the GAO because its functions are very valuable to us and must remain apart from the executive.

We heard how the Court was going to find—in fact, ABC reported it, and the Court, in a pique, waited practically 1 month before the ruling was issued.

So we had a very reliable forewarning in May that we were going to lose this situation and we started looking at alternatives. We bounced about the idea of letting the Comptroller General be displaced by the President of the United States, only for cause and only after notice and only after hearing.

We wanted to restrain it in every way as in the case of Humphreys Executors, a case of 1935, with the Federal Labor Relations authority that had been found constitutional. The same holds true with the Federal Reserve Board and with the Federal Trade Commission, and others that have been looked upon as arms of Congress, but yet can be displaced by the Presi-

dent. We thought that we could, as innocently as possible, change it so that the Comptroller General then would be constitutional and would still be in the picture.

So, with respect to the alternative that the distinguished Senator from Colorado suggests, he starts cutting the Constitution. We have been trying that under the Constitution. We have tried every way in the world to back this administration down on the deficit: budget freeze, some revenues, some without revenues, oppose the Gramm-Latta, the Reaganomics.

The Senator from Colorado and I were among the few who did that. We said we are willing to pay for Government and we are willing to recommend revenues, and we are willing to have the vote because we believe these are necessary services of Government. But they went on recklessly down the road, the administration and Congress together, and we are in the minority. There has been an overwhelming majority to continue to spend and spend and borrow and borrow. That has been our track record for 5 years.

Now, even with the Gramm-Rudman-Hollings cut of $11.7 billion, there is $231.7 still a deficit of $220 billion. Without the reconciliation and the $11.7 billion cut, it would be nearer to $240 billion. So, in reality, we have been going up, up, and away.

I know about the sincerity part, but it is more than sincerity—it is a question of being effective and getting the thing done.

I stood on the floor of the U.S. Senate just a year ago, the latter part of July and the first of August. As a former chairman of the Budget Committee, I do not like to vote against budget resolutions. But I figured there has to be a time when we had to lay it on the line and outline various extravagant projections on the economy, unemployment, the growth rate, the inflation rate, and otherwise. Plus the resolution contained some unrealistically attainable, so-called cuts that were not going to occur.

I stated at the time that instead of $171.9 billion as a deficit in the resolution it would be over $200 billion. I asked them to take the bets and give me the odds; and here I am now, more nearly correct than ever before.

I stood on the floor of the Senate 2 weeks ago and said I again will have to vote against that budget because the deficit was nearer $165 billion for 1987 rather than $142.5 billion projected in the resolution.

Yesterday, the Director of the Office of Management and Budget, in his testimony, projected a $164 billion deficit for the 1987 budget proposal, rather than $142.5 billion. So there could very well be a sequester.

I have been loyal to the idea of trying to solve the problem with the tools at hand. We cannot ignore the President and his "make my day" posture. He remains popular and accepted and approved of by the American public with that particular posture. He is not going to pay for Government spending and the deficit. He says there will be no revenues. So the best way is to at least to have him sign this. I thought that was an accomplishment.

It was I who had included the potential of revenues in Gramm-Rudman-Hollings. The original draft did not call for revenues. The original draft did not call for a sequester from defense. It called for a sequester from social programs and entitlements. That is why I am proud of Gramm-Rudman-Hollings, because I made these and other fundamental contributions when it was prepared.

This does not cut anything. You can still provide the revenues. If we get into a position where we have worked our will the best we can and we find programs necessary, we can and should pay for it. The majority of us would resist selling the assets and selling off the Government, and begin to pay for what we appropriate, as the Constitution requires. Then we will stop paying for it by borrowed money and high interest costs and indenturing the next generation.

□ 1220

We can provide those revenues. I think the Senator from Colorado and I would be together on that.

But the answer is not like we just walked in today with a proposal, that we are trying to rush some things.

We heard that last year but yet we took all October, all November, and until mid-December.

No one is trying to rush anything. But everyone knows we have less than 20 working days between now and August 15 and 20 working days in September and we have a huge backlog of things to be done. All of us in the Congress know and understand that.

So we said early on we were revising Gramm-Rudman-Hollings. And certainly over 10 days ago in the Democratic Caucus I outlined this particular amendment.

My distinguished colleague from Colorado continues with others to say: "What is it? Where is it? Why is it? We have not had hearings. We don't understand it." I find the distinguished Senator has a perfect understanding of it in his statement, and I wrote the words down as he stated it. He said Gramm-Rudman-Hollings replaces the Office of Comptroller General with the Office of Management and Budget. You will see that in his statement he just made. That is the amendment, period. That is what the amendment is.

You can keep having 20 hearings, all the other things you want to do, but he has simply stated exactly what the amendment is.

It replaces the Office of the Comptroller General with the Office of Management and Budget.

That is what it does and no more, and that is the intent and no more.

There was at one time the issue of the GAO suing and that was in an original draft up to the first part of the week. There has been a legal question by the Justice Department which I agree with. When you start executing or you start suing as if to have executed, it is one and the same. It would have become a constitutional question, and more than anything else, we are not grandstanding. This is not an act in futility. This is an act of once and for all taking what has been found by the Supreme Court as being constitutional and taking the one defect—what I have called the flat tire to the vehicle and fixing the tire and not fixing the vehicle.

We are not trying to give further authority. We are not trying to change anything around. We are just saying let us replace the Comptroller General with the Office of Management and Budget. That is exactly what it does.

Now, Mr. President, we are sophisticated enough to know that amendments will be offered to our amendment. We do not want to avoid debate. I stated on last evening if we had time to debate this, I did not want to rush into a vote because I wanted to be able to talk to the colleagues and explain it. There have been many rumors about it. Then when responsible Senators appear and call it "madness," when they call it "monsters," when they call it "the scene of the crime," when they use all the other descriptions, those are meant not to reflect reality but only to excite their concerned fellow Senators. Many begin to wonder why responsible Senators describe such a thing as Gramm-Rudman-Hollings II as a monster or madness or any of the other particular things that they talk of when the facts speak otherwise.

Be that as it may, it should be understood that yes, some Directors of the Office of Management have not conducted themselves exactly the way I would conduct that office, nor any other Senator, perhaps, would conduct that office. But I am willing to take the risk because of the "political pressure." What is that political pressure? It is the political pressure of a concerned public. The people of the United States of America have prayed for the success of Gramm-Rudman-Hollings. They know at home of their need for fiscal responsibility.

No mayor can spend beyond his means. The city of New York tried it and they had to get all kinds of help and everything else like that. They cut back on their pension funds, on other contracts, and everything else, and I admire the city, it dug itself out of a

deep hole. Other cities in precarious positions began to retrench and politicians and officials and mayors and councilmen in the towns and cities of America all over this land understand you have to pay. There is no free lunch. You have to pay for what you spend.

At the State level they are trying to meet the demands of this modern society. We see all kinds of new initiatives with respect to the environment and safety, law and order, and other actions to maintain the integrity of their bonds, their fiscal integrity. In order to do so, the States measure their actions with these budgets during the year and 43 States one way or the other have a measurement process very similar to Gramm-Rudman-Hollings I and II, if amended.

And the process is where the State Comptroller notifies the Governor, generally speaking, as to whether the State is spending within the revenues during the midyear. Budgets are based on projections, but the economy changes. Some of us are talking of a 2-year budget because the budget process is so time-consuming. Let them put in a 2-, 3-, or 4-year budget. They will have supplemental after supplemental after supplemental. We live in a fiscal society. The economy changes. We have a devastating drought. When we debated the farm bill in April, we thought we had done the job. I guess most Senators did. Now we find we are going to have to spend billions more as a result of a devastating drought that could not be foreseen 2 months and 3 months ago. These things occur constantly in this day and age.

So it is these Governors who have that checkmate situation whereby they say, "Well, wait a minute, if we are spending beyond our means, then we will have to sequester or set aside from every budget straight across the board." It is a common understanding and it is generally speaking a half a percent, or up to 2 percent gain. It is not a traumatic $150 billion. When we talk in the extreme of monsters and madness, and then come on the floor of the Senate and talk about $150 billion being cut out of the Defense Department, that is drama. That is histrionics. But that is not the situation before us as bad as the crisis may be. There is no $150 billion that we need cut.

But you have those who are trying to use extreme examples to make the Senators who cannot pay attention to every little crossing of the T and dotting of the I in legislation saying, "Heavens above, what have they got going on up there now?" They are now positioning themselves to safety saying, "I don't have to vote for it. I know that I can just go ahead and vote against it and find a good reason because I do not have to understand."

That is why this Senator would like more time also, so that they all understand it is not madness, it is not a monster, it is not $150 billion. If we do our duty, we will respond to set limits of reducing the deficit over the 5-year period required by Gramm-Rudman-Hollings. If we do that, there may be a sequester in 1987—perhaps $10 billion to $20 billion. It is a substantial amount. But measured to each Federal agency, it does not amount to that much. It is not an extreme cut. There will be cuts. But we must do our job. That is what must be taken into consideration and the Governors do it, and so as a result, we can too.

I described it only last evening. It happened in my own State of South Carolina and it was not called madness or monster or we have given too much power to the Governor.

I reaffirm and emphasize the fact that the Governor politically does not like this power, because it takes on his name. They talk about our distinguished Governor Riley, the Riley cuts. Politicians are humans and they always like to say: "Well, you know, I tried to help. I wanted to save your budget. I was for UDAG. I was for EDA. I was for the farmer. I was for education. I was for this." But, you know, under the Riley cuts or now here in this instance under the Gramm-Rudman-Hollings cuts—hopefully they will become the Reagan cuts, give him the power, give it to the Office of Management and Budget—politically, from my experience that is a valid projection of exactly what will happen.

You will not be hearing of these cuts of Gramm-Rudman-Hollings. You are going to hear the President's cuts. That is how it always works at every level heretofore, and necessarily the cuts made by the particular Director of the Office of Management and Budget and the President in office at the time will be made within the light of public attention.

□ 1230

Everyone is looking and watching and waiting to see how this will work. It has had its effect on the stock market in New York. We all understand that. And they are wondering now whether it is going to continue to work or whether we are going to pass a budget, as the Constitution says, with three readings in the House and three readings in the Senate and signed by the President, and they wonder whether the President will veto and whether we will override the veto and be back into the financial mess that we have suffered from for the past 5 years. We get worse and worse and worse.

There is tremendous hope out there that this discipline continue because discipline it is. The discipline is working. We saved $11.7 billion already for this year. And when we reaffirmed the sequester we cut for the 3-year period, $11.7 billion for 1986, $16 billion for 1987 and $18 billion for 1988, or a $45.7 billion cut. Deficits have been cut under Gramm-Rudman-Hollings and not increased as the statement was made on yesterday.

Similarly, that discipline followed down on the farm bill, where we saved a billion dollars, not included in either House's treatment when it passed and received the three readings, that was inserted by conferees and stricken on a Gramm-Rudman-Hollings point of order. The discipline fixed.

With respect to the reconciliation bill, we saved another $18 billion. We saved $38 billion when both Houses passed the 1987 budget resolution. Some have projected more, which I doubt.

But, in any event, we adhered to it and we stayed with the discipline. The Finance Committee, in its markup the day before yesterday on reconciliation is meeting its goal. Nothing less than dramatic, the tax reform bill lessening taxes and simplifying them to two rates here in the U.S. Senate is a great example of the discipline of Gramm-Rudman-Hollings.

Those who handled that bill say that without the provision that we inserted that amendments be revenue neutral, it would never have passed in its form.

So we are talking about an alternative that is working, a discipline that is set. Whether it is set steadily and fastly enough is a question. Those who come in, responsible as they are, and say the enemy here and the evil here is Gramm-Rudman-Hollings, they are just totally off base.

Gramm-Rudman-Hollings is not off base. I do not think either body would go that far to say that is what is causing our trouble, because trouble we have. If anything at all is being done about the deficit and trying to cut back and bring us a government within the black, it has been Gramm-Rudman-Hollings.

So they do not offer any alternative. "Why now? What is the answer? What are the alternatives?" And they quote professors. Professors, those economic professors, Mr. President—well, I will not comment now. We will have plenty of time to comment about these economic professors because those are the ones that started this so-called full-employment budget.

I remember one name that the distinguished Senator mentioned. I think it was Paul McCracken. I will never forget the distinguished Senator from New Jersey, Clifford Case. At a hearing before the Appropriations Committee in the early seventies, along came Mr. Paul McCracken, the distinguished economist. I think he was Director of the Council of Economic Ad-

visers or the Chairman. Listen to this one.

Senator Case said: "Mr. Chairman, what is the full-employment budget?" He said, "Well, what we project is that, under our budget, there will be full employment in America."

I think unemployment was running about 8 percent at the time and full employment then meant it would be reduced to 6 percent unemployment. Thereby, full employment would be 2 percent; more than anyone else was projecting, but they said this is just a great and fine fiscal document that we have, what we call the full-employment budget.

So they projected out of thin air a reduction in unemployment in the United States over some 2 percent while they added some $50 billion onto the deficit. That started some 15 years ago under President Nixon. These economists, we listened to them.

We are not economists. We try to learn. I remember listening to Charlie Connolly, of the Federation of Tax Administrators, from Chicago in 1949. We are trying our best to get out of a fiscal situation that we had in my own State of South Carolina. So I have been listening to them well over 35 years—economists over and over again with respect to governmental budgets. I know the nuances and the twists and I know the trickery of, yes, David Stockman.

If we really believe that the Office of Management and Budget would go back to sneaky tricks, rather than repealing Gramm-Rudman-Hollings, the Senator from Colorado and I would have the cosponsorship of repealing the Office of Management and Budget. That is what we would want to do. We are not going with that nonsense any more. The public is not going to stand for it.

Under Gramm-Rudman-Hollings, the best politics is no politics. It is something to put us all in a corner that we do not like. But it is very fair. We are not giving our powers over to the Executive.

We have said as a Congress that the split on the cut should be 50-50 between defense and social programs. That is a congressional decision. We are not avoiding that. There is in the ground rules of Gramm-Rudman-Hollings that there shall not be a sequester from Social Security. That is in the ground rules decided by the Congress. We are not allocating, as they say, to mindless people. If we do not perform our duties in an orderly fashion, then there is nothing left for us to do than have it done at our behest. But we are the ones responsible for it.

Now, if there is someone in the executive branch who can do the job with discretion, as the Court says, I will be glad to join with you.

I yield the floor.

Mr. HEINZ. Mr. President, I know there are other people who wish to speak on the pending measure. Let me just note that some consideration is being given to laying aside the pending amendment. That would have to be done by unanimous consent. I am not going to propound any unanimous-consent request at this time, but there is thought being given to laying that amendment aside.

I point that out to alert all Senators to the possibility that, since there are other Senators who have amendments, they should be on notice that they could very well have an opportunity to come to the floor this afternoon to offer those amendments if a unanimous-consent request is entered into to lay aside the pending amendment. But I do not propound or make that request at this time.

Mr. President, I yield the floor.

□ 1240

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, the Senator from Colorado is prepared to vote on the pending measure. To my knowledge, there are no other opponents available to speak. So, so far as this Senator is concerned, we can go forward with a vote at this point.

I see the distinguished Senator from New York who may have some comments to make. I would like to respond to statements made briefly, if I may, Mr. President, and then I am prepared to dispose of the matter since it is not amendable in its present form.

Let me just say that there is more to knowing what a measure does than to have a bold statement about what it is. But to say this amendment replaces the Comptroller with the Director of The Office of Management and Budget is to state the obvious. But it does not answer the fundamental questions. To my knowledge the record to date does not answer those questions. Is it constitutional? Obviously we start out with the presumption it is as we did in the case of the previous iterations and were proved wrong, as some of us suggested.

The record shows no evidence to my knowledge of any authority for the proposition that this replacement or fix addresses that fundamental constitutional question, and I would further raise the question of, if there is another court test, and if the Director of Office of Management and Budget is found wanting under the Constitution in terms of filling this role, what do we do—find somebody else? Do we search through the streets of Washington like Diogenes with a lantern looking for one honest person in the Government I suppose who can carry out that matter?

Is it good policy? It clearly is a matter of dispute. The Senator from Colorado believes it is not good policy, but right now there is very little to support the proposition that it is. Will it protect the national security? Again, we know what the measure does. It replaces one functionary with another. Does it protect national security? That question remains unanswered.

In that regard, Mr. President, let me just conclude my remarks by making a few brief observations.

There are two arguments concerning defense and Gramm-Rudman. The first is that a sequester would be a national defense fiasco—as a member of the Armed Services Committee you don't think we should risk hacking $40 billion in defense budget authority out of next year's budget. The second argument—which is primarily an argument against the fix—is that handing the final say over defense estimates to the OMB leaves room for major league shenanigans in the estimates.

GRAMM-RUDMAN COULD IMPAIR DEFENSE

The defense authorization markup agonized over fiscal 1987 budget authority levels between $301 billion and $285 in fiscal year 1987 budget authority. These $16 billions were fought over tooth and nail. If you went into the markup and suggested a fiscal year 1987 budget authority level of $250 billion you would be laughed out of the room and be called a Communist. Yet this is what would happen were we to face a $35 to $40 billion sequester this fall—a prospect that is well within the pale.

Indeed, the CBO estimated that a defense sequester in fiscal year 1987 alone could end up cutting nearly $150 billion out of defense outlays over the coming 5 years. While I favor rationalizing defense spending and believe there are plenty of savings to be had in the defense budget, this process is no way to get at them. The $600 toilet seat might escape cuts—if it is under a long-term contract—but the toilet paper could be eliminated entirely.

The composition of defense spending would become even more confused and priority-less after such a sequester. The defense budget would be hacked irrationally by a sequester—the confusions that result from prior year contracts would result in some programs being hit far more deeply than others. Further research has shown that the bias against readiness and personnel accounts is probably overwhelmed by the accounting twists and turns in the process. The relative contract status of various activities in any given account is what will make the difference. For example, you may end up continuing purchasing F-16's because the contract cannot be broken, but not be able to purchase spare parts or training materials to maintain those aircraft.

THE FIX WILL LEAD TO MAJOR PROBLEMS

The defense budget rivals economic assumptions in terms of the opportunities it leaves open for a talented numbers cooker. This, under Gramm-Rudman, would lead to several problems:

First, the administration would be given wide berth in determining the composition of cuts in defense. While, in the cosmic scheme of things, this may be better than the complete irrationality of the intended process, it certainly gives the administration another way to pursue its own agenda without regard for congressional priorities.

Second, the administration could substantially shift the burden of a sequester away from defense. The administration consistently underestimates its proposed defense expenditures—CBO found this spring that the President's budget underestimated defense budget authority $20 billion for fiscal year 1987 and $160 billion over the next 5 years. While larger than previous years, this was no isolated incident. In seven out of nine times, CBO has revised the administration's defense estimates upward.

Increased control over the level and composition of the defense cuts will lessen the pressure on the administration to bargain. Making defense eat half the cuts was meant to lock the soldiers inside the Trojan horse—those who merely wish to eliminate social spending were to be frustrated. The fix breaks that deal.

We should note the apparent inconsistency in these two arguments—that Gramm-Rudman will cut defense too much, but that the fix will allow the administration to cut it too little—is just that an apparent inconsistency. The point is that we object to the threat that Gramm-Rudman-Hollings poses in the first place, and further, do not want to count on the President's ability to cook numbers to lessen the threat to defense in the second place—particularly since the defense savings would come exclusively out of domestic spending.

Mr. President, there are the considerations that bring the Senator from Colorado to resist the measure before us, and hope if a vote occurs forthwith or sometime soon, other Senators will see the error of their ways in supporting this process to begin with, will reverse that error, and get back to the kind of Government the Constitution contemplated where Members of Congress make the choices over the Nation's priorities and not some functionary subject to Presidential pressure.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise briefly to congratulate the Senator from Colorado once again on a reasoned, thoughtful statement about what he and I and others consider to be an unreasoned and almost thoughtless act which this body has taken before, and which I do not doubt before the day is over it will take again. This act, which James Q. Wilson has described as madness, "madness" from a careful and learned man, and which in the first instance the Supreme Court of the United States acting on a unanimous judgment of the district court in the District of Columbia declared unconstitutional as the Senator from Colorado anticipated that it would do.

There is an interesting passage in the decision that was handed down in the U.S. court by Judges Scalia, Johnson, and Gasch in which the district court stated—referring to the provision which ultimately was found unconstitutional, but explaining the rationale for it, the court said:

> The grant of authority to the Comptroller General was a carefully considered protection against what the House conceived to be the pro-executive bias of OMB. It is doubtful that the automatic reduction process would have passed without such protection, and doubtful that the protection would have been considered present if the Comptroller General were not removable by Congress itself.

The court went on to find on valid constitutional grounds that even so the arrangements must fail.

□ 1250

But they were more than sensible of why they were put in place. Congress had trusted the Comptroller General and had reason to, as a nonpolitical office. It had every reason not to trust the Office of Management and Budget in the face of 5 years of scandalous misconduct, documented over and again in the record about what was said and what happened, but now recorded in memoirs of those facts; yes, indeed.

May I say that yesterday I had occasion to read from Mr. Stockman's memoirs. He, of course, was Director at the time.

I think it appropriate to note that as early as 1984 Mr. Lawrence I. Barrett, a distinguished journalist with the Washington bureau of Time magazine, in his book "Gambling With History," about the years of the administration, described in precise detail the events to which Mr. Stockman subsequently correlated and said, "Yes, that is what happened."

We have known this. We have had responsible men on this. Barrett is not the type of person who writes things which he did not think were so.

Now we will go forward, I suppose, even so.

I would like to say this: The Senator from Colorado and I, and others have joined, have made the point that if a large sequester comes into play, the country will be astounded at the devastating impact on defense. That is our first responsibility as a body, not our only one. The Constitution declares that we will provide for the common defense and the general welfare. I suppose, Mr. President, that is going to have to happen.

What happens, as the Senator from Colorado has said, will prove true. We will find the most extraordinary imbalance of priorities as we go chop, chop through the automatic cutting arrangements. We will find that there has been distortion in estimates which will distort the outcome. We will have found that having abdicated our responsibility to make choices, having given Congress' most solemn responsibility away, having delegated to the executive that which the Constitution states can only be legislated by the Congress, we shall pay the price and we shall see the consequences.

Whether they can be undone, I do not know. I am not here to determine that. The Nation will not be ruined, but it will be injured, in my judgment; and the capacity of this institution will be called into question when we look up one day and see what happens and people say, "Who were those elected officials sent to Washington with clear constitutional duties who chose not to exercise their duties, who chose to turn their responsibilities over to others, for fear"—of what? For fear of doing that which they knew they would be responsible for when they sought office? I cannot think it is that. But it cannot be denied. Just as it is wholly within the power of the President to send us a balanced budget, it is wholly within the power of this Congress to enact one.

Well, we are not going to do that. We are going to give the authority, the most solemn authority, of article 1 of the Constitution to the President, a matter which the Senator from Colorado said just yesterday was fraught with constitutional problems. Whether it survives a constitutional test, we shall see. We can be sure that it will meet one. The matter will be challenged. One way or the other we shall have diminished, in this Senator's view, the stature of the U.S. Congress. On the eve of the 200th anniversary of the drafting and adoption of the American Constitution the question will arise, Just how well did the 99th Congress understand not just the rights of this body but also its responsibilities?

Mr. President, I see the Senator from South Carolina seeking recognition.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, once again we have to take issue when responsible Senators describe Gramm-Rudman-Hollings as thoughtless, an

act of madness, unreasonable, and then ask for reasonable debate. That is a rather anomalous situation. In fact, the Senator from Colorado said let us not rush it, and a minute ago the Senator said, "Let us have a vote."

However, we will be able to debate the issue, when we find out from these professors and all who the opponents talk of—we see they have disregarded the idea of revenues.

You can put in the alternative, the one that they say they are yearning for now, three readings in the House and three readings in the Senate. You can act on revenues.

Just yesterday, in regards to reconciliation, the Finance Committee voted for an increase. I am not going to vote for it, but these things happen and there is a good chance, perhaps, that it will pass, upping the Federal tax on a package of cigarettes from 16 cents to 24 cents, 8 cents a pack, bringing in $5 billion over 3 years.

I will resist that because I believe it is a matter for local revenues. The cities and States have always had that. The Federal Government has preempted them.

Now many want to unload from the Federal Government all responsibility to the State and local entities but yet take away their revenue sources.

But do they believe their own arguments? They claim these are devastating cuts, and will destroy America's national security.

Do you really believe these distinguished Senators are concerned about national security while we debate the Gramm-Rudman-Hollings issue: I know they are concerned about national security, but on Gramm-Rudman-Hollings?

They know good and well that if we faced any devastating cuts as they describe, we will come up with the revenues to deal with the problem.

There are many ways to pay for national defense. Our trouble is to vote for additional revenues to pay for it. One minute they want to vote and the next minute they do not want to vote. One minute they cannot understand Gramm-Rudman-Hollings and then in the next breath they give a perfect description of how it works.

One minute they go in one direction and the next minute another direction. They are trying to avoid their responsibilities. That is exactly what they are trying to do.

This amendment makes us all act responsibly. We have to do the job. We cannot just give rosy scenarios of GNP and interest rates, pat each other on the back, and hope the deficit goes down. Instead the deficit is going up, over $220 billion for 1986.

□ 1300

The interest cost on the national debt, Mr. President, now exceeds $500 million per day—it has been quoted as higher—and that has to do with working days. I am talking about tomorrow, Friday, July 25, the first thing our Government will do is borrow some $500 million—not to reduce the deficit but just to pay the interest costs. The $500 million provides for nothing, just for extravagance of past Congresses and administrations.

On Saturday morning, once again, the Government will borrow another $500 million. And on Sunday morning, and on Christmas morning of this year, they will borrow $500 million a day just to pay the interest costs.

This is a runaway animal. We are trying to get a halter on it. We are trying to bridle this mad steed. In doing so, the best job that we can possibly expect is to add another half-trillion dollars onto the national debt.

Economists can say what they want about this initiative, but it is working in 43 States in America. They accuse us of cowardice, saying what we need is courage. We have been looking to find that courage here for the last 5 years. So now this initiative, which is getting us to face up to the job, is being described as cowardice. This is absolute nonsense.

What we are doing is exactly what the Senator from Colorado said we are doing: We are replacing the Office of the Comptroller General with the Office of Management and Budget. That is simply all it is. It must be given to the executive.

I guess there are many on this side of the aisle who would not trust anyone in the executive branch. But the Government must go on and we must send all our legislation to the President hoping he will sign it. We send this particular initiative hoping that it will be executed in a proper fashion. This Senator happens to think that it will be done.

We have set the discipline by reaffirming the 1986 sequester of March 2. We looked at what the Director of the Office of Management and Budget did with the March 1 sequester.

Having seen the precedent and how they responded, how they treated the figures, and how they performed their duties, we said, "This was a job well done." I was present on the floor of the U.S. Senate when it was confirmed last week. Today, Senators come to the floor and describe it as madness, monsters, thoughtless acts and everything else.

It was very thoughtful. It had been debated for 3 months.

If someone has a better idea, other than repealing the discipline, I will be glad to listen. They really want to do away with the discipline. They want to get rid of it all. They do not come and suggest a better alternative.

The discipline is fixed and it is working. I hope we can adhere to it and this is to maintain that particular discipline. Nothing more, nothing less.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me indicate to my colleagues what is not happening. Obviously, we are not doing anything on the Senate floor. But a discussion is going on with Members on both sides of the aisle, Republicans and Democrats, with reference to trying to reach an agreement on an amendment which would meet the constitutional requirements insofar as the Gramm-Rudman-Hollings amendment is concerned. That discussion may take some time. It might take the remainder of the day. It might take today and tomorrow.

So what the majority leader is attempting to do now is to find some other business or legislation we could move to—perhaps the China Tax Treaty, and we will be able to dispose of that fairly quickly.

There are some nominations we may move to. There is a Cohen bill on civil penalties, civil fraud, which we are checking out.

So, rather than waste time—and we do not have much of it between now and the August 15 recess date—in the next 30 minutes we are going to try to come up with something and move to it. The pending business will still be the debt ceiling and the Gramm-Rudman-Hollings amendment, which we will come back to, assuming that we do all these things. So we will try to find some candidate to bring up on the floor.

RECESS UNTIL 2:05 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:05 p.m.

There being no objection, the Senate, at 1:32 p.m., recessed until 2:09 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. QUAYLE).

□ 1410

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues that what I would like to do is go into executive session when the distinguished minority leader arrives and consider three treaties. One is a Tax Agreement with China, Executive Calendar No. 8; another is Executive Calendar No. 12, the Vienna Convention for the Protection of the Ozone Layer; and the third

is Calendar No. 21, Protocol for the Conservation of Atlantic Tunas. Then there will be record votes, either three for one or one for each.

Without that, we are just killing time here. There are conferences going on on the Gramm-Rudman-Hollings proposal.

Then we could clear up some Executive Calendar nominations—Mr. Gilles and Mr. Hineman. I do not know of any objection to those nominations.

Then perhaps we could move to another nomination on the calendar that might be controversial, Mr. Abramowitz of the Department of State. There are a number of nominations that have been pending for a considerable amount of time—Morton L. Abramowitz from May 20; George R. Salem from June 18; M.D.B. Carlisle, from June 25. If we could dispose of those nominations, the Executive Calendar would be fairly clean. If we could do the treaties and the nominations I mentioned, we would have only a few other nominations and they have been on the calendar only a few days. Members may wish to check those carefully before taking further action.

FURTHER MODIFICATIONS TO COMMITTEE AMENDMENT

Mr. DOLE. Mr. President, on behalf of the Committee on Finance, I send to the desk further modifications to the committee amendment. I understand this has been cleared on both sides.

Mr. KERRY. Mr. President, yes, it has been cleared by the minority.

The PRESIDING OFFICER. The Senator has the right to modify the committee amendment on behalf of the committee.

The modifications are as follows:

On page 2 of the matter proposed to be inserted, lines 17 and 18, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 2 of the matter proposed to be inserted, lines 23 and 24, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, line 3, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, lines 4 and 5, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, line 9, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, lines 13 and 14, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, line 17, strike out "debt issuance suspension period" and insert in lieu thereof "debt limit impact period".

On page 3 of the matter proposed to be inserted, beginning with line 22, strike out all through page 4, line 25 and insert in lieu thereof the following:

"(4) The Managing Trustee shall pay, on the first normal interest payment date that is at least 30 days after the expiration of any debt limit impact period, to each of the Trust Funds, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Managing Trustee to be equal to the excess of—

"(A) the net amount of interest that would have been earned by such Trust Fund during such debt limit impact period if—

"(i) amounts in such Trust Fund that were not invested during such debt limit impact period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to such Trust Fund which occurred during such debt limit impact period solely by reason of the public debt limit had not occurred, over

"(B) the net amount of interest actually earned by such Trust Fund during such debt limit impact period.

"(5) For purposes of this section—

"(A) The term 'public debt limit' means the limitation imposed by subsection (b) of section 3103 of title 31, United States Code.

"(B) The term 'debt limit impact period' means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to orderly conduct the financial operations of the United States may not be made without exceeding the public debt limit.".

(b) Subsections (a) of section 201 of the Social Security Act is amended by adding at the end thereof the following new sentence: "All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under any other provisions of law directly related to the programs established by this title.".

On page 6 of the matter proposed to be inserted, beginning with line 23, strike all through page 7, line 5 and insert in lieu thereof the following:

"(C) Report to the Congress as soon as possible, but not later than the date that is 30 days after the first normal interest payment date occuring at least 30 days after the expiration of any debt limit impact period for which the Managing Trustee is required to take action under paragraph (3) or (4) of subsection (d), on the operation and status of the Trust Funds during each of such debt limit impact periods;".

Mr. DOLE. Mr. President, I believe that this is a further technical modification of the modification discussed yesterday by Senators MOYNIHAN, PACKWOOD, and others.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1430

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. DOLE. Mr. President, I ask the minority leader if he is in a position to confirm the following nominations on the Executive Calendar: Calendar No. 928, Kenneth A. Gilles; Calendar No. 929, Kenneth A. Gilles; Calendar No. 932, Kalo A. Hineman.

Mr. BYRD. Mr. President, in response to the distinguished majority leader, I am prepared to say that these three nominations have been cleared by all Members on this side, and we are ready to proceed to vote on the confirmation of the nominations.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the nominations just identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Kenneth A. Gilles, of Virginia, to be an Assistant Secretary of Agriculture, vice Raymond D. Lett, resigned.

Kenneth A. Gilles, of Virginia, to be a member of the board of directors of the Commodity Credit Corporation, vice C.W. McMillan, resigned.

COMMODITY FUTURES TRADING COMMISSION

Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 1991. (Reappointment)

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF KALO A. HINEMAN

Mr. DOLE. Mr. President, I am very supportive of Kalo Hineman's renomination to be a Commissioner of the Commodity Futures Trading Commission [CFTC]. I supported his nomination in 1981 and am pleased that Kalo has agreed to serve a second term on the CFTC.

Kalo is a cattleman and wheat farmer from Dighton, KS, veterinarian, former State legislator, and banker. He has made an enormous contribution as the first and only

farmer ever to serve on the CFTC. He chaired an agricultural options Advisory Committee and was instrumental in the Commission's early activities to implement a pilot program in exchange-traded agricultural options. These instruments have the potential of becoming a valuable risk-management tool for the agricultural sector.

The success of that committee prompted Chairman Phillps to expand its mission to other agricultural issues. As chairman of the Agricultural Advisory Committee at the CFTC Kalo provides a direct link to major farm organizations, users of commodities, exporters, processors, the cattle, pork and broiler industries as well as agricultural lenders.

BACKGROUND

Since 1947, Mr. Hineman has been a cattleman, rancher, and wheat and milo farmer in Dighton, KS. He is coowner with his son of Kalo Hineman Cattle Co. and Hineman Partners, a farming company. From 1955 to December 1981, he was a director of First National Bank of Dighton; and from 1974 to December 1981, he was a member of the Kansas House of Representatives. Kalo is a member and past president of the Kansas Livestock Association, a member of the National Cattlemen's Association, the American Farm Bureau Federation, and the National Association of Wheat Growers.

He is a 1943 graduate of Kansas State University where he received his DVM. He served in the U.S. Army, Veterinary Corps, as a captain and has served with the Office of Strategic Services.

CONCLUSION

Mr. President, Kalo Hineman has been an excellent Commissioner and has played an important role in communicating the role of futures trading in agriculture as well as representing the concerns that farmers tend to have regarding futures trading.

Kalo brings an important perspective to the CFTC on behalf of agriculture and in his 4 years of service has demonstrated the ability to be responsive to the agriculture community. Agriculture is fortunate to have a commissioner on the CFTC of Kalo's caliber and I look forward to his continued service.

TAX AGREEMENT WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar No. 8, Tax Agreement with the People's Republic of China.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 8, Treaty Document No. 98-30, Tax Agreement with the People's Republic of China.

Mr. DOLE. Mr. President, I ask unanimous consent that the treaty be advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification; that no amendments be in order to the resolution; and that the Senate proceed to vote immediately, without any intervening action, on adoption of the resolution of ratification.

Mr. EXON. Mr. President, reserving the right to object——

Mr. BYRD. Mr. President, reserving the right to object, Senators should be given an opportunity to reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object—I am not sure I will—I would like a little explanation from the majority leader as to what he sees the parliamentary situation to be right now and where we are right now. Evidently, by unanimous consent or otherwise, we have gone off the debt ceiling bill and the amendment thereto, generally referred to as Gramm-Rudman II. Is that correct?

Mr. DOLE. That is correct.

If the Senator will yield, I indicate that, for the purpose of getting some business done this afternoon, there are a number of Senators on each side—I do not know where they are—negotiating the so-called Gramm-Rudman-Hollings amendment. I do not know how many are for it or against it, but at least they are working on some language. They came to me about 1 o'clock and said they would probably take the rest of the day and maybe even the rest of the week. The distinguished Senator from South Carolina is present. I hope the rest of the day would be adequate. In any event, these negotiations are going on.

Then, there was a suggestion that we move to South Africa, which I did not think was a very good idea. So I decided that we should be doing something and go into executive session and take care of some treaties that have been around for a while, as well as some nominations that need to be confirmed.

Mr. EXON. Mr. President, further reserving the right to object, as I understand it, the yeas and nays have not been requested on the so-called Gramm-Rudman II that has been offered as an amendment to the debt ceiling bill. Is that correct? Can the Chair advise me on that?

The PRESIDING OFFICER. The yeas and nays have not been ordered on that amendment.

Mr. EXON. I suggest, in reserving the right to object, that I share what I take to be the consternation, at least, of the distinguished minority leader with regard to our inability to get things done.

This Senator was on the floor yesterday with an amendment that was very pertinent to the Gramm-Rudman II amendment, and I was prevented by the manager of that bill from even getting a second when I asked for a rollcall vote on it.

I want to be reasonable and I want to be fair with my colleagues. But in view of the fact that we made the determination, under the leadership of the distinguished majority leader, that we were going to the debt ceiling bill—and all Senators know there is a whole group of amendments that will be put on that bill—the thoughts of setting aside the business of the Senate for other purposes does not seem to be in the interests of orderly process, to this Senator.

So I basically find myself probably in agreement with the majority leader and the minority leader: Why do we not move ahead?

I would also like to know what the plans are for tomorrow, if any. Some of my colleagues have asked me about that.

I would offer, as a constructive suggestion, that since I firmly believe that the amendment offered by this Senator yesterday would go to the very heart of the matter of Gramm-Rudman, we should get an expression of the U.S. Senate, in the form of a sense-of-the-Senate resolution, as to whether or not the Senate feels it is necessary to repair the sequester damage done to Gramm-Rudman as a result of the Supreme Court action.

It is my feeling that the authors of that bill probably knew what they were doing—at least, I hope they did—when it was initially passed. The Senate and the House overwhelmingly approved the initial sequester last March 1.

I feel that we do not need a lot of extensive negotiations until we find out whether or not it is the sense of the majority of this body that we need further tinkering or repair or additions to the Gramm-Rudman bill that still stands, despite the one important structure having been knocked out by the Supreme Court, with regard to the appointment of the sequestering officer.

I am wondering if there is any chance that, in the interests of proceeding in orderly fashion, after we have disposed of the treaty measures that the majority leader has just suggested, we can get an agreement that, notwithstanding the feelings of the Gramm-Rudman authors, that they want to vote first and first only on what they want—would it be unreasonable to ask the Senate to proceed meanwhile on the amendment offered by the Senator from Nebraska yester-

day, as something we could do directly on the subject?

□ 1440

Mr. DOLE. Mr. President, I would certainly be happy to explore that. I do not have any problem with voting on the Senator's amendment. I am not certain the others can have it both ways.

But, again, I think the Senator's amendment is the sense of the Senate that we use the fallback system, as I understand it. That was the amendment offered by the Senator from Nebraska yesterday, or he was going to offer the amendment. Then someone called for the regular order, as I understand it. I will be happy to explore that.

Mr. EXON. I wish the Senator would explore that. I will not object any further at this time. I would like to serve some notice that I may, since I was not given the consideration yesterday of a seconding on my request for the yeas and nays which is customary in this body. I think had we done that we would be moving ahead in an orderly fashion despite the feelings of the very select group in this body who are determined that they are going to dictate how things are going to be run and when the votes are going to be taken.

It may well be within the decision of this Senator that he might object to some of these things to try and get the Gramm-Rudman votes back on track and not put aside, which I think they should not be for any other important matter, including South Africa sanctions.

I thank the majority leader and minority leader, and I will not object at this time.

Mr. DOLE. I thank the Senator from Nebraska. I think the point he makes I do not disagree with. If we are going to move ahead on the debt limit extension, we have to have some amendments.

I know the sponsors of the Gramm-Rudman-Hollings amendment, for reasons that I consider to be good, wanted to have their amendment offered. What happens from time to time is that there are others who then look over the amendment and would like to make some minor changes. I guess that is what is under discussion now.

If that is going to be extended for some time maybe we could call up the amendment of the Senator from Nebraska. I am not certain I would support it but I think he has a right to bring it up and maybe once we start those type of amendments we can finally get around to final passage.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Without objection, it is so ordered.

The resolution of ratification follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income, together with a supplementary protocol and exchange of notes, signed at Beijing on April 30, 1984, and a protocol concerning the interpretation of paragraph 7 of the supplementary protocol, signed at Beijing on May 10, 1986.

Mr. DOLE. Mr. President, I request the yeas and nays on the China treaty.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I had the privilege of chairing the hearing in the Foreign Relations Committee on the China Tax Treaty. In fact, this was one of the six tax treaties which were in front of the committee at that time.

These are standard treaties which are implemented in order to reduce or eliminate the double taxation of income earned by citizens and residents of the United States and the treaty partner from sources within the country. It is also, of course, designed to eliminate the evasion of taxes by anyone.

As in other U.S. tax treaties, the objective is achieved by each country agreeing to limit in certain specified situations its right to tax income derived from its territory by residents of the other. All the provisions of the treaty are reciprocal.

Mr. President, there are a number of impressive reasons for this treaty to be adopted, especially given the rapidly growing trade relationships with the People's Republic of China. There have been heavy rates of taxation imposed on foreign companies by the Chinese Government. There are many ambiguities in the Chinese new tax laws and the treaty is needed by American corporations for several reasons. First, without the treaty, technology transfer of U.S. companies in China will be subject to a 20-percent withholding tax, whereas competitors from other nations, all of which have tax treaties with China, are subjected to only 10 percent and in some case only 7 percent.

Second, without the treaty, United States residents in China become subject to taxes on their personal income after a 90-day presence in China; whereas, citizens of other nations with a tax treaty will become liable only after 183 days.

Third, without the treaty there is no guarantee of United States tax credits for payments in China; whereas, the treaty prevents double taxation of American corporations and individuals.

Mr. President, there are only a few of the reasons that the treaty is important to U.S. business. This treaty provides investors with an amount of certainty: they will know before undertaking a transaction in China what the income tax consequences will be. This treaty received a strong vote in the Foreign Relations Committee, and I urge that it be adopted by the Senate.

Mr. President, I ask unanimous consent that a letter from the Congressional Budget Office to the chairman of the Foreign Relations Committee, Senator LUGAR, be inserted at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 11, 1985.

Hon. RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined Income Tax Agreement (and Protocol) with the Government of the People's Republic of China.

The proposed Income Tax Agreement does not affect current levels of budget authority or tax expenditures. CBO concurs with the Joint Committee on Taxation staff's estimate that the effect of the proposed treaty on budget revenues will be negligible.

With best wishes.

Sincerely,

RUDOLPH G. PENNER.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. PELL, who is the ranking minority member of the Foreign Relations Committee, be permitted to insert into the RECORD a statement in regard to the treaty upon which the Senate is about to vote.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. PELL. Mr. President, today, the Senate is being asked to give its advice and consent to ratification of a bilateral income tax treaty between the United States and the People's Republic of China.

By and large, this treaty is similar to those already in effect between the United States and some 37 other countries. The purpose of the pending treaty is to remove the burden of double taxation from U.S. persons and firms who may be doing business in another country, and therefore be subject to tax both there and in the United States on the same income. The treaty is also intended to provide U.S. persons with some certainty with respect to the rates at which various sources of income will be taxed. This will better enable U.S. citizens to make sound financial decisions. Finally, this treaty is intended to provide a framework by which tax officials in both

countries can ensure that taxes are collected on those transactions which are subject to taxation, thereby thwarting tax evasion.

Senator HELMS had expressed concern that this treaty as originally negotiated contained a rather weak antitreaty shopping provision which is designed to prevent third country residents from obtaining unintended benefits from the treaty. After reviewing the treaty, the Committee on Foreign Relations concluded that, as a practical matter, the treaty shopping possibilities in China are insignificant at present. This conclusion was based upon expert testimony from U.S. tax officials and independent tax experts. However, in its report on the treaty, the Committee on Foreign Relations put administration and Chinese officials on notice that the committee would watch carefully to see that laws in China did not change in such a way as to open the door to third country residents' use of the treaty.

In order to address the concerns raised by Senator HELMS and others, Secretary Baker recently went the extra mile, in my view, by proposing a clarification on this issue to Chinese authorities during his visit to China last May. The Chinese Government readily agreed to this clarification to the antitreaty shopping provision contained in the treaty. A new protocol containing this clarification was signed at that time, and transmitted to the Senate on June 6. Treaty Document 99-26 which is currently before the Senate is this new protocol detailing rules designed to prevent the use of this bilateral income tax treaty as a conduit by third country residents to obtain unintended treaty benefits. I commend the Secretary for this efforts to close this potential loophole.

Mr. President, I believe that this treaty and related protocols are in the economic and foreign policy interest of the United States, and for those reasons I urge my colleagues to give their advice and consent to ratification.

The PRESIDING OFFICER. Is there any further debate on the resolution of ratification?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

□ 1450

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Florida [Mrs. HAWKINS], are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 163 Ex.]

YEAS—96

Abdnor	Glenn	Metzenbaum
Andrews	Gore	Mitchell
Armstrong	Gorton	Moynihan
Baucus	Gramm	Murkowski
Bentsen	Grassley	Nickles
Biden	Harkin	Nunn
Bingaman	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hecht	Proxmire
Broyhill	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Hollings	Riegle
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Chiles	Johnston	Rudman
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Cranston	Kennedy	Simon
D'Amato	Kerry	Simpson
Danforth	Lautenberg	Specter
DeConcini	Laxalt	Stafford
Denton	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Long	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Trible
Durenberger	Matsunaga	Wallop
Eagleton	Mattingly	Warner
Evans	McClure	Weicker
Exon	McConnell	Wilson
Ford	Melcher	Zorinsky

NAYS—1

Helms

NOT VOTING—3

Garn	Goldwater	Hawkins

□ 1510

The PRESIDING OFFICER. Two-thirds of the Senators present and voting have voted in the affirmative, the resolution of ratification is agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the Senate has just advised and consented to the ratification of the first effort to a complete income tax treaty to be signed with the People's Republic of China. This is not a small event. Efforts were set in motion many years ago and the treaty was, in fact, initiated by the President in 1984 in Beijing, as he states to us in the letter of submittal of July 24, 2 years ago.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will withhold. The Senate is not in order. The Senate will be in order.

The Senator from New York.

Mr. MOYNIHAN. I thank the Presiding Officer and I thank the minority leader.

To repeat, Mr. President, this is the first complete income tax treaty to be signed with the People's Republic of China. It is based on a model income tax treaty prepared by the Department of Treasury of the United States, and it is a matter of large consequence to the economic relations between our two nations.

Mr. President, I think it may be said that while the benefits of the treaty are reciprocal, as they ought to be or the President would not have signed the treaty and the Senate would not have accepted it for ratification, the benefits, however, may be described as principally enabling and fostering American investments in the People's Republic.

The treaty provides a series of guarantees as to what income will be taxed, what will not be taxed, what could be repatriated, and other guarantees concerning investments. That is the principal purpose of tax treaties.

Mr. President, we do not anticipate that there will be a large amount of investment by the People's Republic in the United States. There has been discussion of investment by U.S. firms and individuals in the People's Republic.

So we have accomplished something which will be mutually beneficial to our two nations and that is good.

What I wish to say, Mr. President, is that it is a point to be made for the record and now that if the People's Republic of China had not yesterday, July 23, released the New York Times bureau chief in Beijing, Mr. John F. Burns, after 6 days in near solitary confinement on an absurd charge of espionage; had the People's Republic not released Mr. Burns yesterday, we would not have voted on this treaty today. At least those are the sentiments of the Senate. I would be surprised that were we to have voted, the treaty would have been approved.

Specifically, Mr. President, we are in executive session, and in executive session, a motion to take up a matter on the Executive Calendar is debatable.

□ 1520

The Senator would have debated it into October if need be or, indeed, until it was taken down, which would have been done very quickly and with no great resistance from the majority or minority leader in view of the extraordinary conduct of the Chinese authorities.

This ought to be understood in Beijing. Mr. A.M. Rosenthal, the executive editor of the New York Times, and Mr. Warren Hoge, the Times' foreign editor, flew from New York to Beijing to ask what was happening to American journalists. They made very

modest statements to the effect that were Mr. Burns to be detained in the condition he was and for any length of time, it would not but damage relations between our countries. Yet, the Chinese authorities chose to dismiss this thought as one beneath their concern.

If that is the case, then they might have considered whether they should have written that treaty in the first place; because, whether they understand this or not, the U.S. Senate holds as a matter of large consequence the treatment of American nationals abroad and takes a very concerned view of any charge of espionage directed against a distinguished journalist for a reputable journal, whose espionage was carried out, we are asked to believe, in the course of a several-thousand-mile motorcyle ride in the interior provinces of China—this in full view of the authorities; indeed, accompanied by another American, who had just served a period of time as a professor of law at Beijing University.

Mr. President, it is not required to restate my point. I simply want the record to show that it was just in the very nick of time that the Chinese authorities released Mr. Burns. For reasons that we could not find acceptable, they chose to expel him, but he is at least at liberty—in Hong Kong, when last heard from.

And it is a good thing this was done, else this treaty would not have been available for consideration today. The Senator from New York would have felt it necessary to debate the motion. He would have found support in this matter on both sides of the aisle, and the effort would have prevailed.

I simply say in closing that not quite 1 year ago, our distinguished majority leader led a trade delegation to the Far East. The distinguished Senator from Washington, who is on the floor at this time, a former Governor of that State, was one of the Senators in the delegation. I had the honor to be with it as well. We had a great many talks with the Chinese officials in the Great Hall of the People. We visited Shanghai. We inquired at length into possibilities for improvement of economic relations between our countries. We thought we had made some progress.

We were dismayed to see the behavior of the last week. We are relieved that it is over and I am happy that the recourse that would have been necessary did not in the end prove so. But I want the RECORD to show that if any police official in Beijing thinks it would not matter to the relationship between our countries that they simply threw an American journalist into prison and kept him there incommunicado, that official was wrong and would have been proved wrong in short order.

Mr. President, I thank the Senate for its courtesy in hearing me in this matter. I ask unanimous consent that there be printed in the RECORD the report of Mr. Burns' expulsion, together with the text of the Chinese statement on that occasion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 24, 1986]

TIMES REPORTER IS EXPELLED FROM CHINA

The Peking bureau chief of The New York Times was expelled from China yesterday after being detained for nearly six days on suspicion of espionage.

The correspondent, John F. Burns, was placed aboard a plane of the Chinese state airline and flown to Hong Kong.

The official New China News Agency said he had been ousted from the country for "activities incompatible with his status as a journalist." It said he had been involved in "deliberately breaking into Chinese areas closed to aliens, thereby violating the law governing aliens' entry into and exit from the People's Republic of China."

In a statement issued in New York, Arthur Ochs Sulzberger, publisher of The Times, said, "We are grateful for the prompt resolution of the problem facing John Burns, though we regret his expulsion from China after so many years of distinguished reporting for The New York Times."

ACCUSED OF "ACT OF SPYING"

The Chinese authorities told A.M. Rosenthal, executive editor of The Times, that they considered Mr. Burns guilty of an "act of spying and intelligence gathering which will not be tolerated by any sovereign state."

Mr. Rosenthal, who arrived in Peking on Saturday with the newspaper's foreign editor, Warren Hoge, said of Mr. Burns: "I believe in his innocence of any espionage and intelligence gathering."

The Times editors were told by the Chinese authorities yesterday that Mr. Burns and an American traveling companion had broken into "a military restricted zone of our country" and had taken "numerous photographs of classified objects.,"

Mr. Burn's wife, Jane Scott-Long, and their two children, Jamie, 5, and Emily, 2, were allowed to remain behind in Peking to complete the family's preparations to leave China.

Mr. Burns said the trip out of which the charges grew had been "a legitimate journalistic venture."

"This is not the kind of thing spies do," he told reporters after his arrival in Hong Kong. "I'm not a spy. I'm a journalist. If I had been a spy, I certainly would not have chosen to do anything as clumsy as this way to go about gathering information."

Until yesterday, Mr. Burns, who spent most of his incarceration incommunicado in a small cell, had not been accused of any offense. On Monday he was allowed to see his family, British and American Embassy officials and his editors.

Mr. Rosenthal voiced regret over Mr. Burns' expulsion, adding, "We'll soon be asking the Foreign Ministry to accredit another New York Times correspondent to China." He said he had been assured by the authorities that the newspaper would be allowed to replace Mr. Burns.

The case against Mr. Burns arose from a motorcycle tour of central China that began late last month. He was accompanied by Edward McNally, a lawyer on leave from the United States Justice Department to teach constitutional law at Peking University, and Zhang Daxing, who had recently returned to China after studying in the United States.

During their trip, the three were stopped by the police near the border of Shaanxi and Sichuan provinces and told they were in a restricted area. They were held for two days but were allowed to return to Peking after writing long "self-criticisms."

Mr. Burns, who said he had thought the matter had been resolved, was taken into custody for a second time on Thursday at the Peking airport as he and his family prepared to leave China on vacation. He was questioned at the airport for 15 hours, his home was searched and he was taken to a detention center early Friday morning.

Film from the trip was confiscated, and Chinese officials told the Times editors yesterday that the materials would not be returned.

Mr. McNally had left China to attend to business in Hong Kong before Mr. Burns was detained. Mr. Zhang was reported to have been questioned for a day and ordered to write a second self-criticism. His whereabouts were not known.

Mr. Burns, who is 41 years old, was born in Britain and travels on a British passport. He became The Times' Peking bureau chief in 1984. He reported from China for The Globe and Mail of Toronto from 1971 to 1975, when he joined The Times. He has also served as The Times' Bureau chief in Johannesburg and Moscow.

TEXT OF CHINA'S STATEMENT

(Following is the text of a Chinese statement on the case of John F. Burns, the Peking bureau chief of The New York Times, who was expelled yesterday. The statement was read in Peking by Xu Hui, an official of the State Security Bureau, to A.M. Rosenthal, executive editor of The Times, and Warren Hoge, the newspaper's foreign editor.)

The Burns-McNally case is a grave one. They disregarded the laws of China, deliberately violating the law governing aliens entering into and exiting from the People's Republic of China. They broke into a military restricted zone of our country and took numerous photographs of classified objects.

Such demeanor obviously constitutes an act of spying and intelligence gathering which will not be tolerated by any sovereign state and needless to say is also a regrettable incident.

We attach great importance to friendly relations between China and the United States and are loath to see such a relationship impaired.

Since the beginning of the Burns and McNally case, while upholding the sovereignty of the law of China, we have acted with the utmost restraint and have sought earnestly to deal with the matter satisfactorily within the limits permitted by law and restricted to the least possible publicity.

It is out of such considerations that we did not investigate and affix criminal responsibility of the two persons through judicial procedures, which we could have done according to the nature of their offense.

Thus the penalization has been greatly mitigated. We hope this is taken notice of by the U.S. side.

We have made a decision to expel Burns from the territory of the People's Republic of China today.

We will only release a brief news item, without making public the details of the case.

We will adhere to this attitude unless we are faced with a difficult situation, in which case we will have to act against our will.

Mr. EVANS. Mr. President, I do appreciate the words of the distinguished Senator from New York. As he said, we joined together on that trip to the People's Republic of China and I am exceedingly pleased that we were able to take this additional very important step in building trade relationships between our two countries with the passage of this treaty.

GENEVA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER

Mr. EVANS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar No. 12, the Vienna Convention for the Protection of the Ozone Layer. I further ask unanimous consent that the treaty be advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification; that no amendments be in order to the resolution; and that the Senate proceed to vote immediately without any intervening action on the resolution of ratification.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I shall object for just a moment. I hope the Senator will withhold his request.

Mr. EVANS. I shall be delighted to withhold the request.

Mr. President, let me repeat the unanimous-consent request: I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar No. 12, the Vienna Convention for the Protection of the Ozone Layer; that the treaty be advanced through its various parliamentary stages up to and including the presentation of the resolution of ratification; that no amendments be in order to the resolution; and that the Senate proceed to vote immediately, without any intervening action, on the resolution of ratification.

Mr. BYRD. Reserving the right to object, Mr. President, I shall object to the last part of the request that has been propounded by the distinguished acting Republican leader. There may be some Senators who would want to debate this matter, at least briefly. Could he rephrase his request to allow some discussion of the resolution of ratification?

Mr. EVANS. Mr. President, I do rephrase the request in its last part, so that it reads "no amendments be in order to the resolution and that subsequent to debate, the Senate proceed to vote immediately on the adoption of the resolution of ratification."

□ 1530

Mr. President, I will reinstitute the request for unanimous consent. Perhaps it is easier to reread the first part of it. I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar No. 12, Vienna Convention for the Protection of the Ozone Layer, and I further ask unanimous consent that the treaty be advanced through its various parliamentary stages, up to and including the resolution of ratification and that no amendments be in order to the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will report.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Vienna Convention for the Protection of the Ozone Layer, done at Vienna on March 22, 1985.

Mr. EVANS. Mr. President, while the title of the treaty may sound esoteric—the protection of the ozone layer—there is growing scientific concern about the ozone layer which surrounds the Earth. The ozone layer plays a key role in shielding out ultraviolet radiation and in controlling the atmospheric heat gradient. There is growing concern that certain human activities are depleting and restructuring the Earth's ozone layer. These changes could adversely affect human health and the environment. There is significant evidence that the layer disappears over the Antarctic on a seasonal basis for a longer period of time each year. There is clear evidence that certain industrial processes and products lead to a depletion of the ozone layer. The United States has taken some significant action to reduce the pollutants which have that effect. Other countries have not moved as rapidly, and it is important that we proceed ahead on this treaty.

The treaty does not mandate action by any nation but it does commit countries to take appropriate measures to protect the ozone layer and provide procedures for developing control measures as may be needed. Given the global nature of this problem, any measures to effectively handle the ozone problem do require international cooperation, and action must be based on a sound scientific and technical basis. That is the primary objective of the Vienna Convention. It will help to increase the scientific understanding of the ozone layer and the potential risks of modifying that layer. It creates a framework for international cooperation on appropriate research, monitoring, and information exchange.

The Ozone Convention is supported by the administration, by affected industries, and by the environmental community.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, this proposed treaty is not controversial and I am informed not opposed by any Member of this body. I wish to speak in strong support of the proposed ratification. I also want to address the issues that are involved very briefly and say that I do not think this treaty goes far enough. It is a small step, a tiny step, and indeed the description of the treaty makes it clear that it does not obligate us to take any regulatory action or spend any money or do much of anything. That is a weakness of the treaty given the severity of the problem. Nevertheless, it is a step we should take because it represents the beginning of international cooperation to assess the nature of the problem. And the treaty itself contains a provision for future protocols that could have teeth in them if we subsequently agreed in this Chamber and if the other signatories to the treaty subsequently agreed.

But the real reason I wanted to make a few brief remarks on the occasion of that ratification, Mr. President, is that I am completely convinced that we in the United States and other countries around the world are failing to take the problems of atmospheric pollution on a global basis as serious as we should. Now, the principal threat to the ozone layer is coming from a class of chemicals known as chlorofluorocarbons, or CFC's. These substances will contribute greatly to another problem, the greenhouse effect. Their production should be controlled internationally. My colleague, the Senator from Washington, has already spoken of the new finding, first announced by British scientists, that the ozone layer above Antarctica disappears during our summer and Antarctica's winter, and there is now a hole in the ozone layer the size of the continental United States. It gets larger each year. Studies are underway involving a rare winter expedition to this portion of Antarctica to try to determine whether or not this is an historical phenomenon or something that is new, that has occurred since the advent and acceleration of the industrial revolution and more particularly in the last 2 decades with the tremendous increase in the production of chlorofluorocarbons.

Mr. President, if it was only for the threat to the ozone layer, chlorofluorocarbons should be controlled, but as I mentioned earlier they are also one of the major contributing factors to the greenhouse effect. Now, as we are well aware, the greenhouse

effect is principally caused by the rapid increase in the amount of carbon dioxide in the upper atmosphere and the amounts of carbon dioxide involved totally dwarf the amounts of chlorofluorocarbons involved. However, because of their peculiar chemical properties, the small volume of chlorofluorocarbons contribute perhaps as much as 30 percent to the cause of the greenhouse effect.

Now, Mr. President, we have not had many discussions of the greenhouse effect in this Chamber probably because it sounds like a bad science fiction novel and nobody wants to deal with an issue that is this complex and fraught with scientific uncertainty and fraught with dire warnings that will come to fruition in the next century. You may have heard some of the forecasts—a 3-to-8 degree (F) temperature increase by 2030, a 10-percent decrease in crop yields, and more frequent tropical storms. Nevertheless, we have an obligation to deal with this issue. By the end of this century the greenhouse effect may be recognized as the major environmental problem facing the world.

Now, the solution is currently unimaginable because it would eventually involve significant changes in the pattern of fossil fuel use, and because that is currently unimaginable the temptation is to just push it aside and say we are not going to deal with it. But the effect on this country and other countries around the world if the scientists' projections are true will be devastating.

Let me point out, Mr. President, that last fall in Villach, Austria, an international scientific meeting was convened to discuss the greenhouse effect and the threat to the ozone layer. From that meeting there emerged a consensus that the greenhouse effect is real, and it is occurring now. We are already locking in a huge effect due to the accumulation of CO_2 in the atmosphere.

There are remaining areas of uncertainty. However, those points I just mentioned are not among them. There is virtually no respected scientist who disagrees any longer that the greenhouse effect is real and that the impact will be large.

Six years ago I had the opportunity to begin a series of hearings over in the other body on the greenhouse effect. At that time it was an issue that existed on the fringes of the atmospheric sciences, but during the last 6 years it has moved from the fringes into the main stream of science and, as I said, there is now no longer any significant disagreement.

Now, how do we assess the potential impact? Well, we are told that the increase in temperature over the next few decades would be 2 to 3 degrees on a worldwide average, and to some that does not sound like a lot. However, when you look more closely at what occurred in the past when the worldwide average temperature increases by that amount, it becomes clear that at the poles there is a much larger temperature increase, on the order of 12 to 15 degrees. This has an enormous effect on glacial ice, both north and south.

□ 1540

The Antarctic ice cap is a particular problem, the west Antarctic ice shelf in particular, because it is on top of a land mass, and the impact of its melting on the sea level would be much greater than pack ice that is already floating in the oceans. The first impact would be an increase in temperatures.

The second impact would be the melting of glacial ice and the resulting increase in sea levels around the world. But the impact would not be confined to those, because the world weather system, according to the scientists who have testified both on the House side and in a set of excellent hearings conducted with the leadership of the Senator from Rhode Island [Mr. CHAFEE], who has been an outstanding leader on this issue. The scientists have testified that another set of impacts would be the loss of equilibrium in the world weather machine, if you will, with a corresponding change in the distribution of moisture and rainfall patterns throughout the world. At different latitudes, you would find great changes in the amount of moisture available.

Two weeks ago, I asked the Library of Congress to conduct a session for Members of this body and the other body and to present some of the newest scientific evidence. One of the presenters pointed out that the amount of water in the Western United States, under the latest computer projections, would decrease by 50 percent early in the next century. Knowing of the shortage of water in many areas of the West now, it is difficult to imagine the impact of such a reduction.

Mr. President, as I said at the outset of these remarks, the issue involved begins to resemble a bad science-fiction novel. As can be seen from the effects I have alluded to, that we have been told about by these scientists, certainly paint a dire picture. But we can take action. We do not have to sit back and wait for these predictions by the scientists to come true.

One of the first steps is to control chlorofluorocarbons, because, as I mentioned, they contribute to as much as 30 percent of the greenhouse effect, and they pose the single greatest threat to the ozone layer, a problem whose severity is now being measured by this special scientific winter expedition to the Antarctic.

So this treaty, of course, should be ratified, but let us have no illusions about the fact that it does not really address the entire problem. It is a first, small step. It should be adopted, and of course will be adopted, but let us resolve in this body to take further steps: No. 1, to increase our confidence in the scientific data.

Toward that end, I introduced a resolution, Senate Concurrent Resolution No. 96, sometime ago calling for the establishment of an international year of research on the greenhouse effect, modeled after the 1957 "International Geophysical Year" which, ironically, led to the best single scientific data that we have to this day on the greenhouse effect—specifically, the monitoring stations that tell us about the rapid increase in CO_2 accumulation in the upper atmosphere.

So that is the first step—increase the confidence we have in the scientific data.

The scientists tell us there is a consensus view in their professions. Let us communicate that to the public. But in doing so, let us get better data, more complete data, and document the problem to the satisfaction of more people. After all, there are areas where we need a lot more information.

For example, what is the role of the oceans likely to be as temperatures increase? Will they absorb more carbon dioxide or, as the latest scientific data begins to hint, will they disgorge some of the carbon dioxide already stored in the ocean?

Also, what is the role likely to be played by the cloud system, which we do not know? The scientists need more research money to get an answer to that problem. That is the first step—increase the confidence we have in the data.

Second, and concurrent with that first step, control chlorofluorocarbons as immediately as possible.

Third, we must address the problem of deforestation—again, an extremely difficult problem. However, it contributes as much as 20 to 25 percent to the problem of the greenhouse effect.

It is barely imaginable that our civilization could find a way to deal with the problem of deforestation, and if we did, perhaps we could even address the challenge of reforestation. We know about the destruction of rain forests and the advance of deserts in vulnerable areas throughout the world. Those problems should be addressed even if we did not have a greenhouse effect or a threat to the ozone layer. It is barely imaginable that we, as a civilization, could address that problem.

Then, 10, 20, or 50 years from now, if we have successfully met those challenges, and if the evidence is effective as before that the greenhouse effect and the threat to the ozone layer is as

real as the scientific community en masse tells us it is, it might become imaginable for us to make some changes in the pattern of fossil fuel use around the world. It is not now. There is no point in discussing it. It is completely unrealistic. But perhaps by building our confidence in the ability of the world to work cooperatively in addressing a problem of this magnitude, we can make imaginable what is now unimaginable.

In conclusion, I urge all my colleagues to support the ratification of this Vienna Convention and to join in addressing this issue in other ways in the months and years to come.

Mr. CHAFEE. Mr. President, this convention for the protection of the Earth's stratospheric ozone layer is an important first step and represents a major international effort to address a serious environmental problem.

On June 10 and 11 of this year, the Subcommittee on Environmental Pollution, which I chair, held hearings on the issues of ozone depletion, the greenhouse effect and climate change. We heard graphic, powerful and disturbing testimony from a number of distinguished scientists and even saw a film that shows how the ozone layer over the Antarctic has, over the last several years, been periodically plagued by a hole that is growing larger and larger. This and other evidence is cause for international concern and, more importantly, action.

This is not a matter of chicken little telling us the sky is falling. The scientific evidence is telling us we have a problem, a serious problem.

There is a very real possibility that man—through ignorance or indifference, or both—is irreversibly altering the ability of our atmosphere to perform basic life support functions for the planet.

At our hearings, many of the Government witnesses argued that we need more studies. They contend that there are too many scientific uncertainties to warrant action. Only Lee Thomas, the Administrator of the Environmental Protection Agency, recognized what is at stake here. He was the only decisionmaker from the Government who appreciated the fact that policymakers and those who make regulatory decisions cannot allow themselves to be paralyzed by these gaps in knowledge.

This convention provides for international cooperation in research and information exchange on the depletion of the Earth's stratospheric ozone layer. That is an accomplishment for which the United Nations Environment Program deserves recognition and appreciation.

However, we must not stop here. The true value of this convention will be realized only if it serves as the framework for protocols involving international regulations of human activities.

I am proud to say that the United States was a leader in the effort to get such protocols adopted as part of this convention when it was first developed. Although that effort was unsuccessful, the U.S. delegation must continue to press for such international regulation. This is particularly important with respect to chlorofluorocarbons [CFC's], manmade chemicals that represent a serious threat to the global environment. With or without international agreement, the United States must recognize that it is a world leader in the area of environmental protection and, in this instance, may have to lead by example. Domestic controls on CFC's may have to go forward before we have an international agreement.

Although CFC's are only part of the problem, they are an important element that can be controled. The fact that a particualr action does not solve the entire problem is an insufficient reason to delay. Let's do what we can today and then we can do more tomorrow.

Mr. President, the problem of ozone depletion, the greenhouse effect, and climate change have not yet been elevated to the same level of public awareness as toxic waste or acid rain. Nevertheless, that is changing and, as more and more people become aware of—and concerned about—ozone depletion and climate change, we will be held accountable. By giving our advice and consent to ratification of the Vienna Convention for the Protection of the Ozone Layer, we are taking a small but important initial step toward solving the ozone depletion problem.

Mr. STAFFORD. Mr. President, I am pleased that the Senate is on the verge of ratifying the ozone research convention. But we should make it clear that the task should not stop with research alone. We—and by that I mean the United States as well as other nations of the world—need to take positive and prompt steps to deal with threats to the ozone layer and the planetary atmosphere.

One such step would be simple. That would be for the rest of the world to take the action which the United States took a decade ago and ban the nonessential uses of chlorofluorocarbons as aerosols. We seem to have gotten along quite well in this country without CFC's in spray cans and I suspect the rest of the world would have the same experience. In addition, there are other uses of CFC's which our country and others could eliminate with little or no dislocation.

I hope that as the research convention is being elaborated by the delegates from this country and others, attention will be given to the possibilities for concrete action.

Mr. BAUCUS. Mr. President, I rise today in support of ratification of the Vienna Convention for the Protection of the Ozone Layer.

This convention will bring about international cooperation in research and information exchange on the depletion of the Earth's ozone layer.

Stratospheric ozone depletion and global warming are clearly worldwide problems that require international cooperation.

The time for action is now. If the scientific community's projections of actually seeing affects within the next 20 years and almost certainly within the next 50 years are correct, then we may already be beyond the point where we have the luxury of waiting to act.

The question is, Should we just wait until we actually know for sure, or take steps now to address the problem?

I come down on the side of action. We are talking about a problem that has been building up for at least the last century.

Each day we fail to set needed policies in motion, the potential for failure increases.

Mr. President, ratification of this convention will focus attention on this critical worldwide environmental problem. International cooperation on this issue is obviously in the United States, best interest.

Worldwide emissions of ozone depleting chemicals could well be the most critical environmental problem we will face, both for the remainder of this century and well into the next century.

Ratification of the Vienna Convention for the Protection of the Ozone Layer is a significant first step. The next step is for the convention to serve as a framework for protocols involving international regulation of the ozone layer.

Are there further remarks?

Mr. BYRD. Mr. President, I ask a division on the vote.

The PRESIDING OFFICER. The minority leader asks for a division.

As many as are in favor of the resolution of ratification will rise and remain standing until they are counted. Those in favor will rise.

As many as are opposed will rise and stand until they are counted.

Two-thirds of the Senators present and voting having voted in the affirmative the resolution of ratification is adopted.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EVANS. Mr. President, I ask that Senators who are here remain for

about 2 minutes. We have one more treaty and it should take no longer than that.

PROTOCOL TO THE CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS

Mr. EVANS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Executive Calendar No. 11, Protocol for the Conservation of Atlantic Tuna and further ask unanimous consent that the treaty be advanced through its various parliamentary stages up to and including the presentation of the resolution of ratification and that no amendments be in order to the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to the 1966 International Convention for the Conservation of Atlantic Tunas (ICCAT), agreed upon July 10, 1984 by the Conference of Plenipotentiaries of the Contracting Parties to the 1966 Convention, and signed by the United States on September 10, 1984.

Mr. EVANS. Mr. President, this very simply is a protocol to add to an already existing treaty which would allow the European Economic Community to accede as a member to the treaty rather than individual countries of the European Community.

The tuna fishing industry joins the administration in supporting this protocol. I believe it will help streamline, simplify, and add to the treaty which is already in existence.

The PRESIDING OFFICER. Are there any further remarks?

The question is on the adoption of the resolution of ratification.

Mr. BYRD. Mr. President, I ask for a division.

The PRESIDING OFFICER. The minority leader asks for a division.

As many as are in favor of the resolution of ratification will rise and remain standing until they are counted.

As many as are opposed will rise and stand until they are counted.

Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is adopted.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. EVANS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1600

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The Senate resumed consideration of the joint resolution.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair will state to the distinguished Senator we are back in legislative session and the pending business is the Rudman amendment.

Mr. JOHNSTON. Mr. President, I rise in opposition to the pending Rudman amendment.

Mr. President, a week or two ago, the Supreme Court ruled on the question of the constitutionality of Gramm-Rudman. As we all know, the Supreme Court found unconstitutional that provision which gives the General Accounting Office, or the Comptroller General, the power to make certain what is here called ministerial decisions under the Gramm-Rudman Act.

Mr. President, what the Rudman amendment would do would be to replace the role of the General Accounting Office, or the Comptroller General, with OMB.

□ 1610

So the Rudman amendment would turn over, in effect, to the Director of the Office of Management and Budget those functions under the act presently performed by the GAO.

Mr. President, the first question to ask is, Did the Supreme Court denude or emasculate the Gramm-Rudman law by their decision?

Mr. President, I find my answer in the television interviews given by the distinguished Senator from Texas [Mr. GRAMM], whom I heard over and over again on television on the day the decision came down. He said, "We have preserved 95 percent of the enforcement mechanism provided for under the law."

I think he was demonstrably correct, Mr. President, because under the present law, while we have thrown out the role of the Comptroller General, that role is superseded by the Congress acting as a whole. What the act provides is that when the snapshot is taken, the OMB and the CBO get together just as they do under the present act, and instead of giving those numbers to the Comptroller General, they give those numbers instead to a joint Budget Committee which, in turn, submits the numbers for vote on the House and the Senate floor, and, in turn, that must be signed into law by the President.

That is precisely the procedure we followed just last week when we approved the numbers in the first sequestration. Those numbers were submitted to the Joint Budget Committee. They were there voted, I believe, Mr. President, unanimously, and with dispatch, and submitted quickly to the floor of the Senate and the House where the resolution was approved, dispatched to the President, and all signed within a period of hours.

That, in my view, Mr. President, is precisely what would happen if we do not pass this amendment but leave the law as it is because by voting in the Joint Budget Committee and by voting on the floor of the House or the floor of the Senate to approve those numbers you approve neither the principle of Gramm-Rudman, nor the amount of the sequestration, or of the fact of a sequestration because that is not the issue.

The only issue to be voted on when the numbers are submitted to the Joint Budget Committee or to the House and the Senate respectively is to approve the economic facts as found by the OMB and CBO, and as set forth in that set of numbers.

The Congress is then given a period of 3 to 4 weeks within which to correct the numbers, to find the savings, to adjust the deficit to the target of $144 billion, with a leeway of $10 billion and, in other words, to reduce that deficit to $154 billion to avoid sequestration.

Mr. President, it seems very plain to me that the Congress will do that. Even those of us who very strongly have opposed Gramm-Rudman, and continue to oppose Gramm-Rudman are not going to turn our backs on what are the economic facts; that is, we are not going to say the deficit is less than it is, nor are we going to ignore the numbers. That is what we have already demonstrated the Congress will do.

Mr. President, the question presented by this amendment is whether we want to replace that procedure which I just described which Senator GRAMM himself describes as being 95 percent of what the present law provides, and whether we are going to replace that with the function of OMB.

Mr. President, I think that would be a grave, grave mistake. This is not a ministerial act to be performed by OMB. It is an act full of discretion.

Mr. President, to quote from the Supreme Court decision, Bowsher versus Synar, the Chief Justice states that the Comptroller was only required to have "due regard for the estimates submitted to him by the Director of CBO and the Director of OMB." And as the Chief Justice further points out, "the act plainly contemplates that the Comptroller General will exercise his independent judgment and evaluation with respect to those estimates." Moreover, the Comptroller General "must also interpret the provisions of the act" and has "the ultimate authority to determine the budget cuts to be made."

Let me repeat that last sentence, Mr. President.

According to the Supreme Court the GAO has under the act "the ultimate authority to determine the budget cuts to be made."

That is what the Supreme Court says is the function of the Comptroller General under the present act prior to the time it was found to be unconstitutional.

What the pending amendment would do is replace the function of the Comptroller General with the Director of OMB. In place of the Supreme Court language that constitutes the "ultimate authority to determine the budget cuts to be made" in the GAO, that authority would be in the OMB. In other words, the OMB who have the discretion to make "independent judgments and evaluation" with respect to the estimates. The OMB would have the "ultimate authority to determine the budget cuts to be made."

That being so, Mr. President, the question is, Do we want to give that authority to OMB? What is the track record of OMB? Let us look at OMB, the Director of OMB. Let us look at this budget cycle.

Mr. President, in the 1987 budget, CBO says that the President's budget submitted by OMB missed the mark on outlay estimates by $17 billion. We know how they did that. They did it with smoke and mirrors. There was a cute trick, you remember, where OCS revenues, some $1.3 billion, had already been received, were already in the Treasury, and OMB said let us act as if those receipts were going to be received next year. So they moved over $1.3 billion to the next fiscal year, so the deficit will look like it is $1.3 billion less in fiscal 1987. Altogether, $17 billion worth of such chicanery went on in this budget by this OMB. They tell us, well, let us replace the GAO, let us replace indeed the Congress with OMB.

Mr. President, it is not just this year that OMB has done badly. For in 8 of the last 9 years, as our colleague Senator HART pointed out, the OMB has missed the mark by 16 percent on the average. Sixteen percent is a huge amount. Is that just a difference in adding up the figures by the guys with the green eyeshades? No, Mr. President. Those are intentional differences. We need do nothing more than read Mr. Stockman's book to find out what OMB has been doing all this while.

Mr. President, I had occasion to look back at Mr. Stockman's book today. It is just full of the most interesting quotes. If I may, I'll just read one paragraph. He says in making the 1984 deficit projections, this is what they at OMB did. He said, "Bookkeeping invention thus began its wondrous works. We invented the 'magic asterisk': If we couldn't find the savings in time—and we couldn't—we would issue an IOU. We would call it 'future savings' to be identified? It was marvelously creative. A magic asterisk item would cost negative $30 billion, $40 billion, whatever it took to get to a balanced budget in 1984 after we toted up all the individual budget cuts we'd actually approved."

□ 1620

Mr. President, it is right there in black and white by the Director of OMB. He says they invented the magic asterisk, a bookkeeping invention, $30 billion or $40 billion worth.

He goes further to say that, "We adjusted the administration's budget to incorporate all the smoke and mirrors."

Well, Mr. President, I cannot believe that we are asked seriously to approve an amendment here on the floor of the Senate to take away prerogatives from the Congress and turn them over to OMB with that kind of track record, with the present Director of OMB who missed it this year by $17 billion, for 8 of the last 9 years by an average of 16 percent, representing many billions of dollars in each one of those years, and with the on-the-record publicly stated positions of Mr. Stockman who spent more time in OMB than anybody else in this administration, who said, "We invested the magic asterisk. We used smoke and mirrors."

Is there the slightest reason, Mr. President, to believe that this OMB has changed its stripe and will suddenly become solely a green eyeshade adder of the numbers as opposed to a smoke and mirrors magician?

I submit to you, Mr. President, there is no reason to believe that. We would be naive in the extreme if we set up a mechanism involving the very economic lifeblood, the spending programs, the national defense, all these functions of Government, and turned it over to a smoke and mirrors, magic asterisk group when enacting a budget is what we were elected for in the Congress.

Mr. President, I can make a very strong case. I believe that the case has been made by the short history of Gramm-Rudman, that the principal effect of Gramm-Rudman has been simply to delay the whole budget process; not to save money. Indeed, the budget deficit today is higher today than on the day we passed Gramm-Rudman. We can show that it has delayed the whole process. But however one feels about Gramm-Rudman, whether one passionately supports it, whether one supports it with great reservations because it is the only thing left to do, or whether one continues to oppose it, we certainly should not turn over to the smoke and mirrors, magic asterisk crowd in OMB the duty to decide how much is going to be cut.

The Supreme Court said, Mr. President, that if you turn those powers over to the Office of Management and Budget, then it will be OMB who not only decides how much to be cut and what to cut, but what the numbers are that make up the whole economic equation of this country.

Mr. President, I hope we will not do such a foolish thing, one that is economically unsound, at odds with the Constitution, and at odds with the role that we, as elected Senators and Congressmen, have under our constitutional system.

I oppose this amendment, Mr. President, and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. BYRD. Mr. President, I do not want to take advantage of the distinguished acting Republican leader. He may or may not be in a position to answer the questions that I have.

Various Senators have engagements elsewhere. Some have airline reservations. I wonder if we can find out whether or not there are going to be more rollcall votes today.

Mr. HEINZ. If the Democratic leader will yield. I will be happy to respond.

As the Democratic leader knows, there is a pending amendment, the Gramm-Rudman amendment. It would appear highly unlikely that we will be able to get to a vote on that anytime soon. It is extremely unlikely that anything will transpire on that tonight. This Senator does not anticipate that there will be any unanimous consents granted to lay that amendment aside even temporarily.

Further, the majority leader indicated to me that it is his intention to take up what I believe is an noncontroversial nomination. I do not have the name of the nominee. The leader apparently feels he could clear at least one other item on the Executive Cal-

endar. That would be with the consent, of course, of the other side of the aisle.

It would be my best guess that we would be unlikely, say, during the next 2 hours, at a miminum, to have any rollcall votes or any items that are likely to come up. Indeed, it seems highly unlikely to me that there will be any more rollcall votes tonight.

My friend from West Virginia, the minority leader, has pointed out I cannot speak with the same kind of authority as the majority leader. He is very tied up in the tax conference, which has been running morning and afternoon and which will probably run into the evening. That is one of the reasons that gives me optimism that not much could transpire here on the floor, namely, the continuing tax conference. I hope that is a response to the minority leader.

Mr. BYRD. Mr. President, the distinguished acting Republican leader has certainly been as responsive as he could be under the circumstances. I am sure of that. I thank him for that.

As to a nomination being on the calendar that is cleared for action, I know of no nomination on the calendar that is cleared for action.

The Senate earlier today confirmed three nominees on the Executive Calendar. There is a nomination that this side is prepared to go to, but, as I understand, there is an objection on the other side of the aisle to taking up that nomination.

Mr. HEINZ. If the minority leader will yield, I have just been advised that the minority leader is correct, that we do not anticipate taking up any such nomination.

Mr. BYRD. One further question I would ask: Does the distinguished acting Republican leader know whether or not the majority leader intends to have a session tomorrow?

Mr. HEINZ. Mr. President, let me say to my friend from West Virginia, the Democratic leader, that I cannot speak to that. I would anticipate the Senate would be in session tomorrow. But it is entirely possible that the parties interested in bringing about some kind of possible compromise on the Gramm-Rudman amendment, which is the pending business, may not be prepared tomorrow. I have heard some of the parties to those discussions say that they feel it is unlikely that they will be in a position to present an alternative until Monday.

That is what they say. My best guess is that we would be in session tomorrow. As to votes, I cannot speak to that. If, at this point, the Senate goes about its business tomorrow the same way it is right now, which is rather slowly, I do not think I would forsee any rollcall votes. I want to caution any Members listening to this that that is not a guarantee.

□ 1630

Mr. BYRD. Mr. President, the distinguished acting Republican leader, I think, has responded as fully and as straightforwardly as he is in a position to respond at this time. Based on what he has said, however, I think I should say that I plan to tell Members on my side of the aisle that there will be no more rollcall votes today. I say this because I know something also about the calendar to which the distinguished acting leader has addressed himself. I know that the Gramm-Rudman-Hollings amendment is pending. I know it cannot be set aside except by unanimous consent. I also know that the parties are working on a modification of that amendment and that the parties on both sides have indicated that there is not a likelihood that they will have that modification worked out today.

I know that the Executive Calendar has been cleared, as far as nominations on which no objections have been lodged are concerned, and the three treaties have been disposed of.

I also know that we should not keep our colleagues here if they have other engagements to which they are committed on the premise that there might be rollcall votes. Ordinarily, that is reason enough why they should stay here but I think, on the basis of what the distinguished acting Republican leader has said about the calendar, and on the basis of what my previous discussions with the distinguished majority leader have indicated to me—namely, that there is one other nomination on the Executive Calendar to which he wanted to go, but there is a hold on that nomination on the other side—I think I am going to tell my colleagues on my side—but before I do so, I want to hear what the distinguished acting Republican leader has to say.

Mr. HEINZ. If the distinguished Democratic leader will yield briefly.

Mr. BYRD. The Senator has the floor.

Mr. HEINZ. I thank him.

Mr. President, I do not disagree with his forecast for this evening. One of the reasons I do not disagree with it is that at this point, although there are some other amendments that Senators have expressed some interest in offering, I do not know of a single Senator at this moment—I see one Senator who might have an amendment, the Senator from Tennessee [Mr. SASSER]—who is ready to propound a unanimous-consent request to bring an amendment up. Absent that, we are clearly not going to have any votes on any amendments tonight.

There could be unanimous consent tomorrow, some might be agreeable to those tomorrow and there might be other items on the Executive Calendar that could be cleared tomorrow for action by the Senate.

Again, that is beyond my powers, first of all, to forecast that. But I think other Senators, hearing there may not be other rollcall votes tonight, may decide that there is not going to be any business that they need to attend to here tomorrow, and they could be sadly mistaken on that.

I feel it is only fair to them that I warn them advisedly that we cannot yet forecast the schedule of votes tomorrow.

Mr. BYRD. Mr. President, I thank the distinguished acting leader. My query of the distinguished majority leader earlier today with respect to rollcall votes on tomorrow elicited a somewhat similar response. The majority leader was not in a position very early today to say whether or not there would be rollcall votes tomorrow.

I have discussed the matter with him since. He has not been absolute in his response to my question because, at the time of my discussion with him, he was not in a position to say.

I understand there would be some objections to setting aside the Gramm-Rudman amendment to take up other amendments. I cannot be sure that I am accurate in that. At least I am accurate in having heard that, but I do not know that that is the case.

Mr. HEINZ. Mr. President, I think at this point, the distinguished Democratic leader would be absolutely correct. I would have to object at this point to laying aside the Gramm-Rudman amendment.

Mr. BYRD. Very well.

Mr. President, I am going to tell my colleagues on my side of the aisle that there will not be any further rollcall votes today, because I do not see any indication from the other side of the aisle that there will be such. I do know that several Senators on the other side of the aisle have a very important engagement this afternoon which will keep them occupied for the next couple of hours, I believe, and possibly after that. I cannot speak for the other side.

That being the case, I think it would be only fair to my colleagues and to our colleagues on the other side of the aisle, in the absence of any further instructions from the majority leader, to say that there will be no more rollcall votes. The only thing I can do to guarantee that is to be on the floor and speak if I have to.

Mr. HEINZ. I would like, if the distinguished Democratic leader will yield further, to indicate that at the conclusion of this colloquy, it is my intention to suggest the absence of a quorum and I anticipate that that quorum call might be quite lengthy, at least until the majority leader returns to try to transact any additional business he might want to transact.

Mr. BYRD. Mr. President, that leaves us on a rather long leash here. I know that Members on the other side have business elsewhere. I just picked that up by the grapevine; I was not informed of that directly or formally. I do not think I should keep Members on this side of the aisle hanging around the Senate for another couple of hours.

Mr. HEINZ. I think I can say to the distinguished Democratic leader that there are not going to be any more rollcall votes tonight. We may transact business, but I do not think that there will be any business that we will allow to come up on which we shall feel compelled to go to a rollcall vote. So I think the Democratic leader can in good conscience advise all the Members on his side of the aisle, and I am advising Members on my side of the aisle that there will be no further rollcall votes tonight.

There could be further business of the Senate and I anticipate that there will be further business of the Senate. But I do not anticipate that any of it will take rollcall votes.

Mr. BYRD. Mr. President, I do not think the acting leader could be more fair, more forthright, more understanding, or more considerate. So there will be no more rollcall votes tonight, I am saying to my colleagues, as the distinguished acting Republican leader has just said for the record.

I also hope that those of us who have to stay around to clean up the work of the Senate at the end of the day—and that includes myself and the distinguished majority leader—to do the housekeeping chores, do not have to stay too long to transact what housekeeping duties may be remaining and which probably could, in all likelihood, go over until tomorrow.

I thank the distinguished acting Republican leader. I think this has been a good discussion in that we are both assured as to what the circumstances are. I am deeply grateful to him.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1740

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHILIP R. RIVERS—A TRIBUTE

Mr. CHAFEE. Mr. President, staff members are the silent majority of the U.S. Senate. It is the staff we employ who do the bulk of the work when it comes to administering our offices, crafting the legislation we propose, and dealing with our constituents and the press.

My purpose in speaking today is to pay tribute to a special member of my staff, Phil Rivers, who is leaving my office next week to undertake a new challenge in the private sector as a partner in a new firm he is founding with two other partners.

Phil has been with me since I came to the Senate in 1977, and has been my chief of staff for the past 5 years. In serving me, he has served the people of Rhode Island admirably and well, never hesitating or complaining of the long hours his position has required in dealing with whatever has come along to demand his attention.

By and large, these qualities of loyalty and hard work are those which characterize most Senate staff.

With Phil Rivers, however, I have been blessed with something special—a friend, counselor, and confidant. He has provided that extra margin of loyalty and effort which has made my work in the Senate the joy that it is. I am especially appreciative of the fact that, although it may at times have been uncomfortable, Phil Rivers has never given me less than his honest opinion. He never sought favor by tempering his counsel or shading his words. For that, I shall always be grateful.

That Phil will be missed as my chief of staff is one of the understatements of the year. Yet the sadness I and the rest of my staff feel at his departure is tempered by knowing that whenever needed, we can continue to call upon him for his skill and advice.

In closing, Mr. President, I wish for Phil only the best that the future may bring. May he have the excitement, the adventure, the joy that comes with the undertaking of a new career and a new business. Phil Rivers embarks upon this new challenge with the knowledge that he has served me, the Senate, and the people of Rhode Island with distinction and honor, for which I can offer him only my heartfelt thanks and gratitude.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1750

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, unfortunately, we are not making much progress on the debt ceiling. I say that without criticism because I think those who are working on the major amendment have been off in a conference all day trying to figure out some agreement, which involves I guess four or five or six or more Senators from both sides of the aisle. It is my understanding until that amendment is voted on, and I would hope that we could have some indication yet tonight—I am going to go ahead and go out—have some indication tonight they have made some progress, it is certainly my hope that we can work on it tomorrow. But I cannot force people to offer amendments. Obviously, there does not seem to be much interest in offering any amendments. There was some hope that perhaps there was an amendment to repeal Gramm-Rudman which could have been offered, but I think everything is sort of waiting on this one major amendment. I do not have the foggiest notion at this point when that may be completed.

We will move to the nomination of Morton I. Abramowitz tomorrow morning and hopefully take care of that and other nominations on the Executive Calendar. The Abramowitz nomination was reported May 20; George R. Salem, June 18; and M.D.B. Carlisle, June 25. We have disposed of Kenneth Gilles and Kalo Hineman. That would leave the National Oceanic and Atmospheric Administration, which was just reported, and Federal Emergency Management Agency just reported. I am not certain there is any problem with these two nominations.

So we will try overnight to see, first of all, if they have completed action on the Gramm-Rudman-Hollings amendment as modified by input from other Senators. And if we cannot achieve that I would assume we would come in early and bring up the Abramowitz nomination. I am advised by Senator HELMS that he would insist on a rollcall on the motion to proceed and that he might not let us complete action on that tomorrow. So that is about where we are, I say to the distinguished minority leader.

Mr. BYRD. On the calendar, I say to the distinguished majority leader, for his information—and I hope it will be helpful to him in conducting his scheduling responsibilities—is the nomination of Morton Abramowitz. On this side, that nomination has been cleared by all Members. So there is a hold on the other side of the aisle.

Mr. DOLE. That is right.

Mr. BYRD. On the next two nominations, George Salem and M.D.B. Carlisle, there are holds on those two nominations on this side, I have no doubt that the clearance of the hold on Carlisle will not be any problem. Possibly that hold will be cleared soon.

With respect to Kathleen Lawrence, there are holds on both sides of the aisle. The other nominations, as the

distinguished majority leader has correctly stated, are new reports and therefore, I think, would be cleared for action very soon.

Mr. DOLE. I think we are in fair shape on the Executive Calendar.

Mr. BYRD. I have heard what the distinguished majority leader has said. Does he feel that there will be rollcall votes tomorrow?

Mr. DOLE. The only information I have has been relayed to me by staff, that Senator HELMS would insist on a rollcall vote on a motion to proceed to the nomination of Morton Abramowitz, Calendar No. 823. He feels strongly about this nomination. It may be that after that vote—I assume that the motion would be agreed to—he might want to discuss it at some length. He did not indicate whether he would go beyond that step or not. I do not anticipate any votes other than that one.

Mr. BYRD. Is it the intention of the distinguished majority leader to move to that tomorrow?

Mr. DOLE. Yes.

Mr. BYRD. And Mr. HELMS indicated that he would want a rollcall vote on the motion?

Mr. DOLE. That is correct.

Mr. BYRD. So there would be one rollcall vote tomorrow?

Mr. DOLE. Unless he did insist on a vote on the nomination.

Mr. BYRD. So there would be one rollcall vote tomorrow?

Mr. DOLE. For certain.

Mr. BYRD. What time does the majority leader intend to bring the Senate in?

Mr. DOLE. I would like to come in at an early hour and hope to dispose of the business by noon or shortly thereafter, so that Members can take care of other duties outside of Washington, DC.

Mr. BYRD. Does the distinguished majority leader at this point foresee what the schedule will be like on Monday and Tuesday, keeping in mind, of course, that the resolution with respect to televised coverage of Senate debate and proceedings requires that the Senate have a vote on Tuesday at the close of business, or that there be a motion to delay that vote for 30 days? Does the distinguished majority leader have in mind that there will be any request to change the schedule for Monday with respect to debate on the motion regarding televised coverage?

Mr. DOLE. As I understand, that will come up on Tuesday, the 29th.

Mr. BYRD. The vote will, but in accordance with the resolution, there are to be 12 hours of debate thereon.

Mr. DOLE. I say to the distinguished minority leader that I hope it will not be necessary to consume 12 hours. I know there has been a lot of activity in the Rules Committee. Members on each side, sort of ad hoc groups, have offered some good suggestions. It is something I will have to focus on tomorrow. I hope we will not need the 12 hours.

I was advised earlier by the distinguished Senator from South Carolina, properly so, that they hope to have the modification of the major Gramm-Rudman-Hollings amendment completed by the weekend. That would make it available at least for discussion early on Monday. I have indicated that there will be no votes until, say, 4 or 5 o'clock—if any—on Monday, to give Members an opportunity to return.

□ 1800

Mr. BYRD. Mr. President, I would like to discuss the 12 hours that are provided for in the television coverage resolution. I would like to discuss that with the distinguished majority leader tomorrow, because, in accordance with the resolution, I do not believe those 12 hours would begin until Tuesday and that would make for a pretty long day.

I hope that we could either shorten the 12 hours for Tuesday or, if we get an objection to that, I hope the distinguished majority leader would then be prepared to provide some time on Monday for that debate so that we could come within the requirements of the resolution. We can discuss that tomorrow.

Mr. DOLE. If it appears we are not going to get any action on the debt ceiling on Monday, perhaps we could shift some of that time into Monday on the TV discussion.

Mr. BYRD. Very well. Then if we could discuss this on tomorrow and be prepared to inform our colleagues, I think it would be well that we do so, if I may so state.

Mr. DOLE. I thank the Senator. And we will have an opportunity at noon tomorrow to cover that.

Mr. BYRD. Yes.

(Mr. GORTON assumed the chair.)

Mr. DOLE. Mr. President, I have been advised that the distinguished Senator from North Carolina, Senator HELMS, indicated he will not permit us to complete action, as I understand it in shorthand, on this nomination tomorrow. So it would be my revised observation that there probably will be just one vote tomorrow.

Mr. BYRD. If I may just pursue this for 1 minute. I am in a position to inform the distinguished majority leader that under New Reports, Calendar Order No. 938, the nominee for Director of the Commissioned Officers Corps under the National Oceanic and Atmospheric Administration, has been cleared on this side. Also under New Reports, Calendar Order No. 939, Mr. George Woloshyn, to be an Associate Director of the Federal Emergency Management Agency, has been cleared on this side of the aisle; and the nominations placed on the Secretary's desk are cleared on this side of the aisle. If the distinguished majority leader would like to do those today, they have been cleared by all Members on this side.

Mr. DOLE. I thank the distinguished minority leader. I understand they are making one phone call to make sure we are clear on this side.

I am happy to yield to the Senator from Nebraska.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. EXON. Mr. President, I thank the distinguished majority leader for his courtesy. While he is on the floor, I want to tell him I am here, willing and able. I heard the appeal in my office that no one was offering any amendments. I heard the manager of the bill on that side of the aisle indicate that no one wished to offer any amendments. I am here, I am willing, I am able, as I was yesterday, as I am right now, and as I will be tomorrow to offer an extremely timely amendment that is exactly on point that I tried to offer yesterday but was blocked, as the distinguished majority leader knows, by those who are trying to manage this bill off the floor. And yet I hear the appeals over and over and over again that no one wishes to offer any amendments. Of course, no one wishes to offer any amendment because of the parliamentary situation in which we find ourselves.

Does the majority leader have any words of wisdom for me as to what I could do to offer my amendment again? I have used every parliamentary procedure that I know of, including the one that we fashioned yesterday to get around the blocked position the Senate found itself in by the managers of Gramm-Rudman II, or whatever it is called.

I would simply say to the majority leader and the minority leader that there is this Senator and there are other Senators who are prepared, willing, and able to offer amendments but we are not going to be dictated to by those who wish to run the Senate from outside the U.S. Senate for reasons best known to themselves.

So I hope that if you are going to appeal for people to come over and offer amendments, at least you would say, "Except Senator EXON, because we do not want his amendment considered," even though I think the majority leader would recognize it is timely and pertinent to the matter at hand.

Is the majority leader recommending that I go ahead and try and offer the amendment again now? The only way that I would know how to do this, and I would be glad to listen to the expert advice from the majority leader and minority leader, would be to re-

quest unanimous consent that notwithstanding the current parliamentary situation that I be allowed to offer the amendment that I did yesterday and notwithstanding the parliamentary situation I would appeal to the majority leader and the minority leader to see if they could muster enough Senators on the floor so that I could get a second. Can anyone help me?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. EXON. I am glad to yield for a response.

Mr. DOLE. I am afraid not.

As I indicated earlier, I would not have any quarrel with setting aside the pending amendment and taking up the amendment of the Senator from Nebraska.

I am advised others would object, and I would have to do that for them in their absence.

My own view is it is a legitimate amendment. I am not certain I will support it, but I think it makes the issue, lays it right out in front, as I understand the Senator's amendment, and it is my view that those who are crafting the Gramm-Rudman-Hollings II, working with Senator CHILES, Senator DOMENICI, Senator LEVIN, are making some minor changes in the amendment that is pending and, therefore, there is not much in the way I would know that the Senator could offer his amendment without setting aside the pending amendment.

Mr. EXON. I thank very much the distinguished majority leader.

I would hope the record would then show that at least the junior Senator from Nebraska is ready, willing, and able to offer an amendment and therefore should be excluded from any criticism, direct or indirect, by certain Senators on the floor of this body, because I am ready to go.

Would the majority leader be good enough to indicate as to whether or not he might be able to assist me in relieving some of the objections from his side of the aisle if I would try to offer this amendment sometime tomorrow, I mean just to be helpful to the majority leader and get the Senate moving.

Mr. DOLE. I appreciate that. Every time I indicate we need to offer amendments, if I do not forget, I will state that the Senator from Nebraska is prepared to offer his. The distinguished Senator from Nebraska is here to offer his amendment if others would come in and do so. I did visit with the distinguished Senator from South Carolina, as the Senator knows earlier. I will do the same with the distinguished Senators from New Hampshire and Texas, Senators RUDMAN and GRAMM, tomorrow morning.

I would really like to finish the debt ceiling. It is important and it is also important we look at the fact we have hopefully an August 15 deadline. We have a lot of things we have not done yet.

Mr. EXON. I thank the majority leader.

I would just say again for the record so that all understand that I have been mystified by the framers of the Gramm-Rudman-Hollings amendment. When this Senator comes up on the floor and offers an amendment for them to vote up or down essentially on Gramm-Rudman-Hollings I, they do not want me to do that. Evidently, they do not want to reaffirm the support for the amendment that they themselves have honed, that they themselves have advanced as a great salvation of the deficit problem in America.

All that the amendment that I have offered says very simply and very directly is that let us go ahead in a speedy fashion and allow the fallback provision that was written into the original bill to take over and not simply foster Gramm-Rudman II that decides and attempts to appoint another nonelected faceless bureaucrat to make the cuts in the budget that this Senator believes is a responsibility of each and every Member of the U.S. Senate and each and every Member of the House of Representatives.

□ 1810

The fallback position was there for a reason, and the reason was they felt their earlier appointment and dictate to the Director of the General Accounting Office might be ruled out of order by the Supreme Court, which is exactly what the Supreme Court did, Mr. President.

Therefore, I cannot understand if they were in good faith in the initial instance, which I assume they were, why they are now objecting to an amendment offered by this Senator that simply says let us employ the fallback position that you crafted as an insurance policy. We now need the insurance policy if we are to proceed with responsibilities here.

I would say that I am most keenly disappointed that by and large another week has gone by without any significant action in the U.S. Senate. We all know not only are we scheduled to have a recess on August 15, but we are not going to be back very long before the early October scheduled adjournment of the U.S. Senate.

I suspect that I will see many very difficult days ahead, maybe working until 12 o'clock or 1 or 2 o'clock in the morning again. It seems to me that we are back into the old trough of not doing our work when we can do it in a timely fashion essentially because some individuals are negotiating somewhere off the floor of the U.S. Senate, and therefore are by action here preventing this Senator from making a timely and on-point amendment. I criticize that process. I do not think it is in the name of efficiency. I do not blame either the majority or minority leader for that, but I do blame the process that we are all a part of and for whatever part I play in that, I apologize. I think it is wrong. I will be here again tomorrow. I am glad to yield to the minority leader.

Mr. BYRD. Mr. President, the distinguished Senator has referred to the minority leader three times this afternoon. I should say to the distinguished Senator that I have not clamored for Senators to come to the floor and offer amendments. Why have I not done so? Well, one reason is that there is no place open for an amendment to be offered at the moment. The amendment tree is filled. There is pending an amendment offered to the committee amendment. So the amendment that is offered to the committee amendment is an amendment in the second degree.

The only option that would be open to any Senator at this moment with respect to this present pending measure would be a motion to recommit with instructions. And those instructions could carry whatever amendment the Senator might have in mind. If the Senator would look at rule XXII, he will find that a motion to recommit has precedence over a motion to amend.

So that would be the only opening at this point. Otherwise, at this point, there is no opportunity for any Senator to call up an amendment—Republican or Democrat, no matter what his seniority, no matter what his committee membership may be, no matter whether he is the majority leader or the minority leader—unless he can get unanimous consent to set the pending amendment aside, and then he cannot offer an amendment. Except by unanimous consent, no Senator can offer an amendment.

So if the Senator is in his office and hears a Senator urging Senators to get to the floor and call up amendments, the Senator will know as should all Senators know—and the record will show—that while nobody can keep a Senator from so urging, the situation is, that unanimous consent cannot be gotten to set the pending amendment aside and let some other amendment be offered.

If a Senator wants to ask unanimous consent that the pending amendment be set aside so that a Senator can call up an amendment, that is within a Senator's right. But objection will keep any Senator from calling up an amendment.

I compliment the distinguished Senator from Nebraska. He is here. He is willing. He is able to call up an amendment if he can get consent to do it. I applaud him for responding to the call. This Senator has not made such a call. This Senator knows that the

amendment tree is filled, and that unless unanimous consent can be granted for a Senator to call up another amendment, it is futile to expect Senators to be here on the floor and call up their amendment. They cannot do it.

Mr. EXON. I thank the minority leader. I recognize very well that he has not been urging people to come over here for this purpose. I tell him that I appreciate very much his suggestion that a recommitment motion would be in order. That is another one of the amendments that I have here in a recommitment form. But the problem is that if I would do that, I very likely would run into the same situation that I did yesterday where I would be blocked from even asking for the yeas and nays and bringing the amendment up.

I also hope that the minority leader heard the response of the majority leader when, a few moments ago, I asked him whether or not he thought I could be successful by asking unanimous consent to set aside the pending business, and his response was while he had no objection to it, he assumed that there would be those Senators that would, and therefore since he is on the floor at this time, he would have to object.

I think essentially what the minority leader is saying is correct, that anyone is essentially blocked under the present parliamentary situation, as I thought I outlined when I began these remarks. That is the reason that no one is on the floor ready to offer amendments except this Senator because they know there is no way.

Mr. BYRD. Mr. President, if the Senator will yield further, the distinguished majority leader is, I am sure, stating the situation accurately. There are Senators who would object to setting the amendment aside temporarily.

□ 1817

Those Senators not being on the floor, the majority leader feels that he would have to object in their stead. I have been in that position myself on many occasions, knowing that there are Senators on my side of the aisle who would interpose an objection. Consequently, I felt I had to protect them because that was expected of me. It is expected of the majority leader.

May I say to the distinguished Senator from Nebraska, he is not prevented from offering a motion to recommit.

Mr. EXON. I understand that.

Mr. BYRD. He has the floor right now. If he wanted to offer a motion to recommit with instructions to report back with whatever amendment he has, the yeas and nays have nothing to do with it. He could offer that. Then that would be the matter before the Senate. He is not completely imprisoned as one who has no right to do anything. Of course, the majority leader is in a position, once he gets the floor, to take this bill down or to call up something in its place. The distinguished majority leader has to do whatever he thinks he has to do.

But the distinguished Senator from Nebraska does have some recourse. If I had known he was trying to get the yeas and nays yesterday, I would have been here trying to help him. But the yeas and nays have nothing to do with this particular situation now.

MOTION TO COMMIT

Mr. EXON. Mr. President, I send to the desk a motion to commit and ask that it be read at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Motion that the bill be committed to Government Affairs with instructions that it be reported back forthwith with an amendment as follows:

SEC. . (a) The Senate finds and declares that:

(1) annual deficits which exceed $200 billion and an accumulated national debt which exceeds $2 Trillion threaten the economic health of the nation;

(2) The Constitution provides that "The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States . . .;"

(3A) The Congressional Budget and Impoundment Act of 1974 was intended to establish effective Congressional Control over the budget process;

(4) The Emergency Deficit Control Act of 1985, popularly referred to as the Gramm-Rudman-Hollings law, attempted to implement an automatic spending reduction mechanism which could be activated without a Congressional vote;

(5) the United States Supreme Court invalidated the automatic sequester mechanism of the Emergency Deficit Control Act of 1985;

(6) other provisions of the Emergency Deficit Control Act of 1985 remain in effect, including the declining deficit targets and the requirement that legislation be consistent with the declining deficit targets;

(7) the Emergency Deficit Control Act of 1985 further provided for alternative procedures, popularly known as "fallback" provisions, which became effective upon the invalidation of the automatic sequester mechanism by the United States Supreme Court;

(8) the Congress successfully used the alternative procedures on Thursday July 17, 1986 to implement $11.7 billion in spending reduction for fiscal year 1986;

(9) the American people expect their Representatives in Congress to set budgetary priorities and make difficult decisions necessary to reduce the federal deficit;

(b) it is therefore the sense of the Senate that the Congress utilize the existing "fallback" provisions of the Emergency Deficit Control Act to require a Congressional vote on specific measures to reduce the federal budget deficit.

Mr. DOLE. Mr. President, I understand that this is a motion to commit to the Government Affairs Committee and to report back.

The PRESIDING OFFICER. The majority leader is correct.

Mr. DOLE. I assume the motion to commit is amendable.

The PRESIDING OFFICER. It is amendable.

Mr. DOLE. Mr. President, I think what we now have before us is the very thing the distinguished Senator from Nebraska wished to do earlier. I said at the time I had no quarrel with that. But I do think that others may wish to take a look at this and may even want to propose an amendment of some kind.

I would hope that now that it is before us we could go into executive session and complete the nominations which have been cleared with the distinguished minority leader and then go out this evening. This would be pending when we return tomorrow morning.

Mr. EXON addressed the Chair.

Mr. DOLE. I retain my right to the floor but I am happy to yield.

Mr. EXON. Mr. President, I appreciate very much the statement by the majority leader. At least we have another amendment that has been offered. It might pry loose the logjam or lack thereof that we have that is preventing action by the Senate now. I hope that maybe those who are blocking action on the amendment that I have just offered now in two or three different forms could be prevailed upon by the majority leader and, if necessary, the minority leader tomorrow so that we can proceed with action on this.

With that, I know the majority leader will be delighted to know that I have canceled my airplane reservations and will be here ready to do action tomorrow if I am allowed to do so.

I thank both the majority and the minority leader.

Mr. DOLE. I thank the distinguished Senator from Nebraska. We will deal with this tomorrow, I am not certain just how, but it will be revisited.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the following nominations on the Executive Calendar: Nos. 938, 939, and all nominations placed on the Secretary's desk except Edwin Corr.

Mr. BYRD. Reserving the right to object, Mr. President, and I shall not object, these are the nominations that I earlier stated had been cleared on this side of the aisle by all Members and we are ready to proceed.

Mr. DOLE. I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. DOLE. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. Francis D. Moran, National Oceanic and Atmospheric Administration, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration.

FEDERAL EMERGENCY MANAGEMENT AGENCY

George Woloshyn, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, COAST GUARD, NAVY, SENIOR FOREIGN SERVICE

Air Force nominations beginning Benjamin P. Graham, and ending Patricia H. Sanner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Kenneth Klint, and ending Benjamin P. Graham, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Lewis J. Abrahams, and ending Alfred M. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Gary A. Anderson, and ending Bujung Zen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Steven W. Abbott, and ending Kenneth A. Zollo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Michael F. Adames, and ending Cindy L. Ziegler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Army nominations beginning Thomas N. Bolton, and ending Thomas G. Latour, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

Army nominations beginning William R. Anderson, and ending Margaret O. Stock, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

Coast Guard nominations beginning Howard F. Wirt, and ending Billy L. Heath, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

Navy nominations beginning John P. Abenstein, and ending Nicholas Francis Zoeli, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 15, 1986.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes;

H.R. 4685. An act to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas; and

H.R. 4878. An act to require the Secretary of the Interior to submit the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee certain information regarding Micronesian governments.

ENROLLED BILL SIGNED

At 11:03 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3511. An act to amend title 18, United States Code, with respect to certain bribery and related expenses.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:44 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties; and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 2, and 3, to the amendment of the House to the bill (S. 720) to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes; and that the House disagrees to the amendment of the Senate numbered 4 to the bill.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5050. An act to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, to provide for more prudent and effective management of the OASDI and Medicare trust funds, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4212. An act to provide for the reauthorization of the Deep Seabed Hard Mineral Resources Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4685. An act to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4878. An act to require the Secretary of the Interior to submit the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee certain information regarding Micronesian governments; to the Committee on Energy and Natural Resources.

H.R. 5050. An act to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, to provide for more prudent and effective management of the OASDI and Medicare trust funds, and for other purposes; to the Committee on Finance.

The following resolution, which had been ordered held at the desk until the close of business today, July 24, 1986, was referred to the Committee on Rules and Administration:

S. Res. 452. Resolution expressing the sense of the Senate with regard to a vote on any amendment to the Balanced Budget and Emergency Deficit Control Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. DURENBERGER, and Mr. DIXON):

S. 2682. A bill to amend the Trade Act of 1974 to require the initiation of negotiations to obtain a certain international trade

agreement, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. DECONCINI, and Mr. D'AMATO):

S. 2683. A bill to make unlawful the laundering of money, and for other purposes; to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. ZORINSKY):

S. 2684. A bill to amend the Commodity Credit Corporation Charter Act to require the Commodity Credit Corporation to pay rates for the storage of grain on farms that is no less than the rates the Corporation pays for storage of grain in commercial storage facilities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SASSER (for himself and Mr. GORE):

S. 2685. A bill to designate certain lands in the Cherokee National Forest in the State of Tennessee as wilderness areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROYHILL:

S. 2686. A bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue medicare coverage at their own expense; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. METZENBAUM):

S. 2687. A bill to amend the Clayton Act regarding consent judgments; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. WEICKER, Mr. GRASSLEY, and Mr. KERRY):

S. 2688. A bill to amend the Developmental Disabilities Assistance and Bill of Rights Act to authorize grants to university graduate programs which provide training in the care of elderly persons with developmental disabilities; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. GORE):

S. 2689. A bill to provide for the establishment of standards and labeling by the Consumer Product Safety Commission for certain products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER (for himself, Mr. SASSER, Mr. PRESSLER, Mr. DOLE, Mr. SYMMS, Mr. HECHT, Mr. MATTINGLY, Mr. LAXALT, Mr. MURKOWSKI, Mr. KASTEN, Mr. HEINZ, Mr. HATCH, Mr. COHEN, Mr. ANDREWS, Mr. GARN, Mr. MCCLURE,, Mr. NICKLES, Mrs. HAWKINS, Mr. HELMS, Mr. PELL, Mr. MATSUNAGA, Mr. JOHNSTON, Mr. ZORINSKY, Mr. INOUYE, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. PRYOR, Mr. BAUCUS, Mr. BRADLEY, Mr. LEVIN, Mr. NUNN, Mr. LEAHY, Mr. LAUTENBERG, and Mr. BUMPERS):

S.J. Res. 377. Joint resolution to designate the week of May 17, 1987, through May 23, 1987, as "National Tourism Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. DODD, Mr. METZENBAUM, Mr. SPECTER, Mr. LEAHY, Mr. SIMON, Mr. KERRY, Mr. KENNEDY, and Mr. D'AMATO):

S.J. Res. 378. Joint resolution to provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Company Portland Terminal Company labor-management dispute; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself and Mrs. KASSEBAUM):

S. Con. Res. 155. Concurrent resolution expressing the support of the Congress for a transition to democracy in Paraguay; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. DURENBERGER, and Mr. DIXON):

S. 2682. A bill to amend the Trade Act of 1974 to require the initiation of negotiations to obtain a certain international trade agreement, and for other purposes; to the Committee on Finance.

(The remarks of Mr. BAUCUS and the text of the legislation appear earlier in today's RECORD.)

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. DECONCINI, and Mr. D'AMATO):

S. 2683. A bill to make unlawful the laundering of money, and for other purposes; to the Committee on the Judiciary.

MONEY LAUNDERING CRIMES ACT

Mr. THURMOND. Mr. President, I rise today to introduce the "Money Laundering Crimes Act of 1986" on behalf of Senators BIDEN, DECONCINI, D'AMATO, and myself. This legislation creates a new substantive offense of money laundering in the Federal Criminal Code. Creation of a money laundering offense is imperative if our law enforcement agencies are to be effective against the organized criminal groups which reap profits from unlawful activity by camouflaging the proceeds through elaborate laundering schemes.

The President's Commission on Organized Crime has identified money laundering as one of the greatest challenges facing law enforcement today. A recent Wall Street Journal article states that illegal drugs, gambling, and vice generate $150 billion annually. It is readily apparent that criminals rely on laundering schemes to hide the identity and true source of these proceeds. While some criminal organizations still employ such crude methods of laundering as smuggling suitcases full of money to offshore banks, many now employ professionals to devise and assist in complex laundering operations. Most disturbing is the increasing willingness of a few dishonest attorneys, accountants, and bankers to participate in these sophisticated schemes.

This bill creates a new substantive offense of money laundering in title 18 of the United States Code, and it provides our law enforcement agencies with the tools necessary to enforce the new offense. The Right to Financial Privacy Act is amended to protect banks which come forward voluntarily to assist in detecting money laundering. The Bank Secrecy Act is also amended to provide the Secretary of the Treasury with the authority to meaningfully participate in efforts to stop laundering. The forfeiture sections of the bill reiterate loudly and clearly the principle, of which I have long been an advocate, that crime should not, and will not, pay. Finally, the forfeiture provisions permit the Attorney General to share forfeited property and funds with foreign countries which assist in acts which lead to the seizure or forfeiture of such property. This provision should encourage other countries to take an active role in the war against organized crime and money laundering.

I would like to commend the distinguished ranking minority member of the Judiciary Committee, Senator BIDEN; the distinguished Senator from Arizona, Senator DECONCINI; and the distinguished Senator from New York, Senator D'AMATO, for their effort and interest in drafting money laundering legislation which enjoys bipartisan support.

Mr. BIDEN. Mr. President, I am pleased today to join the distinguished chairman of the Judiciary Committee in introducing the Money Laundering Crimes Act of 1986, a bill designed to impose stiff new criminal and civil penalties on money laundering activity in this country. In doing so, I wish to thank the chairman for taking the time to work with me to craft a carefully drawn bill, which has already drawn praise from critics of earlier money laundering proposals. I also applaud the efforts taken by the junior Senator from Arizona, Senator DECONCINCI, who is joining us today as a sponsor of the bill, and who has demonstrated great leadership on the important issue of money laundering.

Money laundering is the process by which the proceeds of crime are disguised to appear legitimate, using ordinary and not-so-ordinary financial transactions. Or as a former money launderer stated, "Laundering money is to switch the black money or the dirty money to clean money. . . ." Money laundering takes many forms—from the purchase of a $5,000 money order with a pile of $20 bills to a string of international wire transfers, through a series of domestic and foreign financial institutions, using a succession of aliases and shell corporations. It is estimated that some $50 to $100 billion is funneled through such transactions every year.

Money laundering is a crucial financial underpinning of organized crime and narcotics trafficking. Without

money laundering, drug traffickers would literally drown in cash. Drug traffickers need money laundering in order to conceal the billions of dollars in cash generated annually in drug sales and to convert this cash into manageable form. As one observer has put it, money laundering is part of the "life support system" of organized crime. Regrettably, every dollar laundered means another dollar available to support new supplies of cocaine and heroin on the streets of this country.

That is why the chairman and I are introducing the Money Laundering Crimes Act of 1986. This bill will make money laundering a Federal crime. It will make it a crime to structure a financial transaction to evade the reporting requirements of current law, which are designed to catch money launderers. It will encourage banks to report suspicious money laundering activity to law enforcement authorities, without trampling on the privacy rights of innocent customers. And it will continue a legislative initiative that I have been urging for years: It will authorize the forfeiture to the Government of the billions of dollars earned annually by money launderers.

At the same time, our bill is not a wish list of amendments to the Criminal Code. It does not gut the Right to Financial Privacy Act. It does not require banks to turn over customers' records at will. It does not amend the Federal rules of criminal procedure to empower courts to gag any witness who appears before a grand jury. Several months ago, the administration introduced a bill ostensibly aimed at money laundering that also raised all of these difficulties. That bill was attacked by groups ranging from the attorneys general of several States to the American Civil Liberties Union.

As we did in 1984 when the chairman and I worked in a bipartisan manner to pass the most encompassing revisions to Federal criminal law in the last 20 years, we scrapped the administration's proposal and drafted our own bill. This new money laundering bill is the result of our work and it now has the support of the critics, who attacked the President's original proposal. It is my hope that this bill will gain the support of the full Judiciary Committee and speedy passage by the Senate as a whole. I urge all of my colleagues to join us in this fight. We cannot afford to waste any time. We need this weapon against drug traffickers and organized criminals, and we need it now.

Mr. DECONCINI. Mr. President, I would like to take this opportunity to praise Chairman THURMOND and ranking member BIDEN for their cooperation and interest in working out a compromise between S. 1385—the money laundering bill I had introduced on June 27, 1985, and S. 1335—the administration's money laundering bill.

Money laundering is one of the most costly ills infecting our Nation. In 1984 the President's Commission on Organized Crime reported that it was possible to launder $100 million in a single transaction. Moreover, violations of tax laws are an inevitable byproduct of laundering schemes, and this costs the Nation millions of dollars in public revenue.

Modern, sophisticated money laundering techniques have contributed to the financial success of organized crime in recent years, particularly in the narcotics trade. Without the means to launder money, thereby making cash generated by a criminal enterprise appear to come from a legitimate source, organized crime could not flourish as it now does. Studies cite narcotics trafficking as one of the growth industries within the underworld, and it is impossible for any American city, social or ethnic group to inoculate itself from the drug epidemic. As long as organized crime continues to successfully conceal enormous amounts of illegally generated income, our law enforcement agencies will continue to do battle with the narcotics traffickers from a position of weakness.

Money laundering techniques are used by large legitimate businesses as well. The President's commission discovered that American corporations, such as Gulf Oil, Lockheed Aircraft, and McDonnell Douglas, have engaged in illegal money laundering. Each corporation was involved in schemes to make illegal payments to foreign government officials in order to win lucrative overseas contracts. The broad array of groups participating in money laundering illustrates how widespread the problem has become.

As a solution to the problem, this bill will make money laundering a Federal crime. It will enable law enforcement agencies to begin eliminating the huge profits reaped by those who deal in crime by making the proceeds of money laundering subject to forfeiture. The bill also clarifies and reforms the reporting requirements for financial institutions. It contains modest amendments to the Right to Financial Privacy Act in order to clarify inconsistent court interpretations as to what information may be reported by financial institutions to law enforcement agencies. This consensus bill has the support of the Justice Department, the American Bankers' Association, and, on privacy issues, the ACLU.

I am pleased to have been a part of the bipartisan effort, and I urge my colleagues to support this much needed legislation. I recommend that this bill be quickly enacted.

Thank you.

By Mr. BURDICK:

S. 2684. A bill to amend the Commodity Credit Corporation Charter Act to require the Commodity Credit Corporation to pay rates for the storage of grain on farms that is no less than the rates the Corporation pays for storage of grain in commercial storage facilities; to the Committee on Agriculture, Nutrition, and Forestry.

GRAIN STORAGE RATE EQUITY ACT

Mr. BURDICK. Mr. President, today I am introducing a bill which would resolve a great inequity that exists in the Government's program of storing grain. Many of my colleagues are unaware, I'm sure, that the Government pays commercial storage facilities as much as 60 percent more than it pays farmers to store grain.

Farmers currently receive 26.5 cents per bushel to store grain. Commercial warehouses, on the other hand, receive a much higher rate—on the average between 30 and 35 cents. Right now, I am told, some commercial houses are getting 42 cents.

This discrepancy is ridiculous, Mr. President. And there is no justification for it. Keep in mind that farmers are required to maintain the quality of the grain they store, just like the commercial folks. They have to control pests, keep the grain dry, and otherwise maintain its quality.

The Department of Agriculture cannot provide a valid reason for the storage rate difference. When pressed, the best it can come up with goes something like this. The commercial rate is negotiated so USDA pays what it has to in order to get the space. But farmers are not in a negotiating position, so they have to take what they are given.

I remember learning in basic economics that farming was an example of perfect competition because farmers have absolutely no say in the market conditions—they have to take them or leave them. But does the fact that they find themselves in this undesirable position mean we treat them like second-class citizens and take them for a ride? Certainly not. On the contrary, we ought to be giving them preferential treatment.

So there is no justifiable reason for giving farmers a lower rate. And since I can't provide one when my farmers ask, I am introducing this bill along with my colleague from Nebraska, Senator ZORINSKY.

This legislation is very simple. It requires the Commodity Credit Corporation to pay the same rate to farmers as it pays, on the average, to commercial warehouses.

We need to have a reserve grain program and we need to store the grain somewhere. By paying the farmers to store the grain, we accomplish having a reserve and we also provide some income to the farmers. I don't know how badly commercial warehouses need the money, but I can tell you it is

the only thing that is keeping some farmers afloat right now.

Mr. President, I hope my colleagues will support this bill, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRAIN STORAGE RATES.

Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by inserting before the colon at the end of the fifth proviso the following: "and except that the rate the Corporation pays for the storage of grain on farms may not be less than the average rate the Corporation pays for the storage of grain in commercial storage facilities in such area".

By Mr. SASSER (for himself and Mr. GORE):

S. 2685. A bill to designate certain lands in the Cherokee National Forest in the State of Tennessee as wilderness areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TENNESSEE WILDERNESS ACT

● Mr. SASSER. Mr. President, I am joined by my colleague, Senator GORE, today in introducing the Tennessee Wilderness Act of 1986.

The bill we are introducing today carries out the wilderness recommendations of the U.S. Forest Service as set forth in the final forest management plan for the Cherokee National Forest. These recommendations have been developed through the RARE II and forest management planning processes, and reflect the input and concerns of the many Cherokee Forest users. The Forest Service is to be commended for these recommendations, for with these wilderness designations we are preserving the scenic and natural integrity of our preeminent roadless areas in the Cherokee National Forest.

The bill designates approximately 33,735 acres as wilderness, primarily in the northern portion of the Cherokee which is without an existing wilderness designation. When added to the current wilderness acreage in the southern portion of the forest, this bill will bring the total designated wilderness in the Cherokee National Forest to 66,637 acres, or about 11 percent of the total forest acreage.

Six outstanding natural areas will be added to the national wilderness preservation system under this bill. These six areas, and the approximate acreage of each, are:

Pond Mountain Wilderness, 6,665 acres; Big Laurel Branch Wilderness, 6,251 acres; Unaka Mountain Wilderness, 4,700 acres; Sampson Mountain Wilderness, 8,319 acres; Little Frog Mountain Wilderness, 4,800 acres; and Big Frog Mountain Wilderness addition, 3,000 acres.

Because the Appalachian National Scenic Trail runs through portions of the proposed wilderness areas, this bill provides special protections for the trail and its users. The bill authorizes the use in wilderness areas of trail signs and markers, the maintenance of trail shelters and other trail-related structures, and the construction and maintenance of footbridges, waterbars, and other structures necessary or desirable for protection of the land for the safety of the public.

Additionally, the bill provides for the release of areas not designated wilderness from further consideration for wilderness during the remainder of the current forest planning cycle. However, it does provide for consideration in future planning cycles of wilderness designation for roadless areas, so that we leave the option of future wilderness designations available to the next generation of forest users.

Mr. President, this bill is identical to the bill introduced in the House of Representatives last week by my distinguished colleagues, Mr. QUILLEN and Mr. DUNCAN. It is a bipartisan bill, and a compromise supported by a broad range of interested groups. There are other areas worthy of wilderness designation in the Cherokee, and I hope that some of these areas may be given further protection in the final management plan.

With this bill, however, we will be able to lay to rest an important component of the Cherokee final plan. By resolving the wilderness debate, we will provide a clearer path to resolution of the other issues at stake in the Cherokee Forest planning process. And by acting on these recommendations, we will preserve today's wilderness not only for the enrichment of our generation, but also for the lifetime of many Americans to come.

I urge the Senate's swift and positive action on this legislation.●

● Mr. GORE. Mr. President, I am introducing today—along with my colleague, Senator SASSER—a bill to designate certain lands in the Cherokee National Forest of Tennessee as wilderness areas; and to allow management of certain lands for uses other than wilderness.

This act, to be known as the Tennessee Wilderness Act of 1986, will add some 33,735 acres to the National Wilderness Preservation System. This is a companion bill to one introduced in the House of Representatives on July 15 by my distinguished colleagues, Congressmen JAMES QUILLEN and JOHN DUNCAN of Tennessee.

The areas to be designated as wilderness were all recommended for wilderness status in the Forest Service's April 1, 1986 management plan for the Cherokee National Forest. Two of the areas are wilderness study areas under existing legislation. These recommendations also have the support of the majority of environmental and conservation groups in Tennessee. This legislation represents a reasonable compromise that will help meet the demand for unroaded recreation on the forest, while ensuring that adequate timber supplies remain available for local industry.

Six areas of the Cherokee National Forest are specifically designated by this bill as components of the National Wilderness Preservation System. With approximate acreage, they are:

One, Pond Mountain Wilderness, with 6,665 acres; two, Big Laurel Branch Wilderness, with 6,251 acres; three, Unaka Mountain Wilderness, with 4,700 acres; four, Sampson Mountain Wilderness, with 8,319 acres; five, Little Frog Mountain Wilderness, with 4,800 acres; and six, Big Frog Wilderness, with 3,000 acres.

The final result of this legislation will be approximately 66,000 acres of wilderness in Cherokee National Forest, about 11 percent of the forest's total area. Special provisions will provide for the use of the Appalachian Trail, by authorizing trail markers and signs and permitting shelters and other trail-related structures. Other special facilities necessary for protecting the land and the safety of the public will also be permitted.

In addition, the bill releases lands for nonwilderness management within the Cherokee National Forest. This provision is consistent with recent wilderness bills enacted by the Congress.

Mr. President, the management and use of Cherokee National Forest is a matter of intense concern to the people of east Tennessee. In the course of my regular open meetings, I have met with hundreds of individuals who are committed to a plan for that forest which is environmentally and economically sound for Tennessee and the Nation. They want a plan that will preserve the long-range productivity and beauty of the forest, and maintain and enhance jobs and businesses dependent on forest resources.

This legislation helps meet that goal. While I have reservations about many aspects of the Forest Service plan for Cherokee National Forest, I believe the wilderness recommendations are reasonable. I congratulate all sides for their hard work on this issue. I believe this bill commands a broad base of support from Tennesseans—environmentalists, hikers, and campers, and business people—and I hope my colleagues will give it quick approval.●

By Mr. BROYHILL:

S. 2686. A bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue Medi-

care coverage at their own expense; to the Committee on Finance.

MEDICARE COVERAGE FOR THE DISABLED

● Mr. BROYHILL. Mr. President, today I am introducing legislation to remove a longstanding disincentive for the disabled in this country to return to work. I introduced an identical bill in the U.S. House of Representatives on June 25, 1986.

Although the Federal Government has made a significant commitment—approximately $60 billion—to individuals with disabilities through programs that provide income support and health benefits, there have not been adequate efforts made to promote independence and self-sufficiency. Many of the disabled who could return to work are reluctant to take advantage of the trial work periods currently allowed under the Social Security Disability Insurance Program. Disabled people fear that taking the entry-level positions or low-paying service jobs most find available could leave them with less income and no health insurance as their Federal benefits expire. This is because disabled individuals with preexisting health conditions have a difficult time obtaining adequate health insurance from their employers.

In an effort to remove these penalties of returning to work, I am today introducing a bill which will allow disabled individuals who were entitled to benefits under the Social Security Disability Program to purchase Medicare coverage on the basis of a fee schedule related to their income. The legislation requires the Secretary of Health and Human Services to determine the premium cost for Medicare benefits and to assess qualified individuals a minimum payment amount of 25 percent of the full premium cost and a maximum payment amount of 8 percent of the individual's adjusted gross income.

In developing this legislation, I must credit Ms. Deborah McKeithan of Charlotte, NC, who brought to my attention the discouraging facts the Nation's disabled face when they seek employment. Ms. McKeithan, a victim of multiple sclerosis and epilepsy, has not only returned to work but has established her own business. Together with a group of friends, Deborah McKeithan established the Handicapped Organization for Women [HOW], which now provides needed community services through 50 chapters in 30 States. In tribute to her efforts, Deborah has been honored by Newsweek, which profiled her achievements in its recent Collector's Edition article entitled "100 New American Heroes."

In May, Deborah McKeithan came to my office to discuss the problems the disabled have in obtaining health insurance upon returning to work. She was concerned that such difficulties discouraged individuals who were receiving Social Security payments and health benefits from reaching their full potential as productive members of our society. Under the current system, eligibility for Social Security disability benefits and Medicare is based on the inability of an individual to engage in substantial gainful activity. Therefore, once an individual begins earning more than $300 a month, cash assistance is discontinued, and, within 24 months, Medicare eligibility also expires. This leaves the disabled individual who has been back in the work force for 2 to 4 years unable to purchase health insurance at an affordable price.

With a fuller understanding of the problems of the disabled, I decided that it was time to change the disincentives which exist today and provide for a redirection toward greater self-sufficiency. Ms. McKeithan has convinced me that there are individuals currently receiving disability benefits who will seek employment given the opportunity to purchase health insurance at a price within their means. While I am aware that the bill I am introducing today will not solve all the problems which the disabled citizens of our country face, it will allow those individuals who were employed prior to their disability to return to work knowing they can purchase health insurance at an affordable price.

SUMMARY OF THE BILL

The legislation establishes a new section within title 18 of the Social Security Act to allow certain disabled individuals to purchase parts A and B of Medicare on the basis of a fee schedule related to their income. Eligible individuals must be under 65 years of age; have been entitled to Medicare benefits under the Social Security Disability Program [SSDI] and lost those benefits due to their engagement in substantial gainful activity; be determined on an annual basis to continue to have the physical or mental impairment that qualified the individual for SSDI; and be enrolled for benefits under this program since the first month in which they were entitled to benefits.

An individual who qualifies may enroll in the program during a 7-month initial enrollment period which begins the third month before he or she satisfies the requirements of the program. Special enrollment periods are also provided for in the legislation for eligible individuals previously enrolled in group health plans due to their employment. The monthly premium for individuals participating in this program would be the same as the premium determined for other individuals who are permitted to purchase Medicare under section 1818 of the Social Security except for two qualifications: First, the premium assessed cannot exceed 8 percent of the adjusted gross income of the individual, and second, the premium assessed cannot be less than 25 percent of the full cost of the Medicare premium. If the individual purchases Medicare part A, he or she can also purchase part B. The sliding fee schedule would also apply for the part B premium amount.

In addition, if an individual is enrolled in a group health plan due to his/her employment and has enrolled in this program, Medicare benefits would become secondary to benefits under the employer's group health plan. The legislation would take effect 60 days following enactment.●

By Mr. GLENN (for himself and Mr. METZENBAUM):

S. 2687. A bill to amend the Clayton Act regarding consent judgments; to the Committee on the Judiciary.

CONSENT JUDGMENT

● Mr. GLENN. Mr. President, today, along with my colleague, Senator METZENBAUM, I am introducing S. 2687, an amendment to the Clayton Act. This bill would ensure that divested companies are commercially viable and guarantee that all affected parties are able to intervene in the consent decree proceeding prior to the final decree.

In recent times, we have heard various officials blame the current antitrust laws for everything from this country's record trade deficits to loss in U.S. technological leadership. Accordingly, the Justice Department has established a pattern of leniency with regard to corporate mergers. I agree that something is definitely wrong with our antitrust laws—especially when the end result is the situation we have in Massillon, OH, with nearly 700 people out of work and a stainless steel company closed for nearly 1 year.

Let me explain what our bill does. Before entering a consent decree, a court is required to determine that the divesture of the entity is in the public interest. Our bill will ensure that the citizens of each State have a role in deciding what is in their best interests. It would require a decision, before a consent decree is finalized, that the divested entity is able to compete in the marketplace. As an added protection, the bill would also give State attorneys general the ability to participate in the consent decree proceedings. Our bill recognizes that the Department of Justice merger consent decrees have their greatest impact in the States where the required divestitures take place.

Mr. President, I have with me a letter from Anthony J. Celebrezze, Jr., attorney general of the State of Ohio. Attorney General Celebrezze supports this effort to address the economic concern arising from the current antitrust merger policy. He, too, is concerned with the loss of competition

and jobs that results from a divestiture gone wrong. Mr. President, I ask that the letter from Attorney General Celebrezze be printed in the RECORD in its entirety following my statement.

Like most of the other States in the northern industrial tier, Ohio has paid a heavy price for having been at the heart of one of the world's prime manufacturing regions. Since 1979, Ohio has lost 259,000 manufacturing jobs, both to foreign competition and to other parts of the country. Its manufacturing employment since that time has declined 19.9 percent, compared with a decline of 8.4 percent for manufacturing jobs in the Nation as a whole. For these reasons, Ohio and similarly situated States cannot survive the current trend of companies divesting themselves of entities which are not capable of succeeding financially when independent. That trend has resulted only in perpetuating the problem of declining industries, and in throwing even more people out of work.

The viability of American corporations is extremely important in the face of today's trade situation. I doubt that anyone will disagree that we need to implement legislation that will permit and promote the growth of American industries. Yet, we are doing anything but that when we allow the divestiture and failure of money making businesses such as Enduro.

The Enduro sale, ordered by the Justice Department as a result of the LTV-Republic merger, should never have happened. At the time the LTV-Republic merger took place, serious questions regarding antitrust laws and merger guidelines were raised. As antitrust experts predicted, the fallout from the Justice Department's decision was great. Unfortunately, the people of Massillon were unsuspecting victims.

While it is possible under current law for interested parties to intervene in consent decree proceedings which involve divestitures, attempts to intervene in these proceedings have usually been unsuccessful.

Neither the Justice Department nor the divesting company possess a sufficient interest in making sure the divested company is commercially viable or bought by a truly sound or reputable buyer. Ironically, those with the most to lose in large corporate mergers—the workers and the community—are allowed the least involvement.

Mr. President, I believe that the State attorney general can and does represent the interest of the people of his State. If the Ohio attorney general had been able to intervene in the Enduro consent decree proceedings, I believe questions would have been raised about Robert Newstat's financial status that neither LTV nor the Department of Justice were motivated to ask. Of course, we will never know with regard to Enduro, but we can and should keep this from happening in other States, other towns, and other communities. This legislation will do just that.

There being no objection, the letter mentioned earlier was ordered to be printed in the RECORD, as follows:

COLUMBUS, OH, *June 9, 1986.*

Hon. JOHN GLENN,
U.S. Senator, Senate Office Building, Washington, DC

DEAR SENATOR GLENN: I support your efforts to address a major economic concern arising from the current Administration's antitrust merger policy. That policy, which runs contrary to that of all prior administrations, both Democratic and Republican, has fostered mergers of unprecedented size between direct competitors. The current Department of Justice (DOJ) routinely approves controversial merger proposals, requiring only that the merged firm spin off specified assets to a third party. All too often, the selected third party is unable to successfully operate the acquired business. The result, as demonstrated by the LTV/Republic Steel divestiture of Enduro Steel to an unfit buyer, is an immediate loss of competition and jobs. While divestiture is sometimes an appropriate solution to the anticompetitive problems of merger, it must be applied selectively and carefully. DOJ's summary application of this remedy, to the exclusion of all others, often exacerbates the anticompetitive problems of mergers.

Your proposed legislation would directly address such situations by requiring any proposed divestitures to fully restore competition and by requiring greater scrutiny of the relative economic viability of the selected buyer of divested assets. The bill would also require reasonable steps to be taken to protect the interests of affected employees, and would give the attorney of a state the right to intervene in consent decree proceedings where proposed divestitures would affect the jobs of 100 or more full time employees in that state.

Your legislative proposal recognizes that the DOJ merger consent decrees have their greatest impact in the states where the required divestitures take place. In the case of the LTV/Republic Steel merger, the divestiture of the Enduro Steel Plant in Massillon. Ohio to a financially unprepared buyer resulted in the closing of the plant and the loss of 700 jobs. The destructive impact of such a closing is felt not only by the dislocated workers and their families, but also by the state and local economies in the form of higher unemployment and welfare costs and an eroded tax base. Moreover, the closing of the previously profitable Enduro plant reduced competition in an already concentrated industry.

The possibility of similar disasters raises questions of whether the public interest can be better served by the consent decree review process. An obvious concern is that a merging firm does not have a strong incentive to select as a buyer for the divested facilities anyone who would prove to be an effective competitor. Greater scrutiny of both the competitive viability of the divested entities and the financial preparedness of the buyer is called for in these circumstances.

Section 5 of the Clayton Act provides for input of non-parties in the judicial review of consent decrees proposed by DOJ. Amending this section to grant the Attorney General of the affected state the right to intervene ensures that the public interest will be more effectively represented in the review of a very complex and important decision. Intervenor status would enable the state Attorney General to obtain facts relevant to the issues of economic viability and financial preparedness, thus ensuring that these issues are adequately considered. Because intervention under the proposed bill is limited to the state Attorney General under specific circumstances, this amendment does not threaten to overly complicate the consent decree review process. Therefore, this proposed legislation is clearly in the public interest.

In light of these considerations, I hereby support your legislative initiative and applaud your efforts to promote competition and protect employee interests, both within Ohio and throughout the nation.

Sincerely,

ANTHONY J. CELEBREZZE, Jr.
Attorney General.●

By Mr. KENNEDY (for himself, Mr. WEICKER, Mr. GRASSLEY, and Mr. KERRY):

S. 2688. A bill to amend the Developmental Disabilities Assistance and Bill of Rights Act to authorize grants to university graduate programs which provide training in the care of elderly persons with developmental disabilities; to the Committee on Labor and Human Resources.

DEVELOPMENTAL DISABILITIES TRAINING ASSISTANCE ACT

● Mr. KENNEDY. Mr. President, I rise to introduce the Geriatric Developmental Disabilities Training Act of 1986. I am pleased to say that I am joined by my distinguished colleagues and fellow committee members Senators WEICKER, GRASSLEY, and KERRY.

Mr. President, there is a growing number of developmentally disabled and mentally retarded individuals who have only recently begun to face a new and perplexing experience. The number of these individuals who are, for the first time, living to experience the changes, and the needs of old age has grown significantly. In fact, there are now between 200,000 and a half million people who have passed the age of 65 and reside in institutional or residential care facilities.

Mr. President, older mentally retarded and developmentally disabled persons face the same problems that nondisabled elderly persons do. They need adequate housing, social supports, recreational activities, preventive and curative health care, and recreational activities. They need attentive and caring companions who are prepared to assist them with their changing needs.

Unfortunately, as this population has grown, the gaps in our present system of providing assistance have become apparent. At the present time, programs that primarily serve mentally retarded persons do not have the staff in their operations who are knowledgeable about the process of aging. By the same token, senior centers and aging programs lack staff who

are knowledgeable about mental retardation and developmental disabilities.

This lack of trained professionals with knowledge of both mental retardation and aging represents a pressing need. The proposal I am introducing today is designed to meet that need.

Though, currently, university-level gerontology training programs do not offer courses in mental retardation, and university-level mental retardation training programs do not offer courses in adult development or aging, these pools could be easily expanded to offer the necessary cross training. With such cross training, there is a pool of professionals in both fields who are prepared to provide the necessary services and who could begin to fill this void.

The bill we are introducing today would assist selected university programs to establish short-term graduate-level training programs to respond to this training need. These programs would combine core knowledge in both gerontology and mental retardation. Professionals already working in the field would have an opportunity to obtain this cross-training and continuing education on a rotating basis. In this fashion, over a period of 5 years, a large number of staff in different programs around the country could receive the necessary instruction.

This amendment to the Developmental Disabilities Act will authorize only $1 million to accomplish this important task. This very modest sum will permit a number of educational institutions to participate in the effort to fill the knowledge gap we are recognizing today.

I believe my colleagues will recognize the truth of the situation we perceive and the validity of the solution we are proposing. Older mentally retarded and developmentally disabled individuals need the help and support and guidance that most aging persons do. Fortunately, there are those who are waiting to give it. A small amount of training will assist them to provide it with professional knowledge and understanding. I urge my colleagues to make this vision possible.●

By Mr. KENNEDY (for himself and Mr. GORE):

S. 2689. A bill to provide for the establishment of standards and labeling by the Consumer Product Safety Commission for certain products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHILD INJURY PREVENTION AMENDMENTS

● Mr. KENNEDY. Mr. President, I rise to address the problem of injuries to children. It is time that the problem of injuries took its rightful place in our list of health priorities. Increasingly, the Nation is realizing that injuries have become the last major plague of the young. Injuries cause 50 percent of all deaths of children over age 1 and 75 percent of deaths of children over age 15.

We must begin to mount the same serious effort to combat injuries as we did decades ago when we brought widespread childhood diseases under control. Today, as a contribution to that effort, I am introducing the Children's Injury Prevention Amendments of 1986. These amendments address three specific causes of injury to children: all terrain vehicles, hazardous toys, and cigarette lighters. Last week I introduced a companion bill, the Children's Injury Prevention Act of 1986. I have been joined by my distinguished colleague Senator GORE in introducing both proposals.

We must approach the battle against injuries on many fronts proceeding with the knowledge that most injuries are not accidents. Unsafe conditions, behaviors, and products contribute mightily to the risk of injury. Careful study of injury patterns reveal the appropriate places to focus our efforts.

Increasingly the public is becoming aware of the hazard represented by all terrain vehicles. This summer, there have been seven deaths every 10 days because of these recreational vehicles. One-half of the deaths are to children under 16, one-quarter are children under 12. In some communities, half the deaths are children under 12.

These motorized bikes sit on three or four low-pressure balloon tires and are meant to be driven off of paved roads. Because they are poorly designed, they are prone to flip, tip, or role over causing serious injury. The three-wheeled versions appear to be especially dangerous.

All terrain vehicles have caused 415 deaths and 185,000 serious injuries since 1982. Each year, the death and injury toll rise significantly. Though half the deaths have been in children under 16, these bikes have often been viewed as toys. Most of the youngsters, and their parents, had little idea about the risk they were taking when they mounted their new bikes. In hearings held around the country last year, bereaved parents whose children had died or were permanently disabled, spoke with anguish about buying these "toys" for their children's amusement. Yet, despite the experience of these families, 650,000 new bikes are likely to be sold this year.

Mr. President, something must put a stop to this needless loss of children. The bill I am introducing will require the four Japanese manufacturers to present an improved design for these vehicles to the Consumer Product Safety Commission within 6 months. If they do not, the legislation authorizes the Commission to ban the vehicles altogether. Shortly alfter the bill takes effect, warning labels will appear on the bikes and all packaging materials and advertising.

Examples of eminently avoidable injuries to children, Mr. President, involves the use of cigarette lighters. This year, young children playing with cigarette lighters will start fires which will cause approximately 200 deaths, countless burn injuries and thousands of dollars in property damage. More than one-half of the dead will be children under the age of 5.

We can remedy this hazard by requiring child-resistant caps on cigarette lighters. Such caps should not reduce the utility of the product. Poisoning deaths were reduced by over 80 percent after child resistant caps were placed on medication bottles, and similar success can be achieved in reducing senseless fire deaths.

Another preventable cause of injuries involves hazardous toys. In 1984, 126,000 toy-related injuries were treated in hospital emergency rooms around the country. Though we have mandatory safety standards for some toys, this is not the case for the great majority of toys.

Most parents believe that the age recommendations on the toys they buy are there to help choose toys which are developmentally appropriate for their child. In fact, the labels are intended to deal with safety, but the information is misleading and incomplete. By designing a more effective system of labeling, implemented by the manufacturer, based on guidelines from the Consumer Product Safety Commission, we can reduce the unacceptable injury rate from unsafe toys and protect children from being victimized.

Injuries are not usually accidents. We already know the cause of most injuries which occur to children. Individual parents can do much to protect their children. Children themselves can make a difference if they are taught how to avoid danger.

Government and industry must play a more active role if we are to reduce death and injury from these and other causes. I hope that Congress will respond with appropriate and effective action.●

By Mr. WARNER (for himself, Mr. SASSER, Mr. PRESSLER, Mr. DOLE, Mr. SYMMS, Mr. HECHT, Mr. MATTINGLY, Mr. LAXALT, Mr. MURKOWSKI, Mr. KASTEN, Mr. HEINZ, Mr. HATCH, Mr. COHEN, Mr. ANDREWS, Mr. GARN, Mr. MCCLURE, Mr. NICKLES, Mrs. HAWKINS, Mr. HELMS, Mr. PELL, Mr. MATSUNAGA, Mr. JOHNSTON, Mr. ZORINSKY, Mr. INOUYE, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. PRYOR, Mr. BAUCUS, Mr. BRADLEY, Mr. LEVIN, Mr. NUNN, Mr. LEAHY, Mr. LAUTENBERG, and Mr. BUMPERS):

S.J. Res. 377. Joint resolution to designate the week of May 17, 1987, through May 23, 1987, as "National Tourism Week"; to the Committee on the Judiciary.

NATIONAL TOURISM WEEK

Mr. WARNER. Mr. President, it is my pleasure to stand today in recognition of National Tourism Week 1987. I am joined by my respected colleague, the Senator from Tennessee, Senator SASSER who cochairs the Senate tourism caucus with me and Senator PRESSLER, chairman of the Subcommittee on Commerce, Trade and Tourism.

Each year since 1981, the Nation has seen fit to recognize the travel and tourism industry by designating a "National Tourism Week." Each year, the benefits which accrue to the Nation's citizens from the travel and tourism industry continue to grow. By now, the statistics are well publicized, but still no less astounding—the second largest industry in the land is travel and tourism; the same industry is the first, second or third largest employer in 41 States; and the revenue from the industry brings to our overall financial picture, a contribution of approximately $225 billion. This year, I would like to continue what appears to have become a tradition over the past few years, by introducing a Senate joint resolution declaring the week of May 19, 1987, "National Tourism Week."

The year promises to be a special one in many ways for those involved in the many facets of the tourism industry. As many Americans choose to postpone or cancel vacation and travel plans to more exotic corners of the globe, our domestic tourism industry is charged with the role of playing host to the many fellow Americans who will be instead, venturing to every corner of the United States.

In addition, our domestic tourism industry has the distinction of functioning as both an export and an import. Our country will be the travel destination of thousands of foreign visitors, who will boost our economy with literally billions of vacation dollars. Newspapers and magazines have been reporting for some time now the cross country effort taking place in recreation related businesses to accommodate the influx of tourists expected during the vacation season. Through the exchange generated from travel and tourism, the United States has a unique opportunity to enhance our international balance of trade.

Anyone who has traveled, whether to a neighboring State or a foreign country, knows that the greatest benefit from any travel experience is the exposure to a different culture, lifestyle or value system. We learn by comparison, we enlighten our thought and enhance our individual perspectives on the world through comparison and exposure to other cultures. Ultimately, we become more educated, more intellectually tolerant of those whose differences might have previously seemed insurmountable. The cultural exchange initiated by the travel and tourism industry produces a level of understanding and international goodwill which is essential to the maintenance of positive relations on a global level.

Mr. President, National Tourism Week 1986 was a tremendous success. Events highlighting the week ranged from the now traditional Southeast hoedown, a colorful celebration held here on the Mall, to the premier of "Discover America," a beautiful film produced by the U.S. Travel and Tourism Agency, and a fitting tribute to the travel opportunities in the United States. Last year's theme, "Tourism Works For America" was so successful that it is again the theme for National Tourism Week.

In recognition of this past successful year in the tourism industry, and with great expectations that 1987 will be another banner year for the industry, showing that tourism does indeed work for America, I introduce today the Senate joint resolution declaring the week beginning May 17, "National Tourism Week, 1987."

● Mr. SASSER. Mr. President, once again this year I am pleased to join my colleague, Senator WARNER, in introducing legislation designating the week of May 17-23, 1987, as "National Tourism Week."

As cochairman of the Senate tourism caucus, I cannot forgo this opportunity to encourage my colleagues in the Senate to recognize the tremendous importance that tourism plays in our economy. The travel industry is the third largest retail or service industry in the United States, accounting for over $220 billion in 1984.

At a time when the twin budget and trade deficits continue to rise and unemployment remains consistently above the 7-percent level, travel and tourism in the United States generates both needed revenues and jobs. Domestic and international travel's economic contributions in 1984 include: expenditures in the United States of $229 billion; payroll income generated, $52 billion; employment generated, $4.9 million direct and $2.2 million indirect; Federal tax revenues generated, $13.6 billion; State tax revenues generated, $8.9 billion; and local tax revenues generated, $2.7 billion.

Each two jobs in the travel and tourism industry generates one job in businesses supplying goods and services to the travel industry. Further, the one thing that we can afford to import more, and should encourage doing so, is foreign visitors. Tourism provides the largest earnings of export receipts among tradable services. Foreign visitors spent, in 1984, $26,446 every minute in the United States. In that same minute, the Federal Government receives $1,338 in taxes.

It can readily be seen from these statistics that travel and tourism is an important and increasingly vital component of our national economy. As a tribute to tourism's importance, I urge my colleagues to support the resolution that Senator WARNER and I are introducing here today.●

1987 NATIONAL TOURISM WEEK RESOLUTION

● Mr. PRESSLER. Mr. President, today I join with over one-third of my colleagues in the Senate in cosponsoring and supporting legislation to designate the week of May 17-23, 1987, as the fourth annual "National Tourism Week."

In paying tribute to the travel and tourism industry in America, it is important for us to understand just what the phrase "travel and tourism" encompasses. Certainly, the excitement of summer vacation time spent exploring the great outdoors with family and friends comes to mind. But let's look beyond the obvious.

Year round, travel and tourism means money; a crucial component of our Nation's economy. According to newly released figures, foreign and domestic tourists spent $260 billion in the United States in 1985, up from $220 billion in 1984. They generated $18 billion in Federal tax revenues, $11 in State taxes, and $4 billion in local tax receipts.

Travel and tourism represents jobs. It represents a source of livelihood and a way of life. It represents professions * * * in motel and hotel accommodation, car rental, travel agencies, and amusement parks. It employs Americans in concessions near scenic attractions; in campgrounds and in companies that manufacture the RV's and motor homes that frequent them. Airlines and tour buses, resorts and restaurants, gas stations and grocery stores are a part of the picture, as well.

In fact, all of these and more comprise an industry that has become the third largest retail or service industry in our Nation's economy. In 1985, travel and tourism employed 5.9 million people directly, involving a total payroll of $60 billion. Over the past 10 years, travel and tourism employment has grown by 60 percent, three times the growth rate for all jobs in the United States.

Finally, at a time when our balance of trade is a major economic concern, international travel and tourism services now rank as the Nation's largest tradable service export, representing over 25 percent of the $45 billion generated by all services exports.

Indeed, 20.9 million foreign tourists visited America in 1985, spending $14.1 billion while they were here. This latter point is why, as chairman of the U.S. Senate Business, Trade, and

Tourism Subcommittee, I continue to champion legislation to keep our U.S. Travel and Tourism Administration [USTTA] working to bring foreign visitors to the United States.

S. 2307, which I introduced this session with 17 cosponsors, would authorize $42 million in funding for the USTTA over the next 3 years. I have urged my colleagues to join me in approving this measure when it comes up for Senate consideration later this month. Similarly, I am encouraging them to rally behind this resolution to designate a National Tourism Week for 1987.

Three years ago some of us in Congress saw a need to set aside time each year to highlight the importance of travel and tourism in the United States, to recognize the impact of the travel and tourism industry on this Nation's economic well-being, and to pay tribute to the millions of men and women who make it succeed.

We chose to celebrate National Tourism Week in May, just as most Americans begin looking forward to summer holidays. The wonder of our Nation's bounty is that the "travel and tourism season" never ends in these United States. No matter your interest. No matter the time of year. You can snow ski in the Rockies in July; body surf in the tropics in January.

The USTTA's international marketing campaign theme calls out to potential foreign visitors, "America. Catch the Spirit." But we Americans already know we have it all right here in our own national backyard. As this resolution is introduced to set aside May 17-23, 1987, as the next official National Tourism Week, let us recognize that every week is a national tourism week in the United States. That is truly something to celebrate.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. DODD, Mr. METZENBAUM, Mr. SPECTER, Mr. LEAHY, Mr. SIMON, Mr. KERRY, Mr. KENNEDY, and Mr. D'AMATO):

S.J. Res. 378. Joint resolution to provide for a temporary prohibition on strikes or lockouts with respect to the Maine Central Railroad Co., and Portland Terminal Co., labor-management dispute; to the Committee on Labor and Human Resources.

EXTENSION OF COOLING-OFF PERIOD IN MAINE CENTRAL RAILROAD STRIKE

● Mr. MITCHELL. Mr. President, I am today introducing a joint resolution to extend by 60 days the cooling-off period in the strike between the Maine Central Railroad and the Brotherhood of Maintenance of Way Employees [BMWE].

Joining me in this action as cosponsors are Senators COHEN of Maine, DODD of Connecticut, LEAHY of Vermont, KENNEDY and KERRY of Massachusetts, D'AMATO of New York, SIMON of Illinois, METZENBAUM of Ohio, and SPECTER of Pennsylvania. Similar action will be initiated in the House of Representatives by House Commerce and Transportation Subcommittee Chairman JAMES FLORIO of New Jersey and Representatives MCKERNAN and SNOWE of Maine. The Maine congressional delegation is unanimous in proposing this action as the means of dealing with a labor dispute originating in Maine, but threatening to spread nationally. We are supported by the Governor of Maine, Joseph Brennan.

On July 20, 1986, the cooling-off period initiated by President Reagan's May 16 emergency board order expired. The provisions of the Federal Railway Labor Act have been exhausted. Although the Presidential emergency board made recommendations for settling the labor dispute, the railroad and the union have been unable to reach an agreement.

The dispute has entered an uncertain phase. Both the railroad and the union are entitled to engage in self-help. The dispute could escalate at any time to a national railroad strike, with serious impact on interstate commerce. Congress should encourage a measure of stability into the situation, and allow negotiations between the parties to continue.

Since 1963, Congress has intervened 11 times in labor disputes when the provisions of the Railway Labor Act have been exhausted. Precedents weigh in favor of first extending the cooling-off period imposed by the emergency order, before taking any other kind of action.

Precedents also exist for Congress to impose binding arbitration or specific settlement terms. However, there is traditional reluctance—which I believe wise—for Congress to do anything which supplants the collective-bargaining process, or otherwise unnecessarily substitutes the judgment of Congress for that of the actual parties to a dispute.

I do not believe that stronger action is advisable at this time. However, the joint resolution which I propose would require the Secretary of Labor to report to Congress 15 days prior to the expiration of the new cooling-off period with a proposed solution to the dispute.

The Maine Central Railroad and the BMWE are wrestling with difficult job protection and work rule issues which are shared throughout the railroad industry. Resolution of these issues will have national implications for railroads everywhere, and a very real impact on Maine's transportation network. It is in everyone's interest—most importantly, the public interest—for the parties to make every effort to resolve their differences cooperatively, and to get back as quickly as possible to the business of running the railroad.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. INOUYE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 89, a bill to recognize the organization known as the National Academies of Practice.

S. 519

At the request of Mr. EVANS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1562

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1562, a bill to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

S. 1801

At the request of Mr. HELMS, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1801, a bill to amend the Trade Act of 1974 to promote expansion of international trade in furniture with Canada, and for other purposes.

S. 1980

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1980, a bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes.

S. 2050

At the request of Mr. METZENBAUM, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2050, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 2266

At the request of Mr. WALLOP, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2266, a bill to establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

S. 2281

At the request of Mr. TRIBLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2281, a bill to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

S. 2370

At the request of Mr. MURKOWSKI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2370, a bill to allow the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia.

S. 2404

At the request of Mr. BRADLEY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 2404, a bill to amend part D of title IV of the Social Security Act to prohibit the retroactive modification of child support arrearages.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2496

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2496, a bill to authorize the President to award congressional gold medals to Drs. Andrei Sakharov and Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace.

S. 2539

At the request of Mr. WARNER, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2539, a bill to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and citizens of the United States who reside overseas.

S. 2570

At the request of Mr. CRANSTON, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2570, a bill entitled the Anti-Apartheid Action Act of 1986.

S. 2573

At the request of Mr. HEINZ, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2573, supra.

S. 2576

At the request of Mr. DURENBERGER, the names of the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. LEAHY], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of S. 2576, a bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims.

S. 2593

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2593, a bill to establish the National Nuclear Safety Study Commission.

S. 2637

At the request of Mr. LONG, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of S. 2637, a bill relating to the application of the drawback provisions of section 313 of the Tariff Act of 1930 to certain imports of cane sugar.

S. 2680

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Indiana [Mr. QUAYLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Georgia [Mr. MATTINGLY], and the Senator from Georgia [Mr. NUNN], were added as cosponsors of S. 2680, a bill to amend the Internal Revenue Code of 1954 to allow a charitable contribution deduction to farmers who donate agricultural products to assist victims of natural disasters.

SENATE JOINT RESOLUTION 343

At the request of Mr. D'Amato, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Nevada [Mr. LAXALT], were added as cosponsors of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 356

At the request of Mr. MATHIAS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 356, a joint resolution to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the "Battle of Normandy."

SENATE JOINT RESOLUTION 367

At the request of Mr. HEINZ, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 367, a joint resolution to designate July 31, 1986, as "National Kidney Program Day."

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. CRANSTON, the names of the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. LEAHY], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Concurrent Resolution 147, a concurrent resolution to express the sense of the Congress that the monkeys known as the "Silver Spring Monkeys" should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., animal sanctuary in San Antonio, TX.

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Maryland [Mr. SARBANES], the Senator from Florida [Mrs. HAWKINS], the Senator from Indiana [Mr. QUAYLE], the Senator from Connecticut [Mr. DODD], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki monitoring groups.

SENATE RESOLUTION 420

At the request of Mr. CHILES, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Resolution 420, a resolution to express the sense of the Senate regarding payment of Medicare claims.

AMENDMENT NO. 2226

At the request of Mr. GRAMM, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. SYMMS], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of amendment No. 2226 proposed to House Joint Resolution 668, a joint resolution increasing the statutory limit on the public debt.

SENATE CONCURRENT RESOLUTION 155—RELATIVE TO DEMOCRACY IN PARAGUAY

Mr. SIMON (for himself and Mrs. KASSEBAUM) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 155

Whereas Paraguay has been ruled for 32 years by an authoritarian government which has imposed a state of siege characterized by restrictions on civil liberties;

Whereas Paraguayans who desire to participate peacefully in the political process in Paraguay have been denied entry into Paraguay;

Whereas there is in Paraguay a National Accord which is a coalition of all opposition political parties that seek a restoration of full political freedom in Paraguay;

Whereas the Roman Catholic bishops of Paraguay have called for a national dialogue to lead to a transition to democracy in Paraguay;

Whereas there have been demonstrations by university students, trade unionists, and opposition political parties which reflect the overwhelming desire of the Paraguayan people for democratic rule; and

Whereas the United States has supported the return to democracy of the neighboring states of Argentina, Uruguay, and Brazil: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby—

(1) supports the efforts of democratic forces in Paraguay to achieve a peaceful return to democratic government;

(2) believes that all segments of Paraguayan society should be allowed to participate in the political process;

(3) calls upon the Government of Paraguay and the leaders of all sectors of Paraguayan society to demonstrate their commitment to a genuine transition to democratic government by heeding the call of the Catholic bishops for national dialogue and negotiation; and

(4) commends the United States Ambassador to Paraguay for implementing a policy of support for human rights and political freedom in Paraguay.

● Mr. SIMON. Mr. President, today, on behalf of my colleague Senator KASSEBAUM and myself, I am submitting a concurrent resolution in support of the National Accord in Paraguay. The National Accord is a group of opposition political parties in Paraguay who support a transition to democratic rule.

Paraguay has been ruled for the last 32 years by Gen. Alfredo Stroessner. It is one of the few remaining dicatorships in Latin America. Recently, there have been signs of increased political activity and dissent in Paraguay. That dissent has been met with repression by the Government. Not only have demonstrations been suppressed but recently a prominent political leader, Domingo Laino, was savagely beaten by Paraguayan forces when he attempted to reenter Paraguay to participate peacefully in the political process there.

The Reagan administration has strongly associated itself with the return to democracy in the neighboring states of Argentina, Uruguay, and Brazil and has maintained contact with the democratic opposition in Paraguay, including the Catholic Church. This concurrent resolution commends our Ambassador in Paraguay and expresses congressional support for the National Accord.

The United States currently has a $10,000 military training program with Paraguay and also supports loans in the World Bank to Paraguay. In the future we may want to reconsider the utility of training the military in Paraguay if they are going to use that training to suppress dissent in their own country and we may want to reconsider our support for World Bank loans since American foreign assistance law specifically prohibits support for loans to countries which systematically violate human rights. In the future I believe we should look seriously at our relationship with Paraguay.

In the meantime, this concurrent resolution demonstrates American support for democratic forces abroad and is consistent with American policy objectives in Paraguay. I hope that it be given full consideration by the Senate.●

AMENDMENTS SUBMITTED

INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT

DIXON AMENDMENT NO. 2228

(Ordered to lie on the table.)

Mr. DIXON submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt; as follows:

At the end of the , insert the following new section:

SEC. . VETERANS' ADMINISTRATION DETERMINATIONS RELATING TO A CERTAIN RADIOGENIC DISEASE.

(A) IN GENERAL.—Section 2(5) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 98 Stat. 2725) is amended by striking out "female".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to claims submitted to the Veterans' Administration before, on, or after the date of the enactment of this joint resolution.

D'AMATO (AND OTHERS) AMENDMENT NO. 2229

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. WEICKER, and Mr. KENNEDY) proposed an amendment to the joint resolution (H.J. Res. 668), supra; as follows:

At the appropriate place in the joint resolution insert the following new section:

SEC. . ANTI-APARTHEID AMENDMENTS.

(a)(1) Notwithstanding any other provision of law and subject to paragraph (2)—

(A) the eligibility of a State or a political subdivision of a State to receive funds under any Federal law; and

(B) the amount of funds which a State or a political subdivision of a State is eligible to receive under any Federal law, shall not be affected by the application of any anti-apartheid law of the State or political subdivision to a contract entered into by the State or political subdivision which is funded in whole, or in part, with funds provided by the Federal Government.

(2) The Federal Government shall not be responsible for the payment of the amount of any increase in the cost of any contract entered into by a State or political subdivision of an anti-apartheid law of that State or political subdivision.

(b) For purpose of this section—

(1) the term "anti-apartheid law" means a law which requires a State or a political subdivision of a State to include in contracts entered into by such State or political subdivision provisions and conditions relating to the contractor's business relationship in South Africa or to limit or condition the award of contracts on the basis of such relationships or to take such relationships into consideration in the award of contracts; or a law which prohibits or restricts the purchase of goods originating in South Africa; and

(2) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that testimony will be received on two additional measures at the hearing previously scheduled before the Subcommittee on Public Lands, Reserved Water, and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, July 31, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

The additional measures are House Joint Resolution 666, expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people; and S. 767, to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water, and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. HEINZ. Mr. President, I ask unanimous consent that the Subcommittee on Natural Resources Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 24, 1986, to hold a hearing on S. 1026, to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of

the Senate on Thursday, July 24, 1986, in order to conduct a hearing on the nomination of John Suda to be associate judge in the D.C. Superior Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, July 24, 1986, in order to conduct a business meeting to mark up legislation in order to meet reconciliation instruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. HEINZ. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 24, 1986, to hold a hearing on targeting Federal aid.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, July 24, 1986, in order to conduct a business meeting, in order to consider legislation on its legislative and administrative agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. HEINZ. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, July 24, 1986, to conduct a hearing on the Operating Differential Subsidy Programs Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

1986 TEACHER INTERN PROGRAM

● Mr. PRYOR. Mr. President, I'd like to tell my colleagues about a program I initiated this summer for junior high and high school teachers of civics, history, and related subjects. Teachers from my State of Arkansas were invited to apply for a 2-week internship to better acquaint themselves with the workings of the three branches of the Federal Government. Four teachers—one from each congressional district—were selected from the more than 30 applications received, and are now completing the second week of the program.

I was very impressed with the caliber of the applications, as well as the number of teachers willing to give up 2 weeks of their summer vacations for this type of activity.

The 1986 Pryor teacher interns are as follows:

Mrs. Lorraine Jones of Marianna. Lorraine is chairman of the Social Studies Department at Lee Senior High, and has taught for 30 years. One of the most active faculty members at her school, Lorraine serves as student government sponsor, implemented the Honors Awards Day, and established a Peace Links chapter at Lee High. She is also the mother of three children, one of whom is a prominent Little Rock attorney.

Mrs. Sandy Furrer of Little Rock. Sandy teaches 9th and 10th grades at the Alexander High Youth Service Center in Alexander. Her teaching experience is rather unique in that all of her students are teenagers who have been convicted of criminal activities. Sandy is also a licensed social worker, and as such, brings an extra dimension to her civics and American history courses.

Mr. Larry Cochran of Fort Smith. A ninth grade civics teacher at Ramsey Junior High, Larry is very active in the Arkansas affiliate of the National Education Association [NEA]. He is also working on a compilation of a slide and memorabilia collection of Presidential birthplaces, homes, and libraries that he plans to use to enrich his classroom discussions.

Mr. Bill Nipper of Hot Springs. Bill teaches ninth grade civics at Southwest Junior High, and also serves as director of the Hot Springs Teacher Center. The teacher center offers workshops, graduate courses, and community resources for educators in the Hot Springs School District. Bill has developed a special travel program for students, and each spring for the past 8 years his group of 46 students makes a journey from Hot Springs to Washington and New York City.

A number of organizations agreed to participate in our program this summer, and I extend my sincere appreciation to each of them. Those groups include: the U.S. Department of Education, National Education Association, American Federation of Teachers, Congressional Research Service at the Library of Congress, Supreme Court public affairs division, Senate Committee on Labor and Human Resources, National Endowment for the Humanities, Kennedy Center, National Geographic, Smithsonian Institution, and the Washington Post.

Mr. President, meeting with such dedicated teachers during these past 2 weeks has renewed my faith in our country's educational system. I am proud that my State can claim such outstanding educators, and wish them the very best for the upcoming school year.●

DEATH OF DR. REX HANCOCK

● Mr. PRYOR. Mr. President, recently with the death of Dr. Rex Hancock of Stuttgart, AR, we lost one of our champions for conservation and environmental preservation. For more than a decade Dr. Hancock successfully led citizen conservationists in an effort to preserve the waterfowl habitat in the Cache River Basin.

This year a new wildlife refuge in the Cache River Basin has been initiated by the Migratory Bird Commission, of which I am pleased to be a member. Earlier this week, the Commission met and I presented a resolution from the Arkansas Game and Fish Commission urging that this new refuge be named in memory of Rex Hancock. I heartily endorse this designation which will be voted upon at the next Commission meeting.

I would like, at this point in the RECORD, to place the text of the Game and Fish Commission resolution, as well as an article from the Arkansas Gazette which pays tribute to the work of this distinguished Arkansan.

The material follows:

ARKANSAS GAME AND FISH COMMISSION, LITTLE ROCK, AR

RESOLUTION

Whereas, Rex Hancock has, for more than a decade, successfully led citizen conservationists in an effort to preserve Cache-Bayou DeView waterfowl habitat and halt the authorized channelization project; and

Whereas, he was successful in attracting nationwide attention concerning the significance to migratory waterfowl of Arkansas' bottomland hardwood wetland habitat; and

Whereas, until his death on July 8, 1986, he devoted much of his own time and money to the difficult task of causing agencies and individuals to rethink their commitment to single purpose channelization of the Cache-Bayou DeView; and

Whereas, the unique Cache River waterfowl habitat preservation project now underway would not have been an option without his efforts; Now, therefore, be it

Resolved, That the new National Wildlife Refuge should be named after Rex Hancock and this recommendation is hereby made to Donald P. Hodel, Secretary, Department of the Interior.

[From the Arkansas Gazette, July 15, 1986]

REX HANCOCK: A DEVOUT CONSERVATIONIST WHO GOT RESULTS

(Joe Mosby)

All Arkansas lost a friend and champion with the death of Rex Hancock of Stuttgart last week.

To mention that he was a dentist who successfully led the long battle to save the Cache River from channelizaiton, ditching, is to oversummarize Dr. Hancock's life.

He was a conservationist all right, but he was an effective, successful conservationist. He got results, and there's a vast difference from many self-avowed conservationists whose activity is mainly making noise and

waxing eloquently on what ought to be done. Dr. Rex Hancock got things done.

My acquaintance with Dr. Hancock came rather late, after he had led the battle against the Army Engineers on the Cache. I knew of him, and he had written and phoned me a few times. Bowhunting mutual friends had passed along tales of Dr. Hancock's exploits against large and ferocious beasts of the North American continent and the world with a bow, not a gun.

LONG, INTERESTING VISIT

We had a long and interesting visit that first meeting, when he asked me to come to Stuttgart and help with some work on the start of the Arkansas state duck stamp and print program.

We talked in his den, a large room cluttered with mounted animals, including an 11-foot upright bear, and his paperwork, which was considerable. Five active youngsters and a busy wife bustled in and out of the house on the northern edge of Stuttgart with dogs, horses, cats part of the environment.

Dr. Hancock teamed with renowned wildlife artist Lee LeBlanc of Michigan to publish that first stamp and print for the 1981–82 hunting season. There were rough spots along the way, and Dr. Hancock received some criticism from mixups in orders, errors in giving print purchasers the numbers they wanted and the like. Some top officials with the state Game and Fish Commission said, privately, "We ought to just sell stamps and forget the prints."

But Dr. Hancock was firm on two points in my first meeting with him, which led to news articles about the duck stamp program. One was that selection of a nationally prominent artist was more desirable than a contest limited to Arkansas artists, and the second was the sale of prints would bring the Commission more revenue than the sale of stamps required for waterfowl hunting.

RIGHT ON BOTH POINTS

He proved right on both points, although it took a while for me to realize it.

Dr. Hancock should be remembered too, for his roll in the discovery of dioxin polluting Bayou Meto and the source of it. He had some tense, hairy times, perhaps even narrow escapes, when he and companions slipped on to the grounds of the Jacksonville chemical plant and met armed guards, along with deny-it-all company officials.

A complex, busy man, Dr. Hancock compiled a mass of photographs and information about trophy deer killed in Arkansas over the years, and he talked of publishing this in book form. He took up the research project when he found there wasn't a single Arkansas deer listed in Boone and Crockett Club records.

Dr. Hancock's research, phone calls, letters and visits around the state turned this omission around. Arkansas now has more trophy deer in the B and C records than any other state, we're told.

He took a leading role in both the fundraising and the operating of the Stuttgart Youth Center.

The Cache River is preserved, thanks to Dr. Rex Hancock, who was talented in knowing who to talk to on conservation issues. The "who" in such complex, fiercely-fought battles is usually more important than the "what" or the "why."

MONIES EARMARKED

A sizable chunk of the Arkansas farming community plus a strong congressman and the supposedly omnipotent Engineers were on the opposite side of the Cache battlefield from Dr. Hancock. Before it was over, he had the wildlife agency of Minnesota in the middle of the fight, along with dozens of other state, regional and national organizations. Just weeks ago, Dr. Hancock and other Cache supporters learned the federal government had earmarked $3.1 million in federal duck stamp monies for buying land for the new Cache River National Wildlife Refuge.

Interestingly, two of the very few battles the Engineers have ever lost in this nation were in Arkansas in conservation fights spearheaded by a physician (Dr. Neil Compton—Buffalo River) and a dentist (Dr. Hancock—Cache River).

A wise soul once said, "If you want a job done, call on a busy man."

Phone conversations with Dr. Hancock often took place while he was in his dental office, leaving you to wonder if he was talking to you for 30 minutes while a patient was laid back with jaw propped open. The conversation usually ended with Dr. Hancock telling you, "Hey, come on down and we'll go fishing."

They've already named a Game and Fish Commission wildlife management area, on the Cache River, of course, for Dr. Hancock. His ashes are to be placed there and a monument erected.

His family asked that memorials be made in the form of contributions to the Arkansas Game and Fish Foundation, the nonprofit fund-raising auxiliary of the state agency. Dr. Hancock had served on the Foundation.

It would be appropriate and fitting that such memorials provide the catalyst to get the Foundation into a meaningful, functional role in providing endowments for capital conservation projects.

Thanks, Rex Hancock. We're better off in Arkansas for your having passed this way.

TRANSITION RULES IN THE TAX REFORM BILL

● Mr. CHILES. Mr. President, 3 weeks ago, the Senate passed its version of a tax reform bill. That legislation makes sweeping changes in the Tax Code that are long overdue. If enacted, the law would reduce the tax burden for millions of middle income taxpayers while bringing many wealthy individuals and large corporations onto the tax rolls. In addition, several million poor families would no longer be required to pay taxes from income already below the poverty level.

I commend the Finance Committee chairman and ranking member for their outstanding efforts in crafting the Senate version of a tax reform package, and successfully seeing it through to passage on the Senate floor. Although I believe there is still room for improvement, I support the Senate tax overhaul plan and look forward to many of my concerns being addressed in the House-Senate conference.

Mr. President, one aspect of the Senate-passed tax plan that I find particularly troubling is the way in which it affects many types of investment decisions in a retroactive manner. Although the committee granted special transition rules for numerous projects, including many in my State of Florida, numerous activities remain unprotected.

In Florida, a number of bond-financed projects which have been underway for some time, are threatened by the provisions of the Senate tax proposal and, thus, are in need of transition relief. As I read H.R. 3838 as passed by the Senate, I note that several similar projects have been granted transition relief. Some of the projects granted special treatment were started more recently than the Florida projects with which I am concerned.

For example, since 1983, the Lakeland, FL, Downtown Development Authority has actively pursued a rehabilitation project. On June 6, 1983, the authority adopted an inducement resolution for the bond issue. The city of Lakeland has also been involved in a wastewater treatment project for which the city commission enacted a bond ordinance and sold bonds in September, 1985. With respect to another project, the Housing Finance Authority in Polk County, FL, has been actively pursuing a bond-financed multifamily housing development since early 1985. And, since 1983, a baseball colliseum in Tampa Bay has been officially underway with more than $2.5 million already expended toward the project.

Mr. President, these Florida projects and others like them are similar to projects that already have been granted transition rules in the Senate bill. In some cases, these Florida projects are more justifiable in terms of the length of time that the project has been underway, and with respect to the amount of money already committed to their undertaking. I understand that the Finance Committee chairman and ranking member will try to accommodate requests for transition rules in the House-Senate conference. I only ask that these and other Florida projects receive the same treatment as similarly situated bond-financed projects which have been or will be granted transition relief. I should mention that transition rules for the Lakeland and Polk County projects were requested long before the Finance Committee reported its tax reform package out of committee.

In addition, Mr. President, for more than 3 years, the city of St. Petersburg, FL, and the Pinellas Sports Authority have actively been pursuing a sports stadium project. A substantial commitment of time and money has been spent on this stadium project. This has been a joint public-private effort. In order to continue this progress, it is extremely important that Pinellas Sports Authority and the city of St. Petersburg preserve the ability to involve private investment.

This project has a long history. In December 1983, the Pinellas Sports

Authority and the St. Petersburg City Council issued bond anticipation notes in the amount of $61 million to finance a sports facility in St. Petersburg. Site acquisition, demolition, engineering plans and feasibility studies commenced in 1983. In 1984, the city council and sports authority approved the sale of revenue bonds to refund the original notes and to provide permanent financing for stadium construction. Since 1983, approximately $10 million has been expended.

The St. Petersburg stadium is expected to have a substantial positive economic impact, not only locally, but also on a statewide basis. Current projections indicate that the stadium project would provide roughly 210 new construction jobs and contribute as much as $3.7 million in annual wages, and more than $95 million in revenue to the local economy during the construction period alone. It is estimated that once open, the direct and secondary impacts of the stadium project would result in the creation of more than 1,200 new full-time jobs, and generate almost $5 million a year in State sales taxes.

In addition to boosting the Pinellas/St. Petersburg economy and providing additional revenues to the State, the stadium would revitalize a section of St. Petersburg that, at one time, was one of the worst blighted areas in the region.

As passed by the Senate, tax reform would require four changes in current law which will seriously threaten the Pinellas/St. Petersburg project. As a result, transition relief relating to sections 1518(d), 1411, 1401 and 1101 of the Senate-passed tax reform bill is necessary.

Mr. President, I am aware of other transition rules already in the bill that would continue current law with respect to similarly situated projects. I only ask that this project be treated fairly, and in the same manner as those other projects. Thus, as the House-Senate conference committee deliberates on these matters, I request that the conference committee include transition rules for the Pinellas Sports Authority/St. Petersburg stadium project. Similar to the case for three bond related Florida projects already mentioned, special treatment for the Pinellas/St. Petersburg stadium was requested while the Finance Committee was still in the process of marking up a tax reform proposal.●

ALLEN-EDMONDS' SUCCESS: STEPS IN THE RIGHT DIRECTION

● Mr. KASTEN. Mr. President, I rise today to bring to my colleagues' attention a recent article featured in the July 14, 1986, issue of Business Week. The article entitled "Gucci and Bally Don't Scare John Stollenwerk," is a fitting tribute to the president of the Allen-Edmonds Shoe Corp., who is internationally recognized for taking a small domestic shoe factory and transforming it into an American leader in the foreign footwear market.

Six years ago, Stollenwerk and his partners bought the shoe company, which is now located in Port Washington, WI. At that time the company was losing $100,000 a week. Since then Stollenwerk has been able to turn the business around. Because Allen-Edmonds designs the very best in men's footwear, the sales needed to be limited to only top scale stores across the country. Stollenwerk made that necessary change by guaranteeing the highest quality, as well as significantly increasing the advertising budget to get the word out on—at that time—Belgium, WI's, best kept secret.

Stollenwerk's refurbishing of Allen-Edmonds paid off with exports bringing in 10 percent of the company's revenue. Last year that number accounted for $22 million. Stollenwerk continues to press on with powerful production even after his plant in Belgium burned down 2 years ago. Now, his new modern facility continues this mark in excellence by producing the same quality footwear.

A man like Stollenwerk helps to demonstrate that an American industry can not only dominate a niche in the American market but can also gain a strong foothold in the foreign market.

Mr. President, I ask that the article which appeared in Business Week be printed in the RECORD.

The article follows:

[From Business Week, July 14, 1986]

GUCCI AND BALLY DON'T SCARE JOHN STOLLENWERK

Shyness has never been much of a problem for John J. Stollenwerk. On a recent flight from Milwaukee to Kansas City, Mo., Stollenwerk talked a fellow passenger into lending him his shoes. As the president of Allen-Edmonds Shoe Corp., Stollenwerk says he had good reason: "I wanted to show the style to a couple of my salesmen."

Stollenwerk, 46, has parlayed such boldness into a footwear fortune. When he and two boyhood buddies from Milwaukee bought the Port Washington (Wis.) shoe company six years ago, it was losing $100,000 a week. The problem wasn't the product—top-of-the-line men's shoes selling for more than $150—but weak marketing. Since then, Stollenwerk has revitalized the company by limiting sales to upscale stores, while boosting the advertising budget from $40,000 to $2 million. As the U.S. footwear industry tries to fend off a flood of imports, Stollenwerk has put the shoe on the other foot. Relying on his experience in the animal-feed export business, he has tackled foreign markets by exporting Allen-Edmonds shoes.

As a result, exports—mostly to Europe—now account for 10% of the company's revenues, which last year totaled $22 million. And Stollenwerk boasts that sales are up 40% this year. "We're the leader in the top one-half of 1% of the men's shoe market," he says. "It's a very, very small market, but we've defined our niche."

Stollenwerk intends to hold on to that niche. When the Allen-Edmonds shoe plant went up in flames two years ago, Stollenwerk refused to shut down operations, working instead from a rented warehouse. He kept the company going and picked up a lot of good press, as well. Today, with the efficiencies of a new plant, Stollenwerk is considering expanding into women's shoes. But he may have to polish his approach to get female airline passengers to lend him their shoes.●

THE ENERGY POLICY AND SECURITY ACT OF 1986

● Mr. WALLOP. Mr. President, I am pleased to once again join the distinguished Senator from Texas [Mr. BENTSEN] in introducing what will be our third effort to improve the energy policy and security of our country.

The essential aspect of S. 2678, the Energy Policy and Security Act of 1986, requires that action be taken by our Government whenever foreign oil and petroleum imports are projected to exceed 50 percent of consumption. Once that level exceeded, the President must submit an energy plan to Congress containing steps to prevent oil dependence over 50 percent. Those steps may include an oil import fee, energy conservation measures, expansion of the strategic petroleum reserve to maintain a 90-day cushion and production incentives for domestic oil and gas including tax and other incentives for stripper wells, offshore, frontier and other oil produced with tertiary recovery techniques.

Mr. President, I believe this proposal is a very positive first step in attempting to deal with our rising level of imported energy products. Quite frankly, I would like to explore broadening the category of crude and other petroleum products to include imported coal, natural gas and even electricity because we would reach that 50 percent cutoff level much sonner if that were the case.

But as it is, this proposal is a far sight better than any programs we have available to us because, Mr. President, as of now we simply have nothing to defend ourselves against the growing strength of OPEC and the rising tide of imported energy. Once again this Nation has allowed itself to be victimized by OPEC because we still have not developed an energy policy even after the 1973 and 1978 oil crises.

Now, we truly have entered what is shaping up to be our third energy crisis—a crisis caused by cheap, abundant foreign oil. If any of my colleagues should doubt this to be the case, I would invite each and every one to my home State of Wyoming to see the impact that cheap oil is having on America's ability to continue its exploration and production efforts. Allow me to provide a tally of what has hap-

pened in Wyoming just since the bottom fell out of the price of oil earlier this year.

While the rig count in other oil producing States has increased slightly, it continues to dwindle in Wyoming. Estimates now range from 26 to 18 rigs presently operating in Wyoming—during the peak of the oil States' boom in 1981 there were 188 operating wells. A recent Wyoming average first purchase price was $11.97 a barrel, down 52.1 percent from December. Only 1 other State in the lower 48 States, South Dakota, had a lower first purchase price than did Wyoming.

I fear this third oil crisis is destroying our Nation's energy infrastructure. And before it is too late, this Congress and this administration must realize that we are teetering on the edge of real economic havoc if some action is not taken soon.

Again, I can recite what is becoming a rather extensive Wyoming list to illustrate this point firsthand. On July 17 Pacific Power and Light [PP&L] announced that it would layoff 100 Wyoming coal miners and reduce power generation at two coal-fired electric plants in Wyoming as part of its response to sharply declining oil prices and reduced electricity sales. The worst part of this decision lies in the fact that PP&L officials said that the lost generation will be replaced by raising output at less efficient plants.

On July 11 Marathon oil announced that 50 of its workers in Wyoming would lose their jobs as a result of a companywide reduction in staff because of slumping oil prices. On June 20 Questar Corp. announced that it would layoff 50 oil exploration employees because of depressed oil prices, and particularly stressed the curtailment of its wildcat exploration efforts. On June 19 AMOCO cut its Wyoming workforce by 132 employees, and was forced to shutdown 27 wells in the region as a result of the decline of the price of oil.

On June 12 Chevron announced the closure of its Casper office and the resulting transfer or layoff of 150 employees from this Wyoming city because of falling oil prices. On June 10 Shell told the Japanese Electric Power Industry that it was going to withdraw from a proposed joint project to develop coal in Wyoming because falling crude and coal prices made the project "economically unviable." The aim had been to produce 20 million tons a year starting in 1990 for shipment to the Pacific Rim countries.

Mr. President, falling oil prices are like a stick shoved between the spokes of our economic and energy drive wheel. The final effect, I am afraid, will begin spreading to all sectors of our economy. We have avoided dealing with this issue because consumers like cheap gas. But, how much longer can we continue to justify our inaction by hiding behind the veil of "cheap gas?" Cheap gas will do precious little good if our entire energy infrastructure is weakened as a result.

Again, to further highlight this point, let me relate that drilling for new natural gas fields in Wyoming has stopped dead cold, as has much of the interest in pursuing innovative technologies such as the use of CO_2 for enhanced oil recovery. It simply is not worthwhile now. Already coal production in Wyoming, America's second largest producer, is down 10 percent from last year because of cheap oil. In recent years, the State of Wyoming, like other energy producing States, has struggled with bank failures. Mr. President, in the last 4 years, 12 banks have failed, which is 12 more than failed in all the years from the Great Depression to 1982.

Times are tough in America, Mr. President, and it is about time that we recognize this fact and establish once and for all an energy policy that permits us to walk free of the reappearing OPEC puppeteer. As a country, we are now back to relying on imported oil for 31 percent of our energy needs, and out of that we have allowed ourselves to be seduced back into the arms of OPEC for almost half of those foreign supplies.

Increases in production of Middle Eastern oil translates beyond just growing numbers of imported barrels of oil. It also equates into decreased domestic exploration efforts and increased numbers of jobs lost, not just in Wyoming, but nationwide. A recent American Petroleum study, based on a survey of 21 of its largest members, projected that sliding prices could eliminate over 140,000 oil industry jobs by the end of this year alone. By 1991, $15 barrel oil could cut almost 300,000 jobs from the 1.6 million the industry provided in 1985, and $10 a barrel oil could cost us 407,000 jobs in just the industry. This does not include suppliers ranging from machinery and steel manufacturers.

Mr. President, the writing is on the wall. We may be reading it, but we have yet to comprehend it or do anything about it. The result is that we are precariously close to being snared once more in the OPEC trap. The trap has a different trip wire this time in the form of strategic flooding of the world market, but it is working all the same. It is the strategy outlined by Mohammed Akacem, an economist at the Saudi Fund for Development in Riyadh, which appeared in the Wall Street Journal, November 11, 1985.

I encourage all my colleagues to read that article, and I call upon this body to join Senator BENTSEN and me in exercising our responsibility in providing for America's future energy security. Most importantly it is time for America to develop a national energy policy. We cannot and must not put this off any longer. I put the challenge to my colleagues to help us in reaching that goal.●

DISASTER RELIEF REGULATIONS

● Mr. D'AMATO. Mr. President, I support S. 2573, introduced by my distinguished colleague from Pennsylvania, Senator HEINZ. I share his concerns regarding the new disaster relief regulations proposed by the Federal Emergency Management Agency [FEMA] on April 18, and I commend him for his leadership on this issue.

Mr. President, I believe that FEMA's proposed disaster regulations could themselves be a disaster. If these regulations are adopted, we will see situation after situation where local areas which would normally qualify for Federal disaster aid will get nothing from the Federal Government. This would be devastating for many State and local governments which depend upon these programs.

The bill I am cosponsoring today would prevent FEMA from implementing these regulations.

At the heart of these changes, aimed at reducing the Federal Government's share in disaster relief, is a proposed "potential ability to pay" formula. This formula, which uses a State's population and per capita income as its two variables, produces a State's "capacity indicator," which would represent the minimum damage in dollar terms a disaster would have to inflict for a State to qualify for Federal aid.

So, for example, if a State's capacity indicator is $10 million, the State will always pay the first $10 million, and a portion of the costs exceeding $10 million. The percentage of the costs paid by the Federal Government beyond the capacity indicator would be either 90 percent, 75 percent, or none at all. That would be dependent upon the total damages per capita. An area with a disaster causing in excess of $10 per capita would receive 90-percent reimbursement from the Government past the capacity indicator. From $2.50 to $10 per capita in damages would qualify an area for 75-percent Federal reimbursement. Less than $2.50 in damages would receive no Federal aid beyond the capacity indicator.

I have serious concerns with this formula. It is clearly unfair to propose a system where a damage assessment in one State could qualify it for aid, while an identical damage assessment in another State would make it ineligible for public assistance. I believe it is overly simplistic to think that population and per capita income are sufficient indicators of a State's true ability to withstand the costs of a disaster. Also, no provision is made for a State which suffers relatively large numbers

of individual disasters not reaching the minimum dollar amount.

It is disturbing to think what would have happened in New York over the past year if the proposed regulations had been in effect. Of the five most recent disasters, only one would have been declared as such and received any funding. The areas damaged during that disaster, Hurricane Gloria, would have received only 70 percent of the funding received under the current regulations. However, the erosion and flooding most of lower New York suffered during March 29-30 and April 5-6 would not have received a penny, despite the $9.9 million in damages suffered.

Taxpayers throughout America pay for, and depend upon, FEMA's emergency aid funds. It is the most basic mission of FEMA to provide disaster assistance to the public. I urge prompt passage of this legislation to fully protect this right.●

GOLD MEDALS FOR SAKHAROV AND BONNER

● Mr. D'AMATO. Mr. President, I am a cosponsor of S. 2496, legislation authorizing the President to award Congressional Gold Medals to Doctors Andrei Sakharov and Yelena Bonner. Issuance of these medals would serve to demonstrate our continued concern for this remarkable couple. As outspoken advocates of human rights and world peace, Sakharov and Bonner have become the subject of a coordinated campaign of harassment orchestrated by the Soviet authorities and carried out by the KGB.

A Nobel Prize laureate, Sakharov was banished to the closed city of Gorky in 1980, shortly after the Soviet invasion of Afghanistan. Sakharov's human rights activism can be traced back to the late 1960's when he wrote "Progress, Coexistence and Intellectual Freedom," a delineation of his social philosophy. He later built upon this treatise, expanding it to embrace all oppressed, particularly Soviet Jews.

Elena Bonner, a founding member of the Moscow Helsinki Group, has been a driving force among Soviet dissidents. In 1984, she was arrested and charged with "slandering the Soviet state." Bonner was convicted and sentenced to 5 years' internal exile for her human rights activities. She recently rejoined Sakharov in Gorky where the Soviet authorities have attempted to isolate the couple from contact with the West.

Prior to her departure from Moscow for Gorky, Dr. Bonner indicated that she would request permission to return to the Soviet capital on June 15. More than 1 month has passed since that date and there has been no word regarding their well-being. It is imperative that we continue to speak out on behalf of Sakharov and Bonner and press for their release from exile.

As Chairman of the Commission of Security and Cooperation in Europe, I am very much aware of the price which Sakharov and Bonner have paid for their steadfast dedication to the principles embodied in the Helsinki Final Act. Accordingly, I am pleased to support the adoption of S. 2496 to again emphasize my concern for these genuine champions of human rights.

Mr. President, I ask that articles on Sakharov and Bonner's plight which appeared in U.S. News & World Report be included in the RECORD.

The article follows:

MY KGB ORDEAL—ANDREI SAKHAROV, IN SMUGGLED LETTERS, DISCLOSES HIS TORMENT

Andrei Sakharov, the Nobel Prize-winning scientist cut off from the world by Soviet authorities, has been enduring physical and mental torment at the hands of the KGB—the Soviet secret police. Sakharov himself gives vivid testimony of his secret ordeal in letters he has had smuggled out of Russia. "What happened to me in a Gorky hospital in the summer of 1984," he writes in his own hand, "is strikingly reminiscent of [George] Orwell's famous anti-Utopian novel, even down to the remarkable coincidence of the book's title—1984."

In this issue and the next, Sakharov's letters are being published exclusively in North America by *U.S. News & World Report* by arrangement with Sakharov's relatives in the U.S. and the *London Observer.* On succeeding pages is a full-text translation of a letter Sakharov wrote to the president of the U.S.S.R. Academy of Sciences on Oct. 15, 1984. For the first time it provides evidence in his own words of what happened to Sakharov when he and his wife Yelena Bonner were isolated in the closed city of Gorky, 400 miles from Moscow, in May, 1984. His version is far different from that of the Soviets. Sakharov's exile began in 1980, when he was arrested following his denunciation of the Soviet invasion of Afghanistan. Until May, 1984, the pain of exile—without charge, trial or sentence—had been relieved by his wife's freedom to go to Moscow and keep him in touch with fellow scientists and world opinion. But in May she was arrested, and Sakharov, as he puts it, was "Seized by KGB men disguised in doctors' white coats. They. . . tormented me for four months."

Sakharov's testimony is contained in packets of documents that were sent to the Newton, Mass., home of Yelena's daughter, Tatiana, and son-in-law, Yefrem Yankelevich. Mr. Yankelevich said: "The papers arrived here very recently in two batches—in plain envelopes and through the ordinary mail, sent from a Western country. How they were got out of the Soviet Union I cannot say, but I know the source and the source is reliable. They have been carefully examined by the whole family, and we are convinced of their authenticity."

Part of Sakharov's letters is a passionate appeal for the Soviets to allow Yelena to visit the West for urgent medical treatment for her eyes and heart. In October, 1985, shortly before the Reagan-Gorbachev summit, she was given a 90-day visa—it expires on February 28—on condition that she not speak to the press. She is in Newton recovering from surgery and has asked the Soviets to let her stay longer. But Sakharov's testimony has importance beyond the accomplishment of his immediate objective. It documents a KGB "disinformation" campaign, including the forgery of telegrams and the doctoring of postcards, to suggest that Sakharov was well and living without problems. It puts into perspective the recent release of human-rights activist Anatoly Shcharansky and, above all, the recent statement by Gorbachev that Sakharov has been living in Gorky "in normal conditions."

AN APPEAL IN HIS WIFE'S BEHALF

GORKY, October 15, 1984.

ANATOLY ALEXANDROV,
President, U.S.S.R. Academy of Sciences; Members of the Presidium, U.S.S.R. Academy of Sciences.

DEAR ANATOLY PETROVICH: I appeal to you at the most tragic moment of my life. I ask you to support my wife Yelena Bonner's request for permission to travel abroad to visit her mother, her children and her grandchildren and to receive medical treatment for her eyes and her heart. I shall explain why this trip has become an absolute necessity for us. Our unprecedented situation, our isolation, the lies and slander regarding us compel me to write in detail. Please forgive me for the length of this letter.

The authorities have been greatly annoyed by my public activities—my defense of prisoners of conscience and my articles and books on peace, the open society and human rights. (My fundamental ideas are contained in *Progress, Coexistence and Intellectual Freedom,* 1968; *My Country and the World,* 1975, and "The Danger of Thermonuclear War," 1983.)

"THE KGB ADOPTED A SLY AND CRUEL PLAN"

I do not intend to defend or explain my position here. What I wish to make clear is that I alone am responsible for all my actions, which are the result of convictions formed over a lifetime. As soon as Yelena Bonner married me in 1971, the KGB adopted a sly and cruel plan to solve the "Sakharov problem." They have tried to shift responsibility for my actions onto her, to destroy her morally and physically. They hope to break and bridle me, while portraying me as the innocent victim of the intrigues of my wife—a "CIA agent," a "Zionist," a "mercenary adventuress," etc. Any remaining doubts about this have been dispelled by the mass campaign of slander mounted against my wife in 1983 (attacks against her were printed in publications with a circulation of 11 million copies); by the two 1984 articles about her in *Izvestia,* and especially by the KGB's treatment of us in 1984, which I describe below.

My wife Yelena Bonner was born in 1923. Her parents, who were active participants in the Revolution and the civil war, became victims of repression in 1937. Her father, the first secretary of the Armenian Bolshevik Party's central committee and a member of the Comintern's executive committee, perished. Her mother spent many years in labor camps and in exile as a "relative of a traitor to the motherland."

My wife served in the armed forces from the outbreak of World War II until August, 1945. She began as a first-aid instructor. After she was wounded and suffered a concussion, she became the head nurse on a hospital train. The concussion severely damaged her eyes. My wife is classified as a disabled veteran because of her loss of vision. She has been seriously ill ever since the war, but she has managed to lead a productive life—first studying, then working as a physician and teacher, raising a family, helping

friends and strangers in need, sustaining her associates with respect and affection.

Her situation changed drastically after our paths merged, Tatiana and Alexei, my wife's children—whom I consider my own—and our grandchildren were forced to emigrate to the United States in 1977 and 1978 after five years of harassment and death threats. They had in fact become hostages. The pain of this tragic separation has been compounded by the absence of normal mail, cable and phone communications. My wife's 84-year-old mother has been living in the United States since 1980. It is the inalienable right of all human beings to see their families—and that includes my wife!

As long ago as 1974 many events convinced us that no effective medical treatment was possible for my wife in the U.S.S.R. and, moreover, that such treatment would be *dangerous* because of inevitable KGB interference. Now the organized campaign of slander against her is an added complication. These misgivings relate to my wife's medical treatment and not to my own, but they were reinforced by what physicians under KGB command did to me during my four-month confinement in a Gorky hospital. More about this later.

In 1975, with the support of world public opinion (and I assume on Brezhnev's order), my wife was allowed to travel to Italy to receive treatment for her eyes. My wife visited Italy in 1975, 1977 and 1979 for eye care. In Siena, Dr. Frezotti twice operated on her for glaucoma, which could not be controlled by medication. Naturally, the same doctor should continue to treat her. Another visit became necessary in 1982. She submitted her application in September, 1982. Such applications are reviewed within five months—and usually within a few weeks. Two years have passed, and my wife is still waiting for a reply.

In April, 1983, my wife Yelena Bonner suffered a massive heart attack, as confirmed by a report of the academy's medical department issued in response to an inquiry from the procurator's office. Her condition has not yet returned to normal. She has had recurrent attacks. (Some of these attacks have been confirmed by academy physicians who have examined her; one examination took place in March, 1984.) Her most recent major attack occurred in August, 1984.

"I BEGAN THE HUNGER STRIKE"

In November, 1983, I addressed an appeal to Comrade Yuri Andropov [General Secretary, 1982 to Feb. 9, 1984], and I addressed a similar appeal to Comrade Konstantin Chernenko [General Secretary at the time this letter was written] in February, 1984. I asked them to issue instructions permitting my wife to travel. I wrote: "A trip . . . to see her mother, children and grandchildren and . . . to receive medical treatment has become a matter of life and death for us. The trip has no other purpose. I assure you of that."

By September, 1983, I realized that the question of my wife's trip would be resolved only if I conducted a hunger strike (as in the earlier case of our daughter-in-law Liza Alexeeva's departure to join Alexei). My wife understood how difficult it was for me to do nothing. Nevertheless, she kept putting off the hunger strike. And, in point of fact, I began the hunger strike only in direct response to actions of the authorities.

On March 30, 1984, I was summoned to the Gorky province visa office. A representative there announced: "On behalf of the visa department of the U.S.S.R., I inform you that your statement is under consideration. The reply will be communicated to you after May 1."

My wife was to fly to Moscow on May 2. I watched through the airport window as she was detained by the aircraft and taken away in a police car. I immediately returned to the apartment and took a laxative, thereby beginning my hunger strike for my wife to be allowed to travel.

Two hours later my wife returned, accompanied by the KGB province chief, who delivered a threatening speech in the course of which he called my wife a CIA agent. My wife had been subjected to a body search at the airport and charged under Article 190-1 [of the Russian Socialist Federal Soviet Republic (RSFSR) Criminal Code]. They also made her sign a promise not to leave the city. So this was my promised reply to my declaration about my wife's trip abroad.

EXILE "WAS CAMOUFLAGED MURDER"

During the months that followed, my wife was called in for interrogation three or four times a week. She was tried on August 9-10 and sentenced to five years' exile. On September 7 a picked group from the RSFSR Supreme Court made a special trip to Gorky to hear her appeal. They confirmed the sentence. Gorky was designated her place of exile so that she could remain with me, thereby creating a semblance of humanity. In fact, however, it was camouflaged murder.

The KGB managed the whole enterprise—from the charges to the sentence—in order to block my wife's travel abroad. The indictment and the verdict are typical for Article 190-1 cases, although particularly flagrant examples of the arbitrariness and injustice involved. Article 190-1 makes it a crime to disseminate slanderous fabrications known to be false that defame the Soviet state and social system. (Article 190-1 refers to statements that the defendant knows are *false.* In my experience, and that includes my wife's case, the defendants believed their statements to be *true* beyond a doubt. The real issue was their *opinions.*)

Most of the eight counts in my wife's indictment involve her repetition of statements made by me. (To make matters worse, they have been taken out of context.) All the statements concern secondary issues. For example, in *My Country and the World,* I explain what "certificates" are, noting that two or more types of money exist in the U.S.S.R. My wife repeated this indisputable statement at a press conference in Italy in 1975, and she was charged with slander because of it. I—and not my wife—should be charged with statements made by me. My wife acted as my representative in keeping with her own beliefs.

"THEY ARE TRYING TO KILL US"

One charge in the indictment exploits an emotional outburst of my wife during the unexpected visit of a French correspondent on May 18, 1983, *three days after her massive myocardial infarct had been diagnosed.* (As you know, in 1983 we requested, without successs, that we be admitted together to the academy's hospital.) The correspondent asked, "What will happen to you?" My wife exclaimed: "I don't know. I think they are trying to kill us." She was clearly not referring to being killed by a pistol or knife. But she had more than enough grounds to speak of indirect murder (at least of herself).

My wife's alleged drafting and circulation of a Moscow Helsinki Group document was a key point in the indictment. It was based on patently false testimony and was completely refuted by defense counsel's examination of the chronology of events. A witness testified at the trial that he had been told by a member of the Helsinki Group that my wife had taken one of the group's documents with her when she left the country in 1977. But the witness had been arrested on Aug. 16, 1977, and my wife left for Italy on September 5. Thus he could not have met anyone "from outside" after my wife's departure. Under questioning, the witness replied that he had learned of the document's being carried out of the country in July or August—that is, before my wife's trip.

Moreover, no proof that the document had been written prior to my wife's departure was presented in the indictment or during the trial. (The document was undated. That alone was enough to deprive it of any juridical significance.)

The only "evidence" corroborating the witness's unsubstantiated allegation was the statement of a person who had emigrated in 1977. In defiance of logic this count was included in the verdict and in the decision of the appellate proceeding. If the appellate court had eliminated that count, it would have had to annul the verdict—in part because the only directly incriminating testimony would be lost, in part because of the dated and inconsequential nature of the 1975 episode. Most important of all, none of the charges bore the slightest juridical relation to Article 190-1, which presupposes international slander.

In practice my wife's exile has led to restrictions much more severe than those stipulated in the law: The loss of all communication with her mother and children; complete isolation from her friends; still less opportunity for medical care; the virtual confiscation of property left in our Moscow apartment—which is now inaccessible to us—and the potential loss of the apartment itself. (The apartment was given to my wife's mother in 1956 after she was rehabilitated and after her husband was rehabilitated posthumously.)

SIMPLY SLANDER FOR PUBLIC CONSUMPTION

There was no mention during my wife's trial of the accusations made in the press—her alleged past crimes, her "immoral character," her "links" with foreign intelligence agencies. That is all simply slander for public consumption—for the "sheep" held in such contempt by the KGB directors of the campaign. The most recent article of this sort appeared in *Izvestia* on May 21. The article pushes the idea that my wife has always wanted to leave the U.S.S.R., "even over her husband's dead body." The article claims that as long ago as 1979 she wanted to remain in the United States but had been persuaded to leave. (The context implies that American intelligence agents did the persuading.)

My wife's tragic and heroic life with me, which has brought her so much suffering, refutes this insinuation. Before marrying me, my wife made several trips abroad. She worked for a year in Iraq on a vaccination project. She visited Poland and France. The idea of defecting never entered her mind. It is the KGB that wants my wife to abandon me: It would provide the best demonstration that their slander had been true. But they were hardly hoping for that. They are "psychologists." They carefully hid the May 21 [*Izvestia*] article from me. They did not want to strengthen my resolve to win my goal before seeing my wife. I wanted to protect her from responsibility for my hunger strike.

For four months—from May 7 to September 8—my wife and I were separated from each other and completely isolated from the outside world. My wife alone in our apartment. Her "guards" were increased. Apart from the usual policeman at the entrance to our apartment, observation posts operated around the clock, and van with KGB agents on duty was parked beneath our terrace. Outside the house she was followed by two cars of KGB agents who prevented the most innocent contact with anyone. She was not allowed into the regional hospital when I was confined there.

On May 7, while accompanying my wife to the prosecutor's office for her next bout of questioning, I was seized by KGB men disguised in doctor's white coats. They took me by force to Gorky Regional Hospital, kept me there by force and tormented me for four months. My attempts to flee the hospital were always blocked by KGB men, who were on duty round-the-clock to bar all means of escape.

AN "EXCRUCIATING PROCESS"

From May 11 to May 27 I was subjected to the excruciating and degrading process of force-feeding. The doctors hypocritically called it "saving my life," but in fact they were acting under orders from the KGB to create conditions in which my demand for my wife to be allowed to travel would not have to be fulfilled. They kept changing the method of force-feeding. They wanted to maximize my distress in order to make me give up the hunger strike.

From May 11 to May 15 intravenous feeding was tried. Orderlies would throw me onto the bed, tie my hands and feet and then hold my shoulders down while the needle was inserted into a vein. On May 11, the first day this was attempted one of the hospital aides sat on my legs while some substance was injected with a small syringe. I passed out and involuntarily urinated. When I came to, the orderlies had left my bedside. Their bodies seemed strangely distorted as on a television screen affected by strong interference. I found out later that this sort of optical illusion is symptomatic of a spasm in a cerebral hemorrhage or stroke.

I have retained drafts of the letters I wrote to my wife from the hospital. (Hardly any of the letters, apart from those that were quite empty of information, were actually delivered to my wife. The same is true with respect to the notes and books she sent me.)

In my first letter written (May 20) after force-feeding began and in another draft written at that time, my writing wavers and is remarkably deformed. Letters are repeated two or three times in many words (mainly vowels, as in "haaand"). This is another typical symptom of a cerebral spasm or stroke and can be used as objective, documentary evidence in attempting a diagnosis. The repetition of letters does not occur in later drafts, but the symptoms of trembling persist. My letter of May 10 (the ninth day of my hunger strike but prior to force-feeding) is entirely normal. My recollections from the period of force-feeding are confused, in contrast to my memory of events from May 2 to May 10. My letter dated May 20 states: "I can barely walk. I am trying to learn." The spasm or stroke I suffered on May 11 was not an accident; it was a direct result of the medical measures taken in my case on orders from the KGB.

From May 16 to May 24 a new means of force-feeding was employed: A tube was inserted through my nose. This was discontinued on May 25 supposedly because sores were developing along the nasal passages and esophagus. I believe it was stopped because this method is bearable, if painful. In labor camps it is used for months—even years—at a time.

"MY JAWS WERE PRIED OPEN"

From May 25 to May 27 the most excruciating, degrading and barbarous method was used. I was again pushed down onto the bed without a pillow, and my hands and feet were tied. A tight clamp was placed on my nose so that I could breathe only through my mouth. Whenever I opened my mouth to take a breath, a spoonful of nutriment or a broth containing strained meat would be poured into my mouth. Sometimes my jaws were pried open by a lever. They would hold my mouth shut until I swallowed so that I could not spit out the food. When I managed to do so, it only prolonged the agony. I experienced a continuing feeling of suffocation, aggravated by the position of my body and head. I had to gasp for breath. I could feel the veins bulging on my forehead. They seemed on the verge of bursting.

On May 27 I asked that the clamp be removed. I promised to swallow voluntarily. Unfortunately this meant that my hunger strike was over, although I did not realize it at the time. I intended to resume my hunger strike some time later—in July or August—but kept postponing it. It was psychologically difficult to condemn myself to another indefinite period of torture by suffocation. It is easier to continue the struggle than to resume it.

Much of my strength that summer was dissipated in tedious and futile "discussions" with other patients in the semiprivate room where I was never left alone. This, too, was part of the KGB's elaborate tactics. Different patients occupied the other bed, but each of them tried to convince me what a navie fool I am—a political ignoramus—although they flattered my scientific ability.

I suffered terrible insomnia from the overstimulation of these conversations, from my realization of our tragic situation, from self-reproach for my mistakes and weakness and from anxiety for my seriously ill wife, who was alone and, by ordinary standards, bedridden or almost bedridden much of the time. In June and July, after the spasm or stroke, I experienced severe headaches.

I could not bring myself to resume the hunger strike, partly from fear that I would be unable to bring it to a victorious conclusion and would only delay seeing my wife again. I never would have believed that our separation would last four months, in any case.

In June I noticed that my hands were trembling severely. A neurologist told me that it was Parkinson's disease. The doctors tried to convince me that if I resumed my hunger strike there would be a rapid and catastrophic development of Parkinson's disease. A doctor gave me a book containing a clinical description of the disease's final stages. This, too, was a method of exerting psychological pressure on me. The head doctor, O.A. Obukhov, explained: "We won't allow you to die. I'll get the women's team out again to feed you with the clamp. We've got another method up our sleeve as well. However, you will become a helpless invalid." Another doctor added by way of explanation. "You'll be incapable of putting on your own trousers." Obukhov intimated that this would suit the KGB, since it would escape all blame: Parkinson's disease cannot be artificially induced.

What happened to me in a Gorky hospital in the summer of 1984 is strikingly reminiscent of Orwell's famous antiUtopian novel, even down to the remarkable coincidence of the book's title—1984. In the novel and in real life the torturers sought to make a man betray the woman he loves. The part played by the threat of the cage full of rats in Orwell's book was played for me in real life by Parkinson's disease.

"HER DEATH WOULD BE MINE AS WELL"

I was able to bring myself to resume the hunger strike only on September 7. On September 8 I was hastily discharged from the hospital. I was faced with a difficult choice: End the hunger strike in order to see my wife after a four-month separation or continue for as long as my strength held out, thereby indefinitely prolonging our separation and our complete ignorance of each other's fate. I could not continue.

Now, however, I am tormented by the thought that I may have lost a chance to save my wife. It was only after our reunion that I first learned about her trial and she learned about my painful force-feeding.

I am very concerned about my wife's health. I believe that a timely trip abroad is the only chance of saving her life. Her death would be mine as well.

I hope for your help, for your appeal to the highest levels seeking permission for my wife's trip. I am asking for help from the presidium of the U.S.S.R. Academy of Sciences and from you personally, as president of the academy and as a man who has known me for many years.

Since my wife has been sentenced to exile, her trip will probably require a decree of the Supreme Soviet's Presidium suspending her sentence for the period of her travel. (Precedents for this exist both in Poland and, quite recently, in the U.S.S.R.) The Supreme Soviet's Presidium or another body could repeal her sentence altogether on the grounds that my wife is a disabled veteran of World War II, that she recently suffered a massive myocardial infarct, that she has no prior convictions and that she has an irreproachable work record of 32 years. Those arguments should suffice for the Presidium of the Supreme Soviet. I will add, for your information, that my wife was unjustly and illegally convicted even from a purely formal point of view. In reality she was convicted for being my wife and to prevent her from traveling abroad.

I repeat my assurance that her trip has no purpose other than to seek medical treatment and to visit her mother, children and grandchildren; it is not intended to effect any change in my situation. My wife can supply the appropriate pledges herself. She may also pledge not to disclose the details of my confinement in the hospital if that is made a condition for her departure.

"MY SITUATION IS UNBEARABLE"

I am the only academician in the history of the Academy of Sciences of the U.S.S.R. and Russia whose wife has been convicted as a criminal, subjected to a malicious, vile campaign of public slander and deprived of all communication with her mother, children and grandchildren. I am the only academician whose responsibility for his actions and opinions has been shifted onto his wife. That is my situation, and it is unbearable for me. I hope you will help.

If you and the academy's presidium do not find it possible to support me in this tragic matter, which is so vital for me, or if your intervention and other efforts do not lead to resolution of the problem before March 1,

1985, *I ask that this letter be regarded as my resignation from the U.S.S.R. Academy of Sciences.* I will renounce my title of full member of the academy—a proud title for me in other circumstances. I will renounce all my rights and privileges connected with that title, including my salary as an academician—a significant step since I have no savings.

If my wife is not allowed to travel abroad, I cannot remain a member of the Academy of Sciences. I will not and should not participate in a great international deceit in which my academy membership would play a part.

I repeat: I am counting on your help.

Respectfully,

A. SAKHAROV.

P.S. If this letter is intercepted by the KGB, *I will still resign from the academy* and the KGB will be responsible. I should mention that I sent you four telegrams and a letter during my hunger strike. [He did not resign.]

P.P.S. This letter is written by hand since my typewriter (together with books, diaries, manuscripts, cameras, a tape recorder and a radio) was seized during a search.

P.P.P.S. I ask you to confirm receipt of this letter.

FROM HERO TO OUTCAST—MILESTONES ALONG THE WAY

(Andrei Dmitrievich Sakharov, born in 1921 the son of a physics teacher, became a star of the Soviet scientific elite before emerging as a dissident. Exempted from military duty, he graduated with honors in physics from Moscow University in 1942 and received a doctorate in 1947. Key dates tell the rest).

1948: Joins crash program to build thermonuclear bomb.

1953: With his research supplying the key, the Soviet Union detonates its first hydrogen bomb. Three months later, at 32, he becomes the youngest full member ever of the Soviet Academy of Sciences.

1956: Receives second award as Hero of Socialist Labor. Adds second Order of Lenin to earlier Stalin Prize.

1957: Warns in scientific journal that atmospheric testing of nuclear weapons could cause genetic harm.

1958: Criticizes Premier Khrushchev's plan to send students to factories and farms.

1961: Urges Khrushchev to halt nuclear tests. Such decisions, Khrushchev replies, should not concern scientists. "After that," Sakharov later said, "I was a different man."

1965: Shifts research from nuclear physics to theories concerning structure of the universe.

1966: Signs letter with other intellectuals warning against a revival of Stalinsm.

1967: Decries the industrial pollution of Siberia's Lake Baikal.

1968: Becomes world famous with U.S. publication of 10,000-word "manifesto," *Progress Coexistence, and Intellectual Freedom,* calling for Moscow to join the West in a campaign against pollution, starvation and war. Kremlin terminates his security clearance.

1970: Organizes Moscow Committee on Human Rights. Calls for democratic rule. Meets Yelena Bonner, pediatrician from Leningrad and fellow dissident.

1971: Marries Bonner.

1973: Steps up criticisim of Soviet oppression despite warning from authorities. Fellow academy members denounce him as "tool of enemy propaganda."

1975: Becomes the Soviets' first winner of the Nobel Peace Prize. Kremlin denies him a visa to travel to Oslo. Bonner accepts the award for him, and at the presentation ceremonies reads his appeal for an open Soviet society.

1980: Sakharov condemns the Soviet Union's invasion of Afghanistan, backs boycott of Moscow's Olympics. KGB agents seize him on Moscow street. Without a trial he is exiled to Gorky.

1981: Joins Bonner in 16-day hunger strike. They win visa for her son's wife to join husband in U.S.

1982: Sakharov is denied treatment for heart ailment at special center for academy members.

1984: Sakharov starts second hunger strike, demanding that Bonner be allowed to receive medical treatment abroad. Five days later Sakharov is removed to hospital, where he suffers a possible stroke while being force-fed.

1985: Leaves hospital, returns to apartment.

1986: Mikhail Gorbachev says that Sakharov knows military secrets and must remain in Soviet Union.

YELENA BONNER—BOLSHEVIKS' DAUGHTER

Key events in her life:

1923: Born in Moscow. Her father, Gevorg Alikhanov, was a Bolshevik in 1917 Revolution and later a Communist Party leader. Her mother, Ruf Bonner, also was a Communist.

1937: Parents are arrested in Stalin's purge—father as a traitor, mother as the wife of a traitor. Her father is executed. Yelena moves to Leningrad to live with her grandmother.

1938: Works as janitor and clerk, joins Komsomol—the Young Communist League.

1940: Studies Russian literature in night school.

1941: Joins Red Army as nurse, suffers concussion on battlefront, leading to loss of vision in one eye and progressive blindness in other

1945: Ends war as lieutenant on hospital train.

1947: Begins classes at medical school in Leningrad.

1949: Marries medical student Ivan Semenov.

1950: Her first child, Tatiana, is born.

1954: Completes medical school, begins career as pediatrician, lecturer, medical writer.

1956: Her son, Alexei, is born.

1964: Joins Communist Party.

1965: Marriage breaks up.

1970: Meets Sakharov, a widower, at vigil outside a dissident's trial.

1971: Marries Sakharov.

1972: Quits Communist Party.

1975: Helps set up group to monitor Soviet compliance with Helsinki human-rights accord. Her trip to Oslo to accept her husband's Nobel Peace Prize is also first of several trips to the West to receive medical treatment.

1980: With Sakharov exiled, she travels between Gorky and Moscow relaying his appeals and maintaining their ties with friends and Western journalists. Soviet media accuse her of turning her husband into a traitor.

1983: Suffers first of several heart attacks. Press attacks continue, including charges that she seduced Sakharov for his money.

1984: Is arrested for slandering Soviet state and deprived of traveling privileges.

1985: Gets permission to go abroad for treatment, joins daughter's family near Boston on December 8.

1986: Undergoes heart-bypass surgery on January 13.

DR. KGB'S BEDSIDE MANNER

Andrei Sakharov's harrowing account of a doctor's threatening to turn him into an invalid is a vivid example of the KGB at work.

The Soviets long have used doctors, particularly psychiatrists, to bring dissidents to heel. Amnesty International reports that from 1975 to 1983 almost 200 persons were confined to Soviet psychiatric hospitals for political reasons. When other means of persuasion fail, the KGB often turns to potent—and frequently damaging—drugs.

Kevin Close, former Moscow correspondent of the Washington Post, interviewed a dissident coal miner. Alexei Nikitin, who spent four years locked in the Special Hospital for the Criminally Insane. A series of drugs were used to make him more tractable. Among them were sulfizine—a purified sulphur that brings fever, excruciating pain, convulsions and disorientation—and the drugs chlorpromazine and haloperidol, which disrupt normal body movement. Nikitin's crime was defending workers' rights.

The KGB makes special use of doctors in its ranks, according to Walter Reich of the Woodrow Wilson Center for Scholars. "They represent a select population," he says. "They are trusted and have no qualms about carrying out KGB orders, particularly if they are not asked to kill a man, but to keep him alive." Instead of the Hippocratic oath, which focuses on individual needs. Soviet doctors swear to be "guided by the principle of Communist morality."

TORTURE BY CLAMP AND SPOON

When a hunger strike risks a prisoner's life—whether in the Soviet Union or the West—the next step is often force-feeding. However, a procedure used to save life can also be employed to torture.

In Sakharov's case, the Soviets employed the most punishing of methods, leading critics to suspect that the purpose was torture.

After using an intravenous fluid, they switched to injecting nutrients through a nasal tube—both of which he could tolerate—then resorted to the extreme of clamping Sakharov's nose while food was shoved down his throat.

This method, which induces intermittent suffocation, rarely fails to break the will of a prisoner. However, such treatment can also be fatal, as was the case with Soviet dissident chemist Juri Kukk, who died in 1981.

Because the legality and ethics of force-feeding patients are controversial, some governments no longer permit it to be employed when prisoners are at issue.

Britain, which banned the practice in 1974, permitted Bobby Sands and nine other Irish Republican Army hunger strikers to perish in 1981. British authorities, who once fed hunger strikers by a tube to the stomach, halted it in the face of public protest over the force-feeding of two IRA sisters.

In the United States, where intravenous feeding prolongs life in hospitals and prisons, the courts have generally upheld it.

"THE WORLD MUST BE TOLD"

Q. Mr. Yankelevich, why are you releasing these letters now, when Mrs. Bonner is outside the Soviet Union and could be denied re-entry?

This is entirely my decision. I feel the world must be told what the situation is—what has happened to the Sakharovs, and what might happen to them in the future. We've always released everything, whether good or bad.

Q. Might any harm come to Mrs. Bonner or to Sakharov as a result of these letters being published?

No. To the contrary, I think the letters make it clear what the situation is for Dr. Sakharov in Gorky, which provides an incentive for the Soviets, and especially [Soviet leader Mikhail] Gorbachev, to change the situation for the better.

Q. Does Mrs. Bonner approve of your releasing this information, and is there a danger that the Soviets won't let her come home?

We told her we were going to do it. The only way to keep her from coming back would be to take away her Soviet citizenship. I don't believe—and she doesn't believe—that the Soviets would go as far as to separate husband and wife.

Q. Gorbachev said recently that Sakharov could not leave the Soviet Union because he knows military secrets. Does he?

My view is that 18-year-old secrets are not secret. Dr. Sakharov did write a statement for the KGB acknowledging the state's right not to let him go because he might know things considered military secrets. But this was signed under duress—it was made a condition for his wife to be allowed to go to the West for medical care.

Q. How is Sakharov's health now?

From what we've learned from Yelena Bonner, it seems he is recovered from the stroke or whatever he had in '84 and from a hunger strike in '85 with six months of force-feeding. His health is more or less satisfactory.

Q. Can the United States do anything to get Sakharov out of the Soviet Union?

The U.S. did find a price equivalent for Shcharansky. Why don't they find something to trade for Sakharov?

DOES SAKHAROV REALLY KNOW ANY SECRETS?

As Mikhail Gorbachev tells it, Andrei Sakharov cannot be permitted to leave the Soviet Union because he "has knowledge of secrets of special importance to the state." Does he? Or is what Gorbachev says a mere pretext to keep the dissident scientist in exile in Gorky?

The answer could be neither. One theory in the West is that Moscow is acting out of a national paranoia. Soviet society is obsessed with secrecy. Medical statistics are considered classified information. Telephone books are distributed only among a select few, even in Moscow, and local newspapers must not be transported from one district to another.

Soviet officials pulled Sakharov's security clearance in 1968. Since then, assert many American scientists, strides in nuclear physics and bomb design have dated his technical knowledge beyond usefulness. "It's hard to imagine any contemporary military relevance to Sakharov's knowledge of early bomb design," declares physicist John Holdren of the University of California, Berkeley, who meets regularly with Soviet scientists on prospects for arms control. "I doubt even the Soviets believe that."

Failing to convince most U.S. nuclear scientists that they could benefit from Sakharov's knowledge, the Kremlin has tried a new tack. In July Anatoly Petrovich Alexandrov, chairman of the Soviet Union Academy of Sciences—the man to whom Sakharov addressed the 1984 appeal printed here—told a visiting lawmaker that Sakharov's release would violate the 1970 Nuclear Nonproliferation Treaty signed by the U.S., U.S.S.R. and 122 other nations.

Alexandrov argued that if Sakharov were allowed to emigrate, he could relay to other countries or groups—even terrorists—his knowledge of nuclear-weapons design. In a cabled report of the meeting, one U.S. diplomat called the argument "ludicrous" and "bizarre." Stanford University physicist Wolfgang Panofsky said Sakharov's writings reveal a man deeply committed to keeping nuclear knowhow out of unsafe hands. "This has become a thoroughly political matter," scoffed Panofsky.

The Kremlin's unwillingness to release Sakharov seems to have deep emotional roots. "Sakharov was a prominent member of the elite and a hero of the Soviet nation, and he wants to leave," declares Mark Epstein, executive director of the Union of Councils for Soviet Jews. "The notion that that is a betrayal is very deep in their psyche. They will not let go."●

SOCIAL SECURITY AMENDMENT TO DEBT CEILING LEGISLATION

● Mr. D'AMATO. Mr. President, I rise today to encourage my colleagues to address a serious oversight of the Senate Finance Committee. This oversight affects payments to Social Security recipients throughout the country. It is my hope that the Senate will correct this serious flaw as the debt ceiling bill is debated on the floor.

During the Finance Committee markup of the debt ceiling bill, an amendment was submitted to prevent disinvestment of the Social Security trust funds. I fully support the intent of this amendment. However, I have serious reservations about the potential impact that this provision could have on Social Security recipients.

A total prevention of the disinvestment of Social Security trust funds could potentially result in a situation where recipients would not receive their monthly benefits. Although I strongly support protecting the trust funds, I do not believe that the senior citizens of this country, many of whom rely upon these payments to buy food and pay rent, should be subjected to a loss of a month's Social Security check.

Social Security payments represent a commitment made between an individual and the Federal Government. An individual contributes to the Social Security trust funds with the good faith that those contributions will be paid back during his or her retirement years. As a Senator from New York representing approximately 2.8 million Social Security recipients, I believe that I have an obligation to insure that these individuals receive their deserved benefits.

It is my understanding that members of the Finance Committee are addressing this issue right now. I encourage the committee to confirm its commitment to protecting the trust funds and to also take into account the commitment that this Nation has made to its Social Security recipients.●

NEWS DELAYED, JUSTICE DENIED

● Mr. SIMON. Mr. President, I read an editorial in the Bloomington Pantagraph, the other day, that triggered a response on my part. In more than 30 years of public life, I have seen too often where courts, legislative bodies, school boards, city councils, and public officials believe—and believe sincerely—that they are protecting the public by keeping information from the public. That rarely is the case.

The public generally can make the right decisions and the right determinations in a free society, if given access to the information.

The danger starts when that access gets sealed off.

The Bloomington Pantagraph refers to recent court decisions and urges judges not to interfere in the public's access to information.

But that editorial, which I ask to have printed in the RECORD, applies also to the Defense Department, Congress, and to everyone.

I urge my colleagues to read this editorial in the Bloomington Pantagraph. I believe they will find it instructive.

The article follows:

NEWS DELAYED, JUSTICE DENIED

Judges at a disturbing rate have been resorting to "gag" orders to restrict coverage of the judicial system. These orders are issued with little or no concern about constitutional requirements and the American traditions of open courts and a free press.

Worse yet, courts above them have failed to act speedily and decisively to end these unconstitutional restraints.

This has to stop.

The U.S. Supreme Court recognized in 1976 that "the element of time is not unimportant if press coverage is to fulfill its traditional function of bringing news to the public promptly."

Yet, when The Pantagraph fought a court gag order ultimately ruled unconstitutional, it took more than 1½ years from the time Circuit Judge Richard Baner issued the order until it was lifted.

The Illinois Supreme Court recently refused to hear an appeal of a series of orders issued by Circuit Judge Robert Nolan. The orders sealed records and barred attorneys from discussing outside of court the murder of a 10-year-old Naperville girl killed in 1983.

The gag orders were imposed after Brian Dugan, convicted in the kidnapping and slaying of a LaSalle County girl, said he killed Jeanine Nicarico. One man had already been convicted in the Nicarico case and another is awaiting trial.

The court's refusal to hear the gag order appeal sparked a sharp dissent from Justice Seymour Simon, who criticized other justices for their "willingness to make such short shrift of an important First Amendment standard."

He said gag orders "throw an unnecessary cloak of silence over matters of public im-

portance and thereby threaten core First Amendment values."

The latest battlefield is in New York, where the New York Daily News and Washington Post are fighting secret proceedings in the case against former Labor Secretary Raymond Donovan.

A gag order prohibited the two newspapers from reporting on their efforts to open the closed hearings.

The constitutional protections against secret court proceedings and restrictions on news coverage are rendered almost meaningless if judges are free to violate those guarantees without prompt reversal of their improper actions.

When judges become editors, news delayed is justice denied.●

NAUM AND INNA MEIMAN: EXAMPLE OF BRAVERY

● Mr. SIMON. Mr. President, Naum and Inna Meiman are an elderly, ailing couple who want desperately to leave the Soviet Union.

Inna is seriously ill with cancer and requires medical treatment Soviet technology cannot provide. Naum is 74 years old and he, too, is not in good health. The Meimans deserve to live out the rest of their lives together in peace and free of pain. They desire to emigrate to Israel. They have applied for exit visas several times, but the Soviets repeatedly refuse their requests.

The Meimans are one example of the tens of thousands of Jews who have been denied their passport to freedom. This denial by the Soviets is mockery of international law. The Meimans have been harassed, isolated, and persecuted. But they have demonstrated that they are among the bravest people in the world. They have indicated their desire to live as free Jews.

I urge the Soviet authorities to grant the Meimans the visas they honorably and legally requested.●

THE WORLD DEBT CRISIS

● Mr. BIDEN. Mr. President, 2 days ago, an important step was taken in efforts to alleviate the world debt crisis. A historic agreement between our friend and neighbor, the Republic of Mexico, and the International Monetary Fund provides the first crack in the huge wall of international debt that divides the world and threatens its economic health. We must pursue the opportunity that this breakthrough offers.

Under the agreement, Mexico will seek to increase its real growth to about 4 percent. It will seek to reduce its domestic budget deficit; reduce barriers to foreign trade; encourage foreign investment and lessen capital flight; and decrease the number of state industries and reduce commodity subsidies.

In return, the IMF, recognizing that Mexico cannot fully offset the negative effects upon its economy of the dramatic drop in oil prices, will agree to loans of $1.6 billion, paving the way for others to provide about $10.5 billion additional capital over the next year and a half. Should oil prices fall further, or growth be less than anticipated, more assistance can be made available.

The key to this agreement is its relative flexibility. It shows a willingness to give Mexico the room to improve its economic performance, and to assist it even further if necessary. Flexibility is a welcome new development in dealing with the debt situation and I congratulate the IMF for taking this approach. In my opinion, it is the only approach that can avoid stalemate. It is still too soon, of course, to pass final judgment, since the loan package is not final, but I hope that commercial lenders will be impressed with the agreement and will demonstrate a similar flexibility.

Innovation and flexibility must continue to be the watchwords as further answers to the world debt problem are developed. In particular, we ought to consider proposals made recently by Senator BILL BRADLEY. He states—very persuasively, in my opinion—that a new approach to world debt problems is needed to prevent piling more debt on debt, to avoid borrowing only to pay for earlier debt.

I may not agree with all of Senator BRADLEY's proposals. I do agree, however, that continuing the existing practice of simply refinancing existing debt can only compound the problem. He has recognized this and proposed solutions. I hope that his proposals will stimulate greater discussion of this issue and lead to positive action to relieve the debt burden on the world economy.

Senator BRADLEY's proposals have received much favorable comment. Among the more interesting of these is an article by Jeane Kirkpatrick published in the Washington Post on July 21. In it, Ambassador Kirkpatrick gets to the heart of his proposal, commenting:

> Bradley's approach reminds us that the United States has a permanent public interest in the democratic development and peace of the region, which is not identical to the private interests of any particular Americans, including bankers.

The world debt problem does not seem dramatic compared to some issues facing the United States today. However, its long term implications for global prosperity matches any other issue, and surpasses most. We must do better than move from crisis to crisis. We must enter into a partnership with the developing nations that will help them foster long term economic growth in ways best suited to their own needs. The signing of the agreement with the Republic of Mexico is a welcome development. Much more remains to be done.

I ask that the article by Jeane Kirkpatrick entitled "Consider the Bradley Plan" be printed in the RECORD.

The article follows:

CONSIDER THE BRADLEY PLAN

(By Jeane Kirkpatrick)

Not many of us are interested—really—in Third World debt. We're not even very interested in our own national debt unless someone demonstrates graphically how it affects our lives—personally, concretely. That's why deficits have so little impact on our elections. Even when we know Third World debt has reached more than $800 billion, half of which is owed by countries in this hemisphere, we don't much care. It all seems remote, abstract, dull.

Now Bill Bradley, a smart and courageous Democratic senator from New Jersey, is trying to explain why that debt—especially the Latin American debt—is more important to us than we think it is. He also has a proposal that merits the serious consideration of Congress and the White House.

"Debt is usually viewed as a bank problem," Bradley observed recently. "In fact it is a political and national problem." Bradley has been engaged this month in a major effort to raise public consciousness concerning the connection between debt, trade, jobs and democracy. He has sought to explain what the Latin American debt problem means to the United States, how a failure to find solutions would affect Latin America and the United States; and what the United States might do to help protect Latin countries and itself from some of the least desirable consequences of the approximately $400 billion in outstanding Latin debts.

"The debt situation in Latin America has already cost [the United States] about 1 million jobs," Bradley points out, 400,000 of which were lost as a consequence of diminishing markets for our agricultural products. Latin American debt, Bradley insists, has already imposed heavy burdens on U.S. farmers, contributed importantly to our trade deficit, slowed economic growth in most Latin countries and put heavy strains on the new Latin democracies. Various approaches tried thus far, Bradley notes, "haven't solved the problem."

In fact, things have been getting worse, not better.

To understand the complexity of the problem, one must look at some of the "solutions" that have been offered—solutions that have created more problems than they have solved.

Fidel Castro's solution has been default. He has notified creditors that Cuba will not be meeting its interest payment this quarter. Peruvian President Alan Garcia's solution has been barter. He has offered a lot of Peruvian products in partial payment of his nation's debts. The International Monetary Fund's solution, approved by a strong bipartisan majority of the U.S. Congress, called on Latin countries to slash imports and expand exports in exchange for more time to repay their loans and for new credits to keep their economies running. This program permitted Latin debtor nations to keep up their heavy interest payments to the banks. But it has also created big problems for American farmers, who saw their Latin American markets decline by 35 percent and who have faced stiffer competition from subsidized Latin American food products in other world markets.

Meanwhile, the conditions of debtor nations steadily worsened. For example, Mexi-

can debt rose from $85 billion to $98 billion in just two years.

To break out of the deepening crisis and stimulate economic growth in debtor nations, Treasury Secretary James A. Baker last October proposed a new program. To stimulate growth, the so-called Baker Plan calls for increased lending over a three-year period by private banks (some $20 billion) and by multilateral development banks (some $9 billion). To make growth self-sustaining, the plan makes credit conditional on adoption of structural reforms and free-market strategies, including deregulation, privatization and opening the country to foreign investment.

The Baker Plan, however, provides no debt relief and proposes no protection for debtors. It invites countries already drowning in debt to borrow more. From the point of view of Latin governments, it provides too little time and too little credit to address their needs, and too much conditionality to be acceptable to proud people. A counterproposal, the so-called Cartagena Consensus offered by 11 Latin nations, was not acceptable to the U.S. administration.

By now the Baker Plan has enjoyed so little success that, according to Washington gossip, Baker is quietly seeking to get his name dropped from the proposal.

Now comes the Bradley Plan, which starts from some different assumptions and reaches some substantially different conclusions. Bradley believes that more than a debt program is required. A partnership is needed to help Latin nations fight poverty and increase their standards of living. A program is needed to take the strain off the new Latin democracies and give them a chance to grow firm roots, not to be destablized by inherited debt and demagogic opposition groups.

Bradley believes a program must be as bold as the problem is serious. He therefore proposed cutting interest rates on all commercial and official bilateral debts of 15 Latin debtors by 3 percentage points for a three-year period, and forgiving 3 percent of the loan principal a year for the same three-year period. This would provide $42 billion in debt relief from commercial banks and $15 billion in debt relief from bilateral loans by governments. The Bradley Plan provides no strict conditionality, but rather asks Latin countries to devise their own programs for liberalizing trade and promoting growth through proven strategies.

Bradley is too realistic to promise success. But his plan tries to take into account the seriousness of the problem, its importance to the United States and the risks to the international financial system posed by current conditions. Bradley's approach reminds us that the United States has a permanent public interest in the democratic development and peace of the region, which is not identical to the private interests of any particular Americans, including bankers.

Above all, Bradley asks us to understand that the stakes are very high for the Latins and for us. One hopes the administration and the Congress will give his proposal the careful consideration it clearly deserves.●

S. 2129, RISK RETENTION AMENDMENTS

● Mr. DURENBERGER. Mr. President, I would like to add my voice to the swell of support this body is showing for finding meaningful ways to solve the growing liability insurance crisis that is now imperiling the practice of so many professional groups, businesses, and others. I commend my colleague from Wisconsin, Senator KASTEN, for his leadership in focusing our attention here on the importance of amending the 1981 Product Liability Risk Retention Act to make it easier for those facing a liability insurance crisis to form collective purchasing groups and self-insurance groups for general liability coverage.

As chairman of the Senate Finance Health Subcommittee, I am particularly enthusiastic about this legislation because of the promise it holds for nurse midwives to obtain malpractice insurance coverage they so desperately need.

As you know, Mr. President, over a year ago, nurse midwives were abruptly informed by their essentially sole insurer that they would no longer be covered for malpractice. And ever since then their professional livelihoods have been hanging by a thread. This situation has been unbearable for both them and their patients who have put their trust and faith in these practitioners.

Nurse midwives provide high quality services for thousands of pregnant women in this country. Their practice is based on caring for the whole patient, which means not only monitoring the progress of the pregnancy and observing for complicating conditions, but also offering education about nutrition, exercise, and other healthy behaviors critical to having a successful birth outcome.

Only 6 percent have ever had a lawsuit brought against nurse midwives, which I might add is much less than obstetricians. Even though nurse midwives do not care for high-risk pregnancies that would more likely result in lawsuits than uncomplicated pregnancies, I'm sure we all would agree that such a record does not merit the treatment nurse midwives have received by insurers across this country.

As chairman of the Senate Finance Health Subcommittee, I have long promoted consumer choice as a vital component of reforming our country's health care system that over the past few decades became expensive and sluggish. The opportunity to choose which health care practitioner an individual prefers is important in making the health care system more responsive to the needs and desires of individuals buying that care.

Nurse midwives provide an important health care service, and their role is well-established among health care providers. We must do what we can to ensure their participation in the health care marketplace, and this legislation is one important step in that regard. I commend the Senator from Wisconsin for his leadership in focusing this body on the need for this legislation. I look forward to seeing it also receive quick approval by the House and endorsement by the President.●

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, July 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

RECOGNITION OF SENATORS PROXMIRE AND KASTEN

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order there be special orders in favor of Senators PROXMIRE and KASTEN for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following those special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At the conclusion of routine morning business, the Senate will resume consideration of House Joint Resolution 688, the debt limit extension measure, or items on the Legislative or Executive Calendar.

This could change the program a bit for tomorrow morning. I shall be in contact with the principals involved with the other amendment. It may be that we can debate the amendment of the Senator from Nebraska. It may be that others will want to amend it. But hopefully—that might replace what we might plan to do on the Executive Calendar, but I shall advise everyone as quickly as I can tomorrow morning.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I have just listened to what he said and at the close of his remarks, he indicated that he might not proceed to the Executive Calendar tomorrow. That was the rollcall vote which he had indicated earlier the Senate would probably have. Although the motion to recommit with instructions is open to amendments in two degrees, and I assume there would be some amendments around to fill those two spots, does the majority leader still feel that

he will make the motion to move us into executive session tomorrow morning? I assume that if there are amendments offered to the motion to recommit with instructions, they will probably be offered fairly early on. Whether or not there will be votes thereon, I have my doubts at this point. However, the distinguished majority leader may see it otherwise.

If, however, that should be the case, is it the intention of the majority leader that he will have that one rollcall vote in executive session tomorrow?

Mr. DOLE. That is the intention of the majority leader.

Mr. BYRD. I thank the majority leader.

Mr. President, before the majority leader goes out this evening, I would like to make a few comments as in morning business, if I may, at his convenience.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 6:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM AND ENERGY CRISES

Mr. BYRD. Mr. President, I wish to call the attention of my colleagues to an excellent article that the senior Senator from Oklahoma wrote for the July 11, 1986, issue of the Washington Post.

Senator BOREN succinctly details the economic and personal tragedies plaguing our Southwestern States. Hit hard by both farm and energy crises, these States are, he points out, "Suffering through an economic downturn that rivals that of the 1930's." In Oklahoma, State revenues have fallen drastically, banks are collapsing, and personal bankruptcies are soaring at a devastating rate—a 52-percent increase since 1981.

The article also reminds us that it is not only foolish, but outright dangerous for this Nation to allow itself again to become so dependent upon foreign energy. Twice during the 1970's, Americans learned that dependency upon foreign energy poses grave threats, not only to our economic security, but to the safety and security of the United States. National security has little meaning without energy security.

Domestic sources of energy must be developed and preserved—they must be protected from unfair and ruinous competition.

I commend Senator BOREN for his thoughtful article and I urge my colleagues to read it.

Mr. President, I ask that Senator BOREN's article from the Washington Post be reprinted in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OILMEN GET NO RESPECT—BUT THEY'RE SUFFERING

(By David L. Boren)

Oil is not a four-letter word. It is a commodity vital to our national security, and consumers and producers alike will suffer if we continue to base our oil and gas policy on prejudices fueled by TV melodramas.

All across the handful of southwestern states where energy is produced, people are suffering through an economic downturn that rivals that of the '30s. Many of these states are experiencing a farm depression at the same time.

In Oklahoma, for instance, state revenue collections have fallen by 40 percent, forcing tax rates to skyrocket. Twenty-one Oklahoma banks have failed in the past two years, and the personal bankruptcy rate has increased by 52 percent since 1981. It is not at all unusual for communities in oil-producing areas to lose 10 percent of their population in a year.

If these were the effects of a downturn in the steel, textile or shoe industries, a great wave of sympathy would spread across the more prosperous parts of the country. But mention the fact that those who are suffering are in the oil business, and compassion is transformed into a feeling that approaches smug satisfaction.

The Saudis and others openly admit to manipulating oil prices, throwing thousands of American oil workers out of jobs. Yet Congress bitterly debates providing the same unemployment benefits to oil workers that it provides for all others who have lost their jobs through international trade developments.

Oil workers perform very hazardous jobs but are not paid significantly more than others workers. They have house payments to make, medical bills to pay and children to educate just like other Americans, but for some reason oil workers are considered less virtuous and less deserving.

Sometimes, to cool my own anger at this unfair double standard, I have to remind myself that much of America has had a very different experience with the oil business than I have had in my hometown in Oklahoma.

The media portrays oilmen as clones of J.R. Ewing, who rule far-flung empires from the television sets of "Dynasty" and "Dallas" to chisel the rest of us.

In contrast, in my home town, the biggest operators had three or four drilling rigs. They constantly had their ups and downs, but when they had money in their pockets, most were usually generous to the community, its students and its needy. The few scoundrels among them didn't last long in a town where many agreements were sealed with a handshake.

But understanding the differences in perception doesn't ease the frustration for oil-state senators when our credibility on energy issues is also questioned because of our proximity to the industry. On most issues, experience with a particular sector of the economy increases credibility, but not when it comes to oil.

Our warnings that national security is endangered by the current energy crisis, for instance, have been largely ignored. Last week, the number of rigs exploring for oil and gas in the United States fell to 686, the lowest number ever recorded since the records were started in 1940.

Just four years ago, more than 4,000 rigs were in operation. Now, 86 percent of all American rigs are idle, their workers unemployed, and the supply and service industry is devastated. The longer the rig count stays down, more and more segments of the domestic industry will be permanently dismantled.

It is clearly not in the best interest of American consumers to shut down domestic production and leave themselves totally at the mercy of foreign producers. The last time that we became overly dependent on foreign sources—in the 1970s—oil prices made their fastest climb in history.

Why aren't those who are concerned about long-term consumer interests rushing to do something? Why aren't the guardians of national security springing into action with an emergency plan?

Meanwhile, we are also in danger of losing hundreds of thousands of barrels of daily production from the premature abandonment of existing wells.

Eighteen months ago, America's 450,000 stripper wells, wells that produce fewer than 10 barrels of oil per day, delivered more than one million barrels of crude daily. But today, the price of oil is considerably below the cost of production, including taxes and oil royalty payments, for most stripper wells.

When the price of oil is $15 per barrel, almost 22 percent of the wells will be prematurely plugged. At $10, over 40 percent become unprofitable, representing 2.6 billion barrels of proven reserves. These potentially wasted reserves would supply total U.S. energy needs for five months.

A plugged stripper well cannot be reopened. The finding costs and environmental costs of these wells to the nation have already been paid, and yet we have begun to throw away this precious resource. Where are the conservationists to shout a warning about this senseless waste?

Instead, the ailing oil industry gets pistol-whipped during the debate on the tax reform bill. There was even an effort to change the tax code so that full partners in drilling an oil well with an independent producer—partners who risk far more than their original investment and must accept liability for safety and environmental hazards—couldn't fully deduct their losses from even a dry hole.

This change would destroy small independent producers. Unlike the large international oil companies, independents must attract outside capital to operate—capital that would disappear without the deduction allowance, because of the high risk involved in drilling. With the independents gone, a few major companies will have the field to themselves.

Where are the journalists, writing that the debate on the oil tax amendment is really a debate about the structure of the industry? Where are the consumer groups, complaining about the destruction of competition in the industry?

It is clearly time to put aside our Hollywood-generated prejudices and build an energy policy based upon the facts.

A RETURN TO SOCIAL POLICY

Mr. BYRD, Mr. President, the senior Senator from New York, Mr. MOYNIHAN, recently delivered an important, thought-provoking commentary on social policy to the Democratic Leadership Council. In his address, Senator MOYNIHAN urged the formulation, and acceptance, of new social policies to meet this Nation's current social problems.

American social policies of the early 20th century, Senator MOYNIHAN pointed out, were adaptations of those already in existence in Europe. But, as he proceeds to note:

> The issues of social policy the United States faces today have no European counterpart nor any European model of a viable solution. They are American problems, and we Americans are going to have to think them through by ourselves.

These social problems include what the distinguished senior Senator from New York labels the "misery and madness in the modern city".

The self-reliance promoted by this administration is good, but it will not solve America's massive social ills, nor will they cure themselves. Therefore, Senator MOYNIHAN explained, social policies are needed, but the task of formulating them will be exceedingly difficult because this administration's fiscal policies have severely limited the moneys to develop the necessary programs.

A major step in formulating these social policies, he cogently argued, will be to shed the "belief bordering on prejudice that the social ills of the present are the consequence of misguided Democratic social policies of the past two generations."

Mr. President, this thoughtful commentary is what I have come to expect from this scholar and Senator who has served the public with distinction in the past, and who continues that tradition for the people of New York and the rest of the United States in this Chamber.

This is a valuable essay, not only for members and leaders of the Democratic Party, but for all Americans.

Mr. President, I ask that Senator MOYNIHAN's essay be reprinted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A RETURN TO SOCIAL POLICY

(Daniel Patrick Moynihan)

Governor Robb has asked me to present, and I quote from his letter, "the historical perspective on social policy" and to do so in fourteen minutes.

Which was good advice, given our attention span on such matters. But this occasion is even so different from so many others of recent years. After almost two decades we see in our panels a return of social scientists to our counsels, which may indeed herald a return to social policy.

Which can only be a good thing for Democrats. At this moment, we are in perhaps the worst shape nationally then we've been since the immediate aftermath of the Civil War.

The parallel is not perfect. The Copperhead Democrats of the Civil War never repented. The veterans and inheritors of the New Deal and the Great Society do little else.

There is a singular aspect of our recent malaise (!) with respect to social policy. We don't deserve it, but we think we do.

It has become a belief bordering on prejudice that the social ills of the present are the consequence of misguided Democratic social policies of the past two generations. None hold to this belief more guiltily, if furtively, than Democrats themselves, or at least some Democrats. Consider the issue of welfare dependency. There is scarcely a Democratic forum in the nation in which it is not proclaimed as a matter of revealed truth that the social welfare policies of the New Deal and the Great Society are the root causes of this cluster of problems.

The origins of this view are many. I think, for example, of Edward C. Banfield's "The Unheavenly City," a reasoned exposition of the limits of certain types of government intervention, elements of which appeared toward the end of the 1960's. Much mutated, the message is now proclaimed by that peculiar genus which has been described as "Flower Child Turned Social Darwinist". One of the many unanticipated consequences of that "slum of a decade" to use Dick Hofstadter's term.[1]

The evidence, in the main, is otherwise. Ellwood and Summers put it succinctly in the current issue of "The Public Interest": "• • • given the resources devoted to fighting poverty, the policies have done as well as we could have hoped." [2]

But evidence has little influence in the early stages of debating new propositions, and that is where we are just now, as I will come to shortly.

First let us go briefly through that history of social policy.

Political scientists, following T.H. Marshall, divide aspects of citizenship into three clusters of rights and corresponding obligations: Civil, Political, and Social. In Western societies these have been enhanced in a recognizable progression. To oversimplify, but to explain: first the right to a trial by jury; then the right to vote; next the right to, well, schooling. And, informally for a century and a half or so, and by statute for half a century, the right to a subsistence living.

Up until just about now the United States has based most of its policies in each of these areas on European models. I will not disparage our own embellishments and singular generosity, but the individual legal rights of our Common Law are clearly British in origin, the political rights set forth in the Constitution are British and French in origin whilst the legislative social rights which we associate with the New Deal, are mostly British, and German in origin. (Public schools being the possible exception.)

Early in the 20th century American social reformers began pressing for the adoption here of social policies already in place in Europe. Bismarck had introduced social security, Churchill unemployment insurance. The models security, Churchill unemployment insurance. The models were explicit, and in just about a six-month period in 1935, they were enacted here, in the Social Security Act of that year.

The only major changes since have been health insurance (a British import) for the aged and indigent enacted in 1965, together with various provisions for the disabled adopted in that and the previous decade. Again the models were in the main European, as were those of smaller ventures such as public housing.

Now to a large point. The issues of social policy the United States faces today have no European counterpart nor any European model of a viable solution. They are American problems, and we Americans are going to have to think them through by ourselves.

In many if not most of our major cities we are facing something very like social regression. Or does that term libel the past? Perhaps our condition is post-modern. Whatever, it is defined by extraordinary levels of self-destructive behavior, inter-personal violence, and social class separation intensive in some groups, extensive in others. I think post-modern may be the more accurate term.[3] In any event it makes for a combination of misery and madness in the modern city.

I spent a part of my youth in a neighborhood not ten blocks from here known then as "Hell's Kitchen". By today's reckoning it was a kind of peaceable kingdom. The violence of New York City today simply has no equivalent in the past, and show no sign of diminishing in the future.

Further, we have become the first society in history in which children are the single worst off group in the populace. Not just a few children: by eighteen, perhaps half. Not long ago in a searing commencement address at Keuka College Judy Woodruff gave a single instance which will suffice: "• • • we are, in fact, the only major western nation, other than South Africa, without a national child care policy." [4]

We have no social policy for this situation, and few social programs. The only thing we can be said to know is that the social problems which trouble us and baffle us at this time are exceedingly unlikely to cure themselves. A huge social effort will be required: something akin to social mobilization. Whatever else this will be, it will first of all be hand work. And second of all it will require the support of government. But that should be obvious. What is equally obvious is that we are grievously short of specific ideas.

At the base of social policy there must be ideas. But for about two decades now we have been a party fiercely opposed to ideas. This is the pattern of many establishments in decline, and of course that is what has been taking place.

Part of such a pattern is not being aware of being opposed by ideas.

A particular incident comes to mind. At the beginning of the present Administration there came to power, a small but hugely influential group of people, who had a simple, powerful idea. They would put an end to social policy, as Democrats had defined it,

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[1] Alan Brinkley notes that a corresponding doctrine of the limits of growth—The Club of Rome—sprang up on the political left at about the same time. Some decade! In any event, both schools seem to be reaching limits of their own!

[2] David T. Ellwood and Lawrence H. Summers, "Is Welfare Really the Problem." "The Public Interest." (No. 83 Spring 1986) p. 57.

[3] Victorian Britain had its share of "urban" problems, and some responses such as the temperance movement and the YMCA (later the Boy Scouts) soon appeared here. But our present problems of social control seem new to me.

[4] Judy Woodruff, Commencement Address to Keuka College, Keuka Park, N.Y. May 25, 1986.

simply by so dismantling the finances of the Federal Government. Thereafter there would be no way to pay for social programs; indeed it would become necessary to dismantle many if not most.

This was not a complicated idea. At its least sophisticated level, in the White House shorthand of the time, it was nothing more than "Prop Thirteen". The simple injunction, "Starve the Beast", was about as much elaboration as was deemed necessary.

In the person of David Stockman, the exercise became considerably more sophisticated. By September of 1980, he had realized the GOP tax program would lead to horrendous, devastating deficits. At first dismayed, all of a sudden he grew near to triumphant. I quote: "The success of the Reagan Revolution depended upon the willingness of the politicians to turn against their own handiwork—the bloated budget of the American welfare state. Why would they do this? Because they had to! In the final analysis, I had made fiscal necessity the mother of political invention."[5]

Now all this was not very hard to follow once in place. In September of 1981, at a meeting of the New York State Business Council, I pleaded that new data showed the 1981 tax cut to have been much too large. I asked, "Do we really want a decade, in which the issue of public discourse, over and over and over, will be how to prevent the deficit from being even bigger? Surely larger, more noble purposes ought to engage us.[6]

Well * * * none did.

We chose not to understand that we were up against a deliberate strategy to put an end to social policy as it had been understood during half a century of Democratic hegemony.

One argued the case. One was disbelieved, even by the few who would listen.

This was nothing new. In the mid-1960's, even as a moment of great opportunity for social initiatives arose, there also appeared a considerable body of research arguing that we should not exaggerate what we knew or what would come of what we undertook. In the main, this research was rejected, and those who stood up for it were, well, knocked down.

This is called shooting the messenger. Twenty years later much the same thing happened, albeit more gently. Anyone who spoke up to say the Reagan administration was deliberately disabling the finances of the Federal Government was simply ignored by those who should have been paying attention.

Let me then summarize the outcome:

As of 1985 the operating revenues of the Federal Government have declined to 12.9 percent of GNP. This compares with 18.0 percent in 1965. (Operating revenues are distinct from the income of the Social Security tax, which, of course, become dedicated funds.)

Of 12.9 percent in operating revenues available in this fiscal year, 6.3 percent go to defense, and 3.4 percent to interest.

This leaves 3.2 percent of GNP for all the other activities of the Federal Government, from space shuttles to subway cars.

The deficits will not go away. We face a protracted fiscal crisis for the next two or three Presidencies. Probably until the next century. We have sold out this generation of children, and have not even begun to think of the next. The only amends we can make is to begin to think.

In addition to the strategic coup which has so disabled us, we face an equally perplexing long range economic decline. The great growth of productivity of the post-war United States has simply ceased. Hourly wages today are what they were in 1968.[7] Median family income today is what it was in 1970. There cannot have been this long a period of economic stagnation—from the point of view of individuals and families—in the past three centuries.

This argues for both an active social policy and militates against one. It militates against in two senses: There is no money in the Federal fisc, but just as importantly, the social space, if I may use that term, which one could feel in an economically booming decade such as that of the 1960's, is just not here in the flat 1980's. Or so I believe.

Even so, the one sure thing is to learn to use our heads again. By all means let us go on about self-reliance, gumption, and go-gettingness. Nothing the matter with any of the above. But if that is all there is to be by way of social policy, no one needs Democrats. And if that is all the social policy there is to be, Democrats shall have deserved their eclipse.

[5] David Stockman, "*The Triumph of Politics; Why the Reagan Revolution Failed*" (New York: Harper and Row, Inc., 1986), p. 135.

[6] Remarks delivered to the Business Council of New York State, 1981 Annual Conference, September 13, 1981, Kiamesha Lake, New York.

[7] The Bureau of Labor Statistics publishes data on average wages in "Non-Agricultural" industries. But this encompasses 99.2 percent of all wages.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 9:30 a.m. tomorrow, July 25, 1986.

The motion was agreed to, and at 6:31 p.m., the Senate recessed until tomorrow, Friday, July 25, 1986, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1986:

DEPARTMENT OF AGRICULTURE

Kenneth A. Gilles, of Virginia, to be an Assistant Secretary of Agriculture.

Kenneth A. Gilles, of Virginia, to be a member of the board of directors of the Commodity Credit Corporation.

COMMODITY FUTURES TRADING COMMISSION

Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 1991.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. Francis D. Moran, National Oceanic and Atmospheric Administration, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration.

FEDERAL EMERGENCY MANAGEMENT AGENCY

George Woloshyn, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Air Force nominations beginning Benjamin P. Graham, and ending Patricia H. Sanner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Kenneth Klint, and ending Bemjamin P. Graham, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Lewis J. Abrahams, and ending Alfred M. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Gary A. Anderson, and ending Bujung Zen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Steven W. Abbott, and ending Kenneth A. Zollo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

Air Force nominations beginning Michael F. Adames, and ending Cindy L. Ziegler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

IN THE ARMY

Army nominations beginning Thomas N. Bolton, and ending Thomas G. Latour, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

Army nominations beginning William R. Anderson, and ending Margaret O. Stock, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 16, 1986.

IN THE COAST GUARD

Coast Guard nominations beginning Howard F. Wirt, and ending Billy L. Heath, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 14, 1986.

IN THE NAVY

Navy nominations beginning John P. Abenstein, and ending Nicholas Francis Zoeli, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 15, 1986.

HOUSE OF REPRESENTATIVES—*Thursday, July 24, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayers reach out to You, O God, in grateful appreciation for Your mighty acts of grace. We also reach out with prayer to those who are in special need of body, mind, or spirit. May Your healing spirit bless, protect, and comfort those who are ill or troubled or who are uncertain about the future. May Your grace be sufficient for all Your people, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill, joint resolution, and concurrent resolution of the House of the following titles:

H.R. 2991. An act for the relief of Betsy L. Randall;

H.J. Res. 623. Joint resolution to authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week; and

H. Con. Res. 371. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 3511.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4510. An act to amend the Export-Import Bank Act of 1945, and for other purposes.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL 5 P.M. FRIDAY, JULY 25, 1986, TO FILE A REPORT ON H.R. 4428, DEPARTMENT OF DEFENSE AUTHORIZATION ACT

Mr. FOGLIETTA. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until 5 p.m. on Friday, July 25, 1986, to file its report on H.R. 4428, the Department of Defense Authorization Act.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WHAT IS THE PRESIDENT'S TROUBLE IN DEALING WITH THE SOUTH AFRICAN SITUATION?

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, as I listened to President Reagan's South African speech on Tuesday, the more I heard, the more concerned I became.

Why is the President having so much trouble going beyond rhetoric about apartheid? Why is a person who acted in Lebanon, Grenada, and Libya so musclebound on South Africa? Is it the recent actions by the South African Government which offers hope that that Government will soon see the light? That that Government has enacted a state of emergency that is plunging South Africa further into darkness?

Is it the fear that the alternative to Botha is a Communist takeover? As the chairman of the Foreign Relations Committee in the other body said Tuesday, it is the Reagan approach which is likely to throw black leadership toward the arms of the Soviet Union.

Is it the strategic minerals resting in the South African soil? Perhaps, but how could a South Africa in increasing turbulence and bloody civil war be a source of vital minerals?

Is it that, as the President said, "Capitalism is the natural enemy of such feudal institutions as apartheid, but free enterprise in the South Africa context is propping up the minority government in sustaining apartheid."

After listening to the President's speech, Bishop Tutu said, "The President sits there like the great big white chief of old who can tell us black people that we don't know what's good for us."

Once again, we need to listen to the words and frustrations of Bishop Tutu.

RESTORING GRAMM-RUDMAN TO FULL AUTHORITY

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, on July 7, the Supreme Court invalidated the Gramm-Rudman law's portion that deals with the automatic cutting mechanism. I have come to believe very strongly in the need for that cutting mechanism.

The Supreme Court found that the Congress unconsitutionally gave that automatic cutting power to the Comptroller General of the GAO and the Director of the Congressional Budget Office, both of which are creations and creatures of the legislative branch of Government.

The Supreme Court said that was unconstitutional; that power should rest in the executive branch of the Government.

Therefore, today, Mr. Speaker, I am introducing legislation that does precisely that. It will correct this constitutional flaw, it will restore Gramm-Rudman to its full authority by giving that power to the Director of the Office of Management and Budget in the executive branch of Government.

Therefore we will still have that automatic cutting feature in the law if this legislation is adopted.

Mr. Speaker, we have got to balance the budget. If we do, we will have permanent interest rates of 7 percent by 1991, as we have been told by the economists. This is important. This legislation needs to be passed.

HOUSE-SUPPORTED SANCTIONS ARE THE WAY TO GO IN SOUTH AFRICA, MR. PRESIDENT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the President's speech on South Africa was a complete failure and a dud. Predictably, white South Africans are rejoicing, and they will continue to hang tough. Black South Africans, however, are crestfallen, and may lose hope, possibly escalating the violence there.

Constructive engagement, Mr. Speaker, should be buried alongside this Nation's greatest foreign policy failures. It has only strengthened South Africa's intransigence for the past 6 years. It has also strengthened elements in South Africa that are Marxist and want violence.

However, there is that great mass of black South Africans that will start losing hope and might make irreversible decisions to fight for political participation and freedom.

In answer to the daily violence of apartheid, they will regrettably go for

guns and violence which might lead to a large-scale guerrilla conflict.

Mr. Speaker, the Congress of the United States is the last hope for a constructive policy in this country. Let us support the sanctions supported by the House. Hopefully, the other body will do the same. The Congress is the last hope for freedom and democracy in South Africa.

TAX REFORM THIS TIME WILL NOT PRODUCE TAX SIMPLIFICATION

(Mr. MONSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONSON. Mr. Speaker, I am happy to see that politicians in Washington are finally pulling together to reform our tax system. However, I'm afraid we're getting so caught up in the momentum behind the emerging measures that we're not taking the time to evaluate their true merits and flaws. One flaw is that it may not be any simpler than our current Tax Code.

A recent Business Week article noted that there has never been an income tax change that actually shrank the number of rules and regulations—and this one is no exception. Tax experts say that the Internal Revenue Code will grow from 1,700 to about 2,000 pages, and surely there will be mass confusion as we convert to the new system.

We may think we're making it simpler by increasing the standard deductions and the deduction for exemptions. But, most taxpayers will still file their returns just as they always have—and may face a few more complications.

One of the most talked about simplifications is the rate structure in replacing 14 existing brackets with 2. The fact is we could have 100 tax brackets, 14 or just 2 and we wouldn't be simplifying anything. The method for computing our taxes will not be easier—in fact it could be more confusing.

I fail to see how the tax reform measures we are now touting as the most sweeping in years are better alternatives to our present tangled system of taxation. I urge my colleagues to take the time to look at the substance of these measures before getting caught up in their false momentum.

REAGAN AND SOUTH AFRICA: NO SURPRISES

(Mr. CROCKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROCKETT. Mr. Speaker, many leaders, both here and abroad, have expressed abject disappointment over Tuesday's speech by President Reagan. But this morning's Washington Post headlines "South African Officials Elated by Reagan Speech."

Those of us in and out of Congress who have been actively concerned with the worldwide struggle for human rights found no surprises in the President's speech.

He never identifies with the liberation struggles of nonwhite people. He has a mindset about the Soviet Union and communism that prevents him from realizing that the primary issue in South Africa, as in Central America, the Philippines, Angola, and the Middle East, is the political and economic struggle of the common people for freedom from the lingering vestiges of colonialism and foreign exploitation—a struggle that has only a tangential relationship to the ideological conflict between communism and capitalism.

Two years ago, this House without objection urged the President to call for the release of the great South African leader, Nelson Mandela. Only now, 2 years later, has he publicly heeded our request.

There is pending now, in the Foreign Affairs Committee, a resolution (H. Res. 373) sponsored by 105 Members of the House, urging the President to publicly call for negotiations with black African leaders, including the African National Congress.

We hope that, upon passage of this resolution, the President will act more expeditiously than he did with respect to the Mandela freedom resolution.

□ 1010

A TRIBUTE TO WALTER BUNCH

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, several months ago, Walter Bunch, a longtime employee of the Department of Agriculture and a friend of many of our colleagues, passed away at the age of 68. I want to take this occasion to pay tribute to Walt. I regret these remarks have been delayed, but our sense of personal loss and Walt's memory and example are in many ways timeless.

Mr. Speaker, then Acting Secretary of Agriculture, Frank Naylor, truly summed up the feelings of so many when he made the following remarks at Walt's memorial services:

Walter Bunch was one of those special individuals who gave richly to every person that he touched. Walt had a quiet sureness about him, an inner strength that those of us who needed help could turn to and draw upon without a word of request and for which thanks was not expected. It was an inner strength of giving us reassurance and the ability to go on when things became difficult because we knew we had a friend who would always support us. It was a unique form of giving because it was always quiet, always subtle, always at the right moment.

Walt was a master of words, written and spoken, to pass on the wisdom that he possessed. He often did it under a pen name without claiming acknowledgment. As such, his words will be an important part of our history.

Walt was a friend, a neighbor, an associate to whom we looked for guidance and support, an active leader in his church and in his community—as well as someone who influenced the agricultural policies of our Nation.

I first met Walt as he took a young "whipper-snapper" under his arm in 1969 and began to school him in the ways of government and politics. It was a teaching experience that never ended. Former Secretaries of Agriculture have described Walt as one of the finest employees with whom they have been associated. But, for me, and for many others, Walt took on the added function of our surrogate father within the USDA.

The evidence of the greatness of this man is that he will be sorely missed and lovingly remembered, not only by his peers, but also by an entire new generation whose work will be easier and whose lives are made better by his efforts.

Mr. Speaker, I echo those sentiments of Frank Naylor, and as a Member of this body, want to stress they ring true for us as well. There is an old truism that says there are no self-made men in public office, that it is your friends who make you what you are. In this regard, a great many of us owe a debt of gratitude to Walt Bunch. Thank you, Walt, and to his wife, Boots, and his family, our sympathies and warmest personal regards.

ENSURE PENSION SECURITY

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, an employee works for a company for 44 years, and for each of those 44 years, he contributes to the company's pension plan. Yet when he retires, he finds there is no money in the pension fund.

This sort of horror story was supposed to end with the ERISA Act of 1974, the Employee Retirement Income Security Act of 1974. But the case I cited is recent, the victim is a constituent of mine.

His retirement income is not secure because the IRS failed to enforce the law. It has known since 1978 that the company was not adequately funding its pension program, but the IRS took no action against the company and it failed to warn the employees their pensions were in jeopardy. Every Member of this body may have constituents heading for the same disaster.

Today, I am introducing legislation to require the IRS to notify all pension plan participants if their compa-

ny applies for a waiver of the minimum funding standards and to hold a public hearing before the waiver can be granted.

I urge my colleagues to cosponsor this bill before more workers are robbed of the retirement income they have earned and ERISA is supposed to guarantee.

THE BEST PLAN IS TO PROFIT BY THE FOLLY OF OTHERS

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, Treasury Secretary Baker testified before the Senate Foreign Relations Committee that he believes Canada is deliberately keeping her dollar weak against the United States dollar, implying that Canada's trade surplus with the United States is due to an unfair and self-serving exchange rate policy. Mr. Baker's comments, however, missed the fundamental point which has just begun to dawn on the Canadians themselves; by beating down the value of her dollar, Canada inflicted a far greater damage on her economy than the value of ephemeral trade advantages.

This should move Mr. Baker to admit that his widely advertised policy of self-inflicted currency depreciation has been a mistake and a failure. Otherwise we shall pay a dear price for ignoring the admonition of Pliny the Elder: "The best plan is to profit by the folly of others."

QUEEN OF ENGLAND UNDERSTANDS SOUTH AFRICA BETTER THAN PRESIDENT REAGAN DOES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as I read the morning paper I thought there was some incredible irony there. No. 1, we saw that the whites in Pretoria were cheering the President's speech. They understood what he said. He said he has no intention of putting any pressure on that Government to change its incredible system that the rest of the world has spoken out against.

We also saw the royal wedding. It's no secret royalty is not elected. One would think royalty would be insensitive to problems in South Africa. Yet the Queen of England has been trying to get governments to move more toward putting pressure on South Africa. I find that incredible, that in the greatest democracy in the world, we have to admit the Queen of England is much more understanding of what is going on in South Africa than the President of the United States.

Not only that, she has got diamonds. So her support of sanctions does not make any sense either from the Don Regan view.

I really hope that soon our elected President will understand how silly his position looks to the world and that President Reagan will turn around his position. It is certainly incredible to have the Queen of England leading him into a more democratic mode.

PRESIDENT TAKES THE LEAD IN THE WAR ON CRIME AND THE WAR ON DRUGS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, from the very first moment, it seems, that President Reagan took office, he declared war on crime, and since then a great number of things have been accomplished by the administration and by the Congress in support of the administration in this vital field. Not only in the general terms of the comprehensive crime package that this Congress enacted and was signed into law, but specifically in the war on drugs.

More recently we have seen concrete evidence of the administration's leadership in this regard in the dispatch of American troops to South America to go to the source of the illegal, illicit drugs that so plague our country.

We in the Congress commend the President and also the First Lady for her moral leadership in the war on drug usage and abuse, and we will continue with a wide front of different pieces of legislation to continue the war on drugs.

The American public recognizes the crisis; the American public demands continued action on that crisis, and we have a responsibility to meet that crisis head on.

PERSONAL EXPLANATION

(Mr. AKAKA asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, on Tuesday, July 22, 1986, I was unavoidably detained in my district on official business.

Mr. Speaker, had I been here, I would have voted "yes" on rollcall No. 234, the Judge Claiborne impeachment; and "yes" on rollcall No. 235, the Social Security Administrative and Investment Reform Act.

CUT THE BUDGET NOW OR PAY A VERY HIGH PRICE LATER

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, my constituents sent me—in fact the majority of all our constituents—sent us to Congress in 1984 to start to accomplish one goal above all, to get this country on the road to a balanced budget by cutting spending. With appropriations bills now before us—this must be our first priority—it is my first priority.

We've all been called upon by those who first say how they understand how bad the deficit problem is—but—of course their program is deserving of funds because of the gravity of their situation or the importance of their program. In other words—let's cut the budget, but please, not my piece.

We now have before us legislation that is the result of years and years of Congress giving in to almost all those who would have us spend. The time has come for Congress to gather the political strength to say—we just can't continue to have the Federal Government intruding into every perceived problem by throwing money and a program at it. If we want to avoid everything being cut—that's bad as well as good programs—we have to make that decision.

I urge all of my colleagues to consider this as we review these spending bills—if we don't do this now we will certainly pay a very high price, very soon.

SOVIET "GOOD NEIGHBORLY RELATIONS," A MOCKERY

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, each year between July 20 and July 26, Americans pay their respects to the millions of people living under communism by observing "Captive Nations Week." And each year on May 1 the Soviets mark the endurance and expansion of their empire with festivities and military parades. They publish a list of approved slogans for the occasion, lest spontaneity or unorthodoxy soil the celebrations. Among the 40 promulgated this year was the following:

> Peoples of the world! Struggle resolutely against the imperialist policy of aggression and violence!

Here is another:

> Peoples of Europe! Struggle for peaceful cooperation and good-neighborly relations among states * * *.

The bitter irony in such May Day sloganeering was bared at the recent summit between Mikhail Gorbachev, the Soviet dictator, and his favorite Polish general, the Red Army veteran Jaruzelski. The latter was praised for using "Poland's own resources" to crush Poland's nonviolent revolution with martial law in December 1981. The action, according to Gorbachev,

saved the Soviet Union from the kind of decision it had to make about Hungary in 1956, Czechoslovakia in 1968, and Afghanistan in 1979.

Such is the meaning of "good neighborly relations" between the states of Europe. Such is the reality that the peoples of Europe face today.

Mr. Speaker, from Latvia to Laos, millions who never voted for communism live under its strictures. What is more, they are forced to fight abroad for the communization of still others, as do Cubans, Bulgarians, Soviets, and Vietnamese in places so far from home as Angola, Nicaragua, Afghanistan, and Cambodia.

This is the week that we set-aside as our symbol of their sufferings. And I salute the National Captive Nations Committee here in Washington for its continuing efforts on their behalf. What political cause do we know that is more worthy than that of freedom?

EFFECTIVE CONTROL OF OUTDOOR ADVERTISING

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, by now, you have probably heard quite a bit and should have received a great deal of information about highway beautification, the problems and abuses which have stemmed from existing Federal statutes and the need to amend our Nation's billboard laws.

Some of you may have concluded that this is all rhetoric and hype, but I can assure you this is not the case.

Yesterday, the Senate Environment and Public Works Committee, in bipartisan fashion, voted by more than 2 to 1 to curtail and control the proliferation of billboards along our Nation's highway.

The committee acted to turn this program back to the States; to allow, for the first time, the constitutionally recognized method of compensation known as amortization to be used to pay for the removal of nonconforming signs; and to prohibit the erection of any new signs along the interstate and primary highway system.

This first toward exercising effective control of outdoor advertising is one which I hope will continue next week when amendments are offered to delete numerous provisions regarding outdoor advertising in the Surface Transportation Assistance Act of 1986, H.R. 3129.

ESTABLISHING A PERMANENT BOUNDARY FOR ACADIA NATIONAL PARK

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 720) to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes, with Senate amendments to the House amendment thereto, and concur in Senate amendments numbered 1, 2 and 3, and disagree with amendment numbered 4.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 1, line 9, of the House engrossed amendment, strike out "numbered 123-80010, and dated April 1986" and insert "numbered 123-80011, and dated May 1986".

Page 6, line 22, of the House engrossed amendment, strike out " "Schooner Head" " and insert " "Schooner Head", which is outside the boundary of the Park".

Page 9, line 1, of the House engrossed amendment, after "(4)" insert "(A)".

Page 9, line 6, of the House engrossed amendment, insert:

(B) The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 170(h) of the Internal Revenue Code of 1954.

Mr. VENTO. (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from Minnesota to explain the amendment.

Mr VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, under my reservation, I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, the change proposed by the House to S. 720 has the approval of the interested parties and will expedite final action on this measure. Basically, the House would concur in the Senate language on the Schooner Head area of the park, and move to delete the Senate's conservation easement language.

It is the understanding between the sponsors of the legislation and the committees of jurisdiction that the provision on the tax treatment of conservation easements can be most appropriately handled in the tax reform measure now in conference.

Mr. Speaker, as I mentioned earlier, S. 720, with the amendment proposed by the House has the support of all interested parties. I urge adoption of the measure.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of S. 720, which would resolve a longstanding controversy at Acadia National Park by establishing a permanent boundary.

This legislation has already been amended by both bodies of Congress several times. Therefore, I am pleased that it appears an agreement has been reached between all of the involved parties.

The bill before us today represents a great deal of negotiation and compromise. It proposes to change two provisions of the previously passed bill. It deletes the controversial Schooner Head area from the park and also removes language regarding tax deductions for conservation easements. The latter provision, I understand, will be included in other legislation.

I would like to commend the sponsor of the original House bill, the gentlelady from Maine [Ms. SNOWE] and the subcommittee chairman, Mr. VENTO, for their continued efforts to resolve the differences on this issue. I believe the bill before us today represents a significant compromise by the involved parties and I join them in lending my support. Furthermore, I urge all of my colleagues to support and vote for S. 720.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Minnesota for yielding to me so I may indicate my support for this modification to S. 720, legislation offered by Maine's congressional delegation to establish a permanent boundary for Acadia National Park.

As we work to close the legislative process with respect to this bill, let me again commend the chairman of the Subcommittee on National Parks and Recreation, Mr. VENTO. I would also like to express my appreciation to the ranking member on the subcommittee, Mr. LAGOMARSINO. The strong interest they feel in maintaining a strong national park system is well evidenced by the attention and concern they have shown on this bill affecting Acadia National Park.

As anyone who has visited Acadia knows, this park is truly one of our Nation's great national treasures. Established by donations in the early part of the century. Acadia was created through a series of parcel additions. Without a legislative boundary, it has never been possible for the Park Service to solidify the park area. In turn, the 10 Maine communities which neighbor Acadia have been concerned about an eroding tax base as a result of donated lands which have been brought into the park's holdings.

This legislation, which has been carefully crafted, meets these concerns in a way which assures the long-

term visbility of this park and these communities.

This bill is, in every sense of the word, a compromise, and finding agreement on certain provisions in this bill has been difficult as it has been considered in the House and in the other body. However, I am satisfied that we have achieved a very significant result in completing the work on this bill.

As the chairman, who visited Acadia last summer, knows very well, many years of negotiating took place before this bill was introduced in the spring of 1985. It is all the more satisfying that we have been able to resolve the remaining issues of particular concern over the last several months.

Finally, Mr. Speaker, I wish to point out that Acadia has yet again attracted thousands of visitors over the July 4th weekend. As the second most visited park in the country, attracting over 4 million visitors annually, it is a major accomplishment to pass this legislation to preserve Acadia properly for future generations of Americans.

Again, I support this legislation as amended today, and I urge its adoption.

□ 1025

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERMITTING REMOVAL OF CERTAIN MATERIAL FROM MOUNT RUSHMORE NATIONAL MEMORIAL

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 5223) to permit the removal of certain material from the Mount Rushmore National Memorial, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speaker, I reserve the right to object.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, this noncontroversial measure would permit the children of Lincoln Borglum to remove a small stone from the rubble pile adjacent to the Mount Rushmore sculpture, for use as a tombstone at the grave of Lincoln Borglum.

This unusual request appears to be altogether fitting, given Lincoln Borglum's long and unique association with the Mount Rushmore National Memorial. Lincoln was the son of Gutzlom Borglum, the artist who designed the memorial. Lincoln assisted in the selection of the site for the memorial, and spent his life sculpturing the Mount Rushmore Memorial. Additionally, when the Mount Rushmore site was made a national memorial, Lincoln served as the memorial's first superintendent.

Mr. Speaker, it is my understanding that the National Park Service is not opposed to this request. The legislation before us provides that the removal of a stone for Lincoln Borglum's grave will be done under the Park Service's supervision and at no expense to the Federal Government.

I urge adoption of this measure.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this is, as the gentleman from Minnesota said, an unusual request, but one required if we are going to follow through.

Lincoln Borglum was with his father, Gutzon Borglum, when the monument was selected back more than 50 years ago.

In addition to that, he was the one to complete the project after his father, Gutzon Borglum, died, and happened to be the first superintendent of the memorial after his father died.

He was truly a great leader in this regard. He was one that carried on the vision of his father and without whom the project may not have been completed.

This is a very fitting tribute to him. It is a monument that I think all South Dakota would appreciate, and we are grateful for the kind of support and speedy action given this issue by the gentleman from Minnesota [Mr. VENTO].

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 5223. As the chairman has explained, this noncontroversial measure would allow the removal of a stone from the Mount Rushmore Memorial rubble pile to be used as a tombstone at the grave of Lincoln Borglum.

Mr. Borglum played a unique role in the history of the Mount Rushmore National Memorial. As the son of the artist who designed the memorial, he spent a great deal of his life working on its creation. After it was completed and established as a national memorial, Mr. Borglum served as its first superintendent.

It is my understanding, Mr. Speaker, that there is no opposition to this unique request. The National Park Service will supervise the removal of the stone with no expense to the Federal Government. Therefore, I urge all of my colleagues to support H.R. 5223.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF STONE FROM MEMORIAL.

In recognition of the unique contributions of Lincoln Borglum to the Mount Rushmore National Memorial in South Dakota, the first Superintendent of the Memorial and the son of the artist who designed the memorial, the children of Lincoln Borglum shall be permitted to remove a stone from an appropriate area of the Mount Rushmore National Memorial to be used as a tombstone for Lincoln Borglum. Such removal shall be conducted under the supervision of the National Park Serice and at no expense to the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 415, HANDICAPPED CHILDREN'S PROTECTION ACT OF 1985

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 505 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 505

Resolved, That all points of order for failure to comply with the provisions of clause 3 of rule XXVIII are hereby waived against

the conference report on the bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorney's fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination.

The SPEAKER. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 505 waives clause 3 of rule XXVIII against the conference report which accompanies S. 415—the Handicapped Children's Protection Act of 1986. Clause 3 of rule XXVII prohibits conferees from including in their report issues that are not committed to conference by either House. This rule is known as the scope rule since it says, in essence, that the final work product of a conference committee may not address issues which are outside of the scope of the positions contained in the versions of the bill passed by the two Houses.

The waiver is necessary in order to allow for the disposition of the conference report because the conferees agreed to include clarifying language in the substitute amendment reported from conference which was not included in any form in either the House version or the Senate version of the legislation. The bill would restore the authority of courts to award fees for the services of attorneys—in addition to other costs awarded—to parents or guardians of children who are denied education services by school systems in violation of the Education to the Handicapped Act. Language agreed to by the conferees which clarifies and limits calculations for the amount which may be awarded for fees in a given case goes beyond the scope of the issues committed to the conference. I should note, however, that the House conferees unanimously supported the inclusion of this provision in the conference committee's recommended substitute. While other items contained in the substitute were contentious in some respects, the conference committee's recommendation is within the scope of the original difference in each such case.

S. 415 would overturn the decision of the Supreme Court in the case of Smith versus Robinson. That decision, which was handed down a year ago, rendered courts unable to award attorneys' fees to families who sue school districts which fail to provide appropriate educational opportunities for handicapped children. Up until the Supreme Court's ruling, parents and guardians who successfully sued under the Education for the Handicapped Act could be awarded attorney's fees under other civil rights statutes—most frequently under the Rehabilitation Act. The Supreme Court ruled, however, that attorneys' fees may no longer be awarded in cases brought under the Education for the Handicapped Act, since the act did not specifically so provide.

The conference report on S. 415 would restore the ability to recover attorneys' fees and ensure that benefits of this important civil rights law is available to all handicapped children, regardless of their ability to pay for the services of attorneys.

Adoption of the rule before the House would permit consideration of the conference report in the House, and subsequently of enactment of this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California has ably explained the provisions of the rule and it would be redundant for me to do the same.

This indeed is a very simple rule. The conference report it makes in order merely overturns the decision of the Supreme Court of 2 years ago by amending the Education of the Handicapped Act to authorize the award of reasonable attorney fees to prevailing parties who file suit under the act.

This rule should be passed. The measure should be passed swiftly when it comes to the floor for debate. It is a good conference report.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I just want to clarify one point here. I understand the reason for the rule is to waive the scope problems.

I am just trying to make certain, though, what we are doing here. Are we in any way implying that the reasonable attorneys' fees to be awarded are to come out of auhorizations relative to the Education of the Handicapped Act, or in fact is what we are doing simply allowing within the normal court processes reasonable attorney's fees to be awarded? I think there is a difference of whether or not we are saying we are going to spend Federal money here or whether or not we are simply allowing the awarding of appropriate fees and waiving the scope of the conference in order that.

Can the gentleman give me some hint as to just what the long-term effect of this waiving of scope is going to be?

Mr. QUILLEN. To my knowledge, it will have no long-range effect. It is an important legal right, and passage of this conference report will make it less costly for people to pursue legal action to ensure that their rights are upheld.

With regard to the question whether or not it comes out of the educational funding or the legal fees are collected otherwise, I yield to the gentleman from California.

□ 1035

Mr. BEILENSON. I thank the gentleman for yielding to me.

Mr. Speaker, to the best of the knowledge of this gentleman, none of these awards would come out of Federal funding. They would be given as a result of the suits brought against the school districts themselves.

Mr. WALKER. If the gentleman will yield further, then it would be my understanding that we are simply allowing parents of handicapped children the access to court to ensure then that if they bring a legitimate case that reasonable attorneys' fees can be awarded, and it does not go into a Federal spending question?

Mr. QUILLEN. That is my understanding.

Mr. WALKER. I thank the gentleman and I thank him for yielding.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Tennessee for his support for the rule, and I urge adoption of the rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5177, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 504 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 504

Resolved, That during the consideration of the bill (H.R. 5177) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 22, lines 1 through 13; beginning on page 30, line 4 through page 31, line 18; beginning on page 33, lines 15 through 18; beginning on page 48, lines 20 through page 50, line 18; beginning on page 51, lines 8 through 13; beginning on page 58, lines 8 through 16; and beginning on page 59, line 1 through page 66, line 13.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 504 waives points of order against specified provisions of H.R. 5177, the Department of Agriculture, rural development and related agencies appropriations bill for fiscal year 1987. The rule does not provide for the bill's consideration since general appropriation bills are privileged under the rules of the House. Provisions relating to time for general debate are also not included in the rule. Customarily, general debate is limited by a unanimous-consent request by the floor manager prior to consideration of the bill.

House Resolution 504 waives all points of order against specified provisions of the bill for failure to comply with clause 2 of rule XXI. Clause 2 of rule XXI prohibits unauthorized and legislative provisions in general appropriations bills. The specific provisions of the bill which have been granted waivers are detailed, by reference to page and line of the bill, in the rule.

The sections granted a waiver of clause 2 of rule XXI in titles I and III of the rule contain provisions dealing with the use of section 32 funds for the school lunch program which constitute legislation in an appropriations bill. Clause 2 of rule XXI waivers are also necessary to protect the mutual and self-help housing program and the section 515 rural rental assistance program. In title III, several component programs of the Child Nutrition Programs and the Women, Infants and Children Program have not yet been reauthorized. In title V, the Commodity Futures Trading Commission has not been reauthorized, necessitating the clause 2, rule XXI protection. The rule also contains waivers for the general provisions contained in title VI.

Mr. Speaker, H.R. 5177 is an important measure providing appropriations for a variety of programs from domestic nutrition programs, and Public Law 480, to measures that are urgently needed by the agricultural sector. It has broad bipartisan support.

House Resolution 504 provides for the expeditious consideration of H.R. 5177 and I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am substituting for the gentleman from Missouri [Mr. TAYLOR] who supports strongly the rule and the passage of the measure as I do. Faced with a continuing decline in our farm economy, a rising trade deficit for our farm products and the persistent need to assist our Nation's farmers in conserving the land and developing rural America, the committee brings this bill to the floor at a spending level that is $74.7 million below the administration's request.

Not only has the committee managed to come in under the President's budget, which I am sure was not easy to do, it brings us a bill that is $3.1 billion below the discretionary spending allocations for agriculture programs called in our budget resolution.

Mr. Speaker, in addition to coming in under the budget, both the President's budget and congressional budget, they have held spending in fiscal year 1987 at or near last year's level for most of our farm and nutrition programs.

Mr. Speaker, these are significant achievements for the Committee on Appropriations and they are to be congratulated. I would remiss if I did not thank the gentleman from Mississippi, the chairman of the committee, Mr. WHITTEN, and the gentlewoman from Nebraska, Mrs. SMITH, the ranking Republican on the Subcommittee on Agriculture Appropriations for their fine work.

The 1987 appropriations level contained in H.R. 5177 for agriculture and related programs totals $45.2 billion of which $41.9 billion is new budget authority.

Mr. Speaker, this measure means more than I can put into words for the farming community. Certainly to Tennessee, certainly to Missouri, certainly to every State in the Union that is now suffering under a crunch and the devastating heat that has brought some crops to the ground.

I urge adoption of the rule and speedy consideration of the measure so that it can be enacted into law.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding to me.

Mr. Speaker, I just want to clarify the money figures in the bill with the gentleman because, according to at least one analysis that we have been handed here on the floor today, the bill that we are considering under this rule would exceed the 1986 enacted level of spending by about $300 million, and exceeds the President's request for funding for agriculture by $1.7 billion, and is $6.9 billion over the President's request for credit activity.

I am wondering whether or not we can get some clarification here of where those figures may come from versus the figures cited by the gentleman a minute or so ago.

Mr. QUILLEN. This is the information that I have under a breakdown of H.R. 5177, agriculture appropriations for fiscal year 1987. H.R. 5177 provides $41.9 billion in new budget authority for agriculture, rural development, and related agencies in fiscal year 1987; $7.4 billion less than the fiscal year 1986 level, and $74.7 million below the President's request.

The bill provides appropriations, and it goes into detail. I agree that that is contrary to the statement of the administration and the administration's policy, but I go with the analysis as broken down by the committee, and I am sure when the bill is debated on the floor that the true facts will be assembled, but I go on the facts as broken down by the committee at this time.

Mr. WALKER. If the gentleman will yield further, I appreciate the gentleman's explanation. So, in other words, we do have a fairly severe disagreement here between the administration and the Appropriations Committee about the level of funding that is in this bill. The administration is claiming that the funding levels are far higher than the funding levels claimed by the committee, so therefore, exceed not only last year's spending but are also substantially above what the President requested, and so we do have a disagreement between the figures as provided by the committee and those figures as developed by the administration through OMB?

Mr. QUILLEN. We do have, as I explained, but I am sure that these will come to light when the measure is debated on the floor, and I go with the breakdown of the Appropriations Committee and I do not challenge the administration's position but I think that it will come into focus when the measure is debated.

Mr. WALKER. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield to the gentleman from Ohio [Mr. LATTA].

□ 1045

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for yielding.

Just let me say that I am pleased that the committee has rejected certain user fees that were placed on agriculture at a time when agriculture cannot take on any more burdens.

For example, the Food Safety and Inspection Service has been restored to $361,400,000; the Federal Grain Inspection Service to $6,697,000; the Packers and Stockyards Administration to $8,945,000; the Agricultural Cooperative Service to $4,469,000; the Agricultural Marketing Service to $30,945,000; and the Animal and Plant Health Inspection Service, with various programs, $21,000,000.

If these were not put back in this bill, they would have been placed in user fees and on the backs of the farmers at a time when they cannot take it. Agriculture is in deep trouble in this Nation, and we have got to help in any way we possibly can.

One of the things that was pointed out in the committee report indicates

the problems they have with farm exports. The exports of U.S. agricultural commodities have declined by over one-third during the past 5 years, from a high of $43.3 billion in 1981 to $29 billion in 1985 and a projected low of $28 billion in 1986.

By destination, the value of farm exports has decreased since 1981 as follows:

Western Europe, Japan, and Canada, by 30 percent; Africa and Latin America by 30 percent; Asia, excluding Japan and China, by 20 percent; the U.S.S.R. and Eastern Europe by 47 percent; and China by 91 percent.

The U.S. share of world trade fell from over 40 percent in 1980 to below 35 percent in 1984. In 1986 it is expected to be at its lowest level since the early 1970's.

The volume of major commodities exported has declined since 1981 as follows:

Wheat by 34 percent; corn by 31 percent; cotton by 33 percent; and soybeans and other products by 13 percent.

These figures point up a major share of the problem that we have in agriculture. We have got to be able to export more of our products. We are losing these markets, and we have got to reclaim them. We have got to tailor our bills more toward the export market so we will not have all these problems.

For example, I have heard statements in this Chamber during the last couple of days about the tremendous amount of corn we will have and no place even to store it. We are going to have to put it on the ground rather than export it.

We have got to come up with an export policy that will permit us to export these products once they are produced in this country. We have got to help the farmer. Right now, we do not have a policy, and we have got to get one.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman from Ohio [Mr. LATTA], the ranking Republican on the Budget Committee. He has touched the meat of the coconut. We must do more exporting of our farm products.

We all know that our farmers are suffering, and we must get down to the business of correcting these problems. It is really a disgrace to grow corn and not be able to store it and let it be destroyed without a market to sell it. I believe we can develop those markets if we use good judgment. We can develop markets in not only corn but wheat and cotton and other products as well. The gentleman has touched on a sensitive point of this legislation, and I thank him for it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. TAYLOR], who has at heart the problems of all the farmers involved.

Mr. TAYLOR. I thank the gentleman from Tennessee [Mr. QUILLEN] for being here in my stead, and for yielding this time to me.

Mr. Speaker, House Resolution 504 waives points of order against the consideration of an appropriations bill that represents a major financial investment in developing and improving this Nation's farming and rural areas.

This rule provides an orderly procedure for consideration of H.R. 5177, the Agriculture, rural development and related agencies appropriations bill for 1987.

Mr. Speaker, this appropriations legislation is vitally important to my State of Missouri, and I strongly support this rule.

The rule waives points of order that would otherwise lie against a few specified provisions of the bill for failure to comply with clause 2 of rule XXI.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] correctly described the purpose of this rule, which is to facilitate consideration of the bill.

Clause 2 of rule XXI prohibits appropriations for any expenditure not previously authorized by law and also prohibits legislation on an appropriations bill.

The Committee on Rules recommends the waiver because:

A few provisions of H.R. 5177 make appropriations for programs which are not yet authorized by law; and

The bill does contain language which is legislative in nature, language which the Appropriations Committee felt was necessary to continue efficient and economical operation of ongoing programs and projects.

Mr. Speaker, the various provisions of the bill to which the waiver applies are specified in the resolution.

Mr. Speaker, the gentleman from Tennessee said a moment ago that the Committee on Appropriations should be congratulated for its work. He is exactly right.

The Committee on Appropriations is faced with a continuing decline in our farm economy, and that decline affects our national economy a great deal.

The Commitee on Appropriations is very much aware of our rising trade deficit for farm products, and the real need to do something about that problem as was eloquently noted by the gentleman from Ohio [Mr. LATTA] a moment ago.

The Committee on Appropriations recognized the persistent need to assist and nurture our Nation's farmers as they seek to conserve the land and develop rural America.

The Committee on Appropriations has reported a bill that holds the fiscal 1987 spending level $74.4 million below the administration's request.

Mr. Speaker, not only has the committee produced a bill that is under the budget request, but its bill is also $3.1 billion below the discretionary spending allocations for agriculture programs called for in the first budget resolution.

Mr. Speaker, I support the bill and the protections that are contained for the bill in this rule, because the committee was able to hold spending in fiscal 1987 at or near this year's level for most of our farm and nutrition programs.

Mr. Speaker, the gentleman from Tennessee [Mr. QUILLEN] suggested a moment ago that these are significant achievements for the Committee on Appropriations. They are indeed significant, and I want to associate myself with the remarks of the gentleman from Tennessee [Mr. QUILLEN].

I want to add my personal thanks to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the committee, and the gentlewoman from Nebraska [Mrs. SMITH], the ranking Republican member of the Subcommittee on Agriculture Appropriations.

The appropriations contained in H.R. 5177 set the fiscal 1987 level for agriculture and related programs at $45.2 billion, of which $41.9 is new budget authority.

Mr. Speaker, these are important figures to Missouri's farmers. Various budget estimates place my State's share of the agriculture budget at or near $745 million annually.

In Missouri, we are justifiably proud of our 117,000 farms, which represent nearly 20 percent of the total number of farms in this Nation.

In Missouri, our farming operations are highly diversified, and over half of our farms are run by farmers who devote themselves full time to their farming operations.

The provisions of this appropriations bill include the amounts restored by the committee for several highly important programs, such as rural housing, the Rural Electrification Administration, the Soil Conservation Service, and the Extension Service.

Mr. Speaker, I strongly support this rule and I strongly support the appropriations bill that will be considered under this rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 48, not voting 18, as follows:

[Roll No. 246]

YEAS—364

Ackerman	Downey	Kleczka
Akaka	Duncan	Kolbe
Alexander	Durbin	Kolter
Anderson	Dwyer	Kostmayer
Andrews	Dymally	Kramer
Annunzio	Dyson	LaFalce
Anthony	Early	Lagomarsino
Applegate	Eckart (OH)	Lantos
Aspin	Edgar	Latta
Atkins	Edwards (CA)	Leach (IA)
AuCoin	Edwards (OK)	Lehman (CA)
Barnes	Emerson	Lehman (FL)
Bateman	English	Leland
Bates	Erdreich	Lent
Bedell	Evans (IA)	Levin (MI)
Beilenson	Evans (IL)	Lewis (CA)
Bennett	Fascell	Lewis (FL)
Bentley	Fazio	Lightfoot
Bereuter	Feighan	Lipinski
Berman	Fiedler	Livingston
Bevill	Fish	Lloyd
Biaggi	Flippo	Loeffler
Bilirakis	Florio	Long
Bliley	Foglietta	Lott
Boehlert	Foley	Lowery (CA)
Boggs	Ford (TN)	Lujan
Boland	Frank	Luken
Boner (TN)	Franklin	Lundine
Bonior (MI)	Fuqua	Madigan
Bonker	Gallo	Manton
Borski	Garcia	Markey
Bosco	Gaydos	Martin (NY)
Boucher	Gejdenson	Martinez
Boulter	Gephardt	Matsui
Boxer	Gibbons	Mavroules
Breaux	Gilman	Mazzoli
Brooks	Glickman	McCain
Broomfield	Gonzalez	McCloskey
Brown (CA)	Goodling	McCurdy
Bruce	Gordon	McDade
Bryant	Gradison	McEwen
Burton (CA)	Gray (IL)	McGrath
Burton (IN)	Gray (PA)	McHugh
Bustamante	Green	McKernan
Byron	Guarini	McKinney
Carper	Gunderson	McMillan
Carr	Hall (OH)	Meyers
Chandler	Hall, Ralph	Mica
Chapman	Hamilton	Michel
Chappell	Hammerschmidt	Mikulski
Clay	Hansen	Miller (CA)
Clinger	Hatcher	Miller (OH)
Coats	Hawkins	Mineta
Coble	Hayes	Mitchell
Coelho	Hefner	Moakley
Coleman (MO)	Hendon	Molinari
Coleman (TX)	Henry	Mollohan
Collins	Hertel	Montgomery
Combest	Hiler	Moody
Conte	Hillis	Moore
Conyers	Holt	Moorhead
Cooper	Hopkins	Morrison (CT)
Coughlin	Horton	Morrison (WA)
Courter	Howard	Mrazek
Coyne	Hoyer	Murphy
Crockett	Hubbard	Murtha
Daniel	Huckaby	Myers
Darden	Hughes	Natcher
Daschle	Hunter	Neal
Daub	Hutto	Nelson
Davis	Jacobs	Nichols
de la Garza	Jeffords	Nielson
Dellums	Jenkins	Nowak
Derrick	Johnson	Oakar
DeWine	Jones (NC)	Obey
Dicks	Jones (OK)	Olin
Dingell	Kanjorski	Ortiz
DioGuardi	Kaptur	Owens
Dixon	Kasich	Packard
Donnelly	Kastenmeier	Panetta
Dorgan (ND)	Kennelly	Parris
Dornan (CA)	Kildee	Pashayan
Dowdy	Kindness	Pease
Penny	Sharp	Torres
Pepper	Shelby	Torricelli
Perkins	Shuster	Towns
Petri	Sikorski	Traficant
Price	Siljander	Traxler
Pursell	Sisisky	Udall
Quillen	Skeen	Valentine
Rahall	Skelton	Vander Jagt
Rangel	Slattery	Vento
Ray	Slaughter	Visclosky
Regula	Smith (FL)	Volkmer
Reid	Smith (IA)	Vucanovich
Richardson	Smith (NE)	Walgren
Rinaldo	Smith (NJ)	Watkins
Ritter	Smith, Robert (OR)	Waxman
Roberts	Snowe	Weaver
Robinson	Snyder	Weber
Rodino	Solarz	Weiss
Roe	Spratt	Wheat
Roemer	St Germain	Whitehurst
Rogers	Staggers	Whitley
Rose	Stallings	Whittaker
Rostenkowski	Stangeland	Whitten
Roth	Stark	Williams
Roukema	Stokes	Wilson
Rowland (CT)	Stratton	Wirth
Rowland (GA)	Studds	Wise
Roybal	Sundquist	Wolf
Rudd	Sweeney	Wolpe
Russo	Swift	Wortley
Sabo	Swindall	Wright
Saxton	Synar	Wyden
Schaefer	Tallon	Wylie
Scheuer	Tauke	Yates
Schneider	Tauzin	Yatron
Schroeder	Taylor	Young (FL)
Schuette	Thomas (CA)	Young (MO)
Seiberling	Thomas (GA)	Zschau
Sensenbrenner		

NAYS—48

Archer	Fawell	Monson
Armey	Fields	Oxley
Badham	Frenzel	Porter
Barnard	Gekas	Ridge
Bartlett	Gingrich	Shaw
Barton	Gregg	Shumway
Brown (CO)	Hyde	Smith, Denny (OR)
Callahan	Leath (TX)	Smith, Robert (NH)
Cheney	Lowry (WA)	Solomon
Cobey	Lungren	Stenholm
Craig	Mack	Strang
Crane	MacKay	Stump
Dannemeyer	Marlenee	Walker
DeLay	Martin (IL)	Young (AK)
Dickinson	McCandless	
Dreier	McCollum	
Eckert (NY)	Miller (WA)	

NOT VOTING—18

Campbell	Grotberg	Oberstar
Carney	Hartnett	Pickle
Chappie	Ireland	Savage
Ford (MI)	Jones (TN)	Schulze
Fowler	Kemp	Schumer
Frost	Levine (CA)	Spence

□ 1110

Messrs. MILLER of Washington, STENHOLM, and McCOLLUM changed their votes from "yea" to "nay."

Ms. FIEDLER changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1987

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

Mr. CONTE reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON TODAY DURING THE 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be permitted to sit today, Thursday, July 24, 1986, while the House is reading for amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5205, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 507

Resolved, That during the consideration of the bill (H.R. 5205) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 4 through page 3, line 6; beginning on page 4, line 4 through page 5, line 18; beginning on page 6, lines 3 through 21; beginning on page 9, line 17 through page 11, line 5; beginning on page 11, line 19 through page 12, line 14; beginning on page 13, lines 6 through 15; beginning on page 15, line 18 through page 16, line 20; beginning on page 17, lines 3 through 12; beginning on page 18, lines 1 through 24; beginning on

page 19, line 15 through page 26, line 23; beginning on page 27, line 4 through page 29, line 20; beginning on page 30, line 9 through page 31, line 4; beginning on page 31, line 7 through page 32, line 5; beginning on page 32, line 15 through page 33, line 4; beginning on page 34, line 7 through page 35, line 6; beginning on page 35, line 13 through page 36, line 4; beginning on page 37, line 1 through page 38, line 20; beginning on page 41, line 23 through page 42, line 9; beginning on page 42, line 18 through page 44, line 22; beginning on page 45, line 6 through page 46, line 6; beginning on page 51, line 22 through page 52, line 24; and beginning on page 54, line 1 through page 60, line 22. The following amendment shall be considered to have been adopted in the House and in the Committee of the Whole: strike the colon and all that follows on page 23, line 19 through line 25 and insert in lieu thereof a period. It shall be in order to consider an amendment printed in section two of this resolution, if offered by Representative Molinari of New York, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived.

SEC. 2. Page 60, lines 1 through 16, redesignate paragraphs (1), (2), and (3) of section 332(b) as paragraph (2), (3), and (4), respectively, and insert before paragraph (2), as so redesignated, the following new paragraph:

"(b)(1) Subject to the second sentence of subsection (a), the Secretary of Transportation shall take such action as may be necessary to ensure that, in each of fiscal years 1987 and 1988, at least 500 individuals described in subsection (a) are placed, either by appointment or reinstatement, in permanent, full-time positions as air traffic controllers. Individuals appointed or reinstated under this subsection shall be in addition to any individual appointed or reinstated before October 1, 1986".

□ 1120

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 507 is the rule waiving points of order during the consideration of the bill, H.R. 5205 the Department of Transportation and related agencies appropriation bill for fiscal year 1987.

Since general appropriation bills are privileged under the rules of the House, the rule does not provide for any special guidelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule. Customarily, Mr. Speaker, general debate time is limited by a unanimous-consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

Mr. SPEAKER, House Resolution 507 waives clause 2 of rule XXI, which prohibits unauthorized appropriations and legislative provisions in general appropriations bills against certain provisions in the bill.

The specified provisions which have been protected by this waiver are detailed in the rule, by reference to page and line of the Transportation appropriation bill. The rule also contains an amendment that is to be considered to have been adopted in the House and in the Committee of the Whole. The provision that this amendment refers to is also detailed in the rule by page and line of the bill.

Finally, Mr. Speaker, the rule makes in order an amendment offered by Representative MOLINARI of New York. This amendment is printed in section 2 of the rule. The rule waives points of order against the amendment under clause 2, of rule XXI, which as I stated earlier prohibits unauthorized appropriations and legislation in general appropriation bills.

Mr. Speaker, H.R. 5205 appropriates $10.3 billion for the Transportation Department and related agencies for fiscal year 1987. Included in this bill is funding for the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Urban Mass Transportation Administration.

Also, the bill includes funding for other programs such as the National Transportation Safety Board, the Panama Canal Commission, and the U.S. Railways Association. Finally, Mr. Speaker, H.R. 5205 appropriates funding for over 37,000 military and 4,500 civilian positions in the U.S. Coast Guard.

This appropriation bill provides funding for highways, airports, waterways, and mass transit programs that effect the safety of travel across the country. Representative LEHMAN and his subcommittee should be commended for their efforts in ensuring that this country will continue providing a high quality of transportation services.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is one provision in this rule with which I cannot agree and was provided in the rule by a slim one-vote margin by the Committee on Rules. That is the provision making in order an amendment by the gentleman from New York [Mr. MOLINARI]. The Molinari amendment would force, and I emphasize that, the President to rehire a total of 1,000 air traffic controllers who were fired for striking in violation of the law 5 years ago.

Mr. Speaker, there were a number of arguments advanced in the Rules Committee to support the Molinari amendment which do not hold up if we look at the facts.

First, let me begin by noting what the relevant law provides. This is from title V of the United States Code, section 7311. Let me read for the RECORD what the statute says.

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

And the third subsection says:

(3) participates in a strike or asserts the right to strike against the Government of the United States or the government of the District of Columbia.

Mr. Speaker, this is the statute. This is the law of the land. It is clear and straightforward.

The bill before us today contains a section to modify that statute as it applies to air traffic controllers who participated in an illegal 1981 strike. I might emphasize that they participated in this strike with full knowledge as to what the law says.

Section 332 of the Transportation appropriation bill provides that fired air traffic controllers may be rehired on a case-by-case basis, but does not require that they be rehired.

The Molinari amendment, on the other hand, would require that 1,000 air traffic controllers be rehired. The President would be forced to take an unwise action.

Mr. Speaker, if we are not going to follow the law which prohibits hiring individuals who participate in a strike against their Government, then maybe Congress should consider abolishing the law completely.

If air traffic controllers strike and get their jobs back, why should not other Government workers strike as well?

One of the justifications used by the gentleman from New York for his amendment was that safety has suffered. The gentleman argued that the number of midair collisions has been at a record level in the last 2 years, reaching an all-time high of 777 in 1985.

In checking the facts with the FAA, we find that in 1985, a new monitoring service was implemented which enhanced the reliability the FAA near midair collision reporting process. This enhancement has contributed to a rise in the number of midair collision reports, from 589 in 1984, to 758 in 1985. A more accurate reflection of what is happening in near midair collision statistics could be achieved by comparing the first 6 months of 1986 to the same period in 1985.

Based on preliminary figures, we find that the near midair collision rate per 100,000 flight-hours in the first 6 months of 1985 was 1.50. The near midair collision rate per 100,000 flight-hours in the first 6 months of 1986 was 1.51, a very insignificant difference.

An independent means to address near midair collision numbers is to use the NASA aviation safety reporting system. The NASA system shows no significant rise in near midair collisions over time, despite increases in aviation activity. The number of near midair collisions reported by the

NASA system in each year since 1979 is as follows: in 1979, 760; in 1980, 527; in 1981, 431; in 1982, 381; in 1983, 445; in 1984, 526; and in 1985, 530.

And based on the numbers so far in 1986, it is estimated that the total will be about 500.

Mr. Speaker, under this NASA system there is no clear upward trend. In fact, the 1985 number is lower than the 1979 number.

Mr. Speaker, rehiring air traffic controllers who stuck in 1981 would be counterproductive to the FAA's progress in increasing the controller work force.

Secretary of Transportation Dole and the FAA are already boosting air traffic controller ranks, with additions of 500 new positions in fisal year 1986 and again in fiscal year 1987.

Congress addressed the issue in last December's Department of Transportation Appropriations Act, directing the hiring of 14,806 controllers as quickly as feasible. We should not change direction now, and issue conflicting directions to the Department.

Mr. Speaker, the FAA's training facilities are operating at full speed. The number of controllers is rising steadily.

The FAA has also started a "cross-option" program that encourages controllers nationwide to volunteer for training and transfer to the busier facilities, the only locations where there is significant overtime being relied on now.

□ 1130

With all these efforts underway, FAA is already fully occupied and should not be saddled with the multiple new burdens that would be associated with rehiring the former strikers.

The largest problem may be forcing the loyal controllers who stuck by the FAA to accept the strikers back into the towers. There are a lot of hard feelings, and many would construe rehiring as a vindication for violating Federal law.

Mr. Speaker, it is virtually impossible to construct criteria for selective rehiring of controllers that would not be subject to constitutional challenge on "due process."

If a strike leader at one location is rehired but another is not at another FAA location, there is virtual certainty of litigation, and little likelihood FAA and the Office of Personnel Management could defend the rehiring criteria.

If some but not all members of an identical category of strikers are rehired, the U.S. Government would again find itself in an indefensible position. Thus, the FAA could be forced into rehiring all strikers who apply, whether or not it is in the interests of air traffic safety.

The strikers have not controlled aircraft for nearly 5 years. Complete retraining would be required, representing no savings in the time over new trainees.

Mr. Speaker, the FAA has enough on its hands at the moment without adding these unproductive administrative burdens. Mr. Speaker, I have no doubt that the gentleman from New York [Mr. MOLINARI] and his supporters mean well, but their amendment could increase tension among controllers by forcing controllers who remained loyal to their jobs to work alongside those who struck in violation of the law.

This increased tension in the towers, Mr. Speaker, could produce the very disaster that the supporters of the amendment are trying to avoid.

Now, Mr. Speaker, I yield to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. To begin with, Mr. Speaker, I did not expect that we would have a debate on the issue today when we are talking about the rule, but I would like to ask the gentleman first: Since you are quoting statistics on near midair collisions, does the gentleman have comparison of those that are listed in the category of critical; that is, those where a crash almost occurred?

Mr. LATTA. Let me say that the FAA has all the statistics that are available, and we would be glad to put them in the RECORD.

For the record the FAA provided the following information:

In 1985, there were 175 near midair collisions classified as critical.

In 1984, there were 127 near midair collisions classified as critical.

In 1983, there were 97 near midair collisions classified as critical.

The FAA notes that the increased number in 1985 results in large part from an improved reporting system instituted in that year.

The FAA further notes that only a small percentage of near midair collisions occur when the aircraft are in the air traffic control sytem.

Mr. MOLINARI. That is the point. I am referring to the very statistics that were furnished by FAA, indicating in that area, the area where near midair collisions almost occurred, they have increased substantially, sharply.

Those are the ones we should be most concerned about. I do not think we have the time; I would hope that when we get into the amendment we can debate all these issues, one by one, because you have raised a number here today.

The question of increasing tension—we can put that to bed very quickly. There are 550 who have already been brought back into the system through the appeals process. There is no increasing of tensions whatsoever.

There is only one issue here, and that is the issue of safety, the safety of the system. Today's Washington Post had an eye opener on the front page, and it talks about Chicago and the fact that they are limiting traffic now in and out of Chicago. Why? Because of the number of errors—this is FAA talking—because of the number of errors caused by controllers at that facility.

Mr. LATTA. Mr. Speaker, reclaiming my time, let me just say to the gentleman that we have read that story; the FAA has read that story, and here is their answer:

FAA RESPONSE TO THE WASHINGTON POST STORY

There are a number of important inaccurancies in the story. Specifically:

The article states that we have only 52 FPL's (full performance level controllers) out of an authorized workforce of 94. In fact, we have 80 FPLs out of an authorized FPL work force of 81. We have 109 controller workforce at O'Hara out of an authorized level of 97.

The article cites a 26% increase in traffic from 6/85 to 6/86. However, July 1985 was the period of the United Airlines strike. Therefore these numbers are very misleading. A more accurate indication of traffic increase is a comparision of the first 3 weeks in July of last year with the same period this year. That increase is 2.2%

The story indicated that safe separation involving particular incident near O'Hara was "3 miles and 1000 feet vertical." In fact, the safe separation is 3 miles or 1000 feet vertical.

The FAA has already taken a number of actions at O'Hara including increasing the required "overlap time" for controllers coming on duty to transition with controllers going off duty. (A high portion of operational errors have occurred during these transitional times).

We are not going to comment specifically on a possible NTSB recommendation that does not yet exist.

Nationally, operational errors (errors made by air traffic controllers) declined approximately 25% in 1985 as compared to 1984. In addition, operational errors to date in 1986 are 25%, below the comparable levels for 1985.

So I think that regardless of the arguments that will be made here, safety is being built into the system by people who know something about the law and respect the law. The law says you don't strike against the Government or you do not work for that Government. We are going to be putting people and are putting people back to work that we can rely on in those towers.

That is what it is all about; whether or not we are going to have people in those towers who respect the law. The law of the land comes first, and these individuals ought to know it. That is what the argument is all about.

I know there has been a tremendous campaign put on by these people across the country for the last 5 years. For 5 years they have been waging this campaign, saying "Well, we've suffered enough." Well, they have suffered; perhaps their families have suffered enough; but they ought to have

thought about their families when they violated the law of the land which says you do not work for the Government if you strike against your Government, and that is what the issue is.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York [Mr. McGRATH].

Mr. McGRATH. Mr. Speaker, this issue has been with us for 5 years, and through my other life on the Committee on Government Operations, the transportation subcommittee, we have studied this.

I would like to ask the gentleman from New York [Mr. MOLINARI], in his activities on Public Works and Transportation, whether or not the issue that was brought forth by the gentleman from Ohio [Mr. LATTA] regarding the tensions that could exist or perhaps might exist if we brought back some of these controllers really does exist.

It is my judgment and my information that they would welcome back some help because of the overload of work that they do. Is that your information?

Mr. LATTA. Mr. Speaker, I yield to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, basically the answer to that question would depend upon the facility that you are talking to. If you are talking to tower facilities; generally you are going to see them say "No, we don't need additional help."

Go to the en route centers. The 20 en route centers that we have in this country, eight of which are seriously understaffed today, and ask them, and they are going to tell you, "Yes; we were opposed to it in the beginning but we are opposed to it no more."

Take New York center where the gentleman and I come from. They just issued a report which has not been made public, 4 months ago, saying that the people at that center, the controllers, have been working 6 day weeks for 5 years now, since the strike; and, according to FAA projections, they will be working 6 day weeks for the next 5 years and beyond.

How much can you expect people working the boards in bad weather can do before human capacity breaks down and we have tragedies? That is what we are trying to avoid by my amendment.

Mr. McGRATH. If the gentleman from Ohio [Mr. LATTA] will continue to yield to me, is it the gentleman from New York's understanding that the FAA 5 years ago made assertions that they would be able, through their own training, through their own academy, to fill the jobs of those who were displaced by this firing, which I agreed with at that time. Have they been able to do that, or are they seriously and woefully undermanned at this particular point in time?

□ 1140

Mr. MOLINARI. I thought the gentleman from New York was addressing his inquiry to the gentleman from Ohio.

Mr. McGRATH. Mr. Speaker, I had asked the gentleman from Ohio [Mr. LATTA] to yield to the gentleman from New York [Mr. MOLINARI] for a response to my question.

Mr. LATTA. Mr. Speaker, I yield to the gentleman from New York for the purpose of a response.

Mr. MOLINARI. Mr. Speaker, I am sorry I missed the question.

Mr. McGRATH. Regarding the manning that the FAA said they could keep up through the training at their Oklahoma City center, does the gentleman believe that they have been able to fullfill their expectations?

Mr. MOLINARI. Absolutely not, and let me answer briefly. At Oklahoma City the failure rate at the academy is 42 percent. Then when they graduate and go to the en route centers like New York center, Chicago center, Los Angeles center, the failure rate of those that graduate is 35 percent more. So they have never met their goals. They are far below.

That is why we have the problems out there today with our air traffic control system.

Mr. McGRATH. Just one further comment: I think perhaps this amendment during the debate is going to be one, during that appropriate period of time, which needs to be debated I look forward to the debate.

Mr. MOLINARI. And so do I.

Mr. LATTA. I would like to conclude by making a couple of comments.

Mr. Speaker, the bill itself provides for the selective rehiring of some of these individuals on case-by-case basis. It does not mandate that you take 1,000. As has already been pointed out, they have taken back some already after they took a look at each individual case. But to come along with a Molinari amendment saying you are going to take 1,000 of them, just blanket them in, causes problems.

Let me summarize the objections of the FAA to this amendment:

To rehire the strikers would break a moral contract with the loyal controllers who honored their oath not to strike in the face of severe harassment and abuse by the strikers;

A large number of our most senior and competent controllers will exercise their retirement option, thus negating any gain from rehiring strikers;

Every court that has ruled on these cases has upheld the legitimacy of the action taken by the executive branch against the strikers;

There are thousands of cases still before the court of appeals, and any rehiring is bound to affect this judicial process to the detriment of the Government;

Retraining these fired controllers after 5 years absence will take considerable time and interfere with the training of our new controllers;

Many strikers will come back and retire as soon as they are reinstated or as soon as they are eligible;

We can also expect many to attempt to claim disability based on air traffic control work and file workman's compensation claims and retire at great expense to the Government;

Any attempt to selectively rehire a limited number of strikers will result in the filing of discrimination complaints by those not rehired;

Studies have shown that age adversely affects a controller's performance, and many of the most experienced fired controllers are now in this age group;

Teamwork is critical to the safe control of air traffic and such teamwork will be severely undermined by the ill feeling and disruption any rehiring would create;

And last, the Supreme Court as late as June 23 refused to reverse the action taken against the strikers.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, when we began this series of appropriations bills, on the rule on the first one, State, Commerce and Justice, I complained very bitterly about the rules being issued to deal with these appropriations.

We have appropriations every year. The Congress knows exactly what categories in which we are going to have to appropriate. We are fully aware of most of the problems because we had them the year before. Very few are new or emergency problems requiring urgent action.

Therefore, there is no reason in the world why a House of Representatives, run under competent, business-like style of management needs to have a change in the rules in the way we handle our bills. Yet on every appropriations bill which has come before this House, we have had a waiver of the rules of the House.

In my judgment, this is inappropriate behavior and reflects incompetent management. It is, I think, outrageous to sit around and say, "Well, there are unusual circumstances to force us to have all of the waivers that we have in this bill either to provide for appropriating unappropriated sums or to make amendments like the gentleman from New York's, which clearly is out of order under the rules of this House, suddenly in order because it pleases our political whims."

A House that is out of order is a House that incurs disrespect among

the people of the United States and in its own membership.

I think that the way this House has handled these rules, has put in waivers, is outrageous. It is disappointing, and discouraging to the Members. It dishonors the traditions of the House.

I think we ought to defeat this rule. I know it is not going to happen, but I am going to continue to suggest that we do so every time we have these waivers of the regular routine.

I am not going to let the people who are responsible for constructing these rules and passing them forget what their real duties are and how the House should be organized and managed.

Mr. Speaker, I urge defeat of the rule, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the edification of the membership, this is an open rule. Any amendment, any germane amendment is in order. The gentleman from Minnesota, Mr. FRENZEL's amendment will be in order, Mr. MOLINARI's amendment will be in order. So there is a proper way to get at the subject of their amendments in the bill, and they do not have to defeat the rule to get their end results.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quroum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 315, nays 98, not voting 17, as follows:

[Roll No. 247]

YEAS—315

Ackerman	Bennett	Broomfield
Akaka	Bentley	Brown (CA)
Alexander	Bereuter	Bruce
Anderson	Berman	Bryant
Andrews	Bevill	Burton (CA)
Annunzio	Biaggi	Burton (IN)
Anthony	Boehlert	Bustamante
Applegate	Boggs	Byron
Aspin	Boner (TN)	Carper
Atkins	Bonior (MI)	Carr
AuCoin	Borski	Chandler
Barnard	Bosco	Chapman
Barnes	Boucher	Chappell
Bates	Boxer	Clay
Bedell	Breaux	Clinger
Beilenson	Brooks	Coelho
Coleman (MO)	Jenkins	Regula
Coleman (TX)	Johnson	Reid
Collins	Jones (NC)	Richardson
Conte	Jones (OK)	Ridge
Conyers	Kanjorski	Rinaldo
Cooper	Kaptur	Ritter
Coughlin	Kastenmeier	Robinson
Courter	Kemp	Rodino
Coyne	Kennelly	Roe
Crockett	Kildee	Roemer
Daniel	Kleczka	Rogers
Darden	Kolter	Rose
Daschle	Kostmayer	Rostenkowski
Daub	LaFalce	Roukema
Davis	Lantos	Rowland (CT)
de la Garza	Leath (TX)	Rowland (GA)
Dellums	Lehman (CA)	Roybal
Derrick	Lehman (FL)	Russo
Dicks	Leland	Sabo
Dingell	Lent	Savage
DioGuardi	Levin (MI)	Saxton
Dixon	Levine (CA)	Scheuer
Donnelly	Lipinski	Schneider
Dorgan (ND)	Livingston	Schroeder
Dowdy	Lloyd	Schuette
Downey	Loeffler	Seiberling
Duncan	Long	Sharp
Durbin	Lowery (CA)	Shelby
Dwyer	Lujan	Sikorski
Dymally	Luken	Siljander
Dyson	Lundine	Sisisky
Early	Manton	Skeen
Eckart (OH)	Markey	Skelton
Edgar	Martin (NY)	Slattery
Edwards (CA)	Martinez	Smith (FL)
Edwards (OK)	Matsui	Smith (IA)
Emerson	Mavroules	Smith (NE)
English	Mazzoli	Smith (NJ)
Erdreich	McCurdy	Snowe
Evans (IA)	McDade	Snyder
Evans (IL)	McEwen	Solarz
Fascell	McGrath	Spratt
Fazio	McHugh	St Germain
Feighan	McKernan	Staggers
Fish	McKinney	Stallings
Flippo	McMillan	Stangeland
Florio	Meyers	Stark
Foglietta	Mica	Stenholm
Foley	Michel	Stokes
Ford (TN)	Mikulski	Studds
Frank	Miller (CA)	Swift
Franklin	Miller (OH)	Synar
Frost	Mineta	Tallon
Fuqua	Mitchell	Tauzin
Gallo	Moakley	Taylor
Garcia	Molinari	Thomas (GA)
Gaydos	Mollohan	Torres
Gejdenson	Montgomery	Torricelli
Gekas	Moody	Towns
Gephardt	Moore	Traficant
Gibbons	Moorhead	Traxler
Gilman	Morrison (CT)	Udall
Glickman	Morrison (WA)	Valentine
Gonzalez	Mrazek	Vander Jagt
Goodling	Murphy	Vento
Gordon	Murtha	Visclosky
Gray (IL)	Myers	Volkmer
Gray (PA)	Natcher	Walgren
Green	Neal	Watkins
Guarini	Nelson	Weaver
Gunderson	Nichols	Weiss
Hall (OH)	Nowak	Wheat
Hamilton	Oakar	Whitley
Hammerschmidt	Obey	Whittaker
Hatcher	Olin	Whitten
Hawkins	Ortiz	Williams
Hayes	Owens	Wilson
Hefner	Packard	Wirth
Hertel	Panetta	Wise
Hillis	Pease	Wolf
Hopkins	Pepper	Wolpe
Horton	Perkins	Wortley
Howard	Pickle	Wright
Hoyer	Price	Wyden
Hubbard	Pursell	Wylie
Hughes	Quillen	Yates
Hutto	Rahall	Yatron
Jacobs	Rangel	Young (AK)
Jeffords	Ray	Young (MO)

NAYS—98

Archer	Barton	Boulter
Armey	Bateman	Brown (CO)
Badham	Bilirakis	Callahan
Bartlett	Bliley	Cheney
Coats	Kindness	Roth
Cobey	Kolbe	Rudd
Coble	Kramer	Schaefer
Combest	Lagomarsino	Sensenbrenner
Craig	Latta	Shaw
Crane	Leach (IA)	Shumway
Dannemeyer	Lewis (CA)	Shuster
DeLay	Lewis (FL)	Slaughter
DeWine	Lightfoot	Smith, Denny (OR)
Dickinson	Lott	Smith, Robert (NH)
Dornan (CA)	Lowry (WA)	Smith, Robert (OR)
Dreier	Lungren	Solomon
Eckert (NY)	Mack	Strang
Fawell	MacKay	Stratton
Fiedler	Madigan	Stump
Fields	Marlenee	Sundquist
Frenzel	Martin (IL)	Sweeney
Gingrich	McCain	Swindall
Gradison	McCandless	Tauke
Gregg	McCollum	Thomas (CA)
Hall, Ralph	Miller (WA)	Vucanovich
Hansen	Monson	Walker
Hendon	Nielson	Waxman
Henry	Oxley	Weber
Hiler	Parris	Whitehurst
Holt	Pashayan	Young (FL)
Huckaby	Penny	
Hunter	Petri	
Hyde	Porter	
Kasich	Roberts	

NOT VOTING—17

Boland	Fowler	Oberstar
Bonker	Grotberg	Schulze
Campbell	Hartnett	Schumer
Carney	Ireland	Spence
Chappie	Jones (TN)	Zschau
Ford (MI)	McCloskey	

□ 1205

Messrs. COBEY, PARRIS, RUDD, BOULTER, and McCOLLUM changed their votes from "yea" to "nay."

Mr. NICHOLS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 415, HANDICAPPED CHILDREN'S PROTECTION ACT OF 1986

Mr. WILLIAMS. Mr. Speaker, I call up the conference report on the Senate bill (S. 415) to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 16, 1986.)

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report concerning S. 415 and H.R. 1523, the Handicapped Children's Protection Act of 1986. A vote for the conference report is a vote for the protection of handicapped children. As ORRIN HATCH, the chairman of Committee on Labor and Human Resources and a conferee, stated on behalf of all the Senate conferees—WEICKER, NICKLES, KENNEDY, and KERRY—in a letter to the House:

We urge you to endorse the proposed compromise so that handicapped children and their parents may once again be protected under the Education for All Handicapped Children Act.

The bill clarifies the intent of Congress that handicapped children and their parents have available to them the full range of remedies necessary to protect and defend both their right to be free from discrimination and their right to a free appropriate public education.

The full range of remedies includes the right to reimbursement of reasonable attorneys' fees in actions and proceedings in which they are declared the prevailing party. The right to reimbursement of reasonable attorneys' fees provided for in the conference report is exactly the same right that Congress has extended to other persons protected by fees statutes—no more and no less.

Thus, this conference report places handicapped children in the same position as others. A vote against this bill will disadvantage handicapped children. I know my colleagues do not want to add inequitable treatment by the Congress to the problems handicapped children and their parents already face.

The provisions in the conference report and the accompanying statement of managers are the result of protracted negotiations with the Senate conferees. We did not get everything we wanted and they didn't get everything they wanted. However, overall, I am pleased to report that the conference agreement contains most of the key provisions in the House bill and excludes the major provision in the Senate bill that was an anathema to the House.

Let me briefly describe the key provisions in the conference agreement.

First, with slightly different wording, both the Senate bill and the House amendment provide for the awarding of attorneys' fees in addition to costs to parents who prevail in any action or proceeding. Under the conference agreement, the Senate recedes to the House and the House recedes to the Senate with an amendment clarifying that the court in its discretion may award reasonable attorneys' fees to the prevailing parents as part of the costs of the action or proceeding.

Second, the Senate bill limits the amount of the fee award whenever a parent or legal representative is represented by a publicly funded organization that provides legal services. We, in the House, refer to this provision as the "double standard" provision. The House amendment provides that fee awards shall be based on rates prevailing in the community.

Under the conference agreement, the Senate recedes to the House and the House recedes to the Senate. Specifically, the Senate conferees agreed to drop the "double standard" provision and the House conferees agreed not to authorize the awarding of bonuses and multipliers in cases brought only under part B of the Education of the Handicapped Act [EHA].

With two modifications, the House and the Senate also agreed to include language in section 2 of the bill (section 615(e)(4) (C) through (G) of EHA) further clarifying the circumstances under which fees may be awarded to parents, consistent with applicable Supreme Court decisions interpreting 42 U.S.C. 1988; including interpretations of such concepts as the "prevailing market rate"; "prevailing" parent; and "reasonable" attorneys' fees. *See, for example, Hensley* v. *Eckerhart,* 461 U.S. 424 (1983); *Marek* v. *Chesny,* 87 L. Ed. 2d 1 (1985); and *Blum* v. *Stenson,* 104 S. Ct. 1541 (1984); and *Riverside* v. *Rivera,* No. 85-224 (June 27, 1986).

Thus, subject to the two modifications described below, determinations as to whether a parent is awarded fees and the amount of the award are governed by applicable decisions interpreting 42 U.S.C. 1988. The first modification concerns the inclusion of a "substantially justified" exception to the principle concerning settlement offers enunciated by the Supreme Court in *Marek* v. *Chesny,* 87 L. Ed. 2d 1. The statement of managers includes one example of what might constitute a "substantial justification" for rejecting a settlement offer. Another example would be the lack of adequate time to assess the strength of the claim and the reasonableness of the agency's offer.

The second modification renders inapplicable the criteria in section 615(e)(4)(F) of EHA when a public agency unreasonably protracts the final resolution of the action or proceeding or when a public agency violates section 615 of EHA.

I would also like to explain the intent of sections 615(e)(4) (B) and (D) of EHA, as amended by section 2 of the bill. First, consistent with the principles enunciated by the Supreme Court in Marek, a general offer should not be construed as being as favorable as a specific order. Second, courts should construe ambiguities in the offer against the offeror.

Third, an offer which is indefinite; contains promises without necessary commitments; or contains ambiguities or contingencies, is less favorable than a judgment that is definite and specific; mandates implementation; and is clear and does not contain contingencies. Fourth, a decision by the court regarding whether an offer is more favorable than a judgment ordinarily presents a question of fact reviewable under the clearly erroneous standard.

The Senate conferees also agreed to accept, with certain minor changes, the provision in the House bill calling for a GAO study of the impact of section 2 of the bill.

The conference agreement does not include the "sunset provision" which was included in the House bill. Under this provision, the authority of the court to award fees to parents prevailing at administrative hearings would be repealed in 4 years. This provision was particular concern to the House Republican conferees. On three separate occasions, all conferees from the other body rejected requests to include the "sunset" provision in the conference agreement.

Finally, the Senate agreed to include language in the statement of managers (taken verbatim from the House bill and report) that makes it clear that under current law, persons may not be retaliated against by public agencies for their actions relating to Public Law 94-142.

As Members know, the Congress has been working for many months on this legislation. Members and their staffs, on both sides of the aisle and in both bodies have been diligent in their efforts to resolve differences and put in place a solution that strikes the right balance of protections. I think we have succeeded. I especially want to express my appreciation to GUS HAWKINS, MARIO BIAGGI, JIM JEFFORDS, and STEVE BARTLETT for the significant role they and their staffs have played on this legislation.

I urge my colleagues to support this important legislation. Public Law 94-142, the landmark legislation that recently celebrated its 10th anniversary, entitles every handicapped child to a free appropriate public education. If we are going to make this statutory right a reality for all, we must adopt the Handicapped Children's Protection Act conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding time to me.

Mr. Speaker, I support those provisions in the conference agreement that, in response to the Supreme Court decision in the case of Smith

versus Robinson, authorizes the awarding of reasonable attorneys' fees to parents who prevail in special education court cases. Unfortunately, the conference agreement goes well beyond a reasonable congressional response to Smith versus Robinson, and places our special education's hearing system at risk of becoming litigious and increasingly adversarial.

This has been a difficult piece of legislation. It concerns a particularly volatile issue—namely, attorneys' fees. Attorneys' fees litigation and issues surrounding the recovery of fees are crowding our judicial system's dockets. This should be a red flag to Congress. In this legislation, we have wrestled with the issue of attorneys' fees in a sensitive area—the education of handicapped children. It has taken 2 years to write a three-page bill. The process has been trying, and there are many of us who have been involved in that process who are not entirely satisfied with this legislation, but who feel that its benefits outweigh its potential limitations.

Those of us in Congress familiar with Public Law 94-142, our special education law, considered the Smith versus Robinson decision to be an erroneous interpretation of congressional intent. It wrongly cut off access to our judicial system by parents seeking to enforce their handicapped child's rights. We have, with this conference agreement, properly restored access to our judicial system, but, we have gone well beyond that. For the first time, we have authorized the awarding of fees at the due process hearing system level in disputes which do not go on to court on a substantive issue. I fear that this latter provision may prove to be a serious mistake which will make our special education due process system litigious, and adversarial, and not necessarily any better. If my worst fears are realized, then educational dollars will be wasted on lawyers' fees and court proceedings to no one's advantage, save the attorneys involved.

At the time the Smith versus Robinson decision was delivered, Public Law 94-142's due process system, which had been in place for 10 years, was not being criticized as unfair. Fees had never been recoverable at the hearing level without going to court on a substantive issue. The Education and Labor Committee was not considering amending Public Law 94-142 to allow recovery of hearing fees at the administrative level. Long after the Smith decision was delivered, several Members of the Education and Labor Committee bowed to pressure, and chose to impose a system of fee recovery on an administrative hearing system which was functioning fairly without such a system of fee recovery. Had a sufficient record been established which indicated that Public Law 94-142's hearing system was working improperly or unfairly, then amending the act to allow for such recovery would be justified. Such a record was never established. The issue before the Education and Labor Committee was the recovery of attorneys' fees at the court level. It unwisely chose to move beyond the task that the Supreme Court laid before it.

One does not have to look hard these days to find one social commentator or another bemoaning the litigious nature of contemporary American society. In essence, our civil judicial system is merely a formalized, stylized, and expensive set of procedures for resolving disputes. With our action today, we may be turning an informal system of conflict resolution, which has worked for over 10 years, into a potentially litigious and expensive mirror-image of our court's system.

This conference agreement contains a number of desirable provisions, and one major undesirable provision. In good conscience, I believe that the good outweighs the bad and for that reason, I shall vote for this conference agreement. I support authorizing courts to award a reasonable attorneys' fee to parents who prevail in Public Law 94-142 court actions to enforce their handicapped child's rights, and regret that with this conference agreement, we may have made Public Law 94-142's due process hearing system irrevocably litigious and adversarial.

□ 1215

Mr. WILLIAMS. Mr. Speaker, I yield such time as he may consume to a valued member of the Committee on Education and Labor, the gentleman from New York [Mr. BIAGGI], who has been a leader in this House on matters pertaining to handicapped people, those who have disabling conditions.

Mr. BIAGGI. Mr. Speaker, It is with a deep sense of pride and accomplishment that we are here today to consider the compromise conference report on S. 415 and H.R. 1523, the Handicapped Children's Protection Act. This compromise represents hundreds of hours spent by both Houses of this body to overcome the devastating impact of the Supreme Court's ruling in Smith versus Robinson. I firmly believe this conference report is an appropriate response to the July 5, 1984, decision which eliminated the ability of parents to secure the educational rights of their handicapped children.

Although we have arrived at this point, it was not without great difficulty. I wish to commend Chairman WILLIAMS for his contributions and leadership and also recognize the vital role of Chairman HAWKINS and his leadership as the House conference committee chair. His support and assistance have been essential to this process. And finally, I wish to acknowledge the contributions and efforts of all of the conferees, both House and Senate, in reaching this carefully crafted compromise.

Perhaps the Supreme Court Justices, in their dissenting opinion in Smith versus Robinson, best summarized the heart of this report. They stated:

> Congress will now have to take the time to revisit this matter. And until it does, the handicapped children of this country whose difficulties are compounded by discrimination and other deprivations of constitutional rights will have to pay the costs.

This conference report is a result of Congress indeed "revisiting the matter."

As one of the original authors of Public Law 94-142, I am proud to be here today to support this conference report. This legislation clearly supports the intent of Congress back in 1975 and corrects what I believe was a gross misinterpretation of the law. Attorneys' fees should be provided to those individuals who are being denied access to the educational system: access provided by Public Law 94-142. The issue here is simple—our Nation's 4 million handicapped children have the right to have access to school. It is a civil right. It is not to be denied, rather it should be enhanced in every way. And this issue is at the very core of this legislation.

Specifically, I want to comment on a number of provisions contained within this conference report, provisions I believe are of paramount importance in fully addressing the issue at hand. First of all, I wish to applaud the conference for eliminating the "double standard" provision, a dangerous precedent that would have placed a limit on attorneys' fees for publicly funded attorneys' but did not set the same limitations on attorneys' fees for privately funded attorneys. Such a provision would have seriously eroded the civil rights of the economically disadvantaged of this Nation. The conferees wisely recognized that it is a violation of rights to establish a standard for parents of handicapped children different from that of other individuals seeking similar relief. As the Disability Rights Education and Defense Fund stated in a letter to me:

> There can be no doubt that an attorneys fees provision for the EHA which reimburses prevailing parents for fees incurred in the administrative as well as judicial proceedings will be a critical tool for low-income parents seeking to secure Congress' guarantee of an appropriate education for their children. Without such a provision, they will continue to be powerless to challenge school-district decisions that are adverse to their children. A right without a remedy is no right at all.

By determining that fee awards shall be based on prevailing rates in the community, the conference has provided the low-income families of

this Nation with both the right, and the remedy, to ensure equal access to the educational system.

In addition, I was disheartened that the conference report itself does not explicitly contain an antiretaliation provision. This provision would guarantee that no adverse action is taken against any person as a result of their participation in a hearing, investigation, or related activity.

It would protect teachers and many others throughout the Nation who play a vital role in these proceedings. However, there is report language demonstrating that antiretaliation is clearly the intent of Congress and it is an important provision that I believe deserves special recognition.

And finally, I am pleased that this report contains a retroactivity provision. It is of paramount importance in insuring that actions and proceedings successfully resolved during the time between the Court's decision and enactment of this legislation will not arbitrarily be treated differently from those resolved either prior to the Supreme Court decision, or subsequent to this legislation. I commend my colleagues for including this retroactivity provision.

In sum, this conference agreement will ensure that parents of handicapped children are provided access to all avenues needed to ensure their children's right to a free and appropriate education. It will guarantee their civil rights and clarify the original intent of Public Law 94-142. As one of the original authors of Public Law 94-142 and one who has long championed the intent and purpose of this landmark law, I am proud to support this conference agreement today.

In closing, I would like to acknowledge Senator WEICKER, for his long standing leadership on this legislation. As author of S. 415, he demonstrated his commitment to this issue. In addition, I want to recognize the pivotal role of Senator HATCH during conference deliberations and his willingness to allow this legislation to move forward. And finally, I want to note the outstanding support and assistance we have received from many organizations since the outset of attorneys' fees legislation. Their contributions have been vital to the entire legislative process.

I want to insert into the RECORD parts of a letter I received from the consortium for citizens with development disabilities and publicly recognize the efforts of these organizations. I think they have perhaps summed up the need for this conference agreement best.

The delay in enacting this legislation continues to create undue hardships daily on parents and children. Two years is long enough to leave unprotected the rights of our Nation's most vulnerable population.

Mr. Speaker, I wish to include with my remarks a list of the organizations that have supported our efforts in producing this legislation. The list is as follows:

Alliance for Justice.
American Academy of Child Psychiatry.
American Association on Mental Deficiency.
American Association of University Affiliated Programs.
American Civil Liberties Union.
American Council of the Blind.
American Foundation of the Blind.
American Occupational Therapy Association.
American Physical Therapy Association.
ACLD, Inc. An Association for Children and Adults with Learning Disabilities.
Association for Retarded Citizens.
Center for Law and Education.
Center for Law and Social Policy.
Children's Defense Fund.
Closer Look/Parent's Campaign for Handicapped Children and Youth.
Disability Rights Center, Inc.
Disability Rights Education and Defense Fund.
Epilepsy Foundation of America.
Leadership Conference on Civil Rights.
Mental Health Law Project.
Mexican American Legal Defense and Educational Fund.
National Alliance for the Mentally Ill.
National Association of Development Disabilities Councils.
National Association of Protection & Advocacy Systems.
National Easter Seal Society.
National Head Injury Foundation.
National Mental Health Association.
National Recreation and Park Association.
National Society for Children and Adults with Autism.
Project on Equal Education Rights (PEER).
Spina Bifida Association of America.
The Association of Persons with Severe Handicaps.
United Cerebral Palsy Associations, Inc.

□ 1225

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement but I also rise to express my disappointment and concern regarding the outcome of this conference which may be productive. Those who know me, know that I am a staunch supporter of the programs that provide our handicapped children the opportunity and access to a free and appropriate education. I am also an advocate of eliminating the barriers that parents may face in trying to assure such an education for their children. One specific barrier is the availability of resources to pay for the services of an attorney. That is what this bill is all about. Should the ability to pay for the services of an attorney determine which students have a better chance of receiving appropriate services and placement because they can afford an attorney to represent them at the various stages of administrative appeal and litigation?

I think we would all agree that the answer to that question is a resounding "no." Clearly, when the participation of an attorney in the process is appropriate, the ability to pay for such services should not determine who gets adequate resolution of their appeals. I believe though, that in addition to providing for reasonable attorneys' fees when parents prevail in court, this conference agreement will encourage the intervention of attorneys at a much earlier stage in the negotiations process.

In 1975 I worked with other Members of this body to develop an adequate due process procedure in the original legislation which became Public Law 94-142. At the time there was significant debate and discussion regarding what such a process should involve. During those discussions it was made clear that the intent was to guarantee that the proceedings would remain as informal as possible prior to the court appeal. Inherent in this premise is the belief that the process would not develop into a prolonged adversarial confrontation between the parents and the schools. The overriding determining factor was that the parents and the schools could be brought together in an informal way to work out a sound agreement regarding the appropriate education program for the child. The work that we did in 1975 was done to assure that parents would not have to incur extensive expense, that the proceedings would remain as informal as possible, and that the procedural safeguards were clarified and strengthened so that the legal rights of the child and the parent would be protected. It was also clear that we attempted to provide a complete remedy to the parents and assure that if necessary, a court review was available.

The critical issue in attempting to resolve the differences between H.R. 1523 and S. 415, was not whether attorneys' fees for court cases in which the parents prevail should be compensated, but whether such fees should be paid for work done at the administrative hearing level. By providing for attorneys' fees at the administrative level, I am convinced that we will be reversing our original intent and interfering with a procedure that is working. Instead of informality and cooperation, the process will become formal and adversarial. The process will be working against those very people it was established to protect.

The agreements reached in this conference report may very well draw attorneys into the due process procedures earlier than is the norm now. This action lends itself to making the procedures more formal and more adversarial. Additionally, it removes the parents from direct interaction with the schools, reversing the original intent of the law. Whereas now, 56 percent of the school districts surveyed never use an attorney, or only

one when the parent does, it will become the norm to have an attorney present. Whereas now, school districts are uncomfortable having to go to court to resolve special education suits, going to court will become routine. The resolution of special education disputes will become further detached from those who care most about the child, the parents and the schools. Instead of focusing on the child, we will be focusing on the process. I know this was not the intent when we originally worked on this law, particularly on the development of the due process procedures. I cannot believe that it is now what any of us want either.

I believe that the statistics bear out the original intent of the law and support my conviction that the law has worked well. In the development of most individualized education programs for handicapped children, disagreements are resolved informally. In the 1983-84 school year, 1,462 hearings were held, with only 56 going to court. This means that only 1 out of every 3,000 of the almost 4 million handicapped students served under the law was involved in a first-level hearing, and only 1 out of every 64,800 was the subject of litigation.

I was hopeful that we could retain some meaningful oversight regarding the provision of fees at the administrative proceedings level. For that reason, I was supportive of a provision in the House bill which called for a sunset of the provisions which provided for fees at the administrative level. Unless, after extensive study, there was considerable doubt regarding fees at the administrative level. I am sure that there would have been little difficulty reaffirming our support for such payment. Because we have received such conflicting and diverse information from the field regarding not only the cost, but the effect on the overall process, of providing for fees at the administrative level, I felt that we needed time to carefully review the results of allowing fees at that level. Unfortunately, the sunset provision did not prevail.

Getting this bill to this stage has been a long and trying process. There are some of us who are concerned about the outcomes and are not entirely satisfied with its provisions. None of us disputes the intent of this legislation. We all want to see the decision in Smith versus Robinson overturned. Payment of the attorneys' fees for parents who prevail in special education litigation should be authorized. I believe though, we may have tipped the scales too far in that direction by what is contained in this conference report. With this conference report though, I believe that we have moved beyond reversing the decision in the Smith versus Robinson case.

Even with these reservations, the benefit of this legislation outweigh its limitations. All children have the right to a free and appropriate education. Parents have the right and responsibility to protect these rights. We must act to retain these rights. I hope that in a few years I will be able to come back to this body and report that my concerns regarding this legislation were unfounded.

I support the provisions of this conference report that address the issues raised by the Supreme Court case, Smith versus Robinson. I do not support the one provision which provides open ended authority to pay attorney's fees at the administrative level. Despite this reservation, I will vote for the conference report and I urge my colleagues to do the same.

Mr. WILLIAMS. Mr. Speaker, I want to express my appreciation, of course, to the chairman of the full committee, Congressman HAWKINS, as well as the ranking minority member of the full committee, the gentleman from Vermont [Mr. JEFFORDS], whose work on this legislation was very, very important to bringing us to this point, and also to the ranking member of our subcommittee, the gentleman from Texas [Mr. BARTLETT], who spent many, many hours with this legislation.

The Congress is doing what is right today, because with this legislation we establish equity for handicapped children and their parents, equity with all other groups fully protected under America's civil rights statutes, so this is important legislation. I encourage my colleagues in the House to support it.

Mr. HAWKINS. Mr. Speaker, I would like to thank as well as congratulate the distinguished Congressman from Montana, PAT WILLIAMS, for his leadership effort to improve the Handicapped Children's Protection Act. I would like to thank also the Members, staff and those others who have been involved in this process.

Mr. Speaker, I rise in strong support of the pending conference report on S. 415, the Handicapped Children's Protection Act. This vital legislation reverses a U.S. Supreme Court decision, Smith versus Robinson, which has had a devastating effect on the ability of parents of handicapped children to take full advantage of the legal remedies available to them and which have been enacted into law to protect their handicapped children's educational rights. The conference report concludes many weeks of dedicated work on the part of Members and their staffs, resulting in an impressive initiative designed to enhance the opportunities for equality in education for persons with disabilities.

In Smith versus Robinson, the Supreme Court ruled that all handicapped educational cases were to be handled exclusively under Public Law 94-142, the Education of the Handicapped Act, thus precluding parents from bringing special educational cases under section 504 of the Rehabilitation Act of 1973, and, as a consequence, from recovering attorneys' fees under section 505 of the same act. In accepting the pending conference report, Congress is specifically rejecting the reasoning of the Supreme Court in Smith versus Robinson.

When Congress passed Public Law 94-142, their clear intent was to enhance the existing laws governing the rights of disabled citizens, including the Rehabilitation Act. By limiting the availability of reasonable attorneys' fees to parents and/or legal guardians who prevail in civil actions, the Court greatly misinterpreted the intent of Congress when it passed Public Law 94-142. Endorsing the conference report before us today will allow Congress to clarify its views in this regard and to reaffirm its commitment to ensuring that all handicapped children have a right to a public education, as well as to the equal protection of and access to the laws protecting that right. Indeed, this conference report represents a victory in protecting the educational rights of all handicapped children regardless of their economic situation. I commend my colleagues on the conference committee for their efforts.

In conclusion, I would like to address several matters which, in my view, warrant some clarification: First, the statute only allows the award of attorneys' fees to prevailing parents, whether plaintiff or defendant in an action or proceeding. (Compare 42 U.S.C. sec. 1988)

Second, under this bill, there is language making the Supreme Court's ruling *Merek* v *Chesny*, 87 L. Ed. 2d 1 (1985) applicable to both court actions and administrative proceedings. Thus, under the legislation, a prevailing parent who rejects an offer as favorable as the final award is not entitled to fees for work done after the offer is made, consistent with rule 68 of the Federal Rules of Civil Procedure. This provision, of course, is intended simply to be a limitation on the collection of fees by parents in such situations and does not authorize courts to require the prevailing parents to pay the school districts' attorneys' fees.

Third, the conference agreement provides fees when a parent prevails in an action or proceeding. I would note that success in a preliminary injunction is a substantive rather than merely a procedural matter and, as such, would come within the definition of prevailing for purposes of determining the right to recover fees.

Finally, the award under this legislation is to be determined by reference to the rate prevailing in the community for the kind and quality of services furnished. In order to avoid excessive reimbursement, the conference report bars the addition of a bonus or multiplier to that prevailing rate. Such bonuses or multipliers are to be distinguished from the range of factors which properly go in to ascertaining the prevailing rate in the first place. See Hensley versus Eckerhart, 461 U.S. 424, 430 n.3 (1983); Blum versus Stenson, 465 U.S. 886, 898-900 (1984); id., at 902-904 (Brennan, J., concurring); Senate Report No. 94-1011, p. 6 (1976); House Report No. 94-1558, p. 8 (1976). As the Court in Blum and Hensley recognized, such factors as the novelty and difficulty of the issues, the special skills required, the unpopularity of the case, its contingency

nature, and the quality of the representation should normally already be taken into account by the Court in establishing the market rate generally prevailing in the community for similar representation. Further, the timing of payment—whether compensation is delayed or it is made on an ongoing, current basis—can affect the prevailing market rate, and taking it into account should not be treated as a bonus or multiplier.

Again, I commend Mr. WILLIAMS and the conference committee for their commitment, perseverance, and diligence and urge its adoption by the House.

Mr. JEFFORDS. Mr. Speaker, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATION ACT, 1987

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5175) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. COUGHLIN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1236

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5175, with Mr. COOPER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to the unanimous-consent agreement, the gentleman from California [Mr. DIXON] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I am pleased to bring to the House today the District of Columbia appropriation bill for fiscal year 1987.

Let me say at the outset, Mr. Chairman, that this bill has the written endorsement of the administration. In a letter dated July 15, Mr. Miller, Director of the Office of Management and Budget, states that the administration does not object to this bill. So I think it would be fair to say that this is a bipartisan bill.

Mr. Chairman. H.R. 5175 will provide a total of $2.9 billion in budget authority for the operation of the District of Columbia government during fiscal year 1987. This is $286 million above last year's level and consists of Federal funds of $541 million and local funds of $2.1 billion and long-term borrowings of $365 million to finance the city's construction program.

FEDERAL FUNDS

The Federal funds of $541 million we recommend in this bill consist of four items:

First, a Federal payment of $425 million, which is the same as last year's appropriation before the Gramm-Rudman sequestration, but $19.5 million below the budget request due to lack of authorizing legislation.

Second, our reimbursement to the District for water and sewer services furnished to Federal facilities totals $28.8 million and is $400,000 below last year's level.

Third, the Federal contributions to the police officers', firefighters', teachers', and judges' pension system is $52 million and reflects no change from the fiscal year 1986 appropriation.

Fourth, a Federal payment of $35 million for St. Elizabeths Hospital which is $11 million above last year's level as required by Public Law 98-621.

These four amounts total $541 million in Federal funds and reflect a net increase of $11 million above the fiscal 1986 Gramm-Rudman appropriation level, but $19.5 million below the President's budget.

We are also $20 million below our 302(b) allocation in terms of budget authority.

DISTRICT FUNDS

Mr. Chairman, the bill includes $2.9 billion in District funds of which $2.6 billion is for operating expenses and $365 million is for the city's construction program.

For those Members who are not familiar with the District's budget, I will take a moment and clarify what we mean when we refer to "District funds." This $2.6 billion operating budget is financed from two sources—

First, Federal funds of $541 million, and

Second, local revenues such as income taxes, property taxes, fines and fees of $2.1 billion collected by the city.

In other words, almost 80 percent of the city's operating budget is financed with its own revenues while the balance of 20 percent comes from the Federal payment and other Federal funds which we owe the District for such things as water and sewer services that the city provides to the Federal Government.

The construction program of $365 million will be financed in its entirety through long-term bonds, which the District has been able to issue since fiscal 1985 at interest rates lower than those it was paying when it had to borrow from the Federal Treasury.

BUDGET AMENDMENT

Mr. Chairman, the committee has not approved the language submitted in House Document 99-184 which designated $20 million of the $444.5 million Federal payment request as the amount appropriated in fiscal year 1986 for fiscal year 1987 costs of a new prison in the District.

Let me make it clear that the increase of $19.5 million in the Federal payment for fiscal year 1987, and the $20 million appropriated in fiscal year 1986 for prison construction are two separate and distinct matters. The increase of $19.5 million in the Federal payment is requested in the President's fiscal year 1987 budget but is not included in this bill. We have no quarrel with that request. In fact, I believe the increase is overdue since there was no increase in fiscal year 1986. The $20 million for prison construction was appropriated in fiscal year 1986 and became law in a bill signed by the President. We see no need to reappropriate that amount since the appropriation language states that it is to remain available until expended. The committee fully expects the $20 million appropriated in fiscal year 1986 to be made available to the District in accordance with the requirements set forth in the District of Columbia Appropriations Act for 1986 (H.R. 3067), as enacted by reference in section 101(c) of Public Law 99-190, signed by the President on December 19, 1985.

Mr. Chairman, before I get into the highlights of this budget, there are two issues I would like to address briefly. One deals with the District's

drinking age and the second has to do with the gypsy moth infestation problem.

DRINKING AGE

Mr. Chairman, the committee is deeply concerned that the District of Columbia has not raised its legal drinking age to 21 years. While the surrounding jurisdictions and 44 States have adopted 21 years as the minimum drinking age. The District's drinking age remains at 18, according to information received by the committee. The District remains the only jurisdiction in the United States that sells alcohol to 18-year-olds with the exception of Colorado where the more diluted 3.2-percent beer is sold.

If the District fails to adopt the 21-year drinking age, it stands to lose $2.5 million in Federal highway funds on October 1, 1986, and $5 million every year thereafter. However, it is not the dollars that are most important: it is the lives of both the young people who come to the District to drink and the innocent motorists of all ages who have the misfortune to encounter them on the area's highways and streets.

That is what we are concerned about.

We are pleased to note that just this past Tuesday, an advisory group to the Mayor recommended that he support raising the city's drinking age to 21. We agree, and we again call on the District to revisit this issue and act now to adopt a 21-year minimum drinking age.

GYPSY MOTH INFESTATION

I want to note here the serious effort made by the District to deal with the gypsy moth infestation problem that has affected hardwood trees in certain areas of the city and promises to get worse in the years ahead. It is apparent that a comprehensive public information program should be developed along with plans for regional spraying, including aerial spraying if necessary. In order for these efforts to be successful, cooperation is required by adjacent jurisdictions, including the National Park Service, and planning must begin now so that timely and effective action can be taken when the infestation reemerges next year. We have called on District officials, Mr. Chairman, to develop a comprehensive plan for gypsy moth eradication and control by January 31, 1987, for implementation at the appropriate time.

GOVERNMENTAL DIRECTION AND SUPPORT

The committee recommends a total of $108 million for the 23 departments and offices included in the governmental direction and support appropriation. The committee's recommendation reflects an increase of $11 million above last year's level and includes an increase of $720,000 and 13 research specialist positions for the District of Columbia Council, the city's legislative body.

For the D.C. Retirement Board, the bill includes $754,000 in District funds and $3,018,000 from investment income. The Board controls and manages the city's pension funds for police officers, firefighters, teachers, and judges. These funds totaled $833 million as of March 1986 and yielded 23.7 percent for the 6-months period that ended March 31, 1986.

ECONOMIC DEVELOPMENT AND REGULATION

The bill includes $129 million for the 14 agencies and items involved in economic development and regulation in the District. By far the largest percentage increase is for the Department of Housing and Community Development whose budget will total $40 million with an increase of $17 million over last year's level. Ten million dollars of this increase will be used to provide rental subsidies for eligible low-income and moderate-income residents while $3 million will be used to provide financial assistance to low-income residents for the purpose of enabling them to purchase houses in the District. An increase of $2 million is recommended for the new Urban Homesteading Program which will provide $10,000 for repair and renovations of tax delinquent properties sold to low- and moderate-income residents.

PUBLIC SAFETY AND JUSTICE

The committee recommends a total of $581 million, or an increase of $50 million for the city's various public safety activities. A total of $158 million is included for the Metropolitan Police Department. The committee has retained language carried in the bill for several years which requires the District to maintain an average strength of 3,880 uniformed officers for fiscal 1987. For the Fire Department, we recommend $68 million, an increase of $9 million above the fiscal 1986 appropriation level. We also recommend bill language requiring the D.C. Retirement Board to pay 23 former firefighters who retired between November 24, 1984 and March 28, 1985, a one-time lump sum bonus of 3 percent of their annuity by October 15, 1986. This payment results from an agreement entered into on March 27, 1985 between District officials and the collective bargaining unit for District firefighters.

Mr. Chairman, the committee continues to be concerned about fire protection in Ward 2, and once again directs that Engine Company No. 3 located at 439 New Jersey Avenue NW., remain open and fully staffed until the 91st day after the committee has approved the District's request to close or transfer the facility. We want to make it very clear that District officials should not assume that the city's request to close or transfer Engine Company No. 3 will be approved, and then based on that assumption move ahead to reduce the manning and phaseout the facility at its present location. Absolutely no action is to be taken which will lead to closing or transferring the facility until the 91st day after the request is approved by the committee. If the request is not approved, Engine Company No. 3 is to remain open and fully manned and staffed at its present location.

For the National Guard, we recommend $863,000. Our recommendation includes a one-time nonrecurring increase of $100,000 which will be matched with Federal funds for needed maintenance and upgrading in both troop and administrative areas at the D.C. Armory. The bill includes $609,000 for the citizens information and referral system designed to handle calls from citizens who do not require the emergency assistance of fire, police, or ambulance vehicles. District officials testified that the present 911 system receives over 1 million calls a year of which 450,000 are nonemergency calls that tie up the 911 system. This new system and the 911 system will work jointly to respond to all citizen requests for assistance.

Mr. Chairman, we once again call on the Mayor and council to approve legislation amending the D.C. Code to ensure appropriate liability coverage for judicial employees comparable to that provided for medical employees. We are hopeful that such legislation will be on the books prior to December 31, 1986, which is 18 months after the need for this legislation became evident.

DEPARTMENT OF CORRECTIONS

For the city's embattled Department of Corrections, we recommend the full budget request of $148 million which is an increase of $23 million or 18.7 percent above last year's level. Since fiscal 1976, the budget for this department has increased by 350 percent, from $42 million to $148 million recommended this year while the inmate population has almost doubled from 4,400 to 8,700. Mr. Chairman, the District's problems are a mirror of a national phenomenon, perhaps magnified by the District's unique territorial problems, high visibility and proximity to a local electorate. The District has the highest per capita incarceration rate in the country and there doesn't appear to be any easing of the situation in the immediate future. The overcrowding has resulted in court orders limiting the number of inmates housed in certain facilities. In last year's bill, the Congress provided $30 million for construction of a new prison within the city, and District officials are working with the Federal Government in a joint effort to resolve the overcrowding problems. The Mayor testified that drugs are driving the city's correctional system. He stated that PCP does not grow at 14th

and U Streets NW; it is being brought into the city and the enormous profits from drug sales are making the risks financially worthwhile to those involved in the drug trade.

But there is reason for hope. The Federal Government is becoming more involved in the war against drugs. Helicopters and pilots have been sent to assist Bolivian authorities in an effort to destroy the drugs at their source, and our military is participating more vigorously in drug interdiction activities with other Federal agencies.

Mr. Chairman, while the corrections situation is serious, it is under control, and we are recommending approval of every dollar and every position requested for the city's prison system.

We did some research on prison construction in the District and found that in 1972, a supplemental request was approved which provided $69.8 million to expand the capacity of the city's corrections system. For reasons that have not been shared with me, that expansion never took place. But we can't do anything about that now. We must move ahead, and that is what we are doing in this bill and that is what we did in last year's bill.

PUBLIC EDUCATION SYSTEM

We recommend a total of $541 million for the seven activities included under the public education system appropriation. This allowance is $37 million above last year's appropriation. For the Board of Education and the public school system, we recommend $394 million, which is $34 million more than the school system received last year and includes $8 million for roof replacements and various school safety and maintenance programs. Test scores are improving throughout the system, and for the first time in at least 20 years, the number of students in the District's public school system is expected to increase. School officials project the student population to total 88,128 for the 1986-87 school year, an increase of 1,036 students above the enrollment for 1985-86. There is no doubt in my mind that this dramatic turnaround—in higher test scores and an increased student population—is the direct result of the cooperation and leadership of the elected board and the superintendent whose first priority is the successful education of their students.

The committee fully supports the school system's early intervention dropout prevention pilot program funded with a special Federal paymen of $150,000 last year. We urge the Board to identify funds within the school's total fiscal year 1987 operating budget of $386 million to follow up and monitor the students involved in this program. I am still of the belief that many of our problems start with truancy and student dropouts, and the less truancy and fewer student dropouts there are, the less serious the problems should be in the future.

Mr. Chairman, we encourage the Board and superintendent to explore methods and options to address the serious problem of alcohol and drug use in the public school systems in the metropolitan area, and to consult with their counterparts in the surrounding jurisdictions as well as across the Nation.

For the Public Library, we recommend $16.6 million, an increase of $1.6 million above fiscal 1986. Included in our recommendation are increases to extend the hours of branch libraries which were reduced because of revenue problems a few years ago. We recommend $2.4 million for operating expenses and grants for the Commission on the Arts and Humanities. We also recommend to capital projects for the Commission to finance visual art in public places and to assist private efforts to provide space for arts and related groups in buildings involved in redevelopment or rehabilitation projects.

HUMAN SUPPORT SERVICES

The largest category of appropriations for the District is Human Support Services which totals $654.3 million and reflects an increase of $51.1 million above the fiscal 1986 level. These are the "People" programs which provide social, economic, and health support and other services for those in need including the elderly.

The largest of the 11 items under this appropriation is the Department of Human Services with a budget of $541.2 million for fiscal 1987, which is $38.7 million above the fiscal 1986 level. Included in our recommendation for the Department are $15.4 million for child day-care services and $1.7 million for increased efforts to reduce the spread of AIDS and improve services to victims of this fatal disease.

For Aid to Families with Dependent Children, we recommend $44.1 millon of which $4.3 million will be used to provide emergency assistance to families and individuals faced with a temporary crisis. We recommend $23.6 million for the city's alcohol and drug abuse programs including an increase of $1.5 million for the operation of two comprehensive clinics and one additional clinic to be opened in fiscal year 1987.

For the Medicaid and Medical Charities Program, we recommend $154.9 million of which $37.3 million is for skilled and intermediate nursing services and $1.5 million is for intensive rehabilitative care of accident victims at the new National Rehabilitation Hospital.

We recommend $10.4 million for the Office on Aging. This includes an increase of $675,000 to cover the operating expenses for two new senior citizen centers as well as expanding the service now being provided in existing centers.

PUBLIC WORKS

Mr. Chairman, the bill includes $205 million for the four activities in the public works appropriation title. This is $11.8 million above last year's appropriations. For the Department of Public Works, the bill includes $102 million or an increase of $9.7 million for fiscal 1987. Included in this increase is $1.5 million for improved street and sidewalk cleaning throughout the city and $848,000 for sidewalk maintenace. We also recommend the full budget request of $98.5 million for the District's share of operating expenses and debt service for Metrorail and Metrobus operations in fiscal year 1987.

WASHINGTON CONVENTION CENTER FUND

We recommend $6.3 million as the fiscal 1987 general fund contribution to the Washington Convention Center. In testimony before the committee, officials stated that delegates attending events at the center are expected to spend $152 million during fiscal year 1987 with a direct tax impact on the general fund of more than $12.3 million.

REPAYMENT OF GENERAL FUND DEFICIT

Mr. Chairman, the committee recommends that $20 million be set aside in fiscal year 1987 to reduce the District's accumulated general fund deficit which totaled $245 million as of last September. This deficit has been reduced by $142.5 million from its peak of $387.5 million in 1980 and will be reduced by almost one-half at the end of fiscal 1987. We have also included language in the bill prohibiting the District from taking a disproportionate cut from this account should a reduction be made in the Federal payment because of the Gramm-Rudman Act. As I mentioned in my statement last year, the committee plans to recommend a standard reduction of $20 million each year to be used exclusively to reduce the deficit. The setting aside of these funds each year benefits the District in several ways, not the least of which is the positive attitude it generates in the financial community which translates into easier access for the city to the cash and bond markets.

CAPITAL OUTLAY

A total of $365.4 million is recommended for 119 projects for the District's construction program in fiscal year 1987. These projects will be financed with long-term borrowings on the commercial bond market. We recommend $240 million for "Public Building Construction," including $47.2 million for various projects such as architectural barrier removal, asbestos testing and removal, and rehabilitation of public housing projects by the Department of Housing and Com-

munity Development, and $6.5 million for permanent improvements and fire apparatus replacement for the fire department. Seventy million dollars is included for several projects such as roof replacements, asbestos abatement and safety, and building improvements in the public school system.

For the Department of Human Services, we recommend $29.7 million for nursing home renovations, handicapped code compliance, and general improvements at St. Elizabeths Hospital. A total of $45.5 million is recommended for 15 highway and bridge projects and $54.8 million is in the bill for various water and sewer projects including $38.4 million to expand the Blue Plains Wastewater Treatment Plant to meet the region's planned needs until the year 2010. This is the largest wastewater treatment plant in the country.

Mr. Chairman, the committee continues to be concerned about the inordinate delay in repairing and resurfacing the Southeast-Southwest Freeway. Part of the District's share of construction funds was appropriated as far back as 1980, and here we are in 1986 still waiting for construction to start. The committee has been advised that sections of the freeway have been designed at least three times because of Federal Highway Administration requirements. Mr. Chairman, that roadway is in deplorable condition with chunks of concrete falling onto vehicles parked in lots under the bridges. It seems that 7 years is long enough for design work and it is time that District and Federal Highway officials get on with the construction work.

PAY-AS-YOU-GO-CAPITAL PROJECTS

The committee notes that District officials are financing "maintenance" projects with current operating revenues and using long-term borrowings to fund true "capital" projects. The use of current operating revenues to finance maintenance projects unquestionably benefits District taxpayers since it eliminates debt service costs which could run 15 to 30 years while the life of the maintenance project in many cases is much less. We feel this approach by District officials is sound and should be continued.

ENTERPRISE FUNDS

The committee recommends $183 million for the four activities funded with enterprise funds. A total of $160.6 million is included for the Utility Administration of the Department of Public Works. This allowance is $19.6 million above last year's appropriation and includes increases of $4.6 million for sludge disposal operations and $2.7 million to replace transformers that are either filled with PCB or contaminated with PCB materials. We recommend the budget request of $5.5 million for the Lottery and Charitable Games Control Board which is responsible for regulating charitable games and conducting legalized lotteries in the District. This allowance is $1.3 million above last year's level and includes increases for office space, equipment rental, temporary positions, and energy costs. The Board expects to transfer $47.6 million in surplus funds to the District's general fund during fiscal year 1987.

The committee recommends $250,000 for the Office of Cable Television. The same level as was appropriated last year. Actual construction of the District's cable system began on May 22, 1986, with first service to 10,000 homes scheduled for September 1986. All homes are scheduled to have cable service available within 5 years.

GENERAL PROVISIONS

Mr. Chairman, there are a number of general provisions on pages 18 through 27 of the bill. However, there are only two major changes which I would like to explain to the Members.

Language under section 129 amends language in last year's bill which exempted Members of Congress from personal property taxes on owned vehicles unless the Member represents the State or district levying the tax. The amendment recommended by the committee would also exempt leased vehicles since some Members lease rather than own their vehicles. The amendment also clarifies the definition of personal property taxes. Several Members have talked with me about this issue which, in my view, is similar to the income tax exemption provided for Members under Public Law 95-97, approved July 19, 1977, which was held constitutional in United States versus Maryland.

The second item involves language carried in the bill for a number of years which prohibited installation of meters in taxicabs and mandated a system of uniform zones. We recommend that this language, which was section 106 of last year's bill, be deleted. The District has established a new Taxicab Commission which will have exclusive authority for intrastate regulation of taxicabs, taxicab companies, and taxicab associations. In our report, we direct the Taxicab Commission to study the taximeter issue as well as the present uniform zone system and other systems and to report to the committee 90 days prior to taking action which will result in changing the present system.

Mr. Chairman, I want to take this opportunity to thank the Members who serve on our subcommittee. We all share the same basic philosophy regarding home rule and the Federal interest in the District of Columbia.

The gentleman from Kentucky [Mr. NATCHER] who has been a member of this subcommittee for over 31 years and served as chairman for 17 years; the gentleman from Ohio [Mr. STOKES], the gentleman from Texas [Mr. WILSON], the gentleman from Minnesota [Mr. SABO], the gentleman from Maryland [Mr. HOYER], the gentleman from New York [Mr. GREEN], and the gentleman from Virginia [Mr. WOLF].

I would like to say a word about the gentleman from Pennsylvania [Mr. COUGHLIN], who serves as the ranking Republican on our subcommittee. Not only is he ranking on our subcommittee, but he serves as the ranking member on a second subcommittee and also serves on a third subcommittee. With all of those demands on his time, he is always available. And his leadership in dealing with the District's complicated budget is one of the main reasons we are able to bring to you today a bipartisan bill. He is certainly a Member who makes the difference.

CONCLUSION

Mr. Chairman, let me conclude by saying that the committee has made only two very minor changes in the District's budget as far as amounts are concerned. We recognize that there are problems and we have called attention to those areas we feel need to be addressed by District officials. The District is reatively new to self-govenment and, in my judgment, is doing quite well overall.

The bill we bring to you today is a good bill.

It is below the budget request by $19.5 million.

It is below the section 302(b) allocation by $20 million in budget authority.

It is a balanced budget with revenues equal to budget authority.

It is 80 percent funded with local revenues.

Mr. Chairman, I recommend that it be approved.

□ 1240

Mr. MYERS of Indiana. Mr. Chairman, the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking Republican member, is on his way here right now. It has been a number of years since I have served on this subcommittee, but for the time being I will fill in, in that capacity.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will present an amendment when we are in that stage of the program, and that amendment will lop off a few million dollars from the Federal payment.

I would like it understood, however, that my amendment does not affect District of Columbia funds at all. Neither does it affect the water and sewer services, Federal contributions to pensions, St. Elizabeths Hospital, et

cetera. These are agreements that this Congress has made with the District.

The District's home rule should not be disturbed. Neither should the agreements that we have had with them on these matters.

However, I do believe that the Federal payment should be reduced, for the single reason that I have believed that we should hold all of our appropriations to a BA freeze compared with last year. If you will look on page 3, you will find that the Federal payment in fiscal year 1986 postsequester was about $412.4 million. The payment as included in this bill is about $425 million, and I am reducing the total amount by $10 million, so that the total Federal funds on BA will be equal to last year.

I think that this amendment represents a very modest, but important amendment. It is about 2 percent of the Federal payment. A freeze is in order. The District of Columbia, just like every other item on our expenditure list, ought to be able to make some modest sacrifice.

For that reason I shall offer the amendment, and I hope that the committee will accept it.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the distinguished delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I rise to urge respect and support for the integrity of the D.C. Home Rule Act.

When Mr. DANNEMEYER seeks to offer an amendment to the D.C. appropriations bill aimed at prohibiting the use of Federal funds to implement a bill passed by the D.C. Council, I urge my colleagues not to support his effort. In order to offer his amendment, Congressman DANNEMEYER must gain sufficient support to defeat the motion to rise after full consideration and just before final passage of the D.C. appropriations bill.

The bill at issue, D.C. Council Act 6-170, is a measure which seeks to prohibit discrimination in the provision of insurance in the District of Columbia. Because it is directed at forced testing for AIDS, the measure has sparked some controversy. Each of us may have personal views on this subject, however, we should not seek to substitute our personal views on this purely local issue for the well considered views of the local government. This is particularly important in light of the deliberative process which led to enactment of D.C. Council Act 6-170.

In 1973, we passed the D.C. Home Rule Act, delegating legislative power over local matters in the District of Columbia to a government of the people, by the people and for the people. Pursuant to the powers given to that government, the legislation which is the target of the DANNEMEYER amendment was introduced in November 1985.

The bill was referred to the D.C. Council's Committee on Consumer and Regulatory Affairs. Prior to its hearing on the bill, that committee published notice of the hearing in the D.C. Register, placed notice on the council calendar, mailed notices to the 350 advisory neighborhood commissions and to 50 other organizations. In addition, the legislation enjoyed wide media coverage.

The committee gave all who wanted to testify an opportunity to do so. Testimony was received from 24 witnesses. No one was denied an opportunity to be heard.

The committee and the full D.C. Council subsequently passed the bill, and the Mayor signed and approved it, whereupon it became an act and was transmitted to the Congress. Thereafter, the D.C. committee's Subcommittee on Fiscal Affairs and Health considered and rejected a resolution by Mr. DANNEMEYER to disapprove D.C. Council Act 6-170.

Mr. Speaker, the height of contradiction in Mr. DANNEMEYER's proposed amendment lies in the fact that his State of California, like several other States, has passed a bill similar to D.C. Council Act 6-170.

California assembly bill No. 403, approved on April 3, 1985, at section 199.21(F), contains the following provision:

> The results of a blood test to detect antibodies to the probable casusative agent of acquired immune deficiency syndrome shall not be used in any instance for the determination of insurability or suitability for employment.

Thus, the California law goes further than the D.C. act in that it covers not only insurance but employment as well.

The question then is why single out the District of Columbia? The answer is that we should not.

The real test of democracy is to accept that there are times when ideas and policies about which we might personally differ, will prevail. Autocracy is the greatest threat to democracy. Lincoln said it best when he stated, "As I would not be a slave, so I would not be a master."

I urge you to stand for democracy and oppose the Dannemeyer amendment by supporting the motion to rise at the close of full consideration of the D.C. appropriations bill.

Mr. MYERS of Indiana. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from Indiana for yielding time to me.

Mr. Chairman, I take this time to describe an amendment or a couple of amendments that I will have before the House on this bill that deal with the issue that was raised on the House floor the other day, namely the war on drugs.

□ 1250

It is important, I think, as we approach this bill, to realize that a matter of national consequence for this Congress as we deal with the District of Columbia appropriations bill is to assure that the war on drugs is being fought in our Nation's Capital.

That can only be done by giving the D.C. Police Department the resources that they need to fight that war on drugs.

Therefore, it will be my intention to offer an amendment that would add $1 million to the appropriation for the D.C. Police Department in order to conduct more of a war against drugs. In order to get that money and still live within our obligations around here to keep within the budget, I have also put together an amendment that will take that $1 million out of the Commission on Arts and Humanities. The Commission on Arts and Humanities in the bill is one of those priorities that is, indeed, important to some people, but I think we need to weigh that priority.

True, my amendment will cut that Commission's money by about 40 percent. However, put that against the fact that arrests for cocaine in the city are up 1,284 percent in the last 4 years.

Put that against the figure that PCP arrests in the District over a 4-year period are up 1,861 percent.

We have a major drug problem in Washington, DC. We need to conduct a major drug war in Washington, DC. We need to have the resources committed to the Police Department of the District of Columbia to conduct that war.

My amendments, taken together, will redefine the priorities. The idea behind my amendments is to restructure priorities, to take money out of the Arts and Humanities Commission in a way that we put it over into fighting the drug war in Washington, DC.

I would hope that the Members of the House will support this amendment.

Our Speaker, just yesterday, declared that we need to wage an all-out war on drugs, a bipartisan war on drugs. The gentleman said it, I think, very well, that it is something which is a matter of great national consequence.

I would say that if we do not have the money resources available to conduct that war once we have put new authorizations into place, it will be a nonwar. In this appropriations cycle, we have to designate the resources necessary to carry out the war on drugs.

My amendments are designed to do that. I would urge support at the appropriate time.

Mr. DIXON. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from California [Mr. DIXON] has 20 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are really seeing Government at work. The gentleman from Pennsylvania [Mr. WALKER] indicates the reason why the gentleman raises this issue.

The implication is that there is someone in this Chamber or someone in Washington, DC, who is not fighting the war against drugs. Certainly, the gentleman has a right to offer this amendment.

I would point out to this body that the gentleman is not a member of the Committee on Appropriations; the gentleman is not a member of the Subcommittee on District of Columbia Appropriations. To my knowledge, the gentleman has no functioning operational knowledge of the Washington Police Department. He probably could not tell me two drug programs that are being run by the school district or the police department.

The gentleman is against drugs, and I am against drugs, and everyone is against drugs.

The police department has $158 million. It is up about $10 million over last year. What is the gentleman's solution to fighting drugs in the District of Columbia? It is very cosmetic.

I will demonstrate to you that I am fighting drugs by taking $1 million, a piddling amount, out of one account and transferring it to another account. Then everybody will know that I am fighting drugs. The police department testified before our committee. They did not ask for additional money over and above the $10 million in their budget. And we granted it.

From time to time, the police department has come to us and asked for an increase in their confidential funds, and we have increased that amount.

The law enforcement segment of enforcing drugs involves two things: manpower and operational moneys to perform clandestine activities. I feel secure that the police department has enough money to do this.

Where does the gentleman take the money from? The arts and the humanities, under the educational appropriation title.

No one has the perfect solution as to how we can fight drugs but the gentleman from Pennsylvania [Mr. WALKER], suggests that we take money out of educational programs and transfer that money to the police department. But there are other ways to fight drugs.

A sum of $2.4 million spread across the District for arts is another way of diverting people into constructive activities, let alone other people in this District that deserve funding.

So to stand on the House floor and say, "I am fighting drugs in the District by taking $1 million from the arts and humanities and transferring it to the police department," when we have already increased the police department by $10 million, is not the way to go about it if you want to be effective. If there is a manpower problem, the city and police department can come back for a supplemental. But taking $1 million from the education appropriation and adding it to the police department is not fighting drugs, but rather, as the gentleman said, "raising the issue."

Mr. COUGHLIN. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. COUGHLIN] has 25 minutes remaining.

Mr. COUGHLIN. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. Mr. Chairman, I rise reluctantly to make an opposing statement to the appropriations for the District of Columbia.

The chairman of this committee has done a very responsible and outstanding job in chairing the committee, as well as my colleague and friend, the gentleman from Pennsylvania, ranking member on the committee, and the other members of the committee have done a great job on this committee for a long while, as well as the staff members.

But my reason for rising today principally is to voice my opposition to statehood for the District of Columbia. I do not question the people's right for their position on statehood, but I feel that there should be a position on the opposite side indicating why I, at least, do not agree with that.

The bill includes an appropriation of $100,000 from D.C. funds for statehood activities, specifically $50,000 for the D.C. Statehood Commission and $50,000 for the Statehood Compact Commission. In committee, I offered an amendment, which was subsequently adopted, to ensure that this $100,000 comes from locally generated revenues and not Federal sources. Despite the passage of my amendment in the committee, I still believe the $100,000 allowed under the bill for statehood activities is unwise, but that is my opinion because I disagree with statehood for the District.

In drafting the Constitution, our Founding Fathers, in article I, section 8, gave Congress the power "to exercise exclusive legislation in all cases whatsoever, over such district * * * as may * * * become the seat of the Government of the United States." They, of course, did not intend that the District become a State. The intent of our Founding Fathers in the Constitution is very, very clear.

While the District enjoys substantial home rule prerogatives, the Congress still retains the ultimate responsibility for this appropriation and we ought to exercise those responsibilities. If statehood is appropriate for the District of Columbia, a city of some 630,000 people, then it should be appropriate for other cities, including my city, which is the ninth largest city in the country, the city of Phoenix, AZ.

If the District is serious about statehood, we ought to drastically reduce the Federal payment in this bill. If no drastic reduction is made, we ought to retain the control that our Founding Fathers intended.

Mr. Chairman, for this reason, I oppose the bill and I am pleased that the gentleman yielded so that I could voice my opposition.

□ 1300

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I want to thank the chairman and the ranking member for having language in this bill which puts the committee, once this bill is passed, puts the Congress on record in supporting that the drinking age in the District of Columbia will be raised from 18 to 21.

Just to make a brief point:

> The committee remains deeply concerned that the District of Columbia has not raised its legal drinking age to 21 years, and, in fact, remains the only jurisdiction on the east coast not to act to protect its young people. * * *

It ends by saying:

> If the District fails to adopt 21 as its minimum drinking age, it will have approximately $2,500,000 in Federal highway funds withheld on October 1, 1986, and $5,000,000 on October 1, 1987, and every year thereafter.

So it is important that they know that if they do not raise their drinking age, and they are treated as any other State, as the States that have not raised their drinking age, they also will lose that much money.

It goes on to say:

> There is no question that the loss of these funds will have a major detrimental effect on the District's highway project. However, failure to address this issue expeditiously will jeopardize much more than millions of dollars in highway funds. It will put at serious risk the lives of both the young people who come to the District to drink and innocent motorists of all ages who have the misfortune to encounter them on regional highways and streets. The Committee once again calls on the District to act now to adopt a 21-year minimum drinking age.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman.

Mr. DIXON. Mr. Chairman, I join the gentleman in his statement, and I think that we are both pleased to see that the Mayor, by utterances in

today's paper, that he has joined in supporting the 21-year-old drinking age.

I think in a metropolitan area that involves two States and the District, that certainly there should be uniformity as it relates to drinking, and I commend you for pursuing this report language.

Mr. WOLF. I thank the chairman and the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I must say that I was somewhat astounded a few minutes ago by the chairman's remarks here on the floor, and his unwillingness to yield to me to discuss the matters that he was bringing up.

I thought I——

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Yes, sure, I will be glad to yield to the gentleman.

Mr. DIXON. Mr. Walker, the only reason I did not yield to you was because there was plenty of time on your side. If you wish to engage me in a dialog, I would appreciate doing it on your time rather than on my time.

Mr. WALKER. No; the chairman was up discussing remarks that I had just made and did not do me the courtesy of even yielding to me as I have just yielded to him; and that somwhat astounds me, I must say.

I have to say about the amendment, I thought it would be a somewhat noncontroversial amendment; and it seems to me I do have the right to offer the amendment, despite the fact I am not on your committee, and not on the District of Columbia committee.

I am, however, a resident of the city and a taxpayer in the city, and I know we have got a drug problem here. It seems to me that offering such an amendment——

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. DIXON. Does the gentleman think that a million dollars transferred from educational programs to the police department on top of a $10 million increase that we have already approved is going to correct the drug problem?

Mr. WALKER. I do not think it is enough, I will say to the gentleman, but let us talk about your $10 million increase. The gentleman says in his report what the $10 million increase is for, and not a penny of it is for drugs.

The report says it is for pay adjustments, position upgrades, new positions, 911 service upgrades, telephone costs, clothing, equipment, and replacement vehicles. That is what the report says that the money is for; none of that is for drug enforcement.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman; do him the courtesy he would not do me.

Mr. DIXON. Mr. Chairman, those costs are for police officers. I assume that the transfer of a million dollars is for police officers; for surveillance and investigation. So you must support the $10 million increase, and certainly a million dollars more is not going to improve the enforcement situation here at all.

Mr. WALKER. Let me say to the gentleman that at least it is something. It is not enough, but it is something. It moves in the right direction.

Maybe what I should have done is taken all the money out of one program, but I decided not to do that. I decided to do something which was possible: Cut 40 percent out of one program so that in fact we could do something.

The gentleman came out here and said, a million dollars is a pittance, and so therefore evidently we should do nothing. Well, if the gentleman thinks that funding craft groups and funding theatre groups and so on is more important a way of fighting drugs than law enforcement, well, then, that can be your opinion.

My opinion is that taking a million dollars out of those programs will in fact help a little bit. It will not go all the way, but it will help a little bit.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. DIXON. Mr. Chairman, the gentleman from Pennsylvania is not trying to suggest that the District is not doing anything in the war against drugs, is he?

Mr. WALKER. No; all this gentleman is suggesting is that they ought to do more, and that what we have done is not enough and that I am trying to provide a little bit of additional resources for the District of Columbia to do some law enforcement activities toward fighting drugs. That is all this gentleman is trying to do.

I cannot imagine that is controversial. I cannot imagine anybody thinks that we do not have a problem.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I appreciate the chairman yielding to me. I would like to say to my distinguished colleague from Pennsylvania [Mr. WALKER], if I might have the gentleman's attention.

I can appreciate the general thrust of the gentleman's amendment. Obviously, fighting drugs at this time is more than a laudible exercise. It has become now a great imperative. Our children are dying on the streets of America and we all understand that.

I would like to take a little different tack with the gentleman. Clearly in the context of the drug problem, you have the sellers and you have the buyers; and on the supply side of this issue, of the seller's side, we have enormous and elaborate efforts to enforce the law, we have hundreds of laws on the books.

What I am more concerned about, and perhaps this is my social work background, in working with young people all my life, is that on the side of the equation that speaks to the buyer, our kids, the children; we have to have programs that allow us to compete for the attention of our children. These are the people who are purchasing the drugs.

If on the social side of that equation we are stripping ourselves of the capacity to compete for the attention of the children. When you and I were children, when we were not old and wrinkled and gray as we are at this moment—when we were vigorous—and thinning hair.

Mr. WALKER. Me, not you.

Mr. DELLUMS. No, I have got a hole, too; there is a hole in my Afro as well.

Mr. Chairman, I say to my colleague that we lived in a different environment, and there were numerous programs designed to compete for our attention: sports and recreation and education and arts and humanities and music and culture.

At this particular moment, as we argue these programs in the context of Gramm-Rudman, we are dehumanizing the debate, I would say to my colleague; that we are forgetting that we have to continue to fund programs that allow us to compete for the attention of the children.

Against that backdrop, I make the specific statement in opposition to your amendment. It is not that I will oppose your amendment because I do not believe that challenging drugs is not a noble and moral imperative and a laudible action at this moment; but it seems to me that it flies in the face of the reality that we have to continue to place funds at the disposal of our children; we must compete for their attention.

It is not simply a law enforcement issue. It is also an issue of competing for their time. If you dry up the funds for education, if you dry up the funds for sports and for recreation and for arts and humanities, then where are we? Where is the competition? There is nothing between the drug dealer and the young people who are the potential buyers of the drug.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DIXON. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I will conclude my statement and then yield to my distinguished colleague.

We have to place something else into that equation. Arts and humanities is not some frivolous program. We do not live by work and sleep and food; we also live by programs that challenge our imagination, challenge our spirit and challenge our creativity.

We are not interested in creating a generation of dreams in our society. What we have to talk about is expanding their capability as human beings; and therein lies the ill-conceived nature of the gentleman's amendment. You place one laudible idea against the backdrop of another laudible idea; and these two ideas should not be in competition; they should not operate in lieu of each other, they should go forward together.

We have to deal with the law enforcement side of this terrible important issue, but we also must fund programs that allow us to compete for the attention and the time and the energy of the most precious resource that we have in this country, and that is our children.

I yield to my colleague from Pennsylvania.

□ 1310

Mr. WALKER. I thank the gentleman for yielding.

The point is that we have a job around here to set priorities. We heard when Gramm-Rudman was thrown out by the Court the other day one of the things this Congress had to do was set priorities. The other day we asked to put money into the drug fight and put that against economic pork barrel. And this House turned down putting money toward drugs and decided that economic pork barrel was more important than the drug war.

Today I will say to my colleague that we are asking for a cut in those funds, not an elimination of the funds but a cut in the funds for the Commission on Arts and Humanities in order to define another priority in the war against drugs in the law enforcement vein. That is a priority determination I think Congress has to make. I understand the point of the gentleman. That is his determination of priorities.

My feeling is that some of the other Members may decide that it is more important to have the law enforcement action against drugs than it is to have the extra money for the arts and humanities. And I thank the gentleman for yielding.

Mr. DELLUMS. I wanted to yield to allow my colleague a chance to respond.

Let me simply respond by saying to my colleague, priorities do not operate in the abstract. What can be more important priority than our children? It is not simply giving funds for law enforcement, but it is giving funds to challenge our children to their highest and their best. Our children should have the right to flower, the right to function, the right to grow and to realize their fullest potential as human beings. You do not do that by taking away educational resources, cultural resources from them.

The term "priorities" is not an abstraction. It comes down to the reality of human beings. What more precious human beings can there be than our children?

Finally, the gentleman from Pennsylvania used the term "pork barrel." We all know that there is a number of "pork barrel" programs that float around the Congress of the United States. But I would suggest that arts and humanities is directed at the next generation and is not pork barrel, it is an investment in our future, and the greatest investment we can make in our future is an investment in our children.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I did not use the term "pork barrel" with respect to the arts and humanities, I used it with respect to the Economic Development Administration the other day; that was pork barrel.

Mr. DELLUMS. I thank the gentleman for his response. I thank the chairman of the subcommittee for his generosity.

Mr. DIXON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from California for his cogent comments.

The inference—and the reason I will oppose this amendment at the appropriate time—conveyed by offering this amendment to increase the police department's budget by $1 million is that the District of Columbia and its police department, one, are not fighting drugs and, two, do not feel they have adequate money to effectively fight drugs.

It seems to me that the inference, if it is to be inferred, is entirely wrong. They have a confidential fund for certain operations. We have increased their budget and their manpower. They have the opportunity, if it is a manpower problem or a budget problem, to come back for a supplemental.

So the suggestion here is that we are doing something to fight drugs by transferring $1 million to the police department, $1 million that they have not asked for, $1 million that there has been no plan drawn up as to how to spend and $1 million that is being taken away, as Congressman DELLUMS states, from another substantial program that also fights drugs.

Mr. Chairman, I do not subscribe to that suggestion and want to say that this amendment is purely cosmetic and not based on any sound planning.

Mr. COUGHLIN. Mr. Chairman, I yield 3½ minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman.

I wonder if I might ask my colleague from Pennsylvania, Mr. WALKER, a couple of questions.

The arts and humanities that are funded in this bill, how much money goes toward that?

Mr. WALKER. The amount of money designated in the bill for arts and humanities is $2.368 million.

Mr. HYDE. Does the gentleman have any evidence or information that that money is maladministered? Does the gentleman have any quarrel with the way those funds in the present budget that are funding these programs, does the gentleman have any quarrel with the way they are administered?

Mr. WALKER. I do not have specific quarrel with it except I understand the Mayor has had some concerns with the ways, some of the ways that that money has been spent.

Mr. HYDE. The reason of the gentleman for wishing to deduct money from arts and humanities and applying it to drug enforcement is simply a matter of priorities? The gentleman feels that drug enforcement ought to supersede in terms of dollar impact the arts and humanities?

Mr. WALKER. The gentleman is absolutely correct. It is my hope of getting additional money, resources into the law enforcement exercise so that we have additional help for drug enforcement in the city of Washington.

Mr. HYDE. And the gentleman's view was that arts and humanities was the most—or the least meritorious of all the programs funded by this appropriation, is that correct?

Mr. WALKER. If the gentleman would yield further, I looked under the public education system and a number of other places in the bill, and it seemed to me that we did not want to cut some of the human support services and some of the public works. We did not want to go after specific programs of education in the schools, and the one place that we did have where we could find some money was in arts and humanities. And there I will say to the gentleman it is a 40-percent cut, but it is certainly a cut which is somewhat similar to other cuts that we have made in nonpriority programs.

Mr. HYDE. I just want to say to the gentleman that I am sympathetic to what the gentleman seeks to do. I have a problem with governmental funding of arts and humanities in that it is necessarily elitist, where certain groups get the money and certain

groups do not because the money is limited. On the other hand, arts and humanities, as the gentleman from California [Mr. DELLUMS] said, are a civilizing, humanizing force. They are really a part of education, and it just seems to me that one of the vices of Gramm-Rudman, which I voted against, is to make these mechanical arbitrary limitations.

If drug enforcement needs more money, we ought to have the money, and we ought to have the ability to appropriate this money, but I just hate to see something that the gentleman has not told me is being maladministered, and that I think is a plus for any society, if it is even-handedly done, and I am not totally sold that it can be.

Mr. WALKER. That is the reason why we made the determination not to cut out the program completely. We could have cut out $2.3 million for drug enforcement, but we decided to keep some money for the program because it probably can be put to good use. But I think the gentleman will agree that we have a major drug problem in Washington, DC.

Mr. HYDE. Which we should address, if I may say, on its own terms and not perhaps subtract from a program that may have an antidrug impact on society.

Mr. WALKER. The gentleman is absolutely correct. But the gentleman also knows that we then run into problems with the deficit.

Mr. HYDE. That is true. I thank the gentleman for yielding.

Mr. DIXON. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the chairman very much.

Mr. Chairman, I just wanted to say, Mr. HYDE, it is fantastic to hear the Hyde-Dellums coalition on this amendment. We have come to it perhaps by different routes, but we got there just the same.

I thank the gentleman.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the Delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. I thank the chairman for yielding.

Mr. Chairman, I too am just as pleased as I can be to associate myself with the remarks of the gentleman from Illinois [Mr. HYDE] on this question.

I really want to emphasize a point raised by the chairman of the subcommittee, the gentleman from California [Mr. DIXON]. And in doing so, I ask that the House not take this amendment that is being offered by Mr. WALKER seriously.

I have the same question the chairman has: By what authority does he offer this amendment? He says he lives in the District of Columbia. I too, live in the District of Columbia.

I, like the Major and the members of the City Council, have been elected by the people of the District of Columbia to assess with them their priorities. The fact is that the Mayor, the City Council, through exhaustive hearings, consulted with the citizens of the District of Columbia and agreed on some priorities.

The City Council then submitted the budget to the Mayor. The Mayor looked at those priorities, agreed with them, made some adjustments and sent them over to our Appropriations Committee.

The Appropriations Committee, on which the gentleman [Mr. WALKER] does not sit, thoroughly assessed the priorities and concluded that $10 million ought to be added to the capability of our law enforcement officials to enforce the law, including the war on drugs, and concluded that a paltry amount of $2.6 million ought to be committed to the priority of fine arts.

This gentleman would have us strike 40 percent of that, $1 million of it. Why? On the basis of his membership on the Appropriations Committee, and his study of the issue? No.

On the basis of his having heard from the citizens of the District of Columbia? No. On the basis, and I agree with the chairman of the subcommittee, on the basis of a simple effort to posture himself as being against sin and for motherhood. We are all against sin and for motherhood; we are all opposed to traffic in drugs here and around the country. I hope that the House will just dismiss this ploy on the part of the gentleman from Pennsylvania and not treat this amendment seriously.

The CHAIRMAN. The gentleman has consumed 2 minutes.

Mr. COUGHLIN. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Pennsylvania has 13½ minutes remaining.

Mr. COUGHLIN. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5175, the fiscal year 1987 District of Columbia appropriations bill. Article I, section 8, of the U.S. Constitution gives Congress power "to exercise exclusive legislation in all cases whatsoever, over such District * * * as may * * * become the seat of the Government of the United States * * *" Although Congress delegated broad home rule powers to the District of Columbia in 1973, Congress retained the power of the purse. It is that power which we exercise, today.

This appropriations bill does two things. First, it provides a Federal payment from the United States to the District of Columbia. Second, it sets the entire D.C. budget, made up of Federal payment, property tax, income tax, sales tax, estate and gift tax, fees, fines, and any other income.

It is a pleasure to work with Subcommittee Chairman JULIAN DIXON on this bill. As you might imagine, financing the District of Columbia is not the most glamorous assignment. None of us get anything for our own home congressional districts. However, under Chairman DIXON's leadership the subcommittee has adopted a policy of letting the District make its own choices unless what is proposed: First, is unconstitutional; second, violates the House Rule Act; or third, raises a "Federal question." Guided by Chairman DIXON's sense of fairness and hardwork, the subcommittee brings forth what we believe to be a rational approach to the District's problems.

Assisting in the preparation of this bill are staff members Migo Miconi, Mary Porter, and Kenny Kraft from Appropriations, and Wilhelmina Marshall and Woody Woodrich from the Mayor's office.

The bill provides $2,989,598,000. Out of this $540,880,000 are Federal funds. This includes a Federal payment of $425 million, which is the same amount as appropriated last year before Gramm-Rudman. It is $19.5 million less than requested by President Ronald Reagan. The fiscal year 1987 increase has not yet been authorized so it is not included in the bill. The balance of Federal money goes to reimbursement for water and sewer service; retirement for teachers, police, firefighters, and judges; and St. Elizabeths Hospital.

The increase in this bill over last year's version is due to increased tax revenues which the District has raised. The Office of Management and Budget supports this bill. At the time of last week's full committee markup, I received a letter from James Miller III, Director of the Office of Management and Budget who said "the administration does not object to the bill" and it "Is consistent with the President's request." The full committee did not change the dollar amounts in the bill.

Mr. DIXON has already done a good job of explaining what is in H.R. 5175, so I will not repeat it. We recommend virtually the entire D.C. request with only $154,000 in changes. However, we do insist that $20 million be used to retire the debt. Since 1980, the city's accumulated deficit of $387.5 million has been reduced by over one-third. The cash portion of the deficit is eliminated completely. The noncash portion—value of unused sick leave, vacation, and so forth—is expected to be $244,934,000 on September 30, 1986. Let me call your attention to the report, especially pages 4 through 7, covering some of the D.C. issues about which you read every day in the

Washington Post and the Washington Times.

My compliments to the chairman and the subcommittee on a job well done.

Finally, let me join in the Chairman's opposition to the amendment by my colleague from Pennsylvania, Mr. WALKER. I just came from a meeting with the majority leader of the House, Mr. WRIGHT, and the minority leader of the House, Mr. MICHEL, on the very subject of drugs and drug abuse. I serve as the second ranking member of the Select Committee on Narcotics Abuse and Control.

The D.C. appropriations subcommittee has always, particularly under the leadership of this chairman and the earlier chairman, the gentleman from Kentucky [Mr. NATCHER], been most supportive of giving the police department of the city of Washington every resource that it needed. It gave them those resources because one of the Federal responsibilities is indeed to make this city safe, not only for its residents but for the thousands of visitors that come to this city from all parts of the Nation.

□ 1325

So to me it would be a mistake to take almost half of the budget for an item in this bill that is important to the city. It will be a fairly minuscule addition to the very substantial amount that we have contributed to the police and to drug and law enforcement in Washington, DC.

Mr. Chairman, I urge that the committee support the bill as is, and again commend the chairman for the very excellent job he has done.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 5175, the District of Columbia appropriations bill for fiscal year 1987.

At the outset, I want to commend the chairman of the subcommittee, JULIAN DIXON and the ranking minority member, LARRY COUGHLIN, for their hard work and dedication. Without the usual benefits associated with appropriation bills, Congressmen DIXON and COUGHLIN have taken the responsibility for our Federal seat of Government very seriously. With the home rule principle as a guide, the subcommittee has effectively addressed the special needs of the District of Columbia. District residents are fortunate to have these gentlemen in leadership positions on this subcommittee.

Mr. Chairman, the bill includes Federal funds totaling $540.8 million for fiscal year 1987 which is $19.5 million below the budget request. Included in this amount is a Federal payment of $425 million for fiscal year 1987 which represents 17.4 percent of the anticipated general revenue generated by local collections next year. This payment is the same amount as enacted last year before the Gramm-Rudman percentage cut.

In addition to the lump sum Federal payment, Federal funds appropriated in this bill include $28.8 million for water and sewer services furnished to the Federal Government, $52 million for the Federal contribution to the city's three retirement funds, and $35 million for St. Elizabeths Hospital.

The payment to the retirement fund is the eighth of 25 annual Federal payments which will total $1.3 billion and will cover a portion of the unfunded liability attributed to former District employees who retired before home rule took effect. As authorized by Public Law 98–621, the payment for St. Elizabeths Hospital is part of a 6-year plan to transfer administrative and financial responsibility from the Federal Government to the District of Columbia by 1991.

Mr. Chairman, I am pleased to report that the administration fully endorses the recommendations in this bill. In a letter to the committee, OMB Director, Jim Miller clearly stated that "this bill * * * is consistent with the President's request" and urged approval of the legislation in its present form. For the RECORD, I will include a copy of the OMB letter and the "Statement of Administration Policy" on H.R. 5175.

I urge my colleagues to support H.R. 5175.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 15, 1986.

Hon. SILVIO CONTE,
Committee on Appropriations, House of Representatives, Washington, DC.

DEAR SIL: As the House Appropriations Committee prepares to mark up the 1986 District of Columbia Appropriations bill, I want to inform you that the Administration does not object to the bill as approved by the Subcommittee. The Subcommittee's report, in total, is consistent with the President's request.

Sincerely yours,

JAMES C. MILLER III,
Director.

STATEMENT OF ADMINISTRATION POLICY

JULY 22, 1986.

(House)

H.R. 5175, District of Columbia Appropriations Bill, 1987 (Sponsor: Dixon (D), California).

The Administration does not object to the District of Columbia Appropriations bill as approved by the Committee.

Mr. AuCOIN. Mr. Chairman, I rise in opposition to the Dornan amendment.

I know that there are many members of this body who have grown weary of fights on this floor over abortion. That's right. We are all very tired of the seemingly endless battles on this emotional issue.

However, I can assure this body that this is one Member who supports the right to choose and who will not just stand by and watch antichoice after antichoice amendment roll by without a discussion of the impact of the kinds of decisions we make in this body.

Just a few weeks ago the U.S. Supreme Court once again reaffirmed the constitutional right to choose as it was articulated in the case of Roe versus Wade. But, although the right remains intact, access to that right for those less fortunate than others is restricted every year when the Congress imposes prohibitions against the use of Federal funds for abortions. We all know what is happening when some of our colleagues from California, New Jersey, and Illinois attach their amendments to appropriations bills. They are exacerbating the difference in the classes in this country.

They have failed to eliminate the right to an abortion, so they've targeted women who in some way are dependent on Federal funds and have made it a terrible burden to exercise that right.

I am adamantly opposed to these unfair and, I believe, unconstitutional amendments.

Over the last few years passage of antichoice amendments has setup a whole set of different rules and rights for women in this country based on where they live, whether they work for the Federal Government, whether they've volunteered for the Peace Corps, whether they are military personnel, and even on the basis of their national heritage.

How many Members here today realize we've said to Indian women in this country—no, you're not equal to that woman of independent means in Beverly Hills? You can't count on the same services that are legally available to other women who aren't dependent on Federal assistance for basic health care.

The variables are amazing if you're a woman in this country today. Depending on where you work, what you do, and who you are, and today I'm afraid this body is about to add "where you live" to the list—you might or might not have the right to an abortion.

And there's a new and distressing twist to this amendment today. It's a slightly different animal. If we adopt it today, the House of Representatives will be reaching a new low in the proper exercise of our duties. Unlike previous efforts to prohibit Federal funds for abortions, this amendment will establish a new class of underprivileged women. This amendment would prohibit the District of Columbia from using own, locally raised money from paying for abortions for D.C. residents.

Not only does it go after women who've decided to live in D.C. as opposed to say—California—it goes so far as to restrict local decisions on how to use fiscal resources that we aren't going to apply to California, or Illinois, or Michigan, or New Jersey, or any other State in this country.

The bulk of all revenues in D.C. come from local taxpayers, not a fund that the taxpayers of the rest of the country pay into. But now Mr. DORNAN is proposing that the long arm of the law reach out into district neighborhoods to say you can't use your own money the way you want to.

Let's call it like it is. Those who oppose legal abortion will stop at nothing to force a vote to further their cause. Frustrated with their failure to convince the majority of people in this country that women should not be allowed to make the most private of all decisions, they've resorted to these kinds of amendments on funding bills.

And they've held up critical legislation needed to rectify inequity in the laws of this country as they pertain to women—the ERA, nondiscrimination in insurance, and the Civil Rights Act.

I say stop. Stop now. The Senate wisely rejected this notion last year after the House passed it, and fortunately it never became

law. Vote it down today. It is unjustifiable on any terms.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1987, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1987, $425,000,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406): *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $108,407,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That not less than $320,000 shall be used by the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $754,000 shall be derived from the general fund and not to exceed $3,018,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $129,460,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, $580,765,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and March 28, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That not to exceed $50,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, for expenses incurred by the County during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the County provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the County, and the amount of the authorization remaining for such reimbursements.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $540,718,000, to be allocated as follows: $393,806,000 for the public schools of the District of Columbia, of which

$8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; $68,861,000 for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: *Provided,* That the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): *Provided further,* That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: *Provided further,* That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,261,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, $20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

CAPITAL OUTLAY

For construction projects, $310,551,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $10,298,000 of the $310,551,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: *Provided further,* That $19,218,000 of the $310,551,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes in-

tended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 33,355, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted ac-

cording to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.)

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987 revenue estimate as of the end of the first quarter of fiscal year 1987: *Provided*, That these estimates shall be used in the fiscal year 1988 annual budget request: *Provided further*, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

This Act may be cited as the "District of Columbia Appropriation Act, 1987".

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

The Chair hears none.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 2, line 5, strike "$425,000,000" and insert in its place "$414,147,000".

Mr. FRENZEL. Mr. Chairman, this is the amendment which I described earlier during the scheduled portion of the debate.

It reduces the total budget authority in the D.C. appropriation by $10.8 million in an attempt to reduce the total Federal funds appropriation back to the level of 1986.

I attacked the Federal payment only, because I did not want to touch the District's own funds and I did not want to touch the water and sewer, pension, and St. Elizabeths moneys. In the case of the former, that is the District's business. In the case of the latter I felt there were ongoing agreements which should not be tampered with.

Since the amount necessary to reach the 1986 budget authority number was rather small, it seemed appropriate to take it off from the Federal payment which, of course, is the lion's share of this appropriation.

It also should probably be mentioned that Washington, DC, did not meet its Gramm-Rudman targets, so it will probably spend more in fiscal year 1986 than is indicated in the committee report. Even so, I do not believe that that has much to do with my amendment.

The basis of the amendment is that all of the appropriations and payments made by this Congress, unless they are of unusual urgency, ought to be handled at a spending level equal to that achieved in fiscal year 1986. Now there may be national security implications, war on drug questions, and there may be other emergencies. Those emergencies can be handled separately. In this case I am not aware of great emergencies other than the normal difficulty of local governments to satisfy their service needs off of their resources available.

Many communities in our country are obliged to operate on amounts of money equal to that which they had in previous years. I do not think that the District of Columbia will find this an intolerable burden in 1987. I hope it will not anyway.

Even if it is, I deem it absolutely necessary to maintain these cuts on all of our appropriations, so that when we get to September 30 of this year, we will not be looking at such an enormous sequester resolution that we are frightened out of our obligation to meet the Gramm-Rudman-Hollings target for fiscal year 1987.

The intent of all my amendments is to keep us from too difficult a choice in September. As long as the Committee on Appropriations keeps skirting around the edges of both the House budget resolution and last year's expenditures, we are drawn nearer to the brink of a very large sequester resolution, even if we should do pretty well in budget reconciliation.

It is a matter of historical fact in this House that we in the Congress never achieve everything that we expect to achieve in reconciliation. This year that is much more likely since our budget was unusually full of holes, and dark places, and smoke and mirrors, and the usual things that go into budgets when we reluctant to make actual cuts in our expenditures.

Therefore, I am proposing another amendment similar to two I have raised in the past. I am seldom successful. I hope, however, in this case it is successful. It is a small amount. It

amounts to about 2.5 percent of the Federal payment. It amounts to about 2 percent of the total Federal funds that are involved in this particular bill. That is really not a very important amount, but I think it is important symbolically as an example of whether the House again wants to stand up for fiscal responsibility.

I talked about BA up until this point. I ought to talk about outlays. I am informed by CBO that in this particular bill the mandatories are $20 million under the budget resolution.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. And the discretionaries are about $13 million above the budget resolution. My amendment would not take discretionaries down to balance, but it would effectively be very close to a balance.

I hope that this committee will join me in standing up for fiscal sobriety in looking for ways to make our fiscal year-end decisions much easier.

Again, I credit the committee for its work. I know what it does is not easy, and I know it does not like to have its bills amended. I do not blame it. Nevertheless, I think this one is important.

I hope the amendment will be adopted.

Mr. DIXON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly understand Mr. FRENZEL's desire to have some uniformity in cutting appropriation bills. I would suggest several things though.

First of all, we have a letter here from James C. Miller, the Director of the Office of Management and Budget. It says that the administration does not object to this bill as it came out of the subcommittee. So the administration supports this bill in its present form on the floor.

I would point out that we are $19.5 million below the President's budget request.

I would point out these are moneys that are going to be taken out of the Federal payment, moneys that the District receives in lieu of property taxes for the large percentage of land that the Federal Government occupies or controls here in the District of Columbia.

I would point out that this $425 million is the same amount of money that we appropriated last year and the year before and, through the Gramm-Rudman sequestration, it was cut last year. So it will be 2 years where the Federal Government has shirked its responsibility to give an increase to the District government in the form of a Federal payment.

This amendment will cut the District's efforts to fight drugs. It will cut school programs. It will cut health programs.

Certainly it is the right of the Federal Government to do that, but it must live up to its responsibilities as it relates to the Federal payment.

So when you look at the fact that the White House is supporting this bill and you find out it is almost $20 million below the President's request, and you learn that there has been no increase since fiscal 1985 and that last year the District received $12.6 million less, I just say to the gentleman from Minnesota [Mr. FRENZEL] that it is inappropriate to offer his amendment on this bill. This is a unique bill. It is balanced in the sense that budget authority and expenditures do not exceed revenues collected. It does not have the application of the other 12 appropriation bills.

Mr. Chairman, I would ask Members to vote against this cut.

□ 1335

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, and I will be very brief. Obviously, the District of Columbia is kind of an easy target when you look all around the country. Differently from the Government of the United States, the District, by law, has to have a balanced budget.

When we cut this part of the Federal payment, we unbalance the District of Columbia's budget. As the chairman has pointed out, this bill is below the President's request; it is below the budget resolution. We should pass the bill as it is and not adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 176, not voting 24, as follows:

[Roll No. 248]

AYES—230

Anderson	Bliley	Chapman
Andrews	Boehlert	Cheney
Anthony	Bosco	Clinger
Archer	Boulter	Coats
Armey	Breaux	Cobey
Badham	Brooks	Coble
Barnard	Broomfield	Coleman (MO)
Bartlett	Brown (CO)	Combest
Barton	Bruce	Courter
Bateman	Burton (IN)	Craig
Bates	Byron	Crane
Bennett	Callahan	Daniel
Bentley	Carney	Dannemeyer
Bereuter	Carper	Darden
Bilirakis	Chandler	Daschle
Daub	Lehman (CA)	Rowland (CT)
Davis	Lent	Rowland (GA)
DeLay	Lewis (FL)	Rudd
Derrick	Lightfoot	Saxton
DeWine	Livingston	Schaefer
Dickinson	Lloyd	Schneider
DioGuardi	Lott	Schroeder
Dorgan (ND)	Lujan	Schuette
Dornan (CA)	Lungren	Sensenbrenner
Dreier	Mack	Sharp
Duncan	MacKay	Shaw
Dyson	Madigan	Shelby
Eckart (OH)	Marlenee	Shumway
Eckert (NY)	Martin (IL)	Shuster
Edwards (OK)	Martin (NY)	Siljander
Emerson	McCain	Sisisky
English	McCandless	Skeen
Evans (IA)	McCloskey	Slattery
Fiedler	McCollum	Smith (FL)
Fields	McCurdy	Smith (NE)
Fish	McEwen	Smith (NJ)
Franklin	McGrath	Smith, Denny (OR)
Frenzel	McKernan	Smith, Robert (NH)
Gallo	McKinney	Smith, Robert (OR)
Gaydos	McMillan	Snowe
Gibbons	Meyers	Snyder
Gingrich	Mica	Solomon
Glickman	Miller (OH)	Spratt
Gradison	Miller (WA)	Stallings
Gregg	Molinari	Stangeland
Gunderson	Monson	Stenholm
Hall (OH)	Montgomery	Strang
Hall, Ralph	Moore	Stratton
Hamilton	Moorhead	Stump
Hammerschmidt	Morrison (CT)	Sundquist
Hansen	Morrison (WA)	Sweeney
Hendon	Neal	Swindall
Henry	Nelson	Tallon
Hiler	Nichols	Tauke
Hillis	Nielson	Tauzin
Hopkins	Olin	Thomas (CA)
Hubbard	Oxley	Thomas (GA)
Hughes	Packard	Torricelli
Hunter	Pashayan	Valentine
Hutto	Penny	Vander Jagt
Hyde	Petri	Visclosky
Ireland	Pickle	Volkmer
Jacobs	Porter	Vucanovich
Jeffords	Pursell	Walker
Jenkins	Quillen	Weaver
Johnson	Ray	Weber
Jones (OK)	Regula	Whitehurst
Kasich	Reid	Whittaker
Kemp	Ridge	Wirth
Kennelly	Rinaldo	Wolpe
Kindness	Ritter	Wortley
Kolbe	Roberts	Wyden
Kostmayer	Robinson	Wylie
Kramer	Roemer	Zschau
LaFalce	Rogers	
Lagomarsino	Rostenkowski	
Latta	Roth	
Leach (IA)	Roukema	

NOES—176

Ackerman	Conyers	Fuqua
Akaka	Cooper	Garcia
Alexander	Coughlin	Gejdenson
Annunzio	Coyne	Gekas
Applegate	Crockett	Gephardt
Aspin	de la Garza	Gilman
Atkins	Dellums	Gonzalez
AuCoin	Dicks	Goodling
Barnes	Dixon	Gordon
Bedell	Donnelly	Gray (IL)
Beilenson	Dowdy	Gray (PA)
Berman	Downey	Green
Bevill	Durbin	Guarini
Biaggi	Dwyer	Hawkins
Boggs	Dymally	Hayes
Boland	Early	Hefner
Bonior (MI)	Edgar	Hertel
Borski	Edwards (CA)	Holt
Boucher	Erdreich	Horton
Boxer	Evans (IL)	Howard
Brown (CA)	Fascell	Hoyer
Bryant	Fawell	Jones (NC)
Burton (CA)	Fazio	Kanjorski
Bustamante	Feighan	Kaptur
Carr	Flippo	Kildee
Chappell	Florio	Kleczka
Clay	Foglietta	Kolter
Coelho	Foley	Lantos
Coleman (TX)	Frank	Leath (TX)
Conte	Frost	Lehman (FL)

Leland	Natcher	St Germain
Levin (MI)	Nowak	Staggers
Levine (CA)	Oakar	Stokes
Lewis (CA)	Oberstar	Studds
Lipinski	Obey	Swift
Long	Ortiz	Synar
Lowery (CA)	Owens	Taylor
Lowry (WA)	Panetta	Torres
Luken	Parris	Towns
Manton	Pease	Traficant
Markey	Pepper	Traxler
Martinez	Perkins	Udall
Matsui	Price	Vento
Mavroules	Rahall	Walgren
Mazzoli	Rangel	Watkins
McDade	Richardson	Waxman
McHugh	Rodino	Weiss
Michel	Roe	Wheat
Mikulski	Rose	Whitley
Miller (CA)	Roybal	Whitten
Mineta	Russo	Wilson
Mitchell	Sabo	Wise
Moakley	Savage	Wolf
Mollohan	Scheuer	Yates
Moody	Seiberling	Yatron
Mrazek	Sikorski	Young (AK)
Murphy	Skelton	Young (FL)
Murtha	Smith (IA)	Young (MO)
Myers	Solarz	

NOT VOTING—24

Boner (TN)	Fowler	Lundine
Bonker	Grotberg	Schulze
Campbell	Hartnett	Schumer
Chappie	Hatcher	Slaughter
Collins	Huckaby	Spence
Dingell	Jones (TN)	Stark
Ford (MI)	Kastenmeier	Williams
Ford (TN)	Loeffler	Wright

□ 1355

Messrs. CONTE, WILSON, and PARRIS changed their votes from "aye" to "no."

Mr. DORGAN of North Dakota, Mrs. VUCANOVICH, and Messrs. DYSON, EDWARDS of Oklahoma, VISCLOSKY, DAVIS, ANTHONY, DASCHLE, ANDREWS, CHAPMAN, and LEHMAN of California changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I apologize for taking the time of the committee, but I thought I ought to give you an update on my garage.

I probably should have supported that last amendment in view of the incessant delays I have had.

I have not yet received a building permit and you know how long this thing has been dragging on, and provoked by the fact that, yes, about 5 or 6 years ago I was mugged behind my house. In the meantime, I have had my car's roof slashed, I have had one of the kid's cars broken into, I have had one of the kid's cars stolen from the mat. I have had four specific fires set to the place, two different breakins—that is my security problem.

But how do you go about in the historical section of this town trying to get something changed? For what? A foot and 4-inch variance to build a garage long enough to house my automobile.

Now, I apologize for the fact that it happens to be a little bit longer than a foreign made car, but we politicians cannot buy foreign made cars. We have got to buy American cars, and I would regardless.

Mr. McKINNEY. Mr. Chairman, will the distinguished minority leader yield to the ranking member of the committee?

Mr. MICHEL. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Let me simply say that no man has ever gone through more for less than the minority leader, and I am 100 percent behind him.

In fact, I voted for the Frenzel amendment because I am so fed up with the D.C. government.

Now, we are the ultimate legislature for the District of Columbia. I would just say to the gentleman that I would like him to repeat to the House what the neighborhood association said about the gentleman's voting record when he asked for what every citizen can ask for, a building permit.

Mr. MICHEL. Well, in the first case, I was supposed to appear before what they call a neighborhood historical committee, some neighborhood committee. Frankly, none of those folks live right on my city block. All the folks in my city block know my problem and want to be supportive. This is some kind of an autonomous group up there that was ticked off because their meeting scheduled for last December 23, 2 days before Christmas, I begged off being there personally because of the Christmas vacation for the Members of Congress.

The reason then that they denied my request, which was a two-page letter in writing going through all the details asking for this 1 foot and 4 inches of variance was the fact that way back when, whenever we voted for home rule or whatever, I happened to oppose that particular proposition at the time. That was the reason for their voting against me at that time. Is that not denial of due process? Are we to be subject to that kind of retribution for the way we vote? How can one represent his constituents with that hanging over you.

So they rescheduled another meeting. It had to be delayed again because of official business, but I eventually attended, spent an hour and a half waiting my turn that evening waiting to make my pitch.

Frankly, that evening my adversaries were not present. Those who were there gave me a bill of good health.

I then went before the zoning commission downtown and that had to be delayed several times. Once you cannot come at a prescribed time, you have got to wait a minimum of 60 days to come back again.

I went through the routine of waiting my other 60 days, I think two different times, and I appeared before the zoning commission with all my material and I got a 4-zip approval rating.

At that meeting I asked if I could have a summary judgment immediately so that I would not have to wait any longer.

"Yes, we will do that."

But it took no less than 70 days to get the paperwork from the zoning commission down to the place where I am supposed to go for my building permit.

Last week I went down and I spent an hour and a half waiting in line again, walked through the procedure. I tell you, it gets rather frustrating when you are there with blueprints in hand and the fellow at the construction site says, "What are the dimensions of your garage?"

I said, "What do you think the blueprint is for? This is the length. This is the width. This is the height. It's right there."

Mr. FAUNTROY. Mr. Chairman, will the distinguished minority leader yield?

Mr. MICHEL. Let me say to the gentleman from the District of Columbia [Mr. FAUNTROY], my dear friend, I think one of the concerns I have, I do not know what they are going to do with the tax bill, whether it is going to be to your advantage to build some rental housing once in awhile or to alter some of this historical section for housing developments or whatever; but I will tell you, if anybody would give any second thought about going through what I have gone through in this District of Columbia, I will tell you, I really feel for them getting anything positive done.

I was willing to take my turn, but I will tell you, it really gets to be somewhat degrading to have to go through this kind of a prolonged process simply to get that kind of a permit. Is this how you promote economic development and civic improvement?

Mr. FAUNTROY. Mr. Chairman, will the distinguished minority leader yield?

Mr. MICHEL. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. First of all, after what the gentleman has gone through, I want to salute the gentleman for his honor and for his courage in supporting the Appropriation Committee's bipartisan position against the Frenzel amendment. I want to thank the gentleman for that and I thank the gentleman in advance for supporting every other position taken by the Appropriations Committee today; but let me assure the gentleman that as another report from the Appropriations Committee comes to this floor, we will see to it, I will see to it that the gentleman gets his permit.

Mr. MICHEL. Well, I am glad to have this show of people strength. It is really gratifying to this Member.

Mr. FAUNTROY. I will personally see to it that the gentleman get his permit and that the garage is built.

What kind of car is it?

Mr. MICHEL. The gentleman knows what kind of car it is.

Mr. FAUNTROY. Did the gentleman say it was a Mercedes?

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to my friend, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

I am a very strong advocate of home rule in the District of Columbia. I chair the authorization committee and I try as assiduously as possible to stay out of the business of the District of Columbia; but I think very much that the gentleman's situation ought to be resolved.

Having said that, let me make this statement. I think each of us in this room should ponder very seriously what has transpired in the last 5 minutes. It has been both humorous and it has been painful; but the painful reality is that while there is incredible human misery in this country and in the world, we find ourselves here as a supercity council, and therein lies the absurdity of the Congress of the United States, attempting to interject itself and interpose itself into the business of the District of Columbia.

Having said that to the minority leader, I am simply saying that we were all duly elected here to address the great human issues that tend to dwarf us all as individuals, like the issues of peace and nuclear disarmament and solving the problems of poverty and homelessness and whatever, not to try to deal with whether a garage gets built or whether it is an American car or whether it is another car or whether it is for the majority or for the minority leader. We ought to be about other business. I want to help the gentleman do that so we never have to allow ourselves to be reduced to this level at this point in time. We came here to get on with bigger business.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I quickly yield to the gentleman from Connecticut.

Mr. McKINNEY. To the distinguished minority leader, I would like to just get on the record, when was this historic house that the gentleman lives in built?

Mr. MICHEL. In the 1960's.

Mr. McKINNEY. The other thing I would like to get on the record is, what in God's name, people, and I use this pleasantly, has the minority leader's voting record got to do with zoning? The answer is nothing.

I would like to say this sincerely to my ranking member, living in this city and loving this city and we do not want to see it mishandled, and the gentleman from Illinois [Mr. MICHEL] has been so mishandled on this that I cannot believe the gentleman's patience, and for that I congratulate the gentleman.

Mr. MICHEL. Well, I thank the gentleman. I thank the House for its indulgence.

I just want to say in conclusion that for those of us who are obliged to spend as much time in the Capitol City as we are or its environs, while representing both our districts and fulfilling our responsibilities here, so that I can be a good citizen of this community and do just as much here as I do in my home community.

I guess all we are asking is fair treatment for the rest of us, like you would normally expect in your home community.

I thank the Chair.

□ 1410

AMENDMENTS OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. WALKER:

On page 8, line 15, strike "$540,718,000", and insert in lieu thereof "$539,718,000".

On page 8, line 22, strike "$2,368,000", and insert in lieu thereof "$1,368,000".

On page 6, line 9, strike "$580,765,000:" and insert in lieu thereof "$581,765,000:".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, we confront an issue that the Speaker of the House has labeled as one of the two most important issues that this country faces at this moment. The Speaker, yesterday, in a press conference, promised that what we were going to begin to do is wage a legislative war on drugs. He said that the drug issue is second only to the deficit among the subjects on the public's mind, and he said that we needed to get on with the fight. What he has pledged is that we are going to bring a legislative package, a bipartisan package, to the floor by September 10 to conduct the legislative war on drugs.

Let me remind the House that, as of September 10, we probably will have completed action on our appropriation bills, and that we are going to need some resources in order to fight that legislative war on drugs. The amendment that I bring to the Members today is an amendment designed to provide some of those resources in the District of Columbia for the war on drugs. It adds $1 million to the District Police Department in order to fight the war on drugs, and takes $1 million out of the Commission on Arts and Humanities in order to balance out the action.

It is a selection among priorities. It says that our most important national priority at the present time is to fight a war on drugs and that we ought to put that into this bill, and that we ought to take a matter of lesser priority, namely the Commission on Arts and Humanities, and take the money out of that in order to conduct this very, very vital war.

This amendment would allow the police department to fight an increasingly bad situation. Let me tell the House how bad the situation is in the District of Columbia. In 1981, there were 149 arrests in this city for cocaine violations. That figure has gone up by 1985 by 1,284 percent; there has been a 1,284-percent increase in drug arrests for cocaine in this city in a mere 4 years. We have to do something.

In 1981, there were 153 arrests for PCP violations. That figure in 1985 has grown by 1,861 percent—an 1,861-percent increase in only 4 years. We have a problem. We have to do something about it.

What I propose to do here is something fairly modest. I suggest that we ought to give a million more to the police to wage their war. What could the money be used for? This is what we found in our research. It could be used for infiltrating drug rings with undercover officers. It could be used as funds for drug buys in undercover operations. It could be used for cars in the undercover operations. It could be used for sophisticated electronics equipment for drug operations. It could be used for special projects such as the diversion investigation unit, which deals with the diversion of legitimate pharmaceuticals. It could be used for the repeat offenders unit, many of whom are involved with drugs. It is extremely important for the police to have these additional resources.

The committee has already argued on the floor that they put an additional $10 million in the bill for the police. That is true. But they also point out in their report what the money is for. Over half of it is for 1987 pay adjustments. That will not get a war on drugs. About $1.8 million is for within-grade requirements. That is going to happen, regardless of the war on drugs. There is $275,000 to fund 10 unfunded positions. That in fact could be somewhat of a help, but it is a minimal amount of the overall amount.

There are 25 positions for police officer cadet programs. Again, that could help in the war on drugs, but it is the minimum amount in what the committee has done. There is $90,000 for increased telephone costs, $728,000 for clothing and equipment, and $700,000 for replacement vehicles.

The committee has done some things; they have not done enough. All this amendment suggests is that here is a chance for an additional million dollars to fight the war on drugs in this city. I ask approval of the amendment to continue that war on drugs that most Americans consider to be absolutely vital.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, let me ask the gentleman what the means of establishing the breakdown of the usage of this money is. Is that going to be established by our conversation on the House floor, or is there language that directs the Police Department to go to certain areas?

Mr. WALKER. Mr. Chairman, as the gentleman knows, under the rules of the House, for me to specify in the bill what the money could be used for would be a violation of the rules of the House. It would be legislation in an appropriation bill, and so therefore is not permissible to the Member to offer.

However, I have specified certain areas here that the money could be used in. But this $1 million that we are specifying on the House floor is to be used in fighting the war on drugs, and I have great faith that the people in the police department with the expertise in this war will know better how to fight it than many of us on the floor would know.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. HUNTER and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, the fact is that we have a major problem in this country that is going to demand resources in order to meet it. This is some measure of additional resources in order to conduct the battle.

Mr. HUNTER. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, let me suggest that I was just allowed to attend a meeting of our leadership of the House, Republicans and Democrats, with respect to the narcotics initiatives that we are going to take in the coming months. One statement that was made that I thought was very important was to the effect that this is going to be a very expensive battle. We cannot get around that, and ultimately our priorities are manifested in the appropriations that we make, not necessarily the bills that we sponsor.

Understanding that this is taking money away from even a fairly small pot of money for arts, I think that it is appropriate, and I would say very simply that I think that the real art that we are going to leave to this country is our children, the real beauty that we have in this country is our children, and the legacy that we are going to leave our country is our children.

I think that this small investment in narcotics-fighting resources for the District police is well worthwhile. From listening to the gentleman, I have decided to give the amendment my strong support. I hope Republicans and Democrats both do the same thing.

Mr. WALKER. Mr. Chairman, I thank the gentleman. It would be my hope that we could understand that holding plays in the parks is an activity that has some merit. However, if what is happening on the fringes of those parks is that the drug dealers are in fact helping the kids shoot up as they leave the parks, we have a real problem, and you have to solve that with law enforcement.

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there was an interesting colloquy on the floor earlier between the gentleman from Pennsylvania and my colleague, the gentleman from Illinois [Mr. HYDE], about this particular proposal, and I think that I would like at this point to incorporate the statement of Mr. HYDE as part of my own statement in opposition to this amendment.

Mr. Chairman, the gentleman from Pennsylvania has not pointed in one instance to mismanagement in the arts and humanities program by the District of Columbia. Rather, he has attempted to highlight something which we all acknowledge: the fact that there is a terrible crime problem in the District of Columbia, and that much of it is related to drugs.

I think that it is interesting, though, that the gentleman from Pennsylvania, having identified the problem, was unwilling to come forward with the real solution to the problem, which may have included raising revenues so that we can fund drug-abuse programs nationwide as they should be funded. Instead, the gentleman seeks a transfer of $1 million from arts and humanities within the District of Columbia to the police department.

This, on its face, is ludicrous, and let me suggest to you why. Within the District of Columbia appropriation bill, we have some $580 million for public safety and justice. The gentleman seeks to add $1 million to that function to fight drugs in the District of Columbia. The gentleman seeks to increase the public safety and justice appropriation for the District of Columbia by slightly more than one one-hundredth of 1 percent. This is his offering to fight the war on drugs and drug abuse.

Mr. Chairman, the gentleman from Pennsylvania in his speech, and I do not dispute the statistics, has promised us a mountain and delivered a mouse. He is carping on a trifle. We should defeat this amendment.

□ 1420

It is only eyewash designed not to support a war on drugs, but to support a speech on the floor and a press release.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I would say to the gentleman that this gentleman has no press release planned on this.

The gentleman, of course, knows that, under the House rules, the gentleman is not supposed to attribute motivations of the Members, but I simply say to the gentleman that the gentleman's alternative in turning down my amendment is to do nothing.

I, at least, do $1 million worth that is aimed at a particular direction to fight the war on drugs. The gentleman's alternative is to do nothing.

It seems to me that doing something to fight drugs is better than doing nothing.

Mr. DURBIN. Mr. Chairman, reclaiming my time, doing one one-hundredth of 1 percent is worse than nothing; it is tokenism. If the gentleman is sincerely dedicated to a war on drugs, let him stand and I will join the gentleman in appropriating the money necessary to do this on a nationwide basis.

But to make this kind of a show over such a small amount of money does no justice to a glaring national problem which, unfortunately, is highlighted in the District of Columbia.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman. I tried to put $50 million into the DEA for a national program the other day by taking out of EDA. I do not think the gentleman supported that, either.

Mr. DURBIN. I did not support it.

Mr. WALKER. So when we try to approach these things, we have to do it appropriations-bill-by-appropriations bill,

You cannot do it on one massive bill unless you are going to come forward with a supplemental appropriation

and violate Gramm/Rudman in order to do it.

Let me say to the gentleman that it does not seem to me that the gentleman's actions fit his words.

Mr. DURBIN. If I might reclaim my time, again the gentleman attempted to raise on that particular legislation his crusade against drug abuse in America. I would join that crusade, but the gentleman again gave us the choice of eliminating jobs so that we could fight drug abuse.

The gentleman today is suggesting that we eliminate cultural activities, educational activities for young people to fight the war on drug abuse. The gentleman is giving us an impossible choice in that situation. I think the gentleman knows it.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I am happy to yield to my colleague, the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, it was interesting to me to notice that last Thursday, several members talking about the war on drugs today voted to cut $30 million out of the Immigration and Naturalization Service, and everybody knows that people are carrying drugs into the United States every day across the borders.

Mr. DURBIN. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

In trying to trivialize a Member's effort to put more money into the fight against drugs, we should all be aware of one thing: That we are not discussing a water project or some economic problem where loss of human life is not involved.

If 1,000 young people across this country overdose and die on narcotics abuse and, let us say just taking a figure out of the wild, 100 of them are in the District, then 1 percent is a human life, a young person, not dead, someone alive. So when we trivialize any amount, no matter how small, even one-tenth of 1 percent, we should all remember that even that small an amount is saving human life. It is stopping some young person from shriveling up in an alley somewhere in the District and dying.

We are not talking about commodities here; we are talking about human beings.

Mr. Chairman, I yield back the balance of my time.

Mr. DIXON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is little wonder that the American public loses confidence in elected officials in general. I think that when people watch this debate on C-SPAN, any reasonable person would come to the conclusion that a transfer of $1 million into a budget of $157 million will do little to help win the war on drugs.

I think another observation will be very clear. The proponent of this amendment continues to very eloquently suggest that if you are opposed to this amendment, to use the gentleman's words, "you are doing nothing." In other words, there is no fight in the District of Columbia on the war on drugs; and were it not for this $1 million, nothing would be done.

I chair the committee that is recommending this bill; and let me say that the police department does have a drug enforcement program. We have increased the police chief's confidential fund for the District of Columbia's war on drugs, and we have increased the police department's budget by $10 million.

The gentleman recited a list of statistical data about increases in arrests, and there are two ways to look at statistics. I would suggest that the increase in arrests demonstrates a forceful effort on the part of the District in its war on drugs.

Finally, the gentleman suggested in the general debate that the Mayor is dissatisfied with the Commission on the Arts and Humanities or he has heard that the Mayor is dissatisfied with the Commission. If the gentleman would look at the budget, he would see that it was the Mayor's recommendation and the city council's recommendation that the budget for the Commission on the Arts and Humanities be increased.

There was no testimony from the Mayor; and there was no testimony by the police department that they needed or desired additional moneys for the drug enforcement program.

Aside from law enforcement, and I have made this point before, there are other ways to address the war on drugs. We cannot single out one area, but we must attack the drug problem in a multifaceted way. Certainly the arts and humanities programs in our schools and in our community, and in this community particularly one way that, as the gentleman from California stated, may save the life of one person.

So I suggest, regardless of what the motive is—and I'm sure it is clear to the people in the gallery; and it is clear to everyone who will see this on C-SPAN—that this amendment in fact does nothing. It is not going to help in the city's drug enforcement efforts. Based on the statistics recited by the gentleman from Pennsylvania, the District's police department is working hard on the drug problem and there have been more arrests.

But yet he is going to take away $1 million from the Arts and Humanities budget of $2.4 million and add it to the police department's budget of $158 million and believe that it will make a significant contribution to the war on drugs.

What it shows is we are willing to make a trickle in a tidal basin.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

This gentleman has tried to stick to the issues. I am sorry that the chairman decides to ascribe motivations and basically make his point a personal attack.

Mr. DIXON. Mr. Chairman, the gentleman knows I specifically said that I was not attacking the motivation, but the result, in my opinion, of what the gentleman's amendment would do.

Mr. WALKER. That is beside the point. I tell the gentleman that I offer the amendment in good faith. I tried to find as much money as I could that seemed to me a rational way of doing it. I am not arguing that there is nothing being done in the District of Columbia; I am arguing that there is too little being done in the District of Columbia and that we need to do more.

The $1 million allows us to do a little bit more. I am sorry if the gentleman does not see that as being a real need.

Mr. DIXON. I certainly think that all communities need to do more in the fight on drugs. I am not so sure that this or any other community at this point needs to put $1 million more into a police budget. Perhaps we should look at rehabilitation programs or some other areas that may be beneficial in the war on drugs.

So no one Member of this House can lay claim to saving the war on drugs by taking $1 million out of a $2.4 million budget and putting it into a $157 million budget.

The CHAIRMAN. The time of the gentleman from California [Mr. DIXON] has expired.

(On request of Mr. STUDDS and by unanimous consent, Mr. DIXON was allowed to proceed for 3 additional minutes.)

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I am glad to yield to the gentleman from Massachusetts.

□ 1430

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding. I want to commend him on his statement, and just say that this Member, at least, is saddened by the logic implicit in this amendment.

That is that the only way to combat the drug abuse in the Nation's cities in the Nation as a whole is to find additional police efforts. Surely that is part of the answer, but surely an equal part should lie in our ability to ask ourselves why young kids take drugs in the first place.

This city and most of the cities of the country, all the cities of the country are full of young people who for whatever reason do not see anything else to do with their lives. Surely the arts and humanities program in and of itself is a part of the answer to the problem of drug abuse.

As I understand it, this program funds grants to individual artists, including young people; it funds grants for artists teaching in the public schools of the District of Columbia, and at least in some small measure ought to play the kind of constructive role that this Congress ought to be encouraging in the war on drugs.

Beyond that, if I may, if the gentleman will continue to yield for one moment, let me just say that the amendment just adopted by this House cut the Federal payment which, among other things funds not only the Council on Arts, but the police department of the District of Columbia.

I would assume that Members will be back here with the Treasury appropriation in a few days, with an across-the-board amendment to cut the Customs Service; and I would assume that when the transportation appropriation is on the floor, there will be an across-the-board amendment to cut the Coast Guard.

Let me suggest at this time that if Members are truly concerned with the drug problem, they will be supporting with some degree of generosity and breadth of vision the U.S. Coast Guard and the Customs Service as well as the police department of the District of Columbia; but also I would hope those components of the community who are trying to say something positive to the young people of this Nation.

We can do far better than the logic of this amendment suggests we can do.

Mr. DIXON. I thank the gentleman for his comments.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from Massachusetts [Mr. STUDDS] has very effectively made the point I was going to make, but I just want to add a couple other items.

The Frenzel amendment, which this House just adopted, cut over $1 million from law enforcement in the District of Columbia. I happen to live in the District of Columbia. My son has been held up at gunpoint at my front door by a couple of teenagers, obviously probably trying to get money to handle their drug habit.

This is not the solution. The solution is to have a comprehensive program to give those kids something else besides drugs, not only to get a livelihood, but to occupy their time.

I was not planning to participate in this debate, but I was absolutely appalled at the level of consciousness and understanding of the drug problem among other things, which is basically a human problem.

I strongly commend the committee for its efforts in this regard and commend the chairman for the position he has taken. I hope this amendment will be defeated.

Mr. DIXON. I thank the gentleman for his comments.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to commend the gentleman, and I certainly want to associate myself with the eloquent words of the gentleman from Massachusetts [Mr. STUDDS] and my colleague from Ohio [Mr. SEIBERLING].

(On request of Ms. OAKAR and by unanimous consent, Mr. DIXON was allowed to proceed for 2 additional minutes.)

Mr. DIXON. Mr. Chairman, I yield to the gentlewoman.

Ms. OAKAR. Mr. Chairman, I think this amendment is a convoluted attempt not to get at the problems with drug abuse; we are going to come up with a comprehensive, omnibus bill that really will address that problem. It is an attempt to deprive young people, particularly in this city, of their opportunities, particularly if they are poor and some of whom are minorities, their opportunities to involve themselves in the arts.

So if you want to vote for an amendment that cuts a program that is small to begin with in half, almost in half——

Mr. DIXON. $2.4 million.

Ms. OAKAR. And cut it by a million; is that correct?

Mr. DIXON. Yes.

Ms. OAKAR. Then what you are saying is, you are for depriving young, poor children of the opportunity to study music in school, to study drama in school, possibly other fine arts—drawings, and so forth—in school; that art is not an important subject to lift young people out of the doldrums of their everyday life into something more aesthetic, something beautiful.

I think this is really one of the worst amendments that I have seen since I have been here. It is a small thing, and if you really do not look at what it aims to do, then you could be deceived.

This will deprive not only arts in schools but the summer programs. These kids, many of them because of the cuts in the jobs programs for young people, do not have other activities in which they can engage; and there is a summer program, as I understand it, related to the arts that young people can participate in. There are grants to institutions that are currently not funded because this administration has no commitment to the arts whatsoever, and they have always proposed cuts to all the programs for the arts.

Mr. Chairman, this is another kind of subtle but deliberate attempt to deprive poor kids of the same opportunities as other children in this country.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MCKINNEY and by unanimous consent, Mr. DIXON was allowed to proceed for 2 additional minutes.)

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Connecticut.

Mr. MCKINNEY. Mr. Chairman, let me state that I have a real problem with this amendment because this Congress, in its wisdom, gave the District of Columbia $40 million to build a prison. The Mayor has done nothing yet, and we are going on almost 3 years; and in fact, the city council keeps talking about alternative methods of imprisonment.

We can never ever get a handle on the drug dealers, I would suggest to my friend from Pennsylvania, until there is a place to put these animals that prey on the children of the District.

While I am very sympathetic to the cause of less drugs on the street, I am not sympathetic to the cause or the fact that the Congress has turned around and given to a city of 678,000 people more money than any State in the Union; in fact, almost $40 million more than any State in the Union.

My Governor, who is a Democrat, whom I like, would have the land being flattened before the plans were done. What good does it do us to fight drugs, to fight prostitution, to fight all the evils of any city if we run a revolving jail scenario; because the prisoners are in charge of the prisons, No. 1, witness Lorton, and are in charge of the city council, No. 2.

Mr. DIXON. I would add to the gentleman's statement, because I know of his fine work on the authorization committee for the District of Columbia, that the money he indicates has not been spent has been put in brackets by the Appropriations Committee. It will not be spent until there is approval by both the House and the Senate as to the plans for the prison.

Mr. GINGRICH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would say to my friends on the left that there are a number of fallacies in the way you are arguing this case. First of all, this is not an isolated amendment; there was an amendment offered last week that would have moved $50 million into the war on drugs; there will be other amendments offered as appropriations

bills come up, and there will be other amendments offered later on. This is part of a package of amendments, not an isolation.

Second, the gentleman from Illinois referred to $580 million for public safety. He did not break out $111 million for police and fire retirement, $1,800,000 for judges' retirement, and so forth, down through a long list so that, while the public might feel more secure at the $580 million level, when you get down to the number of dollars being spent actively at this moment to stop check, cocaine, and heroin, it is dramatically smaller than $580 million.

Third, in a city which has for example the Smithsonian Institution, some of the finest art galleries in the world available automatically and for free, it is a little bit much to suggest that the only possibility of finding art in Washington is to have a city-run program.

Fourth, you are exactly correct, as the gentleman from Illinois said, to say of the gentleman from Pennsylvania: He is giving us a choice. That is exactly the purpose of this amendment; that is to give us a choice.

If we are not going to raise taxes, and the country voted 49 States to 1 in favor of not raising taxes; it was a Reagan-Mondale election; it was fairly recent. If the country does not want to raise taxes, we in this House have to start setting priorities. Very simple.

What are our priorities in this House?

The gentleman also said, "I will join the crusade," but somehow it is never on this vote—it was not on the vote last week. The Speaker and the majority leader want to lead a bipartisan effort; they want to do something major on drugs.

Well, let us start with looking at what we are doing last week and this week. We are saying and will say it again and again as appropriations bills come to the floor, that it is time we begin to take seriously a war on drugs. It is time we recognize that that war is going to be vastly more expensive than OMB thinks it is; it is going to be vastly more expensive than this House thinks it is, and if we are not going to raise taxes, we are going to have to find places that are systematically less important as a matter of current priority.

One gentleman got up and said, well, arts are in effect more important because somehow a kid who goes to a play is less likely to use drugs. I would have suggested to that gentleman, were he still on the floor, that he ought to read James Q. Wilson's "Thinking About Crime." Wilson, a Harvard sociologist, wrote a book on criminology in the mid-1970's. In "Thinking About Crime," he said flatly:

There is a liberal fallacy that somehow feeling better about yourself changes the probability of crime. That in fact statistically it turns out that more police and more prisons and faster sentencing does have an impact. That in fact we are faced with a criminal activity, not sociological deviants.

□ 1440

The question is, Do we want to have enough policemen to be able to stop the criminals? This is a fundamental difference of how you approach a public policy issue.

So in summary, and then I will be glad to yield to the distinguished chairman of the subcommittee, in summary this is part of a series of amendments, it is one more $1 million, $1 million here and $1 million there, it starts to add up; it is focused on what I think is the most serious domestic crisis of the late 1980's, which is the drug war, and it is an attempt to say that, if we are going to have limited Federal moneys, we have an obligation to get into the habit of setting priorities.

I will be glad to yield to the distinguished gentleman and then thereafter I will be glad to yield to the distinguished gentlewoman.

Mr. DIXON. I thank the gentleman from Georgia.

I probably spend more time listening to the gentleman's debates on C-SPAN than probably anyone else in the House.

Mr. GINGRICH. And I do not believe I have won a single vote from the gentleman. But I yield further to the gentleman.

Mr. DIXON. And I hope not on this one, either.

There is no suggestion here that $1 million will not help against the war on drugs. There is the suggestion, rather the committee's strong recommendation, that the police department needs no more money for this purpose, that there are other facilities and institutions in this community that need money to participate in that war on drugs.

So we are not arguing about what the No. 1 priority is. We are arguing about whether, in fact, the arts and humanities program, which I suggest if you look at the grants, are not to visit the Smithsonian, but more directed so that someone in Washington, DC can rise to a point where they have painting or a work of art in the Smithsonian; we are suggesting that there are other areas that should be considered simultaneously in this effort. I am suggesting the inference is that the war on drugs is not being fought by the police department. And the gentleman from Pennsylvania's own statistics do not indicate that.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(On request of Mr. DIXON and by unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. I yield further to the chairman.

Mr. DIXON. His own statistics indicate that there is an active war. That is all I am saying.

Mr. GINGRICH. Again I guess we do have, I say to my friend, a philosophical difference in that I am very interested, as soon as we have a vigorous and tough enough law enforcement, a speedy enough trial and sentencing, and a thorough enough prison system, I am then interested in the dollar after that going to the arts. But I think that we ought to be insisting that we have a police system capable of protecting us, and I think the objective evidence just based on today's testimony about muggings, auto thefts, what have you, is that at the present time in the National Capital we do not have adequate police enforcement.

Mr. DIXON. I would ask the gentleman if he voted for the Frenzel amendment.

Mr. GINGRICH. I did vote for it.

Mr. DIXON. Well, the gentleman just cut, as the gentleman from Ohio pointed out, the police department's budget as well as the budget for arts and humanities.

Mr. GINGRICH. Which is an even stronger argument for taking this million dollars and putting it into the institution.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

First of all, we are not talking about museums. In most major areas of the country, there are museums. All people can go to them. You are talking about a program that exists primarily in the school system, and I do not know that the gentleman was focusing on that. I would say to the gentleman, since he voted for the Frenzel amendment that cut our customs workers, the Coast Guard, which has only three planes to cover the entire coastal areas of our country, the gentleman cut 4 percent, and that appropriation bill was already below projections that the reconciliation projections were under Gramm-Rudman. The gentleman is the one who has supported an amendment that deprives us of the vehicles, the enforcement individuals, that is, some civil servants, some security people, et cetera, that indeed would protect our borders. That is the No. 1 problem that we have all this illicit, illegal drug traffic coming into our country.

So I think it is a kind of subtle form of a lack of philosophy on this issue when he comes up and wants to deprive kids of a chance to have training in their school system, but he will vote to cut the customs workers who are protecting our borders.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I do not think we ought to let it stand that what we are doing is somehow taking money out of the education system. The Commission on Arts and Humanities is a clearinghouse of funds for local arts, crafts, theater groups, individual performers; it supplies funds to some local institutions for arts performances and that kind of thing. It comes under the public education portion of the bill, but it in fact is something which goes far beyond serving the children in our schools. It is something which is largely the arts and humanities program for the entire city.

The gentleman is absolutely right that there are many resources in this city that go beyond that, that we have the Folger Shakespearean Theater, there are all kinds of arts resources in this city that the Federal Government is helping to sponsor. So it is not a city necessarily lacking in cultural activity.

I thank the gentleman for yielding.

Mr. GINGRICH. If the gentleman will answer a question before he sits down, I want to ask the gentleman, is it not correct that the gentleman will in the near future be offering an amendment to add $20 million to the Coast Guard?

Mr. WALKER. The gentleman is absolutely correct. When we get to the transportation bill, I want to add $20 million there. We have $20 million in law enforcement authority that goes to the 55-mile-an-hour speed limit. We ought to look at the priorities of that. Should we be spending law enforcement money for 55-mile-an-hour speed limit, or should we spend that money toward drug interdiction in the Coast Guard?

So I would offer an amendment that would transfer the $20 million from the 55-mile-an-hour speed limit enforcement and put it toward a higher law enforcement priority; namely, the Coast Guard. I would hope we are going to have some support for that amendment.

And if the gentleman will yield further, there will be another amendment later on today, I would say, as a part of this package in the agriculture appropriations that will build upon language already in the agriculture appropriation that is aimed at shutting down the funds in the bill to anyone who is convicted of drug dealing or drug production. I certainly hope the Members will see fit to support that as part of the package, too. The gentleman is right, we have a package of amendments in that regard.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(On request of Mr. HUNTER and by unanimous consent, Mr. GINGRICH was allowed to proceed for 3 additional minutes.)

Mr. GINGRICH. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I want to thank my colleagues on the Democratic and Republican sides for appreciating this debate for what it is, and that is a dispassionate discussion about our priorities. We are not here to point the finger at each other and say, "You voted for that bill" or "You voted against this bill." What we are doing is something that is very difficult for us as a Congress to do, and that is to make priorities within a pie that has been shrinking.

It is easier for us to expand a pie and to add programs than it is for us to take a limited amount of resources, which is what we are dealing with under Gramm-Rudman and our other constraints this year and make very difficult decisions. It was stated by one of the Democratic leaders in this leadership conference on narcotics that just took place an hour or so ago, this is going to cost a lot of money. There is going to be some pain in making those or reordering those priorities.

I think accepting that fact and accepting the fact that we are going to have to change priorities and we will not have the avenue or the alternative of simply pumping in more money or making the pie bigger, I think that the gentleman's amendment and his proposed change in prioritization is a correct one.

I look at the fact that you need to arrest people for pushing major amounts of narcotics, you need major amounts of people, a lot of people who are involved in undercover investigative work, and the police department could spend more money on that. You could always spend more money on that. You always need to have more intelligence and more people who are doing undercover work. That is how you get the major traffickers.

So I think this is a painful amendment that the gentleman has offered. I do not think we should point fingers at each other. I think we should go forward as Republicans and Democrats and accept or vote very much in favor; I think, the Republican side and Democratic side should vote very strongly for the Walker amendment.

I thank the gentleman for yielding.

Mr. GINGRICH. I just want to say in closing that this is the beginning of two long and difficult processes, one is of setting priorities rather than raising taxes.

I think the mandate of the American people forcing us to set priorities instead of raising taxes is overpowering. Second, to recognize that if we are going to be successful in the next few years in breaking up the cocaine and heroin trade, it is going to require a dramatically bigger effort than either the Office of Management and Budget or the Congress has undertaken. We are going to have to tackle it head on. It is going to cost money. We are going to have set priorities.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I just want to say one last thing. This is going to be an ongoing process. When the Defense Department budget comes up, there are going to be amendments, and I am going to support those amendments, that are going to change priorities within that budget and are going to take assets away from their regular tasks of defending the Nation and dedicate those assets to narcotics interdiction. I am sure there is going to be some resistance to that. But we are going to take some major resources from DOD and apply that to the drug problem, and that is going to be painful within my own Committee on Armed Services and within our debate on the floor. But we are going to do that, also.

I thank the gentleman.

Mr. GINGRICH. Mr. Chairman, I yield back the balance of my time.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have heard a great deal of talk in the last few minutes about priorities. The question before us is on what basis do the Members of the Congress prioritize with respect to the District of Columbia? The fact is we cannot do that with respect to any other State in this Union. The fact is that duly elected citizens of the District of Columbia in the city, and the Mayor, are equally opposed to drug trafficking in our community, as are elected officials all over the country to drug trafficking in their communities. They have prioritized. They have held hearings, numerous hearings across the length and breadth of the community. They have come to the conclusion that in order to fight the drug traffic in this city, we ought to urge the House Appropriations Committee to add $10 million to the capacity of our police force to undertake this war on drugs. And the Appropriations Committee, having sat through numerous hearings and hours of testimony, have agreed with them. They have come to us with an appropriation which is certainly $20 million

below the President's mark, $20 million below our budget resolution. And now we, in defiance of what the people through their elected representatives, have concluded is necessary to carry out this war, want to dip in and take $1 million from a program that would be devastated by a 40-percent cut in that priority, and add it, when the police department, the Mayor and the City Council have said, "We do not need it," and where those who have been asked on behalf of this Congress to take a deep look at these matters, they have said we agree. So I would hope that we would not take seriously this amendment on the basis of persons who are in no position to establish a local priority for the District of Columbia. Certainly we are within our responsibilities, within the area of our responsibility when we set priorities for the Nation. But this is for the District of Columbia, the District of Columbia. I hope that you would vote against the Walker amendment.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I do not believe that I will take the 5 minutes. I think the representative from the District of Columbia makes a good point except I would go on to point out further that we in the Congress with an appropriation of over half a billion dollars pay for the privilege of examining and looking at the priorities set in a budget.

I can tell you that anytime the Members want to send down to the city of Fort Lauderdale $500 million, I think our city commission might very well decide that you can also prioritize in our budget.

But let us not argue over that or quibble over that. I think what we are looking at now is what are the needs for these funds? I went through a very difficult situation in my own district of Fort Lauderdale, FL, Broward County, FL, about 1½ weeks ago.

I visited a ward for neonatal care in which I saw the premature babies that were born all over south Florida who have run into problems, where they are brought into the Broward General Hospital. I found a statistics there that I found absolutely alarming and one that I want to share with the House Members here today.

Twenty percent of the premature babies brought into that unit are born cocaine addicts. They are suffering withdrawal symptoms. And as I went through and looked at those tiny babies in incubators and was standing next to one of them, he died. That baby was, as the doctor described it, smaller than the cocaine tattoo that was on his mother's arm.

□ 1455

Why do I bring this up and what does this have to do with the District of Columbia?

Any of us who live in and around the District of Columbia while Congress is in session know of the tremendous problem that the District of Columbia has with premature births. I would suggest to each and every one of you that if you check the statistics and if they are available from the hospitals in the District of Columbia, I would almost guarantee you that the instances of cocaine addiction in those babies is over 20 percent.

I would also suggest to you, and I think that the statistics would bear me out on this, that the instances of drug abuse in the District of Columbia are far ahead of the national average.

So how do we respond to that? How do we as the Congress respond to that, the Congress that is being asked to appropriate all this money to the District of Columbia's budget? We set priorities.

I think one of the speakers on the majority side made the point that you are promising a mountain and you are coming in with a mouse. At least it is something.

The Members are going to be given a choice. This choice is only moving a million dollars; that is correct. But it is a million dollars that would not be there if it were not for our vote.

Mr. Chairman, I would urge a "yes" vote on the Walker amendment.

Mr. PARRIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I may be unique in the Congress in this regard. I am a member of the Committee on the District of Columbia, second ranking minority member, and a member of the Select Committee on Nacrotics and Drug Abuse.

I rise in support of this amendment. I do not in any way denigrate the efforts of the committee. I congratulate them, as a matter of fact, on what they have done to increase the appropriations for the drug and criminal investigations and that sort of thing in the District of Columbia.

At the same time, I do not attribute to my friend, the gentleman from Pennsylvania's amendment a token of symbolism. I wish it could be more. In these times of fiscal responsibility increasing in this House, we have to draw the line somewhere. But this is at least, as has been said by other speakers, a step in the right direction.

I do not question the good faith of any of the Members who have spoken on this matter. Reasonable people can take the same facts and get reasonable results in a different way by the application of judgment, as has been said here earlier several times.

It is our responsibility to prioritize. I would say to the Delegate from the District of Columbia, my friend, Mr. FAUNTROY, we are required to prioritize because we are spending Federal taxpayers' money. When we spend that money, we have not only the opportunity, but the responsibility, to apply those moneys in some kind of a way defined by us as being in the public interest, whether it is for the people of Kansas or the District of Columbia or Virginia.

So I do not apologize for my involvement in this debate, nor in this process.

I will resist the temptation to spend the next 3½ hours to discuss at that length, if I was permitted, about the ability and the flexibility of the transfer of funds among the D.C. programs. You heard the gentleman from Connecticut [Mr. MCKINNEY], the ranking Republican, talk about how we appropriated $30 million last year for the District of Columbia to build a jail in this city, and they took $10 million and built some temporary housing in my district. That is flexibility if I ever saw it. Do not tell me, ladies and gentleman that they cannot take this million dollars if this amendment passes and find some other million dollars to provide for the worthwhile programs of arts and humanities.

The question is very simple: Are you for arts and humanities and libraries and artsy and crafty things, or do you believe, as I do, that drugs are a menace to this society and to its future? That is what we are talking about.

Let me just leave you with one number. It has been estimated that the dramatic increases in the criminal population of felons convicted in the courts of this city, 50 percent of those people are involved in drug trafficking or use. That is why there is a population explosion of inmates in this city, largely because of the drug problem.

Let me just make one other comment, and then I will relinquish the floor. The Delegate from the District of Columbia said the Mayor and the police department have indicated that they do not need this money.

Let me share with you a fact. This morning at 7:30 a.m., I went on a drug raid with the Park Police just above Great Falls, 5 miles north of Washington. We went up there and crawled around in the rose bushes—these were wild rose bushes I am talking about—and it was hotter than the blue blazes of you know where. We had park policemen up there with machetes cutting their way into little plots where marijuana is being grown. It was not a lot of fun. It was different, but it was important. We jerked out a bunch of plants and we took them away. Presumably and hopefully, we have reduced somewhat the impact of illegal substances on the people of this metropolitan area. We hope we did something good.

Let me tell you what was a greater and more dramatic incident than the results we had this morning. Last week

when the Park Police found a plot of mature marijuana plants, 388 of them, as I recall, they were valued at $300,000 of street market value.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(By unanimous consent, Mr. PARRIS was allowed to continue for 2 additional minutes.)

Mr. PARRIS. There was $300,000 worth of marijuana detected by the Park Police.

Where do you suppose that this substance was being grown? Just off Foxhall Road, about, as the crow flies, one quarter of a mile from the bars of Georgetown.

Now if that is not a problem for the D.C. police, I do not know what is.

Yet it has been suggested that the police do not really need this $1 million, that presumably, if we do give it to them, they cannot even find a good use to which it could be put.

I reject that argument, ladies and gentlemen. I think the priority of this budget and this decision is very clear. We have got to do something about drugs in this city, and that is part of our responsibility.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman serves with me not only on the Committee on the District of Columbia but, as the gentleman indicated, on the Select Committee on Narcotics and Drug Abuse.

I want to thank the gentleman for confirming the fact that the drugs sold in the District of Columbia are not grown on the streets of the District of Columbia.

Mr. PARRIS. No; they are grown in the dirt of the District of Columbia.

Mr. FAUNTROY. And they are grown in suburban Maryland and Virginia, as the gentleman has pointed out.

I am sure that the Department of the Interior will come to the appropriate committee of this House and make the request to increase the funds to handle the problem the gentleman addressed.

I still maintain that the elected officials of this community, in consultation with the citizens of the District of Columbia, and now in consultation with the appropriate committee of the House, have concluded that the priorities ought to be as the committee recommends.

I would hope the gentleman is not suggesting that the Metropolitan Police Department and the Mayor have not assessed what they needed and that this is not a reflection of that need.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for his comments.

I would just say to the gentleman in response that I tried to indicate earlier in my remarks that I have the highest possible regard for the members of this committee.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Chairman, I have the highest possible regard for not only the chairman of the subcommittee, but the members also. They worked diligently on these problems.

But what we are talking about, I would say to my friend, the Delegate from the District of Columbia, is not more money for this or more money for the Interior Department, we are talking about what to do with this precise $1 million. Shall we in fact apply to the District of Columbia Police Department drug efforts, or shall we have an arts and humanities program? It is very simply.

I would just clarify one misconception that the gentleman may have.

We were in Maryland this morning, not in Virginia. The District of Columbia does not grow drugs on the street. But the incident that I mentioned to the gentleman is that last week, $300,000 worth of illegal substances were grown right here, literally a mile from this building.

It is a problem in this community. It is a problem in all of our communities. I do not suggest that this is the only city in the Nation that has the problem. But it is a problem here and we need to address it.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(On request of Mr. DELLUMS, and by unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

□ 1505

Mr. DELLUMS. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to reecho an argument that I put forth in the general debate in response to my colleague.

The gentleman suggested that the proposition before us is very simple and straightforward. That is, "How do you use this million dollars?" Do you use it for the purposes of fighting the problems of drugs in this community or do you put the money into the purposes for which it was originally designed? That is, the arts and humanities.

Let me give you this argument. I think that struggling against drugs that are killing our children not only in the streets of Washington, DC, but all over this country is not only laudible, it has now become a moral imperative. We must save our kids.

When you look at the problem of drugs, you have to look at it in its multidimensional facets. You not only have the problem of the seller; you also have the problem of the buyer. Many of the buyers in our community are our children.

What I am saying is an integral part of drug abuse prevention is to develop those programs that allow us to compete for the attention of our children. As I said earlier, when the gentleman and I were children, when we were not as old and as ugly and as gray as we presently are, there were programs designed to capture our attention. We had athletic programs and recreation programs and art programs and music programs and educational programs to capture the imagination of the children.

I have been a group worker, I have been a gang worker, street-gang worker; I have worked with recreational children. Social work is my background. We competed strongly and effectively for the attention of the children.

What I am suggesting to the gentleman is that in this debate, Gramm-Rudman and the politics of deficit reduction, we are losing the reality of what is really going on here. A budget does not exist in a vacuum. It exists in a very human dimension. So if you want to deal with the multidimensional aspects of drugs, what I am saying is, why are we taking money away from arts and humanities, a program designed to pass on from one generation to the next our culture, our civilization, our heritage, our creativity, our genius, and then assume that we have to do that in lieu of fighting drugs.

What I said to my distinguished colleague from Pennsylvania is let us not end up taking away all those programs designed to compete for the attention of the children and where are we left? There is nothing between the children and the drug dealer but atmosphere. What we want to do is to fill in that equation with these kinds of dramatic and important programs. These are not frivolous ideas. Arts and humanities are terribly important. We have a responsibility, it seems to me, to save our children.

If the gentleman will continue to yield, I would like to make this one, last comment.

I do not think it ought to be in lieu of this. Why can it not be in addition to? If the issue of drug addiction is as important as we perceive it——

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr Chairman, I continue to yield to the gentleman.

Mr. DELLUMS. I thank the gentleman.

Mr. Chairman, I would say to the "vote hawks" why do you not be quiet; we are in the business of an intelligent discourse and to continue to suggest a vote is not going to stop this gentleman from speaking. That is our right, our prerogative, and I would suggest further, our responsibility.

Let me just finally say to my colleague: If the issue is as significant as we think it is, then let it not die in the absurd politics of deficits reduction. Let us not take $1 million away from arts and humanities. If this budget is $20 million below the President's request, then as members of the other party, why do you not say, "For this purpose, we are prepared to put the entire $20 million into the budget." You do not have to go in here and take on programs designed to help us compete for the young peoples' attention; it does not have to be done that way.

I think that this is really, in one sense, a very mischievous amendment and misdirected. That is not to suggest that challenging drugs is not laudable. I put that aside as beyond laudable. It is a moral imperative. I would suggest that you are not carrying out the moral imperative by challenging those programs designed to enhance the quality of our children's lives; that is not the way it is done.

I thank my colleague for his generosity.

Mr. PARRIS. I thank the gentleman for his usual articulate contribution to this discussion.

I would remind the gentleman that I voted against the Frenzel amendment; the across-the-board cut that we just adopted a moment ago, because I thought it was wrong. But I would also suggest to the gentleman, as I indicated earlier in my remarks, I wish it could be more. I wish this amendment was $10 or $100 million or whatever it takes to do the job. I submit to the gentleman that the taxpayers', the Treasury Department, is not forever a bottomless pit out of which we can draw money without impact on the future of this Nation.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman.

Let me say this: We all in this room are very intelligent and adult human beings; we know that we would not solve the problem of significant, over $200 billion in deficits on the District of Columbia bill.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. PARRIS. Mr. Chairman, I continue to yield to the gentleman.

Mr. DELLUMS. I thank the gentleman.

Mr. Chairman, this bill exists in a larger bill. I would say to my colleague that if we really want to fight it, let us stop building 1 of the 100 B-1 bombers. Let us stop building 1 of the 1,000 nuclear missiles designed to destroy human life. Let us take the money from other places. But to take the money from the children is bizarre. To take the money from our future is absurd.

If you want to fight drugs then let us stop fighting nuclear wars. Let us stop fighting Nicaraguans, let us stop fighting other phantoms out there and begin to address the reality that our children are dying on the streets of America from drugs, not from Sandinistas in Nicaragua and not from other bizarre activities. There we would be making a more intelligent and honest and straightforward articulation of our concerns.

To assume that someone does not care about solving the problems of drugs because we oppose taking $1 million from the children for arts and humanities it seems to me is absurd in the extreme I would say to my colleague.

So if we want to solve the problem of deficit reduction, then let us stop building all of these weapons designed to destroy all life and put moneys into programs designed to enhance the quality of the lives of the most precious substance that we have and that is our children and their futures.

Mr. PARRIS. I would say to the gentleman that this gentleman has never made the argument that we should not look to the future of our children. I would say to the gentleman that the question of drugs must be attacked in the position of demand of our children for these substances. But until such time as we can interdict meaningfully on the supply, we have to apply the moneys, the capability, the opportunity that we have in every possible way to interdict that supply until we get a handle on demand.

The gentleman talks about opportunities for athletic involvement and other things.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. PARRIS] has again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Chairman, it is perfectly true. I would remind the gentleman, if he would pardon a rather personal reference, I flew jets in Korea. I came here, I came here to go to law school in this town. I got a job running a mimeograph machine in the basement of this building. I made $280 a month. I had a wife and two children.

This is America. We have got to preserve this for our children and our children's children without letting them fry their brains with this junk. The question is: How do we do that? That is where this amendment impacts. In some, we hope, meaningful, small but meaningful way in this city which is in fact partially our responsibility.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for again yielding.

Mr. Chairman, I wish to hammer just one other point home. I am saying to my colleague that you are only dealing with one dimension of this problem, and that is the demand. I am also suggesting that we deal on the demand side. Let us compete for our children. They are out there getting high on drugs because they cannot get high on life. That is what the issue is and that is what we ought to be dealing with.

Mr. PARRIS. The gentleman is correct.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in view of this extended debate, and I did not intend to participate, I feel impelled to point out that while consistency is not always a virtue of elected officials, they are usually a little bit more consistent than today.

One week ago today most of the people that have been talking for this amendment voted for a $100 million cut in law enforcement programs. One week ago today. They are talking about shifting $1 million today. One week ago today most of them voted for cutting the U.S. attorneys by $17.1 million. Now how can we prosecute drug pushers if we do not have enough U.S. attorneys?

In the District of Columbia, the U.S. attorney is the chief prosecutor. The marshals service was reduced $7.8 million. The Juvenile Justice System by $3.5 million, and that is where we fund the Juvenile Justice Program. There is no authorization. The appropriation bill has kept it alive for 5 years. Anybody that has been watching knows that 90 percent of the law enforcement, the drug enforcement in this country has been done as a result of what we have done through the State,

Justice, Commerce Subcommittee on Appropriations the last 5 years.

□ 1515

We have appropriated money for drug enforcement programs that did not exist, let alone those that were to be continued without an authorization. That is where the law enforcement and the drug enforcement have been headquartered, right in that subcommittee bill.

They also voted for cutting $37.3 million out of the prison system, and that includes the annual upkeep of the prison system. What good does it do to catch drug traffickers if judges must turn them loose because they do not have any space in the prison? This was a total of $100 million that was cut from the programs that deal with drug enforcement.

And then there is the INS. I did not mention that. People bring the drugs across the border every day, and the Immigration and Naturalization Service was cut by $30.4 million a week ago today, largely by the same Members who speak about its being such a great virtue to shift $1 million around today; $1 million shifted today is no substitute for having cut $100 million out of law enforcement and drug enforcement and incarceration last Thursday.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise because I think I have reached the limit of my patience with the unctuous self-righteousness that keeps flowing from the right.

We have first one of the proponents of this amendment saying to those on the left who so erroneously believe this way that he speaks to "my liberal left." Then we have another one say, "Oh, we ought to look upon this as a nonpartisan issue. Us Republicrats and those Democrats, we ought to get together."

Then meanwhile, when we examine the issue on hand, we find that the basic issue involved is a matter of priority, which phrase has been used ad infinitum and ad nauseam here in the last few minutes.

The problem here is not prioritizing. The problem is the perversity in priorities that this administration and those who support its policies have constantly crammed down the throats of those of us who have raised the issue of the legitimate priority that the needs of the American people require us to respond to, whether it is in shelter or housing, whether it is in food or nutrition, or whether it is in education or grants for student loan programs, all of which have been decimated in the name of proper priorities but which I call a perversion in priorities.

Now, I think that when we reach such a ludicrous situation as trying to regurgitate the debates long gone by of 60 years ago as to the propriety of the Government supporting such endeavors that add to the quality of life as arts and humanities, really in effect we are wasting time. I certainly hope that my colleagues will literally vote solidly against this amendment. I consider it to be one that is based on an ideologue approach which I think has been reflected very much, time and time again by some of the speakers.

We are not talking about ideology. When a colleague of mine gets up and looks in my direction, I assume he is talking about me when he says, "You liberal on the left."

Whenever I hear that, I for one want to go on record as saying that I am proud to be called a liberal. When I look at the tradition of what America stands for, it is to the world essentially a liberal tradition. I think that those kindred in spirit at Runnymede who forged the Magna Carta were not conservative Tories or reactionaries; they were the liberals of the day.

Today who are the liberals? I would say it is those who are actually the conservers, not conservatives but conservers. And now I see this rather shameful abuse of argument in attempting to foist off an ideological interpretation on realistic daily life decisions that we have got to make on what we think is a response to the burgeoning needs of the American people, not just for food, not just for shelter, not just for clothing, but for those things that make a civilized life have some quality that inspires us above mere animal existence.

I also rise to express my admiration for the gentleman from California and for his most eloquent and inimitable way, one that I can hardly hope to match, of describing the issue at hand. Let us not further victimize the District of Columbia by venting, as this Congress has since its inception, its ideological binges and its racial, insipid prejudices against the hapless residents of the District of Columbia.

Mr. Chairman, if my friends want to get the proper response, I ask them to join me in my resolution to make a State out of the District of Columbia.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in reluctant opposition to the amendment.

I take second place to no one in support of the war against drugs. I serve as the second ranking Republican on the Select Committee on Narcotics Abuse and Control. I attended the same meeting with our leadership this noon that my colleague, the gentleman from California, and my colleague, the gentleman from Florida, attended. However, it is not right to take 40 percent of the District of Columbia's funds for arts, humanities, and education, and transfer that $1 million to a $157 million account for police and law enforcement.

In fact, if we really look at the war against drugs, it may well be that we have our priorities miserably confused. We should be spending more on education. We spend millions of dollars every year through the Coast Guard on trying to interdict drugs coming into the United States. But the Coast Guard cannot even tell us whether they interdict 10 percent of the drugs or 20 percent of the drugs or even 30 percent at the most.

We spend millions of dollars on law enforcement throughout this country, on trying to enforce our drug laws. Yet the drug trade gets larger and larger and larger. We spend a pittance, I say to my colleagues, on drug abuse education. We should be educating young people on the dangers of this problem.

We have a good drunk driving program, for example. It works with grassroots groups, State and local governments, the Federal Government, education, and the Advertising Council. We are making an impression and decreasing that problem. Our young people, themselves, are enforcing it with their own programs. They are saying, "No—if you are drunk, you don't drive."

We need the same kinds of programs for drugs. That is where the money should go. We need the extra money for education to encourage the young people to reduce the demand for drugs. We should not be doing this instead of taking part of the funds that are for education and for arts and humanities, 40 percent, and transferring it to the police department. The police department has already been funded with every single nickel from this subcommittee that they requested. They have all they want for drug enforcement. This just does not make sense.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, may I commend the gentleman for his past efforts in the war on drugs and his leadership in this area as well.

Second, let me thank the gentleman for raising a point which I think has been missed throughout this entire debate, although it was alluded to by one Member who said that drugs are a personal problem and by another Member who said that drugs are a multidimensional problem, and therein is indeed the issue.

□ 1525

Our Nation and this society has spent literally billions of dollars on prosecutors, police officers, prisons, interdiction, and has utterly failed.

Let me predict that, as a result of multiple efforts going forward both in the Congress and in this administration, that more money will be spent in that regard, and let me tell you what the result is going to be, and every one of you know what it is going to be. We are going to fail again.

The gentleman is totally correct. Unless and until the leaders of this society, the decisionmakers, the chief politicians in the Congress, the President, the motion picture industry, the media industry, the rock industry, the sports industry, the alcohol industry, the people who are making money off drugs, decide that it is a national disgrace to watch the youth of this country become "no minds" and endanger the future of the country, until they decide that it is going to require a national communication media effort, we are not going to be successful. That is my judgment.

Yes, the Russians are coming, but crack is here and crack is far more threatening and immediate than that.

I hope that, as a result of the committee efforts that the gentleman is now participating in, that somebody will be able to go forth to the video industry, to the motion picture industry, to the recording industry, to a certain subculture magazine industry, to the profit industry, and say, for heaven's sake, stop glorifying drugs, including alcohol.

We need a massive public effort that says drugs are not good for you and that has got to begin in the elementary schools and it will not be successful unless and until we do.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for 2 additional minutes.)

Mr. COUGHLIN. Mr. Chairman, I thank my colleague.

Let me just say, let us join in the war on drugs, but let us do it the right way. We need to analyze where money should be spent and how funds should be applied. Let us not take an account that is an education account and decimate it to provide a pittance in another direction.

I ask my colleagues to oppose the amendment.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in opposition to the amendment offered by the gentlemen from Pennsylvania and I wish to elaborate further on the reasons for my objections to this motion.

The amendment would theoretically delete some $1 million from the District of Columbia's Commission on the Arts and Humanities and provide that same sum of money to the District of Columbia Police Department in their efforts to combat the influx of illicit narcotics.

While no one on the floor today disputes the need for this body to adequately fund a coordinated war on drugs, today's amendment is only so much window dressing which makes the intent of some of my colleagues to make drug interdiction a crass political issue.

The District of Columbia Appropriations bill today before us already contains an increase of some $9.6 million over last year's funding level to assist the police department's efforts at thwarting the drug trade in the city of Washington.

The bill further provides for the creation of a metropolitan regional drug authority, composed of Representatives of the various State and local governments in the Washington metropolitan area, to facilitate the coordination of a regional response to the growing menace posed by drug trafficking.

Finally, Mr. Chairman, the concept today advanced by this amendment's proponents that the benefits offered by full funding for the commission on arts and humanities are negligible compared with those possible from giving the police department an additional $1 million is questionable at best. Absent evidence of the misuse or mal-administration of funds allocated to the arts and humanities commission, I fail to see the need to effectively cripple one worthwhile program to minimally increase the budget of another agency when other provisions in this bill already fund a stepped-up war against drugs in Washington.

The proponents of this amendment are simply attempting to transfer funds from those programs which they object to but can find nothing wrong with its implementation under the guise of providing miniscule amounts of money to theoretically combat illicit narcotics.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 229, not voting 18, as follows:

[Roll No. 249]

AYES—183

Archer	Davis	Hansen
Armey	DeLay	Hendon
Badham	DeWine	Henry
Bartlett	Dickinson	Hiler
Barton	DioGuardi	Hillis
Bennett	Dornan (CA)	Holt
Bentley	Dreier	Hopkins
Bilirakis	Duncan	Hubbard
Boulter	Dyson	Hughes
Broomfield	Eckart (OH)	Hunter
Brown (CO)	Eckert (NY)	Hutto
Bruce	Edwards (OK)	Ireland
Bryant	Emerson	Jones (OK)
Burton (IN)	English	Kasich
Byron	Evans (IA)	Kemp
Callahan	Fawell	Kindness
Carney	Fiedler	Kolbe
Clinger	Fields	Kolter
Coats	Franklin	Kramer
Cobey	Gallo	Lagomarsino
Coble	Gekas	Latta
Coleman (MO)	Gibbons	Lent
Combest	Gingrich	Lewis (CA)
Courter	Goodling	Lewis (FL)
Craig	Gregg	Lightfoot
Crane	Guarini	Lipinski
Dannemeyer	Gunderson	Livingston
Darden	Hall, Ralph	Lloyd
Daub	Hammerschmidt	Loeffler
Lott	Pursell	Smith, Robert (OR)
Lujan	Quillen	Snowe
Lungren	Regula	Snyder
Mack	Ridge	Solomon
Madigan	Rinaldo	Spence
Marlenee	Ritter	Stallings
Martin (IL)	Roberts	Stangeland
Martin (NY)	Robinson	Stenholm
McCain	Roemer	Strang
McCandless	Rogers	Stump
McCollum	Roth	Sundquist
McCurdy	Roukema	Sweeney
McEwen	Rowland (CT)	Swindall
McGrath	Rudd	Tauzin
McKernan	Saxton	Taylor
Miller (OH)	Schaefer	Thomas (CA)
Molinari	Schuette	Torricelli
Monson	Schulze	Valentine
Montgomery	Sensenbrenner	Vander Jagt
Moore	Sharp	Volkmer
Moorhead	Shaw	Vucanovich
Murphy	Shumway	Walgren
Myers	Shuster	Walker
Neal	Siljander	Watkins
Nelson	Skeen	Weber
Nichols	Slaughter	Whittaker
Nielson	Smith (FL)	Wortley
Oxley	Smith (NE)	Wylie
Packard	Smith (NJ)	Yatron
Parris	Smith, Denny (OR)	Young (AK)
Pashayan	Smith, Robert (NH)	Young (FL)
Petri		Zschau
Porter		

NOES—229

Ackerman	Downey	Leath (TX)
Akaka	Durbin	Lehman (CA)
Alexander	Dwyer	Lehman (FL)
Anderson	Dymally	Leland
Andrews	Early	Levin (MI)
Annunzio	Edgar	Levine (CA)
Anthony	Edwards (CA)	Long
Applegate	Erdreich	Lowery (CA)
Atkins	Evans (IL)	Lowry (WA)
AuCoin	Fazio	Luken
Barnard	Feighan	MacKay
Barnes	Fish	Manton
Bateman	Flippo	Markey
Bates	Florio	Martinez
Bedell	Foglietta	Matsui
Beilenson	Foley	Mavroules
Bereuter	Ford (MI)	Mazzoli
Berman	Ford (TN)	McCloskey
Bevill	Frank	McDade
Biaggi	Frenzel	McHugh
Bliley	Frost	McKinney
Boehlert	Fuqua	Meyers
Boggs	Garcia	Mica
Boland	Gaydos	Miller (CA)
Bonior (MI)	Gejdenson	Miller (WA)
Borski	Gephardt	Mineta
Bosco	Gilman	Mitchell
Boucher	Glickman	Moakley
Boxer	Gonzalez	Mollohan
Brooks	Gordon	Moody
Brown (CA)	Gradison	Morrison (CT)
Burton (CA)	Gray (IL)	Morrison (WA)
Bustamante	Gray (PA)	Mrazek
Carper	Green	Murtha
Carr	Hall (OH)	Natcher
Chandler	Hamilton	Nowak
Chapman	Hatcher	Oakar
Chappell	Hawkins	Oberstar
Cheney	Hayes	Obey
Clay	Hefner	Olin
Coelho	Hertel	Ortiz
Coleman (TX)	Horton	Owens
Collins	Howard	Panetta
Conte	Hoyer	Pease
Conyers	Hyde	Penny
Cooper	Jacobs	Pepper
Coughlin	Jeffords	Perkins
Coyne	Jenkins	Pickle
Crockett	Johnson	Price
Daniel	Jones (NC)	Rahall
Daschle	Kanjorski	Rangel
de la Garza	Kaptur	Ray
Dellums	Kastenmeier	Reid
Derrick	Kennelly	Richardson
Dicks	Kildee	Rodino
Dingell	Kleczka	Roe
Dixon	Kostmayer	Rose
Donnelly	LaFalce	Rostenkowski
Dorgan (ND)	Lantos	Rowland (GA)
Dowdy	Leach (IA)	Roybal

Russo	Stark	Weaver
Sabo	Stokes	Weiss
Savage	Stratton	Wheat
Scheuer	Studds	Whitehurst
Schneider	Swift	Whitley
Schroeder	Synar	Whitten
Seiberling	Tallon	Williams
Shelby	Tauke	Wilson
Sikorski	Thomas (GA)	Wirth
Sisisky	Torres	Wise
Skelton	Towns	Wolf
Slattery	Traficant	Wolpe
Smith (IA)	Traxler	Wyden
Solarz	Udall	Yates
Spratt	Vento	Young (MO)
St Germain	Visclosky	
Staggers	Waxman	

NOT VOTING—18

Aspin	Fascell	Lundine
Boner (TN)	Fowler	McMillan
Bonker	Grotberg	Michel
Breaux	Hartnett	Mikulski
Campbell	Huckaby	Schumer
Chappie	Jones (TN)	Wright

□ 1550

The Clerk announced the following pair:

On this vote:

Mr. Hartnett for, with Ms. Mikulski against.

Messrs. CHAPMAN, ROYBAL, and PACKARD changed their votes from "aye" to "no."

Messrs. SCHULZE, PACKARD, and GUARINI changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 22, line 12, strike "Federal".

Page 22, line 15, strike the semicolon and all that follows through line 21 and insert a period.

Mr. DORNAN of California. Mr. Chairman, a week ago today, on a getaway Thursday, I think on this very passionate and emotional and contentious issue, a majority in this House, called prolife and the other side, called prochoice, reached an understanding that everyone in this currently constituted 99th Congress has a deep understanding of the issue as their conscience dictates the issue to them.

So we held the debate on both sides to a minimum of discourse and proceeded to vote in a faster manner than we ever had as each side sees this critical life issue.

I think it had a beneficial effect. On our side, those of us who support Hyde-type amendments felt secure in the spread of our victory, 41 votes, that as this 99th Congress is constituted, we do constitute a majority.

I see no point in going over as important as that ground is the points on the District of Columbia, that those of us who are prolife think calls the District into shame.

For every 1,000 live births in this District, there are 1,517 abortions, most of them what are fairly called abortion on demand. I think that it is time that we change the language in the D.C. appropriations bill to defend life.

All my amendment does is remove language and it accomplishes a Hyde-type prolife objective.

As I said, closing my remarks last Thursday, and I am going to yield back most of my time here, I think respect is due on both sides for our opposing opinions and let us get about the business of voting our conscience.

Mr. Chairman, I yield back the balance of my time.

Mr. WEISS. Mr. Chairman, I rise in opposition to the amendment.

Not only does this amendment attempt—as have so many amendments to appropriations bills in recent years—to deny women the choice of a safe, legal abortion, it would tell a local jurisdiction how to spend the money it has raised.

Already, antiabortion riders attached to a variety of Federal health care programs and benefits packages have all but eliminated the choice of a safe abortion to nearly 10 million women. It is not surprising that most of the women affected by these antichoice restrictions lack the necessary resources to counter them. These amendments have not ended abortion. What they have done is withhold from a certain segment of our population the constitutional right to equal protection of the law, and established a dual system of access to needed medical care.

Realizing this, 14 States, including my home State of New York, and the District of Columbia—which account for roughly half the U.S. population—use local tax revenues to pay for Medicaid abortions. All jurisdictions are in full compliance with the Federal restrictions already in place. And each has made its decision and developed its Medicaid Program in accordance with local preferences and circumstances.

The District of Columbia should not now be treated differently.

This amendment is both wrong in substance and wrong in procedure. It is a further attack on the constitutionally protected and recently upheld right to choose abortion. It is also an underhanded attack that exploits the continued power of the House over the District of Columbia's purse to achieve this highly objectionable goal.

The supporters of this amendment disagree strongly on the issue of abortion, and they have every right to do so. But the government of the District of Columbia, representing the wishes of its citizenry, must also be able to choose how to spend its revenues collected through property and income taxes, and other sources.

The District of Columbia deserves to be reimbursed for the responsibilities it assumes for the revenue losses and costs associated with its role as the Nation's Capital. That is the intention of the bill being considered today. But the restrictions being considered at this time go beyond this purpose and must be rejected.

What this amendment seeks to do is to single out poor women in the District of Columbia in a manner that we could not single out poor women in other localities across this country and deny them the opportunity, for whatever the reason, reasons of health or well-being, from receiving abortions either by having the District of Columbia reimbursed for those abortions or by having the District of Columbia even spend its own money.

Let me try to put this into some context because the gentleman tries to suggest that the action that we took last week was so clear and was so simple that that should preclude us from opposing his amendment today. What the gentleman achieved last week ought to, in fact, make us all ashamed of ourselves.

Last week's amendment said that women who find themselves imprisoned not only are to be denied the right to have Medicaid pay for their abortions but the Federal prison system is to deny them facilities on the premises, is to deny them escort services, is to deny them any kind of expenditure of Federal moneys in order to get them to a place where they can get an abortion.

□ 1600

Therefore, what the gentleman's amendment last week did was unconstitutionally to put into a different category poor women who happen to be incarcerated.

The other body, as a matter of fact, considered such an amendment, and on constitutional grounds rejected it. Now the gentleman comes along, again, and says, not having done sufficient damage last week against a class of women who have no choice, no options whatsoever, now the women of the District of Columbia, cannot, if they cannot pay for abortions themselves, receive the constitutional protections of having those abortions paid for by the District of Columbia.

I would hope that this body would stand up and reject these further incursions on the rights of American citizens, and I hope that we overwhelmingly defeat this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in strong support of the Dornan amendment and commend my colleague from California for his compassion for children and their mothers in offering this today.

A similar amendment was offered last year and was adopted but didn't make its way into

law. I hope we will be more fortunate this year.

The issue before this body today, Mr. Chairman, is whether or not abortion on demand will be payed for with public funds.

Members should know and should be fully aware that the current language contained in H.R. 5175 may look good to some on the surface but has been totally ineffective and inadequate and has not stopped public funding for a single abortion.

Section 117 of the bill is so defective that it has permitted taxpayer financed abortion on demand in the District of Columbia. Even D.C. government officials admit this point. In an article in the Philadelphia Inquirer, August 1, 1985, Elizabeth Reveal, the District of Columbia's budget director at the time "confirmed that the District's government has a policy of funding abortion on demand and does not attempt to determine the circumstances of the pregnancy." The Dornan amendment reforms that policy and brings the D.C. appropriations bill in conformance with Federal policy.

I would point out to Members of the committee that in 1984 according to a D.C. government report, 10,357 abortions on demand were payed for in the District of Columbia with public funds: 10,357 children lost their lives and Congress permitted the taxpayer to foot the bill.

Mr. Chairman, let no one here today trivialize the gruesome reality of abortion. Let none of us become desensitized to the killing.

Clearly, abortion methods and their impact on children and women are difficult to contemplate and include bodily dismemberment, injection of poisonous chemicals, the crushing of the baby's skull and body, and poisoning by saltwater—a method whereby a caustic saline solution is injected into a baby's amniotic sac, the child inhales the saltwater and dies a slow, painful death from the toxic substance. It takes 1½ to 2 hours for the baby to die in a saline abortion.

According to a January 1986 report by D.C.'s Department of Human Services, 286 children were aborted by saline poison shots in 1984 alone. And the poison shots continue to be administered to this day.

I think it's outrageous that we not only fail to stop this child abuse, we encourage it by permitting non-Federal revenues over which we have jurisdiction to pay for this destruction of human life. We can't offer the excuse that it's not within our jurisdiction—because it is. We can stop this funding.

I would submit that the argument that this is a home rule issue simply doesn't cut. Other portions of this bill restrict or condition local funding suggesting that home rule isn't absolute. And it certainly doesn't apply when it is advanced to defend or to cloak a grave social injustice.

Mr. Chairman, just as home rule wasn't persuasive in defending abominations like slavery or segregation or any other social injustice, it is not a persuasive cover today in the defense of child killing.

I urge support of the Dornan amendment.

Mr. DIXON. Mr. Chariman, I rise to oppose the amendment.

Mr. Chairman, the gentleman from New York [Mr. WEISS] is absolutely correct. We are now doing to Washington what we could not do to any other State. We are saying with this amendment that the District of Columbia cannot spend its own money—not just Federal money—its own money, to facilitate a legal act; that is, a therapeutic abortion.

Now we could not do this to a State; but we can violate the right of this District to spend its own money to perform a legal act. Therapeutic abortions in this country are not illegal. It seems to be wrong from a home rule point of view; it seems to be wrong from a legal point of view to deny this entity the right to provide a service to its constituents if it so desires.

It is for those reasons that I oppose this amendment and urge that it be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DORNAN].

The question was taken; and on a division (demanded by Mr. DORNAN of California) there were—ayes, 44, noes, 24.

So the amendment was agreed to.

Mr. PARRIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would suggest to the gentlemen who have some comment about my taking the well that I am a member of the District of Columbia Committee and I rise to make three quick points. If you will bear with me, I will try to be brief about those.

I have got some good news and I have got some bad news. First the good news: I want to congratulate the chairman of the subcommittee, the ranking member, the gentleman from Pennsylvania [Mr. COUGHLIN] and the members of the committee in eliminating from this bill, for the first time in about 30 years, Mr. Chairman, a prohibition against the use of taxicab meters in this town.

This is the only major metropolitan area in the world that does not have taxicab meters. With the elimination of this prohibition, Mr. Chairman, that becomes possible. I think it is a giant step forward in fairness for all consumers, and it is really good news. I want to extend to the members of the subcommittee my sincere congratulations for their position in that regard.

Now for the bad news: Several weeks ago, Mr. Chairman, we had a hearing in the District of Columbia Committee on a resolution of disapproval of the city council's actions in making a special category and offering special privileges in getting insurance for persons who test positive for the AIDS virus.

Let me try in one sentence to tell the House what is about to happen. This special privilege for persons who have positively tested for the AIDS virus, this is created and the special privilege is done, by refusing the right of insurance companies in the rating of such persons for the issuance of premiums.

Now that, Mr. Chairman is, in my opinion, no less than a terrible incursion into the rights of individual private insurance operatives; but none the less, no less than the Washington Post itself thinks that this is a terrible idea.

The District of Columbia Committee voted 8 to 2, mostly by proxy, not to report the disapproval resolution.

My understanding is that my friend from California, Mr. DANNEMEYER, will oppose the motion to rise in a few minutes; will give the full House the chance to work its will, and I hope my colleagues will support him at that time and pay close attention to what we all know is a very convoluted parliamentary maneuver required by the rules under which we operate.

I think if we give the gentleman an opportunity to explain where he is coming from on this issue, we can correct this absurdity and do so in some timely way.

Finally, Mr. Chairman, and I am looking for the gentleman from the District of Columbia who was here just a moment ago. I do not see him, and I regret that because I want to say to him that a few moments ago, when the minority leader got up and told his plaintive story about his garage, the Delegate from the District of Columbia, Mr. FAUNTROY, made the comment that the situation can and basically will be rectified in the near term.

Let me read to you from the record language that was stated by the gentleman just a few moments ago.

> Let me assure the gentleman that as another report from the appropriations committee comes to this floor, we will see to it, I will see to it that the gentleman gets his permit.

This, the permit that he has been after now for almost 2 years to build a single car garage behind his house, to get a variance from the zoning ordinance for 1 foot 4 inches.

Now, I thank the gentleman from the District of Columbia for his generous offer of assistance to my minority leader, but the real problem ladies and gentlemen is that the people want and they expect and they are constitutionally guaranteed from every government at every level, fair and equal treatment under the law, and that standard should and does apply to the District of Columbia government just like it does everyplace else in this magnificent Nation.

If the application of the minority leader has merit, it should be granted, and soon. Whether the application is the Republican minority leader's, the Speaker of the House's, or the District of Columbia representative's, it certainly should not be delayed or adversely impacted because of the political orientation or the position of the applicant and available only because

somebody of influence is going to intercede in his behalf.

When the government of this town realizes that is the case and the law, it will be a better place to live and work.

The CHAIRMAN. For what purpose does the gentleman from California [Mr. DIXON] rise?

Mr. DIXON. Mr. Chairman.

Mr. DANNEMEYER. Mr. Chairman.

Mr. DIXON. Mr. Chairman, I move the committee do now rise and report the bill back to the House with sundry amendments with the recommendation that the amendments be agreed to and the bill, as amended, do pass.

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

PREFERENTIAL MOTION OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman will state his motion.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the enacting clause.

The CHAIRMAN. The gentleman's motion has to be in writing at the desk in the proper form.

Mr. DANNEMEYER. Just as soon as it is—I will have it at the desk in just a moment.

The CHAIRMAN. The gentleman from California [Mr. DIXON] is recognized.

Mr. DIXON. Mr. Chairman, I move the——

Mr. DANNEMEYER. Mr. Chairman, here is the written request for the preferential motion.

Mr. DIXON. I am now asking for regular order.

Mr. DANNEMEYER. Mr. Chairman, there is a preferential motion at the desk in writing.

The CHAIRMAN. The Clerk will report the preferential motion, which is apparently now at the desk.

The Clerk read as follows:

Mr. DANNEMEYER moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

□ 1610

Mr. DANNEMEYER. Mr. Chairman, let me say on the procedure that I am absolutely appalled at the conduct that this Member from California has received during the last 2 or 3 minutes.

I was clearly on my feet on at least two occasions asking for recognition in order to strike the last word because under the procedures that exist in this House, the only opportunity that I have to offer the amendment that I want to offer is to keep the Committee from rising. That motion is not debatable. My only opportunity to speak on that matter is in connection with what I am doing right now in order to address the Members as to the reasons why I want to keep the Committee from rising so I can offer the amendment that I have in mind to offer.

I think it is tacky, my friends, it is reprehensible; we should not be doing this to any of ourselves, and I regret what I have seen happen here today.

At the present time in the District of Columbia, containing some 626,000 people, there are approximately 25,000 people who are antibody positive for AIDS. The data indicates that within 5 years 30 percent of this total will go on to develop AIDS, and the balance of that group, the other 70 percent, will in the course of that 5 years manifest some measure of impairment of the immune system of their body. In response to the request of this group of 25,000, who are antibody positive for the AIDS virus, comprising about 4 percent of the population of the District of Columbia, asked the City Council of the District of Columbia to adopt an ordinance, which it did on June 13, which is one of the most extraordinary examples of legislative oversight and reaction and favoritism to a special interest group that I think any of us can possibly imagine.

What the ordinance says is that any person, and get this, I am reading from it now: "an insurer working in the District of Columbia may not for the next 5 years require or request any individual directly or indirectly to take any test to screen for the presence of any probable causative agent of AIDS or the HTLV-III infection, including but not limited to a test to screen for the presence of antibodies to the HTLV-III virus." That means that an insurance company may not ask if you are antibody positive for the virus, or take a test for the virus.

If any of us have diabetes or heart disease or cancer, when we apply for life insurance or health insurance, we are either told we will be in a risk group in which we have to pay a higher premium or we will be denied any insurance at all. We all accept that as part of the insurance industry in this country.

But in this instance this special interest group got this legislation passed, which in effect says to the insurance industry, "You can't inquire as to the health status of the applicant" and as a result, it will have the effect of permitting persons who are antibody positive for the virus to procure life insurance or health insurance or disability insurance in the District of Columbia notwithstanding the health status which would deprive them of insurance otherwise.

This policy is so disadvantageous to the health of the insurance industry in the District of Columbia that so far four companies have said they are going to leave, and two plan to go. It will undoubtedly result in higher premiums on all of the other persons who live in the District of Columbia. Within the District of Columbia there is a council of 100 ministers who are circulating a referendum in order to let the District of Columbia residents vote as to whether or not they want to permit the ordinance to take effect.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 5 additional minutes.)

Mr. DANNEMEYER. Some Members may ask where is the Federal issue? Why should we in this body interfere with an action of the City Council of the District of Columbia? That is a fair question.

Let me put it in perspective. Of those 25,500 in this District that are antibody positive for the virus, about 25-30 percent will go on to get AIDS. That is a tragic loss of human life. But it also has an economic cost because the statistics indicate that each one of these people cost us about $140,000 to care for, which means that of those today who are in this status, it is going to cost about a billion dollars in health costs just to care for them in their demise. We know where that money is going to come from. It is going to come from the Federal Treasury. If this ordinance is permitted to stand, it establishes a standard that is at variance with everything we stand for in this country, equality before the law for all people.

Governor Cuomo of New York says that, if this ordinance stands in the District of Columbia, he going to recommend it for the State of New York.

This ordinance in the District of Columbia is going to act as a magnet drawing antibody-positive people from all over the country to Washington, DC. Why? Because notwithstanding their status, they will be able to come to the District of Columbia and procure insurance at normal rates.

Look at how this ordinance skews the statistics upon which insurance underwriters evaluate a risk: The average 30-year-old male has a 0.5-percent chance of dying within 5 years, while a 30-year-old male who tests positive for the AIDS virus is 40 to 66 times more likely to die in the next 5 years. In addition, 94 percent of all AIDS victims will die within 5 years or less, incurring hospital or medical costs of $140,000 per victim. The insurance equation demands that premiums be based upon the risks of the applicant.

There is a precedent for this. Back in 1981 the Congress, by a motion of disapproval, disapproved ordinance number 469 adopted by the District of Columbia City Council that, you will recall, was an ordinance to repeal the law proscribing sodomy and bestiality in the District of Columbia.

What this whole struggle indicates is we have a very profound public health problem in this Nation. We have about 1½ to 2 million people in America today who are antibody positive for the virus. The District of Columbia is unique in comparison with other States in the Union in that it is No. 1 in the incidence of AIDS per thousand people.

Inevitably, when you talk about this as a public health problem, you come into contact with those who want to treat it as a civil rights problem. And at that point it cannot help but having this context because 73 percent of the people who are victims of AIDS, or who are antibody positive, come from the male homosexual community of our society. The people in this group are exhibiting a great deal of anxiety around this country today because they have a political goal for America. Their goal for America is to change the cultural basis of our society so as to equate the homosexual lifestyle on a par heterosexual with the lifestyle. That is their goal.

I will profess that in a pluralistic society they have the right to organize and to seek that goal in this country, equality in their eyes before the law.

But the question that we have to ask: Are we going to permit as a matter of policy for the Nation that in this city, the District of Columbia, a policy that does not establish equality before the law, but establishes a special-privilege status for a group that consists of 4 percent of the residents of the District of Columbia so as to give that group insurance premiums at a rate that shifts the expense for those premiums, life, disability and medical, to another group in our society? And I say the answer to that is "no". I say we should keep the Committee from rising so that this Member can offer the amendment that I am talking about today.

Mr. DIXON. Mr. Chairman, I move to strike the last word, and I rise to oppose the preferential motion.

Mr. Chairman, notwithstanding the arguments that Mr. DANNEMEYER makes, it is clear that the City Council has passed an ordinance, it is clear that the Mayor has signed that ordinance, and I know from witnessing television and living many days here in this community, that there was a great deal of lobbying and public debate on this issue.

That bill then came to the House of Representatives for a layover period, and the committee of jurisdiction rejected the disapproval resolution.

It seems to me that following the process of home rule and review by the Congress of the United States, all of the rules of fairness have been applied.

Mr. DANNEMEYER indicates he made a preferential motion to get his point before the Congress. We have allowed him 10 minutes to do so. I would suggest that we vote against the preferential motion and move on.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Connecticut [Mr. McKINNEY].

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, when this issue came before the District of Columbia authorizing committee, the gentleman from California was very forthright, and so were we, I think. We said that we have three rules: does it violate the Constitution? That is a question that will be decided by the courts, I am sure. Does it go outside of the Home Rule Act itself, which is now 12 years old? No.

Does it interfere with the Federal Government's process? The answer to that is also no. And that is the issue that is in front of this House.

If in fact this House wants to go back to running the District of Columbia, so be it. That is a joint wisdom.

I commend the chairman on his statement because the issue really here is, what is the Congress of the United States doing discussing an issue which does not affect the people of the United States and only affects the people of the District of Columbia?

I do not know the answer to the gentleman's query. I do not really know. Is it better to have welfare pay for these people, is it better to have insurance pay for it or what the issue is? But the fact of the matter is that the free voters, represented by the city council, and the District of Columbia backed this issue, and I suggest that the committee vote very strongly for the motion to rise because this is not our business, and as much as we may want to flail against the District of Columbia, I do not think we should.

Mr. WEISS. Mr. Chairman, I urge my colleagues to support the motion to rise, which will soon be offered to limit further amendments, and to oppose, if offered, the amendment of the gentleman from California [Mr. DANNEMEYER], which seeks to prevent the District of Columbia government and residents from exercising their right to home rule. The amendment in question would limit Federal funds available to the District to implement District of Columbia bill 6–343, enacted to prohibit discrimination by health, disability and life insurers against persons perceived to be at risk for the development of AIDS. However, the District of Columbia Committee, has already concluded that the bill will have no impact on the Federal budget.

I see no reason why in this particular case the Federal Government should overrule the District's privilege of self-government. The regulation of insurance has traditionally been a local responsibility, a responsibility repeatedly reaffirmed by the Federal Government. The District of Columbia should be no exception. Even those groups that strongly oppose the District of Columbia measure, the Health Insurance Association of America and the American Council of Life Insurers, have traditionally been very vocal in their support of the concept of home rule.

The District of Columbia should have the opportunity to decide for itself if it favors legislation to ban discrimination against persons with AIDS in insurance. Other local governments, including California and Wisconsin have exercised this right. The elected representatives of the District of Columbia Council and the Mayor have unanimously approved the bill, and there is now a referendum underway in the District which would place the issue on the November ballot, and enable District of Columbia residents to decide this matter for themselves. The Federal Government should not be permitted to take this important power from local residents.

Mr. Chairman, since the first cases of AIDS were reported in 1981, this disease has had a tragic impact on this country. Over 22,600 cases have been diagnosed, and more than 12,400 men, women, and children have already died. Between 1 and 1.5 million persons are infected with the virus, and if the ominous Public Health Service projections are accurate, we can expect about 270,000 cases by 1991 and 179,000 deaths. Persons with AIDS, those at risk for AIDS, and those perceived to be at risk for AIDS have faced discrimination in employment, housing, insurance, and other areas. These are people who are battling a relentless killer. They need the greatest possible assistance, they do not need their local or Federal Governments to endorse such prejudice by turning their backs.

District of Columbia bill 6–343 is an attempt to put a stop to such unfair discrimination in the District of Columbia. The bill does not require insurers to sell insurance to persons with AIDS; it protects healthy persons from discriminatory practices such as denying insurance based upon lifestyle factors such as race, age, martial status, or sexual preference. Bill 6–343 also prohibits the use of medical tests as predictors of who will contract AIDS until more actuarial data is available, requires informed consent for all testing, and protects the confidentiality of patient medical records. If enacted, this bill will be another in a series of important local actions designed to prevent discrimination against persons with AIDS or at high risk for developing AIDS.

In proposing this amendment to the D.C. appropriations bill, the gentleman from California attempts to prevent the District from taking an important step to ban discrimination at a time when such efforts are most urgently needed. This is not a case where the Federal Government should preempt local decisionmaking.

Mr. Chairman, I urge my colleagues to join me in supporting the motion to rise at this time, and in so doing to oppose this amendment and the sentiments or prejudice and discrimination it promotes.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from California [Mr. DANNEMEYER].

The preferential motion was rejected.

Mr. DIXON. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 173, not voting 16, as follows:

[Roll No. 250]

AYES—241

Ackerman	Dyson	Lipinski
Akaka	Early	Long
Alexander	Eckart (OH)	Lowry (WA)
Anderson	Edgar	Luken
Andrews	Edwards (CA)	MacKay
Annunzio	English	Manton
Anthony	Evans (IL)	Markey
Applegate	Fascell	Martinez
Aspin	Fazio	Matsui
Atkins	Feighan	Mavroules
AuCoin	Flippo	McCurdy
Barnard	Florio	McDade
Barnes	Foglietta	McHugh
Bates	Foley	McKinney
Bedell	Ford (MI)	Mica
Beilenson	Ford (TN)	Miller (CA)
Bennett	Frank	Miller (WA)
Bentley	Frenzel	Mineta
Berman	Frost	Mitchell
Bevill	Gallo	Moakley
Biaggi	Garcia	Mollohan
Boggs	Gaydos	Moody
Boland	Gejdenson	Morrison (CT)
Bonior (MI)	Gephardt	Mrazek
Borski	Gibbons	Murphy
Bosco	Gonzalez	Murtha
Boxer	Gordon	Myers
Breaux	Gradison	Natcher
Brooks	Gray (IL)	Neal
Brown (CA)	Gray (PA)	Nichols
Bruce	Green	Nowak
Bryant	Guarini	Oakar
Burton (CA)	Gunderson	Oberstar
Bustamante	Hamilton	Obey
Byron	Hatcher	Olin
Carper	Hawkins	Ortiz
Carr	Hayes	Owens
Chandler	Hefner	Panetta
Chapman	Hertel	Pease
Clay	Horton	Penny
Clinger	Howard	Pepper
Coelho	Hoyer	Perkins
Coleman (TX)	Hughes	Pickle
Collins	Jacobs	Price
Conte	Jeffords	Rahall
Conyers	Jenkins	Rangel
Cooper	Johnson	Reid
Coughlin	Jones (NC)	Richardson
Coyne	Jones (OK)	Rodino
Crockett	Kanjorski	Roe
Darden	Kaptur	Roemer
Daschle	Kastenmeier	Rose
de la Garza	Kennelly	Rostenkowski
Dellums	Kildee	Rowland (GA)
Derrick	Kleczka	Roybal
Dicks	Kolbe	Sabo
Dingell	Kolter	Savage
Dixon	Kostmayer	Scheuer
Donnelly	Lantos	Schneider
Dorgan (ND)	Leach (IA)	Schroeder
Dowdy	Leath (TX)	Seiberling
Downey	Lehman (CA)	Sikorski
Duncan	Lehman (FL)	Sisisky
Durbin	Leland	Skelton
Dwyer	Levin (MI)	Smith (FL)
Dymally	Levine (CA)	Smith (IA)
Smith (NE)	Torres	Wheat
Solarz	Torricelli	Whitehurst
Spratt	Towns	Whitley
St Germain	Traficant	Whitten
Staggers	Traxler	Williams
Stallings	Udall	Wilson
Stark	Valentine	Wirth
Stokes	Vento	Wise
Stratton	Visclosky	Wolpe
Studds	Volkmer	Wright
Swift	Walgren	Wyden
Synar	Watkins	Yates
Tallon	Waxman	Yatron
Tauzin	Weaver	
Thomas (GA)	Weiss	

NOES—173

Archer	Hillis	Regula
Armey	Holt	Ridge
Badham	Hopkins	Rinaldo
Bartlett	Hubbard	Ritter
Barton	Hunter	Roberts
Bateman	Hutto	Robinson
Bereuter	Hyde	Rogers
Bilirakis	Ireland	Roth
Bliley	Kasich	Roukema
Boehlert	Kemp	Rowland (CT)
Boulter	Kindness	Rudd
Broomfield	Kramer	Russo
Brown (CO)	LaFalce	Saxton
Burton (IN)	Lagomarsino	Schaefer
Callahan	Latta	Schuette
Carney	Lent	Schulze
Chappell	Lewis (CA)	Sensenbrenner
Cheney	Lewis (FL)	Sharp
Coats	Lightfoot	Shaw
Cobey	Livingston	Shelby
Coble	Lloyd	Shumway
Coleman (MO)	Loeffler	Shuster
Combest	Lott	Siljander
Courter	Lowery (CA)	Skeen
Craig	Lujan	Slattery
Crane	Lungren	Slaughter
Daniel	Mack	Smith (NJ)
Dannemeyer	Madigan	Smith, Denny (OR)
Daub	Marlenee	Smith, Robert (NH)
Davis	Martin (IL)	Smith, Robert (OR)
DeLay	Martin (NY)	Snowe
DeWine	Mazzoli	Snyder
Dickinson	McCain	Solomon
DioGuardi	McCandless	Spence
Dornan (CA)	McCloskey	Stangeland
Dreier	McCollum	Stenholm
Eckert (NY)	McEwen	Strang
Edwards (OK)	McGrath	Stump
Emerson	McKernan	Sundquist
Erdreich	Meyers	Sweeney
Evans (IA)	Michel	Swindall
Fawell	Miller (OH)	Tauke
Fiedler	Molinari	Taylor
Fields	Monson	Thomas (CA)
Fish	Montgomery	Vander Jagt
Franklin	Moore	Vucanovich
Gekas	Moorhead	Walker
Gilman	Morrison (WA)	Weber
Gingrich	Nelson	Whittaker
Glickman	Nielson	Wolf
Goodling	Oxley	Wortley
Gregg	Packard	Wylie
Hall (OH)	Parris	Young (AK)
Hall, Ralph	Pashayan	Young (FL)
Hammerschmidt	Petri	Zschau
Hansen	Porter	
Hendon	Pursell	
Henry	Quillen	
Hiler	Ray	

NOT VOTING—16

Boner (TN)	Fuqua	McMillan
Bonker	Grotberg	Mikulski
Boucher	Hartnett	Schumer
Campbell	Huckaby	Young (MO)
Chappie	Jones (TN)	
Fowler	Lundine	

□ 1635

Messrs. TAUKE, ROBINSON, KRAMER, and BOEHLERT changed their votes from "aye" to "no."

Messrs. ALEXANDER, JEFFORDS, COELHO, AKAKA, and SMITH of Iowa changed their votes from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MOAKLEY] having assumed the chair, Mr. COOPER, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 5175) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 296, noes 117, not voting 17, as follows:

[Roll No. 251]

AYES—296

Ackerman	Bosco	Crockett
Akaka	Boucher	Daniel
Alexander	Boxer	Darden
Anderson	Breaux	Daschle
Andrews	Brooks	Davis
Annunzio	Brown (CA)	de la Garza
Anthony	Bruce	Dellums
Applegate	Bryant	Derrick
Aspin	Burton (CA)	Dicks
Atkins	Bustamante	Dingell
Barnard	Byron	Dixon
Barnes	Callahan	Donnelly
Bateman	Carper	Dorgan (ND)
Bates	Carr	Dowdy
Bedell	Chandler	Downey
Beilenson	Chapman	Durbin
Bennett	Chappell	Dwyer
Bentley	Clay	Dymally
Bereuter	Clinger	Dyson
Berman	Coelho	Early
Bevill	Coleman (TX)	Eckert (NY)
Biaggi	Collins	Edgar
Bilirakis	Combest	Edwards (CA)
Bliley	Conte	Erdreich
Boehlert	Conyers	Evans (IL)
Boggs	Cooper	Fascell
Boland	Coughlin	Fazio
Bonior (MI)	Coyne	Feighan
Borski	Craig	Fiedler

Fish	Luken	Roukema
Flippo	MacKay	Rowland (GA)
Florio	Manton	Roybal
Foglietta	Markey	Russo
Foley	Martin (NY)	Sabo
Ford (MI)	Martinez	Savage
Ford (TN)	Matsui	Saxton
Frank	Mavroules	Schneider
Franklin	Mazzoli	Seiberling
Frenzel	McCain	Sharp
Frost	McCandless	Sikorski
Garcia	McCloskey	Sisisky
Gaydos	McCollum	Skeen
Gejdenson	McCurdy	Skelton
Gekas	McDade	Slattery
Gephardt	McHugh	Slaughter
Gibbons	McKernan	Smith (FL)
Gingrich	McKinney	Smith (IA)
Glickman	Michel	Smith (NE)
Gonzalez	Miller (CA)	Smith (NJ)
Goodling	Miller (WA)	Snowe
Gordon	Mineta	Solarz
Gradison	Mitchell	Spence
Gray (IL)	Moakley	Spratt
Gray (PA)	Molinari	St Germain
Green	Mollohan	Staggers
Guarini	Moody	Stallings
Hall (OH)	Moore	Stangeland
Hamilton	Morrison (CT)	Stark
Hatcher	Mrazek	Stokes
Hawkins	Murphy	Strang
Hayes	Murtha	Stratton
Hefner	Myers	Studds
Hertel	Natcher	Sweeney
Hillis	Neal	Swift
Holt	Nelson	Synar
Horton	Nielson	Tallon
Howard	Nowak	Tauzin
Hoyer	Oakar	Thomas (CA)
Hughes	Oberstar	Thomas (GA)
Hyde	Obey	Torres
Jacobs	Olin	Torricelli
Jeffords	Ortiz	Towns
Jenkins	Owens	Traficant
Johnson	Packard	Traxler
Jones (NC)	Panetta	Udall
Kanjorski	Parris	Valentine
Kaptur	Pashayan	Vander Jagt
Kasich	Pease	Vento
Kastenmeier	Penny	Visclosky
Kemp	Pepper	Walgren
Kennelly	Perkins	Watkins
Kildee	Pickle	Waxman
Kleczka	Porter	Wheat
Kolbe	Price	Whitehurst
Kolter	Pursell	Whitley
Kostmayer	Rahall	Whitten
LaFalce	Rangel	Wilson
Lantos	Ray	Wise
Leath (TX)	Regula	Wolf
Lehman (CA)	Reid	Wolpe
Lehman (FL)	Richardson	Wortley
Leland	Ridge	Wright
Levin (MI)	Robinson	Wyden
Levine (CA)	Rodino	Wylie
Lewis (CA)	Roe	Yates
Lipinski	Roemer	Yatron
Long	Rose	Young (FL)
Lowery (CA)	Rostenkowski	Zschau
Lowry (WA)	Roth	

NOES—117

Archer	DioGuardi	Hutto
Armey	Dornan (CA)	Ireland
AuCoin	Dreier	Jones (OK)
Badham	Duncan	Kindness
Bartlett	Eckart (OH)	Kramer
Barton	Edwards (OK)	Lagomarsino
Boulter	Emerson	Latta
Broomfield	English	Leach (IA)
Brown (CO)	Evans (IA)	Lent
Burton (IN)	Fawell	Lewis (FL)
Carney	Fields	Lightfoot
Cheney	Gallo	Livingston
Coats	Gregg	Lloyd
Cobey	Gunderson	Loeffler
Coble	Hall, Ralph	Lott
Coleman (MO)	Hammerschmidt	Lujan
Courter	Hansen	Lungren
Crane	Hendon	Mack
Dannemeyer	Henry	Madigan
Daub	Hiler	Marlenee
DeLay	Hopkins	Martin (IL)
DeWine	Hubbard	McEwen
Dickinson	Hunter	McGrath
Meyers	Schaefer	Stenholm
Mica	Scheuer	Stump
Miller (OH)	Schroeder	Sundquist
Monson	Schuette	Swindall
Montgomery	Schulze	Tauke
Moorhead	Sensenbrenner	Taylor
Morrison (WA)	Shaw	Volkmer
Nichols	Shelby	Vucanovich
Oxley	Shumway	Walker
Petri	Shuster	Weaver
Quillen	Siljander	Weber
Rinaldo	Smith, Robert (NH)	Weiss
Ritter	Smith, Robert (OR)	Whittaker
Roberts	Snyder	Williams
Rogers	Solomon	Wirth
Rowland (CT)		Young (AK)
Rudd		

NOT VOTING—17

Boner (TN)	Gilman	McMillan
Bonker	Grotberg	Mikulski
Campbell	Hartnett	Schumer
Chappie	Huckaby	Smith, Denny (OR)
Fowler	Jones (TN)	
Fuqua	Lundine	Young (MO)

□ 1655

Mr. MARLENEE changed his vote from "aye" to "no."

Mr. LEWIS of California and Mr. SPENCE changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 5175, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1987

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Thursday, July 24, 1986, to file a privileged report on the Department of the Interior and related agencies appropriations bill for fiscal year 1987.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1965, HIGHER EDUCATION AMENDMENTS OF 1985

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1965) to reauthorize and revise the Higher Education Act of 1965, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees:

For consideration of all provisions—except section 157—of the Senate bill and all provisions of the House amendment and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, GAYDOS, BIAGGI, WILLIAMS, OWENS, HAYES, PERKINS, BRUCE, SOLARZ, DYMALLY, ECKART of Ohio, PENNY, ATKINS, JEFFORDS, GOODLING, COLEMAN of Missouri, and PETRI, Mrs. ROUKEMA, and Messrs. GUNDERSON, TAUKE, MCKERNAN, and HENRY.

As additional conferee for consideration of title V of the Senate bill and title XIII and section 1405 of the House amendment and modifications committed to conference: Mr. KILDEE.

As additional conferee for consideration of title III of the Senate bill and title XIV of the House amendment and modifications committed to conference: Mr. BARTLETT.

As additional conferees for consideration of section 147 and 189 of the Senate bill and modifications committed to conference, from the Committee on Energy and Commerce: Messrs. DINGELL, SCHEUER, WAXMAN, LENT, and MADIGAN.

As additional conferees for consideration of title VI of the Senate bill and modifications committed to conference, from the Committee on Foreign Affairs: Messrs. FASCELL, HAMILTON, MICA, and BROOMFIELD, and Ms. SNOWE.

As sole House conferees for consideration of section 157 of the Senate bill and modifications committed to conference; and as additional conferees for consideration of section 198 of the Senate bill and modifications committed to conference, from the Committee on the Judiciary: Messrs. RODINO, EDWARDS of California, GLICKMAN, FISH, and BROWN of Colorado.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4421, HUMAN SERVICES REAUTHORIZATION ACT OF 1986

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community

services block grant, and community food and nutrition programs, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conferences asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and without objection, appoints the following conferees:

For consideration of the House bill and all provisions—except title X—of the Senate amendment and modifications committed to conference: Messrs. HAWKINS, KILDEE, MURPHY, OWENS, PERKINS, BRUCE, ECKART of Ohio, JEFFORDS, GOODLING, COLEMAN of Missouri, PETRI, and TAUKE.

As additional conferees for consideration of title III of the Senate amendment and modifications committed to conference, from the Committee on Energy and Commerce: Messrs. DINGELL, MARKEY, SHARP, MOORHEAD, and DANNEMEYER.

For consideration of title X of the Senate amendment and modifications committed to conference:

From the Committee on Education and Labor: Messrs. HAWKINS, BIAGGI, WILLIAMS, HAYES, ECKART of Ohio, MARTINEZ, JEFFORDS, GOODLING, COLEMAN of Missouri, and BARTLETT.

From the Committee on the Judiciary: Messrs. RODINO, EDWARDS of California, CONYERS, FISH, and SENSENBRENNER.

As additional conferees for consideration of section 1006 of the Senate amendment and modifications committed to conference, from the Committee on Energy and Commerce: Messrs. DINGELL, WAXMAN, SCHEUER, LENT, AND MADIGAN.

There was no objection.

APPROPRIATE ABBREVIATION FOR "JAPAN" AND "JAPANESE"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the concurrent resolution (H. Con. Res. 290) To recognize "Jpn." as the appropriate abbreviation for the words "Japan" and "Japanese," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

□ 1710

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. JEFFORDS. Reserving the right to object, Mr. Speaker, I do so for the purpose of inquiring of the distinguished chairman as to whether or not there are any changes other than the acronym or the sense of the title of legislation.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from California under my reservation of objection.

Mr. HAWKINS. Mr. Speaker, this is the only change. The gentleman from Washington [Mr. LOWRY] is the author of the resolution.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield.

Mr. JEFFORDS. I am happy to yield to the gentleman from Washington under my reservation of objection.

Mr. LOWRY of Washington. I thank the gentleman for yielding to me, and I thank the chairman.

Mr. Speaker, this resolution is as it was referred to the gentleman's committee. It specifically says that it is the sense of Congress that the proper abbreviation for the words "Japanese" and "Japan" should be "Jpn." rather than "Jap."

I want to thank the chairman of the full committee and the ranking minority member of the Committee on Education and Labor for their help and support on this. This is a resolution that his bipartisan support from many Members of Congress. The Japanese American Citizen League and individuals within this country have been working for this.

I would like to particularly acknowledge the work of our colleague, the gentleman from California, Mr. NORMAN MINETA, for his leadership on this, and thank both of these Members for their leadership.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, today we are passing an important resolution, which is one more step in the fight against racism and prejudice in this Nation.

I want to begin by congratulating the gentleman from Washington [Mr. LOWRY] who is the author of this resolution. His leadership on this issue must be praised.

I also want to thank Chairman HAWKINS and the ranking Republican member of the Education and Labor Committee, Mr. JEFFORDS, for their support of this resolution.

The resolution before us expresses congressional recognition that the proper abbreviation for "Japan" is "Jpn."

Our motivation in bringing this resolution to the floor is simple. We seek to wipe out once and for all the use of a deeply offensive racial epithet often applied to Japanese nationals and indeed to Americans of Japanese ancestry.

I know that some individuals continue to use this racial epithet because they do not understand how offensive the term is. Unfortunately, the use of the abbreviation "Jap," reinforces the use of that term, and implies that it is an acceptable usage.

This abbreviation is so pervasive it still can be found in the word games of some major national newspapers, if not in their stylebooks. Newspaper usage is particularly important since most modern dictionaries list the offensive term at issue here as indeed an offensive racial epithet. Yet common usage has a powerful impact on society. And it is that usage we seek to influence with today's action.

I urge my colleagues to support this important resolution, and in so doing to strike a blow for the fair and equal treatment of all Americans.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 290

Whereas the term "Jap" is racially derogatory and is offensive;

Whereas the Japanese American community is actively seeking to eliminate the use of "Jap." as an abbreviation for the words "Japan" and Japanese";

Whereas "Jpn." is an easily recognizable and racially inoffensive abbreviation for the words "Japan" and "Japanese" and can be written "Jpn." or pronounced J-P-N; and

Whereas congressional recognition of "Jpn." as the appropriate abbreviation for the words "Japan" and Japanese" would help to end the use of "Jap." as an abbreviation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes "Jpn." as the appropriate abbreviation for the words "Japan" and "Japanese".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 290.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5177, which will be considered today, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION BILL, 1987

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5177) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentlewoman from Nebraska [Mrs. SMITH] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

□ 1712

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5177, with Mr. VENTO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The SPEAKER pro tempore. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 1 hour, and the gentlewoman from Nebraska [Mrs. SMITH] will be recognized for 1 hour.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

1987 AGRICULTURE APPROPRIATION BILL

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, may I say at this time that our subcommittee is in full agreement, and so far as I know there was no difference in the full committee when this bill came out.

As you know, this is in my opinion the basic bill, in that agriculture is our biggest industry, the largest employer, and the cheapest and most economical supplier of the basic things of life.

All Members are familiar with the fact that for some years now we have been trying to get the farm law used that is still on the books. Under that law, when production costs are increased by reason of law, then those engaged in producing basic agricultural commodities can use the law that exists to pass on that increase to the buyer who then pays a reasonable price for the farmers product.

May I say to my friends, that we are in thorough agreement on the bill in the full committee and in the subcommittee.

I would like to thank the gentlewoman from Nebraska [Mrs. SMITH] and all the members of the subcommittee for working as hard as they do on this bill. There is not too much glamour in dealing with meat, bread, and potatoes, but it is still basic to our overall economy and our standard of living.

For the record may I say briefly that we have brought the Members a bill that I think all should support. We recommend $45 billion in budget authority. This is $7.3 billion less than fiscal year 1986, $2.8 billion less than the budget resolution, and $6.2 billion less than the budget request.

May I say that this bill does include the restoration of about $10 billion that the Office of Management and Budget asked that we eliminate. For the record, I will show what they recommend that we eliminate but which we have not agreed to.

The budget proposed to reduce or abolish nearly $10 billion in essential agricultural programs. Our recommendation is based on restoring 1986 levels after Gramm-Rudman.

We reserve funds for school lunch, WIC, and other supplemental needs.

We fully fund the CCC.

We restore rural housing programs to the 1986 level.

We restore the conservation programs to the 1986 level.

We restore water and sewer loans and grants.

We restore cooperative research, extension, and marketing programs to last year's level.

We restore the Extension Service funding, restore special grants, restore urban gradening, nutrition aids, financial management for farmers, restore wholesale market development and funds to carry out Federal Seed Act. And goodness knows, we restore the funds for the 4H Clubs, which the budget recommends that we eliminate.

May I also say that we restore the REA loan program, which they advocate that we seriously hamper. We restore foreign market development programs. We fully fund all the food programs except we require a budget request for $775 million for the School Lunch Program.

May I say in a nutshell, that is what we recommend.

AMERICA—A GREAT NATION

Mr. Chairman, we have a great country, a wealthy country. The Commerce Department's estimate of the present national wealth, which includes the value of structures, equipment, inventories, and land, is $16.2 trillion. This is 36 times greater than what it was in 1940 and 41 times greater than in 1934. It is important that we continue those practices that have made our country great—to encourage productivity and to ensure that essential programs of benefit to the people of the country not be discontinued simply to reduce spending. The budget must be balanced, but at a high enough level to provide a strong economy.

In order to ensure our continuation as a great nation, we need a strong national defense that is backed by a strong country and public support—strength that can come only by protecting and developing our Nation's resources—our real wealth, our lands and waters. The development of our rivers and harbors and the construction of our schools, highways, airports, and so forth, along with an educated, healthy populace, with adequate food and nutrition flowing from a strong agricultural base, provides the foundation for our national growth.

1987 BUDGET FOR AGRICULTURE

LARGEST TRADE DEFICIT IN HISTORY

This is a dangerous and tragic economic period in the Nation's history. Perhaps the only similar period was in the midst of the terrible Great Depression.

The Department of Agriculture recently reported that our May farm trade deficits of $348,200,000 are the greatest in the history of our Nation as we buy more imported food and export less. Concern grows that, unless the present trend is altered, we may become a net food importer within a few years, giving up our long-held role as food supplier to the world.

American agriculture is the largest customer of American industry and labor. American agriculture is the consumer's source of the finest and most economical supplies of food. American agriculture provides one out of five jobs in our country.

In taking this plunge from a net exporter to a net importer, agricultural products join the rest of our economy in following the situation facing steel, textiles, shoes, automobiles, and almost everything else. The overall trade deficit widened to $14,200 million in May, up from $12,100 million in April. The trade deficit for 1986, based on monthly averages, will be $167 billion, surpassing the $148,500 million deficit for 1985.

The trade deficit with Japan, where we spend $1,600 million in support of our troops to protect them, is more than $49 billion annually. The deficit with Japan increased to $5 billion in May, up from $4,700 million in April.

Imports of petroleum have increased to $2,800 million in May from $2,100 million in April. Similar increases are reflected for steel, textiles, and shoes. We are buying all this with borrowed money.

AGRICULTURE ON THE ROPES

Farm debt stands at $212 billion more than double the level of 10 years ago, and at a time when farm lenders such as Farmers Home Administration, production credit associations, and private banks are teetering on the brink of bankruptcy—many have already failed.

The Federal Deposit Insurance Corporation reports that a total of 120 banks, including 62 agricultural banks, failed in 1985—an increase of more than 50 percent over the previous high of 79 in 1984. Another 120 banks are expected to close in 1986.

Depressed farm prices continue to be too low to cover production costs which have increased over 40 percent since 1979. In 1985, farm interest payments alone totaled some $22 billion, compared with net farm income of only $30 billion.

The value of land in sections of the farm belt has decreased by as much as 75 percent over the past several years and farm equities have declined some 40 percent since 1980.

While some farmers have been able to avoid bankruptcy during the current farm crisis, many are deeply in debt and many are losing their farms every day. Those in the most serious trouble are the family farms which make up some 34 percent of all farms and account for about 90 percent of all farm sales.

For some years our course has been to not aggressively compete for foreign trade. The result of this course has been to grant our normal markets to our competitors.

The new farm bill provides a price below the cost of production for basic or storable commodities with the difference being paid by a check from the Government. It will cost $25 billion before this year is over, and will cost $17 billion next year.

Mr. Chairman, in the face of these conditions, the Office of Management and Budget, a part of the executive branch, recommends elimination or drastic reductions in the following:

Rural Electrification Program.

Soil conservation programs.

Cooperative extension programs, including 4-H and urban gardening.

Cooperative research programs.

Temporary emergency food assistance program.

Rural housing loans and grants.

Rural development programs, including water and sewer systems.

The budget proposed by the Office of Management and Budget would eliminate or drastically reduce all items in the budget provided by the Congress for the 84 percent of our country which is classified as rural.

Your Appropriations Committee has refused to go along with the recommended actions.

Our Nation must have a prosperous economy. The public debt which took 200 years to reach $1 trillion grew to more than twice that, $2 trillion, in just the last 5 years.

This deficit spending has produced activity, but in the process has reduced productivity.

It must be remembered that the funds by which domestic programs were or are to be reduced do not go to the debt or the deficit. They go instead to increase the buildup of unspent funds for other activities of the Government which carry over from year to year.

BUDGET CUTS REJECTED

In handling this annual appropriation bill for Agriculture, Rural Development, and Related Agencies for fiscal year 1987, the committee has experienced one of the most difficult tasks in its history. It has been faced with budget cuts of nearly $10 billion in the Department's essential farm programs at a time when American agriculture and farm producers are facing the most serious financial crisis since the Great Depression of the 1930's.

Mr. Chairman, let me insert for the record a detailed listing of the program reductions, terminations, and user fee proposals for the Department of Agriculture, proposed by the Office of Management and Budget but recommended for restoration by the committee:

Programs budget would eliminate or reduce but committee has restored

Conservation programs:	
Agricultural conservation program	$180,739,000
Watershed and flood prevention operations	174,885,000
Great Plains conservation program	20,747,000
Water bank program	5,000,000
Forestry incentives program	11,891,000
Resource conservation and development	25,020,000
River basin surveys and investigations	14,166,000
Subtotal	432,448,000
Rural development programs:	
Rural electric and telephone loans	1,971,420,000
All rural housing loans	2,196,283,000
All rural development loans	516,780,000
All rural grants	161,353,000
Subtotal	4,845,836,000
Farmer programs:	
Farm ownership loans	515,000,000
Emergency loans	700,000,000
Foreign market development (cooperator program)	12,800,000
Subtotal	1,227,800,000
Research and Extension:	
Smith-Lever grants	229,713,000
Special research grants	25,778,000
Animal health grants	5,476,000
Expanded food and nutrition education program [EFNEP]	57,635,000
Urban gardening	3,329,000
Farm safety	970,000
Financial management assistance to farmers	1,427,000
Pest management programs	7,164,000
Graduate fellowships and Morrill-Nelson	5,652,000
Foreign currency research	2,500,000
Subtotal	340,644,000
Animal and plant health:	
Animal damage control	20,927,000
Boll weevil	2,906,000
Pink bollworm	2,275,000
Animal welfare and horse protection	6,029,000
Imported fire ant	5,526,000
Noxious weeds	750,000
Pseudorabies	1,500,000
Witchweed	4,493,000
Subtotal	44,406,000
Agricultural marketing:	
Wholesale market development	1,501,000
Federal-State market improvement program	942,000
Federal Seed Act	959,000
Subtotal	3,402,000
Feeding programs:	
Temporary emergency food assistance program	50,000,000
Total	6,944,536,000

USER FEE PROPOSALS REJECTED

Mr. WHITTEN. Under the proposed budget, legislation would be submitted to Congress to fund the following agencies or programs through user fees in lieu of appropriated funds. This proposal is rejected and we will list for the record the amounts have been recommended for restoration in the appropriation bill:

Food and Drug Administration	$26,000,000
Food Safety and Inspection Service	361,400,000
Federal Grain Inspection Service	6,697,000
Packers and Stockyards Administration	8,945,000
Agricultural Cooperative Service	4,469,000
Agricultural Marketing Service	30,945,000
Animal and Plant Health Inspection Service (various programs)	21,000,000
Rural Electrification Administration (administrative costs)[1]	25,000,000
Agricultural Stabilization and Conservation Service (administrative costs)[2]	46,000,000
Total	530,456,000

[1] The budget proposed a 5-percent user fee on all REA loans.

[2] The budget proposed user fees to cover the administrative cost of making price support loans.

NEED TO CURTAIL SPENDING

Mr. WHITTEN. The committee is well aware of the urgent need to curtail unnecessary Federal expenditures and reduce projected deficits. It strongly believes, however, that the programs proposed for elimination or reduction are of great value to the Nation and must be continued. Past contributions made by such programs demonstrate clearly the great importance of each to the economic strength of the Nation and the well-being of the American people.

We are still a wealthy country—the material wealth, highways, factories, schools, ports, harbors and all the rest increased 41 times since 1934, 36 times since 1940.

We must admit, however, it is heavily mortgaged, particularly with the national debt doubled in the last 5 years. This fact should make us, stop, listen and change our course.

RECOMMENDED BILL

The bill recommended by the committee is within the budget allocation total and I will provide for the record the major components:

	Billions
For consumer programs	$19.0
For research and extension	1.1
For direct capital investment in rural America	4.0
For Food for Peace (Public Law 480).	1.3
For general agricultural programs	1.3
For helping to make up to the farmer for a selling price below the cost of production	18.5
Total	45.2

Mr. WHITTEN. Consumer programs include the domestic feeding programs and the food inspection programs, including the Food and Drug Administration. Direct capital includes flood control and conservation programs and interest assistance on construction of housing and other rural development projects. General agricultural programs include the administrative functions of the Department as well as agencies such as the Animal and Plant Health Inspection Service, which is both consumer and farmer oriented, and agencies and programs which are to help farmers or those engaged in agriculture, such as the Agricultural Stabilization and Conservation Service and the crop insurance program.

CONSERVATION PROGRAMS

Nationally, more than 175 million acres of private land is subject to flooding. Average annual upstream flood damages are estimated at over $3 billion. An estimated $2 to $3 billion in upstream flood damages are prevented annually by over a thousand watershed projects that have been installed under SCS programs. So far in fiscal year 1986, severe flooding has occurred in Virginia, West Virginia, Maryland, Mississippi, Pennsylvania, and Louisiana, after rainfall amounts of up to 19 inches were reported in portions of these States over a 12 hour period. Record precipitation amounts occurred also in California, and several other Western States in February 1986. Storm runoff from these events caused widespread damages to stream and watercourses. Major assistance was provided through the SCS emergency watershed program to repair the damages.

Yet, even with the continued problems of flooding, the administration's fiscal year 1987 proposal was to abolish these longstanding successful watershed protection programs. We must hold back the floodwaters in the upper watersheds before they reach the bottomlands and cause devastation. By all means, we should not lessen our flood control and conservation efforts, we should continue to manage our lands to prevent erosion and floods.

A review of the contributions that the conservation programs have made to the protection and preservation of the country's basic resources and its ability to produce plentiful supplies of wholesome and inexpensive food for domestic and overseas consumers clearly shows their great value to the Nation.

AGRICULTURAL CONSERVATION PROGRAM

The Agricultural Conservation Program [ACP] established in 1936, has been a major contributor to the very valuable conservation accomplishments of the country during the past half-century. It has provided the seed money to encourage and enable farmers and landowners to contribute an equal amount of their own money, plus their labor, to carry out prescribed conservation practices on their land. It has resulted in twice as much conservation work as the amount of Federal funds provided.

This program has been primarily responsible for the reversal of the long-term loss of prime farmland, water and timber resources between the early days of the republic and the mid-1930's when our present intensive conservation efforts began. It has restored many of the eroded hillsides and worn-out bottomland which had been permitted to develop during these earlier years. I will provide for the record a table from the Department of Agriculture which indicates the significant contribution of ACP to the national conservation efforts.

AGRICULTURAL CONSERVATION PROGRAM PRACTICES PERFORMED IN 1984 AND TOTAL ACCOMPLISHMENTS 1936–84

Practice	Unit	Extent under 1984 program	Total accomplishments 1936–84
Water impoundment reservoirs constructed to reduce erosion, distribute grazing, conserve vegetative cover and wildlife, or provide fire protection and other agricultural uses.	Structures	14,000	2,546,000
Terraces constructed to reduce erosion, conserve water, or prevent or abate pollution.	Acres	388,000	38,625,000
Stripcropping systems established to reduce wind or water erosion or to prevent or abate pollution.	do	102,000	115,756,000
Trees or shrubs planted for forestry purposes, erosion control or environmental enhancement.	do	150,000	8,148,000
Forest tree stands for forestry purposes or environmental enhancement.	do	25,000	5,119,000
Wildlife conservation	do	35,000	[1] 14,807,000
Sediment pollution-abatement structures or runoff control measures.	do	425,000	[2] 20,102,000
Conservation tillage including reduced tillage and no-till.	do	1,009,000	[3] 4,176,000

[1] From 1962 with certain data estimated.
[2] From 1970.
[3] From 1973.

WATERSHED AND FLOOD PREVENTION OPERATIONS

Mr. WHITTEN. Watershed and flood prevention operations have also made important contributions to the country's resource conservation efforts. Since 1935, over 3,000 soil conservation districts have been established, the river basins have been planned and many individual watersheds have been treated. Soil erosion has been stopped and fertility restored on over 100 million acres of cropland.

Public Law 566 watershed projects were authorized in 1954 under Public Law 83-566. This was an outgrowth of the Public Law 534 watersheds that were limited to 11 authorized projects, comprising about 30 million acres. Through Public Law 566 watershed projects, conservation measures are established on private and public land and dams, and other water control structures are built on upstream tributaries to ensure effective water management. Public Law 566 projects are limited to an area no larger than 250,000 acres. The Federal Government gives technical help in planning and installing measures, pays the cost for flood prevention and shares other costs. As of September 30, 1985, 2,331 applications had been received covering 172,113,757 acres, 1,970 projects were in the planning stage covering 138,586,336 acres, 1,350 projects had been approved or completed covering 86,353,286 acres.

GREAT PLAINS CONSERVATION PROGRAM

This program has been in effect in 518 counties in 10 States since 1956—Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. It has helped farmers and ranchers protect their light and fragile soils from erosion and wind-blow, and has stabilized production in drought-prone areas. A landowner develops a

cost-share plan with technical assistance from USDA and signs a 3- to 10-year contract. Through September 20, 1985, approximately 131 million acres of the approximately 198 million acres in the 518 designated counties have been treated.

WATER BANK PROGRAM

The primary objectives of this program are to preserve, maintain and improve the Nation's wetlands, to conserve surface waters, and to preserve and improve the habitat of migratory waterfowl and other wildlife resources. In return for annual payments, the landowners agrees not to drain, burn, fill or otherwise alter the wetland character of the land under contract. Agreements are for 10 years, subject to renewal at the beginning of the fifth year. From calendar year 1972 to September 30, 1985, 7,948 agreements covering 854,102 acres out of the 69 million acres eligible for this program have been entered into.

FORESTRY INCENTIVES PROGRAM

The purpose of this program is to encourage the development, management, and protection of nonindustrial private forest resources. Under the program the landowner enters into either an annual or a 3- to 10-year agreement to perform designated forestry practices in return for ASCS cost-share assistance up to 65 percent of the cost, subject to a limitation of $10,000 to any person during any 1 year. From 1975 through 1984, 79,060 participants signed agreements on about 2.5 million acres of private forestland. It is estimated that 196 million acres need treatment under this program.

RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

The Resource Conservation and Development [RC&D] Program began in February 1964 under authority of section 102 of the Food and Agricultural Act of 1962 (P.L. 87-703). Program objectives are to improve the effective use and conservation of natural resources in rural communities by focusing on erosion control, flood prevention and better management of land, energy and water resources. Agencies within the Department of Agriculture provide technical, financial and loan assistance to local sponsors. These sponsors initiate and direct the planning process, develop and maintain an RC&D area plan, and carry out activities to implement the plan. As of September 30, 1985, technical assistance was being provided to 194 authorized RC&D areas covering approximately 847,844,000 acres. In fiscal year 1985, 187 measures were installed with financial assistance provided through the RC&D Program bringing the total to 2,684 measures completed.

EXTENSION SERVICE

As noted earlier, the committee rejects the proposed 60-percent reduction in the Extension Service for 1987. The major portion of the proposed reduction was in Smith-Lever funds, including a cut of about $60 million for the Food and Nutrition Education Program.

FOOD AND NUTRITION EDUCATION PROGRAM

This program was initiated in 1968 with section 32 funds, later funded under the farm bills of 1981 and 1985. It was initiated to help low-income families, especially those with young children, to learn how to improve family nutrition. It is carried on by the Cooperative Extension Service in the 50 States, Guam, Puerto Rico, the Virgin Islands, Micronesia and American Samoa. It is operating in 775 locations, including cities and Indian reservations. Since 1968, about 2.5 million homemakers and over 6 million young people have participated. The program employs approximately 500 professionals and 5,000 paraprofessionals. More than 57,000 volunteers work with this staff to extend the program to rural and urban households.

4-H PROGRAM

The 4-H Youth Education Program of the Extension Service is an informal educational program supported by the combined research and extension functions of USDA, State land-grant institutions and county governments. Its objectives are to assist youth to acquire knowledge, skills, and attitudes which will enable them to become productive and contributing members of society. Today, there are approximately 5 million boys and girls involved in this program. Since 1914, over 40 million young people have participated. A national study showed that 1 out of every 8 adult Americans is a 4-H alumnus.

RURAL ELECTRIFICATION ADMINISTRATION

The Rural Electrification Administration [REA] is authorized by the Rural Electrification Act of 1936, as amended, to provide capital through insured loans from the rural electrification and telephone revolving fund, the Rural Telephone Bank, and guarantees of loans of other lenders to qualified rural electric and telephone organizations. Through REA's insured loan and loan guarantee programs, over 3 million miles of electric and telephone lines have been provided for more than 15 million consumer/subscribers.

The Rural Electrification Administration has made a major contribution to electric and telephone service in rural areas. In 1940, only one-third of the farm families had electricity and telephones in their houses. Today, 100 percent of farm families have electricity and 97 percent have four-party rural telephone service—and one-party service is being developed where needed.

FARMERS HOME ADMINISTRATION

The Farmers Home Administration administers a broad range of loan and grant programs for farm credit, rural development and rural housing. For many years, these programs have provided a valuable source of credit to those agricultural producers who have been unable to obtain necessary credit from other sources such as the Farm Credit Adminstration and private lenders. Many farmers are still in business today who would not have been able to continue to farm had this last resort source of credit not been available to them.

The 1987 budget proposes to terminate rural housing, community development and soil conservation loans, and to provide a larger share of the ownership and real estate loans by guaranteed rather than direct loans. It proposes to discontinue all loans and grants for rural water and waste disposal, community facilities, business and industrial, and community fire protection. It proposes to discontinue all loans and grants for low-income housing and repairs, domestic farm labor housing, rental or cooperative housing, rental assistance, and mutual and self-help housing.

Since 1949, some 1.9 million loans have been made to build or modernize over 1.1 million single-family homes and 19,300 loans have been made to build 310,000 new rental units in rural communities. Since 1937, 27,300 loans have been made to establish 13,195 water and waste disposal systems in rural communities.

RESTORATION OF FUNDS ESSENTIAL

Agriculture is the foundation of our economy. It is the Nation's largest producer, bigger than the automobile, steel and housing industries combined. It is the largest market for the goods and services of industry and labor.

A strong national economy is dependent on a healthy agricultural economy. A strong and effective defense effort is more dependent on broad public support and a strong economy than on continued large increases in funds for the Defense Department.

Failure to maintain a strong farm economy would be a serious mistake. It was the agricultural depression of the 1920's that led to the Great Depression of the 1930's. This must not be permitted to happen again through the weakening of the valuable leadership of the Nation's Department of Agriculture.

It is essential, therefore, that the Congress provide adequate funds, as recommended in this bill, to enable the Secretary of Agriculture to restore and maintain farm income at a level which will keep farmers in the business of producing the Nation's supply of food and fiber, plus what is needed to meet demands of other areas of the

world. Also, it is imperative that adequate funds be provided to continue those valuable conservation programs which have done so much during the past 50 years to protect and preserve the basic natural resources of our country for present and future generations. It is also necessary to fully fund those rural development programs which help to maintain a strong and healthy rural economy for the well-being of both rural and urban people. The research and extension programs, which have provided consumers with ample supplies of nutritious and inexpensive food, must not be abandoned.

The development and expansion of domestic and overseas markets holds the key to better commodity prices and improved farm income. This work must be pursued with even greater vigor in the future. The programs of the Rural Electrification Administration and the Farmers Home Administration, which have helped to bring city comforts to rural areas, must be given continued support by the Congress and by the general public.

Further details as to specific amounts restored will be found in the individual program discussions presented later in this report.

FARM CRISIS WORSENS

The financial condition of American agriculture continues to decline. Every day the news media is full of stories concerning the increasing number of farm foreclosures, and the suffering, sorrow, and even suicides that have followed. Such reports also indicate the growing number of small town merchants who are going out of business and the drying up of many rural communities. The Federal Deposit Insurance Corporation reports that a total of 120 banks, including 62 agricultural banks, failed in 1985—an increase of more than 50 percent over the previous high of 79 in 1984. Another 120 banks are expected to close in 1986.

A person needs only to look at the various factors affecting agriculture to understand the seriousness of and reasons for the present farm crisis.

FARM INCOME

Net farm income has remained virtually constant during the past decade, fluctuating from $25.5 billion in 1975 to a low of $15 billion in 1983 and a high of $34.5 billion in 1984. It declined to about $30 billion in 1985 and could drop further in 1986 if crop receipts fall due to smaller crops and lower prices.

Although farm income has remained depressed, national income [GNP] has expanded greatly during this period. While the share of the consumer dollar given by law to industry and labor has increased from 49 percent to 73 percent since World War II, the share left for the farm producer and his family has decreased from 51 percent to 27 percent.

Thus, the farmer has had to face ever-increasing costs of crop production and family living, even though his financial ability to meet such increases has remained relatively constant. Income per farm has continued to decline because lower income from farming has outweighed increases in income from nonfarm sources. Today off-farm income accounts for about 60 percent of total farm income.

PRICES RECEIVED AND PAID

Prices received by farmers have increased from 101—percent of 1977—in 1975 to an estimated 128 in 1985, an increase of 25 percent. During the same period, prices paid by farmers have nearly doubled from 89—percent of 1977—to 163—an increase nearly four times as great as that for prices received.

Wage rates have nearly doubled since 1975. The cost of tractors and other farm machinery has increased approximately 117 percent during this period. Energy and fuel costs have gone up 140 percent since 1975.

Thus, the farmer has been put in a position where he has had to "sell at wholesale and buy at retail"—a sure road to insolvency and loss of the family farming enterprise. His costs have gone up about 1100 percent since 1945, his investment has gone up almost 1200 percent, yet his price has gone up only 300 percent.

FARM DEBT

Total farm debt reached $212 billion in 1985 and is expected to remain at about the same level for 1986. This is more than double the $91.7 billion farm debt in 1975 and is 20 times the $12.5 billion farm debt in 1950.

Since 1980, the severe drop in land values had reduced total farm equities from $926 billion to $686 billion. This 26-percent decline in net worth has greatly reduced the amount of collateral available to support the huge farm debt now facing farm producers. It has made it increasingly difficult for farmers to borrow the money needed each spring to plant their next annual crop. According to USDA estimates, about 20 percent of all commercial farmers today are financially distressed, with debt-to-asset ratio greater than 40 percent and with a negative cashflow.

FARM EXPORTS

Exports of U.S. agricultural commodities have declined by over one-third during the past 5 years, from a high of $43.3 billion in 1981 to $29 billion in 1985 and a projected low of $28 billion in 1986.

I will provide for the RECORD, by destination, the value of farm exports had decreased since 1981 as follows:

	Percent
Western Europe, Japan and Canada..	30
Africa and Latin America	30
Asia (excluding Japan and China)	20
USSR and Eastern Europe	47
China	91

Mr. WHITTEN. The U.S. share of world trade fell from over 40 percent in 1980 to below 35 percent in 1984. In 1986, it is expected to be at its lowest level since the early 1970's.

I will provide for the RECORD, the volume of major commodities exported has declined since 1981 as follows:

	Percent
Wheat	34
Corn	31
Cotton	33
Soybeans and products	13

Mr. WHITTEN. Exports represent an important share of total U.S. production. I will provide the export share for major crops has declined since 1980–81 as follows:

[In percent]

	1980–81	1985–86
Wheat	64	39
Feed grains	35	18
Soybeans	56	44
Rice	63	42
Cotton	53	21

Mr. WHITTEN. Agricultural exports make a major contribution to the U.S. balance of payments, accounting for about one-fifth of total foreign exchange earnings. While the nonagricultural segment of the economy has consistently run large export deficits, agriculture has regularly maintained an export surplus. I will provide for the RECORD the trade balance since 1960 which has been as follows:

[IN billions of dollars]

	Agriculture	Nonagriculture	Total
1960	+1.0	+4.4	+5.4
1970	+1.5	+1.3	+2.8
1975	+12.6	−2.9	+9.7
1980	+23.9	−51.3	−27.4
1985	+9.4	−152.8	−143.4

ORIGIN OF FARM PROGRAMS

Mr. WHITTEN. The seeds of the great Depression of the 1930's were sown in the agricultural depression of the 1920's. Failure to maintain farm exports and to support farm prices following the First World War caused farm income to decline drastically. Soon thereafter, all other segments of the national economy were severely depressed by this loss of purchasing power by the large agriculture sector. Not only was the agricultural industry seriously hurt, but the entire national economy was dragged down by the depression on the country's farms.

Shortly after the end of World War I, the government announced it would no longer support the price of wheat. Wheat, which had brought $2.94 per bushel in Minneapolis in July 1920, dropped to $1.72 in December 1920, and 92 cents a year later. Agricultural prices in general collapsed. Cotton prices fell to a third of the July 1920

price. Corn prices dropped by 62 percent.

As a result of the agricultural crash of 1920–21, about 453,000 farmers lost their farms. Many others remained in serious financial trouble. This, in turn, resulted in local and eventually nation-wide failures of banks and many other business concerns. The importance of agriculture to the strengthht of the national economy was clearly demonstrated. The value of the new wealth taken from the soil as a primer for other business and industrial enterprises became readily apparent.

The farm programs enacted by Congress at that time were created to restore purchasing power of agriculture by providing a domestic support price, by loan or purchase, to maintain a reasonable balance between the income of agriculture, industry and labor. A "parity" plan based on the balance which existed during the period 1909–14 was established as the means to maintain such a balance.

The Commodity Credit Corporation, a $25 billion wholly owned Government corporation, was set up to support such a system. The CCC Charter provided the authority and the obligation to support farm prices through commodity loans and purchases at prices which would maintain the proper balance. It also provided the authority for and the obligation to move farm supplies surplus to domestic needs into world trade at competitive prices, with credit arrangements comparable to those provided for nonfarm products.

This approach had the advantage of letting the farmer and his banker know what price levels they could count on when he planted his crop—leaving cost and volume as the only variables. It provided a strong and well-financed mechanism to sell commodities surplus to domestic needs in world trade on a competitive basis. It also enabled the farmer to deal through a Government corporation on an equal basis with other governments, most of which use governmental boards or agencies to market their production.

Another benefit of this system—and a substantial one—was that the price paid to maintain a reasonable balance for the farmer came from the users of his products, who on the domestic level paid at least the support price which assured the farmer of a fair return on his production. In this connection, it should be recognized that a 10-percent increase in farm prices would add less than half a cent to the retail price of a 54-cent loaf of bread and only 5 cents to the retail price of a $15.95 cotton shirt.

This farm program proved to be very successful. It provided relatively stable income to the farmer. It helped to preserve the U.S. share of world markets for our farmers, since our competitors knew the United States would produce and sell competitively. It provided a very effective means of buying and selling farm commodities at home and abroad, since receipts from sales went back into the CCC revolving fund and were immediately available for additional purchases and sales in the highly competitive markets of the world.

However, in the early 1950's, this tried-and-true program fell into disuse. It then became necessary for Congress to step in and require the use of CCC to move U.S. commodities in world markets at competitive prices. To the surprise of the Secretary, CCC stocks moved into world trade as rapidly as he made them available at competitive prices.

Those who have criticized this type of farm program need only to look at the financial condition of the American farmer today as compared to the earlier period to realize how sound it was and how much we need to return to something similar to meet the present farm crisis.

FAULTY GOVERNMENT POLICIES

The decline in farm exports in recent years has been a major cause of the present financial crisis facing America's farmers. Large supplies of farm commodities have backed up in warehouses and on American farms, depressing farm prices, increasing storage costs, and losses from deterioration. As a result, a number of Government programs designed to remove land from production and reduce supplies have been instituted. These efforts have generally hurt rather than helped the producer, and have proved to be very expensive to the Federal Treasury.

For example, the PIK—payment-in-kind—Program instituted several years ago reduced rather than increased the income for most farmers. Also, since competitor nations increased their production by the 11 percent that our farmers reduced theirs, it resulted in the loss of 11 percent of our overseas markets, perhaps permanently.

In addition, the use of embargoes on American farm commodities as an instrument of our foreign policy, particularly with regard to our relations with the U.S.S.R. and other Soviet bloc countries, has seriously hurt American farmers. In effect, this ill-advised policy has placed the cost of financing our foreign policy on the Nation's farmers. During the 1970's and again in 1980, our farmers faced a series of damaging export restrictions.

1973 OILSEED EMBARGO

An embargo was placed on shipments of oilseeds from the United States to all destinations in the summer of 1973. Authority for the embargo stemmed from the Export Administration Act of 1969. Among the commodities affected by the export restrictions were soybeans and cottonseeds. Also limited were shipments of oilseed products including soybean meal, cake, and oil and cottonseed meal, cake, and oil.

1974 EXPORT SALE SUSPENSION

The United States Government requested private United States grain firms to voluntarily restrain sales and the Soviet Union to limit United States purchases in response to short United States supplies. Commodities affected by the restraints included wheat and corn.

1975 EXPORT SUSPENSIONS

The export restrictions imposed in 1975 were similar to those in 1974. The United States Government requested voluntary restraints on sales to the Soviet Union and later to Poland. Commodities affected by the restraints were wheat and coarse grains.

1980 SOVIET EMBARGO

The 1980 embargo was intended to indicate United States disapproval of the Soviet invasion of Afghanistan in December 1979. On January 4, 1980, President Carter announced a suspension of sales to the Soviet Union and subsequently instructed appropriate officials to terminate sales under the Export Administration Act of January 7. Agricultural commodities affected by the embargo were exports of wheat, feed grains, soybeans, animal feeds, meat, poultry, dairy products, and some animal fats. Exempt from the restrictions were 8.0 million tons of wheat and corn covered by the U.S.-U.S.S.R. Grain Agreement. The embargo remained in effect until April 24, 1981.

CHANGES ARE NECESSARY

To maintain a properous farm economy in the United States and at the same time to be competitive in world trade, this country must adopt a policy of full production at home, increased exports at competitive world prices, and the use of the price support system to cover the U.S. farmer's cost of production plus a reasonable profit. This is the system used by many competitor nations with great success, at the expense of the American farmer.

International pressures, which insist that the U.S support level be used as the basis for pricing U.S. farm products in world markets, must be disregarded. Competitive countries sell their commodities at the world price and then support income to their farmers through import levies and consumer taxes. The United States must use its price support mechanism to enable American farmers to also be competitive in world markets.

As noted earlier, the Commodity Credit Corporation was set up to buy excess farm products and to sell them competitively in domestic and world markets. When used in the past, this system has worked well. It has enabled

the American farmer to produce for export markets in addition to domestic markets, and thereby compete in a worldwide agricultural system on an equal basis. It has enabled him to remain on the farm and to share in the national prosperity.

The wholly owned Government corporation should be redirected and used again for the purposes originally intended. The various alternative plans which have been tried in recent years have not proved successful, although they have been very expensive. The plight of the average American farmer today provides ample evidence of their failure and the need to return to the former tried-and-true price support and competitive export program.

Further, our Government must discontinue the use of embargoes on U.S. farm products as a means of taking punitive action against other nations with whom we may be in disagreement. A study of the embargoes described earlier shows that they had little or no effect on the countries against which directed, although the price paid by the American farmer was very high. Such a study will also reveal that, while the middleman or exporter was compensated by the Government for the losses which he incurred as the result of such embargoes, the farm producer who also suffered severe losses received no such compensating reimbursement.

A SOUND FARM PROGRAM

To make certain that a farm program will properly meet the needs of the American farmer we must be certain that both volume of production and commodity prices are maintained at proper levels. The loan rates and target prices for the various basic commodities must be set at levels which will enable the producer to receive adequate income at the marketplace to cover his cost of production, plus a reasonable profit for himself and his family. It is far better for the farmer to receive a fair price from the consumer than for him to be forced to look to the Federal Treasury for financial support. In the long run, this is a much better arrangement for all, since a financially healthy farmer can feed and clothe 40 other consumers at a reasonable price and still have money left to preserve the soil, water, and other basic resources of his land for the future.

The cost of production must come either from the user of the commodity or from the soil. A fair price from the user is preferable!

In carrying out the new Conservation Reserve Program authorized by the 1985 farm bill, it is essential that sign-up agreements not reduce total production below levels needed to meet domestic needs, maintain the supply line, and provide an adequate supply for export at competitive prices either by the Commodity Credit Corporation or by private traders. It is essential to the future economic health of agriculture and the country that a policy of ample production rather than scarcity be followed, and that the traditional U.S. share of world markets be regained and maintained.

Also, in the interest of continued long-term conservation of the Nation's basic resources, it is essential that the new Conservation Reserve Program not be used to replace existing conservation programs. The programs which have been in operation during the past 50 years have served this country well. They should not be discontinued or severely curtailed. The new program should add to, not replace, the existing time-proven programs.

The Committee, with the cooperation of the Congress, has included a provision in the Supplemental Appropriations Act enacted earlier this year (Public Law 99-263) which should accomplish the objectives outlined above.

With the authority contained in the above act, and with the congressional intent expressed therein, the Secretary of Agriculture should proceed to conduct the conservation programs as intended by Congress. In addition, he should aggressively sell CCC-held commodities in excess of domestic needs in world markets at competitive prices. Also, he should urge his administration not to use the American farmer to finance U.S. foreign policy by withholding commodities from world markets through embargoes.

□ 1720

Mr. Chairman, there are 3 amendments of which I am aware. We expect to accept all three. With this report having been available for several days and you having heard me express this many, many times, I reserve the balance of my time.

Mr. CHAIRMAN. The gentleman from Mississippi [Mr. WHITTEN] has consumed 8 minutes.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield myself such time as I may consume and I rise in support of the bill.

First, I want to commend our outstanding chairman. The gentleman is a great chairman. He is so fair and kind and helpful to everybody and with the gentleman's leadership and expertise, we have drafted a bill that significantly addresses the needs of agriculture, but which has an extremely broad spectrum and affects almost everybody in America.

Also, I want to commend the members of the committee from both sides of the aisle. There is no politics in our committee. We are all for agriculture and we all work together in the greatest way. Our staff is most outstanding. In fact, I do not think anybody could ever be on a better or a more rewarding or more important committee. I see members of the committee are nodding their heads.

This bill is a very broad bill. It addresses the needs of people through the Women, Infants and Children Feeding Program. It gives a great deal of information to people across the country about nutrition through our nutrition information program. It provides Food for Peace for people in hungry countries in Africa and other places. It provides a tremendous educational program through the 4-H clubs across America.

But before I go into what the bill does, I would like to say something about the situation in agriculture. You know that in agriculture, in producing and transporting and processing food, we employ 22 percent of all the people who work in this country. We employ more people than transportation and the steel and the automobile industry combined. We provide food for the American people for 12 percent of their income, a smaller percent of their income than any other country in the world.

The producers are providing that food at far less than the cost of production. This constitutes a tremendous subsidy to the consumers of America. I think I should tell you a little bit about the financial situation that agriculture has gotten into.

Back in the time of World War II, when you spent a dollar for food, the farmer got 51 cents of it. Now the farmer gets 25 cents out of your dollar, and labor gets 34 cents.

In recent years, the cost of producing food has gone up 83 percent, while the amount of money that we get for the food has gone up only 26 percent. This has resulted in the last 10 years in a situation where 10 years ago, the total agricultural debt was $91 billion. Now the total agricultural debt is $212 billion.

Forty-five percent of the people on the farms of America, almost half, have a negative cash flow when you consider all of their income and for 60 percent of those people, they have somebody working outside of the farm to try to bring in some more money.

Forty-five percent of them are still on a negative cash-flow basis. In that context, we are bringing this bill before you.

It significantly addresses the needs of agriculture and I want to mention just a few of the most important areas. Soil conservation. Back in the 1930's out in the area where I live, devastating winds definitely damaged our soil. We were having our soil blown away. We have come a long way with soil conservation.

Twenty-nine Presidents of both political parties have recommended cutting back soil conservation, but our committee has put it back 28 times. We still have a lot to do because we

still have 175 million acres of privately owned land in this country that is subject to flooding.

Farmers Home Administration. Since it was started in 1935, the Farmers Home Administration has loaned money to 9,600,000 people and those were all people who could not borrow money anywhere else. Their only other door was foreclosure or bankruptcy.

Then the REA. The REA has not only brought comfort and a good life to the people in rural America, but it has increased our efficiency and increased our output. They have collected $12½ billion and they have only suffered losses of $44,400.

The extension service. No country in the world has a land-grant college program like we have that has brought nutritional information, increased efficiency and an understanding of food to millions and millions of farm families. This year, we have a special program, $1½ million, to retrain agricultural people who, for one reason or another, have lost their land; $500,000 of that will go into Nebraska and will be used to continue the Greater Nebraska Job Training Program to help farmers who are in transition.

Now I want to talk about some parts of this bill that do not really have anything to do with agriculture, but have much to do with all of America; the Food Stamp Program.

From 1970 until 1984, that program gained in participation from 4.3 million to 20.9 million, at an increase of expenditures from $600 million up to $11,700,000.

During that time, there was a 380-percent increase in the people who received food stamps, while the population increase was 25 percent, and there was a 1,800-percent increase in the money that we used for it.

The Women, Infants and Children's Feeding Program has increased much the same way. We now have 3 million participants.

One of our best programs is the school lunch program. In 1970, we have 4,600,000 free or reduced cost lunches served to children. In 1984 we had 11,800,000 lunches served to children. In 1970, 20 percent of the children received a free or reduced lunch. Now over 50 percent of the children receive them.

Then we have other programs in this bill that are for everybody, the animal and plant health program, the meat inspection program, the food safety program, the Food and Drug Administration, all assure that we will have the safest and the finest quality of food.

Let me just wind up by saying that we have a lot of tough problems, but in this country, more than in any other country, we have an abundance of food. Our country provides that that food will be the safest and the highest quality and we do more than any other country to see that those people who need food assistance have it.

This bill goes a long way toward providing that assistance.

The CHAIRMAN. The gentlewoman from Nebraska [Mrs. SMITH] has consumed 8 minutes.

Mr. WHITTEN. Mr. Chairman, I yield as much time as he may consume to the gentleman from Kentucky [Mr. NATCHER] a long-time member of this subcommittee and a true friend of agriculture.

□ 1730

Mr. NATCHER. Mr. Chairman, the Subcommittee on Agriculture, Rural Development and Related Agencies Appropriations once again brings to the floor of the House for your approval the annual appropriations bill for fiscal year 1987.

The American farmer is entitled to a fair share of our Nation's income. Today the farmer does not receive enough money for his commodities.

Our farmer knows how to produce and today our country is the world's largest exporter of food to the other nations of the world. The assets invested in agriculture exceed those of any of the next 10 largest industries.

Agriculture employs more workers than any of the other major industries and employs 25 times the number of people employed in the coal and oil industry and 5 times more than the number employed in the automobile industry. Agriculture is one of the major markets for the products of labor and industry. Agriculture spends more for equipment than any of the large industries. It uses more steel in a year than is used for a year's output of passenger automobiles.

The cost of production is increasing each year and it is imperative that we have a price-support level that more accurately reflects the cost of production, plus a reasonable profit. This is the only industry that I know of that a seller must accept the price offered, or else return home with his commodities.

In the calendar year 1981, U.S. agricultural exports totaled $44 billion. In the year 1985, we exported $29 billion worth of farmers' commodities and it is projected now that only $28 billion will be exported in 1986.

In addition to more money for his commodities, help can be given to the farmer by increasing the foreign market for the U.S. farmers' commodities. This will do much to improve farm prices and increase farm income needed to meet production cost. Food is all important in this world today. It has been said that the world is never more than 1 year ahead of starvation. The population of the world continue to grow. It reached the first billion by the year 1830 and only 100 years later in 1930, it reached 2 billion. In 1960, only 3 years later in 1930, it reached 2 billion. In 1960, only 3 year later, it reached 3 billion. By the year 2000, at the present rate of increase, it will double again and be over 6 billion.

Mr. Chairman, this is a good bill and we recommend the bill to the committee.

In this bill we have the sum of $498,748,000 for Agricultural Research Service. This Service was established in 1953 and is authorized to conduct basic and applied research in the fields of livestock, plant sciences, entomology, soil and water conservation, agricultural engineering utilization and development, nutrition and consumer use and marketing.

We believe on this committee that our Extension Service is just as important today as it was when it was established under the Smith-Lever Act in 1914. The extension and home demonstration agents must continue to carry the word to our farm families and to work with our farm families. For some reason or other, for a number of years now, the Department of Agriculture has either wanted to phaseout extension over a 5-year period or reduce the annual amount necessary to continue this service to such an extent that it would automatically lose any benefit that could be derived as a result of continuing such a service. For fiscal year 1987, the budget estimate was $140 million for our Extension Service. We recommend in this bill $289,317,000 together with the amount of $38,627,000 transferred from other programs, making the total for the Service $327,944,000. This amount should be approved in its entirety.

Mr. Chairman, we recommend the sum of $295,929,000 for our Animal and Plant Health Inspection Service. The major objectives of this Services are to protect the animal and plant resources of the Nation from diseases and pests. This amount should be approved.

In order to be of assistance to the American farmer, we must continue to have a strong Agricultural Marketing Service. We recommend the sum of $30,945,000 for this Service.

Our Agricultural Stabilization and Conservation Service was established on June 15, 1961. For salaries and expenses of the Agricultural Stabilization and Conservation Service, we recommend $449,403,000.

For the Commodity Credit Corporation we recommend the full amount of the budget request of $16,808,806,000.

The Farmers Home Administration, Mr. Chairman, has proved to be a successful agency. The Farmers Home Administration is more necessary now than at any time during its operation, which began in the year 1935. We recommend the sum of $7,593,600,000 for

loans, grants, and payments for the Farmers Home Administration.

REA is one of the great achievements of our present-day Government. This administration and agency assists rural electric and telephone organizations in obtaining the financing required to provide electric and telephone services in rural areas. Some believe that the day has come when REA should no longer be a separate administration under the control of the Department of Agriculture. Our Rural Electrification Administration has proven down through the years that it is an administration that serves the American farmer and must be continued. We recommend in this bill a loan authorization of $861,300,000 for our rural electrification and telephone revolving fund. For our rural telephone bank we recommend $28,710,000.

In order to preserve our land that is now in cultivation and land that might be brought into cultivation in the years to come, we must have a strong Soil Conservation Service. In this bill we recommend $361,510,000 for conservation operations.

For our special milk program, we recommend to the Committee a sum of $14,869,000 be appropriated.

Mr. Chairman, this bill contains the Food Stamp Program appropriations which total $12,684,665,000 for the fiscal year 1987.

Mr. Chairman, we recommend the sum of $81,109,000 for our Foreign Agricultural Service. As you know, Mr. Chairman, under related agencies we carry the money for the Food and Drug Administration. We recommend the sum of $410,540,000 for our Food and Drug Administration. We agree on the amount requested for acquired immune deficiency syndrome work. Only a small part of the overall amount appropriated for this administration goes to AIDS. In the bill that I am chairman of, Mr. Chairman, we carry the sum of $336,753,000 for the Acquired Immune Deficiency Syndrome Program.

Mr. Chairman, this is a good bill and our Committee on Appropriations recommends it to the Members of the House. We should keep in mind that if our country is to survive and prosper, certainly we must be interested and assist when necessary the custodians of the natural resources of our country.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 6 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, as my distinguished chairman has so well explained it, this is the fiscal year 1987 agricultural, rural development and related agencies appropriations bill, part 1.

It is the fifth regular fiscal year 1987 bill to come before us this year, but it really should have been the first.

It's a good bill, but we should have passed it back in April or May and had it signed into law so that we could have plenty of time to consider all of the supplementals that we may need before the October recess. We needed three so far this year. We may still need another one. Who knows how many we'll need in 1987?

A struggling young artist up in a Berkshire hamlet once remarked to me that painters, sculptors, or writers never really finish their work; they merely abandon it.

I am reminded of that young artist as I look over the bill before us. We have worked hard. We have produced something that many will admire. It is good work, and it is a bill that I support.

But it is not complete. There is no way we can pretend that this will get us through the entire year. We have provided the budget estimate for the CCC—$16.8 billion—but it is $8 billion less than we have appropriated so far this year. I don't know of anyone who's revising the costs of the new farm bill downward these days. Over 80 percent of our corn, wheat, and rice growers are participating in farm support programs this year. I understand that USDA is even willing to pay DOD to store our staggering grain surpluses on military bases. We don't even have anyplace to put the billions of bushels of wheat and the millions of pounds of honey that we own! We have doubled the estimated cost of that 5-year farm bill from $50 billion to $100 billion in less than 7 months.

To address these growing but uncertain needs, we have reserved a paltry $3.1 billion in 302(b) authority. That says a few things to this Member: We have once again opened the door for fat supplemental. And we have just begun to spend.

But, before I begin to address what's missing, let me point out that, except for the limitations on some CCC expenditures, this is, for the first time in months, a true agriculture appropriations bill. We have acted responsibly. We have not included any new, unauthorized, multibillion dollar programs. And, we have, for the most part, stayed within our budget resolution allocations.

I myself have looked at this bill every which way—upside down, sideways, inside out.

I know that many of you too must be wondering how our committee can report out an agriculture bill, never mind a good agriculture bill, that is $7.38 billion below the bare-bones levels of 1986.

I'm sure that many are also wondering how we can restore $7 billion worth of programs and still come in at $74.7 million below the heartless requests of the administration.

And I'm certain that most of you are wondering how you can explain a vote in support of these substantial reductions to your farmers and your rural communities.

The fact of the matter is that we have indeed produced a bill that comes in below last year's whopping $50 billion levels, and one that is under our 302(b) discretionary budget authority allocation by $3.144 billion.

This is a bill that rightfully restores a page-long list of programs proposed for termination or reduction by the President, including the extension programs, marketing grants to States, rural housing loans and grants, rural development programs, and emergency food assistance. We have restored conservation programs to the 86-adjusted levels, and—for the most part—we have provided the full amount of food and nutrition assistance that will be required in fiscal year 1987.

And yet, even after taking care of these programs and our most pressing new initiatives like the report to give us updated information on annual honey production, and $27 million for a new plant and Animal Sciences Research Center, we are still below the 1986 levels. Levels that were so unspeakably low up until last month that we had to provide another $5.4 billion in the urgent supplemental.

That old craftmaster, that great wizard, Harry Houdini should be here to see this.

I said it before, and I'll say it again. The bill is a good one. We have provided $12.7 million for human nutrition research on aging, we have maintained the integrated pest management program at $7.2 million, we have included $5.8 million for the Animal Welfare Act, $137 million for the elderly feeding program, $10 million for the AIDS-related research, $3.5 million for orphan product grants, $1.67 billion for the WIC Program, and $50 million for TEFAP.

But let's not fool ourselves.

We have accomplished this magic by reducing administrative support in almost every single office including the Inspector General.

We have underfunded building maintenance and rental payments and then asked GSA to rethink its billing practices.

We have underfunded by $1.2 billion the necessary reimbursements to the agriculture credit, rural development, and rural housing insurance funds.

We have provided $775 million worth of additional child nutrition funds subject to a supplemental budget request.

And we have provided—down to the penny—an estimate of need for the CCC that might last us through December if we're lucky.

I consider this bill to be chapter 1, part 1. It's good reading. It's a start. But the plot will thicken, and we shouldn't be surprised by whodunit.

I think it was the Irish bard, George Bernard Shaw, who once said:

"There are two great tragedies in life. One is not to get your heart's desire. The other is to get it."

There are over 400 Members, I would bet, who got their heart's desire in this bill. So, it should come as no surprise that this is a tragedy to Jim Miller.

According to his statement of administration policy dated July 21, and I quote, "the bill in its present form is unacceptable and would be recommended for veto."

OMB has estimated that the bill exceeds the 1986 enacted level by $300 million, and that it exceeds the President's request by $1.7 billion for discretionary spending. In addition, they estimate that credit activity is $6.9 billion greater than the President's request.

The major objections are to our continuation of funds for the REA, rural housing, and rural development; and the increases that we have allowed for conservation and other discretionary programs such as Extension, APHIS and the Agricultural Research Service. Finally, the administration objects to the fact that we did not include several unauthorized user fee proposals and that we have significantly underfunded the three FmHA revolving funds.

I would also point out to my colleagues that this bill exceeds our subcommittee's outlay allocation for discretionary programs by $173 million, and for mandatory programs by $8 million.

Despite these objections, Mr. Chairman, I hope that we will pass this bill which funds some very important housing development, research, and nutrition programs. Then we ought to get down to work reforming these skyrocketing farm support programs before the next urgent supplemental, when we might have to seek the kind of Budget Act waivers that will leave us all quacking like lame ducks.

CONSERVATION PROGRAMS

Mr. Chairman, in the area of conservation, our committee recommends programs totaling $806.3 million, a $74 million reduction from fiscal year 1986-adjusted levels and an increase of $349 million over the administration's request.

Our bill includes $604.5 million for the Soil Conservation Services, and maintains our resources conservation and development programs at $25.02 million.

For the ASCS agricultural conservation program, we have rejected the termination of activities proposed by the President, and restored the program to the fiscal year 1986-adjusted level of $180.7 million.

I am particularly pleased that the committee agreed to include language that will enable ACP participants to exceed the $3,500 annual payment limitation in any given year so long as the average Federal cost-sharing payment does not exceed $3,500 over the life of the contract. I worked to include this language to address the concerns of the conservation-minded farmers in my area, and am pleased to note that the Secretary of Agriculture supported this change.

This will provide a tremendous benefit to livestock operators attempting to be responsive to environmental pressures, including animal waste disposals, and many other related concerns.

Finally, we have included $550 million for the new Soil Conservation Reserve Program, one of the few new worthwhile programs to come out of the 1985 farm bill. While I am disappointed by our committee's decision to place a ceiling on the program funded through the CCC, I assure my colleague that I will work to secure any additional funds needs to meet our commitments should this level prove inadequate.

HOUSING

I am pleased to report that our committee has fully restored our Farmers Home Administration rural housing loan and grant programs. We have rejected the administration's request for program terminations and have recommended $1.4 billion in section 502 loans, $670 million in section 515 loans, $7.6 million for mutual and self-help housing grants and $19.1 million for rural housing preservation grants.

RURAL DEVELOPMENT

H.R. 5177 contains $766 million in program restorations for the rural development loan and grant programs of the Farmers Home Administration. This includes $325 million for water and sewer facility loans, $96 million for community facility loans and $109.4 million for rural water and waste disposal grants. Each of these activities had been proposed for termination in fiscal year 1987.

RESEARCH AND EXTENSION

As I had indicated earlier, our committee has restored $328 million for the Extension Service, maintaining the programs at fiscal year 1986-adjusted levels. I am particularly pleased that we agreed to earmark $970,000 for farm safety, $3.3 million for urban gardening, $7.2 million for pest management, $1.6 million for pesticide impact assessments and $57.6 million for the expanded food and nutrition education.

The committee has included $24,000 to continue a program fist getting underway at the nonprofit Hilltown Community Development Corporation to expand its rural product market development and marketing assistance project. And we have provided $500,000 for the new appropriate technology transfer for rural areas [ATTRA] initiative to expedite the transfer of new low-input farming technologies and community resource management systems to our farmers and rural communities.

For the Agricultural Research Service, our committee has included $496.7 million, including a $1 million increase over the request for the Human Nutrition Research Center on Aging at Tuft University. We understand that this increase will enable the center to continue their efforts to acquire gas chromatography/mass spectrometry capabilities. With this important research tool, the center can begin safe, nonradioactive stable isotope studies to determine the rate of absorption and retention of the vitamins and minerals greatly needed in our senior citizen propulation. It is our further hope that the center will increase its utilization of capacity by approximately 5 percent over its current 55 percent rate, and that the center will support nutrition and health sciences graduate research and education programs with its resources and facilities.

For the Cooperative State Research Service, our committee has provided $269 million, an increase of $23 million over the administration's request, but $7 million below fiscal year 1986-adjusted levels. I am particularly pleased that we have included $60,000 for a special research grant for the University of Massachusetts at Amherst. These funds will be used for new product development and research on growing agricultural products without chemical controls, and are specifically designed to assist in the adaptation of a European vegetable, the Belgian endive, to this country and western Massachusetts in particular. This research will help to spur the development of new agricultural products and methods that will protect our environment from potential damage by herbicides and pesticides.

Finally, I am also pleased to report that we have included an additional $95,000 to continue our valuable research on cranberry diseases and breeding.

ANIMAL AND PLANT HEALTH

Our committee has added $42.7 million to the President's request for APHIS, providing a total of $298.2 million for fiscal year 1987. Included in this total are $5.878 million for the Animal Welfare Act, an increase of $1.25 million over fiscal year 1986, a restoration of animal damage control activities proposed for elimination, and $5.1 million for continued research on the gypsy moth.

We have also included a second year of funding for the livestock guarding dog project conducted by the New England Farm Center with cooperative efforts underway in Minnesota. We have also included report language encouraging additional cooperation and support for this research through the Extension Service.

AGRICULTURAL MARKETING

Among the $34.2 million recommended for the Agricultural Marketing Service, we have restored the Federal-State marketing improvement to the $942,000 level. I consider this program to be one of the most worthwhile cooperative ventures designed to foster innovative marketing projects. In Massachusetts, these FSMIP funds have provided the critical seed money for dozens of farmers' markets, specialty-food producers, grower cooperatives and commodity associations.

FOOD AND NUTRITION ASSISTANCE

Our committee has increased the administration's request for food and nutrition programs by a total of $398.1 million, and has provided an additional $775 million for the child nutrition programs subject to a supplemental budget request.

H.R. 5177 provides $4.23 billion for all the child nutrition programs including school lunch, breakfast, summer and child care. We have also included $1.67 million for the WIC Program, a $91 million increase over fiscal year 1986, and a $54.5 million increase over the request. We have reserved an additional $25.5 million in our 302(B) allocation for any supplemental funding requirements that may arise in fiscal year 1987.

For food stamps, we have provided the full amount that we believe will be required under current law for fiscal year 1987, $12.65 billion. This is a $46.9 million increase over fiscal year 1986 adjusted levels, and $341 million over the request.

The committee agreed to provide $137.2 million for the elderly feeding program, a $5.2 million increase over the request; and $50 million for the Temporary Emergency Food Assistance Program, the same as the fiscal year 1986-adjusted level, and a complete restoration of the proposed terminations.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in complete support of H.R. 5177, the appropriations bill for the Department of Agriculture, rural development, and related agencies for fiscal 1987. This bill is one which all of our colleagues can support because it provides for the real needs that face our farmers, while complying with our national need for budget restraint.

I want to offer my particular compliments to our distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN] for once again leading us through the budgetary minefield as only he can do. There can be question about Chairman WHITTEN's personal concern for the American farmer and the quality of life in rural areas, as well as his compassion for those who need the feeding programs offered by USDA.

Special recognition must also be given to our ranking minority member, the gentlelady from Nebraska [Mrs. SMITH] for her efforts to be sure that this bill is truly a bipartisan effort. Her work as a member of our subcommittee is superb, and I for one truly appreciate it.

Mr. Chairman, it is no secret that farmers are facing difficult times. Farm prices are down. Our exports are down. More farmers are facing personal financial difficulty than at any other time in recent memory. Yet the budget the President sent to us suggested that we could afford to get rid of the tools that help many of our farmers survive, including large cuts in our foreign market development programs, elimination of a large number of research programs of particular interest to a significant number of 9 rowers, the elimination of a number of cooperative extension programs that are helping farmers survive these difficult times, and elimination of every single rural development program offered by the Farmers Home Administration.

I am proud to tell you that our subcommittee had the courage to say "no" to this wholesale abandonment of programs important to so many Americans in farming areas. We had to trim a number of programs in order to do it, but we felt that it was far more important that we do some judicious pruning than allow the lightening of OMB's sharp ax to fall.

I want to tell you about a number of programs of particular significance in this bill. Some of these programs have strong national importance, while others have particular significance to the people I represent in Michigan. Our bill exemplifies an effort to blend a consideration of national concerns with a recognition of the importance of particular regional concerns.

Title I is the nuts and bolts of agricultural programs. It is here that we fund the basic agricultural programs. One of the most important activities funded in this area is agricultural research and extension activities.

AGRICULTURAL RESEARCH SERVICE

For the Agricultural Research Service, or appropriation is an increase of nearly $21 million over fiscal 1986. The priorities that we set are somewhat different than those presented to us by the Department of Agriculture, and the reduction below the President's budget reflects efforts to bring the appropriation in conformity with the levels actually available during the current fiscal year.

I want to call special attention to the continuation of funding for food toxicology work being done in connection with contamination in the Great Lakes. This project has made significant progress in identifying one of the most pressing problems facing the Great Lakes food chain, and will lead toward a major effort to respond to problems of food toxicology.

POTATO SCAB

We provide $50,000 to accelerate research work on potato scab. Potato producers are finding that there are greater demands on the quality of their production. Processors are simply demanding more, and in order to keep pace certain research efforts must be upgraded. Potato scab is one of the most pressing problems facing producers, and work must move along more quickly to solve it.

WHEAT BUNT

We also provide $50,000 for wheat bunt research specifically designed to deal with the tilletia controversia organism. This problem is particularly prevalent in Michigan, and the work done at other locations—according to the scientists doing the work—does not apply to the Michigan situation.

EASTERN SOFT WHEAT QUALITY

Additionally, $19,000 is being provided for wheat protein research to be cooperatively conducted by the Eastern Soft Wheat Quality Laboratory and Michigan State University. Protein content is another one of those factors becoming increasingly important to processors, and protein levels must be improved if farmers are to be able to maintain the marketability of their production.

SPECIFIC OBJECTIVE RESEARCH

Our report also calls attention to another important research problem—the ability of research to respond to specific objectives that are larger than a single discipline. We call upon the Department to provide us with information regarding the difficulties association with assembling a team of public and private researchers, from all disciplines including social sciences, and private industry that can move us in this direction. This is an issue that will be important to us in the future, and I encourage our colleagues to pay close attention to further developments.

CSRS RESEARCH

We also fund the Cooperative State Research Service in this portion of our bill. CSRS provides funds on a formula basis for use by the various land grant colleges across the country. This formula funding establishes one of the strongest foundations for agricultural research anywhere in the world.

Our funding for this agency again complies with actual spending levels in fiscal 1986. We also restored a large number of specific research programs under the special research grant portion of this agency. We continue several Michigan projects, including bean and beet research, dairy and beef photoperiod research, blueberry shoestring virus research, potato research,

asparagus yield decline, stone fruit decline, wood utilization, and apple quality research. All of these projects are continued at the same dollar level available in fiscal 1986.

WOOD UTILIZATION RESEARCH

However, I do want to call particular attention to one modification with the wood utilization research project. CSRS advised our subcommittee several weeks ago that while the Midwestern portion of this project had originally been assigned to Purdue, some other considerations have made it necessary for the project to be assigned to Michigan State University. Our report in highlighting Michigan clearly demonstrates our subcommittee's expectation that the Midwestern lead on this project will remain in Michigan at least through fiscal 1987.

COOPERATIVE EXTENSION SERVICE

Contrary to the design of the President's budget, the Cooperative Extension Service will continue as a vibrant part of USDA during fiscal 1987. Frankly, the budget submitted for this agency was shortsighted, unrealistic, and unappreciative of the excellent efforts made by Extension personnel in helping farmers deal with very difficult times. Certainly no one can be excused from trying to still further improve the agency's response to the real needs of our Nation. But to propose the wholesale elimination of many of the Extension's special programs and to slash nearly half of the basic operating budget for this agency is simply ridiculous. We restore the bulk of these programs and the basic formula funding to fiscal 1986 levels. The budget is not overly generous, but does attempt to hold the basic structure of the programs to let those served by them know that we support the programs, and to tell those who operate them that we appreciate their service. Some of the finest people I know are county extension directors, and they deserve to be treated better than the President's budget had proposed.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

We make a number of significant restorations in the Animal and Plant Health Inspection Service. We continue funding at current levels for the brucellosis eradication program. Now is not the time to trim back efforts on this program. We restore funding for the Animal Welfare Act once again, rejecting the notion that enforcement of the act should be turned over to other authorities. That proposal is simply not sensible in today's interstate economy.

AGRICULTURE COOPERATIVE SERVICE

We also maintain the Agricultural Cooperative Service at fiscal 1986 levels in recognition of the fact that we need to strengthen, not weaken, our cooperative structure. Farmers are constantly being told they need do more to market their production. Cooperatives are an essential tool for doing this, so we cannot afford to slacken support for the programs that are supposed to help them.

RURAL DEVELOPMENT

Title II funds all of the rural development programs. This was a very difficult title to develop simply because the President's budget suggested that there is no longer a need for these programs. Nothing could be further from the truth. The budget proposed that a number of housing and environmental programs of interest to rural areas be eliminated. It was suggested that these programs could be eliminated because programs offered by the Department of Housing and Urban Development or by the Environmental Protection Agency could take their place. The only problem with this suggestion was that many of the HUD and EPA programs either had frozen funding, or were scheduled for their own extinction over the next few years.

Our bill rejects this philosophy and restores these programs to fiscal 1986 levels for the most part. When the need is met, we can cut our resources. While the need exists, we cannot afford to tell the Americans who live in these areas that we can't afford to respond to their concerns. The programs most immediately affected by our action involve the water and sewer loan and grant programs, rural housing programs, business and industrial loans, and community facility loan programs.

FARM OPERATING

For financing farm operating and ownership programs, our budget is limited. Farm ownership loans are trimmed back, while farm operating loans receive a modest increase. Funding priority shifts to guaranteed loans, a policy with which I have particular reservations. Farmers Home does not provide unlimited suport for farmers as some of our less informed colleagues might suggest. Rather it is getting tougher and tougher for farmers to get the assistance they need, and in some instances it is because FmHA is getting tougher than it needs to be. Our report expresses our disagreement over the so-called total cash flow requirement being imposed by FmHA this year, and we will continue to monitor the agency's response to the needs of farmers in accordance with the provisions of law, not policy orientation.

RURAL ELECTRIC AND TELEPHONE

We also continue our support for the rural electrification and telephone programs. The issue here is very simply a philosophical one. The administration believes that these programs should be eliminated and will continue to pursue this goal. Our subcommittee disagrees. Life in rural areas is better because of the power and communication services provided through REA financing. We see needs for service expansion and revitalization. Rural areas, facing some of their toughest economic times in decades, either frequently cannot afford commercial financing, or cannot find any. Our appropriation continues our traditional minimum and maximum loan structures, and we expect the Department to comply with our intent, not to frustrate applications by creating more hoops for applicants to jump through.

SOIL CONSERVATION SERVICE

We have restored funding for the Soil Conservation Service as well. We again disagree with the President's efforts to discontinue these important programs. At a time when we are hearing of so many farmers facing great difficulties as a result of drought, we need to recognize that this adverse weather is taking its toll on soil. Wind erosion is likely to increase, and the assistance of the Soil Conservation Service will be even more critical. We cannot afford to weaken such an important component of our Nation's conservation policy.

One item of particular note in the SCS budget is continued funding for a back-irrigation project in Michigan. The amount is increased to $100,000 in fiscal 1987, with the increase of $40,000 slated to be used for a full-time project coordinator. This project holds great promise for finding alternative ways to irrigate crops in a low-cost fashion while preserving the quantity and quality of water supplies in farm areas. The availability of water is an issue of major concern, and this is why we must explore every reasonable avenue of maximizing our ability to reuse water resources.

AGRICULTURE CONSERVATION PROGRAM

And it should not be a surprise to anyone that we have restored the cornerstone of our conservation efforts, the Agricultural Conservation Program. We know that every Secretary of Agriculture is going to eliminate funding for this program, and they know that we are going to restore it. This is a perfect example of the kind of games that go on in the development of budgets.

NUTRITION PROGRAMS

Title III provides funding for the various feeding programs offered by the Department. It represents a major percentage of our total appropriation because it demonstrates that we have a great and growing need for feeding programs, despite what some in the administration might say.

We rejected every single proposal to limit the availability of these programs through legislative design because it is not within the jurisdiction of the Appropriations Committee to take such action. But more importantly, even if we could make these changes we wouldn't because they rep-

resent bad policy in the face of the needs of poor Americans.

We fully fund all child nutrition programs, leaving a portion available only if the administration submits a budget request for the amount. The budget for these programs was predicated on savings from various legislative proposals which have not even been fully introduced let alone enacted to date.

We took the same action with the Special Milk Program in rejecting legislative proposals, and continuing funding for this important program.

We provide an increase for the Women, Infants, and Children Feeding Program to allow for some program expansion. The accomplishments of this program are well documented, and we know that there is a need for more expansion. We want the program to operate successfully, and this is why we reject the Department's efforts to modify the formula for the distribution of WIC funds.

We also provide an increase for the Commodity Supplemental Food Program. This increase comes in two components: A specific increase of $2,892,000 in the appropriation, and a prohibition on transferring funds to the Commodity Credit Corporation for the reimbursement of the value of commodities donated to CSFP from CCC. This prohibition should leave approximately $4.4 million available for serving people in need, based on testimony submitted by the Food and Nutrition Service.

The Department had proposed earlier this year to transfer $3.95 million to CCC for commodities used by CSFP in fiscal 1986. We rejected that approach, and when the Department failed to take action in line with our directive, we mandated the return of funds to CSFP within the supplemental appropriations bill. That return has been accomplished and has already resulted in notable accomplishments. First, it has meant that about 22,000 elderly individuals who are on waiting lists for the program in Detroit, New Orleans, and Des Moines can now get the food assistance they need. Second, it has meant that all program operators have been given caseload increases for serving mothers, infants, and children, totaling 12,000. This will take about half of this additional money returned from CCC this year.

We know as a result of testimony that a number of applications have been filed to start new CSFP programs. Arizona, New Mexico, New York, and Rhode Island have all filed applications. Another one will be filed by Michigan. The funds that FNS currently has available can be used to finance an expansion into these new areas. I understand that FNS does not intend to consider these applications because they want to stretch this money into fiscal year 1987 to finance the expansion recently approved. While I appreciate the need to be sure of fiscal year 1987 funding, it is my view and the view of this committee that the program should be expanded, that the funds should be expended in the fiscal year for which they have been appropriated. We will certainly entertain any request for supplemental funds for this program when it is submitted, and we have consistently provided money when the need has been demonstrated. It is true that the appropriation for this program is a 2-year appropriation. But that is to allow for the retention of unexpended balances, not to intentionally create fund shifting in order to artificially limit the size of the program.

I want to publicly again thank the chairman of the Domestic Marketing, Consumer Relations and Nutrition Subcommittee of the House Agriculture Committee, Mr. PANETTA, for his excellent assistance in expanding the Elderly Commodity Food Program as part of the 1985 farm bill. Now we need to get this program into all CSFP areas that have a need for it, and this is contingent upon the Department completing action on the long-awaited regulations for this program.

I want to say at this point that it should be noted that the Agriculture Appropriations Subcommittee has consistently provided additional funds to meet the need for the elderly program, and has in the past specifically appropriated additional funds to expand CSFP for mothers, infants, and children. This practice will continue because no one of us is a Solomon who can determine whether the young or the old should eat. We know that the young need nutritional support to grow for a successful adulthood. But none of us should appear to be prepared to say that some elderly person has lived long enough by designing a priority scheme for who should be served. The only person who should be served is the person who is hungry. If both young and old are hungry, and if both young and old need assistance, then both young and old should receive it. Our goal should be eliminating hunger, not just eliminating it for certain socioeconomic groups that appeal to us.

Let me also point out that we expect the Department to continue to provide bonus commodities to CSFP operators, and we know that they will receive administrative funds for them because of provisions in the 1985 farm bill. If we have the food available, then we must use it for the good of those who need it.

We also continue the funding for the Temporary Emergency Food Assistance Program. This program continues to be needed throughout the country. In fact, we need the Department to pay greater attention to the needs of areas that are not receiving adequate supplies of these food items. Many food distributors are finding that they receive insufficient amounts of food to meet the needs in their communities. This is because the State authorities operating the program are not able to get all that they need.

I know that the Department claims that this program has displaced certain amounts of sales of food items, but, quite frankly, I don't believe it. To the extent that poor people are finding it difficult to make ends meet, I have a hard time believing that people are simply replacing purchased food with donated food. And to the extent that they are, doesn't that tell us something about how difficult their situation must be? This is one of those value judgments that any caring society must be forced to make.

INTERNATIONAL AGRICULTURE PROGRAMS

Title IV provides funding for our International Agricultural Programs, including Public Law 480. I remember USDA officials telling us that if American farm prices just come down, export opportunities will open up.

Mr. Secretary, where are they?

Farm exports are dropping. Market shares are dropping. And at this time when exports are supposed to be the "salvation" of American agriculture, the President's budget proposed to slash the Market Cooperators' Program, which is an essential tool in helping to regain some of those foreign markets and assists us in finding new ones. This program is not a free ride. The cooperators have to provide resources and time to make it work.

SUPPORT FOR BILL

In recognition of the importance of this program, we have restored funding. We expect this program to continue to be successful, and we will monitor it closely.

Mr. Chairman, we have a bill here that serves the needs of all Americans, from the mightiest of us to the poorest of us. It takes care of producers, it recognizes the needs of processors, and it pays great attention to the demands of consumers. It certainly merits the support of everyone of our colleagues.

I urge the adoption of H.R. 5177, the fiscal 1987 appropriations bill for Agriculture, rural development, and related agencies.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I will not take the full time. Mr. Chairman, I want to say it is a pleasure working with the members of this subcommittee. The chairman and the ranking member of this subcommittee, diligent workers who believe fervently in the cause of agriculture, really legends in their own time in the history of agriculture in this country, and it is a pleasure working with them and the other dedicated members of the subcommittee.

□ 1740

I want to commend this bill to our colleagues. It is a good bill. In a difficult time for agriculture it is a difficult time for us here in the Congress dealing with the problems of agriculture, especially the funding p;roblems, to be frank about it. But this bill contains funding for programs important to our farmers, including ASCS, Crop Insurance Program, FmHA operating and ownership loans, the Foreign Agricultural Service, including the Cooperator Progam. It includes funding for programs important to our rural communities as well, the water and sewer grants and loans, the REA loans, Soil Conservation Service programs, and of course the Extension Service activities so important in this country.

The bill also then contains funding for programs important for people in general throughout the country. We have heard mention of the Food Stamp Program, which is a big part of this budget, the WIC Program and the Child Nutrition Program. This is a well-balanced bill, in my opinion. It meets the food and agriculture needs of our country. It comes at a time when the country is in almost unprecedented agricultural difficulty especially in certain sections of the country.

But I urge our colleagues to support this bill, which is, I think, a good reasonable approach to the Nation's agricultural needs.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may require to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. I thank my distinguished chairman for yielding to me. First, as chairman of the authorizing committee, let me commend the chairman and all the members of the subcommittee and those members of the full committee for the work they have done in this endeavor. I assure you that my commendation comes not only from myself but from all of the other members of our committee for the work that they have done, and coming in under budget as they have. I think it might be well to mention very briefly that we in agriculture in spite of the very difficult times we are having throughout the United States, in the Southeast, in the Midwest, all the other areas of our country, we have done the responsible job. In the past 5 years or so, we have reduced over $20 billion in the authorizing legislation in cooperation with the Committee on Appropriations. We have come in under the budget. But I think it would be well to note that everything agriculture, if you were to just dismantle the Department of Agriculture, the impact on the total budget would not be but slightly over 3 percent.

The commodity market that is now the theme of so many prominent newspapers throughout the United States, that, at best, is not much more than 1 percent of the total budget. Yet we have the best-fed people in the world for the lowest amount of disposable income in the world per family. So that is due to the work of the members of the Committee on Agriculture, authorizing committee, working with the chairman and ranking members and members of the Committee on Appropriations.

I would like to commend the gentleman for the excellent work that you have done to carry out the intent in this instance of the authorization and basically to give the assistance that we give to rural America and to the producers of this great country of ours and still be responsible budgetwise.

Mr. WHITTEN. I yield myself such time as I may consume.

I thank the gentleman for his kind statement. I point out again that this bill, contrary to what most folks believe, has to do with rural development, it has to do with 84 percent of the United States because 74 percent, I believe, of our population lives in 16 percent of the land area of this country. In my own remarks that I made earlier that we have consumer programs in here to the tune of $19 billion. We have the programs in here that go to those cities and towns of 15,000 in population or less in the rural areas. Involved here is by far the biggest part of the United States.

Something has to be done. I think we have done so in our bill. We will be glad to work with the gentleman from Texas, who is chairman of the authorizing committee.

I think it is going to take all we can do plus a whole lot of others if we are ever to get this straightened out.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the gentlewoman for yielding time to me.

Mr. Chairman, the farm crisis has struck a harsh blow to many rural families who are struggling under the double burden of financial hardship and emotional stress. While we continue working to keep farmers on their farms, we must not neglect those who have already been forced off their farms.

For those families who have lost their farm, finding new fields of employment is a traumatic experience that impacts heavily on the entire family. Even those families who have kept their farms find as financial pressures continue, we are beginning to see more and more social problems develop in rural communities at a rate we've never seen before. Incidents of family violence, alcohol, and drug abuse and runaway youth are increasing in rural communities.

It is critical that we provide what ever assistance is possible to help these families through this difficult period. Farmers need emotional and professional support that can be provided through rural outreach programs.

An amendment I successfully passed to the 1985 farm bill established a Federal grant program for Extension Services to develop and administer job training, counseling, and educational programs for farm families that have been hard hit by the farm crisis and those displaced from farming.

I drafted the Farm Assistance Grant Program for the farm bill after a study I requested from the U.S. Department of Agriculture on displaced farmers which documented families facing difficult problems were not receiving the guidance and support they need.

I want to commend the chairman and ranking lady for working with me and including in this appropriations bill funding for three farm assistance grants of $500,000 each to establish pilot programs in Missouri, Iowa, and Nebraska.

Many farmers have known no other work but farming. When they're forced to take a second job or seek new employment, many feel lost. Half the battle is for farmers to recognize they have self-worth. The other half is recognizing that a farmer has skills that can be adapted to other jobs.

Under my program, professionals will work with farmers and help them identify farm skills that can be applied to many other jobs. Career counselors can also help farmers write resumés and develop individualized financial plans.

With the help of these Federal grants, Extension Services will be able to develop outreach programs in rural areas to provide families with access to educational counseling and mental health services to help relieve stress-related problems.

The programs should be implemented through the Extension Services because the Extensions have the structure in place to reach the most farmers.

With the help of this program, we can help farm families through this difficult transition.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, the gentleman from Mississippi, I would certainly like to commend him and all the other members of the committee for the way this bill has been put together. It shows a very high sensitivity to the subject which the gentleman is well noted for and with only, maybe,

one exception I think the bill is a fine, fine bill.

I rise here, however, to add one point of emphasis. And that is to call attention of the Members to the fact that it is fairly likely that by the time 1987 is over, that this appropriation will be exceeded by somewhere between $7 billion and $17 billion. That is an important item because in addition to trying to help the farmers, we are also trying to get the budget balanced, we are trying to wend our way through Gramm-Rudman and figure out how to work that program out.

Mr. Chairman, I think that, as I read the bill, perhaps the area that is contributing to the difficulty is the question of the CCC, the cost of the farm crop support programs. As everybody knows who is in the field of agriculture, we budgeted last year $16.9 billion for that program. We overexpended it by about $7 billion or $8 billion, covered by supplemental appropriations. This year we are budgeting the same amount as last year. Already the committee recognizes that the expenditures for 1986 for commodity credit will be at least $24 billion, $25 billion. The Department of Agriculture is seeing an increase in the commodity credit charges. Certainly they are going to be as big as the year before. The estimates of the Department now, instead of being $16 billion or $17 billion for next year are as much as $31 billion to $35 billion.

It is quite possible that before the year is over, we are going to have to have supplementals about doubling the CCC cost.

Mr. Chairman, I understand the methodology and the reason for budgeting this way. I commend the gentleman for his objectives.

On the other hand, we should not want to fool the Members of the House in planning Gramm-Rudman action and in planning for deficit reduction because we are going to end up considerably above budget. That means the deficits are going to be higher than we thought they were going to be. I do not know how the OMB or CBO are going to deal with that. They may overlook it. It is possible. But if they do, we will end up at the end of 1987 with a problem because the deficit will not go down as far as we are figuring it is going to go down. We will have a bigger cut.

Mr. Chairman, I think we ought to get this out in the open, get the costs of the program down or raise the money to pay for the program and solve the problem a little sooner.

Mr. WHITTEN. Mr. Chairman, I yield myself 2 minutes.

May I say to my colleague from Virginia that he is right about what he says. The cause, however, is because they would not follow the recommendations of this committee. We are forcing the American producers of basic commodities to sell below cost of production and then, under the current program, make it up by a check out of the Treasury. There is no telling what that is going to amount to.

Had we supported this price by using the Commodity Credit Corporation, whatever the Corporation took in they could sell in world trade at competitive prices. That is permitted by the law now. Repeatedly we tried to let the Congress vote to limit production so we would not be saddled with this present situation.

We were defeated each and every time.

So the cause, I would say again, is just failure to use the law—still on the books—that would have prevented this.

Mr. OLIN. If the gentleman will yield, I think the gentleman makes a very good point. Perhaps, by being sure this problem is out in the open we might stimulate some action to get it solved, perhaps along the lines the chairman has suggested.

Mr. WHITTEN. Well, the House has passed two bills that would have prevented this. We could not get it through over in the other body. I think we need an understanding that you cannot raise the cost of production, as we are, you cannot reduce the volume of production, as we are, and then reduce the farmer's price without creating a situation like we have now.

Now, perishable commodities are a different thing. We buy the surpluses and put them to good use. They are in good shape. They have the best price-support system in the world.

We buy the surplus and balance the supply and demand. Here we have brought it on ourselves, no question about it.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. I thank the gentlewoman for yielding.

Mr. Chairman, I congratulate the members of the committee and the subcommittee of the work they have done on this. I want to just very briefly speak about one program here which I have a great deal of personal interest in, and that is the $41.5 million which is provided for the Commodity Supplemental Food Program, known as CSFP.

There are a number of States which currently have applications pending for new CSFP programs; among them my State, New Mexico, Rhode Island, New York. So far no action has been taken on this. The dollars that are included in this appropriation bill are important because it will allow us to continue not only the programs that are in place but the new ones that may possibly be funded and also continue all of those into the next fiscal year.

In the fiscal year 1986 supplemental appropriations bill there was language that required the Secretary of Agriculture to restore $3.95 million to CSFP which had been transferred to the Commodity Credit Corporation, and my colleagues may recall that. During the debate I had a colloquy with the distinguished chairman of the Committee on Appropriations and the chairman of this subcommittee on this matter.

□ 1755

The chairman pointed out, as our colloquy pointed out, new CSFP applications could be accepted using these funds which were being transferred back, provided there were sufficient appropriations available and there was no reduction in the participation levels at existing sites. So far, the Food and Nutrition Service has not taken steps to accept Arizona's application or these other applications for CSFP funding.

Given the fact that these dollars are in here not only to continue the existing programs, but the anticipated increase in new programs that we have anticipated with this appropriation, I hope there will be prompt action by the Food and Nutrition Service to take action on the applications which are pending.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I, too, wish to rise to thank the gentleman from Mississippi [Mr. WHITTEN], the gentlewoman from Nebraska [Mrs. SMITH], and also the full Committee on Appropriations and the subcommittee handling this legislation.

At this time, I would like to engage the chairman of the full committee in a colloquy.

Mr. Chairman, I would like to ask for clarification on a research program that has been funded by your committee dealing with a study the University of Missouri is conducting. The study is focusing on determining the efficacy and safety of the use of biomass from dairy processing waste as feed supplement for livestock and on the qualities of such biomass for use as fertilizer.

Based upon the first year's work described before your committee by Dr. Jordan, Administrator of Cooperative State Research Service of USDA, it appears that the study has successfully determined that biomass as a fertilizer has economic value when applied to land in proximity to the processing plant. Dr. Jordan also stated that the value of biomass as a fertilizer will be related to transportation costs and must be equated to the costs of commercial fertilizers.

My question is does this research grant permit the funds to be used in studying how the biomass can be put

in a form for easy transporting, storing and use as a fertilizer at distances away from the point of origination of the biomass? That is, can the research involve agriculture engineering or other qualified departments in the problem of mechanical dewatering and formulation of products that can be stored and shipped economically?

Mr. WHITTEN. If the gentleman will yield, yes, that is my understanding. It is certainly our intention that the research may include studies on transforming the waste into an economically useful fertilizer product, and we hope they are successful.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I thank the gentlewoman from Nebraska for yielding this time to me.

Mr. Chairman, I, too, want to commend the members of the committee and Chairman WHITTEN for their leadership on this and their commitment and devotion to agriculture, as well as the leadership of Mrs. SMITH of Nebraska on this issue.

We all know the background of this debate and the discussion and the need for this legislation today. American agriculture today is going through one of the most difficult times since the Great Depression, with land values that have dropped, prices that have plummeted, the need to push and move and market our grain, and the administration proposal for the fiscal year 1987 budget.

We saw massive reduction in rural housing. We saw massive reduction in the SCS, the Soil Conservation Service, massive reductions in cooperative extension and in REA.

But here is some positive news for American agriculture and farm families with this legislation today. We see in the agricultural appropriation increases to retain funding for rural housing, for the Soil Conservation Services, for cooperative extension and the work they do across the Nation, and for REA. Plus ASCS, we have seen that funded as well, and how important it is in Michigan and other areas across the country, child nutrition, school lunch programs, increased by $120 million. That is positive news for rural America. As well as women, infants, and children programs increased by $91 million.

So there is a broad focus of this bill for rural America.

I say let us continue to help rural America. I say let us continue to help production agriculture. And I say let us continue to help American farm families by passage of this legislation.

I urge my colleagues to vote in favor of this measure.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in strong support of the Agriculture, rural development, and related agencies appropriation bill, 1987. As chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the House Agriculture Committee, I want to comment specifically on a number of the provisions in the nutrition bill.

First, the Committee on Appropriations includes $12.7 billion in budget authority for the food stamp program and the block grant for nutrition assistance for Puerto Rico. Clearly, it is too early to predict whether this amount will be insufficient, too much or just right. There are significant uncertainties about the overall cost of the program given the state of the economy and questions about whether the regulatory and administrative savings which the administration assumes can be achieved. In any event, we assume that the program will be fully funded. The Food Security Act of 1985 included an authorization ceiling for fiscal year 1987 of $13.936 billion, which should be sufficient to cover all likely eventualities unless there were a dramatic downturn in the economy.

I want to specifically note how pleased I am that this bill fully funds the block grant for nutrition assistance for Puerto Rico at the authorized level of $852.75 million.

The Committee on Appropriations noted in its report on the bill that if this block grant were funded at $825 million as the administration proposed, it would provide 16 percent less in food purchases than when the block grant was first implemented in 1982.

This bill also fully funds the Temporary Emergency Food Assistance Program [TEFAP] at $50 million. The administration has requested no funds for this program. This program provides crucial administrative funding that enables emergency feeding organizations to provide some of our agriculture surpluses to needy and homeless Americans.

Under this bill, funding for the Commodity Supplemental Food Program [CSFP] would be $41.5 million. This is an increase of $4.7 million over the current appropriation and $2.9 million over the administration's request. The CSFP program provides supplemental food to infants and children up to age 6, and to pregnant, postpartum and breast-feeding women who are at nutritional risk, have low incomes, and live in approved project areas. In addition, this program operates commodity distribution projects directed at low-income persons. In its report on the bill, the Appropriations Committee makes clear its opposition to using CSFP funds to purchase surplus commodities from the Commodity Credit Corporation. This is a procedure which I have opposed because it reduces funding available for the CSFP program. The bill includes language which would prohibit this practice.

I am pleased to announce that the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition is holding oversight hearings on both the TEFAP and CSFP programs on July 29, 1986. The importance of these programs in meeting the nutrition needs of low-income Americans has too often been overlooked in recent years.

For the Expanded Food and Nutrition Education Program, the bill recommends funding at $57.6 million, which is the same amount available in the current year. The administration requested no funds for this program.

In summary, within the budgetary constraints under which we must operate, H.R. 5177 provides adequate funding for the important nutrition programs under the jurisdiction of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. I want to thank the chairman of that committee, the distinguished gentleman from Mississippi for his cooperation.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I appreciate the opportunity to make some general comments on the bill before us today, H.R. 5177, the Agriculture appropriations bill for fiscal year 1987; but first I would like to commend the chairman, ranking member, and all the members of the Appropriations Committee for their diligent work over the last several weeks.

It is no secret to anyone across this country that many of our farmers are struggling to survive. Faced with declining exports and low commodity prices, it becomes imperative that Congress not turn its back on rural America and give its support to the appropriations bill before us today.

Two areas of particular interest to me and my constituents are the Soil Conservation Service and Extension Service, which the Appropriations Committee has adequately restored funding for 1987. These two agencies have been instrumental in making American farmers the most competitive and knowledgeable in the world. Our actions today prove that Congress can meet the goals of deficit reduction and still perserve funding for these valuable rural programs.

While the farm economy is reeling at present, prosperity will return to agriculture in time. We are at a stage in the agriculture industry where the technological changes and innovations that will occur in the next 20 years are

mindboggling. For instance, researchers right now are working on a substance that, when injected daily into dairy cows, will increase milk production from 20 to 40 percent. This and other changes will affect how farmers and ranchers will do their business in the future.

For Congress to not look beyond its own boundaries at the big picture of the changes in American agriculture would be a grave mistake. The farmers and ranchers of this country must have the opportunity to be competitive whether it's with their neighbor down the road or a producer on the other side of the world. Keeping a strong Soil Conservation Service and Extension Service is a step in the right direction.

It is also gratifying to see that the funding for the Rural Electrification Administration [REA] has been restored to a level equal to the 1986 appropriation. Since its beginning in 1935, the REA has been and continues to benefit the residents of rural America. More than $12.5 billion has been collected from its electric and telephone borrowers while total losses have amounted to $44,478. When reviewing these figures and the benefit rural America has seen over the past 51 years, it is easy to justify the continuation of this vital Government program.

In light of the budget constraints faced by Congress, I am quite pleased of the appropriation levels for the various research services, inspection services, and the Farmers Home Administration. I am however concerned about the spending authority of $16.8 billion to the Commodity Credit Corporation (CCC).

The Appropriations Committee has estimated that outlays by the CCC will be just over $29 billion with receipts at of $13 billion. Projections indicate that outlays by the CCC in fiscal year 1987 will be much more than the estimation made by the committee. Personally, I believe the CCC is going to need more funding through the fiscal year.

Nevertheless, I commend the chairman of the Appropriations Committee for his leadership in establishing a single level of funding for the entire year rather than the method of funding the CCC that has occurred in the past.

The administration proposal to permit the CCC permanent authority to reimburse its net losses directly from the Treasury Department as needed, rather than having to go through the appropriations process, is very desirable way to avoid delays in funding the CCC if it does indeed run out of money. The problem, however, is that it is open-ended. During a time when we are faced with budget constraints, Government spending needs to be monitored.

The President's budget projected that the net realized losses for the CCC would be $16.8 billion. I'm pleased that the committee had the foresight to appropriate no less than that in this appropriation bill.

I have not addressed all the various funding levels recommended by the Appropriations Committee. There are some areas that I believe would benefit from an increase in funding levels and perhaps other sections should be reduced; however, all in all, I believe the committee has done an excellent job of targeting funds where they are needed most—to the farmers and rural citizens of this country.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I do this only for clarification perhaps or information from the gentleman from Mississippi. We provided in the farm authorizing legislation emergency financing for the Federal Crop Insurance Corporation. There is a limitation in the bill here. But there is the concern that there may not be adequate funding with the drought in the Southeast and other problem areas.

□ 1805

I wonder if the distinguished chairman could enlighten me as to what would be the situation under circumstances such as that?

I yield to the gentleman for his response.

Mr. WHITTEN. May I say that I have checked this, and according to the information that we get from the Department, there is no limit on what they can do for the remainder of this year.

Insofar as 1987 is concerned, there will be $135 million in the FCIC fund—$100 million for drought in the CCC, and $290 million in premium income. Our purpose is not to void our obligation but to make available money to do it. We think it will do that.

I assure the gentleman if it should not, we will move it as rapidly as we know how. This seems to be adequate.

Mr. DE LA GARZA. I appreciate the information from the gentleman. My understanding is that in the perception of the situation by the gentleman from Mississippi that these appear to be adequate funds, but the agreement is that should there be further need then they can come to the Congress?

Mr. WHITTEN. We can do it. Of course, my colleague realizes this year we had to deal with the overall budget, and we had to deal with Gramm-Rudman. That which we were not quite sure we had to have we did not include in the bill. The ceilings we put in we think are adequate.

May I digress a little bit in connection with this. The legislative committee under the distinguished gentleman's chairmanship provided in case of floods that certain provisions could be made in the way of providing assistance. In the conference we added to that the word "drought." So that helps those farmers affected by the current drought.

I would like to add for the record too, our colleague, Mr. FISH of New York talked to me earlier about the folks in his area wanting to help the people in the South. We wanted to be sure that the Department of Agriculture had adequate money to take care of the needs of the shipments.

I assured the gentleman from New York [Mr. FISH] that we would call on the Department to use their transfer authority to meet that need and help pay the cost of relieving, as far as the rest of the country wishes to, the terrible situation we have in the Southeast.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

Mr. WHITTEN. Mr. Chairman, I yield myself 1 minute.

Mr. WHITTEN. I am glad to say that in my immediate area in the South we have finally got rain in ample time to make a good crop.

Mr. DE LA GARZA. For that we thank the Good Lord and I appreciate the gentleman giving me this information. I know that it is not the intent of your committee and certainly not of ours that we in any way restrict the Crop Insurance Corporation but that we cooperate with them, and if the need be there, that we give them that assistance necessary.

Mr. WHITTEN. Certainly the conditions require that.

Mr. DE LA GARZA. I thank the gentleman.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the pending bill which makes appropriations for the Department of Agriculture for fiscal year 1987, and the amendment that will be offered by the gentleman from South Dakota. That amendment would earmark $100 million for the general CCC fund toward the CCC grain storage facility loan program.

At a time when major elements in agriculture have suffered some of the worst economic hardships in history, now is not the time for the Government to abandon those farmers and agribusiness families. I am very pleased to see this bill protect those badly needed programs for agriculture while at the same time showing some fiscal responsibility in other programs that are becoming outdated and ineffi-

cient. I commend our colleagues on the Agriculture Appropriation Subcommittee for that effort, while maintaining or increasing funding for programs which are a necessity for the survival of productive, efficient farmers, ranchers, and rural communities which are suffering from the plight of the agriculture economy.

With regard to an amendment to be offered by the gentleman from South Dakota, I support not only for what it does, but the message it will send to the USDA that we badly need a CCC storage facility loan program. In Nebraska, more than 690 million bushels of corn last year was still in storage June 1, an increase of 52 percent over a comparable figure a year earlier. Nebraska's wheat and grain sorghum carryover stocks were also running about 35 percent more than last year. In almost all parts of our State the crops look excellent. Indeed that is true throughout the Midwest and the Great Plains. As we all know, this great blessing also presents us with serious logistical—storage—problems. Since the crop generally looks good, it has been predicted that Nebraska might have an estimated 75 million bushel grain storage deficit this fall.

While increasing agricultural exports is the ultimate solution to the storage problem, the USDA can make some administrative improvements to the regulations governing grain storage and handling. Even though USDA has indicated that it is not necessary to implement a CCC storage facility loan, I believe they should make it available as soon as possible.

In Nebraska there are several grain producers that have no onfarm storage; they will be hardest hit by this storage crisis. Elevators and cooperatives are already full of grain, and the farmer without any onfarm storage will have no place to go with his harvested grain this fall. Those particular farmers seeking storage facilities for their farm should have the same opportunity for a CCC storage loan as farmers had in the past. Since harvest is just around the corner, any action on the storage loan program should be taken without further delay.

Although the Daschle amendment would not make the CCC loan facility program mandatory, I believe it makes a statement to the USDA that expresses our sentiment that we have a serious grain storage problem in the Midwest and Great Plains. The USDA has said that programs to expand permanent storage facilities would not be consistent with the administration's long-term objective to reduce large year-to-year carryover of grain inventories. However, I believe permanent storage facilities could be offered at least on a limited basis.

Several farmers in my State, who have endured economic hard times, are now ready to build storage facilities for their hog or cattle operations or to save money on drying cost. They didn't have any previous onfarm storage, but now deserve to participate in the same storage loan program as was available in the past. Application of the storage loan program would not only help relieve some of the tight storage conditions this fall, but it will also give many farmers an opportunity to start an onfarm storage program without relying on the Government's CCC warehouses.

As a representative from a great agricultural district with extraordinary grain production, I fully support this Daschle amendment and urge my colleagues to vote for its adoption as well as the adoption of this appropriations bill.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 5177, the bill to provide funding for the Agriculture, rural development and related agencies programs and, as a preface to my remarks, I wish to engage the chairman of the committee in a colloquy.

Mr. Chairman, the Administrator of the Rural Electrification Administration has authority to provide security to nongovernmental lenders in the form of a shared first mortgage on all the properties and assets of the rural electric systems participating in these projects.

To expedite the construction of and to facilitate the availability of loans from private capital sources for two hydroelectric projects on the Arkansas River—Arkansas River Lock and Dam No. 13; and Kaw Hydroelectic Project—for the benefit of rural electric systems, we will urge the Administrator of REA to assist these projects.

Does the chairman agree the Administrator has this authority and should look with favor upon these projects?

Mr. WHITTEN. I have no knowledge of the particular projects. The Secretary does have such authority and upon application being made, he should of course consider such application and hopefully approve.

Mr. ALEXANDER. I compliment you on your foresight demonstrated by funding a startup of the ATTRA, Appropriate Technology Transfer Program to be managed at Agricenter International in Memphis, TN. This program, which was developed by the National Center for Appropriate Technology for them to manage at Agricenter, will convey technical assistance and training on low-input farming and community resource management. These are technologies which can help farmers and communities cut operating costs, a much needed farm and rural management approach during these crisis times.

I look forward to working with the National Center for Appropriate Technology in their steps to carry out the startup of this program at Agricenter International after giving the program my full support through the committee process. Since the program will be transferring these technologies mainly through the Extension Service and other USDA networks, though there will be a 900-line open to the rural communities and farmers, we will be able to get a great deal of educational leverage out of the funds. Thank you, Mr. Chairman, for your support of this needed program.

Mr. Chairman, this bill is vitally important to our farmers and the people of our rural communities across the Nation. And, it is vitally important to the people of our cities, for without the products of our farmers our city dwellers would go hungry. These basic truths have been recognized by our members of the Subcommittee on Agriculture, Rural Development and Related Agencies in formulating this bill. The chairman, subcommittee members and their staff should be congratulated for the fine work they have done in preparing this bill for consideration.

Our farmers are being crushed by the worst agricultural depression since the 1930's. Farm after farm in Arkansas and across the Nation are being crushed by the weight of falling prices, falling land values, falling exports, and rising costs.

Farmers are hardworking, reverent, and patriotic citizens. They deserve a better understanding of their problems and better treatment from their government. Farmers, more than ever, need the support of their government. This bill recognizes the serious economic and social crisis occurring in rural America. It provides for the continuation of the economic and technical support that our rural communities need for survival.

Farm income has plummeted in the past 5 years. It has reached the lowest point since the beginning years of the Great Depression. From 1980 to 1985, net farm income averaged $8.36 billion. During the Hoover Presidency, between 1929 to 1932, average net farm income was $8.2 billion.

When farm income declines, so does spending on Main Street, and at the equipment, fertilizer, and seed dealers. When spending on Main Street declines jobs disappear and businesses close their doors. Falling farm income added to rising unemployment due to factory closings equal economic depression in Arkansas.

Gramm-Rudman further cuts farm income. Agricultural program spending reductions for fiscal year 1986 will be $1.3 billion of which $824 million will be taken from farm income and price support programs. That's $824 million directly out of farmers' pock-

ets at a time when their pockets only have loose change in them. This loss of income to farmers deals a crippling blow to the entire economy. In my home State of Arkansas, which is already suffering from high unemployment and slow economic growth, will take another body blow in its hopes for recovery.

In 1986, Arkansas farmers should receive an estimated $400 million in farm program payments. However, because of Gramm-Rudman, Arkansas farmers will get $17.2 million less. According to USDA's Economic Research Service, every dollar in a farmer's pocket adds $3 to the economy. Thus, this $17.2 million loss to Arkansas farmers means a $51.6 million loss to our entire State. In 1987, Arkansas could lose as much as 15 percent of their expected $400 million in farm program payments because of Gramm-Rudman. This means a $60 million loss to farmers and a $180 million loss to the Arkansas economy. And, it almost certainly means more jobs lost in businesses along Main Street and, possibly, more businesses closing.

Gramm-Rudman compounds the damage being done by the policy of deflation and depression which is turning America's heartland into a wasteland. America is beginning to look like Australia, two rich coastal economies connected by a barren wasteland. We must have a new farm policy, one based on profit and a new jobs policy that restores America's eroding business and industrial base.

Clearly, American agriculture is reeling in the stranglehold of disaster. At this most critical time, Congress must act to increase farm income and strengthen programs which serve farm communities.

One of the most valuable technical programs which serves American agriculture and rural communities is the Cooperative Extension Service. This bill includes funding for the Extension Service at the current year level. At this funding level, the Extension Service will be able to continue to offer valuable technical assistance to farmers in production, harvest and financial management, and training through such programs as 4-H, food and nutrition education, farm safety, and home economics.

The people of the First District of Arkansas have expressed their appreciation and strong support of the Extension Service programs by sending me over 1,000 letters protesting this administration's budget request to cut the Service by 59 percent. These people are users and beneficiaries of Extension Service. They have attested to its enormous contribution to their communities and in their daily lives.

This bill includes funding for another very important project for farmers, not only those in First District of Arkansas, but in other parts of the Nation where agriculture water use and conservation is extremely important. Included in this bill is $452,000 for continuation of the Eastern Arkansas Water Conservation Study.

Because of the foresight and leadership of Jeff Ellis, farmers in Jackson County, AR, recognized the need for this study in the midst of the 1980 drought. Using their own resources and assistance from the Arkansas Soil and Water Conservation Commission, they did preliminary work on the study. By 1984 the results earned the support of the Arkansas Association of Conservation Districts and funding from the Congress.

The information already generated by the study is helping Arkansas farmers to improve their water use efficiency, reduce crop production costs, and conserve precious and declining water resources.

The need for such study to protect and preserve our vital water resources is evidenced by the severe drought which is devastating much of the Southeastern United States. Farmers there are being forced to sell their cattle early and watch their crops wither in the fields. In Arkansas, we hope that the Eastern Arkansas Water Conservation Study will not only help our farmers avoid the terrible consequences of another drought like that of 1980 and 1983, but that its results can be used in other farming regions to help farmers protect themselves from the destruction effects of drought.

The purpose of the Department of Agriculture is to assist farmers, both financially and technically. This appropriations bill allows USDA to carry out its responsibilities, while taking into consideration the need to reduce Federal deficit spending. I strongly support this bill because it promotes a policy of helping farmers through these difficult times. Farmers are the foundation of the First District of Arkansas and this country. For our Nation to prosper, we, in the Congress, must help ensure that farmers prosper. Passage of this bill is one step along that road.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding me this time.

Mr. Chairman, if I might, I would like to say that today, Members of the New York delegation and our Members of the other body have learned that farmers in New York State from 10 counties want to respond appropriately to the drought area in our Southern States. They want to send an enormous quantity of hay as soon as possible in the early part of next week.

We, of course, applaud this typical American response to a fellow man in need and want to do what we can to help. The problem, as usual, involves expense, the expenses of getting the hay from the farm and we are basically very small farms. We do not have the large vehicles to get the hay to a central location, and then from the central location to the Southern States.

So far as transportation, we are exploring the best ways. Unfortunately, the White House, having financed the generosity of the State of Illinois, does not feel that they can repeat.

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So I am here to ask for the gentleman's advice and for his help as to how we may be thinking in terms of meeting the expenses that may be incurred.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, may I say to my colleague, the gentleman from New York, that earlier I had mentioned his conversation with me, and I wish to thank him and, through him, the people in his area for their attitude and for their willingness to help.

The situation is desperate. As I mentioned earlier, in my immediate area we did get rain, but in most of the Southeastern region the situation is unbelievably bad. We have tried to help, and as I mentioned earlier, in connection with the legislative bill that we had on the last supplemental bill, I had the word, "drought," added to that where they had "floods," which helps in some ways.

Within the Department they have authority to make many transfers, and I now call on them to cooperate fully. This money should be available by October 1. I will be glad to follow it up with a telephone call to the Secretary, urging them to go ahead and use funds they may have on hand, and I will be sure that we restore those before we get through with the bill before us.

So again I thank the gentleman very much. We will do everything we know how to do to see that this is made available. Of course, as the gentleman knows, the money in this bill becomes available on October 1. What we would like to do is see that they go ahead with funds on hand and make it up out of the bill we have before us here.

Mr. FISH. Mr. Chairman, it is very generous of the committee chairman to offer to replenish the funds if indeed it becomes necessary to transfer funds from the Secretary.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to my neighboring colleague from the state of New York.

Mr. SOLOMON. Mr. Chairman, I would certainly like to thank the gentleman from the lower part of the Hudson Valley for calling attention to the fact that in New York State we do

have a large farm belt area. I represent the 20th largest dairy producing congressional district in America, and we do have a strong movement on behalf of all the farmers in that whole Hudson Valley area, but we are running into some difficulties, as the gentleman has pointed out.

It is expensive to fly in the hay that we have available. Right in the Albany district now we have some 400 tons that are available. Conrail has been good enough to donate 10 boxcars that are 50 feet long. But we run into a problem again of trying to transport the hay from the farmers to the distribution point for both Stewart Air Force Base, let us say, in the gentleman's district and the Selkirk Yards in my district.

I am just wondering about this: Since this is a State National Guard expense and since they are hard pressed as we know, I might ask, was the gentleman being told that maybe the State National Guard or the Federal National Guard can be reimbursed for the expenses they may have had? For instance, in the New York City area we have a transportation unit with 18-wheel trucks that are available, but, of course, it is a terrible expense they would have to go to.

Is there money that would be available possibly for transfer from these various accounts so that they might be reimbursed?

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, in my long experience here I have always learned to call on reserves to take care of the thing at hand. They have so many places where they can reach that I put no restrictions on it. I do not say, "Do it this way" or "Do it that way." I just say, "Do it, and we will make it up."

Mr. SOLOMON. Mr. Chairman, if the gentleman will yield further, that surely sounds like good news, and again I want to thank the chairman of the committee, and I also thank the gentleman from New York for yielding.

The CHAIRMAN. The time of the gentleman from New York [Mr. FISH] has expired.

Mr. WHITTEN. Mr. Chairman, I have no further requests for time.

Mrs. SMITH of Nebraska. Mr. Chairman, I have no further requests for time, but I yield myself such time as I may consume just to say this:

On this subject we have been discussing I would like to add that I want to thank all the people from Nebraska for calling in and wanting to donate hay, and that it would certainly help the situation if we could just get some help with the transportation. I will certainly do everything in my power to help.

Mr. AuCOIN. Mr. Chairman, I represent the First Congressional District of Oregon—a diverse area stretching from the high technology corridors of Portland to the high production farms of the Willamette Valley and the Oregon coast.

Oregonians know that sustained economic recovery depends on economic diversification. And something more. Long-term recovery means that while we work to promote new industry, we've also got to work to protect our rich natural resource base.

That's why in my testimony to the Agriculture Appropriations Subcommittee earlier this year, I asked that the committee reject administration plans for deep cuts in a number of important agriculture programs. I'm pleased to see that the committee said "no" to the White House, and provided adequate funds for Cooperative Extension, Soil Conservation, Agricultural Research and Cooperator Export Promotion Programs.

Passage of this bill is a first step toward assuring that the Soil Conservation Service won't have to implement plans to lay off 24 employees in Oregon, that wheat exporters can continue using the Cooperator Progam to increase sales to the Pacific rim—and reverse a 50-percent drop in overseas sales of Pacific Northwest White Wheat.

The bill will also assure that the 4-H, Nutrition and Education Programs run by the Cooperative Extension Program can be used to better prepare the coming generation of farmers for the new challenges ahead.

This bill also provides funds to met the soil erosion problems of Oregon nurserymen, the fastest growing agriculture industry in the State. It will allow the Oregon Soil Conservation Service to continue an innovative Animal Waste and Water Quality Program in Tillamook, OR, and ensure that the ASCS has the funds it needs to implement Federal farm programs in a timely fashion.

Oregon agriculture is a $5.4 billion industry Unfortunately, this legislation won't solve the problems of oversupply and shrinking foreign markets now pressing Oregon growers. But it gives us the tools we need to make wise decisions about solving these problems in the future.

Mr. FRENZEL. Mr. Chairman, I have presented no across-the-board amendments to H.R. 5177 because my amendments are based on freeze of budget authority at current year levels. This bill lists 1986 budget authority at 49 and 1987 at 41; $7.4 billion of additional budget authority would be required to create a freeze. I have no interest in adding expense.

Nevertheless, I have little confidence that H.R. 5177 will save any money. On the contrary, major entitlements seem to be seriously underfunded. The committee's normal procedure is to underfund mandatory spending and then meet obligations by passing a supplemental appropriation next year. Supplementals may have become a way of life for the committee, but to me they are a wretched way to appropriate.

The Commodity Credit Corporation for instance seems to be seriously underfunded to the tune of more than $2 billion. Although the bill is supposed to be $7.4 billion less in budget authority than last year, but if CCC appropriations were the same as last year, H.R. 5177 would be larger than last year.

The Food Stamp Program is funded at a level less than last year, as are all nutrition services. More billions may be required in a supplemental here. My preference would be for realistic estimates of actual spending rates, so that Congress would know what to expect.

For the reasons noted I have little confidence in this bill. I shall vote against it not because I question the spending levels, but because I do not believe H.R. 5177 represents realistic budgeting procedures.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 5177 and would like to acknowledge the fine work which Mr. WHITTEN and the members of the Appropriations Committee have done on this bill. These are difficult time for American farmers and this bill may be one of the most important pieces of legislation that we pass this year.

I would like to take a moment to review some of the programs dealt with in this bill in which I have a special interest, namely those programs in the Department of Agriculture's Science and Education Administration. I am pleased that the bill reverses some of the extremely shortsighted cuts which were proposed in the administration's budget request. While we do need to reduce Federal spending, cutting vital research and education functions will cause great long-term harm. We are on the verge of a number of major research breakthroughs which will significantly reduce the operating costs for our farmers, but this will occur only if our current level of research and education funding is maintained.

I am pleased that the bill proposes an increase for the Agriculture Research Service [ARS] in fiscal year 1987. The ARS is engaged in a number of exciting areas of research, especially in the area of biotechnology, and we must maintain these efforts. In California, we are making progress on the Plant Gene Expression Center which will be a focal point for Federal, university, and private research efforts to bring the promise of biotechnology to reality.

I must express my heartfelt appreciation to Chairman WHITTEN and the committee for providing the initial funding for a new salinity research laboratory at Riverside, CA. The existing facility is an aging one which desperately needs modernizing to keep pace with the scope of the soil and water salinity problems facing western, irrigated agriculture. In California, 3 million acres, almost one-third of our irrigated acreage, are affected by salinity problems, and that figure will increase by about 600,000 acres in the next 15 years unless remedial action is taken.

At the same time we are seeing problems with the concentration of toxics in surface water due to current irrigation practices. The most prominent example of this is the situation which has occurred at Kesterson Wildlife Refuge. The physical and chemical processes which have concentrated selenium at Kesterson are the same ones which produce many of our other soil and water salinity problems. By increasing our research efforts at Riverside, we will be working toward solutions to some of our toxics problems as well. It is a

tribute to Chairman WHITTEN's farsightedness, and that of the other committee members, that this new laboratory was given consideration in this bill.

It is also a tribute to Mr. WHITTEN and the committee that they have taken steps to restore the ill-advised cuts which were made to the Cooperative State Research Service (CSRS] budget. These research programs, conducted at our land-grant institutions, are the backbone of our agricultural research efforts. While I must, as always, take slight difference with the funding levels proposed for the Competitive Research Grants Program, I appreciate the difficult choices which the committee faced in making the needed restorations to the CSRS funding.

I am also pleased that Mr. WHITTEN and the committee restored funding for the Extension Service. I was astounded when the administration proposed cutting extension by over 50 percent, making a major change in the Extension Service mission. If the administration seeks to change the direction of the Extension Service, let them propose legislation and not use the back-door approach of these massive cuts.

One additional note of interest is the committee's restoration of the funding for animal welfare enforcement under the Animal and Plant Health Inspection Service [APHIS] budget. I cannot understand how the USDA, under such pressure from animal welfare groups, and in light of recent legislation to modernize the treatment of laboratory animals, could propose elimination of the enforcement funding for this program. I am pleased that the committee saw the correct course of action on this.

I realize that the programs which I have just described are minor when compared to the overwhelming problems which face agriculture in this country. But we cannot forget these essential research and education programs because they brought American agriculture out of its primitive state and made our production the envy of the world. And these same programs hold the only hope that we have for settling our current problems and entering a new era for America's farmers.

This vision of the future is reflected in the committee's actions and in the leadership of Chairman WHITTEN in his unflagging support for science and education in agriculture. I thank the committee and Mr. WHITTEN for their efforts.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $1,648,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $455,000.

Rental Payments (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $48,728,000: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of the Washington, D.C. Agriculture building complex pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $18,039,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,358,000: *Provided,* That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $3,611,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $17,569,000; making a total of $21,180,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $318,000.

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,293,000, of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

For necessary expenses for liaison with the Congress on legislative matters, $465,000.

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $44,461,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $75,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and Section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For the necessary expenses of the Office of the General Counsel, $16,832,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $448,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products,

use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $43,982,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

STATISTICAL REPORTING SERVICE

For necessary expenses of the Statistical Reporting Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $56,787,000: *Provided*, That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,608,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses for the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $350,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and to coordinate and provide program leadership for higher education work of the Department, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; $496,748,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further*, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $35,500,000: *Provided*, That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further*, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $148,792,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,412,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $22,320,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $26,778,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $32,804,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $1,143,000 for research authorized by the Critical Agricultural Materials Act of 1984; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $9,508,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98, to remain available until expended; $4,754,000 for higher education strengthening grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $2,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and $2,630,000 for necessary expenses of Cooperative State Research Service activities, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $269,092,000.

EXTENSION SERVICE

(including transfers of funds)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $229,713,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $57,635,000, of which $38,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $689,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $1,500,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $16,877,000; in all, $321,919,000; of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,025,000; of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $10,936,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses for the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $327,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $295,929,000; of which $3,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided*, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $361,400,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $6,697,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $36,829,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,469,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to

exceed $70,000 for employment under 5 U.S.C. 3109, $30,945,000; of which not less than $1,501,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $28,164,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $6,773,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,340,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $8,945,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses for the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $473,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $449,403,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $209,568,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $135,743,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $16,808,806,000, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided*, That of the foregoing amount, not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $683,350,000; conservation reserve program, $550,000,000; export enhancement program, $667,000,000; Federal crop insurance program, $100,000,000; targeted export assistance program, $325,000,000; and interest payments to the United States Treasury, $1,932,000,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $5,827,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commod-

ities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Does any Member wish to make a point of order against title I?

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: On page 17, line 14, strike out "$295,929,000" and insert in lieu thereof "$296,229,000".

Mr. DE LA GARZA. Mr. Chairman, the amendment would increase the appropriation for the Animal and Plant Health Inspection Service by $300,000. The additional $300,000 is to be used by the Animal and Plant Health Inspection Service's Animal Damage Control Program to control or eradicate grackles in those areas where they are causing economic loss to citrus.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, the chairman of the legislative committee and I have discussed this matter, and on this side we will be glad to accept the amendment.

May I say to my colleague that following our conversation I assured the Department of Agriculture that this amendment would be accepted in hopes that they could proceed immediately to relieve this problem.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman.

Mrs. SMITH of Nebraska. Mr. Chairman, if the gentleman will yield, we have reviewed the amendment on this side, and we have no objection to it.

Mr. DE LA GARZA. I thank my distinguished colleague, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 27, line 25, after the semicolon insert "storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000;".

Mr. DASCHLE. Mr. Chairman, I would like to quote from an article which appeared just this afternoon on the Associated Press wire:

The Nation's agricultural heartland faces critical shortages of storage space for the bumper crop of corn to be harvested this fall, and it may already be too late to do anything about it, Congress was told Thursday.

Merrill Marxman, a consultant for commercial grain warehouses, told a House Agriculture subcommittee that storage problems this fall may be the worst in the Nation's history.

He said a 28-State survey showed that of 20.7 billion bushels of total on-and off-farm storage capacity, 19.2 billion bushels is already being used, or 93 percent of capacity.

The corn crop to be harvested beginning in early September is expected to total 7.6 billion bushels. If farmers are unable to store their grain in approved space, it must either be sold at harvest, when prices are depressed, or stored under conditions that jeopardize its quality, such as in piles on the ground.

With that information, Mr. Chairman, I am today offering an amendment to this bill which would earmark $100 million in CCC funds for loans to farmers in critical need of additional storage facilities.

Crop reports like this and similar reports from the State of South Dakota and other States in the upper Midwest indicate that a record harvest is due this fall. Last year's corn crop was the largest in history at 8.9 billion bushels. A record 5 billion bushels is left over in storage. The expectation is that there will be 8 billion bushels of corn in this year's crop. At the beginning of last month, the United States held 1.9 billion bushels of wheat, a record overstock, and 847 million bushels of soybeans, which is almost 40 percent more than at the same time last year.

Already reports from the South Dakota State ASCS office indicate that 15 million bushels of grain are waiting for loadout orders: 5 million bushels of corn, 5 million bushels of wheat, 4 million bushels of soybeans, and some barley.

The Kansas City office is receiving loadout orders at the rate of 24 million bushels per week and issuing them at a rate of 16 million bushels per week.

Providing the farmer with loans for storage is really a short-term solution. The grain can sit for a short time, possibly 90 days, but ultimately it is going to be stored in approved facilities to protect it from damage.

Last week some of us urged the Secretary to take a number of steps to relieve the coming crunch, and they included loans for storage facilities but also included adding the Soviet Union and China to the list of countries eligible for grain subsidies in the form of export bonuses; expanding food assistance programs in this country and abroad; and bartering U.S. farm products for minerals and oil.

We need to address the storage problems in the short run, but more importantly, we need to solve this problem in the long run. We cannot lose sight of the need for trade reform and a workable and affordable farm policy that gives the farmer the price he needs and deserves.

In conclusion, Mr. Chairman, on-farm or community storage is really only a short-term solution, a preliminary solution, but the short-term solution is the only thing we have available to us at this point, and I am hoping the Senate will include this as part of their bill as well.

Mr. Chairman, first, an issue of immediate concern to farmers preparing for harvest is the need for adequate storage facilities. If there is to be another bumper crop this year, then USDA cannot afford to wait. It must get to the crux of the problem and deal with it in timely manner.

With the fall harvest rapidly approaching, it is critical that farmers have adequate storage space available for their harvest. Today I am offering an amendment to the agriculture appropriations bill, which would earmark $100 million in CCC funds for loans to farmers in critical need of additional storage facilities.

Crop reports for the State of South Dakota and, indeed, across the Midwest, indicate that a record harvest is due this fall. Last year's corn crop was the largest in history at 8.9 billion bushels. A record 5 billion bushels is left over in storage. The expectation is that there will be 8 billion bushels of corn this year. At the beginning of last month, the United States held 1.9 billion bushels of wheat, a record overstock, and 847 million bushels of soybeans, almost 40 percent more than at the same time last year.

Already reports from the South Dakota State ASCS office indicate that 15 million bushels of grain are waiting for loadout orders: 5 million bushels of corn, 5 million bushels of wheat, 4 million bushels of soybeans and some barley. An inquiry of USDA revealed that 170 million bushels of CCC grain currently in storage nationally is waiting for loadout.

The Kansas City ASCS office is receiving loadout orders at a rate of 24

million bushels per week and issuing them at a rate of 16 million bushels per week.

The American farmer will once again be called upon to bear the burden of a failed farm policy. The farmer should not be punished for a farm bill that asks him to accept a lower price in exchange for a hopeless effort to increase exports.

An increase in exports has not occurred. In fact, we find ourselves in a situation quite to the contrary. For the first time since the Government began keeping records, the United States is running an agricultural trade deficit; farm imports exceeded exports by $350 million in May. We have lowered our prices, but exports are falling.

The provisions contained in the 1985 farm bill have encouraged the American farmer to overproduce for foreign markets that no longer exist. The challenge is to move this overproduction now.

During a recent visit to Sioux Falls, SD, Vice President GEORGE BUSH stated that 1985 farm bill will "pave the way to a competitive future." The future is here, and it now appears our farmers are not going to move their grain through the channels and to the ports.

The price of corn has fallen to $1.71 per bushel, the lowest that it has been in 12 years, wheat is priced at about $2.98 per bushel, the lowest level in 9 years, and oats are selling as low as $1 a bushel. These lower prices are, according to the administration, insuring that our agricultural products are more attractive to foreign buyers.

If this is indeed so, why is ASCS 8 million bushels behind in loadouts even before the fall harvest? Why is there a surplus of grain if a lower price for grain is the answer to our overseas trade imbalance? If lower prices are the solution to regaining our fair share of the foreign market, then there should be no shortage space for grain.

On the contrary, low farm prices have caused excessive levels of forfeitures. Thus, excessive stocks are causing additional pressure on available storage.

And the administration's answer is more barges on the Mississippi. The Mississippi can't hold enough barges.

Providing the farmer with loans for storage is a short-term solution. The grain can sit for a short time—possibly 90 days—but ultimately it has to be stored in approved facilities to protect it from damage.

Last week I urged Secretary Lyng to take a number of steps to relieve the coming crunch. These steps included loans for storage facilities. They also included the following: adding the Soviet Union and China to the list of countries eligible for grain subsidies in the form of export bonuses; expanding food assistance programs in this country and abroad; and bartering United States farm products for minerals and oil.

Yes, we need to address the storage problem in the short run. But, more importantly, we must solve this problem in the long run. We must not lose sight of the need for trade reform and a workable, affordable farm policy that gives the farmer the price he needs and deserves.

In conclusion, on-farm or community storage is only a partial solution, but short of a miracle in the trade arena, there is no alternative.

HEARTLAND SAID CRITICALLY SHORT OF CORN STORAGE SPACE

(By Jim Drinkard)

WASHINGTON.—The nation's agricultural heartland faces critical shortages of storage space for the bumper crop of corn to be harvested this fall, and it may already be too late to do anything about it, Congress was told Thursday.

Merrill Marxman, a consultant for commercial grain warehouses, told a House Agriculture subcommittee that storage problems this fall may be the worst in the nation's history.

He said a 28-state survey showed that of 20.7 billion bushels of total on-and off-farm storage capacity, 19.2 billion bushels is already being used, or 93 percent of capacity.

The corn crop to be harvested beginning in early September is expected to total 7.6 billion bushels. If farmers are unable to store their grain in approved space, it must either be sold at harvest, when prices are depressed, or stored under conditions that jeopardize its quality, such as in piles on the ground.

The tightest storage situations are in Michigan, Arkansas, California, Illinois, Ohio and Indiana, Marxman said.

The Agriculture Department has announced a long list of steps designed to relieve storage space pressure, including approval of 250 million bushels of emergency or temporary storage, cutting of paperwork for moving grain and soliciting 1,000 river barges to press into service as grain warehouses.

We feel . . . there will be near adequate storage capacity, although we do recognize there is a potential for temporary localized tight situations, principally in the major corn production areas, said Richard Goldberg, deputy under secretary of agriculture for commodity programs.

All our data indicates that we should be able to handle it.

But Marxman and some lawmakers said nothing the department has done so far will alleviate the problem.

"At this late date, there is nothing the administration or Congress can do to solve the problem," said Rep. Cooper Evans, R-Iowa. "A freight train is about to run over us."

Several lawmakers said the situation should prompt the Reagan administration to take extraordinary steps to move grain into export channels, including expanding the current $1 billion Export Enhancement Program to include "unfriendly" countries like the Soviet Union.

"One could not help but wonder if we would even have a severe storage problem if the USDA used all the export promotion tools available to it," said Rep. Doug Bereuter, R-Neb.

It is absolutely ridiculous to give one grain customer a bargain . . . while at the same time a reliable and dependable grain customer like the Soviet Union has to pay a higher price, he said.

Citing foreign policy consideration, the administration has resisted expanding the program. Agribusiness representatives have criticized the current approach as ineffective, saying it may have actually harmed—rather than helped—farm exports.

Earlier this week, the Senate approved language directing the administration to expand the program to include such traditional customers as the Soviet Union and to eliminate current administration restrictions.

SOME GROWERS TO HARVEST MILLIONS OF SUBSIDY DOLLARS UNDER NEW LAW

(By Jim Drinkard)

WASHINGTON.—A single California farming operation will harvest $20 million in federal subsidies this year, part of a bumper crop of multimillion-dollar payments that the government is laying out in America's struggle to regain its former dominance in farm exports.

"Multimillion-dollar payments in rice and cotton will not be uncommon," Robert Thompson, the Agriculture Department's chief economist, said recently. "It will get obscene."

"They're going to be big, and very controversial," said Rep. Tony Coelho, D-Calif., a member of the House Agriculture Committee, which helped write the law. "We knew that when we did this. But the only way to turn it around is to get those big guys cooperating so we can help the family farmer as well."

The estimates are that the government will lay out upwards of $30 billion for farm aid this year.

The apparent top recipient of subsidies under the new farm law is agribusiness giant J.G. Boswell Co., a farming operation growing more than 62,000 acres of irrigated cotton and 30,000 acres of wheat in the rich San Joaquin Valley near Fresno, Calif.

Figures computed by the Agricultural Stabilization and Conservation Service, the Agriculture Department's subsidy arm, show that Boswell will collect nearly $10.4 million in payments on those crops, based on current prices.

In addition, the operation may receive that much or more as the marketing handler for its own cotton, said Bob Crockett, crop program specialist for the state ASCS office in Sacramento, Calif.

It's going to hit $20 million, that's what we figure, he said.

Wes McAden, Boswell's Washington lobbyist, said economic uncertainty forces the farm to accept payments.

It's mandatory economically. You don't know where the market's going, said McAden. The only uncertainty is how low its going.

This year's subsidy payments promise to dwarf those made under the $10 billion "payment-in-kind" program in 1983, which caused a public outcry and damaged the credibility of farm programs. Boswell in recent years has refrained from participating in federal crop programs, including PIK.

Another Kings County, Calif. operation, Salyer American, will collect nearly $3.4 million on its 28,000 acres of cotton, the ASCS said. Large payments are certain to go to other growers of cotton, rice, wheat, corn and milk in major producing areas because of new provisions in the 1985 farm law.

One large diary producer, Gerrit Degraaf of Riverside County, Calif., will receive $9.8 million under a federal subsidy to encourage dairy herd slaughter. Joe E. Gonsalves of Kings County will be paid $8 million to get out of dairying, ASCS figures show.

As in 1983, the size of the payments is likely to trigger calls for changes in the farm law, which is designed as a long-term program to restore slumping export sales by lowering prices.

"It's going to be a publicity disaster," said Rep. Pat Roberts, R-Kan., a member of the House Agriculture Committee.

We're in danger of trashing this program before it's had a chance to work.

The law producing the huge payments was drafted a year ago in a growing atmosphere of despair over the United States' loss of export markets.

From a high of $43.8 billion in 1981, overseas sales have slumped to an expected $27.5 billion this year. In May, the nation suffered its first one-month farm trade deficit in nearly 30 years, and there may be another deficit this month.

Congress answer was: cut prices to attract customers. But to soften the blow of dropping prices for farmers, suffering their worst economic times since the Depression, the lawmakers built in huge subsidies.

In past years, individual subsidy payments have been curbed by a $50,000 ceiling on checks to any single producer. The new law creates numerous intentional loopholes in the payment limit.

For example, cotton and rice farmers may continue to borrow from the government at harvest time to pay their bills while they wait to sell their crops. But instead of paying back the full amount of the loan, they need only pay back what the crops brought at market. The difference expected to be roughly half of the loan in the case of rice and about 20 percent in the case of cotton the farmer simply pockets.

For wheat and corn growers, a portion of their income subsidy payment under the new law is exempt from the payment limit. And a growing number of subsidized farmers are splitting up their farms into smaller units, frequently parceling them out among family members or other partners, to collect multiple subsidy checks of $50,000 each.

In return for the income guarantees, farmers must agree to cut the amount of acreage they plant by 25 percent for cotton, 35 percent for rice in an attempt to curtail production.

The effect of all this will be to push total costs for farm programs, whch just a few years ago hovered at about $4 billion a year, to a record $30 billion this year, according to some private estimates. Even the government's official estimate is about to be boosted to $26 billion, also a record.

One reason is that the new law has attracted unprecedented participation levels. Almost no farmers particularly the big operators can afford to stay out of the government crop program because of the uncertainty of dropping prices.

"Now that we have (national) treasuries running the market down, they finally decided they couldn't stay out of it. Financially it would break them," said Kenneth Frick, ASCS administrator in California.

But lobbyist McAden said the program is meeting its goal of restoring exports, at least in the rice and cotton programs.

"Congress took a heck of a gamble. But the program's working. Clearly, if it turns this thing around and puts us back into the market, then I think you'd have to say it's worth it," he said.

But McAden conceded there will be pressure on Congress to rewrite the law when it becomes evident that farm programs are putting further pressure on the federal budget deficit. "The politics will be difficult. You wonder who's going to claim the baby when the time comes," he said.

The Boswell company, which has its headquarters in Los Angeles, farms 147,000 acres, making it the biggest farm operator in the state, according to a 1980 report by the California Institute for Rural Studies.

Newspaper files show that Col. J.G. Boswell founded the company in 1924 by buying a cotton gin and 440 acres of river bottom land. His nephew, J.G. Boswell II, turned the company into an agribusiness giant.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to underscore the fact that this is not just a South Dakota problem, as the gentleman from South Dakota indicated. It is a regional problem, a problem throughout the Farm Belt. We have this problem in North Dakota as well, and if we do not do something to relieve the storage problem, we are going to face some real chaos.

It is appropriate for the gentleman to say that this is one small difficulty that we have to overcome shortly in the scheme of a very large problem that we face to straighten out this agricultural mess in this country.

The amendment the gentleman is offering is very, very important in the short term to North Dakota, South Dakota, and Iowa, as well as the other States in the Midwest, and I certainly want to express my support of the amendment.

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Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I want to commend the gentleman for his concern over this issue. We had hearings today in the subcommittee which I chair. The Department of Agriculture indicates that they think they have things well under control and that there is going to be adequate storage. I can tell you that they are the only people I can find in the whole country that think there is not going to be a serious problem.

My people are extremely concerned over where we are going to put the crops that we have coming on this fall.

I certainly appreciate the gentleman's concern in this regard.

Mr. DASCHLE. Well, the concern seems to be a national one. There does not seem to be much facility found to be available anywhere.

Mr. BEDELL. Mr. Chairman, will the gentleman yield further?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, it is national for everybody, except the Department of Agriculture, as near as I can determine.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Indiana.

Mr. McCLOSKEY. Mr. Chairman, I want to commend the gentleman on his statement.

I would emphasize along the lines of what the gentleman from North Dakota [Mr. DORGAN] said that this is not a local or a small problem, but it is regional, at least. It is all over the Midwest. In southern Indiana we are facing one of the greatest crop disasters we have ever had.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

(By unanimous consent, Mr. DASCHLE was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield further?

Mr. DASCHLE. I yield to the gentleman from Indiana.

Mr. McCLOSKEY. As I was saying, Mr. Chairman, in southern Indiana we are facing one of the worst crop disasters in some 50 years, in Gibson, Knox, and Davies Counties, corn and grain is piling up all over the place. As has been indicated by several other speakers, the Department of Agriculture does not seem to really realize what a vast and important crisis this is, so I would commend the gentleman.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the distinguished chairman, the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I am familiar with the amendment. I think it fits in with other provisions in this bill. On this side we have no trouble accepting it.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman for his support.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, we have studied this amendment carefully. I commend the gentleman. We accept it.

I would like to say that we have the same problem in Nebraska. I checked with the ASCS State office today and they tell me that we may have 145 million bushels more than we have room for in commercial storage facilities, even before the harvest, just with the 1985 CCC grain that the farmers will be turning in for commercial storage, so it is very tight.

Mr. DASCHLE. Mr. Chairman, I thank the gentlewoman for her support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota [Mr. DASCHLE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses for the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $394,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, $14,355,000 shall be available from funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $2,021,758,000; of which not less than $2,021,184,000 shall be available for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 952).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $160,310,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That not to exceed $33,495,000 is available for additional units financed by section 515 of the Housing Act of 1949, as amended, including not less than $4,785,000 for additional units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That agreements entered into or renewed during fiscal year 1987 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1984, 1985, and 1986, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including $2,247,000 as authorized by section 521(c) of the Act, $2,296,283,000, and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $515,000,000 of which $325,000,000 shall be guaranteed loans; $17,000,000 for water development, use, and conservation loans of which $5,000,000 shall be guaranteed loans; operating loans, $3,468,000,000 of which $2,170,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $3,828,000; and for emergency insured and guaranteed loans, $700,000,000 to meet the needs resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,723,403,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $325,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $656,645,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $11,891,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $7,610,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which Farmers Home Administration has the responsibility for administering, $381,867,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided*, That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,997,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further*, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be

made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1987 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,165,000 of contingent liability for total loan principal: *Provided further*, That as a condition of approval of insured electric loans during fiscal year 1987, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further*, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $100,000,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,591,000.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1987, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $29,447,000.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses for the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $363,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $361,520,000 of which not less than $4,870,000 is for snow survey and water forecasting and not less than $3,972,000 is for operation of the plant materials centers: *Provided*, That of the foregoing amounts not less than $289,000,000 is for personnel compensation and benefits: *Provided further*, That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further*, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $14,166,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,480,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $174,885,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $4,755,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $13,398,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,020,000: *Provided*, That $1,914,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $180,739,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $5,000,000, to remain available until expended.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $3,804,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

Mr. WHITTEN. Mr. Chairman, there is a typographical error in the ceiling on REA guaranteed loans that we wish to correct. The correct amount appears on page 84 of the committee report.

I ask unanimous consent that the following typographical error in the bill be corrected:

On page 36, line 26 strike "$2,100,165,000" and insert "$2,100,615,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will read.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses for the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $330,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, 1766 and 1769b) and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,233,617,000, to remain available through September 30, 1988, of which $937,680,000 is hereby appropriated and $3,295,937,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That, of funds provided herein, $775,281,000 shall be available only to the extent an official budget request is transmitted to the Congress: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That if the funds available for nutrition education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum

grant for each State shall be $50,000: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,869,000, to remain available through September 30, 1987: *Provided,* That only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,671,500,000, to remain available through September 30, 1988.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $2,950,000 for the projects in Detroit, New Orleans, and Des Moines, $41,497,000: *Provided,* That funds provided herein shall remain available through September 30, 1988: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $12,684,665,000: *Provided,* That funds provided herein shall remain available through September 30, 1987, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided further,* That $852,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), $193,589,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,578,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,976,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

Are there any amendments to title III? If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $81,109,000: *Provided,* That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $831,600,000; of which $451,600,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $713,118,000, of which $713,118,000 is hereby appropriated: *Provided,* That not to exceed 15 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $3,513,000; and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1), (3)), $2,500,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title IV?

Are there any amendments to title IV?

Mr. WHITTEN. Mr. Chairman, there are two typographical errors in the amounts available for title II of the Public Law 490 program that we wish to correct. The correct amounts appear in the tables at the end of the committee report and all scoring of the bill has been based on those figures.

I ask unanimous consent that the following typographical errors in the bill be corrected:

On page 55, line 13 strike "$713,118,000" which appears in two places and insert "$731,118,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any amendments to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $410,540,000: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,879,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $24,627,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for Rental Payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $29,161,000; including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $39,420,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1987 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirty-four (734) passenger motor vehicles, of which seven hundred twenty-six (726) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator: *Provided further*, That not to exceed $40,999,000 shall be charged against the Working Capital Fund for personnel compensation and benefits.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; and Buildings and Facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all

agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1987, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act.

SEC. 622. In fiscal year 1987, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,700; Agricultural Stabilization and Conservation Service, 2,550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that titles V and VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title V or title VI?

Are there any amendments?

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MORRISON of Connecticut: At the end of title VI, insert the following new section:

"SEC. 630. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available by previously enacted law is hereby reduced by 0.896 percent."

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MORRISON of Connecticut. Mr. Chairman, up until this point on each of our appropriations bills, we have had an amendment offered with respect to the spending level. I think that it is important that the same amendment be considered with respect to this legislation.

Now, I think it is important that we understand what has been going on in the budget process and in the appropriation process and where we are in this particular piece of legislation.

Under the budget process, we have an assignment of overall budget authority to the Appropriations Committee, which is assigned to the subcommittees under the 302(b) process. Under that process, each appropriation that we have been considering has been conforming to the budget with respect to budget authority. That is what has been coming before us; but unfortunately, with respect to outlays, which are the dollars that matter under Gramm-Rudman and the dollars that matter with respect to the actual budget deficit of the Government, the outlays have in each instance exceeded the estimate of expenditures that the 302(b) allocation would allow. That creates a problem and a problem of deeper cuts in any kind of sequestration or other conforming action with respect to the budget targets for 1987.

Now, the House has passed some of these amendments and rejected some of these amendments. The gentleman from Minnesota [Mr. FRENZEL] in offering the amendments has perhaps offered a different rationale in terms of freezing budget authority at 1986, or whatever; but my amendment does something very simple and straightforward. It makes a cut in budget authority that would be predicted and calculated to reduce outlays to within the 302(b) outlay limit estimated by the Congressional Budget Office. That is what this amendment is intended to do. It is intended to conform this appropriation to the limits on spending that are actually in the budget resolution as reassigned and redistributed by the Appropriations Committee.

It is important that we enforce the budget. I agree with that position and I think all the Members of the House agree with that.

The budget is more than just budget authority figures. The budget is budget authority and outlays. While the Appropriations Committee has the proper discretion to distribute the budget authority among the subcommittees, it does not have the authority to exceed the outlays that grow from that distribution. If we do not control these outlays in each of these circumstances, while we will be within the budget on budget authority, we will be over the budget when it comes to the actual expenditures, and we will have that much more to do and that much more of a problem in conforming our spending to the targets that we have set in Gramm-Rudman.

Mr. GLICKMAN. Mr. Chairman, will my colleague yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would just like to ask my colleague, and maybe the chairman of the committee, there are some line items in this budget that reflect entitlement-type programs; for example, the Commodity Credit Corporation reflects payments to be made, deficiency payments to be made, the difference in target prices and loan rates for all the commodities.

Now, I just want to know how this cut would affect those programs in

which the payments have to be made under law.

Mr. MORRISON of Connecticut. I would be happy to respond to that. There is no question that to correctly and as completely as possible allocate this cut, as has been true in the other cuts that we have approved, it would be preferable if we could go through item by item and make the adjustment.

If the House adopts this amendment, it is quite clear that in the further process of the consideration of this legislation there may have to be some further adjustments in actually cutting more here and adding more there; but it is quite important that this House make a statement that it expects the outlay figures to also conform to the budget, and that is really the purpose of this amendment.

I would suggest that the committee in conference and the Senate in consideration of this bill is well within its authority and could well implement the concern of the gentleman.

Mr. GLICKMAN. Again, if the gentleman will yield further, what is the percentage cut the gentleman is talking about here?

Mr. MORRISON of Connecticut. The percentage here is less than 1 percent. It is 0.896 percent. It is not a large percentage. The amount by which the outlays are exceeded is not large in percentage terms; however, it is $173 million.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. MORRISON of Connecticut was allowed to proceed for 5 additional minutes.)

Mr. MORRISON of Connecticut. Mr. Chairman, earlier today we cut $13 million out of the D.C. appropriation on the point that that was over the limit in expenditures. We are talking about far more than 10 times that amount of money at stake here.

The percentage is small. Adjustments can be made further in the process, but I think it is essential that the House be on record that our budget means something, not only for budget authority, but for outlays, because outlays are where the deficit comes from.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the distinguished gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say to the gentleman, I know his intention is good, but may I point out some things.

It is a Senate rule that requires a ceiling on outlays. It is true that in the last minute in order to get an agreement between the House and Senate, you agree to abide by the Senate rules.

Last year in the fiscal year 1985 supplemental we had 341 Senate amendments. In the recent supplemental bill, they added 224 amendments. If we go to conference having limited ourselves to the Senate provision, there is no need to go to conference.

If we are going to tie our hands, I would be tempted to ask for a continuing resolution and just put it together to start with.

We cannot afford on the House side to go to the Senate with our hands tied to their outlay rules; if you do, you have no conference.

Can you imagine going to conference with 224 amendments?

Now, I have the highest regard for all of you on the Budget Committee, but what they are doing now is at the last minute, after we have had our hearings, in order to get along with the Senate you come in here and ask us to abide by the Senate rules.

The gentleman is right. It is in the agreement. Last year, the gentleman may remember, we finally got a budget agreement by letting the Senate obligate $10 billion for military spending but they would not let us spend it.

So I just say that this is the time to have a showdown on this.

Again, I have the highest regard for all these operations. But they are based on assumptions and projections.

Mr. MORRISON of Connecticut. Mr. Chairman, I understand the gentleman's problem, but we also have a developing problem in this and each appropriations bill in each and every case where the outlays which are scheduled, which are estimated off the budget authority which has been distributed, is in excess of what we have agreed to in the budget; not only with the Senate, but we have agreed and passed on this House floor.

The problem we are creating gets larger and larger each time we pass one of those appropriations, which are a larger amount of outlays.

I think it is quite important to point out that we have a very serious difference between the budget authority and the outlays in the Department of Defense.

The problem that is going to arise, it amounts to $6 billion, depending on whether or not we feel bound by outlays or bound by budget authority.

So it is particularly important that the House create a rule for itself, which is that we are going to live within the outlays. I think the Senate has to live within the outlays, too. The conference is still concerned with the priorities as to where the budget authority and where the outlays are going to be allocated.

Mr. MacKAY. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Florida.

□ 1840

Mr. MacKAY. I appreciate the gentleman's yielding.

Mr. Chairman, the fact of the matter is that this year is different from previous years, and the reason that this year is different is that 3 weeks from now there is going to be a snapshot taken, and the measurement is not going to be budget authority, it is going to be outlays.

The question of who is irrelevant and who has hallucinations is not really a question between us and the Senate. The fact of the matter is that we made this decision last year, and if we do not get the outlays in compliance with the budget that we passed less than a month ago, then about 3 weeks from now we are going to start into a series of sequestration votes in which we decide to unappropriate or hold back the very outlay money that we now say is irrelevant.

I think that the gentleman has an excellent point, and I think that this is the place in the debate that this point has got to be made.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentlewoman.

Mrs. SMITH of Nebraska. Mr. Chairman, may I remind the gentleman that we are still under the 1986 appropriation, we are under the President's recommendation, and we are under 302(b). We have done a great deal of cutting. We have worked for months on this bill to try to make it the best possible bill we could.

I think at this late date to start changing it would be a great mistake. I have a whole page of reductions that we have made in this legislation, and we have done it carefully and judiciously after hearing a great many witnesses, and had a long record of testimony. I would be very much opposed to making a change at this time.

Mr. MORRISON of Connecticut. I think that the gentlewoman is certainly correct that this is under certain past expenditure levels, but the fact is that it is not in conformity in the amount of money that it is going to spend in comparison to the 1987 budget. The outlays are what counts.

We all know, having gone through sequestration and having recently approved the sequestration order, that what counts at the bottom line is outlays, and we cannot pretend that budget authority alone is what is at stake here. It is for that reason that I offer this amendment, not because it is easy for any function to sustain a cut. Every function could well spend more money than is being spent, but if we do not conform to our budget with respect to outlays, we are just asking for future problems, and I think that

it is a future problem that we could avoid.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, may I say that we all know that the purpose of the Committee on the Budget was to help with the operation of Congress. Without witnesses and where it is based on economists' findings, it does get pretty far afield.

I would like to point out here to my colleagues that outlays are determined entirely by the executive branch, not by Congress. I do not know, I doubt that it would be constitutional, but if we in turn turn this over to the executive branch, that raises some serious question constitutionally, because the executive branch determines whether it spends this fiscal year, next fiscal year, and they can play games with the outlay figures.

We have to see that the Government runs, and I would hope that this amendment is defeated.

I have voted for the budget resolution each year. I voted for the findings that they have, notwithstanding the fact that the Budget Committee is doing directly the opposite of that which we set out to do to start with when we set up the Budget Committee.

They were set up for the purpose of controlling backdoor spending. Instead they regulated appropriations, where we have been below the budget. So I just hope that this amendment would be defeated so that we could continue to work together.

I say again, if it is accepted, and if we tie ourselves to spending outlays, we will have to consider how we can handle the whole appropriation process.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I think that everyone should understand the point that the way in which this is written, may affect funds that we have provided for mandatory spending programs, and over which we have no control. It would include the money for food stamps, WIC, and elderly feeding programs, the school lunch, the school breakfast, and the summer feeding programs, and moreover it would include corporations and reimbursements to the CCC, the Agricultural Credit Insurance Fund and the Rural Housing Insurance Fund. I think that it would be a great mistake to pass this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

The fact is that some Members do not fully understand the difference between outlays and budget authority and why in the House allocate budget authority under 302(b) of the Budget Act.

We deal with budget authority. That is like a credit card. Some people are trying to tell us that it does not make any difference how much you charge, or authorize departments to charge, but they say just watch the monthly payment. That is the Senate's approach. Budget authority is like charging on the credit card and outlays is like the monthly payment.

We on appropriations in the House say that we should cut off the credit card at a certain level. The Defense Department has $370 billion of credit or unused budget authority accumulated they have not used yet.

We hear talk about whether or not the Congress will have sequestering. The Congress will not determine that; the administration is going to determine whether or not there is sequestering because they control outlays that have accumulated. No matter what we do in these fiscal year 1987 bills, if the administration wants sequestering, they are going to have it, because all they have to do is to pay out faster on that $370 billion they have built up back there and the outlay increase will more than offset reductions such as would occur under this amendment.

The Congress cannot control whether or not there is sequestering. This amendment would cut $120 million out of food stamps and the WIC feeding programs. They include entitlements. If they run out of money in an entitlement program, people are going to complain because we passed this amendment and demand a supplemental.

That is not the way to proceed. We should control budget authority. This thing of getting all hung up on outlays when we cannot control it, and ignoring budget authority, does not make any sense. That difference is what some of us tried to drive home when we had the Gramm-Rudman conference report up here.

The Senate said, "Well, we want to pay attention to outlays." So they do. But what we pay attention to is budget authority, and we say we should not continue to charge and charge and charge and only look at how much is required for a monthly or annual payment.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding to me, and I certainly agree with the gentleman that you cannot control spending without controlling the credit card, without controlling the budget authority, and in fact this amendment reduces budget authority, which is the only way in which you can reduce outlays.

The fact is that if you ignore outlays completely, you cannot conform to the targets that we have to meet, and I would agree with the gentleman that it puts us in a difficult position, but to continue to ignore the effect of the outlays on the other decisions we have to make, we still have to cut budget authority to meet those outlay targets when it comes to Gramm-Rudman. So the problem is that we had better do it now.

Mr. SMITH of Iowa. The fact is that this bill is under our allocation on budget authority. We are under our 302(b) allocation on budget authority, and sooner or later we are going to find out that under Gramm-Rudman the Congress cannot operate only by watching outlays. It is just a matter of time till the majority finds that out. I do not know if it will be this fall or next spring, but real control of the defecit in the long run will not be accomplished until the majority understand that and act accordingly—I urge a "no" vote on this amendment.

Mr. MACKAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. A number of us are at times somewhat confused about what 302(b) allocations mean, and the difference between budget authority and outlays.

I have a report here, which is the 302(b) report from the Committee on Appropriations, and I would invite other Members who have not thus far become accustomed to this difference to start paying attention, because under Gramm-Rudman we are going to find ourselves in the very, very awkward position in the next few months of unappropriating the very money that is being appropriated today.

Let me just suggest how we got in the spot that we can be under 302(b) budget authority, but be running over by $2 billion or more on outlays. The reason is that the Committee on Appropriations had $2.3 billion of budget authority that was not contemplated by the Committee on the Budget.

I am not saying that that is wrong; that is perfectly legal. They did it in accordance with the rules, and they spread that into 302(b) allocations, and the result is that we do not have to wait until August 15, I can already tell you, if we keep going down this road, we are going to be at least $2.3 billion over the amount that we said less than a month ago we were going to spend.

□ 1850

All I want to do, and all my colleagues are trying to do with this amendment is not hurt agriculture. This is not enough money one way or

the other to matter to agriculture or to food stamps.

All we are trying to do is say we already know the end to this and we do not want to be in the awkward position of saying one thing 1 week and having to take it back 3 weeks later.

I hope this debate will be considered a protest. I hope that the Committee on Appropriations, and if not the Committee on Appropriations, the Committee on Rules will insist that all bills that come up from now on will be within the outlay limitations contemplated by the budget.

The arguments that are being made with all due respect by gentlemen that I respect very much are essentially arguments that we should not have adopted Gramm-Rudman.

They are arguments that should have been made a year ago. If they were made a year ago and were made as passionately as they are being made now, perhaps they should have won. They did not win. They did not carry the day. This is not a battle between the House and the other body. This is a question of whether we are going to be scored under Gramm/Rudman on outlays or budget authority. In fact, we are going to be scored on outlays.

I appreciate the time that has been taken on this. I hope people will consider it very carefully. All I can say is that we are headed down a road that is going to lead to a very embarrassing ending unless we start paying attention to this now.

Mr. MOODY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

I would like to associate myself with the comments of my colleagues. I think we have a problem here. All of us are going to have to live under Gramm/Rudman and all of us have been following with interest the amendments offered by the gentleman from Minnesota [Mr. FRENZEL] over the last several days. They have produced some very interesting results and some very interesting votes on those amendments.

I think there is a conflict here. We have two sets of numbers we are operating with, BA and outlay. The two do not really necessarily match.

When we look back at the BA numbers we are about to vote on, the gentleman from Minnesota [Mr. FRENZEL] is going to explain to us that these imply higher outlay numbers than we thought they did and the gentleman has been garnering a lot of votes on that basis. I would be very curious to hear the gentleman's comments today on this.

But I must say that it is a very compelling argument. If we are going to find ourselves backing into sequestration or backing over these budget lines as a result of outlay, when we are refusing to look at those outlay numbers and only debating numbers here based on BA, then we are, in fact, in deep trouble. I hope we will not do that.

I hope the Members will consider carefully the implications of this amendment.

As small a number as we are really talking about, none of us want to hurt agriculture, nonetheless, the point is still very valid. We have two sets of nonmatched numbers, and in the end, we are going to be judged by outlay and not by BA.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORRISON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 205, not voting 50, as follows:

[Roll No. 252]

AYES—175

Anderson	Glickman	Nelson
Andrews	Goodling	Nichols
Annunzio	Gordon	Nielson
Archer	Gradison	Olin
Armey	Gray (PA)	Oxley
Aspin	Green	Parris
Atkins	Gregg	Penny
Badham	Hall (OH)	Petri
Barnard	Hamilton	Porter
Bartlett	Henry	Pursell
Bates	Hiler	Ray
Bennett	Hopkins	Regula
Bilirakis	Hubbard	Reid
Billey	Hughes	Richardson
Boehlert	Hunter	Ridge
Borski	Hutto	Rinaldo
Bosco	Hyde	Ritter
Broomfield	Ireland	Roberts
Brown (CO)	Jacobs	Roemer
Bryant	Johnson	Rostenkowski
Burton (IN)	Kasich	Roukema
Byron	Kemp	Rowland (CT)
Callahan	Kennelly	Russo
Carney	Kolbe	Saxton
Carper	Kostmayer	Schaefer
Chandler	Kramer	Schneider
Chapman	LaFalce	Schulze
Cheney	Lagomarsino	Seiberling
Coats	Leath (TX)	Sensenbrenner
Cooper	Lent	Shumway
Coughlin	Levin (MI)	Shuster
Courter	Lott	Siljander
Craig	Lujan	Sisisky
Crane	Luken	Slattery
Daniel	Lungren	Slaughter
Dannemeyer	Mack	Smith (FL)
Darden	MacKay	Smith (NJ)
DeLay	Markey	Smith, Robert (NH)
DeWine	Martin (IL)	
DioGuardi	Mavroules	Smith, Robert (OR)
Dreier	McCain	
Dyson	McCloskey	St Germain
Eckert (NY)	McCollum	Stallings
Erdreich	McCurdy	Stenholm
Evans (IA)	McGrath	Strang
Fawell	McKernan	Stump
Feighan	Meyers	Swindall
Fiedler	Mica	Tauke
Fields	Michel	Tauzin
Frank	Miller (OH)	Thomas (CA)
Frenzel	Miller (WA)	Vander Jagt
Frost	Molinari	Vento
Gallo	Moody	Visclosky
Gejdenson	Moorhead	Vucanovich
Gibbons	Morrison (CT)	Walgren
Gingrich	Murphy	Walker
Weaver	Wolpe	Young (AK)
Whittaker	Wyden	Young (FL)
Wolf	Wylie	Zschau

NOES—205

Ackerman	Foglietta	Panetta
Akaka	Foley	Pashayan
Alexander	Ford (MI)	Pease
Anthony	Ford (TN)	Pepper
Applegate	Franklin	Perkins
AuCoin	Garcia	Pickle
Barton	Gaydos	Price
Bateman	Gekas	Quillen
Bedell	Gilman	Rahall
Beilenson	Gonzalez	Rangel
Bentley	Gray (IL)	Robinson
Bereuter	Guarini	Rodino
Berman	Gunderson	Roe
Bevill	Hammerschmidt	Rogers
Biaggi	Hatcher	Roth
Boggs	Hawkins	Rowland (GA)
Bonior (MI)	Hayes	Roybal
Boulter	Hefner	Rudd
Boxer	Hendon	Sabo
Brooks	Hertel	Scheuer
Brown (CA)	Holt	Schroeder
Bruce	Howard	Schuette
Burton (CA)	Hoyer	Sharp
Bustamante	Jeffords	Shelby
Carr	Jones (NC)	Sikorski
Chappell	Jones (OK)	Skeen
Clay	Kanjorski	Skelton
Clinger	Kaptur	Smith (IA)
Cobey	Kastenmeier	Smith (NE)
Coble	Kildee	Snowe
Coelho	Kindness	Solarz
Coleman (MO)	Kolter	Solomon
Coleman (TX)	Latta	Spence
Collins	Leach (IA)	Spratt
Combest	Lehman (CA)	Staggers
Conte	Lehman (FL)	Stangeland
Conyers	Leland	Stark
Coyne	Levine (CA)	Stokes
Crockett	Lewis (CA)	Stratton
Daschle	Lewis (FL)	Studds
Daub	Lightfoot	Sundquist
Davis	Livingston	Sweeney
de la Garza	Lloyd	Swift
Dellums	Loeffler	Synar
Derrick	Long	Taylor
Dickinson	Lowery (CA)	Thomas (GA)
Dicks	Madigan	Torres
Dingell	Manton	Torricelli
Dixon	Martinez	Towns
Donnelly	Matsui	Traficant
Dorgan (ND)	Mazzoli	Traxler
Dowdy	McDade	Udall
Downey	McEwen	Valentine
Duncan	McHugh	Volkmer
Durbin	Miller (CA)	Watkins
Dwyer	Mineta	Waxman
Dymally	Moakley	Weber
Eckart (OH)	Mollohan	Weiss
Edgar	Montgomery	Wheat
Edwards (CA)	Morrison (WA)	Whitley
Edwards (OK)	Mrazek	Whitten
Emerson	Murtha	Williams
English	Myers	Wilson
Evans (IL)	Natcher	Wise
Fascell	Neal	Wortley
Fazio	Nowak	Yates
Fish	Oakar	Yatron
Flippo	Oberstar	
Florio	Obey	

NOT VOTING—50

Barnes	Hillis	Monson
Boland	Horton	Moore
Boner (TN)	Huckaby	Ortiz
Bonker	Jenkins	Owens
Boucher	Jones (TN)	Packard
Breaux	Kleczka	Rose
Campbell	Lantos	Savage
Chappie	Lipinski	Schumer
Dornan (CA)	Lowry (WA)	Shaw
Early	Lundine	Smith, Denny (OR)
Fowler	Marlenee	
Fuqua	Martin (NY)	Snyder
Gephardt	McCandless	Tallon
Grotberg	McKinney	Whitehurst
Hall, Ralph	McMillan	Wirth
Hansen	Mikulski	Wright
Hartnett	Mitchell	Young (MO)

□ 1910

Messrs. MILLER of California, DINGELL, GUARINI, and SCHEUER changed their votes from "aye" to "no."

Mr. KOLBE and Mr. WALGREN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Title VI, on page 66, after line 13, add the following section:

SEC. 630. None of the funds appropriated by this Act shall be made available to any individual convicted of the manufacture, distribution of, or possession with intent to manufacture or distribute a controlled substance under section 401 of the Controlled Substances Act (21 U.S.C. 841).

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is an amendment which I understand will be acceptable to the committee. This is an amendment that builds upon section 605 of the bill. It is an amendment to prohibit funds from being made available to any individual convicted of the manufacture or distribution of illegal drugs.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, I have the amendment. I agree with the objective. I am not too sure how it will work, but I believe at this time we will accept the amendment and see if we can work it out in conference.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the amendment, and we accept it on this side.

Mr. WALKER. Mr. Chairman, I thank the gentlewoman from Nebraska and the gentleman from Mississippi for their bipartisan efforts to help.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5177) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 49, not voting 52, as follows:

[Roll No. 253]

AYES—329

Ackerman	Borski	Collins
Akaka	Bosco	Combest
Alexander	Boulter	Conte
Andrews	Boxer	Conyers
Annunzio	Brooks	Cooper
Anthony	Brown (CA)	Coughlin
Applegate	Bruce	Courter
Aspin	Bryant	Coyne
Atkins	Burton (CA)	Craig
AuCoin	Burton (IN)	Crockett
Badham	Bustamante	Daniel
Barnard	Byron	Darden
Barton	Callahan	Daschle
Bateman	Carper	Daub
Bedell	Carr	Davis
Beilenson	Chandler	de la Garza
Bennett	Chapman	Dellums
Bentley	Chappell	Derrick
Bereuter	Clay	DeWine
Berman	Clinger	Dickinson
Bevill	Coats	Dicks
Biaggi	Cobey	Dingell
Bilirakis	Coble	DioGuardi
Boehlert	Coelho	Dixon
Boggs	Coleman (MO)	Donnelly
Bonior (MI)	Coleman (TX)	Dorgan (ND)
Dowdy	Lehman (CA)	Roth
Downey	Lehman (FL)	Roukema
Duncan	Leland	Rowland (CT)
Durbin	Lent	Rowland (GA)
Dwyer	Levin (MI)	Roybal
Dymally	Levine (CA)	Rudd
Dyson	Lewis (CA)	Sabo
Eckart (OH)	Lewis (FL)	Saxton
Eckert (NY)	Lightfoot	Scheuer
Edgar	Livingston	Schneider
Edwards (CA)	Lloyd	Schuette
Edwards (OK)	Loeffler	Schulze
Emerson	Long	Seiberling
English	Lott	Sharp
Erdreich	Lowery (CA)	Shelby
Evans (IA)	Lujan	Shuster
Evans (IL)	MacKay	Sikorski
Fascell	Madigan	Siljander
Fazio	Manton	Sisisky
Feighan	Markey	Skeen
Fiedler	Martin (IL)	Skelton
Fish	Martinez	Slattery
Flippo	Matsui	Slaughter
Florio	Mavroules	Smith (FL)
Foglietta	Mazzoli	Smith (IA)
Foley	McCain	Smith (NE)
Ford (MI)	McCloskey	Smith (NJ)
Ford (TN)	McCurdy	Smith, Robert (OR)
Franklin	McDade	Snowe
Frost	McEwen	Solarz
Gallo	McHugh	Solomon
Garcia	McKernan	Spence
Gaydos	McKinney	Spratt
Gejdenson	Meyers	St Germain
Gekas	Mica	Staggers
Gilman	Michel	Stallings
Gingrich	Miller (OH)	Stangeland
Glickman	Mineta	Stenholm
Gonzalez	Moakley	Stokes
Goodling	Molinari	Strang
Gordon	Mollohan	Stratton
Gray (IL)	Montgomery	Studds
Gray (PA)	Moody	Sundquist
Green	Morrison (WA)	Sweeney
Guarini	Mrazek	Swift
Gunderson	Murphy	Synar
Hall (OH)	Murtha	Tauke
Hamilton	Myers	Tauzin
Hammerschmidt	Natcher	Taylor
Hatcher	Neal	Thomas (CA)
Hawkins	Nichols	Thomas (GA)
Hayes	Nowak	Torres
Hefner	Oakar	Torricelli
Hendon	Oberstar	Towns
Henry	Obey	Traficant
Hiler	Oxley	Traxler
Holt	Panetta	Udall
Hopkins	Parris	Valentine
Howard	Pashayan	Vander Jagt
Hoyer	Pease	Vento
Hubbard	Penny	Visclosky
Hunter	Pepper	Volkmer
Hutto	Perkins	Vucanovich
Hyde	Pickle	Walgren
Jeffords	Porter	Watkins
Johnson	Price	Waxman
Jones (NC)	Pursell	Weber
Jones (OK)	Quillen	Weiss
Kanjorski	Rahall	Wheat
Kaptur	Rangel	Whitley
Kasich	Ray	Whittaker
Kastenmeier	Regula	Whitten
Kemp	Reid	Williams
Kennelly	Richardson	Wilson
Kildee	Ridge	Wise
Kindness	Rinaldo	Wolf
Kolbe	Ritter	Wolpe
Kolter	Roberts	Wortley
Kostmayer	Robinson	Wyden
Kramer	Rodino	Wylie
LaFalce	Roe	Yatron
Latta	Roemer	Young (AK)
Leach (IA)	Rogers	Zschau
Leath (TX)	Rostenkowski	

NOES—49

Anderson	Cheney	Gradison
Archer	Crane	Gregg
Armey	Dannemeyer	Hertel
Bartlett	DeLay	Hughes
Bates	Dreier	Ireland
Bliley	Fawell	Jacobs
Broomfield	Fields	Lagomarsino
Brown (CO)	Frenzel	Luken
Carney	Gibbons	Lungren

Mack	Nielson	Smith, Robert (NH)
McCollum	Olin	Stump
McGrath	Petri	Swindall
Miller (CA)	Russo	Walker
Miller (WA)	Schaefer	Weaver
Moorhead	Schroeder	Young (FL)
Morrison (CT)	Sensenbrenner	
Nelson	Shumway	

NOT VOTING—52

Barnes	Hillis	Ortiz
Boland	Horton	Owens
Boner (TN)	Huckaby	Packard
Bonker	Jenkins	Rose
Boucher	Jones (TN)	Savage
Breaux	Kleczka	Schumer
Campbell	Lantos	Shaw
Chappie	Lipinski	Smith, Denny (OR)
Dornan (CA)	Lowry (WA)	
Early	Lundine	Snyder
Fowler	Marlenee	Stark
Frank	Martin (NY)	Tallon
Fuqua	McCandless	Whitehurst
Gephardt	McMillan	Wirth
Grotberg	Mikulski	Wright
Hall, Ralph	Mitchell	Yates
Hansen	Monson	Young (MO)
Hartnett	Moore	

□ 1925

The Clerk announced the following pair:

On this vote:

Mr. McMillan for, with Mr. Monson against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3042, DROPOUT PREVENTION AND REENTRY ACT OF 1985

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-715) on the resolution (H. Res. 511) providing for the consideration of the bill (H.R. 3042) to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3263, GIFTED AND TALENTED CHILDREN AND YOUTH EDUCATION ACT OF 1985

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-716) on the resolution (H. Res. 512) providing for the consideration of the bill (H.R. 3263) to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3129, SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1986

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-717) on the resolution (H. Res. 513) providing for the consideration of the bill (H.R. 3129) to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1935

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to proceed for 1 minute.)

Mr. MICHEL. Mr. Speaker, I rise for the purpose of inquiring of the distinguished acting majority leader the program for next week.

I yield to the gentleman from California [Mr. COELHO] for his response.

Mr. COELHO. I thank the distinguished minority leader for yielding to me.

Mr. Speaker, the program for next week is as follows: On Monday, July 28, the House will meet at noon. There will be seven suspension bills. They are as follows:

H.R. 2518, to discontinue or amend certain requirements for agency reports to Congress;

H.R. 3108, to clarify definition of local service area of low-power TV stations;

H.R. 2826, Horse Pasture Scenic River, NC;

H.R. 4090, Big Cypress Preserve additions, Florida;

H.R. 3684, Malpais National Monument, New Mexico;

H.R. 4162, Alaska Native Claims Settlement Amendments of 1986; and

H.R. 4489, National Forest Ski Area Permit Act.

On Tuesday, July 29, the House will meet at noon. There are no suspension bills, and we will have recorded votes on suspensions debated on Monday at that time, and then we will consider H.R. 5205, Transportation appropriations for fiscal year 1987.

On Wednesday and the balance of the week, the House will meet at 10 a.m. and we will consider the Interior appropriations bill for fiscal year 1987, subject to a rule being granted. Labor-HHS appropriations for fiscal year 1987, subject to a rule being granted, and Treasury-Postal appropriations for fiscal year 1987, subject to a rule being granted.

The House will adjourn by 3 p.m. on Friday, and I want to stress to my distinguished colleague that the House will be in on Friday and there will be votes on Friday next, so all our colleagues should be so alerted.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. MICHEL. I thank the gentleman and I might make the observation that Tuesday, after the business of the day, we will hope to have our annual Democratic-Republican Congressional Baseball Game. Some of us older folks will not be participating actively anymore but it is one of these events that we all like to at least observe if we cannot participate.

If I might, in a personal way, say that Thursday, the gentleman from Illinois has requested an hour special order that we might have eulogies for our late departed friend, George O'Brien. Congressman PHIL CRANE has also joined me in that request so Members might want very well, since we are going to be here particularly on Friday, an appropriate day on which we would pay our respects to our late, departed friend.

Mr. COELHO. If the gentleman will yield further, on Tuesday, we do plan to adjourn by 6 p.m. to take in the Nation's past time, and on Wednesday and Thursday we do intend to stay in very, very late. So the Members should be so alerted.

Mr. MICHEL. I would applaud that move because time is drawing short and I think if we want to meet our scheduled departure date here for, particularly Members with families who have no other time in which to have those vacations with family is in that month of August that we do what we can when we can.

I appreciate the gentleman's information.

ADJOURNMENT TO MONDAY, JULY 28, 1986

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

POLISH AMERICAN HERITAGE MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res 547) to designate August 1986 as "Polish American Heritage Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Under my reservation, I rise in support of House Joint Resolution 547, to designate August 1986 as Polish American Heritage Month.

Mr. Speaker, it is altogether fitting that the House pause to formally commemorate the heritage of millions of Americans of Polish heritage, and to reflect on the ties that bind this Nation with the people of Poland. It is well known how our Nation was significantly aided at its birth by the Polish revolutionary heroes Kazimierz Pulaski and Tadeusz Kosciuszko. In more recent years, waves of Polish immigrants contributed in important ways to the development of our Nation as an industrial and agricultural giant.

Beginning in 1980, the people of Poland stood up bravely for their human rights to determine their own destiny, under the prayerful eyes of the world. The people of the United States, and especially the Polish-American community, watched as Solidarity, the independent trade union movement, rose and then was crushed at the insistence of the Soviet Union. This August, we celebrate the sixth anniversary of the founding of Solidarity, with the hope that that movement will once again be able to take its rightful place as a means of political and social expression, free of government interference.

We should also note the concern of Polish-Americans, indeed of all Americans, at the aftermath in Poland of the Chernobyl nuclear disaster. Poles suffered severely from shortages of pure food because of the accident caused by the carelessness of their Soviet neighbors. The American people rushed to the aid of Ukrainians, Poles, and Russians on a humanitarian basis, and because of the strong ties of history and ethnicity that bind us.

Mr. Speaker, I wish to express my thanks to the gentleman from Pennsylvania [Mr. BORSKI] for being the principal sponsor of this legislation, and working so hard to bring it to the floor. I am pleased to be associated with him in that effort.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 547

Whereas, since the 1st immigration of Polish settlers to Jamestown in the 17th century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other sons of Poland came to our shores to fight in the American War of Independence and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the 2d written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Prize laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 42d anniversary this year and is celebrating August 1986 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 1986 is designated "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SOLOMON BLATT, SR., POST OFFICE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 4852) to designate the U.S. Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr., Post Office," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Speaker, H.R. 4852 would designate the U.S. Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr., Post Office Building."

Mr. Blatt, the Speaker emeritus of the South Carolina House of Representatives, died on May 14, 1986, at the age of 91. He was one of South Carolina's greatest leaders and was the Nation's longest-serving State legislator.

H.R. 4852 was introduced by our distinguished colleague, Hon. BUTLER DERRICK, and is cosponsored by the entire South Carolina delegation.

I urge passage of H.R. 4852.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill as follows:

H.R. 4852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office to be constructed on Main Street in Barnwell, South Carolina, shall be known and designated as the "Solomon Blatt, Sr., Post Office". Any reference in any law, regulation, document, record, map, or other paper of the United States to such post office is deemed to be a reference to the "Solomon Blatt, Sr., Post Office".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GARCIA: Strike all after the enacting clause and insert the following:

That the United States Post Office to be constructed on Main Street in Barnwell, South Carolina, shall be known and designated as the "Solomon Blatt, Sr. Post Office Building". Any reference in any law, regulation, document, record, map or other paper of the United States to such building shall be deemed to be a reference to the Solomon Blatt, Sr. Post Office Building.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the

gentleman from New York [Mr. GARCIA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1945

GILLIS W. LONG POST OFFICE BUILDING

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 4782) to designate the U.S. post office building being constructed in La Place, LA, as the "Gillis W. Long Post Office Building," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. AKAKA). Is there objection to the request of the gentleman from New York?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the majority has no objection to the legislation now being considered.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Under my reservation, Mr. Speaker, I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, H.R. 4782 would designate the U.S. post office building being constructed in La Place, LA, as the "Gillis W. Long Post Office Building."

Gillis Long served his district, his State, and his Nation with distinction. His record of leadership and achievement in the U.S. House of Representatives is one of distinction. Those of us who had the privilege of knowing and working with Gillis can attest to his integrity, honesty, and character.

H.R. 4782 was introduced by our distinguished colleague, the Honorable JOHN BREAUX, and is cosponsored by the entire Louisiana delegation—including, of course, Mrs. CATHY LONG.

Enactment of this legislation would be a fitting tribute to a great legislator and a great American.

I urge passage of H.R. 4782.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Under my reservation, Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from New York for yielding, and I rise in very strong support of this legislation.

I believe this to be a fitting tribute to one of the great Members of this House. Tragically for the House, tragically for the young Members, tragically for the country, Gillis Long was taken from us too young. It is appropriate that we remember in this small way the contributions he made to the quality of life in this country.

He cared a great deal about his country, he cared about Louisiana, he cared about his congressional district. He was indeed one of the finest Members to have served in this House, and this is a privilege and an honor for those of us who now have the opportunity of serving with his beloved wife, CATHY, who has given so much of herself and continued the long tradition of caring, conscientious, effective public service.

So, Mr. Speaker, I rise in very strong support of this very appropriate effort to honor our beloved colleague, Gillis Long.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for his kind remarks.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Under my reservation, Mr. Speaker, I yield to the gentleman from California.

Mr. COELHO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also rise in very strong support of this legislation. Gillis Long was a mentor to many of us in the House. He was one of my better friends. He was one who had this uncanny ability to bring different groups of people together to discuss the issue of the day and to get a consensus.

This is a fitting tribute to him, and I rise in strong support of it. Particularly, as my colleague, the gentleman from Maryland [Mr. HOYER] indicated, it is fitting that his lovely wife, CATHY LONG, has continued in that tradition that the Long family has of serving their country for so many years.

So, Mr. Speaker, I urge support of the legislation.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California for his supporting remarks.

Under my reservation, Mr. Speaker, I would like to yield to the gentlewoman from Louisiana [Mrs. LONG].

Mrs. LONG. Mr. Speaker, I thank my colleagues very much. I am certainly very appreciative to Congressman JOHN BREAUX and to the other members of the Louisiana delegation who sponsored this legislation, and, of course, I rise in very strong support of it.

I would like to correct the record, at least vocally. The town is named La Place. As the Members know, we have our French traditions in Louisiana. So it is La Place, LA. I was there just last week, the facility is underway, and I am very proud that it will be named for my husband.

Mr. Speaker, I rise in support of H.R. 4782, which would name the new U.S. Post Office in La Place, LA, after my husband, Gillis Long. I would like to thank my colleague, Congressman JOHN BREAUX, for introducing this legislation, as well as all the members of the Louisiana congressional delegation for their support. I must also extend my gratitude to the members of the Post Office and Civil Service Committee who so expeditiously brought this bill before us today.

My husband Gillis worked very hard for the people of the State of Louisiana and for this Nation. The values for which he fought are timeless: Compassion for the poor and disadvantaged, commitment to civil rights for all people, integrity and intellect.

Since Gillis' death, many tributes both nationally and locally have been given to perpetuate his legacy. Tributes most appropriate to Gillis' life are those associated with institutions which provide service to the people for whom he cared. It is in this spirit that the initiative of Congressman BREAUX today to name a new post office for Gillis assures that his legacy will continue. I am proud to be a Member of this body that sees fit to honor my husband in this appropriate manner. Thank you for all of your efforts.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from Louisiana [Mrs. LONG] for her eloquent remarks. I know that all of our colleagues join in support of this proposal.

Mr. BREAUX. Mr. Speaker, I thank the House for its approval today of legislation to honor our late friend and colleague, Gillis W. Long. The Louisiana delegation introduced H.R. 4782 on May 9, 1986, to name the Post Office now being built at La Place, LA, the "Gillis W. Long Post Office Building." On July 23, 1986, the House Committee on Post Office and Civil Service gave its approval to the bill. To the chairman of the committee and to its members, as well as the chairman of the Subcommittee on Postal Operations and Services and the members of the subcommittee, I wish to express my gratitude and appreciation.

Gillis served his Nation, his State, and his congressional district with distinction and excellence. He had a life filled with outstanding achievement. It is proper for us to remember Gillis and his distinguished career by naming the Post Office at La Place, LA, in his honor. By doing so we establish a lasting, public tribute to him and express our respect and admiration.

We have been fortunate to have known and served with Gillis and to serve with Mrs. CATHY LONG, who has succeeded him in representing Louisiana's Eighth Congressional District and continuing the fine tradition of service which Gillis established and provided. It is our honor and privilege, therefore, to have introduced and had approved this legislation which commemorates the career and service of our late friend and colleague, Gillis W. Long.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building being constructed at 1300 Belle Terre Boulevard in La Place, Louisiana, shall hereafter be known and designated as the "Gillis W. Long Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building is deemed to be a reference to the "Gillis W. Long Post Office Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VACATING PROCEEDINGS IN CONSIDERATION OF HOUSE JOINT RESOLUTION 547, POLISH AMERICAN HERITAGE MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the engrossment and third reading and passage of the joint resolution (H.J. Res. 547) to designate August 1986 as "Polish American Heritage Month" be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the joint resolution is as follows:

H.J. RES. 547

Whereas, since the 1st immigration of Polish settlers to Jamestown in the 17th century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other sons of Poland came to our shores to fight in the American War of Independence and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the 2d written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Prize laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 42d anniversary this year and is celebrating August 1986 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 1986 is designated "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 3, strike "August" and insert "October".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. GARCIA: Page 2, in the last clause of the preamble, strike "August" and insert "October".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from New York [Mr. GARCIA].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARICA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. GARCIA: Amend the title so as to read: "Joint resolution to designate October 1986 as 'Polish American Heritage Month'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various pieces of legislation just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlemen from New York.

There was no objection.

□ 2155

COMMUNICATON FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 24, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with my General Counsel, I will notify you of my determinations as required by the House Rule.

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

PUERTO RICAN STATEWIDE PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, on July 27, as I have done for the past 24 years, I will have the pleasure of attending the annual Puerto Rican Statewide Parade. It will be a day of celebration for the many citizens of the Puerto Rican community and their many friends. It is a time when we pay tribute to the achievements and accomplishments of the people of Puerto Rican heritage, and express our appreciation for their outstanding contributions to our society. It is a time to celebrate the rich cultural heritage and traditions of the Puerto Rican people. It is a time when each of us—of every ethnic background—salute our friends in the Puerto Rican community and join them in this spirit of celebration.

This year's parade is dedicated to the 34th anniversary of the Puerto Rican Republic. The grand marshals are Capt. Joseph Santiago, of the Newark Police Department, and Mr. Amilkar Velez, a Newark attorney.

The Statewide Parade caps Puerto Rican Week festivities (from July 20–27) as Governor Kean has proclaimed Puerto Rican Week in the State of New Jersey. The Puerto Rican Statewide Parade Committee works all year to ensure the success of the parade, and there are many fine people responsible for this huge task.

This year, the honorary members of the committee are Mayor Sharpe James of Newark, Gov. Thomas Kean, Hon. Rafael Hernandez Colon, Governor of the Commonwealth of Puerto Rico, and Dr. Jose Rosario, founder.

This year's executive committee members are:

Hon. Ralph Soria, president; Lydia Trinidad, first vice president; MIguel Sanabria, second vice president; Luis Mercado, third vice president; Lillian Soria, executive secretary; William Valentin, general secretary; Fransico Rosa, treasurer; Antonia Ortiz, vice treasurer; Mariseli Bonilla, recording secretary; Luis Rodri-

guez, sergeant-at-arms; Vicente A. Perez, public relaciones officer; Luis Lopez, general coordinator.

Vocals: Damian Baez; Cristino (Baby) Diaz; Ediberto Valentin; Matilde Barreto; and Santo Rivera.

Juan A. Rivera and Miguel E. Rodriguez, P.P. advisors.

Miguel Rivera, 86 Banquet.

Julio Matos, Scholarship awards.

Luz Rosario, Miss Puerto Rico of New Jersey, 1986.

Mr. Speaker, I applaud these fine individuals for their community service and dedication. It is a great privilege and pleasure to once again join my friends in the Puerto Rican community as we celebrate Puerto Rican Week.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, on Wednesday evening, July 23, 1986, I was unavoidably absent for rollcall No. 242, that rejected the Armey amendment that had endeavored to reduce funding for the Appalachian Regional Commission by $52.5 million. Had I been present, I would have voted "no."

CAPTIVE NATIONS WEEK OBSERVANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, in accordance with Public Law 86-90, the Captive Nations Week resolution, I am pleased once again to join my colleagues in observing the 28th annual commemoration of Captive Nations Week, July 20-26, 1986.

I rise today to reassure the brave people of the captive nations—those courageous persons resolute in their struggle against Soviet domination—that we will not rest until the Soviets return the freedom, self-determination and basic human rights the people of the captive nations so rightfully deserve.

Soviet expansionism and hegemony threaten freedom and free nations throughout the world. The Soviets resolve in achieving their goal of world domination is great. We, therefore, must be ever greater in our commitment to secure, for all the world's people, the human rights, freedom, and democratic principles on which our great Nation was founded.

Just a few short weeks ago we celebrated our 210th anniversary as a free and indpendent nation. We also celebrated the 100th anniversary of the Statue of Liberty, the shining symbol of this great Nation's commitment to those around the world who seek liberty. As we reflect on this celebration, we must also reaffirm our commitment to those people who cannot enjoy freedom because of Communist oppression.

Let us remember, as we observe this 28th annual Captive Nations Week, that we must defend and preserve democracy at all cost—not just for ourselves, but as a hope for all mankind. By word and by deed we must continue to support those suffering under the heavy yoke of Communist oppression so that one day during this third week in July we can celebrate freedom rather than commemorate captive nations.

FUND DRUG ABUSE PROGRAMS THROUGH CONFISCATED ASSETS OF DRUG TRAFFICKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARNES] is recognized for 5 minutes.

Mr. BARNES. Mr. Speaker, I am proud to introduce today with the chairman of the Select Committee on Children, Youth, and Families, Representative GEORGE MILLER, the Drug Abuse Education and Prevention Act of 1986, to combat the alarming demand for drugs and their use by our children.

According to a recent article in U.S. News & World Report, Americans now consume 60 percent of the world's production of illegal drugs.

A study by the National Institute on Drug Abuse [NIDA] shows that 30 percent of all college students will use cocaine at least once before they graduate, and that up to 80 percent of all Americans will try an illicit drug by their midtwenties.

In the streets of New York, the primary buyers of crack are teenagers—and children as young as 10 or 11 are being introduced to the drug.

For this administration, the Federal response to the drug crisis has consisted mainly of stepped-up law enforcement and interdiction efforts. But Drug Enforcement Administration officials recognize that the supply is out of control.

Despite a highly publicized crackdown on drugs launched in 1981, more drugs than ever before in U.S. history are slipping into the country. The amount of cocaine smuggled into the United States is expected to be 150 tons this year—twice the 1985 level—and officials estimate that 90 percent of all shipments are getting through undetected.

This week's Newsweek reports that the Reagan administration is privately conceding the failure of efforts to block narcotics at the border and is scrambling for a new strategy that would curb domestic demand.

Peter Bensinger, who headed the DEA under three presidents, has stressed the need for a multifaceted approach to fighting the war on drugs and called the money budgeted for drug education under the current administration a "spit in the ocean." According to Bensinger:

We seize over one billion in drug traffickers' assets—cash, stocks, bonds, and real estate—but the money is not going to help reduce demand for drugs.

John C. Lawn, current Administrator of the DEA agrees, stating, "The problem is greater than law enforcement is able to cope with." The critical need is to reduce the demand for drugs, not just the supply.

The NIDA report recommends the development and promotion of drug abuse education and prevention programs, especially for dropouts.

Yet, sadly and inexplicably, since 1981, support for drug abuse education and prevention programs has been diminishing. President Reagan, in declaring National Drug Abuse Education Week in 1983, called for expanded drug abuse awareness efforts. Yet only $2.9 million was budgeted for the Department of Education's drug abuse education programs in 1985 (down from $14 million in 1981). Federal outlays for drug enforcement, on the other hand, have increased by almost $800 million in the past 5 years (by almost 70 percent).

It is time to stop giving lip service to drug education. The problem of drug abuse is closely connected to other crises in society that scream for our attention, such as high school drop-out rates, teenage pregnancies, and cocaine-addicted newborns. We must support programs that have proven effective in reducing drug demand and in increasing knowledge and understanding of the dangers of drug use.

The Drug Abuse Education and Prevention Act provides critical support for such programs, without requiring any additional expenditure of Federal funds or taking any money away from law enforcement efforts. The money will come from the assets of the drug traffickers which have been seized by Federal law enforcement authorities.

The bill will transfer money from the Justice Department Assets Forfeiture Fund and the U.S. Customs Service Forfeiture Fund to the Departments of Education and Health and Human Services to assist the States in providing drug abuse education and prevention programs.

Without actually raising the awareness level in our schools and communities of the dangers of drug abuse, we will not make a dent in the problem. Shallow slogans and other symbolic gestures simply will not suffice. The Drug Abuse Education and Prevention Act, by more than doubling the Federal support for preventive programs, is a long overdue step toward solving the drug crisis that threatens the health and safety of our children.

The text of the bill follows:

H.R. 5237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Education and Prevention Act of 1986".

SEC. 2. EXTENSION OF LIFE OF DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND AND CUSTOMS FORFEITURE FUND, INCREASE IN AUTHORIZATION OF APPROPRIATIONS FROM CUSTOMS FORFEITURE FUND.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—The first sentence of section 524(c)(8) of title 28, United States Code, is amended by striking out "and 1987" and inserting in lieu thereof "1987, 1988, and 1989".

(b) CUSTOMS FORFEITURE FUND.—

(1) The first sentence of section 613A(a) of the Tariff Act of 1930 (19 U.S.C. 1613b(a)) is amended by striking out "1987" and inserting in lieu thereof "1989".

(2) Section 613A(c) of the Tariff Act of 1930 (19 U.S.C. 1613b(c)) is amended by striking out "1987" and inserting in lieu thereof "1989".

Section 613A(f)(1) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(1)) is amended—

(A) by striking out "for" and inserting in lieu thereof "three"; and

(B) by adding at the end the following new sentence:

"There are authorized to be appropriated from the fund for fiscal years 1987, 1988, and 1989, such sums as may be necessary to carry out this section."

(4) The first sentence of section 613A(f)(2) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)) is amended by striking out "of the first three of such four fiscal years" and inserting in lieu thereof "fiscal year referred to in paragraph (1) (other than fiscal year 1989)".

(5) The second sentence of section 613A(f)(2) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(2)) is amended by striking out "the last of such four fiscal years" and inserting in lieu thereof "fiscal year 1989".

SEC. 3. USE OF DEPARTMENT OF JUSTICE ASSETS FOREFITURE FUND FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAM ASSISTANCE TO THE STATES.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(10) In addition to the purpose described in paragraph (1) of this subsection, the fund shall be available without fiscal year limitation, in such amounts as may be specified in appropriations Acts—

"(A) to the Secretary of Health and Human Services, to assist the States in providing drug abuse education and prevention programs; and

"(B) to the Secretary of Education to assist the States in providing statewide elementary school and secondary school drug abuse education programs, including curricula, teaching materials, demonstration projects, technical assistance, and administrative support.

Each Secretary shall determine the amounts to be made available to a State, based on the number of persons served by such programs in the State, the level of non-Federal support for such programs in the State, the amounts deposited in the fund as a result of forfeitures in the State, and other relevant factors. Amounts made available to a State under this paragraph shall supplement, and shall not replace, amounts made available for such programs from other sources. Not less than 50 percent of the total of amounts appropriated for all purposes under this subsection with respect to a fiscal year shall be appropriated for purposes under this paragraph.".

SEC. 4. USE OF CUSTOMS FORFEITURE FUND FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAM ASSISTANCE TO THE STATES.

Section 613A of the Tariff Act of 1930 is amended by adding at the end the following new subsection:

"(g) In addition to the purposes described in subsection (a) of this section, the fund shall be available to the Secretary of Health and Human Services and the Secretary of Education for the programs described in section 524(c)(10) of title 28, United States Code. Not less than 50 percent of the total of amounts appropriated for all purposes under this section with respect to a fiscal year shall be appropriated for such programs.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 28, UNITED STATES CODE.—Section 524(c)(6) of title 28, United States Code, is amended by inserting after "this subsection" the following: ", except that the Secretary of Health and Human Services and the Secretary of Education shall prepare (for transmittal by the Attorney General) the portions of the report relating to expenditures under paragraph (10)(A) and paragraph (10)(B) of this subsection, respectively".

(b) AMENDMENT TO TARIFF ACT OF 1930.—Section 613A(e) of the Tariff Act of 1930 (19 U.S.C. 1613b(e)) is amended by inserting after "such year" the following: ", except that the Secretary of Health and Human Services and the Secretary of Education shall prepare (for transmittal by the Commissioner of Customs) the portions of the report relating to expenditures under subsection (g) of this section".

SEC. 6. EFFECTVE DATE.

This Act shall take effect on the date of the enactment of this Act, except that the amendments made by sections 3, 4, and 5 shall apply with respect to fiscal years beginning with fiscal year 1987.

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this week Americans are commemorating the 28th annual observance of Captive Nations Week. It is a time to remind the world of the many nations suffering under the burdensome oppression of the Soviet Union, and to rededicate ourselves and renew our energies on behalf of the unfortunate millions who are living a wretched existence under the shadow of Communist tyranny.

It has been 28 years since President Eisenhower first designated the third week in July as Captive Nations Week, and although the Communists have been ruthless in their attempts to destroy the national identities of the many people of the captive nations, their individuality remains, and their desire to achieve self-determination continues. A list of the captive nations follow:

Established list of captive nations

[Country, people, and year of Communist domination]

Armenia	1920
Azeraijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolia	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Romania	1947
Czechoslovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960
Cambodia	1975
South Vietnam	1975
Laos	1975
Afghanistan	1980

So long as the heroic people of the captive nations remain steadfast in their determination to achieve freedom, the spark of liberty will be kept alive, and one day those nations under the captivity of the Communists will be able to throw off their chains of bondage and become free. During Captive Nations Week, millions of Americans who trace their origins to these captive nations, and other freedom-loving Americans, join in reflection and prayer to express their support for policies which will free these captive nations.

At this point in the RECORD, I would like to include the President's 1986 Captive Nations Week proclamation. The proclamation follows:

CAPTIVE NATIONS WEEK, 1986

(A proclamation by the President of the United States of America)

America, built on a firm belief in the dignity and rights of all the members of the human race, continues to hold up that message to the world. Included in that message is unwavering opposition to all forms of oppression and despotism. Freedom is not divisible. To maintain it for ourselves, we must pursue it for others. As President Roosevelt declared in 1941, "we look forward to a world founded upon four essential freedoms. The first is freedom of speech and expression—everywhere in the world. The second is the freedom of every person to worship in his own way—everywhere in the world. The third is freedom from want . . . everywhere in the world. The fourth is freedom from fear . . . anywhere in the world."

This vision of the future has been a beacon of hope and guidance both for those individuals who seek refuge here and for those nations whose aspirations for self-determination have been crushed by the Soviet empire. Deprived of basic human rights, their peoples are the victims of ruthless regimes run according to totalitarian ideologies. These are the nations held captive by forces hostile to freedom, independence, and national self-determination. These captive nations include those of Eastern Europe that have known foreign occupation and communist tyranny for decades; those struggling to throw off communist domination in Latin America; and the people of Afghanistan, Southeast Asia, and Africa struggling against foreign invasion, military occupation, and communist oppression.

Each year we renew our resolve to support the struggle for freedom throughout the world by observing Captive Nations Week. It is a week in which all Americans are asked to remember that the liberties and freedoms that they enjoy are denied to many peoples. With this observance, we hope to inspire those who struggle against military occupation, political oppression, communist expansion, and totalitarian brutality. We hope to inspire, but we also seek inspiration. Because the history of liberty is a history of resistance, we learn from those who live where the struggle is most urgent. Purified by resistance, they show us the path to a renewed commitment to preserve our own liberties and to give our support and encouragement to those who struggle for freedom.

To pursue that struggle, and to honor those who are with us in that battle, the Congress, by joint resolution approved July 17, 1959 (73 Stat. 212), has authorized and

requested the President to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim the week beginning July 20, 1986, as Captive Nations Week. I invite the people of the United States to observe this week with appropriate ceremonies and activities to reaffirm their dedication to the international principles of justice, freedom, and national self-determination.

Mr. Speaker, we must continue to condemn the Soviet Union for its numerous human rights violations, and we must renew our efforts on behalf of the millions of men, women, and children enslaved against their will, in order that they may regain the freedoms that are rightfully theirs.

On the occasion of the 28th observance of Captive Nations Week, I am glad to join with my constituents in the 11th Congressional District of Illinois which I am honored to represent and all Americans, in their hopes and prayers that one day the courageous people who suffer under the communists will know the blessing of self-determination and a free homeland.

SOUTH AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, on Tuesday, the President condemned the apartheid system of governance as "morally wrong and politically unacceptable." He's right.

He said: "South Africa matters because we believe that all men are created equal * * * because of who we are." He's right again.

He said: "The vision of a better life cannot be realized so long as apartheid endures and instability reigns in South Africa." Spoken like a true statesman.

Out of all this pontificating, one would have expected a new and more aggressive U.S. policy to emerge:

A policy aimed at unlocking the shackles of apartheid which enslave South Africa's black majority;

A policy with some true grit and determination.

Instead, what came forth was a policy that says: "Apartheid is bad, but doing something about it is worse."

Mr. President, 2,000 true "freedom fighters" in South Africa are dead, and so is "constructive engagement."

COMMENDING THE SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I would like to commend the Subcommittee on Energy and Water for their work on the energy and water development appropriation bill for fiscal year 1987 and my colleagues in the House for passing the bill.

I am especially encouraged with the work that has been done with respect to the magnetic fusion budget. The committee notes that the budget for magnetic fusion has been severely constrained for the past several years and that the administration has asked for a further reduction of $50 million for fiscal year 1987. Because of the committee's concern and belief in the need to maintain a viable magnetic fusion research it recommends an increase of $25 million above the request to maintain mirror fusion research and development.

In my own district, at the Livermore Lawrence National Lab significant research and development of magnetic fusion has been underway for many years. Last February the scientists at LLNL had great cause to celebrate as work on the mirror fusion test facility [MFTF-B] had just been completed. Unfortunately the celebration was short lived. The President's budget which was released just days later recommended mothballing MFTF-B as a way to pick up savings.

A lot of hard work and money has been invested in this, the world's largest superconducting, tandem mirror fusion experiment. For close to 8 years some of the finest scientists and engineers in America have dedicated their time and energy to this project. $350 million have been invested in MFTF-B.

With $20 million in additional investment MFTF-B can run at a reduced level. Given the magnitude of human resources and money that has been invested thus far it would be wise to make the additional investment. Without the additional funding, the $350 million will be utterly wasted; with it we could reap a wealth of knowledge.

In 1980 under the Magnetic Fusion Engineering Act, we made a commitment to develop fusion as a viable energy source for this country. The Appropriations Committee has made a recommendation which will allow the scientists in this country to go forth with this goal. Again, I commend the members of this committee for their outstanding work.

NATIONAL CIVIL RIGHTS DAY PROCLAMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. VISCLOSKY] is recognized for 5 minutes.

Mr. VISCLOSKY. Mr. Speaker, this House not long ago took a firm and clear stand against the repressive Government of South Africa because of that Government's policies which reflect a racist and unjustifiably narrow state interpretation of human and civil rights.

We know that our proclamation of certain ideals has brought with it a direct responsibility to criticize and, when necessary condemn certain realities.

In this fervor, however, we dare not, forget the work to be done at home, the need for continued review and enforcement of civil rights.

In this vein, I have, along with Messrs. LELAND, DYMALLY, GARCIA, MARTINEZ, and SAVAGE, introduced a resolution that August 12, 1986, be recognized as "National Civil Rights Day." I encourage my colleagues to join us as cosponsors of this measure.

The day will be set aside to honor the fallen heroes of our national struggle for civil rights. It will recognize the gains made over the past 20 years, and will constitute a rededication of ourselves to the realization of equality of opportunity and all the other cardinal values which are attached to civil rights.

More than 250 mayors and Governors have themselves planned to issue proclamations for "National Civil Rights Day" on August 12. A similarly approved measure would appear appropriate emanating from the Congress and would very happily complement the national observance.

I hope that my colleagues will lend their support to this worthy proclamation.

JOINT RESOLUTION TO ESTABLISH A MEMORIAL TO WORLD WAR II-ERA PHILIPPINE SCOUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce a joint resolution which would pay tribute to the World War II-era Philippine Scouts who served so nobly in Bataan and Corregidor. These dedicated individuals demonstrated courage and resolve in support of the Allied war effort and they deserve our gratitude.

The events surrounding the election of President Aquino in the Philippines have reminded us of the courageous nature of the Philippine people. But they have demonstrated this characteristic before: in the Pacific Theater of World War II. Under the command of Gen. Douglas MacArthur, the Philippine Scouts assisted in the protection of the Philippines and in the defense of freedom.

Mr. Speaker, it has now been more than forty years since the Second World War led to the invasion of the Philippines by Japan. And yet the intervening years have not dimmed the memories of those who fought in the heroic defense of Bataan and Corregidor and who survived the infamous Bataan "death march" and captivity in Japanese prison camps.

The Philippine Scouts were not foreign soldiers; they were an integral part of the U.S. Army from the date of the unit's creation in 1901. At the onslaught of war in the Pacific, when the Japanese attacked Pearl Harbor and invaded the Philippine Islands, these soldiers became the key to our entire South Pacific strategy. Against overwhelming odds—faced with superiority in numbers and equipment, devoid of air cover against constant bombings by the Japanese, ravaged by malaria and beri-beri—these men helped hold the Bataan Peninsula for 98 days.

The Scouts' protracted defense of these islands against all odds allowed the United

States to recover from the first blows of the war and regroup for what would ultimately prove to be a successful counterattack. Although their contribution and sacrifice have been duly noted in historical accounts of the war, they have never received the thanks and the honor from the United States that they richly deserve. Now is the time to give them their due.

It was for this reason that I introduced H.R. 1179 in the last session of this Congress. This legislation sought to remedy the imbalance between the pay and benefits received by the Philippine Scouts and the pay and benefits of other soldiers in the U.S. Army during World War II. This November, the Army will complete a study of this disparity and report on ways to provide the compensation and benefits the Philippine Scouts have earned. This is a good start, but we can and must go farther.

The joint resolution I am introducing today would authorize the establishment of a memorial to the World War II-era Philippine Scouts in the Washington, DC, area. Specifically, this joint resolution would authorize the Philippine Scouts and U.S. Veterans' Association of America—an organization based in my district—to establish a memorial which would recognize and honor the contribution of the Philippine Scouts in Bataan and Corregidor. The responsibility for raising the necessary funds for the establishment of this memorial would be solely left to the Philippine Scouts Association named in the resolution. No Federal dollars would be used to establish this memorial.

I introduce this resolution in order to provide a meaningful demonstration of our deep gratitude for the faithful and gallant service of the people of the Philippines and the Filipino Americans who took part in the Allied war effort on behalf of the United States. I urge my colleagues to join me in this effort by cosponsoring this joint resolution.

H.J. RES. 685

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF MEMORIAL.

(a) IN GENERAL.—The Philippine Scouts and U.S. Veterans' Association of America is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor the Philippine Scouts, who served bravely in the United States Army in Bataan and Corregidor during World War II.

(b) SITE, DESIGN, AND PLANS.—In carrying out subsection (a), the Association shall be responsible for selecting a site for the memorial and preparing the design and plans for the memorial, each of which shall be subject to the approval of the Commission of Fine Arts and the National Capital Planning Commission.

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of establishment of the memorial. The Association shall not begin construction of the memorial until, as determined by the Comptroller General, amounts available to the Association from non-Federal sources are sufficient to carry out this resolution.

SEC. 3. EXPIRATION OF AUTHORITY.

The authority to establish the memorial under this resolution shall expire at the end of the five-year period beginning on the date on which this resolution becomes law, unless construction of the memorial begins during that period.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SAXTON) to revise and extend their remarks and include extraneous material:)

Mr. HENDON, for 60 minutes, on July 29.

Mr. SMITH of New Hampshire, for 60 minutes, on July 29.

Mr. MICHEL, for 60 minutes, on July 31.

Mr. CRANE, for 60 minutes, on July 31.

Mr. GINGRICH, for 60 minutes on July 28.

Mr. GINGRICH, for 60 minutes, on July 29.

Mr. GINGRICH, for 60 minutes, on July 30.

Mr. GINGRICH, for 60 minutes, on July 31.

Mr. GINGRICH, for 60 minutes, on August 1.

(The following Members (at the request of Mr. VISCLOSKY) to revise and extend their remarks and include extraneous material:)

Mr. RODINO, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. BARNES, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. VISCLOSKY, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on July 28.

Mr. GONZALEZ, for 60 minutes, on July 29.

Mr. GONZALEZ, for 60 minutes, on July 30.

Mr. MCCLOSKEY, for 60 minutes, on July 29.

Mr. SMITH of Iowa, for 60 minutes, on August 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, on the Dornan amendment to H.R. 5175 in the Committee of the Whole today.

Mr. WEISS, prior to the motion to rise after consideration of H.R. 5175 in the Committee of the Whole today.

(The following Members (at the request of Mr. SAXTON) and to include extraneous matter:)

Mr. SCHULZE.

Mr. RITTER.

Mr. BARTON of Texas.

Mr. LEACH of Iowa in two instances.

Mr. MYERS of Indiana.

Mr. HYDE.

Mr. DENNY SMITH.

Mr. CRANE in two instances.

Mr. DORNAN of California.

Mr. LEWIS of California.

Mr. PORTER.

Mr. MCEWEN in two instances.

Mr. CONTE.

Mr. DEWINE.

Mr. BROOMFIELD.

Mr. SMITH of New Jersey.

Ms. SNOWE.

Mr. FIELDS.

Mr. MCKERNAN.

Mr. CLINGER.

Mr. MICHEL.

Mr. SILJANDER.

Mrs. SCHNEIDER.

Mr. BOEHLERT.

Mr. FRENZEL in five instances.

Mr. DUNCAN.

The following Members (at the request of Mr. VISCLOSKY) and to include extraneous matter:)

Mr. SMITH of Florida.

Mr. VOLKMER.

Mr. RANGEL.

Mr. BERMAN in two instances.

Mr. RODINO.

Mr. KILDEE in two instances.

Mr. JONES of North Carolina in two instances.

Mr. MARKEY.

Mr. UDALL.

Mr. DOWNEY of New York.

Mr. STARK.

Mr. COELHO.

Mr. STOKES.

Mr. ECKART of Ohio.

Mr. LANTOS.

Mr. KOSTMAYER.

Mr. SIKORSKI.

Mr. DE LA GARZA.

Mr. FLORIO.

Mr. EDWARDS of California.

Mr. MORRISON of Connecticut.

Mr. STALLINGS.

Mr. TORRES.

Mr. HOWARD.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3511. An act to amend title 18, United States Code, with respect to certain bribery and related offenses.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 415. An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorney's fees to certain prevailing parties, to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes.

ADJOURNMENT

Mr. VISCLOSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 8 o'clock p.m.), under its previous order, the House adjourned until Monday, July 28, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3943. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed letter(s) of offer to Tunisia for defense articles (Transmittal No. 86-45), pursuant to 10 U.S.C. 133b; to the Committee on Armed Services.

3944. A letter from the Acting Director, Defense Security Assistance Agency; transmitting notice of the Department of the Army's proposed letter(s) of offer to Portugal for defense articles and services (transmittal No. 86-44), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3945. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed letter(s) of offer to the Netherlands for defense articles and services (transmittal No. 86-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3946. A letter from the Acting Director, Defense Security Assistance Agency; transmitting notice of the Department of the Army's proposed letter(s) of offer to Tunisia for defense articles and services (transmittal No. 86-45), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3947. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State; transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3948. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to give the Secretary of Energy certain flexibility in the production of the Naval Petroleum Reserves and other purposes; jointly, to the Committees on Armed Services and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. OAKAR: Committee on Post Office and Civil Service. H.R. 4825. A bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement of certain additional types of health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes (Rept. 99-710). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 5233. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-711). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4162. A bill to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act and for other purposes; with an amendment (Rept. 99-712). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. The administration strikes back: Retaliation against Loretta Cornelius and William Hunt for testifying truthfully before Congress (Rept. 99-713). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 5234. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes (Rept. 99-714). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. H. Res. 511. Resolution providing for the consideration of the H.R. 3042, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects (Rept. 99-715). Referred to the House Calendar.

Mr. HALL of Ohio. Committee on Rules. H. Res. 512. Resolution providing for the consideration of H.R. 3263, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes (Rept. 99-716). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 513. Resolution providing for the consideration of H.R. 3129, a bill to authorize funds for construction of highways, for highway safety programs, to expand and improve the relocation assistance program, and for other purposes (Rept. 99-717). Referred to the House Calendar.

[Omitted from the Record of July 23, 1986]

REPORTED BILLS CONCURRENTLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.J. Res. 626. Joint resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; Referred July 23, 1986 for a period ending not later than September 17, 1986 to the Committee on Armed Services, Judiciary, Merchant Marine and Fisheries, and Ways and Means, for consideration of such provisions of the joint resolution and amendment as fall within the jurisdictions of those committees pursuant to clauses 1(c), 1(m), 1(n), and 1(v) of rule X, respectively. Referred July 23, 1986 to the Committee on Appropriations for a period ending not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344 (Rept. 99-663, Pt. II). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUGHES:

H.R. 5231. A bill to amend the Controlled Substances Act to prohibit conduct with respect to controlled substance analogs; jointly, to the Committees on the Judiciary, and Energy and Commerce.

By Mr. BREAUX (for himself and Mr. YOUNG of Alaska):

H.R. 5232. A bill relating to the guarantee of obligations under title XI of the Merchant Marine Act of 1936 for fishing vessels or fishery facilities; to the Committee on Merchant Marine and Fisheries.

By Mr. NATCHER:

H.R. 5233. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. YATES:

H.R. 5234. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for another purposes.

By Mr. CONYERS:

H.R. 5235. A bill to amend title XIX of the Social Security Act to require State Medicaid plans to provide coverage of pregnant women whose income falls below the Federal poverty guidelines; to the Committee on Energy and Commerce.

By Mr. ANNUNZIO (for himself and Mr. HILER):

H.R. 5236. A bill to establish the Congressional Gold Medal; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARNES (for himself, Mr. MILLER of California, Mr. FAUNTROY, Mr. FAZIO, Mr. GEJDENSON, Mr. GRAY of Pennsylvania, Mr. HOYER, and Mr. MITCHELL):

H.R. 5237. A bill to extend the life of the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund through fiscal year 1989, to make amounts from the funds available to the Secretary of Education and the Secretary of Health and Human Services for drug abuse education and prevention programs, and for other purposes; jointly, to the Committees on the Judiciary, Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. BIAGGI:

H.R. 5238. A bill to prevent crimes committed in connection with the operation or use of automated teller machines; jointly, to the Committees on Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. BILIRAKIS:

H.R. 5239. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt programs authorized by the Older Americans Act of 1965 from sequestration; jointly, to the Commit-

tees on Government Operations, and Education and Labor.

By Mr. BRYANT:

H.R. 5240. A bill to enhance the ability of civilian law enforcement agencies to detect and interdict the unlawful transportation of controlled substances across international boundaries of the United States, and to make unlawful the patrolling of, and solicitation and conspiracy to patrol, such boundaries with the intent to enforce or aid in the enforcement of the immigration or customs laws of the United States, without the permission of an officer of the United States; jointly, to the Committees on Armed Services, and the Judiciary.

By Mr. CONYERS (for himself and Mr. GEKAS):

H.R. 5241. A bill to amend titles 18 and 28 of the United States Code to make technical and other changes occasioned by the enactment of the Comprehensive Crime Control Act of 1984, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. COELHO):

H.R. 5242. A bill to enhance exports of United States agricultural commodities; jointly, to the Committees on Agriculture, and Foreign Affairs.

By Mr. DONNELLY:

H.R. 5243. A bill to amend the Internal Revenue Code of 1954 to require that requests to waive the minimum funding standards for certain pension plans by reason of substantial business hardship be accompanied by a list of the plan participants, and to direct the Secretary of the Treasury to make public any request for such a waiver and provide for a 60-day comment period at the close of which a public hearing shall be held at which interested parties may testify about such request; to the Committee on Ways and Means.

By Mr. FIELDS (for himself, Mr. YOUNG of Alaska, Mr. TAUZIN, Mr. SHUMWAY, Mr. FRANKLIN, Mr. CALLAHAN, and Mrs. BENTLEY:

H.R. 5244. A bill providing for the orderly and timely development of critical energy resources on the U.S. Outer Continental Shelf; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 5245. A bill to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself, Mr. LUNGREN, Mr. SMITH of Florida, Mr. MAZZOLI, Mr. MORRISON of Connecticut, Mr. FEIGHAN, Mr. STAGGERS, Mr. MCCOLLUM, Mr. SHAW, and Mr. GEKAS):

H.R. 5246. A bill to amend the Controlled Substances Act to prohibit certain conduct with respect to controlled substance analogs; jointly, to the Committees on the Judiciary, and Energy and Commerce.

By Mr. LANTOS:

H.R. 5247. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to strengthen criminal penalties for offenses involving base forms of cocaine and for youth-related offenses, and for other purposes; jointly, to the Committees on Energy and Commerce, and the Judiciary.

By Mr. MACK (for himself, Mr. AUCOIN, Mr. BOULTER, Mr. CHENEY, Mr. FAWELL, Ms. FIEDLER, Mr. KOLBE, and Mr. TAUZIN):

H.R. 5248. A bill to modify the procedures set forth in part C of the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Government Operations.

By Mr. MACKAY:

H.R. 5249. A bill to amend schedule I of the Controlled Substances Act to include cocaine freebase; jointly, to the Committees on the Judiciary, and Energy and Commerce.

H.R. 5250. A bill to amend the Controlled Substances Act to provide enhanced penalties for employment of persons under age 21 to distribute drugs; jointly, to the Committees on the Judiciary, and Energy and Commerce.

H.R. 5251. A bill to amend section 405A of the Controlled Substances Act, relating to the distribution of a controlled substance in or near a school, to include the manufacture of controlled substances; jointly, to the Committees on the Judiciary, and Energy and Commerce.

By Mr. MARKEY:

H.R. 5252. A bill to clarify the exemptive authority of the Securities and Exchange Commission; to the Committee on Energy and Commerce.

By Mr. MARTINEZ (for himself, Mr. TORRES, Mr. ROYBAL, Mr. ORTIZ, and Mr. EVANS of Illinois):

H.R. 5253. A bill to assure the continued viability and effectiveness of the rules and policies of the Federal Communications Commission promoting and enhancing the ownership of communications facilities by minority-owned or controlled entities; to expand such rules and policies; and for other purposes; to the Committee on Energy and Commerce.

By Mr. MOORE:

H.R. 5254. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to remove the Comptroller General and the Director of the Congressional Budget Office from participation in the deficit reduction process under the Act, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. ROWLAND of Georgia (for himself, Mr. JENKINS, and Mr. GIBBONS):

H.R. 5255. A bill to require the Secretary of Health and Human Services to submit to the Congress a proposal for the regulation of long-term care insurance policies, including an analysis and evaluation of such policies as are available to individuals, and to amend the Internal Revenue Code of 1954 to allow tax-free distributions from individual retirement accounts for the purchase of long-term care insurance coverage by individuals who have attained age 59½; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. SEIBERLING (for himself, Mr. MURTHA, Mr. VANDER JAGT, and Mr. OBERSTAR):

H.R. 5256. A bill to amend the act of April 9, 1924, authorizing the construction, reconstruction, and improvement of roads and trails in units of the National Park System, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STANGELAND:

H.R. 5257. A bill to amend the Agricultural Act of 1949 and for other purposes; to the Committee on Agriculture.

By Mr. SWINDALL (for himself, Mr. BARNARD, Mr. THOMAS of Georgia, Mr. DARDEN, and Mr. DERRICK):

H.R. 5258. A bill to amend section 569 of title 28, United States Code, with respect to the duties of U.S. marshals; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself, Mr. WALGREN, and Mr. MADIGAN):

H.R. 5259. A bill to amend the Public Health Service Act to revise the authorities of the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Energy and Commerce.

By Mr. YOUNG of Florida:

H.R. 5260. A bill to ensure the supply of childhood vaccines, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BATES:

H.J. Res. 682. Joint resolution extending best wishes to the Board of Supervisors of the County of San Diego, CA, on the occasion of the 50th anniversary celebration and rededication of the San Diego County Administration Center on August 20, 1986; to the Committee on Post Office and Civil Service.

By Mr. FLORIO (for himself, Ms. SNOWE, Mr. MCKERNAN, Mr. GEJDENSON, Mr. EDGAR, Mr. MORRISON of Connecticut, Mr. SHUSTER, Mr. CONTE, Mr. RICHARDSON, and Mr. ATKINS):

H.J. Res. 683. Joint resolution to provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Company and Portland Terminal Company labor-management dispute; to the Committee on Energy and Commerce.

By Mr. MICHEL (for himself, Mr. WRIGHT, Mr. HANSEN, and Mr. GARCIA):

H.J. Res. 684. Joint resolution calling for recognition of United Way's 100th Anniversary; to the Committee on Post Office and Civil Service.

By Mr. PANETTA:

H.J. Res. 685. Joint resolution authorizing the Philippine Scouts and U.S. Veterans' Association of America to establish a memorial to honor the Philippine Scouts, who served bravely in the U.S. Army in Bataan and Corregidor during World War II; to the Committee on House Administration.

By Mr. VISCLOSKY (for himself, Mr. DYMALLY, Mr. GARCIA, Mr. LELAND, Mr. MARTINEZ, and Mr. SAVAGE):

H.J. Res. 686. Joint resolution to designate August 12, 1986, as "National Civil Rights Day"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY (for himself and Mr. LOTT):

H. Res. 514. Resolution providing that the substantially verbatim account of remarks in House proceedings in the CONGRESSIONAL RECORD should be clearly distinguishable by different typeface from material inserted under permission to extend remarks; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. SHUMWAY introduced a bill (H.R. 5261) for the relief of Sjoerd Zittema and Peggy Rose Rakers; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 128: Mr. EVANS of Iowa.

H.R. 156: Mr. SABO.
H.R. 351: Mrs. BENTLEY.
H.R. 1294: Mr. MCHUGH.
H.R. 1402: Mr. GEJDENSON.
H.R. 1840: Mr. BRUCE, Mr. MORRISON of Connecticut, and Mr. FRANKLIN.
H.R. 1902: Mr. SOLOMON, and Mr. HOYER.
H.R. 2280: Mr. ROBINSON, Mr. HAWKINS, Mr. KOSTMAYER, Mr. RODINO, Mr. WOLF, Mrs. HOLT, Mr. BROOKS, Mr. JEFFORDS, Mr. DYMALLY, Mr. HERTEL of Michigan, Mr. YOUNG of Florida, Mr. NEAL, Mr. BEDELL, Mrs. LLOYD, Mr. MINETA, Mr. SCHEUER, Mr. TRAFICANT, Mr. TORRICELLI, Mr. AKAKA, Mrs. MARTIN of Illinois, Mr. CHAPMAN, and Mr. DURBIN.
H.R. 2502: Mr. WHITEHURST.
H.R. 2568: Mr. MCKINNEY.
H.R. 2836: Mr. HALL of Ohio and Mr. BATEMAN.
H.R. 3099: Mrs. BURTON of California, Mr. HOWARD, Mr. ST GERMAIN, Mr. HAYES, Mr. KILDEE, and Mr. HALL of Ohio.
H.R. 3465: Mr. SWIFT.
H.R. 3555: Mr. SENSENBRENNER.
H.R. 3644: Mr. LOTT and Mr. FRANKLIN.
H.R. 3894: Mr. YOUNG of Missouri, Mr. KLECZKA, Mr. DICKS, Mr. MCKERNAN, Mr. COLEMAN of Texas, and Mr. NELSON of Florida.
H.R. 3950: Mr. TORRICELLI and Mr. BIAGGI.
H.R. 4096: Mrs. BOXER, Mr. MCMILLAN, Mr. HEFNER, Mr. FROST, and Mr. GONZALEZ.
H.R. 4128: Mr. ORTIZ.
H.R. 4148: Mr. CONYERS.
H.R. 4247: Mr. MCMILLAN and Mr. BARTON of Texas.
H.R. 4248: Mr. BARTON of Texas.
H.R. 4250: Mr. BARTON of Texas.
H.R. 4251: Mr. BARTON of Texas.
H.R. 4333: Mr. DOWNEY of New York.
H.R. 4368: Mr. WILLIAMS, Mrs. COLLINS, Mr. BONIOR of Michigan, Mr. LUKEN, and Mr. FROST.
H.R. 4439: Mr. FAWELL, Mr. MARTIN of New York, Mr. ROGERS, and Mr. FEIGHAN.
H.R. 4524: Mr. FAWELL.
H.R. 4535: Mr. WEISS, Mr. BORSKI, and Mr. HOWARD.
H.R. 4627: Mr. TAUKE.
H.R. 4633: Mr. MITCHELL, Mr. ERDREICH, Mr. HAYES, Mr. PEASE, Mr. NATCHER, Mr. GUARINI, and Mr. GEJDENSON.
H.R. 4682: Mr. BILIRAKIS.
H.R. 4776. Mr. GEJDENSON.
H.R. 4825: Mr. EVANS of Illinois and Mr. WEAVER.
H.R. 4836: Mrs. VUCANOVICH.
H.R. 4871: Mr. DOWNEY of New York, Mr. ROYBAL, Mr. CHAPMAN, Mr. DWYER of New Jersey, Mr. STRANG, and Mr. GILMAN.
H.R. 4876: Mr. NEAL.
H.R. 4888: Mr. HUGHES and Ms. MIKULSKI.
H.R. 4910: Mr. MCKINNEY.
H.R. 4972: Mr. DELLUMS, Mr. FAUNTROY, Mr. PACKARD, and Mrs. BURTON of California.
H.R. 4990: Mr. EDWARDS of California, Mr. KASTENMEIER, Mr. WILLIAMS, Mr. WEISS, Mr. ROYBAL, Mr. RANGEL, Mr. TORRICELLI, Mr. OWENS, Mrs. KENNELLY, Mr. DELLUMS, Mr. LUNDINE, Mr. MAVROULES, Mr. MINETA, and Ms. KAPTUR.
H.R. 5066: Mr. LIPINSKI, Mr. GOODLING, Mr. LAGOMARSINO, Mr. MCGRATH, Mr. SMITH of Florida, and Mr. STAGGERS.
H.R. 5070: Mrs. COLLINS, Mr. SAVAGE, Mr. TOWNS, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. MARTINEZ, Mr. MITCHELL, Mr. RANGEL, Mr. CROCKETT, Ms. KAPTUR, Mr. GARCIA, and Mr. TORRES.
H.R. 5073: Mr. MURPHY, Mr. LEHMAN of California, Mr. MITCHELL, Mr. LOWRY of Washington, Mr. DOWDY of Mississippi, Mr. LEHMAN of Florida, Mr. STOKES, Mr. MRAZEK, Mrs. LONG, Mr. TRAFICANT, Mr. FASCELL, Mr. DE LUGO, Mr. STARK, Mr. MADIGAN, Mr. WYDEN, Mr. SWIFT, Mr. RINALDO, Mr. FAZIO, Mr. ALEXANDER, Mr. FAUNTROY, Mr. ASPIN, Mr. WISE, Mr. EVANS of Illinois, Mr. BEDELL, Mr. WILLIAMS, Mr. SEIBERLING, Mr. MCCAIN, Mr. WILSON, Mrs. BURTON of California, Mr. GRAY of Illinois, Mr. SKELTON, Mr. SCHULZE, Mr. BLILEY, Mr. FORD of Michigan, Mr. DYSON, Mr. WAXMAN, Mr. LEVINE of California, Mr. YOUNG of Missouri, Mrs. COLLINS, Mr. BONIOR of Michigan, Mr. MCDADE, Mr. EDWARDS of California, Mr. CALLAHAN, Mr. WEISS, Mr. GEPHARDT, Mr. HOWARD, Mr. SMITH of Florida, and Mr. NEAL.
H.R. 5103: Mr. HOWARD, Mr. KLECZKA, Mr. BILIRAKIS, Mr. BATEMAN, Mr. WHITEHURST, and Mr. MACKAY.
H.R. 5127: Mr. ACKERMAN, Mr. OBERSTAR, Mr. LAGOMARSINO, Mr. BARNES, and Mrs. BENTLEY.
H.R. 5132: Mr. TORRES, Mr. LEVIN of Michigan, Mr. PANETTA, Mrs. BENTLEY, Mr. EVANS of Iowa, Mr. LIGHTFOOT, and Mr. THOMAS of Georgia.
H.R. 5163: Mr. ROE.
H.R. 5165: Mr. FAZIO, Mr. FEIGHAN, Mr. MINETA, Mr. SAVAGE, Mrs. BOXER, Mr. GARCIA, Mr. RANGEL, Mr. SMITH of Florida, Mr. TORRES, Mr. TOWNS, Mr. WEISS, Mr. TRAXLER, and Mr. WOLPE.
H.R. 5176: Mr. LUNDINE, Mr. VENTO, Mr. KLECZKA, and Mr. LEACH of Iowa.
H.R. 5195: Mr. DENNY SMITH, Mr. PENNY, Mr. FUSTER, Mr. KINDNESS, Mr. MCCLOSKEY, and Mrs. JOHNSON.
H.R. 5200: Mr. STAGGERS.
H.R. 5202: Mr. MORRISON of Connecticut, Mr. BEDELL, Mrs. BYRON, and Mr. SAVAGE.
H.R. 5225: Ms. MIKULSKI, Mrs. SCHROEDER, and Mr. MADIGAN.
H.J. Res. 7: Mr. HAMMERSCHMIDT, Mr. SCHAEFER, Mr. MOORE, and Mr. PRICE.
H.J. Res. 49: Mr. GEKAS.
H.J. Res. 127: Mr. APPLEGATE, Mr. COELHO, Mr. BLILEY, Mr. SKELTON, Mr. ORTIZ, Mr. SABO, and Mr. LIPINSKI.
H.J. Res. 316: Mr. DERRICK, Mr. CHAPMAN, Mr. FUSTER, Mr. BRYANT, Mr. BUSTAMANTE, Mr. SPRATT, Mr. RANGEL, Mr. MACK, Mr. FISH, and Mrs. BENTLEY.
H.J. Res. 574: Mr. BEVILL, Mr. SPRATT, and Mr. WHITLEY.
H.J. Res. 577: Mr. TRAFICANT.
H.J. Res. 611: Mr. MONSON, Mr. CHAPPELL, and Mrs. BYRON.
H.J. Res. 638: Mr. FAZIO, Mr. SNYDER, Mr. HARTNETT, Mr. DYSON, Mr. SMITH of Iowa, Mr. FUQUA, Mr. SCHUETTE, Mr. MONSON, Mr. TRAXLER, Mr. LEVINE of California, Mr. BARNES, Mr. KASICH, Mr. GRAY of Illinois, Mr. NATCHER, Mr. HAYES, Mr. ORTIZ, and Mr. CONYERS.
H.J. Res. 643: Mr. HUTTO, Mr. BURTON of Indiana, Mr. MILLER of Washington, Mr. MCMILLAN, Mr. RAY, Mr. SAXTON, Mr. BOSCO, Mr. ZSCHAU, Mr. JONES of North Carolina, and Mr. RICHARDSON.
H.J. Res. 645: Mrs. HOLT, Mr. AKAKA, Mr. BONER of Tennessee, Mr. BEVILL, Mr. GRAY of Illinois, Mr. HAMILTON, Mrs. BURTON of California, Mr. RODINO, Mr. DORGAN of North Dakota, Mr. LUNDINE, Mr. MRAZEK, Mr. ROE, and Mrs. BENTLEY.
H.J. Res. 646: Mr. FRENZEL, Mr. BARTLETT, Mr. PANETTA, Mr. GOODLING, Mr. DYSON, Mrs. KENNELLY, Mr. SMITH of New Hampshire, and Mrs. MEYERS of Kansas.
H.J. Res. 656: Mr. SMITH of Florida and Mr. NEAL.
H. Con. Res. 244: Mr. CHANDLER.
H. Con. Res. 306: Mr. WORTLEY, Mr. COURTER, and Mr. FAZIO.
H. Con. Res. 321: Mr. MCHUGH.
H. Con. Res. 351: Mr. BONKER, Mr. MARTIN of New York, Mr. WHITEHURST, Mr. TRAXLER, Mr. WIRTH, Mr. STARK, Mr. HAMILTON, Mr. SPRATT, and Mr. WEBER.
H. Con. Res. 359: Mr. FRANK, Mrs. LONG, Mr. CROCKETT, Mr. HAYES, Mr. DOWNEY of New York, Mr. MILLER of California, Mr. FAZIO, Mrs. SCHROEDER, Ms. OAKAR, Mr. WEISS, Mrs. BURTON of California, Mr. DIXON, Mrs. SCHNEIDER, Mr. DYMALLY, Mr. OBERSTAR, Mr. FUSTER, Mr. OWENS, Mr. MARKEY, Mr. SOLARZ, Mr. HORTON, Mr. HUGHES, Mr. MITCHELL, Ms. MIKULSKI, Mr. MOAKLEY, Mrs. COLLINS, Mr. LELAND, Mr. LEVIN of Michigan, Mr. FAUNTROY, Mr. GEJDENSON, Mr. BERMAN, Mr. WILLIAMS, Mr. TAUKE, Mr. MATSUI, Ms. KAPTUR, Mrs. ROUKEMA, Mr. RANGEL, Mr. MARTINEZ, Mr. SCHEUER, Mr. FEIGHAN, Mr. STUDDS, Mr. TORRICELLI, and Mr. BONKER.
H. Con. Res. 360: Mr. MORRISON of Washington, Mr. GRAY of Illinois, Mr. STALLINGS, and Mr. EDWARDS of Oklahoma.
H. Res. 404: Mr. SCHAEFER.
H. Res. 430: Mr. LELAND, Mr. RANGEL, Ms. KAPTUR, Mr. LEVINE of California, Mr. MARTINEZ, Mr. HUGHES, and Mr. SEIBERLING.
H. Res. 445: Mr. WAXMAN, Mr. SEIBERLING, Mr. LELAND, Mr. RODINO, Mr. LEVINE of California, Mr. CARPER, Ms. KAPTUR, Mr. GEJDENSON, Mr. ROE, Mr. FRANK, Mr. KILDEE, Mr. FISH, Mr. BIAGGI, Mr. ACKERMAN, Mr. WISE, Mr. BORSKI, Ms. MIKULSKI, and Mr. VENTO.
H. Res. 451: Mr. BORSKI.

EXTENSIONS OF REMARKS

MARYVILLE MAKES ANOTHER REBOUND

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. HYDE. Mr. Speaker, on June 22, the Chicago Tribune ran an article by Eric Zorn, entitled, "Maryville Makes Another Rebound." For those unfamiliar with Maryville, it is a century-old home for homeless, abused, and neglected children in Des Plaines, IL. After Boys Town in Nebraska and St. Johns in New Jersey, Maryville is the third largest facility of its kind in the United States. Maryville has weathered many crises in its history that have nearly closed its doors, yet it has always managed to survive. Since 1971, Rev. John Smyth has been Maryville's director and deserves much credit for the home's survival and modernization and, more importantly, for the love and care he is helping to provide thousands of needy children.

I am very pleased to share this article with my colleagues in the House:

[From the Chicago Tribune, June 22, 1986]

MARYVILLE MAKES ANOTHER REBOUND—HOME FOR TOUGH KIDS BEATS ODDS

(By Eric Zorn)

Tough times are no stranger to institutions dealing with tough kids, and Maryville Academy in Des Plaines has seen its share.

The century-old home for 200 abused, neglected and homeless children, the largest of 76 such homes in Illinois, has weathered a near-closing for lack of funds, fires, an on-campus riot between students and members of the surrounding community, a severe reduction in the size of its operation and generations of difficult, often violent youths.

As often as not, when Maryville's name is in the news it's an aside in a story about a former student who has been killed on the streets or committed a crime. More recently, Maryville came up when a former priest and counselor there was convicted of sexually abusing a 14-year-old boy at the school.

"That hurt," said Rev. John Smyth, the former collegiate basketball standout who, as director, saved Maryville from the wrecking ball 15 years ago. "Was I betrayed? Yes. Was I disappointed? Hell, yes. But Maryville will survive."

The most spectacular symbol of Maryville's determination to survive is the annual Chuck Wagon, a picnic that attracts a crowd of 12,000 and features sports and entertainment personalities. It is the state's largest single fundraising event.

This year's Chuck Wagon, to be held next Sunday on the school grounds, at Des Plaines River and Central Roads, is expected to raise close to $1 million of the school's $7 million annual operating budget.

The negative publicity surrounding the molestation charges was ironic in that Maryville has placed an emphasis in recent years on the care, counseling and rehabilitation of victims of sexual abuse, prostitution and child pornography. Such children are frequently housed at Maryville as part of witness-protection programs administered through law enforcement agencies.

"Pimps tell these kids that no one cares for them and no one will take them," said Rev. David Ryan, Father Smyth's assistant. "But we will."

All of Maryville's youths, from runaways to throwaways, reside in "family living" units that consist of eight or nine youngsters and a married couple who act as surrogate parents. Father Smyth, who borrowed the idea in 1979 from Boys Town in Nebraska, uses it to simulate the everyday family life that many of the children have never known.

The house parents, who earn a rather spartan annual salary of $18,000 a couple, stress a combination of academic skills, home economic skills and social skills.

The children learn to cook, sew, shop for food and keep themselves and their clothes clean. They are extremely well-drilled in the art of the firm handshake, and a visitor can get some sore hands on a several-hour tour.

In this regard, the kids are proteges of Father Smyth, the priest whose hands, in their glory days, pushed and shoved under the boards so often that he still claims the Notre Dame University varsity record for fouling out of basketball games.

Father Smyth's hands are gentler today, but nearly as active. When he talks to Maryville residents, he likes to keep one big, friendly hand on their shoulders and the other locked in his grasp. They beam at him in return.

"I look at him as dad," said Sherri, 16, shortly after an informal colloquy with Father Smyth in the hallway of Maryville's high school, "I go to him with school problems, home problems . . . even boy problems. He's great.

Because of parental neglect, Sherri was taken from her family by state officials when she was 7, and she has been at Maryville the last six years. Her last name and those of other state wards are withheld here in accordance with state guidelines.

"We get tons of love," she said. "To me this seems like a normal life, maybe better."

Tom, a 14-year-old drifter from Niles who has been in and out of residential schools, hospitals and shelters since he was 5, says Father Smyth is "a lovable guy" who has taught him that "life is not a bag of cookies, and you need to show some responsibility if you want to get respect."

"It takes a lot of heart to go into something like this," he says. "It's amazing. I mean, he could have been a pro basketball player and he chose this."

Father Smyth's hardwood legacy is well-known around Maryville. A burly 6-foot-5-inch football and basketball standout at Chicago's De Paul Academy, he made the Notre Dame basketball team as a walk-on and became the captain and leading scorer his senior year, as well as making honorable mention All-American.

The old St. Louis Hawks chose him in the first round of the 1957 professional draft, but he decided he had a higher calling. He entered seminary training and, five years later, ended up at Maryville.

The academy then was an aging, prison-like facility that had been totally rebuilt by the Roman Catholic Archdiocese of Chicago after an 1899 fire destroyed all but one building. It housed 1,000 troubled youths in large dormitories that Maryville historians liken to a prison.

In 1971, John Cardinal Cody appointed Father Smyth, then in charge of Maryville's elementary and high school programs, director of the financially ailing academy. He was given a year to turn its fortunes around.

He immediately razed most of the huge, rattletrap dorm buildings and put up smaller, modern residences.

Father Smyth also helped organize an interscholastic sports program with similar child-care institutions. In the program, state championship trophies for sportsmanship are bigger than those for winning games.

The youths who are referred to Father Smyth's care by the state are often violent, troubled children who have been in and out of other homes and have histories of antisocial behavior. The student population is more than half black and Hispanic.

In the last three years, Maryville staff members have applied for workman's compensation benefits more than 75 times as a result of physical attacks by residents. Father Smyth has never been the victim of a beating, as much because of his size as his cleric's collar, though he has suffered three mild heart attacks since coming to Maryville.

In the summer of 1976 when Smyth was away, 10 carloads of young adults from neighboring areas drove onto Maryville's isolated, 70-acre grounds to fight an ugly, racially motivated battle with academy residents. "They were gonna take over," says Father Smyth, "but our kids demolished them."

On Jan. 15 of this year, Robert Friese, who worked at Maryville from 1981 to 1983 and was fired for "erratic" behavior, was sentenced in Cook County Criminal Court to four years' probation for the sexual relationship he had with a boy whom he met at Maryville.

Father Smyth said the academy "acted quickly to remove Friese when it became apparent that he was getting too emotionally involved with the youths" in his charge, though there was no evidence of sexual abuse at the time.

Maryville has come through these and other difficulties and is solvent, independent of Church financing and ranks as the 3d-largest facility of its kind in the country, behind Boys Town and St. Johns, a New Jersey school. It has branched out in recent years and now sponsors a summer camp in Wisconsin, the Paulina House emergency shelter for youths in Chicago and several foster parent training programs.

Father Smyth says his goal is to reduce the statewide population of homeless youths. That population was estimated last fall at 21,000 by a gubernatorial task force, of which Father Smyth was a member.

The task force reported that nearly 7,900 youths had been rejected by their parents, 7,000 had been pregnant and 9,000 had been sexually exploited while on the streets.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"It's a horrible situation," says Father Smyth, drawing deeply on a Marlboro Gold. "Sometimes you hear things so awful you almost have to laugh."

But Father Smyth has never regretted choosing the pulpit over the pros: "Did I agonize over it? Oh, for a moment, I suppose. But I realized in my senior that I wanted something permanent and meaningful.

"And I got it. We're really creating new lives here."

TRIBUTE TO TED KANNER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly exceptional individual in my community, Mr. Ted. Kanner, who will soon be leaving his position as executive vice president of the Jewish Federation Council [JFC] of Greater Los Angeles.

Mr. Kanner began his long record of service with the Jewish Federation Council in 1971 as associate executive director. In 1974, he assumed the duties of executive director and in May 1979 became executive vice president.

His assumption of this top staff executive position with the council crowned a long and distinguished career in Jewish communal service. His professional work with the Jewish community began in Toledo. OH, where he served as youth director of the Jewish Community Center from 1955–57. He then served in Jewish community centers in Chicago and Houston, TX. In 1964, he moved to Tucson, AZ, where he assumed the duties of executive director of that city's Jewish Community Center. In 1966, he became Western States community consultant to the National Jewish Welfare Board, a post he held until his arrival in Los Angeles in 1971.

Even with all the time and effort demanded by these various positions of leadership, Mr. Kanner managed to give generously of his time to help the United Jewish Fund as their campaign director.

The Jewish community is indebted to Ted Kanner for his record of long and dedicated service. It is an honor and a distinct pleasure to join with my colleagues and the Jewish Federation Council of Greater Los Angeles in extending a heartfelt thanks for his commitment to helping others. His contribution to the JFC as executive vice president has been one of extraordinary service.

HIGH-TECHNOLOGY BUSINESS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CONTE. Mr. Speaker, I am pleased to draw the attention of my colleagues to an item concerning high-technology business that recently appeared in Fortune magazine on May 26, 1986.

The article addresses the management style for the future of high-technology businesses that is exemplified by the Pirelli company, which manufactures and installs electrical power and fiber optic cables, as well as manufacturing high-performance tires.

Unlike so many businesses that try to drain American technology from this country, Pirelli continues to make major investments in the United States, where it employs more than 1,100 individuals and where it is in the process of building a new state-of-the-art R&D center. In addition, Pirelli is considering placing the world's largest, most modern submarine cable manufacturing facility in the United States.

The Fortune article follows:

PIRELLI—MANAGEMENT STYLE FOR HIGH-TECHNOLOGY FUTURE

To most people, Pirelli is synonymous with tires. The company does in fact rate fifth in the world as a tire-producer, a climb in a very few years from the eighth place. Its competitive advantage is in specialized products like the "low profile" tires which have allowed Pirelli to increase its volume of sales in the last two years by 20 percent, five times more than market performance. But in terms of high tech, as well as sales, the first place must go to cables, a field in which Pirelli is an unchallenged leader.

Cables are the least visible of products because so often they go underground, underwater, or are concealed in other ways, but even the unglamorous (because invisible) cable is a highly sophisticated product.

Filiberto Pittini, Chairman and Managing Director of the Group management company, Pirelli Société Générale, shows particular pride in the development contract Pirelli has been awarded, to study the feasibility for a 160-mile submarine cable in Hawaii; the cable, at a maximum sea depth of 6,000 feet, is due to connect one island which has the geothermial power, to another which has the population.

Already Anchorage and Vancouver are connected with the mainland by Pirelli cables and so are the two sides of the English Channel. The bright star in the cable firmament though is the infant but highly promising optical-fiber technology. Fiber optics, he says, offer the basis for a whole new concept of cables for communications. They are emerging as the fundamental technology for information transmission systems.

The optical fiber which replaces the copper is a thin thread of glass or plastic which conducts light. Signals sent over the beam of light are purer and cheaper because plastic is cheaper than copper and fewer repeaters are necessary. These delicate threads have led Pirelli to take a new step in the field of technology which goes far beyond the manufacture of optic fiber cables.

"What we are interested in, "says Pittini, "is not just offering a product. Clients want a system which will solve their particular problem. For instance building management is just now becoming very interesting." This move ahead is charted by a pattern of participation in a series of companies able to produce entire systems which make use of fiber optics.

In early 1984, Pirelli took a stake in Litel, then a new company in the United States which aimed at installing and operating a private communication network in the Midwest to transmit economic and financial data. The same reasoning was behind their acquisition of a participation in David Systems and a holding in the British FOCOM, both being products and systems companies working in voice and data transmission for use in factory automation, intelligent buildings security systems and traffic control.

They have taken substantial interests in the French Velec, specializing in image and data communication systems, and in the Italian ITP Automazione, system integrator for factory automation; they have formed Boselli Sistemi, a joint venture with IBM Italy for building management systems. If technology has been the force behind the most recent examples of internationalization, Pittini points out that operations outside Italy practically began with the birth of the company.

And he now sees Pirelli as the most international of Italian companies. They operate in 16 different countries, and 70 percent of turnover is produced outside Italy. "From the beginning," Pittini says, "we wanted to use brains where they were." This outlook brought a characteristic management style. The object is to make nationality practically irrelevant by comparison with ability.

The process of expansion abroad is still going on, with the acquisition in January 1986 of the full control of the Metzeler Group, a German manufacturer highly specialized in rubber and synthetic products. The takeover is part of the diversification strategy of Pirelli which has the aim of strengthening the company's competitiveness in the field of motor industry components.

TERRORISM: A THREAT TO OUR FREEDOM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CRANE. Mr. Speaker, the year 1986 has been one in which great hopes have been expressed by the people of the United States. Our sense of hopefulness was most evident as we recently celebrated the 210th anniversary of our Declaration of Independence. On that day, as a nation, we cast our eyes upward to gaze upon a renewed Lady Liberty and we, too, renewed our dedication to the great principles of freedom, compassion, and peace for which she stands.

Yet there exists a dangerous menace to the liberty which we so dearly love, a menace which throws chains of fear about the hopes of our people. The devilish menace of which I speak is terrorism.

It is an evil enemy that lives in the gutter to strike against innocent women and children. It is a devilish plague which does violence to every civilized norm. It is a challenge to our freedom, to our compassion, our treasured peace, and, sadly, it is a challenge that will not leave us soon.

By killing innocent civilians, terrorists strive to bring attention to themselves. Well, they have our attention now, and I think they will not like it. We will stand by our principles, and we will never negotiate out of fear. Some would have us put aside these principles, stooping to associate with and appease these dogs. On behalf of Natasha Simpson, the 11-year-old girl gunned down in Rome, on behalf of Leon Klinghoffer, the 69-year-old confined

to a wheelchair who was killed and dumped into the Mediterranean, on behalf of Dimitra Stylianopoulos, Maria and Dimitra Klug, all killed by a bomb on a plane over Greece, on behalf of these and other American victims, we must answer, now and forever, "No."

Terrorism is a relatively new weapon in the world. To protect our people, we must develop a means of neutralizing this deadly plague. Therefore, we must learn more about terrorism, we must redouble our efforts to know the enemy, and knowing that enemy, put an end to his terror.

In this regard, a recent editorial by Mr. William McGurn proves to be a valuable tool. In his article, Mr. McGurn has accurately detailed the difference between terrorists and freedom fighters, the difference between legitimate and illegitimate armed struggle. I commend this article to the attention of my colleagues.

[From The Wall Street Journal, June 20, 1986]

TERRORISM CAN BE DEFINED

(By William McGurn)

TEL AVIV.—With its walls lined with row upon row of legal texts and cases, Azriel Barak's office here could be almost any lawyer's office anywhere. Except for a large aerial map of a planned Israeli settlement. This, the elderly attorney explains, is the map his son Uri was carrying when he and his wife were gunned down by an Arab terrorist. Seven years after the murder, the pain is still sharp as Mr. Barak points to pencil marks made on the map by his son just before his death.

That was back on Feb. 27, 1979. On that day 35-year-old Uri and his pretty wife, Hadassah, had driven out to check on the progress of the planned Beit Guvrin settlement. They walked around some, and when they returned to their parked car they were attacked. Mr. Barak shows a visitor the police photograph of the death scene: On the ground next to the crumpled bodies of his son and daughter-in-law lies the rolled-up map.

For people like Mr. Barak the dominant emotion is a profound sense of violation, that some fundamental human norm has been trampled upon. They do not believe it can be explained away by the relativistic cliche that "one man's terrorist is another man's freedom fighter." Although they are frequently unable to explain this in political terms, their gut feeling that terrorists are criminals and not soldiers is supported by centuries of Western thought. It is only because the West has jettisoned its classical understanding of what is and what is not lawful in warfare that it has found itself on the defensive over such issues as retaliation and military aid.

ANYTHING DOESN'T GO

"My son was an officer in the reserves and he fought several times," says Mr. Barak. "Had he been killed in a war I would have felt no enmity toward the Jordanian or Egyptian soldier who killed him. There is the same grief, sorrow, yes. But that is war. This is something else."

That "something else" has occupied Western thinkers ever since the ancient Greeks and Romans grappled with the problems of warfare. From their writings and later those of the scholastics grew the just-war tradition that still later became the basis for modern international law. Overlooked today is that this tradition has a dual nature: It insists on judging a fighter not only on the righteousness of his cause but also on his conduct in battle. The former explains whether the fighter is legitimate in going to war, but the latter is what distinguishes a terrorist from a guerrilla once the fight has begun. Contrary to the cheap notion that "anything goes," our Western ethos imposes limits even in the heat of battle, which is why we can have war criminals on both sides of any war.

You would not know this from the way terrorists fight. In the past several months 11-year-old Natasha Simpson was killed by terrorists at the Rome airport. A 69-year-old American confined to a wheelchair, Leon Klinghoffer, was executed and dumped into the Mediterranean. The trial of his accused killers began in Genoa, Italy, this week. More recently Dmitra Stylianopoulos; her 24-year-old daughter, Maria Klug; and her 8-month-old granddaughter, Dimitra Klug, were sucked out of a plane when a bomb exploded on TWA Flight 840 to Athens. These are just some of a long list of innocent victims whose only link was that their murders were deemed the best way to advance some particular grievance.

Now, critics will charge that it is unfair to bring up such "emotional" cases because when you start putting names and faces on casualties it is almost impossible to defend their murder. This is precisely the point. These same critics prefer to shift the debate to the record of, say, the Israeli army on the West Bank or the British in Northern Ireland, or the casualties resulting from the U.S. strike on terror centers in Tripoli. The result of this shift is that whether you describe such groups as the Afghan resistance, the Nicaraguan contras, the Irish Republican Army or Jonas Savimbi's UNITA as "terrorists" or "freedom fighters" comes to depend on whether you favor a united Ireland, a Palestinian homeland, a free Angola, etc.

Ordinary people, especially those hit by terrorism, have a much sharper view, based on what terrorists do and not why they say they do it. As the word itself suggests, terrorists incite terror in a population. They do this by routinely targeting such enemies as a Ma'alot grade school, a London department store, a Vienna ticket counter, a Belfast pub or any other institution of everyday life. By contrast, populations do not board planes, meet in a restaurants or go to work afraid that they will be targeted by Ronald Reagan, Margaret Thatcher or Shimon Peres.

The best formal definition of terrorism to date incorporating this distinction was given by the Jonathan Institute at a 1979 Jerusalem Conference. "Terrorism," the delegates agreed, "is the deliberate and systematic murder, maiming, and menacing of the innocent to inspire fear for political ends." True, civilians sometimes die even in a justly fought war, and civilians have died and we die in every war. But there is a difference between having them die as an unavoidable side effect of a legitimate attack and targeting them directly and routinely simply because their deaths might advance a cause. Unlike guerrillas, who like the French Resistance during World War II discriminated in their choice of targets, the terrorist strikes at the population at large; the arbitrary nature of the attacks—the idea that the grocer is as much a target as the general—is the source of the terror.

Given that the idea of limits is the basis of all law, it is not surprising to find that terrorism in practice reveals a horrible consistency: Its targets have all been areas of vital importance to the Free World. Theoretically, at least, terrorists could operate in totalitarian regimes (though it would be more difficult). In practice it is otherwise. Bombs do not explode in the cafes of Moscow, Prague or Warsaw—they go off in Paris, New York, Belfast, Jerusalem and Athens. In his book "Just and Unjust Wars," Michael Walzer notes that "terror is the totalitarian form of war and politics." How convenient the marriage between the state without limits and the war without limits.

By rejecting any limits on his behavior, the terrorist makes himself an "outlaw" in the literal sense of the term, and so it is beside the point to try to classify terror organizations as left- or right-wing; we do not ask thieves or murderers whether they are Democrats or Republicans. By the same token it is perfectly reasonable to agree that Ireland ought to be united or the Palestinians have a homeland and yet reject the IRA and the Palestine Liberation Organization, much as we can acknowledge the claim of the poor without sanctioning their right to rob banks.

Our just-war tradition is not a neat formula that yields obvious answers, but it does tell us what questions to ask. Applying its principles to terrorism, we can establish the ground rules for resolving the many related issues that plague policy makers today. If terrorists are criminals who reject all principles save expediency, for example, on what basis can we expect them to honor any agreements, unless we put them in a position where they have no alternative?

SLIPPERY SLOPE

The alternative to the just-war framework is the slippery slope that maintains that because war is so complicated it is impossible to discriminate between combatants and noncombatants. But we do make such distinctions, as hard as they may be at times, for our whole language about what is right and what is wrong depends on some common boundaries. Without these boundaries, the actions of democratic states to combat criminals and the actions of criminals to combat democratic states really do have the same moral status. If the West is ever to defeat terrorism it must first set the stage by defining it clearly, so that people can make the distinction between a criminal act and a legitimate military strike.

"There is a difference," says Mr. Barak, a leather-framed picture of his late son and daughter-in-law visible over his shoulder. For people like the Baraks, the Simpsons, the Klinghoffers, the lesson was delivered in a particularly savage manner. The question is whether Western leaders will take this lesson in time enough to prevent its being forced upon more of us.

YOUTH EMPLOYMENT: HOW TO SECURE AMERICA'S FUTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. RANGEL. Mr. Speaker, I rise to urge my colleagues to give their strongest support to youth job programs, particularly during the summer months when the unemployment rates of inner-city youths skyrockets.

Youth unemployment is a national crisis. Despite the Reagan administration's conspiracy of silence on youth unemployment, millions of youths are unable to find jobs. Many are minorities living in urban areas, and many are high school dropouts. The President has shirked his duty to assist these young people in job training and in job placement.

The costs of youth unemployment are staggering. In New York City alone, losses amount to $300 million in potential economic activity. The rate of youth unemployment in the city is four times greater than the adult rate. This is indeed a crisis, one which demands our attentions.

I urge my colleagues to read the following speech delivered by Dr. Stephen Aiello, chairman of the New York City Youth Board. His analysis is excellent, and is a useful insight into this crisis.

YOUTH EMPLOYMENT: WHAT WORKS

Good morning, ladies and gentlemen. My name is Steve Aiello, chairman of the New York City Youth Board; welcome to this important public hearing on youth employment: What Works.

The New York City Youth Board is charged with the responsibility, of reviewing, analyzing and making policy recommendations regarding programs directed at serving and improving the lives of our young people. The members of the board after serious deliberations, decided that our three major priorities would be: the school dropout problem, health services, and youth employment.

Monthly statistics from Washington, D.C. give us an optimistic view of economic recovery, a nation back at work. But other numbers indicated that depression-level unemployment continues for teenagers and young adults. This is a national crisis affecting millions of young people. But there are some youth who are more at risk—minority youngsters, teenagers living in urban areas, teenaged mothers, high school dropouts.

Unfortunately, the factors that are associated with high youth unemployment are the very factors that describe a growing portion of New York City's youth. They are at-risk of unemployment in their teens and early twenties and at greater risk of employment difficulties throughout their lives, caught in a vicious "Catch-22," unable to get a job because they haven't had a job.

So while nationally the unemployment rate for 16 to 21 year olds is three times greater than it is for adults, in New York City it is four times worse for teens than adults. From the other perspective, the percent of all teenagers who are working in New York City is less than half the national average.

This is a problem that is not only a social and moral burden but a financial hardship as well. Research has shown that by the most conservative estimates, youth unemployment costs more than $200 million annually in transfer payments and lost tax revenues. The city also loses $300 million in potential economic activity. In addition, employment problems of young people warrant our special attention because of long term costs that result from lower employment rates and wages throughout an individual's career.

Youth unemployment is a complex problem. It is the result of a series of inter-related issues. Economic trends, the demand for employees, the size of the labor force, competition for jobs, skills and qualifications of potential workers—all of these play a role. We hope today that our speakers will help to unravel this difficult knot and describe some potential strategies; and programs that work.

New York City is not without its own models and success stories. The mayor and Commissioner Bustelo will certainly describe the most effective programs for us today. The youth bureau also funds many comprehensive youth programs which assist young people to enter the job market. And we are happy to have with us today several directors of successful local programs who will help focus our discussion and lend us the lessons of their experience.

As we have begun to look at the issue of youth unemployment, it has become clear that the answers must evolve from efforts on many fronts. Employment policy is not only a matter of training programs, but one of local economic development as well. Efforts to maintain New York City's competitive edge and to nurture a strong mixed economy will ensure a steady demand for workers at many skill levels.

Youth employment must also be addressed by every level of government. City, State and Federal Governments all have a stake in our young people and a responsibility to assist them to gain employment. No level of government can afford to shift the burden in the long term. Local efforts must also include all public agencies, crossing traditional boundaries and joining the board of education with other mayoral agencies.

Finally, the private sector must do more, in program planning and sponsorship as well as in hiring. The private sector must work closely with Government to explain its needs, advise on program development, and most important, give young people a chance to prove themselves.

I believe that once all of these segments join together, the youth employment crisis will begin to subside in the face of young people's national desire to work. We owe them the support to reach their goal, since we will all gain from the benefits of a more productive society.

As a result of this hearing, the youth board will publish the proceedings and our policy recommendations. Thank you all for joining us and we look forward to hearing your testimonies and discussing this critical issue.

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. LEACH of Iowa. Mr. Speaker, in spite of the welcome release from the Soviet Union this past spring of Anatoly Shcharansky, the grim news is that emigration levels from the Soviet Union are at record lows. For the first 6 months of 1986, only 386 Soviet Jews have been permitted to leave, in stark contrast to the high annual rate of over 51,000 in 1979. And, in spite of Soviet official protestations to the contrary, responsible estimates of those still seeking to leave that country on grounds of religious conscience alone conservatively range from 300,000 to 400,000.

Locked within Soviet borders, the Jewish community continues to face harassment, professional and educational discrimination, officially sanctioned anti-semitism, religious persecution, arrest, and incarceration in labor camps, insane asylums and prisons.

In spite of their commitments and obligations under the Helsinki accords and other international human rights instruments, Soviet authorities continue to deny Russian citizens the basic right to live, worship, and travel freely. Jewish prisoners of conscience and the thousands of refuseniks stand as witnesses to those repressive policies.

Individuals like Aleksei Magarik, Ida Nudel, and Vladimir Slepak are constant reminders of the human suffering Soviet repression has wrought on the Jewish community and the courage with which individuals confront the power of the State.

During this month of July when we as Americans celebrate the panoply of liberties we enjoy, it is particularly appropriate to make whatever modest efforts are possible to hold Soviet authorities accountable for actions which defy internationally recognized standards of human rights and justice.

The Statue of Liberty, whose refurbishing we just noted with such pride and fanfare, stands not only as a beacon of values but as a marker of contrasts. In America we have a profound border problem: too many of the world's citizens want to enter, work and worship in the United States. In the Soviet Union, there is a border problem of reverse dimensions: citizens are clamoring to emigrate, not immigrate.

As we Americans exercise our birthright and criticize our own leaders and our own policies—domestic as well as foreign—this perspective needs to be kept in mind.

The plight of a Soviet Jew is a human tragedy. It is also a benchmark of international relations. Until fundamental rights are granted Soviet citizens, it is difficult to believe fundamental progress can be made in United States-Soviet understanding.

CLARIFYING AMENDMENT TO THE PUBLIC UTILITY HOLDING COMPANY ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MARKEY. Mr. Speaker, I am today introducing legislation to cure an unintended application of the Public Utility Holding Company Act of 1935 [PUHCA]. This legislation will permit the Cabot Corp. to restructure a West Virginia natural gas utility which it owns into a wholly owned subsidiary free of the substantive restrictions of PUHCA. The restructuring is desired by both the West Virginia Public Service Commission and Cabot Corp.

Cabot Corp., is a large, multinational, diversified manufacturer of chemicals, petroleum and synthetic products. Nearly 90 years ago, the company explored for and discovered natural gas in West Virginia to supply its own operations in that State. Cabot's successful gas discoveries provided an excess of capacity, with the excess being sold to the public. Those sales became regulated by the West Virginia Public Service Commission, and

Cabot's public utility division was born. Today, those sales account for just over 1 percent of Cabot's revenues.

By virtue of a joint stipulation and settlement agreement between Cabot and the West Virginia PSC, Cabot will be directed to restructure its public utility division into a subsidiary, an act that would benefit Cabot—which would thereby gain access to the more favorable cost-of-capital advantages typically available to utility businesses, and would in addition be spared the exercise of subjecting all of their books, records and nonutility business operations to the jurisdiction of the West Virginia PSC—benefit the ratepayers of West Virginia, whose rates may be expected to decrease by virtue of the subsidiary's access to these lower capital costs; and facilitate the work of the West Virginia PSC—whose interest in Cabot centers on its utility operations, and not on the corporation as a whole.

Under present law, Cabot's creation of a wholly-owned public utility subsidiary would make Cabot a "public utility holding company" under PUHCA, and therefore subject to the substantive provisions of that act. A holding company which does not qualify for one of five enumerated exemptions from the act must divest itself of all its nonutility holdings. Cabot does not qualify for any of the five exemptions, and would thus be in the anomalous position of being forced to divest itself of approximately 99 percent of its businesses in order to accommodate a law applicable to the remaining 1 percent.

The bill I am introducing today would solve this Hobson's choice by creating a sixth exemption to PUHCA, an exemption that would apply particularly, narrowly and only to Cabot's situation. This bill resembles Senate bill S. 2000, which was introduced by Senators BYRD and ROCKEFELLER at the end of the first session, but it has been fine-tuned so as to make it applicable to a universe of one: Cabot Corp.

I am aware that there have been major initiatives over the past few years to repeal or substantially amend PUHCA. I share the opinion of JOHN DINGELL, chairman of the Energy and Commerce Committee, and of Dick Ottinger, my predecessor as chairman of the Energy Conservation and Power Subcommittee, that PUHCA is a cornerstone of the Federal public utility regulatory code, and that the act's twin objectives of investor and ratepayer protection remain as valid in 1986 as they were in 1935.

I am convinced, however, that Cabot's current predicament is not an intended outgrowth of PUHCA, and that PUHCA's beneficial contribution to utility regulation will not be compromised by the cure I am proposing today. Unlike other initiatives that have been suggested during this Congress, I believe that the Cabot initiative presents a discrete and uncontroversial response to a substantial, but narrow problem. My decision to address the Cabot issue separately is without prejudice to these other initiatives, which are more controversial and will undoubtedly require more lengthy examination in the legislative process.

I hope that the bill I am offering today will enjoy the support of my colleagues in both the House and Senate.

A TRIBUTE TO MR. MERV LEMMERMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Mr. Merv Lemmerman, who will be leaving his position as executive director of the Jewish Federation Council [JFC] of Greater Los Angeles.

Mr. Lemmerman leaves the JFC after many years of dedicated service in a variety of capacities. He started as their director of suburban services in 1974. He then served as assistant executive director for 2 years before assuming his present post in 1979.

Mr. Lemmerman's long and distinguished career in Jewish communal service began while he was still a student at Upsala College. While attending Upsala he was a group worker for children's and youth programs at the Bronx River Jewish Community Center. After graduating he became the director of children's activities at the Jewish Community Center of Trenton, NJ. Mr. Lemmerman went on to serve in leadership positions in Omaha, NE, and later at the Long Beach Jewish Community Center.

During his career, Merv Lemmerman has been the recipient of numerous awards for his dedication and hard work. He was named "Educator of the Year" by the Western Association of Temple Educators and received the Curriculum Award from the National Association of Temple Educators.

Mr. Lemmerman's tireless efforts in working to organize and improve his community are greatly appreciated by all those he has served. I am delighted and proud to join with my colleagues and the Jewish Federation Council of Greater Los Angeles to thank Merv Lemmerman for his fine work and to let him know that his work with the JFC will be greatly missed by all of us.

THE 200TH ANNIVERSARY OF THE DAILY HAMPSHIRE GAZETTE, NORTHAMPTON, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to a milestone of great importance in this Nation's journalistic tradition—the 200th anniversary of the Daily Hampshire Gazette in Northampton, MA.

In 1786, just 10 years after the birth of this great Nation, the first Daily Hampshire Gazette, a four-page edition, rolled off the presses and into one of western Massachusetts' most dynamic young communities. The paper's direction then, as it is today, was one of service to the needs of its readers and an undying commitment to the highest standards of journalistic integrity.

While still a blossoming publication, the Daily Hampshire Gazette brought news to the good people of Hampshire County of the drafting of our Constitution. Later it would document the growth of this young Nation to the west, its quest for independence and its civil struggle to ensure freedom for all Americans.

Through the generations, this publication brought news of two World Wars and the conflicts in Korea and Vietnam. It carried the imagination of western Massachusetts to the Moon with the Apollo astronauts, illustrated the birth of flight at Kitty Hawk and recounted the great triumphs of American adventurers around the world. Just as important, the Gazette chronicled the changing times of western Massachusetts and Northampton as it grew through the 18th, 19th, and 20th centuries.

It is an understatement to say that this paper's contribution has been outstanding. The Daily Hampshire Gazette's history is a living legacy that brings news of national and world affairs to the good people of western Massachusetts while providing the color features, school sports and local happenings that set this small-town paper in a class by itself.

I have relied on the Daily Hampshire Gazette for news of the First District of Massachusetts and know the role it has played in keeping its readers informed and entertained. As a matter of fact, I have two subscriptions; one for my Washington office and one for my district office.

On September 6, 1986, the Daily Hampshire Gazette will mark its bicentennial with a gala celebration including a spectacular fireworks display, a pops concert featuring the Springfield Symphony Orchestra and the premier of a film depicting the publication of a community newspaper.

This fine publication's success bears testament to the diligent work of countless professionals who have worked to make their paper the very best. On September 6, 1986, we will celebrate their efforts and accomplishments.

The Daily Hampshire Gazette has made a tremendous contribution to the great State of Massachusetts and this Nation. That is a commitment we can all be proud of.

Congratulations to Charles and Peter DeRose, the Daily Hampshire Gazette and all its dedicated staff, and good luck with your next 200 years of service.

A ROLE FOR AMERICA IN SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CRANE. Mr. Speaker, this body recently passed H.R. 4868, which carried the misnomer "Anti-Apartheid Act of 1986." A recent editorial in the Wall Street Journal retitled this bill as "The House Blunderbuss." I stand with many Americans in recognizing that the bill this body passed was as unwise as it was well intentioned.

This bill is unwise because it punishes those we seek to help. For the oppressed blacks of South Africa, this bill promises a loss of jobs, economic hardship, and an end to the tremendously positive influence that American corpo-

rations have exercised in black South African communities. The 192 American companies that have subscribed to the Sullivan Principles have already put upwards of $140 million in South Africa for the benefit of black employees, improving education, creating housing, and helping to build strong communities. The legislation passed by this body would prohibit such investments in South Africa's future.

Not only would this bill harm South African blacks by forcing American corporations to cut and run, this resolution lends assistance to South Africa's violent extremists. Mrs. Lucy Mvubelo, the president of the National Union of Clothing Workers, one of the largest black unions, warned us against sanctions. She said:

Those in our country who urge a boycott of South African goods and the disinvestment of Western capital are simply a small fringe of revolutionaries. They realize that the basic conditions from which the revolution can rise do not exist thus the world must create it. Who will suffer? Clearly, the greatest hardship would fall on my people, the black people. They will be the first to lose their jobs. They will be left to die of starvation. They will be the first to be killed in a revolution.

This so-called antiapartheid bill will not help end apartheid; it will hasten bloody revolution. I commend the following Wall Street Journal to my colleagues for their learned attention, and with the hope that this body will avoid assembling another foreign policy blunderbuss:

THE HOUSE BLUNDERBUSS

Rep. Ronald V. Dellums (D., Calif.) declared on "Good Morning America" yesterday that the House vote Wednesday to force a withdrawal of American companies from South Africa "is a shot that will be heard around the world." He is right. The world will certainly take note if the U.S. shoots itself in the foot.

The House has proclaimed that the U.S. has two foreign policies. One is institutional, conducted according to historical practice by the president and his diplomats and based on responsible consensus. The other—the Dellums policy—is countercultural, fashioned out of the exotic politics of the congressman's home district, which includes what has been aptly described as the "People's Republic of Berkeley." National leaders around the world have only to decide which American foreign policy to bet their careers, and maybe lives, on.

Any serious student of American politics would have no problem. The Dellums bill, which requires American companies to be out of South Africa within 180 days, was passed by voice vote in a largely empty House. It probably has gone as far as it will go. But not every foreign leader is attuned to the subtleties of American politics. They may not know that Ron Dellums is a man even congressional liberals try to keep on a short leash. And they may think it important when far more powerful legislators, such as Tip O'Neill, lend their imprimaturs to Mr. Dellums' handiwork for purposes of domestic politicking.

It is precisely because a foreign policy to be effective must command trust that constant meddling by the House's left wing weakens U.S. influence abroad. That is sad, because on the whole U.S. influence is a positive force. There is no longer any serious argument within the U.S. polity over race relations. Ronald Reagan has declared for a colorblind society. The U.S. "constructive engagement" approach toward South Africa had, until recently, helped move that country toward more liberal polices. Responsibile black leaders in both the U.S. and South Africa have testified that American corporations have aided, not hindered, liberalization. They have promoted an understanding, which has been accepted by most white South Africans, that the country cannot develop industrially without moving blacks, "coloreds" and Asians into higher skill and managerial jobs. It is this positive force that the Dellums bill would withdraw, and at a time when the South African government, faced with organized violence in black communities, may once again be developing a siege mentality.

Aside from the sensitive politics of trying to persuade the goverment of a multiracial, multiethnic, multitribal society to give greater social, economic and political equality to all the peoples within its borders, U.S. policy cannot ignore yet another ominous fact. There are powerful forces in the world that seek a failure of the efforts of the U.S. and other Western nations to promote peaceful social and political development. The Soviet Union beams propaganda to South African blacks, much of it vituperative toward moderate black leaders, from transmitters in Ethiopia. The African National Congress, which has taken credit for some of the most serious violence inside South Africa, has Soviet links.

As with all Soviet-backed movements, the black revolutionary forces in South Africa pursue their aims by politicizing youths and stirring up violent conflict. Sometimes the conflicts are tribal, having nothing to do with black-white issues, but nonetheless creating instability. A very high percentage of the victims of violence in South Africa have been blacks killed or maimed by other blacks. Often the targets are moderate blacks who want a peaceful and not a bloody solution to the country's conflicts.

If the U.S. forced private American corporations to withdraw from South Africa it would signal that democratic capitalism, although at the center of U.S. efforts to promote world economic development, does not have firm U.S. support when the chips are down. That is hardly the message the U.S. wants to give to national leaders in places such as Brazil and Argentina who have linked their futures to democracy and the promotion of greater private development. A U.S. flight from any responsible role in South Africa would be a blow as well to such sturdy allies as Margaret Thatcher, who has been resisting leftwing pressures from within the Commonwealth and her own Parliament to impose harsher sanctions.

It may be some weeks before Congress again confronts the South Africa issue. We hope that meanwhile members will give some serious thoughts to their responsibilities. Do they want a foreign policy that seeks to promote constructive solutions to intricate political problems around the world? Or do they want a scorched-earth policy attuned to the objectives of the international left? The wrong choice will be expensive in human lives.

IRRESPONSIBLE SPENDING MUST STOP

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DENNY SMITH. Mr. Speaker, last week the House approved $12.2 billion in spending for the Departments of State, Justice, and Commerce. Although the bill, H.R. 5161, contained funding for many necessary programs, it also contained such blatantly irresponsible spending that I was compelled to vote against it.

Voting against legislation such as this is never easy, especially given the fact that funding for some very important programs are included within this bill, especially those dealing with drug enforcement. Members such as myself—who are concerned with responsible Federal spending—are tempted to vote for bills like H.R. 5161 because of these good provisions. The spendthrifts of Congress know this, so they package the bad with the good.

The Congress took a major step in the fight to reduce the Federal deficit last week by approving the cuts mandated by the Gramm-Rudman provisions. The budget came in almost $2 billion under the mandated figure of $144 billion. Yet, even with this bill, we have gone back to the business-as-usual approach to budget balancing, and, as usual, the taxpayer is the loser.

My major reason for opposing this legislation is the fact that this bill, as it was approved by the Appropriations Committee, was $1 billion over the outlay target set by the budget resolution, Senate Concurrent Resolution 120. The adoption of Representative FRENZEL'S amendment cut that figure in half. The supporters of this bill argue that $500 million is only a small percentage of our $142 billion deficit, and even less when compared to our $2 trillion national debt. It may be peanuts to the big spenders in Congress, but that type of thinking is what has devastated our economy over the last 50 years.

In the era of Gramm-Rudman, most Federal offices—including my own congressional office—are tightening fiscal belts. Yet, this bill contained high-priced items that did nothing but bust the budget. Money that was ticketed for tightening Embassy security would actually go toward the building of palatial facilities. According to some sources, furniture for these new buildings could run as high as $100 million. I can only assume the intent of that item was to provide security for our diplomatic corps by putting up a barricade of chaise lounges and sofas and chasing off intruders with throw pillows.

Other unwarranted expenditures include: $10.4 million for the U.S. Travel and Tourism Administration; $4.8 million for the Soviet-East European Research and Training Fund; and $2 million for bilateral science and technology agreements with Yugoslavia.

Mr. Speaker, it is time for the Congress to start reprioritizing what we stand for. As a nation, we can no longer afford to let irrespon-

sible spending decisions sneak through in this fashion. It is much better to defeat a bill that contains unnecessary spending and unwise decisions, and then return with a clean bill that addresses the legitimate, important concerns of this country, including the concerns of continuing Federal deficits.

NEED FOR LOCAL ANTITERRORISM PLANNING

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SMITH of Florida. Mr. Speaker, last year, I introduced H.R. 3712, the Local Anti-Terrorism Planning Act.

The original bill authorized local antiterrorism planning grants to be made through the discretionary portion of the Justice Assistance Act. The more I considered the need for this legislation, the more I became convinced that more States and units of local government should be eligible for these planning funds.

Therefore, when the Subcommittee on Crime marked up its antiterrorism proposal, I offered an amendment to establish a new paragraph 19 in the basic justice assistance law. Under the amendment, States and local governments could use justice assistance funds for "developing and implementing antiterrorism plans for deep draft ports, international airports, and other important facilities." The subcommittee adopted my amendment, and it is now part of H.R. 4786, the Antiterrorism Act of 1986.

I broadened this category for two reasons. First, my original bill called for a limited number of planning grants. It anticipated that these plans could then be modified by other localities. Second, by placing antiterrorism grants in the general justice assistance section, I thought it proper to permit every locality with a port and airport to use its justice assistance funds for antiterrorism planning.

As with H.R. 3712, existing funds under the Justice Assistance Act would provide the funding, and no additional money would be requried.

The need for this type of legislation has been reinforced by a recent panel report from the Center for Strategic and International Studies of Georgetown University entitled "Combating Terrorism: A Matter of Leverage." The panel, chaired by Robert Kupperman, discussed both domestic and international terrorism. Among its recommendations, the report states that—

[a] combined federal-state-municipal government program should be initiated to catalogue and analyze national infrastructure vulnerabilities and implement a combined program to enhance key infrastructure node security.

Enhancing infrastructure security is precisely what my proposal seeks to do. Let me illustrate my point by looking at Broward County, FL. We also have within a few miles of each other in Broward County a major airport and deep water port, electricity generators, and storage facilities for most of the fossil fuels consumed in south Florida. This region also contains many refugees and emigres, some of whom might support terrorists or provide safe haven for terrorists. Because of the combination of people and potential targets, this region must rank high as a potential target for terrorism. This, in turn, poses a definite problem for law enforcement.

The Broward sheriff's office [BSO] is but one of three police agencies and two separate security forces that have jurisdiction over these facilities. Rather than having to deal with a terrorist threat in a reactive manner, BSO would like to expand the services it already provides to create a proactive deterrent to any terrorist threat.

This is a necessary local attempt to solve what is a national problem. Properly implemented and supported this program could be expanded to create a plan that would deter terrorism in Broward County.

Other parts of this country may be vulnerable to terrorist threats because of the public facilities they contain. We should provide assistance to those localities that want to deal with potential terrorist threats.

In analyzing the Federal approach to domestic terrorism, the Georgetown report noted that "poor organization can impede progress on the counterterrorism front." The key questions were how to deal with the threat and how to coordinate capabilities to deal with changing situations.

Although this portion of the Georgetown report was talking about Federal agencies, the same problem affects local law enforcement agencies and governments. Here the report notes that:

Coordination between federal and local law enforcement officials, particularly in protection of vulnerable intrastructure, offers some intriguing possibilities. Each vulnerable [infrastructure] node is located, after all, in a specific jurisdiction, under the authority of some local, state, or regional agency. What might be proposed is an 'Adopt-a-Node' program whereby local officials accept as a regular obligation the protection of vital infrastructural installations.

The report then mentions my original bill along with the Joint Terrorist Task Force organized by the FBI and the New York City Police Department.

Mr. Speaker, if we are to protect this country from the threat of terrorism and its aftereffects, then our policy must be proactive rather than reactive. I do not claim that my proposal is the only way to go. As the Georgetown report noted, "There is no inherent constraint to extending the scope of such a program to include key power transformers, oil and natural gas, pumping stations, and critical transportation nodes." I am perfectly willing to support the expansion of my proposal to include these facilities.

The point is, Mr. Speaker, that by passing my proposal we at least will be doing something now—while we still have the time to plan.

KILDEE RECOGNIZES MARY ELIZABETH WALWORTH'S ACCOMPLISHMENTS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. KILDEE. Mr. Speaker, I would like to ask my colleagues to join me in recognizing and congratulating Mary Elizabeth Walworth, of the 7th District of Michigan, for her academic achievements.

Mary Walworth, with diligent studies and extraordinary insight, has gained the degree of Master of Arts and Sciences in Teaching of the Hearing Impaired from the Gallaudet College of Arts and Sciences. Her commitment to her studies and devotion to the guidance of the hearing impaired allowed her to complete a research paper titled, Short-Term Memory Encoding In Deaf Children Who Used Cued Speech. The research paper earned Mary Elizabeth the prestigious Graduate Student Research/Writing Award from Gallaudet.

This award is granted to a student who, during his or her graduate studies, has written a paper that constitutes an outstanding scientific or professional contribution to the field of deafness. Mary Elizabeth Walworth has made such an outstanding contribution.

I ask all of my distinguished colleagues to join the Gallaudet College of Arts and Sciences and me in recognizing Mary Elizabeth Walworth for her outstanding contributions to the field of addressing the problem of deafness.

DOUGLAS HODGE HONORED AUGUST 3, 1986

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. LEWIS of California. Mr. Speaker, I would like to take this opportunity to pay tribute to a truly remarkable young man, Douglas Hodge, of Alta Loma, CA. Doug will be honored along with those students in the Citrus Community College Singers who have completed the 3-year program.

After having ably served as student director for the singers, Doug decided to temporarily postpone his promising career in the entertainment industry and complete his education. He will be starting his junior year at California State University at San Bernardino this fall, and work toward a B.A. in communications with an emphasis in creative arts management. In addition to these fine endeavors, Doug has made the admirable commitment to pay for his own education.

Doug graduated from Alta Loma High School in June of 1983, in the top 7 percent of his class. As the school's first sophomore to be promoted from the A cappella choir to the top ranked 16-member choral group, the Alta Loma Chamber Singers, Doug later qualified for the Bel Canto Award, which is the honor given to the top singer in the school's

music department. A leader as well as a fine singer, Doug was elected president of the A cappella choir his senior year.

In addition to a full-time academic program aimed at acquiring an associate arts degree in music at Citrus Community College in Glendora, CA, he achieved acceptance into the school's prestigious Citrus Singer program. This outstanding group performs at the professional level, entertaining audiences worldwide with musical performances of both classical and popular songs and dances. Doug has performed in over 100 shows per year over the last 3 years, and I must express that his long hours of hard work and his dedication to his performance deserve our commendation.

Doug's discipline and his firm dedication to the importance of a good education allowed him to obtain his associate degree in only 2 years, even though the Citrus Singer program is usually completed in 3 years. Very few singers in the 17 year history of the group have realized such an acheivement.

Although Doug has been well occupied by the pursuit of his goals, he has volunteered his time to his alma mater, Alta Loma High School, teaching dance routines, designing sets, and helping students in the musical department prepare for various musical competitions and for their spring concert which he produced and directed.

Mr. Speaker, I ask that you join me, my colleagues and Doug's proud parents, Mr. and Mrs. Hodge, in honoring this fine young man's outstanding achievements and talent. I am very proud to recognize Douglas Hodge, indeed an outstanding example of dedication, talent and generosity.

CONGRATULATIONS TO HONDA OF OHIO

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DEWINE. Mr. Speaker, today the first American-made Honda Civic will be driven off the assembly line in Marysville, OH. I would like to take this time to recognize the employees of Honda of America who have worked hard to ensure the success of the first Japanese car manufacturer to locate in the United States.

As a result of their commitment to excellence, Honda has expanded the Marysville plant to produce the Civic line in addition to the original Accord.

Following is a message sent today to be read at a ceremony marking this occasion:

SHOICHIRO IRIMAJIRI,
President, Honda of America,
Marysville, OH.

DEAR MR. IRIMAJIRI AND ALL HONDA OF AMERICA EMPLOYEES: I am pleased to send my best wishes to you today as Honda of America begins production of American made Honda Civics.

Your hard work at Honda has enabled the company to expand and develop widely in central Ohio. We welcome this commitment to our community.

Congratulations to all of you who have helped make Honda of America successful.

PROTECT OUR INFRASTRUCTURE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MCEWEN. Mr. Speaker, on July 10, the Washington Post carried a brief story that I am sure many of you noticed with a mixture of amusement and disbelief. The day before, a fellow Ohioan had seemingly been swallowed by the highway on his way to work. In what is surely one of the largest potholes in history, a 50-foot section of road had fallen a full 25 feet. After the driver had crawled out of the hole with the aid of a ladder, he had to wait an entire day before his car could be retrieved from the crater.

Fortunately, no one was hurt, and the incident will be remembered only as an entertaining news feature. Nonetheless, the episode provides us with a shocking and graphic image of the decay of many of our Nation's roads.

The money for the maintenance and improvement of our Nation's highways, as well as that for the air and waterways, is supplied by a 100-percent user fee funded trust. Despite the fact that the Budget Act provides for different arrangements, these transportation trusts are included in the unified budget. As a consequence, the taxes our constituents pay specifically for highways are frozen and limited in the budget while key long-term projects go unfunded.

In order to prevent a similar tumble for your voters, I invite you to join in cosponsoring H.R. 4344, which I introduced in March of this year, to remove the highway, airport and airways, and inland waterways trust funds from the unified budget.

With your support, we can provide for the safe and efficient infrastructure this country demands.

A TRAGIC SITUATION IN LEBANON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DORNAN of California. Mr. Speaker, the situation confronting the Christian community today in Lebanon is extremely precarious. The civil war that has raged throughout Lebanon for the past 10 years—a civil war which has its roots dating back several centuries—has left Lebanon a fragmented, chaotic land ruled by the gun, not the law.

Although the fighting has touched every religious and ethnic group within the country in an adverse way, the Christian community has suffered tremendously at the hands of Muslim miltiamen and Palestinian terrorists. There are now over 478,000 Christian refugees of a total of 1½ million Lebanese Christians; 4,460 Christians killed; 202 Christian villages razed; and almost 400 schools and hospitals destroyed.

Much of the trouble besseting the Maronites and other Christians has occurred in south Lebanon, where the Christians have established a thin buffer zone called Free South Lebanon. The population of this buffer zone has been swelled by Christians streaming in from their historic towns and villages along the west coast of southern Lebanon near the cities of Tyre and Sidon, driven there by heavy fighting over the last decade involving Shiite, Druze, and Palestinian guerrillas.

This security zone has helped to stabilize a region that has proven in the past to be a serious flash point for Israeli-Arab hostilities. The UNIFIL force comprised of United Nations troops based in the south has proven to be of marginal effectiveness. Even though I support their continued deployment in the region, the Christian security zone now in existence has proved capable of stemming Palestinian and radical Shia infiltration into the buffer zone as well as rocket attacks on northern Israel. Therefore, the Christians remain a key element in reducing the ever-present cycle of violence seemingly endemic to the region.

Lebanon's long civil war threatens to destroy a once great country and its pluralistic tradition as a home for religious minorites and a refuge for persecuted people. We cannot allow this to continue.

The Lebanese forces has offered a proposal for national dialogue stressing Christian principles and reflecting the sociopolitical reality of current-day Lebanon. The proposal renews the call for an unconditional and unrestricted inter-Lebanese dialog between Christians and Moslems devoid of any outside interference. The Lebanese forces realizes correctly that violence will not solve anything. Further fighting will only make more difficult any chances of reaching an agreement. Dialog must take place soon toward a comprehensive and durable solution based on Lebanon's independence, territorial integrity, and plurality for all its people before it is too late to return Lebanon to its former glory.

A TRIBUTE TO AUDRAIN COUNTY

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. VOLKMER. Mr. Speaker, I would like to take this opportunity to congratulate Audrain County, MO, in this the year of its Sesquicentennial. For 150 years, Audrain County has played a substantial role in the development and growth of the State of Missouri.

Audrain County became the State's 52d county on December 17, 1836, named in honor of Col, James Audrain of St. Charles County, MO, then a member of the Missouri Legislature. The first session of the Audrain County Court was held on February 6, 1837, Judges James Harrison, James Fenton, and Hezekiah Doan presiding. Mr. Joel Haynes was appointed the first county clerk. From an original five townships—Saling, Wilson, Salt River, Prairie, and Loutre—Audrain County soon grew, in time adding the townships of

Linn, Cuivre, and South Fork. The city of Mexico now serves as county seat.

Over the course the past 150 years, the people of Audrain County have always contributed their leadership, service, and efforts in numerous ways to promote a better quality of life for fellow Missourians. Two Audrain Countians have served as Governor of the State of Missouri, and many other Audrain Countians have distinguished themselves in various fields of governmental endeavor.

The numerous outstanding achievements of the people of Audrain County figure prominently in the history of the State of Missouri. Audrain County's proud heritage deserves to be remembered by this and succeeding generations of Missourians and their fellow countrymen. Mr. Speaker, it is with great pleasure that I present this tribute to Audrain County. I can personally attest to the strength of character and nobility of purpose of the people of Audrain County, and it is with a feeling of deepest appreciation that I rise today to pay tribute to the memory of Audrain County's past, and wish the people of Audrain County success and happiness in all the endeavors they may undertake in the future.

MFN STATUS FOR ROMANIA

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SCHULZE. Mr. Speaker, in the past, I have been a critic of granting Romania most-favored-nation [MFN] status because of the Romania Government's blatant disregard of basic human rights and its refusal to allow its prople to freely emigrate. Today, I join my colleagues in protesting the Romanian Government's continued poor record on human rights, particularly its inhumane treatment of the national minorities in Romania.

On June 10, the Subcommittee on Trade held hearings on this very topic, which provided me an opportunity to examine, once again, the human rights situation in Romania and its relationship to the United States renewing MFN treatment for Romania. The result of these hearings was to confirm my fears that there has not been significant change in Romania to justify renewal of this country's MFN status.

Indeed, emigration from Romania has not increased substantially and individuals desiring to emigrate continue to experience undue hardship, discrimination and are, in effect, ostracized by their government. In addition to emigration, the government's lack of respect for the religious freedom of its citizens was highlighted by stories of churches being destroyed and of toilet paper being made out of Protestant bibles.

Unfortunately, during the hearings little emphasis was placed upon the persecution of the national minorities in Romania, an Issue which is known to us through the efforts of several American Hungarian organizations, but particularly through the American Hungarian Federation, represented by Dr. Michael Szaz, who has been in touch with me on this problem for many years.

The national minorities number about 3.3 million people in Romania, of which 2.5 million are Hungarians. These minorities have been increasingly oppressed since 1958, and this oppression has increased significantly since 1982. Hungarian writers and other intellectuals, who dare to exert freedom of speech and voice the smallest criticism of the government, are being severely mistreated. They have lost their jobs, have been physically harrassed by the secret police and are unjustly imprisoned. The result has been increasing discrimination and lack of tolerance for ethnicity.

The maltreatment accorded by the Romanian Government to the national minorities, such as the Hungarians, in combination with other blatant abuses of human rights, should cause the United States to seriously question the righteousness of renewing MFN status for Romania. Instead, it would be more in line with everything America stands for to deny MFN treatment for Romania until the Romanian Government demonstrates that it will respect the basic human rights of all Romanians, including the Hungarian minority.

THE CONDITION OF THE WORLD ECONOMY

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SILJANDER. Mr. Speaker, I recently had the privilege to read a speech by Arthur Burns on the state of the world's economy.

Arthur F. Burns has served as Chairman of the Board of Governors of the Federal Reserve System and as U.S. Ambassador to West Germany. He is currently the SEI Distinguished Scholar-in-Residence. This paper was presented under the sponsorship of Soochow University in Taipei on March 31, 1986. It draws in part on the author's monograph, "The United States and Germany," recently published by the Council on Foreign Relations.

I commend the text to my colleagues:

THE CONDITION OF THE WORLD ECONOMY

(By Arthur F. Burns)

In one country after another across the globe, people are awakening to the power of economic freedom to foster rising living standards. This is the most fundamental and most promising international development of recent times.

A generation ago Chairman Khrushchev announced that by 1970 the level of per capita production in the U.S. would be overtaken by the Soviet Union. This prophecy has turned out to be a phantasy. The United States, instead of falling behind, entered the 1970's with a commanding lead over the Soviet Union, and its lead has become larger over the past ten years. In 1975 per capita output in the United States was about double that of the Soviet Union. Five years later, our margin of superiority became about 115% and last year it reached almost 120%. And when we turn to the Soviet satellites in Eastern Europe, we find that the gap between their economic performance and that of our capitalist America has become even larger than the Soviet-American gap.

The leaders of the Soviet Union are well aware of the superior performance of the American economy, particularly our advances in high technology—in microelectronics, telecommunications, office automation, genetic engineering. They fear that they cannot keep up with the innovative technology of the United States in the field of armaments—to say nothing of the civilian sector of the economy. That is undoubtedly why they have become more interested in reaching an arms agreement with the United States.

The inefficiency of the Soviet system has long been known to Western economists—for that matter to Soviet economists as well. The guidance that producers in a free-enterprise economy derive from the behavior of costs and prices in the marketplace is absent in the Soviet Union. As a result much economic effort ends up in shoddy output or sheer waste.

It is significant that Mr. Gorbachev, the new leader of the Soviet government, is aware of these deficiencies in the Soviet system. In addressing the Communist Party's Congress this February, he called attention to the poor performance of many key industries in the Soviet Union and to the appreciable decline in its over-all rate of economic growth. Nor did he stop there. He went on to proclaim that prices should reflect consumer demand as well as costs of production, that central planning should be reduced, and that production should be encouraged through economic incentives. He even urged that some private enterprise be allowed in the service sector.

The Soviet leadership has been influenced by the extraordinary economic advances of Japan, Taiwan, and the other free-enterprise countries of Eastern Asia as well as by the dynamism of the American economy. What has been happening in communist China has also caught their attention as it has of economic observers throughout the world. Under the bold leadership of Deng Xiaoping, China has recently been put on a path toward freer markets. Instead of working on state or collective farms Chinese tillers of the soil are now working for themselves and reaping handsome rewards in the process. Small private businesses are also permitted, particularly in the service sector, and foreign investment is being encouraged. The response of industry and agriculture to the partial economic freedom that mainland China now enjoys has been so impressive that even Soviet ideologists have apparently begun to think seriously about relaxing central planning.

A significant rethinking of economic policy is also under way in Western Europe. Unlike the communist states, where the government owns and operates most of the means of production, the countries of Western Europe continue to rely largely on private enterprise. They have, however, imposed extensive governmental intervention on their economies and this has sapped their vitality.

European citizens who have visited the United States in the past few years often carry back tales of wonder at the dynamism of our economy. There is ample reason for their spirited reaction to the American scene. Since November 1982, when the recession then under way reached its lowest point, over nine million jobs have been added in the United States. In most of Western Europe, on the other hand, employment has hardly changed despite the recent pickup in over-all production. And the contrast between the United States and West-

ern Europe becomes still more striking when we take a longer view. Between 1970 and 1985 the number of gainfully employed individuals increased by over 28 million in the United States, while it hardly budged in Western Europe.

The erosion of economic dynamism in Western Europe has many causes. Important among them were the two oil shocks of the 1970s, which exacerbated inflation and checked economic growth in the international economy. But the major factor that weakened the European economy did not derive from any foreign source; it originated within Europe itself.

Social welfare programs, which had gradually expanded in Western Europe during the immediate post-War decades, took a sharp upward spurt after 1970. Besides old-age pensions and unemployment insurance, they eventually embraced programs dealing with many other vicissitudes of life. Nor did the scope of the welfare state stop with individual or family concerns. It also came to include special benefits to business firms or industries that happened to be ailing or that otherwise were deemed worthy of encouragement.

This flowering of the welfare state brought many benefits to Europe's increasingly impersonal and industrialized society. But by carrying welfare programs to excessive lengths, the governments of Western Europe weakened their economies. In Germany, government spending already constituted about 38 percent of its gross national product in 1970. By 1982, the enormous expansion of the welfare state brought government spending to 50 percent of the gross national product. A similar explosion of outlays on welfare programs occurred throughout Western Europe.

Not surprisingly, the expansion of the welfare state has been accompanied in Europe by profound changes in labor markets. Trade unions became increasingly powerful and drove up wages. Government regulations added further to business costs and reduced the ability of business firms to respond to changing market conditions. Moreover, the vast "social safety net" led to sharp increases in business taxes. The inevitable result was a deterioration of profits. During the 1970s the trend of profits declined throughout Western Europe.

The rapid expansion of the welfare state after 1970 thus became a dominant force in the economic malaise of Western Europe. Labor's share in national income rose substantially and that of investors kept shrinking. Annual increases in business capital investment became generally smaller. A large part of the capital investment that took place was directed at reducing the need for overpriced labor; productivity gains benefited from the substitution of capital for labor, but still slowed down. Declining rates of economic growth became general. Governmental budget deficits accompanied growing tax burdens. Unemployment rose along with the rate of inflation. And while the rate of inflation has slowed down in most parts of Europe since 1980, unemployment still appears to be increasing in Western Europe taken as a whole.

The United States has not escaped either the benefits or the burdens of the welfare state. Our country was spared, however, the European excesses. Social welfare programs were not carried nearly as far as in Europe. To be sure, unemployment and inflation also marked the American scene; but trade unions never attained the power exercised by their European counterparts, and governmental benefits for the unemployed remained relatively restricted—both in amount and duration. The level of real wages in the United States was virtually stable during the 1970's; and while unemployment tended to rise, it remained preponderantly of short duration, and therefore was less serious than the long-term unemployment that afflicted Europe. Moreover, the over-all tax burden in our country rose little during the 1970s, while it climbed rapidly in Europe. In fact, the tax burden on American corporations actually declined, and—more important still—the rate of return on invested capital stayed well above European levels. The spirit of risk-taking and entrepreneurship has therefore remained alive in our country.

The entrepreneurial spirit is less firmly implanted in Europe—not only because of the factors I previously mentioned but also because European investors are more fearful of failure and therefore less inclined to take risks. This is a major reason why Western Europe has been so deficient during the past ten to fifteen years in creating new jobs.

When the focus of comparison is shifted from the United States to Eastern Asia, the shortcomings that have marked the European economy in recent times become more glaring. The people of the free-enterprise countries in Asia—Japan, Taiwan, South Korea, Hong Kong, Singapore, Thailand—are still accustomed to hard work. With the exception of Japan, they know little about social welfare benefits. Taxes have been relatively low, trade unions have been weak, profits have tended to be high, job opportunities have been ample, and the standard of living has kept rising. This, indeed, is the region where economic incentives have propelled economic growth to a faster rate during the past decade than is found anywhere else in the world. To be sure, the growth of the free-enterprise area of Eastern Asia has slowed sharply in the past year; but this appears to be a temporary setback.

Within the past two to three years Europeans have become increasingly aware of the contrast between their circumstances and those of the more dynamic economies of the United States and Eastern Asia. This has led to intensive self-examination which is beginning to bear fruit.

Let me mention a few recent developments. The German government, having made good progress in reducing its budget deficit, has just put into effect a tax reduction of moderate size and has committed itself to a further reduction in 1988. Britain has "privatized' much of the government's equity in industry, and the new government in France is moving in the same direction. Italy has weakened the automaticity of cost-of-living increases in wages. Germany has extended from 6 to 18 months the period for which employers can hire workers without a commitment to retain them. And several European countries have increased the incentive of workers to find jobs by reducing unemployment benefits to some degree.

These small but promising steps illustrate current European striving for freer markets and strengthened economic incentives. It is also important to note that Europe has become skeptical about Keynesian remedies for unemployment. Keynesian policies of easing credit and running governmental deficits became popular in Europe as well as in the United States after World War II. These policies worked remarkably well for many years; they contained, however, the seeds of their ultimate destruction because of their release of inflationary forces. By now, Keynesian policies are in general disrepute both in Western Europe and the United States.

The disillusionment with the promises of welfarism, Marxism and Keynesianism has not been confined to the regions of the world on which I have dwelt. It has tended in fact to spread across much of the globe. Rapid advances in communications, transportation, and technology are widening the range of political and economic choices available everywhere. Misinformation, to be sure, often accompanies truth, but cannot obliterate it. Knowledge is thus spreading even in countries where governments try desperately to suppress it.

Indicative of the spirit of our times is the remarkable turn to democracy in South America. Over 90 per cent of the population in that continent is now living under civilian and constitutional regimes. Many of today's democratic leaders in Latin America recognize that state enterprises are generally less resourceful than private firms and that market mechanisms channel resources more efficiently than political mechanisms. In Mexico President de la Madrid has been moving to lessen the dominance of government in the operations of the economy. Chile has turned over to private hands many of its financial and industrial enterprises. The new President of Brazil, Mr. Sarny, recently declared that "leadership of the economic development process should now pass to a private sector freed from the shackles of statism." In keeping with that principle, he is now involved in extending the trend toward privatization that had been initiated by his predecessor.

The subcontinent of India, where extensive socialist planning has long been an exalted tradition, has begun changing some of the practices that hitherto restricted its economic progress. The earlier concentration on massive state enterprises for producing steel, cement, and coal has been abandoned. Encouragement of agriculture has taken its place. Industrial production is also flourishing in response to lower taxes, the removal of some burdensome regulations, and more liberal policies for handling imports and foreign investment.

Even in Africa, where socialist thought and practice became dominant once colonialism collapsed, new intellectual currents are stirring. At a meeting of the Organization of African Unity last July, the assembled heads of state stressed Africa's miscalculations by acknowledging that "the primacy accorded to the state has hindered rather than furthered economic development." In line with the new way of thinking, many African governments are reducing reliance on price controls and subsidies, and are seeking ways to close or sell state-owned enterprises.

The recognition in so much of the world that a system based on relatively free markets and individuals incentives can foster economic growth and the general welfare more effectively than a governmentally dominated system presents a unique opportunity to the leadership of the industrial democracies. Although thinking along Marxist, Keynesian, and welfare-state lines is still very much alive, its influence in the world will continue to diminish if the countries practicing free enterprise, as well as those feeling their way in that direction, remain successful in their endeavors.

Every country in the world can contribute to a healthier international economy, but

the greatest contribution must come from the foremost capitalist nation—the United States. The enormous fiscal deficits that our country has been running in recent years serve as a poor example for the rest of the world, besides endangering our own economic future. By proceeding resolutely to reduce its projected budget deficits, a larger part of America's savings would become available for private investment, fears of inflation would lessen, and real as well as nominal interest rates would extend their recent impressive trend toward lower levels. Fortunately, the United States is moving—not yet decisively enough, but still moving—toward restoration of fiscal discipline. The legislation passed by the Congress last year assures significant reductions in the Federal deficit, and further progress is likely this year.

Western Europe can also contribute to its own economic improvement as well as the strengthening of the international economy. West Germany, in particular, is in a favorable position to foster more rapid economic expansion and thus bring down its disconcertingly high unemployment as well as contribute to the growth of the international economy. Germany's inflation rate is virtually down to zero. Its fiscal deficit is one of the lowest in the world. Its government is controlled by conservative parties. These are nearly ideal conditions for removing bureaucratic obstacles to enterprise and innovation, for reducing taxes faster than now contemplated, and for lowering interest rates.

Japan is another country in a good position to play a significant role in the reinvigoration of the international economy. Its inflation rate is among the lowest in the world; the surplus in its current account on international transactions exceeds that of any other nation; and its fiscal position has improved in recent years. Japan's unemployment rate, to be sure, is low; but the rate of growth of its economy has recently declined sharply. There is much that Japan can do to stimulate its domestic economy—particularly in the fields of housing, highways, and other parts of its infrastructure.

The recent reductions of the discount rate by Germany, Japan, France, The Netherlands, and the United States are a welcome development for the world economy, and so too—on balance—is the drastic decline in oil prices. However, some countries—particularly Mexico and Nigeria, which had been in financial trouble before the break in oil prices—now find it more difficult to handle their burden of indebtedness to the outside world. They and other heavily indebted countries are badly in need of help. Recognizing the threat that their financial straits pose to their political stability as well as to the international financial system, Secretary Baker presented a plan of financial rescue at a joint meeting of the International Monetary Fund and the World Bank last September. The Baker plan has by now received sufficient international support to make possible its practical implementation.

The prospect for growth-oriented policies is thus improving for many of the less developed countries as well as for the major industrial countries. The pursuit of sound growth policies in both groups will reinforce the forces of political and economic freedom which have been gathering around the world. There remains, however, a serious cloud on the international horizon. Protectionist sentiment has grown in the United States and in Western Europe, and it by now poses a threat to the liberal system of international trade. If the protectionists have their way, the prospects for economic growth in the United States and Europe will be dealt a severe blow. Moreover, the difficulties that many countries now experience in servicing their debts would be greatly intensified. The poorest countries of the world, even those that are not burdened by excessive debts, would find their striving for development frustrated. Moreover, imports from newly industrializing countries would be restricted and their economies, which have become models of success for much of the Third World, could falter.

In addressing a joint meeting of Congress last October, Mr. Yew, the Prime Minister of Singapore, wisely asked: "Does America wish to abandon the contest between democracy and the free market, on the one hand, versus Communism and the controlled economy on the other, when she has very nearly won this contest for the hearts and minds of people in the Third World?" The answer to this poignant question must be a decisive negative. Fortunately, the reduced value of the dollar in foreign exchange markets during the past year, the start of new Gatt trade negotiations this fall, and President Reagan's determined opposition to restrictions on foreign trade are all serving to preserve faith in the liberal trading system that has contributed so enormously to our own and the world's prosperity during recent decades.

SHOWDOWN ON NICARAGUA

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DUNCAN. Mr. Speaker, I am inserting the July 20 column of William Randolph Hearst, Jr., which should be read by all our colleagues.

[From the Hearst Newspapers, July 20, 1986]

SHOWDOWN ON NICARAGUA

(By William Randolph Hearst, Jr.)

SAN SIMEON.—Like most of us I believe that the case was closed when the House of Representatives voted to support President Reagan's aid package for the Freedom Fighters in Nicaragua. Now, anti-Administration congressional voices demand an investigation into the program.

The President refers to the anti-Sandinista forces, approximately 12,000 strong presently and expected to swell to 20,000, as Freedom Fighters while many call them "Contras."

But congressional critics of the Administration still persist in trying to water down or even sabotage the total $100 million program—two-thirds of it military—which is scheduled to begin Sept. 1.

Congressional critics of assistance to the Freedom Fighters are led by Sen. Alan Cranston (D-Calif.). He has been a persistent critic of the President in almost every sector where President Reagan has scored high economic, social and international achievements.

This time, Sen. Cranston, joined on TV by Sen. Edward Kennedy (D-Mass.), is trying to force an inquiry into the Administration's plan of having the CIA run the military side of the freedom fighters' activities while the State Department conducts day-to-day policy.

Sen. Cranston claimed that this arrangement "could be a re-run of Vietnam." Nothing could be further from the truth.

To begin with, Nicaragua is in Central America, close to other embattled nations like El Salvador and Mexico and it has become a complete Soviet satellite in our front yard.

The Sandinista communist regime which usurped the revolution that overthrew the Somoza dictatorship has steadily gone the way of Czechoslovakia. It permitted some opposition and criticism within its borders until now, but replied within the last few weeks with nailed fist treatment of all opposition.

This includes the Roman Catholic Church and the press as well as labor unions. The Sandinista regime leader, Daniel Ortega, closed the opposition newspaper La Prensa and has suppressed outspoken churchmen in the countryside.

He also refused permission for a bishop attending meetings in the United States to return and has constantly menaced Cardinal Miguel Obando Bravo, the spiritual leader of Nicaragua's Catholics.

Ortega, however, has not hesitated to build up his military power by receiving a steady flow of Soviet arms and aircraft. His communist military establishment today has twice the firepower of the combined nations of all Central America.

Additionally, Ortega has several thousand Cuban "advisors" plus a gaggle of specialists from East Germany, Bulgaria, North Korea, Libya and a radical faction of the PLO.

So Sen. Cranston has to review many Soviet-inspired programs virtually at our doorstep and that is hardly comparable with Vietnam.

President Reagan, who is privy to a constant flow of data about the scene in Nicaragua, also realizes fully that if the U.S.S.R. establishes a presence in Nicaragua the next step would be to throttle our sea lanes in the Caribbean.

The Kremlin obviously would try to commit these anti-American maneuvers through clients like Nicaragua, Cuba or any of its satellites without wasting Soviet personnel.

The struggle for Nicaragua is soon to enter a new and difficult phase where both sides are preparing for a big showdown.

The $100 million aid package Congress voted will not have any swift battlefield result. But it does give the Freedom Fighters real hope that this program and future assistance will help them recruit troops and win ever-widening public support.

Time, though, is a vital element in the cause of the Freedom Fighters.

The Sandinista communists, backed by firepower supplied to them by the U.S.S.R. are looking to a quick victory over the Freedom Fighters. Any prolonged war will make them even more unpopular than they are today with the people on short rations and inferior agricultural equipment with which to cultivate fields and harvest crops.

The Sandinista regime, in short, is hurting badly on the economic front with little sign that the Soviets are about to do anything except use Nicaraguans as cannon fodder. The Soviets, after all, are having a tough enough time feeding their own citizens and are buying wheat from other countries. But nothing is designed for the growing hunger pains in Nicaragua.

Guns and beans just don't mix

WHEN FIRMNESS WORKS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. BROOMFIELD. Mr. Speaker, the President's foreign policy is often criticized both here at home and abroad. Whether it is Grenada, the Tripoli raid, or arms control negotiations with the Soviets, all too often the President is attacked for either his use of force or his unyielding firmness in dealing with the Soviets on a wide range of arms control issues. At the same time, little or nothing is said about the positive aspects of his policy of patient determination and, when necessary, forcefulness.

Therefore, it is rather ironic that a European magazine, the Economist, has best described the very positive results of the President's foreign policy, his successes, and the real long-term benefits for both the United States and Europe of his foreign policy firmness. For this reason I would like to include in the CONGRESSIONAL RECORD the following editorial from the Economist entitled, "When Firmness Works." It clearly highlights the many successes of the President's foreign policy—successes which are largely obscured by political rhetoric here in the United States.

[From the Economist, July 12, 1986]

WHEN FIRMNESS WORKS

SOME OF THE WEST'S FOREIGN-POLICY SUCCESSES GO TOO LONG UNNOTICED

By the end of this year or early in 1987, most people are now cheerfully predicting, Ronald Reagan and Mikhail Gorbachev will get together to agree on an arms control deal. A few weeks ago most of the same people were grumpily saying that any such agreement had probably been ruled out by American intransigence over SALT-2, star wars, et cetera. The conversion of the grumps—though, see below, the arms-control prospects are not quite as rosy as some of the converts think—is the latest example of a phenomenon of the 1980s: the foreign-policy success that went too long unnoticed because people did not want to notice it. It has been smart, in these 1980s, to believe that cool-nerved firmness will not work. Quite often, it will.

President Mitterrand of France, for instance, has not yet been given enough credit for the success of his steadiness in Chad. The skeptics (who then included this newspaper) feared that he had been conned by Libya's Colonel Qaddafi, when the two men met in Creta in 1984, because Mr. Mitterrand then pulled France's soldiers out of southern Chad. There followed a raid into southern Chad by Colonel Qaddafi's local friends, which was blocked by the return of a French force. Most of the French then withdrew again, and Colonel Qaddafi has since kept quiet. Full marks, so far, to Mr. Mitterrand for thwarting the colonel, calmly.

Grenada is an even clearer example. The American invasion of that island in 1983 was widely denounced in Europe, and in much of the rest of the world. It then became clear that almost all the islanders, except the bunch who had just murdered the government, were delighted to be invaded; that the island's governor-general, by his own account, had wanted the invasion; and that one of its effects had been to chasten other left-wing revolutionaries in the region. The rescuing of Grenada was a good thing. Because it was swiftly done, most of those who first condemned it as illegal and immoral have now fallen silent, though not many have had the grace to say they were wrong.

One of 1986's unanswered questions is whether last April's American bombing of Libya will fall into the same category of the reluctantly acknowledged success. It certainly did not make Colonel Qaddafi the predicted "hero of the Arabs"; on the contrary, it increased his isolation in the Arab world, and may have weakened him inside Libya. The three months since the bombing have seen less terrorism with either a Libyan or a Syrian stamp on it than the period before April 15th. It would be folly to crow that the bombing has conclusively saved lives, for Colonel Qaddafi is entirely capable of springing a horrible surprise: but those who said the bombing would not work have, so far, no reason to claim they were right.

THE RELUCTANCE TO RISK

The other big question of 1986 is whether Mr. Reagan's tough approach to nuclear negotiations with Mr. Gorbachev will pay off. The obstacles to a comprehensive missile-cutting agreement are still large. The numbers game goes on. (The Russians now say that, as an "interim" measure, they and the Americans should be allowed to keep 8,000 long-range warheads each, compared with the Americans' proposal of 5,000 and Russia's previous suggestion of about 6,000. Since each side had about 8,000 as recently as 1983, that is not impressive.) Russia still wants to ban anti-missile weapons in space for 15-20 years, which is too long. The talks are still littered with the familiar booby-traps of what to do about the French and British nuclear forces, and which weapons should be counted in which categories.

Still, the doomsayers' prediction that Mr. Reagan's renunciation of SALT-2 would ruin the negotiation has proved spectacularly wrong. Since then, the Russians have offered better terms on star wars, on medium-range missiles, on the what-counts-where question and, judging by Colonel-General Chervov's hints in London this month, on chemical weapons too. The threat of a new arms race implicit in the abandonment of SALT may or may not have caused these concessions, but it did not prevent them. This paper's guess is that, if Mr. Reagan and Mr. Gorbachev meet around the turn of the year, they can probably strike a deal on medium-range missiles and chemical weapons, and possibly one on long-range missiles and star wars too; and so they probably will meet.

Until the past week or so, this hopeful view was a minority one. Most people's comments pointed sternly to gloom and despondency. Why? Partly because, in Europe, most people are reluctant to give the Reagan administration the benefit of any doubt. But mainly because all the things mentioned in this article—invading Grenada, going into Chad, bombing Libya, using SALT-2 as a bargaining lever—were calculated risks. The conventional wisdom of the recent past has been that taking risks is something nations should not do, because the conventional wisdom reckons they almost always turn out badly. They don't, if they are carefully planned and carried out coolly. Perhaps those too long unsung victories are reminding the West of a forgotten lesson about how to survive in the world.

CITIZENS' RIGHTS AND SUPERFUND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. FLORIO. Mr. Speaker, the conference committee on the Superfund legislation is now considering a series of provisions which will determine the nature and scope of citizens' rights to sue regarding the cleanup of abandoned hazardous waste sites. This aspect of the legislation is among the most important programmatic reforms that we have an opportunity to implement when we extend and expand the Superfund Program. Equity and American traditions of justice demand that citizens be guaranteed a full and fair day in court to challenge abuses of the law with respect to these imminent and substantial endangerments of human health and the environment.

A coalition of groups supporting a strong Superfund bill recently sent a letter describing the issues at stake in this important area and I commend it to my colleagues' attention:

NATIONAL WILDLIFE FEDERATION, NATURAL RESOURCES DEFENSE COUNCIL, NATIONAL AUDUBON SOCIETY, U.S. PUBLIC INTEREST RESEARCH GROUP, ENVIRONMENTAL ACTION SIERRA CLUB,

June 30, 1986.

DEAR REPRESENTATIVE: The House/Senate Conference on Superfund reauthorization is now dealing with provisions affecting citizens' rights to sue. These provisions will establish when—or incomplete cleanups or concerning injuries resulting from toxics at Superfund sites.

The Conference has an opportunity to select the strongest provisions from both bills and make a citizens' day in court a reality. Unfortunately, there are some troubling signs that those in the Administration opposed to citizens' rights may attempt to persuade the Conferees to pick the worst provisions of both bills, cutting off access to courts for millions of waste site community residents.

Throughout the Superfund debate, citizens' suit provisions have been a top priority for the environmental community. The resolution of these issues by one of the top six factors on which we will evaluate the final bill produced by the Conference.

We urge House and Senate Conferees to adopt the following provisions:

Citizens' Right to Sue Polluters for Cleanup:

Citizens should be able to sue polluters for cleanup of sites posing an imminent and substantial endangerment. This provision was in the House bill but was dropped by the House coalition in recent offers to the Senate.

Citizens' Right to Seek Pre-enforcement Review of Illegal Cleanups:

Citizens should be able to sue EPA if cleanup plans violate the standards set forth in the law. People living near hazardous waste sites should not be powerless to ensure safe cleanups simply because EPA has not brought an enforcement suit. Waste site communities have vital interests in preventing mistakes which would jeopardize their families and friends.

The Senate offer to the House would let people bring such suits if they can show ir-

reparable harm. Such a provision would guarantee swift judicial review for those whose health can never be fully restored by later court action, but would postpone litigation brought by potentially responsible parties over costs associated with EPA's cleanup plans.

State Toxic Tort Statutes of Limitations:

State laws extinguishing citizens' rights to sue for damages before they have even discovered they were injured by toxic exposure must be reformed. The House bill, and House offers to the Senate, would reform state laws in this important area. Conferees should insist on the adoption of the House state procedural reform provision.

Sincerely,

DAN BECKER,
Environmental Action.
JANET S. HATHAWAY,
National Wildlife Federation.
LESLIE DACH,
National Audubon Society.
MARTHA BROAD,
Natural Resources Defense Council.
A. BLAKEMAN EARLY,
Sierra Club.
RICK HIND,
U.S. Public Interest Research Group.

JAMES R. STOVER SPEAKS BEFORE THE OHIO CHAMBER OF COMMERCE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. McEWEN. Mr. Speaker, earlier this year, James R. Stover, president and chief executive officer of the Eaton Corp., spoke before the Ohio Chamber of Commerce regarding his assessment of America's businesses and international competition. His remarks focus on the many issues impacted by this issue.

He states, "The time for assurances is over. Instead, progress should be measured by the trade that actually takes place. If trading patterns remain unsatisfactory, that should be treated as sufficient evidence of an uncorrected problem, and as sufficient justification for us to do something about it * * * at least temporary action to reduce access to our markets. We need to get their attention * * * to equalize the rules. Our trading partners think they have a God-given right to our markets, but when its time for them to reciprocate, we find that rights don't cut the other way."

Mr. Speaker, I commend Mr. Stover's remarks to the attention of my colleagues. I believe that our actions in the Congress must be guided by the insights and experience of just such business leaders as James Stover.

The article follows:

REMARKS OF JAMES R. STOVER, PRESIDENT AND CHIEF OPERATING OFFICER, EATON CORP.

A few weeks ago I overheard a group talking about the arrival of Halley's Comet. All but one of them were research types, and were very excited about the comet. But one fellow looked bored, and didn't say anything for a long time. Finally, he broke in.

"How big is this Halley's Comet?" he asked.

"Listen," he was told, "This thing is huge. Its tail is over 150,000 miles long, and it's traveling at over 100,000 miles an hour."

The man looked concerned for the first time. He rubbed his chin and said, "When is it going to get here?"

He was told that in April it would pass only 39 million miles away.

"You mean," he said, "it isn't going to hit us?"

"Of course not," the others said.

"Well," came the reply, "what's the big deal? Let's eat lunch."

For a long time, that was the American attitude about the threat of international competition. It's not going to hit us * * * so let's go to lunch. We kept eating our lunch. And then THEY started eating our lunch. They have hit us, and hit us hard.

The most humiliating part of the trade deficit is in durable goods manufacturing. Back in the 50's and 60's, this sector was the pride of America, the symbol of U.S. manufacturing superiority. But in 1985, the deficit in manufactured goods was $114 billion. Ohio gets a larger proportion of its personal income from manufacturing than ANY other state, and in terms of absolute dollars, only New York and California outrank us. Ohio has suffered disproportionately from the U.S. deficit.

Clearly, world buying patterns aren't going very well for the USA. It's a national problem and I'd like to discuss it in those terms. But then I'd like to narrow the focus, and look at this problem from an Ohio perspective. Maybe a small part of the solution to this large, large problem is right on our doorstep.

In the past few months, the dollar has become cheaper. In time, this will help U.S. exports. But let's not kid ourselves. America will not return to glory solely on the back of a cheaper dollar. Our problems are not behind us. Better currency valuations will help, but there are serious structural problems in both the private and public sectors that remain largely unaddressed. I don't see any easy solution. We have a generation of hard work ahead.

The reason is simple. The U.S. domestic market is by far the largest in the world for manufactured products. Every good, aggressive company in the world is now working hard to increase its share of the U.S. domestic market. We need to be very clear about that. And we need to be very clear about what it means. The American standard of living is under a savage and sustained assault. Our earnings no longer grow fast enough to pay for the American dream with cash. So we have pulled out the national credit card, and we have built up a two trillion dollar national debt. That has postponed the day of reckoning . . . But it hasn't cancelled it.

It isn't just a case of America getting flabby. Our competitiors, especially some in developing countries, have new muscles. In a single generation, they've catapulted themselves from "water buffalo economies" to high technology manufacturing.

Our international trading partners have many things going for them. Wage rates are often cited, and for good reason. In 1985, before the dollar's fall, average U.S. wage rates were higher than ANY of our trading partners. Wages of production workers in West Germany were 75 percent of American wages last year. In France, 60 percent. In the U.K., less then 50 percent. In Brazil, 10 percent. In Korea, 11 percent. In Japan, the symbol of our trade disparity, production wages last year, when the yen was traded at 240 to the dollar, were half of those in America. Now that the exchange rate is 180 yen to the dollar, Japanese wages are "only" two-thirds of those in the U.S. In case you think that 2 to 3 ratio has solved the problem, that's the same relationship that existed in 1978. In did not prevent huge Japanese gains then, and it won't do it now.

Moreover, a number of countries' currencies have NOT strengthened against the dollar. Today the currency of Canada—our largest trading partner—is weaker than it was in the middle of last year before the dollar's fall. This is also the case for almost all of the Pacific Rim countries such as Hong Kong, Taiwan, Korea and others that officially peg the value of their currencies to the U.S. dollar. These are the same countries which are now rapidly gaining world market shares from both the U.S. and Japan.

The simple fact is that there are no safe markets left for U.S. manufacturers. We are going to have to fight for every sale, whether it is in Columbis, Ohio, or Toronto, Canada, or Frankfurt, Germany, or Tokyo, Japan. And we are not in good competitive trim for the fight. There are many reasons why—wage rates, fiscal policy, monetary policy, tax policy and on and on.

Despite the pain of the deep recession of a few years ago, despite the publicity given to trade deficits, most Americans still refuse to believe the extent of our competitive problems. There was a time when the U.S. could win most economic contests easily. The freer the trade, the more we won. That is no longer true. We often are uncompetitive in cost, and in some cases, in quality. We will be working to correct these problems for many years. And in the short run, our competitive disadvantage is a clear and present danger to the health of the national economy, and to the health of the Ohio economy.

Optimists often discount America's declining manufacturing sector, and point to the phenomenal growth in the service sector. We are told to rejoice in the prospect of a post-industrial society, where the service and information industry replaces lost manufacturing jobs—and the American economy rushes on to the next phase of prosperity. It is true that 80 percent of the 11 million new jobs created since the 1981-82 recession were in services. But the number of high-paying service jobs in engineering, accounting and data processing are overwhelmed by the growth in low-pay service jobs. According to the Labor Department, the 10 occupations that will supply the most jobs in the next ten years are all in services—but none is in high tech. Among the top gainers are cashiers, janitors and truck drivers! That is not the way to secure our standard of living.

In sophisticated service areas like finance and insurance, the U.S. still holds an edge on the rest of the world. But we're getting the same treatment abroad in services that we once got when we held the lead in manufactured products—we're being fenced out. The U.S. share of global trade in special business services—such as engineering, consulting, and brokerage—is about half what it was in 1973. We're now behind France, West Germany and Britain. Our friends abroad have put fences at their borders . . . many of them artfully concocted. In Japan, U.S. accounting firms must submit audit reports to a Japanese company for approval. In Korea, foreign-owned banks cannot acquire title to real estate. The rest of the world is blocking U.S. service companies ef-

forts to expand overseas—whether by forbidding the transmission of computer data, or restricting foreign banks from exchanging money. Flip the coin and get it closer to home. Take a look at the chains of Japanese restaurants and French hotels going up in the U.S. Services are not the answer to U.S. trade problems. In fact, they're going to become part of the problem.

This country must restore the vigor of its manufacturing sector. Over the long haul, America's economic success will be determined by the innovation, quality and cost value we put into our products. In the meantime, there are some short-term tools at our disposal, and we ought to use them.

"Free trade" vs. "protectionism". We must stop defining the problem in such unrealistic—and unproductive—terms. Other countries do not agonize when they use tariff and non-tariff barriers to their own advantage. We shouldn't either.

In the global marketplace, we have a powerful weapon. But we haven't used it much. That weapon is the huge U.S. domestic market. We control access to that market, and we should use that control to help shape the behavior of our trading partners. International trade is not a charitable enterprise, and we should not give away our most valuable asset, access to U.S. markets. We shouldn't do it unless we get something in return.

Other countries—most notably Japan—have responded to U.S. concerns with a great deal of dialogue. Time and again we have been given earnest pledges about improving trading patterns. But the trade statistics tell us the problem has not been dented.

The time for assurances is over. Instead, progress should be measured by the trade that actually takes place. If trading patterns remain unsatisfactory, that should be treated as sufficient evidence of an uncorrected problem, and as sufficient justification for us to do something about it . . . at least temporary action to reduce access to our markets. We need to get their attention . . . to equalize the rules. Our trading partners think they have a God-given right to our markets, but when it's time for them to reciprocate, we find that rights don't cut the other way.

I don't think it would be necessary to restrict access more than once or twice. And I don't think new laws are required. It can be done by the administrative apparatus of the executive branch—just as it is done in other countries. The French, for example, are especially good at it. A few years ago, when videocassette recorders from Japan were burying the French market, they set up a single port of entry. That port just happened to be one of the smallest and least staffed on the French coast. The Japanese got the message, and an accord was quickly reached. Perhaps America needs to import a few French bureaucrats.

I'm not calling for a trade war. The point I am really trying to make is that current trade patterns are way out of balance. You can't have an attitude of take, take, take on one side, and give, give on the other. Look at history. That's how wars begin. Gross imbalances cry out for remedy, and it is in the interest of all to see that remedies are applied.

The period ahead is critical. The newly-weakened dollar makes many foreign markets more available to American exporters, and makes our markets a little tougher for them. There will be an irresistible temptation, I suspect, among our trading partners to use new devices to protect their own markets, and to resort to added export inducements to continue the assault on our markets. I think we are about to have a contest between the vigilance of our government and the ingenuity of our trading partners. The administration's well-known allegiance to free trade, and its faith in the words of those with whom we trade, does not fill me with confidence about the outcome. In short, I think we will continue to be bamboozled until we refuse to put up with it.

How does all this affect Ohio industries? Ohio depends more than any other state on income derived from manufacturing. And Ohio wage rates are among the highest in the nation. In 1983, Ohio's average pay rates ranked 13th in the nation. By 1984, we moved up to 10th. In other words, our wage rates are high, and getting higher.

But are those high rates bringing prosperity? It appears not. Ohio's share of the nation's economic pie is shrinking. Since 1974, Ohio's share of total national personal income decreased noticeably. Turning to growth—or lack of it—in manufacturing personal income, Ohio was a dismal 47th out of the 50 states. In short, we're charging more for our labor, and getting less income in return.

Some people say that the answer is to automate, and remove the penalty of high wages through technology. The only problem is, when a manufacturer can save 60% through automation, he can save another 20 percent by also locating his automated plant in a lower cost region of the country. You can never overcome the disadvantage of disproportionately high wages.

These are not just problems for Ohio's manufacturers. The health of the state's service and retail businesses—as many of their owners realize full well—are not insulated. They will rise and fall, ultimately, with the fate of the manufacturing businesses they serve. While service employment has grown in Ohio, it lags well behind the growth of total U.S. service employment. The effect has spilled over into housing, where Ohio starts have been only half as strong as the U.S. total over 10 years. With manufacturing and service employment relatively weak, personal income lags and housing suffers disproportionately. As a result, Ohio unemployment in the 1980's has averaged 1½ to 2 percentage points above the U.S. average. In the 1970's, Ohio and U.S. unemployment rates were virtually the same. It is clear that as the U.S. is losing out to other, more competitive countries, Ohio is losing out to other, more competitive, states.

Much attention is given to the role of Washington in solving the trade problem. the administration keeps promising tougher negotiations with nations which violate the General Agreement of Tariff & Trade. The only problem with GATT is that it takes five years to negotiate a new round, and another five years to monitor the results. We don't have the luxury of ten years.

Not enough attention is paid to the effect that Columbus can have on the relative competitiveness of Ohio manufacturing. In Ohio, most of the public policy debate has been over how to divide the economic pie. That's fine, when the pie is growing. But when it is shrinking, it is time to again focus public policy on creating the climate that gets the pie expanding again.

The first thing to do about a problem is to recognize frankly that it exists. On a comparative basis in the U.S., Ohio does not have a good climate for industrial growth, and Ohio needs to recognize that fact.

In 1982, Ohio ranked first among all industrial states in workers' compensation costs, even more than our high-priced neighbor to the north, Michigan, which ranked second. Since then, a series of Ohio Supreme Court rulings have made a bad situation even worse. That is a good example of shooting yourself in the foot.

The area of business taxes is complex, and making state-by-state comparisons is tricky business. Yet the experts seem to agree that Ohio business taxes are easily among the top third in the country. The two-tier business franchise tax is often cited. If you're profitable, it amounts to a healthy income tax. If you're not making much money, you're often taxed on the net worth of your assets. They get you either way. Ohio is one of the few states still playing the game this way. And our personal property taxes, although slightly lower than they were, remain a heavy burden on Ohio businesses, regardless of profitability.

Another cloud over Ohio is the state's attitude towards the creation of wealth. No element of state policy sets this tone as much as the state income tax. It was doubled three years ago. It has been rolled back slightly but remains over twice as high as it was in the seventies. The harsh fact is that from 1974 to 1984 Ohio's skyrocketing state and local taxes made us fifth in the nation in rate of increase, per capita. The only states where taxes rose faster than Ohio were Alaska, Wyoming, Oklahoma and North Dakota—not exactly the industrial heartland. That again, is an example of shooting ourselves in the foot.

These factors have a real bearing on the future health of manufacturing in Ohio. Right now we have the justified reputation of a high-cost state. And our reputation, right or wrong, is getting worse. A recent nationwide survey of corporate executives showed that Ohio and California were considered to be the two states in which the business climate had deteriorated the most in 1985. That perception may not be fair. But does it really matter if it's fair? At least part of Ohio's poor reputation is in areas controlled by public policy. That, we can do something about, if only we have the will.

All of us need to remember that industry in Ohio is in competition with the world, not just with Texas, Florida, or Tennessee. We do Ohio a favor when we openly address these problems.

The competitive problems of Ohio will not be solved merely by rolling back workers' compensation costs, or re-visiting the state's tax code. But fixing those things WILL be a move in the right direction.

It is often said that the longest journey is made one step at a time. Ohio and the nation face a long journey in restoring the health of our manufacturing sector. Nothing will make that journey easy—but it will be a lot less painful if we simply stop shooting ourselves in the foot.

Thank you.

HUMAN RIGHTS VIOLATIONS IN ROMANIA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. PORTER. Mr. Speaker, as the cochairman of the Congressional Human Rights

Caucus, I have had the opportunity in the past to receive materials and to hear personal testimonies on atrocious human rights violations in Romania. In the words of a former Ambassador to Romania, the human rights record of Romania is the worst in Eastern Europe except for Albania and in living standards, too, Romania's standard is the lowest after Albania.

There has been lately considerable congressional concern about the human rights violations in Romania, particularly about the oppression of organized religion. It includes the demolition of churches, the crushing of Protestant Bibles into toilet paper, arresting and even murdering clergymen. These abuses have been amply exposed by many of my colleagues.

In addition, persecution of the national minorities in Romania continues. Romania has a number of small non-Romanian ethnic groups, in addition to two major groups, the 2.5 million Hungarians and the 330,000 Germans. While the pressure on the Germans is leading to their accelerated emigration to the Federal Republic of Germany in return of major West German governmental, industrial, and bank loans and investments to the Romanian economy, for the Hungarians the oppression is a day to day event.

I am honored by the reports of the beating of Rev. Geza Falfi, a Hungarian-nationality priest of the Roman Catholic Church who died of his injuries and the crushing into toilet paper of 20,000 Bibles received by the Romanian Government from the World Reformed Alliance. There are also reports of murder, direct or indirect via "suicides" and "car accidents," of seven Hungarian Reformed ministers, the beating of Rev. Janos Csilik of Oradea in 1985 for not revealing secrets of the confessional and the restriction of starting seminaries for the 800,000 strong Hungarian Reformed Church.

Physical terror in Romanian has also included the commitment of Prof. Bala Pall to an insane asylum for having attended the funeral of a great Hungarian writer, Gyula Illyes in Budapest, the imprisonment of several Hungarian ethnicity professionals for several years and the arrest and trail of about 9,000 Romanian Hungarians between September 1, 1984 and August 31, 1985.

The already restricted cultural activities of the Hungarian ethnic group are curtailed even further. Museums change their inscriptions to hide the ethnic origin of the paintings and objects, libraries which possess large holdings of Hungarian and German books and periodicals from the past are transferred to Bucharest from Transylvania, the only Hungarian language cultural magazine was abolished and the major Romanian magazine is now publishing a few pages appendix in Hungarian. The school situation is further deteriorating and housing and job discrimination remain rampant. On October 14, 1985 35 Hungarian ethnicity professionals in Miercurea Ciuc (Csikszereda) were called in by the secret police and were given the choice of either becoming police informers or transfer from their area. They are being transferred now as none of them wanted to spy on their fellow citizens.

Mr. Speaker, we can no longer become accomplices to the persecution of the largest national minority in Europe outside of the Soviet Union by our continued silence. We must demand that the Romanians make substantial improvements in the human rights situation facing the 2.5 million Hungarians and 330,000 Germans, and the other national minorities in Romania.

TRIBUTE TO THE LATE HONORABLE JONATHAN B. BINGHAM

SPEECH OF

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 16, 1986

Mr. WEISS. Mr. Speaker, I would like to share with you the sentiments of many friends and colleagues of the late former Representative Jonathan Bingham upon learning of his death. These comments, compiled by the Riverdale Press of New York, are poignant reminders of the love and respect in which we hold Jack.

[From the Riverdale (NY) Press—July 10, 1986]

FRIENDS AND COLLEAGUES PAY TRIBUTE TO A LEADER

PAMELA C. HARRIMAN

There was a special relationship between Averell Harriman and Jonathan Bingham. It flowed from years of common association, especially those years in Albany when Jack was one of Governor Harriman's closest aides and advisors. Averell prized his wisdom, brilliance and, most of all, his commitment to principle.

Their friendship was rooted not only in that shared experience, but in shared ideals. At the heart of Jack Bingham's public life, as it has been at the heart of Averell Harriman's, was a profound abiding dedication in good days and dark days to the moral imperative of peace and international cooperation. Jack Bingham was in the forefront of the continuing effort to control nuclear weapons before their uncontrollable destructiveness consumes the human race.

He was so effective because his mind was matched by his decency, his strength tempered by a personal gentleness. In Averell's view, Jonathan Bingham proved the truth of John Buchan's belief that politics can be "a noble profession."

GOVERNOR MARIO M. CUOMO

Jonathan Bingham served his Congressional constituents and his country with great energy, wisdom and devotion. His influence was felt far beyond his Congressional district, and we value his many contributions during his long career in public service.

SENATOR DANIEL PATRICK MOYNIHAN

Jack Bingham must have known how much we admired him; I only hope he knew how much we loved him. No finer person ever graced our politics or touched our lives.

CONGRESSMAN TED WEISS

Jack Bingham called me in Washington the day after the bombing of Libya to tell me that he had heard an interview in which I said that I thought it was a great mistake. He said that I would probably be receiving a fair amount of criticism in the immediate aftermath of the event but he felt confident that as time went by the American people would conclude that the bombing had been the wrong thing to do.

That was one of our last conversations but it was typical of Jack. His concern for humanity and his commitment to America's ideals were not retired when he left Congress. And he knew how important his call would be to me.

It was a special honor to be a friend of Jack Bingham and it was a privilege serving with him in the United States House of Representatives. His was a voice of reason and rationality. Many of us in the House looked to him for leadership on a broad range of issues but most importantly on matters relating to nuclear proliferation and arms control.

He served his district and his nation magnificently. We will truly miss him.

CONGRESSMAN MARIO BIAGGI

I consider myself privileged to have served in the House of Representatives with Jonathan Bingham. He was a friend and gentleman who was held in the highest regard by all who knew him.

His conviction in his principles, his compassion for his constituents and his beliefs that there was no greater calling than to serve honorably in government made him a model for anyone who has been elected to public office.

STATE ATTORNEY GENERAL ROBERT ABRAMS

Jack brought dignity and stature to all he undertook during his distinguished life and career. Jack's manner was soft and quiet, but his determination in working for world peace and social justice was as firm and committed as can be found anywhere.

There are many monuments in Jack's career. His victory in a race for Congress in 1962 was the first successful assault on the power of the long-entrenched political machine in the Bronx and paved the way for many who followed.

I will always remember and be indebted to Jack Bingham for his encouragement and support in my first quest for public office when I ran for the Assembly in 1965. His endorsement was in no small way responsible for my success and the success of many other candidates who were working to defeat candidates of the Bronx organization.

FRANKLIN D. ROOSEVELT, JR.

Jonathan (Jack) Bingham was a year ahead of me at Groton School where he quickly showed his brilliant mind. He was always the brightest boy in the school. But he had to work hard for it and early on showed his remarkable self-discipline. He continued his academic achievement in college and law school.

He came from a family with a strong dedication to public service. Jack headed up the research in my first successful campaign for Congress in 1949 and in several of my later campaigns. In the 1940's and 1950's, he was the leader of a very active group of young Democrats dedicated to the reform of the Democratic Party.

He was a most effective and efficient Secretary of the Governor, Averell Harriman, in 1954 through 1958. He then went on to be a most effective member of the Congress of the United States serving many terms until he lost his seat through "redistricting." He had a deep understanding of the needs of the people of his district, state and his nation.

While he was a strong liberal Democrat, he was the achiever of the possible in politics.

At the time of his death, he was cochairman with Professor Arthur Schlesinger of the Franklin D. Roosevelt Four Freedom Foundation and was particularly helpful in the establishment of the Roosevelt Student Center and Library in Holland which will open this September.

MAYOR EDWARD I. KOCH

I am saddened to learn that my friend and former Congressional colleague, Jonathan Bingham, has passed away. As we begin to celebrate our nation's 210th anniversary, his death reminds us how much the greatness of America depends upon the dedication, the intelligence and the energy of individuals like Jonathan Bingham.

BRONX BOROUGH PRESIDENT STANLEY SIMON

Throughout his public career, Jonathan Bingham exemplified all the attributes of a gentleman.

He was impeccable in the pursuit of his duties as a public servant and was deservedly regarded with deep respect.

He personified public service at its finest.

DISTRICT ATTORNEY ROBERT MORGENTHAU

Jack Bingham was an exceptional and highly respected public servant and admired by all his friends and neighbors. He could always be counted on to be on the right side of difficult issues.

COUNCILWOMAN JUNE EISLAND

Jack Bingham was one of the first political figues I met when I became active as a tenant leader in the Bronx.

He was helpful to me at that time and continued to be helpful during his tenure as a Congressman right through to my own role as a Councilwoman.

I have been most privileged to work with him on numerous community problems and issues. And whether the problem was a housing crisis in the Bronx or starving children in remote parts of the world, Congressman Bingham combined a gentle humility with a firm resolve and determination to get the job done.

So much of the time he focused on the human condition, whether here or in Ethiopia. He never lost his spirit for caring for the individual. Jack Bingham's commitment to honest, open and progressive government is a legacy that he leaves to New Yorkers, Bronxites and particularly to his neighbors in our community.

THEODORE W. KHEEL

I was Jonathan Bingham's compaign manager when he ran for United States Congress. It was one of the proudest things I have ever done.

Jack was an outstanding public servant as well as a wonderful person. We will all miss him tremendously.

NORMAN LISS

In 1963 I was asked by an almost defunct Benjamin Franklin Club to help find a candidate to run for Congress against the incumbent Charles Buckley. It was the last gasp for Reform politics in the Bronx.

Although I only knew him through articles in The Riverdale Press, after several telephone chats, he invited me to lunch at the United Nations dining room. Through that initial contact my relationship with him grew through the years. It was a deep privilege to call him a good friend.

Jack Bingham not only set the ultimate standard for true public service, he set it for human conduct. He was a man of grace and dignity who was matched by no one I have known.

Many of the leaders in our New York political world today developed their careers through his success. At the outset of his campaign in 1963, he was the candidate of a club of eight to ten tired and demoralized members. With his victory there were over four hundred spirited members.

I cherished my relationship with Jack Bingham, and I shall sorely miss him.

WHITES OWN 10 TIMES THE ASSETS BLACKS HAVE, ACCORDING TO CENSUS STUDY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. STOKES. Mr. Speaker, I would like to bring to the attention of my colleagues a study prepared by the Census Bureau on July 18, 1986, entitled "Household Wealth and Asset Ownership: 1984." The report contains statistics confirming the tremendous gap in the distribution of wealth between white and minority Americans. While the Census Bureau is unable to specifically pinpoint the reason for the gap, it is imperative that Members of Congress acknowledge this problem and its detrimental effect on the economic health of our minority population. The following article from the July 19, 1986, edition of the New York Times offers an overview of the study and comments from Census Bureau officials.

[From the New York Times, July 19, 1986]

WHITES OWN 10 TIMES THE ASSETS BLACKS HAVE, CENSUS STUDY FINDS

(By Peter T. Kilborn)

WASHINGTON, July 18.—White Americans, whose incomes are almost twice those of blacks, have accumulated 10 times more assets, according to a study the Census Bureau published today. It found that nearly a third of black households had no major assets at all.

While income levels have been studied frequently, the Census Bureau provided an unusual look at what it called individual wealth—the ownership of savings, housing, automobiles, stocks and the like, minus debts.

The study covered all assets except cash on hand, home furniture, jewelry, pension rights and the cash value of life insurance policies.

"We have become locked into looking at income as a measure of well-being," said R. Scott Lilly, executive director of the Congress's Joint Economic Committee, which is about to publish its own study of asset ownership. "Wealth isn't very often looked at, and it often shows a very different picture."

The Census Bureau study confirms longstanding assumptions that the possession of assets increases with age, job status, income, education and home ownership and that it is concentrated among whites.

Among its findings, the report said that the top 12 percent of American families account for 38 percent of asset ownership, and that 41 percent of a typical family's net worth is made up of equity in a home.

SIZE OF DISPARITY SURPRISING

What was much more surprising, economists said, was the size of the black-white disparity. They were at a loss to fully explain it.

They said part of the gap could be explained by the predominance of female heads of households among blacks, the long history of low incomes among blacks, the history of segregation and the lower quality of schooling for blacks. The black-white gap was found to be smallest among black families with both parents persent.

Analysts noted that another group with low earnings—people of Hispanic background—had been accumulating assets faster than blacks.

"The first thing that I pick up from this is that the average Hispanic has been here less time than the average black, and yet the Hispanic is better off," said John C. Weicher, a housing and welfare economist at the American Enterprise Institute, a public policy research organization here. He said it was "something to be worried about."

"I don't know what the Federal Government should try to do about that," he added. "Somebody ought to first find out why that is happening."

The study—called "Household Wealth and Asset Ownership: 1984"—provides no indication of how the asset ownership of the various groups grew. But it provides a detailed breakdown of the differences among groups and shows greater extremes than less ambitious studies did.

STUDY BY FEDERAL RESERVE

The ownership of assets has not been studied much by the Government. Three years ago, the Federal Reserve Board undertook a similar study, but it used a far smaller sample, about 4,000 families, and provided fewer details of the composition of asset ownership by race.

Based on a sampling of 20,000 households—families and others living in houses and apartments—the bureau provided dozens of findings of household possession of assets.

The median net worth of white households in 1984, it found, was $39,135, while that of black households was $3,397 and that for Hispanic households was $4,913.

Of 9.5 million black households, 30.5 percent had either zero or negative net worth. Of 4.2 million Hispanic households, 23.9 percent had zero or negative net worth. For 75.3 million white households, the figure was 8.4 percent.

At the other extreme, 26.2 percent of white households had a median net worth exceeding $100,000. The percentage for blacks was 3.9 percent and for people of Hispanic background, 8.2 percent.

HOMES OWNED BY TWO-THIRDS

Two-thirds—64.3 percent—of all households owned their homes, and their median equity in their homes was $40,600. Slightly more than two-thirds of whites owned homes, while 43.8 percent of blacks and 39.9 percent of Hispanic people owned theirs.

The study included these findings:

The highest-earning of four household groups studied, those with incomes exceeding $48,000 a year, had a median net worth of $123,474 and accounted for 38 percent of the nation's total family net worth.

The 22.3 million households with earnings below $10,800 had a median net worth of $5,080 and accounted for 9.7 percent of total net worth.

Home equity accounted for 41 percent of the overall net worth. Savings accounts, money market deposit accounts and other interest-paying bank accounts accounted for 18 percent, stocks and mutual funds for 18 percent and automobiles for 6 percent.

Householders aged 35 or below had a median annual income of $19,152 and a median net worth of $5,764. But because families accumulate assets as they age,

householders aged 55 to 64 had a median income of $21,864 and a median net worth of $73,664.

In terms of income, white households earned a median $23,647 in 1984, almost twice the $13,500 of black households.

The report was released as most Members of Congress were leaving Washington for the weekend. But it and similar studies of asset ownership are likely to play a role in the Government's policy making—in allocating the budget, for example, and in tax policy.

Gordon Green, assistant director of the Census Bureau's population division, who supervised the study, said at a briefing for reporters that the possession of assets was as important a gauge of family prosperity as income and that the bureau would now publish the study every year or two.

"I think everybody expected the distribution of wealth to be greater than the distribution of income," he said. "What this does is quantify it."

TEXTILE PROTECTIONISM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. FRENZEL. Mr. Speaker, in the last week, two newspapers have printed articles opposing the effort to override the President's veto on the textile bill. The first is an editorial from the Wall Street Journal. The second, an article by syndicated columnist Warren Brookes.

Both articles describe the recently signed bilateral textile agreements with Hong Kong and Taiwan as protectionist steps by our Government. I would agree. Yet, I receive nearly daily mailings from the textile lobby asking my support for the override.

The textile/apparel industry is the most highly protected industry we have. The administration has bent over backward to obtain the above agreements to satisfy the textile lobby, with another similar agreement with Korea in the negotiation process. Yet, that is not enough. The industry has a voracious appetite for protection.

The two bilateral agreements provide coverage on all fabrics and fibers, except for 100 percent silk. They also provide for very minimum growth levels which are "onerous" to the exporting country according to the Wall Street Journal. Further, there are overall import restrictions from these two countries, in addition to the individual quotas.

The agreements are far too protectionist for me, and for the good of this country. To go beyond these drastic measures to satisfy the textile lobby by overriding the President's veto would be sheer folly.

I urge my colleagues to review these articles and to oppose the veto override attempt.

[From the Wall Street Journal, July 17, 1986]

THE SHIRT OFF YOUR BACK

We have a small request. The next time you walk into a store and are surprised at the suddenly higher price on that cotton shirt or linen blouse, send the bill to Ed Jenkins at the U.S. House of Representatives, Washington, D.C. Rep. Jenkins (D., Ga.) will no doubt be expecting it, because he knows that he and his friends in Congress are a major reason millions of Americans will be paying more for their clothing in the next few months and years.

Mr. Jenkins is the main sponsor of the textile protection act that President Reagan vetoed last year, and he doesn't quit easily. He and the other congressional trade kamikazes have now scheduled a vote to override that veto on Aug. 6, unless the Reagan administration can fend them off by proving beforehand that its instincts are also destructively protectionist. And, by jingo, the administration took another step in that direction Monday by imposing new and onerous limits on imports from Taiwan, America's largest clothing supplier. Hong Kong already received its mugging earlier in the month, while South Korea, another productive ally, is next on the hit list.

For the Reagan administration, we suppose there is some perverse logic in imposing a little protection to forestall the truly awful Jenkins bill. Congress would have rolled back imports by 30%, while this week's Taiwan accord provides for no rollback but instead limits the growth in imports to 0.5% a year through 1988. The agreement with Hong Kong allowed all of 1% annual growth, generously reflecting the fact that the colony imposes not a single trade barrier on U.S. products.

Note well, however, that even these accords haven't made Ed Jenkins and his fellow price-gougers happy. Mr. Jenkins himself responded with an appropriately dizzy metaphor: The Hong Kong accord, he said, is like "saying to an alcoholic who has increased his drinking consumption to a quart of liquor a day that it is perfectly all right for him to continue to drink a quart . . . so long as he does not increase much beyond that level." Former Rep. James Broyhill was sworn in as the new Republican senator from North Carolina Monday, and the very first thing this new statesman said was that he'd continue his House efforts to override the textile veto.

The problem with a protectionist U.S., even if the protection mainly takes the form of a lot of huffing and puffing by members of Congress, is that one can never predict the point at which damage and recrimination will begin to snowball into something uncontrollable. Foreigners may not vote in U.S. elections, but they do in fact buy millions of dollars of American products that are tied directly to jobs in the U.S. As one Hong Kong newspaper put it this month, these U.S.-made products "could begin gathering dust on Hong Kong shelves." Maybe our exporters should send their unsold goods to Rep. Jenkins, too.

At some point soon, the Reagan administration might consider that trying to immunize Congress with a little protection only serves to spread the disease.

[From the Washington Times, July 23, 1986]

THE ADMINISTRATION'S PROTECTIONIST POLITICS

Last Thursday, even as President Reagan was publicly exhorting lobbyists to "fight protectionist pressures in Congress," one of his own trade negotiators. Charles Carlisle, chief textile negotiator for the U.S. Trade Representative was putting the muscle on South Korea to become the third nation in a row to accept new limits on exports to the United States.

While most of the nation was absorbed in news of possible economic slowdown and the tangles of tax reform, a nervous Wall Street was watching a protectionist Reagan administration losing its free-market cool, and potentially starting a global trade conflagration.

While Washington sweltered in three weeks of mid-July mug, trade representatives from three Asian countries—Hong Kong, Taiwan, and South Korea—learned why it is dangerous to be an ally of the United States, as Mr. Reagan's textile "hitman," Mr. Carlisle, sweated them into the most restrictive textile and apparel quota bilateral agreements ever seen, even in the ugly 27-year history of the Multi-Fibre Agreement (MFA) which comes up for renewal next week in Geneva.

(While Communist China, a bigger exporter than Hong Kong, has been exempt from these one-on-one trade shakedowns, the administration is hoping they will cooperate in Geneva!)

The effect of these agreements is to reduce the annual rate of growth of textile-apparel shipments from these three countries to the United States from the current 5 percent to 10 percent a year down to less than 1 percent, and this in turn will cut their share of the U.S. domestic market from nearly 8.8 percent in 1985, to about 7.2 percent in 1991, a 15 percent to 20 percent share loss.

While this may not seem like much, and only amounts to a reduction of about $1.8 billion to $2 billion in new sales of low-cost textiles to the United States, its much more important quantitative effect will be to put a lid on further price competition against U.S. manufacturers, and raise U.S. apparel price inflation by as much as 3 to 4 percentage points, or another $3 billion to $5 billion against consumers.

The 72 percent rise in Asian imports has kept U.S. apparel prices since 1980 down to an annual rate of less than 1.4 percent, compared with total price rises for all goods and services of 5.5 percent.

In fact, over the last six months ending in May 1986, apparel prices have actually been *falling* at an annual rate of 3 percent.

All this is the result of total imports rising from about 13 percent of the U.S. market in 1980 to 23 percent, in spite of the already heavily restrictive MFA which makes the U.S. textile and apparel industry one of the most protected in the nation, and now costs American consumers about $24 billion to $27 billion per year.

Indeed, it has been the tighter administration policing of the MFA since late 1984 that has helped cut import growth back dramatically from 30 percent in 1983 and 1984, to 7 percent in 1985, and virtually no growth in 1986, while 1985, 1986 U.S. production and sales have suddenly shown a sharp 6 percent to 8 percent *increase*.

As a matter of fact, despite all the hysteria, total U.S. capacity utilization in textiles has *soared* from 79.4 percent in the first quarter of 1985, to a whopping 88.4 percent in 1986, nearly 10 full points *above* the nation's 78.6 percent.

Compare this actual performance with the statement of the protectionist leader in the House, Rep. Ed Jenkins, Democrat of Georgia, and author of the dreadful Textile Quota Bill, who called it "the last gasp of this industry". Some "last gasp!"

Another reason for this 1985–86 textile recovery, of course, is that the U.S. industry has been forced by overseas competition to make major productivity increases, raising total production nearly 9 percent since 1980, even as total employment *fell* by 14 percent.

Production this year is up almost 7 percent over last year. Yet, employment has rebounded by only 1 percent, suggesting productivity gains of 4 percent to 5 percent yearly, accounting for nearly *all* job losses.

Unfortunately, the agreements just forced on the three Asian countries could end all that. The administration says this was a necessary move to head off an August 6 veto override of the Jenkins bill which they say will cost as much as $13 billion a year.

But we can't find any serious observers on Capitol Hill who think the administration's veto was in any trouble, with vote margins in the Senate now predicted to be seven to 15 against override.

So the administration's protectionism may have more to do with November politics than August economics, with tough Senate races in North Carolina and Georgia (Messrs. Broyhill and Mattingly) and strong House opportunities in Strom Thurmond's South Carolina. Some of the heaviest conservative contribution money in these states comes directly from textile and apparel tycoonery.

Unfortunately, these contributions are already being "bought" at the expense of low- and moderate-income consumers, especially in the area of children's clothing, which in anticipation of these restrictions has gone on a price-soaring spree—up at a 9 percent annual rate since March—as the Asian countries seek to upgrade their dollar income by shifting to higher-margin adult clothing.

"We see the prices of children's clothes soon being just as high as for adults," said Bob Stevenson, vice president of Detroit based K Mart stores "Our buyers are already having to scale back their import purchases so we can conform with the lighter quotas."

In short, many K Mart, Sears, JC Penney, and Zayre's shoppers are going to help finance Republican election campaigns in the wildly prosperous Southeastern states this fall, where income and jobs have already been growing at their fastest rate in two decades, and 30 percent to 50 percent faster than for the nation as a whole.

No wonder the stock market is nervous, and Democrats are demagoguing for still more protectionist raw meat.

THE INTRODUCTION OF THE OFFSHORE ENERGY SECURITY ACT OF 1986: JULY 24, 1986

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. FIELDS. Mr. Speaker, I am pleased to introduce, along with several of our colleagues, the Offshore Energy Security Act of 1986.

The purpose of this legislation is to provide some badly needed assistance to our vital but struggling offshore energy industry.

As the ranking minority member of the House Panama Canal and Outer Continental Shelf Subcommittee, I have been a strong and consistent advocate of developing our critically important offshore energy resources in a timely, safe, and orderly manner.

While the precipitous decline in energy prices has provided temporary benefits for certain regions of our country, the sudden and dramatic drop in crude oil prices has caused tremendous suffering in a number of States, including mine. On balance, I am sure most of us would agree that these oil price developments have been, at best, a mixed blessing for this Nation.

As a result of these low energy prices, we have seen a traumatic and dangerous decline in the amount of exploration activity on the Federal Outer Continental Shelf. In fact, just last week the number of offshore rigs in the Gulf of Mexico which were either under contract or involved in drilling stood at 67. This figure represents a utilization rate of only 27 percent which compares most unfavorably with the 93 percent utilization rate which was achieved as recently as January 1984.

Mr. Speaker, while these figures clearly indicate a serious and dangerous decline in energy exploration in this country, they don't begin to tell the whole story.

What they fail to show is that U.S. oil imports have dramatically risen in the last several months by 610,000 barrels a day, with 500,000 barrels, or 83 percent of that figure, coming from the Organization of Petroleum Exporting Countries.

Since last fall, the largest producing OPEC nation, Saudi Arabia, has catapulted from 15th place to become the second largest supplier of U.S. oil imports.

At the same time, these figures fail to place in proper perspective the fact that not only have energy exploration budgets been slashed by 25 to 50 percent but that thousands of American energy workers have either retired early or been involuntarily separated from their jobs. What these employees represent are thousands of years of experience in the energy business, and their knowledge and expertise will be sorely missed in the future.

These figures also do not indicate that we have paid an average of $1 billion every week over the last 3 years to buy foreign oil imports and that these purchases have played a major role in creating and sustaining our Nation's staggering trade deficit.

I would say to my colleagues that one real and positive way to reduce our trade imbalance, with oil imports representing 40 percent, is to vote to increase our supply of domestic reserves which will reduce the need for foreign imports.

Mr. Speaker, I would strongly suggest that a combination of record low energy exploration and a growing dependence on foreign Middle East oil is a prescription for economic calamity and an unwelcome return to those not-so-nostalgic days of the mid-1970's when millions of Americans waited in gasoline lines in towns and cities all over the United States.

History need not repeat itself. I suggest that now is the time for this Congress to renew its efforts to achieve energy independence by enacting new incentives to encourage additional offshore energy exploration.

We cannot and must not wait for the next energy crisis to be upon us before moving ahead to explore, develop, and produce our offshore energy resources.

Unlike our onshore reserves, which are being rapidly depleted, it has been estimated by the U.S. Geological Survey that the OCS contains up to 60 percent of our undiscovered energy resources which represents some 70 billion barrels of oil and 230 trillion cubic feet of natural gas.

Regrettably, however, these energy resources cannot be developed overnight. In fact, it is no exaggeration to say that a well drilled on a lease on the OCS today will not produce energy for America's homes, schools, or factories until 1996 or some year beyond.

Under normal conditions, it takes 2 years for the Department of the Interior to organize a lease sale, several years to find a commercially producible field, and 8 to 11 years to develop the resources that are found.

Mr. Speaker, we do not have the luxury of being able to enjoy that kind of lead time and unless we act now we may well see the return of gasoline lines, factory and school closings, and double digit inflation.

With each passing day, this Nation becomes more and more entrapped in the OPEC web of dependence.

What we are witnessing today is a bold and calculated effort by several OPEC nations, most notably Saudi Arabia, to wipe out our stripper well production and to virtually halt all exploration activities by manipulating oil prices in order to reestablish their absolute control over the energy market.

Without being melodramatic, I want decisions affecting the future of our energy supply made in places like Houston, New Orleans, and Washington, DC, and not by those in Lagos, Nigeria, or Riyadh, Saudi Arabia.

Mr. Speaker, we can control our own destiny and I respectfully submit that this legislation which I am now introducing is a positive and right step in that direction.

As I indicated earlier, the purpose of this bill is to provide the stimulus necessary to maintain a level of exploration, development, and production on the Outer Continental Shelf which is adequate to meet the energy needs of this Nation.

This bill will accomplish that purpose by making four important changes in existing law. First, the bill lowers from $150 to $25 or less per acre the amount of the minimum up-front bonus payment that an oil company must spend to obtain a lease on the Federal Outer Continental Shelf.

At today's oil prices, the $150 per acre minimum is clearly a major disincentive to leasing. In fact, during a recent hearing before the Panama Canal and OCS Subcommittee, the Department of the Interior's Director of the Minerals Management Service, Mr. William Bettenberg, noted that "$150 an acre is a fairly substantial amount. It costs you about $900,000 just to get a tract to lease, and since most tracts are dry, that is typically $900,000 for dry tracts."

Mr. Speaker, I agree completely with Mr. Bettenberg's assessment and I hope that the Department of the Interior will recognize the wisdom of returning to the pre-1981 rate of $25 per acre. In my judgment, this change alone will serve as a significant incentive for exploration activity, not only in the Gulf of Mexico but also in some of the so-called frontier offshore areas.

Second, my bill allows the Secretary to reduce the royalty rate as it applies to both new and existing leases. With crude oil prices now hovering in the $12 per barrel range, the

current royalty rate, which is normally 16⅔ percent, is causing many oil companies to not only forego participation in a lease sale but to prematurely abandon existing leases because the value of that resource is not sufficient to cover both the company's operating costs and the royalty payments to the Federal Government.

While the costs of production are low in the initial phase of development, as production proceeds, reservoir pressure declines and production costs per barrel incrementally increase.

I am convinced that by reducing the royalty rate toward zero, particularly as a lease approaches exhaustion, everyone involved in the leasing process will benefit. Profits to the operator would increase, additional royalties would accrue to the Government, employment would be higher, and the Nation would receive additional oil production at costs below that of imported oil.

Mr. Speaker, the value of oil and gas development in the United States must not be measured as the sum of royalties and up-front bonus payments. The real benefits of this program are reflected in the increase in domestic production of oil and gas and its positive impact on the energy security of this Nation.

The third change I have proposed in this legislation is simply an attempt to encourage the Secretary of the Interior to utilize his existing regulatory authority to offer large economic units during any future lease sales.

While an oil company may now bid on and win a number of adjacent tracts, by offering a number of tracts as a large economic unit both the Federal Government and the oil industry can maximize their efforts to find and develop commercially producible quantities of oil and gas.

By expanding the initial tract size, the Government would offer a much improved opportunity to include an expected fossil fuel reservoir.

Finally, my bill establishes an offshore safety advisory committee. While this is clearly not a new proposal, there is considerable support for the idea of establishing a committee of individuals representing oil companies, drilling contractors, fabricators, and general support services which would make recommendations to the United States Coast Guard on the safety aspects of offshore oil, gas, and other mineral operations.

As someone who has been a consistent and strong supporter of offshore safety, I believe that the need for this advisory committee has been demonstrated.

Mr. Speaker, now is the time for this Congress to refocus its efforts toward the goal of avoiding any future energy crisis. It is important to remember that just to maintain current levels of reserves and production, the United States needs to find the equivalent of 9 million barrels of oil and nearly 50 billion cubic feet of natural gas each and every day. We are falling short of that target, and we have no time to lose.

While I recognize that this proposal will not solve all of the problems facing the domestic energy industry, I suggest that my colleagues view this bill as an important component of a comprehensive effort to increase the amount of energy exploration and production in this Nation.

In combination with other changes, like the repeal of the windfall profits tax, immediate decontrol of all natural gas, elimination of the Fuel Use Act, and certain incentives for stripper well production, we can stop the perilous decline in our domestic energy industry.

It is clearly not in the best interest of American consumers to shut down OCS production and to leave ourselves totally at the mercy of foreign producers.

As we so vividly remember, the last time we became overly dependent on foreign energy sources, oil prices made their fastest climb in history.

Mr. Speaker, from my perspective, a centerpiece of any comprehensive energy program is the development of the 1 billion acres which comprise the Federal OCS.

By moving ahead in a timely and orderly way to explore, develop, and produce our offshore energy resources, we can assure future dependable supplies of energy, we can strengthen our economy, we can create and save thousands of jobs, we can decrease our growing dependence on foreign oil imports, and we can help reduce our huge trade deficit.

Mr. Speaker, I would urge each member of this body to closely review this important legislation and then join with me and our distinguished colleagues, Congressmen DON YOUNG, BILLY TAUZIN, NORM SHUMWAY, WEBB FRANKLIN, SONNY CALLAHAN, and Congresswoman HELEN BENTLEY, in promoting the expeditious passage of the Offshore Energy Security Act of 1986.

THE FUNDAMENTAL ISSUES IN NICARAGUA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. TORRES. Mr. Speaker, it is critical that we focus in on the elementary issues involved in the Nicaraguan conflict. It is not a question of Soviet incursion, national pride, or even the invasion of Harlingen, TX. A recent article in the Los Angeles Times by Bill Maynes highlights those fundamental issues on which we must renew our focus. I commend this article to my colleagues' attention and would like to include it in today's RECORD.

[From the Los Angeles Times, July 20, 1986]

NICARAGUA: U.S. AGAIN INTRUDES ON THIRD WORLD

(By Charles William Maynes)

WASHINGTON.—The White House decisions giving the Central Intelligence Agency control over the U.S. proxy war against Nicaragua means the United States will once again be trying to micromanage a Third World conflict. Once again, CIA-selected leaders will be presented as individuals the Nicaraguan people have chosen. Once again, U.S. technology will struggle against Third World nationalism, tarnishing the U.S. image throughout the world. And once again, the United States will probably lose.

There are at least three reasons why the new U.S. policy will probably fail: the demand for social peace, the need for social justice and the weight of history.

Although the Administration usually suggests that revolutions should only take place by majority vote at the ballot box, the truth is that most revolutions, including our own, have been the work of minorities. The majority turns to the revolutionaries after concluding that they are more likely than the authorities to provide order.

In many Central American countries the people rightly view the agents of government as the principal cause of social disorder. Efforts of the man at the top, however well intentioned, are discounted because he cannot control his own military, usually beholden to the extreme right. In Guatemala, for example, a courageous man, Vinicio Cerezo, was recently elected on a platform of democracy and social reform. But he has been unable to stop the killing—more than 700 since his inauguration on Jan. 14. In June, his personal pilot was kidnaped and killed.

Despite Washington's claims of progress in El Salvador, murders by groups associated with certain government agencies continue at a sickening rate—close to 2,000 a year. Meanwhile, after a careful investigation in Nicaragua, Americas Watch concluded in early 1986 that "we are unable to detect in Nicaragua a deliberate, centrally directed practice of 'disappearing' detainees as took place in Argentina and Chile in the 1970s, in Guatemala from 1966 to the present and in El Salvador during the past six years."

The people of Nicaragua are distressed at many aspects of Sandinista misrule—the poor economy and the crackdowns on political freedom—but they know that the *contras*, whose use of terror as a political weapon is documented, threaten a return to the kind of social disorder that ravages neighboring states. It is probably for this reason that, despite a rising level of popular discontent, the *contras* have yet to take and hold a single town on Nicaraguan soil.

The need for more social justice in Central America is another reason why U.S. policy will probably fail. It is no accident that the conflict in Central America is now most acute in El Salvador and Nicaragua. In each, the poorest 20% of the population is much worse off than even in neighboring states like Honduras. In El Salvador the poorest 20% received only 2% of the national income in 1980. In Nicaragua, the figure was 3%. The average annual income for the poorest 20% in the two countries was about $50, compared with $111 in poor Guatemala.

It might be possible to deal with such misery short of revolution if the United States wholeheartedly backed democratic leaders pressing for radical change. But when one arises, like Jose Napoleon Duarte in El Salvador, the United States, for domestic reasons, cannot make it clear to the far right in the region that the United States stands categorically behind the call for drastic change. Hard pressed by the right, the Duartes of the region are forced to resort to half measures. Soon the options again appear starkly—either repression or revolution—but repression cannot work forever.

A final reason for potential U.S. failure involves our repeated inability to understand the dominant force of the age. It is not communism or capitalism but nationalism. The political movement that captures the national symbols prevails. And precisely because the status quo in Central America is

too identified with Washington, it is vulnerable.

When the history of the American involvement with the Nicaraguan resistance is written, the single greatest mistake will turn out to be U.S. unwillingness to work with Eden Pastora, who maintains that he is a "democratic revolutionary," whereas those the United States supports are "counterrevolutionaries." Pastora perhaps exaggerates his differences with *contra* leaders. But is it an accident that all three of the top *contra* civilians come from Nicaragua's business or financial world? One is a former Coca-Cola executive, one a former banker and one a former president of the Chamber of Nicaraguan Industries. These are the people the CIA has selected to develop popular appeal among Nicaraguan peasants.

Because Pastora would not take orders form his CIA handlers, the United States dumped him. But it was precisely because he would not take orders that he had some chance of capturing the nationalist mantle from the Sandinistas.

The short-run alternatives the United States faces in Central America are now very bleak—in the immediate future, either un-American repression or anti-American revolution. Faced with those alternatives, a majority of the House of Representatives backed those who, with few figurehead exceptions, have always been on the side of repression; then tried to salve its conscience by insisting that the *contras* henceforth adopt higher standards of human rights.

There is, however, another choice, taking the longer perspective. In the short run, almost any radical political stance in Central America will be anti-American. But the countries involved are small and part of a larger international system still dominated by the United States. In time, like China, Mozambique and Yugoslavia, they will have no choice but to move toward some kind of accommodation with the United States. Meanwhile, there is little they can do to harm the United States unless they permit a foreign military presence—then virtually all Americans would support its removal by the U.S. military.

Perhaps before the countries of the region have been totally destroyed and many of their people driven across our borders as refugees, an Administration in Washington will again focus on this longer run.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. UDALL. Mr. Speaker, this is the eighth in a series of articles that I will be submitting over the course of the next several weeks that will illustrate the current crisis in Mexico.

I feel it is critically important to remember that Mexico is not some distant trouble spot, but, rather, our friend and valued neighbor to the south.

Today's article is an excellent followup to yesterdays article concerning the signing of the International Monetary Fund-Mexico accord. The Washington Post editorial calls the Mexican debt agreement a victory for common sense, but observes that it is by no means a final victory.

The article follows:

[From the Washington Post, July 24, 1986]

THE MEXICAN DEBT AGREEMENT

The Mexican debt agreement is a victory for common sense. It's by no means a final victory, for it represents only one step in the management of Mexico's enormous foreign debt and Mexico's return to economic growth. But things are now moving in the right direction, and that's enormously important to the United States. As a matter of foreign policy, Mexico's stability ranks second only to the Soviet strategic relationship in its significance to Americans in the coming decade.

Under this agreement the lenders will make extraordinary concessions to Mexico, and Mexico will make extraordinary efforts in its own behalf. The agreement, signed by Mexico and the International Monetary Fund with the active support of the World Bank and the Reagan administration, does not merely try to help Mexico carry its present debts. Mexico has to be able to carry them in terms that will permit its economy to expand, and that will permit it to continue to borrow. The drop in the price of oil has made Mexico's borrowing requirements imperative.

Mexico, on its part, has apparently abandoned demands for interest rates below market levels, which would threaten higher interest rates to the banks' other borrowers. Beyond that kind of negotiating concession, Mexico is now moving steadily ahead with the most profound kind of internal reforms. It is closing money-losing state-owned enterprises. It is beginning to dismantle the protectionist practices that preserve highly profitable inefficiency for well-connected businessmen. President Miguel de la Madrid and his government are already paying a substantial political price for these reforms, and Americans should not underestimate the risks that Mr. de la Madrid is running.

It's far from certain that the commercial banks will go along and put up their half of the $12 billion in new loans that the agreement would provide over the next 18 months. But the best bet is that, with the usual grumbling, they will cooperate. Otherwise, if there were a Mexican default, they might well be blamed for it. None of the American banks is likely to expose itself to the consequences of that—not with the U.S. Treasury actively supporting the agreement. If the American banks cooperate, the Japanese and Europeans will follow.

None of that can guarantee success. The present phase of Mexico's distress is wholly owed to one unpredictable event, the sudden collapse of oil prices last winter, and no doubt other unpredictable events lie ahead. But the agreement demonstrates that the international system—meaning Mexico, the Reagan administration and the IMF—are capable of dealing skillfully with an international economic crisis of the greatest urgency.

THE KATZ FAMILY OF MOSCOW

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. PORTER. Mr. Speaker, I rise once again to bring to my colleagues' attention the plight of another Soviet Jewish family, who is being denied their right to emigrate from the Soviet Union.

Simone Katz lives in Moscow with his wife Vera and their two children. Simone first filed emigration documents in March 1979, so that he could reunite with family members, who he has been separated from since World War II. The Katz family presently have relatives living in the United States and Israel.

Simone's visa request was virtually ignored by the Government. However, they have responded to his request with increased harassment and anti-Semitic behavior. Two months after applying he was beaten so severely that he has been receiving hospital treatment ever since.

Simone is a well-known physicist and mathematician and at the time of his application to emigrate he worked as a senior researcher, earning 400 rubles a month. After he applied for a visa, he was demoted to a minor researcher with a reduced monthly salary of 150–200 rubles. Although Simone is still working in his field, he can no longer publish scientific papers—before his application he published over 30 research articles—use a computer, or carry out any experiments, which are means so necessary to advance his research.

Dr. Katz has suffered further pressure and harassment at work. He has been accused of being a traitor to the Soviet state. When he was asked to speak at a major seminar, his colleagues were told to discredit him, but they refused. Simone invited all famous scientists to come to the seminar and they did, but they were refused entry to the auditorium. The audience was a group of organized imposters who had been planted to refute Katz's theories. Although the deputy director of the institute attended, all other institute members were barred admittance.

Simone sent letters to the Science Academy protesting this anti-Semitic act as a "travesty to all the traditions of science." In response to his formal protest, he received a call from a low-level official who told him that his statements were unsubstantiated and invalid.

Mr. Speaker, the continued prejudice of Soviet officials against Soviet Jews is atrocious. I encourage my colleagues to continue their strong efforts to press the Soviets until we see substantive changes in their practices. The Soviets must know that our voices will not be silent until the persecuted individuals, like Simone Katz and his family, are allowed to live freely in the land of their choice.

EXPLANATION OF VOTE ON H.R. 5161

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. WEISS. Mr. Speaker, I had intended to vote in favor of H.R. 5161, making appropriations for the Departments of Commerce, State, and Justice for fiscal year 1987. But with the passage of the Dornan anti-abortion amendment, a "yes" vote on this bill has become impossible for me.

The bill before us contains many items worthy of support, including continued funding for important programs that the administration

seeks to eliminate, like the Legal Services Corporation, which helps low-income people get the full legal representation they need and deserve; the Small Business Administration, which assists small businesses struggling for economic viability; and the Public Telecommunications Facilities Program, which provides planning and construction grants for public TV, radio, and nonbroadcast facilities.

This bill would also terminate funding for the Civil Rights Commission, an entity whose work has become an embarassment and an obstacle to those of us determined to see that all citizens have equal political rights and economic opportunities. If the Civil Rights Commission were still an independent body, I would continue to support it, as I have in the past. But since the Commission has been reduced to an ideological arm of the Reagan administration, it no longer serves any meaningful civil rights function, and deserves not to be funded.

Other programs in this bill that I support include funding for our participation in a variety of international organizations, including the United Nations, and the antidrug programs of the Drug Enforcement Administration.

For the last 5 years, I have voted in favor of the annual appropriations for the Departments of Commerce, State, and Justice: it is only with the greatest reluctance that I vote against this bill today. I cannot, however, support any measure that includes such an outright violation of a woman's constitutionally protected right to choose abortion as is presented here with passage of the Dornan amendment.

The amendment is not merely an extension of the Hyde amendment as we have been led to believe. That notorious amendment, as we are well aware, already unfairly denies coverage of abortion services to women dependent upon the Federal Government for health services, including Medicaid recipients, native Americans, Peace Corps volunteers, military employees and their dependents, Federal employees, and residents of the District of Columbia.

Mr. DORNAN's amendment, which has just been adopted, would go much further. In it, we are not talking about women dependent on the Federal Government for just health coverage. We are not talking about people living freely in our society who, when denied Federal financial assistance, can seek private assistance. We are not talking about people who have options. We are talking about women who are in the custody of the U.S. Government. We are talking about prisoners who, because of their incarceration, have no place else to go—and are therefore guaranteed by our statutes and our courts minimum standards for health care provided by the U.S. Government.

During a debate last year in the Senate on a similar measure, a point of order was raised questioning the constitutionality of the pending amendment.

The point was made that it has long been established that the eighth amendment's prohibition on cruel or unusual punishment requires that prisoners receive adequate medical care. A violation of the eighth amendment arises when prison officials withhold access to medical care. This would clearly result from the Dornan amendment—which would deny an incarcerated woman the ability to exercise her constitutionally protected right to have a legal abortion.

The amendment which we have just approved goes even further than the one defeated by the other body. This amendment not only denies abortion funding, it denies facilities for the performance of abortions—which, by the way, the Bureau of Prisons does not now provide—as well as expenses for transportation, staff escorts and housing related to the procuring of an abortion, except where the life of the mother would be endangered if the fetus were carried to term.

Without funding, without facilities, without transport, and without escort, there is no way possible that an incarcerated woman can obtain a legal abortion.

This analysis does not, as proponents of this amendment would argue, contradict the Supreme Court's decision upholding the Hyde restrictions on Medicaid funding for abortion. The Court held in Harris against McRae that the restriction on Medicaid abortions was permissible because it did not create an absolute barrier to the ability of a woman to have an abortion, which would be in violation of her privacy rights as recognized in Roe against Wade.

By contrast, the Dornan amendment would create an absolute barrier to indigent prisoners seeking abortion. I maintain that this is clearly a violation of the eighth amendment protections against cruel and unusual punishment and it is for this reason that I must vote "No" on H.R. 5161.

It is my hope that clearer minds will prevail during future consideration of this bill, and that this questionable provision will be dropped by the conferees. If this occurs, I intend to support this important appropriation bill.

RESTORE SAFETY TO THE AIR TRAFFIC CONTROL SYSTEM

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DOWNEY of New York. Mr. Speaker, I rise today in strong support of an amendment to H.R. 4003, the Transportation appropriations bill, that my New York colleague Representative MOLINARI will offer. This amendment would mandate the Department of Transportation to rehire air traffic controllers who were unjustly fired by the President in 1981. It is the best and most sensible step toward achieving safer airways and fulfilling Secretary of Transportation Dole's plan to hire 1,000 new controllers over the next 2 years.

Anyone who has flown recently or is involved with air transportation knows of the serious problems which plague the air traffic control system. In fact, according to the National Transportation Safety Board, 1985 was the second worst year for fatalities in U.S. commercial aviation history: 564 people died as a result of air accidents that year. By contrast, 1980 was the safest year on record when there was only one accident and one death.

Fatality statistics, however, do not begin to shed enough light on the subject. Evidence presented in October 1985 at hearings before the Aviation Subcommittee of the House Committee on Public Works and Transportation as well as an independent study by the U.S. General Accounting Office published in March 1986 confirmed my longstanding suspicion that the Federal Aviation Administration could not and has not yet recovered from the dismissal of 12,200 air traffic controllers in August 1981. Over three-quarters of those fired—9,200 controllers—were full performance level controllers, fully certified to operate all positions in a defined area. They had achieved a degree of skill and expertise obtainable only through years—the average was more than 5 years on the job—of experience.

By February 1986, the FAA had 8,673 full performance level controllers at work. This number does not approach the prestrike level of 13,205 on July 31, 1981. Moreover, since the strike, the Office of Personnel Management has waived time-in-grade requirements so that controllers can be considered full performance level with only half of the normal 4 to 5 year service requirement. We have a dangerous situation of understaffing and inexperience in our control towers. Predictions of continued manpower shortages extend into the foreseeable future as the GAO expects more seasoned controllers and supervisors to retire than the FAA anticipates.

These shortages pose an incredible burden on the current workforce. The New York State Air Traffic Control Center is located in my district in Ronkonkoma, NY, and I am acutely aware of the difficulties under which our air traffic controllers work. The vast majority, 91 percent, of current air traffic controllers believe that there are fewer full performance level controllers than needed to maintain safety in the skies.

The same conclusion is being reached by every group that has studied the problem. The Flight Safety Foundation, an international organization dedicated solely to the improvement of flight safety, reported that "the present air traffic control system does not provide the same level of safety as before the strike." The GAO citing controller stress, staffing shortages, increased traffic, declining morale, lack of supervision, and an inexperienced workforce, concluded that "controllers at many major facilities are being stretched too thin and over time, the situation could impair their ability to continue to maintain the proper margin of safety." The most chilling analogy was drawn at a hearing of the Aviation Subcommittee of the House Committee on Public Works and Transportation by my colleague from Minnesota, Representative OBERSTAR:

> The system is akin to a time bomb ticking away. Air traffic is at record levels, but the system designed to handle it remains overworked at critical times in peak periods. The combination of both and the added element of inclement weather is a recipe for disaster.

We can rectify this dangerous situation by supporting Representative MOLINARI'S amendment ordering the rehiring of 1,000 experienced and qualified controllers to the depleted ranks of the air traffic system. The need

for improved safety measures is evident, as is the need for providing relief to the thousands of overworked air traffic controllers. Representative MOLINARI'S amendment will accomplish these vital goals.

In announcing her opposition to this remedy, Secretary Dole expressed concern that a morale problem could develop among current controllers. While it is difficult to imagine greater dissatisfaction in the ranks for the controllers than currently exists, this concern is under investigation by the GAO. The findings, I believe, will point in the opposite direction. Rehiring experienced controllers will relieve a great deal of the pressure on current controllers and improve working conditions.

When you fly, you put your life into the hands of a long line of professionals: ground crews, maintenance personnel, pilots, navigators, and air traffic controllers, to name a few. By mandating the rehiring of 1,000 fired controllers, we can strengthen a crucial link in the chain. A clear need exists and an experienced body of personnel stands ready to fill it. The safety of the general public will be best served by this amendment. I strongly urge my colleagues to avail themselves of this opportunity to restore safety to and confidence in air travel by supporting this amendment to H.R. 4003.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. BOEHLERT. Mr. Speaker, I ask my colleagues to join me in commending and congratulating the 1,823 delegates to the White House Conference on Small Business. The Conference will be holding its second convention here in Washington between August 17–21, 1986. This event culminates a series of similar conferences which have been held across the country and in each of the 50 States. These small business "summits" have proven an invaluable source of insightful ideas presented by those who must operate under the laws we set—the small businesspersons themselves. This Conference provides a unique opportunity for them to exchange their divergent opinions, creating viable recommendations for Government action on small business issues.

The grouping of small businessmen at a national conference establishes a catalystic atmosphere for positive change. Through a forum such as this, the public is made aware of the contributions small business makes to America, thereby enhancing the ability of small business to continue carrying out its role as the Nation's major job creator. These imaginative entrepreneurs dare to dream, bucking traditional business trends and constantly injecting new blood into the American business climate. Their foresight and calculated risk taking insures America of new business and employment opportunities and, in turn, prosperity for the generations of today and tomorrow.

Beginning with productive conferences on the State level, more than 2,200 recommendations are passed on to the regional and national conferences by participating small businesspersons. During each successive conference, climaxing with the national meeting in Washington, recommendations are eliminated, refined, and clarified. Those proposals judged to be both prudent and actionable are then presented to the President and Congress, effectively assisting us in developing Federal policies which allow small businesses to grow and prosper.

Delegates to the 1980 White House Conference sent 60 recommendations to the President and the Congress. Since them, two-thirds of these recommendations have been acted upon legislatively or administratively—most notably the Economic Recovery Tax Act of 1981, which enacted sensible revisions to this country's Tax Code. With over 300 recommendations expected from this year's Conference, we can look forward to even more productive output from the delegation—especially the savvy businesspeople from my district: Richard Burgess, Clyde Cook, Beverly Margolis, and Sigurd Rahmas.

Among the many proposals on the agenda for the National Conference are two ideas which I believe meet the Conference criteria of being both prudent and actionable. The first is the permanent reauthorization of the Small Business Innovation Development Act, which requires Federal agencies with annual research and development budgets of $100 million or more to allocate at least 1.25 percent of that spending to small firms. By enacting this legislation, we take steps toward insuring the life of many small business firms while also providing the Federal Government with the best productivity for the money that we can buy—the services of America's small business.

The other proposal which deserves our careful consideration will be the Conference suggestions for solutions to end the liability crisis, which has many of our small business people to either curtail operations or go completely out of business due to insurance premium increases and unavailability of policies at any price. The loss of any small business to this problem takes a vital bite out of both our economy and society as a whole.

In addition to the issues being debated, differences between the 1980 and 1986 Conference will be apparent by the nature of the delegates as well. More than a third of the 1986 participants will be women, compared with only 15 percent at the 1980 conference.

The ultimate goal of the national White House Small Business Conference is to establish a clear statement of small business priorities that is representative of the concerns of this country's 14 million small business men and women. To date, the small business community has responded enthusiastically and optimistically to the reconvening of the Conference. I am confident that the spirit of enterprise which abounds in this country will bring forth specific and comprehensive recommendations for executive and legislative action which will maintain and encourage the economic vitality of small business and, thereby, the Nation.

ROMANIAN GOVERNMENT ABUSES

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. ECKART of Ohio. Mr. Speaker, recently the President sent a message to Congress requesting the extension, under the waiver clause of the Trade Act of 1974, of the most-favored-nation status for Romania.

For the past 11 years, Congress has received such messages and complied with them in the hope that the economic benefits bestowed, and pressure exerted by congressional oversight hearings and by our State Department would bring about a change of the depreciating state of human, cultural, religious, and national minority rights in Romania. Unfortunately, the opposite has prevailed.

Since 1977, but particularly since the economic crisis of 1982, the Ceausescu regime has repeatedly denied the rights of its citizens, particularly its religious believers and national minorities.

The persecution of the Christian denominations has long been exposed by Members of this body. Therefore, the State Department has attempted to negotiate the issue with the Romanian Government. Little to no success has been made and the persecution continues.

The Hungarians are another victim of an increasingly brutal denationalization drive by the Ceausescu regime. Numbering at 2.5 million, the Hungarian minority is repeatedly denied the right to participate in their cultural heritage. Higher education classes in Hungarian and the opportunity to study in the mother tongue are increasingly limited on the high school and intermediate levels. Book production is limited, cultural institutions have been partially or completely eradicated, and publications of anti-Hungarian as well as other anti-minority hate literature have been printed. All this and more has been allowed to take place with the hope of eliminating the national consciousness of all minorities within Romania.

Those opposed to Ceausescu's regime find it increasingly difficult as they are brutalized and intimidated by police. Thousands have been arrested without cause and others disappear.

Mr. Speaker, under these circumstances, and especially since the Romania Government refuses to discuss these blatant and intolerable abuses against human rights, despite attempts by our diplomats to talk about these violations taking place within Romania, I could not in good faith vote for an extension of the Romania MFN status, unless substantial improvements were made by the Romanian Government in regard to the religious, human, cultural, and self-determination rights of the national minorities in Romania.

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OLMSTED'S LEGACY—WHAT SUMMIT COUNTY, OHIO, SHARES WITH CENTRAL PARK IN NEW YORK

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SEIBERLING. Mr. Speaker, I would like to bring to the attention of the House an excellent article by Mary Paolano which appeared recently in the Akron Beacon-Journal concerning the legacy of Frederick Law Olmsted, the premier landscape architect in the United States during the late 19th century and the father of the landscape architecture profession in our country.

Ms. Paolano's article, "What Summit Shares With Central Park," describes some of the legacy of Olmsted, his sons and associates, whose works include not only the famous Central Park in New York City but also plans for parks and landscapes in Summit County, OH, as well. Indeed, their work spans the Nation, from the cities of Boston, New York, Hartford, Baltimore, and Washington, DC, to Seattle, Portland, San Francisco, Denver, Kansas City, and New Orleans, to name just a few.

As Ms. Paolano points out, Warren Manning, one of Olmsted's associates, designed the grounds of Stan Hywet Hall in Akron, a magnificent pre-tutor style house and gardens which are listed on the National Register of Historic Sites and also are designated a National Historic Landscape. In doing so, he shared a heritage that Olmsted himself left in designing such masterworks as the grounds of the Vanderbilt's Biltmore mansion in Asheville, North Carolina.

I was pleased to note that Ms. Paolano also mentioned H.R. 37, the Olmsted Heritage Landscapes Act, which passed the House last year. While the legislation is relatively modest and would simply provide for identification and basic research and information on landscapes designed by Olmsted and/or his associates, it would do much to raise public consciousness about the wonderful legacy that remains. My hope that the Senate will act on the legislation soon.

Following is Ms. Paolano's article, which I commend to the Members' attention:

[From the Beacon-Journal (Akron)]

WHAT SUMMIT SHARES WITH CENTRAL PARK

(By Mary Paolano)

What does Summit County have in common with New York's Central Park? What does Stan Hywet share with the Vanderbilt's Biltmore mansion?

These and countless other beautifully designed places such as Stanford University, Michigan's Birmingham and Belle Isle, the Cleveland Art Museum environs and the Boston Harbor area were all planned by Frederic Law Olmsted or his sons and associates.

U.S. Rep. John Seiberling is working to change the "countless" to a government-sponsored listing of the places created by these planners. The public and private landscaping by these men is an important part of this country's heritage. Planning briefs can in some cases be retrieved and the original designs studied and perhaps even restored.

Walter Manning, Stan Hywet landscaper, made a study of a national plan to make the best use of our natural resources, stressing that we are exceptionally blessed by having abundant water and good soil in the temperate zone.

A poet's inspiration started the whole thing. Henry David Thoreau was worried about the New York metropolis taking over what was at that time pig farms and hovels. He felt that each town "should have its own wilderness park, a common possession forever." William Cullen Bryant pushed the idea of a contest for a central park in the city with his influence as journalist, lawyer, naturalist and civic leader.

Olmsted and Calvert Vaux won the award and for $2,000 Central Park was born.

Olmsted, almost blinded in his youth by poison sumac, never got a college degree. He audited Yale courses in science and engineering. He studied farming, was an apprentice topographical engineer and studied old and new landscaping methods in Europe. He learned from hands-on experience what would work and what wouldn't. He wrote books on farming and a still-reliable work on slavery and its economic impact on the antebellum South.

His treatment of Central Park as a work of art got him projects in major cities and the opportunity to develop Stanford University as an entity with its grounds.

Olmsted was the first "landscape architect" as he puts his designs on landscapes through the use of plantings, open space and water.

Yosemite Park and the Niagara Falls reservation were saved by him.

His son, Frederick Law Olmsted II, carried on his work, eventually being honored by admirers by having a stand of redwood trees named for him.

After Roxbury Latin School, he graduated magna cum laude from Harvard. By 1893 he was working beside his father on the Chicago World's Fair where he was thrilled to work with great artists such as Saint-Gaudens and Millet.

After a summer's session with the U.S. Coast Guard in the Rocky Mountains, he went to Biltmore in North Carolina where the 12,000-acre estate he developed included a river and a mountain.

After his father's death, Olmsted and his brother, John, founded Olmsted Brothers. The Washington Cathedral, West Point, the Brooklyn Botanic Gardens and many private homes were landscaped by the firm.

In 1900, Olmsted taught the first landscaping college course at Harvard. The next year saw the Olmsteds restoring and developing the century-old plans of L'Enfant for Washington, D.C.

Olmsted is credited with firming up the national parks and the Congressional Act of 1916 establishing the National Park Service.

The Summit County Metropolitan Park Board hired the firm to make a general study of Summit County. Various plans were suggested for parks, from the Clinton area to the wooded section between Akron and Cleveland. Always conscious of the practicality of any plans, along with the aesthetic considerations, the Olmsteds hoped that the valley would not be taken over as Central Park had threatened to be, or that trains would not ruin the valley.

With typical prescience, they foresaw that the heavy traffic would be up on the ridges, where someday "minimum speed limits would be maintained and the person who drives for pleasure would be forced to seek other routes" than the highways.

Seiberling has proposed that the government make an inventory of the Olmsted's parks and landscapes. The House has approved the legislation, which can be done within existing budgets. It is hoped that Sen. Patrick Moynihan, D-N.Y., can get it through the Senate.

This bill would be a fitting tribute to Seiberling at the end of his long years of service in saving our national natural treasures.

SEEK TO EXTEND COOLING-OFF PERIOD ADDITIONAL 60 DAYS

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. McKERNAN. Mr. Speaker, today, I join Representatives FLORIO, SNOWE, and several of our colleagues in introducing legislation to provide for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Co. and the Portland Terminal Co. labor-management dispute.

This legislation is necessary to ensure that essential transportation services of the Nation are not disrupted by the ongoing dispute between management of the railroad and the Brotherhood of Maintenance of Way Employees.

On May 16, pursuant to section 10 of the Railway Labor Act, the President signed Executive order 12557 which established a Presidential Emergency Board to investigate and report its findings with respect to the dispute. Establishment of the emergency board commenced a 60-day cooling-off period during which time no change in the conditions out of which the dispute arose was permitted by either party. This action became necessary when the strike threatened to spread to the Conrail system and beyond, posing a serious disruption of transportation services essential to the Nation.

While the purpose of the cooling-off period was to provide an atmosphere more conducive to continued negotiations, particularly one which would allow striking employees to return to work, a compromise was unfortunately not reached prior to the expiration of the cooling-off period.

All avenues provided in the Railway Labor Act for resolving this dispute have been exhausted and settlement appears unlikely at this time. Because of our concern that this dispute may again escalate and further threaten to disrupt essential transportation services, we have introduced this legislation to extend the cooling-off period for an additional 60 days.

I urge my colleagues to support this measure so that all parties in the dispute will have an opportunity to renew negotiations and strive for an equitable settlement.

CAPTIVE NATIONS WEEK

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SMITH of New Jersey. Mr. Speaker, over 25 years ago, the U.S. Congress unanimously passed the first Captive Nations Week resolution. Mr. Speaker, I think that this resolution is as germane today as it was at the height of the cold war when President Eisenhower made the first captive nations proclamation.

Since 1917, the tyranny of communism has been imposed on one-third of the world's population. It is fitting that once a year Americans pause to remember the plight of the nations of Eastern Europe, those struggling against Communist expansionism in Latin America, and the people of Afghanistan and Kampuchea.

Jews and others who dare to speak out for human rights in the Soviet Union are relentlessly persecuted. Trade union leaders in Poland have been tossed into prison, interrogated and harassed. The Chinese Government systematically enforces its no-exceptions policy of one child per couple, leading to widespread forced abortion and infanticide.

In Afghanistan, children have been maimed with bombs the Soviet Army has disguised as toys. The Marxist Government of Ethiopia's fiscal policy amounts to the deliberate starvation of its citizens.

Mr. Speaker, we in the free world have a moral obligation to join with the peoples of these captive nations to fight against military occupation, against Communist expansion, and against political oppression.

The principles of human rights and national self-determination cannot be separated. Only in those nations where citizens can participate in the determination of the destiny of their own nation can human rights be assured.

It is no coincidence that only totalitarian states mark their borders with walls and barbed wire to keep their people from fleeing for freedom. In those nations, Mr. Speaker, thousands pray for the day when they will be free.

As a member of the Foreign Affairs Committee and the U.S. (Helsinki) Commission on Security and Cooperation in Europe, I have had the privilege to visit a number of the captive nations we remember this week. I can assure my colleagues that in their hearts, the people in these nations long for freedom from the oppression of communism.

In 1982, I met with Jewish refuseniks in Moscow and Leningrad. They shared frightening experiences of persecution at the hands of Soviet authorities. Just last year, I led a congressional delegation to Romania to investigate reports of rampant violations of religious freedoms. Once again, I was struck by the courage of religious believers behind the Iron Curtain. Churches bulldozed, Bibles destroyed, arbitrary arrests, prolonged imprisonment on trumped up charges—the Romanian Government has a wide array of methods for persecuting those who dare to believe in God. And yet, the ranks of believers are growing, rather than shrinking.

In the face of such courage, how can we help but remain firm in our support for these victims of Communist tyranny? We must reverse the tide of Communist expansion which began in 1920. We will continue to observe Captive Nations Week until we can one day celebrate the renewed independence of these captive nations.

WELCOME TO THE TAIWAN BENEVOLENT ASSOCIATION OF AMERICA

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MICA. Mr. Speaker, I am pleased to welcome the Taiwan Benevolent Association of America to its ninth annual convention this weekend in Arlington, VA. Over 1,500 representatives and members of the association will be gathering for this event.

The Taiwan Benevolent Association of America is an organization of American citizens of Taiwanese origin. As you may know, there are about 1 million Chinese Americans in the United States, of which 300,000 are from Taiwan.

Founded in 1978, the Taiwan Benevolent Association has grown into an organization of 20,000 active members, with nine branches throughout the United States. The group is interested in enhancing the general welfare of its members and promoting cultural exchange and understanding between Taiwan and the United States.

I have had the privilege of visiting Taiwan, where I was welcomed by the innate hospitality, courtesy, and friendliness of the Chinese people. I found a nation with a rich and colorful history that nonetheless is in step with the space age.

The importance of Taiwan as a protector of vital United States interests in the Far East cannot be underestimated—history has proven Taiwan to be an important friend and ally. The Congress has reaffirmed on several occasions that the security of the people of Taiwan remains a priority of the United States. It is essential that Americans and the people of Taiwan continue to enjoy this mutually beneficial relationship.

Mr. Speaker, let us commend the efforts of the Taiwan Benevolent Association of America in fostering understanding between Taiwan and the United States and wish them every success for their ninth annual convention.

THE PAIRING OF PROTESTANT AND CATHOLIC YOUNGSTERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to share with my colleagues an exchange program which is designed to promote peace among people who have known only war.

Children's Committee 10, initiated by Fresno substitute teacher Vincent Lavery, has been pairing Protestant and Catholic youngsters from Northern Ireland in American homes for the past 5 years. Over 1,000 children have been given trips to America so that they may begin to overcome the religious hatred which underlies the war and suffering to which they have become accustomed. Recently, the program has expanded to include Moslem and Christian children from war-torn Lebanon.

I salute the efforts of Mr. Vincent Lavery and the hope which this program offers. Through the labors of Mr. Lavery and the American host families, childen who have known only death and destruction are learning that communication and friendship pave the path toward peace and prosperity.

The article from the Fresno Bee to follow:

[From the Fresno Bee, July 16, 1986]

VISITING IRISH CLERICS LAUD LAVERY PROGRAM

Two clergymen from violence-plagued Northern Ireland, one Catholic and one Protestant, were in Fresno Tuesday extolling the virtues of an innovative program that provides free American vacations for children growing up surrounded by religious hatred.

The Rev. Jimmy Arbuthnot, Protestant minister, and the Rev. Matt Wallace, Catholic priest, who both live in Belfast, were brought together five years ago to help select children for a program founded by the Fresno substitute schoolteacher Vincent Lavery.

"It has been fantastic to see the reactions [of the American host families when greeting their young guests at airports], Arbuthnot said at a Hilton Hotel news conference. "The joy and enthusiasm that they have. I can't explain it to you in words."

Since 1981 the program, called Children's Committee 10, has provided more than 1,000 Northern Irish children with free vacations in the homes of volunteer American families, pairing Catholic and Protestant youngsters. The only rules are that politics and religion are not to be discussed.

This summer's batch, about 200 children, arrived July 1 in America and will be here until August 11. Two of the children are staying in Fresno. Arbuthnot and Wallace have been traveling around America visiting host families.

Wallace said that five years of the program have "produced very good, very positive results back home. Not so much that we've tried to make it a public issue back there, but many of the kids have continued to correspond, they visit each other. Even their parents have remained good friends over a five-year period."

The program has had considerable media coverage in America including an NBC-TV movie called "Children in the Crossfire".

But both Clergymen said the program has received very little press attention in Belfast, at their preference, because they fear that politicians or terrorists might try to exploit what essentially has been a non-political, grass roots effort.

Lavery this year expanded the program to include 16 Moslem and Christian children from Beirut, Lebanon. Eight of the Lebanese youngsters arrived in Fresno Sunday night.

"What people fail to understand is that the program as it has been conceived for Northern Ireland is spilling over into Amer-

ica and Lebanon and other countries," said Arbuthnot. "It has united churches here in the [United] States. I know of several churches that have worked together for the first time, simply because of that program."

The two clerics said that they would like to see the program expand to more countries where there is religious strife or warfare. They even suggested bringing Soviet and American youngsters together and suggested Ireland as the place for them to meet.

"It's a wonderful place to visit, you know." said Arbuthnot.

PIONEER ELEMENTARY SCHOOL, AN EXEMPLARY SCHOOL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. EDWARDS of California. Mr. Speaker, I'm proud to advise my colleagues that Pioneer Elementary School, located in Union City in my district, has been recognized by the Department of Education as an exemplary school. Pioneer is one of a select group—only some 200 elementary schools nationwide received this honor.

The schools evaluated in this program were rated on their achievement and overall quality. Pioneer was distinguished particularly for its assimilation of the many foreign students who attend school. Nineteen different languages are spoken by the student population at Pioneer, and these students have shown remarkable achievement.

The staff at Pioneer was also cited as highly motivated and truly excited about teaching kids. Parent and community involvement was highly rated and proven to be a key element in Pioneer's selection. Clearly, Pioneer's principal, Ms. Carla Eide, is to be commended for her leadership in bringing these elements together effectively and cooperatively.

Each school participating in the program is first nominated by their State school officers, then evaluated by a team of academic professionals. It is truly an honor to bring to the attention of my colleagues the accomplishments of Pioneer Elementary.

HEROIC RESCUE BY COAST GUARD FROM ELIZABETH CITY, NC

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. JONES of North Carolina. Mr. Speaker, the men and women of the Coast Guard every day risk their lives to save people and property in peril at sea. These acts of bravery occur all along our Nation's coasts. Too frequently, these heroics go unnoticed by Congress and the public.

Recently, Coast Guard personnel at Elizabeth City, NC, performed a remarkable search and rescue mission. My good friend, Mason Peters, has vividly chronicled this heroic act in the Virginia Pilot.

The rescue is noteworthy in two special ways. Were it not for the high technology of the SARSAT Satellite system and the Soviet-American cooperation in maintaining this system, the distress calls could never have been received. Also essential to the rescue was the deployment into the ocean waters of a Coast Guardsman trained as a rescue swimmer. The rescue swimmer program was first mandated by the House Merchant Marine and Fisheries Committee in the fiscal 1984 Coast Guard Authorization Law.

We should all be grateful for the dedication and professionalism of the Coast Guard, as described in the Virginia Pilot article.

[From the Virginia-Pilot, July 11, 1986]

SATELLITE LEADS RESCUERS TO SHIPWRECKED SAILORS

(By Mason Peters)

ELIZABETH CITY.—Their sailboat capsized in a thunderstorm's hurricane gust 110 miles southeast of the Virginia Capes almost on the stroke of midnight Wednesday.

Early Thursday, the two men sat for hours on the side of the slowly sinking 28-foot yawl Elissa, expecting to drown in rising seas made bright with lightning. They thought their emergency radio transmitter—and their last real hope for rescue—had washed away, but they lashed themselves to the sinking boat anyway.

Eight and a half hours later, with the help of a Russian marine satellite, Greg B. Bayne, 26, and Harry Bowman, 32, both of Charleston, S.C., were plucked from the sea.

At 8:34 a.m. Thursday a helicopter and a fixed-wing aircraft from the Elizabeth City Coast Guard Air Station arrived over the stricken Elissa, and First Class Petty Officer Joseph "Butch" Flythe of Ahoskie, N.C., dived from the helicopter into 6-foot seas and swam to the shivering sailors.

"We never heard anything. Then all of a sudden there he was," said Bayne, the owner-captain of the sailboat. "It was pretty damned nasty. We were just sitting there on the gunwale, the side of the boat, not panicky or anything, but just wondering what was going to happen, waiting. There was about 4 inches of the boat still sticking out of water."

When Elissa capsized in a powerful thundersquall that churned out to sea late Thursday with 80 mph winds, Bowman managed to grab an EPIRB that was stowed in the cabin. An EPIRB—for emergency position-indicating radio beacon—is a handheld emergency radio that automatically broadcasts distress calls on an international frequency monitored by aircraft and satellite.

"We put the EPIRB in the dinghy because we thought that's where we'd end up," said Bowman, who was sailing from Charleston to Nantucket, Mass., as Bayne's crew. The men are neighbors at Isle of Palms, a Charleston suburb.

"Then in one of the lightning flashes we saw the dinghy was gone, washed away," Bayne said. "We saw the red light go on when we turned on the EPIRB, so we knew it was working, but we figured all anybody would ever find was an empty dinghy."

In the first light of dawn and flickering lightning, hours after the capsize, Bayne and Bowman saw the buoyant EPIRB caught in nearly submerged rigging by Elissa's bowsprit. "The transmitter was going under water, and we didn't know whether it was still transmitting," Bayne said.

It was.

Hundreds of miles overhead, a Russian marine rescue satellite called SARSAT, jointly operated with the U.S. Air Force, picked up the feeble signal from Elissa's distress radio. The satellite made three globe-girdling passes over Elissa's EPIRB and pinpointed the capsized sailboat 110 miles southeast of the Virginia Capes and about the same distance slightly northeast of Nags Head. Air Force rescue coordinators at Scott Air Force Base in Illinois relayed the SARSAT information to 5th Coast Guard headquarters in Portsmouth.

"We got the first call at a little after 4 a.m." said Lt. Chris Canty, duty operations officer at the Elizabeth City Air Station. "At daylight we had a fixed-wing Falcon and an H-3 helicopter searching the area."

"The distress signal was very weak, and we ran a box search," said Lt. j.g. Kevin Rahl, 27, co-pilot of the twin-jet Falcon. "At one time we went up to 16,000 feet to try to get a better signal."

Rahl and Lt. Thomas Messeder, 31, the pilot, located Elissa at 8:34 a.m. and called the helicopter pilot, Lt. j.g. Dave Seavey, 34, to the scene. Lt. j.g. William McMeekin, 26, was the co-pilot.

Flythe, a member of a new Coast Guard Rescue Swimmer team, dived into the water from the helicopter and swam to the sinking yacht. "We didn't know what shape the two men were in," Flythe said. "We had to be sure before we tried to hoist them aboard." The Coast Guard has organized several Rescue Swimmer teams on both coasts, and the men are trained to dive into the water from helicopters.

Flythe's dive Thursday was among the first operational uses of a Rescue Swimmer, he said.

"When I found that they were OK, I signaled for the basket and helped to send each of them separately up to the helicopter. Dave Jara, the flight mechanic, handled the winch and we had no trouble."

Bayne and Bowman were brought to the air station at 10 a.m. Neither appeared to have suffered physically from the experience, medics said.

"We lost everything we had," said Bayne, a professional crewman who has helped in trans-Atlantic deliveries of several sailing yachts. "Elissa wasn't insured, and all my navigation equipment was lost."

Coast Guard personnel scrounged for clothing to temporarily re-outfit the two men. "We'll make out," Bayne said.

Bayne said he and Bowman sailed from Charleston on Monday to visit friends on Nantucket Island, "and maybe do a little carpentering while I was up there." Bowman, a radio broadcasting graduate from the University of Oregon, said he had just "gone along for the sail." Bayne bought the mahogany hulled, Elissa two years ago and was making his first offshore voyage when the squall capsized the boat.

"There were two of them, two squall lines," Bayne said. "We saw the first one coming about 10 p.m. and reefed down for it; didn't have any trouble."

But Bayne said a second squall line approached after Bowman had gone below to sleep.

"There was lightning all over the place, bright as day," Bayne said. "We took all the sails off except a little storm jib. She seemed to be doing fine, running off before the wind, sort of broad-reaching on the port tack. Harry had gone back below.

"Then, just about midnight, this one big gust hit us. I couldn't head up, couldn't run off, couldn't do anything. The boat just

slowly went over. By the time the mast was in the water, the sea was going into the cabin and I figured it was time to get the EPIRB."

100 YEARS OF PENN STATE FOOTBALL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CLINGER. Mr. Speaker, I'm extremely pleased to announce to my colleagues that the Penn State University football team, which played for the national championship last year, will begin its 100th season this fall. The university is located in my congressional district and the football team has enjoyed a national reputation for years.

In this day and age of growing concern over the credibility of collegiate athletic programs, Penn State University could well serve as a role model for other schools because of the emphasis it has placed on the integrity of both its educational and athletic programs.

As a recent editorial in the Centre (PA) Daily Times stated, the Penn State University football team gave the university its first national recognition, and together with the fine academic and research programs, the football team, under coach Joe Paterno and his staff, has continued to keep Penn State in the national spotlight.

I would like to submit the Centre (PA) Daily Times editorial into the CONGRESSIONAL RECORD for the benefit of my colleagues who I know all join me in congratulating the Penn State University football team on its 100th season and wishing Coach Paterno and the team continued success in the future.

PENN STATE FOOTBALL: INTEGRITY WINS

One hundred years ago, they wore pink and black. They had ski caps with tassels, elected someone captain because he owned the football and paid their own expenses to go to Lewisburg and trounce Bucknell.

Today, they wear blue and white. More than 80,000 fans cram into Beaver Stadium to watch them play. And their reputation extends across the nation.

The Penn State football team will begin its 100th season this fall. And a number of people this week are spending time and effort to appreciate what the program has achieved.

The observations have been coined "Century of Excellence." What makes the Penn State program stand out is that it hasn't conveniently forgotten the rulebook to build a winning tradition.

The team hasn't had a losing season since 1938. Yet it has never been investigated by the National Collegiate Athletic Association. It has not been tainted by a drug scandal. And it has the reputation for paying more than lip service to academics by graduating more of its athletes than most other comparable programs.

The entire program, as Ridge Riley traced in his book "Road To Number One," began innocently enough with pickup teams on the Old Main lawn. Until one day the players thought they'd like to take on Bucknell. So they practiced for two weeks, traveled the requisite distance to Lewisburg and—on Nov. 12, 1887—won that first football game 54-0.

In between that victory and last January's loss to Oklahoma in the Orange Bowl have come numerous highs and lows. But Penn State has won better than 600 games—only one of five Division I teams to achieve that milestone

Today, it's safe to say that the football team, more than the school, gave Penn State its first national recognition.

Joe Paterno and his staff have, in a large way, been responsible for earning that niche. But they also inherited a strong program built on the shoulders of class coaches such as Bob Higgins and Rip Engle.

That foundation has also consisted of quality players—not just the stars who got the press and honors, but the ones who worked hard on the practice fields and in the classroom, graduated and distinguished themselves in careers.

It's been fun to be the home base for such a program. Throughout the years, alumni and fans have benefited from watching a number of good football games and players. And State College has benefited from the business done on football weekends, as well as the exposure the community receives.

It's been a remarkable 100 years for such a major college football program to emerge from humble roots in a small Central Pennsylvania town. That the program has become known for its integrity, as well as its success, does us all proud.

THE YOUTH DRUG PROTECTION ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. LANTOS. Mr. Speaker, we, in the United States, are facing an epidemic—a drug epidemic. Across our Nation, new and highly addictive forms of cocaine—"crack" and "rock"—are resulting in a quantum leap in cocaine use, and a dramatic increase in cocaine-related deaths. This was dramatically brought home to Americans with the recent deaths of baskeball star Len Bias and professional football player Don Rogers from cocaine overdoses. The most disturbing finding is that young people are the fastest growing new users of cocaine.

Mr. Speaker, this tragic drug epidemic is affecting all Americans, not only those who use illegal drugs. Rampant drug use increases the danger on our highways, increases crime in our cities, and destroys families and homes throughout our Nation. More than half of all crimes are drug-related, and as illicit drug use grows, more crimes are committed. New York City police report that increased cocaine use is the principal cause of an 18-percent increase in robberies in that city this year.

The figures on drug use are staggering. Americans spend $110 billion a year on illicit drugs. One of every six teenagers will sample cocaine before graduating from high school, and one of every three college students try cocaine by the time they receive their degrees. Current estimates suggest that there are 4 to 5 million regular cocaine users.

There has been an explosion in the amount of cocaine smuggled into this country from South America. In 1984, Federal Drug Enforcement Administration agents were seizing an average of 48 pounds of cocaine per month. That figure jumped to 275 pounds in 1985 and it is still higher for 1986. Earlier this year in the city of Los Angeles alone, three unrelated seizures in less than 1 week resulted in the capture of 790 pounds of cocaine.

Not only is cocaine increasingly available in our country, but the street price has also declined, making it easily and cheaply available to young people. According to recent reports, "crack" (smokeable freebase cocaine) sells for $5 to $20 a dose.

I welcome our Government's recent more active policy of assisting Latin American governments with technical help and military equipment to destroy fields and factories which produce illegal drugs for consumption in the United States. We are at war with international drug dealers. It is infinitely more effective to stop drugs where they are grown and produced than to wait until they are in the United States.

Mr. Speaker, to assist law enforcement officials to take more effective steps in the war against illegal drugs, I am today introducing the Youth Drug Protection Act. This legislation has three important elements to help protect our young people from the unscrupulous and criminal drug dealers who prey on our children.

First, the legislation substantially increases the penalties for cocaine distribution. Our laws are badly out of date as applied to cocaine. Under current law, cocaine dealers are not subject to maximum penalties unless they are trafficking in, importing, or exporting at least one kilogram (1,000 grams) of cocaine. This is 10 times as high as the amount of heroin required to merit a maximum sentence, yet cocaine is every bit as dangerous a narcotic.

Furthermore, an average dose of crack is only 65 milligrams. Thus, a crack dealer cannot be subject to the maximum penalty unless he is caught with a kilogram, or more than 15,000 doses of the drug. This simply never happens.

Because crack is so potent, drug dealers carry much smaller quantities of crack than of cocaine powder. Furthermore, by treating 1,000 grams of freebase cocaine no more seriously than 1,000 grams of cocaine powder, which is far less powerful than freebase, current law provides a loophole that actually encourages drug dealers. The result is that those who traffic in cocaine—those who make a profit by distributing one of the most addictive substances known to man, who are spreading a new crime wave through our cities and towns and who are fostering debilitating addiction among our young people—escape the severe punishment they deserve.

My legislation specifies that possession of one gram of a base form of cocaine shall be subject to the maximum penalties of the law: Fines of up to $250,000 and prison terms of 20 years for a first offense. Subsequent of-

fenses will bring fines and sentences of twice that amount. Mr. Speaker, if we are to make inroads to stop this hideous traffic in cocaine it is essential that we establish these meaningful penalties for cocaine.

The second provision of my legislation doubles the Federal penalties for employing young people to distribute drugs. We are finding throughout the country that drug dealers are using children to deliver the drugs, to seek out customers, and to watch for police. Recently in Florida, for example, drug dealers gave a group of children new bicycles and walkie-talkies, to ride around and report if they saw law enforcement officials coming into the neighborhood. The time has come for us to increase the penalties for using children in this appalling way.

The third provision of the Youth Drug Protection Act provides penalties for the manufacture of drugs within 1,000 yards of a school. Although the law currently provides penalties for distribution of drugs in or near a school, the proliferation of small "factories" for the production of crack from base forms of cocaine creates the real possibility of manufacture in or near schools. This is a danger that we can and must prevent.

Mr. Speaker, we must close loopholes that benefit drug dealers—these unscrupulous enemies of society—who today operate with impunity. As we continue to witness the explosive spread of cocaine, we must take stronger action to stop these abhorrent crimes against our children. Penalties must be increased so that our laws can deter crime. I urge my colleagues to cosponsor the Youth Drug Protection Act.

RECOGNITION OF AMERICA'S UNITED WAY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MICHEL. Mr. Speaker, I have introduced a resolution today along with the distinguished majority leader, Mr. WRIGHT and the chairman and ranking member of the Subcommittee on Census and Population, Messrs. GARCIA and HANSEN, recognizing the outstanding contributions made by the United Way over the last century.

The United Way has played an instrumental role in relieving critical health and human care needs for tens of thousands of people all over this country.

I believe that it is only fitting and proper that we, as a Congress, unite behind this resolution which applauds the United Way's invaluable work of the past and encourages them to continue their fine work and achieve their goal of doubling its effective resources by 1991.

The United Way is truly a nonpartisan organization which richly deserves our bipartisan support. We hope that the other Members of this body can join us in support of this resolution.

REMEMBRANCE OF TURKISH INVASION AND OCCUPATION OF CYPRUS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. HOWARD. Mr. Speaker, in July 1974, Turkish troops invaded Cyprus and divided the once independent island into two zones of occupation with a wall between north and south. Turkish troops, now numbering 18,000, have imposed their rule upon the people of Cyprus and perpetuated the fear of further aggression against Greek Cypriots. The Turkish invasion was undertaken with United States arms. United States refugee aid has been administered to the victorious Turkish aggressors through the U.N. High Commission for Refugees.

As a result of the invasion, eight Americans and nearly 2,000 Greek Cypriots remain missing. Some of the missing have been identified in Turkish press photographs of prisoners, have spoken over Turkish Cypriot radio or have been seen by released prisoners. The International Red Cross has registered the missing as prisoners of war or civilian detainees.

The Turkish occupation of Cyprus is directly parallel to the appalling Soviet occupation of Afghanistan and East Europe. By ignoring such immoral and illegal acts, we merely serve to reward the aggressor. Therefore, the United States, standing as the beacon of freedom and democracy, should remember the sad and reprehensible occurance of July 1974 and resolve to work toward a just solution.

FAMILY PLANNING ASSISTANCE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. KOSTMAYER. Mr. Speaker, I would like to share with my colleagues a recent feature article from the Buffalo News. It comes to the heart of an issue which is very important—U.S. family planning assistance to developing countries.

This article by Perdita Huston highlights the human dimension which is frequently forgotten when budget and policymaking are underway. As the members of the Foreign Operations Subcommittee mark up their fiscal year 1987 bill, I hope they will keep in mind this human dismension and take steps to retain assistance for family planning programs.

Particularly important are multilateral programs—such as the U.N. Fund for Population Activities—which are crucial to the delivery of family planning services to people whose very lives depend on their ability to control their fertility.

I urge my colleagues to consider their most timely article.

THE THIRD WORLD NEEDS FUNDS FOR FAMILY PLANNING

(By Perdita Huston)

WASHINGTON.—Rep. Jack Kemp, speaking at the National Right to Life Committee convention just a month ago, stated ". . . our place is with the least of our brethren, our place is to protect the weak, to put the love of children first, to preserve their future at the expense of politics as usual . . ."

Certainly these are laudable goals, responding to basic, decent values we all share; the problem arises when these values are translated into specific policies. In fact, Kemp and his colleagues are, indeed, playing politics with the well-being of millions of children throughout the world by seeking to cut off U.S. funding of the U.N. Fund for Population Activities.

The UNFPA, the primary agency aiding nations in research, design and implementation of long-term population programs, is the latest victim of anti-choice-for-women forces, who seek to reach beyond the anti-abortion issue to strike out all family planning programs. Alas, Kemp's "weak" and voiceless "brethren" and the children they cannot afford to bear will be the first victims of these cuts.

The poor, illiterate women of Africa, Asia and Latin America will tell anyone who takes the time to listen that they seek to provide a better life for their children. "I want to send them to school, so that they will have jobs and dignity . . ." But, they add, "if I keep having all these children, I won't be able to send any of them to school. I want to have a few to find a way to have just a few."

Kemp might take note of the fact that these women rarely choose when and whom to marry; and they rarely choose if and when to have a child, for refusing a husband's wishes is unthinkable or, even dangerous. If they are to space their children as they wish, they must rely on the very family planning serves which are now crippled by funding cuts championed by Kemp.

Where is the logic? Are we to understand that the poor women of the developing world are to be sacrificed to presidential politics? Will their children be condemned to illiteracy and poverty to satisfy misinformed right-to-lifers who confuse abortion with sensitive family planning programs?

Do right-to-lifers care for the 40 million children in Latin America whose desperate parents sent them from home, believing they would have a better chance in streets? Will those who spout "pro-family" rhetoric prevent hungry families from sending more children into the streets because family planning clinics are closed?

In our compassion we give generously to another U.N. Agency, UNICEF, attempting to bandage the wounds of broken childhood. The logic of leadership, and in this case the word is statesmanship, entails "putting your love for children first" by assuring that, yes first, all children have the most basic of human rights, that of being a wanted child.

NATIONAL ENDOWMENT FOR DEMOCRACY: SOME SILVER IN A DARK CLOUD

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. LEACH of Iowa. Mr. Speaker, last week the House considered an amendment to eliminate funding for the National Endowment for Democracy.

My view is that the Endowment is fatally flawed. Its advocacy grantsmanship abroad—its service as a kind of international political action committee—is too often so politically intrusive that it produces counterproductive results.

The case of the recent grant to two right-wing labor and student groups in France, which are opposed to the government of a long-standing democracy, is a case in point. The U.S. Government simply has no reason giving foreign aid to France at this juncture in their and our history. It particularly has no business giving support to groups bent on turning out the duly elected democratic Government of our oldest ally. If there is an institutional political problem with France, it is too much, not too little democracy.

On a number of occasions, I have indicated on this floor the philosophical problems I have with Endowment programming. I particularly object to the fact that in some cases Endowment programs don't even reflect American values for they involve political support of a nature that would be precluded by U.S. law if similar assistance were offered by a foreign government to an American candidate or political organization.

Nevertheless, I would like to acknowledge that I have reviewed with Endowment officials the programmatic agenda currently contemplated and feel obligated to observe that in most instances, programs are legitimate, innovative, and constructive.

From a constitutional and separation-of-powers perspective, the institutional arrangement by which Endowment programs are selected can at best be described as philosophically unseemly. Yet I believe this House should tip its hat to those individuals from the political parties, the labor and business communities, as well as Congress who have given so much of their time to advance American foreign policy.

My opposition to the Endowment remains, but in reviewing the tenor of my statements in recent and past debates on the issue, I believe I have been regligent in not underscoring the contribution members of the private sector, as well as this House, have made in trying to make this controversial program effectively serve American interests.

The work of dedicated Americans who differ with my conclusions about the appropriateness of this kind of institutional approach deserve to be commended.

Of particular significance is the leadership and diligence of the chairman of the House Foreign Affairs Committee, the gentleman from Florida, Mr. FASCELL; the oversight of the chairman of the subcommittee of jurisdiction, the gentleman from Florida, Mr. MICA; and the work of the President of the Endowment, Mr. Carl Gershman.

In this international no man's land of human and democratic rights conflict, the Endowment approach is loaded with landmines. Fortunately, a thoughtful group of foreign policy professionals have worked diligently to see that self-inflicted wounds are kept to a minimum.

DECADE OF PEACE

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of the proposal unanimously approved by the first International Conference on Conflict Resolution and Peace Studies. It proposes that the United Nations consider 1986 to be the first year of a decade of peace.

The participants of that conference came from all continents and many walks of life. They believed that such an act—the declaration of a decade of peace for special observances by governments and nongovernmental organizations—would highlight the need for continuing concerted action and encourage a variety of positive initiatives.

The international decade for peace would have three major world conferences at the beginning, middle, and end of the decade. They would be preceded by regional preparatory conferences. Each of the conferences would be a point at which governments are pushed to compete with each other in regards to their commitments to world peace, not only to arms control, disarmament, and demilitarization but also to the building of international security and global cooperation.

I support this proposal wholeheartedly and urge the United Nations to place it on its agenda this fall.

THE MEDICAID IMPROVEMENT ACT OF 1986

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. CONYERS. Mr. Speaker, today I rise to introduce the Medicaid Improvement Act of 1986, H.R. 5235. In the past, I have stood firmly behind legislation that supports increased health care for all Americans. Thus, I urge you today to accept the challenge of lowering our Nation's high rates of infant mortality by expanding Medicaid coverage to all pregnant women and their children whose incomes fall below the Federal poverty guidelines. This cannot be an option left up to the States arbitrarily. It must be a mandate that begins to redirect the entire regressive nature of categoric public health policy in our Nation.

Health policy in our country has historically neglected provisions for support of pregnant women and new mothers. A recent Columbia University study showed that our of 75 Western nations, ours was the only one without a law insuring social support and health services for the unique developmental requirements of pregnancy and childbearing. We tend to treat both these important events as disabilities, and insurance benefits are provided in the same way and to the same limited extent as they are for illness.

This philosophy lies at the root of the 3 percent rise in infant mortality rates noted in 1983 for children between 28 days and 1 year alone. This was the largest increase in 18 years. Infant deaths are more than twice as high among blacks as among whites, and in several major cities, the rates are three times the national average. This gave rise to the widest disparity in more than four decades between the infant mortality rates of blacks and whites.

This entire phenomena can be controlled with early access to prenatal care. The most recent data from the National Center on Health Statistics shows that 25 percent of all births in the United States are to women who receive no prenatal care, and they are the very ones most likely to deliver a child prone to early infant death.

Too many American mothers receive late or no prenatal care. This happens either because they are outside the qualifications for Medicaid, or because they have no health insurance at all. Many who are working and insured cannot afford the expensive copayments and deductibles contained in the policies they do have, therefore limiting their access to good prenatal care and increasing the possibility of producing a low birth weight infant. Low birth weight now accounts for two-thirds of all infant deaths.

With the increase in the Nation's teenage pregnancies, access to early prenatal care is an even more serious problem. For nonwhite teens, whose infant mortality rates are twice as high across the Nation, fewer than 40 percent begin prenatal care in their first 3 months. Mandating the improvement of Medicaid coverage for all States would cut down considerably the numbers of low-birth weight babies born to teen mothers, thus affecting a decrease in the overall rates of infant mortality.

At this very moment, there are over 3 million women of childbearing age living on incomes between their State's AFDC level and the Federal poverty line. Medicaid now only has jurisdiction to cover pregnant women whose incomes are below State AFDC levels. Under the legislation I am proposing today, States would be able to offer Medicaid to women and children from families whose incomes are above State AFDC standards, but below designated Federal poverty levels.

The Medicaid legislation covering pregnant women with family incomes below State AFDC levels has been in effect only since July 1 of this year. The struggle to achieve it was long and hard, but it was a modest reform to say the least. Thirty-one States still have AFDC/Medicaid eligibility levels below 50 percent of the Federal poverty line, meaning a family of three cannot qualify for Medicaid if their income is over $4,500. These very States have infant mortality rates significantly higher than the rest of the Nation.

We need to move now to create a mandate for all States to improve their Medicaid cover-

age to include all pregnant women who fall below the Federal poverty guidelines. If we neglect to do so, we risk once again leaving a wide margin of women unprotected. They will continue to be of racial and ethnic minorities, under 24, and living in our industrial urban areas, or rural communities of the South and Southwest. Many of them will be pregnant mothers in my own district, the First Congressional District in Michigan, where infant mortality rates are now climbing as high as those in some Third World countries.

This is not a decision we can afford to leave up to the discretion of State health policy agencies. There are some 13 States already whose track records show that they have not chosen options previously available to them to expand their Medicaid options to cover greater numbers of women and children.

Out of the 13, 2, Louisiana and Alabama, rank in the top 10 for the Nation's highest infant mortality rates. Kentucky, Indiana, and Idaho rank second, fourth, and ninth in the category of highest white infant mortality rates, and they are also States showing low track records for exercising Medicaid options. South Dakota, the State with the highest nonwhite infant mortality rate in the Nation has also not chosen to exercise previous Medicaid options.

What we need now is effective legislation that accomplishes the entire job. The health status of our Nation cannot continue to be compromised. Already, more babies are dying in the Nation before their first year of birth than the numbers we lose to diabetes, breast cancer, and lukemia. We accomplish nothing by not committing the necessary dollars to provide low-income pregnant women with needed access to good prenatal care.

CHINOOK COAL MINE, BRAZIL, IN

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. MYERS of Indiana. Mr. Speaker, coal mining is one of the most dangerous occupations in the United States. It is with great pride that I inform you that one such mining operation in Indiana's Seventh Congressional District is the recipient of the 1985 Sentinels of Safety Award for being the safest surface coal mine in the Nation.

The Chinook Mine, owned and operated by AMAX Coal Co., recorded an impressive 543,676 employee hours without a lost-time injury. This performance is especially notable since 1985 stands as the safest year in U.S. mining history.

The Sentinels of Safety Award is given jointly by the Mine Safety and Health Administration of the U.S. Department of Labor, the American Mining Congress, a national trade association representing the mining industry. The award was created in 1925 to promote greater interest in mine safety and the development of more effective accident prevention programs by according national recognition to operations achieving outstanding safety records.

It is with great pleasure that I salute the AMAX Coal Co., and the 271 men and women at the Chinook Mine in Brazil, IN, for a job well done. I know they will continue to build upon this impressive record.

EMERGENCY RELIEF FOR THE MAINE CENTRAL RAILROAD CO., LABOR-MANAGEMENT DISPUTE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Ms. SNOWE. Mr. Speaker, I rise today in support of Representative FLORIO's legislation that will provide emergency relief in the Maine Central Railroad strike.

This legislation provides for a temporary prohibition of strikes or lockouts with respect to the Maine Central Railroad Co., and Portland Terminal Co., labor-management dispute. Without such relief, the labor dispute between the common carrier, Maine Central Railroad Co., and the Brotherhood of Maintenance of Way Employees would threaten essential transportation services of the Nation. It is imperative to the national interest that essential transportation services be maintained.

On May 16, the President ordered the establishment of an emergency board to intervene in the strike between the Brotherhood of Maintenance of Way Employees and the Maine Central Railroad. Such action was necessary since a compromise was not reached, and because a strike threatened to spread nationwide to the Conrail system.

Creation of the emgergency board allowed a 60-day cooling-off period to go into effect. In addition, negotiations were allowed to continue between the striking Brotherhood of Maintenance of Way Employees and Guilford Transportation Industries. I supported the establishment of an emergency board, since its purpose was to create an atmosphere conducive to renewed negotiations.

It was also the intent in invoking the emergency board that employees be allowed to go back to work. However, Maine Central Railroad abolished many existing jobs, claiming that layoffs were directly related to the loss of business of strike. I was concerned that this unprecedented action endangered the Federal mediation process.

However, a compromise was not reached between Maine Central Railroad and the Brotherhood of Maintenance of Way Employees by the end of the cooling-off period. All procedures for resolving this labor dispute provided for in the Railway Labor Act have been exhausted and have not resulted in settlement of the dispute. Therefore, an extension of the cooling-off period is necessary and has ample precedent here in the House. The legislation being introduced today by the Maine delegation would require another 60 days for a cooling-off period, extending to September 20, 1986.

I hope that my colleagues will join with me in supporting this resolution, so that the parties involved in the strike will have an opportunity to continue negotiations and resolve this dispute in an orderly manner, and to protect essential transportation services throughout the Nation.

TRIBUTE ACCORDED MARK T. PATTERSON, IDAHO EDUCATOR

HON. RICHARD STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. STALLINGS. Mr. Speaker, I would like to take this opportunity to pay tribute to a very special resident of the Second Congressional District and a very special friend of education, Mr. Mark T. Patterson.

In 1970, Mark Patterson retired after a career in education that spanned more than 35 years. Since his "retirement," Mr. Patterson has served 6 years on the school board, and 8 years on the city council in Bellevue, ID.

Over the years, education has been a priority for Mark Patterson—a fact obviously in his professional life, but perhaps even more distinct in his private life.

Committed to helping deserving young people continue their education, Mark Patterson personally has financed and awarded 25 scholarships—each in the amount of $500—to students graduating from Wood River, Carey, and Richfield High Schools. In addition to the scholarship program, he has helped other students pay for their college tuition.

Mr. Patterson was born in Leland, UT, in 1907, and moved to Carey, ID in 1909. He graduated from Carey High School in 1926, earned a degree from Ricks College, an Albian Normal teaching certificate, and a B.S. from Brigham Young University.

Mr. Patterson taught school in Victor, Bennington, and Grant, ID. For 4 years, he served as the county superintendent in Hailey, ID. He served as a teacher and later a principal over a 19-year period in Carey and Bellevue, ID—Blaine County School District No. 61.

Mark Patterson, and his wife, Patricia, raised six children. Each of the children obtained their bachelor degrees; two are attorneys, three are teachers, and one is an electrical engineer. Among his 15 grandchildren, four have secured B.A. degrees and two are attorneys.

I am proud that Mark Patterson lives in the Second Congressional District. His commitment to education and the young people of Idaho is exemplary, and I know that the lives he has touched have benefited from his love and support.

CHIEF DAVID M. HOWELLS, SR., ALLENTOWN, PA, WINS VFW 1985-86 "J. EDGAR HOOVER AWARD" AS LAW ENFORCEMENT OFFICER OF THE YEAR

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. RITTER. Mr. Speaker, I would like to take this opportunity to single out a distin-

guished resident of the Lehigh Valley. Chief David M. Howells, Sr., is the recipient of the 1985–86 "J. Edgar Hoover Award" which was presented by the National Council of the Veterans of Foreign Wars to the Nation's most outstanding law enforcement officer.

Chief Howells combines an active career in the Allentown Police Department with a thorough involvement in the academic community. David M. Howells, Sr., started his career in Allentown as a patrolman in 1958. He then rose through the ranks to sergeant of the patrol division; captain and training director; assistant chief; and in April 1984, became chief of police.

The academic background of Chief Howells is equally impressive. He is a graduate of Allentown High School, the Pennsylvania State Police Academy and the FBI National Academy. He has an A.A. degree in police management from Lehigh County Community College and a B.A. degree in police administration from Alvernia College, Reading, PA.

Chief Howells also attended Muhlenberg College, Rutgers University, Mercyhurst College, University of Louisville, University of Virginia, Temple University, and the New Jersey State Police Academy. During his career he has attended over 100 police-related courses and seminars.

Chief Howells is a veteran of the U.S. Marine Corps, having served from June 17, 1952 to June 16, 1955. He was attached to the 1st Air Naval Gun Fire Company 1st Marine Division as a sergeant and served 22 months overseas.

I have had the distinct personal pleasure to know and work with Chief Howells during my tenure in the U.S. Congress. My friend, David Howells is not only a religious man, but the kind of person who practices his religion in his daily relationships with other people. His courage, his strength and his kindness have enriched the life of the citizens of the Lehigh Valley—including the life of their U.S. Congressman. I'm proud to be Chief David M. Howells' representative in the U.S. Congress.

It is most fitting that Chief Howells was presented with the J. Edgar Hoover Award from Veterans of Foreign Wars for his exemplary citizenship, his loyalty to our Nation, and his service in our Armed Forces. The highest award for "valor" forms an appropriate summation of his total contributions to the Lehigh Valley and the national community.

CAPTIVE NATIONS WEEK

HON. FRED J. ECKERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. ECKERT of New York. Mr. Speaker, having celebrated this month our great Nation's 210th year of independence and paid special tribute to a recently refurbished Statue of Liberty and all for which she stands, let us look now to the vast stretches of the world where governments have brutally enslaved entire populations.

This third week in July we observe the 28th anniversary of Captive Nations Week which serves as a painful reminder that those people lucky enough to escape extermination by communism are denied even the most basic human rights. And those with the heroic courage to protest their countries' subjugation face a life of exile, imprisonment and torture.

With the invasion of the independent sovereignties of Armenia, Azerbaijan, Byelorussia, Georgia, Ukraine, and others in the 1920's and Estonia, Latvia, and Lithuania in 1940, the Soviets began a ruthless campaign of russification and denationalization of their border nations. Throughout these Soviet occupied states the Communists have relentlessly denied the indigenous populations their territorial integrity, culture, and religion, while forcing upon them Soviet communism along with its official policies of atheism, mass deportations to Russia, and rule by invading Communists. In addition, since 1917, the Communists have been responsible for the unnatural deaths of more than 60 million people in the Soviet Union alone. Let us applaud this week the vigor with which these states have hung on to their own traditions and let us ensure these victims of Soviet imperialism that their plight has never and will never be forgotten or ignored by the free world.

At the end of World War II, the Iron Curtain slammed shut on Eastern Europe and the nations of Romania, Poland, Hungary, Czechoslovakia, East Germany, and Bulgaria were introduced to Soviet puppet regimes, rigged elections, and rule by terror. Although subjected to savage Soviet intolerance of dissent, the people of these conquered nations have not acquiesced to their domination. The uprisings in Hungary in 1956 and Czechoslovakia in 1968 will continually remind the free world that these nations and their neighboring slave states will not resign to tyranny. And although such protest is always crushed by Soviet muscle, Eastern Europeans refuse to give up. Even today, after more than 5 years of constant Communist suppression, the outlawed Polish workers movement, "Solidarity," continues to strive for basic human rights.

Nor will the more recent victims of Soviet imperialism in Asia allow freedom to perish without opposition. Afghans, Vietnamese, Cambodians, and Laotians give their lives every day so that their fellow countrymen may be released from the yoke of communism some day. During this very special week let the free world not forget that these poor people have been prey for the most brutal warfare and yet they persist in their struggle for liberty. While the Soviets have thought nothing of using poisonous gas to try to quell insurgencies in Asia, the determined resistance continues.

Mr. Speaker, while we discuss recent Soviet overtures for better relations, let us not forget what peaceful coexistence means to a great portion of the globe this year. Exercising typical contempt for Ukraine, the Soviets allowed a deadly nuclear accident to ravage the countryside around Kiev and spread throughout Eastern Europe before acknowledging that there was even a problem. And after conceding an accident had taken place, the Communists refused to allow any organized assistance for the striken Ukrainians from their relatives and friends in the West. Furthermore, in Afghanistan the Communists have not only stepped up their vicious war against the native people but have begun to manufacture bombs disguised as toys in order to blow off the little hands of Afghan children. We have been reminded this year, too, that the Cuban jails are packed with political prisoners upon whom the Communists inflict hideous cruelties.

I think it would also be appropriate this week to acknowledge those nations which may soon be added to our Captive Nations list. In Nicaragua and Angola especially the Soviets are working overtime to seize two more satellites for their global empire. Daily news from Central America reveals that the Sandinista Communists are following in the footsteps of their Bolshevik benefactors by eliminating free press, harassing the church, militarizing their society and intimidating the population into submission. In southern Africa, Cuban proxies of the Soviet Union have beefed up their effort to crush all armed resistance to Communist rule in Angola; and elsewhere on the African continent a terrifying parallel can be drawn between Stalin's manmade famine in Ukraine in the early 1930's, which killed over 7 million peasants, and the recent relocation policy of the Communist Ethiopian government which has starved millions.

Finally, let us remember, too, that Russia is the first "Captive Nation," the first victim of Communist oppression.

Let us hope and pray that one day all nations captured by communism shall be free.

CONGRATULATIONS TO THE MERCEDES TIGER BASEBALL TEAM

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. DE LA GARZA. Mr. Speaker, I would like to take a moment to compliment the 1986 Mercedes Tiger Baseball Team on their magnificent season. As District Champs, Bi-District Champs, Regional Champs, Quarter-Final Champs, Semi-Final Champs, and State Runners-Up, the Tigers triumph is an outstanding achievement of which all can be proud.

Being an avid baseball fan myself I can only say the season contained all that a sports buff could want and then some. To the members of the team I extend my congratulations on a job well done for it took teamwork, skill, dedicated ambition, and above all talent to realize this success. The Tigers story is nothing short of fantastic and theirs is a victory well deserved.

THE 28TH ANNUAL OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. YOUNG of Florida. Mr. Speaker, this is the 28th consecutive year that our Nation has observed Captive Nations Week, a time when we proclaim our support for the countless mil-

lions of people around the world living under Soviet domination but who retain their burning desire to one day live as free men and women.

Throughout the years, our support for oppressed people has been constant. Unfortunately, so too has been the Soviet reign of Communist oppression. Since President Eisenhower proclaimed the first Captive Nations Week in 1959, no nation has been able to throw off the shackles of communism. Instead, five more nations have fallen to communism and I believe we can also now add to the list the countries of Nicaragua and Angola.

Last Saturday I had an opportunity to participate in the annual Pinellas County, FL, observance of Captive Nations Week held this year on Treasure Island. We are fortunate in our area to have representatives of many nations—including those from a number of countries listed as captive nations. Some of the participants in Saturday's program were able to provide compelling firsthand accounts of life in these captive nations prior to, during, and after their takeover by the Soviet Union. These personal recollections of life in nations where freedoms were taken away by Communist forces make this ceremony most meaningful and serve as a forceful indictment of just how far the Soviet Union will go to achieve their goal of global domination.

History chronicles the path of Soviet expansion, as their Communist rule now touches all parts of the world including our own hemisphere. Yet there are still those who say that it is the United States that destabilizes world peace. Nothing could be further from the truth.

And there are those who clamor for negotiations with the Soviet Union because, despite the Soviet record, they believe negotiations alone will eliminate future Soviet aggression.

Did the Soviet Union negotiate with the 31 captive nations of the world before overrunning them? Of course not. The Soviets used raw power to eliminate the national identities and suppress the individual rights and freedoms of the people of these nations. They used force and aggression—guns, tanks, and combat boots.

Obviously, it's important for us to keep our lines of communication open with the Soviets, and negotiations are one way to fulfill this aim. While we are negotiating, however, we must continue to stand guard against Soviet aggression to protect ourselves and our allies.

Those who believe that negotiations alone with the Soviet Union are the solution to the world's problems should recall the results of our past negotiations. The people of the captive nations recall the results of the Helsinki accord of 1975. This document of prinicples was signed by 35 nations—including the United States and the Soviet Union—and sought to insure the preservation of human rights throughout the world. The Helsinki agreement stated the signatories' belief in fundamental freedoms, equal rights and self-determination of people, the territorial integrity of states, and the refraining from the use of force and aggression. In the 11 years since signing this document, the Soviet Union has managed to violate every section of the agreement.

The Soviets have eradicated the national identity, culture, and ethnic background of innocent people. They have replaced democracy with oppression. They have created bands of surrogate hoodlums that roam and terrorize parts of the world. And they have invaded neighboring countries and practiced policies of near genocide on defenseless farmers and tribesmen.

The personal accounts I heard Saturday from those who witnessed firsthand Soviet terror and power agree that the Soviets and their Communist friends play by a different set of rules. The Soviets only respect and are deterred by strength. The people I listened to as they recounted their personal experiences know that if our Nation is to remain the hope of freedom, and the hope of world peace, we must be ready and strong to defend ourselves and our allies from any potential aggressor who would threaten our sacred freedoms and liberties.

The message of Captive Nations Week is one of hope for those living under Communist rule. It is also a stark reminder of how quickly freedoms can be taken away, how hard they are to regain, and how terrible is the tyranny and oppression of Soviet communism.

A LETTER FROM SOVIET REFUSENIK, NAHUM MEIMAN

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 24, 1986

Mr. SIKORSKI. Mr. Speaker, for some time, I have been following the sad and distressing case of two Soviet refuseniks, Inna and Nahum Meiman. Inna Meiman has a severely debilitating cancer which is slowly killing her. Since 1983, the couple has been trying to emigrate from the Soviet Union to get the medical treatment so desperately needed to save Inna's life.

I have pursued numerous avenues on behalf of the Meimans. I have written to General Secretary Gorbachev urging him to release the Meimans. I initiated a letter-writing campaign to the Soviet leader from my constituents and other Members of Congress. Most recently, I sponsored, along with Representative BEN GILMAN and Representative TIM WIRTH, House Concurrent Resolution 317, a congressional resolution that calls on the Soviet Union to release these brave refuseniks.

Having received a letter from me which spelled out the Meiman's desperate situation, a friend visiting the Soviet Union with her church group sought out Nahum Meiman. She spent several hours talking to him about his wife's grave illness. My friend learned that Inna Meiman's condition is worsening and that she now must be cared for by her sister.

Nahum Meiman was thrilled to know that so many of us in the United States are working to help him and his wife, and he requested that my friend take to the United States a letter he has been trying to send to General Secretary Gorbachev. Knowing of the security restrictions on tourists, my friend photographed the letter, rather than take it with her.

The letter which follows is transcribed word for word from the photographed letter, and the original photograph bears Mr. Meiman's signature. It accurately reflects the inhumane and distressing situation which Inna and Nahum Meiman face today in the Soviet Union. I feel it is uurgent that this letter become part of the public record, and it is Nahum Meiman's specific request. I also will be sending a copy of this letter to General Secretary Gorbachev, in hopes that Inna and Nahum Meiman's pleas are heeded.

AN OPEN LETTER TO GENERAL SECRETARY
M.S. GORBACHEV

113127 Moscow, USSR,
Nab. Gorkogo 4/22, Apt. 57.

Honorable General SECRETARY GORBACHEV:
On March 15 Pravda published your reply to a letter from the head of the International Life Institute, Prof. M. Marois. That letter was sent to both you and President Reagan.

You highly assessed the purpose of the Institute. To Prof. Marois' first question, "Do you consider it the primary task of our time, from the biological, philosophical and political point of view, to assert that life, especially human life, is the highest value?" You replied "Yes, certainly yes," and then developed your views on the question in detail.

Your eloquent response cannot fail to create a most favorable effect among many people the world over. But only your attitude to the fate of ordinary people, not the controversial finesses and complexity of international affairs, can serve as the litmus paper for assessing your reply.

I wrote you last October that the Soviet Visa Office (OVIR) and the authorities backing it had doomed my wife, a seriously sick 53-year-old woman, to a torturous, slow death. My wife's life was being sacrificed in the name of imaginary security for the Soviet Union, which would supposedly be threatened if this piteously sick woman were allowed to take advantage of invitations to go abroad for treatment.

It is in your power to prevent such a crime against humanity. This would only confirm your reply to Prof. Marols. If not, what is all your pathos worth?

My wife, Inna Kitrosskaya, is a teacher of English. She was stricken with sarcoma on the back of her neck in the fall of 1983. After an operation that October, it was obvious that my wife could not find adequate treatment in the Soviet Union. She was invited to go for treatment to oncological clinics in Sweden, the United States, France and Israel. Former Minister of Health of France, Mme. Simone Vell, not only sent an invitation, she came to Moscow herself to call on my wife. Regrettably, OVIR categorically refused to grant an exit visa.

The only treatment given my wife was repeated surgery. In less than two years, she was subjected to four hazardous operations. In the fall of 1985, when the tumor regenerated, specialists feared risking another operation. Since then, my wife has been abandoned to her fate, with an increasing tumor and increasing intolerable pain.

Last December, a famous physician and scientist, Prof. Douglas P. Zipes, wrote you that there had just been two remarkable breakthroughs in cancer therapy in the United States, with some hope of curing my wife. Meanwhile, U.S. Senator Charles Grassley wrote Soviet Ambassador Dobrynin that my wife had been accepted for the Sloan-Kattering Experimental Program in New York. Last month Prof. Zipes again appealed to you by telex to allow my wife to

go for treatment to the United States before it was too late.

For clarity's sake, I must say a bit about myself. I am a mathematician 75 years old. I had the misfortune at the dawn of the Atomic Age to do certain quite unrealistic calculations for the late Academician Landau at the Institute of Physical Problems (IPP) of the Soviet Academy of Sciences. My calculations have long since lost all sensitivity and interest to everyone everywhere. Academy President Alexandrov, who was the Director of the IPP when I worked there, certified back in 1975 that I possess no secret information. How can anyone talk seriously about scientific, and in my case, merely calculatory, secrets more than 30 years old? It is absolutely absurd.

Yet that absurd fabrication was enough not only to deny me my inalienable right to emigrate, to reunite with my only daughter abroad, it denies my wife her only chance of survival.

In January 1980, I was called in to a local Prosecutor's Chief of Investigation and told officially that because of my former classified work, it had been decided never to let me emigrate. I asked who had decided, and was told that no one had the right to tell me. It had been decided by a competent body. This echoes the nightmares of Kafka and Orwell. It appears from the cruel, senseless treatment of my wife that my secret life sentence covers her too. After all, she married me 26 years after I had completely ceased secret work.

Not long ago, my wife received an invitation from Mrs. Max Kampelman to visit her as a guest for three months. The invitation is endorsed by U.S. Senators Gore, Pell, Stevens, Wallop, Moynihan, Rudman, Warner, Hart, and Nunn, Ambassador Zimmerman, and Ambassador Kampelman himself.

The Soviet national Visa Chief Col. Kuznetsov refused to even read the invitation. He said my wife would be refused permission to visit abroad. He knew, he said, that the real reason for any trip would be to get medical treatment. He made that sadistic statement right after your reply to Prof. Marois appeared in the press.

My fight for the life of my wife, totally lawful and without violating a single Soviet law, has produced a certain peculiar result: our phone was cut off on March 25. How despicable to deprive such a terribly sick woman, bedridden, requiring constant care and medical assistance, of her telephone. I myself, at the age of 75, have cardiac problems and several other ailments. The two of us live alone.

Whose point of view on the value of human life is prevalent—Col. Kuznetsov's, the official who ordered our phone cut off, or yours?

Respectfully,

Prof. NAHUM MEIMAN.

SENATE—*Friday, July 25, 1986*

(Legislative day of Monday, July 21, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Merciful God, Creator, Sustainer, Consummator of history, with heavy hearts we intercede for the many who are being devastated by drought. We pray for the farmers and their families who are experiencing great hardship. We pray for the merchants and retailers in those areas who are hurting because of the hardship of the farmers. We call upon Thee for gracious intervention in those large areas in Virginia, Maryland, the Southeast and Midwest which have been identified as disaster areas. In grace and mercy, we ask Thee, Lord, to send rain to end the drought. We pray that Thou wilt move with compassion those who are not suffering to respond in whatever way they are able. Gracious God, manifest Your creative power and providence and bring relief to those so desperately in need at this time. In the name of Jesus Christ the Lord, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. I thank the Presiding Officer, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each.

Then we have special orders, not to exceed 5 minutes each, for Senator PROXMIRE and Senator KASTEN.

Then there will be routine morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will resume consideration of the debt limit extension, or we may go into executive session, because if we are going to have a vote, we should have it as early as we can, so that we can accommodate many of our colleagues who have obligations outside the city later today.

I am advised that Senator HELMS will be here by 10 o'clock, so we should know about the vote shortly thereafter.

After the vote on the motion to go into executive session, there will be no other votes today. I do not see any possibility of more votes because of the tangle the debt ceiling matter is in right now.

So I say to my colleagues that we should know at 10 o'clock whether there will be a vote. We indicated last evening that there would be a vote. Senator HELMS indicates that may not be the case. In any event, we will know by 10 o'clock.

Also, we are going to try to work with the minority leader, sometime this morning or at noon, to see if there is a way to move some of the debate on TV in the Senate to next Monday. That will give us something to do on Monday; and we will probably do most of that, if not all of it, without rollcall. Then we could finish it on Tuesday, as the previous order indicates, because we will run out of time.

I appreciate the complexity of Gramm-Rudman-Hollings II. I hope that those who are negotiating would complete negotiations today, in whatever time it takes, so that we can be ready no later than Tuesday, and so that we can complete action on the debt ceiling. Staff are still trying to work out some agreement. It is still being done at a staff level.

I have been kept apprised—I believe the distinguished minority leader has been as well—as to whether we can reach an agreement on three critical matters that we would like to dispose of before the recess. They are aid to the freedom fighters, which has already passed the Senate on time and has now passed the House; the SALT resolution, which is in the DOD authorization bill; and the South African proposal, which would be coming out of the Foreign Relations Committee.

I know that there are others who would like to bring up the DOD authorization bill. Senator NUNN has an interest in that, as well as Senator GOLDWATER. I understand that Senator GOLDWATER is due back in his office today, so perhaps we can make some judgment on that.

Mr. President, with reference to South Africa, I still hope that the administration will fully comprehend the concern that is being expressed in Congress on both sides. It seems to me that one way to provide firsthand information to all of us, objective information—because I must say, as with reference to some of the information we receive on nearly every subject, we never know whether it is totally objective. One way I think to persuade Congress, in whatever direction we may be headed, would be to send a special envoy—or more than one, possibly two, three, four, or five distinguished Americans—to South Africa to represent the President and to bring back a report soon. I am not certain whether the administration has that under consideration, but it seems to me to be a logical option at this time.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The able and distinguished Democratic leader, Senator ROBERT BYRD, is recognized.

SCHEDULE

Mr. BYRD. Mr. President, with reference to the distinguished majority leader's comments concerning the schedule and some of the basic issues that need to be resolved between now and the Labor Day recess, it is my understanding that the Committee on Foreign Relations is acting expeditiously on the South African matter, and I take it that the distinguished majority leader will be prepared to have that matter on the floor soon.

Mr. DOLE. I think following Contra aid.

Mr. BYRD. On the matter of Contra aid, when does the distinguished majority leader intend to have the military construction appropriation bill before the Senate?

Mr. DOLE. I believe there are negotiations; I have to double check to be certain. I can supply that information later.

Senator MATTINGLY indicated yesterday that there has been some discussion in the Military Construction Subcommittee. But there is also concern about bringing up the appropriation bill without first having an authorization bill. Military construction authorization, as I understand it, is wrapped into the DOD authorization bill. I am told by many people that the bill will take us 2 weeks on the floor. So we are trying to find some form that will satisfy the concerns of those who are interested.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. BYRD. Why should we not, then, have the DOD authorization bill up? I understand that it is ready. I talked yesterday with Senator NUNN, who is the ranking member, and he indicated that he would be prepared next week to go to that bill.

Mr. DOLE. If we could finish the debt ceiling and even get some loose agreement on the DOD authorization, I would be amenable to that.

One reason has been that Senator GOLDWATER has been hospitalized. They have not yet totally completed action, I do not believe. I understand that it should be ready next week.

We are getting into the logjam period here—or we will. If we could resolve the question on these three issues that could find themselves attached to the DOD bill, I think the other parts would be taken care of very fast.

Mr. BYRD. Mr. President, the distinguished majority leader, of course, bears great responsibilities and heavy burdens in scheduling the activities of the Senate.

□ 0940

I would hope that the Senate could proceed on the DOD authorization bill next week, and if some of the other issues are resolved in connection with that bill, it seems to me that that would hasten the day when such issues would be out of the way. I would want to express the hope that the distinguished majority leader would consider going forward with the DOD bill just as soon as Mr. GOLDWATER is able to manage it on the floor.

If that is where SALT II undercut, and Contra aid, and some of the other issues are resolved, I think they are going to have to be resolved one way or another and at one time or another. So I leave that thought with the distinguished majority leader hoping that it might be helpful.

THE EXCHANGE BETWEEN SECRETARY SHULTZ AND SENATOR BIDEN

Mr. BYRD. Mr. President, there was a heated exchange between the Secretary of State, Mr. Shultz, and the Senator from Delaware, Senator BIDEN, on Wednesday.

We encourage vigorous and open debate in the Senate, in the committees as well as on the floor. Emotions run especially high on the important issue of South Africa, and that is understandable. But I believe that Secretary of State Shultz exceeded the reasonable bounds of propriety and debate on Wednesday when he accused Senator BIDEN of "calling for violence."

That statement was wrong, and it was unfair to the Senator from Delaware.

It is somewhat ludicrous to suggest that any U.S. Senator would "call for violence" in South Africa. Every one of us has been struggling with the complex problem of how to encourage peaceful change in that sad country.

This Nation cannot stand by while South Africa hemorrages from self-inflicted wounds.

Senator BIDEN has made a reputation for himself in this body as a Senator who brings a disciplined scholarship to the issues he confronts. As the ranking member of the Judiciary Committee, he demonstrated that powerful and disciplined approach in the recent debate over the Manion nomination, and he has done so on other occasions.

I am disappointed by the charge that a U.S. Senator is inciting violence in South Africa. It was an irresponsible thing to say. I would hope that, upon reflection, the Secretary would regret such an outlandish accusation. I cannot believe that, as spokesman for the Nation's foreign policy, he would wish to allow that statement to stand for interpretation by foreign governments and foreign news media.

It is difficult enough to forge a national consensus on the troubling issue of South Africa policy. I would hope that the effort would not be further compounded by sensational personal charges. If the Secretary of State is going to take on all the critics of the administration's South Africa policy—on both sides of the Hill and from both parties—he is going to find himself running out of charges long before he runs out of Members of Congress.

ESTABLISHMENT OF A DEMOCRATIC WORKING GROUP ON DRUG AND SUBSTANCE ABUSE

Mr. BYRD. Mr. President, the United States of America is at war. We are battling one of the deadliest foes we have ever encountered—an enemy that is taking the lives of thousands of Americans and corrupting the very fabric of our country.

I am speaking of this Nation's war against illegal drugs. And, as movies, television programs, news programs, and the morning newspapers unfortunately and painfully tell us, in many parts of our Nation, and in many tragic ways, we are losing that war.

Among the casualties of this war are easily recognizable names, such as bigname athletes and entertainers. But the casualty list also includes multitudes of less famous Americans who die from overdoses and from the violent struggles inside the nightmare world of the drug kingdom.

Drug abuse in the United States has become a national tragedy, as well as a national disgrace. It is a national tragedy and disgrace that we must use every power at our disposal to bring it to an end.

The President's Commission on Organized Crime has estimated that within the borders of the United States, there are 4 million cocaine users, half a million heroin addicts, and 20 million regular users of marijuana. And it is estimated that more than $100 billion of revenue is taken in by the sellers of this poison every year.

Drug abuse affects thousands of innocent Americans. This administration has acknowledged that as much as 50 to 60 percent of street crime in the United States could be drug related.

Efforts at tackling this problem have been made by this administration, and many imaginative and innovative proposals have been put forward by our colleagues on both sides of the aisle.

Mrs. Reagan has been a leader in recognizing and addressing this national problem.

But I think we must do even more—because the drug trade, and drug use, continue to soar at a deadly pace.

The newest scourge on the streets is a frightening low-cost substance called crack, which is drawing more and more attention due to its superpotency. This form of cocaine which users freebase, has been proved lethal time and again, and is responsible for an alarming number of episodes of death and injury in recent weeks.

Perhaps equally destructive is the fact that addiction, whether physiological or psychological, or both, may be established after as few as two or three use episodes. Users experience a dramatic euphoria upon inhalation of crack followed quickly by a profound depression.

Law enforcement authorities indicate that those experiencing this possible crack depression may be dangerous to anyone in their vicinity.

We simply must find ways to stop the use of this substance and to find and stop those who are making it available on the streets of our cities.

I am therefore, today, establishing a democratic working group on drug and substance abuse, to be cochaired by Senator LAWTON CHILES, a senior member of the Budget, Appropriations, and Governmental Affairs Committees, and Senator JOE BIDEN, the ranking minority member of the Judiciary Committee, and cochairman of the International Caucus on Drugs.

This working group will concentrate, on several areas: First, eradication of the drug crops; second, interdiction of drug shipments and of drug traffickers; third, domestic enforcement of substance abuse laws; fourth, public education about the dangers of drug abuse; and fifth, treatment and rehabilitation of drug abusers; and sixth, very stiff penalties, very tough laws, and aggressive enforcement. With this multifaceted focus, the group will ad-

dress both the supply side and the demand side of the drug problem. As long as either exists, regardless of our progress in eliminating the other, this Nation will continue to have a drug problem. It also will offer help to the people who are the human flotsam left in the wake of this killing and crippling social plague.

We need this task force because it is obvious we are losing the drug war, and more and more concentrated efforts to fight it are desperately needed.

I have no illusions that this working group alone will win the war against drugs. This is a battle that requires cooperation and effort of nearly every American and a major commitment of national will. But it can collect, assemble, and push ideas and prepare legislation so that effective legislative action will be obtained on this subject before October when Congress is expected to adjourn sine die. We must dedicate ourselves to stemming the tide now; we must not wait until the tide becomes a tidal wave that crushes everything in its path.

I am fully confident that this effort will receive the benefit of the tremendous energy, superior intellect, and outstanding capability that the Members I am appointing can bring to bear on this matter.

I hope that the establishment of this group will contribute major progress in combining the scourge of substance abuse effectively and soon.

The names of those in addition to Senators CHILES and BIDEN are Senators DECONCINI, DODD, LEAHY, NUNN SASSER, and CRANSTON. I will be a member ex officio.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. Under the previous order, the Senator from from Wisconsin [Mr. PROXMIRE] is now recognized for not to exceed 5 minutes.

THE UNITED STATES NEGOTIATES WITH U.S.S.R. FROM OVERWHELMING STRENGTH

Mr. PROXMIRE. Mr. President, let's face it—this administration is turning its back on arms control. The President of the United States today, at this very moment, has the best opportunity since the dawn of the nuclear age to stop the nuclear arms race to negotiate an agreement with the Soviet Union from a position of overwhelming strength. But the President is choosing instead an all-out nuclear arms race.

This country leads the free world. The Soviet Union leads the Communist world. What is the fundamental basis of any nation's military strength? It is the economic and technological strength of that nation and its allies. It is also the translation of that economic and technological strength into military weapons.

So consider how the two great superpowers and their allies line up. First, compare the two economies. The United States gross national product is about twice the size of the Soviet GNP. How about the two adversary alliances. The North Atlantic Treaty [NATO] Alliance has more than three times the economic productivity of the Warsaw Pact. In economic muscle it is strictly no contest. The free world, lead by the United States is far, far ahead.

How about the technology of the two superpowers? A few months ago the United States Under Secretary of Defense for Research and Development compared the United States and the U.S.S.R. in the 20 most important military technology areas. I repeat, the most important military technology areas. How do we stack up? Of these 20 vital military areas, the United States leads in 14. The two superpowers were tied in six. So in how many of these 20 critical military areas did the U.S.S.R. lead? Exactly none. Zero—zip—not in a single area.

How about actual military power in this nuclear age? Both the United States and the Soviets have about 10,000 strategic nuclear warheads. Those are the massive hydrogen bombs—each one—each and every one of which can blow a great city to smithereans. Both superpowers also have 15,000 tactical nuclear bombs, each of which can utterly destroy an entire city block. What does all this mean? It means that if a war between the two superpowers should ever take place, it would utterly—totally, absolutely, finally eliminate both the Soviet Union and the United States from the face of the Earth.

And what does this mean? It means that both nations have the same common self, I repeat, self-interest in preventing nuclear war. Why do they have the same interest? Because a nuclear war would utterly destroy both nations as organized societies. Such a war might very possibly end the life of mankind on Earth. So you ask: Can our President reach an agreement with Secretary Gorbachev to stop the arms race? Can we rely on the Russians to keep such an agreement? The answer is yes. It is yes for a simple and certain reason. The Soviet Union like the United States has a self-interest in stopping the arms race. Both countries can only survive if a nuclear war is never fought. In view of the crushing, immense arsenals on both sides, a nuclear war means the end of both nations. The nuclear arms race—like every arms race—creates instability. It surely and steadily pushes the superpowers closer to war. It also constitutes a cruel and colossal economic burden on both nations.

Finally, the Soviet Union faces another nightmare. Consider this. The United States is protected by the Atlantic Ocean to the east, the mighty Pacific Ocean to the west. Both oceans are patrolled and dominated by the greatest Navy on Earth, the U.S. Navy. We have a friendly Canada to the north and a friendly Mexico to the south. We in the United States have three times the economic strength and literally 10 times the military strength of all the rest of the Western Hemisphere combined.

But how about the Soviet Union. It faces an economically and technologically strong NATO alliance on its west with not just United States nuclear power but rapidly growing United Kingdom and French nuclear arsenals. Within a few years both of those Russian adversaries will have nuclear arsenals of 2,000 strategic warheads each. Either one will be able to devastate the U.S.S.R. And on the Soviet's eastern front, it faces still another nuclear power in China. China has four times as many people as the Soviets. It is the most rapidly growing economy in the world. It is a full-fledged nuclear power and it is hostile to the Soviets.

So, I conclude, Mr. President, that when we negotiate into the U.S.S.R. today, we negotiate from overwhelming economic, technological, and military strength.

MYTH OF THE DAY: CASEIN IMPORTS ARE NOT HURTING U.S. DAIRY FARMERS

Mr. PROXMIRE. Mr. President, the myth of the day is that milk protein imports, primarily casein, are not hurting U.S. dairy farmers. This is a myth, pure and simple, as the facts plainly reveal.

Casein and other milk protein imports have been—and continue to be—the cause of much economic hardship for America's dairy farmers and their families. In 1985, these imports totaled a record 231.4 million pounds, an increase of 52 percent since 1980. Last year's casein imports were the equivalent of 8.3 billion pounds of skim milk. This equals 6 percent of the skim milk equivalent of 1985 milk production and 78 percent of the nonfat dry milk purchases made by the Commodity Credit Corporation.

Changes in food technology now allow the use of casein as an ingredient in a wide variety of food products as a substitute for milk solids not fat. Only about 5 percent of casein use was for food and feed 25 years ago. But today, over 87 percent is used for these purposes.

New Zealand has been shifting its exports to the United States since it lost most of its primary market when

England entered the Common Market in 1973. Casein imports from New Zealand have increased from 31.4 million to 102 million pounds a year during that period. Through the use of variable levies to limit, if not totally exclude, imports, as well as export or production subsidies to assist in moving surplus products into world markets, the European Community [EC] has greatly expanded its share of exports to the United States. In 1978, seven EC countries supplied 10 percent of total U.S. imports. By 1980, this had jumped to 30 percent. In 1985, the EC accounted for 44 percent of U.S. casein imports. Ireland has led this expansion, increasing from 9.2 million pounds in 1978 to 64.9 million pounds last year.

The fact that U.S. dairy farmers are now making great sacrifices to help bring milk production back into line with consumption makes the increasing expansion of milk protein products even more inexcusable. America's dairy farmers are being forced to take lower farm milk prices, on top of self-assessments amounting to 67 cents per hundredweight to help pay for the Dairy Termination Program, to help reduce the Federal deficit under Gramm-Rudman-Hollings, and to fund national dairy promotion activities.

About 14,000 dairy farm families will leave the dairy business under the Dairy Termination Program. This is the greatest single milk production reduction in history.

Does it make any sense for national dairy policy to give two different signals at the same time? Absolutely not. Mr. President, the use of the American market as a dumping ground for world surpluses is bad for dairy farmers and taxpayers alike. It must be stopped.

PENTAGON AUDITORS UNCOVER LITTON FRAUD

Mr. PROXMIRE. Mr. President, the successful prosecution of Litton Industries' military contracting subsidiary was a direct result of routine audits by auditors of the Defense Contract Auditing Agency.

According to press accounts, the Pentagon auditors noted discrepancies in Litton's books in April 1982. This touched off a criminal investigation which has culminated, so far, in guilty pleas by the corporation to 321 counts of fraud for overbilling the Defense Department. The facts made available indicate that prosecutions of Litton officials may be forthcoming.

Government auditing, especially in the area of defense procurement, has come under criticism lately, especially by defense contractors. They complain about excessive Government auditing and urge that the number of auditors and the frequency of auditing be curtailed. From time to time, there have been calls to reduce the role of the Defense Contract Auditing Agency. The President's Blue Ribbon Commission on Defense Management—known as the Packard Commission—complains in its final report about duplication of the defense auditing and oversight effort.

It is understandable that defense contractors are opposed to Government auditing and oversight, whether it comes from the Pentagon or Congress. I find that such critics do not understand or do not want to understand the different purposes served by groups such as the Defense Contract Auditing Agency, the General Accounting Office, and various congressional committees. They see duplication rather than differentiation. The Packard Commission report suffers from this kind of oversimplification.

The successful prosecution of Litton exemplifies the value of Government auditing; in particular, the work of the Defense Contract Auditing Agency. It is too easy to dismiss the unglamorous efforts of Government auditors as green eyeshade types who bury themselves in minutiae with little effect. In this one case, Litton is expected to pay up to $16 million in criminal and civil penalties.

The Defense Contract Auditing Agency should be congratulated for a job well done.

I ask unanimous consent to have printed in the RECORD at the close of my remarks an article from the New York Times, July 23, 1986, "Litton Unit Guilty Plea on Fraud"; and an article from the Bureau of National Affairs Daily Report for Executives, July 18, 1986, "Litton Division Indicted for Fraud; Navy Imposes Suspension on Company."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 23, 1986]

LITTON UNIT GUILTY PLEA ON FRAUD

(By Lindsey Gruson)

Special to The New York Times

PHILADELPHIA, July 22.—A military-contracting subsidiary of Litton Industries pleaded guilty today in Federal District Court to 321 counts of fraud for overbilling the Defense Department by $6.3 million.

The guilty plea by the subsidiary, Litton Systems Inc., which does business as Clifton Precision, Special Devices division, had been expected. After being indicted last week, Litton agreed to pay up to $16 million in criminal and civil penalties, the largest settlement ever by a military contractor. Litton Industries, the nation's 19th-largest military contractor, has also been suspended from bidding on Government contracts.

After questioning Alan J. Hoffman, Litton's attorney, Judge Charles R. Weiner delayed the company's sentencing until Thursday. Litton has already agreed to pay the maximum fines that Judge Weiner could impose.

TWO FORMER EXECUTIVES CITED

Hours after Litton pleaded guilty, Clifton's former vice president for finance and administration, Michael J. Millspagh, 34 years old, was arraigned on charges of fraud and racketeering and pleaded not guilty. He was released on a $50,000 bond.

A second former Clifton executive, Joseph DiLiberto, 68, who had been the division's purchasing manager, is scheduled for arraignment on Aug. 4.

Interviews with Federal auditors and prosecutors indicate that the investigation that led to Litton's indictment was touched off by a routine review in April 1982 by auditors from the Defense Contract Auditing Agency. While auditing Clifton's contract to supply the Navy with radar devices, examiners were struck by a pattern: The company frequently quoted one vendor's prices in estimating its costs but never bought anything from that company.

Today, in reviewing the prosecutors' plea and sentencing memorandum, an Assistant United States Attorney, Nicholas C. Harbist, told the court that Litton's fraud was more extensive than previously disclosed.

Through a variety of schemes, he said, the company, the military's sole source for some advanced electronic equipment, inflated the price of some common parts, such as screws, by up to 10 times.

For a decade starting in the mid-1970's, he said, Clifton began asking vendors to quote prices much higher than the actual sales price. These quotes were then used to justify the prices Litton charged the Pentagon.

In addition, Clifton solicited and received rebates and kickbacks from vendors, Mr. Harbist said.

The company also obtained blank forms, filled in inflated prices and forged the vendors' signature, he said, and sometimes sought and received quotes for the price of one item, then bought the items in bulk, receiving discounts. But it billed the Pentagon at the single-unit price.

When auditors stumbled on the suspicious pattern in 1982, Litton employees for three years tried to "cover up" the scheme, Mr. Harbist said. During audits, he said, they "routinely" lied to examiners, contending the company did not have records of its purchase orders.

Mr. Harbist said that an attorney for Litton, who was not named, had been told of the scheme in May 1983, conducted an internal investigation and "wrote a memorandum detailing the nature and extent of certain fraudulent practices."

In an interview after the court proceedings today, Mr. Harbist said the lawyer apparently sent his report to senior corporate executives at the company's Beverly Hills, Calif., headquarters. He declined to provide any other details but said the investigation into the apparent cover-up was continuing.

CONTRACT POLICY: LITTON DIVISION INDICTED FOR FRAUD; NAVY IMPOSES SUSPENSION ON COMPANY

A federal grand jury in Philadelphia July 15 indicted Littons Systems' Clifton Precision Division and two former employees for defrauding the government on more than 45 defense contracts between 1975 and 1984.

Subsequently, the Navy July 16 suspended Litton Industries, Inc.—the nation's tenth-largest defense contractor—and its affiliates from receiving new Defense Department contracts, based on the indictment and the company's announced intention to enter a guilty plea.

The 325-count indictment, which is the result of a joint investigation by the Defense Criminal Investigative Service, the

DOD Inspector General, and the Defense Contract Audit Agency, charges Litton Systems with presenting false claims to the government, mail fraud, and making false statements to the government.

Litton's Clifton Precision Division produces aircraft instrumentation, radar equipment, and other military hardware under fixed-price defense contracts. According to the indictment, Litton and its former Vice President of Finance Michael Millspaugh engaged in a scheme to submit false cost and pricing data to the Defense Department. "As part of the scheme, defendants caused substantially inflated cost and pricing data for materials to be submitted to [DOD] in order to conceal the actual cost of materials."

The indictment alleges that Litton employees obtained inflated cost and pricing data, using blank quotation forms received from suppliers to submit fraudulent price quotations. In addition, Litton and Millspaugh allegedly failed to disclose to the government that Clifton was receiving rebates from vendors and suppliers.

Furthermore, Millspaugh attempted to conceal the scheme by lying to a Defense Contract Audit Agency [DCAA] auditor who was investigating the overcharges, the indictment says. Moreover, Litton Systems is charged with concealing material facts from DOD by making false statements to DCAA auditors, denying the auditors access to cost and pricing data, and removing or destroying documents sought by the auditors.

U.S. attorney for the eastern district of Pennsylvania Edward Dennis announced July 15, that Litton had agreed to plead guilty to all counts, and would pay $15 million in criminal penalties, civil penalties, and restitution. Millspaugh faces up to 125 years in prison, plus $55,000 in fines and forfeiture of assets, Dennis said. Former Clifton materials manager Joseph DiLiberto, who is charged on one count of conspiring to make false statements, could receive 10 years in jail and up to $15,000 in fines.

In a related development, the Navy July 16 suspended Litton Industries, Inc., the nation's tenth-largest defense contractor, from receiving new DOD contracts.

"The suspension is for a temporary period pending completion of a thorough review of the underlying facts, "the Navy said in a statement. "The notice of suspension provides Litton the opportunity to submit and present information in opposition to the suspension within 30 days." The Navy added that it would consider the extent to which the illegal conduct "occurred within the corporate structure," and the contractor's efforts to prevent its recurrence.

The Navy also released a fact sheet explaining that the suspension does not affect Litton's current contracts, including a $221 million award relating to the reactivation of the battleship "Wisconsin." The option on that contract was exercised July 14, just one day before the indictment. The Navy conceded that it was aware of an ongoing criminal investigation involving Litton's Clifton Precision Division. However, no attempt was made to accelerate the award because of the investigation, the agency stressed.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I yield myself 3 minutes pursuant to the majority leader.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. D'AMATO are printed in the RECORD under "amendments submitted".)

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Mr. KASTEN addressed the Chair.

RECOGNITION OF SENATOR KASTEN

The PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. KASTEN] is recognized for a period not to exceed 5 minutes.

THE WISCONSIN HAY AIRLIFT

Mr. KASTEN. Mr. President, I rise today to pay tribute to the many individuals in my home State of Wisconsin who gave of their time, their energy, and their resources this past week to organize yesterday's hay airlift to drought-stricken Southern States.

The hay went to Georgia, North Carolina, South Carolina, and although it is unusual to stand before my colleagues to say this, I think what we saw was simply extraordinary in terms of people working together.

While this effort was organized on relatively short notice, the outpouring of support from farmers, businesses, and individuals across Wisconsin was phenomenal.

More than 1,500 bales of hay were donated by farmers and transported by plane, truck, and rail to farmers in the Southeastern United States whose livestock are starving.

All of us who have seen the pictures on television have seen the devastation, all of us have seen the animals in stress, and we understand how important this action has been.

Mr. President, this selfless expression by Wisconsin farmers—many in financial hardship themselves—is a demonstration I believe of an inherent characteristic of the American people to help those less fortunate than ourselves, regardless of the self-sacrifice involved.

I want to thank and bring to the attention of my Senate colleagues just a few of the many Wisconsinites who worked so hard to bring this haylift to fruition: David Retzlaff, manager of the Bernien Implement Co. in Reedsburg, the location of the initial haydrop in Wisconsin; William Schorer, president of the Reedsburg Foods, who donated trucks and time to help truck some of the hay south; and, of course, many, many farmers whose generosity inspired the activities of all others.

Mr. President, this kind of effort by our State's farmers, many of whom are facing difficult economic times themselves, should inspire all of us. And I certainly feel proud. It makes me proud to represent such a caring group of individuals, and to represent such a caring State.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. D'AMATO). Under the previous order, there will now be a period for the transaction of routine morning business with statements therein limited to 5 minutes.

Mr. DOLE. Mr. President, I ask unanimous consent that routine morning business be extended until 10:20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, will the distinguished Senator from Wisconsin yield?

Mr. KASTEN. I am pleased to yield.

THE HAY AIRLIFT TO SOUTHEAST FARMERS

Mr. THURMOND. Mr. President, I just want to take this opportunity to pay a special tribute both to the good people of Wisconsin and to their able and fine Senator, ROBERT KASTEN, for their unselfish efforts in airlifting hay to farmers in the Southeast.

I would like to say to the Senator from Wisconsin, and to the people of his State, that their generosity in this critical time of need for the Southeast is much appreciated. Because of their determined efforts, livestock that might have perished will live, and a number of farmers who might not have survived this crisis have been given new hope of weathering this drought.

I know that the Senator from Wisconsin was instrumental in organizing the airlift from his State to the South, and I want to commend and thank him on behalf of our people for his concern and his determined effort to make this operation a success.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, as the distinguished Senator from South Carolina knows so well the South continues to reel from the effects of prolonged and devastating drought. In fact, Senator THURMOND was there with the President of the United States. We have seen the grim reports on television—the once fertile farm fields that are blowing away; the ponds and streams that are now baked dry; the starving livestock; and the frustration and anxiety of our southern neigh-

bors, and all the others who are trying to cope with this disaster in Pennsylvania and Delaware.

This is a problem that knows no regional or political boundries: when there is trouble, whether we are from Kansas, or California, or New York, we must all pitch in. I am pleased that the administration is doing all it can to bring as much relief as possible to drought-stricken areas. Yesterday, the President saw firsthand the scorched earth of South Carolina; and the Secretary of Agriculture, Dick Lyng, was there as well, reviewing a report from a task force he created to deal with the crisis. Hopefully, we can cut through the redtape even more rapidly than Mr. Lyng would like.

Mr. President, what is especially pleasing is the manner in which officials from other parts of the country have responded. I would like to applaud the efforts of those Members in this body who have not only demonstrated concern, but also demonstrated real leadership by bringing some tangible relief to the drought-ravaged South.

In particular, the majority leader would like to salute Senator BOB KASTEN of Wisconsin who personally went to bat for southern farmers to see to it that Wisconsin hay was delivered to the people who needed it the most.

By cutting through redtape—and never taking no for an answer—the junior Senator from Wisconsin has set a real example for all of us to follow. On Wednesday past, President Reagan heard Senator KASTEN loud and clear and gave his OK to the use of C-130 aircraft for delivering desperately needed hay to the South. As a result, cargo planes from Milwaukee's 440th Tactical Airlift Wing at Mitchell Airport were soon bringing hay from many Wisconsin communities to their southern neighbors.

Now, Kansas and Missouri hay is also heading to South Carolina. And some good citizens are even sending ice. It is truly a national concern.

Mr. President, there have been some critics who say politics is playing a role in this relief effort. All I can say is that farmers could not care less about party politics—what they are more interested in is survival from one day to the next. The relief effort is, and will continue to be, a bipartisan concern. In my view, we should follow Senator KASTEN's leadership and get on with the challenge of dealing with merciless heatwave and its devastating aftermath.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I simply want to thank the majority leader but also thank the Senator from South Carolina. It is not me that deserves the credit frankly. It is the farmers of Wisconsin, the people of Wisconsin, and members of the 440th Air Force Reserve Wing all working together. We are proud to be helpful, and I am pleased to be able to bring this whole experience to the attention of our Senate colleagues.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. DOLE. I am happy to yield.

Mr. THURMOND. Mr. President, I want to express my appreciation to the able majority leader for his fine interest in this matter, and to express to him and through him to the farmers in Kansas who also are sending some feed for cattle to South Carolina and other Southeastern States. We deeply appreciate the leadership and interest of the majority leader. I want to thank him.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished senior colleague, and our distinguished majority leader, and express our gratitude for the wonderful help we have received from all parts.

I am not making a Federal case. I was injected into it in that the distinguished Senator from Massachusetts had 30 tons of hay available. I heard they had called the White House, and that they were orchestrating and organizing the deliveries. There was an airplane delivery yesterday in South Carolina. It was obvious to all of us. We saw it on the morning news with our distinguished President down there. We are grateful for it.

Similarly, it was delivered in North Carolina and other States.

When I called over and spoke to the coordinator, Mr. Andrew Card, he said, "Get a truck."

I said, "Come on, man. Let's go."

It is the proposition of getting it down there. Later, he explained 30 tons was not enough or sufficient load for a plane. The fact of the matter is, a C-130 holds right at 22,000 or 23,000 pounds at the most, around 15 to 16 tons. So we actually had two planeloads. I explained that we did not have Democratic cows or Republican cows. We only had hungry cows looking for hay—and not political hay. That is that.

Since that time, we have had other offers, and we are now coordinating some deliveries from Ohio. Mr. Harry Winch, of Minster, OH, has a plant in our State of South Carolina, and he has a tremendous sum of hay. He is orchestrating with truck deliveries to Wright Patterson. We hope with the Ohio National Guard to bring some down.

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Mr. President, we have these weekend warriors who fly and in most instances they fly aircraft which are empty. We have C-130's at Westover, MA, that fly and fly empty. I will land on a field later today in my home town of Charleston, SC, where they have weekend flights. We require these training flights. They fly, and they fly empty.

There is nothing wrong with the emergency here, with this amount of hay available to be orchestrated with the Air Guard who fly on weekends, and with the regular Military Airlift Command to coordinate it.

Yes, it is a large sum, but let us get the trucks and let us get the trains.

On Conrail, we have had an offer out of Michigan, with Senator RIEGLE coordinating it, and then we hope to make a linkup with Norfolk Southern and bring that hay and some other hay in by train. It is an effort where everyone is trying to move.

One other thing we should emphasize in addition to our gratitude concerns the efforts of the senior Senator from South Carolina, with his bill, which will help those who are helping us. We have a big tax reform bill and in all events with this kind of assistance there are writeoffs allowed in the tax reform.

I would hope they would give expedited consideration to the bill of the senior Senator from South Carolina and, if need be, consider it in conference. Maybe if we could have some action on this side in the Senate in the next week on this score, we could then proceed with legitimate concern and consideration by the conferees themselves.

The main point is to thank everyone who has been of tremendous assistance, with wonderful outpourings from all sections to help us in our critical time.

BOWSHER VERSUS SYNAR—DISSENTING OPINIONS

Mr. RUDMAN. Mr. President, I ask unanimous consent to have printed in the RECORD the following opinions in the case of Bowsher versus Synar.

There being no objection, the opinions were ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States]

NOS. 85-1377, 85-1378 AND 85-1379

CHARLES A. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES, APPELLANT *v.* MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

UNITED STATES SENATE, APPELLANT, MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

THOMAS P. O'NEILL, JR., SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL., APPELLANTS *v.* MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[July 7, 1986]

JUSTICE WHITE, dissenting.

The Court, acting in the name of separation of powers, takes upon itself to strike down the Gramm-Rudman-Hollings Act, one of the most novel and far-reaching legislative responses to a national crisis since the New Deal. The basis of the Court's action is a solitary provision of another statute that was passed over sixty years ago and has lain dormant since that time. I cannot concur in the Court's action. Like the Court, I will not purport to speak to the wisdom of the policies incorporated in the legislation the Court invalidates; that is a matter for the Congress and the Executive, *both* of which expressed their assent to the statute barely half a year ago. I will, however, address the wisdom of the Court's willingness to interpose its distressingly formalistic view of separation of powers as a bar to the attainment of governmental objectives through the means chosen by the Congress and the President in the legislative process established by the Constitution. Twice in the past four years I have expressed my view that the Court's recent efforts to police the separation of powers have rested on untenable constitutional propositions leading to regrettable results. See *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.*, 458 U.S. 50, 92-118 (1982) (White, J., dissenting); *INS* v. *Chadha*, 426 U.S. 919, 967-1003 (White, J., dissenting). Today's result is even more misguided. As I will explain, the Court's decision rests on a feature of the legislative scheme that is of minimal practical significance and that presents no substantial threat to the basic scheme of separation of powers. In attaching dispositive significance to what should be regarded as a triviality, the Court neglects what has in the past been recognized as a fundamental prinicple governing consideration of disputes over separation of powers:

"The actual art of governing under our Constitution does not and cannot conform to judicial definitions of the power of any of its branches based on isolated clauses or even single Articles torn from context. While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J. concurring).

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The Court's argument is straightforward: the Act vests the Comptroller General with "executive" powers, that is, powers to "[i]nterpre[t] a law enacted by Congress [in order] to implement the legislative mandate," *ante*, at 17; such powers may not be vested by Congress in itself or its agents, see *Buckley* v. *Valeo*, 424 U.S. 1, 120-141 (1976), for the system of government established by the Constitution for the most part limits Congress to a legislative rather than an executive or judicial role, see *INS* v. *Chadha*, *supra;* the Comptroller General is an agent of Congress by virtue of a provision in the Budget and Accounting Act of 1921, 43 Stat. 23, 31 U.S.C. § 703(e)(1), granting Congress the power to remove the Comptroller for cause through joint resolution; therefore the Comptroller General may not constitutionally exercise the executive powers granted him in the Gramm-Rudman Act, and the Act's automatic budget-reduction mechanism, which is premised on the Comptroller's exercise of those powers, must be struck down.

Before examining the merits of the Court's argument, I wish to emphasize what it is that the Court quite pointedly and correctly does *not* hold: namely, that "executive" powers of the sort granted by the Comptroller by the Act may only be exercised by officers removable at will by the President. The Court's apparent unwillingness to accept this argument,[1] which has been tendered in this Court by the Solicitor General,[2] is fully consistent with the Court's longstanding recognition that it is within the power of Congress under the "Necessary and Proper" Clause, Art. I, § 8, to vest authority that falls within the Court's definition of executive power in officers who are not subject to removal at will by the President and are therefore not under the President's direct control. See, *e.g., Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958).[3] In an earlier day, in which simpler notions of the role of government in society prevailed, it was perhaps plausible to insist that all "executive" officers be subject to an unqualified presidential removal power, see *Myers* v. *United States*, 272 U.S. 52 (1926); but with the advent and triumph of the administrative state and the accompanying multiplication of the tasks undertaken by the Federal Government, the Court has been virtually compelled to recognize that Congress may reasonably deem it "necessary and proper" to vest some among the broad new array of governmental functions in officers who are free from the partisanship that may be expected of agents wholly dependent upon the President.

The Court's recognition of the legitimacy of legislation vesting "executive" authority in officers independent of the President does not imply derogation of the President's own constitutional authority—indeed, duty—to "take Care that the Laws be faithfully executed," Art. II, § 3, for any such duty is necessarily limited to a great extent by the content of the laws enacted by the Congress. As Justice Holmes put it, "The duty of the President to see that the laws be executed is a duty that does not go beyond the laws or require him to achieve more than Congress sees fit to leave within his power." *Myers* v. *United States*, 272 U.S., at 177 (Holmes, J., dissenting).[4] Justice Holmes perhaps overstated his case, for there are undoubtedly executive functions that, regardless of the enactments of Congress, must be performed by officers subject to removal at will by the President. Whether a particular function falls within this class or within the far larger class that may be relegated to independent officers "will depend upon the character of the office." *Humphrey's Executor*, 295 U.S., at 631. In determining whether a limitation on the President's power to remove an officer performing executive functions constitutes a violation of the constitutional scheme of separation of powers, a court must "focu[s] on the extent to which [such a limitation] prevents the Executive Branch from accomplishing its constitutionally assigned functions." *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 443 (1977). "Only where the potential for disruption is present must we then determine whether that impact is satisfied by an overriding need to promote objectives within the constitutional authority of Congress." *Ibid.* This inquiry is, to be sure, not one that will beget easy answers; it provides nothing approaching a bright-line rule or set of rules. Such an inquiry, however, is necessitated by the recognition that "formalistic and unbending rules" in the area of separation of powers may "unduly constrict Congress' ability to take needed and innovative action pursuant to its Article I powers." *Commodity Futures Trading Commission* v. *Schor*, ——, —— (1986).

It is evident (and nothing in the Court's opinion is to the contrary) that the powers exercised by the Comptroller General under the Gramm-Rudman Act are not such that vesting them in an officer not subject to removal at will by the President would in itself improperly interfere with Presidential powers. Determining the level of spending by the Federal Government is not by nature a function central either to the exercise of the President's enumerated powers or to his general duty to ensure execution of the laws; rather, appropriating funds is a peculiarly legislative function, and one expressly committed to Congress by Art. I, § 9, which provides that "[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." In enacting Gramm-Rudman, Congress has chosen to exercise this legislative power to establish the level of federal spending by providing a detailed set of criteria for reducing expenditures below the level of appropriations in the event that certain conditions are met. Delegating the execution of this legislation—that is, the power to apply the Act's criteria and make the required calculations—to an officer independent of the President's will does not deprive the President of any power that he would otherwise have or that is essential to the performance of the duties of his office. Rather, the result of such a delegation, from the standpoint of the President, is no different from the result of more traditional forms of appropriation: under either system, the level of funds available to the Executive branch to carry out its duties is not within the President's discretionary control. To be sure, if the budget-cutting mechanism required the responsible officer to exercise a great deal of policymaking discretion, one might argue that having created such broad discretion Congress had some obligation based upon Art. II to vest it in the Chief Executive or his agents. In Gramm-Rudman, however, Congress has done no such thing; instead, it has created a precise and articulated set of criteria designed to minimize the degree of

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[1] See *ante*, at 9-10, and n. 4.

[2] The Solicitor General appeared on behalf of the "United States," or, more properly, the Executive departments, which intervened to attack the constitutionality of the statute that the Chief Executive had earlier endorsed and signed into law.

[3] Although the Court in *Humphrey's Executor* characterized the powers of the Federal Trade Commissioner whose tenure was at issue as "quasi-legislative" and "quasi-judicial," it is clear that the FTC's power to enforce and give content to the Federal Trade Commission Act's proscription of "unfair" acts and practices and methods of competition is in fact "executive" in the same sense as is the Comptroller's authority under Gramm-Rudman—that is, it involves the implementation, (or the interpretation and application) of an act of Congress. Thus, although the Court in *Humphrey's Executor* found the use of the labels "quasi-legislative" and "quasi-judicial" helpful in "distinguishing" its then-recent decision in *Myers* v. *United States*, 272 U.S. 52 (1926), these terms are hardly of any use in limiting the holding of the case; as Justice Jackson pointed out, "[t]he mere retreat to the qualifying 'quasi' is implicit with confession that all recognized classifications have broken down, and 'quasi' is a smooth cover which we draw over our confusion as we might use a counterpane to conceal a disordered bed." *FTC* v. *Ruberoid Co.*, 343 U.S. 470, 487-488 (Jackson, J., dissenting).

[4] Cf. *ante*, at 18 ("undoubtedly the content of the Act determines the nature of the executive duty").

policy choice exercised by the officer executing the statute and to ensure that the relative spending priorities established by Congress in the appropriations it passes into law remain unaltered.[5] Given that the exercise of policy choice by the officer executing the statute would be inimical to Congress' goal in enacting "automatic" budget-cutting measures, it is eminently reasonable and proper for Congress to vest the budget-cutting authority in an officer who is to the greatest degree possible nonpartisan and independent of the President and his political agenda and who therefore may be relied upon not to allow his calculations to be colored by political considerations. Such a delegation deprives the President of no authority that is rightfully his.

II

If, as the Court seems to agree, the assignment of "executive" powers under Gramm-Rudman to an officer not removable at will by the President would not in itself represent a violation of the constitutional scheme of separated powers, the question remains whether, as the Court concludes, the fact that the officer to whom Congress has delegated the authority to implement the Act is removable by a joint resolution of Congress should require invalidation of the Act. The Court's decision, as I have stated above, is based on a syllogism: the Act vests the Comptroller with "executive power"; such power may not be exercised by Congress or its agents; the Comptroller is an agent of Congress because he is removable by Congress; therefore the Act is invalid. I have no quarrel with the proposition that the powers exercised by the Comptroller under the Act may be characterized as "executive" in that they involve the interpretation and carrying out of the Act's mandate. I can also accept the general proposition that although Congress has considerable authority in designating the officers who are to execute legislation, see *supra*, at 3-7, the constitutional scheme of separated powers does prevent Congress from reserving an executive role for itself or for its "agents." *Buckley* v. *Valeo*, 424 U.S., at 120-141; *id.*, at 267-282 (WHITE, J., concurring in part and dissenting in part). I cannot accept, however, that the exercise of authority by an officer removable for cause by a joint resolution of Congress is analogous to the impermissible execution of the law by Congress itself, nor would I hold that the Congressional role in the removal process renders the Comptroller an "agent" of the Congress, incapable of receiving "executive" power.

In *Buckley* v. *Valeo*, *supra*, the Court held that Congress could not reserve to itself the power to appoint members of the Federal Election Commission, a body exercising "executive" power. *Buckley*, however, was grounded on a textually based separation of powers argument whose central premise was that the Constitution requires that all "Officers of the United States" (defined as "all persons who can be said to hold an office under the government," 424 U.S., at 126) whose appointment is not otherwise specifically provided for elsewhere in its text be appointed through the means specified by the Appointments Clause, Art. II, § 2, cl.2—that is, either by the President with the advice and consent of the Senate or, if Congress so specifies, by the President alone, by the courts, or by the head of a department. The *Buckley* Court treated the Appointments Clause as reflecting the principle that "the Legislative Branch may not exercise executive authority," 424 U.S., at 119 (citing *Springer* v. *Philippine Islands*, 277 U.S. 189 (1928)), but the Court's holding was merely that Congress may not direct that its laws be implemented through persons who are its agents in the sense that it chose them; the Court did not on the legitimacy of other means by which Congress might exercise authority over those who execute its laws. Because the Comptroller is not an appointee of Congress but an officer of the United States appointed by the President with the advice and consent of the Senate, *Buckley* neither requires that he be characterized as an agent of the Congress nor in any other way calls into question his capacity to exercise "executive" authority. See 424 U.S., at 128, n. 165.

As the majority points out, however, the Court's decision in *INS* v. *Chadha*, 462 U.S. 919 (1983), recognizes additional limits on the ability of Congress to participate in or influence the execution of the laws. As interpreted in *Chadha*, the Constitution prevents Congress from interfering with the actions of officers of the United States through means short of legislation satisfying the demands of bicameral passage and presentment to the President for approval or disapproval. *id*, at 954-955. Today's majority concludes that the same concerns that underlay *Chadha* indicate the invalidity of a statutory provision allowing the removal by joint resolution for specified cause of any officer performing executive functions. Such removal power, the Court contends, constitutes a "congressional veto" analogous to that struck down in *Chadha*, for it permits Congress to "remove, or threaten to remove, an officer for executing the laws in any fashion found to be unsatisfactory." *Ante*, at 11. The Court concludes that it is "[t]his kind of congressional control over the execution of the laws" that *Chadha* condemns. *Ibid.*

The deficiencies in the Court's reasoning are apparent. First, the Court badly mischaracterizes the removal provision when it suggests that it allows Congress to remove the Comptroller for "executing the laws in any fashion found to be unsatisfactory"; in fact, Congress may remove the Comptroller only for one or more of five specified reasons, which "although not so narrow as to deny Congress any leeway, circumscribe Congress' power to some extent by providing a basis for judical review of congressional removal." *Ameron, Inc.* v. *United States Army Corps of Engineers*, 787 F. 2d 875, 895 (CA3 1986) (Becker, J., concurring in part). Second, and more to the point, the Court overlooks or deliberately ignores the decisive difference between the congressional removal provision and the legislative veto struck down in *Chadha:* under the Budget and Accounting Act, Congress may remove the Comptroller only through a joint resolution, which by definition must be passed by both Houses and signed by the President, See *United States* v. *California*, 332 U.S. 19, 28 (1947).[6] In other words, a removal of the Comptroller under the statute *satisfies the requirements of bicameralism and presentment laid down in Chadha.* The majority's citation of *Chadha* for the proposition that Congress may only control the acts of officers of the United States "by passing new legislation," *ante*, at 18, in no sense casts doubt on the legitimacy of the removal provision, for that provision allows Congress to effect removal only through action that constitutes legislation as defined in *Chadha.*

To the extent that it has any bearing on the problem now before us, *Chadha* would seem to suggest the legitimacy of the statutory provision making the Comptroller removable through joint resolution, for the Court's opinion in *Chadha* reflects the view that the bicameralism and presentment requirements of Art. I represent the principal assurances that Congress will remain within its legislative role in the constitutionally prescribed scheme of separated powers. Action taken in accordance with the "single, finely wrought, and exhaustively considered, procedure" established by Art. I, *Chadha*, 462 U.S., at 951, should be presumptively viewed as a legitimate exercise of legislative power. That such action may represent a more or less successful attempt by Congress to "control" the actions of an officer of the United States surely does not in itself indicate that it is unconstitutional, for no one would dispute that Congress has the power to "control" administration through legislation imposing duties or substantive restraints on executive officers, through legislation increasing or decreasing the funds made available to such officers, or through legislation actually abolishing a particular office. Indeed, *Chadha* expressly recognizes that while congressional meddling with administration of the laws outside of the legislative process is impermissible, congressional control over executive officers exercised through the legislative process is valid. 462 U.S., at 955, n. 19. Thus, if the existence of a statute permitting removal of the Comptroller through joint resolution (that is, through the legislative process) renders his exercise of executive powers unconstitutional it is for reasons having virtually nothing to do with *Chadha.*[7]

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[5] That the statute provides, to the greatest extent possible, precise guidelines for the officer assigned to carry out the required budget cuts not only indicates that vesting budget-cutting authority in an officer independent of the President does not in any sense deprive the President of a significant amount of discretionary authority that should rightfully be vested in him or an officer accountable to him, but also answers the claim that the Act represents an excessive and hence unlawful delegation of legislative authority. Because the majority does not address the delegation argument, I shall not discuss it at any length, other than to refer the reader to the District Court's persuasive demonstration that the statute is not void under the nondelegation doctrine.

[6] The legislative history indicates that the inclusion of the President in the removal process was a deliberate choice on the part of the Congress that enacted the Budget and Accounting Act. The previous year, legislation establishing the position of Comptroller General and providing for removal by *concurrent* resolution—that is, by a resolution not presented to the President—had been vetoed by President Wilson on the ground that granting the sole power of removal to the Congress would be unconstitutional. See 59 Cong. Rec. 8609-8610 (1920). That Congress responded by providing for removal through joint resolution clearly evinces congressional intent that removal take place only through the legislative process, with Presidential participation.

[7] Because a joint resolution passed by both Houses of Congress and signed by the President (or repressed over the President's veto) is legislation having the same force as any other Act of Congress, it is somewhat mysterious why the Court focuses on the Budget and Accounting Act's authorization of removal of the Comptroller through such a resolution as an indicator that the Comptroller may not be vested with executive powers. After all, even without such prior statutory authorization, Congress could pass, and the President sign, a joint resolution purporting to remove the Comptroller, and the validity of such legislation would seem in no way dependent on previous legislation contemplating it. Surely the fact that Congress might at any time pass and the President sign legislation purporting to remove some officer of the United

That a joint resolution removing the Comptroller General would satisfy the requirements for legitimate legislative action laid down in *Chadha* does not fully answer the separation of powers argument, for it is apparent that even the results of the constitutional legislative process may be unconstitutional if those results are in fact destructive of the scheme of separation of powers. *Nixon* v. *Administrator of General Services*, 433 U.S. 425 (1977). The question to be answered is whether the threat of removal of the Comptroller General for cause through joint resolution as authorized by the Budget and Accounting Act renders the Comptroller sufficiently subservient to Congress that investing him with "executive" power can be realistically equated with the unlawful retention of such power by Congress itself; more generally, the question is whether there is a genuine threat of "encroachment or aggrandizement of one branch at the expense of the other," *Buckley* v. *Valeo*, 424 U.S., at 122. Common sense indicates that the existence of the removal provision poses no such threat to the principle of separation of powers.

The statute does not permit anyone to remove the Comptroller at will; removal is permitted only for specified cause, with the existence of cause to be determined by Congress following a hearing. Any removal under the statute would presumably be subject to post-termination judicial review to ensure that a hearing had in fact been held and that the finding of cause for removal was not arbitrary. See *Ameron, Inc.* v. *United States Army Corps of Engineers*, 787 F. 2d, at 895 (Becker, J., concurring in part).[8] These procedural and substantive limitations on the removal power militate strongly against the characterization of the Comptroller as a mere agent of Congress by virtue of the removal authority. Indeed, similarly qualified grants of removal power are generally deemed to protect the officers to whom they apply and to establish their independence from the domination of the possessor of the removal power. See *Humphrey's Executor* v. *United States*, 295 U.S., at 625–626, 629–630. Removal authority limited in such a manner is more properly viewed as motivating adherence to a substantive standard established by law than as inducing subservience to the particular institution that enforces that standard. That the agent enforcing the standard is Congress may be of some significance to the Comptroller, but Congress' substantively limited removal power will undoubtedly be less of a spur to subservience than Congress' unquestionable and unqualified power to enact legislation reducing the Comptroller's salary, cutting the funds available to his department, reducing his personnel, limiting or expanding his duties, or even abolishing his position altogether.

More importantly, the substantial role played by the President in the process of removal through joint resolution reduces to utter insignificance the possibility that the threat of removal will induce subservience to the Congress. As I have pointed out above, a joint resolution must be presented to the President and is ineffective if it is vetoed by him, unless the veto is overridden by the constitutionally prescribed two-thirds majority of both Houses of Congress. The requirement of presidential approval obviates the possibility that the Comptroller will perceive himself as so completely at the mercy of Congress that he will function as its tool.[9] If the Comptroller's conduct in office is not so unsatisfactory to the President as to convince the latter that removal is required under the statutory standard, Congress will have no independent power to coerce the Comptroller unless it can muster a two-thirds majority in both Houses—a feat of bipartisanship more difficult than that required to impeach and convict. The incremental *in terrorem* effect of the possibility of congressional removal in the face of a presidential veto is therefore exceedingly unlikely to have any discernible impact on the the extent of congressional influence over the Comptroller.[10]

The practical result of the removal provision is not to render the Comptroller unduly dependent upon or subservient to Congress, but to render him one of the most independent officers in the entire federal establishment. Those who have studied the office agree that the procedural and substantive limits on the power of Congress and the President to remove the Comptroller make dislodging him against his will practically impossible. As one scholar put it nearly fifty years ago, "Under the statute the Comptroller General, once confirmed, is safe so long as he avoids a public exhibition of personal immorality, dishonesty, or failing mentality." H. Mansfield, The Comptroller General 75–76 (1939).[11] The passage of time has done little to cast doubt on this view: of the six Comptrollers who have served since 1921, none has been threatened with, much less subjected to removal. Recent students of the office concur that "[b]arring resignation, death, physical or mental incapacity, or extremely bad behavior, the Comptroller General is assured his tenure if he wants it, and not a day more." F. Mosher, The GAO 242 (1979).[12] The threat of "here-and-now subservience," *ante*, at 5, is obviously remote indeed.[13]

States does not make the exercise of executive power by all such officers unconstitutional. Since the effect of the Budget and Accounting Act is merely to recognize the possibility of legislation that Congress might at any time attempt to enact with respect to any executive officer, it should not make the exercise of "executive" power by the Comptroller any more problematic than the exercise of such power by any other officer. A joint resolution purporting to remove the Comptroller, or any other executive officer, might be constitutionally infirm, but Congress' advance assertion of the power to enact such legislation seems irrelevant to the question whether exercise of authority by an officer who might in the future be subject to such a possibly valid and possibly invalid resolution is permissible, since the provision contemplating a resolution of removal obviously cannot in any way add to Congress' power to enact such a resolution.

Of course, the foregoing analysis does not imply that the removal provision of the Budget and Accounting Act is meaningless; for although that provision cannot *add* to any power Congress might have to pass legislation (that is, a joint resolution) removing the Comptroller, it can *limit* its power to do so to the circumstances specified. The reason for this is that any joint resolution purporting to remove the Comptroller in the absence of a hearing or one of the specified grounds for removal would not be deemed an implied repeal of the limits on removal in the 1921 Act (for such implied repeals are disfavored), and thus the joint resolution would only be given effect to the extent consistent with the preexisting law (that is, to the extent that there was actually cause for removal).

[8] *Cf. Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935), in which the court entertained a challenge to Presidential removal under a statute that similarly limited removals to specified cause.

[9] The Court cites statements made by supporters of the Budget and Accounting Act indicating their belief that the Act's removal provisions would render the Comptroller subservient to Congress by giving Congress "absolute control of the man's destiny in office." *Ante*, at 13. The Court's scholarship, however, is faulty: at the time all of these statements were made—including Representative Sisson's statement of May 3, 1921—the proposed legislation provided for removal by concurrent resolution, with no Presidential role. See 61 Cong. Rec. 983, 989–992, 1079–1085 (1921).

[10] Concededly, the substantive grounds for removal under the statute are broader than the grounds for impeachment specified by the Constitution, see *ante*, at 13–14, although given that it is unclear whether the limits on the impeachment power may be policed by any body other than Congress itself, the practical significance of the difference is hard to gauge. It seems to me most likely that the difficulty of obtaining a two-thirds vote for removal in both Houses would more than offset any increased likelihood of removal that might result from the greater liberality of the substantive grounds for removal under the statute. And even if removal by Congress alone through joint resolution passed over presidential veto is marginally more likely than impeachment, whatever additional influence over the Comptroller Congress may thereby possess seems likely to be minimal in relation to that which Congress already possesses by virtue of its general legislative powers and its power to impeach. Of course, if it were demonstrable that the Constitution specifically limited Congress' role in removal to the impeachment process, the insignificance of the marginal increase in congressional influence resulting from the provision authorizing removal through joint resolution would be no answer to a claim of unconstitutionality. But no such limit appears in the Constitution: the Constitution merely provides that all officers of the United States may be impeached for high crimes and misdemeanors, and nowhere suggests that impeachment is the sole means of removing such officers.

As for the Court's observation that "no one would seriously suggest that judicial independence would be strengthened by allowing removal of federal judges only by a joint resolution finding 'inefficiency,' 'neglect of duty,' or 'malfeasance,' " *ante*, at 14, it can only be described as a *non sequitur*. The issue is not whether the removal provision makes the Comptroller *more* independent than he would be if he were removable only through impeachment, but whether the provision so weakens the Comptroller that he may not exercise executive authority. Moreover, the Court's reference to standards applicable to removal of Art. III judges is a red herring, for Art. III judges—unlike other officers of the United States—are specifically protected against removal for other than constitutionally specified cause. Thus, the infirmity of a statute purporting to allow removal of judges for some other reason would be that it violated the specific command of Art. III. In the absence of a similar textual limit on the removal of nonjudicial officers, the test for a violation of separation of powers should be whether an asserted congressional power to remove would constitute a real and substantial aggrandizement of congressional authority at the expense of executive power, not whether a similar removal provision would appear problematic if applied to federal judges.

[11] The author of this statement was no apologist for the Comptroller; rather, his study of the office is premised on the desirability of presidential control over many of the Comptroller's functions. Nonetheless, he apparently found no reason to accuse the Comptroller of subservience to Congress, and he conceded that "[t]he political independence of the office has in fact been one of its outstanding characteristics." H. Mansfield, The Comptroller General 75 (1939).

[12] Professor Mosher's reference to the fact that the Comptroller is limited to a single term highlights an additional source of independence: unlike an officer with a fixed term who may be reappointed to office, the Comptroller need not concern himself with currying favor with the Senate in order to secure its consent to his reappointment.

[13] The majority responds to the facts indicating the practical independence of the Comptroller from congressional control by cataloguing a series of statements and materials categorizing the Comptroller as part of the "Legislative Branch." *Ante*, at 14–16. Such meaningless labels are quite obviously irrelevent to the question whether in actuality the Comptroller is so subject to congressional domination that he may not participate in the execution of the laws.

Realistic consideration of the nature of the Comptroller General's relation to Congress thus reveals that the threat to separation of powers conjured up by the majority is wholly chimerical. The power over removal retained by the Congress is not a power that is exercised outside the legislative process as established by the Constitution, nor does it appear likely that it is a power that adds significantly to the influence Congress may exert over executive officers through other, undoubtedly constitutional exercises of legislative power and through the constitutionally guaranteed impeachment power. Indeed, the removal power is so constrained by its own substantive limits and by the requirement of presidential approval "that, as a practical matter, Congress has not exercised, and probably will never exercise, such control over the Comptroller General that his non-legislative powers will threaten the goal of dispersion of power, and hence the goal of individual liberty, that separation of powers serves." *Ameron, Inc.* v. *United States Army Corps of Engineers*, 787 F. 2d, at 895 (Becker, J., concurring in part).[14]

The majority's contrary conclusion rests on the rigid dogma that, outside of the impeachment process, any "direct congressional role in the removal of officers charged with the execution of the laws . . . is inconsistent with separation of powers." *Ante*, at 7. Reliance on such an unyielding principle to strike down a statute posing no real danger of aggrandizement of congressional power is extremely misguided and insensitive to our constitutional role. The wisdom of vesting "executive" powers in an officer removable by joint resolution may indeed be debatable—as may be the wisdom of the entire scheme of permitting an unelected official to revise the budget enacted by Congress—but such matters are for the most part to be worked out between the Congress and the President through the legislative process, which affords each branch ample opportunity to defend its interests. The Act vesting budget-cutting authority in the Comptroller General represents Congress' judgment that the delegation of such authority to counteract ever-mounting deficits is "necessary and proper" to the exercise of the powers granted the Federal Government by the Constitution; and the President's approval of the statute signifies his unwillingness to reject the choice made by Congress. Cf. *Nixon* v. *Administrator of General Services*, 433 U.S., at 441. Under such circumstances, the role of this Court should be limited to determining whether the Act so alters the balance of authority among the branches of government as to pose a genuine threat to the basic division between the lawmaking power and the power to execute the law. Because I see no such threat, I cannot join the Court in striking down the Act.

I dissent.

[Supreme Court of the United States]

NOS. 85-1377, 85-1378 AND 85-1379

CHARLES A. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES, APPELLANT *v.* MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

UNITED STATES SENATE, APPELLANT *v.* MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

THOMAS P. O'NEILL, JR., SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL., APPELLANTS *v.* MIKE SYNAR, MEMBER OF CONGRESS, ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[July 7, 1986]

JUSTICE BLACKMUN, dissenting.

The Court may be correct when it says that Congress cannot constitutionally exercise removal authority over an official vested with the budget-reduction powers that § 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 gives to the Comptroller General. This, however, is not because "[t]he removal powers over the Comptroller General's office dictate that he will be subservient to Congress," *ante*, at 14; I agree with JUSTICE WHITE that any such claim is unrealistic. Furthermore, I think it is clear under *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935), that "executive" powers of the kind delegated to the Comptroller General under the Dificit Congrol Act need not be exercised by an officer who serves at the President's pleasure; Congress certainly could prescribe the standards and procedures for removing the Comptroller General. But it seems to me that an attempt by Congress to participate *directly* in the removal of an executive officer—other than through the constitutionally prescribed procedure of impeachment—might well violate the principle of separation of powers by assuming for Congress part of the President's constitutional responsibility to carry out the laws.

In my view, however, that important and difficult question need not be decided in this case, because no matter how it is resolved the plaintiffs, now appellees, are not entitled to the relief they have requested. Appellees have not sought invalidation of the 1921 provision that authorizes Congress to remove the Comptroller General by joint resolution; indeed, it is far from clear they would have standing to request such a judgment. The only relief sought in this case is nullification of the automatic budget-reduction provisions of the Deficit Control Act, and that relief should not be awarded even if the Court is correct that those provisions are constitutionally incompatible with Congress' authority to remove the Comptroller General by joint resolution. Any incompatibility, I feel, should be cured by refusing to allow congressional removal—if it ever is attempted—and not by striking down the central provisions of the Deficit Control Act. However wise or foolish it may be, that statute unquestionably ranks among the most imporant federal enactments of the past several decades. I cannot see the sense of invalidating legislation of this magnitude in order to preserve a cumbersome, 65-year-old removal power that has never been exercised and appears to have been all but forgotten until this litigation.[1]

JUSTICE STEVENS, for his part, finds that the Comptroller is an "agent" of Congress, and thus incapable of wielding the authority granted him by the Act, because his responsibilities under a variety of statutes include making reports to the Congress. JUSTICE STEVENS' position is puzzling, to say the least. It seems to rest on the view that an officer required to perform certain duties for the benefit of Congress somehow becomes a part of Congress for all purposes. But it is by no means true that an officer who must perform specified duties for some other body is under that body's control or acts as its agent when carrying out other, unrelated duties. As JUSTICE BLACKMUN points out, see *post*, at 4, n. 1, duties toward Congress are imposed on a variety of agencies, including the Federal Trade Commission; and certainly it cannot credibly be maintained that by virtue of those duties the agencies become branches of Congress, incapable of wielding governmental power except through the legislative process. Indeed, the President himself is under numerous obligations, both statutory and constitutional, to provide information to Congress, see, *e.g.*, Art. II, § 3, cl. 1; surely the President is not thereby transformed into an arm or agency of the Congress. If, therefore, as JUSTICE STEVENS' concedes, see *ante*, at 2-5, the provision authorizing removal of the Comptroller by joint resolution does not suffice to establish that he may not exercise the authority granted him under Gramm-Rudman, I see no substantial basis for concurring that his various duties toward Congress render him incapable of receiving such power.

[14] Even if I were to concede that the exercise of executive authority by the Comptroller is inconsistent with the removal provision, I would agree with JUSTICE BLACKMUN that striking down the provisions of the Gramm-Rudman Act vesting the Comptroller with such duties is a grossly inappropriate remedy for the supposed constitutional infirmity, and that if one of the features of the statutory scheme must go, it sould be the removal provision. As JUSTICE BLACKMUN points out, the mere fact that the parties before the Court have standing only to seek invalidation of the Gramm-Rudman spending limits cannot dictate that the Court resolve any constitutional incompatibility by striking down Gramm-Rudman. Nor does the existence of the fallback provisions in Gramm-Rudman indicate the appropriateness of the Court's choice, for those provisions, by their terms, go into effect only if the Court finds that the primary budget-cutting mechanism established by the Act must be invalidated; they by no means answer the antecedent question whether the Court should take that step.

Given the majority's constitutional premises, it is clear to me that the decision whether to strike down Gramm-Rudman must depend on whether such a choice would be more or less disruptive of congressional objectives than declaring the removal provision invalid (with the result that the Comptroller would still be protected against removal at will by the President, but could also not be removed through joint resolution). When the choice is put in these terms, it is evident that it is the never-used removal provision that is far less central to the overall statutory scheme. That this is so is underscored by the fact that under the majority's theory, the removal provision was *never* constitutional, as the Comptroller's primary duties under the 1921 Act were clearly executive under the Court's definition: the Comptroller's most important tasks under that legislation were to dictate accounting techniques for all executive agencies, to audit all federal expenditures, and to approve or disapprove disbursement of funds. See F. Mosher, The GAO (1979). Surely the Congress in 1921 would have sacrificed its own role in removal rather than allow such duties to go unfulfilled by a Comptroller independent of the President. See 59 Cong. Rec. 8611 (1920).

[1] For the reasons identified by the District Court, I agree that the Deficit Control Act does not violate the nondelegation doctrine. See 626 F. Supp. 1374, 1382-1391 (DC 1986).

JUSTICE STEVENS concludes that the delegation effected under § 251 contravenes the holding of *INS* v. *Chadha*, 462 U.S. 919 (1983), that Congress may make law only "in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President." *Id.*, at 958. I do not agree. We made clear in *Chadha* that the bicameralism and presentation requirements prevented Congress from *itself* exercising legislative power through some kind of procedural shortcut, such as the one-House veto challenged in that case. But we also made clear that our holding in no way questioned "Congress' authority to delegate portions of its power to administrative agencies." *Id.*, at 953-954, n. 16. We explained: "Executive action under legislatively delegated authority that might resemble 'legislative' action in some respects is not subject to the approval of both Houses of Congress and the President for the reason that the Constitution does not so require. That kind of Executive action is always subject to check by the terms of the legislation that authorized it; and if that authority is exceeded it is open to judicial review as well as the power of Congress to modify or revoke the authority entirely." *Ibid.*

Although JUSTICE STEVENS seems to agree that the duties delegated to the Comptroller General under § 251 could be assigned constitutionally to an independent administrative agency, he argues that

The District Court believed it had no choice in this matter. Once it concluded that the Comptroller General's functions under the Deficit Control Act were constitutionally incompatible with the 1921 removal provision, the District Court considered itself bound as a matter of orderly judicial procedure to set aside the statute challenged by the plaintiffs. See 626 F. Supp. 1374, 1393 (DC 1986). The majority today does not take this view, and I believe it is untenable.

Under the District Court's approach, everything depends on who first files suit. Because Representative Synar and the plaintiffs who later joined him in this case objected to budget cuts made pursuant to the Deficit Control Act, the District Court struck down that statute, while retaining the 1921 removal provision. But if the Comptroller General had filed suit 15 minutes before the Congressman did, seeking a declaratory judgment that the 1921 removal power could not constitutionally be exercised in light of the duties delegated to the Comptroller General in 1985, the removal provision presumably would have been invalidated, and the Deficit Control Act would have survived intact. Momentous issues of public law should not be decided in so arbitrary a fashion. In my view, the only sensible way to choose between two conjunctively unconstitutional statutory provisions is to determine which provision can be invalidated with the least disruption of congressional objectives.

The District Court apparently thought differently in large part because it believed this Court had never undertaken such analysis in the past; instead, according to the District Court, this Court "has set aside that statute which either allegedly prohibits or allegedly authorizes the injury-in-fact that confers standing upon the plaintiffs." 626 F. Supp., at 1393. But none of the four cases the District Court cited for this proposition discussed the problem of choice of remedy, and in none of them could a strong argument have been made that invalidating the other of the inconsistent statutory provisions would have interfered less substantially with legislative goals or have been less disruptive of governmental operations.[2]

More importantly, the District Court ignored what appears to be the only separation-of-powers case in which this Court *did* expressly consider the question as to which of two incompatible statutes to invalidate: *Glidden Co.* v. *Zdanok*, 370 U.S. 530 (1962). The petitioners in that case had received unfavorable rulings from judges assigned to temporary duty in the District Court or Court of Appeals from the Court of Claims or the Court of Customs and Patent Appeals; they argued that those rulings should be set aside because the judges from the specialized courts did not enjoy the tenure and compensation guaranteed by Article III of the Constitution. Before the assignments, Congress had pronounced the Court of Claims and the Court of Customs and Patent Appeals to be Article III courts, implying that judges on those courts were entitled to Article III benefits. Older statutes, however, gave both courts authority to issue advisory opinions, an authority incompatible with Article III status. *Glidden* held that the Court of Claims and the Court of Customs and Patent Appeals were indeed Article III tribunals. With respect to the advisory opinion jurisdiction, Justice Harlan's opinion for the plurality noted: "The overwhelming majority of the Court of Claims' business is composed of cases and controversies." 370 U.S., at 583. Since "it would be . . . perverse to make the status of these courts turn upon so minuscule a portion of their purported functions." Justice Harlan reasoned that, "if necessary, the particular offensive jurisdiction, and not the courts, would fall." *Ibid.* Justice Clark's concurring opinion for himself and the Chief Justice similarly concluded that the "minuscule" advisory-opinion jurisdiction of the courts in question would have to bow to the Article III status clearly proclaimed by Congress, and not vice versa. *Id.*, at 587–589.

The Court thus recognized in *Glidden* that it makes no sense to resolve the constitutional incompatibility between two statutory provisions simply by striking down whichever provision happens to be challenged first. A similar recognition has underlain the Court's approach in equal protection cases conerning statutes that create unconstitutionally circumscribed groups of beneficiaries. The Court has noted repeatedly that such a defect may be remedied in either of two ways: the statute may be nullified, or its benefits may be extended to the excluded class. See, *e.g.*, *Heckler* v. *Mathews*, 465 U.S. 728, 738 (1984); *Califano* v. *Westcott*, 443 U.S. 76, 89 (1979). Although extension is generally the preferred alternative, we have instructed lower courts choosing between the two remedies to " 'measure the intensity of [legislative] commitment to the residual policy and consider the degree of potential disruption of the statutory scheme that would occur by extension as opposed to abrogation.' " *Heckler* v. *Mathews*, *supra*, at 739, n. 5, quoting *Welsh* v. *United States*, 398 U.S. 333, 365 (1970) (Harlan, J., concurring in result). Calculations of this kind are obviously more complicated when a court is faced with two different statutes, enacted decades apart, but *Glidden* indicates that even then the task is judicially manageable. No matter how difficult it is to determine which remedy would less obstruct congressional objectives, surely we should make that determination as best we can instead of leaving the selection to the litigants.

II

Assuming that the Comptroller General's functions under § 251 of the Deficit Control Act cannot be exercised by an official removable by joint resolution of Congress, we must determine whether legislative goals would be frustrated more by striking down § 251 or by invalidating the 1921 removal provision. That question is not answered by the "fallback" provisions of the 1985 Act, which take effect "[i]n the event that any of the reporting procedures described in section 251 [of the Act] are invalidated." § 274(f)(1), 99 Stat. 1100. The question is whether the reporting procedures should be invalidated in the first place. The fallback provisions simply make clear that Congress would prefer a watered-down version of the Deficit Control Act to none at all; they provide no evidence that Congress would rather settle for the watered-down version than surrender its statutory authority to remove the Comptroller General. The legislative history of the Deficit Control Act contains no mention of the 1921 statute, and both Houses of Congress have argued in this Court that, if necessary, the removal provision should be invalidated rather than § 251. See Brief for Appellant United State Senate 31–43; Brief for Appellants Speaker and Bipartisan Leadership Group of the United States House of Representatives 49; accord, Brief for Appellant Comptroller General 33–47. To the extent that the absence of ex-

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Congress may not give these duties "to one of its own agents." *Ante*, at 17–18. He explains that the Comptroller General fits this description because "most" of his statutory responsibilities require him to provide services to Congress, and because Congress has repeatedly referred to the Comptroller General as part of the Legislative Branch. See *ante*, at 6–11. "If Congress were free to delegate its policymaking authority" to such an officer, JUSTICE STEVENS contends that "it would be able to evade 'the carefully crafted restraints spelled out in the Constitution.'" *Ante*, at 20, quoting *Chadha*, 462 U.S., at 959. In his view, "[t]hat danger—congressional action that evades constitutional restraints—is not present when Congress delegates lawmaking power to the executive or to an independent agency." *Ante*, at 20.

I do not think that danger is present here, either. The Comptroller General is not Congress, nor is he a part of Congress; "irrespective of Congress' designation," he is an officer of the United States, appointed by the President. *Buckley* v. *Valeo*, 424 U.S. 1, 128, n. 165 (1976). In this respect the Comptroller General differs critically from, for example, the Director of the Congressional Budget Office, who is appointed by Congress, see 2 U.S.C. § 601(a)(2), and hence may not "exercis[e] significant authority pursuant to the laws of the United States," *Buckley* v. *Valeo*, *supra*, at 126; see U.S. Const., Art. II, § 2, cl. 2. The exercise of rulemaking authority by an independent agency such as the Federal Trade Commission does not offend *Chadha*, even though the Commission could be described as an "agent" of Congress because it "carr[ies] into effect legislative policies embodied in the statute in accordance with the legislative standard therein prescribed." *Humphrey's Executor* v. *United States*, 295 U.S. 602, 628 (1935). I do not see why the danger of "congressional action that evades constitutional restraints" becomes any more pronounced when a statute delegates power to a presidentially appointed agent whose primary duties require him to provide services to Congress. The impermissibility of such a delegation surely is not rendered "obvious" by the fact that some officers who perform services for Congress have titles such as "librarian," "architect," or "printer." See *ante*, at 23, n. 25 (STEVENS, J., concurring in judgment). Furthermore, in sustaining the constitutionality of the Federal Trade Commission's independent status, this Court noted specifically that the Commission "acts as a legislative agency" in "making investigations and reports thereon for the information of Congress . . . in aid of the legislative power." *Ibid.* JUSTICE STEVENS' approach might make some sense if Congress had delegated legislative responsibility to an officer over whom Congress could hope to exercise tight control, but even JUSTICE STEVENS does not claim that the Comptroller General is such an officer.

[2] In *Myers* v. *United States*, 272 U.S. 52 (1926), the Court refused to enforce a statute requiring congressional approval for removal of postmasters. The Court's analysis suggested that there was no practical way the duties of the office could have been reformulated to render congressional participation in the removal process permissible. In *Springer* v. *Philippine Islands*, 277 U.S. 189 (1928), the Court removed from office several Philippine officials exercising executive powers but appointed by officers of the Philippine Legislature. As in *Myers*, the Court concluded that the offices by their very nature were executive, so the appointments could not have been rendered legal simply by trimming the delegated duties. In *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Court set aside Federal Election Campaign Act provisions granting certain powers to officials appointed by Congress, but it structured its remedy so as to interfere as little as possible with the orderly conduct of business by the Federal Election Commission. Past acts of the improperly constituted Commission were deemed valid, and the Court's mandate was stayed for 30 days to allow time for the Commission to be reconstituted through presidential appointment. See *id.*, at 142–143. Finally, in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.*, 458 U.S. 50 (1982), the Court set aside an exercise of judicial power by a bankruptcy judge, because his tenure was not protected in the manner required by Article III of the Constitution. To give Article III protections to bankruptcy judges, the federal bankruptcy statute would have had to be rewritten completely.

press fallback provisions in the 1921 statute signifies anything, it appear to signify only that, if the removal provision were invalidated, Congress preferred simply that the remainder of the statute should remain in effect without alteration.[3]

In the absence of express statutory direction, I think it is plain that, as both Houses urge, invalidating the Comptroller General's functions under the Deficit Control Act would frustrate congressional objectives far more seriously than would refusing to allow Congress to exercise its removal authority under the 1921 law. The majority suggests that the removal authority plays an important role in furthering Congress' desire to keep the Comptroller General under its control. But as JUSTICE WHITE demonstrates, see *ante*, at 13-16, the removal provision serves freebly for such pruposes, especially in comparision to other, more effective means of supervision at Congress' disposal. Unless Congress institutes impeachment proceedings—a course all agree the Constitution would permit—the 1921 law authorizes Congress to remove the Comptroller General only for specified cause, only after a hearing, and only by passing the procedural equivalent of a new public law. Congress has never attempted to use this cumbersome procedure, and the Comptroller General has shown few signs of subservience.[4] If Congress in 1921 wished to make the Comptroller General its lackey, it did a remarkably poor job.

Indeed, there is little evidence that Congress as a whole was very concerned in 1921—much less in 1985 or during the intervening decades—with its own ability to control the Comptroller General. The committee reports on the 1921 Act and its predecessor bills strongly suggest that what was critical to the legislators was not the Comptroller General's subservience to Congress, but rather his independence from the President. See, *e.g.*, H.R. Rep. No. 14, 67th Cong., 1st Sess., 7-8 (1921); H.R. Rep. No. 1044 66th Cong., 2d Sess., 13 (1920); S. Rep. No. 524, 66th Cong., 2d Sess., 6-7 (1920); H.R. Rep. No. 362, 66th Cong., 1st Sess., 8-9 (1919). The debates over the Deficit Control Act contain no suggestion that the Comptroller General was chosen for the tasks outlined in § 251 because Congress thought it could count on him to do its will; instead, the Comptroller General appears to have been selected precisely because of his independence from both the Legislature and the Executive. By assigning the reporting functions to the Comptroller General, rather than to the Congressional Budget Office or to the Office of Management and Budget, Congress sought to create "a wall . . . that takes these decisions out of the hands of the President *and the Congress*." 131 Cong. Rec. H9846 (Nov. 6, 1985) (remarks of Rep. Gephardt) (emphasis added); see also, *e.g.*, *id.*, at H11894 (Dec. 11, 1985) (remarks of Rep. Weiss); *id.*, at E5622 (Dec. 12, 1985) (remarks of Rep. Bedell).

Of course, the Deficit Control Act was hardly the first statute to assign new functions to the Comptroller General; a good number of other duties have been delegated to the Comptroller General over the years. But there is no reason to believe that, in effecting these earlier delegations, Congress relied any more heavily on the availability of the removal provision than it did in passing the Deficit Control Act. In the past, as in 1985, it is far more likely that Congress was concerned mainly with the Comptroller General's demonstrated political independence, and perhaps to a lesser extent with his long tradition of service to the Legislative Branch; neither of these characteristics depends to any significant extent on the ability of Congress to remove the Comptroller General without instituting impeachment proceedings.

Striking down the congressional-removal provision might marginally frustrate the legislative expectations underlying some grants of authority to the Comptroller General, but surely to a lesser extent than would invalidation of § 251 of Gramm-Rudman—along with all other "executive" powers delegated to the Comptroller General over the years.[5]

I do not claim that the 1921 removal provision is a piece of statutory deadwood utterly without contemporary significance. But it comes close. Rarely if ever invoked even for symbolic purposes, the removal provision certainly pales in importance beside the legislative scheme the Court strikes down today—an extraordinarily far-reaching response to a deficit problem of unprecedented proportions. Because I believe that the constitutional defect found by the Court cannot justify the remedy it has imposed, I respectfully dissent.

ETHNIC AMERICAN DAY

Mr. PRESSLER. Mr. President, as chairman of the Honorary Committee of Ethnic American Day and the author of the law—Public Law 99-206—which establishes this day, I urge our colleagues and all Americans to join me in the observance of our Nation's first Ethnic American Day on September 21, 1986. This will be an occasion for all Americans to show their appreciation for the contributions made to our great Nation by Americans of all ethnic backgrounds.

It is extremely important for all Americans to know about their ethnic roots. Parents should be responsible for telling their children about their family ancestry and heritage. Schools should provide opportunities for students to learn more about the variety of ethnic elements which comprise the American culture. Our country and people are better off as a result of Americans understanding their ethnic roots.

Dr. Selven Feinschreiber, the chairman of Americans by Choice, Inc., is responsible for originating the idea of Ethnic American Day. He is now retired from the practice of law, but some of Dr. Feinschreiber's very impressive career responsibilities included the following: Adviser to the Republic of Ghana; counselor to the Government of Uganda; coauthor of Uganda's Constitution; adviser to the President of the Royal Imperial Council of Ethiopia and the Chief Executive of Kenya; political adviser to the archbishop of Haiti; adviser and consultant to NBC International, Inc., and NBC Enterprises, Inc.; and president of the Long Island University Alumni Association. He should be congratulated for his devotion to, and his very active leadership in, Americans by Choice and Ethnic American Day.

Americans by Choice, Inc., attempts to promote understanding between Americans of different ethnic backgrounds, to encourage an appreciation and acceptance of the diverse historical backgrounds of ethnic Americans, and to make Americans aware of the contributions that many different ethnic groups have made to the United States.

The members of the honorary committee of Ethnic American Day are Senators BRADLEY, DOLE, LAXALT,

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[3] Although the legislative history on this point is sparse, it seems reasonably clear that Congress intended the removal provision to be serverable from the remainder of the 1921 statute. An earlier bill, providing for removal of the Comptroller General only by impeachment or concurrent resolution of Congress, was vetoed by President Wilson on the grounds that Congress could not constitutionally limit the President's removal power or exercise such power on its own. See 59 Cong. Rec. 8609-8610 (1920). In the course of an unsuccessful attempt to override the veto, Representative Pell inquired: "If we pass this over the President's veto and then the Supreme Court should uphold the contention of the President, this bill would not fail, would it? The bill would continue." Representative Blanton answered, "Certainly." *Id.*, at 8611.

[4] "All of the comptrollers general have treasured and defended the independence of their office, not alone from the president but also from the Congress itself. . . . Like the other institutions in the government, GAO depends upon Congress for its powers, its resources, and it general oversight. But it also possesses continuing legal powers, of both long and recent standing, that Congress has granted it and that it can exercise in a quite independent fashion. And the comptroller general, realistically speaking, it immune from removal during his fifteen-year term for anything short of a capital crime, a crippling illness, or insnaity." F. Mosher, A Tale of Two Agencies 158 (1984). See also, *e. g.*, *Ameron, Inc.* v. *U.S. Army Corps of Engineers*, 787 F. 2d 875, 885-887 (CA3 1986); F. Mosher, The GAO 2, 240-244 (1979); H. Mansfield, The Comptroller General 75-76 (1939).

[5] Many of the Comptroller General's other duties, including those listed by the majority, see *ante*, at 19, n. 9, appear to meet the majority's test for plainly "executive" functions—*i.e.*, they require the Comptroller General to "[i]nterpre[t] a law enacted by Congress to implement the legislative mandate," and to "exercise judgment concerning facts that affect the application of the [law]." *Ante*, at 17. Indeed, the majority's approach would appear to classify as "executive" some of the traditional duties of the Comptroller General, such as approving expenditure warrants, rendering conclusive decisions on the legality of proposed agency disbursements, and settling financial claims by and against the Government. See 31 U.S.C. §§ 3323, 3526-3529, 3702; F. Mosher, A Tale of Two Agencies 159-160 (1984). All three of these functions were given to the Comptroller General when the position was created in 1921. See 42 Stat. 20, 24-25.

I do not understand the majority's assertion that invalidating the 1921 removal provision might make the Comptroller General "subservient to the Executive Branch." *Ante*, at 18. The majority does not suggest that an official who exercises the functions that the Deficit Control Act vests in the Comptroller General must be removable by the President at will. Perhaps the President possesses inherent constitutional authority to remove "executive" officials for such politically neutral grounds as inefficiency or neglect of duty, but if so—and I am not convinced of it—I do not see how that power would be enhanced by nullification of a statutory provision giving similar authority to Congress. In any event, I agree with JUSTICE WHITE and JUSTICE STEVENS that the power to remove an officer for reasons of this kind cannot realistically be expected to make an officer "subservient" in any meaningful sense to the removing authority. *Cf. Humphrey's Executor* v. *United States*, 295 U.S. 602, 629 (1985).

LUGAR, and NUNN; and Representatives FASCELL, GARCIA, HOYER, KEMP, PORTER, and RITTER.

The members of the national advisory board of Ethnic American Day include the following: Dr. Selven Feinschreiber, chairman of Americans by Choice, Inc.; Dr. Thomas Abraham, president of the National Federation of Asian Organizations in America; Andrew Athens, national chairman of the United Hellenic American Congress; Dimiter Baharoff, president of the Bulgarian National Front; Vi Baluyut, national coordinator of the Filipino American Women's Network; Dr. Graciela Beecher, chairman of the National Association of Cuban-American Women; Achamma Chandersekaran, national president of the Indian-American Forum for Political Education; Anna Chennault, chairman of the Asian-American Assembly; Dr. Joy Cherian, chairman-elect of the Asian-American Voters Coalition; Robert Clark, acting director for Governmental affairs of the National Association of Arab Americans; Bruno Giuffrida, national president of the Order of the Sons of Italy in America; Gintaras Grusas, president of the Lithuanian World Youth Association; Ronald Hsu, national president of the Asian Pacific American Chamber of Commerce; Robert Ibsen, national president of the Danish Brotherhood in America; Dr. Kyo Jhin, national president of the League of Korean-Americans; Dmytro Korbutiak, vice president of the Ukrainian Fraternal Association; James Krakora, president of the Czechoslovak Society of America Fraternal Life; Aristids Lambergs, president of the American Latvian Association in the U.S., Inc.; Eugene Lemieuz, president general of the Association Cando-Americaine; Irving Levine, director of the American Jewish Committee and director of the Institute For American Pluralism; Aloysius Mazewski, president of the Polish National Alliance; Joseph Roche, national president of the Ancient Order of Hibernians in America, Inc.; Nabi Salehi, president of the Islamic Unity of Afghanistan Mujuahideen; Yalcin Sarier, president of the Federation of Turkish-Amerian Societies, Inc.; Elsbeth Seewald, national president of the German-American National Congress; Joseph Stefka, supreme president of the National Slovak Society of the U.S.A.; Ron Wakabayashi, national director of the Japanese-American Citizens League; and Vahe Yacoubian, Esq., executive director of the Armenian National Committee of America.

Ethnic American Day will be commemorated by an ethnic American cultural festival at Constitution Hall here in the Nation's Capital. Through music and dance, 24 ethnic American groups will present performances typical of each group's heritage. In addition, an individual will be selected by each group for special recognition of his or her contributions to American life.

Ethnic American Day was established to celebrate the many contributions and accomplishments of all ethnic Americans in the United States. Their contributions to America are visible in all areas of our society—including the sciences, arts, government, business, medicine, education, labor, and agriculture.

Their unique cultures and heritages have created what we now know as the American society and way of life. This Nation would not be what it is today without the efforts of many different ethnic groups.

Throughout American history, millions of immigrants have entered our country seeking freedom, opportunity, and a new way of life. They chose to come to our country in order to attain their goals and to make their dreams become reality. These immigrants realized that this opportunity is greater in the United States of America than anywhere else in the world.

There are over 100 different ancestry groups in the United States today. According to the 1980 census, more than 188 million Americans claim foreign ancestry. This represents approximately 83 percent of our citizens. Our country is truly a united America composed of people from all over the world.

Americans have been able to live and work together in peace and harmony and this has shaped the history and character of the Nation more than any other factor. In our unity, we freely express great diversity. This, above all, is the incredible accomplishment of American liberty. The United States of America draws on the best of its many constituent cultures and derives many benefits from such diversity. Let us join together and honor the accomplishments of our ethnic Americans.

Mr. President, I ask unanimous consent that an excellent editorial on this topic from the July 4, 1986, Belle Fourche, SD, Daily Post be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Belle Fourche (SD) Daily Post, July 4, 1986]

BACK TO INDEPENDENCE DAY

". . . under God, with liberty and justice for all."

You know the source of that phrase. When was the last time you said it aloud?

This is the Fourth of July, more accurately, this is Independence Day and for the first time in decades Americans are talking about the reason behind the celebration, thanks to the rededication of the Statue of Liberty and all the hoopla that goes with it.

It appears we have come full cycle, from patriotic fervor to near degradation of the American ideal, back to patriotic feeling, and the Lady in New York harbor has played a part.

Back near the turn of the century when immigrants were pouring into this country by the millions, those people came with two or three thoughts in mind. One was that the United States was truly a land of opportunity, that for the many who wanted to work there was a good life—especially compared to what they left behind.

Many came with the thought of picking up riches and returning. Many did, but for most of them a new dream developed . . . they wanted to become Americans. They wanted to be a part of this great country, and most of them did.

Those people knew first hand what the Lady in New York harbor symbolized. It's more difficult for the second and third generations to avoid taking for granted in the many things about life in this country that are unique to America. One really must leave and come back to fully appreciate the differences.

At a time like this one realized that what makes this country unique has been its ability to blend the many different people into one, into Americans. Had we failed in this we would be a chopped up nation of feuding nationalities. It has been the blending that has helped to make this nation what it is, and as we salute this Independence Day and wave from afar a greeting to the Lady in New York Harbor, we hope the continuing flow of new visitors to this country realizes that if this country is to remain what it has been, they too must blend and contribute their strengths.

Happy Independence Day!

100TH BIRTHDAY TRIBUTE TO DAVID DOGGETT SANFORD

Mr. WARNER. Mr. President, I rise today to pay tribute to David Doggett Sanford on the anniversary of his 100th birthday on Wednesday, July 23, 1986. Affectionately called "D.D." by his family and friends, he resided in Warrenton, VA, all his life and even at present continues to run the family clothing business in Stanley, VA. His young wife, the former Margaret Minter married D.D. in 1944 after working for him for 12 years at Sanford's 5 cent-$1 store in Old Town Warrenton. And, she says she's "been working for him even since."

I suppose no one has ever spoken to a 100-year-young person without asking them the secret to their good fortune and good luck. Well, the same is true of D.D. Sanford and he replied, "luck has absolutely nothing to do with it. If a person is determined and strong willed and follows the straight and narrow path, he'll be blessed."

And, Mr. Sanford has been blessed with good health, a loving wife and family, including great-great grandchildren, good fortune, and good friends who honored him on D.D. Sanford Day this past Sunday at Wesley Chapel United Methodist Church.

Mr. President, I ask my colleagues to join me in wishing D.D. Sanford a most happy 100th birthday and success in his future endeavors. And, this may be an appropriate time to remind all of us that, "Youth is a gift of

nature; age is a work of art." "To D.D., a work of art."

At this point, I would like to ask unanimous consent to include in the CONGRESSIONAL RECORD an interview with D.D. Sanford in the Fauquier Democrat, Warrenton, VA, Thursday, July 17, 1986.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

100-YEAR-OLD SAYS DISCIPLINE LACKING

(By Cathy Dyson)

Asked to recall the most precious memories of the past 100 years, D.D. Sanford pauses for a moment before answering, "That's hard to say. I think you got me on that one."

But question the elderly Warrenton resident about the many changes in lifestyles he's seen in one century or how his business survived two depressions and Mr. Sanford suddenly has plenty to say.

"Today, as a rule, a child rears himself," Mr. Sanford says, between thoughtful and deliberate pauses. "Back in those days, your parents, particularly your father, were on you and you had to do this and that . . . and if you didn't do that, you got in trouble.

"There's no home life like it used to be. That's one of the great troubles of the world."

Between brief memory lapses, Mr. Sanford humbly states that he's been successful "in everything and anything" he's undertaken because he's always "conformed to the Scriptures."

He wholeheartedly believes a man will prosper if he adheres to Biblical passages that were handed down from his parents, the late Mr. and Mrs. Richard Sanford, to him. He later passed them on to his three children.

In David Doggett Sanford's book, luck has absolutely nothing to do with it. If a person is determined and strong-willed and follows the straight and narrow path, he'll be blessed.

He just might have a point. Even at age 100, he continues to keep busy and putter around the house.

His business savvy still flourishes. He and his son Theodore operate Sanford's Clothing Center in Stanley. The younger Sanford runs the business and his father keeps the books and pays the bills.

Mr. Sanford admits it's "right smart responsibility" to keep a company's financial records, but, even at 100, "I don't have any trouble with it." Actually, he's been involved in merchandising in Auburn, Midland and Warrenton for the past 67 years.

There is one portion of the job that irks him—the government's paperwork.

"Oh, my God, don't tell me about those tax forms. They're enough to make a man go mad," Mr. Sanford says. "They're so afraid you're gonna make a dollar and they won't get a penny out of it that they don't know what to do."

Mr. Sanford has other little stories and strong opinions that he often brings into the conversation. His favorite seems to be the one about his wife and daughter.

When visitors come, or during a recent trip to the barbershop, Mr. Sanford jokes about the age of his wife, the former Margaret Minter, and his only daughter Ruth S. Bowler.

"See her," he says, pointing to Mrs. Sanford. "She's my fourth wife."

Then he gestures towards his daughter and equally embarrasses her. "See, her, she's my daughter from my first wife and there's only two days between them."

Repeatedly, the women put their hands over their faces, shake their heads and cry out: "Seventeen days, there's 17 days between us."

Mr. Sanford's first two wives died, and he hates to admit it, but he divorced the third one because he "just couldn't tolerate her any more."

His current wife, who is just 17 days older than his daughter, worked for him for 12 years at Sanford's Five Cent-One Dollar Store on the corner of Main and Third Streets before their wedding in 1944.

"Then I married him and I've been working for him ever since," Mrs. Sanford says.

Until two years ago, Mr. Sanford maintained the garden and mowed the lawn at the couple's Route 691 home. He's a little weaker and more deaf, but Mrs. Sanford is still envious of his good health.

"He's really been a healthy specimen. He never has a pain or an ache and he never takes a Bufferin," she says. "It's disgusting. I sit across the table from him and cram down the pills."

Currently, Mr. Sanford is limited to a few tomato plants, which he religiously waters, and activities at the Wesley Chapel United Methodist Church near Orlean.

The church plans D.D. Sanford Day on Sunday, July 20, to honor its oldest member, who has been a lay speaker and Sunday School teacher. After the service, friends and relatives are invited to a covered-dish luncheon.

Mr. Sanford, who's not fond of surprise parties or big productions, doesn't want gifts, just the presence of his friends.

And, in the last few years, Mr. Sanford has been particularly generous to others. He spends between $200 and $300 monthly on charitable causes, such as famine-stricken families in Africa.

"One of my greatest ambitions of the last few years is to help those in need and I think the Lord has richly blessed me for it," Mr. Sanford says "I could save it up, that's true. But these people who just want to get, get, get and never give . . . I just can't go with that."

His daughter, Mrs. Bowler, shakes her head in apparent reverence for her father and adds: "I just hope it gets where it's supposed to."

Mrs. Sanford chimes in: "Well when you give in faith, it will."

CONCLUSION OF MORNING BUSINESS

Mr. DOLE. Mr. President, is there further morning business?

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I suggest the absence of a quorum so that I can notify Senator BYRD that I intend to fill up the tree on behalf of the sponsors of the Gramm-Rudman-Hollings amendment. I do not know if Senator BYRD wants to be here or not.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm-Hollings Amendment No. 2223, to add a new title for balanced budget and emergency deficit control reaffirmation.

(2) Rudman Amendment No. 2224 (to Amendment No. 2223), to provide for revision of provisions of reporting responsibilities in the balanced budget and emergency deficit control process.

(3) Exon Amendment No. 2225, to express the sense of the Senate that the Congress utilize the existing "fallback"; provisions of the Emergency Deficit Control Act, to require a congressional vote on specific measures to reduce the Federal budget deficit.

(4) Modified committee amendments, to provide a committee substitute on investment and restoration of Social Security funds during debt limit crises.

(5) Rudman modified Amendment No. 2226, to modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) Exon motion to commit the joint resolution to the Committee on Governmental Affairs, with instructions.

AMENDMENT NO. 2231

(Purpose: To modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators GRAMM, RUDMAN, and HOLLINGS to the motion to commit.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GRAMM, Mr. RUDMAN, and Mr. HOLLINGS, proposes an amendment numbered 2231.

Strike all beginning with "SEC. (a)" and insert in lieu thereof the following:

"TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986"."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2232 TO AMENDMENT NO. 2231

(Purpose: To modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985)

Mr. DOLE. Mr. President, I now send a second amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GRAMM, Mr. RUDMAN, and Mr. HOLLINGS, proposes an amendment numbered 2232 to Amendment No. 2231.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. I object. I would like to hear the amendment read. If the Senator will explain it, I will withhold.

Mr. DOLE. Mr. President, I would prefer the Senator from South Carolina to explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike "of 1986"." where it appears at the end of the amendment and insert in lieu thereof the following: "of 1986".

SEC. 202. REVISIONS OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000 or zero in the case of fiscal year 1991), by account, for non-defense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under paragraph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any differences between the contents of such report and the report of the Comptroller General under paragraph (1).".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "sections 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17";

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(1)".

(3) Section 256(1)(2) is amended by striking out ", in accordance with section 251(c)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251(b) or (c)(2)" and inserting in lieu thereof "section 251 (b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251(b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251 (b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. HOLLINGS. The Office of Management and Budget, along with the Comptroller General, is included under Gramm-Rudman-Hollings. This language is to fix the constitutional problems with the bill.

Mr. LONG. This is being offered as a substitute for some other amendment?

Mr. HOLLINGS. Yes. What we did was to put in the amendment yesterday and the distinguished Senator

from Nebraska moved that the bill be committed to the Governmental Affairs Committee with instructions to report back his amendment.

Mr. LONG. I thank the Senator.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the die is cast once again. We are back to square 1 where some Members of the body have wanted to place us now for a considerable number of days. What all should understand is that once again the managers of Gramm-Rudman-Hollings have successfully blocked any further consideration of any other measure on their bill until their way prevails for a vote up or down on their proposition to transfer authority to a faceless, nameless, nonelected bureaucrat in the executive branch of Government.

Mr. President, I notice there was an approval to have the yeas and nays on the first amendment. I now ask for the yeas and nays on the second-degree amendment, which is presently pending before the Senate.

□ 1020

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I sent all of my colleagues last night a sense-of-the-Senate resolution that explains in some detail what the Senator from Nebraska is simply trying to do. The facts of the matter are that, in my opinion, there has been much ado about nothing these last few days on the floor of the U.S. Senate in the attempt by some Members of this body to come forth with Gramm-Rudman-Hollings II, for want of a better name. This is necessary, in the concept of the original authors of Gramm-Rudman-Hollings, to repair the damage that supposedly had been done by the Supreme Court action, which knocks out the head of the General Accounting Office as the sequesterer, the executioner, if you will, in the original bill.

As I have said on this floor several times during the last several days, that simply is not necessary. It is window dressing. It is dressing up the doll when it does not have to be dressed up. In their wisdom, the authors of Gramm-Rudman-Hollings, in the initial instance, recognized that there was the possibility of serious constitutional flaws in at least that portion of their bill that had to do with the appointment of the head of the General Accounting Office as the one who would set forth the cuts that had to be made to meet the goals and targets of Gramm-Rudman-Hollings if Congress did not act.

I say once again that the delay in the U.S. Senate, the fact that no one else is able to offer any kind of amendment despite the fact that we have had people standing up on the floor of the Senate during the last 2 or 3 days saying, "Why isn't anybody over here to offer an amendment?"—the facts of the matter should stand and the press and the public should be so advised that the legislative business of the U.S. Senate with regard to Gramm-Rudman and the extension of the debt ceiling at the request of the President of the United States—which is the vehicle that carries this—is being held up.

We are being prevented from carrying out the duties of the Senate, which are pouring in on us from each side with regard to the schedule for the U.S. Senate and the House of Representatives for the rest of this year.

It seems to me that we never learn, Mr. President. We repeat our mistakes over and over again.

Mr. President, I simply do not understand why, if the Gramm-Rudman-Hollings people want their amendment to be effective, why do they not allow us to go ahead? There is written into the bill, I emphasize once again, the fallback provision that, simply stated, is that, if we are not going to meet the deficit targets set out in Gramm-Rudman by the projection by various officials of the Government, then we meet at a super Budget Committee. That is the House of Representatives Budget Committee and the U.S. Senate Budget Committee. I serve on the latter. If we are not going to meet those deficits on projection, then that supercommittee has the responsibility to make the cuts that are necessary to meet the targets in Gramm-Rudman-Hollings. Then both the House of Representatives and the U.S. Senate have the responsibility, which is theirs and no one else's at this juncture, either to approve the cuts made by the super Budget Committee or to reject those.

I suggest that that backup provision that is in the bill is fully workable. I think we are wasting our time needlessly at this particular juncture by tying up the Congress of the United States from doing any other business whatsover.

I think the action that has been taken this morning by the majority leader on behalf of the Gramm-Rudman-Hollings proponents indicates once again that they are more interested in going through their charade than in getting to the meat of the problem, which is to reduce the spending of the Federal Government to meet the dictates of that law that an overwhelming number of the Members of this body voted for.

I am very fearful that there remains a feeling that we should have a sequesterer, an executioner, if you will, outside of the elected officials in the U.S. Senate, outside of the elected Members of the House of Representatives, that we can blame for those cuts when they take place. That may be, Mr. President, a very salable point from the standpoint of evading responsibility, but it is not, in my opinion, good government and it should not proceed.

One other fact that I would mention. If you will look at or read the opinion of the Supreme Court, you will see a thread running through that opinion that simply says that we hereby rule as unconstitutional the appointment of an official under the authority of the Congress to carry out the sequester order. It has been assumed, and I am not a consitutional expert, but I assume that if we give this to someone in the executive branch of Government, by the implied wording in the Supreme Court decision, that would be constitutional. But now we hear, we know, we see, and we have reported on the floor of the U.S. Senate in the official RECORD that there are those would-be constitutional lawyers who have, in essence, made themselves experts on what the Supreme Court would do, kind of members of the Supreme Court ex officio. They are going to come forth with some kind of magical plan that says some executive officer or some executive official, not appointed in this case, would have the authority to make the sequester with certain limitations.

It seems to me that all these actions, granting that I am not setting myself up as a constitutional authority, but it seems to me as a layman and a nonlawyer that if we proceed along this route and come up with the appointment of some member of the executive branch and then put some restraints on what that official can or cannot do, what that official should or should not do as a proper guideline for making the sequester, I am very fearful that any of those games might find us right back in the Supreme Court again.

Why do we delay what we eventually have to do if we are going to live up to the constraints of the Gramm-Rudman-Hollings law? We can do that with the fallback provision that was written in. For the life of me, I just do not understand why we are going forth with this charade that we have been exercising for the last several days.

Why do we not move up or down? Why do we not get to work? Why do we not go ahead? And why are we inviting, with the action that is now being considered, getting Congress back into the position once again for whatever action we take to repair one part of the Gramm-Rudman law that was faulted by the Supreme Court?

□ 1030

Why are we risking getting back into the Court again when we have a mechanism that we can and should use? For

the life of me, I have never been able to understand why the supporters of Gramm-Rudman-Hollings do not believe enough in their own bill and in their own fallback provision to say let us go ahead with that and let nature take its course, work its will, as was expressed by the majority of the Members of the U.S. Senate and the House of Representatives at the time they passed the Gramm-Rudman-Hollings bill the last time that we had a further debt extension measure up before the Congress.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Just a word to clear some misapprehension extended by our distinguished colleague from Nebraska.

He complains of delay. He complains that nothing is being done. He complains of a charade. The truth of the matter is all of us, 100 Members of this august body, understand that 95 percent of the activity and action, consideration, debate, decisions, and the formulation of legislation is done off the floor of the U.S. Senate and not on it.

Some years ago, when several Puerto Rican nationalists shot up the hall of the House, at that particular time they landed at the Union Station just a couple blocks down the street from here. They came to the Senate gallery, sat in the gallery in the morning, and saw, as we often have, just a few Senators on the floor. After a couple hours they asked the guard at the door and the doorkeeper, where the Congress is. They replied, "Well, you must mean the House," because they did not see anything on the floor of the Senate. He directed them over onto the House side where they had numerous Members on the floor, and they commenced firing. That persists today, 30 to 35 years later.

The truth is we have many interested in this particular measure, interested in trying to fix that discipline, maintain that trigger. The difference between the Senator from Nebraska and the Senator from South Carolina is he does not want the trigger; he wants three readings in the House and three readings in the Senate, which is in essence the backup provision. We included that. We had hoped that it was constitutional, that we could use our Comptroller General. We had good constitutional authority that we could, and in fact the Court's decision was split. Be that as it may, it is the law of the land. We are not arguing that.

In the meantime, what is really going on now is many Senators who are interested, the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], the distinguished chairman of our Budget Committee, the Senator from New Mexico [Mr. DOMENICI], and the distinguished ranking member, the Senator from Florida [Mr. CHILES], are now negotiating with us about several very positive ideas. We are all talking back and forth, as to the various suggestions that they have. As these suggestions are made, necessarily we are checking them not only with our constitutional authorities but, of course, with the Director of the Office of Management and Budget and Justice Department and the leadership of the House, and this takes a little time. So there is no delay. On the contrary, we are diligently working to try to formulate a consensus whereby we can repair the trigger found unconstitutional by the Court. So I beg the indulgence of my distinguished colleague while that activity is going on. We are working hard and we hope we will have something just as shortly as we possibly can.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, let me briefly respond to a couple of the concerns expressed by my friend from Nebraska. Senator HOLLINGS, I think, has explained it in good detail, and I will not go over that ground. But the Senator from Nebraska has said repeatedly, yesterday and today, that he does not understand, to quote him, why we are so insistent that the first vote on the revision come on our amendment, which is now pending, rather than on his amendment, which would be a confirmation of the fallback procedure.

I think the reason for that, if not obvious, probably ought to be and, if it is not, I will explain it. The U.S. Senate being what it is, and this issue being as sensitive as it is politically, it is quite obvious to almost anyone that a vote on that fallback provision might well make it more difficult for the Gramm-Rudman-Hollings II, so-called, to be adopted on the floor on the basis that some might say we have already done what we had to do. We believed and continue to believe—and we have an honest disagreement with the Senator from Nebraska—that the fallback provision is not as effective as the provision that was in the original bill or that which is contained in Gramm-Rudman-Hollings II, which is clearly constitutional by any reading. Irrespective of what so-called experts might say, to the contrary, we find no authoritative disagreement with that statement. And we believe that the issue of the deficit, about which the Senator from Nebraska does share a concern—he has spoken on it many times on this floor—which is going to be $215 billion in this fiscal year, and we are trying to hold it to $144 billion for next year, is such that we ought to have the best mechanism possible. I want to remind the Senator from Nebraska that under the fallback provision or under this provision it is the Congress that will set the priorities and if the priorities are reduced they will be reduced by a percentage from the last passed appropriation bill.

So when we talk about cuts I think we ought to understand under Gramm-Rudman-Hollings we are probably talking about less of more, not more of less.

Finally, the Senator from Nebraska has made a statement three times on the floor this morning which I would like to correct him on. The Senator from Nebraska says that the sponsors of this legislation have by their actions prevented the Senate from acting. The sponsors have made it eminently clear to the managers of the bill that we are willing to have this laid aside under a unanimous-consent agreement, as was done yesterday, for any other business people wish to bring to the floor other than this issue. The Senator is absolutely correct. We want the first major vote on this issue to be on Gramm-Rudman-Hollings II. There is no secret about that. And the reason we do I have tried to explain. But if anybody else wants to come to the Senate floor with any other business to offer as an amendment to this, the cosponsors have notified the leadership on both sides that we are willing to lay this aside under a unanimous-consent agreement to take up other issues which may come up.

Now, I guess I have an honest disagreement with my friend from Nebraska. He believes that we ought to vote in simply reaffirming what we did last year under the fallback provision. We believe the fallback provision will work but we think it is less likely to work than the provision we now propose. I know the Senator from Nebraska voted against Gramm-Rudman last year for reasons which he strongly believes and which we respect, and we understand the Senator from Nebraska would rather now at least go to the fallback provision that we did in fact draft.

We believe, and most who we talk to believe, if we can through these negotiations now going on design the provision so that Congress retains all of the power over the appropriations process and allows OMB a minimum discretion, we will have the best of both worlds, and that is why we are being persistent. The Senator from Nebraska might strike that word and insert "stubborn." I will accept either. But we are going to make sure we have the first vote on this matter, which is a bill that we have labored long and hard on, up or down. If it fails, I am sure we will then vote on the measure introduced by my friend from Nebraska.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Listening with interest to my colleagues on this matter, at least it has been laid out very clear so that all can understand, and I hope some way, somehow, through national television or the news media, that so far having pointed this out it is true and it is their right under the rules of the Senate to thwart any other amendments to the bill before us until their matter is voted on.

I do not happen to agree with that because I think there are a lot of measures which are going to be offered as amendments to the main measure before us, the extension of the debt ceiling, that properly could be handled before we have this up-or-down vote on what they say is a key part of the Gramm-Rudman proposal. I emphasize once again, and I warn them—and someone has to warn them, even though I admit I do not claim to be a constitutional scholar—I want to quote one line from the recent Supreme Court decision which has been of paramount importance:

The Constitution does not contemplate an active role for Congress in supervising of officers charged with the execution of the laws that it enacts.

□ 1040

I charge once again that despite the good intentions of my friends and colleagues, they are walking and skating on that thin ice once again.

If you are really concerned about carrying out what your famed Gramm-Rudman-Hollings bill purports to do, then why not get on with it and why not eliminate the possibility that we would find ourselves back in the Court once again, with whatever latest concoction you come up with.

It seems to me that we should move speedily ahead under the fallback provision. For reasons that are still not clear to this Senator, those who framed that fallback provision and represented it to be sufficient protection if the Supreme Court declared it unconstitutional—and I take my friends and colleagues at their word when they brought forth Gramm-Rudman-Hollings—I would say why do we not go ahead?

Mr. President, I think the whole matter was summed up quite well by a recent editorial in the Lincoln Star, of Lincoln, NE, and it is entitled "Silly Season in the Capital."

The silly season has come early to Washington.

The stew is over the Supreme Court's blow to Gramm-Rudman, a nefarious buck-passing sham born of Congress members' reluctance to do their jobs.

Unfortunately the high court didn't deliver a knockout punch. It found the law's mechanics unconstitutional while ignoring its seemingly obvious flaw: that Congress is attempting to abdicate its fundamental responsibility for deciding how much the government spends and on what.

Now like a bad movie, we're threatened with a sequel—Gramm-Rudman II, same shameful plot, same bad actors, new, improved technical lighting.

The problem is simple. For all the talk about economic recovery and growth, the U.S. government during the Reagan years has increased the American mortgage faster then any time since World War II.

Treasury Secretary James Baker last weekend said our budget deficit is a cancer to this country's future. His words were, "Either we get it, or it will get us."

Well said. Get at it.

The three-part political ring-around-the-rosie is equally clear: the president wants to cut domestic spending and Congress does not, the Congress resists rapid defense growth which Reagan champions; and Reagan opposes new tax revenues that many in Congress consider essential.

The solution to this Gordian knot is for members of Congress and the president to do their jobs responsibly. Congress must produce a realistic budget reducing our borrowing that the president will buy, or it must override his veto.

Enough hand-wringing. Enough complaining about the "system." It's people who make decisions, not the system. It's people who succeed and who fail.

It's not too much to ask the privileged people in Washington to stop procrastinating and to do their jobs.

Mr. President, that is what this Senator has been trying to do for the last several days.

I would certainly think, though, that my colleagues would agree that, regardless of whose fault it is that amendments are prevented from being brought up on this measure—and I would hope that the record shows—it is only the Members of the Gramm-Rudman-Hollings proposal who are currently tying up the U.S. Senate with their admitted action, that they are not going to allow any votes on any amendments to Gramm-Rudman-Hollings until they get their vote first on what they want.

I recognize that that is their prerogative. They can do that. But I think it is very unfair for the repeated calls that we have had on the floor of this body, the repeated calls we have had for Members to come over and offer amendments, when the fact is that no amendments on this bill are going to be considered because of the parliamentary tactics of those who support the Gramm-Rudman-Hollings proposal. I have no quarrel with that. That is their right. I just would like to have the opportunity to set the record straight once again.

It is my understanding, Mr. President, that because of the travel plans of some of my colleagues, we want to move ahead with the vote that the majority leader indicated yesterday we would have, and after that vote everyone can go on their merry way. I do not wish to stand in the way of that. I may have something to say on this matter after the vote, because I think it is something that possibly needs further explanation.

I yield the floor.

Mr. RUDMAN. Mr. President, I will take 30 seconds.

I say again to the Senator from Nebraska, so that everybody understands what is going on here, because he has kind of restated history, that if any Senator wants to come to this floor and offer any amendment on any issue not related to Gramm-Rudman-Hollings, we have told the majority leader and the Democratic leader that we are willing to lay this aside.

So any accusation that we are holding up the business of the U.S. Senate is patently not the fact. It is true that the Senator from Nebraska is being prevented, under the rules, from having his amendment offered and voted on first, and we will persist in that for the reasons already stated.

I know that the majority leader is anxious to conduct the vote, so I will yield the floor.

Mr. EXON and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I will yield shortly to the Senator from Nebraska.

Mr. President, let me alert my colleagues that when this debate ends, there will be a vote on going into executive session. That could come very quickly. I know that a number of colleagues have made their plans based on the fact that this would be an early vote.

So if we could do that within the next 10 minutes and come back to legislative session, we could have further debate.

Mr. EXON. Mr. President, as always, I wish to be cooperative with respect to the problems and schedule plans that my colleagues have.

I agree with the statement that has just been made by my friend and colleague from New Hampshire. It is true that we could shift to some other matter. But it is also true that no amendments, including the amendment of this Senator from Nebraska, will be allowed to be voted upon in the U.S. Senate until you have your vote first on this matter. Those are the facts.

I think that is improper, but it is certainly within the rules of the U.S. Senate; and as long as we all live by the rules, this is all we can ask. But in living by those rules, I think it is not fair for those who are supporting this latest concoction on Gramm-Rudman-Hollings to say that they are not holding up the U.S. Senate. They certainly are, with regard to the whole host of amendments that all of us know are going to come up on this debt ceiling bill. That is something that they must

say, "We are guilty of," regardless of trying to soft-soap that with the fact that any other matter could come up.

Mr. President, I yield the floor.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, as soon as the distinguished minority leader is able to come to the floor, I will attempt to move to the Abramowitz nomination. Mr. Abramowitz has been nominated to be an Assistant Secretary of State. The nomination has been on the calendar for some time.

It is my hope that we can resolve not only this nomination but also others that are on the calendar. I think the others have been on the calendar for some time as well.

I must say that we are in good shape. The calendar is almost clean. There are just two or three, so I do not anticipate any real problem. I know that a couple are under consideration. One or two of those have not yet met with the distinguished minority leader, and once that is completed, I think they will be cleared.

□ 1050

One sure nomination is George R. Salem of Virginia to be Solicitor for the Department of Labor. It has been on the calendar since June 18. We have contacted Mr. Salem to see if there is a problem with some Senator or more than one Senator and for him to address that.

M.D.B. Carlisle of the District of Columbia to be Assistant Secretary of Defense is another. She will be meeting with the distinguished minority leader.

Kathleen W. Lawrence to be the Under Secretary of Agriculture for Small Community and Rural Development and also to be a member of the Board of Directors of the Commodity Credit Corporation. On that nomination there are holds on both sides.

The only other matter that we would like to resolve is the nomination of Edwin G. Corr and that has been around since October 28, 1985.

So, we are in pretty good shape. I hope we can dispose of nearly all of those, and then several treaties involving Denmark. It could be that we could resolve those problems also.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF MORTON ABRAMOWITZ

Mr. NUNN. Mr. President, I rise to speak in support of the nomination of Morton Abramowitz to be Assistant Secretary of State for Intelligence and Research. This nominee is no stranger to the Senate, having been confirmed by this body on at least two other occasions. Mort Abramowitz epitomizes the high standards of professionalism and competence we have come to expect of our senior diplomats. I have known Ambassador Abramowitz for many years beginning with his years of work in the Department of Defense in the 1970's, I might add a very, very difficult time. He worked on many important regional defense issues in DOD during both Republican and Democratic administrations. For this work, the Pentagon awarded him both the Distinguished Public Service Award and the Defense Distinguished Service Award. I think these Pentagon awards speak well for his abilities and the respect he has earned in the national security field as well as the diplomatic field.

He has served with great distinction as our Ambassador in Thailand, one of the most important posts in Southeast Asia. I had the privilege of visiting Ambassador Abramowitz in Bangkok in 1979. Ambassador Abramowitz was concerned about many important issues at that time in United States-Thai relations, including continued Vietnamese occupation of Cambodia and the threats that it produced for the entire region and also the great efforts we were making at that time to combat narcotics trafficking in the area. In these and in all other issues, Ambassador Abramowitz performed exceptionally well and was a superb representative of the United States in Thailand.

I also had the privilege both to visit and to work with Ambassador Abramowitz during his tenure as our chief negotiator to the mutual and balanced force reduction talks, or MBFR, in Vienna. Ambassador Abramowitz personally developed several very innovative approaches to these negotiations which I regret were not accepted by the Soviet Union. All of us should be proud that Ambassador Abramowitz served us so well as negotiator to these important talks, which have been going on a long time, including a great deal of frustration.

I have also had the privilege of working with Mort Abramowitz on many issues since he assumed his current responsibilities of the Director of Intelligence and Research in the Department of State. All of us on the Intelligence Committee have been fortunate to have him appear before us on many occasions to discuss intelligence and foreign policy issues of great importance. In all those instances, we have always found Ambassador Abramowitz to be open, candid, direct, and very knowledgeable. In my judgment, the success of the United States in respect to the Philippines was due in large measure to the advice of career professionals, including Mort Abramowitz.

All Americans are fortunate, Mr. President, to have such fine distinguished public servants as Mort Abramowitz. He is a credit to the foreign service and to his country and I am proud to support his confirmation, as I have on two other occasions.

Mr. President, I yield the floor.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I now ask unanimous consent that the Senate go into executive session to consider the nomination of Morton I. Abramowitz to be Assistant Secretary of State.

Mr. HELMS. Mr. President, reserving the right to object, did I understand the distinguished majority leader to say he wanted to go into executive session to proceed to the Abramowitz nomination?

Mr. DOLE. Yes, I asked unanimous consent. It is my understanding the Senator from North Carolina would object.

Mr. HELMS. Reserving the right to object, Mr. President.

Mr. President, Morton Abramowitz, I know, is a nice man. I am sure his wife loves him and probably his dog runs out and wags his tail when he comes home in the afternoon.

But this man is one of the architects of the sellout of Taiwan. For that reason, I must object.

Mr. DOLE. Mr. President, I then move that the Senate now proceed to executive session to consider the Abramowitz nomination.

The PRESIDING OFFICER. The motion is not debatable.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, before the vote begins will the distinguished majority leader indicate what he expects for the remainder of the day, whether or not there will be a rollcall on this nomination or other rollcalls today?

□ 1100

Mr. DOLE. Mr. President, I have been advised by the distinguished Senator from North Carolina there would be no other votes today on the nominee, which satisfied me. Senator HELMS is prepared to discuss this at length. I think after some amount of time we will probably set it aside and bring it up again next week. But there will be no more votes today.

Mr. NUNN. Mr. President, may I ask the majority leader and my colleague from North Carolina whether there will be any time. I have some remarks I would like to make later on in the day. I will not hold the Senate up. I think they are important matters relating to the ABM Treaty and access. I would like to make a 20- or 30-minute presentation on that, if I could get some time in that regard. Perhaps the Senator from North Carolina would have a little time or a little rest period he would like to undergo during the course of the discussion.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. The minority leader has the floor.

Mr. HELMS. I wonder if he would yield to me.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from North Carolina for the purpose of his responding to the Senator from Georgia.

Mr. HELMS. I thank the Senator.

I will state to the Senator from Georgia I have a great deal of discussion, but, of course, I will be glad to yield to the Senator from Georgia or any other Senator, providing I do not lose my right to the floor. I will accommodate him in any way possible.

Mr. NUNN. I thank the Senator from North Carolina. If he would indicate a little later on when he might need a little rest, I will come over.

Mr. DOLE. Mr. President, if I could just repeat, there will be no more votes. This will be the only vote today.

Mr. BYRD. Mr. President, the distinguished majority leader has indicated there will be no more rollcall votes today following this one. Could he tell us whether or not there will be rollcall votes on Monday and, if so, about what time they would begin?

Mr. DOLE. I was hoping we might be able to discuss some of the TV in the Senate on Monday. I am advised now that Senator STEVENS will not be availabe on Monday, but I need to talk with him. I am going to say there will be no votes on Monday. We will work something out.

Mr. BYRD. Very well. I thank the distinguished majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas [Mr. DOLE]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from North Carolina [Mr. BROYHILL], the Senator from Alabama [Mr. DENTON], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Iowa [Mr. GRASSLEY], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. LAXALT], the Senator from Georgia [Mr. MATTINGLY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. SYMMS], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

Mr. BYRD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arkansas [Mr. PRYOR], and the Senator from Maryland [Mr. SARBANES] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. BAUCUS], would vote "yea".

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays, 2, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—74

Abdnor	Gorton	Nickles
Andrews	Gramm	Nunn
Bentsen	Harkin	Packwood
Boren	Hart	Pell
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Proxmire
Bumpers	Hecht	Quayle
Byrd	Heflin	Riegle
Chafee	Heinz	Rockefeller
Chiles	Humphrey	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Lautenberg	Specter
Dodd	Levin	Stafford
Dole	Long	Stennis
Domenici	Lugar	Stevens
Durenberger	Mathias	Thurmond
Eagleton	McClure	Trible
Evans	McConnell	Wallop
Exon	Melcher	Warner
Ford	Metzenbaum	Wilson
Glenn	Mitchell	Zorinsky
Gore	Moynihan	

NAYS—2

Helms	Hollings

NOT VOTING—24

Armstrong	Dixon	Leahy
Baucus	Garn	Matsunaga
Biden	Goldwater	Mattingly
Bingaman	Grassley	Murkowski
Broyhill	Hawkins	Pryor
Burdick	Inouye	Sarbanes
Cranston	Kerry	Symms
Denton	Laxalt	Weicker

So the motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF MORTON L. ABRAMOWITZ, OF MASSACHUSETTS TO BE AN ASSISTANT SECRETARY OF STATE

Mr. EVANS and Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Madam President, I shall be brief in my remarks, as I hope others will be brief in their remarks, so that we may proceed to a vote on this outstanding nomination.

Mr. Abramowitz' nomination has been languishing before the Senate for several months now and I think it is long past time that the President's desire in his nomination and the Secretary of State's desire in his appointment of Mr. Abramowitz be ratified by the Senate. The position is Assistant Secretary of State for Intelligence and Research. It was clearly pointed out in the committee hearings that this position is not a policymaking position but, rather, an intelligence-gathering position, one in which a wide variety of research is assimilated, analyzed, and then presented to the senior members of the Department of State for their policy determination.

I was a careful observer at the hearings; in fact, I have read considerable portions of the reports from the hearings I did not have an opportunity to attend. It seems to me that this nomination is being delayed not so much because of the question of policymaking or nonpolicymaking aspects of the position, but because of an old and, I think, outdated and rather tired argument, which seems to persist in this Nation. That is the argument about Taiwan and its relationship to the People's Republic of China.

We can argue policy all we wish, Madam President. I think the important thing here is to insure that we have in place, as he is now serving in a temporary capacity, a person of undisputed intelligence and of unquestioned loyalty, a person who has had a long career in the Foreign Service and whose writings and whose recommendations in years past have led precisely to the policy which had been adopted by Secretary of State Kissinger, by President Nixon, and by administrations subsequent to that.

Rather than shrinking from or being embarrassed in any respect by those recommendations, this nominee, I think, should be proud that those recommendations helped to bring us to our current policies, which are widely accepted, overwhelmingly accepted, by Congress, by successive administrations, and, I believe, by a wide majority of the American people.

Let me lay that aside for a moment, because I suspect we shall hear much of that in succeeding comments. Let me turn to the man himself.

Morton Abramowitz has had a long and distinguished career: he is a native of Lakewood, NJ; a graduate from Stanford University with a bachelor's degree, and has a master's degree from Harvard University. He is fluent in Chinese.

After military duty, he entered the Foreign Service and successively had an opportunity to be engaged as a consular and economic officer and then a

language area training officer in Taichung, on Taiwan.

Then he was a political officer in Hong Kong, then member of the Bureau of Economic Affairs in the Department of State. Subsequent to that, in 1968, he was a staff member of the Senior Inter-Department Group of the Department of State, then special assistant to the Under Secretary of State.

He spent some time at the Institute of Strategic Studies in London as a research fellow, then was the Deputy Director for East Asian Affairs in the Department of State, Officer of Intelligence and Research; assistant to the Secretary of Defense, Commander in Chief, Pacific, Political Adviser in Honolulu; and Deputy Assistant Secretary of Defense for Inter-America, East Asia, and Pacific.

He was U.S. Ambassador to Thailand, then was with the Rand Corp. in Washington, DC, on detail from the Department of State.

He was U.S. Representative to the MBFR in Vienna, and is currently serving as acting Assistant Secretary of the Bureau of Intelligence and Research, to which this nomination would make him permanent.

Those are the positions he has held, each one with distinction, each one to the satisfaction of the Secretary of State and those who supervised him. In many cases, his appointment was subject to close scrutiny by the Secretary of State and, in fact, as U.S. Ambassador to Thailand, he was confirmed by the Senate. That was in 1978. I suspect there are many Senators here, including some who may object to this position, who very likely voted or at least certainly acquiesced in his appointment as U.S. Ambassador to Thailand.

Madam President, let me turn then to the views of others as to his capabilities, best expressed by a striking series, an almost unique series of public service awards which Morton Abramowitz has received from his supervisors and those who admired his distinguished service to the United States.

In 1976, he received the Distinguished Public Service Award of the Department of Defense. In 1978, he received the Distinguished Service Award from the Secretary of Defense while he was serving with the Secretary; in 1980, the Joseph C. Wilson Award for distinction in international affairs; and in 1981, the President's award for distinguished Federal service.

In any other circumstance, in a private enterprise or in an area in Government, where a man of this distinction might be available, virtually anyone would jump at the chance to utilize his services and appoint him to positions of extraordinary responsibility. I think the United States has been well served by his service in the past, we are extraordinarily well served by him in the position he now holds, and I think the Senate ought to proceed promptly to his confirmation.

Mr. HECHT. Mr. President, I support the administration's move to enhance the authority and prestige of the intelligence function in the Department of State, and their choice of Mr. Abramowitz to get the job done. As the administration points out, Morton Abramowitz has outstanding experience and qualifications in the foreign affairs and national security areas. In recent months, in connection with the work of the Select Committee on Intelligence, I've had a chance to observe him quite closely at work on national intelligence policy and operations issues of extreme importance to the Nation's welfare. I've been most favorably impressed by his knowledge and understanding of the intricacies of the national intelligence program and the services that program must furnish those who make decisions on critical foreign affairs and national defense issues. I've had a chance to watch him work on both specialized and general intelligence policy matters, and I am convinced that he'll make an excellent Assistant Secretary of State for Intelligence and Research. I urge the Senate to support his nomination.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

First, Madam President, I wish all Senators bon voyage today as they head toward the hinterlands. As the distinguished majority leader has indicated, there will be no more votes because a considerable amount of comment is essential in connection with this nomination.

Madam President, I object to the taking up of the nomination of Mr. Morton Abramowitz because, for me, he represents the kind of State Department official whose concept of foreign policy is to kick our friends and allies in the teeth while cozying up to the adversaries of the United States.

As I travel around North Carolina, around the country at large, there is no subject that seems to bother the American people more than the fact that the cause of freedom, the cause of justice, the cause of personal dignity and development seem to be losing out to the forces of socialism and communism throughout the world.

I might add that the same puzzlement exists in the few nations that I have visited in recent years.

The American people are deeply anti-Communist—and I use the term in a broad, philosophical sense. They realize that communism, and to a lesser degree, socialism, is, at its root, opposed to our deeply entrenched views of liberty, law, and the Supreme Being. In the end, there can be no compromise with communism. The Communists themselves have said that—and that is about the only thing I agree with them on. The simple truth is that either freedom will triumph or communism will triumph. There is no Mr. In-between.

So it seems to me that it follows that our foreign policy should be anti-Communist. We should be working to undermine the economic power, the social stability, and the military strength of every Communist regime in the world. We should be working to encourage those governments which adopt free enterprise principles and a constitutional system, and which support the traditional values of our Judeo-Christian civilization. But the Americans who come up to me wherever I go see that this is not the policy we have been following for the past 40 years.

If we look at the record, we see a dismal picture. We see the Soviet Union itself, how those who are working for trade and cultural exchange with the archetype of Communist regimes are willing to ignore not only the millions of documented cases of murder and torture, but also a regime whose power is based on fear and corruption.

They are willing to accommodate themselves to a regime which is based upon atheistic materialism, and dedicated to the extinction of every value which the American people hold dear. They are even willing to sign arms control agreements which are fatally flawed, and thereby threaten the peace and stability of the United States.

□ 1140

And we see in case after case how the apologists for communism work feverishly to aid and support Communist revolution everywhere in the world. They work to defeat the anti-Communist forces through propaganda, and denial of the supplies needed to resist the Communists, while at the same time they built up the Communist side—usually denying, of course, that the Communists are really Communists. It is very important to deny that the Communists are really Communists, since they know that the American people would never agree to the triumph of communism if they could prevent it.

So that is the explanation for the subterfuge, the biased news reports, the curious statements by some of our diplomats, and the outrageous activity of some of them.

The point is that this is a campaign against the American people. It is fundamentally a campaign to install regimes in every country around the world which are hostile to American

principles and values. Of course, it is always done in the name of "reform."

Thus the American people were told that Mao Tse-tung was "an agrarian reformer" working for noble goals. How many people remember that? There was a steady drum beat of propaganda—men like John K. Fairbank, Edgar P. Snow, Owen Lattimore, and others—that argued that America should support the Communist forces in China. And in our State Department, as many scholars have demonstrated, and as many hearings here in the Senate conclusively revealed, there were those who worked quietly to implement the pro-Communist policy in China.

And so it happened in every major confrontation with the Communist forces. We know what happened with Castro in Cuba. We know what happened with Tshombe in Katanga. We know what happened with Diem in Vietnam. We know what happened with Somoza in Nicaragua. We know what happened with the Shah in Iran. We know what happened with Muzorewa in Zimbabwe, and on and on and on.

Looking around even today, we see how the United States is working to undercut Savimbi in Angola, Renamo in Mozambique, Eden Pastora in Nicaragua. We see the campaign being directed against South Korea, South Africa, and Chile. In each case, the public campaign in the media is matched by those in the State Department who seek to undercut the anti-Communists and to, as they say, "normalize" relations with the Communists.

When will we learn the peril of patting a rattlesnake on the head?

Just this week, when Secretary Shultz appeared before the Foreign Relations Committee, I asked him whether he would meet with Oliver Tambo, the head of the African National Congress. He said that he would. And I asked the distinguished Secretary whether he would insist that Tambo and the ANC renounce terrorism specifically. I was astonished when the Secretary dodged the question. I asked him about the use of "the necklace," that utterly abhorrent terrorism conducted by the ANC in Africa, this business of filling tires with gasoline and hanging them around the necks of black people who will not go along with the ANC and the Communists. I said, "Mr. Secretary, will you condemn the use of the "the necklace" and make as a condition of your meeting with Mr. Tambo the stopping of this abhorrent crime?" And the Secretary said "no." He said he wanted to meet with Tambo to get his views.

Now, Madam President, perhaps it is as a result of my background, growing up in a small town in North Carolina, that I do not profess to have any sophistication about foreign policy. But I feel obliged to raise the question, how can there be any "views" on the use of terrorism against innocent black men, women, and children? Doesn't the Secretary know that Mr. Tambo and the African National Congress have refused to denounce "the necklace," the burning tires hung around the necks of those poor innocent black people? As a matter of fact, the ANC has encouraged the use of the so-called necklace.

Does not the State Department know that Winnie Mandela, for example, has proclaimed that "the necklace" will bring freedom to the blacks of South Africa? The truth is, "the necklace" will bring a tyranny worse than Africans have ever known. Does not Mr. Shultz know that the ANC is a Soviet-sponsored, Soviet-supported operation totally controlled through the South African Communist Party? Does not he know that the African National Congress, besides being a Communist organization, is also dominated by the Xhosa tribe and that a Xhosa Communist government would result in the greatest slaughter of black Africans of other tribes that the world has ever seen?

□ 1150

This raises the question, what kind of intelligence does the State Department give to Secretary Shultz? I will have more to say about that in a little while.

I have dispatched a letter to the Honorable DAVID DURENBERGER, who is chairman of the Senate Committee on Intelligence, addressing this subject. Let me read the letter into the RECORD:

HON. DAVID DURENBERGER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would appreciate a study by the staff of your committee to review the quality, accuracy and objectivity of the products of the Bureau of Intelligence and Research of the State Department with respect to the African National Congress. My concern is based on two matters that arose this week.

First, the New York Times reported that our intelligence community has been providing intelligence to the South African government about the African National Congress including its terrorist activities and communist influence, but this intelligence cooperation against a common threat may have been cutoff. I believe a review of this matter is urgently necessary, particularly with respect to the role played by the current Director of Intelligence and Research, Mr. Abramowitz.

The second matter of concern is the intelligence analysis provided to Secretary of State Shultz concerning Oliver Tambo, the President of the ANC. Apparently, this intelligence analysis has led Secretary Shultz to announce to the Foreign Relations Committee yesterday that he has decided to meet Mr. Tambo without preconditions. As you know Senator Denton held extensive hearings on the African National Congress which concluded that the ANC is Communist-controlled and dedicated to terrorism.

I would appreciate it if the Senate Intelligence Committee staff and the staff of Senator Denton's Security and Terrorism Subcommittee could produce a joint report about the ANC that will resolve these issues, including Mr. Abramowitz's role in these two matters.

Sincerely,

JESSE HELMS.

So let us return to the subject at hand.

A couple of weeks ago, I visited Chile, in response to an invitation that I had accepted 3 or 4 months ago from the National Agricultural Society of Chile, a 148-year-old private organization. It so happened that I arrived in Santiago just after two young Communist terrorists had been surprised in the act of setting fire to barricades during a Communist demonstration. As we know, a young man died from burns in this incident, and a young woman is still in serious condition.

The Government of Chile immediately set about to find out what happened in this incident. On the day it happened, the Government asked the independent judiciary to appoint a special prosecutor, and within days the special prosecutor set to work. But the State Department waited until after the special prosecutor had begun his work before a spokesman for the Department went public in the United States, rather sanctimoniously demanding that Chile appoint a special prosecutor.

The State Department was bound to have known that this was a matter already in progress. The implication was that Chile was somehow dragging its feet and impeding an investigation. But the fact was that the Government of Chile had already put the investigation out of its hands and into the hands of the independent judiciary, and the judiciary had already appointed a distinguished judge, a well-known professor of law, with an impeccable reputation, to investigate the matter.

Some of the facts have already been established by this investigation; and I predict that when the investigation is completed, the story will be turned 180 degrees from the propaganda promoted by the major news media in this country and by the State Department.

Again, Madam President, it makes one wonder what kind of intelligence information is being provided to the Secretary of State.

So we come to Mr. Abramowitz, who has been nominated to be Assistant Secretary of State for Intelligence and Research. When Mr. Abramowitz was nominated, I knew almost nothing about his background. I certainly had no bias against him. I knew that he had held many positions in the State Department, ISA, and the Diplomatic Corps, relating to the Far East; but when his hearing came up, the sellout

of Taiwan was particularly on my mind.

I asked Mr. Abramowitz if he thought that Taiwan should be pressured into making an accommodation with the Communist government in Beijing, and Mr. Abramowitz refused to answer my question. To his credit, he did not give a mealymouthed answer. He simply said that he did not have to answer questions on policy. In other words, he felt that the State Department should not be accountable to the people of the United States. He seemed to think that the Constitution should be set aside in his case, since he was so much more important than the U.S. Senate. Perhaps he got that idea when he saw that the salary he received in 1985 was $76,367, more than a mere ordinary Senator receives.

In any case, no sooner did this become public than I began to receive many calls and visits from some of Mr. Abramowitz' former colleagues and coworkers. They told me that he was an ardent and eloquent advocate, if not an architect, of the policy to betray Taiwan and to normalize relations with the Communists.

They also told me that during the Carter administration, Mr. Abramowitz was a strong proponent of pulling United States troops out of South Korea and that he worked to minimize intelligence reports that North Korea was at that time in the middle of a massive military buildup, information that was later confirmed.

They told me that when Mr. Abramowitz was Ambassador to Thailand, he worked to unseat the anti-Communist government of General Kriangsak who was a great hero of the Korean war.

They told me that he was systematically distorting, or at least had distorted, intelligence reports relating to the brutal invasions by North Korean Communist troops in Cambodia to make the Communists look good. They told me from firsthand knowledge Mr. Abramowitz insisted that the United States aid to the refugees along the Thai border be channeled through Communists in Cambodia where most of it went to support the Communist armies.

They told me that he was actively working in the State Department for early recognition and normalization of the regime in Hanoi.

I recognize that these voluntary statements from his coworkers are not the statements that they can afford to document. But they have a consistency with Mr. Abramowitz' position on Communist China because Mr. Abramowitz clearly worked to have the United States adopt a pro-Communist policy in China and now that it has been adopted, according to a schedule which he laid out in a little book which I shall shortly discuss, he continues to undermine Taiwan and to betray our friends and allies.

Mr. President, I examined Mr. Abramowitz' views extensively in subsequent hearings, a copy of which is supposed to be on the desk of every Senator, and I urge my colleagues to peruse these hearings carefully.

So, in short, the nomination of Mr. Abramowitz brings together a number of deeply troubling issues.

In my additional views of this nomination, I stated that in my judgment these issues may be summarized under two headings. The first is the question of imposing the reform of our foreign policy system upon a bureaucracy strongly resisting such reform; the second is the content of what the reforms should be.

Indeed, the nomination of Mr. Abramowitz is virtually a referendum on reform. Mr. Abramowitz is a strongly polarizing personality. Those who oppose reform and want to continue the direction which our foreign policy has taken for the past 40 years will very eagerly uphold Mr. Abramowitz. On the other hand, those who believe that the foreign policy elite should be accountable to the American people should be strongly opposed to this nomination.

The policy that Mr. Abramowitz stands for—and his record is clear—is one that has been central to the thinking of the foreign policy elite inside and ouside of our Government since the end of World War II.

This central idea is that the confrontation between communism and freedom is the most dangerous problem faced by the world today. These elitists think that the critical function of U.S. diplomacy is to manage the transition to a world in which both the Communist countries and the free countries can agree on the same values.

What does that do to our values?

The policies recommended to achieve this aim are always the same. First, they argue that the national interests of the United States require us to adopt the goals of the Socialist and Communist countries as a long-term policy to avoid war; the art of diplomacy, therefore, is the timing of the steps to reach those goals in a manner that will avoid turmoil, disruption of the economic system, and cataclysmic upheavals ending in slaughter. The fact that freedom will diminish, and eventually disappear, is considered unfortunate, but not a vital interest to be defended.

It is to be expected, of course, that the American people are not yet ready to be so flexible. They have this foolish notion that Communists and communism being athiestic, brutal, murderers, cruel, should not be embraced to any degree by our Government. Achieving the goals of the elitist policy requires secret diplomacy and patient, slow steps to place in motion irrevocable decisions before the American public wakes up and finds out what is going on. When the public does wake up, it is too late to restore the conditions which will allow freedom to exist.

This nomination is the perfect example of that syndrome. Mr. Abramowitz' nomination to be Assistant Secretary of State for Intelligence and Research places him in one of the key policymaking positions in the State Department. But when he came before the committee, he adopted the extraordinary position that the post for which he was nominated did not deal with policy, and therefore he declined to anwer any questions relating to policy.

He did not want to get into this little book that he wrote entitled "Remaking China Policy" in which he describes all of the steps taken to undermine Taiwan. No, he did not want to talk about that. But we required him to talk about it.

Such a position, as taken before the Foreign Relations Committee, makes a mockery of the constitutional role of the U.S. Senate in offering advice and consent to Presidential nominees. If the Senate may not ask substantive questions relating to the nominee's experience and views, how is it possible to judge his qualifications for office? It is not.

At a second hearing, the Deputy Secretary of State, Mr. Whitehead, a nice man whom I like very much, told the committee that it was the Department of State's position that "the Senate Foreign Relations Committee, in determining the qualifications of a candidate, has the right to ask the candidate questions about any relevant subject, including the candidate's views on our foreign policy, if he has any."

That was the statement by the Deputy Secretary of State, Mr. Whitehead.

Then and then only did Mr. Abramowitz deign to begin answering a few questions or at least evading them. He responded to a line of questioning which he had previously rejected.

It was perhaps only by chance that the original line of questioning, so forcefully rejected by Mr. Abramowitz, had to do with the Republic of China on Taiwan. At the time of the original hearing, I had been involved in a series of intelligence briefings on the proposed sale of advanced avionics to Red China, and I was deeply concerned with the impact on Taiwan of this transfer of technology to the Communists. I could see from the briefings that selection, presentation, and analysis of technical data relating to the installation of the avionics could very profoundly affect the policy decisions in this matter. A bias toward Red

China and against Taiwan could very well influence the presentation of intelligence data and skew the decision that is involved in it.

The crucial question was whether or not Mr. Abramowitz could separate objective analysis from ideological crusade.

Not knowing where Mr. Abramowitz stood on these matters, I asked him the following question: "Do you think that the U.S. Government should take any steps which would have the effect of encouraging the Republic of China to negotiate its future with Communist China?" It was one of only four questions I had planned to ask.

As far as I knew, it was unprecedented for a friendly witness to refuse to answer a relevant question, particularly a nominee seeking an office of high trust and responsibility. What could Mr. Abramowitz have to hide?

What I did not know then was that, in 1970, Mr. Abramowitz had written a book entitled "Remaking China Policy," a monograph arguing that, in order to "improve" relations with Communist China, we had to convince Peking that we were sincere in doing something about the Taiwan "problem."

"The Taiwan problem." Well, I guess it is a problem for a country to be both anti-Communist and a friend and ally of the United States. These are the countries that always get the short end of the stick.

Among the steps that Mr. Abramowitz recommended in his book were:

One, that we should not fight too hard to keep Taiwan in the United Nations, and

Two, that we should convince Peking we are serious about the Taiwan issue by adopting the policy that "there is but one China, and Taiwan is its province."

I find myself wondering what the distinguished Senator from Arizona, [Mr. GOLDWATER] would have said if he would have been there and read this book, because there is no stouter defender of Taiwan and the great Taiwanese people than Senator GOLDWATER.

The third step recommended by Mr. Abramowitz was that we should not allow Taiwan to become militarily independent.

Four, that we should, step-by-step, move toward the abrogation of the Mutual Defense Treaty with Taiwan.

Five, that we should always allow our policy toward Peking to be guided by the goal of convincing Taiwan that it is in Taiwan's best interest to accept autonomy or some other arrangement under Peking's sovereignty.

Mr. President, if that is not a sellout of Taiwan, I defy anyone to come up with a more exacting betrayal of a great friend and ally, which Taiwan has been.

Now, though all these steps have since become U.S. policy under four Presidents, I acknowledge, in 1970, when Mr. Abramowitz wrote this book, none of these events had happened. So, in a real way, this was a handbook on how to sell out a friend and ally, specifically, Taiwan.

None of these things had happened when this book was published. The American people, and the U.S. Congress were strongly opposed to the betrayal of the freedom and independence of the Republic of China. In fact, those views were a radical reaffirmation of the pro-Communist line of the 1940's, put forward by the stout defenders of Mao Tse-tung, such as Edgar P. Snow, John K. Fairbank, and Owen Lattimore.

In the early 1950's, I was here not as a Senator, but as administrative assistant to a great North Carolinian, who served on the Senate Judiciary Committee and on the subcommittee examining this kind of pro-Communist attitude. The subcommittee was called the Internal Security Subcommittee.

I remember the day that Owen Lattimore came before the subcommittee. He was remarkably like Mr. Abramowitz; he evaded questions. In one instance, a Senator caught him in an untrue statement, a statement that had to be intentionally untrue.

But those were the days, do you not know, Mr. President, when so-called experts such as John K. Fairbank could write.

> The Chinese Communist Party has capitalized upon this pressure for change. It has become the acknowledged champion of agrarian reform.

Where have we heard that before? Oh, I remember. That is what CBS News and the New York Times told us about Fidel Castro when he was on his rise to power. He was not a Communist. The State Department said he was not a Communist, he was an agrarian reformer and he was going to do great and good things for Cuba. But that was long after Mr. Fairbank said:

> The Chinese Communist Party has capitalized upon the pressure for change. It has become the acknowledged champion of agrarian reform—in a land of farmers—and has thereby set up its claim to be the party of progress. Chinese intellectuals generally recognize that the Communist Party is the party of change and is now the leading force in the Chinese revolutionary process . . . We would also note that humanitarianism is an important part of the Chinese Communist dogma.

Pardon me for chuckling.

Mr. Fairbank went on:

> Whatever may have happened in Russia, this ideal has not yet been perverted in Communist China, and Communist cadres there are sincerely intent on the uplifting and regeneration of their fellowmen.

That was in the Atlantic Monthly, September 1946.

Now, with friends like Mr. Fairbank and statements like he made and philosophies such as he held which permeated our diplomatic process, with friends like that, the Communists do not need to have Communists in the United States to attain their goals. The actions of the U.S. Government in withdrawing support from the Chinese Nationalists resulted in the Communist takeover of the mainland in 1949. These events were carefully documented by such scholars as Dr. Anthony Kubek in "How the Far East Was Lost."

Despite the Communist takeover, there still remained, as Mr. Abramowitz wrote in his book, the "Taiwan problem"—that is, the continued existence of the Nationalist government of Free China, which stood as a rebuke to the existence of the Communist government in Peking.

□ 1220

The Chinese leaders of the 1940's were not able to solve the "Taiwan problem" because this Senator for example then would not tolerate it. That was left to a new generation, a later generation of Senators who perhaps never knew or had forgotten the propaganda, the one-sided news reports. We now know what happened to Taiwan. The handbook is right here.

It is not surprising that Mr. Abramowitz was a pupil of Professor Fairbank at Harvard, nor that Dr. Fairbank contributed a laudatory introduction to his book, nor that Mr. Abramowitz testified that he still considers Dr. Fairbank to be one of the foremost American scholars on China. The fact the policies advocated by Mr. Abramowitz in 1970 have all been adopted does not make them any the less reprehensible.

The goals proposed by Mr. Abramowitz, and the policies adopted by the United States are identical to the goals of the Communist regime in Peking. They constitute a betrayal of the Republic of China and of the people of the United States. This view was summed up by Ronald Reagan in 1978 in a speech reported in the Los Angeles Times.

The future President told his audience then that:

> Americans are not willing to "normalize" relations on Peking's terms. "Normalization now" is the view of a few U.S. scholars and does not represent the widespread feelings of intellectual and political leaders. A Brown University study indicates that 93 percent of 1,800 leaders surveyed believe the United States should not accept Peking's "three conditions" in order to achieve normalization. The "three conditions" involve breaking diplomatic relations with Taiwan, breaking a mutual defense treaty with Taiwan signed in 1954, and withdrawing our remaining military advisers from Taiwan. The American people continue to express their strong belief that abandoning a good friend and ally to an unknown fate in order

to normalize relations with Peking is not worth the price of America's credibility.

That was Ronald Reagan in 1978. I admire and respect the President. I am fully aware that no President can know everything about every nominee recommended to him. But before this Senate votes on this nomination, if it votes, I want President Reagan to read his statement of 1978, and read at least excerpts from Mr. Morton Abramowitz' book "Remaking China Policy." And then explain to the American people why this nomination is even before the Senate.

Mr. Abramowitz was apparently among the few scholars who were promoting the sell-out of Taiwan. Throughout Mr. Abramowitz' career in the Government, almost every position he held touched on China policy in some way, except for a brief stint in Europe. For example, in the crucial months leading up to the abrogation of the Mutual Defense Treaty with the Republic of China, he was the principal adviser on arms policy in Asia to the Pentagon.

It is remarkable that Mr. Abramowitz' book, although it purports to deal with remaking China policy, completely omits any reference to the fact that China is governed by a ruthless Communist dictatorship. The word "Communist" does not appear in the book. The word "Marxist" does not appear. There is no reference to the fact that China is governed by the central committee of a one-party system. There is indeed no reference at all to the decisionmaking system of China at all, or to its ruthless and inhumane policies toward the Chinese people.

This lack of perspective is very disturbing in a person appointed to be the Assistant Secretary of Intelligence and Research [INR]. For example, Mr. Abramowitz prepares the daily morning briefing for Secretary Shultz. I have received comments from State Department officials, past and present CIA officials, NSC staff, and DOD officials about an alleged politicization of the INR products, particularly with regard to Korea, Taiwan, Communist China, Thailand, and the Philippines. As I mentioned earlier, I hope that the Senate Select Committee on Intelligence will undertake a review of the INR output since Mr. Abramowitz first became Director of INR last year to see to what extent it differs from the output of other intelligence agencies. If the same bias exhibited in Mr. Abramowitz' book is evident in the INR products, then our problems at the State Department are worse than is already apparent.

The bottom line is the question of how a President can get control of foreign policy when he is served by a permanent bureaucracy that may not be in sympathy with reform and change. We all know that it is one thing to order change; it is another thing to get those changes carried out.

Under the law, we have set up a mechanism which is supposed to enable any administration to control policy through the appointment of political nominees to the key posts for making and advocating of policy. There are 8,000 domestic jobs in the Department of State. There are only 246 of these, aside from ambassadorial posts, which deal with policymaking and therefore are exempt from being filled by civil service or career Foreign Service employees.

It seems reasonable to assume that any administration should take care to see that all 246 are filled by men and women who are philosophically in sympathy with whatever President has been elected by the people of the United States. In that way, the policies that are developed and advocated can be evaluated by persons who are expert in analyzing the political impact, as well as the technical impact, of any proposed policy.

A little research indicated that out of the 246 jobs open to political appointment, only 25 of the top 27 jobs in the State Department come to the Senate for its advice and consent—the ambassadorial slots, of course, excepted. These top 27 jobs range from the Secretary himself down to executive level VI.

□ 1230

Setting aside the Secretary and his Deputy, of course, there are only four members of the President's party in these key control slots. Indeed, the majority of these 25 key political slots are held by career service individuals who come from outside the political system. Small wonder that the President cannot get control of foreign policy.

The nominaton of Mr. Abramowitz is symptomatic of all of this. It has had a pronounced effect on our foreign policy. The only cure is reform, and there will be no reform as long as Mr. Abramowitz and his peers control the system.

Mr. President, I shall be prepared next week to go into this matter at great length.

Earlier today, I had a discussion with the distinguished majority leader and it was understood by me to be his intent to proceed to other business at about this hour.

The distinguished majority leader is not on the floor. I think in fairness to him, I should ascertain what he wants to do about it. Therefore, I ask unanimous consent that it be in order for me to suggest the absence of a quorum, provided that I shall be recognized at the end of the quorum call and the resumption of my speech shall not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, will the Senator repeat that? I did not hear the Senator.

Mr. HELMS. I said that Senator DOLE had discussed with me the possibility of moving on to something else at this time. I asked unanimous consent that I be permitted to suggest the absence of a quorum with the understanding that I will regain the floor and that the resumption of my remarks will be considered a second speech.

Mr. PELL. Mr. President, I would like to make a short statement concerning Mr. Abramowitz.

Mr. HELMS. Then will the Senator put in a quorum call on the same basis as I asked?

Mr. PELL. Yes.

Mr. HELMS. I thank the Senator.

Mr. PELL. Mr. President, this is a nomination that the Foreign Relations Committee considered very carefully. We held hearings on March 5 and April 9. At the conclusion, the committee gave Ambassador Abramowitz its strong endorsement in a 16-to-1 vote.

The majority of the committee found that Mr. Abramowitz has a distinguished record of public service which serves as a reliable indication he can do very well in his new post.

After serving in the Army he joined the Government in 1958.

He joined the Foreign Service in 1960, and rose quickly to positions of authority based on his demonstrated intelligence, competence, and diplomatic skills.

Speaking as an old Foreign Service officer myself, I can vouch for the reputation he has within the Service, a reputation for ability and integrity.

He has served in various posts in the Far East, including Ambassador to Thailand.

He widened and broadened his experience in 1972–78, while serving with the Department of Defense, dealing with such issues as regional base arrangements, United States troop levels and defense relations with the Republic of Korea.

His second tour of duty as an Ambassador came when he became head of our delegation to the Mutual and Balanced Force Reduction Talks for this administration.

Mr. President, Ambassador Abramowitz has twice been confirmed by this body as U.S. Ambassador.

I have no reason to doubt that Ambassador Abramowitz will serve in this position well and capably. His background and achievements indicate that he will be of considerable value to the Secretary of State and the Department. He will continue to be a strong asset and credit to the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I believe under the unanimous-consent request, I am to be recognized. Of course, I yield to the distinguished majority leader.

Mr. DOLE. Mr. President, I thank the distinguished Senator from North Carolina. He has indicated to me privately and also on the Senate floor that he would be prepared to discuss this nomination the rest of the day, and perhaps longer. It seems to me that there might be some other way to approach this, and that would be in private discussions with the Senator from North Carolina. We have had one meeting with reference to the nominee.

Since we have indicated to Members, because of Senator HELMS' statement, that this would be discussed throughout this day, we have indicated no further votes.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And now the nomination is back on the calendar.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, I will indicate to Senator HELMS that this is not the end, but we will try to resolve this matter in the next few days.

Mr. President, I understand the distinguished Senator from Georgia, Senator NUNN, wanted to make a statement of about 15 to 30 minutes in length on a matter within the jurisdiction of the Armed Services Committee. And there may be other Senators who wish to speak.

I would say to my colleagues who may be listening, or to members of their staffs, that there are no more votes today. We do have a number of meetings going on. There is a tax conference. A number of Senators are meeting on Gramm-Rudman-Hollings. There will be a number of other meetings.

Mr. President, we will recess the Senate as soon as Members have made the statements they would like to make.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, at this time, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Will the distinguished majority leader yield?

Mr. DOLE. I am happy to.

Mr. HELMS. As I understand, the nomination is returned to the calendar.

Mr. DOLE. Yes.

□ 1240

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCESS TO ABM TREATY NEGOTIATION RECORD

Mr. NUNN. Mr. President, over the last 8 months, a number of Senators have joined together in a bipartisan effort to persuade the administration to grant the Senate direct and independent—I stress the word "independent"—access to the negotiating record of the 1972 antiballistic missile treaty, as well as other related documents. These Members include the distinguished minority leader [Mr. BYRD]; the chairman and ranking minority members of the Strategic and Theater Nuclear Forces Subcommittee of the Armed Services Committee, Senator WARNER and Senator HART; and other members of the Armed Services Committee, including myself, Senator COHEN, Senator KENNEDY, and Senator LEVIN.

I also note that other Senators have been particularly helpful in trying to resolve this issue. I am particularly grateful for the assistance of Senator STEVENS, who heads up our arms control observer group and has been very helpful in discussing the importance of this access with the administration, as well as Senator GOLDWATER, the chairman of the Committee on Armed Services.

Our keen interest in this matter was precipitated by the announcement by the Reagan administration last fall, based on a new analysis of the treaty negotiating record, that it had determined that the traditional and longstanding interpretation of restrictions in the treaty pertaining to the development and testing of futuristic or so-called exotic ABM systems and components was in error. I use the word "ABM" as standing for antiballistic missile systems. That was the conclusion they announced.

On October 14 last year, Secretary of State Shultz declared "a broader intrepretation of our authority is fully justified."

As a matter of policy, though, the Secretary stated that the United States would continue for the time being to conduct the strategic defense initiative "in accordance with the restrictive interpretation of the treaty's obligations."

Mr. President, I rise today to inform my colleagues that we have run into a brick wall with respect to our request. There are some indications that the Reagan administration may be reexamining their position on Senate access, but this remains to be seen. Thus far, the administration has stuck to the position that it will neither allow Senators to examine the negotiating record nor provide us with copies of several related documents which individual Members have requested. I hope that my colleagues will keep in mind, we are not talking about access to the current negotiating record, we are talking about access to a record that was made between the United States and the Soviet Union back in the early 1970's.

□ 1250

We are also talking about a record to which the Soviet Union itself, of course, has total access since they were a party to the record.

The most the administration is apparently willing to do is to meet with interested Senators for an informal discussion of the ABM treaty negotiating record. If we can really believe that this is their reply—and I hope that it will not be their reply next week when we meet again—the administration has actually put in writing that while they would bring parts of the negotiating record and related documents to this meeting and they would read from these documents, they would not let the Senators see them. Presumably the administration officials would hold the documents close to their vests so that Senators could not peek at the documents. Again, these are documents that the Soviet Union has a copy of and they have their own record, of course.

The bottom line position we find ourselves in is clear. The Senate—and this transcends any question of political party—ratified the ABM treaty back in 1972. That treaty has been reinterpreted by the Reagan administration in very substantial and important aspects. This reinterpretation supposedly was based on the negotiating record, but the Senate has no access to the record and therefore no way to judge the soundness of the administration's position. I want to stress that I have not made a determination on the

substantive question of whether the administration's reinterpretation is right or wrong.

In my opinion, the interpretation of the existing ABM Treaty will be one of the most important keys to whether we reach a future arms control agreement with the Soviet Union in the negotiations that are now ongoing.

IMPLICATIONS OF THE ADMINISTRATION'S POSITION ON ACCESS

Mr. President, in my opinion, the administration's rejection of our request for Senate access threatens a basic institutional interest of the U.S. Senate—its constitutional role in the treaty process.

The Senate is being asked to accept the premise that this or any other administration can unilaterally reinterpret key provisions of a treaty years after the Senate has given its advice and consent on the basis of a completely different interpretation and then deny the Senate the information upon which that reinterpretation is based.

I find this position totally unacceptable to the Senate as an institution.

Judge Abraham Sofaer, the State Department Legal Counsel, has even gone so far as to infer that Senate hearings on treaties are irrelevant in determining obligations under such accords. In response to a question I submitted at a November 21 hearing, Judge Sofaer stated that Senate's ratification process "could not result in authoritative clarifications of any ambiguities in the treaty, because statements made during the hearings were unilateral."

In short, the judge is saying that no matter how many hours we spend in ratification hearings asking administration witnesses about the exact meaning of various treaty provisions, their replies only reflect individual views. The only "authoritative" source is presumably the negotiating record itself—which they will not let us see. This, I would submit, is a classic catch-22.

Mr. President, the administration cannot have it both ways. If the testimony of executive branch officials to the Senate is merely "unilateral" and not "authoritative" in terms of determining our obligations under treaties, then the Senate must see the negotiating record. But if this or any other administration takes the position that the Senate cannot see the negotiating record of treaties, then the testimony of administration officials as to the meaning of the treaty must be deemed authoritative.

Carried to its illogical extreme, Judge Sofaer's reply would suggest that were this or any other administration to present a new arms control treaty for the advice and consent of the Senate, we would have to insist that administration officials, such as the Secretaries of State and Defense, come to the ratification hearings with the entire negotiating record in hand so they could "prove" to Members that their explanations as what was agreed were indeed "authoritative".

This would be a ridiculous way to proceed in fulfilling our constitutional duties. It would cause tremendous problems between the Congress and the executive branch.

I submit to my colleagues that this would obviously be an untenable way to conduct treaty ratification proceedings. The Senate cannot approach every ratification debate on the assumption that administration witnesses are either incompetent or deceitful. The testimony of key officials must count for something—after all, the Constitution invests the President with the authority to negotiate treaties and his officials must be assumed to speak in his name in interpreting treaties to which he has affixed his signature.

As Dr. Abram Chayes, professor of law at Harvard, and himself a former legal adviser in the Department of State, states in an article on this subject in the current issue of the Harvard Law Review:

> The Senate's understanding of the treaty on which it acts depends on the interpretations provided by the President, who negotiated the treaty. Such interpretations are decisive with respect to the obligations assumed by the United States.

Indeed, this concept is explicitly stated in the American Law Institute's restatement of the law. The ALI restatements are routinely cited by the courts as authoritative expressions of the law. Section 314 of the most recent draft of the ALI restatement of U.S. foreign relations law states:

> When the Senate gives its advice and consent to a treaty on the basis of a particular understanding of its meaning, the President, if he makes the treaty, must do so on the basis of the Senate's understanding.

The ALI restatement goes on to explain that even if the Senate makes no formal statement of understanding, "indication in the record that the Senate ascribed a particular meaning to the treaty is relevant to the interpretation of the treaty by a U.S. court in much the same way that the legislative history of a statute is relevant to its interpretation.

THE DEBATE OVER THE ADMINISTRATION'S REINTERPRETATION

Mr. President, I believe a careful reading of the 1972 Senate hearings and floor debate on the ABM Treaty makes it abundantly clear that the Senate understood quite well what it was being asked to approve with respect to limits on the development and testing of futuristic space-based ABM systems and components. I recognize that this point is being challenged by Judge Sofaer, who contends that the Nixon administration's presentation of the treaty to the Senate in 1972 was confused and at times contradictory with regard to these provisions.

At some other time, I would be prepared to go into this matter in considerable detail. But if, for the sake of argument, we set-aside the question of what the Senate thought was agreed upon in the course of negotiations and imply address the question of what was actually agreed, we are left with a disturbingly contradictory set of claims.

On one hand, Judge Sofaer insists that based on his review of the negotiating record, "the Soviets never agreed to ban development and testing of systems or components based on other physical principles, regardless of their basing mode." This conclusion is challenged by a statement released on May 26 by seven of the ranking members of the U.S. delegation that negotiated the treaty, including the chairman, the deputy chairman, the alternate chairman, the executive secretary and the legal adviser, as well as Harold Brown, who was a delegate-at-large.

In this statement, the seven former SALT I negotiators declare:

> We wish to confirm our view that the Treaty prohibits the development and testing, as well as deployment, of all space-based and other mobile-based ABM systems and components, regardless of whether they use 1972-era or newer technologies. This view of the Treaty is clear from the ordinary meaning of the Treaty text, the Treaty's negotiating record, the United States legislative history, and the subsequent practice of both the U.S. and the Soviet Union. We believe that a careful reading of the classified negotiating record will support our position.

Mr. President, this fundamental disagreement between those who negotiated the treaty under President Nixon and those who are now reinterpreting it under President Reagan would be confusing enough if the administration's position on this issue were monolithic. However, we know that the administration is itself divided on the question of how the treaty applies to the development, testing and deployment of exotic, space-based ABM technologies.

□ 1300

The inhouse memo for Assistant Secretary Perle prepared last year by a Department of Defense lawyer named Philip Kunsberg reportedly concludes that such systems cannot only be developed and tested, but also deployed. I say "reportedly" because the administration refuses to let us see this memo.

At the same time, I have been told that other knowledgeable administration officials have concluded that neither Judge Sofaer nor Mr. Kunsberg is correct and that the traditional interpretation is in fact fully consistent with the negotiating record.

Judge Sofaer's position is, I gather, also questioned by a detailed review of the negotiating record conducted last year under a DOD contract to the Systems Planning Corp. [SPC]. The SPC study was coauthored by Sidney Graybeal and Colonel Fitzgerald, both former members of the U.S. SALT I delegation. We have been refused access to this memo, too.

Mr. President, I might add that I find it completely unacceptable that the administration is prepared to give the negotiating record of the ABM Treaty to private contractors to analyze but denies it to Senators.

I repeat: Not only has this record been distributed to outside consultants, it is a record that the Soviets themselves have. I find that anomaly, to say the least.

THE CONSTITUTIONAL ROLE OF THE SENATE IN TREATYMAKING

Given the internal disarray of the administration on this issue, the strong dissent by those who negotiated the treaty, the profound implications of the administration's action for Congress' role in approving arms control agreements, and the significant impact that the revised interpretation would, if implemented, have on U.S. foreign and arms control policies, I think it is totally unreasonable for the administration to expect the Senate to take it on faith that the new interpretation accurately reflects the negotiating record. To do so would constitute a fundamental abdication of our important role and responsibilities in this area, assigned to us by the U.S. Constitution.

As the Library of Congress concluded in a study of the Senate's right to receive documents relevant to a treaty negotiation:

> The totality of authority to advise and consent demands that it [the Senate] be fully informed as to the process of negotiations and all matters ancillary thereto. Without information its ability to perform its Constitutional function is crippled and it would be unable to carry out the responsibilities devolved upon it by the Constitution.

I am prepared to say that it is possible that upon a close reading of the negotiating record, we may conclude that Judge Sofaer's view as to what was agreed in 1971 and 1972 between the United States and the Soviet Union is closer to the mark than Ambassador Smith and Harold Brown's recollections of what transpired. I will await an examination of the record, assuming that we get the record at some point, before I will make that judgment. However, it is clear as day that unless we can analyze the record for ourselves, we are left with having to trust that this administration's reading not only is in fact correct, but also is a correct legal interpretation.

If the administration has the courage of their convictions, and if they look at the history of cooperation with the U.S. Senate, they should be more than willing to let the Senate see the negotiating record. Until we have this access, we can only harbor strong suspicions that they have something to hide. That is the only conclusion I can come to.

Mr. President, in formulating the constitutional division of checks and balances in the treatymaking area, the Founding Fathers explicitly rejected an approach wherein the Senate would delegate exclusive authority over treaties to the Executive. As stated in Federalist Paper No. 75:

> The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to be the sole disposal of a magistrate created and circumstanced as would be a President of the United States.

One hundred years later, a distinguished American jurist, Supreme Court Justice Story, echoed this theme:

> It is too much to expect that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties . . . The check, which acts upon the mind from the consideration that what is done is but preliminary and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution and compels to deliberation.

More recently, though in a different but related context, the distinguished chairman of the Armed Services Committee, Senator GOLDWATER, also warned against the notion that the Senate's role in treatymaking stops at the point where advise and consent is given. Arguing in 1978 against President Carter's unilateral termination of the United States mutual security pact with Taiwan, Senator GOLDWATER said:

> The Framers created a system of checks and balances especially to assure that there would be joint deliberation within the Government on important matters of this kind. The added deliberation called for by requiring legislative participation offers security to the people that an action of major consequences will not be taken lightly or without an opportunity for adequate consideration.

Mr. President, our judicial branch of Government does not take it on faith that the executive branch can in every case be relied upon to accurately represent the intent of parties to a treaty; it insists on being shown the evidence. A pertinent recent example is *Coplin v. the U.S.* [761 Fed 2d 688 (1985)]. In this 1985 case, the Reagan administration argued that the apparent literal meaning of one sentence in the Panama Canal Treaty could be disregarded because the executive branch said that the negotiating record made it clear that the two nations had something else in mind. The U.S. Claims Court rejected the administration's argument, stating that the Government had presented "no evidence whatsoever" as to the intent of the parties during the negotiations. Only after the Government presented documents on appeal indicating the intent of the contracting parties did the Federal courts agree that it should not give literal effect to the treaty language.

Mr. President, I believe we are in an analogous position here. The administration has presented the Senate with—in the words of the U.S. Court of Appeals in that case—"no evidence whatsoever" as to the intent of the signatories as represented in the treaty negotiating record. If there is such evidence, it rests within the negotiating record of this treaty and we must see it before we can judge who is right and who is wrong.

□ 1310

PRECEDENTS FOR SENATE ACCESS

The administration would have us believe that the principle of executive privilege prevents it from granting the Senate access to the ABM Treaty negotiating record. They suggest that there is an unbroken line extending back to the beginning of the Republic upholding the total confidentiality of treaty negotiations. For example, in a recent article, Judge Sofaer states:

> Nations maintain the confidentiality of Treaty negotiations in order to promote frank exchanges during the course of negotiations and to prevent negotiators from engaging in posturing for the benefit of their publics. As early as the administration of President Washington, the Executive Branch refused to release negotiating records to Congress or the public.

Judge Sofaer then cites "President Washington's refusal to communicate to the House of Representatives records of negotiations leading to the Jay Treaty."

Mr. President, this statement by the State Department's highest legal authority is sadly indicative of the kinds of half-truths, misrepresentations, and unsubstantiated assertions that have emanated from the Office of the Legal Advisor since the beginning of this controversy. To be sure, it is true that President Washington refused to release the negotiating record of the 1795 Jay Treaty to the House of Representatives. He did so because he believed the House had no direct role in the making of treaties or ratifying the treaties.

What Judge Sofaer does not say in this article is that President Washington did agree to a request from the Senate that it be provided with the negotiating record. It is doubly troubling that Judge Sofaer has misrepresented this event since he is widely acknowledged as one of our country's leading experts on the Nation's early experience in applying the Constitution's system of checks and balances in the foreign affairs area. Indeed, the

judge's own book, "War, Foreign Affairs and Constitutional Power," fully documents the events attendant to the ratification of the Jay Treaty, including submission of the treaty negotiating record by President Washington to the Senate.

Here we have a statement citing authority of the President by Judge Sofaer saying that the President did not submit to the House of Representatives.

Mr. President, the action by the Chief Executive in granting the Senate access to the negotiating record of the Jay Treaty was not an isolated historical event. A 1979 study prepared by the Library of Congress concludes that "Executive compliance with Senate requests for treaty-connected materials seems to be the rule; refusals, the exception." From the administration of George Washington to that of Warren Harding, the Library of Congress found only three occasions where a President refused a Senate request for the documents and ancillary material related to the negotiation of a treaty before it for ratification.

Moreover, there are innumerable precedents illustrating the direct access of the Senate to treaty negotiating records as they were being made. A number of contemporary examples come to mind. During the negotiation of SALT II, Senators sat in on negotiating sessions with the status of "Advisors."

Currently, the Senate arms control observer group, of which I am the ranking Democrat on that group, and Senator STEVENS, of Alaska, is the chairman, is closely monitoring the Geneva talks, not as negotiators but as observers.

The ultimate paradox is that we are observing the current negotiating records, but we are denied a record that is now some 15 years in the past.

Senators participated in the Law of the Seas negotiations and were fully and directly involved in the Reagan administration's review in 1981–82 of the entire record of the negotiation up to that date.

Under the Trade Act of 1974, Senators are accredited as official advisors on U.S. delegations to trade negotiations. Furthermore at this current time the Senate Finance Committee routinely receives confidential information regarding ongoing negotiations, including reporting cables, position papers and negotiating instructions.

This pattern of direct congressional role in treaty negotiations goes back to the turn of the century, when Senators were designated as negotiators during the 1898 peace negotiation with Spain. Senators Lodge and Underwood served as fully accredited delegates to the Washington Naval Conference of 1922. On study of the role of Congress in this area determined that from 1930 to 1960 alone, 252 places on U.S. delegations to international negotiations and conferences were filled by Members of Congress. Forty of these places involved full participation by the Member in a major treaty negotiation.

Mr. President, in reviewing this record, it is obvious that the Senate has routinely been represented at the bargaining table as major treaties were negotiated.

I am not requesting that here. We are simply asking for the record. It is also clear that the Senate has routinely asked for, and been granted, access to the negotiating record of treaties at the time that those treaties were before the Senate for its advise and consent. In short, the notion that there is some sort of impenetrable wall behind which negotiators conduct their business forever shielded from the scrutiny of the Senate is preposterous, preposterous today and preposterous based on the reading of the history.

I have heard some administration officials suggest that while these facts that I recited may be unassailable, it is a completely different question for the Senate to request access to the negotiating record of a treaty that has already been entered into force. This, they claim, is unprecedented.

Let me say in answer to that allegation, this is a position which I think is again preposterous.

First, I am aware of no rule that suggests that once a treaty is put into effect, its negotiating record remains forever sealed. To the contrary, the State Department publishes the historical series entitled, "Foreign Relations of the United States." This series discloses for public and congressional review previously confidential details of sensitive negotiations—albeit 20 years after the fact.

With this in mind, the administration is reduced to arguing what I would regard as an extraordinarily circumscribed concept of executive privilege. The administration seems to be claiming that it is all right for the Senate to see a negotiating record as it is being made; it is all right for the Senate to see it while a treaty is pending; and it is all right to see it 20 years after the fact, but it is not all right for the Senate to see it during the first 20 years following the conclusion of the negotiations.

Mr. President, I submit this is an absolutely absurd argument.

I do not see how people can make this argument with a straight face, frankly.

Second, I would point out that, as far as I can determine, there is no precedent for an administration acting unilaterally to reinterpret a crucial provision of a major treaty years after the Senate gave its advice and consent on the basis of an entirely different understanding. My staff has consulted with the Library of Congress, the Office of the Senate Historian and virtually every living former staff director of the Senate Foreign Relations Committee under Democratic and Republican administration and control going back over 30 years. In no case, could the Library of Congress, the Office of the Senate Historian or the former staff directors identify a precedent for this action.

WHY THE SENATE MUST ACT NOW

Mr. President, I recognize that the President decided last fall to adhere for the time being to the traditional interpretation of this ABM treaty as a matter of policy. Some would argue that this renders this issue moot. But we should not underestimate the significant pressures that are now being brought to bear against that decision.

In testimony before the Armed Services Committee, Assistant Secretary of Defense Richard Perle claimed that SDI research can be completed more quickly and at lower cost by abandoning the restrictive interpretation. Mr. Perle's deputy, Frank Gaffney, said in a speech this spring that the broader interpretation is "absolutely critical to our ability to validate many of the technologies in the SDI program." In addition, ACDA Director Ken Adelman recently revealed in the media that switching to the broader interpretation is one of the options the administration is considering as a response to Soviet arms control violations.

I do not dispute any of these courses of action provided they are done in accordance with the treaty provisions, provided they are done in accordance with the law, and provided they are done openly and freely with the American people. There are procedures set forth in the treaty for amendment, there are procedures set forth in the treaty for addressing even the question of whether we would comply with the treaty, and those procedures are not being complied with in this case.

In the Arms Control Impact Statement on SDI for fiscal year 1987, ACDA even goes one step farther, threatening that the decision will be reversed if Congress fails to give the SDI program "the support needed to implement its plan." According to the New York Times, this shot across the bow was cleared through the interagency process.

Mr. President, if for no other reason, we need to reach an independent judgment on this question simply to put an end to this absurd business of using treaties as some sort of political football. Treaties are the law of the land. They represent a solemn commitment by our Nation on behalf of all its citizens. Thus the question of what is the correct, legal interpretation of any treaty should not be taken lightly.

If the Soviets breach a treaty we ought to say so and we ought to take action. We can serve notice if we think their breach is serious enough. We can serve notice that we are disavowing the treaty. Those things are provided for. What we are talking about here is whether we are going to treat treaties indeed with the respect that they need to be treated with, if we are to have any kind of credibility in terms of our foreign policy and foreign relations, not just in this case, not just for the Soviet Union, but with any other country.

□ 1320

And certainly what is at stake here is whether we will have credibility between the executive branch and the legislative branch of Government.

The ABM treaty should not be bandied about as some sort of club threatening Congress if we do not fully fund any particular program, and it should not be manipulated to achieve shortcuts in achieving certain research goals.

The time to act is now, before there is any further erosion in the system of checks and balances that the Framers of the Constitution established in the treaty-making area. As the noted Supreme Court jurist, Justice Frankfurter, stated in 1952:

> The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

I certainly hope the Senate will be able to gain access to the negotiating record without recourse to legislation, or to subpoena, or to any other confrontation. Certainly in a period where we are going through sensitive and crucial arms control negotiations, to have the two branches of Government at a loggerhead on this question is not in the interest of our Nation. I hope that the administration will recognize the Senate's constitutional role in this area and agree to our request. That is a simple way to end it. Unfortunately, the administration has chosen to stonewall our request. I must say, I have received a phone call from Judge Sofaer. We do have meetings set up next week. I am hoping that the administration's position will change. So far, however, they have rejected the course of common sense and they have rejected the historical respect for the Senate's constitutional role. Unless the administration changes its position, I see no choice but for the Senate to confront them with a less attractive alternative.

Unless we can work out something before the defense bill comes up, or, if the defense bill is not coming up, before the debt ceiling bill is complete, I intend to offer an amendment designed to reinforce the Senate's position in this dispute. I intend to pursue this amendment, whether it takes days, weeks, months, or even years, because it is a very important institutional, as well as foreign policy, precedent.

Mr. President, I submit that one should not start out on a long journey unless he has an accurate and authoritative roadmap in front of him. There are many things that we need if we are to sketch out a useful roadmap for the Strategic Defense Initiative. We need to know what the goals of the program are. Are they to construct a perfect population peace shield or to enhance deterrence by improving the survivability of our retaliatory forces? We have heard top administration officials take both positions. We need to know the criteria for determining technical feasibility, survivability, and cost-effectiveness at the margin, and whether those criteria can be met. And, critically, we need to know the full implications of the Strategic Defense Initiative for arms control.

I do not think we can determine the last point unless we, in the Senate, independently resolve to our complete satisfaction the issue of permissible development and testing of exotic SDI technologies. And I do not think we can do that unless we let the administration know that we are perfectly serious about the constitutional prerogatives of this institution with respect to treaties.

Mr. President, the Senate, in my view, must take a stand on its treaty-making powers and insist on access to the negotiating record and to related documents.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SIMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1340

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. HELMS. Madam President, (Mrs. KASSEBAUM) I ask unanimous consent that I be allowed to yield momentarily to the distinguished Senator from Ohio, provided that I do not lose my right to the floor and that the business that he will transact will appear elsewhere in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. METZENBAUM. I thank my colleague from North Carolina. I appreciate very much his courtesy.

Madam President, I ask unanimous consent that, as in legislative session, I be able to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAL AND LIFE INSURANCE BENEFITS FOR RETIREES

Mr. METZENBAUM. Madam President, I send a bill to the desk and ask for first reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2690), to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees.

Mr. METZENBAUM. I thank the Chair. I very much appreciate the courtesy of my colleague from North Carolina.

Mr. HELMS. My colleague is, of course, welcome.

(Conclusion of earlier proceedings.)

1985 TAX SUMMARY

Mr. DOLE. Mr. President, as has been my practice in the last several years, I would like to make available to the public a summary of pertinent information concerning my 1985 Federal and State income tax returns.

My 1985 income included a Senate salary of $84,945, honoraria of $127,993, $50,176 from weekly radio programs, and $5,842 in interest income.

In keeping with my long-standing policy, no honoraria were accepted, or will be accepted, which might create the appearance of a conflict of interest either for myself or for my wife, Department of Transportation Secretary Elizabeth Dole. Of the $127,993 in honoraria received, $106,618 or 83.3 percent, was donated to charity. An itemized list of these charitable donations is attached, and I request that it be included as a part of this statement.

The returns show that on taxable income of $129,933, $53,612 was paid in income taxes for 1985, including $45,949 in Federal and $7,663 in Kansas and North Carolina taxes.

Mr. President, I ask unanimous consent that a table summarizing my taxable income for 1985 be incorporated in the RECORD at this point as a part of my statement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Robert J. Dole.—Summary of Income Tax Information

	1985
Senate salary	$84,945
Honoraria	127,993
Less honoraria donated to charity	(106,618)
Net honoraria	21,375
Radio fees	50,176
Interest income	5,842
Miscellaneous (rental income, State tax refund, other)	11,951
Office account reimbursement	6,091
Total	180,380

1985 Honoraria contributed to charity—Senator Robert Dole

Charity	Amount
American Lung Association of Kansas	$4,000
National Immigration Archives of the Balch Institute for Ethnic Studies	118
Foundry Methodist Church	13,000
United Cerebral Palsy of Kansas.	2,000
Kansas Society for Crippled Children	3,500
Trinity United Methodist Church	2,000
Academy of Mount St. Scholastica	2,000
Institute of Logopedics, Inc	4,000
Kansas Association for the Deaf, Inc	4,000
Lakemary Center	10,000
The Agricultural Hall of Fame & National Center	1,500
American Heart Association	2,000
Kansas Association for Mental Health	2,000
Leukemia Society of America	1,000
Kansas Commission for Prevention of Child Abuse	1,500
Kansas Foundation for the Blind	4,000
Russell City Hospital Foundation	2,000
Kansas State Hospital Society	1,000
Society for Autistic Children, Kansas Chapter	4,000
United Negro College Fund	2,000
National Hispanic Scholarship Fund	5,000
Goodwill Industries of Greater Wichita	2,000
United Negro Fund	4,000
Kansas Association for Retarded Citizens	2,000
National Kidney Foundation of Kansas and Western Missouri	4,000
Benedictine College	3,000
Mid-America All Indian Center	1,000
Sarah's Circle	1,500
Emporia State University Endowment	2,000
The William A. Steiger Congressional Fellowship	1,000
Fellowship of Christian Atheletes	2,000
American Heart Association, Kansas Affiliate	4,000
Huntington's Disease Fund of America, Kansas Chapter	2,000
The Capper Foundation for Crippled Children	3,000
Allyn Cox Memorial Art Fund	1,000
Kansas Wesleyan College	1,500
Leukemia Society of America, Kansas Chapter	2,000
Total	106,618

THE TAX AGREEMENT WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOYNIHAN. Mr. President, yesterday the Senate ratified the complete income tax treaty to be signed with the People's Republic of China. This was not a small event. Efforts were set in motion many years ago and the treaty was, in fact, initiated by the President in 1984 in Beijing, as he states to us in the letter of submittal July 24, 2 years ago.

The treaty is based on a model income tax treaty prepared by the Department of Treasury of the United States, and it is a matter of large consequence to the economic relations between our two nations.

Mr. President, I think it may be said that while the benefits of the treaty are reciprocal, as they ought to be or the President would not have signed the treaty and the Senate would not have approved it for ratification, the benefits, however, may be described as principally enabling and fostering American investments in the People's Republic.

The treaty provides a series of guarantees as to what income will be taxed, what will not be taxed, what could be repatriated, and other guarantees concerning investments. That is the principal purpose of tax treaties.

Mr. President, we do not anticipate that there will be a large amount of investment by the People's Republic in the United States. There has been much discussion of investment by United States firms and individuals in the People's Republic.

So we have accomplished something which will be mutually beneficial to our two nations and that is good.

I wish to reiterate today, Mr. President, so that the record is clear, that if the People's Republic of China had not on July 23 released the New York Times bureau chief in Beijing, Mr. John F. Burns, after 6 days in near solitary confinement on an absurd charge of espionage; had the People's Republic not released Mr. Burns, we would not have voted on this treaty.

Specifically, Mr. President, yesterday we were in executive session prior to proceeding to consider the tax treaty. Under the procedures of this Chamber, if the Senate is in executive session a motion to take up a matter on the Executive Calender is debatable.

This Senator would have debated it into October if need be, or indeed, until it was taken down, which would have been done very quickly and with no great resistance from the majority or minority leader in view of the extraordinary conduct of the Chinese authorities. This ought to be understood in Beijing.

Mr. A.M. Rosenthal, the executive editor of the New York Times, and Mr. Warren Hoge, the Times' foreign editor, flew from New York to Beijing to ask what was happening to American journalists. They made very modest statements to the effect that were Mr. Burns to be detained in the condition he was and for any length of time, it would damage relations between our countries. Yet, the Chinese authorities chose to dismiss this though as one beneath their concern.

If that were the case, then they might have considered whether they should have written that treaty in the first place; because, whether they understand this or not, the U.S. Senate holds as a matter of large consequence the treatment of American journalists abroad and takes a very concerned view of any charge of espionage directed against a distinguished journalist for a reputable journal.

Mr. President, I simply want the RECORD to show that it was just in the very nick of time that the Chinese authorities released Mr. Burns. For reasons that we could not find acceptable, they chose to expel him, but he is at least at liberty.

And it is a good thing this was done, else this treaty would not have been available for consideration. The Senator from New York would have felt it necessary to debate the motion. He would have found support in this matter on both sides of the aisle, and the effort would have prevailed.

I simply say in closing that not quite 1 year ago, our distinguished majority leader led a trade delegation to the Far East. I had the honor to be with it as well. We had a great many talks with the Chinese officials in the Great Hall of the People. We visited Shanghai. We inquired at length into possibilities for improvement of economic relations between our countries. We thought we had made some progress.

We were dismayed to see the behavior of the last week. We are relieved that it is over and I am happy that the recourse that would have been necessary did not in the end prove so. But I want the RECORD to show that if any police official in Beijing thinks it would not matter to the relationship between our countries that they simply threw an American journalist into prision and kept him there incommunicado, that official was wrong and would have been proved wrong in short order.

Mr. President, I thank the Senate for its courtesy in hearing me in this matter. I ask unanimous consent that there be printed in the RECORD the report of Mr. Burns' expulsion, together with the text of the Chinese statement on that occasion.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 14, 1986]

TIMES REPORTER IS EXPELLED FROM CHINA

The Peking bureau chief of The New York Times was expelled from China yesterday after being detained for nearly six days on suspicion of espionage.

The correspondent, John F. Burns, was placed aboard a plane of the Chinese state airline and flown to Hong Kong.

The official New China News Agency said he had been ousted from the country for "activities incompatible with his status as a journalist." It said he had been involved in "deliberately breaking into Chinese areas closed to aliens, thereby violating the law governing aliens' entry into and exit from the People's Republic of China."

In a statement issued in New York, Arthur Ochs Sulzberger, publisher of The Times, said, "We are grateful for the prompt resolution of the problem facing John Burns, though we regret his expulsion from China after so many years of distinguished reporting for The New York Times."

ACCUSED OF "ACT OF SPYING"

The Chinese authorities told A.M. Rosenthal, executive editor of The Times that they considered Mr. Burns guilty of an "act of spying and intelligence gathering which will not be tolerated by any sovereign state."

Mr. Rosenthal, who arrived in Peking on Saturday with the newspaper's foreign editor, Warren Hoge, said of Mr. Burns: "I believe in his innocence of any espionage and intelligence gathering."

The Times editors were told by the Chinese authorities yesterday that Mr. Burns and an American traveling companion had broken into "a military restricted zone of our country" and had taken "numerous photographs of classified objects."

Mr. Burns's wife, Jane Scott-Long, and their two children, Jamie, 5, and Emily, 2, were allowed to remain behind in Peking to complete the family's preparations to leave China.

Mr. Burns said the trip out of which the charges grew had been "a legitimate journalistic venture."

"This is not the kind of thing spies do," he told reporters after his arrival in Hong Kong. "I'm not a spy. I'm a journalist. If I had been a spy, I certainly would not have chosen to do anything as clumsy as this way to go about gathering information."

Until yesterday, Mr. Burns, who spent most of his incarceration incommunicado in a small cell, had not been accused of any offense. On Monday he was allowed to see his family, British and American Embassy officials and his editors.

Mr. Rosenthal voiced regret over Mr. Burn's expulsion, adding, "We'll soon be asking the Foreign Ministry to accredit another New York Times correspondent to China." He said he had been assured by the authorities that the newspaper would be allowed to replace Mr. Burns.

The case against Mr. Burns arose from a motorcycle tour of central China that began late last month. He was accompanied by Edward McNally, a lawyer on leave from the United States Justice Department to teach constitutional law at Peking University, and Zhang Daxing, who had recently returned to China after studying in the United States.

During their trip, the three were stopped by the police near the border of Shaanxi and Sichuan provinces and told they were in a restricted area. They were held for two days but were allowed to return to Peking after writing long "self-criticisms."

Mr. Burns, who said he had thought the matter had been resolved, was taken into custody for a second time on Thursday at the Peking airport as he and his family prepared to leave China on vacation. He was questioned at the airport for 15 hours, his home was searched and he was taken to a detention center early Friday morning.

Film from the trip was confiscated, and Chinese officials told the Times editors yesterday that the materials would not be returned.

Mr. McNally had left China to attend to business in Hong Kong before Mr. Burns was detained. Mr. Zhang was reported to have been questioned for a day and ordered to write a second self-criticism. His whereabouts were not known.

Mr. Burns who is 41 years old, was born in Britain and travels on a British passport. He became the Time's Peking bureau chief in 1984. He reported from China for The Globe and Mail of Toronto from 1971 to 1975, when he joined The Times. He has also served as The Time's bureau chief in Johannesburg and Moscow.

TEXT OF CHINA'S STATEMENT

(Following is the text of a Chinese statement on the case of John F. Burns, the Peking bureau chief of The New York Times, who was expelled yesterday. The statement was read in Peking by Xu Hui, an official of the State Security Bureau, to A. M. Rosenthal, executive editor of The Times, and Warren Hoge, the newspaper's foreign editor.)

The Burns-McNally case is a grave one. They disregarded the laws of China, deliberately violating the law governing aliens entering into and exiting from the People's Republic of China. They broke into a military restricted zone of our country and took numerous photographs of classified objects.

Such demeanor obviously constitutes an act of spying and intelligence gathering which will not be tolerated by any sovereign state and needless to say is also a regrettable incident.

We attach great importance to friendly relations between China and the United States and are loath to see such a relationship impaired.

Since the beginning of the Burns and McNally case, while upholding the sovereignty of the law of China, we have acted with the utmost restraint and have sought earnestly to deal with the matter satisfactorily within the limits permitted by law and restricted to the least possible publicity.

It is out of such considerations that we did not investigate and affix criminal responsibility of the two persons through judicial procedures, which we could have done according to the nature of their offense.

Thus the penalization has been greatly mitigated. We hope this is taken notice of by the U.S. side.

We have made a decision to expel Burns from the territory of the People's Republic of China today.

We will only release a brief news item, without making public the details of the case.

We will adhere to this attitude unless we are faced with a difficult situation, in which case we will have to act against our will.

MESSAGES FROM THE HOUSE

At 9:55 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5162. An act making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 415. An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorney's fees to certain prevailing parties, to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 12:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 1965) to reauthorize and revise the Higher Education Act of 1965, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that the following are appointed as conferees: for consideration of all provisions (except section 157) of the Senate bill and all provisions of the House amendment and modifications thereof committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. BIAGGI, Mr. WILLIAMS, Mr. OWENS, Mr. HAYES, Mr. PERKINS, Mr. BRUCE, Mr. SOLARZ, Mr. DYMALLY, Mr. ECKART of Ohio, Mr. PENNY, Mr. ATKINS, Mr. JEFFORDS, Mr. GOODLING, Mr. COLEMAN, of Missouri, Mr. PETRI, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. TAUKE, Mr. MCKERNAN, and Mr. HENRY.

Appointed as an additional conferee, for consideration of title V of the Senate bill and title XIII and section 1405 of the House amendment, and modifications thereof committed to conference: Mr. KILDEE.

Appointed as an additional conferee, for consideration of title III of the Senate bill and title XIV of the House amendment, and modifications thereof committed to conference: Mr. BARTLETT.

Appointed as additional conferees, from the Committee on Energy and Commerce, for consideration of sections 147 and 189 of the Senate bill, and modifications thereof committed to conference: Mr. DINGELL, Mr. SCHEUER, Mr. WAXMAN, Mr. LENT, and Mr. MADIGAN.

Appointed as additional conferees, from the Committee on Foreign Affairs, for consideration of title VI of the Senate bill, and modifications

thereof committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. MICA, Mr. BROOMFIELD, and Ms. SNOWE.

Appointed as sole conferees, from the Committee on the Judiciary, for consideration of section 157 of the Senate bill, and modifications thereof committed to conference, and as additional conferees for consideration of section 198 of the Senate bill, and modifications thereof committed to conference: Mr. RODINO, Mr. EDWARDS of California, Mr. GLICKMAN, Mr. FISH, and Mr. BROWN of Colorado.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, Dependent Care, Community Services Block Grant, and Community Food and Nutrition Programs, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that the following are appointed as conferees: for consideration of the House bill and all provisions (except title X) of the Senate amendment, and modifications thereof committed to conference: Mr. HAWKINS, Mr. KILDEE, Mr. MURPHY, Mr. OWENS, Mr. PERKINS, Mr. BRUCE, Mr. ECKART of Ohio, Mr. JEFFORDS, Mr. GOODLING, Mr. COLEMAN of Missouri, Mr. PETRI, and Mr. TAUKE.

Appointed as additional conferees, from the Committee on Energy and Commerce, for consideration of title III of the Senate amendment and modifications thereof committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. SHARP, Mr. MOORHEAD, and Mr. DANNEMEYER.

Appointed as additional conferees, from the Committee on Education and Labor, for consideration of title X of the Senate amendment and modifications thereof committed to conference: Mr. HAWKINS, Mr. BIAGGI, Mr. WILLIAMS, Mr. HAYES, Mr. ECKART of Ohio, Mr. MARTINEZ, Mr. JEFFORDS, Mr. GOODLING, Mr. COLEMAN of Missouri, and Mr. BARTLETT.

From the Committee on the Judiciary: Mr. RODINO, Mr. EDWARDS of California, Mr. CONYERS, Mr. FISH, and Mr. SENSENBRENNER.

Appointed as additional conferees, from the Committee on Energy and Commerce, for consideration of section 1006 of the Senate amendment and modifications thereof committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LENT, and Mr. MADIGAN.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5162. An act making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 25, 1986, she had presented to the President of the United States the following enrolled bill:

S. 415. An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorney's fees to certain prevailing parties, to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 565. A bill to direct the Secretary of Agriculture to convey, without consideration, to the town of Payson, AZ, approximately 31.14 acres of Forest Service lands (Rept. No. 99-339).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 1766. A bill to designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr. (Rept. No. 99-340).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 1963. A bill to direct the Secretary of the Interior to convey certain interests in lands in Socorro County, NM, to the New Mexico Institute of Mining and Technology (Rept. No. 99-341).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 1593. A bill to direct the Secretary of the Interior to release on behalf of the United States certain restrictions in a previous conveyance of land to the town of Jerome, AZ (Rept. No. 99-342).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1740. A bill to direct the Secretary of the Interior to release a reversionary interest in certain lands in Orange County, FL, which were previously conveyed to Orange County, FL (Rept. No. 99-343).

H.R. 1795. A bill to exempt certain lands in the State of Mississippi from a restriction set forth in the act of April 21, 1806 (Rept. No. 99-344).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. BYRD, Mr. DURENBERGER, Mr. GLENN, and Mr. SPECTER):

S. 2690. A bill to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees; read the first time.

By Mr. MITCHELL (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2691. A bill to allow Federal judges to receive the same by pay increases as are granted all other Federal employees; to the Committee on the Judiciary.

By Mr. McCLURE (by request):

S. 2692. A bill to provide for the payment of interest on certain lease revenues paid to the Secretary of the Interior, to eliminate certain unnecessary reporting requirements, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG:

S.J. Res. 379. Joint resolution to designate the Fallen Fire Fighters Statue and Plaza in Colorado Springs, CO, as the National Fire Fighters Memorial; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. Res. 453. Resolution expressing the sense of the Senate that the Secretary of Agriculture maintain the $5.02 per bushel loan rate for soybeans; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIEGLE:

S. Res. 454. Resolution urging the full restoration in Eastern Europe of the Byzantine Rite Catholic Church and of freedom of religion for the people of all captive nations, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. BYRD, Mr. DURENBERGER, Mr. GLENN, and Mr. SPECTER):

S. 2690. A bill to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees; read the first time.

PROVISION OF CERTAIN BENEFITS TO RETIREES

● Mr. GLENN. Mr. President, I am joining with several of my colleagues in sponsoring legislation to require the LTV Corp. to resume providing health and life insurance coverage for retirees, unless and until a court of competent jurisdiction tells them to cease. I believe this legislation is necessary in order to protect the 78,000 LTV retirees nationwide, including 31,000 retirees in Ohio, whose benefits were abruptly terminated July 17 when the corporation filed their chapter 11 petition.

The LTV Corp. believes that, when it filed under chapter 11, it was legally required to treat retirement health and life insurance benefits like all other obligations, and suspend payment. Under our bill, they would still

be able to present this argument to the court; I hope that the court would rule expeditiously on this very important legal issue. Most important of all, the LTV retirees would have insurance coverage until the matter is resolved by the court.

We do not have figures on LTV's financial condition, so we do not know how much of a burden this bill would impose. The legislation, however, does allow the corporation to go into court and show that it simply cannot pay health and life benefits to retirees without going into chapter 7; that is, liquidation of the corporation. Obviously, if LTV believes that payment of these benefits would force it into chapter 7, then it should immediately apply to the bankruptcy court for relief. As an example of such quick relief already granted, I note that LTV obtained permission from the bankruptcy court within 1 day for its active employees; I assume that it could obtain equally rapid relief in a bankruptcy court in other procedures covered by this bill.●

By Mr. MITCHELL (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2691. A bill to allow Federal judges to receive the same by pay increases as are granted all other Federal employees; to the Committee on the Judiciary.

PAY TREATMENT OF FEDERAL JUDGES

Mr. MITCHELL. Mr. President, today I am introducing legislation to correct what I consider to be unfair treatment for Federal judges that is directly attributable to an amendment added to a continuing resolution passed in December 1981. I am pleased to be joined in this effort by Senator HOLLINGS and Senator BENTSEN.

In 1975, through Public Law 94-82, the Executive Salary Cost of Living Adjustment Act, Congress included within annual payroll comparability adjustment machinery embodied in title 5, United States Code, a group of government officers not previously covered by that law: the highest ranking officers of the executive branch, Members of the House of Representatives and Senators, Justices of the Supreme Court, and U.S. Courts of Appeals and district courts judges. That action was taken primarily to remove adjustments in salaries for Members of Congress from the political arena.

I think we can all agree that application of the 1975 purpose to Members of Congress has not worked at all. Year after year, we have struggled with the question of exempting ourselves from participation in the annual adjustment arrangement.

In our efforts to fashion exemptions for ourselves, we have often rendered complex a question which need never have been complicated and we have dragged our Federal jurists along with us. Our actions eventually spawned Supreme Court consideration of claims by individual Federal judges who believed themselves legally entitled to salary adjustments denied them by our efforts to exempt ourselves.

In its opinion in *U.S.* v. *Will*, 449 U.S. 200 (1980), the Court awarded judges two of four contested adjustments because article III of the Constitution expressly prohibits any reduction in Federal judicial salaries. In response to the decision, many individuals, who misread the Court's opinion, said that judges had conferred upon themselves a "backdoor salary increase."

That characterization is inaccurate. It was in that spirit, however, that I believe Congress approved section 140, Public Law 97-2, which provides that the salaries of Federal judges may not be increased except as specifically authorized by an Act of Congress.

As the Comptroller General has several times interpreted section 140, Public Law 97-92, judges, and judges only, are singled out for special treatment.

Judges, and judges only, are precluded from the operation of statutory provisions applicable to all others employed by the Federal Government.

Judges, and judges only, have to overcome the hurdle of affirmative congressional action that no other Federal employee need face.

We have now arrived at a point where Federal judges, who have agreed to serve for their lifetimes, have been singled out as a disadvantaged class in terms of application of the law. Yet, our Constitution clearly contemplates the insulation of judges from that type of coercive discriminatory treatment. That is precisely what article III was intended by our Founding Fathers to prevent. When salaries payable to our Federal judges become the stuff of political manipulation, we threaten the independence of the Federal judiciary which we purport to support.

I have examined the history of efforts by the Administrative Office of the U.S. Courts and the Comptroller General's Office to avoid potential problems inherent in section 140 of Public Law 97-92. I am convinced that the dangers in section 140 were not fully comprehended in 1981.

Congress has twice recognized the basic unfairness of denying to Federal judges a compensation increase afforded all other general schedule employees. Pursuant to section 2207, Public Law 98-369, Federal judges were given a 4-percent increase that earlier had been given Federal employees. In addition, Federal judges received a 3.5-percent comparability increase retroactively effective January 1985 pursuant to Public Law 99-88.

In February, the Comptroller General ruled for the fourth time that section 140 is permanent legislation and that Federal judges are not entitled to pay increases unless specifically authorized by an Act of Congress.

In reaching that decision, however, the Comptroller General took note of the two previous pay increases granted the Federal judiciary and said that, "* * * it is doubtful Congress intended to deny Federal judges the same comparability increases provided to other Federal employees * * * [T]herefore, we strongly urge that the Congress clarify this situation by amending the statutes governing pay for Federal judges and repeal section 140 to permit Federal judges to receive the same increases provided to other high-level executive and legislative officials."

To assist in the consideration of such equitable change, the Comptroller General submitted proposed language to Congress. The legislation I am introducing today is based on the Comptroller General's suggested language.

The legislation would repeal section 140. Any so-called "backdoor" increases for Federal judges would be prevented by delaying the judicial increases for 30 days following the effective date of pay increases for other high-level officials, but making the judges' pay increases retroactive to that effective date.

Before assuming my current office, I was a Federal judge in Maine. Perhaps because I have served as a Federal judge, I heard, directly or indirectly, from or about many judges all over this country. What I began to see ever more clearly on the part of Congress vitally affecting their security and their ability to plan for their families.

So intense is this focus of apprehensiveness becoming that we, perhaps unintentionally, are well along toward achieving precisely what the Constitution seeks to avoid: a judiciary in fear of a retributive Congress.

If we fail to correct this situation quickly, we may see the judiciary lose the services of those individuals who serve it best: those who will not permit their performance in office or their personal integrity to be compromised or questioned.

The bill I introduce today achieves those two commonsense objectives. It expressly repeals section 140, Public Law 97-92, which is the immediate source of the dilemma and allows Federal judges to receive the same pay increases offered other Federal employees, after a delay of 30 days, retroactive to the same date.

I urge Senators to support this commonsense remedy to this troublesome problem.

By Mr. McCLURE (by request):

S. 2692. A bill to provide for the payment of interest on certain lease revenues paid to the Secretary of the Inte-

rior, to eliminate certain unnecessary reporting requirements, and for other purposes; to the Committee on Energy and Natural Resources.

PAYMENT OF INTEREST ON CERTAIN LEASE REVENUES

● Mr. McCLURE. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of the Interior, I send to the desk a bill to provide for the payment of interest on certain lease revenues paid to the Secretary of the Interior, to eliminate certain unnecessary reporting requirements, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

S. 2692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. As used in this Act, the term—

(a) "Secretary" means the Secretary of the Interior or his designee;

(b) "Distributee" means any State, Indian tribe, Indian allottee, Alaska native corporation under any lease which the Secretary administers for such corporation, or any other recipient to whom any portion of mineral revenues is paid or distributed pursuant to applicable law; and

(c) "Mineral revenues" means royalty, rental, bonus, net profit share, proceeds of sale, or any other payment under or in connection with any lease or leasing law administered by the Secretary for exploration or development of oil, gas, coal, any other mineral, or geothermal steam.

SEC. 2. Beginning on the date of enactment of this Act, the Secretary shall pay interest on any refund of any monies that were paid to the Secretary as mineral revenues, pending any administrative appeal or judicial review thereof, and that are determined not to be due or owing to the United States or to any distributee. Any prohibition against payment of interest contained in section 10(a) of the Outer Continental Shelf Lands Act of 1953, (43 U.S.C. 1339(a)), shall not apply to any refund of monies to which this Act applies.

SEC. 3. Any interest which the Secretary pays pursuant to the first section of this Act shall be paid at the rate equal to the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978, 41 U.S.C. 611, from the date of the Department of the Interior received the funds until the date of refund. Such sums as may be necessary to pay interest under the provisions of this Act or to pay refunds not recovered pursuant to section 4 and 5 of this Act are hereby authorized to be appropriated from monies received from sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982), and rentals of the public lands under the Mineral Lands Leasing Act of 1920 as amended, and the Geothermal Steam Act of 1970, which are not payable to a State or to the Reclamation Fund, prior to the crediting of such funds to miscellaneous receipts of the Treasury.

SEC. 4. Except as provided in section 5 of this Act, if any monies referred to in the first section of this Act are paid or distributed pursuant to applicable law to any distributee before the determination that they are not due or owing, the distributee shall repay the amount previously distributed together with the interest paid thereon pursuant to this Act. In addition to any other method authorized by law, the Secretary may effect any such repayment by making deductions from any subsequent payment to such distributee or from revenues derived from any leases in which such distributee has an interest.

SEC. 5. The Secretary may provide by rule for exemptions from any provisions of section 4 of this Act where repayment or recovery of any amount distributed, or the interest thereon, would be impractical or uneconomical

SEC. 6. Section 10(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1339(b)) is hereby repealed.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, June 26, 1986.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To provide for the payment of interest on certain lease revenues paid to the Secretary of the Interior, to eliminate certain unnecessary reporting requirements, and for other purposes."

We recommend that the bill be referred to the appropriate Committe for consideration, and that it be enacted.

This draft bill would enable the Secretary to pay interest on amounts that are paid by oil, gas and mineral or other geothermal lessees and royalty payors and that are later determined not to be owing, and therefore are refunded. Under the current regulations of this Department, royalty payors who contest a particular assessment or royalty payment obligation are required to pay the disputed amounts to the Secretary of the Interior through the Minerals Management Service (MMS) pending administrative appeal or judical review. Sometimes, the review results in a determination that all or some portion of the amount paid should be refunded to the royalty payor. Under existing law, however, the Secretary cannot pay interest on that refund for the period that the Federal government has held the money.

The Department has concluded that it is only fair to pay appropriate interest on the amount refunded for the period of time during which the disputed amount has been held by the Federal Government. The interest rate provided in section 3 of our draft bill is one that corresponds closely to the time value of the funds, and is not punitive.

Our proposal is intended to cover all leasing operations under any law or lease administered by the Secretary for development of any subsurface mineral or energy resource, except water. Likewise, it applies to any refunds made once the provision is enacted, regardless of when the monies were received.

Our proposal also gives the Secretary the authority to recoup the funds necessary to pay interest on the required refunds. Under current law, substantial portions of onshore royalty revenues are distributed to other payees after receipt by the Secretary—for example, to the States under the Mineral Lands Leasing Act (30 U.S.C. 191), and to Alaska Native Corporations in the event of partial lease assignment under the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)). Of course, all funds derived from leases on Indian lands are paid to the appropriate Indian tribe or Indian allottee, and all funds from leases entirely assigned to an Alaska Native Corporation are paid to it. In a few cases, amounts paid which are the subject of an appeal or dispute are placed in a suspense account and are not distributed until the matter is resolved. In most cases, the MMS distributes the funds received to the appropriate distributees, or payments are made directly to Indian or Alaska native recipients, even though an appeal is pending.

If funds have been distributed or paid, then the ultimate recipient, and not the Federal Government, has had the benefit of the use of the funds. Therefore, section 4 of the draft bill provides that the recipient shall repay the portion of the refund that corresponds to the prior distribution made to that recipient, together with the portion of the interest paid with the refund that corresponds to such distribution. If this provision is not included in the draft bill and the interest on the refund were to come from Government funds while the recipient has had the use of the money, the recipient would receive a windfall at taxpayers' expense.

Section 4 of our draft bill would also enable the Secretary to recover the amount due through reductions in future lease revenue payments. However, in the event that this method of recoupment is not possible or practical, the recipient would remain liable to the Federal Government for its portion of the amount refunded. Finally, section 5 of draft bill would authorize the Secretary to provide exemptions from the provisions of section 4 where repayment or recovery of amounts already distributed would be impractical or uneconomical.

Section 6 of the draft bill would repeal section 10(b) of the Outer Continental Shelf Lands Act (OCSLA), which requires that refunds or credits of overpayments on OCS leases be reported to the Congress, and that the Congress have a 30-day review period before the refund or credit is approved. During the 32 years that this Department has been reporting this information, the Congress has seldom questioned and never denied a single refund or credit.

The MMS expects to receive 2,000 requests for refunds or credits during this fiscal year. However, the implementation of a recent Solicitor's opinion, could cause that number to increase by as much as 10 times. That opinion states that virtually every refund or credit, no matter how small, should go through the section 10(b) reporting process, even if it is caused by an MMS action. MMS spends approximately $100 processing each claim and preparing the necessary report to the Congress.

Not only is the overpayment reporting requirement administratively burdensome and costly to the Federal Government, but it is also unfairly costly to our OCS payors. The payors receive no interest during the four months to two years they are without the use of their funds while processing and review of these reports is being done. Accounting cycles are interrupted, accounting periods cannot be closed out, and payors cannot settle with other interest owners. Because royalty payments are usually based on preliminary information, and then ad-

justed as more accurate information becomes available, the payors cannot avoid the overpayment situation.

There is little evidence that the section 10(b) process yields any revenue in addition to that which would be detected under the MMS's ongoing audit strategy. Therefore, we recommend that this requirement, which will become far more burdensome and costly in the near future, be eliminated.

The Office of Management and Budget has advised that submission of this proposed legislation is in accord with the program of the President.

Sincerely,

——— ———,

Assistant Secretary.●

By Mr. ARMSTRONG:

S.J. Res. 379. Joint resolution to designate the Fallen Fire Fighters Statue and Plaza in Colorado Springs, CO, as the National Fire Fighters Memorial; to the Committee on Rules and Administration.

NATIONAL FIRE FIGHTERS MEMORIAL

● Mr. ARMSTRONG. Mr. President, today I am introducing legislation to designate a national memorial for firefighters who have given their lives in order to protect the lives and property of their fellow citizens. The "Fallen Fire Fighters Memorial" is currently being constructed in Colorado Springs, CO, to represent professional and volunteer firefighters in every State.

"National memorial" status for the memorial would bestow much deserved recognition to the highly dedicated professional and volunteer firefighters, whose motto is "We Fight for Life." With nearly 1,200 firefighters' lives claimed since 1977 alone, it is no wonder firefighting is considered the No. 1 hazardous occupation. The modern firefighter, though, is not just fighting fire, but must also respond to hazardous material accidents and a variety of medical emergencies and rescue operations. A permanent national memorial will remind us forever of the sacrifices made by firefighters in every community throughout the Nation.

This legislation and H.R. 3646, the companion measure in the House, represent the culmination of efforts begun by professional firefighters in Colorado Springs in 1984 and endorsed by the International Fire Fighters Association last year to build and dedicate a memorial to the large number of firefighters who die each year.

This legislation gives Federal recognition to the "Fallen Fire Fighters Memorial" as a national memorial, but does not authorize Federal administration. Thus, there is no cost to the Federal Government. The parks and recreation department of the city of Colorado Springs has donated land for the memorial and surrounding plaza and will also assume the care and utility costs of the plaza. The memorial plaza will be paid for by foundation grants and architectual and design work has been donated.

Firefighters from around the Nation will pay for the statue itself and have already started donating money, conducting community projects, auctions, and other fundraising activities. Mr. Gary Coulter won the competition to sculpt the statue and entitled it "Somewhere Everyday" and recently began work on the mold.

When completed, the Colorado firefighters hope to illuminate the memorial and fly the American flag at all times. Upon notification by the International Association of Fire Fighters of a firefighter's death, the American flag will be flown at half mast, and an honor guard has been formed for such occasions. The flag flown at half mast will be presented to the widow or other close relative of the fallen firefighter.

I urge my colleagues to endorse this legislation and urge its quick adoption by the Senate.●

SENATE RESOLUTION 453—RELATIVE TO THE LOAN RATE FOR SOYBEANS

Mr. BUMPERS (for himself and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 453

Whereas soybeans production and processing are two of the fastest growing sectors in agriculture, with production having increased seven fold over the last thirty years; and

Whereas soybeans rank number two in value in the United States for all crops grown, and nearly fifty percent of all soybeans grown in the United States are produced on farms harvesting 50 acres or less; and

Whereas one-fifth of all U.S. cropland is planted to soybeans, and soybeans account for over 30 percent of all land in production in Appalachia, over 40 percent in the southeast, and over 50 percent in the delta states; and

Whereas the United States is the leading exporter of soybeans, exporting over 40 percent of the soybean crop each year, and over 15 percent of the value of all U.S. agricultural exports is due to the sale of soybeans, oil, and meal; and

Whereas it is widely speculated that the Secretary of Agriculture will announce a new formula price support loan of $4.77 bushel for soybeans in August 1986, and that required budget cuts could push actual loan prices lower for 1986 soybeans; and

Whereas trading of soybeans is currently hovering near the $5.02 loan rate, USDA soybean acreage figures for 1986 were higher than predicted by trade analysts thus putting further pressure on prices, and export sales are slow with foreign buyers anticipating lower soybean prices with the expected lowering of the loan rate; and

Whereas United States soybean stocks are likely to remain near the 1985-1986 record level of 14 million metric tons (515 million bushels) and world soybean stocks are forecast to reach a record 23 million metric tons, and the anticipation of continued large supplies led the Secretary to announce a 12-month extension of 1985 price support loans in order to encourage continued on-farm storage, thereby relieving pressure on commerical storage; and

Whereas although world soybean exports are forecast to show a slight gain, United States soybean exports are forecast to remain near current levels during 1986-1987, and Brazil and Paraguay are expected to capture the small amount of projected gain; and

Whereas although drought conditions affect areas of the south, currently less that 5 percent of the United States soybean production lies within the drought area, and this has no significant impact on prices; and

Whereas soybeans are an important crop grown on 550,000 farms in the United States, and a drop in prices, whether brought on by higher than expected production, level exports sales, a decrease in the loan rate, or a combination of these, will have a serious negative impact on net farm income; and

Whereas in the Food Security Act of 1985, Public Law 99-198, under Section 801, the Secretary is directed to establish the price support rate for soybeans at $5.02 per bushel for 1986 and 1987, and the Secretary, at his discretion, may reduce the support rate no more than 5 percent per year nor below $4.50 per bushel in an effort to maintain domestic and export sales; and

Whereas under section 801(2)(i)(3)(A) the Secretary may authorize the use of a marketing loan to assist in the maintenance of the "competitive relationship of soybeans and domestic and export markets . . .".

Therefore, It is the sense of the Senate, that:

(1) the Secretary of Agriculture shall institute a marketing loan program for soybeans as authorized in the 1985 Food Security Act, and

(2) the Secretary shall maintain the formula of price support loan rate for soybeans at $5.02 per bushel.

● Mr. BUMPERS. Mr. President, today, I am introducing along with Senator PRYOR a resolution calling on the Secretary of Agriculture to maintain the formula price support loan rate for soybeans at $5.02 per bushel, and to implement a marketing loan program for soybeans under the discretionary provided in the Food Security Act of 1985. This resolution comes at a time of almost universal speculation that the Secretary will reduce the loan rate for soybeans the maximum extent allowed by that law.

Unfortunately for soybean producers in 1986, the establishment of the price support loan level will effectively set the market price for beans. And, as we all know, soybean producers have no income protection mechanism in the way of target prices to help offset a drop in prices. To make matters worse, we broke faith with soybean producers during the debate of the 1985 farm bill by failing to maintain the one-time payment included in S. 1714. Although at the time I decried the payment as a Faustian deal—a less than even quid pro quo for certain lower price supports—I believe one of the greatest failings of the 1985 Food Security Act was the deletion of the soybean payment while at the same

time retaining the Secretary's authority to lower the loan rate substantially.

Now, soybean producers face the reduction of the loan rate to the formula loan level of $4.77 per bushel, a rate that may be further lowered through required budget cuts. Market reactions to the expected loan rate drop, a drop which can't be announced until August, have caused futures prices to dip below $5 per bushel, and cash market prices through July have hovered near the $5.02 loan rate plus carrying charges.

The expected decrease in the loan price will cause a serious decline in net farm income for soybean producers without providing a significant boost to export sales. According to the USDA, the world forecast for oil seed production in 1986-87 is 196.5 million metric tons with the non-U.S. share to rise 9 million metric tons from last year to a record production of 137.9 million metric tons.

World soybean production will decrease slightly, due to the drop in production in the United States, from last year's record 96.12 million metric tons to this year's projection of 95.9 million metric tons. But foreign soybean production is forecast to reach a record 44.2 million metric tons, primarily due to production increases in Brazil, Paraguay, and China.

World soybean crush is forecast at 78.3 million metric tons, an increase of 2.3 million metric tons from last year, and an increased crush in the Southern Hemisphere will help displace U.S. oil and meal exports. Large global supplies of other oils, particularly palm oil, could push U.S. exports of soybean oil below last year's level of 570,000 million metric tons, although many analysts project that such export sales will remain at or near last year's level. World soybean exports are predicted to show a slight gain, but the USDA projects that Brazil and Paraguay will capture any increase in sales.

This poor forecast was developed by the USDA even with the Department's internal understanding as to what measures will be taken to boost soybean, oil and meal export sales. Therefore, the implementation of a marketing loan program would aid the U.S. soybean industry in effectively competing with foreign bean, oil and meal export sales, where the conventional response of simply lowering the loan rate is projected to fail. And it would slow the importation of foreign palm and rapeseed oils into the United States that are displacing normal U.S. soybean sales.

The pressure on prices has also come from internal sources. Although U.S. production is projected to decline from last year's production of 57.1 to 51.7 million metric tons, this level represents a significant increase from trade expectations. The USDA acreage report showing soybeans planted on 61.8 million acres in the United States also pressured weak soybean prices.

The pressure on soybean sales was further complicated with the notice published in the Federal Register on June 17, 1986, that the USDA intends to implement a temporary program to encourage the use of grain for fuel ethanol. Market analysts believe that this USDA program could displace up to $400 million in soybean, cottonseed, and sunflower seed sales. Under the proposed program, ethanol producers using corn as a feedstock will receive one bushel of CCC-owned grain for every 2.5 bushels purchased through September 30, 1986. This program is projected to produce 703,000 metric tons of corn gluten meal, 3.015 million metric tons of corn gluten feed, and 750 million pounds of corn oil as a byproduct from the manufacturing process. The subsidized production of these byproducts now places corn oil production competitively with production of other oils.

The USDA discounts any concern expressed by the soybean industry by claiming many soybean producers also grow corn and, therefore, money is being switched from one pocket to another. This ignores a significant segment of soybean producers who do not grow corn. The resulting increase in corn byproduct will unquestionably put further pressure on soybean prices. Unfortunately, soybean farmers who don't grow corn will not have a setoff nor will they have PIK certificates or deficiency payments to help cushion the price shock.

Of course, it should be noted that a drought is currently damaging soybean production in the South and Southeast, and some market watchers are expecting an increase in prices due to a resultant decrease in supply. However, less than 5 percent of the Nation's soybean production is located in the affected areas, and the drought would have to extend to significant areas of the delta and the corn States before most analysts believe prices will be affected, a condition not currently expected.

For these reasons and others, I do not believe that a decrease in the price support level of soybeans is advisable or warranted. Export sales can be better encouraged through the implementation of a marketing loan while net farm income can be better protected by maintaining the price support loan at $5.02. Under section 801 of the Food Security Act of 1985, the Secretary has the discretion to accomplish both of these necessary ends. If the Secretary refuses, it is my intention to pursue legislative changes in the soybean program.●

SENATE RESOLUTION 454—RELATIVE TO RELIGIOUS FREEDOM IN CAPTIVE NATIONS

Mr. RIEGLE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 454

Whereas the Soviet Union, Romania, Czechoslavakia, and virtually all other Soviet-bloc Eastern European countries are parties to the Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights;

Whereas the Soviet Constitution provides that religious freedom is guaranteed to all and that anyone is free to adhere or not to adhere to a religious creed and that freedom of worship is guaranteed;

Whereas the Romanian Constitution provides for freedom of conscience and freedom of religion, and Romanian law guarantees full religious freedom to all citizens and states that no one may be persecuted for religious beliefs;

Whereas more than four million Ukrainians, 1,200,000 Romanians, and millions of other Eastern Europeans belong to the Byzantine Rite "Uniate" Catholic Church and cherish the principles of religious freedom;

Whereas the Government of Romania (through Decree 358 of December 1, 1948) and the Government of the Soviet Union suppressed the Byzantine Rite Catholic Church by forcing a merger with the Orthodox Church and imprisoned (1) Ukrainian Archbishop Metropolitan (Cardinal) Josyf Slipyi and all members of the Byzantine Catholic hierarchy, (2) Czechoslavakian Bishop Paul Goydych and all members of the Byzantine Catholic hierarchy, and (3) Romanian Cardinal Julius Hossu and all bishops, and members of the Byzantine Catholic hierarchy;

Whereas the Byzantine Rite Catholic Church is unique and is tied by church law to the Pope in Rome who is recognized as head of the church;

Whereas the Communist-controlled governments of the Soviet Union, Romania, and other Warsaw Pact nations have systematically sought to annihilate organized religions, especially the Byzantine Rite Catholic Church, by every possible means, including the imprisonment and or death of the church hierarchy—the only church leaders with authority to make decisions for the faithful;

Whereas no ecclesiastical document with canonical value exists calling for the dissolution of the Byzantine Rite Church, and no bishops have endorsed or agreed to any merger with the Orthodox Church, choosing instead intense suffering, persecution, and death at the hands of their captors;

Whereas even after brutal torture, intimidation, imprisonment, and threats against their families less than 40 of the considerably more than 2,000 priests in Romania submitted to the pressure of the Government of Romania and even so continue to practice their faith;

Whereas 142 Byzantine Rite Catholic monasteries and convents, 4,119 churches and chapels in Ukraine, and countless other such facilities and Church properties were seized throughout Eastern Europe, including the Romanian Catholic cathedral at Blaj;

Whereas the Byzantine Rite and Latin Rite Catholic faithful in Ukraine, Romania, Czechoslavakia, and throughout Eastern Europe continue to profess and practice

their faith despite a history of persecution which includes torture, imprisonment, harassment, and threats;

Whereas Byzantine Rite Catholic bishops and priests continue to be ordained and to serve the spiritual needs of the faithful in catacomb-like secrecy;

Whereas although the Soviet Union and its satellites wish the world to think that there are no Byzantine Rite Catholics within their borders, millions remain faithful to the Holy See and are conscientious, practicing Catholics and have asked their breathren in the West to plead for their religious freedom and the restoration of their churches; and

Whereas the Government of the Soviet Union and the governments of other Soviet-bloc Eastern European countries refuse to allow the restoration of the Byzantine Rite Catholic Church on an equal basis with other recognized religions and refuse to restore all confiscated property of the Byzantine Rite Catholic Churches: Now, therefore, be it

Resolved, That (a) the Senate hereby recognizes the continuing right of the people of Ukraine, Lithuania, Romania, Czechoslavakia, and all other Soviet-bloc Eastern European countries to have freedom of religion.

(b) The Senate hereby deplores the refusal of the Soviet Union and Romania to officially recognize the Byzantine Rite Catholic Church and the refusal of the Soviet Union, Romania, and Czechoslavakia (which allowed the restoration of the Byzantine Rite Church in 1968) to restore all Church properties and possessions.

(c) It is the sense of the Senate that the President should instruct the United States delegation to the Review Meeting of the Conference on Security and Cooperation in Europe, scheduled for November 4, 1986, to press for the full restoration of the Byzantine Rite Catholic Church and freedom of religion for the people of all the Captive Nations before the world community.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. RIEGLE. Mr. President, today I am pleased to introduce this resolution concerning the absence of religious freedom in the nations of Eastern Europe. This type of repression is in direct violation of one of the key principles of the Helsinki Final Act.

As Americans who live in a land of great liberty, we must provide hope for freedom to the oppressed throughout the world. We must speak for those who have been brutally silenced and who will not otherwise be heard.

Through this resolution, the Senate has an opportunity to show strong support for the millions of individuals behind the Iron Curtain who are denied the freedom of religion. In particular, the Byzantine Rite Catholic Church in both Ukraine and Romania has suffered unusually brutal repression. Although the church in Czechoslovakia has been restored in principle, both the clergy and the faithful continue to be persecuted for their religious beliefs.

We do not accept this denial of religious beliefs. We will never accept it, and we remain dedicated to changing the Soviet Union's intolerable practice of religious repression.

The Communist governments in these countries would have the world believe that these people have willingly cast off the values and beliefs so vital to them. This is not true. We must set the record straight and make clear to the world that the church, if allowed to breathe, will flourish behind the Iron Curtain. The people of these captive nations deserve the right to practice their religions, and we must do all we can to safeguard that right.

In the United States we guarantee the right of all individuals to practice religious beliefs in accordance with the dictates of their conscience. This fundamental principle is essential to the preservation of human dignity.

I therefore urge my colleagues to join me in cosponsoring this resolution which encourages our own Government to aggressively promote the cause of the church in these captive nations. Together we must take up the fight of the courageous people of the captive nations until they can once again freely profess their religious beliefs.●

ADDITIONAL COSPONSORS

S. 477

At the request of Mr. ANDREWS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 477, a bill to enhance rail competition and to ensure reasonable rail rates where there is an absence of effective competition.

S. 1937

At the request of Mr. STEVENS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1937, an original bill to restrict smoking to designated areas in all U.S. Government buildings.

S. 2224

At the request of Mr. HUMPHREY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2224, a bill to limit the uses of funds under the Legal Services Corporation Act to provide legal assistance with respect to any proceeding or litigation which relates to abortion.

SENATE CONCURRENT RESOLUTION 136

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Concurrent Resolution 136, a concurrent resolution entitled "Volunteers are the Importance of Volunteerism."

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE RESOLUTION 381

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 381, a resolution expressing the sense of the Senate with respect to United States corporations doing business in Angola.

AMENDMENTS SUBMITTED

STATUTORY INCREASE IN PUBLIC DEBT LIMIT

D'AMATO AMENDMENT NO. 2230

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt; as follows:

At the end of the amendment, add the following:

TITLE II—MONEY LAUNDERING

SEC. 201. SHORT TITLE.

This act may be cited as the "Comprehensive Money Laundering Prevention Act".

SEC. 202. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person for the purpose of evading the reporting requirements of section 5313(a) shall—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of section for chapter 53 of title 31, United States Code is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 203. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS.

(a) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed or, if filed, contains a material omission or misstatemennt of fact, the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized

and forfeited to the United States Government.".

(b) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.—Section 5317 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED VIOLATION.—

"(1) IN GENERAL.—Any United States coins or currency (or such other monetary instrument as the Secretary of the Treasury may by regulation prescribe) involved in any violation of section 5313(a) or 5324 and any interest in property, including a deposit in a financial institution, traceable to such coins or currency (or other monetary instrument) may be seized and forfeited to the United States Government in the manner provided in subchapter C of chapter 75 of the Internal Revenue Code of 1954.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the owner of the property or the interest in property otherwise subject to seizure and forfeiture under paragraph (1) is—

"(A) a bona fide purchaser for value who took without notice of the violation;

"(B) a depository institution (as such term is defined in section 19(b)(1)(A) of the Federal Reserve Act); or

"(C) a financial institution regulated by the Securities and Exchange Commission.

"(3) HOLDS ON PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Any United States coin or currency (and such other monetary instruments as the Secretary of the Treasury may by regulation prescribe) and any other interest in property, including any deposit, which is in the possession or custody of any financial institution shall be held by such financial institution for a period of 15 days upon receipt of notice (in such form and in such manner as the Secretary's shall prescribe) from the Secretary of the Secretary's intent to seize such coin or currency, instrument, or other property under this subsection. The Secretary upon the issuance of a hold order: must disclose the following information to the institution subject to the hold order: the name, account or account numbers if known, taxpayer identification number, and such other information as may be necessary to locate the account or accounts or other property held by the institution.

"(4) SEIZURE OF PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Upon a showing by the Secretary of the Treasury that there is probable cause to believe that any coin or currency, monetary instrument or other interest in property, including any deposit, which is in the possession or custody of any financial institution is subject to forfeiture under paragraph (1), the district court of the United States for the district in which such property is held may issue an order authorizing the Secretary to seize such property

"(5) EXEMPTION FROM LIABILITY FOR IMPOSITION OF HOLD.—The United States, any agency, department, or employee of the United States, any financial institution, and any officer, director, or employee of a financial institution shall be exempt from any liability to any other person which may otherwise arise for interest, damages, or any other type of compensation or relief, including injunctive and declaratory relief, in connection with or as a result of a hold being placed upon any property under paragraph (3).

"(6) LIABILITY OF FINANCIAL INSTITUTION TO THE UNITED STATES FOR FAILURE TO COMPLY.—Any financial institution which—

"(A) receives a notice under paragraph (3) with respect to any property or interest in property; and

"(B) after receipt of such notice, fails or refuses to hold such property or interests without reasonable cause until the earlier of—

"(i) the expiration of the 15-day period described in such paragraph; or

"(ii) the presentation by the Secretary of a court order issued under paragraph (4),

shall be liable to the United States for an amount which is equal to the value of the property or interests which such institution failed or refused to hold.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.—(1) Section 7302 of the Internal Revenue Code of 1954 (relating to property used in violation of internal revenue laws) is amended by adding at the end thereof the following new sentence: "The second and fourth sentences are hereby extended to coins, currency, and other monetary instruments (and to interests in property traceable to such instruments) seized pursuant to section 5317 of title 31, United States Code.".

(2) The heading for such section 7302 is amended by inserting "OR TITLE 31, UNITED STATES CODE" after "REVENUE LAWS".

(3) Section 7321 of the Internal Revenue Code of 1954 (relating to authority to seize property subject to forfeiture) is amended by inserting "and any coins, currency, or other monetary instrument (and any interest in property traceable to such instrument) subject to forfeiture under section 5317 of title 31, United States Code," after "this title".

(4) Section 7327 of the Internal Revenue Code of 1954 (relating to applicability of customs laws) is amended by inserting "and to forfeitures of coins, currency, and other monetary instruments (or interests in property traceable to such instruments) incurred or alleged to have been incurred under section 5317 of title 31, United States Code (except that, in the case of forfeitures under such section 5317, the customs laws shall apply only to the extent such laws are not inconsistent with any applicable provision of such section)" before the period.

(5) Section 7608(b)(1) of the Internal Revenue Code of 1954 (relating to authority of internal revenue enforcement officers to enforce certain internal revenue laws) is amended—

(A) by striking out "internal revenue laws or" and inserting in lieu thereof "internal revenue laws,"; and

(B) by inserting ", or any provision of section 5317 of title 31, United States Code, relating to seizures and forfeitures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments)" after "responsible".

(6) Section 7608(b)(2) of the Internal Revenue Code of 1954 (relating to functions authorized to be performed by internal revenue enforcement officers) is amended—

(A) by adding at the end thereof the following new subparagraph:

"(D) to make seizures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments) subject to forfeiture under section 5317 of title 31, United States Code.";

(B) by striking out "and" at the end of subparagraph (B); and

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and".

(7) The item relating to section 7302 in the table of sections for part I of subchapter C of chapter 75 of the Internal Revenue Code of 1954 is amended by inserting "or title 31, United States Code" after "revenue laws".

SEC. 204. CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.

(a) IN GENERAL.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who knowingly violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transactions with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 205. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) RIGHT TO REPORT.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following: "Such information may include only the name or names of and other identifying information concerning the individuals and accounts involved in and the nature of the suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any constitution, law, or regulation of the United States or any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.".

(b) DELAYED NOTIFICATION.—Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that a court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, to delay notifying the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409)".

(c) FINANCIAL RECORDS OF INSIDERS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by

adding at the end thereof the following new subsection:

(1) CRIMES AGAINST FINANCIAL INSTITUTIONS BY INSIDERS —Nothing in this title shall prohibit any financial institution or supervisory agency from providing any financial record of any officer, director, employee, or controlling shareholder (within the meaning of section 408(a)(2)(A) and (B) of the National Housing Act or section 29(a)(2)(A) and (B) of the Bank Holding Company Act of 1956) of such institution to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such individual of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code.".

SEC. 206 COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—"before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following:

"(3) examine any books, papers, records, or other data of financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution or an officer or employee of a financial institution, or a former officer or employee, or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end thereof the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENT.—Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

SEC. 207. AMENDMENTS RELATING TO THE DEFINITION OF FINANCIAL INSTITUTIONS.

Section 5312(a)(2) of title 31, United States Code (defining financial institutions) is amended—

(1) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(2) by inserting after subpargraph (S) the following new subparagraph:

(T) any foreign subsidiary or affiliate, as defined by the Secretary of the Treasury, of any entity described in this paragraph; however, any foreign subsidary or affiliate shall comply with the provisions of this subchapter only to the extent that compliance does not violate the law of the host country of such subsidiary or affiliate, except that such foreign subsidiary or affiliate shall require United States citizens, who enter into a financial transaction subsequent to the date of enactment of the Comprehensive Money Laundering Prevention Act, to waive any rights to the bank secrecy or blocking laws of the host country to which they may be entitled;"

SEC. 208. AMENDMENTS RELATING TO EXEMPTIONS GRANTED FOR MONETARY TRANSACTION REPORTING REQUIREMENTS.

Section 5318 of title 31, United States Code (as amended by Section 206) is amended by adding at the end thereof the following new subsections:

"(f) REVEIW OF EXEMPTIONS.—In any case in which there is a change in management or control of a financial institution, the Secretary of the Treasury shall review each currently outstanding exemption granted by such institution under subsection (a)(5) not later than 30 days after the date such change in management or control occurs.

"(g) WRITTEN AND SIGNED STATEMENT REQUIRED.—No person shall qualify for an exemption under subsection (a)(5) unless the relevant financial institution prepares and maintains a statement which—

"(1) describes in detail the reasons why such person is qualified for such exemption; and

"(2) contains the signature of such person.".

SEC. 209. EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.

Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

SEC. 210. DISCUSSIONS TO DEVELOP INTERNATIONAL INFORMATION EXCHANGE SYSTEM TO ELIMINATE MONEY LAUNDERING.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of negotiations initiated pursuant to subsection (a).

SEC. 211. INCREASE IN MAXIMUM CRIMINAL FINE FOR CERTAIN OFFENSES.

Section 5322(b) of title 31, United States Code, is amended by striking out "$500,000"

and inserting in lieu thereof "$1,000,000 if the person is an individual (and not more than $5,000,000 in any other case)".

SEC. 212. REGULATIONS RELATING TO CUMULATION OF OFFENSES FOR FAILURE TO REPORT EXPORT OR IMPORT OF MONEY.

Section 5316 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of such subsection (a).".

SEC. 213. EFFECTIVE DATES.

(a) The amendments made by section 202 shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 203 and 204 shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The amendment made by section 209 shall apply with respect to violations committed after the date of the enactment of this Act.

Mr. D'AMATO. Mr. President, I rise today to alert my colleagues that during debate on the pending debt ceiling legislation I intend to offer an amendment to curb the nefarious practice of money laundering that currently allows international narcotics traffickers to make their ill-gotten gains clean and almost untraceable. I have filed this amendment so that it can be numbered and printed in the CONGRESSIONAL RECORD for the scrutiny of my colleagues. It is for this purpose that I have sent the amendment to the desk.

Mr. President, the amendment I have filed today strengthens our efforts against the laundering of criminal and drug profits in three important ways. First, it creates the offense of structuring, and subjects to criminal and civil liability persons who, for purposes of evading the Bank Secrecy Act, make multiple deposits of under $10,000. Second, it authorizes the seizure and forfeiture of the cash and property of persons who willfully cause financial institutions not to file in accordance with the Bank Secrecy Act, or who willfully commit the offense of structuring. Third, it gives the Treasury Department an administrative subpoena power to investigate Bank Secrecy Act violations.

My amendment is based on the four money laundering bills I have introduced, as well as on the bill recently adopted by the House Banking Committee, and S. 2683, the Senate Judiciary Committee bill introduced yesterday by Senators THURMOND, BIDEN, DECONCINI, and myself.

Mr. President, I want to state here for the RECORD my intention in filing this amendment. Very frankly, I am concerned that we are running out of time to enact a money laundering bill this year. As one who has worked arduously on money laundering legislation for over 2½ years, this is a risk I am not willing to take.

I worked in the last Congress on money laundering legislation, introducing S. 2579 in April 1984, only to see nothing happen. I have introduced S. 571, S. 572, and S. 2306 in this Congress, only to see time start to run out again. While Congress delays, drug dealers continue to launder their obscene profits, and use these profits to subject this Nation, and particularly our Nation's young people, to a tidal wave of drug addiction.

It may be that we will have time to enact into law S. 2683, the bill we introduced yesterday. As of today, however, we have fewer than 35 working days to work on the nominations of Justice Rehnquist and Judge Scalia, tax reform, numerous appropriations bills and/or a continuing resolution.

I have discussed this matter with the chairman of the Judiciary Committee, Senator THURMOND, and representatives of the Departments of Justice and Treasury. They share my concerns and support amending the debt ceiling bill with a money laundering initiative.

Amending the debt ceiling bill does not preclude separate action by the Judiciary Committee or the Banking Committee, but if we take this opportunity now and pass a money laundering amendment, we can deliver a body blow to the drug profiteers who prey upon our children. I say this is a prudent and intelligent course of action, and I am confident a majority of my colleagues will agree.

If others wish to propose another money laundering amendment—the Judiciary Committee bill, for example—I would welcome it. I want to work with my colleagues to see that the best possible money laundering bill becomes law this year.

I suggest to my colleagues that amending the debt ceiling bill may be our best, and perhaps our only, genuine opportunity to do so this year.

GRAMM (AND OTHERS) AMENDMENT NO. 2231

Mr. DOLE (for Mr. GRAMM, for himself, Mr. RUDMAN, and Mr. HOLLINGS) proposed an amendment to the motion to recommit with instructions submitted by Mr. EXON to the joint resolution (H.J. Res. 668), supra; as follows:

Strike all beginning with "SEC. (a)" and insert in lieu thereof the following:

"TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1986"."

GRAMM (AND OTHERS) AMENDMENT NO. 2232

Mr. DOLE (for Mr. GRAMM, for himself, Mr. RUDMAN, and Mr. HOLLINGS) proposed an amendment to amendment No. 2231 proposed by Mr. GRAMM (and others) to the motion to recommit submitted by Mr. EXON to the joint resolution (H.J. Res. 668), supra; as follows:

Strike "of 1986"." where it appears at the end of the amendment and insert in lieu thereof the following: "of 1986".

SEC. 202. REVISION OF PROCEDURES.

(a) REFERENCE.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(A) by striking out "President" in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by striking out "this subsection" in subparagraph (B) (as redesignated by subparagraph (C) of this paragraph) and inserting in lieu thereof "this paragraph";

(E) by striking out the subsection heading and inserting in lieu thereof the following:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—"; and

(F) by adding at the end thereof the following:

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifiying (if the excees is grater than $10,000,000,000, or zero in the case of fiscal year 1991), by account, for nondefense pro-

grams, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determinatioin of reductions in the manner specified in subsection (a)(3); and

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Comptroller General under paragraph (1).

The report of the Director of the Office of Management and Budget under this paragraph shall explain fully any difference between the contents of such report and the report of the Comptroller General under paragraph (1).".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" each place it appears in such paragraph and inserting in lieu thereof "subsection (b)(1)";

(C) by striking out "subsection (b)(2)(B)" in subparagraph (B) of such paragraph and inserting in lieu thereof "subsection (b)(1)(B)(ii)"; and

(D) by adding at the end thereof the following new paragraph:

"(3) Report by the Director of OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Mangement and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii).".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(c) PRESIDENTIAL ORDERS.—(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "Comptroller General's" in the heading for paragraph (3) and inserting in lieu thereof "Director's".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(d) TERMINATION OR MODIFICATION PROCEDURES.—(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(l)(2) is amended by striking out ", in accordance with section 251(c)(3),".

(e) TECHNICAL AMENDMENTS.—(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251(b) or (c)(2)" and inserting in lieu thereof "section 251(b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251(b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(b)(2) or (c)(3)".

(f) APPLICABILITY.—The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, after the date of enactment of this Act under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Monday, August 4, 1986, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510.

Testimony will be received on the following measures: S. 485, to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged land and ownership by the Alaskan Native Corporation; S. 1330, to amend section 504 of the Alaska National Interest Lands Conservation Act to allow expanded mineral exploration of the Admiralty Island National Monument in Alaska; S. 2065, to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares pursuant to the act and for other purposes; and S. 2370, to allow the Francis Scott Key Foundation, Inc. to erect a memorial in the District of Columbia.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Witnesses are asked to identify the measures on which they will be testifying. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 25 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, July 25, to conduct a business meeting to consider Senate Concurrent Resolution 120, reconciliation instruction pursuant to concurrent resolution on the budget, fiscal year 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Transportation of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Friday, July 25, to conduct a hearing on short-line and regional railroads.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE JOINT RESOLUTION 378—EXTENSION OF COOLING-OFF PERIOD IN RAILROAD/LABOR DISPUTE

● Mr. D'AMATO. Mr. President, today I offer my comments on Senate Joint Resolution 378, introduced yesterday by my distinguished colleague, Senator MITCHELL. I was pleased to be one of nine original cosponsors of this timely proposal.

Senate Joint Resolution 378 would extend the cooling-off period by 60 days in the current dispute between the Maine Central Railroad Co./Portland Terminal Co., owned by Guilford Transportation Industries, and certain of their employees represented by the Brotherhood of Maintenance of Way Employees. It would also require the Secretary of Labor to issue recommendations on resolving this dispute, and a report on the progress of any negotiations between the parties 15 days before the expiration of the cooling-off period.

I had previously joined many of my colleagues in writing to the President to urge him to appoint an emergency board to resolve this strike. I was pleased when, on May 16, 1986, the President did appoint such a board. Recommendations were offered by the emergency board, but the railroad and the union have not yet come to an agreement. For this reason, I believe it is important to extend the cooling-off period for 60 days.

I am hopeful that the parties will be able to reach an agreement in the near future. The effects of a protracted strike and its potential for spreading to other railroads would be extremely harmful to all parties to the current dispute, as well as to shippers and to the general public. I am certainly concerned about the possibility of adverse effects on rail transportation in and through my State of New York. This resolution represents a well-tempered and appropriate response to the present situation.●

S. 2683—CONSENSUS MONEY LAUNDERING CRIMES ACT

● Mr. D'AMATO. Mr. President, yesterday, Senators THURMOND, BIDEN, DECONCINI, and I introduced S. 2683. This is the consensus Money Laundering Crimes Act that has the best chance of becoming law this year. Earlier today, I filed a money laundering amendment to the debt ceiling bill in an effort to increase the likelihood that S. 2683 will become law this year. I again urge my colleagues to recognize the need to act in the most expeditious manner possible to pass money laundering legislation this year.

The amendment I filed today and S. 2683 have three key elements in common. I am very pleased that S. 2683 contains these elements, which I have included S. 2579 in the last Congress, and S. 571 and S. 2306 in the present Congress.

First, they create the offense of structuring financial transactions to evade the reporting requirements of current law. This is intended to close the so-called smurfing loophole, by which money launderers make multiple transactions of under $10,000 to evade the Bank Secrecy Act's reporting requirements.

Second, they authorize forfeiture to the Government of laundered money. S. 2683 provides for forfeiture of property obtained through the new crime of money laundering, property involved in a financial transaction representing proceeds of an offense against a foreign nation involving illegal trafficking in controlled substances, and property involved in a transaction the owner knew to be conducted in violation of the new money laundering offense or the reporting rules (31 U.S.C. 5313(a)) of the Bank Secrecy Act.

Third, they grant the Treasury Department a subpoena power to improve enforcement of the Bank Secrecy Act.

S. 2683 also contains a modest amendment of the Right to Financial Privacy Act by permitting financial institutions to notify law enforcement agencies about the illegal activities of their customers in limited circumstances.

S. 2683 also makes it a crime to launder money, much as S. 572, a bill I introduced in the last session, does. Violators who intend to facilitate the carrying on of unlawful activity, or who know that the transaction involved is designed to conceal certain specified facts regarding criminal proceeds (nature, location, source, ownership, or control) shall be fined up to $250,000 or twice the value of the property involved, whichever is greater, and shall be imprisoned for up to 20 years, or both.

As I stated on the Senate floor earlier today, I would welcome and encourage any effort to attach S. 2683 to the debt ceiling bill now before the Senate.

Senators THURMOND, BIDEN, and DECONCINI also are working to ensure that S. 2683 moves quickly through the Judiciary Committee, and I encourage my colleagues to do all in their power to support these efforts.

Efforts to enact S. 2683 as a separate bill may succeed. I very much hope that they will. However, time is running short, and, as the majority leader has frequently advised the Senate, there are many other items the Senate must act on in the few remaining working days of this Congress. The most prudent course, therefore, seems to be to amend the debt ceiling bill with the strongest money laundering bill possible.

Senators THURMOND, BIDEN, and DECONCINI deserve the heartfelt thanks of the entire Nation for their efforts in forging this bipartisan consensus bill. I urge my colleagues to give this legislation and the effort to enact a money laundering bill into law this year their full support.●

MINI-CONGLOMERATE IN VERMONT

● Mr. LEAHY. Mr. President, I would like today to introduce the Senators to a truly remarkable Vermonter—a self-made millionaire—and a gentleman I have known and admired for a long time.

Ray Pecor is one of those rare people who lives the American dream every day of his life. He is a courageous businessman who has won some and lost some, but always eagerly anticipates that next opportunity looming on the horizon.

He has made a lot of friends and influenced many Vermonters, me among them, during his career. And since we are the same age, I would like to share with Senators this splendid article by Susan Youngwood that appeared in the Burlington Free Press on June 22, 1986. It is an inspiration to us all.

The article follows:

[From the Burlington Free Press, June 22, 1986)

SMILIN' RAY PILOTS CONGLOMERATE

(By Susan Youngwood)

He is a mini-conglomerate.

Raymond Pecor Jr., 46, owns two ferry companies, two cable companies, the Champlain Mill, mobile home parks, a real estate development firm. He has developed shopping centers and industrial parks, and has interests in restaurants and a fitness center.

Although he is on the board of several Burlington companies, and oversees about 150 employees, Pecor manages to spend most of the winter in Florida, playing golf.

He was a millionaire before he turned 30.

"He's got the Midas touch, this guy," said Patrick Robins, president of McAuliffe's and Pecor's old friend.

A Burlington boy who did well, Pecor—who has built in many of the city's suburbs—is finally building in his native city. His announcement last month of his plans to put a five-story office building on the long-vacant Strong block, at the southwest corner of Main Street and South Winooski Avenue, stunned many of his friends and brought out many skeptics.

They shake their heads at his timing—his building will add 70,000 square feet to an already oversaturated office market in Burlington. They wonder why he even thought of the project—his bank account is large enough, they say, and the building might cut into his Florida time.

But no one doubts that this project, like almost all of Pecor's ventures, will be a success. He is a risk-taker who seldom guesses wrong, a hard-nosed negotiator who never sacrifies quality.

"If anyone is going to pull it off it would be Pecor," said developer Gerry Milot.

As in most conglomerates, Pecor's companies, with gross revenues of $8 million, have few similarities. Pecor insists there is one.

"They're fun," he said. "Look at the Mill. There are balloons. On the ferry, the kids get balloons. The cable company has fun programming. The Burlington building will have banners. I like banners and balloons—anything that's going to fun."

* * * * *

Ray Pecor is *always* happy.

He greets people with booming hellos, he insists every day is a good day and defies you to show him otherwise.

"How in hell does he smile all the time?" asked his closest friend, Bert Moffatt, who now works for the city of Burlington.

Moffatt met Pecor in the 1950s, when they were growing up in the Old North End. Roosevelt Park was their stomping ground.

"It was a tough neighborhood," Moffatt said. "Everyone permanently wore a chip on their shoulder."

At Burlington High School and then at the University of Vermont, Pecor met many of his friends and business associates—Robins and Moffatt; Harlan Sylvester, who runs E.F. Hutton's offices in Vermont; J. Richard Corley, a developer and local businessman; Louise Weiner, owner of Magrams department store; Jack DuBrul, owner of the Automaster.

"I didn't think he was going to get out of high school," Robins said. "He didn't work very hard."

Pecor started working for his father at Ray's Mobile Homes when he left UVM in 1961. He invested his savings in real estate, developing shopping centers in Champlain, N.Y., and Northfield, Randolph and Hardwick.

"I found out that selling was not the thing I want to do all my life," Pecor said. He started franchising mobile home sales lots, until he had between 45 and 50 along the East Coast. He started an insurance company to insure mobile homes.

Then, in 1973, the prime rate went to 13 percent, he said. Real estate flagged.

"There went my business. After 12 years, almost everything I built either no longer existed or was very fragile," he said.

He spent two years fighting bankruptcy.

"It was tough. It was a tough time in my life," he said.

In 1975, searching for a new investment, Pecor learned from Robins that Lake Champlain Transportation Co. was for sale.

In six months, the deal was made; the ferry company was his for $2.45 million. Pecor remembers the day he closed, like he remembers all dates and trivial information—April 8, 1976.

In 1979, he bought the Champlain Mill in Winooski for $200,000. It had been unused for years.

"You looked at it and it was just a spectacular building," Pecor said. He pointed at the parking lot, now filled with cars. "All this was dirt and weeds and brush. All the windows were out and the roof leaked. Pigeons had a great home here."

He took his wife and two children to see his latest purchase. As they drove away, his son looked at him and said, "Dad, I have to give you an A for imagination."

It cost him $4 million to turn it into the upscale shopping center and office building it is today.

In 1979, while thinking about the oil shortage and wondering what people would do for recreation if driving were too expensive, Pecor decided to get into the cable television business. Lake Champlain Cable TV serves 80 percent of the homes in Colchester, Georgia and Milton. His Richmond Cable TV, a new firm, is serving Richmond and surrounding towns.

There are some similarities among Pecor's investments.

Both the ferry and cable companies are monopolies. And most of his other holdings are in real estate.

"Fixed assets and exclusive franchises," Robins noted.

To list some of Pecor's other holdings: he has part-ownership in the Olympiad fitness center and the two restaurants at the Mill; he owns Lakeview, a mobile home park in South Burlington, and the Champlain Lanes building; he is developing the Meadows Industrial Park in Colchester and is a partner in a 220-acre industrial park in Williston. He has a ferry company in Mobile, Ala. He recently bought a marina next to the ferry dock in Charlotte for $440,000; he owns land on Flynn Avenue in Burlington appraised at $1.1 million.

* * * * *

The control center of Pecor's realm is a nondescript gray building off the King Street ferry dock.

From his office, Pecor views Lake Champlain and the Adirondacks; gulls swoop outside his window. A set of vintage wooden golf clubs hangs on the wood-paneled walls. The top of his wooden desk is virtually empty. The wood parquet floor has no rug.

To manage all his interests, Pecor delegates a lot of responsibility and does a lot of traveling.

He describes it as management by wandering around.

Every weekend, Pecor climbs into his 7-year-old gold-and-black Datson 280ZX and makes a tour of many of his holdings.

He stops by the Champlain Mill, waving to the employees and picking up stray trash on the floor.

He drives to Grand Isle, where he boards a ferry to Plattsburgh, N.Y.

"Hi, Louise." He waves to the woman in the ticket booth.

"Hello, hello, hello," she says.

"Things fine?" he asks.

"Oh, things are always good."

On the boat, he chats with engineer Tom Carr and captain David Garrett about minor things like oil changes and paint jobs. Once on the New York side, he talks to the ticket booth operators, the snack bar proprietor.

"Ray's a good guy. Everybody likes Ray," says the man at the snack bar, unaware that Pecor's companion is a reporter.

At Port Kent, he consoles Liz Heberts, the gift shop operator, who was upset over vandals who tore up her flower beds.

Gesturing at the gift shop, Pecor says to the small woman, hunched over with old age, "Everything looks good in here."

"But not out there," Heberts replies.

"Everything's all right, don't you worry," he says. "You do such a good job. Let's replace them. We want them to look nice."

When he leaves the gift shop, Heberts is smiling.

* * * * *

Pecor's friends, his employees, his business associates, all puzzle over his perpetual optimism and good humor. People who have known him for 30 years say they have never seen him unhappy or upset for longer than 10 minutes.

"He is absolutely the most upbeat character I ever met in my life," Robins said. "He never worries about anything. (In the winter) he blows in for two days a month, hatches a deal, then goes fishing. He goes away for long periods of time and the rest of us sit here and sweat and worry."

Said Moffatt, "As down as he gets is when the Red Sox lose."

His optimism, which makes him a great salesman, is just one element of his success.

He is a risk-taker.

"I really believe that people like to make their own decisions, but don't like to take risks. So I've taken the risks," Pecor said of himself. Although he admits he is worth a lot of money, he said all that means is he has larger debts than most other people.

His friends agree that he takes chances—but only after carefully calculating the downside.

Deciding to run the Grand Isle-Plattsburgh ferry in winter was a risk, for example, but one most of the company's employees backed.

He is a creative, quick thinker, associates say, who prefers working by himself.

"Ray marches to his own drummer," Robins said. "In a town like this, the same ideas go round and round. Ray's are always very unique."

Harlan Sylvester said, "A lot of people sit around with good thoughts. He acts. He's a doer."

Robins also described Pecor, who is on McAuliffe's board of directors, as a very tough negotiator.

"You have to hang on to your silverware when negotiating a deal with Ray," he warned.

But once the deal is set, Pecor does not waiver.

"He's the one developer I feel comfortable sealing a deal with a handshake," said Peter Clavelle, Burlington's director of economic and community development.

Despite all his deals and schemes, Pecor seems to have made more friends than enemies.

"Considering the number of lives he touches, from mobile home parks to big-wheel bankers, he has the least enemies of anyone I've ever known," Moffatt said.

Pecor keeps promising his friends and family that he has done his last deal. He had said the Mill would be the end, then cable television.

But he was so tired of driving by the empty Strong block that when he heard of a law firm's desire to locate there, he decided to build Court House Plaza.

Now, he is being asked if this will be his last project.

He throws back his head and lets out a laugh.

"Ah, this is it," he promises.

"This is the last one. No question." ●

HARRY HALE COOLEY

● Mr. LEAHY. Mr. President, when I was born, 46 years ago, one of Vermont's treasures was already the age that I am today. Today that unique Vermont treasure, Harry Hale Cooley, is exactly twice my age and, at 92, is still going strong.

This farmer, teacher, political leader, and true Vermonter has inspired generations in our State.

Who else would have taken time as a 76-year-old VISTA volunteer to work in rural America. And then he came back to continue to give yet another

generation of Vermonters the benefit of his advice and wise counsel.

Harry Cooley not only reflects the best of Vermont, but he brings out the best in all Vermonters.

I was very pleased when I went home for the weekend, to read in the Sunday edition of the Rutland Herald/Times Argus an article entitled "Harry Cooley's View from the Ridge." I would like to share this with everyone else and I ask that it be printed in the RECORD at this point.

The article is as follows:

[From the Rutland (VT) Herald/Times, June 29, 1986]

HARRY COOLEY'S VIEW FROM THE RIDGE

(By Will Lindner)

It's not easy to milk a smile out of Harry Hale Cooley, but it's worth the effort. At the turn of a phrase that catches his fancy, at the suggestion of an interesting thought, his reserve breaks like an ice jam on the White River during a February thaw, and a grin spreads slowly across his wide, cool face.

Cooley sits in an overstuffed chair in the lived-in living room of his farmhouse in Randolph Center, and reads by the light from the windows. He can read for just so long until the cataracts beginning to shade his eyes turn the quiet pleasure to a tiring effort. Then he lays down his book and, sometimes, casts his thoughts back over a long, industrious life.

He remembers 50 years he spent as a farmer and teacher, and how his life bloomed all over again after his retirement, when he was elected a state representative from Randolph and then, during the historic Hoff administration, Vermont's first Democratic secretary of state.

Politics gave way to a stint as a 76-year-old VISTA volunteer serving alongside college kids in impoverished rural Arkansas.

In fact, Harry Cooley's careers string like pearls along a necklace 92 years long.

Smaller pearls along the string include service as administrator of his local milk marketing cooperative and civic positions in his community. Cooley also held an array of other jobs and compiled a book, "Randolph, Vermont Historical Sketches—To Which Are Added Personal Reminiscences of the Author," published in 1978.

His house is littered with honoraria for his public service—including a 1976 award from then-Gov. Edward T. Breathitt of Kentucky making him an honorary Kentucky colonel. Cooley leaves the items on tables and desks, rather than mounting them prominently on the walls.

The most eye-catching decoration in the living room is a framed portrait the color of a faded envelope that shows two young girls in turn-of-the-century apparel. The older child, Cooley's deceased wife, Gertrude, stares out of the past with wide, clear eyes.

Mostly, in these quiet afternoons, Cooley thinks about farming. It's a memory he cherishes and a vocation he considers the most honorable profession of all.

"I think more about it than I do anything else. I think farming is something that I ought to be doing," he said during a recent interview at his Randolph Center home.

"I was brought up to do it. It's something that's worthy of a man. A lot of things men do to make a living, I don't think are worthy. But to stay on your land and tend it. . . .

"I shouldn't complain," he sighs, gazing out the window over the purple mountains, darkened by high clouds, in the distance. "But I would prefer to be more able-bodied."

THE BARN IS GONE

Cooley is frustrated that age has stiffened his knees and deprived him of the ability to get his hands back into the dirt and fill his barn once more with Holsteins.

The fact is, he doesn't even have a barn now. The man who once tended 500 acres—working alongside his father, molding three farms into one over 40 years by adding to the Randolph property purchased in 1910—now owns only an old farmhouse and two acres.

Cooley's grandson's vegetable garden lies on the far side of the yard, a little too far for the grandfather to manage easily.

A red, wide-wheeled tractor, a has-been machine no longer in use, sits parked in high weeds on the edge of the woods, sinking seasonally into decrepitation.

The grandson and his wife live here, too, but their busy schedules leave the grandfather most often in the company of a black dog named Matter, a silent cat and a white dove that coos softly from her cage and occasionally lays a pointless, unfertilized egg.

A cherry tree grows by the kitchen door, its leaves a glossy green in early summer and its immature fruits dangling like soft marbles from the delicate branches. This year a mockingbird has come to the ridge. It repeats its rambling songs from somewhere in the tall maples in Cooley's front yard.

But the former teacher, farmer and statesman stays mostly inside, in the company of books. Reading has been a life-long passion for Cooley, who was alternating between John Dean's "Blind Ambition" and Studs Terkel's "The Good Way" early this summer.

"My family were great readers when I was growing up, and not just foolishness," he recalls. "If you're farming to the limit, it's easy to get insular, where when you get together all people talk about is each other."

The world wasn't beating a path to the Cooleys rural home 80 years ago, so they sought out the world through books. The reading habit spawned a family of teachers, writers, college professors and school administrators.

THE RIGHT PLACES

"I've been more lucky than sophisticated," Cooley says, looking back on his impressive string of careers. "I just happened to be in the right place at times."

A struggling young farmer in 1917, he began searching for a teaching position to supplement his income. An opening came unexpectedly in Stowe.

"I taught agriculture for a teacher who was sick, which he had taught to me four years before that," he recalled.

Cooley had graduated in 1913 from the Vermont School of Agriculture in Randolph Center. (In a neat turn of events, Cooley was born just when West Randolph outgrew its name and became Randolph; what had been Randolph—his home—was eclipsed by the neighboring community and renamed Randolph Center.)

The Stowe job was his entry into the field of education. He later spent 20 years in the state agricultural school, a decade teaching farming to veterans after World War II.

In those early years, as his family grew to include five children, teaching was something Cooley had to do. His recollection of agrarian life in the early 1920s sounds startlingly familiar today.

"I couldn't make a living at farming. I even tried to give up the farm entirely and just teach," Cooley says. "We couldn't live on either one but managed to make do with the combination."

For most people, the story would end there, when his active careers in agriculture and education slowed down around 1960. But for Cooley retirement brought other opportunities, tossed his way, he says, by timing and luck.

Harry Cooley, a retired teacher and farmer, was elected to the Legislature in 1959. He failed in his bid for a second term, but in 1964, when state Sen. Philip Hoff of Burlington was campaigning for governor and attracting unprecedented attention for a Democrat in Vermont, Cooley was invited to run for secretary of state and fill out the ticket.

"I was sitting here doing nothing in particular when he (Hoff) called. Politics for me was just a way to pass the time, to see if I could do it," said Cooley.

Much to his surprise, he won the secretary of state's post, a Democrat emerging from rock-ribbed Republican Orange County to capture a statewide office.

He was re-elected in 1966. Though an actor in a notable chapter in the state's political history, Cooley had no pretentions for his post then, and has none 20 years later in hindsight.

"The secretary of state (job) was administrative," he says. "I just tried to run the state's business as best as I could, like the head of a company. Some of these boys since then have tried to make it a stepping stone to something bigger, but I've never seen anyone succeed."

One thing Cooley has learned by living through most of the 20th century is that nothing stays the same. Including political opinion. Including his own political opinion.

"The only reason I got into politics as far as I did was because Barry Goldwater was running," he chuckles. The thought of a Goldwater presidency appalled him, but considering that prospect in the Ronald Reagan era, Cooley pauses and one of those rare grins erases the austerity from his face.

"He (Goldwater) looks good now, though," he confides.

When the state government reverted to the GOP, the septuagenarian farmer-teacher retired again to the ridge in Randolph. He had outlived two wives, his children were grown and the next generation of Cooleys was expanding.

VISTA SERVICE

Once again, his respite from public affairs was short.

In 1969 Cooley applied to VISTA—Volunteers In Service To America, billed as "the domestic Peace Corps" by idealistic recruiters who saturated the nation's college campuses.

Despite his age, Cooley was the type of volunteer recruiters were looking for. He was a lifelong farmer, and the unproductive rural pockets of the South and West were chief targets of the Kennedy-Johnson "War on Poverty."

He also was a lifelong educator, a skill at the heart of the philosophy that poverty could be licked by teaching hard-working but deprived farmers how to make the best of their resources.

And, he was a former *Secretary of State*, for God's sake.

He was in Arkansas so fast it made his head swim. But not for long. The structure of the anti-poverty program, flawed to begin

with, crumbled fast when President Nixon appointed Donald Rumsfeld to oversee the subtle dismantling of the agency.

Like others sent to the rural South, Cooley found that the local Community Action Agencies sponsoring his work were headed by retired military officers.

"They spent their time in Dardenelle (Ark.), holding meetings with each other and drinking coffee," he recalls. "I couldn't stand it; just couldn't seem to get anything started."

Cooley was assigned to a feeder-pig cooperative for poor farmers, advertised to him as substantially organized and on the brink of taking off like a rocket. When he got there, however, he found it consisted of a handful of people who had attended a few meetings.

Disappointed, he devised an operating plan for the cooperative which he submitted to his coffee-drinking superiors and which, he says, disappeared in the anti-poverty pipeline that ran from Dardenelle to regional VISTA headquarters in Austin, Tex., and thence to Washington.

So he shifted his attention to a community of blacks interested in starting a cooperative gardening project. That was a success, he says, the two-acre plot being plowed "by a colored gal with a horse and mule. But they didn't need a supervisor. They knew as much about it as I did."

Cooley was disillusioned by the federal government's luke-warm commitment to the poor, but the final straw came when he picked up a newspaper and saw that the Ohio National Guard had shot into a crowd of students at Kent State University, killing four.

Cooley decided he and the federal government had little in common and would be better off apart.

So it was back to Vermont. Cooley, born in the last years of the 19th century on a farm on the North slope of Arrowhead Mountain in Georgia, Vt., returned to the family homestead on the ridge in Randolph Center. He had time, now that his secondary careers were over, to convert his thoughts and memories into book form, to wind down.

The Holsteins are all gone now; the aromas of manure, fertilizer, hay and sweet milk, the humidity created by dozens of warm cows in a cold barn, all mix in Harry Cooley's memories.

A new generation of Democrats is installed in Montpelier, and Cooley reads with interest of the small wars of party politics in the State House.

The Vermont School of Agriculture, just down the road and around the bend from his farmhouse, has become Vermont Technical College. It offers engineering and other practical sciences now, along with a handful of farming courses.

It's all food for thought, and Harry Hale Cooley has time to digest some morsels.

In time, the pressure eases behind his eyes and he picks up the hardbound volume in his lap. He adjusts his glasses, straightens the sweater over his shoulders, and goes back to his reading.●

ESTHER VAN WAGONER TUFTY

● Mr. LAXALT. Mr. President, a legend in the capital news corps has passed from the Washington scene.

A fine journalist and great human being passed away early in May. Esther Van Wagoner Tufty, known as "The Duchess," was 89.

She came to Washington in 1936 and covered top stories of the succeeding decades, at home and abroad, for her papers, mostly in her native Michigan. For professional and human qualities she was renowned and a great credit to journalism.

I ask to insert in the RECORD a fine, sensitive, engrossing obituary written by Martin Weil, in the May 5 Washington Post. Also a eulogy delivered at a memorial service for the Duchess at the National Press Club of Washington, June 4, by Kenneth M. Scheibel, former president of the club, a close associate and friend of Mrs. Tufty.

The obituary and eulogy are as follows:

OBITUARY BY MARTIN WEIL

This tiny tribute, this paean of praise, to a big, great, grand human being focused on the elegance, style, wit, charm and warmth the Duchess unstintingly gave the world in which she lived. And if the world in which she lived . . . was not the perfect place she might have wanted it to be . . . it was far less imperfect. . . . when she left it than when she found it.

For she was a wondrous woman who left us a legacy: Keep the faith, with a smile on your face!

It is right that we grieve that the Duchess is gone. It is also right that we rejoice the more that she lived.

As memories fade and recollections blur, pray let us remember one thing above all others about Esther Van Wagoner Tufty:

She was a great, big, bright ray of sunshine in our lives. And every man, woman and child upon whom she cast her glow gained new luster by her light.

EULOGY BY KENNETH M. SCHEIBEL

The tyranny of words . . . stifles . . . accurate portrait of the life of Esther Van Wagoner Tufty.

No one word, or series of words and phrases strung together, can frame a precise picture of this human, talented, warm, compassionate and fun loving lady we knew and loved as "The Duchess."

But maybe—just maybe—one of the tiniest of the words in our language comes closer than any other in a one-word portrait: b-i-g.

The Duchess was big in her plan of life. She was big in her goals and desires. She was big in accomplishments, recognition, reputation, ideals. She was big in her hopes for herself, her family, and friends—and her beloved United States of America. And she was big in her perceptions of humankind—what it ought to do, what it ought to be to make the world better.

And if her favorite politician, official, friend, relative, or cause, foundered and failed, she fussed and fumed, sniffed and snorted, put a fresh sheet of paper in her battered typewriter—and turned, with new hope, new optimism, to a new chapter of endeavor.

Outwardly, the Duchess always seemed to have a rosy outlook on life. Her boisterous manner and hearty guffaws roared out through her beloved capital city wherever her nose for news or social inclinations took her. And her fun-loving manner and breezy style went with her to far-flung trouble spots of the world.

For all her warmth, charm, joviality, the Duchess was the ultimate professional in journalism. She hewed tightly to her role as the amiable skeptic—of the people, places, things, she wrote about. But her criticism was constructive, not destructive. Thus she was a builder—not one, as the saying goes, who always tried to kick the barn door down.

Generosity was another of the Duchess' great virtues. She took great pains to help young people get started in journalism. Esther was never too busy, in her busy, busy years, to counsel, cajole, praise, and persuade. And if someone was a bit down and out, the Duchess managed to find a few dollars in her cash box.

Esther was a person of many deep beliefs. One was that basically human beings are good. She felt very deeply that the underdog, the underprivileged, deserved a break. And much of her time and energies was spent to this end.

The Duchess' list of achievements is testament to her hard, hard work. She loved her profession. It honored her. With the hard work she had fun, let others share it. She felt that was part of being a journalist.

Whatever she did—writing a story, giving a party, cooking a meal, raising a family—she did—with class. There was no holding back, no being niggardly, restrained, halfway. She gave life all she had—gave it big, with style, fervor, all the strength and drive she drew from her Dutch ancestry.

And life gave back to her—recognition, warmth, love and respect of friends, family, colleagues . . . big. As a journalist, the Duchess knocked heads with the grubbiness and sordiness . . . disappointment . . . that go with the job. But her own conduct and demeanor were dignified, straightforward, regal . . . majestic.

The magnificance of the Duchess' life and elegance of her soul, the simplicity and sweetness of her spirit . . . mark her as one of God's finest creations. And if she sinned or made mistakes, they were sins or mistakes of commission, not omission. To sit idly by and simply do nothing to right wrongs was abhorrent to her. When you were right, she told you so. When you were wrong, she made that very plain, too . . . in earthy, forceful terms.

One always felt much better whenever they encountered the Duchess. It was simply impossible to brood, or be unhappy, for very long . . . in her presence. Always . . . quick to praise, slow to criticize . . . a kind word, a pat on the back.

She would rather trust than doubt, rather have faith than disbelieve, would rather commend . . . than castigate. And if someone let her down, brought disappointment or bitterness, she tried to keep the hurt to herself. If there was a mean bone in her body, nasty thought in her head, her resentment was hard to find.

The Duchess would rather lift up than beat down. She looked for, and found . . . the good in people . . . always believing good outweighed bad. Her secret weapon for success was . . . the kind word, deed, thoughtful note or phone call. And an understanding heart—for whomever needed it, whether he or she was in high place or low. Kindness, not the curse, was her style.

Kings and queens, princess and presidents were intrigued by her grace, comfortable in her presence—treated her as equal. And because she had the unique ability to win the respect and trust of people in high station and low—she advanced and brought great credit to her profession of journalism. Not

for Ester Van Wagoner Tufty, to rant and rail if journalism or its practitioners at times attained a frowsy, tattered, or tarnished image. The Duchess' work, professionalism, and drive, brought credit, honor, dignity. Esther knew many Presidents, called some by their first name. They looked to her.

The true meaning of the Duchess' life will be a long time coming into sharp focus. But we know already that she was important to all of us—not only for what she was—but for what she taught us about ourselves. She helped us be—better than we could be.

The Duchess took lots of hard knocks. She went through the mill. She paid her dues. Life was no big bowl of cherries.

Esther competed, very effectively, in a rough and tumble business.

She asked no special favor. She beat the bushes for business in the best competitive style. She knew what it was to meet a payroll. She could be tough, but she was not hard, vengeful or cruel. As the years advanced so did the Duchess' health problem. She met them with optimism, courage, steadfastness—and stayed at her typewriter through recurring travail.

With the knocks and bumps and setbacks, the Duchess kept her sparkle. She stayed the course. She kept the faith. She fought the good fight. She never tried to be anything but what she was—a hard working, dedicated, journalist—but much more—a friend, a neighbor, a mother, a woman—completely feminine.●

INSTALLATION OF ARCHBISHOP THEODORE McCARRICK OF NEWARK

● Mr. LAUTENBERG. Mr. President, I am pleased today to offer congratulations to Archbishop Theodore McCarrick, of Newark, on the occasion of his installation. Archbishop McCarrick is being installed at the Cathedral of the Sacred Heart on July 25. He received the pallium, the traditional symbol of an archbishop, from Pope John Paul II at a special mass at the Vatican on June 29. The installation ceremony will be a major spiritual event, with over 3,000 invited guests. Among those attending will be four cardinals, 13 archbishops, and 65 bishops.

The archbishop is no stranger to New Jersey, serving as the founding bishop of the diocese of Metuchen since 1981. While serving in Metuchen, he became known for appearing unexpectedly at parish events and celebrations throughout the diocese. This personal touch has been a hallmark of Archbishop McCarrick's ministry. He will bring this warmth to his new position, as he has been quoted as saying that he considers his family to be the church of Newark.

Mr. President, Archbishop McCarrick is a gracious, outgoing, and thoughtful leader. He has shown a deep concern for the wellbeing of the people of New Jersey, with a special emphasis on the needs of the poor and requirements for economic development in our cities.

Both the Catholic community in New Jersey, and indeed all the citizens of the State, are fortunate in having the benefit of the leadership of Archbishop Theodore McCarrick. I ask my colleagues to join me in congratulating the archbishop and wishing him well in his new position.

I ask that the following editorial about Archbishop McCarrick from the Newark Star-Ledger be printed in the RECORD.

The editorial follows:

THE NEW ARCHBISHOP

The newly named spiritual leader of the Newark Archdiocese—Bishop Theodore McCarrick—is amply qualified by training and experience to deal with the religious and secular problems he will find in his hew papal assignment as successor to the retiring Archbishop Peter Gerety.

As the fourth archbishop of the state's largest Catholic vicinage, Bishop McCarrick can draw on the broad administrative background he acquired as the founding bishop of the Metuchen diocese, created by a split of the Trenton diocese in 1981.

For a prelate whose religious origins and formative stages in the Catholic Church were deeply rooted in New York City, the Metuchen diocese represented a marked change in the upwardly mobile course his career was taking at that point. But, as Bishop McCarrick noted, it "was the best introduction to the state of New Jersey anyone could ask for."

In retrospect, the Metuchen diocese may have been an essential evolutionary stage of transition, a pragmatic administrative basis for his elevation by Pope John Paul II as the new archbishop of the Newark Archdiocese. The problems of the two Catholic vicinages are not greatly dissimilar, but they are more complex and therefore challenging in the substantially larger and more ethnically mixed Newark Archdiocese.

Archbishop Gerety decided to retire a year earlier than the mandatory age of 75, stating that another year would "only put off certain necessary plans for the future of this archdiocese.

The new archbishop will take over a Catholic jurisdiction that has undergone significant constructive change under 12 years of Archbishop Gerety's spiritual and administrative guidance. He has provided an urgently needed stabilizing force, resolving critical financial problems and implementing in a vigorous manner an overall administrative restructuring of archdiocesan institutions, functions and programs.

But problems remain, religious as well as secular—a serious shortage of priests, sharply differing views among the laity over the future role of the church, and long-range capital planning. These are the problems that Bishop McCarrick will inherit when he takes over in July as the new spiritual leader of the Newark Archdiocese.

They are not insurmountable, but they are demanding and challenging-a formidable assignment for the incoming archibishop—Theodore McCarrick.●

GRAMM-RUDMAN—QUESTIONS RAISED BY SENATE GOVERNMENTAL AFFAIRS COMMITTEE

● Mr. HART. Mr. President, through the courtesy of the distinguished Senator from New Hampshire, Mr. RUDMAN, I have had the opportunity to read through 159 pages of testimony from the Governmental Affairs Committee hearing on GAO.

A number of the issues which were raised at the hearing are significant. Let me summarize them:

OMB will have enormous discretion to manipulate the economics of the sequester: The assumptions, the size of the sequester base, the defense BA/outlay ratio.

Gramm-Rudman-Hollings has had, and will continue to have, a troubling impact on defense.

The sequester process, if not unconstitutional, represents a tremendous shift in the power of the Congress.

CONCERNS RAISED ABOUT OMB DISCRETION

There is an instructive colloquy in the testimony among Senator DOMENICI, the distinguished chairman of the Senate Budget Committee, Senator ROTH, the distinguished chairman of the Governmental Affairs Committee, and Senator CHILES, the distinguished ranking member of the Budget Committee. This colloquy involves the issue of OMB discretion. The opponents of the Gramm-Rudman-Hollings "fix" argue that OMB will have discretion in the following areas: Changing the size of the sequester base; changing the composition of domestic and defense cuts in defiance of the 50-50 percent split in the law; and changing the defense budget authority and outlay ratio.

Mr. President, I will first quote from the remarks of Mr. DOMENICI on pages 20, 21, and 22 of the transcript:

So I think the rub comes in, Mr. Chairman and members of the committee, in that there are some who will say it is apt not to work the same way because the OMB does, indeed, if you want to give it its broadest capabilities and powers, it has the potential, the prospect, the power, whatever word you want to use, to substantially modify, so long as they have given due regard and given explanation.

But I must tell you that the arguments that will be made that they could, indeed, dramatically change it, as I see it, interpreting it, and thus put on their shoulders and in their Executive capacity as representative of the President some very significant powers that are not there now is true.

I do think they would have the power to change the economic assumptions and some things that would have an up or down effect in a substantial way on the amount of deficit that they are attempting to sequester.

That's a very significant statement. The sponsors of Gramm-Rudman-Hollings II, the "fix," have told us that OMB is performing a "green-eyeshade" function. Ministerial. We have the testimony of Senator DOMENICI stating that is not the case.

Further on in the record, Senator CHILES addresses the same issue. This is on page 33 of the record:

It seems to me that there is certainly the power there, the possibility is there that if OMB wanted to they could use, for exam-

ple, could they not, a high BA outlay ratio for domestic programs and a low BA outlay ratio for defense programs * * * For example, if it is $20 billion in outlays that were to be sequestered, OMB could assume a 1:1 ratio for defense and a 3:1 ratio for domestic programs, which would mean you could seqester $10 billion in budget outlay in BA for defense and up to $30 billion in domestic programs. So certaintly, that is something, that the power is there.

Senator CHILES then turned to Senator DOMENICI and said: "You would agree to that?" Senator DOMENICI said, "I would agree with that."

Chairman ROTH asked the Comptroller General, Mr. Bowshwer, whether he thought there was discretion under Gramm-Rudman-Hollings II to change the sequester. Mr. ROTH asked of the OMB function: "Is this clerical, or is it a pretty extensive economic forecast requirement?" On page 77 of the transcript, Mr. Bowsher states:

It is quite different than it was in January on economic forecasts. In other words, you are actually forecasting what the number is that has to be sequestered. Therefore, it is quite a bit of discretion there.

OMB WILL NOT NECESSARILY USE GAO ECONOMIC ASSUMPTIONS

Under the "fix" procedure OMB is given latitude to use its own forecasts for the final seqestration order. These are likely to differ substantially from CBO's—even James Miller, the current Director of the OMB, suggests that the similarity in deficit forecasts was "more coincidence than anything else."

OMB Director Miller further stated that he would not assure Senators that he would use either the CBO assumptions or the GAO averaging of the CBO and OMB reports.

IMPACT ON DEFENSE

Later on in the transcript, on page 65, the distinguished Senator from Georgia, Mr. NUNN, emphasizes this point on the defense issue. Senator MOYNIHAN and I have discussed the ability of OMB to fudge the defense number. Mr. NUNN says this precise thing occurred in terms of the fiscal year 1987 budget:

The American people don't recognize the President's budget does not even come close to meeting the Gramm-Rudman-Hollings targets, because the outlay number on defense was grossly underestimated.

Mr. Nunn continues on page 66:

We are going to have to cut that budget authority number, and we are going to have to cut defense much more than people have anticipated in order to meet that outlay number * * * when we get down to the sequester process, and your OMB would have that, if they play the same kinds of games with sequester the way they have played with the submission of the budget, then what we are going to have is a sequester that still doesn't meet the goals.

Director Miller states, on page 136 of the record, that the OMB's preliminary estimates suggest that the "excess deficit"—the amount necessary to sequester—will be $20 billion. This figure corresponds closely to an "illustrative" sequester of $22.6 billion analysed in the Congressional Budget Office's February annual report. In that report, the nonpartisan CBO estimated that such a sequester would reduce defense budget authority by $21 billion in fiscal 1987 alone. This represents a 6.2-percent across-the-board cut in defense programs, and 8.4 percent for nondefense programs. But, as the CBO wrote, the sequester "would be much more severe than these percentages imply."

Combined with the 1986 sequester percentage, the possible 1987 sequestration implies reductions from 1986 appropriations levels of 10.8 percent for defense and 12.3 percent for nondefense programs. The reduction in real terms would even be greater because of the loss of any adjustments for inflation in 1987.

So, I would say to my colleagues, the impact on defense is very real.

FORMER COMPTROLLER GENERAL OPPOSES SEQUESTER PROCESS

Mr. Elmer Staats, who served for more than 20 years at OMB before spending 15 years as the Comptroller General, opposed the sequestration process in the stongest of terms.

In summary, I am strongly opposed to the sequestration concept. It is arbitrary and it damages highly essential programs which Congress otherwise would not reduce or eliminate. These judgments historically have been made on a case-by-case basis after careful review of the authorizing and appropriations committees.

I do not believe there is a substitute to this approach. Is Congress willing to give up its constitutional responsibility for appropriating?

Has it examined the far-reaching implications of delegating this responsibility to anyone outside of Congress? The guidelines, even though tightly drawn, do not solve this problem.

In listening to the discussion this morning, Mr. Chairman, the point is being made that the guidelines are so tight that the OMB would not have much discretion. I would say in response to that if those guidelines are adequate for that purpose, then why doesn't Congress enact the appropriation itself? In other words, the executive either has discretion, or they don't. I don't really quite see the value of the guidelines as solving the basic problem.

In summary, again, I am strongly opposed to the sequestration concept. It is foreign to all that I have experienced in the many years that I have been in Government. The Congress has a clear and important responsibility for oversight. This is something that I worked with the Congress closely on for the 15 years I was Comptroller General. The executive agencies are clearly accountable to the Congress in carrying out their responsibilities. Isn't there an incompatability, even an inconsistency, in delegating the decisionmaking as to the final resources available for the execution of governmental programs and this responsibility? And I believe there is.

While we appreciate the fact that a hearing was held, that a record was produced, and that these points were made, we must be concerned the hearing occurred on the same day GRH II was offered.

There is much at stake. The Constitution. The balance of power between Congress and the executive branch. The quality and composition of defense spending. The ability of Congress to establish priorities.●

THE GENTLEMAN FARMER FROM VERMONT

● Mr. LEAHY. Mr. President, for the past 12 years I have had the privilege of serving on the Senate Agriculture Committee. From the days when I was the most junior member of that committee up until now, when I am the most senior member of my party, I have benefited from the advice and constant good judgment of J. Douglas Webb of Fairfax, VT.

Doug Webb, a native Vermonter and respected dairy farmer, has always been there when I—or anyone else—have needed his help and advice.

We in Vermont know how valuable a person he is. Many do not know, however, of the tremendous work he does with the United Dairy Industries Association. We are accustomed in the Congress, to seeing people put in long hours, but I know of no one who works harder than Doug Webb.

Recently the Burlington Free Press wrote an article entitled "The Gentleman Farmer From Fairfax." It said a lot about Doug Webb that should be shared with the rest of the country. He and his wife, Nellie, reflect the best of Vermont and I ask unanimous consent that the article be printed in the RECORD.

The article follows:

THE GENTLEMAN FARMER FROM FAIRFAX—J. DOUGLAS WEBB'S QUIET STYLE HELPS STEER THE DAIRY INDUSTRY

(By Steve Rosenfeld)

FAIRFAX.—For a dairy farmer, J. Douglas Webb spends more time jetting around the country than milking cows in his picturesque red barn.

The 64-year-old native Vermonter heads the world's largest commodity promotion organization—United Dairy Industries Association—which has the responsibility of marketing the nation's steadiest and most efficiently produced crop, milk.

These days, that is no easy task. There is competition from the soft-drink and beer industries, which spend billions on advertisements. There also is the industrywide milk surplus to deal with and divisions among regional milk marketing groups across the country.

It takes a cool head and a to-the-point style to manage these challenges and chart an industry course into the future. Webb has both—but ask the unpretentious son of British immigrants about his work and he will quietly say, "Agriculture has been my life. . . . You do what you can do."

William Paine, state deputy agriculture commissioner, said Webb has a national reputation "of being a straight shooter."

Said Paine, "He is one of the few national officials who is a very active dairy farmer. He doesn't mince his words, he is a typical Vermonter. He just lays it out the way it is and you have to make your own decisions."

Webb has had a hand in guiding UDIA since its formation 15 years ago. The organization, which represents 95 percent of the nation's dairy farmers and 85 percent of the milk sold in the country was modeled after a New England-wide marketing group, which he helped organize nearly 20 years ago.

In many ways, UDIA's work—marketing, nutrition research and education, and product and process development—has changed little since its inception in 1971.

"Your ad agency comes up with creative themes. But basically, you are doing the same "thing," said Webb, in an interview at his Fairfax home. "You are trying to sell more dairy products and you are trying to educate the general public about eating a proper diet."

The more pressing task, and what Webb says has been the major challenge faced by UDIA in recent years, is unifying national milk marketing efforts. Today, that means bringing a coalition of three West Coast states into UDIA's fold.

"It just makes sense," he said, speaking of UDIA's nationwide marketing goal. "The American dairy farmer's promotion dollar can be spent more efficiently that way. We are talking about a $15 million to $20 million savings if we can put this together." UDIA spends $120 million of a $210 million annual budget on promotion. Initially, co-ops voluntarily supported UDIA, but as of 1985 with the Farm Bill, all milk producers contribute based on production, 15 cents per hundredweight.

Though Webb was only elected UDIA chairman in March, he has been a key player in industrywide politics for some time. Three years ago, the battle was how to get Wisconsin—which produces one-sixth of the nation's milk—to join UDIA.

Webb fondly recalls his role in UDIA's successful bid.

It was one of those meetings only businessmen could love. For more than three hours, California's Milk Advisory Board made pitch after pitch to Wisconsin dairymen to woo them into their organization. By 12:30 p.m., everyone was exhausted and Webb had not said a word.

"It gets to be 12:40 and you're last on the program. You know they don't want to sit any longer," recalled Webb. "I said, 'I will take three minutes of your time.'

"I said, 'I can't say it emphatically enough. You should belong to UDIA. You are terribly important to the dairy industry. You can be more effective by belonging to UDIA.' And by gosh, they chose to join."

Said Webb, "The message is the same—and it is so simple. We can accomplish so much more by working together."

For the last 40 years, Webb has farmed a 600-acre spread in Fairfax. His 160-animal herd last year produced more than 2 million pounds of milk. He is a member of the St. Albans Cooperative Creamery and also harvests lumber and maple syrup.

Webb, one of four children, was born in 1912 in Fairfax to parents who had emigrated from England. His parents' farm had 15 dairy cows. They also had a small sugarbush and were involved in market gardening, raising bees and berries.

By high school, he said he "pretty much knew" he would go into farming. After graduating from the Vermont State School of Agriculture, now Vermont Technical College in Randolph, he worked for five years as a herdsman in Connecticut. He purchased his farm with his brother in 1946.

He married two years later—his wife, Nellie was the town clerk who recorded the purchase of the farm—and reared three children. Webb's involvement in public affairs began in 1961, when he was appointed selectmen. He has held the job for all but two years since.

Webb traces his political side to his upbringing.

"People who come from other countries appreciate the way things operate here in America—more than we natives do. Seeing my folks come here, it is not the same as it was back there," he said.

"I think you have to be interested in your community. I just think it is important. The philosophy is if you don't want to get involved in things, you have to be satisfied by those who will govern."

Webb's interest in his community led him to become chairman of the Vermont Maple Festival and a trustee of the Vermont Electric Cooperative. He has also been involved in Franklin County Field Days, an annual agricultural-oriented fair.

Webb's work shifted from the local to the regional in the late 1960's when he became involved with state and industry officials to set up a New England marketing organization. He was the first president of the group, called Milk Promotion Services Inc. It is funded by contributions from co-ops.

Paine, who worked for Milk Promotion Services before becoming deputy agriculture commissioner, said Vermonters have benefited from Webb's role in UDIA affairs because he is able to bring the concerns of the state's farmers into a national arena.

"One of the major benefits is the ability of the board to be constantly in touch with everything that is happening all over the country," said Paine, speaking of Webb's influence. "That is the major benefit. And knowing what is going on, he can give better and more informed imput."

Today, there are 23 regional member groups making up UDIA, representing about 235,000 farms. Its members annually produce 120 billion pounds of milk. The organization is split into three divisions, handling direct advertising, nutrition research and education and product development.

With his two sons running the farm, Webb said he spends "two-thirds" of his time on UDIA business. Even though his weekly itinerary may take him to several cities, his approach and attitude reveal his rural Vermont roots. He is paid $125 plus expenses for every day he is working on UDIA business.

"I believe—and this is where I come from—that instead of drinking 10 soft drinks, if people just drank a couple of glasses of milk, they would be more healthy," he said. "It is almost so simple it is elementary. But people don't think about this." ●

THE WORLD COURT

● Mr. GORE. Mr. President, ever since President Theodore Roosevelt brokered an end to the Russo-Japanese war, the United States has stood for a peaceful resolution to international problems by means of diplomacy and law. The fate of the International Court of Justice is of great importance to us, because it is only from such institutions that we may expect to see the growth of a process whereby nations abandon war and the threat of war in their relations with each other and shift by degrees toward adjudication and arbitration of their disputes. Clearly, the present administration's rejection of the Court's authority in the matter of Nicaragua affects these hopeful prospects. Many of us differ in our views of the legitimacy of the administration's position, but nonetheless it is one which deserves serious critical review. In this regard, I commend to the attention of my colleagues comments by Prof. Richard N. Garner of Columbia University which recently appeared in the New York Times.

[From the New York Times, July 2, 1986]

A REAGAN FIASCO IN THE WORLD COURT

(By Richard N. Gardner)

Suppose you had a lawyer who failed to shield you from an impending lawsuit by neglecting to exercise in a timely manner your right to refuse the court's jurisdiction? And, having missed that opportunity, suppose your lawyer then failed to present the merits of your case to the court, thus helping to assure a judgment against you? That is essentially what our Government has done in the case we lost last week to Nicaragua in the International Court of Justice.

Nicaragua brought its case to the court in April 1984, nearly three years after we started organizing, training and financing a 10,000-man contra army for operations inside Nicaragua. We could easily have blocked the Sandinistas' suit well before it came to the court by refusing to accept the court's jurisdiction in cases involving armed conflict—on the reasonable grounds that the security interests involved are too great, the factual issues too hard to resolve and the law on the subject insufficiently developed. But we failed to do so, and now we stand condemned before the world of breaking international law and violating Nicaraguan sovereignty.

To be sure, the International Court of Justice is not the same as a domestic court. Its decision that we should stop aiding the contras and pay damages to Nicaragua cannot be enforced. Nevertheless, the court's judgment will influence public opinion and policy in other countries, undermining confidence in our foreign policy and tarnishing our reputation as a law-abiding nation.

Significantly, no member of the court was prepared to accept President Reagan's argument that we have a right to aid "freedom fighters" seeking to overthrow or force the liberalization of Communist regimes. But even the judges who voted against us acknowledged that our aid to the contras might be justified if it were shown to be part of a "collective self-defense"—if it were proved that Nicaragua was aiding leftist guerrillas in El Salvador and if our response was necessary and proportional.

The United States' refusal to come to court to make that case meant that the court heard only the self-serving arguments of the Sandinista witnesses, many of whom, to put it bluntly, lied through their teeth in denying Nicaragua's substantial involvement in the Salvadoran insurgency.

With such self-destructive behavior on our part, it is not surprising that we obtained scant support from the court, since it is dif-

ficult for judges to resolve factual issues in favor of a litigant who does not appear to present his case. In the larger court of international opinion, many will conclude that we have no case at all.

There is a new "realism" in vogue in our country today that considers international law a utopian dream and international institutions irrelevant or worse to the advancement of our national interests. That view, which is not shared by most other democratic countries, is itself unrealistic.

International law is a system of mutual restraints and concessions that nations accept because it serves their interests. The fact that the Soviet Union and its allies repeatedly violate international law does not mean that it does not exist; nor does it justify our doing the same. Democratic governments, unlike totalitarian ones, hold themselves accountable for their actions under a rule of law. When we exercise our lawful right to use armed force in individual or collective self-defense, as we must in some cases, we should be willing to justify our actions in legal as well as political terms.

To say that we cannot do so in the Nicaraguan case because we would compromise vital intelligence sources is simply not credible. We were willing to show satellite photographs of Soviet missile sites during the Cuban missile crisis, and we revealed intercepts of Libyan messages to help justify our recent air strike against that country. If our case against Nicaragua is a good one, we must also have nonsensitive evidence from Salvadoran sources.

The Administration could still salvage something from its errors by publishing a full statement of the international law basis for aiding the contras. Other nations have the right to expect this from the world's greatest democracy. The American people, who correctly like to think of themselves as a law-abiding nation, have the right to demand no less.●

AT&T BREAKUP

● Mr. SIMON. Mr. President, we have had numerous postmortems on the breakup of AT&T and it's likely we will be feeling its negative impact for years to come. The message I receive from people in my State is that service has not improved and for the most part, they have not noticed savings. In fact, many say their bills have gone up. In a column I write for Illinois newspapers, I've taken a look at this problem and seek solutions. I ask to have it printed in the RECORD.

The column follows:

[P.S./Washington: A weekly column by U.S. Senator Paul Simon of Illinois]

WITH LONELY MA BELL, SERVICE WAS BETTER

The telephone system is a mess.

That will not come as a great surprise to many of you.

When I hold town meetings people get up, wave their phone bills and say, "I can't understand my phone bill." I sympathize with them. I can't understand them either.

The telephone system in the United States for decades was by far the best in the world. Now the quality is deteriorating. In calling from a hotel to another city, when I ask why there is an echo, I am told there is "equipment that is not compatible." That is supposed to satisfy me.

We formerly had a regulated monopoly. It worked reasonably well and protected the public from excessive phone charges.

Now "competition" is the watchword, and in most things like shoes and cars and groceries, I welcome competition. But for most citizens, in telephones and telephone service, it means higher costs, confusing bills and equipment that is sometimes less than quality equipment.

Once all the telephones were made in the United States. Now only about 40 percent are, and as competition becomes more severe those who make phones appear to be cutting costs wherever they can. The net result is flawed, weaker equipment.

There have been some improvements. I can now sit at my desk and punch one of 30 buttons and a phone will ring in one of 30 locations automatically. Car phones are better. But on the whole, equipment is getting worse.

It is also true that under the present system large companies and some consumers can achieve substantial savings. But if they have a harder and harder time communicating, I wonder what they are really saving.

And clearly, if present trends continue, people in rural areas will be paying more for service because competition in high-density areas will force down prices for some and up somewhere else, and "somewhere else" is rural areas.

Be thankful you do not live in rural Utah or Nevada or Wyoming! Those people will really be paying bills a decade from now.

I opposed the break-up of AT&T because I felt that a regulated monopoly in this case—whatever its defects—offered the public more protection than a non-monopoly situation. I feel the same about electric service, even though I fight the utilities from time to time.

Whether we can put Humpty Dumpty back together again after it has broken apart I do not know.

I've thought about legislation authorizing states to grant monopoly jurisdictions, provided there are certain safeguards for the public.

I don't serve on a committee with immediate jurisdiction, but I am ready to follow someone on one of those committees, who comes up with a sensible plan.

Since I have learned that lobbyists for various groups seem to read this column more carefully than many others do, perhaps one of them can come up with better ideas.

Or maybe someone in Johnston City or Chicago or East Moline or Bowen or Carlinville who reads this column can come up with an idea for improving things.

All I know is that a phone system that ought to be improving is moving in the opposite direction.

And somewhere out there is an idea for solving our problem.●

NAUM AND INNA MEIMAN: RESTRICTED RIGHTS

● Mr. SIMON. Mr. President, Naum and Inna Meiman are Soviet Jews who want to emigrate to Israel. Inna is critically ill with cancer and requires treatment that is only available in the West. Naum is a 74-year-old man who once worked as a physicist. Since he applied for his exit visa, however, the Soviet Government has kept him confined to his apartment and isolated him from the scientific community.

The Soviets have persecuted the Meimans persistently. Their telephone has been cut off and much of their mail has been confiscated. The Meimans have done nothing illegal, yet the Soviets have taken away their basic rights. The Soviets have denied the Meimans the right to choose the place in which they want to live, the right to obtain proper medical treatment, and the right to practice their religion. The Meimans deserve to live a life of freedom and happiness.

I strongly urge the Soviet authorities to grant the Meimans exit visas to Israel.●

A POLICY OF FOLLY

● Mr. SIMON. Mr. President, history has some pretty powerful lessons to teach us. But time and time again, we fail to learn these lessons. This is especially true of economic lessons. Fifty years ago our country was floundering in its worst depression. Recognizing the flawed policies that led to the Great Depression might help us avoid another depression. In a column I write for newspapers in my State, I've focused on an analysis of those policies by a wise and astute Illinois Congressman who served during the 1930's. I ask to have the column printed in the RECORD.

The column follows:

A POLICY OF FOLLY

(By Senator Paul Simon)

Illinois had a remarkable congressman who served in the U.S. House of Representatives from 1931 to 1941. His name was Kent Keller and he lived in Ava, a Southern Illinois community of about 800 population.

Recently someone gave me a mimeograph statement written by him—and apparently mimeograph by him—that is unfortunately undated. It was written after he left Congress. There is a reference to 1945 in the document. My guess is that it was written in 1946, but it could have been written in late 1945.

What he had to say has a ring of familiarity to it.

Keller reviewed the fiscal policies of the Harding, Coolidge and Hoover administrations and found they helped to bring on the Great Depression by providing tax breaks for the wealthy rather than facing the problems of the nation's indebtedness and people in trouble.

Keller observes, "Our first obligation is to pay our debts and continue to do so, and only reduce taxes as we reduce our debts. That appears to me to be common sense and good financing."

That makes as much sense today as when he wrote it—and is followed even less today than during the times he complained about.

In 1921, the Harding Administration and Congress decided that rather than face up to the indebtedness caused by World War I, they would substantially cut taxes.

In 1924, Congress voted another income tax reduction rather than deal with the debt, including almost $4 billion in rebates

to corporations for taxes they had already paid.

In 1926, the Coolidge Administration decided another tax reduction was in order, rather than doing something about the debt. The inheritance and gift taxes were virtually repealed.

In 1928, the Coolidge Administration and Congress again reduced taxes and on Dec. 14, 1929—while the nation teetered on the brink of financial chaos—another income tax reduction was passed.

Those five major tax reductions in the fact of unpaid federal indebtedness were primarily made to the wealthiest Americans. That totaled $35 billion in tax reductions—a huge sum for those days—while state and local taxes were being forced up almost 300 percent, in part because of a decline in federal services, and an unwillingness of the federal government to face our problems.

While these federal tax reductions were being voted, more than a million farms were foreclosed. We had the money to please the wealthiest of our citizens, but not the money to help farmers in great need.

Because we refused to reduce the national debt substantially, too much federal money went to pay interest rather than help the people who were out of work or who had other great needs.

Congressman Keller made the point that these flawed policies led to the Great Depression. The theory that helping the wealthiest of Americans will ultimately benefit all Americans did not work in practice.

The idea that it was wise just to ignore the federal debt, and let someone else pay for it eventually, turned out to be a policy of folly.

There is a familiar sound to all of this.

Will we learn from history?●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, first let me indicate, as I have said earlier, that there are a number of meetings going on around the Capitol which are quite important. That is why we have not been able to move on the debt limit extension. One meeting involves the principal sponsors of the so-called Gramm-Rudman-Hollings II. There are Democrats and Republicans involved in that meeting.

We also have Members of the Senate in the tax conference. It is my understanding that they could come to an agreement today on Superfund, which is very, very important legislation, something we were hoping could be accomplished before we leave on August 15.

So there is no reason for the Senate to stay in session any longer today.

ORDERS FOR MONDAY, JULY 28, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, July 28, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and, following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minuts each: Senators PRESSLER, PROXMIRE, and LEVIN; to be followed by a period for the transaction of routine morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each, provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEES HAVE UNTIL 6 P.M., THURSDAY, JULY 29, 1986, TO SUBMIT RECOMMENDATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that Senate committees have until 6 p.m., Thursday, July 29, 1986, to submit their recommendations to the Senate Budget Committee pursuant to section 2 of Senate Concurrent Resolution 120.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CALENDAR

Mr. DOLE. Mr. President, I would like to inquire of the distinguished minority leader if he is in a position to pass or indefinitely postpone any of the following calendar items: Calendar No. 202, Calendar No. 265, Calendar No. 660, Calendar No. 678, Calendar No. 718, and Calendar No. 732.

Mr. BYRD. Mr. President, I am pleased to be able to respond to the distinguished majority leader by saying that these measures have been cleared by all Members on this side of the aisle. We are ready to postpone in some instances and to act positively on others of the items which have been identified by the leader.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc and passed or indefinitely postponed en bloc and that all committee amendment be considered and agreed to en bloc and that certain statements by Members be appropriately entered into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1353 INDEFINITELY POSTPONED

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 202, S. 1353, to authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1827 INDEFINITELY POSTPONED

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 678, S. 1827, to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs," be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NONGAME FISH AND WILDLIFE CONSERVATION AUTHORIZATION

The Senate proceeded to consider the bill (H.R. 1406) to authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988.

Mr. CHAFEE. Mr. President, this legislation, which was passed by the House last year, is identical to the bill (S. 1353) reported by the Committee on Environment and Public Works on June 25, 1985. H.R. 1406 authorizes appropriations through fiscal year 1988 under the Fish and Wildlife Conservation Act of 1980, often called the Nongame Act. The Nongame Act is a key component in the protection of this Nation's fish and wildlife resources.

Over the years wildlife management programs have been funded almost exclusively from the sale of hunting and fishing licenses and from excise taxes on sporting equipment. As a result, these programs have focused principally on enhancement of populations of fish and wildlife species of interest to anglers and hunters. Efforts on behalf of these species have produced tremendous benefits not only for the particular kinds of fish and wildlife targeted for management but also for the many other animals which live in association with these so-called game species.

Nevertheless, the needs of the vast majority of fish and wildlife species remain incompletely addressed by existing programs for game animals. Approximately 90 percent of our wild vertebrate animals are not ordinarily taken for sport, fur, or food. These species have come to be known collectively as nongame wildlife.

Management and protection of nongame wildlife is an important but often overlooked aspect of natural resources conservation. Benefits from maintaining healthy nongame wildlife populations are derived from the ecological, scientific, recreational, educational, and aesthetic values of these animals.

Maintenance of healthy nongame wildlife populations helps ensure a full diversity of life in this planet's living systems. We should value, and even celebrate, the diversity of wildlife species because of the richness that this variety brings to our lives. The returns to each of us from the millions of spe-

cies with which this planet has been blessed are of inestimable importance in how we view the world around us.

Because more than 70 percent of the U.S. population lives in urban areas, nongame wildlife programs in these environments have especially great potential to produce tremendous benefits. Yet urban areas and their nongame species are all too often the most neglected by State and Federal wildlife programs. By increasing the availability and diversity of wildife in urban residential areas, nongame programs can improve the quality of human life in these areas as well as reduce open space maintenance costs and increase property values. Moreover, urban wildlife programs may help educate a majority of our people in the basic principles and values of wildlife conservation, which in turn helps to stimulate greater public support for the full range of national and global wildlife and natural resources conservation programs.

The young people of this country, in particular, have an almost insatiable appetite for information about and exposure to wildlife. One study in 1977 found that 92 percent of the schoolchildren surveyed wanted to learn more about wildlife. Nongame management programs for urban wildlife species can help meet this demand by increasing the abundance and diversity of wildlife in urban areas, which in turn will enhance understanding and awareness of wildlife needs among our youth.

Older Americans also value the presence of wildlife in their lives. More than half of all Americans over the age of 16—an estimated 93 million of us—indicated in one 1980 study that they enjoy wildlife around the home. This interest clearly demonstrates the potential benefits that could be generated by urban wildlife programs, yet a 1983 study found that only six States had such formal programs.

Most Americans, according to U.S. Fish and Wildlife Service estimates, do more than just passively enjoy knowing that wildlife are around. Most of us actively participate in some form of wildlife-associated recreation other than hunting, fishing, or trapping. In fact, Yale University's Stephen Kellert found that 1 in 4 Americans is a birdwatcher and that 68 percent of us had fed birds during 1978 and 1979. Sixty percent of the wildlife enjoyed in these so-called nonconsumptive recreational activities are nongame species. In other words most wildlife-associated recreation in this country is centered around species that remain largely ignored by current State and Federal wildlife conservation programs.

We also have a larger responsibility to do a better job of conserving our wildlife populations before they reach the point where their numbers are so depleted that no other recourse is left but to protect them under the Endangered Species Act. All too frequently we wait until a species is classified as threatened or endangered before taking steps to rebuild its numbers to a self-sustaining level. Unfortunately, efforts to bring species back from the brink of extinction are far less likely to be successful and far more costly. Habitat destruction is the major reason for the decline and subsequent endangerment of nearly all wildlife species. Programs for the conservation of nongame wildlife can provide needed habitat protection and can help us monitor the status of species and sound an early warning signal for additional protective measures.

There are, of course, other more pragmatic, but in my view less important, reasons for maintaining the greatest possible diversity of nongame wildlife species. These species have substantial economic value. Ten years ago approximately one-fifth of all U.S. households spent close to $170 million annually to purchase food for wild birds. At that time bird-watching accounted for between one-half and one-third of the dollar sales of binoculars, and sales of gift books about birds brought in $4 million annually. Total direct expenditures in 1975 for the enjoyment of nongame birds alone was $500 million. I have no doubt that these expenditures have increased tremendously over the past decade.

More importantly, our future comfort and even existence may depend upon the continued survival of some unknown or little known species of nongame wildlife. When we allow a species to become extinct, or even endangered, we run the risk of losing or impairing important sources of genetic material, pharmaceuticals, or other chemical or structural materials.

Congress recognized that the conservation of nongame wildlife improves the quality of our lives in these many tangible and intangible ways when it passed the Fish and Wildlife Conservation Act 6 years ago. The act authorized Federal funding for nongame wildlife programs and Federal support of State efforts, through matching funds, to develop comprehensive wildlife management programs.

Regrettably, however, Congress has never appropriated any funds to implement the Nongame Act. States have had to raise what money they can from other sources, such as through voluntary checkoffs on State income tax forms. The States have been highly creative in developing funding mechanisms for nongame wildlife, but these mechanisms were intended to complement anticipated Federal matching funds not replace them. Average State nongame revenues fall far short of what is needed. Moreover, they lack the year-to-year stability guaranteed by Federal matching funds, such as those which have ensured the effectiveness of the Pittman-Robertson and Dingell-Johnson programs for State fish and game management.

Increased funding for Federal efforts on behalf of nongame wildlife is also appropriate and badly needed. There are 757 nongame migratory bird species for which the U.S. Fish and Wildlife Service has responsibility under the Migratory Bird Treaty Act. These species are not being managed adequately. Some of these species, such as the common loon, the spotted owl, the osprey, the roseate tern, and the loggerhead shrike, have been designated by the Fish and Wildlife Service as "National Species of Special Emphasis." Yet these nongame species are faltering and sufficient resources have not been forthcoming to arrest or reverse the downward trend in their numbers. By providing funding for nongame management of these species now, we can avoid more drastic, less successful, and more costly remedies later.

The most pressing need to continue support for State and Federal nongame wildlife conservation programs is reauthorization of the Fish and Wildlife Conservation Act of 1980. The authorization to appropriate funds under this act expired on September 30 of last year. The legislation before us here today would only extend this authorization through fiscal year 1988.

I believe a short reauthorization of the Nongame Act is appropriate at this time. It will allow Congress to appropriate some funds for particularly pressing Federal research on dwindling migratory bird species in the short term. And I might note that the Committee on Environment and Public Works in its report to the Budget Committee recommended an increase of $500,000 in the U.S. Fish and Wildlife Service's budget for fiscal year 1987 in order to support such nongame migratory bird research.

In the long term an independent and reliable source of funding is needed to support greater Federal involvement and Federal support of States in nongame conservation efforts. A short reauthorization will help ensure that Congress continues to work toward developing and passing amendments to the Nongame Act that will provide the kind of stable funding mechanism which has proven so effective in conserving wildlife and their habitats in the duck stamp and P-R and D-J programs.

Over the next year, I will be seeking additional research on possible mechanisms to fund the Nongame Act. It is my hope that such research and hearings next year will yield an effective and workable funding mechanism which Congress and the President will support. In the meantime, I would ask

my colleagues to support the straightforward, brief reauthorization provided by H.R. 1406.

The bill was ordered to a third reading, read the third time, and passed.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

The bill (H.R. 1904) to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Chippewas of the Mississippi in Docket Numbered 18–S before the Indian Claims Commission, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

U.S. TRAVEL AND TOURISM ADMINISTRATION AUTHORIZATION

The Senate proceeded to consider the bill (S. 2307) to provide authorization of appropriations for activities of the U.S. Travel and Tourism Administration.

Mr. PRESSLER. Mr. President, I rise today in support of S. 2307, legislation which I introduced with 17 cosponsors to reauthorize funds for the U.S. Travel and Tourism Administration (USTTA). As we prepare to vote on this legislation, I would note that a few of my colleagues have suggested that we no longer need a national office to promote America as a travel destination. They are mistaken.

The United States is facing serious competition for the world tourism dollar. Developing countries recognize that they must earn foreign exchange and have established national tourism offices which are successfully capturing an ever-increasing portion of the world market.

The U.S. Department of Commerce estimates that non-oil-exporting developing countries increased their share of the world travel market by nearly 5 percent between 1976 and 1984. The U.S. share of the international travel market has not expanded appreciably until this year's unprecedented turn of events helped us along.

This reflects no failure on the part of the USTTA. It has done an outstanding job with extremely limited funding. The USTTA is currently working with 46 States "packaged" into 8 destination regions located throughout the United States.

Within each of those regions, State tourism offices, cities, and towns, large and small businesses, and the USTTA pool modest resources to create maximum results. USTTA helps regions to produce "cooperative advertising" campaigns to attract visitors from one or more specific foreign markets.

A coordinated 2- to 3-year international marketing plan is developed and the USTTA's nine overseas offices go to work promoting our destination areas—the Old West Trail which includes my own State of South Dakota, the Great Lakes, New England USA, Travel South, Foremost West, America's Heartland, the Pacific Northwest, George Washington Country—in the foreign market.

Through tourism trade shows, familiarization tours, and educational programs for wholesale and retail travel trade promoters who will be selling U.S. tours, lesser known parts of the United States become popular destinations. The return to the U.S. economy has been $18 for every dollar spent by the USTTA. How many ventures are so successful?

Despite the evidence and my efforts along with those of many of my colleagues here in Congress, spending money on the USTTA's programs has not been viewed as a good investment by the Office of Management and Budget (OMB).

After putting up a good fight for appropriations, we were only able to provide the USTTA with $11.5 million to promote the United States as a destination in 1986. Canada, in comparison, will spend almost $70 million (U.S.).

As we approach this Senate vote on S. 2307, some of you are saying we no longer need a U.S. Travel and Tourism Administration. Others are saying it's a good idea, but we should save our money for other purposes. I believe this is false economy.

It is true that America is experiencing a boom year in domestic and international tourism. However, we must not let this year's unique circumstances lull us into a false sense of security. Successful marketing and promotion requires planning and incremental image building over the long term.

Interestingly, recent studies indicate that our own self-concept of the United States of America as the perfect destination is not necessarily shared by the rest of the world.

According to Alastair Morrison, who is a professor at Purdue University and a specialist in the study of tourism marketing, America has some perception problems overseas.

Many foreigners have the impression that Americans are unfriendly, and that all of the United States is riddled with crime and running at a breakneck pace. We need to show them the real America.

Without the USTTA to present the whole story, the potential foreign visitor may never learn the truth about our wonderful country. Without the USTTA, international travelers may never discover the 90 percent of America that awaits them beyond the coastal States. Without the USTTA, the U.S. economy will lose an excellent vehicle through which the balance of payments can be improved.

We need the USTTA, and passage of S. 2307 is an important step toward ensuring its future. I urge you to join me in supporting this important legislation. Tourism works for America. Let us keep the USTTA working for tourism.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2307) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that—

(1) the travel and tourism industry in the United States is vital to the economy of the Nation, and accounts for more than $240,000,000,000 in annual revenues, employes more than five milion persons, and contributes to the international balance of payments by generating nearly $15,000,000,000 as an export; and

(2) the United States Travel and Tourism Administration serves a unique and vital role in the promotion of travel and tourism in the United States, by—

(A) coordinating travel and tourism activities of the Federal Government, State, and local governments, and the private sector in order to optimize their contributions to economic prosperity, employment, and the international balance of payments;

(B) ensuring the compatability of travel and tourism with other national interests, including historical and cultural preservation, energy development and conservation, environmental protection, and the judicious use of natural resources;

(C) eliminating unnecessary trade barriers to international operations of the United States travel and tourism industry;

(D) encouraging the free entry of individuals traveling to the United States in order to enhance international understanding and good will, consistent with immigration laws, laws protecting the public health, and laws governing the importation of goods into the United States;

(E) assisting in the collection, analysis, and dissemination of data which accurately measure the economic and social impacts of travel and tourism to and within the United States, in order to maximize the efficacy of planning in, and cooperative activities between, the public and private sectors; and

(F) harmonizing, to the maximum extent possible, all Federal activities in support of travel and tourism with the needs of the general public, the States, territories, local governments, and the travel and tourism industry, and providing leadership in the areas of travel, tourism, and national heritage preservation within the United States.

(b) It is therefore the purpose of this act to provide authorization of appropriations for the United States Travel and Tourism Administration, in order that the Administration may continue its activities to promote travel and tourism in and to the United States.

SEC. 2. Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended by inserting immediately after "1982" the following: "not to exceed

$13,000,000 for the fiscal year ending September 30, 1987, not to exceed $14,000,000 for the fiscal year ending September 30, 1988, and not to exceed $15,000,000 for the fiscal year ending September 30, 1989".

RETIRED ENLISTED ASSOCIATION, INCORPORATED

The Senate proceeded to consider the bill (S. 524) to recognize the organization known as the "Retired Enlisted Association, Incorporated."

Mr. ARMSTRONG. Mr. President, 2 years ago, I was approached by representatives of the Retired Enlisted Association [TREA] who were seeking a Federal charter for their organization. At the time, I learned that TREA was committed to assisting retired enlisted personnel from all branches of the service. However, over the period of 2 years, I have come to understand and appreciate just what a fine group of people make up TREA.

Frequently when Members of Congress are asked to help with legislation, they are left with a substantial burden in attaining the support necessary to have it enacted. Nothing could be further from the truth with TREA. TREA's leadership provided concise, factual information on the work they do, and the entire organization helped in contacting Senators to gain the necessary cosponsors required for passage.

In retrospect, this level of activity shouldn't have been surprising. TREA was founded in 1963 in my home State of Colorado, however it remained a regional organization until 1981. At its 1981 convention, TREA committed itself to becoming a national veterans organization and its membership started to grow. From 1,300 members in 1981, TREA now has over 40,000 and is growing at an average rate of 1,000 new members each month. It is currently the fastest growing veterans organization in the United States, with members in all 50 States, Guam, the Virgin Islands, Puerto Rico and overseas.

There is little question as to why TREA has received so much support from the veterans community. It seeks to serve its members by keeping them informed of new legislation and regulations that affect their status in an understandable and even-handed manner, and it provides information on matters that have special significance to retirees. However, TREA's greatest asset is its membership. People who join TREA are interested in the future of their Nation, the welfare of their fellow servicemen and the defense of democracy.

I commend the Senate for showing its recognition and support for the Retired Enlisted Association. TREA is truly an outstanding organization, and we all wish it success in its endeavors.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Retired Enlisted Association, Incorporated, organized and incorporated under the laws of the State of Colorado, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The Retired Enlisted Association, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which is it incorporated and those States in which it carries on its activities in furtherance of its corporation purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation and the election of such officers shall be as is provided in the articles of incorporation and in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States in which it is corporated.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. Subject to any applicable State law—

(1) the corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors;

(2) the corporation shall keep at its principal office a record of the names and address of all members having the right to vote; and

(3) all books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(68) The Retired Enlisted Association, Incorporated."

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the various measures were passed.

71-059 O-87-44 (Pt. 12)

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AN ACT GRANTING A CHARTER TO THE GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4434, an act granting a charter to the General Federation of Women's Clubs, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4434) to amend the act entitled "An Act granting a charter to the General Federation of Women's Clubs."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. BYRD. Mr. President, there is no objection to the discharge of the Committee on the Judiciary of the bill, H.R. 4434, and there is likewise no objection to proceeding to its immediate consideration on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise in support of H.R. 4434 a bill amending the charter of the General Federation of Women's Clubs. As you may know this legislation is identical to S. 1827, a bill I introduced earlier this Congress.

The General Federation of Women's Clubs is the largest and oldest nondenominational, nonpartisan, international service organization of volunteer women in the world with membership in the United States numbering 50,000. In 1984 alone, GFWC members donated $50 million and 18 million hours on volunteer projects. The effect of the GFWC's work is seen around the world.

The General Federation of Women's Clubs aims at involving their members in concerns of their local community. To this end, the GFWC has sponsored seminars on child abuse, missing children, latchkey children, women in the Third World, and disposal of hazardous wastes. Such seminars provide a forum for open discussion of the problems and possible solutions. The GFWC also lends its time to CARE and Save the Children. GFWC members are committed to improving the quality of life of the communities they serve.

A special project of the GFWC is the Youth City Councils. This event is a leadership training program for teenagers ages 13 to 18. Elections are held for positions on a mock city council. Once elected, these Youth City Councils work on projects to better their locality. One YCC in my own State of Utah reduced juvenile crime by 50 percent within their city. Many of the YCC's hold a Christmas dinner and dance for the elderly members of their community.

Because they are such an asset to our society it is urgent we help them in the best way we can. This bill will enable the GFWC to qualify for 501(c)(3) tax status. They presently hold a 501(c)(4) tax status. As a result, they would be able to apply for special third-class rates of postage. The money they save on postage can be applied to many of their worthwhile projects.

I congratulate my fellow Senators in supporting the legislation to amend the General Federation of Women's Clubs charter so that this fine organization may continue to serve this Nation and the world as it has for the past 95 years.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 4434) was ordered to a third reading, read the third time, and passed.

□ 1350

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL MONDAY, JULY 28, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that following the minority leader's statement in morning business, the Senate stand in adjournment until noon on Monday, July 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO VOTES ON MONDAY

Mr. DOLE. Mr. President, let me repeat that there will be no votes on Monday.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I shall be brief.

ABM TREATY NEGOTIATING RECORD ACCESS

Mr. BYRD. Mr. President, I rise to reinforce what our distinguished colleague from Georgia [Mr. NUNN] has stated about the efforts he and I and other Senators on both sides of the aisle have made to obtain increased access to the ABM Treaty negotiating record.

The Senate and at least two committees, the Foreign Relations and Armed Services Committees, have a major interest in the institutional and the substantive issues surrounding our request for this increased Senate access.

We believe that increased Senate access to the ABM Treaty negotiating record is critically important for proper Senate consideration of the SDI Program, both now and in the future.

The administration's new interpretation of ABM Treaty obligations could have profound implications for arms control and for the magnitude, pace, and composition of the SDI Program. The administration's process of crafting, propounding, and justifying this reinterpretation also threatens the Senate's constitutional role in the treatymaking process.

We also think this request should be resolved as soon as possible, because the Senate action on SDI matters could occur very shortly. We hope the meeting we are scheduled to have with the administration next week results in speedy negotiation of an adequate access arrangement.

I remain confident that, if we approach the matter in a cooperative manner, a satisfactory access arrangement can be established which adequately addresses the Senate's need for this information, maintains its coequal role with the executive branch in the treatymaking process, and protects the confidentiality of the negotiating process.

I can understand the administration's concerns about my request, and I understand that those concerns which are addressed to the request that Senator NUNN made and that I have made, fall in two general areas: First, whether it sets a precedent which would bind future Presidents; and second, whether the confidentiality of the negotiating process necessary for successful international bargaining can be safeguarded. Let me briefly address those concerns.

Regarding precedents, there apparently have been only about three instances in U.S. history when a President refused a Senate request for treaty-related materials during the ratification process, according to the Library of Congress. Thus, past executive branch compliance with access requests indicates most Presidents have accepted the views of those eminent constitutional scholars who conclude the Senate is coequal in the treatymaking process, and thus entitled to all requested documentation.

The fact that our request comes after ratification is of no particular significance if one accepts the judgment that the Senate's coequal status in the treatymaking process probably would have resulted in its receiving

these materials in 1972 if they had been sought.

Confidentiality should not be an issue for three reasons:

First, the fact that executive branch compliance with Senate requests for treaty-connected materials before ratification seems to be the rule during our Nation's history, and refusals the exception means negotiators already operate with awareness that their candid communications may be transmitted to the Senate. There is little reason to think this has hampered American negotiators throughout history or injured our Nation.

Second, any Senators involved would fully understand their obligations. Also, a case might be made that the Senate's record in keeping secrets probably is much better than the executive branch's performance under every recent administration.

Third, the Senate arms control observer group experience demonstrates that carefully controlled staff access also protects that confidentiality.

We hope the administration will cooperate with us in establishing a satisfactory access arrangement to the ABM Treaty negotiating record without further delay and without the need for the full Senate to consider legislative remedies to resolve this important issue.

□ 1350

Mr. President, I ask unanimous consent that pertinent correspondence be inserted in the RECORD at this point.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
DEMOCRATIC POLICY COMMITTEE,
June 6, 1986.

Hon. GEORGE SHULTZ,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: Two of the most controversial national security issues expected to come before the Senate in the near future will be the Administration's interpretation of the Anti-Ballistic Missile (ABM) Treaty, and the Fiscal Year 1987 request for the Strategic Defense Initiative (SDI). The Administration's interpretation of the ABM Treaty obligations regarding permissible research on future strategic defense technologies could have profound implications for arms control, and for the magnitude, pace, and composition of the SDI program. The Administration's process of crafting and justifying this reinterpretation also may have major ramifications regarding the Senate's Constitutional role in the treaty-making process.

As a member of the Senate when it approved the ABM Treaty, and now as a member of the Defense Appropriations Subcommittee and the Democratic Leader, I believe that access to the ABM Treaty negotiating record, as well as to certain related documents, would be of great assistance to the Senate before and during our forthcoming deliberations on these matters.

This necessary information includes the ABM Treaty negotiating record, a review of the record prepared last year by the Systems Planning Corporation (under contract to the Office of the Secretary of Defense), and the detailed legal analysis of the ABM Treaty limits written in 1972 by the Legal Adviser to the U.S. negotiating delegation, Mr. John Rhinelander.

I am aware of recent attempts by individual Senators and a Senate subcommittee to obtain access to this information. I am disappointed at the Administration's response to these requests, because that response edges toward threatening the basic institutional and Constitutional interest of the Senate as a full and equal partner in the treaty-ratification process.

It is clear that the Senate needs access to the ABM Treaty negotiating record both to assess properly various interpretations being proposed and to continue to play a viable, Constitutional role in arms control matters. Thus, I would like to formally request such access for myself, as Democratic Leader, and for members of the appropriate committees. Since you and I share a commitment to protect the confidentiality of the negotiating process, I am confident that a satisfactory access arrangement can be established if we approach the matter in a cooperative manner.

As you know, 46 Senators already have sent a letter to the Armed Services Committee urging that no more than three percent real growth be authorized for the Fiscal year 1987 SDI budget. Whether this is the most reasonable funding level for SDI in Fiscal year 1987 remains to be seen. However, my own thinking on this issue will be influenced by the extent of the Administration's recognition of the Senate's proper role in evaluating national security matters and of its cooperation in arranging adequate access to information required to permit the Senate to fulfill that role. Because these issues are interrelated and so very important, I am confident you will understand my concern that the Senate receive the most comprehensive information possible about them.

Thank you for your consideration of this request.

Sincerely,

ROBERT C. BYRD.

U.S. DEPARTMENT OF STATE
Washington, DC, June 16, 1986.

Hon. ROBERT C. BYRD,
U.S. Senate,

DEAR SENATOR BYRD: The Secretary has asked me to respond to your letter of June 6, 1986 (received here on June 9) requesting access to various documents relating to the ABM Treaty, including the negotiating record.

As you know, the Administration previously received a similar request from Senators Warner and Hart. We responded to that request on April 11 (copy enclosed) by offering to present a detailed briefing on the negotiating history of the Treaty to members of the Armed Services Subcommittee on Strategic and Theater Nuclear Forces. We would be happy to have you attend such a briefing.

We have not yet received a formal response to our offer from Senators Warner and Hart. Discussions are under way between State Department representatives and the Armed Services Committee to resolve this matter in a manner that accommodates the Senate's concerns without undermining the principle of confidentiality of treaty negotiating records. We hope that these discussions will produce a mutually acceptable resolution of this matter in the near future. We would be happy to meet with you and your staff to discuss how best to proceed.

Sincerely,

JAMES W. DYER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs, U.S. Department of State.

U.S. DEPARTMENT OF STATE,
Washington, DC, April 11, 1986.

Hon. JOHN W. WARNER,
Chairman, Subcommittee on Strategic and Theater Nuclear Forces, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to respond to your letter of January 14, 1986 requesting access to various documents relating to the ABM Treaty. As I indicated to you in my letter of February 5, 1986, our delay in responding has been caused by the need for coordination among the various agencies that received similar letters from you. This letter is being sent on behalf of the Department of Defense and the National Security Council, in addition to the Department of State.

As your letter acknowledged, a request to examine the negotiating record of a treaty raises sensitive issues regarding the integrity of the negotiating process. At the same time, we recognize the Senate's interest in reviewing the manner in which the Executive Branch engages in treaty interpretation.

State Department representatives have met on two occasions with Armed Services Committee staff members in an effort to reach an accommodation in this matter. Based on those discussions, we propose to proceed in the following manner. Ambassador Paul Nitze, Legal Adviser Abraham Sofaer, and ACDA General Counsel Thomas Graham would be pleased to meet with interested members of the Subcommittee on Strategic and Theater Nuclear Forces in an informal, off-the-record session to discuss the negotiating history of the ABM Treaty and the Administration's analysis of that history in our recent interpretation of the Treaty. The Administration representatives would attempt to answer the Senators' questions on the negotiations (if necessary, by reference to particular documents that they would bring with them), but would not make the negotiating documents themselves available to the Senators. With regard to documents that you requested other than the negotiating record (including various internal memoranda and directives, both contemporaneous with and subsequent to the negotiations), the Administration representatives would be able to discuss those documents, as appropriate.

We are hopeful of resolving this matter in a manner that satisfies the Senate's legitimate concerns. We believe that the session we have proposed would do that. Please have your staff contact Eileen Giglio in my office to arrange the meeting.

Sincerely,

JAMES W. DYER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, June 26, 1986.

Hon. GEORGE SHULTZ,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: I would like to pursue matters raised in my June 6, 1986, letter (attached) to you requesting access to

the negotiating record of the Anti-Ballistic Missile (ABM) Treaty, and to several, specific related documents, on behalf of myself, as Democratic Leader, and for members of the appropriate Senate committees. I received the attached letter of June 16, 1986, from your Acting Assistant Secretary of Legislative Affairs.

Frankly, I must state that your Department's response is inadequate, and I am concerned that your assistants have failed to understand the importance of both the institutional and Strategic Defense Initiative (SDI)-specific issues I discussed in my initial request. I will not repeat those issues in this letter, because my original letter clearly expresses them and their implications. I did not write such a letter, and make such a request, lightly, and I do not believe the response I received serves the best interests of either the Executive Branch or the Senate.

Therefore, I renew my request. The Senate will consider the annual Defense Authorization Act in early July, and since arms control and funding issues related to SDI are expected to be a major subject of debate, your early response would be most appreciated. I am confident that a satisfactory access arrangement can be established if we approach the matter in a cooperative manner.

Sincerely,

ROBERT C. BYRD.

Mr. BYRD. I yield the floor.

ADJOURNMENT UNTIL MONDAY, JULY 28, 1986

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 12 noon on Monday next.

Thereupon, at 1:52 p.m., the Senate adjourned until Monday, July 28, 1986, at 12 noon.

HOUSE OF REPRESENTATIVES—*Monday, July 28, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks, gracious God, for the safe return of Lawrence Martin Jenco who is returning to family and friends after months in captivity. And even as we rejoice in his freedom we pray for the other hostages of several nations that they, too, will know the benefits of liberty. May Your blessings, O God, be with all those who experience captivity that they may know Your presence and Your peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to congratulate our Chaplain on the occasion of reaching his 55th birthday last Friday. We presume he was out celebrating and was not around here. All of us, I am sure, would want to wish him the happiness of the day.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1406. An act to authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988;

H.R. 1904. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Chippewas of the Mississippi in Docket Numbered 18-S before the Indian Claims Commission, and for other purposes; and

H.R. 4434. An act to amend the Act entitled "An Act granting a charter to the General Federation of Women's Clubs."

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 524. An act to recognize the organization known as the "Retired Enlisted Association, Incorporated";

S. 2307. An act to provide authorization of appropriations for activities of the U.S. Travel and Tourism Administration;

S.J. Res. 355. Joint resolution to designate August 1986 as "Cajun Music Month";

S.J. Res. 356. Joint resolution to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy; and

S.J. Res. 371. Joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives."

WASHINGTON, DC,
July 28, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from Thomas W. Wallace, Executive Director of the State Board of Elections of the State of New York, indicating that the Honorable Alton R. Waldon, Jr. was elected to the Office of Representative in Congress from the Sixth District of New York in the Special Election held on June 10, 1986.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

State of New York, ss: We, the State Board of Elections, constituting the State Board of Canvassers, having canvassed the whole number of votes given for the office of Representative in Congress, 6th C.D. at the Special Election held in said State on the tenth day of June, 1986, according to the certified statements of the said votes received by the State Board of Elections, in the manner directed by law, do hereby determine, declare and certify that Alton R. Waldon, Jr., was, by the greatest number of votes given at the said election, duly elected Representative in Congress, 6th C.D. of the said State.

Given Under Our Hands, at the State Board of Elections, in the City of Albany, the 25th day of July in the year of our Lord one thousand nine hundred and eighty-six.

GEORGE D. SALERNO,
Chairman.
R. WELLS STOUT,
Vice Chairman.
DONALD A. RETTALIATA,
Commissioner.
THOMAS J. SULLIVAN,
Commissioner.
THOMAS W. WALLACE,
Executive Director.

WELCOME TO MAYOR ABBRO AND DELEGATION FROM CAVA DE'TERRINI, ITALY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, earlier this year my hometown, Pittsfield, MA, initiated a sister city relationship with Cava de'Terrini of the Naples region in Italy.

The sister cities program is designed to foster international cooperation and promote mutual understanding between peoples.

I'm delighted to welcome to Washington Mayor Abbro and his delegation—who are with us today.

Recently I had the privilege of addressing this distinguished group during their visit to Pittsfield, and I would like to insert a copy of those remarks in the RECORD.

I know that all of you join me in wishing our Italian friends a warm welcome and an enjoyable visit in our Nation's Capital. Benvenuti, cari amaci i fratelli.

The remarks to which I referred are as follows:

REMARKS OF HON. SILVIO O. CONTE, THE SISTER CITIES CEREMONY, PITTSFIELD, MA, JULY 21, 1986

Signor Sindaco, signori consiglieri, signore e signori. Buon giorno e benvenuti a Pittsfield! Welcome to America, welcome to Pittsfield—your sister city.

Oggi siete fra amici, today you are among friends. And friendship is really what a sister city relationship is all about. You know I'm especially pleased to be here today. I thank my very good friend Mayor Smith for inviting me to this wonderful occasion. I also thank Charlie for selecting a sister city in Italy—its a wonderful idea, meraviglioso!

Your choice of Cava di Tirreni was an excellent one. We have much in common such as geography. We're both surrounded by the most beautiful hills found anywhere, we're both cities of approximately 50,000 people and we both celebrate and nurture our traditions and culture. And we've got one heck of a lot of Italians living here, many of whose relatives came from Campagna.

Although my parents came from northern Italy I am especially fond of southern Italy and the province of Campagna. You know, in November 1980, a major earthquake hit Italy centered around Eboli. Besides the cities of Naples, Salerno, Potenza and Avellino, more than 150 other towns and villages were damaged. That quake killed 2,700 people and damaged or destroyed 100,000 structures.

Immediately after learning of that devastation, I introduced a bill in the House providing for a $50 million aid package called

the Southern Italy Earthquake Reconstruction Program.

In part, that program provided emergency supplies and medicine but it also provided funds to rebuild 28 schools like the technical high school in Nocera and the classical high school in Siano. We also rebuilt an orphanage, homes for the aged, community centers and clinics. One of our projects, still under way, is the reconstruction of the Children's Institute, "M.L. Formosa" in Cava.

Just after passing my aid bill, I was appointed to a Presidential delegation along with Mario Cuomo, Jeno Paulucci and others. We went to Italy and saw, first hand, the devastation. In many places it was total and complete. In my long Congressional career, one of my proudest moments was taking the leadership in providing for this relief package.

Living in the Berkshires and having spent some time in Campagna one thing is obvious to me—both our cities are surrounded by abundant natural beauty. Within an hour's drive of Pittsfield lies all of Berkshire County and much of the Pioneer Valley. That same drive from Cava could take you to the Bay of Naples, the ruins at Pompeii or the Amalfi coast, I think that beauty is a bond that joins us at a world class level.

And today in this park and in our hearts, we are also united by the bonds of friendship. Some of us share a common Italian heritage that fosters pride in both countries and our history but we all share the ideals and hopes that are symbolized in this ceremony today.

Our two cities—represented by Mayor Smith and Mayor Abbro—have signed an agreement to promote mutual understanding and friendship. We also pledge to promote wider exchange in education, culture and economic development, all in an effort to further the cause of international friendship and human advancement—great ideals for this wonderful occasion.

Knowing Mayor Smith the way I do, I have a feeling that we'll be seeing other sister cities in the future. I hope we do because I like saying to Mayor Abbro and his distinguished delegation—Lei e' a casa sua qui in Pittsfield. Benvenuto, caro fratello e amico.

Grazie.

WELCOME HOME, FATHER JENCO

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, like all Americans, I was heartened to learn of the release of Father Jenco from the terrorists in Lebanon after 19 months. As a New Mexican, I am especially proud of Father Jenco, since he was the pastor several years ago of a parish in Belen, NM, part of my congressional district.

Welcome home, Father Jenco. But let us heed his words about the three remaining prisoners who are Americans still held in Lebanon.

Mr. Speaker, I was also moved by the anguished tape of another hostage, David Jacobsen, pleading for negotiations for his release.

It is important that we remind our Government of the deep-seated desire of the American people to see these hostages released. All avenues for their release should be pursued. If we appear to be divided, however, in our response to terrorism and in negotiations for the release of Americans, then we play into the hands of the terrorists.

I believe that the administration and our State Department have their act together and are acting responsibly when it comes to dealing with this issue. Let us not second-guess them but support their efforts.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New York [Mr. HORTON].

Mr. HORTON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman in the well mentioned about Father Jenco. I would like to point out to the House that I was on two trips with former Congressman George O'Brien, who recently died. I know he and his wife broke away from our group on two occasions to go once to Rome and once to the Middle East. I know he spent a lot of time also in his last days trying to arrange for the release of Father Jenco.

I just thought I would add that in connection with the very fine comments of the gentleman.

Mr. RICHARDSON. I appreciate the comments of the gentleman from New York. I know that my constituents from Our Lady of Belen Church in Belen, NM join with me today in welcoming home Father Martin Jenco. It is indeed a time to rejoice for the safe return of Father Jenco who was freed after 19 months of captivity in Beirut.

Mr. Speaker, for nearly 2 years, I have from time to time been receiving letters from parishioners of Our Lady of Belen Church where Father Jenco served for a time. Those letters show that Father Jenco left a lasting spirit of faith and love with the Belen community. The people of Belen understand that Father Jenco had to go to Lebanon to fulfill his mission as head of Catholic Relief Services. He did not abandon us during his time of captivity. The people of Belen did not give up and did their best to focus congressional and national attention on the plight of Father Jenco and the other remaining hostages in Lebanon. Father Jenco has set an example to all of us as one who strives to make faith concrete and bring the spirit of caring for others to realization.

Father Jenco's words of encouragement after his release are comforting to all of us, that he, "has high hopes for the release of his three friends and fellow prisoners and other hostages." Mr. Speaker, it is important that we do not forget the remaining Americans still held captive in Lebanon. Each life contains a universe, if only one American remains, we ought to be as attentive and vigilant as though there were 100. Let us not permit their image to fade. We must continue to press that all avenues and resources be used to gain the release of our fellow citizens. It is time to negotiate for their release. This does not mean we give in to terrorism. No; we are on morally higher ground than terrorists when we show how much individual lives mean in our system of values.

DEFICIT REDUCTION TARGETS UNDER GRAMM-RUDMAN

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, last week the Commerce Department estimated that the GNP will grow in the second quarter of this year at an annual rate of only 1.1 percent. The two-quarter average is just 2.4 percent, compared with the 3.3-percent estimate on which we are basing the 1987 budget resolution. This lower growth rate means a much higher Federal deficit—about $20 billion extra for each percentage point drop in GNP growth.

Add to this last year's trade deficit of $150 billion, the potent impact of disinflation, over 7-percent unemployment, and business hesitancy in the face of major tax changes, and we clearly are dealing with a stagnant economy.

There is extreme weakness in the key agriculture and manufacturing sectors of the economy—troubles that we have experienced in Oklahoma for the past 3 to 4 years. We are now living with $10 per barrel oil and $2 per bushel wheat, as well as a series of bank failures unparalleled in recent years, culminating with the recent collapse of First National in Oklahoma City.

In my view, Mr. Speaker, there is little prospect for a quick turnaround unless we take firm action to meet the deficit reduction targets set by Gramm-Rudman. Every part of the budget, including defense, will have to take its fair share of cuts. It's time to stop arguing about the mechanics of budget cutting, and demonstrate that fiscal restraint begins right here.

CONTRAS: U.S. MILITARY SOLUTION TAKES PLACE OF DIPLOMACY

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, I was dismayed this past week to read of the dismissal of a Foreign Service diplomat, John Ferch, recent Ambassador

to Honduras. While the time is ripe for negotiations, it is clear that the Reagan administration is putting all the U.S. emphasis on a military solution through support of the Contras.

Reagan has paid lip service to negotiations with the appointment of Phil Habib as a special negotiator. The fact is that although an able negotiator, he has not even been to Managua, Nicaragua's capital.

Furthermore, the dismissal of Ferch seems to be based largely on the fact that he properly gave credence to the democratically elected government of Honduras which the United States supports and did not discuss and clear key issues with the military officer power base in Honduras which would, of course, have literally thereby undercut the elected government. Mr. Speaker, the following article from the Friday, July 25, Washington Post is included for my colleagues' consideration.

The $100 million in military aid to the Contras and the $400 million in the aid measure approved by the House along with these facts addressed in this report point out that Central American-United States diplomacy and policy is indeed on a slippery slope.

[From the Washington Post, July 25, 1986]

U.S. Is Said To Seek Military Solution in Nicaragua

(By Roy Newsday Gutman)

John Ferch, fired recently from his post as ambassador to Honduras, believes the Reagan administration is seeking a military solution in Nicaragua despite claiming publicly that it wants a negotiated settlement.

The 27-year Foreign Service veteran was dismissed last month after serving less than a year. Honduras is the staging ground for President Reagan's campaign to topple the Sandinista government in Nicaragua.

Days before Ferch's ouster, the House approved $100 million in aid for Nicaraguan rebels based in Honduras. Ferch said in an interview that if the administration does not pursue a negotiated settlement in Nicaragua, the $100 million will be just a "down payment."

The ex-ambassador said the time is ripe for diplomacy. He said his view "until the time they canned me was that you've got them [the Sandinistas] to the point where they've panicked so much they would negotiate some meaningful concessions."

If the administration fails to seize the moment and push for negotiations, he said, the $100 million "is going to go so fast, it's really just the first step. The logic of it all means that the next stage is an expanded military operation."

"I always thought we meant what we said. We wanted pressures so we could negotiate," Ferch said. "I'm beginning to think I accepted something that wasn't true." Ferch said the manner of his dismissal suggested that "our goal is something different. It's a military goal."

Ferch spoke by telephone from Canada, where he is vacationing.

Ferch previously served as head of the U.S. mission in Havana and deputy chief of mission in Mexico City. Administration officials said he had demonstrated excellent political skills in Honduras but blamed "significant" morale problems in the embassy on his management. He was also faulted for strained relations with the Honduran military and with the large Central Intelligence Agency station in Tegucigalpa. The State Department insists that policy differences had nothing to do with his firing.

In the interview, Ferch also said:

Cuba and the Soviet Union are unlikely to interfere if the Sandinistas come under heavy military pressure. "I don't think they're going to fight down to the wire," he said. "The Cubans and Russians are not going to throw in troops like that. They are so concerned about a clash with us that they'll be very cautious."

Honduras has a more comprehensive approach to Nicaragua than does the U.S. government. "They have been far better at negotiations than we have," he said. "When I would get instructions to go in and tell them things, I would follow them in my own way, because it was teaching them to suck eggs. They really were ahead of us always."

The manner of his ouster undercut the newly elected civilian leadership in Honduras. He said U.S. officials "have let out the word that my relations with the military down in Honduras were not good. That is not true." Ferch said he always went first to President Jose Azcona rather than to the military. "I did that very consciously, and the military were understanding but not happy," he said. "They knew they were accepting a new role in life." But in saying that he did not get along with the military and suggesting that was a problem, Ferch said U.S. officials have "set alight a sleeping fire. It doesn't help Honduran democracy. There's no question about that. It's not me personally. The combination of getting rid of me and saying 'He didn't get along with the military' really does undercut the president."

Ferch said he believes he was fired "because they want somebody down there to be strong enough and proconsul enough that no Honduran government is going to object to anything. They're going to want someone to go in and say, 'Baby, this is the way it's going to be.'" He warned that if that was the intention, "nothing is going to happen" because Hondurans will not take orders.

The administration has not announced Ferch's successor, but officials said Everett Briggs, a career diplomat who was ambassador to Panama, is the leading candidate. Ferch called Briggs an excellent choice, but said, "What's ironic about this is that Ted isn't that type of diplomat. Ted really will support the civilian side of the house."

Ferch's view that a negotiated settlement is no longer the U.S. goal in Nicaragua is bound to be disputed by State Department officials, but his remarks underscored the current absence of any concerted diplomatic initiative.

Reagan named veteran diplomat Philip C. Habib as special negotiator in March, but despite several trips to the region, Habib has yet to visit Managua, Nicaragua's capital. Ferch said he was "extraordinarily impressed" by Habib during Habib's brief visits to Honduras. "Then, all of a sudden, he faded. You didn't hear from him," Ferch said.

Ferch said he had been convinced that military and psychological pressures by the United States would force the Sandinistas to the bargaining table to make meaningful concessions. "You know, the pressures are in place at two points: they are in place right now when you pass the vote [by Congress for military aid to the rebels]. Then the first time [the rebels] start shooting down helicopters," the military pressures against the Sandinistas are in place, he said.

Ferch said he had relayed to the State Department his assessment that the United States should take advantage of these pressures in negotiating. "But what can I tell you? I'm up here in the North Woods now. My overview has been discarded," he said.

Ferch said he was "fed up" with the Foreign Service because of anonymous criticism of him by former colleagues. After a sabbatical, he said, he will look for a job, but "I really don't think I want to have anything to do with the Foreign Service anymore."

Ferch and his family are building a cabin by a remote lake north of Lake Huron in southern Ontario.

"There is life after diplomacy," he said. "I am screwed but happy."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 29, 1986.

CONGRESSIONAL REPORTS ELIMINATION ACT OF 1986

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2518) to discontinue or amend certain requirements for agency reports to Congress, as amended.

The Clerk read as follows:

H.R. 2518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Reports Elimination Act of 1986".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

Sec. 101. (a) Section 218(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(a)) is repealed.

(b) Section 3104 of title 5, United States Code, is amended by—

(1) striking out subsection (b);

(2) redesignating paragraphs (1), (2), and (3) of subsection (a) as subsections (a), (b), and (c), respectively; and

(3) striking out "paragraph (1) of this subsection" each place it appears in subsections (b) and (c) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subsection (a) of this section".

REPORTS BY THE DEPARTMENT OF COMMERCE

Sec. 102. Section 5 of the Central, Western and Southern Pacific Fisheries Development Act (16 U.S.C. 758e-2) is repealed.

REPORTS BY THE DEPARTMENT OF EDUCATION

Sec. 103. (a) Section 117(d) of the Higher Education Act of 1965 (20 U.S.C. 1017(d)) is repealed.

(b) Section 553(c) of the Higher Education Act of 1965 (20 U.S.C. 1119c-2(c)) is repealed.

(c) Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b)) is repealed.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 104. (a) Section 7(b)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(b)(7)) is amended by—

(1) striking out subparagraph (A); and

(2) striking out the subparagraph designator "(B)".

(b) Section 11 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9210) is amended by—

(1) striking out paragraph (5);

(2) inserting "and" at the end of paragraph (4); and

(3) redesignating paragraph (6) as paragraph (5).

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 105. (a) Section 505(f) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-4(f)) is repealed.

(b) Section 506(c) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-5(c)) is repealed.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 106. Section 2101(d) of title 18, United States Code, is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 107. Section 13 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1746) is repealed.

REPORTS BY THE NATIONAL SCIENCE FOUNDATION

SEC. 108. Section 8 of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1883) is amended by—

(1) inserting "and" after the semicolon at the end of paragraph (3);

(2) striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) striking out paragraph (5).

REPORTS BY THE NUCLEAR REGULATORY COMMISSION

SEC. 109. Section 201(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(h)) is repealed.

REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 110. (a) Section 5114 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 51 of such title is amended by striking out the item relating to section 5114.

TITLE II—MODIFICATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 201. Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) striking out "The Administrator" and all that follows through "shall submit" and inserting in lieu thereof the following: "The Administrator with respect to property disposed of under subsection (j) or (p) of this section, and the head of each executive agency disposing of property under subsection (k) of this section, or under section 13(d) or 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d) or (g)), shall submit"; and

(2) by striking out "personal property so donated and of all real"; and

(3) by striking out "donations and transfers" and inserting in lieu thereof "disposals".

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 202. The last sentence of the paragraph under the heading "GENERAL SALES MANAGER—(ALLOTMENT FROM THE COMMODITY CREDIT CORPORATION) in title IV of Public Law 97-370 (15 U.S.C. 713a-10; 96 Stat. 1808) is amended by striking out "quarterly" and inserting in lieu thereof "annual".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 203. (a) Section 7(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1106(a)) is amended by striking out "in January of each year" and inserting in lieu thereof "biennially in January".

(b) Section 16 of the Act of June 18, 1934 (48 Stat. 1002, chapter 590; 19 U.S.C. 81p) is amended by—

(1) striking out "containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require" is subsection (b) and inserting in lieu thereof "on zone operations"; and

(2) striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board shall make a report to Congress annually containing a summary of zone operations.".

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 204. Section 653(c) of the Education of the Handicapped Act (20 U.S.C. 1453(c)) is amended by striking out "The Secretary shall make an annual" and inserting in lieu thereof "Every three years, the Secretary shall make a".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 205. Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. 1307) is amended by—

(1) striking out "each January 31 thereafter" in subsection (b) and inserting in lieu thereof "each April 1 thereafter"; and

(2) striking out "each January 31 thereafter" in subsection (c) and inserting in lieu thereof "each April 1 thereafter".

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 206. (a) Section 201(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(f)) is amended by—

(1) striking out "Secretary of the Treasury, in cooperation with the"; and

(2) striking out the comma after "the Secretary of State".

(b) Section 6103(p)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(p)(5)) is amended by striking out "quarter" and inserting in lieu thereof "year".

GENERAL SERVICES ADMINISTRATION

SEC. 207. Section 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(4)(E)) is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

REPORTS BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD

SEC. 208. Section 7701(i)(2) of title 5, United States Code, is amended by striking out "calendar" and inserting in lieu thereof "fiscal".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 2518, as amended, would eliminate or modify reports which executive branch agencies are currently required by law to submit to Congress on a recurring basis. This effort to reduce the number of reporting requirements is a part of a continuing process conducted by Congress, with the assistance of the General Accounting Office and the Office of Management and Budget. By eliminating requirements which are no longer useful and reducing the frequency of other reports, we can assure that Federal resources assigned to the reporting process are used in those areas of greatest need to Congress.

H.R. 2518, as introduced, was a compliation of recommendations received by the OMB from executive branch agencies. These recommendations called for the elimination or modification of reporting requirements which, in the opinion of the departments and agencies, are either no longer necessary to Congress on a recurring basis or which require modification. The Government Operations Committee asked other committees of the House whether the reports could be eliminated without harm to their oversight and legislative activities. The committees made recommendations for amendments to the bill in order to assure the continuing receipt of information which is still pertinent and useful. All amendments recommended by committees of the House to delete or modify provisions of the bill were approved by the Government Operations Committee.

According to the Congressional Budget Office, the elimination and modification of the reports contained in H.R. 2518 will result in a savings to the Federal Government of approximately $1 million.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am glad that once again we are considering the problem of unnecessary paperwork required of Government agencies. It is a useful exercise to look, on a regular basis, at reporting requirements imposed on the executive branch to determine which reports have become unnecessary for one reason or another. As a result of this process, we can eliminate some reports, and reduce the frequency others must be filed. As the chairman of the Commission on Federal Paperwork, which existed between 1975 and 1977, and made 770 constructive suggestions for reducing the paperwork burden, I fully concur in such an undertaking.

This is the third time we have considered legislation to eliminate unneeded reports. I trust that by now we have established this procedure as a regular and ongoing one for both the Congress and the executive branch.

Mr. Speaker, the bill we consider today eliminates or modifies the requirement for only 25 reports. I regret that this number is not closer to the approximately 230 reports that were contained in the administration's draft on which this legislation is based. I hope that in future years, committees will review reports elimination bills with an objective of eliminating more reports so that we can report legislation to the House that will have a more significant impact on the burden of Government paperwork.

Nevertheless, H.R. 2518 is a step in the right direction. The administration supports its enactment. I am pleased to support the bill as amended, and urge my colleagues to do likewise.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 992) to discontinue or amend certain requirements for agency reports to Congress, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Reports Elimination Act of 1985".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 218(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(a)) is repealed.

(b) Section 3104 of title 5, United States Code, is amended by—

(1) striking out subsection (b);

(2) redesignating paragraphs (1), (2), and (3) of subsection (a) as subsections (a), (b), and (c), respectively; and

(3) striking out "paragraph (1) of this subsection" each place it appears in subsections (b) and (c) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subsection (a) of this section".

(c) Section 26(e)(2) of the Toxic Substances Control Act (15 U.S.C. 2625(e)(2)) is amended to read as follows:

"(2) The Administrator and the Secretary shall—

"(A) define the term 'known financial interests' for purposes of paragraph (1), and

"(B) establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for review by the Administrator and the Secretary of such statements.".

(d) Section 1114(b) of title 31, United States Code, is repealed.

(e) Section 1113(e)(3) of title 31, United States Code, is repealed.

(f) Section 311(c) of title 37, United States Code, is repealed.

(g) Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended by striking out ", and the head of each executive agency disposing of real property under subsection (k) of this section," in the first sentence.

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 102. (a) Section 1105(a)(12) of title 31, United States Code, is repealed.

(b) Section 3524(b) of title 31, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 103. (a) Section 7(b) of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006(b)) is repealed.

(b) Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is repealed.

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 104. (a) Section 6(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 note) is repealed.

(b) Section 259 of the Revised Statutes (15 U.S.C. 183) is repealed.

(c)(1) Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out "and shall report from time to time, not less frequently than annually, his findings (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress".

(2) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended by inserting "and section 201" after "this section" in the first sentence.

(d) Section 5(e) of the Fair Packaging and Labeling Act (15 U.S.C. 1454(e)) is repealed.

(e) Section 2(d)(2) of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act) (15 U.S.C. 713c-3(d)(2)) is repealed.

(f) Section 3 of Public Law 96-339 (16 U.S.C. 971i) is repealed.

(g) Section 5 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-2) is repealed.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 105. (a) Section 2672a of title 10, United States Code, is amended by striking out the last sentence.

(b)(1) Section 2662 of title 10, United States Code, is repealed.

(2) The table of sections for chapter 159 of such title is amended by striking out the item relating to section 2662.

(c) Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(d) Section 2675 of title 10, United States Code, is amended by striking out the subsection designation "(a)" and by striking out subsection (b).

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 106. (a) Section 117(d) of the Higher Education Act of 1965 (20 U.S.C. 1017(d)) is repealed.

(b) Section 553(c) of the Higher Education Act of 1965 (20 U.S.C. 1119(c-2)(c)) is repealed.

(c) Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b)) is repealed.

(d) Section 403(a)(2) of the Department of Education Organization Act (20 U.S.C. 3463(a)(2)) is repealed.

(e) Section 441(e)(3) of the Carl D. Perkins Vocational Education Act of 1984 (Public Law 98-524) is amended by striking out the last sentence.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 107. (a) Section 7(b)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(b)(7)) is amended by—

(1) striking out subparagraph (A); and

(2) striking out "(B)" before "No".

(b) Title II of Public Law 96-126 is amended by striking out the last paragraph under the heading "Department of Energy-Alternative Fuels Production" (42 U.S.C. 5915 note).

(c) The Powerplant and Industrial Fuel Use Act of 1978 is amended by—

(1) striking out section 801 (42 U.S.C. 8481); and

(2) striking the item relating to section 801 in the table of contents.

(d) Section 11 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9210) is amended by—

(1) striking out paragraph (5);

(2) inserting "and" after the semicolon at the end of paragraph (4); and

(3) redesignating paragraph (6) as paragraph (5).

(e) The Public Utility Regulatory Policies Act of 1978 is amended by—

(1) striking out section 116 (16 U.S.C. 2626);

(2) striking out section 309 (15 U.S.C. 3209); and

(3) striking out the items relating to sections 116 and 309 in the table of contents.

(f) Section 218(b) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(b)) is repealed.

(g) Section 8 of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707) is amended by striking out subsections (b) and (c) and by striking out "(a)" before "The Secretary".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 108. (a) Section 308(a) of the Public Health Service Act (42 U.S.C. 242m(a)) is amended—

(1) by striking out paragraph (1);

(2) by striking out "or (2)" in paragraph (3); and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) Section 317(h) of the Public Health Service Act (42 U.S.C. 247b(h)) is repealed.

(c) Section 336A of the Public Health Service Act (42 U.S.C. 254i) is repealed.

(d) Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is repealed.

(e) Section 357 of the Public Health Service Act (42 U.S.C. 263e) is repealed.

(f) Section 360D of the Public Health Service Act (42 U.S.C. 263l) is repealed.

(g)(1) Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-10) is repealed.

(2) The first sentence of section 383(b) of such Act (42 U.S.C. 277(b)) is amended by striking out ", and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof".

(h) Section 771(b)(2)(C) of the Public Health Service Act (42 U.S.C. 295f-1(b)(2)(C)) is amended by striking out "and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate" in the last sentence.

(i) Section 1009 of the Public Health Service Act (42 U.S.C. 300a-6a) is repealed.

(j) Section 1122 of the Public Health Service Act (42 U.S.C. 300c-12) is amended to read as follows:

"SUDDEN INFANT DEATH SYNDROME RESEARCH

"SEC. 1122. From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research which relates specifically to sudden infant death syndrome, and to research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden death syndrome.".

(k) Section 1315 of the Public Health Service Act (42 U.S.C. 300e-14) is repealed.

(l) Section 1318(e) of the Public Health Service Act (42 U.S.C. 300e-17(e)) is repealed.

(m) Section 1705 of the Public Health Service Act (42 U.S.C. 300u-4) is amended—

(1) by striking out subsection (b); and

(2) by striking out "(a)" before "The".

(n) Section 1881(c)(6) of the Social Security Act (42 U.S.C. 1395rr(c)(6)) is amended by striking out the last sentence.

(o)(1) Title IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) is repealed.

(2) The table of contents for such Act is amended by striking out the items relating to section 1200 and title IV.

(p) Section 315 of the Runaway Homeless Youth Act (42 U.S.C. 5715) is repealed.

(q) Section 640(d) of the Head Start Act (42 U.S.C. 9835) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 109. (a) Section 904 of the Housing and Community Development Act of 1977 (42 U.S.C. 3540) is repealed.

(b) Section 311 of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6840) is repealed.

(c) Section 505(f) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-4(f)) is repealed.

(d) Section 506(c) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-5(c)) is repealed.

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 110. (a) Section 522(b) of the Energy Policy and Conservation Act (42 U.S.C. 6392(b)) is amended to read as follows:

"(b) The Secretary and the Secretary of the Interior shall each act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

"(1) to define the term 'known financial interest' for purposes of subsection (a); and

"(2) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary or the Secretary of the Interior, as the case may be, of such statements.".

(b) Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking out paragraphs (8) and (9).

(c) Section 2 of Public Law 87-283 (25 U.S.C. 165) is repealed.

(d) Public Law 87-279 (25 U.S.C. 15) is amended by striking out the last sentence.

(e) Section 31(e) of the Act of February 25, 1920 (41 Stat. 450, chapter 85; 30 U.S.C. 188(e)) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 111. Section 2101(d) of title 18, United States Code, is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF LABOR

SEC. 112. Section 4(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(e)) is repealed.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 113. (a) Section 13 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1746) is repealed.

(b) Section 163 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by—

(1) striking out subsection (o); and

(2) redesignating subsections (p) and (q) as subsections (o) and (p), respectively.

(c) Section 203(e) of the Highway Safety Act of 1973 (23 U.S.C. 130 note) is amended by striking out the third, fourth, and fifth sentences.

(d) Section 152(g) of title 23, United States Code, is amended by striking out the third, fourth, and fifth sentences.

(e) Section 308(a) of title 49, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 114. (a) Section 331 of title 31, United States Code, is amended by striking out subsection (b).

(b) Section 1302(c)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3712(c)(2)) is amended by striking the last sentence.

(c)(1) Section 1121(b) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421(b)) is repealed.

(2) Section 1121 of such Act is further amended by striking out "(a)" before "In April".

REPORTS BY THIS CONSUMER PRODUCT SAFETY COMMISSION

SEC. 115. Section 35(e) of the Consumer Product Safety Act (15 U.S.C. 2082) is repealed.

REPORTS BY THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 116. (a) Section 33(a)(7) of the Solid Waste Disposal Act Amendments of 1980 (42 U.S.C. 6981 note) is repealed.

(b) Section 2001(b)(3) of the Solid Waste Disposal Act (42 U.S.C. 6911(b)(3)) is repealed.

(c) Section 7007(c) of the Solid Waste Disposal Act (42 U.S.C. 6977(c)) is repealed.

(d) Section 127 of the Clean Air Act Amendments of 1977 is amended by—

(1) striking out subsection (b) (42 U.S.C. 7479 note);

(2) striking out subsection (d) (42 U.S.C. 7470 note); and

(3) redesignating subsection (c) as subsection (b).

(e) Section 102(d) of the Federal Water Pollution Control Act (33 U.S.C. 1252(d)) is repealed.

(f) Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(g) Section 516(a) of the Federal Water Pollution Control Act (33 U.S.C. 1375(a)) is repealed.

(h) Section 9 of the Used Oil Recycling Act of 1980 (42 U.S.C. 6932 note) is repealed.

(i)(1) Section 1442(a)(3)(A) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(A)) is repealed.

(2) Section 1442(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(B)) is repealed.

(3) Section 1442 of the Public Health Service Act (42 U.S.C. 300j-l(c)) is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(j) Section 1412(e)(2) of the Public Health Service Act (42 U.S.C. 300g-l(e)(2)) is repealed.

(k) Section 1450(h) of the Public Health Service Act (42 U.S.C. 300j-9(h)) is repealed.

(l) Section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is repealed.

REPORTS BY THE FEDERAL COMMUNICATIONS COMMISSION

SEC. 117. Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is repealed.

REPORTS BY THE FEDERAL LABOR RELATIONS AUTHORITY

SEC. 118. Section 7104(e) of title 5, United States Code, is repealed.

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 119. Section 10 of Public Law 94-519 (40 U.S.C. 493) is amended to read as follows:

"SEC. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Comptroller General of the United States shall transmit to the Congress a report which covers the two-year period from such date and contains: (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Comptroller General determines to be necessary or desirable.".

REPORTS BY THE INTERSTATE COMMERCE COMMISSION

SEC. 120. Section 10732(b) of title 49, United States Code, is amended by striking out the second and third sentences.

REPORTS BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 121. Section 21(f) of the Small Business Act (15 U.S.C. 648(f)) is repealed.

REPORTS BY THE NATIONAL SCIENCE FOUNDATION

SEC. 122. Section 8 of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1883) is amended by—

(1) inserting "and" after the semicolon at the end of paragraph (3);

(2) striking out the semicolon and "and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) striking out paragraph (5).

REPORTS BY THE NUCLEAR REGULATORY COMMISSION

SEC. 123. Section 201(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(h)) is repealed.

REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 124. (a) Section 5114 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 51 of such title is amended by striking out the item relating to section 5114.

REPORTS BY THE SMALL BUSINESS ADMINISTRATION

SEC. 125. Section 10 of the Small Business Act (15 U.S.C. 639) is amended by striking out subsection (g).

TITLE II—MODIFICATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 201. (a) The first sentence of section 2(d) of Public Law 96-135 (25 U.S.C. 472a(d)) is amended by—

(1) striking out "report following the close of each fiscal year" and inserting in lieu thereof "biennial report"; and

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken".

(b) Section 2(e)(2) of Public Law 96-135 (25 U.S.C. 472a(e)(2)) is amended by—

(1) striking out "following the close of each fiscal year";

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken"; and

(3) inserting "biennial" before "report".

(c) The first paragraph of section 11 of Public Law 92-195 (16 U.S.C. 1340) is amended to read as follows:

"The Secretary of Agriculture shall include in each report required under sections 528 and 529 of the Revised Statutes, and the Secretary of the Interior shall include in the annual report of the Department of the Interior, a joint statement of such Secretaries on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as such Secretaries may deem appropriate.".

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 202. Section 9503(a) of title 31, United States Code, is amended by—

(1) striking out "annual report" in paragraph (1) and inserting in lieu thereof "report shall be submitted every five years, and"; and

(2) inserting "fifth" before "plan year involved" in paragraph (1)(B).

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 203. The last sentence of the paragraph under the heading "GENERAL SALES MANAGER—(ALLOTMENT FROM THE COMMODITY CREDIT CORPORATION) in title IV of Public Law 97-370 (15 U.S.C. 713a-10; 96 Stat. 1808) is amended by striking out "quarterly" and inserting in lieu thereof "annual".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 204. (a) Section 7(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1106(a)) is amended by striking "in January of each year" and inserting in lieu thereof "biennially in January".

(b) Section 16 of the Act of June 18, 1934 (48 Stat. 1002, chapter 590; 19 U.S.C. 81p) is amended by—

(1) striking out "containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require" in subsection (b) and inserting in lieu thereof "on zone operations"; and

(2) striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board shall make a report to Congress annually containing a summary of zone operations.".

(c) Section 5(d)(9) of the National Climate Program Act (15 U.S.C. 2904(d)(9)) is amended by striking out "that shall be revised and extended biennially" and inserting in lieu thereof "that shall be reviewed every year and revised as appropriate".

(d) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended to read as follows:

"(c) In March of every other year, the Secretary of Commerce shall report to the Congress on the results of activities undertaken pursuant to this section during the previous two fiscal years.".

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 205. (a)(1) Section 12(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress; 20 U.S.C. 642(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(2) Section 401(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 242(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(b) Section 618(f)(2)(E) of the Education of the Handicapped Act (20 U.S.C. 1418(f)(2)(E)) is amended to read as follows:

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by State educational agencies, local educational agencies, and intermediate educational units to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities;".

(c) Section 653(c) of the Education of the Handicapped Act (20 U.S.C. 1453(c)) is amended by striking out "The Secretary shall make an annual" and inserting in lieu thereof "Every three years, the Secretary shall make a".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 206. (a) Section 5(h) of the International Health Research Act of 1960 (22 U.S.C. 2103(h)) is amended by striking out "to the Congress at the beginning of each regular session" and inserting in lieu thereof "biennially to the Congress".

(b) Section 22(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(f)) is amended by striking out "an annual" and inserting in lieu thereof "a biennial".

(c) Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by—

(1) striking out "an annual" in the matter preceding subparagraph (A) and inserting in lieu thereof "a biennial"; and

(2) striking out "year" in subparagraph (D) and inserting in lieu thereof "previous two-year period".

(d) Section 404(a)(9) of the Public Health Service Act (42 U.S.C. 285(a)(9)) is amended by striking out ", not later than November 30 of each year,".

(e) Section 434(e) of the Public Health Service Act (42 U.S.C. 289c-1(e)) is amended by—

(1) striking out ", as soon as practicable, but not later than sixty days, after the end of each fiscal year," in the first sentence;

(2) striking out "an annual" in the first sentence and inserting in lieu thereof "a biennial"; and

(3) striking out "annual" in the second sentence and inserting in lieu thereof "biennial".

(f) Section 435(b) of the Public Health Service Act (42 U.S.C. 289c-2(b)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "(on or before November 30 of each year)".

(g) Section 439(e) of the Public Health Service Act (42 U.S.C. 289c-6(e)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "on or before November 30 of each year".

(h)(1) Section 308(a) of the Age Discrimination Act of 1975 (42 U.S.C. 6106a(a)) is amended by—

(A) striking out "Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health and Human Services a report" and inserting in lieu thereof "Not later than December 31 of each year after calendar year 1984 in which the Secretary of Health and Human Services requires a report under this section, the head of each Federal department or agency shall submit to the Secretary of Health and Human Services such report, which shall";

(B) striking out "describing" in clause (1) and inserting in lieu thereof "describe"; and

(C) striking out "containing" in clause (2) and inserting in lieu thereof "contain".

(2) Section 308(b) of such Act (42 U.S.C. 6106a(b)) is amended by striking out "Not later than March 31 of each year (beginning in 1980), the Secretary of Health and Human Services" and inserting in lieu thereof "Not later than March 31 of each year following a year in which the Secretary of Health and Human Services requires reports under subsection (a), the Secretary".

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 207. (a) Section 207(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 488(c)) is amended by—

(1) striking out "aggregate amount of the original acquisition cost of such property to the Government and all capital expenditures made by the Government with respect thereto is less than $1,000,000" and inserting in lieu thereof "estimated appraised fair

market value of such property is less than $3,000,000" in paragraph (1); and

(2) striking out "acquisition cost" and inserting in lieu thereof "estimated appraised fair market value" in paragraph (2).

(b) Section 252(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(i)) is amended—

(1) by striking out "each"; and

(2) by striking out "6 months," and inserting in lieu thereof "other year, on an alternating basis,".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 208. (a) Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. 1307) is amended by—

(1) striking out "each January 31 thereafter" in subsection (b) and inserting in lieu thereof "each June 30 thereafter"; and

(2) striking out "each January 31 thereafter" in subsection (c) and inserting in lieu thereof "each June 30 thereafter".

(b) Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356(a)) is amended by striking out "semiannual reports" in the last sentence and inserting in lieu thereof "annual reports".

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 209. (a) Section 201(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(f)) is amended by—

(1) striking out "Secretary of the Treasury, in cooperation with the"; and

(2) striking out the comma after "the Secretary of State".

(b) Section 6103(p)(5) of the Internal Revenue Code of 1954 is amended by striking out "quarter" and inserting in lieu thereof "year".

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 210. (a) Section 7(a) of Public Law 90-480 (commonly referred to as the Architectural Barriers Act of 1968) (42 U.S.C. 4157(a)) is amended by—

(1) striking out "during the first week of January of each year" and inserting in lieu thereof "by January 1, 1986, and biennially thereafter,";

(2) striking out "preceding fiscal year" and inserting in lieu thereof "two preceding fiscal years"; and

(3) striking out "such year" and inserting in lieu thereof "such years".

(b) Section 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(4)(E)) is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

REPORTS BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD

SEC. 211. Section 7701(i)(2) of title 5, United States Code, is amended by striking out "calendar" and inserting in lieu thereof "fiscal".

□ 1215

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 992, and to insert in lieu thereof the provisions of H.R. 2518, as passed by the House.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2518) was laid on the table.

CLARIFYING DEFINITION OF LOCAL SERVICE AREA OF LOW-POWER TELEVISION STATIONS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3108) to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low-power television station.

The Clerk read as follows:

H.R. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth paragraph of section 111(f) of title 17, United States Code, relating to the definition of local service area of a primary transmitter, is amended by adding after the first sentence the following new sentence: "In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the 'local service area of a primary transmitter' comprises the area within 35 miles of the transmitter site, except that in the case of such a station located in a standard metropolitan statistical area which has one of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20 miles.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, I bring before the House a bill (H.R. 3108) to cure a definitional problem in the copyright law. The problem involves low-power television, an exciting new service—authorized in 1982 by the Federal Communications Commission—to provide local television service in markets underserved by conventional television.

Current copyright law creates confusion and uncertainty with regard to transmitting local low-power television station signals via cable because the law can be construed as defining such signals as "distant signals" under copyright, subjecting them to royalty fees and limiting the ability of such low-revenue stations to provide television service.

When I first learned of the problem in October 1984 (at the end of the last Congress), I contacted my counterpart chairman on the Senate side (Senator CHARLES MCC. MATHIAS, JR.), and together we wrote to the then-Register of Copyrights, David Ladd, asking that administrative action be taken to resolve the matter.

The Copyright Office responded by expeditiously holding a public hearing; the Office determined that it would henceforth abide by the determination of a cable system as to whether or not a low-power television signal carried by that cable system is a local signal and therefore exempt from the royalty fee. In a letter from General Counsel (Ms. Dorothy Schrader), the Office expressly stated:

That the status of low power television signals under the cable compulsory license is ambiguous. Accordingly, in examining cable Statements of Account, the Copyright Office will not question the determination by a cable system that a low power station's signal is "local" within an area approximating the normal coverage zone of such station.

The Copyright Office further expressed its firm support for legislative clarification of the statutory ambiguity by a technical amendment to the Copyright Act.

H.R. 3108 accomplishes that objective. The bill is in the nature of a technical amendment to section 111(f) to clarify that subsection's definition of "local service area of a primary transmitter" as applied to low-power television.

The existing statutory definition of the "local service area of a primary transmitter" covers those broadcast services in existence in 1976, full-owner domestic TV stations, Canadian and Mexican stations, and radio stations. Because all full-power domestic stations were subject to the mandatory carriage rules, Congress defined the area of local service for copyright purposes in terms of the must-carry area specified in FCC rules.

Parenthetically, today's legislation is not affected by the finding of the D.C. Circuit Court that present must-carry rules are unconstitutional as violative of the first amendment. See Quincy versus Federal Communications Commission. Nor does this legislation affect the outcome of the Quincy decision on appeal.

Because low-power television stations did not exist in 1976 and are not subject to mandatory carriage at all, current law must be clarified to insure that low-power stations are treated in the same manner as full-power domestic and Canadian and Mexican signals with respect to when carriage of those signals will be "local" and royalty-free and when they will be "distant."

To this end, H.R. 3108 modifies section 111(f) to define specifically the "local service area" of low-power television stations in a manner such that cable systems will know with precision when their carriage of such a station

is "local" and when it is "distant." For low-power stations located outside the 50 metropolitan statistical areas with the largest populations based on the 1980 Census, that area would comprise a radius of 35 miles from the low-power station's transmitter site. Therefore, a cable system located within that area may carry that station's signal as a "local" signal without payment of royalties. In heavily populated areas represented by the top 50 metropolitan statistical areas, however, the area of local service would be reduced by 20 miles.

It is believed that the amendment will remove any remaining copyright ambiguities facing cable systems and enable decisions as to whether or not to carry low-power stations on a local basis to be based on what is best for the subscribers and the community served.

The result of this statutory clarification will be increased programming possibilities in under-served small communities, promotion of localism, the freer flow of information and ideas and more satisfied viewers.

H.R. 3108 entails no costs to the Government and the proposed legislation has engendered no known opposition.

I urge an "aye" vote.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 3108, which amends section 111(f) of title 17, United States Code, to add a precise definition of the local service area for low-power TV stations which will make it clear that low-power television signals are not "distant" signals for purposes of calculating copyright liability. This change to title 17 is in the nature of a clarifying amendment, and is without opposition.

I would just note that it was the gentleman from Wisconsin [Mr. KASTENMEIER] along with Senator MATHIAS who initially raised this issue on October 1, 1984, in a letter to the then Register of Copyrights David Ladd. The Copyright Office in their reply letter of November 29, 1984, concluded that the status of low-power TV signals under the Copyright Act is ambiguous. The Copyright Office then made the policy decision that they would not question the determination by a cable system that a low-power station's signal is "local" within an area approximating the normal coverage zone of such station.

Accordingly, H.R. 3108 in clarifying the staus of low-power TV signals, would conform existing law to present policy. Specifically, the local service area for a low-power TV station is defined as comprising an area 35 miles from its transmitter site, or in the case of low-power TV stations located within the 50 Metropolitan Statistical Areas with the largest population based on the 1980 census, the area is to be 20 miles from the transmitter site.

This situation surrounding low-power TV is a good example of a copyright question that has arisen from the development of new communications technologies which was not foreseen when the copyright law was rewritten in 1976. I believe that the definition provided for in H.R. 3108 will remove any existing ambiguities as they relate to a cable system's copyright liability for the retransmission of the programming of low-power TV stations and I commend the gentleman from Wisconsin [Mr. KASTENMEIER] for his initiative on this issue. There are no costs associated with H.R. 3108 and I urge its passage.

□ 1225

Mr. KASTENMEIER. Mr. Speaker, I yield myself 3 minutes.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Speaker, the reason that I rise is that I saw this in the Whip's notice last week. I do not know how it is throughout the country, but I know in my area what we have has been a sell-out of people's access to the airwaves which I thought the original Broadcasting Act of 1934 said it was the people's airwaves.

What it is turning out to be has been anything but the people's airwaves. In this case, I know this is a special category. I do not claim any expertise, but does the gentleman, and I know that the gentleman is looking at it from the copyright duplication standpoint, and I know that this question might be directed to the Committee on Transportation or Energy and the like, but does the gentleman relate this with respect to the low power and the delimitation of the territory to the current controversy with respect to the duplication of programs and the like on the regular cable?

Mr. KASTENMEIER. In answer to the gentleman from Texas, I would say the answer to the gentleman from Wisconsin is no, I do not relate it to that. The gentleman is correct; this is not a policy issue with respect to access or ownership to television programming. What it merely does, solely does, is to enable the low-power stations, which are relatively new, and I think the gentleman would agree, has more of a potential of being a people's station in terms of access, enable those to be carried by cable systems because cable systems would otherwise be told, "Well, those are distant signals," even though the right, let us say, in Behar Country or something, and therefore what would happen is that the cable would say, "Well, no, I will not put you on because I have to pay a very special royalty to put you on even though you are right in this area.

We say that no, those are local signals, you can put those on without paying that royalty. The question of programming or who gets license or what other rules are applied is a policy question which the gentleman alluded to, the Energy and Commerce Committee and the Federal Communications Commission would respond to, I would hope. We are solely interested in the Copyright Act's response to whether or not a type of transmission, new type of transmission, low power, can in fact be carried by cable systems.

Mr. GONZALEZ. I thank the distinguished chairman for a very lucid and full explanation. I would also like to compliment the gentleman in this area which I think the gentleman is quite correct, has the potential for leaving the people a little leeway of access without having to pay a monthly rental as we are now.

Mr. KASTENMEIER. I thank the gentleman from Texas for asking the question.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in further response to the issue that was just raised, under the Copyright Tribunal's rulings, cable company has to pay 3.75 percent of its gross for carrying a distant signal, whether the programming is owned by the motion picture industry or broadcasters or whoever. H.R. 3108 will make it clear what low-power TV programming cable can carry without incurring copyright liability.

We are trying to clarify the existing ambiguity so that it precisely indicates what the intention of our committee was, and that is that cable should not have to pay unless the low-power signals are beyond the ranges that are specifically set forth in this bill.

It is a good piece of legislation. It does not go at the issues that the gentleman was referring to, and I want to commend the chairman of our subcommittee again for working this problem out.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3108.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HORSEPASTURE SCENIC RIVER, NORTH CAROLINA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2826) to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF HORSEPASTURE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) and by inserting the following new paragraph after paragraph (55) as so redesignated:

(56) HORSEPASTURE, NORTH CAROLINA.—The segment from Bohaynee Road (N.C. 281) downstream approximately 4.25 miles to where the segment ends at Lake Jocassee, to be administered by the Secretary of Agriculture. Notwithstanding any limitation of section 6 of this Act, the Secretary is authorized to utilize the authority of this Act and those pertaining to the National Forests to acquire by purchase with donated or appropriated funds, donation, exchange or otherwise, such non-Federal lands or interests in lands within, near, or adjacent to the designated segments of the river which the Secretary determines will protect or enhance the scenic and natural values of the river.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from North Carolina [Mr. HENDON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2826 was introduced by our colleague on the subcommittee, BILL HENDON, and would amend the Wild and Scenic Rivers Act by designating a 4¼-mile segment of the Horsepasture River in the State of North Carolina as a component of the National Wild and Scenic River System.

The Horsepasture River is located within the boundary of the Nantahala National Forest in the State of North Carolina. The segment of the Horsepasture River proposed for inclusion in the National Wild and Scenic River System drops 1,700 feet in 4 miles off the Blue Ridge escarpment in western North Carolina, just north of the South Carolina line. In this short distance there are five magnificent waterfalls. Large numbers of visitors come every week to visit and enjoy the river. Several unusual species of rhododendron grow in profusion in the gorge. The lower part of the gorge, which contains virgin timber, has been designated as a Society of American Foresters Natural Area and as a North Carolina Natural Heritage Area.

Mr. Speaker, I urge passage of H.R. 2826.

Mr. Speaker, I reserve the balance of my time.

Mr. HENDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2826, a bill I have introduced to include the Horsepasture River as a component of the National Wild and Scenic River System.

As my chairman said, the Horsepasture River, truly one of the most magnificent rivers in America, is located within the boundaries of the Nantahala National Forest in western North Carolina, in my congressional district. It is a 4.2-mile segment. It drops, as the chairman said, 1,700 feet in just 4.25 miles.

It is important to note that this segment has been threatened by a hydroelectric power project, and it is imperative that we save it from such a tragic fate by passing this very important piece of legislation.

Mr. Speaker, there is no controversy, either here or in North Carolina whatsoever, so I will take no additional time. In closing, I must tell my colleagues of the outstanding job that Subcommittee Chairman VENTO has done in supporting this legislation.

I thank him and I congratulate him.

□ 1235

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. HENDON. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to thank the gentleman from North Carolina for his comments. Really it has been good to work with the gentleman from North Carolina in accomplishing this. He has been a gentleman throughout, and I appreciate his support.

Mr. HENDON. Mr. Speaker, I appreciate the gentleman's kind remarks, and I also wish to thank our ranking minority member of the subcommittee, the gentleman from California [Mr. LAGOMARSINO], for his fine assistance.

Mr. Speaker, I urge that the House suspend the rules and pass H.R. 2826.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 2826.

This legislation would designate a 4.2-mile segment of the Horsepasture River in North Carolina as a component of the National Wild and Scenic Rivers System. There is no doubt, Mr. Speaker, that this stretch of the river qualifies for wild and scenic designation. Within this magnificent segment, the river falls over 1,200 feet down five spectacular waterfalls. Very few rivers could claim so many or such different falls within such a short stretch. In addition to its scenic values, the river is the home of numerous species of unique plants, fish, and wildlife. It also provides outstanding recreational opportunities for large numbers of visitors year-round.

During the 98th Congress, legislation was enacted to include this segment of the Horsepasture River as a wild and scenic study river. In addition, the State of North Carolina included the segment in the State natural and rivers system.

I would like to commend the gentleman from North Carolina [Mr. HENDON] for his outstanding work to protect this exceptional resource. His efforts will allow Americans to continue to enjoy the scenic and recreational values of the Horsepasture River as well as preserve it for the enjoyment of future generations. I would also like to commend the subcommittee chairman, Mr. VENTO, for moving this important legislation forward.

In closing, I strongly urge all of my colleagues to support H.R. 2826.

Mr. HENDON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2826, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 2826, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

BIG CYPRESS NATIONAL PRESERVE ADDITION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4090) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (88 Stat. 1258; 16 U.S.C. 698f and following).

SEC. 2. FINDING AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) The planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley").

(2) The planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line.

(3) The Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve.

(4) Public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT AND ADMINISTRATION OF ADDITION.

(a) ADDITION.—The Act of October 11, 1974, is amended by adding at the end thereof the following section:

"SEC. 9. BIG CYPRESS NATIONAL PRESERVE ADDITION.

"(a) ESTABLISHMENT.—In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida, the Big Cypress National Preserve Addition is established.

"(b) MAP AND BOUNDARIES.—The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 136,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated June, 1986, and numbered 176-91000B, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

"(c) ADMINISTRATION.—The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the Big Cypress National Preserve Addition and shall be managed in accordance with section 4.

"(d) COMPLETION OF ACQUISITION.—For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition within 5 years after the enactment of this section.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended—

(1) by inserting "with respect to the preserve and 5 years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

(d) INDIAN RIGHTS.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 4. ACQUISITION OF LAND WITHIN ADDITION.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfer to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (2) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For the purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended—

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The second and third sentences of subsection (c) of such section are each amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(B) of the Act of October 11, 1974, is amended—

(1) in paragraph (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in paragraph (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971" the second and third places it appears.

SEC. 5. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 10. COOPERATION AMONG AGENCIES.

"The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Not more than 3 of such access points shall be located within the preserve (including the Addition).".

SEC. 6. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 11. REPORT TO CONGRESS.

"Not later than 3 years after the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition. The report and further plan shall include each of the following:

"(1) The status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition.

"(2) The need for involvement of other Federal and State agencies to accomplish the objectives of the preserve and Addition.

"(3) The status of land acquisition.

"(4) A determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on Interstate 75 (Alligator Alley) for access to the Big Cypress National Preserve, including the Addition.

The determination referred to in paragraph (4) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) IN GENERAL.—Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) ADDITION.—There are authorized to be appropriated such sums as may be necessary for acquisition of lands and for development within the Addition.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HENDON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from North Carolina [Mr. HENDON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the measure presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4090 was introduced by our colleague, TOM LEWIS, and is supported by the entire Florida delegation. The bill would modify the boundary of the Big Cypress National Preserve to add some lands to the preserve.

Big Cypress Preserve was established by Public Law 93-440 in 1974. The preserve contains about 575,000 acres within the boundaries and is typical of the marshlands of southern Florida. The preserve abuts Everglades National Park in the north, and is an extension of the unique ecosystem of the Everglades containing large numbers of plant and animal species found nowhere else in North America, including 21 rare or endangered species.

This area is bisected by "Alligator Alley," a State highway that runs from Fort Lauderdale to Naples across the southern tip of Florida. This highway is in the process of being upgraded to become a section of Interstate 75. During the process of that conversion, funds provided through the highway trust fund will be used to pay some 60 percent, the value of the surface rights for 88,000 acres of the proposed addition to the preserve. H.R. 4090 would provide that the remaining 40 percent would be provided by the Federal Government, 80 percent, and the State of Florida, 20 percent. This timely coordination between Federal program execution in cooperation with the State of Florida and the landowners would result in full protection for an important area at a great savings to the taxpayers. The remaining 48,000 acres would be acquired by Federal, 80 percent, and State, 20 percent, funding.

The 136,000 acres added to the preserve by H.R. 4090 would be managed in the same manner as the existing preserve to provide for protection of this unique North American ecosystem and to provide for recreation use, including fishing and hunting. Subsurface rights would be retained by private owners and exploration and development of any mineral or oil and gas would be permitted under the same authorities and in the same manner as provided in the 1974 act establishing the Big Cypress Preserve.

Mr. Speaker, I wish to commend our colleague, TOM LEWIS, for his work on this bill. His knowledge of the area, his understanding of its great importance to the entire south Florida ecosystem and efforts in persuading his colleagues of the need to protect this resource has been crucial to our success in bringing this bill to the floor today. I am also indebted to Gov. Bob Graham and his staff for all of their efforts and for the strong support of Governor Graham in working the many complicated aspects of this bill.

Mr. Speaker, I urge all of my colleagues to support this bill.

Mr. HENDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4090. As the chairman of the subcommittee has explained, this legislation would authorize the expansion of the Big Cypress National Preserve located in Florida.

Due to the unique approach embodied in H.R. 4090, the Federal Government will be able to acquire the land addition without paying full cost. More importantly, acquisition will preserve the wetland areas which are so critical as habitat for fish and wildlife, particularly the endangered Florida panther.

I want to commend the bill's sponsor, our colleague from Florida (Mr. LEWIS) for his hard work and diligence on this legislation. I would also like to commend the subcommittee chairman, Mr. VENTO, for moving this important bill forward. I believe this is an outstanding piece of legislation and I urge all of my colleagues to support and vote for H.R. 4090.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of H.R. 4090.

Mr. Speaker, as the gentleman from North Carolina has brought out, we have a great opportunity today to support H.R. 4090, the Big Cypress National Preserve Addition. This important legislation is cosponsored by the entire Florida delegation and has received widespread praise and broad, bipartisan support.

H.R. 4090 provides a unique opportunity to acquire and protect land in southwest Florida of unquestioned importance and beauty for an important addition to the Big Cypress National Preserve.

This area is undoubtedly worth preserving and enhancing for its unique and wild beauty; however, make no mistake. It must be protected because it forms the water supply system for well over 4.5 million south Florida residents.

Because of the significant public benefit associated with the acquisition of this land, I, my Florida colleagues and members of the Interior Committee believe this is a task worthy of congressional attention. Therefore, I urge passage of H.R. 4090, the Big Cypress National Preserve Addition.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 4090, to authorize a significant addition to the Big Cypress National Preserve in southern Florida.

This legislation provides us with a unique opportunity to acquire and protect this important addition, without paying full value for the land. Due to the proposed conversion of Alligator Alley to Interstate 75 later this year, highway severance funds can be utilized to pay a major portion of the acquisition costs. The additional expenditures would be cost-shared by the Federal and State governments, 80 percent and 20 percent, respectively.

Acquisition of this area will preserve the wetland areas which serve as important fish and wildlife habitat and also as recharge sources for southern Florida's water supply. Expansion of the preserve will also result in significant public benefits since the bill allows the same multiple uses of the addition which are currently permitted in the preserve, including hunting, fishing, and trapping. Large numbers of sportsmen from across the country have enjoyed these activities within the preserve for many years and will now have the benefit of an expanded area. Mineral exploration and development, which is currently per-

mitted in the preserve, would also be allowed in the addition since only the surface rights would be acquired under the bill's provisions. I believe that all of these uses can successfully go hand in hand with recreation and preservation and strongly feel they should be continued in the future. In order to allow the necessary access to the preserve addition for the public's use, the bill allows for the establishment of three recreational access points along Interstate 75 within the boundaries of the preserve and addition.

H.R. 4090 also requires the Secretary to submit to Congress within 3 years after the bill's enactment, a detailed report on the Big Cypress Preserve and addition including management recommendations, a public use summary, the status of land acquisition, and recommendations on recreational access points. This information will enable Congress to review the management of, and activities within, the preserve in the future and make any necessary changes or improvements.

During subcommittee action on the bill, an amendment was approved which adds an additional 10,000 acres, known as the Fakahatchee Strip, to the preserve addition. I believe this strip of land, which has been recommended for acquisition by the U.S. Fish and Wildlife Service as key habitat for the endangered Florida panther, will prove to be a significant part of the preserve addition.

I would like to commend the bill's sponsor, the gentleman from Florida [Mr. LEWIS] for his outstanding efforts and diligence in pursuing passage of this bill. I believe he has put together an excellent piece of legislation for which I am pleased to lend my strong support. I would also like to commend the subcommittee chairman, Mr. VENTO, for his work on this legislation.

H.R. 4090 has received widespread praise and broad, bipartisan support as an important expansion of an area critical to the Florida Everglades ecosystem. Therefore, I urge all of my colleagues to support and vote for this legislation.

Mr. MACK. Mr. Speaker, I am pleased to lend my support to the legislation pending before us, H.R. 4090, introduced by my good friend from Florida, Mr. TOM LEWIS. This bill seeks to acquire and protect additional acreage for the Big Cypress National Preserve, a major land area in Florida that has profound importance as a watershed, wildlife habitat, and recreational resource.

This legislation offers a unique opportunity to accomplish a number of important objectives with one stroke. The innovative feature of the bill would use Federal highway money which would normally fund right-of-way severence damages for the conversion of "Alligator Alley" to Interstate 75 for the outright purchase of the surrounding land. Thus, a much needed upgrading of this highway to interstate standards, including improvements in the roadway's compatability with the wetland environment, can be accomplished at the same time that additional acreage in Big Cypress is given Federal protection. Highway severance money will provide 60 percent of the funding needed to purchase the needed acreage. For the remaining balance, the State of Florida will provide 20-percent funding, while the Federal Government's 80 percent can be handled as an outright purchase or by a land exchange agreement.

The bill provides for protection under the public domain of 136,000 acres in one of Florida's last large parcels of pristine land. This valuable area, which includes wetlands, cypress swamps and hardwood hammocks, is a crucial component of the water system of the Florida Everglades, which has experienced severe water related damage in the last decade. Not only does this system feed the aquatic life of the Everglades, but it provides for the recharging of ground water that supplies an ever growing population and economy in south Florida. The area sustains a wide variety of wild plant and animal life, including the Florida panther, the bald eagle, native orchids, and other endangered species.

I believe that for the protection of these unique resources which are true national treasures, the preservation of adequate water supplies for millions of south Floridians, and the improvement of our transportation infrastructure, H.R. 4090 deserves the support of this body.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 4090, legislation to provide for the addition of land to Florida's Big Cypress National Preserve.

My colleague from Florida, Mr. LEWIS, is to be commended for his leadership in sponsoring this legislation and working with the Interior and Insular Affairs Committee to hold hearings and to make it possible for us to consider this matter here today. As I said in my testimony to the committee on May 13, H.R. 4090 has the strong, bipartisan support of our entire delegation. We recognize that the addition of land to the Big Cypress National Preserve will provide important environmental protection to some of Florida's most beautiful and unique park land at a significant savings to the American taxpayers.

The addition of 136,000 acres to the preserve will expand the protected natural habitat for endangered wildlife native to the area. The preserve is home to many plants and animals that are found nowhere else in North America, including 21 rare or endangered species such as orchids, bald eagles, and Florida panthers. The Federal land acquisition authorized by this legislation would enable the National Park Service to supplement ongoing programs in the area to further protect these rare and threatened species.

The additional preserve area also would provide important recreational areas and opportunities for our residents. Park land is rapidly being crowded out in other parts of the State by our growing population and expanding urban areas.

Another environmental factor in this matter is the significant impact the Big Cypress National Preserve has on the water supply for the Everglades National Park. Allegator Alley, the highway which cuts through the Big Cypress Area has disrupted the natural water flow to the Everglades, a 1.3-million-acre park that is one of our Nation's most delicately balanced ecosystems. The public acquisition of additional land for the Big Cypress National Preserve will prevent future development of the area and enable the implementation of new and more effective water management methods, along with the construction of I–75 through the area, to enhance water flow to the Everglades and reduce future environmental threats to the region.

Finally, the purchase of additional acreage for the preserve in conjunction with severance proceedings for the Alligator Alley—I–75 conversion will enable the Federal Government to acquire this land at a significantly lower cost than otherwise might be possible. The committee is to be commended for acting on this legislation in such an expedient manner. Such action is critical if we are to take advantage of this unique opportunity to acquire new Federal lands at a savings to the American taxpayers.

Mr. Speaker, I strongly support H.R. 4090 because it provides for our State's and our Nation's critical environmental needs while at the same time ensuring the efficient allocation of Federal resources.

Mr. HENDON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4090, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EL MALPAIS NATIONAL MONUMENT IN NEW MEXICO

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3684) to designate the El Malpais lava flow and adjacent public lands as a National Monument to be managed by the Bureau of Land Management, as amended.

The Clerk read as follows:

H.R. 3684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF AN EL MALPAIS NATIONAL MONUMENT.

(a) ESTABLISHMENT.—In order to protect the unique and nationally important archeological, geologial, scenic, scientific, ecological, cultural, and wilderness resources of the El Malpais lava flow and adacent public lands, there is hereby established the El Malpais National Monument (hereinafter in this Act referred to as the "Monument").

(b) AREAS INCLUDED.—The Monument shall include those lands in New Mexico within the Albuquerque District of the Bureau of Land Management, which comprise approximately 373,000 acres, as generally depicted on a map entitled "El Malpais National Monument—Proposed", and dated May 1986. Such map shall be on file and available for public inspection in the Offices of the Bureau of Land Management, Department of the Interior.

SEC. 2. ADMINISTRATION.

(a) GENERAL AUTHORITIES.—The Secretary of the Interior (hereafter in this Act re-

ferred to as the "Secretary") shall manage the Monument as a separate unit within the boundary of the Albuquerque District of the Bureau of Land Management in accordance with this Act and in accordance with the laws pertaining to the public lands managed by the Bureau, including those pertaining to grazing on the pubic lands.

(b) SPECIFIC AUTHORITIES.—

(1) The Secretary shall manage the Monument in a manner that will protect the archeological, scenic, scientific, geologic, ecologic, cultural, and wilderness resources and values of the Monument, and to provide for public education about those resources and values.

(2) The Secretary shall provide for recreational use of the Monument and shall provide recreational and interpretive facilities for the use of the public which are compatible with the provisions of this Act. The Secretary may assist adjacent affected local governmental agencies in the development of related interpretative programs.

(3) The Secretary shall permit the full use of the Monument for scientific study and research, except that the Secretary may impose such restrictions as may be necessary to prevent degradation of the archeological, geological, scenic, scientific, ecological, cultural, and wilderness resources of the Monument.

(c) WITHDRAWALS.—Subject to valid existing rights, all Federal lands within the Monument, and all Federal lands and mineral rights acquired within the Monument, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any activity carried out pursuant to valid existing mineral rights shall be conducted in accordance with applicable Federal and State law.

(d) HUNTING.—The Secretary shall permit hunting and trapping within the Monument in accordance with applicable Federal and State law. The Secretary may designate zones within the Monument where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, the protection of resources, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting activities.

(e) WOOD GATHERING.—Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the monument.

(f) MANAGEMENT PLAN.—Within 6 months after the date of enactment of this Act, the Secretary shall complete a management plan for the Monument, as part of the Secretary's responsibility for planning the uses of the public lands under section 202 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1701 and following). Such plan shall include but not be limited to each of the following:

(1) Implementation plans for a continuing program of public education about the resources and values of the El Malpais area.

(2) Measures for the preservation of the natural, archeological, and cultural resources of the Monument. These measures shall include provision for adequate law enforcement to protect such resources.

(3) A schedule for the prompt completion of a detailed archeological and cultural resources management plan. The Secretary shall provide for full public participation in the formulation of such plan. The archeological and cultural resources management plan shall meet each of the following requirements:

(A) The plan shall provide for the protection of significant cultural resources, including protection from vandalism and looting, as well as destruction from natural deterioration.

(B) The plan shall be based on adequate inventory of archeological sites, prepared in accordance with the Secretary's standards and guidelines for archeology and historic preservation and shall include provision for continuing inventory and recordation of archeological sites.

(C) The plan shall include a public interpretation program.

(D) The plan shall comply with all Federal and State historic and cultural presrvation statutes, regulations, guidelines, and standards, including the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act.

(E) The plan shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the Pueblo of Acoma and their traditional cultural and religious authorities.

(F) The plan shall provide for long-term scientific use of archeological resources in the Monument and within the wilderness areas designated in the Monument by this Act.

(g) COOPERATIVE AGREEMENT.—The Secretary shall take such steps as may be necessary to direct the National Park Service to enter into a cooperative agreement with the Bureau of Land Management to provide for the utilization of the expertise of the Park Service in cultural and archeological preservation and the management of cultural and archeological resources, for the purposes of developing a cultural resource management plan pursuant to subsection (c), for the effective implementation of that plan, and to insure close coordination with the Park Service's other efforts to protect and interpret Chacoan cultural sites in the Southwest.

SEC. 3. AUTHORIZATION FOR A VISITOR CENTER.

The Secretary is authorized to construct a visitor center in the Monument for the purposes of providing information through appropriate displays, printed material, and other interpretive programs, about the archeological, cultural, and natural resources of the Monument, and for the effective management of the cultural, archeological, and natural resources of the Monument.

SEC. 4. AUTHORIZATION FOR APPROPRIATIONS.

Effective for fiscal years beginning after September 30, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 5. ACQUISITION OF INHOLDINGS.

The Secretary is authorized to acquire all lands and interests therein, including mineral rights, within the boundary of the Monument by donation, exchange, or purchase with donated or appropriated funds. In exercising this authority, the Secretary shall use existing exchange authority to the greatest extent practicable prior to purchase of any inholdings. Any purchase or exchange within the boundaries of the wilderness area designated by this Act shall require the consent of the owner of those lands or rights. The Secretary may add to the Monument any private or State lands adjacent to the Monument which the Secretary acquires with the consent of the landowner.

SEC. 6. TRADITIONAL NATIVE AMERICAN USES.

In recognition of the past use of the Monument by Indian people for traditional cultural, and religious purposes, the Secretary shall insure nonexclusive access to Monument lands by Indian people for such traditional, cultural, and religious purposes, including the harvest of pine nuts. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plan prepared pursuant to section 2(e)(3) of this Act, the Secretary shall, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, define the past cultural and religious uses of the Monument by Indians.

SEC. 7. WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the boundary of the El Malpais National Monument, comprising approximately 179,000 acres, as generally depicted on a map entitled "El Mapais Wilderness—Proposed", dated may 1986, and which shall be known as the El Malpais Wilderness, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System.

(b) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) MAP AND DESIGNATION.—As soon as is practicable after enactment of this Act, a map and a legal description of each wilderness area designated by this Act shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and National Resources of the United States Senate. Each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal descriptions and map may be made by the Secretary subsequent to such filings. Each such map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of Interior.

(d) GRAZING.—Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

SEC. 8 LAND EXCHANGE.

(a) EXCHANGE.—The Secretary of the Interior shall exchange such public lands or interests in lands, as are of approximately equal value and selected by the State of

New Mexico, acting through its Commissioner of Public Lands, for any State lands or interests therein located within the boundaries of the monument.

(b) NOTICE.—Within 6 months after enactment of this Act, the Secretary of the Interior shall notify the New Mexico Commissioner of Public Lands what State lands or interests therein are within the monument designated by this Act. The notice shall include notice of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the monument areas. The notice shall contain a listing of all public lands within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as available to the State in exchange for State lands within the monument.

(c) DISAGREEMENTS REGARDING VALUE.—After the receipt of the list of available public lands, if the Commissioner of Public Lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State and Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the Commissioner as to relative value of the acquired and selected lands, the Secretary and the Commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents appropriate equal value. Such determination will be binding on the Secretary and the Commissioner. The transfer to title lands or interests therein to the State of New Mexico shall be completed within 2 years after the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HENDON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from North Carolina [Mr. HENDON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3684 would designate a national monument on lands near Grants, NM. The monument would include approximately 373,000 acres. This land would continue to be managed by the Bureau of Land Management, but with statutory recognition of its nationally important archeological and geologic significance and statutory direction to protect those values.

The lands proposed for designation as a national monument in H.R. 3684 have been long recognized as being of national importance. They are a textbook display of the volcanic forces that shaped much of the West, and the size and combination of the volcanic features here are truly spectacular and awe-inspiring. Those features include huge, complex lava flows; cinder cones; spatter cones; lava tubes, and lava caves.

They also contain an incredible wealth of archeological resources—literally thousands of sites, spanning thousands of years of prehistoric cultures that inhabited this area.

This area also contains an important wilderness resource. Within the monument is the largest single block of BLM public lands qualified for wilderness in New Mexico. This bill would designate 179,000 acres of that as part of the National Wilderness Preservation System.

Mr. Speaker, we held a field hearing in Grants, NM, last March. At that hearing, we heard what was, to my experience, an unprecedented degree of consensus in support of this legislation. The bill was strongly supported by Governor Anaya, by the State legislators from the area, by county and city officials, and by many local people. Our committee has used the input from that hearing, a hearing we had in Washington, and continued dialog with concerned parties to refine this bill, to clarify it, and to take into account the concerns of some local interests.

Before I yield the floor, Mr. Speaker, I want to commend our colleague, BILL RICHARDSON, who serves so ably on the Interior Committee, and who represents the area affected by this bill. BILL RICHARDSON introduced this legislation, and it was he who urged our subcommittee to visit the area and to move this legislation forward. I want to thank him for his initiative on this proposal, and would like to yield to him as much of my remaining time as he may consume.

□ 1245

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the El Malpais National Monument bill is extremely important to the people of my district and has the support of a broad coalition of local citizens, the local and State governments and national environmental organizations. The legislation is designed to protect a sensitive and unique environmental area in my district that contains some of the best examples of volcanic landscape in the continental United States and to stimulate tourism-related development in an area of New Mexico whose economy has been hard hit by the decline of our domestic mining industries.

My bill would designate a national monument on BLM lands and designate wilderness within that monument. The national monument designation will give this area the national status that its important resources deserve. It will help focus the BLM's efforts on protecting this area, as it has for the three national monuments currently managed by the U.S. Forest Service. It will help tremendously in promoting the public use and enjoyment of the area. Mr. Speaker, the House Appropriations Subcommittee on Interior has earmarked $250,000 in the fiscal year 1987 appropriations bill to go toward the planning and development of interpretative center and visitor facilities in the El Malpais area.

Mr. Speaker, we have worked hard to ensure that the El Malpais National Monument bill is sensitive to the current land use needs of the area. We have modified the bill in response to constructive suggestions from the Bureau of Land Management—including the deletion of 12,000 acres from wilderness designation status. These changes delete several areas with ranching facilities and private lands, and removes one area of particular archeological significance to enable more intensive interpretative facilities. In addition, in response to the particular concerns of the Acoma Pueblo, I have deleted deeded lands belonging to the Pueblo from national monument status and included them in BLM's overall planning process. Further, existing livestock grazing is allowed to continue as well as hunting and trapping. Studies by the State of New Mexico and by the U.S. Geological Survey found no significant mineral resource potential in El Malpais.

Mr. Speaker, additional protections for archeological and cultural resources have been crafted into the bill and include suggestions made by New Mexico's Historic Preservation Office and suggestions from other cultural resource authorities. Improvements in the bill require a continuing inventory of cultural sites and provide for the continuing scientific use of archeological resources in the national monument and its wilderness areas.

Mr. Speaker, the El Malpais lava flow is truly deserving of national protection. Some of the most outstanding examples of volcanic landscapes in the world will receive permanent protection and the legislation will stimulate tourism-related development in an area of New Mexico that has been suffering the adverse effects of the decline of our domestic mining industries. Mr. Speaker, I would greatly appreciate the bipartisan support of my colleagues today for the El Malpais National Monument bill—legislation that is of extreme importance to the people of the Third Congressional District of New Mexico.

Mr. HENDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my friend, the gentleman from New Mexico [Mr. RICHARDSON]. He is a

great legislator. He has done a great job on this bill.

Mr. Speaker, H.R. 3684 is a bill to designate 373,000 acres in west-central New Mexico as the El Malpais National Monument. Contained within the monument will be 179,000 acres of wilderness.

It is my understanding that the Bureau of Land Management strongly opposes the bill. In particular, they object to the designation of the area as a national monument and they object to the amount of wilderness. They argue that the national monument designation is used primarily by the Park Service and should remain so. With regard to the wilderness, their draft EIS for the area recommends 145,000 acres, or approximately 34,000 acres less than the bill proposes. They have also stated a desire to avoid handling the BLM wilderness designations in a piecemeal fashion.

Despite these legitimate concerns, the bill was reported by the full Interior Committee by a voice vote. I believe the lack of opposition is based on the fact that there is strong local support for the bill from a variety of people. We are told that Grants, NM, where the area is located, is anxious to attract tourism as a means of diversifying their economic base. It is difficult to argue with such a goal. If calling the area a national monument will attract more visitors, the committee said, "Let's give it a try."

As a general rule, I believe we all agree that it is best to address the wilderness issue on a State-by-State basis. The process has worked for the Forest Service RARE II wilderness issue and I believe we will follow such a process for BLM. However, it does seem appropriate, if we are going to create the national monument, to move ahead on the core wilderness proposal to enable the agency to develop a meaningful management plan for the area.

Therefore, Mr. Speaker, I commend the subcommittee chairman, the gentleman from Ohio [Mr. SEIBERLING] for his fine work, and I urge my colleagues to support this bill.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 3684, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just concluded.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1986

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4162) to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act and for other purposes, as amended.

The Clerk read as follows:

H.R. 4162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1986".

(b) Whenever, in this Act, an amendment is expressed in terms of an amendment to a section or provision, the reference shall be considered to be made to a section or provision of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

CONGRESSIONAL FINDINGS

SEC. 2. Congress finds and declares—

(a) the Alaska Native Claims Settlement Act (ANCSA) was enacted to achieve a fair and just settlement of all claims by Natives and Native groups based upon aboriginal land claims in a manner consistent with the real economic and social needs of the Alaska Natives, including maximum participation by Native people in decisions which affect their rights and property;

(b) the corporate model adopted by ANCSA is frequently ill-adapted to the reality of life in many Alaska Native villages and to traditional Native cultural values;

(c) although Congress mandated that the settlement be implemented rapidly and without litigation, the complexity of the land conveyance process and frequent and costly litigation have delayed the implementation of the settlement and significantly diminished its value;

(d) providing Alaska Natives maximum participation in decisions affecting their rights and property necessitates that ANCSA be amended to—

(A) provide the stockholders of each Native Corporation an opportunity to implement the settlement in the manner which they determine is best suited to their particular circumstances and needs, including, but not limited to, an opportunity to decide the manner in which Alaska Natives born after December 18, 1971, should participate in the settlement and whether the business corporation is the most appropriate entity to hold legal title to lands conveyed in partial settlement of aboriginal claims; and

(B) continue restrictions on the transfer of stock of Native Corporations until such time as the stockholders of a corporation may vote to terminate such restrictions; and

(e) both ANCSA, as amended, and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Commerce Clause to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. (a) Section 3 (43 U.S.C. 1602) is amended by adding the word "group" after the word "individual," in subsection (h); striking the word "and" at the end of subsection (k); and by striking the periods at the end of subsections (l) and (m) and inserting, in lieu thereof, semicolons.

(b) Section 3 is further amended by adding the following new subsections:

"(n) 'Native common stock' means the stock of a Native Corporation issued pursuant to subsection (g) of section 7 which carries with it the rights and restrictions provided for in paragraph (1) of subsection 7(h); and

"(o) 'descendant of a Native' means a lineal descendant of a Native or of an individual who would have been a Native if he or she were alive on December 18, 1971, or an adoptee of a Native or descendant of a Native whose adoption is recognized at law or in equity.".

NEW STOCK ISSUANCE

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) The Regional Corporation shall be authorized to issue such number of shares of Native common stock, divided into such classes of shares as may be specified in the articles of incorporation to reflect the provisions of this Act, as may be needed to issue one hundred shares of Native common stock to each Native enrolled in the region pursuant to section 5 of this Act.

"(2) Notwithstanding any other law, a Regional Corporation, if authorized by an amendment to its articles of incorporation, may issue up to one hundred shares of additional Native common stock to—

"(A) Natives born after December 18, 1971;

"(B) Natives who have attained the age of sixty-five; and

"(C) Natives who were eligible for enrollment pursuant to section 5, but who were not so enrolled;

for no consideration or for such consideration and upon such terms and conditions as may be specified in the articles of incorporation or by a resolution of the board of directors pursuant to authority expressly vested in it by the articles of incorporation.

"(3)(A) Notwithstanding any other provision of this Act and in addition to any other existing authority, any Regional Corporation, after the date of enactment of this paragraph, may amend its articles of incorporation to authorize the issuance of additional shares of stock as provided in this paragraph.

"(B) Such shares of stock may be—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation, dividend rights, voting rights, liquidation preferences, and rights to share in distributions made to stockholders under subsections (j) and (m) of this section;

"(ii) subject to alienability restrictions not in excess of the restrictions provided for in paragraph (1) of subsection (h) of this section;

"(iii) restricted in issuance to—

"(a) Natives who have reached the age of sixty-five; or

"(b) any other identifiable group of Natives, where such group is defined in terms of general applicability and, except as provided in subparagraph (H) of this paragraph, not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation, or stockholder of a Native Corporation other than the issuing Corporation; and

"(iv) issued as a dividend or other distribution upon outstanding shares of stock or for such consideration as may be permitted by law;

as may be provided in the articles of incorporation or an amendment thereto.

"(C) Any amendment to the articles of incorporation of a Regional Corporation which permits the issuance of classes or series of stock other than Native common stock shall specify the maximum number of shares of any such class or series and the maximum number of votes that may be held by shares of such class or series.

"(D) During any period in which the restrictions on alienation of Native common stock imposed by paragraph (1) of section 7(h) are in effect, no stock may be issued under this paragraph to a group of individuals composed only of employees, officers or directors of the Regional Corporation.

"(E) If any amendment to the articles of incorporation permits the issuance of classes or series of stock which, when issued, singly or in combination, may cause the outstanding shares of Native common stock to represent less than a majority of the voting power of all stock in the Regional Corporation, the stockholders of such corporation shall be expressly so advised in the proxy statement or other informational material distributed in advance of their vote upon the amendment.

"(F) In no event may shares of stock other than Native common stock be issued more that thirteen months after the date of the stockholder vote authorizing the issuance of such stock if, as a result of the issuance of such stock, the outstanding shares of Native common stock will represent less than a majority of the voting power of all stock in the Regional Corporation. The restriction of this subparagraph shall be of no further force and effect if shares of stock previously have been lawfully issued pursuant to this paragraph which have caused the shares of the Native common stock to represent less than a majority of the voting power of all stock in the Regional Corporation or if the restrictions upon alienation of Native common stock provided for in paragraph (1) of section 7(h) have expired under section 7a or have been terminated under section 7(h) by vote of the stockholders.

"(G) Notwithstanding the issuance of additional shares of Native common stock or new classes or series of stock pursuant to this paragraph, the Regional Corporation shall continue to apply the ratio last computed under subsection (m) of this section before the date of enactment of this paragraph for purposes of distributing funds under subsections (j) and (m) of this section.

"(H) If shares of different classes or series have been issued pursuant to this paragraph to nonvillage stockholders as described in subsection (m), distributions payable under subsections (j) and (m) of this section shall be made with respect to such classes or series in accordance with the rights, if any, of each class or of incorporation or an amendment thereto and, if so provided, the series to share in such distributions as provided in the articles right to share in such distributions may be established as a right or other security separate from any other shares issued to such nonvillage stockholders.

"(I) Common stock issued pursuant to this subsection which carries the same rights and restrictions provided for in section 7(h) or which is issued in substitution for Native common stock shall be deemed to be Native common stock as long as all such rights and restrictions are in effect with respect thereto.

"(4) The issuance of additional shares of Native common stock or other stock pursuant to paragraphs (2) and (3) of this subsection shall have no effect on the division and distribution of revenues pursuant to subsection (i) of this section.".

NATIVE COMMON STOCK: RIGHTS: ALIENATION RESTRICTIONS

SEC. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1)(A) Except as otherwise provided in this paragraph and in paragraphs (3) and (4) of this subsection, Native common stock of a Regional Corporation issued pursuant to subsection (g) of this section shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders;

(ii) permit the holder to receive dividends or other distributions from the Regional Corporation; and

(iii) vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State of Alaska.

"(B) Until the termination of such restrictions by the stockholders under paragraph (2) of this subsection or pursuant to section 7a, Native common stock, inchoate rights thereto, and any dividends paid or distributions made with respect thereto, may not be—

"(i) sold;

"(ii) pledged;

"(iii) subject to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset in a bankruptcy estate; or

"(vi) otherwise alienated.

"(C) The limitation contained in subparagraph (B) of this paragraph shall not apply to transfers of Native common stock if such transfers are made to Natives or descendants of Natives pursuant to a court decree of separation, divorce or child support or by a stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his or her profession because of holding stock issued under this section.

"(D) Except as provided in section 7a, the restrictions on alienation of Native common stock provided in this paragraph shall remain in effect until such time as the stockholders of a Regional Corporation vote to terminate such restrictions as provided in paragraph (2) of this subsection.

"(2)(A) Except as provided in subparagraph (F) of this paragraph, a Regional Corporation may terminate the restrictions on alienation imposed on its Native common stock by paragraph (1) of this subsection as provided in this paragraph.

"(B) At any time after the date of enactment of this paragraph, a resolution to terminate such restrictions may be adopted by the board of directors on its own motion or pursuant to a stockholders' petition as provided in paragraph (6)(D) of this subsection. A resolution of the board of directors of a Regional Corporation to terminate such restrictions shall be submitted to a vote of the stockholders in accordance with the procedures set forth in paragraph (6) of this subsection.

"(C) A resolution to terminate restrictions adopted pursuant to this paragraph shall make provision for the time of termination, either by the establishment of the date certain or the description of a specific event upon which the restrictions shall terminate.

"(D) The approval of a resolution under this paragraph shall be considered to be an amendment to the articles of incorporation of the Regional Corporation for the purposes of paragraph (6) of this subsection. On the date of termination as established in such resolution, all Native common stock previously issued shall be deemed canceled and shares of stock of the appropriate class shall be issued to each holder of Native common stock, share for share, subject only to such restrictions as may be provided in an amendment to the articles of incorporation adopted pursuant to paragraph (7) of this subsection or in agreements between the corporation and the individual stockholders.

"(E) The rejection of a resolution adopted pursuant to this paragraph by the stockholders of a Regional Corporation shall not preclude votes on subsequent resolutions adopted and submitted to a vote pursuant to this paragraph.

"(F) Notwithstanding the provisions of this paragraph, if the board of directors of the Bristol Bay Native Corporation or any Village Corporation in the Bristol Bay region adopts, within one year of the date of enactment of this paragraph, a resolution electing to follow the procedures set forth in section 7a of this Act, the provisions of this paragraph shall not be applicable to such corporation.

"(3)(A) Upon the death of any holder of Native common stock, ownership of such stock shall be transferred in accordance with the last will and testament of such holder or under applicable laws of intestate succession, except that, in the event the deceased stockholder fails to dispose of all of his or her Native common stock by will and if such stockholder has no heirs under applicable laws of intestacy who are Natives or descendants of Natives, such Native common stock shall escheat to the appropriate Regional Corporation.

"(B) In the event that stock would be transferred by devise or inheritance to a person not a Native or a descendant of a Native, the Regional Corporation shall have the right to purchase such stock for its fair market value.

"(4)(A) Notwithstanding the restrictions on alienation imposed by paragraph (1) of this subsection, any Regional Corporation is hereby authorized to amend its articles of incorporation to permit it to purchase and, for that purpose, its stockholders to sell, any or all of its Native common stock then issued and outstanding.

"(B) Payment for such stock shall be made out of—

"(i) unreserved or unrestricted earned surplus of the corporation; or

"(ii) net profits for the fiscal year in which the purchase is being made and for the preceding fiscal year, except when the corporation is unable to pay its debts as they become due in the usual course of business.

"(C) For the purpose of this paragraph, net profits derived from the exploitation or liquidation of timber resources or subsurface estate may be determined without con-

sideration of depletion of those assets resulting from lapse of time, consumption, liquidation, or exploitation.

"(D) Shares of stock purchased pursuant to this paragraph shall become nonvoting treasury stock or may be canceled by the Regional Corporation in accordance with law.

"(E) In the case of each purchase of Native common stock pursuant to this paragraph, the board of directors shall determine a price at which such purchase will be made. Such price, if determined in good faith, shall conclusively be presumed to be fair. In determining such price, the board of directors, at its option, may exclude from such determination the value of the land or any interest therein received by the Regional Corporation pursuant to this Act which is committed by the corporation to Native traditional or cultural uses or is of speculative or unknown value on the date such determination is made.

"(F) With respect to any purchase under this paragraph, all holders of such Regional Corporation's Native common stock shall be given a fair opportunity to participate in any offer by the corporation to purchase shares of its Native common stock on the same basis as is made available to any holder of such stock.

"(5) Native common stock transferred through inheritance to a person who is not a Native shall not carry voting rights. The lapse of the right to vote in a holder of Native common stock upon a transfer by inheritance or otherwise may be restored by the adoption of an amendment to the articles of incorporation, but only if such shares of stock are held by a Native or a descendant of a Native.

"(6)(A) Notwithstanding any provision of Alaska law, other than those which relate to proxy statements or solicitations which are not inconsistent with this paragraph, and except as provided in section 7a of this Act—

"(i) any amendment to the articles of incorporation of a Regional Corporation authorized by this subsection or subsection (g) of this section;

"(ii) a transfer of assets made pursuant to section 7b;

"(iii) a resolution described in paragraph 2(C) of this subsection; or

"(iv) a resolution described in paragraph (B) of this paragraph;

shall be approved as provided in this paragraph.

"(B) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual, or a special, meeting of the stockholders. One or more such amendments or resolutions may be submitted to the stockholders and voted upon at one meeting.

"(C) A written or printed notice, setting forth the proposal or summary of the changes to be effected, or the proxy statement and related proxy material if required under applicable law, shall be delivered by hand or sent by first class mail to each stockholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting at the address of such stockholder as it appears on the records of the corporation.

"(D) With respect to any amendment or resolution described in subparagraph (A) of this paragraph, if the holders of at least 15 per centum or, in the case of an amendment to terminate restrictions on the alienability of Native common stock, one-third of the outstanding shares of Native common stock entitled to be voted petition the board of directors to adopt and submit such amendment or resolution to the vote of the stockholders, the board of directors shall adopt a resolution to that effect and submit it to the stockholders as provided in this paragraph. The procedural and disclosure requirements pertaining to the solicitation of proxies under State law shall govern solicitation of signatures on any such petition. If the petition meets the aforementioned standards and if—

"(i) the board of directors agrees with such petition, it shall submit the resolution and either the proponent's statement or its own statement in support of the resolution to the stockholders for a vote; or

"(ii) the board of directors disagrees with the petition for any reason, it shall submit the resolution and the proponent's statement to the stockholders and may, at its discretion, submit an opposing statement and/or an alternative resolution.

"(E)(i) An amendment to the articles of incorporation that would have the effect of removing the restrictions on alienation of Native common stock provided in paragraph (1) of this subsection shall be approved if such amendment receives the affirmative vote of at least a majority of the outstanding shares of Native common stock entitled to vote on such amendment.

"(ii) Any other amendment or resolution described in subparagraph (A) of this paragraph shall be approved—

"(a) if voted upon by at least 51 per centum of the votes represented by the capital stock of the Regional Corporation entitled to be voted on such amendment or resolution; and

"(b) if such amendment or resolution receives the affirmative vote of at least a majority of all votes cast,

subject to the right of the board of directors of the Regional Corporation to provide a quorum or vote requirement greater than subclause (a) or (b) of this clause, or both, and to the right of the Regional Corporation in its articles of incorporation to provide a vote by classes of stock for all or any of such actions.

"(F) If the result of a stockholder vote under this paragraph is the continuation of the restrictions against alienation of Native common stock, a stockholder who voted in favor of termination of the restriction may demand and receive payment from the corporation for all of his or her shares, but only if, contemporaneously with such vote, the stockholders approve a resolution providing for such right. The procedure established by Alaska law for the exercise of the right of a dissenting stockholder shall be followed, if such right is made available pursuant to this subparagraph.

"(G) A resolution adopted pursuant to subparagraph (F) of this paragraph may provide that Native common stock shall be valued on the basis set forth in section 7a(f)(2) or that the form of payment to dissenting stockholders shall be as provided in section 7a(f)(3).

"(7) Notwithstanding a stockholder vote to terminate restrictions on alienation of Native common stock under paragraph (2) of this subsection or the expiration of such restrictions pursuant to section 7a, a Regional Corporation, prior to the effective date of such termination, may amend its articles of incorporation to impose any restrictions upon the replacement common stock issued pursuant to paragraph 2(D) of this subsection permitted under applicable law as well as restrictions providing for—

"(A) the denial of voting rights to any holder of such replacement common stock who is not a Native or descendant of a Native; and

"(B) the granting to the corporation, or to the corporation and the stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's replacement common stock prior to the sale or transfer of such stock, other than a transfer by inheritance, to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.".

BRISTOL BAY REGION: SPECIAL PROVISIONS

SEC. 6. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

"SEC. 7a. (a) If the Bristol Bay Native Corporation or any Village Corporation located in the Bristol Bay region adopts a resolution as provided in paragraph (2)(F) of subsection 7(h), such corporation may extend the restrictions on alienation of Native common stock as provided in this section.

"(b)(1) Within two years after the election under paragraph (2)(F) of section 7(h) and, if the quorum requirement specified in subsection (e) of this section is not satisfied, annually thereafter, the board of directors of such corporation shall adopt, and submit to a vote of its stockholders, a resolution to amend its articles of incorporation to extend the restrictions on alienation of its Native common stock.

"(2) Such resolution shall provide for an extension of the restrictions for a period of not less than twenty nor more than fifty years.

"(3) If a resolution under paragraph (1) of this subsection is adopted, such corporation may, prior to the expiration of the period of extension or any successor extension period, further extend the restrictions under the provisions of this section.

"(c)(1) If any vote conducted pursuant to subsection (b) of this section is ineffective because of a continuing or repeated lack of quorum as provided in subsection (e) of this section or if the holders of Native common stock defeat a resolution to continue restrictions on alienation, the board of directors shall adopt, and submit to the vote of the stockholders, a resolution which establishes the date or describes the specific event upon which the restrictions shall terminate.

"(2) If no such resolution is voted upon and approved, the restrictions shall terminate one year from either the date of the vote disapproving the resolution to extend such restrictions or the last date on which a lack of a quorum existed, as the case may be, or on December 18, 1991, whichever date later occurs.

"(3) On the date of termination of such restrictions, all Native common stock of such corporation previously issued shall be deemed canceled and shares of stock of the appropriate class shall be issued to each stockholder, share for share, subject only to such restrictions as may be provided by the articles of incorporation, including any amendment thereto adopted pursuant to section 7(h)(7), or in agreements between the corporation and individual stockholders.

"(d)(1) Notwithstanding any provision of Alaska law, except those relating to stockholders' rights of petition and to proxy statements and solicitations which are not inconsistent with the provisions of this section—

"(A) any amendment to the articles of incorporation of a corporation authorized by this section or subsections 7(g) and 7(h) (4), (5), and (7) of this Act;

"(B) a transfer of assets made pursuant to section 7b;

"(C) a resolution described in subsection (c) of this section; or

"(D) a resolution described in subsection (f)(2) of this section;

shall be approved as provided in this subsection.

"(2) The board of directors shall adopt a resolution setting forth the proposal and directing that it be submitted to a vote at the annual, or a special, meeting of the stockholders. One or more such amendments or resolutions may be submitted to the stockholders and voted upon at one meeting.

"(3) A written or printed notice setting forth the proposal or a summary of the changes to be effected shall be given to each stockholder of record entitled to vote not less than fifty nor more than sixty days before the date of the meeting, either personally or by mail.

"(e)(1) In order for a resolution to be approved under this section, the proposal must be voted upon by at least 51 per centum of the outstanding shares of Native common stock entitled to be voted and must receive the affirmative vote of at least 50 per centum plus one of the shares voted.

"(2) Notwithstanding paragraph (1) of this subsection, the stockholders may require a minimum vote of more than 51 per centum of the outstanding shares of Native common stock entitled to be voted or an affirmative vote greater than 50 per centum of the shares voted, or both, to approve any such proposal.

"(f)(1) If the result of a stockholder vote under this section is the extension of restrictions against alienation or a transfer of assets pursuant to section 7b, a stockholder who voted against the extension or transfer may demand and receive from the corporation the fair market value of his or her shares. Unless longer periods of time are authorized in the bylaws of the corporation, the procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed to the extent such right is made available pursuant to this subsection.

"(2) The stockholders of the corporation may adopt a resolution, concurrent with the vote authorized under subsection (a) of this section, which provides that, in the event dissenters' rights are exercised—

"(A) the Native common stock shall be valued as restricted stock, having the same restrictions for the same period made applicable to the stock by the vote; and/or

"(B) the value of the land or any interest therein received by the corporation pursuant to this Act which—

"(i) is committed by the corporation to Native traditional or cultural uses; and/or

"(ii) is of speculative or unknown value on the date such resolution is adopted;

shall be excluded by the stockholder, the corporation and any court in the determination of the fair market value of the shares of Native common stock to be purchased from such stockholder by the corporation; and/or

"(C) payments to each dissenting stockholder shall be made by the corporation through the issuance to such stockholder of a nonnegotiable note in the principal amount of the payment due, which note shall be secured either by—

"(i) a payment bond issued by an insurance company or financial institution;

"(ii) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face amount of the note; or

"(iii) a lien upon the real property interests of the corporation valued at 125 per centum or more of the face amount of the note, other than lands or interests therein which are committed to Native traditional or cultural uses and the percentage interest in its timber resources and subsurface estate that would result in the recognition of 'Gross Section 7(i) Revenues' within the meaning of, and pursuant to, article II, section 1(d) of the 7(i) agreement cited in subsection (f)(2) of section 7b of this Act.

"(3) Any note issued pursuant to this subsection shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date the corporation elected to extend stock restrictions on Native common stock or transfer assets pursuant to section 7b of this Act, at the rate applicable on such date to obligations of the United States having a maturity date of one year; and

"(B) the principal amount and any undistributed interest shall be payable to the former stockholder or his or her heirs or devisees—

"(i) at any time, at the option of the corporation; or

"(ii) if not so called, on December 18, 1991, or, if the restrictions on Native common stock otherwise would have expired on a later date, on such date or five years after the date of election, whichever comes first, or, if the transfer of assets occurs after December 18, 1991, then five years after the date of such transfer.".

TRANSFER OF ASSETS: QUALIFIED TRANSFEREE ENTITY

SEC. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SEC. 7b. (a) Any Native Corporation or the stockholders of a Native Corporation which has been dissolved involuntarily under applicable law is hereby authorized to convey any or all of its assets, including the title to the surface or subsurface of land, to a qualified transferee entity as provided in this section. In cases where a Native Corporation has been involuntarily dissolved under State law, a State court of appropriate jurisdiction, upon petition of no less than twenty-five of the former stockholders of such corporation, may order the transfer of real property assets and such other assets remaining after satisfaction of outstanding debts upon an affirmative vote of individuals who were shareholders in the dissolved corporation on a resolution as provided in section 7(h)(6) or 7(c) without requiring that the resolution be adopted by the Board of Directors.

"(b) The conveyance of such assets shall be as provided in a resolution, including a provision for the payment of consideration or no consideration as desired, adopted by the board of directors of such corporation and submitted to a vote of its shareholders as provided in section 7(h)(6) or section 7a of this Act, as the case may be.

"(c) An entity shall be qualified to accept a transfer of assets conveyed pursuant to this section if it—

"(1) is organized pursuant to, or recognized by, State or Federal law;

"(2) has a membership composed of persons whose interest in the entity is nontransferable;

"(3) provides membership for every person who holds Native common stock in the corporation making the transfer of assets on the day before the date of such transfer; and

"(4) except as provided in paragraph (3), accepts as new members only Natives or descendants of Natives.

"(d) Notwithstanding any provision of State or Federal law, a qualified transferee entity is authorized to—

"(1) by a vote of its members;

"(A) limit its membership to Natives or descendants of Natives; and

"(B) admit to membership non-Natives only for the purpose of complying with paragraph (3) of subsection (c) of this section;

"(2) distribute cash and other assets to its members, except that such entity shall not convey fee title to land or interests therein unless authorized or required by section 14(c) or 21(j) of this Act; and

"(3) exchange lands or interests therein pursuant to the provisions of section 22(f) of this Act and section 1302(h) of the Alaska National Interest Lands Conservation Act.

"(e) The provisions of subsections (d) and (e) of section 21 of this Act shall continue to apply to any lands or interests therein conveyed by a Native Corporation to a qualified transferee entity pursuant to this section.

"(f)(1) Any revenues subject to distribution under section 7(i) of this Act derived from assets conveyed pursuant to this section shall remain subject to 7(i) to the same extent such revenues would have been subject if the conveyance had not occurred.

"(2) A Regional Corporation shall not convey assets subject to section 7(i) to more than one qualified transferee entity. Prior to receiving a conveyance of an asset subject to section 7(i), a qualified transferee entity shall agree in writing—

"(A) to be bound by the provisions of the agreement dated June 29, 1982, among and between the parties to Aleut Corporation et al. against Arctic Slope Regional Corporation (Civ. Act. A75-53 D. Ak.); and

"(B) to waive its sovereign immunity, if any, with respect to claims arising under section 7(i) or this section.

"(3) The Regional Corporation or, in the case of its dissolution, another single entity designated by its stockholders or the United States district court, as appropriate, shall be responsible for administering the provisions of section 7(i) and the June 29, 1982, agreement with respect to assets subject to section 7(i) conveyed by such corporation pursuant to this section.

"(4) After the conveyance of an asset subject to section 7(i) by a Regional Corporation, such asset shall be security for the payment of such corporation or its successor entity of all revenues which the corporation is obligated to distribute to other Regional Corporations pursuant to section 7(i).

"(g)(1) If a resolution conveying assets is approved by a stockholder vote pursuant to subsection (b) of this section, any stockholder who voted against the resolution may demand and receive payment from the corporation for all of his or her shares, but only if, concurrent with such vote, the stockholders of the Native Corporation adopt a resolution expressly providing for such right.

"(2) The procedure established by Alaska law for the exercise of the right of a dissenting stockholder to demand and receive payment for his or her shares in certain cases shall be followed if such right is made available pursuant to this subsection.

"(3) For the purpose of this section, a resolution establishing dissenters' rights may provide that the Native common stock shall be valued on the basis set forth in section 7a(f)(2) and that the form of payment to dissenting stockholders shall be as provided in section 7a(f)(3).".

DISCLAIMER: TRIBAL GOVERNMENT

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

"SEC. 7c. No provision of the Alaska Native Claims Settlement Act Amendments of 1986 shall be construed as enlarging or diminishing or in any way affecting the scope of governmental powers, if any, of an Alaska Native village entity, including entities organized under the Act of June 18, 1934 (48 Stat. 987), as amended or Traditional Councils.".

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding a new section as follows:

"SEC. 7d. The Aleut Corporation, Cook Inlet Region, Inc., and Koniag, Inc., and any Village Corporation within the Aleut and Cook Inlet regions may, by a vote of its board of directors within one year after the effective date of this section, elect to comply with the provision of section 7a with respect to a stockholder vote on the question of whether to continue restrictions on alienation of Native common stock imposed by paragraph (1) of section 7(h) beyond December 18, 1991.".

VILLAGE AND URBAN CORPORATIONS: NATIVE GROUPS

SEC. 10. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c)(1) The provisions of subsections (g), (h), and (o) of section 7 and of section 7a of this Act relating to Regional Corporations shall apply in all respects to Village Corporations, Urban Corporations and Native groups, except that—

"(A) audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate; and

"(B) subject to the provisions of paragraph (2) of this subsection and section 7a, restrictions on the alienation of Native common stock of such corporations, inchoate rights thereto, and any dividends paid or distributions made with respect thereto shall continue after December 18, 1991.".

"(2) The restrictions on alienation of Native common stock of Village Corporations, Urban Corporations and incorporated Native groups may be terminated or extended by the adoption of an amendment to their articles of incorporation to such effect pursuant to the provisions of paragraphs (2) and (6) of subsection 7(h) or of section 7a, as the case may be, except that—

"(A) with respect to action under section 7(h), only one such vote may be held prior to December 18, 1991 and only once annually thereafter; and

"(B) with respect to action under section 7a, votes shall be held as provided in subsection (b)(1) of section 7a.".

CONSTITUTIONALITY: UNITED STATES JURISDICTION

SEC. 11. Section 10 (43 U.S.C. 1609) is amended by adding the following new subsection:

"(c)(1) The United States District Court for the District of Alaska is vested with exclusive original jurisdiction over any action challenging the constitutionality of any provision of the Alaska Native Claims Settlement Act Amendments of 1986. Such action shall be heard and determined by a court of three judges as provided in section 2284 of title 28, United States Code, with a direct appeal from any final judgment to the United States Supreme Court.

"(2) It being the express intention and direction of Congress that in no circumstances shall enactment of this Act result in any liability to the United States, the court shall not enter a money judgment against the United States in fashioning appropriate relief upon a determination that any of such sections violates the Fifth Amendment to the United States Constitution.".

SUBSURFACE CONVEYANCE TO VILLAGE ENTITY

SEC. 12. Section 14 (43 U.S.C. 1613) is amended by adding the following new subsection:

"(i)(1) A Regional Corporation may convey any subsurface estate owned by such corporation to a village entity which acquired or currently owns the surface estate pursuant to this Act.

"(2) Notwithstanding any conveyance pursuant to paragraph (1) of this subsection, the Regional Corporation shall continue to receive the thirty percent of the revenues from any development of the subsurface estate it would have retained had there been no such conveyance and the remaining seventy percent of such revenues shall be distributed in accordance with section 7(i).

"(3) Any conveyance under this subsection shall be subject to the provisions of section 7b as if the village entity were a qualified transferee entity. The document or documents effecting such conveyance shall be recorded by the Regional Corporation, together with copies of section 7b and this subsection, in the land records of the appropriate recording district.

"(4) The village entity to which any subsurface estate is conveyed pursuant to this subsection may not convey or otherwise transfer all or any part of such subsurface estate to any other entity without the express consent to the transfer Regional Corporation.".

REAL PROPERTY INTERESTS: IMMUNITIES

SEC. 13. Paragraph (1) of subsection 21(d) (43 U.S.C. 1620(d)(1)) is amended to read as follows:

"(1)(A) All land and interests therein conveyed pursuant to this Act, to any Native individual, Native group, Village or Regional Corporation, or a corporation established pursuant to section 14(h)(3) of this Act shall be, so long as such land and interests therein are not developed or leased to third parties or are used solely for purposes of exploration, entitled from the date of their conveyance to immunity from—

"(i) adverse possession and similar claims based upon legal theories of estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgment resulting from any claim based upon or arising under title 11 of the United States Code relating to bankruptcy (or any successor statute), other insolvency or moratorium laws, or other laws affecting creditors' rights generally;

"(iv) unless such immunity is waived by the corporation in a valid and binding contract executed prior to the commencement of such proceedings, judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native group or any officer, director, or stockholder of any such corporation or group, and

"(v) involuntary distribution or conveyance related to the involuntary dissolution of the Native Corporation.

"(B) For the purposes of this paragraph, lands shall not be considered to be developed solely as a result of construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further the subsistence or other customary or traditional uses of such land.

"(C) Immunities provided for in this paragraph shall be in addition to those immunities or other benefits to which such lands or interests therein may be entitled under the Alaska National Interest Lands Conservation Act, but shall not apply to any judgment in any action at law or equity or to any arbitration award arising out of any claim regarding revenue sharing under section 7(i) of this Act.

"(D) Land to which this paragraph applies and lands conveyed pursuant to section 7b of this Act shall be subject to condemnation for public purposes in accordance with the provisions of applicable State law.

"(E) Except as provided in section 14(c)(3), no trustee, receiver or custodian vested under applicable Federal or State law with any right, title or interest of any Native Corporation or Native group may assign or lease to a third party any land subject to this paragraph which has not theretofore been developed or leased, or commerce development or use of the land other than for purposes of exploration, and such trustee, receiver, or custodian may not convey any right, title, or interest in land and interests therein protected under this paragraph to any third party, except pursuant to a judgment or arbitral award regarding revenue sharing under section 7(i).".

CONFORMING AMENDMENT: SECTION 21

SEC. 14. Subsection (f) of section 21 (43 U.S.C. 1620(f)) is amending by striking the phrase "Until January 1, 1992" and inserting, in lieu thereof, the phrase "Until such time as the limitations upon alienation of Native common stock have been removed pursuant to section 7(h)(2) or have expired pursuant to section 7a of this Act".

SEVERABILITY CLAUSE

SEC. 15. Section 27 (85 Stat. 688) is amended to read as follows:

"SEC. 27. The provisions of this Act, as amended, are severable and, if any provision of the Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision.".

CORPORATIONS EXEMPT FROM SECURITIES LAWS

SEC. 16. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SEC. 28. (a)(1) Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through the earlier of the date after—

"(A) the date on which the corporation issues any shares of stock which will not be issued solely to Natives or descendants of Natives or to entities established for the sole benefit of Natives or descendants of Natives; or

"(B) the date on which the corporation removes the limitations on alienation of Native common stock as provided for in section 7(h)(2) or the date on which such restrictions terminate under section 7a of this Act.

"(2) Nothing in this section shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts.

"(b)(1) Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corpo-

ration which is subject to the provisions of such Act.

"(2) For the purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 after the date determined pursuant to subsection (a) of this section, holders of Native common stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(c) The provisions of the Investment Company Act of 1940 shall not, in any event, apply to any corporation organized pursuant to this Act prior to January 1, 2001.".

FEDERAL PROGRAMS: MINORITY CORPORATION

SEC. 17. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsection:

"(c) In determining the eligibility of any household or individual Native or descendant of a Native to participate in the Food Stamp program receive assistance under the Social Security Act of financial assistance or benefits available under any other Federal or federally assisted program otherwise available to the Native people of Alaska as citizens of the United States and of the State of Alaska, any compensation, remuneration, revenue, stock, land, or other benefits received by any individual, any household or any member of such household under this Act, including land received from such individual's Native Corporation or Native group organized under this Act, shall be disregarded and shall not be considered as a resource or otherwise utilized as a basis for making such determination.

"(d) Until such time as less that 50 per centum of the voting power of a Native Corporation is represented by shares of outstanding Native common stock or any other securities of such corporation held by Natives or descendants of Natives entitled to vote, such Native Corporation for all purposes of Federal law shall be considered a corporation owned and controlled by Alaska Natives.".

CONFORMING AMENDMENT: SECTION 30

SEC. 18. Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking the phrase "prior to December 19, 1991" and inserting, in lieu thereof, the phrase "while the Native common stock of all corporations subject to merger or consolidation remain subject to restraints on alienation".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring this bill to the House for its consideration and passage. H.R. 4162 makes some extremely important amendments to the Alaska Native Claims Settlement Act.

I am one of the few members of the Interior Committee who was on the committee when we passed this historic legislation in 1971. I remember the sense of satisfaction and the great hopes and expectations we had at that time for the success and future of the Alaska Natives under ANCSA. ANCSA represented an innovative, experimental approach by Congress to the settlement of Native claims and the treatment of Native people.

Today, 15 years after enactment, it is clear that ANCSA has not fully met our hopes and expectations. It is apparent that it did not wholly satisfy the real economic, social, and cultural needs of the Native people. Almost all who are affected by the act agree that major modifications are in order. H.R. 4162 provides those changes.

In settling the longstanding land claims of Alaska Natives, ANCSA provided for the conveyance of nearly 44 million acres of land and the payment of nearly $1 billion to the Natives.

To provide a framework for the administration of the settlement, ANCSA required the Alaska Natives to create a series of regional and village profit corporations. Alaska Natives of at least one-quarter Native blood who were alive on December 18, 1971, were enrolled in these regions and villages and issued stock in the corporations.

H.R. 4162 makes three basic changes in ANCSA in order to protect Native lands and Native interests.

Under ANCSA, stock owned by a Native cannot be sold or otherwise alienated until December 18, 1991. After that date, the stock will be freely alienable with the distinct possibility that Natives will lose control of their corporations and lands. The bill amends ANCSA to indefinitely extend the period of alienability with the Natives having the right to terminate the restrictions. An alternative approach is made available which retains the 1991 date, but permits the Natives to extend the period of inalienability.

Second, the bill amends ANCSA to permit the Native corporations to issue new stock to Natives who were born after the 1971 date. Under existing law, young Natives are precluded from sharing in the benefits of the settlement and their heritage.

Finally, the bill authorizes Native corporations to transfer their land to other entities, including tribal entities, which might better protect their lands for the long term.

Mr. Speaker, this is good legislation and I urge its passage.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me commend the gentleman from Arizona, the gentleman from Ohio, and the gentleman from New Mexico [Mr. LUJAN]. They are the last Members that were sitting in this House in 1971 that passed this historic legislation. As the gentleman from Arizona has said, that was a pilot project, an experimental piece of legislation, signed into law by President Nixon. It was to work and it has worked in many cases, but there is much to be done yet.

At this time I would like to compliment the one gentleman from Ohio who is retiring in the next year. Of course, the gentleman from Arizona is not retiring, the chairman of the full committee. I want to commend them for their work back in 1971 in their attempt to have justice done in the State of Alaska.

Mr. Speaker, as the sponsor of H.R. 4162, I rise in support of the legislation and wish to commend the distinguised chairman of the Committee on Interior and Insular Affairs for his assistance and leadership in helping to bring the legislation before this Chamber.

For the benefit of our colleagues, I intend to briefly describe the background of this legislation and its major provisions.

Fifteen years have passed since the Alaska Native Claims Settlement Act of 1971 was signed into law by President Nixon. The Settlement Act of 1971 was a bold, far-reaching land claims settlement act. ANCSA represented an important change in traditional Federal Indian law, since Congress chose to have the act administered by Native corporations organized under State law, instead of creating reservations found in other States. Under the law, the land would be transferred to these corporations, which would be given 20 years of protection from sale and certain property taxes. This 20-year period was intended to provide the corporations with time to develop economically without the presssure of corporate takeovers.

The intent was stated in section 2(b) of ANCSA, which is not changed under this legislation. Section 2(b) states in part:

> The settlement should be accomplished rapidly, with certainty * * * without litigation * * *.

The protections of ANCSA were for 20 years, but also called for expeditious conveyances, "without extensive litigation." Fifteen years after ANCSA, lands remain to be conveyed and litigation still hampers some selections and conveyances.

Mr. Speaker, it is important to remember that the land title claims were settled immediately and completely and were not limited to 20 years.

As the 20-year deadline draws near, there has been a great deal of concern in Alaska Native communities that the unrestricted sale of stock could result in the loss of lands conveyed under the Settlement Act. As the committee report notes, the possible loss of land from Native ownership is of paramount concern. It is the reason for this legislation.

To address this concern, the legislation would provide for the continuation of restrictions contained in ANCSA, unless an individual Native corporation takes certain actions to eliminate or modify the sale restrictions. Dissenter's rights are provided where the corporation elects to continue stock restrictions, in addition to clarification or corporate share ownership rights, the bill provides for land ownership protections in the form of statutory protections similar to those now in Alaska Land Bank Program.

Finally, as I have stated throughout consideration of this bill, this legislation does not deal with governments. It deals solely with stock and land ownership. There are ownership issues of private individuals and corporations—not governments. The amendment adopted by the committee with regard to section 7(c) clarifies this intent. Any reading of the amendment which I sponsored in the committee which interprets the intent as affecting the original intent of ANCSA would be erroneous.

The bill does not affect Government powers, grant new lands or funds, and does not have any significant fiscal impact on the Federal Government.

Many individuals and groups in Alaska have spent a great deal of time and effort over the past 2 years in considering responses to the 1991 deadline. Through a series of village meetings, workshops, and special conventions, Alaska Natives have deliberated, and made many difficult decisions which resulted in proposals to Congress. From there, this legislation was considered, changed in some respects, and then was the subject of congressional hearing in Anchorage, Fairbanks, and Washington, DC, over the past year.

Mr. Speaker, these amendments are intended to respond to the concern of rural Alaska and to maintain the intent of the Alaska Native Claims Settlement Act. Nothing more, nothing less. Is it my belief that we must act to provide flexibility for the villages in rural Alaska if the intent that brought us the settlement in 1971 is to be maintained.

We have the opportunity to make the Settlement Act work better to meet the needs of Alaska, especially rural villages.

For these reasons, I urge my colleagues to support this legislation.

□ 1300

Mr. Speaker, at this point, I would like to yield to the distinguished chairman of the Committee on Interior and Insular Affairs for purposes of explanation of the condemnation authority found in section 10 of the legislation.

Will the chairman respond to a question concerning this section?

Mr. UDALL. Yes.

Mr. YOUNG of Alaska. This legislation retains condemnation authority of the State of Alaska over Native lands. The conditions that are placed under existing law for the exercise of this authority are that the authority to condemn lands should be used only for valid public purposes, and only if trust compensation is provided.

It is the understanding of the chairman that these conditions are to be retained under these amendments?

Mr. UDALL. Yes. As the gentleman from Alaska is aware, the State of Alaska and Native corporations have had serious disagreements over the use of Native land and resources, such as sand and gravel, for public purposes. In yet other cases, the State and Native corporations have had disagreements over valuation of land and resources. The committee hopes that disagreements between the State and Native corporations can be minimized, and the committee desires that the Native corporations receive appropriate compensation for use and taking of their lands and resources. The committee understands that the State of Alaska supports our views regarding use of the power of eminent domain, and has adopted several policies to support this position.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from Arizona, and I again urge my colleagues to accept this legislation today and pass it overwhelmingly.

Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. SEIBERLING], who has been instrumental in furthering the progress of this legislation.

Mr. SEIBERLING. Mr. Speaker, I was in the Congress, but not on the committee, when this legislation was enacted, and among all of the Members of the House, I think the gentleman from Arizona [Mr. UDALL] is probably the person who deserves the most credit for the original legislation, and he and the gentleman from Alaska [Mr. YOUNG] for this very important modification, and actual extension, of the general spirit of the original legislation.

It seems to me that it was very important to have continuing protection for those Natives who desire to hang onto their present corporate forms, and at the same time to have the flexibility so that if they do not want to do that, they have the power to change it through majority vote.

I think that this bill is an excellent solution, or at least the best possible solution, to a very difficult and complex problem, and I commend the gentleman from Alaska and the chairman for their work in resolving this very important issue.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in connection with H.R. 4162, the bill presently under consideration.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I am pleased to rise in support of this legislation and to praise the work of my chairman and ranking minority member in this matter. At the direction of the chairman last July, the gentleman from Alaska [Mr. YOUNG] participated and I chaired oversight hearings in Anchorage, AK, on this issue.

The measure before us, while technical in nature, I believe is in the spirit of trying to provide some additional and important options under ANCSA to the Native Alaskans. I asked my colleague here, the gentleman from Ohio [Mr. SEIBERLING], what the amount of land, for instance, was that Native Alaskans have under ownership or in the process of being transferred to their ownership, and it is some 44 million acres of land. It sort of underlines, I think, the importance of what is at stake in terms of Native Alaskans and of the Alaskan people in general. While that 44 million acres of land is very important, there are other elements as well that are important.

The regional corporations that were envisioned in the 1971 law, ANCSA, have given rise to ownership and other corporate relationships which have become very important, and on the basis of those regional corporations and village corporations, pinned to them are the hopes for economic development and the development generally of the State and the welfare certainly of the people of Alaska, and most specifically the Native Americans that are in that State.

This measure of course has at its heart the opportunity for new alternatives under this law—in other words, especially some degree of protection so that the stock will not be alienated in 1991 as would otherwise occur.

It also provides that option for broadened ownership. For those Native Americans that were not eligible in 1971, that were not born at that time, this will provide an option so that they can become eligible for some land ownership.

Finally, of course, it provides additonal measures that specially address such issues as the land-bank issue and the protection of that land so that Native Americans would not lose their

birthright, their land and their resources, based simply on a tax forfeiture of that land.

Mr. Speaker, as I look at this legislation and I look at what has happened in the lower 48, it strikes me that many of the issues that occurred 50, 60, or even 100 years past in the lower 48 with regards to Native Americans are very much questions that are really in the embryonic stage in Alaska. I hope that we can march forward in an attitude of cooperation and prevent the sort of abuse and misappropriation of Native Alaskan resources that are the birthright to Native Alaskans as has occurred so often in other instances in the lower 48 with regards to Native American people.

I know that that is the spirit with which all of us work in terms of this legislation, and I for one stand ready to work with the chairman and the Member from Alaska to ensure that this doesn't occur, that we can have economic development, but at the same instance that we provide an adequate degree of protection so that the birthright of these Alaskan Native Americans is not lost.

□ 1310

I would ask Members to support this measure. I think I've expressed the spirit with which this legislation has been brought forth. I know it will not be the last time we are dealing with Alaskan Native Americans problems, but I hope that it is a successful effort to accomplish and deal with extending and correcting the 1991 date and other provisions, problems in Alaska Native Settlement Act.

Mr. UDALL. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 4162, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DESIGNATING COLLEGE OF WILLIAM AND MARY AS OFFICIAL U.S. REPRESENTATIVE TO TERCENTENARY CELEBRATION

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 630) designating the College of William and Mary as the official United States representative to the Tercentenary Celebration of the Glorious Revolution to be celebrated jointly in the United States, the Netherlands, and the United Kingdom.

The Clerk read as follows:

H.J. RES. 630

Whereas the years 1988-1989 signify the three hundredth anniversary of the accession of King William III and Queen Mary II to the throne of England;

Whereas the Governments of the Netherlands and the United Kingdom have established a William and Mary Tercentenary Committee for the purposes of celebrating this event in all appropriate ways, including historical, educational, horticultural, maritime, artistic, scientific, and performing arts activities; and

Whereas the Tercentenary Committee has invited the College of William and Mary in Virginia, founded by their Joint Majesties under a royal charter granted in 1693, to be the New World representatives of the William and Mary Tercentenary celebration;

Whereas the historical and cultural ties of the 1688-1689 period to the constitutional history of the United States of America are profound, including the beginning of the limited and constitutional government and the establishment of the English Bill of Rights; and

Whereas the College of William and Mary desires to organize and participate in celebrations relating to the Tercentenary in this country and in the Netherlands and United Kingdom as appropriate: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the College of William and Mary in Virginia is hereby designated as the coordinating body for the 1988-1989 celebrations relating to the world of William and Mary and its relationship to the former British colonies in America now known as the United States of America.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 630, which designates the College of William and Mary as the official U.S. Representative to the celebration of the Tercentenary of the Glorious Revolution of 1688-1689. This celebration will occur jointly in the United States, the Netherlands, and the United Kingdom. I want to commend the gentleman from Virginia [Mr. BATEMAN] for his leadership on this resolution.

Mr. Speaker, celebration of the Glorious Revolution gives recognition to the historic ties between the United States and these two European nations and to the democratic values they share. The Glorious Revolution marked an end to a turbulent, but important, period of British history that had begun with a civil war nearly 50 years earlier. The bloodless Glorious Revolution brought to the English throne William III, of the House of Orange of the Netherlands, and his English wife Mary II. This entire period was critical to the development of Britain's American Colonies and to political thought which influenced the American Founding Fathers. Ideas related to constitutional government and the Bill of Rights developed during this time.

The College of William and Mary was founded in 1693 and took its name from the joint monarchs. In colonial America, the college educated many future American leaders, including Thomas Jefferson. Its name symbolizes the link between the United States and the events of the Glorious Revolution, and thus the College of William and Mary is the proper choice for the U.S. celebration of the Glorious Revolution.

Mr. Speaker, this celebration commemorates the close ties the United States has with two key European allies. It is a reminder of the common political heritage the United States shares with Western Europe. There is, of course, no cost to the Government associated with this resolution.

I urge all of my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Joint Resolution 630, designating the College of William and Mary as the official representative to the Tercentenary Celebration of the Glorious Revolution to be celebrated jointly in the United States, the Netherlands and the United Kingdom.

The years 1988-89 mark the 300th anniversary of the accession of William III and Mary II to the throne of England and will be celebrated with all types of historical, artistic, educational, scientific activities in the United States, the Netherlands and the United Kingdom. The period of William and Mary has enormous historical ties to the constitutional history of the United States and should be celebrated in a manner consistent with the profound impact these ties have had on the formation of our Government.

I can think of no more appropriate body to be the coordinators of the celebrations in the United States than the College of William and Mary and urge the unanimous adoption of this resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution relates more to history than to politics and is thus of singular significance, particularly to this body because the subject

matter symbolizes a benchmark event in the history of legislative power and precedent.

The years 1988 and 1989 mark the 300th anniversary of the accession to the throne of King William III and Queen Mary II, following the overthrow of James II, and the enactment by the British Parliament of a Bill of Rights barring the King from suspending laws raising taxes, or maintaining an army without the consent of Parliament, and from arresting and holding subjects without due legal process.

The Glorious Revolution of 1689 thus is a precursor of the rights we embody in our Constitution and in our Bill of Rights.

The College of William and Mary has been invited to represent the new world as the official United States representative to the tercentenary celebration of this Glorious Revolution which will be celebrated jointly in the United Kingdom, the Netherlands and the United States.

I would urge my colleagues to support this resolution. Few colleges, as the distinguished chairman of the full committee has indicated, are more eminently qualified or historically positioned to represent the United States in such an event.

I would also like to take a moment to commend the efforts of the author of this resolution, the gentleman from Virginia [Mr. BATEMAN]. His concern for history, particularly of his State, but also of the traditions of this country, is very much appreciated in this body.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding and most especially let me add my thanks to the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the committee, the distinguished ranking member, the gentleman from Michigan [Mr. BROOMFIELD], my distinguished colleague of the committee, the gentleman from Iowa [Mr. LEACH], the distinguished gentleman from Indiana [Mr. HAMILTON], and those others who have expedited bringing to the floor this resolution.

Mr. Speaker, the remarks that I have prepared for presentation at this time, I find have already, in the main, been made by those who have preceded me. But let me simply say that the Glorious Revolution of Great Britain is indeed a historic occasion, not just for the people of Great Britain, but for the people of the United States of America, for it was through the Glorious Revolution that representative government and the accendency of the English Parliament over the English monarchy became a reality of British political life, and ultimately through the work of our Founding Fathers, was translated into the political reality which has been the keystone and the core of American representative government.

As a graduate of the College of William and Mary at Williamsburg, in Virginia, as the full official title would go, I am especially pleased to have been able to offer this resolution. For it was at this venerable educational institution chartered by their Majesties King William and Queen Mary in 1693 that Thomas Jefferson was educated, that George Washington was educated, that Geoorth Wythe was educated, a signer of the Declaration of Independence, and a host of others.

It is for that reason with some degree of immodesty that we who are close to venerable College of William and Mary refer to it as the alma mater of the Nation.

I am indeed pleased that this resolution has come from committee to the floor and earnestly urge my colleagues to give it their unanimous support.

Mr. Speaker, I rise today in support of House Joint Resolution 630, which I introduced designating the College of William and Mary at Williamsburg in Virginia as the official U.S. representative to the tercentenary celebration of the Glorious Revolution. This commemoration will be conducted jointly by the United States, the United Kingdom, and the Netherlands.

The celebration of the year-long event will take place in the United States, the United Kingdom, and the Netherlands with many events planned. By designating the College of William and Mary as the official U.S. representative, we will be demonstrating our intent to join in a celebration of freedom with two of our closest allies.

The Glorious Revolution in 1688 established a new era in representative government with the dethroning of King James II and the peaceful accession to the throne of King William III and Queen Mary II. Our Nation's constitutional government and the Bill of Rights were based in part on the English Bill of Rights and the writings of John Locke, both of which resulted from the Glorious Revolution.

Thomas Jefferson, author of the Declaration of Independence and one of our Founding Fathers, studied the philosophers and the democratic therories of the Glorious Revolution when he was a student at the College of William and Mary. The influence of these democratic thories later helped influence the American Revolution. In 1986, almost 300 years after the Glorious Revolution, our Nation still holds those ideals of freedom, equality, and justice as the core of our American Government.

The College of William and Mary was established by royal charter in 1693 by King William and Queen Mary making the institution the ideal representative for the commemoration of this important historical event. Such a designation for the College of William and Mary will demonstrate our Nation's strong support of this celebration. In addition, the College of William and Mary's enhanced ability to raise private funds would allow the United States to make a meaningful contribution to this event at no cost to Federal taxpayers.

Mr. Speaker, I know of no oposition to House Joint Resolution 630 and I urge my colleagues to support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution which designates the College of William and Mary in Virginia the coordinating body for the upcoming celebrations relating to the world of William and Mary, and commend the sponsor, the gentleman from Virginia [Mr. BATEMAN] for offering the resolution. Also, I want to thank the gentleman from Florida, Chairman FASCELL, for expediting consideration of the resolution.

The tercentenary celebration will take place in the United States, the Netherlands and the United Kingdom.

As we all know, the years 1988 and 1989 mark the 300th anniversary of the accession to the throne of England of King William III and Queen Mary II. To mark that special occasion, the Governments of both England and the Netherlands have established the William and Mary Tercentenary Committee for the purpose of celebrating this event. Given the fact that King William III and Queen Mary II founded the College of William and Mary in 1693, the Tercentenary Committee has invited that college to be the new world representatives in the upcoming celebration. This important event will be marked by historical, educational, artistic, and other related activities.

It is only appropriate that the College of William and Mary be designated as the coordinating body for the celebrations relating to the world of William and Mary. I urge my colleagues to join me in supporting this commendable resolution.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 630.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on

House Joint Resolution 630, the joint resolution just passed.

□ 1320

RECOGNITION AND SUPPORT OF EFFORTS OF THE U.S. COMMITTEE FOR THE BATTLE OF NORMANDY MUSEUM

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 356) to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Indiana?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I would like to ask the distinguished gentleman from Indiana [Mr. HAMILTON] to describe what is occurring here at the moment.

Mr. HAMILTON. Mr. Speaker, if the gentleman will yield, I rise in support of Senate Joint Resolution 356, which states the Congress' support for the creation of a museum in Normandy, France, to commemorate the Allied effort in the Battle of Normandy and recognizes the efforts of the U.S. Committee for the Battle of Normandy to encourage understanding among the American people of the importance of this battle. This resolution was approved in the Senate on July 23 and is similar to House Joint Resolution 647, introduced by our colleague from Florida [Mr. GIBBONS]. I commend him for his leadership on this matter. It is under consideration at an important time. The people of France already are taking measures to establish the museum for this historic campaign.

Mr. Speaker, it is important that young Americans and Europeans alike understand the significance of the Battle of Normandy. The invasion on June 6, 1944, and the subsequent hard-fought battle into August played a major role in shaping the modern world. The Western allies—the United States, Britain, Canada, the Free French, the Free Poles, and small units from the Nazi-occupied Benelux countries, fought Nazi forces through the pastures, hedgerows, and streams of Normandy. In the East, the Soviet army was pushing into Eastern Europe. When the Western allies finally broke out of Normandy in August into France's heartland, they were able to set in motion the final campaign which led to the defeat of Nazi Germany in May 1945. Thus, the Normandy campaign helped shape the modern map of Europe. It symbolized the victory of the wartime allies, and it set a precedent for allied cooperation which was the basis for the close ties of today's Atlantic Alliance.

Mr. Speaker, the Battle of Normandy played a crucial role in our modern history. On D-day alone, 1,465 Americans were killed; another 1,928 were missing in action. I can think of no better tribute to the memory of the soldiers who fell on D-day and the following days of the Normandy campaign than this museum.

I urge my colleagues to support this resolution.

Mr. LEACH of Iowa. Mr. Speaker, under my reservation, I yield to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I support Senate Joint Resolution 356, to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in the development of a memorial to the Battle of Normandy. A companion resolution, House Joint Resolution 647, was introduced by my friend and distinguished colleague from Florida [Mr. GIBBONS], who is a veteran of that great battle.

Mr. Speaker, the Battle of Normandy was one of the most critical battles in American history. It was a testament to American resolve and know-how, because of the magnitude of the operations at Normandy, and the significance that battle had in turning the tide of the war. It is only fitting that we recognize the enormous sacrifice of the brave men, both living and dead, who fought that battle.

Mr. Speaker, we should support the efforts of the French people in establishing a memorial museum to commemorate the great allied efforts on the beaches of Normandy, as well as supporting the efforts of the U.S. Committee for the Battle of Normandy Museum in their efforts to encourage better understanding among the American people of the significance of this battle. I urge the unanimous adoption of this resolution.

Before closing, I want to note for the record that due recognition should be given not only to the brave heroes who gave their lives at the Battle of Normandy, but some recognition to those who participated in that battle who are still alive; particularly Members of Congress like our distinguished Speaker in the chair, Mr. MONTGOMERY, our distinguished colleague from Florida, [Mr. GIBBONS], and many others.

The battle was a long time ago, and we are all fortunate they have survived and are continuing to make great contributions to the needs of our great country.

Mr. LEACH of Iowa. Mr. Speaker, under my reservation of objection, I would comment that I, on behalf of the minority, would echo the entire sentiments of the majority. Having had a father who was in one of the first waves at Omaha Beach, I would simply suggest as well that one of the great events in world history is symbolized in the endeavors of the gentleman from Indiana [Mr. HAMILTON]. The Battle of Normandy was perhaps the greatest secret in American history, if not world history; the Germans did not know it was the only invasion of significance.

If any of us are to realize that there are times in American national life where intelligence is important and patriotic unanimity of singular significance, the Battle of Normandy could well symbolize it. Military historians inform us that if the Germans had an inkling of our precise intentions, the invasion might well have been repelled.

With that as a final comment, I would say on behalf of the minority, we certainly approve of the strong support of the majority for this particular endeavor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 356

Whereas the battle fought in Normandy, France, in the summer months of 1944 was the largest land battle in history and considered by many to be the turning point of World War II in Europe;

Whereas the Battle of Normandy is one of the first examples of successful Allied military efforts to defend liberty and perpetuate freedom;

Whereas the people of France are creating a memorial museum and study center in Normandy to commemorate the Allied effort and provide future generations of students and others an opportunity to study and understand the causes of the European conflict and the role played by the Allied Governments and military forces in the successful resolution of that conflict; and

Whereas a United States Committee for the Battle of Normandy Museum has been created to inform Americans and encourage support of the museum and study center: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Congress recognizes and supports the historic and educational purposes to be served by the museum and study center in Normandy, France, and of the United States Committee for the Battle of Normandy Museum to encourage understanding of and support among Americans for such an important memorial.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. McMILLAN. Mr. Speaker, on July 24, the day of the vote on H.R. 5172, the Agriculture appropriations bill, I was in Charlotte, NC, arranging financing for incoming hay supplies to my drought-stricken congressional district. North Carolina will need over 2 million tons of hay between now and March of 1987, and this financing, a critical component of a long-term solution, required my immediate attention.

Had I been present I would have voted in favor of this bill.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks, and to include therein extraneous material, on the bill, H.R. 2518, which passed the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today I wish to continue the line of discussion that I had sustained a week ago, but also go back to a fundamental series of economic—financial—banking concerns that I first discussed 24 years ago, the second year that I was in the Congress.

Even before then, I would like to say for those such as some citizens who have called or have written, when they have read the title of my remarks as "My Advice to the Privileged Orders."

The reason is that a couple of years ago, after having spoken at great length and on many occasions on these issues, and realizing that, as we say back home in Texas: It was like a coyote braying to the moon in a cactus patch.

I thought that I would, instead of offering initiatives and reintroducing and discussing those ad nauseum; some of these initiatives having been introduced as long as 20 years ago.

□ 1330

For instance, the beginning then of what now is endemic, that is the mergers, these vast swallowings of corporate banking and other enterprises, and which has literally sucked up and tied up all of the main assets of this country. That is, the money assets, where what we have now in our country is a vast frozen lake of monetary, financial, credit assets that really belong to the people, were and have always been created for the people's use in promoting the industries, in firing the engines of commerce and in making it possible for the small entrepreneur, the backbone of our country's economy, to have affordable credit in order to conduct his business.

That was 20, 23 years ago in which I was accused of being a Cassandra, a predictor of gloom and doom, but usually the persons who spoke that way were persons who had neither listened to nor read the contents or the thrust of my remarks.

What I was saying and continued to say and said before I ever thought I would be in the Congress was that you cannot, and all history clearly reveals this, a history that goes back to 7,000 years before Christ, in any human endeavor have what has been defined variously, first in religion then in law, and then in the processes of the intercourse in commerce, as usury, or exploitative, or predatory rates of interest.

Interest by definition is the most inflationary of forces in the economic existence of mankind. For some good reason, as far back as the code of Hammurabi, 7,000 years before Christ, usury was punishable and even at the time that Jesus Christ was preaching, usury was punished.

In fact, even interest of any kind was punishable as a crime. And the ancient pre-Christian Jewish judges and kings mandated punishment for such things as what we call interest today.

Of course, we are talking of a very crude economic existence but nevertheless the equivalent to our more complex living today.

Man has not changed much as to his nature and his propensity to be greedy and insatiable as it said in the Scriptures, "He who desires silver shall not be satisfied with silver, and he who seeks increase shall not be satisfied with increase." That means that there is one aspect of human behavior that seems to proclaim that the more one has, the more one wants.

One reason why governments were set up in the very dim dawn of mankind's civilization was for that very fact that there are forces that only collectively can mankind regulate these predatory and exploitative practices.

The fact is that you did not have to be an expert 20 years ago when we had the first so-called credit crunch in June of 1966. Contemporaneously in that month on June 19, to be exact, the prime interest rate was jacked up 1 whole percent overnight.

Now, some people say, "Well, what is this all about?" Well, I pointed out then that there was not historical precedent for that; even during the height of the Civil War the prime or what we call now—it has been so redefined that we have such an abuse of language today, we are living in a full Orwellian world—what we were defining as prime interest rate in 1966 was jacked up by 1 whole percent.

That had not happened even during the height of the Civil War. All wars bring about the concomitance of inflation, price gouging, war profiteering. And our Nation today is so inured to being a war economy based type of activity that we do not even realize it. Of course the war profiteering that goes on today in light of a $315 billion war budget—I do not call it a defense budget; it is no more a defense budget than the budget of the city of San Antonio is a defense budget—it is a war budget.

President Reagan has opted for war from the very beginning. He is convinced, and those around him, that they know how America can go back, get in a war and win it. So they are talking about what they call the low-level or low-intensity type of wars. But the best laid plans of mice and men often go awry. Fortunately, the American people will not take too long to realize the impact, as we are beginning now. But in 1966, when I raised the issue with the then chairman of the Committee on Banking that this augered bad, why? Because in 1865 at the time the National Currency Act was passed, we also eliminated the National Usury Act.

Nationally, we have never had a usury control act since 1865, which was right about the time the Nation was trying to lick its wounds from the Civil War.

The States have had, some in their constitutions, as in my State of Texas, usury defined at certain rates. But in 1966 I pointed out to the then chairman of the Committee on Banking that if the Congress did not look into this matter to try to get the President and his concern about it, that being that there was no legal limit, that it was conceivable that someday—and nobody at that time thought it would be soon, and that is why I was dismissed rather casually—someday there would be astounding limits.

Well, it took a few years, actually 15 years, because by 1980 in the late fall of that year, astoundingly the prime interest rate was hitting 21 percent. This was capitalized on right before the November election by then candidate Ronald Reagan. President Carter also tried to do what some of his pred-

ecessors had done, as they are doing now—some of the other issues that I have referred to such as defense budgets and war budgets—in the hope that, if you put it under the rug, it would be overlooked and everything would come out all right in the end.

But in 1966 the handwriting was on the wall. I spoke out. I took the floor. We must remember that I have been speaking on this privilege we call the special category of special addresses to the House after all legislative business since I first came to the Congress. I had not been sworn in 2 weeks before I had a special order. There was no TV coverage, and I was not and I am not now speaking to TV. I am speaking to the RECORD for my colleagues who might at this moment be listening in their closed-circuit apparatus or will read the RECORD if they are interested tomorrow. And also because I feel the responsibility as a memer of the Committee on Banking, from the very beginning, to go on record.

My point is not that I am trying to dictate; it would be foolish to think that I would have that kind of an influence. But I am on record. Everything I have said you can verify by looking at the RECORD. But, finally, a couple of years ago recalling Joel Barlow, the great American patriot who was one of George Washington's Army chaplains, but was also a pamphleteer and a real revolutionary, he had gone to Europe, was a great friend of Tom Paine and the other pamphleteers and revolutionaries. And he addressed a series of articles or essays to the privileged orders of Europe and elsewhere. We must always remember that the American Revolution was almost contemporaneous with the intense French Revolution, which, in the context of that day and time, and the word then fearfully expressed on the lips of Englishmen and Americans was "Jacobin" because those were the radicals of that day. Those were the ones that were guillotining and chopping the heads off the aristocracy in France. The French Revolution of the 18th century was the equivalent roughly of the revolution in Russia in 1917 and thereafter, in the 20th century, to us.

Really, basically there is a sort of a rhythm to these great thresholds of human endeavor in seeking and obtaining liberty. I guess the big lesson that all history shows us is that liberty never is won permanently. I think this is what we Americans have become very complacement about and think that we are forever insured and that we have a self-perpetuating type of governmental and representative democracy. I frankly feel it is very, very fragile. I think it is fraught with danger at this time with a President whom we have placed in power. And the people themselves have done it, so there is nothing to quibble about that.

The point is that I then decided that I would address myself in the same vein, not that I would have the presumptiousness to compare myself to a genius such as Joel Barlow, but that I thought it was very much a similar period of time in that we now are the privileged orders in the United States.

Members of Congress, supposedly the representatives of the people, freely chosen in an electoral process, surely we would be a privileged class. Economically our rate of pay is not exactly a misery. Perhaps it is not what it ought to be, but I think it is reasonable and that it places us, compared to the vast overwhelming preponderant American wage earners, and compared to the median average wages earned in this country, we are in that upper group, upper privileged apex.

But the people that are in control, that is those who shape and mold the policies, are not in the Congress. Those that are surrounding the President, these great corporate oligarchs and particularly the very, very intensely interconnected and now highly concentrated banking interests that today allegiances are very, very ephemeral. We are talking about multinational banking institutions.

Remember that the dollar, per se, has no conscience. It is going to go where it can make more dollars.

But in that process that I was trying to say in 1966 was that the handwriting was clearly on the wall and that, unless either the President or the Congress reviewed and said just what does this mean, how many businesses in the summer of 1966 found themselves facing that credit crunch?

□ 1345

What do we mean by a credit crunch? What I mean is that suddenly, the normal processes of the allocation of credit are stopped, are bottled.

The history of our country clearly shows that that has been the basic underlying issue from the very beginning of our national existence. Our national existence began with the Continental Congresses, the First and the Second. What we do not realize is that even they had to have bankers. So they chartered what they called the Bank of North America, private bankers.

Oh, they would have charged a lot of interest, but you had men like Thomas Jefferson, who cried out and bellowed. In fact, if I were to use the words of Thomas Jefferson toward bankers, I would be excoriated throughout the country. I would be called vindictive and unfair for blaming bankers and all of that. But Thomas Jefferson clearly saw the issue.

The issue reappeared soon after the Nation began its form of government that we enjoy, that is after the approval of the Constitution, the setting up of the Congresses and the executive branch and the judiciary. Then there was the beginning of the first U.S. Bank, and the second charter of the U.S. Bank, which, by the time President Andrew Jackson who, incidentally, I will remind you, was a people's, common-folk President, and his doing away with that bank.

What were the reasons? The reasons were simple, that none of the national leaders were willing to sell out the national interest and the power to control the allocation of credit to these private endeavors known as the private banking system. So they hemmed them in. In 1837, or thereabouts, they shifted it to the formation of State banks, thinking that if you diffuse, only to find out to their horror when the Civil War broke out that you had concentration and equal abuses even on that level.

What was on President Lincoln's mind? The way he died, that issue. He was speaking about it. He was peering into the future, he said, and he was very concerned about the concentration of these resources and these banking interests that not only survived the war, after all they did not go put their money in the war, they became richer during the Civil War. They all did and they are doing it now.

Mr. Speaker, at this point, I wish to offer for the RECORD from the New York Times, Sunday, July 27, the business section, an article entitled "The Sudden Wilting of Reagan's Rosy Economy."

The article follows:

THE SUDDEN WILTING OF REAGAN'S ROSY ECONOMY

(By Peter T. Kilborn)

WASHINGTON.—Just six months ago everything looked so good. Interest rates, oil prices and the dollar were all down, and many economists expecting better days, applauded the luck and work of Ronald Reagan. But by summer the economy had turned resoundingly weak. And the President's economic record has suddenly been thrown into doubt. Mr. Reagan's free-market goals for growth and smaller government are being thwarted: The growth has been slow, and the Government's role in the economy has yet to shrink. Worse yet, the giant budget deficits, created in part by the President's earlier budget policies, have begun to look intractable again. The record of the Reagan Presidency, which seemed so promising earlier this year, is looking frayed and fragile.

"The large deficits are coming home to roost," said Senator John H. Chafee, a Republican from Rhode Island who has sided with the President on many issues. "It doesn't bode well for this country. We've got some awful signs out there. But the President is awfully stubborn about reaching compromises with things like defense spending, taxes and Social Security. As a bargainer he should be tough, but he goes beyond the point of reason so we don't succeed in getting the deficit down."

And Hugh Heclo, a Harvard professor, in an Urban Institute study of Mr. Reagan's record, wonders whether he will be viewed

as a President who "stored up problems for the future."

For now, it appears that the judgments of the future are being colored by the soft economy. Although the President's own economists are predicting a strong second wind for the economy in the last months of this year and all of next, most private forecasters doubt things will get much better. A few even think a second Reagan recession is just ahead. The President, of course, has more than two years left in office before the historians take him on, and no one denies that he has already proven an extraordinary innovator. The inflation that dogged his three predecessors is no more than a memory, the benefits of lower interest rates and falling oil prices are still at work, and it is easier to buy a house than it has been since the 1970's.

But the Administration's revolutionary rhetoric—of a booming, free-enterprise economy—may be proving out of reach. In remolding the economy's structures, President Reagan has probably been as influential as Lyndon Johnson, if not Franklin D. Roosevelt. But in terms of economic performance, he is now doing little better than Jimmy Carter and Gerald Ford. Inflation is lower but unemployment is higher and growth slower.

The President promised a supply-side boom in personal savings and industrial expansion, and he has been getting neither. The nation's savings rate has dropped below 5 percent, from 7.5 percent five-years ago, and business investment, after strong gains, has barely changed from a year ago. He promised 4 and 5 percent growth year upon year and is getting half that. Last week's report of a mere 1.1 percent rise in the gross national product during the second quarter brought first-half growth down to 2.4 percent.

In 1981, the President said his policies would add 3 million more jobs to the economy, but none has surfaced. In fact, the economy has lost 1 million manufacturing jobs since Jimmy Carter left office, and the unemployment rate languishes where it did when Mr. Reagan took over, around 7 percent. Poverty has grown a bit during the Reagan Presidency, not declined. It has fallen among the old, but grown among the young.

Above all, the President promised a balanced budget, but his insistence on raising military spending, his refusal to raise taxes and his reluctance to cut back on Social Security have pushed the deficit beyond what anyone imagined it would be when Mr. Reagan took office. The deficit seemed certain to decline this year from last year's record of $212 billion, but the slower economy is pushing it up again. As a share of gross national product, it has fallen a bit but it continues to hover over the economy.

"When you look at the charts of the future, you won't be able to see where Reagan began and Reagan left off," and Herbert Stein, economist at the American Enterprise Institute, President Nixon's chief economist, and an outside adviser of President Reagan. Mr. Stein praises the President for his forbearance during Federal Reserve Chairman Paul Volcker's assault on inflation, something he said few other Presidents would have tolerated for so long. But he faults him for the budget deficits.

"The main criticism you can make is the disparity between the accomplishments and the claims," Mr. Stein said. "The claims were really incredible."

Added Democratic Senator Daniel Patrick Moynihan of New York: "After almost six years, you can say nothing's changed."

Some of the economy's failings, to be sure, cannot be laid to the Administration: Economists trace some to a recession that was not the president's doing but was, instead, Mr. Volcker's. The excesses of previous Administrations, in larding the budget with programs that have grown like beanstalks, cause problems. So do the policies of other governments—notably Japan and West Germany—that now wield immense power over an American economy that could once ignore the rest of the world. But the President did have a lot to do with another problem that also accounts for the economy's weakness—his six-year trail of budget deficits.

The economy's overall performance aside, President Reagan has presided over some stunning changes in the economy's tone and character. The public's expectations for the future, essential to keeping the economy rolling, stand close to record highs as measured by the leading surveys of consumer confidence. That stems partly from the drop in inflation and also from the fact that the economy still manages to grow, albeit sluggishly.

The President has also proven more innovative and responsive to new ideas, with few partisan scruples about their provenance, that anyone since Lyndon Johnson and perhaps since Roosevelt. He led, for example, the march to an overhaul of the tax system that is based mostly on the "flat tax" theories of Democratic Senator Bill Bradley from New Jersey.

With that, and with his tax-rate cuts in 1981 the President appears to have set back the 50-year-old notion that governments should use their taxation powers to redistribute incomes from the rich to the poor. Instead, he argues, all do better when all pay less.

With the budget and tax policies, he has also beaten back powerful special interests—big unions and big lobbies. He has expanded the deregulation of industry that President Carter started. He has reawakened the spirit of entrepreneurship, spawning a proliferation of new businesses. And his commitment to privatization and free enterprise has proven infectious. Scores of other governments now—from Europe to China to the debtor nations of Latin America—have adopted these Reaganesque doctrines.

But the record so far makes these testing times for Reagan economic policies. Congressional elections loom in November. If the slow economy persists or sours, the President risks losing the six-seat Republican edge in the Senate, his principal ally in nailing down the planks of his economic system. Pollsters say that the electorate votes for change or continuity according to how well the economy has treated it over the prior three or four months. The majority of voters, concentrated in the East and California, have been well, but those in the numerous states of the farm belt and the oil patch are mired in recessions.

These are testing times for another reason. The President's budget deficits are such a burden now that even the President says he is committed to respecting the terms of Congress's Gramm-Rudman-Hollings balanced-budget law to bring them down. To meet the law's objectives, however, the President risks violating such major promises of Reaganomics as the refusal to raise taxes, to protect Social Security or to cut military spending.

"There has to be an admission that in some of these areas where we least like to make concesions we're going to have to make concessions," said Richard E. Heckert, the chairman of DuPont, whose views reflect those of most of big business.

If the deficits are brought under control, the feature of his economic policies that might set the President apart from his predecessors could be his struggle with the Goliath of government—in making it smaller, or at least in restraining its growth.

For the moment, his record there is mixed. Over most of the last three decades, Federal Government spending hovered around 19 percent of the gross national product. It climbed to 21 percent under President Carter, and to 24 percent three years ago, where it appears to have stabilized. Thus the Reagan Government is still substantially larger than President Carter's. Some of the increase, however, had been built into the budget by previous Presidents, so merely stopping the rise might be judged an achievement.

"When Reagan came to power," said the Deputy Secretary of the Treasury, Richard G. Darman, "the U.S. was heading slowly, steadily, incrementally toward a European-style mixed economy" with large, state-owned business competing with private industry. "The significant Reagan contribution," he said, "is that he stopped that trend. That is an absolutely fundamental contribution."

Still, the Administration believes that with all it has done to foster free enterprise, the forces of an interdependent world economy now often undermine Reagan policies. Falling oil prices and erratic worldwide declines of other commodities have been lucky breaks for the President in pushing inflation down, but the speed of the declines has upset regions and industries whose livelihoods are tied to the commodities. Many of those difficulties originate with developing-nation governments whose interests often conflict with those of the American economy.

Then, West Germany and Japan—staunch allies in most matters—are also causing trouble, Mr. Volcker and Treasury Secretary James A. Baker 3d keep appealing to Bonn and Tokyo to revive their soft economies with Reaganesque cuts in taxes and interest rates.

If they did so, the administration assumes, their more prosperous consumers and businesses would buy more American goods, and the buying would help to reduce the stubborn American trade deficit. The deficit—a record $148 billion last year, and at least as much this year despite the 18-month decline of the dollar—is a measure of some of the jobs that have been lost to foreigners. Without that deficit, with a favorable balance in foreign trade, the economy would be growing two percentage points faster than it is now. That, in fact, would be just what the President promised five years ago.

But West Germany and Japan have declined to go along. They say they fear a rise in their own budget deficits and higher inflation, and as the American experience testifies, these are legitimate concerns.

But there is another reason that Germany and Japan do not advertise. For reasons of pride or comfort, they habitually run big surpluses in their trade, and the surpluses, the flip side of the American deficits, have been running uncommonly high. This might seem good for them but it is bad for their trading partners. One country's surplus is a drain on another's economy, and the conse-

quences of such drains can boomerang on the surplus country by slowing the world economy. Economists say countries can assure a sound world economy only if all try to keep their trade in balance.

But the American budget deficit makes balanced trade a difficult goal. For trade to work in America's behalf, the dollar must be lower. But despite its declines, the dollar is only halfway back to its lows in 1980, largely because relatively high interest rates still lure foreigners into buying dollars and financing the American deficit. And because of the relatively high world rates, all countries are performing worse than they otherwise might, undermining world trade.

For his part, the President had expected his supply-side policies would generate new Government tax receipts to tame the deficit. But the magic didn't work. Instead, the President and Congress took a national debt of nearly $1 trillion, amassed over more than 200 years, and doubled it in six years. Legions of foreigners bought the Treasury securities that finance the debt, and now a nation that was once the world's biggest creditor is now the biggest debtor. According to Harvard's Mr. Heclo, the difference between the Reagan Presidency and its predecessors, "is that Reagan's America is more heavily mortgaged at home and abroad than ever before in peacetime."

The deficits cause the President another problem. They bleed the budget for interest payments, leaving the President that much less to spend on Government programs, including those he favors. Interest on the national debt is expected to come to about 14 percent of the budget this year. In 1980, when interest rates were more than twice what they are now, the payments amounted to 10 percent, and in 1970 they were 7 percent. In holding up interest rates, the deficits also weaken the ability of business to borrow and invest, jeopardizing another goal of the Reagan economic plan.

Some conservative economists maintain that a sound economy requires a balanced budget. Most economists and all other Presidents since Roosevelt, however, have accepted the notion of the late British economist, John Maynard Keynes, that a deficit is a useful and even essential tool to lead a country out of a recession. Once a recovery is assured, however, governments should let the deficits fall, which frees them to tackle the next recession.

That is something President Reagan did not do. Quite to the contrary, in 1981 he cut taxes, saying that would propel the country to his new era of supply-side prosperity. But unbeknownst to him, a recession was beginning in the summer of 1981 just as the tax cuts took effect. Eighteen months later the economy rebounded from the recession, thanks to the tax cuts.

"None of the domestic economy's success then, in terms of the business cycle, would have happened without the deficits," said Albert M. Wojnilower, the chief economist at the First Boston Corporation.

But unlike a convention Keynesian, the President kept building deficits. "He got the economy running again," said Barry P. Bosworth, an economist at the Brookings Institution and President Carter's inflation fighter. "Now he's got the economy borrowing way beyond its means."

Such critics marvel at how President Reagan has succeeded in holding his popular support in the face of the deficits, the slow economy and high unemployment. "We've had a lot of anti-empiricism in national discourse," said James David Barber, a political scientist at Duke. "Political discourse in the nation has been reduced to a balance of sentiments." President Reagan, he said, seems to fascinate the electorate much as Mr. Barber says he fascinates his own children when he drives up to a stop light. "I command it to turn green, and it does. They're really impressed."

Michael Boskin, an economist at Stanford, says other Presidents would have been put on the defensive by the Reagan economy's performance. "Don't you find it remarkable," he said, "that 7 percent unemployment, 3 percent growth, and 3 percent to 4 percent inflation and is considered pretty good? Four percent inflation made Nixon impose wage and price controls. When I was a graduate student in the sixties, the rule of thumb was 4-4-1—4 percent growth, 4 percent unemployment and 1 percent inflation."

Added Mr. Bosworth: "Jimmy Carter would have been vilified for a 7 percent unemployment rate, and now unemployment is way down the list of national concerns."

Despite all that, some believe President Reagan may be doing a better job than the man who might have been President, Walter F. Mondale, the President's last challenger, rebuffed Senator Bradley's tax system proposals, which are likely to prove an important achievement of the Reagan era. And he proposed raising taxes two years ago to lower the deficits.

But by the summer of 1984, the chance to cut the deficit, provided by a rapidly growing economy, had already passed. The economy was sliding into the slowdown and it has not advanced much since then. Had Mr. Mondale raised taxes, he might well have tipped the economy from a slowdown into something ugly.

"Democrats," said Peter L. Bernstein, a Democrat and an economic consultant in New York, "would have gotten us deeper into the mire."

I thought that was quite rare. I never have seen or witnessed a real recovery. I have seen some that did not recover but they profited. I will read just a few things that kind of surprised me.

Just 6 months ago, everything looked so good. Interest rates, oil prices and the dollar were all down. Many economists who expected better days applauded that look and work of Ronald Reagan.

Then down below, all of a sudden, the author, Peter T. Kilborne, says:

For now it appears that the judgments of the future are being colored by the soft economy. The President's own economists are predicting a strong second wind for the economy in th last months of this year and all of the next. Most private forecasters doubt they will get much better. A few even think a second Reagan recession is just ahead.

Now wait a while. This is the first allusion to the first Reagan recession I see in print. Everybody, including a host of my colleagues on the other side of the party line, have been proclaiming the great, great recovery. I have never heard any words of recession, even though I was saying, "Hey, wait a while."

I have had a record number of small businessmen go out of business here in my district. I do not know of a small businessman—when I say small, I mean a small, small businessman. I am not talking about our national definition of small. That would be a giant in my city. I am talking about a small businessman who has a little establishment, who has about three or four employees, and he needs to go to the bank to borrow $3,000 for either an inventory or a line of credit. I was saying, how can this be a recovery if he still has to pay 17, 18, and sometimes 19 percent interest rates? There was all of this so-called downturn on interest rates. How much does a little man going to the bank to borrow $2,000 today have to pay by way of interest?

Well, I will tell you it is not going to be 9 percent. It is not going to be 10 percent. Not for him.

So where are we in such a great suddenness finding that there is a second Reagan recession around the country? Where was the first? This is the first time that I see it alluded to.

Then I would like to introduce No. 2, this one from the Washington Post, also from yesterday, Sunday, July 27, in the business section. It is headlined, "Economic Slowdown Puzzles Analysts."

The article follows:

[From the Washington Post, July 27, 1986]

ECONOMIC SLOWDOWN PUZZLES ANALYSTS

(By John M. Berry)

The abrupt slowdown in the second quarter—following growth in preceding quarters that was more robust than earlier believed—left analysts puzzled last week about where the economy is headed.

The Commerce Department said the economy had grown more strongly in 1985 and the first quarter of 1986 than had been reported earlier, but then estimated only a 1.1 percent rate of increase in the gross national product, adjusted for inflation, for the second quarter.

In the second quarter, American consumers, businesses and governments actually increased purchases of goods and services bought for their own use at a hefty 5.5 percent annual rate, even after taking inflation into account.

Demand growth that strong usually would mean the U.S. economy was doing well, but the summer of 1986 is hardly a "normal" period in American economic history. The 5.5 percent rate of increase in final demand by domestic purchasers translated into anemic 1.1 percent GNP growth. Why did the demand growth not produce a bigger number for GNP?

Two equally large factors intruded: First, a surge in imports of foreign goods satisfied a substantial part of the increase in demand; and second, business bought fewer goods to put into their inventories than they had bought in the first quarter. Both developments meant the demand for domestic production rose very little.

Meanwhile, the 5.5 percent rate of increase in domestic final demand included what many analysts believe to be an unsustainably large rise in consumer spending—up at a 5.9 percent rate. There was also a significant increase in housing construction and a small decline in business investment in new plants and equipment.

It added up to a peculiarly mixed bag that left forecasters wondering what comes next.

Part of the further deterioration in the U.S. trade balance was due to a sharp increase of about 1 million barrels a day in the volume of oil imports. That increase is not likely to be repeated this quarter, even if the volume does not fall.

That's important, analysts say, because it is the steady worsening of the trade deficit, not just its size, that keeps sapping the growth of demand for domestically produced goods and services. If the trade deficit does begin to shrink, then that will become a plus rather than a minus for GNP corporate profits and jobs.

But there could be some improvement as a result of the large decline in the value of the dollar during the past year and a half, compared with the Japanese yen, the West German mark and some other currencies. A declining dollar makes imports from such countries more expensive.

The initial effect of the dollar's drop was to lower margins significantly from artificially high levels produced by the rapid increase in its value between 1983 and early last year.

Alan Greenspan of Townsend-Greenspan & Co. estimates that operating profit margins on U.S. merchandise imports peaked at about 11 percent in February 1985. Margins fell for about a year and have started to recover, and that recovery has begun to show up in the price of imports. Between January and May, the latest figures available, prices of non-oil merchandise imports shot up by more than 11 percent.

"During the same period, total merchandise import prices fell by about 5 percent, but this, of course, is due to the dramatic decline in the prices of petroleum products," Townsend-Greenspan told its clients recently. By the end of this year, if continued, import prices can be expected to go up another 10 percent "at a minimum," adding about 1 percentage point to the rate of inflation during the period.

These large increases in the cost of imported goods ought to encourage purchases of relatively more U.S.-produced goods and, therefore, at least some reduction in the trade deficit. Just when such a turn will come remains only a guess.

Inventories are somewhat less of a puzzle, though they, too, can behave in unpredictable ways from one quarter to the next. The major factor in the second quarter appears to have been the big effort by the automobile manufacturers to reduce the stocks of unsold cars on dealers' lots by offering cut-rate financing.

While the rate at which businesses will be adding to their stocks of goods on hand could fall further this quarter, most analysts do not expect nearly as large a reduction as occurred in the second quarter. In other words, inventories should be much less of a drag on GNP this quarter, and possibly could be a positive factor.

The Reagan administration will release a revised economic forecast next week. It will show an increase in real GNP this year of less than the 4 percent predicted in February. However, it will also predict more growth, probably of about 4.5 percent, for 1987, which earlier also was seen as a 4 percent growth year.

The new forecast will call for faster growth in the second half of 1986 than the 2.5 percent rate of the first half, probably enough to produce about a 3 percent to 3.5 percent increase between the fourth quarter of last year and the fourth quarter of 1986.

However, at least one senior administration economist said things could turn out much better than that should trade and inventory figures both turn around together.

"In the second half of the year, you have the potential for one hell of a growth quarter" should that happen, the economist said. "That would represent a huge change in the pressure on some parts of the economy."

The administration economist said the new forecast will not be so bullish because the timing of such changes are impossible to predict.

Meanwhile, smaller gains in consumer spending probably are on the way, the economist added. The 5.9 percent rate of increase in the second quarter might have been overstated as a result of difficulties in dealing properly with declining oil and gasoline prices, so consumers appeared to be buying more of those products than they really did. Spending for consumer nondurables other than oil and gas was up at about a 1.5 percent rate, the economist points out.

Another factor tending to slow down consumer spending, which in the second quarter accounted for 65 percent of CNP, will be smaller increases in personal income in coming months, the official said.

Greenspan pointed to another negative for consumers: Household debt has increased to the point that, despite lower consumer and mortgage interest rates, Americans are obligated to spend more than 30 percent of their cash disposable income to make their monthly payments. That compares with a peak of about 26 percent in 1979 and levels well below that during much of the 1970s.

Moreover, some households naturally have debt repayment burdens higher than the average.

"Should the economy dip into a recession and consumer incomes decline, it is apparent that this would result in severe hardships and possible debt defaults by a number of American families. However, of more immediate concern is that high debt-servicing charges usually restrict the flexibility of households in retail markets.

"Hence, it is difficult to see the strong second-quarter consumer behavior maintaining anywhere near the same pace during the second half of this year," Greenspan concluded.

The same sort of reasoning could be applied to business capital spending, which fell at a 2.6 percent rate in the second quarter after a 15.1 percent rate of decline in the first quarter. Much of the drop so far this year is a direct result of sharp cutbacks in oil industry investment because of plunging oil prices. However, Greenspan said, businesses also have very high debt burdens that have executives worried.

Interest payments soared from around 26 percent of corporate cash flow in 1977 to 43 percent in 1982, before dropping to 36 percent at the end of 1983. But since then, he said, such payments have risen again to nearly 39 percent of cash flow.

With low inflation, corporate executives are reluctant to make capital investments that would add to their companies' debt-service costs and, like the households mentioned earlier, make them more vulnerable to a squeeze should a recession occur anytime soon.

Meanwhile, the large amounts of unused production capacity in most industries and some added uncertainties created by the pending tax revision bill before a House-Senate conference committee also are having a negative impact of some dimension on capital spending.

The remaining portions of GNP, new housing construction and government spending, also are not apt to add much to growth.

Housing remains one of the strongest parts of the economy, chalking up a 15.4 percent rate of increase in the second quarter. Nonetheless, housing starts are not likely to increase above the current annual rate of about 1.85 million units, and that means their positive impact on GNP growth will diminish.

Finally, government spending is seen by many analysts as adding little to growth and perhaps turning out to be another negative factor if Congress is successful in reducing the federal budget deficit as called for under the Gramm-Rudman-Hollings deficit reduction law. Even if the law's deficit targets are exceeded, federal government purchases of goods and services will be cut to some extent.

What does this produce in the way of economic growth during the next 18 months? The predictions range from no growth at all for the rest of this year to an acceleration of growth to the 4 percent to 5 percent range. Take your pick.

They say, "What is the cause of this? Two equally large factors intruded. First, a surge in imports of foreign goods satisfied a substantial part of the increase in demand. Second, business bought fewer goods to put into their inventories."

Well, I guess so. There is a limit beyond which all history shows us. No stable economic situation exists in a society where you have interest rates just gouging and just flogging the inhabitants of that community.

This is what we have had. Nobody has wanted to address the issue. It is considered like an act of God.

For instance, just a couple of years ago, the Chairman of the Federal Reserve Board was patting himself on the back. Ronald Reagan, of course, has never stopped patting himself on the back about how inflation has been controlled.

I have taken the floor numerous times and said, "Where?" I notice some economists said business inflation has decreased. Well, that is nonsense. Inflation is inflation. What does it take a family to live today? I know. I go with my wife and do grocery shopping. I am not paying less for groceries today than I was a year ago. My light and gas bill has gone up 500 percent in less than 2 years. My water bill has gone up 550 percent in less than 2 years. Do you think I am going to tell my constituents that, and do you think they would believe me if I tried, as I think my mayor is finding out right now, that inflation has been controlled, that the cost of living reflects a decrease?

□ 1335

I have news for anybody that wants to advance that. I am going to ask them to please go out and check with

their own constituencies. I do not mean our peer constituencies, socially speaking. I mean the average, little citizen.

Then I offer the third. Here we have all of this sad story and there is another article that I am not going to introduce that talks about one of the biggest, well, the second now, largest bank in the United States having a very, very dim and gloomy outlook. But all of a sudden here, on July 28, that is today, Washington's business section of the Washington Post, you have "Bank Investors Reap Big Dividends." Hey, somebody is making a killing here.

BANK INVESTORS REAP BIG DIVIDENDS

(By Stan Hinden)

Sometime this year, if stockholders and regulators approve, Citizens Bancorp of Maryland will swap almost $50 million worth of Citizens stock for ownership of the small Bank of Damascus in upper Montgomery County.

The largest reported shareholder, Herbert S. Hyatt, a retired Damascus bank president and a director for 44 years, would get Citizens stock valued at $3.4 million in return for his 3,599 shares of Damascus. Several directors of the bank would each get more than $1 million in Citizens stock—almost four times the book value of their Damacus stock before the sale, according to recent bank records.

At the same time, Riggs National Corp., stepping across the District line for the first time, will spend $37.8 million to buy the shares of the Guaranty Bank and Trust Co., of Fairfax. The largest reported shareholder, Elizabeth M. Fairchild of Washington, a director and owner of 64,315 shares, would get $2 million for her stock. Two other directors would get more than $1 million each.

The stockholders of the Bank of Damascus and Guaranty Bank and Trust Co. are the beneficiaries of a second wave of "merger mania" that is sweeping the area banking community, enriching longtime investors and stock speculators.

The first wave of activity began early last year when Virginia banks marched across the Potomac to buy District and Maryland banks. United Virginia Bankshares, Sovran Financial Corp., Bank of Virginia and Dominion Bankshares moved rapidly to expand their franchises, sending the price of area bank stocks soaring by as much as 189 percent. (See chart, page 21.)

For shareholders, one of the most profitable merger deals was the Sovran buyout of Suburban Bancorp in Maryland. When the merger was announced in September, Suburban shares were selling for $61.50 a share. By the time the deal closed in March, each Suburban share was worth $100.60, a gain of 63.6 percent in six months. That was on top of a 46 percent gain made earlier in the year when a possible merger was anticipated.

In the second wave, major institutions are buying smaller banks either to obtain an "address" in another jurisdiction, as in the case of Riggs, or to extend and strengthen their home base, as in the case of Citizens.

The prices paid for small banks in the second wave have had a dramatic effect on some of the stocks, which tend to be held by relatively few shareholders and thinly traded, if at all.

The pattern has been established in four recently proposed mergers involving the Bank of Damascus, Guaranty Bank and Trust Co., Enterprise Bank of Falls Church and Ameribanc Investors Group, holding company for Ameribanc Savings Bank (First American Savings and Loan Association of Virginia).

VALUE JUMPED 277.6 PERCENT

On May 15, a share of stock in the Bank of Damascus was valued by the bank at $250. A month later, after the directors accepted a buyout offer from Citizens Bancorp, that same share of stock was worth $944, a jump of 277.6 percent. Citizens offered to exchange eight shares of stock, selling for $118 each, for one share of Damascus stock.

Emotions ran high in Damascus when Citizens made its controversial offer for the 65-year-old bank. Bank President Walter C. Brown, who has been with the bank for 37 years, voted against the offer, saying he wanted to retain its local control. He was joined by two others on the 11-member board.

Despite his opposition to the merger, Brown said he was angry about critics who said Citizens was paying too much. Citizens, he said, "is being made out to be paying an arm and a leg, and getting nothing. It isn't true."

Bank of Damascus, Brown said, owns real estate worth more than $10 million and securities that have increased in value by more than $2 million. These investments are included in the bank's book value at their original cost, far below their current value. If these two items were fully reflected in the bank's book value, the figure would increase from $253.20 to $443.20, Brown said.

At that level, the $944 deal with Citizens would be worth 2.1 times the Damascus bank's book value, instead of 3.7 times. The going rate for area bank mergers has been about 2.5 times book value.

Book value per share represents a bank's net assets minus the value of preferred stock, divided by the number of common shares.

Brown, according to bank records, owns 1,519 shares, now worth $1.4 million. Like other directors and shareholders, Brown has been accumulating his stock for nearly four decades.

Bank of of Damascus, with four offices in Montgomery and Frederick counties, began operations in 1921. Founder William de Lashmutt put up $10,000, and local residents bought 1,000 shares at $25 each, according to the Damascus Courier-Gazette. Beyond that, no accounting of stock splits or stock dividends is available. Bank officials say they don't know exactly how the shares have multiplied but, as of today, the number of shares owned by 580 stockholders is 52,514.

The $250 price of the stock was established twice recently. The first time was when the bank, which has assets of $140 million, paid a 10 percent stock dividend and paid for fractional shares in cash at $250 a share. The other was when the bank sold an additional 2,500 shares of stock in the spring at $250 a share.

Brown noted that some shares recently brought $361 a share at a public auction.

Stock in Bank of Damascus has been closely held by a group that included prominent Damascus citizens and friends and relatives. The stock has traded privately and has been difficult to buy.

"It was not traded very frequently, and it would have been accumulated over a long period of time, through generations," said Brown.

Among those who have accumulated stock for many years in Helen W. Boyer, a cousin of major stockholder Herbert Hyatt. Boyer's 2,485 shares, at $944 a share, represent $2.3 million. She disclaimed voting control over another 651 shares worth $614,500 and held by a son.

Boyer's father, Archie W. Souder, was an organizer and founder of the bank in 1921, as was her father-in-law, Dr. George M. Boyer. Her husband, Dr. McKendree Boyer, joined the board in the 1940s and, after his death, Helen Boyer took his seat on the board.

There are two father-son teams on the board, Herbert Hyatt and his son Jerry H. Hyatt, an attorney and member of the Maryland House of delegates, and Bradley M. Woodfield, a retired auto dealer, and his son Henry H. Woodfield, president of Barwood Inc., a taxicab company.

At the Guaranty Bank and Trust Co., of Fairfax, original stockholders made huge profits long before Riggs National Corp. offered to buy them out for $31.50 a share. When the offer was made, the stock was selling at $28 a share, and the $31.50 Riggs price represented a 12.5 percent premium—small compared with some bank deals.

GUARANTY PAID DIVIDENDS

The real profits at Guaranty Bank and Trust, which has five offices, were made by stockholders who had been patient and collected yearly stock dividends.

Since 1964, the bank has paid 18 dividends, most at 10 percent, and had one 2-for-1 stock split. An investor who bought 100 shares of stock for $1,000 in 1964, when the bank opened for business, today would own 1,014 shares worth, at $31.50 each, $31,941, according to records.

The increase in value was more than 3,000 percent, or 17 percent a year annualized over the 22-year period.

Riggs' offer of $31.50 a share for Guaranty, with a book value of about $9.77, was 3.2 times book value, higher than the average for bank sales in the area. Guaranty has 1,700 shareholders holding 1.2 million shares of stock.

Eighteen officers and members of the board of directors hold 22.8 percent of the stock.

The three largest stockholders listed in the bank's May proxy statement were Elizabeth Fairchild of Washington, Robert C. Arledge, chairman of Arledge Real Estate Corp. of Arlington, who holds 43,744 shares worth $1.37 million, and Dr. Morton O. Alper, a Washington dentist, with 42,302 shares valued at $1.33 million.

Ernest M. Carter, the bank's president, owns 12,272 shares worth $386,568.

Alper, who helped organize the bank 22 years ago, said of the Riggs offer, "We were in a healthy position to continue. But everybody is getting older and it was a good offer."

Alper, 61, said he doubted that his $1.33 million payment from Riggs would change his life style. "We worked for it," he said. "It isn't like hitting a sweepstakes. It was an earned, planned thing. It is like putting seeds in the ground and raising a garden. It didn't just happen. It had to be weeded and fertilized."

Stockholders more than doubled their money when one of the smaller Virginia banks, Enterprise Bank of Falls Church, recently approved an offer to sell.

Enterprise, with two locations and assets of $35.4 million, is tiny compared with its purchaser, Washington Bancorporation,

which owns the National Bank of Washington. NBW has assets of $1.4 billion and 21 branches in the District.

The proposed merger gives NBW its first address in Northern Virginia, helping it compete with outside competition and improving its appeal as a possible takeover candidate, itself. NBW would acquire 362,500 shares of Enterprise Bank at $25 a share for a total cost of about $9 million.

Enterprise Bank, formed in 1972, originally sold its shares for $16 each. A 5-for-1 split in the 1970s reduced the share price to $3.20. When the NBW deal was made, Enterprise shares were selling of about $11 each.

FAST-RISING AREA BANK STOCKS

Bank	Price Jan. 4, 1985	Price July 11, 1986	Percent change
Maryland:			
Citizens Bancorp	$73.50	$119.00	+61.9
Equitable Bancorporation	11.38	30.00	+63.6
First Maryland Bancorp	15.81	37.25	+135.6
Maryland National	21.63	47.88	+121.4
Mercantile Bankshares	21.63	44.00	+103.4
Suburban Bancorp [1]	43.00	100.00	+132.6
Union Trust Bancorp [2]	25.00	61.50	+146.0
Virginia:			
Bank of Virginia	23.88	35.63	+49.2
Central Fidelity Banks	19.17	34.75	+81.3
Dominion Bankshares	25.75	50.00	+94.2
First Virginia Banks	19.50	33.75	+73.1
Sovran Financial	25.83	41.63	+61.2
United Virginia Bankshares	17.44	34.13	+95.7
District:			
American Security	17.00	36.00	+111.8
D.C. National Bancorp [3]	23.00	66.50	+189.1
NS&T Bankshares [4]	47.00	85.00	+80.9
Riggs National	16.81	38.00	+126.1

[1] Last pricing date Mar. 27, 1986.
[2] Last pricing date Dec. 31, 1985.
[3] Last pricing date Mar. 21, 1986.
[4] Last pricing date Jan. 10, 1986.

NBW, selling at $100 a share, agreed to swap one share of NBW for four shares of Enterprise. That was the equivalent of giving Enterprise stockholders $25 a share for each of their shares.

That took Enterprise stock from a value of $11 a share to $25, more than double, and a gain of 127.3 percent. The $25-a-share sale was 2.8 times the $9 book value of the bank as of Dec. 31.

A stockholder who invested in the bank when it was formed received a 681 percent increase in his investment, or a 15.8 percent annualized return over the 14-year period.

Because Enterprise Bank has fewer than 500 shareholders, it is not required to report publicly the number of shares owned by members of its board of directors.

Donald E. Ervin, president of the bank, said that 11 board members owned 35 percent of the stock and that he owned less than 3 percent.

A 3 percent ownership of the 362,500 shares, or 10,875 shares, would be worth $271,875.

35.5 PERCENT GAIN FOR INVESTORS

Investors in Ameribanc Investors Group will realize a 35.5 percent gain on their stock from the recently proposed merger with NCNB Corp.

Ameribanc Investors Group, formerly called MIW Investors, owns First American Savings and Loan Association in Virginia, which has assets of $704 million and 30 offices in Virginia. The acquirer, NCNB Corp., has assets of $23 billion and 600 banking offices in North Carolina, Florida, South Carolina and Georgia.

NCNB agreed to exchange 0.28 share of NCNB stock for each of the 6.2 million shares of Ameribanc in a deal valued at $92.5 million.

With the NCNB shares then selling at $53.25, the 0.28 of a share was equal to $14.91. At the time the deal was made, Ameribanc shares were trading at $11 a share, giving Ameribanc stockholders an immediate 35.5 percent premium.

MIW Investors began life in 1969 as Mortgage Investors of Washington. During the 1970s, high interest rates and inflation nearly crushed MIW as builders and developers went under. Foreign investors, who now own about 30 percent to 40 percent of the MIW stock, came to the rescue. MIW later acquired two thrifts and changed the course of its business.

MIW stock, which sold as low as $1.88 during the past six years, moved to the $8 range last fall. MIW shares began to appreciate as investors increasingly perceived it to be a company that would benefit from the low-interest-rate environment. The stock recently rose to $11.

Among other things, this author of this article, Stan Hindon, says, "the stockholders of the Bank of Damascus and Guarantee Bank and Trust are the beneficiaries of a second wave of merger mania."

What merger mania. I thought we had a booming economy and real, real capital activity. But of course I am saying this sarcastically because that is the way I mean it to be. I think it has simply been a crime the way the American people have been sold down the river. Sold down the river by people they have trusted and by those that have arrogated to themselves the great power that has always been at issue since the founding of this Nation as to who determines what section and sector of our economy is going to be allocated the resources of credit in order to conduct either business or a pursuit in sustaining, in purchasing a home, owning a home, raising a family, identifying with the country.

I want to point out, after all, I have been doing this since long before I became chairman of the largest subcommittee in this Congress on either side, the Subcommittee on Housing and Community Development, that we now have what? What are the products of all of this Reagan recovery. For the first time since 1914, the United States is a debtor nation as of the last 2½ years.

For the first time, we have a monstrous domestic deficit. No nation or combination of nations in the history of mankind has developed this kind of deficit.

Third, international deficit, where we are now back to the colonial times where we are a merchantile system. Where the European and Japanese producers are what? Flooding our markets. We are not a producing nation any longer as of 2½ years. That is what it means to have an internal monstrous debt and an international debit or deficit or debt such as never has been experience by any nation.

We have, currently, $150-billion adverse balance of trade. What does that mean? It means that for every $10 billion of the $150 billion, America lost 1 million jobs permanently. Permanently, because the United States is now the consumer. It is now the cow that is milked.

The old merchantile system is back. Incredible. This was what the American Revolution was all about. The colonists got tired of being subjected to the mother country's reverse economic situation or the merchantile system. No matter how able the industrialists or manufacturers of that day were in Philadelphia, they could not manufacture out of our own raw materials. Raw material had to go to England where the looms would weave the products to be sold back to the colonies. That is where we are today. Incredible. Who says we won World War II? Who invaded whom in the light of today's world?

How did it come about? Well, I for one, would consider it a blot on my honor if I were to go on and my children and grandchildren would say, "You know, he was there, and he never once said anything." That is why I am on record and have been.

Also, an attempt, in vain, I am sure, to try to reach a level of consciousness of enough of my colleagues to bring about some realization of the task that confronts us because there is no question in my mind that it is too late. But it is never too late to anticipate what methods and means one can devise and suggest in order, in anticipation for the day when there will be hysteria, that we can cooly and dispassionately forge the policies that unfortunately, should have been forged 20 or 23 years ago.

The President, nevertheless, was reported in yesterday's newspaper with a Saturday dateline, I guess that was because of his radio talk; I do not know. He was saying the very opposite. He said, "We have never had it so good." He has been saying this every time and it reminds me of what history shows us, the same situation, before 1929's Black Friday, in October of 1929, and I am old enough when I can remember it. I am also a Depression kid so I remember that.

What happened was that 6 months before that Black Friday the President had appointed a very select Presidential Commission, like some of those Mr. Reagan appoints now. Big shots, the equivalent of that day of J. Peter Grace today. They came out and reported this, to President Herbert Hoover, and I quote. Remember, this was just 6 months before the bottom fell out:

> We have a boundless field before us. It seems only to have touched the fringe of our potentialities. Our situation is fortunate. Our momentum is remarkable.

It was with all of these thoughts in mind that I first attempted to bring to the attention of the then chairman of

the Banking Committee the need to summon forth the powers that be. The Secretary of the Treasury then. Fortunately, President Johnson reacted quicker. What he did was that he picked up the phone, as he used to do, and he called the leading bankers from the First, City National, from Chase Manhattan, from Chemical Trust and all the other coterie of oligarchs, and powerful, powerful interests. These are the most powerful interests on Earth.

He brought them to the White House and the stories were that he kept them, there until about midnight and twisted their arms and said, "Now, look boys, I think you better recall that 1-percent increase. Now, you boys really do not mean it; you are talking about increasing it again."

Well, whatever happened they did. They acceded to the President, which, clearly should have proved then that the only thing that would control those factors and those judgments that would bring about sudden, overnight, precipitous and vast increases in interest rates were just the fact that these powerful individuals had a President's eye on them. That was the only thing. So that, of course, the rest is history. Why? Why would we be? Why would we have these reports and then probably there will be a little reversal and all of a sudden everybody is saying, "We are having good times again."

This is a history, preceding 1929. The stock market would fluctuate up highly. I remember as a kid, reading at the drug store where I worked the stories, "bears; bullish; bearish."

□ 1405

They used to have it on the front pages of the San Antonia papers, and people used to be puzzled by that. What do they mean, the market is bearish or the market is bullish? They used to have these sharp gyrations, and finally the bottom fell out. The reason is, as this article in today's Washington Post business section says, that these are money manias.

The United States has been flagellated ever since we had the instability in interest rates. That is the peccable word the bankers use. We have had correspondingly, from my calculations, four, maybe five money manias, and, of course, money manias have been through history calamitous, whether it was the South Sea bubble or the tulip mania in Holland. We have done the same thing here, except worse, because it has been at a greater accelerated pace. In the meanwhile we have these vast resources of credit in which there are billions and billions and billions of dollars of banking credit.

Now, what is banking credit? Well, there are certain requirements, according to what I read in the statutes, in order to be a banker, which incidentally, is the most privileged occupation in our country. It is the most privileged because they make money. They manufacture money today. We hear all this idea that the Constitution says that the Congress shall be responsible for the coinage and all that, but that is a lot of bull feathers. The bankers, through our fractional system and all, are the ones who are coining money today. They have that complete power, but never in our history did they have it until just in the last 5½, 6 years, that complete, total power.

But the Congress does not want to do anything. Why, it bows and scrapes and genuflects before that great God-sent institution know as the Federal Reserve Board.

I introduced bills of impeachment, and I had specifications on Mr. Volcker a few years ago. I knew I was not going to get a hearing. I wrote the chairman of the Judiciary Committee and I asked him for a hearing. That is all I wanted. I wanted to present the case. Everybody kind of laughed and thought I was being bombastic. I was in dead earnest. I had good reasons.

Had these actions taken place a hundred years ago or 150 years ago under Jackson's regime, why, they would have more than had him impeached; they would have hung and quartered him.

Well, what has been done about it? What we have now is this complete oligarchic, interlocking power, this wealth controlling the finances and, as they say, the fiscal and monetary policies of our country. That means the allocation of credit.

Whenever we have had a diversion and a damming up of those resources, our history shows that we have had these calamitous economic downswings. We had the Depression of 1837, the Depression of 1867, and we had the Depressions of 1892 and 1908. It was the Depression of 1908 that brought about the Federal Reserve Act of 1913. But always, whatever the Congress tried to do and whatever it clearly intended and said during debate and in the law, through the passage of years there has been a subverting, sometimes by the U.S. Congress. Sometimes it has been in sleeper clauses, and I do not think many of the Members knew that was in them, even those Members submitting the bill. They probably got them from the lobbyists of either the banking community or the Federal Reserve Board. Nevertheless that is the fact, and that is where we are.

It is too late to do anything, there is no question about it, because everybody wants and proclaims the Federal Reserve Board to be independent, but it is so independent that it has run away. It does not account to anybody. It does not have an inspector general.

In the specifications that I had in my bill of indictment, I covered that horrible scandal of the Open Market Committee. What is this great Open Market Committee? Well, these are the private bankers plus the Federal Reserve Board members—5 plus the 7. That is the Open Market Committee. They are the ones who set the rates. Of what? Treasury bills.

Well, wait a while. What does that mean? It means they will tell us what the interest rate should be. It is not an act of God as Volcker and the others would like to tell us and as so many of my colleagues seem to think. It is a man-made decision, and it is susceptible to a man-made solution.

What I am saying is that it is most unfortunate that we have had to reach this point and pay this price, because we have reached the point where bankruptcies, for instance, have peaked out to a rate that is way above the Depression rate. Granted that we have to make some extrapolations for the fact that the Nation is bigger and there is an exponential greater number of businesses and all that, nevertheless we ought to be concerned about the parallel comparisons, though I think that it is a little too late.

I have advocated and have been advocating for the past 6 years, the past three Congresses, the enactment of certain legislation. I have never believed that from a single mind we are going to strike a perfect bill, but that is why we have deliberations; that is why we have committees. But what I have been disappointed in is that no committee or no subcommittee wants to take the time to even discuss the issue. That, I think, is a reflection on our processes. This is as it always has been and as is the case now. Even in England they had an old saying that "A poor man's shilling is only a penny," meaning that everything that the poor buys is more costly than it is to the rich. Well, naturally. This is the flaw in such a system of taxation as has developed in our country where we have the sales tax.

Well, what does history show us about that? I debated that in the Texas Legislature when I was in the Texas State Senate, and I got credit for filibustering the first attempt of the Governor in the spring session in 1961 to foist a sales tax on the people. I was blamed or credited with compelling the Governor to go into a couple of special sessions. I did gain some concessions in that they made it originally a 2-cent tax

But I pointed out the history of Spain, in which the old Spanish kings needed funds for the same reason our Presidents do today, and that is to engage in foreign adventures. Our President has poured funds into the smallest country of Central America, El Salvador, for 5½ years. He has poured $4 billion into that country

while he tells us he does not have even $60 million for the poor homeless of our country. And he cannot afford $100 million to have an emergency Home Foreclosure Relief Act when our homeowners are getting foreclosed at an astronomical rate, even today as I am speaking.

But he does have $4 billion. For what? He is no closer to a solution in that smallest country of Central America than he ever was, after bloodletting like we have never seen before. Over 50,000 Salvadorans have been killed there with our guns. They were not Cuban or Russian; they were our guns. We got in the middle of a civil war in which we are taking up for the oppressors.

This is our President. This is what I call his preverted sense of priorities. Yes, he has reached the point where he is almost omnipotent, but only because the Congress lets him be. The Congress has it in its power, and this great deliberative body could say, "Hey, Mr. President, we haven't declared war. The Constitution says only we can declare war, so you stop making war." So then it would stop unless Mr. Reagan wants to convert to a Latin American type. He could suspend Congress and surround Congress with some tanks and there is not a thing we could do. A lot of Americans laugh when I say that, but we had better not because it can happen here.

If the President can save himself from impeachment by the American Congress, he has not from the Lord Almighty. He has been impeached already, and woe behold us if we in God's vengeance are punished for sitting by and seconding and giving our imprimatur to these actions that are so horrible to describe. And they are not now in Southeast Asia; they are right here next to us.

□ 1415

What are we building up in Mexico? Why? Because these self-same banking interests that now have this tremendous power, who have supported Mr. Reagan from the beginning, financed him, helped him, surrounded him with advisers. I must remind you that President Reagan really never has lied to us. He never pretended to be an expert. All he said was that he would act the role. All he has been is an actor. He said, "I'll act a good piece," and he has; but I have always been scared of the scriptwriters, because he is not smart enough when there is a conflict among the scriptwriters to pick the right script.

So we are living in a dangerous era to our liberties. The Executive orders the President has signed in just 2 years time are a direct stab at our basic liberties.

Not one word have I heard of protest anywhere when the President signed the National Security Advisory. When? Two years ago.

What does that say? It says that he can have through the Federal Emergency Management Agency the use of the National Guard or troops to arrest people who might be harboring what they call refugees from Central America, but which Mr. Reagan may say are potential terrorists. They can get rounded up right now by the armed services.

Second, when he announced the embargo against Nicaragua on May 1, 1985, he first had to find as a matter of law, because this was a power delegated to Presidents since the Espionage Act of 1917, he had to say that Nicaragua is a direct and an immediate threat, to the point where we have to impose an economic embargo.

Now, how many Americans really realize that? But yet that is what he had to announce.

But that was not published in the newspapers too much. All they said was that he had imposed an embargo, but what they did not mention was what it would take to trigger that power.

We still do not have an only potentate President. We still have a Constitution; but I charge that the Congress has rolled over and has advocated a sacrosanct sovereignty.

For what purpose? I do not know.

For what reason? I do not know. I am not smart enough to know. All I know is that it has happened. All I know is that it is happening. All I know is that we have been sold out at all levels.

We cannot possibly, at least I cannot, tell the American people that these great issues that they think their Representatives are resolving here are indeed and in fact being resolved. They are not.

J. Peter Grace, the billionaire owner of the conglomerate that owns what we used to call United Fruit, now known as Standard Brands, is the one who is actually forging the Latin American policy for Mr. Reagan. Of course, he would have our marines die for Chiquita Banana, of course. They have before in Guatemala in 1954 when the CIA, like they are doing now in Honduras, hired American mercenary pilots to strafe Guatemala City, to kick out Colonel Arbenz. He was accused of being a Communist.

He was a mililtary, one of the most fierce anti-Communists, but he went out. The CIA gloated. We have the beginning of having to pay for that ersatz victory.

If you only realized the ferment, the boiling kettle with the lid not going to stay on there long, and now translated over to our most immediate adjacent neighbor, the Republic of Mexico, where there again the bankers in their greed overpledged their loans.

Mexico, Peru, Ecuador, Argentina and even Brazil, which is a giant industrialized nation, Brazil is not the little old piker. They will not pay those debts backs. They can barely even roll over the interest payments.

There is a whole situation boiling up. What are we going to do? If we try to use the same tactics that the President seems to think is an answer, that is, military, well, we had better start thinking about invading Mexico, because it is coming. It is coming, just as sure as I am standing here and nobody seems to give a hoot or gehenna. Nobody seems to be either mindful or even aware of what is boiling and churning and terribly, terribly explosive, with tremendous implications; other than the fear of, oh, those hordes of Mexican illegals that are coming in. That is the big fear.

But nobody says why, why should they? Why should the most humble, the most soil-attached people on the Earth want to leave? Who are the ones who are leaving? The young, the strong that are willing to come and risk death in Texas.

In some areas they shoot them like rabbits. They have posses up in Kerr County up north where recently the San Antonio papers had big headlines about a slave camp. Well, that involved a white nonethnic, so naturally there was a big fuss; but I can tell you just within the last 8 years of two cases where a group was formed, went out an gunned down like a rabbit a so-called alien, but who was a worker. Nobody knew what he had done. They were just whooping and hollering as they have in the past, and which has gone unrecorded in the main.

The Mexican Government 40 or 50 years ago used to protest. You would have the Counsel General in San Antonio issue a communique saying, "We protest the ill-treatment of these citizens," but not now, because we have so much pressure on that government.

Our CIA has even foolishly tried to do in Mexico what they have been doing south of Mexico, that is, pressuring through destabilizing; that is, putting money into some opposition groups for two reasons: One, that the Mexican Government and the President will not go along with the United States on its Central American policy. It cannot.

Mexico is the original nation that advanced the auto determinacion, self-determination, no intervencion, no intervention, and they are not going to betray that.

The President of Mexico is about the wrongest individual they could pick to do that to. The President of Mexico is very much pro-American. He is educated in the United States, but he is caught and if the CIA thinks it can pressure it through the rightwing groups in Mexico, all they are doing is

throwing him to the left-wing wolves, that is all, and this is what we have been doing all up and down the isthmus and up and down the pennisulas and down into the South American Continent, which is very, very wrong, self-defeating, very stupid, to say the least; but nobody wants to question the almighty CIA.

In fact, if anybody questions it, he is suddenly suspect as a true-blue American.

I think the American people, though, are just absolutely uninformed or malinformed. Everybody else outside of the United States knows it, but not the American people. I think that is a tragedy.

So that what we have come to in reading these stories today is just the inevitable that some of us have been talking about for a few years. We have not been satisfied with saying, "Hey, look, this is happening. This will result."

In 1979 I got up and made a speech here. There was no TV. The very next day the chairman of the Federal Reserve Board called me and asked me to go and have breakfast with him to tell me that I was right.

What was I saying? I said in 1979 in the RECORD, I said, "At this point, we are in trouble."

I noted the statistics. Our chief private banks have gone from about $1 billion to over $45 billion in investments. True, a lot of this was what they called recycled Arab oil money. But what was that? That was in deposits and it was on call.

Right now the so-called Reagan recovery, what he calls a recovery, which I say never was, has been supported to the extent it has by foreign investors who are fickle, and as in the case of the Continental Illinois Bank that went under and that we nationalized, costing the taxpayers about $6 billion. Now, the newspapers did not say we nationalized it, but if it happened in Mexico, we would have said that the government had nationalized it.

There was $6 billion of your taxpayers' money. Why? Because, all the time what I have said was what a former Congressman from New York, Myer London, said around the time of World War I when they had this very interesting Congressman from New York. He used to say, "I am accused of being a socialist. But you fellows are socialists for the rich. I believe in socialism for the poor as well as the rich."

What I am saying is what happens is that capital always wants and also has to private-enterprise its profits, but to socialize or have the taxpayers pick up its losses. This is what is happening in this country.

I was trying to tell the chairman then that there were some things he could do.

He said, "No, I can't. I just went to the National Conventional of Bankers in Honolulu and when I told them the same thing you are saying and warned them, they almost threw me out."

I said, "Well, wait awhile, Mr. Chairman. You have section 14(b) of the Federal Reserve Board Act. You can exercise that."

What does President Reagan say? They will cry, "Uncle."

He said, "Oh, no, no. I can't do that."

Why? Why would not this work? I will tell you why, because all of them, that one and Mr. Volcker today, they come from the payroll of the Chase Manhattan and they are going back to the payroll of the Chase Manhattan. They are not about to do anything to antagonize the Chase Manhattan while they are working for the Federal Reserve Board.

Furthermore, the American people, and I think most of my colleagues, do not realize that the Federal Reserve Board is not a Federal agency. It is a private concern. In actual practice, it is operated and managed by about seven of the biggest banks in the country. They are the ones who are running the Federal Reserve Board, but it is supposed to be the operation of the 14,000-plus commercial banks we have in this country, not the Government.

It is ridiculous. It has reached the point where the American people have lost their heritage, not even for a mess of potage.

I say that with the arrogance we are showing in the countries that are too weak to do anything about it, I am reminded of William Shakespeare.

He said:

When we become arrogant and in our viciousness grow hard, the wise gods seal our eyes; we drop our clear judgment, make us adore our errors, laugh at us while we strut to our own confusion.

□ 1430

RULE FOR CONSIDERATION OF THE DEFENSE AUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes

Mr. ASPIN. Mr. Speaker, last Friday the Committee on Armed Services favorably reported H.R. 4428, the National Defense Authorization Act, to authorize appropriations for fiscal year 1987 for the Department of Defense, for military construction, and for defense activities of the Department of Energy.

I hereby notify all Members that the Committee on Armed Services intends to seek a rule for consideration of H.R. 4428 that may not allow any and all amendments germane to the bill to be offered.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BATEMAN) to revise and extend their remarks and include extraneous material:)

Mr. FIELDS, for 60 minutes, on August 6.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ASPIN, for 5 minutes, today.

Mr. STOKES, for 60 minutes, on July 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BATEMAN) and to include extraneous matter:)

Mr. GRADISON in two instances.
Mr. LUNGREN.
Mr. SILJANDER.
Mr. BROOMFIELD.
Mr. GEKAS.
Mr. LEWIS of Florida
Mr. COURTER.
Mr. GILMAN.
Mr. CONTE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. MILLER of California.
Mr. MITCHELL.
Mr. RODINO.
Mr. BARNES.
Mr. BOLAND.
Mr. UDALL.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 524. An act to recognize the organization known as the "Retired Enlisted Association, Incorporated," to the Committee on the Judiciary.

S. 2307. An act to provide authorization of appropriations for activities of the United States Travel and Tourism Administation;

to the Committee on Energy and Commerce.

S.J. Res. 355. Joint resolution to designate August 1986 as "Cajun Music Month"; to the Committee Post Office and Civil Service.

S.J. Res. 371. Joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day"; to the Committees on Post Office and Civil Service and Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolution of the House of the following tities, which were thereupon signed by the Speaker:

H.R. 1406. An act to authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988;

H.R. 2991. An act for the relief of Betsy L. Randall; and

H.J. Res. 623. Joint resolution to authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On July 23, 1986:

H.R. 4985. An act to authorize the distribution within the United States of the USIA film entitled "The March";

H.R. 4409. An act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes; and

H.J. Res. 672. An act to ratify the February 1, 1986, sequestration order of the President for fiscal year 1986 issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

On July 25, 1986:

H.R. 3511. An act to amend title 18, United States Code, with respect to certain bribery and related offenses.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 29, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3949. A letter from the Secretary of the Interior, transmitting certification that the Tehama-Colusa, Sacramento River division, Central Valley project, California, has had an adequate soil survey, land classification has been made and that the lands to be irrigated are susceptible to agricultural production by irrigation, pursuant to 43 U.S.C. 390a; to the Committee on Appropriations.

3950. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications); transmitting notification that the Air Force plans to study the T-38 tactical training aircraft maintenance, Holloman Air Force Base, NM, for conversion to private contractor performance, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

3951. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during May and June 1986 to Communist countries, pursuant to 12 U.S.C. 635(b)(2); to the Committee on Banking, Finance and Urban Affairs.

3952. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the annual report of the Corporation for 1985, pursuant to Public Law 95-557, section 607(a); to the Committee on Banking, Finance and Urban Affairs.

3953. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent of issue a commercial export license for the sale of two F-5E aircraft to the Government of Singapore, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3954. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license for the sale of five AN/FPS-117(K) radars and support equipment to the Republic of Korea, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3955. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by James E. Nolan, Jr., of Maryland, Director of the Office of Foreign Missions, Ambassador-designate, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3956. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during the month of June 1986, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3957. A letter from the Assistant Comptroller-Insurance, Departments of the Army and Air Force, transmitting the retirement annuity plan for employees of the Army and Air Force Exchange Service and supplement deferred compensation plan for members of the Executive Management Program for calendar year 1985, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3958. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3959. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3960. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3961. A letter from the Secretary of the Interior, transmitting a copy of the proposed settlement agreement regarding Westlands Water District versus United States, pursuant to Public Law 99-190, section 122 (99 Stat. 1320); to the Committee on Interior and Insular Affairs.

3962. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting the report and financial audit for the calendar year 1985, pursuant to Public Law 88-372, section 15(b); to the Committee on the Judiciary.

3963. A letter from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting a report on the allocation among foreign nations of the total allowable level of foreign fishing permitted under the Fishery Conservation and Management Act of 1976, for 1985, pursuant to 16 U.S.C. 1821(f); to the Committee on Merchant Marine and Fisheries.

3964. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army on Raritan River basin, New Jersey, together with other pertinent reports; to the Committee on Public Works and Transportation.

3965. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification of the decision to convert to private contractor performance the commissary shelf stocking function at Hickam Air Force Base, HI, which is the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly to the Committees on Armed Services and Appropriations.

3966. A letter from the Secretary of Energy, transmitting the final rule under which the United States offers toll enrichment services to electric utility customers situated in this country and abroad, pursuant to 22 U.S.C. 2201(v); jointly to the Committees on Interior and Insular Affairs and Energy and Commerce.

3967. A letter from the Secretary of Health and Human Services, transmitting annual reports on Medicare, the Medigap Voluntary Certification Program, and the End Stage Renal Disease Program, for 1983, pursuant to SSA, section 1875(b), 1881(g) and 1882(f)(2); jointly to the Committees on Ways and Means and Energy and Commerce.

3968. A letter from the Secretary of Agriculture, transmitting the annual report on agricultural trade consultations with major producing countries, pursuant to 7 U.S.C. 1736r(c); jointly to the Committees on Agriculture, Foreign Affairs, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows;

[Pursuant to the order of the House on July 24, 1986, the following reports were filed on July 25, 1986]

Mr. ASPIN: Committee on Armed Services. H.R. 4428. A bill to authorize appropriations for fiscal year 1987 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; with amendments (Rep. 99-718). Referred to the Committee of the Whole House on the State of the Union.

Ms. OAKAR: Committee on Post Office and Civil Service. H.R. 4354. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes; with an amendment (Rep. 99-617, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 28, 1986]

Ms. OAKAR: Committee on Post Office and Civil Service. H.R. 4759. A bill to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes; with amendments (Rep. 99-690, Pt. II). Ordered to be printed.

Mr. ASPIN: Committee on Armed Services. H.R. 4759. A bill to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes; without amendment (Rept. 99-690, Pt. III). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. H.R. 4926. A bill to authorize appropriations to the Department of Energy for civilian energy programs for fiscal year 1987; with amendments (Rept. 99-719, Pt. I). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. H.R. 4925. A bill to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1987; with amendments (Rept. 99-720). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX (for himself, and Mrs. BOGGS):

H.R. 5262. A bill to establish the Bayou Sauvage Urban National Wildlife Refuge in the State of Louisiana; to the Committee on Merchant Marine and Fisheries.

By Mr. LOWERY of California:

H.R. 5263. A bill to provide reimbursement to localities for costs of emergency hospital services furnished to illegal aliens and certain Cuban nationals; to the Committee on the Judiciary.

By Mr. McMILLAN:

H.R. 5264. A bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue medicare coverage at their own expense; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. VANDER JAGT:

H.J. Res. 687. Joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment thereto; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

432. By the SPEAKER: Memorial of the Legislature of the State of California, relative to rental assistance; to the Committee on Banking, Finance and Urban Affairs.

433. Also, Memorial of the Legislature of the State of California, relative to the federal census; to the Committee on Post Office and Civil Service.

434. Also, Memorial of the Legislature of the State of Louisiana, relative to sanctions against the Republic of South Africa; and the status of the Mississippi River and tributaries project; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 585: Mr. DURBIN.

H.R. 1840: Mr. DANIEL and Mr. CHAPPELL.

H.R. 3643: Mr. CRANE.

H.R. 4057: Mr. DASCHLE, Mr. HOPKINS, and Mr. TAUKE.

H.R. 4155: Mr. KILDEE, Mr. SUNIA, Ms. MIKULSKI, Mr. LEHMAN of Florida, Mr. RODINO, Mr. DWYER of New Jersey, Mr. DIOGUARDI, Mr. FASCELL, Mr. COUGHLIN, and Mr. BILIRAKIS.

H.R. 4287: Mr. NEAL, Ms. SNOWE, Mr. BARNES, Mrs. BOXER, Mr. TORRICELLI, Mr. FLORIO, and Mr. STUDDS.

H.R. 4300: Mr. UDALL, Mr. FORD of Tennessee, Mr. COYNE, Mr. MAVROULES, Mr. ROYBAL, and Mr. STUDDS.

H.R. 4344: Mr. PERKINS and Mr. SOLOMON.

H.R. 4488: Mr. ATKINS, Mr. HORTON, Mr. LEHMAN of Florida, Mr. MILLER of Washington, Mr. GIBBONS, Mr. GOODLING, Mr. BOEHLERT, Mr. BIAGGI, Mr. TORRICELLI, Mr. BONKER, and Mr. AKAKA.

H.R. 4633: Mr. BILIRAKIS, Mr. TRAXLER, Mr. BENNETT, Mr. SPENCE, Mr. CARR, Mr. MURTHA, Mr. RICHARDSON, Mrs. SCHNEIDER, Mr. CROCKETT, Mrs. JOHNSON, and Mr. BATEMAN.

H.R. 4690: Mr. BONIOR of Michigan.

H.R. 4796: Mr. NIELSON of Utah.

H.R. 4899: Mr. FRANK.

H.R. 5157: Mr. FEIGHAN.

H.J. Res. 10: Mr. EMERSON, Mr. MANTON, Mr. RUSSO, Mr. SMITH of New Hampshire, Mr. STAGGERS, Mr. TRAXLER, and Mr. YOUNG of Florida.

H.J. Res. 49: Mr. MOORHEAD.

H.J. Res. 379: Mr. OBERSTAR, Mr. QUILLEN, Mr. BLILEY, Mr. NELSON of Florida, Mr. STALLINGS, and Mr. RALPH M. HALL.

H.J. Res. 594: Mr. BURTON of Indiana.

H.J. Res. 663: Mr. MARLENEE.

H.J. Res. 667: Mr. BATES, Mr. FISH, Mr. AKAKA, Mr. MATSUI, Ms. KAPTUR, Mr. BUSTAMANTE, Mr. DARDEN, Mr. RANGEL, Mr. KINDNESS, Mr. MONSON, Mr. SMITH of Florida, Mr. REID, Mr. BONIOR of Michigan, Mr. HUGHES, and Mr. SMITH of New Jersey.

H.J. Res. 670: Mrs. BOXER, Mr. DE LA GARZA, Mr. GRAY of Pennsylvania, Mr. VALENTINE, Mr. SMITH of Florida, Mr. SAVAGE, Mr. DYSON, Mr. MANTON, Mr. NIELSON of Utah, Mr. CROCKETT, Mr. BARNES, Mr. WOLF, Mr. CLAY, Mr. WAXMAN, Mr. FEIGHAN, Mr. ROE, Mr. YOUNG of Missouri, and Mr. SAXTON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

432. By the SPEAKER: Petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to the strategic defense initiative; to the Committee on Armed Services.

433. Also, petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to medical nuclear preparedness; to the Committee on Energy and Commerce.

434. Also, petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to repeal of the war powers resolution; to the Committee on Foreign Affairs.

435. Also, petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to birth certificates; to the Committee on Government Operations.

436. Also, petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to the designation of the graves of Revolutionary War veterans as national historical sites; to the Committee on Interior and Insular Affairs.

437. Also, petition of the Township Committee, Township of Little Egg Harbor, NJ, relative to the licensing of recreational salt water sports fishermen; to the Committee on Merchant Marine and Fisheries.

438. Also, petition of the National Society of the Sons of the American Revolution, Louisville, KY, relative to the "Star Spangled Banner"; to the Committee on Post Office and Civil Service.

439. Also, petition of the Independent Taxi Operators Association, Boston, MA, relative to the Federal-aid Highway Program; to the Committee on Public Works and Transportation.

440. Also, petition of the American Association for the Advancement of Science, Washington, DC, relative to the Gramm-Rudman-Hollings deficit targets; to the Committee on Science and Technology.

441. Also, petition of the Common Council, City of La Crosse, WI, relative to certain provisions of the tax reform bill, H.R. 3838; to the Committee on Ways and Means.

SENATE—*Monday, July 28, 1986*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

** * * let us love one another: for love is of God; and everyone that loveth is born of God and knoweth God. He that loveth not knoweth not God; for God is love.*—I John 4:7-8.

Father God, whose love is unconditional, universal, infinite, and eternal we thank You for loving us. Thank You for love which is unequivocal, certain, and dependable. Help us to comprehend the profound reality that there is nothing we can do to make You love us more than You do—and there is nothing we can do to make You love us less than You do. Thank You for the perfect peace, perfect acceptance, perfect security we enjoy in Your love. Forgive us, patient Father, for our indifference to Your love—our rejection—our failure to reciprocate. Help us to love You and one another and, in so doing, fulfill the royal law—for the honor of Your name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator THURMOND, the President pro tempore.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. Then we will have special orders for Senators PRESSLER, PROXMIRE, and LEVIN for not to exceed 5 minutes each.

Then there will be routine morning business, not to extend beyond 1 o'clock.

After that, we will resume consideration of House Joint Resolution 668, the debt limit extension.

We also may be asked to turn to the consideration of TV in the Senate, pursuant to the provisions of Senate Resolution 28, in order to use up some of the 12 hours of debate allotted to the resolution, if it is going to take 12 hours. In visiting with Senators MATHIAS and FORD, I think their recommendation is that the Rules Committee will not take much time. So, obviously, we can use the time or yield it back. I hope we will not take 12 hours.

This is Monday, July 28, and it is still our intention to meet the August 15 recess deadline, as previously announced. I do not know how to state it—I do not want to appear to be threatening—but we do have a lot of work to do, to say it as honestly as I can. There is a lot of work to do, and many Members have amendments to the debt ceiling bill. We hear that there may be an amendment with respect to South Africa; there will be Contra aid; maybe a SALT resolution of some kind. All those matters would take a considerable length of time.

There is also some hope that we can work out an agreement, as I said before—sort of a tripartite agreement—involving SALT, South Africa, and Contra aid, whereby we could have a certain amount of time set aside for each of those issues. If we can do that prior to the recess, that will be fine with me.

In addition, we have the Gramm-Rudman "fix." I understand that some agreement may have been reached between Senator DOMENICI with Senators RUDMAN, GRAMM, and HOLLINGS on their amendment to the debt ceiling. If that is the case, maybe we can move more rapidly on that.

So there are a number of very critical matters we need to resolve before August 15.

Having said that, I know the phone will be ringing—"What about Friday?" I can only tell my colleagues on both sides that I expect that we will be here on Friday. We might be here on Saturday, because we have this weekend and next weekend, and we will be out the following Friday until September 8, if everything goes as planned. So I just cannot tell anyone at this time. But I want to at least hold out, not a threat, but the possibility, in the real world, that unless something starts to happen fairly soon, we could be here late several nights this week and could be here part of the weekend.

I also indicate that we have made good progress on the Executive Calendar. I think we can probably clear up all but a couple of those nominees this week.

There are two treaties dealing with Denmark. I understand that the distinguished Senator from Ohio [Mr. METZENBAUM] may have a problem with those. He was trying to reach me on Friday, and we missed each other.

We will do the best we can to accommodate Members. I know that some Members will be necessarily absent tomorrow for some time, and we can work that out with the minority leader.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, with respect to the schedule, the problem immediately, as I see it, is in the fact that we have before the Senate the debt limit extension; but we have as an amendment to that debt limit extension, or a series of amendments thereto, the proposed changes in the Gramm-Rudman legislation. Nobody can call up any other amendment to the debt limit extension unless consent can be gotten that the Gramm-Rudman amendments be set aside temporarily.

So there we are—we are stuck. Those who are the principals in working out some changes in the Gramm-Rudman legislation do not want those amendments set aside for the time being.

It seems to me that unless those amendments can be set aside temporarily, the Senate is not going to be able to consider any other amendments to the debt limit legislation until final action on those amendments is gotten. This would appear to me to preclude any other action prior to, say, Wednesday of this week at best, because tomorrow will be utilized in the debate on TV coverage of Senate debates and deliberations.

I certainly would support the distinguished majority leader in pressing for action on Fridays and Mondays now. We are within only 3 weeks of the Labor Day recess as previously scheduled, and so Mondays and Fridays cannot be excluded if the Senate is to deal with the major amendments and issues that need to be called up.

I hope that the distinguished majority leader will call up the DOD authorization bill. Senator NUNN, who is the ranking minority member on the Armed Services Committee, is ready to proceed to debate that measure and actually is urging that the measure be called up.

I believe that if we cannot get action soon on the Gramm-Rudman legislation, at least the Senate could begin its debate on the DOD authorization if the distinguished majority leader would see fit to bring up that legislation because it does need to be dealt with. It needs to be dealt with prior to the action on the military construction appropriation bill, and it seems to me that if the Senate is going to be stymied on the Gramm-Rudman amendment to limit legislation, at least we could be spending our time well in debating the DOD authorization bill, and I would hope that the distinguished majority leader would

give some consideration to scheduling that bill soon.

Barring that, I would hope that the distinguished majority leader would see if something could be done to set aside the Gramm-Rudman roadblock so that Senators can call up other amendments to the debt limit legislation.

I thank the distinguished majority leader for considering these suggestions.

Mr. DOLE. I thank the distinguished minority leader and I think so far there has not been much holding up. I do not disagree with what the minority leader has just indicated.

If they cannot resolve this Gramm-Rudman matter, then I am going to make an effort to set it aside and go on to something else.

As I understand, we announced there would be no votes today. Either today or tomorrow we will discuss TV in the Senate. So they are really not holding up anything right now.

I understand that Senators CHILES and DOMENICI will be talking, and they may be able to reach some agreement.

So we are making a little progress, perhaps we did lose about a day, we do not want to lose any more. I hope we might speed them up.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

(Mr. GRASSLEY assumed the chair.)

RELEASE OF THE REVEREND LAWRENCE MARTIN JENCO

Mr. DOLE. Mr. President, today is a day of thanksgiving for the family and friends of Rev. Lawrence Martin Jenco, who was released this weekend after 19 months of captivity in Lebanon.

We join the Jenco family in their joy and relief over the safe return of Father Jenco. From current reports, it appears the reverend is in fairly good shape—enjoying his reunion with loved ones in Weisbaden, West Germany.

But at the same time we rejoice in Father Jenco's release, we must remember the plight of the four remaining American hostages taken by the Moslem extremist group, the Islamic Jihad; William Buckley, Terry A. Anderson; David P. Jacobsen; and Thomas M. Sutherland. In addition to these Americans, the Islamic Jihad is holding six Frenchmen, two Britons, an Irishman, and an Italian hostage.

According to this morning's press reports, Father Jenco was kept in chains, in solitary confinement for 6 months. This inhumane treatment of innocent individuals, caught up in an external situation which they had no role in, is reprehensible. They should all be released immediately. There is no excuse, no rationale for their continued detention. And we can only hope that the freeing of Father Jenco is the signal for the imminent return of all the hostages now being held in Lebanon.

Mr. President, I also want to join President Reagan in acknowledging the help of the Syrian Government in the safe transport of Father Jenco to American authorities in Damascus. And I urge that the Syrian Government use all its good offices to help with the release of the remaining hostages.

THE RETURN OF COMRADE ORTEGA

ORTEGA IN NEW YORK

Mr. DOLE. Mr. President, once again the head of the Sandinista regime in Nicaragua, Daniel Ortega, is visiting our shores, to use the platform of the United Nations to attack our country, and our policy in Central America. And, as usual, he is here to make certain he gets plenty of air time to make the Sandinista case to the U.S. public.

Unfortunately for Mr. Ortega, the reality in Nicaragua speaks much louder, and more eloquently, than he does. And the reality is that the Sandinistas are in the process of constructing a totalitarian, Marxist system; that they will try to crush any political force and anyone that stands in their way; and, meanwhile, that the economy of the country is in near collapse.

THE SORRY RECORD

What has happened in Nicaragua since Ortega's last visit to New York? The economy has virtually collapsed, leaving the vast majority of Nicaraguans mired in misery, and leaving the country dependent on Soviet handouts. The Sandinistas have scuttled the most recent and hopeful round of talks in the Contadora process, confounding their sympathizers in this country.

They have invaded Honduras, happily without achieving any of the goals of that military operation. They have accelerated their military buildup in Nicaragua, and the Soviet presence there continues to grow and grow—Soviet pilots now fly aerial reconnaissance missions around the country. And the Sandinistas have launched yet another harsh crackdown on the internal democratic opposition: La Prensa, the last free voice in Nicaragua, has been shut down, and Bishop Vega has been exiled, for the crime of speaking out on behalf of liberty.

And I might say, as an aside here, that the U.S. media would get a lot more realistic idea of Daniel Ortega's feelings about religion and Christianity by talking to Bishop Vega, than by following Ortega around to his carefully constructed "photo ops" at Sunday services in New York.

In short, the Sandinistas have abandoned their own revolution, suppressed their own people and are in the process of irretrievably wrecking their own country. That is the real record—and that ought to be the real issue—in Nicaragua.

SANDINISTAS HELLBENT ON AGGRESSION AND SUPPRESSION

We have given the Sandinistas every chance to do what they ought to do—to live up to their own promises—in their country, and in the region. They have turned a "deaf ear"—to us, to the OAS, to the Contadora process, and to the pleas of their own people. They remain hellbent on the course of aggression and suppression, and have arrogantly boasted that nothing will turn them around.

CONTRA AID BARRIER TO SANDINISTA PLANS

Well, there is one way that they can be stopped—by providing assistance to those Nicaraguan elements who remain true to the "Sandino-inspired" revolution; who remain willing to fight and die for freedom; who remain determined to win their country back from Moscow's control, and Ortega's policies.

I do not know if Ortega paid much attention to the sermon he heard in New York, but I do know that we in the Senate will soon have the opportunity to send him a message he cannot ignore. We will vote I hope and I hope very soon on providing assistance to the Contras. And I am confident that we will vote, as we have before, to provide that assistance. I hope we will have that opportunity.

Ortega and his Marxist cronies are a determined bunch. But we are determined, too. Determined to give Nicaragua a new chance for eventual peace, for real democracy, for the hope of economic and social progress.

Mr. President, I would again urge my colleagues to reach some agreement. There has been some threat or at least talk of a filibuster. I hope that is not the case. This is an issue the Senate decided favorably earlier this year. It would seem to me it is another matter that should be taken up and decided in the affirmative again.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, we will now recognize the Democratic leader.

THE RELEASE OF FATHER JENCO

Mr. BYRD. Mr. President, I associate myself with the remarks of the distinguished leader anent the release of Father Jenco, and also I wish to share the hope that the other hostages will be released soon.

MEDICAL AND LIFE INSURANCE BENEFITS FOR RETIREES

Mr. BYRD. Mr. President, before the distinguished majority leader leaves the floor, I wonder if he would consider having the second reading of S. 2690 which is on the Calendar of Bills and Joint Resolutions, read the first time so that the objection can be made to further proceeding, and that measure can then go on the calendar without our having to wait until the close of morning business.

Mr. DOLE. We can do that.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 2690), to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

EXTENSION OF RECONCILIATION DEADLINE—CORRECTION

Mr. DOLE. Mr. President, will the minority leader yield just for one brief reconciliation deadline correction?

Mr. BYRD. Yes.

Mr. DOLE. Mr. President, the CONGRESSIONAL RECORD for last Friday shows the extended deadline for committees to submit reconciliation language to the Budget Committee as Thursday, July 29, 1986. The day should be Tuesday, July 29, 1986. I therefore ask unanimous consent that Senate committees have until 6 p.m. Tuesday, July 29, 1986, to submit their recommendations to the Senate Budget Committee pursuant to section 2 of Senate Concurrent Resolution 120.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the minority leader.

Mr. BYRD. Mr. President, I thank the able majority leader.

W. AVERELL HARRIMAN, 1891–1986

Mr. BYRD. Mr. President, history's spotlight is selective, and falls customarily on the heads of the crowned and anointed. But in an exclusive arena, few men in any age have played as prominent a role in so many historic dramas as did W. Averell Harriman.

High-born but not to the purple, Governor Harriman was the son of railroad tycoon and financier E.H. Harriman. As the heir to one of America's great industrial entrepreneurs, Governor Harriman was reared in privilege and afforded the best formal education available at Groton and Yale.

Following graduation from college, Averell Harriman became a vice president of the Union Pacific Railroad and founded his own banking firm. He appeared destined to continue the course chartered by his father. By 1931, Averell Harriman was already a partner in the newly merged firm of Brown Bros., Harriman, as well as being chairman of the board of the Union Pacific Railroad. For most men, such achievements would have been unsurpassable career pinnacles.

But Averell Harriman was customed from his own pattern, and his potential outstripped the confines of Wall Street.

An active Democrat since 1928, Harriman served under President Franklin Roosevelt as an administrator in the National Recovery Administration and as a member and then Chairman of the U.S. Department of Commerce's Business Advisory Council in the midthirties. Then in the spring of 1941, President Roosevelt sent Mr. Harriman to England to expedite the Lend-Lease Program to Britain. There, Averell Harriman developed a good working relationship with Prime Minister Winston Churchill, and he undertook important missions to Moscow with Lord Beaverbrook in 1941 and with Churchill himself in 1942.

In October 1943, President Roosevelt appointed Mr. Harriman to be U.S. Ambassador to the Soviet Union, and he remained in that position into 1946. As Ambassador to our wartime Soviet allies, Averell Harriman was present at the important conferences at Quebec, Cairo, Teheran, Yalta, San Francisco, and Potsdam. Ever the circumspect diplomat, he was nonetheless a realist, advising Presidents Roosevelt and Truman to keep a correct posture vis-a-vis the Soviets, while warning against overly optimistic postwar hopes for Eastern Europe, and counseling a firm and unsentimental attitude toward the Soviet Union at the bargaining table.

In March 1946, President Truman returned Mr. Harriman to the Court of St. James, but in October of that year called him back to Washington as his Secretary of Commerce. In 1948, President Truman sent him again across the Atlantic as his special representative to coordinate the European Recovery Program. Subsequently, Averell Harriman served President Truman in other capacities until January 1953.

Though twice an unsuccessful candidate for the Democratic Party's Presidential nomination, Averell Harriman served in an elected office, winning the New York Governorship in 1954.

The Kennedy-Johnson years found Governor Harriman again in the international field, serving variously as an Ambassador-at-Large, an Assistant Secretary of State for Far Eastern Affairs, and as U.S. negotiator at the Vietnam Peace Conference in Paris.

Certainly, Averell Harriman was a public servant without peer, and all Americans owe him a irredeemable debt of gratitude for the outstanding contributions that he made throughout an incomparable career.

I know also that all of our colleagues and millions of Americans join me in extending to Mrs. Harriman and to other members of Governor Harriman's family our sincerest regrets at the loss that they have suffered in the passing of this unquestionably great American. May Governor Harriman's loved ones and friends be assured that he will ever be remembered in the pages of American history and revered in the hearts of the American people.

WILLIAM AVERELL HARRIMAN, 1891–1986

Mr. DOLE. Mr. President, on Saturday one of this century's major figures in American foreign policy passed away at his home in Yorktown Heights, NY.

When William Averell Harriman died this weekend at 94 years of age, we were all reminded of just how long this distinguished American had served our country. During war and peace, he was an Ambassador, a Cabinet Secretary, a Governor, a special envoy and an arms control negotiator to name just a few of the important positions he held during his decades of public service. Even at 91, duty called and so Ambassador Harriman traveled to Moscow in 1983 to meet with Soviet leader Yuri Andropov.

This unselfish devotion says much about the man who could have chosen a far easier way to earn a living. After all, his family fortune made it such that he would never have to worry about income. But his country's call meant more to him than the life of ease that could have been his.

Mr. President, while Ambassador Harriman and I certainly didn't see eye-to-eye on every issue, this Senator would like to pay his respects to a remarkable man who dedicated his life to public service. I am certain my colleagues will join me in expressing the sympathies of this body to the Harriman family as we remember William Averell Harriman.

AFGHANISTAN—SOVIET WITHDRAWAL

Mr. BYRD. Mr. President, the Soviet Union has announced its intention to withdraw some 5,000 Soviet troops from Afghanistan. As is often the case with Soviet policy toward that sad country, this seems part of the continuing effort to get the big-

gest public relations return on the smallest possible gesture.

Soviet troop rotations occur all the time, so this announcement is hardly newsworthy. There are between 120,000 and 150,000 Soviet soldiers in Afghanistan or close to the Afghan border. The removal of 5,000 troops is insignificant when up to 30 times that number are engaged in the systematic destruction of the Afghan people—men, women, and children.

If the Soviet Union is really serious about getting out of Afghanistan, it should present a plan for prompt withdrawal at the U.N.-sponsored negotiations meetings that will resume on July 30, 1986.

When I led a senatorial delegation to Moscow last September, we told General Secretary Gorbachev when we met with him that inasmuch as he has the power to end the war in Afghanistan, all he needs to do, Mr. President, is to remove Soviet troops. Not 5,000, not 50,000—but all Soviet forces. I am hopeful that we and the rest of the world will awaken to that story someday in the future, but I am sorry to say that I am not too sanguine that we will be awakening to such a story.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining on his time.

Mr. BYRD. I thank the Chair.

LOCKHEED'S POSSIBLE MISMANAGEMENT OF CLASSIFIED DOCUMENTS

Mr. BYRD. Mr. President, last Friday's Washington Post contained a disturbing article concerning what appears to be gross mismanagement on the part of the Lockheed Corp. in its handling of classified defense documents. The Lockheed Corp. is unable to account for at least 11 top secret documents which reportedly deal with the Air Force F-19 Stealth fighter. This information comes within weeks of the appearance in hobby stores across the Nation of a model of just such an airplane. This model is partially based on drawings which appeared in an aeronautical magazine entitled "Flug Review" which is published in Stuttgart, West Germany.

The model is manufactured in Italy for the Testor Model Co. of Rockford, IL. The model manufacturer maintains that all of its source material was obtained from open sources. The question I have, however, is what relation, if any, there is between the still unaccounted for Lockheed documents and both the drawings which appeared in the West German publication and the aircraft specifications which are contained in the kit's directions. Let me repeat that Mr. President—the aircraft's specifications are included in the model's directions! Are these specifications merely informed speculation or do they really reflect an existing top secret aircraft!

On July 11, an Air Force plane crashed in a mountainous area of California, tragically killing its pilot, Maj. Ross E. Mulhare. The crash site was immediately cordoned off, declared a national security area and civilian overflights were prohibited. The crash ignited a brush fire which took firefighters 16 hours to extinguish. The firefighters were not allowed near the immediate crash site and they were required to sign forms agreeing not to discuss what they had seen at the site. There has been a great deal of speculation in the press that the plane that crashed was indeed an F-19 Stealth fighter. It seems tragically ironic that while all this elaborate security was involved at the crash site, a model which may reflect the actual aircraft is on sale in hobby stores across the country.

Investigations into Lockheed's possible mismanagement of classified documents are now being conducted by the Pentagon, the General Accounting Office, and the House Energy and Commerce Committee's Subcommittee on Oversight and Investigation. I believe that at the very least the Senate Armed Services Committee and possibly the Senate Intelligence Committee should look into whether there is any relation between the Testor Co.'s source material and Lockheed Corp.'s missing classified documents.

Mr. President, I ask unanimous consent that an article from the Washington Post of July 26, entitled "Stealth's Appearance in Toy Stores Is Not Kid-stuff, Lawmakers Say," be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 26, 1986]

STEALTH'S APPEARANCE IN TOY STORES IS NOT KID'S STUFF, LAWMAKERS SAY

(By Michael Isikoff)

Attention all foreign spies. If you want to know what the Air Force's supersecret Stealth fighter jet looks like, try your local toy store.

A model of the F-19 Stealth—an aircraft so sensitive the Pentagon will not even say it exists—is available for $9.95 at toy stores across the country. And according to its manufacturer, Testor Corp. of Rockford, IL, it's quickly become the hottest selling model in the country, raising new questions on Capitol Hill about the rigid secrecy surrounding the supposedly "invisible" aircraft.

"It's bizzare," says Rep. Ron Wyden (D-Ore.), who held up a copy of the Stealth model during a House subcommittee on oversight and investigations hearing this week. "What I, as a member of Congress, am not even allowed to see is now ending up in model packages."

The secrecy of Stealth got fresh scrutiny at the hearing when the aircraft's builder, Lockheed Corp., acknowledged that it cannot locate more than 1,000 classified documents relating to the program. Subcommittee members were incensed at the potential security breach; they say it shows that so much information about Stealth already has come out that Pentagon's nontalk policy no longer makes sense.

"As far as the security system on this goes, it's like the old Gertrude Stein quote—'there's no there, there,'" Wyden said yesterday. "The fact is [the Stealth security system] is absurdly easy to penetrate."

The Stealth model drives home the point, he said.

Since the model first hit the market at the end of June, sales have been booming. About 100,000 Stealth kits have been ordered by toy stores already—three times more than a typical new model plane.

"You've got a little bit of mystery about it—and that makes it exciting," said Steve Kass, Testor's national field sales manager. "In terms of units sold, this will be the number one selling kit this year."

But Kass said the model gives away no secrets that haven't already been published in a flood of trade press stories. Stealth aircraft are designed to escape detection by enemy radar. But the model doesn't reveal the aircraft's insides, which, according to Kass, is where the real Stealth secrets are.

Moreover, he added, none of the missing Lockheed documents were used in designing the model.

"We're all patriotic, loyal citizens here," Kass said. "Everything we got, you can get out of any library."

According to some experts, that is quite a bit. Bill Sweetman, author of a book on Stealth aircraft, says the model "in size and proportion and quite possibly in overall plan . . . is pretty accurate."

The model also contains a number of details about Stealth technology that the Defense Department never has publicly discussed.

On the side of the model's box is an "F-19 Stealth Fighter Profile." It states that real Stealth jets "operate from remote, top-secret airbases," use laser technology to guide Maverick missiles, and include folding outer wing panels so they can be transported inside Lockheed C-5 Galaxy airplanes.

When asked to comment about the model yesterday, Pentagon spokeswoman Jan Bodanyi refused. "I have nothing to say about this alleged Stealth fighter," she said. "I can't even say there is such a thing."

Mr. BYRD. Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for a period not to exceed 5 minutes.

Mr. PROXMIRE. Thank you, Mr. President.

NO, WASHINGTON POST, IT WAS NOT A GOOD MONTH FOR ARMS CONTROL

Mr. PROXMIRE. Mr. President, the Nation is blessed with a vigorous, intelligent, critical press. It is specially blessed with the presence here in the Capital of an extraordinarily fine newspaper, the Washington Post. A

Washington newspaper has a particularly emphatic influence on the Nation's policies in any event. Those of us who are elected to serve our country here in Washington derive much of our news from the Washington media, just because it is conveniently available. Those of us who serve in the Senate, of course, owe our first allegiance to our home State. But the local Washington press covers the news of what is going on in the town where we, perforce, as a matter of duty, spend more than half our time. So both its location and its general excellence give it a strong and sometimes a decisive influence.

I say all this, Mr. President, because on Wednesday, July 23, the Post carried an editorial with which this Senator must virgorously disagree. The editorial was headlined: "A Good Month for Arms Control." The thrust of the editorial is that the arms control deal "coming into view would involve deep cuts in offensive arms and agreed restraints on the development and deployment of defensive arms." And why is such a deal possible? Because, argued the Post President Reagan "unveiled his plan for a missile defense in space."

Now, come on, fellas, that "missile defense in space" proposal by President Reagan constitutes a direct attack on the Anti-Ballistic Missile arms control treaty. The ABM treaty was ratified 89 to 2 by the Senate. It had a single, simple purpose: To stop any attempt to deploy a comprehensive shield against offensive arms. Those of us who voted to ratify that treaty considered it a vital step toward nuclear peace. Why? Because a star wars defense would, if successful, destroy the credibility of the adversary's deterrent. So what would be the reaction of the adversary? The adversary would go all-out to build an offensive arsenal that could overwhelm, spook, evade, underfly, deceive, or somehow penetrate the star wars defense. Virtually any technological advances that might improve the star wars defense such as super lasers or sensors could be readily used by the adversary to overcome star wars.

Star wars has only three handicaps: First, it will not work; second, it would cost $1 trillion, and third, a paranoid misapprehension by the adversary that it might work would kick off an immense buildup in offensive arms to overcome it.

Now comes an administration with a perfect 100-percent record of opposing any and all arms control treaties. It has done this at a time when Marshall Shulman, the head of Advanced Institute for the Study of the Soviet Union at Columbia University, says that in the 40 years he has been studying the Soviet Union, he has never seen a time when the Soviets are more willing to negotiate an end to the arms race. But in more than 5 years, the administration has made no progress in negotiating even the hint of the treaty. It is worse—much worse. The administration has gutted every arms control treaty painstakingly negotiated by past administrations. Just look at the score. It has renounced the solemn and explicit promise embodied in two treaties signed by U.S. Presidents, one of which has been ratified. Both of those treaties promised to negotiate a comprehensive test ban treaty.

So how about it? Will the administration try to negotiate such a treaty? "No way," says the administration. Here is an administration that has made its No. 1 military priority a star wars system that would expressly repudiate the anti-ballistic-missile arms control treaty. It has pronounced SALT II dead and cold in its grave. So what significant arms control treaty is left? Answer: Nothing.

And yet the Washington Post calls this month a good month for arms control. Why is it good? Oh, sure, the President has toned down his rhetoric about the evil empire. He has said the Soviets are serious about arms control. He has had his negotiating team at Geneva for more than a year and a half. He has announced that he is for arms control just as he has announced that he is against apartheid in South Africa. But on arms control, as on South Africa, the administration has been free with the rhetoric and the procedure. But they have struck out, and they have not budged an inch on the substance.

The Post reports that Secretary Weinberger is lamenting the possibility the administration may trade a star wars delay for an offensive nuclear missile reduction. Maybe, just maybe a deal may purport to stall star wars. So it will not advance beyond laboratory research for 5 or 7 years. What kind of deal is that?

Mr. President, there is every reason to believe that with budget restraints what they are and star wars showing such feeble promise, Congress will not fund star wars research at a rate that could possibly advance star wars beyond the research stage in less than 7 years, with or without an agreement with the Soviets. And what is the reported proposal that is said to give Mr. Weinberger such fits, and advance arms control so impressively? It is a 5- to 7-year proposed delay in any star wars advance beyond the research laboratories. If the Soviets buy this proposal, it will mean they have wised up on the emptiness of the star wars threat. It will mean the Soviets are willing to reduce their offensive nuclear arsenal because they know it is excessive in a world in which star wars will fail.

This is a transparent minuet. Star wars will not get out of the laboratory in 7 years in any event, agreement or no agreement. The Soviets know it. But to argue as the Post has that this is a good month for arms control in view of the arms control wreckage left in the wake of the first 5½ years of this administration is like hailing the resurrection of the *Titanic* 70 years after it sank, as a successful rescue.

A TRIBUTE TO A BRILLIANT CONGRESSMAN, DAVID OBEY OF WISCONSIN

Mr. PROXMIRE. Mr. President, in an article in the Sunday, July 27, Washington Post, Richard Bolling pays tribute to a Wisconsin Member of the House of Representatives that this Senator cannot ignore. Richard Bolling served for 34 years in the House. No Member of the House was more widely respected than Dick Bolling for his intelligence and his blunt, tell-it-like-it-is honesty. The Post article provides Dick Bolling's advice on how not to run for Speaker. Bolling was a leading candidate for Speaker of the House in 1977. Here is what Bolling writes about DAVID OBEY. OBEY is the Representative in the House of Seventh District of Wisconsin—that is most of northern Wisconsin. Now listen to Bolling:

> The finest legislator on the Democratic side of the House, in integrity, long experience, intuition and knowledge, is Dave Obey of Wisconsin. Many members say he cannot be elected to the House leadership because of his temper or his temperament. I don't believe this because every now and then the majority of Democrats break their pattern and support the best legislator they have available. They did with Rayburn, I suppose to their continuing amazement.

Mr. President, I bring this vignette from the typewriter of Richard Bolling to the attention of my colleagues here in the Senate because it is true. This is not just provincial hype. Former Congressman Bolling came not from Wisconsin, but from Missouri.

MYTH OF THE DAY: ENVIRONMENTAL PROTECTION LAWS HARM PRODUCTIVITY AND REDUCE EMPLOYMENT

Mr. PROXMIRE. Mr. President, one of the most persistent myths about America's environmental laws is that they act as a brake on our economy, eliminating jobs and decreasing productivity.

Aside from their obvious benefits for public health and the quality of life, environmental laws have other, less noticed side effects.

According to a recent study by Management Information Services [MISI], a Washington, DC, consulting firm, over the past 15 years annual spending by the pollution abatement and control industry grew from $18 billion to almost $70 billion. In just 1 year, 1985,

this industry invested $8.5 billion and created 167,000 new jobs.

MISI based its study on Department of Commerce and trade association data. According to the report, entitled "Economic and Employment Benefits of Investments in Environmental Protection," "whether they realize it or not, many workers would be umemployed today were it not for investments in the pollution abatement and control business."

The companies created ranged from manufacturers of smokestack emission control equipment to laboratories which test for chemical contamination.

As for productivity, regulations which forbid companies from discharging liquid and solid waste often result in the installation of new, more productive processes. Instead of being discharged, pollutants become valuable resources which get recycled, saving on input costs.

Other industries such as breweries depend on clean water or air for their processes and locate in regions where they are abundant. Tourism, too, depends on a healthy environment for its survival.

This is one myth that deserves debunking.

Mr. President, I suggest the absence of a quorum.

I withhold that, Mr. President. I yield the floor.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan, Mr. LEVIN, is recognized for a period not to exceed 5 minutes.

Mr. LEVIN. Mr. President, I thank the Chair and I thank my friend from Wisconsin.

TIMETABLE ON THE TAX BILL

Mr. LEVIN. Mr. President, we all know that once the conventional wisdom is established, it resists change. So it is not surprising that, despite growing signs to the contrary, some people still predict that somehow the conference committee on the tax bill will reach agreement and, when that happens, the Congress can pass it—all before August 15—and, as that prediction goes, the President will sign it by Labor Day.

Now, Mr. President, that just should not happen. In pragmatic terms, the conference committee, while working quickly, is not about to reach a hasty decision. The bills before it are both profound and complex. As the events over the weekend suggest, producing a consistent and coherent piece of legislation will not be easy. If an agreement is reached in August, it probably will not be reached much before the 15th. Senator DOLE has implicitly recognized that—while he still allows for the consideration of the conference report, it no longer is highlighted as a piece of legislation which must be passed before the August recess.

That, I think, does more than recognize what reality is. In my book, it recognizes what reality ought to be. The plain truth is that even if we could, we should not consider this conference report until after we return from the recess.

□ 1240

There are two reasons to wait. The first is a traditional and valid concern: Both the Congress and the country will need some time to study the details of the report. Even a month and a half after the Senate bill took form, we are still discovering new items in it and debating the different implications which flow from it. We ought to take time to look at how issues like IRA's and State sales taxes and medical expenses and retroactivity and capital gains and all the rest are resolved by the conference report. And I know it will take some time to do an analysis of the conference report to determine if it involves—as the Senate bill did—possible tax increases for one-fourth to one-third of all middle-income Americans. So we need some time to study the legislation which emerges from the conference committee.

But we ought not rush to judgment for a second reason: this tax bill is being shaped in a unique economic environment. Some significant fiscal streams—spending and revenues—are flowing into a budgetary ocean right now.

In terms of the deficit, we have made an irrevocable commitment in Gramm-Rudman-Hollings: we will reduce it. We can fulfill that commitment by decreasing spending, by increasing revenues or by a combination of the two. Clearly the choice we make about how to reduce the deficit should, to a degree, be dependent on the size of the deficit. After all, it is one thing to depend on just spending restraint if you need to get $5 billion to meet your deficit goals; it is quite another thing to place the entire burden of meeting deficit goals on spending alone if you need to get $25 billion.

Well, we are about to find out just how many billions we will need to get. On August 15, a deficit snapshot will be taken. But it can take up to 15 days to be fully developed. It just makes no sense to take final action on the tax bill before the deficit picture is clear. If we do, we may find—much to our regret—that the final budgetary picture is badly out of focus.

Let me give you an example. Current rumor indicates that even under the terms of the budget we adopted and even with the reconciliation bill, we may miss the Gramm-Rudman-Hollings target by as much as $20 to $25 billion in the next fiscal year.

Twenty to twenty-five billion dollars. If we depend on a sequester order to fill that gap, every program, every project, every activity—except for specified protected programs—would have to be slashed by around 10 percent.

Few people want to see that happen. It is not a rational or just or equitable or fair or reasonable way to meet the targets we must reach. But it is what we will do—indeed it is what we should do given the massive danger the deficit poses—if we do not develop a more balanced program for meeting our deficit goals.

A balanced budget program must, of course, include a series of targeted spending cuts. But it should also restrict the degree to which we must depend on cuts by increasing revenues as well.

Neither the House nor the Senate tax reform bill makes a meaningful contribution to that goal. Neither bill looks at tax policy as a part of the budgetary process. Both deny us additional revenues because they accept, as a premise, the notion of revenue neutrality. While revenue neutrality may make some sense in terms of tax policy, it makes no sense at all if viewed from the perspective of our over-riding economic and budget needs.

Now, Mr. President, I am a realist. If a revenue neutral tax bill came before us today, it would be adopted—just as it was last month in the Senate and last year, in the House. We would adopt it even though we understand, in some intellectual way, that revenue neutrality is inconsistent with fiscal responsibility. But if we consider the tax bill at the same time that we are forced to face a $25 billion sequester order—and we probably will face such an order in September—well, then the situation may be different. It will not just be an intellectual problem. It will be an emotional and a political problem of the first order. And, as a result, we may take the opportunity to review our priorities, reexamine our options, and revisit the concept of tax reform.

In that environment we might do what we should do: impose a tough minimum tax, tighten up tax loopholes and apply most of those revenues to deficit reduction rather than using them to fund uneven tax cuts.

We would no longer be operating in a vacuum of uncertainty regarding the precise size of our deficit-reduction request. The chemistry would totally change.

And that, Mr. President, is why a conference report on the tax bill—even if it were available—should not be considered until we return in September. And that is why this Senator is encouraged by the fact that the tax

bill is no longer specifically identified by name by the majority leader in the list of legislation which "must" be considered before recess.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for a period of time not to extend beyond the hour of 1 p.m., with statements limited therein to 5 minutes each.

The Chair now recognizes the Senator from North Carolina.

MATTIE SHARPLESS: A CREDIT TO NORTH CAROLINA AND THE NATION

Mr. HELMS. Mr. President, Harry Golden wrote a book entitled, "Only in America," in which he cited many examples of how hard work, dedication and high principle can take Americans to astonishing success.

Today, let me brag a bit about Mattie Sharpless, a young black woman born in Hampstead, NC—one of 17 children who spent their early years in a small home in eastern North Carolina. Their home had no plumbing, and their mother was widowed before her children were grown.

The mother, Mrs. Lecola Sharpless, never accepted welfare—she raised those children by working hard herself, and teaching them to work.

Now, Mr. President, about Mattie Sharpless: I said that I was going to brag about Mattie. But was it Dizzy Dean who said that "braggin' ain't braggin' if you can prove it"? And I can prove it, because today, Mattie Sharpless is in Rome, at the U.S. Embassy there, following a promotion from her previous assignment in Switzerland as Agricultural Counselor at our Embassy at Bern.

Thanks to our distinguished U.S. Ambassador to Switzerland, Faith Whittlesey, I learned the details about Mattie's career. And I have a copy of the publication, "Equal Opportunity," which reviews that career. Ambassador Whittlesey states that Miss Sharpless supervises a staff of seven at the U.S. Embassy in Rome, adding that Mattie "is a superb representative of our country, patriotic, poised, warm, friendly and highly professional in every respect."

I think I have proved my bragging, Mr. President, and I ask unanimous consent that the aforementioned "Equal Opportunity" article about Mattie Sharpless be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MATTIE SHARPLESS: MAKING GOVERNMENT HER CAREER

(By Lorraine Stuart Merrill)

"I strongly believe that one should set personal goals in life," confides Mattie Sharpless, agricultural counselor to the U.S. Embassy in Bern, Switzerland.

High self-esteem and confidence while working to achieve those goals, Sharpless notes, are essential to success with this government career strategy. Sharpless has been setting goals for herself since her days as a schoolgirl in rural North Carolina.

Sharpless had always wanted to see the world. While studying business education at North Carolina College in Durham, NC, she cherished her dream of travel abroad. Awarded her bachelor's degree, she had decided that service in the Peace Corps would offer her the opportunity for both travel and service to others.

But Sharpless would not see foreign lands as a Peace Corps worker; her father had died, leaving her mother with a large family to support and educate. Her mother persuaded her that she needed to find a job that would provide a dependable income.

Taking a job as an administrative assistant with the United States Department of Agriculture's Soil Conservation Service, Sharpless moved to Washington, DC following her graduation from college. Shortly after arriving in the nation's capital, she learned of the existence of the Foreign Agriculture Service, another branch of the Department of Agriculture. Seeing her chance for travel, within six months of her arrival in Washington she had transferred to a similar clerical position with the FAS.

The FAS is an agency of the US government which is connected with both the Department of Agriculture and the Department of State. Agriculture is a vital part of the economy, for the United States, and for all the countries of the world.

FAS officers gather and analyze information on the farm policy, production, and trade of foreign countries for the American government and public. They are also responsible for communicating information on American agricultural policy, production, and trade to foreign government and agricultural leaders. High-ranking FAS officers, titled agricultural counselors and attachés, are stationed at American embassies and missions around the world.

They are diplomats, employees of the Foreign Service (Department of State) as well as the FAS, appointed to represent the US government in its relations with other nations and international organizations. Due to their diplomatic roles, agricultural counselors and attachés must be experts at dealing with people in other countries, as well as experts in economics and agriculture.

Sharpless' first foreign assignment was with the US delegation to the Kennedy Round of Multilateral Trade Negotiations in Geneva, Switzerland. A year later she was transferred to Paris, where she worked for four and one-half years in the Office of the Agricultural Attaché at the US Mission to the Organization for Economic Cooperation and Development. She had certainly achieved her goal of traveling to exciting places, but she found that this alone was not enough to satisfy her need for challenge.

"I found I was doing my bosses' work," she comments during an interview at her office at the American Embassy in Bern, overlooking the turquoise waters of the River Aare. "So I earned a master's degree in business administration and economics (from North Carolina Central University) and became an international economist in the International Trade Section of the FAS." Sharpless continues her education, particularly in foreign languages, with graduate courses taken through the USDA's graduate school program.

With her added qualifications, Sharpless began her serious climb of the career ladder. She speaks with the most excitement of her post as assistant agricultural attaché to the US Mission to the European Communities in Brussels, Belgium.

In Brussels she monitored the agricultural trade policies of the Community, the economic organziation of the then ten Western European nations, to watch for adverse impact on American agricultural trade on the world market or with the Community itself. Here, Sharpless says, she witnessed and relished "the brawl of international trade relations between the European Community and the United States.

Transferred back to Washington, Sharpless was named Group Leader of the Western European Group of the Western Europe and Inter-America Division of the FAS. In this position she and her five-member staff were responsible for following the agricultural trade policies of all the Western European nations. Then the Secretary of Agriculture appointed Sharpless to her present post as Agricultural Attaché to the American Embassy in Bern. Promoted to the rank of Agricultural Counsel in the summer of 1985. Sharpless continues as the top FAS representative at the embassy in Bern. Few women or blacks have achieved this rank in the Foreign Service.

"Oh, I still get a lot of mail addressed to 'Mr.' Mattie Sharpless," She adds. And, yes, being a female makes her work a bigger challenge. "It's two or three times as tough for women to get European men 'especially' to listen to them and take them seriously. But eventually they find they can trust you to know what you're talking about. . ." she says confidently. At present there is one woman agricultural counselor and one agricultural attaché representing the United States in Europe. Sharpless wishes more young women and young blacks would pursue FAS careers.

Just returning from a skiing holiday in the French Alps at the time of the interview, Sharpless is enjoying her post in Switzerland. Bern is a beautiful medieval city. She loves the fabled Swiss landscape, particularly the incomparably cared-for farms, and is fascinated with the multilingual society. She has much respect and affection for the Swiss people.

Sharpless becomes even more animated as she talks about her pride in her work. "Agriculture is an integral part of world affairs—in food for the needy, international trade affairs, the role of agriculture in the United Nations, and more." To Sharpless, one of the most interesting areas is "The international side—the multilateral trade agreements." She expresses great pride in the world agricultural data produced and analyzed by the FAS which, she says, is valued around the world.

"My career in the FAS has been challenging and rewarding. Being in the Foreign Service provides a great opportunity to work and live abroad and to broaden one's horizons in life," says Sharpless.

She has found the challenges of adjusting to the different cultures and ways of life to be valuable experience. Especially challenging is the need to become adept in the languages of host countries. Sharpless is fluent

in French, and is rapidly gaining proficiency in German. Knowledge of at least one foreign language is required for a career in the FAS, and the more language background a individual has, the better.

Recipient of numerous awards and certificates for outstanding performance and career development, as well as bonus awards for her proficiency in French, Sharpless has always worked to live up to her motto, "To be the best at what you do, and strive for the utmost in professionalism while doing it."

Excelling in a tough, competitive field is not easy. The single most important thing in building a career is to satisfy yourself, she adds. When you set standards, and meet them, the job is well done, and "monetary rewards will ultimately follow."

The same qualities are required for scaling a career ladder, according to Sharpless, whether the career is in government or private industry. She lists those qualities as "strength, perseverance, determination, and most of all, a positive outlook on life." The setting of personal goals is important in setting the direction of a career path. Then, she advises, always believing in your ability to achieve those goals, "strive for excellence in whatever you set out to achieve."

"My advice to young people today." Sharpless counsels, "is to become educated at the highest level possible. The work environment is extremely competitive, and today, a four-year degree is just a stepping stone to the path of the career ladder."

Good working relationships with coworkers, and earning that respect and building working relationships.

How to prepare for a potentially glamorous and challenging career was the FAS?

Some type of farm background is a help, but this does not have to mean growing up on a farm. College concentration should be in economics, agricultural economics, or possibly a field like agronomy, with some economics. A master's degree is preferred. Working knowlege of a language, or some type of international experience, is usually required. At any rate, be prepared to learn at least one language.

Competition is stiff, but well-qualified candidates are always in demand, according to FAS officials in Washington. One officer recommends that an interested college student find a way to get some foreign agricultural experience, such as an exchange program or serving in the Peace Corps.

A career in the Foreign Agricultural Service begins with a three-year probationary period, followed by an eligibility review which includes written and oral examinations. An employee who passes this screening receives Foreign Service classification with the Department of State and is eligible for posting overseas.

Agricultural Counselor Sharpless is enjoying her tour of duty in Switzerland, and looks forward to serving the customary four years in this post. Always ready for a new challenge and the opportunity to get to know another corner of the world, she would like a post in Africa next. Only Mattie Sharpless knows where her career will lead. You see she sets these goals.

TV JOURNALISTS ADMIT IT: THEY'RE BIASED IN FAVOR OF LIBERAL CAUSES

Mr. HELMS. Mr. President, over the weekend I had occasion to read several interesting articles reinforcing my June 26 comments in the Senate relating to claims made by Dr. Larry Brown of the Physician Task Force on Hunger in America.

One of my concerns is the manner in which the news media accept at face value absurd charges made by Dr. Brown and others with regard to the status of poor Americans when any objective analysis of Dr. Brown's charges discloses significant weaknesses. The General Accounting Office, after having examined the methodology of the task force report, concluded that the "study's overall methodological limitations are such as to cast general doubt on the study's result." These flaws, according to GAO, were "sufficient to vitate the overall integrity and credibility of the report." Such shortcomings, including the GAO report, have largely been ignored by the media.

Confirmation of the media's bias has come in the form of a recent article in the summer edition of Policy Review, the quarterly publication of the Heritage Foundation.

Mr. President, the point is this: Why do so many elements of the major media inevitably give instant credibility to liberal viewpoints—without bothering to check the other side of the story?

Rebecca Chase of ABC News was interviewed in the course of the Policy Review article and provided a graphic example. Let me quote from the article:

Many reporters instinctively give credibility to liberal sources. Chase cites the recent Harvard Task Force report on hunger, which identified 20 million hungry Americans. Following up on the study, Chase went to one of the towns identified in the study as worst off. "It was the part of Texas where Texas A&M is located," Chase says. "Of course students list low incomes, so the average income is very low. But those students aren't hungry. The real problem is with food stamp distribution, and it is in other parts of Texas that weren't mentioned in the study." Too often, reporters don't bother to do fact-checking when faced with claims that fit their cultural predispositions, Chase said. But let the administration make a claim that some place is better off than before, and there is a frenzied effort to prove it factually wrong.

Mr. President, the article elaborated on contrived efforts to produce hungry people for television reports. "New York and Washington producers of the networks were almost in competition to find hungry people," Chase says, in covering the recent Hands Across America event. According to the article:

One reporter was asked to scour the small towns of Mississippi to find hungry people; she traveled for days, sometimes through places where 80 to 90 percent of the people were on food stamps, but she couldn't find hungry people.

Basically, the evidence shows that we have a food stamp program that works pretty well,

Chase says.

But some people are convinced that there is a massive problem. So they put pressure on us reporters in the bureaus to find facts to confirm their theories. Often reporters are just lazy—they call up the local hunger coalition and they produce a hungry person to go on the air.

Mr. President, I ask unanimous consent that an editorial from the Detroit News, entitled "Hands Across Our Eyes," be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HANDS ACROSS OUR EYES

Hunger, in case you haven't noticed, has become the most sensational national "problem." Journalists, inspired by docudramas and Hands Across America, have scoured the nation to find hungry people—and contradict the president's assertions that there's enough food and federal help to feed any hungry Americans. What you probably haven't heard is that most of the horrow stories are contrived.

The latest issue of Policy Review magazine carries an extraordinary piece by managing editor Dinesh D'Souza. In the course of his study of the "liberal culture of network news," Mr. D'Souza interviewed ABC-TV reporter Rebecca Chase who "admitted to exasperation with the way the three networks covered the issue of hunger during "Hands Across America." Ms. Chase told him that network producers "were almost in competition to find hungry people. One reporter was asked to scour the small towns of Mississippi to find hungry people; she traveled for days, sometimes through places where 80 to 90 percent of people were on food stamps, but she couldn't find hungry people."

"Basically," she continued, "the evidence shows that we have a food stamp program that works pretty well. But some people are convinced that there is a massive problem. So they put pressure on us reporters in the bureaus to find the facts to confirm their theories. Often reporters are just lazy—they call up the local hunger coalition and they produce a hungry person to go on the air," Ms. Chase was particularly offended—and rightly so—by the Harvard Physicians Task Force on Hunger and its "study" which supposedly identified 20 million hungry Americans.

In following up on the study, released last fall, Ms. Chase went to one of the towns identified as among the "hungriest" in America. She said: "It was the part of Texas where Texas A&M is located. Of course students list low incomes, so the average income (used in the study) is very low. But those students aren't hungry."

Moreover, the Harvard study that inspired her investigation also was bogus. The General Accounting Office (GAO), Congress' nominally nonpartisan research arm, released a scathing methodological review of the Harvard hunger study last March, concluding that "the study's overall methodological limitations are such as to cast general doubt on the study's results."

The GAO found that the Harvard "study" had used very crude statistical methods, including the use of a single month's participation in the food stamp program (July, normally the lowest month) and questionably updated 1970 poverty estimates to determine the level of hunger in 1985, finding

these flaws "sufficient to vitiate the overall integrity and credibility of the report."

This devastating critique of the work of the foremost promoter of the "growing hunger problem," was never reported by the media. Instead, Harvard's Lester Brown received unchallenged air time throughout the "Hands Across America" hype, presenting his fundamentally flawed study as "evidence." As Ms. Chase admitted to Policy Review, reporters are much too willing to accept any claims that fit their own ideological predispositions, while making "frenzied efforts to disprove" counterclaims by the administration.

This may explain why Hands, for all of its vast hype, raised, a tiny net of only $11 million after spending all of the $17 million it got from Corporate America on administrative expense. That $11 million amounts to about one hour's worth of normal federal food-stamp distribution.

What is most troubling about all of this is that virtually every serious statistical indicator shows that hunger in America is declining, not rising. Personal incomes have continued since 1980 to rise twice as fast as food prices, and Americans were able to buy more and more food, with a smaller share of their income (now down to 14.4 percent of total income).

This may explain why in the latest Prevention magazine, a study shows that the percent of Americans that are overweight has risen from 58 percent in 1983 to 62 percent in 1985. Let's hope that some of us in that latter category at least got some exercise value out of Hands, because the rest of it was largely a troubling and fraudulent political manipulation of America's deeply generous and humanitarian impulses.

Mr. President, let me reiterate for purposes of the RECORD that this is Rebecca Chase of ABC television speaking.

Mr. President, the Policy Review article outlines admissions of bias by various television journalists. The admissions are startling, Irving R. Levine of NBC News was asked why his coverage during the economic recovery stressed those who were still out of work. "I have tried to bring a deep skepticism to the President's politics," Levine explains. "My reports on Reagan's economic program focused on their deficiencies and contradictions."

Jeff Greenfield of ABC News admits to a bias in coverage of social issues. Again, quoting from Policy Review:

The cosmopolitan nature of the network news makes it virtually impossible for the traditionalist point of view to be aired, he says. He gives the example of the Reagan proposal to inform parents when their minor children receive contraceptives. This was nastily dubbed the "squeal rule," Greenfield says. I have a daughter and I want to know if she is being fitted for a diaphragm. As least his should be a proper subject for policy debate. But most TV reporters covered the controversy as through the only people who favored the so-called squeal rule were anti-sex theocrats.

This bias with regard to foreign policy news coverage is a matter, Mr. President, with which I am personally familiar. The major media have no shame when it comes to omissions or distortions of facts.

Author Dinesh D'Souza asked about certain double standards in television news coverage:

I asked John McWethy of ABC News why the networks frequently describe South Africa as an evil empire, but cringe when the same term is used to characterize the Soviet Union. Presumably a uniform zest for negativism or drama, or an evenly anti-authority bias, would demand that equally stringent human rights standards be applied to both countries. McWethy firmly defended the double standard. Reagan's evil empire comment "was a gaffe because we are dealing with a country with a nuclear arsenal that can destroy us." By contrast, "You can call South Africa an evil empire with no really horrendous implications." By this logic, all the world's moral opprobrium should fall on some place like Suriname or Uganda. Is it fear, and not moral considerations, which dictates our human rights criticism of other countries? John McWethy was silent; he didn't really have an answer.

Shifting ground a little, I asked McWethy why coverage of turmoil in South Africa and Ethiopia was treated so differently by the network media. While in both cases the governments were criticized, it seemed that the South African criticism was systemic—the assumption being that apartheid had to go and the only question was when, not whether—while criticism of Ethiopia was never directly aimed at the structure of oppression, Communist collectivization. "You're comparing apples and oranges," McWethy protested. "Ethiopia is a two bit country nowhere as important as South Africa." Why not—because there are fewer whites there? "The focus of our coverage in Ethiopia was on the human tragedy of drought. The government was incidental to the story." By contrast, McWethy maintained, "South Africa purports to be a democracy, so we can judge it by those standards."

Richard Threlkeld of ABC News argued similarly:

The story in Ethiopia was our effort to get food to starving people. It was a starving people story. In South Africa the whole point seems to be a generation-old system of oppression.

These television journalists were at least consistent in their bias against anti-Communist countries and their preference for socialist countries, regardless of the latter's shortcomings:

One very intriguing thing that both McWethy and Threlkeld admit is that television news judges free countries and totalitarian countries by different standards. When I asked McWethy about TV coverage of the Nicaraguan and Philippine elections, and why there wasn't as enthusiastic a demonstration of fraud in the former case, he said, "It was clear that the Nicaraguan elections were a joke. But most reporters felt that was different. Nicaragua is a totalitarian country." McWethy concedes that "Sometimes reporters operate differently in totalitarian countries than in free countries."

Threlkeld says that "We can't see much behind the curtain of oppression in Communist countries and certain Third World countries. Syria, for example, won't let us take the pictures we want. That's why we report on Israel's abuses so much. Democratic countries are more vulnerable to being exposed by TV news." South Africa gets the worst coverage, Threlkeld says, because "South Africa calls itself a civilized and pluralistic society." But, I said, the Soviet constitution makes similar extravagant claims of freedom that are not met—why not assess it by that standard? "Marxist rhetoric makes claims of freedom. But nobody believes it." What if South Africa were to renounce the West and ally itself with the Soviet Union—would that guarantee it a better shake from the American TV media? Threlkeld was taken aback. "That shouldn't be an incentive for South Africa to go Communist," he said, sheepishly.

Sometimes, our friends must wonder. Perhaps, Mr. President, we should evaluate television news based on the ability of the networks to report on the alleged oppression within a country. Surely the oppression alleged in South Africa, Chile, the Philippines, El Salvador, South Korea, and every other anti-Communist country ought to be balanced with an assessment of oppression in the Soviet Union, Cuba, North Korea, Afghanistan, and every other country controlled by the Communists. The fact is, the oppression in Communist countries is so great that outside television journalists are not even permitted in. Yet in those countries trying to implement democratic deals, their shortcomings are generally available for all to see.

The Heritage Foundation article contains a number of interesting interviews in which television reporters are asked questions, instead of asking them. The obvious biases in their answers are indeed instructive.

Mr. President, I ask unanimous consent that the article, "Mr. Donaldson Goes to Washington," and another piece "Hands in the Cookie Jar," both from the summer edition of the Policy Review, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in RECORD, as follows:

MR. DONALDSON GOES TO WASHINGTON—POLITICS AND SOCIAL CLIMBING IN THE TV NEWSROOM

(Dinesh D'Souza)

There is an overwhelming, and sometimes quite vehement, conviction on the right that television journalists are East Coast liberals, raised in opulence, schooled at the Ivies, recruited into the profession to promote a radical elitist world view.

The evidence shows that most TV reporters are not products of the liberal establishment. To give a few examples: Mike Wallace of CBS grew up in the Midwest and attended the University of Michigan. Roger Mudd of NBC hails from Richmond, Virginia. Steve Bell of ABC grew up in Iowa. Ken Bode of NBC, a native Iowan, attended the University of South Dakota. Richard Threlkeld of ABC went to Ripon College in Wisconsin. Dan Rather of CBS was born in Wharton, Texas, the son of a ditchdigger, and went to Sam Houston State Teachers' College. Charles Kuralt of CBS was raised in Wilmington, North Carolina. Jim Miklaszewski of NBC grew up in Milwaukee and attended Tarrant County Junior College in Texas. Diane Sawyer of CBS grew up in Kentucky.

Bettina Gregory of ABC correctly notes that, in network journalism, "the emphasis is away from the East Coast liberal axis." The reason for this, producers say, is that TV news reaches into homes all over the country and thus needs faces and voices that are not parochial but have wide appeal. Midwestern accents and all-American looks are a real asset, and of late even Southern intonations seem to be fashionable.

No matter where he comes from, however, the aspiring TV journalist typically adopts a left-liberal world view as he picks up the tools of his trade. There is nothing conspiratorial in this. To get their stories on the air, TV journalists have to embrace the culture of network news, either consciously or unconsciously. It is only natural that an ambitious, social climbing reporter from the heartland who wants to please his colleagues and his superiors will absorb their ideas of what makes a good story, of what is considered responsible journalism. And since the culture of television journalism is liberal, it is hardly surprising that reporters get their idea of what is news—ultimately the most ideological question in journalism—from a whole range of left-liberal assumptions, inclinations, and expectations.

An interview with Sam Donaldson in the March 1983 Playboy offers a revealing look at political socialization in the newsroom. Donaldson did not start out as a liberal crusader. He was raised on a farm in El Paso, Texas. His mother was a devout Baptist. Young Sam was dispatched to the New Mexico Military Institute, perhaps to reform a burgeoning arrogance. Then he went to Texas Western College in El Paso. He is said to have supported Barry Goldwater for President in 1964.

It was not until Donaldson migrated to the city, and became part of its journalistic culture, that his values altered dramatically. "When I came east to New York and Washington, he says, "my view of the world and politics changed. When I went back home, I had violent political arguments with my mother and friends. I had left the fold. I was reading the New York Times, the Washington Post, and other so-called Communist-inspired newspapers."

Donaldson does not seem to view those shifts as ideological, but rather as signs of maturation. "I didn't think everyone who was out of work was really responsible for not having a job; I didn't feel someone who couldn't read and write English could be faulted for not finding a position as a computer programmer." These would be examples of intellectual growth. If indeed young Donaldson or his parents even thought otherwise. But from Donaldson's caricature of his origins, one gets the sense that this same trivializing instinct is what causes him to ridicule strategic defense or supply-side economics: he regards them as notions straight out of the bovine world from which he was liberated.

Donaldson complains that "Under the Reagan Administration, reporters were invited [to White House dinners] but not their spouses. Why? Was the wife of General Motors chairman not invited? Oh no, she came. Was Gregory Perk's wife not invited? No, no, she came. The point was that press spouses were dispensable. The Reagans didn't really consider us on the same level as their Hollywood friends." This unusual outburst of class envy suggests how socially self-conscious Donaldson is, how eager he is to ascend the cultural ladder to greater heights of acceptance and accolade. Sam Donaldson definitely does not want to be thought of as a former disc jockey from El Paso. "A lot of people do not regard me as a serious man," he worries. Donaldson tries very hard to compensate for his background. The shape that the atonement seems to take is ideological liberalism.

BROKAW'S PARVENU POLITICS

Another country boy whose view of the world adapted to the liberal view as he entered the journalistic big leagues is Tom Brokaw of NBC News. In an April 1983 interview with Mother Jones, Brokaw chronicled what he saw as a process of acquiring sophistication. "I grew up in small towns on the praire," said Brokaw. Indeed his parents still live in Yankton, South Dakota. He was raised with discipline and stern values.

But then, after Brokaw joined NBC and moved to New York, he absorbed a new set of principles. For example, he came to see President Reagan's values, which used to be his own, as "pretty simplistic" and "I don't think they have much application to what's currently wrong." Brokaw spoke scornfully of Reagan's Reader's Digest-Norman Rockwell perception of the world. As for the President's political program, "I thought from the outset that his supply-side theory was just a disaster. I knew of no one who felt it was going to work." Mother Jones asked: what about those who say that El Salvador is moving toward democracy? "They're wrong. My job is to stay calm at the center and point out why they're wrong." Abortion? "It comes down to the question of whether a woman has a right to control her body." Capital punishment? "Barbarous."

Oddly, even as Brokaw boasts that he has outgrown the political values of the heartland, he feels abashed about admitting that he has taken up the material luxuries of the big city. About his stretch limousine, he comments, "I've got this goddamn problem with the car and driver. I've got to get to work, and that's the best way to do it. But I just don't use it the rest of the day." Brokaw seems to want to convey the impression that he would prefer to arrive at NBC headquarters in a tractor with hay sticking out all over it.

Here is how the Washington Journalism Review describes Brokaw today: "Socially adept, Brokaw not only says and does the right things, he knows the right people, counting may glamourous figures from the world of art, entertainment, sports, and politics among his intimate friends. In California, he ran with a rich, politically liberal crowd that sought out the company of prominent journalists. It is a fact that he has been playing tennis with Art Buchwald. It is a fact he taught a seminar at Yale. His life, his world, includes those poeple." This is what it means for a Midwestern hick to make good in the culture of journalism. "Saying the right things" is code, in this milieu, for promulgating the values of liberalism and progressivism.

Donaldson and Brokaw are fairly typical of network reporters, not in personal characteristics, obviously, but in the way they view their profession as somehow congruent with the liberal world view. It is very difficult for them to recognize the social and cultural forces that have shaped their work, not only their conclusions but also their assumptions.

They frequently talk as though they regard themselves as bold and lonely dissidents in the corridors of power; whereas in fact they wield the full authority of the Fourth Estate, and repeat the same lines of reasoning as scores of fellow practitioners of the trade. This may be regarded as the "herd of independent thinkers" syndrome that affected protesters in the 1960s, who considered themselves rugged individualists even as they did exactly what their professors told them.

The culture of TV journalism has been expertly described in a recent monograph, "TV News And The Dominant Culture," written by John Corry, TV critic for the *New York Times*, and published by the Media Institute in Washington. Corry maintains that an intellectual and artistic culture "rooted firmly in the political left" determines the criteria for what constitutes a good news story, sets the boundaries for what is acceptable, casts a negative odor around subjects and approaches to be shunned. "Television does not consciously have a liberal or left agenda," he writes, but "it does reflect a liberal to left point of view."

While facts and quotations are the substance of a news story, creating the impression of objectivity, Corry maintains that cultural predispositions inherited from the 1960s and 1970s give TV the "big picture . . . a starting point, an attitude, ordinates on which to box its moral compass." Thus good and evil are defined in the Manichean framework of the TV expose by a set of beliefs and assumptions which predate the event being covered and exercise a most unrecognized influence on the reporter.

"Issues and causes favored by conservatives are suspect, while probity clings to the other side," Corry writes. "Counterculture politics introduced the notion of victims, a category wide enough to include everyone exept middle-aged white males . . . At the same time, the causes of all the victims are joined" and TV news has taken on a redemptive mission to liberate all of them. Finally, television has accommodated itself to a "radical political vision" which acquiesces in the view that the United States is racist and imperialist and culpable for most of the woes and inequities of the Third World. Because of their culturual insecurity, TV journalists force themselves to "apply a benevolent neutrality to anti-democratic, anti-Western forces."

THE OBJECTIVITY SCAM

Several interviews I recently conducted with television journalists confirm Corry's thesis. Although most TV reporters swear by the canons of journalistic objectivity, in practice they acknowledge that this is an elusive, if not mythical, goal. Perhaps the most strenuous practitioner of objective journalism is Bettina Gregory of ABC News, who says she sometimes goes to the length of measuring the number of seconds she allows each side on the air, to make sure she is being unbiased. The question, though, is whether this methodology presents an accurate picture of events. Gregory covers health and safety issues. Presumably the viewing audience cannot be expected to get a clear picture of what is going on if faced merely with equally weighted charges and counter-charges. Rita Braver, who covers health for CBS News, points out how impractical Gregory's approach can be. "When I cover drugs, say the effect of PCP on kids," she says, "it would be absurd for me to look for a person who says PCP is good for kids." Braver admits she approaches her stories with an anti-drug bias, upsetting though it may be to the readership of *High Times* magazine.

Andrea Mitchell of NBC News is schizophrenic on the business of objectivity. "I approach my subject by not making any assumptions," she says, a procedure that is hard to imagine, let alone carry out. Mitchell acknowledges that "Objectivity can never be purely achieved because the very act of selecting a story and reporting it and editing it involves choices." Indeed it does, and a few minutes later, Mitchell indicates the direction in which her choices sometimes lean. "The economic achievements" of the last few years, she states, "are not the result of supply-side economics but of Paul Volcker. So I'm not giving Reagan credit." It is hard to see by what definition this is an objective point of view, but it could certainly be defended as a legitimate opinion if Mitchell's reports in 1982 blamed Volcker, not Reagan, for the recession. But in fact they did not.

A significant minority of TV reporters acknowledge the fragility of claims of pure objectivity. Bill Plante of CBS says TV news is a combination of journalism and entertainment, so naturally the needs of drama and emotion color the coverage. John McWethy of ABC says that in reporting "obviously a value-free context is impossible. I don't know what objectivity means. I don't even like the word 'balanced.' Balanced implies that if you give one minute to President Reagan, you also have to give one minute to Ted Kennedy and maybe even Lyndon LaRouche." Robert Bazell of NBC argues that "Objectivity is a fallacy. Journalism almost always is about a point of view. There are different opinions, but you don't have to give them equal weight." Bazell maintains, "Having a point of view and giving the other side's opinion are not mutually exclusive."

Another view comes from Ken Bode of NBC who maintains that the function of TV journalism is to .be interpretive, to make complex events comprehensible to the viewer in a short time. Bode doesn't view his mission to be objective: "My job is to make the dynamic of politics understandable to the viewer." Irving R. Levine of NBC says candidly, "The reporter has got to determine, ultimately, what is valid and what is not, whose arguments are most persuasive." Perhaps the most scathing attack on objectivity comes from Linda Ellerbee of NBC who writes in a recent book, "We report news, not truth . . . There is no such thing as objectivity. Any reporter who tells you he's objective is lying to you." These are some practical definitions of what TV journalists do, as opposed to what First Amendment lawyers and Press Club spokesmen say they do.

Oddly, reporters who most heatedly defend the doctrine of objectivity often turn out in practice to be most biased in their reporting. Perhaps the reason is that they are simply not aware of the presumptions and value judgments that go into their stories. Supposing all facts to be "objective," and all quotations to be "facts," they work their arithmetic formulae of objective journalism, convinced that because they quoted the other side—"President Reagan denies that he is callous and insensitive toward poor people"—they have been fair. By contrast, reporters who see the ambiguities and eclecticism inherent in their craft tend to be less sure of themselves, more inclined to sweep a wider range of viewpoints, to assure, if not objectivity, at least some sort of balance.

Two prominent television journalists have acknowledged the manner in which the journalistic culture promotes the liberal program and metamorphoses reporters into a liberal career mindset. "The news media in general are liberal," says Barbara Walters of ABC. "If you want to be a reporter, you are going to see poverty and misery, and you have to be involved in the human condition." In this we see several of the characteristics of TV reporters: hasty and false inference (I see poverty, therefore I am a liberal), arrogance (we're liberal, what the heck), and pseudo-profundity and cliche ("involved in the human condition"). Walter Cronkite, former CBS anchor, describes reporters as "certainly liberal, and possibly left of center as well. I think most newspapermen by definition have to be liberal."

BAD NEWS IS GOOD NEWS

How does this liberalism affect reporters as they cover stories? I asked Irving R. Levine of NBC News why his coverage during the economic recovery stressed those who were still out of work. "I have tried to bring a deep skepticism to the President's politics," Levine explains. "My reports on Reagan's economic program focused on their deficiencies and contradictions." Partly it is the nature of reporting to examine problem areas, Levine notes. But also, "It's a hell of a lot easier to get a story on the air when the unemployment rate is going up." So journalism, in order to be dramatic, must highlight the negative. As Levine succinctly puts it, "For producers and reporters, bad news is good news." This may be politically motivated, but it certainly has political implications.

Jeff Greenfield of ABC News argues that TV reporters do respond to a "zeitgeist" which shapes their assumptions and approaches to stories. But more often this operates in the direction of standard themes and reductionism, Greenfeld believes. Addressing conservative complaints about derisive labeling for strategic defense, he says, "The reason reporters call it Star Wars and not SDI is because they are simplistic, not because they are ideological." Certainly Greenfield is right that SDI is a somewhat dull and bureaucratic term.

But why, I asked, do reporters during political conventions repeatedly refer to "ultraconservatives" and the "extreme right" but never "ultraliberals" or the "extreme left"? Greenfield acknowledges that reporters operate on different frames of ideological reference than most people. He cites the case of Jesse Jackson, "really a Third World radical, but he was never identified in those terms."

While denying ideology as a primary motivating factor for TV reporters, Greenfield comments that "It is absolutely true that reporters covering Latin America in the early 1980s were still living in Vietnam." Some reporters, he says, "are still recovering from their shock that Reagan backed Duarte in El Salvador instead of "D'Aubuisson." One reason the right is sometimes mistreated, Greenfield says, is that "TV reporters are slow to change their perceptions." They used to regard conservatism as outside the parameters of legitimate debate. "Not long ago we felt the only respectable figure on the right was Bill Buckley." But increasingly, according to Greenfield, "We are getting to the point where a Walter Williams or a Charles Murray is a valid source. So in quoting people, TV reporters are going beyond the usual suspects."

One area where Greenfield finds a definite bias is in TV coverage of social issues. "The cosmopolitan nature of the network news makes it virtually impossible for the traditionalist point of view to be aired," he says. He gives the example of a Reagan proposal to inform parents when their minor children receive contraceptives. This was nastily dubbed the "squeal rule," Greenfield says. "I have a young daughter and I want to know if she is being fitted for a diaphragm. At least this should be a proper subject for a policy debate. But most TV reporters covered the controversy as though the only people who favored the so-called squeal rule were anti-sex theocrats."

Bill Plante of CBS News maintains that "There is an anti-authority bias in TV coverage that is very American. It can be viewed as ideological, I suppose." But when Plante discussed coverage of the 1983 recovery, it became apparent that more was at work than just a populist anti-establishmentarianism. "We were criticized for looking for isolated victims," Plante says. "But this is explained by our perception that the public expects government to perform certain functions, for example, the idea that no one should go hungry, or perhaps even that no one should want for medical care."

This, then, is what Plante means when he says, "News coverage is driven less by ideology than by a perception of what makes news." For TV reporters, it seems, the news is defined and shaped in ideological terms that they do not seem to recognize or acknowledge.

I asked Jim Miklaszewski of NBC News about his report aired shortly before the vote on contra funding, whose thesis was that the contras were "an ill-trained, ill-equipped, ragtag peasant army, losing the war." Contras "lack even the most basic combat skills, like the proper way to shoot a gun." And further, "Former Nicaraguan National Guardsmen lead the contra high command." Miklaszewski concluded, "After five years and $100 million in U.S. aid, the contras . . . have failed to win the support of most Nicaraguan people."

Anyone who saw the report would come away with the feeling: why are we helping people who are corrupt, bozos, and losers to boot? Perhaps Miklaszewski was right that the contrast are inadequate fighters, but shouldn't he have raised the question of whether it was lack of American funding and training that was the reason for this? Was it fair for him to assert, without qualification, that contra leaders were all former National Guardsmen from the Somoza regime? What evidence did Miklaszewski have that the contras were not supported by most Nicaraguans? I asked.

THOSE MYSTERIOUS SOURCES

Miklaszewski started off by taking refuge behind the curtains of journalistic etiquette. "I simply reported what my sources told me," he said. Presumably all factual errors or unsupported assertions were to be blamed on careless and untrustworthy sources; but if so, why did Miklaszewski choose to quote them? No, Miklaszewski didn't really know for himself how badly trained the contras were. "I'm not on the ground in Nicaragua." And contra support? "There is no visible support for the contras in Managua." But this is to be expected, surely, because the Sandinista regime identifies the contras as illegal bandits. Probably black families in South Africa are equally reluctant to voice open support for the banned African National Congress, I suggested.

H'm, Miklaszewski pondered that one. "You're taking one part of that story," he protested. "You're zeroing in on one aspect." He fell back on the earlier defense. "I'm told by my sources, like Peter Bell of

the Carnegie Endowment, that despite the state of the economy and the Sandinista system, the *contras* don't have much popular support." Miklaszewski did acknowledge that "the U.S. government had a strong hand in the return of democracy to El Salvador. That's a success story that hasn't been told."

I asked John McWethy of ABC News why the networks frequently describe South Africa as an evil empire, but cringe when the same term is used to characterize the Soviet Union. Presumably a uniform zest for negativism or drama, or an evenly anti-authority bias, would demand that equally stringent human rights standards be applied to both countries. McWethy firmly defended the double standard. Reagan's evil empire comment "was a gaffe because we are dealing with a country with a nuclear arsenal that can destroy us." By contrast, "You can call South Africa an evil empire with no really horrendous implications." By this logic, all the world's moral opprobrium should fall on some place like Suriname or Uganda. Is it fear, and not moral considerations, which dictates our human rights criticism of other countries? John McWethy was silent; he didn't really have an answer.

Shifting ground a little, I asked McWethy why coverage of turmoil in South Africa and Ethiopia was treated so differently by the network media. While in both cases the governments were criticized, it seemed that the South African criticism was systemic—the assumption being that apartheid had to go and the only question was when, not whether—while criticism of Ethiopia was never directly aimed at the structure of oppression, Communist collectivization. "You're comparing apples and oranges," McWethy protested. "Ethiopia is a two bit country nowhere as important as South Africa." Why not—because there are fewer whites there? "The focus of our coverage in Ethiopia was on the human tragedy of drought. The government was incidental to the story." By contrast, McWethy maintained, "South Africa purports to be a democracy, so we can judge it by those standards." He was quite agitated by now. "This strikes me as a very ideological line of questioning."

Faced with similar questions, Richard Threlkeld of ABC News argues, "The story in Ethiopia was our effort to get food to starving people. It was a starving people story. In South Africa the whole point seems to be a generation-old system of oppression." I pointed out that a moment earlier Threlkeld had insisted that journalists were apolitical and didn't make value judgments; here he was, advancing a quite controversial distinction which he claimed was virtually a network consensus in covering Ethiopia and South Africa. Threlkeld tried to justify the double standard in different terms. "All civilized nations condemn apartheid. Journalism, as a mirror, reflects that." Now that raises a whole new set of questions—which nations are civilized? Which civilized nations condemn apartheid but not Communism? Is the regnant public passion of the civilized world the moral standard by which news should operate?

One very intriguing thing that both McWethy and Threlkeld admit is that television news judges free countries and totalitarian countries by different standards. When I asked McWethy about TV coverage of the Nicaraguan and Philippine elections, and why there wasn't as enthusiastic a demonstration of fraud in the former case, he said, "It was clear that the Nicaraguan elections were a joke. But most reporters felt that was different. Nicaragua is a totalitarian country." McWethy concedes that "Sometimes reporters operate differently in totalitarian countries than in free countries."

Threlkeld says that "We can't see much behind the curtain of oppression in Communist countries and certain Third World countries. Syria, for example, won't let us take the pictures we want. That's why we report on Israel's abuses so much. Democratic countries are more vulnerable to being exposed by TV news." South Africa gets the worst coverage, Threlkeld says, because "South Africa calls itself a civilized and pluralistic society." But, I said, the Soviet constitution makes similar extravagant claims of freedom that are not met—why not assess it by that standard? "Marxist rhetoric makes claims of freedom. But nobody believes it." What if South Africa were to renounce the West and ally itself with the Soviet Union—would that guarantee it a better shake from the American TV media? Threlkeld was taken aback. "That shouldn't be an incentive for South Africa to go Communist," he said, sheepishly.

ACTIVISM AND VENTRILOQUISM

A conversation with Andrea Mitchell of NBC News revealed her as an acknowledged activist. Her family was "always absorbed in politics," she says, and she can remember her parents listening with shock to the McCarthy hearings. She entered TV journalism because "I felt it was a way to advance the issues I cared about." Norma Quarles of NBC says, "I like to cover stories that shed light on injustice, that bring about change." What kind of injustice? Quarles cites the example of President Reagan wanting to close down free boarding schools for American Indians. Shortly after Quarles' expose, she boasts, lawsuits were filed which forced the administration to keep the schools open.

Quarles complains about the mentality of the American people. "People don't seem to care. There's a positive mood in the country. There is an attitude that everything is fine and it's not." Quarles gives the example of low-income housing programs which are sorely needed, she says, but which the administration won't consider. Quarles observes that if she wants to make a point on the air, she sometimes uses ventriloquist tactics. "If I get the sense that things are boiling over, I can't really say it. I have to get somebody else to say it."

Reporters often seem to project their own opinions onto sources in order to get their point made one way or another. For example: Irving R. Levine on January 3, 1986, reported, "Increasingly even Republicans are saying that a tax increase is unavoidable because soon everything that can safely be cut will have been cut." This is the inevitability approach—the reporter presents his solution as the historically necessary one. Mark Phillips reported on CBS on November 21, 1985, "A key adviser to Gorbachev afterwards confided to me that the Soviet leader did not have a very high regard for President Reagan's intellect."

Many of the prejudices and stereotypes on which TV reporters operate are acknowledged and confirmed by Rebecca Chase of ABC News. A reporter of somewhat conservative temperament, Chase admits to exasperation with the way the three networks covered the issue of hunger during "Hands Across America." New York and Washington producers of the networks were almost in competition to find hungry people, Chase says. Operating on the stereotype that "hungry" means "black" and "Southern," this meant a lot of assignments for reporters based in Mississippi and Atlanta. One reporter was asked to scour the small towns of Mississippi to find hungry people; she travelled for days, sometimes through places where 80 to 90 percent of the people were on food stamps, but she couldn't find hungry people.

"Basically, the evidence shows that we have a food stamp program that works pretty well," Chase says. "But some people are convinced that there is a massive problem. So they put pressure on us reporters in the bureaus to find facts to confirm their theories. Often reporters are just lazy—they call up the local hunger coalition and they produce a hungry person to go on the air."

Many reporters instinctively give credibility to liberal sources. Chase cites the recent Harvard Task Force report on hunger, which identified 20 million hungry Americans. Following up on the study, Chase went to one of the towns identified in the study as worst off. "It was the part of Texas where Texas A&M is located," Chase says. "Of course students list low incomes, so the average income is very low. But those students aren't hungry. The real problem is with food stamp distribution, and it is in other parts of Texas that weren't mentioned in the study." Too often, reporters don't bother to do fact-checking when faced with claims that fit their cultural predispositions, Chase said. But let the administration make a claim that some place is better off than before, and there is frenzied effort to prove it factually wrong.

John Corry's thesis about a journalistic milieu shaping the ideological assumptions of most TV journalists is "absolutely right," according to Chase. "Most of my colleagues are not very political. They don't care to belong to groups. But the prevailing journalistic culture is liberal. You win awards for validating liberal theories. I know when I get environmental assignments, I feel pressure to find another Love Canal, show the evil chemical companies at work, find little girls who now have increased risks of leukemia. We're always searching for victims."

There is nothing wrong with journalism siding with the underdog, perhaps, but does it really do this? Chase gives the example of "reporters [who] won prizes for exposing the horrors of mental institutions, but do you see stories on the horrors of deinstitutionalization? Hardly. Why not? Because reporters feel, hey, that will make some people want to put those people back. And reporters don't want to encourage that feeling."

Another example: "We know that a lot of poverty in this country is due to out-of-wedlock pregnancies of single women. Yet lots of TV stories continue to link poverty to 'budget cutbacks.' First of all this is very inaccurate terminology—we're generally talking about cuts in the projected rated of growth, not real cuts. But even so, to presume that budget reductions are to blame for increased poverty is simply wrong. It reflects false and uncritical assumptions at work."

Will TV news change? It already is, slowly, reluctantly. Partly this is a result of media criticism, but mostly the change reflects the influence of the larger culture on the social enclave of TV journalism. Even in liberal circles, it is no longer fashionable to ridicule patriotism, tirade about the "fairness issue," or warn about imminent nuclear apocalypse. Contemporary liberalism is fashioning itself

in response to ideas legitimized by President Reagan's term in office. TV journalists are affected by that, and their coverage is beginning to show it.

HANDS IN THE COOKIE JAR

On September 12, 1985, Lisa Myers of NBC News reported on the strategic defense initiative. She noted that "hundreds" of physicists and engineers have refused to take part in research because "they view the project as ill conceived, dangerous, and a waste of scientific brain power." An M.I.T. scientist was introduced as "a physicist who worked on the Manhattan Project which developed the atomic bomb"; his long role in the disarmament movement was not mentioned. He was quoted calling SDI "destructive and nonfeasible." Reporter Myers observed that "the scientific resistance comes despite the fact that most universities are financially squeezed and hungry for research money." Then, having established the altruistic motives of the protesters, Myers acknowledged that "there are scientists who support Star Wars." But she did not say how many and implied they were "eager to do research," i.e. add to their coffers. One scientist was quoted saying that SDI would "force a new solution." On this note the report ended.

Maybe this is an objective story in the sense that it is a response to a news event, both sides are quoted, and the factual information is accurate. But it is not a balanced story, in that it attaches quite different weight and authority to each side, credits Star Wars opponents with scientific disinterest while questioning the motives of pro-SDI researchers, and applies harsh epithets to the feasibility of space defense while refuting them only with a weak comment about a new solution to deterrence. It is certainly possible to conceive of an equally objective report by Myers creating an entirely different impression on the viewer. This is a case in which the bias is quite nuanced. In that respect it is fairly typical.

WHAT INVASION?

In March 1986, the Reagan Administration charged that a large Nicaraguan force had invaded contra camps across the Nicaraguan border. Richard Schlesinger of CBS News reported on March 25 that "publicly the Hondurans say this incursion is a serious threat, but off the record they tend to discount the severity of it. One senior Honduran official tells me he plans to go to the beach today and his only worry is whether a cold front approaching Honduras will ruin his trip." Another unnamed source told Schlesinger that claims of an incursion were "a propaganda ploy, all part of President Reagan's attempt to sell the $100 million contra aid package." Two days later Mike O'Connor of CBS quoted "outside analysts" saying the size of the incursion was "deliberately exaggerated." Anchorman Dan Rather referred to the "still yet to be seen, supposedly large Nicaraguan invasion force operating in neighboring Honduras." The tone of disbelief bordering on ridicule was echoed on NBC by Jim Miklaszewski and Fred Francis.

It was almost a week later, on March 29, 1986, when the Washington Post, not one to take the administration's claims at face value, acknowledged that the Nicaraguan incursion was probably the largest attack on Honduran targets in four years of border incidents. The Post agreed with the government estimate of between 800 and 2,000 troops. Moreover, Nicaraguan president Daniel Ortega confirmed the incursion. Yet with the exception of Peter Collins of ABC News, none of the TV reporters who had raised the initial skepticism corrected the record.

The story of America's economic recovery is one that completely bypassed the three networks. A study by the Institute for Applied Economics found that even while the economy bounced back and 95 percent of the indicators were positive, TV news continued to act as though there was a recession, with 86 percent of stories sounding a negative alarm. ABC speculated that the unemployment drop was the result of many jobless Americans ending their search for work, CBS challenged the veracity of the statistics, and NBC explored the angle that while the statistics were good, we should not forget "pockets of poverty where recovery is still a dream," as Irving R. Levine dramatically stated it.

AQUINO'S ANTI-COMMUNISM

Covering the aftermath of the Philippine election on CBS, Bob Simon on February 25, 1986 remarked, "The worst enemy of Communist insurgents is a liberal. And Mrs. Aquino and the very bright people around her are declared liberals. The Communists have a much rougher time now with Mrs. Aquino in power." Now this surmise was plausible, but one could just as plausibly have raised questions about the new prime minister's resolve in fighting the insurgents. The resurgence of Communist military activity after the election suggests Simon was jumping to a premature conclusion.

Here is Peter Jennings on ABC World News Tonight, October 22, 1985. "The Reagan Administration has once again accused the Soviet Union of cheating on an arms control agreement," Jennings began, his tone clearly suggesting: there he goes again. "Four weeks before Mr. Reagan and Mr. Gorbachev meet at the summit in Geneva, the Secretary of Defense's accusation in Washington today does not do much to improve the atmosphere." Perhaps not. But so what? Is Peter Jennings implying that evidence of treaty violations should be concealed in order to lubricate changes for new agreements? It is really not clear. The ideology of TV news is often promulgated not explicity but through hint, nudge, smirk, and insinuation.

On April 15, 1986 Allen Pizzey of CBS reported on President Reagan's retaliatory raid on Libyan targets and concluded, "President Reagan may consider this a blow against terrorism . . . but it will almost certainly spark more, not less, acts against U.S. targets." Here is an opinionated conclusion that, at least to date, has not been borne out by the evidence.

"These are just a few examples of bias in TV news coverage. Special thanks to Brent Baker of the National Conservative Foundation for providing most of them.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1340

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, are we still in morning business?

The PRESIDING OFFICER. Yes; the Senate is still in morning business.

RECESS UNTIL 2:30 P.M.

Mr. DOLE. Mr. President, at the conclusion of morning business, I would hope that we would have some Members on the floor—Senators GRAMM, RUDMAN, HOLLINGS, one, all, or whatever, or a combination—to debate the Gramm-Rudman-Hollings amendment to the debt ceiling.

I think, as the minority leader pointed out correctly this morning, their amendments block consideration of other amendments until disposed of. There is a motion to recommit, but that has also been amended.

I also understand that there has been some agreement. I do not say agreement among all interested Senators, but some Senators, including Senators CHILES and DOMENICI, on ways to modify the original Gramm-Rudman-Hollings amendment.

So I urge my colleagues to come to the floor, modify their amendment, and debate the amendment so that we will be in a position to dispose of this amendment on tomorrow should we complete the TV in the Senate debate early in the afternoon. In fact, we can complete debate on the amendment and even have a voice vote if that is possible. I doubt that is possible.

But the point is we need to make some progress.

Mr. President, while we are attempting to round up the appropriate Members, I am going to suggest we have a recess. I ask unanimous consent that the Senate stand in recess until 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 1:43 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KASTEN).

□ 1430

ORDER OF BUSINESS

Mr. DIXON. Mr. President, what is the order of business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DIXON. Mr. President, if I may take a few minutes of time, and I understand my distinguished friend from Minnesota would like some time, I think mine would involve perhaps 3 minutes or so.

Mr. DURENBERGER. Mr. President, that would be fine with me. I have probably 5 minutes. I am glad to wait until my colleague from Illinois has disposed of his.

Mr. DIXON. I thank very much my colleague from Minnesota.

FATHER LAWRENCE MARTIN JENCO—FREE AT LAST

Mr. DIXON. Mr. President, Father Lawrence Martin Jenco is free at last. I am deeply grateful to be able to utter those words after over 18 months of agonizing with his family and working for his release.

What is foremost in my mind, however, is the incredible faith that Father Martin's family maintained throughout this unbearable ordeal. His sisters and brothers, nieces and nephews never gave up hope, and their determination inspired all of us.

There is a message in all of this, of course. I tried to convey it in a videotape which was aired July 16 on Lebanese television. Much, much more can be accomplished through humanity than through hatred. It is very discouraging to hear from the Islamic Jihad, who are still holding Terry Anderson, David Jacobsen, and Thomas Sutherland and who claim to have murdered William Buckley, that the release of Father Martin is their last humanitarian gesture. Our joy is diminished by the continued captivity of these Americans as well as those of other nationalities who are being denied their freedom.

We are grateful for the assistance of Syrian President Hafaz Assad in gaining the release of Father Jenco.

Communication must continue. The families of the hostages have continued to speak to anyone who would listen, urging the release of their loved ones. It is these human, nonpolitical pleas that seem in some way to have reached the captors. While they voice deep hostility for our Government, we need to continue to urge their compassion for their prisoners who have no part in the political issues involved. These men are innocent victims in a larger struggle. Talk must continue, as the families have shown us, at every opportunity, in whatever forum, until all the captives are free again.

I am also deeply sorry that our friend and colleague, Congressman George O'Brien, did not live to share this joyous time with his constituents and friends, the Jenco family. George cared deeply about this matter, and worked diligently to see the hostages freed. Last week, during a regular meeting of the Illinois congressional delegation, we agreed to continue our efforts by writing to President Hafaz Assad, in George's memory. We also agreed, as a delegation, to speak on the floor of the Senate and House weekly regarding Father Jenco's release. Happily, we will not have to do this for Father Martin. However, none of us should rest until the other hostages are free. I know that the Jenco family will continue their tireless efforts, and we should follow their example.

Mr. President, may I just simply say in conclusion, and then I will yield to my friend from Minnesota: I know the Presiding Officer served with Congressman O'Brien in the House. He was a dear friend of mine. I served with him in State government. I knew him very well and loved him and his lovely wife Mary Lou.

Last Tuesday, Mr. President, Congressman O'Brien's funeral was held at St. Raymon's Catholic Church in Joliet. Even during that ceremony, the expression was again made by everyone there of Congressman O'Brien's concern for the release of Father Jenco. I just want to say that I know where he is looking down on us, Mr. President, that he is smiling and he is delighted that an old friend of his has been released largely, may I say, Mr. President, through the untiring efforts of Congressman George O'Brien.

I thank you, Mr. President, and I am delighted to yield to my distinguished friend from Minnesota.

LTV BANKRUPTCY FILING

Mr. DURENBERGER. Mr. President, today I am introducing a joint resolution which addresses the financial plight that is faced by the retirees of the LTV Corp., of approximately 125,000 middle Americans of whom 63,000 are in the steel part of the LTV business, who are retirees of that company and who are presently facing some severe hardships because of the result of the company's efforts to maintain their business for the future and for the future employment of the retirees' former colleagues who are still active employees of that company.

As all of my colleagues know, less than 2 weeks ago, LTV, which is the Nation's second largest steel producer, filed a chapter 11 bankuptcy petition. LTV's decision is a shocking blow to our Nation's steel industry and is especially devastating on the company's retirees.

On Friday of last week, I joined my distinguished colleagues from Ohio and Pennsylvania in sponsoring an amendment directing LTV to continue to pay all medical and life insurance benefits to retirees of the corporation. However, under the terms of the amendment we introduced last week, the bankruptcy court maintains jurisdiction and can use that jurisdiction to order LTV to stop making such payments to the retirees, who are creditors in effect of the corporation. If the bankruptcy court would do that, it would leave all of the LTV retirees in a position they might have no health insurance.

I understand that LTV has been engaged in good faith negotiations with several health insurance companies in an effort to provide conversion health insurance policies that shift the premium costs from LTV to its retirees but would enable those retirees to have a health insurance plan.

Currently, the company pays approximately $100 per month for these policies and the company's retirees pay $60 a month. Even if LTV is successful in negotiating conversion policies, many of its pensioners will be hard pressed to come up with an additional $1,200 a year to cover their health insurance costs, particularly if the pensions of more than 50 percent held by employees of the LTV are altered in any way negative to the retirees involved.

So, I am offering this joint resolution.

Its purpose is to provide a temporary bridge for those retirees who have relied on LTV's earlier contractual commitments to continue making health insurance payments through retirement years.

This joint resolution directs the Senate and House conferees on the tax reform bill (H.R. 3838) to adopt a modified version of the so-called steel industry investment tax credit cashout. A month ago, we in the Senate approved this special cashout of the investment tax credit for the steel industry. At the time the amendment was debated, we agreed to an amendment requiring the industry to use the cashout funds to modernize steel and iron ore plant and equipment.

This joint resolution I am introducing today would modify the amendment we made on the floor and require that steel companies that file bankruptcy petitions and who are found not to be obligated to continue paying health insurance premiums for retirees, be required to use the money received from the investment tax credit cashout to continue making payments for retiree health insurance.

Mr. President, in the month since we agreed to the investment tax credit cashout amendment, events have overtaken the industry. Many experts believe that LTV's bankruptcy petitions could be the first in an industrywide move to scale back operations. Just this morning, the New York Times began a series of articles on the "humbling" of steel, entitled "LTV Failure Stirs Questions on Survival of Steel Industry."

I believe that a more efficient domestic steel industry will indeed survive these troubled times. However, during this difficult time of reorganization and retrenchment, I believe it is unfair to ask those suffering the greatest hardships—the elderly retired workers—to suffer the loss of their promised health insurance benefits in order to pay for the managerial mistakes of the past.

This joint resolution channels investment tax credit cashout funds into a special reserve in the case of any steel company that files for bankruptcy this year, or in the future. It provides that such funds be used exclu-

sively to continue making health insurance payments for retirees.

At the same time, it recognizes that some of these funds may not be made available to the companies in time to continuing making health insurance payments. So this joint resolution directs the States to make interim payments to the retirees until such time as the companies receive their investment tax credit reimbursements.

At that time, the States would have to be reimbursed out of such funds received by the companies involved.

Mr. President, this is a small step at bridging the problem faced by many retirees in declining industries across this country. As an interim measure, it provides immediate relief to those in desperate need, from a source that we trust will be readily available as soon as the tax conference is completed. It also gives Congress the time to reexamine our national policy on health insurance for working people and the opportunity to consider what type of legislation may be necessary to deal with this continuing problem.

Mr. President, for the purpose of placing the joint resolution which I just introduced before the Senate, I ask for the first reading of the joint resolution which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 380) directing the conferees on the act entitled the "Tax Reform Act of 1986" (H.R. 3838) to require that any amount refunded under section 212 of the Tax Reform Act of 1986 to steel companies filing bankruptcy petitions in 1986 or thereafter be dedicated for the continuation of company-paid health insurance costs for employees and retired employees.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 380

Whereas the steel industry of the United States has endured a series of financial losses in recent years and is continuing to endure significant financial deterioration;

Whereas employment in the steel industry has dropped from 512,000 in 1974 to less than 190,000 in 1986;

Whereas active employees and former employees in the steel industry continue to face an uncertain economic future and the loss of negotiated wage and fringe benefits;

Whereas the Congress has recognized the unique financial problems facing the steel industry and has voted with respect to the Tax Reform Act of 1986 (H.R. 3838) to allow the industry to carry back unused investment tax credits for 15 years;

Whereas the Nation's second largest steel company has recently filed a chapter 11 bankruptcy petition and there is a threat that other members of the industry may also file bankruptcy petitions;

Whereas active and former employees of steel companies that have filed chapter 11 bankruptcy petitions or may in the future file bankruptcy petitions are in danger of losing company-provided health insurance;

Whereas many of the active and former employees of such steel companies do not and will not have the financial resources to acquire health insurance to replace company-provided health insurance; and

Whereas health insurance coverage for active and former workers of such steel companies is a vital necessity that could affect the physical and psychological health of the affected individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress—

(1) that the conferees on the bill entitled the "Tax Reform Act of 1986" (H.R. 3838) agree to amend section 212 of the bill to provide that any amount refunded to a steel company that has filed a bankruptcy petition in 1986 or following enactment of such bill, and which is not required, or is found not to be required to continue making health insurance payments to its active or retired employees, including employees and retired employees of subsidiaries of a bankrupt, including employees and retired employees of Republic Reserve Inc., be dedicated exclusively for the continuation of those company-paid health insurance costs in effect prior to the filing of the bankruptcy petition, and that the dedication of such refunds for such insurance costs cannot be overridden by the determination of the trustee in bankruptcy or any court of competent jurisdiction; and

(2) that the dedication of refunds referred to in paragraph (1) is contingent on the action of the States within which affected workers reside to provide sufficient funds for the affected workers to continue to obtain health insurance sufficiently equivalent to that provided by the company prior to the filing of the bankruptcy petition until such time as the amount provided for in section 212 is refunded by the Federal Government, and that such funds provided by the States will be reimbursed from the amount refunded to the company from the Federal Government.

ORDER OF PROCEDURE

RECONCILIATION

Mr. DOLE. Mr. President, first, let me correct a statement made earlier, I guess a couple of times, where I indicated, to the best of my knowledge, that Senator DOMENICI and Senator CHILES had signed off on, or at least sort of agreed to, a modification. I understand that is not correct insofar as Senator CHILES is concerned. He has not yet agreed to anything. So the RECORD should indicate that, and I apologize for giving less than accurate information.

GRAMM-RUDMAN

I would also indicate that we are not going to be able to do much today, because the modification to the Gramm-Rudman amendment has not been agreed to by some of the key players. They are working on it this afternoon.

I am advised that it would not be profitable, I guess would be the right word, to take up TV in the Senate, since we have an agreement to take it up tomorrow. So I do not see much reason to stay around here very long, unless somebody has additional morning business or unless somebody wants to make a statement. Then I would guess we will recess the Senate here very soon until tomorrow, and tomorrow, hopefully, will be a better day. Today has been a good day for some, but we have not accomplished a great deal, which may be a plus.

FORT HAYS STATE UNIVERSITY STRIVES FOR EXCELLENCE

Mr. DOLE. Mr. President, I would like to take a moment to offer my personal congratulations to Fort Hays State University in Hays, KS, for its continuing efforts to achieve excellence in education.

Recently, the Kansas Board of Regents selected Fort Hays State University to serve as the home of our State's summer honors academy. One hundred and fifty high school seniors, who demonstrate superior academic achievement, will be invited to spend their summer next year at Fort Hays, studying fields of special interest in preparation for their college studies.

Also, Fort Hays State University recently received national accreditation by the American Speech-Language-Hearing Association for its communications disorders program.

□ 1450

Accreditation is a measure of quality, and generally, schools have to make changes in their programs to be approved. But in this case, the association approved Fort Hays' program just the way the university designed it.

And today, I am pleased to announce that an exciting and unique program designed by Fort Hays State University—a college studies for the gifted program—is under consideration by the U.S. Department of Education for special funding.

More than 60 various proposals were submitted to the Department's national diffusion network: The only university program to be considered for funding is the Fort Hays program.

Fort Hays' College studies for the gifted program is a cooperative effort involving students, parents, school districts, and the university, which provides academic opportunities for the gifted precollege student.

Few of us probably know that gifted students—those blessed with superior intelligence and academic ability—find many frustrations in the normal educational experience. As many as one out of four gifted students drop out of high school because of their unique situation.

It is the hope of Fort Hays State University to replicate their program—offered throughout Kansas—on a nationwide basis, so that our gifted

youth reach their potential to become productive members of our society. Thus, young students ranging in age from 10 to 18 years of age, may undertake some types of college education, helping to maintain interest in fields of study more challenging to their ability.

At Fort Hays State University, the track record of this exceptional approach to education is an unqualified success. One hundred percent of the gifted students enrolled in the program have graduated from high school and entered college.

By the end of this summer, the Department of Education will make its final determination regarding funding of the program. I strongly support such funding, and am hopeful the Department of Education will give its approval. But win, lose, or draw, Fort Hays State University has made tremendous contributions in the field of education and has this Senator's support for its efforts.

I commend Dr. Gerald Tomanek, president of Fort Hays State University, for the leadership he is providing. In addition, I wish to thank Kansas State Representative Sandy Duncan for his work at the State level in support of the gifted students' program. There are, of course, many other individuals who deserve credit as well, and while it is not possible to name them all, they have our support and admiration.

I know the president of the Fort Hays State University very well and he does an outstanding job. I am certain there will be other outstanding programs that will come forth under his leadership.

□ 1500

GRAMM-RUDMAN MODIFICATION

Mr. EXON. Mr. President, I am back on the floor this Monday after several days last week, including Thursday and including Friday, and concern whether I would change my travel plans. As the Chair undoubtedly knows, and the Senate is fully aware, this Senator is anxious that we move ahead in an expeditious fashion on the matter before us, generally referred to as Gramm-Rudman II, which, of course, is an amendment to the President's request that once again we increase the debt ceiling of the United States to over $2 trillion, this time to approximately $2.3 trillion.

As the Chair knows, this Senator has offered an amendment that simply made a straightforward request that rather than attempting to go ahead with the fixup provision provided in Gramm-Rudman II, that the body use the fallback provision as was written into the original Gramm-Rudman proposal, which was placed therein as a fallback provision in case the Supreme Court did what the Supreme Court did. Of course, as we all know, that was when the Supreme Court knocked out the so-called sequestering or triggering mechanism whereby the head of the General Accounting Office, usually referred to as the Comptroller General, was directed in the original act to be the sequesterer, or to drop the guillotine in case the Congress did not move.

It has been this Senator's position that rather than getting ourselves back into that situation what we should do is simply use the fallback procedures that the authors of the original Gramm-Rudman proposal assured us would be there to make the bill operative. I say it is there. That part was not knocked out by the Supreme Court. All recognize and realize that if it was workable in the original instance, which most assume it was, it would be workable today. Of course, I refer to the fallback provision.

This Senator offered last week an amendment to have the Senate vote up or down on that measure as a prelude to whether we should get ourselves into a new possible legal quagmire with regard to attempting to fix up the objections, the serious objections, that the Supreme Court had basically with regard to the separation of powers issue.

As the Chair knows, on two occasions when this Senator from Nebraska attempted to offer that clarifying amendment to get a sense of the Senate as to whether we should proceed along the lines that some Members of the Senate are proceeding and have now locked us into a delaying situation, in both instances when the Senator from Nebraska tried to offer that amendment and called for an up-or-down vote, he was blocked by parliamentary procedures.

On Friday last, we were back to the situation where this Senator was successful in offering the amendment once again, but then an amendment in the first degree and an amendment in the second degree were once again offered by the main proponents of Gramm-Rudman-Hollings, and we are back in the same position we were in before, accomplishing nothing but preventing an up-or-down vote on the amendment of the Senator from Nebraska.

As I understand it, that is still the situation that we are in now. No amendment could be voted on under the present parliamentary situation. Until that is broken or until someone gives, that is the position we are in now, and any amendment that would be offered at this time would be blocked from a yea or nay vote. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

(Mr. MATTINGLY assumed the chair.)

Mr. EXON. Mr. President, that brings me back to the same message that I made on the floor time and time again last week, and I am here repeating it again today.

Mr. President, my good friends from Texas, New Hampshire, and South Carolina have asked the Congress to investigate the unprecedented powers in the Office of Management and Budget in an effort, to use their words, to repair the Emergency Deficit Control Act, otherwise known as the Gramm-Rudman-Hollings law.

Without benefit of a committee report or recommendation, the Senate is again being asked to rush to judgment on a matter of the gravest dimensions.

Incidentally, once again, as was the case last year, this latest leap into the unknown, devoid of hearings or due consideration, is tied again to the latest Presidential request to further increase the debt ceiling limit; this time, as I have just said, to $2.3 trillion.

I urge my colleagues to reserve judgment on the various Gramm-Rudman-Hollings fixes. There is no need to repair the Emergency Deficit Control Act. The anticipation of an unfavorable Supreme Court decision was well known at the time this act passed. The Congress in its wisdom included a fallback mechanism which gave the Congress the ability to vote formal spending reductions in an expedited manner, should that happen.

The Congress successfully used the fallback mechanism on Thursday, July 17, of this year. There were no attempts to delay. No crying and gnashing of teeth. The Congress had a job to do and the Congress did it, Mr. President.

I have offered an amendment to the debts ceiling bill which expresses the sense of the Senate that the Congress should utilize the existing fallback provision and vote on specific measures to reduce the deficit.

This is a curious line of debate that is developing, that if we do not shake up the Government, throw the budget keys to the Office of Management and Budget, that we are against deficit reduction. I would say that the evidence is quite clear, Mr. President, to the contrary. No agency of the Federal Government has a worse record for fiscal responsibility than OMB, except, perhaps, the Department of Defense. The latest Director of OMB made his fortune revealing how he misled the President, the Congress, and the American people on the magnitude of the deficit and the health of the economy.

Of course, Mr. President, I am referring to the now famous named book called "The Triumph of Politics, Why the Reagan Revolution Failed," by

former OMB Director David A. Stockman.

I do not believe it is particularly important, Mr. President, that we cite personalities, except to make it clear in the U.S. Senate, as we consider this matter, that we are not dealing with individuals; we are dealing here with policy.

Mr. David Stockman was the first Director of OMB under this administration.

□ 1510

He now has written a very detailed book that has been referred to earlier on the floor, saying how they tricked, how they fooled people, how they misled the Congress and the American people not only as to the size and scope of the Federal deficit and the continuing skyrocketing national debt, but in some manner, it may be a blueprint for the continuation of that in the future. Yet here goes the Congress of the United States, at least this half of that body, the U.S. Senate, supposedly the most deliberative body in the world, on a collision course to handing over to that agency responsibilities that I maintain, Mr. President, are under the direct authority and responsibility of the Congress of the United States; namely, the House of Representatives and the U.S. Senate, of course with the approval, the signature or veto, of the President of the United States.

Mr. President, it seems to me that is an extremely weak case that they are making, the case they are trying to make now—"they" being the proponents of Gramm-Rudman-Hollings and those who are trying a fixup job. They seem to ignore the fact that in addition to the objections this Senator just cited, there is the possibility that they will get themselves right back into the legal box that they quickly found themselves in after the bill was passed. We could find ourselves right back in dearly, Mr. President, with regard to any fixup provisions, at least the ones this Senator has heard of, could find ourselves right back before the U.S. Supreme Court again. And the Supreme Court might say again, you cannot do that.

Although the Supreme Court did not specifically address this, I think it is very clear that the Supreme Court was trying to send a message to the Congress of the United States as best they could that there is a division of powers under the Constitution and we either have to fish or we have to cut bait. We cannot have it both ways.

The current Director of OMB prepared a budget for the President which understated the deficit by $16 billion. This is the individual that we are going to settle this new responsibility on, unprecedented in the history of the Republic.

Reports also indicate that the current Director is prepared to utilize various accounting devices to play with the deficit figures to get the administration and Congress simply through the next election in November of this year. Last year, Congress was unwilling to turn the awesome sequestering authority over to the Office of Management and Budget. Even the district court and the U.S. Supreme Court recognized that fact in their recent opinion. Justice Burger quoted the district court decision in the Bowsher versus Synar case and noted that:

> The grant of authority to the Comptroller General was a carefully considered protection against what the House conceived to be the pro-executive bias of the OMB. It is doubtful that the automatic deficit reduction process would have passed without such protection. . . .

Mr. President, the Court was right. I remember vividly the debate of last fall and the repeated assurances that the General Accounting Office was nonpolitical and would act as a buffer to the policies of the Office of Management and Budget. I ask my colleagues, what has changed, that it would possibly consider making the move back to trusting OMB when it was clearly indicated last fall that we did not? Why do we now?

I referred earlier, Mr. President, to the fact that the Director before last of the OMB has written a multi-million-dollar book telling us how we were tricked and how we were fooled. As I just said, the present Director of OMB presented us a budget, through the President, that was obviously at least $16 billion, if not more, out of bounds.

Some Members think that you can tie the hands of OMB once you delegate the authority to them to sequester. Justice Burger further wrote in the Bowsher opinion that, quoting from the Court once again:

> The Constitution does not contemplate an active role for Congress in the supervision of officers charged with the execution of the laws it enacts.

I simply say that once we give away the power, any power, we have little opportunity to control the politics or policies of the Office of Management and Budget.

My good friends, the supporters of this Gramm-Rudman II proposal, speak of establishing a process which brings certainty to deficit reduction. It seems that the proponents of the son of Gramm-Rudman-Hollings are seeking the most uncertain path possible.

There is no guarantee that OMB can, through the suggested fix, cure the constitutional deficiencies of the automatic sequester provisions of the Emergency Deficit Control Act.

Before voting, each Member should consider that the Supreme Court has acted and has not told us in their decision to strike the automatic sequester provisions of Gramm-Rudman-Hollings. Chief Justice Burger's majority opinion almost exclusively dealt with the role of the General Accounting Office. It did not reach out with finality on the ability of Congress to delegate such a massive amount of its authority to another agency of the Federal Government.

In this case, Mr. President, I think we are further faulted in that we are trying this Gramm-Rudman II fix by delegating authority that I firmly believe is the responsibility of the Congress and the President over to some nameless, faceless, nonelected bureaucrat. I suspect that the Founding Fathers would have shuddered indeed if they ever thought that the Congress of the United States and the President of the United States—whoever they might be—would make such a move that I think is not only unprecedented but extremely unwise.

Mr. President, I quote again from the majority opinion of the Supreme Court in Bowsher versus Synar:

> Because we conclude that the Comptroller General, as an officer removable by Congress, may not exercise the powers conferred upon him by the act, we have no occasion for considering appellees' other challenges to the act, including their argument that the assignment of powers to the Comptroller General in section 251 violated the delegation doctrine.

Mr. President, the Chief Justice's opinion was stayed for 60 days, in the Court's words, "to permit Congress to implement the fallback provisions."

Let me repeat that: The Chief Justice's opinion that was interpreted for us, the decision of the U.S. Supreme Court, said, to quote again: "To permit Congress to implement the fallback provisions."

The Court did not say, "You can implement something else; you can have a fixup mechanism that is not spelled out in the original act."

They told us, Mr. President, that they are giving us 60 days to permit Congress to implement the fallback provision.

□ 1520

The question that this Senator continues to ask—and I hope that my colleagues will begin to ask themselves—is why do we not rely on that? Why do we not go ahead and use the fallback provision as it was clearly indicated that we would when the act passed. And now I think that is even more clear, since the Supreme Court has said you have a fixup mechanism already in the bill; we are going to give you 60 days to work it out.

The concurring opinion of Justice Stevens is even more explicit in noting that—

> If the legislative branch decides to act with conclusive effect it must do so through a process akin to that specified in the fallback provision—through enactment of both Houses and presentment to the President.

I am not an attorney, but it seems pretty obvious that the Supreme Court is sending the Congress a strong and a very clear signal. If the Congress constructs another device to shuffle its responsibility to another agency of the Government, I guarantee that the scheme will once again be challenged in court and uncertainty will once again be the watchword of deficit reduction.

Mr. President, if we are concerned, as most Members of this body seem to be, about the deficit continuing to remain out of control, why do we not have the courage to make the reductions that must be made, to meet the dictates of Gramm-Rudman, as difficult as that is going to be, and not run the risk of passing a bill that might find us before the Supreme Court once again? And if that happens, I suspect it is very likely that the 60 days which the Court gave us will run out before a decision is made.

What I am saying, Mr. President, is that if we are as concerned about the deficit reduction as pleas from this floor have indicated, then why do we not get to work on the problem? Why did we delay action all last week and again so far this week? Tomorrow is the earliest time, as I understand it, we could possibly have a resolution of this problem, if we have it then.

I urge my colleagues to reject efforts to further reorganize the budget process and the Federal Government just because it is desired by three or our more notable members of this body. A vote for or against granting the OMB sequestration power is not a vote for or against deficit spending. Rather, Mr. President, it is a vote for or against accepting responsibility which is rightfully that of the Congress and the President of the United States, elected officials who can, should be, and are held accountable by the public.

One Member told the Senate that the Gramm-Rudman-Hollings "automobile" has a flat tire. The Supreme Court did not give Gramm-Rudman-Hollings a flat tire; it simply said it needs a constitutional driver. I suggest that the Congress should drive the machine of deficit reduction, not a faceless, nonelected member of this or any future administration.

The discipline of Gramm-Rudman-Hollings survived the Supreme Court decision. That is clear. Left in place is a workable and proven device which gives the Congress the responsibility and ability to reduce the deficit. Let us leave well enough alone and muster the courage to reduce the deficit which is our responsibility. Let us not concoct another Frankenstein monster that could lead us back into court and further needless delay in doing our job.

ANDREW HAMPSTEN—BEST NEWCOMER IN TOUR DE FRANCE

Mr. ANDREWS. Mr. President, I rise today to recognize the achievements of a fellow North Dakotan, Andrew Hampsten of Grand Forks, who, this weekend, in his first Tour de France bicycle race, finished in fourth place and was named best newcomer in the race.

Fourth place in a race like the Tour de France is an outstanding achievement for any cyclist. It is all the more outstanding since this was Andy's first attempt in this tortuous race through the mountains and countryside of France.

Admittedly, Andy was not the biggest or strongest racer in the Tour de France, but his personal desire to succeed and his special mountain climbing skills, which have earned him the nickname "Mountain Goat" from fellow racers, brought him so close to the ultimate achievement in his very first attempt in the world's premier cycling event.

Andy's accomplishments stand as an inspiration and example for all of us. Cycle racing is both a team and an individual sport. Andy's efforts as a member of the La Vie Claire team helped make it possible for fellow American Greg LeMond and Frenchman Bernard Hinault to finish first and second in the Tour de France. His individual effort to persevere to the end is still more remarkable when one realizes that nearly half the racers that started the Tour de France were unable to finish the gruelling 23-day, 2,500-mile race.

The qualities of team player and individual achievement are qualities in which Americans take great pride. They are the qualities that Andy Hampsten has displayed for all the world to see. We, in North Dakota, are proud to claim Andy as one of our own.

AVIATION SAFETY

Mr. BYRD. Mr. President, on May 21, I spoke in the Senate about an incident which occurred on May 17, involving a U.S. Air DC-9, and an American Airlines 727 jet. The two planes had been cleared by a controller to take off at the same time from intersecting runways at Chicago's O'Hare Airport. The 224 people on board the two aircraft came frightfully close to death or injury in what could have been a catastrophic collision.

In response to my floor statement, I received a letter from FAA Administrator, Mr. Donald Engen, regarding my comments. His letter, dated June 3, conceded that the incident involved an "operational error" on the part of an air traffic controller. After making the concession, which in itself is cause for concern, Mr. Engen went on to say that "while news clips are eye catching, they frequently don't represent what actually occurs."

In addition, Mr. Engen suggested that "there appears to be a mixing of fact and near-fact in your statement and the clippings." Mr. Engen did not identify where my statement or the accompaying clippings contained "near facts." He said he would be "pleased to provide me with the facts." However, nowhere in his letter did he do so, and at no time since has he attempted to do so.

□ 1530

The mails are still running, Mr. President, although they are sometimes delayed. I would be happy to hear from Mr. Engen, if he wishes to clarify the facts, to state what the "near facts" were in both the clippings and in my letter.

Mr. President, in the Thursday, July 24, edition of the Washington Post, there is a story with the headline "U.S. May Limit Flights at Chicago Airport." According to the Post story, in this instance, the National Transportation Safety Board has been investigating the unusually high number of near collisions at Chicago's O'Hare Airport.

The Post story noted that this year there have been 14 such incidents. Only two of which have been publicized. The story pointed out that NTSB investigators "are so concerned that they are considering a formal recommendation to restrict flights at the world's busiest airport until more Federal Aviation Administration controllers become available."

The July 24 Post story also included a reported comment by FAA Administrator, Donald Engen, regarding the situation at O'Hare: "Chicago O'Hare is nothing more than a very busy airport * * * I'm not concerned that we have a big problem at O'Hare." Mr. President, we have heard such comments from Mr. Engen before.

With all due respects to Mr. Engen, I think that such a comment appears to be cavalier; and I must add that, while Mr. Engen may not be concerned that we have a big problem at O'Hare, I am sure that air travelers in and out of O'Hare should certainly be concerned.

I fear that the repetition of near-misses at O'Hare confirms the concerns reflected in my May 21 statement. Perhaps the repetition of events such as those addressed in the Post article a few days ago also explains why Mr. Engen has not yet presented to me or, so far as I am aware, to any others in Congress the facts that would dispel our concerns.

Mr. President, the more recent Post story clearly indicated that, although Mr. Engen may not be concerned, the NTSB is concerned about the situation at O'Hare Airport. If the story is accu-

rate, the NTSB is considering a recommendation to restrict flights. This is drastic action, but it is an indication, clearly, of the level of the NTSB's concern about the issue of aviation safety. The NTSB is to be commended for its efforts on behalf of aviation safety.

In that regard, I hope that the Senate will soon confirm the nomination of Mr. James Burnett to serve again as the Chairman of the National Transportation Safety Board. Under his leadership, the NTSB has been at the forefront of safety issues, and he has strongly indicated his deep concern about aviation safety. I have every reason to believe that that concern will continue to be a most effective advocate of aviation safety, which is a matter that concerns all Americans who fly.

Mr. President, I ask unanimous consent to have printed in the RECORD the July 24 Washington Post article; Mr. Engen's May 30 letter addressed to me, to which I have referred; the Washington Post and New York Times articles which were the subject of my earlier statement on the floor; together with my earlier floor statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 24, 1986]

U.S. MAY LIMIT FLIGHTS AT CHICAGO AIRPORT

(By Douglas B. Feaver)

An unusually high number of near collisions at Chicago's O'Hare International Airport has spurred a National Transportation Safety Board investigation.

Board specialists, who recently returned from O'Hare, are so concerned that they are considering a formal recommendation to restrict flights at the world's busiest airport until more Federal Aviation Administration controllers become available, sources said. So far this year, there have been 14 close calls at O'Hare, only two of which have been publicized. Most of the incidents involve controller errors, the sources said.

"There are just too many planes there right now," one source said. June traffic at O'Hare set a record and was 26 percent higher than in June 1985. The FAA has only 52 fully qualified air traffic controllers in the O'Hare tower, although the authorized strength is 94. In addition, several trainees have authority to direct airplanes in limited blocks of airspace before completing their instruction.

FAA Administrator Donald D. Engen said in an interview Tuesday:

"If anything, what's going on out there is that increased volume has increased the [controller] infractions, and that's probably a direct-line relationship . . . Chicago O'Hare is nothing more than a very busy airport. We're dealing with that. I'm not concerned that we have a big problem at O'Hare."

The problems at O'Hare come amid increasing concern on Capitol Hill that the FAA is not rebuilding the air traffic control system quickly enough after a controllers' strike five years ago.

Rep. Guy V. Molinari (R-N.Y.), who has been especially critical of the FAA, has significant support for rehiring some of the 11,400 controllers fired by President Reagan. The House will vote on that as an amendment to a transportation appropriations bill that could reach the floor today.

The sources said the 14 incidents, known in FAA jargon as "operational errors," are far more than usually occur in six-month periods at O'Hare or similarly busy airports, including those at New York, Los Angeles and Atlanta.

In the most recent unpublicized incident, a Western Airlines jet was directed to take off July 2 on a northwest runway, then turn west. A United Air Lines jet was directed to take off on a westbound runway and turn slightly north. Visibility was severely limited by fog and clouds.

The planes received their instructions from different controllers, who did not coordinate the takeoffs. As the jetliners headed toward each other, they were picked up on radar in the darkened room beneath the O'Hare tower and a computerized "conflict alert" warned a controller.

The controller really had to "pry em apart" with hastily radioed instructions, a source said. The official estimate was that the two planes were converging and came as close as a half mile horizontally and 400 feet vertically. FAA regulations require a minimum of three miles and 1,000 feet.

In another recent incident, United and Air Wisconsin jets came within a mile of each other after taking off.

In May, there were two near collisions on the runways at O'Hare, prompting the safety board to recommend that two coordinators be added to assist controllers. One was added.

FEDERAL AVIATION ADMINISTRATION,
Washington, DC, May 30, 1986.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I noted your interest in the operational error which occurred at Chicago O'Hare between two aircraft on takeoff, and the fact that you had placed in the Congressional Record several news clips. It is true that the FAA air traffic controller failed to keep the required separation in that incident. However, while news clips are eyecatching, they frequently don't represent what actually occurs.

There appears to be a mixing of fact and near-fact in your statement and the clippings. I would be pleased to provide you the details of what occurred at O'Hare and what is occurring nationwide in our continuing successful effort to provide the safest aviation system in the world.

Very briefly, the number of "near" accidents in aviation has historically been a function of air traffic volume. We have managed to reduce aviation accidents through strong FAA management and regulatory action. This is one of the strengths of the FAA. From my viewpoint—working daily with every aviation incident that occurs in the United States—there has been an increase in aviation safety, not a decrease.

I know of your interest in this matter and would be pleased to provide you with the facts. We have a good story to tell. I am providing Senator Kassebaum a copy of this letter

Sincerely,

DONALD D. ENGEN,
Administrator.

NEAR COLLISION AT CHICAGO O'HARE AIRPORT

Mr. BYRD. Mr. President, this past Saturday, May 17, a USAIR DC-9 and an American Airlines Boeing 727 came very close to a disastrous collision at Chicago's O'Hare International Airport. The two airliners were carrying a total of 224 passengers and crew.

According to a report which appeared in Monday's New York Times, the USAIR DC-9, bound for Pittsburgh, was taking off at the same time as the American Airlines 727, which was bound for Oklahoma City. The two airliners were on separate, but intersecting, runways. As the two aircraft were taking off, heading toward the intersection of the two runways, the USAIR pilot saw the American Airlines jet heading toward him on the other runway. He managed to pull his plane off the ground at slower than normal speed and avoided a collision—a collision which would have surely been disastrous.

According to the FAA, there were a total of 420 operational errors reported at airport air traffic control towers in 1985.

The incident has been declared an "operational error" by the FAA, although some sources quoted in the Times story characterized it as a "very close call." This most recent "operational error" is attributed to an air traffic controller who failed to ensure that the two aircraft were in compliance with FAA rules governing the safe separation of aircraft.

In a report on the incident at Chicago's O'Hare in Monday's Washington Post, the air traffic controller to whom the error has been attributed "had his hands full" rerouting other traffic because of rain and fog when the incident occurred.

Mr. President, this is but the latest in a number of similar incidents in which commercial passenger aircraft narrowly have averted a disastrous encounter. In the past 2 years, according to a recent NTSB report of the results of its investigation of 26 such incidents, "the number of near-collision ground incidents has increased significantly." Unfortunately, the NTSB points out, the magnitude of this problem is difficult to determine because of incomplete reporting and lack of FAA followup investigations.

The NTSB report notes that the FAA has taken steps to halt such incidents, and that those measures may prove effective. However, the NTSB warns that many of the FAA's efforts may be "questionable unless some of the basic ATC [air traffic control] problems involving adequacy of controller training, coordination in the tower, and supervision are resolved. "Until these problems are adequately addressed," the NTSB warns, "controllers will continue to forget aircraft, there will be continued breakdowns in coordination in the tower, and supervisors will not be free to monitor performance of controllers or assist controllers."

Mr. President, this latest incident at O'Hare Airport is a grim reminder that despite the assurances of some, aviation safety is confronted by serious problems which must be addressed if the Nation is to avoid a repeat of 1985—the worst year since 1977 for U.S. air carrier operations in terms of the number of fatalities.

I have introduced legislation, S. 2417, the Aviation Safety Commission Act, as a first step in addressing some of these problems. I was gratified that the distinguished chairman of the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation, Senator KASSEBAUM,

asked to be added as a cosponsor of this legislation, and that she announced she would schedule aviation safety hearings in her subcommittee in July.

I urge my colleagues in the Senate to join as cosponsors of this legislation, which was offered by me on behalf of Senators HOLLINGS, FORD, ROCKEFELLER, and others in a bipartisan effort to begin the enormous task of addressing the many difficult issues associated with aviation safety. Senators on both sides of the aisle, including Senator MARK ANDREWS and others, are joining as cosponsors, have already joined, or are contemplating joining. I shall work with my colleagues to ensure that the Senate will act expeditiously to enact this important legislation before we adjourn for the August recess.

Mr. President, I ask unanimous consent that articles from the New York Times, and the Washington Post be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 1, 1986]

U.S. BOARD STUDIES CHICAGO AIRLINER INCIDENT

(By Richard Witkin)

The National Transportation Safety Board said yesterday that it was investigating the report of a near-collision of two airliners taking off on intersecting runways in Chicago Saturday.

The pilot of one plane, a USAIR DC-9, pulled his craft off the ground prematurely, at slower than normal speed, to avoid hitting the other plane, an American Airlines Boeing 727, Government and airlines spokesmen said.

It was not immediately clear how high the DC-9 was when it crossed the path of the 727, which was apparently still on the ground. But several sources termed the incident a "very close call."

The two planes were carrying a total of 212 passengers and 12 crew members.

"OPERATIONAL ERROR," F.A.A. SAYS

Morton Edelstein, spokesman for the Federal Aviation Administration in Chicago, said the incident had been declared an "operational error" by officials in the tower at O'Hare International Airport. This was implicit acknowledgement that a mistake had been made by one or more air-traffic controllers in allowing two airliners to be given takeoff clearances that failed to insure compliance with rules on safe separation.

The incident occurred as critics in Congress, other agencies and the private sector were questioning the adequacy of F.A.A. supervision of air safety, not only in the area of air-traffic control but also in aircraft maintenance and security against terrorism.

Last week, the safety board voiced new concerns about the kind of near-collision that happened Saturday in Chicago, and expanded on earlier recommendations for remedial measures by the aviation agency.

The report was based on a 10-month study of the 26 most serious such incidents last year. Among other things, the report called for creation of a special team to develop memory aids for controllers, and improvement in airport "signs, markings and procedures."

The safety board inquiry will seek to determine why conflicting instructions might have been given to the two crews, and whether tower supervisors should have caught any errors.

A board spokesman, William Bush, said an investigator in Chicago had taken steps to impound tapes of tower-to-cockpit conversations.

The F.A.A. said the controller who had handled both planes had been relieved of his duties, which is routine in significant operating errors.

Mr. Edelstein said that the normal complement of controllers was on duty at the time, just after 10 A.M. in Chicago. He said, too, that the clearances had been given about 15 seconds apart and that the controller had been assigned the extra responsibility of radioing revised routings to some places because of bad weather.

THE RUNWAYS INTERSECTED

This is what is known about the incident from official sources:

The twin-jet DC-9, headed for Pittsburgh with 110 passengers and a crew of five, was taking off on Runway 41, the most westerly of three Chicago runways that are headed 40 degrees to the northeast.

The three-engine American 727, with 102 passengers and a crew of seven, bound for Oklahoma City, took off on Runway 32R, the most easterly of three runways headed 320 degrees to the northwest.

The intersection is halfway down the two runways. Use of intersecting instead of parallel runways is routine, officials said, and depends on such factors as traffic density, weather, noise, rules, and landing patterns.

The USAir co-pilot saw the other plane heading toward his from the right, and his DC-9 was hauled into the air at a speed below normal. The USAir crew waited until they arrived in Pittsburgh to tell the F.A.A. what had happened. The American crew learned of the near-collision only after reaching Oklahoma City.

[From the Washington Post, May 19, 1986]

AIR CONTROLLER "HAD HANDS FULL"

CHICAGO.—An air traffic controller overseeing takeoffs of two jets that nearly collided at O'Hare International Airport Saturday "had his hands full" rerouting other traffic because of rain and fog when the incident occurred, authorities said.

A USAir jet carrying 110 passengers had to make a sudden, early takeoff to avoid an airliner that crossed its path on a runway.

"We don't know if the controller cleared them at the wrong time, or if one of the pilots waited on the runway too long after he was cleared," Federal Aviation Administration spokesman Mort Edelstein said.

Mr. EXON. Mr. President, the Senator from Nebraska will return to the lively debate that is taking place on the floor of the Senate with regard to Gramm-Rudman-Hollings II in a moment.

We have had some intervening business which is important—that announcement by the Senator from North Dakota about the significant achievement of one of his constituents over the weekend and the tremendously important matter just brought up by my friend and colleague, our distinguished minority leader.

The minority leader knows that I serve on the Commerce Committee, the committee of jurisdiction, and I am the ranking minority member on the Aviation Subcommittee. I thank him not only for his timely remarks this afternoon but also for introducing a tremendously significant piece of legislation, backed up by expert testimony that the Senator from West Virginia gave to the Subcommittee on Aviation last week.

This Senator, within the hour, returned to Washington, DC, on a flight through O'Hare Airport. I went home later than anticipated Friday evening, through O'Hare International Airport; and I think I share the concerns of the Senator from West Virginia and others who gave significant testimony last week that Congress has some responsibilities in this air safety area.

No one is predicting that something is about to happen, but I think there is a general feeling of "uneasiness," for want of another word, in the fact that we are not certain that the proper Federal agencies—all of them—are discharging their duties as we want them to.

Therefore, the Commerce Committee is giving serious consideration to the legislation offered to our committee by the Senator from West Virginia, and I thank him for that. I also thank him for his most pertinent and timely remarks.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Nebraska for his comments anent aviation safety, especially with reference to the legislation I have introduced, which would create a Presidential Commission to study the organization, or reorganization, of the Federal Aviation Administration and would also determine whether or not that agency is actually requesting enough and receiving enough financial resources to carry out its mandates under the legislation that created the FAA.

The Commission would also report back on the advisability of having the Federal Aviation Administration serve as an independent organization, the duties of which would be only with respect to aviation safety.

Under the law which now governs the FAA, that administration wears two hats. It must promote civil aviation, and at the same time it must promote aviation safety. Sometimes, I am constrained to think that perhaps wearing these two hats, occasionally may put the FAA into a difficult position, in that the one requirement or the one duty may be in contradiction to the other.

□ 1540

The Commission would be composed of seven individuals appointed by the President. The President would name the Chairman. This would be a blue ribbon commission, indeed. It would report back within 1 year to the President and to Congress and give its recommendations.

I think that the time has come for an objective, indepth, probing investigation or study of the FAA with rec-

ommendations back to the President and Congress.

The safety of air passengers is too important to avoid, in my judgment, a close look at this agency now after these years.

I certainly do not speak with any disrespect toward the agency or the Administrator. I think that Mrs. Dole, the Secretary of the Department of Transportation, is one of the most able Secretaries that I have seen of any Department since I have been in Washington. I know that Mrs. Dole has certainly inaugurated various steps that are calculated to promote safety of air travel in this country, and I am sure that the FAA is also trying to do a better job in enforcing safety regulations and requirements.

But that is not to say that the agency could not stand some close scrutiny, and in view of the precipitous and tremendous increase in the number of airlines, major and commuter, and the number of aircraft that are flying in this country following the deregulation of the airlines, I think it is a very timely and needful action that is called for by the legislation.

It is supported by the able chairman of the Aviation Subcommittee of the Commerce Committee in the Senate, Senator KASSEBAUM. Also, it is cosponsored by the equally able ranking minority member of that Aviation Subcommittee, Mr. EXON, the distinguished Senator from Nebraska.

I appeared before the subcommittee recently and both Senator KASSEBAUM and Senator EXON and other Senators on that subcommittee showed their enthusiastic interest in the legislation, their great concern about the need for an objective study such as that proposed.

I thank Mr. EXON for his support of that legislation and cosponsorship of it. He is a powerful Senator. He is in a very strategic position anent that legislation. His expressed concerns are certainly equal to mine. I feel better, having introduced the legislation, to know that it has his support, and I know that subcommittee will carefully consider it and report it, I believe, to the full committee soon, hopefully, and I hope that the full Senate and the other body will shortly act favorably on the legislation and then the President may then proceed to appoint the Commission.

Again, I thank the distinguished Senator from Nebraska and also compliment him on his efforts to get action on the debt limit bill.

With respect to Gramm-Rudman, the amendments that are before the Senate at this time certainly are roadblocks to any other amendments. Until such time as they can be set-aside, together with the Gramm-Rudman amendments to the motion to recommit and report back with instructions that was offered by the distinguished Senator from Nebaska, until those roadblocks can be set-aside either by unanimous consent or by action thereon, no one can offer any other amendment to that measure.

We spent a good many hours last week, some days—one or more certainly—with those measures before the Senate.

The principal parties who are trying to work out some legislative modifications to the Gramm-Rudman Act do not want those amendments set-aside. So, here we are, doing virtually little or nothing on the debt limit legislation.

Of course, I am not saying there is not some progress being made by those principles who are attempting to develop some modifications of the legislation. Certainly, there must be some progress, but insofar as the whole Senate is concerned, we are just sort of spinning our wheels.

I thank the Senator for his consistent efforts to press ahead and, hopefully, before many days he may be more successful.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I thank the minority leader.

GRAMM-RUDMAN MODIFICATION

Mr. EXON. I wonder if anyone on the Senate floor is in a position to advise me as to what the plans are for continuation of the Gramm-Rudman-Hollings debacle that we find ourselves in now from a parliamentary situation.

I believe, and I ask the Chair if this is true, that on tomorrow, we will be setting aside by previous agreement the matter before us to go to another matter, that is on Tuesday; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. Could the Chair advise the Senator from Nebraska, what hour do we go on this other matter, what is the other matter that we have agreed to take up in lieu of the Gramm-Rudman issue, and is there a time agreement on that particular measure?

The PRESIDING OFFICER. One hour after the Senate convenes and there is no time limit, 12 hours of debate.

Mr. EXON. Do I understand the Chair that 1 hour after we come in on Tuesday, we will go to this other matter and then there is a limit of 12 hours?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I thank the Chair.

It seems to me that makes it pretty clear that we are not going to get anything done on Gramm-Rudman today because of the blocking action. We are not going to get anything done on Gramm-Rudman-Hollings II, whatever it is called, sometime tomorrow. The delaying actions continue.

I would simply say once again, Mr. President, that as I understand it, these legal scholars of ours are off the floor somewhere in the room negotiating or attempting to negotiate some kind of language that would collect enough votes in the U.S. Senate to pass this newest concoction that is known as Gramm-Rudman-Hollings II.

As I understand it, what they are trying to do since they do not trust OMB, they are trying to put some fencing language of some kind around the bill that is passed, something that says and directs OMB that if this bill passes, they will treat such and such and such a fashion, with regard to arriving at the automatic sequestered cuts if indeed that responsibility would eventually fall to OMB under their latest triggering proposals.

If that is the case, Mr. President, and I believe that is what the delay is all about, last Thursday, a key member of Gramm-Rudman-Hollings' latest proposal indicated to this Senator that he thought probably yet on Thursday night and within the next hour and a half or so, that language would be agreed to. As I understood it, and I have not been privy to what their discussions are, but I understand that indeed the chairman of the Budget Committee and the ranking minority member thereof are involved in this process.

As I undertstand it, they are trying to come up with some kind of language that would keep a rein on, or fence off, some things that OMB could and could not do with regard to the sequester order.

That concerns me very much. It should concern every Member of this body and every person in the United States if they are seriously concerned about getting on with the business of reducing the Federal deficit before we leave here again August 15 next and then come back for a fairly brief session sometime after Labor Day.

I warn once again, Mr. President, something that I think is being essentially ignored in this body and to a large extent by the press. If they go ahead and fashion some kind of a fence or a lasso that they are going to throw over certain parts of the budget that Congress would have the right to jerk back if OMB decides to sequester or cut that part of the budget, then I would suggest that those legal scholars take a very close look at page 7 of the Supreme Court decision, Bowsher versus Synar, which I quote again that says, "The Constitution does not contemplate an active role for Congress in the supervision of officers charged with the execution of the laws that it"—it being Congress—"enacts."

Mr. President, I simply want to warn again and again and again, many Members with the best of intentions, it seems to me, are going down that slippery slope once again of allowing this whole important deficit matter to slide once again and be held up by a possible action in the Supreme Court. And I am very fearful that if they do what they are contemplating on doing, and I guess that is one of the reasons that it has taken as long as it has to try and work something out, maybe the word is getting through that they are fearful that they will botch up the mechanism once again. And botching up the mechanism is not necessary, as I have said over and over and over again, because if the original authors of Gramm-Rudman-Hollings were correct—and the Supreme Court has indicated that they were correct—in coming forth with a backup provision which the Court specifically referred to in its decision, then why do we not go on with that instead of once again risking whatever we have to do on the chance that this matter will be back in the courts once again?

□ 1550

And if that happens, I think there is a high probability, Mr. President, that we will be marking time, marking time, and marking time, when I think the people of the United States would expect that we get on with the business at hand, that of reducing the deficit.

I would cite, Mr. President, that all last week, we did only one signficant act here on the floor of the U.S. Senate—and it took a total of less than 2 hours of a whole week—and that was that we had the vote on the reconsideration of the Manion nomination and finally that confirmation. Now it does not seem to me like that is a week's work for the U.S. Senate. I do not necessarily blame the majority leader. I know that he is trying to get things moving.

I would simply say that, with all the matters that face us, some of which have been discussed at least briefly on the floor of the U.S. Senate this afternoon, on a Monday with few present, with those and other things that we have before us, we have a tremendously demanding schedule for the rest of this session. I would think it would be much wiser to work effectively on the floor of the U.S. Senate and not in smoke-filled rooms with regard to such an important constitutional matter as this Senator has been attempting to make.

Mr. President, I want to announce—and I do not wish to use it as a parliamentary trick; I think there has been enough of that—but I am about to propound a unanimous-consent request that would lay aside the two blocking amendments that have prevented an up-or-down vote on my amendment, which I would remind the Senate once again has to do with a sense-of-the-Senate resolution merely voting up or down as to why we should not go ahead with the fallback provision and, therefore and thereby, essentially set aside the proposition of going through the excessive fixing mechanism that at least this Senator has been debating for several hours now over the last few days.

I do not intend to propound that request immediately unless I hear some suggestion that I should because, as far as I can see with my eyes, there is no Senator presently present that would be able to object, if an objection is in order, save possibly my distinguished friend, the occupant of the chair. And whether or not he cares to do that, I know not. I simply say, as a matter of courtesy to my colleagues, I will not make that request at least at this moment but very shortly.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1600

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATIVE GEORGE M. O'BRIEN

Mr. DOLE. Mr. President, America and the Republican Party lost a good friend on July 17 when Representative George O'Brien died. Representative O'Brien served as the Congressman from Illinois' Fourth District for 14 years.

As one of the senior Republicans on the House Appropriations Committee, Representative O'Brien helped shape policy on issues ranging from the Legal Services Corporation to international trade. George O'Brien was an ardent advocate of aid to the handicapped and often pushed for adequate Federal funding on their behalf.

Mr. President, Democrat and Republican alike respected and admired George O'Brien for his quiet diligence and all of Congressman O'Brien's colleagues were saddened several months ago when they learned he would not seek reelection because of ill health.

One incident, shortly before the Fourth of July recess, exemplified George O'Brien's commitment to service. Extremely ill, he made his way to the House floor because he believed his vote was needed to ensure passage of aid to the Nicaraguan Contra rebels. This kind of dedication to duty was characteristic of George O'Brien's career in the House.

Mr. President, I take this opportunity to extend my sincerest sympathy to Representative O'Brien's family, his many friends, and his constituents back in Illinois.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT—PM 160

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 29 U.S.C. 675), I transmit herewith the 1985 annual reports on activities under that law of the Department of Labor, of the Department of Health and Human Services, and of the Occupational Safety and Health Review Commission.

RONALD REAGAN.

THE WHITE HOUSE, *July 28, 1986.*

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4782. An act to designate the United States Post Office Building being constructed in La Place, LA, as the "Gillis W. Long Post Office Building";

H.R. 4852. An act to designate the United States Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr. Post Office";

H.R. 5175. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said

District for the fiscal year ending September 30, 1987, and for other purposes;

H.R. 5177. An act making appropriations for Agriculture, Rural Development, and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes;

H.R. 5223. An act to permit the removal of certain material from the Mount Rushmore National Memorial; and

H.J. Res. 547. Joint resolution to designate October 1986 as "Polish American Month."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 290. A concurrent resolution to recognize "Jpn." as the appropriate abbreviation for the words "Japan" and "Japanese."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:51 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1406. An act to authorize appropriations for nongame fish and wildlife conservation during fiscal years 1986, 1987, and 1988;

H.R. 2991. An act for the relief of Betsy L. Randall; and

H.J. Res. 623. Joint resolution to authorize the designation of a calendar week in 1986 and 1987 as National Infection Control Week.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4782. An act to designate the United States Post Office Building being constructed in La Place, LA, as the "Gillis W. Long Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4852. An act to designate the United States Post Office to be constructed in Barnwell, SC, as the "Solomon Blatt, Sr. Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5175. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

H.R. 5177. An act making appropriations for Agricultre, Rural Development, and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

H.R. 5223. An act to permit the removal of certain material from the Mount Rushmore National Memorial; to the Committee on Energy and Natural Resources.

H.J. Res. 547. Joint resolution to designate October 1986 as "Polish American Month"; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 290. A concurrent resolution to recognize "Jpn." as the appropriate abbreviation for the words "Japan" and "Japanese"; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2690. A bill to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees.

The Committee on Armed Services was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 1793. A bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3513. A communication from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3514. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on agricultural trade consultations for 1985; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3515. A communication from the Deputy Chief for Programs, Soil Conservation Service, Department of Agriculture, transmitting, pursuant to law, a watershed plan and environmental impact statement for the Big Creek-Hurricane Creek Watershed, Missouri; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3516. A communication from the Deputy Chief for Programs, Soils Conservation Service, Department of Agriculture, transmitting, pursuant to law, a watershed plan and environmental impact statement for the South Fork watershed, Kansas; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3517. A communication from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on the conversion of the grounds maintenance function at Beale Air Force Base, CA, to performance under contract; to the Committee on Armed Services.

EC-3518. A communication from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on the conversion of the grounds maintenance function at MacDill Air Force Base, FL, to performance under contract; to the Committee on Armed Services.

EC-3519. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during May and June 1986 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-3520. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Monetary Policy Report, dated July 18, 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-3521. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of a leasing system for the western Gulf of Mexico; to the Committee on Energy and Natural Resources.

EC-3522. A communication from the Chairman of the National Research Council, transmitting, pursuant to law, a report entitled "Twin Trailer Trucks: Effects on Highways and Highway Safety"; to the Committee on Environment and Public Works.

EC-3523. A communication from the Administrator of General Services, transmitting, pursuant to law, an amended lease prospectus to acquire space in Washington, DC; to the Committee on Environment and Public Works.

EC-3524. A communication from the Deputy Chief for Programs, Soils Conservation Service, Department of Agriculture, transmitting, pursuant to law, the watershed plan and environmental impact statement for the North Deer Creek Watershed, Oklahoma; to the Committee on Environment and Public Works.

EC-3525. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the cost of travel to Government employees while engaged on official business; to the Committee on Governmental Affairs.

EC-3526. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, notice of the postponement of a scheduled hearing until further notice; to the Committee on Governmental Affairs.

EC-3527. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1985; to the Committee on Governmental Affairs.

EC-3528. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-188 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3529. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-189 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3530. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-190 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3531. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-191 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3532. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-193 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3533. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-192 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3534. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-194 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3535. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-195 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3536. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-196 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3537. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-199 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3538. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-198 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3539. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-200 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3540. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-201 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3541. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-204 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3542. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-205 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3543. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-206 adopted by the Council on July 8, 1986; to the Committee on Governmental Affairs.

EC-3544. A communication from the Secretary of Education transmitting, pursuant to law, final training priorities under the Training Program for Special Programs Staff and Leadership Personnel; to the Committee on Labor and Human Resources.

EC-3545. A communication from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, a report on the status of certain aliens under sec. 13 (b) and (c) of the act of September 11, 1957; to the Committee on the Judiciary.

EC-3546. A communication from the Secretary of the National Aviation Hall of Fame, Inc. transmitting, pursuant to law, its 1985 Audit Report; to the Committee on the Judiciary.

EC-3547. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a confidential report on a foreign military assistance sale to Tunisia; to the Committee on Armed Services.

EC-3548. A communication from the Secretary of the Army transmitting, pursuant to law, the annual report of the Soldiers' and Airmen's Home for 1984 and the report of the Annual General Inspection of the Home for 1985; to the Committee on Armed Services.

EC-3549. A communication from the Secretary of the Interior transmitting a draft of proposed legislation relating to the Oroville-Tonasket Unit, Chief Joseph Dam Project; to the Committee on Energy and Natural Resources.

EC-3550. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to increase the authority of the Secretary of Commerce to collect on loans under the Public Works and Economic Development Act and the Trade Act; to the Committee on Environment and Public Works.

EC-3551. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the 60 days previous to July 23, 1986; to the Committee on Foreign Relations.

EC-3552. A communication from the Comptroller General of the United States transmitting, pursuant to law, a list of GAO reports issued in June 1986; to the Committee on Governmental Affairs.

EC-3553. A communication from the Assistant Attorney General of the United States transmitting a draft of proposed legislation to reform the Racketeer Influenced and Corrupt Organizations Act; to the Committee on the Judiciary.

EC-3554. A communication from the Assistant Secretary of the Air Force transmitting, pursuant to law, a report on the decision to convert the commissary shelf-stocking function at Hickam AFB, HI, to performance under contract; to the Committee on Armed Services.

EC-3555. A communication from the Assistant Secretary of the Air Force transmitting, pursuant to law, a report on the decision to study conversion of the T-38 tactical training aircraft maintenance function at Holloman AFB, NM, to performance under contract; to the Committee on Armed Services.

EC-3556. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on the settlement of claims in *Westlands Water District* v. *the United States* and *Barcellos & Wolfsen, Inc.* v. *Westlands Water District;* to the Committee on Energy and Natural Resources.

EC-3557. A communication from the Secretary of Energy transmitting, pursuant to law, a report on a final rule adopted by the Department amending the criteria under which the United States offers toll enrichment services to electric utility customers in this country and abroad; to the Committee on Energy and Natural Resources.

EC-3558. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report on Medicare for fiscal year 1983; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S.J. Res. 380. A joint resolution directing the conferees on the act entitled the "Tax Reform Act of 1986" (H.R. 3838) to require that any amount refunded under section 212 of the Tax Reform Act of 1986 to steel companies filing bankruptcy petitions in 1986 or thereafter be dedicated for the continuation of company-paid health insurance costs for employees, and retired employees.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 455. A resolution to call for the creation of an early notification system for nuclear accidents; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1090

At the request of Mr. HELMS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1090, a bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 2226

At the request of Mr. BENTSEN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2226, a bill to prevent unfair international trading practices, including unfair trade concessions requirements, which undermine U.S. international trade agreements, from burdening U.S. trade and commerce.

S. 2352

At the request of Mr. EVANS, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 2352, a bill to amend the Internal Revenue Code of 1954 to provide for the reimbursement to State and local law enforcement agencies for costs incurred in investigations which substantially contribute to the recovery of Federal taxes.

S. 2489

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor

of S. 2489, a bill to improve the training of physicians in geriatrics.

S. 2496

At the request of Mr. WALLOP, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2496, a bill to authorize the President to award congressional gold medals to Drs. Andrei Sakharov and Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace.

S. 2573

At the request of Mr. HEINZ, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2665

At the request of Mr. SYMMS, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 2665, a bill to amend the national maximum speed limit law.

S. 2678

At the request of Mr. BENTSEN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2678, a bill to provide a comprehensive national oil security policy.

S. 2680

At the request of Mr. THURMOND, the names of the Senator from Nebraska [Mr. EXON], the Senator from Arkansas [Mr. PRYOR], the Senator from Wyoming [Mr. WALLOP], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2680, a bill to amend the Internal Revenue Code of 1954 to allow a charitable contribution deduction to farmers who donate agricultural products to assist victims of natural disasters.

S. 2690

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 2690, a bill to prohibit certain companies who have filed for bankruptcy from discontinuing medical and life insurance benefits to retirees.

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from Virginia [Mr. TRIBLE], and the Senator from Massachusetts [Mr. KERRY] were added as a cosponsors of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE CONCURRENT RESOLUTION 130

At the request of Mr. HOLLINGS, the names of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 130, a concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, SC, to Neufchatel, Switzerland, in October of 1986 as an international gesture of goodwill.

SENATE RESOLUTION 385

At the request of Mr. SASSER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 385, a resolution to express the sense of the Senate that certain action be taken to end hunger in the United States by 1990.

SENATE RESOLUTION 455—RELATIVE TO THE CREATION OF AN EARLY NOTIFICATION SYSTEM FOR NUCLEAR ACCIDENTS

Mr. DIXON submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 455

Whereas the recent nuclear accident at the Soviet Chernobyl nuclear power station has heightened concern as to the ability of the international community to react quickly and efficiently to such situations;

Whereas the world learned of the Chernobyl disaster only after contaminants had crossed international boundaries;

Whereas few steps were taken to notify the endangered nations with only limited information released after great delay;

Whereas a prompt, efficient method of international communication about nuclear accidents is urgently needed; and

Whereas the International Atomic Energy Agency has scheduled a conference for September 1986 to consider the development of an early notification system for nuclear accidents: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should express its support for the creation of an early notification system for nuclear accidents and, furthermore, should express this support through the U.S. Ambassador to the International Atomic Energy Agency at the September conference.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

NUCLEAR HOTLINE

Mr. DIXON. Mr. President, in late April of this year, a major accident occurred at the Soviet Union's Chernobyl nuclear powerplant near Kiev in the Ukraine. It released massive amounts of radioactivity, some of which crossed the Soviet borders to reach Scandinavia, Eastern Europe, and other countries. Traces of radioactivity ultimately reached the United States.

During the first days of the accident, the Soviet Union provided little information about its causes or the progression of the resulting clouds of contaminants. Neighboring European countries did not receive prompt, timely notification of the Chernobyl tragedy. Mr. President, the world desperately needed regular updates about the course of the Chernobyl disaster and the extent to which corrective measures were being taken.

Unfortunately, arrangements for instant communication among the nations affected by the Chernobyl tragedy were rudimentary. For several days the world was in the dark about this nuclear disaster.

Harvard University physics professor Richard Wilson warns that "with over 300 big reactors around the world, we'll average a meltdown every 30 years." With that kind of constant threat looming over the world, we must be prepared to deal with the next Chernobyl.

Mr. President, a communication system must be developed that would immediately notify the international community of a nuclear accident and the danger it poses.

For this reason, I am submitting a sense of the Senate resolution that urges the President to endorse the development of such an early notification system. When the International Atomic Energy Agency meets this September to consider the development of such an early notification system, the United States must demonstrate its full support.

All of us, are, of course, interested in every possible preventive measure to avert nuclear accidents in the future. Should an unforeseen accident occur, however, the world must be better prepared and informed.

I urge your support for this resolution. We must do everything humanly possible to prevent nuclear mishaps, but we must also be prepared to meet the challenge of safely handling any future nuclear accident.

AMENDMENTS SUBMITTED

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

MATHIAS AMENDMENT NO. 2233

(Ordered to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 668)

increasing the statutory limit on the public debt; as follows:

At the end of the bill, add the following new section:

(a) IN GENERAL.—Section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906) is amended by adding at the end the following new subsection:

"(m) TREATMENT OF CERTAIN OFFSETTING RECEIPTS.—

"(1) DETERMINATION OF CERTAIN ACCOUNT BASES.—Offsetting receipts shall not be treated as spending authority (as defined in section 401(c)(2) of the Congressional Budget Act) for purposes of determining under sections 251 and 252 the bases from which reductions are to be taken for—

"(A) Library of Congress, Copyright Office, Salaries and Expenses (03-0102-0-1-376), and

"(B) Department of Commerce, Patent and Trademark Office, Salaries and Expenses (13-1006-0-1-376).

"(2) IDENTIFICATION OF ACCOUNTS.—For purposes of paragraph (1) accounts are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1986.

● Mr. MATHIAS. Mr. President, today I submit an amendment to House Joint Resolution 668 to change the treatment of Patent and Trademark Office and Copyright Office user fees for the purposes of sequestration orders or resolutions under the Gramm-Rudman-Hollings statute.

Mr. President, it may appear that this amendment addresses a minor issue of interest only to bookkeepers. That appearance is deceptive. This amendment addresses issues that are important to America's position in competitive world markets.

It is widely acknowledged in this Chamber that improving our industrial competitiveness is a very high priority. While there is disagreement as to how to promote U.S. competitiveness in the world, all agree that strong intellectual property standards are a key component. Our competitiveness is closely tied to innovations which are promoted and protected by strong laws on patents, copyrights and trademarks.

However, the Gramm-Rudman-Hollings statute threatens to undermine our efforts to promote and protect intellectual property by imposing on both the Patent and Trademark Office and the Copyright Office more than their fair share of across-the-board budget cuts. The ultimate effect is to impose a surcharge on the innovators and creators who use the patent, copyright and trademark systems.

Most agencies and programs receive the vast bulk of their funding from the taxpayer through appropriations. But the Patent and Trademark Office and Copyright Office also rely heavily on user fees to pay for agency activities. Both taxpayers and users—those applying for patents and registering claims for copyrights and trademarks—are essential sources of revenue for the efficient administration of our intellectual property laws. In addition, user fee revenue allows these agencies to maintain and expand their contributions to technological progress and artistic expression—and to our national economy and security—without continual pressure for increased deficit spending.

But the Gramm-Rudman-Hollings law, as currently interpreted, impedes these goals. When the fiscal year 1986 sequestering order was prepared, both appropriated funds and offsetting receipts or user fees were included in the baseline against which the across-the-board reduction is assessed. Of course, the reduction was actually taken only from appropriated funds; the user fees charged were not reduced. As a result, for both the Patent and Trademark Office and the Copyright Office, taxpayer-funded appropriations were reduced by a much larger percentage than other nondefense accounts.

Out of the total fiscal year 1986 nondefense sequesterable baseline of $240 billion, removing these user fees would have caused a reduction of only $125 million, or about 52 thousandths of 1 percent. However, while the overall budget impact is small, the effect of including user fees in the baseline on these agencies can be devastating. Sixty percent of Patent and Trademark Office revenue comes from those applying for patents and trademarks. Similarly, the Copyright Office receives 40 percent of its funding from user fees.

As a result of the fiscal year 1986 sequestration order, the Patent and Trademark Office's taxpayer-funded appropriation was reduced, not by 4.3 percent, but by 10.5 percent, more than twice the across-the-board percentage of other nondefense accounts. In case of the Copyright Office the sequestration cut 7 percent of its taxpayer dollars.

The inequitable treatment of the intellectual property agencies should disturb all who care about American innovation, creativity, and competitiveness. As chairman of the Subcommittee on Patents, Copyrights and Trademarks, I am particularly concerned about the prevailing interpretation of Gramm-Rudman-Hollings. In an effort to address this problem administratively, I joined with Representative ROBERT KASTENMEIER, chairman of the counterpart subcommittee in the other body, to write to the Comptroller General, the Congressional Budget Office and the Office of Management and Budget. We asked them to justify their interpretation of the statute, and if possible to reconsider it. We learned that, while CBO initially agreed that offsetting receipts should not be included in the sequesterable baseline, in the final analysis all the agencies agreed to include user fees. Congress alone can correct the problem that Congress, in its haste to craft the Gramm-Rudman-Hollings law, has inadvertently created. The Supreme Court decision striking down the sequestration process does not help to solve the problem. Unless Congress acts, the same interpretation of Gramm-Rudman-Hollings used to calculate the fiscal year 1986 sequester will govern the preparation, by OMB and CBO, of any deficit-cutting resolution presented to the temporary joint budget committee established by the fallback provisions of the statute. Similarly, if Congress decides to revive the sequestration power by assigning it to an executive branch agency, that authority will probably follow the same accounting rules that were used for this fiscal year, unless Congress instructs it to do otherwise.

Congress has asked creators and innovators to shoulder part of the burden of running the Patent and Trademark Office and the Copyright Office by paying for the services they use. But now Congress, under the prevailing interpretation of Gramm-Rudman-Hollings, penalizes creators and innovators. The more they use the system, the more they invent and create, the more will be slashed from the taxpayer support for these agencies.

Both the President and Congress wanted to avoid an automatic tax increase as a means of meeting deficit targets. That's why the Gramm-Rudman-Hollings law is limited to spending cuts. But the prevailing interpretation of this law implicitly imposes a tax on creativity and innovation. This not only places greater burdens on those who must pay; it also jeopardizes the efficient administration of intellectual property laws that are so important to our economic prosperity.

This is neither fair nor good policy. If automatic cuts are to be made, only spending funded by the taxpayer should be counted. Services that are paid for by the users of the Patent and Trademark and Copyright Offices should not be included. Equity calls for such treatment, and American competitiveness would benefit from it.

I ask unanimous consent that a letter to the Comptroller General and the responses from the Comptroller General, and the directors of the Congressional Budget Office and the Office of Management and Budget, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 11, 1986.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

Dear Mr. Bowsher: We write concerning an aspect of your responsibilities under Public Law 99-177, the Gramm-Rudman-Hollings law, that has particular importance for the federal agencies charged with administering our intellectual property protection statutes. We refer to the question of the treatment of user fees in preparing sequestration orders under the statute.

In preparing the sequestration order for Fiscal Year 1986, the General Accounting Office included both appropriated funds and offsetting receipts (including user fee revenue) in the baseline against which the across-the-board reduction was assessed. Of course, the reduction was actually taken only from appropriated funds; in accordance with section 255(e) of P.L. 99-177, offsetting receipts were not reduced. As a result, the appropriations for those agencies that receive user fees were reduced by more than the 4.3% cut applied to other nondefense agencies.

The impact of this method of treating user fees was particularly severe in the case of the Patent and Trademark Office (PTO) and the Copyright Office of the Library of Congress. Both these agencies rely to an unusual extent upon user fees. About 60% of the PTO's revenue comes directly from patent applicants, trademark registrants, and other users of the patent system. The Copyright Office relies on fees from registrants and other users for about 40% of its revenue. Both taxpayers and users are essential sources of the revenue base needed for the efficient administration of our intellectual property laws. User fee revenue also allows these agencies to maintain and expand their contributions to technological progress and artistic expression—and to our national economy and security—without continual pressure for increased deficit spending.

As a result of the FY 1986 sequestration order, based on the GAO's report under P.L. 99-177, the PTO's appropriation was reduced, not by 4.3%, but by 10.5%, more than twice the "across-the-board" percentage. In dollar terms, the PTO absorbed an $8.9 million cut; a 4.3% reduction would have amounted to only $3.6 million. In the case of the Copyright Office, the $726,000 lost by sequestration constituted 7% of its appropriation, and $258,000 more than would have been lost by a cut at the 4.3% "across-the-board" level.

These substantial cuts, far beyond the level absorbed by other agencies of government, have resulted directly from the GAO's decision to include offsetting receipts in the baseline from which sequestration is assessed. These extra cuts have already had some deleterious impact on the operations of these two offices. If it is necessary to employ the sequestering process again in FY 1987 or future years, this treatment of user fees may produce results that are not only inequitable, but also devastating to the missions of these agencies. Even if sequestering is not required, Congress will undoubtedly use the sequestration calculations as a yardstick for deficit reduction proposals. Thus, under any scenario, your interpretation of P.L. 99-177 may threaten the continued efficient administration of the patent, trademark and copyright laws.

As the chairman of the subcommittee of the Congress with oversight jurisdiction of the PTO and the Copyright Office, we share a special concern about the effect of deficit reduction measures on these agencies. In order for us to be fully informed as we consider a legislative response to this problem, we would be most appreciative if you would explain your reasons for concluding that offsetting receipts should be included in the baseline for sequestration, despite the express terms of section 255(e) of P.L. 99-177. We would also like to know whether you believe that you have the authority to reconsider your conclusion on this question before proceeding with the calculations that P.L. 99-177 requires you to make for FY 1987. If so, we ask that you undertake this reconsideration, and advise us of the results.

Your report on sequestration is required to be based on the reports you receive from the Directors of the Office of Management and Budget and the Congressional Budget Office. For FY 1986, these officers apparently agreed that offsetting receipts should be treated in the way that your report ultimately reflected. Accordingly, we are sending similar letters to the OMB and CBO directors, seeking their reasons for this interpretation of the statute, and asking them to reconsider their conclusions on this point.

Thank you in advance for your prompt response to these requests. We look forward to hearing from you.

Sincerely,

ROBERT W. KASTENMEIER,
Chairman, House Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

CHARLES MCC. MATHIAS, JR.
Chairman, Senate Subcommittee on Patents, Copyrights and Trademarks.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, July 16, 1986.

B-221498.45.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Subcommittee on Patents, Copyrights, and Trademarks, Committee on the Judiciary, U.S Senate.

DEAR MR. CHAIRMAN: This responds to your letter of June 11, 1986, cosigned by the Chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House Committee on the Judiciary, concerning the sequestration of budgetary resources of the Patent and Trademark Office of the Department of Commerce and the Copyright Office of the Library of Congress under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177). You request that we explain our reasons for concluding that offsetting receipts of the two offices should be included in the baseline for sequestration, despite the language of section 255(e) of the Act that offsetting receipts and collections are not subject to reduction.[1]

Under Public Law 99-177, sequestrations are to be made of "new budget authority, new loan guarantee commitments, new direct loan obligations, obligation limitations, and spending authority" of each agency, to the extent necessary to achieve outlay reductions. § 251(a)(3)(F)(iv). The only exceptions to the broad coverage of this language are those specifically detailed in the various exemptions, exceptions, limitations, or special rules delineated in the Act. Consequently, in determining the required sequester amount for each account, this Office considered two questions: (1) which budgetary resources were covered by the language of section 251(a)(3)(F)(iv), and (2) which of those resources were protected by the various exemptions and limitations contained in the Act.

Both the Patent and Trademark Office and the Copyright Office are authorized to collect certain fees in the course of conducting their operations. In the case of the Patent and Trademark Office, those fees are credited to the appropriations account for the salaries and expenses of the office, to be expended as provided in appropriation acts. *See* 35 U.S.C. § 42. Those fees are thus appropriated annually as part of the general appropriation to the office. *See, e.g.*, Department of Commerce Appropriation Act, 1986, Pub. L. No. 99-180, title I, 99 Stat. 1136, 1139 (1985). In the case of the Copyright Office, fees are credited to the appropriation account under several statutory authorities (17 U.S.C. §§ 708(c), 111(d)(3), 116(c)(1)), and are also appropriated annually under the general appropriation to the office. *See, e.g.*, Legislative Branch Appropriations Act, 1986, Pub. L. No. 99-151, 99 Stat. 792, 803 (1985). In our view, these annual appropriations of receipts fall within the definition of budget authority.[2]

In each of the two accounts at issue here, the authority to expend offsetting receipts thus constitutes a type of budgetary resource subject to automatic reduction under Public Law 99-177 unless covered by an exemption, exception, limitation, or special rule. Included in the list of exempt programs and activities of section 255 is the following:

"OFFSETTING RECEIPTS AND COLLECTIONS.—Offsetting receipts and collections shall not be reduced under any order issued under this part." § 255(e).

In implementing the Act, the Office of Management and Budget took the view that this exemption applied only to the actual receipts and collections received by agencies in the course of their operations, and not to the subsequent expenditure of such funds. The Congressional Budget Office, on the other hand, initially took the view that this language exempted the expenditure of such receipts and collections. We acknowledged that the question was a close one, but ultimately agreed with the position advocated by the Office of Management and Budget. One factor in support of that view was that the conference report discussion of the provision refers to offsetting receipts and collections as a type of "federal financing operation." *See* H.R. Rep. No. 433, 99th Cong. 2d Sess. 85 (1985). In this light, it appeared to us that the intention of section 255(e) was to protect the collection, rather than the expenditure, of such funds. Thus, agencies that finance all or a portion of their program activities through fees and collections are required to reduce outlays for such activities, but may not reduce revenue levels, thereby contributing to the Act's overall goal of deficit reduction. After our

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[1] You also request our views as to whether this Office has the authority to reconsider its actions under Public Law 99-177, prior to proceeding with calculations for fiscal year 1987. In light of the Supreme Court's ruling in *Bowsher* v. *Synar*, No. 85-1377 (U.S. July 7, 1986), our Office has no present plans to take part in the sequestration process for fiscal year 1987.

[2] "Budget authority" is defined as "authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds * * *." 2 U.S.C. § 622(2).

views were expressed to the Congressional Budget Office, officials of that agency agreed to include the authority to expend offsetting receipts and collections within the sequestrable base for purposes of the combined OMB/CBO report.

Based on the reasons described above, we concluded that the authority of agencies to expend offsetting receipts and collections was, as a general rule, subject to sequester. In several instances, such budgetary resources were exempt from sequestration under other exemptions or limitations contained in the Act; for example, all three agencies agreed that the act exempted expenditures made from offsetting receipts and collections derived from other federal sources, as falling within the exemption for "intergovernmental funds." For both the Patent and Trademark Office and the Copyright Office, offsetting receipts from other federal sources were considered to be exempt from sequestration. We did not consider any other exemption to apply to the expenditure of offsetting receipts from the two accounts.

You state in your letter that the sequestration of funds form the Patent and Trademark Office amounted to 10.5 percent of the amount of appropriations provided to that office for fiscal year 1986. In actuality, however, the amount of the appropriation provided to the Patent and Trademark Office for fiscal year 1986 was $84,700,000 "and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 46 * * * (estimated to total $119,486,000 from non-federal sources). *See* Department of Commerce Appropriation Act, 1986, Pub. L. No. 99-180, tit. I, 99 Stat. 1136, 1139 (1985). Consequently, the sequester of $8,780,000 was 4.3 percent of the $204,186,000 appropriated to the account for fiscal year 1986. The same is true of the Copyright Office: the amount designated to be sequestered was 4.3 percent of the total budgetary resources provided to the agency to carry out its activities for fiscal year 1986.

We hope that the foregoing is of assistance to you.

Sincerely yours,

MILTON J. SOCOLAR,
(For Comptroller General
of the United States).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 11, 1986.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Subcommittee on Patents, Copyrights and Trademarks, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter, sent jointly with Representative Robert M. Kastenmeier, questioning the correctness of including patent and copyright fee receipts in the base for sequestrations under P.L. 99-177 (the Balanced Budget Act). The issue you raise extends far beyond the Patent and Trademark Office and the Copyright Office. It affects about 100 different federal accounts with approximately $2 billion in receipts from the public and from other nonfederal sources.

As we approached the task of preparing the January 15, 1986 joint OMB/CBO report to the Comptroller General, CBO was of the view that an agency's spending base for sequestration purposes was a net figure, that is, gross spending less collections from nonfederal sources. OMB disagreed, holding that gross spending was the proper base. (Enclosed are copies of legal opinions prepared in both offices.)

Because such a conceptual disagreement does not lend itself to averaging, and because the Comptroller General would have the final say on the point, we consulted that official for his opinion. He agreed with the OMB view. Our January 15th report consequently reflected that ruling; and so, of course, did the Comptroller General's own report of January 21 and the resulting Presidential order of February 1, 1986.

Given the Supreme Court's holding in *Bowsher* v. *Synar*, the Comptroller General now is not available to be a "tie-breaker" when OMB and CBO have a conceptual disagreement. Even so, we regard the Comptroller General's fiscal year 1986 ruling as a governing precedent for the treatment of offsetting collections in our future reports under the Balanced Budget Act.

I am sending a similar letter to Representative Kastenmeier.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

[Memorandum]

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 23, 1985.

To: Jim Blum.
From: Alfred B. Fitt, General Counsel.
Subject: Offsetting Collections and Sequestration.

The Balanced Budget and Emergency Deficit Control Act of 1985 (the Act) at section 255(e) provides that "Outsetting receipts and collections shall not be reduced under any order issued under this part." Despite this language, OMB is of the view that the sequesterable base in an account financed in whole or in part by offsetting collections from nonfederal sources consists of that account's outlays (as usually defined) plus the spending financed by the offsetting collections.

OMB counsel has been unable to articulate to me the chain of reasoning by which that agency reaches its conclusion, which I disagree.

As we all know the legislative history of the Act is lamentably skimpy, but what there is of it provides convincing support for the conclusion that offsetting collections are not to be counted in an account's sequesterable base, except to the extent used to finance administrative expenses.

The original version of the Act passed by the Senate on October 10, 1985 has a definition of "controllable expenditures" as "total budget outlays for an account" and included in "other budgetary resources" (subject to sequestration) "receipts credited to an account;" see section 3(d)(4)(G) and (H), pp. 42 and 43 of the printed bill. If this has been the final version, the OMB position would clearly be correct.

On November 1, 1985 the House passed a comprehensive revision of the Senate bill. Its definition of "controllable expenditures" was subject to exceptions "provided in sections 253 and 254," and did not apply to exceptions "provided in sections 253 and 254," and did not apply to "total outlays," see section 255(7) at p. 104 of the November 6, 1985 Senate print. Section 253(d) provided that "The following budget accounts and activities shall be exempt from reduction under any order issued under this part: . . . (8) Other—offsetting receipts and collections . . .;" see p. 91.

The Senate again passed the bill on November 6, this time with conflicting language on the appropriate treatment for offsetting collections. Section 203(d)(7)(H) at p. 201 of the Senate print excluded "offsetting receipts" from the definition of "controllable expenditures," while section 203(d)(7)(K) provided that "Receipts credited to an account shall not be deducted from outlays for the purpose of determining the amount to be sequestered." see p. 203. Again, had this language survived in the Act itself, the OMB position arguably would be correct.

But section 203(d)(7)(K) did not survive. It vanished entirely. The only remaining relevant language in the Act, other than the exemption quoted at the beginning of this memorandum, is at section 256(b)(2):

"Notwithstanding any other provision of law, administrative expenses of any program, project, activity or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution."

This language was entirely unnecessary unless the drafters believed that offsetting collections were otherwise exempt for sequestration by virtue of section 255(e).

Under general rules of statutory construction, all parts of a law are presumed to have meaning, and the discard or rejection of a provision during the rite of passage is to be given significance. The OMB position divests section 255(e) of all meaning and ignores the fact that the Senate's explicit attempt to subject offsetting collections to a sequester order was explicitly rejected by the House, which prevailed on this issue when the bill became law.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, January 4, 1986.

MEMORANDUM FOR JIM MILLER.
From: John H. Carley, General Counsel.
Subject: Offsetting Collections and Receipts.

This memorandum sets forth my preliminary views on the question whether payments from offsetting collections and receipts are subject to sequestration under the Gramm-Rudman-Hollings Act. In my opinion, it is clear on the face of the statute that payment from such collections and receipts are subject to sequestration and therefore should be added to the base in performing the calculations required by the Act.

The provision in question is Section 255(e) of the Act, which provides as follows:

"OFFSETTING RECEIPTS AND COLLECTIONS.—Offsetting receipts and collections shall not be reduced under any order issued under this part."

In construing this provision, I am mindful that the sequestration order, and thus any conclusion we reach on this point, will be subject to judicial review by a three-judge panel (Circuit Judge Scalia, Judges Gasch and Johnson). Thus, my effort has been to determine how a court of law will rule on this question, as opposed to what some participants in the drafting process may believe was intended.

My analysis begins with Section 211 of the Act, amending Section 401(c)(2) of the Budget and Impoundment Control Act of 1974, which defines the term "spending authority" for purposes of that Act. In particular, subsection 401(c)(2)(E) of that Act is amended to provide that the term "spending authority" shall include authority: "to make payments by the United States (including loans, grants, and payments from

revolving funds) other than those covered by subparagraphs (A), (B), (C), or (D), the budget authority for which is not provided in advance by appropriation Acts."

This subsection covers, *inter alia*, payments from offsetting collections and receipts. The parenthetical expression ("including loans, grants, and payments from revolving funds") is clearly illustrative, and not an exclusive listing. Rather, the subsection extends generally to authority to make payments by the United States "the budget authority for which is not provided in advance by appropriation Acts."

Section 401(c)(2), as amended, is referenced by the operational sections of G-R-H that define what funds are subject to sequester. As explained in the accompanying Conference report, this provision covers "all types of backdoor spending authority—that is, spending not subject to the annual control of the appropriations process" (at 111). Thus, on its face, the Act plainly provides that payments from receipts and collections are subject to sequester.

Against this background, my interpretation of Section 255(e) is that it means precisely what it says—that offsetting receipts and collections are not reduced by a G-R-H sequester order. States another way, this provision means that the amount of a user fee or other form of payment charged is not to be deemed to be reduced simply because the level of program activity supported by those payments is reduced by the sequestration order. Nothing in Section 255(e) suggests that the budgetary resources derived from such receipts and collections are not subject to sequestration.

The Congressional Budget Office has argued that Section 225(e) [1] was intended to reduce the base to which the sequestration order applies, by exempting payments from receipts and collections from reduction (copy attached). In order to reach that conclusion, CBO has to read into the statute critical words that Congress did not include—that is, CBO infers that Congress actually means to say that "payment from" receipts and collections were not to be reduced by the order, a fundamental departure from the actual language. It is our understanding that CBO has been told by a member of the House Budget Committee staff that this was Congress's intention, although a Senate Budget Committee staff member has told CBO that this was not Congress's intent.

The first principle if statutory construction is that resort to legislative history is not appropriate if the language of the statute is unambiguous. *See, e.g., United States* v. *Missousi Pacific R.R.*, 278 U.S. 269, 278 (1929); *National Small Shipments* v. *CAB*, 618 F.2d 819, 828 (D.C. Cir. 1980). As noted above, the statute appears to be clear, comprehensible on its face, and completely operative under the literal (OMB) interpretation, in that it expressly dispels any notion that user fees or other forms of payment were to be deemed automatically reduced by a G-R-H sequestration order.

Even assuming that the statute was ambiguous and that resort to legislative history was appropriate, CBO has not cited us to any legitimate "legislative history", as that term is used by the courts. The only relevant legislative history for the final version of the Act is the Conference report and floor debates. The report states plainly that Section 401(c)(2), as amended, was intended to cover all backdoor spending; it is absolutely silent on the point where CBO would supply language to alter the literal meaning of Section 255(e). The statement of a Committee staff member as to what he believed one of the two Houses of Congress meant to accomplish by adding this Section is not competent evidence of legislative intent. *International Union, UAW* v. *Donovan*, 746 F.2d 855 (D.C. Cir. 1984) (Scalia J.); *Hirschev* v. *FERC*, No. 82-2170 (D.C. Cir. Nov. 15, 1985) (Scalia, J., concurring).

In defense of its position, CBO counsel advances three arguments allegedly derived from the legislative history. Each argument is fatally flawed.

1. CBO points out that earlier Senate versions of the bill contained a provision that would explicitly have foreclosed CBO's argument, but that this section did not appear in the final version. CBO cannot cite any part of the Conference report or the floor debates to explain why this provision was deleted or whether anything turned on its absence. (The final version adopted a definition of the sequestrable base fundamentally different from that considered by the Senate; the section noted by CBO was tied to that Senate mechanism). Thus, it is completely inappropriate to speculate, as CBO does, that the non-inclusion of this provision is probative of an alleged Congressional intent to exempt such payments from sequestration. Rather, the other outcome is more likely—that Congress did not include this provision because the specific reference to the definitions in Section 401(c)(2) of the 1974 Act, as amended by G-R-H, made its inclusion unnecessary and redundant. In any event, CBO's effort to engage in such speculation about the intention of Congress in the unexplained deletion of an obsolete provision—especially in a bill as complex and hastily drafted as G-R-H—serves only to demonstrate the impropriety of attempting to devine Congressional intent about an otherwise comprehensible and enforceable provision from such scraps of "legislative history".

2. CBO also finds comfort in the inclusion of Section 256(b)(2), subjecting administrative expenses of self-supporting programs to the sequester order, unless otherwise specifically exempted. CBO contends that this subsection was "entirely unnecessary" unless Congress believed offsetting collections were otherwise exempt. On its face, this argument is erroneous, because this subsection serves the very real purpose of extending the principle of subsection 245(b)(1) to an additional set of programs. Furthermore, CBO's argument is eternally inconsistent and, even on its own terms, meaningless.

As noted above, CBO's position is qualified by an exception for administrative expenses (opinion at 1). This subsection makes certain administrative expenses of self-supporting programs subject to reduction, unless otherwise exempted. But Section 255(e), in CBO's view, exempts payments from offsetting collections. Thus, under CBO's own analysis, subsection 256(b)(2) has no effect, because the exception swallows the "rule." Such a contradiction is fatal to CBO's analysis.

As a practical matter, collections and receipts are not earmarked for administrative expenses or program uses, so that they cannot thereafter be traced to identify a pool of money allegedly subject to sequester and a separate pool allegedly exempt. Thus, CBO's reading of subsection 256(b)(2) is meaningless.

3. In the final analysis, the CBO argument reduces to the assertion that, notwithstanding the clear language, the words "payments from" receipts and collections should be read into Section 255(e) solely because of the placement of this provision in a part of the Act that otherwise deals with exemptions from sequestration. This argument is totally unconvincing. Although the placement of this provision is difficult (if not impossible) to reconstruct from the limited legislative history and the nature of the Conference that produced the final version, this is a slender reed indeed upon which to base such a fundamental reconstruction of the language Congress actually passed. Nothing in the Conference report or the floor debates supports CBO's reading. Especially in light of the Supreme Court's repeated admonitions that resort should not be had to such low-order interpretative devices unless the language of the statute is ambiguous the mere unexplained inclusion of this provision in Section 255 cannot justify the radical surgery CBO's reading would require.

Accordingly, I conclude that payments from offsetting receipts and collections are subject to sequestration.

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 7, 1986.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Subcommittee on Patents, Copyrights and Trademarks, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of June 11, 1986, you asked us to explain our reasoning for concluding that offsetting receipts should be included in the baseline for sequestration. In particular, you asked if we had the authority to reconsider this matter for the calculations required for 1987.

Last January, OMB, the Congressional Budget Office and the General Accounting Office agreed that Gramm-Rudman-Hollings requires the sequestration of spending authority provided by offsetting receipts. This was based in Section 211 of the Balanced Budget and Emergency Deficit Control Act of 1985. Section 211 provides that the term spending authority shall include authority: "to make payments by the United States (including loans, grants, and payments from revolving funds) . . . the budget authority for which is not provided in advance by appropriation Acts."

Other sections of the Act reinforce the opinion that all spending that was not specifically exempted was meant to be included in the baseline. For example, Section 256(b) states that administrative expenses in all accounts will be subject to reduction regardless of exemptions or special rules related to other parts of the account. In addition, this section says that administrative expenses of accounts that are self-supporting will be subject to reduction unless they are specifically exempted.

As GAO has concluded, Section 255(e) simply means that the amount of a user fee is not deemed to be reduced by the sequestration order, even though the amount of Federal activity supported by the fee is being reduced. Nothing in this section suggests that the budgetary resources derived from such receipts and collections are not subject to sequestration.

Thus, both the Patent and Trademark Office and the Copyright Office were re-

[1] We are not entirely certain of CBO's position, because its interpretation of Section 255(e) is qualified by an exception for "receipts used to finance administrative expenses."

duced by 4.3 percent of their total 1986 program activity—whether financed by user fees or by appropriation. OMB does not have the power to change this procedure for purposes of the calculations required for FY 1987. The Administration does not support a sequester for 1987. We believe the Congress can and should make the necessary spending cuts to avoid another sequester.

Sincerely yours,

JAMES. C. MILLER III,
Director.●

CONTINUED TELEVISION COVERAGE OF SENATE PROCEEDINGS

MATHIAS AMENDMENT NO. 2234

(Ordered to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the resolution (S. Res. 447) to amend Senate Resolution 28, as amended, agreed to February 27, 1986; as follows:

At the end of the resolution, insert the following:

SEC. 2. (a) Subsection (c) of section 4 of S. Res. 28, as amended, agreed to February 27, 1986, is amended by striking out beginning with "(2) make audio" through the end thereof and insert the following: "(2) make audio and video tape recordings, and copies thereof of Senate proceeding as provided in subsection (d), (3) retain for thirty days after the day any Senate proceedings took place, such recording thereof, and transmit the Secretary of the Senate copies of such recordings, and (4) make copies of such recordings available to members of the Senate Radio and Television Correspondents Gallery, and such other news gathering, educational, or information distributing entities as may be authorized by the Committee on Rules and Administration to receive such broadcasts: *Provided,* That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in this subsection, shall comply with appropriate Senate procurement and other regulations.".

(b) Section 4 of S. Res. 28 is amended by adding at the end thereof the following:

(d)(1) The Secretary of the Senate shall provide for the transfer of audio and video tape recordings to the Librarian of Congress and the Archivist of the United States after the thirty-day retention period provided in subsection (c)(3).

(2) Audio and video tape recordings transferred pursuant to paragraph (1) shall—

(A) remain the property of the Senate; and

(B) be made available to the public for viewing during the normal business hours of the Library of Congress and the National Archives.

(3) The Librarian of Congress and the Archivist of the United States shall make copies of the audio and video recordings transferred pursuant to paragraph (1) available to the public subject to the charging of a fee for such copies to recover the cost of copying. Any person obtaining a recording pursuant to this paragraph shall sign a waiver of compliance with Senate political and commercial use prohibitions as provided by the Committee on Rules and Administration.

(4) Notwithstanding any other provision of this subsection, the Librarian of Congress may make live recordings of Senate proceedings from the congressional cable system. Recordings made pursuant to this paragraph shall be retained for thirty days after the day any Senate proceedings took place before such recordings are made available to the public.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

MATTINGLY AMENDMENT NO. 2235

(Ordered to lie on the table.)

Mr. MATTINGLY submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 668), supra; as follows:

At the end of the bill, add the following new section:

"SEC. . (a) Notwithstanding any other provision of law, for the crop year 1986 for peanuts, soybeans, wheat, feed-grains, cotton, and other program crops, the Secretary of Agriculture shall make available to the producers of such crops in counties declared to have suffered a drought disaster for the year, crop disaster payments (either in cash or generic, transferable commodity certificates redeemable for commodities owned by the Commodity Credit Corporation) in such amounts as he determines necessary to alleviate the economic loss of each producer of such crops due to drought-related crop loss or reduced yield; *Provided that:*

(1) the aggregate amount expended for such purpose, including any payments made under the regular price support programs, shall not exceed the total which the Secretary would otherwise be obligated to expend for price support activities for all program crops in the affected counties for the 1986 crop year if such crops had produced an average yield; and

(2) the Secretary shall, insofar as possible, ensure that no individual producer of any corp shall receive any amount in excess of the amounts to which he would otherwise be eligible to receive from price support activities had there been an average yield for the year on his program crops; and

(3) in determining the amount of assistance to be made available to each producer, the Secretary shall, insofar as possible and in accordance with paragraph (1) of this subsection, provide at least 75 percentum of the amount which the producer would have received on an average crop yield from price support activities; and

(4) notwithstanding paragraph (1) of this subsection, in the case of soybeans, the Secretary shall make disaster payments as provided in this subsection in an amount equal to 60 percentum of the 1986 price support loan established for soybeans, based on the average yield of soybeans for the farm, less the amount of any sound beans which are actually harvested for crop year 1986 on the farm, such payment not to exceed a value of $50,000 per producer; and

(5) in determining a producer's average yield, the Secretary shall use the average of the past five years production on the farm, excluding the high and low years, or the average of all years if production history for the farm is less than five years.

(b) Notwithstanding any other provision of law, for the calendar year 1986 the Secretary shall make available to owners of comercial herds or flocks of livestock, poultry or swine in counties declared to have suffered a drought disaster for the years, surplus commodities owned by the Commodity Credit Corporation, at a cost not to exceed 40 percentum of the current market price of like commodities in the producer's county of business, for the purpose of feeding such animals or to feed replacement animals; *Provided that:*

(1) no owner of such animals shall be eligible to receive such commodities unless his herd or flock has or will suffer such a loss of 15 percentum or more due to mortality, or premature sale or premature slaughter forced by drought conditions or shortage of feed; and

(2) owners of such animals shall continue to be eligible to receive such commodities for a period of 30 days following a finding by the Secretary that adequate supplies of appropriate animal feed are available within the county at a reasonable cost; and

(3) in carrying out this subsection, the Secretary shall, when it is determined that forage or hay is needed rather than feedgrains to provide sustinance to livestock, utilize commodities owned by the Commodity Credit Corporation (or generic, transferrable commodity certificates) for the purpose of exchanging such commodities or certificates for hay or other suitable ruffage, which shall then be made available to eligible owners of such livestock at a cost equivalent to 40 percentum of the county price of the commodity(s) exchanged for such hay.

(c) Insofar as practicable, for the crop year 1986, the Secretary shall make disaster payments to producers of non-program crops, fruits, nuts and vegetables in counties declared to have suffered a drought disaster during crop year 1986, whenever the Secretary determines that the producer has suffered substantial losses of production due to drought conditions and that such losses have created an economic emergency for the producers to the extent that additional assistance must be made available to alleviate such economic emergency.

(d) The authorities contained in this section shall be in addition to all other existing authorities of the Secretary of Agriculture to provide emergency or disaster assistance to producers, and shall not be construed to limit in any manner whatsoever such existing authority or to supplant any other relief to which a producer may be eligible under existing law.".

Mr. MATTINGLY. Mr. President, today I am offering an amendment which I hope will be adopted when the Senate returns to consideration of the debt ceiling bill, House Joint Resolution 668. This amendment will require the Secretary of Agriculture to provide significant relief to the hard-pressed farm producers throughout the drought-stricken Southeastern and Eastern sections of the country, but it will cost little or nothing in excess of the presently budgeted expense of the normal price-support programs.

My amendment requires the Secretary to make disaster payments to farmers in counties which are declared eligible for disaster assistance. He is authorized to make these payments by utilizing surplus commodities owned by the Commodity Credit Corporation in lieu of cash. CCC already owns more than $9.0 billion in surplus commodities and the tax payer pays hundred of millions of dollars more just to

store them. By using these commodities instead of cash, we can afford some modest relief to farmers who are being wiped out by the drought disaster.

It may be difficult for many of my colleagues to imagine just how dreadfully serious the current situation is on the farms in these drought areas. I was in Georgia with Secretary Lyng just last Friday, and we had an opportunity to talk to producers and see the mounting damages. I want you to know that this is a disaster of monumental proportions, and it is getting worse with each passing day. Farmers in the Southeast were already having serious financial problems, just as farmers across the nation have been economically stressed. But, this disaster, on top of the problems they already had, has many farm producers on the brink of utter dispair.

I had written Secretary Lyng on last Tuesday, July 22, outlining the nature of the crisis and offering several suggested options he could exercise in order to provide some immediate relief. (I would ask that a copy of that letter be included in the RECORD as if read in full.) The amendment which I have asked to have printed today incorporates a portion of the actions which I had earlier asked the Secretary to implement. Specifically, it requires disaster payments which can be made in cash, but also allows those payments to be made with commodities or certificates. The Secretary would be required to pay a producer at least 75 percent of what that producer would have realized in income from the Price Support Program if there had not been a drought loss. In this manner, he can make assistance available to struggling farmers without busting the budget, since he will be using commodities with a value of not more than the amount of money which is already authorized to be spent on price support activities. In fact, it is entirely possible that this amendment will allow the Government to actually save money and lower cash outlays. More significantly, it will allow many farmers to stay in business and pay their debts and preserve their way of life. There is also a provision which will make hay available for livestock by exchanging CCC surplus for the hay when the producer cannot use grain for his animals.

I hope my colleagues will take a few moments to give this suggestion some serious consideration. It is so easy to gather here in this Chamber and to debate issues and discuss lofty ideals. But, this is one opportunity we must not miss if we are going to provide some modest assistance to those who feed and clothe our Nation. I sincerely urge you to support and cosponsor this amendment when we call it up here on the floor.

Mr. President, before I relinquish the floor, I want to take just a moment to express my deep appreciation to the hundreds of farmers from across the country who have rallied to assist their stricken brethren in the Southeast with much-needed shipments of hay to feed our livestock. This demonstration of sympathy and human kindness underscores, I think, one of the many reasons that we keep on trying to preserve the family farm tradition in America. It is symbolic of the many values that the family farm contributes to our society, and demonstrates the generosity of those who have made these selfless contributions in order to help out in time of tragedy. I also want to thank the many elected officials * * * Governors of States, many of my colleagues here in Congress who have organized assistance, and the hundreds of other individuals who have been trying to help in the past few days. I want to say to them, "God bless you. Your help is deeply and genuinely appreciated."

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 28, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 32. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32 and is current through July 25, 1986. The report is submitted under section 308(b) and in section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JULY 25, 1986

[Fiscal year 1986—in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,053.0	980.0	778.5	2,071.8
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by		12.4		
Under resolution by	16.7		17.2	6.9

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JULY 25, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation urgent supplemental appropriation, 1986 (Public Law 99-243)		4	
Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251)		−51	
VA home loan guarantee amendments (Public Law 99-255)			
Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272)	−4,259	−6,001	765
Department of Agriculture urgent supplemental, 1986 (Public Law 99-263)			
Advanced to hazardous substance response trust fund (Public Law 99-270)			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99-289)		−380	
Federal Employees Retirement Act of 1986 (Public Law 99-335)			−90
Temporary extension of certain housing programs (Public Law 99-345)		−304	
Military Retirement Reform Act (Public Law 99-348)		−25	
Urgent supplemental appropriations, 1986 (Public Law 99-349)	−3,508	475	
Total	−7,792	−6,256	675
III. Continuing resolution authority			

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JULY 25, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
IV. Conference agreements ratified by both Houses: Panama Canal Commission Authorizing Act (H.R. 4409).	18	16	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association.	3	3	
Special benefits (Federal employees).	14	14	
Family social services	100	75	
Payment to civil service retirement [1]	(37)	(37)	
Total entitlements	118	93	
Total current level as of July 25, 1986.	1,053,024	980,012	778,469
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining: Over budget resolution		12,412	
Under budget resolution	16,676		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

WARREN BROOKES' ARTICLE ON TAX REFORM

● Mr. BOSCHWITZ. Mr. President, the July 14, 1986 edition of the Washington Times carried an article by Warren Brookes titled "Tax Reform Ambush." In his article, Mr. Brookes argues that the Senate's top individual tax rate of 27 percent should be maintained in the final tax bill which emerges from the House-Senate conference on tax reform. I agree.

Some of the House conferees have suggested that a third, higher tax rate should be added. I think that would be a mistake. If the top rate goes above 27 percent, many of the provisions which were eliminated or modified in the Senate bill to make the Tax Code simpler and fairer would undoubtedly be reintroduced, and we would once again have a Tax Code with so many bells and whistles as to create work for accountants and lawyers yet unborn!

Perhaps the purpose in calling for a third, higher tax rate is to try and increase collections from "the wealthy." But as I have pointed out on several occasions, history consistently shows that the way to collect more from the wealthy is to cut their tax rates. The tax cuts of 1921-25, 1963-66, and 1981, all resulted in revenue collections from the wealthiest taxpayers actually increasing. Those calling for a third, higher rate must understand that the amount of tax collected is not only a function of the tax rates, but also a function of the amount of income subject to tax. As rates decrease, the incentive to use tax shelters to reduce the amount of income subject to tax also decreases.

For instance, in Minnesota a 50-percent Federal rate and a 14-percent State rate create a combined top tax rate for individuals of 57 percent, which provides a strong incentive to shelter income with investments designed for tax purposes. Assuming a 38-percent top rate as proposed in the House tax bill, the combined State and Federal rate in Minnesota would be 46 percent, still a strong incentive to shelter. With a maximum Federal rate of 27 percent, the combined Federal and State tax would be reduced to 37 percent, diminishing significantly—although certainly not altogether—the incentive to shelter.

It is important to realize that under the House tax bill, which has a top individual rate of 38 percent, more of the tax cut for individuals went to those with incomes over $75,000—roughly 27.5 percent—then under the Senate tax bill—approximately 26.5 percent. Higher rates do not ensure larger tax collections from the wealthy. The Senate bill will collect more taxes from the wealthy by applying lower rates to greater amounts of taxable income than will be collected using the higher, 38-percent rate in the House bill.

So I strongly urge the conferees to not go beyond the top individual tax rate set in the Senate bill—27 percent. Mr. President, I ask that the July 14, 1986, article by Warren Brookes be included in the RECORD. I note that this is only one of many excellent articles which Mr. Brookes has written on tax reform, several of which I have now introduced in the RECORD.

The article follows:

[From the Washington Times, July 14, 1986]

Tax Reform Ambush

(By Warren Brookes)

This week, the Senate-House conference on tax reform will begin crucial deliberations. And one of the key issues facing it is the demand by the more liberal House conferees for a third, and higher, tax rate on the rich.

While this will be presented as "helping the middle class" the public should understand—as did most Senate liberals—that this is an ideological smoke screen designed to derail *real* tax reform.

Indeed, the key defender of the 27 percent top rates was liberal Democratic Sen. Bill Bradley of New Jersey, whose rational arguments defused the drive by Democratic Sen. George Mitchell of Maine to install an additional 35 percent rate. Mr. Mitchell's amendment was defeated by an overwhelming 71-29 tally.

Mr. Bradley, in support of the lower top rate, repeatedly laid out the same evidence he had first heard from an obscure supply-sider—Jeff Bell, his 1978 Republican opponent. Mr. Bell, who had "instructed him" during that senatorial election, has been a tireless lobbist for *true* tax reform on behalf of Citizens for America.

Mr. Bell, then a total unknown, upset veteran Sen. Clifford Case in the GOP primary, and gave Mr. Bradley a surprisingly good fight. He did so by laying out the simple premise that high marginal tax rates were merely an ideological "fig leaf" to cover up huge tax loopholes. These loopholes, which reduced the *actual* tax rates paid by the rich, were granted by members of Congress in return for political contributions.

The main purpose and effect of those high marginal rates was not to hurt the rich, but to get more revenues out of higher rates on the middle- and lower-income groups, who enjoyed fewer loopholes.

Thus, those high marginal rates were a merchandising "illusion," much like the "free trading stamps" prevalent in the 1950s and 1960s. With the stamp programs, merchants would raise prices for everyone, to pay for stamps and merchandise that were not received by everyone. Merchants made money on the "breakage"—the purchases by non-stamp-savers.

Americans were eventually disabused of that free-stamp illusion where discount food stores came in with lower prices for *everyone* and stamps for no one.

The whole premise of tax reform is to get rid of this free-stamp illusion by taking away all or most of those trading-stamp preferences in return for lower rates and a much broader tax base, with less income inefficiently sheltered from taxation.

Conversely, if you raise those rates, you immediately have to restore the trading stamps, i.e., the burden on capital to prevent economic damage.

For example, if you impose a 35-38 percent top rate on the rich, as the House wants to, you will have to restore the "preference" for capital gains, something liberals have tried to get rid of for years. The bill proposed by Republican Sen. Robert Packwood of Oregon passed liberal muster because it wiped out this preference; it passed conservative muster because it brought the top rate down to 27 percent, only seven points higher than the present 20 percent top rate on capital gains (with the preference).

Raise that top rate any more and the preference will have to come back, because we already have one of the highest capital-gains taxes in the world (Japan and Germany don't even tax capital gains). When that happens, the whole tax-reform house of cards caves in, and trading stamps will flood back onto the scene.

The important thing to remember is that raising the top rate actually does nothing to get the rich to pay more taxes. In fact, all evidence shows the *opposite.*

If you doubt this, consider the experience of 1981-84, when we lowered the top tax rate from 70 percent to 50. The effect on the tax payments of those earning $200,000 and more was electrifying, because it brought massive amounts of income out of shelters' back into the tax system (see table).

INCOME TAXES ON $200,000 AND OVER

[Dollar amounts in billions]

	Top rate (percent)	Adjusted gross income	Taxes paid	Effective tax rate (percent)	Percent share of total taxes
1981	70	$54.2	$21.7	40.1	7.6
1982	50	$72.6	$26.6	36.7	9.6
1983	50	$87.7	$31.7	36.2	11.6
1984	50	$112.2	$41.4	36.9	13.7

INCOME TAXES ON $200,000 AND OVER—Continued

[Dollar amounts in billions]

	Top rate (percent)	Adjusted gross income	Taxes paid	Effective tax rate (percent)	Percent share of total taxes
Percent change	−28.6	+107	+90.8	−8.0	+80.3

Source: IRS analysis, 1981–84 returns.

From 1981–84, the adjusted gross income of this bracket rose 107 percent—more than double. So even with a 29 percent cut in rates, the tax revenues from this bracket jumped about 90 percent (from $22 billion to $41 billion).

The result: cutting the top rate 20 points only cut the effective rate three points (from 40 to 37 percent), vastly increased the tax base, and nearly doubled the share of the tax burden borne by this top bracket, from 7.6 to 13.7 percent.

This experience completely justified former Democratic Rep. Bill Brodhead of Michigan, a liberal member of the Ways and Means Committee. In 1981 he proposed the immediate reduction of the top rate from 70–50, instead of phasing it down as President Reagan had proposed. Mr. Brodhead argued that "it won't cost anything, anyway." Ironically this was offered by Democrats as a compromise in return for eliminating the third phase of the Reagan middle-class tax-rate cut, which they knew would cost money.●

UNANIMOUS-CONSENT REQUEST TO SET MORNING BUSINESS ASIDE

Mr. EXON. Mr. President, the parliamentary situation, as the Senator understands, is that we are in morning business.

The PRESIDING OFFICER (Mr. WILSON). That is correct.

Mr. EXON. Therefore, in order that I might attempt to get my amendment back up once again, I ask unanimous consent that morning business be temporarily laid aside for the purpose of bringing the debt ceiling bill before the U.S. Senate.

Mr. MATTINGLY. I object.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Unanimous consent is not required. Under previous order, morning business is closed.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 668) increasing the statutory limit on the public debt.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm-Hollings Amendment No. 2223, to add a new title for balanced budget and emergency deficit control reaffirmation.

(2) Rudman Amendment No. 2224 (to Amendment No. 2223), to provide for revision of provisions of reporting responsibilities in the balanced budget and emergency deficit control process.

(3) Exon Amendment No. 2225, to express the sense of the Senate that the Congress utilize the existing "fallback"; provisions of the emergency Deficit Control Act, to require a congressional vote on specific measures to reduce the Federal budget deficit.

(4) Modified committee amendments, to provide a committee substitute on investment and restoration of Social Security funds during debt limit crises.

(5) Rudman modified Amendment No. 2226, to modify procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) Exon motion to commit the joint resolution to the Committee on Governmental Affairs, with instructions.

UNANIMOUS-CONSENT REQUEST TO SET ASIDE FIRST- AND SECOND-DEGREE AMENDMENTS TO HOUSE JOINT RESOLUTION 668

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent, notwithstanding the current parliamentary procedure under which there is an amendment in the first degree, an amendment in the second degree, and an amendment of the Senator from Nebraska to refer the debt-ceiling bill back with the Gramm-Rudman amendment, that the first- and second-degree amendments be set aside so that we might consider the amendment offered by the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection?

Mr. MATTINGLY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. MATTINGLY. Mr. President, I ask unanimous consent that there be a period for routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISED CREDIT ALLOCATIONS

Mr. MATTINGLY. Mr. President, due to a clerical error, the allocations submitted to the Senate on July 14, 1986, pursuant to section 302(a) of the Budget Act for fiscal year 1987 credit authority were incorrect. The items relating to the Committees on Veterans' Affairs and Small Business were transposed.

I ask unanimous consent that the following revised table for credit allocations be considered to be the credit allocations required by section 302(a) of the Budget Act.

FISCAL YEAR 302(A) ALLOCATIONS FOR CREDIT

[Dollars in millions]

	Direct loans	Loan guarantees
Appropriations	20,325	67,933
Agriculture, Nutrition, and Forestry	12,022	5,500
Armed Services		
Banking, Housing, and Urban Affairs	613	350
Commerce, Science, and Transportation	420	70
Energy and Natural Resources		
Environment and Public Works	205	
Finance	3	
Foreign Relations		
Governmental Affairs		
Judiciary		
Labor and Human Resources		10,585
Rules and Administration		
Veterans Affairs	962	16,312
Small Business		
Select Indian Affairs		
Grand total, conference agreement	34,550	100,750

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., on Tuesday, July 29, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECOGNITION OF CERTAIN SENATORS

Mr. MATTINGLY. I ask unanimous consent, Mr. President, that following the recognition of the two leaders under the standing order there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, Senator PROXMIRE, and Senator PRYOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. MATTINGLY. Mr. President, I further ask unanimous consent that following the special orders just identified there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS BETWEEN THE HOURS OF 12 NOON AND 2 P.M.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Senate stand in recess between the

hours of 12 noon and 2 p.m. in order for the weekly party caucuses to meet.

Following the recess, the Senate will resume debate on the question with respect to TV in the Senate. Therefore, votes will occur during Tuesday's session of the Senate.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Mr. President, reserving the right to object, it is not the plan of the minority to have its weekly party conference on tomorrow. The minority has decided to have that weekly conference on Wednesday of this week because of the funeral services that will be conducted for the late departed Averell Harriman in New York. And there will be a number of Senators on this side of the aisle who will be attending that funeral. There may be some from the other side as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MATTINGLY. Mr. President, following morning business, at 10 a.m., under the provisions of Senate Resolution 28, the Senate will begin debate on the question of television coverage of the Senate and shall continue with the proposed rules changes.

There are 12 hours of debate time provided under the resolution, and it is the hope of the majority leader that some of that debate time can be yielded back.

Mr. President, it is the hope of the majority leader, if the debate tomorrow can be concluded at an early hour, on Tuesday, with reference to TV in the Senate, that the Senate then would resume consideration of the unfinished business of House Joint Resolution 668, the debt limit. Consequently, the Senate could be asked to remain in session late tomorrow evening in order to make progress on the debt limit bill.

I would like to reiterate to the minority leader that the majority leader, when he comes in tomorrow morning, will make a comment as to whether the policy luncheon on this side will be held. I am sure at that time the minority leader, too, will be able to help resolve that for us.

□ 1610

Mr. BYRD. Mr. President, I thank the distinguished Senator. One of my concerns is that if the Senate is in a 2-hour recess on tomorrow to accommodate the two party caucuses, those 2 hours would not count against the 12 hours time allowed for debate on Senate Resolution 28. That resolution provides for 12 hours of debate on television coverage. I think it might be worthy of consideration that the 2 hours during the conference, if consent can be gotten, would count against the 12 hours, which would be fine on this side of the aisle, I will say at this point. I may not be here at that moment, but so far as I am concerned, that would be agreeable, that the 2 hours during the recess would be charged against the 12 hours.

Mr. MATTINGLY. Does the distinguished Senator have any other business?

Mr. BYRD. I thank the distinguished Senator. I have nothing further.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DOLE. Mr. President, I move that the Senate now stand in recess pursuant to the previous order.

Thereupon, the Senate, at 4:11 p.m., recessed until Tuesday, July 29, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1986:

DEPARTMENT OF STATE

Dennis Kux, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

THE JUDICIARY

Richard B. McQuade, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio vice Nicholas J. Walinski, retired.

DEPARTMENT OF JUSTICE

George Landon Phillips, of Mississippi, to be U.S. attorney for the southern district of Mississippi for the term of 4 years, reappointment.

James L. Fyke, of Illinois, to be U.S. Marshal for the central district of Illinois for the term of 4 years, reappointment.

Thomas A. O'Hara, Jr., of Nebraska, to be U.S. Marshal for the district of Nebraska for the term of 4 years, reappointment.

Arthur David Borinsky, of New Jersey, to be U.S. Marshal for the district of New Jersey for the term of 4 years vice Eugene G. Liss, term expired.

DEPARTMENT OF COMMERCE

Louis F. Laun, of New York, to be an Assistant Secretary of Commerce, vice Joseph F. Dennin, resigned.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Marvin G. Back, [redacted].
Brig. Gen. George E. Barker, [redacted].
Brig. Gen. Murray E. Cantrall, [redacted].
Brig. Gen. Joseph G. Gray, [redacted].
Brig. Gen. Roger W. Sandler, [redacted].
Brig. Gen. George J. Vukasin, [redacted].
Brig. Gen. Robert L. Wick, Jr., [redacted].

To be brigadier general

Col. Gary A. Stemley, [redacted].
Col. Richard G. Quick, [redacted].
Col. Thomas P. O'Brien, Jr., [redacted].
Col. James A. Brooke, [redacted].
Col. Howard A. Pope, [redacted].
Col. Francis T. Mataranglo, [redacted].

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 8374, title 10 of the United States Code (effective dates in parentheses):

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Charles E. Amos, [redacted] (4/3/86).
Maj. Ronald R. Anderson, [redacted] (4/12/86).
Maj. Michael J. Barrett, [redacted] (4/3/86).
Maj. David O. Clark, [redacted] (3/26/86).
Maj. Kenneth G. Doane, [redacted] (4/8/86).
Maj. Ronald D. Durkes, [redacted] (4/30/86).
Maj. Edward L. Fleming, [redacted] (3/26/86).
Maj. Donald E. Goley II, [redacted] (4/6/86).
Maj. David D. Hull, [redacted] (2/24/86).
Maj. Marvin S. Mayes, [redacted] (3/31/86).
Maj. Billy N. Privette, [redacted] (3/20/86).
Maj. Stephen L. Schwab, [redacted] (3/9/86).
Maj. Donald L. Sicner, [redacted] (3/17/86).
Maj. Daniel J. Slovak, [redacted] (3/31/86).
Maj. Robert J. Spermo, [redacted] (3/16/86).
Maj. Richard E. Spooner, [redacted] (3/16/86).

LEGAL

To be lieutenant colonel

Maj. Robert I. Gruber, [redacted] (4/3/86).

CHAPLAIN

To be lieutenant colonel

Maj. Henry Edelenbos, [redacted] (3/15/86).

IN THE NAVY

The following-named Naval Reserve officers to be appointed permanent ensign in the line or Staff Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

John B. Anderson
John N. Antonelli
Gerald B. Barnes
James E. Buffington, Jr.
Craig P. Burow
William R. Coogan
Jeffrey S. Coran
David B. Cortinas
Jeffrey P. Donnelly
Timothy R. Egan

Lisa M. Faraci	Stephen J. Glaser	Robert E. Leete	Claire P. Meurer	Edwin J. Ruff, Jr.	David J. Stremler
Andrew P. Finn, Jr.	Matthew W. Grandy	Matthew B. Long	Zan E. Miller	Duane J. Schatz	William E. Swayze
Paul E. Flood	Kevin P. Grimley	Brian J. Mages	Scott W.	Donald A. Semones	Jeffrey A. Tall
Richard N. Fox	Wesley J. Hines	Nathan J. Martin	Montgomery	Mark A. Sheraden	Mark A. Thurmon
Thomas A. Gawlik	Sean T. Kelly	Darvin G. Mattila, Jr.	Ray K. H. Oen	David D. Spaugh	John D. Ward
Joseph M. Giaquinto	Roger G. Lawson	Brian McLaughlin	Philip D. Parsons	Claudia A. Stevens	Robert A. Yale

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EXTENSIONS OF REMARKS

MAJORITY LEADER CITES "PROGRESSIVE TRADITION" IN TEXAS

HON. J.J. PICKLE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. PICKLE. Mr. Speaker, on June 27, 1986, our respected colleague, Majority Leader JIM WRIGHT, delivered an important address to the Texas State Democratic Convention in Austin. In his speech, the majority leader traced the history of what he calls progressive and egalitarian tradition of our State.

As examples of this progressive strain in Texas' political history, the majority leader cites our first-in-the-Nation homestead law, our permanent university fund that has made the University of Texas the best endowed public university in America, the Texas community property law that granted economic rights to women, and our constitutional protection of the public waters, public beaches, and minerals.

The majority leader's speech is full of insight and wisdom, and I commend it to the attention of all my colleagues.

The text of the speech follows:

REMARKS OF CONGRESSMAN JIM WRIGHT, STATE DEMOCRATIC CONVENTION, AUSTIN, TX, JUNE 27, 1986

In this our sesquicentennial year, Texans are reflecting on our history. Our past is a rich and varied fabric sewn together by the thread of common men and women.

Texas, forged on the anvil of rebellion against a military dictatorship, has always stood for human rights. Ours is a progressive and egalitarian tradition.

Our Texas Declaration of Independence condemned what it called "the most intolerable tyranny, the combined despotism of the sword and the priesthood."

One of the strongest complaints voiced in 1836 was the lack of a system of public education.

Another was the establishment of a State Church, prompting the absolute insistence of our forebears upon freedom of religion.

Progressive laws have flowered in Texas soil from the beginning.

Our original Texas Constitution provided for public education.

It codified the common law of England as it protected people, and added the most progressive aspects of Spanish law.

Ours was the first community property state, granting economic rights to women that they had not known before in this country.

Those in the other party who quarrel about the scriptural proprieties of letting women serve on juries or hold public office should recall that Texas was first among the states to elect a woman governor.

The Texas Constitution carefully protected public waters, public beaches and minerals, that they might be used for the public good, and not exploited for private gain.

From the beginning, we established a permanent university fund and endowed two universities. Upon that original endowment, the University of Texas has become the best endowed public university in America.

The progressive tradition in Texas politics, laid down by such visionaries as San Houston and Mirabeau B. Lamar, continued through the nine year history of the Republic, through the early years of statehood, through the democratizing reforms of James Stephen Hogg, through the Great Depression of the 1930s.

It lay at the core of Lyndon Johnson's Great Society, and it endures to the present day.

Great agrarian movements have sprouted from the Texas prairie. The Grange began here. Ours was the first homestead law, forbidding the seizure of a family's property.

Texas was the second state to pass an anti-trust law.

Fully ten years ahead of the federal government, Texas forbade the use of child labor in factories.

By creating the Texas Railroad Commission, our state became the first to regulate an industry that had grown rich and powerful and abusive.

Wright Patman of Texas was the father of the Credit Union movement which made low-interest loans available to average citizens.

And Sam Rayburn was the father of Rural Electrification, of the Interstate Commerce Commission, and of the benign philosophy of government's limited but rightful role as regulator in the public interest.

This is our history, steeped in the lore of the common men and women—not some prancing, preening pretense at piety protecting entrenched privilege under the mask of "conservatism".

Texans will not permit so rich a legacy as ours to be corrupted.

As heirs of the inspiring example of those who chose with Travis to die on their feet rather than live on their knees cowering before the god of political expediency, Texans have no patience with turncoats of no fixed principle except self-aggrandizement, wiling to switch parties for personal gain.

Turncoats do not do well in Texas elections.

Descendants of men and women who risked their lives for public education and fought for a university "of the first class" will not permit the rights of our own progeny to be degraded once again to 46th among the states in education.

On education policy, Governor Mark White has made the tough decisions, not feeble excuses. He has acted in the Texas tradition, and Texans appreciate it.

Because of Mark White's educational reforms, Texas has become a model for the nation.

This state that has been first in cotton, first in cattle, first in oil and gas and petrochemicals, first in sulfur, first in wool and mohair will not rest until we're first among the states in the education of our children.

Mark White's effective promotion of high technology and the computer sciences in Texas—

His forward-looking championing of the Texas water plan;

His humanitarian health care plan;

His highway improvement program, which lays the groundwork for industrial growth and commercial expansion; and

All demonstrate to the world that Texas will not sit idly by and let the future happen to us; we'll do what's necessary to face the future head-on and shape our destiny.

That's what leadership is all about.

And leadership is what this Democratic Party is offering to our state.

We have a leadership team—Bill Hobby, Jim Mattox, Jim Hightower, Ann Richards, and all the others from the Court house to the Congress: this is a team to lead our state, with boldness and vision, into the 1990s.

At the national level, Texans are not willing to hand our credit cards and motgage our children's futures to an Administration which in six short years has added more to the national debt than was added by all previous Presidental Administrations in almost 200 years, from George Washington through Jimmy Carter.

Texans are not satisfied with a $150 billion foreign trade deficit, which erodes our industrial base, closes our factories, and export American jobs.

Texans are not content with a national energy non-policy which lets middle eastern countries manipulate prices, dry up domestic exploration, throw Texans out of work and make us ever more dependent on foreign sources.

Texans do not understand the short-sighted folly of a Republican Administration which sells oil from our Elk Hills Naval Reserve to private speculators for $6.50 a barrel and pays twice as much for foreign oil. We don't understand the folly of pulling the pipe on our marginal domestic wells and losing that production to our country forever.

Texans will not endorse an administration policy which pledges $8 billion of the taxpayers' money to bail out one big bank in Chicago but vetoes a much less costly bill to help 300,000 of America's farm families avoid foreclosures.

Texans did not think it was funny when President Regan suggested that perhaps we should "export the American farmers."

We were not amused when he said the jobless are "jobless by choice", the homeless are "homeless by choice" and that the hungry are either too indolent or ignorant to be helped.

Such callous disregard for the unfortunate may play well in elitist Hollywood salons, or in back boardrooms of Donald Regan's Wall Street, just as it might have done in the French palace of Marie Antionette. But it has no place in the streets and farms and homes of Texas!

Texans are not prepared to break the promise to our nation's elderly by invading the Social Security Trust Fund, as Ronald Reagan was prepared to do at the beginning of last year.

Texans are not willing to put our children ever deeper into debt for more and even

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

more Pentagon waste; or to start more wars in Central America while the Administration ignore the real causes of unrest in Central America, while powerful Republican Senate Chairmen insult the people and proud institutions of Mexico, our nearest neighbor; while undocumented workers are cruelly exploited at subminimum wages and the White House seems oblivious to the cancerous economic problems that drive them here; while the Reagan team reduces our Border Patrol, our Customs Agents and our Coast Guard and passively watches the influx of death-dealing drugs that undermine our national security.

And so Texans are lining up once more behind the Democratic banner. We are coming home to where we belong. We will support our Democratic nominees, for the Courthouse, for the State house, for the Congress.

And with your help we'll have a victory for the people in November.

BELIEVE IT OR NOT, THE SOVIETS ARE JAMMING THEIR OWN BROADCASTS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. BROOMFIELD. Mr. Speaker, the Soviets are interfering with their own English language broadcasts being beamed to England. In a period when the United States and the Soviet Union are trying to improve relations, it is unbelievable that the Soviet Union is again jamming transmissions of foreign language broadcasts being beamed to that country, and inadvertently interfering with Radio Moscow broadcasts to the West.

According to recent reports, the Soviets resumed jamming of the Voice of America and other Western radios, including the BBC, Deutche Welle, Kol Israel, and Radio Peking in 1980. This followed a 7-year cessation of jamming which began in 1973. The Soviets are so effective in jamming that they are inadvertently producing spillover which affects their own English language broadcasts going to England and other countries. I understand that the U.S.S.R. spends far more money jamming radio broadcasts than the U.S. Government spends on the entire budget of the Voice of America.

In the aftermath of the Geneva Summit last year, the United States and the Soviet Union began to work with each other in a variety of areas in the "spirit of Geneva." Both countries promised to increase mutual understanding through greater communication with each other.

As we know that expanded understanding is the only way to really attain world peace. I am amazed that the Soviet Government has chosen to continue its jamming efforts of Western transmissions beamed to that country. If the U.S.S.R. wants to gain greater acceptance with the West, it should immediately cease jamming Western radio broadcasts. In order to establish real trust between the United States and the Soviet Union, Soviet leaders must follow through on their promises, not ignore them. Confidence is built by actions, not mere words.

Broadcast jamming is an offensive vestige of the cold war. It smacks of the thought control efforts in George Orwell's "1984," and should not be necessary in the modern Soviet society that Mr. Gorbachev is trying to build up. I am confident that my colleagues will join me in questioning why jamming is still being carried on by the Kremlin:

BBC SAYS MOSCOW JAMS ITS OWN TRANSMISSIONS

The British Broadcasting Corp. said yesterday that the Soviet Union's jamming of foreign radio broadcasts resulted in some of Moscow's own transmissions being blocked.

The statement followed a complaint by Soviet Ambassador Lenoid Zamyatin Monday that Britain jammed broadcasts from Moscow aimed at Western Europe.

"The U.S.S.R. is the only country in Europe deliberately jamming other people's broadcasts and Mr. Zamyatin knows it," said BBC official Austen Kark.

He said BBC engineers had found that two of the six frequencies used by Moscow to broadcast in English were being jammed by the Soviet Union's own jammers.

THE 1986 CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY: THE PLIGHT OF THE YAKIR FAMILY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. GRADISON. Mr. Speaker, as part of the Congressional Call to Conscience Vigil, I would like to talk about the Soviet Union's repressive policies with regard to Soviet Jewry and the Soviet Government's persecution of one family: Yevgeny, Rima, and Alexander Yakir.

During my visit to the Soviet Union in April 1979, I had the opportunity to meet with Yevgeny Yakir and his family. Since 1973, Yevgeny, his wife, Rima, and his son, Alexander, have been waiting for exit visas to allow them to emigrate from the Soviet Union. Their request has been repeatedly denied because the Soviet Government claims that Yevgeny's occupation of mechanical engineer gave him access to "classified state secrets." As a result of his request, Yevgeny lost his job. Since then, he has made every effort to find work to avoid charges of "parasitism."

Yevgeny's life has been a difficult one. His father, Maurice Yakir, who helped to form the Red Air Force after the revolution and rose to the rank of general, was executed in 1937 during Stalin's Great Purge. Yevgeny's mother was deported to Siberia and managed to survive 16 grueling years of hard labor in the Gulag Archipelago. Separated from his mother at the age of 6, Yevgeny was raised by his maternal grandmother, under an assumed name. It was only after Stalin's death and his father's posthumous "rehabilitation" by Khrushchev that Yevgeny felt it safe to use his own name.

Shortly after the completion of his studies at the Moscow Technical Institute in 1977, Yevgeny's son, Alexander, received notification that he would be drafted into the army. It is well known that military service causes serious problems for a Soviet Jew seeking permission to emigrate as it enables the government to continue to deny the request on grounds that, because of his military service, he is in possession of state "secrets." Fearing that army service would seriously limit his chances for receiving an exit visa, Alexander went into hiding. In December 1977, a criminal case was opened against Alexander Yakir for evading conscription.

Alexander declared that taking an oath of loyalty to the army would be a direct betrayal of his principles and continued to avoid conscription until 1984 when he was arrested for draft evasion. In June 1984, Alexander was sentenced to 2 years in a labor camp. He was released last month and is now living with his family in Moscow.

The Yakir family has been the target of unjustified persecution by the Soviet Government. After waiting more than 13 years to emigrate from the Soviet Union, it is only right that the government should grant their request. Continued rejection of their request for exit visas is a flagrant violation of the Helsinki Final Act of 1975 and the Universal Declaration on Human Rights of 1947 to which the Soviet Union is a signatory.

NATIONAL CRUSADE AGAINST DRUG ABUSE ESSAY CONTEST—NEW JERSEY 10TH CONGRESSIONAL DISTRICT WINNERS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. RODINO. Mr. Speaker, I am pleased to include in the RECORD several compositions from the 10th Congressional District of New Jersey, which were submitted for consideration in the essay contest sponsored by the National Crusade Against Drug Abuse and the National Conference of State Societies. This contest was brought to my attention by our distinguished colleagues, CHARLES RANGEL and BENJAMIN GILMAN, the chairman and ranking minority member of the Select Committee on Narcotics Abuse and Control. I commend them for initiating this innovative project.

Sixth-grade students wrote in 50 words or less, their views on "What I Would Do If Offered Drugs." I was very pleased with the number of students who participated. As you are aware, I have long been concerned with the problem of drug abuse and feel that we must educate the youth of our Nation to prevent the loss of a generation.

There were many excellent papers from the various towns in my district. The prize-winning essay was written by Simone Mack and will compete with those by other sixth-grade students throughout the United States.

Following are the top five compositions selected for printing in the RECORD. The first one by Simone Mack will be forwarded to the National Crusade Against Drug Abuse for the nationwide contest.

Simone Mack, Mrs. Webster's class at Sussex Avenue School in Newark, New

Jersey, wrote: "If I was offered drugs I would say, 'No.' I was offered drugs before my friend gave me a joint and I gave it back. She called me a 'Punk,' and said, 'I was soft and to keep away from her'. I left and played jump rope with my other friends. I told my friend's mother and she got in trouble. The next day she wanted to fight me, but I didn't want to fight her so I ran home. I stopped being her friend, I was better off without her."

Sharonda Whittle, Mrs. Callender's class at John L. Costley, Sr., School in East Orange, New Jersey, submitted the following: "If I was offered drugs, I would say No! Drugs are harmful for people. Drugs can delay a person's reaction time. Drugs can stop people from thinking. And if a person offered drugs to me, I would run to an adult that is nearby and tell them."

Tamara Franklin in Mrs. Pucciarello's class at Augusta Street School in Irvington, New Jersey, said: "If I were offered drugs, I would say 'no', go and tell someone I really trust. Dealing drugs is against the law. People who deal drugs should be put in jail for life. People know better. Winners say 'no' to drugs. The power is in your hands."

Kristine Christian, a student in Mrs. May's sixth-grade class at Newark's Bragaw Avenue School, stated: "If offered drugs I would simply say 'no' or ignore the offer. However, if a friend, schoolmate, or even a familiar adult tried to pressure me into taking drugs, the situation would be harder to walk away from. Therefore, I might reason with that person and try to get him or her to realize how he or she is ruining his or her life. In essence, from the conduct observed of drug users it is unlikely that I would ever take drugs."

From *Belleville, New Jersey's School No. 7, Jason Gonzales of Mrs. Zapantis' class,* said: "It is a horrible feeling and event to be offered drugs. I would say 'no' to the dropouts. These losers are dropping out of life. They want the easy way out and are scared of life. If I was at a party and people were taking this rubbish, I would call the police and leave. I would say 'Do something useful with your life!' "

Although these students are only 12 years old, they are aware of the dangers of drug use. They realize that you will not achieve any accomplishments, that you are breaking the law, and that drugs are harmful to your health. While communities throughout the country have drug educational and awareness programs, we, the Congress, must do all we can to see that all our children and young people realize the hazards involved in drug abuse.

Mr. Speaker, during hearings held in Newark on April 11, 1986, by the Select Committee on Narcotics Abuse and Control, we learned that many elementary school students, some as early as second and third grade, are offered drugs by fellow students. Because the peer pressure to use drugs is enormous, we must ensure that our young children are sufficiently warned as to the dangers of drug abuse. For this reason, I have sponsored legislation, H.R. 4155, to ensure that sufficient resources are provided by the Federal Government for drug abuse education programs.

In my judgment, we must declare an all-out war on drugs which balances both the need to reduce the supply of drugs produced in foreign countries as well as the demand for drugs in this country. It is precisely for this reason that I have also introduced legislation, House Joint Resolution 631, calling upon the President to convene a White House Conference on Narcotics Abuse and Control.

Only through such a conference, with the President asserting his personal leadership and influence, can we bring together the best minds in this country to focus on the serious national problem of drug abuse and to assist the President in developing a comprehensive and effective strategy to deal with it.

Since the war against drugs is essential to preserve our families and neighborhoods and to prevent our young people from being imprisoned by drug abuse, I strongly believe that every resource at our disposal must be made available to combat this serious national problem.

MR. STRATTON'S VOTE ON NICARAGUA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. COURTER. Mr. Speaker, our colleague from New York, SAMUEL S. STRATTON, has distinguished himself in this House for resolutely supporting our national defense. But Americans and American soldiers are not the only beneficiaries of Mr. STRATTON'S resolution. Fighters for freedom—and against Communist internationalism—in Angola and Nicaragua also look to the gentleman for political and military support.

In an important letter to the New York Times dated July 17, Mr. STRATTON has explained why national defense is not a partisan issue. Members of both bodies who have not seen the letter will find it reprinted below. It concerns much more than one vote on Nicaragua.

[From the New York Times, July 23, 1986]

CONTRA AID IN THE HOUSE WASN'T "ME-TOOISM" BUT BIPARTISANSHIP

TO THE EDITOR: As one of the 51 Democrats who supported the Reagan program for contra aid in Nicaragua, I take exception to the political advice offered me and 50 of my House Democratic colleagues by Prof. Arthur Schlesinger (Op-Ed, July 6). He referred to us as "me-too Democrats."

Mr. Schlesinger's diatribe demonstrates that his partisanship has outrun his grasp of recent history. Since when is it a sin for Democrats to rise above partisanship when grave issues of national concern are at stake? Is our party so moribund that we must vote only along party lines, defy our consciences and ignore our own perception of a growing, national threat to the principles we espouse in Central America, as Nicaragua closes down its only independent newspaper and expels an eminent Roman Catholic bishop?

Mr. Schlesinger betrays a curious cynicism with regard to his party's elected representatives: "A few of the 51 may actually believe that aid to the contras is sound policy on the merits," he says, "but I doubt that this was a significant motive."

Mr. Schlesinger forgets the classic case of bipartisanship in foreign policy that President Reagan cited in his address before the latest House vote. Mr. Reagan's March 16 television address on contra aid was delivered 39 years almost to the day that President Truman went before a joint session of Congress for military and humanitarian aid to save Greece and Turkey from Communist infiltration pouring into those two countries from Yugoslavia and Albania.

The Congress to which Mr. Truman was pleading was the same "Republican do-nothing 80th Congress" that Mr. Truman criticized so sharply during his 1948 campaign. Yet that same Congress promptly provided the funds Mr. Truman had asked for. Incidentally, I never heard a single Democrat who faulted Harry Truman for blocking Communism in Greece and Turkey!

If a Republican Congress can accede to an urgent, national security concern advanced by a Democratic President, why is it a crime for Democratic Congressmen to accede to a national security concern cited by a Republican President? The Truman concern was half a globe away, while President Reagan's concern over Nicaragua is only two driving days from the U.S. border.

The American people reject another Cuba in the Caribbean. Yet Cuba is only an island: Nicaragua is a part of the main.

Mr. Schlesinger's ill-advised complaint sounds more like the dictates of some 19th-century Tammany boss than the reasoned conclusion of a college historian.

Unfortunately, on far too many of the defense issues and foreign-policy issues in the 99th Congress, the Democratic leadership has acted along narrow, partisan lines. This is clearly not something that is likely to be helpful to our party in the crucial election of 1988, I will advise Mr. Schlessinger.

SAMUEL S. STRATTON.

DENISE WLODYKA RECEIVES ENSERCH ENGINEERING EXCELLENCE INTERNSHIP

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. BOLAND. Mr. Speaker, as many of my colleagues know, ENSERCH, one of the Nation's foremost engineering and construction firms, has begun a program which allows collegiate engineering students to do summer internships with Federal agencies. I am pleased to inform the House that one of my constituents, Denise Wlodyka of Three Rivers, MA, was among the first recipients of an ENSERCH engineering excellence internship.

Ms. Wlodyka, a student at Rensselaer Polytechnic Institute [RPI] who plans to pursue a career as an environmental engineer after graduation, has been working for the Environmental Preotection Agency [EPA] for the past 2 months. At EPA she has supported the efforts of professional specialists at the Environmental Protection Agency [EPA] by analyzing and reporting program data. Her position has allowed her to gain experience in the practical application of procedures, testing methods, and techniques, as well as familiarize herself with EPA's regulations, policies, and decisions.

Denise's interest in the field of engineering surfaced in high school. As an outstanding student in both science and math, she received the Bausch and Lomb medal and the RPI medal. In addition, she was the recipient

of the National Scholar Athlete Award, the RPI medalist scholarship and was named to the Massachusetts Girls' State Representative Board.

Throughout high school and her 3 years of college, Denise has successfully combined academics, athletics and extracurricular activities. She is a member of the women's varsity soccer and softball teams, and is a softball representative to the Women's Athletic Association. The dean of students at RPI has appointed Denise to the steering committee for winter and summer student orientation and for parents' weekend. She is also a member of the RPI Constitution Convention, a group of students charged with revising and reviewing the constitution of the student union.

Ms. Wlodyka is a dedicated, hard-working student; and she should be proud of her accomplishments. At this time I would like to congratulate her on her selection as an ENSERCH intern and wish her the very best as she enters her final year of college.

PERSONAL EXPLANATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. GILMAN. Mr. Speaker, I was unavoidably detained on July 24, 1986, and missed rollcall No. 251. Had I been present I would have voted "Aye" on final passage of H.R. 5175, making appropriations for the District of Columbia for fiscal year 1987.

RELIGIOUS RIGHTS IN ROMANIA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. MICHEL. Mr. Speaker, I'm glad to join my colleagues in bringing to the attention of the House the human rights situation in Romania.

Ordinarily, I would not have a special interest in this topic, except in the general concern we have for human rights everywhere. But it so happens that during recent years I have followed with personal interest the activities of the Romanian Government in its treatment of religions in that country.

Members of the Church of the Nazarene, of whose American branch I am a member, have informed me of the difficulties undergone by members of that church in Romania. My most recent information is that while things have not improved for members of that church, they are at least receiving aid packages from the United States and have not been directly persecuted recently by Romanian officials. This is not what I call human rights improvement because under a totalitarian regime the pressure of persecution can start again when it suits the rulers. But, as of this moment, members of the Church of the Nazarene, a small church dedicated only to prayer and good works, are receiving aid which is at least something to be thankful for.

In years past there have been open attacks on members of this church in the state-controlled press and aid sent from the United States never reached its intended recipients.

In President Reagan's message to the Congress, June 3, 1986, he said:

I share the strong concerns manifested among the public and in the Congress regarding the Romanian Government's restrictions on religious liberties. In consequence, we have urged the Romanian Government to adopt a more humane approach by taking steps such as:

Releasing jailed religious activists such as Constantin Sfatcu and Dorel Catarama;

Allowing substantial legal importation or domestic printing of Protestant Bibles and permitting their legal distribution;

Easing administrative restrictions against Nazarenes, "unofficial" Baptists, and other groups that are not officially accepted by the Romanian Government; and

Easing measures that discourage construction or repair of churches and have allowed, in roughly eight cases in recent years, their demolition on grounds of alleged building code violations.

We welcome the freeing of Constantin Sfatcu and Dorel Catarama from prison, but are otherwise disappointed by the Romanian Government's response to our concerns in this area.

I believe that men and women of good will can disagree on the questions of whether or not extending most-favored-nation status to Romania helps or hurts religious freedom and human rights in that country. The President believes "existing access and influence" of the United States can be preserved by extending MFN status since, in his words "extension of MFN has facilitated American citizen's access to co-religionists in Romania as well as the flow of several million dollars worth of material assistance to them each year."

We have to keep checking on the progress—if any—being made by the Romanian Government in its treatment of religious groups. There may well come a time, if the situation does not democratically improve, when the Congress will take another look at MFN status. It is up to the Romanian Government to prove that it takes our concerns seriously.

H.R. 4782

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. TAUZIN. Mr. Speaker, I wish to express my appreciation to the House for their swift passage last week of H.R. 4782, which designates the U.S. Post Office Building under construction in La Place, LA, as the Gillis W. Long Post Office Building.

Gillis Long was one of the finest public servants the State of Louisiana ever produced. He compiled an outstanding record of service to Louisiana and the Nation as a member of the House Rules Committee, chairman of the Democratic Caucus, and a member of the Joint Economic Committee. It is truly fitting that a Federal building in his home State be designated as a memorial to him. By passing this bill we have honored Gillis' memory in a most appropriate manner.

CHILD CARE: CRUCIAL COMPONENT OF WELFARE REFORM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. MILLER of California. Mr. Speaker, Congress has an opportunity to participate constructively in future policy discussion regarding welfare reform. The atmosphere is receptive to real and positive change. We can't move forward in the discussion, however, without recognizing that a sound, national child care policy is an essential component of welfare reform.

New evidence of the relevance of child care to this discussion was included in a recent study by the National Social Science and Law Center exploring barriers to employment for single mothers receiving AFDC benefits in Washington State.

This survey demonstrates that women on AFDC do want to work. However, significant barriers prohibit many of them from participating in job training programs, completing their education, or seeking and maintaining employment. One of the primary barriers is lack of child care.

Nearly two thirds of the respondents cited difficulty with child care responsibilities as a primary problem in seeking and keeping a job. In addition, over half of the women reported that the costs associated with working, including the cost of transportation, clothing, and child care present additional difficulties in participating in the labor market.

Seventy-six percent of the women in the survey who had essentially given up looking for work cited child care difficulties as preventing their search for, or attainment of, employment.

Almost 90 percent of the women surveyed had children under age 12—more than half had children under age 6. When away from their children, the majority of these women relied upon friends or relatives to care for their children. More than half paid for these services. Over one-fourth, however, indicated that they were dissatisfied with their current child care arrangement, primarily because of limited availability.

There are innovative programs that we can look to as models that are tackling the issue of child care in their efforts at welfare reform.

The Wall Street Journal reported last week on state welfare reform efforts, specifically noting their child care components. For example, the Massachusetts Employment and Training Program [ET] spends half its budget on subsidies for participants' child care expenses. It's proving to be worth the investment. As Charles Atkins, the State public welfare commissioner told the Journal, "for every $1 invested in ET, $2 is saved in reduced welfare benefits and increased tax revenue."

As Congress considers ways to enable low-income families to move out of poverty and away from welfare dependency, I urge my colleagues to take heed of the mounting evi-

dence that child care plays a crucial role in helping AFDC recipients find an avenue out of the cycle of poverty.

TRIBUTE TO FREDERICK TOOT OF THE PITTSFIELD YMCA, PITTSFIELD, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. CONTE Mr. Speaker, I wish to take this moment to acknowledge the dedication which Frederick P. Toot has exhibited toward the Pittsfield community as executive director of the Pittsfield YMCA.

During his 8½ years in Pittsfield, Mr. Toot has made an invaluable contribution of his time, management skills, and concern for people in promoting the "Y's" activities. Responsible for administering every program provided by the Pittsfield YMCA, Mr. Toot always has strived to participate personally in "Y" events, including the summer camp. His dedication and zest for his job aided the Pittsfield "Y" in doubling its membership to about 3,000 and in doubling its budget to nearly $1 million. The "Y" also mounted a successful capital fund drive and built a major addition to its North Street building under Mr. Toot's direction. It is not surprising that Frederick P. Toot is a recipient of the Professional "Y" Director's Administrative Excellence Award.

Mr. Toot has a long history of altruistic service to the Pittsfield community. He was past president of the Pittsfield Rotary Club and received its 1986 Donald G. Butler Award for Leadership. He was a trustee of South Congregational Church, a board member of the Council on Aging, treasurer of the Pontoosuc Lake Advisory Committee, and a member of the Pittsfield Economic Revitalization Commission, and the Pride and Awareness Committee of the Central Berkshire Chamber of Commerce. Also, he has served on the board of United Way and on a variety of United Way committees. His dedication and commmitment to the city of Pittsfield will long be remembered and most certainly will be missed.

Mr. Toot is stepping down from his position as executive director of the Pittsfield YMCA but he is not retiring from the "Y" organization. Soon, he will take on a post with the Central and Northern Westchester YMCA in White Plains, NY. I am certain that he will provide the same energy and commitment to the White Plains community as he has to the people of Pittsfield.

Mr. Toot, we salute you for a job well done.

BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. BREAUX. Mr. Speaker, I, along with Mrs. BOGGS, have introduced legislation today to establish a national wildlife refuge within the boundaries of the city of New Orleans, LA. The Bayou Sauvage Urban National Wildlife Refuge, as it will be called, will encompass approximately 19,000 acres of wetlands and other wildlife habitat. Despite the fact that it is in close proximity to the largest urban area in Louisiana, it contains some remarkable waterfowl habitat, wintering more than 40,000 birds annually as well as hosting a wide variety of shore and wading birds. There is also a sizable deer herd that uses the area, as well as otters, raccoons, and other furbearers. Finally, the area is also home to thousands of alligators and it serves as an important nursery area for shrimp, crabs, and many species of fish.

Mr. Speaker, the Bayou Sauvage area is unique wildlife habitat and would be a welcome addition to the National Wildlife Refuge System even if it were not located within the boundaries of a major urban center. Its location, however, makes it even more special. The opportunities for using the area as an environmental education center will make it valuable to people as well as to wildlife. As I have stated many times before, we have long undervalued wetlands. Swamps, marshes, and bogs have been for us wastelands, too often altered to provide what we considered to be a higher use. Too late we are realizing that these areas provide us with nursery grounds for important fishery resources, for fisheries, habitat for waterfowl and other wildlife, provide flood and hurricane protection, abate pollution and carry out many other complex functions. The Bayou Sauvage Urban Refuge can serve as an environmental education center for the people of New Orleans and throughout the South, helping us to better understand the value of our dwindling wetlands.

The refuge will also provide an opportunity for public recreation and we anticipate that, once developed to attract and educate visitors about wildlife, it will draw thousands of visitors who want to fish, view wildlife and, hopefully, develop an appreciation for the incredible diversity and productivity of Louisiana's wetlands.

Finally, Mr. Speaker, the Bayou Sauvage Urban Refuge will be unique because of the way it is established. Too often, it seems public officials are drawn into fights between developers and environmentalists, trying to find an often unattainable balance between protection of the environment and economic development. Several months ago, we seemed to be heading for just such a confrontation. The area is owned by South Point, Inc., which planned a major development in the area. The development was opposed by the environmental community, both on a local and national level. Lawsuits were threatened and it looked like we were going to be faced with another confrontation. But cooler heads prevailed and people started talking—and listening.

While the final details of an agreement have not been worked out, South Point has made a unique offer. They announced that they are willing to convey most of the property they own to the U.S. Fish and Wildlife Service for the Bayou Sauvage Urban National Wildlife Refuge. They are also willing to work with the city of New Orleans, the environmental community and other interested parties on a plan to develop, in an environmentally sensitive manner, the areas not included in the refuge. We are working with the parties involved and expect that final resolution of the remaining issues can be achieved in the next several weeks.

Mr. Speaker, we have introduced this legislation even though the final agreements have not been reached because, quite frankly, time is of the essence. It is essential that this legislation pass in this session of Congress. We expect to bring this legislation, perfected by the committee process, to the floor in September.

TRIBUTE TO MR. HERMAN BROTMAN

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. ROYBAL. Mr. Speaker, I rise today in remembrance and veneration of the deceased Herman Brotman, a well-respected contributor to the fields of social and health policy and gerontology.

Mr. Brotman was a warm, generous, and hospitable person who had an insatiable zest for life. Although Mr. Brotman is known for his many accomplishments, he is often remembered for the little things such as taking vegetables from his garden to the nearby shelter, inviting people over to his house for poolside policy debates and accompanying frail senior citizens to vote. In fact, he often visited senior centers to share his knowledge of Social Security and Medicare or to demonstrate the use of special garden tools created for the frail elderly.

Mr. Brotman was a very friendly, outgoing man, sharing his great wisdom and experience with many people ranging from students to Senators. He took great interest in the ideas of others and pride in their accomplishments, many of which were due in great part, to his help. Herman Brotman was also articulate and open, in constant exchange of ideas with others. Although he was never a teacher in the formal sense, his ability to simplify difficult concepts and his enthusiasm for teaching served him well as a guest lecturer at colleges around the country. In fact, he has been considered a mentor to many people, including some of the leaders in the executive and congressional branches of Government.

Herman Brotman came to Washington, DC in the mid-1930's and has served in many important positions in Government. He worked as advisor to several Secretaries of Health and Human Services where he helped shape domestic policy. He also served as chief statistician on the aging and advisor to several of the Commissioners of the Administration on Aging until the mid-1970's. Mr. Brotman played a central role in planning and organizing two White House Conferences on Aging. Also, his involvement with Congress, conceptualizing and drafting the Older Americans Act has won him much recognition and respect.

After Mr. Botman's retirement in the late 1970's, he was very active with the House and Senate Committees on Aging. He continued his involvement with State units on aging,

observing and analyzing the impact of Federal legislation such as the Older Americans Act on programs for the elderly. Herman Brotman's sensitivity to the plight of older women led him to help establish the Older Women's League. Probably one of his most remembered accomplishments is the congressional report entitled "Every Ninth American," a compilation of information and data on the aging used extensively by the Congress and the general public.

Mr. Speaker, it has been a great honor to deliver this tribute of Mr. Brotman on behalf of all those who knew him and respected his pioneering work.

CONCERNS FROM A SMALL BUSINESSMAN ABOUT THE TAX REFORM ACT OF 1985

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. HUBBARD. Mr. Speaker, I would like to point out a timely and informative letter from a constituent and friend of mine, William Usher of Paducah, KY. Bill Usher is chairman of the board of the National Tank Truck Carriers, Inc.

Mr. Usher raises objections to the elimination of the investment tax credit provisions in H.R. 3838, the Tax Reform Act of 1985. Mr. Usher highlights the adverse impact the elimination of the investment tax credit will have on his and other small businesses. I encourage my colleagues to read this letter and keep it in mind when final review of H.R. 3838 takes place.

JULY 22, 1986.

Hon. CARROLL HUBBARD,
U.S. House of Representatives, Washington, DC.

DEAR CARROLL: While I have often contacted you on a constituent basis, please note that—in this instance—I am writing as Chairman of the Board of National Tank Truck Carriers, Inc. (NTTC). NTTC is the trade association of my industry. More importantly, 80% of its members are categorized as "small businesses" by SBA.

Frankly, I am very concerned over both: (1) many provisions of the Senate Finance Committee's version of tax reform legislation; and (2) the "steam-roller" atmosphere of political support behind that version.

As to my prime area of concern, please note that the Senate Finance Committee version would eliminate the Investment Tax Credit. Unlike large corporations, I do not buy equipment to leverage my tax position. I buy equipment because I need it to serve my customers and because highway safety mandates that I put modern equipment on the road. Wholesale loss of ITC's is a significant threat to my cash position.

Unlike larger companies, I cannot demand favorable financing terms, write-off foreign taxes, wholesale use of ACR's, etc. Yet, I must compete with either the threat or reality of those "giants" buying their own trucks in lieu of my services.

As an alternative, may I suggest that consideration be given to a $50,000 cap on the ITC, with the cost retention being added to the corporate tax rate. Such a provision would retain the balance of the new tax proposal, but would still retain some competitive equity between large and small corporations.

My same concerns relate to the concept of the minimum tax. I have read the same headlines ("XYZ Company Pays No Taxes") that initiated Congressional action in this area. It would appear, however, that the Senate Finance Committee has elected to perform some needed surgery with a chainsaw. When a small business finds itself in a "no tax" position, it does not mean that he or she has manipulated the tax code. Generally, it does not mean that the business is in financial distress, is not generating income and should not be paying taxes. Similarly, it may be a new business, in which the investors are willing to accept some "start up" losses in exchange for future equity. To cause such businesses to dig deeper in their pockets (to pay the minimum tax) can only retard hopes for financial survival and/or hasten the demise of many promising enterprises.

Lastly, Carroll, it would appear that between the media and representatives of big business we are witnessing a lemming-like rush to so-called "simplicity and reform". What I see is a hasty patchwork effort that produces more political heat than light. I respectfully suggest that neither Usher Transport, nor my industry (nor, the State of Kentucky) is representative of the "service oriented" economy this bill is intended to serve.

Thank you for your consideration of "my side" of this very important issue.

Best personal regards.

WILLIAM USHER,
Chairman of the Board.

A TRIBUTE TO JEFFREY L. WHITMER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. GEKAS. Mr. Speaker, today I would like to recognize the achievement of Jeffrey L. Whitmer, a constituent of mine from Selinsgrove, PA. On July 27, 1986, Jeff received the prestigious Boy Scout Eagle Award. Jeff was recognized for his unselfish contributions to his community and country. To fulfill the requirements of this award, Jeff, a member of Scout Troop 401, organized a very successful road race for the benefit of the Port Trevorton Fire Department Quick Response Squad.

Jeff, a recent graduate of Selinsgrove Area High School, has also shown his enthusiasm in school activities. He was active in basketball, track, and cross country and he was a member of the French Club, the Outdoor Club, a participant in the junior class play and a member of the National Honor Society. He is also an active member of St. Pius X Church as an alter server and a member of the youth group. He will be attending Penn State University at State College this fall to pursue a degree in sport and exercise science.

Jeff has set an excellent example for the rest of us to follow. His achievements are monumental and he should be congratulated for earning this distinguished award. I am honored to have an individual like Jeff in my district and wish him luck in all that he undertakes.

H.R. 4090—BIG CYPRESS NATIONAL PRESERVE ADDITION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. LEWIS of Florida. Mr. Speaker, thank you for the opportunity to rise in support of H.R. 4090, the Big Cypress National Preserve addition. This important legislation, which I introduced, is cosponsored by the entire Florida delegation and has received widespread praise and broad, bipartisan support.

This bill provides a unique opportunity to acquire and protect a major land area in southwest Florida for an important addition to the Big Cypress National Preserve.

There is absolutely no doubt that this bill is an important piece of environmental legislation, but it is also vital to recognize that it is much, much more. For as surely as wildlife in the Everglades are linked to the wetlands for their survival, so are the growing urban populations of south Florida dependent upon these same wetland areas as recharge sources for drinking water. This legislation is needed to help insure that south Florida's water supply will have a chance to keep pace with its population increases.

Of unquestioned environmental importance and beauty, this area is one of the few remaining large parcels of pristine land left in Florida. It is part of the watershed of the Big Cypress Preserve and Everglades National Park and is habitat for a wide variety of plants and animals. This land is home to the Florida panther, the bald eagle, native orchids, and many other species now at risk.

The land which H.R. 4090 seeks to acquire is comprised of wetlands, cypress swamps, and hardwood hammocks. The addition of these lands to the Big Cypress National Preserve would provide a much needed buffer zone for Everglades National Park, a State resource and national treasure.

As Florida has experienced rapid growth, the supply of land available for public use and enjoyment has diminished. The addition of this large block of land would help satisfy a variety of public needs, not just for Floridians but for the State's millions of visitors.

Because of the significant public benefit associated with the acquisition of this land, I, my Florida colleagues, and members of the Interior Committee believe this is a task worthy of congressional attention. Therefore, I urge passage of H.R. 4090, the Big Cypress National Preserve addition.

THE CYPRUS PROBLEM: GETTING TURKISH SOLDIERS OUT IS THE FIRST STEP

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. BROOMFIELD. Mr. Speaker, I am greatly disappointed with the results of the latest U.N. efforts to resolve the basic issues re-

garding the Cyprus problem. Getting Turkish troops out of northern Cyprus now is the first step the United Nations should take to resolve this complex and tragic issue.

It is clear to me that a new and bold peace initiative is needed by the United Nations. I urge Secretary General Perez de Cuellar to restudy his recent peace plan with the idea in mind of focusing on the Turkish troop issue. The United Nations must make the overall draft framework agreement more sensitive to the legitimate concerns and point of view of the Greek Cypriots.

As my colleagues well know, Turkey invaded northern Cyprus in 1974. Why are the Turkish soldiers still there? Is there a large Greek military presence on the southern part of the island? Does the Greek Government threaten to attack northern Cyprus? Is there fighting between the northern and southern sectors of the island? We all know the answers to those questions. There is simply no good reason why thousands of heavily armed Turkish soldiers must remain on Cyprus. Even the Turkish Cypriots in the north find the Turkish troops offensive.

The tragedy of Cyprus continues. Thousands of Greeks have been displaced from their homes in the northern part of Cyprus. They have lost their property and business. Over 40,000 Turkish settlers from the Anatolian region of Turkey were brought into northern Cyprus to occupy former Greek homes and farms. An economically strong and active part of Cyprus was illegally taken by the current Turkish occupation government. Hundreds of young Greek Cypriots are still missing and presumed to be dead after they were taken prisoner in the 1974 fighting. A young Michigan resident, Andrew Kassapis, is among the missing. To add insult to injury, the Turkish Prime Minister, Mr. Ozal, visited northern Cyprus in recent weeks. His visit to the occupied zone has dealt a serious setback to the Cyprus peace process. Mr. Rauf Denktash celebrated the occasion by closing the crossing points between the Turkish occupied zone and the Republic of Cyprus which are now manned by U.N. units. After threatening to permanently close the crossing points, Mr. Denktash reopened them.

Unfortunately, the United Nation's recent peace initiative have ignored many of the vital concerns which Greek Cypriots now have. They are legitimately concerned about being compensated for their losses and want to regain their lost homes and lands. They want to be able to cross the dividing line to visit friends and family in the northern area. There are many other wrongs which they want to have righted.

Our Government must actively work with the United Nation in making future peace plans more realistic vis-a-vis the perspective of the Greek community on Cyprus. Our Government must make it perfectly clear both to Secretary General de Cuellar and to the Turkish Government that the first step in the peace process must involve the removal of Turkish occupation troops. In addition, reestablishing the office of Special Coordinator for Cyprus in the Department of State would be a step in the right direction on the part of our Government. Let us hope that the removal of those forces will be a welcome first step on the long road to peace on Cyprus. Now is the time for a new U.N. initiative for peace.

RECAPITALIZATION OF THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. GRADISON. Mr. Speaker, the House Banking Committee currently has before it H.R. 4907, a bill that provides for the recapitalization of the Federal Savings and Loan Insurance Corporation [FSLIC]. I want to call your attention to serious flaws in this bill, as amended on July 17 by the Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

My main concerns are these:

First, design of the FSLIC bailout copies the features of the now-collapsed savings and loan insurance structures in Ohio and Maryland. The bill would establish a nominally private and substantially undercapitalized insurer for the Nation's S&L's.

Second, the plan is budget gimmickry. The plan qualifies, barely, for off-budget status due solely to a minor, highly technical change. The substance of the plan—borrowing by the Federal Government—remains unchanged.

Third, the amount of the debt infusion to FSLIC—$15 billion—is inadequate. This ensures that the Congress will have to revisit the issue when the cost will be much greater.

Fourth, the proposed legislation does not include needed operating rerforms, such as changing the system for monitoring taxpayer exposure.

Fifth, this proposal could result in a weaker system of savings and loans as strong S&L's opt out of the system to avoid future assessments.

In short, Mr. Speaker, H.R. 4907 in its current form is inadequate to the task.

A RELIGIOUS LEADER CORRECTS THE RECORD ON EL SALVADOR

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. BARNES. Mr. Speaker, on May 14, the Subcommittee on Western Hemisphere Affairs held a hearing on the air war and political developments in El Salvador. Among those submitting testimony was His Eminence, John R. Quinn, Archbishop of San Francisco. Although Archbishop Quinn was unable to appear in person, his statement was read by an associate, Ms. Eileen Purcell.

An administration witness also appeared, and misrepresented the situation in El Salvador in several ways. Archbishop Quinn has written me to correct the record. I include Archbishop Quinn's letter at this point and urge all my colleagues to give it their careful attention.

The letter follows:

ARCHDIOCESE OF SAN FRANCISCO,
PASTORAL CENTER,
San Francisco, CA, June 30, 1986.

Mr. MICHAEL D. BARNES,
Chairman, Subcommittee on Western Hemisphere Affairs, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE BARNES: I would like to thank you for your invitation to testify at the hearing on May 14th. It was unfortunate due to constraints of time and my schedule that I was not able to appear personally.

After reviewing the testimony and speaking with Ms. Purcell, I would like to bring several points to your attention that were disturbing to me.

1. The Administration consistently involved the name of "The Church of El Salvador" as fully endorsing its policies of military and economic aid to El Salvador. Bishop Rosa y Chavez, the August 1985 pastoral letter of the Salvadoran Bishops, and "Orientacion" were repeatedly quoted as the basis for claiming that:

a. There are no civilian victims of bombing by the military in Guazapa or anywhere else in El Salvador, let along incidents of repression.

b. Democracy has returned to El Salvador and the situation is markedly improved in the area of human rights, political freedom, and land reform; the war is under control and the FMLN is retreating.

They added that any reports to the contrary are a function of a FMLN disinformation campaign that has reached into the United States.

I believe that this is a misrepresentation of the Church's position in El Salvador. To the contrary, Archibishop Rivera y Damas has been clear about denouncing the bombings and has been quite clear about asking for a cessation of the violence, especially that directed against civilians. The Church has a difficult role in El Salvador. It is not helped when its good name is used by our Administration to give support for its policies. This is strikingly similar to the misinformed use of the name of Pope John Paul II in the Contra Aid debate some time ago.

2. Elliott Abrams charged that *Tutela Legal* "lies" and distorts the truth, misrepresenting statistics in order to benefit the guerrillas. He said further that *Tutela Legal* did *not* represent the Church "since it doesn't even have a priest on the staff."

Marie Julia Hernandez, the Director of *Tutela Legal*, is a competent and knowledgeable woman with the full confidence of Archbishop Rivera y Damas. Accusing her of lying is an attack on the integrity of the Archbishop himself. It is shocking to see to what lengths the Administration will go in order to discredit those who disagree with it.

3. After hearing my testimony about continuing human rights violations in El Salvador, Elliott Abrams noted that it was evidence of the "growing distance between the Church of Central America and the Church of the United States."

Nothing could be further from the truth. The relationship between our two Episcopal Conferences is strong and communication between the two is frequent. Attempting to drive a wedge between the Church bodies is another example of an unfortunate policy grasping at unconscionable means to achieve its ends.

4. Mr. Abrams used Guazapa and Operation Phoenix as prime examples of the military's newly achieved professionalism and respect for human rights and the extent of

disinformation. It was also implied that the civilians who do get caught are sympathetic with the guerrillas and further implied that this made them legitimate targets.

The movement by some in this Administration to "change the rules of war" to the extent that civilians become appropriate targets is appalling and, indeed, frightening. This goes against every International accord and moral law. It is a disconcerting development that will affect our future as a nation and will have consequences on the future of our planet. It could be viewed as an opening, for example, to use weapons of mass destruction on civilian targets. This theoretical shift (development) could severely change the negotiating landscape with the Soviet Union.

From the testimony given and especially the question and answer period, it seems that there is a conscious effort on the part of this Administration to discredit the Church and to pressure it to back away from its commitment to serve the poor and to stop it from speaking out against human rights abuses.

It also serves as further confirmation that the Administration sees this conflict as long term, one that will be fought militarily and also psychologically for many years to come just short of involving American military personnel.

Again, let me thank you for the opportunity to provide testimony on this most important topic before your committee. Pursuing this issue is evidence of your concern and compassion for the people of El Salvador.

Sincerely yours,

JOHN R. QUINN,
Archbishop of San Francisco.

CLINTON SMITH—10 YEARS OF SEEKING JUSTICE

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. MITCHELL. Mr. Speaker, Clinton Smith served as the EEO Director of the Civil Service Commission [CSC], and vigorously carried out his duties. In at least one decision, he found the CSC to have engaged in a high level coverup of actions he described as discriminatory. That is when his tragic, frustrating period began. Reprisals started and have not stopped.

The Washington Lawyers Committee for Civil Rights Under Law reports thusly on Mr. Smith's case:

STATEMENT OF THE CLAIM OF REPRISAL OF CLINTON SMITH

The case of Clinton Smith raises the fundamental question whether federal employees who faithfully and vigorously enforce the civil rights laws can do so free from reprisal. Through his efforts publicly to protect the civil rights of all federal employees, Mr. Smith fell victim to people whom he found had engaged in discrimination. The outcome of this case will send a signal of hope or despair to all people of this country who look to the civil rights laws for protection.

Clinton Smith is a black man who is 48 years old. Mr. Smith was employed by the federal government for 23 years before his poor health compelled his resignation. After four years of active military service, Mr. Smith began employment with the Civil Service Commission (CSC) which he continued in the Office of Personnel Management (OPM), until his resignation in 1982.

For nearly 10 years, Mr. Smith held high-level EEO and civil rights positions in the federal government. From 1970 to 1978 he held the job of Executive Vice Chairman of the Interagency Advisory Group for Equal Employment Opportunity, a position from which he coordinated the personnel policies of various federal agencies. From 1970 to 1979, he also was the Director of Equal Employment Opportunity for the CSC and later the OPM.

As EEO Director, Mr. Smith heard and judged the merits of EEO complaints brought by agency personnel against the agency. His decisions in EEO cases were final and not subject to review by any other agency personnel.

During his tenure as EEO Director, Mr. Smith issued several decisions against the agency which received considerable publicity. Mr. Smith was critical of the agency's handling of civil rights matters. In at least one decision, Mr. Smith found the agency to have engaged in a high-level coverup of actions he characterized as discriminatory and, in October 1977, Mr. Smith sent a memorandum to the Chairman of the CSC that documented efforts by agency personnel to impede the enforcement of equal employment opportunity and merit system laws. His memorandum prompted a large, outside investigation of his allegations. Throughout his term as Director of EEO, Mr. Smith was an outspoken proponent of the vigorous enforcement of the civil rights laws and a counselor to Commission employees about their civil rights.

Mr. Smith's enforcement efforts were met with fierce reprisal. From October 1977, when Mr. Smith sent his memorandum to the Chairman, to the time of his retirement, he was the victim of harassment. Actions were taken against him which impaired his ability to discharge the duties of his job and detracted from the authority he had to perform his job as the Commission's equal employment opportunity officer.

This continuing course of reprisal taken against him aggravated a condition of hypertension from which he was diagnosed as suffering since 1966. In March, 1979, Mr. Smith applied for disability retirement from the OPM, based upon the symptoms created by his hypertension. Although more than 98% of the applications for disability retirement were granted under the standards in operation at the time Mr. Smith filed his application, his request was denied. When Mr. Smith appealed this denial, the agency conceded that it had applied the wrong disability standard and requested the case be remanded for its reconsideration. More than two years after his initial application, the reconsideration of Mr. Smith's application also resulted in its denial. This second denial is on appeal to a federal court of appeals, after he prevailed on a technical legal issue at the Supreme Court recently.

Mr. Smith also is pursuing litigation claiming his disability application denial and other acts of harassment have been in retaliation for the vigor with which he enforced the civil rights laws. Discovery is underway and the government is defending the case strenuously.

The cumulative effects of Mr. Smith's ill health, aggravated by the stress created by years of reprisal and by his litigation have weighed heavily on him. Since his poor health compelled his resignation from federal service in August, 1982, Mr. Smith has been unemployed. When unpaid bills mounted, Mr. Smith was forced to sell his family house in Maryland merely to pay some of his old debts. He and his family relocated to Raleigh, North Carolina where family and friends have tried to help them out. But, his mother-in-law has Alzheimer's disease, making her dependent on their care and his son is afflicted by a series of diseases that have incapacitated him periodically for years. His daughter has given up the chance to attend college in order to help support the family. The pressure of this hardship has required regular and costly medical care for Mr. Smith and his family. Recently, Mr. Smith was hospitalized in the cardiac intensive care unit with cardiovascular problems.

Mr. Smith has fought for years to secure the merit system and civil rights of federal employees. In the present litigation, Mr. Smith seeks to contribute to the security of other proponents of civil rights enforcement.

Mr. Smith has said, "This is what it comes to. After 25 years in the government, the last 9 of those years as principal assistant to the Chairman of the Civil Service Commission—I find myself reduced to a pauper, my family victimized principally because of my efforts to abide by the requirements and laws of the civil service."

This is a tragic story. Can you help?

MICHIGAN WORKERS PROTECT THEIR FIRST AMENDMENT RIGHTS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. SILJANDER. Mr. Speaker, a group of Michigan workers has just won a great victory in their battle to protect their first amendment rights from the outrageous abuse of compulsory union dues for political and ideological causes.

Recently, the State of Michigan—prompted by officials of the United Auto Workers Union—attempted to fire hundreds of Michigan State employees, and sent termination threats to many others.

Mr. Speaker, these workers were not being fired for incompetence or lack of productivity. There was no justification for their termination. No; these loyal and dedicated employees were being stripped of their livelihoods because they refused to allow UAW officials to illegally collect and spend compulsory dues for political and ideological causes the workers oppose.

Fortunately, with the help of the National Right to Work Legal Defense Foundation, these brave workers were able to obtain in Federal district court a precedent-setting injunction to prevent the firings pending the outcome of their September trial.

The workers owe their victory to a string of Supreme Court decisions culminating in Chicago Teachers Union versus Hudson. In that unanimous March 4, 1986, decision, the Supreme Court established strict safeguards to guarantee union officials will not illegally use

compulsory dues. The high court also said public employees can hold both union officials and public employers liable for damages and attorneys' fees if they sign labor contracts which flout the Hudson mandate.

It is my sincere hope the Federal district court will uphold the Hudson case and provide relief for Michigan public employees.

Thomas Jefferson said, "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyranical."

Incredible as it may seem, however, this practice is today rampant in our country, despite our Constitution's first amendment guarantees of free speech and association.

For instance, during the 1984 Democratic Presidential race, union officials collected tens of millions of compulsory dues dollars and funneled them into the Mondale campaign in the form of in-kind services such as phone banks, get-out-the-vote drives, and computers.

One Mondale operative placed the value of these forced contributions at $20 million. Other campaign experts estimate the value of big labor's compulsory dues expenditures to be much higher.

The problem of compulsory dues for politics stems from a basic flaw in our Federal election laws. While the Supreme Court, in Abood versus Street, Ellis/Fails versus BRAC, and most recently in the Hudson case has consistently ruled the expenditure of forced union dues for political purposes to be unconstitutional, the Federal Election Campaign Act is silent on the problem. This situation places an incredible burden upon dissenting union members seeking to recover misspent compulsory union dues. These workers face long, complicated, and costly legal battles against an army of well-funded union attorneys.

Mr. Speaker, it is time to bring our election laws in line with the Supreme Court rulings that the abuse of compulsory union dues for political purposes is unconstitutional.

During consideration of last year's appropriations bill funding the Federal Election Commission, I supported a challenge to the motion to rise so that an amendment addressing this problem could be considered. Unfortunately, the House voted 233 to 186 against considering this much-needed reform.

My colleagues and I may soon have another opportunity to address the problem of compulsory dues for politics when the House takes up legislation appropriating money for the FEC for the upcoming year.

It is my sincere hope that a majority of my colleagues will join with me in supporting reforms to our election laws to help curb this abuse of workers' constitutional rights.

REDIRECTED FEDERAL EMPLOYEES

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. LUNGREN. Mr. Speaker, California, whose 42d District I am proud to represent, is both home and a most attractive place of residence for more Americans than any other single State. It is also the State most often selected by retired Federal employees as their choice of all the places they can freely choose to live. They are indeed interested as a group in the lifestyle around them and still want to be a part of the action. Some among them have served well and have chosen the rocking chair, but there was another undercurrent much in evidence on June 12 at the Hyatt Regency Hotel in Long Beach when the banner of the National Association of Retired Federal Employees was the umbrella over a series of workshops. They wanted to widen the knowledge of their association, seeking means of attracting media attention, and to be seen not so much as laid back but a still-constructive force in the communities where its members live. In a how-to-do-that session, they asked for Col. Barney Oldfield, USAF (retired), of Litton Industries, Inc., in Beverly Hills, as a guest speaker, one of many among us who has retired often, but has never stopped. He said he would come only if the promised honorarium would be given to the Foundation of the Americans for the Handicapped, as it addresses skill training needs of the physically impaired and retarded in Central and South America, and Caribbean Basin nations which he founded, an example in itself of the capacity to still do things as years roll on. That my colleagues may show one more example of the feisty folks still going and doing, I enter his remarks in the RECORD.

REMARKS OF COL. BARNEY OLDFIELD

Colleagues, ladies, and gentlemen, when Vander Mary Smith called me—I suppose in desperation—I asked her to tell me a bit about your organization. I get paid for 30 years, 3 months, and 29 days of military service which ended in September 1962. But mine has always been the experience of retiring, but never the condition that follows because there was always another attachment or tie-on awaiting me the next day. I retired from the Screen Publicists Guild and Warner Brothers in 1948 when the Army recalled me and gave me a regular commission. I transferred to the Air Force, and in 1962 waved goodbye to the uniform. I retired from active status in the Writers Guild of America West in 1974, and qualified for retirement from Litton Industries that same year. In the midst of the festivities, the founder of Litton Industries, Tex Thornton, joined the party and said: "Come to work tomorrow as if nothing happened, and you can go as long as you wish or until you drop dead, whichever is soonest." I thought that was very enlightened personnel practice. So now coming up on 77, I'm in my 23d year and unless they find out I'm here when I should be back in my office, real retirement eludes me—and I hope it always will.

So my credentials are suspect as a retiree, but Vander Mary said she had other things in mind. She said your organization was interested in arousing favorable media attention, and she'd like to have me talk about the how of doing that.

In no way am I a patent medicine salesman, nor can I guarantee that any suggestion I might make will work. But it might be fun to try. And if you can accept what President Reagan has said is crucial to life's betterment—the great force of voluntarism—that there are compensations beyond money, if you will entertain such engagements you may even feel rewarded above anything you could put in a bank. Or that you might have known when you were on the old job.

When I look out there at all of you, what do I see? Hundreds of people who served their country, State, or city in some role it thought was important and necessary. That you served well indicates you possess two admirable characteristics—loyalty and dedication.

For another, you represent a vast pool of knowledge and experience learned at Government expense, while serving the most benevolent and caring boss of them all—the United States of America and its increments.

There's yet another probability among you—that perhaps 10 percent of you dropped ideas in "suggestion boxes" wherever you did your Government service and were given some award. That means you were and are observant, saw things needing correction and the methodology for bringing it about. Whatever they gave you in money had that added ingredient of personal satisfaction which accompanies recognition. And it says that you possess the greatest commodity of all—imagination. I have always believed that those who are truly born poor are those who were born without an imagination.

Undoubtedly, if each of you was interviewed individually we would find that a great many of you are still capable of being jewels substituted for the crowns of thorns worn by today's society, and the whole scene around you could be burnished and brightened were you to observe a little, focus a little, and offer as part of the indicated remedy a little—or a lot of yourselves.

Many of you, I'm told, engage in supportive projects of one kind or another, and you know what I'm talking about. Unfortunately, you perhaps keep them as your own and do not see them by your membership in the California State Federation of Chapters of the National Association of Retired Federal Employees, as a concerted and coordinated effort.

There is an awesome word in our language which halts all too much of your potential and comprehension of your worth. As a verb, the word is retire. As a condition, the word is retirement. As a connotation, it suggests having been placed on a shelf, having had your clock stopped, your capabilities cut off, you being assessed as a real or possible societal burden and your allotted days on the calendar numbered.

If you are a man, the story is that your wife wants you out of the house and from under her feet. If you are a woman, it probably dawns on you that there's no pleasing him. And why is this? It's not just the payroll condition, but mental acceptance that incapacitation and retirement are synonymous.

If your organization is to attract attention in a media sense, it has a lot of barnacles to shake off. The first thing you must do is look at yourselves as others seem to see you, and this will cue you as to changes that are necessary. Example: the chances now of a media call on you as persons or an organization would be for a negative, rather than a positive. Would assignment editors think of you as a response area if their question of the day was "How much better are you off this year than you were last year?", or would they be most likely to think of you for such questions as "How much short of your needs is your monthly retirement check?" or, "How well does medicine take care of you?" Since last year, individuals among you may have done well in some-

thing else you do, picked up a new and fulfilling hobby, have found satisfaction in helping others in a well-constructed program, may have invented something, may have won at the flower show, endowed a scholarhip or helped a kid through school, have become a parttime teacher or tutor. You, as such a person, would have been infinitely better off, more happy with yourself, and have known appreciations of all kinds, but that would not be the answer sought. Among you they know if they look long enough, you will be seen as having to pinch pennies, beset by costly illnesses and these responses will seem to indict all of the good works of caring people who have made this the best place in the world to be a Government employee and later on, a retired one.

Why is this?

A number of reasons. One is what we call in old Hollywood "type-casting." You have either passed the countdown of 62, or the later 65, are retired and are thereafter pigeon-holed as "old." It has nothing to do with how you feel and what you can still do, you have been declared old by legislation, by policy, by decree, by regulation and by the calendar pages used up. It is irrelevant and immaterial that you may not feel that way at all, and may not act that way either. Grandma Moses was born in 1860 and died in 1961 and if you own one of her paintings, you are rich. It would also bear witness that there is no stopping some people, and in her case she didn't grow old—she grew better. As she amassed her 101 years, she excited and made envious people one-quarter her age. She was "type-cast," too—as a doer.

Another reason is the mind-set of those who dismiss you as in a single, limited, compartmentalized classification, a statistic or a demographic. To such minds, you are somewhere between alive or dead and they're not sure which describes you best. Rather than do some inquiring, they place you nearer the latter condition. Since you don't carry a placard in one of those zombie-like marching exercises, the sloganeering approach hasn't been used much by you. It is a well-known fact of American life that no TV assignment editor ever saw a placard on a pole he didn't like. In earlier days, the cameramen who went to the scene brought already prepared signs for the visual improvement of what their lenses could catch. There was an old adage you must remember that "beauty is only skin deep" which warned that we should all look to the inner depths of people in assessing true worth. Now, too often, it's "what you see is what you get." More often than not, you are dismissed by default.

What you are attempting to do then, to change the public impression of you, means you have to go through this filter. I hasten to say that what you want to do is not so much bigger than all of you, but it does indicate the size of your undertaking.

First, you have to see your organization as for the knee-jerk reactions it arouses. National Association of Retired Federal Employees. Every word of it except one has been the subject of stories, speeches and commentaries or editorials. National—that meant you existed in the millions, whether as civil servants or in the military. You were described over and over as "costly," "wallowing in the Government trough," and a "burden to the taxpayers." You may have held critical positions which gave our Government stability and kept it on a steady course, or helped win its wars, but when the general public reflects about you that's not what it remembers. You made them the gift of the Government which blessed them, operated it in their behalf, but in most cases only you know that. Retired—that means you have accepted shelving, a state of suspended animation, have become someone to leave the grandchildren with and to flatter the generations behind you by worrying fulltime about their futures. Federal—that makes you blood brothers and sisters of "pork barrel" legislation, where agencies are created for which the pay is generous, where too many are hired to do the job that is required doing, or has been said so often in derision "a soldier has nothing to do, but gets up early to do it." Employees—that does it right there, as we have all known the tone used along with uttering the words, "Government job" which has never ranked high in the public mind. Add to that all the specters association conjures up—lobbying, special interests, hostility to change, protection of the status quo.

In all those years in uniform, as a regular Army and Air Force officer, there was never a week that went by in peacetime that some well-meaning person who thought he was flattering me didn't ask "How come a guy like you is in uniform?" It was always said as though they believed I could have cut it in some civilian commercial pursuit, so how could I possibly be comfortable wasting my time in uniform? When I would tell them what I was doing was far more interesting to me than what they were doing could ever be, I'm sure they marked me down as peculiar—but I marked them down as uninformed and that they would probably stay that way.

Your first task has to do with your organizational umbrella—National Association of Retired Federal Employees. You keep the name, of course, but in your thinking, think something like national association of redirected federal employees. Redirected indicates restored momentum, renewed efforts and that you've all had do-something transplants.

If your membership cards do not already tell you such things, send a questionnaire along with your next mailing which asks not only for the name, but a positive attitude testimonial profile about general state of health, ability to engage in what kinds of activities, projects with which each is already involved either full or parttime, what projects the association might be thinking about would appeal for participation, and what previous applicable skill credentials those surveyed might have. One thing I'm sure will surprise you will be how many you find engaged in constructive, society-serving, rewarding personal activities already.

When all this is analyzed, I suggest as part of your next annual meeting agenda, you select perhaps 10 association goals in which you are inviting membership participation. You have the makings of a press release right there, perhaps with additional numbers of foster grandparents, hospital ward visitations with retarded children, speech therapy aids, civic decorative and renewal undertakings—and so on. You know the labels better than I do.

But you have to energize such things a little. Just for fun, try this: have the press release available for all comers, and mail it on convention opening day, but add on a little. Paint some placards with the slogan "Hell, no, we won't go." Go to the local cemetery and march up and down in front of the gate, after letting the media know that the National Association for Retired Federal Employees is mounting some kind of a protest at the cemetery. When the media shows up, use that as the platform to state those goals and this is the kind of thing your association is identifying itself with as long as you are allowed by good health and the grace of God to stay on this side of the cemetery gate.

You all might just become the most fantastic bunch of feisty folks.

I used the word "colleagues" in my salutation starting these remarks, and I'm proud to be one of you. But I have been the world's greatest failure as a retiree; no matter how many times it happens, it never sticks—and I hope that even if it does, being retired as a frame of mind never occurs to me—and I hope it never overtakes you either.

BRADLEY FIGHTING VEHICLE

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1986

Mr. DENNY SMITH. Mr. Speaker, over the past several years, the Army's Bradley Fighting Vehicle has been no stranger to controversy.

Several flaws in the $1.7 million Infantry Fighting Vehicle have been the subject of public attention. Among those flaws, undoubtedly the greatest of problems with the vehicle concerns the vulnerability of our infantry soldiers riding inside. Those familiar with this lightly armored vehicle know that its configuration, complete with massive stores of ammunition and fuel inside the troop compartment, poses a great threat to the infantry inside should the vehicle be penetrated by a whole host of Soviet weapons.

As a result of the public controversy stemming from recent congressionally mandated tests of vehicle, the Army and the manufacturer of the vehicle have been exercising a full-scale public relations campaign to save the Bradley program. They have apparently convinced themselves, wrongly, that calls from Congress for realistic testing of a weapon are akin to calls for its cancellation.

If their PR campaign has done anything, it has certainly generated some interesting mail. Several Members of Congress have received letters from subcontractors of the Bradley located in their congressional districts.

I too have received a few. Consequently, I thought it would be a good idea to send a letter to all those subcontractors of the Bradley letting them know where I stand.

The following letter to Secretary of the Army Marsh will give my colleagues some idea of the bureaucratic attitude with which the Army has decided to approach this subject:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 17, 1986.

Hon. JOHN O. MARSH,
Secretary of the Army,
Washington, DC.

DEAR JACK: After several phone calls from my staff and several weeks of waiting, my office was recently told by Lt. Col. Dave Matthews of Army Liaison that, in response to my inquiry for a list of all the names and addresses of Bradley Fighting Vehicle subcontractors, the Army has no such list.

Recognizing the inordinate amount of problems the Army has experienced with the Bradley and some of its subsystems in the past, it would come as no great surprise to me that the Army itself does not know or cannot name the very manufacturers from whom it is purchasing billions of dollars worth of equipment. I take Lt. Col. Matthew's response to my office to mean that should a Bradley subsystem such as the transmission or the gun sight be found to have serious operational deficiencies, the Army simply wouldn't know who to call.

Jack, your office's response to my request produces a line of reasoning that stretches the limits of one's imagination. I have received some letters from Bradley subcontractors recently on the subject of upcoming appropriations for the system and I would like to respond not only to them but to all those companies that have a stake in the Bradley program.

Please use your influence with your staff to assure them that, like every request for information I make from your office, this is a serious request that I expect to be taken seriously. If I do not receive the requested list within a week's time, my only recourse will be to publish the letter I wish to send to the Bradley subcontractors in the CONGRESSIONAL RECORD in the hopes it will find its way to those it concerns.

Please let me hear from you in the very near future.

Best personal regards.

DENNY SMITH,
Member of Congress.

As you might guess, a week has passed and no list has been produced. Therefore, I would like to call to my colleagues' attention the following letter, a letter I hope will find its way to all those contractors involved in the Bradley program:

DEAR BRADLEY FIGHTING VEHICLE SUBCONTRACTOR: Many of us in Congress have received letters during the past few months from subcontractors like you expressing a strong concern that Congress take no actions that will affect the funding for the Bradley Fighting Vehicle. While the specific concerns expressed have been many, it appears as though the central arguments we have received from subcontractors are 1) Cancelling or slowing down the Bradley program will cost jobs and 2) no vehicle on the battlefield is invulnerable to Soviet weapons—the Bradley should not be held to such a standard.

Regarding jobs: Of all the political institutions in this country sensitive to the issue of jobs for Americans, I would rank Congress at the top of the list. Arguments for jobs are usually effective on Capitol Hill but I think that, after close examination, you would agree that the lives of our young men in combat is now and should remain the focal point in the Bradley debate. I'd like to concentrate on this subject for a moment in order for you to understand why many of us in Congress are concerned.

The assertion several subcontractors, and the Army, have made stating that no armored vehicle, including the Bradley, can be made invulnerable is absolutely correct. With respect to the controversy surrounding the Bradley's vulnerability, it is also irrelevant.

The live-fire tests of the Bradley (and all other weapons of war) have been mandated by Congress so that the Department of Defense can collect valuable data on how our soldier's lives can be saved in combat. These tests are not designed with the specific intent of cancelling weapons systems. They are not designed to prove that vehicles like the Bradley can be totally destroyed by large caliber munitions, already an established fact. And, most certainly, they are not designed to create a self-induced paranoia among the DoD bureaucracy and this nation's defense contractors that better weapons testing equates to a loss of defense contractor jobs.

The question the Bradley live-fire tests are meant to answer is this: Is the Bradley configured in such a way so that UNDUE troop casualties will be caused when hit in combat and, if so, what steps can be taken to modify the vehicle to save more lives.

Limited tests performed to date on the Bradley prove, beyond a shadow of a doubt, that if the ammunition stored inside the troop compartment of the Bradley is penetrated by any Soviet munition, there is the strongest of possibilities that most, if not all, of our soldiers will die.

This has many of us in Congress concerned. I invite you to take a close look at ALL the test data on this point. We don't have all the solutions to this problem nailed down yet, nor do we know how much increased protection through a reconfiguration of the vehicle will cost.

But we do know this: We need to test the Bradley further. The tests should be as honest, realistic, and complete as possible. With the information we gather, we should make the best decision in the interest of our young fighting men we're asking to ride in the Bradley.

I think you would agree with these important goals. If so, I think you would be doing our fighting men a great service by writing to the Army and your own Congressmen to let them know just how important the Bradley live-fire tests are.

Best regards,

DENNY SMITH,
Member of Congress.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 29, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 30

9:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Rules and Administration
To hold oversight hearings to review the activities of the Office of the Senate Sergeant at Arms.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Appropriations
District of Columbia Subcommittee
Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1987 for programs of the District of Columbia government.
SD-138

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to examine energy innovation and the patent process.
SD-342

Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income program to receive benefits while working.
SD-215

3:00 p.m.
Conferees
On S. 1965, to revise certain provisions and to authorize funds for programs of the Higher Education Act.
2175 Rayburn Building

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), estab-

lishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California, H.J. Res. 666, expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people, and S. 767, to permit access across certain Federal lands in Arkansas.
SD-366

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of section 404 of the Clean Water Act, relating to the wetlands dredge and fill permit program.
SD-406

Joint Economic
Economic Resources, Competitiveness, and Security Economics Subcommittee
To resume hearings on long-term economic consequences of recent demographic trends.
2359 Rayburn Building

10:00 a.m.
Foreign Relations
Business meeting, to consider proposals to prohibit loans to, other investments in, and other activities with respect to South Africa.
SD-419

Judiciary
To continue hearings on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.
SD-106

2:00 p.m.
Conferees
On S. 1965, to revise certain provisions and to authorize funds for programs of the Higher Education Act.
SD-138

4:00 p.m.
Select on Intelligence
Closed business meeting, to be followed by a closed briefing on intelligence matters.
SH-219

AUGUST 1

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 1817, to temporarily suspend Most Favored Nation status for Romania for six months, and S. 1492, to permanently withdraw Most Favored Nation status for Romania.
SD-215

Joint Economic
To hold hearings on the employment/unemployment situation for July.
Room to be announced

AUGUST 4

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 485, to clarify the treatment of submerged lands and ownership by the Alaskan Native Corporation, S. 1330, to allow expanded mineral exploration of the Admiralty Island National Monument in Alaska, S. 2065, to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares pursuant to the Alaska Native Claims Settlement Act, and S. 2370, to erect a memorial on public grounds in the District of Columbia in honor of Francis Scott Key.
SD-366

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

Rules and Administration
To hold hearings on the nomination of Thomas J. Josefiak, of Virginia, to be a Member of the Federal Election Commission, proposed legislation authorizing funds for the American Folklife Center of the Library of Congress, S.J. Res. 268, to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, S.J. Res. 269, to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution, and S. 1311, to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.
SR-301

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

Judiciary
To hold hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

AUGUST 6

9:00 a.m.
Office of Technology Assessment
The Board, to meet in open and closed sessions, to discuss pending business matters.
Room to be announced

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2660, to restrict unfair trade practices in the international trading system of the United States.
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to mark up S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

Select on Indian Affairs
To hold hearings on S. 2504, to provide for the exchange of certain lands between the Pueblo of Santa Ana and the University of New Mexico, and H.R. 3214, to provide for the use and distribution of funds awarded to the Crow Creek Band of Umpqua Indians held in trust by the Secretary of the Interior.
SR-485

AUGUST 7

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Finance
To hold hearings on S. 1871, relating to imports which threaten to impair the national security (incorporated in S. 1860 as Title X).
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
To continue hearings on the nomination of Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States.
SD-106

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings to review the impact of drug education.
SD-430

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Aging Subcommittee
To hold hearings to review certain reauthorization provisions of the Older Americans Act.
SD-430

AUGUST 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on H.J. Res. 17, to consent to an amendment enacted by the legislature of the State of Hawaii to the Hawaiian Home Commission Act, 1920.
SD-366

10:00 a.m.
Governmental Affairs
To hold hearings on the nomination of John Agresto, of the District of Columbia, to be Archivist of the United States.
SD-342

Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Business meeting, to consider the nominations of William H. Rehnquist, of Virginia, to be Chief Justice of the United States, Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States, and other pending calendar business.
SD-226

SEPTEMBER 9

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review graduate medical education in ambulatory settings.
SD-430

SEPTEMBER 10

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 11

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 18

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 24

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

SEPTEMBER 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

OCTOBER 1

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

CANCELLATIONS

JULY 29

3:00 p.m.
Select on Ethics
Closed business meeting, to discuss pending committee business.
S-128, Capitol